

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

February 23, 2024

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

Land Board Members:

SUBJECT: Issuance of Revocable Permit to Da So Fresh Express LLC for a Mobile Food Concession, Located at Honokohau Small Boat Harbor, Honokohau, Kailua-Kona, Island of Hawaii, Tax Map Key: (3) 7-4-008:003 (por.)

And

Declare the Project Exempt from Requirements of Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules

APPLICANT:

Da So Fresh Express LLC a Hawaii corporation, whose mailing business address is P.O. Box 383381, Waikoloa, Hawaii 96738.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Honokohau Small Boat Harbor, Honokohau, Kailua-Kona, Island of Hawaii, Tax Map Key: (3) 7-4-008:003 (por.) hereinafter referred to as the "Premises" as shown on the maps labeled **Exhibit A-1 and A-2** and attached hereto.

AREA:

Approximate 160 square feet.

ZONING:

State Land Use District: Urban
County of Hawaii: 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:

Unencumbered

CHARACTER OF USE:

Mobile food trailer-truck selling shave ice.

COMMENCEMENT DATE:

The first day of the month, to be determined by the Chair.

MONTHLY RENTAL:

Two hundred dollars (\$200.00) per month or ten percent (10%) of gross receipts, whichever is greater.

SECURITY DEPOSIT:

Twice the monthly rent.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred 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, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," Item No. 46, which states, "Granting to a person the privilege to conduct operations involving the provision of goods, wares, merchandise, or services to the general public including, but not limited to, tours, food and beverage

operations, retail operations, rental operations, or communications and telecommunications services in or on an existing building, facility, or area.”

The following agencies were consulted on this action with the results indicated as follows:

Consulted Agency	Comments
Dept. of Health – Food Safety Branch	Confirmed that this food establishment has a valid permit with the Dept. of Health
DLNR – Aquatic Resources	Did not respond by suspense date
DLNR – State Parks	Did not respond by suspense date
Office of Conservation of Coastal Lands (OCCL)	Did not respond by suspense date
Hawaii Dept. of Planning	Applicant required to submit a Special Management Area Assessment Application for the proposed project.

DCCA VERIFICATION:

Place of business registration confirmed: YES X NO
Registered business name confirmed: YES X NO
Applicant in good standing confirmed: YES X NO

JUSTIFICATION FOR REVOCABLE PERMIT:

The issuance of revocable permit is a short-term measure which will allow staff to test the market to determine if it’s practicable to seek the issuance of concession contract for a food concession at this location.

REMARKS:

Da So Fresh Express LLC is proposing a food service truck selling shave ice that has an upgraded solar system which will provide power to run the truck and equipment with a generator available to be only used as a backup. Da So Fresh Express LLC will be required to comply with environmental best management practices the company uses eco-friendly, compostable, and biodegradable shave ice supplies from bowls to wooden spoons and paper straws. The truck will be at the premises every day, 5-7 days a week, from 10:00 AM to 6:00 PM and will be removed from the premises at the end of each day. Nothing from operations will be left behind at the end of each workday.

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.

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, 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. Based on the testimony and facts presented, the Board finds that approving the RP under the conditions and rent set forth herein will serve the best interests of the state.
3. Authorize the issuance of Revocable Permit to Da So Fresh Express LLC covering the subject area for a mobile food concession 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. Review and approval by the Department of the Attorney General;
 - c. The Applicant is required to apply for a Special Management Area Assessment Application (SAA) to be reviewed and approved by the County of Hawaii Department of Planning; and
 - d. 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 and Ocean Recreation

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

Attachments:

A-1 Location of Food Truck

A-2 Location at Food Truck

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Issuance of Revocable Permit to Da So Fresh Express LLC, for a Mobile Food Concession, Situated at Honokohau Small Boat Harbor, Kailua-Kona, Hawaii Island, Hawaii, Tax Map Key: (3) 7-4-008:003 (por.)
Project / Reference No.:	
Project Location:	Honokohau Small Boat Harbor, Kailua-Kona, Hawaii Island, Hawaii, Tax Map Key: (3) 7-4-008:003 (por.)
Project Description:	Issuance of Revocable Permit for Mobile Food Concession
Chap. 343 Trigger(s):	Use of State lands
Exemption Class No(s).:	In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred 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, "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 1, Item No. 44, which 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?	There are no permanent above ground structures. Activities in the subject area have resulted in no known significant impact to the natural and environmental resources in the area.
Action May have Significant Impact on Particularly Sensitive Environment?	Staff is not aware of any particularly sensitive environmental issues and use of the area would not change negligently from what is existing.
Analysis:	Based on the above mentioned, staff believes there would be no significant impact to the environment.
Consulted Parties:	DOH-Food Safety Branch, DLNR-DAR, DLNR-OCCL, DLNR-SP, County of Hawaii Planning

Declaration:	<p>DOH-Food Safety Branch has no objections, the food establishment has a valid permit with DOH.</p> <p>County of Hawaii Planning requires the Applicant to submit a Special Area Assessment Application (SAA).</p>
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Exhibit A-2
Location of Da So Fresh Express LLC
Honokohau Small Boat Harbor



Approximate
Location of Food Truck
Not to scale

