

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

July 28, 2023

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

PSF No.: 22KD-087

Kauai

Issuance of Revocable Permit to David K. Kaneakua Sr., for Landscape and Maintenance Purposes, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-014: portion of 007.

APPLICANT:

David K Kaneakua Sr., a married man, Tenant in Severalty.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Lihue situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-5-014: portion of 007, as shown on the attached map labeled **Exhibit A**.

AREA:

Subject Area: 0.015 acre, more or less.
Total Parcel Area: 0.271 acre, more or less

ZONING:

State Land Use District: Urban
County of Kauai CZO: Residential

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:

Vacant and unencumbered.

CHARACTER OF USE:

Landscape and Maintenance Purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$40.00 per month.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached as **Exhibit B**.

DCCA VERIFICATION:

Not applicable. As an individual, applicant is not operating as a business and, as such, is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

At this time, staff believes that a month-to-month tenancy for landscape and maintenance purposes is the appropriate disposition since the parcel is landlocked and no other parties have expressed interest to utilize/lease the subject area. In addition, the potential revenue to be generated by a lease for maintenance uses may not be sufficient to justify the investment of staff time and resources required to prepare the property for and conduct a public auction for a sale of lease of the property. The alternative of leaving the property in its unencumbered condition will likely require the Department to incur maintenance costs for periodic removal of overgrowth onto the applicant's abutting fee simple property.

REMARKS:

The subject parcel, identified by Tax Map Key (4) 4-5-014: portion of 007, is a remaining section of an abandoned railroad right-of-way and has had no encumbrances since the decommissioning of the railroad. The property abuts the applicant’s fee simple property identified by Tax Map Key (4) 4-5-014:008. The subject parcel is landlocked and there is no legal access to the property. It is currently in an overgrown state and is a possible health hazard due to rodents living in the overgrowth. Applicant has requested access to cut back and maintain brush at his own cost. Applicant was offered the parcel as a remnant but declined citing an inability to afford the cost.

A monthly rental rate of \$40.00 was derived from the 2018 DLNR Revocable Permits Appraisal Report. Average annual rent in 2018 for permits on lands with the same purpose that are within a close vicinity of the subject was \$40.00 per month. The annual market rent was estimated by employing a bracketing analysis using direct market comparison with other leases to tenants on the islands of Oahu and Kauai. Following the approach used for annual RP renewals in the relevant period, the rent was calculated by the Land Division. Based on the .015-acre size of the subject area, the total rent came out to \$40.00 per month. On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the minimum rent for new land dispositions be no less than \$480 per year.

The following State and County of Kauai (COK) agencies were consulted on this action with the results indicated:

Agency:	Comment:
State Agencies:	
Office of Hawaiian Affairs (OHA)	No response by suspense date
State Historic Preservation Division (SHPD)	No objections
Division of Forestry and Wildlife (DOFAW)	No response by suspense date
County Agencies:	
COK Department of Public Works	No objections
COK Planning Department	No response by suspense date

It is the belief of the Land Division that the intended use would result in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

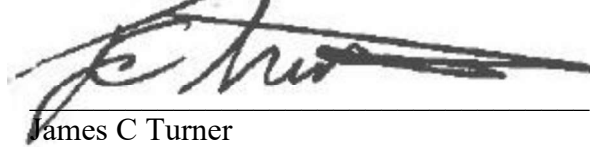
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will

probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent forth herein, would serve the best interest of the State.
3. Authorize the issuance of a revocable permit to David K. Kaneakua Sr. covering the subject area for landscape and maintenance purposes 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 most current revocable permit 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



James C Turner
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson *et*

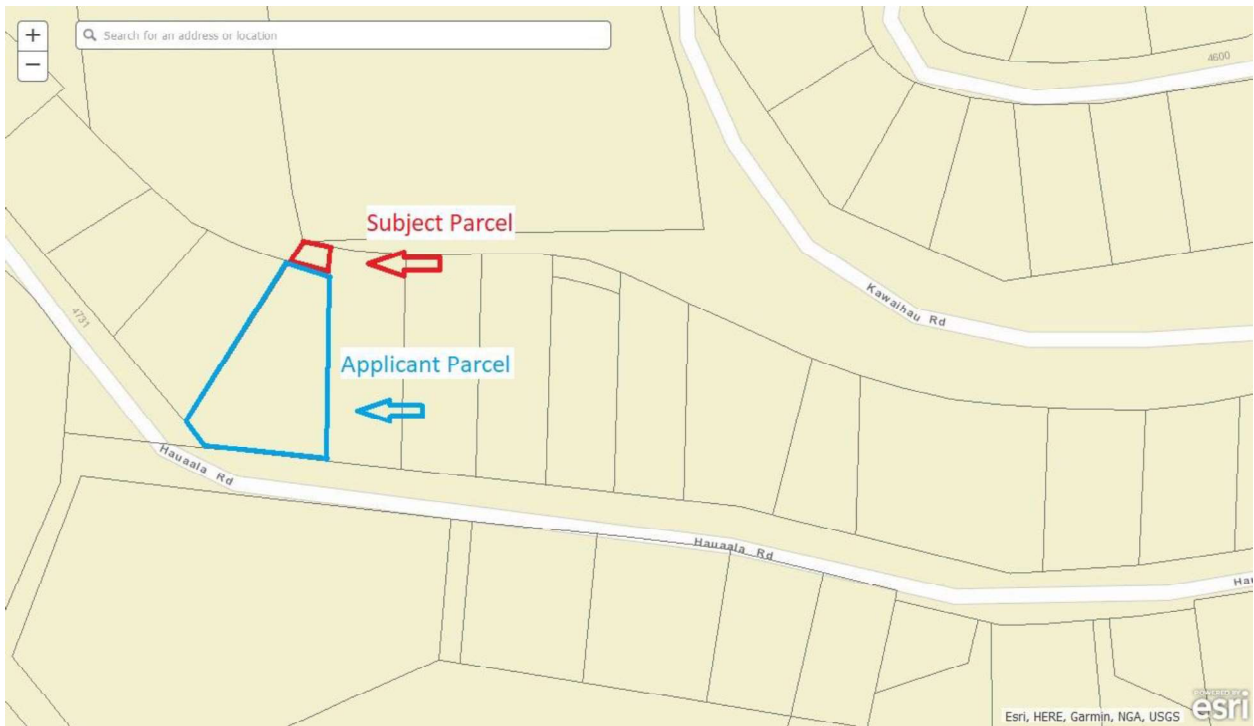
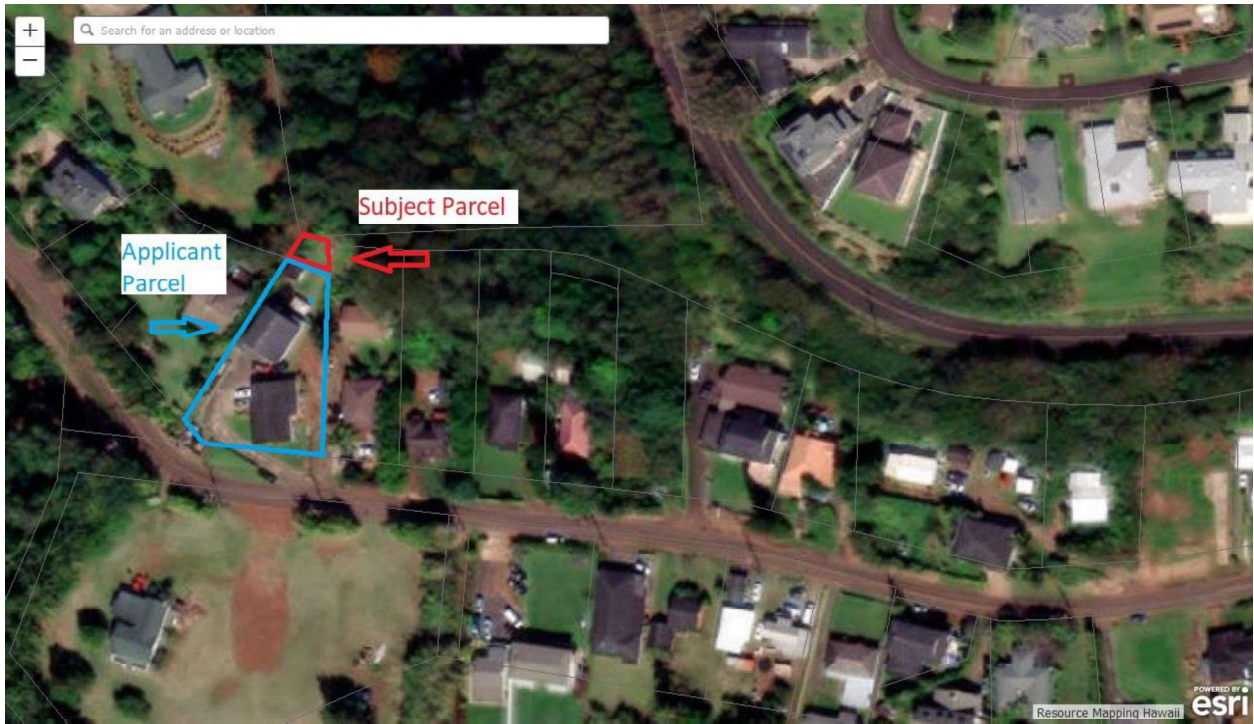
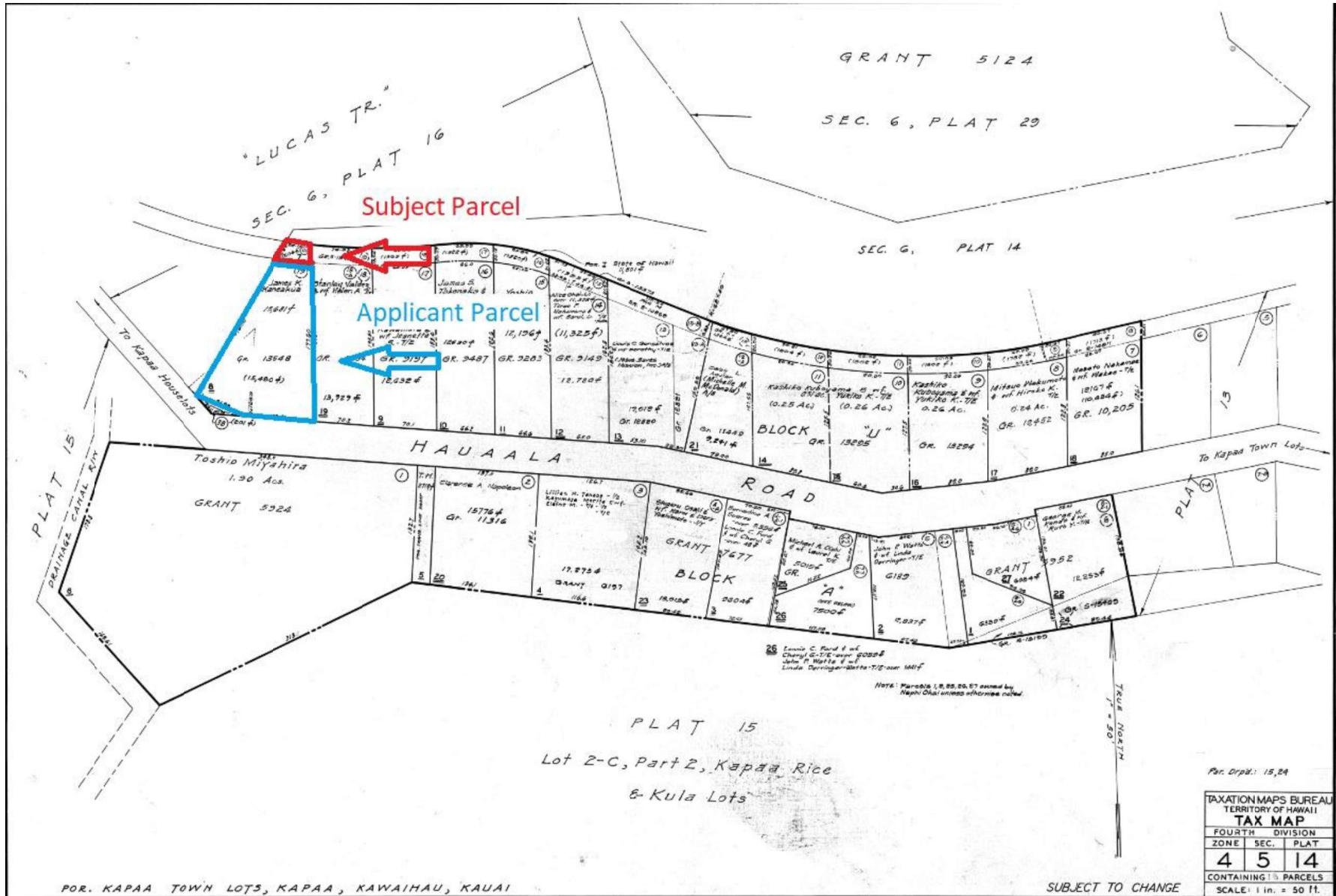


Exhibit A



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Eiwa Street, Room 208
Lihue, Hawaii 96766
PHONE: (808) 274-3491
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July 28, 2023

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title: Issuance of Revocable permit to David K Kaneakua Sr. for Landscape and Maintenance Purposes

Project / Reference No.: 22KD-087

Project Location: Kapaa, Kawaihau, Kauai, Tax Map Keys: (4) 4-5-014: portion of 007

Project Description: Issuance of Revocable permit for Landscape and Maintenance Purposes.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.", and Part 1, Item 27, which states the "Maintenance of lands and waters to remove weeds, brushes, grass and other unwanted vegetation," and Item 44, which states, "Permits, licenses, registrations, and rights-of-entry issued by the department that are routine in nature,

EXHIBIT B

involving negligible impacts beyond that previously existing.”

Cumulative Impact of Planned Successive Actions in Same Place Significant?:

No. Staff believes there are no cumulative impacts involved with the issuance of Revocable Permit

Action May Have Significant Impact on Particularly Sensitive Environment?:

No. There are no sensitive environmental issues involved with the issuance or Revocable Permit.

Analysis:

The proposed action is an issuance of a Revocable Permit for maintenance and landscaping purposes. Applicant has no intentions of altering the land in any way other than cutting back existing brush. As such, staff believes that the proposed disposition would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties:

Office of Hawaiian Affairs, State Historic Preservation Division, Division of Forestry and Wildlife, Department of Agriculture, County of Kauai Department of Public Works, County of Kauai Planning Department.

Recommendation:

It is recommended that the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment