

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

September 26, 2008

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

**REQUEST THE BOARD TO APPROVE THE RECOMMENDATIONS FOR THE
ISSUANCE OF COMMERCIAL ACTIVITY PERMITS FOR KAA NAPALI
BEACH, MAUI.**

BACKGROUND:

Section 13-251-76, Hawaii Administrative Rules (HAR), requires all persons engaged in commercial activities of any kind in or on Kaanapali Beach and ocean waters to hold a written permit from the Board of Land and Natural Resource (Board) or its authorized representative to engage in such activities. At the September 26, 2003, Board meeting (Exhibit A), the Division of Boating and Ocean Recreation (DOBOR) requested that the Board review and approve a commercial activity permit for Kaanapali Beach as required by HAR. The Board did approve DOBOR's request with amendments which are reflected in the minutes (Exhibit B).

At the May 9, 2008 Board meeting, DOBOR requested that the Board renew the existing ocean recreation management area use permits as well as authorize inclusion of an addendum that would allow the operator to embark and disembark passengers from Kaanapali Beach. DOBOR also recommended that no storage of equipment or any type of commercial activity should be permitted on the beach. The Board approved the renewal of the existing permits and the issuance of an addendum for the embarking and disembarking of passengers; however, due to community opposition to the recommended ban of commercial activity on the beach, the Board instructed DOBOR to meet with the community and return within ninety days and make recommendations for uses of the beach based on community input. DOBOR met with the community on two separate occasions, reviewed the prior Board submittals with minutes, and worked with DLNR's Land Division regarding appropriate uses that should be permitted on Kaanapali Beach. Based on the information gathered DOBOR recommends the following:

Kaanapali Beach Commercial Activity Permit Condition Amendments

Delete #6, #7, and #18 from permit conditions that were previously approved at the September 26, 2003 Land Board meeting. Include the following recommendations as

permit conditions once approved by the Board.

Renting of Beach Chairs, Cabanas, and Umbrellas

The renting of beach chairs, cabanas, and umbrellas may be permitted from private property but no equipment will be permitted to be preset on Kaanapali Beach. Any equipment rented from private property may be set up on the beach at the time the renter is present for immediate use. All rental equipment will have an invoice/label attached that at a minimum states who the renter is and the duration of the rental. Any equipment left unattended for more than one hour must be removed from the beach.

Commercial Beach Activities that Support Commercial Vessel Operations

Currently, there are three operators that are permitted to set up one eight-foot umbrella and chair on Kaanapali Beach. These operators are engaged in parasailing and jet skiing activities which require numerous landings on the beach to embark and disembark passengers. DOBOR recommends continuing to allow the three operators to set up a chair and an eight-foot umbrella for the purpose of providing protection from the elements for their staff assisting with the landing of the shuttle vessels on the beach. At a minimum, the staff shall be trained in CPR, First Aid, and life saving techniques. Equipment is to be set up as close to the ingress and egress zones as possible. No advertisements or financial transactions will be permitted on the beach. Operators will be permitted to have a clipboard for the purpose of checking in passengers as well as signing waivers.

Surf School Operations

There are several surf school operators that are conducting business on Kaanapali Beach. They set up umbrellas, store surf boards on the beach between lessons, advertise, and collect money. In order to ensure consistency with the management of commercial surf school operations, the recommendation is to follow the same guidelines used for Waikiki Beach. No surf school operations are permitted to take place on the beach of any kind. All commercial activities must take place on private property.

New Commercial Beach Activities

DOBOR recommends that no new commercial use permits be issued for the use of Kaanapali Beach for one year. This will allow DOBOR time to monitor the current authorized activities to see what effects they are having on the beach. Subsequent to the expiration of the one year moratorium, DOBOR will consider any new application for commercial use of the beach, hold public informational meetings to obtain community sentiment, and seek Board approval prior to issuing any new commercial use permits for the beach.

Commercial Use Permit Authorization

DOBOR recommends that the Board designate the Administrator of DOBOR as its authorized representative for the purpose of authorizing commercial activity permits and commercial use permits for Kaanapali Beach and ocean waters.

Commercial Vessel Operations

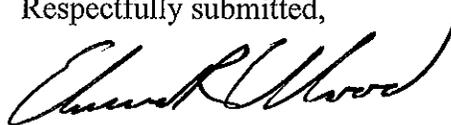
All commercial vessels are required to operate according to Federal and State regulations. All vessels are required to operate at slow, no wake speed, when within 500' from the Kaanapali Beach shoreline and vessels may only gain access to the shoreline by using one of the five designated ingress/egress corridors (Exhibit C).

RECOMMENDATIONS:

That the Board:

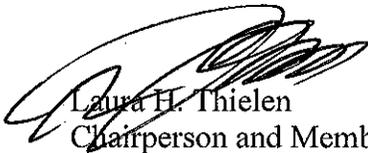
1. Approve the recommendations for the issuance of commercial activity use permits for Kaanapali Beach.
2. Designate the Administrator of DOBOR as the authorized representative for the purpose of issuing commercial use and activity permits for Kaanapali beach and ocean waters.

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL



Laura H. Thielen
Chairperson and Member

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
333 Queen Street, Suite 300
Honolulu, Hawaii 96813

September 26, 2003

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

OAHU

The Division of Boating and Ocean Recreation is submitting a request for review and approval Commercial Activity Permit for Kaanapali Beach as required by section 13-251-76, Hawaii Administrative Rules.

STATUTE:

Sections 200-3 and 200-4, Hawaii Revised Statutes

PURPOSE:

Approval in concept of Commercial Activity Permits for Kaanapali Beach

REMARKS:

Section 13-251-76, Hawaii Administrative Rules was approved by the Land Board on February 14, 2003 and received final approval by the Governor on June 5, 2003 and was adopted on June 15, 2003.

Section 13-251-76, Exhibit "A," was developed to address ever-increasing commercial activity on Kaanapali beach. Previous to the adoption of this section, there was no rule that specifically controlled commercial activities on the beach. Permits have been issued as they related to commercial activities on the ocean; however, no permit was required nor conditions established for the beach. The increase in unpermitted operations, in addition to the legal commercial activities, resulted in a significant number of complaints by users of the beach, hotel personnel located adjacent to the commercial activity sites and between and amongst legal and illegal operators. Litigation resulted stemming from user conflicts that led the

Division to craft a rule to address commercial activities on the beach.

Subsequent to the adoption of the rule, a commercial permit was developed (Exhibit "B"). The permit outlines minimum qualifications, permit terms and permit conditions that are required of the permittee.

(HAR §13-251-76 requires a permit for conducting commercial activities on Kaanapali Beach. The rule does not set forth a process for obtaining permits, nor does it provide detailed guidance as to the types and numbers of permits that may be issued. We have been advised by the department of the attorney general that there are sufficient parameters within subsections (c) through (g) of the rule to begin implementation of a permitting system. However, because within those parameters there is room for considerable discretion, the attorney general's office has recommended that the permits be issued by the Board, rather than by the Chairperson or DLNR staff. By having the permits issued by the Board, the public has the opportunity to comment on the applications, such as whether the area can accommodate the activity proposed and conditions and requirements that should be imposed if a permit is issued.)

Specific permit conditions include, but are not limited to the following:

- A specific non-exclusive right to a portion of the beach where commercial use shall be conducted. There is no lease or exclusive use of the area. Other commercial users cannot use the designated location but the public is allowed to utilize the area.
- The permittee shall not store or leave anything on Kaanapali Beach between 7:01 p.m. and 5:59 a.m. Any permittee who violates this condition shall be subject to the confiscation of their equipment.
- There are safety requirements, e.g., CPR, attached to any permit associated with water sports equipment.

- The permittee may advertise on the premises but the signage shall not exceed two by three feet in size.
- Financial transactions may be conducted on the premises, but only as they relate to the goods and services of the permit.
- The permit does not grant or constitute a vested property interest, but is a privilege granted for the use of the premises for a specified activity and time period.

The Land Board can amend these conditions or impose additional conditions to address particular fact situations.

Department representatives have been meeting with the affected user groups and various stakeholders over a number of months to share the draft conditions of the permit. Where deemed appropriate, the Department incorporated their input and recommendations into the permit.

RECOMMENDATION:

That the Board:

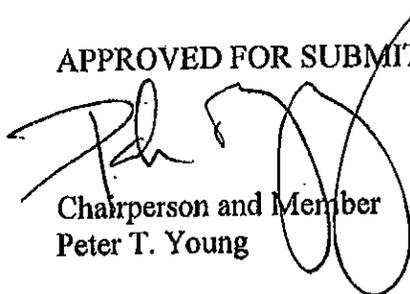
1. Approve in concept the Commercial Activity Permit for Kaanapali Beach as submitted.

Respectfully submitted,



W. Mason Young
Acting Administrator

APPROVED FOR SUBMITTAL:



Chairperson and Member
Peter T. Young

§13-251-76 Commercial activities. (a) No person shall engage in commercial activities of any kind in or on Waikiki or Kaanapali ocean waters and beach without a written permit from the board or its authorized representatives.

(b) "Kaanapali beach" means the area within Kaanapali ocean waters that is situated between the shoreline and the mean high tide mark along the shores. Exhibits E(2A) through E(2D), dated February 22, 2002, located at the end of this chapter, are provided for reference, and depict the shoreline location of Kaanapali Beach as of September 12, 2001.

(c) Kaanapali beach is designated for public use for sunbathing, foot traffic, swimming, and other activities which, when engaged in, shall not unduly disrupt others from enjoying the beach.

(d) Constructing or placing any building or structure or storing any property, whether temporary, portable, or permanent, at Kaanapali beach shall be prohibited, except where authorized by the department, and, in addition to any other remedies, unauthorized buildings, structures, or property may be removed by the department at the sole risk and cost of the owner.

(e) Vessel owners shall be prohibited from storing any vessel or associated equipment on Kaanapali beach, unless authorized by the department.

(f) The following activities shall be prohibited on Kaanapali beach:

- (1) Kite flying; and
- (2) Kite surfing equipment.

(g) The maximum number of Kaanapali commercial permits that may be issued for monohull vessels to embark and disembark passengers at Kaanapali beach shall not be greater than five, but small craft used to shuttle passengers to and from a monohull vessel in the Kaanapali waters may be included under that vessel's commercial activity permit.

(h) Law enforcement and rescue vessels are exempt from the provisions of this section. [Eff 2/24/94 am JUN 16 2002] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

EXHIBIT A

COMMERCIAL ACTIVITY PERMIT
FOR KAANAPALI BEACH

Name of Permittee _____

Address of Permittee _____

If Organization, _____
name of responsible person

Permitted Activity _____
(be specific) _____

Location of Permitted Activity _____
(attach map), hereafter _____
called the "Premises" _____

Permit Term _____

This permit is subject to all the terms and conditions attached hereto. A violation of any one of these conditions is grounds for revocation of this permit.

Chairperson, Board of
Land and Natural Resources

Approved by the Board
of Land and Natural
Resources on _____

EXHIBIT B

EXHIBIT A

QUALIFICATIONS FOR KAA NAPALI BEACH
COMMERCIAL ACTIVITY PERMITS

Applicants, at a minimum, shall meet the following criteria to qualify for a permit:

- (1) Be a duly organized business in good standing in the state or an individual over the age of eighteen;
- (2) Hold a current Hawaii State General Excise Tax license;
- (3) Hold a current Hawaii State tax clearance certificate;
- (4) If relevant to the commercial activity (e.g., surf instruction) be currently certified by the American Red Cross or American Heart Association in Cardio-Pulmonary Resuscitation techniques, American Red Cross Water Safety Training and Standard First Aid or other nationally recognized certification agency and any other certifications all as may be determined and required by the department; and
- (5) Have no outstanding complaint or unpaid fines for violations of any laws and rules administered by the board. The Board may deny a permit if the applicant, its principals, subsidiaries or affiliates have a significant record of violations of any laws, rules, or permit conditions administered by the board.

Depending on the type of commercial activity proposed, the Board may require other qualifications for permit applicants.

PERMIT TERMS

- (1) This permit may be cancelled without prior notice when:
 - (a) an emergency is declared by the Department of Land and Natural Resources or other proper authority; or
 - (b) the permitted activity poses an immediate threat to the health, safety, and welfare of the general public.

- (2) Any other provision notwithstanding, this permit may be cancelled upon thirty days written notice to the Permittee when:
 - (a) the Permittee violates any permit condition;
 - (b) the permitted activity damages or threatens to damage the integrity or condition of the premises or the surrounding environment; or
 - (c) the permitted activity poses a threat to the health, safety, or welfare of the general public or otherwise negatively impacts the general public's use and enjoyment of the premises or surrounding lands.

KAANAPALI BEACH COMMERCIAL ACTIVITY
PERMIT CONDITIONS

(1) Permittee shall have this permit at the site and shall produce it upon request.

(2) Permittee is limited to conducting the commercial activities described above on Kaanapali Beach from 7:00 a.m. to 7:00 p.m. daily.

(3) No personal property, equipment, gear, vessels, vehicles, and materials of any kind shall remain on Kaanapali Beach, whether unattended or not, between 7:01 p.m. and 6:59 a.m. daily. Any such property left unattended during that time may be impounded or confiscated and may be disposed of or moved to a place of storage. If moved, the owner shall be assessed moving, storage, or other reasonable fees. Additionally, the owner of the property shall bear the risk of any loss or damage to the property.

(4) If the commercial activity permitted includes the rental of any water sports equipment or instruction in any water activities, Permittee shall have on the premises at least one employee certified by the American Red Cross or American Heart Association in Cardio-Pulmonary Resuscitation techniques, American Red Cross Water Safety Training and Standard First Aid or other nationally recognized certification agency. All locations rendering water related services from the land must have on premise a first aid kit. Other safety items to include back board and water safety belt.

(5) All employees of Permittee who are on the premises shall wear, in a clearly visible location on the body, a name tag identifying the name of the employee and the name of the Permittee.

(6) Advertisements on the premises shall be limited to one sign, not to exceed 2' x 3' in size, which shall, at a minimum indicate the name of the Permittee. Advertising by distribution of literature or handbills or by any audio means is prohibited.

(7) Financial transactions may be conducted on the premises only for goods and services related to this permit. Notwithstanding Condition 6, a written price list for all goods and services provided shall be prominently displayed, provided that such written display shall not exceed 1' x 2' in size.

(8) Permittee is responsible for cleanup and hauling away, and any costs associated therewith, of any trash resulting from the permittee's activity.

(9) This permit is not transferable or assignable.

(10) This permit is not renewable. Continuation of commercial activities beyond the term of this permit requires a new application.

(11) This permit does not grant or constitute a vested property interest, but is a privilege granted for the use of the premises for a specified activity and time period.

~~(12) This permit does not grant any right or interest to occupy or possess the premises or the right to exclude others from the premises. Permittee shall not displace the public or block off, rope off, or otherwise restrict public use or access to the premises. Public access shall not be obstructed or interfered with in any way.~~

(13) Permittee shall comply with all applicable laws, rules, and regulations of the federal, state, municipal and county governments. This permit does not grant any other approvals that may be required of the permittee for the permitted activity, nor does it exempt the permittee or permitted activity from any applicable laws, rules, ordinances, and regulations of any federal, state, municipal, or county governments.

(14) The use of the premises shall not be in support or any policy that discriminates against anyone based on race, creed, color, sex, national origin, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus).

(15) Permittee shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Permittee shall not allow the storage or use of such materials in any manner not sanctioned by law or the highest standards prevailing in the industry for storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of permittee's business, and then only after written notice is given to the state of the identity of such materials and upon the state's consent, which may be withheld at the state's sole discretion. "Hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous materials, hazardous substance, or

oil as defined in or pursuant to the Resource Conservation Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state or local environmental law, regulation, ordinance, rule or by-law, whether existing as of the effective date these rules, previously enforced, or subsequently enacted.

(16) The Permittee agrees to indemnify, defend, and hold the State of Hawaii harmless from and against any claims or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or relating to this permit.

(17) Permittee shall at all times have comprehensive general liability insurance in the minimum amount of \$1,000,000, listing the State of Hawaii as additional insured.

(18) If required for the conduct of the permittee's business, one tent, not to exceed 12' x 12' tent will be allowed.

feels it is a privilege to advise, share and teach the public and the visitors about the ocean. He also notes this company serves a role as lifeguard on the beach and over the years they've saved hundred's of lives. Mr. Aikau also informed the Board he just found out about today's meeting and was never notified by mail this item would be on the Board's agenda.

Bob Hampton president of Waikiki Beach Activities (a hotel beach concessionaire at the Hilton Hawaiian Village) told the Board he supports everything Mr. Aikau has stated. Mr. Aikau has provided all the traditional activities for the hotel guest. In staff's submittal where it makes reference to two unauthorized beach concessions, Mr. Hampton noted one of the unauthorized companies was his company. Ninety-nine percent of his clients are guests of the Hilton Hawaiian Village. The guest comes to his stand, which is located on Hilton property to take care of their rental needs. Once the transaction is complete Mr. Hampton's staff goes out and places the umbrellas or whatever equipment is rented on the beach for the guests. In closing Mr. Hampton acknowledge his support for the work Mr. Aikua has done in the past and hopes the State will allow C & K Beach Services to remain at the subject site.

George Downing testified in support of allowing C & K to operate on the lands in question. Mr. Dowling spoke of a time in the early 1990's when he went before the legislature and was able to obtain an exemption for non-profit organization operating beach concessions that preserve the beachboy tradition. Mr. Downing feels it is important to take care of the visitors we come into contact with at the beach services because the tourist brings money into our economy. The concern with the concessionaires at the beach should be to on how to protect the public not on making lots of money. In closing Mr. Downing urged the Board to leave things as it is and allow C & K to continue operation of beach services at the Duke Kahanamoku Beach.

The Board asked that staff work with the existing permittee (Clyde Aikau) on a direct concession for the preservation of beachboy tradition and to bring the matter back to the Board at the first meeting in January 2004.

Motion to Defer

Unanimously approved to defer (Inouye/Johns).

Item J-1: Request for Review and Approval of Commercial Activity Permits for Kaanapali Beach as required by Section 13-251-76, Hawaii Administrative Rules.

Dan Davidson, Deputy Director for Land communicated the purpose of this permit process is to limit and control commercial activity on Kaanapali Beach. He notes the pictures in the handout illustrates that a lot of commercial use is taking place on Kaanapali Beach. Mr. Davidson indicated he would like to implement some new regulator tools the department has. Through his investigation, Mr. Davidson has come to the conclusion that the Department does not have an adequate Division of Boating and Ocean Recreation (DOBOR) rule that addresses/enforces commercial activity on the beach. He pointed out there are two different types of commercial activity that take place on the beach: non-hotel/condo related enterprises; and hotel related enterprises. Mr. Davidson went over the standard condition of the proposed permit. He

recommended the Board approve in concept the Commercial Activity Permit for Kaanapali Beach as submitted.

Yvonne Izu of the Deputy Attorney General's office spoke on why she believes the Board can give authorization for the Chairperson to issue the commercial activity permits as opposed to the Board authorizing the permits. Ms. Izu feels if the Board determines the number of permits to be issued, the type of permit and the conditions of the permit it would then limit the Chairperson's discretion. Today it is just a matter of the Board approving a permitting system.

Shelley Kekuna Director of Marketing for Kaanapali Beach Resort told the Board what has been proposed by staff in its submittal needs to be tighten up. She feels the State needs to take more control of the commercial activities happening on Kaanapali Beach. Ms. Kekuna made the following comments: 1) She feels the permit should state what items the permit holder is allowed to possess on the beach; 2) The Board should issue a year-to-year permit and when the permittee comes to DOBOR for renewal of their permit, staff could evaluate if they were abiding by all of the terms and conditions set forth; 3) She also had some strong concerns with regards to insurance. She believes a one million dollar liability insurance policy is too low. The Board should ask for coverage of 3-5 million; 4) She requested the hotels be listed as an additional insured in case one of their guest get hurt renting beach related equipment; 5) Ms. Kekuna spoke of the eyesore created by the tents and signs set up the vendors along the beach. She recommended the vendors use an umbrella instead of a tent; 6) As far as cash transactions on the beach she is against any exchange of money on the beach as it could serve as a venue for illegal activities; and 7) Regarding enforcement, Ms. Kekuna feels the permit process is a step in the right direction, but without specific conditions on the permit the enforcement officers will have a hard time citing vendors.

David Flavin a permittee on Kaanapali Beach appeared before the Board. He feels the people operating on Kaanapali Beach with permits should be given first priority when the new permits are issued. He spoke on some of the rules established by the Division of Boating and Ocean Recreation (DOBOR). In support of the vendors being on the beach, Mr. Flavin noted the individuals operating the concession stands are the first line of defense for people in the water who might get into trouble since there are no lifeguards on the beach. He also informed the Board how the hotel operators place their cabanas and other equipment on the beach all day and night. He spoke of the difficulty he would incur if the Board does not allow him to store his equipment somewhere on the beach or nearby the vegetation line.

Jeff Halpin a hotel operator made it known the commercial activity at Kaanapali has gotten out of control and needs to be regulated. He feels the rules are a step in the right direction but offered the following changes: 1) The Board increase the amount of the liability insurance to three or five million dollars. The proposed 1 million dollar coverage is inadequate; 2) All employee's should be covered by worker's compensation; 3) Certificates of CPR training by all workers shall be on file at DOBOR's office; 4) list a clause stating that "all activities not listed on the permit shall not be allowed" 5) All equipment and displays shall be confined to a 12 x 12 area; 6) Use of umbrella's instead of tents but if tents are allowed they should be consistent in its color and construction; 7) Department should in its rules list the number of permits to be issued by the Chairperson; 8) A rule which states "No permittee shall be located within three

hundred yards of another permittee" 9) All permits shall expire on December 31 of each year irregardless of when the permit was issued; and 10) There should be a limit on the type of surfboard and equipment a permittee can possess on the beach.

The Board voiced its concern with the hotels placing lounge chairs on the beach thereby reserving space for their guests.

Mr. Davidson clarified the permits DOBOR will be issuing is for non-exclusive use of an area. The public cannot be excluded from an area. What this permit would accomplish is to regulate where commercial operators will be located

Mike Kelley Teralani an activities vendor operating on the grounds of a hotel testified before the Board. Mr. Teralani feels the State does not need to have vendors on Kaanapali Beach because the hotels provide for the needs of its guests. Mr. Teralani offered up the following suggestions: 1) as the public comes by to rent equipment from the vendors at that point the equipment will be taken out and placed on the beach for their use and removed when it is not needed; 2) The number of permits issued (four) is excessive; 2) Staff should be specific as to equipment allowed; 3) Equipment should be sanitized; 4) Cash should not be accepted on the beach; 5) Minimum of two staff per location; 6) No tents should be allowed; vendors should be required to use umbrellas; 7) Storage boxes should not be allowed on the beach; and 8) Vendors should wear nametags or their name embroidered on their shirt.

Clinton Fukushima a representing the Westin Maui appeared before the Board. He came forward to speak on the issue of safety of hotel guest. He spoke of an incident where a guest who was renting equipment from a beach vendor got hurt and was taken to the hospital. Upon trying to contact the vendor, the vendor refused to speak with hotel personnel.

Joshua Visconi a security officer at the Sheraton Maui came forward and read the written testimony submitted by Gerald Bahouth.

Joe Kowalski director of security for the Sheraton hotel offered his testimony. He told the Board that the guest at the Sheraton has voiced their concern and disapproval with regards to the tents and big umbrella's set up on the beach.

The Board amended the following:

Recommendation Section

- "2. Authorize the Chairperson to issue commercial activity permits to hotels, time share, and condominium projects fronting Kaanapali Beach, subject to the permit terms and conditions attached as Exhibit B. In addition authorize the Chairperson to issue a limited number of additional commercial activity permits to serve the needs of those possessing an ocean-based commercial activity permit from the Division of Boating and Ocean Recreation, subject to the permit terms and conditions attached as Exhibit B."**

Page 2, third paragraph of staff submittal

“The permittee shall not store or leave anything on Kaanapali Beach between 7:01 p.m. and ~~[5:59]~~6:59 a.m. Any permittee who violates this condition shall be subject to the confiscation of their equipment.”

Kaanapali Beach Commercial Activity Permit Conditions:

- (1) Permittee shall have this permit at the site and shall ~~[produce it upon request]~~ have it prominently displayed.**
 - (3) No personal property, equipment, gear, vessels, vehicles, and materials of any kind shall remain on Kaanapali Beach, whether unattended or not, between 7:01 p.m. and ~~[5:59]~~ 6:59 a.m. daily.**
 - (7) Financial transactions may be conducted on the premises only for goods and services related to this permit. ~~[Notwithstanding Condition 6, a written price list for all goods and services provided shall be prominently displayed, provided that such written display shall not exceed 1' x 2' in size].~~**
- “(19) No commercial activity other than those specified in the permit shall be allowed. Any other commercial activity is prohibited.”**

Unanimously approved as amended (Yamamura/Johns).

Item J-2: Kona Fuel and Marine, Inc. Requests Extension of Cure Period on Notice of Default dated August 8, 2003 on Harbor Lease No. H-83-2, Kealaheke, Kailua-Kona, Hawaii TMK: (3) 7-04-08.

Mason Young Acting Administrator of the Division of Boating and Ocean Recreation and Steve Mollen District Manager appeared before the Board. Mr. Young reiterated that staff is requesting an extension of the Cure Period on the Notice of Default so staff and the permittee can work with the attorney general's office with respect to the legality of the subleases and its permitted use within the lease. Mr. Young recommended the Board grant Kona Fuel and Marine, Inc an additional period not to extend beyond December 8, 2003 to cure the breaches cited in the Notice of Default letter.

The Board amended the Recommendation Section to read:

“That the Board grant to Kona Fuel and Marine, Inc., an additional period not to extend beyond ~~[December 8, 2003]~~ January 10, 2004 to cure the breaches cited in the Notice of Default letter served on August 8, 2003.”

Unanimously approved as amended (DeMello/Yamamura).

KAANAPALI BEACH COMMERCIAL OPERATIONS, 2008



- Controlled area buoys at 500 ft. mark
 - Red ingress/egress channel marker
 - Green ingress/egress channel marker
 - Zone A swimming area
 - ▒ Zone B swimming area
- Ingress/egress channel currently used by parasail vendor for shuttle operations
- Currently used by surf school, access to shoreline via Kaanapali Alii
- Ingress/egress channel currently used by parasail vendor for shuttle operations and PWC operations



Image NASA
 Image © 2008 DigitalGlobe
 Image © 2008 TerraMetrics
 Image © 2008 Tele Atlas
 Streaming 100%

Eye Alt 6.354

Exhibit C
 Item J-1