

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

October 19, 2001

Committee
Report No.

01-197

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 27, 2001, makes reference to County Communication No. 01-235, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO OPERATE TWO VACATION RENTALS WITHIN THE COUNTY RURAL DISTRICT FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI, HAWAII".

The purpose of the proposed bill is to accommodate a request from Lance M. "Kip" Dunbar, on behalf of Dunbar Makai Partners and Dunbar Ranch Partners, for a Conditional Permit to operate two existing vacation rentals on approximately 2.79 acres of land located within the County Rural District, Pauwalu, Moloka'i (TMK: 5-7-003:061 and 063, respectively).

Your Committee notes that the Moloka'i Planning Commission ("Commission") held three meetings on the Conditional Permit application. The meetings were held on March 14, 2001, March 28, 2001 (reconvened to April 25, 2001, and May 9, 2001), and May 23, 2001. After reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MOLOKAI PLANNING COMMISSION MARCH 14, 2001 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MOLOKAI PLANNING COMMISSION MARCH 14, 2001 MEETING", the Commission voted 5-3 to recommend approval of the request for a 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 one (1) year from the effective date of the ordinance; 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.
3. That the Conditional Permit shall be nontransferable.
4. That the applicants, their 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 their 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 applicants 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 within ninety (90) calendar days from the date of transmittal of the decision and order.
5. That the applicants 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 subject to Section 19.40.080 of the Maui County Code.
6. That full compliance with the conditions of State Land Use Commission Special Use Permit, Docket No. SUP2 00/0006 shall be rendered.

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Your Committee further notes that the Commission's recommendation 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 Deputy Planning Director; a Staff Planner from the Department of Planning; a Deputy Corporation Counsel; and Lance M. "Kip" Dunbar, representing the applicants.

Your Committee received public testimony from a Commission member in support of the proposed bill. She explained that the Commission deliberated for so long regarding the subject application because it was the first request for a Conditional Permit for a vacation rental on Moloka'i and because the Commission took great care to consider public testimony and consult with its advisors from the Department of Planning and the Department of the Corporation Counsel. Of particular concern was the proposed use's consistency with the Moloka'i Community Plan. Ultimately, the Commission concluded that the proposed use was consistent with the Community Plan. In addition, the Commission was favorably disposed towards the applicants because they had taken the initiative to seek a Conditional Permit, unlike the operators of allegedly illegal vacation rentals on Moloka'i.

Your Committee also expressed its appreciation for the applicants' efforts to comply with legal requirements. In addition, the Deputy Planning Director noted that no complaints had been received regarding the vacation rentals. He also reported that the applicants had received a two-year State Land Use Commission Special Use Permit ("SUP"). Your Committee noted that it would be more efficient for all concerned parties if the proposed Conditional Permit were to run concurrently with the SUP. Your Committee voted to recommend passage of the proposed bill on first reading, as revised, to provide that the Conditional Permit shall be of the same duration as the SUP, and to file the communication.

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Your Committee notes that the proposed bill relates to two different properties, respectively owned by different (although related) entities. Therefore, consistent with your Committee's intent, the Department of the Corporation Counsel transmitted the following proposed bills:

1. "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI, HAWAII".

The purpose of the proposed bill is to grant Dunbar Ranch Partners a Conditional Permit to operate a vacation rental on approximately 2.16 acres at Pauwalu, Moloka`i (TMK: 5-7-003:061).

2. "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI, HAWAII".

The purpose of the proposed bill is to grant Dunbar Makai Partners a Conditional Permit to operate a vacation rental on approximately 0.63 acres at Pauwalu, Moloka`i (TMK: 5-7-003:063).

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 DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT;

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2. That Bill No. _____ (2001), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT; and

3. That County Communication No. 01-235 be FILED.

Adoption of this report is respectfully requested.

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