



## Planning Department

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720 • (808) 961-8288

Lorraine R. Inouye  
Mayor  
Norman K. Hayashi  
Director  
Tad Nagasako  
Deputy Director

### CERTIFIED MAIL

April 17, 1991

Ms. Mikiko Malasek  
c/o Sandra Pechter Schutte, Esq.  
101 Aupuni Street, Suite 124  
Hilo, HI 96720

Dear Ms. Malasek:

SPECIAL MANAGEMENT AREA (SMA) MINOR USE PERMIT NO. 91-7  
Applicant: Mikiko Malasek, Yotsuyaken Corp.  
Tax Map Key: 7-7-04:3

Upon careful review of your SMA Use Permit request, we have found that it complies with the requirements for a Minor Permit set forth in Rule 9.7 of the Planning Commission's Rules and Regulations Relating to Special Management Area.

Accordingly, please find enclosed an SMA Minor Use Permit No. 91-7 to machine-grub some portions and hand-grub other portions of, and remove debris from, a 5.405 acre parcel. The subject lot extends between the shoreline and Ali'i Drive at Kamoa Point, and lies within and along the ahupuaa boundary of Kaumalumalu, North Kona, Hawaii, Tax Map Key: 7-7-04: 3.

Please note that the permit approval is also subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
2. A Grubbing Permit shall be obtained from the Department of Public Works before initiating any work on the site.

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3. Prior to approval of a Grubbing Permit, the applicant shall retain a professional surveyor to:
  - a. Locate the position of Feature 14, utilizing the detailed archaeological map presented as Figure 1 in Hommon's 1980 report (or the equivalent attached map). The surveyor shall establish the location of and clearly mark with closely spaced, brightly colored surveyor's ribbon a 50-foot buffer zone around the whole of what is or was Feature 14, such marking to be clear enough that a heavy equipment operator will have no difficulty in discerning it.
  - b. Similarly mark a 20-foot setback from the large wall along the north parcel boundary and a 10-foot setback from the wall along the Ali'i Drive boundary.
  - c. Clearly mark (as above) a makai exclusion area 60 feet mauka of and parallel to the recent certified shoreline. The purpose of this exclusion area is to protect the archaeological features within it and the strand vegetation in its makai portion. The native pohuehue vine (Ipomoea brasiliensis) and naupaka shrub (Scaevola sericea) and the beach heliotrope (Messerschmidia argentea and noni (Morinda citrifolia) trees will be left intact in the strand vegetation area.

Only hand grubbing, utilizing hand-held tools, will be allowed within these four exclusion areas. A confirmation letter of the clearly marked buffers shall be submitted with the grubbing plans.

4. Special attention shall be taken not to damage the lo'ulu palm (Pritchardia affinis) within the makai setback. Prior to commencement of grubbing, a 5-foot radius circle shall be clearly marked (as above) around it by the surveyor, and no grubbing activities of any kind are allowed within the circle.
5. Prior to actual on-site grubbing work, machine operators and any other personnel involved shall be notified of the nature and location of all sites and buffers. Notations shall be contained on the grubbing plans.

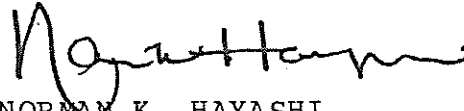
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6. Should any unanticipated burials be encountered or uncovered, work in the affected area shall cease immediately and the Department of Land and Natural Resources, Historic Preservation Program, be notified. Work shall not resume until a clearance has been obtained from the Historic Sites Section.
7. The project is to be carried out exactly as described in the permit and attached Background statement. Any deviations from the described operations will need to receive advance approval from the Planning Department.
8. All other applicable rules, regulations and requirements shall be complied with.
9. A report on the grubbing shall be submitted to the Planning Director and to the Historic Preservation Division within 60 days of the date of initiating the grubbing activity. The report shall include, but not be limited to, the status of the grubbing and to what extent the conditions of approval are being complied with. This report shall be specific as to the fate of the burial in Feature 14, indicating (A) whether it was detected and preserved as is for the present, (B) whether it can reliably be determined by an archaeologist familiar with the archaeological reports for the property that it had been previously destroyed, or (C) whether it can be established that previously it had been properly reinterred.
10. An extension of time for the performance of conditions within the permit 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 General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

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Should you have any questions regarding the above, please do not hesitate to contact this department at 961-8288.

Sincerely, . .



NORMAN K. HAYASHI  
Planning Director

FRW:syw

1419D

Enclosures

cc: Chief Engineer

West Hawaii Office (w/Background & Recommendation)

SMA Section (w/Background & Recommendation) ✓

PLANNING DEPARTMENT - PLANNING COMMISSION  
COUNTY OF HAWAII  
Hilo, Hawaii

PERMIT NO. 91-7

SPECIAL MANAGEMENT AREA MINOR USE PERMIT

The Planning Director completed on April 16, 1991, an assessment on the application of MIKIKO MALASEK, YOTSUYAKEN CORP. for a Special Management Area (SMA) Minor Use Permit pursuant to Section 9.7.C., Rule 9 of the Planning Commission Rules Relating to Administrative Procedures, as amended. The permit request is for: to machine-grub some portions and hand-grub other portions of and remove debris from a 5.405 acre parcel. The subject lot extends between the shoreline and Ali'i Drive at Kamao Point, and lies within and along the ahupuaa boundary of Kaunalama North Kona, Hawaii, Tax Map Key: 7-7-04:3.

As indicated on the attached report, the Director finds that the proposed development is:

- 1) not in excess of \$65,000; and
- 2) will not significantly affect the SMA.

Therefore, with concurrence of the Chief Engineer, the Director hereby grants to the applicant a minor use permit under the authority vested in him by Section 9.7.C of said Rules, with the following condition(s) that:

PLEASE SEE ATTACHED CONDITIONS.

  
for Chief Engineer, DPW

  
Planning Director

Attachment

6257A-5/84

SPECIAL MANAGEMENT AREA (SMA) USE PERMIT NO. 91-7  
APPLICANT: MIKIKO MALASEK, YOTSUYAKEN CORP.  
CONDITIONS

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1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
  2. A Grubbing Permit shall be obtained from the Department of Public Works before initiating any work on the site.
  3. Prior to approval of a Grubbing Permit, the applicant shall retain a professional surveyor to:
    - a. Locate the position of Feature 14, utilizing the detailed archaeological map presented as Figure 1 in Hommon's 1980 report (or the equivalent attached map). The surveyor shall establish the location of and clearly mark with closely spaced, brightly colored surveyor's ribbon a 50-foot buffer zone around the whole of what is or was Feature 14, such marking to be clear enough that a heavy equipment operator will have no difficulty in discerning it.
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- Only hand grubbing, utilizing hand-held tools, will be allowed within these four exclusion areas. A confirmation letter of the clearly marked buffers shall be submitted with the grubbing plans.
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5. Prior to actual on-site grubbing work, machine operators and any other personnel involved shall be notified of the nature and location of all sites and buffers. Notations shall be contained on the grubbing plans.
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8. All other applicable rules, regulations and requirements shall be complied with.
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