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GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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LAND  
STATE PARKS

REF:OCCL:LY

CDUA HA-3777

Acceptance Date: August 10, 2016

180 Day Expiration Date: February 6, 2017

Mr. & Mrs. Brian Alben  
715 Mason Road  
Vista, CA 92084

**AUG 10 2016**

Dear Mr. and Mrs. Alben:

**NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL  
DETERMINATION**

**Conservation District use Application (CDUA) HA-3777  
(Departmental Permit)**

This acknowledges the receipt and acceptance for the processing of your CDUA for Tree Removal within an shoreline access easement area located in Kaupākuea, South Hilo, on the island of Hawai'i and further identified as Tax Map Key (TMK) (3) 2-8-008:003 (por.). The portion of the easement area directly associated with this project is the easement area fronting Parcel 43, also identified as Lot #9 of the Pepe'ekeo Point Shoreline subdivision. The easement area is partially within the State Land Use Agricultural District and partially within the State Land Use Conservation District, Resource Subzone. This application focuses only on the portion of the easement within the Conservation District.

According to the information provided, the applicant is proposing to remove iron wood trees along the pali, within an area measuring approximately 4,300 to 6,350 square feet. The main purpose of the tree removal is to open the view plane for the adjacent Parcel 43, however, the applicant claims that there is also a potential safety risk from fallen tree limbs as the some of the ironwoods border a pedestrian easement. Further, Parcel 43 and the Agricultural District portion of the easement area have been fenced to contain livestock that graze. In the past, the applicant has claimed that ironwood trees have fallen and comprised the fence.

A contractor will be hired to cut down the trees and shred/grind the limbs on site to be utilized as mulch. The trees will be removed, but the stumps allowed to be left in place as not to disturb the soils within the pali area thus preventing debris to fall into the ocean. The outer rings of the tree stumps will be treated with Federal and State approved herbicide to discourage regrowth. Once removal is complete, the area will be replanted with indigenous species such as Naupaka.

As the Pepe'ekeo Shoreline Subdivision is a gated community, access to the site is gained through a passcode secured main gate located at the bottom of Sugar Mill Road. Parcel 43 and associated easement area are fenced with a gate. Within the project area, there are currently no structures nor are there any utilities available. According to the applicant, through observation, there are no known endangered or threatened plants or animal species existing at the project site.

After consultation with the developer, the applicant believes that there are no identified historic sites within the project area. Also, a walking survey of the property was done and it was determined that there are no historic sites visible on the parcel (i.e. no rock walls, markers, or mounds that would indicate something of historical value). Ongoing cultural uses of the general Hāmākua coast area include the gathering of opihi and sea urchins, as well as net and shoreline fishing. However, in this particular area, the pali area and rough ocean condition of the area reduces the accessibility and frequency of use of the shoreline. However, the applicant does acknowledge that portions of the Pepe'ekeo shoreline is accessible through rope ladders and carved steps which are accessed from the public pedestrian access.

After reviewing the application, OCCL finds that:

1. The proposed project is an identified land use within the Conservation District, pursuant to Hawai'i Administrative Rules (HAR) §13-5-23, L-1 LANDSCAPING (C-1) *Landscaping (including clearing, grubbing, and tree removal), including chemical and mechanical control methods, in accordance with state and federal laws and regulations, in an area of less than 10,000 square feet. Any replanting shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. The introduction of invasive plant species is prohibited.*
2. Pursuant to HAR §13-5-40 HEARINGS, a Public Hearing will not be required.
3. The proposed tree clearing appears to be minor in scope and may qualify as an exempt action pursuant to Hawai'i Revised Statutes (HRS), Chapter 343, as amended, and HAR §11-200-8, Exempt Classes of Action (a)(4) *Minor alterations in the conditions of land, water, or vegetation. Specifically, the Exemption List for the Department under Class 4 allows for Removal of invasive vegetation utilizing cutting, moving, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents, approved by the State of Hawai'i, and other approved methods.*
4. The subject area is within the Special Management Area (SMA). The applicant's responsibility includes complying with the provisions of Hawai'i's Coastal Zone Management law (Chapter 205A, HRS) that pertain to the Special Management Area (SMA) requirements administered by the various counties. Negative action on this application can be expected should you fail to obtain and provide us, at least forty-five (45) days prior to the 180-day expiration date, one of the following:
  - An official determination that the proposal is exempt from the provisions of the county rules relating to the SMA;
  - An official determination that the proposed development is outside the SMA; or

- An SMA Use Permit for the proposed development.

Further, the OCCL offers the following comments on the CUDA:

- As you are proposing to replant the area with indigenous plant species such as Naupaka once the tree removal is complete, you will be required to submit a landscaping plan for review and approval by the Department, at least forty-five days prior to the 180-expiration date.

Upon completion of the application review process, the subject CDUA will be reviewed by the Chairperson for consideration. Should you have any questions, please contact Lauren Yasaka at the Office of Conservation and Coastal Lands at (808) 587-0386.

Sincerely,



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

c: Hawai'i Board Member  
DAR/DOFAW/ENG/HDLO/HP  
DOH/OHA  
CoH, Planning Dept.  
Hilo Public Library