

**WILLIAM L. MOORE PLANNING**

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HILO, HAWAII 96720  
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WLM\_Planning@verizon.net

PLANNING DEPARTMENT  
COUNTY OF HAWAII  
JUN 1 1 11 PM '08

June 1, 2004

Christopher J. Yuen, Planning Director  
County of Hawaii Planning Department  
101 Aupuni Street, Suite 3  
Hilo, Hawaii 96720-3043

Dear Mr. Yuen:

Subject: Change of Zone Ordinance No. 96-117 (REZ 715)  
Compliance with Condition M(1)g.

This is to follow up with respect to your letter of March 27, 2002 (Attachment No. 1) which determined that development of a portion of Parker Ranch's Waimea Town Center residential lands with grassed swales in lieu of curbs, gutters and sidewalks as provided in Condition M(1)g of Ordinance No. 96-117.

The grassed swales were allowed provided that certain conditions of approval were complied with, including the following:

If access concerns are raised in relation to the Americans with Disabilities Act (ADA) or other County, State or Federal regulation that require the provision of sidewalks or other access improvements that Parker Ranch, its successors or its assigns shall be responsible for upgrading of the road improvements to conform to such requirements. Parker Ranch shall provide appropriate assurances for this upgrade, meeting with the approval of the Planning Director, in consultation with the Department of Public Works.

This letter is to seek clarification of this condition. More specifically, Kaomalo LLC, a joint venture between Schuler Homes and Parker Ranch, Inc. has completed construction of the roadway improvements within the first increment of its Luala'i at Parker Ranch development and will be seeking to dedicate these improvements to the County.

As part of the background research for the road improvements, Kaomalo LLC consulted with Paul Sheriff Incorporated, an ADA consultant, as to the requirements for sidewalks under ADA. Attached, please find Paul Sheriff's correspondence on this matter, including a letter from the Disability and Communication Access Board of the State of Hawaii (Attachment No. 2). As stated in the letter, Mr. Sheriff concluded that sidewalks or other pedestrian facilities are not required under the ADA. This conclusion was supported by a letter from the Department of Public Works (Attachment No. 3) which determined that the roadway shoulders within the Luala'i Subdivision is a shared use facility and not a pedestrian facility.

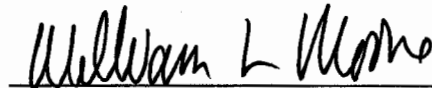
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Christopher J. Yuen  
June 1, 2004  
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Based on the above, we believe that the projects road improvements as approved by the County and constructed by Kaomalo LLC, comply with the American with Disabilities Act and is therefore in compliance with the requirements of your March 27, 2002 letter.

Thank you for your attention to this matter. Please call me if you have any questions in the meantime.

Sincerely,



---

William L. Moore

attachments

cc: Michael Jones, Schuler Homes  
David Houle, Parker Ranch

RECEIVED APR - 3 2002

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy H. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808)961-8288 • Fax (808) 961-8742

March 27, 2002

Mr. William L. Moore  
William L. Moore Planning  
159 Halai Street  
Hilo, Hawaii 96720

Dear Mr. Moore:

**CHANGE OF ZONE ORDINANCE NO. 96-117 (REZ 715)**

**Applicant: Parker Ranch, Inc.**

**Subject: Compliance with Conditions M(1)g**

**TMK: 6-2-01: 19; 6-7-01: Portion of 25; 6-7-02: 09, 48**

**and Portion of 17; and 6-8-01: Portions of 1 & 8**

This is in response to your letter of November 12, 2001 requesting a determination that development within the residential zoned lands within the Parker Ranch Waimea Town Center area be allowed with grassed swales in lieu of curbs, gutters and sidewalks. It also our understanding that Parker Ranch is proposing to dedicate these roads to the County upon completion of the improvements

In reviewing the request, we understand that the maximum grade within the project area will not exceed 8%. Further, there is adequate rainfall under normal conditions to maintain the grass shoulders without the need for irrigation. We also understand that the grass shoulders will be improved with a cinder/soil mixture to provide structural support in the event cars drive or park on the shoulders.

The rezoning ordinance provides that the Planning Director may waive curbs, gutters, and sidewalks.

It is our further understanding that subdivision maps and road construction plans have been prepared for the portion of the Waimea Town Center area to the north of the "Parker Ranch

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Mr. William L. Moore  
William L. Moore Planning  
Page 2  
March 27, 2002

Connector Road". This area has been further identified as the Parker Ranch/Schuler Homes Community. There are no specific development proposals for the remaining residential areas to the south of the "Connector Road" as well as the along the eastern portion of the Waimea Town Center.

We note that the Waimea Village Design Plan supports the use of grassed swales in lieu of curbs, gutters, and sidewalks.

Based on the above understanding, please be informed that the proposed roadway cross sections for the Parker Ranch/Schuler Homes Community area, including grassed swales in lieu of curbs, gutters and sidewalks area allowed, provided that the following conditions are complied with:

1. Parker Ranch, its successors or assigns shall be required to provide written assurance meeting with the approval of the Planning Director, in consultation with the Department of Public Works that there will be a maintenance program for the grassed swales. This program may include the requirements for a maintenance bond or other security to assure the work is done in a timely manner.
2. If access concerns are raised in relation to the Americans with Disabilities Act (ADA) or other County, State or Federal regulation that require the provision of sidewalks or other access improvements that Parker Ranch, its successors or its assigns shall be responsible for the upgrading of the road improvements to conform to such requirements. Parker Ranch shall provide appropriate assurances for this upgrade, meeting with the approval of the Planning Director, in consultation with the Department of Public Works.
3. That Parker Ranch, its successors or assigns shall include in its covenants for the residential zoned lands where grassed swales are proposed, notification that the buyers of residential units in the area be clearly informed of the improvements that are being provided and that the County shall not be responsible for providing sidewalks within this area in the future and shall further provide that if sidewalks or other improvements are desired, the residents of the area shall be responsible for the cost of improvements. Said covenants shall be approved by the Planning Director, in consultation with the Department of Public Works.

The specific requirements to address these concerns, including any bonds or other required security, shall be in place prior to dedication of the road improvements to the County. At the same time, Parker Ranch should be aware that final authority for acceptance of dedication of the



**PAUL SHERIFF**  
**INCORPORATED**

May 15, 2003

Mr. Donnie Hambek  
Schuler Homes, Inc.  
828 Fort Street Mall, 4th Floor  
Honolulu, Hawaii 96813

Re: Luala'i - Detectable Warnings

Dear Mr. Hambek:

We have finished our research to your question. You requested to receive a determination on the following matter: Is the Luala'i residential project required to provide detectable warnings, AC curbing or any other physical separation delineating the vehicular right of way from the pedestrian path of travel?

These are our conclusions:

1. Neither AC curbing nor sidewalks are required by ADAAG. The ADAAG is intended for buildings and facilities (public accommodations).
2. The requirement for detectable warnings has been suspended twice for further research. The latest suspension expired July 26, 2001 and is thus in effect.
3. The current ADAAG is being revised. The new proposed ADAAG has no provisions on detectable warnings for curb ramps and there is no indication of a firm date for final implementation (See Exhibit). The new ADAAG deals with "facilities" (buildings, stations, etc).
4. There are no final design guidelines issued by the U.S. Access Board under ADAAG for the public right of way.
5. The Public Rights-of-Way Access Advisory Committee (PROWAAC) has made no recommendation to detectable warnings in the manner described above.
6. Hawaii County did not require a sidewalk to be installed in the Luala'i residential area. The sidewalk requirement was apparently given a variance in this situation.

1000 Bishop Street, Suite 888, Honolulu, Hawaii 96813  
Phone: (808) 792-PAUL (7285) • Fax: (808) 792-STAN (7826) • Cellular: (808) 371-3250  
[www.paulsheriff.com](http://www.paulsheriff.com)

Att. 2

Mr. Donnie Hambek  
May 15, 2003  
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7. If sidewalks are not required, then raised curbing or curb ramps are not required, per ADAAG.
8. There is no current requirement for detectable warnings along shoulders of roadways.
9. We could find no federal highways requirement for detectable warnings and/or AC curbing along vehicular paths of travel in this application.
10. No agency we researched applies ADAAG 4.29.5 in the above scenario, as recommended by Jean Tessmer.
11. There is no State of Hawaii requirement to provide detectable warnings and/or AC curbing along shoulders of residential areas, separating the vehicular right of way with the pedestrian path of travel.

We have contacted the following agencies researching the issue and subject and we have requested technical assistance from the following:

- United States Architectural Transportation Barriers Compliance Board
- The Department of Justice, Civil Rights Division for Americans with Disabilities Act.
- Architects and specialists in areas of the Fair Housing Amendments Act and members of the PROWAAC committee.
- Local architects regarding the Uniform Building Code and any requirements for detectable warnings and/or AC curbing in this application.

In addition to ADAAG, the following reference guidelines have been researched, and we found no guidelines for installing AC curbs or detectable warnings under the conditions for this project:

1. State of Hawaii department of Transportation, Statewide Uniform Design Manual for Streets and Highways
2. American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, 2001
3. 1983 Hawaii County Code – Revised and Republished 1995, Chapter 23 – Subdivisions



## DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 - Honolulu, Hawaii 96814  
 Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8125

May 13, 2003

### MEMORANDUM

TO: Paul Sheriff  
 Paul Sheriff, Incorporated

FROM: Francine Wai *FW*  
 Executive Director

SUBJ: Detectable Warnings in Roadways

In response to your inquiry to our office regarding the application of detectable warnings for separation of the roadway from adjacent shoulders or walkways, current ADAAG requires the following:

#### 4.29.5 Detectable Warnings at Hazardous Vehicular Areas.

If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings, or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous, detectable warning which is 36" wide complying with 4.29.2.

The current ADAAG requirement for detectable warnings is in effect since the suspension was lifted in July 2001. Our Board has rendered several interpretive opinions on the acceptable design and application of the warnings on curb ramps.

In discussions with the U.S. Department of Justice and U.S. Access Board (April 3, 2003 and April 10, 2003 respectively), our staff received no confirmation that the application of detectable warnings is required for separation of the roadway from adjacent shoulders or walkways. Thus, we have not placed that requirement in our review process under Hawaii Revised Statutes 103-20.

However, if you would like to have a formal interpretive opinion on Section 4.29.5 as it relates to the separation of vehicular roadways from adjacent pedestrian paths of travel or shoulders without physical or vertical separation, you may ask for a formal interpretive opinion from our Board.

Please contact Ben Gorospe, Access Coordinator, at 586-8121 if you would like to pursue this matter.

*Att. N. 2a*



Harry Kim  
Mayor

Bruce C. McClure  
Director

Ronald K. Takahashi  
Deputy Director

# County of Hawaii

## DEPARTMENT OF PUBLIC WORKS

Aupuni Center  
101 Pavahi Street, Suite 7 • Hilo, Hawaii 96720-4224  
(808) 961-8321 • Fax (808) 961-8630

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JUN 18 2003

AKINAKA & ASSOCIATES, LTD.

June 13, 2003

Mr. Barry K. Muranaka, Vice President  
Akinaka & Associates, Ltd.  
3049 Ualena Street, Suite 500  
Honolulu, Hawaii 96819-1947

**SUBJECT: DETECTABLE WARNINGS AND A. C. CURBING**  
Subdivision No.: 2001-0139  
Subdivision Name: Luala'i at Parker Ranch, Phase 1  
TMK: 6-9-02: portions 57, 58, 60, & 61  
DPW Folder No.: 6744-D4

In response to your letter dated May 23, 2003 and fax of June 12, 2003, we approve the deletion of the detectable warnings and asphalt concrete curbing for the subject subdivision.

It is our position that with the removal of the A. C. curbing the shoulder is a shared use facility and is not a pedestrian facility. Consequently, there can be no ADA compliance requirement. By County Code Section 22-1.2, a sidewalk (pedestrian facility) must be defined by a vehicular separation device such as a concrete, A. C., or rolled curb that is intended for pedestrian or non-vehicular use.

As a reminder, acceptance of roadway dedication will be under the authority and discretion of the Hawaii County Council.

Should you have any questions or concerns, please contact Mr. Kelly Gomes or Mr. Cres Rambayon of our Engineering Division at 961-8327.

*Bruce C. McClure*  
BRUCE C. MCCLURE, P. E.  
Director

GK/KG

c: ENG

11:10 am

Post-it™ Fax Note	7671	Date	10/21/03	# of pages	26
To	Bill Moore	From	Barry Muranaka		
Co./Dept.	W Moore Planning	Co.	Akinaka & Assoc, Ltd.		
Phone #	935-0311	Phone #	836-1900		
Fax #	934-0162	Fax #	836-8852		

Att. 1. 10.3