

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

March 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 February 17, 2010, makes reference to County Communication No. 09-234, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3142 (2003), GRANTING A CONDITIONAL PERMIT TO SEABURY HALL TO ALLOW FOR THE CONSTRUCTION OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from Seabury Hall for a ten-year time extension to a Conditional Permit, to allow students and staff continued use of an offsite parking lot adjacent to Seabury Hall. The parking lot is within the County Agricultural District, on property situated at 480 Olinda Road, Makawao, Maui, Hawaii, owned by the John Castle Baldwin Trust (TMK: (2) 2-4-08:041).

Your Committee received a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3142 (2003), TO EXTEND A CONDITIONAL PERMIT TO SEABURY HALL TO ALLOW FOR THE CONTINUED USE AND MAINTENANCE OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII", incorporating revisions for clarification. The revised proposed bill reflects that the proposed use is for the continued use and maintenance of a parking lot, as opposed to construction of a parking lot, which was completed several years ago. The revised proposed bill also clarifies that the Maui Planning Commission recommended a ten-year time extension. Since the Conditional Permit granted by Ordinance No. 3142 (2003) expired on September 10, 2008, the revised proposed bill incorporates a proposed expiration date of September 10, 2018.

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According to the document entitled "MAUI PLANNING DEPARTMENT REPORT AND RECOMMENDATION TO THE MAUI PLANNING COMMISSION MARCH 10, 2009 MEETING", in 2002, Seabury Hall constructed a 290-space parking lot on approximately 4 acres of a 5.466-acre parcel, as well as a new access road off of Hanamu Road to lessen the impact of vehicles turning into the parking lot from Olinda Road.

Joseph Schmidt, Headmaster, Seabury Hall, informed your Committee that Seabury Hall is actively engaged in discussions concerning a transfer of ownership of the subject property to the school. Seabury Hall also intends to file applications for the appropriate land use entitlements, and has begun work on the technical studies to support those applications. Bryce Thayer, an alumnus of Seabury Hall, stated that the parking lot was a means of addressing security issues related to the prior parking situated below the gym.

Karlynn Fukuda, Project Manager, Munekiyo & Hiraga, Inc., requested that your Committee consider adding two years to the duration of the Conditional Permit, in light of the time required to process the application.

Your Committee voted to recommend that the duration of the Conditional Permit be revised to allow for a 12-year extension, rather than a 10-year extension, to expire on September 10, 2020.

Your Committee voted 8-0 to recommend passage of the revised proposed bill on first reading, incorporating the further revision made by your Committee, and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Johnson, Kaho`ohalahala, Mateo, Medeiros, Pontanilla, and Victorino voted "aye". Committee member Nishiki was excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revision.

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Your Land Use Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3142 (2003), TO EXTEND A CONDITIONAL PERMIT TO SEABURY HALL TO ALLOW FOR THE CONTINUED USE AND MAINTENANCE OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-234 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

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2010)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3142 (2003), TO EXTEND A CONDITIONAL PERMIT TO SEABURY HALL TO ALLOW FOR THE CONTINUED USE AND MAINTENANCE OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 3142 (2003), is amended by amending Section 1 to read as follows:

"SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Seabury Hall for the [construction] continued use and maintenance of a parking lot on a portion of land adjacent to Seabury Hall within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key number: (2)2-4-008:041, comprising approximately 5.466 acres of land situated at 480 Olinda Road, Makawao, Maui, Hawaii."

SECTION 2. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 3142 (2003), is amended by amending Section 2 to read as follows:

"SECTION 2. The granting of this Conditional Permit is subject to the following conditions:

1. That full compliance with all applicable governmental requirements shall be rendered[.], including the conditions of Special Use Permit SUP2 2002/0014.

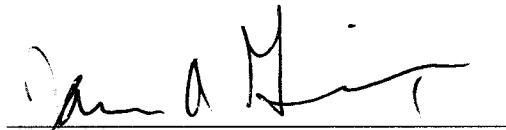
2. That the Conditional permit shall be valid [for a period of five (5) years from the effective date of this ordinance] until September 10, 2020; provided, that[,] an extension of this Conditional Permit beyond this [five-year] period may be granted pursuant to Section 19.40.090, [of the] Maui County Code.
3. That the Conditional Permit shall be nontransferable[.], unless the Council approves the transfer by ordinance.
4. That Seabury Hall, 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 [a named] an additional insured, insuring and defending Seabury Hall and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this Conditional 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 Seabury Hall 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 Conditional Permit. A copy of the certificate of insurance naming County of Maui as [a named] an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the [date of approval of this Conditional Permit.] effective date of this ordinance.
5. That Seabury Hall 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, Maui County Code."

SECTION 3. Material to be repealed is bracketed. New material is underscored.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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