

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

July 10, 2020

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

PSF No.: 20MD-013

Maui

Grant of Perpetual, Non-Exclusive Easement to County of Maui, Department of Public Works for Drainage Purposes and Issuance of Immediate Construction and Management Right-of-Entry Permit; Napili, Maui, Tax Map Key: (2) 4-3-002: Portion of 023.

APPLICANT:

County of Maui, Department of Public Works, a government agency.

LEGAL REFERENCE:

Sections 171-55 and -95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located at Napili, Maui, identified by Tax Map Key: (2) 4-3-002: Portion of 023, as shown on the attached map labeled **Exhibit A**.

AREA:

735 square feet, more or less (see **Exhibit A-1**)

ZONING:

State Land Use District:	Urban
County of Maui CZO:	Conservation

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:

Vacant and Unencumbered

CHARACTER OF USE EASEMENT:

For access and utility purposes including the right, privilege and authority to construct, use, maintain and repair drainage infrastructure improvements, under and across State-owned land.

CHARACTER OF USE RIGHT-OF-ENTRY:

For construction of drainage infrastructure improvements on State-owned land.

TERM OF EASEMENT:

Perpetual.

TERM OF RIGHT-OF-ENTRY:

The right-of-entry permit shall be ongoing and terminate upon grant of easement to the County of Maui.

COMMENCEMENT DATE OF EASEMENT AND RIGHT-OF-ENTRY:

To be determined by the Chairperson.

CONSIDERATION FOR EASEMENT AND RIGHT-OF-ENTRY:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the Office of Environmental Quality Control's Environmental Notice on December 8, 2017 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable. As a government agency, Applicant is not required to register with DCCA.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide a survey map and description of the proposed easement area according to State DAGS standards and at Applicant's own cost.

REMARKS:

The County of Maui, Department of Public Works, has requested a perpetual, non-exclusive easement for drainage improvement purposes with an immediate construction and management right-of-entry (ROE) permit with for a portion of government lands adjacent to an existing drainage culvert situated along lower Honoapiilani road at Napili, Maui. The purpose of the easement and ROE is to construct drainage improvements that will increase the overall safety for pedestrians and motorists on Lower Honoapiilani Road.

Drainage improvements include the replacement an outdated and deteriorating drainage structure underneath lower Honoapiilani Road (which is not under the Board's jurisdiction). The project includes plans to also address erosion on the makai (State lands) side of the culverts, remove concrete spoils, debris and material from the old drainage structure. Portions of the new drainage structure will be located outside the road right-of-way on the subject State lands. Other general improvements within the road right-of-way include road shoulder widening, sidewalk, fall protection railing, vehicle barriers, curb and gutter, landscaping and construction of a retaining wall. The portion of the project within the road right-of-way started in April 2020.

The construction right-of-entry will terminate upon issuance of the grant of the perpetual easement.

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.

Staff did not solicit comments for the subject easement request as comments were previously solicited during the environmental assessment phase. Staff has no objection to the subject request.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to County of Maui, Department of Public Works covering the subject area for drainage 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;

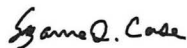
- B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of an immediate construction and management right-of-entry to the County of Maui, Department of Public Works, its consultants, contractors and/or persons acting for or on its behalf, over portions of State lands adjacent to Lower Honoapiilani Road, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current construction and management right-of-entry permit form, as may be amended from time to time;
 - B. This right-of-entry is effective upon Chairperson approval and shall terminate upon issuance of the grant of easement document; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

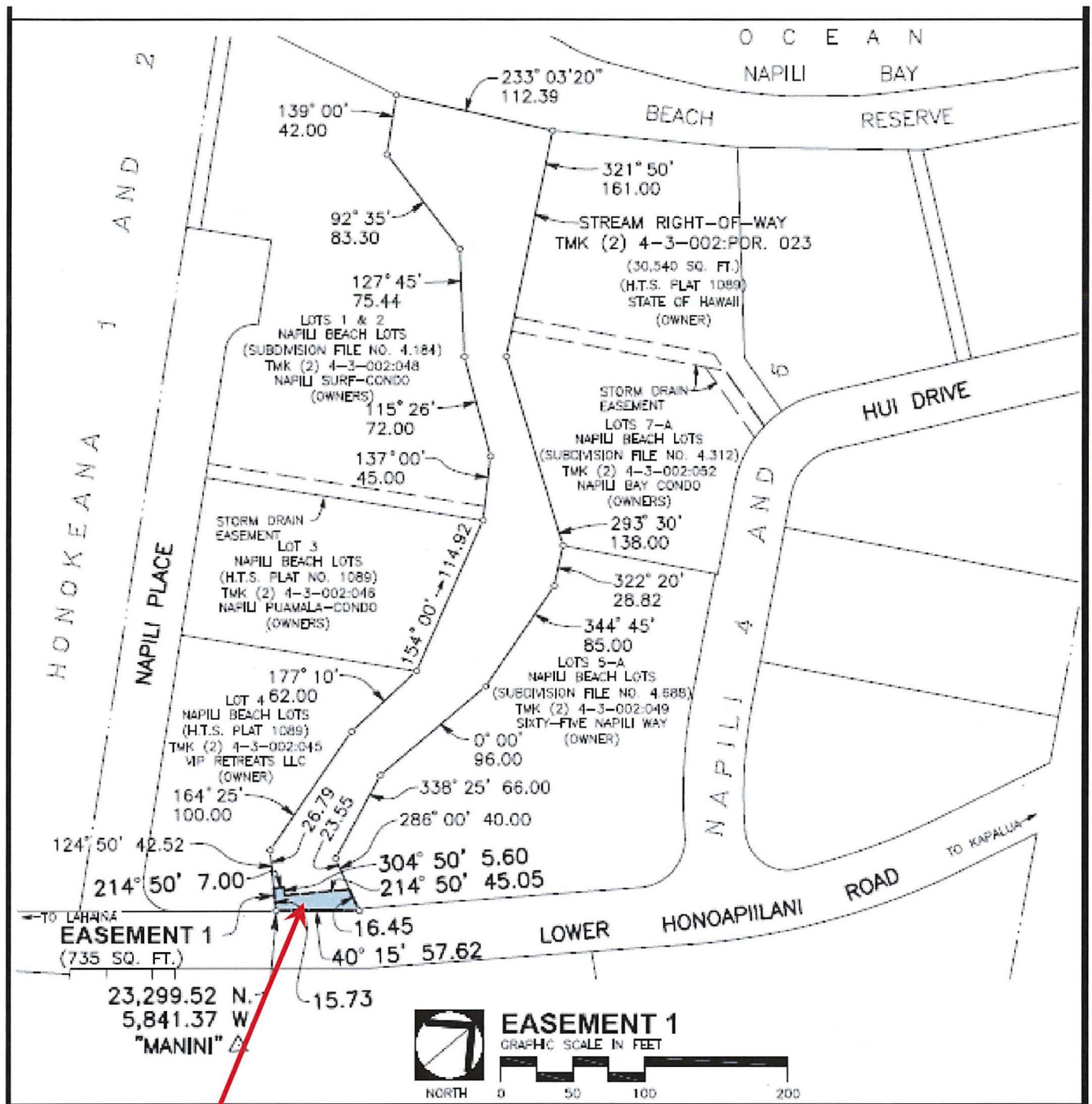


Edward T. Paa
Land Agent

APPROVED:



Suzanne D. Case, Chairperson



**SUBJECT
EASEMENT**

TMK: (2) 4-3-002: Portion of 023

EXHIBIT A-1