

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i
July 11, 2025

180-Day Exp. Date: September 13, 2025

**Board of Land and
Natural Resources
State of Hawai'i
Honolulu, Hawai'i**

REGARDING: Conservation District Use Application (CDUA) HA-3969
Public Purpose Subdivision of Land

APPLICANT: County of Hawai'i- Department of Public Works
AGENT: Ron Terry of Geometrician Associates

LANDOWNER: State of Hawai'i
LOCATION: Waiānuenue Ave, Pi'ihonua, South Hilo, Hawai'i
Tax Map Key: (3) 2-3-030:002

AREA OF USE: $\approx 14,400 \text{ ft}^2$

SUBZONE: General

Exhibits: **A** Location & State Land Use Map
B Photos of area
C Proposed Land Use

SUMMARY

On December 8, 2017, the Board of Land and Natural Resources (Board) approved agenda item D-5, for the set aside of land for roadway purposes and right of entry to maintain vegetation to the County of Hawai'i's Department of Public Works (DPW). A portion of the set aside lies within the Conservation District. One of the conditions for the set aside was to process and obtain authorization for a subdivision via a Conservation District Use Application that is the subject of this submittal.

DESCRIPTION OF AREA/CURRENT USE (Exhibit A & B)

The subject area exists on the east side of Hawai'i, within the ahupua'a of Pi'ihonua, in the moku of Hilo on the island of Hawai'i and lies within the General subzone of the Conservation District. The application states the site is located at the over 600-ft elevation and the land is made up of weathered basalt soils noted as Keaukaha extremely rocky muck (rKFD) on over 10,000 years old lava. Soil is about 8" thick, varying with the topography of the underlying pāhoehoe lava flows. Permeability is rapid with moderate

runoff. The project site does not appear to be subject to subsidence, landslides or other forms of mass wasting.

No streams pose a flooding hazard to the project site. The site is within Zone X of the Flood Insurance Rate Map that is outside of the 500-year flood plain.

A biological survey was conducted by the agent/biologist. The survey indicated very few native plants present. There are no critical habitat or threatened or endangered plant species listed. Regarding fauna, threatened or endangered species of avifauna may visit or fly over the area. However no threatened or endangered species reside in the area.

While there are no buildings in the proposed area, the subject parcel is encumbered by a perpetual easement to the County for a flood control diversion ditch. A portion of the easement is located within the requested set aside area. According to the applicant, the diversion ditch remains necessary and will be incorporated into any planned roadway improvements.

According to the applicant, Waiānuenue Avenue was built about a century ago in the early days of the Territory of Hawai'i. Portions of the existing Waiānuenue Ave encroach up to seven feet onto the adjacent subject State land. The roadway is very narrow, with drop-offs along the road's edge. Trees and brush growing along the roadside create very limited lines of sight. Due to the roadway encroachments, DPW is prevented from cutting trees and brush back from the roadway to provide a safe clear zone without entering State land. To ensure public safety, DPW has regularly entered this land to maintain the Waiānuenue Avenue right of way, its shoulders and drainage ditch.

PROPOSED LAND USE: (Exhibit C)

Applicant County of Hawai'i's Department of Public Works is proposing to subdivide a portion of tax map key (3) 2-3-030:002, owned by the State of Hawai'i, to be set aside to the County of Hawai'i for roadway purposes. The area of the proposed use is a 30-foot wide, 1,200-foot-long strip of parcel 002. The need to adequately maintain the Avenue's drainage ditch, keep it free of woody vegetation and to make safety improvements are part of the reason for this proposal.

SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred the application to the following agencies for review and comment: the Department of Land and Natural Resource's Hawai'i District Land Office, Conservation and Resource Enforcement, Engineering and Forestry & Wildlife; the Office of Hawaiian Affairs; and the County of Hawai'i Department of Planning. In addition, this application was also sent to the nearest public library, the Hilo Library, to make this information readily available to those who may wish to review it.

Comments were received by the following agencies and summarized by Staff as follows:

THE STATE

DEPARTMENT OF LAND AND NATURAL RESOURCES

Division of Conservation & Resource Enforcement

No comment

Engineering

No comments

Division of Forestry & Wildlife (DOFAW)

DOFAW notes several threatened or endangered faunal species are occasionally present in the area. DOFAW concurs with the measures included to avoid construction and operational impacts to the State-listed 'ōpe'ape'a (bat), seabirds and the 'io (hawk). DOFAW provides the following additional comments regarding the potential for proposed work to affect listed species in the vicinity of the project area.

The State listed 'io or Hawaiian hawk may occur in the project vicinity. Prior to undertaking vegetation clearing, DOFAW recommends that pre-construction surveys of the area be conducted by a qualified biologist following appropriate survey methods to ensure no Hawaiian hawk nests are present, which may occur during the breeding season from March to September. The survey should be conducted at least 10 days prior to the start of construction. If an 'io nest is detected, a buffer zone of 100 meters (330 feet) should be established around it where no construction shall occur until the chick or chicks have fledged, or the nest is abandoned and DOFAW staff should be immediately notified. If adult individuals are detected in the area during construction, all activities within 30 meters (100 feet) of the bird should cease. Work may continue when the bird has left the area on its own.

The State listed nēnē or Hawaiian goose could potentially occur in the vicinity of the proposed project site. It is against State law to harm or harass these species. If any are present during construction, all activities within 100 feet (30 meters) should cease and the bird or birds should not be approached. Work may continue after the bird or birds leave the area of their own accord. If a nest is discovered at any point, please contact the Hawai'i Island Branch DOFAW Office at (808) 974-4221 and establish a buffer zone around the nest.

The endemic pueo or Hawaiian short-eared owl could potentially nest in the project area. Pueo nest on the ground and active nests have been found year-round. Before any potential vegetative alteration, especially ground-based disturbance, we recommend that line transect surveys are conducted during crepuscular hours through the project area. If a pueo nest is discovered, a minimum buffer distance of 100 meters from the nest should be established until chicks are capable of flight.

Cats prey on native birds, including State-listed endangered waterbirds, seabirds, and forest birds. Predation is instinctive and means that even well-fed cats will hunt and kill

wildlife. Therefore, DOFAW recommends no feeding of feral cats should occur on the premises.

To prevent the spread of rapid 'ōhi'a death (ROD), DOFAW requests that the information and guidance at the following website be reviewed and followed if 'ōhi'a trees are present at the project site that will be removed, trimmed, or potentially injured: <https://cms.ctahr.hawaii.edu/rod>.

DOFAW recommends minimizing the movement of plant or soil material between worksites. Soil and plant material may contain detrimental fungal pathogens (e.g., rapid 'ōhi'a death), vertebrate and invertebrate pests (e.g., little fire ants, coqui frogs, etc.), or invasive plant parts (e.g., African tulip, octopus' tree, trumpet tree, etc.) which could harm our native species and ecosystems. We recommend consulting the Big Island Invasive Species Committee (BIISC) at (808) 933-3340 to help plan, design, and construct the project, learn of any high-risk invasive species in the area, and ways to mitigate their spread. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.

The invasive coconut rhinoceros beetle (CRB) is found on the islands of O'ahu, Hawai'i Island, Maui, and Kaua'i. On July 1, 2022, the Hawai'i Department of Agriculture (HDOA) approved Plant Quarantine Interim Rule 22-1. This rule restricts the movement of CRB-host material within or to and from the island of O'ahu, which is defined as the Quarantine Area. Regulated material (host material or host plants) is considered a risk for potential CRB infestation. Host material for the beetle specifically includes a) entire dead trees, b) mulch, compost, trimmings, fruit and vegetative scraps, and c) decaying stumps. CRB host plants include the live palm plants in the following genera: *Washingtonia*, *Livistona*, and *Pritchardia* (all commonly known as fan palms), *Cocos* (coconut palms), *Phoenix* (date palms), and *Roystonea* (royal palms). When such material or these specific plants are moved there is a risk of spreading CRB because they may contain CRB in any life stage. For more information regarding CRB, please visit <https://dlnr.hawaii.gov/hisc/info/invasive-species-profiles/coconut-rhinoceros-beetle/>.

You should avoid importing soil or other plant material from off-island. Soil and plant material may contain fungi and other pathogens which could harm our native species and ecosystems. We recommend consulting the Hawai'i Interagency Biosecurity Plan at <http://dlnr.hawaii.gov/hisc/plans/hibp/> in the planning, design, and construction of the project.

DOFAW recommends using native plant species for landscaping that are appropriate for the area; i.e., plants for which climate conditions are suitable for them to thrive, plants that historically occurred there, etc. Please do not plant invasive species.

DOFAW also recommends referring to www.plantpono.org for guidance on the selection and evaluation of landscaping plants and to determine the potential invasiveness of plants proposed for use in the project.

We appreciate your efforts to work with our office for the conservation of our native species. These comments are general guidelines and should not be considered comprehensive for this site or project. It is the responsibility of the applicant to do their own due diligence to avoid any negative environmental impacts.

Applicant's response

Thank you for the concurrence of the measures included in the project proposal intended to avoid construction and operational impacts to the State-listed 'ope'ape'a, seabirds, and 'io, as well as actions to avoid erosion and sedimentation. Concerning pre-construction 'io and pueo nest surveys, please note that no construction is included within the current application; if and when the County plans construction or tree removal in the area, it is fully prepared to commission surveys as appropriate. No feeding of feral cats currently appears to occur in this area and the County will not engage in such feeding. Safety maintenance does not induce the need to move soil or plant material. DPW recognizes that extreme threat posed by coconut rhinoceros beetle and is a partner with the State in actions to detect it and control its spread. Of the palm genera noted, there are a few individuals of *Livistona* present, but they will not be affected. Please note that the project does not involve any landscaping or plantings.

There may come a time when circumstances dictate a project involving tree removal, land clearing, and/or construction of facilities to assist in maintenance, but the current application is not meant to cover these. If and when these activities occur, DPW recognizes that additional approvals and review may be necessary. Furthermore, DPW recognizes that one or more of the mitigation measures noted in your letter may become necessary to implement in order to avoid or minimize environmental impacts and is prepared to include them in plans and also to consult your agency during the applications processes to ensure their adequacy. We very much appreciate the review from DOFAW.

COUNTY OF HAWAII

Planning Department

No comments

ANALYSIS

Following review and acceptance of the application on March 18, 2025, the Department has found that:

1. The proposed land use is an identified land use in the General subzone of the Conservation District, pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-10, SUBDIVISION OR CONSOLIDATION OF PROPERTY, D-1, "Subdivision of property into two or more legal lots of record that serves a public purpose and is consistent with the objectives of the subzone." Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to HAR, §13-5-40 of, a Public Hearing will not be required;

3. In conformance with Hawaii Revised Statutes (HRS), Chapter 343, as amended, and HAR, §11-200.1-15/16, the proposed use falls under General Exemption Type 1 which applies to “Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing”; and pursuant to the DLNR Comprehensive Exemption List dated 11/10/2020, specifically: Part 1, item #41, Subdivision or consolidation of lots not previously subdivided, the proposed use is exempt from the preparation of an Environmental Assessment.
4. The subject area does not appear to be located in the Special Management Area.

Notice of CDUA HA-3969 was published in the April 8, 2025, issue of the Environmental Notice.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in HAR §13-5-30.

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The subdivision should not conflict with any of the above objectives. The purpose of the subdivision is to convey land to the County Department of Public Works for the appropriate management and maintenance of the roadway that will contribute to maintaining public health safety and welfare.

- 2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the General subzone is to designate open space where specific conservation uses may not be defined but where urban use would be premature. Subdivision of land for public purpose is an identified land use that could be applied for within the General subzone. The proposal does not conflict with this objective.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

Staff believes Chapter 205A, HRS is not applicable for this proposal.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

Staff is of the opinion that this will not have any adverse impact on existing natural resources as no land disturbing activities have taken place under this action.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

No physical structures are proposed.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The action has no physical impact on the land. Staff is of the opinion that the open space characteristics of the Conservation District will be maintained.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

The subdivision of land did not change the existing use of the area nor create any land disturbing activities.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff is of the opinion that the subdivision action was not detrimental to the public health, safety and welfare. Road safety most likely will improve with the additional land added to the right of way.

Customary & Traditional Practices

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 Hawaiian and other ethnic groups.

Staff notes the project site area contains resources that could be utilized for lei making. It appears to be customary to collect lei material along Hawai'i (Moku O Keawe) roadsides. Should the subdivision be authorized, under the County's DPW's management, eventual safety improvements may provide a safer setting to gather lei material.

DISCUSSION

The purpose of the proposed subdivision is to complete the set aside for the County of Hawai'i to acquire a portion of TMK: (3) 2-3-030:002 for roadway purposes. Once the acquisition is complete, the County's Department of Public Works shall manage the land and maintain the Waiānuenue Avenue right of way. No construction or physical improvements are proposed. The proposed subdivision will promote maintenance of vegetation, drainage features, and road shoulders in a way that furthers public safety.

Further the applicant has stated future improvements under the County's DPW management will endeavor to utilize the mitigation measures identified in the Division of Forestry and Wildlife's comments to avoid or minimize environmental impacts.

RECOMMENDATION

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this CDUA for public purpose subdivision of land located at Waiānuenue Avenue, Pi'ihonua, South Hilo, Hawai'i, portion of Tax Map Key:(3)2-3-030:002 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) 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;
- 4) The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
- 5) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 6) The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 7) The permittee shall obtain the approval of the County of Hawai'i for the subdivision and file the final subdivision plan with the Office of Conservation and Coastal Lands;
- 8) Other terms and conditions as prescribed by the Chairperson; and
- 9) Failure to comply with any of these conditions shall render a permit void under HAR, Chapter 13-5 as determined by the chairperson or board.

Respectfully submitted,

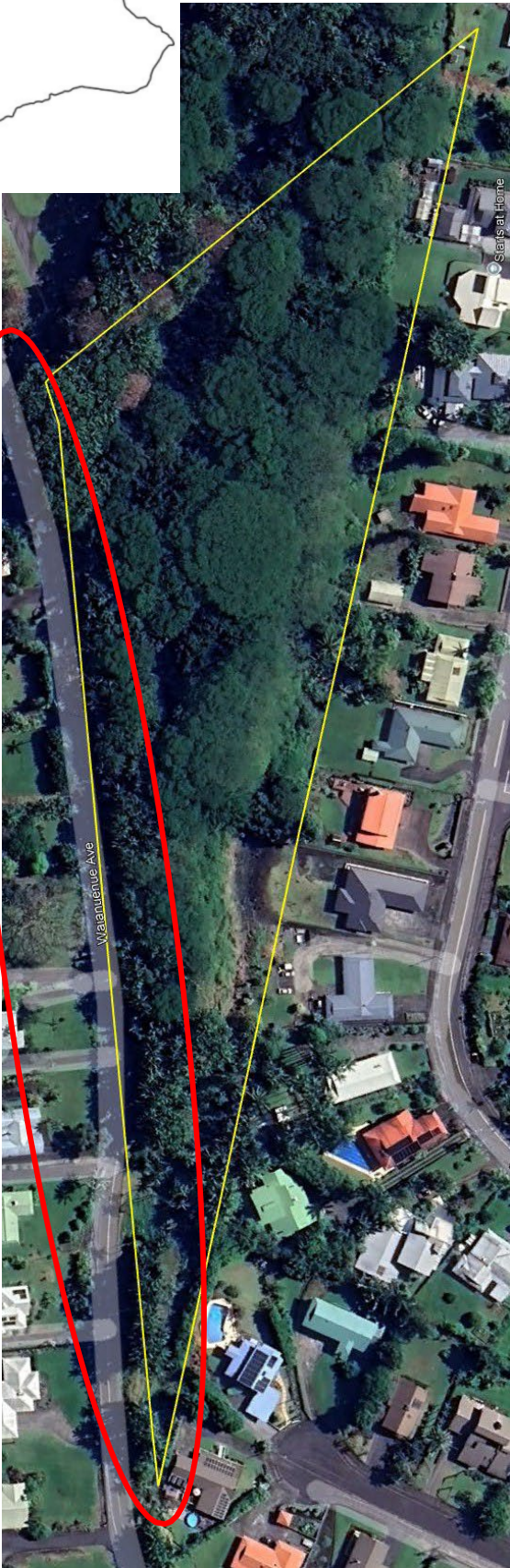


K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands



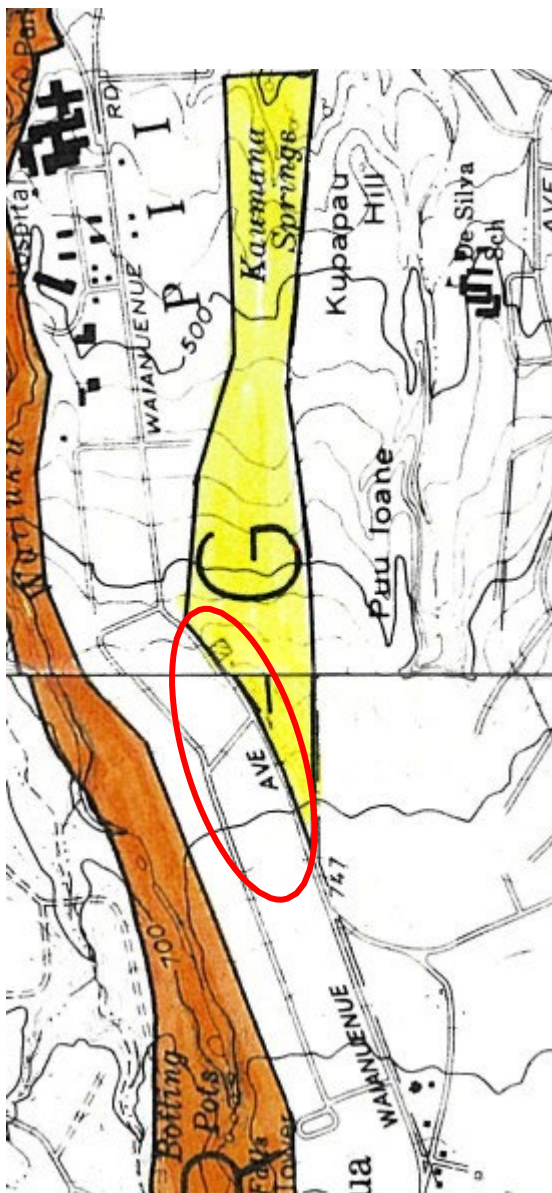
Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

MC



TMK: (3) 2-3-030:002

From Google Earth Pro



Project area circled in red.

Conservation Subzone







	Conservation
	GENERAL
	LIMITED
	PROTECTED
	RESOURCE
	SPECIAL

Exhibit A Location & Subzone Map

Figure 2. Project Site Photos



2a. Vegetation encroaches on side of road ▲

▼ 2b. Typical vegetation in proposed set aside area



Figure 2 Project Site Photos



2c. Palms near rear of set aside area and beyond ▲

▼ 2d. Drainage easement



