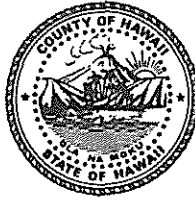


Stephen K. Yamashiro
Mayor



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

July 18, 1996

Mr. Wallace H. Gallup, Jr.
75-5586 Ololi Road, Suite 3007
Kailua-Kona, HI 96740

Dear Mr. Gallup:

Special Management Area Use Permit Assessment Application
No. 94-68 (SMAA 94-68)
Special Management Area Minor Use Permit No. 47 (SMM 47)
Applicant: Garrett Webb dba Kalaoa Gardens
Request: Grubbing and Mowing of Subject Properties and
Its Periodic Maintenance
TMK: 7-5-20: 22, 24, 28 & 34, Puapua'a 1st, North Kona, Hawaii

Thank you for your submittal dated June 6, 1996, providing this office with additional information regarding the proposed grubbing and mowing activities within the subject properties. The proposed grubbing and mowing activities will not exceed \$125,000 in valuation. It has been determined that the proposed activity will not have an significant adverse impact to coastal resources. Therefore, we are hereby issuing Special Management Area Use Permit No. 47 to allow the proposed grubbing and mowing activities, for the reasons as detailed below.

BACKGROUND INFORMATION

1. **Land Ownership:** The subject properties, consisting of four separate parcels having a total land area of approximately 12.64 acres (hereinafter referred to as "project site"), are owned by Arahari Sangyo Co., Ltd. on behalf of Yamakin, Ltd. and Kaneyoshi Co., Ltd.

APPLICANT'S REQUEST

2. **Request:** The applicant proposes to grub and mow portions of the project site, consisting of a total of approximately 12.64 acres, to clear it of excessive grasses, weeds, haole koa and other scrub trees. Approximately two-thirds of the project site will be grubbed by a bulldozer or by using hand implements. The remaining one-third of the project site will be mowed. Within 50 feet of shoreline, only hand implements, such as a brush cutter or chain saw, will be used to clear the

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vegetation. Once cleared, periodic mowing will be made on a quarterly basis to maintain the project site.

3. **Reason for Request:** The purpose of the grubbing and mowing activity is to allow the applicant to maintain vegetation growing within the project site to avoid a potential fire hazard as well as to improve aesthetics. A maintained project site will also reduce the need to spray herbicide, which could drift to neighboring communities or landscapes.
4. **Total Valuation:** According to the application, the grubbing and mowing activity is anticipated to cost about \$8,700.

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 Resort uses with a strip designated for Open uses along the shoreline area.
7. **County Zoning:** The project site is designated Single Family Residential-15,000 square feet (RS-15) 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 and mowed will affect four separate properties individually consisting of 182,970 square feet (Parcel 22), 134,077 square feet (Parcel 24), 1,435 square feet (Parcel 28) and 232,068 square feet (Parcel 34). With the exception of Parcel 24, all remaining parcels have frontages along the shoreline as well as Alii Drive.
10. **Existing Use:** The project site is currently vacant of any use and is heavily vegetation by noxious-type weeds, grasses and plants. According to the applicant, the properties have previously been grubbed three times. There is an existing seawall and boundary wall within Parcel 34. According to affidavits submitted from previous landowners of the subject properties, the seawall and boundary wall were constructed in

1965 by Frank Gouveia in conjunction with the construction of two single family dwellings within the project site, which have since been demolished. This information was also submitted to the State Department of Land and Natural Resources during review and certification of the shoreline survey which defined the makai face of the seawall as the certified shoreline.

11. **USDA Soil Survey Report:** Soils within the subject property consist of Punalu'u extremely rocky peat. Permeability is moderately rapid, runoff is slow and the erosion hazard is slight.
12. **FIRM:** The Flood Insurance Rate Maps (FIRM) designates the project site as being affected by a number of flood areas, including the 100 year flood plain (AE), its flood fringe areas (Shaded X), coastal flood areas (VE), and areas located outside of the 500-year flood plain (X).
13. **Archaeological Resources:** An archaeological inventory survey report of the subject properties dated August 1994 was prepared by the applicant (Cultural Surveys Hawaii). The survey identified nine sites within the project site consisting of a heiau, burial complex, five permanent habitation sites, a Land Court Award boundary wall, and a mound of unidentified function. While six of the sites were significant solely for their informational content, the three remaining sites, consisting of the heiau, burial complex and a habitation site, were considered significant. The Department of Land and Natural Resources, by letter dated May 1, 1996, approved the applicants' proposed archaeological mitigation measures to conduct data recovery of the six sites deemed significant solely for their informational content and to preserve the remaining three sites (heiau, burial complex and one habitation site). In addition to these mitigation measures, the applicant has also proposed erection of a continuous fence line mauka of all nine sites of which no mechanized grubbing or mowing will occur makai of this fence line. The fence will be no closer than 100 feet from the sites to be preserved and no closer than 50 feet to the remaining sites. Only hand clearing under the supervision of a qualified archaeologist will be accomplished for lands located makai of this fenced line.
14. **Floral/Faunal Resources:** The project site has been extensively grubbed in the past and was also formerly utilized as homesites. Therefore, the project site is not anticipated to be an essential habitat for any endangered species of plants or animals.

15. **Surrounding Land Use Designation/Uses:** Land uses to the north and south of the project site consist primarily of single family residential uses on lands zoned Single Family Residential (RS-10) by the County. On the mauka side of Alii Drive are vacant lands zoned Unplanned by the County.

UTILITIES AND SERVICES

16. **Access:** Access to the project site is provided by Alii Drive, a County-maintained roadway.
17. **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 and mowing of the project site is consistent with State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed grubbing and mowing of the project site to allow for the continued maintenance of vegetation will not interfere with potential recreational uses of the shoreline area fronting the project site or in surrounding areas. The clearing of vegetation may actually benefit users of the shoreline by removing vegetative impediments. No use is being introduced to the project site which may directly conflict with potential recreational resources in the area.
- b) **Historical and Natural Resources:** An archaeological inventory survey identified nine sites within the project site. Six of these sites were significant solely for information content and will undergo data recovery by the applicant. The remaining three sites, consisting of a heiau, burial complex and habitation site, will be preserved. In addition to these mitigative measures, the applicant has proposed the establishment of a continuous fence line mauka of all nine archaeological sites. Grubbing of the project site by bulldozers will not be permitted makai of this fence line. Grubbing utilizing hand implements, such as chainsaws and brush cutters, will be permitted makai of the fenced line under the direct supervision of a qualified archaeologist.

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With these mitigative measures in place, these archaeological sites will not be adversely impacted by the proposed grubbing and mowing activities.

- c) **Scenic and Open Space Resources:** The project site is not located within an area recognized by the General Plan as an example of natural beauty. The proposed grubbing and mowing activity will not have any adverse effect upon the County's open space and scenic resources due to the limited nature of the proposed activity. The proposed grubbing and mowing activity has the potential to increase the open space and scenic opportunities from Alii Drive by eliminating the heavy 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 and mowing activity will be minimal and temporary. 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. All mechanized grubbing activities will occur at least 60 feet from shoreline. Only hand clearing will be conducted makai of the fence line. These limitations will minimize any potential adverse impact to the nearby coastal ecosystem.
- e) **Economic Uses:** Potential economic uses of the nearby coastal areas will not be adversely impacted by the proposed grubbing and mowing activities since these activities are solely to eliminate an existing fire hazard and to improve the aesthetics within the project site.
- f) **Coastal Hazards:** The project site is located within an area affected by the 100-year frequency floods and coastal flooding hazards. A grubbing permit will be required from the Department of Public Works, which will review the proposed activities in accordance with the requirements of Chapter 27, Hawaii County (Flood Control) Code. No structure or use is being proposed within the project site. Therefore, potential dangers to life and property within the project site will be negligible.

DETERMINATION

Based on the preceding assessment, the Planning Director has determined that the proposed grubbing and mowing activities within the project site would not be contrary to the state and county policies governing the Special Management Area. The Planning

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Director hereby approves Special Management Area Minor Use Permit No. 47, 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 shall be secured from the Department of Public Works within one year from the date of this approval. The applicant shall notify the Planning Department, in writing, of the date of commencement of the approved grubbing and mowing activities. The grubbing permit application shall be accompanied by a detailed site plan, drawn to scale, indicating the location of identified archaeological sites, the extent of grubbing and mowing activities (mechanized or by hand) as well as the location of a fence line protecting the identified archaeological sites. This site plan shall be consistent with the site plan included with this letter as Exhibit A.
4. Prior to commencing grubbing or mowing activities within the project site, the applicant shall erect a continuous high-visibility fence line at a location meeting with the approval of the State Department of Land and Natural Resources and the Planning Department. No mechanized grubbing or other land alteration activities shall be permitted makai of this approved fence line. The fence line shall be established at a location no closer than 60 feet to the approximate location of the shoreline. Grubbing and mowing activities may proceed upon receiving written clearance from the Planning Department.
5. Grubbed material from the project site shall be removed from the project site in a timely and proper manner.
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.


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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.

Finally, hand grubbing makai of the approved fence line and within the 40-foot shoreline setback area will be permitted pursuant to Section 8-7(d) of Rule No. 8 of the Planning Commission regarding Shoreline Setback. The proposed hand grubbing activity will not artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline. This "minor activity" will be permitted for a period no longer than one (1) year from the date of approval of this letter. The applicant may request another determination for continued "minor activity" upon expiration of this determination.

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

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

DSA:pak
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Attachment: Exhibit A

xc: Ms. Donna Kiyosaki, Chief Engineer
West Hawaii Office
SMA Section