

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 11, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:080D-114

Oahu

Grant of a Perpetual, Non-Exclusive Easement to Nohea Marks Santimer for Access and Utility Purposes, Waialea, Koolauloa, Oahu, TMK: (1) 5-8-001: adjacent to 055

APPLICANT:

Nohea Marks Santimer, married, whose mailing address is 2444 Huene Street, Honolulu, Hawaii 96817.

LEGAL REFERENCE:

Section 171-6 and 13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waialea, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-8-01:adjacent to 055, as shown on the attached map labeled Exhibits A.

AREA:

To be determined. See Remarks Section.

ZONING:

State Land Use District: Agricultural
City & County of Honolulu LUO: AG-2

TRUST LAND STATUS:

Section 5 (b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Encumbered by Grant of Easement (LOD 27020) to PSL Inc. for roadway and utility purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis. According to State Abstractor's research, the properties owned by the applicant identified by Tax Map Key: (1) 5-8-001:064, 065, & 066 are kuleana lots.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Revocable Permit No. 4864 for vehicular access was effective on February 26, 1973. When the permittee requested to convert the permit into a perpetual easement in 1977, staff noted that the area actually used by the permittee covered a portion of land previously thought to be public access. Eventually, an easement (LOD 27020) was issued which include the requested area. Since the requested area in the submittal was used as access before 1974, i.e. when Chapter 343 was enacted, and this action is therefore exempt from Chapter 343.

DCCA VERIFICATION:

Not applicable. The applicant as landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 2) Process and obtain subdivision at Applicant's own cost.

REMARKS:

The Applicant is the owner of parcels identified by tax map key (1) 5-8-001:064, 065, &

066 (Parcels) as confirmed by the record obtained from the county real property tax division. The Parcels are situated in the middle of (1) 5-8-001:055 and do not have any legal access over the adjoining lands before connecting to any public highway. Parcel 55 has been set aside to the University of Hawaii (UH) pursuant to Governor's Executive Order No. 1848. Therefore, the Applicant requests the Board issue an easement over the State land.

Exhibit B shows the alignment of the proposed easement which cross both UH's land and the State land. The Applicant is concurrently working with UH regarding a similar easement over UH's land. The subject submittal is to request the Board authorize the issuance of a perpetual, non-exclusive easement over the gravel road (State land) connecting to Kamehameha Highway. Total easement area is about 10,739 square feet, but the exact area over State land is yet to be determined.

The Department of Agriculture, University of Hawaii, Department of Hawaiian Home Lands, Engineering Division, State Historic Preservation Division, Department of Parks and Recreation, and Department of Facility Maintenance have no objections.

Commission on Water Resource Management, Department of Transportation, Department of Planning and Permitting, Office of Hawaiian Affairs have not responded as of the suspense date of this request.

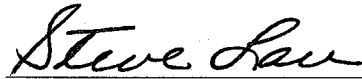
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. There are no other pertinent issues or concerns and staff has no further objections to the request.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 5-8-001:064, 065, & 066, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual, non-exclusive easement to Nohea Mark Santimer, covering the subject area for roadway access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

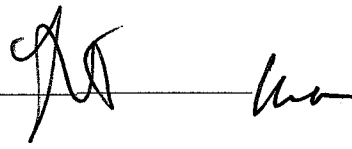
- A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
- B. The easement shall run with the land and shall insure to the benefit of the real property described as Tax Map Key: (1) 5-8-001:064, 065, & 066, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



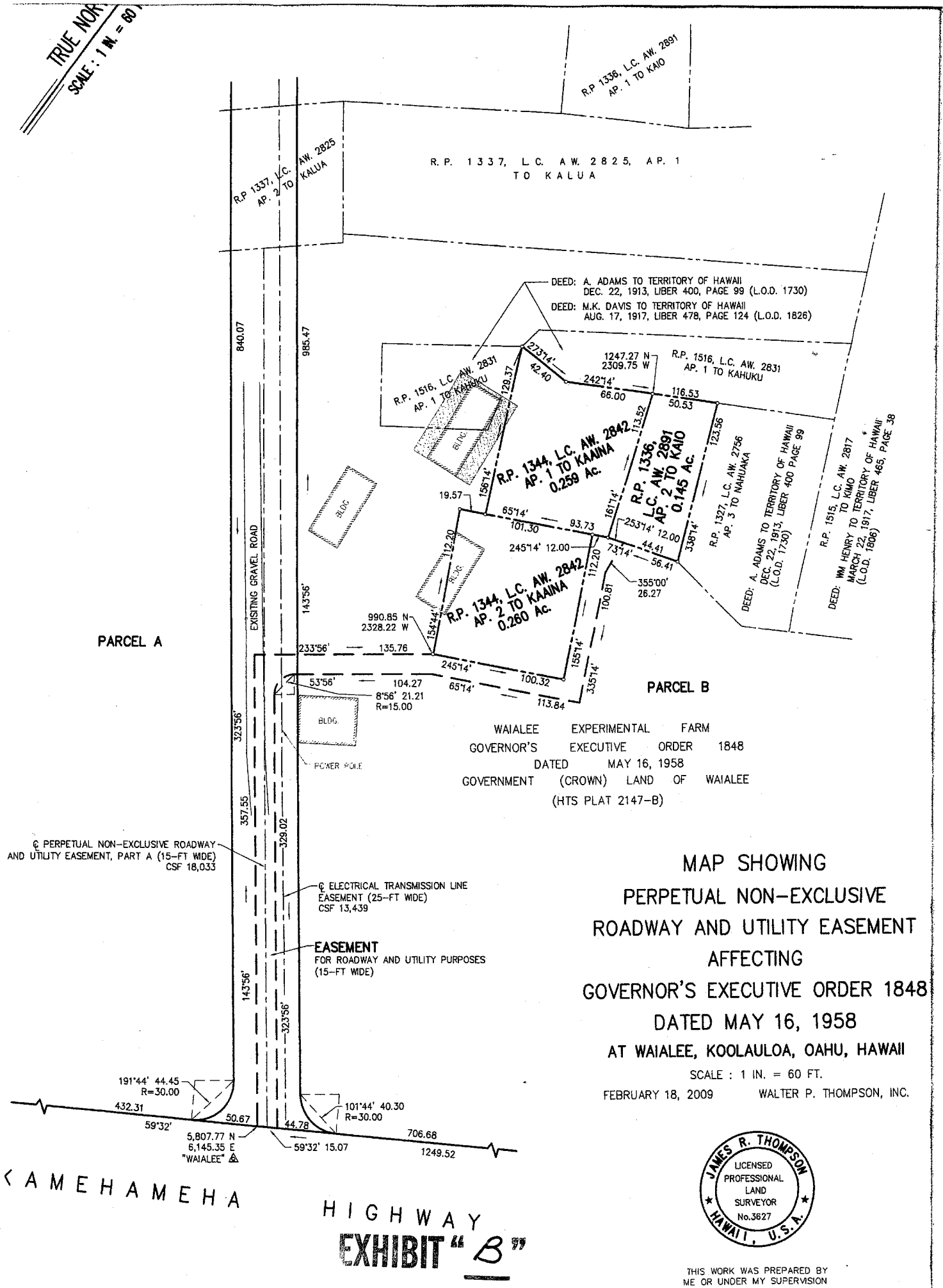
Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen
Chairperson

TRUE NORTH
SCALE: 1 IN. = 60'



PARCEL A

PARCEL B

WAIALEE EXPERIMENTAL FARM
GOVERNOR'S EXECUTIVE ORDER 1848
DATED MAY 16, 1958
GOVERNMENT (CROWN) LAND OF WAIALEE
(HTS PLAT 2147-B)

MAP SHOWING
PERPETUAL NON-EXCLUSIVE
ROADWAY AND UTILITY EASEMENT
AFFECTING
GOVERNOR'S EXECUTIVE ORDER 1848
DATED MAY 16, 1958
AT WAIALEE, KOOLAULOA, OAHU, HAWAII

SCALE: 1 IN. = 60 FT.
FEBRUARY 18, 2009 WALTER P. THOMPSON, INC.



THIS WORK WAS PREPARED BY
ME OR UNDER MY SUPERVISION

James R. Thompson

KAMEHAMEHA

HIGHWAY
EXHIBIT "B"