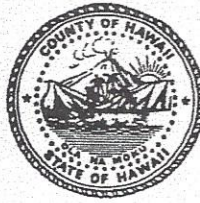


William P. Kenoi
Mayor



Bobby Jean Leithead Todd
Planning Director

Margaret K. Masunaga
Deputy Planning Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 967.
Phone (808) 961-8288 • Fax (808) 961-8742

May 3, 2011

Paul H. Murray, LPLS
Paul H. Murray & Associates, LLC
PO Box 1189
Hilo, HI 96721-1189

Dear Mr. Murray:

TENTATIVE APPROVAL

SUBDIVIDER: KALEIWAHEA, Marie P.

Proposed Subdivision of Lot 13-B-2 of the Kilauea Settlement Association Lots,
Into Lots 13-B-4 to 13-B-9, Inclusive,
'Ōla'a, Puna, Island of Hawai'i, Hawai'i

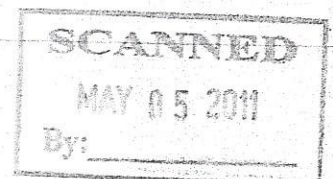
TMK: 1-9-001:003 (SUB-10-001008)

Please be informed that Tentative Approval of the preliminary plat map dated July 5, 2010, is hereby granted with modifications and conditions.

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

- 1) Water System
 - a) Comply with all conditions of approved Water Variance No. 11-000001, especially Condition No. 2 relating to the filing of a written deed covenant(s) affecting lots not serviced by a county water system, i.e., no further subdivision of the lots will be permitted unless County water system requirements are met, and the lots may not be subject to a condominium property regime. The deed covenant(s) shall be recorded by the Planning Department with the State of Hawai'i, Bureau of Conveyances at the cost and expense of the property owner/subdivider. We are providing the subdivider the required document. The subdivider/owner shall endorse the appropriate signature page, have those signatures notarized, and return the document to this department along with a check in the amount of \$30.00 payable to the Bureau of Conveyances.

Hawai'i County is an Equal Opportunity Provider and Employer



MAY 05 2011

- 2) Drainage
 - a) Identify all watercourses and drainage ways and designate areas within as "approximate areas of flood inundation."
 - b) Additional storm runoff due to development shall be disposed within the subdivision and shall not be discharged onto adjacent properties or roadways.
- 3) Access and Roadway Improvements
 - a) Provide a common access easement encumbering the side-by-side poles of Lots 13-B-5 and 13-B-6. Identify the easement by azimuths and distances on the final plat map.
 - b) Provide a 10-ft. wide "no vehicular access" planting screen easement along the entire "Road A" frontages of Lots 13-B-4, 13-B-5 and 13-B-6.
 - c) Extinguish the present driveway access to Lot 13-B-4 or, in the alternate, provide proof of access rights over "Road A", a private road. Should such access rights be obtained, modify the easement in b) above to allow said access point.
- 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) Wastewater Improvements. Locate/indicate existing wastewater systems on the final plat map.
- 6) Property Tax Certification. Submit written proof that all taxes and assessments on the property are paid to date.
- 7) Surveyor's Certification. Place property markers in accordance with the final plat map. Surveyor shall submit certification upon completion.
- 8) 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 3, 2012**. If not, tentative approval to the preliminary plat map shall be deemed null and void. Only upon written request from the subdivider and for good cause, the director may grant to the subdivider an extension of time within which the subdivider may file the final plat. **As part of final plat map submittal, provide an additional copy of the final plat map as a ".dwg" or ".dxf" diskette file prepared by CAD software. In the alternate, a digital copy of the final plat map may be e-mailed to the Tax Maps and Records Supervisor at planning@co.hawaii.hi.us.**
- 9) Time Limit. Subdivider shall complete all requirements specified as conditions for tentative approval of the preliminary plat map within three (3) years of said tentative approval, on or before **May 3, 2014**. An extension of not more than two (2) years may be granted by the director upon timely request of the subdivider.

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.

Paul H. Murray, LPLS
Paul H. Murray & Associates, LLC
Page 3
May 3, 2011

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, Hawai'i Revised Statutes (HRS).

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, HRS. 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), HRS Section 205-4.5, and Hawai'i 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 Jonathan Holmes of this department.

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH:lnm

P:\Admin Permits Division\Subdivision\2011\SUBc2011-2\SUB-10-001008KaleiwaheaTA.doc

Enc.: PPM (07-05-10)

xc: Manager, DWS
Director, DPW
District Environmental Health Program Chief, DOH
Marie P. Kaleiwahea w/Declaration for Variance VAR-11-000001
Andrew P. Wilson, Esq.
VAR-11-000001