

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 17, 2006

Committee
Report No.

_____ 06-38

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 1, 2006, makes reference to County Communication No. 05-364, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 1906 (1990), AS AMENDED, TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A GIFT SHOP AND RESTAURANT AT THE MAUI ARTS & CULTURAL CENTER FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from Arthur J. Vento, Executive Vice President and General Manager, Maui Community Arts & Cultural Center (also known as the Maui Arts & Cultural Center, or the MACC), for a five-year extension of a Conditional Permit to allow for the operation of a gift shop and restaurant at the MACC, located at One Cameron Way, Kahului, Maui, Hawaii (TMK: (2) 3-8-07:001 (por.) and TMK: (2) 3-7-01:002 (por.)).

Your Committee notes that the Maui Planning Commission held a public hearing on the application for a Conditional Permit time extension on September 13, 2005.

Your Committee further notes that the Maui Planning Commission, after reviewing the findings and recommendation presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT AND RECOMMENDATION TO THE MAUI PLANNING COMMISSION SEPTEMBER 13, 2005 MEETING", voted to recommend approval of the proposed Conditional Permit time extension. Your Committee further notes that the Maui Planning Commission recommended that a new Condition No. 3 be incorporated to read: "That no further extensions be granted upon expiration of this extension on May 31, 2010."

By correspondence dated November 23, 2005, the Chair of your Committee requested that the Planning Director provide a copy of the relevant portion of the minutes of the Maui Planning Commission's September 13, 2005 meeting.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 17, 2006
Page 2

Committee
Report No. 06-38

By correspondence dated November 25, 2005, the Chair of your Committee requested that the Department of the Corporation Counsel revise the proposed bill to clarify the location of the facility, and the inconsistent reference in Condition Nos. 1 and 2 to further extensions of the Conditional Permit; renumber the conditions; and make other revisions for consistency.

By correspondence dated December 8, 2005, the Planning Director transmitted the relevant portion of the minutes of the Maui Planning Commission's September 13, 2005 meeting.

By correspondence dated December 15, 2005, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 1906 (1990), AS AMENDED, TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A GIFT SHOP AND RESTAURANT AT THE MAUI COMMUNITY ARTS & CULTURAL CENTER ON PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII", incorporating your Committee's requested revisions.

At its meeting, your Committee met with the Planning Director; a Planner, Department of Planning; the Deputy Director of Public Works and Environmental Management; a Deputy Corporation Counsel; and Arthur J. Vento, Executive Vice President and General Manager, MACC.

There was no public testimony.

Mr. Vento provided background information concerning the history of the MACC and its operations. He noted that the MACC would like to reserve its options with respect to the construction of a restaurant and gift shop by having the Conditional Permit extended.

The Planner summarized the proceedings before the Maui Planning Commission and its recommendation that this extension be the final one authorized for the Conditional Permit, which was originally granted in 1990.

Your Committee discussed the desirability of having a more permanent solution that would allow for the proposed restaurant and gift shop uses at the facility, rather than having to rely upon repeated extensions of the Conditional Permit. Your Committee noted that the proposed time extension should provide an adequate opportunity for such a

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 17, 2006
Page 3

Committee
Report No. 06-38

solution to be reached. Your Committee suggested that one option might be for the MACC to pursue a Change in Zoning that would allow for such uses outright, and another option might be for the Department of Planning to propose an amendment to the Maui Central Park District (Chapter 19.27, Maui County Code), to allow restaurants and gift shops as permitted uses.

Your Committee questioned the seriousness of the MACC in pursuing the request. Mr. Vento informed your Committee that it would become clearer in the next five or more years whether the MACC actually intends to make such an investment. He noted that there is currently no funding designated for a restaurant at the MACC. The MACC is currently studying the feasibility of installing a “prep kitchen” to facilitate the catering provided at the facility.

Your Committee considered proposed Condition No. 3, which prohibits further extensions once the Conditional Permit expires on May 31, 2010. Your Committee recommended that the proposed condition be deleted in its entirety, noting a need to allow the MACC further time to determine its direction.

Your Committee noted that Condition Nos. 1 and 2 had earlier been revised to delete references to further extensions based on the addition of proposed Condition No. 3. For consistency with your Committee’s intent that further extensions not be prohibited, your Committee recommended that the language relating to further extensions be restored in Condition Nos. 1 and 2.

Your Committee encouraged the MACC to initiate a process for a more permanent means of addressing the proposed restaurant and gift shop uses.

Your Committee further recommended that the Conditional Permit be extended to 2012, and that proposed Condition Nos. 1 and 2 be revised accordingly.

Your Committee voted to recommend passage of the revised proposed bill, as further revised to incorporate your Committee’s requested revisions, and filing of the communication.

Your Committee is in receipt of the revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s requested revisions.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 17, 2006
Page 4

Committee
Report No. 06-38

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2006), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 1906 (1990), AS AMENDED, TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A GIFT SHOP AND RESTAURANT AT THE MAUI COMMUNITY ARTS & CULTURAL CENTER ON PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication No. 05-364 be FILED.

Adoption of this report is respectfully requested.

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COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 17, 2006
Page 5

Committee
Report No. 06-38

ROBERT CARROLL **Chair**

DAIN P. KANE **Member**

JOSEPH PONTANILLA **Vice-Chair**

DANNY A. MATEO **Member**

MICHELLE ANDERSON **Member**

MICHAEL J. MOLINA **Member**

G. RIKI HOKAMA **Member**

CHARMAINE TAVARES **Member**

JO ANNE JOHNSON **Member**