

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
MAY 22, 2019

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lori Buchanan at approximately 11:05 a.m., Wednesday, May 22, 2019, at the Mitchell Pauole Center, 90 Ainoa Street, Kaunakakai, Molokai.

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

Chair Buchanan: Aloha everyone and welcome to the May 22, 2019 meeting of the Molokai Planning Commission here at Mitchell Pauole Center in Kaunakakai, island of Molokai. So we calling this meeting to order, and, Commissioners, are there any amendments to the agenda request?

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. **Testimony will be limited to a maximum of three (3) minutes, with 30 seconds to conclude.**

Chair Buchanan: Okay, seeing none, we're into item B, Public Testimony, and this is public testimony, hopefully, if you can stay for the agenda item, that would be nice, but if you have something to say for any planning issue, you can do that right now, and if not, we can wait till we get to the item, so is there anyone in the public wishing to testify at this time? Seeing none, I'm going to close public testimony and move into item C:

Chair Buchanan read the following agenda item description into the record:

C. COMMUNICATIONS

1. **MR. GRANT NAKAYA, of CENTERLINE SOLUTIONS, on behalf of SPRINTCOM, INC., requesting a Special Management Area Minor Permit to upgrade an existing Sprint telecommunications facility by removing and replacing three 2500 MHz panel antennas and installing three new 2500 MHz remote radio heads with associated cables in the Kaunakakai Country Town Business District located at 10 Mohala Street TMK (2) 5-3-001:060, Kaunakakai, Molokai (Valuation: \$45,000) (SMX 2018/0229) (S. Lopez)**

Chair Buchanan: Planner Lopez?

Ms. Lopez: Thank you, Chair, and good morning, Chair Buchanan and Commissioners. I am Sybil Lopez, and I am the Staff Planner on the SprintCom special management area

minor permit to upgrade an existing Sprint telecommunications facility, and this is located on the Paddlers Inn rooftop here in Kaunakakai, and it is in the country town business district, so you do have your report in front of you, and I do have the applicant, Mr. Grant Nakaya, here available, and I'll turn the time over to him since he came from Oahu and he brought those Dunkin Donuts for us so --

Mr. Nakaya: Aloha. Can you hear me? Okay. So I'm Grant Nakaya, I'm from Centerline Solutions, we're Sprint's consultants for -- for this project. I just -- you know, pretty short and sweet about the project, the three new 2500 megahertz panel antennas and the three remote radio heads, we call them RRHs, just so it's a little bit faster, easier to say, the three panel antennas and the three RRHs that we're proposing to install are just meant to increase capacity and general quality of Sprint's wireless communications and data service in Kaunakakai and Molokai. The project's not going to touch the ground. We're not going to have any ground disturbance, and, well, it shouldn't, the antennas are going to be installed near the three existing antennas so it shouldn't significantly change how it looks. It's just going to look like a few boxes on sticks sticking out of the roof of Paddlers Inn. So I'm available if you -- to answer any questions.

Chair Buchanan: Thank you, Mr. Nakaya. Commissioners, does anyone have questions for Mr. Nakaya concerning the application before us? You have questions, Commissioner Poepoe?

Mr. Poepoe: Do you know if -- too loud. I gotta talk little bit further away. Do you know if the height limit for buildings on Molokai will apply to this project?

Mr. Nakaya: Yes, I believe the height limit applies. I believe it's a 35-foot height limit. I believe Sybil would be able to speak to that. And the height was addressed in the application. The new panel antennas would not be going in at a higher height than the existing panel antennas are installed at, so there shouldn't be any overall rise or raising of the height of the overall structure including the new antennas.

Chair Buchanan: Commissioners, anymore questions for the applicant? Okay, if not, Mr. Nakaya, I have some questions. So in the report, the description of the project, items 1 through 5, on item no. 4, alphabet c, it says that the RF noise floor to rise if -- if the equipment causes the RF noise to rise resulting in interference which affects the Maui County Public Safety radio system or degrades the system, SprintCom shall be fully responsible for restoring the use of Maui County's Public Safety radio system by whatever means available and agreeable to the Maui Police Department Communications Coordinator. These remedies may include changing operational frequencies, filtering and controlling RF output, and costs incurred shall be the responsibility of SprintCom, are you aware of that, and I'm assuming you're accepting of those conditions?

Mr. Nakaya: I am aware of the conditions and we are accepting.

Chair Buchanan: Okay, so my question is, logistically, how would this work? So we talking about the 911 system. Is that correct?

Mr. Nakaya: I believe so. Logistically, I'm not too sure on the specifics. I can get back to you on how the specifics would work. My understanding is that before the new antennas are turned on, are active that we will coordinate with Maui Police Department, I've already been in contact with the Police Department and it sounds like, at this time, they don't have any issue with the proposed project, but we will be coordinating with the Police Department to make sure that once the system is active, there shouldn't be any interference with the operation of the public safety system.

Chair Buchanan: What is the protocol for contacting you, the applicant, in the event that there's an issue with the noise floor rise or interference in the 911 system? Do you have a written protocol that you submit to the Communications Coordinator?

Mr. Nakaya: I, personally, am not aware of the specific protocol, however, Sprint, like all wireless providers, does have emergency contact numbers specifically related to their system and their sites so -- and I believe those contact points are provided to the public safety officials in order that if there is an issue, say a site goes offline or emergency repairs are needed or any of a number of situations, there are protocols and policies in place. I'm, personally, not aware of the exact details of those protocols though. I can -- I can inquire about them and get back to you if you would like.

Chair Buchanan: Yeah, I think I would like, and I going tell you why because we went through difficulties within the 800 megahertz and 900 megahertz band with interference, I believe, in Kihei, on Maui, where it actually interfered in the 911 response and emergency services, and so I'm not comfortable, you know, not knowing what the protocol is for an emergency response should there be an issue with fire and rescue and MPD to use the 911 system, and so I -- I think I would like to see that written up somewhere because when we move into item d, following c, it says any changes to the operation frequencies at this site, and I don't know why that would be because it's the frequencies that cause the issue with interference, and so I don't know why this flexibility on item d is in there about changes in frequencies, can you expound on that?

Mr. Nakaya: Yes. The changes in frequencies that it's referencing, I believe, would be specific to situations like the proposed project where we're proposing three new panel antennas that would be operating on the 2500 megahertz frequency, so because the frequency that the new antennas are being proposed is significantly different from the 800 megahertz band used by public safety, it's not -- not expected that there should be any interference, but that I believe that flexibility clause is in there to keep Maui public safety, the Police Department, the Fire Department aware of any frequency changes so that any problems can be spotted ahead of time and addressed before interference occurs. And I -- I do know that part of the protocol is that we will be coordinating with the Police Department prior to and during construction, if I'm not mistaken. I will have to double-

check the exact protocol, however, we don't anticipate any issues with the 2500 megahertz band.

Chair Buchanan: In item e, it says installation of equipment operating in the 800 megahertz band or co-location with other wireless carriers at this site. The application, to me, didn't clearly say that this application was open to co-location so -- so I'm concerned about co-location and what -- who would be co-locating on your pole, unless Sybil knows?

Ms. Lopez: Thank you, Chair, for the question. So in the report, on no. 4, this is actually specific to the County special use permit that was granted to them on August 26, 2015, and these are the conditions that are in their existing County special use permit that they would have to comply, so because they're coming in for an SMA permit, the Department made sure that they were also in compliance with the County special use permit in the installation of the removal and re-modification of the telecommunications facility, so no. e pertains to in the event that SprintCom installs new equipment or has system expansions or even co-locate any type of -- with other wireless carriers or any type of equipment that they must notify the Maui Police Department, so that's -- these are -- a to e is part of the CUP permit project specific conditions, so we made sure that it was notified within the SMA so that you guys know that there's a existing permit, CUP, that we would want them to comply with with the scope of the project for the SMA application so that is why it's in your report. The full permit approval, the CUP approval, is in your exhibit if you want to see the full CUP approval, which is Exhibit 3, and Exhibit 4 is the response from the Police Department on how they are involved in this project. So I just wanted to kinda shed light of -- of no. 4 in the description of the project so you can understand a through e and what it pertains to, so these -- these project specific conditions pertains to the CUP permit that is -- that exist and so we wanna make sure that when they do their scope of project for SMA, that they also comply with the conditions of the CUP permit and so in the event that SprintCom does, which right now they are, they're coming in for an expansion and re-modification of the facility, that they notify the Police Department. I hope I clarified that.

Chair Buchanan: Is there any co-location existing right now on the antennas that you want to be replaced?

Mr. Nakaya: No. Co-location, specifically, if another carrier --

Chair Buchanan: Right.

Mr. Nakaya: Would like to install new equipment at the site, that's where the co-location would be an issue. To my knowledge, there are currently no plans for additional carriers to install new equipment that I'm aware of and so I can't speak to other carrier's plans regarding this site.

Mr. Sprinzel: Chair?

Chair Buchanan: Yes?

Mr. Sprinzel: When we passed this originally, all three carriers were combined in their application because there were about a dozen or more aeriels up there on top of what was then the -- the brew pub, so all did co-operate when the original ones were put up and the Police were part of that application, I mean they took part to make sure that all the rules were followed. Okay?

Chair Buchanan: Okay. I'm a little bit leery about the whole co-location of antennas because the -- that secondary permitted use of a co-location on an existing antenna on one CUP permit would not come before this Commission and sometimes you end up with two and three different types of co-location on one antenna, and then it turns into this really ugly thing, and then sometimes noise level and the distortion comes in, and I realize that you going be working with the Police Department Communications Coordinator, but, in general, I've never been comfortable with co-location on an antenna no matter where the antenna is because it's -- it's pretty much opening the door to the scrutiny between the applicant or the -- the provider of the antenna to decide whether they going permit co-location, and you actually getting the permit from us, so we're not seeing who that co-location is going to come in for so -- and this is a -- a four year old application, and I thought it was a simple switch out, but it looks like -- like I wouldn't be -- would you be amenable to taking the clause of co-location out at this point?

Mr. Nakaya: I can't speak to the co-location clauses. My understanding is that the purpose of the co-location clause is to require cooperation between any proposed co-locator and Maui Planning -- the Maui Police Department and the existing carrier, Sprint in this case. As of right now, I'm not aware of any other company that's seeking to co-locate at this site.

Ms. Lopez: Sorry, Chair, can I answer? So that piece that you're requesting to strike is actually in the County special use permit --

Chair Buchanan: Right.

Ms. Lopez: So that's not something that you're looking at and that's something that this board already approved in 2015 so that would be more of a question for the Department whether -- or how we would go about doing that 'cause then you would be looking at the CUP, which is valid all the way to August 31, 2025, but because we're looking at the SMA, that's probably something you would look into the SMA conditions and probably not the County special use permit. I may have to divert that question to our Deputy Director if you have more detailed questions regarding what you're specifically asking.

Chair Buchanan: So the September 8, 2015, it really doesn't have an exhibit number, but on the Centerline Solutions, it says Exhibit 3, and you're saying that that is -- so,

Commissioner Sprinzel, I don't know how multiple carriers got one -- on one permit then in 2015.

Mr. Sprinzel: No, this wasn't in 2015. This was long before. This was when the -- the brew pub was built and they originally all came, I think there were 10 or 11 aerials there. In fact, there's one huge one, which is supposed to look like a palm tree just a little way down. They did a whole lot of -- but they all came together to one meeting when we passed it and all the authorities, like the Police and the 911 and all the rest, were all consulted and all approved it originally, so all we've done since then is just renewed it.

Chair Buchanan: Planner Lopez, where is the compliance specific conditions of the CUP of 2009/0006?

Ms. Lopez: So in -- in your Exhibit 3, I only included the September 8, 2015 permit approval, this is not original, this is actually requesting for a time extension because their time -- because the permit was to expire that year of 2015 and because Sprint came back again in 2015 to request to do modifications on that -- that same facility, the Department required them -- recommended them to come in for a time extension under CUP because it'll -- it would have been expired and they would have to come in with a new one. So this board, this Commission saw -- saw the permit, the time extension request on August 2015 and this Commission actually approved with those conditions, those specific conditions on -- on that date. And I think Commissioner Sprinzel kinda explained it regarding the CUP time extension approval. Thank you.

Chair Buchanan: Okay, thank you. So, Planner Lopez, so there is a County special use permit, there's a special management area use permit, we still going on the original from 2009 with the 2009 was extended?

Ms. Lopez: Correct. The 2009 was extended to 2025, but you actually only seeing the SMA, so you actually not seeing the CUP, so the CUP was incorporated in this SMA so that they can comply with the CUP permit project specific conditions in order to comply with the SMA rules.

Chair Buchanan: When did they -- so in 2009, they had the CUP to August 31, 2025?

Ms. Lopez: They, actually, they came in for their initial so that was their first original CUP application, which was in 2009 that got granted and would have expired in 2015, and so prior to the expiration of that CUP, they came in to request for a time extension, and so when they came in 2015 to request a time extension, the Commission approved with those project specific conditions and extended their -- their permit to 2025.

Chair Buchanan: Okay, thank you. I think would have been helpful for me to have a timeline --

Ms. Lopez: Okay.

Chair Buchanan: Instead of trying to figure out where everything came in, and I think that's kind of, I not going say it's irresponsible, but it's kind of irresponsible to have such a long timeline without any checks and balances and then to have two separate permits running on different timeline so, okay, I not going make one big deal about it.

Ms. Lopez: Oh, and -- and they also -- they also do have an open -- they came in for country town business district permit because they are in a country town business district so they would have to comply with the design guidelines but that -- that is administratively approved, so -- so they actually have three permits open, pending -- pending approval.

Mr. Sprinzel: Lori, that's, sorry, that third one was when the palm tree came out because they -- but it's all been, all the way along, we all approved it because it had all the conditions in it and the conditions never changed.

Ms. Desjardins: So, Ms. Lopez, just as a matter of clarification. The only reason then that the applicant is here today is because they want to make changes. If there was no change to anything on top of that building, then the CUP would just run until 2025, is that correct?

Ms. Lopez: Correct. Correct. 'Cause it's a County special use. Yes.

Mr. Sprinzel: Chair, the other thing we were very conscious of was none of the companies made any money on Molokai. I mean they came here and they did all this and there was no way they'd ever make a profit out of it, so it's really to improve the -- the service is kind of a good gesture on their behalf. I mean they aren't doing this to try and pull something over us. They're not making anything out of it. They're just improving their service.

Chair Buchanan: Yeah, that was never in my thought process. I would assume they like regulated by the Federal Trade Commission and also like public utilities and some would be mandated to provide the service by the Federal Government, but my concern was that I didn't wanna be one day hearing that there was a issue with my 911 service, like how they had the issue on Maui, and it was a big issue. I mean people's lives could have been in jeopardy, and so I just need to know because I don't see it here what the protocol would be, like I always joke about it, but I'm actually very serious about I want to know whose number I'm going to have on speed dial when something goes wrong, and that's -- that's what I'm looking for in all the -- the project, so thank you very much. Okay.

Mr. Sprinzel: That's why we had the -- the Police contacted right from the start, and I believe they are involved in this change.

Mr. Nakaya: Yes. The Police Communications Coordinator has been contacted regarding this project.

Mr. Sprinzel: I mean we didn't take it lightly.

Chair Buchanan: Yeah. Okay, I going stop, but I get one last question for Sybil. Sybil, who, for the County of Maui, coordinates the 911 radio communications? Who coordinates the whole system?

Ms. Lopez: So in Exhibit 4, you got Walter Pacheco, Communications Coordinator, Maui Police Department, and his information.

Chair Buchanan: And so anything with the emergency 911 system would go under him?

Ms. Lopez: Yes.

Chair Buchanan: Okay, thank you very much.

Ms. Lopez: You're welcome.

Chair Buchanan: Alright, Commissioners, any more questions for the applicant or for the County? Okay, seeing none. The Chair will entertain a motion on item C, no. 1.

Mr. Sprinzel: To approve with -- with the conditions as listed.

Chair Buchanan: Commissioner Sprinzel has moved to approve. Is there a second? Commissioner Mowat second. Any discussion? Seeing none, I'll call for the vote. All those in favor, raise your right hand? Okay, one, two, three, four, five, six, seven. Okay, thank you. Seven in favor. All those opposed? Any abstentions? One. Thank you very much. Motion carried.

Ms. Esmeralda: Is that an abstain or opposed?

Chair Buchanan: Abstain.

It was moved by Commissioner John Sprinzel, seconded by Commissioner Bridget Mowat, then

VOTED: to approve with the conditions as presented.

(Assenting: L. Buchanan-Abstain; J. Bicoy; L. Espaniola; W. Moore; B. Mowat; J. Perez; L. Poepoe; J. Sprinzel)
(Excused: J. Pele)

Ms. Lopez: Thank you, Chair. Thank you, Commission.

Chair Buchanan: And so we'll move right into item D:

Chair Buchanan read the following agenda item description into the record:

D. ADOPTION OF WRITTEN DECISION AND ORDER

- 1. Proposed Findings of Fact, Conclusions of Law and Decision and Order denying the request of MR. SCOTT WEHNER, MEMBER, WEHNER MOLOKAI LLC, for a Special Management Area Minor Permit for an after-the-fact grading and grubbing in the State Agricultural District on approximately 5.65 acres of land located at 0 Kaula Ili Way, TMK (2) 5-1-007:030, Kaluakoi, Molokai (SM6 2019/0001) (S. Lopez)**

Chair Buchanan: Planner Lopez or whoever?

Ms. Lopez: Thank you, Chair. Sybil Lopez on the written decision and order report. So you have your 200-so page document. If you have any questions regarding the document, we -- the Commission seen the hearing date on March 27, 2019 regarding Mr. Wehner requesting for an after-the-fact permit for an SMA assessment application. I can open the floor up if there's any questions regarding the decision, regarding the report, exhibits.

Chair Buchanan: Okay. Before we do that, I'm -- it's my understanding that Commissioner Moore and Commissioner Mowat was not in attendance, and Julie-Ann, and so I want -- I wanted to ask them if they had -- if they read the minutes of the findings of facts and conclusions of law, and I would need an affirmative on that, please. Julie? Push up.

Ms. Bicoy: Julie Bicoy. Yes.

Chair Buchanan: Thank you.

Ms. Mowat: I'm Bridget Mowat. Yes. I did.

Chair Buchanan: Okay. Commissioner Moore, did you read?

Mr. Moore: Yes. I read.

Chair Buchanan: Oh, thank you very much. Okay. Thank you. Okay, yeah, we can proceed on -- does the Commission have any questions for the Department on the findings of facts and conclusions of law, and does the Corporation Counsel wanna say something? No?

Ms. Desjardins: Just to -- if there are any questions about that, to ask them now and then to provide the applicant an opportunity to also ask questions.

Chair Buchanan: Okay, great. I never met you so I was like if that's staff. Mr. Hart, you wanna say something?

Mr. Hart: Thank you, Chair. Jordan Hart, Deputy Director of Planning. Just a question on the -- the order of operations today. Like non-substantive changes to just -- those need to be called out on the record or can they be called -- okay, so just page 7, I believe, line, on item 14, one, two, three, four, line 5, S -- I believe that was intended to be "SHPD."

Ms. Desjardins: So I took that verbatim out of the minutes.

Mr. Hart: Got it.

Ms. Desjardins: And the minutes said "HPD" so, yeah, I left it like it was although I think it should have been "SHPD."

Mr. Hart: Okay. And then the only other one that I wanted to bring up is 11 -- page 11, under item 1, I'm not sure if that was intended to more -- more "properly" characterized as a finding of fact.

Ms. Desjardins: You're talking about no. 1?

Mr. Hart: Yeah. To the extent that any conclusion of law is more property characterized.

Ms. Desjardins: Oh yeah. I'm sorry. It should be "properly."

Mr. Hart: Okay.

Ms. Desjardins: Thank you.

Mr. Hart: Okay. Those are the only minor comments I had. Thanks.

Chair Buchanan: Commissioners, you guys have any questions on the finding of facts and conclusions of law, or questions for staff? Seeing none, I just wanted to thank our Corporation Counsel because she did a very thorough job of capturing all the information that transpired in the meeting, and I appreciate very much, it did take us a while to read, but I really appreciate the verbatim minutes as well. At this time, and we're not taking any public testimony on this, but we will ask the applicant or anyone representing the applicant if they have any questions or if they want to provide any feedback.

Mr. Manera: Hi, Chairman, Member of the Commission. Luigi Manera, for Mr. Wehner. First thing, I got this paper yesterday, so I never really look at the 200 page. I called the

owner and I think he received it this morning. So that's one this. But despite of all, I know more or less about the report. I have only couple question or clear -- I wanna clear a couple things. One is when Arleone mentioned about the birds, that was -- I wanna make sure that was a strict assumption she made because I talked to the people around there, I developed both property, on the right and on the left, and in the back, never they ever see the bird she talking about, and I'd be surprised that the particular bird live in those 150 feet ...(inaudible)... I'd be very surprised. When -- when you have a trail where people pass by every single day whether to go fishing, whether to pick hinahina, or hunt, or whatever, it's a very well-marked trail. That's one I thing I wanna make sure that it's just an assumption.

And then, on top of that, she's, in a previous situation she had with me in 2005, she told me because I was clearing a wetland, after \$20,000 and six-months delay, the Corps of Engineer, they come back and say it's not wetland. She's not perfect either. She's -- I don't know if she's qualified to say those things. That's one thing.

The other issue I have is, when come to the SMA, it's two year I ask the County of Maui to provide with the formal approved SMA map. Until today, nobody, nobody give me an SMA map. They don't exist. The only thing they have, there's a website, the State, the County, both different, and right at the bottom of each, when you open the page, it's stated: This is only for information, not to use this for any application. Right black and white. So until today, I still waiting for that because we may be on the SMA, and I probably agree with based on the map, but there's nothing say, yes, this SMA. There's nothing like that.

And the third one is with respect to the Hawaiian people on the island, I live over here for 30-something year, since 1982, and you guys know me, I develop many place at the West End. I work in the sand on almost every home down there. When you talking bone, all these thing, I'm pretty well known what I'm talking about, I know what you guys talking about, I know the respect for that. I no was present on the actual moment this guy went up with -- and cleaned the little area up there, but I never ever found anything, human bone, anywhere and maybe I was lucky, I -- but I cannot believe there gotta be -- there's only one dune, one mountain in the whole Papohaku, one, 90 feet tall, and somebody go and bury right on top when they have to climb up, it's so hard, I -- I cannot even get up there, and a whole bunch of kiawe tree. That is pretty, well, it's very questionable. I don't say people, Hawaiian, long time ago, they used to bury in the sand. Yes. I agree. I know that. But not to go right on top of a mountain. I don't know how they can get up there anyhow.

So that's the only three concerns that I have about, like I say, I never read the whole report, I never have time. I just -- was too late last night and I just wanna make sure those three points and, again, I apologize for the owner of the property. Like I say, I say it, and he agree, he got carried away. He just went up but he never went farther than -- it's just a little thing. It seems like such a -- he just remove a few kiawe tree and now look like

everything native is growing back on top of that, and anybody can go take a look at that. Thank you very much. You have any question?

Ms. Desjardins: I just want to be clear on the record that what is before the Commission today for approval is the decision and order, we're not opening this up to new evidence, I understand what Mr. Manera is saying, but if it wasn't presented as part of the record here, it's not to be considered. We're here really just to -- to look at what was done and to determine whether you're satisfied with the proposed findings of facts.

Chair Buchanan: Okay, thank you. Thank you, Mr. Manera.

Mr. Manera: Thank you.

Chair Buchanan: Thank you very much. Does any Commissioners have any last questions about the document, the findings of facts or conclusions of law that is before us today? Okay. If not, then I'll entertain a motion on the floor to accept the findings of facts and conclusions of law. Or deny.

Ms. Mowat: I so move to accept the report as -- as is.

Chair Buchanan: Okay. So thank you. Commissioner Mowat has moved to accept the findings of facts and conclusions of law. Is there a second?

Mr. Perez: I second.

Chair Buchanan: Okay, Commissioner Bo has seconded. Is there any discussion? I have one discussion item. Remember that I am recusing myself from voting on this matter. So is there any discussion? Okay, seeing none, we'll call for the vote. All those in favor, please raise your right hand? Okay, seven ayes. Motion carried. And one recusal. Thank you very much.

It was moved by Commissioner Bridget Mowat, seconded by Commission John Perez, then

VOTED: to accept the Proposed Findings of Fact, Conclusions of Law, and Decision and order as presented.

(Assenting: J. Bicoy; L. Espaniola; W. Moore; B. Mowat; J. Perez; L. Poepoe; J. Sprinzel)
(Recused: L. Buchanan)
(Excused: J. Pele)

Ms. Lopez: Thank you, Commission.

Chair Buchanan: Okay, moving along at speed. We moving right into item E, unless anybody needs a break right now. We can take a break. We have quorum too so if you have to -- you like break? Okay. We're going to take a five-minute break. Thank you very much. Recess. Five-minute recess.

(A recess was called at approximately 11:47 a.m., and the meeting reconvened at approximately 11:55 a.m.)

Chair Buchanan: Sorry. We're going to call this meeting back to recess. We're just talking story over here and I'm losing track of time. I apologize. So thank you very much. We're going to continue with the agenda and we are on item E, Director's Report.

E. DIRECTOR'S REPORT

- 1. Pending Molokai Applications Report generated by the Planning Department with the May 22, 2019 Agenda Packet (Appendix-A)**
- 2. Completed Molokai Applications Report generated by the Planning Department with the May 22, 2019 Agenda Packet (Appendix-B)**
- 3. Agenda Items for the June 12, 2019 meeting**

Mr. Hart: Thank you, Chair. For the Director's Report, pending Molokai applications. The report's generated by Planning Department with the May 22, 2019 agenda. It's Appendix-A connected to your agenda. And then for item no. 2 is the completed Molokai applications report generated by the Planning Department with the May 22nd agenda packet, Appendix-B.

Chair Buchanan: I'm sorry. Pending generated, okay. Oh, I see. How come it's agendaed different? Is it agendaed different?

Ms. Lopez: It's just printed out differently.

Chair Buchanan: Okay. I was like something's throwing me off. Alrighty. Anyone have questions on items 1 or 2, and that's this sheet in the back, yeah? I do have a question if nobody has a question. Mr. Hart, on page 1 of 5, almost all the way down the page, the Asphalt Batch Plant Molokai, it says CP and CUP2. Planner, Lopez, you -- what is that?

Ms. Lopez: There's an open application that was submitted to the Department regarding an asphalt batch plant, so, at the moment, it's going through its review process and we're waiting for agency comments. This is located by -- across the street of the old mortuary before the junction going to Kalae, so right after Manawainui Bridge if you're going to Mauna Loa, if you're going to the airport, so you drive up, get the old mortuary on the right, and then on the left, so that's the property that you're talking about.

Chair Buchanan: So the old Phats Yunimura --

Ms. Lopez: Yes.

Chair Buchanan: Okay.

Ms. Lopez: So after agency review, the Department will do the report and both permits will be in front of the Commission, so the SUP2 will be your authority to make the decision on and while the conditional permit will go in front of the Council and you'll be able to recommend, your recommendations will be going to the Council for the conditional permit.

Chair Buchanan: Okay, so I guess in time then.

Ms. Lopez: Yes.

Chair Buchanan: Prior to this, did they put out a request for comment? No?

Ms. Lopez: No. No.

Chair Buchanan: Okay. Alright. Earlier, I saw the BVAA for the Hamamoto Hale short-term rental.

Ms. Lopez: Yes.

Chair Buchanan: So they -- Corp Counsel said they writing a letter to BVAA to -- for some determination?

Ms. Lopez: Yes. The --

Chair Buchanan: Or they asking for a variance?

Ms. Lopez: No. They're actually requesting for an appeal, so they submitted their appeal so they're going in front of BVA and they also requested their appeal in front of Circuit Court.

Ms. Desjardins: So I can clarify. I don't know if you recall or not, but when we did the D&O on Hamamoto, there was also on the agenda a letter that Ms. Hamamoto had written to the Director of Planning requesting automatic approval of the permit based on the time that had gone on between when the decision was made and the decision and order was entered, and Ms. McLean responded to that letter, and my understanding is is that based on that letter and her response, the applicant is considering that to be a BVA appealable issue that's separate from the short-term rental home permit denial that's going before the Circuit Court.

Ms. Lopez: And not a variance.

Chair Buchanan: Okay, thank you. Anyone else have any questions? I just have one, the KPHA retention ponds removal of sediment and debris at Kawela Plantation.

Ms. Lopez: They put in an application, an SMA application because this -- what they wanted to do is in the SMA area and after getting expert advice, they decided to withdraw their application stating the expert said that they don't need to do the scope of work that they wanted to do 'cause it's a natural occurrence and so they actually sat down with the expert of the wetlands to mitigate and how they were going to mitigate and said that it was more of a natural occurrence and so they felt that there was no need for that type of work to be done in that area so they withdrawn their application.

Chair Buchanan: Withdraw. Okay, good. And last one, page 5 of 5, the Evergreen PRVT Holdings, I guess, the short-term rental home, Molokai. Where is that?

Ms. Lopez: That is the old miss -- next to the -- remember Mr. and Mrs. Sherrell, and so the neighbor sold their property and the new neighbor wants to come in for a short-term rental, so that is one of the open pending short-term rental applications that is located in the Pukoo area, and it will be coming in --

Chair Buchanan: To us.

Ms. Lopez: Before you.

Chair Buchanan: Okay. Alright. Thank you very much. I think that's it. That's all the questions I had. Okay, is that it? Are we done? Let me see. Let me see. Director's Report, yeah.

Ms. Lopez: And for the next regular scheduled meeting, we actually don't have any agenda items.

Chair Buchanan: Oh, okay.

Ms. Lopez: And I know you brought up the TIG. I think that's the only one that we would put on the agenda if you felt necessary, but I know at the last Commission meeting you guys did not meet yet so I don't know if that would be necessary to put it on the next agenda.

Chair Buchanan: Well, I -- we don't need anybody for that. We can just meet, right, anytime?

Ms. Lopez: Oh yeah. Outside of this.

Chair Buchanan: Yeah. But that might be good. We might be able to meet.

Ms. Lopez: But the Commission did request to report back.

Chair Buchanan: Yeah.

Ms. Lopez: So --

Chair Buchanan: Yeah.

Ms. Lopez: When you're ready, we can add that on the agenda.

Chair Buchanan: Okay, we'll talk about it after. Okay, that's great.

F. NEXT SCHEDULED REGULAR MEETING DATE: JUNE 12, 2019

G. ADJOURNMENT

Chair Buchanan: So if anybody doesn't have any closing remarks or questions, then we are adjourn.

Ms. Lopez: Thank you.

The meeting was adjourned at approximately 12:05 p.m.

Submitted by,

SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present:

Lori Buchanan, Chairperson
Laakea Poepoe, Vice-Chairperson
Julie-Ann Bicoy (Arrived at 11:10 a.m.)
Leonora Espaniola
William Moore
Bridget Mowat
John Perez III
John Sprinzel

Excused:

John Pele

Others:

Jordan Hart, Deputy Planning Director, Dept. of Planning

Sybil Lopez, Staff Planner, Molokai

Mimi Desjardins, Deputy Corporation Counsel, Dept. of the Corporation Counsel

Suzette Esmeralda, Secretary to Boards & Commissions II, Current Div., Dept. of Planning