

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.:23OD-033

OAHU

Amend Prior Board Action of January 10, 1975, Item F-15, *Conveyance in Fee to the City and County of Honolulu, Waikele, Ewa, Oahu, TMK: (1) 9-4-010:040 (Parcel 1) and (1) 9-4-027:124 (Parcel 4).*

The purpose of the amendment is to include the current legal references supporting the Board’s authority to convey the subject lands and to specify that the conveyance shall be effected by quitclaim deed.

APPLICANT:

City and County of Honolulu (“County”).

LEGAL REFERENCE:

Sections 171-52, 95, and 264-2, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Government lands situated at Waikele, Ewa, Oahu, identified by Tax Map Key: (1) 9-4-010:040 (Parcel 1) and (1) 9-4-027:124 (Parcel 4), as shown on the maps attached as **Exhibits A1 – A3**.

AREA:

Road: Parcel 1	68 square feet, more or less.
<u>Road: Parcel 4</u>	<u>1,626 square feet, more or less.</u>
Total:	1,694 square feet, more or less.

ZONING:

State Land Use District:	Urban
City and County of Honolulu	LUO: R-7.5 (Parcel 1), R-5 (Parcel 4)

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

TMK: (1) 9-4-010:040 (Parcel 1) is encumbered by Governor's Executive Order 269 ("EO269") to the Department of Education for the Waipahu (Elementary) School.

TMK: (1) 9-4-027:124 (Parcel 4) is encumbered by General Lease No. S-4218 ("GL4218") to the Waipahu Soto Zen Temple Taiyoji.<sup>1</sup>

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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, that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Part 1, Item 37, that states "Transfer of title to land". The subject request will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR. (**Exhibit B**)

CONSIDERATION:

Gratis.

APPLICANT REQUIREMENTS:

None. Maps and legal description are available.

REMARKS:

A Board action was approved on January 10, 1975, Item F-15 (**Exhibit C**) to withdraw 68 sq. ft. (Parcel 1) from EO269 for Waipahu School and take 1,626 square feet (Parcel 4) from GL4218, to the Waipahu Soto Zen Temple Taiyoji, then

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<sup>1</sup> Under a different item on today's agenda, Lessee for GL4218 is asking for mutual termination of GL4218 and issuance of a direct lease for non-profit organization with Parcel 4 removed from the lease premises.

convey these parcels in fee to the County for road widening along Waikele Road. Although the Board approval was given for the withdrawal, staff found no record of an executed Executive Order to withdraw parcel 1 from EO269, nor the conveyance of parcels 1 and 4 in fee to the County. The County received subdivision approval for the Waikele Road widening in 1971 (**Exhibit D**).

The law on conveyances of public lands changed in 2009, requiring supermajority legislative approval under Section 171-64.7, HRS. Upon consultation with the Department of the Attorney General, it is staff's understanding that Section 171-95(a)(1), HRS, does allow the fee conveyance, by a quitclaim deed, of a remnant qualified under Section 171-52, HRS, to the County without legislative approval. Pursuant to Section 171-52, HRS, "[t]he term "remnant" means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics."

The subject parcels meet the criteria for a remnant due to the size and shape as shown on Exhibit A-2. Apart from the fact that the parcels are currently being used as roads or road rights-of-way, they are economically and physically unsuitable for development or utilization as anything other than a road.

Additionally, pursuant to Section 171-95(a)(5), HRS, the Board may:

Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State ....

A quitclaim conveyance of the road remnants is appropriate in this case because, pursuant to Sections 171-2 and 264-2, HRS, land being used and roads and streets are excluded from the definition of public lands under Chapter 171, HRS, and are deemed to be county or State highways instead. Here, it is not disputed that the road at issue is a County road. It is beneficial to the State to clear title to rights-of-way maintained by the County by quitclaiming the State's interest, if any, in such rights-of-way to the County,

Staff recommends the Land Board declare the subject parcels as remnants according to the justification described above and approve the issuance of a quitclaim deed to the County pursuant to the intent of its approval dated January 10, 1975, agenda item F-15. The County was informed there was no formal conveyance of parcels 1 and 4 since the board action of 1975. The Department of Design and Construction, through email communication, has agreed to the transfer of the subject parcels 1 and 4.

Comments from other Agencies follows: Department of Design and Construction has no comment regarding the proposed Chapter 343 environmental exemption, Department of Transportation has no comment and concurs with the

environmental exemption, Department of Planning and Permitting has no objections and commented that the subdivision application was granted approval and the roadway project was completed by the City and County of Honolulu.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

**RECOMMENDATION:** That the Board amend its prior action of January 10, 1975, under agenda item F-15 by:

- A. Adding Sections 171-52, -95(a)(1), and 264-2, HRS, as legal authority pertaining to the subject request.
- B. Replacing the entire Recommendation B therein with the following:

“Recommendation B.

1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics by reason of location, size, shape, or other characteristics, including, without limitation, that by operation of law the lands are roads owned by the City and County of Honolulu, and, therefore, by definition are remnants pursuant to Chapter 171, HRS.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, Hawaii Revised Statutes, and Chapter 11-200.1-15 and -16, 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.
3. Determine that executing a quitclaim deed to the City and County of Honolulu is beneficial to the State and authorize the quitclaim of interests, if any, the State may have in subject remnants to the City and County of Honolulu covering the subject area, subject to 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 quitclaim deed or grant (remnant) 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.”
- C. Affirming that, except as amended hereby, all terms and conditions listed in its January 10, 1975 approval shall remain the same.

Respectfully Submitted,



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Darlene Bryant-Takamatsu  
Land Agent

APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

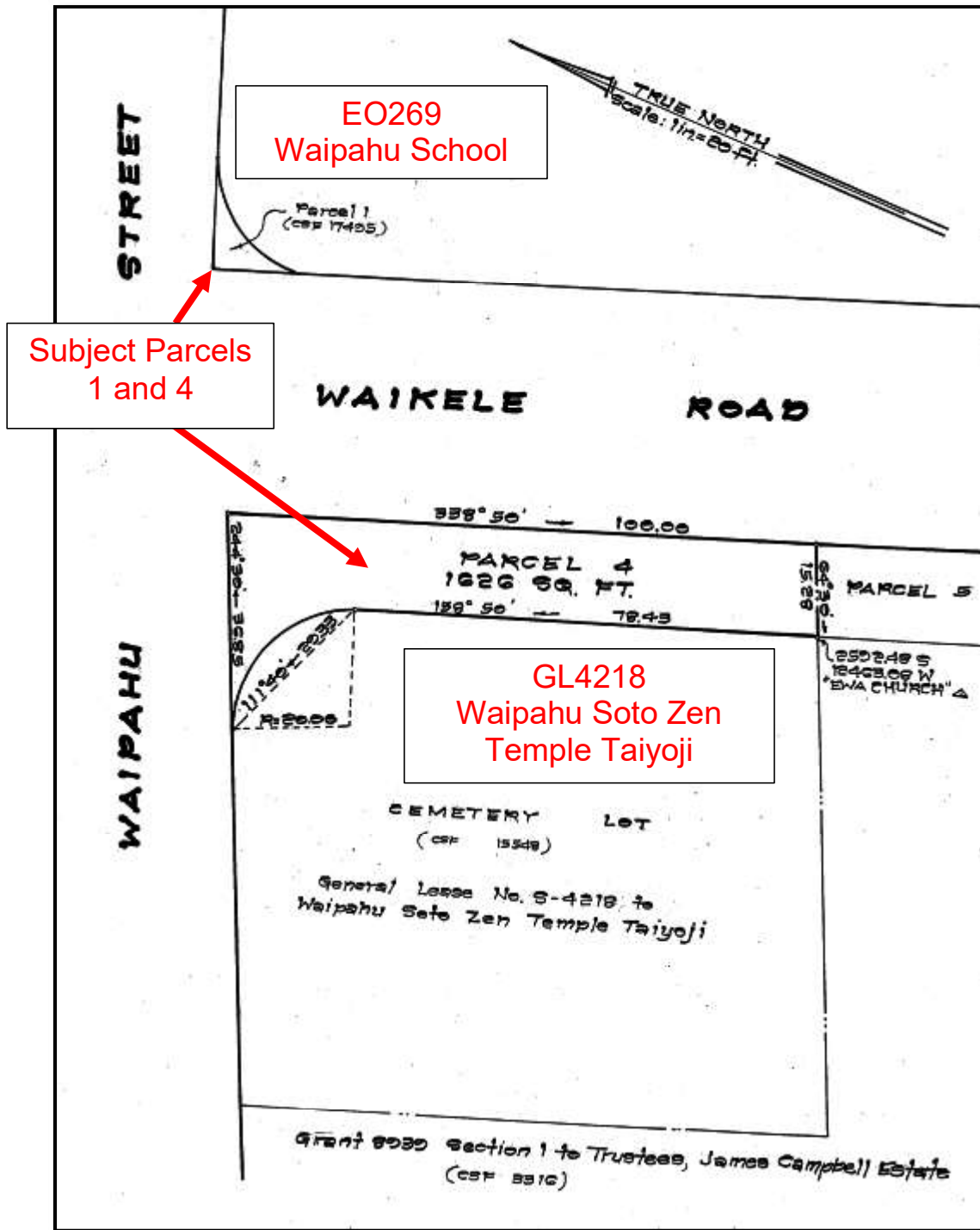
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KOM



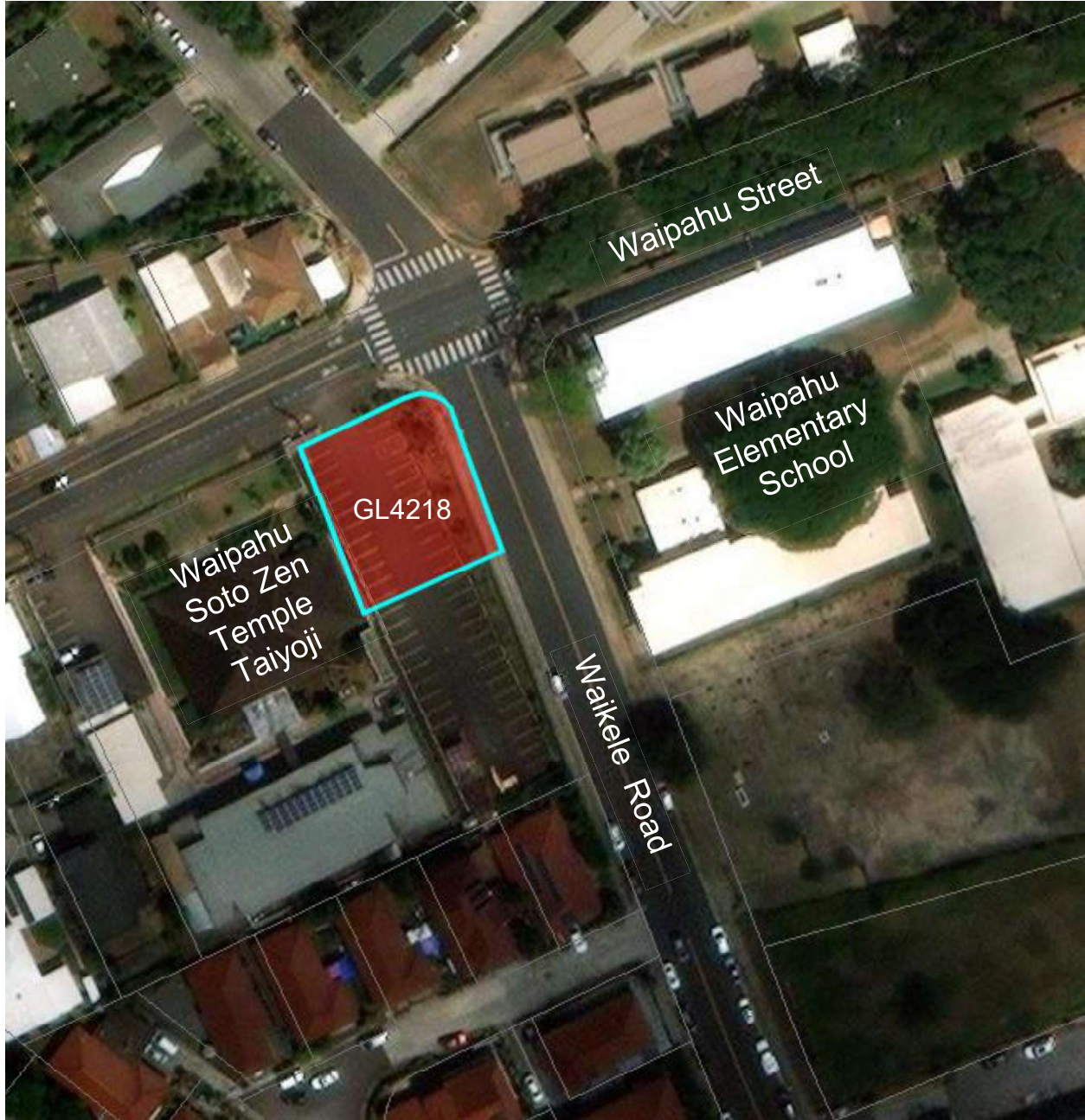
**TMK: (1) 9-4-010:040 (Parcel 1) &  
(1) 9-4-027:124 (Parcel 4)**

**EXHIBIT A1**



TMK: (1) 9-4-010:040 (Parcel 1) &  
(1) 9-4-027:124 (Parcel 4)

EXHIBIT A2



**TMK: (1) 9-4-010:040 (Parcel 1) &  
(1) 9-4-027:124 (Parcel 4)**

**EXHIBIT A3**



### EXEMPTION NOTIFICATION

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

Project Title: Amend Prior Board Action of January 10, 1975, Item F-15, Conveyance in Fee; Withdrawal from Governor's Executive Order No. 269 and Conveyance in Fee to the City and County of Honolulu

Project / Reference No.: 23OD-033

Project Location: Waikele, Ewa, Oahu: TMK: (1) 9-4-010:040 (parcel 1) & (1) 9-4-027:124 (parcel 4)

Project Description: Quitclaim conveyance to the City and County of Honolulu

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

Exemption Class No.: In accordance with Hawaii Administrative Rules ("HAR")§ 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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, that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Part 1, Item 37, that states "Transfer of title to land."

Cumulative Impact of Planned Successive Actions in Same Place Significant: No, the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Action May Have Significant Impact on Particularly Sensitive Environment: Staff is not aware of any particularly sensitive environmental issues and use of the area would involve negligible change from what is existing.

## EXHIBIT B

Consulted Parties: Agencies described in the submittal.

Analysis: The request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.

Recommendation: That the Board find the subject request will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

George Ariyoshi  
GOVERNOR OF HAWAII



DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 621  
HONOLULU, HAWAII 96809

January 10, 1975

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen: CONVEYANCE IN FEE OAHU

STATUTE: Chapter 171, Hawaii Revised Statutes.

APPLICANT: CITY AND COUNTY OF HONOLULU

FOR: Conveyance in fee for roadway purposes in conjunction with Waikele Road Improvement District No. 243 and further described as Tax Map Key 9-4-10 and 27 and designated as Parcel 1, containing 68 sq. ft. and being a portion of Executive Order No. 269 (Waipahu School Lot) and Parcel 4, containing an area of 1,626 sq. ft., being a portion of General Lease No. S-4218 to Waipahu Soto Zen Temple Taiyoji. Parcel 1 is shaded in green and Parcel 4 is shaded in red on the map appended to the basic file.

The City and County of Honolulu also asks a right of entry to build grade adjustment walls on the boundary of Executive Order No. 269 (Waipahu Elementary School Lot) and these parcels are designated as Parcels C-1, C-2 and C-3 and shaded in green on the map appended to the basic file.

CONSIDERATION: \$1.00.

REMARKS: The City and County of Honolulu has requested an immediate right of entry for construction purposes pending the conveyance in fee.

The Department of Education has given their approval.

RECOMMENDATION: That the Board:

- A. Approve of and recommend to the Governor of Hawaii the issuance of an executive order withdrawing 68 sq. ft. from Executive Order No. 269.
- B. Subsequently convey the 68 sq. ft. parcel and the 1,626 sq. ft. parcel to the City and County of Honolulu for the consideration of \$1.00.

ITEM F-15

EXHIBIT C

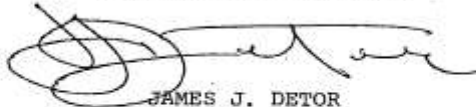
Board of Land and  
Natural Resources

-2-

January 10, 1975

- C. Grant the City and County of Honolulu an immediate right of entry for construction purposes over Parcels 1, 4, C-1, C-2 and C-3, subject to the following conditions:
1. Approval of the Governor of Hawaii as to Executive Order No. 269.
  2. Standard hold-harmless clause.
  3. Other terms and conditions that the Chairman deems necessary.

Respectfully submitted,

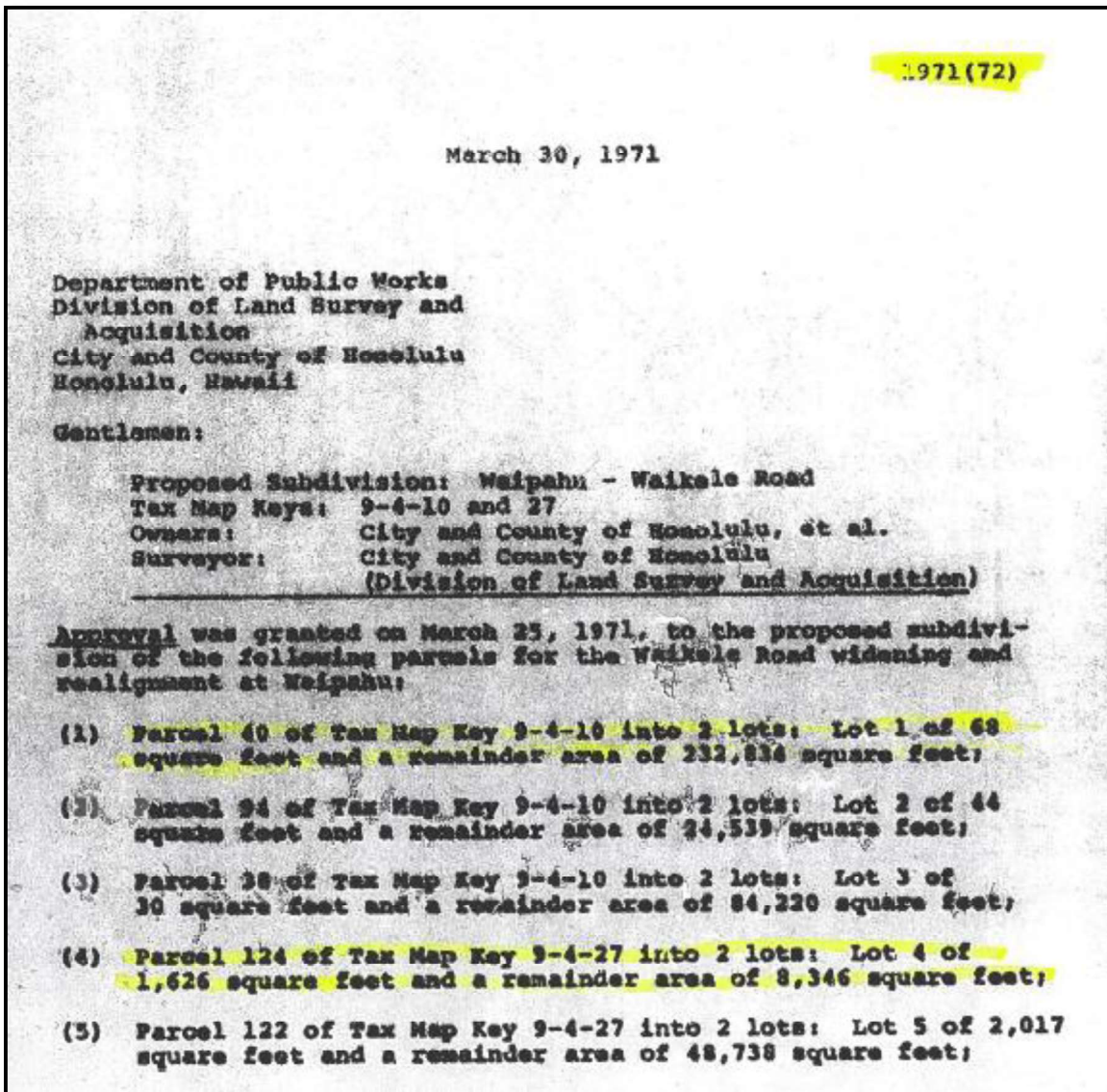


JAMES J. DETOR  
Program Administrator

RECOMMENDED FOR APPROVAL:



CHRISTOPHER COBB, Chairman



For ease of reading yellow highlighted lines transcribed below:

Line (1) Parcel 40 of Tax Map Key 9-4-10 into 2 lots: Lot 1 of 68 square feet and a remainder area of 232,834 square feet;

Line (4) Parcel 124 of Tax Map Key 9-4-27 into 2 lots: Lot 4 of 1,626 square feet and a remainder area of 8,346 square feet;

**EXHIBIT D**

Department of Public Works  
March 30, 1971  
Page 2

- (6) Parcel 123 of Tax Map Key 9-4-27 into 4 lots: Lot 6 of 19,624 square feet and a remainder area of 126,828 square feet, and Lot R-5 of 222 square feet and Lot R-6 of 2,102 square feet; and
- (7) Parcel 13 of Tax Map Key 9-4-27 into 3 lots: Lot 7 of 0.04 square feet, Lot 8 of 14 square feet, and a remainder area of 5,649 square feet; and Waikale Road into 4 remnant lots: Lot R-1 of 208 square feet, Lot R-2 of 81 square feet, Lot R-3 of 79 square feet, and Lot R-4 of 12,683 square feet.

A copy of the final survey map bearing the stamp of approval is enclosed herewith.

Sincerely yours,

GEORGE S. MORIGUCHI  
Acting Planning Director

GSN/RY:au

Encl.: Map

cc: Department of Traffic  
Building Department  
Utility Companies  
Department of Education  
Federal Housing Administration