

REQUEST FOR LEGAL SERVICES

Date: December 12, 2019
From: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

TRANSMITTAL

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

Subject: RENEWALS FOR CONDITIONAL, BED AND BREAKFAST HOME, SHORT-TERM RENTAL HOME, AND SPECIAL USE PERMITS (PSLU-26)

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. Th. Paltin</u> Tamara Paltin | Contact Person <u>James Krueger or Ana Lillis</u> (Telephone Extension: <u>7761</u> or <u>7660</u> , respectively) |
|---|--|

☐ 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, December 17, 2019
REASON: For the PSLU Committee's potential consideration at its December 18 meeting.

FOR CORPORATION COUNSEL'S RESPONSE

| | | |
|--------------|----------------|-----|
| ASSIGNED TO: | ASSIGNMENT NO. | BY: |
|--------------|----------------|-----|

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:026acc03:jgk

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE RELATING TO
EXTENSIONS FOR CONDITIONAL PERMITS

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

SECTION 1. The purpose of this ordinance is to conditionally allow for a grace period to temporarily extend a Conditional Permit while an application for the permit's extension is being processed.

SECTION 2. Section 19.40.090, Maui County Code, is amended to read as follows:

"19.40.090 Extensions. A. [Conditional permits] A conditional permit [shall] must not be extended unless the terms of the initial issuance [explicitly] expressly provide for [same.] extension. [In any case, extensions must be applied for] An applicant for an extension must submit a complete application no later than [ninety] sixty days prior to expiration; however, the director may [waive] issue a written waiver of this requirement if the director finds that unusual circumstances prevented an applicant from filing a timely extension request. A copy of the written waiver must be sent to all councilmembers at the time of issuance.

B. An applicant for a time extension [shall] must provide by certified mail a notice of application for time extension to the owners and lessees of record located within five-hundred feet of the parcel on which the conditional permit use is located. The notice of application for time extension [shall:] must:

1. Describe the uses permitted by the conditional permit and include a map showing the subject parcel and all other lots within a five-hundred-foot distance[; and].

2. State that owners and lessees of record may file a written protest against the proposed extension with the planning director within forty-five days of the mailing of the notice of application for time extension.

C. The planning director [may approve] must transmit the application for time extension [provided] to the council if the following criteria are met:

1. The permit holder is in compliance with the conditions of approval[;].

2. The permitted use has not been substantially changed, and new uses have not been added that may result in significant impacts above what would result from the approved conditional permit[;].

3. [Agencies have not identified new matters of concern that require mitigation; and] The permit holder has addressed any agency's concerns.

[4. No protests have been received from the owners and lessees of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B have been met.]

D. If [the application for time extension does not qualify for review and approval by the planning director, the application for time extension shall be processed in the same manner as the original application.] the criteria in subsection C are not met, the director must deny the application for time extension. The applicant may apply for a new conditional permit.

E. If any protest is received from an owner or lessee of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B are met, the planning director must transmit the protest to the council with the application for time extension.

F. The council may approve or deny the time extension by resolution. If the council denies the time extension, the applicant may apply for a new conditional permit.

G. If an application for extension is accepted, the conditional permit will remain in effect while the application is being processed for up to twelve months, unless the applicant fails to provide requested information to the department within sixty days."

SECTION 3. Section 19.40.100, Maui County Code, is amended to read as follows:

"19.40.100 Expiration of permits. Each permit and [the] ordinance enacting [same shall] the permit must state the [duration of] date or terms of expiration, and unless an extension is approved under section 19.40.090, the permit [and if a specific expiration date is stated such permit shall expire and be] is repealed [on said date] upon expiration without further action."

SECTION 4. Section 19.40.110, Maui County Code, is amended to read as follows:

"19.40.110 Reporting. The department of [public works] planning shall submit to the county council quarterly reports on the status of all conditional permits."

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance takes effect upon approval.

APPROVED AS TO FORM AND
LEGALITY:

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

pslu:misc:026abill03a:jgk/alkl