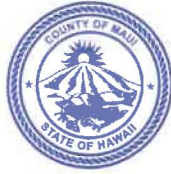


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

October 3, 2017

RECEIVED
2017 OCT -3 PM 3:59
OFFICE OF THE MAYOR

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

For Transmittal to:

Honorable Robert Carroll, Chair
and Members of the Land Use Committee
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
Alan Arakawa 10/4/17
Mayor Date

Dear Chair Carroll 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, ISLAND OF MAUI, HAWAII; TMK: 2-1-008:141 (CP 99/0007)

The Department of Planning (Department) is hereby responding to your request for clarification of the above referenced application.

1. *Subsection 19.40.090(C)(1), Maui County Code, provides that the Planning Director may approve the application for time extension if certain criteria are met, including a requirement that the permit holder is in compliance with the conditions of approval. If the permit holder at the time the extension was granted was South Maui Business Park Partners, and South Maui Business Park Partners had been dissolved, how was the requirement of the permit holder's compliance with the conditions of approval satisfied? Please explain.*

RESPONSE: The subject Conditional Permit was granted to South Maui Business Park Partners via Ordinance No. 2829 on February 28, 2000, with a term of ten years from the effective date.

On March 29, 2012, Ms. Takabuki, on behalf of Wailea Golf, LLC submitted a notarized affidavit acknowledging conditions, requirements and obligations set forth in the following permits: Conditional Permit No. CP 99/0007; Special Management Area Use Permit No. SM1 00/0007; and Off-site Parking Approval No. OSP 99/0004, and agreeing to abide by, comply with, and implement all of the terms, conditions, obligations, and requirements set for in each said permit. **(Exhibit "1")**

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Robert Carroll, Chair
October 3, 2017
Page 2

2. *Was the Department authorized to approve a time extension of the Conditional Permit to Wailea Golf LLC prior to the transfer of the Conditional Permit to Wailea Golf LLC? Please explain.*

RESPONSE: On August 4, 2003, Rebecca Broudy Collins, on behalf of South Maui Business Park Partners, requested a transfer of related permits (SM1 99/0007, PD1 99/0001, and OSP 99/0004) to Wailea Town Center Investors LLC. The request to transfer these three permits was approved by the Director of Planning on August 11, 2003. It appears the August 4, 2003 request did not include transfer of the Conditional Permit (CP 99/0007) because Wailea Town Center Investors LLC was the owner of parcel 103 (site of the Wailea Town Center) but not 141 (site of the parking lot serving as off-site parking for the Wailea Tennis Center). Furthermore, as represented by the applicant, because the Ordinance did not name a specific permittee, it may have been believed a transfer of the conditional permit was not required. (**Exhibits "2" and "3"**)

On August 24, 2009, Anne M. Takabuki, President of Wailea Golf, LLC, submitted a timely request for a time extension and transfer of the Conditional Permit. (**Exhibit "4"**)

On March 22, 2012, Charles Jencks as authorized representative for Wailea Business Center advised that Wailea Business Center had been sold to Wailea Golf, LLC, and requested that Special Management Area Use Permit No. SM1 00/0007, Planned Development Step 1 No. PD1 99/0001 and Off-site Parking Approval No. OSP 99/0004 be transferred to Wailea Golf, LLC. (**Exhibit "5"**) As represented by the applicant, because Ordinance No. 2829 did not specific a particular permittee for the Conditional Permit, Wailea Business Center did not include the transfer of the Conditional Permit in its letter

On July 18, 2013, Charles Jencks as authorized representative for South Maui Business Park Partners and Wailea Business Center, requested a transfer of the Conditional Permit to Wailea Golf LLC. (**Exhibit "6"**)

On August 22, 2013, J. Stephen Goodfellow, as authorized representative for South Maui Business Park Partners and Wailea Business Center, requested a transfer of the Conditional Permit to Wailea Golf LLC. (**Exhibit "7"**)

Thus, in reviewing the record, it appears that the Department was not technically authorized to approve a time extension of the Conditional Permit to Wailea Golf, LLC prior to a transfer of the permit to Wailea Golf, LLC. However, as the request for a time extension was submitted by Wailea Golf, LLC, was supported by former representatives of South Maui Business Park Partners, and Wailea Golf, LLC via notarized affidavit had accepted responsibility for complying with terms and conditions of the Conditional Permit, the Special Management Area Permit, and the Off-Site Parking Approval, the Department felt obliged to process the time extension in accord with Section 19.40.090, Maui County Code and Ordinance 2829.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
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October 3, 2017
Page 3

3. *If the Planning Director could not administratively approve the time extension because the permit holder had been dissolved and the Conditional Permit has not yet been transferred, please provide you Department's recommendations of the proposed bill.*

RESPONSE: The Department recommends approval of the subject Conditional Permit transfer to Wailea Golf, LLC. In the event a determination is made that the Department was not authorized to approve a time extension of the Conditional Permit, we also recommend that County Council approves a time extension to February 28, 2030.

Proposed revisions to the proposed bill with Department's response

1. *Section 1 provides a street address of "131 Wailea Iki Place." The real property tax database shows a street address of "0 Wailea Ike Place." Please advise.*

RESPONSE: We concur the correct street address for property identified as TMK: 2-1-008:141 is "0 Wailea Ike Place."

2. *Conditions 4 through 6 should have revisions incorporated in Ramseyer format (compare Ordinance 2829).*

RESPONSE:

The Department understands that Council staff has made revisions to the proposed bill in Ramseyer format.

Finally, the Department suggests that a review of its Report and Recommendation to the Maui Planning Commission, dated April 12, 2016, may prove helpful in understanding the history and background on the property and permit. The Report and Recommendation was provided as part of County Communication No. 17-364.

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

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Robert Carroll, Chair
October 3, 2017
Page 4

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:xxx

Project File
General File

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

AFFIDAVIT OF WAILEA GOLF LLC

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

ANNE M. TAKABUKI, being first duly sworn on oath, deposes and says that:

1. I am a resident of the State of Hawaii.
2. I am the President of the Hawaii limited liability company known as Wailea Golf LLC (“Wailea Golf”) and, in such capacity, I have full knowledge and authority to execute this affidavit on behalf of Wailea Golf.
3. Wailea Golf acquired the land described in permits listed hereinbelow (herein the “Property”) from Wailea Golf Resort, Inc. on October 1, 2003.
4. This affidavit is made in support of the request by the Director of Planning of the County of Maui for approval of the transfer of all outstanding or ongoing permits relating to the Property.
5. The transferee of the Permits relating to the Property is Wailea Golf LLC, presently registered and authorized to do business in the State of Hawaii.
6. Wailea Golf LLC has read and is aware of all the conditions, requirements and obligations as set forth in the following permits (hereinafter collectively referred to as the “Permits”):
 - A. Conditional Permit No. CP 99/0007;
 - B. Special Management Area use Permit No. SM1 99/0007; and
 - C. Off-site Parking Approval No. OSP 99/004.
7. Upon transfer of said Permits, Wailea Golf LLC as the transferee of said Permits, agrees to abide by, comply with and implement all of the terms, conditions, obligations and requirements set forth in each said permit.

EXHIBIT "1"

8. In the event there are further changes to said Permits, or Wailea Golf LLC wishes to transfer said Permits to its designee or affiliated company, Wailea Golf LLC will comply with all applicable rules of the County of Maui.

FURTHER AFFIANT SAYETH NAUGHT.



ANNE M. TAKABUKI

Subscribed and sworn to before me on this

29th day of March, 2012.



Notary Public, State of Hawaii

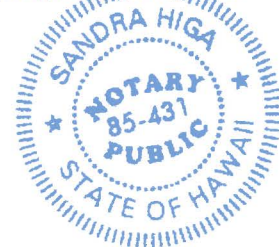
My commission expires: 10/14/13



Doc. Date: 3/29/12 # Pages: 2
Name: Sandra Higa Second Circuit
Doc. Description: Affidavit of Wailea Golf LLC

Sandra Higa 3/29/12
Signature Date

NOTARY CERTIFICATION





August 4, 2003

WAILAIA 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 90007
And PD1 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

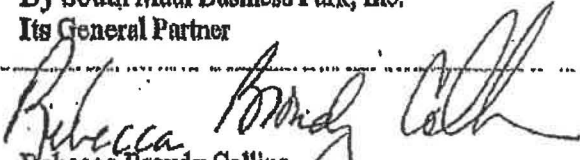
Dear Mr. Foley,

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

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

EXHIBIT 1211

Mr. Michael Foley
SMI 90007 PDI 990001
Transfer Request
August 4, 2003
Page 2 of 2

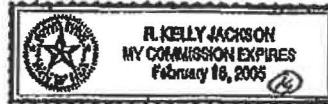
By signing below I acknowledge that I have received a copy of the Special Management Area permit SMI 90007, Step I Planned Development Phase II approvals PDI 990001, and Offsite Parking Approval OSP 990004 and accept all conditions for both permits.

Agreed And Accepted
WAILEA TOWN CENTER INVESTORS, LLC

By: [Signature]
Printed Name: JEFFREY S. 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: 02/16/05

AUG 18 2003

ALAN M. ARAKAWA
Mayor

MICHAEL W. FOLEY
Director

WAYNE A. BOTELHO
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 11, 2003

Ms. Rebecca Broudy Collins
Wailea 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
Wailea Business Center at TMK2-1-008:103 and por. of 141, Wailea,
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 Wailea 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 Wailea 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 Wailea 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,

Handwritten signature of Michael W. Foley in cursive script.

MICHAEL W. FOLEY
Planning Director

EXHIBIT "3"

Ms. Rebecca Broudy Collins
August 11, 2003
Page 2

MWF:CMS:lar

cc: Maul Planning Commission
Wayne Botelho, Deputy Planning Director
Clayton Yoshida, A.I.C.P., Planning Program Administrator
Aaron Shinmoto, P.E., Planning Program Administrator (2)
Colleen Suyama, Staff Planner
Development Services Administration (2)
Office of Planning
Gwen Ohashi Hiraga, Munekiyo & Hiraga, Inc.
Project File
General File
(C:\WP_DOC\PLANNING\SM\11999\07_WalkerBusCenter2003TransferTransfer.wp4)



Wailea
WAILEA GOLF LLC

member **GolfBC** group

*OSP 2/20/13
11/24/2009*

09/11339

November 24, 2009

09 NOV 27 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

12 MAR 27 P1:36

DEPT OF PLANNING
COUNTY OF MAUI

PACIFIC RIM LAND, INC.

DEPT OF PLANNING
COUNTY OF MAUI
PERMIT

March 22, 2012

'12 APR 20 P2:53

Mr. William Spence, Director
Department of Planning
County of Maui
250 South High Street
Kalana Pakui Building, Ste. 200
Wailuku, HI 96793

Subject: Transfer of Ownership for Offsite Parking Approval for the Wailea Tennis, Step 1
Planned Development Approval and a Special Management Area Use Permit for Development of
the Wailea Business Center and Related Improvements at TMK 2-1-008:103 and 141, OSP
990004, PD1 990001 and SM1 990007

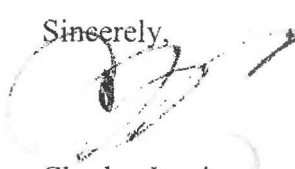
Dear Mr. Spence:

As the authorized representative for the Wailea Business Center ownership I am writing to
advise you that the Wailea Business Center and related improvements have been sold to a new
owner and request that the above referenced permits be transferred to the current owners. I would
appreciate your including this request in the project file, formally request a transfer of the
permits and ensure all future communications regarding this project and the subject applications
be sent to the following address:

Wailea Golf, LLC
100 Wailea Golf Club Drive
Wailea, Maui, HI 96753

Mr. Spence, should you have any questions regarding this letter or the described transfer please
contact me in my office at 879-5205, on my cell phone at 250-3178 or via email at
charliej@pacificrimland.com.

Sincerely,


Charles Jencks
Manager

Attachments

EXHIBIT "5"



PACIFIC RIM LAND, INC.

July 18, 2013

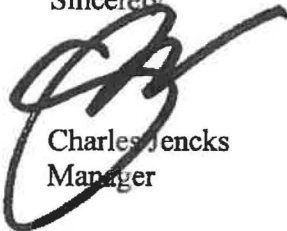
Mr. William Spence, Director
Department of Planning
County of Maui
2200 Main Street
One Main Plaza Building, Ste 315
Wailuku, HI 96793

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 me in my office at 879-5205, on my cell phone at 250-3178 or via email at charliej@pacificrimland.com.

Sincerely,



Charles Jencks
Manager

cc: Tessa Munekiyo Ng, Munekiyo & Hiraga

EXHIBIT "6"



GOODFELLOW BROS., INC. GENERAL CONTRACTOR

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

August 22, 2013

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

13 AUG 22 P5 20

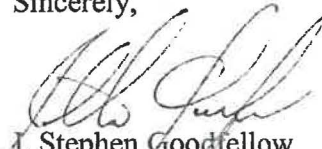
Mr. William Spence, Director
Department of Planning
County of Maui
One Main Plaza Building, Suite 315
2200 Main Street
Wailuku, HI 96793

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.