

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

March 24, 2011

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

PSF No.: 11OD-009

OAHU

Grant of Perpetual, Non-Exclusive Access Easement to Robert J. Vasconcellos and Pennylee L. Vasconcellos; Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-010: 008 portion.

APPLICANT:

Robert J. Vasconcellos and Pennylee L. Vasconcellos, Tenants by the Entirety

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-010: 008 portion, as shown on the map attached as "Exhibit A".

AREA:

0.167 acres, more or less

ZONING:

State Land Use District: Agricultural

City & County of Honolulu LUO: Country

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 General Lease No. S-3764 to Sugita Enterprises, Ltd., dba Hawaiian Floral Nursery for diversified agriculture purposes.

Encumbered by Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28379 to Mr. William Oliver and Mrs. Marguerite Oliver for access and utility purposes.

Encumbered by Governor Executive Order No. 4257 to the Department of Agriculture for agricultural purposes.

Encumbered by Governor Executive Order No. 1423 to the City and County of Honolulu for a tank site and pipeline easement purposes.

CHARACTER OF USE:

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

COMMENCEMENT DATE:

To be determined by the Chairperson.

APPLICANT REQUIREMENT:

None

CONSIDERATION:

Gratis (subject to confirmation of the applicant's property for having kuleana status). Otherwise, the applicant is required to pay for an appraisal to determine the one-time payment for the proposed easement.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." (Exhibit B)

REMARKS:

Mr. & Mrs. Vasconcellos, ("Applicant") own the property identified as Tax Map Key: (1) 4-1-010:010, abutting the private road which connects to the subject easement area. The Applicant is in the process of listing their property for sale, and intends to obtain an easement of record pertaining to their property.

The subject easement area consists of a section of roadway located between Waikupanaha Street and the private road that provides access to the Applicant and the neighborhood. (Exhibit C).

The requested easement area is over a parcel setting aside by the Governor's Executive Order No. 4257 to the Department of Agriculture for agricultural purposes; and General Lease No. S-3764 to Sugita Enterprises, Ltd for diversified agriculture purposes. However, the State has reserved its right to continue the issuance of additional easements over the requested easement area. Staff notes that the Department of Agriculture has indicated no objection to the request, and Sugita Enterprises, Ltd has not provided any comment as of the suspense date.

For other agencies, the Department of Health, Office of Hawaiian Affairs, Board of Water Supply, Department of Facility Maintenance and the Department of Hawaiian Home Lands have no objections to the subject request.

The State Historic Preservation Division, Department of Transportation, Department of Planning and Permitting, have not responded to staff's request for comment as of the suspense date.

The staff abstractor is conducting research to verify the kuleana status of the applicant's property to include gratis for consideration purposes. In the event that the Applicant's property is not a kuleana property, the requested easement is subject to a one-time payment to be determined by an independent appraisal at the cost of the Applicant.

For Board's information, the subject easement area is encumbered by LOD 28379 (Oliver) for non-exclusive access and utility easement purposes. Staff does not believe the requested easement will be in conflict with the existing easement because both of them are non-exclusive.

Staff has no objections to the subject request. Staff is presently not aware of any other issues relating to the subject 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.

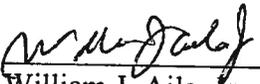
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 4-1-010:010, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Authorize the issuance of a perpetual non-exclusive easement to Robert L. Vasconcellos and Pennylee Vasconcellos covering the subject area for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-1-010:010, 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;
 - B. Confirmation of the kuleana status for the applicant's property;
 - C. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



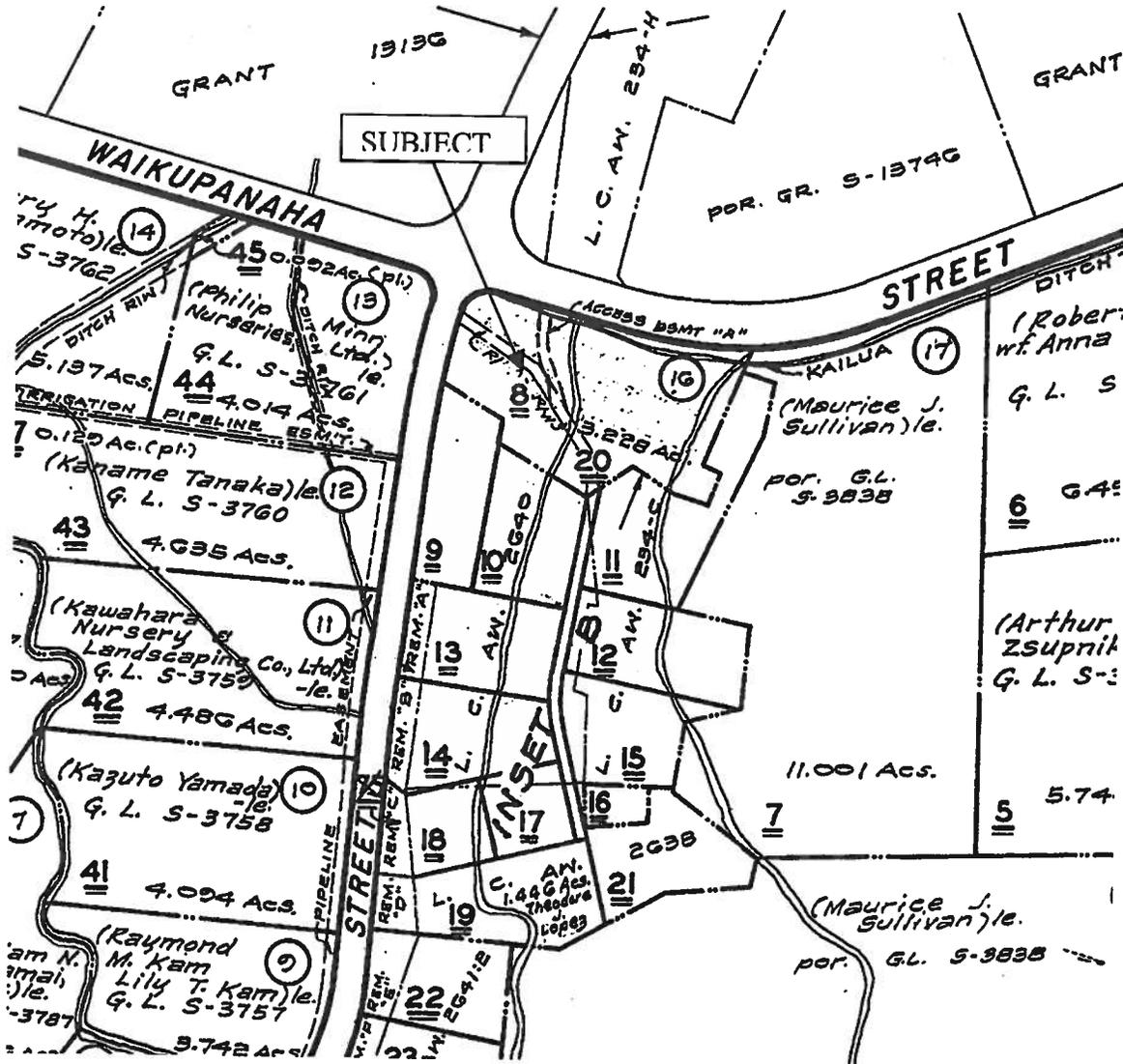
Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

EXHIBIT A



TAX MAP KEY: (1) 4-1-10:008 PORTION



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of a Non-Exclusive Access Easement to Mr. Robert J. Vasconcellos and Mrs. Pennylee Vasconcellos

Project / Reference No.: PSF 11OD-009

Project Location: Waimanalo, Koolaupoko, Oahu, Tax Map Key:
(1) 4-1-010 portions of: 008

Project Description: Non-Exclusive Access Easement

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

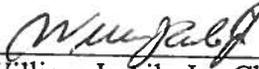
The applicant's request consists of an access easement located over a roadway situated on State owned land. Land Office Deed Number S-28379 has been issued for access and utility easement purposes over the same portion of roadway that the applicant requests to use.

Consulted Parties Not applicable

EXHIBIT B

Recommendation:

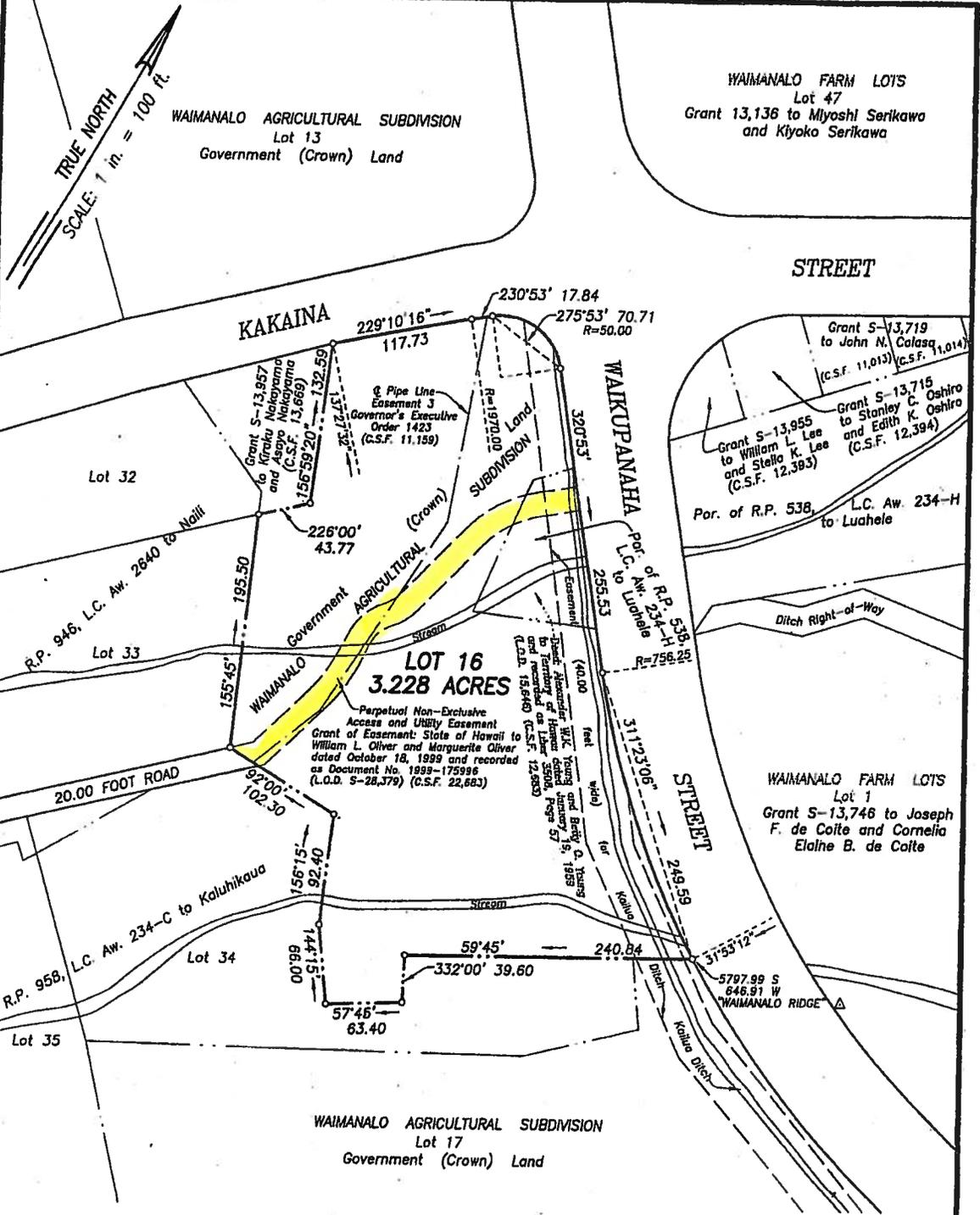
It is recommended that the Land Board determine that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila Jr., Chairperson

3/14/11

Date



(REVISED-OCTOBER 2008)
WAIMANALO AGRICULTURAL SUBDIVISION
LOT 16

Waimanalo, Koolaupoko, Oahu, Hawaii
Scale: 1 inch = 100 feet

Job O-127(08)
C. BK.

TAX MAP 4-1-10: 08
C.S.F. NO. 24,721

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

RDM October 20, 2008

PRELIM APPR'D.
Department of the
Attorney General

REDUCED NOT TO SCALE

EXHIBIT "C"