



DIVISIONS:
AGRICULTURE DEVELOPMENT PROGRAM
AQUATIC RESOURCES CONSERVATION AND RESOURCES ENFORCEMENT
CONVEYANCES FORESTRY AND WILDLIFE
LAND MANAGEMENT STATE PARKS
WATER AND LAND DEVELOPMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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FILE NO.: MO-2/19/87-1999
180-Day Exp. Date: 8/15/87
DOCUMENT NO.: 0575E

July 10, 1987

Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii

3016
ADAY

Gentlemen:

Conservation District Use Application for
Consolidation and Resubdivision to Establish
the Moomomi Nature Preserve at TMK: 5-1-02: 1, 35,
Moomomi, Molokai

APPLICANT:

Mr. Kelvin Taketa
The Nature Conservancy of Hawaii
1116 Smith Street, Suite 201
Honolulu, Hawaii 96817

LANDOWNERSHIP:

Private (Molokai Ranch, Ltd.)

LOCATION:

TMK: 5-1-02: 1 and 35, at Moomomi, Molokai
(See Exhibit A.)

AREA OF PARCEL/USE:

TMK: 5-1-02:35 (Lot 119) is 5,894.770
acres, TMK: 5-1-02:1 (Lot 120) is
5,198.347 acres/ area of proposed use is
900 acres, 50 acres of which is in the
Conservation District (Exhibit B)

SUBZONE:

General (See Exhibit C.)

DESCRIPTION OF AREA/CURRENT USE:

No structures exist within the Conservation District area of the
proposed preserve. The area is subject to infrequent recreational
use by off-road vehicle enthusiasts, constituting a major
ecological threat. Fishing and camping activities occur at the
beach, and occasional hikers and hunters visit the area.

PROPOSED USE:

The applicant proposes to establish a staffed nature preserve for
conservation of native wildlife and vegetation. Purchase of this
land from the landowner (Molokai Ranch, Ltd.) requires
consolidation of TMK: 5-1-02:35 (Lot 119) and TMK: 5-1-02: 1 (Lot

120) into one lot, and subdivision of the consolidated lot into three lots, one of which will be proposed preserve parcel. (See Exhibit D.) This subdivision will include a strip of coastline on the Molokai shoreline extending from Kaiuhu Point to a point just west of Kapalauna. Although the bulk of the preserve will be on private land outside the Conservation District, a narrow strip (300' feet wide and about one and three-quarter miles long) of Conservation District shoreline will be included, and this is an important component of the intended preserve.

The objectives of this nature preserve are to protect and restore native plant communities and habitats for native coastal animals, (including seabirds and sea turtles), to protect archaeological and paleontological resources, and to promote research, educational, and recreational activities.

SUMMARY OF COMMENTS:

The application was referred to the following agencies for review and comment: the Department of Land and Natural Resources Divisions of Aquatic Resources, Forestry and Wildlife, State Parks/Historic Sites, Land Management, Conservation and Resources Enforcement, Water and Land Development, and the Natural Area Reserves System; the Maui County Department of Planning, Public Works, Parks and Recreation, and Water Supply; the State Department of Health; the Environmental Council; the Office of Environmental Quality Control; and the Office of Hawaiian Affairs; the Department of Planning and Economic Development, and the Department of Transportation, and the Department of Hawaiian Home Lands. Comments received are as follows:

State Parks/Historic Sites offers the following comments:

Historic Sites Concerns

A review of our records indicates the presence of five historic sites located within the project area. (See Exhibit E.) These sites consist of three rock shelters (Sites 24, 26 and 28), a petroglyph site (Site 25) and an adze quarry (Site 29). The three rock shelters were excavated by William Bonk in 1952 ("Archaeological Excavations on West Molokai," 1954). Although no dates were obtained, the sites were determined to be prehistoric based on the numerous Hawaiian artifacts that were recovered. In 1974, Sites 24, 25, 26 and 29 were determined significant for their information and placed on the Hawaii Register of Historic Places. However, due to procedural error, these sites were removed from the register in 1980. Also, we agree with the applicant, that, in addition to these significant sites, the project area also contains important paleontological sites and human burials.

In sum, we believe that the proposed consolidation and resubdivision of the parcels for a nature reserve will be beneficial to the paleontological and significant historic

sites. Therefore, this undertaking will have "no effect" or a "beneficial effect" on the historic sites.

We would also like to add that, upon purchase of the property, the applicant should consider the nomination of the five sites and the burial areas to the Hawaii Register of Historic Places.

Recreational Concerns

The Moomomi dunes and shoreline are considered a high value recreation site because of its outstanding dunes and dune vegetation, scenic values, and limited active recreation opportunities. Since the subject application would manage the fragile dune resource and promote research, educational and recreational activities; we have no objections, providing educational and recreational opportunities are available to the general public at little or no cost. The limited active recreation opportunities are mainly in the adjoining bays, outside the applicant's proposed boundaries.

The Division of Aquatic Resources responds:

In view of the area's long history of fishing activities and the restriction proposed for off-road vehicle use, we suggest that access to and along the shoreline be maintained, if not improved, for public recreation.

The Natural Area Reserves System comments:

The NARS program fully supports the request by the Nature Conservancy to establish the Moomomi Nature Preserve.

Land Management comments:

To establish an area for Moomomi Nature Preserve, The Nature Conservancy will purchase this area from Molokai Ranch, Ltd. The purchase cannot be finalized without a legal description of the area to be purchased.

To obtain legal description, consolidation and resubdivision of these parcels must be conducted, therefore, we have no objections to the subject Conservation District Use Application.

The Division of Conservation and Resources Enforcement conducted a field inspection on March 28, 1987 and offers the following comments:

Vehicular access is by public and private unpaved road from the end of Farrington Avenue (route 480), or by heading north from route 46. Use of Molokai Ranch roads requires permission and a gate key. By foot, the area may be reached from Hawaiian Homes Land along the coast, heading westward.

This area in question is a known nesting area for the green sea turtle. It is also common knowledge to the Molokai community, that several burial sites have been found in the sand areas.

The proposed project would preserve native plants and animals, and also, a place of great historical significance.

The Office of Environmental Quality Control comments:

We wholeheartedly support the Nature Conservancy's efforts to establish the Moomomi Nature Preserve. We believe that the preserve will help to protect Hawaii's native habitat.

The County of Maui Planning Department stated the following in comments dated March 30, 1987:

The Planning Department has reviewed the subject application and finds that portions of the proposed development are located within the the Special Management Area (SMA); therefore, an SMA Minor Permit is required. We will be sending an application form to The Nature Conservancy.

The County of Maui Planning Department further commented in a letter dated May 15, 1987:

The Maui Planning Department writes in support of the Nature Conservancy of Hawaii's application to consolidate and resubdivide lands to establish a nature preserve because it would implement several recommendations in the Molokai Community Plan. These community plan policy recommendations are:

1. Preserve the shoreline dune formations throughout the planning region. These topographic features are a significant element of the natural setting and should be protected from any actions which would detract from their scenic value. (p. 11)
 2. Create marine conservation programs and establish Moomomi Dunes as a natural area reserve. (p. 10)
- Furthermore, in denying a recent Land Use Commission Special Use Permit application (86/SUP-12) by Ameron HC&D to mine sand on a nearby 14.9-acre site at Moomomi, TMK: 5-1-2: 35 (por.); it was noted that the Moomomi area is an important natural area because of its great beauty, the presence of rare native plants, the presence of rare animal species (green sea turtle, dark-rumped petrel, wedged-tailed shear water, etc.), and its historical and archaeological importance to Hawaiians. This information of the Moomomi Dunes System should be preserved for the enjoyment of present and the future generations.

The County of Maui Department of Public Works offers the following comments:

1. That the subject consolidation and resubdivision of the lots to establish the preserve shall be processed through the County for approval.
2. That all of the subdivided lots shall be adjacent to or have access to public or approved private roads.

The Department of Hawaiian Home Lands states:

The subject proposal should have no adverse impacts on Hawaiian Home Lands. Although we have no objections to the project, we ask that management of the area be sensitive to the needs and rights of native Hawaiians for access to the ocean.

The Department of Land and Natural Resources Divisions of Forestry and Wildlife, and Water and Land Development; the County of Maui Department of Water Supply, the County of Maui Department of Parks and Recreation; the State Department of Health, the Department of Planning and Economic Development, and the Department of Transportation have no objections to the proposed project.

Pursuant to Chapter 183-41, Hawaii Revised Statutes, a public hearing was held on May 20, 1987 at the Mitchell Pauole Hall, Kaunakakai, Molokai. Copies of the public hearing transcript are on file with the Department. Information obtained at the public hearing is summarized as follows:

The landowner and applicant are jointly pursuing both State and County approvals for the project. Current public access will be maintained provided the landowner of the surrounding lots has no objections. A surveyor is working on the certified shoreline. Clarification was offered on how much of the area is sand beach and how much is pali. The applicant states that most of the preserve is sand beach and tidal pools, with the exception of the two extremes at either end. On Kalehu Point, the shoreline is rocky and up on the other side it becomes a pali. Testimony was generally favorable, however, the public did express concern that access be maintained for traditional fishing, limu picking, and opihi picking activities. The applicant represents that the public will be allowed continued use of the area, but will be asked to keep vehicles on the jeep trails to protect the dune ecosystem, and the archaeological and paleontological resources at Moomomi. Additionally, public use may be limited during specifically sensitive times for nesting of the sea turtle since Moomomi may possibly be the most active turtle nesting site in the Hawaiian Islands. It was pointed out that the land seaward of the certified shoreline cannot be blocked since it is State land. The public hearing record was kept open for fifteen days, however, no further testimony was received regarding the subject CDUA.

ANALYSIS:

Following review and acceptance of the application for processing, the applicant, by letter dated March 3, 1987, was notified that:

1. The proposed use is a conditional use in the General Subzone of the Conservation District according to Title 13, Chapter 2, Administrative Rules, as amended;
2. A public hearing pursuant to Chapter 183-41, Hawaii Revised Statutes, as amended, was required in that the proposed involves a subdivision; and
3. A negative declaration in accordance with Title 11, Chapter 200 of the Administrative Rules, has been determined for the proposed use, and written clearance from the County of Maui regarding SMA requirements has been obtained.

The objective of the General (G) subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature.

Section 13-2-21(b)(1) relating to standards requires all applications be reviewed in such a manner that the objective of the subzone is given primary consideration.

Ecological, Paleontological, and Archaeological Significance

The purpose of the proposed preserve is to protect an important native dune ecosystem. Moomomi is an active sea turtle and sea bird nesting site. The proposed preserve area also supports the best remaining examples of coastal vegetation in the main Hawaiian Islands. Plant communities within the Conservation District include naupaka-hinahina shrubland, akoko shrubland, and aki-aki grassland. Three rare plant taxa are found within this Conservation District: Gnaphalium sandwicensium var. molokaiense (see Exhibit F), Solanum nelsoni (see Exhibit G) and Chamaesyce degeneri var. molokaiense (see Exhibit H). Solanum nelsoni is also found on the Northwest Hawaiian Islands, but this is the only known population on the main Hawaiian Islands. The endemic species Gnaphalium sandwicensium is represented by four varieties on several Hawaiian islands. The variety molokaiense is found only on the coastal dunes of west and northwest Molokai.

The active, unconsolidated dunes in the Kalani beach area are underlain by consolidated dune formed at a time when the sea was at much lower level. To the southwest, the dunes are consolidated (lithified) and form low, discontinuous ridges of sandstone. The consolidated dunes at Moomomi represent the first discovered accessible site in Hawaii with fossil deposits of an extinct land vertebrate fauna. The vertebrate remains include both extinct and extant birds from as early as the late-Pleistocene. Among these are goose, ibis, and rail, all extinct and flightless, and a type

of eagle. An invertebrate fauna, including extinct land snails, is associated with the bird remains; some shells have been dated to about 28,000 years ago. New sites may be found as shifting sands disclose new areas of lithified dune.

The proposed preserve region contains several sites of archaeological significance (see Exhibit I). Six sites were excavated in 1952 by Bishop Museum staff, including bluff shelters used by fishermen and adze makers, a house site, and a camping ground. The "desert strip," or Keonelele ("the flying sand") inland from the Conservation District is the site of many Hawaiian burials, and Moomomi has been called the "place of the dead." Many burials have been found in the sandy areas, especially on the seaward side of Kawahuna, i.e. near Moomomi cove just east of the proposed preserve.

Discussion

Present recreational activities, excluding recreational off-road vehicle activities, could continue without serious deleterious effects to the environment. The beach from Kaiehu Point west to Kapalauna is used by fishermen and opihiki pickers. Since very little vegetation occurs along the beach, the present level of use of the area need not be restricted, except during periods of sea turtle and sea bird nesting activity. Limited tent camping at Kaiehu Point and public access by foot along the shore from Hawaiian Homes Land would continue unabated, subject to restrictions during critical breeding seasons or for public safety. Examination of the preliminary subdivision plans submitted by the applicant indicate the designation of a 24-foot wide roadway easement from Maunaloa Highway and Moomomi Road. (See Exhibit D.)

Management and maintenance plans for the preserve will be formulated as a comprehensive land management plan. The applicant has filed a Conservation District Use Application for management of their established preserves (SH-5/7/87-2028). The Moomomi Nature Preserve is not currently included as part of CDUA SH-5/7/87-2028, however, the applicant has indicated that it will be included in the Nature Conservancy's overall preserves system if it is established. Should the Board of Land and Natural Resources approve the subject CDUA MO-2/19/87-1999, plans for management of the preserve should be reviewed and approved by the Department prior to implementation. The applicant has represented that they will be working with the Department to develop appropriate management plans. The applicant will hire personnel for 1-3 full-time and seasonal positions. At the public hearing the applicant represented that two full time employees and ten summer interns would be hired. Establishment of the preserve will not displace any currently operating businesses or residences.

Staff found through conversation with the County of Maui Planning Department that SMA Clearance has been granted and that the applicant will not require an SMA Minor Permit as previously

indicated in the County's comments regarding the subject application because the consolidated and resubdivided lots will each be greater than 20 acres. The applicant has submitted a copy of a County Environmental Assessment and Policy Guideline Consistency Determination which indicates that no SMA permit will be required. (See Exhibit J.)

The landowner from whom the applicant is purchasing the land for the preserve was denied after-the-fact subdivision of shoreline land within the Conservation District at TMKs: 5-1-02: 1, 35, 30, and 4 as a result of Board action on CDUA MO-1/10/86-1877, on June 27, 1986. The proposed preserve will cover one and three-quarter miles of windward Molokai coast including portions of TMKs: 5-1-02: 1 and 35. Consultation with the Department of the Attorney General found that, since the actions proposed by CDUA MO-2/19/87-1999 create lots of sufficient size to protect against urbanization, it is the opinion of the Deputy Attorney General that there are no legal barriers to the Nature Conservancy's CDUA MO-2/19/87-1999 for consolidation and resubdivision to establish the Moomomi Nature Preserve. (See Exhibit K.) The Department of the Attorney General also indicates that the landowner's pending lawsuit regarding the Board's previous action imposes no barriers against the Nature Conservancy's current Conservation District Use Application.

The purpose of the proposed preserve is to protect an important native dune ecosystem. The proposed preserve contains the best remaining sand dune system in the inhabited Hawaiian Islands, the best remaining examples of coastal vegetation in the main Hawaiian Islands, the first discovered accessible site in Hawaii with fossil deposits of an extinct land vertebrate fauna, and several sites of archaeological significance. The proposed use is designed to assure the perpetuation of native strand vegetation and coastal animals in the Moomomi Dunes area, to protect the dunes from destruction by sandmining and off-road recreational vehicles, and to assure preservation of numerous paleontological and archaeological sites, while keeping the area accessible for non-destructive recreational, research, and educational pursuits. The proposed consolidation and resubdivision will not create small parcels along the shoreline upon which urban-type development which is inconsistent with the objectives of the General subzone of the Conservation District could occur. Staff feels that the proposed establishment of the Moomomi Nature Preserve promotes the objectives of the Conservation District, and will help preserve an irreplaceable natural and historical resource. As such, Staff recommends as follows.

RECOMMENDATION:

Staff recommends that the Board of Land and Natural Resources approve Conservation District Use Application MO-2/19/87-1999 for consolidation and resubdivision of TMKs: 5-1-02: 35 (Lot 119) and 5-1-02: 1 (Lot 120) to establish the Moomomi Nature Preserve subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. ~~Since this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;~~
4. If any unanticipated sites or remains of historic or prehistoric interest (such as shell, bone or charcoal deposits, human burials, rock or coral alignments, paving, or walls) are encountered, the applicant shall contact the Historic Preservation Office at 548-7460 or 548-6408 immediately;
5. The applicant shall comply with all applicable Public Health Regulations;
6. The applicant shall provide documentation (i.e. book and page number) that this approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent subdivision plans;
7. The subdivision shall be initiated within one (1) year of the approval of such use, and must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void;
8. The applicant shall submit four copies of the final subdivision map which also shows the certified shoreline and the Conservation District boundary, to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
9. The applicant shall maintain public access to the shoreline for fishing, opihī picking, limu picking, and other non-destructive, traditional recreational activities;

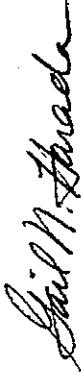
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Shoreline Survey
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Natural Resources

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10. The applicant shall submit to the Department a Management Plan for Moomomi Nature Preserve for review and comment;
11. Should the applicant be unable to complete their acquisition of the parcel for the Moomomi Nature Preserve, the permit for the subdivision will become null and void;
12. That failure to comply with any of these conditions shall make this Conservation District Use Application null and void;
13. Other terms and conditions as prescribed by the Chairperson.

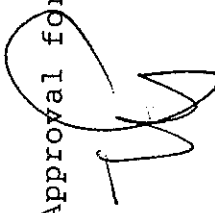
Respectfully submitted,



GAIL N. HARADA
Staff Planner

Attachments

Approval for submittal:



WILLIAM W. PATY, Chairperson
Board of Land and Natural Resources