

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

May 8, 2015

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

PSF No. 15MD-078

MAUI

Approval in Principle of Acquisition of Privately Owned Land for Educational Purposes at Hamakuapoko, Makawao, Maui; TMK: (2) 2-5-005:020

REMARKS:

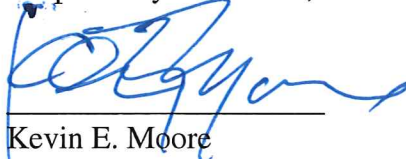
Department of Education ("DOE") requests the Board's approval in principle to acquire private lands for the expansion of Paia Elementary School. A copy of the request memorandum from DOE Superintendent Kathryn Matayoshi is attached hereto as **Exhibit 1**, and a copy of the submittal prepared by DOE is attached as **Exhibit 2**.

Staff notes that DOE will handle the due diligence required for the acquisition, including working with the Department of the Attorney General for the conveyance document and the Department of Accounting and General Services, Survey Division, regarding the map and description of the acquisition and set aside actions.

Staff does not have any other comment on the subject request.

RECOMMENDATION: That the Board approve the Recommendation Section mentioned in the Department of Education's submittal attached as Exhibit 2.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:


Carty S. Chang, Interim Chairperson



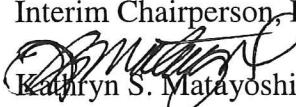
STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

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DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

OFFICE OF THE SUPERINTENDENT

March 18, 2015

TO: The Honorable Carty Chang
Interim Chairperson, Department of Land and Natural Resources

FROM: 
Kathryn S. Matayoshi
Superintendent

SUBJECT: **Board of Land and Natural Resources Submittal for the Acquisition of Private Land and Set Aside to Department of Education for the Expansion of Paia Elementary School, Makawao, County of Maui**

The Department of Education (DOE) requests the assistance of the Department of Land and Natural Resources (DLNR) in obtaining final approval for the acquisition of private land in Hamakuapoko, Makawao, County of Maui, identified as Tax Map Key: (2) 2-5-005:020. The subject parcel is adjacent to Paia Elementary School and is being dedicated to the State of Hawaii as part of a school fair-share contribution.

Attached is a submittal prepared for the Board of Land and Natural Resources (BLNR) to provide approval in principle of the acquisition of the subject parcel. Upon the DOE's completion of all appropriate due diligence, the DOE shall report all findings to BLNR and request final BLNR approval.

If you have any questions, please call Heidi Meeker, Land Use Planner of the Facilities Development Branch at 377-8301.

Thank you for your assistance.

KSM:jmb

Attachments

c: Dann Carlson, Assistant Superintendent, Office of School Facilities and Support Services

EXHIBIT 1

STATE OF HAWAII
DEPARTMENT OF EDUCATION
OFFICE OF SCHOOL FACILITIES AND SUPPORT SERVICES
Honolulu, Hawaii 96813

_, 2015

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

MAUI

Approval in Principle of Acquisition of Privately Owned Land
for Educational Purposes at Hamakuapoko, District of Makawao,
Island and County of Maui, Tax Map Key: (2)2-5-005:020
(portion).

APPLICANT AGENCY:

Department of Education ("DOE")

PRIVATE LANDOWNER:

Alexander and Baldwin, LLC, ("private landowner") a Hawaii limited liability company whose business and mailing address is 822 Bishop Street, Honolulu, Hawaii 96813. A copy of the draft future deed for the property is attached and labeled Exhibit A.

LEGAL REFERENCE:

Sections 107-10, 171-11, 171-30, and 302A-1601, Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned land of Alexander and Baldwin, LLC, situated at Hamakuapoko, District of Makawao, Island and County of Maui, identified by Tax Map Key: (2) 2-5-005:por. 020, as shown on the attached map labeled Exhibit B.

AREA:

2.321 acres, more or less, to be subdivided out of a large agricultural parcel of 1,087.722 acres. Two parcels will be subdivided out and transferred to the State of Hawaii. Lot 1 is 1.163 acres and Lot 2 is 1.158 acres. Both lots are adjacent to the Paia Elementary campus identified by Tax Map Key: 2-5-005:004 and Executive Order 797.

EXHIBIT 2

ZONING:

State Land Use District: Agricultural
County of Maui: Interim District

CURRENT USE:

Various uses including: vacant and unimproved areas, school playfield, and sugar cane field operations.

CONSIDERATION:

None. Private Landowner is providing subject lands at no cost to the State.

PURPOSE:

For educational purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5, HRS, as the subject lands are being donated, an environmental assessment (EA) is not required.

The parcel will serve as an expansion area for Paia Elementary School.

Inasmuch as Chapter 343 environmental requirements apply to Applicant's use of the subject land, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

To meet the Department's applicant requirements, the Private Land owner has agreed:

- 1) To process and obtain subdivision approval at private landowner's own cost;
- 2) To provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at the private landowner's own cost;
- 3) To obtain a title report for the privately-owned property at the private landowner's own cost and subject to review and approval by the Department;
- 4) To pay for and conduct a Phase I environmental site assessment that meets statutory requirements of the Federal Environmental Protection Agency (EPA) All Appropriate Inquiries Final Rules

as of November 1, 2006, and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the EPA and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

DOE is requesting that the Board of Land and Natural Resources ("BLNR") approve in principle the acquisition of 2.321 acres in two noncontiguous lots located adjacent to Paia Elementary School, TMK: (2) 2-5-005:020, for educational purposes.

Upon the DOE's completion of all appropriate due diligence, the DOE shall report all findings to BLNR and request final BLNR approval.

An Education Contribution Agreement ("Agreement") was executed on November 23, 1999 between, A&B-HAWAII, INC (predecessor to Alexander & Baldwin, LLC) and DOE. A copy of the Agreement is attached and labeled Exhibit C. The chain of ownership of the property is established in the deed labeled Exhibit A.

The Agreement is for a school expansion area adjacent to Paia Elementary School on the Island of Maui. The Department of Land and Natural Resources and the BLNR have not reviewed the Agreement, nor have they been party to the Agreement.

The Agreement states that A&B-HAWAII, INC would dedicate 1.66 acres of land, more or less, to the State of Hawaii as an educational payment to satisfy the DOE's fair-share requirement for school development. The Agreement refers to an attached drawing of the general area of the parcels. The parcels will be subdivided prior to final Board approval. The final total acreage of the two lots was determined to be 2.321 acres, as illustrated in Exhibit B.

The fair-share requirement was set by the Decision and Order of the Land Use Commission on October 22, 1998, Docket No. A98-723, Condition No. 2.

If the acquisition is completed and the land set aside to the DOE, the school plans to enlarge its campus by incorporating the expansion area. There are no other specific plans for the two lots at the present time.

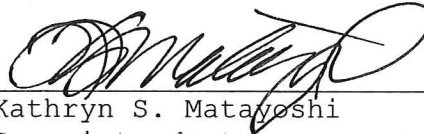
RECOMMENDATION: That the Board:

1. Approve in principle the acquisition of the subject private land

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 State's most current deed document form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General;
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kathryn S. Matayoshi
Superintendent
Department of Education

APPROVED FOR SUBMITTAL:

Chairperson

Exhibit A

Warranty Deed: State is)	
Grantee)	
)	
)	
)	
)	
)	
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)	
LAND COURT SYSTEM)	REGULAR SYSTEM
Return by Mail ()	Pickup ()	To:

	Total Number of Pages:
LOD No.	Tax Map Key No. (2) 2-5-005:020

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the ____ day of _____,
20____, **Alexander and Baldwin, LLC**, a Hawaii limited liability
company, whose address is 822 Bishop Street, Honolulu, Hawaii
96813, hereinafter referred to as the "Grantor," for good and
valuable consideration paid by the STATE OF HAWAII, by its Board
of Land and Natural Resources, whose address is 1151 Punchbowl
Street, Honolulu, Hawaii 96813, hereinafter referred to as the
"Grantee," the receipt whereof is hereby acknowledged, does
hereby grant, bargain, sell and convey unto the Grantee, the
Grantee's successors and assigns, that (those) certain parcel(s)
of land situate at Hamkuapoko, Makawao, Island of Maui,
designated as " Paia Elementary School Expansion Area,"
containing an area of 2.321 acres, more or less, more

being, respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated as C.S.F. No. _____ and dated _____.

AND the reversions, remainders, rents, income and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances (./, *except as noted herein.)

The Grantor, for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that the Grantor is lawfully seised in fee simple and possessed of the above-described land and premises, that it has a good and lawful right to convey the same as aforesaid, that the same is free and clear of all liens and encumbrances, (*except as noted herein,) and that it will and its successors and assigns, shall WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the claims and demands of all persons whomsoever.

AND, the Grantor warrants that if any lender or governmental agency shall ever require testing to ascertain whether there has been any release of hazardous materials by Grantor on or adjacent to the Property, as determined by Grantee in its sole discretion, then the Grantor shall be responsible for the reasonable costs thereof. In addition, Grantor shall execute affidavits, representations and the like from time to time at Grantee's request concerning Grantor's best knowledge and belief regarding the presence of hazardous materials on the Property placed or released by Grantor.

The Grantor agrees to indemnify, defend, and hold Grantee harmless, from any damages and claims resulting from the release of hazardous materials on or about the Property occurring while Grantor was in possession of the Property, or elsewhere if caused by Grantor or persons acting through or under Grantor.

For the purpose of this deed "hazardous material" shall mean any pollutant, contaminant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, as all of the above are defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, Chapter 128D, Hawaii Revised Statutes, or any other federal, state, or local law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced, or subsequently enacted.

AND, Grantor shall conduct a Phase I environmental site assessment no earlier than six months before the effective date of this deed, and then conduct any and all abatement and disposal, as warranted by that Phase I environmental site assessment, all as satisfactory to the standards required by the Federal Environmental Protection Agency, and the Department of Health, as determined by Grantee in its sole discretion.

The Grantor shall be responsible for payment of all property taxes up to the date of execution of this Warranty Deed.

IN WITNESS WHEREOF, _____,
the Grantor herein, has caused these presents to be executed
this _____ day of _____, 20____, and the STATE OF
HAWAII, by its Board of Land and Natural Resources, the Grantee
herein, has caused the seal of the Department of Land and
Natural Resources to be hereunto affixed and these presents to
be executed this _____ day of _____, 20____, both
effective as of the day, month, and year first above written.

(NAME OF GRANTOR)

Approved by the Board of
Land and Natural Resources
at its meeting(s) held on
_____.

By _____

Its _____

And By _____

Its _____

GRANTOR

APPROVED AS TO LEGALITY,
FORM, EXCEPTIONS, AND
RESERVATIONS:

STATE OF HAWAII

Deputy Attorney General

By _____

Dated: _____

Chairperson
Board of Land and
Natural Resources

GRANTEE

*Include only if there are encumbrances

STATE OF HAWAII)
) SS.
COUNTY OF)

On this _____ day of _____, 20____, before me appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively, of _____, a _____ corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII)
) SS.
COUNTY OF)

On this _____ day of _____, 20____, before me personally appeared _____ and _____, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged that _____ executed the same as _____ free act and deed.

Notary Public, State of Hawaii

STATE OF HAWAII

COUNTY OF

My commission expires: _____

)

) SS.

)

On this _____ day of _____, 20____,

before me personally appeared _____

and _____, to me personally known,

who, being by me duly sworn or affirmed, did say that such

person(s) executed the foregoing instrument as the free act and

deed of such person(s), and if applicable in the capacity shown,

having been duly authorized to execute such instrument in such

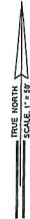
capacity.

Notary Public, State of Hawaii

My commission expires: _____

Exhibit B

T.M.K. (2) 2-5-005:020
Alexander & Baldwin, LLC
Owner



LOT 2
1.158 Ac.

EASEMENT A-1
0.204 Ac.

LOT 1
1.163 Ac.

9.982 Ac. (ORIGINAL)
12.303 Ac. (NEW TOTAL)

BALDWIN AVENUE
(Existing 50-foot wide Right-of-Way)

T.M.K. (2) 2-5-005:023
Alexander & Baldwin, LLC
Owner

PLAT SHOWING

PROPOSED ADDITIONS TO THE PAIA SCHOOL LOT (EXECUTIVE ORDER 797)

Being a portion of the lands deeded by the Board Of Education to the Trustees of the Oahu College dated January 30, 1860 in Liber 12, Pages 460 to 463

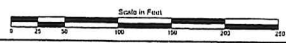
HAMAKUAPOKO, MAKAWAO, MAUI, HAWAII

SCALE 1 inch = 50 feet DATE March 7 2014

Prepared by A&B Planners, Inc.
Kahului Maui Hawaii

OWNERS: PARCEL 020 - Alexander & Baldwin, LLC
PARCEL 004 - State of Hawaii

- NOTES:
1. Allments and coordinates related to Government Survey Triangulation Station "PUUNENE 2"
 2. Owners of adjoining parcels taken from records of the Real Property Mapping Branch.
 3. Boundary corners are marked with pipe unless otherwise noted.



EDUCATIONAL CONTRIBUTION AGREEMENT FOR
HALIIMAILE RESIDENTIAL

THIS INDENTURE, made this 23rd day of November, 1999, by and between A&B-HAWAII, INC., whose principal place of business and post office address is 822 Bishop Street, P.O. Box 3440, Honolulu, Hawaii 96801, and the State of Hawaii DEPARTMENT OF EDUCATION, hereinafter referred to as the "DOE;"

WHEREAS A&B-HAWAII, INC. is the developer and recorded owner of that certain parcel of land comprised of approximately 63 acres and identified as Tax Map Key parcel (2) 2-5-003: por. 010, also known as "Haliimaile Residential;"

WHEREAS Haliimaile Residential is anticipated to contain a total of approximately 196 units (house/lot or just lot) in the entire project;

WHEREAS A&B-HAWAII, INC. and the DOE have mutually agreed that the educational contribution set forth in this Agreement will satisfy Condition No. 2 of Land Use Commission Docket No. A98-723 based on a total count of 196 units maximum;

NOW THEREFORE, A&B-HAWAII, INC. and the DOE agree as follows:

1. A&B-HAWAII, INC.'s Land Contribution. A&B-HAWAII, INC. shall dedicate 1.66 acres of land, more or less, ("expansion area") to the State of Hawaii for expansion of Paia Elementary School.
 - a. The location of the expansion area shall be as shown on the map attached hereto and incorporated herein as Exhibit "A."
 - b. Use of the school site shall be limited to public school and ancillary school recreational uses.

- c. A&B-HAWAII, INC. shall be responsible for conducting a title search of the expansion area. A copy of the report shall be transmitted to the DOE.
- d. If the expansion area contains any encumbrances which would materially affect the DOE's intended use of the expansion area, A&B-HAWAII, INC. shall clear such encumbrances prior to dedication to the State of Hawaii.
- e. A&B-HAWAII, INC. shall be responsible for the subdivision of the expansion area.
- f. The expansion area shall be zoned appropriately for school use prior to dedication to the State of Hawaii.
- g. A&B-HAWAII, INC. shall conduct a Phase 1 level hazardous material study on the expansion area prior to dedication to the State of Hawaii. A copy of the report shall be transmitted to the DOE.
- h. The expansion area shall be conveyed to the State of Hawaii by a mutually agreed upon date after the Haliimaile Residential rezoning.
- i. A&B-HAWAII, INC. recognizes that the State's acquisition of private property is subject to approval by the Board of Land and Natural Resources.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement the day and year first above written.

A&B-HAWAII, INC.

By *Stanley M. Kuriyama*
STANLEY M. KURIYAMA
Its EXECUTIVE VICE PRESIDENT

Date: 10/28/99

By *Alyson J. Nakamura*
ALYSON J. NAKAMURA
Its SECRETARY

Date: 11/11/99

DEPARTMENT OF EDUCATION

By *Patricia Hamano*
Paul G. LeMahieu, Ph.D.
Its Superintendent

Date: 11/23/99

Approved as to form:

By *Shella M. Kam*
Deputy Attorney General
State of Hawaii

Date: 9/13/99

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this 23rd day of November, 1999, before me personally appeared ^{Patricia} ~~Paul G. LeMahieu~~ ^{Hamamoto for} Paul G. LeMahieu, Ph.D., Superintendent of the State of Hawaii DEPARTMENT OF EDUCATION, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Debra K. Osherson
Notary Public, State of Hawaii

My commission expires: 7-6-2002

STATE OF HAWAII)
CITY AND)
COUNTY OF HONOLULU) SS.

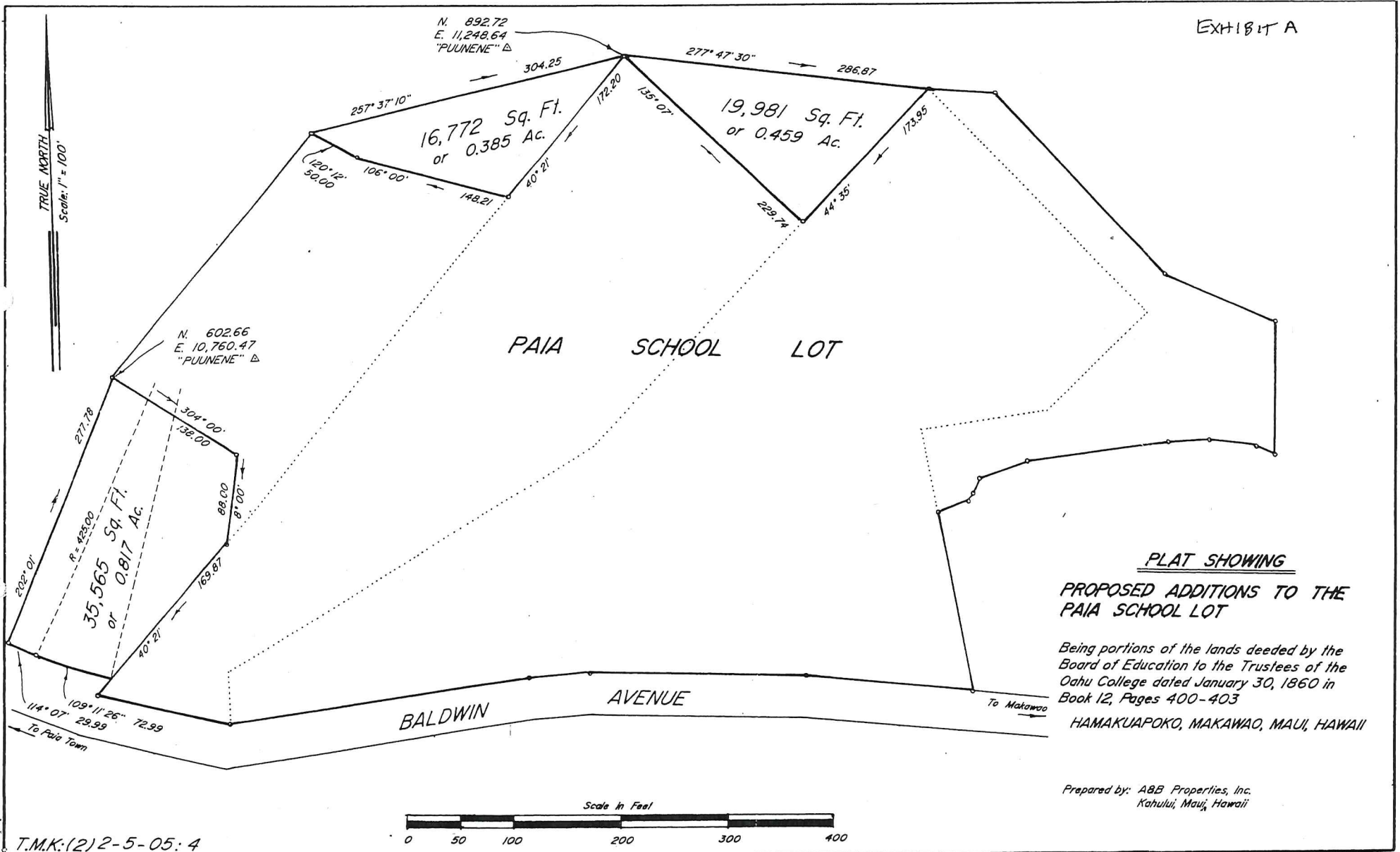
On this 1st day of November, 1999, before me personally appeared STANLEY M. KURIYAMA EXECUTIVE VICE PRESIDENT of A&B-HAWAII, INC., and ALYSON J. NAKAMURA, SECRETARY of A&B-HAWAII, INC., to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.



Melissa A. Matsuura
Notary Public, State of Hawaii

My commission expires: 2/13/2001

EXHIBIT A



PLAT SHOWING

**PROPOSED ADDITIONS TO THE
PAIA SCHOOL LOT**

*Being portions of the lands deeded by the
Board of Education to the Trustees of the
Oahu College dated January 30, 1860 in
Book 12, Pages 400-403*

HAMAKUAPOKO, MAKAWAO, MAUI, HAWAII

Prepared by: A&B Properties, Inc.
Kahului, Maui, Hawaii

T.M.K.: (2) 2-5-05: 4

