

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

September 8, 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 August 16, 2017, makes reference to County Communication 17-217, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING KAOHU LLC, A DOMESTIC LIMITED LIABILITY COMPANY, A CONDITIONAL PERMIT TO ALLOW BUSINESS/OFFICE USE IN A RESIDENTIAL HOME LOCATED IN THE R-2, RESIDENTIAL ZONING DISTRICT ON APPROXIMATELY 3,600 SQUARE FEET OF LAND LOCATED AT 293 WAIALE ROAD, WAILUKU, MAUI, HAWAII," and related documents. The purpose of the proposed bill is to grant a request from Kaohu LLC for a ten-year Conditional Permit to allow business and office use in a residential home consisting of 1,280 square feet located at 293 Waiale Road, Wailuku, Maui, Hawaii.

Your Committee notes the Maui Planning Commission (Commission), following a public hearing on February 14, 2017, recommended approval of the Conditional Permit subject to conditions. According to the report of the Department of Planning presented at the Commission's meeting, the applicant, Michael Spalding of Kaohu LLC, plans to use the property for administrative support, bookkeeping and records storage for his family-owned real estate business.

Mr. Spalding advised your Committee the house was built in 1951 and consists of a foyer, five rooms, a kitchen, a bathroom, and a two-car garage. The applicant further noted staffing at the property will be limited to two full-time and three part-time employees; therefore, impact to traffic will be minimal. He noted ingress and egress to the property is from Kaohu Street. The property is zoned R-2 Residential District and is designated single family in the Wailuku-Kahului Community Plan.

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Your Committee voted 7-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Carroll and members Atay, Crivello, Guzman, King, Sugimura, and White voted "aye." Committee Vice-Chair Hokama and member Cochran were excused.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2017), attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING KAOHU LLC, A DOMESTIC LIMITED LIABILITY COMPANY, A CONDITIONAL PERMIT TO ALLOW BUSINESS/OFFICE USE IN A RESIDENTIAL HOME LOCATED IN THE R-2, RESIDENTIAL ZONING DISTRICT ON APPROXIMATELY 3,600 SQUARE FEET OF LAND LOCATED AT 293 WAIALE ROAD, WAILUKU, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-217 be FILED.

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



ROBERT CARROLL, Chair

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE GRANTING KAOHU LLC, A DOMESTIC LIMITED LIABILITY COMPANY, A CONDITIONAL PERMIT TO ALLOW BUSINESS/OFFICE USE IN A RESIDENTIAL HOME LOCATED IN THE R-2, RESIDENTIAL ZONING DISTRICT ON APPROXIMATELY 3,600 SQUARE FEET OF LAND LOCATED AT 293 WAIALE ROAD, WAILUKU, 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 Kaohu LLC, a Domestic Limited Liability Company, to allow business/office use in a residential home located in the R-2, Residential Zoning District. The site is identified for real property tax purposes as tax map key (2) 3-4-009:036, comprising approximately 3,600 square feet of land situated at Wailuku, Maui, Hawaii.

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

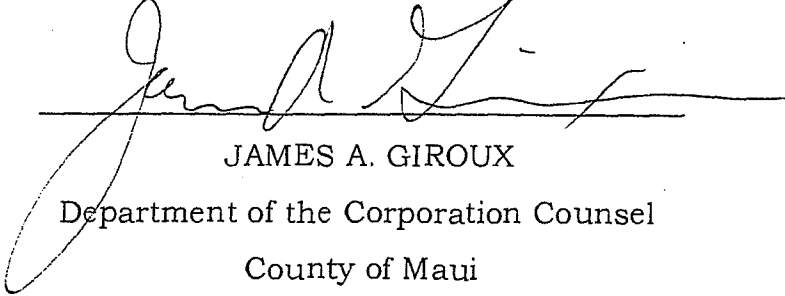
1. That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided, that an extension of this permit beyond this ten (10) year period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the Conditional Permit shall be nontransferable unless approved by the Planning Director or Maui Planning Commission.
3. That Kaohu LLC and its 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 Kaohu LLC and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this 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 Kaohu 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 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. 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 TMK and permit numbers.

4. That Kaohu 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 the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered.

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

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX
Department of the Corporation Counsel
County of Maui

2017-0455