

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 18, 2015

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 September 2, 2015, makes reference to County Communication 15-149, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING HE-MAN LANDSCAPING LLC A CONDITIONAL PERMIT FOR THE USE OF A LANDSCAPING BASEYARD WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 4260 HINE WAY, LAHAINA, MAUI, HAWAII."

The purpose of the proposed bill is to grant a request from Timothy Hehemann of He-Man Landscaping LLC for a five-year Conditional Permit to allow 2.074 acres within the County Agricultural District at 4260 Hine Way, Lahaina, Maui, Hawaii, to be used as a landscaping baseyard.

Your Committee notes the subject property has an Agricultural State Land Use District classification, is designated Agriculture in the West Maui Community Plan, and is zoned Agricultural District. The property is in the Maui Island Plan's Rural Growth Boundary.

According to the "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION June 24, 2014 MEETING" ("Department's Report"), Mr. Hehemann has used the subject property as a landscaping baseyard for 12 years and would like to continue that use.

The Department's Report states commercial services are operated from two storage sheds and an office trailer. Landscaping baseyard uses include vehicle and equipment storage and maintenance. During non-business hours, approximately 20 company vehicles are stored out of sight. Baseyard operations are Monday through Friday, including

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employee arrival and loading of vehicles from 7:30 a.m. to 8:00 a.m. and vehicle unloading and cleaning from 3:00 p.m. to 4:00 p.m.

The Department's Report further states, "A landscaping baseyard use can coexist with agricultural uses without resulting in negative impacts to ag lands." Further, use as a landscaping baseyard "is in conformance with" the property's Maui Island Plan designation.

The Real Property Tax Administrator, Department of Finance, noted the subject property has been condominiumized. He noted one of the two condominiumized properties is classified as Homeowner for real property tax purposes and receives a home exemption. With the landscaping baseyard activity occurring, the other property will be reclassified as Commercial. Each property receives its own real property assessment and tax bill.

Your Committee noted the subject property overlies the Honokowai Aquifer. The Department of Water Supply commented best management practices should be used to protect the aquifer. Your Committee expressed concerns that employees' vehicles parked on grass areas may release fluids that could reach the aquifer, and encouraged Mr. Hehemann to mitigate associated risks.

Your Committee revised the proposed bill by deleting Condition 6, which applies to enforcement of the State Special Use Permit and is unrelated to the Conditional Permit.

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

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Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING HE-MAN LANDSCAPING LLC A CONDITIONAL PERMIT FOR THE USE OF A LANDSCAPING BASEYARD WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 4260 HINE WAY, LAHAINA, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-149 be FILED.

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



ROBERT CARROLL, Chair

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE GRANTING HE-MAN LANDSCAPING LLC A
CONDITIONAL PERMIT FOR THE USE OF A LANDSCAPING BASEYARD
WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY
SITUATED AT 4260 HINE WAY, LAHAINA, 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 He-Man Landscaping LLC for the use of a landscaping baseyard within the County Agricultural District. The site is identified for real property tax purposes as tax map key (2) 4-3-010:028, consisting of 2.074 acres of land situated at 4260 Hine Way, Lahaina, Maui, Hawaii.

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

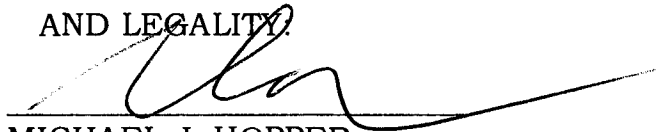
1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner, inclusive of all County fees and assessments, including the conditions of the Special Use Permit (SUP2 2013/0020), if applicable.
2. That the Conditional Permit shall be valid for a period of five years from the effective date of this ordinance; 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 He-Man Landscaping LLC, 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 \$1,000,000, naming the County of Maui as an additional insured,

insuring and defending He-Man Landscaping LLC 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 He-Man Landscaping LLC 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 He-Man Landscaping LLC 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. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY.



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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