

ORDINANCE NO. 4950

BILL NO. 147 (2018)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO RUBY & SONS HOSPITALITY, LLC, FOR THE CONSTRUCTION AND USE OF AN OFF-SITE PARKING LOT WITHIN THE COUNTY PARK DISTRICT FOR PROPERTY SITUATED AT KIHEI, 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 Ruby & Sons Hospitality, LLC for the construction and use of an off-site parking lot within the County Park District. The site is identified for real property tax purposes as tax map key (2) 3-9-004:149, comprised of approximately 35,932 square feet of land situated at Kihei, Maui, Hawaii.

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

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid for a period of two (2) years from the effective date of this ordinance; provided, that an extension of this Conditional Permit beyond this two-year period may be granted pursuant to Section 19.40.090, Maui County Code.
3. That the subject Conditional Permit shall not be transferred unless the Maui County Council approves a transfer by ordinance.
4. That Ruby & Sons Hospitality, LLC, 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 its own cost and expense, and shall maintain during

the entire period of the 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 Ruby & Sons Hospitality, LLC, and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of the 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 Ruby & Sons Hospitality, LLC of said rights; and (2) all actions, suits, damages and claims by whomever 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 an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of this ordinance. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department of Planning and shall include the applicable tax map key and permit numbers.

5. That Ruby & Sons Hospitality, 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 revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That Ruby & Sons Hospitality, LLC shall provide at least fifty-one (51) parking stalls designated for public beach access parking and no more than thirty-four (34) parking stalls designated for hotel and restaurant parking on tax map key (2) 3-9-004:149.
7. That Ruby & Sons Hospitality, LLC and Sarento's on the Beach, LLC shall be responsible to prevent the guests, employees, invitees, and agents of the hotel and restaurant from using, at a minimum, 51 parking stalls dedicated for use by the public for public beach access.
8. That Ruby & Sons Hospitality, LLC shall be responsible for the maintenance and upkeep of the parking lot on tax map key (2) 3-9-004:149.
9. That Ruby & Sons Hospitality, LLC shall be responsible for clearly marking with signage, at a minimum, 34 contiguous parking stalls on tax map key (2) 3-9-004:149 designated for use by the hotel and

the restaurant and, at a minimum, 51 parking stalls designated for public beach access.

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

APPROVED AS TO FORM AND LEGALITY:



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Department of the Corporation Counsel  
County of Maui

pc:misc:022acpbill04:ldm

WE HEREBY CERTIFY that the foregoing BILL NO. 147 (2018)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 27th day of December, 2018, by the following vote:

Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
Aye	Aye	Excused	Excused	Aye	Excused	Aye	Excused	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 27<sup>TH</sup> day of December, 2018.

DATED AT WAILUKU, MAUI, HAWAII, this 27th day of December, 2018.

RECEIVED  
2018 DEC 27 PM 4:05  
OFFICE OF THE MAYOR

MICHAEL B. WHITE, CHAIR  
Council of the County of Maui

DENNIS A. MATEO, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 31 DAY OF December, 2018.

ALAN M. ARAKAWA, MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4950 of the County of Maui, State of Hawaii.

JOSIAH K. NISHITA, DEPUTY COUNTY CLERK  
County of Maui

Passed First Reading on December 13, 2018.  
Effective date of Ordinance December 31, 2018

RECEIVED  
2018 DEC 31 PM 4:22  
OFFICE OF THE COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4950, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

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County Clerk, County of Maui