

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

May 18, 2001

**Committee**  
**Report No.**

01-86

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

Chair and Members:

Your Land Use Committee, having met on April 30, 2001, makes reference to County Communication No. 00-275, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO OPERATE RESIDENTIAL FACILITIES FOR ADOLESCENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII" and related documents.

The purpose of the proposed bill is to grant a Conditional Permit to Maui Youth and Family Services, Inc. (the applicant) to operate residential facilities for adolescents and construct a new residential facility and related improvements on 3.689 acres of land located at Makawao, Maui, Hawai'i (TMK: 2-5-004:006).

Your Committee notes that County Communication No. 00-275 was referred to the prior Council's Land Use Committee at the Council meeting of October 23, 2000.

At its meeting of November 16, 2000, the Committee recommended that County Communication No. 00-275 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred County Communication No. 00-275 to your Land Use Committee (County Communication No. 01-21).

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on September 26, 2000. After reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING

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COMMISSION SEPTEMBER 26, 2000 MEETING" and "MAUI PLANNING DEPARTMENT'S CONCLUSIONS OF LAW AND RECOMMENDATION REPORT SEPTEMBER 26, 2000 MEETING, the Commission voted to recommend approval of the request for a Conditional Permit subject to 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 10 years from the effective date of this ordinance; provided that, an extension of this permit beyond this 10-year period may be granted pursuant to Section 19.40.090 of the Maui County Code.
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 this 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 nonobservance or nonperformance 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.

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5. That the applicant 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 of the Maui County Code.
6. That full compliance with the conditions of the State Land Use Commission Special Use Permit, Docket No. 94/SUP0001, shall be rendered.

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

1. There is no evidence that the ongoing use will be significantly detrimental to the public interest, convenience and welfare.
2. The proposed use will be in harmony with the area.

By memorandum dated January 26, 2001, the Council Chair transmitted a letter dated January 23, 2001, from the Planning Director, transmitting the minutes of the September 26, 2000 Maui Planning Commission meeting.

By letters dated March 12, 2001, and April 5, 2001, the Chair of your Committee requested that the applicant provide a recorded five-year lease for the subject property.

By letter dated March 19, 2001, the applicant provided a portion of the requested lease.

By letter dated April 10, 2001, the applicant provided the requested lease in its entirety.

By memorandum dated April 30, 2001, the Chair of your Committee submitted floor and elevation plans and a grading map prepared by Riecke Sunnland Kono Architects, Ltd.

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At its meeting, your Committee met with the Planning Director, the Deputy Planning Director, a Staff Planner from the Department of Planning, and a Deputy Corporation Counsel.

Your Committee received testimony in support of the proposed bill from the applicant's executive director, Gail Gnazzo; the applicant's architect, Marie Kimmey; and a member of the applicant's board of directors, Helen McCord. Your Committee received testimony in opposition to the proposed bill from a member of the public, who also submitted a newspaper article and other materials.

The Staff Planner presented an approximately 10-minute videotape exhibiting the subject property. During the presentation, she noted that the State Historic Preservation had requested review of any plans relating to the applicant's renovation of an historic house on the subject property and that the Department of Fire Control recommended that an additional fire hydrant be placed on the north side of the subject property. In response to a question from your Committee, the Staff Planner noted that the applicant had provided services pursuant to a State Special Use Permit for approximately 20 years and that, until the recent issue of a new legal opinion from the Department of the Corporation Counsel, a Conditional Permit had not been required.

Ms. Kimmey provided information about the subject property and its existing and proposed structures. She informed your Committee that the applicant had used the subject property as an emergency youth shelter since 1982. The historic house on the subject property will be used as a girls' shelter and a new dwelling structure will be used as a boys' shelter, she said. Ms. Kimmey noted that the applicant had worked with the Department of Fire Control and the Department of Water Supply to determine appropriate placement, design, and construction of the new fire hydrant. She also reviewed development plans for the subject property.

Ms. Gnazzo presented an approximately 10-minute videotape providing background information on the applicant's programs. The videotape noted that the applicant's operations are guided by "a belief that if youths are provided the opportunity to succeed within a safe and prepared environment, they will respond

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positively." The videotape included testimonial interviews with former clients who had participated in the applicant's programs.

Ms. Gnazzo also answered questions posed by members of your Committee. She provided the following information:

- The applicant contracts with the State to provide substance-abuse treatment.
- The applicant is one of only two providers of residential substance-abuse treatment for youths in Hawai'i.
- The applicant generally provides one staff person for every five clients.
- Most of the applicant's clients have a dual diagnosis: (1) substance abuse; and (2) another behavioral-abuse diagnosis.
- The subject property is just one of several sites used by the applicant.
- Overall, in 2000 the applicant treated 555 clients, 441 of whom were from the County of Maui.
- The subject property currently houses 11 boys.
- The requested Conditional Permit would enable the applicant to move girls from its Pukalani facility to the subject property.
- Although the subject property will provide housing for both boys and girls, they will be in separate buildings and closely monitored to avoid improper interaction.
- The proposed improvements that would be authorized by the requested Conditional Permit would not only allow for the operation of both boys' and girls' residential facilities on the subject property, but also significantly increase available space for recreation and meetings.

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- The applicant treats youths ranging in age from 12 to 18 years old (with an average age of approximately 15 to 16 years), but is careful to minimize interaction between younger and older clients, as well as between girls and boys.
- The applicant occupies the subject property pursuant to a nominal lease provided by the County.

Ms. McCord informed your Committee that the neighbors of the subject property had no complaints regarding the applicant's operations and were not opposed to the requested Conditional Permit.

Your Committee voted to recommend passage of the proposed bill, approving the subject application, as recommended by the Maui Planning Commission. Your Committee also voted to recommend filing of County Communication No. 00-275.

Your Committee is in receipt of a revised proposed bill, incorporating non-substantive, technical amendments.

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 TO OPERATE RESIDENTIAL FACILITIES FOR ADOLESCENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT; and
2. That County Communication No. 00-275 be FILED.

Adoption of this report is respectfully requested.

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**ALAN M. ARAKAWA** **Chair**

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**DAIN P. KANE** **Member**

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**PATRICK S. KAWANO** **Vice-Chair**

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**MICHAEL J. MOLINA** **Member**

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**ROBERT CARROLL** **Member**

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**WAYNE K. NISHIKI** **Member**

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**G. RIKI HOKAMA** **Member**

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**CHARMAINE TAVARES** **Member**

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**JO ANNE JOHNSON** **Member**