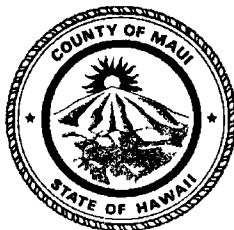


ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535
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DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
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TELEPHONE: (808) 270-7740
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August 17, 2016

MEMORANDUM

TO: Robert Carroll, Councilmember

FROM: Jerrie L. Sheppard, Deputy Corporation Counsel

SUBJECT: NAHIKU COMMUNITY CENTER

We respond to your request dated August 9, 2016, wherein you requested:

1. What is acceptable and appropriate use for the proposed Nahiku Community Center site? For example, can residents hold gatherings like picnics and parties there?
2. If so, what are the protocols and does the County have liabilities?

The site for the proposed Nahiku Community Center is set aside by Executive Order No. 4220, attached hereto as Exhibit (1), for public purposes, and is under the management of the Department of Parks and Recreation, County of Maui.

County parks are subject to Chapter 13.04A, Maui County Code, which provides that, unless otherwise permitted by the director, all parks and recreational facilities shall be open to the public on a non-exclusive, first-come, first-served basis during designated operating hours. Any exclusive use of the property requires a permit. (Maui County Code (MCC), Section 13.04A.040.)

The Nahiku Community Center site may therefore be used by the public for picnics and parties on a non-exclusive basis, but if the user desires exclusive use, they must apply for a permit in accordance with Chapter 13.04A, MCC. Permits may require insurance and indemnification agreements, depending upon the activities being conducted, to protect the County's interests. Non-exclusive use does not require additional insurance or indemnification agreements.

When construction for the facility at the site begins, the property will be closed pursuant to MCC Section 13.04A.040(B), to ensure the safety of the public during construction. Once the facility construction is completed, the outdoor property will remain available to the public on a non-exclusive, first-come, first-served, or a permitted exclusive use basis, and the building will be a "restricted facility" which requires special maintenance, and will be subject to use by permit only, like all other Community Centers.

Mr. Robert Carroll, Councilmember


Page 2

August 17, 2016

The Department of Parks and Recreation is currently drafting Administrative Rules pertaining to the administration of parks and recreation facilities and permits for use of those properties. These rules require public hearing before adoption, and the public will be notified in accordance with Hawaii Revised Statutes Chapter 91-2 when the public hearing(s) are scheduled.

Additional questions regarding how to obtain a permit for exclusive use of the property may be readily answered by the Department of Parks and Recreation's Permits Office, 270-7389. I am happy to answer any additional questions regarding the County's liabilities.

APPROVED FOR TRANSMITTAL:



EDWARD S. KUSHI, JR.
First Deputy Corporation Counsel

Copy to:

Alan M. Arakawa, Mayor

Patrick Wong, Corporation Counsel

Kaala Buenconsejo, Director, Department of Parks and Recreation

FOR COMMUNITY CENTER PURPOSES, to be under the control and management of the County of Maui, being that parcel of land situate at Makapipi, Nahiku, Hana, Maui, Hawaii, and identified as "Former Nahiku School Lot," containing an area of 1.9 acres, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 24,559 and dated December 7, 2007.


SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County of Maui shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 24th day of March, 2008.


Governor of the State of Hawaii

APPROVED AS TO FORM:


Deputy Attorney General

Dated: March 7, 2008

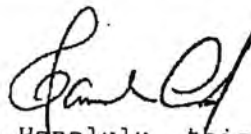
PRELIM. APPR'D.
Department of the
Attorney General

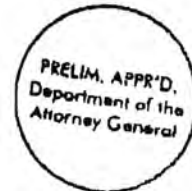
STATE OF HAWAII

Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of Executive Order No. 4220 setting aside land for public purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant Governor of the State of Hawaii, has hereunto subscribed his name and caused the Great Seal of the State to be affixed.


DONE in Honolulu, this MAR 27 2008 day of _____, A.D. 2008





STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

December 7, 2007

C.B.F. No. 24,559

FORMER
NAHIKU SCHOOL LOT

Makapipi, Nahiku, Hana, Maui, Hawaii

Being a portion of the Government Land of Makapipi.

Beginning at the southeast corner of this parcel of land and on the northeast side of Government Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "OPIKOULA" being 1204.2 feet South and 2090.6 feet West, thence running by azimuths measured clockwise from True South:-

- | | | | |
|----|----------|-------|---|
| 1. | 126° 45' | 145.0 | feet along the northeast side of Government Road; |
| 2. | 146° 50' | 200.3 | feet along the northeast side of Government Road; |
| 3. | 152° 15' | 102.5 | feet along the northeast side of Government Road; |
| 4. | 172° 10' | 96.5 | feet along the northeast side of Government Road; |



EXHIBIT "A"

C.S.F. No. 24,559

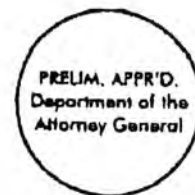
December 7, 2007

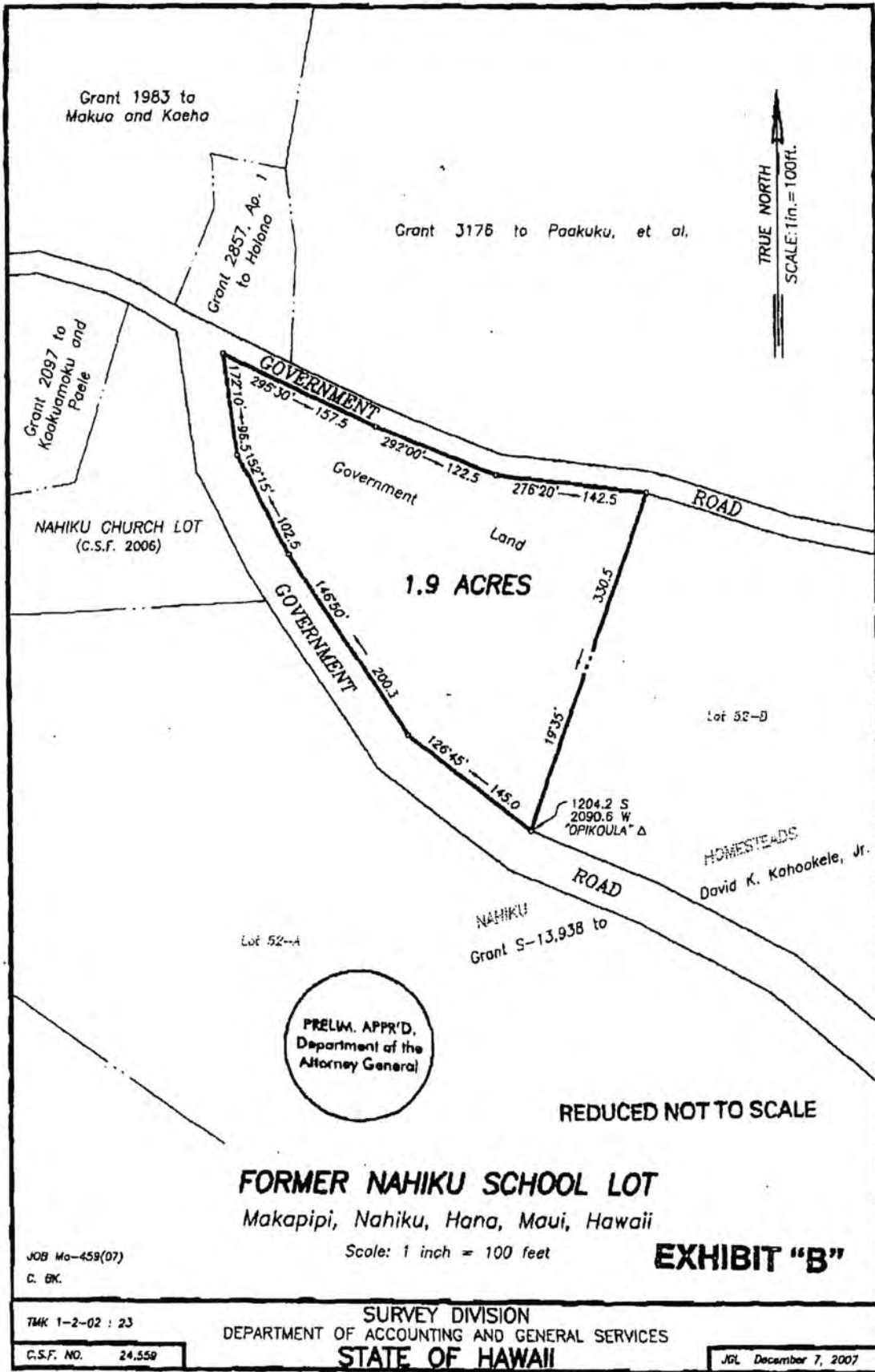
- | | | | |
|----|----------|-------|---|
| 5. | 295° 30' | 157.5 | feet along the south side of Government Road; |
| 6. | 292° 00' | 122.5 | feet along the south side of Government Road; |
| 7. | 276° 20' | 142.5 | feet along the south side of Government Road; |
| 8. | 19° 35' | 330.5 | feet along Grant S-13,938 to David K.
Kahookele, Jr. to the point of beginning
and containing an AREA OF 1.9 ACRES. |

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: *Glenn J. Kodani*
Glenn J. Kodani
Land Surveyor ml

Compiled from CSF 2005, Maui
File Carton 25 and other Govt.
Survey Records.





Grant 1983 to Makua and Kaeha

Grant 3176 to Paakuku, et al.

Grant 2857, Ap. 1 to Holono

Grant 2097 to Kookuamoku and Paele

NAHIKU CHURCH LOT (C.S.F. 2006)

1.9 ACRES



PRELIM. APPR'D.
Department of the
Attorney General

REDUCED NOT TO SCALE

FORMER NAHIKU SCHOOL LOT
Makapipi, Nahiku, Hana, Maui, Hawaii

JOB Ma-459(07)
C. BK.

Scale: 1 inch = 100 feet

EXHIBIT "B"

TMK 1-2-02 : 23

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

C.S.F. NO. 24,559

JGL December 7, 2007