

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i

July 9, 2021

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

Maui

Authorize Rent Adjustment of Revocable Permit No. SP0467, Diamond Parking Services, LLC, Permittee, at Mākena State Park, Portions of Maluaka, Mooiki, Mooloa, Moouku, Nau, Honuaula, Makawao, Maui, Hawai'i, Tax Map Key: (2) 2-1-006:030 (portion).

APPLICANT:

Diamond Parking Services, LLC, a Washington Foreign Limited Liability Company

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of government lands of Mākena State Park, portions of Maluaka, Mooiki, Mooloa, Moouku, Nau, Honuaula, Makawao, Maui, Tax Map Key: (2) 2-1-006, Por: 030 as shown on the attached map as Exhibit A.

AREA:

A portion of approximately 87.875 acres more or less.

ZONING:

State Land Use District:
County of Maui CZO:

Conservation, Rural
A-2 Apartment, Beach Right-of-Way, OZ Open
Zone, PK Park, Proposed Road, R-3
Residential

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:

Encumbered by Revocable Permit No. SP0467 to Diamond Parking Services, LLC, Permittee, for parking management and collection of fees at Mākena State Park.

CHARACTER OF USE:

Collection of parking and entrance fees at Mākena State Park.

TERM:

Month-to-Month

COMMENCEMENT DATE:

To be determined by the Chairperson.

MONTHLY RENTAL:

Ninety-nine percent (99%) of net operating income (NOI)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawai'i Administrative Rule §11-200.1-16 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, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, Part I, 44. Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing. See Exhibit B.

DCCA VERIFICATION:

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

REMARKS:

The adoption of H.A.R. 13-146 Increase Fees supported an adjustment to the rent however, an adjustment is needed for the permit holder. Parks has worked with the permittee on a new monthly rent and feels the Board can authorized the change.

The subject RP was issued pursuant to Section 171-55, H.R.S. The statutory language allows the Board to issue a permit, "...by direct negotiation without public auction, under conditions and rent which will serve the best interests of the State..." Under the current circumstances, Parks believes the statute provides grounds for the Board to modify the rent as warranted.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-16, 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. Authorize an adjustment to monthly rent to ninety percent (90%) of net operating income (NOI) for Revocable Permit No. SP0467, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The new rent will be effective thirty (30) days from the approval by the Board.
 - b. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - 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 interest of the State.

Respectfully submitted,



Curt A. Cottrell, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



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

Attachments: Exhibit A – Location
Exhibit B – Chapter 343 Exemption



STATE OF HAWAII

SURVEY DIVISION

**DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU**

October 12, 2005

C.S.F. No. 24,121
H.S.S. Plat 1101-A

MAKENA STATE PARK

Mooiki and Mooloa, Makawao, Maui, Hawaii

Comprising the following:-

1. Portions of the Government Land of Mooiki.
2. All of Grant 1441, Apana 1 and 2 to L. L. Torbert, Grant 1483, Apana 1 to Maaweiki, Grant 1495 to Kukaheku 2nd, Grant 1510 to L. L. Torbert and portions of Grant 1441, Apana 6 to L. L. Torbert and Grant 1484, Apana 2 to Kaleo acquired by the State of Hawaii by FINAL ORDER OF CONDEMNATION, Civil 4709(1) dated August 20, 1987 and recorded in Liber 21165, Pages 668-672 (Land Office Deed S-27642).
3. Portions of Grant 1441, Apana 6 to L. L. Torbert, Grant 1482 to Nahualalaa and Grant 1484, Apana 2 to Kaleo conveyed to the State of Hawaii by Edoki Hui II by Warranty Deed dated September 15, 1988 and recorded in Liber 22353, Page 513 (Land Office Deed S-27720).
4. Portions of Grant 1441, Apana 4 to L. L. Torbert, Grant 1482 to Nahualalaa conveyed to the State of Hawaii by Makena Beach Group by Warranty Deed dated September 15, 1988 and recorded in Liber 22353, Page 519 (Land Office Deed S-27719).
5. Portion of Grant 1441, Apana 4 to L. L. Torbert conveyed to the State of Hawaii as follows:
 - A) An undivided eighty-six and one-tenth percent (86.1%) interest from Seibu Hawaii, Inc. by Exchange Deed dated December 27, 1984 and recorded in Liber 18846, Pages 192-202 (Land Office Deed S-27498).

- B) An undivided thirteen and nine-tenth percent (13.9%) interest from the County of Maui by Quitclaim Deed dated November 12, 1987 and recorded in Liber 21398, Pages 304-308 (Land Office Deed S-27723).
6. Portion of Grant 1498, Apana 2 to Manu conveyed to the State of Hawaii by Makena Beach Investors by deed dated January 11, 1991 and recorded as Document No. 91-013555 (Land Office Deed S-27846) and deed dated September 26, 1994 and recorded as Document No. 94-161178 (Land Office Deed S-28105).

Beginning at the northeast corner of this parcel of land, at the southeast corner of Grant 2481 to Ihuole and Mahiai and on the west side of Keoneoio-Makena Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OLAI" being 1335.31 feet North and 1522.37 feet East, thence running by azimuths measured clockwise from True South:-

- | | | |
|----|--------------|--|
| 1. | 2° 55' 30" | 579.05 feet along the west side of Keoneoio-Makena Road; |
| 2. | 359° 10' 30" | 591.00 feet along the west side of Keoneoio-Makena Road; |
| 3. | 359° 13' 30" | 324.38 feet along the west side of Keoneoio-Makena Road; |
| 4. | 0° 08' 30" | 330.33 feet along the west side of Keoneoio-Makena Road; |
| 5. | 355° 57' | 330.00 feet along the west side of Keoneoio-Makena Road; |
| 6. | 358° 30' | 207.80 feet along the west side of Keoneoio-Makena Road; |

7. 352° 45' 330.00 feet along the west side of Keoneoio-Makena Road;
8. 354° 45' 660.00 feet along the west side of Keoneoio-Makena Road;
9. 87° 11' 12.10 feet along a jog on the west side of Keoneoio-Makena Road;
10. 352° 55' 17.07 feet along the west side of Keoneoio-Makena Road;
11. Thence along the west side of Keoneoio-Makena Road on a curve to the left with a radius of 1030.00 feet, the chord azimuth and distance being:
351° 44' 20" 42.34 feet;
12. 350° 33' 40" 102.00 feet along the west side of Keoneoio-Makena Road;
13. Thence along the west side of Keoneoio-Makena Road on a curve to the right with a radius of 970.00 feet, the chord azimuth and distance being:
351° 33' 25" 33.72 feet;
14. 352° 33' 10" 66.88 feet along the west side of Keoneoio-Makena Road;
15. Thence along the west side of Keoneoio-Makena Road on a curve to the right with a radius of 1170.00 feet, the chord azimuth and distance being:
353° 27' 40" 37.09 feet;
16. 354° 22' 10" 121.18 feet along the west side of Keoneoio-Makena Road;
17. 68° 40' 30" 236.74 feet along Paniaka Government Fish Pond;
18. 338° 50' 247.42 feet along Paniaka Government Fish Pond;
19. 272° 40' 85.00 feet along Paniaka Government Fish Pond;
20. 198° 40' 70.00 feet along Paniaka Government Fish Pond;

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21. 168° 30' 110.00 feet along Paniaka Government Fish Pond;
22. 213° 15' 95.54 feet along Paniaka Government Fish Pond;
23. 354° 22' 10" 6.80 feet along the west side of Keoneoio-Makena Road;
24. Thence along the west side of Keoneoio-Makena Road on a curve to the left with a radius of 1030.00 feet, the chord azimuth and distance being:
352° 23' 05" 71.34 feet;
25. 350° 24' 102.00 feet along the west side of Keoneoio-Makena Road;
26. Thence along the west side of Keoneoio-Makena Road on a curve to the left with a radius of 1030.00 feet, the chord azimuth and distance being:
348° 46' 58.72 feet;
27. 347° 08' 104.44 feet along the west side of Keoneoio-Makena Road;
28. 351° 27' 5.64 feet along the west side of Keoneoio-Makena Road;
29. 348° 51' 15.17 feet along the west side of Keoneoio-Makena Road;
30. Thence along the west side of Keoneoio-Makena Road on a curve to the right with a radius of 120.00 feet, the chord azimuth and distance being:
357° 22' 38" 13.84 feet;
31. 0° 41' 31.28 feet along the west side of Keoneoio-Makena Road;
32. 77° 03' 213.47 feet along the remainder of Grant 1498, Apana 2 to Manu to the upper reaches of the wash of waves at seashore;

Thence along the upper reaches of the wash of waves at seashore for the next five (5) courses, the direct azimuths and distances between points along said upper reaches of the wash of waves at seashore being:

- | | | |
|-----|----------|--------------|
| 33. | 172° 47' | 87.00 feet; |
| 34. | 161° 47' | 173.40 feet; |
| 35. | 145° 36' | 485.00 feet; |
| 36. | 138° 30' | 240.68 feet; |
| 37. | 142° 40' | 89.82 feet; |
| 38. | 267° 11' | 35.42 feet |

39. Thence along the vegetation line at seashore, the direct azimuth and distance being:
123° 45' 25" 2077.48 feet;

Thence along highwater mark at seashore for the next twelve (12) courses, the direct azimuths and distances between points on said highwater mark at seashore being:

- | | | |
|-----|----------|--------------|
| 40. | 52° 00' | 210.00 feet; |
| 41. | 106° 30' | 170.00 feet; |
| 42. | 130° 20' | 230.00 feet; |
| 43. | 146° 30' | 180.00 feet; |
| 44. | 182° 06' | 500.00 feet; |
| 45. | 196° 18' | 350.00 feet; |
| 46. | 160° 13' | 200.00 feet; |
| 47. | 206° 26' | 190.00 feet; |
| 48. | 243° 43' | 470.00 feet; |
| 49. | 197° 37' | 160.00 feet; |

50. 250° 10' 280.00 feet;

51. 268° 45' 30" 77.32 feet;

Thence along vegetation line at shoreline for the next ten (10) courses, the direct azimuths and distances between points on said vegetation line at shoreline being:

52. 292° 30' 122.38 feet;

53. 240° 49' 96.03 feet;

54. 297° 29' 89.07 feet;

55. 242° 23' 75.33 feet;

56. 191° 11' 65.03 feet;

57. 280° 28' 108.45 feet;

58. 268° 32' 151.44 feet;

59. 231° 11' 208.18 feet;

60. 217° 15' 30" 549.26 feet;

61. 202° 45' 65.87 feet;

62. 277° 35' 110.00 feet along Grant 3362 to Kukahiko;

63. 356° 45' 53.50 feet along Grant 1693 to W. Duncan;

64. 221° 48' 110.37 feet along Grant 1693 to W. Duncan;

65. 344° 45' 53.00 feet along Grant 3362 to Kukahiko;

66. 343° 34' 10" 12.54 feet along Grant 1987 to Malihini;

67. 54° 37' 20" 62.18 feet along Grant 1692, Ap. 1 to L. Andrews, Jr.;

- 68. 314° 00' 52.80 feet along Grant 1692, Ap. 1 to L. Andrews, Jr. and Grant 3364 to John Brown;
- 69. 340° 00' 92.00 feet along Grant 1692, Ap. 2 to L. Andrews, Jr.;
- 70. 353° 30' 92.00 feet along Grant 1692, Ap. 2 to L. Andrews, Jr., Grant 1696 to J. Sinclair and Grant to 1697 to M. Burns.
- 71. 249° 58' 43.03 feet along Grant 1697 to M. Burns;
- 72. 343° 34' 10" 25.25 feet along Grant 1987 to Malihini;
- 73. 343° 00' 29.00 feet along Grant 1987 to Malihini;
- 74. 275° 15' 76.56 feet along Grant 2481 to Ihuole and Mahiai;
- 75. 266° 15' 386.10 feet along Grant 2481 to Ihuole and Mahiai to the point of beginning and containing an AREA OF 165.725 ACRES, MORE OR LESS.

TOGETHER WITH the above-described parcel of land, all of the submerged lands seaward of the upper reaches of wash of waves, vegetation line and highwater mark at seashore to the Mean Lower Low water mark at seashore.

SUBJECT, HOWEVER, to the following:

1. Easement for Electric Transmission Line in favor of Maui Electric Company, Limited and Hawaiian Telephone Company dated November 8, 1978 and recorded in Liber 13314, Pages 780-786.
2. Easement for Electric Transmission Line in favor of Maui Electric Company, Limited and Hawaiian Telephone Company dated October 14, 1981 and recorded in Liber 16239, Pages 209-243.

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3. Easements for access to and use of Government Survey Triangulation Station "PUU OLAI" and for water pipelines in favor of Ulupalakua Ranch as ordered by Final Order of Condemnation, Civil 4709(1) and recorded in Liber 21165, Page 672 (Land Office Deed S-27642).

RESERVING, to the State of Hawaii, its successors and assigns the following:

1. Access and use of Government Survey Triangulation Station "PUU OLAI".
2. Perpetual Non-Exclusive Utility Easement.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Glenn J. Kodani
Glenn J. Kodani
Land Surveyor el

Compiled from CSF's 16429,
20929, 21530, 22438, and
other Govt. Survey Records.

