

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

June 17, 2005

Committee
Report No.

_____ 05-74

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

Chair and Members:

Your Land Use Committee, having met on June 1, 2005, makes reference to County Communication No. 04-43, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3003 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/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 extend by ten years a Conditional Permit to Dunbar Makai Partners and Dunbar Ranch Partners for the operation of a vacation rental known as "Dunbar Beachfront Cottages" within the County Rural District on approximately 2.16 acres of land situated at Pauwalu, Molokai (TMK Nos.: (2) 5-7-003:061 and (2) 5-7-003:063).

Your Committee notes that the Molokai Planning Commission held a public hearing on the application on March 12, 2003.

Your Committee further notes that at its meeting of March 12, 2003, the Molokai Planning Commission, after reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT AND RECOMMENDATION TO THE MOLOKAI PLANNING COMMISSION MARCH 12, 2003 MEETING", voted to recommend approval of the Conditional Permit time extension.

Your Committee notes that County Communication No. 04-43 was referred to the former Council's Planning and Land Use Committee at the Council meeting of February 6, 2004.

By correspondence dated May 18, 2004, the Chair of the Committee requested that the Planning Director return the application to the Molokai Planning Commission and seek a different recommendation relating to the duration of the Conditional Permit, which he deemed excessive.

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By correspondence dated May 24, 2004, the Planning Director responded that it was inappropriate to return the application to the Molokai Planning Commission.

At its meeting of January 21, 2005, the Council referred County Communication No. 04-43 to your Land Use Committee (County Communication No. 05-13).

By correspondence dated February 14, 2005, the Chair of your Committee requested that the Department of the Corporation Counsel review the proposed bill because it is inconsistent with Ordinance No. 3003, the ordinance it purports to amend, and fails to address Ordinance No. 3002 altogether. Ordinance No. 3003 granted a Conditional Permit to Dunbar Makai Partners in 2001 for approximately 0.63 acres of land, and Ordinance No. 3002 granted a Conditional Permit to Dunbar Ranch Partners in 2001 for approximately 2.16 acres of land. Furthermore, the Chair of your Committee requested that the Department respond to various concerns and transmit a revised proposed bill(s) addressing those concerns.

By correspondence dated March 3, 2005, the Department of the Corporation Counsel transmitted the following:

1. A revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3002 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI, HAWAII".

The purpose of the revised proposed bill is to grant a ten-year extension of a Conditional Permit to both Dunbar Makai Partners and Dunbar Ranch Partners to operate a vacation rental on approximately 2.16 acres of land situated at Pauwahu, Molokai, Hawaii (TMK No. (2) 5-7-003:061).

2. A revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3003 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT

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FOR PROPERTIES SITUATED AT PAUWALU, MOLOKAI,
HAWAII”.

The purpose of the revised proposed bill is to grant a ten-year extension of a Conditional Permit to both Dunbar Makai Partners and Dunbar Ranch Partners to operate a vacation rental on approximately 0.63 acres of land situated at Pauwalu, Molokai, Hawaii (TMK No. (2) 5-7-003:063).

By correspondence dated May 5, 2005, the Chair of your Committee requested further nonsubstantive revisions to the revised proposed bills.

By correspondence dated May 6, 2005, the Department of the Corporation Counsel transmitted the following revised proposed bills incorporating the requested nonsubstantive revisions:

1. A revised proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3002 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR TAX MAP KEY NO. (2) 5-7-003:061, SITUATED AT PAUWALU, MOLOKAI, HAWAII”; and
2. A revised proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3003 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR TAX MAP KEY NO. (2) 5-7-003:063, SITUATED AT PAUWALU, MOLOKAI, HAWAII”.

Your Committee notes that the original Conditional Permits granted by Ordinance Nos. 3002 and 3003 were effective November 5, 2001, and valid for as long as the corollary State Land Use Commission Special Use Permit was valid, not including any extensions. In addition, your Committee notes that the original Special Use Permit was valid “for a period of two (2) years, or until May 23, 2003, or for the period of the Conditional Permit, whichever is greater”.

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By correspondence dated June 1, 2005, the Chair of your Committee transmitted a copy of correspondence dated May 24, 2003, from the Planning Director to Lance Dunbar, relating to the State Land Use Commission Special Use Permit Time Extension. Your Committee notes that the Special Use Permit is valid by extension until March 31, 2013, or for the period of the Conditional Permit, whichever is greater.

At its meeting of June 1, 2005, your Committee met with the Planning Director; a Planner, Department of Planning; the Deputy Director of Public Works and Environmental Management; a Deputy Corporation Counsel; and Lance "Kip" Dunbar, on behalf of both Dunbar Makai Partners and Dunbar Ranch Partners (applicants).

There was no public testimony.

Mr. Dunbar provided a brief overview of his application. He informed your Committee that the transient vacation rental operations are owned and run by family. The cottages are plantation-style two-bedroom, one-bath units of approximately 720 square feet in size. The units rent for \$170 per night plus taxes and a one-time cleaning fee. He confirmed that he pays transient accommodations taxes on the operations.

The Planner summarized the application. She noted that the applicant is requesting the amendment of ordinances granting Conditional Permits to allow for the continued operation of two transient vacation rentals in the County Rural District. The subject parcels are located in the State Rural District and within the Special Management Area.

Your Committee noted the importance of legitimizing vacation rentals so that people are aware of what is occurring in their community and how various facilities are being utilized. Your Committee further noted that Mr. Dunbar has complied with the conditions of the Conditional Permits and has continued to maintain good relations with his neighbors.

Your Committee questioned whether Conditional Permits continue once property is sold. Your Committee also discussed real property valuation and assessment issues relating to transient vacation rental use.

Your Committee considered whether boilerplate language should be inserted in Conditional Permit bills, which would require that a sale of the subject property during the term of the Conditional Permit be reported to the Department of Planning. The

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reporting requirement would provide an avenue for monitoring whether the use granted by the Conditional Permit would be continued or terminated by the purchaser, particularly for Conditional Permits of a certain duration.

The Deputy Corporation Counsel noted that, if the business was sold along with the property, the Conditional Permit would still be valid because the identity of the permittee would remain the same. However, if the property was sold to another entity, the purchaser would need to apply for a transfer of the Conditional Permit. The Deputy Corporation Counsel further opined that it would be within the purview of the Council to require that a unilateral agreement noting any reporting requirement be recorded as a condition of the Conditional Permit.

Your Committee voted to recommend passage of the revised proposed bills and filing of the communication.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2005), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3002 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR TAX MAP KEY NO. (2) 5-7-003:061, SITUATED AT PAUWALU, MOLOKAI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That Bill No. _____ (2005), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3003 (2001) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DUNBAR MAKAI PARTNERS/DUNBAR RANCH PARTNERS TO OPERATE A VACATION RENTAL WITHIN THE COUNTY RURAL DISTRICT FOR TAX MAP KEY NO. (2) 5-7-003:063, SITUATED AT PAUWALU, MOLOKAI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and

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3. That County Communication No. 04-43 be FILED.

Adoption of this report is respectfully requested.

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