

REQUEST FOR LEGAL SERVICES

D a t e: August 24, 2021

F r o m: Tamara Paltin, Chair

Planning and Sustainable Land Use Committee

TRANSMITTAL


Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jennifer Oana, Esq.

Subject: AMENDING THE CONDITIONAL PERMIT FOR ALEXANDER AND BALDWIN SUGAR MUSEUM AT HANSEN ROAD (PUUNENE) (PSLU-21)

Background Data: Please see the attached bill recommended by the PS�U Committee at its meeting of August 19, 2021, for passage on first reading, incorporating nonsubstantive revisions. Please sign if the bill is legally defensible. If the bill is not legally defensible, please provide a public memo explaining your reasons. Confidential legal advice is not sought. Please submit the response to pslu.committee@mauicounty.us with reference to PS�U-21.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Tamara Paltin	Contact Person Alison Stewart or Richard Mitchell (Telephone Extension: 7661 or 7662, respectively)
--	---

☐ ROUTINE (WITHIN 15 WORKING DAYS)

☐ RUSH (WITHIN 5 WORKING DAYS)

☐ PRIORITY (WITHIN 10 WORKING DAYS)

☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): September 8, 2021

REASON: For posting on the September 17, 2021 Council meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)

☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

pslu:ltr:021acc01:ans

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING THE CONDITIONAL PERMIT GRANTED BY ORDINANCE NO. 2101 (1992) AND AMENDED BY ORDINANCE NOS. 2360 (1994), 2800 (1999), AND 3201 (2004) TO ALEXANDER AND BALDWIN SUGAR MUSEUM, TO ALLOW FOR AN EXPANSION OF THE MUSEUM USE AND FOR A TIME EXTENSION ON APPROXIMATELY 4.166 ACRES IN THE R-1 RESIDENTIAL DISTRICT AT 3957 HANSEN ROAD, TAX MAP KEY (2) 3-8-006:004 (POR.) PUUNENE, MAUI, HAWAII

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

SECTION 1. In accordance with Chapter 19.40, Maui County Code, the conditional permit granted by Ordinance 2101 (1992) and amended by Ordinances 2360 (1994), 2800 (1999) and 3201 (2004) is expanded to include an area of 4.166 acres as described in Exhibit “A”, designated on the map incorporated as Exhibit “B”, and subject to the amended conditions in Section 2 of this Ordinance.

SECTION 2. This Conditional Permit is subject to the following conditions:

1. Full compliance with all applicable governmental requirements is required.
2. The Conditional Permit is valid until March 31, 2047, except an extension of the permit beyond the expiration date may be granted in accordance with Section 19.40.090, Maui County Code.
3. The Conditional Permit is nontransferable unless the Council approves a transfer by ordinance.

4. Alexander & Baldwin Sugar Museum, its successors and permitted assigns must exercise reasonable care as to third parties with respect to all areas affected by the Conditional Permit and must procure at its own cost and expense, and must maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 naming the County of Maui as an additional insured, insuring and defending the Alexander & Baldwin Sugar Museum and County of Maui against any and all claims or demands for property damage, personal injury or death arising out of this Conditional Permit, including: (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 the Alexander & Baldwin Sugar Museum 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 must be submitted to the Department of Planning within ninety calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage must be submitted directly by the insurance carrier to the Department and must include the applicable tax map key and permit numbers.
5. Alexander & Baldwin Sugar Museum must 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 in accordance with Section 19.40.080, Maui County Code.
6. Low level lighting must be used on the buildings and within the landscaped areas, and parking lot lighting must be fully shielded.
7. Fireworks and pyrotechnics displays are prohibited from the property.

SECTION 3. This Ordinance takes effect upon approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pslu:misc:021abill01:ans