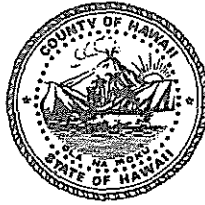


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

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

January 15, 2010

Mr. Timothy Francis Eden  
475 Kino'ole Street, Suite 102 PMB 154  
Hilo HI 96720

Dear Mr. Eden:

**Subject: Special Management Area Use Permit Assessment Application (SAA 10-000522)**  
**Special Management Area Minor Permit No. 10-000139**  
**Applicant: Timothy Francis Eden**  
**Land Owner: Timothy Francis Eden**  
**Request: Hand Clearing of Low Vegetation to Improve Visibility for Survey**  
**Tax Map Key: 1-4-063:043, Por. Hawaiian Parks Subd., Puna, Hawai'i**

- 5 -

This is in response to the Special Management Area (SMA) Assessment Application received in this office on January 4, 2010 for the hand clearing of low vegetation to improve visibility for an archeological inventory survey to be conducted on the subject parcel.

This 9,479 square feet parcel is designated Urban by the State Land Use Commission and is zoned Agriculture (A-1a) by the County. Although it is partially within the SMA, it does not have frontage along the coastline.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(ii) relating to Special Management Area, the "Grading, removing, dredging, mining, or extraction of any materials" is defined as "development". Therefore, a Special Management Area Minor Permit is required.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 10-000139 is hereby issued to allow for the hand clearing of low vegetation to improve visibility for an archaeological inventory survey, subject to the applicant's compliance with the conditions of approval as required by the permit.

Mr. Timothy Eden

Page 2

January 15, 2010

Should you have questions, please feel free to contact Dana Okano of this department at 961-8134.

Sincerely,



BJ LEITHEAD TODD

Planning Director

DO:cs

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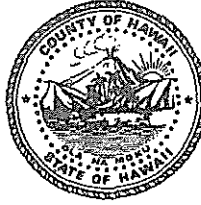
Enclosures - SMM No. 10-000139

Department of Public Works January 13, 2010 Memo

cc w/encls: Long Range Planning  
Planning Commission

cc ltr only: Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
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### PLANNING DEPARTMENT

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Phone (808) 961-8288 • Fax (808) 961-8742

### Special Management Area Minor Permit No. 10-000139

**Project:** Hand Clearing of Low Vegetation to Improve Visibility for Inventory Survey  
**Applicant:** Timothy Francis Eden  
**Land Owner:** Timothy Francis Eden  
**Location:** Por. Hawaiian Parks Subd., Puna, Hawai'i  
**TMK:** 1-5-063:043 **Land Area:** 9,479 square feet

#### Applicant's Request

**1. Project Description:**

This application is for hand clearing of overgrown low-lying vegetation on the subject parcel.

**2. Purpose of Project:**

There are two known historic sites on the subject parcel. On a December 16, 2009 site visit to the parcel by Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) staff, a number of additional archeological features were identified. Therefore, SHPD has requested that a complete archaeological survey be conducted prior to any land altering activity occurring. The overgrown vegetation will need to be cleared to conduct the archeological inventory survey.

**3. Project Valuation:** \$1,000.

**4. Determination:**

Hawaii Revised Statutes Chapter 205A and Planning Commission Rule 9-4(10)a(ii) states that "Development" includes "Grading, removing, dredging, mining, or extraction of any materials". Therefore, the hand clearing of vegetation requires a Special Management Area (SMA) Minor Permit.

#### State and County Plans

- 1. State Land Use District:** The subject property is designated Urban.
- 2. General Plan:** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property as Low Density Urban.
- 3. County Zoning:** The subject property is zoned Agriculture (A-1a).

4. **Special Management Area (SMA):** The subject property is located partially within the SMA but does not have frontage along the coastline.
5. **Flood Zone:** Flood zone not mapped by FEMA.

<p align="center"><b>Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</b></p>
--

The subject property does not have frontage along the coastline and the hand clearing of vegetation will not affect the recreational resources available to the public. The activity will ensure compliance with objectives and policies of HRS 205A.

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

The hand clearing of vegetation is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The activity is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The activity does not conflict with the following objectives of Chapter 205A, HRS, to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
  - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
  - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
  - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
  - ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
  - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
  - ☒ Stimulate public awareness, education, and participation in coastal management.
  - ☒ Protect beaches for public use and recreation.
  - ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

- ☒ The activity is consistent with the following policies of Chapter 205A, HRS, relating to:
- ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
  - ☒ Beach Protection
  - ☒ Marine Resources
- ☒ The activity conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

#### Findings

As discussed above, the hand clearing activity does not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The hand clearing activity consistent with the Hawaii County General Plan and Zoning Code.

The hand clearing activity is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated cost of approximately \$1,000 is not in excess of \$125,000.

Upon review of the enclosed January 13, 2010 memorandum, the Department of Public Works, Engineering Division stated the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated January 11, 2010 and have no objections to the request.*

*The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is identified as an area of 'minimal tsunami inundation.'*

*A grubbing permit will not be required for the subject work (total parcel area is 9,479 s.f.) which is less than one acre – the threshold for which a permit would be required."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000139** is hereby approved to allow for the hand clearing of low vegetation to conduct and archaeological inventory survey, subject to the applicant's compliance with the conditions of approval as specified below.

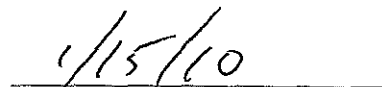
### Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 10-000139 subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The hand clearing of vegetation must be completed within one year from the date of this permit.
3. The applicant shall comply with all applicable requirements of the State Department of Land and Natural Resources and the County Department of Public Works and applicable requirements of other affected agencies.
4. All vegetation shall be cleared by hand, no heavy equipment, machinery, or vehicles shall enter the parcel. All removed vegetation must be deposited in an appropriate County of Hawai'i green waste facility.
5. The archaeological inventory survey report related to the issuance of this permit must be submitted, along with written recommendations or requirements of DLNR SHPD, as part of an SMA Assessment Application prior to any permits being issued for this parcel by the Planning Department, including for any land alteration activity.
6. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
  - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
  - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:

  
BJ LEITHEAD TODD

  
Date

**COPY**  
*for Dana Okano*

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: January 13, 2010

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

SUBJECT: **SMA USE PERMIT ASSESSMENT APPLICATION (SAA 10-000522)**

Applicant: Timothy Francis Eden

Land Owner: Timothy Francis Eden

Request: Hand Clearing of Low Vegetation to Improve Visibility for Survey

Tax Map Key: 1-5-63: 043

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated January 11, 2010 and have no objections to the request.

The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is identified as an area of "minimal tsunami inundation."

A grubbing permit will not be required for the subject work (total parcel area is 9,479 s.f.) which is less than one acre - the threshold for which a permit would be required.

Questions may be referred to Kelly Gomes at ext. 8327.