



November 1, 2005

Mr. Christopher Yuen, Director
Planning Department
COUNTY OF HAWAII
101 Pauahi Street
Hilo, Hawaii 96720

Dear Mr. Yuen:

**Subject: Variance Application (VAR 05-083)
Waimea 660, LLC
TMK: 4-8-03: 005 (SUB 05-0125)**

I would like to use this means to respond to Ms. Lynn Nakkim's email letter of October 9 to you regarding the subject matter.

The letter raises a number of issues ranging from the propriety of the County's sale of the subject property to the applicant to the appropriateness of proposed subdivision. However, inasmuch as the applicant's request is for a variance from the water requirements and not the propriety of the sale or other broader land use issues raised in that email, I would like to confine this response, with the exception of the archaeological issue, to the water variance.

Please note that prior to the applicant's purchase of the subject property, it had an Archaeological Assessment of a portion of Mud Lane prepared by Paul Cleghorn of Pacific Legacy, Inc. A copy of this letter report (enclosed) was provided you in my September 27, 2005 memorandum to Mr. Irwin Kawashima, Big Island coordinator of the Na Ala Hele trails system. You will note that in its findings, the report noted that it could not find any evidence of a trail and suggested that the construction and maintenance of the Mud Lane Road probably "disrupted and/or destroyed any archaeological sites that may once have rested within the road corridor."

Subsequent to receipt of Ms. Nakkim's email letter, the applicant had the archaeologist revisit this issue. In its letter of October 31, 2005 (enclosed), the archaeologist could not agree with her assertion of a trail and reconfirmed its earlier findings and conclusions that its field survey did not reveal any "historic properties or potentially significant cultural properties."

Relative to Ms. Nakkim's five (5) objections relating to the water variance, we would like to note the following:

- a. The County Code authorizes the Planning Director, and not Planning Commission, to render decisions on variances from the Subdivision Code.

All decisions of the Director, however, are subject to appeal before the Planning Commission.

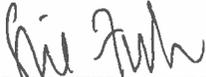
- b. Because this is a water variance, it is beyond the scope of this response to address the County's decision to sell this property and its use of the proceeds.
- c. It should be noted that the subject parcel consists of two (2) existing lots, and the zoning of these lots is A-40a. As such, there is a mathematical possibility of having at least sixteen (16) 40-acre lots in this area provided that there is full compliance with the Subdivision Code. That is not the applicant's intent. The water variance is to allow a 6-lot subdivision from these two lots. The net additional lots created by this action are four (4).

Bringing County water to the subject site would understandably be cost prohibitive, given the number of lots to be serviced by this system. Equally so, constructing this water would result in the removal of the large stand of trees within Mud Lane Road. The applicant also shares this ambience concern raised by Ms. Nakkim. As such, the applicant has elected to apply for this water variance.

- d. The applicant, too, does not want to have a connection of the mauka and makai sectors of Mud Lane Road. As such, it is proposing to make modest improvements between the end of the improved section only up to its property. No improvements over the entire length of its property are being planned, thus minimizing the potential for this road to connect.
- e. This response is similar to item "d" above.

I trust that the above adequately addresses the issues germane to the water variance. If not or if there are other questions or issues on this matter, please feel free to contact me. Thank you very much.

Sincerely,


SIDNEY M. FUCE
Planning Consultant

Enclosures

Copy – Mr. David Katz, Waimea 660, LLC w/ enclosures
Ms. Lynn Nakkim w/ enclosures

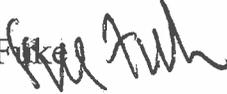


SidneyFuke, Planning Consultant

100 Pauahi Street, Suite 206 • Hilo, Hawaii 96720
Telephone: (808) 969-1522 • Fax: (808) 969-7996
E-mail: sidfuke@cuahawaii.net

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MEMO – September 27, 2005

TO: Irwin Kawashima
FROM: Sidney Fuke 
RE: Archaeological Assessment – Mud Lane
TMK: 4-8-003: 005 (SUB 05-000125)

As discussed, please find enclosed a copy of the subject matter for your information. I am also enclosing a copy of the proposed subdivision.

I do not believe that there was any request for comments made of the State Historic Preservation Office.

Let me know if you have additional questions on this matter. Thanks!

Enclosures

Copy – Planning Department w/ enclosure

Mr. Robert Greenfield/Mr. David Katz via email w/o enclosures



Pacific Basin Division
332 Uluniu Street
Kailua, Hawaii 96734

Phone: 808 263-4800
Fax: 808 263-4300
www.pacificlegacy.com

31 October 2005

David Katz
Manager
Waimea 660 LLC
P.O. Box 1300
Kilauea, HI 96754

Re: Lynn Nakkim's letter regarding a traditional Hawaiian trail in a portion of Mud Lane in Waimea

Dear David:

Thank you for providing Pacific Legacy the opportunity to respond to Lynn Nakkim's letter.

As you are aware Pacific Legacy conducted an archaeological survey of the portion of Mud Lane in Waimea that contains the reputed "ancient Hawaiian hand paved trail" (TMK 4-8-3:05). I was the principal investigator of this study, and Rowland Reeve, who heads our Hawai'i Island office, conducted the field survey. I have over 30 years of archaeological experience in Hawai'i and Rowland has over 25 years of experience here. I want to assure you that Rowland and I are extremely concerned with preserving archaeological resources in Hawai'i. However, the "site" in question does not appear to be a genuine archaeological site.

The portion of the Mud Lane Road in question appears to have formed part of an old stage coach route that extended from Hilo to Waimea. From the 1920's until the 1990s the Mud Lane Road was maintained by the Hamakua Sugar Plantation. A retired plantation supervisor informed us that the route was regularly graded for use by heavy trucks.

An on-the-ground examination of the reputed "trail" revealed evidence of former grading. There are berms of earth that appear to have been associated with past bulldozing, and portions of the road bed that are at least three feet lower than the surrounding pastureland. While sections of this "trail" may appear to have been paved, they are actually eroding patches of bedrock. Continual grading of the road bed cut away the topsoil, exposing sections of bedrock, which then weathered in place. When the natural cracks between sections of crumbling bedrock are filled with soil and ironwood needles the outcrop can resemble a pavement of set stones. Once this debris is cleared away, however, it is easy to see that these "paving stones" are actually eroding pieces of the same outcrop. So, this "trail" appears to be partially graded by bulldozing, and partially the result of natural eroding forces.

Finally, Ms. Nakkim asserts that the origin of this trail may extend back to ca. A.D. 500. There is no archaeological evidence of traditional Hawaiian occupation in this portion of Hawaii Island 2000 years ago. Ms Nakkim also asserts that this "trail" may be associated the expansion of the footpath systems on the island by the major chiefs Liloa and Umi. Traditional Hawaiian footpaths were simple cleared paths or stepping stone trails where the path needed to cross rough terrain. Since the early Hawaiians traveled by foot and possessed no vehicles, there was no need for wide paved roads.

Our field investigations revealed no historic properties or potentially significant cultural properties. If any archaeological sites existed in this area, none appear present today.

In order to help visualize the reputed "trail" we enclose three photographs taken during our archaeological investigations.

Please do not hesitate to contact me if you have any questions regarding our findings.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Cleghorn', written in a cursive style.

Paul L. Cleghorn
Senior Archaeologist
Pacific Basin Division

Enclosures



A bedrock outcrop exposed by road grading. When covered with dirt and ironwood needles, it somewhat resembles a stone pavement.



A similar bedrock outcropping cleared of debris.



A section of the road bed that is substantially lower than the surrounding terrain. This appears to have resulted from grading and use by heavy vehicles.