

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 17, 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 December 1, 2010, makes reference to County Communication No. 10-233, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING SEABURY HALL A CONDITIONAL PERMIT TO ALLOW CONSTRUCTION OF A CREATIVE ARTS FACILITY AND GRASSED PARKING LOT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TMK: (2) 2-4-008:001 (POR.), MAKAWAO, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from Seabury Hall for a Conditional Permit to construct a creative arts facility and grassed parking lot on approximately 9.476 acres of vacant, undeveloped land it owns within the County Agricultural District, situated at 305 Meha Road, Makawao, Maui, Hawaii ("subject property"). The subject property is in the immediate vicinity of Seabury Hall's main campus at 480 Olinda Road.

According to the County Communication, Seabury Hall's proposed facility will serve as a multipurpose structure to meet the needs of the school's creative and performing arts programs, as well as provide a venue for school assembly and community meetings and events. The grassed parking lot would provide more stalls than required under Section 19.36A.010, Maui County Code. A Conditional Permit is necessary because the subject property is zoned Agricultural and an educational facility is not listed as a permitted or special use under Chapter 19.30A, Maui County Code.

Your Committee notes that the Maui Planning Commission recommended approval of the proposed Conditional Permit, valid until May 31, 2020, with six conditions, including a requirement that Seabury Hall submit applications for a Community Plan Amendment, District Boundary Amendment, and Change in Zoning for the subject property prior to the expiration of the Conditional Permit.

Your Committee recommended that the title and text of the proposed bill be revised to clarify that the Conditional Permit would allow for the construction and use of the facilities.

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December 17, 2010
Page 2

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Report No. _____

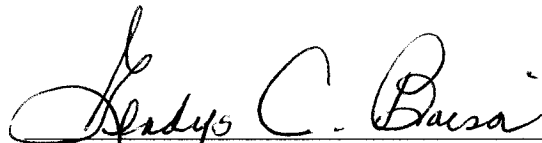
Your Committee voted 7-0 to recommend passage of the proposed bill, incorporating your Committee's revision and nonsubstantive revisions, and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Kaho'ohalahala, Mateo, Medeiros, Nishiki, and Victorino voted "aye". Committee members Johnson and Pontanilla were excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, entitled "A BILL FOR AN ORDINANCE GRANTING SEABURY HALL A CONDITIONAL PERMIT TO ALLOW CONSTRUCTION AND USE OF A CREATIVE ARTS FACILITY AND GRASSED PARKING LOT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TMK: (2) 2-4-008:001 (POR.), MAKAWAO, MAUI, HAWAII", incorporating your Committee's recommended revision and a nonsubstantive revision.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING SEABURY HALL A CONDITIONAL PERMIT TO ALLOW CONSTRUCTION AND USE OF A CREATIVE ARTS FACILITY AND GRASSED PARKING LOT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TMK: (2) 2-4-008:001 (POR.), MAKAWAO, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 10-233 be FILED.

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



GLADYS C. BAISA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE GRANTING SEABURY HALL A
CONDITIONAL PERMIT TO ALLOW CONSTRUCTION AND USE OF A CREATIVE
ARTS FACILITY AND GRASSED PARKING LOT WITHIN THE COUNTY
AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT
TMK: (2) 2-4-008:001 (POR.), MAKAWAO, MAUI, HAWAII

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

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 to allow construction and use of a creative arts facility and grassed parking lot within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key Number: (2) 2-4-008:001 (por.), comprising approximately 9.476 acres of land situated at Makawao, Maui, Hawaii.

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

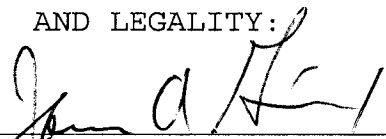
1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid until May 31, 2020; provided that, an extension of this Conditional Permit beyond this time period may be granted pursuant to Section 19.40.090, Maui County Code.
3. 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) naming the County of Maui as 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 an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the 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.
6. That Seabury Hall shall submit applications for Community Plan Amendment, District Boundary Amendment, and Change in Zoning prior to the expiration of this Conditional Permit.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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