

LU Committee

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Thursday, July 27, 2017 3:20 PM
To: LU Committee
Cc: John Rapacz; Kurt Wollenhaupt; William Spence; Clarita Balala; Gary Saldana
Subject: LU-23 comments
Attachments: LonaRidgeConditions.docx; LonaRidgeNotes.docx

Aloha Land Use Committee,

Attached please find proposed revisions to the draft ordinance for a Conditional Permit for Lona Ridge (LU-23), requested by the Planning Department. Also attached are notes that explain each requested revision.

The Department is attempting to make the conditions cleaner and easier to administer and enforce, while not changing any of the underlying policy.

In addition, we have two comments:

1. The requested revision to condition 17 in the attached document would mean that the Department would consider fundraising events at Lona Ridge to be commercial events and would count toward the number allowed by the permit, even if Ms. Wilson received no compensation for the use of the site. (For example, she may donate the use of the property to a non-profit entity to have a fundraising dinner where attendees pay for their seats and all of the revenue goes to the non-profit.)

From a policy perspective, such events are different from those where Ms. Wilson receives compensation for the use or management of the property, but they are difficult for us to distinguish from an administrative and enforcement perspective. If the Committee considers the requested revision, you might also want to consider increasing the number of commercial events (for example, from 15 to 20) or further revising this condition to allow for a certain number of commercial events for fundraising purposes where Ms. Wilson receives no compensation (for example, 5).

2. At your July 19, 2017 meeting, I was asked about the differences between the Department's recommendation to the Maui Planning Commission (MPC) and the MPC's recommendation to the Council. The MPC recommended to the Council that events be limited to 65 guests and to no more than 15 per calendar year. I stated that the Department recommended to the MPC that events be limited to 60 guests and to no more than four per month.

That is the recommendation that the Department made to the MPC for its August 23, 2016 meeting, at which the matter was deferred. At the MPC's October 25, 2016 meeting, however, the Department presented a revised recommendation that events be limited to 48 guests and to no more than two per month. I neglected to state this revised recommendation to your Committee.

Mahalo for your consideration,
Michele.

Throughout: clarifications were made so that the conditions apply only to commercial events and not agricultural or personal activities.

2. It would be appropriate for the permit renewal to be issued by the County Council rather than the Planning Director.
11. There is no need for Planning to review a parking plan. Condition 10 states that parking shall be on-site, which is adequate.
12. Clarifications were made to eliminate parking and shuttle disruptions throughout all of Wailuku Heights.
13. Clarification was made so that the landscaping is maintained.
14. Clarification was made that non-alcoholic beverages and food are allowed.
15. The Liquor Department is responsible for enforcing this condition. Planning is not experienced or trained in their procedures.
16. Clarification was made that all guests must use the shuttle if alcohol is provided.
17. Clarification was made that the permit authorizes specific types of commercial events, and defines what a "commercial event" is (and is not) for the purposes of this permit. NOTE: since fundraisers and other events that would benefit non-profits are included in this count, consideration could be given to increasing the number of events (*e.g.*, from 15 to 20).
18. Clarification was made that the number of participants does not include staff.
20. There is an existing sound system in the dwelling and its lanai which could be construed as "amplified music" but should be allowed.
21. It would be difficult to enforce this condition as written; it should be sufficient to have two Lona Ridge representatives present because most events would also have a coordinator or representative present anyway.
23. Clarification was made on the use of the guest list.
25. The applicant shall be reachable during events, or else this condition could have little effect.
27. It would be reasonable to also allow barbeques and sternos.
30. The Department cannot effectively enforce after-the-fact and should have ready access to the property when a commercial event is being conducted.

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE GRANTING LEONA ROCHA WILSON, MANAGER OF LONA RIDGE, LLC, A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS, INCLUDING WEDDINGS, CORPORATE AND NON-PROFIT RECEPTIONS, WORKSHOPS, ART SHOWS, PHOTOGRAPHY SESSIONS, FILMING, AND SIMILAR EVENTS, AS WELL AS HAWAIIAN CULTURAL PRACTICES, WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 588 KULAIWI DRIVE AND IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-5-002:010, WAILUKU, 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 Leona Rocha Wilson, manager of Lona Ridge, LLC, to conduct special events, including weddings, corporate and non-profit receptions, workshops, art shows, photography sessions, filming, and similar events, as well as Hawaiian cultural practices, within the County Agricultural District. The site is identified for real property tax purposes as tax map key (2) 3-5-002:010, comprising approximately 5.75 acres of land situated at Wailuku, Maui, Hawaii.

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

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of one year from the effective date of this ordinance; provided, that an extension of the Conditional Permit beyond this one-year period may be granted ~~pursuant to Section 19.40.090, Maui County Code~~ by the County Council.
3. That the Conditional Permit shall be held by Leona Rocha Wilson, manager of Lona Ridge, LLC, whose only member shall remain as Leona Rocha Wilson.

4. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.
5. That Leona Rocha Wilson and Lona Ridge, LLC shall exercise reasonable due care as to third parties with respect to all areas affected by the Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of the 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 Leona Rocha Wilson, Lona Ridge, LLC, and the County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of the 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 Leona Rocha Wilson 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 the Conditional Permit. A copy of the certificate of insurance naming the County of Maui as an additional insured shall be submitted to the Department of Planning within 90 calendar days from the effective date of this ordinance or prior to starting operations, whichever occurs first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department of Planning and shall include the applicable tax map key and permit numbers.
6. That a compliance report shall be submitted to the Department of Planning and approved prior to starting operations addressing all permit conditions. The report shall address compliance with the conditions established with the Conditional Permit. The compliance report shall be reviewed and approved by the Department of Planning prior to any renewal of the Conditional Permit. The report shall be in a format where the condition is listed followed by a response from Leona Rocha Wilson. A copy of the original approval shall also be submitted with this report. A current copy of the certificate of insurance shall also be included with the compliance report.
7. That evidence of compliance of any condition of the Conditional Permit shall be submitted to the Department of

Planning within 10 business days of a request by the Department of Planning. Failure to provide such evidence of compliance may result in revocation of the Conditional Permit.

8. That with the submittal of any renewal request, Leona Rocha Wilson shall submit a compliance report to the Department of Planning. The compliance report shall be reviewed and approved by the Department of Planning prior to any renewal of the Conditional Permit. The report shall be in a format where the condition is listed followed by a response from Leona Rocha Wilson. A copy of the original approval shall also be submitted with this report. A current copy of the certificate of insurance shall also be included with the compliance report.
9. That Leona Rocha Wilson shall develop and use the property in substantial compliance with the representations made to the Maui Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to so develop and use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
10. That all parking shall be on-site. Street parking is prohibited.
11. ~~That a parking plan shall be submitted to the Zoning and Enforcement Division of the Department of Planning upon the effective date of this ordinance and approved prior to the start of operations.~~
12. That no parking, shuttle stops, pick-ups or drop-offs of people or materials, or event set-up shall be conducted on Kulaiwi Drive or any other Wailuku Heights subdivision roadways or parks, including Old Wailuku Heights and Wailuku Heights phases one and two.
13. That buffering landscaping shall be planted and maintained along the periphery of the property to mitigate noise impacts to surrounding properties.
14. That ~~only~~ beer and wine shall be the only alcoholic beverages allowed at commercial events. No other beverages containing alcohol shall be allowed.
15. That all alcohol at commercial events shall be served by County of Maui-licensed bartenders and shall only be

provided in a manner that complies with the County of Maui Department of Liquor Control regulations. Compliance shall be determined by the Department of Liquor Control.

16. That for commercial events where alcohol is provided for or consumed by guests, a shuttle service for all guests shall be required and all guests shall use the shuttle for transportation to and from the site.
17. That parties, weddings, corporate and non-profit receptions, workshops, art shows, photography sessions, filming, and similar events, as well as Hawaiian cultural practices, shall be the only types of commercial events allowed by this permit, and that these events shall be limited to 15 events per calendar year. A commercial event: a) involves payment or benefit to Lona Ridge, LLC or Leona Rocha Wilson (directly or indirectly) for the use of the property, including payment for coordination, setup and cleanup conducted by or through Lona Ridge, LLC or Leona Rocha Wilson, or employees, representatives or subordinates thereof; or b) involves the use of the property for events such as fundraisers or performances, and other events where admission fees or donations are charged, requested or suggested, regardless of whether any payment is made to Lona Ridge, LLC or Leona Rocha Wilson, or employees, representatives or subordinates thereof.
A commercial event does not include uses permitted by Chapter 19.30A, Maui County Code, including personal events associated with the occupancy of the farm dwelling.
18. That commercial events shall be limited to up to 65 guests ~~or participants, not including staff such as event coordinators or caterers.~~
19. That commercial event times shall be limited to the hours between 8:00 a.m. and 8:00 p.m., including all event clean-up. All event participants and staff shall be off the property by 8:00 p.m.
20. That there shall be no amplified music at any commercial event, not including the existing sound system installed in the farm dwelling and its lanai.
21. That a minimum of two representatives from Lona Ridge, LLC shall be present at any commercial event, ~~in addition to a responsible and designated representative from the booking party.~~

22. That all exterior lighting shall be downward shielded.
23. That all commercial event guest names shall be provided on a guest list, and that guest lists be saved by the applicant and provided to the Planning Department upon request.
24. That the commercial event contract shall state that any guest found to be using illegal drugs, which includes the illegal use of prescription drugs, shall be immediately removed from the property and the representatives from Lona Ridge, LLC shall immediately call the Maui Police Department to report such illegal activity.
25. That prior to starting commercial event operations, Leona Rocha Wilson shall provide all owners of record within 500 feet of the property with a copy of the Conditional Permit approval, and with a contact ~~name and~~ telephone number for Leona Rocha Wilson where she can be reached during events if needed. Failure to respond during commercial events may be considered a violation. Evidence of compliance with this condition shall be submitted to the Department of Planning prior to starting operations.
26. That a sign shall be placed at the entrance of the property with the "Lona Ridge" name and contact telephone number.
27. That use of pyrotechnics, floating lanterns, and open flame, other than candles, barbeques, sternos and tiki torches, shall be prohibited at commercial events.
28. That a review and approval shall be required by the Department of Fire and Public Safety Fire Prevention Bureau for all commercial events ~~open to the public~~ when 50 or more people are to attend and/or when temporary tents or canopies in excess of 700 square feet in size are utilized. Compliance shall be determined by the Department of Fire and Public Safety Fire Prevention Bureau.
29. That drones and helicopter flyovers or landings shall be prohibited and these prohibitions shall be stated in the commercial event contract.
30. That if the Planning Department has reason to believe that there may be a violation of any terms or conditions of the Conditional Permit or other applicable law, Department

personnel may enter and inspect the property without prior notice.

31. That the applicant shall inform the Planning Department at least 72 hours prior to any commercial event.

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

APPROVED AS TO FORM
AND LEGALITY:

JENNIFER OANA
Deputy Corporation Counsel
County of Maui
2017-0054