

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 2, 2001

**Committee
Report No.**

01-37

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

Chair and Members:

Your Land Use Committee, having met on February 12, 2001, makes reference to County Communication No. 00-299, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT IN ORDER TO OPERATE A WATER PURIFICATION PLANT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT OLINDA, MAUI, HAWAII" and related documents.

The purpose of the proposed bill is to grant a Conditional Permit to allow Mauka Water Co. to continue an existing water purifying operation on approximately 7.47 acres in Olinda, Maui (TMK: 2-4-013:154).

Your Committee notes that County Communication No. 00-299 was referred to your Committee at the Council meeting of January 12, 2001 (County Communication No. 01-8).

Your Committee further notes that at its regular meeting of September 12, 2000, the Maui Planning Commission, after reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION SEPTEMBER 12, 2000 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION SEPTEMBER 12, 2000 MEETING" voted to recommend approval of the application for a one-year Conditional Permit with the following conditions:

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid for a period of five (5) years from the effective date of this ordinance.

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3. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.
4. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its 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 (\$1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of the 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 applicant 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 permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.

Your Committee notes that the recommendation of the Maui Planning Commission was based upon the following findings:

1. The proposed use does not appear to be significantly detrimental to the public interest, convenience and welfare.
2. The proposed use seems to be in harmony with the area in which it is located.

By memorandum dated January 22, 2001, the Council Chair transmitted a letter dated January 21, 2001, from the Planning Director, transmitting the minutes of the September 12, 2000 Maui Planning Commission meeting on the application for a Conditional Permit.

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At its meeting, your Committee met with the Planning Director; a Planner from the Department of Planning; a Deputy Corporation Counsel; Jamie Hunter, the applicant; and Michael Munekiyo, the applicant's consultant.

The applicant's consultant presented a computer-generated slideshow on the application providing the following land-use history of the subject property:

1. Initial State Land Use Commission Special Use Permit (SUP) approved by Maui Planning Commission on November 5, 1985.
2. SUP time extensions granted by the Maui Planning Commission on:
 - a. December 19, 1986;
 - b. November 21, 1989;
 - c. November 15, 1994;
 - d. January 28, 1997; and
 - e. September 12, 2000 (valid until Sept. 30, 2005), or until the termination date established by the Conditional Permit.
3. Requirement for County land use permit implemented in February 1997.

The slideshow also exhibited a map and photographs of the subject property.

The Planner informed your Committee that the applicant operates a bottled water business. The applicant is the enterprise's sole employee and that the business is a low-impact operation. Trucks make pickups and deliveries at the subject property, but do not park for long periods of time. The Planner informed your Committee that the Maui Planning Commission recommended that

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the Conditional Permit be granted, upon the condition that the applicant be limited to bottling an average of 1,000 gallons per day (gpd).

The Planning Director noted that the same limitation is a condition of the SUP.

Your Committee indicated that it would prefer to provide the applicant with greater flexibility and concluded that an average of 2,000 gpd would be more appropriate, although your Committee acknowledged that the more stringent 1,000 gpd limit would apply for the duration of the existing SUP.

Your Committee voted to recommend that the proposed bill be revised to incorporate the above-referenced 2,000 gpd limit and to update the proposed bill's reference date. Your Committee voted to recommend that the proposed bill, as revised, be passed on first reading and that the communication be filed.

Your Committee is in receipt of a revised proposed bill, corresponding to your Committee's recommendation and changing the year from 2000 to 2001.

Your Land Use Committee **RECOMMENDS** the following:

1. That Bill No. _____ (2001), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT IN ORDER TO OPERATE A WATER PURIFICATION PLANT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT OLINDA, MAUI, HAWAII", PASS FIRST READING and BE ORDERED TO PRINT; and
2. That County Communication No. 00-299 be FILED.

Adoption of this report is respectfully requested.

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