

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
JUNE 26, 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 Paule Center, Kaunakakai, Molokai. \*\**

**A. CALL TO ORDER**

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

The regular meeting of the Molokai Planning Commission was called to order by Chair John Sprinzel at 12:00 p.m., Wednesday, June 26, 2013, at the Mitchell Paule Center Conference Room, Kaunakakai, Molokai.

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

Chair Sprinzel: Aloha, Ladies and Gentlemen. It being noon, we have a quorum. I call the meeting to order. Welcome to the Maui folks who trekked over here, and thank you and welcome to the Commissioners. B. Public testimony on any planning or land use issue. There being none, public testimony is now closed. While on the point of that, I sometimes forget after a motion is made to have a discussion, so if I forget, just put your hands up if you have something to say and it will remind me. Thank you.

*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. **MR. WINFRED WALTON submitting a Special Management Area Assessment for an after-the-fact carport addition to an existing single-family residence located in the Interim District at 225 Kakalahale Street, TMK: 5-3-011: 010, Kaunakakai, Island of Maui. ( SMX 2013/0134) (Valuation: \$18,000) (B. Sticka)**

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

Chair Sprinzel: . . . Island of Maui. Island of Maui? That's a good one. Island of Molokai, SMX2013/0134, valuation: 18 grand. Mr. Sticka.

Mr. Ben Sticka: Good afternoon, Chairman and Members of the Molokai Planning Commission. The applicant is requesting an SMA assessment for an after-the-fact carport addition to the existing single-family residence. The project, as indicated, is an after-the-fact carport addition, and the applicant indicates that the carport was existing when he purchased the home. The carport is located on an existing concrete slab. The ATF fee of \$1,000 was assessed for the carport and the fee was paid on May 21, 2013. Standards for reviewing an SMA application are found under HRS 205A-26, and Sections 12-302-10 and 12-302-11 of Chapter 302, SMA rules of the Commission, as amended. In addition, the proposed action is also subject to the Maui County Code, as amended, Title 19, Zoning, Section 19.02, interim district zoning regulations. The state land use district is urban, the community plan is single-family, and the county zoning is interim.

Pursuant to the aforementioned findings of fact and determination, the department recommends concurrence with the finding that the subject application is in fact eligible for an SMA exemption. The consultant, Luigi Manera, is available for questions or I can answer any questions you may have. Thank you.

Chair Sprinzel: Thank you, Ben. Is there any public testimony on this matter? There being none, public testimony is now closed. Commissioners, questions, comments, whatever?

Mr. Ron Davis: I make a motion that we concur with the recommendations of the Planning Director.

Chair Sprinzel: Thank you, Ron. Is there a seconder? We have a seconder, Sherry. Any discussion? There being none, can we have vote, please?

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

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

***VOTED: to concur with the recommendations of the Planning Director.***

Chair Sprinzel: Carried unanimously. Thank you. Thank you, Luigi.

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

## **2. SPECIAL MANAGEMENT AREA MINOR PERMIT**

- a. **HOTEL MOLOKAI requesting a Special Management Area (SMA) Minor Permit for the repair of a restaurant kitchen, storerooms, laundry, and second floor guest room destroyed by the June 19, 2012 fire at the Hotel Molokai, TMK: 5-4-002: 001, 1300 Kamehameha V Highway, TMK: 5-4-002: 001, Kamiloloa, Island of Molokai. (SMX 2012/0534) (Valuation: \$460,000) (B. Sticka)**

*The Commission may take action on this request.*

*(Commissioner Zhantell Dudoit arrived at the meeting at 12:04 p.m.)*

Chair Sprinzel: Ben.

Mr. Sticka: Again, good afternoon, Chairman and Members of the Commission. The second item on your agenda is the repair of the restaurant, kitchen, storerooms, laundry, and second floor guest room facilities as it was destroyed by a fire. On June 19, 2012, a fire destroyed the restaurant, kitchen, storerooms, laundry, and second floor guest room. On June 22, 2012, the Department of Planning received a request for an SMA emergency permit. On June 25, 2012, the department granted, via electronic e-mail, approval for an SMA emergency permit, pursuant to Section 12-302-16B. On June 27, 2012, a site inspection was completed to confirm the need for the emergency work to protect life, safety, and property from further damage. The department has determined that the proposed repairs can be permitted pursuant to the rules of the Molokai Planning Commission Shoreline Area, Section 12-4-11. Standards for reviewing an SMA application are found under HRS 205A-26, and Sections 12-302-12 of Chapter 302, SMA rules of the Commission, as amended. In addition, the proposed action is also subject to the Maui County Code, as amended, Title 19, Zoning, Section 19.14. The state land use district is urban. The community plan is hotel. And the county zoning is H-1, 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 minor permit -- I'm sorry, SMA minor, yes, permit, pursuant to the conditions of approval as indicated.

If there are any further questions, the consultant, Luigi Manera, is here, and I'm also available for any questions you may have. Thank you.

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

Ms. Zhantell Dudoit: I just have one question. I see here that there was correspondence between the County of Maui, Department of Fire and Public Safety and the Hotel Molokai in which, originally, the department said that the site plans -- the permit was not -- they were unable to review or approve, sorry, because the site plans showed the fire truck access and those kind of things; then we have a reply from Mr. Manera that says, "Thank you for the comments," and telling the department, I guess from what I can see, that the plans had been revised and submitted, and there is the B over here that says -- or there is a reply that says, "Thank you for your comments. We have provided the revised plans to your office and they have been approved and signed as of May 10." So I'm not quite sure who approved what plans or whatever, but I was looking for a clear second comment that shows that the Fire Prevention Bureau actually approved the building permit application after the initial comment.

Mr. Luigi Manera: Yeah, Chairman, Members of the Commission, thank you very much for being over here today. My name is Luigi Manera. The Fire Department approved the plan, I believe it's May -- yeah, the beginning of May, and the reason we refer to that particular, we have to provide a 12-inch waterline on the east side of the property of Hotel Molokai, all the way down to where the kitchen was and provide the fire hydrant. When we did that, they approved the plan. That's what -- it's for fire protection.

Ms. Dudoit: Okay. I just -- I guess maybe it's just missing, but there's no second response to clarify that the department approved the plans. So I believe him and I'm pretty sure you wouldn't have let it go without that, but I'm just saying that, in the packet, there is no second response to say that the initial corrections were done by the department and signed by the bureau.

Mr. Sticka: Yeah. I apologize, Commissioner. That just may have been something that was inadvertently omitted from your packet so --

Chair Sprinzel: Thank you, Zhantell. Commissioners, anymore questions?

Ms. Dudoit: There was also comments by the Department of Land and Natural Resources that stated that they wanted you to know that the project site must comply with the rules and regulations of the National Flood Insurance Program, so I just wanted to know, on the record, if you guys or Hotel Molokai was aware of that and if you have that as part of your best management practice.

Mr. Manera: Yes.

Ms. Dudoit: Okay. Thank you.

Mr. Manera: And we did apply for the flood permit and everything else.

Chair Sprinzel: Okay, I have a couple of questions, which maybe the legal department or the Planning Department can help me with. They're requiring to do an assessment of the beach, the usual stuff we kinda wonder why. In the first place, they're building nothing whatsoever except on the footprint that exists. There's no excavation I'm sure. There's no digging. There's nothing. And secondly, there's a seawall, although a legal seawall all the way across the front where this work is. So why do they need to spend eight-and-a-half grand on getting a new sea -- can somebody tell me?

Mr. Clayton Yoshida: Again, Mr. Chairman, if you may recall, the Arleone Dibben-Young wetlands protection fence, because the property is a shoreline property, your SMA rules currently require a certified shoreline survey, and that was made a condition of the minor permit for the wetlands fence that, the protection fence, that the Commission approved in December of last year. I think Ms. Dibben-Young had a year to produce the survey.

Chair Sprinzel: But wasn't there somewhere -- wasn't there somewhere in our outlined regulations that if there was a solid wall or something immovable, then you're exempt, like a rocky shore or cliff something? I assume to be remember that being in discussion. A legal seawall is not going to go anywhere so I'm just a bit puzzled. Luigi, you have any ideas on it?

Mr. Manera: Well, Mr. Chairman, you're perfectly right. There is something in the law saying if your property facing a shoreline, and there's a manmade wall, you should be exempt by the shoreline certification. Absolutely. I agree. I sent -- I provided couple information to the Planning Director, they consulted with the lawyer, they say, no, I have to. You know, that's what they said. But I tried to get it reversed but --

Chair Sprinzel: I mean I know it's a small amount of 400 and whatever it is thousand dollars --

Mr. Manera: Yeah.

Chair Sprinzel: But even so, it just seems to me kind of a waste resources and -- never mind. Next. Any further discussion, Commissioners? How about a motion?

Ms. Sherry Tancayo: I actually have one. So the new waterline and hydrant's already in? Is that -- I misunderstood that?

Mr. Manera: No. No. No.

Ms. Tancayo: So you have to dig though for the new waterline ...(inaudible)...

Mr. Manera: We applied for the permits.

Ms. Tancayo: Right.

Mr. Manera: They approve it.

Ms. Tancayo: Okay.

Mr. Manera: As soon as they release the building permit, then we're going to go ahead and install the waterline and everything.

Ms. Tancayo: Okay, so you still have to dig for that though.

Mr. Manera: Yes.

Ms. Tancayo: The footing and all, the place is the same, but you still have to dig for the waterline and the ...(inaudible)...

Mr. Manera: Absolutely. We need to have the SMA approval first.

Ms. Tancayo: Okay.

Ms. Dudoit: Can I just make a comment?

Chair Sprinzel: Sure.

Ms. Dudoit: Since you were talking about the retaining wall and stuff. I don't think that's an issue that we want to get into because I'm pretty sure that the community would have a lot to say if we permitted a development to proceed that close to the shoreline without having a survey, so that just a smart responsible thing to do. But the second thing is I remember that, what do you call, that wall was created quite a while back and it probably would make sense that as you're going through this stuff, I mean I really thought that the county's presentation on the erosion and stuff was very helpful, and it probably would make sense, at this point, while they're in construction and while they're doing this stuff and have to go through this shoreline survey anyway, if the hotel could contact your department or if you could recommend that your department come to assess this so that we can have it as part of our community plan information when we're trying to change it -- well, when we're trying to leave it as the hotel district 'cause that would probably help us through that process smoother and now it's probably the most appropriate time, yeah, since we're doing that already. Okay. Thank you.

Chair Sprinzel: No, Zhantell, I was just querying it. That's all. I mean we've had so many different interpretations. Okay, folks, more? Proposal to accept?

Ms. Dudoit: I move that we approve the request for special management area -- oh I'm sorry -- for -- I think I'm on the wrong page. Where are we? For approval, with the conditions, for the special management area minor permit for the repair of the restaurant, kitchen, storeroom, laundry, and second-floor guest room destroyed by the fire, located at 1300 Kam V Highway, Kaunakakai, Island of Molokai.

Mr. Davis: I second.

Chair Sprinzel: Second, Ron. Thank you very much. Discussion?

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

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

***VOTED: to approve, with the conditions, for the special management area minor permit for the repair of the restaurant, kitchen, storeroom, laundry, and second-floor guest room destroyed by the fire, located at 1300 Kam V Highway, Kaunakakai, Island of Molokai.***

Chair Sprinzel: Unanimous. Thank you. Thank you, Luigi. Thank you, Ben. Well, that went very well. Now, we have a public hearing.

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

**D. PUBLIC HEARING ( Action to be taken after public hearing.)**

- 1. 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)**

Chair Sprinzel: Joe. Good morning.

Mr. Joseph Alueta: Good afternoon, Commissioners. My name is Joe Alueta. I'm your Administrative Planning Officer for the Planning Department. I see a few new faces and a few -- I see Diane Swenson is back so welcome back. We just haven't seen her in a while. So for those who don't know, my role is basically doing primarily amendments to Title 19. There are two methodologies in which you can amend Title 19 of the County Code. One is either by director initiated, which is what you have here before you today.

Or it can be done through the council resolution and sometimes you'll see me bring resolutions from the County Council amending Title 19.

Today, we're primarily continuing the ongoing effort to update the Maui County Code, Title 19. As many of you know, it dates back to the, basically, the '60s and '70s, and some of the chapters have not been updated with modern times. The last time this code was amended was back in '91, and so it's always a good idea to go back and reread the code to see whether it needs to be updated to meet the current needs of the community.

What we're doing here today, and one of the primary functions, is to kind of consolidate and simplify the code. Currently, there's actually two chapters in the Maui County Code dealing with parks; one is 19.27, which deals exclusively with Maui Central Park, or Keopuolani Park on Maui, and then Title 19.615, which is kind of weird because it's under a sub-chapter of enforcement, and so all the other chapters that are under 600 is actually dealing with enforcement and other stuff and not dealing with parks at all, so it was kind of stuck in a weird location in the code. And during that process, they created the PK-1, 2, 3, and 4. The main thrust, back in '91 when they did that code, was to establish the golf course district or PK-4 golf district. The initial plan was primarily to consolidate the two chapters, all of the park districts into one chapter, and then use the table format 'cause I like tables and it makes it simple to understand what you can and can't do. During that process, I was just going to dump all of the information that's currently in 16.15 into 27 and consolidate them, so you'd still have all of the park districts that currently exist. During the discussions with the Parks Department as well as staff, we felt it was easier just to -- we should eliminate, basically, PK-2 and PK-3 because those are basically larger parks in land area and you'd have certain uses being allowed only in those districts; one of those uses being skate parks or skating rings and stuff like that. We had an issue -- and that requires a minimum size of like 30 acres under the current code. Land is very expensive and you really don't need 30 acres to do a skate park; you don't even need 10 acres. So the county ends up either creating nonconforming use or granting variances. In the case of Hana, they did skate park. They have a park out there, it was donated, it's about 3 acres, and they wanted to do a skate ramp or a skate park for the kids, a beautiful skate park if you -- it's kind of weird. It's like one of the top of the line skate parks in the middle of a jungle. And -- but it's only like 3 or 4 acres, and so it became a -- it made no sense, but they ended up zoning it PK-3, so it's one of the few PK-3s zoning districts out there. So we felt, basically, to eliminate 2 and 3 because they -- and to consolidate the uses from those all into one general park district, which would now become PK-1. So that's the table that you see before you, it's a consolidated on Exhibit 1 of the staff report, so the main goals of this change, well, one is consolidate the chapters down into one, create tables that has all the uses, and then also consolidate down the park zoning districts down to just Maui Central Park, PK-1, which would be a general park district, which will have all of your uses to be allowed as well as -- and then keep PK-4, which is your golf course district. And then one of the -- you'll see in the subsections later on will be, basically, eliminating 19.615, because



everything will be now into one chapter, 19.27, as well as automatically basically rezoning any lands that happen to be PK-2 or PK-3 into PK-1. Questions?

Chair Sprinzel: Joe, and you don't mind if the Commissioners have a question about something you're saying? You always done that in the past that we can interrupt you.

Mr. Alueta: Yes. I'm pretty much -- that's pretty much the summary of the changes and then I can go into more detail during question and answer.

Chair Sprinzel: Okay. Thank you.

Mr. Alueta: So if you have any, I mean, like I say, questions on the report.

Ms. Diane Swenson: I had a question about the 120-foot height limit. I mean I think that that might be great in Maui but 125-foot -- 120-foot height limit might, in here, would be kind of scary if you ask me.

Mr. Alueta: Yeah. The -- originally, if you look at the -- a lot of the original ordinance, it dealt with, basically, 30, 35 feet in the limitations on the height. If anybody have seen the gymnasium, that's taller than 35 feet, and you end up granting variances for all of your basketball courts and gymnasiums. In the initial plan, if you look at the development standards table, we were, basically, going to have no limit because all of the park lands, any lands that are zoned park, I'm not talking about a park that's built in the residential district, I'm talking about lands that are actually zoned park or PK or Maui Central Park, they're either owned outright by the County of Maui, or they are controlled by an agreement; they may be privately owned but they've been dedicated for use or have a private use agreement with the County of Maui. And in discussions with the Parks, we wanted to eliminate some of the restrictions so like lot width and a lot of those things are being -- as well as acreages are being eliminated from minimum so you can have smaller park sizes. The height was a recommendation from the Parks Department. There is a grand plan, I guess you could say, to build a Blaisdell like arena on Maui at the current War Memorial site, and so the 120-foot was what they wanted to deal with that. However, just because you have that 120 feet, doesn't mean someone's going to build a, basically, a 10-story building on a 2-acre park lot; it just means that you allow for those higher sizes. Every project, every park improvement, as the Parks Department explained to us, has to go through council. It has to get a CIP. It has to get an EA. And therefore, during that time, if they don't want it to be that tall or they don't want that use to be allowed in that particular park, it's going to come down to council saying I'm not going to fund that if you do that.

Chair Sprinzel: We normally put a little bit in there saying except for Molokai. That's just what I've written on here.

Mr. Alueta: Yes.

Chair Sprinzel: And if somebody wants to build a sports thing that's higher, they just come to us for an exception. I think that's probably the best way to deal with that.

Mr. Alueta: Yes. And if that's the avenue that the Molokai Commission wants to go with, if that's your recommendation, you can put that down on the sub-standards saying, you know, you can establish your own height, you can say, "Except on Molokai, it shall be limited to, you know, X, Y, Z height." If that's the will of the Commission. I can see that being, you know, maybe appropriate, but don't lock yourself out because, remember, your light poles in some of your parks are pretty tall and so you have to keep that into consideration for your height. Secondly, I will point that, you don't have any lands that are zoned park. You don't have any PK-1s, PK-2s. I mean you don't have anything on Molokai at this time. Most of your -- like all your parks here, Mitchell Pauole, is all in the interim district, but you will, eventually, zone it. The only, going through it, the only comprehensive zoning that's occurred for Molokai was basically for the BCT, business country town district, so you didn't -- and then individual zoning, like the industrial zone lots, the individual properties that have come in.

Ms. Dudoit: What is the time limit like for us to make comments on this?

Mr. Alueta: Today.

Ms. Dudoit: Today. That's it?

Mr. Alueta: No. I mean --

Ms. Dudoit: No. I mean if we decided to defer for specific reasons, what -- would we still have a voice in this or would it pass without us making recommendations.

Mr. Alueta: This is a director initiated, so it's not a council, so there's no official time limit.

Ms. Dudoit: Oh, okay.

Mr. Alueta: Yeah, but ...(inaudible)...

Ms. Dudoit: 'Cause what I was going to say is this might be a very appropriate and opportune time for this Commission to go back and review the Molokai Community Plan and allow it to be consistent with the rules that we're now going to establish as opposed to trying to come up with heights and all that kind of stuff, not even looking at the community plan, and then have to change everything again when we sit down in a few months to talk about our community plan and how we want to go forward 'cause I happen to know that

there are several districts and places within the Molokai Community Plan that want to be zoned park, and so we might address this at some point in there, but I, personally, would like, if there's an opportunity to go and look at the Molokai Community Plan and see where the consistencies -- maybe this is one opportunity for us to try to be little bit more consistent within our policy-driven, you know --

Mr. Alueta: I mean, again, if that's the will of the Commission. Ideally, we don't want to have things deferred. We want to get things -- keep things moving. We've been working on this over several months, you know, getting a lot of buy-in from different departments and then getting commission --

Ms. Dudoit: Did you guys look at the Molokai Community Plan when you revised this?

Mr. Alueta: Yeah. And I don't recall not specifically -- I don't recall any height, I know that there's a lot of areas where they talk about designating certain areas as park, a lot of areas that's dedicated for -- but, Clayton, are you -- I mean if anyone has any language --

Ms. Dudoit: I mean I think I support that the department is trying to be more efficient, and I think this is a great idea, it's just I don't want to lock us into anything that is going to have to be changed again, you know, or --

Mr. Alueta: Well, again, if something is zoned park, and it's government owned, right, your limitation is always going to be coming own to council with the CIP, at least that's the way -- and with the Parks Department. If the project is within the SMA, the project would have to be consistent with the SMA. So if the community plan sets a lower height limit for your community plan, during your CIP project, you're going to have limitations or the respect of the community plan in that aspect during the development of the project.

Chair Sprinzel: Joe, could we put in there, this is just a suggestion, "Except on Molokai where the height will be approved by the Molokai Planning Commission?"

Mr. Alueta: If you do that, Commissioners, Chair Sprinzel, is that you have at least a base item, anything above 35 feet, which is what it was I mean -- so I wouldn't say any height. Yeah.

Chair Sprinzel: Above 35 feet, which is our limit here. What do the Commissioners think of that as a solution?

Ms. Swenson: If I remember right, the community plan said something about nothing higher than a coconut tree, and a coconut tree is sure higher than 35 feet.

Chair Sprinzel: And that's what it said in Kailua and there's a skyscraper block there now isn't there? Yes. I see your point.

Mr. Alueta: I think I saw sign, as I was driving in today, it said a coconut tree is 85 feet. That's what the sign said. They're making a comparison.

Ms. Swenson: I mean if we have a chance to get a new gymnasium over here, I don't want to put a block in the way.

Chair Sprinzel: Well, no, but if it has to just come in front of us, wouldn't that be a solution?

Ms. Swenson: Well, we know how us is but we don't know how the next group is going to be. I mean we know how we would vote, but we don't know what we're putting down the road for the next planning commission.

Ms. Tancayo: We could just put in what the plan calls for so whatever that is, you know, we can attach that to it as far as height goes, whatever our Molokai plan says, you know, the coconut tree, I'm sure they had a -- I was thinking it was 60, I though I read somewhere, and you said 85, but if we put that in, whatever the plan says for Molokai, then I mean that seems like it would cover most of that ...(inaudible)...

Mr. Alueta: You ...(inaudible)... it would cumbersome. It would be cumbersome in a land use ordinance, but I'm sure our great attorneys will be able to draft -- will be able to massage the language in there that could state, basically, you know unless limited -- unless limited by the language within the community plan. I mean we could always stick that in there, but I think we always do respect the community plan, for the most part, especially when it comes to finite, you know, when it says, you know, it shall not exceed this height, you know what I mean? I thinks that -- when it's black and white.

Chair Sprinzel: Are any Commissioners against that suggestion that it should be according to the height outlined in the plan?

Ms. Dudoit: No. I mean I actually think that if we were given -- is the agenda full? I mean is it a lot? 'Cause I actually think if we just had some time to dwell on this for a little bit and come up with the specific meaning and mean what we say and go review the community plan or whatever, that we'd be better prepared to make a recommendation. Right now, we're just taking everybody's word for it. We saying higher than a coconut tree. We, you know -- and we want to do the right thing. I don't think any of us want it to kill and die out, but I'd have problems voting on something that I wasn't completely sure about. I like most of the proposal.

Mr. Yoshida: Yeah, I think the next meeting is scheduled for July 10 and, right now, we just have Joe coming back to talk about the definition of a wet bar. A wet bar. But I think looking at the community plan, there is a policy under Design, on page 23, "Encourage the provision of coco palms and other trees, which exceed building heights close proximity to all buildings except along existing facades in downtown Kaunakakai." And there is another policy I guess stating that the heights of buildings should be a maximum of 35 feet.

Chair Sprinzel: Not that I'll be there when it happens, but I sure don't think anybody here wants 120-foot building on Molokai. Okay, Joe, carry on. Whatever.

Mr. Alueta: Again, the purpose of it was to give a little more flexibility to Parks Department as far as their development of parks as well as establishing no limit on the lot width so that they could also acquire, you know, either trail or access easements and have it as being zoned park and having a small strip of land being zoned park, that gives them more flexibility. Again, increasing the height was intended to give more flexibility to avoid having to go to variances for any of these individual projects for those justification. And again, the master plan of this whole parks -- update of Title 19 is to consolidate and simplify the parks districts. So I don't have any -- and the other things that we added are pretty much standard from what we've done in the past with other updates to Title 19; adding energy systems, small scale as an allowed use; we are allowing for cell towers within it; we're also exempting light fixtures and other minor structures that's non-habitable; structures to be within the setback area, as you know, if you had to have a -- a lot of times the fields will have the lights on the perimeter or stadium lighting, so another reason for the height and whatnot. We did require for some down-shielding. The Maui Planning Commission wanted to make sure we had, and as well as one of the agency comments, to make sure that there was some full cutoff of the luminaries. They also wanted to have, for luaus, carnivals, and bazaar, you know, temporary events within these park facilities that they include food and other events, not just luaus, carnivals, bazaars, and fairs. They wanted to open it up to other, you know, you have the Maui Film Festival, and stuff like that, or film events, that would also be allowed within the -- as accessory within the parks district. With regards to the PK-4, that's the primary zoning category that may or may not be owned by -- zoned lands that may not be owned by the county, so we didn't add too much, but we did add botanical gardens as being an allowed use within that PK-4 as well as I think we're allowing for some shooting ranges, which makes sense, you know, you have big open land areas. Let's see, and that's pretty much it. Again, it's trying to consolidate, simplify the code as best we can.

Ms. Dudoit: So just for the record, there is a process by which if we said it could only be 35 feet for Molokai, that you can apply for a variance and come before a designated body and appeal and --

Mr. Alueta: Right. You have --

Ms. Dudoit: Okay.

Mr. Alueta: Yeah, you would have to -- you could add under that provision, you know, except for Molokai, the maximum height shall be 35 feet if that's -- yeah. I'm not sure how the -- if you would get a variance from -- you could apply for the variance, but I'm not sure a community plan amendment would also be if there is language within the community plan that says 35 feet, but I think it's -- I'm not sure if it's a must, how the language is worded in the community plan, but --

Mr. James Giroux: Joe, can I just comment? The word "variance" is going to trigger review by the Board of Variances and Appeals.

Mr. Alueta: Right.

Mr. Giroux: So if there's other language, to be more creative, to not call it a variance but call it another name that smells the same. Other development projects, like when you're looking at redevelopment areas, Kakaako, the Maui Redevelopment Area, they use another type of standard, it's not a variance standard, but it's a review standard where you would look more of it as a design recommendation rather than a variance because that triggers the whole area of law where there's really strict criteria that there's gotta be preexisting reasons, it's gotta be, you know, it's not -- it's because of a hardship, you know, so you really are looking more at is this structure going to be something that is going to change the character of Molokai rather than whether or not it's a height issue because of a zoning issue.

Mr. Alueta: Well, we can -- James, if I can? What you could do is, you know, except for Molokai, you could say, "building height should be limited to 35 feet unless a special use permit is granted." And then under the special use permit section on page 7, if you look under -- right now you have special uses, and then you can have, under use, you would say, "For Molokai, building structures taller than 35 feet."

Chair Sprinzel: I'd certainly go along with that. How about the other Commissioners?

Mr. Doug Rogers: Yeah. We just say subject to review by the planning commission.

Mr. Alueta: If you make a special use permit for structures taller than 35 feet, then you could -- it would be under the planning commission review.

Chair Sprinzel: Yes, because we don't want stop lights and floodlights and stuff, but we do want those shielded tops because the glare from the existing lights is just ridiculous. You can't see stars anymore on Molokai. Anybody against that? Okay, well.

- a. **Public Hearing**
- b. **Action**

Ms. Dudoit: Okay, I'd like to make a motion that we approve the proposed bill for an ordinance amending Chapter 19.27, Maui County Code, and repealing Chapter 19.615, relating to parks districts with the notation on the limit for heights of structures to say, "Except for Molokai, where structures cannot exceed a maximum of 35 feet unless a special use permit is granted."

Chair Sprinzel: Is there any public testimony on this? Just one second. There being none, public testimony is closed. Okay. Diane? Seconding the motion. Okay. Discussion?

Mr. Alueta: Just clarification. Commissioner, Chairman Sprinzel, on the "Except for Molokai," can you make it for habitable structures taller than 35 feet that way you won't be having special use permits for light poles that are taller, if that makes any sense?

Ms. Dudoit: But, currently, our light poles, if they exceed, they're just allowed or exempted 'cause I prefer not to say "habitable" I mean just because it protects us from some tower or I mean there must be something in place already that allows the poles to be more than 30 feet, right? Or unhabitable structures like cell phone towers.

Mr. Alueta: It's a gray area and, therefore, we've been -- I'm just suggesting that. If you don't want to, then that's fine.

Ms. Dudoit: Are we still in discussion? Yeah, the reason I wouldn't amend the motion is just because when we're looking at things like cell phone towers or things that may possibly be permitted in these park districts, it gives us the opportunity to ensure that public safety and all kinds of other things that are addressed in a public forum where we have that opportunity to talk about it.

Ms. Swenson: You know, but I'd like to exclude like light fixtures for public safety. I don't want the Highway Department to have to come before us every time they want to put a streetlight up.

Ms. Dudoit: Well, does the Highway Department come to us every time they want to put a streetlight up now 'cause I've never seen one?

Mr. Alueta: No, because they're not -- they're in the public right-of-way.

Ms. Dudoit: Right.

Mr. Alueta: Yeah. And then power poles are exempted because they fall under the -- they're regulated by the PUC rather than anyone else. They're exempt from the zoning statutes.

Ms. Dudoit: Right. So what would be, aside from cell phone towers and things like that, what would be a non-inhabitable structure that would exceed 35 feet?

Mr. Alueta: Such as your light pole, your light pole that's within the tennis courts over there.

Ms. Dudoit: Like in the parks you mean? Like the big ballpark?

Mr. Alueta: Yeah, this is dealing only with park zoned lands.

Ms. Dudoit: Yeah.

Mr. Alueta: So one of the issues is like if you got stadium lighting. A pole is one thing. It may not require a building permit, and it may not come under the Planning Department review, but if it's a structure, meaning like one of those big poles that require a little more and it does fall under the Planning Department's review or review of a building permit, we'll then look at it as a compliant with the zoning standards and the zoning standards may have a lower height than what they're proposing. That's what I'm saying. There's a fine line. Right now, a lot of these poles are, theoretically, just being put up and if it doesn't come to the Planning Department for review, we don't get to review it and we would not enforce the zoning code, but some of these structures are being sent up to the Planning Department and we are saying if we gotta review it for a building permit, we need to interpret it and how it complies with Title 19, and we will say the height applies to that structure, and that's why I'm saying like if it's a non-habitable structure, such as a tower, a light tower, then we would -- then could still do the height, like taller than 35, otherwise, if it does come up before us and we determine that it has to meet the height -- comply with the height provisions and development standards of Title 19, then it might have to come before you for to put up a new light structure at a tennis or a ballfield, and my question is: Is that the structure you're concerned with or are you concerned with more of a large building like structure, habitable structure or --?

Chair Sprinzel: May I suggest we have a vote and see how we feel up to this moment, in favor or not in favor of the motion?

Ms. Dudoit: Well, can we just maybe discuss a little bit more and then I might feel comfortable to amend it? I mean because I'm just -- my concern is that these light poles that are up in the current Kaunakakai Regional Park and here, there has been conversation about, because our parks are within residential area, the lighting is a big deal, that's why the parks need to be done by 9:00 or 10:00 as to not interfere with the quality and stuff like



that of people living in the surrounding areas. We don't really have any parks on Molokai that is not surrounded by residential areas. So my concern was, you know, if it's a part of a park project or you gotta replace the light, and there is enough evidence or enough reason why you gotta make it higher, then it should be a review by our community, and by our Commission, and by the powers that be to ensure that it is still within, you know, the realm of doing what is the best thing for the whole as opposed to just making it easy.

Chair Sprinzel: Are there any Commissioners who sympathize with that view?

Mr. Michael Jennings: I agree with Zhantell. I mean I don't think that, you know, you need to have it all that high and all that light shining down there. When I used to play tennis quite a bit or did stuff like that where you didn't need that big huge light up there going up that high. And I know at night when we come down from the west side and you see -- I mean it lights up the whole town, and I can understand that, but, you know, there is some need for that light there for the safety, but to have it up that tall, I just don't -- I don't think we need it up any higher than 35 feet. That's my opinion.

Ms. Swenson: Now I'm getting really confused because I thought what we were discussing was if somebody wanted to put up a light, if they had to come and get our approval. Only in parks. Okay, well then you need --

Chair Sprinzel: This is just for parks. Nothing else.

Mr. Alueta: Lands zoned park, which you have none on Molokai. Yet.

Ms. Dudoit: Maybe I can help. Maybe I can help. So I think what he was trying to tell us earlier is that when you do - what did you call it? General lands or whatever for utility poles, those are all exempt, right?

Mr. Alueta: Correct.

Ms. Dudoit: Yeah. So we're not talking about the lights any place else except for on the --

Mr. Alueta: We're talking about park lands.

Ms. Dudoit: Yeah.

Mr. Alueta: Park zoned lands that have lights. We're just saying, right now, you're saying if they build anything, maximum building height, except for Molokai, will be 35 feet, that's currently -- right. And I kind of muddied the water. I apologize. I was just saying is that sometimes large light structures require a building permit and we will review it toward the height of a building, maximum height, and my concern was that do you or do you not want

to make sure have lights regulated that way, and if you're comfortable with having lights being, you know, only 35 feet, if need be, then we're all good with the current motion.

Ms. Tancayo: Okay, I have one more question, and please ignore my not knowing this, but this Duke Maliu Park is not a county park?

Mr. Alueta: If may be a park, meaning you can have a park in the residential district, you can have a park in the interim district.

Ms. Tancayo: Okay.

Mr. Alueta: This ordinance deals with lands that are zoned PK-1 --

Ms. Tancayo: Okay.

Mr. Alueta: Or park zoned but they're not zoned park.

Ms. Tancayo: Well, my concern too with the lights is, you know, we have those big lights down there and two of them have fallen over with people around, so I would love to have a review of big lights because if nobody's going to maintain them, then let's take them out because that could have killed a bunch of people that night and now we can't even use the park at night and those lights are out, so then I think we should have the right to review it.

Mr. Alueta: Okay. So then the current amendment would make sense for Molokai. Okay?

Chair Sprinzel: Yes.

Mr. Alueta: Okay.

Chair Sprinzel: So is everybody happy with that? And Joe will continue on those lines.

Mr. Alueta: Okay.

Chair Sprinzel: Zhantell?

Ms. Dudoit: Oh no. I thought you said all those in favor ...(inaudible)...

Chair Sprinzel: No. We don't have to vote.

Ms. Dudoit: Huh?

Chair Sprinzel: We don't have to vote, do we?

Mr. Alueta: No, you had a motion and a second. You have to vote now to approve the ordinance as amended with the recommendation.

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

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

***VOTED: to approve the proposed bill for an ordinance amending Chapter 19.27, Maui County Code, and repealing Chapter 19.615, relating to parks districts with the notation on the limit for heights of structures to say, "Except for Molokai, where structures cannot exceed a maximum of 35 feet unless a special use permit is granted."***

Chair Sprinzel: Carried unanimously. Thank you, Commissioners. Thank you, Joe.

Mr. Alueta: Thank you.

#### **E. CHAIRPERSON'S REPORT**

Chair Sprinzel: Alright, is there another one? Yes, there is. No. That's all. Chairperson's Report. Thank you. Director's Report. Clayton.

#### **F. DIRECTOR'S REPORT**

##### **1. 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 19.04, MAUI COUNTY CODE, TO INCLUDE A DEFINITION OF "WET BAR." (J. Alueta)**

Mr. Yoshida: Yeah, thank you, Mr. Chair. The next meeting is scheduled for July 10 and as I stated before, we have Joe coming back to talk about the department's proposal for a definition of a wet bar. This relates more to our short-term rental homes and bed and breakfast in Maui County where some homes have like six wet bars in a single-family

residence. I guess we'll be busy on the July 24 meeting and we will have the, on the open applications, the first item, which is the West Molokai Resort installation of solar panels, and also the Tri-L Construction special use permit time extension to operate the cinder mining on the way to Hale O Lono Harbor, and also on page 2, the Friendly Market warehouse and loading dock various types of permit applications - a county special use permit, the country town business reconsideration, and a SMA assessment for the proposed warehouse and loading dock here in town.

Chair Sprinzel: And Joe will be taking us to some research on his subject next time to encourage you to come.

Ms. Dudoit: Clayton, didn't we approve the Tri-L Construction cinder mine a while back?

Mr. Yoshida: Yeah. They had a state special use permit that the Commission granted about three years ago. They have a cinder mining operation there out on the west side. So it's coming up for a time extension request on the state special use permit because the Commission only granted them a permit for three years.

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

And then we have submitted our list of open and close -- pending and closed Molokai applications if you have any questions on those.

Ms. Dudoit: How long can an application be open in the open status? Is there a time limit?

Mr. Yoshida: Well, as long as the applicant is making a valid effort to try to get us additional information. A lot of times -- I mean if you look under the completed application, you know, we're closing a lot of applications that have been out there for, like the say the -- on page 1, the DOE classroom trailer that was submitted in February of 2008, you know, if they don't give us the information, we're saying we're closing your file and if you wish to reapply, then, for the same thing, you can reapply.

**G. NEXT MEETING DATE: JULY 10, 2013**

**H. ADJOURNMENT**

Chair Sprinzel: Okay, that's it. Thank you very much. Thank you, Joe. And thank you very much. See all you guys in a couple of weeks time. Aloha.

There being no further business brought before the Commission, the meeting was adjourned at 12:54 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions

### **RECORD OF ATTENDANCE**

#### **Present**

John Sprinzel, Chairperson  
Michael Jennings, Vice-Chairperson  
Ron Davis  
Zhantell Dudoit (Arrived at 12:05 pm)  
Douglas Rogers  
Diane Swenson  
Sherry Tancayo

#### **Excused**

Billy Buchanan  
Janice Kalanihuia

#### **Others**

Clayton Yoshida, Planning Program Administrator  
Joseph Alueta, Administrative Planning Officer  
Benjamin Sticka, Staff Planner, Molokai  
James Giroux, Deputy Corporation Counsel