

Selected Public Access Issues in North Kohala

(dlc, 9/19/07)

1. ***Mahukona – Kawaihae Coastline:***
 - The State has claimed ownership of the *alaloa* along the Mahukona-Kawaihae coastline (per the Highways Act of 1892). At least one private landowner has tried to challenge this in court (TMK: 5-8-01:09 – Sue Heffner). State owns large portions of the land along that coast. People have been camping and fishing for many decades in this area. Where are the most important public access destinations to protect and who owns the land over which the accesses pass?
 - Waiakailio Bay (TMK: 5-9-03:01) – a “Beach Trail” is shown on the maps and is located on State owned land makai of the highway. Is this a special historic trail and area? Are there historic sites/burials at risk here and what are the State’s plans for this area?
 - Shoreline public access in Kaiholena (TMK: 5-8-01:011) – permits include SMM 92 and SUB 7543. Public Access Plan was approved but describes all accesses and a small parking area as “unimproved.” What needs to be done in order to open this area to public access?
 - Kohala Waterfront subdivision (TMK: 5-9-16) still does not have its lateral shoreline access trail constructed. This trail connects with the mauka-makai access that has been constructed along with the parking lot. The public access trails and parking lot are required in their SMA Use Permit No. 212.
2. ***Shoreline public accesses in Kukuipahu, Puakea, Awalua, etc. (TMK: 5-6-01)***
 - Subject to a “Declaration of Easements for Public Access.” These easements are not effective until they are accepted by the County. “Acceptance” by the County means the County must accept the liability, construction, repair, improvement, maintenance and control duties and responsibilities over the easement areas. This will require County Council approval. Will this also require Environmental Assessment? Note that if lateral shoreline access can be established on TMKs: 5-6-01:13, 16 & 50, there could be an uninterrupted shoreline public access from Kapa`a Park to Honipu.
3. ***Hō`ea Flats (TMK: 5-5-07)***
 - There does not appear to be a mauka-makai public access easement to this important fishing area. Private lands are between the nearest public road and the shoreline. There is lateral shoreline access provided for in subdivision approvals from `Upolu Airport to Hō`ea Flats. Are these easements also subject to a Declaration similar to that described in # 2 above? There is an intervening State-owned parcel leased to a rancher (TMK: 5-5-07:09). What does the State lease/permit say about public access across this parcel? Where is the public access from east of Upolu Airport to TMK: 5-5-07:02?
4. ***Pāhoa Gulch (TMK: 5-5-08:22, 66, & 67)***
 - This access is not connected to a public road. TMK: 5-5-08:48 is the intervening property between Hawi Rd. and the start of the access.

5. ***Hana`ula Gulch (TMKs: 5-4-09:14 & 20)***

- “Ahu Pohaku Ho`omaluhia Retreat and Spa” has an approved Public Access Plan (per SMA 417 and SP 1117). The easements are supposed to be surveyed and recorded, and the accesses ready for inspection 3 months prior to the opening date for the retreat. The accesses are to be opened to public use at the time they apply for a Certificate of Occupancy for the lodge. Where is the survey and recordation of the accesses?

6. ***Kauhola Point Lighthouse (TMK: 5-3-07)***

- Appears that a similar *Declaration of Easements for Public Access* is pending for the subdivisions in this area. See #2. In the meanwhile, the public is permitted to use the road to get down to Kauhola Lighthouse (See *Agreement between the County and Surety Kohala*, #7).

7. ***Kapanai`a and Hāpu`u Bays (TMKs: 5-3-07 and 5-3-08)***

- In 1982 Civil No. 5464 Kohala Corp. vs. Ahoi (a.k.a. Ahoy, et. al. (in addition to other accesses) established the public’s right to mauka-makai access to Hāpu`u and Kapanai`a Bays as well as lateral shoreline access between Hāpu`u and Kapanai`a. Where is the “non-exclusive vehicular right-of-way, at least 20 feet wide, in favor of the State of Hawaii, to the ocean at Kapanai`a Bay and beach...?” Where is the “Old County roadway twenty feet in width in favor of the State from the Main Government Road....to the family heiau of Kamehameha I (Historic Site 2322) at Hapuu Bay...?” Where is the “non-exclusive, perpetual pedestrian easement, 4 feet wide, in favor of the State along and within the seaward boundary of the lands....from and including Hapuu Bay to and including Kapanai`a Bay?” If the presently used roads to get to these bays were to be clearly signed and opened to public use, how will the narrow roads accommodate two-way traffic? Where will people park? How will trash be handled? How will vehicles that get stuck on the road to Kapanai`a be towed out? Did the “community” oppose improvement of the worst part of the road to Kapanai`a (section of the old Kohala Railroad Right-of-Way) when community volunteers were offering to get the job done?