

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

November 4, 2011

**Committee
Report** _____

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 19, 2011, makes reference to County Communication 11-269, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING O.W. RANCH LLC AN EXTENSION OF A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A TWELVE-BEDROOM TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 2-2-001:017 (POR.), 1373 THOMPSON ROAD, KULA, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from O.W. Ranch LLC for a 10-year extension of its Conditional Permit to operate a 12-bedroom transient vacation rental and conduct special events within the County Agricultural District on approximately 17.367 acres located at 1373 Thompson Road, Kula, Maui, Hawaii.

Your Committee notes that Ordinance 3264 (2005) granted a Conditional Permit to O.W. Ranch LLC ("Applicant") for a period of five years, which expired on April 8, 2010. Rory Frampton, consultant for the Applicant, informed your Committee that the Applicant was not able to begin the transient vacation rental operations due to extensive infrastructure improvements and renovations to the buildings. He said that the number of bedrooms was reduced from 12 to 11.

Your Committee recommended that the proposed bill be revised to indicate that the Conditional Permit will be granted for the operation of an 11-bedroom transient vacation rental.

Your Committee notes that a State Land Use Special Use Permit ("SUP") is also required to allow for the operation of the transient vacation rental in the State Agricultural District. The Maui Planning Commission granted a 10-year time extension of the SUP, until May 31, 2020, or until the termination date of the Conditional Permit extension, whichever is later. Your Committee recommended that the proposed bill be revised to grant an extension of the Conditional Permit until May 31, 2020, to be consistent with the SUP.

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Mr. Frampton informed your Committee that the Applicant is considering either an onsite property manager, or an offsite property manager who will reside on an abutting property owned by the Applicant. He said that the original 9-acre parcel was consolidated with another parcel resulting in an increase of the total acreage to approximately 17.367 acres. Pursuant to an agreement with the Applicant, Haleakala Ranch is using the additional acreage to graze cattle.

Your Committee expressed concern about permitting the transient vacation rental use and special events to take place on property that is surrounded by agricultural activity. Regarding the special events, Mr. Frampton noted that the SUP conditions control special events by limiting the maximum number of people, not permitting events beyond 9:00 p.m., and requiring onsite event parking. Your Committee was further persuaded that the proposed uses will be compatible with the surrounding area because the renovated structures look similar to the original structures, there is agricultural activity on the property, and the landscaping is consistent with agricultural uses.

Your Committee voted 5-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair White, and members Baisa, Couch, and Pontanilla voted "aye". Committee members Cochran, Hokama, Mateo, and Victorino were excused.

Your Committee is in receipt of a revised proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING O.W. RANCH LLC AN EXTENSION OF A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF AN ELEVEN-BEDROOM TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO.(2) 2-2-001-017 (POR.), 1373 THOMPSON ROAD, KULA, MAUI, HAWAII", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

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Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING O.W. RANCH LLC AN EXTENSION OF A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF AN ELEVEN-BEDROOM TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 2-001-017 (POR.), 1373 THOMPSON ROAD, KULA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 11-269 be FILED.

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



ROBERT CARROLL, Chair

ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE GRANTING O.W. RANCH LLC AN
EXTENSION OF A CONDITIONAL PERMIT TO ALLOW THE
OPERATION OF AN ELEVEN-BEDROOM TRANSIENT VACATION RENTAL AND
TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL
DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO.
(2) 2-2-001:017 (POR.), 1373 THOMPSON ROAD, KULA, 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. 3264 (2005), is
extended, subject to the conditions imposed in Section 2 of this
ordinance, for the operation of an eleven-bedroom transient
vacation rental and to conduct special events within the County
Agricultural District. The site is identified for real property
tax purposes by Tax Map Key No. (2) 2-2-001:017 (por.), and is
comprised of approximately 17.367 acres of land.

SECTION 2. The conditions imposed in Ordinance No. 3264
(2005) are amended to read as follows:

- "1. That full compliance with all applicable governmental requirements shall be rendered, including the conditions of the State Land Use Commission Special Use Permit (SUP 2003/0006).
2. That the Conditional Permit shall be valid [for a period of five (5) years from the effective date of this ordinance;] until May 31, 2020; provided[,] that, an extension of

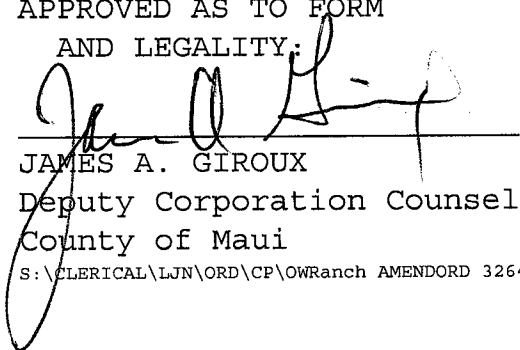
this Conditional Permit beyond this [five-year] period may be granted pursuant to Section 19.40.090, Maui County Code.

3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
4. That O.W. Ranch LLC, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by the 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 O.W. Ranch LLC 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 O.W. Ranch LLC 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] an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of the most recent amendment to this ordinance.
5. That O.W. Ranch 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."

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

APPROVED AS TO FORM
AND LEGALITY:



A handwritten signature in black ink, appearing to read 'James A. Giroux', is written over a horizontal line. The signature is fluid and cursive.

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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