

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

June 23, 2006

Committee
Report No.

_____ 06-70 _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on June 7, 2006, makes reference to County Communication No. 06-116, from Councilmember Charmaine Tavares, transmitting the following:

1. A draft bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.27, MAUI COUNTY CODE, RELATING TO THE MAUI CENTRAL PARK DISTRICT".

The purpose of the draft bill is to amend Chapter 19.27, Maui County Code (MCC), to allow restaurant and gift shop uses as accessory uses for cultural and performing arts centers and for botanical gardens in the Maui Central Park District.

2. A proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A DRAFT BILL TO AMEND CHAPTER 19.27, MAUI COUNTY CODE, RELATING TO THE MAUI CENTRAL PARK DISTRICT".

The purpose of the proposed resolution is to transmit the draft bill to the Maui Planning Commission.

Your Committee notes that, on March 1, 2006, it considered a request from the Maui Community Arts & Cultural Center (also known as the Maui Arts & Cultural Center, or the MACC), for a further time extension of a Conditional Permit to allow for the operation of a gift shop and restaurant at the MACC, located within the Maui Central Park District. While the Committee recommended that a time extension through May 31, 2012 be granted, it noted that the Conditional Permit had originally been granted in 1990, and that a more permanent solution would be desirable, rather than relying upon repeated extensions of the Conditional Permit.

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Your Committee further notes that the proposed resolution and accompanying draft bill seek to provide that solution. The draft bill also provides latitude for the botanical gardens within the district (currently the Maui Nui Botanical Gardens Inc.) to incorporate restaurant and gift shop uses at its facility.

At its meeting, your Committee met with the Planning Director; the Deputy Director of Public Works and Environmental Management; the Deputy Director of Parks and Recreation; and a Deputy Corporation Counsel. Your Committee also met with Arthur J. Vento, Executive Vice President & General Manager, MACC; and Lisa Schattenburg-Raymond, Executive Director, Maui Nui Botanical Gardens Inc. (MNBG).

Councilmember Tavares provided background remarks, noting that the draft bill would permit the MACC to proceed with plans for restaurant and gift shop uses as they became feasible, while the proposed resolution would refer the draft bill to the Maui Planning Commission for review and comment. She further noted that MNBG had presented plans to include a gift and snack shop for visitors in connection with its conceptual master plan, and the draft bill would allow for those uses.

The Planning Director informed your Committee that the Department has no objections to referring the draft bill to the Maui Planning Commission.

Your Committee received public testimony from two individuals, both in support of the proposed resolution. Mr. Vento advised that the legislation would allow the MACC to do long-range planning for such uses. Ms. Schattenburg-Raymond echoed that the legislation would assist MNBG with future planning.

Your Committee discussed the merits of the draft bill and expressed concerns that unintended consequences be considered. Your Committee noted that the draft bill does not specifically tie the accessory uses to the MACC or MNBG. Accordingly, if in the future other cultural and performing arts centers or botanical gardens were to develop in the Maui Central Park District, the legislation would permit the new accessory uses to be incorporated by those facilities. Your Committee noted an intention to limit the proposed accessory uses to existing users in the Maui Central Park District, stating that if organizations such as the MACC or MNBG were named specifically, it might clarify your Committee's intent, with the added benefit of requiring other entities to apply for such uses if desired.

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The Planning Director noted the concern and confirmed that it would be evaluated by the Maui Planning Commission in connection with its review. He further indicated that the Maui Planning Commission would evaluate whether the accessory uses would be available to other existing users in the Maui Central Park District, such as the YMCA.

Your Committee also requested that the Planning Director examine the language in the leases between the County and the lessees in the Maui Central Park District in connection with the request.

Your Committee further noted a concern regarding the way in which the District boundaries are described in Chapter 19.27, MCC. Your Committee requested that the Maui Planning Commission consider possible refinements to the definition of the Maui Central Park District, including the possibility of adding the applicable compass direction to each of the boundaries. Your Committee also suggested that a map depicting the property boundaries and existing buildings might be useful.

Your Committee voted to recommend adoption of the proposed resolution.

Your Land Use Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "REFERRING TO THE MAUI PLANNING COMMISSION A DRAFT BILL TO AMEND CHAPTER 19.27, MAUI COUNTY CODE, RELATING TO THE MAUI CENTRAL PARK DISTRICT", be ADOPTED.

Adoption of this report is respectfully requested.

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ROBERT CARROLL **Chair**

DAIN P. KANE **Member**

JOSEPH PONTANILLA **Vice-Chair**

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MICHELLE ANDERSON **Member**

MICHAEL J. MOLINA **Member**

G. RIKI HOKAMA **Member**

CHARMAINE TAVARES **Member**

JO ANNE JOHNSON **Member**