

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 14, 2014

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

PSF No.: 14OD-162

OAHU

Approval in Principle for Issuance of Direct Lease to Friends of North Shore Charter School for Charter School Purposes; Authorize the Issuance of an Immediate Right-of-Entry for Due Diligence Purpose; Waialea, Koolauloa, Oahu, TMK (1) 5-8-001:053.

APPLICANT:

Friends of North Shore Charter School; a domestic non-profit corporation ("Applicant").

LEGAL REFERENCE:

Section 171-6 and 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waialea, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-8-001:053, as shown on the attached map labeled **Exhibit A**.

AREA:

20.629 acres, more or less.

ZONING:

State Land Use District: Agricultural
City and County of Honolulu LUO: AG-2

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:

Vacant and unencumbered.

CHARACTER OF USE:

Charter school purposes.

LEASE TERM:

Thirty (30) years.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480 per year, pursuant to the Board policy on minimum rent currently at \$480 per year.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

Every 10th year during the term of the lease, subject to the Board policy on minimum rent applicable at the time of reopening.

PERFORMANCE BOND:

Twice the annual rental amount.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Upon approval of subject request, applicant will commence the environmental assessment pursuant to Chapter 343, HRS. Outcome of such assessment process will be brought to the Board before final approval of the requested lease is considered by the Board.

In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class 5, No. 1, that states " Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property

for appraisal and development feasibility study purposes." (**Exhibit B**)

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u> x </u>	NO	<u> </u>
Registered business name confirmed:	YES	<u> x </u>	NO	<u> </u>
Good standing confirmed:	YES	<u> x </u>	NO	<u> </u>

APPLICANT REQUIREMENTS:

None at the time of writing this submittal, subject to insertion of any applicant requirement upon finalization of the environmental assessment process.

REMARKS:

At its prior meeting of July 25, 2014, under agenda item D-9, the Board approved-in-principle the issuance of a direct lease to Ho`ōla Nā Pua for residential treatment purpose over the adjacent State parcel. The parcel is identified as tax map key (1) 5-8-001:051 or referred as the former Crawford Convalescent Home. The Applicant, who was also requesting to use the same Parcel 51, filed a petition for contested case hearing regarding the Board action. The Board decided to stay the effectiveness of its approval until the contested case hearing has been resolved. For the Board's information, the Applicant recently rescinded, in writing, its petition for the contested case hearing, and staff is currently working with Ho`ōla Nā Pua pertaining to its application.

Applicant subsequently filed an application for a direct lease over the subject parcel ("Parcel 53") for charter school purposes. Based on the same material contained in the previous application, staff solicited comments from other agencies on the requested approval-in-principle of a direct lease, with the issuance of a right-of-entry for due diligence purposes. Comments from those agencies are provided in the following paragraphs, while a brief description of the request is shown below.

The proposal¹ pertains to setting up of a charter school for 7th and 8th grades. According to the applicant, there is no middle school option for North Shore children within a 45-minute to one-hour drive. Children as young as 12 years old have to go to school with children as old as 19 years old. The proposed charter school aims at a "blended learning environment with daily online and classroom components, career focus groups and community service outreach."

AGENCIES COMMENTS

No objection

Division of Forestry and Wildlife, Department of Facility Maintenance, Department of Parks and Recreation,

¹ Application and other supporting material are kept in the pending file. Portion of the material was also attached to the Board submittal July 25, 2014.

No response submitted before the deadline

Department of Health (Environmental Planning), Department of Hawaiian Home Lands, Commission on Water Resource Management, and Office of Hawaiian Affairs.

Comments provided

State Public Charter School Commission, Department of Transportation, Highways Division, Board of Water Supply, State Historic Preservation Division, and Department of Planning and Permitting have provided their comments which are attached as **Exhibit C1 to C5**. Staff notes that the issues covered by the agencies' comments will be addressed in the environmental assessment process.

STAFF POSITION

In previous cases regarding direct leasing for non-profit organizations, staff would recommend the issuance of a 24-month right-of-entry permit to allow the applicant going through the environmental assessment process. Upon the compliance with the environmental assessment process, staff would bring the application to the Board for final approval for the issuance of a direct lease. Staff understands the environmental assessment process is costly. Further, an applicant would want to obtain an approval-in-principle from the Board before it starts any due diligence. The approval-in-principle would facilitate the applicant to seek funding to conduct the due diligence.

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, and is a domestic non-profit corporation and 501(c) (3) entity, which qualifies for a direct lease pursuant to 171-43.1, HRS.

Staff does not objection to a requested approval-in-principle for the direct issuance of a lease plus the associated right-of-entry permit.

RECOMMENDATION: That the Board:

1. Approve in principle for the issuance of a direct lease to Friends of North Shore Charter School.
2. At its own cost, Friends of North Shore Charter School shall pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval;
3. Should the selected applicant fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval, the Land Board's approval shall be considered rescinded;
4. Friends of North Shore Charter School shall acknowledge the following:


- A. All costs associated with the necessary compliance with Chapter 343, Hawaii Revised Statutes shall be the responsibility of the Friends of North Shore Charter School; and
 - B. This action is an approval in principle and does not provide any assurance of a direct lease and such approval of a direct lease shall be subject to consideration by the Land Board under a separate action after satisfactorily complying with Chapter 343, Hawaii Revised Statutes.
5. Declare that, after considering the potential effects of the requested right-of-entry 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.
6. Authorize the issuance of an immediate right-of-entry permit to the Friends of North Shore Charter School for conducting due diligence pertaining to environmental assessment compliance for the requested leases covering the subject area 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 right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

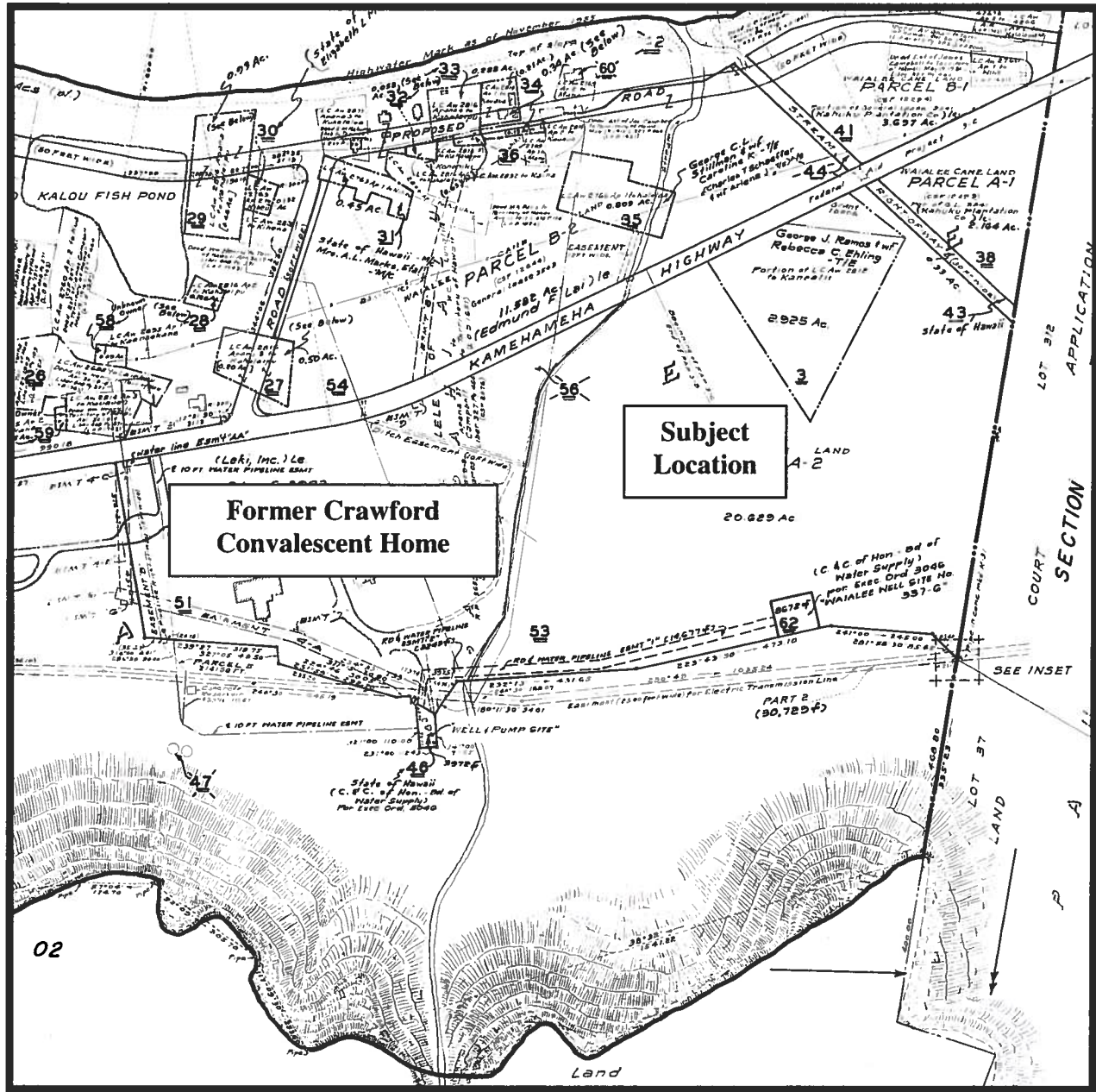
Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TMK (1) 5-8-001:053

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Right-of-Entry for Due Diligence Purposes

Project / Reference No.: 14OD-162

Project Location: Waialeale, Koolauloa Oahu Tax Map Key: (1) 5-8-001:053

Project Description: Due diligence purposes.

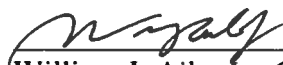
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation", and pursuant to Exemption Class No. 5, that states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource."

The request is related to due diligence needs for the proposed direct lease for charter school. Staff does not expect there will be major alteration in the conditions of the land, water or vegetation at the location.

Consulted Parties Not applicable

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



 William J. Aila, Jr., Chairperson
 Date 10/31/14

EXHIBIT B

140D-162

NEIL ABERCROMBIE
GOVERNOR




RECEIVED
LAND DIVISION
CATHERINE PAYNE
CHAIRPERSON

2014 OCT 13 PM 2:57

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
('AHA KULA HO'AMANA)
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: 586-3775 Fax: 586-3776

DATE: October 10, 2014
TO: Barry Cheung, District Land Agent
Department of Land and Natural Resources, Land Division
FROM: Tom Hutton, Executive Director 
SUBJECT: Comments on Application from the Friends of North Shore Charter School for a Direct Lease of Parcel Located in Waialea, Koolauloa, Oahu, TMK No. (1) 5-8-011:053

In response to your memorandum of September 17, 2014, soliciting the State Public Charter School Commission's ("Commission") comments on the application from the Friends of North Shore Charter School for the use of the subject parcel for a proposed charter school, North Shore Middle School, we submit the following information.

On May 20, 2014, the Commission denied the charter school application for North Shore Middle School. The applicant appealed the Commission's denial of its charter application to the Board of Education ("BOE") on June 16, 2014. On August 14, 2014, the BOE affirmed the Commission's decision to deny the North Shore Middle School charter application.

Because the Friends of North Shore Charter School's parcel application is essentially identical to its previous parcel application, the response to question 13 of the parcel application still indicates \$600,000 of pending state funds and \$175,000 of pending federal funds. The Commission is not clear as to the sources of these funds but notes that it only distributes state and federal funds to established charter schools, which the parcel applicant currently is not.

As mentioned in its response to the March 2014 memorandum, however, the Commission does note that there is considerable evidence of strong community support for a middle school on the North Shore. As noted in our response, the Commission determined that the charter application was not ready for approval during its last application cycle. The Commission would like to emphasize again that if there were a charter application that was otherwise ready for approval, an adequate facilities plan would be a significant positive consideration in the Commission's decision whether to approve the charter application. The serious challenge start-

EXHIBIT "C1"

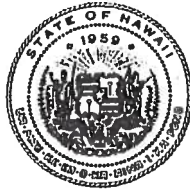
Barry Cheung
Page 2
October 10, 2014

up charter schools confront in securing and maintaining adequate facilities to serve their students is widely recognized.

Finally, as a correction to the Friends of North Shore Charter School's letter to the DLNR dated September 4, 2014, the Commission's next application cycle is anticipated to begin this month, October 2014, with decisions scheduled to be made in August 2015.

If you have any questions, please contact Alison Kunishige, Chief Operations Officer, at 586-3777 or alison.kunishige@spcsc.hawaii.gov, or Kenyon Tam, Operations and Applications Specialist, at 586-3784 or kenyon.tam@spcsc.hawaii.gov.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

FORD N. FUCHIGAMI
INTERIM DIRECTOR

Deputy Directors
RANDY GRUNE
AUDREY HIDANO
ROSS M. HIGASHI
JADINE URASAKI
IN REPLY REFER TO:

HWY-PS 2.8237

October 14, 2014

TO: THE HONORABLE WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

ATTN: BARRY CHUNG
DISTRICT LAND AGENT
LAND DIVISION

FROM: FORD N. FUCHIGAMI
INTERIM DIRECTOR OF TRANSPORTATION

SUBJECT: REQUEST FOR DIRECT LEASE FOR CHARTER SCHOOL PURPOSES
FRIENDS OF NORTH SHORE CHARTER SCHOOL
KOOLAULOA, WAIALEE, OAHU, TMK: (1) 5-8-001:053

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII
2014 OCT 17 PM 2:51
RECEIVED
LAND DIVISION

Friends of North Shore Charter School propose to direct lease vacant land along Kamehameha Highway, State Route No. 83, for the purpose of establishing a Charter Middle School on the North Shore.

We have no objections to the proposed lease provided that the Applicant provide a traffic assessment, for our review and acceptance, that was prepared by a licensed traffic engineer to determine traffic impacts, mitigation of those impacts, verified sight distances at any proposed access, and that a proper access be constructed to the property. A proper access shall be consistent with the Department of Transportation driveway guidelines, highway design standards and may require provision for a left-turn storage lane. Necessary improvements and mitigations shall be provided at no cost to the State.

Further requirements may be necessary depending on the design and layout of the proposed school and the recommendations of the traffic assessment.

If there are any questions, please contact Ken Tatsuguchi, Engineering Program Manager, Highways Planning Branch, at 587-1830. Please reference file review number 2014-183 in all contacts and correspondence regarding these comments.

c: Friends of North Shore Charter School

EXHIBIT "C2"

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



October 22, 2014

KIRK CALDWELL, MAYOR

DUANE R. MIYASHIRO, Chair
ADAM C. WONG, Vice Chair
MAHEALANI CYPHER
THERESIA C. McMURDO
DAVID C. HULIHEE

ROSS S. SASAMURA, Ex-Officio
FORD N. FUCHIGAMI, Ex-Officio

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

RECEIVED
LAND DIVISION
OCT 23 PM 3:03
DEPT. OF LAND AND NATURAL RESOURCES
STATE OF HAWAII

Mr. Barry Cheung, District Land Agent
State of Hawaii
Department of Land and Natural Resources
Land Division
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Cheung:

Subject: Your Letter Dated September 17, 2014, Requesting a Direct Lease for Charter School Purposes; Waialea, Koolauloa, Oahu; Tax Map Key 5-8-001:053

The Board of Water Supply (BWS) has no objections to the direct lease of the subject property for Charter School purposes to Friends of North Shore Charter School. BWS has existing pipelines within the subject, which is in close proximity to our Waialea Wells. If the State decides to lease this parcel, we require the following:

1. Preservation of our existing pipeline and roadway easements in the subject property.
2. Prohibition of construction of any structures above our easements and foundations below the surface of our easements.
3. Execution of a Memorandum of Understanding or Agreement with the new lessee, which sets forth the conditions and restrictions of our easements.
4. Provision of an access easement over and across the subject property so we can access the Waialea Wells I and II, pipelines and appurtenant equipment.
5. Relocation of the domestic water meter to Kamehameha Highway, it is currently located within the subject property.

If you have any questions, please contact Beverly Mau of our Land Division at 748-5916.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

Enclosures

EXHIBIT "C3"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHIIWA BUILDING
601 KAMOKIIA BLVD, STE 555
KAPOLEI, HAWAII 96707

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOARDING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAAHOOLAWE ISLAND RESERVATION COMMISSION
LAND
STATE PARKS

October 24, 2014

Mr. Barry Cheung, District Land Agent
Department of Land and Natural Resources
Land Division, P.O. Box 621
Honolulu, HI 96809

LOG NO: 2014.04300
DOC NO: 1410GC10
Archaeology, Architecture

Dear Mr. Cheung:

**SUBJECT: Chapter 6E-7 Historic Preservation Review –
Request for Direct Lease For Charter School Purposes – PSF No. 14OD-162
Waiale'e Ahupua'a, Ko'olauloa District, Island of O'ahu
TMK: (1) 5-8-001:053**

Thank you for the opportunity to provide comments regarding the above request, which we received on September 19, 2014. The applicant, Friends of North Shore Charter School, is requesting a direct lease of the subject parcel (adjacent to the former Crawford Convalescent Home) for charter school purposes. The 21 acre parcel more or less, is identified as Government lands.

The Crawford Convalescent Home located within TMK: (1) 5-8-001:003 is eligible for the State and National Registers of Historic Places under Criteria A and C for its role as a training school for the area's youth and as an early example of a youth correctional facility in the Hawaiian Islands.

A review of our records indicate that this parcel has not been subjected to an archaeological inventory survey and that no historic properties have been identified. Our records also indicate that archaeological resources have been identified along the coast in proximity to the subject parcel. These archaeological historic properties include several cultural layers, including SIHP 50-80-02-3735 (Simmons and Davis 1988) and SIHP 50-80-01-5790 (Souza et al. 2000), and Kalou Fishpond, SIHP 50-80-01-257 (Yent and Ota 1981). Our records also indicate SHPD previously requested an archaeological inventory survey (AIS) be conducted for TMK: (1) 5-8-001:043 and 053 (Log No. 2006.3514, Doc. No. 0610aj12). As of yet, we still have not received an AIS for the subject parcel (TMK: (1) 5-8-001:053).

We believe no historic properties will be affected by the proposed issuance of a direct lease to the Friends of North Shore Charter School. However, if the lease for the subject parcel (TMK: (1) 5-8-001:053) is granted, we request that a condition be added to the transfer that any future permits or plans involving proposed ground-disturbing activities within this parcel be submitted to our office for review prior to implementation.

Please contact Jessica Puff at (808) 692-8023 or at Jessica.L.Puff@hawaii.gov if you have any questions or concerns regarding architectural resources. Please contact me at (808) 692-8019 or at Susan.A.Lebo@hawaii.gov if you have any questions or concerns regarding archaeological resources or this letter.

Aloha,

Susan A. Lebo

Susan A. Lebo, PhD
Oahu Lead Archaeologist

EXHIBIT "C4"

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



2014 OCT 28 AM 10:30

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

2014/ELOG-1772(PL)

October 27, 2014

Mr. Barry Cheung
State Department of Land and Natural Resources
Land Division
Post Office Box 621
Honolulu, Hawaii 96809

Dear Mr. Cheung:

SUBJECT: Request for Comments
Proposed Use of State Lands for a Charter School
Haleiwa, Waialeale, Kaneohe, Koolauloa, Oahu
Tax Map Key: 5-8-1: 53

This is in response to your letter, which we received September 18, 2014, requesting comments on the direct lease by the Friends of North Shore Charter School of the vacant lot adjacent to the former Crawford Convalescent Home as a charter school. The 20.629-acre site is in the AG-2 General Agricultural District and within the Special Management Area (SMA). Because the property is within the State's jurisdiction, any proposed use of the property must be reviewed under Chapter 343, Hawaii Revised Statutes, related to Environmental Impact Statements.

The site is also within the SMA, and any future construction on the site would be considered "development" therefore, a Special Management Area Use Permit (SMP) will be required if any changes in the density or intensity of the use of the land, water, and ecology are proposed. Those improvements will be subject to the requirements of the SMA regulations which include obtaining a SMP.

In an email dated October 22, 2014, Ms. Dali Pyzel, a Board Member of the Friends of North Shore Charter School indicated that the school will be a public charter school funded by the State, and tuition-free to all who are enrolled. Public schools administered by the Department of Education are "public uses and structures" and permitted in all zoning districts.

EXHIBIT "Cs"

Mr. Barry Cheung
October 27, 2014
Page 2

If you should have any questions, please contact Pat Lee of our staff at 768-8019 or at plee@honolulu.gov.

Very truly yours,


for George I. Atta, FAICP
Director