

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

September 14, 2012

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

Oahu

Status Report on Proposed Waikiki Landing Project at Ala Wai Small Boat Harbor (AWSBH); Kalia, Honolulu, Oahu, Hawaii. Tax Map Key Nos: (1) 2-6-010:003 (por), 005, 15 & 016; 2-3-37:020

**APPLICANT.**

Honey Bee USA, Inc. (“Honey Bee”)

**REQUEST.**

Honey Bee will provide a status report on its Proposed Waikiki Landing Project at the Ala Wai Small Boat Harbor (“AWSBH”) and explain its proposal that the Board determine the permitted uses and improvements for the proposed project.

**BACKGROUND.**

On December 17, 2009, DLNR's Division of Boating and Ocean Recreation (“DOBOR”) and Honey Bee entered into a development agreement (the “**Development Agreement**”) that allows Honey Bee to pursue its proposed redevelopment plan for the boatyard repair and fuel dock sites at the AWSBH. An aerial photograph of the AWSBH is attached as **Exhibit “A”**. The working name of Honey Bee's proposed redevelopment project is “**Waikiki Landing**” and is referred to hereinafter as “**Waikiki Landing**” or the “**Project**”.

The Development Agreement is the result of DOBOR's selection of Honey Bee pursuant to a Request for Qualifications / Request for Proposals (“**RFP**”) issued on November 25, 2008.<sup>1</sup>

The Development Agreement allows Honey Bee to pursue various predevelopment activities and requires Honey Bee to satisfy various conditions in order for it to be issued a master lease (the “**Master Lease**”) for the Waikiki Landing project. For example, the Development Agreement requires that Honey Bee obtain all of the land use entitlements, permits and approvals required for the Project.

The Development Agreement also requires Honey Bee to pay DOBOR development fees (currently \$15,000/month) during the term of the agreement. Honey Bee is current on these payments. The Development Agreement expires on December 31, 2012.

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<sup>1</sup> The RFP sought a private developer to develop new and improved harbor facilities (new boat repair and fuel facilities) and increase the lease rent revenues to DOBOR.

**Subject Properties.** Honey Bee is seeking a 65-year lease for the former boatyard repair site, the existing fuel dock site, and the submerged lands immediately adjacent to those sites. These areas are described in further detail below:

- **Boatyard Repair Site:** The Boatyard Repair Site consists of approximately 38,369 square feet and is identified by Tax Map Key (TMK) Nos. (1) 2-6-010:003 (por), 5, and 16. (see Exhibits “B-1” and “B-2”). A boatyard/repair facility was previously operated on the site by Ala Wai Marine, Ltd. under License 74 and Revocable Permit No. B-93-39. The license and RP were both terminated in December, 2008, and the site has been vacant since approximately February 2009. DOBOR recently demolished the existing buildings and cleared the site since the buildings were in poor condition and posed liability issues.
- **Fuel Dock Site:** The Fuel Dock Site consists of approximately 15,199 square feet and is identified by TMK No. 2-3-037:020. (see Exhibit “B-1”). Magic Island Petroleum, Inc. currently operates a fuel facility and convenience store on this site under Revocable Permit No. B-03-06. The Board, on July 11, 2008 (Agenda Item J-1) approved termination of this RP effective on such date as determined by the Chairperson.
- **Submerged Lands:** Honey Bee is seeking to lease approximately 27,205 square feet of submerged lands located adjacent to the Boatyard Repair Site (14,945 sq ft) and the Fuel Dock Site (12,260 sq ft) for mooring purposes. (see Exhibits “C” and “D” for the approximate location and dimensions of the requested submerged lands).
- **Easement Area:** Honey Bee is also seeking a non-exclusive easement over approximately 5,240 square feet, generally shown on Exhibit “B-2” and described in further detail below under “Other Items”.

**Proposed Lease Rents.** The proposed lease rents for the first 30 years of the lease are as follows:<sup>2</sup>

- **Boatyard Repair and Fuel Dock Sites:** The proposed minimum annual lease rent for the fast lands is \$564,000 for the first 10 years, with fixed increases every five years thereafter (to \$1.1 million in Year 26) or eight percent (8%) of the total revenues generated on these lands, whichever is greater. Honey Bee will also pay DOBOR \$.005 per gallon on all fuel sold.
- **Submerged Lands:** The proposed minimum annual lease rent for the submerged lands is \$163,230 for the first 10 years, with fixed increases (based on an initial rate of \$6.00/sq ft) every five years thereafter (to \$322,923 (\$11.87/sq ft) in Year 26) or 10 percent (10%) of gross mooring revenues, whichever is greater.<sup>3</sup>

## **STATUS REPORT AND REVISED WAIKIKI LANDING DEVELOPMENT PLANS.**

**Status Report.** Honey Bee's proposed development plan for the Waikiki Landing Project was presented to the Board at the August 28, 2009 Board meeting (as Agenda Item J-1). At that meeting, the Board approved the selection of Honey Bee, and DOBOR and Honey Bee subsequently negotiated and entered into the Development Agreement. Honey Bee has subsequently, among other things, performed various due diligence investigations, soils tests, met with the City Department of Planning and Permitting (“DPP”) to address various land use and permitting requirements, prepared various permit applications, presented its plans to the

<sup>2</sup> The lease rent will be redetermined by appraisal after the first 30 years. The proposed lease rents do not include additional lease rents that would be collected for the 5,240 sq ft easement sought by Honey Bee. Staff proposes the rent for the easement be consistent with the lease rent for the adjacent fast lands.

<sup>3</sup> The initial minimum annual rent is based on a rate of \$6.00/sq ft., increasing to \$11.87/sq ft in Year 26.

Waikiki Neighborhood Board and other community organizations, and met with other stakeholders and potential tenants for the project.

**Revised Development Plans.** Honey Bee has revised the development plans for the Project from the plans originally submitted for the RFP. The revisions were made to address issues discovered during Honey Bee's due diligence, public and agency review comments to the draft EA, and consultations with stakeholders, community groups, government agencies, and potential tenants.

Honey Bee's community outreach efforts have included: (i) presentations to the Waikiki Neighborhood Board of the original Project and revised Project on May 11, 2010 and July 10, 2012, respectively; (ii) a presentation to the Hawaii Yacht Club in April, 2010; and (iii) individual meetings with community members and Councilmember Stanley Chang on March 29, 2012.

The revised development plans includes several changes to both the Boatyard Repair Site and the Fuel Dock Site, which are described below:

**Revised Boatyard Repair Site.** The original plans for the site called for a 6,000 sq. ft. boat repair yard and two buildings (the "Boatyard Building" and a 20,000 sq. ft. building housing a wedding chapel and related wedding facilities). The plans have been revised to increase the size of the boat repair yard and number of parking spaces, reduce the size of the wedding facility, add a fourth floor to the Boatyard Building, and add a third building (the "Wharf Building").

The revised plan increases the boat repair yard by over 10,000 sq. ft. and reduces the wedding facility building (the "Canoe House") by over 15,000 sq. ft. The boat repair yard will sit on a concrete deck 16 ft. above the ground, located between the three buildings. The Boatyard Building will house commercial shops and restaurants and will be directly accessible from Ala Moana Boulevard via an entryway on the second floor as well as a courtyard on the first floor. The Wharf Building is a two-story building alongside a wide dock that borders the Ala Wai Channel. Honey Bee's plans call for the building to house restaurants on the first and second floor. The current design for both buildings incorporates a Hawaiian maritime design.

The revisions are summarized in the table below, and current site and elevation plans are attached as **Exhibits "E-1" to "E-4"**. Honey Bee will present larger-scale versions of its plans and renderings of the project at the briefing.<sup>4</sup>

ITEM	RFP PROPOSAL	FINAL EA PLAN	CURRENT PLAN
Boat Repair Yard	6,000 sf, 4-5 boats	16,400 sf, 11 boats	16,400 sf, 11 boats
Boatyard Bldg	16,300 sf, 3 floors	25,088 sf, 4 floors	21,765 sf, 4 floors
Canoe House (Wedding)	20,000 sf, 2 stories	4,094 sf, 2 stories	4,844 sf, 2 stories
Wharf Bldg	0	7,976 sf, 2 stories	6,785 sf, 2 stories
Commercial Space	36,300 sf	37,158 sf	33,434 sf
Customer Parking Stalls	30	47	50
Height of Tallest Building	Not Stated	58 ft	61 ft

<sup>4</sup> The square footages were provided by Honey Bee and reflect the leaseable area.

Revised Fuel Dock Site. The original plans for the site called for a 2-story building that included a nightclub and restaurant. The plans have been revised to reduce the height and size of the building and replace the nightclub and restaurant with a wedding facility and space for the U.S. National Kayak Team Training Center.<sup>5</sup> Honey Bee also plans to completely renovate the dock area by repairing the concrete apron surrounding the site and installing finger docks on two sides of the Fuel Dock property. The revisions are summarized in the table below, and current site and elevation plans are attached as Exhibits “F-1” to “F-2”.

ITEM	RFP PROPOSAL	FINAL EA PLAN	CURRENT PLAN
No. of Floors	2 plus roof	4 floors	2 floors plus roof
Square Footage	12,025 sq. ft.	11,404 sq. ft.	10,636 sq. ft.
Height	28 ft	45 ft	25.5 ft
Customer Parking	7	11	11

**LAND USE ENTITLEMENTS AND ACTS 153 AND 197 (2011)<sup>6</sup>**

**Background.** At the time the Development Agreement was entered, it was contemplated that certain land use entitlements would be required. Therefore, the Development Agreement requires, as a precondition to issuance of the Master Lease, that Honey Bee obtain all federal, State and county land use entitlements, permits and approvals required for the Project by certain deadlines.

In 2011, however, the State Legislature passed Acts 153 and 197 to facilitate the redevelopment of the AWSBH. These two pieces of legislation expressly direct and authorize the Board to lease fast and submerged lands at the AWSBH, specify the uses that shall be permitted within the AWSBH, and grant the Board certain powers. With the passage of Acts 153 and 197, several of the entitlements required in the Development Agreement may no longer be required, including a zoning or use variance, special management area permit, and Waikiki Special District permit.

The following is a brief explanation of the Acts, the Legislature’s directives, and the powers granted to the Board.

**Act 153.** Act 153 grants the Board the power, under HRS §171-6(19), to plan, design, construct, operate, and maintain any lands or facilities under DOBOR’s jurisdiction (which includes the AWSBH) without the need to obtain a special management area permit (“SMP”).<sup>7</sup> The AWSBH is located within the special management area, but the Board may elect to exercise this power and not require an SMP for construction of the Waikiki Landing project on the Boatyard Repair Site, Fuel Dock Site, and adjacent submerged lands.

**Act 197.** Act 197 expressly authorizes and directs DLNR to lease fast and submerged lands at the AWSBH and specifies the uses the Legislature determined are appropriate and permissible under any such lease, including but not limited to commercial uses and any uses described or

<sup>5</sup> Honey Bee and the National Kayak Team have already entered a letter of intent for the training center area.

<sup>6</sup> Act 153, 2011 Haw. Sess. Laws 385 and Act 197, 2011 Haw. Sess. Laws 652.

<sup>7</sup> The Board may “[n]otwithstanding part II of chapter 205A to the contrary, plan, design, construct, operate, and maintain any lands or facilities under the jurisdiction of [DOBOR] without the need to obtain a special management area minor permit or special management area permit”. HRS 171-6(19).

referred to in the RFP issued by DOBOR on November 25, 2008. Excerpts of Act 197 (Pages 1-2; 15-18) are attached as **Exhibit "G"**.

**Status of Satisfaction of Development Agreement Conditions.** Section 11 of the Development Agreement provides for the State to issue the Master Lease to Honey Bee if Honey Bee fully complies with each of the conditions described below. The conditions and the status of Honey Bee's satisfaction of the conditions are detailed below.

- a. Obtain BLNR's Final Approval of the Development Plan, if required under Section 8.c. of the Development Agreement (Dev Agrmt §11.a).

*Status.* Final approval of the Development Plan is not required under Section 8.c., which only requires the Board's approval of Honey Bee's development plan if a Finding of No Significant Impact is not issued in connection with Honey Bee's HRS Chapter 343 environmental assessment. A Final EA and FONSI were published in the State of Hawaii Office of Environmental Quality Control The Environmental Notice on October 8, 2010.

- b. Obtain all necessary final non-appealable federal, State and County land use entitlements and approvals required to implement Honey Bee's development plan (Dev Agrmt §11.b).

Sections 8 and 9 of the Development Agreement sets forth the major land use entitlements/approvals required for Honey Bee to implement its Development Plan. The required entitlements/approvals and the status of Honey Bee's compliance with each required entitlement/approval are detailed below.<sup>8</sup>

- Draft EA and FONSI. Prepare/publish a draft EA and obtain a FONSI.

*Status:* Done. A draft EA was published on April 23, 2010 and the Final EA (along with the supplement to the Final EA) and FONSI were published on October 8, 2010.

- Zoning/Use Variance. Obtain a zoning or use variance from DPP.

*Status:* The City Department of Planning and Permitting ("DPP") previously indicated a use variance would be required for Honey Bee's proposed retail establishments, banquet facilities, and wedding chapel. In passing Act 197, however, the Legislature authorized and directed DLNR to lease fast lands at AWSBH and determined the uses that are permissible under the lease. Section 8(c) of Act 197 specifies a wide range of permissible uses, including commercial uses, restaurants, retail stores, sundry stores, and any uses described or referred to in DOBOR's RFP (which referenced weddings).

In order to implement the directives of Act 197 and the Legislature, Honey Bee will be requesting that the Board determine the land uses under its proposed Waikiki Landing project are permissible uses under the provisions of Section 8 of Act 197 and pursuant to the State's sovereign powers, preempt the provisions of the City's Land Use Ordinance ("LUO") and eliminate the need for a use variance. (see DPP letter dated March 5, 2012 attached as **Exhibit "H"**).

If the Board is agreeable to Honey Bee's request, Honey Bee proposes the Board, in its capacity as the landowner/lessor (and not as a regulator), include conditions in the Master Lease that would limit the scope of the Project (i.e., density, setbacks, etc) to be

<sup>8</sup> The Development Agreement imposes deadlines for Honey Bee to obtain each of the entitlements. On May 27, 2011 (Item J-1), the Board extended the deadlines to May 31, 2012.

*the same as that of adjacent properties at the AWSBH (e.g., Hawaii Prince Hotel, Ilikai Marina Apartments, The Modern Honolulu, Ilikai Hotel), but with a lower height limit. Honey Bee proposes a 65' height limit for the Project, whereas the height limit under the LUO for the adjacent parcels allows 350' structures.<sup>9</sup>*

*Although the Project would not be subject to the provisions of the LUO, DPP confirmed it will still process applications for subdivision, sewer connections, and building permits. (see **Exhibit "H"**).*

- Authorization to Lease Submerged Lands. Obtain Governor's approval and concurrent resolution from the State Legislature authorizing a lease of submerged lands.  
*Status: The requirement of obtaining a concurrent resolution from the State Legislature has been satisfied by the Legislature's passage of Act 197 (see section 8(g) of Act 197). Honey Bee will seek the Governor's approval once the Board approves the development plans for the Project and authorizes issuance of the Master Lease.*
- Special Management Area permit ("SMP"). Obtain an SMP from Honolulu City Council.  
*Status: Act 153 grants the Board the power, under HRS §171-6, to plan, design, construct, operate, and maintain any lands or facilities under DOBOR's jurisdiction (including the AWSBH) without the need to obtain an SMP. Honey Bee will be requesting that the Board elect to exercise this power and not require an SMP for the Waikiki Landing project.*
- Waikiki Special District ("WSD") permit. Obtain a WSD from DPP.  
*Status: A WSD permit is required pursuant to the City's LUO. Honey Bee will be requesting that the Board preempt the provisions of the City's Land Use Ordinance ("LUO") and eliminate the need for a WSD permit. DPP has confirmed a WSD permit would not be required if the Project is not subject to the LUO. (see **Exhibit "H"**).*
- Army Corps of Engineers ("COE") Permit(s). Obtain COE permit(s) to: (a) renovate the work docks and the dock area at the Boatyard Repair Site, (b) to renovate the concrete apron and boat ramp at the Fuel Dock Site, and (c) to install pilings at the Fuel Dock.  
*Status. Honey Bee is still evaluating which renovations it wishes to do and will seek the required permits prior to commencing the work. However, Honey Bee will be proceeding with the Waikiki Landing project with or without any of these renovations. Therefore, if any required COE permits are not obtained, Honey Bee will not do the renovations but will still proceed with the rest of the Project. If necessary, Honey Bee will request the Board approve amendments to the Development Agreement to allow Honey Bee to proceed as described above.*
- Clean Water Act ("CWA") compliance. Obtain all appropriate permits under the CWA to install pilings at the Fuel Dock.  
*Status. Honey Bee no longer intends to install pilings at the Fuel Dock. Instead, Honey Bee intends to install "floating" docks, which will not require the installation of pilings and CWA compliance.*

<sup>9</sup> The adjacent hotels are subject to the LUO restrictions for the Waikiki Special District, Resort Mixed-Use Precinct.

- Survey. Submit metes and bounds survey of the Boatyard Repair Site, Fuel Dock Site, and submerged lands to be leased to Honey Bee for approval by the State.

*Status*. A metes and bounds survey will be completed in connection with the subdivision application described below.

- c. Final Subdivision Approval for the Fuel Dock and Boatyard Repair Sites (Dev Agrmt §11.c.).

*Status*. Honey Bee is currently preparing a preliminary subdivision map to create legal lots for the Boatyard Repair and Fuel Dock Sites, which will be demised under the Master Lease. The Master Lease will not be issued until final subdivision approval is issued.

**Remaining Conditions to Issuance of the Master Lease**. If the Board determines the Project is not subject to the LUO and SMP requirements, the remaining entitlements/approvals required of Honey Bee would be: (1) Governor's approval to lease the submerged lands; (2) subdivision approval; and (3) possible amendments to the Development Agreement regarding the COE permit requirement.

## **OTHER ITEMS.**

**Request for Easement and Replacement of Public Restroom**. In addition to leasing the Boatyard Repair and the Fuel Dock sites, Honey Bee is seeking a non-exclusive easement over a strip of fast land (approx. 5,240 sq ft) of located adjacent to the Boatyard Repair Site, as outlined in red in **Exhibit "I"**. Honey Bee intends to landscape the area, provide some parking stalls, and build a "harbor walk" that will continue from the wharf on the Ewa side of the Boatyard Repair Site through the makai side of the easement area. No structures are planned for the easement area. Lease rent for the easement will be based on the same rate per square foot as the lease rent for the adjacent Boatyard Repair Site.

The easement area currently includes a public restroom and five parking stalls. The restroom was constructed, and continues to be maintained by the owners of the adjacent Hawaii Prince Hotel. Hawaii Prince's construction and maintenance of the restroom is required under the special management area permit that allowed the construction of the Hawaii Prince Hotel. This obligation is also contained in Harbor Lease No. H-87-25 between DOBOR and Hawaii Prince.<sup>10</sup>

In connection with its redevelopment of the Boatyard Repair Site, Honey Bee has proposed removing the existing restroom and replacing it with two new public restrooms within the Waikiki Landing project. One would be near the Ewa end of the Boatyard Repair Site and the second one would be on the ground floor of the project and located closer to Ala Moana Blvd. Honey Bee's proposal provides for both restrooms to be made available to the public daily, and for signage to be provided to inform the public of their availability.

Hawaii Prince has not yet agreed to Honey Bee's proposal to replace the existing restroom, and there are several outstanding issues that still need to be addressed before the proposal can be

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<sup>10</sup> Hawaii Prince's obligations are further defined/modified in a Settlement Agreement and an Indemnification Agreement between the parties dated May 7, 1992. Under these agreements, Hawaii Prince is required to maintain the public restroom in a sanitary condition (including making repairs and providing electricity, water and paper goods), keep the restroom open to the public daily from 6:00 a.m. to 10:30 p.m., make restroom facilities in the Hawaii Prince Hotel available to public from 10:30 p.m. to 6:00 a.m., and provide signage informing the public of the availability of such restroom facilities.

presented to the Board for approval. These issues include receiving confirmation from the City that the proposal complies with the terms of Hawaii Prince's special management area permit, and Hawaii Prince and BLNR agreeing to the appropriate amendments to the existing Harbor Lease and related agreements.

**Access Easements.** The proposed subdivision of the Boatyard Repair and Fuel Dock site will create roadway lots within the AWSBH to provide legal access for the two sites to and from a public roadway, i.e., Ala Moana Boulevard. Honey Bee will be requesting the Board grant non-exclusive access easements over these roadway lots.

**Deregistration from Land Court.** A portion of the lands within the AWSBH (and within the proposed Project) are registered with the Land Court of the State of Hawaii. Land Court registration is intended to provide owners with greater assurances regarding the status of title to the lands. However, not all of the lands in the AWSBH are registered with the Land Court. This results in increasing the time and expense to process applications such as the proposed subdivision for the Project, while not providing any of the assurances or benefits associated with registered lands. Therefore, DOBOR may seek the Board's approval to deregister these lands from the Land Court.

The Board may go into Executive Session to discuss any of the above items.

Respectfully Submitted,



Edward R. Underwood, Administrator

Attachments

APPROVED FOR SUBMITTAL:



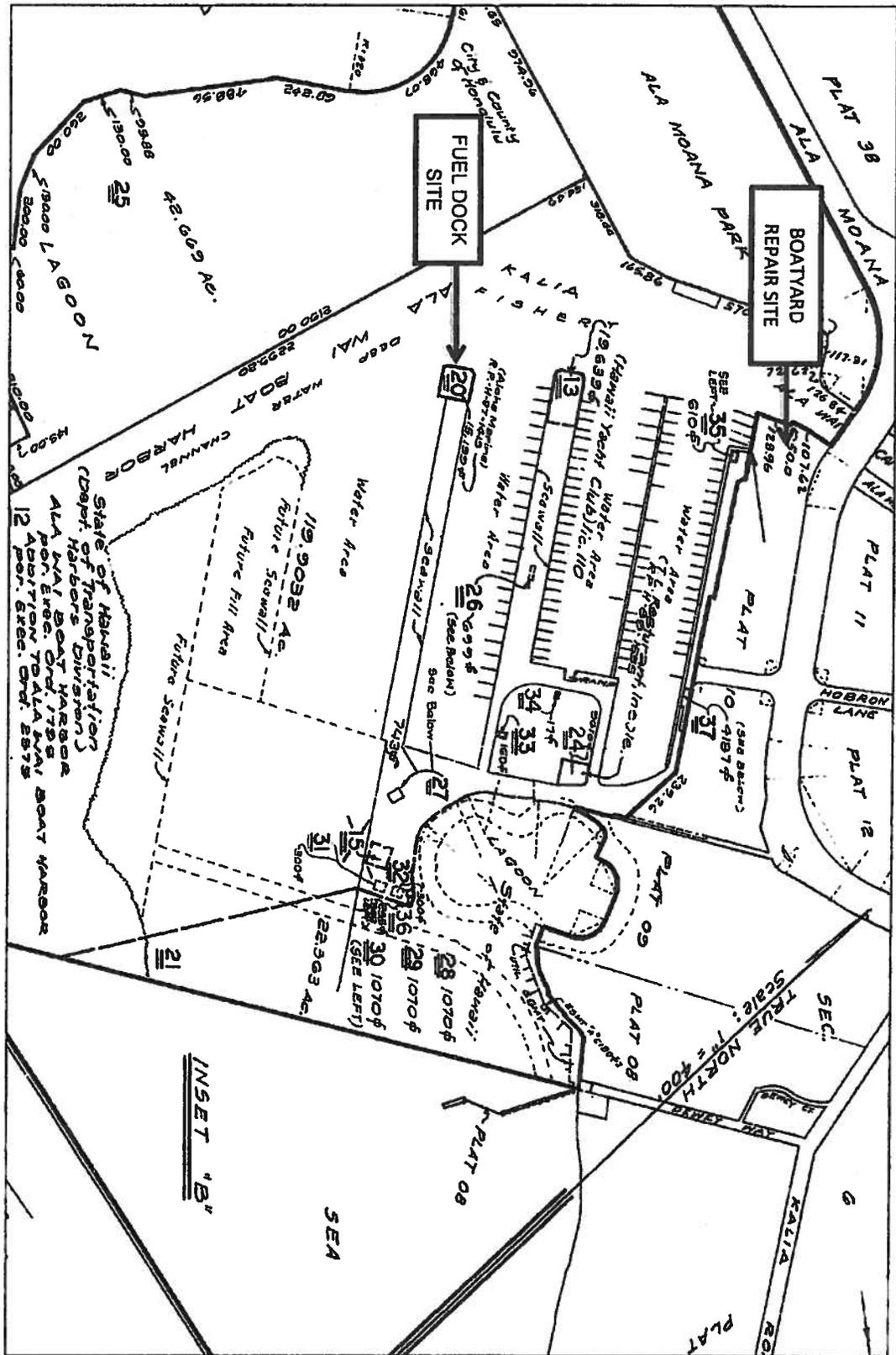
William J. Aila, Jr., Chairperson



AERIAL PHOTO OF ALA WAI SMALL BOAT HARBOR

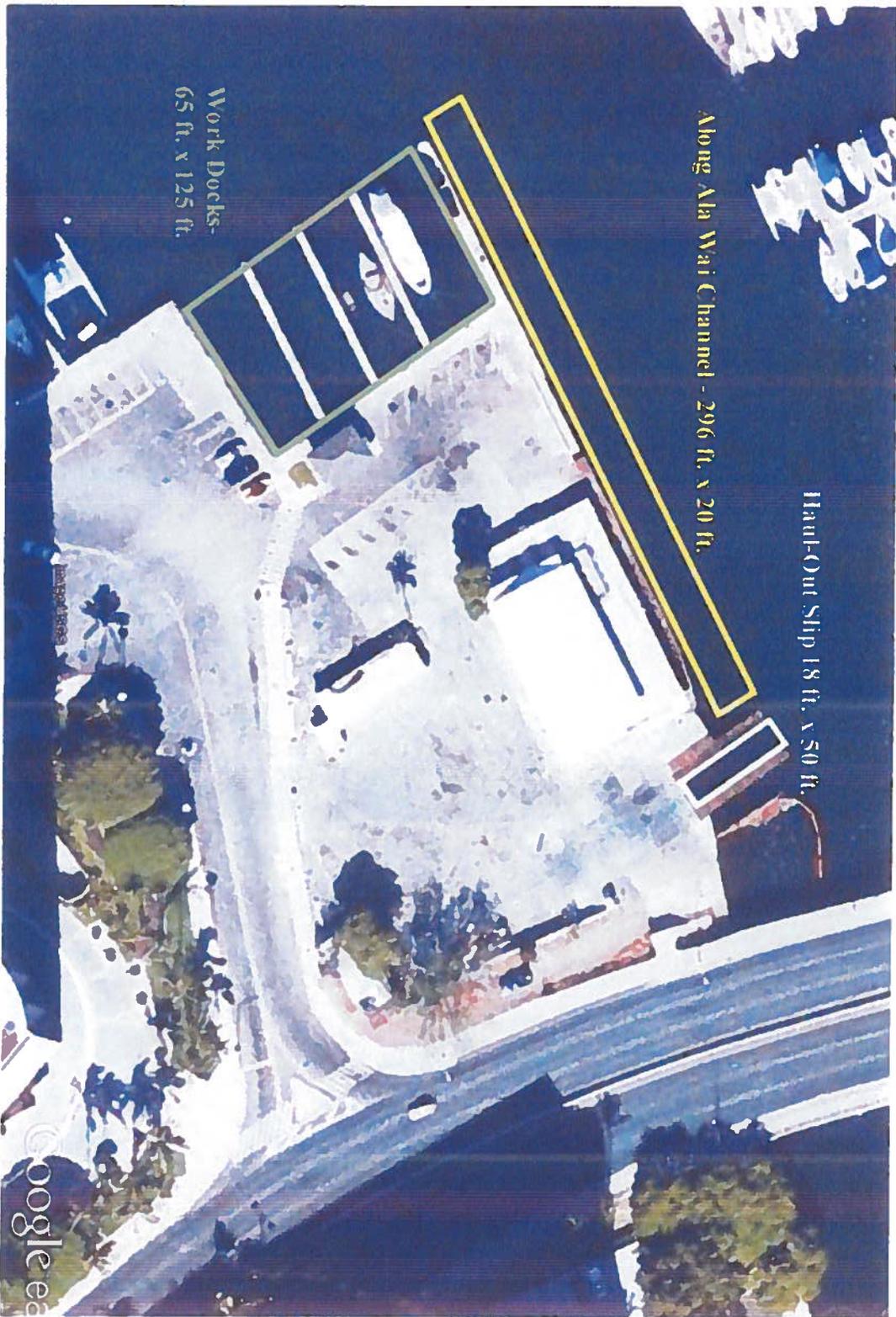
EXHIBIT "A"

**BOATYARD REPAIR SITE AND FUEL DOCK SITE**



**EXHIBIT "B-1"**





**SUBMERGED LANDS ADJACENT TO BOATYARD REPAIR SITE**  
Total: 14,945 sq ft (approx)

**EXHIBIT "C"**

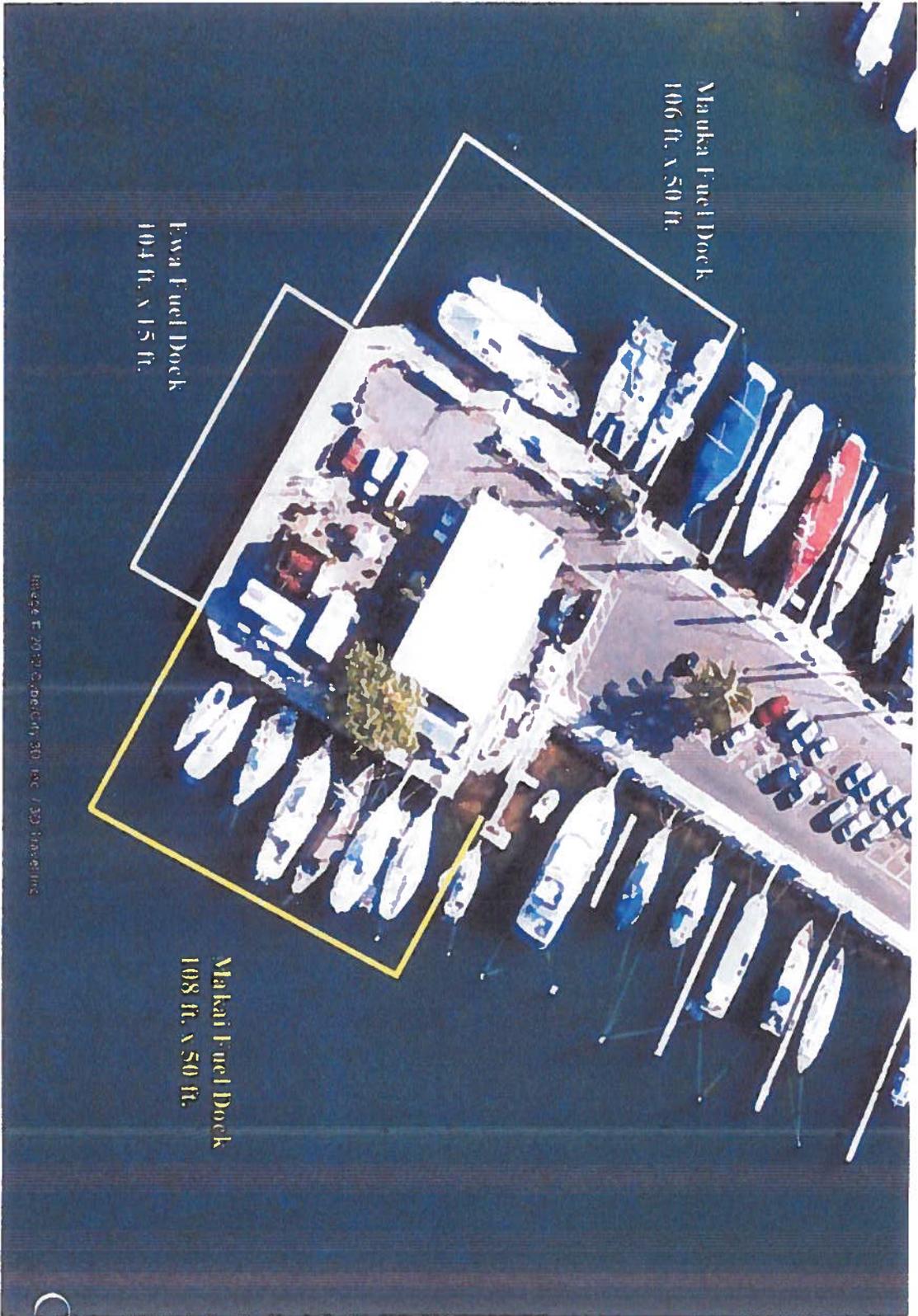
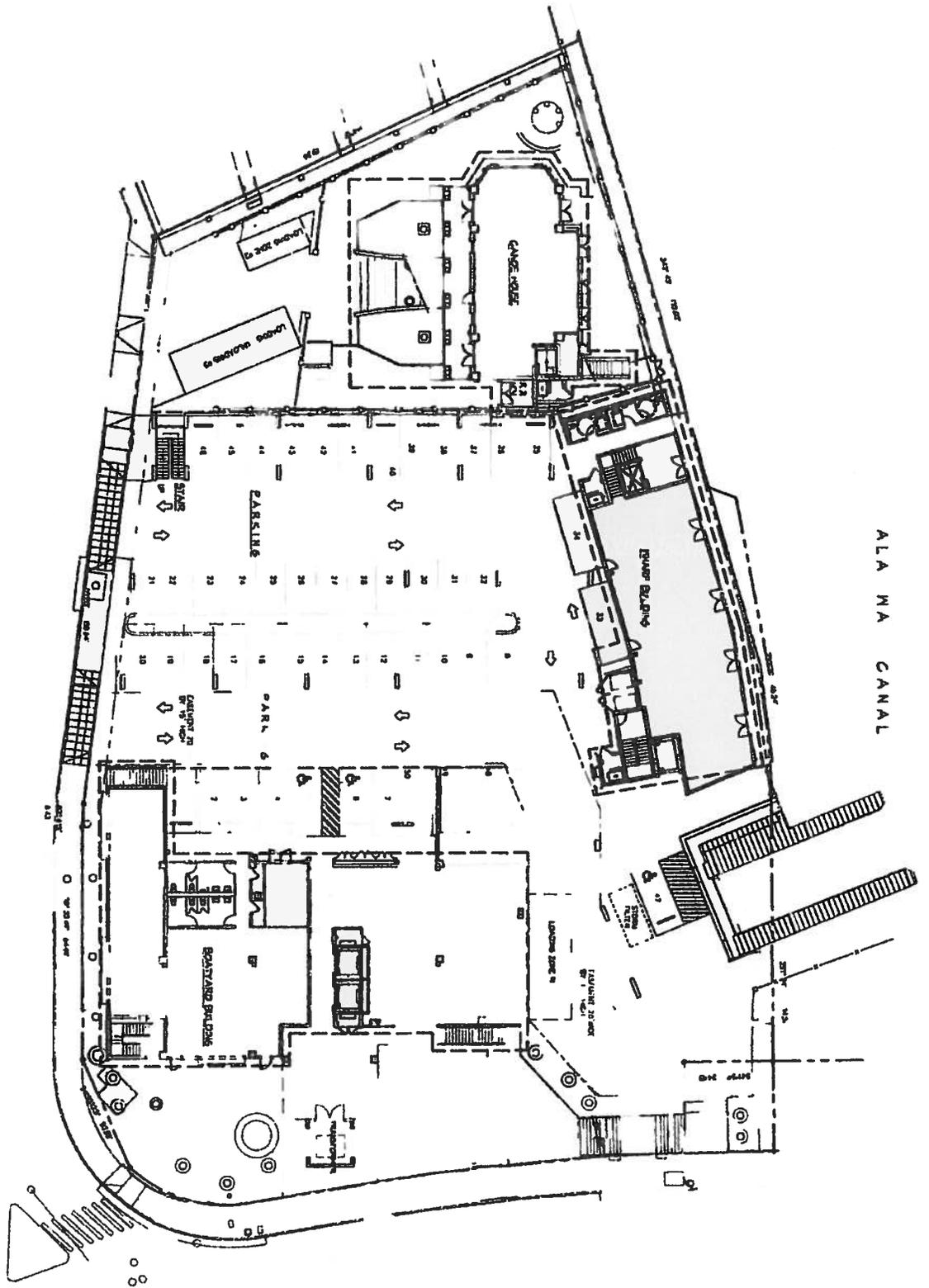


Image © 2010 OpenCity, 3D Inc. / 3D Imaging

**SUBMERGED LANDS ADJACENT TO FUEL DOCK SITE**  
**Total: 12,260 sq ft (approx)**

**EXHIBIT "D"**



BOATYARD - GROUND SITE PLAN

HOLOMOANA STREET -

ALAMOANA CANAL

ALAMOANA BOULEVARD

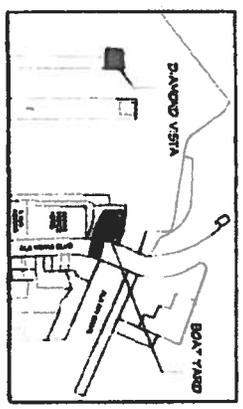
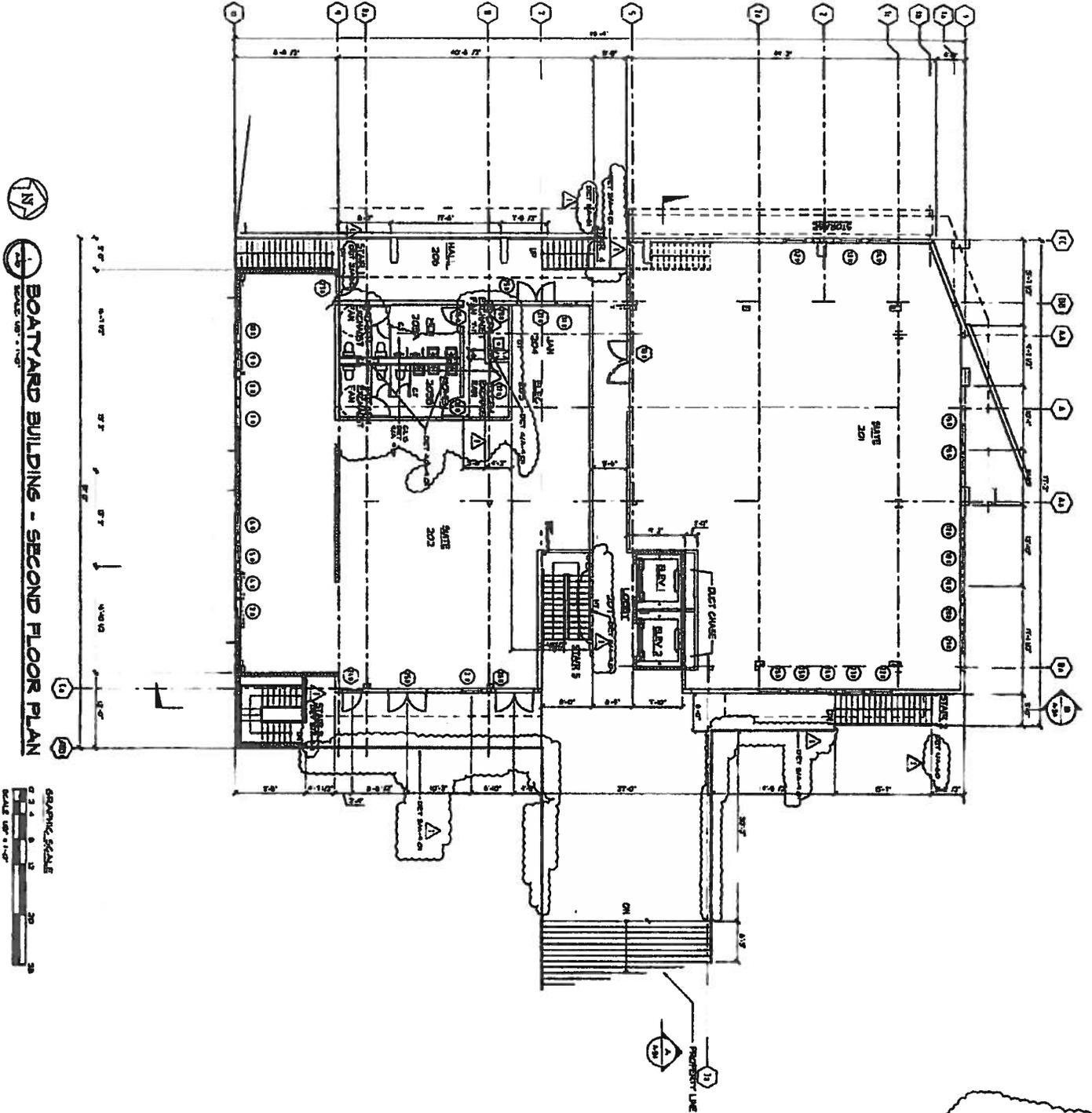


EXHIBIT "E-1"



**BOATYARD BUILDING - SECOND FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



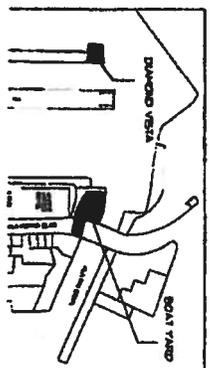
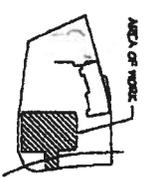
**WALL LEGEND**

2" x 4" GP BR CONCRETE-FILL  
CORE BR SANDWICH BR 1/2" GP BR  
3" x 6" CM & SAND & 1" DIC. SPS 6" GP  
BOARD TYPE X INSULATION SPS & SPS TYPE X  
DRIVE ALUM EXTERIOR SPS  
CONCRETE WALL  
OUTRIGGER WALL

**EXHIBIT "E-2"**

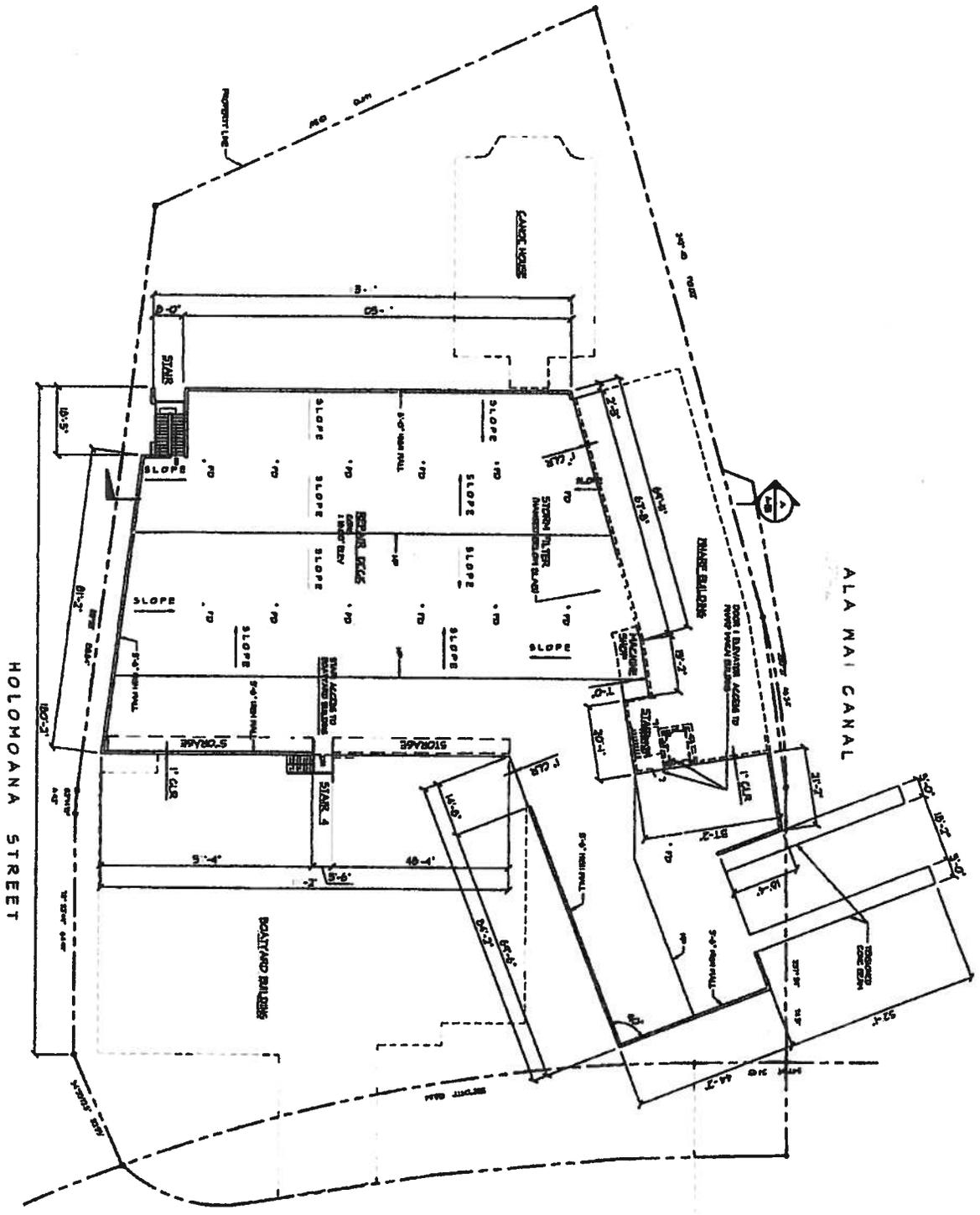


**BOATYARD SITE KEY PLAN**  
SCALE: 1/8" = 1'-0"





# BOATYARD REPAIR DECK PLAN

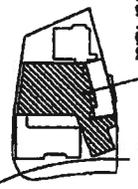


ALA MOANA BOULEVARD

ALA WAI CANAL



# BOATYARD S.I. KEY PLAN

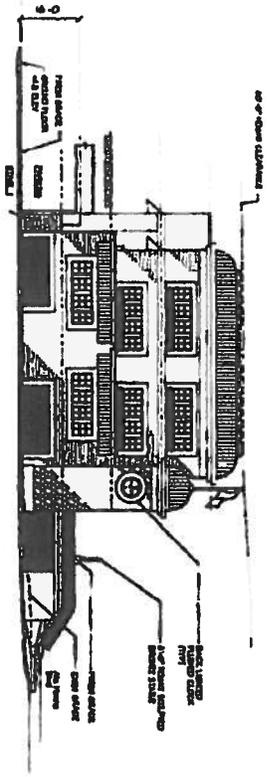


AREA OF WORK

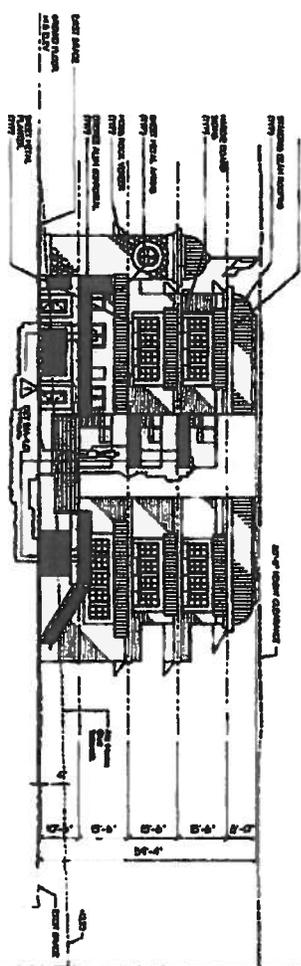
## EXHIBIT "E-3"

DIAMOND VISTA

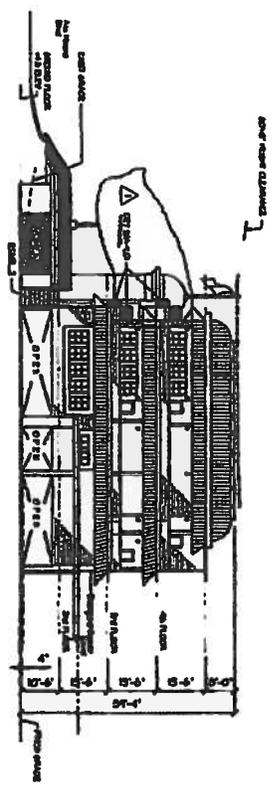




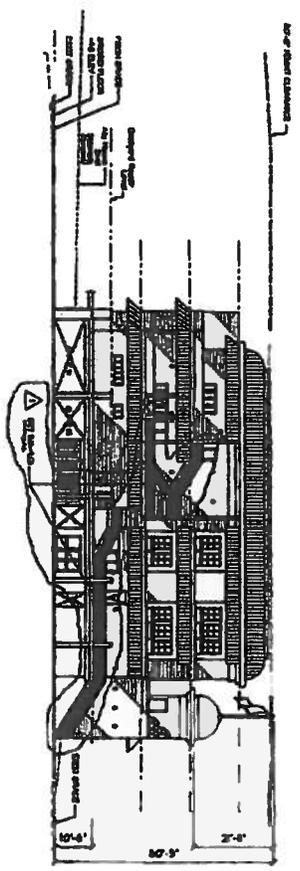
1 BOATYARD BUILDING - SOUTH ELEVATION  
SCALE 1/8" = 1'-0"



2 BOATYARD BUILDING - EAST ELEVATION  
SCALE 1/8" = 1'-0"



3 BOATYARD BUILDING - NORTH ELEVATION  
SCALE 1/8" = 1'-0"



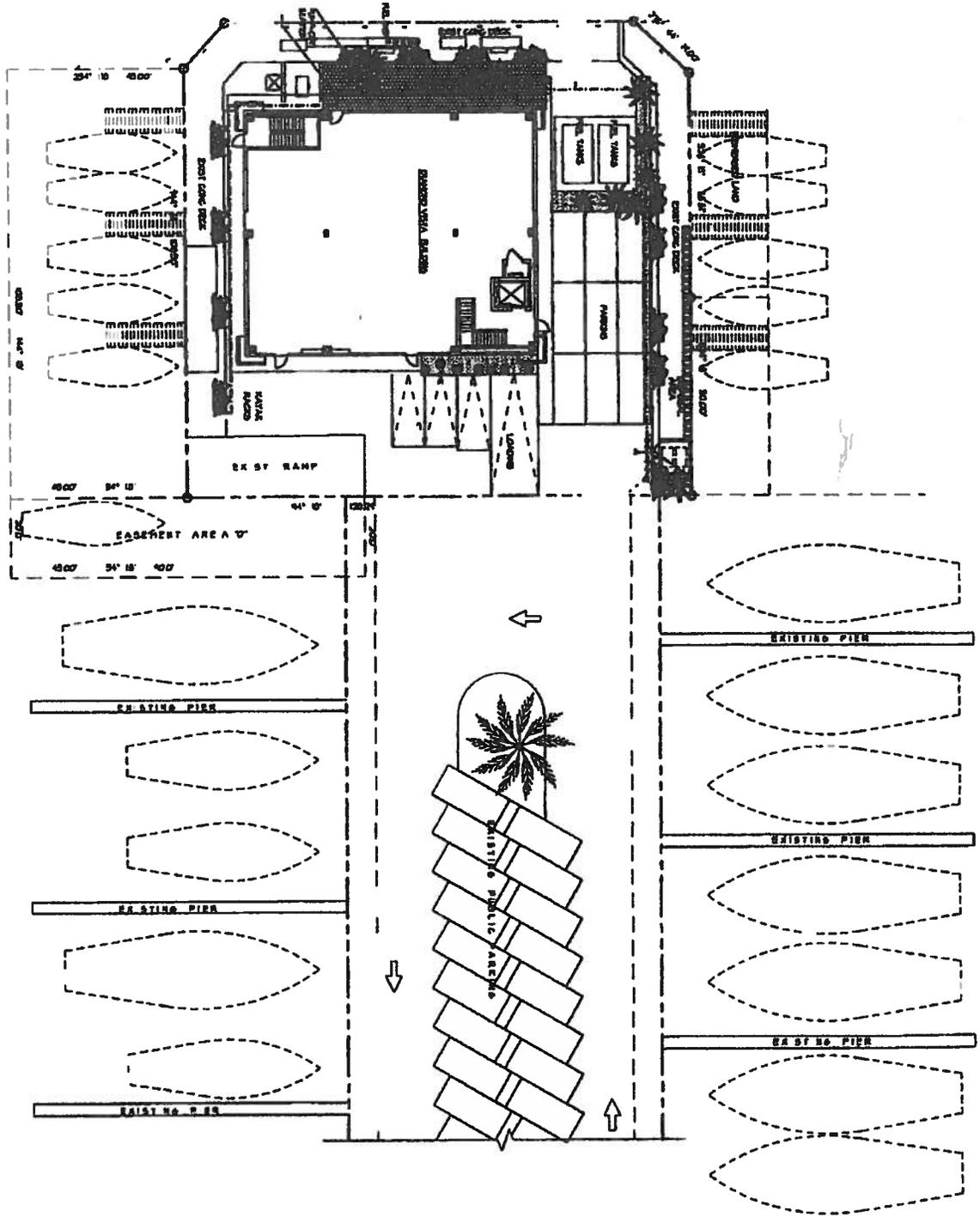
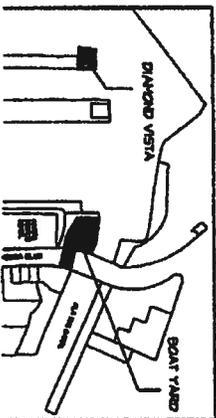
4 BOATYARD BUILDING - WEST ELEVATION  
SCALE 1/8" = 1'-0"

EXHIBIT "E-4"

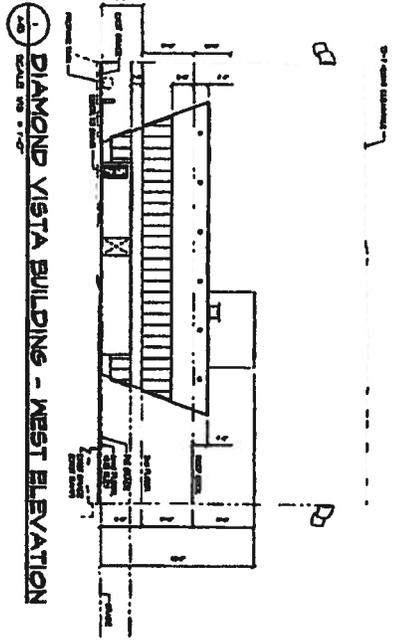




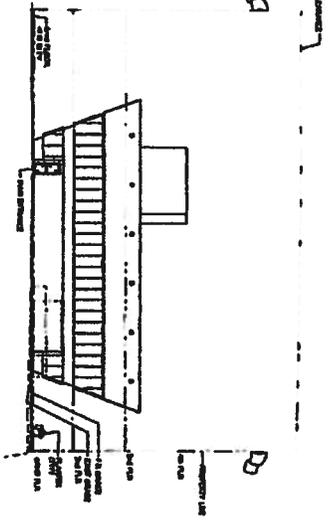
**DIAMOND VISTA BUILDING**  
SCALE: 1/8" = 1'-0"



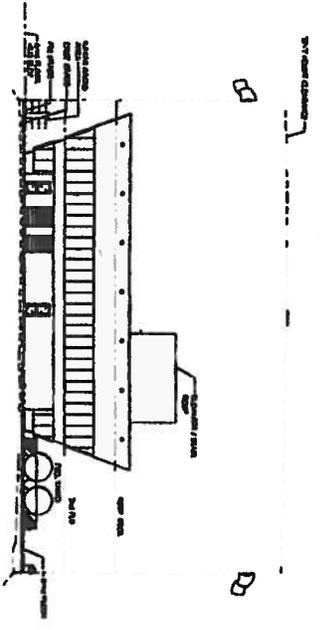
**EXHIBIT "F-1"**



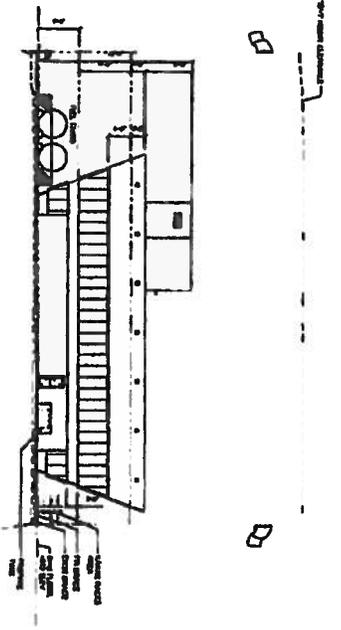
1 DIAMOND VISTA BUILDING - WEST ELEVATION  
SCALE: 1/8" = 1'-0"



2 DIAMOND VISTA BUILDING - EAST ELEVATION  
SCALE: 1/8" = 1'-0"



3 DIAMOND VISTA BUILDING - SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



4 DIAMOND VISTA BUILDING - NORTH ELEVATION  
SCALE: 1/8" = 1'-0"



EXHIBIT "F-2"

ORIGINAL

Approved by the Governor

JUL 7 2011

on

HOUSE OF REPRESENTATIVES  
TWENTY-SIXTH LEGISLATURE, 2011  
STATE OF HAWAII

ACT 197  
H.B. NO. 1566  
H.D. 1  
S.D. 1  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO SMALL BOAT HARBORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The department of land and natural resources,  
2 through its division of boating and ocean recreation, operates  
3 and manages twenty-one harbors, fifty boat ramps, two thousand  
4 one hundred twenty-two moorings and berths, and nineteen piers  
5 spread throughout the various counties of the State. The  
6 legislature further finds that these ocean recreation facilities  
7 are in short supply and in many cases are in dire need of long  
8 overdue repair and maintenance. Some facilities are in such  
9 disrepair that they cannot be safely used.

10           One of these facilities, the Ala Wai boat harbor, has been  
11 a recent recipient of some badly needed repair and replacement  
12 of floating docks; however, the need for further maintenance at  
13 Ala Wai and other boat harbors remains unfulfilled. In spite of  
14 its needs, the Ala Wai boat harbor includes certain assets  
15 within its facilities that are underused and if properly  
16 developed could potentially generate revenues that would enable  
17 not only its own continued improvement and maintenance but the  
18 improvement and maintenance of the rest of the facilities now

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**EXHIBIT "G"**  
(Excerpts of Act 197)

1 operated by the division of boating and ocean recreation of the  
2 department of land and natural resources.

3 In these times of economic malaise and with the State  
4 facing a massive budget deficit over the next biennium, a  
5 further decline in the State's small boat harbors would be a  
6 huge loss that the State cannot allow.

7 The purpose of this Act is to:

- 8 (1) Allow the limited issuance of commercial use permits  
9 for vessels with assigned moorings in Ala Wai and  
10 Keehi boat harbors;
- 11 (2) Provide for future moorage fees to be established by  
12 appraisal by a state-licensed appraiser and assigned a  
13 schedule B rate, while existing mooring holders remain  
14 in a schedule A class that shall equal schedule B  
15 rates over a three-year period; and
- 16 (3) Direct the department of land and natural resources to  
17 use the request for proposals process to enter into a  
18 public-private partnership for the development of  
19 portions of Ala Wai boat harbor facilities that are  
20 presently underused to maximize the revenue potential  
21 from its facilities.

1 SECTION 8. (a) Pursuant to section 200-2.5, Hawaii  
2 Revised Statutes, the department of land and natural resources  
3 is directed to lease fast lands and submerged lands at the Ala  
4 Wai boat harbor using the request for proposals process for the  
5 public-private development, management, and operation of areas  
6 of Ala Wai boat harbor.

7 (b) The fast lands and submerged lands of the Ala Wai boat  
8 harbor that may be leased include the lands described in section  
9 200- , Hawaii Revised Statutes.

10 (c) The permissible uses under the lease issued pursuant  
11 to subsection (a) shall include:

12 (1) A minimum of not less than one hundred twenty berths  
13 for vessels; provided that:

14 (A) Notwithstanding section 200-9(b), Hawaii Revised  
15 Statutes, not more than forty berths shall be  
16 available for vessels used for purposes of  
17 recreational boating activities that are also the  
18 principal habitation of the owners;

19 (B) Not more than thirty berths, including those  
20 allowed pursuant to section 200-9(c), Hawaii  
21 Revised Statutes, shall be available for vessels  
22 issued commercial use permits; and



- 1 (C) All berths provided under this paragraph shall be  
2 made available to the public pursuant to rules of  
3 the department of land and natural resources,  
4 with moorage fees to be determined by the  
5 developer;
- 6 (2) Office space for use by the division of boating and  
7 ocean recreation of the department of land and natural  
8 resources;
- 9 (3) Vehicular parking, including parking stalls for use by  
10 the division of boating and ocean recreation of the  
11 department of land and natural resources and for  
12 public metered parking;
- 13 (4) Commercial uses, including but not limited to  
14 restaurants, retail stores, marine-supplies stores,  
15 and sundry stores, to be made available to the public;
- 16 (5) Hotel, residential, and timeshare uses;
- 17 (6) Training facilities for ocean recreation and support  
18 facilities for ocean recreation;
- 19 (7) Any uses described or referred to in the request for  
20 qualifications or request for proposals issued by the  
21 division of boating and ocean recreation of the

1 department of land and natural resources on November  
2 25, 2008;

3 (8) Vessel-fueling facilities;

4 (9) Vessel haul-out, storage, and repair facilities; and

5 (10) Deep seawater air-conditioning plants.

6 (d) The lease shall not exceed a maximum term of sixty-  
7 five years and shall provide for:

8 (1) A minimum lease rent that is the greater of a  
9 commercially acceptable percentage of the gross  
10 receipts of the lessee from the developed leased  
11 premises or a fair return on the fair market value of  
12 the vacant leased premises, as determined by appraisal  
13 by a state-licensed appraiser approved by the  
14 department, with reasonable periodic step-ups in the  
15 minimum lease rent over the term of the lease; and

16 (2) A three-year development period with a fixed reduced  
17 lease rent.

18 (e) Notwithstanding chapter 171 and section 190D-33,  
19 Hawaii Revised Statutes, all revenues from the lease shall be  
20 deposited in the boating special fund.

21 (f) Notwithstanding chapters 171 and 190D, Hawaii Revised  
22 Statutes, the lease of fast lands and submerged lands of Ala Wai



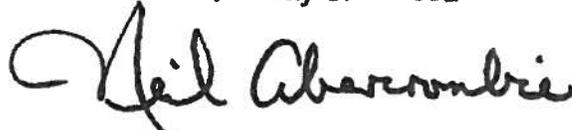
1 boat harbor shall be subject to section 200-2.5(a), Hawaii  
2 Revised Statutes.

3 (g) Notwithstanding section 171-53, Hawaii Revised  
4 Statutes, the prior authorization of the legislature by  
5 concurrent resolution shall not be required for the lease of  
6 submerged lands and lands beneath tidal waters at the Ala Wai  
7 boat harbor.

8 SECTION 9. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect on July 1, 2011.

APPROVED this 7 day of JUL , 2011



GOVERNOR OF THE STATE OF HAWAII

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8000 • FAX (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

PETER S. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

2012/ELOG-31(JS)

March 5, 2012

Mr. Edward R. Underwood, Administrator  
Department of Land and Natural Resources  
Division of Boating and Ocean Recreation  
333 Queen Street, Suite 300  
Honolulu, Hawaii 96813

Dear Mr. Underwood:

Subject: Waikiki Landing Project, Honey Bee USA, Inc.  
1651 and 1671 Ala Moana Boulevard and  
Ala Wai Yacht Harbor - Waikiki/Kalia  
Tax Map Key 2-6-10: 5, 16, and Portion of 3 (Boatyard Repair Site)  
2-3-37: 20 (Fuel Dock Site)

Thank you for your letter (received February 24, 2012) affirming that Act 197 authorizes the Board of Land and Natural Resources (BLNR) to exempt itself from the Land Use Ordinance (LUO), and claiming immunity from County zoning regulations through the State's sovereign powers.

In our meeting of November 23, 2011, we agreed that the Waikiki Landing Project (Project) would not be required to comply with the development standards of the Waikiki Special District Public Precinct if we receive such affirmation. We understand that the Project will be reviewed by the BLNR based on the development standards of the Waikiki Special District Resort Mixed Use Precinct and the BLNR will allow similar uses.

Please be advised that exemption from the LUO means exemption from a zoning review. The Department of Planning and Permitting will not review building plans for compliance with the development standards of the Waikiki Special District, Resort Mixed Use Precinct, or any other zoning district. Therefore, we confirm that a Special District Permit will not be required. Development plans for the Project, including sewer connection, subdivision and building permit plans, will be reviewed for compliance with all applicable standards and regulations.

If you have any questions, please contact me at 768-8000.

Very truly yours,

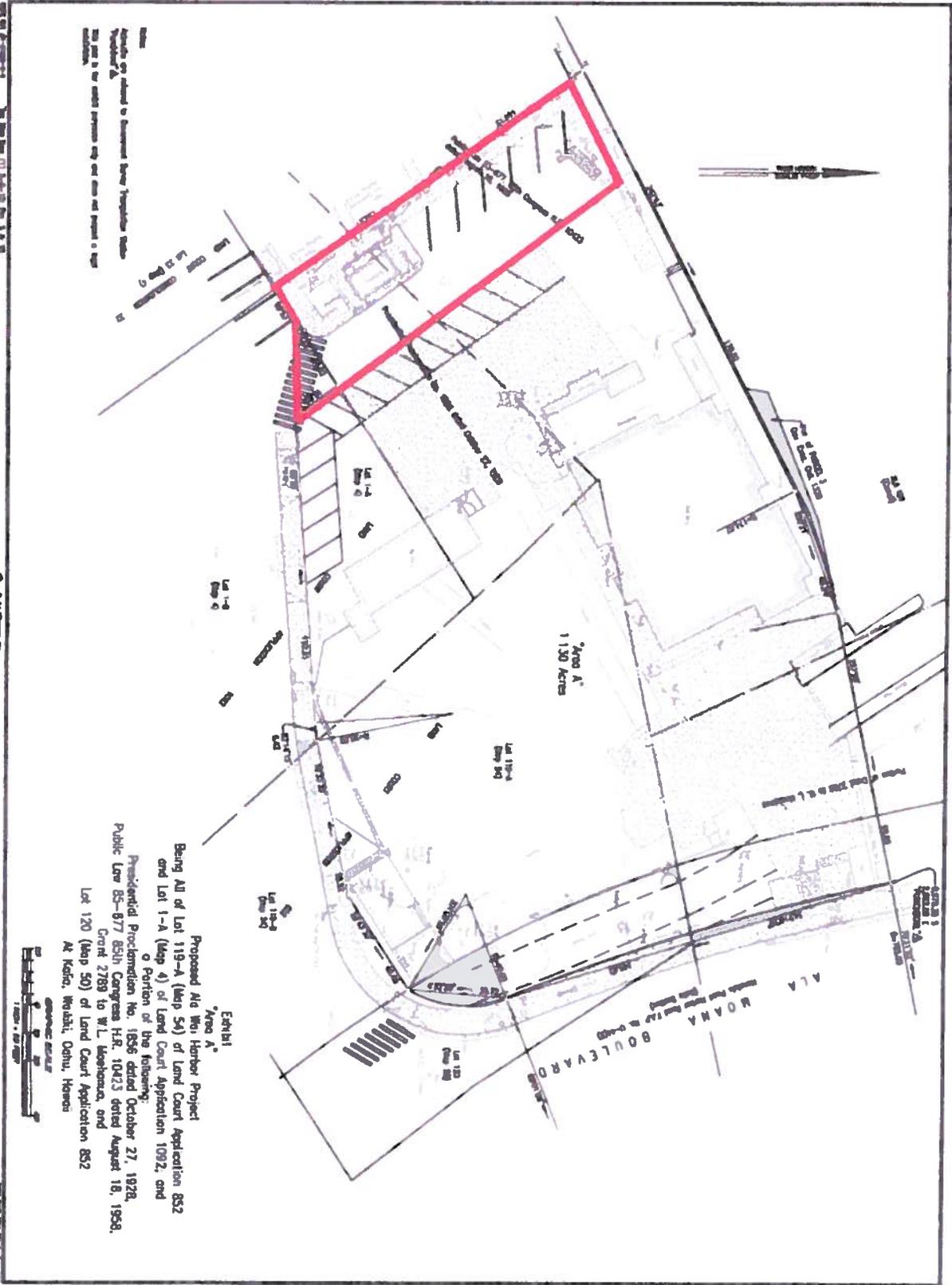
A handwritten signature in black ink, appearing to read "David K. Tanoue".

David K. Tanoue, Director  
Department of Planning and Permitting

DKT:nw  
Doc 905303

MAR 12 PM 1:14:00 DJU

EXHIBIT "H"



(Outlined in Red; Approx 5,240 sq. ft.)