



A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT WAIPIO, EWA, OAHU, HAWAII.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Zoning Map No. 9, Waipio (Crestview), Ordinance 86-111, is hereby amended as follows: Land situated at Waipio, Ewa, Oahu, Hawaii, hereinafter described, is hereby rezoned from I-2 Intensive Industrial District to IMX-1 Industrial-Commercial Mixed Use District with a 60-foot height limit. The boundaries and area of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key 9-4-099:041.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.



A BILL FOR AN ORDINANCE

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

INTRODUCED BY:

[Signature]

(br)

DATE OF INTRODUCTION:

FEB 18 2010

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

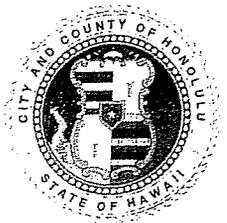
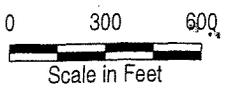
[Signature]
Deputy Corporation Counsel

APPROVED this 6th day of May, 20 10.

[Signature]
MUFU HANNEMANN, Mayor
City and County of Honolulu



**PORTION OF
ZONING MAP NO. 9
WAIPIO (CRESTVIEW)**



APPLICANT: Hawaii United Okinawa Association
 TAX MAP KEY(S): 9-4-099: 041
 FOLDER NO.: 2009/Z-4
 LAND AREA: 1.99 Ac.

PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING
 CITY AND COUNTY OF HONOLULU

PUBLIC HEARING PLANNING COMMISSION CITY COUNCIL

ORD. NO. 10-7

JAN 20 2010

MAR 17 2010

2009/Z-4

EFF. DATE: MAY 06 2010

EXHIBIT A

BILL 11 (2010)

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

DOCUMENT NO. Doc 3956499
CTN 815,946
DATE APR 19, 2010 12:00 PM

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (x) TO:

Aolani Yamasato-Gragas
1100 Ward Avenue Suite 760
Honolulu, Hawaii 96814

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for
Conditional Zoning

PARTY(IES) TO DOCUMENT:

TAX MAP KEY NO. (1) 9-4-099: 041

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 16 day of April, 2010, by Hawaii United Okinawa Association, a Hawaii 501(c)3 non-profit organization, whose address is 94-578 Ukee Street (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in the Waipio Gentry Business Park, consisting of approximately 1.99 acres, described as Tax Map Key No. (1) 9-4-099: 041, and more particularly described in attached Exhibit A hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to develop a commercial office/retail building on the Land (the "Project"); and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from I-2 Intensive Industrial District with a 60-foot height limit to IMX-1 Industrial-Commercial Mixed Use District with a 60-foot height limit (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 11 (2010), was held by the Council on March 17, 2010; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 84 that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance");

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. **Transportation.** The Declarant shall submit the following to the Department of Planning and Permitting ("DPP"), the Department of Transportation Services ("DTS"), and the State Department of Transportation ("SDOT"). DPP, in consultation with the DTS and SDOT, shall approve all submittals prior to issuance of specified permits.
 - a. Prior to submittal of an application for the first building permit, a draft traffic management plan ("TMP") shall be submitted and shall include traffic demand management ("TDM") strategies in an effort to

minimize the amount of vehicular trips being generated by the new development. TDM strategies could include carpooling and ride sharing programs, transit incentives and other similar TDM measures. A management plan for the proposed utilization of overflow parking at this site for the existing Hawaii Okinawa Center shall also be provided and shall include management measures for both vehicular and pedestrian traffic. A final TMP shall be submitted and approved, prior to issuance of the last certificate of occupancy associated with the buildout of the Project.

- b. Within six months after full buildout of the Project, an update to the traffic impact analysis report ("TIAR") shall be submitted which validates the projected trip generation, pass-by trip rates and assignment volumes at each driveway, as contained in reports previously submitted to DPP. The update shall identify any subsequent traffic mitigation measures necessary to support the development of this parcel. If the update identifies such measures, then the cost of these improvements shall be borne by the Declarant. However if off-site traffic improvements to State highways are identified in the update and are requested by SDOT, then such improvements shall be a matter to be resolved between the Declarant and SDOT.
- c. Prior to the first submittal of an application for a grading, subdivision or building permit, a time line of the anticipated dates for the commencement of construction and occupancy of the development shall be prepared by the Declarant and submitted to DPP, specifying when the TMP and updates to the TIAR will be conducted. As needed, the Declarant shall update the timeline.
- d. Prior to submittal of an application for the first building permit, a construction management plan ("CMP") shall be submitted to DPP and shall identify the type, frequency and routing of heavy trucks and construction related vehicles. Every effort should be made to minimize impacts from these vehicles and related

construction activities. The CMP should include provisions to limit vehicular activity to periods outside of the peak periods of traffic, utilizing alternate routes for heavy trucks and other mitigative measures related to traffic. The Declarant shall document the condition of roadways prior to the start of construction activities and shall provide remedial measures, as necessary, such as restriping, road resurfacing and/or reconstruction, if the condition of the roadways has deteriorated as a result of the construction activities.

2. **Compliance with Other Governmental Requirements.** The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental provisions and requirements.
3. **Annual Status Report.** On an annual basis, the Declarant shall submit a written status report to DPP documenting its satisfaction and/or describing its progress toward complying with each condition of approval for this zone change. This status report shall be submitted to DPP by December 31 of each year until such time as DPP has determined that all conditions of approval have been satisfied. Failure to do so may result in delays in processing of further permits.
4. **Noncompliance or Failure to Fulfill Any Conditions.** In the event of noncompliance with any of the conditions set forth herein, the Director of DPP shall inform the Council and may institute action to terminate or stop the Project until the applicable conditions are met. Noncompliance also may be grounds for revocation of the permits issued under this zone change.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

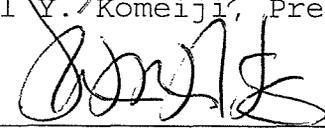
IN WITNESS WHEREOF, the parties hereto have executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANT:

HAWAII UNITED OKINAWA ASSOCIATION

By 

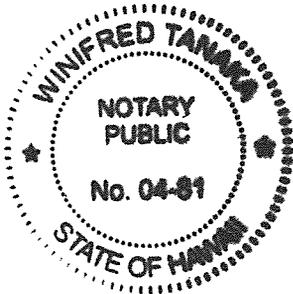
Paul Y. Komeiji, President

By 

Norman M. Nakasone, President-elect

STATE OF HAWAII)
) ss:
CITY AND COUNTY OF HONOLULU)

On this 16th day of April, 2010, before me appeared Paul Y. Komeiji, to me personally known, who being duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Winifred Tanaka

Notary Public, State of Hawaii

My commission expires: _____

WINIFRED TANAKA
My commission expires: **Feb. 29, 2012**

Doc. Date: APR 16 2010 # Pages 5
Notary Name: Winifred Tanaka Circuit
Doc. Description: Unilateral Agreement
and Declaration for Conditional
Zoning
Winifred Tanaka APR 16 2010
Notary Signature Date
NOTARY CERTIFICATION

EXHIBIT A

All of that certain parcel of land situate at Waipio, Ewa, Island of Oahu, State of Hawaii, described as follows:

✓ **LOT 7870**, area 86,681 square feet, more or less, as shown on Map 510, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1000 of John Ii Estate, Limited.

BEING the land described in TRANSFER CERTIFICATE OF TITLE NO. 815,946 issued to HAWAII UNITED OKINAWA ASSOCIATION, a Hawaii nonprofit corporation. ✓

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR: GENTRY-PACIFIC, LTD., a Hawaii corporation

GRANTEE: HAWAII UNITED OKINAWA ASSOCIATION, a Hawaii nonprofit corporation

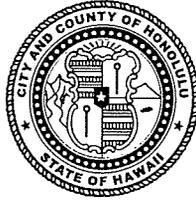
DATED: July 28, 2008

FILED: Land Court Document No. 3459799

END OF EXHIBIT A

10-7
DEPARTMENT OF THE CORPORATION COUNSEL
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 110 • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-5193 • FAX: (808) 768-5105 • INTERNET: www.honolulu.gov



MUFI HANNEMANN
MAYOR

CARRIE K.S. OKINAGA
CORPORATION COUNSEL

DONNA M. WOO
FIRST DEPUTY CORPORATION COUNSEL

April 20, 2010

The Honorable Todd K. Apo, Chair
and Members of the City Council
City and County of Honolulu
Honolulu, Hawaii 96813

Dear Council Chair Apo and Councilmembers:

Re: Bill No. 11 (2010) – Unilateral Agreement and Declaration for Conditional Zoning for Zone Change in Waipio, Hawaii (2009/Z-4)

This letter is to advise you that the above-referenced Unilateral Agreement and Declaration for Conditional Zoning (hereinafter called the “Unilateral Agreement,” a copy of which is attached) has been recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3956499.

The recordation is required by Section 21-2.80, Revised Ordinances of Honolulu 1990, as amended. We have reviewed the property description and data attached to the Unilateral Agreement and conclude that the Unilateral Agreement has been recorded in the appropriate recording system (Land Court), that the property description is complete, and that the document has been signed by the proper parties.

In view of the above, we conclude that the Unilateral Agreement has been appropriately recorded as required by Section 21-2.80, Revised Ordinances of Honolulu 1990, as amended, and the Council may consider further action on Bill 11 (2010), as it deems appropriate.

Very truly yours,


DON S. KITAOKA
Deputy Corporation Counsel

APPROVED:


CARRIE K.S. OKINAGA
Corporation Counsel

DEPT. COM. 293

DSK:ml
Attach.
10-02087/120097

10-7

COUNCIL

2010 APR 20 PM 1:56
CARRIE K.S. OKINAGA
CITY CLERK
CITY AND COUNTY OF HONOLULU

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

ORDINANCE

BILL 11 (2010)

Introduced: 2/18/10 By: ¹⁰⁻⁷TODD APO (BR)

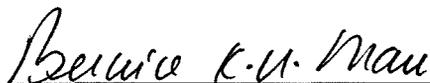
Committee: ZONING

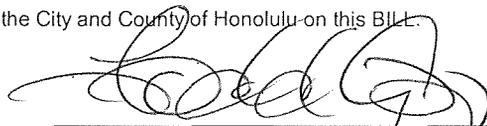
Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT WAIPIO, EWA, OAHU, HAWAII.

Links: [BILL 11 \(2010\)](#)
[CR-63](#)
[CR-84](#)

COUNCIL	02/24/10	BILL PASSED FIRST READING AND REFERRED TO ZONING COMMITTEE.				
	ANDERSON Y	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	
	GARCIA Y	KOBAYASHI Y	OKINO Y	TAM Y		
ZONING	3/2/10	CR-63 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING. (CURRENT DEADLINE: 5/19/10)				
PUBLISH	03/06/10	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
COUNCIL/PUBLIC HEARING	03/17/10	CR-63 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO ZONING COMMITTEE.				
	ANDERSON Y	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	
	GARCIA Y	KOBAYASHI Y	OKINO Y	TAM Y		
PUBLISH	03/24/10	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
ZONING	04/06/10	CR-84 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.				
COUNCIL	04/21/10	CR-84 ADOPTED AND BILL 11 (2010) PASSED THIRD READING.				
	ANDERSON Y	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	
	GARCIA Y	KOBAYASHI Y	OKINO Y	TAM Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


BERNICE K. N. MAU, CITY CLERK


TODD K. APO, CHAIR AND PRESIDING OFFICER