

REQUEST FOR LEGAL SERVICES

Date: November 18, 2022
From: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael J. Hopper, Esq.

Subject: RENEWALS FOR CONDITIONAL PERMITS (PSLU-26)

Background Data: Please see the attached bill. Please submit the response to pslu.committee@mauicounty.us with a reference to PSLU-26.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Tamara Paltin	Contact Person <u>Wilton Leauanae</u> (Telephone Extension: <u>7761</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): November 22, 2022
REASON: For posting for the Council meeting agenda on December 2, 2022.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

pslu:ltr:026acc01:wal

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE RELATING TO
EXTENSIONS FOR CONDITIONAL PERMITS

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

SECTION 1. The purpose of this Ordinance is to allow a grace period to temporarily extend a Conditional Permit while an application for the permit's extension is being processed.

SECTION 2. Section 19.40.090, Maui County Code, is amended to read as follows:

“19.40.090 Extensions. A. [Conditional permits shall] A conditional permit must not be extended unless the terms of the initial issuance [explicitly] expressly provide for [same.] the extension. [In any case, extensions must be applied for] An applicant for an extension must submit a completed application no later than [ninety] sixty days prior to expiration; however, the director may [waive] issue a written waiver of this requirement if the director finds that unusual circumstances prevented an applicant from filing a timely extension request. A copy of the written waiver must be sent to the council at the time of issuance.

B. An applicant for a time extension [shall] must provide by certified mail a notice of application for time extension to the owners and lessees of record located within [five-hundred] five hundred feet of the parcel on which the conditional permit use is located. The notice of application for time extension [shall:] must:

1. Describe the uses permitted by the conditional permit and include a map showing the subject parcel and all other lots within a [five-hundred foot] five-hundred-foot distance[; and].

2. State that owners and lessees of record may file a written protest against the proposed extension with the [planning] director within forty-five days of the mailing of the notice of application for time extension.

C. The [planning] director may approve the application for time extension [provided] if the following criteria are met:

1. The permit holder is in compliance with the conditions of approval[;].

2. The permitted use has not been substantially changed, and new uses have not been added that may result in significant impacts above what would result from the approved conditional permit[;].

3. [Agencies have not identified new matters of concern that require mitigation; and] The permit holder has addressed any agencies' concerns.

4. No protests have been received from the owners and lessees of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B have been met.

5. The council, by resolution adopted at least ninety days prior to expiration, requests review of the time extension application.

D. If the [application for time extension does not qualify for review and approval by the planning director,] criteria of subsection C are not met, the application for time extension [shall] must be processed in the same manner as the original application.

E. If a completed application for extension is submitted in accordance with 19.40.090(A)is accepted, the conditional permit remains in effect while the application is being processed for up to six months after the expiration date, or for up to twelve months after the expiration date if council approval of the extension is required, unless the applicant fails to provide requested information to the department within sixty days."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui

pslu:misc:026abill01:wal