

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

February 15, 2019

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 30, 2019, makes reference to County Communication 18-377, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY APARTMENT DISTRICT, TAX MAP KEY NUMBER (2) 2-1-007:079, MAKENA, MAUI, HAWAII."

The purpose of the proposed bill is to grant a request from John & Kamaka Kukahiko of Makena Corporation ("the Corporation") for a five-year Conditional Permit to conduct a maximum of 110 small-scale special events per year on a 0.811-acre parcel within the County A-2 Apartment District at 5034 Makena Road, Kihei, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 2-1-007:079 ("property").

Your Committee notes the property is zoned A-2 Apartment District. Conducting small-scale special events is not a permitted use within this zoning district. Therefore, the Corporation must obtain a Conditional Permit to conduct the special events.

The Maui Planning Commission recommended approval of a Conditional Permit subject to ten conditions. These conditions include limiting the number of events to 110 per year and limiting the number of guests and event staff present at an event to 49. The Commission also recommended restricting the time of the events to between 8:00 a.m. and 10:00 p.m. and disallowing musical performances at the events.

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The Corporation's representative informed your Committee the Corporation has been hosting events on the property to pay for real property taxes, despite the use not being permitted. The Corporation applied for the Conditional Permit in 2017 to bring its operation into compliance.

After the Corporation submitted its Conditional Permit application, the Department of Planning requested the Corporation cease all advertising and booking of new events. The Corporation did not cease. Since May 2018, the Department issued approximately 40 Notices of Violation for 26 events. However, the Department has not received any formal complaints on the special events from the community.

Your Committee considered a revised proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY A-2 APARTMENT DISTRICT, TAX MAP KEY NUMBER (2) 2-1-007:079, MAKENA, MAUI, HAWAII."

The revised proposed bill incorporates revisions to Condition 2 to clarify the Planning Director may forward a request to transfer the Conditional Permit to the Maui Planning Commission for review and approval. It also revises Condition 9 to remove the requirement for a shuttle for special events with 21 guests and over, and incorporates nonsubstantive revisions.

As revised, Condition 9 still disallows offsite parking and requires all guest and vendor parking to be accommodated onsite. Removing the shuttle requirement allows discretion in how guests arrive at the property and will keep all parking onsite.

Your Committee discussed the duration of the Conditional Permit. The Acting Planning Director did not object to increasing the duration from five years to ten years. Your Committee recommended a ten-year

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duration, citing the lack of complaints as a reason to proceed. Should problems arise, the community will have an opportunity to protest an extension request, prompting further review by the Council.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Paltin, Vice-Chair Sinenci, and members King, Molina, Rawlins-Fernandez, and Sugimura voted "aye." Committee member Lee was 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 your Committee's recommended revisions and nonsubstantive revisions.

Your Planning and Sustainable Land Use Committee
RECOMMENDS the following:

1. That Bill _____ (2019), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY A-2 APARTMENT DISTRICT, TAX MAP KEY NUMBER (2) 2-1-007:079, MAKENA, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 18-377 be FILED.

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



TAMARA PALTIN, Chair

pslu:cr:19020aa:jgk

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY A-2 APARTMENT DISTRICT, TAX MAP KEY NUMBER (2) 2-1-007:079, MAKENA, 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 the John & Kamaka Kukahiko of Makena Corporation to conduct a maximum of 110 small-scale special events per year at 5034 Makena Road, Makena, Maui, Hawaii, identified for real property tax purposes as Tax Map Key number (2) 2-1-007:079, within the County A-2 Apartment District, comprising approximately 0.811 acres of land situated at Makena, Maui, Hawaii.

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

1. That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided, that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the Conditional Permit shall be nontransferable unless approved by the Planning Director. The Planning Director may forward the request to the Maui Planning Commission for review and approval.
3. That the John & Kamaka Kukahiko of Makena Corporation and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all


areas affected by the subject Conditional Permit and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the John & Kamaka Kukahiko of Makena Corporation and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 the John & Kamaka Kukahiko of Makena Corporation of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable tax map key and permit numbers.

4. That the John & Kamaka Kukahiko of Makena Corporation shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the John & Kamaka Kukahiko of Makena Corporation may host a maximum of 110 events on site per calendar year.
7. That the number of guests per event shall not exceed forty-nine (49) persons including event staff.

8. That events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending by 9:30 p.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. No disc jockeys or large bands are allowed.
9. That there shall be no offsite parking, which includes parking along Makena Road or any of the public parking areas along Makena Road. For special events, all guest and vendor parking must be accommodated on site.
10. That structures utilized for the event will not be left up for longer than 24 hours.

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

APPROVED AS TO FORM
AND LEGALITY:



DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui
2019-0101
PSLU-20 2019-02-05 Ord Kukahiko Estate