

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

January 5, 2018

RECEIVED
2018 JAN -5 PM 2:34
OFFICE: THE MAYOR

Honorable Alan Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

RECEIVED
2018 JAN -8 AM 9:33
OFFICE OF THE
COUNTY CLERK
APPROVED FOR TRANSMITTAL
[Signature] 1/5/18
Mayor Date

Dear Chair White and Members:

SUBJECT: CONDITIONAL PERMIT (CP) APPLICATION TO AMEND ORDINANCE 4295 (2016); LOCATED IN THE STATE AND COUNTY AGRICULTURAL DISTRICTS ON APPROXIMATELY 3.0 ACRES, LOCATED AT 833 PUNAKEA LOOP, DISTRICT OF LAHAINA, ISLAND OF MAUI, HAWAII; TMK: (2) 4-7-001:044-0001 (CP 2014/0005)

The Department of Planning (Department) is transmitting for your review and action the CP application filed by Maui Dragon Fruit Farm LLC. A summary of the application is as follows:

APPLICATION SUMMARY	
Application	The amended CP will allow transient vacation rental (TVR) use in a two (2) bedroom farm dwelling in addition to uses allowed by Ordinance No. 4295.
Applicant	Lawrence and Crystal Schmitt of Maui Dragon Fruit Farm LLC
Owner	Maui Dragon Fruit Farm LLC
Tax Map Key	4-7-001:044-0001 (POR.)
Address	833 Punakea Loop Unit 1, Lahaina, Island of Maui, Hawaii
Area	Approximately 3.0 acre portion of a 27.528 acre parcel of land
Land Use Designations	State Agricultural District Maui Island Plan: Not within the Urban Growth Boundary West Maui Community Plan: Agriculture Title 19, Zoning: Agriculture Other: NOT located within the Special Management Area (SMA)

COUNTY COMMUNICATION NO. 18-34

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
January 5, 2018
Page 2

APPLICATION SUMMARY	
Brief Description	The Applicant is requesting an amendment to Ordinance No. 4295 (2016) in order to allow transient vacation rental (TVR) use in a two bedroom farm dwelling. Ordinance 4295 granted Maui Dragon Fruit Farm LLC a conditional permit to conduct agricultural related activities, sell non-agricultural related items and agricultural products not grown on the property, and to conduct certain special events within the County Agriculture District.
Public Hearing	Held by the Maui Planning Commission (Commission) on February 28, 2017.
Testimony	Five (5) testifiers appeared at the public hearing in support of the project. Two (2) letters of concern were submitted to the Department before the public hearing was held, and were included in the Department's Staff Report to the Commission.
Recommendation	Recommend approval subject to conditions listed below.

The Commission reviewed the subject application at its February 28, 2017 public meeting. The Commission recommended approval of the CP (CP 2014/0005) to the Maui County Council (Council), subject to the following thirty nine (39) conditions:

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of two (2) years from the effective date of this ordinance; provided that, notwithstanding Section 19.40.090(C), Maui County Code (MCC), only the Council may grant an extension of this Conditional Permit beyond this two-year period, provided Maui Dragon Fruit Farm LLC complies with the application requirements of Section 19.04.090(A), MCC, and the notice requirements of Section 19.40.090(8), MCC.
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
4. That Maui Dragon Fruit Farm LLC shall exercise reasonable due care as to third parties with respect to all areas affected by this 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 \$1,000,000 per occurrence and \$3,000,000 in the aggregate naming the County of Maui as an additional insured, insuring and defending Maui Dragon Fruit Farm LLC and the 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

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
January 5, 2018
Page 3

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 Maui Dragon Fruit Farm LLC 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 the County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of this ordinance.

5. That Maui Dragon Fruit Farm LLC shall develop and use the property in substantial compliance with the representations made to the MCC 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, MCC.
6. That the gift shop shall open no earlier than 9:00 a.m. and shall close by 8:00 p.m.
7. That special events shall be limited to fifty (50) guests and be limited to two (2) times per calendar month, provided that one (1) 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.
8. That amplified sound is prohibited.
9. That an owner of Maui Dragon Fruit Farm LLC or a professional event planner shall be required to be present during all events and same-day event clean-up. If a professional planner is used, then an owner of Maui Dragon Fruit Farm LLC shall 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 (1) hour following a request by a guest, neighbor, or County agency.
10. That all special events shall be concluded by 8:00 p.m., provided that a special local agriculture event may begin no earlier than 9:00 a.m. and shall be concluded by 5:00 p.m.
11. That event clean-up shall be concluded and all exterior lighting shall be shut off by 8:30 p.m.
12. That all exterior lighting shall be downward shielded.
13. That all parking related to the gift shop and events shall be onsite; no street parking is allowed.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
January 5, 2018
Page 4

14. That the maximum onsite parking shall be limited to seventy-six (76) stalls.
15. That for events requiring more than seventy-six (76) parking stalls, a shuttle service shall be provided for guests.
16. That Maui Dragon Fruit Farm LLC shall provide an information sheet providing neighbors with a contact telephone number and a copy of the Conditional Permit listing permit conditions.
17. That a sign shall be placed at the entrance of the property with the farm name and a contact telephone number.
18. That all State of Hawaii Department of Health applicable requirements shall be met. (Compliance shall be determined by the Department of Health.)
19. That review and approval is required by the Fire Prevention Bureau for events open to the public with fifty (50) or more people in attendance and/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.
20. That a compliance report shall be submitted by Maui Dragon Fruit Farm LLC and approved by the Department of Planning prior to starting operations.
21. That upon renewal of this Conditional Permit, Maui Dragon Fruit Farm LLC shall submit a list of all events including the dates, times, type, and number of attendees. That permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
22. That permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
23. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
January 5, 2018
Page 5

24. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR guest, a neighbor, or a County agency.
 25. That the TVR home shall only be rented when the manager is accessible.
 26. That the Maui Dragon Fruit Farm LLC shall hold no more than one (1) Conditional Permit for TVR home use or a Short-Term Rental Home (STRH) permit.
 27. That upon approval of the amendment to the Conditional Permit, the Maui Dragon Fruit Farm LLC shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
 28. That the Maui Dragon Fruit Farm LLC shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
 29. The house policies shall include, at a minimum, the following provisions:
 - a. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - b. Amplified sound is prohibited; and
 - c. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.
- The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.
30. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
January 5, 2018
Page 6

31. That the TVR home shall be rented to only one group at a given time.
32. That the maximum occupancy shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.
33. That quiet hours for the TVR shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
34. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - a. Complete floor plan of STRH;
 - b. "You are here" marked on the exit plan;
 - c. Arrows indicating the exit path for only that sleeping room;
 - d. Meeting place to assemble after exiting buildings; and
 - e. Location(s) of all fire extinguishers.
35. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five (75') feet travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
36. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Maui Dragon Fruit Farm LLC and submitted as part of the renewal request.
37. That the TVR home operation shall be available for bi-annual fire inspections.
38. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
39. That the Maui Dragon Fruit Farm LLC shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."

The CP conditions will be enforced pursuant to the provisions of Chapter 19.530, §19.530.030 of the Maui County Code, as amended, 1980; and the *Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code*.

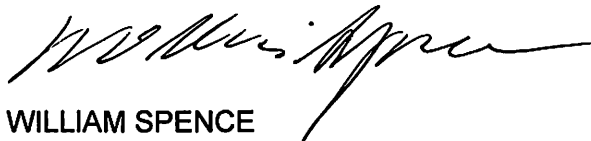
Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
January 5, 2018
Page 7

Inasmuch as Council approval is required for the CP, the Department respectfully transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Application Forms;
2. Department's Report and Agency Comments;
3. Department's Recommendation Report;
4. Applicant's PowerPoint Presentation;
5. Written testimony received after preparation of Department's Report;
6. Maui Planning Commission Recommendation Letter;
7. Original Draft Ordinance;
8. Ordinance No. 4295 (2016); and
9. Approved Minutes.

Thank you for your attention to this matter. Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



WILLIAM SPENCE
Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
Livit U. Callentine, AICP, Staff Planner (PDF)
Maui Planning Commission Members
via Carolyn Takayama-Corden, Secretary to the Boards and Commissions (PDF)
Crystal Schmitt, Applicant

WRS:LUC:rma

Project File

K:\WP_DOCS\PLANNING\CP\2014\0005_MauiDragonFruit\2016 amendment for TVR use\Transmittal_to_Council.docx

1. Application Forms



COUNTY OF MAUI
DEPARTMENT OF PLANNING
2200 MAIN STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-8205 FAX: (808) 270-7634

DEPT. OF PLANNING - MAUI
FEB 24 2016

RECEIVED

APPLICATION TYPE: AMENDMENT TO PERMIT TERMS, CONDITIONS, AND TIME STIPULATION

DATE: 2/17/16 VALUATION: \$

PROJECT NAME: Cottage at Panoramic Paradise

PROPOSED DEVELOPMENT: TDR

TAX MAP KEY NO.: CPR/HPR NO.: LOT SIZE:

PROPERTY ADDRESS: 833 Punakea Loop, Lahaina, HI 96761

OWNER: Mami Dragon Fruit Farm PHONE: (B) 808-264-6127 (H) 808-575-7321

ADDRESS: 100 Waipuhia place

CITY: Haiku STATE: HI ZIP CODE: 96708

OWNER SIGNATURE: 

APPLICANT: Crystal Schmitt

ADDRESS: 100 Waipuhia place

CITY: Haiku STATE: HI ZIP CODE: 96708

PHONE (B): 264-6127 (H): 575-7321 FAX:

APPLICANT SIGNATURE: 

AGENT NAME: N/A

ADDRESS:

CITY: STATE: ZIP CODE:

PHONE (B): (H): FAX:

EXISTING USE OF PROPERTY: Organic Farming /

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Ag

COMMUNITY PLAN DESIGNATION: Ag ZONING DESIGNATION: Ag

OTHER SPECIAL DESIGNATIONS:

Crystal Schmitt
Maui Dragon Fruit Farm
100 Waipuhia Place
Haiku, HI 96708

Mr. William Spence, Director
Maui Planning Department
2200 Main Street, Suite #619
Wailuku, HI 96793

Dear Mr. Spence:

On behalf of Maui Dragon Fruit Farm, LLC, we would like to apply for the following amendment to our special use and conditional use permits.

The amendment we are requesting is below:

1. To allow the cottage on the farm to be used for transient vacation rentals;

The reasons for the requested amendment are:

1. Using the cottage as a transit vacation rental can effectively bring some more stable supplemental income to the farm operations.
2. We have had difficulty securing event bookings due to the very limiting conditions of our special use and conditional use permits (ie. 50 guests max, no amplified music and an 8 pm curfew). In fact, ever since the permit is issued, we only had one wedding so far and that is a wedding for a friend. We hope the ability to stay at the farm in the cottage as part of the event will allow us to secure more events.

Thank you so much for your consideration!

Sincerely Yours,
Crystal Schmitt
Managing Member, Maui Dragon Fruit Farm

2. Department's Report and Agency Comments

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

LAWRENCE AND CRYSTAL SCHMITT
MAUI DRAGON FRUIT FARM, LLC

To Obtain an Amendment to an Existing State
Land Use Commission Special Permit and an
Existing Conditional Permit to Allow Transient
Vacation Rental of a Two (2) Bedroom Farm
Dwelling in the State and County Agricultural
Districts on approximately 3.0 acres portion of a
27.528 parcel of land at 833 Punakea Loop,
TMK: 4-7-001: 044 (por.), Lahaina, Island of
Maui.

DOCKET NOs. SUP2 2014/0011
CP 2014/0005

Lawrence and Crystal Schmitt
Maui Dragon Fruit Farm, LLC
(G FLAMMER)

MAUI COUNTY PLANNING DEPARTMENT'S REPORT
TO THE MAUI PLANNING COMMISSION
February 28, 2017 MEETING

DEPARTMENT OF PLANNING
COUNTY OF MAUI
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HI. 96793

Land Use Special Permit Amendment
Conditional Permit Amendment

K:\WP_DOCS\PLANNING\CP\2014\0005_MauiDragonFruit\2016 amendment for TVR use\Staff
Report\MPC_Report_2.28.17.doc

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

LAWRENCE AND CRYSTAL SCHMITT
MAUI DRAGON FRUIT FARM, LLC

DOCKET NOs. SUP2 2014/0011
CP 2014/0005

Lawrence and Crystal Schmitt
Maui Dragon Fruit Farm, LLC
(GMF)

To Obtain an Amendment to an Existing State Land Use Commission Special Permit and an Existing Conditional Permit to Allow Transient Vacation Rental of a Two (2) Bedroom Farm Dwelling in the State and County Agricultural Districts on approximately 3.0 acres portion of a 27.528 parcel of land at 833 Punakea Loop, TMK: 4-7-001: 044 (por.), Lahaina, Island of Maui.

DESCRIPTION OF THE PROJECT

This matter arises from an application for an amendment to an existing State Land Use Commission Special Permit (SUP2) and an existing County Conditional Permit (CP) filed on October February 24, 2016 by Lawrence and Crystal Schmitt, the "Applicants". The Applicants are requesting an amendment to allow transient vacation rental of a two bedroom farm dwelling. The Applicants request letter for the amendment and a summary of the proposed operation is included as **Exhibit 1**. Maps, site and floor plans, and photographs of the farm and dwelling can be found in **Exhibits 2-6**.

The dwelling was constructed in 2014 and thus is not eligible for a short-term rental home permit. Pursuant to Maui County Code Section 19.65.030(O): "Short-term rental homes shall be limited to single-family dwelling units and accessory dwelling units existing and constructed at least five years prior to the date of application for the short-term rental home permit."

The property is located at 833 Punakea Loop, in the Makila Plantation Subdivision, in the general area called Launiupoko. The Applicants purchased the 27.528 acre parcel in 2009 to grow and promote dragon fruit as a commercial crop. In 2014 parcel was been divided into two tax map key lots through a condominium property regime: the main 20.25 acres where the farm is located and a 7.2 acre parcel that is currently fallow. The Applicants do not reside on the property. There is only one farm dwelling on the property.

Maui Dragon Fruit Farm is a diversified USDA certified organic farm and the largest organic dragon fruit farm in the U.S. The cultivated area is about 15 acres. The farm's signature crops are 16 varieties of dragon fruits. The farm also produces other tropical crops like organic pineapple,

bananas, papaya, sugarcane, etc. They have planted over 2500 dragon fruit plants in the past five years and since the granting of conditional permit they have planted 115 papaya trees and over 100 cacao plants.

The existing SUP2 and CP Permits became effective on March 4, 2016 and allows retail items to be sold in the gift shop, catered dragon fruit tasting tours (farm to table), and limited special events as follows:

- Special events are limited to fifty (50) guests and limited to two (2) times a calendar month, provided that one (1) special local agriculture event may be held once a year from 9:00 a.m. until 5:00 p.m., with traffic and safety measures as recommended by the Maui Police Department be provided.
- Amplified sound is prohibited.
- The Applicant or a professional event planner is required to be present during all events and same-day event clean-up. If a professional planner is used, then the Applicant shall 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 (1) hour following a request by a guest, neighbor, or County agency.
- All special events, except for the annual agricultural event which shall end at 5:00 p.m., shall be concluded by 8:00 p.m. in the evening.
- That event clean-up shall be concluded and all exterior lighting shall be shut off by 8:30 p.m.

A copy of the ordinance with all of the project conditions is included as **Exhibit 7**.

The Applicant is requesting the amendment for the following reasons:

1. *"Using the cottage as a transit vacation rental can effectively bring some more stable supplemental income to the farm operations.*
2. *We have had difficulty securing event bookings due to the very limiting conditions of our special use and conditional use permits (ie. 50 guests max, no amplified music and an 8 pm curfew). In fact, ever since the permit is issued, we only had one wedding so far and that is a wedding for a friend. We hope the ability to stay at the farm in the cottage as part of the event will allow us to secure more events."* (**Exhibit 1**)

DESCRIPTION OF THE PROPERTY

1. The Project area is approximately 3.0 acres portion of a 27.528 parcel of land, which is situated at the north-west corner of the 27.528 acre parcel, and is located at 833 Punakea Loop, TMK: 4-7-001: 044 (por), Lahaina, Island of Maui. Hawaii. (See attached Maps, **Exhibits 2-4**)
2. Land Use Designations --
 - a. State Land Use District -- Agriculture

- | | |
|--------------------------------|----------------------------|
| b. Maui Island Plan -- | Not in any growth boundary |
| c. West Maui Community Plan -- | Agriculture |
| d. County Zoning -- | Agriculture |
| e. Other -- | None |

3. Surrounding Uses --

- | | |
|----------|--|
| North -- | 5 acre ag lots: vacant and w/with farm dwellings |
| East -- | 15-25 acre lots: vacant and with dwellings |
| South -- | 15 acre ag lots: vacant and with dwellings |
| West -- | 5 acre ag lots with farm dwellings |

4. The subject parcel has a slope of 3 to 15 percent. The Flood Insurance Rate Map (FIRM) indicates that the project site is located within Zone X, an area of minimal flooding. The existing soil characteristics allow moderately rapid permeability and slow to medium runoff. The elevation level is 240 to 460 ft above sea level and the parcel is not in a flood plain, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, or estuary.

APPLICABLE REGULATIONS

State Land Use Special Use Permit

Pursuant to Section 205-6 Special permit, Hawaii Revised Statutes, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Special permits for land the area of which is greater than fifteen acres shall be subject to approval by the land use commission.

Standards for reviewing a Land Use Commission Special Use Permit are found under Title 15 Department of Business, Economic Development, and Tourism; Subtitle 3 State Land Use Commission, Chapter 15 Land Use Commission Rules, Subchapter 12 Special Permits, § 15-15-95 of the Hawaii Administrative Rules.

Certain "unusual and reasonable" uses within agricultural and rural districts other than those for which the district is classified may be permitted. The following guidelines are established in determining an "unusual and reasonable use":

- (1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.
- (2) The desired use would not adversely affect surrounding property;
- (3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;
- (4) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;
- (5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The county planning commission may impose such protective conditions as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, a reasonable time limit suited to establishing the particular use, and if appropriate, a time limit for the duration of the particular use, which shall be a condition of the special permit. If the permitted use is not substantially established to the satisfaction of the county planning commission within the specified time, it may revoke the permit. The county planning commission, with the concurrence of the commission, may extend the time limit if it deems that circumstances warrant the granting of the extension.

Pursuant to HRS Section 205-6 (C), the Commission must also find that the use would promote the objectives and effectiveness of Chapter 205 HRS.

Conditional Permit

A conditional permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. The intent of the conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Upon finding that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.

Should the commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the commission shall recommend denial of the request and may instruct the applicant to seek a change in zoning should the facts warrant such an application.

Every conditional permit shall be conditioned upon the proposed development fully complying with all requirements of title 19 and other applicable governmental requirements.

19.40.080 - Conditions, amendments, modifications.

A. Conditional permits may be issued subject to such terms and conditions deemed reasonable and necessary to fulfill the intent and purposes of this title. All changes in the use or appearance of land or buildings allowed by the permit shall be in accordance with the specified conditions and the proposal as approved. Such permit shall be issued subject to compliance with and/or fulfillment of such terms and conditions and shall so state.

B. Any person who has been issued a conditional permit may request the commission to review a request to amend or delete any terms and conditions imposed upon such permit.

C. The commission on request or on its own initiative may recommend action to revoke any conditional permit or amend or delete any terms, conditions, and time stipulations of such conditional permit if such action is deemed necessary to effectuate the purpose and intent of this chapter. The commission shall provide due notice in writing to the applicant/permittee and an opportunity for a hearing.

D. The planning director may approve amendments to the conditional permit if the amendments are not substantive and do not result in significant impacts above what would result from the approved conditional permit. Before approving any such amendments, the planning director shall notify the respective planning commission of the proposed non-substantive amendments. The commission may review the proposed non-substantive amendments and take action or waive review.

Title 19.004.040 Definitions

"Transient vacation rentals or use" means occupancy of a dwelling or lodging unit by transients for any period of less than one hundred eighty days, excluding bed and breakfast homes and short-term rental homes.

PROCEDURAL MATTERS

1. On December 23, 2017, 67 days prior to the hearing, the Maui County Planning Department mailed a notice to the applicant and appropriate state and county agencies notifying them of the scheduled public hearing.

2. On January 27, 2017, 31 days prior to the hearing, the applicant mailed a letter of notification and location map to all owners and recorded lessees within 500 ft. of the subject property describing the conditional permit application and notifying them of the scheduled hearing date, time and place by either certified or registered mail receipt (return receipt requested for land use amendments). Copies of the letter, location map, list of owners and recorded lessees, certified and registered mail receipts are on file in the Planning Department.

3. On January 27, 2017, 31 days prior to the hearing, the applicant mailed a letter of notification and location map to all owners and recorded lessees adjacent to the subject property describing the State Land Use Special Use Permit application and notifying them of the scheduled hearing date, time and place by either certified or registered mail receipt. Copies of the letter, location map, list of owners and recorded lessees, certified and registered mail receipts are on file in the Planning Department.

4. On January 27, 2017 a notice of hearing on the applications was published in the Maui News by the Maui Planning Department.

5. The subject application does not involve an action that triggers compliance to Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements.

REVIEWING AGENCIES

State Agencies:	Comment	Exhibit Number
State Land Use Commission	No	n/a
State Office of Planning	No	n/a

ANALYSIS

LAND USE

1. The subject property is in the **State Agricultural District**. The proposed project is in conformance with the goals, objectives and policies of the Hawaii State Plan. It will provide additional opportunities for employment and economic growth.
2. Short-term rental use is allowed in the State Agricultural District with the issuance of a State Land Use Commission Special Permit. Chapter 205-6, HRS allows for the establishment of "unusual and reasonable" uses in the State Agricultural District through the approval of an SUP2. The following guidelines are established in determining an "unusual and reasonable use" and the response to these guidelines is indicated as such:

- A. The use shall not be contrary to the objectives sought to be accomplished by Chapter 205, HRS, and the rules of the Land Use Commission.

Response: The farm currently cultivates and processes 16 varieties of dragon fruit, along with other crops like pineapple, bananas, sugar cane, papaya, and cacao etc. The Applicants state that the revenue from transient vacation rental will supplement and diversify the farm's income. The mission of the farm is to establish a commercial market for dragon fruit and promote agriculture and food security.

- B. The desired use will not adversely affect surrounding property;

Response: Maui Dragon Fruit Farm is located at Makila Plantation Subdivision, an agricultural community. The surrounding lots are large agricultural parcels with residences and farming operations. Makila Plantation has four phases: Phase I to Phase IV, with lot sizes ranging from the smallest one at five acres to the largest one at 69 acres.

The property owners above the subject property expressed concern about noise from parties occurring after the special event times have concluded (**Exhibits 8-9**). The Department is recommending a condition that would establish quiet hours from 9:00 p.m. until 8:00 am in the morning. A professional manager is a condition recommended by the Department.

- C. The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;

Response: There is no indication that the proposed use would place a demand on public agencies to provide excessive additional services. The roads, water, sewer are all private in this area. The use of the farm dwelling for rentals of less than 180 days will not unreasonably burden public agencies to provide any additional public services or facilities.

- D. Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;

Response: The district boundaries and regulations were established in the 1960's when agriculture was still the most important industry and the foundation of Hawaii's economy. In recent years, the state's the tourism industry has grown, while large scale agriculture has declined as evidenced by the closures of Pa'ia Sugar Mill, the Pioneer Mill, and the shutdown of Maui Land & Pineapple Company's pineapple production. Tourism has become a major component of Maui's economy. Eco-tourism is a new concept where agriculture and tourism are integrated.

- E. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

Response: The property has an active commercial farm. The use of the farm dwelling for transient vacation rental is not anticipated to have any negative effects on the agricultural activities on the property.

3. **Maui Countywide Policy Plan.** As stated in the Maui County Charter, as amended in 2002:

"The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development."

The County of Maui 2030 General Plan Countywide Policy Plan, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:

- 1. A vision statement and core values for the County to the year 2030*
- 2. An explanation of the plan-making process*
- 3. A description and background information regarding Maui County today*
- 4. Identification of guiding principles*

5. *A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:*
 - A. *Protect the Natural Environment*
 - B. *Preserve Local Cultures and Traditions*
 - C. *Improve Education*
 - D. *Strengthen Social and Healthcare Services*
 - E. *Expand Housing Opportunities for Residents*
 - F. *Strengthen the Local Economy*
 - G. *Improve Parks and Public Facilities*
 - H. *Diversify Transportation Options*
 - I. *Improve Physical Infrastructure*
 - J. *Promote Sustainable Land Use and Growth Management*
 - K. *Strive for Good Governance*

The proposed project is in keeping with the following Countywide Policy Plan goals, objectives and policies:

F. Strengthen the Local Economy

- | | | |
|------------------|-----------|---|
| <i>GOAL:</i> | | <i>Maui County's economy will be diverse, sustainable, and supportive of community values.</i> |
| <i>Objective</i> | <i>1.</i> | <i>Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.</i> |
| <i>Policy:</i> | <i>b.</i> | <i>Support and promote locally produced products and locally owned operations and businesses that benefit local communities and meet local demand.</i> |
| <i>Policy:</i> | <i>c.</i> | <i>Encourage businesses that promote the health and well-being of the residents, produce value-added products, and support community values.</i> |
| <i>Objective</i> | <i>2.</i> | <i>Diversify and expand sustainable forms of agriculture and aquaculture.</i> |
| <i>Policy:</i> | <i>b.</i> | <i>Prioritize the use of agricultural land to feed the local population, and promote the use of agricultural lands for sustainable and diversified agricultural activities.</i> |
| <i>Policy:</i> | <i>d.</i> | <i>Assist farmers to help make Maui County more self-sufficient in food production.</i> |

4. **The Maui Island Plan (MIP)** was adopted by the County Council on December 28, 2012. The Plan provides direction for future growth, the economy, and social and environmental decisions through the year 2030. The Plan looks comprehensively at many factors that influence the physical, social and economic development of the island. In addition to establishing a directed growth strategy to identify areas appropriate for future urbanization and revitalization, the Plan also identifies and addresses key environmental, housing, and economic development issues relevant to Maui's current and future generations. The Plan is intended by the County Council, Planning Department, and Maui Planning Commission as a policy foundation for day to day decisions and is specifically intended to be used to assist in reviewing discretionary permits.

The subject parcel is not located with-in any MIP Growth Boundary: Urban, Rural or Small Town. The proposed project is in keeping with the following MIP goals, objective, and policies:

Economic Development

GOAL	4.1	<i>Maui will have a balanced economy composed of a variety of industries that offer employment opportunities and well-paying jobs and a business environment that is sensitive to resident needs and the island's unique natural and cultural resources.</i>
Objective:	4.1.1	<i>A more diversified economy</i>
Objective	4.1.2:	<i>Increase activities that support principles of sustainability.</i>
Policy:	4.1.2.b:	<i>Encourage and support local businesses.</i>
	4.1.2.c:	<i>Substitute imports with locally-produced services and products where practicable.</i>
GOAL	4.2	<i>A healthy visitor industry that provides economic well-being with stable and diverse employment opportunities.</i>
Objective:	4.2.1	<i>Increase the economic contribution of the visitor industry to the island's environmental well-being for the island's residents' quality of life.</i>
Policy:	4.2.1.a	<i>Engage the visitor industry in the growth of emerging sectors where practicable.</i>
Policy	4.2.1.c	<i>Focus economic growth in the visitor industry through enhanced visitor experiences and an emphasis on attracting higher-spending.</i>
Policy:	4.2.1.d	<i>Provide a rich visitor experience, while protecting the island's natural beauty, culture, lifestyles, and aloha spirit.</i>
Policy:	4.2.1.e	<i>Diversify the tourism industry by supporting appropriate niche activities such as ecotourism, cultural tourism, voluntourism, ag-tourism, health and wellness tourism, educational tourism, medical tourism, and other viable tourism-related businesses in appropriate locations.</i>

Policy: 4.2.1.f Recognize the important economic contributions that the visitor industry makes and support a healthy and vibrant visitor industry

GOAL: 4.3 Maui will have a diversified agricultural industry contributing to greater economic, food, and energy security and prosperity.

Objective: 4.3.1 Strive for at least 85 percent of locally-consumed fruits and vegetables and 30 percent of all other locally-consumed foods to be grown in-State.

Policy: 4.3.1.a Strive to substitute food/agricultural product imports with a reliable supply of locally-produced food and agricultural products.

Policy 4.3.1.b Facilitate and support the direct marketing/sale of the island's agricultural products to local consumers, through farmers markets and similar venues.

Policy: 4.3.1.c Encourage growing a diverse variety of crops and livestock to ensure the stewardship of our land while safeguarding consumer safety

GOAL: 4.5 Small businesses will play a key role in Maui's economy.

Objective: 4.5.1 Increase the number of and revenue generated by small businesses and decrease the percentage of small business failures.

Policy: 4.5.1.a Provide incentives and support for small businesses and entrepreneurs that incorporate sustainable technologies and practices into their operations, utilize local materials, or produce and sell locally-made goods or services.

Policy: 4.5.1.b Assist traditional "mom and pop" business establishments.

Policy: 4.5.1.c Reduce barriers to small business development.

Policy: 4.5.1.e Support community markets and venues that sell locally-made produce, goods, and services.

5. The subject property is located within the **West Maui Community Plan Region**. The community Plan was adopted in 1996. According to the West Maui Community Plan the property is identified as Agricultural and is consistent with the land use map of the Community Plan. The proposed action is in keeping with the following Community plan recommendation:

Land Use

Goal: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a

manner that provides for the stable social and economic well-being of residents and the preservation and enhancement of the region's open space areas and natural environmental areas.

Economic Activity

Goal: A diversified economy that provides a range of stable employment opportunities for residents, allows for desired commercial services for the community, and supports the existing visitor and agricultural industries, all in a manner that will enhance both the community's quality of life and the environment.

Objectives and Policies

1. Promote a diversified economic base which offer long-term employment to West Maui residents, and maintains overall stability in economic activity in the areas of:
 - a. Visitor accommodations.
 - b. Visitor-related services/commercial services.
 2. Maintain a stable and viable visitor industry.
 6. Promote the use of local products, and encourage the employment of local residents
6. **Maui County Zoning.** The project area is located in the County Agricultural District. The use of the farm dwelling for transient vacation rental would be allowed with the issuance of a conditional permit.

A conditional permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. The intent of the conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. Upon finding that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.

The use of the farm dwelling for rentals of less than 180 days is similar to bed and breakfasts and short-term rentals in the area. With the proposed conditions, the TVR use of the property is anticipated to be in harmony with the neighborhood.

AGRICULTURE

1. The property and most the area surrounding the project site was formerly utilized for sugar cultivation. The area where Maui Dragon Fruit Farm is located had been extensively farmed in sugar cane by Pioneer Mill for over one hundred years. The last harvest of sugar cane was in 1997 before Pioneer Mill sold all the land to West Maui Land Company.

2. The Maui Dragon Fruit Farm is a diversified USDA certified organic farm started in 2009 and currently, the largest USDA certified organic dragon fruit farm in the U.S. The cultivated area is about 15 acres. 16 varieties of dragon fruit plants are grown, as well as other tropical crops like organic pineapple, bananas, papaya, sugarcane, cacao, etc.
3. The Property is classified with a overall productivity ratings of B-87i and E73. Detailed Land Classification – Island of Maui, Land Study Bureau, University of Hawaii, Hawaii, May 1967. The classification indicates productivity ratings of land with “A” representing the highest rating and “E” the lowest. Soil classified as B 87i is best suited for sugar cane. The soil is classified as stony to very stony with a deep soil depth and fine soil texture. The drainage is well-drained and mean annual rainfall is 10 to 20 inches. E73 is classified as rocky with crop rating productivity listed at E.
4. The soil types specific to the project site consist of Wainee very stony silty clay (WxC) and Wainee extremely stony silty clay (WyC) and stony alluvial land (rSM). The Wainee series consists of well drained soils on alluvial fans. The surface layer is dark reddish brown silty clay about 12 inches thick. Stones make up 10 to 15 percent of the volume. The subsoil, 24 inches thick, consists of dark reddish-brown silty clay. Gravel, cobblestones, and stones make up 30 to 80 percent of the volume. The substratum is dark-brown silty clay. This soil is neutral in the surface layer and subsoil. Permeability is moderately rapid. For WxC, the runoff is slow and the erosion hazard is slight. For WyC, runoff is slow to medium, and the erosion hazard is slight to moderate. Stony alluvial land (rSM) consists of stones, boulders, and soil deposited by streams along the bottoms of gulches and on alluvial fans. About 15 to 50 percent of the surface is covered with stones and boulders. In most places the slope is 3 to 15 percent.

INFRASTRUCTURE AND PUBLIC FACILITIES AND SERVICES

1. **Water** – The subject property and all properties in Launiupoko are serviced by Makila Water Company and Launiupoko Irrigation Water Company, which are both are privately owned and regulated by the PUC. They provide two separate water sources for the farm. One is potable water and one is agricultural irrigation water. As water service is private, there will be no impacts to the county water system.
2. **Sewers** – There is no county sewer service available in the area. The farm dwelling has an approved septic system.
3. **Drainage** -- The subject property is located in Zone X as indicated by the Flood Insurance Rate Map. Zone X is an area of minimal flooding and no flood permits are required. The existing soil characteristics allow moderately rapid permeability and slow to medium runoff.

The property has no construction associated with it. Adverse impacts to down stream properties are not anticipated from the proposed actions.
4. **Roadways, Curbs, Gutters and Sidewalks** -- Access to the project site is from Honoapiilani Highway, then Kai Hele Ku Street, which connects to Haniu Street and then to Punakea Loop. Each road is built to County standards, however Kai Hele Ku Street and Punakea Loop are private roads with in the Makila Plantation subdivision.

a. Honoapiilani Highway

Honoapiilani Highway is a state-owned and maintained regional highway facility. It is a major roadway facility providing vehicular access between West Maui with the central valley of the island. The highway in the vicinity of the Olowalu and Launiupoko area primarily serves as access for vehicles traveling to and from the Lahaina, Kaanapali, and Kapalua resort areas. The highway near the farm area is a two-lane rural highway generally aligned in an east to west direction following the coastline. The highway has a posted speed limit of 35 miles per hour (mph) in the Olowalu area, increasing to 45 mph outside of this area toward Lahaina Town. Currently, in the area connects to Kai Hele Ku, the highway has a traffic intersection with a dedicated left and right turn lane to go up toward the project site.

b. Kai Hele Ku Street

Kai Hele Ku Street is a roadway which intersects Honoapiilani Highway as a signalized intersection across from Launiupoko Wayside Beach Park. This roadway currently provides access to the farm and other homes located mauka of the Honoapiilani Highway. The future Lahaina Bypass would provide for an additional more direct intersection connection with Kai Hele Ku Street, Punakea Loop and Haniu Street.

c. Punakea Loop and Haniu Street

The farm is located at 833 Punakea Loop. Punakea Loop is a 20-foot wide two-lane paved road. It connects to Haniu Street, which is also a 20-foot wide two-lane paved road. Both roads are private and maintained by Makila Plantation Home Owner's Association. Haniu Street further connects to Kai Hele Ku Street, which is a 20 feet wide private paved road maintained by the Launiupoko Home Owner's association, which connects to Honoapiilani Highway.

5. **Electrical and Telephone** -- Electrical power and telephone service are provided to the farm area by Maui Electric Company, Ltd. (MECO) and Hawaiian Telcom, via underground distribution lines along Punakea Loop. MECO's main high voltage transmission line connecting the Lahaina and Central Maui areas, runs along the foothills of the West Maui Mountains approximately 2000 feet east (mauka) of the farm. Alternative energy solutions like PV solar panels are being considered to make the farm more sustainable.

No impacts to electrical and telephone are anticipated as a result of the proposed actions.

6. **Solid Waste** -- The nearest landfill site is Central Maui Sanitary Landfill in Puunene, however, a solid waste transfer station is located in Olowalu. The Applicant states that "All waste generated from the special events are hauled away either by the event organizer or the farm personnel to the land fill. It does not go into the regular residential collection bin." As such, no adverse impacts on solid waste resources are anticipated.

7. **Public Services – Police, Fire and Medical** -- The project site is within the Lahaina Police Station service area, which services the entire Lahaina district. The Lahaina Station is located in the Lahaina Civic Center complex at Wahikuli, approximately 7.5 miles from the project site.

Maui Memorial Medical Center located in Wailuku provides acute, general, and emergency care services from its 231 bed facility. On the west side, medical services are offered by

private medical practices in Lahaina, which include the Maui Medical Group, Lahaina Physicians, West Maui Healthcare Center, and Kaiser Permanente Lahaina Clinic.

SOCIO-ECONOMIC IMPACTS

The proposed actions are not anticipated to have socio-economics impacts such as addressing the need for affordable housing, or create impacts on population or labor.

OTHER GOVERNMENTAL APPROVALS

There are no other government approvals associated with the proposed action.


TESTIMONY

As of February 9, 2017 the Planning Department has received two (2) letters of testimony from concerned neighbors. (Exhibits 8-9)

ALTERNATIVES

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the request.
2. Approve With No Conditions. The Commission may take action to approve the permit request without imposing any conditions.
3. Approve With Conditions. The Commission may take action to approve the permit request with conditions.
4. Denial. The Commission may take action to deny the permit requests.

APPROVED:



WILLIAM SPENCE
Planning Director



zipline

Dragon fruit

Crystal Schmitt
Maui Dragon Fruit Farm
100 Waipuhia Place
Haiku, HI 96708

Mr. William Spence, Director
Maui Planning Department
2200 Main Street, Suite #619
Wailuku, HI 96793

Dear Mr. Spence:

On behalf of Maui Dragon Fruit Farm, LLC, we would like to apply for the following amendment to our special use and conditional use permits.

The amendment we are requesting is below:

1. To allow the cottage on the farm to be used for transient vacation rentals;

The reasons for the requested amendment are:

1. Using the cottage as a transit vacation rental can effectively bring some more stable supplemental income to the farm operations.
2. We have had difficulty securing event bookings due to the very limiting conditions of our special use and conditional use permits (ie. 50 guests max, no amplified music and an 8 pm curfew). In fact, ever since the permit is issued, we only had one wedding so far and that is a wedding for a friend. We hope the ability to stay at the farm in the cottage as part of the event will allow us to secure more events.

Thank you so much for your consideration!

Sincerely Yours,
Crystal Schmitt
Managing Member, Maui Dragon Fruit Farm

EXHIBIT

1

Short-Term Rental of the Cottage at Panoramic Paradise

The cottage at Panoramic Paradise is a two-bedroom and two-bath 992 square feet bamboo structure located at the Maui Dragon Fruit Farm. Its address is 833 Punakea Loop, Lahaina, HI 96761. Maui Dragon Fruit Farm intends to use the cottage for short term rental purposes in order to earn some supplemental income to its main farm operations.

The following are some information on the neighborhood.

- 1) Character of the neighborhood: The cottage is located in an agricultural community. The minimum lot size is five (5) acres and the maximum lot size is sixty-nine (69) acres. There are three major agricultural tourism operations in this area and there are multiple short term rental homes in this area.
- 2) Personal Relationship with the Neighbors: The owners of the cottage Crystal and Larry Schmitt have great supportive relationship with most of the long-term residents in that neighborhood. They especially have good relationship with their immediate neighbors who live adjacent to their property.
- 3) The proposed short term rental operation will be very harmonious with the neighborhood since most of the neighbors are short term residents themselves. It will also fit in nicely with the surrounding agriculture tourism operations.
- 4) Surrounding Property: The surrounding properties are either vacant land lot or single family residences.
- 5) Surrounding Property Owners: Most of the surrounding vacant lot owners do not live on the island. Most of the surrounding house owners are second home owners. Two of the homes are permitted short term rental homes.
- 6) The cottage is located within a commercial working farm. Its current use is long-term rental.

The following are information on the proposed short-term rental operations:

1. Standard check-in is between 3:00pm and 6:00pm. Check-out is prior to 11:00am.
2. Minimum stay is three nights. Maximum length of stay is 30 days. Extended stay beyond 30 days is negotiable.
3. Eco-Friendly Housekeeping
As part of our commitment to protecting the environment, we proactively takes steps to lessen the impact on our environment. We will not change the bed linens, towels, or robes in the cottage unless the guests stay with us at least seven nights. However, we want all of our guests to have the best experience possible and will happily replace these items more frequently if specifically requested.

Regional Map



Site Plan

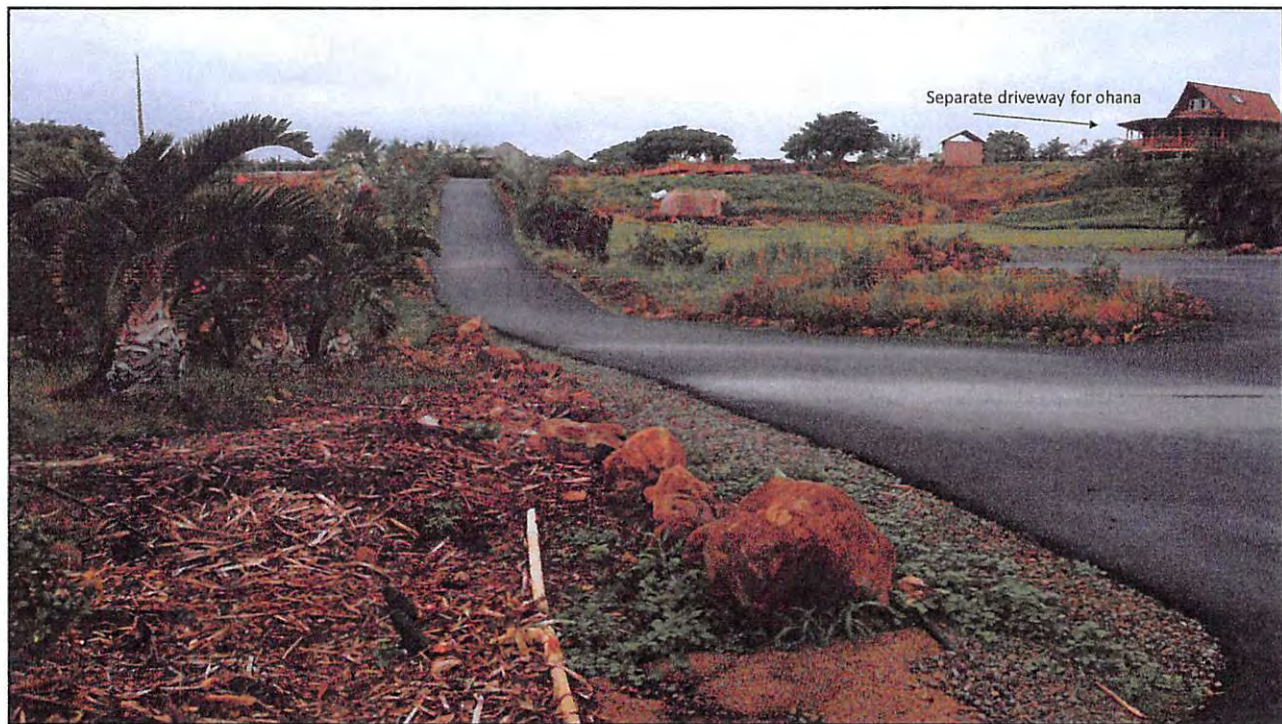


EXHIBIT



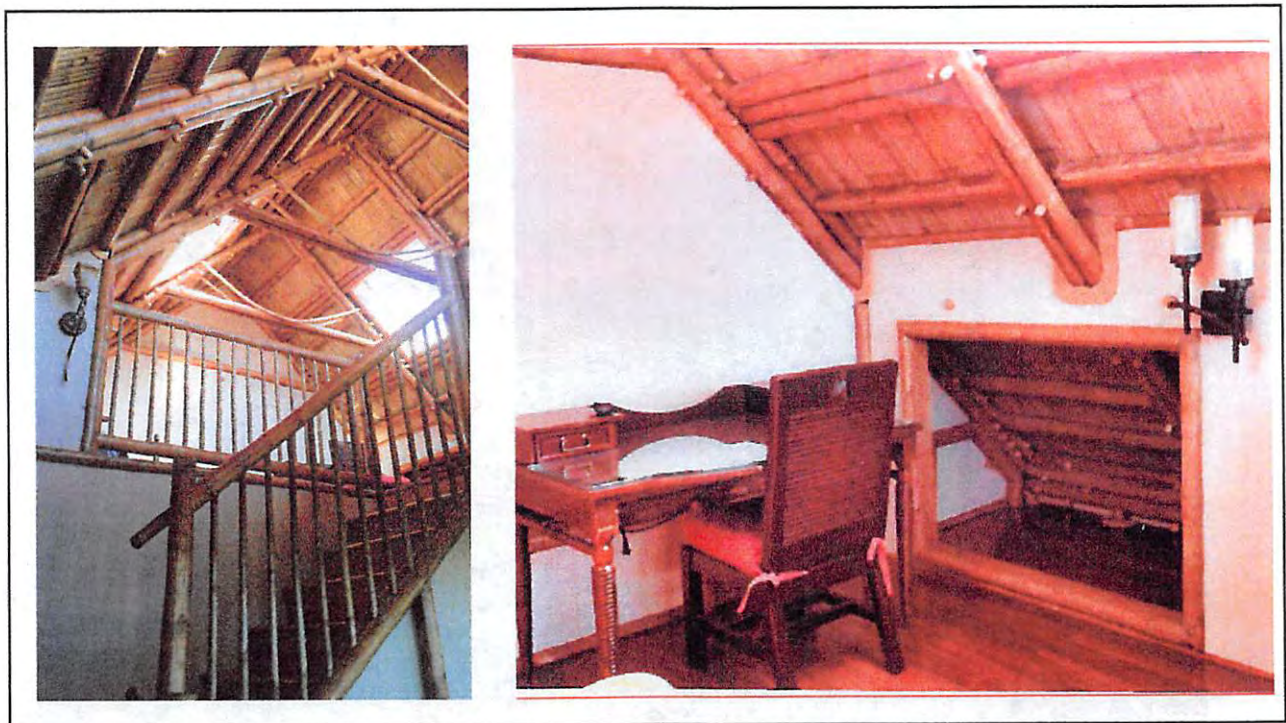
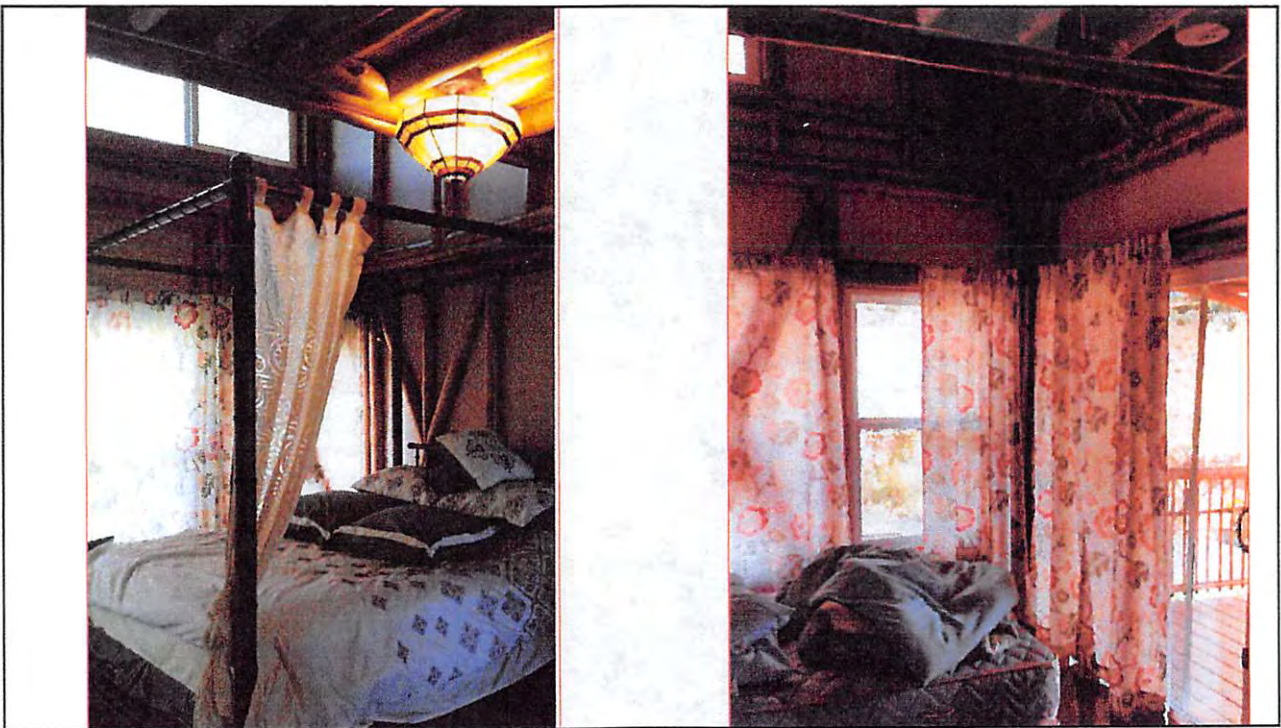
EXHIBIT

6















A few of the different varieties of dragon fruit



Hylocereus Polyrhizus Ripe Fruit



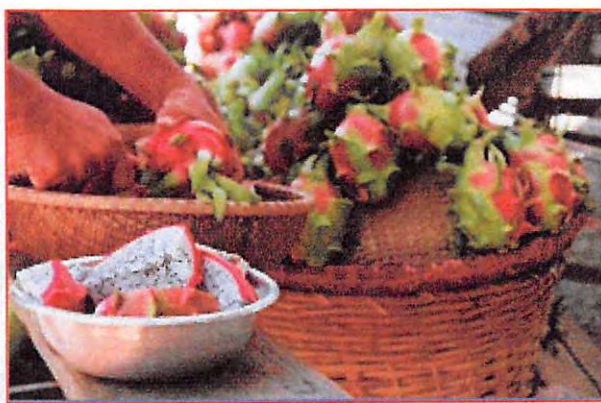
Selenicereus Megalanthus maturing fruit

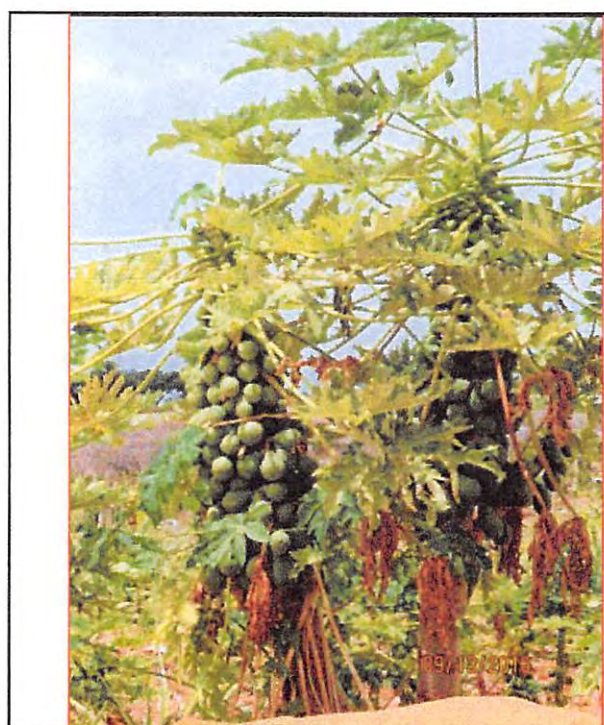


Hylocereus Undatis maturing fruit













76/1224

RECEIVED

2016 MAR -8 PM 9:46

ORDINANCE NO. 4295

BILL NO. 23 (2016)

Env Mgmt	Finance	Fire	Hsq&HC	Liquor	Parks&R	Personnel	Planning	Police	Prosecutors	Public W	Transph	Water S	Mgmt	Mayor	Budget
----------	---------	------	--------	--------	---------	-----------	----------	--------	-------------	----------	---------	---------	------	-------	--------

A BILL FOR AN ORDINANCE GRANTING MAUI DRAGON FRUIT FARM LLC
A CONDITIONAL PERMIT TO CONDUCT AGRICULTURAL RELATED
ACTIVITIES, SELL NON-AGRICULTURAL RELATED ITEMS AND
AGRICULTURAL PRODUCTS NOT GROWN ON THE PROPERTY, AND TO
CONDUCT CERTAIN SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL
DISTRICT, FOR PROPERTY SITUATED AT 833 PUNAKEA LOOP,
LAHAINA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Maui Dragon Fruit Farm LLC to conduct agricultural related activities, sell non-agricultural related items and agricultural products not grown on the property, and conduct certain special events within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key (2) 4-7-001:044, comprising approximately 3.0 acres of land situated at Lahaina, Maui, Hawaii.

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

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of two years from the effective date of this ordinance; provided that, notwithstanding Section 19.40.090(C), Maui County Code, only the Council may grant an extension of this Conditional Permit beyond this two-year period, provided Maui Dragon Fruit Farm LLC complies with the application requirements of Section 19.04.090(A), Maui County Code, and the notice requirements of Section 19.04.090(B), Maui County Code.
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.

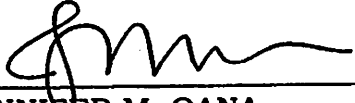
4. That Maui Dragon Fruit Farm LLC shall exercise reasonable due care as to third parties with respect to all areas affected by this subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate naming the County of Maui as an additional insured, insuring and defending Maui Dragon Fruit Farm LLC and the 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 Maui Dragon Fruit Farm LLC 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 the County of Maui as an additional insured shall be submitted to the Department of Planning within ninety calendar days from the effective date of this ordinance.
5. That Maui Dragon Fruit Farm LLC shall 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 may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That the gift shop shall open no earlier than 9:00 a.m. and shall close by 8:00 p.m.
7. That special events shall be limited to fifty guests and be limited to two times per calendar month; provided, 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.
8. That amplified sound is prohibited.
9. That an owner of Maui Dragon Fruit Farm LLC or a professional event planner shall be required to be present during all events and same-day event clean-up. If a professional planner is used, then an owner of Maui Dragon Fruit Farm LLC shall 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.

10. That all special events shall be concluded by 8:00 p.m.; provided, that a special local agriculture event may begin no earlier than 9:00 a.m. and shall be concluded by 5:00 p.m.
11. That event clean-up shall be concluded and all exterior lighting shall be shut off by 8:30 p.m.
12. That all exterior lighting shall be downward shielded.
13. That all parking related to the gift shop and events shall be onsite; no street parking is allowed.
14. That the maximum onsite parking shall be limited to seventy-six stalls.
15. That for events requiring more than seventy-six parking stalls, a shuttle service shall be provided for guests.
16. That Maui Dragon Fruit Farm LLC shall provide an information sheet providing neighbors with a contact telephone number and a copy of the Conditional Permit listing permit conditions.
17. That a sign shall be placed at the entrance of the property with the farm name and a contact telephone number.
18. That all State of Hawaii Department of Health applicable requirements shall be met. (Compliance shall be determined by the Department of Health.)
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, 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.
20. That a compliance report shall be submitted by Maui Dragon Fruit Farm LLC and approved by the Department of Planning prior to starting operations.
21. That upon renewal of this Conditional Permit, Maui Dragon Fruit Farm LLC shall submit a list of all events including the dates, times, type, and number of attendees.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'J. Oana', is written over a horizontal line.

JENNIFER M. OANA
Deputy Corporation Counsel
County of Maui
lu:misc:017abill01:scj

WE HEREBY CERTIFY that the foregoing BILL NO. 23 (2016)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 4th day of March, 2016, by the following vote:

Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
Excused	Aye	Aye	Aye	No	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 4th day of March, 2016.


DATED AT WAILUKU, MAUI, HAWAII, this 4th day of March, 2016.

RECEIVED
2016 MAR -4 PM 2:29
OFFICE OF THE MAYOR


DONALD S. GUZMAN, VICE-CHAIR
Council of the County of Maui


DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 4 DAY OF March, 2016.


ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4295 of the County of Maui, State of Hawaii.


DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on February 26, 2016.
Effective date of Ordinance March 4, 2016

RECEIVED
2016 MAR -7 AM 9:38
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4295, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

February 3, 2017

Maui Planning Commission
C/o Maui Planning Department
250 South High Street, Wailuku, Maui, Hawaii 96793

Re: TMK (2) 4-7-001:044, and the Maui Planning Commission hearing for an amendment to the Conditional Use Permit at that parcel to be held February 28, 2017 at 9:00 a.m. at 250 S. High Street, Wailuku, Hawaii.

This letter is being sent in response to the Planning Commission's request for comments relating to the upcoming review of the above request for approval of transient vacation rentals (less than 180 days) of the existing two bedroom cottage at the site of the Maui Dragon Fruit Farm, LLC (the "Farm Cottage").

My wife and I own the cottage located on the five acre parcel directly above the portion of the Dragon Fruit Farm where this Farm Cottage is located. (Makila Plantation III, lot 3B) We utilize this residence as a second home, and have occupied it on a part time basis since its completion in August 2013. We previously wrote a letter to the Planning Commission in February 2015 as a result of noise and outdoor lighting from events being held at the Dragon Fruit Farm. Ultimately, the County allowed for a conditional use permit that allowed parties and events, but restricted them to ending at 8:00 PM, and did not allow amplified music.

Subsequent to the issuance of the Conditional Use Permit in 2015, we have had no issues with noise or other interference with our enjoyment of our property as the result of activities at the Dragon Fruit Farm. While we have been aware that the owners have been renting the Farm Cottage, we have not met the tenants nor do we know under what terms or conditions the Farm Cottage has been rented.

It was our understanding that short term vacation rentals were not permitted for structures that were less than five years old (the Farm Cottage building, permit #B20140092, was final in January 2015). We now understand that this restriction does not apply because of their current Conditional Use Permit. As a result, we are again asking that the quiet enjoyment of our property be considered. For example, we are concerned that at the conclusion of a permitted event, the "party" may continue into the later hours at the Farm Cottage.

We would ask that the Planning Commission not approve an amendment to the Conditional Use Permit to allow transient vacation rentals without ensuring that those same restrictions as to the timing and noise abatement procedures are applied to the tenants of the Farm Cottage.

Sincerely,

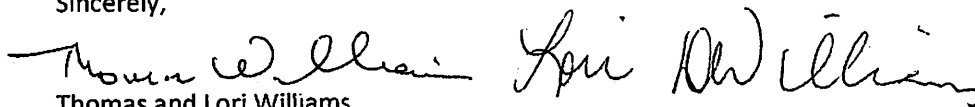

Thomas and Lori Williams
779 Punakea Loop
Lahaina, HI 96761
408-896-5953

EXHIBIT
8

RE. TMK (2) 4-7-001:044, and the planning commission hearing for an amendment to the conditional use permit at the parcel, to be held 2/28/17 at 9AM at 250 S. High St, Wailuku, HI.

Dear Maui Planning Commission,

We are the owners of the lot directly above the "Maui Dragon Fruit Farm", and are responding to the Commissions request for comments on the above referenced Conditional Use Permit Amendment request.

We are in agreement with our neighbors, Tom and Lori Williams, who recently sent the Commission the attached letter. Please take our peaceful enjoyment of our property into account in every possible way, as we are greatly concerned about the many commercial endeavors taking place at the above referenced property. It has become an ongoing issue and requires your thoughtful protection of our property rights in terms of noise, traffic, neighborhood security and other important considerations.

Many thanks for your assistance and oversight in this matter.

Mahalo,



Sanford and Irma Katz

COUNTY OF MAUI
DEPT. OF PLANNING - CURRENT

FEB - 9 2017

RECEIVED

EXHIBIT

9

3. Department's Recommendation

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of
LAWRENCE AND CRYSTAL SCHMITT
MAUI DRAGON FRUIT FARM, LLC

To Obtain an Amendment to an Existing State
Land Use Commission Special Permit and an
Existing Conditional Permit to Allow Transient
Vacation Rental of a Two (2) Bedroom Farm
Dwelling in the State and County Agricultural
Districts on approximately 3.0 acres portion of
a 27.528 parcel of land at 833 Punakea Loop,
TMK: 4-7-001: 044 (por.), Lahaina, Island of
Maui.

DOCKET NOs. SUP2 2014/0011
CP 2014/0005

Lawrence and Crystal Schmitt
Maui Dragon Fruit Farm, LLC
(G FLAMMER)

MAUI COUNTY PLANNING DEPARTMENT'S RECOMMENDATION
TO THE MAUI PLANNING COMMISSION
FEBRUARY 28, 2017 MEETING

DEPARTMENT OF PLANNING
COUNTY OF MAUI
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HI. 96793

Land Use Commission Special Permit
Conditional Permit

K:\WP_DOCS\PLANNING\CP\2014\0005_MauiDragonFruit\2016 amendment for TVR use\Staff
Report\MPC_Recommendation_2.28.17.doc

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

LAWRENCE AND CRYSTAL SCHMITT
MAUI DRAGON FRUIT FARM, LLC

To Obtain an Amendment to an Existing State Land Use Commission Special Permit and an Existing Conditional Permit to Allow Transient Vacation Rental of a Two (2) Bedroom Farm Dwelling in the State and County Agricultural Districts on approximately 3.0 acres portion of a 27.528 parcel of land at 833 Punakea Loop, TMK: 4-7-001: 044 (por.), Lahaina, Island of Maui.

DOCKET NOS. SUP2 2014/0011
CP 2014/0005

Lawrence and Crystal Schmitt
Maui Dragon Fruit Farm, LLC
(G FLAMMER)

CONCLUSIONS OF LAW

State Land Commission Special Use Permit

The amendment request for the existing Land Use Commission Special Permit complies with the applicable standards for an "unusual and reasonable" use within the State Agricultural District for reasons stated in the Maui Planning Department's Report to the Maui Planning Commission dated February 28, 2017 for Docket No. SUP2 2014/0011 and as follows:

1. The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.
2. The desired use will not adversely affect surrounding property;
3. The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;
4. Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;
5. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

RECOMMENDATION

The Maui Planning Department recommends to the Maui Planning Commission, approval of the amendment to the Land Use Commission Special Permit to include transient vacation rental of the two bedroom (2) farm dwelling subject to the following additional conditions. The original 23 permit conditions shall remain in effect.

1. The permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
2. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
3. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR guest, a neighbor, or a County agency.
4. That the transient vacation rental home shall only be rented when the manager is accessible.
5. That the Applicants shall hold no more than one conditional permit for transient vacation rental home use or a short-term rental home permit.
6. That upon approval of the amendment to the Conditional Permit, the Applicant shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four (24) hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
7. That the Applicant shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
8. The house policies shall include, at a minimum, the following provisions:
 - a. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - b. Amplified sound is prohibited;
 - c. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street; and,

The House polices shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.

9. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
10. That the TVR home shall be rented to only one (1) group.
11. That the maximum occupancy shall be no more than two guests per bedroom, including children over the age of two (2) years old.
12. That quiet hours for the transient vacation rental shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
13. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - a. Complete floor plan of short-term rental home;
 - b. "You are here" marked on the exit plan;
 - c. Arrows indicating the exit path for only that sleeping room;
 - d. Meeting place to assemble after exiting building; and
 - e. Location(s) of all fire extinguishers.
14. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
15. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Applicant and submitted as part of the renewal request.
16. That the TVR home operation shall be available for bi-annual fire inspections.
17. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
18. That the Applicant shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."

Conditional Permit

The amendment application complies with the applicable standards for a Conditional Permit as established in the Planning Department's Report to the Maui Planning Commission, February 28, 2017 Docket No. CP 2014/0005 as follows:

A Conditional Permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. The intent of the Conditional Permit is to

provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Upon finding that reasons justifying granting of a Conditional Permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a Conditional Permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.

Should the Commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the Commission shall recommend denial of the request and may instruct the Applicant to seek a change in zoning should the facts warrant such an application. Every Conditional Permit shall be conditioned upon the proposed development fully complying with all requirements of Title 19 and other applicable governmental requirements.

The Planning Department finds that the proposed use meets the criteria for the amendment to the Conditional Permit based upon the analysis provided in the Department's Staff Report. In consideration of the forgoing, the Maui County Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendations prepared for the February 28, 2017 meeting as its Findings of Fact, Conclusions of Law, and Recommendation and to authorize the Director of Planning to transmit said written Decision and Order on behalf of the Maui Planning Commission.

RECOMMENDATION

The Maui County Planning Department recommends that the Maui County Planning Commission recommend approval of the amendment to the Conditional Permit to the Maui County Council, subject to the following additional conditions. The original permit conditions shall remain in effect.

1. The permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
2. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
3. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR guest, a neighbor, or a County agency.
4. That the transient vacation rental home shall only be rented when the manager is accessible.

5. That the Applicants shall hold no more than one conditional permit for transient vacation rental home use or a short-term rental home permit.
6. That upon approval of the amendment to the Conditional Permit, the Applicant shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four (24) hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
7. That the Applicant shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
8. The house policies shall include, at a minimum, the following provisions:
 - a. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - b. Amplified sound is prohibited;
 - c. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street; and,

The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.
9. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
10. That the TVR home shall be rented to only one (1) group.
11. That the maximum occupancy shall be no more than two guests per bedroom, including children over the age of two (2) years old.
12. That quiet hours for the transient vacation rental shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
13. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - a. Complete floor plan of short-term rental home;
 - b. "You are here" marked on the exit plan;
 - c. Arrows indicating the exit path for only that sleeping room;
 - d. Meeting place to assemble after exiting building; and
 - e. Location(s) of all fire extinguishers.

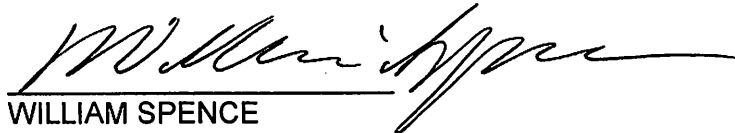
14. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
15. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Applicant and submitted as part of the renewal request.
16. That the TVR home operation shall be available for bi-annual fire inspections.
17. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
18. That the Applicant shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."

Be advised that compliance with Codes, Covenants, and Restrictions (CC&Rs) of any applicable Homeowner's or Apartment Owner's Association is the sole responsibility of the Applicant.

That Conditional Permit conditions will be enforced pursuant to the provisions of Chapter 19.530, §19.530.030 of the Maui County Code, as amended, 1980; and the *Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code*.

In consideration of the forgoing, the Maui County Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendations prepared for the February 28, 2017, meeting as its Findings of Fact, Conclusions of Law, and Recommendation and to authorize the Director of Planning to transmit said Recommendation to the Maui County Council on behalf of the Maui Planning Commission.

APPROVED:



WILLIAM SPENCE
Planning Director
County of Maui

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 9, 2017

Ms. Crystal Schmitt
100 Waipuhia Place
Haiku, Hawaii 96708

Dear Ms. Schmitt:

SUBJECT: AMENDMENT TO A CONDITIONAL PERMIT (CP) AND A STATE LAND USE COMMISSION SPECIAL USE PERMIT (SUP) TO ALLOW TRANSIENT VACATION RENTAL (TVR) OF A TWO (2) BEDROOM FARM DWELLING IN THE COUNTY AND STATE AGRICULTURAL DISTRICTS ON APPROXIMATELY 3.0 ACRE PORTION OF A 27.528 PARCEL OF LAND, LOCATED AT 833 PUNAKEA LOOP, LAHAINA, MAUI; TMK: 4-7-001:044 (POR.) (CP 2014/0005) (SUP2 2014/0011)

At its regular meeting on February 28, 2017, the Maui Planning Commission (Commission) took public testimony and reviewed the above requests, and, after due deliberation, the Commission voted to approve the TVR amendment to the SUP and to recommend approval of the TVR amendment to CP to the Maui County Council (Council) subject to the additional conditions listed below. The original 23 permit conditions remain intact. The Council has the final review and approval authority for the CP.

CONDITIONAL PERMIT CONDITIONS:

1. That permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
2. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
3. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being

physically present at the property within one (1) hour following a request by a TVR guest, a neighbor, or a County agency.

4. That the TVR home shall only be rented when the manager is accessible.
5. That the Applicant shall hold no more than one (1) CP for TVR home use or a Short-Term Rental Home (STRH) permit.
6. That upon approval of the amendment to the CP, the Applicant shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four (24) hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
7. That the Applicant shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
8. The house policies shall include, at a minimum, the following provisions:
 - a. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - b. Amplified sound is prohibited; and
 - c. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.

The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.

9. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
10. That the TVR home shall be rented to only one (1) group.
11. That the maximum occupancy shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.

12. That quiet hours for the TVR shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
13. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - a. Complete floor plan of STRH;
 - b. "You are here" marked on the exit plan;
 - c. Arrows indicating the exit path for only that sleeping room;
 - d. Meeting place to assemble after exiting building; and
 - e. Location(s) of all fire extinguishers.
14. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
15. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Applicant and submitted as part of the renewal request.
16. That the TVR home operation shall be available for bi-annual fire inspections.
17. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
18. That the Applicant shall provide written verification of tax payments when filing a CP renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."

STATE LAND USE COMMISSION SPECIAL USE PERMIT:

1. The permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
2. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.

3. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one (1) hour following a request by a TVR guest, a neighbor, or a County agency.
4. That the TVR home shall only be rented when the manager is accessible.
5. That the Applicant shall hold no more than one (1) CP for TVR home use or a STRH permit.
6. That upon approval of the amendment to the CP, the Applicant shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four (24) hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
7. That the Applicant shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
8. The house policies shall include, at a minimum, the following provisions:
 - d. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - e. Amplified sound is prohibited; and
 - f. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.

The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.

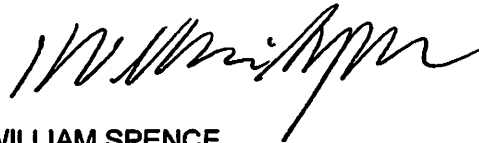
9. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
10. That the TVR home shall be rented to only one (1) group.

11. That the maximum occupancy shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.
12. That quiet hours for the TVR shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
13. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - f. Complete floor plan of short-term rental home;
 - g. "You are here" marked on the exit plan;
 - h. Arrows indicating the exit path for only that sleeping room;
 - i. Meeting place to assemble after exiting building; and
 - j. Location(s) of all fire extinguishers.
14. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
15. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Applicant and submitted as part of the renewal request.
16. That the TVR home operation shall be available for bi-annual fire inspections.
17. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
18. That the Applicant shall provide written verification of tax payments when filing a CP renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."

Ms. Crystal Schmitt
March 9, 2017
Page 6

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Gina Flammer by email at gina.flammer@mauicounty.gov or by telephone at (808) 270-5780.

Sincerely, -



WILLIAM SPENCE
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Gina M. Flammer, Staff Planner (PDF)
Project File
General File

WRS:GMF:ela

K:\WP_DOCS\PLANNING\CP\2014\0005_MauiDragonFruit\2016 amendment for TVR use\Staff Report\MPC_Rec
Approval_Letter.doc

4. Applicant's PowerPoint Presentation

Maui Dragon Fruit Farm Permit Amendment Request

Maui Planning Commission
February 28, 2017



Amendment Request

- Transient Vacation rental of less than 180 days
- CP required because the dwelling must have been built at least 5 years prior to submitting STRH application.

Existing permits on property:

CP 2014/0005 &
SUP2 2014/0011

MPC approved SUP2 and rec
approval of CP on March 24, 2015

CP approved by Council Feb 26, 2016

Ordinance 4295 became effective
March 4, 2016

For Mayor's Office											
ORDINANCE NO. 4295											
Effective Date March 4, 2016											
ORDINANCE NO. 4295											
BILL NO. 23 (2016)											
<p>A BILL FOR AN ORDINANCE GRANTING MAUI DRAGON FRUIT FARM LLC A CONDITIONAL PERMIT TO CONDUCT AGRICULTURAL RELATED ACTIVITIES, SELL NON-AGRICULTURAL RELATED ITEMS AND AGRICULTURAL PRODUCTS NOT GROWN ON THE PROPERTY, AND TO CONDUCT CERTAIN SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 833 PUNAKEA LOOP, LAHAINA, MAUI, HAWAII</p> <p>BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:</p> <p>SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Maui Dragon Fruit Farm LLC to conduct agricultural related activities, sell non-agricultural related items and agricultural products not grown on the property, and conduct certain special events within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key (2) 4-7-001:044, comprising approximately 3.0 acres of land situated at Lahaina, Maui, Hawaii.</p> <p>SECTION 2. The granting of this Conditional Permit is subject to the following conditions:</p> <ol style="list-style-type: none"> 1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner. 											

Existing CP & SUP2 effective March 4, 2106

Allows retail items to be sold in the gift shop, catered dragon fruit tasting tours (farm to table), and limited special events as follows:

- Special events limited to 50 guests
- 2 times a calendar month
- 8:00 ending time
- 1 special local agriculture event may be held once a year from 9:00 a.m. until 5:00 p.m.
- Amplified sound is prohibited
- The Applicant or a professional event planner is required to be present during all events and same-day event clean-up.

Dear Mr. Spence:

On behalf of Maui Dragon Fruit Farm, LLC, we would like to apply for the following amendment to our special use and conditional use permits.

The amendment we are requesting is below:

1. To allow the cottage on the farm to be used for transient vacation rentals;

The reasons for the requested amendment are:

1. Using the cottage as a transient vacation rental can effectively bring some more stable supplemental income to the farm operations.
2. We have had difficulty securing event bookings due to the very limiting conditions of our special use and conditional use permits (ie. 50 guests max, no amplified music and an 8 pm curfew). In fact, ever since the permit is issued, we only had one wedding so far and that is a wedding for a friend. We hope the ability to stay at the farm in the cottage as part of the event will allow us to secure more events.

Thank you so much for your consideration!

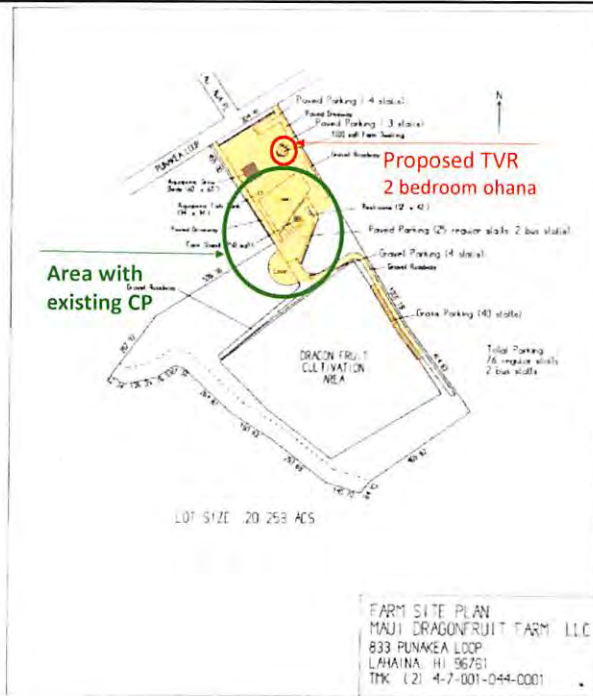
Sincerely Yours,
Crystal Schmitt
Managing Member, Maui Dragon Fruit Farm

EXHIBIT
I





Site Plan















MAUI DRAGON FRUIT FARM

An organic farm on West Maui

[ABOUT US](#) [DRAGON FRUIT](#) [LEARNING CENTER](#) [ADVENTURE TOURS](#)

- 15 acres
- Diversified USDA certified organic farm
- Largest USDA certified organic dragon fruit farm in the U.S.
- 16 varieties of dragon fruits
- over 2500 dragon fruit plants
- other tropical crops like organic pineapple, bananas, papaya, sugarcane, recently added sour sop and cacao





A few of the different varieties of dragon fruit



Hylocereus Polyrhizus Ripe Fruit



Selenicereus Megalanthus maturing fruit



Hylocereus Undatis maturing fruit













Agency Comments & Testimony

No Comments from State Office of Planning

2 Letters of Protest from Neighbors

- Recommending noise restrictions so party doesn't continue into the house after events
- Department recommending Condition 8:
 - quiet hours 9:00 pm – 8:00 a.m.
 - No amplified music

18 Letters of Support



Thank you!

5. Written Testimony Received After Preparation of Department's Report

(None received)

6. Maui Planning Commission's Recommendation Letter

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 9, 2017

Ms. Crystal Schmitt
100 Waipuhia Place
Haiku, Hawaii 96708

Dear Ms. Schmitt:

SUBJECT: AMENDMENT TO A CONDITIONAL PERMIT (CP) AND A STATE LAND USE COMMISSION SPECIAL USE PERMIT (SUP) TO ALLOW TRANSIENT VACATION RENTAL (TVR) OF A TWO (2) BEDROOM FARM DWELLING IN THE COUNTY AND STATE AGRICULTURAL DISTRICTS ON APPROXIMATELY 3.0 ACRE PORTION OF A 27.528 PARCEL OF LAND, LOCATED AT 833 PUNAKEA LOOP, LAHAINA, MAUI; TMK: 4-7-001:044 (POR.) (CP 2014/0005) (SUP2 2014/0011)

At its regular meeting on February 28, 2017, the Maui Planning Commission (Commission) took public testimony and reviewed the above requests, and, after due deliberation, the Commission voted to approve the TVR amendment to the SUP and to recommend approval of the TVR amendment to CP to the Maui County Council (Council) subject to the additional conditions listed below. The original 23 permit conditions remain intact. The Council has the final review and approval authority for the CP.

CONDITIONAL PERMIT CONDITIONS:

1. That permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
2. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
3. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being

physically present at the property within one (1) hour following a request by a TVR guest, a neighbor, or a County agency.

4. That the TVR home shall only be rented when the manager is accessible.
5. That the Applicant shall hold no more than one (1) CP for TVR home use or a Short-Term Rental Home (STRH) permit.
6. That upon approval of the amendment to the CP, the Applicant shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four (24) hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
7. That the Applicant shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
8. The house policies shall include, at a minimum, the following provisions:
 - a. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - b. Amplified sound is prohibited; and
 - c. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.

The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.

9. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
10. That the TVR home shall be rented to only one (1) group.
11. That the maximum occupancy shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.

12. That quiet hours for the TVR shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
13. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - a. Complete floor plan of STRH;
 - b. "You are here" marked on the exit plan;
 - c. Arrows indicating the exit path for only that sleeping room;
 - d. Meeting place to assemble after exiting building; and
 - e. Location(s) of all fire extinguishers.
14. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
15. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Applicant and submitted as part of the renewal request.
16. That the TVR home operation shall be available for bi-annual fire inspections.
17. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
18. That the Applicant shall provide written verification of tax payments when filing a CP renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."

STATE LAND USE COMMISSION SPECIAL USE PERMIT:

1. The permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
2. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.

3. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one (1) hour following a request by a TVR guest, a neighbor, or a County agency.
4. That the TVR home shall only be rented when the manager is accessible.
5. That the Applicant shall hold no more than one (1) CP for TVR home use or a STRH permit.
6. That upon approval of the amendment to the CP, the Applicant shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four (24) hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
7. That the Applicant shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
8. The house policies shall include, at a minimum, the following provisions:
 - d. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - e. Amplified sound is prohibited; and
 - f. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.

The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.

9. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
10. That the TVR home shall be rented to only one (1) group.

- 11. That the maximum occupancy shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.**
- 12. That quiet hours for the TVR shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.**
- 13. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:**
 - f. Complete floor plan of short-term rental home;**
 - g. "You are here" marked on the exit plan;**
 - h. Arrows indicating the exit path for only that sleeping room;**
 - i. Meeting place to assemble after exiting building; and**
 - j. Location(s) of all fire extinguishers.**
- 14. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.**
- 15. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Applicant and submitted as part of the renewal request.**
- 16. That the TVR home operation shall be available for bi-annual fire inspections.**
- 17. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.**
- 18. That the Applicant shall provide written verification of tax payments when filing a CP renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."**

Ms. Crystal Schmitt
March 9, 2017
Page 6

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Gina Flammer by email at gina.flammer@mauicounty.gov or by telephone at (808) 270-5780.

Sincerely, -



WILLIAM SPENCE
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Gina M. Flammer, Staff Planner (PDF)
Project File
General File

WRS:GMF:ela

K:\WP_DOCS\PLANNING\CP\2014\0005_MaulDragonFruit\2016 amendment for TVR use\Staff Report\MPC_Rec
Approval_Letter.doc

7. Original Draft Ordinance

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4295 (2016), GRANTING MAUI DRAGON FRUIT FARM LLC A CONDITIONAL PERMIT TO CONDUCT AGRICULTURAL RELATED ACTIVITIES, SELL NON-AGRICULTURAL RELATED ITEMS AND AGRICULTURAL PRODUCTS NOT GROWN ON THE PROPERTY, AND TO CONDUCT CERTAIN SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT AND TO ALLOW THE TRANSIENT VACATION RENTAL (TVR) OF A TWO BEDROOM FARM DWELLING IN THE COUNTY AND STATE AGRICULTURAL DISTRICTS ON AN APPROXIMATELY 3.0 ACRE PORTION OF A 27.528 ACRE PARCEL OF LAND, LOCATED AT 833 PUNAKEA LOOP, LAHAINA, 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. 4295 (2016), is amended by amending Section 1 to read as follows:

“SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, [a] the Conditional Permit [is hereby] granted by Ordinance No. 4295 Bill No. 23 (2016) to Maui Dragon Fruit Farm LLC to conduct agricultural related activities, sell non-agricultural related items and agricultural products not grown on the property, and to conduct certain special events within the County Agricultural [District.] District is amended to allow the transient vacation rental (TVR) of a two bedroom farm dwelling in the County and State Agricultural Districts. The site is identified for real property tax purposes by tax map key (2) 4-7-001:044[,], (por.), comprising an approximately 3.0 [acres] acre portion of a 27.528 acre parcel of land situated at 833 Punakea Loop, Lahaina, Maui, Hawaii.”

SECTION 2. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 4295 Bill No. 23 (2016), is amended by amending Section 2 to read as follows:

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

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of two years from the effective date of this ordinance; provided that, notwithstanding Section 19.40.090(C), Maui County Code, only the Council may grant an extension of this Conditional Permit beyond this two-year period, provided Maui Dragon Fruit Farm LLC complies with the application requirements of Section 19.04.090(A), Maui County Code, and the notice requirements of Section 19.40.090(B), Maui County Code.
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
4. That Maui Dragon Fruit Farm LLC shall exercise reasonable due care as to third parties with respect to all areas affected by this 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 \$1,000,000 per occurrence and \$3,000,000 in the aggregate naming the County of Maui as an additional insured, insuring and defending Maui Dragon Fruit Farm LLC and the 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 Maui Dragon Fruit Farm LLC 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 the County of Maui as an additional insured shall be submitted to the Department of Planning within ninety calendar days from the effective date of this ordinance.

5. That Maui Dragon Fruit Farm LLC shall 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 may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That the gift shop shall open no earlier than 9:00 a.m. and shall close by 8:00 p.m.
7. That special events shall be limited to fifty guests and be limited to two times per calendar month; provided, 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.
8. That amplified sound is prohibited.
9. That an owner of Maui Dragon Fruit Farm LLC or a professional event planner shall be required to be present during all events and same-day event clean-up. If a professional planner is used, then an owner of Maui Dragon Fruit Farm LLC shall 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 (1) hour following a request by a guest, neighbor, or County agency.
10. That all special events shall be concluded by 8:00 p.m.; provided, that a special local agriculture event may begin no earlier than 9:00 a.m. and shall be concluded by 5:00 p.m.
11. That event clean-up shall be concluded and all exterior lighting shall be shut off by 8:30 p.m.
12. That all exterior lighting shall be downward shielded.
13. That all parking related to the gift shop and events shall be onsite; no street parking is allowed.
14. That the maximum onsite parking shall be limited to seventy-six stalls.

15. That for events requiring more than seventy-six parking stalls, a shuttle service shall be provided for guests.
16. That Maui Dragon Fruit Farm LLC shall provide an information sheet providing neighbors with a contact telephone number and a copy of the Conditional Permit listing permit conditions.
17. That a sign shall be placed at the entrance of the property with the farm name and a contact telephone number.
18. That all State of Hawaii Department of Health applicable requirements shall be met. (Compliance shall be determined by the Department of Health.)
19. That review and approval is required by the Fire Prevention Bureau for events open to the public with fifty or more people in attendance and/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.
20. That a compliance report shall be submitted by Maui Dragon Fruit Farm LLC and approved by the Department of Planning prior to starting operations.
21. That upon renewal of this Conditional Permit, Maui Dragon Fruit Farm LLC shall submit a list of all events including the dates, times, type, and number of attendees.
22. That permit holder shall have a current transient accommodations tax license and general excise tax license for the rental operation.
23. That a manager shall be designated for transient vacation rental. The manager name and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
24. That the manager shall enforce the house policies and also be accessible to guests, neighbors, and County

agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR guest, a neighbor, or a County agency.

25. That the TVR home shall only be rented when the manager is accessible.
26. That the Maui Dragon Fruit Farm LLC shall hold no more than one (1) Conditional Permit for TVR home use or a Short-Term Rental Home (STRH) permit.
27. That upon approval of the amendment to the Conditional Permit, the Maui Dragon Fruit Farm LLC shall send a copy of the new signed Ordinance, a copy of the House Rules, and twenty-four hour contact information to the owners and lessees of abutting properties and properties directly across the street from the TVR home.
28. That the Maui Dragon Fruit Farm LLC shall notify the Department and the owners and lessees of abutting properties and properties directly across the street from the TVR home of any changes in the manager's addresses or telephone numbers. Such notification shall be sent prior to, or immediately after, the change in contact information occurs.
29. The house policies shall include, at a minimum, the following provisions:
 - a. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area;
 - b. Amplified sound is prohibited; and
 - c. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.

The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.

30. That all advertising shall include the permit number. Reservation websites shall include the house policies or a working link to the house policies. Reservation websites shall also include the maximum occupancy as no more than two persons per bedroom, including children over the age of two years old.
31. That the TVR home shall be rented to only one group at a given time.
32. That the maximum occupancy shall be no more than two guests per bedroom, including children over the age of two years old.
33. That quiet hours for the TVR shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the home shall not disturb adjacent neighbors.
34. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plan(s) are unique to each bedroom and shall include, at a minimum, the following:
 - a. Complete floor plan of STRH;
 - b. "You are here" marked on the exit plan;
 - c. Arrows indicating the exit path for only that sleeping room;
 - d. Meeting place to assemble after exiting building;
 - and
 - e. Location(s) of all fire extinguishers.
35. That a fire extinguisher with a minimum rating of 2A10B:C shall be installed within a seventy-five feet travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
36. That all smoke detectors shall be operable and tested monthly. A smoke detector shall be installed in each sleeping area. A log of the monthly testing shall be maintained by the Maui Dragon Fruit Farm LLC and submitted as part of the renewal request.

37. That the TVR home operation shall be available for bi-annual fire inspections.
38. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
39. That the Maui Dragon Fruit Farm LLC shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application".

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:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
2015-4485
2018-01-10 Amend CP Ordinance

8. Ordinance No. 4295

RECEIVED

2016 MAR -8 AM 9: 46

ORDINANCE NO. 4295
$$\mathbb{R}^n \times \mathbb{R}^n \rightarrow \mathbb{R}^{M \times N}(\mathbb{R}).$$

BILL NO. 23 (2016)

Env Mgmt	
Finance	1
Fire	
Hsq&HC	
Liquor	
Parks&R	
Personnel	
Planning	1
Police	
Prosecutors	
Public W	
Transport	
Water S	
Mgmt	
Mayor	
Buried	

A BILL FOR AN ORDINANCE GRANTING MAUI DRAGON FRUIT FARM LLC
A CONDITIONAL PERMIT TO CONDUCT AGRICULTURAL RELATED
ACTIVITIES, SELL NON-AGRICULTURAL RELATED ITEMS AND
AGRICULTURAL PRODUCTS NOT GROWN ON THE PROPERTY, AND TO
CONDUCT CERTAIN SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL
DISTRICT, FOR PROPERTY SITUATED AT 833 PUNAKEA LOOP,
LAHAINA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Maui Dragon Fruit Farm LLC to conduct agricultural related activities, sell non-agricultural related items and agricultural products not grown on the property, and conduct certain special events within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key (2) 4-7-001:044, comprising approximately 3.0 acres of land situated at Lahaina, Maui, Hawaii.

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

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of two years from the effective date of this ordinance; provided that, notwithstanding Section 19.40.090(C), Maui County Code, only the Council may grant an extension of this Conditional Permit beyond this two-year period, provided Maui Dragon Fruit Farm LLC complies with the application requirements of Section 19.04.090(A), Maui County Code, and the notice requirements of Section 19.04.090(B), Maui County Code.
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.

PROFESSOR
OF THE
OF THE PLAN
OF THE STRAT

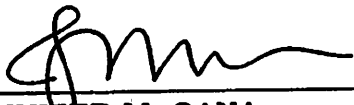
4. That Maui Dragon Fruit Farm LLC shall exercise reasonable due care as to third parties with respect to all areas affected by this subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate naming the County of Maui as an additional insured, insuring and defending Maui Dragon Fruit Farm LLC and the 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 Maui Dragon Fruit Farm LLC 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 the County of Maui as an additional insured shall be submitted to the Department of Planning within ninety calendar days from the effective date of this ordinance.
5. That Maui Dragon Fruit Farm LLC shall 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 may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That the gift shop shall open no earlier than 9:00 a.m. and shall close by 8:00 p.m.
7. That special events shall be limited to fifty guests and be limited to two times per calendar month; provided, 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.
8. That amplified sound is prohibited.
9. That an owner of Maui Dragon Fruit Farm LLC or a professional event planner shall be required to be present during all events and same-day event clean-up. If a professional planner is used, then an owner of Maui Dragon Fruit Farm LLC shall 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.

10. That all special events shall be concluded by 8:00 p.m.; provided, that a special local agriculture event may begin no earlier than 9:00 a.m. and shall be concluded by 5:00 p.m.
11. That event clean-up shall be concluded and all exterior lighting shall be shut off by 8:30 p.m.
12. That all exterior lighting shall be downward shielded.
13. That all parking related to the gift shop and events shall be onsite; no street parking is allowed.
14. That the maximum onsite parking shall be limited to seventy-six stalls.
15. That for events requiring more than seventy-six parking stalls, a shuttle service shall be provided for guests.
16. That Maui Dragon Fruit Farm LLC shall provide an information sheet providing neighbors with a contact telephone number and a copy of the Conditional Permit listing permit conditions.
17. That a sign shall be placed at the entrance of the property with the farm name and a contact telephone number.
18. That all State of Hawaii Department of Health applicable requirements shall be met. (Compliance shall be determined by the Department of Health.)
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, 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.
20. That a compliance report shall be submitted by Maui Dragon Fruit Farm LLC and approved by the Department of Planning prior to starting operations.
21. That upon renewal of this Conditional Permit, Maui Dragon Fruit Farm LLC shall submit a list of all events including the dates, times, type, and number of attendees.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'J. Oana', written over a horizontal line.

JENNIFER M. OANA
Deputy Corporation Counsel
County of Maui
lu:misc:017abill01:scj

WE HEREBY CERTIFY that the foregoing BILL NO. 23 (2016)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 4th day of March, 2016, by the following vote:

Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
Excused	Aye	Aye	Aye	No	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 4th day of March, 2016.

DATED AT WAILUKU, MAUI, HAWAII, this 4th day of March, 2016.

RECEIVED
2016 MAR -4 PM 2:29
OFFICE OF THE MAYOR


DONALD S. GUZMAN, VICE-CHAIR
Council of the County of Maui


DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 4 DAY OF March, 2016.


ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4295 of the County of Maui, State of Hawaii.


DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on February 26, 2016.
Effective date of Ordinance March 4, 2016

RECEIVED
2016 MAR -7 AM 9:38
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4295, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

9. Approved Minutes

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM C-1
FEBRUARY 28, 2017**

Mr. Spence: The first public hearing item is Ms. Crystal Schmitt of Maui Dragon Fruit Farm requesting an amendment to their State Land Use Commission Special Permit to allow a vacation rental and our Staff Planner this morning is Gina Flammer.

C. PUBLIC HEARINGS (Action to be taken after each public hearing.)

1. **MS. CRYSTAL SCHMITT of MAUI DRAGON FRUIT FARM requesting an amendment to the current State Land Use Commission Special Permit, Conditional Permit, and Ordinance 4295 to allow for the transient vacation rental use of a two (2)-bedroom farm dwelling in the State Agricultural District at 833 Punakea Loop, TMK: 4-7-001: 044, Lahaina, Island of Maui. (SUP2 2014/0011) (CP 2014/0005) (G. Flammer)**

Ms. Gina Flammer: Okay, good morning Commissioners. I'm just gonna jump right into the power point. We don't normally provide you with paper copies, but with our secretary Carolyn gone I was just a little nervous but everything seems to be working okay.

So the amendment request the applicant is here for today is transient vacation rental which is rental that's less than a 180 days. You're probably wondering why it's not a short-term rental home application and that's because there's a provision in that Code where the dwelling must have been built at least five years prior to submitting the applicant and the dwelling that she wants to rent, the two-bedroom farm dwelling was built, completed in 2014. You may be wondering why when she came through the first time to get the Conditional Permit she didn't come in for this at the same time and I had even asked her about that. And at the time when she had projected her financials for the business and for the farming she didn't think that she needed it given the numbers that she was looking at. It wasn't till after the permit was issued she started trying to run the special events and realized she really wasn't getting any bookings, and the bookings she was getting was very small, not bringing in a lot of money so she started to look for other ways and this is one of the ways. I do believe it's rented now to contractors who will be finishing up with the project that they in not too long and moving onto their next project, their next location.

So there...I'm not sure how many of you were here for the existing permit. The Planning Commission did see this in 2015. It did make it to the County Council in February 2016 so about a year ago and that's when the original permits became effective. Those permits allow special events up to 50 guests two times a month. They end early at 8 o'clock. There's no amplified sound allowed. She is allowed one large event a year that's not money making operation it's more about promoting farming. And she does have to have a professional event planner. There's many more conditions as you know from reviewing these. They're included in the exhibits in the staff report to you. And then I included with the very first one was her request which is what I explained a little earlier. She's just not quite making the income that she thought originally.

So just as a reminder we're looking at Launiupoko more specifically the Makila Subdivision to the left. These are the large lots you can see the, it doesn't look pink there but you can see the lot up

on the screen. We have the site plan and you can see where the green circle is where the special event area is and then up there where the red is where the farm dwelling is, two-bedroom, it's just under 1,000 square feet. You can see it again circled in red on the right. That's the farm dwelling that we're talking about today. You can see where the special events are held. That's what the house looks like. Bamboo structure. It's got its own separate driveway that's up at the top. You can see what the front, and then here's some pictures of the interior, two bedrooms, there is a loft upstairs but it would just be the two bedrooms. There's the view from the front.

The Maui Dragon Fruit Farm if you'll recall it's the largest dragon fruit farm in the country. It's about 15 acres, got lots of different varieties of the dragon fruit, over 2,500. But she's also been diversifying into other crops. I know she's recently planted quite a bit of cacao. Got a lot of papayas going on that are a good commercial crop for her. Bananas, there's pineapple on there as well, soursop they're starting to plant and these are just some overview pictures of the entire farm itself.

When the County Council looked at the original permit they did actually come out to the site and take a look and they did make comments that it's quite a large farm and there's a lot of agriculture going on. These are the dragon fruit plants themselves. Right there is one that's blooming. She's got different staking methods that's she's been and different propagation methods that she's been trying. That's what the fruit looks like once it's harvested. Here are some of the other types, the bananas, you have the papayas, the pineapple, and then this is just gives you a little bit of example of what she's producing.

So they just did a segment on Living 808 that was statewide where they came...I don't remember the name of the T.V. personalities but they came and they did quite a nice segment on it. I didn't want to show you the video, I thought it would take a little long so here's some pictures of it.

And in terms of, back to Planning, there were no comments from the State Office of Planning and that's who reviews these applications. There were two letters of protests from neighbors, but I'd almost call them letters of concerns. They're in your staff report. You saw them. They just really didn't want it to become a party house. So I talked with one of the neighbors. I explained what the condition would be. He felt pretty comfortable with it. He just wants to make sure that we're able to enforce if it does get noisy up there, and I did explain that we have that ability. We have an entire enforcement staff and a dedicated person right for that area. There were also 18 letters of support total. I'm sorry, they came to you today. She had been collecting them all and then gave them all to me at once. So they are on your desk as well as her responses to her neighbors are also in front you.

So that's the end of the presentation, and then if you have any questions, I'm here as well as the applicants are here.

Vice-Chair Duvauchelle: Thank you.

a) Public Hearing

The following testimony was received at the beginning of the meeting:

Ms. Grace Fung: Good morning Mr. Chairman and Planning Committee Members. My name is Grace Fung. I'm here for the Maui Dragon Fruit Farm because as I am from a family of farming and farming business, two generations and after the second generation the family stopped doing farming because all my five siblings plus myself we said no to my family in terms of farming. Farming and the business of farmers are so hard by just watching my parents doing farming is waking up early mornings and working hard for their own family and producing also for the employees. And the money comes and the money goes and with the uncertainty they had only source of income is the vegetables, bananas and some sort of pigs farm too. And when the weather is bad there's nothing they can do or sometimes when the crop gets problem there are some losses too. There are also many from the government does not permit and I know that if my family had other source of income would give them more how can I say, space to less worry. My first language is Portuguese so I'm trying to communicate. So I'm here because I know the owners of Maui Dragon Fruit Farm since 2013 and they are hard workers and what else, and if I didn't know them, if I had received a request via for example, via public signature to talk about them I would come even I didn't know them because I know that farmers and farming is hard business and they need help, need support. Thank you. And hope that you...I'm here too, because I presented my written testimony. I want to make sure that all of you read my written testimony it's much better than my public speaking testimony. I get nervous. Okay, please consider the request of Maui Dragon Fruit Farm because they have a family to feed. They have also many families on Maui to feed with fruit. We need more farmers in Maui and having the vacation rental granted is a kind of income for them to help them. Thank you so much.

Vice-Chair Duvauchelle: Thank you. Any questions for the testifier? Thank you. Our next testifier is Amy Grace Worsham.

Ms. Amy Grace Worsham: I'm here to represent Tom and Rena. My name is Thomas Benjamin. My wife, Rena and I live on Punakea Loop above the Maui Dragon Fruit Farm. I am writing to you in support of Crystal and Larry Schmitt's application for the amendment to their Special and Conditional Use Permit to allow short-term rental less than 180 days for their farm cottage. We have known Crystal and Larry Schmitt ever since they moved to the neighborhood in 2012.

Mr. Higashi: Please talk into the mic. Thank you.

Ms. Worsham: They are hardworking farmers who sincerely want to make dragon fruit a viable commercial crop on Maui. My wife and I had the chance to do some nighttime pollenating of the dragon fruit flowers last summer. They are gorgeous flowers and dragon fruit is so delicious. We are happy that we live close to an organic dragon fruit farm. We also know that they grow organic lettuce in their Haiku farm and when the weather is good and the crops are doing well they always share their fresh organic produce with us and other neighbors. It is so great that we have good neighbors like Crystal and Larry. We know farming is a hard business. For farmers to survive long-term it so helpful if they can have diversified income. We are in support of their efforts to apply for an amendment to allow short-term rental in their farm cottage. Thank you.

Chair Duvauchelle: Any questions for the testifier? Seeing none, thank you. Our next testifier is Rosa Paz-Jacobs.

Ms. Rosa Paz-Jacobs: Good morning. I'm here to support Crystal and Larry Schmitt. I'm here to support them with their...for their application for the amendment to their Special and Conditional Use to allow short-term rental. I've known Crystal for over 12 years. I have only been on the island for a few years at that time. I was actually her secretary when she was the director of engineering at Marriott Hotel. During that time, I could see her strength, hard work, her passion about people and caring and over the years I've saw that transcend in different parts of her life and work specifically in the farming business that she ran. I've been friends with her and visited her dragon fruit farm and her farm in Haiku and I must say the food is delicious so much so it wasn't until I visited her that it inspired me to have my own personal garden, six raised garden beds. Understanding the importance of feeding your family, sharing with friends, about community those are important for Maui and Hawaii. I didn't understand a lot about farming. There were compelling stories that were passed down to me from my family coming and the south being sharecroppers and the things they needed to do when it was harvest time not having enough help, the weather, different adversities. But they did what they needed to do with other resources to bring in income for their family and working together. We have, my husband and I have ag property in Haiku in which we have fruits and vegetables and well, specifically the fruit where we share and try to bring monies back into the community. And I hope that through this process that they're going through that they're able to receive your permit. I'm here to say that my husband and I fully support their effort to apply and obtain the special permit to diversify their income for farming on Maui which helps Maui, Hawaii and transcends to world. Thank you.

Vice-Chair Duvauchelle: Thank you. Any questions? Thank you very much. Next testifier Robert Mitnick. Do you choose to testify now or at the agenda item? Please step up to the microphone please.

Mr. Robert Mitnick: Aloha and good morning to Chairperson and Members of the Planning Commission. I'm here to support Crystal and Lawrence Schmitt in their Conditional Use Permit to have a rental on their dragon fruit property. I've known them for many, many years. I've bought their greens for all the events, for my taro burgers...(inaudible)...Hawaii Taro Company and I've been the Dragon Fruit Company many times also their farm up in west side. And as has been said here and everybody knows that farming is the most important job on earth pretty much so aside from mom because our food to eat and farmers are mothers. They take care of baby plants and grow them to fruition. These people work very, very hard. As you know farming is hard. It has all the problems, hurdles of any business and then added to that is the weather that can ...(inaudible)... a harvest all at one time. And they do need extra money to help keep in farming and that's the most important thing for our islands and Maui is farming. That's our history. And now we can grow healthy stuff instead of sugar for the world. And if we think ahead and take the next ten years to clean up the land and be wise in long-term thinking about that it would be so much better to have people like Crystal and Larry doing farming here and to be able to have enough to send frozen and chill and dry foods to the mainland by sharing containers so the freight will be better and we can bring in fresh money into the state. I think that's a very good future

rather than using the land for condos all the way to Hana, whatever and subdivisions and so on and so forth which is a quick fast moneymaker, but in the long run I think we would be better off and that would facilitate our tourist industry more because people would much better drive test growing things instead of built things. And I think it's better for everything and it's very, very important for them to do it. I hold them very highly for what they're doing. Thank you.

Vice-Chair Duvauchelle: Questions? Thank you very much.

This concludes the testimony received at the beginning of the meeting.

Chair Duvauchelle: Okay, we'll open up for public testimony again on this agenda item. Anyone wishing to testify at this time? Please come forward

Ms. Dawn Boucher: Hi, good morning. My name is Dawn Boucher and I'm the operations manager at the Maui Dragon Fruit Farm and I know other people have talked about it, but we're actually doing really good up there. The fruit is starting to come in, but as you know, it really is hard to make enough money from just farming to pay for everything and that's why we've tried diversifying, we try doing these events but what happened with that is if you have to end your event at 8 o'clock and you can't have any amplified music, it's just really hard. You know, we're competing with the big hotels for these events. So places...and other places that aren't permitted for these events and so we really haven't been able to generate any substantial revenue to help us keep the farm going and to help us progress with the farm. We actually would like to plant more stuff and do more ag up there, but we need money to do that. So that's why we're trying to do the short-term vacation rental because that way we can hopefully make enough money to keep going and to get this business to be profitable. As you can see we've gotten at least state news we were featured on the Travel Channel last year. So not only are we providing food for Maui and actually last year we shipped to Oahu some of our dragon fruit but we're also providing exposure both in the state and nationally that benefits our visitor industry because we...you know we do ag but then we also have visitors come up. People are very interested in organic farming. They're interested in farming on Maui and dragon fruit and the different tropical fruits when you come from Kansas or Ohio or Texas and you think pineapples grow on trees. It's really need to be able to come and I think it will be really nice for people to come and actually be able to stay on the organic farm, right? People want that. There's a real niche for that. So that's kinda why we're asking for it. I don't think it's gonna adversely impact the neighborhood. There's plenty of vacation rentals up in Launiupoko already as I'm sure you're aware. And that's it. That's all I have to say. Thank you

Vice-Chair Duvauchelle: Any questions? Thank you. Anyone else wishing to testify at this time on this agenda item. Seeing none, okay, questions Commissioners? Commissioner Canto?

Ms. Canto: Is it possible to ask a question of the applicant?

Vice-Chair Duvauchelle: Yes.

Ms. Crystal Schmitt: Aloha Commissioners and Chairman. My name is Schmitt and me and my husband, Larry Schmitt are the owners of the dragon fruit farm.

Ms. Canto: Thank you. Thank you, Crystal. I just have a couple of questions and a concern, a comment.

Ms. Schmitt: Sure.

Ms. Canto: So regarding your events, how is it working for you now...(inaudible)...

Ms. Schmitt: Believe or not we actually have zero...(inaudible)...bookings. We have two weddings which are friends. And it's just...you know, we're not that pretty place. It's a real farm. It's really difficult actually. It's not...you think you're gonna it, and you're gonna get business, actually no. I have zero like real bookings. I have two friends get married there with friends and then I think I have one ceremony in the morning, that's it. That's it.

Ms. Canto: Okay.

Ms. Schmitt: Yeah, I don't know how to make it better.

Ms. Canto: Okay, thank you. Thank you for that. And then based on the magnitude of your operation, it looks like a large operation I hardly believe that you would consider it or I would not consider it a party house.

Ms. Schmitt: Oh not at all, not at all. You know actually one of the neighbors who did concern one of the letters. He's very happy. He basically had heard no noise, really no noise. We have no business, so...And we're not intent...what happened is from the previous time I explained it, I can explain it again, it's for a while we are using those big giant lights for try to induce the dragon fruit flower in the winter. That's what they do in Vietnam. In Vietnam they can produce dragon fruit all year round and we cannot. So we research this, it was Dr. Boucher which is my friend and manager. She did all the research. We think we can trigger...that's what they do, they trigger the flowers by shining of the bright lights at night and we run a generator we did that three times. We failed. People says maybe the ...(inaudible)...for the lighting. We still try to learn. The things with us, I wouldn't get into this business if I would know it was so hard because we thought it easy. It's not. It's really not. We're learning everything. Nobody have done it before. We spent \$50,000 on the bottom field to do this trellis method which they said they did in Israel and it's not as good as we thought. It actually produce not as much as the conventional method. So we are trying this method hopefully, hopefully the way we learned we can teach other farmers so they don't have to you know make the same mistakes again. If you notice in Kahului there's a lot of people now growing dragon fruit in the small little yard. And lot of this people...we've been promoting this now for seven years, 16 best varieties in the world. A lot of people are getting them now and that's what we want to see. We want this crop, distribute farm, not central farming, distributed farming. Hopefully eventually, you know if everybody have like one tree in their yard we're good.

Ms. Canto: Thank you. Thank you, Chair.

Vice-Chair Duvauchelle: Any other questions? Commissioner Higashi?

Mr. Higashi: Good morning Crystal. I remember the last time you came to do your application.

Ms. Schmitt: Yes.

Mr. Higashi: That dragon fruit is a very unusual fruit to be raising in I guess anywhere in the world especially Hawaii, you're the first that I know of and I think one of your requests was to supplement your dragon fruit because you weren't having enough income coming in and requested for a gift shop.

Ms. Schmitt: Yes.

Mr. Higashi: And that was approved.

Ms. Schmitt: Yes.

Mr. Higashi: And how is it doing?

Ms. Schmitt: You know we are getting really good momentum. Dragon fruit jam and jelly is doing really well. Actually after the show last week, I have people call just want to buy jams and I do have one Honolulu cookie company the owner was super excited. He said, Crystal I want to buy your dragon fruit to make cookies. So it takes time to marketing. It just takes time. Everybody told me, you know gonna start a new business, three years. In over eight years I haven't make money. I better off just work for somebody, work for Marriott I would have made a lot more money, but I'm not gonna go back. I mean, farming is for life. I told people always try to figure out what you're gonna do in life. Always try to...wondering, once you go in farming, you can...(inaudible)...that's it. There's nothing better more satisfying than see things come out of the dirt and you eat. My daughter went to China for boarding school and she come back she said mommy, I heard sugar is from a plant. I was like, you were in Haiku School, they ever teach you sugar is from the sugar cane? She think sugar is from the candy store. I mean, serious my own daughter who graduated from Haiku School come back from China realize sugar is from a plant. I didn't do my job right.

Vice-Chair Duvauchelle: Commissioner Higashi?

Mr. Higashi: So the end result this gift shop is basically not helping to supplement your dragon fruit farm?

Ms. Schmitt: Supplement a little. The problem is we have limited visitors that there to the farm for gift shop to make money and you need amount of visitors. So we still have relative small exposure. If you only have 30 people stop by, some times in the winter, actually this January is

dead for some reason. It's hard to sell. And the jams the profit margin is actually very small. I've been wholesaling to Mana Foods, Whole Foods. I make a dollar a jam. And Mana Foods, actually seventy-five cents a jam. So it's...that's wholesale. It helps, our hope to continue it would get bigger. And honestly my main biggest cash crop for helping me sustain little bit is the lettuce farm in Haiku. That was a really good crop. However, that was so suspect to weather. I mean this December rain, I don't know if you guys remember right before Christmas, New Year, I just recover now last week. I mean, that's 100 percent, Haiku 72-hour rain never stop. I mean, it completely destroyed my crop. I don't know, I didn't see that coming. When you hear the weather says, oh coming, coming, coming, nothing happens and then all of a sudden it shows up and knock you out. That's just reality.

Vice-Chair Duvauchelle: Thank you. Any other questions? Commissioner Robinson?

Mr. Robinson: Aloha Crystal.

Ms. Schmitt: Hi.

Mr. Robinson: I came on this commission after your got approved. I think this commission is always pro-agriculture. I notice the commission helped you with a gift shop permit which I think is pretty rare and then they also helped you with an event permit which as we know sometimes has 200 people testifying about this, and now we're gonna go for a third step and you want us to allow you a TVR and it's all to help your business, you know continue to farming. And hear you guys had more research and you knew better you guys might not had done it. And what I'm afraid of, and what I don't want to have happen is every single person who starts to farm comes in here and says, well my farm is not doing too well, so can I have a vacation rental to supplement it? So my question to you is I've been looking in the application and I don't see any receipts for anything sold.

Ms. Schmitt: Oh, okay.

Mr. Robinson: And also, do you have a...you also said that you have somebody living inside that unit correctly right now, some construction people. Do you also have the lease for that person that's been staying there too or have you been renting that out illegally?

Ms. Schmitt: I'm renting that long term rental. I have a lease. That's not a problem. And far as showing sales receipts. We are one of the biggest lettuce producer on the island. If you in the produce business you know us. We are very, kind of famous in Kula Produce, Mana Foods, Whole Foods. I used to supply Costco, it's too big of account to handle because when we...(inaudible)...out...actually Costco was very challenging. We used to produce a little bit more than that. What happened is we losing our lease to land. Another thing is I'm actually I'm losing my land right now. I'm in the process of moving the farm from Haiku to Pukalani because my landlord use me...I'm not going to go there, sorry. So actually I'm relocating my farm and you have a really good point. What happen if another farmer come and ask for help? If another farmer come ask for help, please help them. How many real farmers are there on Maui? Seriously full

time? I'm one of the top ten real farmers. If they real farming please help them whatever you can whatever you can because that's the future. I want to farm here and at least little bit stay exist on Maui. I switch to Korea to get into farming. I could right now walk out here and do something else, but I love farming. Help farmers. If somebody else come help, help them as well. If they're sincere about farming, if they're real farming, if they're full-time farming, please do so.

Mr. Robinson: So Crystal you have gift show and now you're gonna have short-term rental so when does a farming become a tourist industry? I mean, again we're all for farming, so you know it's, it's gift shop, events, and now short-term rental. It's not a bed and breakfast, it's not a long-term rental, you know, you do have a successful produce business somewhere else but you're asking us to subsidize it for a third request you know what I'm trying to say?

Ms. Schmitt: I 100 percent understand.

Mr. Robinson: And we want to make sure you're making good decisions 'cause you know you are taking up county time and we are...the county is trying to help you, you know, as well all farmers.

Ms. Schmitt: I understand. Yes.

Mr. Robinson: So the question is, do you have a plan this time? To say okay, if I have this TVR I now know what it needs for my farm to work because the last time you came here your plan was incorrect because you're back here asking us for something else. So now what's to tell us that this plan is gonna work? If we have another vacation rental on top the hill which is not made for vacation rentals, it's made for farmers like you, right? A bed and breakfast maybe I could see because you're on the farm. You have workers, bed and breakfast, you have some people come in during harvest time, but you're having a vacation rental with a gift shop.

Ms. Schmitt: Okay, I totally understand your concern. If you ever been to my real farm you'll see how much money the gift shop gonna make. You just gonna see it, the reality. We have, really I have ten people stand by, I never said I have a...I always have a plan. I always have a plan, actually I plan too much and the plan doesn't work. And actually the plan worked. It all helped, every single time things helps. Even a bag of salad. I have accounts for one bag a week, I kept it for 10 years. Everything helps, everything...always have a plan, I have too much plan, that's the problem. I do plan and I'm so glad of plan because if I wouldn't be planning I'd be drown long time ago, and I stay alive because I plan always. I have five years ahead.

Vice-Chair Duvauchelle: Commissioner Carnicelli?

Mr. Carnicelli: Good morning, Crystal.

Ms. Schmitt: Hi, good morning.

Mr. Carnicelli: I appreciate your passion. And I actually appreciate the fact that you actually really are a farmer because we get lots of people through here, it's just like I mean I can recall one application where they had some orange trees planted along their driveway and that was their "ag plan" and they were calling themselves a farm. So you're real farmer so I really appreciate that. But my question is, you know you had your projections as far as what you thought the events were gonna bring in, and so now you're also going a little shooting into the dark with you know your vacation rental. So my question is what's gonna be the difference between what you could rent that out for long-term and what you project you think you're gonna get doing a vacation rental? So you have a plan, you know, what sort of is that plan for your STRH and it's just like... 'cause you know as Commissioner Robinson said we want to help farmers, but it's like you know, maybe the best thing for you is to leave it long-term you know and not that I need to run your business but I just want to know what you think the numbers are now... I mean, what the numbers are now versus what you think the numbers are going to be if we were to provide you with this permit?

Ms. Schmitt: I so appreciate you bring that up because honestly you are probably more knowledgeable in the vacation rental business than I am. I have not run one. I'm optimistic and in the end, I just don't want to do something not permitted. So if I do have the option of doing long-term and short-term I figure if it's easier, if it's easier for me because I have very limited time and energy and I devote most it into farming, if vacation rental become a management nightmare and the benefits is marginal, I probably just stay with long-term but at least I have the option and I can explore it. It's kind of like anything you like to have the picture. I don't want to just start doing them illegally and then find out I don't want to do that. That's why I spent all this time going through the proper procedure so I have the option. Like this two month I have no income but I keep going because I plant it five years ago, if this happen what I'm gonna do, that's why I stay alive and well, I mean seriously. I plan, plan, plan I have this option I would appreciate hopefully would it be less time or more money? But it turns out it's not it's not quite a bit of money and a lot more work I probably don't do it. You know, I've never done it so I don't know. I hope it's better, but if it's not, I go back to my regular because I do want to focus on farming.

Vice-Chair Duvauchelle: Any other questions? Commissioner Higashi?

Mr. Higashi: Yes, Crystal. Is this your first application for a short-term rental or did you rent it before according to the record?

Ms. Schmitt: No, this is the first time. This is the first time. Me and Gina was discussed in the very beginning.

Mr. Higashi: Right.

Ms. Schmitt: And one of the reason we were...(inaudible)...going to help out a little bit is because I stay in Haiku farming it's because I actually on the farm dwelling in Haiku and that lettuce farming I get up in the morning, I cut lettuce all day work. My husband goes to the dragon fruit farm you know. That's why we stay in Haiku because dragon fruit, my mom started this because it's supposed to be easy to take care. It's a cactus.

Mr. Higashi: Well, my question is have you ever rented this facility at all prior to what your application is coming in today?

Ms. Schmitt: No what happened is this only completed 2015 and we been doing the long-term recently, if we want if possible if the gift shop make so much money, I probably hope to use that convert a bigger gift shop or we can use as office because now we go there we have no place to stay so we be commuting back forth and then finally we realize we need help so we rented the long-term to help with little bit income it helps, absolutely helps, enough, no. But we still hoping things gonna get better every year except this January and February has not fare well as I thought it would be. I mean January it's just bad because the weather.

Mr. Higashi: So you never rented it?

Ms. Schmitt: Not short-term.

Mr. Higashi: Okay, thank you.

Ms. Schmitt: Not short-term. First time, yeah.

Vice-Chair Duvauchelle: Commissioner Robinson?

Mr. Robinson: Hi Crystal. So in Haiku tell me what's happening with you in Haiku?

Ms. Schmitt: Okay so in Haiku basically my mom start the farm in my backyard. I was not a farmer. And then it gets bigger and bigger because people loved organic fresh greens. So lease the land across from my house. This started with five acres. The guy build a cottage move us down. Now become three acres. Now they building a house so I have to move to Pukalani. Fortunately, fortunately I plan the first day when I lease that land I already start, we cannot just lease every year, he refused to give us a five-year lease, so one-year lease every year. So I always want a backup plan. So my family helped me, we purchased a piece of property, my family did in Pukalani so right now this January actually, I'm moving now, by May I have to finish moving but we've been farming this existing land for 15 years now, it's like the soil is like gold, you can look at it it's gold. It produces. Now I going to a new location. I don't know if the soil is gonna be as good. We dumped at least hundred or two hundred, a thousand tons of organic fertilizer in that land, it's like, you can just look at, just try to educate the people, soil is not dirt. He was farm is dirty. No soil is gold. Soil is what, like the mother earth. So now I have to move this farm from existing 15-year established farm to a brand new piece of land in Pukalani not to mention capital investment, but we determined we're gonna make it happen. It's gonna be good.

Mr. Robinson: So what size is your farm gonna be in Pukalani.

Ms. Schmitt: So we actually have three locations in Haiku. We used to lease another land across the gulch it's six acres but there's no county water. We've been on the water meter list now for

10 years. I'm not even go there either. But we have a huge 350,000 pond of gallon of water but because my lettuce is ready to produce you cannot irrigate pond water into the lettuce where people gonna put in their mouth. So we cannot really farm there. So our total lettuce production is about solid nine acres. Just imagine you covered with lettuce, nine acres.

Mr. Robinson: How many acres do you have in Pukalani that you're moving to?

Ms. Schmitt: Five.

Mr. Robinson: Five acres?

Ms. Schmitt: Five acres.

Mr. Robinson: And you had eight acres before in Haiku?

Ms. Schmitt: Nine.

Mr. Robinson: You had nine?

Ms. Schmitt: But imagine, the good news is when it's all growing it's awesome. The thing is if you get luck out or dead what you're gonna do for the next 45 days, that's the problem. When I have the lettuce I'm happy. But when I don't what I don't know what to do. I mean, hopefully that's why we diversify, diversify geographically, diversify on the crop, diversify on the income stream, do anything to survive as a farmer, it's so satisfying if I can survive. If...(inaudible)...if I wake up every day and don't have to worry, I'm happy. I don't mind work hard.

Mr. Robinson: It's called entrepreneurship, you know.

Ms. Schmitt: Yes.

Mr. Robinson: It's not easy. Thank you.

Vice-Chair Duvauchelle: Commissioner Hedani?

Mr. Hedani: Crystal, of the people that farm, the people that farm in Launiupoko I was hopeful that the dragon fruit farm would succeed because I think that it had the most promise in terms of being able to have viable agriculture within Launiupoko.

Ms. Schmitt: Yes.

Mr. Hedani: Everything else that I've seen up at Launiupoko is exactly what Lawrence said, it's a couple of lime trees here, a couple of tangerines and that's it, yeah, landscaping. How long do you estimate it would take for the dragon fruit farm to become sustainable?

Ms. Schmitt: Okay, it's very, very good question. See the problem is because we are pioneers, we are new, we're learning ourselves, so our hope is once we get everything nailed down, for example the 16 varieties some varieties obviously doing better than others, so which one? And for ...(inaudible)...the product for example, what variety ultimately from you know, would do better than the others? So we're learning all this. That's why it takes us so much effort because you learn from nothing to try to figure things out. For example the post method versus the trellis method, how does it work? The post what is the best? We just experimenting a new post now. This post we thought the concrete it's gonna last forever, it doesn't because first of all, you have done proper, second they really brittle and break, so now we're trying the metal method. So I always give example, doesn't mean the one's gonna be successful in doing them. People later on learn the ropes and they will most likely do better. So kinda like you know, Facebook do good, but there's people before that did a lot. So it's like, how to say, we are the guinea pigs but it's okay. That's why I'm trying, as long as I survive, and as long as eventually dragon become a crop I'm happy. I would say, last year Dawn can tell you more, we also learned the moon cycle really affects a lot so what happen is on the full moon it's the night you gonna pollenate the flowers, but if that night it rained, Launiupoko doesn't rain, but if that night rained which we think happened to our crop then particular night, the flower only live for one night, it dies the next morning so if you lose that opportunity then it's kind of hard, what happened. That's why Launiupoko is actually ideal location because it doesn't rain as much. So we are learning from...you cannot just read everything on the internet and believe it. That's what I did, I thought it's all this...(inaudible)...coming in, all this crops coming in, but then you look at my real crop sometimes it doing really well, it's oh my God, it looks like it's really good and June comes, August all of a sudden we have no flowers so what happened? Then we analyze oh maybe the moon, maybe this. So we are still learning. My hope is I really think is this is gonna...(inaudible)...it's go off. I'm actually gonna try some in Pukalani as well. We start planting Pukalani next week and hopefully try that method and see over there if it do better. So the bottom line is it is a new crop and we're trying everything we can to learn about. Hopefully it's gonna do really well. The fruit itself it's really, really good, healthy, delicious, beautiful everybody loves, it's volume, how we can get volume up, how we can produce effectively which we're still learning.

Mr. Hedani: Okay. The question that I had actually is from the time that it was first planted it's been what, five years now?

Ms. Schmitt: Our first crop yeah.

Mr. Hedani: So it's matured basically, you're plants have matured over a period of five years and it's approaching the point where it's producing a lot of fruit?

Ms. Schmitt: The top field is, and so the idea was to invest \$50,000 on the bottom field with the trellis method we think that's gonna be better, it turns out it's not. So that's something...we're gonna try another method again with the existing trellis there and my message is to everybody is if you would at this point if you were to do it yourself, try the post method but with the metal top which we're doing right now. So that's the kind of message like we say, okay this is the best way.

So in three years we spent on the bottom field, it didn't produce as we thought this method. The top field is completely mature, but it's only the top portion which is only 110 tree...vines.

Vice-Chair Duvauchelle: Thank you. Commissioner Robinson?

Mr. Robinson: This is my last comment. Crystal I'm gonna support you because we want you to succeed, but I wanna say something. In business you have a successful lettuce business. You feed a lot of people in Maui and you're stuck on this dragon fruit. I hope you succeed in it but at some point, you're coming to us to subsidize your wish to grow a certain product when you flourish at another product. It's business. You're running a business, and hopefully you...if this doesn't work you realize that please don't come to us back again to help subsidize your will to have your wish because you do something well, and you're doing it well for a long time and you've had a Costco account and I hope you realize that. You're a successful farmer, but maybe not dragon fruit. So please don't...don't bid everything on just one thing because you are successful and don't let something bring you down just because you have a will that you want something to happen and that's just my comment.

Ms. Schmitt: I really, really appreciate your help.

Mr. Robinson: That's all, that's all, yeah. Thank you.

Ms. Schmitt: That's from another entrepreneur that's awesome insight, but problem with lettuce is though, it's not...when you get it destroyed you have the whole...if you bet everything only in this one field and you get wiped out in January I wish I had the dragon fruit farm even though it's not as productive in a normal time.

Vice-Chair Duvauchelle: Any other questions Commissioners? Okay, can we have the Department's recommendations? Thank you Crystal.

b) Action

Ms. Flammer: So there's two permits that we have. We're dealing with the State Special Use Permit which you have authority over. We're recommending that you approve the amendment to the State Special Use Permit. We're recommending an additional 18 conditions most of them that mirror the short-term rental home conditions that would make the permit having a total of 41 conditions on it.

For the Conditional Permit we're recommending that you recommend approval of the amendment to the County Council and again, we've mirrored the exact same conditions for that one.

So in consideration of the foregoing the Planning Department Recommends that the Commission adopt the Planning Department's report and recommendations prepared for today's hearing, February 28, 2017 as your findings of fact, conclusion of law, and recommendation and authorize

the Director of Planning to transmit said recommendation to the Council for the Conditional Permit and then transmit to the applicant approval of the State Land Use Special Permit.

Vice-Chair Duvauchelle: Commissioner Canto?

Ms. Canto: Maybe this question is for the Director. Are we approving them together or are we approving them separately?

Mr. Robinson:(inaudible-not speaking into mic)...

Vice-Chair Duvauchelle: Commissioner Carnicelli?

Mr. Carnicelli: I would like to move that we approve as per the Department's recommendation both of the recommendations.

Mr. Hedani: Second.

Vice-Chair Duvauchelle: Motion by Commissioner Carnicelli, seconded by Commissioner Hedani. All those in favor?

Mr. Carnicelli: Discussion first?

Vice-Chair Duvauchelle: Oh, discussion. Sorry, discussion. Let's roll right through. Discussion. Commissioner Canto? Oh, Commissioner Higashi?

Mr. Higashi: I totally agree about farming and supporting farming. My reservation is that dragon fruit has not been something that has been proven to be productive and I think from this five years kinda shows that maybe dragon fruit is not the route to go and by supplementing it with a gift shop and now a short-term rental I don't think is the answer to this particular request. So consequently I'm not in favor of approving the amendment.

Vice-Chair Duvauchelle: Thank you Commissioner. More further discussion? Commissioner Carnicelli?

Mr. Carnicelli: As the mover of the motion I obviously support this, and for me, you know there's a couple of reservations that I do have you know as Commissioner Robinson had said, you know, are we gonna get every single farmer showing up to say like listen I want you guys to supplement my farming operation. I'm not a successful entrepreneur so I'm not gonna give advice as far as what I think that they should do or not. There's other people that are successful entrepreneurs that I think that you know I heed their words very closely and I listen to that. But the other side of this is you know we want people to do things right and we want people to become legal, right? And that's one the thing that I think when I look at this particular application it's someone that actually really does farm, it's someone that says you know what I could have probably done a vacation rental and not...you know, been one of those people, catch me if you can, we've got

plenty of those on the island. She's saying hey, listen you know I want the opportunity to do this if I can, if it doesn't work then guess what I'm putting a long-term tenant back in there. So if what we really want is people to come forward and do things the right way then I think that we need, you know at least for me I want to personally reward that and I wanna say okay, you know what yeah, I'm on board. I don't know if dragon fruit is gonna work or not, but I think that at least the applicant's trying to do the right thing and I feel that she's genuinely trying to do the right thing and so I'm obviously going to support the motion.

Vice-Chair Duvauchelle: Commissioner Canto?

Ms. Canto: I, too will support the motion. I just believe that the Schmitts are sincere and...let me say that again, I will be supporting the motion to approve. I believe that both of you work very, very hard. I look to you as being real farmers and I thank you for what you do, but I'll supporting the motion, Chair.

Vice-Chair Duvauchelle: Commissioner Hedani?

Mr. Hedani: You know as I said earlier, I think this particular applicant is a true farmer and is working at it as best as she can exploring a new niche product which may be if it catches on, I guess, they probably thought Zuckerberg was crazy at one point, but if it catches on you know, if there's the opportunity to fulfill a niche market that might be successful. We've given transient vacation rental permits to a lot of people with a lot of money that had beautiful facilities that they built as "farm dwellings" but it was never intended to be a farm dwelling for farmers to live in. It was intended to transient vacation rental. We probably are setting up people that are trying to farm for failure by designing subdivisions at 2 acres to 15 acres to compete against 36,000 acre farms that may grow lettuce among other things and just totally wipe you out if you're small farmer trying to work on 15 acres. I think pursuing a niche market is probably a boutique market is probably the way to go if you can succeed. I don't know that she can, but I think of all of the people that we've supported within agricultural subdivisions this is the one that we should try to support. I don't know that it will succeed. The facility is not as pretty as the ones that the multimillionaires can throw up, but I wish her success.

Vice-Chair Duvauchelle: Any further discussion? Director could you repeat the motion?

Mr. Spence: The motion is...and I have to say if I could comment?

Vice-Chair Duvauchelle: Please.

Mr. Spence: It's a little tongue in cheek, but maybe...if we're talking about niche markets at HCPO last time Maui County hosted it we had some dragon fruit margaritas and they were so beautiful to look at, I bet the hotels would love it. Now that's, that's if we're talking about a market for something like that...so away... The motion is to approve as recommended by Staff and that's for both permits.

Mr. Carnicelli: Both.

Vice-Chair Duvauchelle: All those in favor please say aye.

Commission Members: Aye.

Vice-Chair Duvauchelle: Six ayes.

Mr. Spence: Six ayes.

Vice-Chair Duvauchelle: All those opposed?

Mr. Spence: One opposed.

Vice-Chair Duvauchelle: One nay. Motion carries. Thank you.

Mr. Robinson: Go get 'em Crystal.

It was moved by Mr. Carnicelli, seconded by Mr. Hedani, then

VOTED: To Approve the Amendment to the Current State Land Use Commission Special Permit and Recommend Approval of the Amendment to the Conditional Permit and Ordinance 4295 to the County Council as Recommended by the Department.
(Assenting – L. Carnicelli, W. Hedani, L. Hudson, K. Robinson, P. Canto, S. Castro)
(Dissenting - R. Higashi)
(Excused – M. Tsai)

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II