

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
JULY 11, 2012**

*\*\* All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes' file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. \*\**

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission was called to order by Chairperson John Sprinzel at 12:17 p.m., Wednesday, July 11, 2012, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

A quorum of the Commission was present (see Record of Attendance).

Chair John Sprinzel: Okay, now we have a quorum. I call the meeting opened and called to order. The first thing is welcome our Maui staff, Clayton just coming in, who's the Administrator; Suzie Esmeralda, who's the boards and commission secretary; Mike Hopper, who's the Corporation Counsel, and Livit, who's our Planner, wherever she may be. Okay. And I welcome the Commissioners, I don't have to read their 'cause they all got little things there.

**B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE**

Chair Sprinzel: And public testimony on any planning or land use issue that can't wait until the item itself comes up? Any? None. So public testimony is closed.

**C. APPROVAL OF MINUTES OF THE MARCH 14, 2012, MARCH 28, 2012, AND APRIL 25, 2012 MEETINGS (previously distributed with the June 13, 2012 agenda)**

I'd like approval of the minutes, please, three lots, 14 March, 28 March, 25 April. Janice proposes, and we have a second from Ron Davis.

There being no discussion, the motion was put to a vote.

***It has been moved by Commission Kalanihulia, seconded by Commissioner Davis, then unanimously***

**VOTED: to approve the minutes.**

Chair Sprinzel: Okay, all three carried.

**D. UNFINISHED BUSINESS**

1. **MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area (SMA) exemption can be issued for the following:**
  - a. **MR. GARY OTSUKA submitting a Special Management Area (SMA) Assessment application for the proposed demolition of single family dwelling built in 1928 located at 65 Kukui Place, TMK: 5-3-002: 017, Kaunakakai, Island of Molokai. (Valuation: \$200) (SMX 2011/0496) (L. Callentine) (Deferred at the April 25 Molokai PC mtg in order for the applicant to submit testing results to the State Department of Health and previously scheduled for the June 13 Molokai PC mtg which was canceled due to lack of quorum.)**

*The Commission may take action on this request.*

Chair Sprinzel: The next item, I won't bother to read it because it's Gary Otsuka, who's proposed a demolition, and he's asked us if we would defer it, so are we in agreement that we can defer it till he reapplies? Any objection? Okay. It is deferred. Next item:

**E. COMMUNICATIONS**

1. **MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area (SMA) exemption can be issued for the following:**
  - a. **MR. MICHAEL LEONE, consultant on behalf of the WAVECREST AOA submitting a Special Management Area Assessment for installation of solar PV and hot water panels on five (5) existing buildings, no ground disturbing activity for the Wavecrest property situated at 7148 Kamehameha V Highway, TMK: 5-6-004: 055, Manawai, Island of Molokai. (SMX 2011/0428) (Valuation: \$80,000) (L. Callentine) (Previously scheduled for the June 13, 2012 meeting. Meeting was canceled due to lack of quorum. Commissioners: Please bring your documents.)**

*The Commission may take action on this request to concur or not concur with the recommendation for SMA exemption.*

Ms. Livit Callentine: Thank you, Mr. Chair. And good afternoon, Commissioners. It's been a long time since I've seen you. So, yes, this project is for installation of 230 roof-mounted solar photovoltaic cells -- panels, excuse me, and 16 roof-mounted hot-water panels on five existing three-story buildings. Each building is to be supplied with approximately 10 kilowatts of power through self-contained systems that include power invertors for a total project output of 50 kilowatts. The buildings included in the project are residential -- residential buildings A, B, and C, also the swimming pool building, and the manager's office. There will be ground disturbance as the project will using the rooftops of the existing buildings.

The property is located adjacent to the shoreline and includes work within the setback area because one of the buildings is located within the setback area. The department issued a shoreline setback approved on May 30, 2012. Portions of the project are located in flood hazards zone AEF, with a base flood elevation of 3 to 11 feet; AE, with a base flood elevation of 4 to 11 feet; and X. Therefore, a special flood hazard are development permit is required as a condition of the shoreline setback approval.

The applicant has applied for electrical permits for the panels. The project was not transmitted to department -- the State Historic Preservation Division because it doesn't involve any land -- ground disturbance or expansion of the existing building footprints.

I visited the site on May 8 of this year and determined that none of the proposed work had been done yet.

The project qualifies as not a development, non-structure improvements to existing commercial structures. The project is not anticipated to have any significant adverse environmental or ecological effect taking into account potential cumulative effects. And based on the eligibility for exemption from Chapter 343, environmental review and proper implementation of best management practices. The project is consistent with the objectives, policies, and SMA guidelines set forth in the Hawaii Revised Statutes, Chapter 205A, and is consistent with the County General Plan, Molokai Community Plan, and Maui County Zoning.

Pursuant to the aforementioned, the department recommends concurrence with staff's finding that the subject application is eligible for an SMA exemption.

The site manager for the Wavecrest Condominium AOO is here today to answer any questions about the project. Thank you.

Chair Sprinzel: Thank you, Livit. Is there any public testimony on this matter? There being none, public testimony is closed. And now we'll have the Commissioners' view, and

personal view, you know how I am so for solar and that you'll get no objection from me. Anybody else would like to make a comment? Alright, would somebody like to propose -- oh yes, Ron?

Mr. Ron Davis: Move to concur.

Chair Sprinzel: Moved. Seconded Zhantell.

There being no further discussion, the motion was put to a vote.

***It has been moved by Commissioner David, seconded by Commissioner Dudoit, then unanimously***

***VOTED: to concur with staff's recommendation.***

Chair Sprinzel: Carried unanimously. Thank you so much. The next item:

- 2. MR. WILLIAM DOUGLAS MATTHEWMAN requesting a Special Management Area Minor Permit for the proposed construction of a 96-square foot storage building on 6 pre-cast pier pads; excavation will be limited to minor leveling less than 12 inches deep; situated in the R-3 Residential District at the Kamiloloa 2 Subdivision; TMK: 5-4-011: 062, Kaunakakai, Island of Molokai. (SMX 2012/0215) (Valuation: \$3,500) (L. Callentine) (Previously scheduled for the June 27, 2012 meeting. Meeting was canceled due to lack of quorum. Commissioners: Please bring your documents.)**

***The Commission may take action on this request.***

Ms. Callentine: Thank you, Mr. Chair. I went and visited this grass-covered vacant parcel. It's approximately 11,800 square feet in area. And it's mauka of the Kamehameha V Highway. It is entirely located in flood zone X and it does not require a flood development permit. The proposed project is for construction of a 96 square-foot storage building to be used to provide storage for landscape equipment necessary to maintain the property. The storage building is to be placed on, as Mr. Chair said, 6 pre-cast pier pads, and excavation to be limited to minor leveling of the site. The project is considered a development is because it's placement or erection of any solid materials or any gaseous, liquid, solid, or thermal waste. The department does not anticipate any impact to historic sites or remnant sites with any archaeological or cultural significance. The project was not transmitted to the State Historic Preservation Division for comment due to its minor nature. I visited the site on June 13, 2012.

So pursuant to the aforementioned -- would you, Mr. Chair, I'm sorry, would you guys like to discuss before the department gives its recommendation? Or would you like me to carry on with the recommendation first?

Chair Sprinzel: We'll just carry on.

Ms. Callentine: Okay. Thank you. Pursuant to the aforementioned, the department recommends approve of the SMA minor permit subject to the following conditions: That the project shall be in accordance with the description submitted on May 9, 2012 and representations made to the department;

2) That best management practices be used in the implementation of the proposed work. Appropriate measures to minimize dirt and water runoff, noise, and dust must be used;

3) That in the event that historic sites, including human burials, are uncovered during construction activities, all work in the vicinity shall cease immediately and the applicant shall contact State Historic Preservation Division at 808-243-1285 on Maui.

And condition no. 4, I have amended from the staff report just to reflect the change in the date at which it's being heard, so where the original condition in your report reads, "That the project shall be initiated by June 30, 2012," I have changed that date to July 31, 2012 since we're now in July and we generally approve permits for one year from end of the month at which the item is approved, "and shall be completed by within one year of said initiation."

And 5) That compliance with all other applicable governmental requirements shall be rendered. Thank you.

Chair Sprinzel: Thank you, Livit. Is there any public testimony on this matter? There being none, public testimony is now closed. Commissioners? Janice?

Ms. Janice Kalanihuia: I move that we accept the department's recommendations with the following conditions, and that's 1 through 5.

Chair Sprinzel: Zhantell seconds. Any discussion?

There being no discussion, the motion was put to a vote.

***It has been moved by Commissioner Kalanihuia, seconded by Commissioner Dudoit, then unanimously***

**VOTED: to accept the departments recommendations with conditions no. 1 through 5.**

Chair Sprinzel: Unanimously. Thank you very much.

*Chair Sprinzel read the following item description into the record:*

3. **MR. LUIGI MANERA requesting a Special Management Area Minor Permit for the proposed installation of photovoltaic (PV) solar array measuring 13 ft. x 32 ft 8 3/8 inch and providing 5.67 KW of power; the PV panels will be mounted on six (6) poured piers approximately 3 ft. x 3 ft. wide x 22-inches deep; site work will be limited to excavation of up to 22 inches deep at the Hoffman-Puccinelli property located in the RU-0.5 Rural District at TMK: 5-7-007: 061, Pukoo, Island of Maui. (SMX 2012/0143) (Valuation: \$30,000) (L. Callentine) (Previously scheduled for the June 27, 2012 meeting. Meeting was canceled due to lack of quorum. Commissioners: Please bring your documents.)**

***The Commission may take action on this request.***

Chair Sprinzel: And I know this property 'cause a pal of mine built it and it's a really beautiful property. I think this is the third owner now. And, Livit?

Ms. Callentine: Thank you, Mr. Chair. So the property is developed. It has two single-family dwellings on it, two swimming pools, and an accessory storage structure or two. It's about a one-and-a-half acre size parcel. The site is really steeply sloped from mauka to makai, and it's quite rocky. The project, as you said, was for installation of a photovoltaic solar array system measuring about 13 feet by 32 feet. The system will be mounted on 6 poured piers and pads, 3-foot by 3-foot by 22 inches deep. The project is considered a developed as placement or erection of any solid material or any gaseous, liquids, solid, or thermal waste. As the valuation is about \$30,000. The department does not anticipate any impact to historic sites or remnants of sites with any archaeological or cultural significance. The project was transmitted to the State Historic Preservation Division because it involved marginal ground altering, however, no reply was received to both our initial request and to a reminder. And I conducted a site inspection of this site on June 13, 2012.

So our recommendation is that pursuant to the aforementioned, the department recommends approval of the SMA minor permit subject to the following conditions, and they read very similar to the previous one with the exception that, of course, condition no. 1 is changed to reflect that the project shall be accordance with the plans and descriptions submitted on March 20, 2012, and representations made to the department. And no. 2 is the best management practices shall be implemented. No. 3 is in the event there's any

historic sites, including human burials are uncovered during construction activities, all work shall cease immediately and the applicant shall contact SHPD at 243-1285 on Maui. Again, I've amended condition no. 4 to reflect the time difference, so the project shall be initiated by July 31, 2013 and shall be completed in one year of said initiation. And 5, that compliance -- full compliance with all other applicable governmental regulations and requirements shall be rendered. Thank you.

Chair Sprinzel: Thank you, Livit. Is there any public testimony on this matter? Colette.

Ms. Colette Machado: Long time no see, John. Aloha and good afternoon. My name is Colette Machado. I reside at the Pukoo Lagoon property. I've been there for some time. I'm not opposed to the solar photovoltaic approach to reducing electricity and going green. What I might have a issue with was whether or not these two homes, and I do understand that it is not part of an SMA minor review, is whether or not these two lots are being utilized or these homes are being utilized as vacation rentals. And I raise that as a concern because, as you know, some -- I guess, maybe just a few -- just last year that bed and breakfasts and ordinances reflected such a sweeping direction along with vacation rentals, and I raise that as something that the planning members of Molokai community may want to just put in the back of their thoughts. So I am in favor of the photovoltaic to get off electricity and move towards more green, but I do have some reservations, which is not a part of the SMA minor review, but a local issue whether or not these two homes are being used as vacation rentals.

Chair Sprinzel: Thank you, Colette. Commissioners, do you have any questions for Colette? No. Thank you very much. Incidentally, if you want to take that, the usage, up, I think that's something you take up, as you know, with the Planning Department, and not with us, but you have drawn it to our attention.

Ms. Machado: But you do have staff. You have very well serving, Mr. Yoshida, and you have a Corp. Counsel and they should be advising whether or not those issues are still pertinent at, you know, these various ordinances that have been discussed very fully and what the status of it might be. That's a briefing for your Commissioners.

Chair Sprinzel: We did have instruction from the Planning Department a few meetings back where they did explain that Planning has to go with a written complaint or a phone complaint direct to the Planning Department, and not through us. They did go through that in quite detail, so I don't want to really change what they say is the way of doing this because it was about exactly the same thing about vacation rentals.

Ms. Machado: So, Mr. Chairman, are you familiar with the current ordinance that prohibits vacation rentals?

Chair Sprinzel: Oh yes. Absolutely.

Ms. Machado: So it's my understanding that vacation rentals is absolutely prohibited on island of Molokai - yes or no?

Chair Sprinze: Oh yes. Yes.

Ms. Machado: So you're asking for a citizen that might get a whistle-blowing situation to be the so-called "whistle-blower" on this request and not raise it at this point?

Mr. Michael Hopper: I can maybe be of assistance. I mean a testifier can bring up issues like that to the Commission. I don't think that that's an issue. I think it seems that a report to the department about the specific facts and information would be helpful as well to initiate enforcement because actual enforcement is done by the Planning Department. As far as vacation rentals, there was a short-term rental home ordinance that passed and I do not believe that Molokai was exempted, however, there are permitting requirements for that. If there's knowledge of an illegal operation, and there's details, then the Planning Department can be notified, and the Planning Department is, obviously, at this meeting, and can hear the testimony, and if something's being done in violation of the zoning, then that is something that can be investigated by the Planning Department. As far as how it relates to this particular application, I don't think that that has anything to do with the SMA minor permit, but there is an item on the agenda, "Testimony on any planning or land use issue," so I don't think it's beyond the scope of the meeting to have testimony on an issue like that necessarily.

Ms. Machado: Okay. I made my point and you concur. I did acknowledge that the SMA minor review does not require the ordinance, so I've established and that's not my concern, but I wanted to just place that at the Planning Commissioners' thinking in the future for other applications that might come up. Thank you.

Chair Sprinzel: Thank you, Colette.

Ms. Zhantell Dudoit: I have a question, while we're still on that subject, 'cause I was going to ask it before she stood up, but 'cause I know the area, and I know the home, and 'cause the island so small, we also, through the grapevine, know what it's used for, but my question was going to be: When we approve an SMA minor permit or an SMA permit, those conditions for which you said is very clearly defined in that property regardless of what we're approving, like whether it's a photovoltaic or a utility structure, or whatever, it still falls under the policies that that property is only required to have permitted usages, right, under the special management area?



Mr. Hopper: Absolutely. An SMA permit is not permitting a use above what's allowed in the zoning district.

Ms. Dudoit: Okay.

Mr. Hopper: Yeah. They'd have to either get, you know, depending on the use, a special use permit, conditional permit, or the short-term rental home permit if they're eligible for that. That's correct.

Ms. Dudoit: Okay. And then I just had one more question for Livit. So I just want to be educated by you for a little bit. On the first or the application prior to this, it was an exemption for the Wavecrest Resort solar voltaic panel project, and then you write this one comes out to us as a minor permit for a photovoltaic solar array, so I was wondering what the difference was and how it differs so that, yeah?

Ms. Callentine: Yes. Sure. I'd be happy to answer that. Thank you for the question. At the Wavecrest, the system, each system will be entirely mounted upon an existing three-story building, on the roof. There's no trenching, no ground altering activity, nothing. They're going to have all their invertors and all their power supply and then all their distribution from the roof to the building on which the system sits. So it's a self-contained system. With this project we're discussing right now, these cells, these panels will sit upon piers and beams on the ground, and they have to have some digging involved for that. So that's actually erecting a solid material on the ground. So that's why I recommended a minor permit rather than an exemption.

Ms. Dudoit: Oh, no, no. I understood that. But I was wondering about the definition between a panel project and a array.

Ms. Callentine: You know, the language comes from the way the applicant presents their application to the Planning Department. So as far as, technically, what's the difference between the two systems, I'm not an electrician, I'm not a solar technician, I couldn't answer that question, but perhaps with the applicants in the audience today, they could answer that.

Ms. Dudoit: I mean that would be helpful, but I think, for me, and I don't know the other Commissioners, we see so many applications that I would hope that everything is consistent because, to me, an array, seems so much larger and widespread, and I'm just trying to picture in my mind and it's hard for me to make a determination between the two because they are very specific where they're a project and array, and I didn't -- I figure it didn't mean that much difference, but if there is, it would be helpful for us to know.

Ms. Callentine: Yeah. It's just a little bit of a difference in the language and the way they were presented, but then if you actually look at the total area covered by the two projects, this, the one we're discussing right now, is for a project that's approximately 13 feet by 30 feet in area. For the Wavecrest, there's a big array, a big set of panels, I'm not even sure what the area is on each of those panels, but they sit on top of five different buildings so, in a way, that's probably a larger area covered.

Ms. Dudoit: Okay.

Chair Sprinzel: There isn't actually any definition difference between array and mounts on the roof. They're the same system. They're the same -- everything's the same except they're independent of the roof.

Ms. Dudoit: Okay.

Chair Sprinzel: In fact, they do have some which turn with the sun.

Ms. Callentine: That's true.

Ms. Dudoit: So, Corporation Counsel, when we make a decision on different terminologies like that and it's clear through our advice from our Planning Department that they don't make a difference, then we're okay?

Mr. Hopper: I mean it seems like Livit simply just used the description she got from the applicant, array versus panels. I think the key is do you have an accurate description so you can picture, physically, what's going to be there, things like view plane, glare, stuff like that, and whether it's called an "array," as long as you have a picture of what the structure is and, you know, how it's measured, I think the terminology itself, unless I'm mistaken, is not as significant as the physical characteristics of what's being built.

Chair Sprinzel: One thing about this project, and in our state we have lots and lots of solar panel, photovoltaic, and they are pretty ugly, I mean I've had them on my house for years, this one is not visible from the road. It's totally hidden behind the house. So that's a big plus in its favor. Anything more, Commissioners? Okay, can we have somebody raise their hand for me, please? Okay, a proposal. Do we have a second? Ron. Okay, all in favor, please -- any discussion?

Mr. Hopper: Just to clarify, is this a motion to approve subject to the Planning Department's conditions?

Chair Sprinzel: Oh yes. Yes, yes.

Mr. Hopper: Okay. I assume that. I just didn't --

Ms. Tancayo: Okay, I'm still getting used to the formal way but, yeah, I'm in favor of this and for what Livit proposed be followed.

Mr. Hopper: Right. Yeah, 'cause you guys would have the ability to change, alter, delete, add conditions, and if it's pursuant to the recommendation, that's fine.

Chair Sprinzel: But if it's an exemption, we can't. But if it's a minor permit or any sort of permit, we can add things or even subtract things from the recommendation. So we're accepting the Planning Department's recommendation, yes.

There being no further discussion, the motion was put to a vote.

***It has been moved by Commissioner Tancayo, seconded by Commissioner Davis, then unanimously***

***VOTED: to accept the Planning Department's recommendation.***

Chair Sprinzel: Carried unanimously. Thank you, folks.

## **F. CHAIRPERSON'S REPORT**

Chairperson's Report. Well, the only thing I can report is that we seem to have two new Commissioners lined up, so we won't go through the dramas of the last few weeks. Just to explain for the public who are here, we do all have other positions, we have businesses, and we have other responsibilities, so not all nine people can always turn up, and we do need five for a quorum, and with only seven members, and Lori Buchanan's been working on the Big Island, you imagine 300 bucks airfare just to come to a meeting, so we're very pleased that we have two more when the paperwork is done. Okay, other than that, I have nothing further to say. We have the Director's Report. Clayton?

## **G. DIRECTOR'S REPORT**

- 1. Pending Molokai Applications**
- 2. Closed Molokai Applications**

Mr. Clayton Yoshida: Thank you, Mr. Chairman and Members of the Commission. We have circulated our list of pending and closed Molokai applications if there are any questions.

Chair Sprinzel: Did Livit say something about the hangar thing is coming to us as a proper proposal?

Mr. Yoshida: Oh, I guess when we get to the item 5, we can talk about agenda items for the next meeting.

**3. Status of the Molokai Planning Commission vacancies**

Mr. Yoshida: The Chair, under item 3, the Chair did report that Douglas Rogers and Michael Jennings were confirmed to this Commission so, hopefully, we'll have them onboard for the next meeting on the 25<sup>th</sup>.

**4. Public hearing on the following rescheduled to the August 8, 2012 meeting:**

**MR. WILLIAM SPENCE, Planning Director, proposing amendments to Chapter 19.30A, Agricultural District, of the Maui County Code regarding utility pedestal walls. (J. Alueta) (previously scheduled for the June 13, 2012 meeting. Meeting was canceled due to lack of quorum.)**

And that public hearing that was recently scheduled for June 13, on the department's amendments to the agricultural district regarding utility pedestal walls, with Joe Alueta, that hearing has been rescheduled to August 8.

**5. Agenda items for the July 25, 2012 meeting**

So for your next meeting on July 25, you'll be dealing with the Paddlers' Inn roof expansion project, as well as the Wavecrest SMX, and also the Steve Notman draft environmental assessment to construct a private hangar at the Molokai Airport. The Commission did review the early -- his request for early comments -- for early consultation. So before you leave, pickup a copy of the draft environmental assessment from Livit. And then -- so those are the items that we have scheduled so far for the next meeting, Mr. Chair.

Chair Sprinzel: Thank you, Clayton. Is there anything else? Anybody has anymore comments? I do try and get through these meetings quickly so that you don't have to take too much time away from your work. So thank you all for coming, and the meeting is adjourned.

**H. NEXT MEETING DATE: JULY 25, 2012**

**I. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 12:47 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions

**RECORD OF ATTENDANCE**

**Present**

John Sprinzel, Chairperson  
Ron Davis  
Zhantell Dudoit  
Janice Kalanihuia  
Sherry Tancayo

**Excused**

Lori Buchanan, Vice-Chairperson  
Nat Bacon

**Others**

Clayton Yoshida, Planning Program Administrator  
Livit Callentine, Molokai Staff Planner  
Michael Hopper, Deputy Corporation Counsel