

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

February 15, 2013

**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 January 30, 2013, makes reference to County Communication 13-38, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE BATCHING PLANT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-8-004:002 (POR.), KIHEI, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from Ameron Hawaii for a 15-year extension of a Conditional Permit to operate a concrete batching plant on approximately 2.002 acres within the County Agricultural District, Kihei, Maui, Hawaii (TMK: (2) 3-8-004:002 (por.)) (the "Property").

By correspondence dated January 23, 2013, Erin Mukai, Associate, Munekiyo & Hiraga, Inc., transmitted a letter of authorization from Alexander & Baldwin, Inc. to the Department of Planning, dated July 27, 2010, in which Alexander & Baldwin, Inc. identified itself as the owner of the property and authorized Ameron Hawaii and Munekiyo & Hiraga, Inc. to obtain approvals for the project, including the State Special Use Permit and the County Conditional Permit. Ms. Mukai also transmitted a map showing the portion of the parcel that would be subject to the lease, and a metes and bounds description for the Property.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, incorporating nonsubstantive revisions and the metes and bounds description.

Your Committee notes that the Property is located in the vicinity of the intersection of Piilani Highway and Mokulele Highway, on a parcel adjacent to the previous location of Ameron Hawaii's concrete batching plant. According to the County Communication, Ameron Hawaii sought to relocate its plant to accommodate the State's realignment of Mokulele Highway.

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Although the Conditional Permit for the Property was granted in 2005, Ameron Hawaii has not yet begun plant operations on the Property. Ameron Hawaii has graded the Property, erected fencing around it, and stored its batching plant equipment there.

Ameron Hawaii informed your Committee that it has been operating a concrete batching plant in the area since 1974, but has twice relocated its operation because of highway improvements affecting its site.

Your Committee notes that Ameron Hawaii was first granted a Conditional Permit to operate its concrete batching plant on the Property by Ordinance 3330 (2005). The Conditional Permit was valid for five years from the effective date of Ordinance 3330, or until November 7, 2010. The recommended 15-year extension would, therefore, expire on November 7, 2025.

Your Committee further notes that the State Special Use Permit granted by the Maui Planning Commission contains an expiration date of November 7, 2027, or the expiration date of the Conditional Permit, whichever occurs later.

Your Committee recommended that the Conditional Permit granted by Ordinance 3330 (2005) be extended for a 20-year period. Therefore, your Committee voted to amend the proposed bill by replacing the year “2025” with the year “2030”, so that the Permit would expire on November 7, 2030.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair Guzman, and members Baisa, Cochran, Crivello, Victorino, and White voted “aye”. Committee members Couch and Hokama 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 recommended revision.

Your Land Use Committee **RECOMMENDS** the following:

1. That Bill \_\_\_\_\_ (2013), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE BATCHING PLANT WITHIN THE COUNTY

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AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX  
MAP KEY NO. (2) 3-8-004:002 (POR.), KIHEI, MAUI, HAWAII”, be  
PASSED ON FIRST READING and be ORDERED TO PRINT; and


2. That County Communication 13-38 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:13006aa:cmn

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)

A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE BATCHING PLANT WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-8-004:002 (POR.), KIHEI, 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. 3330 (2005) is extended, subject to the conditions imposed in Section 2 below, for the operation of a concrete batching plant within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key No. (2) 3-8-004:002 (por.), and is comprised of approximately 2.002 acres, as shown on Exhibit "A", attached hereto and made a part hereof.

SECTION 2. The conditions imposed in Ordinance No. 3330 (2005) are amended to read as follows:

"SECTION 3. The granting of the Conditional Permit [described in Section 2 of this ordinance] 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 five (5) years from the effective date of this ordinance;] until November 7,

2030; provided, that an extension of this Conditional Permit [beyond this five-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 the 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 [a named] 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 [a named] 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

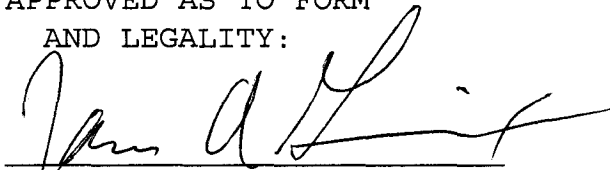
in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

6. That full compliance with the conditions of Land Use Commission Special Use Permit (SUP2 2005/0001), as amended, shall be rendered."

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:



JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

S:\CLERICAL\LJN\ORD\CP\AMERONHAWAII AMENDORD 3330 EXTEND CP 2012.wpd

AMERON KIHEI LEASE AREA  
SITUATED AT PULEHUNUI, KIHEI, MAUI, HAWAII  
BEING A PORTION OF LAND PATENT 8140,  
LAND COMMISSION AWARD 5230 TO KEAWEAMAHI  
BEING ALSO A PORTION OF LOT 1,  
PULEHUNUI PLAINS SUBDIVISION

Beginning at the Southwest corner of this Parcel of Land, said point being the East corner of Access and Utility Easement A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being 19,609.99 feet North and 24,920.01 feet West and running by azimuths measured clockwise from True South:

1. 131° 43' 19" 123.50 feet along Access and Utility Easement A-1;
2. Thence, along the remainder of Lot 1, Pulehunui Plains Subdivision on a curve to the right with a radius of 130.00 feet, the chord azimuth and distance being:  
219° 00' 126.05 feet
3. 269° 44' 305.28 feet along the remainder of Lot 1, Pulehunui Plains Subdivision;
4. 345° 20' 301.76 feet along the remainder of Lot 1, Pulehunui Plains Subdivision;
5. 103° 00' 177.72 feet along the remainder of Lot 1, Pulehunui Plains Subdivision;
6. 114° 45' 140.37 feet along the remainder of Lot 1, Pulehunui Plains Subdivision;

**EXHIBIT " A "**



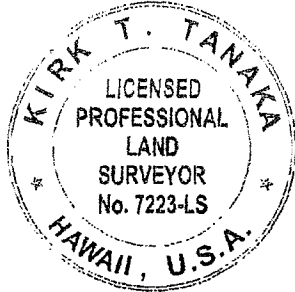
7. 99° 40' 69.17 feet along the remainder of Lot 1, Pulehunui Plains Subdivision to the point of beginning and containing an area of 2.002 Acres.

TOGETHER WITH Access and Utility Easement A-1 affecting Lot 1, Pulehuhui Plains Subdivision and described as follows:

Beginning at the Eastern corner of this Easement, being also the Southwest corner of the Ameron Kihei Lease Area, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being 19,609.99 feet North and 24,920.01 feet West and running by azimuths measured clockwise from True South:

1. 41° 43' 19" 88.28 feet along the remainder Lot 1, Pulehunui Plains Subdivision;
2. 131° 43' 19" 326.61 feet along Piilani Highway and the remainder of Lot 1, Pulehunui Plains Subdivision;
3. 258° 53' 30" 52.93 feet along the remainder of Lot 1, Pfizer Genetics Farm Subdivision;
4. 311° 43' 19" 125.02 feet along the remainder of Lot 1, Pulehunui Plains Subdivision;
5. Thence, along the remainder of Lot 1 Pulehunui Plains Subdivision on a curve to the left with a radius of 46.10 feet, the chord azimuth and distance being:  
266° 43' 19" 65.20 feet;

6. 311° 43' 19" 123.50 feet along the Ameron Kihei Lease Area to the point of beginning and containing an area of 0.442 Acres.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

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Kirk T. Tanaka  
Licensed Professional Surveyor  
Certificate No. 7223-LS  
License Expires: April 30, 2014

871 Kolu Street, Suite 201  
Wailuku, Hawaii 96793

December 17, 2003  
Revised: January 5, 2004  
Revised: April 16, 2004  
Revised: May 11, 2004  
Revised: January 17, 2013