

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

May 26, 2017

Ref No.: GL S-5998

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

MAUI

Amend Grant of Non-Exclusive Easement, GL No. S-5998, for Walkway, Stairs, Shower Station, Concrete Pier Block Remnants and Landscaping Purposes, to Napili Kai, Ltd., Napili 2 and 3, Lahaina, Maui, Tax Map Key: (2) 4-3-002:seaward of 026, 027 & 028. The purpose of the amendment is to increase the easement area by approximately 140 square feet, more or less.

BACKGROUND:

The Board originally approved the issuance of the Grant of Non-Exclusive Easement, GL No. S-5998 for walkway, stairs, shower station, concrete pier block remnants and landscaping purposes to Napili Kai, Ltd. (Applicant), at its meetings on September 26, 2008, under agenda item D-7 and July 22, 2009 under agenda item D-7. GL S-5998 consisted of a Non-Exclusive Walkway Easement A containing an area of 1776 square feet, and a Non-Exclusive Landscaping Easement B containing an area of 549 square feet. The 55 year term, non-exclusive easement was executed on October 25, 2010.

In September 2016, the Applicant submitted an application to obtain a new certified shoreline for a consolidation/re-subdivision of its lots. A site inspection was conducted on November 2, 2016 by the State Surveyor and Department staff. As a result of the inspection, it was discovered that a portion of the sidewalk was outside the area of easement A, total approximately 140 square feet, more or less. See draft survey map attached as Exhibit A. The applicant stated that the sidewalk has not been altered since its construction, and the reason for the discrepancy in the easement description is unclear. Accordingly, it is necessary to revise the easement area from the original 1776 square feet to the new area of 1916 square feet, more or less. As a result of the expanded area, additional consideration is also required.

REMARKS:

Staff recommends the Board authorize the amendment of GL No. S-5998 by replacing the original easement A area of 1776 square feet with the new area of 1916 square feet, subject to confirmation by the Department of Accounting and General Services, Survey

Division. Given that the easement was originally appraised in 2009, the Department will contract for a new appraisal to determine the fair market value of the additional area. The applicant has agreed to pay for the appraisal and the consideration for the additional area. Furthermore, the applicant has agreed to seek legislative approval if it is deemed necessary for the amendment. The Office of Conservation and Coastal Lands (OCCL) has no objections to the proposed amendment of GL No. S-5998 to increase the easement area by approximately 140 square feet, more or less.

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the Board is requested to declare the subject request exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46. Exemption Notification is attached as Exhibit B.

RECOMMENDATION: That the Board:

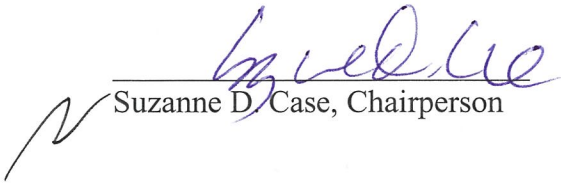
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the amendment of Grant of Non-Exclusive Easement GL No. S-5998 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following, by:
 1. The standard terms and conditions of the amendment of easement form, as may be amended from time to time;
 2. Replacing the original easement area of 1776 square feet with the new area of 1916 square feet, more or less;
 3. Payment for the additional area, with the fair market value to be determined by independent appraisal;
 4. Review and approval by the Department of the Attorney General; and
 5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ian M.", written over a horizontal line.

Ian Hirokawa
Special Projects Coordinator

APPROVED FOR SUBMITTAL:

A handwritten signature in blue ink, appearing to read "Suzanne D. Case", written over a horizontal line. To the left of the signature is a large, stylized blue checkmark.

Suzanne D. Case, Chairperson

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EXHIBIT "A"

T.M.K.: (2) 4-2-02:04
Napili Lani
(Owners)

LOT 1
T.M.K.: (2) 4-2-02:01
Harriet Kaiama Legacy, LLC
(Owners)

TRUE NORTH
SCALE: 1 IN. = 20 FT.

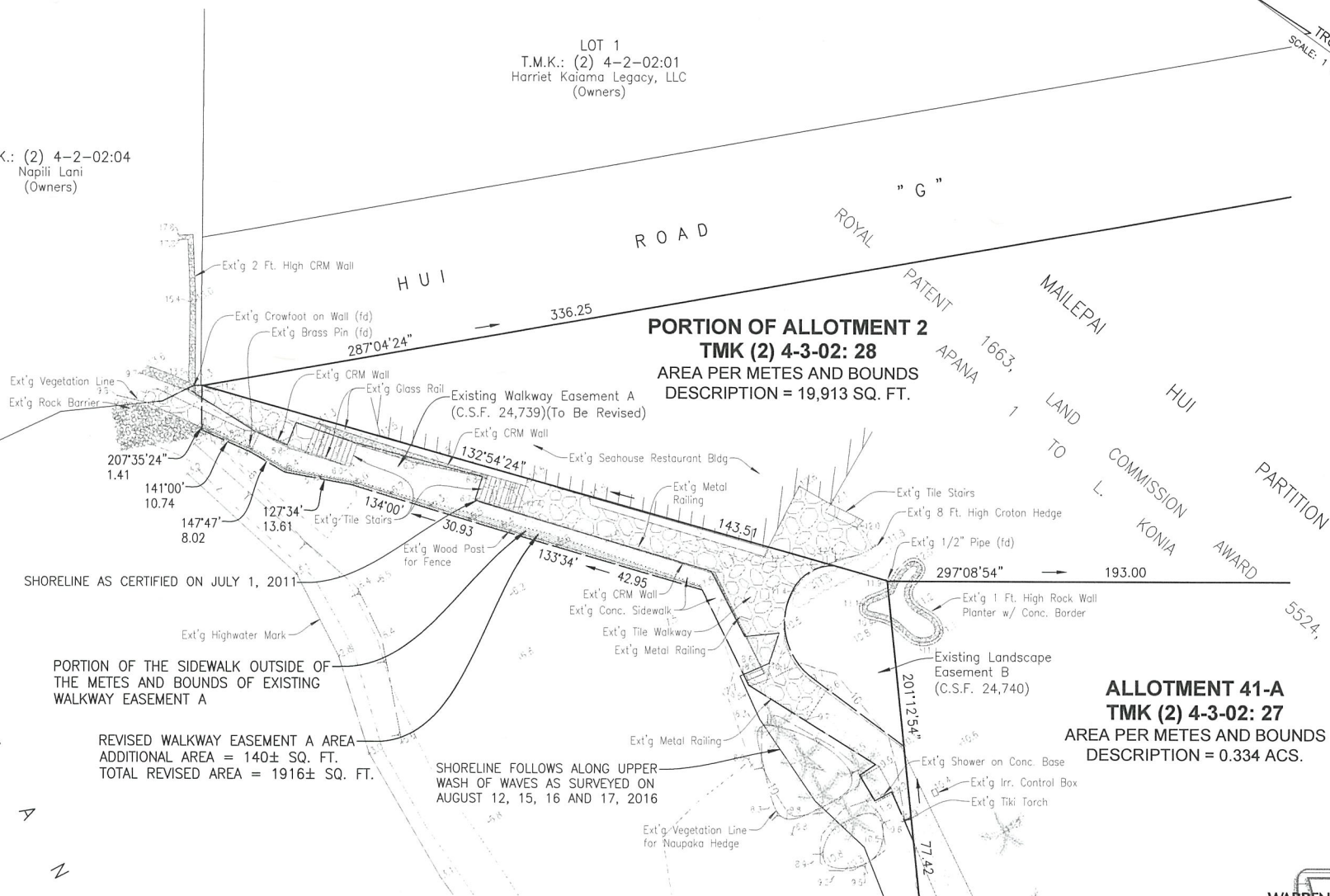
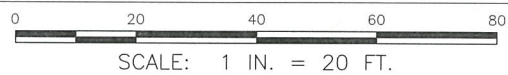


EXHIBIT SHOWING REVISED WALKWAY EASEMENT A



April 20, 2017
Revised: April 27, 2017

EXEMPTION NOTIFICATION

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

Project Title: Amendment of Grant of Non-Exclusive Easement S-5998

Project / Reference No.: GL No. S-5998

Project Location: Napili 2 and 3, Lahaina, Maui, TMK (2) 4-3-002:seaward of 026, 027 & 028

Project Description: Amendment of Easement for Additional Area of Encroachment on State Lands

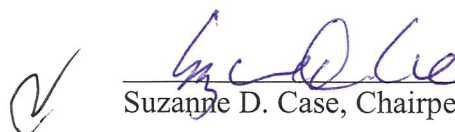
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46, which states the "Creation or termination of easement, covenants, or other rights in structures or land".

In the past, amended easements were issued for similar situations where additional areas of encroachments have been identified during the process of obtaining a new shoreline survey. Since no new structures have been constructed in the added encroachment areas, staff anticipates that this should result in no significant impacts to the natural and environmental resources in the area. As such, staff believes that the proposed request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Office of Conservation and Coastal Lands.

Recommendation: It is recommended that the Board find 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.

✓ 
Suzanne D. Case, Chairperson

Date: 5/5/17

EXHIBIT "B"