

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

June 26, 2020

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

Land Board Members:

SUBJECT: SALE OF LEASE AT PUBLIC AUCTION FOR COMMERCIAL PURPOSES, WAIANAE SMALL BOAT HARBOR, WAIANAE-KAI, WAIANAE, OAHU, HAWAII TAX MAP KEYS: (1) 8-5-002:044 (PORTION)

AND

DECLARE THAT, AFTER CONSIDERING THE POTENTIAL EFFECTS OF THE PROPOSED PROJECT 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.

REQUEST:

Sale of lease at public auction for commercial purposes.

LEGAL REFERENCE:

Sections 200-2.5, 171-14, -16, -17, -36 and other applicable sections of Chapters 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waianae Small Boat Harbor, Waianae, Island of Oahu, hereinafter referred to as the "Premises" as shown on the maps labeled **Exhibits A-1** and **A-2** attached hereto. Said premises are a portion of Governor's Executive Order No. 4385.

AREA:

Approximately 39,525 square feet of land. 30,000 square feet for boat and trailer storage and 9,525 square feet for commercial operations.

ZONING:

State Land Use District: Urban
Honolulu City and County CZO: P-2 General Preservation

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Currently encumbered by Revocable Permits (RP) No. 3 and No. 100, both issued to Dolphin Excursions Hawaii, Inc. (Dolphin) for boat and trailer storage, sale of ice, sundry items, non-alcoholic beverages, food, incidental marine related items and cold storage purposes.

CHARACTER OF USE:

Boat and trailer storage, restaurant, sale of non-alcoholic beverages, dive tours, dive training and retail store for marine related items and other uses allowed by HRS 200-2.5 and the Honolulu City and County Zoning Ordinance.

LEASE TERM:

Thirty-Five (35) years from the commencement date of the lease.

COMMENCEMENT DATE:

To be determined by the Chairperson.

MINIMUM UPSET ANNUAL RENTAL AND PERCENTAGE RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for the premises for the first five (5) years of the lease, as well as an appropriate stepped increase (as a percentage increase over the base rent of the immediately preceding 5-year period) for the second and third 5-year periods to provide the successful bidder with a known rent for the first fifteen (15) years of the lease. The appraiser procured to determine the upset rent shall also separately determine the percentage rent to be paid in excess of the minimum rent.

METHOD OF PAYMENT:

The lessee's rent shall be the base rent or percentage of gross receipts, whichever is greater. The minimum upset rent shall be paid monthly, in advance, and the percentage rent shall be paid monthly, in arrears.

RENTAL REOPENINGS:

At the end of the 15th and 25th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual base rental amount.

MINIMUM IMPROVEMENTS:

A condition of the lease shall be that structure(s) be brought up to current Honolulu City and County Zoning Ordinance Code.

CONSTRUCTION BOND:

Equal to the amount of minimum improvements.

RENT WAIVER:

The rent may be waived for a maximum period of twelve (12) calendar months.

PROPERTY CHARACTERISTICS:

Utilities: Water, individual wastewater system, electricity and telephone.

Existing Improvements: Fenced yard and raw land. The current improvements on the Premises are owned by the current permittee, Dolphin. The board submittal dated March 8, 2013, item J-1, required Dolphin to acquire the equipment and structure from the prior permittee, Waianae Ice House Partnership. In the event that Dolphin does not win the bid, the structures may be removed by the permittee or sold to the winning bidder.

Legal Access to the Property: Staff has verified that there is legal access to the premises from Farrington Highway

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 March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 40 that states "Leases of State land involving negligible or no expansion or change of use beyond that previously existing."

REMARKS:

In 2007, 6,655 square feet of the proposed 39,525 square foot lease area was initially permitted to Waianae Ice House Partnership (WIHP). WIHP operations included ice machines, freezers, storage, kitchen facilities fish hoist and an office. At its March 8, 2013, meeting, under agenda item J-1, WIHP's revocable permit was cancelled and a new revocable permit was issued to Dolphin. Dolphin's operations included the sale of ice, sundry items, non-alcoholic beverages, food, incidental marine related items, and cold storage.

At its September 12, 2014, meeting, under agenda item J-2, the board approved the issuance of an RP to Dolphin for an additional boat and trailer storage area measuring approximately 39,640 square feet. The storage area is surrounded by a chain linked fence. At its September 27, 2019, meeting, under agenda item J-4, the board approved the issuance of a new RP that reduced the boat and trailer storage area to approximately 30,000 square feet.

The Premises of 39,525 square feet includes the areas from RP-3 and RP-100, as well as an additional 2,870 square feet to join the 2 areas.

The current commercial activities have proved to be viable operations for this area and have enhanced the appearance and character of the harbor.

In the Board action dated September 27, 2019, agenda item J-4, staff indicated that a long-term lease is an appropriate disposition for this property and would begin work to sell a lease at public auction. This submittal is in pursuit of this objective.

RECOMMENDATION:

That the Board of Land and Natural Resources:

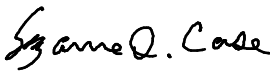
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the sale of a lease at public auction covering the Premises for boat and trailer storage, restaurant, sale of non-alcoholic beverages, dive tours, dive training, marine wild life excursions and retail store for marine related items, 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 Boating Lease form, as may be amended from time-to-time;
 - b. The possible waiver of rent for a maximum of twelve (12) calendar months upon substantial completion of the items included under “MINIMUM IMPROVEMENTS.”
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

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

APPROVED FOR SUBMITTAL:


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

Attachment:

- A-1 Location of Waianae Small Boat Harbor on the Island of Oahu
- A-2 Waianae Proposed Lease Premises at Waianae Small Boat Harbor

OAHU

Revocable Permits

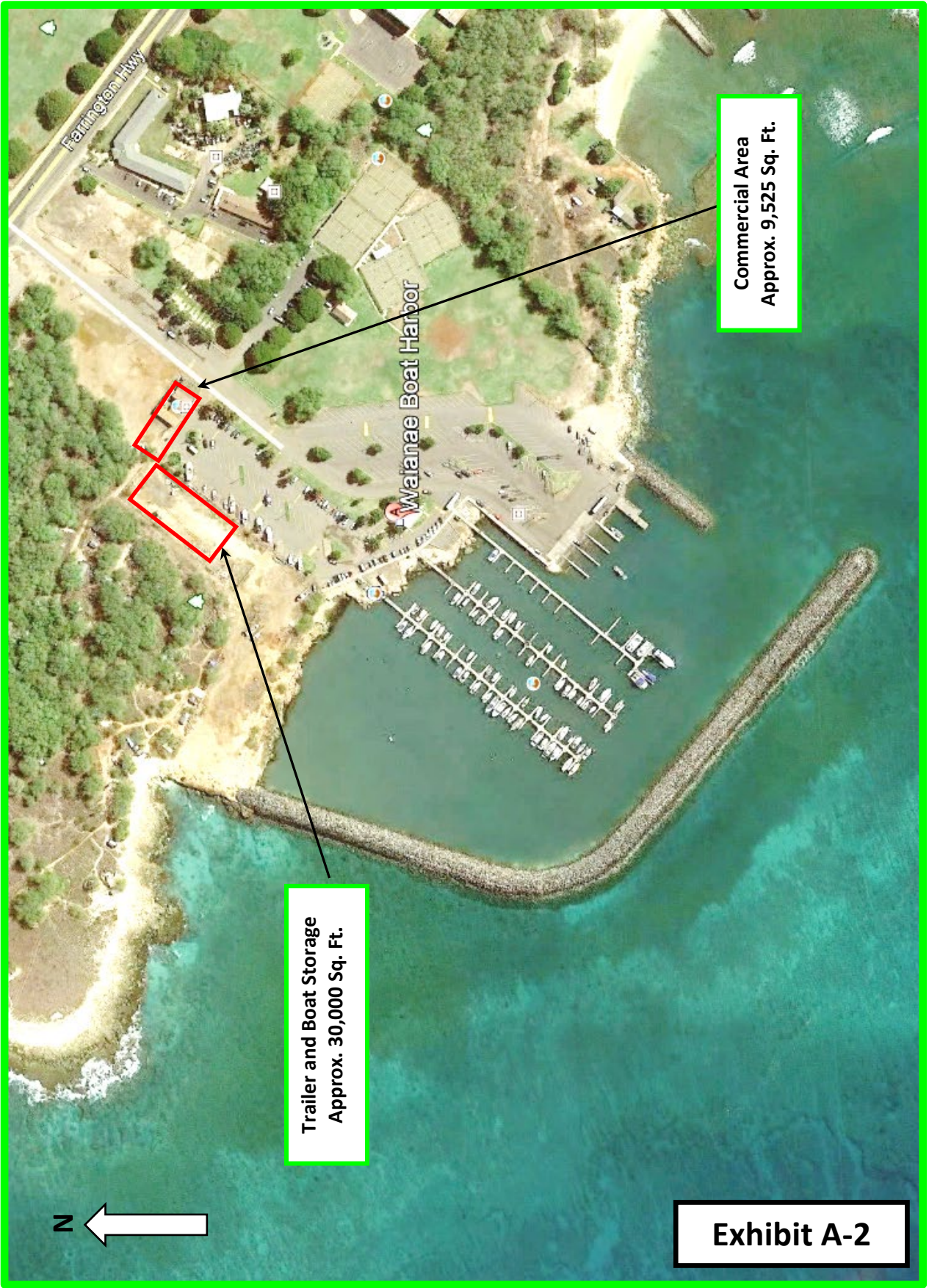
Exhibit A-1



Exhibit A

Exhibit A-2

Waianae Small Boat Harbor



Commercial Area
Approx. 9,525 Sq. Ft.

Trailer and Boat Storage
Approx. 30,000 Sq. Ft.

Exhibit A-2