

ORDINANCE NO. _____

BILL NO. _____ (2023)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE 2829 (2000) GRANTING A CONDITIONAL PERMIT IN ORDER TO DEVELOP AND OPERATE A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT WAILEA, KIHEI, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, a Conditional Permit was granted for the development and operation of an offsite parking lot comprised of 24,066 square feet of land within the A-2 Apartment District (the "Conditional Permit"). The site is identified for real property tax purposes as TMK: (2) 2-1-008:141. Ordinance 4781 (2017) provided for the transfer of the Conditional Permit subject to modification of the conditions imposed by Ordinance 2829 (2000).

SECTION 2. Ordinance 2829 (2000), as amended, is further amended to reflect the area of TMK (2) 2-1-008:141 as 28,945 square feet of land.

SECTION 3. Ordinance 2829 (2000), as amended, shall be further amended as follows:

- “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 [ten] twenty years, [from the effective date of Ordinance 2829;] until February 28, 2030; provided that, an extension of this Conditional Permit beyond [the ten year] this period may be granted pursuant to Section 19.40.090, [of the] Maui County Code.

3. That the Conditional Permit shall be transferable by the Planning Director following the provisions of Section [19.40.080(D),] 19.40.080(C), Maui County Code.
4. That Wailea Golf LLC shall exercise reasonable due care as to third parties with respect to all areas affected by this 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 \$1,000,000.00, naming the County of Maui as an additional insured, insuring and defending Wailea Golf LLC and the 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 Wailea Golf 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 a certificate of insurance naming 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. 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 the parking lot shall be developed in accordance with the standards of Chapter [19.36A,] 19.36B, [Offstreet] Off-Street Parking and Loading.
6. That lighting for the parking lot shall be appropriately shielded to diminish glare and lighting impacts on the adjacent residential parcels. Bollard lighting may be utilized in the parking lot as shown in the application. Further, the lighting standard shall be 12-14 feet as noted by Wailea Golf LLC.
7. [That Wailea Golf LLC shall apply for an extension of the Conditional Permit pursuant to Section 19.40.090, Maui County Code. The application shall be submitted to the Department of Planning by February 1, 2018.] That appropriate Best Management Practices be implemented during construction, such as dust fences, watering, etc.

8. That proper signage, traffic control, and other safety precautions be implemented for safe and orderly passage through the area.
9. That construction activities be limited to normal daylight hours and that adequate notice be given to adjacent properties of any activity that may extend beyond these hours or exceed normal construction noise levels.
10. That the Applicant will not plant any new Geiger trees and instead use Native Hawaiian trees listed in the Maui County Planting Plan.”

SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

HLU Committee

From: Jeffrey Ueoka <jueoka@mrwlaw.com>
Sent: Monday, May 8, 2023 4:44 PM
To: HLU Committee
Subject: Bill 11 (2023) - Proposed Amendment
Attachments: PROPOSED Amendment_Bill 11 (2023).docx

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Good Afternoon HLU Committee Staff,

Please see attached proposed amendment. The proposal is as follows:

1. Amend Condition 6 to recognize the existing bollard lighting that is being currently being utilized in the existing park lot. The bollard lighting meets the requirements of Condition 6 in its current form, as it is appropriately shielded to diminish glare and lighting impacts on the adjacent residential parcels, however for the avoidance of doubt this amendment is being requested.
2. Add Condition 10 to reflect the request of the Maui Planning Commission as set forth in its November 3, 2022 letter. The request was that the new trees in the Parking Lot Expansion be Native Hawaiian trees listed in the Maui County Planting Plan.

Please feel free to contact me with any questions or concerns.

Thanks,
Jeff