

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

November 15, 2002

**Committee
Report No.**

02-173

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 October 28, 2002, makes reference to County Communication No. 02-97, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING JEANNE MCJANNET, DBA MAALAEA BAY RENTALS, A DIVISION OF J. NOWELL REALTY, A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL OFFICE WITHIN THE COUNTY A-2 APARTMENT DISTRICT, FOR PROPERTY SITUATED AT 280 HAUOLI STREET, MAALAEA, MAUI, HAWAII".

The purpose of the proposed bill is to grant Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, a Conditional Permit to operate a transient vacation rental office at the Hono Kai Resort on approximately 1.011 acres located at 280 Hauoli Street, Maalaea, Maui (TMK: 3-8-014:002).

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on March 25, 2002. After reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION MARCH 25, 2000 [sic] MEETING" and "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION MARCH 25, 2002 MEETING", the Commission voted to recommend approval of the Conditional Permit subject to the following conditions (as incorporated in the proposed bill):

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid for a period of five years from the effective date of this ordinance; provided, that an

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extension of this permit beyond this five-year period may be granted pursuant to Section 19.40.090, Maui County Code.

3. That the Conditional Permit shall be nontransferable.
4. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, 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 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) naming the County of Maui as a named additional insured, insuring and defending Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, 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 Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, 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 Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, 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.
6. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, shall provide parking for the office operation in accordance with Chapter 19.36, Maui County Code.

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7. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, shall provide a one-hour separation wall between units A-9 and A-10, as required by code.
8. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, shall file with the Department of Finance, Real Property Tax Division, a copy of the Supplemental Public Report filed by the Association of Apartment Owners of Hono Kai Resort with the Department of Commerce and Consumer Affairs identifying Unit A-9 as a commercial use unit.
9. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, shall comply with Public Law 101-336, American with Disabilities Act – Title III, which requires all places of public accommodation and commercial facilities to be accessible to people with disabilities.
10. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, shall file with the Department of Planning a list of the transient vacation rental units by projects and Tax Map Key offered for rental by Maalaea Bay Rentals. Upon completion of filing any changes to the list of transient vacation rental units shall be forwarded to the Department of Planning for update.
11. That Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty, shall obtain a Certificate of Compliance for the transient vacation rental office from the Department of Planning. Said certificate shall be issued upon compliance with permit conditions and applicable County codes and prior to initiation of the transient vacation rental office operation.

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, or welfare.
2. The proposed use will be in harmony with the area.

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By correspondence dated July 16, 2002, the Acting Council Chair transmitted correspondence dated July 10, 2002, from the Planning Director, transmitting the minutes of the March 25, 2002 Maui Planning Commission meeting.

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

At its meeting of October 28, 2002, your Committee met with the Deputy Planning Director; a Staff Planner from the Department of Planning; the First Deputy Corporation Counsel; and the applicant, Jeanne McJannet, dba Maalaea Bay Rentals, a Division of J. Nowell Realty.

In addition to Ms. McJannet and another individual representing Maalaea Bay Rentals, one member of the public testified in support of the proposed bill, citing the applicant's exemplary business practices. Another member of the public testified in opposition because of his concern about allowing business operations in an area zoned for residential use.

Following a brief discussion, your Committee voted to recommend the passage of the proposed bill on first reading and filing of County Communication No. 02-97.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2002), attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING JEANNE MCJANNET, DBA MAALAEA BAY RENTALS, A DIVISION OF J. NOWELL REALTY, A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL OFFICE WITHIN THE COUNTY A-2 APARTMENT DISTRICT, FOR PROPERTY SITUATED AT 280 HAUOLI STREET, MAALAEA, MAUI, HAWAII" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 02-97 be FILED.

Adoption of this report is respectfully requested.

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