

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 2, 2001

**Committee
Report No.**

01-40

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

Chair and Members:

Your Land Use Committee, having met on February 12, 2001, makes reference to County Communication No. 00-10, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT IN ORDER TO OPERATE A BED AND BREAKFAST AND A TRANSIENT VACATION RENTAL WITHIN THE COUNTY AGRICULTURAL DISTRICT SITUATED AT KULA, MAUI, HAWAII".

The purpose of the proposed bill is to grant a Conditional Permit, for one year, for the operation of a bed and breakfast and transient accommodation vacation rental ("Kula Hula Inn Maui, Inc.") on approximately 2.025 acres of land located within the County Agricultural District, Kula, Maui (TMK: 2-3-058:050).

The applicant, Herbert Haskell, has requested the Conditional Permit on behalf of the Kula Hula Inn Maui, Inc.

Your Committee notes that the applicant is also required to maintain a State Land Use Commission Special Use Permit from the Maui Planning Commission in order to operate the proposed bed and breakfast and transient accommodation vacation rental. The applicant was granted a State Land Use Commission Special Use Permit with conditions on November 9, 1999.

Your Committee notes that the Maui Planning Commission held a public hearing on the Conditional Permit application on November 9, 1999. One person testified in favor of the application at the public hearing. Another person testified to raise concerns about the title to the property. Two written testimonies were also received, one supporting and one opposing the application.

Your Committee further notes that at its regular meeting of November 9, 1999, the Maui Planning Commission, after reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S

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REPORT TO THE MAUI PLANNING COMMISSION NOVEMBER 9, 1999 MEETING” and “MAUI PLANNING DEPARTMENT’S RECOMMENDATION TO THE MAUI PLANNING COMMISSION NOVEMBER 9, 1998 [*sic*] MEETING” voted to recommend approval of the application for a one-year Conditional Permit subject to the following conditions:

1. That the Conditional Permit shall be valid for a period of one year from the effective date of the ordinance establishing it; provided that, an extension of this permit beyond this one year period may be granted pursuant to Section 19.40.090 of the Maui County Code;
2. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council;
3. That the bed and breakfast operation shall be primarily in the main dwelling operated by the owner-proprietor who shall occupy the dwelling at all times when rooms are rented to guests. Use of the cottage and garage units as transient vacation rentals shall be subject to the continued use of the main dwelling. Upon termination of the bed and breakfast use in the main dwelling, use of the cottage and garage units as transient vacation rentals shall be terminated;
4. That full compliance with all applicable governmental requirements shall be rendered, including the conditions of the Special Use Permit Docket No. SUP2 990001.

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

1. The proposed use does not appear to be significantly detrimental to the public interest, convenience and welfare.
2. The proposed use seems to be in harmony with the area in which it is located.

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Your Committee further notes that County Communication No. 00-10 was referred to the prior Council's Land Use Committee at the Council meeting of January 7, 2000.

By letter dated April 7, 2000, the Planning Director transmitted copies of two insurance policies insuring the County of Maui and Linda Marsden, co-owner of the subject property.

By letter dated June 22, 2000, the Planning Director transmitted the November 9, 1999 meeting minutes of the Maui Planning Commission and additional correspondence.

By memorandum dated June 27, 2000, the Council Chair transmitted a letter dated June 22, 2000, from Gwen Ohashi Hiraga, updating the Council Chair on the status of the application.

By letter dated June 30, 2000, Gwen Ohashi Hiraga requested a deferral of a meeting on the application.

At its meeting of July 3, 2000, the Committee met with the Planning Director; a Planner from the Department of Planning; a Deputy Corporation Counsel; and Gwen Ohashi Hiraga, the applicant's Project Manager.

The Chair of the Committee noted a written request on behalf of the applicant asking to defer the matter due to outstanding issues including the ownership of the property. The Chair requested that the Department of Planning consider requiring the applicant to cease his operations if the matter is not resolved within the next 90 days. The Chair noted that the bed and breakfast has been operating illegally for five years due, in part, to the Department of Planning's policy to allow operations to continue while the applicant seeks the necessary after-the-fact permits.

The Committee agreed to defer the matter pending further discussion and resolution of the ownership issues.

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By letter dated July 10, 2000, the Chair of the Committee urged the Department of Planning to issue a Notice to Cease Operations if the ownership dispute was not resolved within 90 days.

By letter dated July 19, 2000, the Planning Director transmitted a copy of a letter dated July 6, 2000 to Ms. Gwen Hiraga, noting the Chair of the Committee's request that a Notice to Cease Operations be issued.

By letter dated July 27, 2000, the Chair of the Committee requested clarification from the Planning Director regarding whether a Notice to Cease Operations would be issued.

By letter dated August 29, 2000, Linda Marsden informed the Committee that she was no longer an owner of the subject property.

By letter dated September 7, 2000, the Chair of the Committee sent a second request to the Department of Planning for a response to the Chair's letter dated July 27, 2000.

By letter dated September 25, 2000, David L. Bourgoin, Esq., informed the Committee that the ownership and authorization issues had been resolved.

At its meeting of November 16, 2000, the Committee discussed the disposition of all items on its agenda.

The Committee recommended that County Communication No. 00-10 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. 00-10 to your Land Use Committee (County Communication No. 01-21).

At its meeting, your Committee met with the Planning Director; a Planner from the Department of Planning; a Deputy Corporation Counsel; Herbert Haskell, the applicant; and Gwen Ohashi Hiraga, the applicant's Project Manager.

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The applicant's Project Manager presented a computer-generated slideshow on the application providing the following information:

- The applicant is requesting a Conditional Permit for a bed and breakfast at 112 Hoopalua Drive in the Kula 200 Subdivision. The project parcel encompasses a single-family dwelling of approximately 1,940 square feet, a second unit of approximately 1,840 square feet, and a studio unit attached to the garage of approximately 600 square feet.
- The bed and breakfast operation consists of transient rentals for four guest rooms (the cottage, the room attached to the garage, and two rooms in the main dwelling).
- The average stay of visitors in the main dwelling and the room attached to the garage is 3-5 days, while the average stay at the cottage is 10 days.

The slideshow also exhibited a map and photographs of the subject property.

The applicant informed your Committee that the bed and breakfast operation had been financially successful and had not resulted in negative community impacts.

Your Committee commended the applicant on his accomplishments and, because of the applicant's successful record, voted to recommend that the proposed bill be revised to grant a three-year Conditional Permit and to update the proposed bill's reference date. Your Committee voted to recommend that the proposed bill, as revised, be passed on first reading and that the communication be filed.

Your Committee is in receipt of a revised proposed bill, corresponding to your Committee's recommendations.

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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 IN ORDER TO OPERATE A BED AND BREAKFAST AND A TRANSIENT VACATION RENTAL WITHIN THE COUNTY AGRICULTURAL DISTRICT SITUATED AT KULA, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT; and

2. That County Communication No. 00-10 be FILED.

Adoption of this report is respectfully requested.

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