

MOLOKAI PLANNING COMMISSION

REGULAR MEETING

AUGUST 25, 2004

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chair Degray Vanderbilt on Wednesday, August 25, 2004 at 1:20 p.m. at the Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

A. CALL TO ORDER

A quorum of the commission members was in attendance (See record of attendance)

B. COMMUNICATIONS

1. MR. ARTHUR NAEHU on behalf of the WAIALUA CONGREGATIONAL CHURCH requesting a Special Management Area Minor Permit for the 300 square storage shed addition at TMK: 5-7-001: 070, Waialua, Island of Molokai. (SMX 20030585) (S. Bosco)

Ms. Bosco presented the staff report and recommendations.

Mr. Vanderbilt: Are there any questions by the commissioner's for Simone? Commissioner Dunbar?

Mr. Dunbar: This is for staff. I'm just curious why an SMA if this is mauka of the road?

Ms. Bosco: I checked the special management area map and the actual boundary runs up from the highway in the location of the project and so the boundary actually goes mauka where the project is. The project does lie within the special management area even though normally the boundary follows the highway. There are portions of the highway mark where the SMA goes mauka and this is one of them.

Mr. Vanderbilt: Any other questions? Would anybody here like to hear from the applicant? Mr. Naehu.

Mr. Naehu: Mr. Chairman and members of the commission my name is Arthur Naehu and I represent the Waialua Congregational Church and Aloha No. Well I have nothing to add, I think Simone did a terrific job in explaining what everything is there and I would just go along with what she has put on the paper there that I believe all of you have and the only thing is is that we'll abide by the recommendation of the planning commission which is on page 14. If there's no stipulations there that the church might divert or go along, we'll go along with what ever the planning department has given.

Mr. Vanderbilt: Thank you Mr. Naehu. Any questions from the commission? Are there any members of the public who would wish to testify on this item? Seeing none we'll close public

testimony on this item. Can I have a motion from the commission?

MOTION: I MOVE THAT WE APPROVE THE SMA MINOR PERMIT FOR THE WAIALUA CONGREGATIONAL CHURCH AS RECOMMENDED BY STAFF.

MOVED: COMMISSIONER MICHAEL TANCAYO

SECOND: COMMISSIONER JANICE KALANIHUIA

MOTION UNANIMOUSLY APPROVED.

C. UNFINISHED BUSINESS

1. MR. RICH YOUNG requesting a Special Management Area Minor Permit in order to repair the existing exterior walls, add a new parapet, T-11 siding and battens, add a new canopy, and repair the existing roofing for the Mohala Street Building located at the corner of Mohala Street and Alohi Street, TMK: 5-3-002: 086, Kaunakakai, Island of Molokai. (SMX 2204/0113) (R. Loudermilk) (deferred from the May 26, 2004 meeting)

Mr. Vanderbilt: At this point I'd like to ask Ms. Loudermilk to give an over view of the project and I'd like to turn the microphone over to our Chair Lori Buchanan.

Ms. Loudermilk presented the staff report.

Ms. Buchanan: Thank you Robin. So if I read between the lines it says status and actually nothing was done since the last time we saw the permit, the application. Didn't Commissioner Tancayo have concerns and that's why we tabled it. Commissioner Tancayo do you have any questions for staff?

Mr. Tancayo: No other questions. Thank you for the report Robin.

Ms. Buchanan: Any more questions from the commissioners?

Ms. Kalanihulia: The question was raised whether there were contaminants at the site and between May 26 and today we were supposed to get some sort of definitive answer whether there were contaminants at the site or not and so today you're saying there are no known contaminants.

Ms. Loudermilk: There are no known contaminants based upon consultation with the State Department of Health. They have two different branches that handle variety types of waste. One has to do with, because there's used oil and other types of solvents that could go out from the property. Those types of solvents even if on the soil would evaporate so quickly it would not stay

in. The second concern had to do with a MECO event that happened a while back and that was sort of down stream. So as far as the petroleum substances, the Department of Health didn't have anything on their file indicating mediation was required for that type of substance. For the Hazardous and Emergency response, they were the agency that dealt with the MECO spill and had indicated that it did not impact that particular property. The concern was that some of the ground altering and that could expose those types of contaminants to the workers as well as whoever would be doing the short term construction. It did take a little bit longer than I anticipated. I had started off with making a few phone calls and waiting for them to come back and the calls didn't come back so I faxed over and provided responses. That was the main issue with the potential with the contaminants.

Ms. Kalanihuiua: I have every reason to believe that Glenn Takata would be responsible in those ways that he would have conducted it different. But maybe he could come for the record and tell us that.

Mr. Takata: What was the question?

Ms. Kalanihuiua: Glenn do you have any reason to be worried or to believe that there are contaminants on that site?

Mr. Takata: No. We dispose of the oil, we ship it to Oahu and the batteries.

Ms. Kalanihuiua: Thank you.

Ms. Buchanan: Commissioner Vanderbilt you have a questions?

Mr. Vanderbilt: No, I don't have a question.

Ms. Buchanan: Any more questions from any of the commissioner's concerning this application?

Ms. Loudermilk presented the staff recommendation.

Ms. Buchanan: Thank you Robin. Is there any questions for Robin at this time? Commissioner Dunbar?

Mr. Dunbar: There was an issue regarding the parking. It wasn't an issue with me.

Ms. Loudermilk: They know what they need to do for the parking and they will be able to do it.

Mr. Dunbar: Thank you.

Ms. Buchanan: I believe that's where the grading and thing came in for the soil for the additional

parking in the rear. I also remember discussion on that issue about the planting use and landscaping that they would, we encouraged him to use the Board of Water Supply approved planting. If there's no more questions the Chair will entertain a motion at this time.

MOTION: I MOVE THAT WE APPROVE THE SMA MINOR PERMIT AS RECOMMENDED BY STAFF.

MOVED: COMMISSIONER MICHAEL TANCAYO

SECOND: COMMISSIONER KIP DUNBAR

MOTION UNANIMOUSLY APPROVED.

D. CHAIRPERSON'S REPORT

Ms. Buchanan: Actually gang I do have something to report but I didn't write it up, sorry. But it's to do with making motions as a commission and the foresight to see what power you have in making a motion and recommendation to the applicant on their project. The point I want to make because I'm fresh off of two conferences on Kaua'i and seeing the economic recovery of two hurricanes and the problems now that Kaua'i is facing towards invasive species and rebuilding. In my mind I said we can take care of our problems on Molokai by simply adding recommendations to our clients when they in here for SMA's and Conditional Use Permits and that would be that, for example, if there's a big project being built on Molokai, such as Molokai General Hospital Project or Hawaiian Homestead Lands project, any kind of project that comes before the board that requires a permit from us, we can add as a recommendation to that that all of the equipment that is being transported from island to the next island be decontaminated before it gets here. That's simple kind stuff that we can have the foresight to do in our recommendations. I would like to see that we use that because Kaua'i is faced with big economical problems and the Rancher's there are being hit hard. Since hurricane Iniki and the rebuilding, they're starting to deal with a lot of invasive stuff that they haven't been faced with before. It's hitting them where it hurts, in their pockets. They can't get rid of the stuff on their land and they're asking anybody for help and US and everybody is at an awe and they don't know what to do. Little simple stuff like that can help because Molokai we're very fortunate. We don't have a lot of problems that Maui has. Maui has a lot of problems. I don't know if Wayne is aware of it. I would like to see us incorporating that kind of stuff. Also anything else that the commission can think of just to help Molokai out. I think in the Director's Report we going have the other stuff of concern. Wayne going address that.

E. DIRECTOR'S REPORT

1. Community Input Regarding Matters Related to County Planning

Mr. Boteilho: Thank you Madam Chair. First of all I would like to take this opportunity to introduce a new staff member in the planning department, Tammy Osurman. She is one of our new Zoning Inspector I. She came to us about four months ago as a Zoning Inspector Trainee and she took the test for Zoning Inspector I and she made it on the list and therefore she qualifies for Zoning Inspector I and so we had her promoted. Usually it's 6 months you have to wait but she made it before the 6 months.

Also I guess I'd like to apologize. We finally have the new mikes in but the problem is only two of them works. I guess this is the hard part is that this is a different island. What we'll be doing now, we'll be having Nina call the consultant and try to see if they can resolve it that way. If not we're just going to have to send the consultant over as soon as he has a chance and see if he can get it working. What I think is the problem is that each mike deals with frequencies and I think the frequencies may be off. It worked on Maui but it doesn't work here. We'll get that resolved but at least we got it. So you see the problems I have first it takes long time and then it doesn't work.

You all got that parliamentary procedure book in your packets? We're giving all our boards and commissions the same book, Robert Rules in plain English because it's part of our training effort. The Chair has a separate book, if anybody would like to borrow that book I guess I'll have a copy here with Nina. I didn't bring it today but as soon as I can I'll give her that.

I have more gifts. O.K., early you had requested a map and state land use classifications. This is the map. Also if you note there's a special management area line. If there's any questions maybe you can bring it up next time. The master copy is going to be with Nina. You know those parliamentary procedure books I gotta ask that when your term ends you need to give it back, it's property of the planning department. If you don't get it back I may come to your house. I'm a planner I can find where you live.

The only person I can ask is Harold, do you want to provide community input on matters relating to planning?

Mr. Edwards: Sure. Two cookies I'll be quick. 18 months ago, two years ago, you folks looked at and approved an SMA minor permit for erosion, sediment control job out at Papohaku. I'm happy to report that we finally got it built and we're even happier to report that I had a couple of calls sayings gee it really worked. About a month ago we had a decent rain out on the West End that caused that gulch to flow again and the sediment basin held the red water and none of it got out into the ocean. So it's a good time to remind everybody that it's only designed for a 20 year storm so some day it'll go over top and go across the golf course and into the ocean but at least the first couple of times the stream has flowed and captured the rain and its worked well.

The other thing quickly to get your input on is that off to the bushes by the 6 whole we started a native plant nursery and we found the need to put a container there to try and keep stuff from getting

ripped off of what we tried to plant stuff and I guess the question is does that rise to the level of something that needs an SMA application from you folks or maybe that's a staff question? Outside of that I think we're doing o.k.

Ms. Buchanan: Yeah let's have staff answer that.

Mr. Boteilho: Ralph, it seems like a public works matter, a drainage matter.

Mr. Edwards: We have a Matson container on the ground to hold stuff does that need a permit?

Mr. Nagamine: You took off the wheels?

Mr. Edwards: Doesn't have wheels, and the answer was?

Mr. Nagamine: Yes.

Mr. Edwards: O.K. I'll get some paper work in, thank you.

Ms. Buchanan: It's always yes Harold.

Mr. Boteilho: All you have to do is ask. Also what Nina just passed out, I guess under list of pending Molokai applications. I hope you got the list. You wanted a legend of what these acronyms mean so I guess this is it. I didn't have a chance to look at this yet because it was just faxed in today. Take a look at it and I'll take a look at it. Maybe we could condense it. I didn't realize it was this much pages. There seems to be everything here but we see what we can do.

Mr. Vanderbilt: Wayne so for the next meeting you're going to eliminate the stuff that doesn't apply to our planning commission?

Mr. Boteilho: Well I'll take a look. I like something that's more, only deals with the planning permits and it's hard with this system we have but I'll see what I can do. Might just have to type it out.

One more update, you had requested changes to the agenda format and I have Nina working on that. This is part of her training, to do different things. So she's given me a draft and I'll take a look at it. Maybe next time we can use it.

2. Update on Papohaku Ranchlands Subdivision

Mr. Boteilho: The only update I have is that you had requested a copy of the book of his response and Mr. Notman was nice enough to provide us a copy for each commissioner so we're passing that

out now. One office copy will be kept with Nina.

Mr. Vanderbilt: Wayne I received a letter, it was sent to Molokai Ranch and Molokai Ranch was nice enough to give me a copy because my name was mentioned in it from Mr. Notman. Since I've seen the agenda I faxed a copy over to you. Did you make copies for the commissioner's?

Mr. Boteilho: We had PA system problems we didn't get a chance to make copies. Nina? I looked over it some and I guess Mr. Notman's letter mentioned me and he mentioned that he had sent the books and some how he misunderstood and he thought there was going to be a meeting on his entire subdivision. But that's not true.

Mr. Vanderbilt: I didn't get a copy of the letter but my name was mentioned in it. Some people's names were mentioned in it, did you get a copy?

Mr. Boteilho: I didn't get a copy except from you. The Ranch's letter was cc to the Planning Director and that probably is back in the main office right now.

Mr. Vanderbilt: The Ranch's response to Mr. Notman's letter?

Mr. Boteilho: Yes.

Mr. Vanderbilt: Well the reason I gave it to you was because you were going to give us an update and I was just wondering....

Mr. Boteilho: My update is we were passing out the books, the entire book. Our position has not changed, we are still reviewing what's in the book and that's the status.

Mr. Vanderbilt: Let me just, well, can we come back to this when the letter comes back? There's a letter here that's addressed and it says that Mr. Notman will withdraw his application...

Mr. Boteilho: Madam Chair maybe we could come back to this. I have a few more announcements. At the pleasure of the Chair we could take a short break and people can read the letter.

Now I have to announce, no worry, have warranty. I would like to announce that tonight the Mana'e Community Association will be meeting at the Kilohana Community Center at 5:30 pm and the guest speaker is me. So if you don't show up I understand. But actually this is a matter I wanted to discuss with you because you know under the Sunshine Law I would discourage more than three members to go to any event where they would discuss something that would come before you eventually. If it's a chance maybe, then it would be o.k. You cannot help. But in that case I would refrain from discussing or promoting any kind of position. For tonight's meeting because I'm the speaker I guess I would like to ask, well was anybody planning to go? So you two were planning to go? Were you

planning to go Degray?

Mr. Vanderbilt: No. I was going to ask you what the meeting was about.

Mr. Boteilho: I guess they would like to identify plans to preserve cultural sites in the area. Not only cultural sites but sites they see as cultural like a ditch. Now you might not think it's a cultural thing but it feeds the lo'i, that kind of thing. I was talking to Mahealani Davis and I think they doing some good work, they getting some grants, they looking at getting some UH students to help them with this project and this will help us in our general plan process. So basically I'm there to answer any questions they have about the general plan process and just planning in general. O.K. maybe if Kip and Madam Chair, if you're planning to attend and if the others could refrain.

Ms. Buchanan: Do you want to continue before I ask you a question about that? Well the question is for example and this is a question actually for Corp. Counsel, I'm sorry to take up your time under Director's Report, but the question has to do with the Sunshine Law and community meetings because there is a community meeting tomorrow night and I think it's the update on the Molokai Ranch Land and Conservation Trust and say we attend and we go there and we see that there's four or five us there? Because it has to do with our life on Molokai. As an individual, not so much as commissioner's.

Mr. Boteilho: If it's something that would not be discussed, if it's not a planning thing like let's say economic development thing or something like that then I would say you could participate. But, if there's more than three of you there I would refrain from participating and absolutely do not take a position on something that could come before you in the future. That could be considered a meeting, if you have three or more. The Sunshine Law allows two people to discuss an item as long as they're not deliberating towards a vote. So on that basis my experience at the council we've allowed two but not three council members.

Ms. Buchanan: Three or more commission members attend the meeting but don't have any input or anything but just to hear what's going on with the plan, is that o.k.?

Mr. Boteilho: This part I'll yield to corp. counsel. How we did with the council when Charmaine came out with her Bill 84 community meeting and every time she came out she bought two council members and it was understood that if a third one just so happens showed up, that person would not participate. Would just sit in the back and listen.

Ms. Young: Thank you Madam Chair. The question posed to us is whether or not more than two members may attend a community meeting. I don't think there would be anything in the Sunshine Law to prohibit two members of the planning commission from attending a community meeting so long as, and without a vote it would be so long as it's not to investigate a matter relating to an official business of the board. If you're going there on behalf of the commission in order to collect

information then really what the board should do is, or what the commission should do is vote for that and two or more members, between two and four because it would have to be less than a quorum. So between two and four members can go to the meeting and collect information. That's just what it is, collect information and not really participate in the discussion or for information to be gathered. If the commissioner wishes to engage in the dialogue or participate in the discussion then that would constitute, then that would be something different and basically it would be probably along the lines of discussion between two or more members of the board. So long as it's not within the per view of the board, it's just community information and it's not something directly within your per view or something that's going to come back to this board. If it's something that's going to come back to this board that might constitute a problem if more than two people want to be there and discuss issues. So there's nothing that prohibits you in the Sunshine Law from going there and just listening to what's being said. But when you get into the area of actively participating in the discussion then that's when you may run into the Sunshine Law and that's when you have to be cognizant and aware of and as mindful of whether or not that particular issue is going to come before you as a planning commission.

Mr. Boteilho: Just to comment. This is nothing set in stone. It's basically a common sense thing and we'd be available if anybody would like to ask about our specific situation. I guess now you have the letters?

Ms. Buchanan: Commissioner Vanderbilt has a question about that.

Mr. Vanderbilt: You mentioned something that Council member Charmaine Tavares had put together, a resolution on committee meetings or something?

Mr. Boteilho: On Bill 84...

Mr. Vanderbilt: No is there something that you could share with this commission that was published by her?

Mr. Boteilho: You mean the final report?

Mr. Vanderbilt: Oh it's part of Bill 84.

Mr. Boteilho: Yes.

Mr. Vanderbilt: I thought you mentioned she put something together about when she goes to a meeting and there's two councilman there.

Mr. Boteilho: No.

Mr. Vanderbilt: I misunderstood.

Ms. Buchanan: Thank you Wayne, continue?

Mr. Boteilho: Well since you got the letters I'll yield the floor to, would you like to take a recess to read the letter, at the pleasure of the Chair.

Ms. Buchanan: What letter is that, the one we just got from...

Mr. Boteilho: The one we just passed out.

Ms. Buchanan: Are we going to discuss that at this time? Well I got this update, we have his update I just want to know, discussing this letter today at this time would make any difference in that update? I don't see how it does at this time.

Mr. Boteilho: Well Commissioner Vanderbilt asking me about procedure questions like did we receive it and that sort of thing. I was prepared merely to report also. Maybe we can just give the floor to Mr. Vanderbilt and we can just see.

Ms. Buchanan: Well I don't want this to drag out if there's...

Mr. Vanderbilt : This deal has been hanging around a long time, there's been a lot of staff work put in on this and everything else and I just noticed in this letter that it said in the last paragraph, about half way down, it says I have also sent an e-mail to Mr. Murakami mentioning this to him and to see if he plans to continue his opposition of the subdivision application. If he is opposed to the subdivision and is poised to contest it in court, then I promised him that I would cancel my request to subdivide. My question is, have you talked to Mr. Murakami, you were mentioned in the same paragraph and what would happen, if you had any input from anybody with regarding to whether Mr. Murakami opposes this and if he does opposes it has there been any conversation with Mr. Notman if he would withdraw like he said he would.

Mr. Boteilho: I have not discussed manner with Mr. Murakami. Mr. Cerizo of our zoning division was supposed to contact Mr. Murakami. At this I don't know if that had occurred. As far as the discussions between Mr. Notman and Mr. Murakami I have no comment or I am not a party to their discussions. If things are withdrawn it does not reflect our review of this matter. Until it is withdrawn it doesn't affect our review of this matter.

Ms. Buchanan: You got your answer, no. This letter was written August 19, I don't think they had time to respond to this. Wayne can you follow up for Commissioner Vanderbilt cause it seems real simple, like he says, all you need is to call Mr. Murakami and then Mr. Notman to figure out what they gonna do. If he drops this case then everything is moot. Thank you very much.

Mr. Boteilho: October 13 meeting, we'd like to take up only one item on that meeting and that would be Halawa Valley SMA Assessment. The reason we'd like to take up that only one item is because there may be more public testimony then usual. So if that's o.k. with the body and the chair we'll schedule only Halawa Valley on that date.

Ms. Buchanan: On the October 13 meeting?

Mr. Boteilho: Yes. Because...

Ms. Buchanan: The September meeting is cancelled.

Mr. Boteilho: The 22nd I'll be gone so what we'd like to do is use the 22nd to clear away all the other applications and your next meeting after that would be October 13. Not only that, but it will give us more time to work with DLNR who we will be having here at the October 13 meeting.

Ms. Buchanan: O.K. that's fine with.

Mr. Vanderbilt: You said the September 22nd meeting you'd be gone and that meeting is to clear up a lot of applications?

Mr. Boteilho: Well any other applications, we're gonna try and get them out of the way so that October 13 will be free as possible.

Mr. Vanderbilt: Do you have any pending applications?

Mr. Boteilho: That I don't know. It's a contingency plan, we don't know how many applications we're going to have yet.

Mr. Vanderbilt: Thank you.

Mr. Boteilho: And finally. I just wanted to bring up that issue about where you would like to meet. To tell you the truth it might be moot right now because the mikes still not working. So once we get all the mikes working and than we can discuss whether you'd like to meet here or at Kulana O I'wi, I guess Hawaiian Homes? Because we're meeting here right now because we were using the Parks mikes and we might have to use it again if we can't get these mikes fixed. So I shall withdraw that and thank you Madam Chair.

F. ANNOUNCEMENTS

G. NEXT REGULAR MEETING DATE: SEPTEMBER 22, 2004

H. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 2:13pm

RECORD OF ATTENDANCE

COMMISSIONER'S PRESENT: 1. L. BUCHANAN, CHAIRPERSON
2. D. VANDERBILT, VICE-CHAIR
3. K. DUNBAR
4. J. KALANIHUIA
5. S. NAPOLEON
6. M. TANCAYO
7. J. FEETER

ABSENT: 1. R. RIBAO
2. C. SEALES

STAFF: 1. W. BOTEILHO, DEPUTY DIREC. OF PLNG
2. R. LOUDERMILK, PLANNER
3. S. BOSCO, PLANNER
4. T. OSURMAN, ZONING
5. C. YOUNG, CORP. COUNSEL
6. R. NAGAMINE, DSA