

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001

Committee
Report No.

01-159

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

Chair and Members:

Your Land Use Committee, having met on February 12, 2001, May 31, 2001, July 2, 2001, July 5, 2001, and August 13, 2001, makes reference to County Communication No. 00-258, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.030, MAUI COUNTY CODE, RELATING TO CONDITIONAL PERMITS".

The purposes of the proposed bill are: (1) to authorize a lessee of property to apply for a Conditional Permit upon the lessor's written approval (current law requires the lessee to produce a recorded five-year lease); and (2) to provide that the application fee for Conditional Permits shall be set in the annual budget (instead of in the County Code).

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.090, MAUI COUNTY CODE, RELATING TO CONDITIONAL PERMITS".

The purpose of the proposed bill is to authorize the Council to delegate its authority for approving time extensions on any Conditional Permit to the appropriate planning commission (Lana`i, Maui, or Moloka`i).

3. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.45.040, MAUI COUNTY CODE, RELATING TO PROJECT DISTRICT PROCESSING REGULATIONS".

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001
Page 2

Committee
Report No. 01-159

The purpose of the proposed bill is to provide that the application fee for project districts shall be set in the annual budget (instead of in the County Code).

Your Committee notes that County Communication No. 00-258 was referred to the prior Council's Land Use Committee at its meeting of October 6, 2000.

At its meeting of November 16, 2000, the Committee discussed the disposition of all items on its agenda.

The Committee recommended that County Communication No. 00-258 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred County Communication No. 00-258 to your Land Use Committee (County Communication No. 01-21).

At its meeting of February 12, 2001, your Committee met with the Planning Director, the Administrative Planning Officer from the Department of Planning, and a Deputy Corporation Counsel.

Your Committee received testimony from Ha`iku resident Jim Smith in opposition to the proposed bills. He stated that the Council should not delegate any of its land-use authority.

The Planning Director and Administrative Planning Officer summarized the backgrounds of proposed legislation submitted by the Department of Planning:

- The proposal to allow a party to apply for a Conditional Permit with the property owner's written approval arose from the Department of Planning's observation of inconveniences caused by the existing requirement that non-owners produce a recorded five-year lease to be eligible for a Conditional Permit.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001
Page 3

Committee
Report No. 01-159

- The proposal to allow the Council to delegate its authority on time extensions for Conditional Permits arose from a situation in which the Council was interested in pursuing such a delegation, but a legal opinion from the Department of the Corporation Counsel indicated that the Council lacks delegation authority under current law. The proposed legislation would give the Council the option of choosing when to delegate its authority for time extensions.

- The proposal to delete application fees from the County Code is a "housekeeping" proposal because those fees must be set in the annual budget by Charter.

Your Committee deferred consideration of the proposed bills pending further discussion.

By memorandum dated May 17, 2001, the Chair of your Committee transmitted relevant excerpts from the minutes of your Committee's meeting of February 12, 2001.

At its meeting of May 31, 2001, your Committee met with the Deputy Planning Director, the Administrative Planning Officer from the Department of Planning, and a Deputy Corporation Counsel.

Your Committee deferred consideration of the proposed bills pending further discussion.

At its meeting of July 2, 2001, your Committee met with the Planning Director, the Deputy Planning Director, and a Deputy Corporation Counsel.

Your Committee received testimony from Jim Smith in opposition to the proposed bill that would allow the Council to delegate its authority on time extensions for Conditional Permits. He said that Council members, as the people's elected representatives, should not abdicate their responsibilities.

Your Committee recessed to July 5, 2001.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001
Page 4

Committee
Report No. 01-159

At its reconvened meeting of July 5, 2001, your Committee met with the Deputy Planning Director and a Deputy Corporation Counsel.

Your Committee deferred consideration of the proposed bills pending further discussion.

At its meeting of August 13, 2001 (on Lana`i), your Committee met with the Planning Director and a Deputy Corporation Counsel.

After the Planning Director's summary of the proposed bills, your Committee voted to recommend the following action on the proposed bills:

- Passage of the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.030, MAUI COUNTY CODE, RELATING TO CONDITIONAL PERMITS", which would authorize a lessee of property to apply for a Conditional Permit upon the lessor's written approval and provide that the application fee for Conditional Permits shall be set in the annual budget, as revised to clarify that the written approval shall be notarized.
- Disapproval of the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.090, MAUI COUNTY CODE, RELATING TO CONDITIONAL PERMITS", which would authorize the Council to delegate its authority for approving time extensions on any Conditional Permit to the appropriate planning commission (Lana`i, Maui, or Moloka`i). Your Committee indicated that such delegation of Council authority is not appropriate and should not be endorsed.
- Passage of proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.45.040, MAUI COUNTY CODE, RELATING TO PROJECT DISTRICT PROCESSING REGULATIONS", which would provide that the application fee for project districts shall be set in the annual budget.

Your Committee voted to recommend filing of the communication.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001
Page 5

Committee
Report No. 01-159

Your Committee is in receipt of revised proposed bills from the Department of the Corporation Counsel incorporating your Committee's recommended 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 AMENDING SECTION 19.40.030, MAUI COUNTY CODE, RELATING TO CONDITIONAL PERMITS", PASS FIRST READING and BE ORDERED TO PRINT;
2. That Bill No. _____ (2001), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.45.040, MAUI COUNTY CODE, RELATING TO PROJECT DISTRICT PROCESSING REGULATIONS", PASS FIRST READING and BE ORDERED TO PRINT; and
3. That County Communication No. 00-258 be FILED.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001
Page 6

Committee
Report No. 01-159

ALAN M. ARAKAWA **Chair**

DAIN P. KANE **Member**

PATRICK S. KAWANO **Vice-Chair**

MICHAEL J. MOLINA **Member**

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 7, 2001
Page 7

Committee
Report No. 01-159

ROBERT CARROLL Member

WAYNE K. NISHIKI Member

G. RIKI HOKAMA Member

CHARMAINE TAVARES Member

JO ANNE JOHNSON Member