

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

August 24, 2010

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 4, 2010, makes reference to County Communication No. 10-117, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE 2645 (1998) GRANTING JANICE R. WELSH A CONDITIONAL PERMIT TIME EXTENSION FOR THE OPERATION OF AN OFFICE IN THE R-1 RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-4-014:038, LOCATED AT 2241 VINEYARD STREET, WAILUKU, MAUI, HAWAII.". The purpose of the proposed bill is to grant a request from Janice R. Welsh for a Conditional Permit time extension, until February 28, 2013, for office uses on approximately 11,139 square feet within the R-1 Residential District for property situated at 2241 Vineyard Street, Wailuku, Maui, Hawaii.

Your Committee notes that the property is owned by Hula Maui LLC, of which Ms. Welsh is the sole member.

Your Committee further notes that the Council first granted a Conditional Permit for office uses on the property by Ordinance No. 2006 (1991). The Council granted extensions of the Conditional Permit by Ordinance Nos. 2210 (1993) and 2645 (1998). The Conditional Permit was last extended until February 28, 2008. Ms. Welsh submitted a timely request for an extension. In her correspondence dated January 24, 2008, Ms. Welsh advised that there are presently three business rentals and one residential rental on the property.

Your Committee also notes that the Maui Planning Commission ("Commission") recommended that a condition requiring the construction of water system improvements be deleted. According to Exhibit "17" to the "Maui Planning Department's Report and Recommendation to the Maui Planning Commission September 22, 2009 Meeting", Ms. Welsh has met all of the Department of Water Supply's requirements. The Commission further recommended that two standard conditions be incorporated, relating to non-transferability of the Conditional Permit and insurance requirements. The Commission also recommended that a condition be added to require improvements to the property frontage if and when development is proposed.

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Your Committee received a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2645 (1998) GRANTING JANICE R. WELSH A CONDITIONAL PERMIT TIME EXTENSION FOR OFFICE USES IN THE R-1 RESIDENTIAL DISTRICT FOR TAX MAP KEY NO. (2) 3-4-014:038, 2241 VINEYARD STREET, WAILUKU, MAUI, HAWAII," incorporating nonsubstantive revisions.

Ms. Welsh advised your Committee that she has had no complaints from her neighbors and is preparing to pursue a Change in Zoning, to eliminate the need for future extensions of the Conditional Permit.

Your Committee voted to recommend that the duration of the Conditional Permit time extension be changed to ten years, to expire on February 28, 2018. Your Committee noted that Ms. Welsh had been a good steward of the property and that the anticipated Change in Zoning application would take some time to process.

Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Johnson, Kaho`ohalahala, Mateo, Medeiros, Nishiki, Pontanilla, and Victorino voted "aye".

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and a nonsubstantive revision to delete the comma at the end of the title.

Your Land Use Committee RECOMMENDS the following:

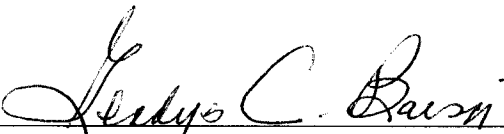
1. That Bill No. _____ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2645 (1998) GRANTING JANICE R. WELSH A CONDITIONAL PERMIT TIME EXTENSION FOR OFFICE USES IN THE R-1 RESIDENTIAL DISTRICT FOR TAX MAP KEY NO. (2) 3-4-014:038, 2241 VINEYARD STREET, WAILUKU, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 10-117 be FILED.

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This report is submitted in accordance with Rule 7 of the Rules of the Council.



GLADYS C. BAISA, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2645 (1998)
GRANTING JANICE R. WELSH A CONDITIONAL PERMIT TIME
EXTENSION FOR OFFICE USES IN THE R-1 RESIDENTIAL
DISTRICT FOR TAX MAP KEY NO. (2) 3-4-014:038,
2241 VINEYARD STREET, WAILUKU, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, the conditions set forth in Exhibit "1" to Ordinance No. 2006 (1991), as amended by Ordinance Nos. 2210 (1993) and 2645 (1998), are amended to read as follows:

"1. That the Conditional Permit shall be granted for a period of ten years until February 28, [2008] 2018; provided that, a request for an extension of the Conditional Permit beyond this date may be made and granted pursuant to the provisions of Section 19.40.090 of the Maui County Code.

[2. That the applicant shall construct water system improvements to provide fire protection to the property in accordance with standards.]

[3.]2. That full compliance with all other applicable governmental requirements shall be rendered.

3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.

4. That Janice R. Welsh, her successors, and permitted assigns shall exercise reasonable due care to third parties with respect to all areas affected by subject Conditional Permit and shall procure at her 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 (\$1,000,000.00) naming the County of Maui as an additional insured, insuring and defending Janice R. Welsh and the County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this

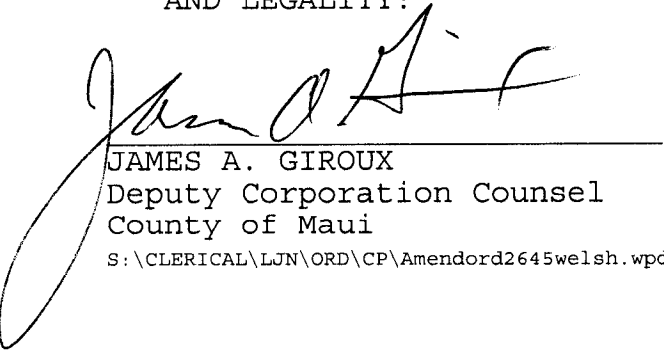
Conditional Permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Janice R. Welsh of said rights; and (2) all actions, suits, damages, and 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 time extension.

5. That, to the satisfaction of the Department of Public Works, if and when development is proposed on the property in the future, the property frontage shall be improved to County standards, which may include but not be limited to road widening, curb, gutter, and sidewalk."

SECTION 2. Material to be repealed is bracketed. New material is underscored.

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

APPROVED AS TO FORM
AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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