

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

October 20, 2017

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on October 4, 2017, makes reference to County Communication 17-364, from the Planning Director, transmitting a proposed bill entitled "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."

The purpose of the proposed bill is to grant a request from Anne M. Takabuki, Manager, Wailea Golf LLC, to amend the Conditional Permit granted by Ordinance 2829 (2000) to allow for the continued operation of a parking lot on approximately 24,066 square feet of land in Wailea, Maui, Hawaii, within the A-2 Apartment District, identified for real property tax purposes as tax map key (2) 2-1-008:141.

Your Committee also received correspondence from the Department of Planning suggesting the proposed bill be revised to remove the reference to an extension of the Conditional Permit because the Planning Director has already administratively approved a time extension pursuant to Section 19.40.090, Maui County Code.

According to the Department of Planning's report to the Maui Planning Commission, Ordinance 2829 granted a ten-year Conditional Permit for the operation of the parking lot to South Maui Business Park Partners, effective February 28, 2000. The parking lot serves as offsite parking for the Wailea Tennis Center, provides a total of 54 parking stalls, and is located at 0 Wailea Ike Drive. The report states that no construction or improvements are proposed.

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In its report, the Department states Wailea Golf LLC applied for a time extension and transfer of the Conditional Permit on November 24, 2009. At the time of the request for time extension and transfer, Wailea Golf LLC was the owner of the property, and that ownership remains unchanged. According to the report, South Maui Business Park Partners was dissolved and no longer an active business entity at the time of the requested time extension and transfer.

On March 21, 2016, the Department approved a 20-year time extension of the Conditional Permit to Wailea Golf LLC. Because the initial Conditional Permit would have expired on February 28, 2010, the extension authorized the continued operation of the parking lot through February 28, 2030.

Subsequently, the Department transmitted a request to the Council to transfer the Conditional Permit from South Maui Business Park Partners to Wailea Golf LLC by way of County Communication 17-364, dated August 30, 2017.

Your Committee did not voice any concerns about the merits of the continued use of the parcel as a parking lot to serve the Wailea Tennis Center. However, your Committee questioned the procedure followed in administratively approving the time extension to Wailea Golf LLC prior to a transfer of the Conditional Permit to that entity.

The Planning Director said the time extension may have been prematurely granted.

Your Committee discussed possible ways to address the concern, including recommending approval of the transfer and inserting a new condition in the proposed bill that would require Wailea Golf LLC to again apply for a time extension once the transfer is approved. Your Committee notes the application to transfer the Conditional Permit had been pending since 2009 until it was granted by the Director seven years later.

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Your Committee notes a consultant for Wailea Golf LLC said the applicant is willing to conform with the processing procedures deemed necessary by the Department of Planning.

Your Committee recommended several revisions be incorporated in the proposed bill, including deleting the reference to an extension from the title of the bill; rewording the title of the bill for clarity and to correct the name of the original permit holder; correcting the street address in Section 1 of the bill; inserting language in Section 1 of the bill to acknowledge that Wailea Golf LLC had timely applied for the extension and transfer of the Conditional Permit on November 24, 2009; removing the February 28, 2030 extension from Condition 2 because of the procedural problem; inserting a new Condition 7 to require Wailea Golf LLC to apply for the time extension by a date certain; and incorporating the changes from Ordinance 2829 in Ramseyer format, along with nonsubstantive revisions.

Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair Hokama, and members Atay, Cochran, Crivello, Guzman, King, Sugimura, and White voted "aye."

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE TO TRANSFER A CONDITIONAL PERMIT FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC FOR THE CONTINUED OPERATION OF A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT ON PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 2-1-008:141, WAILEA, KIHEI, MAUI, HAWAII," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee **RECOMMENDS** the following:

1. That Bill _____ (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO TRANSFER A CONDITIONAL PERMIT FROM SOUTH MAUI BUSINESS

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PARK PARTNERS TO WAILEA GOLF LLC FOR THE CONTINUED OPERATION OF A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT ON PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 2-1-008:141, WAILEA, KIHEI, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 17-364 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

lu:cr:17044aa:cmn

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE TO TRANSFER A CONDITIONAL PERMIT FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC FOR THE CONTINUED OPERATION OF A PARKING LOT WITHIN THE A-2 APARTMENT DISTRICT ON 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 from South Maui Business Park Partners to Wailea Golf LLC, subject to the conditions imposed in Section 2 of this ordinance, for the continued operation of a parking lot within the A-2 Apartment District. The site is identified for real property tax purposes as tax map key number (2) 2-1-008:141, comprising approximately 24,066 square feet of land situated at 0 Wailea Ike Place, Kihei, Maui, Hawaii.

Wailea Golf LLC timely applied for an extension and transfer of the Conditional Permit granted by Ordinance 2829 (2000) on November 24, 2009.

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 for a period of ten years from the effective date of [this ordinance;] Ordinance 2829; provided that, an extension of this [permit] Conditional 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 prior written approval of the Maui County Council.] transferable by the Planning Director following the provisions of Section 19.40.080(D), Maui County Code.
4. That [the applicant, its successors and permitted assigns] 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 [ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00)] \$1,000,000.00, naming the County of Maui as an additional [named] insured, insuring and defending [the applicant] 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 [permit] 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] Wailea Golf LLC 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] nonobservance or nonperformance of any of the terms and conditions of this [permit.] Conditional Permit. A copy of a [policy] certificate of insurance naming County of Maui as an additional [named] insured shall be submitted to the Department of Planning within [ninety (90)] 90 calendar days from the effective date of [transmittal of the decision and order.] 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 [the applicant.] Wailea Golf LLC.

7. That Wailea Golf LLC shall apply for an extension of the Conditional Permit pursuant to Section 19.40.090, Maui County Code. The application shall be submitted to the Department of Planning by February 1, 2018.”

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

APPROVED AS TO FORM AND LEGALITY:



MICHAEL HOPPER
Department of the Corporation Counsel

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