

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

June 23, 2009

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on June 4, 2009, makes reference to County Communication No. 09-99, from the Director of Housing and Human Concerns, transmitting a proposed resolution entitled "AUTHORIZING A GRANT OF A LICENSE OF COUNTY REAL PROPERTY TO KIHEI YOUTH CENTER".

The purpose of the proposed resolution is to authorize a grant of a 20-year license to Kihei Youth Center for property comprised of approximately 3,868 square feet at 131 South Kihei Road, Kihei, Maui, Hawaii, to operate a youth center.

Your Committee notes that the Kihei Youth Center occupies a 3,989-square-foot building, which is a portion of a State-owned parcel consisting of approximately 4.40 acres. The parcel is under the control and management of the County by way of Executive Order No. 2958, dated March 6, 1979, for use as a recreational center site.

By correspondence dated May 27, 2009, the Department of the Corporation Counsel transmitted a proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY REAL PROPERTY TO KIHEI YOUTH CENTER".

The purpose of the proposed resolution is to authorize a grant of a 20-year lease to Kihei Youth Center for property comprised of approximately 3,868 square feet at 131 South Kihei Road, Kihei, Maui, Hawaii, to operate a youth center.

By correspondence dated June 3, 2009, the Department of the Corporation Counsel transmitted two revised proposed resolutions; one resolution authorizing a grant of a license and the other authorizing a grant of a lease. Both revised proposed resolutions correct the size of the subject building (3,989 square feet) and include an adjacent basketball court in the description of the premises.

Your Committee discussed the ramifications of a lease compared to a license for real property. The Deputy Corporation Counsel said that when a lease is granted for property that comprises a portion of a parcel rather than the entire parcel, compliance

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with the subdivision ordinance (Title 18, Maui County Code) is required. The subdivision process can be time consuming and expensive for the lessee. Therefore, according to the Deputy Corporation Counsel, when the subject property comprises a portion of a parcel, as in the case of the Kihei Youth Center, a license is preferred by the County Administration. However, when the subject property comprises the entire parcel, a lease is preferred.

Your Committee noted that if the Council authorizes a lease rather than a license to the Kihei Youth Center for a portion of the 4.40-acre parcel, the property would have to be subdivided in accordance with the subdivision ordinance.

The Deputy Corporation Counsel further stated that the State Board of Land and Natural Resources (BLNR) has consented to a 20-year license for the Kihei Youth Center's use of the property. If the Council authorizes a lease, approval from BLNR will be required before the property may be subdivided. Your Committee noted that the Kihei Youth Center shares use of the 4.40-acre parcel with other agencies, making a lease for the entire parcel impracticable.

Your Committee noted that the Kihei Youth Center is currently using the property without a lease or a license. Your Committee further noted that County funds were previously appropriated for needed repairs to the building occupied by the Kihei Youth Center; however, those funds could not be released without a lease or license agreement.

Your Committee noted that a nonprofit agency is better able to leverage grant money and funding when the agency has long-term authorization to use the property it occupies. A representative from the Kihei Youth Center confirmed that the Kihei Youth Center would prefer a lease or license for a term longer than 20 years.

Your Committee voted to further revise the revised proposed resolution authorizing a license to use the property by extending the term from 20 years to 35 years.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution entitled "AUTHORIZING A GRANT OF A LICENSE OF COUNTY REAL PROPERTY TO KIHEI YOUTH CENTER", as further revised, and filing of the communication. Committee Chair Molina and members Johnson, Nishiki, Pontanilla, and Victorino voted "aye". Vice-Chair Mateo and members Baisa, Kaho'ohalahala, and Medeiros were excused.

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Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revision.

Your Committee of the Whole RECOMMENDS the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING A GRANT OF A LICENSE OF COUNTY REAL PROPERTY TO KIHEI YOUTH CENTER", be ADOPTED; and
2. That County Communication No. 09-99 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

cow:cr:09018aa:kmh

Resolution

NO. _____

AUTHORIZING A GRANT OF A LICENSE OF COUNTY REAL PROPERTY TO KIHEI YOUTH CENTER

WHEREAS, KIHEI YOUTH CENTER, a Hawaii nonprofit corporation (hereinafter called "KIHEI YOUTH CENTER"), desires to obtain a license of a portion of certain real property from the County of Maui for a nominal sum; and

WHEREAS, the real property KIHEI YOUTH CENTER desires to occupy is that certain facility known as the Kihei Youth Center located at 131 South Kihei Road, Kihei, Maui, Hawaii, consisting of a building of approximately 3,989 square feet and the adjacent basketball court, said facility being situated on a portion of that certain parcel of land identified as Tax Map Key No. (2) 3-9-006:011, situated at Waiakoa, Kula (Kihei), Maui, Hawaii, and more particularly described in Exhibit "A", attached hereto and made a part hereof (hereinafter called the "Premises"), in the control and custody of the County under Executive Order 2958, attached hereto and made a part hereof as Exhibit "B"; and

WHEREAS, an application has been made to the Council of the County of Maui by Kihei Youth Center, through the Department of Housing and Human Concerns and the Department of Parks and Recreation, with the approval of the Grants Review Committee, as evidenced by their Certification of Review of Request for Grants of Real Property attached hereto and made a part hereof as Exhibit "C", to obtain a license of the Premises at a nominal rental; and

Resolution No. _____

WHEREAS, pursuant to Maui County Code Section 3.36.090, the Council of the County of Maui may authorize the grant of a license of real property by resolution; and

WHEREAS, the Council of the County of Maui desires to approve the grant application of Kihei Youth Center, in accordance with the terms and conditions of that certain "Grant Agreement for a License of County Real Property" (hereinafter called "Grant Agreement"), and proposed "License" between the County of Maui and Kihei Youth Center, on file with the Department of Housing and Human Concerns; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:


1. That Kihei Youth Center be granted the right to occupy the Premises in accordance with the terms and conditions of the proposed License, at an annual rental of ONE AND NO/100 DOLLARS (\$1.00) for a period of thirty-five (35) years; and

2. That the Mayor and the Director of Finance or their authorized representatives are authorized to execute the proposed Grant Agreement and License; and

Resolution No. _____

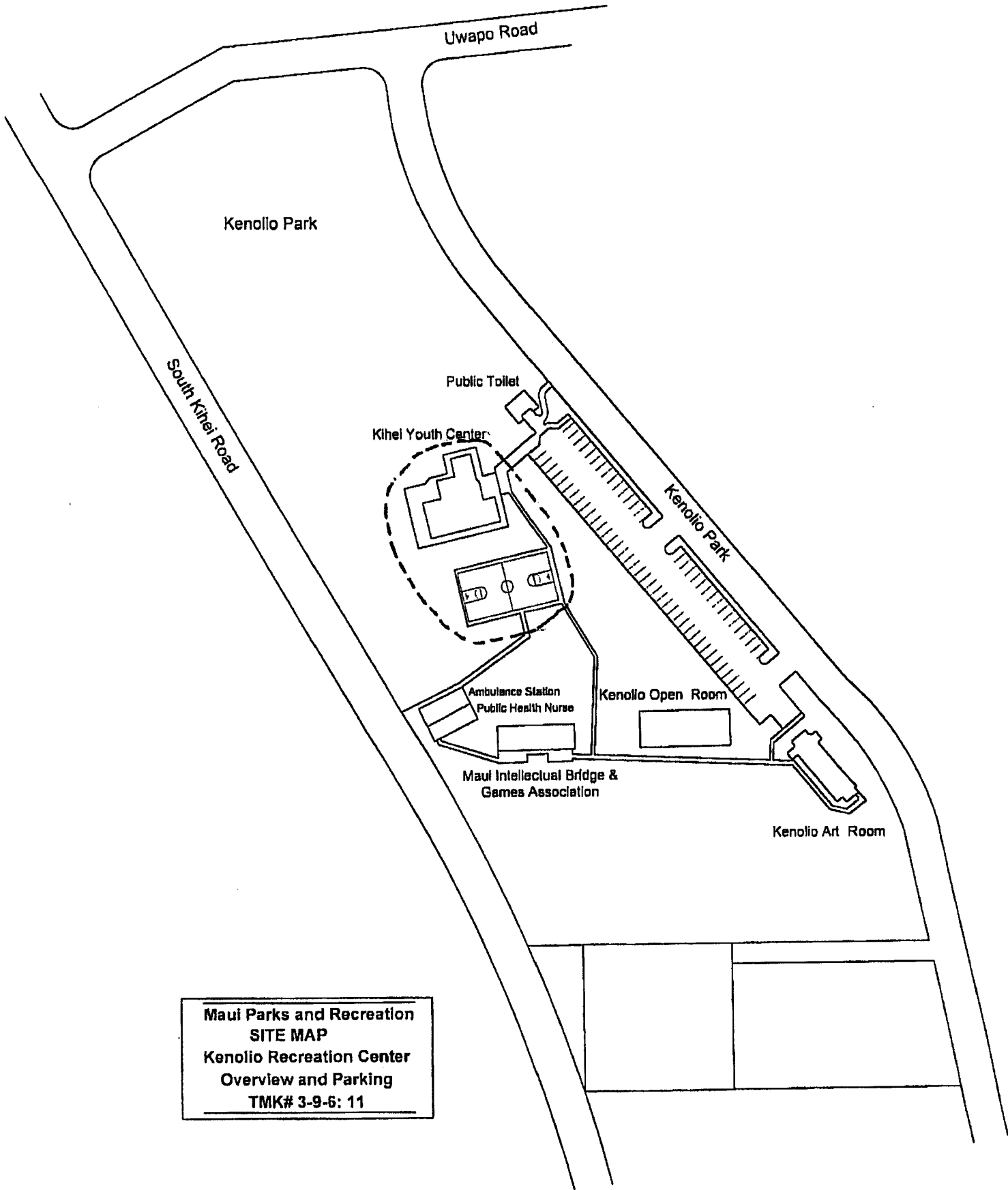
3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Housing and Human Concerns, and to Kihei Youth Center.

APPROVED AS TO FORM
AND LEGALITY:



KIMBERLY A. B. SLOPER
Deputy Corporation Counsel
County of Maui

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Maui Parks and Recreation
SITE MAP
Kenolio Recreation Center
Overview and Parking
TMK# 3-9-6: 11

Setting Aside Land for Public Purposes

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR RECREATION CENTER SITE, to be under the control and management of the County of Maui, Department of Human Concerns, situate at Palikamui and Maikoo, Waikuu, Maui, Island of Maui, State of Hawaii, containing an area of 4.48 acres, more or less, said land being more particularly described in Exhibit "A" and delineated on Exhibit "B", both of which are attached hereto and made a part hereof, said exhibits being, respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated U.S.P. No. 15,414 and dated September 9, 1978.

WHEREAS the disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 6th day of March, Nineteen Hundred and 79.

EXHIBIT ' B ' B

George Ariyoshi (2)
Governor of the State of Hawaii

Approved as to form:

151 Letter to 11-11



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.P. No. 18,414

September 6,

RECREATION CENTER SITE

Pulehunui and Waiahoa, Wailuku (Kula), Maui, Hawaii

Comprising the following:

- (a) Portion of the Government Land of Waiahoa.
- (b) Portion of Land Patent 8140, Land Commission Award 5230 to Kaawemahi conveyed to the Territory of Hawaii by Hawaiian Commercial and Sugar Co., Ltd. by deed dated November 12, 1931 and recorded in Liber 1138 on Pages 363-370 (Land Office Deed 4268).

Beginning at the southeast corner of this parcel of land on the westerly side of Kenolio Road, the coordinates of said point beginning referred to a "+" on rock (Kalaepohaku) at seashore on boundary between the lands of Pulehunui and Waiahoa being 234.50 South and 659.07 feet East and the coordinates of said "+" on rock (Kalaepohaku) referred to Government Survey Triangulation Station "PUU O KALI" being 17,875.5 feet North and 25,734.0 feet West, the running by azimuths measured clockwise from True South:-

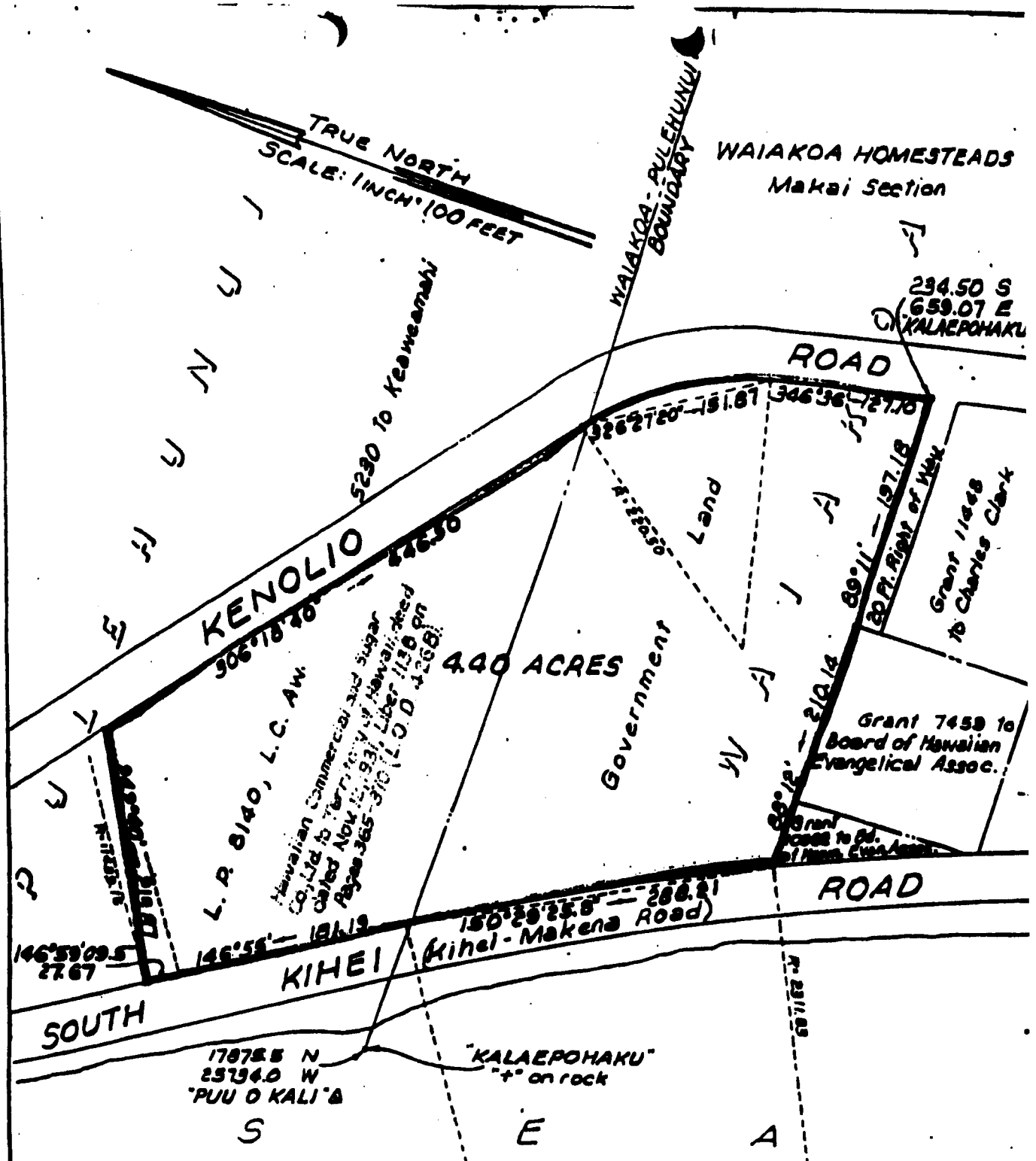
1. 89° 11' 197.18 feet along 20-foot Right-of-Way;
2. 88° 12' 210.14 feet along Grants 7459 and 10982 to of Hawaiian Evangelical Association;
3. Thence along easterly side of South Kihei Road on a curve to left with a radius of 2311.83 feet, the chord azimuth and distance 150° 29' 25.8" 288.21 feet;
4. 146° 55' 181.19 feet along the easterly side South Kihei Road;
5. Thence along the easterly side of South Kihei Road on a curve to the right with a radius of 114.5 feet, the chord azimuth and distance being: 146° 59' 09.5" 27.67 feet.

6. 242° 40' 213.87 feet along the remainder of L.P. 81 L.C. Averd. 5230 to Keaveamahi;
7. 306° 18' 40" 446.50 feet along the westerly side of Ken Road;
8. Thence along the westerly side of Kenolio Road on a curve to right with a radius of 220.50 the chord azimuth and distance 326° 27' 20" 151.87 feet
9. 346° 36' 127.10 feet along the westerly side of Ken Road to the point of beginning containing an AREA OF 4.40 AC

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: James Chrystal
James Chrystal, Jr.
Land Surveyor

Compiled from CSF 6080, 11191
R.M. 2416, 3028 & other Govt.
Survey Records.



RECREATION CENTER SITE
 Pulehunui and Waiakoa, Wailuku (Kula), Maui, Hawaii
 Scale: 1 inch = 100 feet



DEPARTMENT OF
HOUSING AND HUMAN CONCERNS
COUNTY OF MAUI

CHARMAINE

VANESSA A. J

LORI
DAN

200 SOUTH HIGH STREET • WAILUKU, HAWAII 96793 • PHONE (808) 270-7905 • FAX 270-7165 • EMAIL director.hhc@mauicounty.gov

GRANTS MANAGEMENT DIVISION
GRANTS REVIEW COMMITTEE
Certification of Review of Request for Grants of Real Property

Subject to Chapter 3.38.090, Maui County Code, the "committee shall transmit to the council any request for a grant of real property, including concessions at less than fair market value, and its recommendations with respect to the request."

By this document, the Grants Review Committee (GRC) certifies that, at its meeting on November 6, 2007, the following application for Grant of Real Property was reviewed:

Applicant: KIHAI YOUTH CENTER
Location: KIHAI, MAUI
Address: P.O. BOX 1722, KIHAI, HI 96753
TMK: (2)-3-9-008:011
Length of Time: 20 YEARS

Purpose:

Operation of a youth center which will provide recreational, educational, vocational and leisure programs, and services for youth.

Initiating Dept: PARKS AND RECREATION

Subject to its review and discussions, the following action was taken:

- Recommend approval of request at fair market value (to be determined by appropriate appraisal).
- Recommend approval of request at less than fair market value. The GRC recommends lease rent of \$ 1.00 per year.
- Recommend disapproval of request for the following reason(s):

Subject to Chapter 3.38.090, MCC, the Council shall be notified of this request. Notice of this recommendation shall also be provided to the Initiating Department, who will transmit this certification along with appropriate resolution and other required documents to the Maui County Council for review and authorization of grant.

Certified by:


Chair / Co-Chair, Grants Review Committee

Print Name: Lee Y. Stein

on this 19 day of DEC, 2007

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Reviewed and approved for transmittal by:


" EXHIBIT " C " Director, Department of Housing & Human Concerns