

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

January 10, 2008

Mr. Gregory R. Mooers
Mooers Enterprises, LLC
P. O. Box 1101
Kamuela HI 96743

Dear Mr. Mooers:

SUBJECT: Special Management Area Minor Permit No. 07-000051 (SMM 07-000051)
Applicant: Dan McKinley & Frank Foti
Land Owner: Kiowai Hui, LLC & Foti Alae Property, LLC
Request: Amendment to Conditions No. 3 and No. 7
TMK: 8-7-5:1-2 and 10-19, Alae 1st & 2nd, South Kona, Hawaii

This is to follow up on our April 24, 2007 meeting which included your client, Mr. Frank Foti. We sincerely apologize for the delay of this letter.

At the April 24, 2007 meeting, the requirement to provide public vehicular mauka-makai access and public parking was reexamined. Discussion included the steepness of the pali and the numerous archaeological sites within the area.

In view of the foregoing and after further evaluation, we have determined that public vehicular access and parking will not be required.

However, by enclosed letter dated October 31, 2006, Na Ala Hele stated that a makai trail, owned by the State of Hawaii and referred to as the "King's Trail", traverses through the makai portion of the subject area. This makai trail is part of the National Historic Trail known as the "Ala Kahakai". A copy of the required "Revised Preliminary" map dated November 21, 2007 for the pending subdivision, Sub-06-000435, which denoted the location of the King's Trail was forwarded to Ms. Doris Moana Rowland, Na Ala Hele Abstractor on December 4, 2007 for her review.

Mr. Gregory R. Mooers
Mooers Enterprises, LLC
Page 2
January 10, 2008

Therefore, in view of the foregoing and the delay in our response, we have amended Conditions No. 3 and No. 7 of SMM 07-000051 as follows:

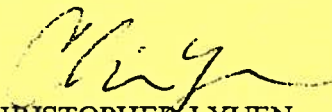
3. A public access plan for the subject properties shall be submitted to the Planning Director for approval not more than two years after the granting of this permit. It shall include the following:
 - a. A continuously traversable minimum 10-foot wide mauka-makai pedestrian access easement along the existing jeep road or as otherwise mutually agreed upon.
 - b. In consultation with the Na 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.

Approval of the public access plan shall be required prior to granting of final approval of the proposed consolidation and resubdivision.

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.

If you have questions, please feel free to contact Esther Imamura of this office at 961-8288, extension 257.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETI:cd
P:\wpwin60\CZM\SMM2007\SMM 07-51L2 Mooers McKinley & Foti.doc