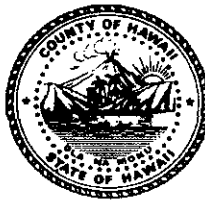


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

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PLANNING DEPARTMENT

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June 22, 2012

Mr. Christopher Biltoft
14-5001 Hoolai Road #4081
Pahoa, Hawai'i 96778

Dear Mr. Biltoft:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 12-000818)
Special Management Area Minor Use Permit (SMM-12-000229)
Applicant(s): Christopher Biltoft and Mary Fleming
Land Owner: Christopher Biltoft and Mary Fleming
Request: Clear Vegetation along Two Property Lines
Tax Map Key: (3) 1-4-068:004; Kapoho Vacationland, Puna, Hawai'i**

This is in response to your Special Management Area Use Permit Assessment Application received on May 29, 2012. The applicant proposes to clear vegetation from two foot wide sight lines along the northern and southern boundaries of the subject property.

The property consists of 8,000 square feet and is zoned Single-Family Residential (RS-10) by the County and is designated Urban by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcels as Low Density Urban. In addition, the entire parcel is located within the Special Management Area (SMA) and has frontage along the shoreline.

Special Management Area Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (B), "development" includes "*Grading, removing, dredging, mining, or extraction of any materials.*" Therefore, the proposed clearing of vegetation is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

Determination of Minor Activity within Shoreline Setback Area:

Pursuant to HRS 205A-45 and Planning Department (PD) Rule 11-5 (a) "*All lots which abut the shoreline shall have a minimum shoreline setback line of forty feet.*" Please note that the minimum 40-foot shoreline setback determination only applies to this proposal. The shoreline setback for any future developments on the subject parcel will be subject to a valid shoreline certification and will be determined during the SMA assessment of that project.

The clearing of vegetation is proposed within a portion of the 40-foot shoreline setback area. The clearing activities will be minimal and limited to the two-foot wide sight lines along the northern and southern boundaries. The clearing will be done by hand and any and all green waste will be hauled off site. As such, the improvements would neither affect beach processes nor artificially fix the shoreline. In addition, there would be no significant visual impediments to and along the shoreline. Pursuant to PC Rule 11-8, the proposed clearing of vegetation is therefore considered minor and will not require a Shoreline Setback Variance.

Compliance with Environmental Impact Statement Regulations (Chapter 343, HRS):

According to Hawai'i Revised Statutes (HRS) Chapter 343-5, an environmental assessment shall be required for actions that propose any use within a shoreline area. However, Hawai'i Administrative Rules (HAR), Chapter 200, Environmental Impact Statement Rules, provides a list of classes of action that may be exempt from the preparation of an environmental assessment. Among the list of exempt classes of action listed in HAR Chapter 200 is:

- *11-200-8(A)4) Minor alterations in the conditions of land, water, or vegetation;*

The Planning Department consulted with the Department of Public Works (DPW) regarding the Planning Director's "Declaration of Exemption" from the preparation of an EA for the subject project. The Planning Department determines that the proposed action will probably have minimal or no significant effect on the environment and hereby exempts the applicant from the preparation of an EA for the proposed project. No uses, activities, or development, other than those described in the application, shall be exempt from environmental review under Chapter-343.

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 12-000229 is hereby issued to allow the clearing of vegetation from two foot wide sight lines along the northern and southern boundaries of the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

Mr. Christopher Biltoft
June 26, 2012
Page 3

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

Sincerely,


BJ LEITHEAD TODD
Planning Director

BJM:cs
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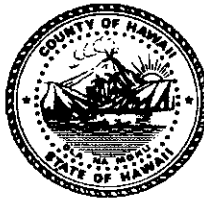
Enclosure - SMM No. 12-000229
HRS Chapter 343 Declaration of Exemption
Department of Public Works Memorandum dated June 21, 2012

cc w/encls: Long Range Planning Division
Planning Division

State of Hawai'i
Department of Health
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

Mr. Samuel J. Lemmo, Administrator
State of Hawaii Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, HI 96809

cc ltr only: Mr. Jesse K. Souki, Director
Office of Planning, DBEDT
State of Hawaii Department of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359



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Special Management Area Minor Permit No. 12-000229

Project: Clear Vegetation along Two Property Lines
Applicant: Christopher Biltoft and Mary Fleming
Owner: Christopher Biltoft and Mary Fleming
Location: Kapoho Vacationland, Puna, Hawai'i
TMK: (3) 1-4-068:004 **Land Area:** 8,000 square feet

Applicant's Request

1. Project Description:

The applicant proposes to clear vegetation from two foot wide sight lines along the northern and southern boundaries of the subject property. The clearing will be done by hand, and any and all green waste will be hauled off site.

2. Purpose of Project:

The applicant's objective is to prepare for a boundary and certified shoreline survey to be conducted. The certified shoreline survey is necessary to determine if additional development is possible. The shoreline survey will also guide future mitigation of pollution as recommended by the Department of Health and US Army Corps of Engineers.

3. Project Valuation: \$100.

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (B), "development" includes "*Grading, removing, dredging, mining, or extraction of any materials.*" Therefore, the proposed clearing of vegetation is considered "development" and requires a Special Management Area Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Urban by the State Land Use Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property for Low Density Urban.

3. **County Zoning:** The subject property is zoned Single-Family Residential (RS-10).
4. **Special Management Area:** The entire parcel is located within the Special Management Area (SMA) and has frontage along the shoreline.
5. **Flood Zone:** VE

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

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

The proposed development 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 proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development 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 proposed development 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 proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, the proposed 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.

The proposed development is consistent with the Hawai'i County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$100 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated June 21, 2012, states the following:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated June 18, 2012 and have no objections to the request.

The subject parcel is in an area designated as Flood Zone VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year)."

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 12-000229** is hereby approved for the clearing of vegetation from two foot wide sight lines along the northern and southern boundaries of the subject property, 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. 12-000229, subject to the following conditions:

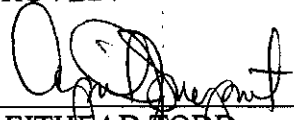
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. Ponds that do not have a surface connection to the sea are regulated as "wetlands" by the U.S. Army Corps of Engineers. Applicant shall secure U.S. Army Corps of Engineers required permits or approvals for any future proposed work in the existing pond.
4. During work, any green waste debris must be routinely removed from the existing ponds and any areas of the property subject to inundation of high tide water flows.
5. All green waste shall be collected from the project and disposed of at appropriate locations designated by the Department of Environmental Management for green waste.
6. All clearing shall be done with hand tools; no heavy equipment shall be allowed.
7. As required by PD Rule 11-8 (b), the work within the shoreline setback area shall be completed within one (1) year from the date of this determination of minor structure or activity within the Shoreline Setback Area.
8. Any further grading, grubbing, filling or other construction activity, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure. This includes the determination of the shoreline setback area.
9. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
10. 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).

11. 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.

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

APPROVED:

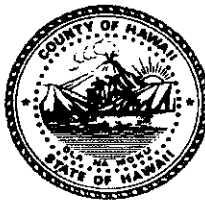


BJ LEITHEAD TODD
Planning Director

JUN 26 2012

Date

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

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DECLARATION OF EXEMPTION

FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE
AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200, HAR

Project Title: Clear Vegetation along Two Property Lines

Project Number: SAA-12-000818, SMM-12-000229

TMK: (3) 1-4-068:004

Project Description: The applicant proposes to clear vegetation from two foot wide sight lines along the northern and southern boundaries of the subject property. The applicant's objective is to prepare for a boundary and certified shoreline survey to be conducted.

Consulted Parties: County of Hawai'i – Department of Public Works

Exemption Class: 11-200-8(A) 4) Minor alterations in the conditions of land, water, or vegetation;

Date of Exemption: June 22, 2012

I have considered the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200, HAR. I declare that this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.


for BJ LEITHEAD TODD
Planning Director

JUN 26 2012

Date

**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: June 21, 2012

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *fa*  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 12-000818)

Applicant: Christopher Biltofs

Request: Clear Vegetation along Two Property Lines

Location: Kapoho Vacationland, Puna, Hawaii

Tax Map Key: (3) 1-4-68: 004

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated June 18, 2012 and have no objections to the request.

The subject parcel is in an area designated as Flood Zone VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year).

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