

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

September 21, 2001

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

01-174

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

Chair and Members:

Your Land Use Committee, having met on August 15, 2001, makes reference to County Communication No. 01-221, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO SANDRA AND BERNICE SNIFFEN, DBA DAYSTAR CORPORATION, TO LOCATE AND USE WITHIN THE COUNTY RURAL DISTRICT A SHIPPING CONTAINER CONVERTED INTO A KITCHEN TO PREPARE FOOD FOR A LUNCH WAGON FOR PROPERTY SITUATED AT PUKALANI, MAUI, HAWAII".

The purpose of the proposed bill is to grant a Conditional Permit to Sandra and Bernice Sniffen, dba Daystar Corporation, to use a shipping container converted into a kitchen to prepare food for a lunch wagon on approximately 22,050 square feet of land located within the County Rural District, Pukalani, Maui, Hawai'i (TMK: 2-3-042:009).

2. Other related documents.

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on May 22, 2001 (continued to June 12, 2001). After reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION MAY 22, 2001 MEETING", the Commission voted to recommend approval of the request for a County Conditional Permit subject to the following conditions:

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

September 21, 2001  
Page 2

**Committee**  
**Report No.** 01-174

1. That full compliance with all applicable governmental requirements shall be rendered;
2. That the Conditional Permit shall be valid for a period of one (1) year from the effective date of this ordinance; provided that, an extension of the permit beyond this one-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 of Planning within ninety (90) calendar days from the date of transmittal of the decision and order;
5. That the applicant shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining this Conditional Permit. Failure to so develop the property may result in the revocation of the permit pursuant to Section 19.40.080 of the Maui County Code; and

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

September 21, 2001  
Page 3

**Committee**  
**Report No.**     01-174

6. That full compliance with the conditions of the State Land Use Commission Special Use Permit, Docket No. SUP2 00/0005 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.

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

The Planning Director submitted a copy of the minutes of the June 12, 2001 Maui Planning Commission meeting on the Conditional Permit application.

Your Committee received public testimony from a Pukalani resident in support of the proposed bill.

The Staff Planner provided your Committee with a videotape presentation and commentary on the subject property and its surroundings in Pukalani. She noted that the subject property is approximately two blocks from the Pukalani Terrace shopping center. She further noted that the shipping container has been surrounded by vegetation to lessen negative acoustic and visual impacts, as requested by the Department of Planning. In response to a question, the Staff Planner informed your Committee that signage will not be placed at the subject property.

Mr. Sniffen informed your Committee that the shipping container will house a kitchen that will be used to prepare plate lunches, which will be sold elsewhere. He also informed your Committee that he does not expect that the proposed use of the subject property will result in a large quantity of vehicular traffic in the surrounding area; on-site deliveries or pickups are not expected. In

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

September 21, 2001  
Page 4

**Committee**  
**Report No.** 01-174

addition, he informed your Committee that a "grease trap" will be installed to protect the septic system from fat, oil, and grease accumulation. The proposed use of the shipping container as a kitchen satisfies all applicable health-and-safety requirements, according to Mr. Sniffen, who added that there are two entryways into the shipping container.

Your Committee voted to recommend revisions to the proposed bill as follows:

1. Revise Condition 5 by adding the underlined text: "That the applicant shall develop the property in substantial compliance with the representations made to the Maui County Council's Land Use Committee on August 15, 2001 in obtaining this Conditional Permit. Failure to so develop the property may result in the revocation of the permit pursuant to Section 19.40.080 of the Maui County Code.
2. Add a new condition specifying that the kitchen shall only be operational Monday through Saturday, 4:00 a.m.-9:00 a.m.
3. Change the ordinance's effective date to the date upon which a certificate of occupancy is issued.

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

Your Committee is in receipt of a revised proposed bill, submitted by the Department of the Corporation Counsel, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO BERNICE SNIFFEN TO LOCATE AND USE WITHIN THE COUNTY RURAL DISTRICT A SHIPPING CONTAINER CONVERTED INTO A KITCHEN TO PREPARE FOOD FOR A LUNCH WAGON, FOR PROPERTY SITUATED AT PUKALANI, MAUI, HAWAII". The revised proposed bill incorporates the revisions approved by your Committee and the following technical revisions:

1. The title and Conditions 4 and 5 have been revised to indicate that the Conditional Permit will be granted to Bernice Sniffen as a sole

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

September 21, 2001  
Page 5

**Committee**  
**Report No.**     01-174

proprietor. (The Department of Planning has clarified that Bernice Sniffen is the intended permit holder.)

2. Condition 3 has been revised to read as follows: "That the Conditional Permit shall be nontransferable."

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 BERNICE SNIFFEN TO LOCATE AND USE WITHIN THE COUNTY RURAL DISTRICT A SHIPPING CONTAINER CONVERTED INTO A KITCHEN TO PREPARE FOOD FOR A LUNCH WAGON, FOR PROPERTY SITUATED AT PUKALANI, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT; and
2. That County Communication No. 01-221 be FILED.

Adoption of this report is respectfully requested.

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

September 21, 2001  
Page 6

**Committee**  
**Report No.** 01-174

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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**