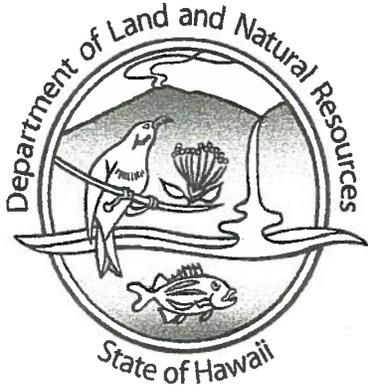


Alben CDUA



RECEIVED
OFFICE OF CONSERVATION
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2016 AUG 11 P 2:34
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

CONSERVATION DISTRICT USE APPLICATION (CDUA)

All permit applications shall be prepared pursuant to HAR 13-5-31

File No.:

Acceptance Date:

180-Day Expiration Date:

Assigned Planner:

for DLNR Use

Project Name:

Conservation District Subzone: Resource, Island of Hawaii

Identified Land Use: L2 Landscaping (C1) Tree Removal of Invasive Species Ironwood trees (*Casuarina equisetifolia*) and planting/cultivation indigenous species such as Naupaka.

(Identified Land Uses are found in Hawai'i Administrative Rules (HAR) §13-5-22 through §13-5-25)

Project Address: Pepeekeo Point Shoreline, Lot#9, Pepeekeo, HI 96783

Tax Map Key(s): 2-8-008:043

Ahupua'a: Kaupakuea

County: Hawaii

Proposed Commencement Date: 1/15/17 Or upon permit approval

Proposed Completion Date: 7/15/17 or 180 days after permit approval

Estimated Project Cost: 12K

District: South Hilo

Island: Hawaii

Type of Permit Sought: Departmental Permit

Temporary Variance (ref §13-5-36)

Site Plan Approval (ref §13-5-38)

Note: The two items on the left do not require that a full CDUA be filled out. Please complete the first four pages of this application and refer to the relevant HAR sections for the required documentation.

Attachments (where applicable)

\$ \$250.00 Application Fee (ref §13-5-32 through 34)

\$ _____ Public Hearing Fee (\$250 plus publication costs; ref §13-5-40)

20 copies of CDUA for Board and Departmental Permits (5 hard + 15 hard or digital copies)

Management Plan or Comprehensive Management Plan (ref §13-5-39 and Chapter 13-5 Exhibit 3)

Draft / Final Environmental Assessment or Draft / Final Environmental Impact Statement

Special Management Area Determination (ref Hawai'i Revised Statutes (HRS) 205A)

Shoreline Certification (ref §13-5-31(a)(8)) if land use is subject to coastal hazards.

Kuleana documentation (ref §13-5-31(f)) if applying for a non-conforming kuleana use.

Boundary Determination (ref §13-5-17) if land use lies within 50 feet of a subzone boundary.

Required Signatures

Applicant

Name: Brian and Nili Alben

Title; Agency:

Mailing Address: 715 Mason Rd, Vista, CA 92084

Contact Person & Title: Brian Alben

Phone: H 760 940 8337, Cell 760 505 5289

Email: brianalben@cox.net

Interest in Property: Owner

Signature: Brian Alben Date: 7/12/16

Signed by an authorized officer if for a Corporation, Partnership, Agency or

Organization Nili R. Alben 7/12/16

Landowner (if different than the applicant)

Name: BARRON STROTHER

Title; Agency: MANAGING MEMBER, CONTINENTAL PACIFIC

Mailing Address: 249 MACK BAYOU LOOP, SUITE 301
SANTA ROSA 2 BEACH, FL 32459

Phone: (850) 278-1000
Email: info@aplanc.com

Signature:  Date: 8/1/16

For State and public lands, the State of Hawai'i or government entity with management control over the parcel shall sign as landowner.

Agent

Agency:
Contact Person & Title:
Mailing Address:

Phone:
Email:

Signature: _____ Date: _____

For DLNR Managed Lands

State of Hawai'i
Chairperson, Board of Land and Natural Resources
State of Hawai'i
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai'i 96809-0621

Signature: _____ Date: _____

Proposed Use

Total size/area of proposed use (indicate in acres or sq. ft.):

The proposed project work area runs along the seacliff of the conservation area adjacent to TMK 2-8-008:43 Lot#9 and perpetual easement within Pepeekeo Point Shoreline subdivision. The width/length of the work area is 215' linear feet. Since the work site runs along the seacliff, the work area depth varies from 20' to 30'. The proposed area of use is between 4,300 and 6,450 square feet. See attached project work area to scale.

Please provide a detailed description of the proposed land use(s) in its entirety. Information should describe what the proposed use is; the need and purpose for the proposed use; the size of the proposed use (provide dimensions and quantities of materials); and how the work for the proposed use will be done (methodology). If there are multiple components to a project, please answer the above for each component. Also include information regarding secondary improvements including, but not limited to,

grading and grubbing, placement of accessory equipment, installation of utilities, roads, driveways, fences, landscaping, etc.

The proposed use of the land is to remove a band of invasive species Ironwood trees (*Casuarina equisetifolia*). Ironwood trees are native to Australia and not native to Hawaii. After removing the Ironwood trees by cutting them down; replant/cultivate an indigenous species such as Naupaka. The need for the proposed use is to remove the band of invasive species Ironwood tree that skirt the Pali in front of Lot#9 and perpetual easment. This non-native, allelopathic tree is extremely weedy and invasive, especially along the coast, it should never be planted and should be removed if possible. As defined by (ref 13-5-1) Invasive species" means any terrestrial or aquatic plant or animal that can directly or indirectly injure or cause damage to the environment, native species, natural or cultural resources, navigation, or to the public health, safety and welfare. Removing the non native species Ironwood tree and re-planting/cultivating the area with indigenous Naupaka would improve and restore natural beauty, quality of open space and coastal scenic resources and is keeping with the spirit and intent of the Conservation District to conserve, protect, and preserve natural and cultural resources of Hawaii.

In addition, the Ironwood trees propensity to fallen limbs pose a safety risk to the 10' wide pedestrian path that runs directly parallel (within a few feet) to the band of Ironwood trees that skirt the seacliff area on the Pepeekeo Point Subdivision shoreline. This pedestrian path is not maintained by any state or federal agency. Some of our recent winter storms like Hurricane Iselle July 2014 may compromise limbs. Lot#9 and easement are also fenced to contain live stock that graze. Ironwood trees have been blown/fallen and compromised the fence and animal containment. See attached pictures.

Aforementioned above, the removal of the Ironwood trees and replanting of Naupaka would significantly enhance the beauty of the coastal view plane. To our knowledge two of our neighbors (Lot# 12 and 15) have recently applied for and were approved for Ironwood tree removal for similar reasons. Since that time, they have removed the Ironwood trees that skirted their property and perpetual easment on the seacliff with great success. The area is stunning. The ocean view is no longer blocked by the scrubby Ironwood trees. See attached pictures.

The location of the project work area runs along the seacliff of the conservation area adjacent to TMK 2-8-008:43 Lot#9 and perpetual easment within Pepeekeo Point Shoreline subdivision. The perpetual easment granting shoreline access is Warranty Deed recorded 6/29/2004 in the Bureau of Conveyances, HI Document# 2004-131620. Grantor Continental Pacific LLC. See attached Warranty Deed.

The size of the proposed land use is 215' linear feet wide varying in depth from 20' to 30'. We will be hiring a local contractor to cut the trees down and plant Napaka. The contractor is subject to Hawaii Contractor License requirements, regulating laws and agencies. The contractor will cut the trees down and shred/grind the limbs on site to be utilized as mulch. The trees will be removed in a manner not to disturb the seacliff area and/or debris fall into the ocean. The tree stumps will remain in place so the earth by the seacliff is not disturbed. The outer rings of the tree stumps will be treated with

federal/state approved herbicide to discourage regrowth.

Attach any and all associated plans such as a location map, site plan, floor plan, elevations, and landscaping plans drawn to scale (*ref §13-5-31*).

Please see attached:

Warranty Deed (7 pages)

Plan Showing Lot#9 (1 page)

Map showing Lot#9 perpetual shoreline easment (1 page)

Landscaping plan to scale (1 page)

Pictures (5 pages)

Existing Conditions

Please describe the following, and attach maps, site plans, topo maps, colored photos, and biological or archaeological surveys as appropriate:

Existing access to site:

Pepeekeo Shoreline Subdivision is a gated community. Access is gained through the main gate located at the bottom of Sugar Mill Road. Each owner of the subdivision is assigned a personal access code that can be keyed into the key pad at the main gate. Our personal access code is 0009. Lot#9 and easment is fenced with a gate. The gate is not locked. Please guard our personal code. Thank you.

Existing buildings/structures:

There are no structures on Lot#9 and easement.

Existing utilities (electrical, communication, gas, drainage, water & wastewater):

There are no existing utilities on Lot#9 and easement, however, water is delivered to a meter to the west most portion of Lot#9 next to beach road. There are no utilities within several hundred feet of the proposed work site.

Physiography (geology, topography, & soils):

The project site is located along the seacliff of the Hamakua Coast. The project area consists of a tilted plain, that slopes moderately upwards away from the seacliffs to the flanks of Mauna Kea Volcano. The top elevation of TMK 2-8-008:43 is about 200 feet above mean sea level. This area of Pepeekeo Shoreline Subdivision was utilized as a sugar cane farm. The soil is a lava soil and clay mix. Lot# 9 and easment is flat, located at the crest of a small hill with a gentle slope towards the Pali 50' seacliff.

In general, physiography conditions impose no constraints in removing the invasive

species Ironwood tree and planting/cultivating new/existing indigenous Naupaka.

Hydrology (surface water, groundwater, coastal waters, & wetlands):

The climate in the area is mild and moist, with an average annual rainfall of about 130 inches. Lot#9 and easement are at the crest of a small hill with a gentle slope towards the pali sea cliff. Water is naturally absorbed into the earth. Permeability is rapid, runoff slow. There are no streams or puddling of rain created by rain water or water run off.

In general, hydrology conditions impose no constraints in removing the invasive species Ironwood tree and planting/cultivating new/existing indigenous Naupaka.

Flora & fauna (indicate if rare or endangered plants and/or animals are present):

Flora: Lot#9 and easment is covered by an assortment of grasses (Guinea and Hilo grass). There are no known rare species of vegetation existing on the property.

Fauna: There are no visible animal habitats on Lot#9 and easment, nor does the parcel offer a habitat for native fauna. There are birds (Cardinalis and Common Myna), insects and lizards seen on the property. Most of their habitat would not be affected because there is no actual disruption of the land other than tree cutting. Given that similar habitat exists throught the area, the animals affected would simply be displaced to an adjacent area. There are no known rare species of animal life existing on the property.

In general, flora & fauna and the non-presence of endangered plants and/or animals impose no constraints in removing the invasive species Ironwood tree and planting/cultivating new/existing indigenous Naupaka.

Natural hazards (erosion, flooding, tsunami, seismic, etc.):

The entire Big Island is subject to geologic hazards, especially lava flows and earthquakes. The project site is located in Lava Flow Hazard Zone 8 on a scale of ascending risk 9 to 1 as assessed by the United States Geological Survey (Heliker 1990:23). The low hazard risk is based on the fact that only a small percent of surrounding areas have been covered by lava in the past 10,000 years. There are no natural hazards identified on Lot#9 and easement. The land is located on the crest of a hill with a gentle slope not subject to flooding. Lot#9 and easement elevation range from 200' above sea level to its lowest point where the pali meets the ocean at an estimated 50' sea cliff. In terms of seismic risk, the entire Island of Hawai'i is rated Z one 4 Seismic Hazard. The project does not appear to be subject to subsidence, landslides or other forms of mass wasting.

In general, natural hazards impose no constraints in removing the invasive species Ironwood tree and planting/cultivating new/existing indigenous Naupaka.

Historic & cultural resources:

No sites are listed on the National and State Register of Historic Places in this area. Based on research at the Hawaii State Division of Historic Preservation and discussions with neighbors and land developer Hank Correa there are no identified historic sites located within Pepekeo Shoreline Point, Lot# 9 and easment. There have been several surveys done in the area, and there have been no significant historic sites found near the parcel. According to a walking survey of the property there are no sites visible on the parcel, no rock walls, markers or mounds that would distinguish something of historical value.

Ongoing cultural uses of the Hamakua coast in general include gathering of opihi and sea urchins as well as net and shoreline fishing. The high sea cliffs and rough ocean conditions of the project area severely reduce accessibility and the intensity and frequency of use of the shoreline. However, some of the shoreline in Pepe'ekeo is accessible through rope ladders and carved steps, which can still be accessed by the public pedestrian access. Removal of the Ironwood trees would not impact public access or the conduct of these cultural activities in any manner.

In general, the non presence and identification of historical elements impose no constraints in removing the invasive species Ironwood tree and planting/cultivating new/existing indigenous Naupaka. We support all cultural uses of the Hamakua coast in conjunction with local and federal guidance.

Evaluation Criteria

The Department or Board will evaluate the merits of a proposed land use based upon the following eight criteria (*ref §13-5-30(c)*)

1. The purpose of the Conservation District is to conserve, protect, and preserve the important natural and cultural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare. (*ref §13-5-1*) How is the proposed land use consistent with the purpose of the conservation district?

The Ironwood tree (*Casuarina equisetifolia*) is native to Australia and non-native to Hawaii. This non-native, allelopathic tree is extremely weedy and invasive, especially along the coast, it should never be planted and should be removed if possible. As defined by (*ref 13-5-1*) "Invasive species" means any terrestrial or aquatic plant or animal that can directly or indirectly injure or cause damage to the environment, native species, natural or cultural resources, navigation, or to the public health, safety and welfare.

Removing the non native species Ironwood tree and re-planting/cultivating the area with indigenous Naupaka is keeping with the spirit and intent of the Conservation District to conserve, protect, and preserve natural and cultural resources of Hawaii.

2. How is the proposed use consistent with the objectives of the subzone of the land on which the land use will occur? (*ref §13-5-11 through §13-5-15*)

This project is located in Resource subzone. The objective of this subzone is to ensure, with proper management, the sustainable use of the natural resources of those areas. Reference 13-5-13 discusses that the Resource subzone shall encompass: Lands necessary for providing future parkland and lands presently used for national, state, county, or private parks; Lands suitable for growing and harvesting of commercial timber or other forest products; Lands suitable for outdoor recreational uses such as hunting, fishing, hiking, camping, and picnicking;

The Ironwood tree is an invasive species and not cultivated for commercial use. The conservation area and 10' wide pedestrian path runs parallel to the band of Ironwood trees along the sea cliff. This area is not maintained by any local or federal agency. The possibility of fallen branches does exist. Removing the non native species Ironwood tree and re-planting/cultivating the area with indigenous Naupaka is in keeping with the spirit and intent of the Conservation District to conserve, protect, and preserve natural and cultural resources of Hawaii. Furthermore, the removal of the scrubby Ironwood tree and planting indigenous Naupaka would enhance the natural beauty of the area for public enjoyment.

3. Describe how the proposed land use complies with the provisions and guidelines contained in chapter 205A, HRS, entitled "Coastal Zone Management" (*see 205A objectives on p. 9*).

Reference 205A-2 Objectives and policies of Coastal Zone Management discusses Scenic and open space resources; Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources; Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources; Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources.

The Ironwood tree is an invasive species. It is a dense scrubby tree. It completely blocks the view of the ocean and its natural beauty. The conservation area and 10' wide pedestrian path runs parallel to the band of Ironwood trees along the sea cliff. This area is not maintained by any local or federal agency. The possibility of fallen branches does exist. Removing the non native species Ironwood tree and re-planting/cultivating the area with indigenous Naupaka is keeping with the spirit and intent of the Objectives and policies of Coastal Zone Management. The

removal of the scrubby Ironwood tree and planting indigenous Naupata would improve and restore the quality of open space and coastal scenic resources.

4. Describe how the proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.

The proposed land use will not cause any foreseeable adverse impact to existing natural resources within the surrounding area, community or region for the very reasons stated throughout this document. There are no impacts in relation to: Physiography, hydrology, flora & fauna, hazards, and historic & cultural considerations.

5. Describe how the proposed land use, including buildings, structures and facilities, is compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.

The proposed land use is not realistic to buildings, structures and facilities. Recently, two of our neighbors and a third that we do not know their name have pursued and were approved for a CDUA permit to remove the Ironwood trees that blocked the open space view of the ocean. Their projects have significantly enhanced the beauty of the area and have stimulated attention. We hope to follow and contribute to improve and restore the quality of open space and coastal resources.

6. Describe how the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon.

The Ironwood tree is a non native invasive species. It is a dense scrubby tree. It completely blocks the view of the ocean and its natural beauty. Removing the Ironwood tree and re-planting/cultivating the area with indigenous Naupaka is keeping with the spirit and intent of the Conservation District and Objectives and policies of Coastal Zone Management. The removal of the scrubby Ironwood tree and planting indigenous Naupata would improve and restore natural beauty, quality of open space and coastal scenic resources.

7. If applicable, describe how subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.

Not Applicable. Applicant does not plan to subdivide the property.

8. Describe how the proposed land use will not be materially detrimental to the public health, safety and welfare.

Removal of the Ironwood trees will comply with existing public health, site work, and building codes and regulation cited below.

FINDINGS AND REASONS

Chapter 11-200-12, Hawai'i Administrative Rules, outlines those factors agencies must consider when determining whether an action has significant effects:

1. The proposed project will not involve an irrevocable commitment or loss or destruction of any natural or cultural resources. No valuable natural or cultural resources would be committed or lost. The project site and surrounding area support public pedestrian access, none of which will be affected by the Proposed Action. In actuality the removal of the Ironwood trees will enhance safety due to the possibility of fallen branches on the 10' pedestrian path that runs parallel to band of Ironwood trees that skirt the pali along the sea cliff.
2. The proposed project will not curtail the range of beneficial uses of the environment. The Proposed Action expands and in no way curtails beneficial uses of the environment.
3. The proposed project will not conflict with the State's long-term environmental policies. The State's long-term environmental policies are set forth in Chapter 344, HRS. The broad goals of this policy are to conserve natural resources and enhance the quality of life. The Proposed Action is minor and fulfills aspects of these policies calling for an improved socioeconomic environment. It is thus consistent with all elements of the State's long-term environmental policies.
4. The proposed project will not substantially affect the economic or social welfare of the community or State. The Proposed Action will not affect the social welfare of the community and will contribute to the economy and social well-being.
5. The proposed project does not substantially affect public health in any detrimental way. The Proposed Action will not affect public health in any way.
6. The proposed project will not involve substantial secondary impacts, such as population changes or effects on public facilities. No adverse secondary effects are expected to result from the Proposed Action.
7. The proposed project will not involve a substantial degradation of environmental quality. The Proposed Action is minor and environmentally benign, and would thus not contribute to environmental degradation.
8. The proposed project will not substantially affect any rare, threatened or endangered species of flora or fauna or habitat. The project site is dominated by non-native species vegetation. There is no impact on rare, threatened or endangered species of flora or fauna because none are present/
9. The Proposed Action is generally not related to other activities in the region in such a way as to produce adverse cumulative effects or involve a commitment for larger actions.
10. The proposed project will not detrimentally affect air or water quality or ambient noise levels. No adverse effects on these resources would occur.
11. The project does not affect nor would it likely to be damaged as a result of being located in environmentally sensitive area such as a flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal area. Although the project site is in an area with volcanic and seismic risk, the entire Island of Hawai'i shares this risk, and the Proposed Action is not imprudent to undertake.
12. The project will not substantially affect scenic vistas and viewplanes identified in county

or state plans or studies. No scenic vistas and viewplanes identified in the Hawai'i County General Plan will be adversely affected by the Proposed Action. This project positively enhances the natural beauty and viewplane of the area.

13. The project will not require substantial energy consumption. The Proposed Action does not involve any substantial energy use, and no adverse effects would be expected

Cultural Impacts

Articles IX and XII of the State Constitution, other state laws, and the courts of the State, require government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups.

Please provide the identity and scope of cultural, historical, and natural resources in which traditional and customary native Hawaiian rights are exercised in the area.

The project site is part of Ahupua'a Kaupakeau. No kuleana or native claims were present on or near the project site. Traditional uses of the area likely included residences and dryland agriculture in the rich soils. Sugar plantations cultivated the land for sugar, and the surrounding area in and near the town of Pepe'ekeo was used for industrial (sugar milling and equipment repair), residential and other purposes. Cultivation for sugar cane has completely obliterated any traces of former cultivation or land use on the project site. Immigrants from all over the world came to Hawai'i and attempted to recreate many of their traditions and institutions, slowly acclimating to the culture of Hawai'i, which was itself in flux. Many buildings, cemeteries, churches and other locations have special and unique cultural value as expressions of the plantation era. There is an old sugar mill located about one mile to the southwest that is in the process of being converted to a biomass power plant. The project site was farmed in sugar cane and does not appear to have been used for residences, mill yards, cemeteries or other purposes. There are no records or remains of plantation emeteries on the project site that would have cultural value related to the plantation era and the traditions of the workers. Ongoing cultural uses of the Hamakua coast in general include gathering of opihi and sea urchins as well as net and shoreline fishing. The high sea cliffs and rough ocean conditions of the project area severely reduce accessibility and the intensity and frequency of use of the shoreline. However, some of the shoreline in Pepe'ekeo is accessible through rope ladders and carved steps, which can still be accessed by the public pedestrian access.

Identify the extent to which those resources, including traditional and customary Native Hawaiian rights, will be affected or impaired by the proposed action.

Aforementioned in the paragraph above, there are no native claims in Pepeekeo Point Shoreline. If such claims existed they would have been disclosed to us when we purchased Lot#9 and also disclosed when the subdivision was created and developed. The Pepeekeo area was a sugar cane plantation drawing a multitude of various races and cultures. Native Hawaiian rights will not be affected or impaired by the proposed action of removing the band of invasive non native Ironwood trees from the pali seacliff.

What feasible action, if any, could be taken by the Board of Land and Natural Resources in regards to your application to reasonably protect Native Hawai'i rights?

Due to the fact that no formal ancient Hawaiian claims, activities, or historical sites or land marks have been recorded or identified in the Pepeekeo Point Shoreline subdivision there would be no reason for DLNR to exercise the need to protect Hawai'i rights.

Other Impacts

Does the proposed land use have an effect (positive/negative) on public access to and along the shoreline or along any public trail?

The proposed land use of removing the invasive Ironwood trees from the pali would have a neutral effect in regards to public access. If anything, the action would make the area more safe to protect pedestrians from the possibility of falling branches and open up the natural beauty and visibility of the area. Ironwood trees are extremely dense and scruffy thus blocking viewplane and ambient light.

Does the proposed use have an effect (positive/negative) on beach processes?

Not applicable. The proposed land use is located on a 50' seacliff bluff. There is no beach. See attached pictures.

Will the proposed use cause increased sedimentation?

The project area is covered in dense Hilo and Guinea grass. Rain water and run off are naturally absorbed into the soil. Sedimentation is not a relative issue. Once the Ironwood trees are removed the tree stumps will be left in place so the earth is not disturbed and root systems remain in its natural state. Re-planting/cultivating the area with indigenous Naupaka will further return the project site to its natural state and help guard against erosion.

Will the proposed use cause any visual impact on any individual or community?

The Ironwood tree is a non native invasive species. It is a dense scrubby tree. It completely blocks the view of the ocean and its natural beauty. Removing the Ironwood tree and re-planting/cultivating the area with indigenous Naupaka is keeping with the spirit and intent of the Conservation District and Objectives and policies of Coastal Zone Management. The removal of the scrubby Ironwood tree and planting indigenous Naupaka would improve and restore natural beauty, quality of open space and coastal scenic resources.

Please describe any sustainable design elements that will be incorporated into the

proposed land use (*e.g. the use of efficient ventilation and cooling systems; renewable energy generation; sustainable building materials; permeable paving materials; efficient energy and water systems; efficient waste management systems; etc.*).

The proposed project is landscaping. No sustainable design elements are relevant to this project.

If the project involves landscaping, please describe how the landscaping is appropriate to the Conservation District (*e.g. use of indigenous and endemic species; xeriscaping in dry areas; minimizing ground disturbance; maintenance or restoration of the canopy; removal of invasive species; habitat preservation and restoration; etc.*)

The Ironwood tree (*Casuarina equisetifolia*) is native to Australia and non-native to Hawaii. This non-native, allelopathic tree is extremely weedy and invasive, especially along the coast, it should never be planted and should be removed if possible. As defined by (ref 13-5-1) Invasive species" means any terrestrial or aquatic plant or animal that can directly or indirectly injure or cause damage to the environment, native species, natural or cultural resources, navigation, or to the public health, safety and welfare.

Removing the non native species Ironwood tree and re-planting/cultivating the area with indigenous Naupaka is keeping with the spirit and intent of the Conservation District to conserve, protect, and preserve habitat/natural and cultural resources of Hawaii and improve and restore the quality of open space and coastal scenic resources.

Please describe Best Management Practices that will be used during construction and implementation of the proposed land use.

The proposed land use does not involve construction. The proposed land use is to remove the invasive Ironwood tree skirting the pali along the seacliff east of Lot#9 and perpetual easment. We will be hiring a local contractor to cut the trees down and plant Napaka. The contractor is subject to Hawaii License requirements and regulating laws and agencies. The contractor will cut the trees down and shred/grind the limbs on site to be utilized as mulch. The trees will be removed in a manner not to disturb the pali and/or debris fall into the ocean. The tree stumps will remain in place so the earth by the Pali seacliff is not disturbed.

Please describe the measures that will be taken to mitigate the proposed land use's environmental and cultural impacts.

Aforementioned, we will be hiring a local contractor. The contractor is subject to Hawaii License requirements and regulating laws and agencies. We will be present on site when the work is being accomplished. The contractor will cut the trees down and shred/grind the limbs on site to be utilized as mulch. To ensure that the environment is not impacted, the trees will be removed in a manner not to disturb

the pali and/or debree fall into the ocean. The tree stumps will remain in place so the earth by the pali is not disturbed. There are no known cultural issues that have been identified through this document that are relative as a result of cutting down the Ironwood trees and planting Naupaka.

Per conservation with DLNR the below elements are not required for this CDUA submission.

Single Family Residential Standards

Single Family Residences must comply with the standards outlined in HAR Chapter 13-5, Exhibit 4. Please provide preliminary architectural renderings (e.g. building foot print, exterior plan view, elevation drawings; floor plan, etc.) drawn to scale.

Size of Lot

	Existing	Proposed	Total
Proposed building footprint			
Paved areas/ impermeable surfaces			
Landscaped areas			
Unimproved areas			

Setbacks Front: Side: *N/A* Back:

Shoreline Properties

Average Lot Depth (ALD): Average annual coastal erosion rate:

Minimum shoreline setback based on Exhibit 4:

Actual shoreline setback or proposed structure:

Maximum Developable Area

The Maximum Developable Area includes all floor areas under roof, including first, second, and third stories, decks, pools, saunas, garage or carport, and other above ground structures.

Maximum Developable Area based on Exhibit 4:

Actual Developable Area of proposed residence:

Actual height of the proposed building envelope as defined in Exhibit 4:

Compatibility

Provide justification for any propose deviation from the established residential standards.

How is the design of the residence compatible with the surrounding area?

If grading is proposed, include a grading plan which provides the amount of cut and fill.
Has grading or contouring been kept to a minimum?

Chapter 205A – Coastal Zone Management

Land uses are required to comply with the provisions and guidelines contained in Chapter 205A, Hawai'i Revised Statutes (HRS), entitled "Coastal Zone Management," as described below:

- **Recreational resources:** Provide coastal recreational opportunities accessible to the public.
- **Historic resources:** Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- **Scenic and open space resources:** Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- **Coastal ecosystems:** Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.
- **Economic uses:** Provide public or private facilities and improvements important to the State's economy in suitable locations.
- **Coastal hazards:** Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.
- **Managing development:** Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- **Public participation:** Stimulate public awareness, education, and participation in coastal management.
- **Beach protection:** Protect beaches for public use and recreation.
- **Marine resources:** Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

Management Plan Requirements

Certain land uses require that a Management Plan be approved by the Board of Land and Natural resources. The Management Plan can be processed concurrently with the Conservation District Use Application and must be consistent with HAR Chapter 13-5, Exhibit 3. Please attach the proposed Management Plan as a separate document.

Pursuant to the above, Management Plans must include:

- General description of the proposed use (e.g. forestry, fishpond, astronomy, aquaculture, agriculture)
- Project location (e.g. island maps, location map, site plan (drawn to scale))
- Natural resource assessment, including descriptive information about the natural resources in the project vicinity such as biological, archaeological, cultural, geological, coastal, recreational, and scenic resources, where applicable. The presence of any threatened or endangered species shall be disclosed.
- A description of best management practices used during project construction and implementation (e.g. mitigation measures).
- A description of the best management practices to be used during the lifetime of the project (e.g. mitigation measures)
- A description of the conservation methods as applications to be used in the short term and long term (e.g. mitigation measures)
- Description of existing uses and facilities, if any.
- Description of proposed facilities and uses, including phases, if applicable.
- Project schedule including description of project sequencing from project construction to project completion and on-going maintenance plans, including a description and timing of natural resource monitoring and maintenance plans.
- A description of the annual reporting requirements.
- Any other information or data, as required by the department.

Certification

I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attachments and exhibits is complete and correct. I understand that the failure to provide any requested information or misstatements submitted in support of the application shall be grounds for either refusing to accept this application, for denying the permit, or for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the Land Board.

I hereby authorize representatives of the Department of Land and Natural Resources to conduct site inspections on my property. Unless arranged otherwise, these site inspections shall take place between the hours of 8:00 a.m. and 4:30 p.m.

Signature of authorized agent(s) or if no agent, signature of applicant



Authorization of Agent

I hereby authorize _____ to act as my representative and to bind me in all matters concerning this application.

Bura Ollu 7/12/16
Tili R. Novic-Abeid 7/12/16
Signature of applicant(s)

OWNER'S TMK 2-8-008:43

LAND COURT SYSTEM

REGULAR SYSTEM

Return by: MAIL (X) PICKUP () TO:

MR & MRS BRIAN ALBEN
715 MASON ROAD
VISTA CA 92084

ESCROW NO.: 6830000393-JW

Jayna Weatherwax
Total pages: 7

TITLE OF DOCUMENT:

WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: DANIEL T. GEE and MAYA HAPS, husband and wife, whose mailing address is
100 Forest Place #1206, Oak Park, Illinois 60301

GRANTEE: BRIAN ALBEN and NILI R. NOVIK-ALBEN, husband and wife, whose
mailing address is 715 Mason Road, Vista, California 92084

TAX MAP KEY (3) 2-8-008:043

PKK/OLDREPUBLIC2006-6.DED/1-27-6

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That **DANIEL T. GEE and MAYA HAPS, husband and wife**, whose mailing address is **100 Forest Place #1206, Oak Park, Illinois 60301**, hereinafter called the "Grantor", for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration to the Grantor paid as part of an IRC Section 1031 tax deferred (reverse) exchange on behalf of **BRIAN ALBEN and NILI R. NOVIK-ALBEN, husband and wife**, whose mailing address is **715 Mason Road, Vista, California 92084**, hereinafter called the "Grantee", the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the Grantee all of that certain real property designated on the tax maps of the Third Taxation Division, State of Hawaii, as Tax Map Key **2-8-008:043**, more particularly described in Exhibit A attached hereto and made a part hereof, subject to the encumbrances noted therein.

TOGETHER WITH ALL and singular the buildings, improvements, rights, tenements, hereditaments, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith.

TO HAVE AND TO HOLD the same unto the Grantee, as **Tenants by the Entirety**, their assigns and the survivor of them, and the heirs, personal representatives and assigns of the survivor of them, in fee simple forever.

AND THE SAID GRANTOR does hereby covenant with the Grantee that the Grantor is lawfully seised in fee simple of said granted premises and that the said premises are free and clear of all encumbrances except as aforesaid, and except for assessments for real property taxes not yet due. And the said Grantor further covenants and agrees that the Grantor has good right to sell and convey the said premises in the manner aforesaid; that the Grantor will **WARRANT AND DEFEND** the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

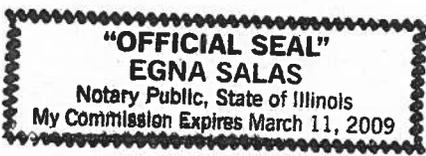
The Grantee's use of the property conveyed herein, including construction of farm dwellings, shall be in compliance with State and County laws and ordinances, and all rules and regulations promulgated thereunder, including without limitation, Hawaii Revised Statutes Chapter

STATE OF ILLINOIS

COUNTY OF

)
) ss.
)

On this 15th day of February, 2006, before me personally appeared DANIEL T. GEE, to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed the same as his free act and deed.



Name: Egna Salas
Notary Public, State of Illinois

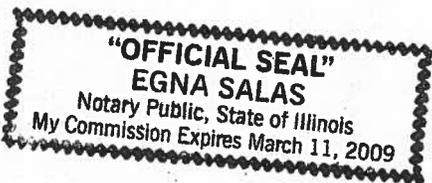
My commission expires: March 11th 2009

STATE OF ILLINOIS

COUNTY OF

)
) ss.
)

On this 15th day of February, 2006, before me personally appeared MAYA HAPS, to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged to me that she executed the same as her free act and deed.



Name: Egna Salas
Notary Public, State of Illinois

My commission expires: March 11th 2009

EXHIBIT "A"

All of that certain parcel of land (being portion of the land[s] described in and covered by Royal Patent Grant Number 872 to Emma Metcalf) situate, lying and being at Kaupakuea, District of South Hilo, Island and County of Hawaii, State of Hawaii, being LOT 9 of the "PEPEEKEO POINT SUBDIVISION", and thus bounded and described as per survey dated April 25, 2003, to-wit:

Beginning at a 1/2" pipe (set) at the Southwest corner of this parcel of land, being also the Northwest corner of Lot 8, being a portion of Grant 872 to Emma Metcalf, the coordinates of said point of beginning referred to Government Survey Triangulation Station "ALALA" being 8,002.21 feet North and 5,789.83 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--|--------|--|
| 1. | 188° 16' | 237.00 | feet along Lot 93 (for road & utility purposes), being portions of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 and 18 to Wm. C. Lunaillo; R.P. 8164, L.C. Aw. 5663 to Kahonu; Grant 1030 to Kaina; Grant 872 to Emma Metcalf; and R.P. 1654, L.C. Aw. 2289 to Kauhola to a 1/2" pipe (set); |
| 2. | Thence along Lot 93 (for road & utility purposes), being portions of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 & 18 to Wm. C. Lunaillo; R.P. 8164, L.C. Aw. 5663 to Kahonu; Grant 1030 to Kaina; Grant 872 to Emma Metcalf; and R.P. 1654, L.C. Aw. 2289 to Kauhola, on a curve to the left with a radius of 5,030.00 feet, the chord azimuth and distance being: | | |
| | 188° 02' | 40.97 | feet to a 1/2" pipe (set); |
| 3. | 270° 32' | 628.44 | feet along Lot 10, being a portion of Grant 872 to Emma Metcalf to a 1/2" pipe (set); |
| 4. | 25° 51' | 215.57 | feet along Lot 70, being portions of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 & 18 to Wm. C. Lunaillo; Grant 1158 to J. Pelham; R.P. 8164, L.C. Aw. 5663 to Kahonu; Grant 1030 to Kaina; Grant 872 to Emma Metcalf, and R.P. 1654, L.C. Aw. 2289 to Kauhola to a 1/2" pipe (set); |
| 5. | 82° 32' | 579.13 | feet along Lot 8, being a portion of Grant 872 to Emma Metcalf to the point of beginning and containing an area of 3.184 acres, more or less. |

TOGETHER WITH EASEMENT R-1, EASEMENT R-2 and LOT 93 (Beach Road) for road and utility purposes and GEAR SIGN EASEMENT for road purposes, as granted by and more particularly described in Declaration of Easements dated April 11, 2003, recorded as Document No. 2003-071760; and subject to the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein.

TOGETHER ALSO WITH a perpetual easement for shoreline access purposes over certain areas of Lot 70, as granted by and more particularly described in Grant of Easement Re: Shoreline Access dated June 21, 2004, recorded as Document No. 2004-131619; and subject to the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein.

Being all the property described in the following:

DEED
Recorded : June 29, 2004 in the Bureau of Conveyances, State of Hawaii, as Document No. 2004-131620
Grantor : CONTINENTAL PACIFIC, LLC, a Delaware limited liability company
Grantee : DANIEL T. GEE and MAYA HAPS, husband and wife, as Tenants by the Entirety

SUBJECT, HOWEVER, to the following:

1. Title to all minerals, and metallic mines reserved to the State of Hawaii.
2. Location of the boundary of Makea Stream and the effect, if any, upon the area of the land described herein, and the free flowage thereof.
3. Rights of native tenants, as reserved in Royal Patent Grant Number 872.
4. Terms, provisions and conditions, contained in that certain Deed dated June 24, 2002 recorded in the as Bureau of Conveyances, State of Hawaii as Document No. 2002-113724 herein referred to and the effect of any failure to comply with such terms, provisions and conditions.
5. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument:
Entitled : PEPEEKEO POINT SHORELINE DECLARATION OF COVENANTS, CONDITIONS AND RESERVATIONS
Dated : May 30, 2003
Recorded : June 4, 2003 in the Bureau of Conveyances, State of Hawaii, as Document No. 2003-110324
6. Bylaws of the Pepeekeo Point Shoreline Owner's Association, Inc., dated May 21, 2003, recorded June 4, 2003 in the Bureau of Conveyances, State of Hawaii as Document No. 2003-110325.

7. Bylaws of Pepeekeo Water Association, Inc., dated May 15, 2003, recorded June 4, 2003 in the Bureau of Conveyances, State of Hawaii as Document No. 2003-110328.
8. Any easement for water course over that portion of said land lying within the banks of Makea Stream and any changes in the boundary lines of said land that have occurred or may hereafter occur from natural causes.
9. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

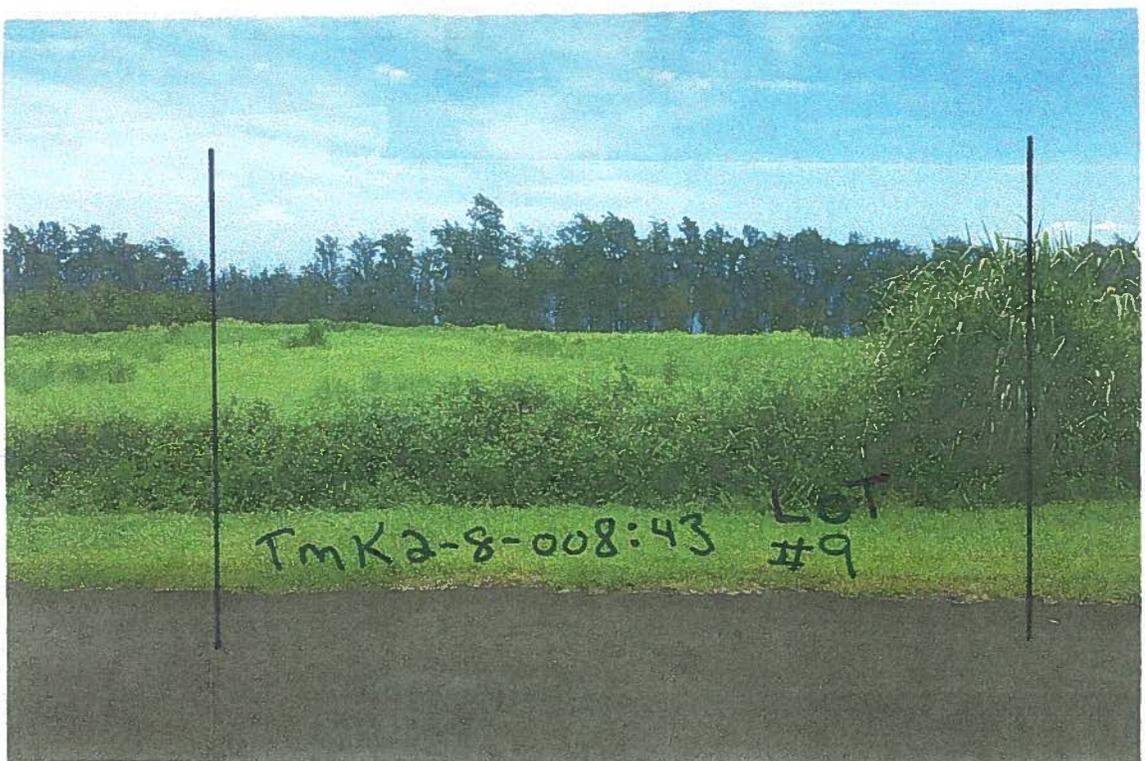
Instrument	:	GRANT OF EASEMENT RE: SHORELINE ACCESS
Granted To	:	DANIEL T. GEE and MAYA HAPS, husband and wife
For	:	A perpetual easement for shoreline access purposes over certain areas of Lot 70
Dated	:	June 21, 2004
Recorded	:	June 29, 2004 in the Bureau of Conveyances, State of Hawaii, as Document No. 2004-131619

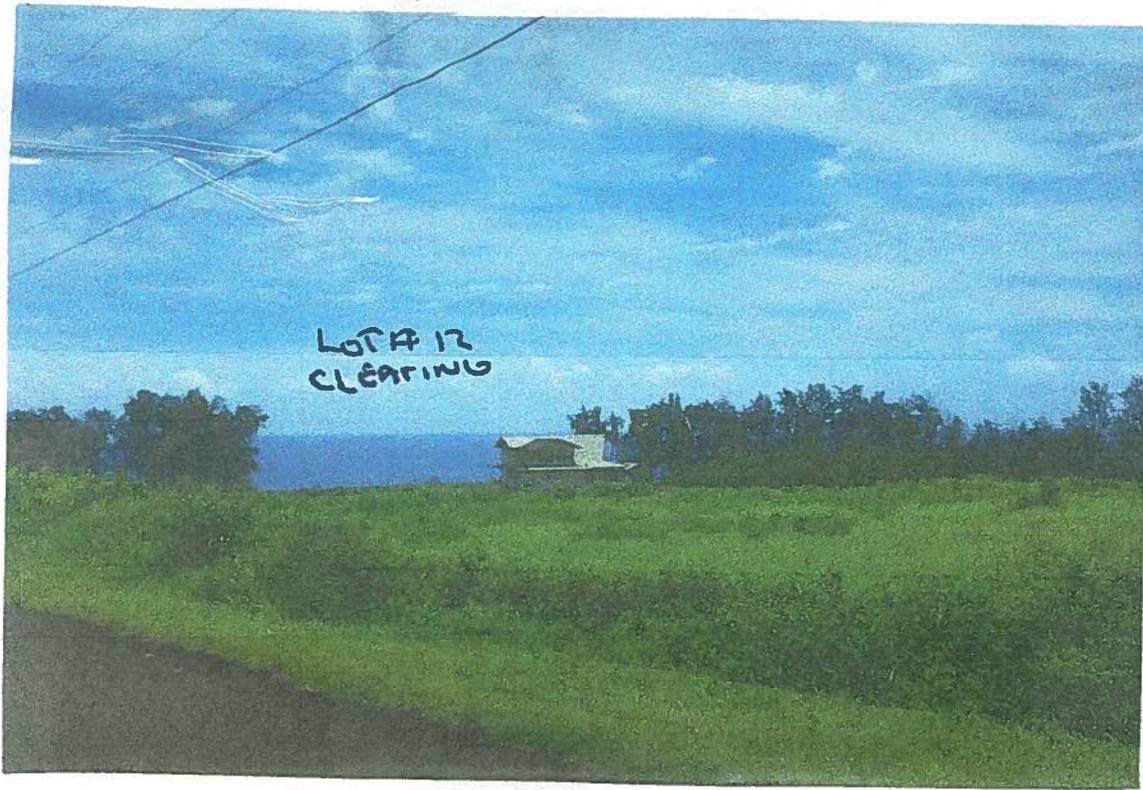
END OF EXHIBIT "A"



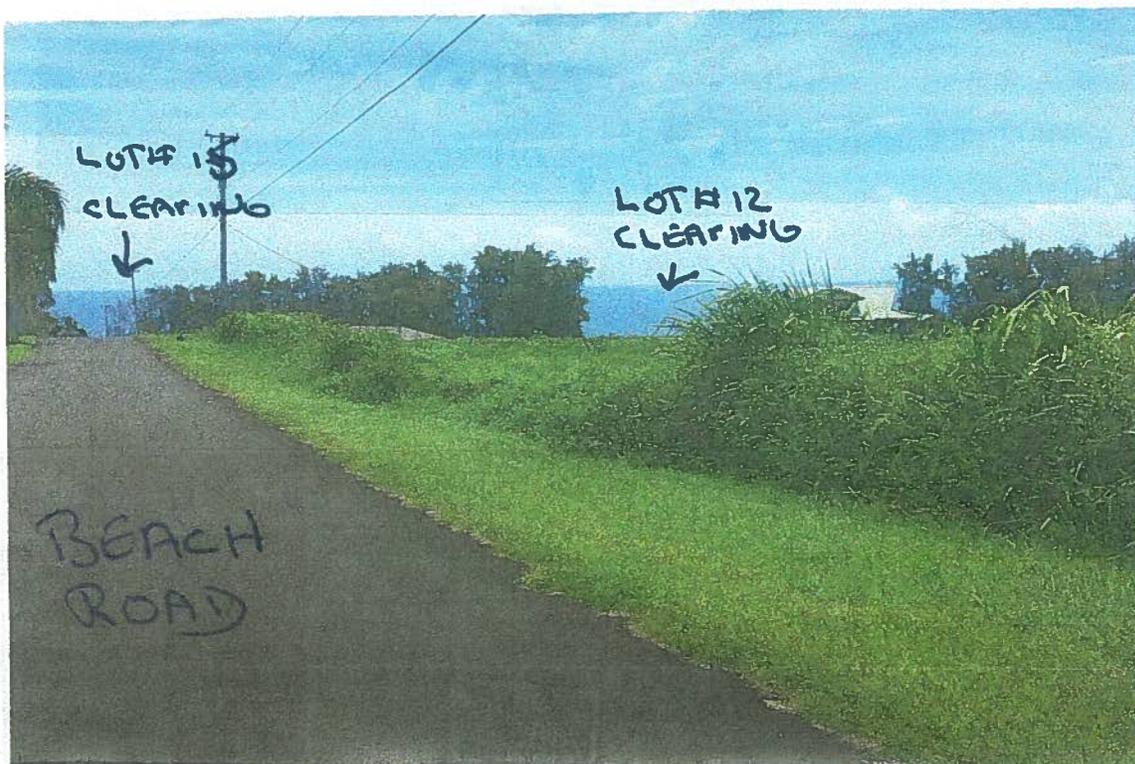
← THIS PICTURE DEPICTS
OUR NEIGHBOR TO THE
LEFT FACING OCEAN
LOT # 10 AND IRONWOOD
DENSITY.

THIS PICTURE DEPICTS
OUR LOT TMK 2-8-008:43
AND DENSITY OF IRONWOOD
AT THE SEA CLIFF





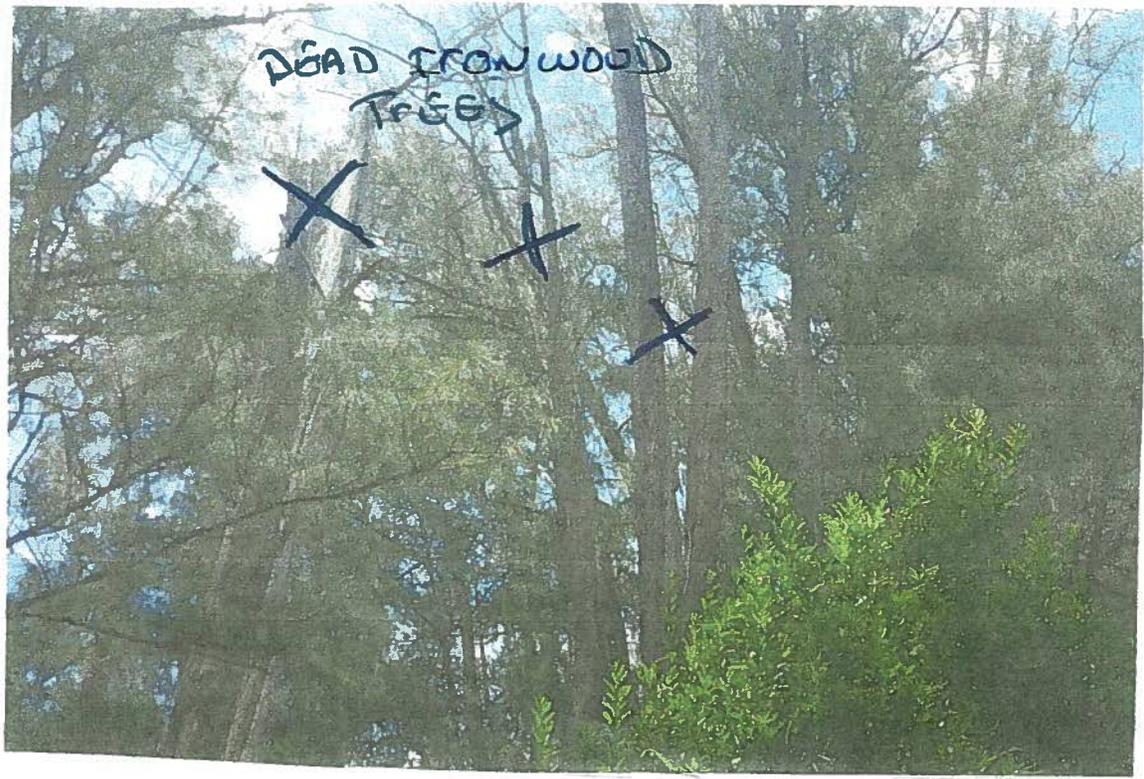
THE PICTURES ABOVE AND BELOW DEPICT THE RESTORATION OF SHORELINE OPEN SPACE AND SCENIC RESOURCES BY REMOVAL OF THE INVASIVE SPECIES IRONWOOD TREE





- THE PICTURES DEPICT THE PROXIMITY OF THE 10 FT PEDESTRIAN PATH IN RELATION TO THE BAND OF IRONWOOD TREES THAT SKIRT THE SEACLIFF.
- THE PICTURES ARE THE ACTUAL PEDESTRIAN PATH LOCATED ALONG LOT #9 TRK 2-8-008:43 & EASEMENT.
- THE PICTURES ALSO ILLUSTRATE THE OVER HANG OF DEAD IRONWOOD TREE BRANCHES AND CONCERN FOR SAFETY AS WELL AS THE DENSITY AND INVASIVE NATURE OF THE IRONWOOD.





THE PICTURES ABOVE AND BELOW DEPICT THE DENSITY AND INVASIVE NATURE OF IRONWOOD TREES AS WELL AS DEAD TREES LOCATED WITHIN THE BAND OF IRONWOOD TREES IN FRONT OF LOT 99, T.M.K. 2-8-008:43 AND EASEMENT THAT SKIRT THE SEA CLIFF AND 10 FT PEDESTRIAN PATH.

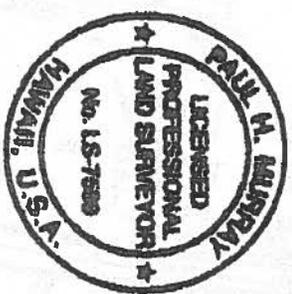
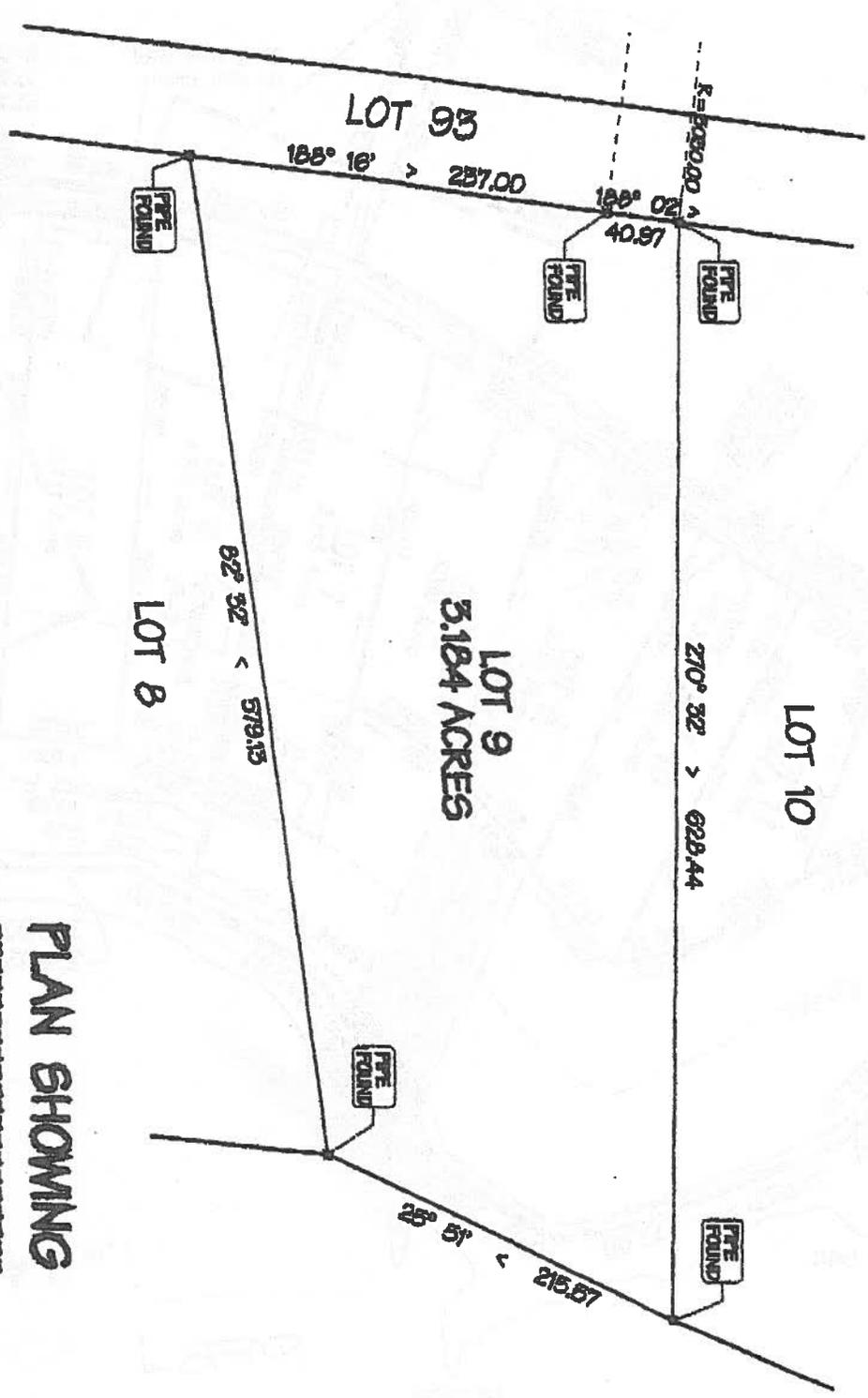




THE PICTURE ABOVE IS THE SEACLIFF IN FRONT
OF LOT A9. EASEMENT TRK 2-8-008:43. THERE IS
NO BEACH.

NOTES:
 1.) THE IMPROVEMENTS LOCATED AND ADDRESSED ON THIS MAP CONFORM TO ACT 191, AMENDMENT TO CHAPTER 669, HAWAII REVISED STATUTES, PART I, "STRUCTURE PORTION DISCREPANCIES ONE-FT. FOR AGRICULTURAL AND REAR PORCHES"; THIS SURVEY DOES NOT APPLY TO ANY ISSUE THAT IS NOT DETAILED ON THE MAP.

2.) THIS MAP WAS PREPARED SPECIFICALLY FOR THE PENDING RECORD. IT WAS ATTACHED TO AND SHOULD NOT BE CHANGED, ALTERED OR USED IN ANY OTHER APPLICATION.



THIS WORK WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION
 PAUL H. MURRAY, L.S.
 LICENSED PROFESSIONAL LAND SURVEYOR
 CERTIFICATE NUMBER LS-7899

PLAN SHOWING

LOT 9, PEPEKEO POINT SUBDIVISION
 KAPEHU, KAUPAKUEA, KAHUA & MAKAHANALO A
 SOUTH HILLO, ISLAND OF HAWAII, HAWAII

SURVEY AND PLAN BY PAUL H. MURRAY & ASSOCIATES, LLC
 P. O. BOX 1189
 HILLO, HAWAII
 MAY 31, 2005
 TRK 2-B-008-043

Handwritten signature and date: 12/28/05 BA

Trk 2-8-008:43 LOT A9

LANDSCAPE PLAN TO SCALE

PLAN IS TO REMOVE THE BAND OF INVASIVE IRONWOOD THAT SKIRT AND RUN PARALLEL TO THE SEA CLIFF ADJACANT TO TRK 2-8-008:43, LOT A9 & PERPETUAL EASEMENT.

(LOT A9)

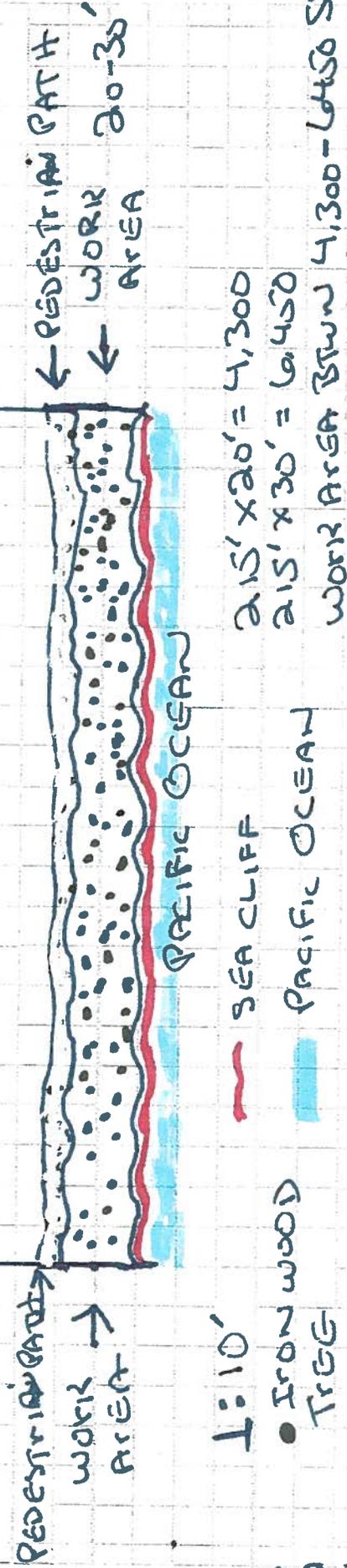
THE TREE STUMPS WILL REMAIN IN PLACE SO THE EARTH IS NOT DISTURBED

INDIGENOUS NAUKA WILL BE CULTIVATED / PLANTED.

THIS PROCESS AND INTENT OF LAND USE IS DESCRIBED IN DETAIL IN THE ATTACHED CDA.

(EASEMENT)

215'



1:10'

● IRONWOOD TREE

SEA CLIFF

PACIFIC OCEAN

215' x 20' = 4,300

215' x 30' = 6,450

WORK AREA BTWN 4,300 - 6,450 SF