

COUNCIL OF THE COUNTY OF MAUI  
**LAND USE COMMITTEE**

November 6, 2009

**Committee  
Report No.** \_\_\_\_\_

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

Chair and Members:

Your Land Use Committee, having met on October 14, 2009, makes reference to County Communication No. 09-180, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING THE ASSOCIATION OF APARTMENT OWNERS OF KAUHALE MAKAI A CONDITIONAL PERMIT FOR THE OPERATION OF CONCIERGE SERVICES IN AN EXISTING LOBBY OF KAUHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM COMPLEX WITHIN THE COUNTY A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from the Association of Apartment Owners of Kauhale Makai (AOAO) for a five-year Conditional Permit to operate concierge services in the existing, 397-square-foot lobby of Kauhale Makai (Village By The Sea) Condominium Complex, located at 938 S. Kihei Road, Kihei, Hawaii (TMK: (2) 3-9-01:075 CPR 0128).

Linda Paul, Secretary, AOAO, provided your Committee with a breakdown of the number of units operating as vacation rentals at Kauhale Makai, noting that the great majority of the 169 units have always operated in that manner. She informed your Committee that the AOAO owns two units at Kauhale Makai, one of which is the lobby at which the concierge services would be provided. She noted that the AOAO would like to provide a small amount of conveniences for occupants and guests through the proposed Conditional Permit.

Your Committee notes that the proposed bill limits concierge desk services to the interior of Kauhale Makai, to Kauhale Makai's guests only, and to the hours that the lobby is in operation. The proposed bill also prohibits signs in specified locations and solicitation for timeshares. Finally, the proposed bill allows the sale of sundry items to occupants and guests of Kauhale Makai.

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

November 6, 2009  
Page 2

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Your Committee voted to recommend that Condition No. 6 be revised to clarify that concierge desk services would also be permitted to occupants of Kauhale Makai; that Condition No. 8 be revised to clarify that the sign prohibition would apply to all buildings at Kauhale Makai, to correct the street name, and for readability; and that Condition No. 11 be revised to clarify that the sale of sundry items shall be restricted to occupants and guests of Kauhale Makai.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Kaho`ohalahala, Mateo, Nishiki, Pontanilla, and Victorino voted "aye". Committee members Johnson and Medeiros were excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2009), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING THE ASSOCIATION OF APARTMENT OWNERS OF KAUAHALE MAKAI A CONDITIONAL PERMIT FOR THE OPERATION OF CONCIERGE SERVICES IN AN EXISTING LOBBY OF KAUAHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM COMPLEX WITHIN THE COUNTY A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-180 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
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GLADYS C. BAISA, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2009)

A BILL FOR AN ORDINANCE GRANTING THE ASSOCIATION OF APARTMENT OWNERS OF KAUAHALE MAKAI A CONDITIONAL PERMIT FOR THE OPERATION OF CONCIERGE SERVICES IN AN EXISTING LOBBY OF KAUAHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM COMPLEX WITHIN THE COUNTY A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to the Association of Apartment Owners of Kauhale Makai for the operation of concierge services in an existing lobby of Kauhale Makai (Village by the Sea) condominium complex within the County A-2 Apartment District. The site is identified for real property tax purposes by Tax Map Key Number: (2) 3-9-001:075 CPR 0128, situated at Kihei, Maui, Hawaii.

SECTION 2. The granting of this Conditional Permit is subject to the following conditions:

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 (5) years from the effective date of this ordinance; provided, that an extension of this Conditional 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, unless the Council approves the transfer by ordinance.
4. That the Association of Apartment Owners of Kauhale Makai, 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 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 the Association of Apartment Owners of Kauhale Makai 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 Association of Apartment Owners of Kauhale Makai 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 Conditional 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 effective date of this ordinance.

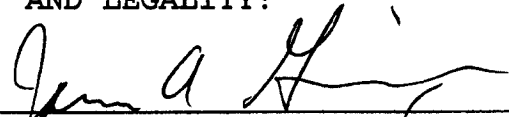
5. That the Association of Apartment Owners of Kauhale Makai shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

**PROJECT SPECIFIC CONDITIONS:**

6. That the concierge desk shall be restricted to providing service only to occupants and guests of Kauhale Makai.
7. That all concierge activity shall be limited to the interior of Kauhale Makai.
8. That no signs advertising the concierge desk shall be posted on the exterior of the buildings, on or along South Kihei Road, or within the parking area.
9. That solicitation for time shares shall not be allowed.
10. That concierge desk hours shall be limited to the lobby hours.
11. That sales of sundry items shall be restricted to occupants and guests of Kauhale Makai.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
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JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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