

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

September 11, 2020

Committee
Report No. _____

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on August 12, 2020, makes reference to County Communication 20-273, from the Planning Director, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO TRINA T. PINSKY TO ESTABLISH AND OPERATE THE HALEAKALA UPCOUNTRY MARKET TO SELL FLOWERS, VEGETABLES, AND MADE-ON-MAUI PRODUCTS AND TO OPERATE A FOOD TRUCK ON APPROXIMATELY 2.53 ACRES OF LAND IN THE STATE AND COUNTY RURAL DISTRICT AT 16155 HALEAKALA HIGHWAY, TMK: (2) 2-3-013:025-0001, KULA, ISLAND OF MAUI, HAWAII.”

The purpose of the proposed bill is to grant Trina T. Pinsky a three-year Conditional Permit to establish and operate the Haleakala Upcountry Market to sell flowers, vegetables, and made-on-Maui products and to operate a food truck on 2.53 acres in the State and County Rural District located at 16157 Haleakala Highway, Kula, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 2-3-013:025-0001.

Your Committee notes market and food truck operations are not permitted uses in the State and County Rural District. Therefore, a Conditional Permit is required to conduct the proposed business.

Your Committee notes the Maui Planning Commission reviewed the Conditional Permit application during a public hearing on December 10, 2019, and recommended approval of the bill subject to enumerated conditions, including a requirement for an American Disabilities Act-compliant bathroom.

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Your Committee notes the prior property owners received a ten-year Conditional Permit to operate the Sunrise Market and Protea Farm by Ordinance 3088 (2002).

Your Committee added a condition to exclude vehicles larger than 16-passenger capacity from the property to address community concerns about increased traffic.

Your Committee also added a condition establishing limits on operating hours to between 7:30 a.m. and 6:30 p.m. to foster greater cohesion with neighboring residential uses.

Your Committee expressed support for the applicant's proposed business, which would continue a historic use of the property and provide needed commercial services in the Makawao-Pukalani-Kula Community Plan area.

Your Committee voted 7-0 to recommend passage of the proposed bill, as amended, and filing of the communication. Committee Chair Paltin, Vice-Chair Sinenci, and members King, Lee, Molina, Rawlins-Fernandez, and Sugimura voted "aye."

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO TRINA T. PINSKY TO ESTABLISH AND OPERATE THE HALEAKALA UPCOUNTRY MARKET TO SELL FLOWERS, VEGETABLES, AND MADE-ON-MAUI PRODUCTS AND TO OPERATE A FOOD TRUCK ON APPROXIMATELY 2.53 ACRES OF LAND IN THE STATE AND COUNTY RURAL DISTRICT AT 16157 HALEAKALA HIGHWAY, TMK: (2) 2-3-013:025-0001, KULA, ISLAND OF MAUI, HAWAII," incorporating your Committee's amendments and nonsubstantive revisions.

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Your Planning and Sustainable Land Use Committee
RECOMMENDS the following:

1. That Bill _____ (2020), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO TRINA T. PINSKY TO ESTABLISH AND OPERATE THE HALEAKALA UPCOUNTRY MARKET TO SELL FLOWERS, VEGETABLES, AND MADE-ON-MAUI PRODUCTS AND TO OPERATE A FOOD TRUCK ON APPROXIMATELY 2.53 ACRES OF LAND IN THE STATE AND COUNTY RURAL DISTRICT AT 16157 HALEAKALA HIGHWAY, TMK: (2) 2-3-013:025-0001, KULA, ISLAND OF MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 20-273 be FILED.

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



TAMARA PALTIN, Chair

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT
TO TRINA T. PINSKY TO ESTABLISH AND OPERATE THE
HALEAKALA UPCOUNTRY MARKET TO SELL FLOWERS,
VEGETABLES, AND MADE-ON-MAUI PRODUCTS AND TO
OPERATE A FOOD TRUCK ON APPROXIMATELY 2.53 ACRES OF
LAND IN THE STATE AND COUNTY RURAL DISTRICT AT 16157
HALEAKALA HIGHWAY, TMK: (2) 2-3-013:025-0001, KULA,
ISLAND OF MAUI, HAWAII

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

SECTION 1. In accordance with Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is granted to Trina T. Pinsky (the "Applicant") to establish and operate the Haleakala Upcountry Market to sell flowers, vegetables, and made-on-Maui products and to operate a food truck on land in the State and County Rural District. The site for the Haleakala Upcountry Market and food truck is identified for real property tax purposes by tax map key number: (2) 2-3-013:025-0001, comprising approximately 2.53 acres of land situated at Kula, Maui, Hawaii.

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

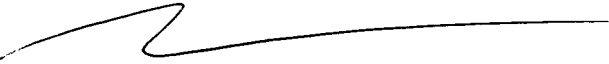
1. The Applicant must comply with all applicable government requirements, including the conditions of the Land Use Commission Special Use Permit.

2. The Conditional Permit is valid for three years from the effective date of this ordinance. An extension of this Conditional Permit beyond the three-year period may be granted in accordance with Section 19.40.090, Maui County Code.
3. The Conditional Permit is nontransferable, unless the Maui County Council pre-approves the transfer by ordinance.
4. The Applicant, its successors, and permitted assigns must exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit, and must procure and maintain, at its own expense, during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 naming the County of Maui as an additional insured, insuring and defending the Applicant, Haleakala Upcountry Market, and County of Maui against any and all claims or demands for property damage, personal injury, and death arising out of the Conditional Permit, including: (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 Applicant of its rights; and (2) actions, suits, damages, and claims by anyone or made by reason of the nonobservance or nonperformance of any of the terms and conditions of the Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured must be submitted to the Department of Planning within ninety calendar days from the effective date of this ordinance. The proof of insurance and all subsequent certifications of insurance coverage must be submitted directly by the Applicant to the Department of Planning and must include the applicable tax map key and permit numbers.
5. The Applicant must develop the property in substantial compliance with the representations made to the Maui County Council and Council's Planning and Sustainable Land Use Committee in obtaining the Conditional Permit. Failure to develop the property as represented may result in the revocation of the Conditional Permit in accordance with Section 19.40.080, Maui County Code.
6. The Applicant must use low-level lighting on each building and within the landscaped areas on the property, and any parking lot lighting must be fully shielded.

7. The Applicant must provide one ADA-accessible restroom for customers and employees and a separate hand-washing station prior to operation of either the Haleakala Upcountry Market or the food truck.
8. The Applicant may not operate before 7:30 a.m. or after 6:30 p.m.
9. The Applicant may not receive vehicles with seating capacities larger than 16 passengers.

SECTION 3. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

pslu:misc:060abill01:alkd