

County Clerk

From: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>
Sent: Thursday, November 4, 2021 4:23 PM
To: County Clerk
Subject: Fwd: Please consider this amendment for B&Bs CR 21-107
Attachments: Alice Lee Please consider an amendment to CR-102 .pdf

Aloha,

Please accept this testimony for the County Council meeting of 11/5/21

Mahalo,

Jen Russo

----- Forwarded message -----

From: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>
Date: Tue, Oct 26, 2021 at 9:36 AM
Subject: Please consider this amendment to CR 21-107 for B&Bs
To: <Alice.Lee@mauicounty.us>

RECEIVED
2021 NOV -4 PM 4:34
OFFICE OF THE
COUNTY CLERK

October 26, 2021

Honorable Alice Lee, Council Chair
200 South High Street
Wailuku HI 96793

Thank you for the opportunity to speak on agenda items CR 21-107 on Friday. Thank you so much for all your hard work and consideration in these matters.

I would like to ask that we clarify the point in the proposed bill regarding bed and breakfast operations and either remove the 5 year requirement or allow those operators who have existed for more than 5 years to transfer their permits to their heirs.

The language in the bill below is not clear:

E. The bed and breakfast home permit must be in the name of the owner-proprietor, who must be a natural person and the owner of the real property where the [short-term rental] bed and breakfast home use is permitted[.], except that a permit may be issued for a lot owned by a family trust if the following criteria are met:

1. The applicant is a natural person or persons who is a trustee or who are trustees of the family trust.

2. All of the trustees are natural persons.

“Family trust” is defined as a self-settled revocable or irrevocable trust where the trustee(s) is also the trustor(s) or grantor(s) or is related by blood, adoption, marriage, or civil union to the beneficiary(ies). The bed and breakfast home permit must not be held by a corporation, partnership, limited liability company, or similar entity. The permit is not transferable. No more than one permit may be approved for any lot.

This only states that a person with a property in a trust can have an application in their name. We need to add something that states that that application could pass to their heirs.

Earlier this month this council body passed Bill 104 unanimously, allowing a legal Bed and Breakfast operation, the Banyan Tree Bed and Breakfast, to transfer their permit to an heir that purchased the property, from Marty Herling to Helaina DiMartino. It is then equitable, rational and it makes sense to create a similar legal path for these other legal Bed and Breakfast operations that have been running for 5 years or more to do the same.

We support 21-107 : This proposed bill that amends both the STRH the B&B ordinances makes many changes that are positive. But this 5 year requirement for Maui B&Bs could negatively affect our residents and we would ask to amend that.

An amendment that would allow for an existing B&B that has existed more than 5 years to be transferred to heirs, or to not have to wait 5 years to make a new application would be reasonable and suitable.

The intent of the proposed changes were to reduce speculation and encourage a connection to the neighborhood. However, lots of testimony during the planning commission meetings revealed that the current application process allows for this connection to neighborhoods, as the property has to prove that it does not change the neighborhood in any way shape or form. Neighbors do get to weigh in during the process. The Planning Commission did not support this revision of adding 5 years to the application process and did not recommend it for Maui. I think that the bill should reflect that sentiment and recommendation.

One of the unintended consequences of this is that some of the existing B&B properties, that have already proven that they fit into their neighborhoods, will not be able to sell their property to someone that may want to get a permit to operate, given this extended time period. There

are many properties that have no neighbors, that operate in neighborhoods where this use is appropriate.

We are not finding our neighborhoods overrun by bed and breakfast operations, the application process is arduous and detailed as it exists without the 5 year requirement.

Bed and Breakfast operations are run by Maui residents, and supported in the Countywide Policy Plan. This plan calls for the county policies to "Support home-based businesses that are appropriate for and in character with the community," (page 60) as well as "Encourage resident ownership of visitor-related businesses and facilities." (page 62)

It was brought up in testimony that using a trust could be an answer, but what is not clear is if a property with an existing permit in a person's name can just switch that permit to being in the name of a trust. Or once the land is in the trust that you can pass that permit from one family member to the next generation. If that is the intent, that is not clear. It wouldn't be fair to make them start the application process over. Also If you were to change your property title to put your property into a trust does that start the clock on 5 years because you have made a title change? These are the things that should be more clear in this proposed bill.

Thank you so much for considering an amendment and working so hard to create balance and diversity in our economy.

--

Best,

Jen Russo
Executive Director
Maui Vacation Rental Association
mauivacationrentalassociation.org
140 Hoohana St Suite 210
Kahului, HI 96732

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Jen Russo
Executive Director
Maui Vacation Rental Association
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140 Hoohana St Suite 210
Kahului, HI 96732

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VACATION RENTAL
A S S O C I A T I O N
WWW.MVRA.NET

October 26, 2021

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Thank you so much for considering an amendment and working so hard to create balance and diversity in our economy.

Best,

Jen Russo

Maui Vacation Rental Association

County Clerk

From: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>
Sent: Thursday, November 4, 2021 4:24 PM
To: County Clerk
Subject: Fwd: Please consider an amendment to CR-21-95 - Aina Kupuna Lands

Aloha

Please accept this testimony for the 11/5/21 council meeting

best,

Jen Russo

----- Forwarded message -----

From: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>
Date: Tue, Oct 26, 2021 at 1:32 PM
Subject: Please consider an amendment to CR-21-95 - Aina Kupuna Lands
To: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>

RECEIVED
2021 NOV -4 PM 4:33
OFFICE OF THE
COUNTY CLERK

October 26, 2021

Honorable Chair Lee and Members of the County Council
200 South High Street
Wailuku HI 96793

RE: CR 21-95 Aina Kupuna Lands

Thank you for the opportunity last Friday to speak to the Aina Kupuna Lands proposed bill. I support this proposal to add a section to the tax code relating to taxes on parcels dedicated as 'āina kūpuna.

BFED Committee agreed to amend the proposed bill to allow real property dedicated as 'aina kupuna to be used for transient vacation rentals.

However I think the way the ordinance is written to be so specific to qualifying with having a conditional permit done by a certain year, along with specific tax classification and such is too narrow. The law should just indicate that if you have owned your land since 1940, and have a legal permit to do legal use and you are a lineal descendant owner, then you could qualify for this exemption. Many of the lineal descendents utilizing their properties have seen tax increases that have been exorbitant, and those that have had to make commercial uses to pay property taxes and keep their land should not be punished. They should also qualify.

Considerations too should be made for those lineal descendants who may be unable to farm their land.

Even when a lineal descendant can qualify for a break on the property tax, there are other expenses like steep insurances like flood and hurricane coverages and mortgages that could still force them off the land, so allowing and considering those that have had to do commercial use in order to make these expenses would be fair in the intent of this proposed bill. Making the scope bigger, when there may be other lineal descendant ohanas out there or others that decide they would like to make a legal permit to do b&b and other visitor related home businesses with their land seems fair.

This step to change tax laws is needed to assist lineal descendants in keeping land in their ohana. But I feel more assistance may be needed given other expenses associated with upkeep of property in these modern times. How powerful it would be to have more lineal descendants have their lands also support their own small businesses, or home based businesses, with more lineal descendants that could be entrepreneurs. I think the law should open up to more commercial home uses to think of opportunities in the future for these ohanas to sustain themselves on their land using practices other than agriculture.

In my initial research it was hard to determine which properties may be able to show this lineal descendancy, and certain owners may have to request documents from the state to provide the proper information to Real Property Tax in order to qualify. These documents may take time to get fulfilled by State agencies. Will lineal descendants be able to qualify for this for the next tax year FY 2022 if they put in an application by the deadline but are waiting for supporting documents?

Thank you so much for considering an amendment and working so hard to create balance and diversity in our economy.

--
Best,

Jen Russo
Executive Director
Maui Vacation Rental Association
mauivacationrentalassociation.org
140 Hoohana St Suite 210
Kahului, HI 96732

--
Best,

County Clerk

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From: Jeff and Sue Anderson <smander@pacbell.net>
Sent: Thursday, November 4, 2021 9:21 PM
To: County Clerk
Cc: Tamara A. Paltin
Subject: Testimony Regarding County Council Item CR 21-85

2021 NOV -5 AM 7: 54

OFFICE OF THE
COUNTY CLERK

You don't often get email from smander@pacbell.net. [Learn why this is important](#)

Council Members,

I'm writing regarding agenda item CR 21-85 pertaining to the conditional use permit extension for Maui Dragon Fruit Farm.

I own and reside on a small farm adjacent to the Dragon Fruit Farm on the makai side. Given the geographical relationship between our properties, I'm mostly affected by noise rather than lighting or traffic issues.

The noise level from the Dragon Fruit Farm improved substantially from the unregulated high decibel blowouts prior to 2016 when they received their first restricted conditional use permit. Still, there were many conditional use permit violations through 2019, including numerous violations of the restriction on amplified music. The noise level improved substantially in 2020 during Covid lockdowns when there appeared to be very few events happening.

There are two sources of noise. The first is from events. The farm hosts frequent weddings and other gatherings attended by large crowds, which are often accompanied with moderately high volume amplified music. The second source of noise is the zipline where participants tend to scream like banshees as operators cheer them on. Both of these noise sources dropped off in 2020, probably due to Covid, increased in 2021 but are relatively subdued lately.

My concern is that noise will ramp up again after approval of the conditional permit. I'm actually comfortable with the restrictions in the conditional use permit, especially no amplified sound and limits on guest numbers, hours and event frequency. I doesn't address the zipline screaming but really, the loud disco music is a bigger problem for me. But, these restrictions are meaningless if not adhered to. Please enact a compliance program to ensure adherence or if that's not possible, I suggest you cancel the permit.

Jeff Anderson

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To: The Honorable Alice Lee, Chair Maui County Council
Meeting: County Council, 11/05/2021, 9am
Subject: **Strongly Support, 'Āina Kūpuna Bill, CR 21-95**

2021 NOV -5 AM 7: 54

OFFICE OF THE
COUNTY CLERK

E nā lālā hanohano o ka 'Aha Kalana o Maui,
Aloha 'oukou;

My name is Keiki Chang Kawai'ae'a and I am a member of the Kukahiko 'ohana from Makena. I stand with my family in strong support for the 'Āina Kūpuna bill CR 21-95. Our 'ohana has a long history in Makena with the branches of our genealogical tree residing across multiple ahupua'a from Kanahena to Keauhou or in more current times from Big Beach to Chang's Beach.

Our families lived simple but productive lives where aloha, 'ohana and 'āina guide our identity as Makena families. Unfortunately, land speculation, high-end homes for the wealthy and unaffordable property tax has severely impacted the ability of our families to stay in Makena. Consequently, one by one Makena families have had to sell their 'āina because they no longer could afford to pay the property tax.

We love Makena, it is part of who we are and where we come from. It is the place our kūpuna John and Kamaka Kukahiko chose to raise their family and set deep roots nearly 140 years ago. Makena has become an overpriced community for the very wealthy, mostly non-residents who can afford to buy high-end speculation homes now at the price tag of \$20 million plus.

Councilmember Keani Rawlins-Fernandez, we are deeply appreciative for this long overdue bill and acknowledge Council Chair Alice Lee and the honorable members of the Council who have listened to our stories and struggles. Our family believes in and strongly supports the 'āina kūpuna bill CR 21-95 as presented through many written and oral testimonies at the October 22 Council meeting – unfortunately cut short.

From the young adults to the most senior member of our family at 99 years old and across the branches of our family tree, we believe the the 'Āina Kūpuna bill is a long overdue solution as it will allow us to dedicate and continue to live and care for our ancestral lands. We humbly ask that you support and pass the bill.

November 5, 2021

OFFICE OF THE
COUNTY CLERK

Via Electronic Mail

The Honorable Alice Lee
Chair, Maui County Council
200 South High Street, 8th Floor
Wailuku, HI 96793
Email: Alice.Lee@mauicounty.us

RE: Opposition to Proposed Legislation Banning Non-Mineral Sunscreens

Dear Chair Lee:

On behalf of the members of the Personal Care Products Council (PCPC),¹ I am writing to express our opposition to CR 21-113, legislation to prohibit the sale, use, or distribution of non-mineral sunscreens. This bill will lead to a serious public health issue by banning essential, safe and effective sunscreen products that Hawaiians currently trust and rely on, particularly since the U.S. has a limited number of approved ingredients to make these products.

The U.S. has Limited Number of Sunscreen Ingredients to Fight Skin Cancer

Sunscreens are a key factor in preventing and reducing the risk of skin cancer and damage from the sun's ultraviolet (UV) rays. Public health organizations, including the American Cancer Society, American Academy of Dermatology, the Mayo Clinic and the Skin Cancer Foundation, recommend using sunscreen as part of a safe sun regimen. The Centers for Disease Control and Prevention's Sun Safety recommendations note the importance of daily sunscreen use, including on cloudy and overcast days, to help prevent most skin cancers.

Sunscreen ingredients must be approved for use by the U.S. Food and Drug Administration (FDA) and are a crucial and well-recognized step in the fight against skin cancer and premature skin aging. The U.S. has a limited number of approved organic sunscreen ingredients to make products that protect consumers from the harmful effects of solar radiation. By banning all non-mineral sunscreens, the County will be left with products containing only two of the available active ingredients. This will leave no ability for consumer choice and could lead to a shortage of available products.

Hawai'i Residents at Higher Risk for Skin Cancer

¹ Based in Washington, D.C., the Personal Care Products Council (PCPC) is the leading national trade association representing global cosmetics and personal care products companies. Founded in 1894, PCPC's 600 member companies manufacture, distribute and supply the vast majority of finished personal care products marketed in the U.S. As the makers of a diverse range of products millions of consumers rely on and trust every day – from sunscreens, toothpaste, and shampoo to moisturizer, makeup and fragrance – personal care products companies are global leaders committed to product safety, quality and innovation.

With Hawai'i's previous ban on some sunscreen active ingredients, the Maui County legislation would further limit access to products that can help prevent skin cancer. Skin cancer is one of the most common yet preventable cancers. According to the World Health Organization (WHO), four out of five cases can be prevented by following safe sun practices, including using sunscreen regularly. Hawai'i residents are at high risk for developing skin cancer. The American Cancer Society estimates that melanoma, the most serious form of skin cancer, will be one of the leading causes of new cancer cases in Hawai'i in 2021. Native Hawaiians and other Pacific Islanders suffer from double the melanoma mortality rate than the State average, according to Hawai'i Health Matters, an innovative web-based community information tool developed by the Hawai'i Health Data Warehouse and the Hawai'i Department of Health. Hawai'i has one of the highest daily UV index averages in the nation, making protecting residents from sun exposure a health priority.

Legality of Proposed Ordinance in Question

Prior to adoption, we believe it is important to assess the legality of the proposed ordinance, especially regarding jurisdictional authority, federal preemption, and commerce clause implications. As a threshold matter, there is the question of whether the county has the authority to regulate consumer behavior allegedly impacting offshore environmental resources. Such authority would seem to be exclusively within the purview of Hawai'i's Department of Land and Natural Resources/Division of Aquatic Resources, as set forth under the state's comprehensive and uniform scheme of statutory regulation for this area of law. Likewise, there is the question of whether the ordinances are preempted by the federal Food, Drug and Cosmetic Act, which prohibit states and localities from establishing any provision for nonprescription drugs that is different from or in addition to federal requirements. The purpose of such preemption is to provide "national uniformity" with respect to product manufacturing and composition, labeling, and advertising for nonprescription drugs. Similarly, since most sunscreens are imported into Hawai'i from out of state, there are potential commerce clause ramifications with Maui County's proposed ordinances that need to be investigated. Coupled with the logistical difficulty of enforcing the bans proposed by these ordinances, we believe these legal concerns merit a detailed examination before this committee can proceed with adoption.

Science on Coral Reefs and Sunscreens to be Evaluated by NAS

This ordinance also lacks the necessary scientific evidence to demonstrate that sunscreen ingredients are responsible for Hawai'i's coral bleaching. There are well-recognized causes of coral reef decline in Hawai'i and the rest of the world, including climate change, land-based pollution and other human activities, such as physical damage to corals from recreational activities.

Policy decisions that will adversely impact public health should not be made ahead of a scientific consensus on this issue. To reduce bias and to synthesize the best available science, the United States Congress has directed the National Academy of Sciences (NAS) to evaluate the correlation between coral reefs and sunscreens and the potential public health impact of limiting access to sunscreens. This study, sponsored by the U.S. Environmental Protection Agency, will examine research concerning both the environmental and human health impacts of access to sunscreens. Making environmental management decisions on sunscreens based on the current insufficient scientific data may lead to unintended health consequences, such as fewer available sunscreens and an increase in the prevalence of skin cancer.

By passing this local ordinance, the Maui County Council will create confusion and potentially discourage the use of sunscreens – an important part of a daily safe-sun regimen – putting consumers' health at greater risk. We respectfully ask that you oppose CR 21-113.

Thank you for your consideration and the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Karin Ross". The signature is fluid and cursive, with the first name "Karin" and last name "Ross" clearly distinguishable.

Karin Ross
Executive Vice President, Government Affairs

Cc:

Keani.Rawlins@mauicounty.us, Council Vice-Chair
Tasha.Kama@mauicounty.us, Presiding Officer Pro Tempore
Gabe.Johnson@mauicounty.us, Councilmember
Kelly.King@mauicounty.us, Councilmember
Mike.Molina@mauicounty.us, Councilmember
Tamara.Paltin@mauicounty.us, Councilmember
Shane.Sinenci@mauicounty.us, Councilmember
Yukilei.Sugimura@mauicounty.us, Councilmember
county.clerk@mauicounty.us, Office of the County Clerk



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2021 NOV -5 AM 7: 54

OFFICE OF THE
COUNTY CLERK

November 5, 2021

TO: Maui County Council Chair Alice Lee
Vice Chair Keani Rawlins Fernandez
Council Members

Re: Support for: Resolution CC 21-509

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and members of the Council,

My name is Hannah Bernard and I am Executive Director and Co-Founder of Hawai'i Wildlife Fund. I am writing in support of the proposed resolution introduced by Council Member Kelly King:

"ACCEPTING ICLEI USA'S INVITATION TO MAUI COUNTY TO JOIN THE CITIESWITHNATURE PARTNERSHIP INITIATIVE AND JOINING THE EDINBURGH DECLARATION ON THE POST-2020 GLOBAL BIODIVERSITY FRAMEWORK".

This resolution will allow Maui County to:

- Join the CitiesWithNature Partnership Initiative
- Support the Edinburgh Declaration and authorize Councilmember King to sign the Edinburgh Declaration on behalf of the Council while attending COP26
- Collaborate with the County's Office of Climate Action, Sustainability and Resilience and other executive branch agencies to support the CitiesWithNature Partnership Initiative, the Edinburgh Declaration, and efforts to preserve Maui County's biodiversity.

And it will also allow Maui County to continue to exhibit a progressive, forward thinking attitude and perpetuate policies that protect our natural environment. We applaud this effort to formally join this movement to help perpetuate biodiversity.

Hawai'i Wildlife Fund is a 501(c)3 nonprofit organization dedicated to the protection of Hawai'i's native wildlife, focused on the nearshore environment. Founded in 1996 by two former National Marine Fisheries Service scientists to assist in addressing the gaps in protected species recovery, HWF has succeeded in protecting more than 10,500 sea turtle hatchlings of Maui and removed invasive species from anchialine pools and >360 tons of marine debris from Hawai'i's coastlines.

We need all the help we can get from our political leadership. Please pass this resolution.

Mahalo for your kind consideration,

A handwritten signature in black ink, appearing to read 'Hannah Bernard', written in a cursive style.

Hannah Bernard
Executive Director
Hawai'i Wildlife Fund

County Clerk

From: Colleen Medeiros <colleenpmedeiros@gmail.com>
Sent: Thursday, November 4, 2021 5:15 PM
To: County Clerk
Subject: Fwd: Aina Kupuna Bill CC21-95

You don't often get email from colleenpmedeiros@gmail.com. [Learn why this is important](#)

Please add this to the record for me as well, I've tried to reach out to Council member Keani Rawlins and her EA but have not heard back from them yet.

Mahalo,

Colleen P. Medeiros R(S)



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2021 NOV -5 AM 7:57
OFFICE OF THE
COUNTY CLERK

Island Sotheby's International Realty

3628 Baldwin Ave.

Makawao, HI 96768

Mobile: 808.283.3131

Office: 808.572.8600

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Do not be a victim. Be aware of the danger posed by wire fraud schemes. Always confirm wiring instructions in person or via a telephone call to a trusted and verified phone number. Do not wire money without double-checking that the wiring instructions are correct.

----- Forwarded message -----

From: **Colleen Medeiros** <colleenpmedeiros@gmail.com>

Date: Thu, Oct 28, 2021 at 3:09 PM

Subject: Re: Aina Kupuna Bill CC21-95

To: <Keani.Rawlins@mauicounty.us>

Aloha Council member Rawlins,

I'm just following up to get confirmation that you received my emailed testimony regarding Aina Kupuna Bill CC21-95.

I would also like to discuss this bill further with you as I would like to understand why the specific verbiage was included regarding transient accommodations under conditional use permits granted prior to May 23, 2012 being exempt from the " Commercial purposes" was used?

Please feel free to contact me, 808-283-3131.

Mahalo,

Colleen P. Medeiros R(S)



On Tue, Oct 26, 2021 at 9:30 PM Colleen Medeiros <colleenpmedeiros@gmail.com> wrote:
Aloha Honorable Chair Lee and members of the Maui County Council,

I understand the Oct 22 meeting was cut short due to technician difficulties and the subject bill was not read on that day. This email is intended to add to my oral testimony.

I realized after my testimony that I didn't introduce myself, I apologize for that. My name is Colleen Medeiros and I own a property in Napili that is a generational landholding for at least 6 generations. These are the lands of my Great, Great Grandmother Lahela (Nahina) Reimann, that passed to her daughter Whilamena Reimann, then to my grandparents Albert and Daisy Medeiros, then to my father Marlan Medeiros, then to me. It is our family's understanding that our Great-Great Grandmother Lahela owned the lands encompassing Napili Bay and Honokeana Bay, as well as the lands mauka of this area. Our family and additional landholdings also stretched north beyond Honolulu Bay as we have some remaining interest in parcels up that way. We have a family gravesite in our subdivision where some of my relatives mentioned above are buried, along with many other family members.

I strongly support the Aina Kupuna Bill as this will help the few remaining families who have generational landholdings, retain their lands.

It hasn't been easy keeping my family property. In my situation, and this is the same story for many Hawaiian families, it was very complicated. I won't get into the details, but after my dad died in 2000, myself and my 6 siblings inherited my dad's share of this property and became owners who split the interest in this property with my Uncle. My Uncle and siblings wanted to sell it, so I decided to purchase their interests by taking out a mortgage loan.

For approximately 8 years, I have had this property permitted as a STRH, since 2013. I lived on this property for about 9 years before that. Due to changing life circumstances, I decided to move. I chose the STRH use because this area of Napili is a popular vacation destination and permits this type of use. As a matter of fact, my property is surrounded by the Napili Bay Civic Improvement District that allows for hotel and resort use. For some unknown reason only my road was left out of the Civic Improvement District, but we are otherwise surrounded by hotels and condominiums used as vacation rentals. Using this house as a STRH has allowed me; 1. to keep it, not sell it, 2. continued use for my family and special occasions. Without using it as a STRH, I could not afford to keep this property. Through the years property taxes have increased a great deal, in my case they have gone up 76% from 2016.

I believe families with generational owned properties should be allowed to use them for "commercial purposes". Whether it's a home-based business, like a daycare or a commercial kitchen, or a business where the owner does not live on property and rents it, like a legal long or short term rental property, all aina kupuna lands should qualify for this tax break, regardless of use. Currently the verbiage in the bill excludes aina kupuna lands that are conducting businesses or "commercial purposes" that are not agriculture. With regards to my property, it doesn't make sense to have an agricultural business there, the lot is too small, I'm not a farmer, and farming simply would not pay the bills associated with the property. The aina kupuna bill in its current form makes one exception for the Lu'uwai 'ohana. They run a vacation rental, STRH, like me, but under a conditional use permit obtained sometime prior to May 2012 and the bill exempts them from the "commercial purposes" definition. While I'm unclear on why or how this one exception exists for one family, I would like to see the verbiage in the bill amended to include "all properties that are family owned from 1940, regardless of their use or whether or not they are owner-occupied, qualify for this tax exemption".

If the spirit of this bill is meant to keep traditional lands in the hands of those families that are culturally tied to them, then further supporting those same families in making a viable living for themselves is directly connected to their ability to keep their lands, and if they need to use their lands in a business/commercial way in order to pay for those lands, in order to keep them, then allowing business uses on these lands seems to be in perfect alignment with the spirit of this bill.

We all know that living here is expensive, getting more expensive each year. Everyone needs multiple streams of income these days. I left my 9-5 job and became self-employed because I realized self-employment was the only way for me to make enough money to live here. And I think more and more people are realizing this and trying to create businesses for themselves. Allowing local folks to run legal businesses from their

generationally owned properties, coupled with this tax exemption, could be life-changing for many local families. If this bill is passed and allows owners to conduct businesses from their lands, these same local families who might be otherwise struggling to get by, and struggling to hold on to family lands would have new options and more avenues to increase their income, this is what we need. This bill offers me and others an opportunity to insure that we can hold this land for our children and grandchild by providing tax relief for generationl landholders.

Thank you very much for your time.

Mahalo,

Colleen P. Medeiros R(S)



County Clerk

From: Tamara A. Paltin
Sent: Thursday, November 4, 2021 4:57 PM
To: County Clerk; Michele McLean; Kimberley Willenbrink; Jordan Hart
Subject: Fwd: Maui Dragon Fruit Farm CUP extension-Please deny-CR 21-85 and RFS 21-0001375
Attachments: Dragon Fruit Farm Plot -as per county website.pdf; Drawing presented by owners in their CUP application-omits 30% of their land which is not farmed.pdf

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From: vera sredo <verasreda@gmail.com>
Sent: Thursday, November 4, 2021 4:29:03 PM
To: Alice L. Lee <Alice.Lee@mauicounty.us>; Keani N. Rawlins <Keani.Rawlins@mauicounty.us>; Tasha A. Kama <Tasha.Kama@mauicounty.us>; Gabe Johnson <Gabe.Johnson@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Mike J. Molina <Mike.Molina@mauicounty.us>; Tamara A. Paltin <Tamara.Paltin@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; Michele McLean <Michele.McLean@co.maui.hi.us>
Subject: Maui Dragon Fruit Farm CUP extension-Please deny-CR 21-85 and RFS 21-0001375

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Dear Chair and council members. I apologize for the late e-mail, but I just found out that extension of the permit for this CUP is on the agenda tomorrow. As you have heard from my testimony and 4 other written neighbour's testimonies- owners of Dragon Fruit Farm have repeatedly violated the vast majority of CUP conditions for years. By reviewing the records from their CUP original application I also realised that they misstated the land planted as agricultural crops (they stated that they have close to 15 acres planted-their farm plan also states that), but in practice they only have 5 acres (they never had more than 5, on over 20 acres parcel). That is substantially less than 50% required for any permits. County was presented inaccurate information and based on that information issued a SUP and CUP. Regardless of all CUP violations would this CUP be invalid and void as it should have not been issued in the first place due to misrepresentation of agricultural activity? Please deny extension of the SUP and CUP due to application irregularities and repeated violations of all CUP conditions.

Dragon Farm Owners in their original CUP's application presentation misrepresented the area being planted. They did it by reducing the plot shape/size depicted, they made it look like they had 50% planted, but they have less than 25 % planted. They also stated on their farm plan that they have almost 15 acres planted but they have less than 5. I have attached for your review, owners' provided drawing from their CUP application (1st picture-I marked in dashed purple lines the portion they omitted, but is their land as per county records). On The 2nd picture you can also see the actual county plot map and you can see that 30% of their land is omitted-the right portion of their land was omitted to misrepresent the area planted to make it look like they have 50% under crops.

On a separate note their total parcel size (master parcel) is over 20 acres-if they wanted to get a CUP would they not need to go to the state of HI for approval, since the parcel is larger than 15 acres?

I apologize for my ignorance; I am trying to understand the process and enforcement. This neighbor has been violating the vast majority of the conditions of the CUP for a very long time. All the

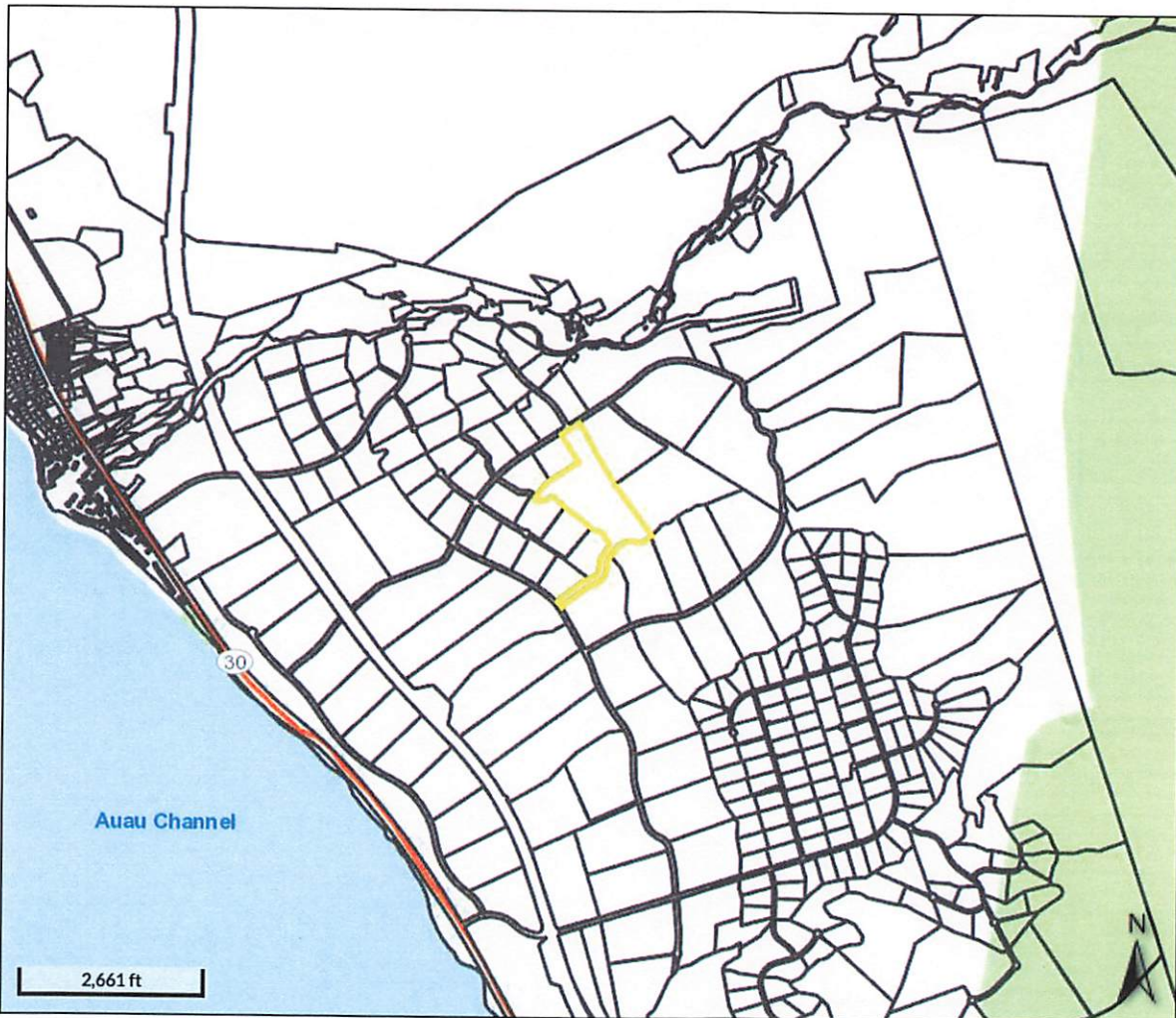
neighbors have been negatively impacted by all of these business activities creating excessive noise, and they are not in any way related to agriculture.

They have many young adults, anywhere from 8 to 15 or more living at the property in Vans, Tents and RVs. I had to call the police multiple times at midnight because they were screaming and parting (they also invite their friends to the property and have loud marihuana induced parties). They also trespassed on our property and closed water lines which resulted in us losing many young coconut trees (my guess is that owners told them to do that, as those trees would block their wedding areas' ocean views). My understanding is that ag property owners can have farm workers live at the property (but not in Vans/tents/RVs) as long as they have \$35,000 in direct sale agricultural products made on the farm per farm worker. This farm doesn't produce that many dragon fruits and I am positive they don't make over \$350,000 in produce sale to warrant staff living here (they do make much more on the weddings/ziplines etc-so it is important that they don't commingle those revenues with crop revenues and try to represent them as farm/crop revenue in order to justify having this many staff living at the property. Please note that these kids don't work the farm-they work adventure tours (zip line, aqua balls, tours, help with weddings...) Also I would assume that farm workers have to be paid for their services (majority of these kids are transient not paid-they work in exchange for lodging and food). This doesn't contribute to the county tax system, employment taxes or community. Only contribution is to the property owners who are working the system by using the farm as a decoy to actually conduct business that should be done in a properly zoned area, use free labor, pay minimal taxes on this ag land while conducting non ag activities. They should find properly zoned land and conduct weddings, zip lines, rolling balls, pay taxes like every other business and pay their workers. Not only that they obtained the pandemic farmers funds from the county and did nothing on the farm to improve crops (they only built a large outside cafe), It looks like they also got free farm equipment from the pandemic funds and it has been sitting on the lot for weeks without being moved. Other real farmers would have benefited from these funds and equipment. It is wasted by these owners trying to portray an image of farmers while conducting other much more lucrative business on this farm land.

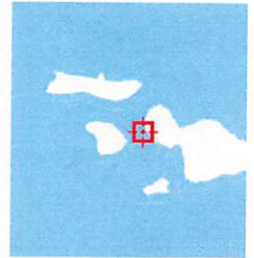
We would be more than happy to have normal farm neighbours with actual farm operations and normal farm tours which are not bundled with weddings, Zip lines and Aqua balls.

Thank you so much for your understanding, hard work, and service to the community.

Mahalo, Sincerely Vera Sredanovic



Overview



Legend

 Parcels

Parcel ID	470010440001	Situs/Physical Address	833 PUNAKEA LOOP UNIT A	Assd Land Value	\$335,500	Last 2 Sales			
Acreage	20.854	Mailing Address	MAUI DRAGON FRUIT FARM LLC	Assd Building Value	\$477,700	Date	4/15/2011	Price	0
Class	NON-OWNER-OCCUPIED/RESIDENTIAL		100 WAIPUHIA PL HAIKU HI 96708	Total Assd Value	\$813,200		n/a	Reason	0
				Exempt Value	\$0			Qual	n/a
				Taxable Value	\$813,200				

Brief Tax Description n/a

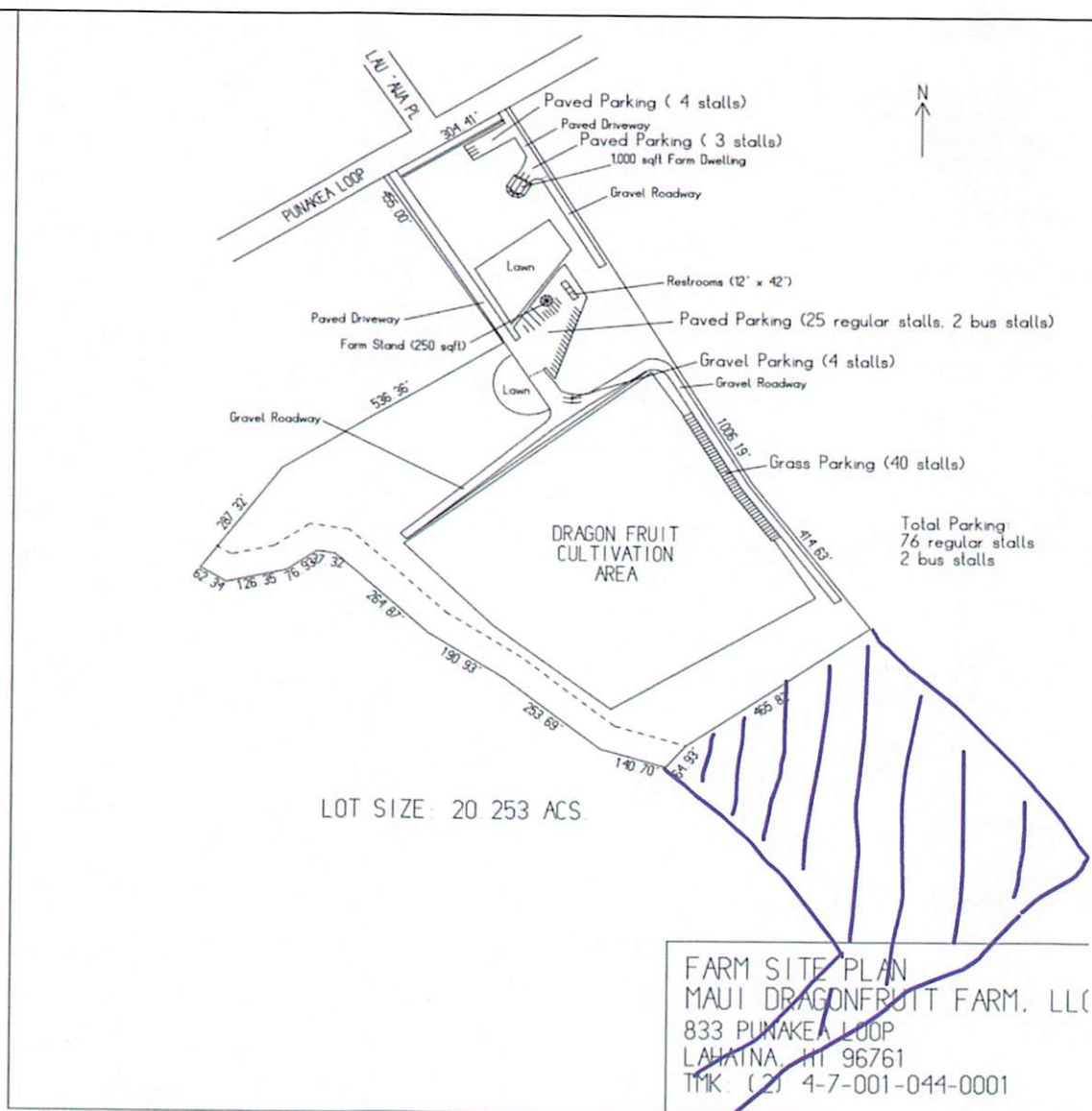
(Note: Not to be used on legal documents)

Date created: 10/15/2021

Last Data Uploaded: 10/15/2021 4:31:28 AM

Developed by  **Schneider**
GEOSPATIAL

This drawing was provided by Schmitt's as part of CUP presentation. Added striped area shows omitted land owned by these same owners, they omitted this portion in order to misrepresent that 50% is farmed, while they are farming less than 30% of the land. If you cross check this with county records you will see that owners deliberately misled the county in order to obtain SUP and CUP and conduct non-ag commercial activities (weddings, Zip Line, Aqua Rolling Balls). Also they are housing 10-15 transient non-paid workers on this land to conduct these non- ag activities. These young adults and teenagers are constantly partying into the early morning hours, while during the day and deep into night we hear screams from Zip lines, AquaBalls, and weddings.



County Clerk

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From: mary drayer <mdrayerhome@msn.com>
Sent: Friday, November 5, 2021 7:59 AM
To: County Clerk
Subject: Fwd: support for Bill 111

2021 NOV -5 AM 8: 00

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Begin forwarded message:

From: mary drayer <mdrayerhome@msn.com>
Date: November 5, 2021 at 7:58:48 AM HST
To: county.council@mauicounty.us
Subject: support for Bill 111

aloha,

i realize this is a late submission,i only became aware of this bill this morning.

i am in full support of bill 111 - and any other legislation that may be proposed in the future that will help local people stay home. too many young kanaka maoli and others have moved away.

and, also, i am a 'victim' of transplants in my neighborhood. they care nothing for the 'āina or the culture. just want to live in 'paradise'. and also want to have their house be a TVR when they aren't here.

mahalo for your consideration
mary drayer
557 imi dr
wailuku, hi
808-244-5646

Sent from my iPad

PETER K MARTIN

11501 Lower Honoapiilani Hwy – Lahaina HI 96761

RECEIVED

November 4, 2021

2021 NOV -5 AM 8:01

Maui County Council
Kalana O Maui Building, 8th floor
200 S. High Street
Wailuku, Hawai'i 96793

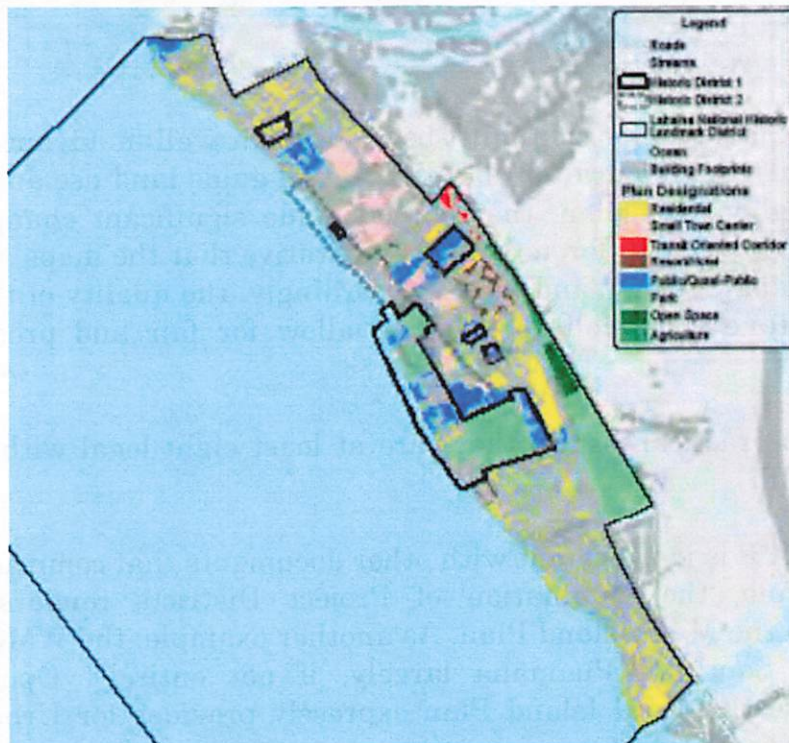
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Re: Legal Issues with the West Maui Community Plan (CR 21-109)

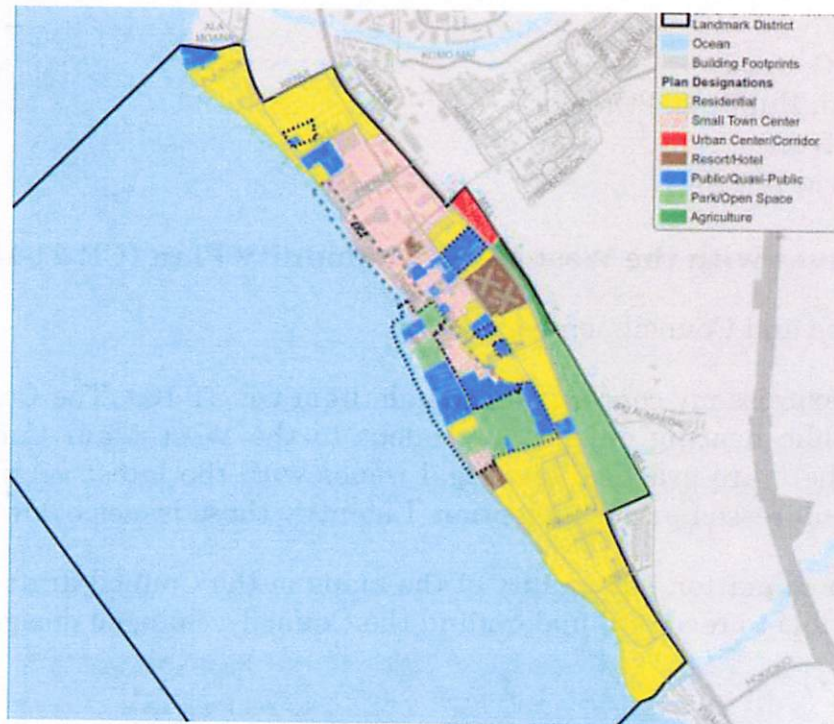
Dear Chair Lee and Councilmembers:

I write to express my concerns on agenda item CR 21-109. The Council proposes to set the public hearing on a bill to adopt to the West Maui Community Plan ("WMCP"). There are practical and legal issues with the latest version of the plan that must be addressed prior to adoption. I identify these issues below.

As a practical matter, the quality of the maps in the Council draft is so poor it is nearly impossible to read and understand the Council's changed designations:



This image has not been altered; this is how it appears in the version of the plan released to the public. For comparison, below is an image of the same area taken from the Maui Planning Commission draft plan. It is clear and easy to read:



The maps in the latest version must be made clear well in advance of the public hearing. The final, adopted draft of the WMCP will guide land use and development decisions. Throughout the plan, the Council made significant changes and down designations. Given these differences, it is imperative that the maps are sufficiently legible to allow public review and input. Accordingly, the quality of the maps must be improved **before** the public hearing to allow for fair and productive public engagement.

In addition to practical issues, there are at least eight legal with the Council's draft of the WMCP.

First, the WMCP is inconsistent with other documents that comprise the general plan. For example, the elimination of Project Districts renders the WMCP inconsistent with the Maui Island Plan. As another example, the WMCP designates the entire area South of Puamana largely, if not entirely, Open Space and Agriculture, while the Maui Island Plan expressly provides for Urban and Rural growth in this area. These inconsistencies are contrary to the law and will make compliance with the general plan, which is comprised of the Countywide Policy Plan, Maui Island Plan and applicable community plan, impracticable or impossible. The WMCP should be amended to provide consistency across the general plan.

Second, Policy 3.4.2 may violate the Fair Housing Act. The policy “discourages” the development of 201H affordable housing projects in the area North of Makāluapuna Point and South of Puamana. This is a large portion of West Maui. The exclusion of affordable housing in this area will have a negative, disproportionate impact on diverse communities. The Fair Housing Act prohibits policies that have such an impact. The Council should remove this provision from the plan.

Third, the deletion of Lāhainā Town South as a proposed area of change makes no sense. The prior Maui Planning Commission draft of the plan set forth a policy for Lāhainā Town South as an area for identified residential and affordable housing development. Now, the only mention of Lāhainā Town South in the WMCP is in the Appendix F as a sensitive cultural area. This unilateral revision by the Council is inconsistent with the community’s vision for the area.

Fourth, the down designations in the plan of vast portions of land give rise to constitutional claims, including for violations of vested rights, regulatory takings and equal protection.

Fifth, Policy 2.1.2 presents takings issues, exceeds the Council’s authority and conflicts with the current Shoreline Rules for Maui. Policy 2.1.2 incorporates the Sea Level Rise Exposure Area (“SLR-XA”) model for coastal erosion at 3.2 feet of sea level rise and provides that no new permanent structures may be makai of that line. The Council does not have the authority to implement shoreline policy in a community plan. Authority to regulate the shoreline has been delegated to the Maui Planning Commission. Nor does the County have the power to establish a shoreline at any point other than the high wash of the waves. Finally, the provision is inconsistent with the current Shoreline Rules, which provide a fundamentally different shoreline setback tied to the actual location of the shoreline. The provision should be removed in its entirety.

Sixth, the related Policy 2.1.3 is illegal. The policy calls for “efforts” to restrict a landowner’s ability to seek protection of their property or seek compensation. Requiring an agreement not to seek shoreline hardening for structures within a lot’s minimum buildable depth, repairs, new structures and variances illegally imposes a prospective waiver in return for the exercise of present rights.

Seventh, the proposed cultural overlay imposes requirements not found under state law. Hawai’i Revised Statutes (“HRS”) chapter 6E already provides a process for protecting cultural resources and imposes strict requirements on proposed development. The item should be removed prior to adoption.

November 4, 2021

Page 4

Eighth, the restrictions on “lifestyle estates” conflicts with state law. The plan defines “lifestyle estate” as “[p]roperty designated Agricultural that is used for luxury dwellings, such as second homes, where very little, if any, farming occurs.” WMCP at 166. The plan outright “prohibits” “lifestyle-estate style subdivisions” in the Agricultural community plan designation and Policy 3.4.2 discourages “lifestyle estates” in Areas of Stability. *Id.* at 81. The imposition of this policy is made without regard to HRS chapter 205, which expressly authorizes “farm dwellings” on agricultural land. The *de facto* ban of otherwise lawful uses is illegal and inconsistent with the County zoning code.

Finally, in many respects, the WMCP fails to advance a legitimate state interest, and is arbitrary and capricious in contravention of substantive due process.

I will bring these issues to the attention of the County through the public hearing and in other communications. It is my sincere hope that we can work together to make the WMCP legal and equitable for all those who call West Maui home.

Very truly yours,

Peter K. Martin

Aloha County Council members of the Climate Action, Resilience and Environment Committee:

I am in full support of your efforts to ban the sale, distribution and use of sun-protection products with ANY active ingredients other than naturally-occurring minerals such as zinc or titanium.

I have testified on this issue several times before and other more learned speakers can discuss the data that emphasizes how dangerous the chemical sunscreen compounds today being marketed as “reef safe” really are to both our environment and our bodies. Today I can offer my 34 years of experience in Hawai‘i directly working with the public, to both visitors and residents in our island’s outdoor resources. First with the National Park Service, and now with the State of Hawai‘i for the past seven years, I have met and talked with tens of thousands of people, and for these past seven years I have been sharing information about sunscreen issues with an average of 200-300 people per week.

Those against any regulations may argue that “the government” should simply do more education. Myself, Peter Landon, volunteers and other state staff directly approach residents and visitors to ‘Āhihi-Kīna‘u Natural Area Reserve, the third most-visited outdoor site on Maui. We have signs and posters displayed encouraging people to use sun protection that does not include chemical compounds, we hand-out deep information flyers and thousands of “shopper’s cards” that list active ingredients to avoid. Collectively, we have racked-up tens of thousands of hours doing this work over the years. Direct education works better than signs and posters, but with all our efforts, we only reach about 10% of all who enter the reserve’s waters. It’s hot, repetitive and challenging work: even with an army of minimum-wage staff it would be nearly impossible to reach 100% of all those going into the ocean during all daylight hours.

What about all the ocean-front lands outside the reserve where we can’t educate? Thanks to currents, chemical pollutants going into the ocean at one site means they go island-wide, and when these compounds bind to micro-plastics, or sands and sediments, they enter the ocean food-chain via limu, crabs, opihi etc, they then get taken by fish, honu and marine mammals far and wide.

Some may argue this ban should only apply to those about to go into the ocean or streams such as the Pīpīwai in Kīpahulu. This argument ignores the fact that the benzene compounds (and co-active ingredients) appear in human urine 20 minutes after application, last up to 90 days in the environment and cannot be removed in waste-water treatment. Showering or flushing the toilet on land still delivers these deadly compounds into our near-shore habitats. Even if you never personally use these chemicals, eating from our waters means you’re still getting exposed.

This is one reason the age-old trumpet of “consumer choice, let the consumer decide” is not adequate. “Consumer choice” really means we’re relying on one person to choose for another, as in the above example. Advertising, labeling, brand-loyalty, and de-emphasizing how these chemicals react within skin cells are all tactics used by manufacturers. For personal care products, only the FDA has any authority to regulate labeling-claims, and then only if claims are medical. For personal care products, no agency has authority to test environmental claims such as “reef safe.” This loop-hole allows manufactures to boldly tout this new green-washing term on the front of containers, in print much larger than the font sizes required for the ingredients on the back of product containers. Each day we see parents apply these products to small children, even toddlers, despite labeling that warns they are not safe for kids. Clearly, not all consumers read the labels or are making conscious “consumer choices.”

When I ask: "Did you read the ingredients on the label?" Very few are label-literate and know to look on the back let along for the "actives" list. I have to show them where to look. People daily tell us they saw the "reef safe" claim and bought the product thinking they had made the responsible choice. Local surfers, fishermen and tourists alike, say: "I always use this brand, I bought it here in Hawai'i , it says 'reef safe,' so I thought I was doing the right thing." They express anger and multiple times each day I hear "There should be a law, I just wish these things were totally banned."

People have always had sun-protection choices: credible dermatologists agree that mineral sun-blocks and clothing are more than sufficient to protect against both UVA and UVB rays. Chemical sunscreens only help with UVB rays, and skin cancer rates have climbed higher since chemical sunscreens became popular in the 1970s. If these products really worked to prevent skin cancer, the trend would be going down, not up.

This proposed ban is the best: outlawing one or two specific compounds (such as Oxybenzone and Octinoxate) simply incentivizes the chemical industry to create new molecules that have the same properties with new patent-names. When the evidence against Oxybenzone mounted (and the patent was about to expire), low and behold, Avobenzone (with a near-identical chemical structure and behavior) became the lead ingredient. It becomes a chemical-arms race of new laws needed for every new lab creation.

We have tried education. We have tried consumer choice. Those tactics didn't work for bad hair sprays or bad coolants in refrigerators in the 1970's – laws had to be created to force manufactures to use other materials, to protect our planet's ozone. Education and "choice" didn't work in other arenas: its why there are no longer smoking sections on airplanes or restaurants, because the "choice" of one consumer impinged on another. Banning benzene-based chemicals from one island in Hawai'i won't solve all our problems with climate change, etc, but with all the other issues we've created, this is one problem we can solve, today. Maui has led the way before with bans on plastic shopping bags and food packaging. Let's lead the way again.

Mahalo,

Jeff Bagshaw

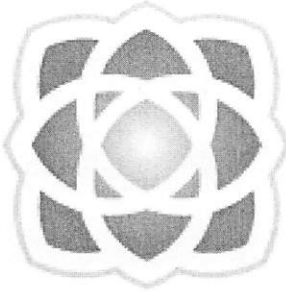
Volunteer Coordinator, Information and Education Associate

`Ahihi-Kina`u Natural Area Reserve (DLNR/DOFAW)

(808)264-7891 work-cell

jeff.w.bagshaw@Hawaii.gov

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MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

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CR 21-107
Limit Short Term Rental Home Permits
Friday, November 5, 2021

Dear Chair Lee, Vice-Chair Rawlins-Fernandez and
Members of the Maui County Council,

We think there are many good elements in this bill and we understand some of the thinking on B&Bs that new owners need time to get to know their neighborhoods. We can also see the industry's point that neighborhoods are already accepting of the B&Bs that currently have permits as they have already gone through the process and are established. We recognize the potential hardship that would come from the possibility of devaluing someone's home and business at a time when they really need to sell, if the permit will not transfer over.

Therefore, we ask that you hear the industry's concerns and work with them toward a winning solution.

Mahalo for the opportunity to provide testimony.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



PACIFIC WHALE FOUNDATION

Protecting the ocean through science and advocacy and inspiring environmental stewardship

County Council of Maui
November 5th, 2021
CR 21-113

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez, and members of council

My name is Shelby Serra and I am testifying today on behalf of Pacific Whale Foundation, whose mission is to protect the ocean through science and advocacy, and to inspire environmental stewardship.

I am testifying in support of CR 21-113.

Coral reefs are among the most biologically diverse ecosystems in the world, supporting nearly one million species of algae, invertebrates, and fish. In Hawai'i, coral reefs house more than 7,000 known species of marine plants and animals, almost 20% of which are endemic to Hawai'i, they provide protection to our coastlines from storm surge and hurricanes, and have over \$33 billion in economic value. The science is clear that many of the elements in chemical sunscreens are harmful to coral and other marine life. Research has shown that some chemicals commonly found in sunscreen can damage coral reefs by disrupting coral reproduction, inhibiting growth, deforming coral DNA, and increasing the rate of zooxanthellae viruses and coral bleaching.

In Dr. Downs' presentation to your committee last month, it was revealed that adjustments to single polymers in a chemical compound used in a sunscreen can yield a new compound but still have similar detriments to the ecosystem. However, the change in name of that compound can exempt it from prohibiting law. By this logic, implementing a law that allows *only* mineral-based sunscreens, such as those based in zinc oxide and titanium dioxide, strengthens the intent of the legislation, and disallows manufactures from finding loopholes by adjusting their chemical compounds slightly.

According to the 2020 Hawai'i Ocean Resources Management Plan as well as the Hawai'i Tourism Authority, around 10 million people visit Hawai'i every year. Of this, it is reported that 80% of visitors take part in marine activities.

We must take swift action and take a different approach to sunscreen prohibitions to ensure that we do not continue to add reef damaging chemicals into our waters, harming our reefs and marine life, day after day.

Mahalo for your time
Shelby Serra
Pacific Whale Foundation

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