

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

April 4, 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 March 12, 2014, makes reference to County Communication 14-11, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING ARABELLA GAIL ARK, TRUSTEE OF THE ARABELLA GAIL ARK REVOCABLE TRUST, DATED OCTOBER 17, 2007, A CONDITIONAL PERMIT TO ALLOW CLIENT VISITATIONS AND COMMERCIAL SALES AT A CERAMICS STUDIO WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 45-575 HANA HIGHWAY, TMK: (2) 1-5-008:010, HANA, MAUI, HAWAII".

The purpose of the proposed bill is to allow client visitations and commercial sales at a 480-square-foot ceramics studio located on a 0.959-acre parcel at 45-575 Hana Highway, within the County Agricultural District, Hana, Maui, Hawaii (TMK: (2) 1-5-008:010).

Your Committee notes Arabella Ark maintains a ceramics studio built in 2002, on the same property at which she resides. She is requesting a Conditional Permit for three years to allow client visitations and sales of ceramic artwork to clients. She used the studio to display and sell her ceramic artwork from 2002 until 2010. Ms. Ark was subsequently informed such use is not allowed in the County Agricultural District. She closed the studio and applied for a Conditional Permit and State Special Use Permit in 2011. The Maui Planning Commission granted a Special Use Permit in 2013, subject to 14 conditions.

A Planner from the Department of Planning provided an overview of the application.

The Planner noted Condition 11 of the Special Use Permit requires an after-the-fact permit for a roof structure attached to the studio or removal of the roof structure. She stated she had been informed the roof structure had been removed, and the Department would confirm its removal upon inspection.

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With respect to the proposed Conditional Permit, the Planner explained the Hana Advisory Committee had recommended denial, while the Maui Planning Commission had recommended approval, subject to six conditions.

Condition 6 requires that the driveway access to the studio be located within the boundaries of the access easement. Ms. Ark's current driveway is not strictly aligned within the easement boundaries. Your Committee concluded the condition would provide an appropriate mitigation measure.

Your Committee revised the proposed bill to extend the period of the Conditional Permit from three years to ten years.

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 Cochran, Couch, Crivello, Victorino, and White voted "aye". Committee Chair Carroll and members Baisa and Hokama 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, incorporating your Committee's recommended revisions and a nonsubstantive revision.

Your Land Use Committee RECOMMENDS the following:

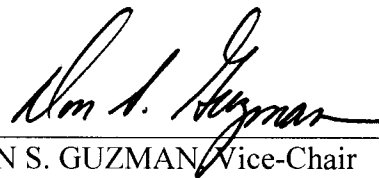
1. That Bill _____ (2014), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING ARABELLA GAIL ARK, TRUSTEE OF THE ARABELLA GAIL ARK REVOCABLE TRUST, DATED OCTOBER 17, 2007, A CONDITIONAL PERMIT TO ALLOW CLIENT VISITATIONS AND COMMERCIAL SALES AT A CERAMICS STUDIO WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 45-575 HANA HIGHWAY, TMK: (2) 1-5-008:010, HANA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 14-11 be FILED.

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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:14020aa:scj

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE GRANTING ARABELLA GAIL ARK,
TRUSTEE OF THE ARABELLA GAIL ARK REVOCABLE TRUST,
DATED OCTOBER 17, 2007, A CONDITIONAL PERMIT TO ALLOW CLIENT
VISITATIONS AND COMMERCIAL SALES AT A CERAMICS STUDIO
WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED
AT 45-575 HANA HIGHWAY, TMK: (2) 1-5-008:010, HANA, 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 Arabella Gail Ark, Trustee of The Arabella Gail Ark Revocable Trust, dated October 17, 2007, to allow client visitations and commercial sales at a 480 square foot ceramics studio within the County Agricultural District, located at 45-575 Hana Highway, Hana, Maui, Hawaii, identified for real property tax purposes by Tax Map Key Number: (2) 1-5-008:010, and comprising approximately .959 acres of land situated at Hana, 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 for ten (10) years from the effective date of this ordinance; provided that, an extension of this Conditional Permit beyond this 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 Arabella Gail Ark, Trustee of The Arabella Gail Ark Revocable Trust, dated October 17, 2007, her 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 their 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 Arabella Gail Ark, Trustee of the

Arabella Gail Ark Revocable Trust, dated October 17, 2007, 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 Arabella Gail Ark, Trustee of The Arabella Gail Ark Revocable Trust, dated October 17, 2007, 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 Arabella Gail Ark, Trustee of The Arabella Gail Ark Revocable Trust, dated October 17, 2007, shall develop and use 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 access to the subject property for the proposed use shall be provided within the legal access easement boundaries. (Recommended by the Commission).

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

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'JAG', followed by the word 'for' written in a smaller, cursive script.

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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