

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

December 9, 2016

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii 96813

PSF: 16HD-100

HAWAII

Set-Aside to the County of Hawaii, Department of Public Works for a portion of Manawale'a Street, identified as Lot 37 of the Villages of La'i'opua, Phase 1 (File Plan 2128), and Construction Rights-of-Entry onto TMKs: (3) 7-4-021: Portion of 020

APPLICANT:

County of Hawaii

LEGAL REFERENCE:

Sections 171-11 and 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of the Government Lands of Kealakehe situate at Kealakehe and Keahuolu, North Kona, Hawaii, identified by Tax Map Keys: (3) 7-4-021: portion of 020. Road lot adjacent to 8 and 33, as shown on the attached maps labeled Exhibits A.

TMK/ ZONING/ AREA/ ENCUMBRANCE/ CURRENT USE:

TMK	ZONING		AREA	ENCUMBRANCE/ CURRENT USE
	LUC	CZO		
3 <sup>rd</sup> / 7-4-21: Road Lot Adjacent to 8 and 33	Urban	Open and unplanned	4,657 sq. ft.	Unencumbered; designated on File Plan 2128 for public road use as Road Lot 37

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

See the table above for the current use of the subject parcel.

PURPOSE/CHARACTER OF USE:

The County is requesting the set-aside of Road Lot 37 for public roadway purposes.

CONSIDERATION FOR EASEMENTS:

Gratis.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The governor accepted the final EIS on September 27, 1990, and notice of its availability was subsequently published in the Office of Environmental Quality Control's Environmental Notice.

APPLICANT REQUIREMENTS:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.
- 2) Comply with applicable requirements and specifications of File Plan 2128, including, without limitation, observance of the planting screen restriction on parcel 7-4-021:020.

REMARKS:Set-Aside of Road Lot 37

Road Lot 37 is an extension of Manawale'a Street and was included in the Villages of Laiopua (Villages) master plan prepared by the Hawaii Housing Finance and Development Corporation (HHFDC) and approved by the State Land Use Commission for inclusion in the urban district. By letter dated July 27, 2016, Hawaii County Mayor William P. Kenoi requested the set-aside of Road Lot 37, designated on File Plan 2128, to the County.

The Department of Hawaiian Home Lands (DHHL) is developing most of the Villages' ceded lands as housing for its beneficiaries while HHFDC is developing the Villages' non-ceded lands as affordable housing.

Pursuant to Chapter 264, Hawaii Revised Statutes, as amended, the State intends to convey the fee simple title of Road Lot 37 to the County to maintain and repair. The County agreed to accept the road lot as part of its public highway system and intends to open it to the public when construction of the road is completed.

However, in 2008 the Hawaii Supreme Court issued an order prohibiting the sale of State ceded lands until the claims of native Hawaiians to those lands are resolved. On March 31, 2009, the United States Supreme Court issued a slip opinion reversing the Hawaii Supreme Court's order and remanding the case to it for further proceedings. In the interim an executive order setting aside Road Lot 37 to the County of Hawaii for public roadway purposes would be appropriate. At its meeting of January 23, 2009, Item D-5, the Board approved the set-aside of other road lots in Phase 1 of the Villages of Laiopua to the County under a similar rationale.

In light of the planned development of the area, staff is of the opinion that the highest and best use of the subject land is for public roadway purposes. Staff further believes that the proposed use fully utilizes the requested land. As indicated above, the road lot is vacant and unencumbered.

#### Construction and Management Right-of-Entry

A construction and management right-of-entry issued to the County for Road Lot 37 upon approval of this submittal would permit the County to begin groundwork pending issuance of the executive order. The County Department of Public Works has advised staff that, in addition to a construction right-of-entry onto Road Lot 37, the County requires construction rights-of-entry onto the abutting parcels up to one hundred feet from the boundary of Road Lot 37. Ownership and/or management control of the abutting parcels is as follows:

- (3) 7-4-021:001 – Department of Hawaiian Home Lands under Land Patent Grant No. 16,020 ("DHHL Parcel")

The Board has no authority to grant a construction right-of-entry over the DHHL Parcel. Rather, the County will need to consult directly with DHHL for access. The County has management control over the DPW Parcel. Finally, the Board has authority to grant a construction right-of-entry over the DLNR Parcel.

Request for comments were sent to various government agencies with no objection to the proposed set aside of the road lots to the County of Hawaii.

County of Hawaii Agencies	Comments
Planning	No Response
Finance Department - Property Mgt.	No Objection
Public Works	No Response
State of Hawaii Agencies	Comments
DLNR-Historic Preservation	No Response
DOT-Highways	No Objection
DHHL	No Response
Other Agencies	Comments
Office of Hawaiian Affairs	No Response



RECOMMENDATION: That the Board

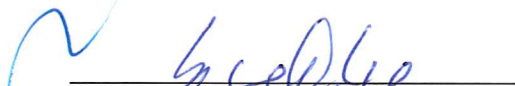
- A. Approve of and recommend to the governor the issuance of an executive order setting aside the subject road lot to the County of Hawaii under the terms and conditions cited above, which are by this reference incorporated herein, and subject further to the following:
1. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  2. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  3. Review and approval by the Department of the Attorney General; and
  4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Grant an immediate construction and management right-of-entry to the County of Hawaii, its consultants, contractors, and/or persons acting for or on its behalf, onto Road Lot 37 under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
1. The standard terms and conditions of the most current construction and management right-of-entry form, as may be amended from time to time;
  2. This right-of-entry is effective upon Land Board approval and shall continue until the executive order document is issued; and
  3. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,

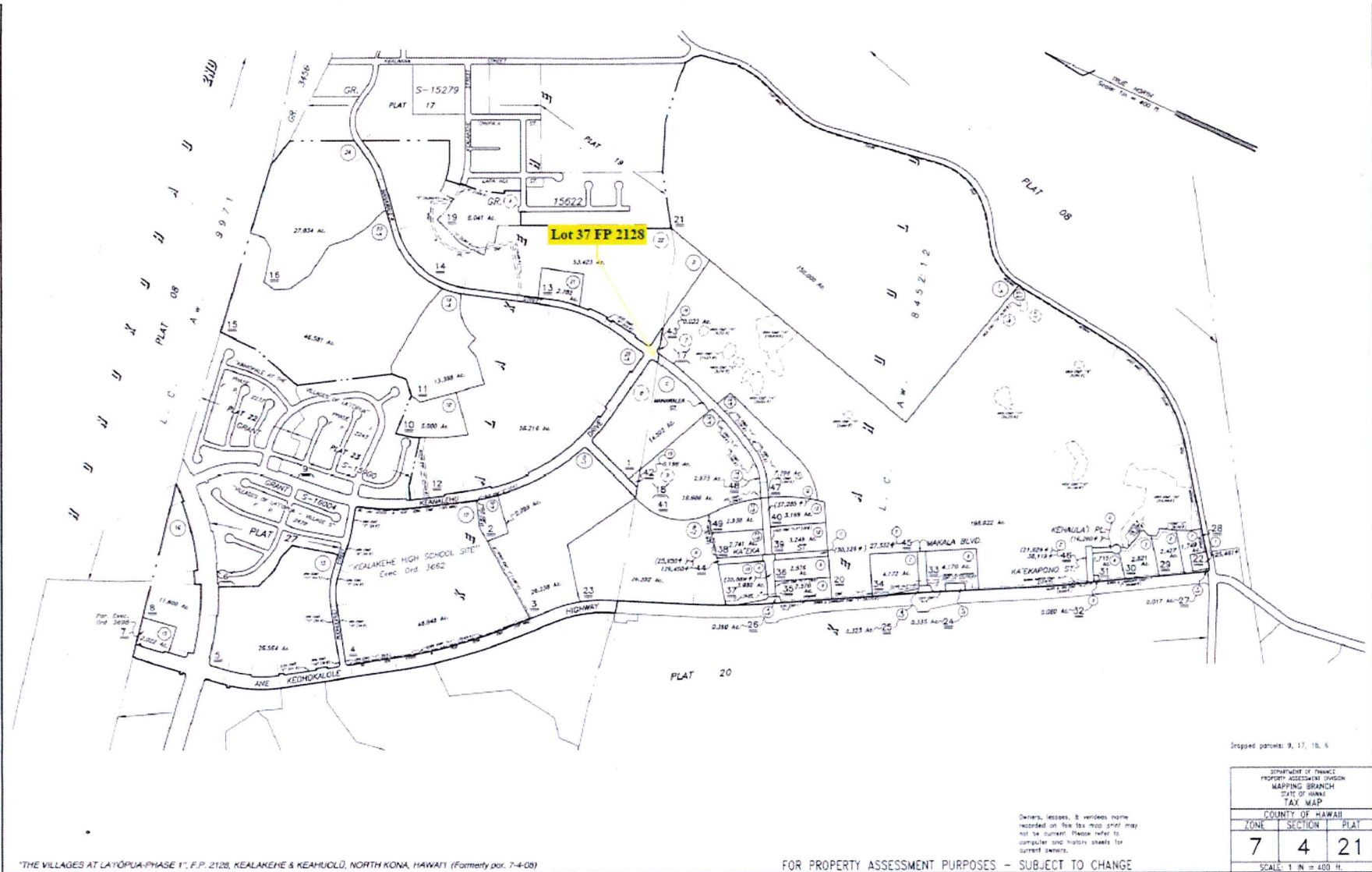


Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

# EXHIBIT A



"THE VILLAGES AT LAYŌPIA-PHASE 1", F.P. 2128, KEALAKEHE & KEAHUŪLOĪ, NORTH KONA, HAWAII. (Formerly par. 7-4-08)

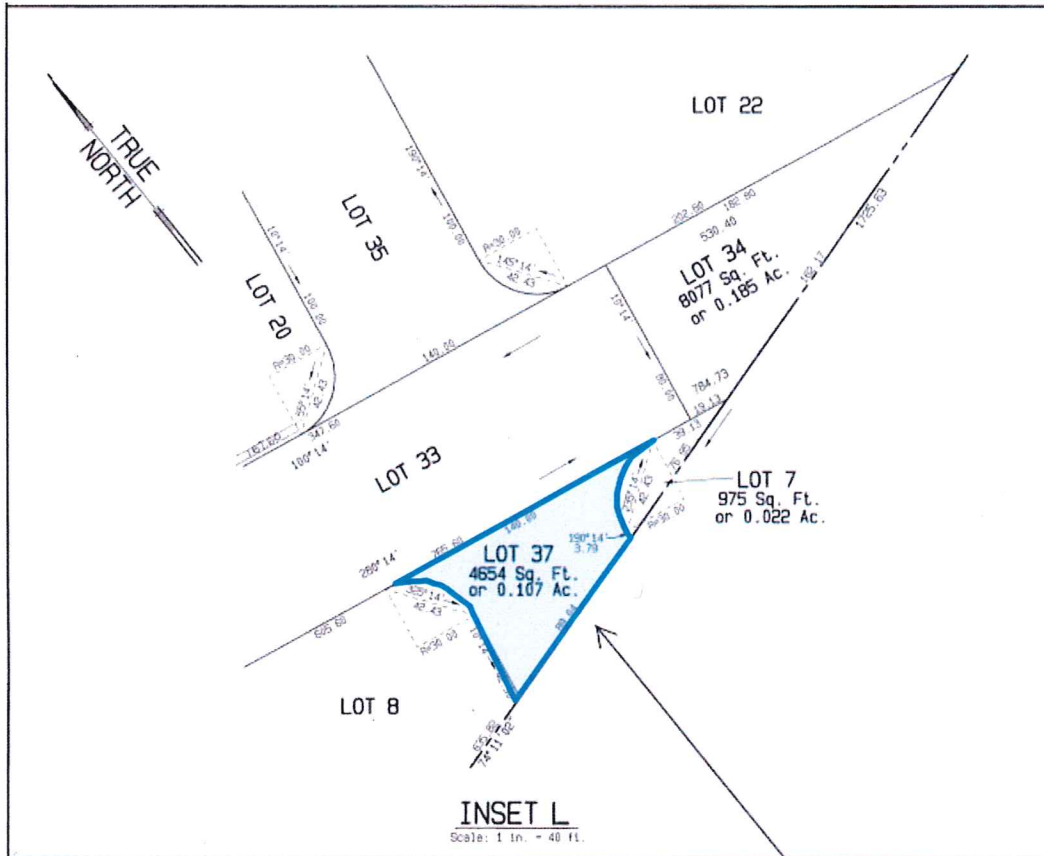
FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

Dropped parcels: 9, 17, 18, 6

STATEMENT OF FINANCE PROPERTY ASSESSMENT DIVISION MAPPING BRANCH STATE OF HAWAII		
COUNTY OF HAWAII		
ZONE	SECTION	PLAT
7	4	21
SCALE: 1" = 400' H.		

Owners, lessors, & vendees names recorded on this tax map sheet may not be current. Please refer to computer and history sheets for current owners.

# EXHIBIT A-1



**NOTES:**

**AREA OF EASEMENTS:**

- Area of Easement 1 for Sanitary Sewer Purposes affecting Lot 25 = 46,262 Sq. Ft.
- Area of Easement 2 for Electrical Purposes affecting Lot 13 = 271 Sq. Ft.
- Area of Easement 3 for Electrical Purposes affecting Lot 14 = 271 Sq. Ft.
- Area of Easement 4 for Electrical Purposes affecting Lot 22 = 272 Sq. Ft.

**Lot 37**

Preliminary Draft Land Use Plan For Discussion Purposes  
February 6, 2015

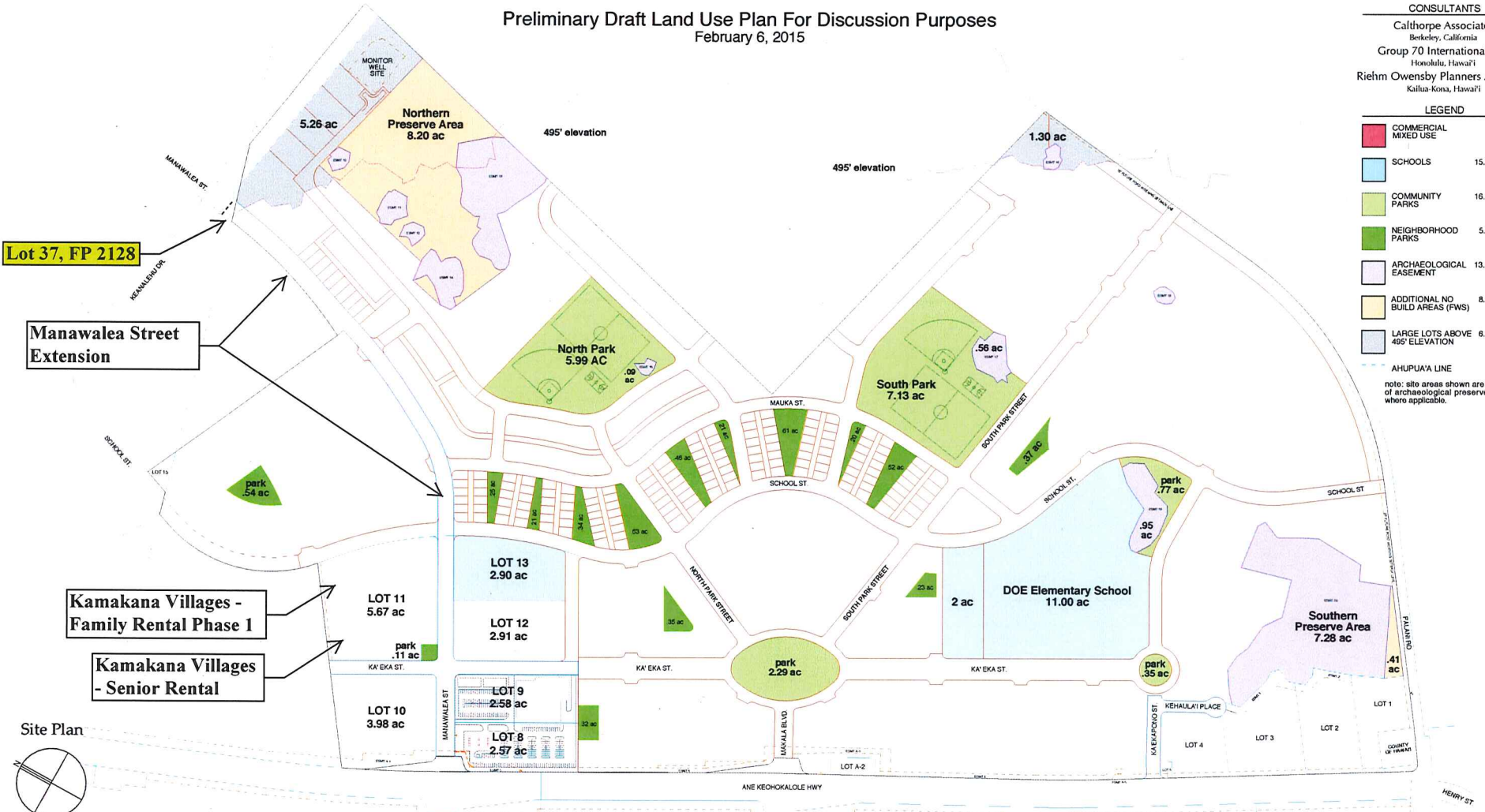
CONSULTANTS  
Calthorpe Associates  
Berkeley, California  
Group 70 International Inc.  
Honolulu, Hawai'i  
Riehm Owensby Planners Architects  
Kailua-Kona, Hawai'i

LEGEND

COMMERCIAL MIXED USE	
SCHOOLS	15.90 ACRES
COMMUNITY PARKS	16.53 ACRES
NEIGHBORHOOD PARKS	5.34 ACRES
ARCHAEOLOGICAL EASEMENT	13.26 ACRES
ADDITIONAL NO BUILD AREAS (FWS)	8.61 ACRES
LARGE LOTS ABOVE 495' ELEVATION	6.56 ACRES
AHUPU'UA LINE	

note: site areas shown are net of archaeological preserve(s) where applicable.

EXHIBIT A-2



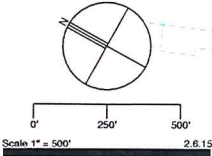
Lot 37, FP 2128

Manawalea Street Extension

Kamakana Villages - Family Rental Phase 1

Kamakana Villages - Senior Rental

Site Plan



Kamakana Villages - Hawaii Housing Finance & Development Corporation & Forest City Hawai'i  
North Kona, Island & County of Hawai'i

Option 31