

RECEIVED  
SEP 20 2007

ORIGINAL

September 17, 2007

Land Use Commission  
State of Hawaii  
SP03-399 Kauai ATV

STATE OF HAWAII  
LAND USE COMMISSION

Aloha Commissioners,

The motion made at the public hearing on April 26, 2007 was "...that we set a hearing to show cause why the special permit should not be revoked for violations of conditions and/or representations." The issue of the apparent misrepresentations regarding the use of "existing cane haul roads and trails" as presented in the original permit application and subsequently by the applicant, was raised in testimony to the commission prior to the motion to set a hearing to show cause. Therefore it seems that this issue may be considered by the commission in making any decisions. Incidentally, the new road constructed for Kauai ATV was built and graded without permits, is not navigable by cane haul trucks, and its only destination is to connect with an unused portion of the old highway where there never had been an intersection before.

Thank you for making possible public participation in the field trip to the site of the stairways. It was very puzzling that we were all taken the long way around to get to the site of the removed stairways. It seemed as if we were purposefully being prevented from passing the spot where the newly built road intersected with the very same old cane road that we were traveling on. This long way around can be seen at the map that I submitted with my testimony at the previous hearing of July 12.

On the field trip we were all properly advised not to have discussions of any of the issues while we were there. I noticed that Tony Ching addressed the entire group and stated as fact the representation made by the applicant that the final stairway was built solely for the purpose of removing the previous more elaborate stairway. I hope this did not improperly influence Commissioners that were there. Pictures had previously been submitted as testimony showing that the newest stairway continued underneath and past the old stairway leading closer to the waterfall, certainly not necessary for dismantling, but could be useful for tours. It is odd that this latest stairway was not needed and did not exist during construction of the previous platform and stairs. Philodendrons, a landscape plant were planted along this newest stairway, indicating that it was not solely for deconstruction. These plants were visible during the tour. There was also testimony that this particular waterfall tour was still being offered to the public by the applicant up until just a few days before the July 12 hearing, in spite of the fact that on April 26, 2007 the applicant was made aware by the Commission that this activity was not an approved part of their Special Use Permit.

Sincerely,



David Whatmore