

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
JUNE 12, 2013**

*** 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 Chair John Sprinzel at 12:00 p.m., Wednesday, June 12, 2013, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

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

Chair John Sprinzel: Aloha and thank you for all the Commissioners for turning up.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Public testimony on any planning or land use. If there's anything from the public they want to say, now is your opportunity. There being none, public testimony is now closed.

Chair Sprinzel read the following agenda item into the record:

C. COMMUNICATIONS

1. SPECIAL MANAGEMENT AREA EXEMPTION CONCURRENCE

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. **RICHARD and MARVA MCFARLIN submitting a Special Management Area Assessment for the window addition and interior remodel to Unit D-4 of the Paniolo Hale Condominium, 100 Lio Place, TMK: 5-1-003: 011-0015, Kaluakoi, Island of Molokai. (SMX 2013/0120) (Valuation: \$49,500) (B. Sticka)**

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

Chair Sprinzel: Ben?

Mr. Ben Sticka: Good afternoon, Chairman and Members of the Planning Commission. The item before you, the applicant is requesting an SMA assessment for a window addition and interior remodel to an existing condominium, specifically, Unit D04 is located in the Paniolo Hale Condominium complex, which is 1 of 76 total units. The window will be added to the east elevation of the unit. The proposed interior remodel and window addition do not involve any ground disturbance. The project has also been approved by the Paniolo Hale AOA board. Standards for reviewing an SMA application are found under HRS 205A-26, and Sections 12-302-10 and 11 of Chapter 302, SMA rules of the Commission, as amended. In addition, the proposed action is also subject to Maui County Code, as amended, Title 19, Zoning, Section 19.14, Hotel District Zoning Regulations. The state land use district is urban. The community plan is hotel. The county zoning is also hotel.

Pursuant to the aforementioned, findings of fact and determination, the department recommends concurrence with the finding that the subject application is eligible for an SMA exemption. The representative, Art Parr, is available for questions, and I can answer questions as well. Thank you.

Chair Sprinzel: Thank you, Ben. Is there anybody in the general public that has any comment or testimony on this matter? There being none, public testimony is now closed. Questions from the Commissioners, please? There being no comments at this moment, would somebody like to propose to accept or deny? Michael accepts. Zhantell seconds.

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

It has been moved by Commissioner Jennings, seconded by Commissioner Dudoit, then unanimously

VOTED: to concur with the department's recommendation.

Chair Sprinzel: Thank you. That's unanimous. Thank you.

Chair Sprinzel read the following agenda item into the record:

2. SPECIAL MANAGEMENT AREA MINOR PERMIT

- a. **DOUG MATTHEWMAN and JESSE MATTHEWMAN requesting a Special Management Area Minor Permit for the installation of deer fencing to include 48 eight(8) foot long, steel "T" posts spaced fifteen (15) feet on-center; site work will be limited to the**

“T” posts inserted to a depth of eleven (11) inches situated in the R-3 Residential District, 62 Kamehameha V Highway, Kamiloloa 2 Subdivision, TMK: 5-4-011: 062, Kamiloloa, Island of Molokai. (SMX 2013/0059) Valuation: \$2,052.90) (B. Sticka)

The Commission may take action on this request.

Chair Sprinzel: Ben.

Mr. Sticka: Again, Chairman, Members of the Planning Commission, the second item on your agenda is applicant requesting an SMA assessment for the installation of deer fencing to include 48 8-foot long steel T-posts, spaced 15 feet on center, and site work will be limited to the individual T-posts inserted to a depth of 11 inches; therefore, it is not expected to impact any historic resources, nevertheless, the applicant will be required to comply with the conditions of approval to assure that if any historic or cultural resources are found on the site during construction, the work will cease and DLNR-SHPD will be contacted immediately. The applicant has stated, "I have no problem with an archaeological representative present when that work is done if that would alleviate any concerns about ground disturbance." The proposed fencing will surround the perimeter of the subject 11,804 square-foot parcel. It should also be noted that the Commission has previously approved a 96 square-foot storage building on this property. That approval was granted in July 2012. Standards for reviewing an SMA application are found under HRS 205A-26, and Sections 12-302-10 and 11 of Chapter 302, SMA rules of the Commission, as amended. In addition, the proposed action is also subject to Maui Code, as amended, Title 19, Zoning, Section 19.14, Hotel District zoning regulations. I apologize. That should be corrected to say, "Residential." The state land use district is urban. The community plan is single-family. And again, the county zoning is residential.

Pursuant to the aforementioned, the department recommends approval of the SMA minor permit subject to the following conditions: That the project shall be in accordance with the description submitted on January 17, 2013, and representations made to the department; No. 2: That best management practices be utilized in the implementation of the proposed work, appropriate measures to minimize dirt and water runoff, noise, and dust must be used; No. 3: That an archaeological representative shall be present during ground disturbance during the installation of the steel T-posts; and No. 4: 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 DLNR-SHPD; and finally, No. 5: That the project shall be initiated by June 20, 2014, and shall be completed within one year of said initiation.

The applicant does live in Canada and they did indicate that they would have someone here today. I don't believe -- oh, I guess he is here, Mr. Dennis Meyer is available, or I am here if you have any other questions. Thank you.

Chair Sprinzel: Thank you, Ben. Is there any public testimony on this matter? There being none, public testimony is now closed. I've got a deer living in my backyard up in the heights so I can understand why people want the fence. Commissioners?

Ms. Dudoit: Hi. So the applicant is not present but we do have somebody who's able to answer all of the questions?

Mr. Sticka: That's what I've been told. Correct.

Ms. Dudoit: Okay. So I have questions. I have a few.

Mr. Sticka: Sure.

Ms. Dudoit: You wanna try or -- first? Let me ask and then you guys can decide.

Mr. Sticks: Sure.

Ms. Dudoit: Okay. My first question is: The purpose of this fence is to keep the deer in or out? It's to keep the deer out?

Mr. Dennis Meyer: ...(inaudible)...

Chair Sprinzel: I'm sorry, you have to speak into the mike 'cause that's the only way we can get a record of what happened, and records are very important.

Mr. Meyer: I planting a lot of vegetation over there and the deer been eating them, so right now they're in a grass row, yeah, but the fence is just to keep the deer out.

Chair Sprinzel: Could you just state your name for the record?

Mr. Meyer: My name is Dennis Meyer.

Chair Sprinzel: Thank you, sir.

Ms. Dudoit: And maybe it would help to state your affiliation with the project or how --

Mr. Meyer: What's that?

Ms. Dudoit: How are you affiliated with the project?

Mr. Meyer: I work on the lot for them.

Ms. Dudoit: Okay.

Mr. Meyer: I take care. I maintain the place for them.

Ms. Dudoit: Okay. So then my question would be -- so I'm going to ask you a series of questions and then maybe I can get the answers that I need. So the fence line is to keep the deer out and it specifically says that this is deer fencing, so I'm assuming that the picture that you guys have in this application is specifically constructed for this specific purpose - to keep deer either in or out --

Mr. Meyer: Yeah.

Ms. Dudoit: As to not harm the animal in any way?

Mr. Meyer: Just till the vegetation start growing really good, till it mature, and they probably going take 'em down after. They just trying to maintain the -- get some vegetation growing, yeah, 'cause the thing look so bare.

Ms. Dudoit: But the fence is -- this type of -- see, so this type of fencing is specifically deer --

Mr. Sticka: Correct. The elevation that you have before you, that exhibit, that does show it maybe a little better, and I apologize for the clarity on the picture on Exhibit No. 8, it shows the photo, that's a little bit more accurate of what it would look like in the actual field.

Ms. Dudoit: Okay. Okay, and then my next question would be: I see in the list of approvals that the applicant got, whether he was required to or not, and there's a lot about historic preservation and archaeological surveys and people, you know, him agreeing to have an archaeologist. It concerns me though that there was no draft or any kind of a letter asking for statements from the Department Environmental Management or Fish and Wildlife. I am familiar with the process of deer entrapments and exclusions quite a bit, so I do know that under these guidelines, the Federal Wildlife and Fish and Game has very specific rules to fence, enclosures and exclosures, that they recommend for projects such as these, keeping in consideration that over two million dollars of damage on Molokai is done to agricultural properties, the products and produce, so it's a big thing now days and I totally understand where the applicant is coming from, but I would have liked to have seen recommendations from the Environmental Management Department from the State of Hawaii and also the Fish and Game to ensure -- deer is, and I'm pretty sure Mr. Meyer

knows this very well, deer is a part of our cultural subsistence, and a very touchy subject on this island, and enclosures have been a touchy subject on this island. So I think the one thing that could have helped us to pass this by a little bit more efficiently and expedite this -- the need for this on our part would probably be best if, in the future or even if -- for this particular application, we could get some kind of recommendation or acknowledgment from the department since, you know, if you said that I understand the historical part of it where archaeological concerns is always big, you know, but if we're specifically saying that this is for deer, then it would make sense that we consulted somebody that is a professional in these areas.

Mr. Sticka: Thank you for your question, Commissioner. That is something that we could add as a condition if you'd wish, to route that to the agency, and if there was any problems, we could bring that back before you, if you'd like to add that condition.

Ms. Dudoit: So I don't have -- and I'm just asking because I don't have a problem with that and if there's no, you know, kinda negative impact according to these agencies that it just go on and you don't need to come back, but how would that work for us? I mean how would we know that?

Mr. Sticka: I think the process, and Clayton can correct me if I'm wrong, but the process would be similar the way that we do agency comments for any other project be it that we would send it out for their comment, wait until they respond, and then once that, you know, comment comes back, if the comment were needing or requiring more information, then, you know, I could consult with Clayton and see if that would be something that, you know, bring it back before you. If, obviously, there was no comment or concern, you know, we could just have it move forward. So the condition could be something to the satisfaction of the, you know, Molokai Planning Commission based upon the comments so --

Ms. Dudoit: Okay. Well, I'll think about it a little while and give the other a chance to say what they need to say and then maybe we can talk about it.

Chair Sprinzel: Just a comment. Comment from our legal department.

Ms. Richelle Thomson: I was going to suggest that if you wanted to add a condition that another agency review this, you could make a condition that Fish and Wildlife is submitted the application and if they don't have any comments or concerns by, you know, say August 31 or, you know, put a date on it, or that if they do come back with comments, that whatever conditions or comments that they have are included as a best management practice, that way it's more clear that it's been approved but it's with a condition that they consult Fish and Wildlife.

Chair Sprinzel: Thank you. Anymore questions from Commissioners? Well then I'm ready for a proposal if anybody has one.

Ms. Dudoit: Okay, I'll attempt this. I move to approve -- I move to approve the request for approval with conditions to the special management minor permit for the installation of deer fencing to include a 48-foot long steel T posts spaced, and all that stuff in there, 15 on-center; site work will be limited to T posts inserted to a depth of 11 inches situated in the R-3 district of Kamiloloa 2 Subdivision, TMK 2-5-4-011:062, and to add to the six conditions a seventh condition that would include recommendations from the Fish and Wildlife Management and the State Environmental Management in regards to this project and that these -- and that the answers from these departments would be obtained within 30 days of their receipt of the letter as defined in their policies and state rules. If there is no negative impact according to these departments, then the application would go as approved.

Ms. Thomson: I think you might mean Division of Forestry and Wildlife, DOFAW, yeah?

Ms. Dudoit: Well, I'm just -- so I know what you're saying but when I'm looking on his -- on this list, it says, "Department of Environmental Management (2)," and then it says, under Federal Agencies, "Fish and Wildlife." So I wasn't sure if that's the way the county --

Ms. Thomson: The County Environmental Management is Wastewater and Solid Waste ...(inaudible)... that one.

Ms. Dudoit: Oh okay. Okay.

Ms. Thomson: Yeah. I believe the state agency is Division of Forestry and Wildlife, and then Fish and Wildlife Services ...(inaudible)...

Ms. Dudoit: That's what I thought but I couldn't find it on there so environmental ...(inaudible)... I'm confused at my motion but, you know, if anybody can help me out, I'll try to restate it.

Ms. Thomson: You want me to give it a shot?

Ms. Dudoit: Sure. Go ahead.

Ms. Thomson: Okay. Your motion is to recommend approval with the department recommended conditions, adding a seventh condition that the applicant consult with the State Department of Fish and Wildlife, and the State Department of Forestry, DOFAW, State Department of Forestry and Wildlife, and if comments by those agencies are received within 30 days of submission that the applicant complies with any conditions or

recommendations. If comments are not received within 30 days, the applicant can move forward on the project with no additional time delay.

Chair Sprinzel: Sounds good. Do we have a seconder?

Mr. Doug Rogers: I second that.

Chair Sprinzel: Thank you, Doug. All in favor, please raise --

Ms. Dudoit: Wait. Wait.

Chair Sprinzel: Oh, discussion.

Ms. Dudoit: Yeah. 'Cause I just wanted to make sure. So what if it comes back with a negative comment? Does it come back before us or does he just comply to it and then -- you know what I mean?

Chair Sprinzel: The way we've stated it he has to come comply with --

Ms. Dudoit: And it doesn't come back before us again?

Ms. Thomson: Right.

Chair Sprinzel: Not if we pass it with that condition. No.

Ms. Dudoit: Okay.

Ms. Thomson: Exactly.

Chair Sprinzel: Exactly.

Ms. Thomson: That's the way that I would --

Chair Sprinzel: Any other comments while we're here?

Mr. Michael Jennings: This is -- so if it doesn't comply, then what -- does it come back here? It does not come back here?

Ms. Thomson: Right. As the motion's stated right now, it would not come back here, so the applicant would comply with the, you know, terms and conditions or the recommendations of those state agencies if they're received within that period of time. If

you want the application to come back here, and you want those agencies comments included, then I would recommend deferring it and not making a decision today.

Ms. Dudoit: Well, because if the recommendation from those agencies were that he had to alter the type of fence or what he use, he would have to come back anyway because this application is specific to the type of material and the project description under this, right?

Ms. Thomson: He might need to come back for a modification of his minor permit.

Ms. Dudoit: Right. So we would see him eventually. We would see him again. Okay.

Chair Sprinzel: A seconder? Thank you.

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

It has been moved by Commissioner Dudoit, seconded by Commissioner Rogers, then unanimously

VOTED: to recommend approval with the department recommended conditions, adding a seventh condition that the applicant consult with the State Department of Fish and Wildlife, and DOFAW, State Department of Forestry and Wildlife, and if comments by those agencies are received within 30 days of submission, that the applicant complies with any conditions or recommendations. If comments are not received within 30 days, the applicant can move forward on the project with no additional time delay.

Chair Sprinzel: Unanimous. Thank you very much. Thank you, sir. And thank you, Ben.

D. CHAIRPERSON'S REPORT

Chairperson's Report. Nothing specific, but thank you all for tuning out, for giving your time. It's greatly appreciated. And, please, next week -- next meeting, it's going to be very important because we have two big projects in addition to some smaller ones, so I would really appreciate you letting either Suzie or Nina know that you're coming really promptly, not sort of Tuesday night, if possible. That's all. Thank you very much. Clayton?

E. DIRECTOR'S REPORT

3. Agenda Items for the June 26, 2013 meeting

a. Public Hearing on the following:

MR. WILLIAM SPENCE, Planning Director, transmitting A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.27, MAUI COUNTY CODE, AND REPEALING CHAPTER 19.615 RELATING TO PARK DISTRICTS. (J. Alueta)

Mr. Yoshida: Thank you, Mr. Chair. I guess maybe I'll start with no. 3, agenda items for the June 26 meeting. We have a public hearing regarding amendments to the park district section of the Maui County Code, so Joe Alueta will be here. Also, on your open applications, on page 3, the first item, Winfred Walton addition of carport in Kaunakakai, SMX2013/0134, we have that item, and the fourth item, Hotel Molokai demolition and renovation of damaged structures, SMX2012/0534. So those are the three items for the June 26 meeting. Also, I guess on the July 24 meeting, on page 2 of the open applications, we have, let's see, maybe about a third of the way down, the warehouse loading dock for the Friendly Market property, so those are the three: the county special use permit, CUP2012/0001; the SMA assessment, SMX2012/0045; and the country town business district, CTB2012/0009.

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

With that, I'll move to items 1 and 2. We have distributed our open and closed Molokai application reports. Are there any questions on either report?

Chair Sprinzel: I would just like to say that the Friendly Market warehouse, originally, they wanted to build it as all the other buildings around there are with wood and metal and just like everything in that area is, but the Urban Design Review Board has to go by the Molokai plan, we're going back a little bit to the Paddlers' Inn roof where they have to decide things according to that, they can't bury it, but we can override it. Now, they wanted it built in bricks and concrete and stuff, which would double the price, which is hardly something that makes much sense. We will discuss that in detail; just so that you know what that is all about. Okay? Thank you very much. I don't think there's anything else. Is that it, Clayton?

F. NEXT MEETING DATE: JUNE 26, 2013

G. ADJOURNMENT

Mr. Yoshida: Again, we'd like to thank the Commissioners for your attendance today and for being here promptly.

Chair Sprinzel: Very much appreciated. Okay. I call the meeting over. Adjourned.

There being no further business brought before the Commission, the meeting was adjourned at 12:25 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

John Sprinzel, Chairperson
Michael Jennings, Vice-Chairperson
Billy Buchanan
Ron Davis
Zhantell Dudoit
Doug Rogers
Diane Swenson

Excused

Janice Kalanihuia
Sherry Tancayo

Others

Clayton Yoshida, Planning Program Administrator
Benjamin Sticka, Staff Planner, Molokai
Richelle Thomson, Deputy Corporation Counsel