

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

February 5, 2010

**Committee**  
**Report No.** \_\_\_\_\_

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

Chair and Members:

Your Land Use Committee, having met on July 15, 2009, December 16, 2009, and January 13, 2010, makes reference to County Communication No. 08-39, from the Planning Director, transmitting documents relating to a request from Don Nelson for a one-year Conditional Permit to operate a wedding services and group functions business on approximately 36,691 square feet at 210 Hauoli Street and to provide associated parking on approximately 10,800 square feet at 220 Hauoli Street within the A-2 Apartment District, Maalaea, Maui, Hawaii (TMK: (2) 3-8-14:009 and (2) 3-8-14:008 (por.), respectively). The two shorefront parcels are adjacent to each other, with the Maalaea Banyans Condominium property bordering 210 Hauoli Street, and the Kana'i A Nalu Condominium property bordering 220 Hauoli Street.

Your Committee notes that no proposed legislation was included in the county communication. According to the county communication, the Maui Planning Commission was unable to obtain a majority vote for a recommendation to the Council. The Department of Planning recommended that the Conditional Permit be subject to nine conditions, as proposed in the document entitled "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION JANUARY 11, 2005 MEETING".

Your Committee received correspondence from Don Nelson and his representatives, indicating that the subject properties are owned by Nellie's on Maui, Ltd., and authorizing Geralee McBride, Mr. Nelson's daughter, to pursue the operation and management of the proposed wedding business.

In response to a request for proposed legislation that would permit the Council to take such action as it deems appropriate, the Department of the Corporation Counsel transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING GERALEE McBRIDE A CONDITIONAL PERMIT TO OPERATE A WEDDING SERVICES AND GROUP FUNCTIONS BUSINESS WITHIN THE A-2 APARTMENT DISTRICT, FOR PROPERTY SITUATED AT MAALAEA, MAUI, HAWAII", incorporating the nine conditions recommended by the Department of Planning. The purpose of the proposed bill is to grant the requested Conditional Permit to Geralee McBride.

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The Planning Director requested several revisions to the proposed bill. Your Committee discussed the suggested revisions and voted to amend four of the proposed conditions. The amendments changed the duration of the proposed permit to two years; fixed a one-year period for compliance with Department of Water Supply requirements; decreased the maximum number of guests from 80 to 50, with no more than an 8-member event crew; and clarified that a maximum number of 20 automobiles would be allowed on-site for guests. Your Committee also voted to incorporate four new proposed conditions to impose restrictions on amplified noise; to require a contact on-site during functions; to require the submittal of plans for an 18-stall parking lot; and to limit the number of wedding services and private party functions to no more than a combined total of 11 special events per month.

Your Committee based the reduction of the number of guests on information relating to wastewater capacity received from the Wastewater Branch, Environmental Management Division, State Department of Health (DOH). The count of 50 guests, along with an 8-member event crew, represents the maximum that could be accommodated by the individual wastewater system on the property without the use of portable facilities, which the DOH stated would not be allowed.

Your Committee notes that the Planning Director separately transmitted County Communication No. 08-193, relating to a request from Don Nelson for a Conditional Permit to continue to operate a transient vacation rental at 210 Hauoli Street.

Your Committee further notes that, as an apparent outgrowth of comments received from the DOH, Ms. McBride indicated that she would withdraw the separate application for a transient vacation rental should the wedding business Conditional Permit be granted.

Your Committee received several pieces of testimony from a neighbor residing at the Maalaea Banyans Condominium in opposition to the project. Among other things, the individual opined that the proposed business could not meet the intent of the Conditional Permit scheme, as set forth in Section 19.40.010, Maui County Code, and objected to the noise and disruption he has experienced from prior functions conducted on the property.

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Your Committee discussed the proximity of public beach accesses to the subject properties. Your Committee also questioned the need for a Special Management Area (SMA) assessment due to the proposed intensification of use, whether improvements to the single-family dwelling had been done pursuant to an SMA permit, and whether a shoreline certification had been completed.

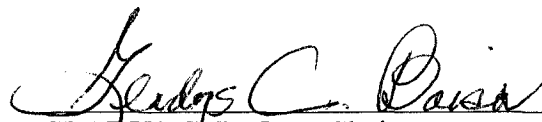
Ultimately, your Committee found that the proposed wedding business and special functions use was not “similar, related or compatible” to the uses permitted in the A-2 Apartment District, and concluded that the proposed use did not meet the intent of the Conditional Permit ordinance.

Your Committee notes that a motion to pass the proposed bill, incorporating the revisions made by your Committee, failed by a vote of 2-6. Committee Vice-Chair Molina and member Pontanilla voted “aye”. Committee Chair Baisa, and members Kaho`ohalahala, Mateo, Medeiros, Nishiki, and Victorino voted “no”. Committee member Johnson was excused.

Thereafter, your Committee voted 7-0 to recommend filing of the communication, which would effectively deny the Conditional Permit application. Committee Chair Baisa, and members Kaho`ohalahala, Mateo, Medeiros, Nishiki, Pontanilla, and Victorino voted “aye”. Committee Vice-Chair Molina and member Johnson were excused.

Your Land Use Committee RECOMMENDS that County Communication No. 08-39 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
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GLADYS C. BAISA, Chair