

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

May 26, 2023

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

PSF No. 23OD-037  
  
Oahu

Issuance of Right-of-Entry Permit for Sixty (60) Days to Jewell Tuitele for Removal of Rock Wall Encroachment from State Submerged Land at Kaneohe, Koolaupoko, Oahu; Tax Map Key: (1) 4-5-007: seaward of 032.

APPLICANT:

Jewell Tuitele, individual.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of State submerged lands in Kaneohe, Koolaupoko, Oahu, identified as tax map key: (1) 4-5-007: seaward of 032, as shown on the attached **Exhibits A-1 and A-2.**

AREA:

276 square feet, approximately.

ZONING:

State Land Use District: Urban  
City & County of Honolulu LUO: R-5 Residential (for abutting property)

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:

Requested area is unencumbered and encroachments are present.

CHARACTER OF USE:

Right of entry for removal of stacked rock wall encroachment on State submerged land not involving the use of motor vehicles or heavy machinery.

TERM:

Sixty days, beginning on the date as determined by the Chairperson. Staff is including a recommendation below that the Chairperson be authorized to continue the right-of-entry permit for additional 60-day periods for good cause shown.

RENTAL:

Gratis.

COLLATERAL SECURITY DEPOSIT:

None

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, which applies to "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Specifically, the subject request is exempt under Item 1, which exempts "[r]emoval of boulders, rocks, hazardous trees, marine debris, and other similar hazards necessary to maintain lands and waters in a safe condition." The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and therefore should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR .

DCCA VERIFICATION:

Not applicable. Applicant is a private property owner and is not required to register with DCCA for purposes of this application.

REMARKS:

The Applicant, owner of private property identified as tax map key (1) 4-5-007:032, submitted a Shoreline Certification Application Form to the Department on January 5, 2023. The application was not accepted for processing because of the presence of an unresolved encroachment consisting of a makeshift rock wall on State submerged lands in the shoreline area. The present application is for a 60-day right-of-entry permit to allow the Applicant to remove the rock wall so that the Shoreline Certification Application Form may be processed and the shoreline may be certified.

The encroachment consists of a makeshift, low rock wall situated along an erosion scarp on the shoreline abutting the Applicant's private, residential property. The Applicant states that she has stacked the rocks there to clear the beach. The Applicant also states that the rocks were washed up onto the shoreline along with other ocean debris including wood, plastic, and other objects. At no time has the Applicant previously applied for any permit for placement of a structure on State submerged land in this area. Staff notes the location of the makeshift rock wall at an erosion scarp that is evidence of wave action and notes that the rock wall may be acting to artificially fix the shoreline. A photo of the structure is attached as **Exhibit B**.

The Applicant states that she will remove the makeshift rock wall herself and with the assistance of friends. The Applicant states that no machinery or motor vehicles will enter State submerged lands for purposes of clearing the wall. Staff finds that this is a reasonable assertion, since the Applicant was able to place the rocks there without the use of machinery or motor vehicles in the first place. The Applicant further states that the rocks used for the structure were originally taken from the adjacent shoreline areas and will be returned to the same area. Staff notes that the Applicant has been made aware of the prohibition on taking or removing naturally-occurring "sand, dead coral or coral rubble, rocks, soil, or other beach or marine deposits" from the shoreline area pursuant to section 205A-44, HRS. The Applicant states that she will return the rocks to the adjoining beach and will stop stacking rocks that may wash up in the future.

Office of Conservation and Coastal Lands was consulted and has opined that this project did not trigger the need for any permits from them, and will defer to Land Division on this matter.

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.

There are no other pertinent issues or concerns regarding the subject request.

RECOMMENDATION: That the Chairperson:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Section 11-200.1, HAR, this activity will likely

- have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Authorize the issuance of a right-of-entry permit to Jewell Tuitele covering the subject area for removal of an encroaching rock wall from State land under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
    - a. The right-of-entry permit is for a term of 60 days. The Chairperson is authorized to continue the right-of-entry for additional 60-day periods for good cause shown;
    - b. The use of heavy machinery or motor vehicles on State submerged land for activities pursuant to this permit is strictly prohibited;
    - c. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time; and
    - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



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Rebecca L. Anderson  
Shoreline Specialist

APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

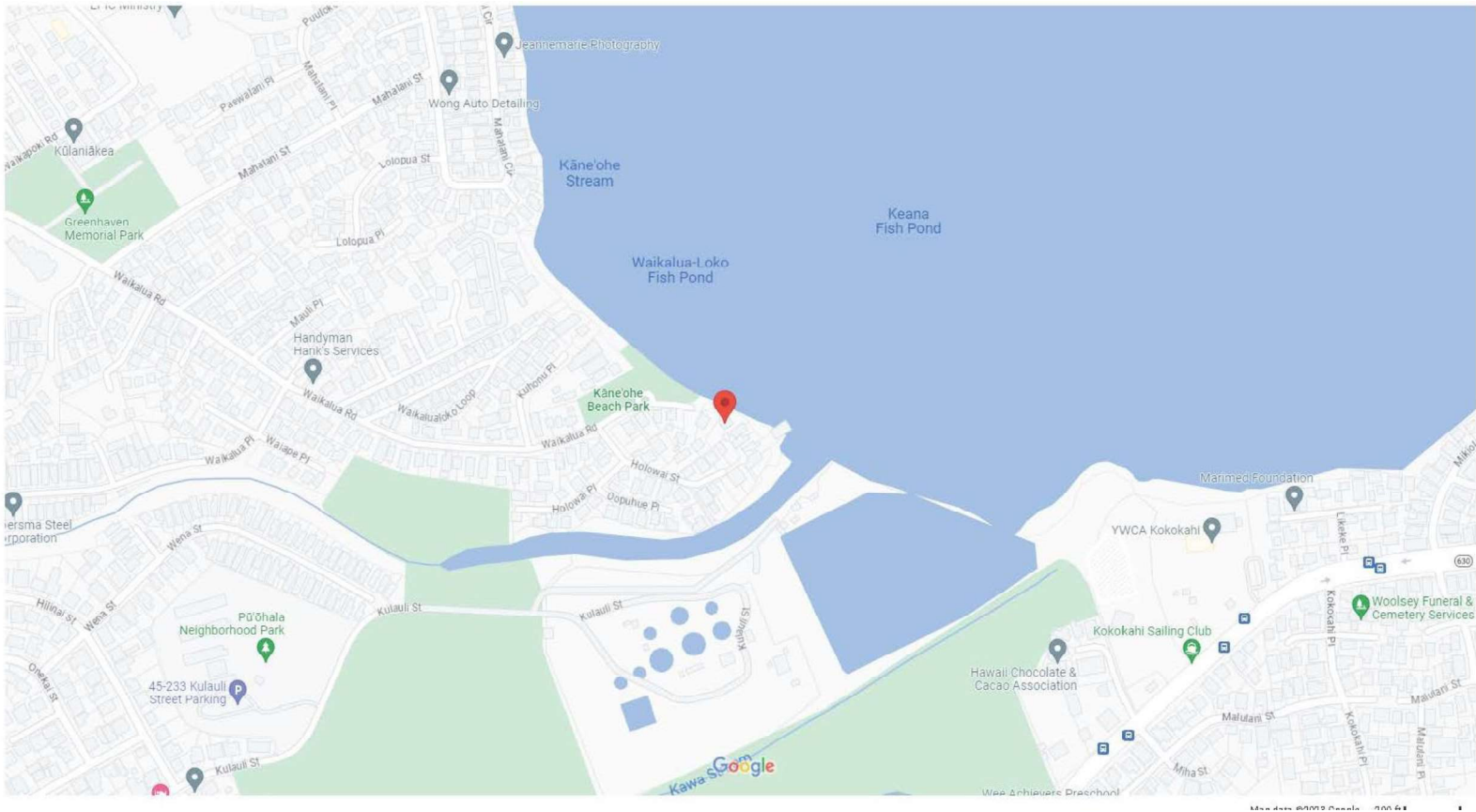
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*RT*



**TMK (1) 4-5-007: seaward of 032**

**EXHIBIT A-1**



**TMK (1) 4-5-007: seaward of 032**

**EXHIBIT A-2**





**EXHIBIT B**