

REQUEST FOR LEGAL SERVICES

Date: January 26, 2017
From: Robert Carroll, Chair
Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Patrick K. Wong, Esq.

Subject: Ordinance granting Lanai Resorts, dba Pulama Lanai, a Conditional Permit for a helistop pad in Manele, Lanai, Hawaii (LU-32)

Background Data: Review and approve revised proposed ordinance. An original, signed printed copy of the ordinance is required.

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

Requestor's signature  Robert Carroll	Contact Person <u>Gary Saldana</u> (Telephone Extension: 7137)
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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): Thursday, February 2, 2017
REASON: For consideration at the Land Use Committee meeting of Friday, February 10, 2017

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)

lu:ltr:032acc01:grs

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE GRANTING LANAI RESORTS, LLC,
DBA PULAMA LANAI, A CONDITIONAL PERMIT TO DEVELOP
A HELISTOP PAD AND RELATED IMPROVEMENTS WITHIN THE
COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY IDENTIFIED AS
A PORTION OF TAX MAP KEY NUMBER (2) 4-9-002:001,
MANELE, LANAI, 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 Lana`i Resorts, LLC, dba Pulama Lana`i, to develop a helistop pad and related improvements within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key number (2) 4-9-002:001, comprising approximately 0.9 acres of land situated at Manele, Lanai, Hawaii.

SECTION 2. The granting of this 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 five years from the effective date of this ordinance; 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 Maui County Council approves a transfer by ordinance.

4. That Lana`i Resorts, LLC, dba Pulama Lana`i, 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 naming the County of Maui as an additional insured, insuring and defending Lana`i Resorts, LLC, dba Pulama Lana`i, 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 Lana`i Resorts, LLC, dba Pulama Lana`i, 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 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. 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 Lana`i Resorts, LLC, dba Pulama Lana`i, 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.
6. That full compliance with the conditions of the State Land Use Commission Special Permit (SUP2 2015/0014) shall be observed.
7. That Lana`i Resorts, LLC, dba Pulama Lana`i, shall comply with Federal Aviation Administration requirements for the helistop.
8. That helicopter flights shall not operate from 7:00 p.m. to 7:00 a.m.
9. That Lana`i Resorts, LLC, dba Pulama Lana`i, shall provide a monthly report to the Hulopoe Beach Park Council regarding the number of helicopter flights that occurred and the number and nature of any complaints made concerning those flights for the previous month.

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

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

lu:misc:032abill01:grs