

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

January 11, 2013

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

PSF No: 01MD-027

MAUI

Amend Prior Board Action of December 13, 2002, Item D-32: Dedication of Land and Grant of Easement to the State of Hawaii by Wailuku Agribusiness Company, Inc., Set Aside to the Department of Education for Playfield Purposes, and Authorize the Issuance of an Access Easement, Waihee, Wailuku, Maui, Tax Map Key: (2) 3-2-07: Portion of 1.

Amendment: Change the Name of the Grantor of the Deed and Easement from Wailuku Agribusiness, Company, Inc. to Stanford Carr Development LLC.

BACKGROUND:

At its December 13, 2002, meeting, under agenda item D-32 (Exhibit A), the Board approved the acceptance of land, in fee simple, and grant of easement to be dedicated by the Wailuku Agribusiness Company, Inc. (Wailuku) to the State.

The land dedication is pursuant to the Department of Education's "Developer Fair Share Obligation" policy. Under the policy a developer must either dedicate land or contribute funds, or a combination thereof, to help mitigate the impacts to schools and future requirements for additional educational facilities caused by urban development.

REMARKS:

In a separate land transaction between Wailuku and Stanford Carr Development LLC (Stanford Carr) land, including the subject playfield site and easement area, was conveyed by Wailuku to Stanford Carr. The conveyance was made with the understanding that Stanford Carr would, subsequently, convey the playfield, together with the grant of easement, to the State.

Accordingly, a change of the entity responsible for the dedication of the subject land and grant of easement to the State from the Wailuku Agribusiness Company, Inc. to Stanford Carr Development LLC would be

in order.

RECOMMENDATION:

That the Board amend its prior action of December 13, 2002, under agenda item D-32 as follows:

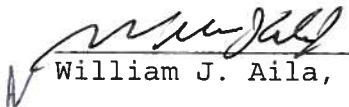
1. Delete all references to Wailuku Agribusiness Company, Inc. and replace with Stanford Carr Development LLC, and or its subsidiaries/affiliates, whichever the case may be.
2. Authorize the preparation of an updated title report covering the subject land to be dedicated to the State at the expense of the Department of Education.
3. Authorize the preparation of a Phase 1 environmental review covering the subject land to be dedicated to the State and any subsequent review, as may be recommended by the phase 1 review, at the expense of the Department of Education.
4. Except as amended herein all other terms and conditions listed in its December 13, 2002, approval, under agenda item D-32, to remain the same.

Respectfully Submitted,



Gary Martin  
Land Agent

APPROVED FOR SUBMITTAL:



---

William J. Aila, Jr., Chairperson

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

December 13, 2002

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

PSF No.: 01MD-027

MAUI

Dedication of Land and Grant of Easement to the State of Hawaii by Wailuku Agribusiness Company, Inc., Set Aside to the Department of Education for Playfield Purposes, and Authorize the Issuance of an Access Easement, Waihee, Wailuku, Maui, Tax Map Key: 3-2-07: Portion 1

APPLICANT:

The Department of Accounting and General Services (DAGS) on behalf of the Department of Education (DOE).

LEGAL REFERENCE:

Sections 171-11 and 171-30, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Being all of Poalima and portions of Royal Patent 4475, Land Commission Award 7713, Apana 24 to V. Kamamalu, Royal Patent 5286, Land Commission Award 4282, Apana 1 to Kane, Royal Patent 5985, Land Commission Award 4287, Apana 1 & 2 to Kalaekolohe, Royal Patent 5398, Land Commission Award 4284-B to Pauahi, Royal Patent 2163, Land Commission Award 4405-B, Apana 3 to Keahi, and Poalima, situated at Waihee, Wailuku, Maui, identified by Tax Map Key: 3-2-07: Portion 1, as shown on the attached map labeled Exhibit A.

AREA:

Dedication Land:	4.585 acres
Perpetual Exclusive Easement:	0.163 acres
	<b>TOTAL 4.748 acres</b>

ZONING:

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

TRUST LAND STATUS:

Non-Trust lands  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

*December 13, 2002. na*

Item D-32

CURRENT USE STATUS:

Currently vacant and unencumbered. The property was formerly used for Macadamia nut production; however, production was suspended as of July 2001.

PURPOSE:

Playfield purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In compliance with the provisions of Chapter 343, HRS, as amended, a final environmental assessment (EA) was prepared. The EA covered the Waihee Elementary School's new playfield, new classroom building and new library and administrative building. A finding of no significant impacts (FONSI) was published in the September 8, 1999 issue of the Environmental Notice.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

The Waihee Elementary School at Waihee, Wailuku, Island of Maui (set aside by Governor's Executive Order No. 2863 to DOE) will soon begin, or may have already begun, construction of a new classroom building to meet the needs of its growing student enrollment. The school's existing playfield was demolished to make way for the new classroom building leaving the school without a playfield.

DAGS and DOE have had discussions with Wailuku Agribusiness Company, Inc., owner of Tax Map Key: 3-2-07: 1 containing 43.54 acres adjacent to the Waihee Elementary School, about acquiring a portion of that land for a new playfield, pursuant to DOE's "Developer Fair Share Obligation" policy. The policy requires developers to dedicate land or contribute funds, or a combination thereof, to the State to help mitigate the impacts to schools caused by development. The discussions resulted in an agreement in which Wailuku Agribusiness Company, Inc. would convey fee simple title to 4.585 acres of land it owns behind the school to the State at gratis, together with a perpetual exclusive easement for playfield purposes having 0.163 acres for a total of 4.748 acres. In return Wailuku Agribusiness Company, Inc. would obtain stipulated credits on its education contribution obligations.

The 4.748 acres are comprised of portions of the six (6) Land Commission Awards and two (2) Poalimas listed above under "LOCATION". Based on a recent title search and report, prepared by Title Guaranty of Hawaii, Inc., five (5) of the six (6) Land Commission Awards have "good title". However, a portion of Land Commission Award 4405-B, Apana 3 to Keahi, has a broken chain of title, and consequently, its title is not insurable. Due to the strategic location of this portion of land within the proposed playfield its exclusion was not an option. Therefore, in the alternative to a deed, Wailuku Agribusiness Company, Inc. will grant the State an exclusive perpetual easement for playfield purposes covering that portion of Land Commission Award 4405-B, Apana 3 to Keahi. The portions of the other five (5) Land Commission Awards having "good title" will be conveyed to the State by deed.

DAGS is processing the subdivision of the playfield lot and has received preliminary subdivision approval from the County of Maui. Its final subdivision approval is subject to the playfield lot being provided legal access to the nearest public road or highway. Accordingly, the issuance of an easement, covering the Waihee Elementary School grounds, for playfield access purposes would be in order.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant's requirements listed above:

1. Accept the subject conveyance of land and grant of easement from Wailuku Agribusiness Company, Inc., or any of its divisions, subsidiaries, or whichever the case may be, subject to any applicable terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. Review and approval by the Department of the Attorney General.
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to DOE, subject to any applicable 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 executive order document form as may be amended from time to time.
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by

- a majority vote by both in any regular or special session next following the date of the setting aside.
- C. Review and approval by the Department of the Attorney General.
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Declare that, after considering the potential effects of the following proposed access easement as provided by Chapter 343, HRS, as amended, and Chapter 11-200, HAR, this access easement will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the issuance of a perpetual, non-exclusive easement for playfield access purposes covering all of the land under the operation of Governor's Executive Order No. 2863, 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. The perpetual easement shall inure to the benefit of the real property described as Tax Map Key: 3-2-07: Por. 1.
  - C. Concurrence by the Governor.
  - D. Concurrence by the Department of Education.
  - E. Review and approval by the Department of the Attorney General.
  - F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
GARY MARTIN  
Land Agent



APPROVED FOR SUBMITTAL:

  
GILBERT S. COLOMA-AGARAN, Chairperson

Copy No. 100  
By T.E. Williams  
Scale: As Shown

PLAT 06  
PLAT 10  
PLAT 08

WAIHEE ELEMENTARY SCHOOL

SECTION 2 PLAT 01

Playfield Parcel

Playfield Easement

Waihee Elem. School (EO No. 2863)

ADVANCE SHEET  
SUBJECT TO CHANGE

Form 2700 (4/4/64)

SECOND DIVISION
ZONE SEC PLAT
3 2 07
CONTAINING PARCELS
Sheet No. 100 of 12

PLAT 06