

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

March 19, 2010

**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 March 3, 2010, makes reference to County Communication No. 09-292, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO THE EDWARD D. THIELK REVOCABLE TRUST IN ORDER TO USE EIGHT OFF-SITE PARKING STALLS WITHIN THE COUNTY R-1 RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT PAIA, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from the Edward D. Thielk Revocable Trust, on behalf of Mana Foods, for a Conditional Permit, valid until March 31, 2012 (when the lease agreement expires), to allow for the use of eight offsite parking stalls within the County R-1 Residential District, situated at 81 Baldwin Avenue, Paia, Maui, Hawaii (TMK: (2) 2-6-06:030). The subject property is owned by Karma Rimay O Sal Ling Church and is located approximately 250 feet away from Mana Foods, a grocery store. The proposed location for the offsite parking stalls, therefore, conforms with Section 19.36A.030, Maui County Code, which requires that parking stalls be within 400 feet of the lot they serve. A Conditional Permit is required because parking for commercial use is not a permitted use in the County R-1 Residential District.

Your Committee notes that the subject property currently contains a graveled parking area that would accommodate the offsite parking stalls. Your Committee discussed paving requirements for the stalls under the Maui County Code.

A Planner from the Department of Planning informed your Committee that she had spoken with the property owner's representative and learned that Karma Rimay O Sal Ling Church intends to renew its lease with Mana Foods, and that the designated parking stalls would be for the exclusive use of the grocery store. Upon the Department of Planning's recommendation, your Committee voted to recommend that the duration of the Conditional Permit be revised to March 31, 2015.

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**Committee**  
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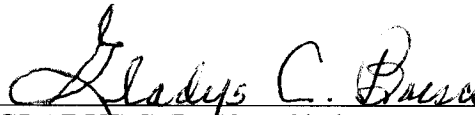
Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading, incorporating the revision made by your Committee, and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Mateo, Medeiros, Nishiki, Pontanilla, and Victorino voted "aye". Committee members Johnson and Kaho`ohalahala were 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 revision and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO THE EDWARD D. THIELK REVOCABLE TRUST IN ORDER TO USE EIGHT OFF-SITE PARKING STALLS WITHIN THE COUNTY R-1 RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT PAIA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-292 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
GLADYS C. BAISA, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2010)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO THE EDWARD D. THIELK REVOCABLE TRUST IN ORDER TO USE EIGHT OFF-SITE PARKING STALLS WITHIN THE COUNTY R-1 RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT PAIA, 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 the Edward D. Thielk Revocable Trust in order to use eight off-site parking stalls within the County R-1 Residential District. The site is identified for real property tax purposes by Tax Map Key Number: (2)2-6-006:030, comprised of approximately 10,385 square feet of land situated at Paia, Maui, Hawaii.

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

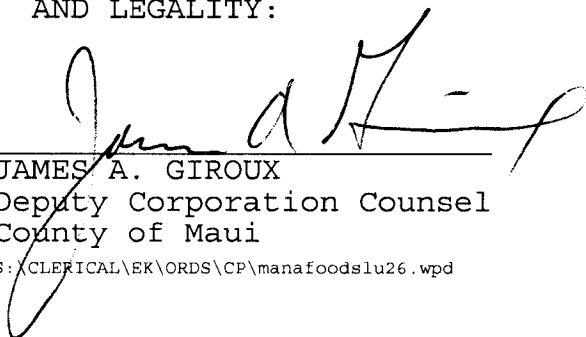
1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid until March 31, 2015; provided, that an extension of this Conditional Permit beyond this time period may be granted pursuant to Section 19.40.090, Maui County Code.
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
4. That the Edward D. Thielk Revocable Trust, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by 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 ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the Edward D. Thielk Revocable Trust and 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 the Edward D. Thielk Revocable Trust 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 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 the Edward D. Thielk Revocable Trust shall develop 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 fully shielded low level lighting shall be used in the parking lot and within the landscaped areas.

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

APPROVED AS TO FORM  
AND LEGALITY:



JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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