

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

February 8, 2019

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

Land Board Members:

SUBJECT: CONTINUATION OF A REVOCABLE PERMIT TO ATLANTIS SUBMARINES HAWAII, LLC TO OPERATE SUBMARINE TOURS AND OTHER MARITIME RELATED ACTIVITIES AT THE HONOKOHAU SMALL BOAT HARBOR, ISLAND OF HAWAII, HAWAII, TAX MAP KEY: (3) 7-4-008:003 (PORTION).

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF CHAPTER 343, HRS AND TITLE 11, CHAPTER 200, HAWAII ADMINISTRATIVE RULES.

APPLICANT:

Atlantis Submarine Hawaii, LLC, a Delaware limited liability company, whose mailing address is 75-5660 Palani Rd. #304, Kailua-Kona, Hawaii 96740-1673.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Honokohau Small Boat Harbor (Honokohau SBH), Honokohau, North Kona, Island of Hawaii, Hawaii identified by Tax Map Key: (3) 7-4-008:003 (por.) as shown on the attached map labeled EXHIBITS A & B.

AREA:

Approximate measurement of 60' x 55' or 3,300 Square Feet, hereinafter referred to as the "Premises". Permittee currently has a shipping container and other tenant improvements on the Premises. All of Atlantis Submarine's structures are within the permit area. They are not using any State lands without a disposition.

ZONING:

State Land Use District: Conservation, Urban
County of Hawaii: CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: YES
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Currently Encumbered by Revocable Permit (RP) 36.

CHARACTER OF USE:

Occupy and use the Premises for the following specified purposes only: maritime related activities to support submarine tour operations. The Permittee may also occupy and use the Premises for any other uses permitted under applicable county zoning, subject to the prior approval of the Chairperson of the Board and the Permittee's compliance with Chapter 343, Hawaii Revised Statutes.

COMMENCEMENT DATE:

February 1, 2019

MONTHLY RENTAL:

Three Thousand Ninety and no/100 dollars (\$3,090.00) per month, payable in advance by the first of each and every month and for the period beginning February 1, 2019, and ending January 31, 2020.

The proposed rent was increased by applying a three percent (3%) escalation, as recommended in the appraisal, done by CBRE, dated October 31, 2016, on behalf of DLNR DOBOR, to the 2018 rent of Three Thousand and no/100 dollars (\$3,000.00) per month.

COLLATERAL SECURITY DEPOSIT:

Twice the Monthly Rental Amount.

DCCA VERIFICATION:

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

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the "Exemption List for the Department of Land and Natural Resources", approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 51 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." Once the Revocable Permit is issued, should the tenant desire to change the use materially, the tenant will be responsible for compliance with Chapter 343, HRS, with respect to any increased development or change in use of the property from the previously existing use. See attached Exemption Notification.

REMARKS:

At the January 12, 2018 Land Board Meeting, Item J-1, the Board approved the issuance of an RP to Atlantis Submarine Hawaii, LLC in effect from February 1, 2018, to January 31, 2019.

The area consists of four small structures and a shipping container shown on EXHIBIT B. There is also a private driveway to the structures. The approximate measurement of 60' x 55' includes all the structures, shipping container, and driveway.

Staff will work to convert this RP to a long-term disposition.

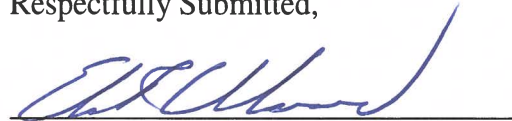
RECOMMENDATION:

That the Board of Land and Natural Resources:

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 preparation of an environmental assessment.

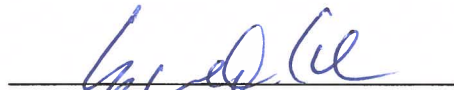
2. Authorize the continuance of Revocable Permit 36 to Atlantis Submarine Hawaii, LLC on Honokohau Small Boat Harbor covering the subject area for submarine tour operations under the terms and conditions cited above, which are by this reference, incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current Revocable Permit form, as may be amended from time to time; and
 - b. Review and approval by the Department of the Attorney General.
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- A. Aerial Map of Atlantis Submarine Hawaii, LLC situated at Honokohau SBH
- B. Images of Structures located on the Subject Premises

EXEMPTION NOTIFICATION

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

Project Title:	Continuation of a Revocable Permit (“RP”) to Atlantis Submarine Hawaii, LLC
Project / Reference No.:	No. 36
Project Location:	Portion of Government lands situated at Honokohau Small Boat Harbor (Honokohau SBH), Honokohau, North Kona, Island of Hawaii, Hawaii identified by Tax Map Key: (3) 7-4-008:003 (POR.)
Project Description:	Occupy and use the Premises for the following specified purposes only: maritime related activities to support submarine tour operations.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No(s).:	Exemption Class No. 1, Item No. 51 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."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, the requested location has been in the same use since 2017. Therefore, staff believes the use of the land for the continuation of this revocable permit has no significant effect on the environment.
Action May have Significant Impact on Particularly Sensitive Environment?	No, staff does not believe the continuation of the Revocable Permit will have significant impact on the environment.
Analysis:	The current permittee has used the location for the same purpose over the years. Staff believes that the request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.
Consulted Parties:	Land Division-HDLO was consulted and concurred with respect to the Chapter 343 exemption.
Declaration	The Board finds that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

EXHIBIT A
Atlantis Submarine
Hawaii, LLC
Honokohau
Small Boat Harbor

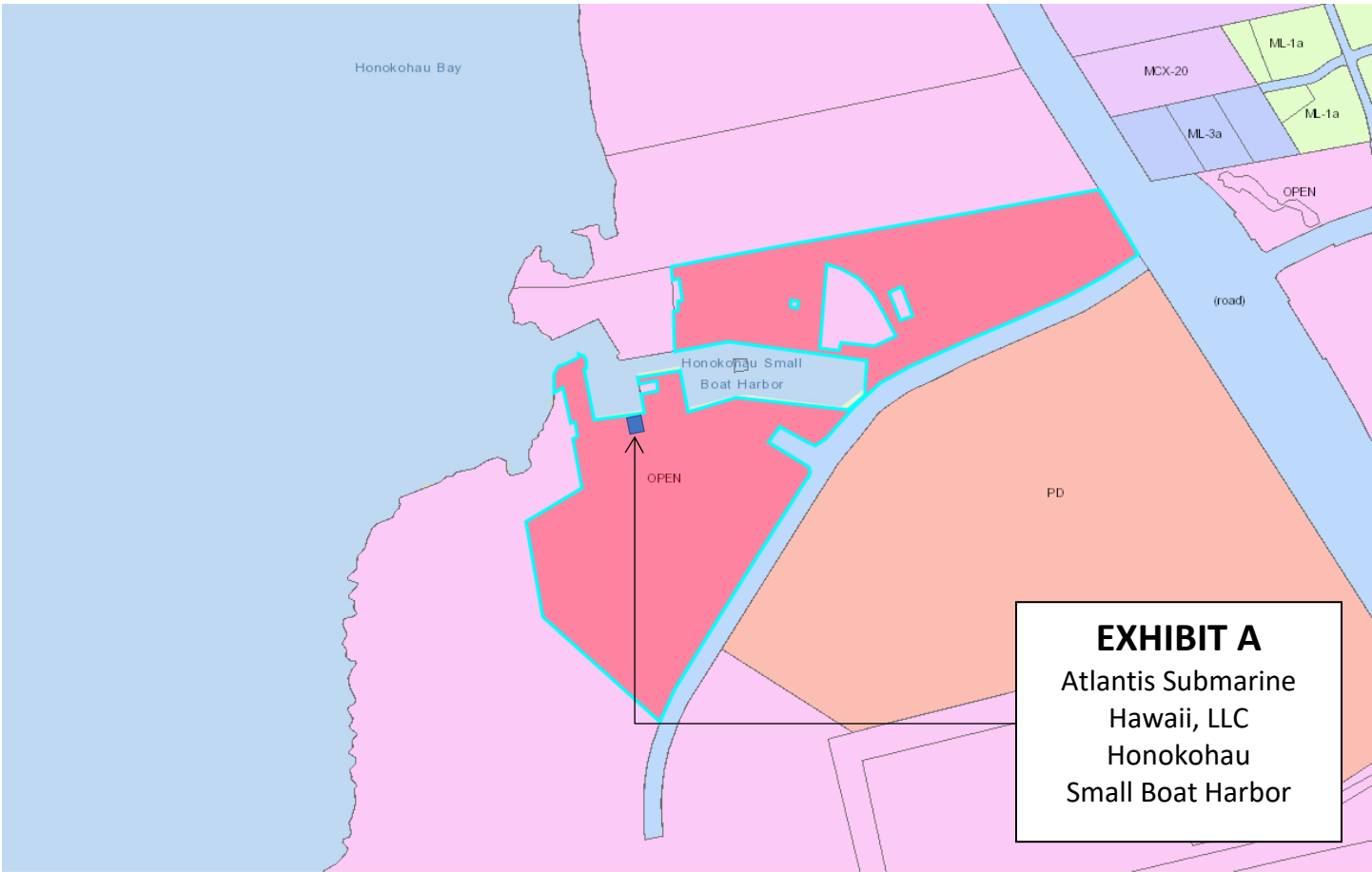


EXHIBIT A
Atlantis Submarine
Hawaii, LLC
Honokohau
Small Boat Harbor



EXHIBIT A
Atlantis Submarine
Hawaii, LLC
Honokohau
Small Boat Harbor

Photos of the Premises

