

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

October 18, 2002

Committee
Report No. 02-141

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

Chair and Members:

Your Land Use Committee, having met on September 16, 2002 and September 30, 2002, makes reference to County Communication No. 02-162, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING JOHN HIRASHIMA A CONDITIONAL PERMIT TO OPERATE THE SUNRISE MARKET AND PROTEA FARM WITHIN THE RU-0.5 RURAL DISTRICT, FOR PROPERTY SITUATED AT CRATER ROAD, APPROXIMATELY 1,000 FEET ABOVE KEKAULIKE AVENUE, KULA, MAUI, HAWAII". The purpose of the proposed bill is to grant John Hirashima a Conditional Permit for the continued operation of the Sunrise Market and Protea Farm on approximately 2.774 acres of land located at Crater Road, approximately 1,000 feet above Kekaulike Avenue, Kula, Maui (TMK: 2-3-013:025 (portion of)).

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on July 23, 2002. After reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION JULY 23, 2002 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION JULY 23, 2002 MEETING", the Commission voted to recommend approval of the request for a County Conditional Permit subject to the following conditions (which are included in the proposed bill):

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid until July 31, 2012; provided, that an extension of this permit beyond this time period may be granted pursuant to Section 19.40.090, Maui County Code.

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3. That the Conditional Permit shall be nontransferable.
4. That John Hirashima, his 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 his 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 a named additional insured, insuring and defending John Hirashima 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 John Hirashima 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 the certificate of insurance naming County of Maui as a named additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit.
5. That John Hirashima 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, Maui County Code.

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.

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By correspondence dated August 27, 2002, the Chair of your Committee requested that the Planning Director transmit relevant minutes from the Maui Planning Commission meeting of July 23, 2002.

By correspondence dated September 5, 2002, the Planning Director informed your Committee that the minutes of the Maui Planning Commission's meeting of July 23, 2002 have not been completed.

By correspondence dated September 9, 2002, the Planning Director transmitted correspondence dated September 3, 2002, from John Hirashima to Mr. Scott English of the Department of Fire Control regarding fire protection requirements.

At its meeting of September 16, 2002, your Committee deferred the matter without discussion.

At its meeting of September 30, 2002, your Committee met with a Staff Planner from the Department of Planning; a Deputy Corporation Counsel; and John Hirashima, the applicant.

Mr. Hirashima and the Staff Planner provided background information on the application for a Conditional Permit. They noted that Sunrise Market and Protea Farm had been operating pursuant to various County and State permits for approximately 20 years without any apparent negative community impacts. Members of your Committee commended the applicant for providing steady employment and other positive economic benefits for Maui County and for engaging in desirable agricultural uses of land in the rural Upcountry area.

Your Committee voted to recommend passage of the proposed bill on first reading and filing of County Communication No. 02-162.

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Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2002), attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING JOHN HIRASHIMA A CONDITIONAL PERMIT TO OPERATE THE SUNRISE MARKET AND PROTEA FARM WITHIN THE RU-0.5 RURAL DISTRICT, FOR PROPERTY SITUATED AT CRATER ROAD, APPROXIMATELY 1,000 FEET ABOVE KEKAULIKE AVENUE, KULA, MAUI, HAWAII", PASS FIRST READING and BE ORDERED TO PRINT; and

2. That County Communication No. 02-162 be FILED.

Adoption of this report is respectfully requested.

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ALAN M. ARAKAWA **Chair**

DANNY A. MATEO **Member**

ROBERT CARROLL **Member**

MICHAEL J. MOLINA **Member**

G. RIKI HOKAMA **Member**

WAYNE K. NISHIKI **Member**

JO ANNE JOHNSON **Member**

CHARMAINE TAVARES **Member**

DAIN P. KANE **Member**