

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Resources
333 Queen Street
Honolulu, Hawaii 96813

May 25, 2012

OAHU

Board of Land and Natural Resources
State of Hawaii
Honolulu, HI

Issuance of a Revocable Permit to Ace Towing Service, Inc. to Provide Vehicle Towing Services and Occupy a Site for a Vehicle Storage Yard, Located at the Ala Wai Small Boat Harbor (AWSBH), Honolulu, Oahu, TMK: (1) 2-3-037: (por)

APPLICANT:

Ace Towing Service, Inc. (Ace) whose address is, 1040 Makepono St.
Honolulu, Hawaii 96819

LEGAL REFERENCE:

Section 171-13 and 55, Hawaii Revised Statutes

LOCATION AND AREA:

AWSBH, Kalia, Waikiki, Honolulu, Island of Oahu, Governor's Executive Order No. 1795.TMK: (1)2-3-037, Storage Yard site of .25 acres, more or less as more particularly shown on Exhibit "A."

AWSBH 8.5 acres, more or less. Including the parking lot:

Total Parking stalls: 1000

Parking Vendor Stalls: 549

Metered Stalls: 101

Open Free Parking Stalls: 300

Storage Yard site of .25 acres, more or less, as approved by the Chairperson.

LAND TITLE STATUS:

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

DCCA VERIFICATION:

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

PURPOSE:

To authorize the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) to enter into a Revocable Permit with Ace for the purpose of managing towing responsibilities within the AWSBH, utilize a designated storage yard and gather pertinent information that can be used to develop an RFP for a future offering of Tow services.

TERM:

Month to month Revocable Permit

RENT

No charges for services provided, although each month the applicant shall provide a report of the number of cars towed from AWSBH or data as may be requested by DOBOR.

**CHAPTER 343 -
ENVIRONMENTAL ASSESSMENT:**

In accordance with the "Comprehensive Exemption List for the Division of the Boating and Ocean Recreation, Department of Land and Natural Resources, State of Hawaii, as concurred by the Environmental Council, State of Hawaii", dated March, 1998, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states in pertinent part, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

REMARKS:

The State was recently sued for allegedly failing to provide due process in connection with vehicles towed from a state owned parking lot at the AWSBH. Parking enforcement was held in abeyance until the lawsuit was settled. We are now moving forward with parking enforcement based on due process requirements. Ace shall be required to tow vehicles in violation of parking rules as identified by DOCARE, DOBOR harbor staff, and/or the present parking concessionaire, Diamond Parking Services, Inc. Ace may also use a portion of the harbor for a storage yard or impound holding area. DOBOR felt that a location close to the site of the AWSBH parking lot could be used for greater efficiency and convenience to the public. The storage area of .25 acres more or less, would be located at the most northern end of the harbor within the old Ala Wai Marine haul out site. This area is currently unused and vacant at this time, as it is in line for future development.

DOBOR staff has had its challenges with vandalism, and vagrancy in the vacant building and feels that the added presence of the tow company may lessen this activity. In the past two years DOBOR has utilized the area for additional special event parking.

The Ace will provide the following:

- Provide towing of vehicles within the entire AWSBH.
- Monitor closure and enforcement of the Ocean Recreation Lots (Free Stalls). These lots normally close at 10:30 p.m. although staff anticipates providing a grace period after which Ace shall tow vehicles to a storage yard located within the AWSBH or should it be necessary to its base yard located on Sand Island.
- Provide DOBOR with a detailed report of vehicles towed on a monthly basis and any other data that may be requested by the Division.
- Ace may install and maintain all temporary improvements during the term of the Revocable Permit. These improvements may include fencing and a mobile office. At the end of the Revocable Permit term, remove all such improvements.
- Any Vehicles towed shall be provided an opportunity of a post tow hearing and Ace will have a representative present at each hearing.
- Indemnification: Ace must indemnify and defend the State and Diamond Parking for any claims arising from the acts or omissions of the tow company and its employees or agents, including any liability arising out of or related to tows from the free parking area after 10:30 p.m.
- Insurance: In addition, Ace must name the State and Diamond Parking as additional insured on its insurance policy. Proof of the additional insured endorsement shall be provided immediately to the State and Diamond Parking upon receipt.

RECOMMENDATIONS:

That the Board:

- A. 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 the preparation of an environmental assessment.
- B. Authorize the issuance of a Revocable Permit to Ace Towing Service, Inc. covering the subject area to provide vehicle towing services and occupy a designated site for a vehicle storage yard, located at the Ala Wai Small Boat Harbor, for purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 1. The standard terms and conditions of the most current Revocable Permit as to form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General;

3. The Permittee shall indemnify the State and Diamond Parking and shall provide liability insurance in an amount to be determined by the department that names the State of Hawaii and Diamond Parking as additional insureds, and;
4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully submitted,

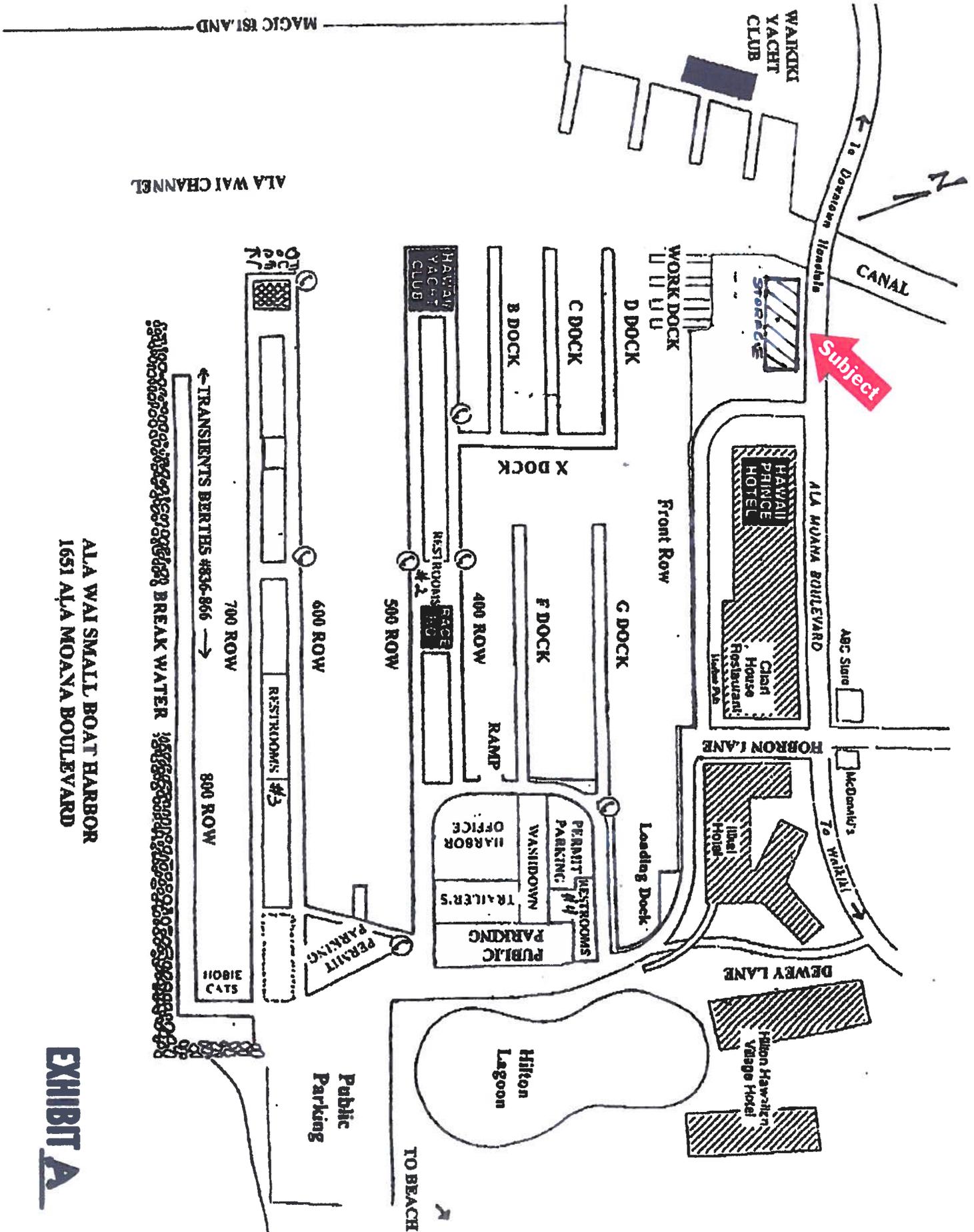


Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson and Member



ALA WAI SMALL BOAT HARBOR
1651 ALA MOANA BOULEVARD

EXHIBIT A