

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

April 1, 2011

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 March 16, 2011, makes reference to County Communication No. 11-26, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF 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 a request from Jeanne McJannet on behalf of Maalaea Bay Realty & Rentals LLC ("applicant"), for a Conditional Permit time extension, to continue to operate a transient vacation rental office at the Hono Kai Resort, within the County A-2 Apartment District, for property situated at 280 Hauoli Street, Apartment A-9, Maalaea, Maui, Hawaii (TMK: (2) 3-8-14:002 (por.)).

Your Committee notes that Ordinance No. 3095 (2002) granted the applicant a Conditional Permit to operate a transient vacation rental office at the Hono Kai Resort, subject to certain conditions. Ordinance No. 3203 (2004) amended Ordinance No. 3095 (2002) to change the name of the permit holder, delete a condition that required the permit holder to file a copy of the Supplemental Public Report with the Department of Finance, and incorporate nonsubstantive revisions.

Your Committee further notes that the Maui Planning Commission recommended that the Conditional Permit be amended to delete condition nos. 7 and 10, as they are no longer necessary. The applicant has complied with relevant Fire Code provisions relating to a one-hour separation wall, as required by Condition No. 7; and on July 6, 2010, the Department of Planning issued a Certificate of Compliance, as required by Condition No. 10.

Your Committee received a revised proposed bill clarifying that the Conditional Permit shall be valid until December 10, 2017, and incorporating nonsubstantive revisions.

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The applicant provided information verifying that the transient vacation rental office is in compliance with the Americans with Disabilities Act; therefore, Condition No. 8 is no longer necessary. Your Committee recommended that Condition No. 8 be deleted.

Your Committee voted 8-0 to recommend passage of a revised proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair White, and members Cochran, Couch, Hokama, Mateo, Pontanilla, and Victorino voted "aye". Committee member Baisa was excused.

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

Your Land Use Committee RECOMMENDS the following:

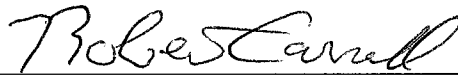
1. That Bill No. _____ (2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A TRANSIENT VACATION RENTAL OFFICE WITHIN THE COUNTY A-2 APARTMENT DISTRICT, FOR PROPERTY SITUATED AT 280 HAUOLI STREET, MAALAEA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 11-26 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

lu:cr:11006aa:kmh

ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A TRANSIENT VACATION RENTAL OFFICE WITHIN THE COUNTY A-2 APARTMENT DISTRICT, FOR PROPERTY SITUATED AT 280 HAUOLI STREET, MAALAEA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 3095 (2002), as amended by Ordinance No. 3203 (2004), is extended, subject to the conditions imposed in Section 2 of this ordinance, for the operation of a transient vacation rental office within the County A-2 Apartment District. The site is identified for real property tax purposes by Tax Map Key No. (2) 3-8-014:002 (por.), and is comprised of approximately 1.011 acres of land, of which the transient vacation rental office portion is approximately 555 square feet.

SECTION 2. The conditions imposed in Ordinance No. 3203 (2004) are amended to read as follows:

- "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;] until

December 10, 2017; provided, that an extension of this [permit] Conditional Permit beyond this [five-year] period may be granted pursuant to Section 19.40.090, Maui County Code.

3. That the hours of office operation shall be limited to [4:00] 8:00 a.m. to [10:00] 5:00 p.m.

4. That Maalaea Bay Realty & Rentals LLC, 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 (\$1,000,000.00), naming the County of Maui as [a named] an additional insured, insuring and defending Maalaea Bay Realty & Rentals LLC and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this [permit] 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 Maalaea Bay Realty & Rentals LLC 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.] Conditional Permit. A copy of the certificate of insurance naming County of Maui as [a named] an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the [date of approval of this Conditional Permit.]

effective date of the most recent amendment to this ordinance.

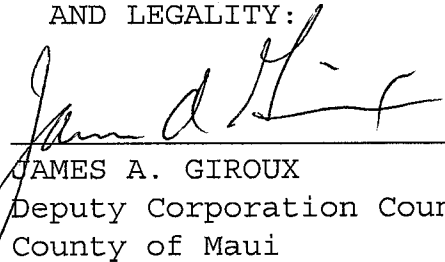
5. That Maalaea Bay Realty & Rentals LLC shall develop the property in substantial compliance with the representations made to the [Maui County] Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That Maalaea Bay Realty & Rentals LLC shall provide parking for the office operation in accordance with Chapter [19.36] 19.36A, Maui County Code.
- [7. That Maalaea Bay Realty & Rentals LLC shall provide a one-hour separation wall between units A-9 and A-10, as required by code.
- 8.]7. That Maalaea Bay Realty & Rentals LLC shall comply with Public Law 101-336, Americans with Disabilities Act - Title III, which requires all places of public accommodation and commercial facilities to be accessible to people with disabilities.
- [9.]8. That Maalaea Bay Realty & Rentals LLC shall file with the Department of Planning a list of the transient vacation rental units by project and Tax Map Key (TMK) 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.
- [10. That Maalaea Bay Realty & Rentals LLC 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.

11.]9. The Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance."

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

APPROVED AS TO FORM
AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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