

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

January 6, 2012

**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 December 14, 2011, makes reference to County Communication 11-294, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING WILLIAM E. CAMBRA AND KATHLEEN A. CAMBRA, dba SHAMPOO-U & SPA, TOO, LLC, AN EXTENSION OF A CONDITIONAL PERMIT TO OPERATE A HAIR, SKIN, AND NAIL SALON WITHIN THE COUNTY RU-0.5 RURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 2-3-032-003, 212 KULA HIGHWAY, KULA, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from William and Kathleen Cambra ("Applicants") for an extension through December 22, 2019, of a Conditional Permit to continue the operation of a salon within the County RU-0.5 Rural District on approximately 2.119 acres located at 212 Kula Highway, Kula, Maui, Hawaii.

Your Committee notes that the legal description identifies the subject property's location as Kula; the United States Postal Service regards the subject property's location as Pukalani.

Your Committee further notes that Ordinance 3426 (2006) granted the Applicants a three-year Conditional Permit that expired on December 22, 2009. The Maui Planning Commission also approved a State Special Use Permit ("SUP") to allow for the operation of the salon. According to the communication, the Applicants filed their request for a time extension for the SUP and Conditional Permit on October 14, 2009; however, processing was delayed while the Applicants obtained their Certificate of Occupancy as required by Condition 8 of Ordinance 3426 (2006).

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Your Committee was informed by a Planner from the Department of Planning that there have been no complaints about the business operation, and that the Applicants are in compliance with the Conditional Permit's conditions. The Applicants requested revisions to the Conditional Permit to allow the salon to remain open an additional hour, until 7:00 p.m., Tuesday through Saturday. The Planner also indicated that the Applicants have satisfied three conditions (relating to requirements for a Certificate of Compliance, a Certificate of Occupancy, and off-street parking, respectively), which are therefore no longer necessary. Your Committee voted to revise the Conditional Permit to extend the hours of operation to allow the salon to remain open until 7:00 p.m. on Tuesdays through Saturdays, and to delete the three satisfied conditions referenced above.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair White, and members Cochran, Pontanilla, and Victorino voted "aye". Committee members Baisa, Couch, Hokama, and Mateo were excused.

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 revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2012), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING WILLIAM E. CAMBRA AND KATHLEEN A. CAMBRA, dba SHAMPOO-U & SPA, TOO, LLC, AN EXTENSION OF A CONDITIONAL PERMIT TO OPERATE A HAIR, SKIN, AND NAIL SALON WITHIN THE COUNTY RU-0.5 RURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 2-3-032-003, 212 KULA HIGHWAY, KULA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 11-294 be FILED.

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



ROBERT CARROLL, Chair

lu:cr:11023aa:kmh

ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE GRANTING WILLIAM E. CAMBRA AND KATHLEEN A. CAMBRA, dba SHAMPOO-U & SPA, TOO, LLC, AN EXTENSION OF A CONDITIONAL PERMIT TO OPERATE A HAIR, SKIN, AND NAIL SALON WITHIN THE COUNTY RU-0.5 RURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 2-3-032:003, 212 KULA HIGHWAY, KULA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 3426 (2006) to William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, LLC, is extended, subject to the conditions imposed in Section 2 of this ordinance, for the operation of a hair, skin, and nail salon within the County RU-0.5 Rural District. The site is identified for real property tax purposes by Tax Map Key No. (2) 2-3-032:003, and is comprised of approximately 2.119 acres of land.

SECTION 2. The conditions imposed in Ordinance No. 3426 (2006) are amended to read as follows:

- "1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid [for a period of three (3) years from the effective date of this ordinance;] until December 22, 2019; provided[,] that, an extension of this Conditional Permit beyond this [three-year] period may be granted

pursuant to Section 19.40.090, Maui County Code.

3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
4. That William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, LLC, their 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 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 (\$1,000,000.00), naming the County of Maui as [a named] an additional insured, insuring and defending William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, 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 William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, LLC, of said rights; and (2) all actions, suits, damages and claims by whomsoever 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 as an additional [a named] insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of the most recent amendment to this ordinance.

5. That William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, 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.
- [6. That William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, LLC, shall obtain a Certificate of Compliance for the salon from the Department of Planning within ninety (90) calendar days of approval of the Conditional Permit. Said certificate of compliance shall be issued upon compliance with the conditions of approval and applicable County codes.
- 7.] 6. That the hours of operation for the hair, skin, and nail salon shall be limited to 9:00 a.m. until [6:00] 7.00 p.m. on Tuesdays through Saturdays.
- [8. That William E. Cambra and Kathleen A. Cambra, dba Shampoo-U & Spa Too, LLC, shall apply for a certificate of occupancy within thirty (30) days of the effective date of this ordinance.
9. That full compliance with Chapter 19.36, Off-street Parking and Loading, shall be rendered prior to the issuance of a certificate of occupancy for the salon.]

SECTION 3. Material to be repealed is bracketed. New material is underscored.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



fn JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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