

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

August 3, 2001

Committee
Report No.

01-129

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Your Land Use Committee, having met on July 2, 2001, makes reference to County Communication No. 01-111, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT IN ORDER TO OPERATE THE MAUI SWAP MEET WITHIN THE COUNTY RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII" and other related documents.

The purpose of the proposed bill is to grant a request from Wil Wong, President, Maui Exposition, Inc., for a Conditional Permit in order to continue operating the Maui Swap Meet on approximately 4.8 acres of land located within the County Residential District, Kahului, Maui until November 30, 2004 (TMK: 3-7-013:026).

Your Committee notes that the Maui Swap Meet has operated on Puunene Avenue on property adjacent to the Kahului Post Office, near the intersection with Kamehameha Avenue, pursuant to successive Conditional Permits issued since May 6, 1991. In the 1980s, the Maui Swap Meet operated at the old Kahului Fairgrounds site.

Your Committee further notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on January 23, 2001. After reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT FOR THE MAUI PLANNING COMMISSION MEETING ON JANUARY 23, 2001", the Commission voted to recommend approval of the request for a Conditional Permit subject to the following conditions:

1. That the Conditional Permit to operate a swap meet use shall be valid until November 30, 2004; provided that an extension of this permit beyond said expiration may be granted pursuant to Section 19.040.090 of the Maui County Code.

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2. That full compliance with all applicable governmental requirements shall be rendered.
3. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.
4. That the applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.
5. That the applicant shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080 of the Maui County Code.
6. That the applicant shall provide signage and a parking attendant for the Kahului Post Office in order to enforce "parking by postal patrons only" within the post office parking lot.

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7. That the vending area shall be completely fenced by the applicant, with no access allowed along Kaulawahine Street, and an employee and emergency gated access along the north boundary between Kaulawahine Street and Puunene Avenue.
8. That the applicant shall work with surrounding businesses, churches, and residents to resolve any parking problems that may arise.
9. That the applicant shall work with the State Department of Transportation, the Department of Public Works and Waste Management, and the Police Department of the County of Maui to resolve any traffic congestion problems along Puunene Avenue and Kamehameha Avenue.
10. That the existing grass turf shall be preserved and graveled to control dust and muddiness, but shall not be paved.
11. That in the event the applicant does not comply with the foregoing conditions, or that there are complaints by the general public which affect the health, safety, and welfare of the public, the Planning Department may request a review by the Maui County Council, to determine if said permit should be revoked.
12. That operations shall be limited to Saturdays, six (6) Sundays throughout a calendar year, holidays, and one mid-week event throughout the year.
13. That the applicant shall maintain the fence and landscaping along Puunene Avenue to control pedestrian and vehicular access to and from the parcel.
14. That the applicant shall investigate the possibility of relocating the swap meet operation to another location and report back to the County upon permit renewal.

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Your Committee further notes that the recommendation of the Maui Planning Commission was based upon the following conclusions:

1. There is no evidence that the ongoing use will be significantly detrimental to the public interest, convenience, and welfare.
2. The proposed use will be in harmony with the area.

By memorandum dated April 10, 2001, the Chair of your Committee transmitted a letter dated March 26, 2001, from Wil Wong, President, Maui Exposition, Inc., submitting background information on the Maui Swap Meet.

At its meeting, your Committee met with the Planning Director; the Deputy Planning Director; a Planner from the Department of Planning; a Deputy Corporation Counsel; and Wil Wong, representing Maui Exposition, Inc., operator of the Maui Swap Meet.

Your Committee received the following documents: (1) minutes of the Maui Planning Commission's meeting of January 23, 2001; and (2) an excerpt from Ordinance No. 2136, granting a Conditional Permit to operate the Maui Swap Meet, relating to the Maui Swap Meet's calendar of operations.

Three Maui Swap Meet vendors/tenants testified in support of the proposed bill, noting that the Maui Swap Meet has provided economic opportunity for many local residents for many years. They said that parking, security, and customer volume are excellent at the Maui Swap Meet.

One member of the public testified in support of limiting the duration of the Conditional Permit to one year because traffic concerns may justify moving the Maui Swap Meet to another location in the near future.

Your Committee also received written testimony from five individuals, four in support of and one in opposition to the proposed bill.

After consultation with Mr. Wong, the Planning Director, and the Deputy Corporation Counsel and deliberations among its members, your Committee

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voted to revise the conditions recommended by the Maui Planning Commission as follows:

1. Your Committee voted to revise Condition 7 to provide that the employee and emergency gated access shall be on Kaulawahine Street, rather than along the north boundary between Kaulawahine Street and Puunene Avenue. The purpose of this revision is to reflect current conditions and physical limitations of the subject property.
2. Your Committee voted to revise Condition 12 to read as follows: "That operations shall be limited to Saturdays, six (6) Sundays in a calendar year, holidays, and two weekdays on two consecutive weeks during each month of December." The purpose of this revision is to allow the Maui Swap Meet to operate more frequently during the month of December.
3. Your Committee voted to delete Condition 14 in its entirety. The purpose of this revision is to eliminate the responsibility to investigate the possible relocation of the Maui Swap Meet because market conditions will dictate whether such relocation is desirable.

Your Committee expressed concerns about traffic congestion and safety in the area in which the Maui Swap Meet is located. Mr. Wong noted that neither the Department of Police nor the State Department of Transportation has expressed opposition to the Maui Swap Meet's continued presence. He also noted that a police officer is on site during operations.

Your Committee also noted that written testimony, both before your Committee and the Maui Planning Commission, raised concerns about Maui Exposition Inc.'s business practices. Mr. Wong stated that individuals with competing business interests raised those concerns.

After considering the record in full, your Committee concluded that the Maui Swap Meet should be allowed to continue its operations at the subject property.

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Your Committee voted to recommend passage of the proposed bill, as revised, and filing of the communication.

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO MAUI EXPOSITION, INC., TO OPERATE THE MAUI SWAP MEET WITHIN THE COUNTY RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII", incorporating the revisions recommended by your Committee and technical, non-substantive revisions.

Your Land Use Committee **RECOMMENDS** the following:

1. That Bill No. _____ (2001), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO MAUI EXPOSITION, INC., TO OPERATE THE MAUI SWAP MEET WITHIN THE COUNTY RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII" **PASS FIRST READING and BE ORDERED TO PRINT; and**
2. That County Communication No. 01-111 be **FILED**.

Adoption of this report is respectfully requested.

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ALAN M. ARAKAWA **Chair**

DAIN P. KANE **Member**

PATRICK S. KAWANO **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

WAYNE K. NISHIKI **Member**

G. RIKI HOKAMA **Member**

CHARMAINE TAVARES **Member**

JO ANNE JOHNSON **Member**