

August 18, 2021

MEMO TO: PSLU-17 File

F R O M: TAMARA PALTIN, Chair  
Planning and Sustainable Land Use Committee

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO  
MAUI DRAGON FRUIT FARM LLC'S REQUEST FOR A TIME  
EXTENSION AND FOR THE USES ALLOWED UNDER THE  
CONDITIONAL PERMIT GRANTED BY ORDINANCE 4295  
(LAHAINA)** (PSLU-17)

The attached informational document pertains to Item 17 on the Committee's agenda.

Attachment

Received at PSLU meeting on 08/19/2021

**MAUI DRAGON FRUIT FARM**  
**TMK: (2) 4-7-001:044**

09/30/10	Letter from Applicant to Dept Subject: Seeking confirmation that the use of a <b>zipline operation</b> , as part of a guided farm tour at the Maui Dragon Fruit Farm is an approved accessory use in the agricultural district, Maui County Code MCC 19.30A.050(B)(11)
10/15/10	Letter from Planning Dept to Applicant Subject: Above described proposed project is in compliance with Chapter 205, Hawaii Revised Statutes and §19.30A, and will be a permitted accessory use with no land use permits required.
11/21/11	Letter from Applicant to Dept Subject: Seeking confirmation that includes an <b>Aqua-Ball ride</b> , as part of a guided farm tour at the Maui Dragon Fruit Farm.
05/07/12	Letter from Planning Dept to Applicant that above described proposed project is in compliance with Chapter 205, Hawaii Revised Statutes and §19.30A, and will be a permitted accessory use with no land use permits required.
10/2014	Application for 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
02/05/15	Letter from Planning Dept to Applicant Subject: Notice of Application Completeness and Acceptance Meeting with Maui Planning Commission on 03/24/15
03/24/15	MPC Public Hearing for CP
05/04/15	Letter from Planning Dept to Applicant informing of MPC approval of SUP with 23 conditions & recommendation to the Council of approval of CP w/21 conditions
10/16/15	Transmittal from Planning Dept to Council for CP to conduct ag related activities, to sell non-ag related items and products not grown on the property, & to conduct special events  Staff report included: -11 letters of support; 2 letters of protest; 2 response letters - 1 letter of support; 6 letter of protest, submitted after Staff report; 2 response letters from Applicant

	<p>- 4 testimonies in support; 2 testimonies in opposition; 1 comments (during Public Hearing)</p> <p>MPC unanimously approved SUP, with 23 conditions  MPC unanimously approved CP, with 21 conditions</p>
02/24/16	Dept received the <b>TVR application</b> <i>as a request to amend Ordinance 4295</i>
03/04/16	<p><b>Ordinance 4295, Bill No. 23 (2016)</b></p> <p>A Bill for an Ordinance Granting Maui Dragon Fruit Farm LLC a Conditional Permit</p> <p>Valid Until: <b>03/24/18</b> (initial)</p>
06/06/16	"A friend's wedding"
12/22/16	TVR application transmitted to the Land Use Commission and the Office of Planning for comment. No comments provided.
	<p>Per 01/30/18 letter from Dept:</p> <p>"According to the Applicant, nineteen (19) special events were held at the property from May 7, 2016 – December 12, 2017"</p>
02/28/17	<p>MPC reviewed the amendment to allow for TVR; Approved TVR, subject to an additional eighteen (18) conditions</p> <p>Per 01/30/2018 letter from Dept:</p> <p>"Request to amend the duration of the CP permit had not yet been received; therefore, the Commission did not review an extension request. However, the Applicant has requested to the Department that Council take up the request for extension at the same time as it considers the TVR amendment."</p>
03/09/17	<p>Letter from Planning Dept to Applicant</p> <p>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: 4-7-001:004 (POR.) (CP 2014/0005) (SUP2 2014/0011)</p>
09/09/17	<p>RFS 17-0001133</p> <p>Wedding held on 09/02/17 reportedly continued until at least 10:00 p.m.</p>

	<p>Violation of Condition 10: Special events shall be concluded by 8:00 p.m.</p> <p>As of 01/30/18, the RFS was open. ZAED advised that b/c the complaint was made seven (7) days after the alleged event, a timely investigation could not take place, and thus no enforcement is being carried out. The RFS will remain open as a reference, should additional complaints be submitted.</p>
01/05/18	Applicant request for a time extension
01/12/18	Compliance report submitted to Dept
01/18/18	Applicant letter to amend Ordinance 4295 to also operate a TVR in a two (2) bedroom farm dwelling
01/30/18	<p>“That the SUP shall be valid for two (2) years from the date of approval of the CP...”</p> <p>“Ordinance 4295 went into effect on March 4, 2016, and granted Maui Dragon Fruit Farm, LLC a Conditional Permit to conduct agricultural-related activities and certain special events on the property. The application to operate a transient vacation rental (“TVR”) on the property is dated February 17, 2016, two weeks prior to the effective date of the ordinance, and date-stamped as received by the Department of Planning on February 24, 2016.”</p> <p>List of Events at the Maui Dragon Fruit Farm (Page 35)  Weddings held on:  2016: May 16, May 28, Jun 6, Dec ?  2017: Jan 21, Mar 14, Apr 2, Apr 22, Jun 21, Jul 8, Jul 25, Sep 2, Oct 4, Oct 10, Nov 1, Nov 25, Dec 2 &amp; Dec 8</p> <p>“If the Council was able to review and approve the time extension request concurrent with the TVR amendment request, the Department would recommend a duration of two (2) years from the effective date of Ordinance 4295, or until March 4, 2020, to allow for a test period for the TVR use.”</p>
05/28/18	Approval of Time Extension to SUP <b>and requirement to submit a County Special Use Permit for Zipline &amp; Aquaball Activities within one (1) year of this approval</b>

**MAUI DRAGON FRUIT FARM**  
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	<p>SUP valid until <b>03/04/2020</b>, “subject to further extension by the Maui Planning Director (Director) upon a timely request for extension filed <i>at least ninety (90) days</i> prior to its expiration.”</p> <p>“<u>New Opportunities</u>. Additionally, you may be interested to learn of new opportunities for commercial agricultural uses that are allowed without permits, pursuant to Section 19.30A.050.B.3, Maui County Code (MCC), which provides for a ‘a maximum of two (2) commercial agricultural structures per lot, subject to parking requirements of section 19.36A.010’ and Section 19.30A.072, MCC.”</p>
02/12/20	Time Extension Request for SUP2 2014/0011 & CP 2015/0005
05/31/20	Detailed compliance report
06/10/20	Certificate of Insurance dated 12/05/19 submitted to Dept
06/25/20	Site Inspection to review the FRMP; Dept notes substantial damage to fruit & other crops and destruction of accessory ag structures as a result of 08/24/18 fire
07/24/20	Planning Director extends SUP2 2014/0011 Valid until <b>March 4, 2025</b>