

REQUEST FOR LEGAL SERVICES

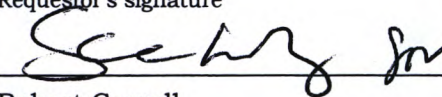
Date: August 31, 2017
From: Robert Carroll, Chair
Land Use Committee

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

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

Background Data: Review and approve revised proposed bill. A marked-up version comparing the bill previously provided by your Department against the revised proposed bill is transmitted with this request. Your coding on the bill is 2017-3092. An original, signed copy of the revised proposed bill is required.

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

Requestor's signature  Robert Carroll	Contact Person <u>Gary Saldana</u> (Telephone Extension: 7137)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): September 5, 2017
REASON: For consideration at the Land Use Committee meeting of September 6, 2017.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

ORDINANCE NO. _____

BILL NO. _____(2017)

A BILL FOR AN ORDINANCE GRANTING JEANA IWALANI NALUAI
A CONDITIONAL PERMIT TO CONDUCT CLASSES IN HAWAIIAN CULTURAL
AND MEDICINAL PRACTICES, AND OPERATE THE HO'OMANA SPA AND
BATHHOUSE, ON PROPERTY IDENTIFIED AS TAX MAP KEY (2) 2-4-013:142,
MAKAWAO, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Jeana Iwalani Naluai ("Applicant") to conduct classes in Hawaiian cultural and medicinal practices, and operate the Ho'omana Spa and Bathhouse. The site is identified for real property tax purposes as tax map key number (2) 2-4-013:142, comprising 2.01 acres of land situated at 1550 Piihola Road, Makawao, Maui, Hawaii.

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

1. That the Conditional Permit shall be valid for a period of five years from the effective date of this ordinance, provided that an extension of this permit beyond this five-year period may be granted pursuant to Section 19.40.090, Maui County Code ("MCC").
2. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.
3. That the Applicant and her successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at her own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the Applicant and the County of Maui against any and all claims or demands for property damage, personal injury and/or death arising

out of the Conditional Permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable tax map key and permit numbers.

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

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

APPROVED AS TO FORM
AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

lu:misc:036abill01_trk_chgs

ORDINANCE NO. _____

BILL NO. _____(2017)

A BILL FOR AN ORDINANCE GRANTING JEANA IWALANI NALUAI,
A CONDITIONAL PERMIT TO CONDUCT CLASSES IN HAWAIIAN CULTURAL
AND MEDICINAL PRACTICES, AND OPERATE THE HO'OMANA SPA AND
BATHHOUSE, ~~FOR ON~~ PROPERTY IDENTIFIED AS TAX MAP KEY (2) 2-4-
013:142, MAKAWAO, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Jeana Iwalani Naluai, ("Applicant") to conduct classes in Hawaiian cultural and medicinal practices, and operate the Ho'omana Spa and Bathhouse. The site is identified for real property tax purposes as tax map key number (2) 2-4-013:142, comprising ~~of~~ 2.01 acres of land situated at 1550 Piihoho Road, Makawao, Maui, Hawaii.

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

1. That the Conditional Permit shall be valid for a period of five ~~(5)~~ years from the effective date of this ordinance, provided that an extension of this permit beyond this five ~~(5)~~ year period may be granted pursuant to Section 19.40.090, Maui County Code ("MCC").
2. ~~That the subject Conditional Permit shall not be transferred without the prior written approval of the Commission. However in the event that a contested case hearing preceded issuance of said Conditional Permit, a public hearing shall be held upon due published notice, including actual written notice to the last know addresses of parties to said contested case and their counsel. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.~~
3. That the Applicant and ~~its~~ her successors and permitted assigns shall exercise reasonable due care as to third parties with respect to

all areas affected by subject Conditional Permit and shall procure at ~~his/her/their~~ own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the Applicant and the County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of the Conditional Permit, including, but not limited to—: (1) ~~claims~~ from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non--performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable ~~Ttax Mmap Kkey~~ and permit numbers.

4. That the Applicant shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the building permits required for the bath-house shall be completed prior to starting operations. Evidence of completion shall be submitted to the Department of Planning within thirty ~~(30)~~ days of the Applicant receiving the completed building permits.
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8. That, as recommended by the Department of Water Supply, a backflow preventer shall be installed. Evidence of installation shall be provided to the Department of Planning within thirty ~~(30)~~ days after the installation.

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AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui
[2014-3092](tel:2014-3092)

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