

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 11, 2014

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 19, 2014, makes reference to County Communication 13-113, from the Planning Director, transmitting a proposed bill, entitled "A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE CONTINUED OPERATION OF THE WEST MAUI BOYS AND GIRLS CLUB WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 4-6-012:005 (POR.), LAHAINA, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request by the Department of Parks and Recreation ("applicant") to allow the continued operation of the West Maui Boys and Girls Club ("Club") until October 8, 2047, on approximately 2.0 acres in the County Agricultural Zoning District at 280 Shaw Street, Lahaina, Maui, Hawaii.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, entitled "A BILL FOR AN ORDINANCE TO EXTEND AND AMEND ORDINANCE NO. 3492 (2007), A CONDITIONAL PERMIT TO ALLOW THE CONTINUED OPERATION OF A YOUTH CENTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 4-6-012:005 (POR.), LAHAINA, MAUI, HAWAII", approved as to form and legality.

The revised proposed bill identifies the ordinance that initially granted the Conditional Permit, Ordinance 3492 (2007), deletes the conditions that have been complied with, and deletes Condition 10. Condition 10 required the Department of Parks and Recreation to submit applications for a State Land Use District Boundary Agreement and a Change in Zoning prior to the expiration of the Conditional Permit.

Your Committee Chair confirmed a lease between the County of Maui and the Boys & Girls Clubs of Maui, Inc. had been executed and recorded in 2011, to allow the Club to use the subject property, and a Certificate of Occupancy had been issued for the clubhouse.

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Your Committee discussed the rationale for extending and amending the Conditional Permit that was initially granted to allow the applicant sufficient time to submit applications for a State Land Use District Boundary Amendment and a Change in Zoning, as stated in Condition 10 of Ordinance 3492 (2007). Your Committee further discussed the lack of uniformity in both the subject area description and expiration date between the lease and the Conditional Permit.

The Chief Professional Officer for the Boys & Girls Clubs of Maui, Inc. stated the Council had granted a lease for a smaller area than the organization had requested, and the organization is operating within the parameters of the lease.

A Planner for the Department of Planning reiterated the position of the Planning Director that the lack of uniformity between the lease and the Conditional Permit, regarding the term for use of the property and the land area, was not problematic.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Vice-Chair Guzman, and members Baisa, Crivello, Hokama, Victorino, and White voted "aye". Committee member Couch abstained. Committee Chair Carroll and member Cochran were excused.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2014), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO EXTEND AND AMEND ORDINANCE NO. 3492 (2007), A CONDITIONAL PERMIT TO ALLOW THE CONTINUED OPERATION OF A YOUTH CENTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 4-6-012:005 (POR.), LAHAINA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 13-113 be FILED.

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**Committee
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This report is submitted in accordance with Rule 8 of the Rules of the Council.



DON S. GUZMAN, Vice-Chair

lu:cr:14011aa:cmn/scj

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE TO EXTEND AND AMEND ORDINANCE NO. 3492 (2007), A CONDITIONAL PERMIT TO ALLOW THE CONTINUED OPERATION OF A YOUTH CENTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 4-6-012:005 (POR.), LAHAINA, 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. 3492 (2007), 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] the Conditional Permit [is hereby] granted by Ordinance No. 3492 (2007) to the Department of Parks and Recreation, County of Maui, is extended, and amended, for the [expansion of a youth clubhouse and related improvements] continued operation of a youth center within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key Number: (2)4-6-012:005 (por.), comprising approximately 2 acres of land situated at Lahaina, Maui, Hawaii."

SECTION 2. Pursuant to Chapter 19.40, Maui County Code, the Conditional permit granted by Ordinance No. 3492 (2007), 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 the Special Use Permit (SUP2 2006/0004).
2. That the Conditional Permit shall be valid [for a period of five (5) years from the effective date of this ordinance;] until October 8, 2047; provided, that an extension of this Conditional Permit beyond this [five-year] 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 the Department of Parks and Recreation, County of Maui, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by the subject Conditional Permit, and shall require all permitted users to acquire at their own cost and expense and 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 [a named] an additional insured, insuring and defending the Department of Parks and Recreation, 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 exercised by the permitted user or the Department of Parks and Recreation, County of Maui, 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 prior to the permitted user's occupancy of the [expanded clubhouse.] youth center. The proof of insurance and all subsequent certifications of insurance coverage shall include the applicable TMK and permit numbers.

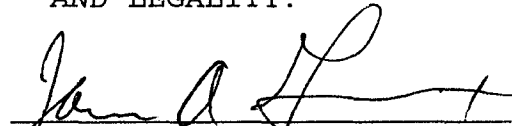
5. That The Department of Parks and Recreation, County of Maui, shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
- [6. That the Department of Parks and Recreation, County of Maui, shall ensure that a certificate of occupancy shall be obtained prior to the opening of the expanded clubhouse to the public.
7. That should any historic resources be identified during the project construction, all work shall cease in the area, the find shall be protected, and the State Historic Preservation Division shall be contacted.
8. That the Department of Parks and Recreation, County of Maui, shall obtain evidence of approval from the Department of Public Works, which shall be submitted to the Department of Planning, with regard to improving the south side of Shaw Street to provide for pedestrian access from Honoapi`ilani Highway to the youth clubhouse.

9. That the Department of Parks and Recreation, County of Maui, shall obtain evidence from the Department of Health which shall be submitted to the Department of Planning that a National Pollutant Discharge Elimination System (NPDES) permit has been obtained.
10. That the Department of Parks and Recreation shall submit applications for a State Land Use District Boundary Amendment and a Change in Zoning for the property for consistency with the West Maui Community Plan prior to the expiration of the Conditional Permit.
- 11.] 6. That the Department of Parks and Recreation shall ensure that the operator of the youth [clubhouse] center obtain the appropriate license or lease agreement."

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:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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