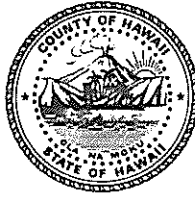


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL

October 18, 1993

Ms. Sandra Pechter Schutte
Roehrig, Roehrig, Wilson, Hara,
Schutte & De Silva
Attorneys At Law
101 Aupuni Street, Suite 124
Hilo, HI 96720

Dear Ms. Schutte:

Special Management Area (SMA) Minor Permit No. 93-20
Applicant: A.C. Markkula and Linda K. Markkula
Restated Revocable Trust
Proposed Grubbing and Clearing of Debris
TMK: 6-2-2:24; Ouli, South Kohala, Hawaii

Pursuant to our letter dated September 30, 1993, we had determined that a Special Management Area (SMA) Minor Permit is required for the proposed grubbing and clearing activities on the subject property. Accordingly, based on the following background and findings we hereby issue SMA Minor Permit No. 93-20 with conditions.

BACKGROUND INFORMATION

The applicant's representative Sandra Pechter Schutte, on behalf of property owner A.C. Markkula and Linda K. Markkula Restated Revocable Trust, is requesting a Special Management Area (SMA) Minor permit to allow the grubbing of approximately one acre of land and the hand clearing of debris on the subject property. The property, consisting of 5.00 acres, is located adjacent and to the north of the Mauna Kea Beach Resort development, Ouli, South Kohala, Tax Map Key: 6-2-2:24.

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Specifically, the applicant proposes to mechanically grub approximately one acre and hand clear debris of an undeveloped portion of its residential lot. The project area consists of scrub kiawe trees, low grasses, dead coconut trees and other debris. All work is proposed to be conducted outside of the 40-foot shoreline setback area. Further, the grubbing activity will exclude the public pedestrian shoreline trail easement which traverses along the southern boundary and across (mauka of the existing residence) the property. The total valuation of the proposed project will be approximately \$15,000.

In support of the request, the applicant states the following objectives:

"There are several objectives to be achieved by this grubbing. First, it will remove the existing fire hazard which has been created by the dead plant debris. Secondly, it will clear the land to permit a topographic survey to be prepared for the area. Finally, it will provide a cleared area for future landscaping."

LAND USE

The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the majority of the property as Low Density Urban and a portion of the property along the shoreline as Open. The County Zoning designation is Single Family Residential with a minimum lot size of 5 acres (RS-5a). The State Land Use District classification is Urban. The property is situated within the Special Management Area (SMA).

DESCRIPTION OF PROPERTY AND SURROUNDING AREA

An existing single family residence and detached carport and shed are situated on the subject property.

The vegetation on the property consists of kiawe trees with understory of low grasses. There are no known rare or endangered plant species present on the subject property.

No known or archaeological sites have been identified in the vicinity of the affected area.

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According to the Soil Survey Report published by the U.S.D.A., Soil Conservation Service, the property consists of the Kawaihae Series (KNC) which consists of somewhat excessively drained extremely stony soils that formed in volcanic ash. These soils have a very thin surface layer of extremely stony very sandy loam about 2 inches thick over silt loam. Hard pahoehoe lava bedrock is at a depth of about 33 inches. Permeability is moderate, runoff is medium, and the erosion hazard is moderate.

The Flood Insurance Rate Map (FIRM), prepared by the Federal Emergency Management Agency (FEMA), classifies along the shoreline area as Zone VE, coastal flood with velocity hazard and base flood elevation determined to be 8 feet. The majority of the property, however, is classified Zone X, area determined to be outside the 500-year flood plain.

A shoreline survey map of the property was last certified by the Chairperson of the Board of Land and Natural Resources on March 10, 1992. The applicant proposes to conduct the grubbing activity mauka of an 80-foot setback from the shoreline. In addition, only hand clearing of debris will occur within the 80-foot setback area. Based on the considerable distance from the shoreline for the grubbing activity, an updated certified shoreline survey map was waived by the Planning Director.

Through a Settlement Agreement made on October 11, 1989, Akau et al vs. Mauna Kea Properties, Inc., et al (Civil No. 3072, No. 4961 and No. 5935, Third Circuit Court), a public pedestrian shoreline access trail easement traverses the subject property. The improvements to the access trail easement is presently being coordinated with the Na Ala Hele Division of the Department of Land and Natural Resources. According to the Settlement Agreement, the access trail easement is to be eventually conveyed to the State.

Access to the property is via a 40-foot wide easement with a 12-foot wide pavement which branches off from the Westin Mauna Kea Beach Hotel access road. There is an easement document dated May 19, 1969, recorded with the Bureau of Conveyances which provides the right of access through Mauna Kea Resort lands.

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The adjoining lands are zoned Single Family Residential-5 acres (RS-5a) and Open (O). Surrounding land uses include single family residences, the Mauna Kea Beach Resort development, and vacant lands.

FINDINGS AND DETERMINATION

Upon review of the request against the guidelines for granting a Special Management Area Permit, the Planning Director hereby approves a Special Management Area Minor Permit based on the following findings:

The purpose of Chapter 205A, HRS, and Planning Commission Rule No. 9, Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

The total valuation of the project will not exceed \$125,000; and the proposal will not result in a significant adverse effect on the Special Management Area.

The proposed action is consistent with the Objectives, Policies and SMA Guidelines which were established to provide guidance for the preservation, protection, and development of coastal resources of the State and County. They identify several areas of management concern including historic, recreation, scenic resources, coastal ecosystems, economic use, and coastal hazards.

The proposed grubbing activity, will occur mauka of an 80-foot setback from the shoreline. It will exclude the public pedestrian shoreline access trail easement. Only hand clearing of debris will occur within the 80-foot setback area. The proposed grubbing and hand clearing of debris will enhance the view from the access trail easement to the shoreline.

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Based on the above findings, the limited nature of the project and given the proposed conditions, it is determined that the granting of this request will not impact the identified resources. Therefore, the granting of this request will not be contrary to the purpose and intent of Chapter 205A, HRS, relating to Coastal Zone Management; Rule No. 9 of the Planning Commission relating to the Special Management Area; the Hawaii County Zoning Code; or the General Plan.

A Special Management Area Minor Permit is further approved subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
2. The applicant shall comply with all other applicable laws, rules, regulations and requirements.
3. The 80-foot setback line from the shoreline (as delineated on the subdivision map) shall be measured, staked and roped by a registered land surveyor prior to any land alterations in the affected area. This stakeline shall be marked with a continuous colored flagline and kept in place for the duration of the grubbing and hand clearing activities. The West Hawaii Office of the Planning Department shall be notified to conduct site inspections to verify the position of the stakeline before any site alterations are initiated, and subsequently, after completion of the activities.
4. The public pedestrian shoreline trail easement shall be measured, staked and roped by a registered land surveyor prior to any land alterations in the affected area. This stakeline shall be marked with a continuous colored flagline and kept in place for the duration of the grubbing and hand clearing activities. The West Hawaii Office of the Planning Department shall be notified to conduct site inspections to verify the position of the stakeline before any site alterations are initiated, and subsequently, after completion of the activities.


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5. Should any unanticipated archaeological or historic features be encountered or uncovered during the grubbing activity, work in the affected area shall cease immediately, and the Planning Department and the Historic Preservation Division of the Department of Land and Natural Resources shall be immediately notified. Work shall not resume until clearance has been obtained from the Planning Department in consultation with the Historic Preservation Division.
6. A grubbing permit shall be secured from the Department of Public Works. The grubbing and land clearing activities shall be completed within two years of this permit.

Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

Should you have any questions, please feel free to contact Alice Kawaha or Rodney Nakano of this office.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

 10/20/93

Chief Engineer Date

AGK:mjs

xc: Ms. Donna Kiyosaki, Chief Engineer
West Hawaii Office
Planning Commission
SMA Section
Rez 582