

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

February 9, 2024

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

PSF No.: 19KD-062

KAUAI

Issuance of Revocable Permit and Immediate Right-of Entry Permit to Sean Newbold for Landscaping and Maintenance Purposes, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-015: portion of 037.

APPLICANT:

Sean Newbold, Married, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa Homesteads situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-5-015: portion of 037, as shown on the attached map labeled **EXHIBIT A**.

AREA:

Total Area: 2.428 acres, more or less.
Revocable permit area: 1.62 acres, more or less.

ZONING:

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

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:

Encumbered by Perpetual Easement No. 24790, County of Kauai, to Construct, Maintain, Remove Repair and Replace Sewer Lines.

Encumbered by Perpetual Easement No. 27380, Citizens Utilities Company (CUC), predecessor-in-interest of Kauai Island Utility Cooperative (KIUC), for Electrical Transmission Line Purposes.¹

CHARACTER OF USE:

Landscaping and maintenance purposes.

TERM OF RIGHT-OF-ENTRY:

One year from commencement date of Right-of-Entry or until Revocable Permit is issued, whichever occurs first.

MONTHLY RENTAL:

\$40.00 per month

CONSIDERATION FOR RIGHT-OF-ENTRY

\$40.00 per month

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Declaration attached as **EXHIBIT B**.

DCCA VERIFICATION:

Applicant is not operating a business and, as such, is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT (IF APPLICABLE):

At this time, staff believes that a month-to-month tenancy for landscaping and maintenance purposes is the appropriate disposition since 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 conduct a public auction for a sale of lease of the property.

REMARKS:

¹ Kauai Electric Company was a division of Citizens Utilities Company. Citizens Utilities Company announced its intentions to divest from the electric business in the late 1990s. Kauai Island Utility Cooperative (KIUC) purchased Kauai Electric Company on November 1, 2002.

The State parcel identified by TMK: (4) 4-5-015:037 (Parcel 37) is currently encumbered by Perpetual Easement No. 24790 to the County of Kauai to construct, maintain, remove repair, and replace sewer lines and Perpetual Easement No. 27380 to CUC/KIUC for electrical transmission line purpose.

Previously, at its meeting of December 7, 1990, under Item F-1-f, the Board of Land and Natural Resources (Board) approved the issuance of Revocable Permit No. S-6742 to Sarah Nakamura, for Pasture Purposes. RP-6742 was subsequently cancelled April 15, 1997.

At its meeting of September 11, 1998, under Item D-3, the Board approved the issuance of Revocable Permit No. S-7176 to Bernadine Soares, an abutting landowner, for Storage and Landscaping Purposes. At its meeting of October 14, 2010, under Item D-3, the Board approved the cancellation of RP-7176 and the issuance of Revocable Permit No. S-7641 to Bernadine Soares and Bernadette Uyeseno for Storage and Landscaping Purposes. This permit was cancelled, effective December 31, 2021, at the permittees’ request.

Sean Newbold (Applicant) is the owner of the abutting parcel identified by TMK: (4) 4-5-014:006 (Parcel 006), as confirmed with the County of Kauai, Real Property Tax Office.

The requested portion of Parcel 37 is an open lot which primarily consists of grass with trees bordering the south facing portion of the parcel. The Applicant is requesting to maintain a portion of Parcel 37 to prevent rodents, invasive plants, and weeds from spreading across the abutting land. He intends to maintain the subject parcel using a standard lawn care equipment and does not intend to use any chemical pesticides or herbicides.

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.

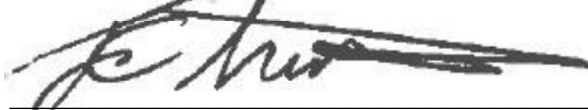
AGENCIES	COMMENTS
County of Kauai:	
Planning Department	No Response by Suspense Date
Public Works Department	No Response by Suspense Date
State of Hawaii:	
Historic Preservation	No Response by Suspense Date
Department of Health	No Response by Suspense Date
Other Agencies:	
Office of Hawaiian Affairs	No Response by Suspense Date

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 right-of-entry permit to Sean Newbold covering the subject area 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; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance of a revocable permit to Sean Newbold covering the subject areas for landscaping 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*

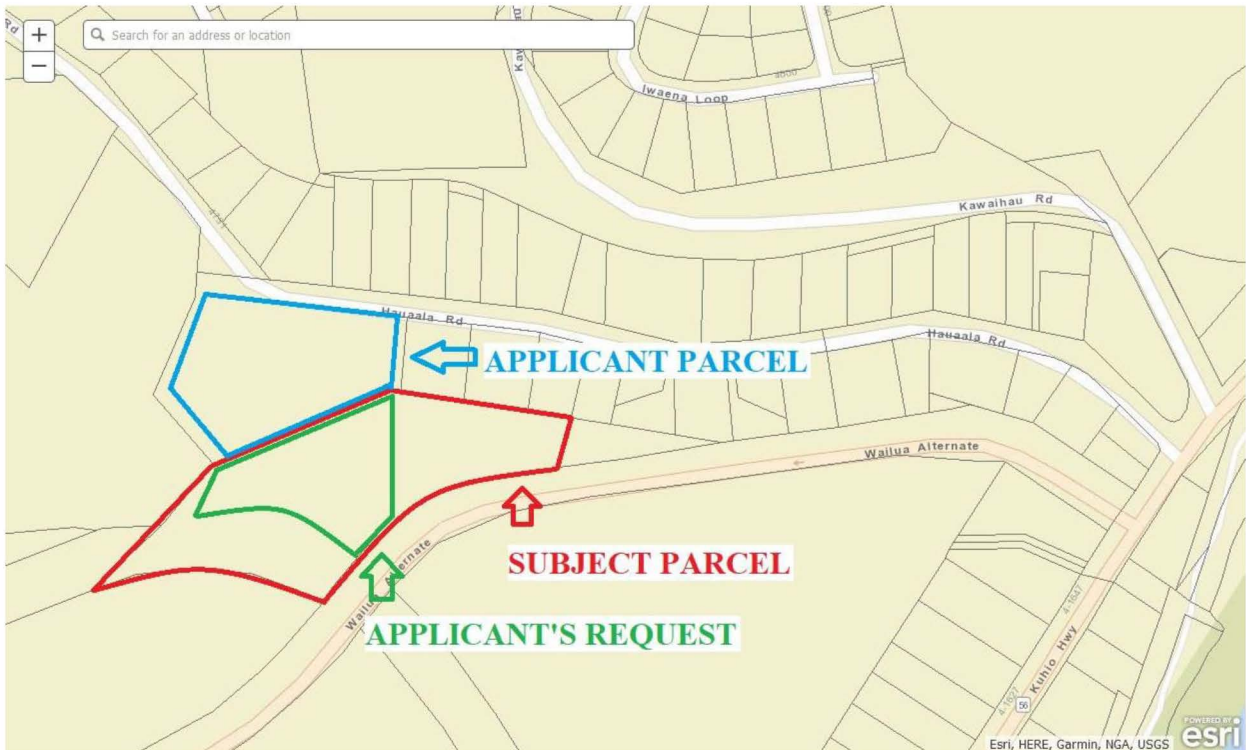
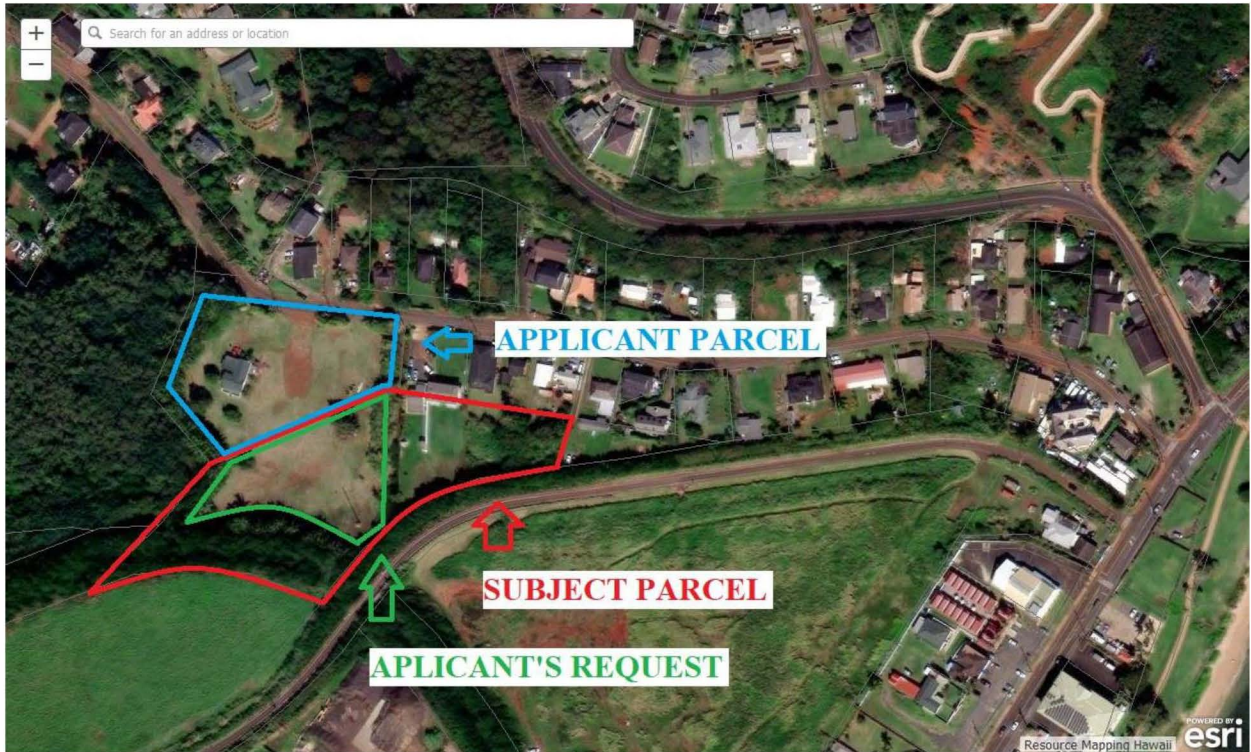
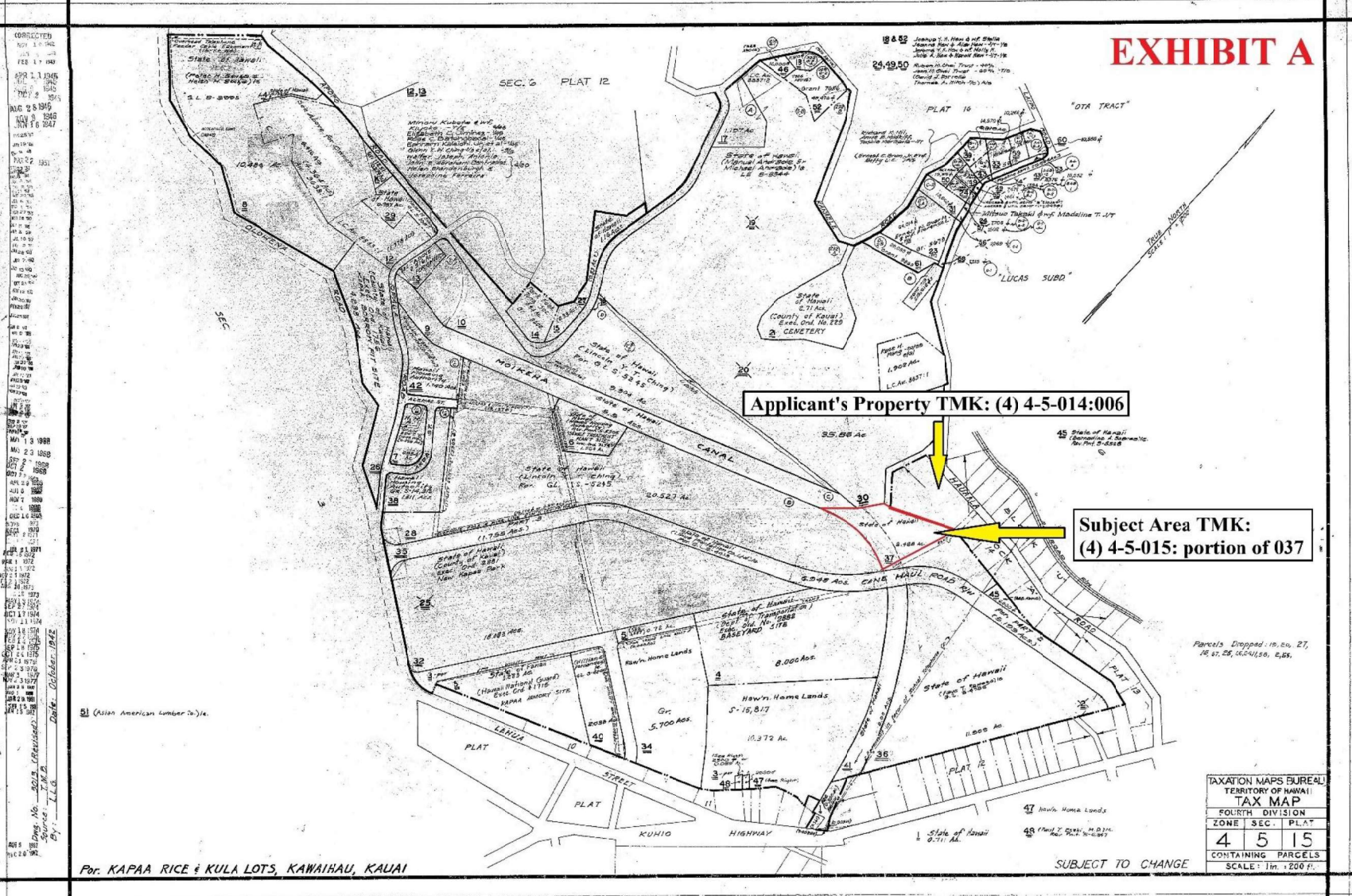


EXHIBIT A

EXHIBIT A



CORRECTED
 NOV 1 1962
 FEB 1 1964
 APR 1 1966
 MAY 2 1967
 AUG 2 1969
 NOV 2 1969
 DEC 2 1970
 JAN 2 1971
 FEB 2 1972
 MAR 2 1973
 APR 2 1974
 MAY 2 1975
 JUN 2 1976
 JUL 2 1977
 AUG 2 1978
 SEP 2 1979
 OCT 2 1980
 NOV 2 1981
 DEC 2 1982
 JAN 2 1983
 FEB 2 1984
 MAR 2 1985
 APR 2 1986
 MAY 2 1987
 JUN 2 1988
 JUL 2 1989
 AUG 2 1990
 SEP 2 1991
 OCT 2 1992
 NOV 2 1993
 DEC 2 1994
 JAN 2 1995
 FEB 2 1996
 MAR 2 1997
 APR 2 1998
 MAY 2 1999
 JUN 2 2000
 JUL 2 2001
 AUG 2 2002
 SEP 2 2003
 OCT 2 2004
 NOV 2 2005
 DEC 2 2006
 JAN 2 2007
 FEB 2 2008
 MAR 2 2009
 APR 2 2010
 MAY 2 2011
 JUN 2 2012
 JUL 2 2013
 AUG 2 2014
 SEP 2 2015
 OCT 2 2016
 NOV 2 2017
 DEC 2 2018
 JAN 2 2019
 FEB 2 2020
 MAR 2 2021
 APR 2 2022
 MAY 2 2023
 JUN 2 2024
 JUL 2 2025
 AUG 2 2026
 SEP 2 2027
 OCT 2 2028
 NOV 2 2029
 DEC 2 2030

Por. KAPAA RICE & KULA LOTS, KAWAIHAU, KAUAI

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH DIVISION		
ZONE SEC. PLAT		
4 5 15		
CONTAINING PARCELS		
SCALE: 1 in = 1200 ft.		

SUBJECT TO CHANGE

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 9, 2024

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 and Immediate Right-of-Entry Permit to Sean Newbold for Landscaping and Maintenance Purposes, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-015: portion of 037.

Project / Reference No.: 19KD-062

Project Location: Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-5-015: portion of 037.

Project Description: Issuance of Revocable Permit and Immediate Right-of-Entry Permit to Sean Newbold for Landscaping 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 concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 33, which states the "Maintenance of state lands and waters to remove weed, brushes, grass and other unwanted vegetation."

EXHIBIT B

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

No. The use of the land for maintenance purposes is compliant with county zoning requirements. Staff believes there are no cumulative impacts involved.

Action May Have Significant Impact on Particularly Sensitive Environment?:

No. There are no sensitive environmental issues involved with the proposed use of the property.

Analysis:

The Applicant's proposed use of landscaping and maintenance of the subject parcel will benefit the State. Staff believes that the proposed use will have little to no negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties:

County of Kauai Planning Department, County of Kauai Public Works Department, Historic Preservation, Department of Health, Office of Hawaiian Affairs and Kauai Island Utilities Cooperative.

Recommendation:

We recommend that the Land Board approve this project as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.