

REQUEST FOR LEGAL SERVICES

Date: March 2, 2020
From: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael J. Hopper, Esq.

Subject: CONDITIONAL PERMIT FOR 8615 KAMEHAMEHA V HIGHWAY, PUKO'O (MOLOKAI) (PSLU-28)

Background Data: Please review the attached proposed bill and, if appropriate, approve it as to form and legality. Please send a signed hard copy with your response.

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

Requestor's signature <u>Tamara A. M. Paltin</u> Tamara Paltin	Contact Person <u>Ana Lillis</u> (Telephone Extension: <u>x7660</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): March 4, 2020
REASON: For the Council's consideration at its March 13, 2020 Council Meeting

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 _____

(Rev. 7/03)

pslu:ltr:028acc02:alkl

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE GRANTING CHRISTINE WARD A CONDITIONAL PERMIT TO OPERATE A STORE AND LUNCH COUNTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 8615 KAMEHAMEHA V HIGHWAY, PUKO'O, MOLOKA'I, HAWAI'I AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 5-7-005:004

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

SECTION 1. In accordance with Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is granted to Christine Ward to operate a grocery store and snack bar within the County Agricultural District at a site identified for real property tax purposes as a portion of tax map key (2) 5-7-005:004, comprising approximately 20,045 square feet of a larger 70.944-acre parcel, situated at Puko'o, Moloka'i, Hawai'i.

SECTION 2. The grant of a Conditional Permit is subject to the following conditions:

1. The Conditional Permit is valid for ten years from the effective date of this ordinance.
2. The Conditional Permit is not transferrable unless the Maui County Council pre-approves transference by ordinance.
3. Christine Ward must exercise reasonable due care as to third parties with respect to all areas affected by the Conditional Permit and must procure at her own cost and expense, and maintain during the entire period of the Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 naming the County of Maui as an additional insured, insuring and defending Christine Ward and the County of Maui against any and all claims or demands for property damage, personal injury, and death arising out of the Conditional Permit, including: (1) claims from any accident in connection with the permitted use or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Christine

Ward of her rights; and (2) all actions, suits, damages, and claims by anyone or made by reason of the nonobservance or nonperformance of any of the terms and conditions of the Conditional Permit. A copy of the certificate of insurance naming the County of Maui as an additional insured must be submitted to the Department of Planning within ninety calendar days from the effective date of this ordinance. The proof of insurance and all subsequent certifications of insurance coverage must be submitted directly by the insurance carrier to the Department of Planning and must include the applicable tax map key and permit numbers.

4. Christine Ward must develop and use the property that is the subject of this ordinance in substantial compliance with the representations made by her to the Moloka'i Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to develop and use the property as represented may result in the revocation of the Conditional Permit in accordance with Section 19.40.080, Maui County Code.
5. Full compliance with all applicable governmental requirements must be rendered in a timely manner.
6. The store must open no earlier than 6:00 a.m. and close no later than 9:00 p.m.
7. All Department of Health applicable requirements must be met, including Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code," and Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems."
8. All parking must be on site. No street parking is allowed.
9. Compliance reports must be submitted to the Department of Planning with any request for renewal of the Conditional Permit.
10. Compliance reports must also address compliance with the conditions contained in the related Special Use Permit. The report must be in a format where the condition is listed, followed by a response. A copy of the original Conditional Permit approval must also be submitted with each compliance report.

SECTION 3. This ordinance will take effect on approval.

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui

pslu:misc:028abill02a:alkl