

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

May 10, 2013

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

PSF No.: 13HD-046

HAWAII

Issuance of Direct Lease to Pa'a Pono Milolii, for Milolii Community Enrichment and Historical Center Purposes, Milolii-Hoopula, South Kona, Hawaii, Tax Map Key: 3rd/ 8-9-014: 038-041.

APPLICANT:

Pa'a Pono Milolii, a Hawaii non-profit corporation.

LEGAL REFERENCE:

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

Direct negotiation and without recourse to public auction to any eleemosynary organization, which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended.

LOCATION:

Portion of Government lands at Milolii-Hoopula, South Kona, Hawaii, identified by Tax Map Keys: 3rd/ 8-9-014: 038-041, as shown on the attached map labeled Exhibit A.

AREA:

.9183 acres or 40,000 square feet, more or less.

ZONING:

State Land Use District: Conservation
County of Hawaii CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES _____ NO x

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Community Enrichment and Historical Center purposes.

LEASE TERM:

Fifty-five (55) years

COMMENCEMENT DATE:

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

ANNUAL RENT:

\$480.00 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005)

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the 10th, 20th, 30th, 40th and 50th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities -	Telephone only
Slope -	0 to 20 percent
Elevation -	sea level - 50 feet
Rainfall -	15 to 50 inches

SCS Soil Series - a'a, no soil material.
Land Study Bureau – University of Hawaii
Legal access to property – Staff has verified that legal access to the property is off the Miloli'i Beach Road.
Subdivision – Staff has verified that the subject property is a legally subdivided lot.
Encumbrances – None

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on July 23, 2012 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for the costs of public notice pursuant to section 171-16;
2. Process and obtain consolidation/subdivision approval at Applicant's own cost, if necessary;¹
3. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
4. Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

Applicant Pa'a Pono Milolii is requesting a direct lease over the four subject parcels for the construction of a community center for the Milolii-Hoopuloa area in South Kona.

The Milolii-Hoopuloa Residential Subdivision was created pursuant to Act 62 of the Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, and all other laws to the contrary, notwithstanding, including Chapter 171, Hawaii Revised

¹ This Applicant Requirement is included in the event the Hawaii County Planning Department requires consolidation of the lots. The Applicant intends to construct improvements observing the building setbacks for the individual lots so that consolidation should not be required.

Statutes. The Legislature of the State of Hawaii authorized the Department of Land and Natural Resources to negotiate and enter into long-term leases to persons residing in Milolii-Hoopuloa who were dispossessed or displaced as a result of the 1926 volcanic eruption of Mauna Loa on the Island of Hawaii.

The Milolii coastal village is located on the relatively flat Kapalilua coastal plain. Its shoreline features include a black sand beach at Hoopuloa Bay; broad, gently sloping seaward extensions of lava flows between Hoopuloa and Milolii bays and Kapulau Point; shallow and exposed lava platform reefs separating Milolii and Omolaa bays. The coastal lava flows are derived from prehistoric flows and the 1926 flow. A tongue of lava from the 1926 flow enters the water south of Hoouloa Bay and then rises about 30 feet above the adjacent lava, where 62 individual single-family lots of 10,000 square feet each have been developed. These lots, known as Milolii Village, Phase II, are along the makai side of the Milolii Road. At about the mid-point of the Phase II development, the 1926 lava flow ends and the land abruptly drops about 30 feet into a broad gully about 400 feet wide. It is within this low-lying gully that the project site is located, covering an area consisting of four of the single-family lots.

The project site consists of four parcels of 10,000 square feet each, all of which are owned by the State of Hawaii. The parcels are unoccupied and currently serve no purpose. The project site has previously been graded and contains the remains of an abandoned demonstration water desalination facility that was constructed in 1990 and intended to service the area residents. The remains are mostly contained on the mauka lots (Lots 38 and 41) and include a large concrete pad measuring 30 feet by 30 feet, with metal and rubber piping, and a large wooden single-story shed. Approximately three quarters of the makai lots (Lots 39 & 40) have been cleared and graded. The remaining quarter (25 feet) of these two parcels, running along the length of their makai boundaries, consist of a mound of lava rock about four feet high. The mound is the result of grading portions of the parcels and pushing excess lava material and soils makai. Atop this mound of vegetation, typical of the region, such as kiawe and Christmas Berry has established.

The proposed action is to build three structures totaling 4,800 square feet in two phases. In Phase I, the main multi-purpose community center would be constructed. The Community Center's footprint is 80 feet long and 50 feet wide, or 4,000 square feet. As designed, the Community Center features a large, covered central lanai with enclosed office, visitor reception center, and historical/library rooms in the south end of the building, and an enclosed kitchen and classroom at the north end.

Phase II will involve construction of two separate adjoining structures north of the Community Center; a guest quarters and restroom facility. Both structures measure 20 feet by 20 feet, or 400 square feet in size. The guest quarters contain two separate suites, each with a single-bed bedroom and a bathroom with a sink, toilet, and shower.² The

² Applicant is including guest quarters in the design because it anticipates inviting guest speakers on occasion and would like to have a place for them to stay after evening events. Milolii is in a

restroom building contains separate male and female facilities; the men's has two lavatories, two water closets and one urinal; the women's has two lavatories, and two water closets. The three proposed structures will be designed and constructed to meet Americans with Disabilities Act Accessibility Guidelines (ADAAG). Elevations and floor plans of the major structures are attached as Exhibit B.

The buildings will be constructed on concrete slab foundations surrounded by tile and concrete flooring, concrete columns, plaster-finished walls with exterior stone veneers, and fixed, sliding glass, and jalousie windows. Concrete walkways enclose the perimeter of the buildings.

Water will be supplied through water catchment system. A septic tank and leach field system will be constructed for the wastewater. Electrical generation will come from solar panels and a generator to serve as backup.

Funding for the project will be through the United States Department of Housing and Urban Development (HUD). HUD has reviewed the "Request for Release of Funds and Certification", form HUD-7015.15, for the subject project. Pa'a Pono Milolii will use Economic Development Initiative-Special Projects Grant funds to construct a multi-purpose community center. HUD approved the release of funds and provided an executed copy of the "Authority to Use Grant Funds" form HUD-7015.16 on January 13, 2013, under State Identification Number B-06-SP-HI-0268, for \$198,000.00.

The subject area is zoned Conservation. At its meeting of February 8, 2013, at the recommendation of the Office of Conservation and Coastal Lands, the Board of Land and Natural Resources approved Conservation District Use Permit HA-3642. Staff is including a recommendation below that the lease require Applicant to comply with the terms and conditions of the permit.

The use is allowable under the county zoning as intended. Currently there are no higher and best use of the subject lands and there are no other entities expressing interest on the area.

Pa'a Pono Milolii has provided evidence of its 501(c)(3) status, which was granted by the Internal Revenue Service in 2004. A redacted copy of an IRS letter dated May 6, 2011 confirming Applicant's tax exempt status is attached as Exhibit C. As a result, Pa'a Pono Milolii qualifies for a direct lease at nominal rent (currently \$480 per year pursuant to the Board policy of May 13, 2005, Item D-19).

Pa'a Pono Milolii 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

fairly remote area of South Kona, and staff therefore has no objection to this aspect of the design. Applicant understands that the guest quarters are not to be used for residential use. For a clear agreement, however, staff is including a recommendation below that the lease include a provision expressly prohibiting residential use of the premises.


conditions.

Through the environmental assessment process, governmental agencies and community interest groups were given the opportunity to provide comments on the project. There were no objections to the request.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to Pa'a Pono Milolii, 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 non-profit lease document form, as may be amended from time to time; provided, however, that the lease shall expressly prohibit residential use of the premises. The Board defers to the Department of the Attorney General and the Chairperson on how best to define "residential" for this purpose;
 - B. Applicant comply with the conditions of Conservation District Use Permit HA-3642;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

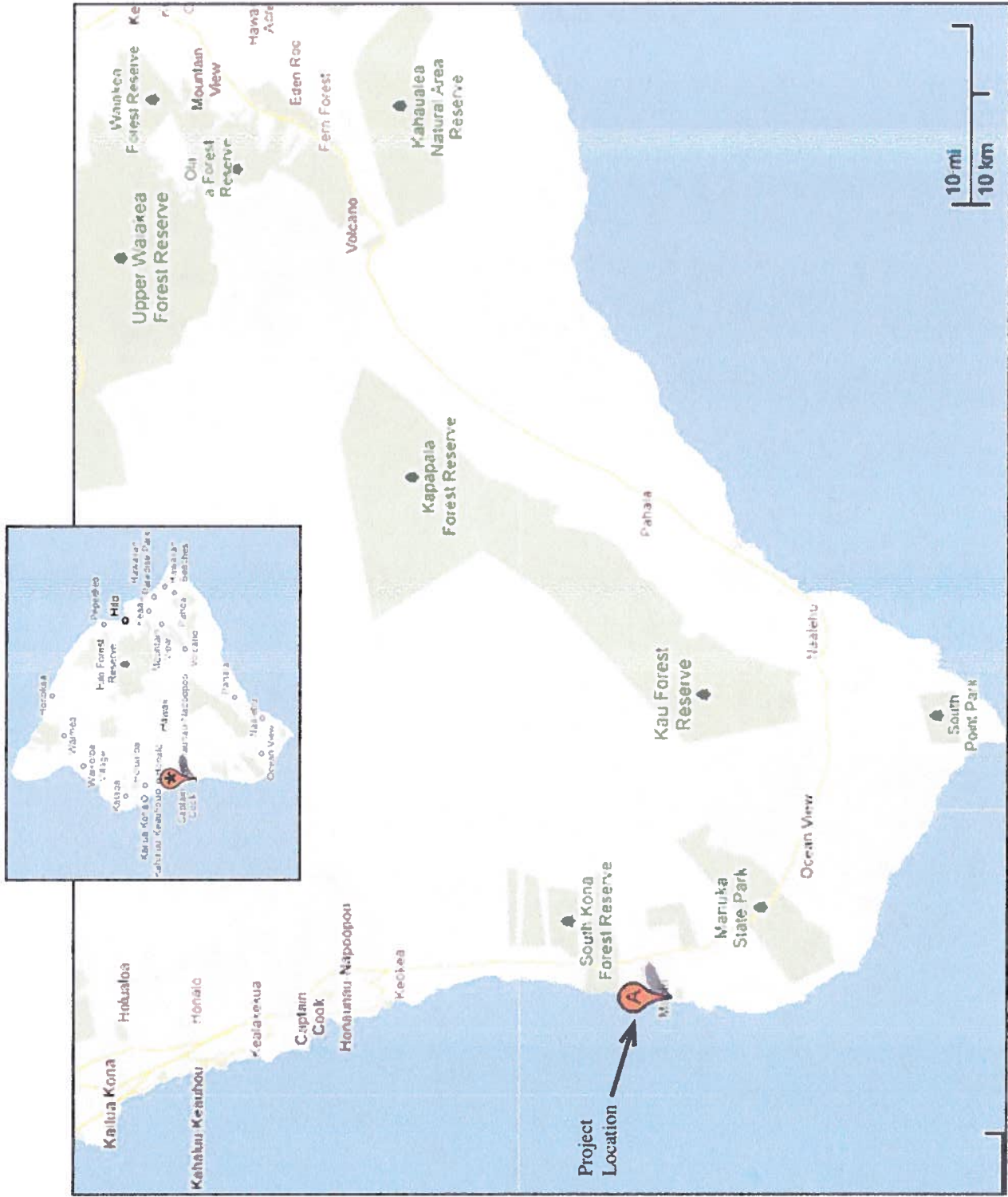


Figure 1
Vicinity Map
Miloli'i Community Center
Miloli'i, Ho'opuloa, South Kona, Hawaii'i
(Google Earth 2010).

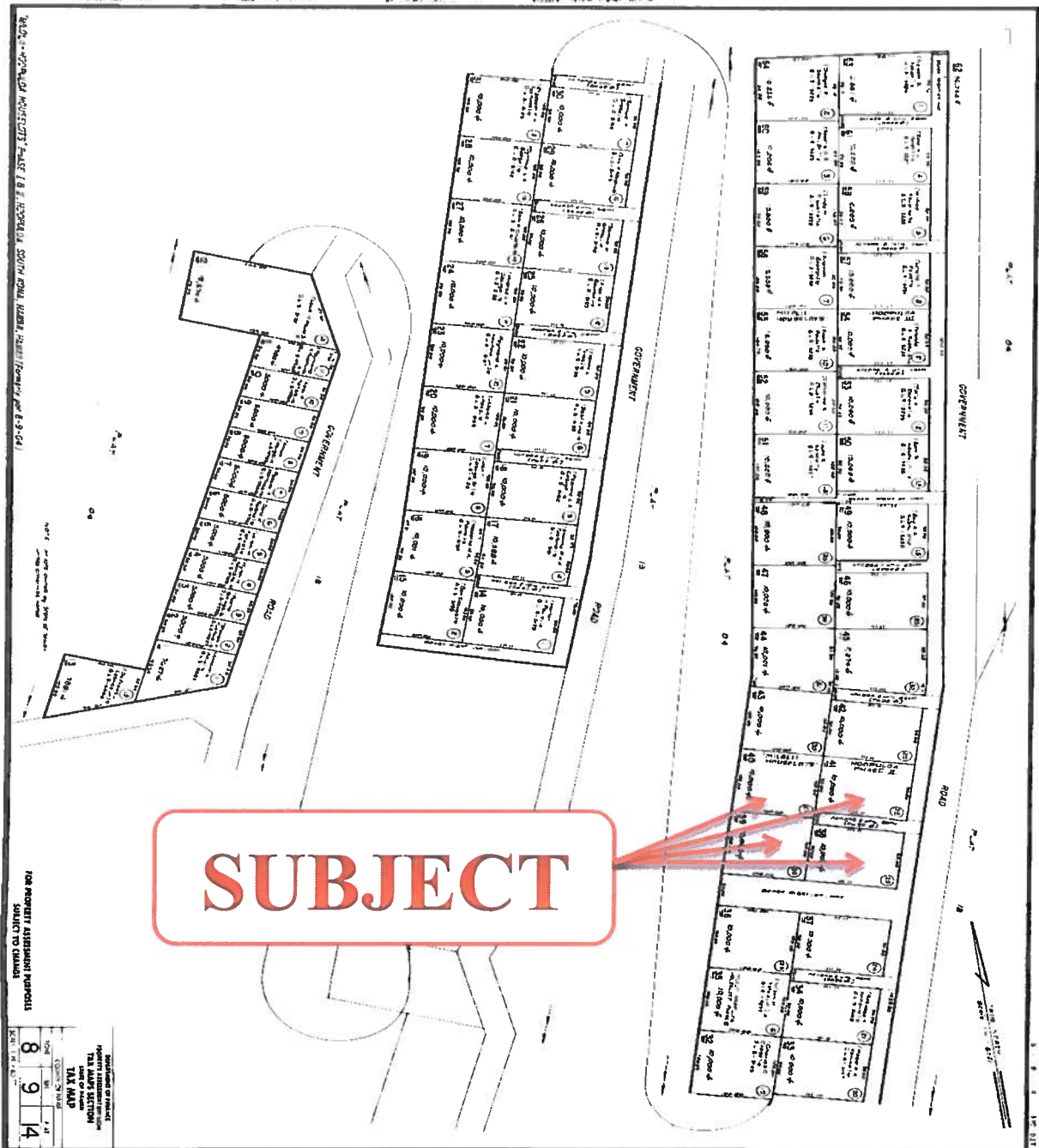


EXHIBIT A

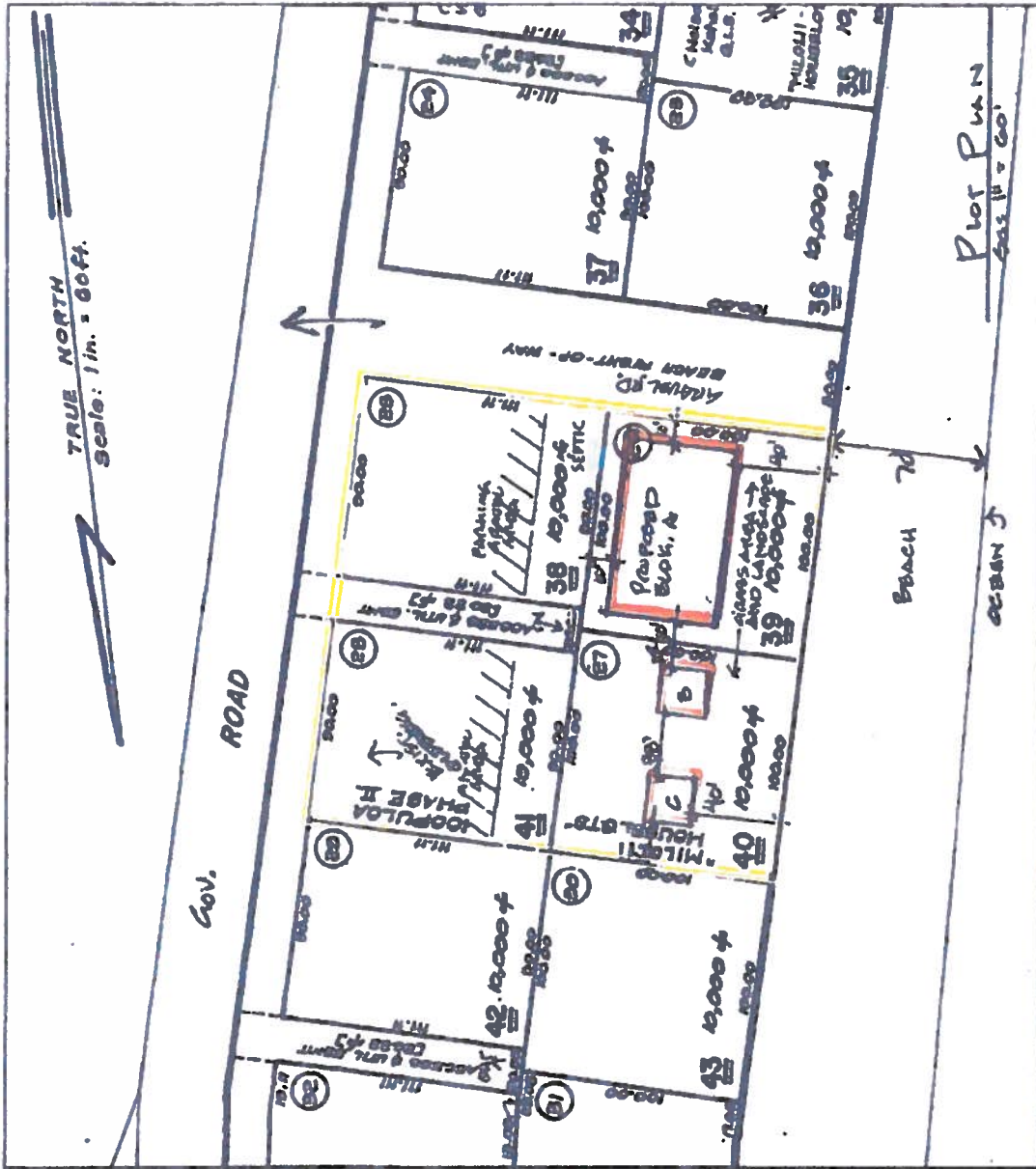
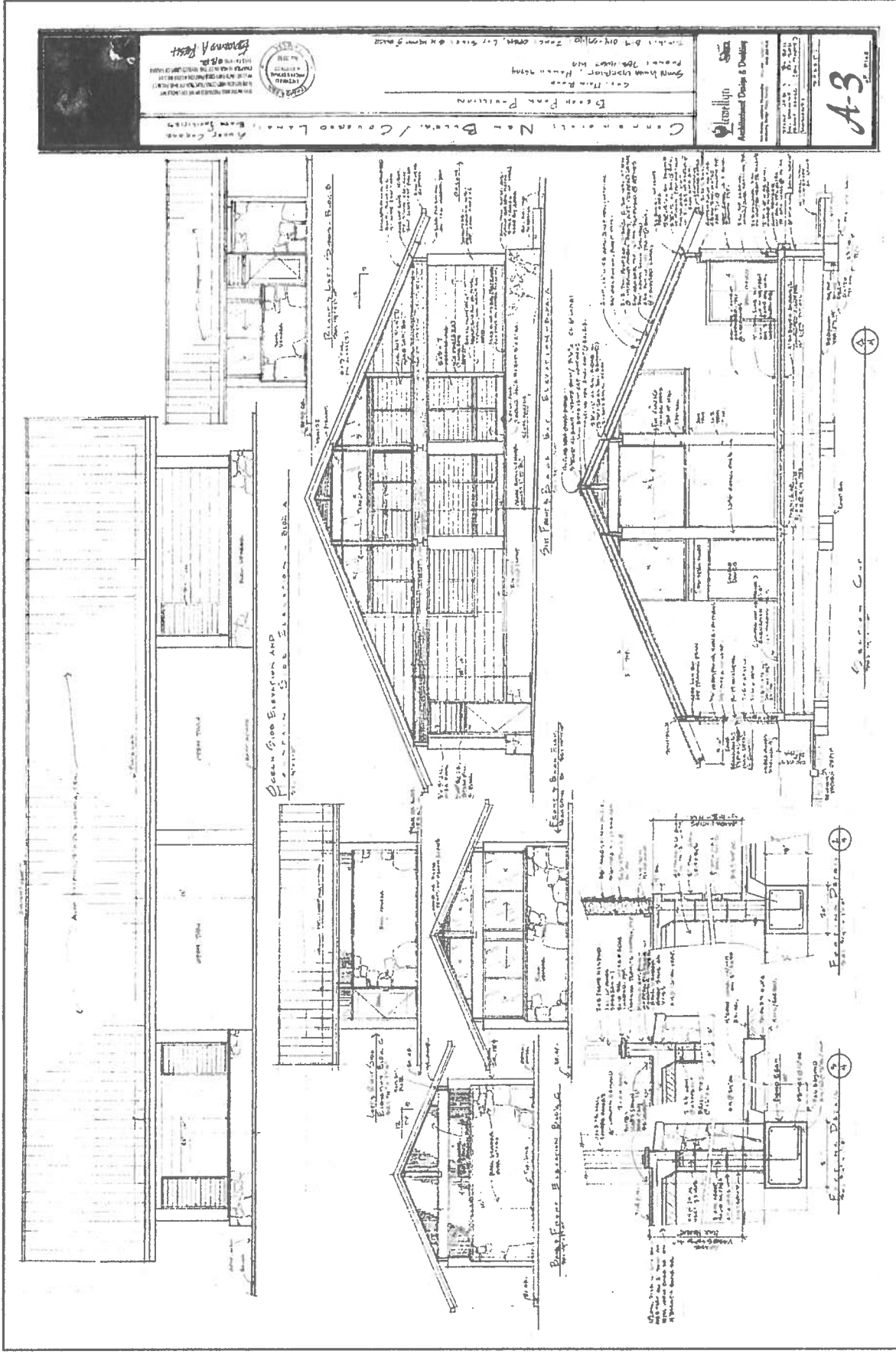
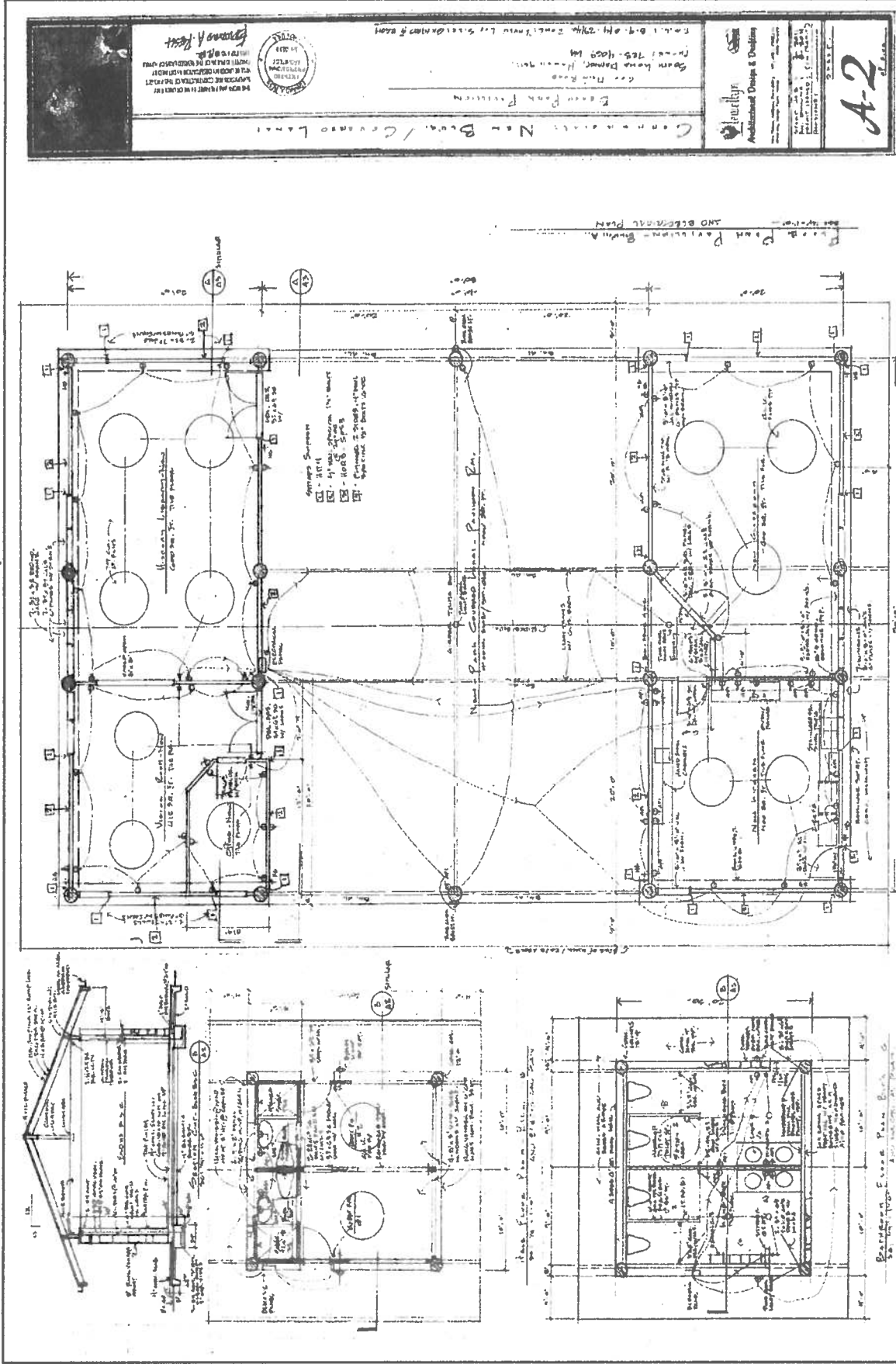


Figure 7
 Plan Map - Tax Map Key (TMK) No. (3) 8-8-014: 038, 039, 040, and 041
 Miihō'i Community Center
 Miihō'i, Ho'opūloa, South Kona, Hawaii'i







Department of the Treasury
Internal Revenue Service

P.O. Box 2508
Cincinnati OH 45201

In reply refer to:

PAA PONO MILOLII
% JAMES HEBARD CASE

HILO HI 96720-8949

33937

Employer Identification Number:
Person to Contact: Ms. Ozepy
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

This is in response to your Apr. 27, 2011, request for information regarding your tax-exempt status.

Our records indicate that you were recognized as exempt under section 501(c)(03) of the Internal Revenue Code in a determination letter issued in FEBRUARY 2004.

Our records also indicate that you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Please refer to our website www.irs.gov/eo for information regarding filing requirements. Specifically, section 6033(j) of the Code provides that failure to file an annual information return for three consecutive years results in revocation of tax-exempt status as of the filing due date of the third return for organizations required to file. We will publish a list of organizations whose tax-exempt status was revoked under section 6033(j) of the Code on our website beginning in early 2011.

EXHIBIT C