

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

September 8, 2023

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

21HD-083

Hawaii

Cancellation of Revocable Permit No. S-7919, Kimi Hotels, Inc., Permittee, with Issuance of New Revocable Permit to SCP Hilo, LLC for Parking Lot Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-006:078 & 085.

APPLICANTS:

KIMI HOTELS, INC., a Hawaii Corporation; and
SCP HILO, LLC, a Delaware Limited Liability Company

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waiakea, South Hilo, Hawaii identified by Tax Map Keys: (3) 2-1-006:078 & 085 as shown on the attached map labeled Exhibit A.

AREA:

Parcel 078 = 4,000 square feet; Parcel 085 = 4,828 square feet; for a total of 8,828 square feet more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Resort Hotel

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-7919, Kimi Hotels, Inc., Permittee, for parking lot purposes.

CHARACTER OF USE:

Parking lot purposes.

CANCELLATION & COMMENCEMENT DATES:

Cancellation effective 3/31/2022 and commencement of new revocable permit 4/01/2022.

MONTHLY RENTAL:

\$323.16 per month for the 2022 calendar year;
\$332.85 per month for the 2023 calendar year as approved by the Board at its December 8 & 9, 2022 meeting.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 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 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 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." Refer to attached Exhibit B.

DCCA VERIFICATION:

SCP HILO, LLC:

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

JUSTIFICATION FOR REVOCABLE PERMIT:

The proposed revocable permit is for short-term use. As explained below, the Board has approved the issuance of a long-term lease to be put out for public auction. The continued use of the subject site through a revocable permit is prudent.

REMARKS:

The subject parcels are located adjacent to the Hilo Seaside Hotel and one of the parcels has been under a revocable permit to the hotel owners since June 16, 1965 for use as ancillary parking for the hotel.

At its meeting of November 8, 2019, agenda item D-4, the Board authorized the cancellation of the original permit and issuance of a new permit, adding the second parcel to the permit, and the public auction of a new long-term lease of the two parcels for parking purposes. The public auction process was halted due to COVID-19 gathering restrictions. Staff is in the process of preparing the property for public auction.

In early 2021, Kimi Hotels, Inc. executed the sale of the Hilo Seaside Hotel to SCP Hilo, LLC and made inquiry as to the protocol for cancelling the revocable permit and having the new owner obtain a new permit. Staff informed Kimi Hotels, Inc. that a Phase 1 environmental site assessment would be required before the permit could be cancelled and the new owners must make application for the new permit.

The new owners of the hotel, SCP Hilo, LLC, have made application for issuance of a revocable permit for the two parcels to use as a parking lot.

On June 15, 2021, Kimi Hotels, Inc. delivered to the Hawaii District Land Office a Phase 1 environmental site assessment performed by Myounghee Noh & Associates (MNA) along with a request to cancel the revocable permit effective July 31, 2021.

The findings and opinions of the Phase 1 environmental site assessment report

noted one recognized environmental condition (REC) on the property stated as:

“During the site reconnaissance, MNA observed visible staining in two of the parking stalls on the subject property potentially caused by vehicle fluid leaks, which may include petroleum products and hydraulic fluids. Due to the unknown subsurface conditions and the integrity of the asphalt pavement surface, it is considered a REC. Prior to any earthwork in this area, it is recommended that soils beneath the existing asphalt be tested for the presence of petroleum contaminants, so that appropriate site controls and exposure control measures can be implemented, if necessary.”

In a letter dated December 22, 2021, staff requested a Phase II investigation by at least drilling test borings into the pavement to test the soil beneath. Staff also declined permittee’s request to terminate the permit immediately. However, to the extent that the permittee and its buyer/successor agreed to immediately cease using the permit area, staff would consider not billing for the use of the permit area. No agreement for non-use was received and the buyer/successor has been using the land for ancillary parking.

Kimi Hotels, Inc. sought further guidance from the State Department of Health. In a letter dated March 1, 2022, Kimi Hotels, Inc. provided staff with the following communication from Mr. Roger Brewer, Senior Environmental Scientist with the Hazard Evaluation & Emergency Response Office (attached as Exhibit C):

“I disagree with the recommendation of the consultant to test soil under the small spots of the parking lot stained with oil. The staining appears to be related to a small release from an automobile and similar to what might be found in any parking lot. Asphalt is relatively impermeable and in essence made of the same type of petroleum as the spilled oil. There is no indication of a significant release that might have flowed to the edge of the asphalt and impacted underlying soil. I recommend that no further action be taken with respect to the stained areas”.

Staff has had the opportunity to consult further with Mr. Brewer and MNA regarding the oil staining of the parking areas. The occurrence of oil stains in parking stalls does not require sampling and further testing unless it’s a permeable surface. According to the report and photos, the asphalt is intact and there is no evidence of oil or other petroleum substances running off the parking area. The oil stains are small drips built up over time that has hardened and not a pool of stagnant oil which may have required sampling. Staff is comfortable with Mr. Brewer’s recommendation that no further action be taken at this time.

Staff is recommending that the current revocable permit be cancelled effective March 31, 2022 and the new revocable permit be issued to SCP Hilo, LLC effective April 1, 2022.

Various agencies were consulted, and responses are listed in the following table:

Federal Agencies	Response
Corps of Engineers	No Response by suspense date
State Agencies	Response
Department of Hawaiian Home Lands	No Response by suspense date
Hawaii County Agencies	Response
Planning	No Objections/Comments
Parks & Recreation	No Response by suspense date
Public Works	No Response by suspense date
Water Supply	No Objections
Other Agencies & Interested Parties	Response
Office of Hawaiian Affairs	No Response by suspense date

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.

The proposed use has continued since the early 1970's and will continue. 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, 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 set forth herein, would serve the best interest of the State.

3. Authorize cancellation of Revocable Permit No. S-7919 to Kimi Hotels, Inc. and the issuance of a new revocable permit to SCP Hilo, LLC covering the subject area for parking lot 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,

Candace Martin

KEM

Candace Martin
Land Agent

gch

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson

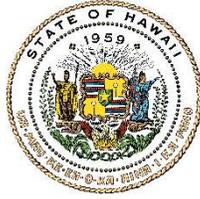
RT

EXHIBIT A



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

EXHIBIT B

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

September 8, 2023

EXEMPTION NOTIFICATION

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

Project Title: Cancellation of Revocable Permit No. S-7919, Kimi Hotels, Inc., Permittee, with Issuance of New Revocable Permit to SCP Hilo LLC for Parking Lot Purposes.

Project / Reference No.: PSF 21HD-083

Project Location: Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-006:078 & 085.

Project Description: Continued use of State land for a parking lot.

Chap. 343 Trigger(s): Use of State Land.

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 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 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?:

No. The area is currently a parking lot and the proposed use is as a parking lot. No further development is planned.

Action may have
Significant Impact on
Particularly Sensitive
Environment?:

No. The parcel is zoned resort-hotel and the surrounding area is developed in accordance with the zoning. Not a sensitive environment.

Consulted Parties:

Federal Agency:

Corps of Engineers

State of Hawaii:

DHHL

County of Hawaii:

Planning Department, Parks & Recreation, Public Works and
Water Supply

Other Agencies:

Office of Hawaiian Affairs

These agencies were consulted on the propriety of the HRS Chapter 343 exemption, and expressed no comments in opposition to the exemption.

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.

From: Gilmore, Thomas [REDACTED]
Sent: Tuesday, March 1, 2022 7:40 AM
To: Katherine A. Garson
Cc: Gilmore, Thomas
Subject: FW: Kimi Hotels - Hilo Seaside Hotel

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kathy, here is what our guidance manager and risk assessor says about your parking lot issue. Let me know if this solves your problem. If not, please provide me with the DLNR point of contact and I will make sure the 2 parties connect for you.

Thomas Gilmore | Remedial Project Manager
Department of Health | Hazard Evaluation &
Emergency Response Office

[REDACTED]
Pearl City, HI 96782
[REDACTED]

From: Brewer, Roger C [REDACTED]
Sent: Monday, February 28, 2022 8:05 AM
To: Gilmore, Thomas [REDACTED]
Subject: Re: Kimi Hotels - Hilo Seaside Hotel

Hey Tom,

I reviewed the information from the Kimi Hotels representative. I disagree with the recommendation of the consultant to test soil under the small spots of the parking lot stained with oil. The staining appears to be related to a small release from an automobile and similar to what might be found in any parking lot. Asphalt is relatively impermeable and in essence made of the same type of petroleum as the spilled oil. There is no indication of a significant release that might have flowed to the edge of the asphalt and impacted underlying soil.

I recommend that no further action be taken with respect to the stained areas of the parking. I'd be glad to discuss this with DLNR if necessary.

Roger Brewer, PhD
Senior Environmental Scientist
Hawaii Department of Health

From: Gilmore, Thomas [REDACTED]
Sent: Friday, February 25, 2022 3:30 PM