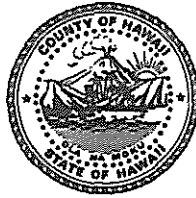


Stephen K. Yamashiro
Mayor



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
P 364 320 241

February 15, 1996

Mr. Kirk Soares
Westly & Associates, Inc.
P. O. Box 667
Hilo, HI 96721

Dear Mr. Soares:

Special Management Area Use Permit Assessment Application
No. 96-05 (SMAA 96-05)
Special Management Area Minor Use Permit No. 41 (SMM 41)
Applicant: Westly & Associates, Inc.
Request: Grubbing of Subject Properties to Allow for Survey
Tax Map Key: 2-6-16:Pors. of 1, 4 and 38, Wainaku, South Hilo

We are in receipt of the above-described application on January 31, 1996, to allow the grubbing of the subject properties to facilitate the survey of the properties and its existing and proposed boundaries. The proposed grubbing activities would not exceed \$125,000 in valuation. It has been determined that the proposed activity will not have a significant adverse impact to coastal resources. Therefore, we are hereby issuing Special Management Area Use Permit No. 41 to allow the proposed grubbing activity, for the reasons as detailed below.

BACKGROUND INFORMATION

1. **Land Ownership:** The subject properties are owned by the Chiaki Matsuo Revocable Trust. The applicant is in the process of purchasing the subject properties (hereinafter referred to as "project site").

APPLICANT'S REQUEST

2. **Request:** The applicant proposes to grub the majority of the project site. Only a limited portion of Parcel 38 (roadway lot) will be grubbed for access. The remainder of the project site comprising Parcels 1 and 4 will be grubbed, with the exception of the project site's top-of-bank with the adjoining

FEB 21 1996

Resp to 979

Mr. Kirk Soares
Page 2
February 15, 1996

Kalalau Stream. The applicant proposes a 20-foot wide buffer from the Kalalau Stream top-of-bank as well as the property boundaries fronting the Hawaii Belt Highway (Highway 19). No grubbing activities will occur within the 20-foot wide buffer area, which will act as a berm to control runoff and erosion beyond the project site boundaries. Grubbing of the project site will be accomplished by a D-6 bulldozer with machetes and sickles to be used adjacent to the 20-foot wide buffer areas.

3. **Reason for Request:** The purpose of the grubbing activity is to allow the applicant to conduct surveys of the project site. The applicant is currently in the processing of acquiring the subject properties.
4. **Total Valuation:** According to the application, the grubbing activity is anticipated to cost about \$5,000.

STATE AND COUNTY PLANS

5. **State Land Use District:** The project site is designated Urban by the State Land Use Commission.
6. **General Plan:** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the affected area for Low Density Urban uses, which would allow for uses which are single family residential in character, ancillary community and public uses, and convenience type commercial uses."
7. **County Zoning:** The project site is designated Single Family Residential-10,000 square feet (RS-10) by the County Zoning Code.
8. **Special Management Area (SMA):** The project site is located within the County's Special Management Area. Therefore, this Special Management Area Minor Use Permit is being issued in satisfaction of Rule No. 9 of the Planning Commission regarding the Special Management Area.

DESCRIPTION OF THE PROPERTIES AND SURROUNDING AREA

9. **Subject Properties:** The area to be grubbed will affect three separate properties, one of which is a roadway lot (Parcel 38). The remaining parcels consist of approximately 2.05 acres (Parcel 1) and 3.59 acres (Parcel 4).

10. **Existing Use:** The subject properties are currently vacant of any use and is heavily vegetation by noxious-type weeds. According to the applicant, the properties have previously been grubbed three times.
11. **USDA Soil Survey Report:** Soils within the subject property consist of Hilo Silty Clay Loam (hoc), which consists of a surface layer of dark-brown silty clay loam and a subsoil of dark-brown, dark reddish-brown and very dark grayish-brown silty clay loam. This soil dehydrates irreversibly into fine gravel-sized aggregates.
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. The applicant has indicated that the subject properties have been grubbed three times in the past. Therefore, the likelihood of significant archaeological features being located on the subject properties is remote.
14. **Surrounding Land Use Designation/Uses:** Land uses within the immediate area consist primarily of single family residential uses on lands zoned Single Family Residential (RS-10) by the County. A few residential parcels and the Wainaku Jodo Mission Japanese School are located to the west (mauka) between the project site and the Old Mamalahoa Highway. The Hawaii Belt Road (Highway 19) borders the makai property boundaries. Kalalau Stream is located adjacent to the south (Hilo side) of the project site. Further south, single family residential uses occur on lands zoned RS-15 (along Halaulani Place).

UTILITIES AND SERVICES

15. **Access:** Access to the project site is provided by the Old Mamalahoa Highway. Parcel 38 is a 30-foot wide roadway parcel which also provides access to the project site as well as adjacent parcels.

Mr. Kirk Soares
Page 4
February 15, 1996

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 the project site is consistent with State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed grubbing of the project site to allow for surveying activities will not interfere with recreational uses of the coastal area due to its location on the mauka side of the Hawaii Belt Highway and distance of approximately 200 feet from the shoreline and its limited potential for recreational uses.
- b) **Historical and Natural Resources:** The project site is 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. According to the applicant, the project site has been previously grubbed and is currently heavily vegetated with "noxious vegetation". The project site and its 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 and survey the project site. Therefore, the proposed grubbing activity, in itself, should not have an adverse impact to historical or natural resources within the area. To ensure the protection of natural resources, conditions will be imposed requiring a 20-foot wide setback buffer from the Kalalau Stream top-of-bank and the Hawaii Belt Highway. Furthermore, the applicant will not be permitted to dispose of or stockpile grubbed material within the 20-foot wide buffer area and Kalalau Stream.

- 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 Hawaii Belt Highway and the limited nature of the proposed activity. The proposed grubbing activity has the potential to increase the open space and scenic opportunities from the Old Mamalahoa Highway by eliminating the overgrowth of weeds and exotic vegetation.
- d) **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 and temporary. The applicant will maintain a 20-foot setback buffer from the Kalalau Stream top-of-bank and its Hawaii Belt Highway frontage to ensure that erosion and runoff generated by the proposed grubbing activity will be minimized. The disposal of or stockpiling of grubbed material within the 20-foot wide buffer areas and Kalalau Stream will not be permitted. Secondly, the applicant will be encouraged to allow vegetation to quickly re-habitate the project site once surveying activities are complete by limiting grubbing activities to that directly associated with the surveying activities. This will further reduce any long-term impacts associated with erosion and runoff. A grubbing permit will be required by the Department of Public Works, which will review the proposed activity and its conformance with Chapter 10 of the Hawaii County Code regarding Erosion and Sedimentation Control.
- e) **Economic Uses:** Potential economic uses of the nearby coastal areas will not be adversely impacted by the proposed grubbing activities since the grubbing activities are solely to aid in the survey of the project site boundaries.
- 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.

Mr. Kirk Soares
Page 6
February 15, 1996

DETERMINATION

Based on the preceding assessment, the Planning Director has determined that the grubbing of the project site to accommodate surveying activities would not be contrary to the state and county policies governing the Special Management Area. The Planning Director hereby approves Special Management Area Minor Use Permit No. 41, 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 three (3) months 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. All grubbing activities shall immediately cease upon completion of surveying activities within the subject properties.
4. A 20-foot wide buffer along the project site's frontage with Kalalau Stream and the Hawaii Belt Highway (Highway 19) shall be shown on plans submitted to the Department of Public Works for a grubbing permit.
5. Prior to commencing grubbing operations, the applicant shall clearly stake and flag with a continuous ribbon a 20-foot wide setback along the project site's Kalalau Stream top-of-bank and Hawaii Belt Highway frontages. No grubbing or other land alteration activities shall be permitted within the 20-foot wide setback area. Stockpiling or disposal of grubbed material within the 20-foot wide setback area or Kalalau Stream will be prohibited.

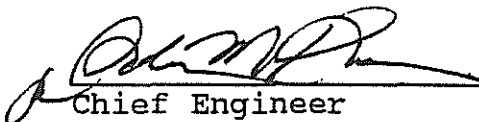
Mr. Kirk Soares
Page 7
February 15, 1996

6. 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.
7. 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 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).
8. 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


Chief Engineer

2/15/96
Date

DSA:mjs
f:\wp60\czm\smm\SMM41.dsa

xc: Ms. Donna Kiyosaki, Chief Engineer
SMA Section