

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 3, 2006

Committee
Report No.

_____ 06-28

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 15, 2006, makes reference to County Communication No. 06-9, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING STAN AND HASSIE ZITNIK A CONDITIONAL PERMIT FOR THE CONVERSION OF A 180 SQUARE FOOT GARAGE TO A BUSINESS OFFICE FOR AN INTERIOR DESIGNER FOR PROPERTY SITUATED IN THE R-2 RESIDENTIAL DISTRICT, AT 2144 KAHOOKELE STREET, WAILUKU, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from Stan and Hassie Zitnik for a five-year Conditional Permit for the conversion of a 180 square-foot garage to a business office for an interior designer on approximately 15,820 square feet of land at 2144 Kahookele Street, Wailuku, Maui, Hawaii (TMK: (2) 3-4-06:004).

Your Committee notes that the Maui Planning Commission held a public hearing on the application for the proposed Conditional Permit on November 22, 2005.

Your Committee further notes that the Maui Planning Commission, after reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION NOVEMBER 22, 2005 MEETING" (Department's Report), and the conclusions and recommendation presented in the document entitled "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION NOVEMBER 22, 2005 MEETING", voted to recommend approval of the Conditional Permit.

By correspondence dated January 11, 2006, the Chair of your Committee requested that the Director of Public Works and Environmental Management provide the status of Request for Service No. 05-000037, relating to an anonymous complaint regarding the subject property (the RFS).

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By correspondence dated January 25, 2006, Dan Clark, a resident of the neighborhood in which the subject property is located, opposed the application due to concerns over limited parking and congested traffic flow through the streets. He also separately submitted a petition in opposition to the application signed by 24 residents and owners of properties on Kiele Street, Lauone Place, Ulu Place, and Kahookele Street, Wailuku. Mr. Clark further submitted signatures in opposition to the application signed by three residents and owners of properties in the area, along with a map highlighting the locations of the subject property and the properties of the surrounding owners.

By correspondence dated January 26, 2006, the Chair of your Committee transmitted correspondence dated January 17, 2006, from the Planning Director to the Council Chair, transmitting a copy of the relevant portion of the minutes of the Maui Planning Commission's November 22, 2005 meeting.

By correspondence dated January 31, 2006, the Director of Public Works and Environmental Management responded that the RFS had been closed with no action taken because the requestor was anonymous. The Director noted, however, the addition of a layer of concrete block on an existing retaining wall that is within the County right-of-way.

By correspondence dated February 6, 2006 to the Planning Director, the Chair of your Committee noted that, according to the Department's Report, the applicants have indicated the following: (1) that clients will not meet at the office and business transactions will not occur at the office; and (2) that inventory and furniture will not be stored at the office location. The Chair of your Committee requested that the Planning Director explain why the Department did not feel it advisable to recommend to the Maui Planning Commission that these restrictions be incorporated as conditions in the Conditional Permit, and whether the Department would have concerns over incorporating such conditions. He also requested suggested wording for such conditions, in the event your Committee decided to recommend they be incorporated.

By correspondence dated February 7, 2006, the Planning Director responded that the Department has no objections to including these conditions in the proposed bill, and suggested the following wording:

- "1. That as represented by the applicant, no meetings with clients and/or business transactions shall occur on the subject property.

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2. That no storage of inventory or furniture shall occur on the subject property.”

By correspondence dated February 9, 2006, Karen Brandon submitted testimony in support of the application, noting that she had misunderstood what was being requested when she signed the petition opposing the proposed use.

By correspondence dated February 13, 2006, Hassie Zitnik submitted testimony from 41 residents of the area in support of her application. By separate correspondence, she also submitted information relating to insurance coverage for Details & Designs LLC, to name the County of Maui as an additional insured.

By correspondence dated February 13, 2006, the Chair of your Committee transmitted a copy of an incident report received from Hassie Zitnik on February 13, 2006.

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 Stan and Hassie Zitnik, the applicants.

Your Committee received public testimony from three individuals, all of whom are neighbors of the applicants, two in support of the application and one opposed to it. One of the testifiers noted that, in signing a petition circulated earlier, she had been under the impression that the garage would be significantly enlarged. She stated that, after being provided additional information, she had no objections to the application. The testifier who opposed the application (Dan Clark) had circulated a petition requesting that the application be denied, stating that he opposed the business use due to parking and traffic considerations, and his desire to keep the neighborhood residential. He also requested that your Committee consider reducing the duration of the Conditional Permit to one year if your Committee decided to recommend that the Conditional Permit be approved.

Your Committee also received written testimony from an individual in support of the application, noting that the design business would create no impacts on the neighborhood.

Mr. Zitnik summarized the application and conveyed related background information.

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The Planner described the proceedings before the Maui Planning Commission and noted that the Commission had recommended that the Conditional Permit be granted for a period of five years, as reflected in the proposed bill. The Planner also explained the Department's response relating to two possible conditions to be added to the proposed bill, based on representations made by the applicants in seeking the Conditional Permit.

The Deputy Director of Public Works and Environmental Management explained that the RFS had initially been disregarded because it had been made anonymously. However, due to concerns raised by the Maui Planning Commission, the Department investigated the RFS and found that a concrete block had been added to an existing retaining wall, providing a bit of curbing to channelize drainage.

Mr. Zitnik informed your Committee that he had added one row of tile blocks to the retaining wall, believing the area to be within his property. He explained the circumstances leading up to his placement of the concrete in that location.

Your Committee considered adding two new conditions to the proposed bill (Condition Nos. 7 and 8), thereby incorporating representations earlier made by the applicants, as follows:

- “7. That no meetings with clients and/or business transactions shall occur on the subject property.
8. That no storage of inventory or furniture shall occur on the subject property and no delivery of inventory or furniture shall be made to the subject property.”

Your Committee expressed a desire to give the applicants flexibility by allowing a client to visit the office on their property, noting the availability of on-site parking and how negligible any impact might be of a client meeting with Ms. Zitnik in a converted garage. Your Committee recommended that the following new Condition No. 7 be added: “That no more than one client vehicle at a time may be at this location.”

Your Committee discussed proposed Condition No. 8. Your Committee deleted the references to “inventory”, noting that it is a vague term and opting instead to limit the condition to furniture. The Planner explained that conditions imposed through the

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Conditional Permit would affect the business only, and would not be interpreted to mean that the storage or delivery of furniture for personal use would be restricted.

Your Committee recommended that the following new Condition No. 8 be added: "That no storage of furniture shall occur on the subject property and no delivery of furniture shall be made to the subject property."

Your Committee recommended that the proposed bill be revised to incorporate the two new conditions.

Your Committee voted to recommend passage of the revised proposed bill 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.

Your Land Use Committee **RECOMMENDS** the following:

1. That Bill No. _____ (2006), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING STAN AND HASSIE ZITNIK A CONDITIONAL PERMIT FOR THE CONVERSION OF A 180 SQUARE FOOT GARAGE TO A BUSINESS OFFICE FOR AN INTERIOR DESIGNER FOR PROPERTY SITUATED IN THE R-2 RESIDENTIAL DISTRICT, AT 2144 KAHOOKELE STREET, WAILUKU, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 06-9 be FILED.

Adoption of this report is respectfully requested.

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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**