

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

November 13, 2020

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

PSF No.: 20OD-023

Oahu

Termination of Revocable Permit No. S-5762 and Issuance of Revocable Permit to Catherine C. Lima and Ginger K. Lima-Naki, as Joint Tenants, Lehanonui, Waianae, Oahu, Tax Map Keys: (1) 8-5-004: 034, 043, and 044

APPLICANT:

Catherine C. Lima and Ginger K. Lima-Naki, as Joint Tenants

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waianae situated at Lehanaonui, Waianae, Oahu, identified by Tax Map Keys: (1) 8-5-004:034, 043, and 044, as shown outlined in red on the attached map labeled **Exhibit A**.

AREA:

1.247 acres, more or less.

ZONING:

State Land Use District: Agricultural
City and County of Honolulu CZO: AG-2 General Agriculture

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 Revocable Permit No. S-5762, Samuel and Catherine Lima, Permittee, for Pasture Use and Access to Permittees' Landlocked Property purposes. At its meeting held August 23, 2019, Item D-5, the Land Board approved the continuation Revocable Permit No. S-5762 on a month-to-month basis through December 31, 2020.

CHARACTER OF USE:

Pasture, Home Gardening Use and Access purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$40.00 per month. Current rental amount for Revocable Permit No. S-5762

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) §11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 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." And Part 1, Item 41 that states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing." (See **Exhibit B**)

DCCA VERIFICATION:

No applicable. Applicants are not operating a business and, as such, are not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

Site issues make property unsuitable for public auction lease:

1. Irregular shape
2. Property cannot be leased without major infrastructure improvements

REMARKS:

Revocable Permit No. S-5762 was issued to Samuel and Catherine Lima,¹ effective May 15, 1980 for pasture and access to their private property.

The staff was informed that Samuel Lima passed away in January 1991. By her application, his widow Catherine Lima is now requesting the cancellation of Revocable Permit No. S-5762 and issuance of a new revocable permit to herself, Catherine C. Lima and her daughter, Ginger K. Lima-Naki. In the application, the proposed use of the public lands is to include pasturing of goats, home gardening and access to Applicants' landlocked property, identified as Tax Map Key: (1) 8-5-004:005. Partial fencing of the property already exists. Ms. Lima-Naki has indicated that she grew-up on the property and has assisted her parents with the home gardening and pasture of animals under the current revocable permit.

In their application, the Applicants noted that they wanted to pasture goats and so staff contacted the Department of Agriculture ("DOA") if it has any restrictions of goats on State Land. DOA responded that it is still reviewing as to the appropriate number of goats allowed on agriculture land. Staff recommends that goats be allowed under the revocable permit on the condition that Applicants comply with any future DOA policies, rules, or guidelines regarding the pasturing of goats on agricultural lands such as the premises.

The City and County of Honolulu, Department of Planning and Permitting ("DPP") in response to our request for comments (copy attached **Exhibit C**) indicated that in 2003 DPP issued a violation to the Applicants for storing of derelict vehicles on the Applicants' private property (Tax Map Key: (1) 8-5-004:005), which was corrected at the time of the violation. However, aerial imagery as recently as 2017 indicated that the Applicants are operating a scrap or junkyard. After discussing with the DPP staff who prepared the response, he confirmed that his conclusion of the use of the property was based solely the on the review of 2017 aerial imagery on the internet and not a physical site visit. According to DPP's records no complaints for either the privately owned and State-owned lands have been received.

During a 2018 site visit, Staff did observe two old buses that were being used as temporary

¹ Revocable Permit S-5762 was issued to Samuel and Catherine Lima, husband and wife on May 15, 1980. Upon Samuel Lima's passing, Catherine Lima continued use of the Revocable Permit and due to her age, now wishes to add her daughter, Ginger K. Lima-Naki to the revocable permit.

storage on State land.

No other agencies were solicited for comments as there is no change to the existing use on the subject State land.

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.

The proposed use has continued since 1980 and will continue by the Applicants. Such use has resulted 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 §11-200.1-15, 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 Revocable Permit S-5762 issued to Samuel L. and Catherine C. Lima.
3. Authorize the issuance of a revocable permit to Catherine C. Lima and Ginger Lima-Naki covering the subject area for pasture, home gardening use and access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. Goats shall be allowed on the condition that Applicants comply with any future DOA policies, rules, or guidelines regarding the pasturing of goats on agricultural lands such as the premises.
 - b. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - 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.

Respectfully Submitted,

Patti E. Miyashiro

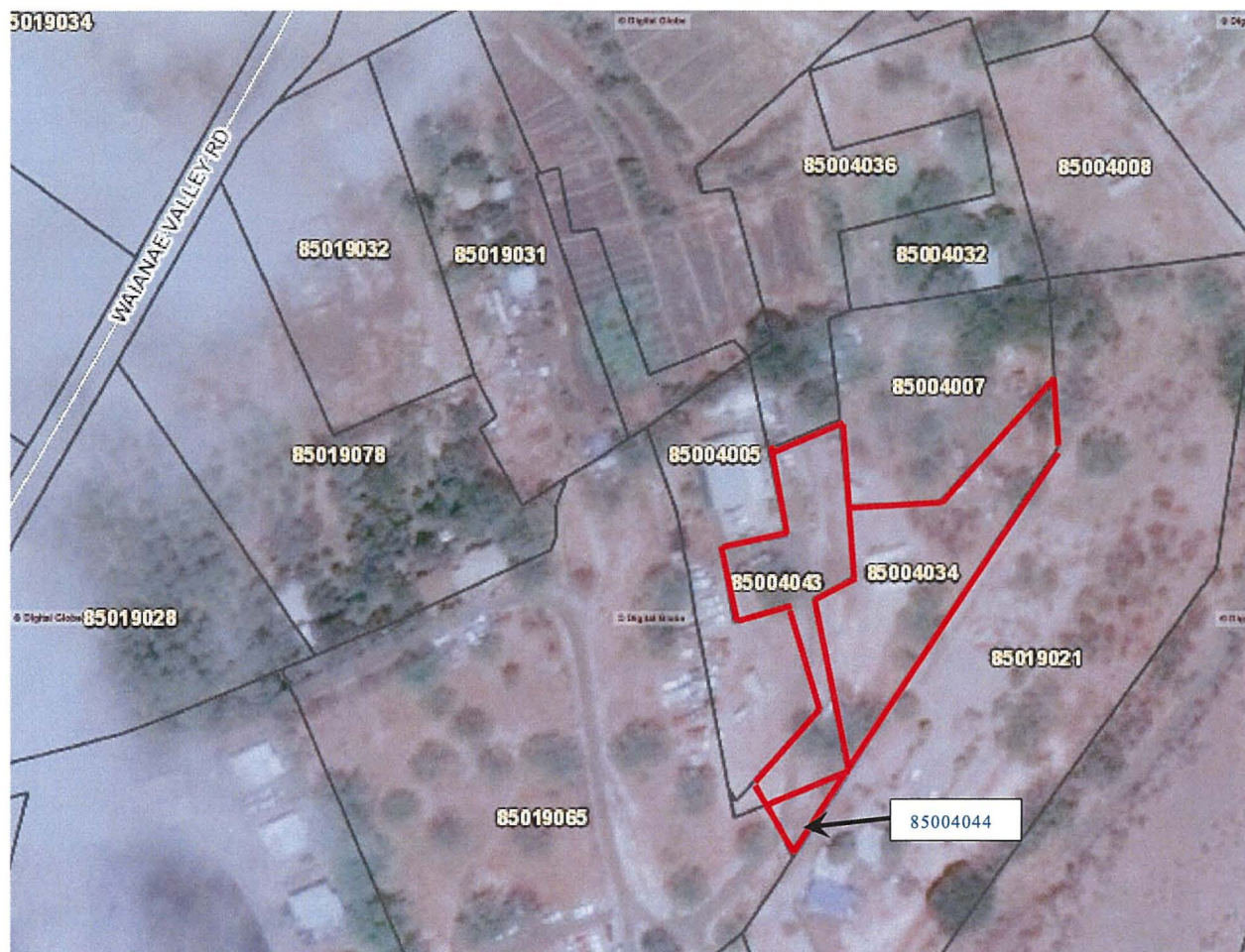
Patti E. Miyashiro
Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

Suzanne D. Case, Chairperson

RT



TAX MAP KEY: (1) 8-5-004:034, 043 AND 044

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1-15, HAR

Project Title:	Termination of Revocable Permit No. S-5762 and Issuance of Revocable Permit to Catherine C. Lima and Ginger K. Lima-Naki, as Joint Tenants.
Reference No.:	PSF 200D-023.
Project Location:	Lehanonui, Waianae, Oahu, Tax Map Key: (1) 8-5-004: 034, 043, and 044.
Project Description:	Pasture Use and Access to Permittees' Landlocked Property.
Chap. 343 Trigger(s):	Use of State Land.
Exemption Class No.:	<p>In accordance with Section 11-200.1-15, HAR, and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "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." And Part 1, Item 41 that states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."</p> <p>The Applicants are continuing the existing use, as such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.</p>
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, the request is for continued use of the property, therefore, Staff believes the request would involve negligible impact to the subject area.
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 impact.

Exhibit B

Consulted Parties:	Department of Agriculture and City and County of Honolulu, Department of Planning and Permitting
Analysis:	Based on the above mentioned, 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.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

March 18, 2020

2020/ELOG-465(AB)

Ms. Patti E. Miyashiro, Land Agent
Department of Land and Natural Resources
Land Division
P.O. Box 621
Honolulu, Hawaii 96809

Dear Ms. Miyashiro:

SUBJECT: Request for Comments
Termination and Issuance of Revocable Permit No S-5762
Lehanonui - Waianae
Tax Map Keys 8-5-004: 034, 043, and 044

RECEIVED
LAND DIVISION
2020 MAR 25 PM 12:32
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Thank you for the opportunity to provide comments on the subject Revocable Permit. We understand that the purpose of the permit is to allow the Applicants to use the subject parcels for pasture uses and to provide access to landlocked properties. The subject parcels are within the AG-2 General Agricultural District and the State Land Use Agricultural District. The Applicant is proposing to use the subject parcels for pasturing, raising livestock, and providing access to Tax Map Key 8-5-004:005 (Parcel 5), which they own. Pasturing, raising of livestock, and providing access to other lots are all permitted in the AG-2 General Agricultural District; however, aerial imagery from as recently as 2017 shows that there are likely no agricultural uses on the site. Rather, it appears that the Applicant is operating a scrap or junkyard. These types of uses are not permitted in the AG-2 General Agricultural District. The Applicant was issued a violation in 2003 for storing derelict vehicles on Parcel 5, and while they temporarily corrected the violation at the time, it appears that this use was reinstated continues. Your letter states that you are considering not allowing goats on the property. For purposes of the Land Use Ordinance, pasturing of goats is considered livestock grazing, which is a permitted use in the AG-2 General Agricultural District.

Exhibit C

Ms. Patti E. Miyashiro, Land Agent
March 18, 2020
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From our perspective, it would be preferable to the apparent current use. We recommend that the revocable permit only be issued if the Applicant can certify that the site is compliant with the underlying State and County Agricultural District regulations (i.e., Section 205, Hawaii Revised Statutes, and Chapter 21, Revised Ordinances of Honolulu). We also suggest that the permit not restrict permitted agricultural uses on the site, such as livestock grazing.

Thank you for the opportunity to review and comment on this Project. Should you have further questions, please contact Alex Beatty, at 768-8032.

Very truly yours,



For: Kathy K. Sokugawa
Acting Director