

REQUEST FOR LEGAL SERVICES

Date: September 11, 2017
From: Robert Carroll, Chair
Land Use committee

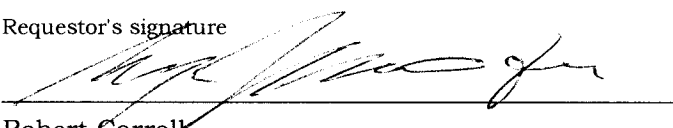
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: James Giroux, Esq.

Subject: CONDITIONAL PERMIT FOR PROPERTY LOCATED AT 1550 PIIHOLO ROAD (MAKAWAO) (LU-36)

Background Data: Approve bill incorporating revisions made at Committee meeting of 09/06/2017. An electronic markup is submitted showing the revisions made to the previous version of the bill reviewed by your department. A signed, hard copy is needed of the bill.

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

Requestor's signature  Robert Carroll	Contact Person Carla Nakata or James Krueger (Telephone Extension: 7659 or 7761, respectively)
--	--

☐ 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): September 13, 2017
REASON: To submit for posting on September 22, 2017 Council meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

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:036acc02:cmn

Attachment

ORDINANCE NO. _____

BILL NO. _____(2017)

A BILL FOR AN ORDINANCE GRANTING JEANA I WALANI NALUAI
A CONDITIONAL PERMIT TO CONDUCT CLASSES IN HAWAIIAN CULTURAL
AND MEDICINAL PRACTICES, AND OPERATE THE HO'OMANA SPA AND
BATHHOUSE, ON PROPERTY IDENTIFIED AS TAX MAP KEY (2) 2-4-013:142,
MAKAWAO, 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 Jeana Iwalani Naluai ("Applicant") to conduct classes in Hawaiian cultural and medicinal practices, and operate the Ho'omana Spa and Bathhouse. The site is identified for real property tax purposes as tax map key number (2) 2-4-013:142, comprising 2.01 acres of land situated at 1550 Pihiolo Road, Makawao, Maui, Hawaii.

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

1. That the Conditional Permit shall be valid for a period of ten years from the effective date of this ordinance, provided that an extension of this permit beyond this ten-year period may be granted pursuant to Section 19.40.090, Maui County Code ("MCC").
2. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.
3. That the Applicant and her successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at her 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 ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the Applicant 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 the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable tax map key and permit numbers.

4. That the Applicant shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the building permits required for the bathhouse shall be completed prior to starting operations. Evidence of completion shall be submitted to the Department of Planning within thirty days of the Applicant receiving the completed building permits.
7. That a wastewater disposal system approved by the State Department of Health ("DOH") shall be installed prior to starting operations. Evidence of completion shall be submitted to the Department of Planning within thirty days of the Applicant receiving final approval from DOH.
8. That, as recommended by the Department of Water Supply, a backflow preventer shall be installed. Evidence of installation shall be provided to the Department of Planning within thirty days after the installation.

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

APPROVED AS TO FORM
AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

lu:misc:036abill02

ORDINANCE NO. _____

BILL NO. _____(2017)

A BILL FOR AN ORDINANCE GRANTING JEANA I WALANI NALUAI
A CONDITIONAL PERMIT TO CONDUCT CLASSES IN HAWAIIAN CULTURAL
AND MEDICINAL PRACTICES, AND OPERATE THE HO'OMANA SPA AND
BATHHOUSE, ON PROPERTY IDENTIFIED AS TAX MAP KEY (2) 2-4-013:142,
MAKAWAO, 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 Jeana Iwalani Naluai ("Applicant") to conduct classes in Hawaiian cultural and medicinal practices, and operate the Ho'omana Spa and Bathhouse. The site is identified for real property tax purposes as tax map key number (2) 2-4-013:142, comprising 2.01 acres of land situated at 1550 Piihola Road, Makawao, Maui, Hawaii.

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

1. That the Conditional Permit shall be valid for a period of ~~five~~ten years from the effective date of this ordinance, provided that an extension of this permit beyond this ~~five~~ten-year period may be granted pursuant to Section 19.40.090, Maui County Code ("MCC").
2. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.
3. That the Applicant and her successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at her 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 ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the Applicant 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 the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable tax map key and permit numbers.

4. That the Applicant shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the building permits required for the bathhouse shall be completed prior to starting operations. Evidence of completion shall be submitted to the Department of Planning within thirty days of the Applicant receiving the completed building permits.
7. That a wastewater disposal system approved by the State Department of Health ("DOH") shall be installed prior to starting operations. Evidence of completion shall be submitted to the Department of Planning within thirty days of the Applicant receiving final approval from DOH.
8. That, as recommended by the Department of Water Supply, a backflow preventer shall be installed. Evidence of installation shall be provided to the Department of Planning within thirty days after the installation.

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

APPROVED AS TO FORM
AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

lu:misc:036abill0~~1-trk-chgs~~2