

REQUEST FOR LEGAL SERVICES

Date: February 1, 2019
From: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: David Galazin, Esq.

Subject: CONDITIONAL PERMIT FOR THE KUKAHIKO ESTATE (MAKENA) (PSLU-20)

Background Data: Please review attached marked-up and clean versions of the revised proposed bill. If appropriate, please approve the clean version as to form and legality. A hard copy is requested 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>James Krueger</u> (Telephone Extension: <u>7761</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): February 6, 2019
REASON: To submit for posting on the February 15, 2019 Council meeting agenda.

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:020acc01:jgk

Attachment

ORDINANCE NO. _____

BILL NO. _____ (20198)

A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY A-2 APARTMENT DISTRICT, TAX MAP KEY NUMBER (2) 2-1-007:079, MAKENA, 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 the John & Kamaka Kukahiko of Makena Corporation to conduct a maximum of~~approximately~~ 110 small-scale special events per year at 5034 Makena Road, Makena, Maui, identified for real property tax purposes by Tax Map Key number: (2) 2-1-007:079, within the County A-2 Apartment District, comprising approximately 0.811-acres of land situated at Makena, 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 five~~ten~~ (5~~10~~) years from the effective date of this ordinance; provided, that an extension of this permit beyond this 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. The Planning Director may forward the request to the Maui Planning Commission for review and approval.

3. That the John & Kamaka Kukahiko of Makena CorporationApplicant and 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 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 the John & Kamaka Kukahiko of Makena CorporationApplicant 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 the John & Kamaka Kukahiko of Makena CorporationApplicant 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, or prior to starting operations, whichever is first. 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 the John & Kamaka Kukahiko of Makena CorporationApplicant 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.
6. That the John & Kamaka Kukahiko of Makena CorporationApplicant may host a maximum of 110 events on site per calendar year.

7. That the number of guests per event shall not exceed forty-nine (49) persons including event staff.
8. That events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending by 9:30 p.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. No disc jockeys ~~DJS~~ or large bands are allowed.
9. There shall be no offsite parking and this includes parking along Makena Road or any of the public parking areas along Makena Road. For special events, all ~~for~~ guests and vendor parkings must be accommodated onsite. ~~For special events of twenty one (21) guests and over, a shuttle is required in addition to the onsite parking.~~
10. That structures utilized for the event will not be left up for longer than 24 hours.

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

APPROVED AS TO FORM
AND LEGALITY:

DAVID GALAZIN~~MICHAEL J. HOPPER~~
Deputy Corporation Counsel
County of Maui

pslu:misc:020abill0+2:jgk~~LF 2018-1097~~
~~2018-08-16 Ordinance~~

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO
OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL
EVENTS WITHIN THE COUNTY A-2 APARTMENT DISTRICT, TAX MAP KEY
NUMBER (2) 2-1-007:079, MAKENA, MAUI, HAWAII

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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 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. The Planning Director may forward the request to the Maui Planning Commission for review and approval.
3. That the John & Kamaka Kukahiko of Makena Corporation and 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 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 the John & Kamaka Kukahiko of Makena Corporation 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 the John & Kamaka Kukahiko of Makena Corporation 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, or prior to starting operations, whichever is first. 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 tax map key and permit numbers.

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DAVID GALAZIN
Deputy Corporation Counsel
County of Maui

pslu:misc:020abill02:jgk