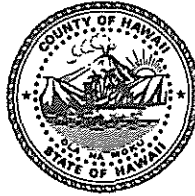


Stephen K. Yamashiro
Mayor



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

August 31, 1995

Mr. Douglas W. Dyer
2349 Ainaola Drive
Hilo, HI 96720

Dear Mr. Dyer:

Special Management Area Use Permit Assessment Application
No. 95-31 (SMAA 95-31)
Special Management Area Minor Use Permit No. 35 (SMM 35)
Applicant: Douglas W. Dyer
Request: Grubbing an Approximately 1,200+-foot long,
20-foot Wide Access Between Subject Properties
Tax Map Key: 1-4-28:172 and 173; WaaWaa, Puna, Hawaii

Pursuant to our previous letter to you dated July 13, 1995, regarding the proposed grubbing of a 1,200-foot long and 20+-foot wide access pathway between the subject properties, we are hereby issuing Special Management Area Use Permit No. 35 to allow the proposed grubbing activity, for the reasons as detailed below.

BACKGROUND INFORMATION

1. **Land Ownership:** The subject properties, which are located within WaaWaa Subdivision are owned by Wallace A. Dyer, brother of the applicant.

APPLICANT'S REQUEST

2. **Request:** The applicant proposes to grub a 1,200+-foot long, 20+-foot wide path from the Government Road which will wind its way between the subject properties. The applicant will utilize a D-8 Caterpillar bulldozer to accomplish this task.
3. **Reason for Request:** The applicant states that his brother, who is the owner of the subject property, wishes to retire to these properties in the distant future. The grubbing of the accessway will be *"his first step in deciding where to place his future home and what land scaping (sic) and native plants and trees he wishes to save."*

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4. **Total Valuation:** According to an August 30, 1995, telephone conversation between Staff Planner Daryn Arai and the applicant, the grubbing activity is anticipated to cost about \$3,000.

STATE AND COUNTY PLANS

5. **State Land Use District:** The project site is designated Agricultural by the State Land Use Commission.
6. **General Plan:** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the affected area as Orchards.
7. **County Zoning:** The project site is designated Agricultural 3 acres (A-3a) by the County Zoning Code.
8. **Special Management Area (SMA):** Portions of the subject properties are located within the boundaries of the Special Management Area. That portion of the subject properties adjacent to the Government Road and located within the Special Management Area has a maximum depth of approximately 220 feet. Therefore, only about 220 feet of the proposed 1,200+-foot long accessway will be located within the Special Management Area. Therefore, this Special Management Area Minor Use Permit is being issued in satisfaction of the Rules and Regulations of the Special Management Area.

DESCRIPTION OF THE PROPERTIES AND SURROUNDING AREA

9. **Subject Properties:** Both properties are generally rectangular in shape with an average width of approximately 125 feet and a depth of approximately 1,135 feet for Parcel 172 and 1,085 feet for Parcel 173. The subject properties are located on the mauka side of the Government Road (Kapoho-Honolulu Landing Road) and approximately 350 feet from the nearest shoreline.
10. **Existing Use:** The subject properties are currently vacant of any use. Building Permits (#840513/840514) were issued to a former landowner to allow the construction of a single family dwelling on Parcel 172. Records indicate that this dwelling was never completed.

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11. **USDA Soil Survey Report:** Soils within the subject property consist of Pahoehe Lava, which has no soil covering. Areas of higher rainfall, such as the subject properties, support ohia, ohelo berry, and aalii.
12. **FIRM:** The Flood Insurance Rate Maps (FIRM) designates the project site as being located within an area outside of the 500-year flood plain (Zone X).
13. **Archaeological/Floral/Fauna Resources:** An archaeological inventory survey of the subject properties was not conducted by the applicant. The subject properties are not identified as containing features listed on the Hawaii and National Registers of Historic Places. Guava, Ohia, Hale and other types of exotic and native vegetation are located within the heavily vegetated properties.
14. **Surrounding Land Use Designation/Uses:** Land uses within the immediate area consist of scattered single family residential uses and vacant parcels on lands zoned Agricultural-3 acres (A-3a) by the County.

UTILITIES AND SERVICES

15. **Access:** Access is provided by a Government Road (Kapoho-Honolulu Landing Road), which has a primarily unpaved, cinder surface within a 50-foot wide right-of-way.
16. **Other Essential Utilities and Services** are not necessary to accommodate the proposed grubbing activity.

ASSESSMENT

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 island's coastal zone areas. Special controls on development within these areas have been enacted to prevent permanent loss of valuable resources. Upon review of the subject request, the Planning Director finds that the proposed grubbing of a 20-foot wide accessway within the subject properties is consistent with State and County Special Management Area policies, as outlined below:

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- a) **Recreational Resources:** The proposed grubbing of a 1,200+-foot long, 20+-foot wide accessway to provide access to the subject properties from the Government Road will not interfere with recreational uses of the coastal area due to its location on the mauka side of the Government Road and its distance of at least 350 feet from the shoreline and recreational areas.
- b) **Historical and Natural Resources:** The subject properties are not known to contain any archaeological feature which have been included on the Hawaii or National Registers of Historic Places. A condition of approval will be included within this permit requiring the applicant to cease all grubbing work and to notify the Planning Department should they encounter archaeological features or sites. The subject property is heavily vegetated with exotic and native species of plants. The subject properties and surrounding areas are not known as essential habitats for endangered species of plants or animals. The grubbing activity will be limited in scope by simply providing the applicant with a means to access the property. The remainder of the property will be left in its natural state for the time being. Therefore, the proposed grubbing activity, in itself, should not have an adverse impact to historical or natural resources within the area.
- c) **Scenic and Open Space Resources:** The subject properties are not located within an area recognized by the General Plan as an example of natural beauty. The proposed grubbing activity will not have any effect upon the County's open space and scenic resources due to its location mauka of the Government Road and the limited nature of the activity.
- d) **Coastal Ecosystems:** As previously mentioned, the distance of the subject properties from the shoreline areas would preclude any impact to coastal ecosystems. Since no extensive construction activities are being considered under the applicant's proposal, concerns regarding runoff, erosion and ambient dust generated by the grubbing activity will be minimal.
- e) **Economic Uses:** Economic benefits to be derived from the grubbing of the subject properties will be minimal, if non-existent. The proposed grubbing activity is solely for the benefit of the applicant and their ability to access their properties.

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- f) **Coastal Hazards:** The project site is located within an area outside of the 500-year flood plain (Zone X) and is not recognized as an area affected by coastal flooding hazards.

DETERMINATION

Based on the preceding assessment, the Planning Director has determined that the grubbing of the subject property to accommodate a 1,200+-foot long and 20+-foot wide accessway to the subject properties would not be contrary to the State and County policies governing the Special Management Area. The Planning Director hereby approves a Special Management Area Minor Permit, **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 indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.
3. A grubbing permit, if required, shall be secured from the Department of Public Works. The grubbing activity shall be completed within two (2) years from the date of approval of this permit. The applicant shall notify the Planning Department, in writing, of the completion of the approved grubbing activity.
4. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
5. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

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- 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 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).
6. 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.

Please feel free to contact Daryn Arai of my staff at 961-8288, should you have any questions.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

DSA:mjs
File: SMM36
SMM36.dsa

xc: Ms. Donna Kiyosaki, Chief Engineer
SMA Section