

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

February 26, 2016

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on January 6, 2016 (site inspection), and January 27, 2016, makes reference to County Communication 15-277, from the Planning Director, transmitting a 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."

The purpose of the proposed bill is to grant a request from Lawrence and Crystal Schmitt of Maui Dragon Fruit 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 property within the County Agricultural District at 833 Punakea Loop, Lahaina, Maui, Hawaii.

Your Committee notes a State Special Permit was approved by the Maui Planning Commission after a Public Hearing on March 24, 2015. Your Committee further notes the Commission recommended approval of the Conditional Permit. The Department of Planning found the project meets the criteria for the issuance of a Conditional Permit.

Your Committee revised the proposed bill to expand the requirement for review and approval by the Fire Prevention Bureau to include any events using open flames or other potential fire hazards. Your Committee also revised the bill by requiring Council approval of any extension of the Conditional Permit beyond the initial two-year period,

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notwithstanding the Planning Director's general authority to approve time extensions pursuant to Section 19.40.090(C), Maui County Code.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair Victorino, and members Baisa, Cochran, Crivello, and Guzman voted "aye." Committee member Couch was excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2016), as revised herein and attached hereto, 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," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-277 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

lu:cr:16017aa:scj

ORDINANCE NO. _____

BILL NO. _____ (2016)

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:



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