

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

November 2, 2001

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

01-213

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

Chair and Members:

Your Land Use Committee, having met on October 15, 2001, makes reference to County Communication No. 01-252, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING JULIE ANN FRANK A CONDITIONAL PERMIT TO OPERATE WAI OLA GUEST HOUSE, A VACATION RENTAL WITHIN THE COUNTY R-3 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 1565 KUIIPO STREET, LAHAINA, MAUI, HAWAII".

The purpose of the proposed bill is to grant a Conditional Permit to Julie Ann Frank to operate a three-bedroom vacation rental (Wai Ola Vacation Guest House) on approximately 10,245 square feet of land at 1565 Kuuipo Street, Lahaina, Maui (TMK: 4-5-027:033).

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on July 10, 2001. After reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION JULY 10, 2001 MEETING", and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION JULY 10, 2001 MEETING", the Commission voted to recommend approval of the request for a County 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 one year from the effective date of the 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.

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3. That the Conditional Permit shall be nontransferable.
4. That the applicant, her 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 her own cost and expense, and shall maintain during the entire period of the 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 the Conditional 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 the approval of the Conditional Permit.
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 the applicant shall comply with the representations made to the Department of Fire Control by letter dated April 23, 2001: to install mounted accessible fire extinguishers in each guest bedroom, to install smoke detectors inside and outside of each guest room, and to post evacuation plans in each guest room.

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7. That all parking be on site in accordance with the representations made by letter dated April 24, 2001, and as approved by the Department of Public Works and Waste Management by letter dated May 2, 2001.

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 Director of Public Works and Waste Management; the Deputy Planning Director; a Staff Planner from the Department of Planning; a Deputy Corporation Counsel; Michele Chouteau of Chouteau Consulting, the applicant's consultant; and Julie Ann Frank, the applicant.

The applicant's consultant presented a computer-generated slide show that included interior and exterior photographs of the subject property and provided background information on the application for a Conditional Permit.

Your Committee received public testimony in support of the proposed Conditional Permit from a Lahaina resident. The testifier said the applicant's business benefits West Maui's economy.

In response to a question, the Staff Planner informed your Committee of the process that was used to notify surrounding residents of the application for a Conditional Permit.

In response to a question, the Director of Public Works and Waste Management informed your Committee that the County provides refuse-collection services to the applicant's property pursuant to Chapter 8.04, Maui County Code.

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Your Committee discussed concerns relating to noise and congestion that were raised in an anonymous letter to the Maui Planning Commission dated July 8, 2001. The applicant and her consultant indicated that they were unaware of the letter until the preceding week; that they did not know who sent the letter; and that the letter's allegations were untrue. Your Committee noted that anonymous letters generally should not be accorded much weight and that there was no evidence in the record substantiating the allegations. In addition, your Committee commended the applicant for applying for a Conditional Permit.

Your Committee voted to recommend passage of the proposed bill on first reading and filing of the communication.

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

1. That Bill No. \_\_\_\_\_ (2001), attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING JULIE ANN FRANK A CONDITIONAL PERMIT TO OPERATE WAI OLA GUEST HOUSE, A VACATION RENTAL WITHIN THE COUNTY R-3 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 1565 KUUPO STREET, LAHAINA, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT; and
  
2. That County Communication No. 01-252 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