



A BILL FOR AN ORDINANCE

TO REZONE LANDS SITUATED AT MOKULEIA, NORTH SHORE, OAHU, HAWAII.

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

SECTION 1. Zoning Map No. 17, Mokuleia-Waiialua-Haleiwa, Ordinance 86-134, is hereby amended as follows: Land situated at Mokuleia, North Shore, Oahu, Hawaii, hereinafter described, is hereby rezoned from F-1 Military and Federal Preservation District to AG-2 General Agricultural District. 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 6-8-003:021.

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:

Nestor Garcia (BR)

DATE OF INTRODUCTION:

February 17, 2011
Honolulu, Hawaii

Councilmembers

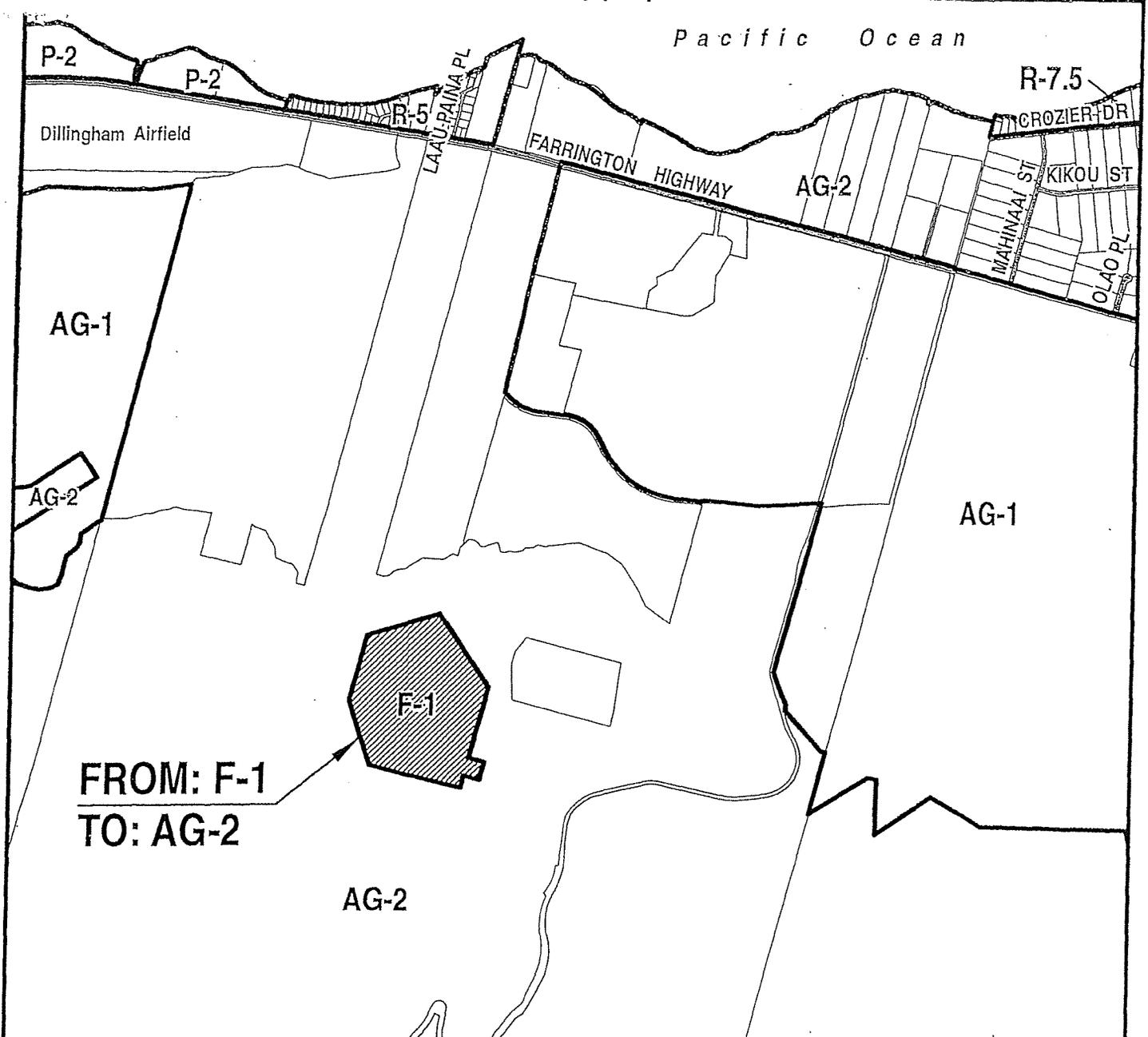
APPROVED AS TO FORM AND LEGALITY:

Paul S. Kutavala
Deputy Corporation Counsel

APPROVED this 3rd day of May, 2011.

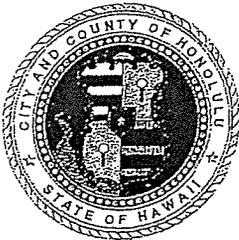
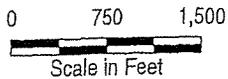
Peter B. Carlisle
PETER B. CARLISLE, Mayor
City and County of Honolulu

Pacific Ocean



FROM: F-1
TO: AG-2

PORTION OF
ZONING MAP NO. 17
(MOKULEIA - WAIALUA - HALEIWA)



APPLICANT: RALPH GRAY

TAX MAP KEY(S): 6-8-003: 021

FOLDER NO.: 2010/Z-3

LAND AREA: 40.59 Ac.

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

PUBLIC HEARING

PLANNING COMMISSION

CITY COUNCIL

DEC 15 2010

MAR 15 2011

2010/Z-3

ORD. NO. 11-4

EFF. DATE: MAY 03 2011

EXHIBIT A

BILL 9 (2011), CD2

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

The original of this document was
recorded as follows:

DOCUMENT Doc 4066248
DATE CTN 866,101
APR 19, 2011 08:02 AM

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE Doc 2011-064483
DOCUMENT APR 19, 2011 08:02 AM

LAND COURT

REGULAR SYSTEM

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

Analytical Planning Consultants, Inc.
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817

Page 1 of 8

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for
Conditional Zoning

PARTY TO DOCUMENT: Mokuleia Ranch Estates, LLC
3107 Oahu Avenue
Honolulu, Hawaii 96822

Coastal View Properties, LLC
440 W. Whittier Blvd.
La Habra, California 90631

TAX MAP KEY NO. (1) 6-8-003: 021

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 7th of April, 2011, by Mokuleia Ranch Estates, LLC, a Hawaii limited liability company, whose address is 3107 Oahu Avenue, Honolulu, Hawaii 96822 and Coastal View Properties, LLC, a Hawaii limited liability Company, whose address is 440 W. Whittier Blvd., La Habra, California, 90631 (hereinafter referred to as the "Declarants",

WITNESSETH:

WHEREAS, the Declarants are the owners in fee simple of those certain parcels of land situated in Mokuleia, consisting of approximately 40.59 acres, described as Tax Map Key No. 6-8-003: 021, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desire to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarants plan to use the Land for agricultural purposes as permitted by the Land Use Ordinance (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 F-1 Military and Federal Preservation District to AG-2 General Agricultural District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 9 (2011), was held by the Council on March 16, 2011; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 89 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 Declarants hereby covenant and declare as follows:

1. Prior to obtaining building or grading permits for any farm dwellings or other buildings, the Declarants shall submit an Engineering Slope Hazard Report to the Department of Planning and Permitting for review and approval as defined in Section 14-13.3 ("Definitions") of the Revised Ordinances of Honolulu 1990 as amended. Based on findings of the Report, the Declarants shall either (a) implement all mitigation measures recommended to protect farm dwellings or other buildings located in areas identified by the Report as posing a hazard, or (b) locate such structures in areas the Report deems not hazardous.
2. Prior to grading, grubbing, stockpiling, or building permit

approval, the Declarants shall obtain approval from the State Historic Preservation Division (SHPD) for an archeological inventory study and mitigation. The Declarants shall implement protection and/or mitigative measures as required by SHPD.

3. Declarants shall disclose to all prospective purchasers, tenants, lessees, and occupants of the property of the potential noise impacts of civilian and/or military aircraft and training activities that utilize Dillingham Airfield during the day and night. Language of the disclosure document shall be coordinated and concurred with by the State Department of Transportation (DOT) prior to execution of sales or lease documents, a copy of the disclosure document shall be provided to the Department of Planning and Permitting (DPP) for their records.
4. There shall be no further subdivision of the Land's existing three parcels of record except for the purposes of parcel consolidation and/or for access and utility easements.
5. The number of farm dwellings shall be limited to five within the total Land area of approximately 40.59 acres.
6. On an annual basis, the Declarants shall submit a written status report to the DPP documenting their satisfaction of and/or describing their progress toward complying with each condition of approval for this zone change. The status report shall be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied. Failure to do so may result in delays in processing of further permits.
7. The Declarants acknowledge 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 Declarants shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental provisions and requirements.
8. In the event of noncompliance with any of the conditions set forth herein, the Director of Planning and Permitting shall inform the Council and may seek civil enforcement or take appropriate action to terminate or stop the Project until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarants hereby make 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 Declarants 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 Declarants or their 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.

DECLARANTS:

MOKULEIA RANCH ESTATES, LLC
a Hawaii Limited Liability Company

By 

Ralph S. Gray, Agent

COASTAL VIEW PROPERTIES, LLC
a Hawaii Limited Liability Company

By 

Greg Jones, Manager

STATE OF HAWAII

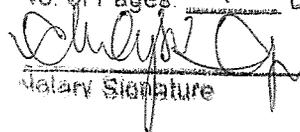
CITY AND COUNTY OF HONOLULU

On this 13th day of April, 2011, before me personally appeared Ralph S. Gray, in his capacity as an Agent for Mokuleia Ranch Estates, LLC., a Hawaii Limited Liability Company, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me 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.



Chely G.V. Reyes
My commission expires: 03/07/2014

L.S.

NOTARY PUBLIC CERTIFICATION
Chely G.V. Reyes, First Judicial Circuit
Doc Description: Unilateral Agreement
and Declaration for Conditional
Zoning
No. of Pages: 1 Date of Doc. None

Notary Signature Date: 04-13-11

L.C.

STATE OF CALIFORNIA

COUNTY OF ORANGE

On this 15th day of APRIL, 2011, before me personally appeared Greg Jones, in his capacity as Manager for Coastal View Properties, LLC., a Hawaii Limited Liability Company, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me 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.

Kelly R. Vasquez

Kelly R. Vasquez, Notary Public

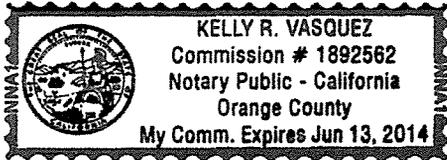


EXHIBIT "A"

First:

All of that certain parcel of land (being a portion of the land described in and covered by Royal Patent Grant Number 231 to Namomoku and Paele) situate at Mokuleia, District of Waialua, City and County of Honolulu, State of Hawaii, being PARCEL 2-A, being Tract MF-58 of Dillingham Air Force Base, U. S. Civil 539 containing an area of 0.70 acres, more or less.

Second:

All of that certain parcel of land (being a portion of the land described in and covered by Royal Patent Grant Number 270 to Pine, Pao and Mahiai) situate at Mokuleia, District of Waialua, City and County of Honolulu, State of Hawaii, being PARCEL 2-C, being also Tract MF-57 of Dillingham Air Force Base, U. S. Civil 539 containing an area of 19.21 acres, more or less.

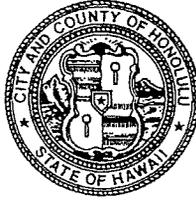
Third:

All of that certain parcel of land situate at Mokuleia, District of Waialua, City and County of Honolulu being LOT 2-B, area 20.68 acres, as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 824 of Mokuleia Ranch and Land Company, Limited.

Being the same premises conveyed by Warranty Deed dated July 2, 2007, recorded in said Office as Land Court Document No. 3624117, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2007-121000, and noted on Transfer Certificate of Title No. 866101.

11-4
DEPARTMENT OF THE CORPORATION COUNSEL
CITY AND COUNTY OF HONOLULU

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



PETER B. CARLISLE
MAYOR

CARRIE K.S. OKINAGA
CORPORATION COUNSEL

KATHLEEN A. KELLY
FIRST DEPUTY CORPORATION COUNSEL

April 19, 2011

RECEIVED
CITY CLERK
C & C OF HONOLULU
2011 APR 19 PM 1:38

The Honorable Nester R. Garcia, Chair
and Members of the City Council
City and County of Honolulu
Honolulu, Hawaii 96813

Dear Council Chair Garcia and Councilmembers:

Re: Bill No. 9, CD2 (2011) – Unilateral Agreement and Declaration for
Conditional Zoning for Mokuleia Rezone Change

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 Bureau of Conveyances of the State of Hawaii as Document No. 2011-064483 and in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 4066248.

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 appropriately filed in both recording systems, that the Unilateral Agreement describes the affected property, and that all of the required signatures are present.

DEPT. COM. 270

The Honorable Nester R. Garcia, Chair
and Members of the City Council
April 19, 2011
Page 2

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 9, CD2 (2011), as it deems appropriate.

Very truly yours,



DON S. KITAOKA
Deputy Corporation Counsel

APPROVED:



CARRIE K.S. OKINAGA
Corporation Counsel

DSK:ml

Attach.

11-02013/174109

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 11-4

BILL 9 (2011), CD2

Introduced: 02/17/11 By: NESTOR GARCIA (BR)

Committee: ZONING

Title: A BILL FOR AN ORDINANCE TO REZONE LANDS SITUATED AT MOKULEIA, NORTH SHORE, OAHU, HAWAII.

Links: [BILL 9 \(2011\)](#)
[BILL 9 \(2011\), CD1](#)
[BILL 9 \(2011\), CD2](#)
[CR-63](#)
[CR-89](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

COUNCIL	02/23/11	BILL PASSED FIRST READING AND WAS REFERRED TO COMMITTEE ON ZONING.
ANDERSON	Y	BERG Y CACHOLA Y CHANG Y GABBARD TAMAYO Y
GARCIA	Y	HARIMOTO Y KOBAYASHI Y MARTIN Y
ZONING	03/01/11	CR-63 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AS AMENDED IN <u>CD1</u> FORM AND SCHEDULING OF A PUBLIC HEARING. CURRENT DEADLINE: 05/17/11.
PUBLISH	03/05/11	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
COUNCIL/PUBLIC HEARING	03/16/11	CR-63 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING.
ANDERSON	Y	BERG Y CACHOLA Y CHANG Y GABBARD TAMAYO Y
GARCIA	Y	HARIMOTO Y KOBAYASHI Y MARTIN Y*
PUBLISH	03/29/11	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
ZONING	03/29/11	CR-89 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN <u>CD2</u> FORM. (GRANTED A 90-DAY EXTENSION OF TIME (NEW DEADLINE: AUGUST 15, 2011)).
COUNCIL	04/20/11	CR-89 ADOPTED AND BILL 9 (2011), CD2 PASSED THIRD READING AS AMENDED.
ANDERSON	Y	BERG Y CACHOLA Y CHANG Y GABBARD TAMAYO Y
GARCIA	Y	HARIMOTO Y KOBAYASHI Y MARTIN 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


NESTOR R. GARCIA, CHAIR AND PRESIDING OFFICER