

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

September 13, 2024

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

Ref No. 21OD-072

OAHU

Termination of Revocable Permit No. S-7470 to JSR Equipment, Inc. Kalihi Kai, Honolulu, Oahu, Tax Map Key (1) 1-2-021:036; Issuance of Revocable Permit to JSR Equipment, Inc. for Baseyard, Office, and Storage Purposes; Kalihi Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-021:portion of 035, portion of 036, and portion of unencumbered lands.

APPLICANT:

JSR Equipment, Inc., a Hawaii profit corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Kalihi-Kai, Honolulu, Oahu, identified by Tax Map Key: (1) 1-2-021:portion of 035, portion of 036 and portion of unencumbered lands, as shown on the map attached as Exhibit A1 to A3.

AREA:

Current RP area TMK: (1) 1-2-021:036 is 62,050 sq. feet.

<u>New Revocable Permit</u>	
TMK: (1) 1-2-021:036 (por.)	56585 sq. feet, more or less
TMK: (1) 1-2-021:035 (por.)	8670 sq. feet, more or less
<u>with unencumbered area</u>	<u>1830 sq. feet, more or less</u>
Total	67,085 sq. feet, more or less ¹

¹Acreeges calculated through GIS program and there was no survey done.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: I-2 (Intensive Industrial)

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:

TMK: (1) 1-2-021:036 is encumbered by Revocable Permit No. S-7470
("RP7470") to JSR Equipment, Inc. ("JSR")

TMK: (1) 1-2-021:portion of 035 is unencumbered.

CHARACTER OF USE:

Baseyard, Office, and Storage Purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

The monthly rent for RP7470 is \$4,763.37 for 62,050 square feet. . Using this amount for the new increased area of 67,085 sq. feet plus the 3% increase that the Board would typically allow during the annual revocable permit renew, staff recommends the Board approve the monthly rent for the subject request at \$5,304.39.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

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 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.” 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”. The request to enlarge the area under revocable permit will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

JUSTIFICATION FOR THE PERMIT:

At its meeting on June 24, 2016, item D-7, the Board adopted the Revocable Permit Task Force's recommendation, including a standardized checklist to be provided to the Board with reasons justifying the issuance of a revocable permit.

1. Site issues – Subject areas do not have legal access from public road and TMK: (1) 1-2-021:portion of 035 and portion of 036 are not legally subdivided.
2. Truly short-term use – See comments for No. 6 below.
3. Testing market and operational issues, plan to go to lease later – See comments for No. 6 below
4. Government uses - not applicable.
5. Non-profits - not applicable.
6. Staff is unaware of interest in long-term disposition – not applicable as the Subject locations have no legal access, and TMK: (1) 1-2-021:portion of 035 and portion of 036 are not legally subdivided.
7. Other unusual circumstances – The Subject parcels are bordering the Kalihi Stream. Land Division received multiple complaints of homeless occupation with large amounts of trash accumulating in this area from unauthorized encampments which causes a public health and safety concern. Staff believes the presence of the permittee on the subject premises helps to discourage unauthorized occupation by houseless individuals and other unauthorized use of the subject area.

8. Staff is not aware of any litigation involved in the subject parcel.

BACKGROUND:

The applicant, JSR Equipment, Inc., has been utilizing the subject industrial site under RP7470 since 2010. Prior to the commencement of the current permit, the applicant had leased the same area ("Parcel 36") from 1985 along with two of his family's companies under Revocable Permit No. S-6201. Prior to the 1985, the area was leased by the current permittee's father in 1978, under Revocable Permit No. S-5558.

REMARKS:

The authorized area for RP7470 is TMK: (1) 1-2-021:036 with an area of 62,050 sq. feet. A site inspection done in 2018 found that the tenant was not able to utilize all of the permitted area within Parcel 36 but was utilizing a portion of TMK: (1) 1-2-021:035 at times and a portion of unencumbered land.

The tenant has been very cooperative with the City and State in allowing the area to be used multiple times for various public projects during which the tenant was charged and paid the full rental amount. Therefore, Staff is recommending no retroactive rent be charged from the inspection date.

In one public project the City and County of Honolulu ("City") asked to install a new Kamehameha Highway Wastewater Pump Station 36" Force Main Replacement system through portions of Parcel 36 held under RP7470. During the 2018 inspection Staff found several inconsistencies in the area being utilized by the RP, one being the applicant was not able to use all of Parcel 36 because of installed structures by the City and other obstructions¹ and the second was the use of a portion of TMK: (1) 1-2-021:035 and a portion of unencumbered land which were not included in the original RP area.

Since the City's Pump Station project closed off a portion of TMK: (1) 1-2-021:036, 035, and a portion of unencumbered area being used by the applicant, the adjustment of the permitted area was held in abeyance. The City has completed the project and has returned the areas mentioned to the applicant.

During the City's project the rental amount for RP7470 was not decreased and the tenant paid in full. There are no delinquencies for rental payments in the last 10 years. Staff had considered the idea of charging back rent over the additional area from 2018, but the City's project would utilize the area for an extended time period. For the Board's information, the permittee has assisted in multiple homeless encampment site clean-up operations in the vicinity, at no charge to the State. By allowing the clean-up crew to utilize the permit area for staging of roll-off bins and

¹ Staff understands the applicant and the City had entered into an agreement in which the City's contractor was allowed to use portion of the revocable permit area.

direct access to the clean-up area this has saved time and spared the State costly alternative routes due to the topography. More trash could be moved in a shorter time period and more area could be cleaned with the permittee's assistance in these projects, in short, allowing for a more efficient cleanup operation. Therefore, staff is recommending no retroactive rent be assessed and Staff believes a new revocable permit should be issued to include all areas currently utilized by the applicant. Staff is recommending a waiver of Phase 1 Environmental Site Assessment for the out-going RP7470 since the applicant will remain the same and this request is only updating the revocable permit to include all areas utilized with no change to the terms and conditions.

The City and County of Honolulu Department of Facility Maintenance had no objections/comments and concurred with the proposed environmental exemption and the City and County of Honolulu Department of Parks and Recreation had no objections/comments. The DLNR Commission on Water Resource Management, the Aquatic Resources Division, the Office of Hawaiian Affairs, the City and County of Honolulu Department of Planning and Permitting, and the Board of Water Supply have not responded to solicitation for comment before the response deadline.

The 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.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.15 and -16, 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 interests of the State.
3. Termination of Revocable Permit No. S-7470 upon issuance of the subject revocable permit.
4. Authorize the issuance of a revocable permit to JSR Equipment, Inc. covering the subject area for baseyard, office, and storage purposes for Tax Map Keys (1) 1-2-021:portion of 035, portion of 036, and portion of unencumbered lands, 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,



Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:



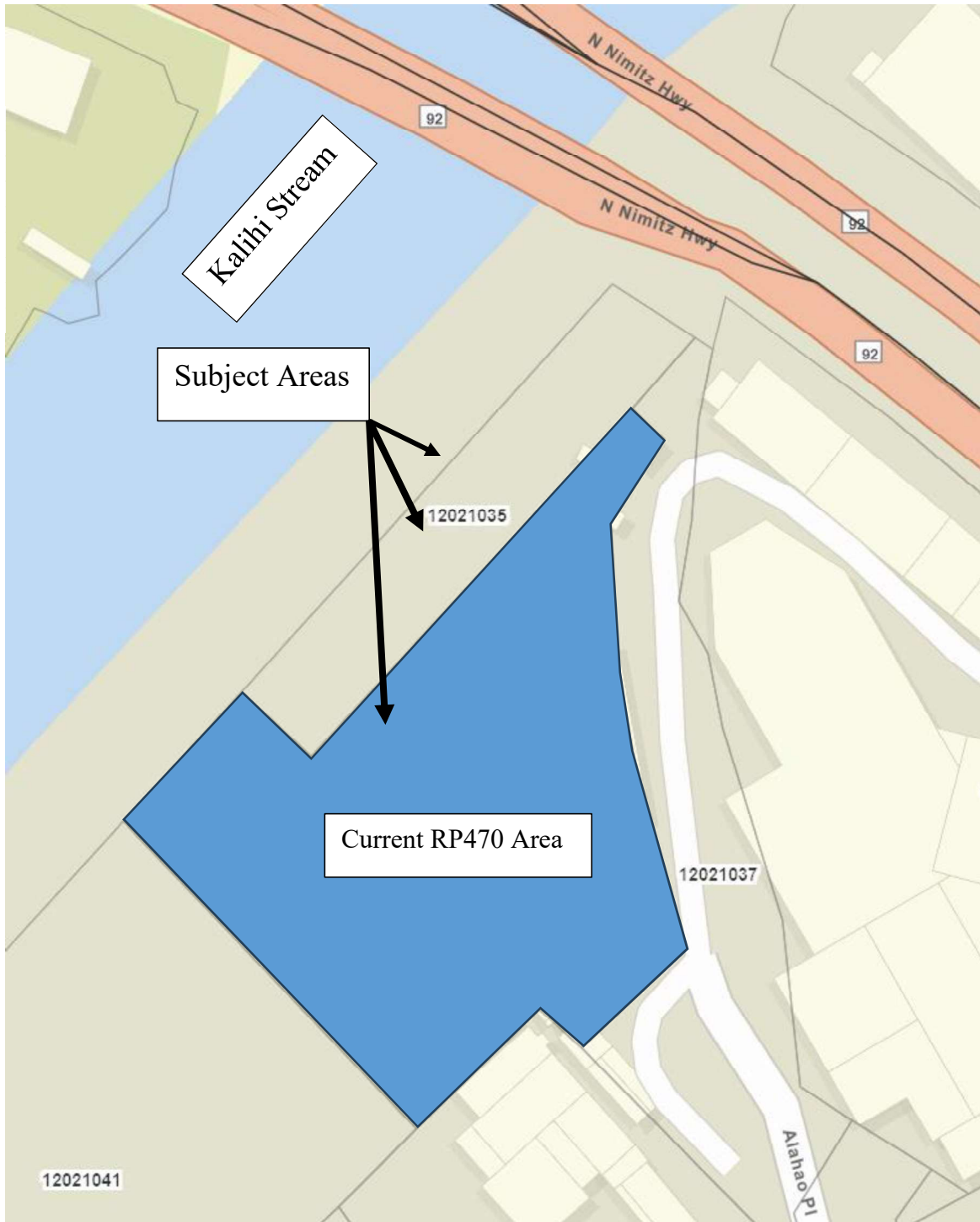
Dawn N.S. Chang, Chairperson





Kalihi Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-021:portion of 035, and portion of 036, and portion of unencumbered lands.

EXHIBIT A1



TMK (1) 1-2-021:portion of 035 and portion of 036 and portion of unencumbered land

EXHIBIT A2



New RP Area marked in red including TMK (1) 1-2-021:portion of 035 and portion of 036 and portion of unencumbered land

EXHIBIT A3