

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 8, 2017

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 22, 2017, March 24, 2017, July 11, 2017, and August 16, 2017 makes reference to County Communication 17-127, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII," and related documents.

The purpose of the proposed bill is to grant a request from 355 Haiku Road LLC, a one-year Conditional Permit to allow special events, retreats, corporate events, weddings and receptions, and transient vacation rentals on 13.9 acres of land at 355 Haiku Road, Haiku, Maui, Hawaii.

Your Committee noted the property was the office and dwelling of the Haiku Sugar Mill, which was built across the street from the home dating back to 1858. In 1884, Mr. Armstrong and his partner H.P. Baldwin purchased the Haiku Sugar Mill. In 1910, H.P. Baldwin purchased the home from the Haiku Sugar Mill for his private residence.

Even though the property is tied to Maui's history and its agricultural industry, the home has been substantially remodeled; therefore, it is not eligible for listing on the State or National Register of Historic Places.

Your Committee heard testimony from residents in the surrounding neighborhood noting concerns about the number of proposed special events, the potential size of attendees to the events, and the

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commercialization of a site that has historic significance in the County. Many testifiers noted concerns about potential noise, increased traffic, road safety, and a change to the character of the neighborhood.

The applicant's representative informed your Committee the applicant is comfortable with shuttling guests to the property to minimize traffic impacts. He also clarified the number of bedrooms for the proposed transient vacation rental has been reduced to ten in the main house and one in the cottage.

The applicant's representative also advised your Committee a new septic system was installed on the property and the home receives its water from a well on the property. He further noted, however, the property is on the Upcountry Water System Priority List.

The Deputy Planning Director advised your Committee the maximum number of bedrooms for short-term rental home use is six under Section 19.65.030 (K), Maui County Code. However, the applicant can apply to use the additional bedrooms as rentals through a Conditional Permit. The Deputy Planning Director further noted the Department of Planning does not consider the proposal for this property to be a hotel or resort because the applicant will be renting the entire facility to one party and will not be renting each room separately.

The Committee recommended the applicant meet with the community to address potential issues of traffic, noise, and impacts to the character of the neighborhood.

Subsequently, the applicant's representative stated he and the owner held a neighborhood meeting to discuss their request with the community. Accordingly, the applicant provided revisions to their request to reduce the number of special events, limit amplified music from the property, require shuttle service for events requiring more than 20 vehicles, and provide off-duty police officers to guide traffic during events.

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At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII," incorporating non-substantive revisions and reducing the number of special events to be permitted for the property.

After receiving additional testimony expressing concerns about the special events, your Committee finds the proposed special events would be significantly detrimental to the public's interest, convenience, and welfare, and further upset the harmony and sense of place of the residential neighborhood. Therefore, your Committee recommended that the Conditional Permit be amended to remove references to special events.

Your Committee noted concerns regarding the transfer or sale of the property or entity known as 355 Haiku Road LLC. Your Committee recommended a condition to void the Conditional Permit should the entity and its assets be sold.

Your Committee voted 5-3 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Carroll and members Crivello, Guzman, Sugimura, and White voted "aye." Committee members Atay, Cochran, and King voted "no." Committee Vice-Chair Hokama was excused.

Your Committee is in receipt of a further revised proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII," approved as to form and legality by the Department of the Corporation Counsel,

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incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII," BE PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-127 be FILED.

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



ROBERT CARROLL, Chair

lu:cr:17018aa:grs

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC
A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL
WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED
AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY
NUMBER (2) 2-7-003:087, HAIKU, 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 355 Haiku Road LLC to operate a transient vacation rental ("TVR") within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key (2) 2-7-003:087, comprising approximately 13.9 acres of land situated at Haiku, Maui, Hawaii, and generally shown on Exhibit "A," attached hereto and incorporated herein by reference.

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

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of one year from the effective date of this ordinance; provided, that an extension of the Conditional Permit beyond this one-year period may be granted pursuant to Section 19.40.090, Maui County Code. Notwithstanding the five-hundred-foot notification requirement set forth in Section 19.40.090(B), Maui County Code, 355 Haiku Road LLC shall provide, by certified mail, a notice of application for time extension to the owners and lessees of record located within 1,000 feet of the subject property.
3. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.
4. That 355 Haiku Road LLC shall exercise reasonable due care as to third parties with respect to all areas affected by the

Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of the Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 naming the County of Maui as an additional insured, insuring and defending 355 Haiku Road LLC and the County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of the 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 355 Haiku Road 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 the Conditional Permit. A copy of the certificate of insurance naming the County of Maui as an additional insured shall be submitted to the Department of Planning within 90 calendar days from the effective date of this ordinance, or prior to starting operations, whichever occurs first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department of Planning and shall include the applicable tax map key and permit numbers.

5. That prior to starting TVR home operations, including any advertising, and with the submittal of any renewal request, 355 Haiku Road LLC shall submit to the Department of Planning a detailed report addressing compliance with the conditions of the Conditional Permit. The compliance report shall be reviewed and approved by the Department of Planning prior to the start of operations and prior to any renewal of the Conditional Permit. The report shall be in a format where the condition is listed followed by a response from 355 Haiku Road LLC. A copy of the original approval shall also be submitted with this report. Evidence of compliance with permit conditions shall be included with the compliance report where applicable.
6. That 355 Haiku Road LLC shall hold no more than one conditional permit for a TVR home operation or a short-term rental home permit.
7. That 355 Haiku Road LLC shall have a current transient accommodations tax license and general excise tax license for the TVR home operations. The same general excise tax license

may be used for all uses on the property, including agricultural sales.

8. That 355 Haiku Road LLC shall develop and use the property in substantial compliance with the representations made to the Maui Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to so develop and use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
9. That a manager or managers shall be designated for the TVR home operations. The manager's name(s) and contact information shall be provided to the Department of Planning prior to starting TVR home operations and when a change in the manager or contact information occurs.
10. That a manager shall be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, and being physically present at the property within one hour following a request by a TVR guest, a neighbor, or a County agency.
11. That within 30 days from the effective date of this ordinance, 355 Haiku Road LLC shall provide all owners of record within 500 feet of the subject property a copy of the Conditional Permit approval, and the manager's name(s) and contact information, including telephone numbers. Evidence of compliance with this condition shall be submitted to the Department of Planning within 45 days from the effective date of this ordinance.
12. That 355 Haiku Road LLC shall notify the Department of Planning and all owners of record within 500 feet of the subject property of any changes in a manager's name and contact information, including telephone numbers. Such notification shall be sent prior to or within one business day after the change in contact information occurs.
13. That 355 Haiku Road LLC shall display a two-square-foot sign along the main access road, identifying the establishment name (if any) and the manager's 24-hour telephone number prior to starting TVR home operations. The sign shall meet the requirements of Section 16.13.090, Maui County Code.

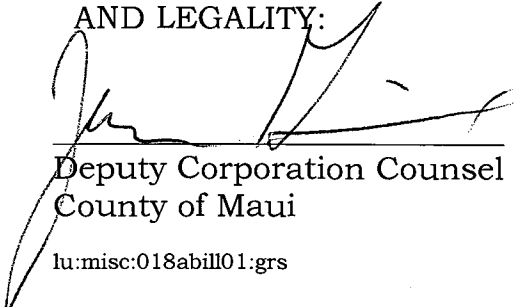
14. That house policies stating a quiet time of 10:00 p.m. to 8:00 a.m. shall be prominently displayed in the dwellings and shall be included in the rental agreement, which shall be signed by each registered adult guest.
15. That all TVR home operations advertising shall include the permit number. TVR home reservation websites shall include the house policies or a working link to the house policies. TVR home reservation websites shall also include the maximum occupancy as no more than two persons per bedroom, including children over the age of two years old.
16. That each TVR dwelling shall be rented to only one group at a time.
17. That the maximum occupancy for the TVR home shall be no more than two persons per bedroom, including children over the age of two years old.
18. That all parking for the TVR home operations shall be provided onsite. Street parking is prohibited.
19. That all exterior lighting shall be downward shielded. Evidence of compliance with this condition shall be submitted to the Department of Planning with the compliance report.
20. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plans shall be unique to each bedroom and shall include, at a minimum, a complete floor plan of the TVR home with the following:
 - a. "You are here" marked on the exit plan;
 - b. Arrows indicating the exit path for only that sleeping room;
 - c. Meeting place to assemble after exiting the building; and
 - d. Location(s) of all fire extinguishers.
21. That fire extinguisher(s) with a minimum rating of 2A:10B:C shall be installed within a 75-foot travel distance of all interior portions of the facility. The fire extinguisher(s) shall be

mounted in a clearly visible and accessible location to potential users.

22. That all smoke detectors shall be operable and tested monthly with batteries changed at least annually with documentation of each test and battery change noted in a log. A smoke detector shall be installed in each sleeping area and in areas leading to sleeping areas. A log of the monthly testing and battery changes, if applicable, shall be submitted as part of any renewal request.
23. That the TVR home operation shall be available for bi-annual fire inspections.
24. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
25. That 355 Haiku Road LLC shall provide written verification of tax payments when filing a conditional permit renewal request. The written verification shall be the State of Hawaii Department of Taxation Form A-6, "Tax Clearance Application."
26. That State of Hawaii Department of Health approval of the wastewater disposal method shall be obtained prior to the start of the TVR home operations.
27. That upon any sale of the entity 355 Haiku Road LLC and its assets, the Conditional Permit shall become void.

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

APPROVED AS TO FORM
AND LEGALITY:



Deputy Corporation Counsel
County of Maui

lu:misc:018abil01:grs



HAIKU ROAD LLC.
 355 Haiku Road
 4050 Kalai Waa St.
 Wailea, Hawaii 96753

CONTRACT NO. 10000
 These drawings and specifications and all other documents forming a part of this contract shall be read in conjunction with the contract documents and shall be subject to the terms and conditions of the contract documents.

REVISIONS

| No. | Date | Revised | By |
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LEGEND
 ORIGINAL SURVEY PROVIDED BY
 HAWAIIAN LAND SURVEYORS AND
 ENGINEERS, INC.
 1000 KALANIANĪMUNA DRIVE
 HONOLULU, HAWAII 96813

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NOTES

- All notes and conditions shown herein refer to Government Survey, Hawaiian Survey, No. 122, as shown on page 16.
- Details of adjoining land parcels taken from Best Property Mapping Software.

SURVEY
 TWO PORTIONS OF GRANT
 SHOWING BUILDINGS, CESS
 AND BOUNDARY MONUMENTS
 Being Parcels 62 and 67 of
 STRATIFIED AT HAIKU ROAD

GENERAL NOTES
 Design of existing buildings are as shown. Dependent on the location of the buildings, the location of the buildings shall be determined by the location of the buildings. The location of the buildings shall be determined by the location of the buildings. The location of the buildings shall be determined by the location of the buildings.

PROJECT TITLE
 HAIKU HOUSE

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|--------------------------------|---------------------------------|
| DATE August 15, 2015 | DRAWN TITLE SITE PLAN |
| SCALE 1" = 100' | |
| DRAWN BY A | |
| CHECKED BY A | |



EXHIBIT "A"