

COUNCIL OF THE COUNTY OF MAUI

PLANNING AND LAND USE COMMITTEE

August 24, 2004

Committee

Report No.

04-134

As Amended

NOTE: The committee report was amended by the Council at its meeting on August 24, 2004, by deleting the bracketed material and underscoring the new material on page 3. This committee report was then adopted as amended.

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

Chair and Members:

Your Planning and Land Use Committee, having met on June 29, 2004, makes reference to County Communication No. 03-88, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2580 (1997) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO PERMIT PLANT NURSERY AND GARDEN STORE USES IN THE R-3 RESIDENTIAL DISTRICT ON A PARCEL OF LAND LOCATED AT WAIOHULI-KEOKEA, KIHEI, MAUI, HAWAII".

Your Committee notes that Ordinance No. 2580 granted a five-year Conditional Permit to operate a nursery at 1708 South Kihei Road in Kihei until November 30, 2001. The purpose of the proposed bill is to amend Ordinance No. 2580 as follows: (1) establish the name of the Conditional Permit holder as Louis Scott Walsh, dba Kihana Nursery; (2) extend the duration of the Conditional Permit to five years from the effective date of the new ordinance; (3) require the Conditional Permit holder to notify adjacent residents before using chemicals other than brands "Roundup" or "Bt"; and (4) incorporate technical revisions.

Your Committee further notes that the Maui Planning Commission held a public hearing and meeting on the application for a Conditional Permit extension on January 14, 2003. After reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT AND RECOMMENDATION TO THE MAUI PLANNING COMMISSION JANUARY 14,

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2003 MEETING”, the Commission voted to recommend approval of a five-year Conditional Permit extension, subject to the above-referenced new condition regarding chemical use.

By correspondence dated April 14, 2003, the Council Chair transmitted correspondence dated April 11, 2003, from the Planning Director, transmitting minutes of the Maui Planning Commission meeting of January 14, 2003.

At its meeting, your Committee met with the Planning Director; a Staff Planner from the Department of Planning; a Community Police Officer from the Department of Police; a Deputy Corporation Counsel; Louis Scott Walsh, the applicant; and Lawrence Ing, attorney for the applicant.

Mr. Walsh and Mr. Ing stated that Kihana Nursery is cognizant of traffic and parking concerns along South Kihei Road, and has undertaken efforts to notify patrons of applicable traffic and parking regulations.

The Community Police Officer informed your Committee that illegal parking by Kihana Nursery customers sometimes creates traffic hazards along South Kihei Road.

The Staff Planner provided a review of the Maui Planning Commission’s consideration of the subject application. She also noted that Kihana Nursery has posted signs and distributed flyers to advise its customers of parking restrictions in the area.

In response to your Committee’s questions, Mr. Walsh acknowledged that Kihana Nursery’s primary retail operations may be relocated to a nearby property in Kihei. He further acknowledged that instead of indefinitely operating pursuant to a Conditional Permit he would be amenable to seeking an appropriate Change in Zoning for that property.

Your Committee recommended that, in addition to nonsubstantive revisions, the proposed bill be revised as follows:

1. Provide that the Conditional Permit shall be granted to Kihana Nursery, Inc.

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2. Provide that the Conditional Permit shall be extended to November 30, 2009.
3. Clarify that the [banned] pre-approved chemicals shall be "Roundup®" and "Bt (*Bacillus thuringiensis*)".

Your Committee also voted to recommend passage of the revised proposed bill, and filing of the communication.

Your Committee is in receipt of a revised proposed bill, incorporating your Committee's revisions.

Your Planning and Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2004), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2580 (1997) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO PERMIT PLANT NURSERY AND GARDEN STORE USES IN THE R-3 RESIDENTIAL DISTRICT ON A PARCEL OF LAND LOCATED AT WAIQHULI-KEOKEA, KIHEI, MAUI, HAWAII" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 03-88 be FILED.

Adoption of this report is respectfully requested.

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WAYNE K. NISHIKI Chair

DANNY A. MATEO Member

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