

COUNCIL OF THE COUNTY OF MAUI

PLANNING AND LAND USE COMMITTEE

August 19, 2003

Committee
Report No.

03-81

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

Chair and Members:

Your Planning and Land Use Committee, having met on July 29, 2003, makes reference to County Communication No. 03-129, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING BARCLAY JOHNSON, ON BEHALF OF SEABURY HALL, A CONDITIONAL PERMIT TO ALLOW FOR THE CONSTRUCTION OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII".

The purpose of the proposed bill is to grant a Conditional Permit to Seabury Hall to allow for the construction of a 270-stall parking lot on a portion of land adjacent to Seabury Hall on approximately 5.466 acres of land located at 480 Olinda Road in Makawao, identified for real property tax purposes as TMK No. (2)2-4-008:041.

Your Committee notes that Seabury Hall is an independent school affiliated with the Episcopal Church, serving approximately 400 students in grades 6 through 12.

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on April 22, 2003. After reviewing the findings presented in the documents respectively entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION APRIL 22, 2003 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION APRIL 22, 2003 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.

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2. That the Conditional Permit shall be valid for a period of two (2) years from the effective date of the ordinance; provided that, an extension of the Conditional Permit beyond this two-year period may be granted pursuant to Section 19.40.090 of the Maui County Code.
3. That the Conditional Permit shall be nontransferable.
4. That the Conditional Permit holder, 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 the Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1 million, naming the County of Maui as an additional named insured, insuring and defending the Conditional Permit holder and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional 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 Conditional Permit holder 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 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 approval of the Conditional Permit.
5. That the Conditional Permit holder 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:

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

By correspondence dated July 3, 2003, the Council Chair transmitted correspondence dated July 2, 2003, from the Planning Director, transmitting the minutes of the Maui Planning Commission meeting of April 22, 2003.

At its meeting, your Committee met with the Planning Director, the Administrative Planning Officer from the Department of Planning, the Director of Public Works and Environmental Management, a Captain and an Officer from the Department of Police, the Corporation Counsel, and a Deputy Corporation Counsel.

Your Committee received verbal testimony in support of the proposed bill from Rory Frampton of Chris Hart & Partners, Inc., Seabury Hall's land-use consultant.

The Planning Director provided background information on the subject application.

Your Committee noted that the development of the proposed parking lot would be likely to improve traffic flow in the area surrounding Seabury Hall.

Your Committee voted to revise the proposed bill as follows:

1. Extend the duration of the Conditional Permit to 5 years.
2. Change the name of the grantee to Seabury Hall.

Your Committee voted to recommend passage of the proposed bill on first reading, subject to the above-referenced revisions, and to file the communication.

Your Committee is in receipt of a revised proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING SEABURY HALL A CONDITIONAL PERMIT

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TO ALLOW FOR THE CONSTRUCTION OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII", approved as to form and legality, incorporating your Committee's revisions.

Your Planning and Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2003), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING SEABURY HALL A CONDITIONAL PERMIT TO ALLOW FOR THE CONSTRUCTION OF A PARKING LOT ON A PORTION OF LAND ADJACENT TO SEABURY HALL WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 480 OLINDA ROAD, MAKAWAO, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 03-129 be FILED.

Adoption of this report is respectfully requested.

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WAYNE K. NISHIKI **Chair**

DANNY A. MATEO **Member**

G. RIKI HOKAMA **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

JOSEPH PONTANILLA **Member**

JO ANNE JOHNSON **Member**

CHARMAINE TAVARES **Member**

DAIN P. KANE **Member**