

DRAFT

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

January 27, 2016

Council Chamber, 8th Floor

CONVENE: 1:33 p.m.

PRESENT: VOTING MEMBERS:
Councilmember Robert Carroll, Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Gladys C. Baisa (in 1:34 p.m.)
Councilmember Elle Cochran
Councilmember Stacy Crivello
Councilmember Don S. Guzman

EXCUSED: VOTING MEMBERS:
Councilmember Don Couch

STAFF: Scott Jensen, Legislative Analyst
Raynette Yap, Committee Secretary

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

ADMIN.: William Spence, Planning Director, Department of Planning
Gina Flammer, Planner V, Department of Planning
Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Robert Mitnick
Vanessa Ovando
Dawn Boucher
Megan Schneckloth
Darv Krizton
Gordon Firestein
Hong Zhou
Plus (2) Others

PRESS: *Akaku Maui County Community Television, Inc.*

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CHAIR CARROLL: . . .(gavel). . . Land Use Committee meeting of January 27, 2016 will come to order. I'm Councilmember Robert Carroll, Chair of the Land Use Committee. First may I request that anybody that has cell phones or anything else that makes noise please turn it off or put it on the silent mode. With us, excused at this time is the Vice-Chair of the Committee, Mr. Victorino. We have with us this morning from Lahaina, Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair, thank you.

CHAIR CARROLL: And from the island of Molokai, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: And from Kahului, Mr. Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR CARROLL: And we have Mr. Victorino coming down to join us. Welcome, Mr. Victorino.

VICE-CHAIR VICTORINO: Thank you, Chair, and sorry about a little late, I apologize.

CHAIR CARROLL: At this time Don Couch is excused. We have our Executive Branch representatives Gina Flammer, Department of Planning; Deputy Corporation Counsel, Jennifer Oana; applicant's representatives, Lawrence and Crystal Schmitt, Maui Dragon Fruit Farm LLC. Committee Staff, we have Raynette Yap, our Committee Secretary; and Scott Jensen our Legislative Analyst. Today we have a single item on our agenda that involves a request by Lawrence and Crystal Schmitt on behalf of Maui Dragon Farm LLC for a two-year Conditional Permit to conduct agricultural related activities, sell non-agricultural related items and agricultural products not grown on the property, and conduct special events on a three-acre portion of the property within the County Agricultural District located at 833 Punakea Loop, Lahaina, Maui. Assisting us this morning from the Lahaina [sic] District Office is Dawn Lono, Dawn?

CHAIR CARROLL: Alright, from the Lanai Office, Denise Fernandez. Denise?

MS. FERNANDEZ: Good afternoon, Chair, this is Denise Fernandez on Lanai.

CHAIR CARROLL: Thank you. And from Molokai District Office we have Ella Alcon. Ella?

MS. ALCON: Good afternoon, Chair, this is Ella Alcon on Molokai.

CHAIR CARROLL: Thank you. For individuals who will be testifying in the Chamber, please sign up at the desk located at the 8th floor lobby just outside the Chamber door. If you'll be testifying from remote testimony location specified on a meeting agenda please sign up with the Council Staff at that location. Testimony will be limited to the item on the agenda today. Pursuant to the Rules of the Council, each testifier will be

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allowed to testify for up to three minutes. When testifying, please state your name and the name of any organization which you are representing. We now...oh and excuse me, and Councilmember Gladys Baisa from Upcountry is with us.

COUNCILMEMBER BAISA: Good afternoon, Chair --

CHAIR CARROLL: Good afternoon.

COUNCILMEMBER BAISA: --and please excuse my tardiness.

CHAIR CARROLL: We'd like now to call our first testifier, Mr. Jensen.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. JENSEN: Mr. Chair, the first testifier signed up is Robert Mitnick. He'll be followed by Vanessa Ovando.

MR. MITNICK: Gentlemen, Council, aloha. I'm Robert Mitnick and I'm the founder of...

COUNCILMEMBER BAISA: Use the mic.

VICE-CHAIR VICTORINO: Mr. Chair, could he speak in the mic please?

MR. MITNICK: Okay, how's that?

VICE-CHAIR VICTORINO: All right, now I can hear you, Robert.

MR. MITNICK: Okay, I'm Robert Mitnick and I'm the founder of the Hawaii Taro Company and my product, the Maui Taro Burger, and I'm here to support the Conditional Use Permit for the Maui Dragon Farm for Crystal and Larry Schmitt. And I've known them for many years. I've bought their products for about a good 15 years that I always use when I do any events in Maui. I use their baby greens, organic baby greens and their products are always perfect, never have buggies on 'em and very, very fresh. And their business, how they run their business is very nice, it's very open. I can go to their farm and go in their cooler and grab the stuff and pay them later if necessary if they're not there. And they very much deserve to get this Conditional Use Permit because as y'all know farming is not easy and there's weather conditions to deal with and so on and so forth. And the additional income for using their property for special events like weddings and so on and so forth will really help them balance out their economic situation and so it'll work really good. They're very, very good members of this island of ours, very easy to deal with. They treat everyone really well, treat me really well. Any problems they take care of it and so on and so forth. And I think that Crystal and Larry stand very tall in the, among the good guys of Maui. They've always been very, very great people to deal with. Thank you.

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CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, thank you. Mr. Jensen?

MR. JENSEN: Mr. Chair, the next testifier is Vanessa Ovando, she'll be testifying as a representative of Kristin Rocco. She'll be followed by Dawn Boucher.

MS. OVANDO: Hello, I'm Vanessa Ovando, I'll be representing Kristin Rocco who unfortunately couldn't be here. I'm here to support Maui Dragon Fruit Farm's Conditional Use Permit application to host special event at the farm. I have worked in the special event related business on Maui for over six years. I have known Crystal and Lawrence Schmitt through both personal and business relationships. I know they are hardworking people who love our island, our aina and who would like to contribute to the island and who are people with high integrity and character. What I like most about Maui Dragon Fruit Farm as an event venue is its down-to-earth feeling. Even though the farm is not even close to anything luxurious, it showcases the natural beauty of our island, from its panoramic ocean view to majestic West Maui Mountain view. It embodies Maui as the best. As an event specialist, I feel it is important that we can let our visitors know that Maui not only boasts many world class resorts but also has a variety of natural sites that can fulfill their needs. This gives Maui a good advantage to compete among other islands and among other destinations. To the locals, this natural venue enables them to celebrate in a relaxed and casual way and also makes their events affordable. To allow the Maui Dragon Fruit Farm to host special event will help the farm to diversify their income stream so that the farm can sustain regardless of adverse farming condition. I know your support of them will benefit our island. Thank you. Sincerely yours, Kristin Rocco.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, thank you. Mr. Jensen?

MR. JENSEN: Mr. Chair, the next testifier is Dawn Boucher, she'll be followed by Megan Schneckloth.

MS. BOUCHER: Aloha, my name is Dawn Boucher and I am the manager at Maui Dragon Fruit Farm. I've been with them since about six months after they started the farm, and I'm here to talk on our behalf today, just to point out a few things. So first of all please be aware of dragon fruit is a new crop for Maui and hopefully for all of Hawaii, so one of our main purposes out there is to bring dragon fruit here and to everybody. But it's risky and it's hard and so what's happened is we need to make money in other ways 'cause the dragon fruit isn't paying the bills yet, hopefully it will, hopefully it'll pay a lot of our bills down the road. And there's a lot of risks involved in agriculture as you guys may recall what happened with the papaya crops here, ringspot virus wiped out the entire industry in a very brief period. Also, there's the risk of outside competition, if they decide to which they are already growing dragon fruit in the Philippines. Even if we are very successful, we have to compete globally with them. And then the third thing is, we're learning about this crop so for example, last summer, as you guys might remember, we had quite a bit of rain on the West Side. Well that rain coincided when the dragon fruit was producing flowers and caused our

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yield to be lower. So we're learning about that, trying to get around that stuff, and that's one of the main reasons why we're asking you folks to let us do special events out there because the special events do provide additional income to the farm that should be very stable. It's a beautiful venue and people love it and it really is a very low-impact way for us to make some extra money to supplement our income that we make from the dragon fruit. Thank you very much.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, thank you. Mr. Jensen?

MR. JENSEN: Mr. Chair, the next testifier is Megan Schneckloth, she'll be followed by Darv Krizton. Ms. Schneckloth is testifying on behalf of Toni Marie Davis.

MS. SCHNECKLOTH: Good afternoon. My name is Megan Schneckloth and I am representing Toni Marie Davis. Dear Chairman and Council Members, my name is Toni Marie Davis. I'm submitting my testimony here to support Maui Dragon Fruit Farm's Conditional Use Permit application to host special events at the farm. I have known Crystal and Larry Schmitt for more than 15 years. Crystal and I got our MBA degree together through the University of Hawaii's Neighbor Island MBA program. Both Crystal and Larry are very driven and hardworking individuals. With all the education that they got, I believe they could pursue any careers and become good at it. However, Crystal and Lawrence decided to become full-time organic farmers. Of course, I was a little surprised in the beginning when they decided to switch from other careers to farming. However, once I understand their passion, their determination to commercialize dragon fruit growth on Maui, I started to think that it is fortunate that we'll have people like Crystal and Larry on Maui. Dragon fruit could one day become big on Maui and we might really get an industry going on our island. In 2010, Hawaii's State Planning began implementation of Comprehension [sic] Economic Development Strategy to increase food and energy self-sufficiency. Between 85 and 90 percent of Hawaii's food is imported. An island, as an island isolated in the middle of the Pacific, our food supply is vulnerable to natural disasters and global events. Sustainability and self, sustainability and self-reliance are top of our priorities. I understand that making a living as a full-time farmer can be very challenging. To ensure proper cash flow, Crystal and Larry expanded their lettuce production in Haiku to help support the establishment of the Dragon Fruit Farm in Lahaina. However, the weather condition can change at any time and can cause crop failure unexpectedly. I live in Makawao and I know that some places it rains horrendous and it wipes out their produce in a matter of days. Over the years I have seen Crystal and Larry work hard to make their farming work. They overcame one obstacle after another. Their vision to make Maui the capital city of the dragon fruit in the U.S. and their determination to succeed, that is inspiring. Hosting special event at the farm will allow them to diversify their income stream and help stabilize their farm operations. Your approval of their application will greatly help their farm to become sustainable. Thank you. Toni Marie Davis.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, thank you. Mr. Jensen?

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MR. JENSEN: Mr. Chair, the next testifier is Darv Krizton who'll be testifying on behalf of Hawaiian Moon's Natural Food Store. And the following testifier is Gordon Firestein.

MR. KRIZTON: Aloha my name's Darv Krizton, I am the produce manager at Hawaiian Moons Natural Food Store in Kihei. I began working in organic produce in 1985 in Santa Cruz, California which at that time was the heart of the organic industry. So I've had a lot of experience over the decades dealing with farmers and their various situations. And natural foods store owners all know that we need the farmers, we need direct connections with the farmers. When the farmers are healthy, our business is healthy and so we do everything we can to support our direct farmers that we deal with directly. Now I consider Hawaiian Moons to be one of the best natural food stores on Maui and we're the only one in South Maui where people can come and get such items as are offered by this business run by Crystal. And her salad mixes are one of our most popular packaged items and it serves that community as their most favorite organic salad mix which is not easy to come by. Also they're the only source of organic dragon fruit that I'm aware of on the island of Maui. Crystal and Larry Schmitt have been supplying us with fresh organic greens for many years and the dragon fruit has been coming on in greater quantities for a number of years. They deliver to our store three times a week. New organic baby green mix, I consider to be the best of what's available to me as an organic salad mix. And of course the dragon fruit is delicious, I recommend it to you if none of you've had it before. But it's the only source I know of organic right now, so I do wanna support that and help them grow it and sell it. Dealing with both local and mainland farmers on a regular basis, I know that farming is a risky business. We have a joke in my industry that the farmer who won the lottery, when asked what he was gonna do with all that money, said he'd pay off all his debts and then just continue farming until the money ran out. But aside from all of that kind of stuff, it's just tough for a farmer to deal with the weather conditions and here we, on Maui we have them. And so they can go for a long time without being able to harvest their food and sell it. So this is an excellent way for them to make supplementary income in order to keep their business healthy, which will enable all of us on Maui to enjoy the excellent food that comes from their farm. I understand that they're applying for a Conditional Use Permit to host special events at the farm to try to earn this supplemental income and I am here on behalf of Hawaiian Moons to support their efforts so that they can survive in the long run, regardless of adverse farming conditions. Your support of them will benefit our island and our natural food industry here on the island. Thank you.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, and with us we have Mr. Will Spence, our Planning Director.

MR. SPENCE: Happy New Year, Mr. Chairman and Committee Members. It seems like a long time since I've been in front of you.

CHAIR CARROLL: Mr. Spence, I was just introducing you, we're still going with the public testimony.

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VICE-CHAIR VICTORINO: Not ready yet for you, we still have testimony. It's been a long time since you had that.

MR. SPENCE: It has.

CHAIR CARROLL: Mr. Jensen?

MR. JENSEN: Mr. Chair, the next testifier is Gordon Firestein, he'll be followed by Hong Zhou.

MR. FIRESTEIN: Aloha, my name is Gordon Firestein and I live in Launiupoko. And I guess I am the lone dissenting voice here among the testifiers today. I should probably start by saying that I don't actually know the applicants personally and I gather from the other testifiers that, you know, they're fine, upstanding citizens. And I certainly empathize with the difficulties of running a farming operation. We are also attempting to grow up in Launiupoko and it's very challenging, very difficult conditions. But I am here to urge you to reject the application. The concern with special events is, well there are many actually. We happen to live three quarters of a mile from the property which is pretty far and we have found the special events that they have held in the past to be a nuisance to us. From the noise, there's typically amplified music and that is normally a very quiet neighborhood especially at night. For those of you who are familiar with it, the sound carries. And if we can hear it and be disturbed by it at three quarters of a mile, I can only imagine what it's like for their immediate neighbors. I sent in written testimony to that effect via e-mail and I know by seeing a lot of e-mails flying around that there are many other neighbors. I don't pretend to speak for them but I have seen in those e-mails other concerns that have been expressed. And the most alarming one to me, which has compelled me to come to this meeting and testify in person is that someone found a Facebook post of a wedding that was held at the farm in which Japanese floating lanterns with the flame inside, you know, that heats up the air and takes the lantern flying off, quite beautiful but as you know, the farm is located in, you know, vast, among vast fields of what are now dry grasses and haole koa. Fire is a huge concern for those of us up there. It's extremely vulnerable to wild fire, and I think events, if they are to be held at the farm, need to be subject to various regulations concerning the noise, traffic. There have been concerns about evacuation in case of an emergency and the like. So if there's some way of accommodating them in their desire to earn more money to support the farming but somehow keeping the public events under control, that would be appreciated. Thank you, sorry for going over.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, thank you. Mr. Jensen?

MR. JENSEN: The final testifier who signed up is Mr. Hong Zhou.

MR. ZHOU: Aloha, my name is Hong Zhou. I'm the owner of Hong's Farm LLC on Maui. I come here to support Crystal and Larry Schmitt because I, myself am a farmer. I sell organic vegetables in Upcountry Farmer's Market every Saturday. Sometimes when

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big rain comes and I don't have enough product and then my customer come and say I count on you, I come here just for your product, I have to stood there and say, apologize, I'm sorry. So farming's not so easy, really not easy, tough. So I hope that the organic farms in this island can be more and more people to benefit people. So that's why I come here and please support our hard work farmers. Mahalo, sir.

CHAIR CARROLL: Mahalo. Any clarification needed from the testifier? Seeing none, thank you. Hana, do you have anyone waiting to give testimony?

MS. LONO: The Hana office has no one waiting to testify, Chair.

CHAIR CARROLL: Thank you. Lanai, do you have anyone waiting to give testimony?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai office.

CHAIR CARROLL: Thank you. Molokai, do you have anybody waiting to give testimony?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR CARROLL: Thank you. Is there anyone in the gallery that wishes to come forward to give public testimony? Seeing none, if there's no objection, I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

. . . END OF PUBLIC TESTIMONY . . .

**ITEM NO. 17: CONDITIONAL PERMIT FOR MAUI DRAGON FRUIT
FARM LLC (LAHAINA) (CC 15-277)**

CHAIR CARROLL: Members, the Committee is in receipt of County Communication 15-277, from the Planning Director, transmitting the Conditional Permit application described earlier. First, I'd like to thank everybody who attended the Committee site inspection on January 6, 2016. We're going to hear, I'm going to ask the Planning Department for comment, after which we'll receive a PowerPoint demonstration, presentation by Ms. Flammer. Planning Department?

MR. SPENCE: Mr. Chairman, we don't have any comments at this time. We'll...perhaps there'll be more discussion after the PowerPoint.

CHAIR CARROLL: Thank you. We are now going to take a short recess while we lower the screen for the PowerPoint presentation. Stand in recess for two minutes. . . .(gavel). . .

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RECONVENE: 1:58 p.m.

CHAIR CARROLL: . . .(gavel). . . Meeting will now come to order. Ms. Flammer? One moment while we're working out some audio difficulties.

MS. FLAMMER (*PowerPoint Presentation*): I think...okay, we got it, I got it on now. Thank you. Good afternoon, Councilmembers, I'm Gina Flammer a Staff Planner with the County of Maui Planning Department. Thank you for this opportunity today to present this PowerPoint presentation to you. Very similar to what I presented to the Maui Planning Commission but it's updating some of the information. So the applicant's request is to hold special events, to sell retail and food not 100 percent grown on the property in the gift shop, and to conduct tasting tours with initially catered food. The permits that are required to do this are a State Land Use Commission Special Use Permit and that's where the Maui Planning Commission is the authority when the project area is under 15 acres, and then a County Conditional Permit and that's why we're here today. The County Council is the approving authority for that and that's because it's both in the State Agricultural District as well as the County zoning designation of Agriculture. This is just a regional map to show you where it is, it's in Launiupoko. More specifically, here's the subdivision overview map, and then I highlighted in yellow the access road that takes you up there, and then the pink is the large property that the applicant owns. The property was purchased in 2009, it is 27½ acres total, the whole pink that you saw up there. In 2014 the parcel was divided through a condominium property regime into two different tax map key lots. The main being a little over 20 acres where the farm is located and then a 7.2-acre parcel that's currently fallow. The project area where they're making the request is just about 3 acres. The applicants do not reside on the property. Their farm is about 15 acres. It's a diversified USDA certified organic farm and it's actually the largest certified organic dragon fruit farm in the United States. In addition to the dragon fruit, they have tropical crops such as pineapple, bananas, papaya, sugarcane. They do specialize in dragon fruit with 16 different varieties and about 2,500 different plants. In addition to the farming, they do conduct some activities which are allowed under our Ag Code, or were allowed. They have the Walking Farm Tour, they do have a Zipline Tour, and then they also have an Aquaball Adventure Tour. Again what we're here today though is for the special events. And then also, the gift shop sales, and there's a picture of the building that they're proposing to use and some of the items that they would like to sell. And then also they'd like to do some catered tasting tours as a way to introduce dragon fruit to the public but then initially they would like to have them catered and they want to offer other fruit just besides the dragon fruit. There's a lot of parking on the property. There's a total of 72 parking stalls with 32 of them paved. There's a site plan that does show where all the parking is. And then we have some photos, it's a little dark in here but we'll do the best we can. This is the property entrance as you come up from Punakea Loop and you take a right. You can see the fire hydrant that's right there. And then you go down the driveway. I happen to hit it on a day where it was raining up there. And then as you go down the driveway and you look to the left, you can see the 1,000-square-foot farm dwelling that was recently finished up there. There's some

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hydroponics going on. And then as you come down a little lower you can see one of the event fields, again up on the left. And then I kinda wanted to point out where some of the houses were that had given protest letters. So you can kinda see 'em off in the distance there. Here's another picture of that event field, you can see it's quite large. And then as we come down all the way, there's another smaller event field which we're calling event field one and that's kinda shooting up, looking back maybe to the northeast of the property. And from here, a little bit closer, it shows you the parking stalls, the areas where the bathrooms are, there's a separate men and women's. There's the gift shop, you can see where the farm dwelling is. Here's again that building. And this is what it looks like currently inside though it will change to retail if this is approved. A little bit closer of the two different bathrooms and here you can see the inside of the women's bathroom. And then here's that event field number one. So if you look down on the site plan, kinda where the red circled area is, that's what we're looking at. And then what I did next is I kinda went to the front of that area to try to capture what's right below there. You can maybe see on the printed out version, you can see some of the houses right there. And then you can see some of the dragon fruit down straight ahead and then some of the dwellings on other parcels that are below there. And then again, there you can see the dragon fruit a little bit better, and then again, behind there is a separate parcel with the dwelling on it. And then when you're on the event field, if you turn around and you look up, this is more southeast. You can see...there was protest letters that came to the Planning Commission from two vacant parcels, you can see them off in the distance. The Moore's is who owns those two parcels. You can also see the beginning of where the grass parking is, kind of where that blue tractor. And then here's the larger event field, again you can see it's circled down on the site map. A little bit closer up. And then you can see where the hydroponics is, off to the left there. And then there's the driveway as you come down, just to help orient you. So here's that entrance where we saw the blue tractor that was to the left there. So that's where, when they have overflow parking, more than the 34 stalls, they'll come down this way. You can kinda see the arrow up on the site plan. And then here's where the grass parking stalls are, so they're quite wide, very flat. And then I wanted to show you some of the farm. There's the dragon fruit plant. She's got two different ways of staking them, this is one of the older ways. And this is one of the plants up close. I think that's a concrete pillar that they use to, for stabilization. And then on the lower field, you can see they went to a different type of ways to stabilize them with wires. And then here's some of the other, I think that's pineapple right there. There's the zipline that's in the back. You can see some of the dragon fruit, kind of off to the right. There's banana and then you can see the grass parking stalls off to the left...to the right. And then down below, this shows you again where the different types of staking is where they're using the wires. So this is from the Maui Planning Commission. I know there's a lot of testimony that came in recently so this does not include any of this. For the Planning Commission meeting, there were 11 letters of support, two from neighbors and there were six letters of protest, three from adjacent neighbors. There's a neighbor that was outside the 500 foot and there were 2 different homeowners associations, one for the Makila Plantation where this property resides and then one from another homeowners association, Launiupoko. At the hearing there were additional letters. After the report was published, there was another support and there were some more protest letters.

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And then we did have a lot of neighbors come out to testify, some in support, some against. Four did testify in support, two against, and one of the neighbors gave general comments. I did notice today that one of the protest letters submitted was from that same neighbor who had given general comments. Again this is only from the Planning Commission but it gives you a sense of where those letters came in, it's the orange. And then if you see animal farm, that's where the general comments came from, down right below. So because we're dealing with two permits and one of 'em is approval authority by Planning Commission, I'm gonna go over what that permit contains. Now that hearing date was on March 24, 2015 and Hawaii Revised Statute 205-6 is where they give the permit criteria for special uses when you have a property in the State Ag District. And basically they wanna make sure that that use is not going to be contrary to the overall objectives which are fairly broad but more specifically the desired use cannot adversely affect surrounding properties. So that's the criteria that the Planning Commission used when they were evaluating this permit. And permit conditions when placed on projects, they're designed to mitigate the impacts and they're designed to allow a project to meet that permit review criteria. So the conditions that were placed on that State Special Use Permit on that date, I'm gonna go over those now. They recommended that the permit be valid for two years before it comes back for renewal. We always ask for required insurance naming the County as an additional insured. We put a standard enforcement condition on there that spells out what happens if there's problems. And then more specifically, they limited what the special events can be. They limit it to a maximum of 50 guests, 2 events per calendar month, no amplified sound. There was a lot of discussion on the sound and finally in the end it was decided that it would just be much easier just to have no amplified sound. The Commission is requiring that events end by 8:00 at night, though clean-up can go on for another 30 minutes and then all the clean-up, all the lighting, everything has to be turned off. They're requiring that an event manager be required to be onsite, which I believe was always the case. There can be no exterior lighting going upwards and that's actually a County law anyway, but it all has to be shielded downward. And then the applicant is to provide information to the neighbors with a phone number, copy of the permit condition, and then there also needs to be a sign placed at the entrance with the contact telephone number. The Commission also allowed one annual agricultural festival a year. They gave specific hours, a lot of discussion on this again, from 9:00 a.m. in the morning 'til 5 o'clock. And then they just wanted to make sure that the traffic and safety measures were, the Maui Police Department had a chance to give input on that. Again, we went over the parking, they've got 76 stalls but anything that would require more than 76 stalls such as that annual event, there may need to be shuttle service required for that. And then they also put a limitation on the gift shop hours, from 9:00 a.m. to 8:00 p.m. at night. We also have standard conditions where all Department of Health requirements need to be met. The Fire Prevention Bureau wants to review events when they're a certain size or when there's canopies used. There needs to be a compliance report submitted at the beginning and also at renewal. And at renewal we wanna just get a sense of what kind of events and when they're happening. In the past we've asked that those be sent in for each event but it just seemed a little bit much so we're gonna be doing that at the end. So today here we are with the Conditional Permit where the Council is the final authority on this. And the Conditional Permit is when you're considering uses not in a

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specific zone. So it's for any zone, not just Agriculture. And the criteria that's used for that is those uses need to be similar, related, or compatible with those permitted uses. So if you look at the bottom, that's where the other similar uses in the area. And the criteria that's spelled out specifically in our Maui County Code is that the proposed use needs to be in harmony with the area in which it's to be located and again similar to the not adversely affecting surrounding properties. In this case, they say it shall not significantly detrimental, be detrimental to the public interests, convenience, or welfare. So for the permit conditions that are recommended, they're the same as the State Land Use Permit conditions. Now when you have two permits, the ones with the more restrictive condition will apply. So if the Council wants to put on more broad conditions, the applicant would then have to go back to the Planning Commission and request that the State Land Use Special Use Permit be amended. If the Council wants to put on more restrictive conditions, then those conditions would apply right there. So thank you very much, that's all I have for you.

CHAIR CARROLL: Thank you. We will now stand in recess for two minutes while we put up the screen. In recess. . . *(gavel)* . . .

RECESS: 2:11 p.m.

RECONVENE: 2:13 p.m.

CHAIR CARROLL: . . . *(gavel)* . . . This Land Use Committee meeting is called back to order. We...I'm going to now open the floor to the Members for discussion. The floor is now open. If you would like to ask Planning or anybody else any questions or if you have any comments.

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, we had the site inspection up there and that was, we ended up having a very nice day and got at least on the ground level look. It was hard to see in the PowerPoint so sorry for the Members who didn't actually go, was hard to really get the general feel of the area. But everything is laid out very nicely, and as I read through, I guess to cut to the chase, I support the conditions put on this. There was another wedding that wanted to be approved that got approved actually in Launiupoko and I voted against it because I knew it was gonna open the door for further, you know, other people to, it was gonna set the pace and set precedence. So even with all the conditions and I forget what the details were on that one, I just didn't, I still don't feel that weddings are appropriate in ag areas like this. I mean and that's what's tough about this one because they're doing some wonderful things with the ag portion and we just did this whole ag tourism bill and everything and that part, awesome, you know, and if this is to go through with these events and especially with the large numbers if, you know, I am not in favor of 800-plus or more. I mean it needs to be, like I said, the special events shall be limited to 50, 2 events a calendar month, amplified sound is

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prohibited, and ends by 8 o'clock, clean-up by 8:30. That is, I like those conditions, Chair, just so you know right up front. And because overall I'm not in favor of weddings and so if it is to occur and special events are to occur then these are what I'd like to see happen. But I guess that's pretty brief and straight to the point, Chair. I know since we had our meeting and this PowerPoint was created, I think I counted about ten letters of opposition in a sense them listing what they would be okay, they could live with. So it was like with reservations or with conditions in these letters of opposition. And then of course we had our pro testifiers here today. So overall...and this is nothing against the applicants at all, I think they're wonderful, I think they already do a wonderful job in Haiku and again, wonderful job with their ag portion of this project. It's just the idea of the special use that they're asking for is something that I in the past have not been supported of. So, Chair, that's what I have for now, thank you.

CHAIR CARROLL: Thank you, Ms. Cochran. Ms. Crivello, followed by Mr. Guzman.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I too did a site visit and very, very impressed. You know, after yesterday's meeting that we had with the Agriculture Working Group and then today, I am...it's interesting and I still have my own personal conflicts that farmers cannot really sustain farming without building structures on their ag lands that is contrary to, if I wanna say farming. Then the other aspect is, this application for an event, a special event which is wedding and which is, you know, their setup is fine. And I guess we allow it, and like Councilmember Cochran just mentioned an approval in the past sets precedent. So it puts us in a sort of awkward position and I don't know, you know. So I go back again to how do we, and I guess that's something that would, I would have to have the conversation with the real property people as to how we do fairness in the commercial aspects of the agriculture land as opposed to actual farming and, you know, what does that involve. I have to say that my first impression and what I've gathered or what information I've been able to derive from this business as well as the individual couple that's operating this, it's quite obvious that they're very hard workers and, you know, so I will support whatever you, your recommendation is, Chair, and on behalf of also from hearing from the Department. But if it is to move it forward, I support it with some reservations but I guess innovation is the theme. I guess I come from a place of kuaaina who, if you farming, you farming, you know, and, you know, you take the slop out to the pigs, you're gonna toil the, and till the soil and you make do, you make do. If you don't make do, it's bad crops or good crops, you know. I was raised on a farm and on Molokai I don't know if this is ever gonna be a trend so that's kinda why I have that conflict as to what is farming today? It's the new thing I guess, it's brand new, then maybe we have to look at the assignment of our land designations when it comes to Agriculture and as opposed to Commercial. But I know that I'm going off track from this particular agenda and I don't have any questions at the moment, and like I say, I'm quite impressed with the setup, and that being said, I just, maybe farming for me is in a different world, okay. Thank you.

CHAIR CARROLL: Thank you. Mr. Guzman?

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COUNCILMEMBER GUZMAN: Yeah thank you, Chair. I know during the presentation I believe that there was some conditions that were mentioned. Those were from, the conditions stated in here are from the Planning Commission but the additional conditions from the State, are they...

CHAIR CARROLL: The State Land Use Commission.

COUNCILMEMBER GUZMAN: Oh they were from the State Land Use Commission, the 50 persons for the events and they...

CHAIR CARROLL: Oh wait.

COUNCILMEMBER GUZMAN: I believe that was from our...

CHAIR CARROLL: I'm not sure which one...

COUNCILMEMBER GUZMAN: That was from our County Commission, correct?

CHAIR CARROLL: Mr. Spence, can you clarify that?

MR. SPENCE: Thank you, Mr. Chairman. No, the conditions are from our Land Use Commission, I mean our Planning Commission. Man I'm doing it myself. The conditions thus far because there's two permits and the conditions, whatever's placed on it are, both of them are going to be binding.

COUNCILMEMBER GUZMAN: Correct. On...the State conditions, were they presented on the, I guess on the presentation? Or were there...

MR. SPENCE: Yes they were.

COUNCILMEMBER GUZMAN: Okay.

MR. SPENCE: Yes they were. And we call it a State Land Use Commission Special Permit because it falls under the Land Use Commission's rules and it's under State law, but the State Commission delegates to the local Planning Commissions anything under 15 acres.

COUNCILMEMBER GUZMAN: Got it.

MR. SPENCE: So...

COUNCILMEMBER GUZMAN: So basically, Chair, we don't have the, I guess the authority to go above the 50 people. One of the conditions is 50 people on a special event. We don't have the authority to go above that.

CHAIR CARROLL: If we make changes like that it would have to go back again. Mr. Spence can clarify that or Corporation Counsel.

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COUNCILMEMBER GUZMAN: Correct.

CHAIR CARROLL: If we make that type of changes it would have to go back.

MR. SPENCE: As said, the conditions on both permits are binding. If you wanted to increase the number, really it would probably be on the applicant to go back and apply to the Maui Planning Commission to increase.

COUNCILMEMBER GUZMAN: I see.

MR. SPENCE: And...

COUNCILMEMBER GUZMAN: So basically the only authority that we have in this Committee is to be more restrictive, less than 50 people.

MR. SPENCE: Or add--

COUNCILMEMBER GUZMAN: Or add more conditions.

MR. SPENCE: --less than 50 or add something else that the Planning Commission did not add.

COUNCILMEMBER GUZMAN: Okay. I do recall that we had another property that I think Ms. Cochran mentioned, we put conditions on regarding events, wedding events as well and I think it was 50 people as well. Is that correct? I'm not sure.

MR. SPENCE: Twenty-five.

COUNCILMEMBER GUZMAN: That was...

UNIDENTIFIED SPEAKER: Twenty five.

MR. SPENCE: Okay that was for Mr. Jay Wisthoff.

COUNCILMEMBER GUZMAN: Right.

MR. SPENCE: Yeah, and that was 25 people.

COUNCILMEMBER GUZMAN: Twenty-five. Okay for how many, what was his acres?

MR. SPENCE: And it's a smaller lot.

COUNCILMEMBER GUZMAN: Smaller lot?

MR. SPENCE: Yeah. I should let you speak.

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COUNCILMEMBER GUZMAN: What was his acres? I just wanna compare the...okay, how big was his acres?

MS. FLAMMER: I believe he's two acres.

COUNCILMEMBER GUZMAN: Two acres? Okay and this is...okay, 27. Okay.

MR. SPENCE: And, Mr. Chairman?

COUNCILMEMBER GUZMAN: So I'm more than, you know...excuse me?

CHAIR CARROLL: Yes, Mr. Spence?

MR. SPENCE: I was just gonna comment two things. One, you know, the permit is for two years. They could, when they come back to reapply they could. If everything goes smoothly and there's no complaints and everything, they can apply for, you know, larger events or whatever. The, if there is a proposed amendment it would come back to this Committee and to the Council to change the conditions if, and to the Planning Commission of course. If it all remains the same after two years, you won't see this again until there is some kind of amendment.

COUNCILMEMBER GUZMAN: Yeah, Chair, just for my opinion I think that the conditions placed before us are reasonable and if the Director is indicating that at some point after the two years we can take a look at whether it in fact has been working well in the community, we could either increase or not approve another permit, permitted use to it. So I feel that based off of the, you know, the information that has been provided it's the largest I believe certified organic dragon fruit farm in the U.S. I'm very supportive of that. I love the fact that they're gonna do tours on it. I love the fact that they're gonna do some type of festival or introduction to the community with this type of organic fruit. That's all positive, anything that promotes agriculture. Also in support of anything that they can sell that's on their property to diversify their income. I know Mr. Victorino said in yesterday's meeting we never question...and I might steal this from you, Mr. Victorino, we never question a person that has two or three jobs and what they're working, you know, they just have three jobs. You know, and this is the same case, you know, farmers, these are hard times. We're in very changing, diversified times especially with our greatest open space being at jeopardy. If there's a way to keep open space, whether it's ag tourism or straight out, you know, large sectors of farming, I'm for it. Because when we fly over and land in Maui it's the most beautiful site you'll ever see. All that greenery, all that open space. And if it means hey, turning portions of that into tourism just to preserve it, gosh we gotta do something, I mean, 'cause times are changing and the economics for just straight out farming, you know, nationwide it's the lowest paid industry. Nobody really wants to be a farmer in this new generation. They need to really start diversifying and if...and I think diversification comes with conditions. We've gotta make sure we balance what we have, and again I'm supportive of their innovative ideas in going forward but also supportive of the type of conditions that are placed on it. Thank you, Chair.

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CHAIR CARROLL: Thank you, Mr. Guzman. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you for the opportunity to comment on this. In general I think everybody knows I'm in big support of ag tourism. I think that it's probably the way we're going to save ag. Because, you know, I'm very close to the rural ag community and every single one of them tells me how hard it is to make money and many of them are relatives. And I know that they're suffering and so they're looking for ways to supplement farm income so that they continue to farm; otherwise, they just give it up because there's no point. My grandfather used to say, if you can't make money, shut the store and so, you know, we want to preserve ag. So we're gonna have to do some, I don't know how to call it but we're gonna have to give and in order to get. And it distresses me when I read this testimony and I don't know how accurate it is or if it's exaggerated or what, about the impacts that this may have had in the past events. And I'm sure it's been thoroughly investigated because I'm sure Planning Commission and the Department have taken a close look and therefore the recommendations for limitations and conditions on the permit. But I am 100 support percent, in support of ag tourism. I am 100 percent in support of the dragon fruit. I've had the opportunity to enjoy it and it is a new product and it's absolutely delicious and very pretty. I attended a opening not too long ago of the new Bank of Hawaii branch in Kahului and they were serving dragon fruit cocktails and they were so pretty. Beautiful, beautiful cocktails, you know, in that purplish color with ice and they just were gorgeous and everybody enjoyed them. So it's a new product and I think there's a big market for it and I think we ought to encourage it. You know, we always talk about diversifying our economy and if we're gonna diversify our economy we have to look at new things. And we have to support people that come here and invest and take risks; otherwise, nobody's gonna come here and try to do it. However, I do not want to read about neighborhoods suffering from events that are disturbing or disruptive. And I like the idea that they would have to be small. I like the idea that there's hours restrictions on them. Recently I changed my attitude. I had never experienced the impact of this kind of activity but it is occurring now in a neighborhood where I live and I don't particularly care for it. So it's kind of altered my attitude about, you know, it can be very disruptive. You can have people parking all over the streets so you can hardly get through. You can have music until late at night, and when you're in a neighborhood where people wanna sleep, they don't like this kinda thing. So I am going to be supporting this with some reservations and the reservations are that everybody better follow these conditions because I don't wanna hear about neighborhoods suffering because of us doing this. We have to be respectful. We wanna respect ag, we want them to succeed but they also have to be respectful of the neighborhood they're doing it in. Thank you.

CHAIR CARROLL: Thank you, Ms. Baisa. Any further discussion? No further...mister...

COUNCILMEMBER COCHRAN: Mr. Victorino?

VICE-CHAIR VICTORINO: Well Ms. Cochran it's her area. I'll let everybody speak until I'm ready, go right ahead.

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COUNCILMEMBER COCHRAN: Okay, thank you.

VICE-CHAIR VICTORINO: 'Cause when I do speak, they will listen.

CHAIR CARROLL: Thank you, we appreciate your consideration, Mr. Victorino.

VICE-CHAIR VICTORINO: Thank you, you're more than welcome.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Mr. Victorino for the time. And so, Chair, just to be clear, are we setting our own conditions or are we just, are you incorporating what's been handed to us from Planning Commission to vote on?

CHAIR CARROLL: Right now what we're considering is what was presented to us from them. I have not written up any other conditions or presented any other conditions.

COUNCILMEMBER COCHRAN: Okay. And I guess for Department, has taxation been discussed in regards to these types of proposals?

CHAIR CARROLL: Ms. Flammer?

MS. FLAMMER: We transmitted the application to the Real Property Tax Division of the Finance Department and I don't believe they responded. And I...

COUNCILMEMBER COCHRAN: Okay.

MS. FLAMMER: We have not had...no they have not, we have not had a conversation with them about the taxation.

COUNCILMEMBER COCHRAN: Okay. Yeah I mean all the ag things we've been discussing especially this week I think really needs to hone in on that aspect with real property tax, Chair, you know, places are gonna be receiving more income. We also as the County need more income for, to run our world here for everyone else to live in and so I think it's only fair, you know, businesses would have to pay something. We all need to pay our share so that would be something to look at, but overall, Chair, in my opening comments I mentioned what I'm in support of if this is...I...and everyone's talking about the ag aspect which 100 percent beyond supportive, but now we're talking special events and other, you know, supplemental forms of income on this ag property. And that's where it gets to be talking, you know, outside of the boundaries of ag itself so that's my hardship in this, and also the, I guess the Hooilo project too that had occurred and I was a negative vote on that. We did set these restrictions and he has submitted testimony to us saying, you know, if I was put with these restrictions then I would like to see this one also. But not realizing there is a difference in the size of the property too, big difference in acreage so I can see why this

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one maybe can have a little more people at events. I saw the parking, I mean they have a very nice setup and the lawns and all that to accommodate. So, Chair, I'll just see how everyone else feels and what your recommendation is at this point. Thank you. Mr. Victorino?

CHAIR CARROLL: Thank you, Ms. Cochran. Mr. Victorino, you may have the floor.

VICE-CHAIR VICTORINO: You notice today I've been doing that. You know I just like to hear what my colleagues have to say and I can concur to a point with almost all of what's been said by my colleagues. And we are in a different economic base and I think now that we've seen the shutdown of HC&S, and I, you know, I use that as what the new model will be in ag. We will not have big agriculture production in this State from the time, once HC&S closes down. We'll never have it again. But being that's, and that being said now we come to a point where we have dragon fruit which I also enjoy and my wife really, really loves it. And so, you know, if I said no to this I'd probably go home to a cold bed but that's another story and that's really the power of our spouses, right, Ms. Baisa? I won't go any further. But more importantly, we've got to give these farmers and I agree, opportunity to survive, Mr. Chair. It is a difficult world. The Kogas, the Otanis, the Yamamuras, on and on and on, Sakugawas, all the old-time farmers, they struggled for years. Many of them had jobs, they weren't only farmers, they had jobs and then they come home and farm or they'd have family members farming. And most of them, if you look at their children, they're not farmers. They're teachers, lawyers, engineers, other occupations. So I ask, I like to ask them why? Why wouldn't you want your children to be farmers? Too much work, no consistency, no guarantee, hard time to survive. And that was their response almost invariably across the board. So today those who come here and tell me, oh we can do all these kinds of farming, organic farming and this type of farming and that type of farming, Mr. Chair, it is not easy, it is not easy. So I wanna give the different farmers like Ms. Baisa said, an opportunity to survive. I have no qualms with some conditions. Especially with the aspect that, and if it's not there I will ask for an amendment to be reviewed in two years if it's not there 'cause I would like to see how these things work. Even if I'm not in this chair, I don't care who's in this chair, they should see what and how it work. I think I've really been a proponent of, let's see what two or three years down the row [sic] carries for these types of businesses or for these policies so that we don't wait 'til it gets egregiously outta hand and having all kinds of problems and then they run in and we gotta panic to make a change. Let's be proactive not reactive. So if it's not in, and I've read, I've seen where some of these issues were brought up by the Planning Commission and I'm all for their conditions, most of them are very feasible and realistic. You know, sorry you can't go to 10:00, 8:30, I think that's feasible when you're talking large parties. And I hope they'll never use Japanese lanterns again, not in that area. We should not have any ability to launch any type of fireworks or fire apparatus, or fire items because that is one of the most driest areas in all of Maui County. And you just saw what happened, not Launiupoko but in the Pali last week and I too got stuck coming back, I could not get back. So we don't wanna promote any kind of activity that would have an adverse effect such as a brush fire or something of that nature. Plus on top of that putting other properties in harm's way, in both theirs and others. So I can support your recommendation whatever it may be.

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I think the Maui Planning Commission from what I read, did a real thorough job venting [sic] this through. I thank the Planning Department because they've come back with some recommendation. I hope this helps this industry and helps these people continue to be farmers. And if this is the wave of the future, then I think we've gotta start looking at policies, whether it's real property and other issues, to help these people continue to promote their products here, not only here in Maui but maybe outside of Maui County. But we do know...and finally I'll close with this, we do know that we're 2,300 miles smack dab in the Pacific Ocean and the big thing that costs us, whether we bring it in or send it out, is freight. And until we can get the prices to be almost even as far as like going to Cash n' Carry or whatever they call it now where you can buy regular onions for \$1.29 and here's Kula onions right next door to it at \$2.69. How do you tell a young family who's struggling, who can barely make ends meet, go buy the Kula onions because they're locally grown. Oh I'm all for Kula onions, we love Kula onions and we have the means to buy it; but some young family who's struggling, they can't. They've gotta feed their family, right, Ms. Oana? You know, I look at young families that are out there. Us, most of us in this room except Mr. Guzman are on the older side of the spectrum, okay, and leave Ms. Cochran out because she's halfway. I no like offend people but I can just see the daggers flying at me. But I will close...hey, cuz, no, please. Anyhow, I'm saying let's, I'd like to bring this forward. I'd like to make sure that in couple years it comes back to be reviewed whether it's in here or we have to put it in here and that the restrictions that have been suggested, the conditions I should say, should be followed. I'd like to see that taken care of, Mr. Chair. Other than that, I'd like to give them a shot. I really, really would like to give them a shot. Thank you, Mr. Chair.

CHAIR CARROLL: Thank you, Mr. Victorino. Any further discussion before I give my recommendation?

COUNCILMEMBERS: Recommendation?

CHAIR CARROLL: The Chair will entertain a motion to recommend passage on first reading of the proposed bill entitled 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; incorporating any nonsubstantive revisions and the filing of County Communication 15-277.

VICE-CHAIR VICTORINO: Mr. Chair, I make that motion.

COUNCILMEMBER GUZMAN: Second. Second, Chair.

CHAIR CARROLL: Seconded by Mr. Guzman. Discussion?

VICE-CHAIR VICTORINO: Chair, I just want assurances from the Department, this is the question. Are we sure that this could come back, will come back in two years for

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review? See, because I seen Ms. Oana shaking her head. But anyhow let's clarify that because if not, I'd like to make an amendment for that purpose.

MS. FLAMMER: Okay, it's worth clarifying.

VICE-CHAIR VICTORINO: Thank you.

MS. FLAMMER: A couple of years ago there was a amendment to 19.40 which is your language that governs conditional permits. It said that renewals will come back to the County Council only when there is one or more complaints. So what the procedure is is they request a renewal. Notices of the renewal is sent out to every owner within 500 feet. If one complaint comes back, that application, the renewal application is then processed in the same manner as the original which means it goes to the Planning Commission and then it comes to the County Council. If there are no complaints, the Director has the ability to administratively renew it.

VICE-CHAIR VICTORINO: Well with that being said, Mr. Chair, and probably we would get a complaint but just in case there is none then I'd like to amend to ensure that in two years this particular permit would come back to us for review. So I don't know the exact words and maybe the Staff can help me with the wording but I'd like to have a review of this particular application in two years.

COUNCILMEMBER COCHRAN: Is that a motion? Is that a motion?

VICE-CHAIR VICTORINO: That's a motion but I'm not sure...

COUNCILMEMBER COCHRAN: Second.

COUNCILMEMBER BAISA: Have to have a second.

COUNCILMEMBER COCHRAN: Second, Mr. Victorino, for discussion.

VICE-CHAIR VICTORINO: Yeah. And, you know, if you can...I'm not sure if that's exactly the wording we could use but what the intent is, to have it reviewed in two years upon approval, final approval whether that would be...

CHAIR CARROLL: Alright, Members --

VICE-CHAIR VICTORINO: Okay, I'm sorry.

CHAIR CARROLL: --that would be, the motion would be that the application we have before us today would be reviewed by the County Council in two years, when the two years is done. And we have over here about non-substantial revisions, if you will allow Staff to work on the wording. Mr. Jensen?

MR. JENSEN: Mr. Chair, it may be appropriate in the proposed bill Section 2, Paragraph 2 is all about the renewal and it currently states that the extension of this Conditional

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Permit beyond this two year period, well for a period of two years from the effective date of the ordinance provide an extension of this permit beyond the two year period may be granted pursuant to Section 19.40.090 Maui County Code, and perhaps that could be substituted by Council approval.

VICE-CHAIR VICTORINO: Yes, I would like that to be put in as a substitute, Mr. Chair.

CHAIR CARROLL: Alright, that is a motion from Mr. Victorino.

COUNCILMEMBER GUZMAN: Second.

CHAIR CARROLL: Seconded by Mr. Guzman. Discussion? Hearing none, all in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," one excused.

**VOTE: AYES: Chair Carroll, Vice-Chair Victorino,
Councilmembers Baisa, Cochran, Crivello,
and Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Couch.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Further discussion?

COUNCILMEMBER GUZMAN: Chair? Chair?

CHAIR CARROLL: I'm sorry, Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you. I have another question for the Department, in the discussion stage here. The floating lanterns that have combustible material in it that floats, is that included here in this section where it says that all exterior lighting shall be downward shielded or no? That's...

MR. SPENCE: No that's not included.

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COUNCILMEMBER GUZMAN: Okay, so I, Chair, I would like to put in as one of the conditions that there be no floating lanterns --

MR. SPENCE: Or --

COUNCILMEMBER GUZMAN: --or --

MR. SPENCE: --no --

COUNCILMEMBER GUZMAN: --floating --

MR. SPENCE: --combustible --

COUNCILMEMBER GUZMAN: --combustible --

VICE-CHAIR VICTORINO: Combustible, yeah.

MR. SPENCE: --displays --

COUNCILMEMBER GUZMAN: --flames or...

MR. SPENCE: --or decorations.

COUNCILMEMBER GUZMAN: Right. That float in the air.

MR. SPENCE: Or things with flames.

COUNCILMEMBER GUZMAN: Right. Things...yeah. I don't know how...

VICE-CHAIR VICTORINO: I second that motion.

COUNCILMEMBER GUZMAN: Flammable decorations or kites that fly.

COUNCILMEMBER COCHRAN: Chair?

COUNCILMEMBER GUZMAN: Whatever it may be.

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Mr. Jensen, were you listening?

COUNCILMEMBER COCHRAN: Or for...Chair?

CHAIR CARROLL: Ms. Cochran?

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COUNCILMEMBER COCHRAN: And for Department I guess in regards to the review and approval required by Fire Prevention Bureau for events, somewhere in there maybe? Should they, I guess they're not asked like what kinda props are you using or are you flying hot air balloons, I mean I guess Fire Prevention...I guess at the time they had that event they didn't have a permit right?

VICE-CHAIR VICTORINO: Yeah, so...

COUNCILMEMBER COCHRAN: To be reviewed by anybody I guess.

VICE-CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: So from here on out I suppose would Fire Prevention ask such questions is I guess what I'm trying to get at. Does that kind of cover that?

COUNCILMEMBER GUZMAN: Yeah that could be in that Section 19, the review and approval is required by the Fire Prevention Bureau for events open to public. And then you could add in for tents, canopies, flying decorative aspects, ancillary language in there to --

VICE-CHAIR VICTORINO: Mr. Guzman...

COUNCILMEMBER GUZMAN: --trigger the review.

VICE-CHAIR VICTORINO: And not only open to the public but even for private events like weddings.

COUNCILMEMBER GUZMAN: Oh right, right, right.

VICE-CHAIR VICTORINO: So I would like to have, I know we're adding a lot so maybe we wanna take a quick recess to make sure we put this one correctly, Mr. Chair, if that's alright with you.

CHAIR CARROLL: It's almost time for recess anyway so we'll take a...is five minutes enough or do you need some more?

VICE-CHAIR VICTORINO: I don't know, how long you need, Mr. Chair?

COUNCILMEMBER BAISA: Call of the Chair.

CHAIR CARROLL: Five minute recess, we stand in recess. . . .(gavel). . .

RECESS: 2:47 p.m.

RECONVENE: 3:20 p.m.

LAND USE COMMITTEE
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CHAIR CARROLL: . . .(gavel). . . The Land Use Committee meeting called back to order.
Mr. Victorino?

VICE-CHAIR VICTORINO: Oh, okay, okay. Mr. Chair, I'd like to withdraw my motion that I
made earlier.

CHAIR CARROLL: Is there any objection to withdrawing the motion?

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Thank you. Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you, Chair. And I would like to make a motion that a
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 for this Conditional Permit beyond the
two-year period, provided Maui Dragon Fruit Farm LLC complies with the application
requirements of Section 14.04.090(A), Maui County Code, and that notice
requirements of this Section 19.04.090(B), of the Maui County Code.

COUNCILMEMBER COCHRAN: Second.

CHAIR CARROLL: Is there a second?

VICE-CHAIR VICTORINO: After that, if nobody was to second that, I would be so
disappointed.

COUNCILMEMBER COCHRAN: Second.

CHAIR CARROLL: Alright, whoever seconded raise their hand. Alright, seconded by
Elle Cochran. Mr. Victorino?

VICE-CHAIR VICTORINO: Well, I think Mr. Guzman wanted to say something. Go ahead.

COUNCILMEMBER GUZMAN: Oh, no, I...this was for Condition No. 2, correct?

VICE-CHAIR VICTORINO: That's correct.

COUNCILMEMBER GUZMAN: Okay, thank you.

VICE-CHAIR VICTORINO: That's correct.

CHAIR CARROLL: Any further discussion to the motion on the floor, which has been
distributed to everyone? Seeing none, all in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

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CHAIR CARROLL: Opposed? Motion carries, six "ayes," one excused.

**VOTE: AYES: Chair Carroll, Vice-Chair Victorino,
Councilmembers Baisa, Cochran, Crivello,
and Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Couch.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I'd like to make a motion to revise Condition No. 19 to read as follows. By deleting the period after "utilized" and adding the language as follows "or when open flames such as lanterns or bonfires or other potential fire hazards will be used." I'll read it in its entirety as Condition No. 19 as amended, "That review and approval are required by the Fire Prevention Bureau for events open to the public with 50 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."

VICE-CHAIR VICTORINO: Second, Mr. Chair.

CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Mr. Victorino. Discussion, Mr. Guzman?

COUNCILMEMBER GUZMAN: Nothing further.

CHAIR CARROLL: Any further discussion?

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR CARROLL: Mister...

VICE-CHAIR VICTORINO: With your permission, I'd like to call the owners down, if you would allow that, so that we can ask them what they think of these two conditions and if they're okay with it. Not to say we're gonna vote one way or the other, but I'd like to hear from the owners first, please, if that is allowable.

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CHAIR CARROLL: If we have the...Members, is there any objection? No objection?

COUNCILMEMBERS: No.

COUNCILMEMBER BAISA: Brief.

CHAIR CARROLL: Mr. Victorino?

VICE-CHAIR VICTORINO: You've heard the two conditions as been stated that the revision of Condition 19 and revision of Condition No. 2. Do you have any objections to these two conditions as revised?

MS. SCHMITT: Okay, just to look it real quickly.

MR. SCHMITT: I think I...no objection.

MS. SCHMITT: No objection, and I also want to spend one minute talking that first of all, public safety, our guest safety, and our employee safety is our ultimate concern. We would never, never want to put anybody in danger. I just talked to Gordon. Our goal is to do good, we don't wanna do anything bad. We wanna be good, we wanna be useful, and nice to the society. So anything, all this, you know, anything for public safety, for ourselves, for our neighbors, we're all for it.

VICE-CHAIR VICTORINO: Okay. Thank you very much, Chair. And thank you very much for answering the question.

CHAIR CARROLL: Any further discussion? Hearing none, all in favor of the motion, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," one excused.

**VOTE: AYES: Chair Carroll, Vice-Chair Victorino,
Councilmembers Baisa, Cochran, Crivello,
and Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Couch.

MOTION CARRIED.

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ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Members, we are back to the main motion as amended. Any further discussion?

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: I'm just gonna be I guess straight across the board like I mentioned for the, Mr. Wisthoff I believe was the other applicant for weddings in Launiupoko and I was in opposition. I'm gonna follow suit on this one. And again it's nothing against farming or the applicants. It's just that I'm gonna stick to my standard and I don't like that idea in this area. So, thank you, Chair.

CHAIR CARROLL: Thank you. Any further discussion? All in favor of the motion, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed?

COUNCILMEMBER COCHRAN: No.

CHAIR CARROLL: We got five "ayes," one "no," one excused, motion passes

**VOTE: AYES: Chair Carroll, Vice-Chair Victorino,
Councilmembers Baisa, Crivello, and
Guzman.**

NOES: Councilmember Cochran.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Couch.

MOTION CARRIED.

ACTION: FIRST READING of a revised bill and **FILING** of communication.

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CHAIR CARROLL: Members, this brings us to the end of our meeting today. Thank you very much. And thank you very much for your patience while we worked out the language for the amendments, it's deeply appreciated. And thank you to our audience for staying around and those in television land for watching us today. Having no further business, this Land Use Committee meeting stands adjourned. . . .(gavel). . .

ADJOURN: 3:28 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:160127:lp

Transcribed by: Lisanne Paikai

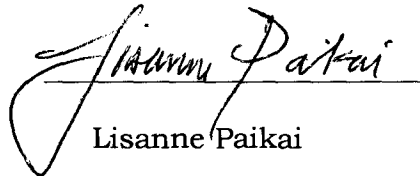
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CERTIFICATE

I, Lianne Paikai, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 16th day of February, 2016, in Kahului, Hawaii


Lianne Paikai