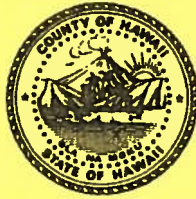


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

May 28, 2008

Chrystal Thomas Yamasaki, LPLS
Wes Thomas Associates
75-5749 Kalawa Street
Kailua-Kona, HI 96740-1818

Dear Ms. Yamasaki:

TENTATIVE APPROVAL

SUBDIVIDERS: FOTI ALAE PROPERTIES, LLC, et. al.

Proposed Consolidation of Portions of Grant 2036,
The Whole of R.P. 5939, L.C. Aw. 8158, Ap. 2,
R.P. 8005, L.C. Aw. 8776, Ap. 2,
R.P. 8014, L.C. Aw. 9699-D,
R.P. 8015, L.C. Aw. 10302, Ap. 2,
R.P. 8016, L.C. Aw. 10818, Ap. 2,
L.P. S-8674, L.C. Aw. 8673, Ap. 2, and Grant S-15664,
And Resubdivision Into Lots 1 through 12, Inclusive,
Alae 1st and 2nd, South Kona, Island of Hawai'i, Hawai'i
TMK: 8-7-005:001, 002, 010 through 019 (SUB-06-000435)

Please be informed that the Department of Transportation has stated that improvements are required within the Hawai'i Belt Road right-of-way. This constitutes the use of public lands and will require the preparation of an environmental assessment that meets the requirements of Chapter 11-200, Hawai'i Administrative Rules. Please contact the Office of Environmental Quality Control for compliance issues with regard to HRS 343. The Planning Department will be the approving agency for the environmental assessment.

Please be further informed that Tentative Approval of the revised preliminary plat map dated November 21, 2007, is hereby granted with modifications and conditions.

The subdividers are now authorized to prepare detailed drawings of the subdivision plan in accordance with Chapter 23, Subdivision Control Code, County of Hawaii, as modified. Before final approval can be granted, the following conditions must be met:

- 1) Access and Roadway Improvements (**see also Condition 3, Item 4, below**)
 - a) Provide common access driveways for Lot 7 and Lot 11 onto Mamalahoa Highway.
 - b) As applicable, encumber the existing access roadways with easements in favor of the lot(s) to which they provide access.
 - c) Provide a 10-ft. wide "no vehicular access" planting screen easement for Lot 7 and Lot 11 except at access driveway.
 - d) Provide street lighting at intersection with Mamalahoa Highway.
 - e) Highway improvements required for this application shall be provided at no cost to the State and shall conform to Statewide Uniform Design Manual for Streets and Highways and the Specifications for Installation of Miscellaneous Improvements with State Highways.
 - f) Subdivider shall comply with National Pollutant Discharge Elimination Systems (NPDES) Permit requirements for construction activity disturbing one (1) or more acres of total land area.
 - g) No additional storm discharge shall be allowed onto the State's right-of-way.
 - h) Submit construction plans for review and approval to the State Department of Transportation, Highways Division
 - i) Submit NPDES Permit or DOH Letter of Determination.
- 2) Comply with all conditions of approved Conservation District Use Permit (CDUP) HA-3407, especially Condition Nos. 3, 7 and 8:
 - "3. The applicant shall provide documentation (e.g. book and page or document number) that this permit approval has been placed in recordable form as a part of each deed instrument;
 - "7. The applicant shall obtain the approval for the consolidation and re-subdivision through the applicable County department, and file a final consolidation and resubdivision plan with Office of Conservation and Coastal Lands (OCCL); and
 - "8. The applicant will work with Nā Ala Hele and the County to show the final trail alignment of the "makai trail" on the final plat map for the subdivision."
- 3) Comply with all conditions of approved Special Management Area Minor Permit No. 07-000051 (SMM 07-000051), as amended, especially Condition Nos. 3, 4 and 7:
 - "3. A public access plan for the subject properties shall be submitted to the Planning Director for approval not more than two years after the granting of this permit. It shall include the following:
 - "a) A continuously traversable minimum 10-foot wide mauka-makai pedestrian access easement along the existing jeep road or as otherwise mutually agreed upon.
 - "b) In consultation with the Nā Ala Hele Statewide Trail and Access System and the Ala Kahakai National Historic Trails, the applicant shall establish the alignment of the historical coastal trail and create a pedestrian easement of not less than 10 feet in width.
 - "c) Applicant shall comply with the decision and order of the Third Circuit Court of the State of Hawaii in Civil No. 5473 granting license to all of the identified Defendants access to the ocean over the existing mauka-makai access road that traverses the applicable properties from north to south approximately half way between Mamalahoa Highway and the shoreline."

- "4. Applicant shall submit a written estimate(s) provided by a contractor(s)...for all construction activities required prior to the granting of final consolidation and resubdivision approval..."
- "7. All site plans submitted to the Planning Department for any future land use permits or development on the applicable resultant lots shall include the locations of the mauka-makai and the public lateral shoreline pedestrian access easements."
- 4) All easements affecting proposed lots shall be identified for its purpose and to which proposed lot(s) and/or grantee(s) the easement is in favor of. This shall be shown on the final plat map.
 - ~~5)~~ Property Tax Certification. Submit written proof that all taxes and assessments on the property are paid to date.
 - ~~6)~~ Surveyor's Certification. Place property markers in accordance with the final plat map. Surveyor shall submit certification upon completion.
 - ~~7)~~ Final Plat Map. Submit ~~ten~~ **(10)** copies of the final plat map prepared in conformity with Chapter 23, Subdivisions, within one year from the date of tentative approval, on or before **May 28, 2009**. If not, tentative approval to the revised preliminary plat map shall be deemed null and void. Only upon written request from the subdividers and for good cause, the director may grant to the subdividers an extension of time within which the subdividers may file the final plat. As part of final plat map submittal, the director request an additional copy of the final plat map be submitted as a ".dwg" or ".dxf" diskette file prepared by CAD software.
 - 8) Time Limit. Subdividers shall complete all requirements specified as conditions for tentative approval of the revised preliminary plat map within three (3) years of said tentative approval, on or before **May 28, 2011**. An extension of not more than two (2) years may be granted by the director upon timely request of the subdividers.

Please be aware that if at any time during the fulfillment of the foregoing conditions, should concerns emerge such as environmental problems or other problems which were earlier overlooked or not anticipated/accounted for in data/reports available to date, this could be sufficient cause to immediately cease and desist from further activities on the proposed subdivision, pending resolution of the problems. The Planning Director shall confer with the listed officers to resolve the problems and notify you accordingly.

No final approval for recordation shall be granted until all the above conditions have been met.

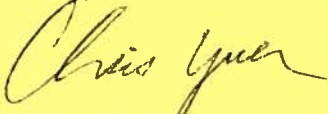
Land shall not be offered for sale, lease or rent until final approval for recordation of the subdivision is granted by the Planning Director or the proposed subdivision has been issued a preliminary order of registration by the Department of Commerce and Consumer Affairs (DCCA) in accordance with the requirements of Chapter 484, Hawaii Revised Statutes.

Chrystal Thomas Yamasaki, LPLS
Wes Thomas Associates
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There has been considerable legal controversy over subdivisions in the agricultural district, including the recent Kelly, et.al. v. 1250 Oceanside Partners, et.al., Civil No. 00-1-0192K. Because of the state of the law at this time, we recommend that subdividers in the State Land Use Agricultural district consult with, and rely on, independent legal counsel in deciding whether their subdivisions comply with the requirements of Chapter 205, Hawaii Revised Statutes. We also recommend that you advise lot purchasers to consult with, and to rely on, independent legal counsel regarding permissible uses and the effect of Land Use Commission Rule 15-15-25(b), Hawaii Revised Statutes Section 205-4.5, and Hawaii County Planning Department Rule No. 13, on the requirements to build and occupy dwellings on lots within the subdivision.

Should you have any questions, please feel free to contact Ed Cheplic or Jonathan Holmes of this department.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH:lnm

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Encs.: Revised PPM (11-21-07)
Copy SMM-07-000051 (03-19-07) & Amendment (01-10-08)
Copy CDUP: HA-3407 (07-24-07)

xc: Manager, DWS
Director, DPW
District Engineer, DOT
DPW-ENG-KONA
Director, P&R
Samuel J. Lemmo, Administrator, OCCL (Oahu)
Nancy McMahon, Administrator, Historic Preservation Division (Oahu)
Doris Moana Rowland, Abstractor, Na Ala Hele Trail & Access
Aric Arakaki, Superintendent, National Park Service, Ala Kahakai National Historic Trail
Planning Dept.-Long Range Planning Division (CZM)
Planning Dept.-Kona Office
Foti Alae Properties, LLC, et. al.
Kiowai Hui, LLC
SMM 07-000051(8-7-5:1-2, 10-19)