

**County Clerk**

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**From:** Jeff and Sue Anderson <smander@pacbell.net>  
**Sent:** Tuesday, January 18, 2022 5:04 PM  
**To:** County Clerk  
**Subject:** Testimony re Bill 1 (2022)

2022 JAN 19 AM 7: 48

OFFICE OF THE  
COUNTY CLERK

Council Members,

I'm writing regarding agenda item for final reading of Bill 1 (2022) pertaining to the conditional use permit extension for Maui Dragon Fruit Farm.

Please pass the bill as written. I understand this bill will extend the conditional use permit to July 12, 2022. It will only permit 11 previously booked special events prior to expiration. This is a great solution as it enables the event operation to be gradually shut down while honoring customers with wedding venue commitments. Thank you for valuing neighbor input in the permit evaluation process and for coming up with a workable solution.

Jeff Anderson

## County Clerk

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**From:** vera sredo <verasreda@gmail.com>  
**Sent:** Wednesday, January 19, 2022 6:46 PM  
**To:** County Clerk  
**Subject:** Bill 1 (2022) Please Deny  
**Attachments:** Jorgenson -Cheshire - written testimony for PSLU-17.pdf

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

Please include attached 2 documents to my testimony regarding denying Maui Dragon Fruit Farm extensions on CUP due to multiple and repeated violations.

 **\_MDFF-written testimony 1-21-2022.docx** 

Mahalo, Vera Sredanovic

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2022 JAN 20 AM 7:49  
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COUNTY CLERK

Dear Maui Council Members. I wanted to provide facts and supporting evidence that majority of CUP conditions have been violated. Planning department did not acknowledge any of these violations. MDFF owners have a long history of conducting weddings without permits and later violating CUP conditions. They also have a history of misrepresenting the facts to the authorities and neighbors.

MDFF has been conducting commercial weddings for years without permit. In this google satellite image from 2014 you can see a large white wedding tent years before they even asked for wedding permits:

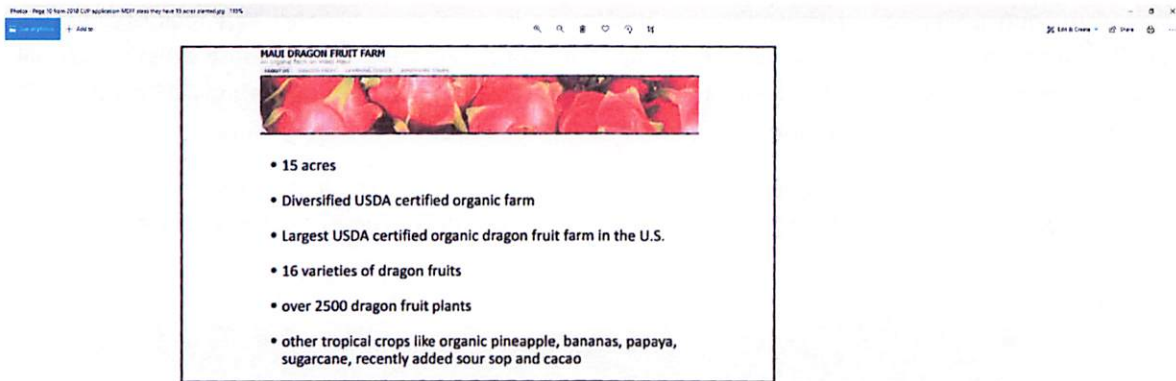


Here you can see a picture from their website with large wedding set up dated 8/15/2014 (they obtained CUP in 2016):



Neighbors complained about the noise from those weddings and required the restrictions be put in place on these activities. That forced MDFF owners to request a permit to conduct weddings. They were given a chance to conduct this add on activity so "supplement" their dragon fruit farm business. This was given to them regardless of the fact that they conducted the same activities illegally.

On the original as well as most recent CUP extension application owners stated that they have 15 acres of land planted (page 10 of Crystal Schmidt application -also attached to county meeting documents) :



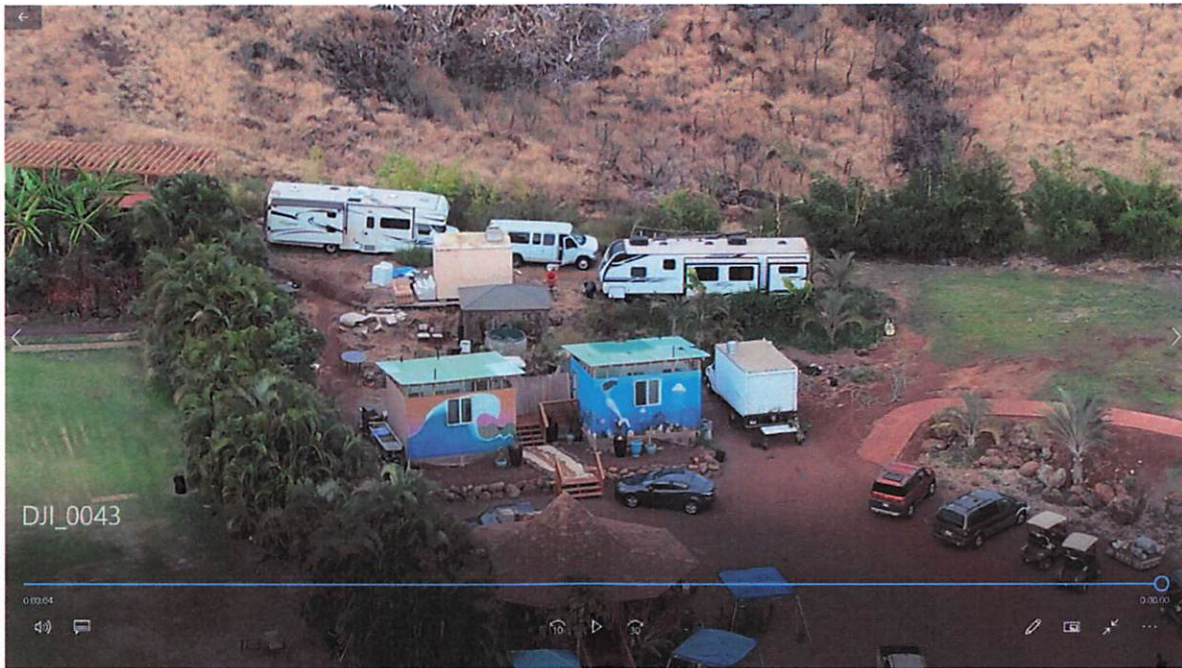
10

CUP was obtained with this understanding that 15 acres or over 50% of 27.5 acres land is planted. MDFF had less than 4.6 acres planted at any time (on Google image from 2014 you can see 4.6 acres planted-that was a year when they had most planted and obtained building permit-presumably based on statement of 15 acres planted). Currently as of today they only have 2.5 acres which is less than 10% of the land. To obtain any permits on ag lands minimum of 51% use for ag is required. This is clear proof that applicant mislead the county in order to obtain this CUP permit. All CUP are also required to maintain the stated level of ag. As of today their ag activity is even less than at the time of the application.

MDFF was illegally housing unpaid transient ag exchange kids in RVs, tents and gift shop. Once this was discovered MDFF retracted their TVR application as they needed to house those kids there. They wanted to slide in TVR along with this CUP and circumvent standard TVR process.

ZAED didn't investigate any CUP violations or RFS. ZAED investigation focused only into illegal housing and illegal structures. ZAED found that no RVs remained on the property, but as you can see there was a van still on the property as of 11/17/21 and it is used to accommodate some of those 10-15 unpaid workers. 9-12-21 Image:



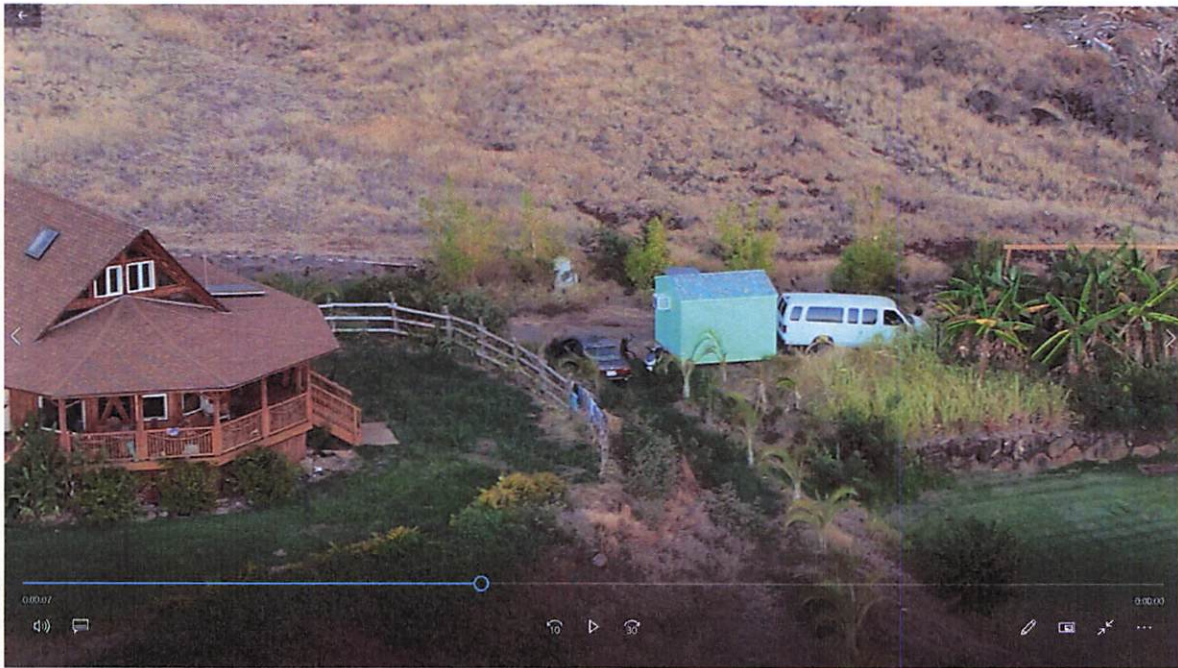


**10-28-21 Image 1 RV and 1 VAN with couch and table in front of the white van still on the property:**



**11-17-21 same white van now can be seen tucked between 2 structures (which indicates that there is still violation of unpermitted housing going on):**





11-17-21 photo shows the area where white van was moved from, this is one of the 3 areas where transient kids party at night.

Some of those kids now live at the cottage while others live in the van tucked in at the back of the property and some live at the Gift Shop. We still had to call police since some kids moved into the cottage as they keep partying deep into the night. They close the gate at night to stop the police from coming in.

Most recently Crystal stated to county council that they now only have 6 kids living at the farm, while in fact they have 10 living in the cottage alone and more of them in a gift shop and a van. They receive new unpaid kids on a regular basis and just this past week they had new group of kids. Crystal stated that those 6 staying at the cottage would get paid small wages and sign subsidized leases. These kids stay at the farm much less than one year and those leases would be considered as not permitted TVR. This is on top of prior TVR violations: since weddings are conducted at the cottage and some guests stayed overnight.

This image was taken after 6 pm 1/7/22 (after MDFF was closed for public) and it shows 12 kids at the property



Here are images (extracted from video files) proving that the CUP conditions were violated. Due to large size of the video files images are presented but videos are also available. I limited the dates to September as that was sufficient data to show that CUP conditions are being violated.

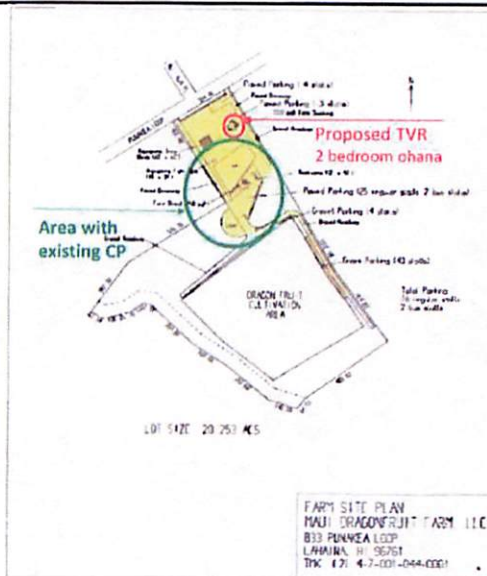
**FOLLOWING CUP CONDITIONS ARE BEING VIOLATED:**

5. That Maui Dragon Fruit Farm LLC [shall] must develop and use 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 accordingly may result in the revocation of the Conditional Permit [pursuant to] under Section 19.40.080, Maui County Code.

**Original CUP presentation given by Crystal Schmidt misrepresented the percentage of the land planted, by reducing the actual plot lines to make it appear like over 50% is planted:  
This is image from her presentation dated 2/23/2107 page 2:**



## Site Plan



2

Also page 10 provided above states 15 acres planted, only 2.5 is planted currently (they lost 2 acres in 2018 fire and never replanted it). It takes only 9 months from the seed to fruit for dragon fruit, owners still claim fire burned their dragon fruits and did nothing to replant them-but they did -during pandemic-build large concrete platform they call Maui Mountain café (possibly with farmers pandemic funds).

These County of Maui Historical Pictometry images show actual property lines and show less than 3 acres planted (that is also visible from Google Earth historical Images):





Pictometry

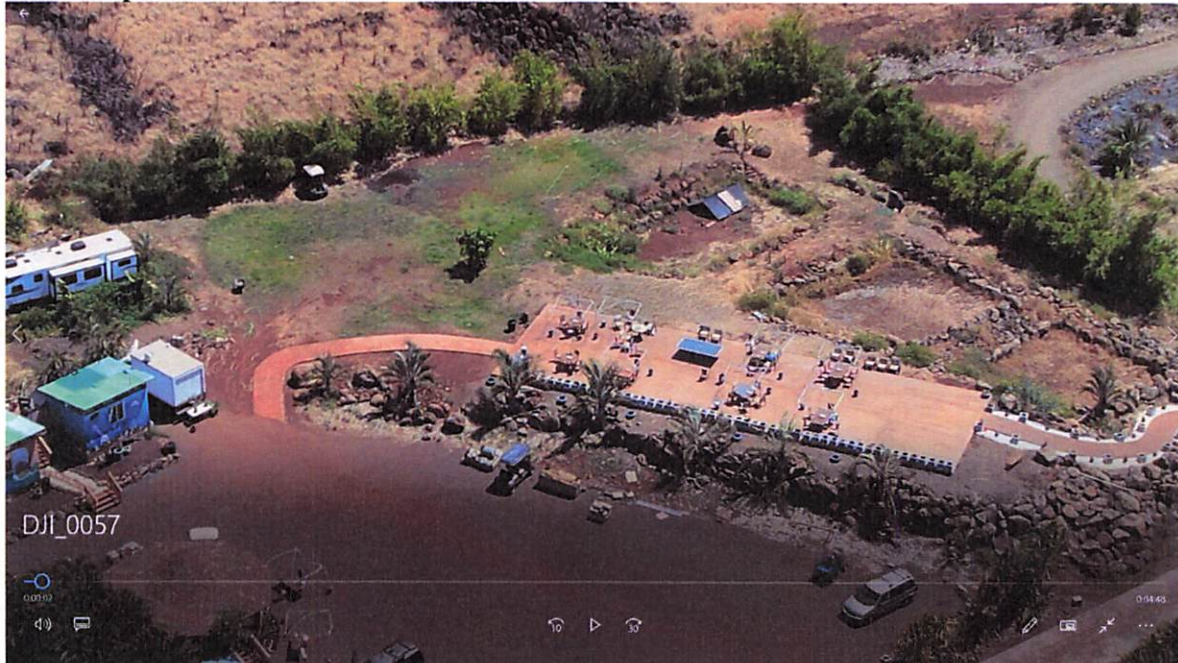


Per Google earth largest area planted was in August 2014-less than 5 acres, you will also see large white wedding tent-long before 2017 CUP allowing weddings:

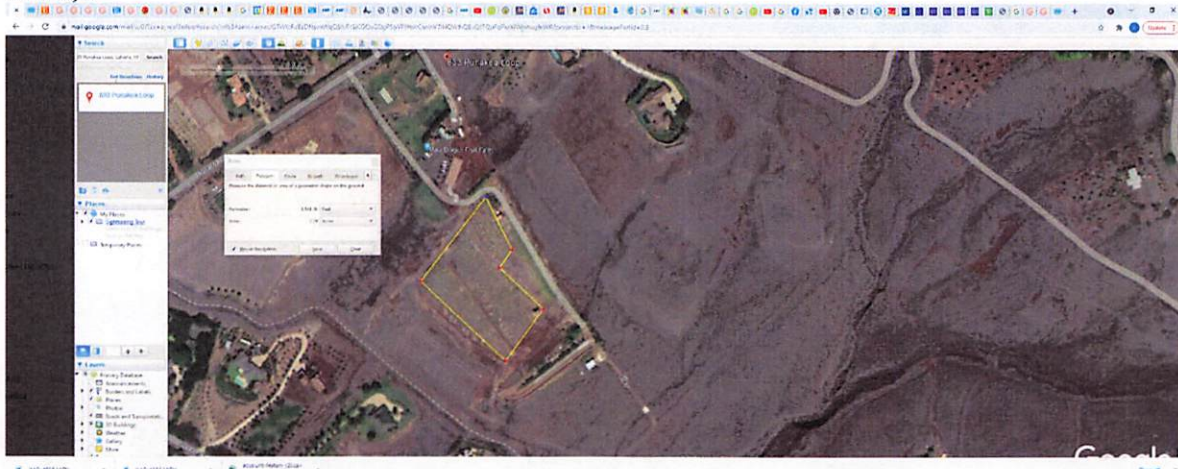




**Land is being developed for more tourist attractions like Maui Mountain Café large concrete pad built in 2020:**



**No crops that were lost due to 2018 fire were replanted, as per October 2020 image there was less than 2,5 acres planted but new café pad was built (possibly with pandemic farmer loans):**



6. That the gift shop [shall] must open no earlier than 9:00 a.m. and [shall] must close by 8:00 p.m.

**Gift shop lights stay lit long into the night, transient unpaid workers party and sleep at the gift shop.**

7. That special events [shall] must be limited to fifty guests and be limited to two times per calendar month except that one special local agriculture event may be held once a year with traffic and safety measures as recommended by the Maui Police Department to be provided.



You can see on this picture that tent larger than 700 sf was used and more than 50 guests:



8. That amplified sound is prohibited.

**Amplified sound is used at every wedding-video was provided to planning**



9. That an owner of Maui Dragon Fruit Farm LLC or a professional event planner must be required to be present during all events and same-day event cleanup. If a professional planner is used, then an owner of Maui Dragon Fruit Farm LLC [shall] must be accessible during all events. Being accessible means being able to answer the telephone at all times, and being able to be physically present at the property within one hour following a request by a guest, neighbor, or County agency.

**Owners are not available and professional planner info is never provided to neighbors. Events are set up day before and cleaned up day after-so tents are usually there for 3 days.**

10. That all special events must be concluded by 8:00 p.m., except a special local agriculture event may begin no earlier than 9:00 a.m. and must be concluded by 5:00 p.m.

**Weddings always go past 8 pm-videos provided to planning.**

11. That event clean-up must be concluded and all exterior lighting must be shut off by 8:30 p.m. **Never happens, lights stay on the gift shop and Cottage throughout the night.**

12. That all exterior lighting [shall] must be downward shielded. **Video of unshielded lights as recent as Dec 2<sup>nd</sup> '21 provided to Michelle Mc Lean and Tamara Paltin.**

**As you can see on this picture they are not down shielded:**



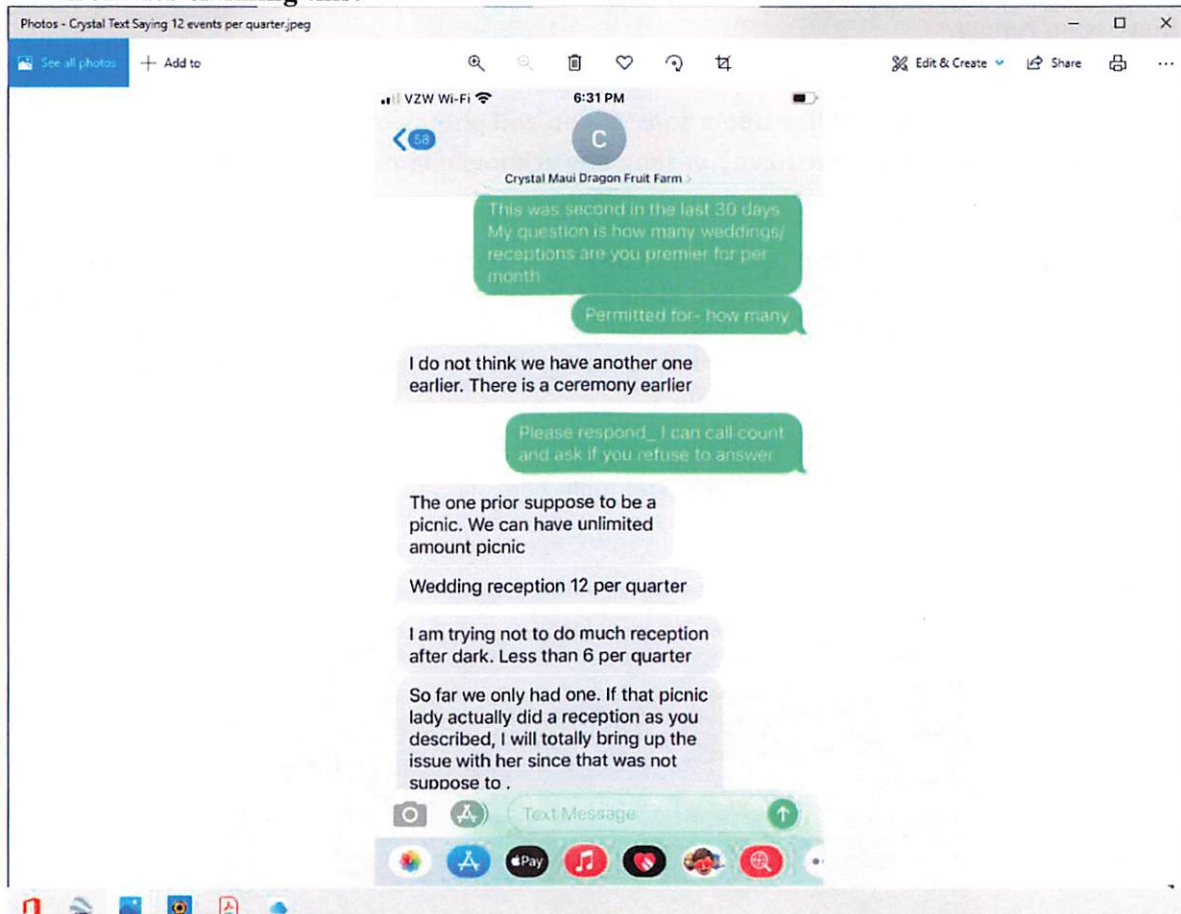
13. That all parking related to the gift shop and events[shall] must be onsite; no street parking is allowed.

**In the picture above you can see street parking.**

**Also on this picture you can see that cottage was used for wedding guests, some stayed overnight. This short-term use is considered TVR (without permit).**

16. That Maui Dragon Fruit Farm LLC [shall] must provide an information sheet providing neighbors with a contact telephone number and a copy of the Conditional Permit listing permit conditions.

**None of the neighbors received a CUP, I requested it from Crystal but she refused to provide the information, instead she claimed in her text that she can have unlimited picnics and 12 weddings per quarter (that would be twice as many as permitted in CUP). Here is a text from her claiming this:**



18. That all State of Hawaii Department of Health applicable requirements [shall] must be met. (Compliance [shall] will be determined by the Department of Health.)

**Violation of unsanitary workers housing**

19. That review and approval are required by the Fire Prevention Bureau for events open to the public with fifty or more people in attendance, **or when temporary tents or canopies in excess of 700 square feet in size are utilized**, or when open flames, such as lanterns or bonfires or other potential fire hazards will be used.

**You can see the pictures show tents significantly larger than 700 sf and Fire Prevention Bureau was never engaged in approving those. Michelle McLean stated in an e-mail that even though tents were larger than 700 sf since it was not public event that there is no violation. Language here says or “or when temporary tents or canopies in excess of 700**



**square feet in size are utilized"-so any event with larger than 700 sf tents needs this approval (regardless if they are private or public events).**

21. That upon renewal of this Conditional Permit, Maui Dragon Fruit Farm LLC must submit a list of all events including the dates, times, type, and number of attendees."

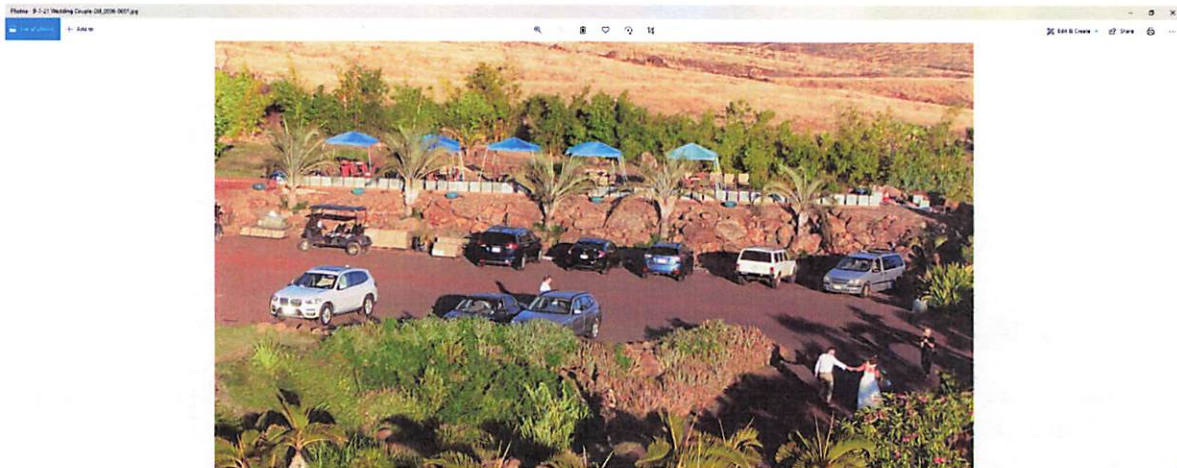
**We don't see this report, there was only one in the past but there should be another one prior to this approval. Clearly more weddings were conducted than allowed. That is why there is no report.**

**Additional violations for ZIP line operations: Video and photos of ZIP line running past 5pm were provided to planning-we have not seen any acknowledgment of these violations from planning.**

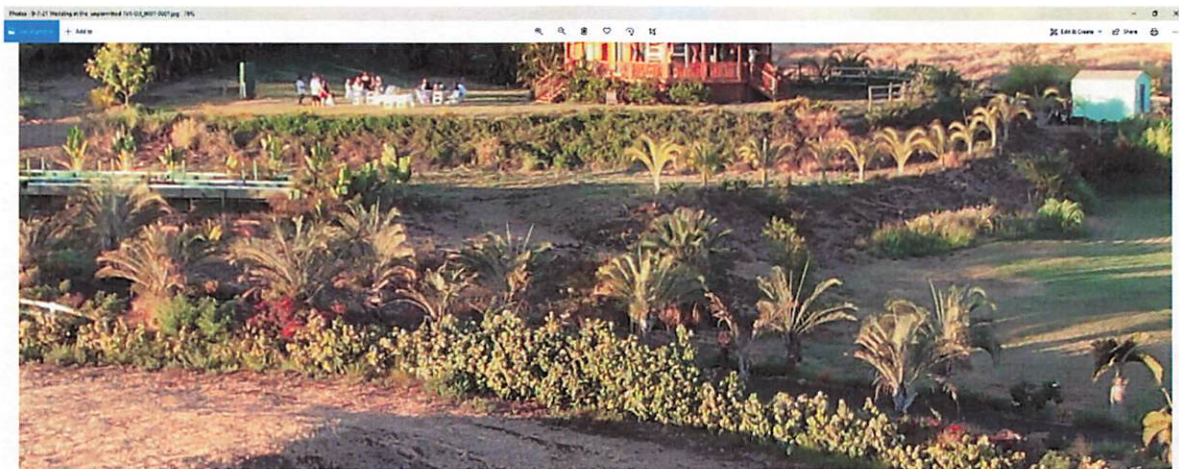
The CUP application states that parcel in question is 3 acres-but that is incorrect as the master parcel is 27.5 acres, especially because alleged agricultural activity is the necessary condition for 3 acres CPR-ed permit -as an add on activity to the ag activity. But frankly based on the miniscule amount planted, the main activity is not ag it is just an excuse to obtain all of those other permits and conduct non-ag activities.

TOTAL OF 6 WEDDINGS JUST IN SEPTEMBER 2021 (only 2 are allowed per month):

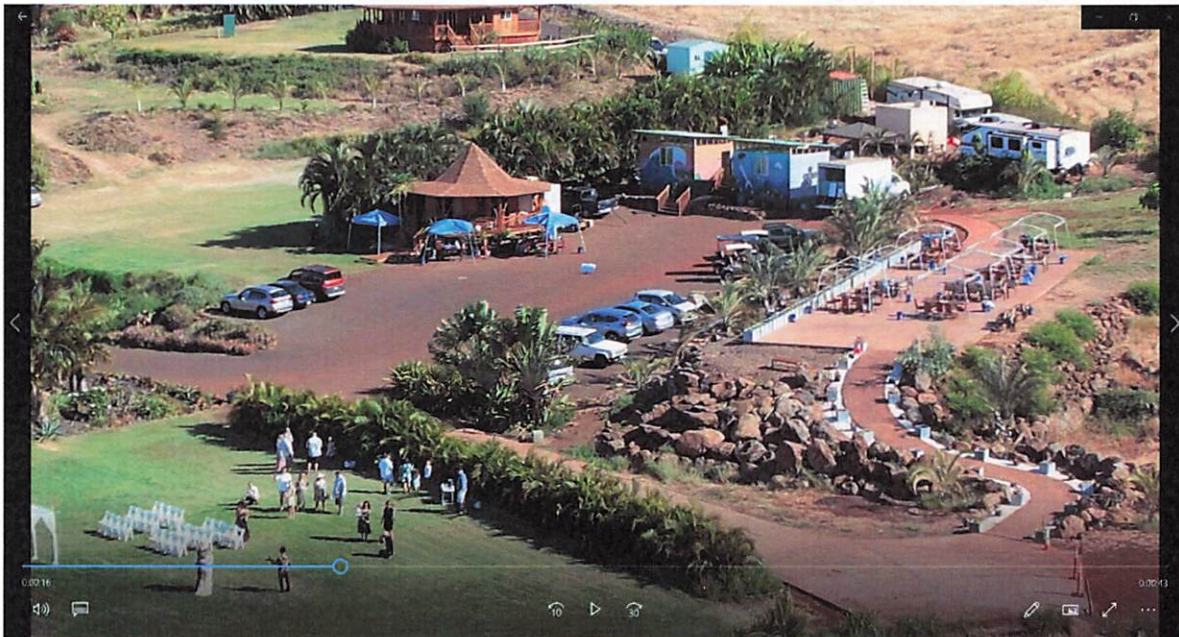
9-7-21 wedding at unpermitted TVR:



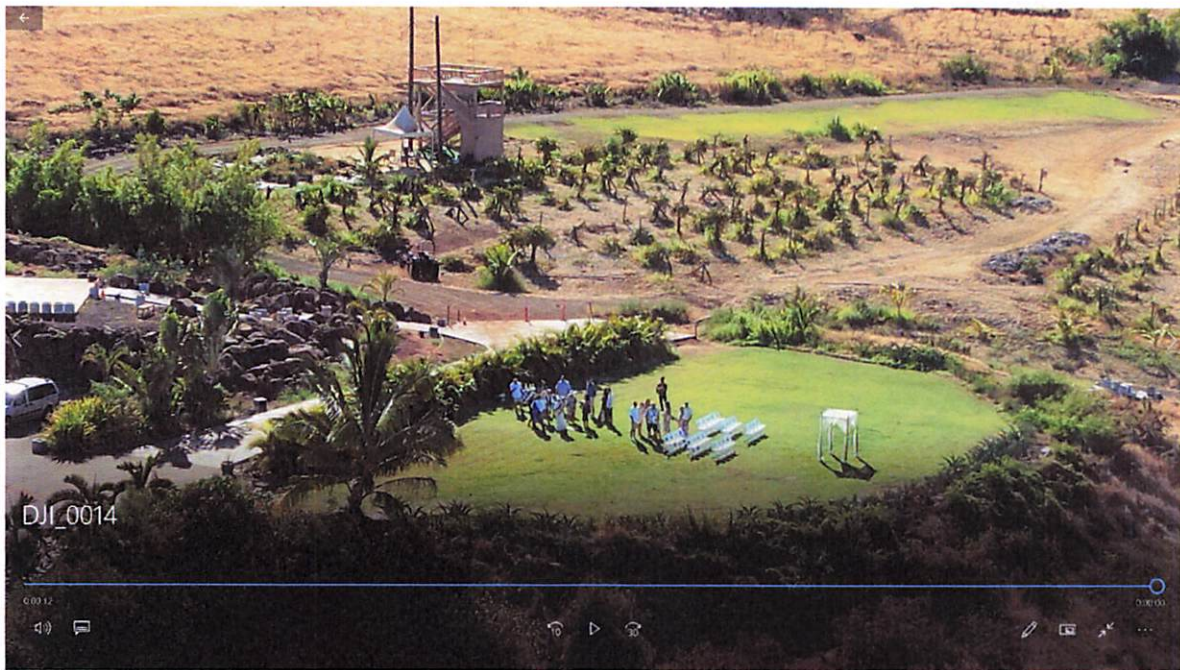




9-10-21 wedding (you can see large outside patio for "Maui Mountain Cafe" as well as RVs:







9-11-21 96 chairs set up and tent exceeding 700 sf (exceeds 50 allowed guests and fire department approval not obtained), tents set up day before, taken down day after the event:

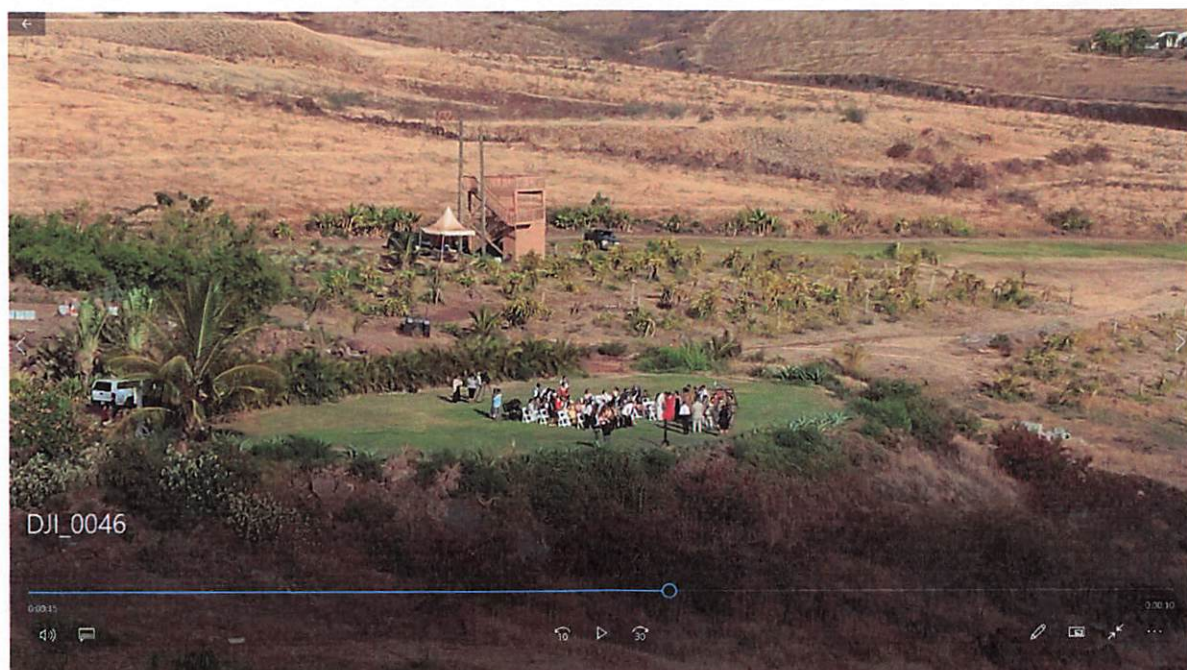


9-12-21 OVER 50 GUESTS IN ATTENDANCE:





9-17-21 WEDDING:



9-17-21 WEDDING AT THE COTTAGE-UNPERMITTED TVR USE AND STREET PARKING:

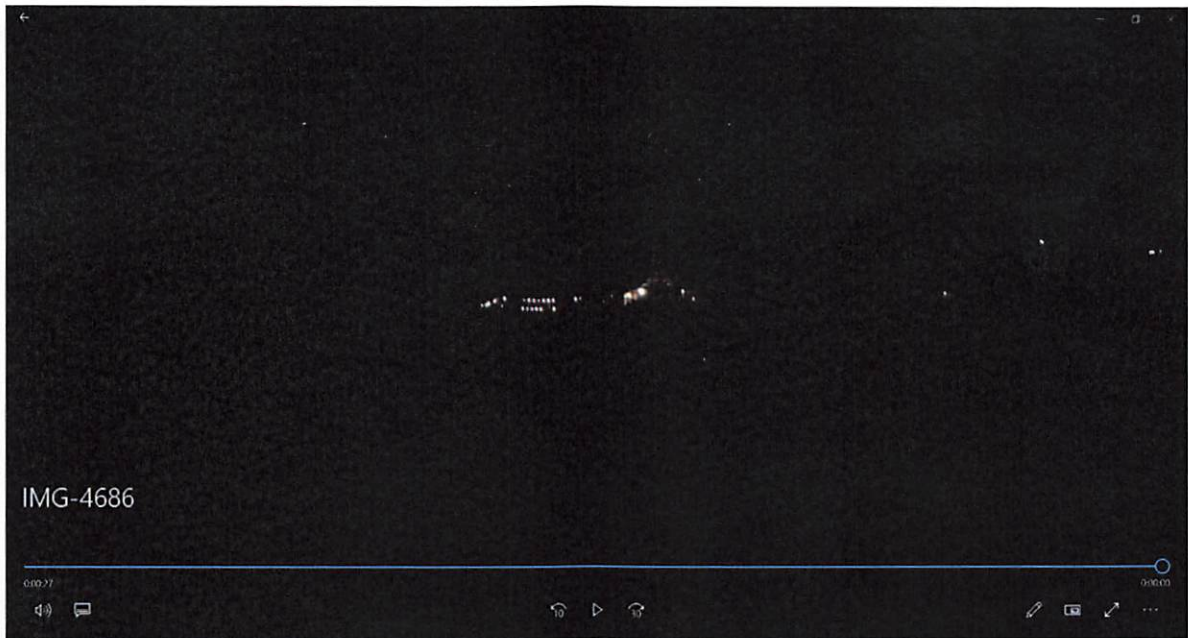




9-7-21 White van as additional sleeping accommodation (see white van between 2 RVs):

9-17-21 WEDDING AT TVR (COUPLE FRO CALIFORNIA STAYED AT THE COTTAGE OVERNIGHT) PAST 9 PM, UNSHIELDED LIGHTS, AMPLIFIED MUSIC):



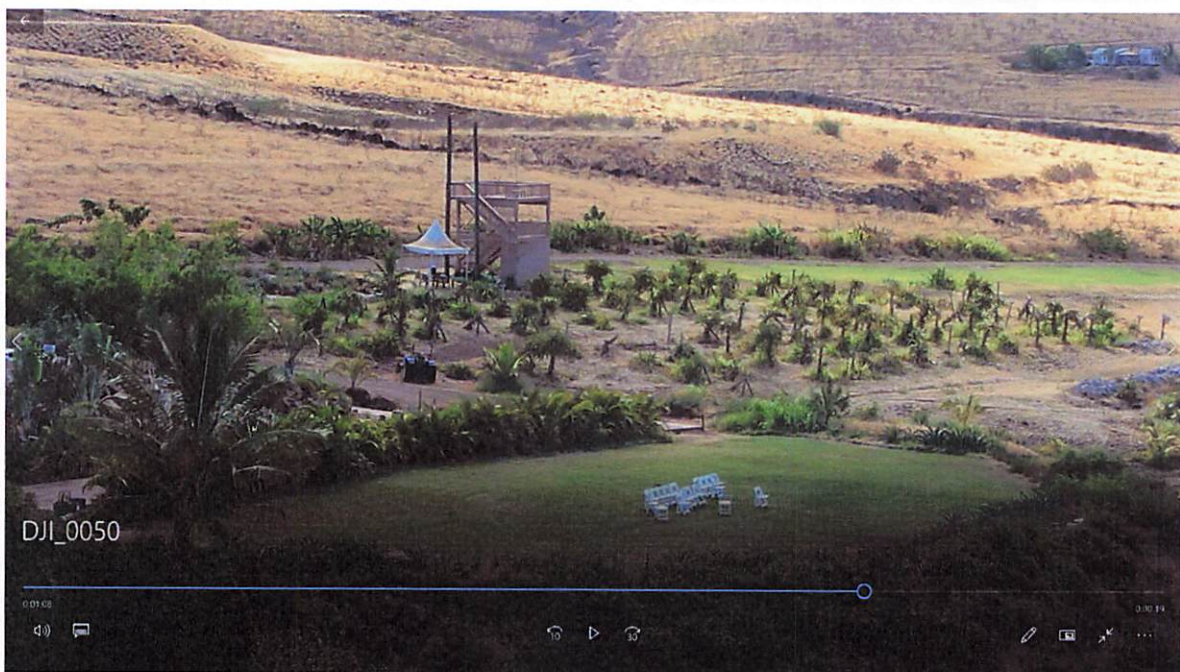
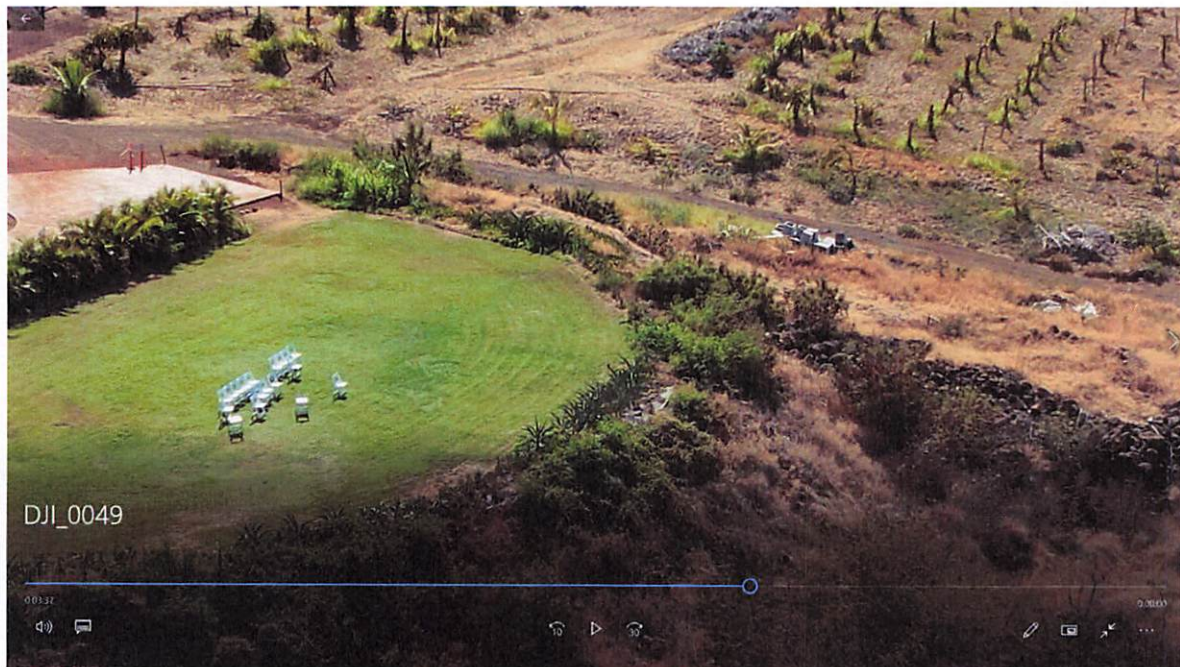


9-18-21 WEDDING AT THE CEREMONY PAD:



9-19-21 WEDDING SET UP:





10-1-21 Wedding at the unpermitted TVR:





You can see that these owners are constantly lying and ridiculing the county and the community, while they are laughing their way to the bank. They are obtaining permits for lucrative non-ag activities on ag land claiming that they cannot make enough money from farming. Based on only 10% of their land being used for ag activities it is clear that agriculture is just used to game the system and obtain permits that they should have not obtained otherwise.

Anthony P. Takitani  
Gilbert S.C. Keith-Agaran  
David M. Jorgensen  
Joseph L. Wildman

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dave@tonylaw.com

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# TAKITANI, AGARAN, JORGENSEN & WILDMAN

A Limited Liability Law Partnership

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December 1, 2021

VIA E-MAIL ([county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us);  
[tamara.paltin@mauicounty.us](mailto:tamara.paltin@mauicounty.us))

TAMARA PALTIN, CHAIR  
Planning and Sustainable Land Use Committee  
Maui County Council  
200 S. High Street, Eighth Floor  
Wailuku, Maui, Hawaii 96793

Re: PSLU-17 – Maui Dragon Fruit Farm LLC

Dear Chair Paltin and Members of the PSLU Committee:

As you may recall, I represent Vera Sredanovic and Winston Cheshire, who are neighbors of the Maui Dragon Fruit Farm (the "Farm"). I apologize but I was unaware that I was "asked" to provide an update about my clients' issues with the Farm for tomorrow's Planning and Sustainable Land Use Committee. I understand that you have closed public testimony so I assume written testimony is acceptable. In any event, I have a conflict tomorrow morning at 9:00 so I'm hoping this letter will suffice. However, if you do need any additional information, my clients and I are willing to provide it at a later date.

Here is an update on the situation out at the Farm:

1. My clients respectfully request that the ZIP line be shut down immediately, due to continuing violations of the "permitted" 9:00 am to noon, Monday through Friday, operations. For your information, this past Saturday they ran the ZIP line at 6:00 pm and then, after that, they had a very loud party at the cottage until midnight. You may recall at the last meeting that Ms. Schmitt even admitted to running a ZIP line for "sunset dinners/tours", despite the restrictions. My clients also ask that the County deny any further ZIP line permit to the Farm. Again, their lot is less than 50 acres, it is causing serious negative impacts on the community, and there is an extensive history of violations. The Farm is not being a good neighbor.

2. Ms. Schmitt, the owner of the Farm, stated on the record that, instead of the illegal RV accommodations she had been providing to the youth working on the Farm, she is now going to use the 2 bedroom with a loft, 2 bath residential dwelling on property to house six of the youth on the property and that all the rest of the youth workers live "somewhere else" that she has no information about. My clients ask that her lease with the youth be provided to the County with the names of the tenants to ensure that no substitutions or rotating of tenants or workers be allowed. If switching out of tenants does occur in violation of the short-term tenancy laws of the County and the State, we request that the dwelling be found in violation of the TVR rules, with all enforcement and fines being imposed immediately. Regarding the commercial structures and van currently onsite, we ask that the County enforce the restriction that they may not be used in any way as living quarters.

We also ask that house rules be placed at the entrance of the property, and that each tenant be provided a copy to read and sign. As you know, such house rules are intended to ensure peace for the neighborhood and should clearly spell out 9:00 pm to 8:00 am quiet hours and prohibit screaming and amplified sound. We also ask that they be required to turn off the "gift shop" lights when the business is closed to the public and that no parties may be held there. As you'll recall, Ms.



TAMARA PALTIN, CHAIR  
Planning and Sustainable Land Use Committee  
Page 2  
December 1, 2021

Schmitt agreed at the hearing that the tenants should respect the neighbors, and she insisted that they were not having any late-night parties, but she refused to police them or impose on their rights to privacy and she could not refute my clients' evidence of improper conduct. Ms. Schmitt also admitted that she is an absentee owner who lives in Haiku and has no idea what goes on at night on the Farm, and that she takes her tenants word for it when they say they are not partying late into the night or bothering the neighbors. All of that is simply untrue, as my clients have confirmed.

3. Ms. Schmitt agreed on the record to withdraw her request for a wedding permit and promised to only conduct 11 the weddings she has already scheduled between now and July, 2022, and to hold no other group events except for farm tours. My clients request that Ms. Schmitt confirm in writing that no additional events will be allowed beyond those 11 weddings, and that no group events will be held on the property after the July deadline. To avoid any doubt, we ask that the Ms. Schmitt and the Farm specifically acknowledge in writing that they are relinquishing their rights to conduct weddings after July, 2022, that they will not apply again in the future to hold weddings at 833 Punakea Loop, and that no other group events except for farm tours will be held there. My clients also request that a calendar of all scheduled events be provided, that no substitutions or rescheduling be allowed if there are any cancellations, and that if any violations occur, all remaining events shall be cancelled.

My clients truly want to be good neighbors but Ms. Schmitt and the Farm have simply not reciprocated or cooperated. Her statements at the hearing only served to confirm that she has no intention of controlling the youth that are living and working on her property, or to respect her neighbors' rights to peaceably enjoy their properties and the agricultural nature of the area. Simply growing some fruit does not excuse all of the other offensive and illegal activities that are taking place on the Farm. We hope that you will hold Ms. Schmitt and the Farm accountable for their actions.

My clients and I thank you for your hard work on this matter and your consideration of their position.

Sincerely,



DAVID M. JORGENSEN  
Clients/Letters/Cheshire/Tamara Paltin

c: Client (via e-mail)

## County Clerk

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**From:** Lisa Wear <lisajarrell@icloud.com>  
**Sent:** Wednesday, January 19, 2022 7:47 PM  
**To:** County Clerk  
**Subject:** Deny Bill 1 (2022)

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2022 JAN 20 AM 7:49

OFFICE OF THE  
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[You don't often get email from lisajarrell@icloud.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Dear Council and Chair,

I am in the process of closing on a property close to MDFF. In the process I have driven up many times and on occasion I saw young adults hitchhiking to MDFF. I picked some of them up and they told me they come to work as farm workers in exchange for lodging. Most recently I picked a girl last week heading to the farm. I was curious since I am moving to this neighborhood, so I wanted to know what is going on at the farm. I went over and spoke to a girl at the farm. I noticed that kids are running the ZIP lines, and conducting tours, but could not see much ag activity there. I asked them about the farm and what is cottage used for. They told me that 10 of them live at the cottage. I also noticed that they had only a small patch of land planted with Dragon Fruits -right between the ZIP line. I also noticed that a lot of people were ZIP lining. I took some brochures with me and I can see that they are advertising 27 acres of Dragon Fruit Farm-that is very overstated as it looked to me they only have a couple of acres. I heard from neighbors that MDFF conducted a lot of events that violated conditions of this CUP. Please deny this CUP to stop this behavior in the future.

Mahalo,

Lisa Jarrell  
714-307-0069




## County Clerk

RECEIVED

**From:** Shauna Buckner <sbuck315@yahoo.com>  
**Sent:** Thursday, January 20, 2022 1:23 PM  
**To:** County Clerk  
**Subject:** Bill 1 (2022) Please DENY

2022 JAN 20 PM 2: 04

OFFICE OF THE  
COUNTY CLERK

 You don't often get email from sbuck315@yahoo.com. [Learn why this is important](#)  
Aloha County Council, and mahalo for your consideration.

Please deny Bill 1 (2022). As I've previously provided feedback on, the noise from the Maui Dragon Fruit Farm is not acceptable. We are a quiet, agricultural neighborhood. It is loud and beyond the hours that they are supposed to operate. Not to mention the bright lights from what sounds and looks to be big events/parties. Also, they did not replant their farm after the big fire, so they are not using the land for agricultural use as it's intended - and I don't think they even had the acreage planted before the fire that was required either. From my new understanding of the CUPs they've previously obtained, they are not following most, if not all, of the requirements. It is blatant disregard. I've heard from many neighbors about this 'in your face' disregard for the appropriate use of this land, and of course the breaking of the CUP requirements, has been going on a long time. As someone who uses our own land as expected and required, I don't appreciate them not being held to the same standards as the rest of us that are being good stewards.

Best regards,

Shauna Buckner  
Punakea Loop  
Full-time Resident

## County Clerk

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**From:** Tamara A. Paltin  
**Sent:** Thursday, January 20, 2022 8:50 PM  
**To:** County Clerk  
**Subject:** Fwd: Security Cameras  
**Attachments:** camerasystem.jpg; cameraviews.jpg; ziplinecamera.jpg; cameracloseup.jpg; entrancecamera.jpg

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2022 JAN 21 AM 7:47  
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**From:** Larry Schmitt <larry@mauidragonfruit.com>  
**Sent:** Thursday, January 20, 2022 8:48:06 PM  
**To:** Tamara A. Paltin <Tamara.Paltin@mauicounty.us>  
**Subject:** Security Cameras

[You don't often get email from larry@mauidragonfruit.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Aloha Tamara,

We installed two Blink security cameras to monitor the zipline and farm entrance.

Attached please find photos showing the system box, the camera pointing at the zipline and the camera pointing at the events area, as well as a screenshot of the camera views on a phone.

Thank you.

Crystal and Larry Schmitt







**G8T1-GH00-1306-EHGV**













