

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

September 22, 2023

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

PSF No.: 23OD-034

OAHU

(1 ) Cancellation of Revocable Permit No. 7643 to Savio KC Operating Company LLC; (2) Issuance of Revocable Permit for Parking Purposes and Right-of-Entry Permit to Lance Keawe Wilhelm, Elliot K. Mills, Robert K.W. H. Nobriga, Crystal Kaulani Rose, and Jennifer Noelani Goodyear-Ka'ōpua, as Trustees of the Estate of Bernice Pauahi Bishop (KSBE); (3) Sale of Remnant to KSBE; Honolulu, Oahu, TMK: (1) 2-3-018:045.

APPLICANTS:

Lance Keawe Wilhelm, Elliot K. Mills, Robert K.W. H. Nobriga, Crystal Kaulani Rose, and Jennifer Noelani Goodyear-Ka'ōpua, as Trustees of the Estate of Bernice Pauahi Bishop, a Hawaii General Limited Partnership. ("KSBE"); and

WPC Liona LLC, a Domestic Limited Liability Company ("WPC")

LEGAL REFERENCE:

Sections 171-52 and 55, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-018:045 as shown on the attached map labeled **Exhibits A1 to A3**.

AREA:

1,970 square feet, more or less.

ZONING:

State Land Use District: Urban

City and County of Honolulu LUO: BMX-3 Community Business District

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered by Revocable Permit No. 7643 (“RP7643”) to Savio KC Operating Company LLC for parking purposes.

CONSIDERATION for the REMNANT:

One-time lump sum payment of fair market value to be determined by independent appraiser, subject to review and approval by the Chairperson.

REVOCABLE PERMIT to KSBE:

CHARACTER OF USE:

Parking purposes.

COMMENCEMENT DATE:

March 1, 2023. KSBE acquired the adjacent private properties, further identified as TMK: (1) 2-3-018:002, 005, 016, and 046 shown on Exhibit A1 from the previous permittee on March 1, 2023.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

From March 1, 2023 to December 31, 2023  
\$720.35 monthly [current rent under RP7643]

From January 1, 2024 onward  
 $\$720.35 \times 1.03^1 = \$ 741.96$ , say \$742.00

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

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<sup>1</sup> 3% is the same rate of recommended increase for other revocable permits on Oahu for calendar year 2024.

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", Part 1, Item 44, that states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing". 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**).

DCCA VERIFICATION:

For KSBE and WPC:

|   |     |              |    |             |
|---|-----|--------------|----|-------------|
| Place of business registration confirmed: | YES | <u>  x  </u> | NO | <u>    </u> |
| Registered business name confirmed:       | YES | <u>  x  </u> | NO | <u>    </u> |
| Applicant in good standing confirmed:     | YES | <u>  x  </u> | NO | <u>    </u> |

JUSTIFICATION FOR REVOCABLE PERMIT:

The lot is a substandard size of 1,970 square feet with the shape having a relatively narrow width of 13 to 16 feet. The long narrow configuration will significantly limit any economically feasible endeavor. It is surrounded by parking lots on 3 sides and 4.72 feet of an abutting building’s wall.

APPLICANT REQUIREMENTS: KSBE shall be required to:

- 1) Provide survey map and description according to State survey standards and at Applicants’ own cost, if applicable;
- 2) Pay for an appraisal to determine the one-time payment of fair market value for the remnant. See Remarks section.

REMARKS:

The current permit holder of RP7643, Savio KC Operating Company LLC, has sold the abutting private properties to the KSBE and requests RP7643 be cancelled. Staff has confirmed that the KSBE has become the fee owner of tax map keys: (1) 2-3-018:005, (1) 2-3-018:016, (1) 2-3-018:046, and (1) 2-3-018:002 (“KSBE Parcels”) by deeds recorded at the Bureau of Conveyances on March 1, 2023.

The parcel is a strip of land that was a portion of an abandoned lane formerly known as

Oba Lane. It is positioned in the middle of a parking lot and has been leased as a portion of the parking lot under revocable permits to the successive owners of KSBE parcels since 1965.<sup>2</sup>

Pursuant to section 171-52, HRS, a remnant is defined as "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 parcel is approximately 1,970 square feet of area in a long sliver approximately 16 to 13 feet wide by average length of 119 feet. Due to the shape and substandard size of the parcel, it should be determined to be a remnant as it would not be economically feasible as a standalone development. Staff believes that the proposed conveyance of the subject parcel through a remnant sale is prudent because it follows the general directive from the Board to convert the revocable permit into long term disposition.

KSBE requests to purchase the subject parcel as a remnant which abuts its adjacent parcels with the possibility of consolidating and redeveloping the parcels for a mixed-use housing and retail/office development, noting that there are no committed plans at the moment. As shown on Exhibit A1, the State parcel also abuts approximately 4.72 feet along the building line of another private property identified as TMK: (1) 2-3-018:047 owned by WPC.

Staff sent a letter on May 17, 2023 to WPC asking if they were interested in acquiring the subject parcel as a remnant with WPC responding they were interested in purchasing the remnant. Subsequently in an email dated August 8, 2023, WPC stated the parcel's intended use would be parking for the neighboring building. After WPC indicated its interest, staff inquired both parties if there was any potential agreement on the possible subdivision of the State parcel. Staff understands that both parties have failed to come to any agreement on the possible subdivision.

Staff has consulted with the City and County of Honolulu, Department of Planning and Permitting, on different scenarios of potential future consolidations of the State parcel and the abutting private parcels. Staff noted that DPP did not indicate any preference on any future consolidation scenarios involving the State parcel and the private parcels.

Pursuant to Section 171-52, HRS, provides, "If the remnant abuts more than one parcel, the board may subdivide the remnant so that a portion thereof may be sold to each abutting owner at the appraised value". Staff prepared three (3) possible scenarios of consolidation at **Exhibits C1 to C3**. The first two are the possible configurations if the entire subject remnant is to be sold to either KSBE or WPC. Exhibit C3 represents the possible outcome if the Board subdivides and conveys the respective portions of the subject remnant to KSBE and WPC.

The statutory provision requires the appraisal for any remnant sale "... *takes into consideration ... the resulting enhancement to an abutting owner's property by the addition*

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<sup>2</sup> RP3688 to Herbert T. Hayashi in 1965; RP7437 to King Center, Ltd. in 2008; RP7643 to Savio KC Operating Company since 2011.

*of the remnant... ”. C2 shows the configuration should the remnant parcel be sold to WPC with the remnant parcel sandwiched between properties currently owned by KSBE, while C3 depicts the remnant subdivided so that a portion of the State parcel immediately abutting WPC’s building corner would be carved out for consolidation to their abutting parcel and the remainder of the remnant would go to KSBE for consolidation into their abutting parcels. Staff anticipates that neither the C2 or C3 configurations just mentioned would represent the highest value of the subject remnant. Staff cannot perceive the development potential that configuration C2 would bring to the private owner, WPC. Exhibit C1 shows the configuration should the entire remnant parcel be sold to KSBE and presents a configuration with the greatest economically feasible potential of use and a higher return to the State. Since the applicants cannot come to an agreement on subdivision of the remnant, pursuant to Section 171-52, HRS, staff asks the Board to decide the matter and approve the sale to KSBE.*

In anticipation of the time to complete the entire sale process, including survey, creation of State maps, and the appraisal process, Staff recommends the Board authorize the issuance of an interim management right-of-entry to KSBE which will be followed by a revocable permit scheduled to last until the conclusion of the sale of the remnant. If the sale of the remnant is not approved by the Board, then the parcel would continue to be encumbered by the new revocable permit to the KSBE.

Pursuant to the conditions in RP7643, prior to termination of the revocable permit, the permittee shall conduct a Phase 1 environmental site assessment (“Phase 1 ESA”) and conduct complete abatement and disposal, if necessary, satisfactory to the standards required by the appropriate regulatory agencies. A Phase 1 ESA was performed by EA Engineering, Science, Technology, Inc. PBC, with the final summary of February 2023 reporting, “Based on this Phase I ESA, there is one identified onsite de minimis condition (minor oil staining on asphalt-paved areas) and there are no recognized environmental conditions associated with the subject site.”

The City and County Department of Planning and Permitting has no objections to the proposed sale of the remnant parcel and consolidation with the abutting parcels; Board of Water Supply has no objections or comments and concurs with the proposed environmental exemption (“EA”); the Department of Design and Construction and the Department of Facilities Maintenance have no comments and concur with the proposed EA exemption; and the State Department of Transportation Highways Branch has no objection to the request.

KSBE 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:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, 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.

2. Terminate RP 7643 effective March 1, 2023.
3. Authorize the issuance of a right-of-entry permit to Lance Keawe Wilhelm, Elliot K. Mills, Robert K.W. H. Nobriga, Crystal Kauilani Rose, and Jennifer Noelani Goodyear-Ka'ōpua, as Trustees of the Estate of Bernice Pauahi Bishop, covering the subject area for parking management 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 right-of-entry permit form, as may be amended from time to time;
  - B. The right-of-entry shall commence on the March 1, 2023 and be for a term of one year or until the issuance of the revocable permit described in recommendation 5 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for an additional one year periods for good cause shown;
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent herein, would serve the best interests of the State.
5. Authorize the issuance of a revocable permit to Lance Keawe Wilhelm, Elliot K. Mills, Robert K.W. H. Nobriga, Crystal Kauilani Rose, and Jennifer Noelani Goodyear-Ka'ōpua, as Trustees of the Estate of Bernice Pauahi Bishop, covering the subject area for parking 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. Commencing retroactively from March 1, 2023.
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. 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 and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.

7. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcels described herein, provided the succeeding owner has not had a lease, permit, easement, or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
8. Subject to KSBE fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Lance Keawe Wilhelm, Elliot K. Mills, Robert K.W. H. Nobriga, Crystal Kauilani Rose, and Jennifer Noelani Goodyear-Ka'ōpua, as Trustees of the Estate of Bernice Pauahi Bishop, 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 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.
9. Authorize the subdivision and/or consolidation of the subject remnant by KSBE.

Respectfully Submitted,



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Darlene Bryant-Takamatsu, Land Agent

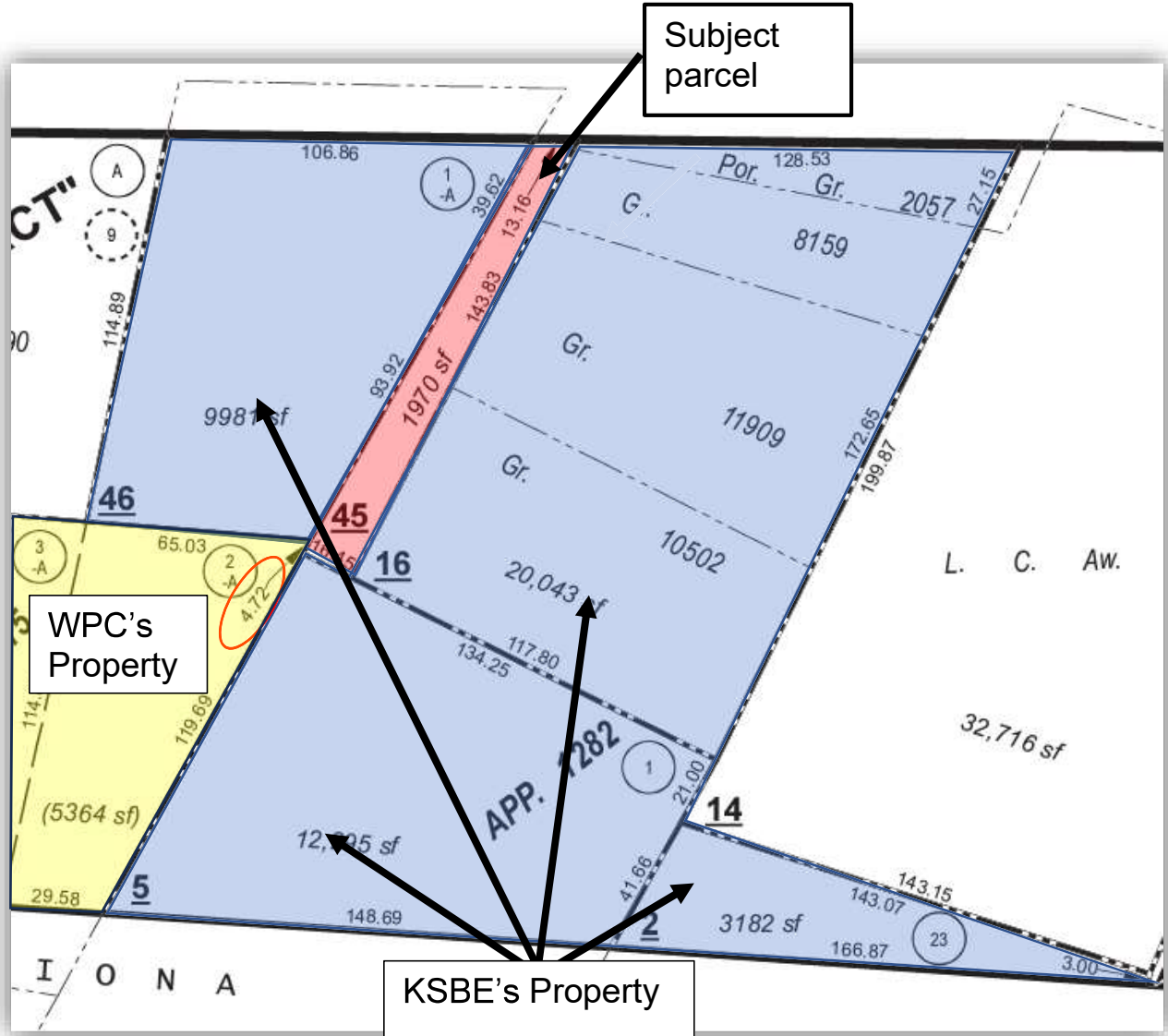
APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

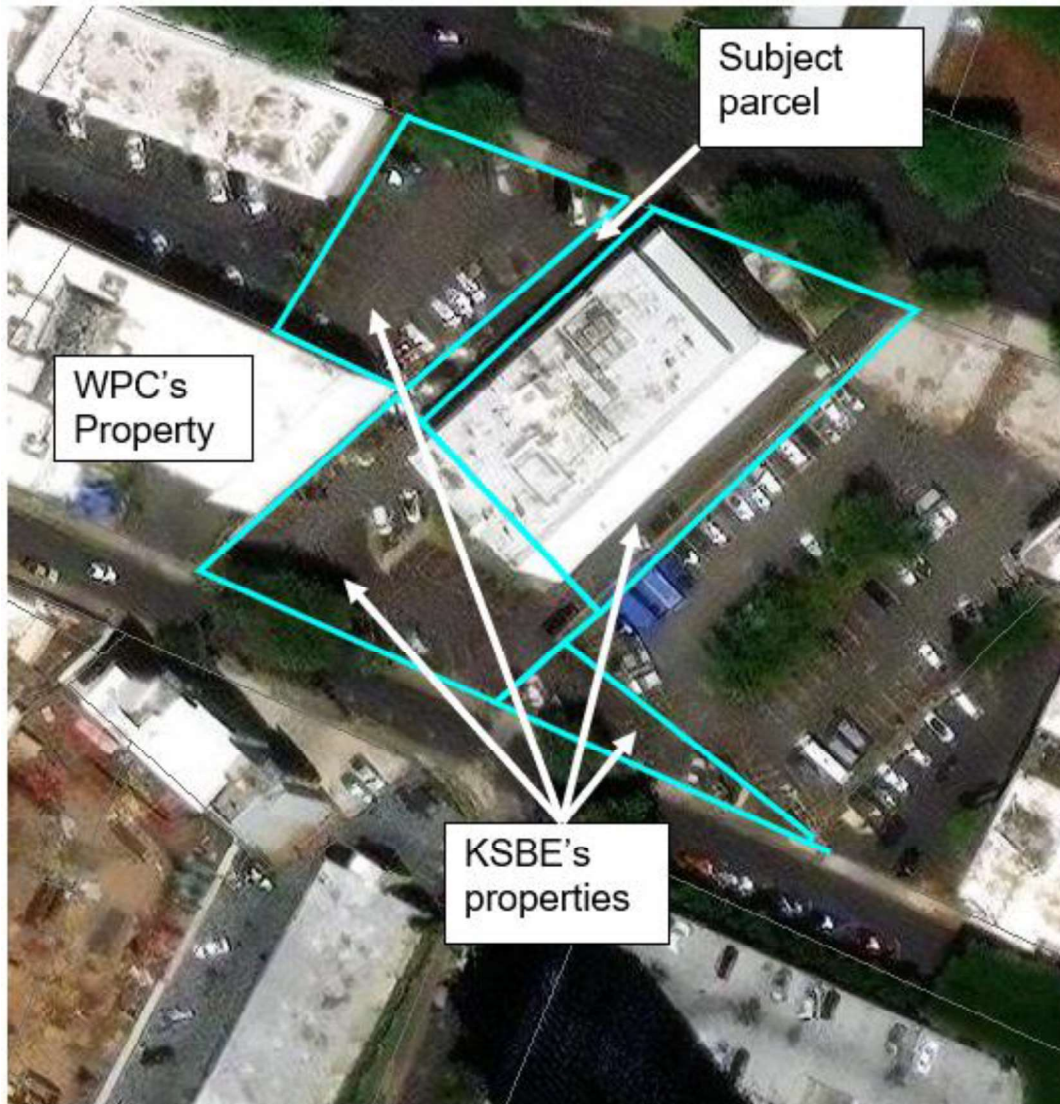
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TMK: (1) 2-3-018:045

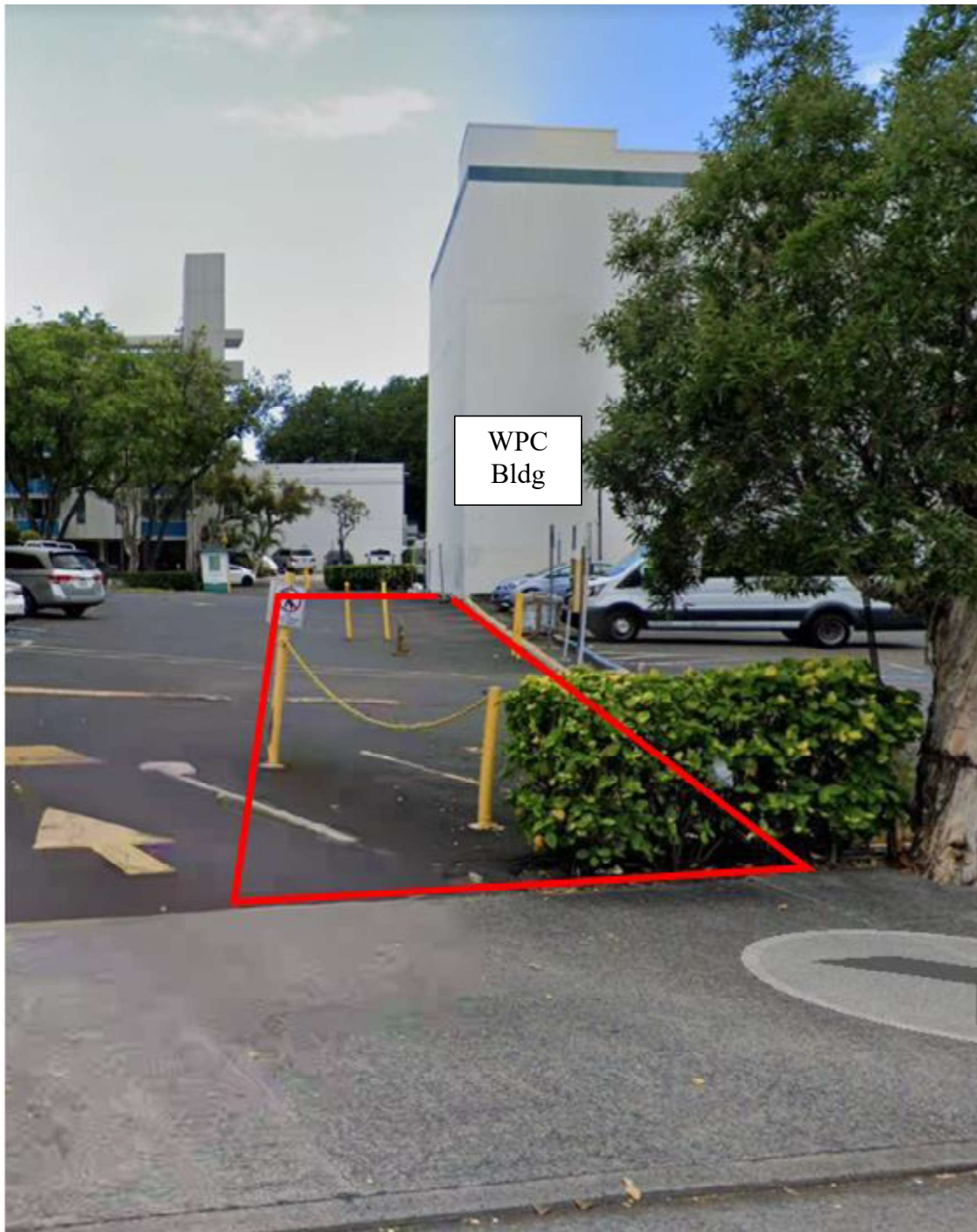
**EXHIBIT A1**





TMK: (1) 2-3-018:045

**EXHIBIT A2**



TMK: (1) 2-3-018:045  
(approximate outline of subject area)

**EXHIBIT A3**

## EXEMPTION NOTIFICATION

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

Project Title: Cancellation of Revocable Permit No. 7643; Issuance of Revocable Permit for Parking Purposes and Right-of-Entry Permit to Lance Keawe Wilhelm, Elliot K. Mills, Robert K.W. H. Nobriga, Crystal Kaulani Rose, and Jennifer Noelani Goodyear-Ka'ōpua, as Trustees of the Estate of Bernice Pauahi Bishop (KSBE); Sale of Remnant to KSBE

Project / Reference No.: PSF 23OD-034

Project Location: Honolulu, Oahu

Project Description: Cancellation of Revocable Permit No. 7643; Issuance of Revocable Permit; Sale of Remnant

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", Part 1, Item 44, that states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing". 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).

**EXHIBIT B**

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.

Consulted Parties:

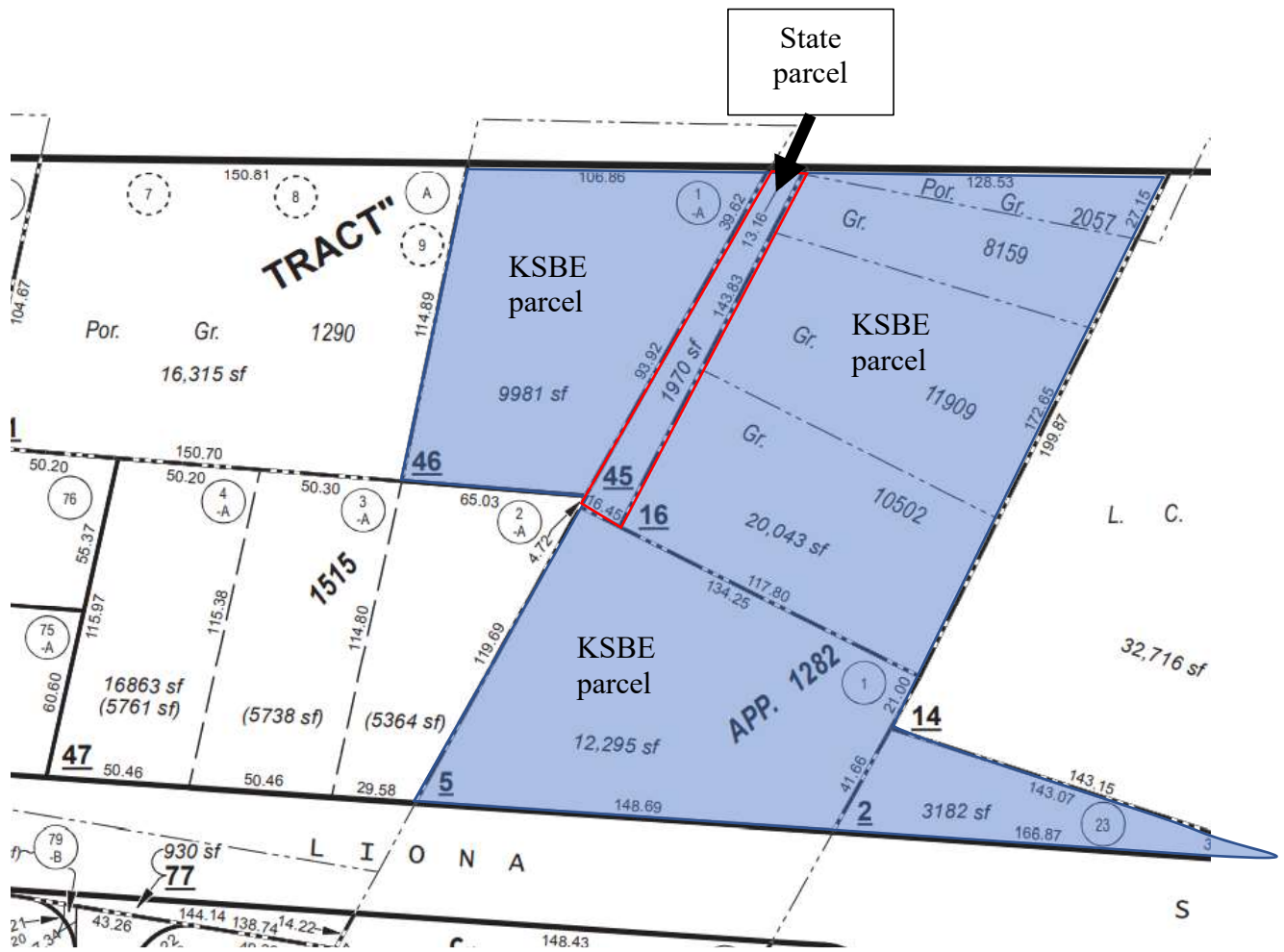
Agencies as noted in the submittal.

Analysis:

Taking two factors into consideration, the proposed transfer of title of land and negligible expansion in use of the subject area beyond previously existing, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

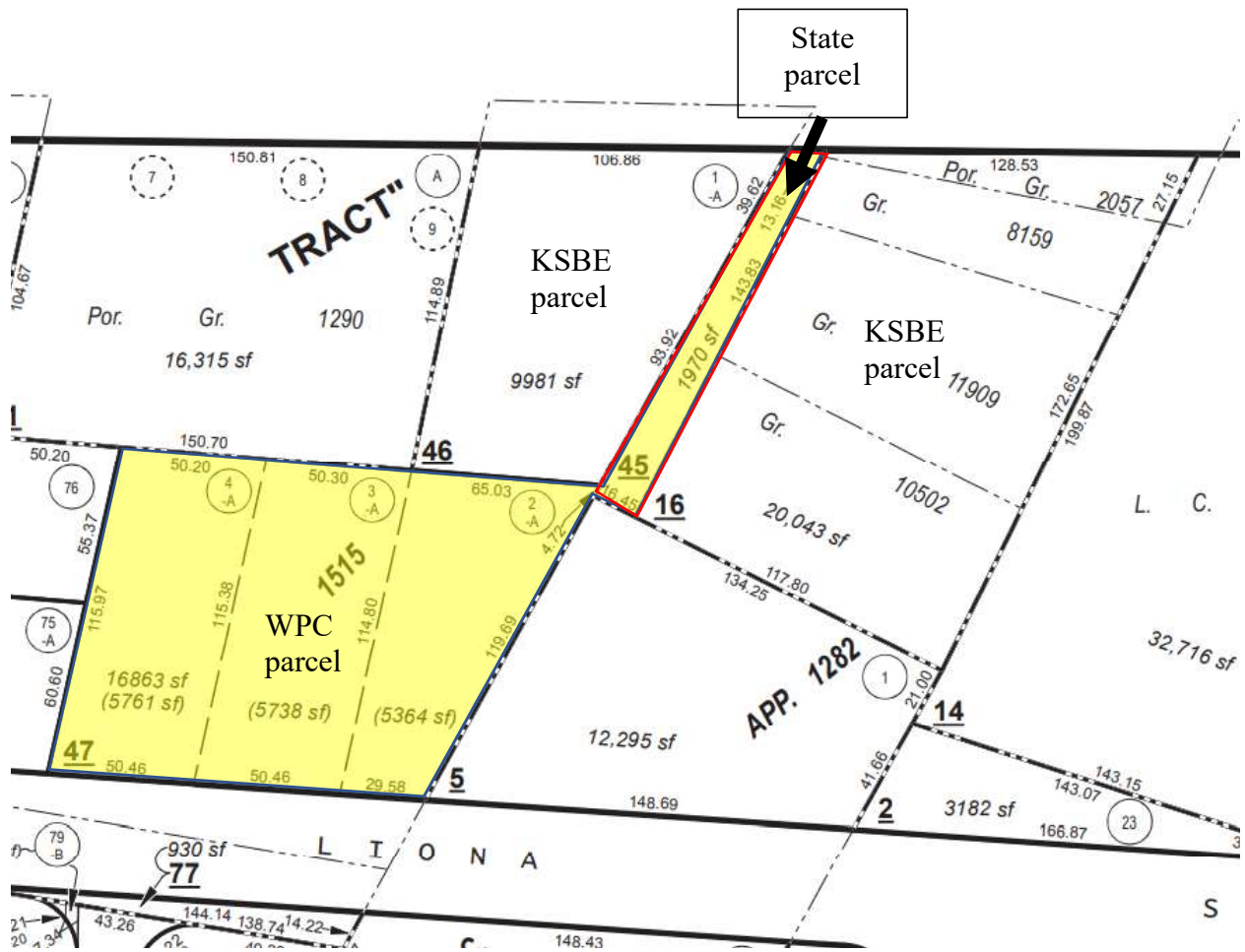
Recommendation:

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.



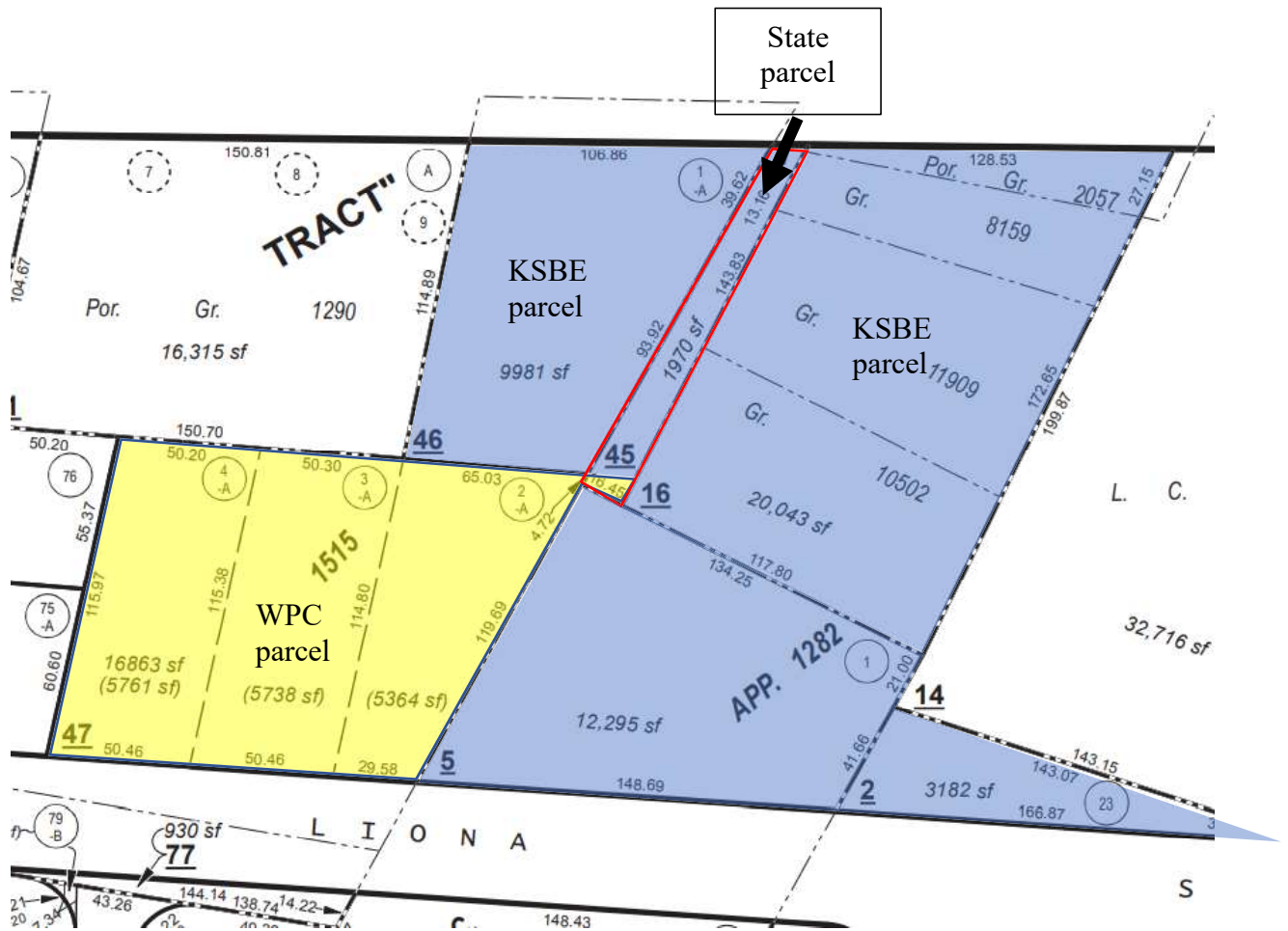
Consolidation scenario: State Parcel consolidated with KSBE parcels presents a configuration with the greatest potential of use.

# EXHIBIT C1



Consolidation scenario: State parcel strip is between properties from another owner.

# EXHIBIT C2



Consolidation scenario: Portion of the State parcel consolidated with the abutting WPC’s building corner (yellow highlight) and the remainder of the State parcel consolidated with KSBE’s abutting parcels (blue highlight).

# EXHIBIT C3