

REQUEST FOR LEGAL SERVICES

Date: May 18, 2023
From: Tasha Kama, Chair
Housing and Land Use Committee

TRANSMITTAL

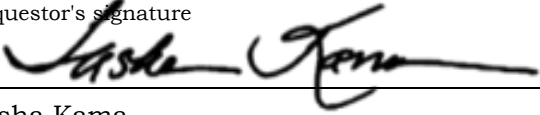
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Stephanie Chen, Esq.

Subject: BILL 11, CD1 (2023), RELATING TO AMENDING ORDINANCE 2829 (2000) TO GRANT WAILEA GOLF, LLC, FOR WAILEA TENNIS CLUB, A CONDITIONAL PERMIT TO DEVELOP AND OPERATE A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KĪHEI, MAUI, HAWAI'I (HLU-5)

Background Data: Please see the attached bill. Please submit the response to hlu.committee@mauicounty.us with reference to HLU-5.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Tasha Kama	Contact Person <u>Ana Lillis</u> (Telephone Extension: <u>7659</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): May 25, 2023

REASON: For posting on May 26 for the June 6 Council agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: MJH	ASSIGNMENT NO. 2023-0141	BY: GMR
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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 5/23/23

By MJH

(Rev. 7/03)

ORDINANCE NO. _____

BILL NO. 11, CD1 (2023)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO WAILEA GOLF LLC TO DEVELOP AND OPERATE A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT WAILEA, KĪHEI, MAUI, HAWAII

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

SECTION 1. Under Chapter 19.40, Maui County Code, Ordinance 2829 (2000) granted a Conditional Permit for the development and operation of a 24,066-square-foot off-site parking lot within the A-2 Apartment District. The site is identified for real property tax purposes as tax map key (2) 2-1-008:141. Ordinance 4781 (2017) amended Ordinance 2829 by transferring the Conditional Permit to Wailea Golf LLC and modifying the conditions.

SECTION 2. This Ordinance amends Ordinance 4781 to reflect the area of tax map key (2) 2-1-008:141 as 28,945 square feet.

SECTION 3. This Ordinance makes the Conditional Permit subject to the following conditions, superseding the conditions in SECTION 2 of Ordinance 4781:

1. That full compliance with all applicable governmental requirements must be rendered in a timely manner.
2. That the Conditional Permit is valid until February 28, 2030; except that an extension of the Conditional Permit may be granted under Section 19.40.090, Maui County Code.
3. That the Conditional Permit is transferable by the Maui Planning Commission under Section 19.40.080(C), Maui County Code.

4. That Wailea Golf LLC must exercise reasonable due care to third parties in all areas affected by this Conditional Permit and must procure at its own cost and expense, and must 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 Wailea Golf LLC and the County of Maui against any and all claims or demands for property damage, personal injury or death arising out of this Conditional Permit, including: (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 its rights; and (2) all actions, suits, damages, and claims 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 the County of Maui as an additional insured must be submitted to the Department of Planning within ninety calendar days from the effective date of this Ordinance. The proof of insurance and all subsequent certifications of insurance coverage must be submitted directly by the insurance carrier to the Department of Planning and must include the applicable tax map key and permit numbers.
5. That the parking lot must be developed under the standards of Chapter 19.36B, Maui County Code.
6. That lighting for the parking lot be appropriately shielded to diminish glare and lighting impacts on the adjacent residential parcels. The Wailea Community Association may approve the lighting standards.
7. That appropriate Best Management Practices be implemented during construction, such as dust fences, watering, and other similar practices.
8. That proper signage, traffic control, and other safety precautions be implemented for safe and orderly passage through the area.
9. That construction activities are limited to normal daylight hours and that adequate notice be given to adjacent properties of any activity that may exceed normal construction-noise levels.

10. That new Geiger trees are prohibited. Wailea Golf LLC must use drought-tolerant native Hawaiian plants listed in the Maui County Landscape Planting Plan.

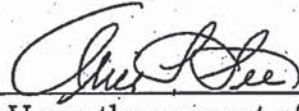
SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui
LF 2023-0141
HLU-05 2023-05-23 Wailea Golf CP
hlu:misc:005abill01:alkl

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "The Mayor", is written above a horizontal line.

Upon the request of the Mayor.