

REQUEST FOR LEGAL SERVICES

Date: February 9, 2017
From: Robert Carroll, Chair
Land Use Committee

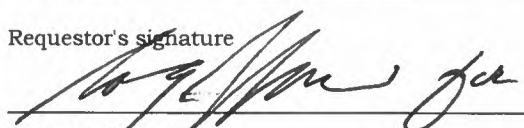
TRANSMITTAL

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

Subject: Ordinance Granting Ruby and Sons, LLC a Conditional Use Permit to construct a parking lot (LU-25)

Background Data: Review and approve revised proposed bill. A markup version comparing the bill previously approved by your office against the revised bill is transmitted with this request. Your prior coding was S:\CLERICAL\LJN\ORD\CP\39004149CP.wpd. An original, signed copy of the 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): Tuesday, February 14, 2017
REASON: For consideration at the Land Use Committee meeting of Wednesday, February 15, 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 _____

(Rev. 7/03)

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO RUBY AND SONS HOSPITALITY, LLC, FOR THE CONSTRUCTION AND USE OF AN OFF-SITE PARKING LOT WITHIN THE COUNTY PARK DISTRICT FOR PROPERTY SITUATED AT KIHEI, 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 Ruby and Sons Hospitality, LLC for the construction and use of an off-site parking lot within the County Park District. The site is identified for real property tax purposes by Tax Map Key Number: (2) 3-9-004:149, comprised of approximately 35,932 square feet of land situated at Kihei, Maui, Hawaii.

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 two (2) years from the effective date of this ordinance; provided, that an extension of this Conditional Permit beyond this five-year period may be granted pursuant to Section 19.40.090, Maui County Code.
3. That the subject Conditional Permit shall not be transferred unless the Maui County Council approves a transfer by ordinance.

4. That Ruby and Sons Hospitality, LLC, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by the subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of the 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 Ruby and Sons Hospitality, LLC, and 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 Ruby and Sons Hospitality, LLC of said rights; and (2) all actions, suits, damages and claims by whomever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui an additional insured shall be submitted to the Department of Planning within ninety (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.

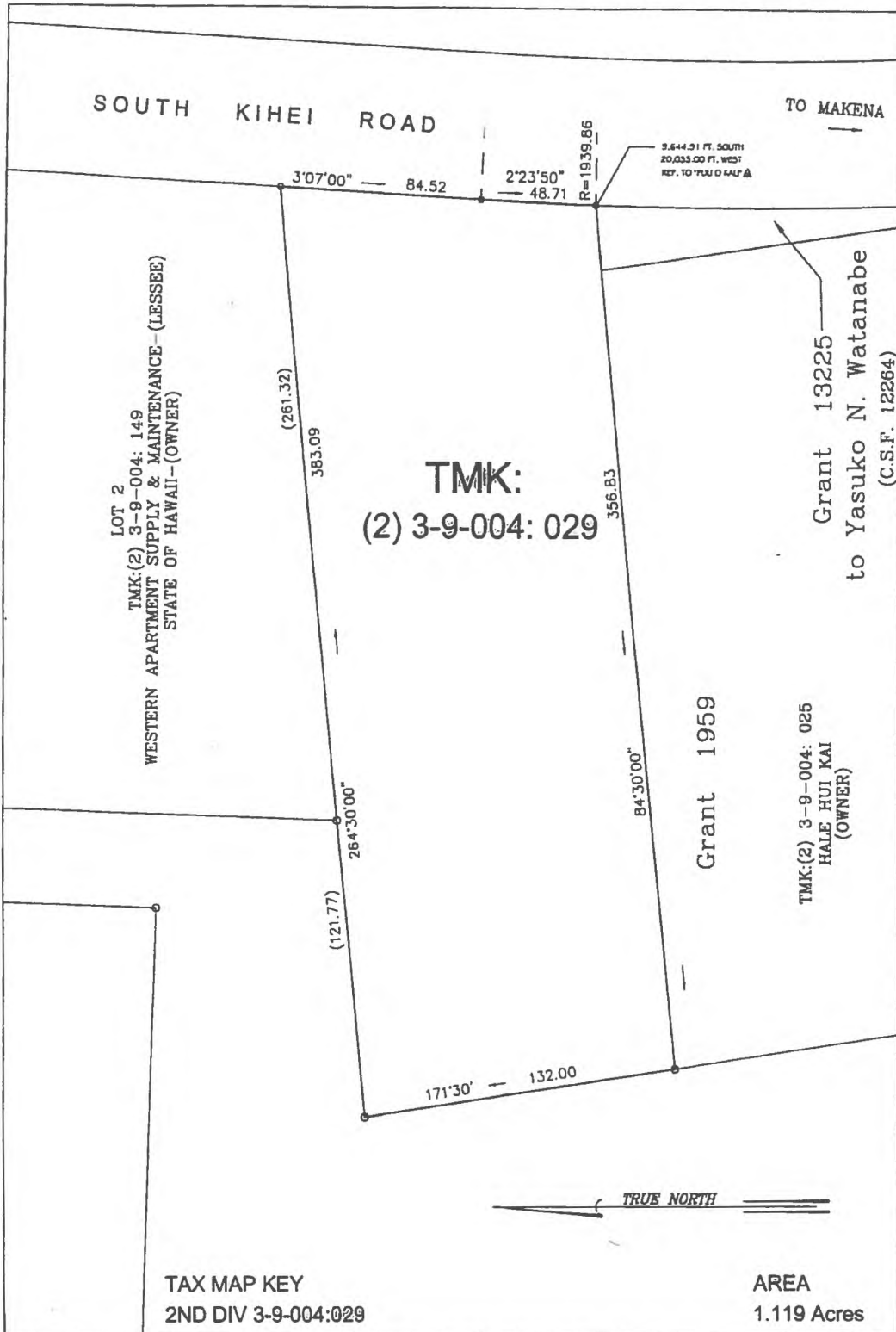
5. That Ruby and Sons Hospitality, LLC shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

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

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

Lu:misc:025abill01:grs



TAX MAP KEY
2ND DIV 3-9-004:029

AREA
1.119 Acres

COMMUNITY PLAN MAP NO. 531

COMMUNITY PLAN AMENDMENT - KIHEI, MAUI, HAWAII
FROM SINGLE FAMILY (SF) RESIDENTIAL TO HOTEL (H)

APPROVED _____

COUNTY CLERK DATE

PUBLIC HEARING: **NOVEMBER 25, 2008**

ADOPTED - COUNCIL:

ADOPTED - MAYOUR:

ORDINANCE:

APPROVED *Kathleen Ross O'Keefe*

PLANNING DIRECTOR DATE **7-2-09**

DATE:

SCALE: 1" = 50'

OFFICE OF THE COUNTY CLERK

200 South High Street, Waikuku, Maui, Hawaii 96753

CP-531

ORDINANCE NO. _____

BILL NO. _____ (20092017)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO [WESTERN APARTMENT SUPPLY & MAINTENANCE CO.], RUBY AND SONS HOSPITALITY, LLC, FOR THE CONSTRUCTION AND USE OF AN OFF-SITE PARKING LOT WITHIN THE COUNTY PARK DISTRICT FOR PROPERTY SITUATED AT KIHEI, 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 [Western Supply & Maintenance Co.] Ruby and Sons Hospitality, LLC for the construction and use of an off-site parking lot within the County Park District. The site is identified for real property tax purposes by Tax Map Key Number: (2)3-9-004:149, comprised of approximately 35,932 square feet of land situated at Kihei, Maui, Hawaii.

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 two (2) years from the effective date of this ordinance; provided, that an extension of this Conditional Permit beyond this five-year period may be granted pursuant to Section 19.40.090, Maui County Code.
3. [That the Conditional nontransferable unless the transfer by ordinance.] That the subject Conditional Permit shall not be

transferred unless the Maui County Council approves a transfer by ordinance.

4. That [Western Supply & Maintenance Co.] Ruby and Sons Hospitality, LLC, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by the subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of the 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 [Western Supply & Maintenance Co.] Ruby and Sons Hospitality, LLC, and 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 [Western Supply & Maintenance Co.] Ruby and Sons Hospitality, LLC of said rights; and (2) all actions, suits, damages and claims by whomever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui an additional insured shall be submitted to the Department of Planning within ninety (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 [Western Supply & Maintenance Co.] Ruby and Sons Hospitality, LLC shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

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

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

Lu:misc:025abill01a:grs

SOUTH KIHEI ROAD

TO MAKENA

3'07"00" — 84.52

2'23"50" — 48.71

R=1939.86

9,644.91 FT. SOUTH
20,033.00 FT. WEST
REF. TO 'PUNO O KAUAI'

LOT 2
TMK:(2) 3-9-004: 149
WESTERN APARTMENT SUPPLY & MAINTENANCE-(LESSEE)
STATE OF HAWAII-(OWNER)

(261.32)
383.09

TMK:
(2) 3-9-004: 029

356.83

Grant 13225
to Yasuko N. Watanabe
(C.S.F. 12264)

Grant 1959

TMK:(2) 3-9-004: 025
HALE HUI KAI
(OWNER)

264'30"00"

(121.77)

84'30"00"

171'30" — 132.00

TRUE NORTH

TAX MAP KEY
2ND DIV 3-9-004:029

AREA
1.119 Acres

COMMUNITY PLAN MAP NO. 531

COMMUNITY PLAN AMENDMENT - KIHEI, MAUI, HAWAII
FROM SINGLE FAMILY (SF) RESIDENTIAL TO HOTEL (H)

APPROVED

COUNTY CLERK DATE

PUBLIC HEARING: **NOVEMBER 25, 2003**

ADOPTED - COUNCIL:

ADOPTED - MAYOUR:

ORDINANCE:

APPROVED

Kathleen Ryan Oishi 7-2-09
PLANNING DIRECTOR DATE

DATE:

SCALE: 1" = 50'

OFFICE OF THE COUNTY CLERK

200 South High Street, Waikuku, Maui, Hawaii 96783

CP-531