

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

December 12, 2014

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

PSF No.: 14MD-178

Maui

Cancellation of Revocable Permit S-5104 to Seaside Developers for Landscape and Maintenance Purposes, and Issuance of a New Revocable Permit to the Association of Apartment Owners (AOAO) of Kihei Surfside for Landscape, Maintenance and Recreational Purposes, Kamaole Homesteads, Kihei, Wailuku, Maui, Tax Map Key: (2) 3-9-004: 087 and Portion of parcel 001.

APPLICANT:

AOAO Kihei Surfside, a Hawaii nonprofit corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kamaole Homesteads situated at Kihei, Wailuku, Maui, identified by Tax Map Key: (2) 3-9-004: 087 and portion of 001, as shown on the attached map labeled Exhibit A.

AREA:

2.5 acres, more or less.

ZONING:

State Land Use District: Urban

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-5104, Seaside Developers, Permittee, for landscape and maintenance purposes.

CHARACTER OF USE:

Landscape, maintenance and recreational purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

To be determined by independent appraiser, subject to review and approval by the Chairperson.

Seaside Developers current rent is \$117.00 per month. The area is landscaped and maintained at no cost to the State and is open to the public for access and use.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, 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 Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

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>

REMARKS:

Pursuant to the Land Board action of January 10, 1975, under item F-5, Revocable Permit S-5104 was issued to Seaside Developers for landscaping and maintenance purposes. Since March 1, 1975, Seaside Developers, and more recently the Association of Apartment Owners (AOAO) of Kihei Surfside, have maintained the neighboring State properties identified as parcel 087 and a portion of parcel 001.¹ At their expense, these former overgrown and unmaintained parcels have been transformed to a treasured open and useable space for apartment owners, visiting guests and the general public.

Recently, the AOAO Kihei Surfside has applied for County permits to conduct much needed renovations to their aging apartment buildings and exterior pool area. Through the permitting process it was discovered that several improvements belonging to the AOAO were located at parcel 001. These consist of four picnic tables set on concrete slabs, a concrete/rock barbecue station (no longer used as a barbecue), and two metal propane tiki torches. Although this area is currently under Revocable Permit number S-5104 to Seaside Developers, authorization for placement of these improvements on the subject State parcel was never requested nor granted. These improvements have been in place for over 30 years and were originally constructed by some of the original apartment owners. Therefore, in an attempt to rectify the encroachment situation, the AOAO Kihei Surfside has requested that the improvements be allowed to remain in place as amenities to the parcel. AOAO Kihei Surfside would like to continue its maintenance at no cost to the State and for the benefit of the apartment owners, guests, and public.

The AOAO has requested a change in character of use to accommodate the previously identified improvements located on parcel 001, and also for a putting green which is located on parcel 087. In order to accommodate this request, staff is suggesting the cancellation of revocable permit number S-5401 to the Seaside Developers and the issuance of a new month-to-month revocable permit, inclusive of the updated name of AOAO Kihei Surfside and the appropriate character of use designated as landscape, maintenance and recreational activities purposes. No commercial activities will be allowed on the premises.

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 and conditions.

¹ When the AOAO Kihei Surfside took over management of the condominium and revocable permit premises from the developer, the parties neglected to inform Land Division and apply for a new revocable permit to the AOAO.

To date, staff is not aware of any other interest in the subject properties. This is mainly due to the fact that there is no existing physical access to the parcels as they are surrounded by the AOA of Kihei Surfside and portions of undeveloped State land. At this time, because the Department has no planned or other requested use for these parcels, a month-to-month tenancy is the appropriate disposition. This would allow for a much easier cancellation process in the event that the Department should someday require the use of these properties.

No agency comments were solicited for this request. The requested changes are being implemented to address all of the existing uses which have been in place for over thirty years.

Staff notes that there is a heiau (historic site) located on parcel 087. This is identified by the cluster of Coconut trees and naupaka hedge towards the center portion of the parcel. Refer to the over view photo labeled Exhibit (B).

The proposed use has continued since 1975 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.

EXHIBITS:

- Exhibit (A) – Tax Map of the subject parcels.
- Exhibit (B) – Overview photo of the area.
- Exhibit (C) – Photo report of the property dated 10/29/2014.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for an appraisal to determine new monthly rent;
2. The applicant shall be responsible for posting and maintaining signs indicating that the area is open for public access and use.

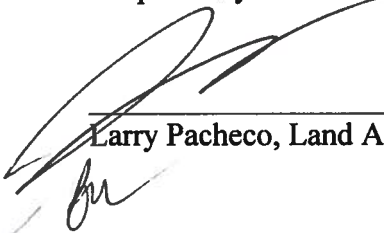
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, 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 AOA of Kihei Surfside covering the

subject area for landscape, maintenance, and recreational 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. Notwithstanding the cancellation of Revocable Permit No. S-5104 and the issuance of a new revocable permit to AOA Kihei Surfside, all existing improvements (excluding archaeological sites) shall remain the property of the AOA Kihei Surfside. In the event of the termination of the new permit, the Board of Land and Natural Resources shall have the option of requiring the AOA Kihei Surfside to remove such improvements at the AOA's sole cost and expense and to restore the land to a condition acceptable to the Board, or to require to the AOA to seek an easement to allow the improvements to remain as encroachments on the premises;
- c. No commercial activities shall be allowed on the premises;
- d. Review and approval by the Department of the Attorney General;
- e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- f. AOA Kihei Surfside shall be responsible for posting and maintaining signs indicating that the area is open for public access and use.

Respectfully Submitted,




Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 12, 2014

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Cancellation of Revocable Permit S-5104 to Seaside Developers for Landscape and Maintenance Purposes, and Issuance of a New Revocable Permit to the Association of Apartment Owners (AOAO) of Kihei Surfside (formerly known as Seaside Developers) for Landscape, Maintenance and Recreational Purposes.

Project / Reference No.: PSF No. 14MD-178

Project Location: Keawakapu, Kamaole, Kula, Maui, Hawaii

Project Description: Cancellation of existing month-to-month revocable permit for Landscape and Maintenance purposes and issuance of a new month-to-month revocable permit for Landscape, Maintenance and Recreational purposes.

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

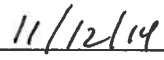
Exemption Class No. and Description: In accordance with the Department of Land and Natural Resources Department-wide Exemption List, approved by the Environmental Council and dated December 4, 1991, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant 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 [HAR 11-200-8 (a)(1)], and Exemption Class No. 4, Minor alteration in the conditions of land, water, or vegetation."

Recommendation:

It is anticipated 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.



William J. Aila Jr., Chairperson



Date





EXHIBIT " B "

Photos taken: 10/29/2014



10/29/2014

Sign one of three that are posted on the subject property.



10/29/2014

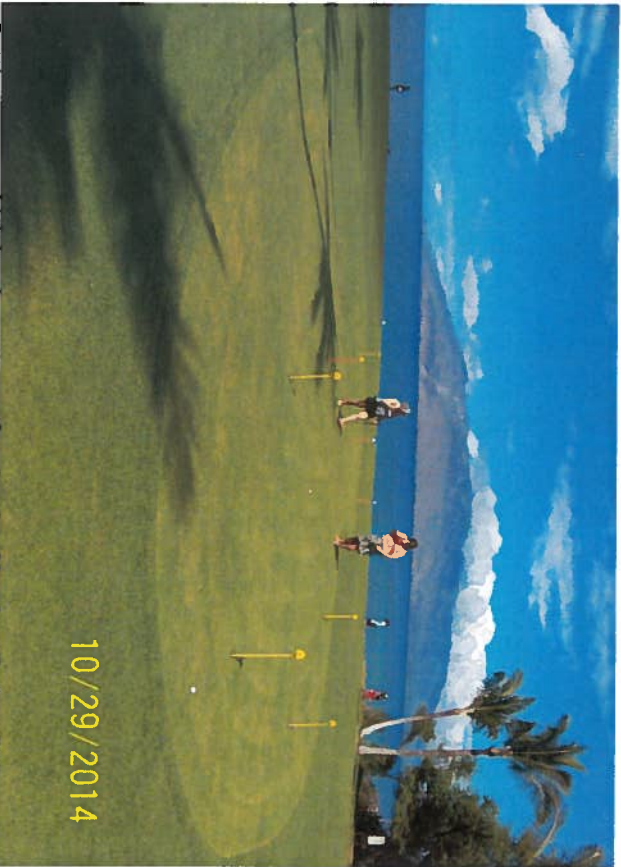
Propane fire torches located within the existing RP area.

AOAO Kihei Surfside



10/29/2014

Picnic tables, concrete slabs and concrete / rock dining station all located within the existing RP area.



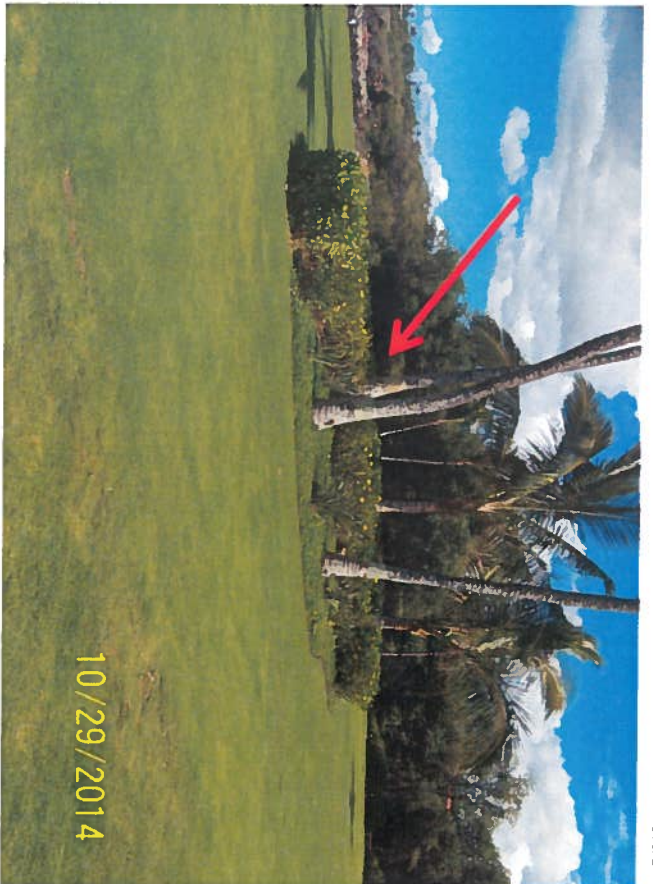
10/29/2014

Putting green which has been cut and maintained by the Kihei Surfside within their existing RP area.

Photos taken: 10/29/2014



Photos depicting a Heiau (burial site) within the subject RP area on parcel 087.



AOAO Kihei Surfside