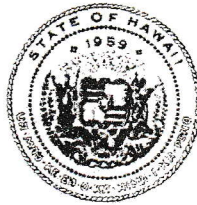
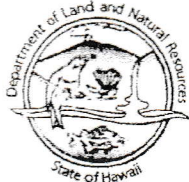


LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS

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HONOLULU, HAWAII 96809

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KAIKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:MC
CDUA: HA-3485

Thomas L. H. Yeh
85 W. Lanikaula Street
Hilo, HI 96720

Dear Mr. Yeh,

SUBJECT: CONSERVATION DISTRICT USE APPLICATION (CDUA) HA-3485
Consolidation and Resubdivision
Wailea, South Hilo, Hawai'i
TMK (3) 2-9-003:013, 029, 060

SEP 12 2008



The Office of Conservation and Coastal Lands (OCCL) has reviewed your application for the consolidation and resubdivision of three lots and a railroad right-of-way into three lots. The parcels are in the Resource Subzone of the State Land Use Conservation District. OCCL finds that the proposal as written is not in conformance with Hawai'i Administrative Rules (HAR) §13-5, and cannot accept the application at this time. We will keep the application on hold while the landowner decides on a course of action.

The subject parcels, excluding the railroad right-of-way, are 0.662 acres (parcel 13), 2.192 acres (parcel 29), and 0.544 acres (parcel 60). The proposal would result in three parcels of 1.214, 1.2141, and 2.146 acres respectively.

The Single Family Residential Design Standards in HAR §13-5 allow for a greater maximum developable area for lots over one acre. This proposal would take three lots, of which only one is over one acre, and create three lots which would all be over one acre. This would put the proposal in violation of HAR §13-5-30 PERMITS, GENERALLY, Criterion 7: *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

OCCL can identify two potential ways to resolve this. One option would be to reconfigure the lots so that two of them remain under one acre. The second option would be to add a deed restriction on the two undeveloped lots that states that the reconfigured lots will comply with the identified land uses and residential design standards of lots under one acre (thereby bringing the proposal into compliance with HAR §13-5-30).

OCCL also notes that our office does not have the authority to eliminate the railroad right-of-way, nor to incorporate it into the proposed lots. The applicant will need to apply for the purchase of the remnant with DLNR's Land Division. OCCL recommends that the applicant

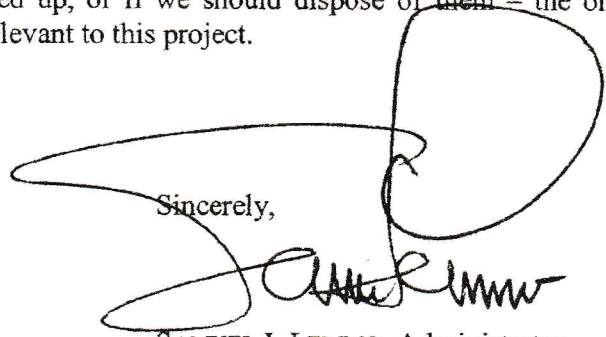
complete this process before proceeding with the proposal to consolidate and re-subdivide. If the applicant chooses to proceed, they will need to secure permission from the land owner – i.e. the state – for any proposals to consolidate and re-subdivide this portion of the parcels.

If the applicant chooses to withdraw this application and resubmit it after the purchase of the remnant is complete, OCCL would also like to note the following:

- The application states that interior driveway access will be provided via a proposed road and utility easement along the western boundary of TMK No.: (3) 2-9-003: 029. Additional infrastructure improvements may be required by the County of Hawai'i, should the subdivision be approved. OCCL would like to note that any additional proposed land uses beyond the consolidation and re-subdivision will require a separate permit.
- Consolidation and Re-subdivision proposals are considered "exempt" and do not require an Environmental Assessment (EA)¹.
- You included 20 copies of a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) with your application.

Please let us know if you would like amend the application or withdraw it. Let us also know if you would like to have the EAs picked up, or if we should dispose of them – the ones you submitted are for a house and are not relevant to this project.

Sincerely,



SAMUEL J. LEMMO, Administrator
Office of Conservation and Coastal Lands

cc: Chair, Land Division

¹ OCCL would also like to note that the accepting agency, not the consultant, issues a FONSI; it is a decision by a government agency, not a document that an applicant can submit.