

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



RECEIVED
2017 AUG 30 PM 2:20
OFFICE OF THE MAYOR

COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 30, 2017

OFFICE OF THE COUNTY CLERK
County of Maui

SEP 01 2017 9:35 a.m. *jr*

Honorable Alan Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Ch. Cook 8/31/17
Mayor Date

Dear Chair White and Members:

SUBJECT: AMENDMENT TO EXISTING ORDINANCE NO. 2829 IN ORDER TO TRANSFER A CONDITIONAL PERMIT (CP) TO CONTINUE OPERATING A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT WAILEA, KIHEI, MAUI, HAWAII; TMK: 2-1-008:141 (CP 99/0007)

The Department of Planning (Department) is transmitting for your review and action the request for transfer filed by Anne M. Takabuki of Wailea Golf LLC. A summary of the application is as follows:

APPLICATION SUMMARY	
Application	Transfer of a CP to allow for continued operation of a parking lot in the A-2 Apartment District
Applicant	Anne M. Takabuki of Wailea Golf LLC
Owner	Wailea Golf LLC
Tax Map Key	(2) 2-1-008:141
Address	0 Wailea Iki Place, Kihei, Island of Maui, Hawaii
Area	24,066 Square Feet
Land Use Designations	State Urban District Maui Island Plan: Within the Urban Growth Boundary Kihei-Makena Community Plan: Roadway Title 19, Zoning: A-2 Apartment District Other: located within the Special Management Area (SMA)

COUNTY COMMUNICATION NO. 17-36A

Honorable Alan M. Arakawa, Mayor
 For Transmittal to:
 Honorable Mike White, Chair
 August 30, 2017
 Page 2

APPLICATION SUMMARY	
Brief Description	The Applicant is requesting a transfer of the CP to allow the continued operation of an existing parking lot. The parking lot provides off-site parking for the Wailea Tennis Center. On March 21, 2016, pursuant to 19.40.090, Maui County Code (MCC), the Director of Planning (Director) approved a time extension of the CP.
Public Hearing	A public hearing was held by Maui Planning Commission (Commission) on April 12, 2016 in Wailuku, Maui, Hawaii.
Testimony	No public testimony has been received on the project, either written or oral.
Recommendation	The Commission voted to recommend approval of the CP transfer subject to a total of six (6) amended conditions.

Inasmuch, as Council approval for transfer of the CP is required, the Department respectfully transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING A CP IN ORDER TO EXTEND AND CONTINUE OPERATION OF A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT, AND TRANSFERRING THE PERMIT HOLDER FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC, FOR PROPERTY IDENTIFIED AS TAX MAP KEY (TMK) NUMBER (2) 2-1-008:141, WAILEA, KIHEI, MAUI, HAWAII";
2. Letter dated November 17, 2016, from Clayton Yoshida, Planning Program Administrator, to Ms. Anne Takabuki, with the Commission's recommendation for Council approval of the CP with six (6) conditions;
3. Department's Report and Recommendation to the Commission, dated April 12, 2016;
4. Adopted Minutes of the April 12, 2016 Commission meeting;
5. Letter dated August 22, 2013, from J. Stephen Goodfellow, authorized representative of South Maui Business Park Partners, requesting the CP be transferred to Wailea Golf LLC;
6. Ordinance No. 2829 granting a CP in order to develop and operate a parking lot within the A-2 Apartment District for property situated at Wailea, Kihei, Maui, Hawaii"; and
7. Letter from William Spence, Planning Director, to Ms. Anne Takabuki, dated March 21, 2016, approving a time extension of the CP to February 28, 2030.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
August 30, 2017
Page 3

Thank you for your attention to this matter. Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



WILLIAM SPENCE
Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
Livit U. Callentine, AICP, Staff Planner (PDF)
Maui Planning Commission Members
via Carolyn Takayama-Corden, Secretary to the Boards and Commissions (PDF)
Tessa Munekiyo Ng, Munekiyo Hiraga

WRS:LUC:ela

Project File
General File

K:\WP_DOCS\PLANNING\CP\1999\0007_WaileaResort\Transfer Requests\TransmittalToCouncil.docx

Attachment 1

Proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING A CONDITIONAL PERMIT IN ORDER TO EXTEND AND CONTINUE OPERATION A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT, AND TRANSFERRING THE PERMIT HOLDER FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC, FOR PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 2-1-008:141, WAILEA, KIHEI, MAUI, HAWAII"

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING A CONDITIONAL PERMIT IN ORDER TO EXTEND AND CONTINUE OPERATING A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT, AND TRANSFERRING THE PERMIT HOLDER FROM SOUTH MAUI BUSINESS PARTNERS TO WAILEA GOLF LLC, FOR PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 2-1-008:141, 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, the Conditional Permit granted by Ordinance No. 2829 (2000), is transferred, subject to the conditions imposed in Section 2 of this ordinance, to continue operating a parking lot within the A-2 Apartment District, by Wailea Golf LLC. The site is identified for real property tax purposes by Tax Map Key Number: (2) 2-1-008:141, comprising approximately 24,066 square feet of land situated at 131 Wailea Iki Place, Kihei, Maui, Hawaii.

SECTION 2. The conditions imposed in Ordinance No. 2829 (2000) are amended to read 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 until February 28, 2030; provided that, an extension of this Conditional Permit beyond this period may be granted pursuant to Section 19.40.090 of the Maui County Code.
3. That the Conditional Permit shall be [non]transferable by the Planning Director following the provisions of Section 19.40.080(D) of the Maui County Code [without prior written approval of the Maui County Council].

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 [19.36] 19.36A, Offstreet 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. Further, the lighting standard shall be 12-14 feet as noted by Wailea Golf LLC.”

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

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX

Department of the Corporation Counsel

LF 2017-0921

Attachment 2

Letter dated November 17, 2016, from Clayton Yoshida, Planning Program Administrator, to Ms. Anne Takabuki, with the Commission's recommendation for Council approval of the CP with six (6) conditions

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

November 17, 2016

Ms. Anne Takabuki, President & General Manager
Wailea Golf LLC
100 Wailea Golf Club Drive
Kihei, Hawaii 96753

Dear Ms. Takabuki:

SUBJECT: RECOMMENDATION OF APPROVAL OF A REQUEST TO TRANSFER A CONDITIONAL PERMIT (CP) FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC, IN ORDER TO CONTINUE OPERATING A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT, LOCATED AT TMK: (2) 2-1-008:141; TO PROVIDE OFF-SITE PARKING FOR THE WAILEA TENNIS CENTER LOCATED AT TMK: (2) 2-1-008:123, 131 WAILEA IKI PLACE, KIHEI, ISLAND OF MAUI, HAWAII; (CP 99/0007)

At the regular meeting on April 12, 2016, the Maui Planning Commission (Commission) reviewed the above request, offered to accept testimony and exhibits, and after due deliberation, recommended approval of the Applicant's request for transfer of the Conditional Permit to the Maui County Council (Council).

The following amended Conditional Permit conditions were recommended by the Commission on April 12, 2016 for approval by the Council. Amendments to the conditions are shown in [brackets] for removal and underlined for addition.

Conditional Permit Conditions of Approval

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid until February 28, 2030; provided that, an extension of this permit beyond this period may be granted pursuant to Section 19.40.090 of the Maui County Code.
3. That the Conditional Permit shall be [non]transferable by the Planning Director following the provisions of Section 19.40.080(D) of the Maui

County Code [without prior written approval of the Maui County Council].
(Recommended by the Planning Department)

4. That the applicant, its 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 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 ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional [named] insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 permit. A copy of a policy naming County of Maui as an additional [named] insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order. (Recommended by the Planning Department)
5. That the parking lot shall be developed in accordance with the standards of Chapter 19.36A, Offstreet Parking and Loading. (Recommended by the Planning Department)
6. That lighting for the parking lot shall be appropriately shielded to diminish glare and lighting impacts on the adjacent residential parcels. Further, the lighting standard shall be 12-14 feet as noted by the Applicant.

A copy of the Department's Report and Recommendation, adopted as the Findings of Fact, Conclusions of Law, and Decision and Order, is attached for your records.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Livit Callentine by email at livit.callentine@mauicounty.gov or by phone at 270-5537.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

Ms. Anne Takabuki
November 17, 2016
Page 3

Attachment

xc: Livit U. Callentine, AICP, Staff Planner (PDF)
Project File
General File
Tessa Munekiyo Ng, Munekiyo Hiraga

WRS:CIY:LUC:ela

K:\WP_DOCS\PLANNING\CP\1999\0007_WaileaResort\Transfer Requests\MPC_Recom.doc

Attachment 3

Department's Report and Recommendation to the
Commission, dated April 12, 2016

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Application of

**ANNE TAKABUKI
WAILEA GOLF LLC**

To obtain a transfer of a Conditional Permit to continue operation of an off-site parking lot in the A-2 Apartment District, to satisfy parking requirements for the Wailea Tennis Center, on approximately 0.55 acres of land at 0 Wailea Iki Place, Maui Tax Map Key (2) 2-1-008:141, Kihei, Maui, Hawaii

DOCKET NO. CP 99/0007

**Anne Takabuki
Wailea Off-Site Parking Lot
(L. Callentine)**

**MAUI COUNTY PLANNING DEPARTMENT'S REPORT AND RECOMMENDATION
TO THE MAUI PLANNING COMMISSION
APRIL 12, 2016 MEETING**

**DEPARTMENT OF PLANNING
COUNTY OF MAUI
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HI 96793**

(Conditional Permit)

K:\WP_DOCS\PLANNING\CP\1999\0007_WaileaResort\Transfer Requests\Transfer Staff Report - Recommendation\Report-Recommendation.doc

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Application of

ANNE TAKABUKI
WAILEA GOLF LLC

To obtain a transfer of a Conditional Permit to continue operation of an off-site parking lot in the A-2 Apartment District, to satisfy parking requirements for the Wailea Tennis Center, on approximately 0.55 acres of land at 0 Wailea Iki Place, Maui Tax Map Key (2) 2-1-008:141, Kihei, Maui, Hawaii

DOCKET NO. CP 99/0007

Anne Takabuki
Wailea Off-Site Parking Lot
(L. Callentine)

DESCRIPTION OF THE PROJECT

On November 24, 2009, Ms. Anne Takabuki ("Applicant"), requested a time extension and transfer of the subject Conditional Permit to Wailea Golf LLC. Wailea Golf LLC is the current owner of the property ("Owner"). The permit holder is South Maui Business Park Partners. The Conditional Permit is required to allow for continued use of an off-site parking lot in the A-2 Apartment District, for property identified as 0 Wailea Iki Place, Maui Tax Map Key (2) 2-1-008:141 ("Property"). The off-site parking lot serves to satisfy parking requirements of the Wailea Tennis Center, located at Maui Tax Map Key (2) 2-1-008:123. (See **Exhibit 1: Request**; **Exhibit 2: Authorization from South Maui Business Park Partners**)

The parking lot provides a total of 54 parking stalls. (See **Exhibit 3: Location Map**; and **Exhibit 4: Aerial Photograph**)

No other amendments, construction or improvements are proposed.

BRIEF HISTORY OF APPLICATION

1. In March 1999, applications for *Change in Zoning* from the A-2 Apartment District and Open Space to the B-2 Community Business District, *Conditional Permit*, *Offsite Parking Approval*, *Special Management Area Use Permit*, and *Planned Development Approval* were filed with the Department of Planning (Department). The project included development of a 50,000 square foot business center and related improvements at Maui Tax Map Key (2) 2-1-008:103 on approximately 4.16 acres of land, and off-site parking for the Wailea Tennis Center on approximately 0.55 acres of land identified by Maui Tax

Map Key (2) 2-1-008:141 (CIZ 99/0007, CP 99/0007, SM1 99/0007, PD1 99/0001, OSP 99/0004).

2. The initial application for a Conditional Permit (CP 99/0007) was reviewed by the Maui Planning Commission (Commission) on September 14 and 28, 1999. The Commission voted to recommend approval of the Conditional Permit (**Exhibit 5**), and it was subsequently enacted by the County Council via Ordinance No. 2829 (**Exhibit 6**), on February 28, 2000, subject to the following conditions:
 1. *That full compliance with all applicable governmental requirements shall be rendered.*
 2. *That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided that, an extension of this permit beyond this ten (10) year period may be granted pursuant to Section 19.40.090 of the Maui County Code.*
 3. *That the Conditional Permit shall be nontransferable without prior written approval of the Maui County Council.*
 4. *That the applicant, its 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 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 ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out .of this 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 permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date' of transmittal of the decision and order.*
 5. *That the parking lot shall be developed in accordance with the standards of Chapter 19.36, Offstreet 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. Further, the lighting standard shall be 12-14 feet as noted by the applicant.*
3. On August 4, 2003, Rebecca Broudy Collins, on behalf of South Maui Business Park Partners, requested the Planning Director transfer the Special Management Area Use Permit (SM1 990007), Planned Development Approval (PD1 990001), and Offsite Parking Approval (OSP 990004) from South Maui Business Park Partners to Wailea

Town Center Investors LLC. The request for transfer did not include the subject Conditional Permit (CP 990007). (See Exhibit 7)

4. On August 11, 2003, the Department approved the transfer of the Special Management Area Use Permit, Planned Development Approval, and Offsite Parking Approval from South Maui Business Park Partners to Wailea Town Center Investors LLC (Exhibit 8).
5. Ownership of Tax Map Keys (2) 2-1-008:103 and 141 underwent several changes from 1995 to 2013 (Exhibit 9);
6. On March 21, 2016, the Maui County Planning Department approved a twenty-year time extension of the Conditional Permit to February 28, 2030 (Exhibit 10).
7. Processing of the subject request was unavoidably delayed for the following reasons:
 - a. The applicant had difficulty obtaining proper authorization for the transfer from South Maui Business Park Partners to Wailea Golf LLC because according to the applicant, South Maui Business Park Partners was dissolved and no longer exists. On August 22, 2013, the Department obtained proper authorization for the transfer from J. Stephen Goodfellow, the permit-holder for South Maui Business Park Partners (Refer to Exhibit 2); and
 - b. Staff were unable to locate the project folders, thus considerable time was expended to locate copies of documents held by other parties in order to recreate the Department file. Furthermore, numerous staffing changes resulting in reassignment of the subject request have occurred since the request was filed.

DESCRIPTION OF THE PROPERTY

1. The Property is approximately 0.55 acres or 24,066 square feet, and is located on Wailea Iki Place, Maui Tax Map Key 2-1-008:141, Kihei, Maui, Hawaii. (Refer to Exhibits 3 & 4)
2. Land Use Designations --
 - a. State Land Use District -- Urban District
 - b. Maui Island Plan -- Urban Growth Boundary
 - c. Kihei-Makena Community Plan -- Roadway
 - d. County Zoning -- A-2 Apartment District
 - e. Other -- Special Management Area
3. Surrounding Uses --

North --	Grand Champion Villas, golf course
East --	Wailea Tennis Center, golf course
South --	Vacant commercial/business designated lands
West --	Wailea Business Center, water tank

APPLICABLE REGULATIONS

1. **Maui County Code, 19.40.080 – Conditions, amendments, modifications.**
 - A. **Conditional permits may be issued subject to such terms and conditions deemed reasonable and necessary to fulfill the intent and purposes of this title. All changes in the use or appearance of land or buildings allowed by the permit shall be in accordance with the specified conditions and the proposal as approved. Such permit shall be issued subject to compliance with and/or fulfillment of such terms and conditions and shall so state.**
 - B. **Any person who has been issued a conditional permit may request the commission to review a request to amend or delete any terms and conditions imposed upon such permit.**
 - C. **The commission on request or on its own initiative may recommend action to revoke any conditional permit or amend or delete any terms, conditions, and time stipulations of such conditional permit if such action is deemed necessary to effectuate the purpose and intent of this chapter. The commission shall provide due notice in writing to the applicant/permittee and an opportunity for a hearing.**
 - D. **The planning director may approve amendments to the conditional permit if the amendments are not substantive and do not result in significant impacts above what would result from the approved conditional permit. Before approving any such amendments, the planning director shall notify the respective planning commission of the proposed non-substantive amendments. The commission may review the proposed non-substantive amendments and take action or waive review.**
2. **Ordinance No. 2829 requires through Condition No. 3 that Maui County Council is the approving body for transfer of the Conditional Permit.**
3. **The subject application does not involve an action that triggers compliance with Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements.**

REVIEWING AGENCIES

The Application for a transfer of the Conditional Permit was not transmitted to agencies as it is considered a minor change and involves no other amendments, construction or improvements are proposed.

ANALYSIS

1. **Condition No. 3 of the Conditional Permit provides that the permit shall not be transferred except by written approval of the Maui County Council.**

***Response:* The subject request complies with Condition No. 3; the Applicant is requesting a transfer of the Conditional Permit. The transfer request is being reviewed by the Maui Planning Commission for recommendation to Maui County Council.**

2. **Maui County Code Section 19.40.090 – Time Extensions of Conditional Permits, requires that:**
 - a. **The request for time extension was timely filed.**
 - b. **The permit holder is in compliance with the conditions of approval.**
 - c. **The permitted use has not substantially changed and new uses have not been added.**
 - d. **Agencies have not identified new matters of concern that require mitigation.**
 - e. **No protests have been received from the owners and lessees of record nor have any Requests for Service been filed on the property.**

Response: The Applicant is in compliance with the stipulations above, therefore, on March 21, 2016, the Planning Director approved a time extension of the Conditional Permit to February 28, 2030. (See **Exhibit 10**)

3. **Section 19.40.080(D) Maui County Code, provides that:**

The planning director may approve amendments to the conditional permit if the amendments are not substantive and do not result in significant impacts above what would result from the approved conditional permit. Before approving any such amendments, the planning director shall notify the respective planning commission of the proposed non-substantive amendments. The commission may review the proposed non-substantive amendments and take action or waive review.

Response: Transfer of the Conditional Permit for an established use that does not involve other amendments, construction or improvements is a non-substantive amendment. Therefore, the Department will recommend that future transfers be eligible to use this process instead of requiring ordinance approval by the County Council.

CONCLUSION OF LAW

Based on the foregoing findings and analysis, the Planning Department finds that the proposed transfer of the Conditional Permit for off-site parking in the A-2 Apartment District is in accordance with the specified conditions as approved, is not substantive, and will not result in significant impacts above what would result from the approved conditional permit

RECOMMENDATION

Pursuant to the foregoing the Maui County Planning Department recommends that the Maui Planning Commission recommend to the County Council approval of the transfer of the Conditional Permit subject to the following amended conditions:

1. **That full compliance with all applicable governmental requirements shall be rendered.**

2. That the Conditional Permit shall be valid until February 28, 2030; provided that, an extension of this permit beyond this period may be granted pursuant to Section 19.40.090 of the Maui County Code.
3. That the Conditional Permit shall be [non]transferable by the Planning Director following the provisions of Section 19.40.080(D) of the Maui County Code [without prior written approval of the Maui County Council].
4. That the applicant, its 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 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 ONE .MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional [named] insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out .of this 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 permit. A copy of a policy naming County of Maui as an additional [named] insured shall be submitted to the Department within ninety (90) calendar days from the date' of transmittal of the decision and order.
5. That the parking lot shall be developed in accordance with the standards of Chapter 19.36A, Offstreet 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. Further, the lighting standard shall be 12-14 feet as noted by the applicant.

APPROVED:



WILLIAM SPENCE
Director of Planning



OSP 3/22/13
1999/0004

09/11339

November 24, 2009

09 NOV 27 PM 12:32

Jeffrey S. Hunt, Director
Department of Planning
250 S. High Street
Wailuku, Hawaii 96793

SUBJECT: Off-Site Parking Lot in Wailea (Conditional Permit)
TMK 2-1-008:141

Dear Mr. Hunt:

As the current owner of the referenced parking lot, we hereby request a ten (10) year time extension for the attached Conditional Permit. We are also requesting a transfer of the Conditional Permit to Wailea Golf LLC.

If there are any questions or if additional information is required, please do not hesitate to contact me at 875-5142 or Gwen Ohashi Hiraga of Munekiyo & Hiraga, Inc. at 244-2015.

Very truly yours,

Anne M. Takabuki
President, Wailea Golf LLC

EXHIBIT 1



GOODFELLOW BROS., INC. GENERAL CONTRACTOR

P.O. BOX 220 • KIHEI, HI 96753 • PHONE: (808) 879-5205 • FAX: (808) 879-3674

August 22, 2013

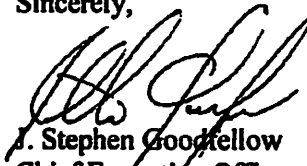
Mr. William Spence, Director
Department of Planning
County of Maui
One Main Plaza Building, Suite 315
2200 Main Street
Wailuku, HI 96793

Subject: Transfer of Ownership for Conditional Permit for Offsite Parking Lot at TMK 2-1-008: 141
(Ordinance No. 2829)

Dear Mr. Spence:

As the authorized representative for South Maui Business Partners (SMBP), past owners of the Wailea Business Center, I am advising the Department of Planning that the SMBP ownership no longer exists and as the past authorized representative of SMBP request that you transfer the above mentioned Conditional Permit to the current ownership of the property. The current owner of the subject property is Wailea Golf LLC. I would appreciate your including this request in the project file. Mr. Spence, should you have any questions regarding this letter or the described transfer please contact Mr. Charlie Jencks at 879-5205 or via email at charliej@pacificrimland.com.

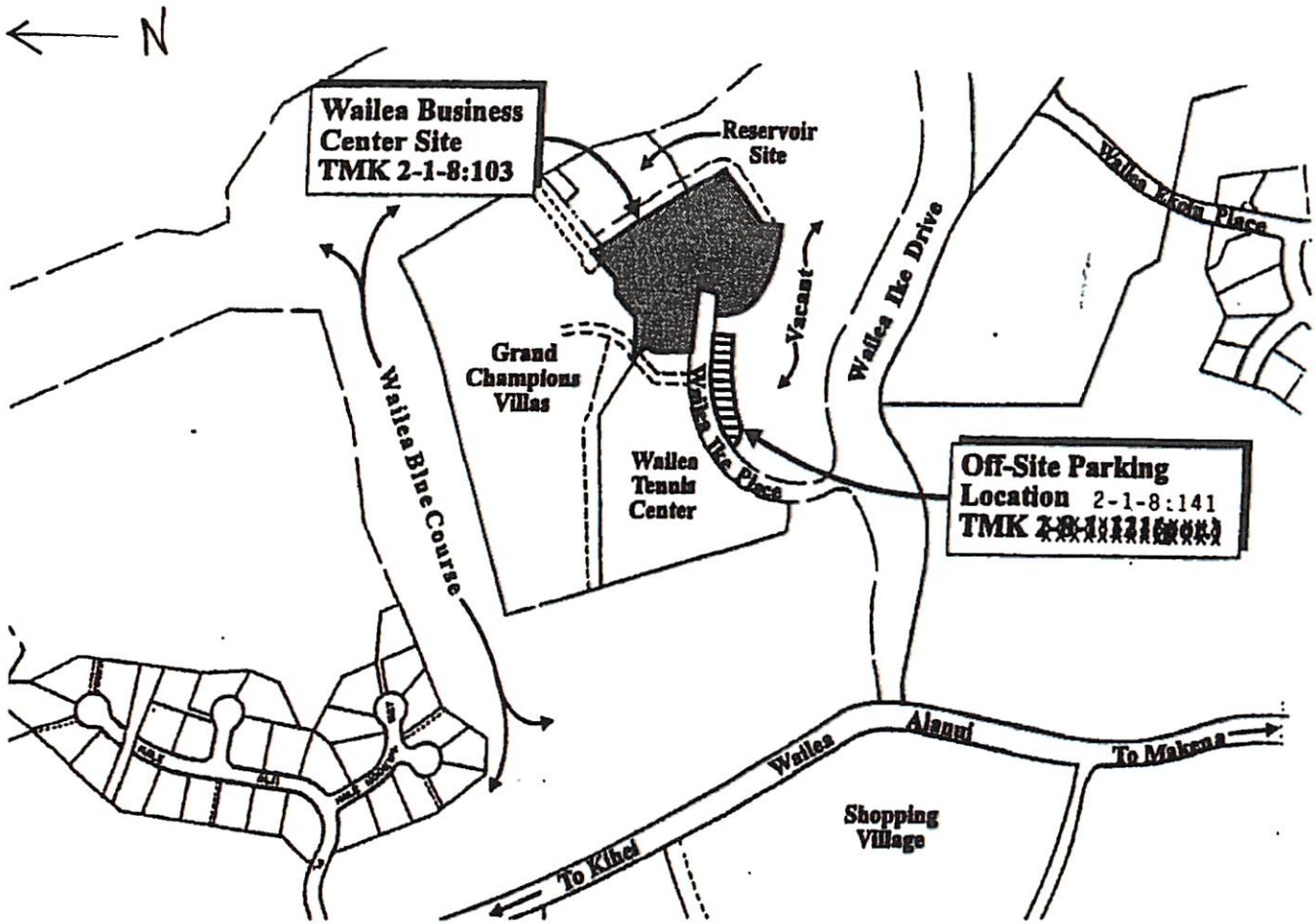
Sincerely,



J. Stephen Goodfellow
Chief Executive Officer

Attachment

cc: Mr. Charles Jencks, Pacific Rim Land, Inc.



2 **Wailea Business Center and Wailea Tennis Center Parking Improvements Site Location Map**

South Maui Business Park Partners



Aerial Photograph of Site



EXHIBIT 4

OCT 06 1999

JAMES "KIMO" APANA
Mayor

JOHN E. MIN
Director

CLAYTON I. YOSHIDA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

October 4, 1999

Mr. J. Stephen Goodfellow
South Maui Business Partners
P. O. Box 220
Kihei, Hawaii 96753

Dear Mr. Goodfellow:

RE: South Maui Business Park Project at TMK: 2-1-008:103 and 141, Wailea, Kihei, Maui, Hawaii (CIZ 990007) (CP 990007) (OSP 990004) (PD1 990001) (SM1 990007)

At the September 14, 1999 recessed meeting, continued on September 28, 1999, the Maui Planning Commission (Commission) reviewed the above requests. The Commission voted to recommend to the County Council approval of the Change in Zoning, subject to the following conditions:

1. The front yard setback shall be twenty (20) feet. The only structures permitted within this setback shall be low-level lights; identification signage in accordance with Chapter 16.12A, Maui County Code; boundary walls not to exceed four (4) feet; fences not to exceed five (5) feet; and pedestrian and/or bicycle accessways and incidental accessory structures.
2. The rear yard and side yard setbacks shall be twenty (20) feet.
3. No building shall be more than thirty-five (35) feet in height.
4. The following uses shall be permitted, provided acoustical measures have been incorporated into the building to mitigate potential noise impacts: amusement enterprises; auditoriums and theaters; bowling alleys; dancing and hula studios; gymnasiums; music conservatories or music studios; physical-culture studios; and printing, lithography or publishing shops.
5. The following uses shall be permitted, provided exterior lighting is shielded from adjacent residential properties: automobile parking lots and/or buildings; equipment rental and sales yards; parcel delivery stations; and public parking areas.
6. The following uses shall be permitted, provided that merchandise, equipment and supplies are stored within enclosed buildings or enclosed areas that are appropriately screened with fencing and

Mr. J. Stephen Goodfellow
October 4, 1999
Page 2

landscape planting; equipment rental and sales yards; hardware and garden supply stores; parcel delivery stations; and printing, lithography and publishing shops.

- 7. The following uses shall be prohibited: auctioneer establishments; automobile service stations; automobile upholstery shops; awning or canvas shops; baseball or football stadiums and other sport activities and amusements; commercial bath houses (plunge); baths, Turkish and the like; block printing establishments; dance halls; feed stores; ice cream and milk manufacturing plants; marinas; miniature golf courses; sign painting shops; used car lots; and warehouses and yards.**
- 8. Noise attenuation measures such as, but not limited to walls, landscaping, setbacks, etc., shall be incorporated into the project to mitigate noise-related impacts on the surrounding residential community.**
- 9. The applicant, its successors and assigns, shall provide opportunities for pedestrian and/or bicycle accessways within the roadways fronting the subject properties and the project development.**
- 10. The applicant, its successors and assigns, shall contribute its pro-rata share of regional roadway improvements as determined by the State Department of Transportation and the Maui County Department of Public Works and Waste Management. The applicant, its successors and assigns, shall work with the Wailea Community Association to mitigate traffic problems within the resort resulting from the development of the subject properties.**

In addition, the Commission voted to recommend to the County Council approval of the Conditional Permit, subject to the following conditions:

- 1. That full compliance with all applicable governmental requirements shall be rendered.**
- 2. That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided that, an extension of this permit beyond this ten (10) year period may be granted pursuant to Section 19.40.090 of the Maui County Code.**
- 3. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.**
- 4. That the applicant, its 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 its own cost and expense, and shall maintain during the entire**

Mr. J. Stephen Goodfellow
October 4, 1999
Page 3

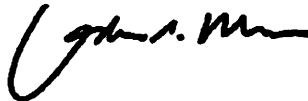
period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 nonobservance or nonperformance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.

5. That the parking lot shall be developed in accordance with the standards of the Maui County Code, Chapter 19.36, Offstreet 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. Further, the lighting standard shall be twelve (12) to fourteen (14) feet as noted by the applicant.

The Commission also voted to defer action on the Offsite Parking, Step 1 Planned Development, and Special Management Area applications until after the County Council and the Mayor act upon the land use applications.

Upon completion of the required documents and map, we will transmit the applications to the County Council for appropriate action. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHN E. MIN
Planning Director

JEM:CMS:cmb

c: Clayton Yoshida, AICP, Deputy Planning Director
Munekiyo, Arakawa & Hiraga, Inc.
Colleen Suyama, Staff Planner
Project File
General File
(S:\CMS\99\dz7o)

ORDINANCE NO. 2829

BILL NO. 9 (2000)

A BILL FOR AN ORDINANCE 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 of the Maui County Code, a conditional permit is hereby granted, subject to the conditions imposed in Section 2 of this ordinance, for the development and operation of an offsite parking lot within the A-2 Apartment District. The site is identified for real property tax purposes by TMK: 2-1-008:141, and is comprised of 24,066 square feet of land.

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.
- 2.** 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 the ten year period may be granted pursuant to Section 19.40.090 of the Maui County Code.
- 3.** That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.
- 4.** That the applicant, its 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 its own cost and expense, and shall


EXHIBIT 6

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 (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.

5. That the parking lot shall be developed in accordance with the standards of Chapter 19.36, Offstreet 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. Further, the lighting standard shall be 12-14 feet as noted by the applicant.

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

APPROVED AS TO FORM
AND LEGALITY:



KELLY A. CAIRNS
Deputy Corporation Counsel
County of Maui

8:\CLERICAL\LN\ORD\121009141.CP

WE HEREBY CERTIFY that the foregoing BILL NO. 9 (2000)

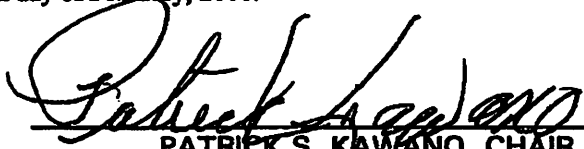
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 18th day of February, 2000, by the following votes:

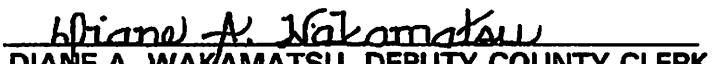
Patrick S. KAWANO Chair	Dein P. KANE Vice-Chair	Michael A. DAVIS	J. Kelvin ENGLISH	John Wayne ENRIQUES	G. Riki HOKAMA	Dennis Y. NAKAMURA	Wayne K. NISHIKI	Charmaine TAVARES
Aye	Aye	Aye	Aye	Aye	Excused	Aye	No	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 18th day of February, 2000.


DATED AT WAILUKU, MAUI, HAWAII, this 18th day of February, 2000.

RECEIVED
2000 FEB 18 PM 2:08
OFFICE OF THE MAYOR

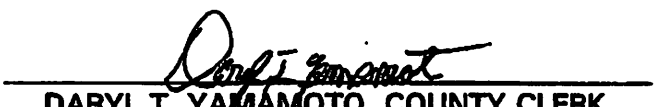

PATRICK S. KAWANO, CHAIR
Council of the County of Maui


DIANE A. WAKAMATSU, DEPUTY COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 28 DAY OF February, 2000.


JAMES H. APANA JR., MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 2829 of the County of Maui, State of Hawaii.


DARYL T. YAMAMOTO, COUNTY CLERK
County of Maui

Passed First Reading on February 4, 2000.
Effective date of Ordinance February 28, 2000.

RECEIVED
2000 FEB 28 AM 8:55
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2829, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui



August 4, 2003

WAILEA BUSINESS CENTER 03 AUG -7 P3:17

Mr. Michael Foley
Planning Department, County of Maui
250 S. High Street
Wailuku, HI 96793

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

Re: Application for Transfer of SMA Permit SM1 99007
And PDI 990001 OSP 990004
Approval Date: April 11, 2000
TMK: 2-1-08:103 and por. of 141

Project Name: Wailea Business Center
Orig. Dev.: South Maui Business Park Partners

Dear Mr. Foley,

In accordance with the conditions of approval for the above referenced SMA and Planned Development Approval, and Offsite Parking Approval as extended, South Maui Business Park Partners respectfully requests the approval of the Planning Director for the transfer of the above permit, as it may apply to the above properties to Wailea Town Center Investors, LLC. Wailea Town Center Investors LLC is aware of all of the conditions outlined in the above referenced SMA and Planned Development Phase II approvals.

Due to the recent acquisition of the property by Wailea Town Center Investors, LLC, we respectfully request to transfer the above referenced permits. By acknowledging and accepting this letter, the Wailea Town Center Investors, LLC accepts assignment of the permits, including all conditions set forth therein, and will be fully responsible for compliance with same.

Sincerely,

SOUTH MAUI BUSINESS
PARK PARTNERS
By South Maui Business Park, Inc.
Its General Partner

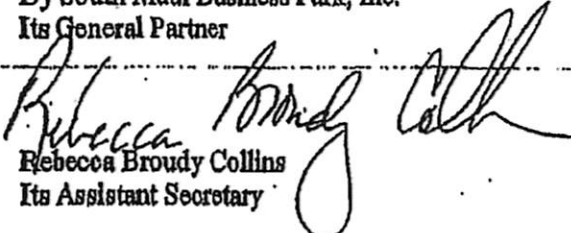

Rebecca Broudy Collins
Its Assistant Secretary

EXHIBIT 7

P.O. Box 220
Kihei, Maui, Hawaii 9675

Mr. Michael Foley
SM1 90007 PD1 990001
Transfer Request
August 4, 2003
Page 2 of 2

By signing below I acknowledge that I have received a copy of the Special Management Area permit SM1 90007, Step I Planned Development Phase II approvals PD1 990001, and Offsite Parking Approval OSP 990004 and accept all conditions for both permits.

Agreed And Accepted
WAILEA TOWN CENTER INVESTORS, LLC

By: [Signature]
Printed Name: JEFFREY JONES
Its: MANAGER
Date: 8-5-03

STATE OF Texas)
COUNTY OF Dallas)

SS.



On this 5th day of August, 2003, before me personally appeared Jeffrey Jones, to me personally, known, who, being by me duly sworn or affirmed, did say that such person (s) executed the foregoing instrument as the free act and deed of such person (s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

R. Kelly Jackson
Print Name: R. Kelly Jackson
Notary Public in and for said State
and County
My Commission Expires: 02/18/05

AUG 18 2003

ALAN M. ARAKAWA
Mayor

MICHAEL W. FOLEY
Director

WAYNE A. BOTEILHO
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 11, 2003

Ms. Rebecca Broudy Collins
Wallea Business Center
P. O. Box 220
Kihei, Hawaii 96753

Dear Ms. Collins:

BECKY

RE: Request to Transfer the Special Management Area Permit, Step 1 Planned Development Approval and Offsite Parking Approval for the Wallea Business Center at TMK 2-1-008:103 and por. of 141, Wallea, Maui, Hawaii (SM1 990007) (PD1 990001) (OSP 990004)

We are in receipt of your request dated July 28, 2003, to transfer the above referenced permit from South Maui Business Park Partners to Wallea Town Center Investors, LLC. Pursuant to §12-202-17(d) of the Special Management Area Rules of the Maui Planning Commission, the request for transfer contained the following information:

1. Reason(s) for permit transfer: Acquisition of property by Wallea Town Center Investors, LLC;
2. Transferor's consent has been received; and
3. Notarized affidavit from transferee acknowledging the conditions established with the subject permit and agreement by transferee to comply with these conditions has been received.

Your request for a transfer of permit holder from South Maui Business Park Partners to Wallea Town Center Investors, LLC is hereby granted. Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Foley".

MICHAEL W. FOLEY
Planning Director

EXHIBIT 8

Ms. Rebecca Broudy Collins
August 11, 2003
Page 2

MWF:CMS:lar

cc: Maui Planning Commission
Wayne Boleilho, Deputy Planning Director
Clayton Yoshida, A.I.C.P., Planning Program Administrator
Aaron Shimoto, P.E., Planning Program Administrator (2)
Colleen Suyama, Staff Planner
Development Services Administration (2)
Office of Planning
Gwen Ohashi Hiraga, Munekyo & Hiraga, Inc.
Project File
General File
(K:\WP_DOCS\PLANNING\SM111999\07_WelkeBusCenter\2003Transfer\Transfer.wp4)

LAND AND PERMIT OWNERSHIP HISTORY

	Parking Lot TMK: 2-1-008:141 <u>Ownership</u>	Wailea Town Center TMK: 2-1-008:103 <u>Ownership</u>	<u>Permits</u> (granted on both parcels)
1995	Wailea Resort Company Ltd.		
1996			
1997	Wailea Golf Resort Inc.	Wailea Business Center / South Maui Business Park Partners (WBC/SMBPP)	CP for OSP in A-2 (2/18/2000) SM1, PD1, OSP to SMBPP (4/11/2000)
1998			
1999			
2000			
2001			
2002			
2003	Wailea Golf LLC (10/1/2003)	(Wailea Town Center Investors LLC (8/11/2003))	SM1, PD1, OSP transferred from SMBPP to Wailea Town Center Investors LLC (8/11/2003)
2004			
2005			
2006			
2007			
2008			
2009			
2010			
2011			
2012			
2013		Condominiumized and individual units sold; irrelevant to parking lot permit transfers)	

Notes:

- Conditional Permit (CP 99/0007) was issued to South Maui Business Park Partners (SMBPP) for Off-Site Parking (OSP 99/0004) in A-2 Apartment District to satisfy parking requirements for the nearby Wailea Tennis Center. Parking lot parcel owners were never designated as permittee.
- Special Management Area Use Permit (SM1 99/0007) and Planned Development Step 1 (PD1 99/0001) were issued to SMBPP for: (1) Wailea Town Center (primary action); and (2) Off-Site Parking Lot (secondary action).
- SM1 99/0007, PD1 99/0001, and OSP 99/0004 were transferred from SMBPP to Wailea Town Center Investors, LLC.
- Current request is for transfer of CP 99/0007 from SMBPP to Wailea Golf LLC and time extension of CP from 2/28/2000 to 2/28/2020. No authorization has been obtained from SMBPP as the entity no longer exists.
- Transfer of OSP is to be done administratively by the Zoning Administration and Enforcement Division.

ALAN M. APALAWA
Mayor

WILLIAM P. PETERSON
Director

MICHELLE CROFT-AUMULLAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 21, 2016

Ms. Anne Takabuki, President & General Manager
Wailea Golf LLC
100 Wailea Golf Club Drive
Kihei, Hawaii 96753

Dear Ms. Takabuki:

**SUBJECT: APPROVAL OF TIME EXTENSION OF A CONDITIONAL PERMIT (CP)
IN ORDER TO DEVELOP AND OPERATE A PARKING LOT WITHIN
THE A-2 APARTMENT DISTRICT, LOCATED AT TMK: (2) 2-1-008:141;
TO PROVIDE OFF-SITE PARKING FOR THE WAILEA TENNIS
CENTER LOCATED AT TMK: (2) 2-1-008:123, 131 WAILEA IKI
PLACE, KIHEI, ISLAND OF MAUI, HAWAII; (CP 99/0007)**

Please be advised that the Department of Planning (Department) is in receipt of the application for a time extension of the Conditional Permit (CP) referenced above. Ordinance No. 3827 allows the Planning Director (Director) to approve time extensions of a CP, provided 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 CP;
3. Agencies have not identified new matters of concern that require mitigation; and
4. No protests are received from the owners and lessees of record located within 500 feet of the parcel on which the CP use is located.

The Department has determined that all the above criteria have been met.

Pursuant to the aforementioned, a time extension of the CP (CP 1999/0007) is hereby granted subject to the following conditions:

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid until **February 28, 2030**; provided that, an extension of this permit beyond the date may be granted pursuant to Section 19.40.090 of the Maui County Code.

ONE MAIN PLAZA
COUNTY OF MAUI, HAWAII 96793

CURRENT DIVISION (808)

EXHIBIT 10

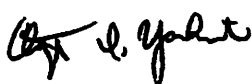
PHONE (808) 270-7253

Ms. Anne Takabuki, President & General Manager
March 21, 2016
Page 2

3. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.
4. That the Applicant, its 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 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 ONE MILLION AND NO/00 DOLLARS (1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 permit. A copy of a policy naming County of Maui as an additional insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.
5. That the parking lot shall be developed in accordance with the standards of Chapter 19.36A, 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. Further, the lighting standard shall be 12-14 feet as noted by the Applicant.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Livit Callentine at livit.callentine@mauicounty.gov or at (808) 270-5537.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

for WILLIAM SPENCE
Planning Director



Ms. Anne Takabuki, President & General Manager
March 21, 2016
Page 3

xc: John S. Rapacz, Planning Program Administrator (PDF)
Livit U. Callentine, AICP, Staff Planner (PDF)
County Clerk's Office
Development Services Administration
Tessa Munekiyo Ng, Munekiyo Hiraga
Project File
General File

WRS:CIY:LUC:nt

K:\WP_DOCS\PLANNING\CP\1999\0007_WaileaResort\Time Extension 2010\CP_TimeExtension_Approval.doc

Attachment 4

Adopted Minutes of the April 12, 2016 Commission meeting

**MAUI PLANNING COMMISSION
REGULAR MINUTES
APRIL 12, 2016**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Max Tsai at approximately 9:06 a.m., Tuesday, April 12, 2016, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Vice-Chairperson Max Tsai: Aloha everyone. Today is April 12, 2016. The Maui Planning Commission is called to order. I'm gonna open the floor for public testimony. Anyone who wants to testify now may testify at this point, but may not testify again when the action item comes up. So you can pick one or the other. So is anyone wish to testify right now. Please come up to the podium and you have three minutes. Identify yourself too please.

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed.

The following individuals testified at the beginning of the meeting:

Mike Moran – Item F-3, Resolution 16-09

Simon Russell – Item – F-2 and F-3, Resolution 16-01 and Resolution 16-09

Kimoeko Kapahulehua – Item F-3, Resolution 16-09

Their testimony can be found under the item on which they testified on.

Seeing none, public testimony is now closed. Next item on the agenda is C.

C. INTRODUCTION OF NEW MEMBERS - LAWRENCE CARNICELLI and STEPHEN CASTRO

Chair Tsai: We have one new member here in attendance. We have Stephen Castro. Welcome.

Mr. Castro: Thank you.

Chair Tsai: Would you say a word or two about yourself?

Mr. Castro: Well, I come from tourism, I come from tourism. I actually opened up and closed down with Kapalua Bay Hotel, 26 years. I do work for the union. I enjoy being here today. I also did a stint with the Board of Variances and Appeals so I'm happy to get involved again.

Chair Tsai: Thank you, Stephen. Thanks for coming. So we also have one other member who's not present, new member Lawrence Carnicelli. So thank you for joining us. Next item on the agenda we election for the officers for the new year 2016-2017 commission year.

It was moved by Mr. Hedani, seconded by Mr. Higashi, then

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department, as Amended.
(Assenting - W. Hedani, R. Higashi, J. Medeiros, K. Robinson,
S. Castro)
(Excused - L. Carnicelli, S. Duvauchelle, L. Hudson)**

Mr. Spence: Commissioners, real quickly. Commissioners we're on No. G., Ms. Anne Takabuki, President of Wailea Golf LLC requesting a transfer of a Conditional Permit to Wailea Golf Inc. We have Ms. Livit Callentine. Basically you're taking it from one entity and to another entity. I'll let Livit say ...(inaudible)...

G. COMMUNICATIONS

- 1. MS. ANNE TAKABUKI, President of WAILEA GOLF, LLC requesting a transfer of a Conditional Permit to WAILEA GOLF, INC. to continue operation of an off-site parking lot in the A-2 Apartment District to satisfy parking requirements for the Wailea Tennis Center on approximately 0.55 acres of land at 0 Wailea Iki Place, TMK: 2-1-008: 141, Wailea, Island of Maui. (CP 99/0007) (L. Callentine)**

Ms. Livit Callentine: Yes, will Hi, good afternoon, and congratulations. Welcome to our new member. Congratulations, Vice-Chair, Chair. Thank you for hanging in so long this afternoon. This is a transfer of a conditional permit that has been in operation for quite a long time since...it came in in 1999 and it is a conditional permit for offsite parking lot in the A-2 Apartment Zoning District. So that is the reason that a conditional permit was needed because parking is not a outright permitted use in the A-2 Apartment District.

The condition of the ordinance that was enacted said that the permit is not transferrable without prior written approval on the part of the Council. So we're asking you to make a recommendation to Council and further we've recommended an amendment to that Condition to Council, we're asking you to follow our recommendation to Council which would allow for the Planning Director to approve this future transfers of this permit. Because we believe that Section 19.40.080 of the Maui Code applies to...could apply to transfers and that part of the Code says that the Planning Director may approve amendments to the Conditional Permit if the amendments are not substantive and do result in significant impacts. I will abbreviate it there, but our analysis of that and I am really abbreviating my presentation because of the interest of time but I am prepared to speak more if you have questions. But I'm...but we've analyzed this project for quite some time getting it ready and we've determined that because there's no other amendments there are no construction and no improvements are proposed with this transfer it is a nonsubstantive amendment and therefore we will also recommend if this is recommended by you and further accepted by Council that future transfers be eligible to use this same process instead of requiring an ordinance by County Council just to make a transfer. Thank you. And I do have in the audience today we have Tessa Munekiyo-Ng from Munekiyo Hiraga and also Ms. Anne Takabuki too if you would like to hear from either of them.

Chair Tsai: Thank you. Right at this moment we're gonna open the floor for public testimony. Anyone wish to testify on this agenda item please step forward? Seeing none, public testimony is closed.

Ms. Callentine: Mr. Chair, I am so sorry but I actually wanted to point out to you that this is a regional location map. Here's Wailea Ike Drive coming down from Piilani Highway, here's Wailea Ike Place and this little red crescent here is the parking lot. The tennis court for which the parking lot is satisfying some of the parking is on this parcel. Aerial photo, an aerial photograph of it again shows you the tennis court up here, the parking lot here and then the Wailea Business Center which was part of the original package of permits that were approved is there. Thank you for allowing me to amend my presentation.

Chair Tsai: Thank you. Commissioner Hedani?

Mr. Hedani: In view of the hour and to ensure that we don't lose quorum at the meeting can we assume that everyone's read this thing religiously before we got to leave?

Chair Tsai: Everyone read this?

Mr. Robinson: I don't want to use the word, religious, nobody's referred to me as that but I read it and I have a couple questions.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: First of all it says here the permit's going to be good until 2030?

Ms. Callentine: Yes, that's correct. A time extension was just approved in March.

Mr. Robinson: This is one that we just approved in March?

Ms. Callentine: No this was approved by...this is a very good question. Thank you for asking it. Maui County Code Chapter 19.40 several years ago was amended by Council to allow for time extensions to be approved by the Planning Director provided that certain criteria were met. Now I described that in on Page 6 of the report/recommendation up at the top, Item 2 I talk about the time extensions. So the time extension has to have been filed timely which it was. The conditions of approval have to be...there has to be compliance with conditions of approval. The uses shall not have changed and agencies shall not have identified any additional matters of concern. And no protests were received by owners or lessees of record. So the applicant was required to mail out by certified mail to all surrounding parcels within 500 feet a notice of the intent to...filing of a request for a time extension and received no responses back or they received no responses back.

Mr. Robinson: The new owner or the old owner?

Ms. Callentine: That is the owner of the parcel. So the time extension was mentioned in here

because it was already done.

Mr. Robinson: Already done?

Ms. Callentine: Yes, it's been done. The only thing that is being requested today is a transfer from South Maui Business Partners, an entity which no longer exists by the way, and to Wailea Golf LLC.

Mr. Robinson: Did Wailea Golf purchase South Maui Partners?

Ms. Callentine: You know I think at this point in terms of historical I think it might be more appropriate for me to bring up Ms. Takabuki if you don't mind.

Mr. Robinson: Sorry it's a 14-year lease that's why.

Chair Tsai: Anne will you please identify yourself for the record?

Ms. Anne Takabuki: Sorry, I'm Anne Takabuki, I'm President of Wailea Golf, and good afternoon everyone. No, Wailea Golf did not purchase that directly from South Maui Business Partners. Actually there was kind of a glitch in the way this all went because South Maui did not transfer it to our predecessor owner. That would have been the appropriate thing to have been done but that didn't happen. So we took title from another entity called Wailea Golf Resort Inc., without really having any knowledge of this permit at that time. And then when we became aware of it that's when we decided we better correct all these things that should have happened with the transfer of ownership. So basically that's why we're here today to try to correct that.

Mr. Robinson: And currently this parking lot this is where the new Marriott is going am I correct?

Ms. Takabuki: It's gonna be very close to it, correct.

Mr. Robinson: And isn't that parking lot currently being used for construction? I was just there a few days ago?

Ms. Takabuki: Well, they're taking some liberties let's put it that way. I think they are in need of having some extra trucks to be parked in the area so we have said that as long it's available and it's not imposing on the guests you know it's temporarily they might be able to use it But you know that's a very temporary situation otherwise they would try to probably park all over the road which is not a good thing.

Mr. Robinson: Okay. And Director is this just...permit just for they're only allowed to use it as a parking lot?

Mr. Spence: That's correct.

Mr. Robinson: Okay. Thank you so much.

Ms. Takabuki: Thank you.

Chair Tsai: Any other questions? Seeing none, can I get a motion please? Commissioner Medeiros

Vice-Chair Medeiros: Move to accept this as recommended.

Mr. Castro: Second.

Vice-Chair Medeiros: Second by Commissioner Castro. Discussion on the motion? Seeing none, call for a vote. All in favor of the motion raise your hand?

Mr. Spence: That's five ayes.

Chair Tsai: Passed. Congratulations.

It was moved by Mr. Medeiros, seconded by Mr. Castro, then

**VOTED: To Approve the Transfer of the Conditional Permit to Wailea Golf, Inc., as Recommended by the Department.
(Assenting - J. Medeiros, S. Castro, K. Robinson, W. Hedani, R. Higashi)
(Excused - L. Carnicelli, S. Duvauchelle, L. Hudson)**

Mr. Spence: Okay, Commissioners Item H. Acceptance of the Action Minutes of March 22, 2016 and the Regular Minutes of December 8, 2015.

H. ACCEPTANCE OF THE ACTION MINUTES OF THE MARCH 22, 2016 MEETING AND REGULAR MINUTES OF THE DECEMBER 8, 2015 MEETING

Vice-Chair Medeiros: So move.

Chair Tsai: Moved by Commissioner Medeiros. Second? Commissioner Higashi. All in favor? Five ayes.

It was moved by Mr. Medeiros, seconded by Mr. Higashi, then

**VOTED: To Accept the Action Minutes of the March 22, 2106 Meeting and Regular Minutes of the December 8, 2015 Meeting.
(Assenting - J. Medeiros, R. Higashi, K. Robinson, W. Hedani, S. Castro)
(Excused - L. Carnicelli, S. Duvauchelle, L. Hudson)**

Mr. Spence: Commissioners, Item I, Director's Report.

I. DIRECTOR'S REPORT

It was moved by Mr. Hedani, seconded by Mr. Robinson, then

VOTED: To Accept the SMA Minor and SMA Exemption Reports.
(Assenting - W. Hedani, K. Robinson, J. Medeiros, S. Castro,
R. Higashi)
(Excused - L. Carnicelli, S. Duvauchelle, L. Hudson)

5. **Discussion of Future Maui Planning Commission Agendas**
 - a. **April 26, 2016 meeting agenda items**

Mr. Spence: April 26th is your next meeting. You have two public hearings one is or Hololani an SMA Permit for beach protection, shoreline protection and the second one is Mr. James ... (inaudible)...AAAA Rent-a-Space requesting a Conditional Permit. You have orientation workshop no. 2. There's a whole bunch of stuff. And then you will also have another request to go to the Hana Advisory Committee for a draft EA in support of a 100 percent affordable housing project.

Chair Tsai: And as reminder please turn in your financials by this Friday the 15th needs to be a signed item. Thank you everybody for staying late really appreciate it. Hopefully we don't have to do this again this late. Meeting adjourned.

J. NEXT REGULAR MEETING DATE: APRIL 26, 2016

K. ADJOURNMENT

The meeting was adjourned at 5:30 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Stephen Castro
Lawrence Carnicelli
Sandy Duvauchelle (excused at 4:32 p.m.)
Wayne Hedani
Richard Higashi
Larry Hudson (excused at 4:45 p.m.)
Keaka Robinson
Jason Medeiros, Vice-Chair
Max Tsai, Chair

Maui Planning Commission
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Excused

Lawrence Carnicelli

Others

Will Spence, Director, Planning Department

Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel

Attachment 5

Letter dated August 22, 2013, from J. Stephen Goodfellow, authorized representative of South Maui Business Park Partners, requesting the Conditional Permit be transferred to Wailea Golf LLC



GOODFELLOW BROS., INC. GENERAL CONTRACTOR

P.O. BOX 220 • KIHAEI, HI 96753 • PHONE: (808) 879-5205 • FAX: (808) 879-3674

August 22, 2013

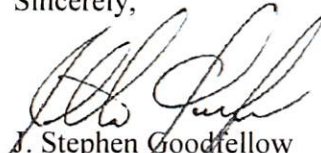
Mr. William Spence, Director
Department of Planning
County of Maui
One Main Plaza Building, Suite 315
2200 Main Street
Wailuku, HI 96793

Subject: Transfer of Ownership for Conditional Permit for Offsite Parking Lot at TMK 2-1-008: 141
(Ordinance No. 2829)

Dear Mr. Spence:

As the authorized representative for South Maui Business Partners (SMBP), past owners of the Wailea Business Center, I am advising the Department of Planning that the SMBP ownership no longer exists and as the past authorized representative of SMBP request that you transfer the above mentioned Conditional Permit to the current ownership of the property. The current owner of the subject property is Wailea Golf LLC. I would appreciate your including this request in the project file. Mr. Spence, should you have any questions regarding this letter or the described transfer please contact Mr. Charlie Jencks at 879-5205 or via email at charliej@pacificrimland.com.

Sincerely,



J. Stephen Goodfellow
Chief Executive Officer

Attachment

cc: Mr. Charles Jencks, Pacific Rim Land, Inc.

Attachment 6

Ordinance No. 2829 granting a CP in order to develop and operate a parking lot within the A-2 Apartment District for property situated at Wailea, Kihei, Maui, Hawaii

ORDINANCE NO. 2829

BILL NO. 9 (2000)

A BILL FOR AN ORDINANCE 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 of the Maui County Code, a conditional permit is hereby granted, subject to the conditions imposed in Section 2 of this ordinance, for the development and operation of an offsite parking lot within the A-2 Apartment District. The site is identified for real property tax purposes by TMK: 2-1-008:141, and is comprised of 24,066 square feet of land.

SECTION 2. The granting of this conditional permit is subject to the following conditions:

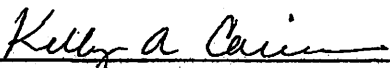
1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid for a period of ten years from the effective date of this ordinance; provided that, an extension of this permit beyond the ten year period may be granted pursuant to Section 19.40.090 of the Maui County Code.
3. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.
4. That the applicant, its 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 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 ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.

5. That the parking lot shall be developed in accordance with the standards of Chapter 19.36, Offstreet 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. Further, the lighting standard shall be 12-14 feet as noted by the applicant.

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

**APPROVED AS TO FORM
AND LEGALITY:**



KELLY A. CAIRNS
Deputy Corporation Counsel
County of Maui
S:\CLERICAL\JN\ORD\21008141.CP

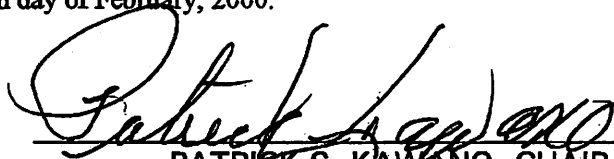
WE HEREBY CERTIFY that the foregoing BILL NO. 9 (2000)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 18th day of February, 2000, by the following votes:

Patrick S. KAWANO Chair	Dain P. KANE Vice-Chair	Michael A. DAVIS	J. Kalani ENGLISH	John Wayne ENRIQUES	G. Riki HOKAMA	Dennis Y. NAKAMURA	Wayne K. NISHIKI	Charmaine TAVARES
Aye	Aye	Aye	Aye	Aye	Excused	Aye	No	Aye

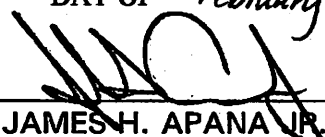
2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 18th day of February, 2000.

DATED AT WAILUKU, MAUI, HAWAII, this 18th day of February, 2000.

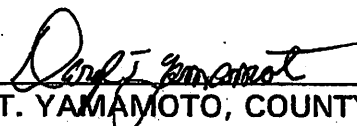

 PATRICK S. KAWANO, CHAIR
 Council of the County of Maui


 DIANE A. WAKAMATSU, DEPUTY COUNTY CLERK
 County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 28 DAY OF February, 2000.


 JAMES H. APANA JR., MAYOR
 County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 2829 of the County of Maui, State of Hawaii.


 DARYL T. YAMAMOTO, COUNTY CLERK
 County of Maui

Passed First Reading on February 4, 2000.
Effective date of Ordinance February 28, 2000.

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2829, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED
200 FEB 18 PM 2:08
OFFICE OF THE MAYOR

RECEIVED
200 FEB 28 AM 8:55
OFFICE OF THE
COUNTY CLERK

Attachment 7

Letter from William Spence, Planning Director, to Ms. Anne Takabuki dated March 21, 2016, approving a time extension of the Conditional Permit to February 28, 2030

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 21, 2016

Ms. Anne Takabuki, President & General Manager
Wailea Golf LLC
100 Wailea Golf Club Drive
Kihei, Hawaii 96753

Dear Ms. Takabuki:

SUBJECT: APPROVAL OF TIME EXTENSION OF A CONDITIONAL PERMIT (CP) IN ORDER TO DEVELOP AND OPERATE A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT, LOCATED AT TMK: (2) 2-1-008:141; TO PROVIDE OFF-SITE PARKING FOR THE WAILEA TENNIS CENTER LOCATED AT TMK: (2) 2-1-008:123, 131 WAILEA IKI PLACE, KIHEI, ISLAND OF MAUI, HAWAII; (CP 99/0007)

Please be advised that the Department of Planning (Department) is in receipt of the application for a time extension of the Conditional Permit (CP) referenced above. Ordinance No. 3827 allows the Planning Director (Director) to approve time extensions of a CP, provided 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 CP;
3. Agencies have not identified new matters of concern that require mitigation; and
4. No protests are received from the owners and lessees of record located within 500 feet of the parcel on which the CP use is located.

The Department has determined that all the above criteria have been met.

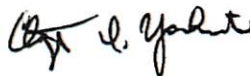
Pursuant to the aforementioned, a time extension of the CP (CP 1999/0007) is hereby granted subject to the following conditions:

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid until **February 28, 2030**; provided that, an extension of this permit beyond the date may be granted pursuant to Section 19.40.090 of the Maui County Code.

3. That the Conditional Permit shall be nontransferable without the prior written approval of the Maui County Council.
4. That the Applicant, its 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 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 ONE MILLION AND NO/00 DOLLARS (1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 permit. A copy of a policy naming County of Maui as an additional insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.
5. That the parking lot shall be developed in accordance with the standards of Chapter 19.36A, 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. Further, the lighting standard shall be 12-14 feet as noted by the Applicant.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Livit Callentine at livit.callentine@mauicounty.gov or at (808) 270-5537.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

for WILLIAM SPENCE
Planning Director

Ms. Anne Takabuki, President & General Manager
March 21, 2016
Page 3

xc: John S. Rapacz, Planning Program Administrator (PDF)
Livit U. Callentine, AICP, Staff Planner (PDF)
County Clerk's Office
Development Services Administration
Tessa Munekiyo Ng, Munekiyo Hiraga
Project File
General File

WRS:CIY:LUC:nt

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