

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

March 13, 2020

Committee
Report No. _____

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on January 28, 2020, makes reference to County Communication 19-93, from the Planning Director, transmitting a proposed bill, entitled "A BILL FOR AN ORDINANCE GRANTING CHRISTINE WARD A CONDITIONAL PERMIT TO OPERATE A STORE AND LUNCH COUNTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 8615 KAMEHAMEHA V HIGHWAY, PUKO`O, MOLOKAI, HAWAII AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 5-7-005:004."

The purpose of the proposed bill is to grant a request from Christine Ward of Mana`e Goods and Grindz ("the applicant") for a ten-year Conditional Permit to operate a grocery store and snack bar business known as Neighborhood Store "N" Counter within a 20,045-square foot portion of the southeast corner of the property and immediately adjacent to Kamehameha V Highway, of a larger 70.994-acre parcel at 8615 Kamehameha V Highway, Puko`o, Molokai, Hawaii, identified for real property tax purposes as tax map key (2) 5-7-005:004.

Your Committee notes the property is zoned Agricultural District. Grocery store and snack bar operations are not permitted uses. Therefore, the applicant must obtain a Conditional Permit to conduct its business.

The Molokai Planning Commission recommended approval of the Conditional Permit subject to enumerated conditions, which were included in the proposed bill. The conditions include a restriction on operations to the hours of 6:00 a.m. to 9:00 p.m. and a requirement that all customer parking be on site.

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Your Committee notes the business has operated since the early 1980s and received Conditional Permits for the use by Ordinances 3000 (2001) and 3206 (2004), respectively.

Testifiers largely supported the ten-year term for the Conditional Permit. Some testifiers recommended a Change in Zoning be considered upon the Conditional Permit's expiration.

Your Committee expressed support for the applicant's business, which appears to be providing needed services and is well regarded in the community.

Your Committee voted 5-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Paltin, Vice-Chair Sinenci, and members King, Molina, and Rawlins-Fernandez voted "aye." Committee members Lee and Sugimura were 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 nonsubstantive revisions.

Your Planning and Sustainable Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2020), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING CHRISTINE WARD A CONDITIONAL PERMIT TO OPERATE A STORE AND LUNCH COUNTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 8615 KAMEHAMEHA V HIGHWAY, PUKO`O, MOLOKA`I, HAWAI`I AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 5-7-005:004; and
2. That County Communication 19-93 be FILED.

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

Tamara A. M. Paltin

TAMARA PALTIN, Chair

pslu:cr:20028aa:alkl

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE GRANTING CHRISTINE WARD A CONDITIONAL PERMIT TO OPERATE A STORE AND LUNCH COUNTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 8615 KAMEHAMEHA V HIGHWAY, PUKO'O, MOLOKA'I, HAWAI'I AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 5-7-005:004

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. In accordance with Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is granted to Christine Ward to operate a grocery store and snack bar within the County Agricultural District at a site identified for real property tax purposes as a portion of tax map key (2) 5-7-005:004, comprising approximately 20,045 square feet in the southeast corner of the property and immediately adjacent to Kamehameha V Highway, of a larger 70.944-acre parcel, situated at Puko'o, Moloka'i, Hawai'i.

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

1. The Conditional Permit is valid for ten years from the effective date of this ordinance.
2. The Conditional Permit is not transferrable unless the Maui County Council pre-approves transference by ordinance.
3. Christine Ward must exercise reasonable due care as to third parties with respect to all areas affected by the Conditional Permit and must procure at her own cost and expense, and 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 Christine Ward and the County of Maui against any and all claims or demands for property damage, personal injury, and death arising out of the Conditional Permit, including: (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 Christine Ward of her rights; and (2) all actions, suits, damages, and claims by anyone 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 must be submitted to the Department of Planning within ninety calendar days from the effective date of this ordinance. The proof of insurance and all subsequent certifications of insurance coverage must be submitted directly by the insurance carrier to the Department of Planning and must include the applicable tax map key and permit numbers.

4. Christine Ward must develop and use the property that is the subject of this ordinance in substantial compliance with the representations made by her to the Moloka'i Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to develop and use the property as represented may result in the revocation of the Conditional Permit in accordance with Section 19.40.080, Maui County Code.
5. Full compliance with all applicable governmental requirements must be rendered in a timely manner.
6. The store must open no earlier than 6:00 a.m. and close no later than 9:00 p.m.
7. All Department of Health applicable requirements must be met, including Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code," and Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems."
8. All parking must be on site. No street parking is allowed.
9. Compliance reports must be submitted to the Department of Planning with any request for renewal of the Conditional Permit.
10. Compliance reports must also address compliance with the conditions contained in the related Special Use Permit. The report must be in a format where the condition is listed, followed by a response. A copy of the original Conditional Permit approval must also be submitted with each compliance report.

SECTION 3. This ordinance will take effect on approval.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui

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