

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

December 10, 2021

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

GLS-6038

**HAWAII**

Amendment of General Lease No. S-6038 to Paa Pono Milolii, Lessee, for Community Enrichment & Historical Purposes, Milolii-Hoopuloa, South Kona, Island of Hawaii, Tax Map Key Nos.: (3) 8-9-014:038-041.

The purpose of the amendment is to add an additional seven lots to lease for expansion of Community Enrichment & Historical Center Purposes. Additional seven lots to include Tax Map Key Nos.: (3) 8-9-014:036 and 042-047.

APPLICANT:

Paa 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 situated at Milolii-Hoopuloa, South Kona, Island of Hawaii, identified by Tax Map Key Nos.: (3) 8-9-014:038-041, as shown on the attached maps labeled **Exhibits A & B**.

AREA:

Current Area of GLS-6038: 0.9182 acre, more or less (40,000 sq. ft.).  
Additional Area Requested: 1.6362 acres, more or less (71,275 sq. ft.).  
Total: 2.5544 acres, more or less (111,270 sq. ft.).

ZONING:

State Land Use District: Conservation.  
County of Hawaii Zoning: Open.

Subject property is also located in a Special Management Area.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Community Enrichment & Historical Center Purposes.

LEASE:

Term: Fifty-five (55) years.  
Commencement: May 10, 2013.  
Expiration: May 9, 2068.

ANNUAL RENT:

\$480 per annum.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS OF ADDITIONAL SEVEN LOTS:

Utilities -	Telephone only.
Slope -	0 to 20 percent.
Elevation -	Sea level - 50 feet.
Rainfall -	15 to 50 inches.
SCS Soil Series -	Aa, no soil material.
Land Study Bureau -	University of Hawaii.
Access -	Staff has verified legal access to property from Milolii Beach Rd.
Subdivision -	Staff has verified that subject property is a legally subdivided lot.
Encumbrances -	None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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

See discussion regarding the expansion request in Remarks section below.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall obtain County of Hawaii permits for 3-unpermitted structures on Lot 42 immediately after subject property is added to applicant's current lease.

REMARKS:

**General Lease No. S-6038:**

At its meeting of May 10, 2013, under agenda Item D-5, the Board of Land and Natural Resources approved the issuance of a direct lease to Paa Pono Milolii (PPM), a Hawaii non-profit corporation, for Community Enrichment and Historical Center Purposes. General Lease No. S-6038 was thereafter issued to PPM consisting of 4-four lots for a total of 40,000 sq. ft. PPM is now requesting an amendment of current Lease for an additional 7-Lots to expand Community Enrichment & Historical Center Purposes.

**History:**

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. The Legislature 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. Sixty-two individual single-family lots of 10,000 square feet each have been developed in this area. 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 including the seven additional Lots, as shown on the attached map labeled **Exhibit B**.

**Project Status:**

In 2006, Senator Daniel K. Inouye allocated \$298,000.00 through a Housing and Urban Development (HUD) grant to fund the planning, design and initial construction of a Community Enrichment and Historical Center (Community Center) for Milolii. Over the course of three years, PPM, a non-profit Internal Revenue Code Section 501(c)(3) entity, administered the HUD grant to facilitate the building of the community center in Milolii. The Community Center received final approvals and broke ground in the fall of 2013. At the end of this initial funding in 2014, the Community Center was about 10% complete with most of the groundwork and initial concrete pillars completed.

In 2015, the Hawaii County Economic Opportunity Council (HCEOC), acting as fiscal sponsor, received an \$800,000.00 Grants in Aid Award (GIA) to continue construction of the Community Center. HCEOC waived all administrative and fiscal sponsor fees. JCP Construction was awarded the contract and began work on the project. The foundation was poured in September of 2017, and large beams for the roof were placed in November of the same year. In 2018 and early 2019, the roof, framing walls, windows, and siding were installed. Towards the end of 2019, GIA funds were depleted and work on the Community Center stopped. At this time, the classrooms were 80% complete and the pavilion about 65% complete, as shown on the attached photos labeled **Exhibit C**.

Towards the end of 2020, PPM initiated construction of a classroom structure unattached from the main building. This was funded by another GIA award from 2018. The structure is 20'x40' consisting of two classrooms and is currently 80%, complete as shown on the attached photos labeled **Exhibit D**.

On May 6, 2021 PPM received a \$650,000 grant from the Weinberg Foundation to complete the community center. Richard Randall Construction has been secured to do the work with a project completion date of December 2022.

Other funds received for the Community Center include \$200,000 from a State Grant in Aid (GIA) award for classrooms and a septic system (2018); \$100,000 from Atherton (a private foundation) for restrooms (2018); \$74,000 from the Office of Hawaiian Affairs (OHA) for kitchen appliances and equipment (2019); and \$50,000 from the United States Department of Agriculture (USDA) for a solar electric system (2020).



All funds, other than the \$800,000 GIA to HCEOC, have been awarded to PPM or Kalanihale, who has partnered with PPM to construct the Community Center. Weinberg, Atherton, OHA and USDA awards were to PPM while the 2018 GIA award was to Kalanihale.

Current project projections include:

- Completing pavilion by December 2021
- Completing classrooms by December 2021
- Completing restrooms by October 2021
- Completing hale waa, paving parking lot, installing the fire suppression water tank, and landscaping by December 2022

**Unpermitted Structures and OCCL:**

PPM has built 3-unauthorized and unpermitted structures on Lot 42 consisting of the following: (1) A 20,000 gallon catchment water tank. The water from this catchment system will be used for the restrooms on Lot 39 as well as irrigation of the project area; (2) A 4,000 gallon potable water tank, with plumbing connected to the kitchen on Lot 40; and (3) A storage shed, 16' x 20' at 320 sq. ft., that will hold 16-batteries for a solar power system that will power the entire project. Unpermitted structures, as shown on the attached photos labeled **Exhibit E**. The USDA will provide and install the catchment system as soon as the necessary permits are acquired. The storage unit will also hold pressurized tanks and pumps for the water tanks as well as an 11,000-watt backup generator. The area also includes an air-to-water conversion system (a permit was not required).

On June 4, 2020, the Office of Conservation and Coastal Lands (OCCL) approved a Site Plan covering TMK (3) 8-9-014:042-044. Approval included the 3-unpermitted structures on lot 42. At this time OCCL assessed PPM a fine of \$1,000 for unpermitted structures, as shown on the attached document labeled **Exhibit F**.

In a letter dated July 12, 2021, OCCL informed DLNR Land Division that PPM has secured the necessary Conservation District Use Permits and State Plan of Approvals and that there were no outstanding issues. In addition, OCCL stated that it had no objections to the proposed addition of seven lots to General Lease No. S-6038, as shown on the attached document labeled **Exhibit G**.

**Consolidation:**

The consolidation of lots 38 - 47 was approved by the County of Hawaii Planning Department (COPD) and has been recorded with the Bureau of Conveyances in 2020, as shown on the attached document labeled **Exhibit H**.

**Lease Amendment:**

The lessee has submitted a request to add an additional seven lots to the four lots currently under GLS-6038. The additional space is necessary to allow PPM to expand

facilities, programs, and services to benefit the Milolii community. The seven requested lots are in the same proximity to the existing four lots, as shown on the attached map labeled **Exhibit B**.

Six of the seven requested lots are approximately 10,000 sq. ft. each and the other lot is 11,274 sq. ft. for a total of 71,275 sq. ft. All lots are owned by the State of Hawaii and are unencumbered. Lots 42, 43, 44, and 45 have previously been cleared and graded. Portions of Lots 46 and 47 have also been previously cleared and graded. The ungraded portions of 46 and 47 remain in their natural state with a 45 degree rise up to 30 feet high making this portion of the lots unsuitable for building. Lot 36 remains in its natural state. Lessee plans to build 3 structures on the seven additional lots; one structure on each Lot, 42, 43, and 44. The building of these three structures will take place in two phases:

Phase I will include the installation of a 24,000-gallon water tank for Fire Suppression. The tank will be funded by the Weinberg grant. The projected completion date for this phase is December 2021.

In Phase II, the larger and smaller hale waa (canoe houses) will be constructed. The larger structure will be 60 feet long by 30 feet wide or 1,800 square feet. The smaller structure will be 60 feet long by 20 feet wide or 1,200 square feet. Both structures will share the same design and only differ in size. The structures will be built according to Hawaii Code 3-180-54, Provisions for indigenous Hawaiian architecture. Funding for the larger hale waa will come from the Weinberg grant. The projected completion date for this structure is December 2022. Funding for the smaller hale waa is pending.

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 that the lease require Applicant to comply with the terms and conditions of the permit, current and future structures, as shown on the attached map labeled **Exhibit I**.

#### **HRS Chapter 343 Analysis:**

With respect to the requirement to comply with Chapter 343, HRS, regarding environmental assessments, PPM is requesting the Board find that a prior environmental review conducted for earlier phases of the development of the four parcels under GL S-6038 covers the inclusion of the additional seven lots in the lease and construction of new facilities on them under the new administrative rules promulgated by the Office of Environmental Quality Control (OEQC). Chapter 11-200.1, HAR, which took effect on August 9, 2019, provides in part as follows:

§11-200.1-11 Use of prior exemptions, findings of no significant impact, or accepted environmental impact statements to satisfy chapter 343, HRS, for proposed actions. (a) When an agency is considering whether a prior exemption, FONSI, or an accepted EIS satisfies chapter



343, HRS, for a proposed action, the agency may determine that additional environmental review is not required because:

- (1) The proposed action was a component of, or is substantially similar to, an action that received an exemption, FONSI, or an accepted EIS (for example, a project that was analyzed in a program EIS);
- (2) The proposed action is anticipated to have direct, indirect, and cumulative effects similar to those analyzed in a prior exemption, final EA, or accepted EIS; and
- (3) In the case of a final EA or an accepted EIS, the proposed action was analyzed within the range of alternatives.

(b) When an agency determines that a prior exemption, FONSI, or an accepted EIS satisfies chapter 343, HRS, for a proposed action, the agency may submit a brief written determination explaining its rationale to the office for publication pursuant to section 11-200.1-4 and the proposed action may proceed without further chapter 343, HRS, environmental review. . .

The Final Environmental Assessment (FEA) for the Milolii Community Center, for which the County of Hawaii was the Accepting Authority, issued a Finding of no Significant Impact (FONSI), contemplated a project proposing four buildings including a community center pavilion, restrooms, guest quarters and classrooms, with a combined area of approximately 4,800 square feet, on four parcels on premises of GL S-6038.<sup>1</sup>

The surrounding environment has not changed, and the change in the project is to moderately increase its scope by constructing accessory structures on adjacent lands that have previously been disturbed. The accessory structures include a solar battery storage shed, a water catchment tank, potable water tank, fire suppression water tank, and two canoe hales on three additional parcels adjacent to the lease premises. Four other parcels to be added to the lease will be landscaped or gardened, but not developed with structures. PPM takes the position that a new EA should not be required. The currently proposed expansion for accessory structures satisfies the three-pronged analysis under HAR Section 11-200.1-11(a) as follows:

- (1) The proposed action was a component of, or is substantially similar to, an action that received an exemption, FONSI, or an accepted EIS (for example, a project that was analyzed in a program EIS)

The 2012 FEA analyzed the impacts from a project that included the pavilion, restrooms, guest quarters and classrooms. The accessory structures proposed on the additional lots are a component of the community center and substantially

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<sup>1</sup> Final Environmental Assessment for the Milolii Community Center, dated May 2012, published July 23, 2012.

similar to the prior action that received a FONSI.

- (2) The proposed action is anticipated to have direct, indirect, and cumulative effects similar to those analyzed in a prior exemption, final EA, or accepted EIS

The 2012 FEA analyzed the Community Center with its four structures totaling 4,800 square feet and concluded it would have no significant environmental impacts. The inclusion of the additional seven lots in the lease and construction of accessory structures on them to support the community center is anticipated to have similar impacts -- i.e., none. Like the Community Center, the new accessory structures will have unavoidable construction-related impacts, including noise and air quality impacts associated with the construction equipment and dust, but those impacts will be temporary.

- (3) In the case of a FEA or an accepted EIS, the proposed action was analyzed within the range of alternatives

The alternatives analyzed in the 2012 FEA ranged from the Community Center (the preferred alternative) to the No Action alternative, differentiated primarily by the location of the buildings. Three of the seven parcels PPM seeks to add to the lease (Parcels 36, 42 and 43) were considered as alternative sites for the Community Center under the 2012 FEA, but not selected because the four parcels under GL S-6038 were more desirable. The proposed water catchment tank, potable water tank, fire suppression water tank, and large canoe hales will be located on Parcels 42, 43 and 44.

Staff believes that the Board is authorized to determine that additional environmental review for the construction of the inclusion of the seven new parcels and construction of the new accessory structures is not required for the foregoing reasons and is including a recommendation to that effect below.

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

**Special Management Area Permit:**

A Special Management Area (SMA) Use Permit was issued to Paa Pono Milolii on September 29, 2020 covering TMK (3) 8-9-014:042-047, stating that:

We find that the proposed action as described above will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA. Therefore, pursuant to Planning commission Rule Section 9-10(e), Special Management Area, Minor Permit No. SMM-20-000433 is hereby issued for the

project as describe above.

SMA permit, as shown on the attached document labeled **Exhibit J**.

RECOMMENDATION: That the Board:

1. Determine that additional environmental review is not required for the inclusion of Tax Map Keys: (3) 8-9-014:036 and 042-047 in the premises of General Lease No. S-6038, Paa Pono Milolii, Lessee, and the construction of accessory structures thereon, pursuant to HAR Section 11-200.1-11 and under the terms and conditions cited above, which are by this reference incorporated herein.
2. Authorize the publication with the Office of Environmental Quality Control of a brief written determination explaining the Board's rationale for finding that additional environmental review is not required for the inclusion of the seven additional lots in the premises of General Lease No. S-6038 and the construction of accessory facilities thereon, pursuant to section 11-200.1-4, HAR.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize amendment of lease to Paa 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 amendment document form, as may be amended from time to time;
  - B. Applicant shall 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.

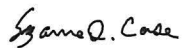
Respectfully Submitted,



*gch*

Pua Ishibashi, Land Agent

APPROVED FOR SUBMITTAL:



*RT*

Suzanne D. Case, Chairperson



# EXHIBIT A



[illegible]

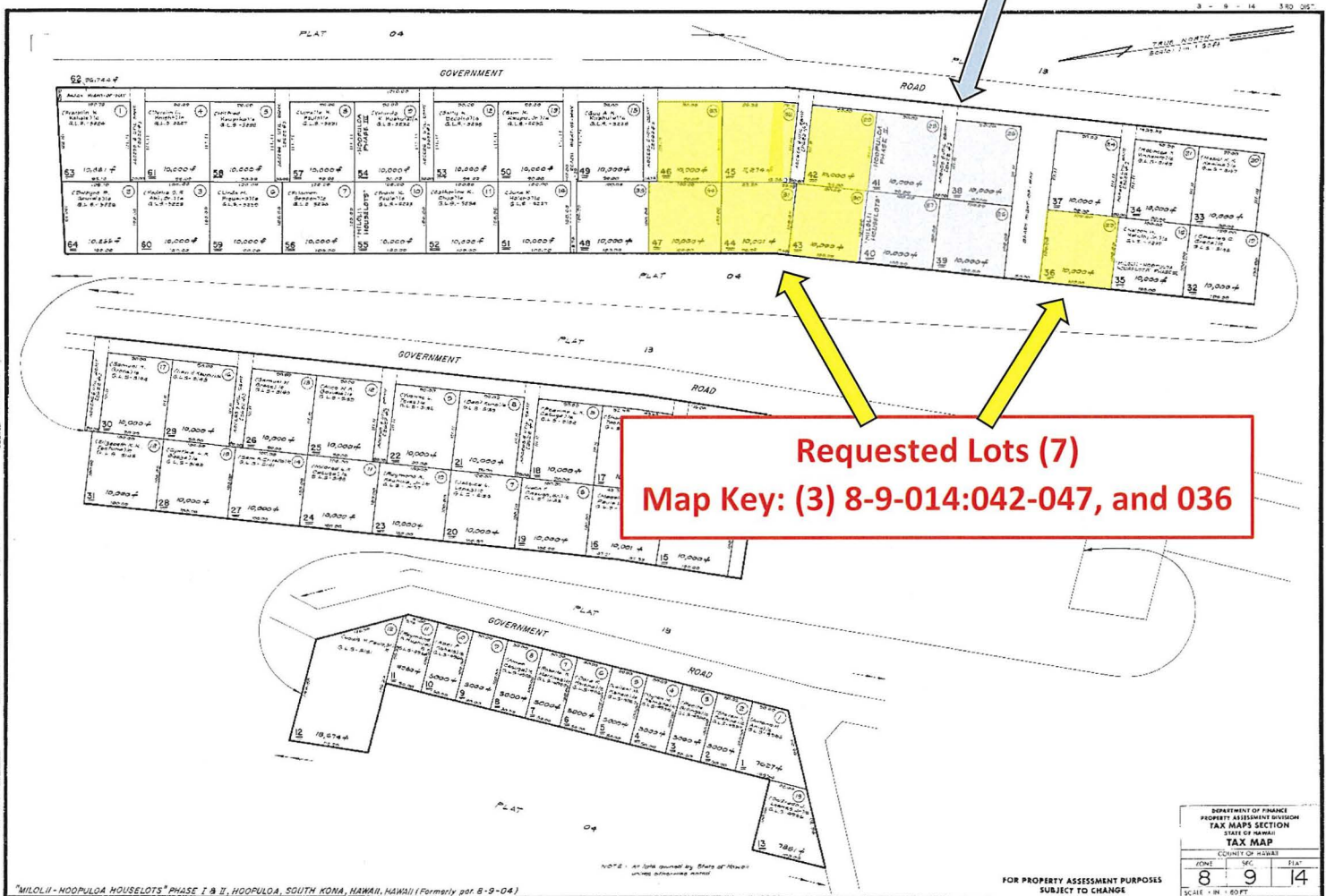
## Milolii-Hoopuloa, South Kona, Island of Hawaii



# EXHIBIT B

# EXHIBIT B

**Current Lots (4)**  
**Tax Map Key: (3) 8-9-014:038-041**



**Milolii-Hoopuloa, South Kona, Island of Hawaii**



# EXHIBIT C



**EXHIBIT C**

**Pavilion**  
**Tax Map Key: (3) 8-9-014:41**



**Makai to mauka view**





**Mauka to makai view**



**NORTH**



**Western view**



**Eastern view**





Unfinished main hall of pavilion



**Unfinished kitchen area within pavilion**



# EXHIBIT D



**EXHIBIT D**

**Classroom Structure**  
**Tax Map Key: (3) 8-9-014:41**





Exhibit D-2





Exhibit D-3

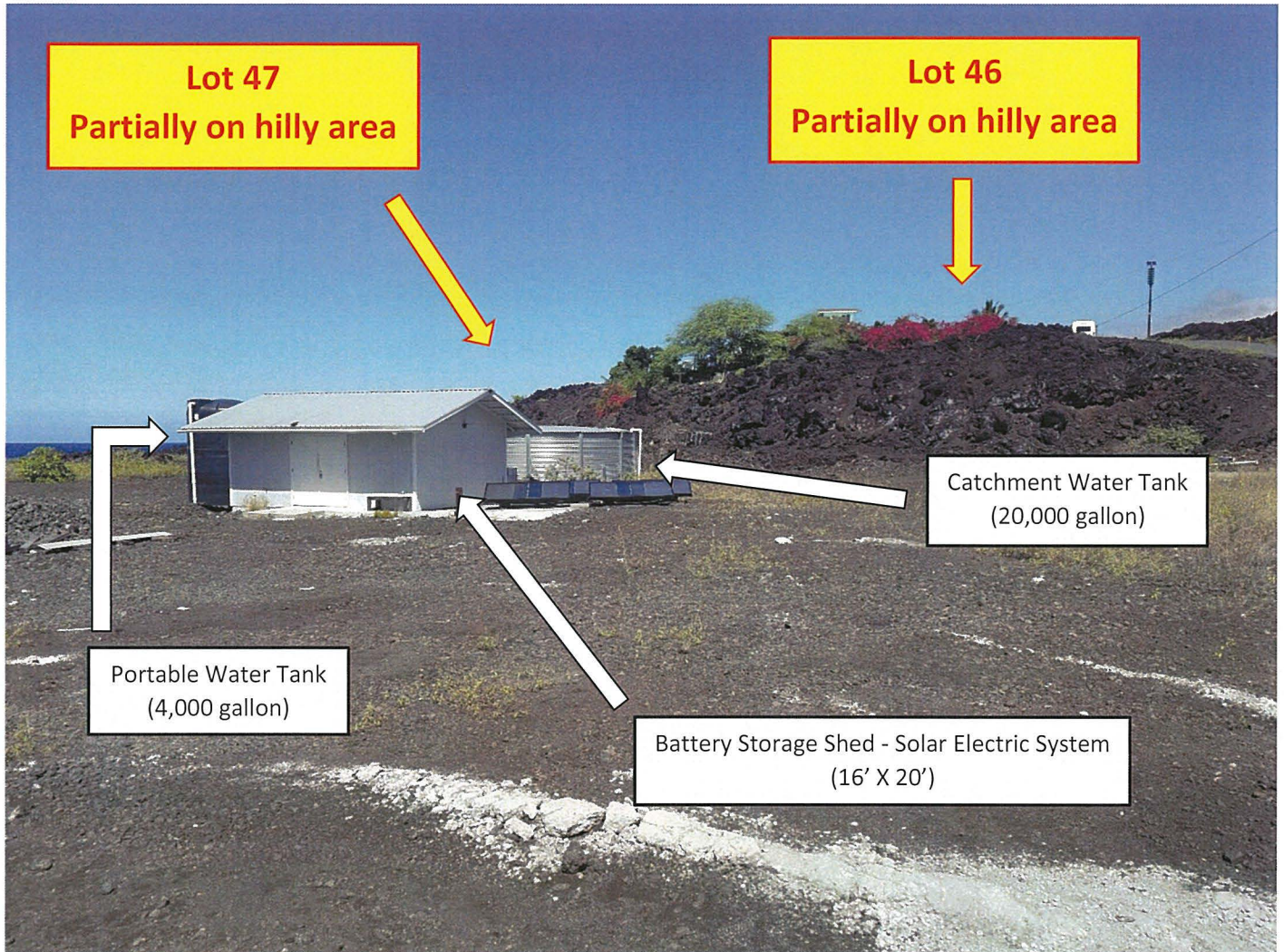


# EXHIBIT E

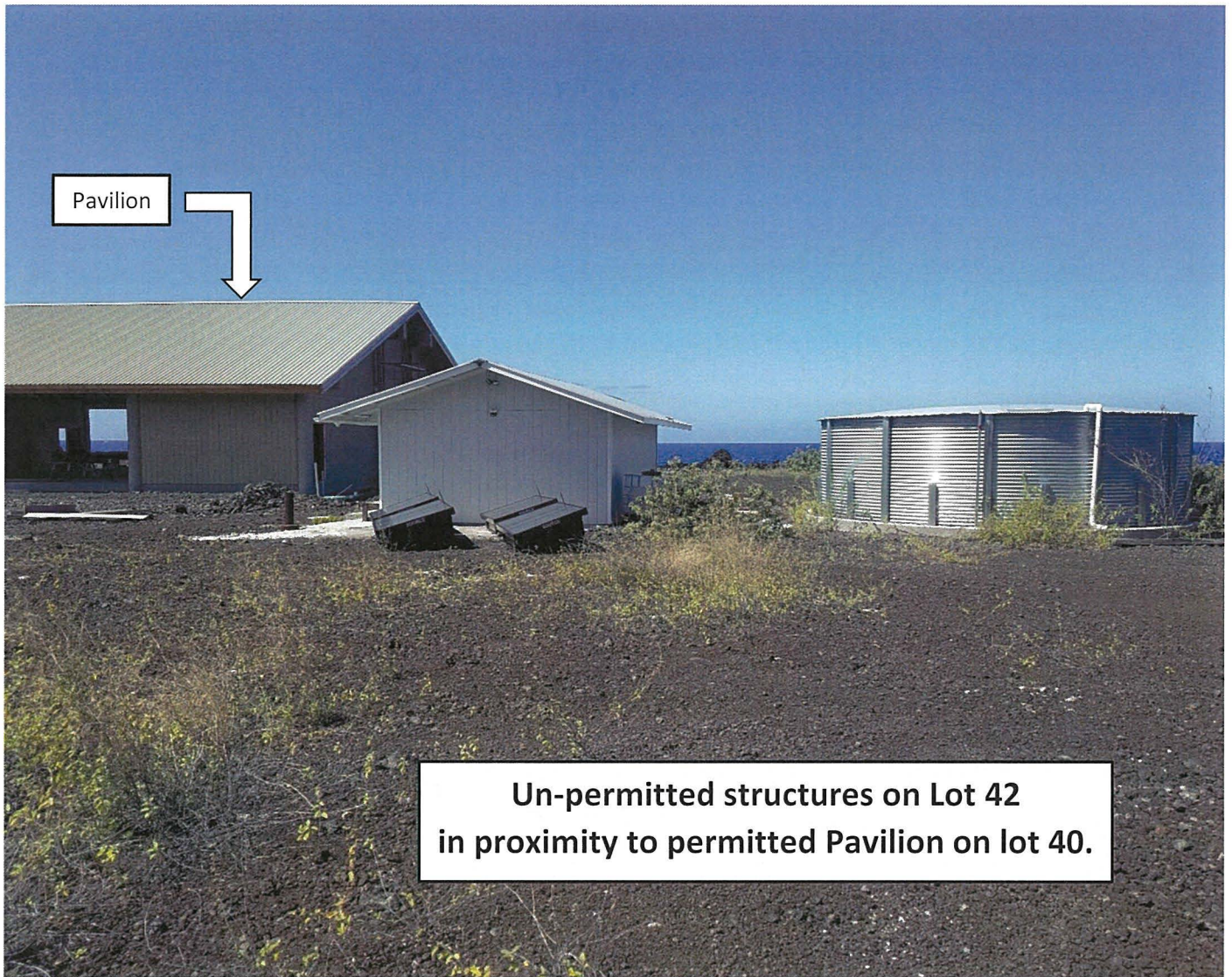


**EXHIBIT E**

**3-Un-permitted structures on Lot 42**  
**Tax Map Key: (3) 8-9-014:42**





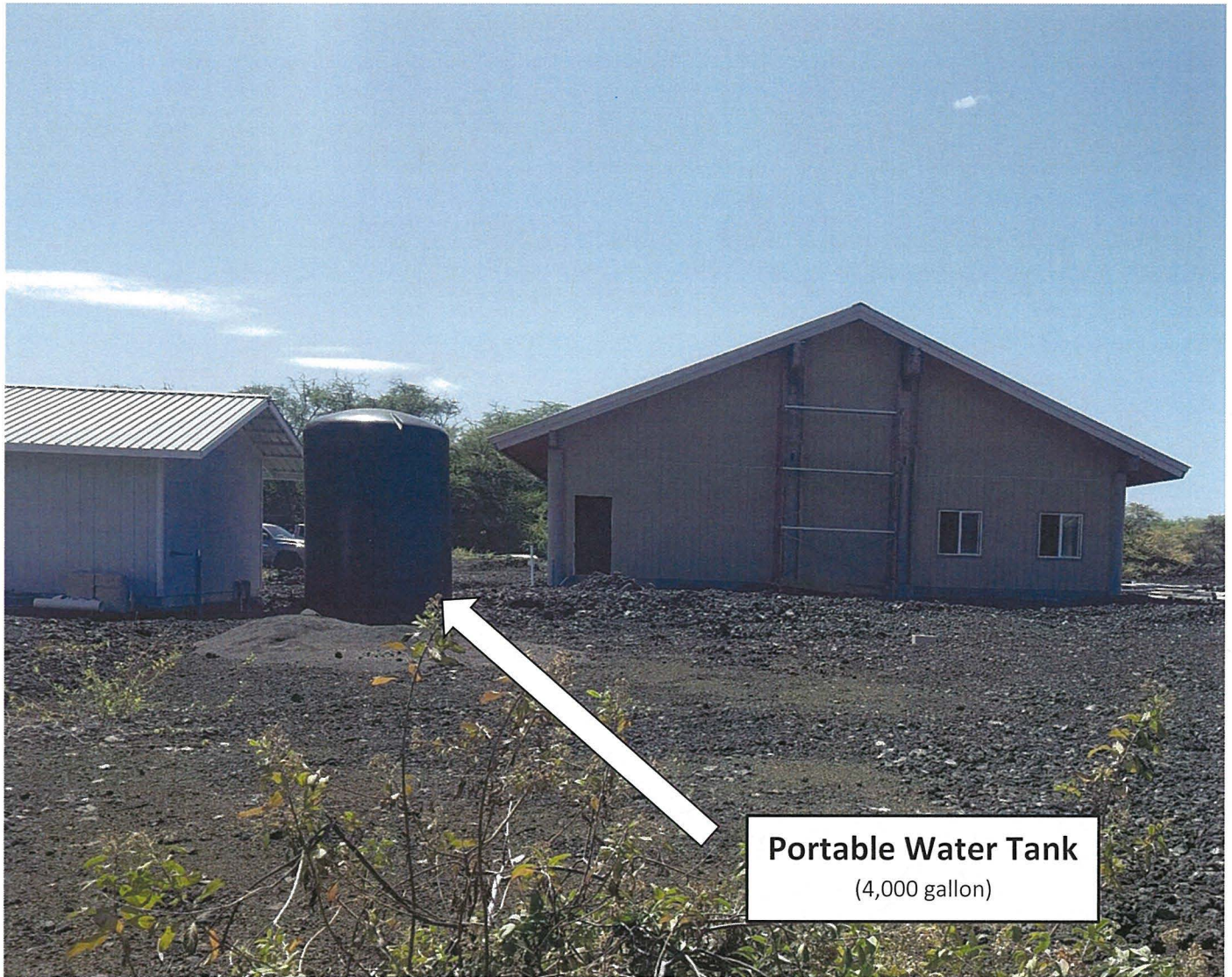






Note: Portable air-to-water system, did not require a permit.  
Installed at no cost through a USDA grant program.

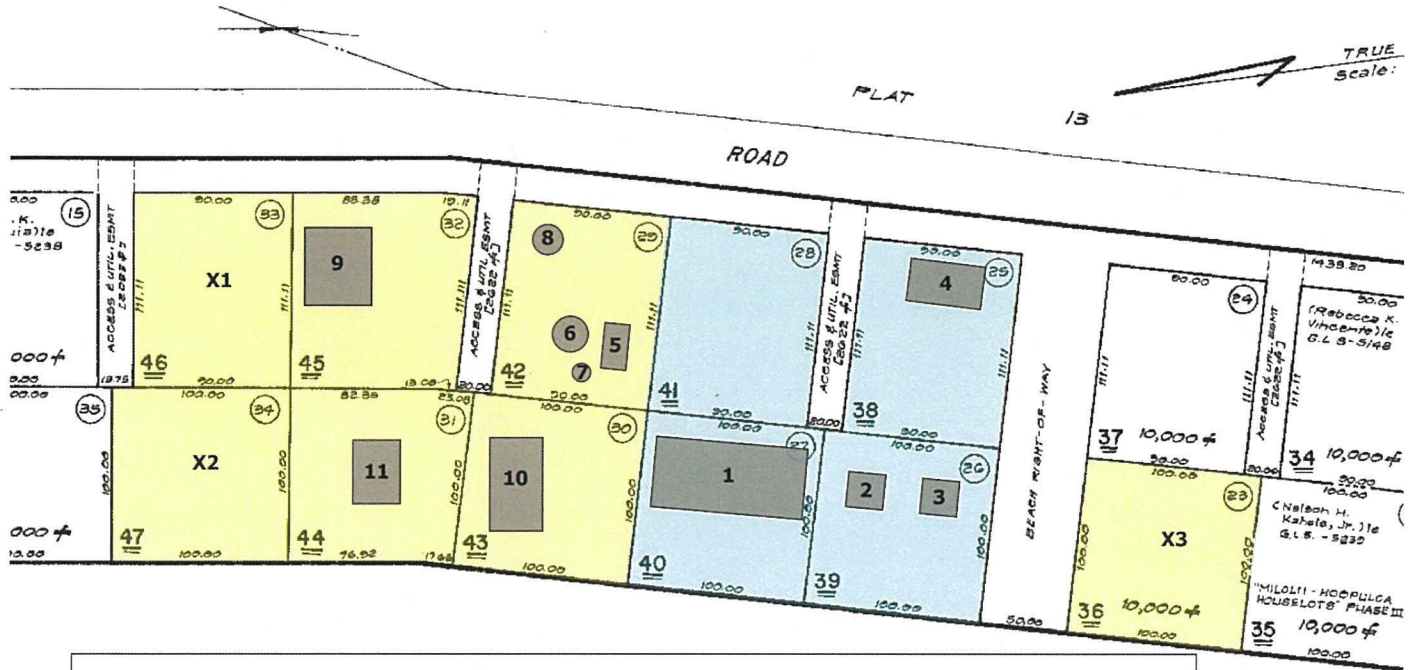




**Portable Water Tank**  
(4,000 gallon)

## Current and Projected Structures and Projects.

Note: Only structures 1, 4, 5, 6 and 7 exist





# EXHIBIT F

**EXHIBIT F**

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
OFFICE OF CONSERVATION AND COASTAL LANDS  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
ROBERT K. MASUDA  
FIRST DEPUTY  
  
M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER  
  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref:OCCL:MC

Site Plan Approval HA-21-19, amended  
June 04, 2021

Gail Garoutte, Treasurer  
Pa'a Pono Miloli'i  
89-1797 Miloli'i Road  
Captain Cook HI 96704

Dear Ms. Garoutte,

**Subject: Site Plan Approval HA-21-19 – Accessory Structures**  
Miloli'i Multi-Purpose Community Center  
Ho'öpūloa-Miloli'i, South Kona, Hawai'i  
TMKs (3) 8-9-014:042, 043, 044

The Office of Conservation and Coastal Lands (OCCL) has reviewed the information you provided regarding accessory structures on the above subject parcel. The parcel is in the Miloli'i Village Special Subzone of the State Land Use Conservation District. The Special Subzone was established in 1984 order to allow the Department of Land and Natural Resources to meet the intent of Act 62, Session Laws of Hawai'i 1982, which authorized the Department to negotiate and enter into long-term residential leases with persons who were displaced by, or are descendants of the refugees of, the 1926 Ho'öpūloa lava flow.

The Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-3642 for the Multi-Purpose Community Center on February 18, 2013. Approved elements of the center included:

- An 80-foot by 50-foot (4,000 square feet) community center with a large covered lanai, an enclosed office, a visitor reception center, a library, kitchen, and a classroom;
- Two detached 400 square foot guest quarters, with restrooms; and
- An unpaved parking for fifteen vehicles, mauka of the main buildings and accessed from the beach access right-of-way.

The facility is designed to be used to conduct community meetings, cultural activities, and educational and recreational programs. Such a facility was called for in the 1984 *Miloli'i-Ho'öpūloa Community Development Plan*; however, the community was unable to secure funds at that time to develop the programs or facilities.



The Center is operated and maintained by Pa'a Pono Miloli'i (PPM). The organization has the option to collect user fees, maintenance fees, or facility fees, provided that such fees remain consistent with the Pa'a Pono's mission and don't conflict with its non-profit status.

An environmental assessment (EA) for the project was developed under NEPA and administered by the County of Hawai'i Department of Housing and Community Development. The Final EA and a Finding of No Significant Impact (FONSI) were published in the July 23, 2012 edition of the Department of Health's *Environmental Quarterly*. OCCL determined that this satisfied the requirements of HRS 343.

In 2017 OCCL approved Site Plan Approval HA-18-29 for the addition of an 800 square-foot portable classroom, to be located near the road, and adjacent to the thirty-foot beach right-of-way. The portable classroom was to be used for a satellite campus of the Kua O Ka La Public Charter School in the village known as the Miloli'i Hipu'u Online Academy.

PPM currently is seeking site plan approval for the following improvements:

On parcel 042: PPM is seeking an after-the-fact permit for one 16' x 20' utility shed, one 4,000-gallon potable water tank, and one 20,000-gallon catchment tank. The utility shed houses the pressure tanks and pumps for the water tanks, solar batteries and inverters for the PV solar system, and backup generator. The potable water tank is plumbed specifically to the certified kitchen in the pavilion to meet Department of Health regulations and the catchment tank will be used for restrooms and irrigation purposes. These structures were built before securing the proper permits through DLNR.

PPM also proposes to add a third 24,000-gallon water tank for the purposes of fire suppression. This is a requirement of the Hawaii County Fire Department in order to obtain final inspection and certificate of occupancy on the main pavilion. The permit for this water tank is currently pending at County Building Department.

On parcels 043 and 044 PPM proposes to erect two traditional style hale wa'a (canoe house). They will be 20' x 60' and 30' x 60' and used for the Miloli'i Canoe Club to store their historic koa racing canoe, Maiolo, and as a workshop to repair canoes.

Parcels 046 and 047 will be kept as open space, natural and/or landscaped and not developed. No permit is needed for these uses.

After reviewing the proposal, OCCL finds that:

1. The proposal appears to be an identified land use pursuant to HAR §13-5-23, L-7 STRUCTURES, ACCESSORY, (B-1) *Construction or placement of structures accessory to an existing structure, building, or facility under an existing conservation district use permit. Accessory uses shall be allowed only if they are consistent with the purpose of the conservation district.* This use requires a Site Plan Approval from OCCL.
2. The proposal appeared to be consistent with the intent of the Miloli'i Special Subzone pursuant to HAR Chapter 13-5 Exhibit 2, SPECIAL SUBZONES (1) *Miloli'i-Ho'opūloa special subzone. Subzone designation for Miloli'i-Ho'opūloa fishing village purposes including fishing activities, residential, educational, cultural and recreational uses pursuant to Act 86, SLH 1991.*
3. The project as described is identified as exempt pursuant to HAR §11-200-8, Exempt Classes of Action, **Exemption Class 3: Construction and location of single new, small facilities or structures and**

*the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same, and Exemption Class 6: Construction or placement of minor structures accessory to existing facilities.* The project would not need an Environmental Assessment. OCCL consulted with DLNR's Land Division regarding this exemption.

After careful review of the proposed project, the Department gives an after-the-fact Site Plan Approval for one 16' x 20' utility shed, one 4,000-gallon potable water tank, and one 20,000-gallon catchment tank, and Site Plan Approval for one 24,000-gallon water tank and two hale wa'a (canoe houses) at the Miloli'i Multi-Purpose Community Center Ho'ōpūloa-Miloli'i, South Kona, Hawai'i, TMK (3) 8-9-014: 042, 043, 044, subject to the following conditions:

- 1) The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The permittee shall comply with all applicable Department of Health administrative rules;
- 4) Before proceeding with any work authorized by the department or the board, the permittee shall submit two copies of the construction plans and specifications to the Department for approval for consistency with the conditions of this authorization. Plan approval by the Department does not constitute approval required from other agencies;
- 5) The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
- 6) Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized, shall be completed within two years of the approval;
- 7) The permittee understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 8) In issuing this permit, the Department has relied on the information and data that the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 9) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 10) Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-

8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;

- 11) The permittee shall continue to comply with the conditions of CDUP HA-3642;
- 12) Other terms and conditions as may be prescribed by the Chairperson; and
- 13) Failure to comply with any of these conditions shall render this approval null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies, retain one and return one.

The structures that were built without securing permits constitute a land use violation pursuant to HAR Chapter 13-5. Our office proposes to settle this issue through the Civil Resource Violation System, and a penalty of \$1000. We will be sending you the paperwork shortly.

Should you have any questions, please feel free to contact Michael Cain of OCCL at 587-0048.

Sincerely,



Michael Cain, Planner VI  
Office of Conservation and Coastal Lands

Receipt acknowledged:

  
*Applicant's Signature*

6/4/2020  
*Date*

Copy:  
DLNR Land Division  
County of Hawai'i Planning Department



# EXHIBIT G

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
OFFICE OF CONSERVATION AND COASTAL LANDS  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

ref:OCCL:MC

Miloli'i Special Subzone  
July 12, 2021

**Memorandum**

**TO:** Russell Tsuji, Administrator, DLNR Land Division

**FROM:** Michael Cain, Planner, DLNR Office of Conservation and Coastal Lands

A handwritten signature in black ink, appearing to be "M. Cain", is written over the "FROM:" line.

**RE:** Update on Miloli'i Special Subzone  
Ho'ōpūloa-Miloli'i, South Kona, Hawai'i  
TMKs (3) 8-9-014:036. 042-047

The Office of Conservation and Coastal Lands wishes to notify Land Division that Pa'a Pono Miloli'i (PPM) has secured the necessary Conservation District Use Permits and Site Plan Approvals for work conducted in the Miloli'i Special Subzone. There are no outstanding issues, and our office has no objections to the proposed addition of seven lots to General Lease No. S-6038.

Copy:  
County of Hawai'i Planning Department



# EXHIBIT H

**EXHIBIT H**

**Consolidation Documents:  
Recordation, Approval and Map**



**STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED**

March 29, 2021 8:02 AM  
Doc No(s) A - 77580506

Doc 1 of 1  
Pkg 11736161 ICL

/s/ LESLIE T KOBATA  
REGISTRAR

**LAND COURT**

After recordation return by: Mail ☒ Pickup ☐ To:

**REGULAR SYSTEM**

State of Hawaii  
Department of Land & Natural Resources  
Land Division  
P.O. Box 621  
Honolulu, HI 96720

Total Number of Pages:

TITLE OF DOCUMENT:

**AFFIDAVIT OF SURVEYOR**

AFFECTING: TMKs: (3) 8-9-014:038 through 047

OWNER: State of Hawaii  
Department of Land & Natural Resources  
Land Division  
P.O. Box 621  
Honolulu, HI 96720

LESSEE: Pa'a Pono Miloli'i, Inc.  
89-1797 Miloli'i Road  
Captain Cook HI 96704

**AFFIDAVIT OF SURVEYOR THOMAS G. PATTISON**

STATE OF HAWAII        )  
                                  ) SS.  
COUNTY OF HAWAII    )

Thomas G. Pattison, being first duly sworn on oath, deposes and says:



1. I am a Licensed Professional Land Surveyor, No. LS-10743, in the County and State of Hawaii.

2. Attached hereto as Exhibit "A," is a true and correct copy of a letter dated September 16, 2020, from Michael Yee, Director, Planning Department, County of Hawaii, regarding the consolidation of Lots 25 through 34, Miloli'i-Ho'opuloa Houselots, being a portion of H.S.S. Plat 217-A, into Lot 1-A, Ho'opuloa, South Kona, Island of Hawai'i, State of Hawai'i, affecting Tax Map Key Nos. (3) 8-9-014:038 through 047. Exhibit "A" is the letter granting final approval of the final plat map for recordation with the State of Hawaii Bureau of Conveyances in accordance with the Subdivision Code, Chapter 23, of the County of Hawaii.

3. Attached hereto as Exhibit "B" is a true and correct reduced copy of the certified plat map showing the Consolidation of Lots 25 through 34, into Lot 1-A of "Miloli'i - Hoopuloa Houselots Phase II - Lots 1-48, inclusive" being a portion of H.S.S. Plat 217-A, being the Consolidation of Lot 25 thru Lot 34, situate and lying and being at Hoopuloa, South Kona, Island of Hawaii, State of Hawaii.

4. Attached hereto as Exhibit "C," is a true and correct copy of the legal descriptions (metes and bounds) of Lot 1-A.

5. I hereby certify that the metes and bounds description set forth in Exhibit "C" conforms to the accompanying approved final plat map.

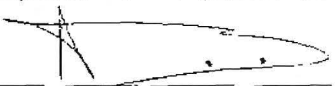
6. This Affidavit is made in accordance with Hawaii Revised Statutes Section 502-17(d).

FURTHER AFFIANT SAYETH NAUGHT.

  
THOMAS G. PATTISON

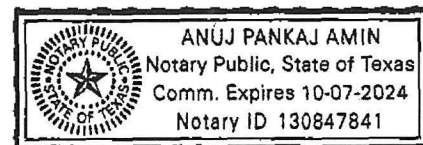
Subscribed and sworn to before me this

19<sup>th</sup> day of March, 2021.

  
Notary Public, State of ~~Hawaii~~ TEXAS.

Print Name: ANUJ AMIN

My commission expires: 10-07-2024



Document Date: 03/19/2021 # Pages: 7

Name: \_\_\_\_\_ Third Circuit

Document Description: Affidavit of Surveyor

 03/19/2021  
Signature Date

Harry Kim  
*Mayor*

Roy Takemoto  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**County of Hawai'i**  
**PLANNING DEPARTMENT**

Michael Yee  
*Director*

April Surprenant  
*Acting Deputy Director*

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

September 16, 2020

Thomas G. Pattison, LPLS  
Pattison Land Surveying, Inc.  
68-1125 North Kaniku Drive, Unit 906  
Kamuela, HI 96743

Dear Mr. Pattison:

**FINAL CONSOLIDATION APPROVAL NO. CON-20-000431**

**APPLICANTS: STATE-DLNR/Pa'a Pono Miloli'i, Inc.**

Consolidation of Lots 25 Through 34, Miloli'i-Ho'opuloa Houselots, Phase II,  
Being A Portion of H.S.S. Plat 217-A

Into Lot 1-A,

Ho'opuloa, South Kona, Island of Hawai'i, Hawai'i

TMKs: (3) 8-9-014:038 Through 047

The project area is located within the Special Management Area (SMA). The Planning Director has determined that the proposed action does not meet the definition of "development" under Planning Commission Rule 9-4(1) but is an exempt action under Planning Commission Rule 9-4(2) (M), which states "Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed, provided that any such land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels."

Please be informed that final approval for recordation is hereby granted to the referenced consolidation. You and the applicant may wish to consult an attorney for the preparation of the necessary legal documents and description of the certified final plat map for the purpose of recordation with the State of Hawai'i, Bureau of Conveyances.

By a copy of this letter, we are forwarding a copy of the certified final plat map and application to the listed officers for their file.



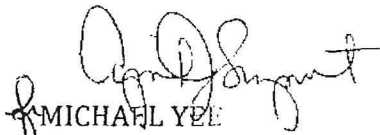
Thomas G. Pattison, LPLS  
Pattison Land Surveying, Inc.  
September 16, 2020  
Page 2

Please note that if you want to undo this consolidation, the Planning Department will allow a nullification if requested within one (1) year of the consolidation, and 1) the final plat has not been recorded; 2) no lot has been transferred or otherwise encumbered; 3) no building permit has been issued; and 4) the applicant(s) has/have returned all original signed final plat maps. Otherwise, an application to restore the former lots must be treated as a new subdivision and conform to the current zoning and subdivision codes. It may be difficult to resubdivide the property under current codes.

Copies of the certified final plat map are enclosed.

Should you have any questions, please feel free to contact Hans Santiago at [hans.santiago@hawaiicounty.gov](mailto:hans.santiago@hawaiicounty.gov) or Jonathan Holmes at [jonathan.holmes@hawaiicounty.gov](mailto:jonathan.holmes@hawaiicounty.gov).

Sincerely,

  
MICHAEL YEE  
Planning Director

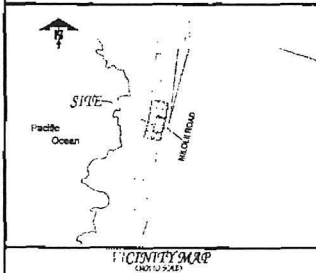
JRH:tb

\\\\coh33\\planning\\public\\Admin Permits Division\\Consolidation\\2020\\CON-20-000431State-DLNRPa'aPonoMiloli'iInc FSA 09-16-20.docx

Encs.: 3 Certified FPM

xc: Manager, DWS w/Certified FPM & application  
Director, DPW w/Certified FPM & application  
----- District Environmental Health Program Chief, DOH w/Certified FPM & application  
Real Property Tax Division-Kona w/Certified FPM  
Tax Maps and Records Supervisor w/Certified FPM  
Planning Division (SMA Section)  
DLNR-OCCL  
Pa'a Pono Miloli'i, Inc.

EXHIBIT A



HOOPULOA

54-1125 North Kamea Drive • Unit 906  
Kamuela Hawaii 96743 Phone 327-9419

~~EXHIBIT B~~



**DESCRIPTION OF LOT 1-A as found on Map CON-20-000431**

**Being TMK(3)8-9-014:038**

**Being a portion of the "HOOPULOA HOUSELOTS PHASE II"**

**As found on H.S.S. Plat 217-A**

**Being the Consolidation of Lot 25 thru Lot 34  
situate and lying and being at Hoopuloa, South Kona,  
Island of Hawaii, State of Hawaii**

**Beginning at the Southwest corner of this herein-described parcel of land, being the same previously described corner of Lot 26 of "HOOPULOA HOUSELOTS PHASE II" on H.S.S. Plat 217-A; said beginning point coordinates of which are referred to Government Survey Triangulation Station "KAPUKAAWAA" being 1,689.25 feet North and 710.63 East and running by azimuths measured clockwise from true South:**

**Thence along the remainder of Government Land of Hoopuloa,  
with the following Sixteen (16) courses:**

- |     |            |        |   |
|-----|------------|--------|---|
| 1.  | 194°08'00" | 317.66 | feet along TMK(3)8-9-004:007 (Government Land) to a point;  |
| 2.  | 187°55'00" | 176.92 | feet along the same, to a point for the Northwest corner of this herein-described tract of land, being the Southwest corner of Lot 35 of "HOOPULOA HOUSELOTS PHASE II, H.S.S. Plat 217-A; |
| 3.  | 277°55'00" | 100.00 | feet along said Lot 35, to a point;   |
| 4.  | 07°55'00"  | 10.00  | feet along an Access and Utility Parcel, to a point;  |
| 5.  | 277°55'00" | 111.11 | feet along same, to a point;  |
| 6.  | 07°55'00"  | 178.38 | feet along Government Land, to a point;   |
| 7.  | 14°08'00"  | 19.13  | feet along same, to a point;  |
| 8.  | 104°08'00" | 111.11 | feet along an Access and Utility Parcel, to a point;  |
| 9.  | 14°08'00"  | 20.00  | feet along same, to a point;  |
| 10. | 284°08'00" | 111.11 | feet along same, to a point;  |
| 11. | 14°08'00"  | 180.00 | feet along Government Land, to a point;   |
| 12. | 104°08'00" | 111.11 | feet along an Access and Utility Parcel, to a point;  |
| 13. | 14°08'00"  | 20.00  | feet along same, to a point;  |
| 14. | 284°08'00" | 111.11 | feet along same, to a point;  |

**CONTINUED DESCRIPTION OF LOT 1-A**

15. 14°08'00"	90.00	feet along Government Land, to a point;
16. 104°08'00"	211.11	feet along the Beach Right-Of-Way to the place of beginning and containing 2.325 acres, more or less.

**PATTISON LAND SURVEYING INC.**

March 15<sup>th</sup>, 2021

Description prepared by:



A handwritten signature in black ink, appearing to read "T. G. Pattison", written over a horizontal line.

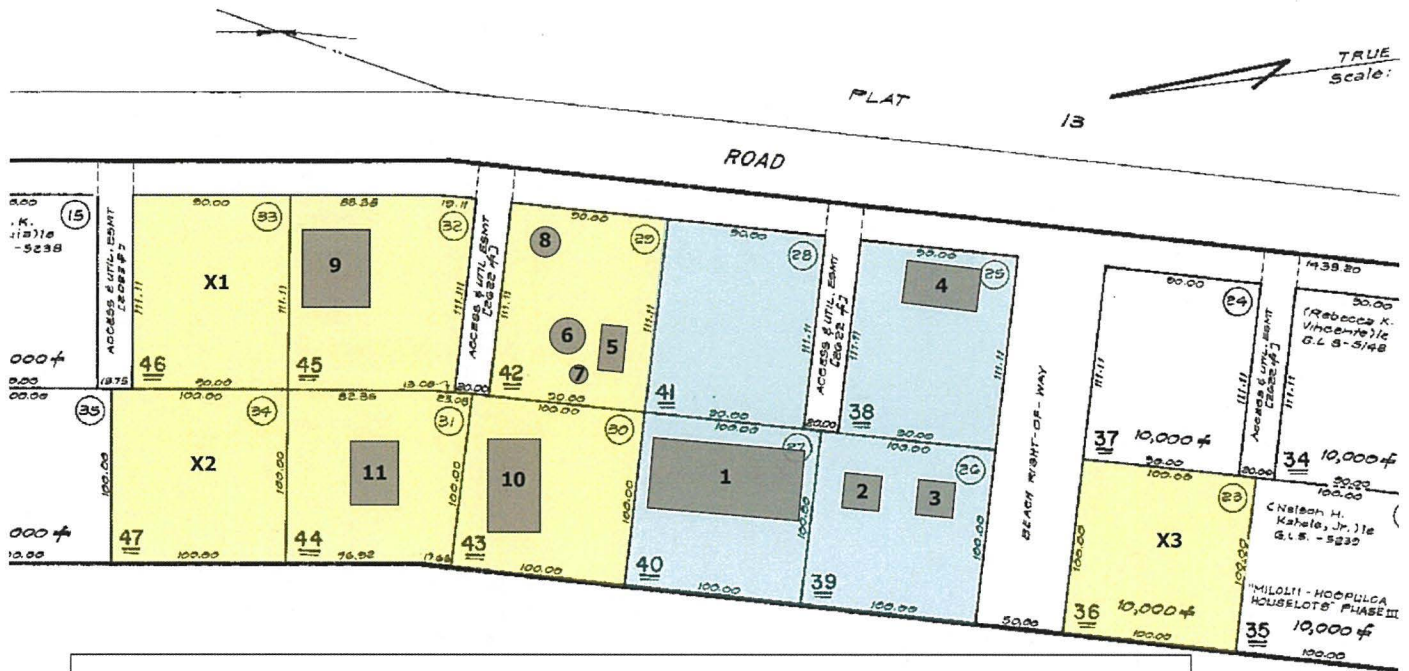
Thomas G. Pattison  
Licensed Professional Land Surveyor  
Certificate No. 10743 Expires 4/30/2022





# EXHIBIT I

EXHIBIT I

Current and Future Structures and Projects.  
Note: Only structures 1, 4, 5, 6 and 7 exist.



- |                         |                                     |   |
|-------------------------|-------------------------------------|---|
| 1. Pavilion             | 7. Potable Water Tank               | X1 & X2: Native Hawaiian plantings for slope control and community garden |
| 2. RestRooms            | 8. Fire Suppression Water Tank      |   |
| 3. Guest Quarters       | 9. Boat Garage                      | X3: Marine Education and Training   |
| 4. Classrooms           | 10. Hale Wa'a ( Large Canoe House ) |   |
| 5. Battery Storage      | 11. Hale Wa'a ( Small Canoe House ) |   |
| 6. Catchment Water Tank |                                     |   |
- 
- |   |   |
|---|---|
|  Current Lease |  Application For Additional Lots |
|---|---|



# EXHIBIT J

Harry Kim  
Mayor

Roy Takemoto  
Managing Director

West Hawai'i Office  
74-5044 Ane Keohokālole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**EXHIBIT J**

Michael Yee  
Director

April Surprenant  
Acting Deputy Director

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

## County of Hawai'i

### PLANNING DEPARTMENT

September 29, 2020

Ms. Gail Garoutte

████████████████████  
Captain Cook, HI 96704

Dear Ms. Garoutte:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(SAA-20-001777)  
Special Management Area (SMA) Minor Use Permit (SMM-20-000433)  
Applicant(s): Pa`a Pono Miloli`i  
Landowner(s): State of Hawai`i  
Project: Construction of Utility Structures and Storage  
Tax Map Key: (3) 8-9-014:042 - 047  
Location: Miloli`i, Ho`opūloa, South Kona District, Island of Hawai`i**

The Planning Department has completed our review of the subject Special Management Area (SMA) Use Permit Assessment Application (SAA-20-001777), originally submitted to this Department on June 28, 2020; the Planning Department requested additional information regarding the proposed project which was submitted to this office on August 26, 2020.

This Special Management Area (SMA) Minor Use Permit is being pursued to construct support utility (i.e., power, water) buildings and appurtenances adjacent to the in-progress *Miloli`i Community Enrichment and Historical Center* located. The subject parcels have no significant existing development and are slightly vegetated, cleared or rocky. Only three (3) of the six (6) parcels will be developed, the remaining three (3) (TMKs: (3) 8-9-014:045-047 will be landscaped or left in a natural state.

The applicant's parcels (TMKs: (3) 8-9-014:042 – 047) total 1.4 acres and are zoned *Open (O)* by the County of Hawai'i and designated within the State Land Use (SLU) Conservation District by the State Land Use Commission. The parcel is designated as *Open (ope)* by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The subject parcels are located in the SMA; however, no portion of the proposed project is located within the "shoreline area" as



defined by Section 205A-41, Hawai'i Revised Statutes (HRS).

**Proposed Use:**

According to the information provided, the applicant is proposing to conduct the following activities on the subject parcels:

- Construction of a potable water tank.
- Construction of a Fire Suppression water tank.
- Construction of a non-potable water catchment tank.
- Construction of a utility shed to store solar batteries, emergency back-up generator, pumps, and pressure tank for water tanks.
- Construction of one (1) large Canoe Hale and one (1) small Canoe Hale.
- Landscaping of approximately 20,000 square feet for community garden and erosion control using native Hawaiian plants.

The applicants indicated the objective of this project is to have facilities which support the *Miloli'i Community Enrichment and Historical Center* currently under construction on adjacent parcels, which was approved under SMA Minor Permit No. 12-000242. The water tanks and utility shed are part of the infrastructure needed for the center's main pavilion and restrooms in order to support the community.

**Shoreline Area:**

Pursuant to Hawai'i Revised Statutes (HRS) 205A-22 and County of Hawai'i Planning Department (PD) Rules of Practice and Procedure Section 11-5(a) Establishment of Shoreline Setback Lines, "*Except as otherwise provided in this section, all lots which abut the shoreline shall have a minimum shoreline setback line of forty feet*". The parcel is located entirely within the Special Management Area (SMA) however it is not considered a shoreline parcel.

Based on the preceding the Planning Director considers this project will have minimal to no cumulative impact, or any substantial adverse environmental or ecological effect on the SMA. Additionally, the Planning Director has waived the requirement for a shoreline certification as the proposed development will be sited well inland from the coast.

**Special Management Area Determination:**

Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, "Development" means any of the [listed] uses, activities, or operations on land or in or under water within the special management area.

According to the application, the following definition of "Development" can be applied to the proposed use:

- *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste; and*

Ms. Gail Garoutte  
Pa'a Pono Miloli'i  
September 29, 2020  
Page 3

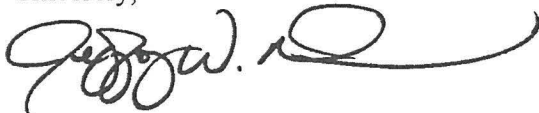
- *Construction, reconstruction, demolition, or alteration of the size of any structure.*

**Please note that any modification to the proposed project as stated in the application may necessitate an additional SMA Use Permit Assessment Application be submitted to this office for review.**

We find that the proposed action as described above will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA. Therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area, Minor Permit No. **SMM-20-000433** is hereby issued for the project as described above. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have any questions, please contact Alex J. Roy of this office at (808) 961 8140.

Sincerely,



*Ree*  
MICHAEL YEE  
Planning Director

AJR:klt

\\coh33\planning\public\wpwin60\CZM\SMM\2020\SMM-20-000433\_Paa\_Pono\_Letter.docx

Enclosures: **SMM-20-000433**

cc w/Encls.: Administrative Permits Division (via email)

cc ltr. only: Mrs. Mary Alice Evans, Director  
Office of Planning, DBEDT



Harry Kim  
Mayor



Michael Yee  
Director

Duane Kanuha  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

**Special Management Area Minor Permit No. 20-000433**

**Project:** Construction of Utility Structures and Storage  
**Applicant(s):** Pa'a Pono Miloli'i  
**Landowner(s):** State of Hawaii  
**TMK(s):** (3) 8-9-014:042 - 047  
**Location:** Miloli'i, Ho'opūloa, South Kona District, Island of Hawai'i  
**Land Area:** 1.4 acres

**Applicant's Request**

**1. Project Description:**

The applicant proposes the following activities:

- Construction of a potable water tank.
- Construction of a Fire Suppression water tank.
- Construction of a non-potable water catchment tank.
- Construction of a utility shed to store solar batteries, emergency back-up generator, pumps, and pressure tank for water tanks.
- Construction of one (1) large Canoe Hale and one (1) small Canoe Hale.
- Landscaping of approximately 20,000 square feet for community garden and erosion control using native Hawaiian plants.

**2. Purpose of Project:** To support the existing *Miloli'i Community Enrichment and Historical Center* being constructed on adjacent parcels.

**3. Project Valuation:** \$95,000

**4. Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 relating to Special Management Area (SMA): *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste; and Construction, reconstruction, demolition, or alteration of the size of any structure* is defined as "development" and necessitates a review against the Special Management Area (SMA) rules and regulations. Based on that review the proposed construction project, that

includes water/power utility buildings and structures as well as two (2) Canoe Hale, on the subject parcels is considered “development” and therefore will require an SMA Minor Permit.

#### State and County Plans

1. **State Land Use District:** The parcel is designated within the Conservation District by the State Land Use Commission.
2. **General Plan:** The parcel is designated as *Open (ope)* by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** Open (O)
4. **Special Management Area:** The subject parcels are located in the SMA, however no portion of the proposed project is located within the “shoreline area” as defined by Section 205A-41, Hawai‘i Revised Statutes (HRS).
5. **Flood Zone:** Zone X

#### Compliance with Objectives and Policies of Chapter 205A, Hawai‘i Revised Statutes (HRS), Regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai‘i County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.



- ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
- ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
- ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
- ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
  - ☒ Beach Protection
  - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

### **Findings**

1. As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$95,000 for the development described above is not in excess of \$500,000.

### **Approved Uses, Activities and Operations**

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. SMM-20-000433** is hereby approved to:

1. Construction of one (1) potable water tank.
2. Construction of one (1) Fire Suppression water tank.
3. Construction of one (1) non-potable water catchment tank.
4. Construction of a utility shed to store solar batteries, emergency back-up generator, pumps, and pressure tank for water tanks.
5. Construction of one (1) large Canoe Hale and one (1) small Canoe Hale.
6. Landscaping of approximately 20,000 square feet for community garden and erosion control using native Hawaiian plants.

### **Conditions of Approval**

The Planning Director has approved **SMA Minor Permit No. SMM-20-000433**, **subject to the following conditions:**

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations, including, but not limited to a Conservation District Use Permit (CDUP) or other appropriate approval from the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL).
3. Construction of the proposed structures and water tanks shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Landscaping shall be indicated on the plans for the purpose of



mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.

4. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
5. That in issuing this permit, the Department has relied on the information and data that the applicant(s) has provided in connection with this permit. If, subsequent to this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
6. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD.
7. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
  - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
  - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
8. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have any questions, please feel free to contact Alex J. Roy at (808) 961-8140 or via email at [alex.roy@hawaiicounty.gov](mailto:alex.roy@hawaiicounty.gov)

APPROVED:



*MY*  
MICHAEL YEE  
Planning Director

*September 29, 2020*

Date