

**STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai‘i**

Time Extension File No: MA-20-11

February 28, 2020

Board of Land and
Natural Resources
State of Hawai‘i
Honolulu, Hawai‘i

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) MA-3814 for the Lahaina Small Boat Harbor Ferry Pier Improvements

**APPLICANT/
LANDOWNER:** Department of Land and Natural Resources, Engineering Division for Division of Boating and Ocean Recreation

LOCATION: Lahaina, Maui

TAX MAP KEY(S): (2)4-6-001:002 and 14

AREA OF USE: 3,350 square feet

SUBZONE: Resource

BACKGROUND:

On April 9, 2018, the Board of Land and Natural Resources (Board) approved CDUP MA-3814 for the Lahaina Small Boat Harbor Ferry Pier Improvements subject to 13 conditions (see **Exhibit 1 for CDUP approval and Exhibit 2 for location map**). Since Board approval, no construction has been commenced and the one-year initiation deadline has expired. The reason for the time extension request is due to delays in obtaining other permits for this project.

TIME EXTENSION REQUEST:

Condition No. 4 of CDUP MA-3814 states “*any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed.*”

By correspondence dated January 29, 2020, the applicant is requesting a time extension to CDUP MA-3814 (see **Exhibit 3**). The need for an extension is because of delays in obtaining other permits for this project. Project solicitation was advertised on January 17, 2020 with an offer due date of February 27, 2020. The applicant expects to start construction in July 2020 and complete construction in February 2022 (see **Exhibit 4 for site plan**).

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in Hawai'i Administrative Rules (HAR), §13-5-43, which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. More specifically, HAR §13-5-43(e) states, "if a time extension request is received after the expiration deadline, it shall be forwarded to the board for review. If a request for a time extension is not received within one year after the expiration deadline, the permit shall be void." Staff notes that the request for a time extension was submitted after the one-year initiation deadline but less than one year after the expiration of the one-year initiation deadline; thus, the permit has not expired.

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, none of these factors suggest any reason to deny the requested time extension. Approval of the time extension request will hopefully provide the additional time needed to for the applicant.

Staff, therefore, recommends the following:

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** a two-year time extension to initiate and complete the construction of the Lahaina Small Boat Harbor Ferry Pier Improvements, subject to the following conditions:

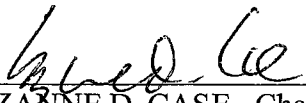
1. That Condition 4 of CDUA MA-3814 is amended to provide that the Permittee has until April 9, 2021 to commence construction and until April 9, 2023 to complete construction; and
2. That all other conditions imposed by the Board under CDUP MA-3814, as amended, shall remain in effect.

Respectfully submitted,

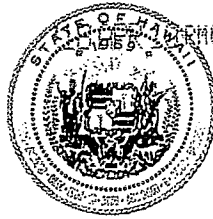
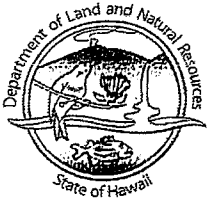


Rachel Beasley, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



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



03-12 ENGINEERING

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION RESOURCES ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

2018 APR 13 A.C.
NATURAL RESOURCES
STATE

OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

CDUP: MA-3814

Christina Hawk, Project Manager
Mitsunaga & Associates, Inc.
747 Amana St., Suite 216
Honolulu, HI 96814

APR 10 2018

SUBJECT: Conservation District Use Permit (CDUP) MA-3814

Dear Ms. Hawk:

On April 9, 2018, the Chairperson of the Board of Land and Natural Resources approved Conservation District Use Application MA-3814 for the Lahaina Small Boat Harbor Ferry Pier Improvements located upon submerged land of Lahaina, Maui, Tax Map Keys: (2) 4-6-001: 002 & 014 subject to the following conditions:

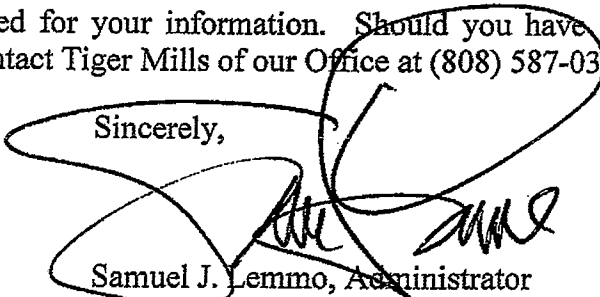
- (1) The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
- (2) The permittee shall comply with all applicable department of health administrative rules;
- (3) Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
- (4) Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
- (5) All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
- (6) The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;

Exhibit 1

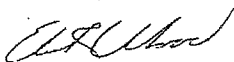
- (7) In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
- (8) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- (9) During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
- (10) Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
- (11) The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- (12) Other terms and conditions as prescribed by the Chairperson; and
- (13) Failure to comply with any of these conditions shall render a permit void under HAR, Chapter 13-5, as determined by the Chairperson or Board.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. A copy of the staff report is included for your information. Should you have any questions regarding any of these conditions, contact Tiger Mills of our Office at (808) 587-0382.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:



Date Apr 11, 2018

Permittee's Signature or Representative

c: Chairperson
MDLO/DOBOR/ENG

Lahaina Harbor



Legend


 Special Permit

Maui Tax Map Key - 2012

Major Roads

Contour Lines (100-ft.)

State Land Use District

 URBAN

 AGRICULTURAL

 RURAL

 CONSERVATION

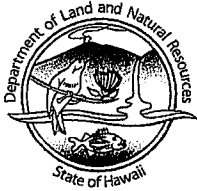
NOTE: White areas are submerged land that appear to be in the Conservation District in this particular illustration

Exhibit 2

Ext.

MA-30-11

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

ENGINEERING DIVISION
POST OFFICE BOX 373
HONOLULU, HAWAII 96809

Jan 29, 2020

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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LAND AND NATURAL RESOURCES
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AND COASTAL LANDS
JAN 30 A 7 52
DEPARTMENT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

TO: Sam Lemmo, Administrator
Office of Conservation and Coastal Lands

FROM: Carty S. Chang, Chief Engineer
Engineering Division

SUBJECT: Request to Extend the Conservation District Use Permit (CDUP) MA-3814
Construction Initiation and Completion Dates for the Lahaina Small Boat
Harbor Ferry Pier Improvements
Lahaina, Maui, TMK: (2) 4-6-001:002 and 14

The subject CDUP was approved on April 9, 2018. Condition 4 of the CDUP states:

“Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed.”

Due to delays in obtaining other permits for the project, we could not start construction within the time frame set forth in the CDUP. The solicitation of the project was advertised on January 17, 2020, and the offer due date is February 27, 2020. We expect to start construction in July 2020, and complete construction in February 2022.

Should you have any questions, please call Valerie Suzuki of my staff at 587-0275.

c: Division of Boating and Ocean Recreation

Exhibit 3

