

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

August 28, 2020

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

PSF No. 20MD-042

Maui

Quitclaim of State's Interests, if Any, in a Portion of
Pulehu Road to the County of Maui Pursuant to Act 288
Session Laws of Hawaii 1993, Kahului, Wailuku, Maui, Tax
Map Key: (2) 3-8-001 (roadway).

APPLICANT:

County of Maui, whose business and mailing address is 200 South
High Street, Wailuku, Hawaii, 96793.

LEGAL REFERENCE:

Sections 171-95(a)(5), 264-2, Hawaii Revised Statutes (HRS), and
Act 288, SLH 1993 as amended.

LOCATION:

Portion of Government lands of the State of Hawaii situated at
Kahului, Wailuku, Maui, (2) 3-8-001 (roadway), as shown on the
attached map labeled Exhibit A.

AREA:

5.27 acres, more or less, to be determined by survey.

ZONING:

State Land Use District: Urban
County of Maui CZO: Proposed Road

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:

Existing County Highway

CONSIDERATION:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Final Environmental Impact Statement acceptance notice for the Maui Business Park, which encompassed a change to Pulehu Road, was published in the Office of Environmental Quality Control's The Environmental Notice on December 23, 2004. See Exhibit B.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

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

REMARKS:

The subject roadway appears on County of Maui tax maps (Exhibit A). Pulehu Road is shown on the original tax map as Kula Road, but the more current on-line assessment map shows the name as Pulehu Road. The name "Pulehu Road" was in use by November 3, 1949 as indicated in County of Maui Resolution No. 350.

New roadways were constructed in 2012 for the Maui Business Park subdivision. The terminus of Pulehu Road, which previously connected to Hana Highway, was taken out of service and a new road, Hookele Street, now forms a T-intersection with Pulehu Road, with Hookele Street connecting to Hana Highway (Exhibit C). A portion of the former terminus of Pulehu Road, now disused, is shown on the attached subdivision map as "lot 1" (Exhibit D). The remainder of the disused portion of Pulehu Road "parcel A" (Exhibit D) is being used by the State Department of Transportation, but not as a public roadway.

Lot 1 of Pulehu Road, disused, does not have development potential for the government due to its narrow shape (HRS 171-52(2)). Because lot 1 abuts two of Alexander & Baldwin's (A&B) vacant industrial parcels, A&B would like to take possession of it. Maui County and A&B agreed to exchange lot 1 for a parcel of land that A&B owns adjacent to Hookipa Beach Park. A&B's parcel at Hookipa is identified as TMK (2) 2-5-004:073, and is 1.58

acres, more or less. A map and photo of the Hookipa parcel is attached as Exhibit E. Hookipa Beach Park is a popular County park that is used for surfing, windsurfing and picnicking. A&B's parcel, due to its shape, topography and location, may be used by the County to supplement existing parking and thereby provide more beach access to the public.

To enable the County of Maui to exchange the disused portion of Pulehu Road, identified as lot 1, for A&B's Hookipa parcel, staff is recommending the issuance of a quitclaim deed to the County. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest since it is our assertion that the County already owns the road.

In addition, the County of Maui is requesting that the State quitclaim an actively used portion of Pulehu Road, Lot 2 on Exhibit D, which runs from Hookele Street to Hansen Road.

Staff recommends the Board approve applicant's request for a quitclaim deed to the County for the portions of Pulehu Road they are requesting, lots 1 and 2 as shown on Exhibit D because the roadway is already under the County of Maui's jurisdiction pursuant to HRS 264-2.

The following agencies have been solicited for comments:

Agency	Comment
State Dept. of Transportation	No objections.
County of Maui - Planning Dept.	No objections and no comments.
County of Maui - Parks & Recreation Dept.	No comments; supports the proposed action.
County of Maui - Dept. of Public Works	No response received.
Office of Hawaiian Affairs	No response received.

DISCUSSION:

Pulehu Road is not a state highway and therefore, pursuant to HRS 264-2, it is a County highway. Pulehu Road is listed in the County of Maui Code of Ordinances, Chapter 12.36.270, as a public highway. The State is not involved in maintenance of Pulehu Road.

Pursuant to Section 264-2, HRS, the ownership of all "public highways" (roads, alleys, streets, ways, lanes, bikeways, and bridges in the State, opened, laid out, or built by the government) are owned either by the State for state highways under the jurisdiction of the Department of Transportation or the

county for all other public highways. While ownership of non-State highways was transferred from the State to the Counties by operation of law pursuant to this statutory section, the counties have continued to dispute that they own the roads because they do not have paper title.

Act 288, SLH 1993, stated in its preamble "In consideration of the State waiving its right to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, HRS, without the necessity of conveyancing documents transferring title from the State to the respective counties, except when required for the purpose of disposal." (Emphasis added.)

As a result, it is staff's practice that formal documentation (i.e., quitclaim deeds) be issued on roads owned by the counties under Section 264-2, HRS, only when the county is going to subsequently dispose of any real property interests (fee conveyance or any interests less than fee) in at least a portion of the road to a third party. In all other cases, the State's position is that the fee simple interest in the road was passed to the counties by operation of law and documentation is unnecessary. This policy provides for the chain of title and enables subsequent real estate transactions to occur. This policy should not be misconstrued to mean or imply that the State does not assert that the roads being quitclaimed are already owned by the applicable county.

RECOMMENDATION:

That the Board:

1. Authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the County of Maui covering the subject area, subject to the Applicant fulfilling all of the Applicant requirements listed above and further subject 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 quitclaim deed (roads) form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and

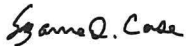
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

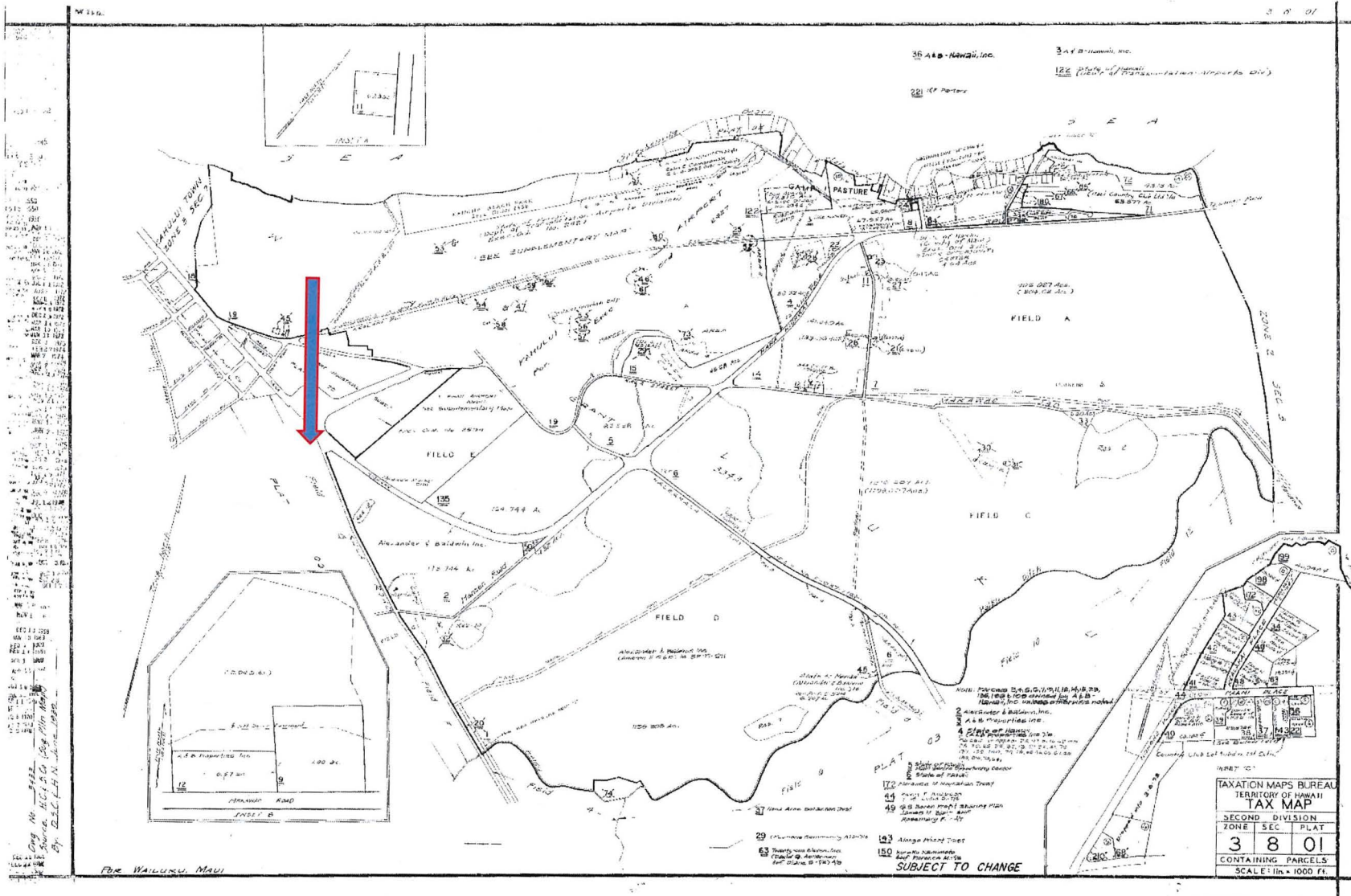


Seiko Machida
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





Disused portion of Pulehu Road.

Maui Notices

DECEMBER 23, 2004

Maui Business Park Phase II (HRS 343 FEIS)

District: Wailuku
TMK: 3-8-01:2 (portion), 3-8-06:4 (portion), 3-8-79:13
Applicant: A & B Properties, Inc., 822 Bishop St., Honolulu, HI 96813. Contact: Dan Yasui (525-6611)
Approving Agency: State Land Use Commission, P.O. Box 2359, Honolulu, HI 96804. Contact: Anthony Ching (587-3822)
Consultant: PBR Hawaii, 1001 Bishop St., ASB Tower, Suite 650, Honolulu, HI 96813. Contact: Tom Schnell (521-5631)
Status: Final environmental impact statement (FEIS) was accepted by the Land Use Commission, State of Hawaii on November 28, 2004.
Permits Required: State Land Use District Boundary Amendment, Change in Zoning, SMA, NPDES, Grading/Building

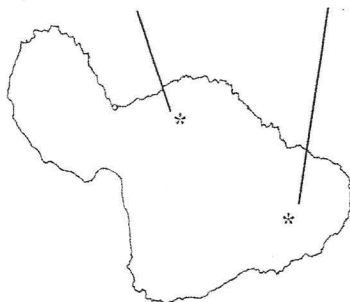
Maui Business Park Phase II – a continuation of A&B Properties, Inc.'s existing Maui Business Park Phase I in Kahului – will provide light industrial space in Maui's central commercial and business district in close proximity to the Kahului Airport and Kahului Harbor. The Maui Business Park Phase II site is comprised of two noncontiguous properties totaling approximately 179 acres and designated "Light Industrial" on the *Wailuku-Kahului Community Plan*. A market study prepared for the project forecasts a shortfall of light industrial space on Maui within one to two years, and over the next two decades, there will be demand for approximately 290 acres of new light industrial areas in Central Maui. A portion of the site requires approval by the State Land Use Commission (LUC) for reclassification from the Incremental to the Urban district. A Change in Zoning will also be required from the County of Maui. As the Maui Business Park Phase II may involve the use of State and/or County lands, the preparation of an EIS is being undertaken to address potential requirements under Chapter 343, Hawai'i Revised Statutes. Environmental impacts include changes to the land use character of the region, the change in visual appearance of the site from sugar cane fields to urban uses, impacts from traffic, increases in solid waste generated, increases in electrical power consumed, and short-term impacts to air quality and noise levels due to construction. Maui Business Park Phase II, however, should proceed because of the substantial positive impacts, including 1)

conformance with the *Wailuku-Kahului Community Plan*; 2) the provision of needed light industrial space; 3) the wages, taxes, and overall positive economic impacts generated; and 4) the productive and appropriate use of the land in relation to the nearby Kahului Airport, which limits other uses. A description of the anticipated impacts and proposed mitigation measures is provided in the final EIS. Technical studies to assess the existing natural and physical conditions of the Maui Business Park Phase II site and the potential impacts of development of the property and the surrounding area have been prepared and are included in the final EIS.

Kahikinui Koa Forest Protection & Restoration (HRS 343 FEA-FONSI)

District: Hana
TMK: (2) 1-8-001:005, 006, 007, 009, 011 (portions)
Proposing Agency: Division of Forestry and Wildlife, DLNR, 1151 Punchbowl St., Rm 214, Honolulu, HI 96813
 Contact: Scott Fretz (587-4187)

Determination Agency: Same as above.
Consultant: Geometrician Associates
 HC 2 Box 9575, Keaau, HI 96749
 Contact: Ron Terry (982-5831)
Status: Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).
Permits Required: None



The Hawai'i State Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), is proposing to build a pig-and-deer-proof fence to enclose approximately 1,500 acres of native remnant *koa* (*Acadia Koa*) forest on portions of five properties owned DOFAW, the State of Hawai'i and the Department of Hawaiian Home Lands. A memorandum of Agreement (MOA) is currently being developed among the landowners of these properties,

each of which supports the action. The overall aim of this project is to imitate an effective management scheme within the remnant native upland forest of southern Haleakala. The project can demonstrate that a reasonable effort involving active management and feral ungulate control can restore and protect the unique forest resources. It is hoped that the project will serve as a showcase for responsible and economical stewardship on State land, thus providing an example for stewardship on private land

Untitled Map

Write a description for your map.

Legend



Airport Rd

Hana Hwy

Pulehu Road Remnant

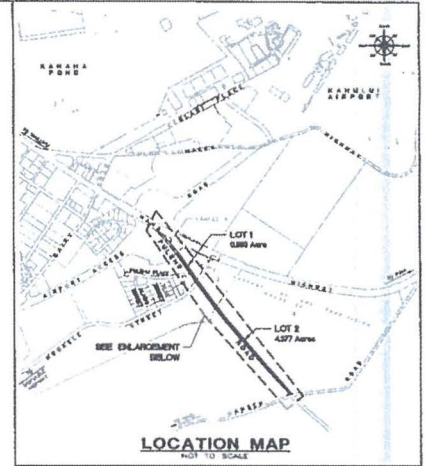
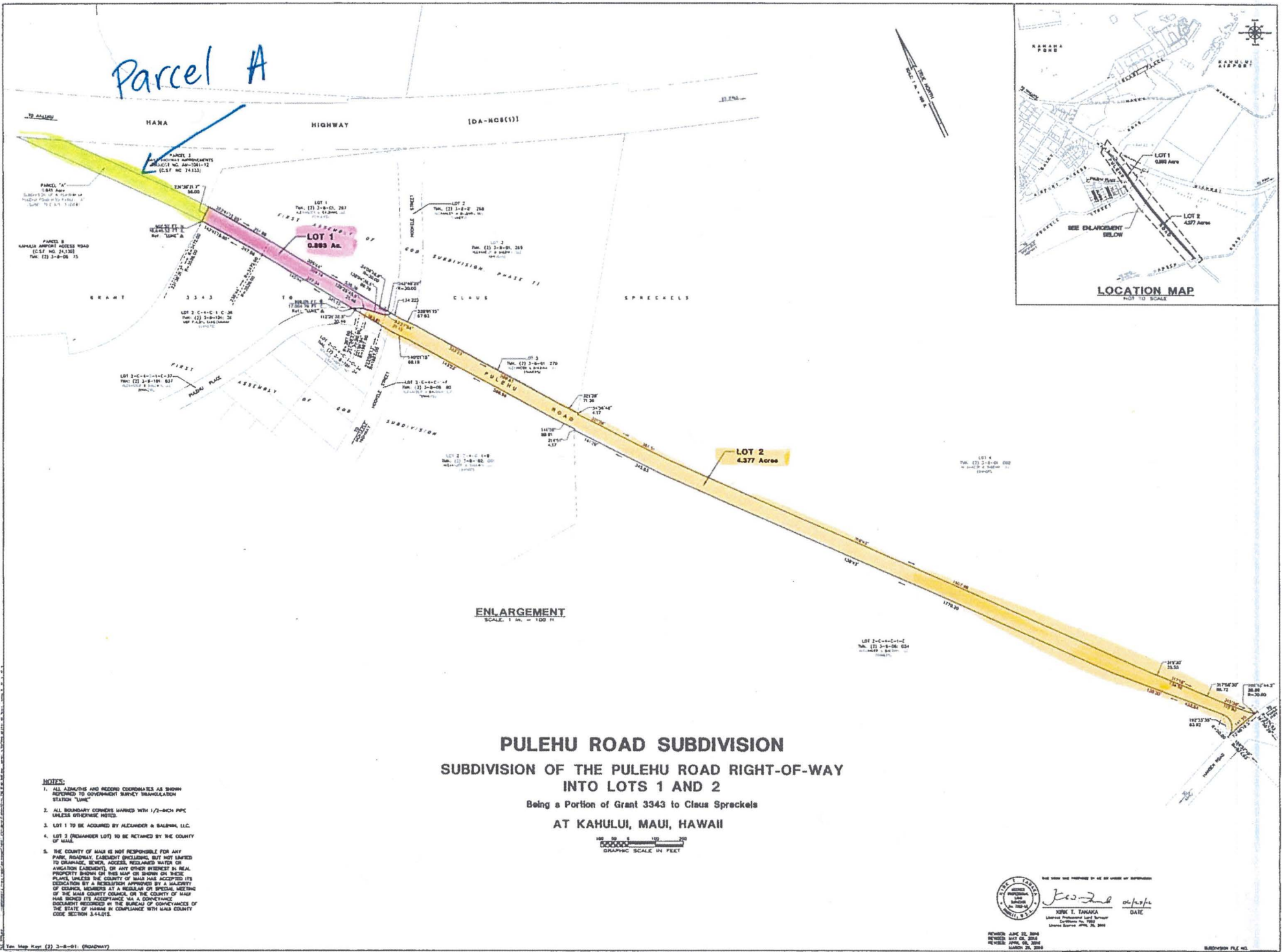
Hookele St

Pulehu Place



Disused portion of Pulehu Road looking from Hookele Street.

Parcel A



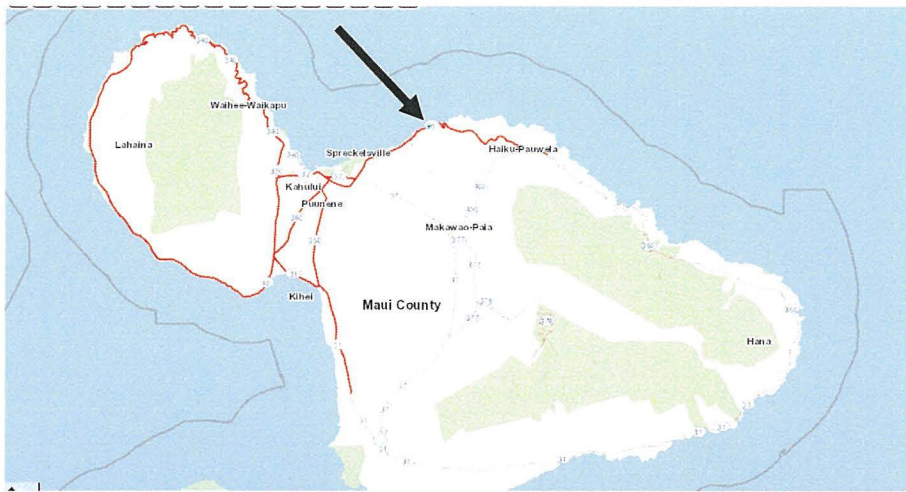
ENLARGEMENT
SCALE: 1 in. = 100 ft.

PULEHU ROAD SUBDIVISION **SUBDIVISION OF THE PULEHU ROAD RIGHT-OF-WAY** **INTO LOTS 1 AND 2** Being a Portion of Grant 3343 to Claus Spreckels **AT KAHULUI, MAUI, HAWAII**



- NOTES:**
1. ALL ADJACENTS AND RECORD COORDINATES AS SHOWN REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "LUM".
 2. ALL BOUNDARY CORNERS MARKED WITH 1/2-INCH PPK UNLESS OTHERWISE NOTED.
 3. LOT 1 TO BE ACQUIRED BY ALEXANDER & SALPANA, LLC.
 4. LOT 2 (REMAINER LOT) TO BE RETAINED BY THE COUNTY OF MAUI.
 5. THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PARK, ROADWAY, EASEMENT (INCLUDING, BUT NOT LIMITED TO, GRASSMADE, TENDR, ACCESS, RECLAIMED WATER OR AVIGATION EASEMENTS), OR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR SHOWN ON THESE PLANS, UNLESS THE COUNTY OF MAUI HAS ACCEPTED ITS DESIGNATION BY A RESOLUTION APPROVED BY A MAJORITY OF COUNCIL MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE MAUI COUNTY COUNCIL, OR THE COUNTY OF MAUI HAS SIGNED ITS ACCEPTANCE VIA A CONVEYANCE DOCUMENT RECORDED IN THE BUREAU OF CONVEYANCES OF THE STATE OF HAWAII IN COMPLIANCE WITH MAUI COUNTY CODE SECTION 5-4-02.

THIS PLAN WAS PREPARED BY ME OR UNDER MY SUPERVISION
 KIRK T. TANAKA
 Licensed Professional Land Surveyor
 License No. 7782
 EXPIRATION DATE 06/30/24
 DATE 06/20/24



A&B Hookipa parcel (2) 2-5-004:073