

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

November 10, 2011

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

PETITION OF PACIFIC OCEAN SPORTS, LLC
DBA HAWAII OCEAN THRILLS
FOR ISSUANCE OF A COMMERCIAL USE PERMIT
TO OPERATE WITHIN WAIKIKI OCEAN WATERS

BACKGROUND:

Pacific Ocean Sports, LLC dba Hawaii Ocean Thrills (Petitioner) intends to offer daily barefoot cruises within the Ocean Recreation Management Area denominated Waikiki Ocean Waters.¹ The Petitioner is requesting to moor three vessels in the area, which include the vessels "*Wild Thing*", "*Aikane III*", and "*Moana*".

On August 10, 2011, Petitioner applied to the Division of Boating and Ocean Recreation (DOBOR) for a commercial permit to operate within the Waikiki Ocean Waters in accordance with Hawai'i Administrative Rule 13-251-76(a). The rule provides: "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".

Section 13-251-76(a) does not provide standards for granting or denying a permit for these waters. Petitioner has complied with the prerequisites for the issuance of an ORMA commercial permit. Staff recommends that the Board authorize its issuance.

The 80' vessel *Wild Thing* will serve as a stationary offshore platform to support the customer's entertainment purposes such as food, beverages, sunbathing, swimming, live entertainment and a water trampoline. The 70' vessel *Moana* will be used to support both the Waikiki Jet Ski company and banana boat activities taking place in the approved commercial thrill craft zone in Waikiki Ocean Waters. The 63' vessel *Aikane III* will be used to support the introductory F1 Helmet Diving Activities.

The petitioner also intends on providing daily recreational activities including parasailing, and Honolulu Screamer rides provided by X-Treme Parasail.

¹ The waters are depicted in Exhibit A to HAR 13-250-5, a copy of which is attached (see Exhibit A).

The proposed mooring location GPS coordinates for *Wild Thing* is in approximately 40' of water at N21. 16.280, W157. 50.295, inside of the Waikiki Ocean Waters. The proposed mooring location for *Aikane III* is in approximately 30' of water at N21. 16.290, W157. 50.271. There is currently no existing moorings at either of the proposed GPS locations. (See Exhibit B) The Petitioner is responsible for obtaining all required permits relating to the installation of an offshore mooring system. For the time being, the intention is to drop anchor in the sand until a mooring system can be approved.

The vessel *Moana* is proposed to moor outside of the designated Waikiki Ocean Waters in 70' of water and within the designated commercial thrill craft zone where there is an existing mooring.

All final mooring location is subject to the approval of DOBOR to ensure that there are no user group conflicts and that no damage occurs to the natural resources.

The Petitioner is also in negotiations to obtain both of the thrill craft permits in Waikiki ORMA zone.

The proposes to embark customers from Honolulu Harbor and/or the Ala Wai small boat harbor in the morning and proceed to the proposed Waikiki Ocean Waters location. The customers will be shuttled between the *Wild Thing*, *Moana* and *Aikane III* locations using a small United State Coast Guard approved 16-passenger shuttle boat. Customers will then be returned to their point of origin.

The Petitioner's vessels will operate well outside the Waikiki restricted zone, including the Waikiki speed zone described in HAR 13-256-91. DLNR will be paid the commercial use fee (3% of GROSS) payable by the activity vendors serving vessel passengers.

PERMIT REQUIREMENTS:

Environmental Assessment:

We have researched whether an Environmental Assessment is required for the use of an existing mooring within Waikiki ocean waters. While the exemption list that pertains to the Division of Boating and Ocean Recreation does not include an exemption for moorings, a general exemption can be found under the Office of Environmental and Quality Control rules. Hawaii Administrative Rule, §11-200-8(A)(4) states, "Minor alterations in the conditions of land, water, or vegetation." We note that vessels are currently permitted to drop anchor on a daily basis; however, we would prefer that a mooring is used in order to minimize damages to the natural resource.

Conservation District Use Permit (CDUP):

A CDUP is not required because moorings are an identified land use in a protective subzone as defined below:

§13-5-22 Identified land uses in the protective subzone. (a) If a proposed use in the protective subzone is not presented below, an applicant may request a temporary variance, petition the land use commission for a land use district boundary change, or initiate administrative rule amendment to have the proposed use added to the identified land uses.

(b) Identified land uses in the protective subzone and their required permits (if applicable), are listed below:

P-5 MOORINGS AND AIDS TO NAVIGATION

(C-1) Moorings and aids to navigation. This requirement is satisfied by obtaining a permit pursuant to chapter 200, HRS.

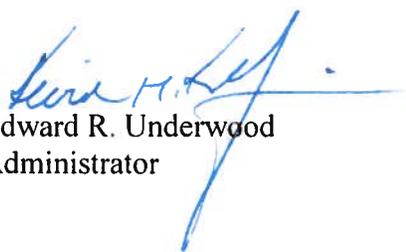
Army Corps of Engineers (ACOE) Permit:

The one proposed mooring currently exists within Waikiki ocean waters and appears to have been installed some time ago. We have no record of this mooring and are requesting that the applicant obtain, if applicable, the proper permit from the ACOE.

RECOMMENDATION:

That the Board authorize the issuance of a commercial use permit to the Petitioner, Pacific Ocean Sports, LLC authorizing commercial operations on Waikiki Ocean Waters subject to customary terms and conditions as commercial use permits found in §13-231-50 to §13-231-70.

Respectfully submitted,



Edward R. Underwood
Administrator

Attachments: Exhibit A
Exhibit B

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson and Member

for

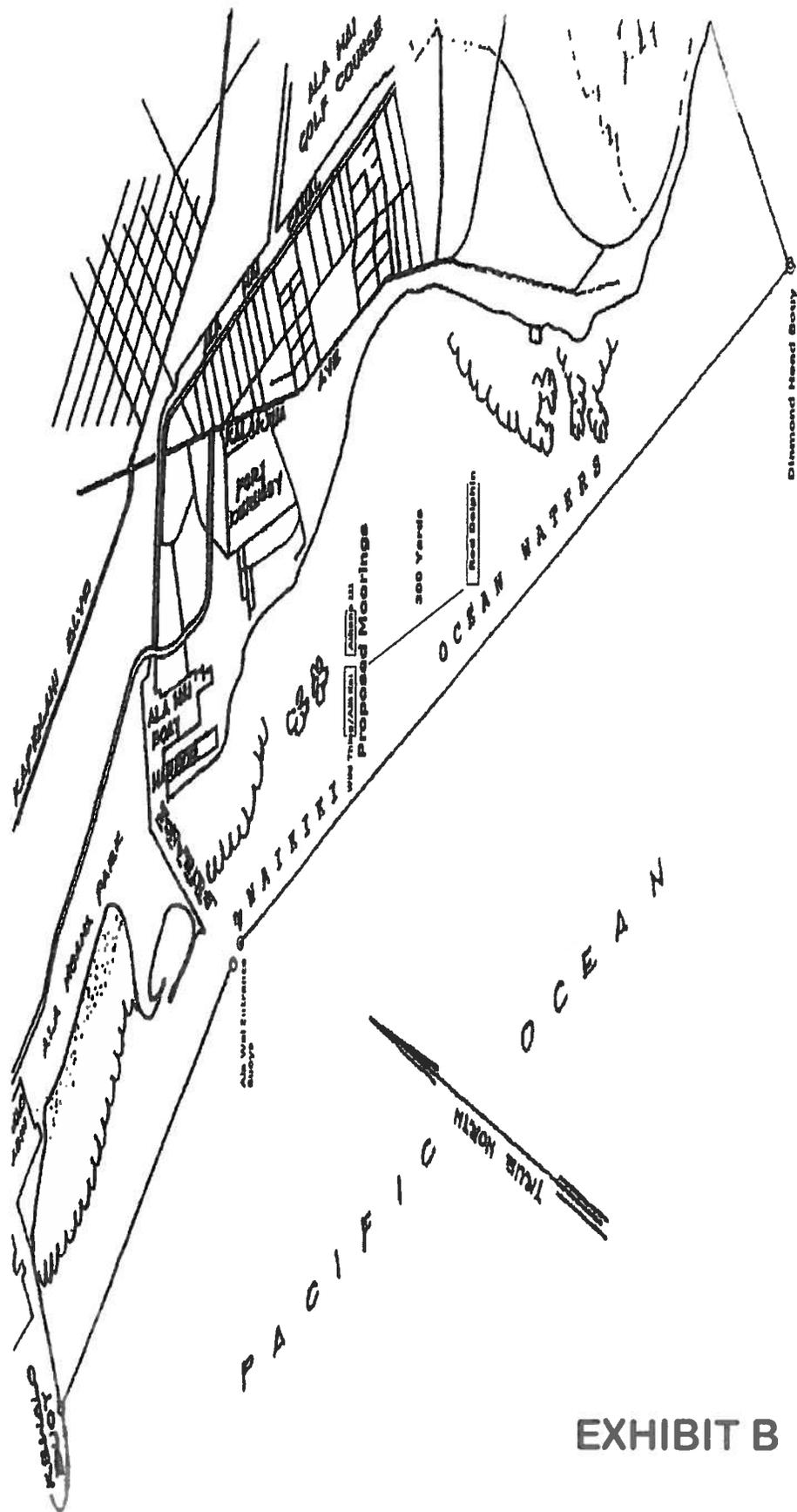


EXHIBIT B