

LAND USE COMMISSION
STATE OF HAWAII

2017 SEP 26 A 10:26

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
BUREAU OF CONVEYANCES
Doc A - 64780400
DOCUMENT NO. _____
DATE - TIME September 26, 2017 10:45 AM

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL (X) PICK UP ()

Matsubara, Kotake & Tabata
Attention: Curtis T. Tabata, Esq.
888 Mililani Street, Suite 308
Honolulu, Hawai`i 96813
Telephone: (808) 526-9566

TITLE OF DOCUMENT: DECLARATION OF CONDITIONS; EXHIBIT "A"

Total Pages: 9

DECLARATION OF CONDITIONS

ISLAND SCHOOL (as Petitioner), the business address of which is 3-1875
Kaunualii Highway, Lihue, Kauai, Hawai`i 96766-9597, in that certain Petition for
District Boundary Amendment in Docket No. A16-800 of the Land Use Commission of
the State of Hawai`i, affecting those certain lands, approximately 38.448 acres of land
situated in Puhi, Lihue, Island of Kauai, State of Hawai`i, more particularly identified
as Tax Map Key No. (4) 3-8-002: 016 ("Petition Area"), as shown on map marked Exhibit

“A” attached hereto and incorporated herein by reference, do hereby certify pursuant to § 15-15-92, Hawai`i Administrative Rules, as follows:

THAT by Findings of Fact, Conclusions of Law, and Decision and Order, entered August 11, 2017, in Docket No. A16-800, the Land Use Commission reclassified approximately 38.448 acres of land, situated at Puhi, Lihue, Island of Kaua`i, State of Hawai`i, identified as Tax Map Key No. (4) 3-8-002: 016 from the State Land Use Agricultural District to the State Land Use Urban District, as shown on Exhibit “A” to the State Land Use Urban District.

AND THAT by Findings of Fact, Conclusions of Law, and Decision and Order, entered August 11, 2017, it was further ordered that the reclassification from State Land Use Agricultural District to the State Land Urban District shall be subject to the following conditions that are subject to HAR § 15-15-91:

1. **Stormwater Management and Drainage Improvements.** The Petitioner shall maintain existing drainage patterns. To the extent feasible, Petitioner shall implement Best Management Practices and incorporate Low Impact Development (“LID”) practices for onsite stormwater capture and reuse into Petition Area’s site design and landscaping to control water quality and mitigate nonpoint sources of pollution.

2. **Lihue Airport.** Petitioner shall conduct a glint and glare analysis for the PV facility. Petitioner shall submit the analysis to the State Department of

Transportation for its comment and approval. If glint and glare from the PV system is determined to create a hazardous condition, the Petitioner shall immediately mitigate the hazard at Petitioner's expense.

3. **Archaeological and Historic Preservation.** The Petitioner shall prepare and implement an archaeological monitoring plan approved by SHPD. A report of monitoring activities shall be submitted to SHPD upon completion of fieldwork.

4. **Previously Unidentified Burials and Archaeological/Historic Sites.** In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, Kaua`i Island Section, and the Kaua`i/Ni`ihau Islands Burial Council, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the Project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction.

5. **Endangered Species.** Petitioner shall complete the following:

A. During the construction phase of the Project, an endangered species awareness program shall be developed which includes general information on the endangered species act and protected species, specific

restrictions on the Project site to protect endangered species, and protocols on how Project site personnel will respond to any downed or injured endangered species that may occur on the Petition Area. All construction personnel shall be required to be familiar with the program, guidelines, restrictions and protocols that will need to be followed.

- B. If construction activity is planned to occur during the Nēnē nesting season, from October through March on Kaua`i, the Project site should be surveyed by a qualified biologist before the commencement of construction to determine if any active nesting activity is occurring on the Petition Area. If active Nēnē nesting does occur during construction, a biological monitor shall be on-site to ensure that no harm befalls the birds.
- C. For any nighttime work required during construction, and for long term operation of the proposed Project, all exterior lighting shall be shielded so as to reduce the potential for interactions of nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures.
- D. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet, along the periphery of the Petition Area shall not occur between June 1 to September

15 when bats may be carrying young and potentially could be at risk by such clearing activities.

6. **Hazardous Substances.** Petitioner shall conduct a phase I Environmental Site Assessment and site investigation Project site to the review and approval of the State Department of Health.

7. **Compliance with Representations.** The Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

8. **Notice to Commission.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

9. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Kaua'i Planning Department in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

10. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

11. **Notice of Imposition of Conditions.** Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area; and (b) shall file a copy of such recorded statement with the Commission.

12. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92 HAR.

This Declaration of Conditions shall supersede the Notice of Imposition of Conditions by the Land Use Commission dated August 16, 2017 upon the recordation at the Bureau of Conveyances of this Declaration of Conditions.

[The remainder of this page is intentionally left blank.]

Dated: Lihue, Hawai'i, Sept. 22, 2017.

Island School

By Katherine G. Richardson
Katherine G. Richardson
Its President

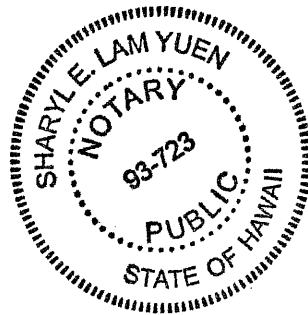
By David W. Pratt
David W. Pratt
Its Vice President

STATE OF HAWAII)
)
) SS:
COUNTY OF KAUAI)

On this 22nd day of SEPT., 2017, before me personally appeared Katherine G. Richardson and David W. Pratt, to me known, who, being by me duly sworn, did say that they are President and Vice President of ISLAND SCHOOL, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.

Sharyl E. Lam Yuen
Name: Sharyl E. Lam Yuen
Notary Public, State of Hawai'i

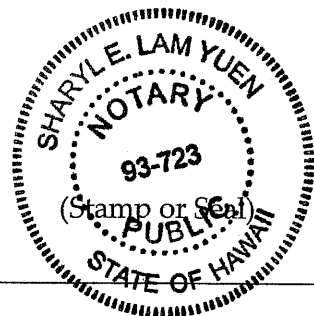
My Commission Expires: 12/16/2017

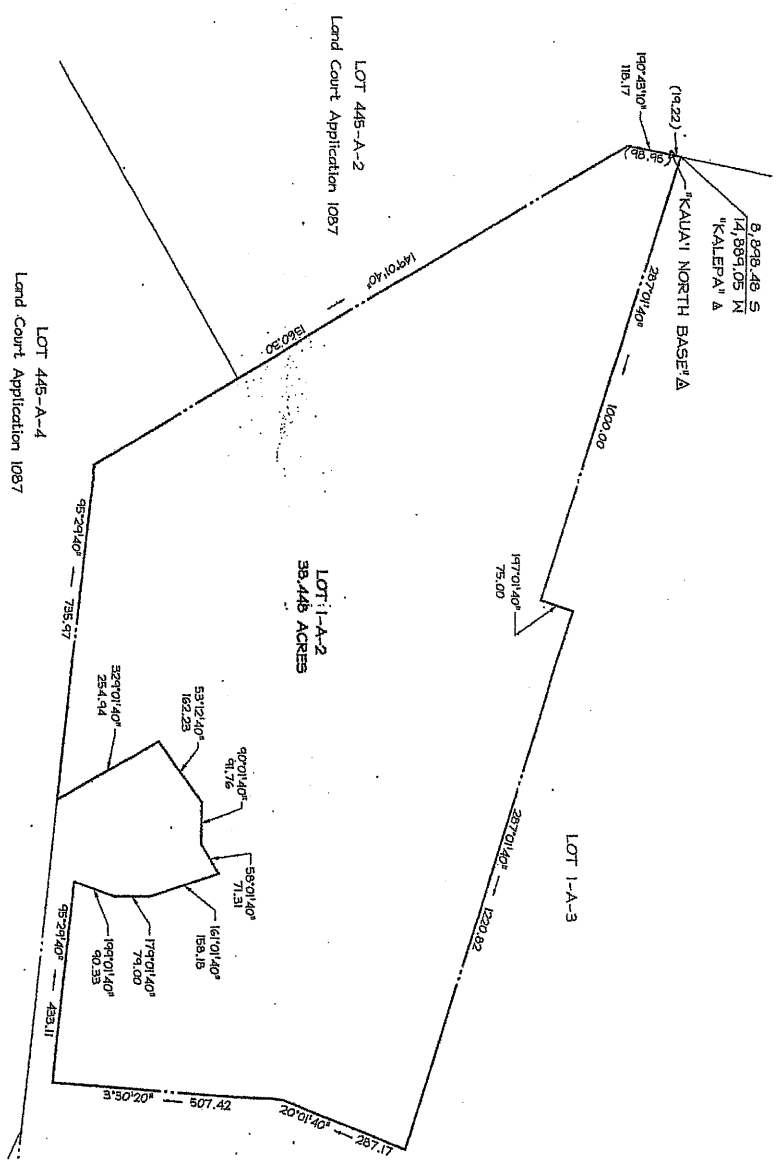
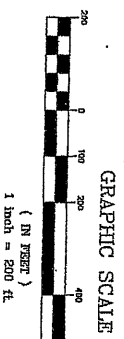


STATE OF HAWAII NOTARY CERTIFICATION

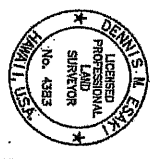
Doc. Description: Declaration of Conditions; Exhibit "A"
Date of Document: 09/22/17 # Pages: 9
Date of Notarization: 09/22/17

Sharyl E. Lam Yuen
Notary Public Signature
Print Name: Sharyl E. Lam Yuen
Notary Public, State of Hawai'i, Fifth Circuit
Notary Commission No. 93-723





TRUE NORTH
 Scale 1" = 200'



THIS WORK WAS PREPARED BY ME
 OR UNDER MY SUPERVISION

Signature: *[Handwritten Signature]*
 ESQUI SURVEYING & MAPPING, INC.
 EXPIRES APRIL 30, 2014

ESQUI SURVEYING & MAPPING, INC.
 Civil Engineers - Land Surveyors - Planners

MAP SHOWING
 LOT 1-A-2
 Being a Portion of Royal Patent 4478,
 Land Commission Award 7719, Apone 2,
 Part 2, to V. Karamanlu
 Being Also a Portion of Grant 189, Apone 1
 to William L. Lee
 NAWILIMUI, LIHUE, KAUAI, HAWAII
 Tax Map Key: (4) 3-8-02: 16
 Dates: July 2, 2012