

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

July 2, 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 June 16, 2010, makes reference to County Communication No. 09-104, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING AMERON HAWAII A CONDITIONAL PERMIT TO ALLOW CONCRETE BATCHING, ASPHALT PRODUCTION, AND CONCRETE CASTING OPERATIONS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT PUUNENE, MAUI, HAWAII". The purpose of the proposed bill is to grant a request from Ameron Hawaii for a ten-year Conditional Permit to allow concrete batching, asphalt production, and concrete casting operations within the Agricultural District for approximately 208.9 acres owned by Alexander & Baldwin, Inc., situated at Puunene, Maui, Hawaii (TMK: (2) 3-8-01:001 (por.); (2) 3-8-03:004 (por.), (2) 3-8-03:020 (por.), and (2) 3-8-03:021 (por.)).

Your Committee received a revised proposed bill correcting the acreage for which the Conditional Permit is being sought, to 167.7 acres. The correction incorporates Ameron Hawaii's request to withdraw a 41.2-acre area and add a 7.4-acre area and a 2.1-acre area.

The Planner informed your Committee that the State Land Use Commission granted a State Special Use Permit (State SUP) for the quarry operation in 1986, and has continually granted extensions of the State SUP since then. He further advised that the Maui Planning Commission granted a County Special Use Permit (County SUP) covering the mining and extracting activities on the property. Both the State SUP and County SUP are valid until August 5, 2017. According to the Department of Planning, the existing batching and concrete casting operations are not covered under the "mining and resources extraction" special use within the County Agricultural District, thus requiring a Conditional Permit for those purposes.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

July 2, 2010
Page 2

Committee
Report No. _____

The Deputy Director of Environmental Management testified in support of Ameron Hawaii's continued operations in Puunene, explaining that, when Ameron Hawaii completes its quarrying operations, the resulting below-grade area is made available to the County for landfill purposes.

According to the County Communication, a portion of the subject property was originally established as a quarry and rock crushing site by the U.S. Navy Seabees in 1939. The County Communication further details a history of such uses in the area. Your Committee noted that the project area is isolated and, therefore, would not present any disturbance for neighbors.

Your Committee further noted that, according to correspondence dated February 24, 2010, from the Planning Director, no sand mining is occurring on the subject property. Your Committee discussed the integration of sugar cane cultivation; quarry, casting, and batching operations; and landfill uses in the area.

Your Committee voted to recommend that the reference to TMK: (2) 3-8-03:020 (por.) be deleted from the revised proposed bill, since it is no longer a part of the project area. Your Committee also voted to again correct the acreage to be covered by the Conditional Permit, having been advised by Ameron Hawaii's consultant, Michael Munekiyo, Munekiyo & Hiraga, Inc., that the proposed 2.1-acre expansion area is no longer a part of the project area, making the total area covered by the proposed bill 165.6 acres.

In response to comments received from the State Historic Preservation Division, State Department of Land and Natural Resources (SHPD), your Committee further voted to recommend that a new Condition No. 6 be added to require that an archaeological inventory survey for the 7.4-acre expansion area be conducted by a qualified archaeological consultant, with a report submitted to SHPD for review and acceptance prior to any grubbing or grading activity.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading, incorporating the revisions made by your Committee, and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Johnson, Kaho'ohalahala, Medeiros, Nishiki, and Pontanilla voted "aye". Committee members Mateo and Victorino were excused.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

July 2, 2010
Page 3

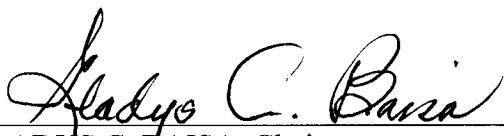
**Committee
Report No.** _____

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 nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING AMERON HAWAII A CONDITIONAL PERMIT TO ALLOW CONCRETE BATCHING, ASPHALT PRODUCTION, AND CONCRETE CASTING OPERATIONS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT PUUNENE, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-104 be FILED.

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



GLADYS C. BAISA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE GRANTING AMERON HAWAII A
CONDITIONAL PERMIT TO ALLOW CONCRETE BATCHING, ASPHALT
PRODUCTION, AND CONCRETE CASTING OPERATIONS WITHIN THE COUNTY
AGRICULTURAL DISTRICT FOR PROPERTY SITUATED
AT PUUNENE, 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 Ameron Hawaii to allow concrete batching, asphalt production, and concrete casting operations within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key Numbers: (2) 3-8-001:001(por.), (2) 3-8-003:004(por.), and (2) 3-8-003:021(por.), comprising approximately 165.6 acres of land situated at Puunene, Maui, Hawaii.

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

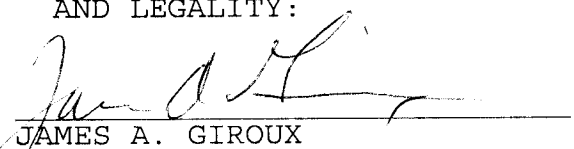
1. That full compliance with all applicable governmental requirements shall be rendered, including State Land Use Commission Special Permit (SP77-271).
2. That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided that, an extension of this Conditional Permit beyond this ten-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 Ameron Hawaii, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its 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 Ameron Hawaii 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 Ameron Hawaii 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 insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of this ordinance.

5. That Ameron Hawaii 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 an archaeological inventory survey for the 7.4-acre expansion area shall be conducted by a qualified archaeological consultant with a report of the findings, significance assessments, and recommended mitigation submitted to the State Historic Preservation Division for review and acceptance prior to proceeding with any grubbing or grading activity.

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

S:\CLERICAL\LJN\ORD\CP\38001001CP.wpd