

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

January 11, 2013

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

PSF No: 11HD-103  
Hawaii

Amend Prior Board Action of November 10, 2011, Agenda Item D-3, Sale of Remnant State Land to Herbert P. Ornellas and Lorraine B. Ornellas, Waiakea Homesteads, 1<sup>st</sup> Series, South Hilo, Hawaii, Tax Map Key: 3<sup>rd</sup>/2-4-46:08 by Changing the Identification of the Land to Acknowledge the Partitioning of the Applicants' Property.

BACKGROUND AND REMARKS:

The Board at its meeting of November 11, 2011 under agenda item D-3 (Exhibit A) approved the sale of remnant State land, with an area of .062 acre being a portion of Tax Map Key: 3<sup>rd</sup>/2-4-46:08, to Herbert P. Ornellas and Lorraine B. Ornellas (owners of approximately 6 acres being the remainder of TMK: 3<sup>rd</sup>/2-4-46:08). The remnant State land was a portion of a railroad right-of-way used by the sugar companies for transporting cut cane to the processing mills. The sugar companies ceased utilizing railroads as a means of transporting harvested sugar years ago. A portion of the abandoned railroad right-of-way traverses property owned by Herbert and Lorraine Ornellas and they had made a request to purchase the right-of-way in order to consolidate it with their fee property<sup>1</sup>.

Unbeknownst to staff, the Applicants had requested a Determination of Pre-existing Lots from the County of Hawaii, Planning Department. The county made the determination that because the State had previously sold portions of the railroad right-of-way to adjacent landowners in the same area, the State claims ownership of the right-of-way, which therefore bisects the Applicant's property creating two (2) lots. The Applicants took this information to the County of Hawaii Real Property Tax Office (Tax Office) and asked to have the tax maps revised to indicate the separate parcels. The Applicants have not applied for subdivision approval from the County of Hawaii Planning Department.

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<sup>1</sup> The Applicants previously submitted requests to purchase the railroad remnant in 1970 and 1992 (2/23/92, agenda item F-2). This last Board action was rescinded on 7/24/98, item D-3.

The original 6-acre or so parcel identified by Tax Map Key 3<sup>rd</sup>/2-4-46:08 (Parcel 8) has been reduced to 1.793 acres and is accessed from Hale Manu Drive. The other parcel (created from the original 6-acre Parcel 8), now identified as 3<sup>rd</sup>/2-4-46:16, consists of 3.643 acres and does not have legal access. As a result of this division of the Applicants' property, the railroad right-of-way (originally a portion of Parcel 8) was excluded and assigned TMK: 3<sup>rd</sup>/2-4-46:17 (Parcel 17) by the Tax Office (Exhibit B).

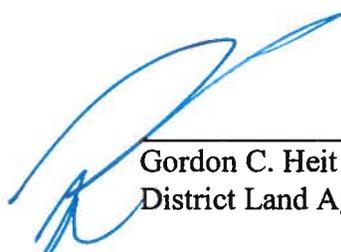
In staff's consultation with the Applicants and their Realtor representative, staff learned that the railroad reservation is being consolidated with the 1.793-acre new Parcel 8 (New Parcel 8) instead of the entire pre-subdivided property.

Staff is therefore recommending that the Board amend the prior action of November 11, 2011 agenda item D-3, by acknowledging the partition of the Applicants' property and reaffirming the consolidation of the remnant State land (originally a portion of Parcel 8, now new Parcel 17) into the New Parcel 8 (originally 6 acres or so, now 1.793 acres, to be consolidated with new Parcel 17 consisting of .062 acre for total of 1.855 acres after consolidation).

RECOMMENDATION: That the Board:

1. Amend the prior Board action of November 11, 2011, under agenda item D- 3 authorizing the sale of the remnant State land, by further identifying New Parcel 8 (area 1.793 acres) as the property with which the railroad right-of-way remnant (Parcel 17) will be consolidated.
2. Confirm that except as modified by the foregoing amendment, all terms and conditions listed in its prior action of November 11, 2011 shall remain the same.

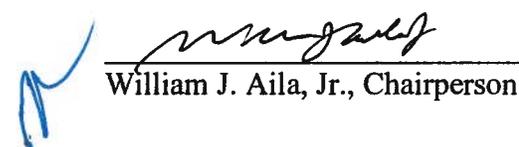
Respectfully Submitted,



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Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson

# EXHIBIT A

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

November 10, 2011

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

PSF No.: 11HD-103

Hawaii

Sale of Remnant to Herbert P. Ornellas and Lorraine B. Ornellas, Waiakea Homesteads, 1<sup>st</sup> Series, South Hilo, Hawaii, Tax Map Key: 3<sup>rd</sup>/2-4-46:08.

**APPLICANT:**

Herbert P. Ornellas and Lorraine B. Ornellas, husband and wife, as Tenants by the Entirety.

**LEGAL REFERENCE:**

Section 171-52, Hawaii Revised Statutes, as amended.

**LOCATION:**

Portion of Government lands of Waiakea Homesteads, 1<sup>st</sup> Series, South Hilo, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/2-4-46:08: portion, as shown on the attached map labeled Exhibit A.

**AREA:**

0.062 acres as shown on C.S.F. map No. 16,166

**ZONING:**

State Land Use District: Agriculture  
County of Hawaii CZO: AG-1

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
*November 10, 2011*

**CURRENT USE STATUS:**

Vacant and unencumbered.

**CONSIDERATION:**

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

**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point.

**DCCA VERIFICATION:**

Applicants are individuals, and as such are not required to register with the DCCA.

**APPLICANT REQUIREMENTS:**

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of fair market value for the remnant;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process;

**REMARKS:**

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 has been determined to be a remnant by this definition for the following reasons:

*The parcel is an abandoned railroad right-of-way.*

The Applicant is the owner of parcel (3) 2-4-46:08 as staff has confirmed by the applicant providing a copy of the Warranty Deed and an on-line research through the County of Hawaii Real Property Tax Office. According to Section 171-52, HRS, if there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting the highest sealed bid or if the remnant abuts more than one parcel, the Board may subdivide the remnant so that a portion may be sold to each abutting owner. There are no abutting landowners.

The remnant State land was a railroad right-of-way used by the sugar companies for transporting cut cane to the processing mills. The sugar companies ceased utilizing railroads as a means of transporting harvested sugar years ago. The abandoned railroad right-of-way traverses property owned by Herbert P. and Lorraine B. Ornellas. The Ornellas' would like to purchase the right-of-way and consolidate it with their fee property identified by Tax Map Key: 3<sup>rd</sup>/2-4-46:08.

Various governmental agencies were solicited for comments. All respondents had no objections to the request as indicated below:

<b>County of Hawaii Agencies</b>	<b>Comments</b>
Environmental Management	No Comments
Fire Department	No Comments
Planning	No Comments
Public Works	No Response
<b>State of Hawaii Agencies</b>	<b>Comments</b>
DOH-Environmental Management	No Response
DHHL	No Objections
DLNR-Historic Preservation	No Response
DLNR-DOFAW	No Comments
<b>Other Agencies</b>	<b>Comments</b>
Office of Hawaiian Affairs	No Response
Corps of Engineers	No Response

Staff is therefore recommending that the Board authorize the sale of the abandoned railroad remnant to Herbert P. Ornellas and Lorraine B. Ornellas.

The Applicants have 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. 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.
2. Authorize the subdivision and consolidation of the subject remnant by the Applicant.

3. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Herbert P. Ornellas and Lorraine B. Ornellas, husband and wife, as Tenants by the Entirety 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 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.

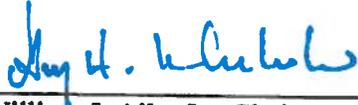
Respectfully Submitted,



Gordon Heit  
Land Agent



APPROVED FOR SUBMITTAL:



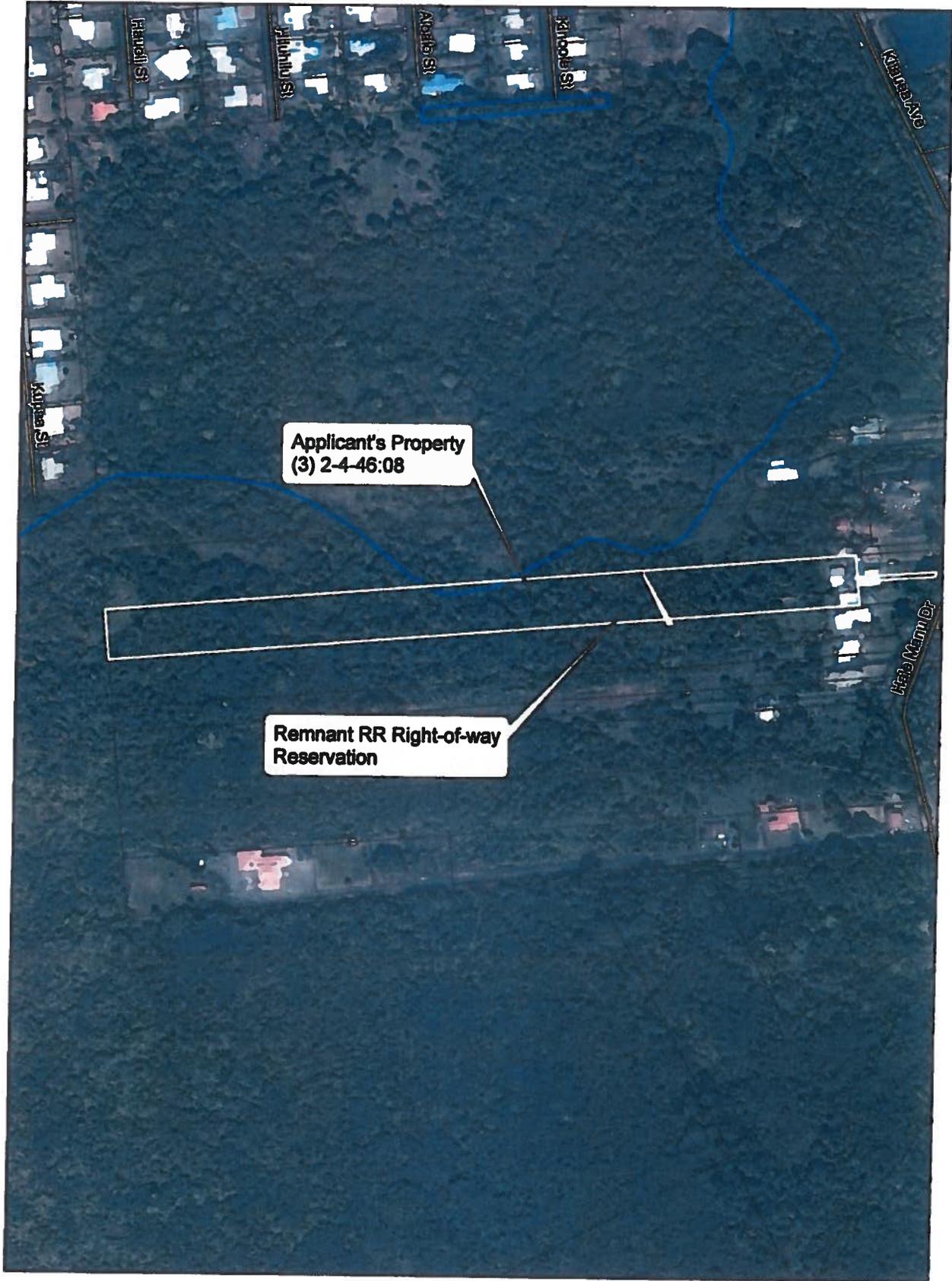
William J. Aila, Jr., Chairperson





# Ornellas RR Remnant

# EXHIBIT A

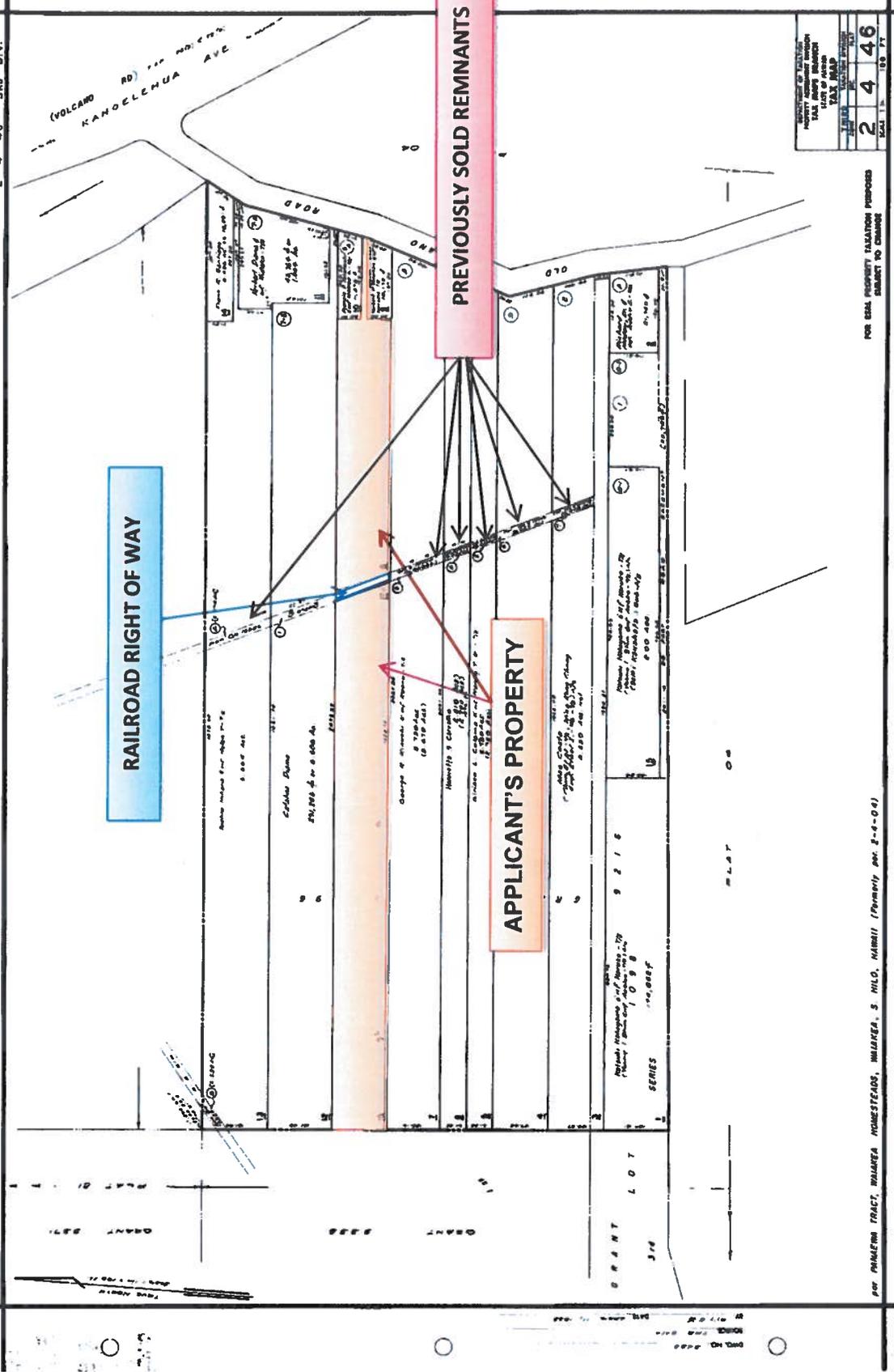


(VOLCANO RD) 710' NAD 1983  
KAOELENUA AVE

RAILROAD RIGHT OF WAY

PREVIOUSLY SOLD REMNANTS

APPLICANT'S PROPERTY



RECORDING OFFICE	2	4	46
PROPERTY ADDRESS			
TAX MAP			
DATE			
SCALE	1" = 100 FT		

FOR SEAL PROPERTY TAXATION PURPOSES  
COUNT NO CHANGE

FOR PRIMEWA TRACT, WAIAREA HOMESTEADS, WAIAREA, 5 MILD, HAWAII (PURITY NO. 2-4-04)

# EXHIBIT B

14 Frank R. Sen  
0.436

Herbert D.  
w/ J. Hildek  
77.00

7-B  
43,764  
1.004  
161.68

Francis F. Zahara  
19.00  
11,575  
125.00  
Herbert F. Ornel/26  
9  
10,175  
107.00

A [0.074 Ad]  
20 FT  
[0.074 Ad]

1870.00  
Mihara & Mf Helen T-7/2  
0.004 Acs.

1831.00  
Alina Diana  
86 ft or 6.606 Ac.

2093.59  
1883.70  
3.643 Ac. ±

16  
George K. Kikuchi & Mf Kaoru - 7/2  
5.730 Acs  
(5.070 Acs.)

Henrietta S. Carvalho  
2.810 Acs.  
(2.780 Acs.)

Ciraco L. Collins & Mf Nancy T. O. - 7/2  
2.780 Acs  
(2.750 Acs.)

Ving Kong Chong & Mf Ethel I. - 7/2.  
5.761 Acs.  
(5.050 Acs.)

Mae Costa  
C. Chum, Ethel I. - 7/2, Ving Kong Chong  
& Mf Ethel I. - 7/2 - 1/2 JAYs  
5.850 Acs. Net

1.793 Ac. ±  
(1.740 Ac. ±)

Parcel 8: 1.793  
+ Parcel 17: 0.062  
1.855 acres \*

\* 1.85 acres referenced in  
apparel report after  
consolidation

ABANDONED  
0.062 AC.

A. R.  
AN ABANDONED  
10.000 AC.

A. R.  
AN ABANDONED  
0.055 AC.

A. R.  
AN ABANDONED  
0.055 AC.

A. R.  
AN ABANDONED  
0.055 AC.

01.00

03.00

185.01

185.01

09.90

09.90

109.58

100.45

070

E

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