

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

May 14, 2021

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

MAUI

Issuance of Revocable Permit to Mahalo 4593 LLC, a California Limited Liability Company, for Rock Revetment Purposes, Kahana, Lahaina, Maui, Tax Map Key: (2) 4-3-019:seaward of 046.

APPLICANT:

Mahalo 4593 LLC, a California limited liability company

LEGAL REFERENCE:

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

LOCATION:

Portion of submerged lands situated at Kahana, Lahaina, Maui, identified by Tax Map Key: (2) 4-3-019:seaward of 046, as shown on the attached map labeled **Exhibit A**.

AREA:

279 square feet, more or less.

ZONING:

State Land Use District: Conservation

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:

Unencumbered

CHARACTER OF USE:

Rock revetment purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

To be determined by staff appraisal.

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 November 10, 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 minor expansion or minor change of use beyond that previously existing," Item 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." An exemption notification is attached as **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

REMARKS:

Applicant is the owner of the parcel identified as Tax Map Key (2) 4-3-019:046. Seaward of the Applicant's parcel is a State-owned parcel identified as Tax Map Key (2) 4-3-019:048. A rock revetment/seawall is located on parcel 048 that is subject to a perpetual, non-exclusive easement identified as LOD 28,095. According to the Applicant, the easement was initially granted to the Applicant's predecessor in interest, who owned a single parcel landward of parcel 048. The original grantee then subdivided

the private parcel into two parcels, one of which is parcel 046, thus making the Applicant a successor in interest of the easement, along with the owner of adjoining private parcel. The Board did not approve any subsequent assignments of the easement beyond the initial grantee.

Additionally, as evidenced during a site inspection conducted in 2018 for a certified shoreline application, the shoreline has moved further inland, creating an additional encroachment on a portion of the revetment originally located on parcel 046 that is now State-owned submerged lands. Therefore, the existing easement will need to be expanded to cover the additional revetment area located between parcel 048 (the original easement area) and the current shoreline. Applicant has committed to work with staff to 1) amend the easement area to include the additional encroachment, and 2) address the subdivision of the original benefitted property and subsequent assignments.

Given the complexity of the easement amendments, staff is requesting the Board approve a revocable permit to address the outstanding encroachments as an interim measure, while staff continues to work with the Applicant to amend the easement to address the revised easement area and new ownership. In addition to providing the Board a greater opportunity for oversight, the revocable permit also would require the Applicant to pay a monthly rent, as well as provide a bond to cover the removal of the outstanding encroachments in the event that the easement is not amended. Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board:

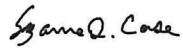
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Mahalo 4593 LLC, a California limited liability company, covering the subject area for rock revetment 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,



Ian Hirokawa
Special Projects Coordinator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

RT

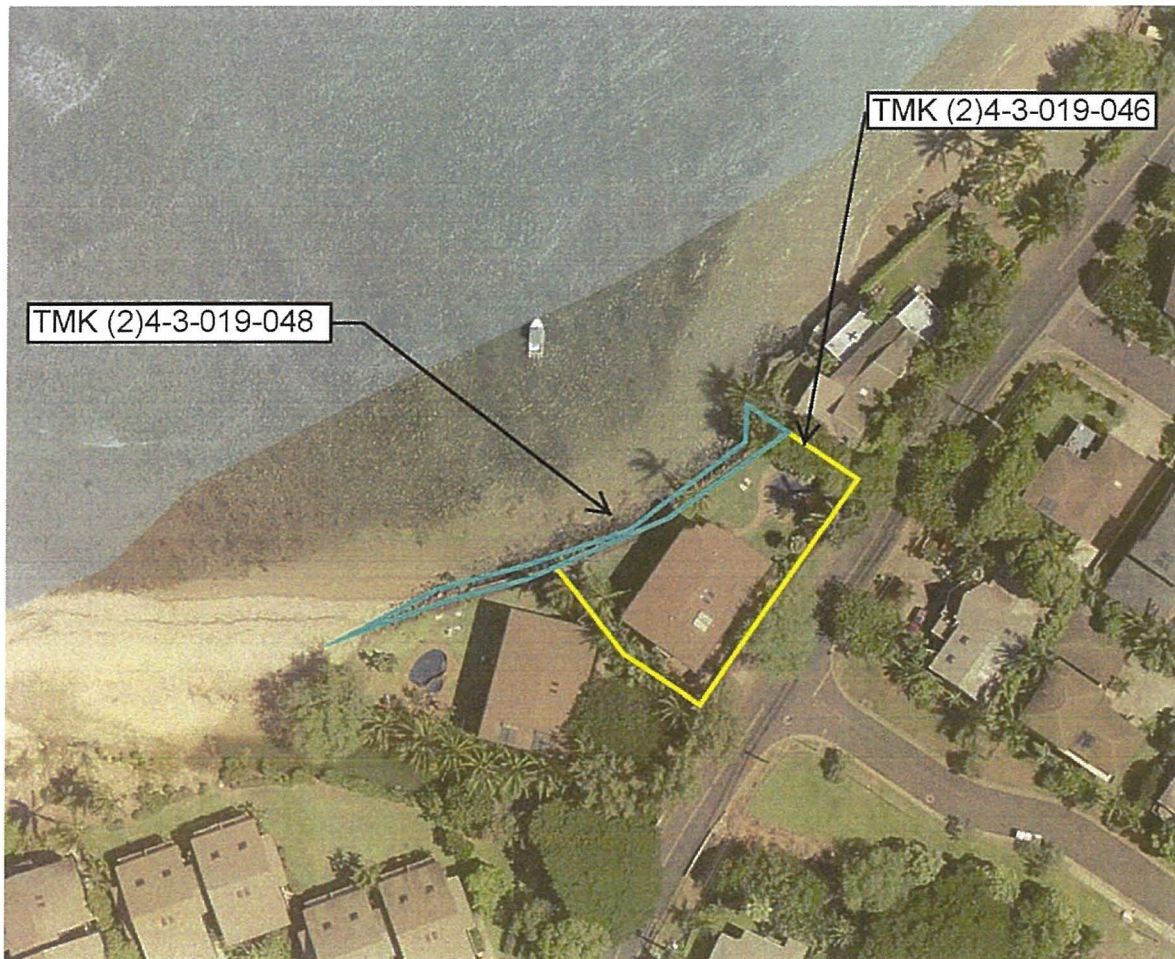


EXHIBIT A

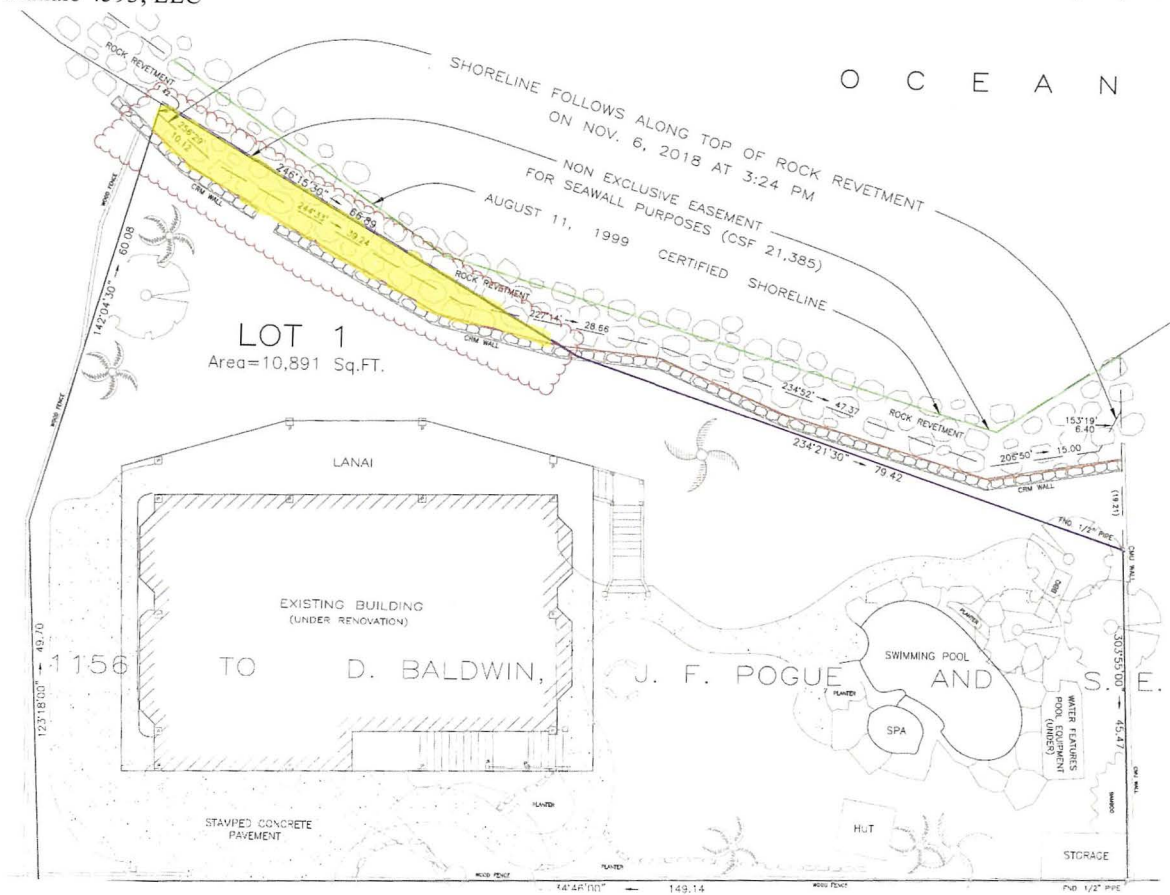


EXHIBIT A

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 to Mahalo 4593 LLC, a California Limited Liability Company, for Rock Revetment Purposes; Kahana, Lahaina, Maui; Tax Map Key: (2) 4-3-019: seaward of 046.
Reference No.:	Not applicable.
Project Location:	Kahana, Lahaina, Maui; Tax Map Key: (2) 4-3-019: seaward of 046.
Project Description:	Rock revetment encroachment
Chap. 343 Trigger(s):	Use of State Land.
Exemption Class No.:	In accordance with Section 11-200.1-15, Hawaii Administrative Rule (HAR), and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on November 10, 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 minor expansion or minor change in of use beyond that previously existing", Item 44 "Permits, licenses, registrations and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	Rock revetment will not be altered or expanded beyond existing condition as a result of the revocable permit.
Action May Have Significant Impact on Particularly Sensitive Environment?	No, the rock revetment is a pre-existing structure that is already subject to an existing easement. The additional encroachment area is not a result of alteration or expansion of the structure.

EXHIBIT B

Consulted Parties:

Office of Conservation and Coastal Lands

Analysis:

The proposed disposition is similar in type and scope to dispositions previously approved for similar pre-existing structures. Such dispositions have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Recommendation:

That the Chairperson finds this disposition will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.