Chairperson and Members
Board of Land and Natural Resources
State of Hawai‘i
Honolulu, Hawai‘i

Land Board Members:

SUBJECT: REQUEST TO APPROVE LOCATION OF THE HISTORIC TRAIL NOTED AS THE "BRIDLE PATH" ON REGISTERED MAP 603, WHERE IT CROSSES THROUGH LANDS IDENTIFIED AS TMKs (2) 2-4-012: 040-045, MAKAWAO DISTRICT, MAUI.

SUMMARY

Pursuant to an application for a subdivision approval, the County of Maui, Department of Planning requested a recommendation from the Division of Forestry and Wildlife as to whether known historic trails owned by the state in fee simple present on the lands proposed for subdivision should be identified and mapped as part of the subdivision documentation. In making its recommendation to identify and map the location of the trail, the Division determined that the location of the trail on site, as determined by Na Ala Hele Program staff, did not appear to coincide exactly with the apparent location of the trail shown on Registered Map 603, dated 1872, which is the only known map of the historic trail at that location. Since the location of the trail based on staff’s assessment did not appear to coincide exactly with that shown on the historic map, staff is seeking Board approval to determine that the location of the trail is as documented by the field survey.

BACKGROUND

In 2015, the Division of Forestry and Wildlife was contacted by representatives of Hōkūnui Maui, LLC, requesting information regarding any potential historic trails that may be present on the subject lands. The request was made in connection with the development of a Cultural Impact Assessment (CIA), to be part of an Environmental Assessment (EA) for a proposed subdivision and development on the subject lands, which noted that historic maps showed one or more traditional trails in the area. The representatives of Hōkūnui Maui, LLC indicated an interest in knowing more about the trail, including its present-day location and any recommendations for restoration or public use. Pursuant to the request, staff met with representatives of Hōkūnui Maui LLC., which included a site visit, and provided relevant information. Although staff were not able to locate any remnants of the trail at the site due to a long history of land use for pineapple cultivation.
and other uses that apparently destroyed the trail, staff affirmed the findings of the CIA, which documented the existence of a historic trail, noted as the “Bridle Path” on Registered Map (RM) 603 (Exhibit A), dated 1872 (see also inset provided in Exhibit B). The subject trail is shown on RM 603, as part of a network of trails in the area, to extend from Olinda Road near Po'okela Church, mauka and east to Pi'iholo Road and beyond. Staff informed the representatives of Hökūnui Maui, LLC that it is the Department’s opinion that the documentation of the existence of the trail in 1872, as provided by RM 603, establishes that the subject trail is owned by the state in fee simple pursuant to §264-1, Hawai‘i Revised Statutes. Following those discussions with Hökūnui Maui, LLC, it is staff's understanding that the project as proposed in the draft EA and CIA was withdrawn, and that alternative plans were under development.

In October 2020, Maui Branch of the Division of Forestry and Wildlife was contacted by the County of Maui, Department of Planning pursuant to its review of an application by Hökūnui Maui LLC for further subdivision of certain existing parcels that were part of the subject lands. As part of its preliminary approval of the application, the Department of Planning required that the applicant identify any traditional access paths through the property. The Department of Planning further requested comment from the Division of Forestry and Wildlife as to whether those historic trails identified previously in connection with the 2015 inquiry should be identified on the final subdivision plat maps with regard to their location or other pertinent information. In an October 23, 2020 letter in reply to the Department of Planning (Exhibit C), staff informed the Department of Planning that the subject trails are owned by the state in fee simple, pursuant to §264-1, Hawai‘i Revised Statutes, and recommended that the location of the state trail be identified on the subdivision plat maps.

In November 2020, staff were contacted by Hökūnui Maui, LLC requesting technical assistance to establish the location of the trail on site, given that previous surveys had suggested that the trail had been destroyed by prior land use practices. Through a series of site visits accompanied by Hökūnui Maui, LLC, staff established what we believe to be the present-day location of the trail (Exhibit D) where it crosses through the lots that are included in the application for consolidation and subdivision, being Lots 4-9.

TRAIL LOCATION

Many of the historic trails that are owned by the state pursuant to §264-1, HRS, are known only from maps that may be more than a hundred years old. Using those old maps to locate the present-day location of a trail can be challenging because historic maps may be imprecise and because trails may move over time. It is often the case that that the present-day location documented on site using modern survey methods does not appear to coincide exactly with the apparent location shown on the historic maps. Where evidence of the trail can be discovered on site, staff can determine the present-day location with certainty. Determination may be more challenging in cases where the trails have fallen into disuse or have been damaged or destroyed and the only information available is from the very old maps.
To determine the location of the subject trail on site, staff traced the historic trail shown on RM 603 onto a digitized basemap and uploaded to the coordinates to a GPS unit. Staff then used the GPS unit in the field to walk the route as closely as possible, noting any discrepancies between what staff believed to be the likely location on site and the track shown on the RM 603 map. Overall, we found that the probable present-day location of the trail very closely matches the location shown apparently on RM 603, with a few minor differences (Exhibit D). In each location where an apparent difference was found, staff used the best available information to determine the most likely present-day location. In all instances, the differences were attributed to the conclusion that the actual trail had moved over time, as evidenced for example by an existing road or path, or to imprecision in the RM 603 map or trace where topography suggested the present-day location. Using a GPS unit, staff established the recommended present-day location of the trail as the centerline of the GPS track, for which the state trail extends five feet on each side, to establish a 10-foot trail corridor. The field surveys for the trail were done in collaboration with the applicant, Hökūnui Maui, LLC, who has indicated to staff that they concur with the present-day location recommended by staff. Following determination of the present-day location of the trail in the field, Hökūnui, LLC developed for the purposes of its applications to the county for subdivision approval a series of plat maps that include identification of the present-day location of the Bridle Path, as well as a written notice on the plat maps of the State’s interest in the Bridle Path (Exhibit E).

Of note, at the southeast boundary of Lot 4, the RM 603 trail continues through adjacent Lot 3, then through another State parcel, and then to Pi‘iholo Road. Lot 3 is not one of the parcels that is being subdivided and no part of the trail on Lot 3 will be affected by the application or the Board’s approval. For the benefit of access to Pi‘iholo Road from lot 4, the applicant has voluntarily included an additional segment of trail that connects the Bridle Path to Pi‘iholo Road at the southeast boundary of Lot 4.

TRAIL DISPOSITION AND USE

Unless and until any change in disposition is approved by the Board, staff assumes the trail comprises unencumbered state lands subject to provisions in Chapter 13-221, Hawai‘i Administrative Rules. Unencumbered lands are generally open for public access unless the Board or its authorized representative approves the closing of areas pursuant to §13-221-4. To our knowledge, no such closure has been approved. Pursuant to §198D-3, the subject trail will be placed on the inventory of state trails maintained by the Na Ala Hele Program, along with associated information as required by law, including its location. If approved by the Board, the location shall be defined as described above. The Division of Forestry and Wildlife does not have immediate plans to request that the Board set aside the trail to be designated as a Na Ala Hele Program Trail, nor do we have immediate plans for trail construction and maintenance. We may request approval for those actions in the future. We assume that the trail is now and will remain open for public access unless otherwise restricted by the Board.

With regard to the request from the County of Maui, Department of Planning for comments on the presence of any traditional access paths on the lands proposed for consolidation
and subdivision, if approved by the Board herein, staff will recommend that the Bridle Path be incorporated into the plat maps for the Hōkūnui Maui LLC applications for subdivisions as shown in Exhibit E.

RECOMMENDATION

That the Board approve the present-day location of the trail noted as the “Bridle Path” on Registered Map 603 to be as shown on the plat maps in Exhibit E.

Respectfully submitted,

for

David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson
Board of Land and Natural Resources

Exhibit A: Registered Map 603, with solid black box delineating area of inset shown in Exhibit B.

Exhibit B: Inset from RM 603 with yellow highlight marking the “Bridle Path”.

Exhibit C: Reply to County of Maui, Department of Planning recommending that subdivision identify the “Bridle Path” shown on RM 603.

Exhibit D: Digitized trails overlain onto aerial imagery showing the apparent location of the trail shown on RM 603 and the present-day location recommended by staff based on the field survey.

Exhibit E: Plat maps depicting location of the Bridle Path and providing notice to future owners regarding the State’s Interest.
Exhibit B: Inset from RM 603 showing “Bridle Path” in yellow highlight.
October 23, 2020

Paul Critchlow
County of Maui
Department of Planning
2200 Main Street, Suite 315
Wailuku, Hawai‘i 96793

Subject: Application for proposed Pi‘iholo South Subdivision, TMKs: (2) 2-4-012: 040, 041, 042, 043, 044, and 045. Applicant Hokunui Maui, LLC.

Dear Mr. Critchlow:

Thank you for the opportunity to comment on the subject proposed subdivision. According to our research, a state trail known as the Bridle Path, shown on Registered Map 603, crosses through portions of the lands proposed for subdivision. Pursuant to Chapter 264-1, Hawai‘i Revised Statutes, that trail is owned by the state in fee simple.

Based on our review of the application, it does not appear that the applicant has identified the state trail where it crosses through the parcels proposed for subdivision. Therefore, in order to ensure that property boundaries are properly established for subdivision purposes, the Division recommends that the applicant complete a metes and bounds survey to identify the boundaries of their property in relation to those of the state trail.

The Division of Forestry and Wildlife is available upon request to provide technical assistance with this project to ensure that the historic Bridle Path is protected in perpetuity.

Sincerely,

[Signature]
Scott Fretz
Maui Branch Manager
Exhibit D. Present day location of the Bridle Path as recommended by staff (yellow) and apparent location digitized by trace from RM 603 (purple).
Exhibit E. Plat maps developed by Hokunui Maui, LLC pursuant to their request for consolidation and subdivision of the subject parcels.
PIHOLE SOUTH SUBDIVISION

SUBDIVISION OF LOT 4 OF
THE PIHOLE SOUTH SUBDIVISION
INTO LOTS 4-A TO 4-C, INCLUSIVE,
AND LOT 4-D (ROAD WIDENING LOT)
AND DESIGNATION OF EASEMENTS
4-A' AND 4-B'

Swing portions of Grant 68 to J. S. Green
and Grant 2840 to Bahan

BENEFICIARY

Michael H. Hacha

DATE: AUGUST 5, 2013
EXECUTED: AUGUST 7, 2013
REMARKS: SEE ATTACHED

AKAMI LAND SURVEYING, INC.
11-282 KAPUAIWA ST.

NOTE:

1. Statements herein are based on the best knowledge and belief of the undersigned.
2. Statements herein are subject to error or omissions.
3. Statements herein are subject to the condition of the land in the possession of the parties.
4. Statements herein are subject to the condition that the land is free and clear of title defects.
5. Statements herein are subject to the condition that the land is free and clear of liens.
6. Statements herein are subject to the condition that the land is free and clear of encumbrances.
7. Statements herein are subject to the condition that the land is free and clear of any and all other conditions.

P.I.S. NO. S-4-11-45

SUBDIVISION PLAN NO. 9-1-11-14
PIIHOLO SOUTH SUBDIVISION
SUBDIVISION OF LOT 5 OF THE PIUHOLO SOUTH SUBDIVISION INTO (SUBDIVISION FILE NO. 2.2330A)
LOTS 5-A TO 5-C, INCLUSIVE, AND LOT 5-D (ROAD WIDENING LOT) AND DESIGNATION OF EASEMENTS "A" & "B"

Being portions of Grant 400 to Kalaimanokula and Grant 2810 to Kekua

[Map and diagram of the subdivision]
PIHOLO SOUTH SUBDIVISION

SUBDIVISION OF LOT 6 OF THE PIHOLO SOUTH SUBDIVISION (SUBDIVISION FILE NO. 2-2994) INTO LOTS 6-A TO 6-C, INCLUSIVE, AND LOT 6-D (ROAD WIDENING LOT) AND DESIGNATION OF EASEMENTS 6-A TO 6-D, INCLUSIVE.

Being portions of Grant 324 to Naheana, Grant 328 to Nuole, Grant 498 to Kalimaipoku and Grant 2840 to Kekua.

DATE: AUGUST 6, 2017
SCALE: 1" = 50'

AKAMAI LAND SURVEYING, INC.
P.O. BOX 8592
HONOLULU, HAWAII 96808
(808) 524-1313

NOTES:
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PHILOLOD SOUTH SUBDIVISION

SUBDIVISION OF LOT 7 OF THE PHILOLOD SOUTH SUBDIVISION (SUBDIVISION FILE NO. 2.333) INTO LOTS 7-A TO 7-F, INCLUSIVE, AND LOT 7-G (ROAD WIDENING LOT) AND DESIGNATION OF EASEMENT 'Y-A'.

Being portions of Grant 175 to

A. McKenzie, Grant 334 to Helmsen,

Grants 328 to Smith, Grant 318 to

K. Claiborne, and Grant 344.

IN WITNESS WHEREOF, the undersigned, the legally authorized officers of the surveying company, have hereunto set their hands and affixed the seal of the company, this 4th day of September, 1989.

[Seal]

[Signature]

AKAMAI LAND SURVEYING, INC. 

[Address]