



A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT HONOULIULI, OAHU, HAWAII.

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

SECTION 1. Zoning Map No. 12, Ordinance 86-114, is hereby amended as follows: Land situated at 'Ewa, Oahu, Hawaii, hereinafter described, is hereby rezoned from the R-5 Residential District to the A-1 Low-Density Apartment District. The boundaries 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 9-1-069:023 (por.).

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:

Ernest Martin (BR)

DATE OF INTRODUCTION:

December 7, 2012
Honolulu, Hawaii

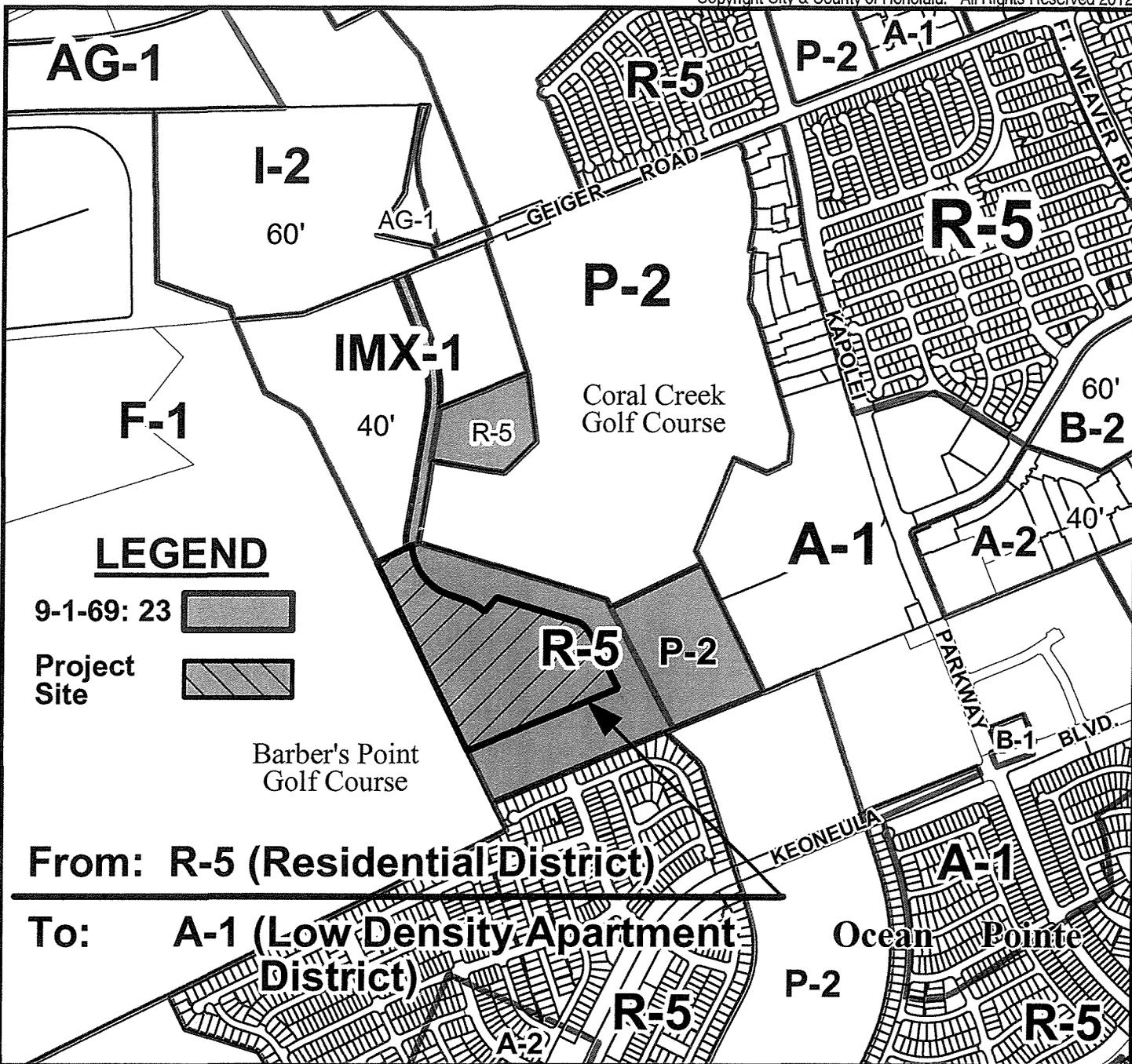
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don L. Kistner
Deputy Corporation Counsel

APPROVED this 20th day of May, 2013.

Kirk Caldwell
KIRK CALDWELL, Mayor
City and County of Honolulu



LEGEND

9-1-69: 23

Project Site

Barber's Point Golf Course

From: R-5 (Residential District)

To: A-1 (Low Density Apartment District)

**PORTION OF
ZONING MAP No. 12
(EWA - IROQUOIS POINT)**

Land situated approximately 1700 feet south of Geiger Road and 2000 feet west of Kapolei Parkway between Barber's Point Golf Course and Laulani Community Park.

APPLICANT: GENTRY INVESTMENT PROPERTIES

TAX MAP KEY(S): 9-1-69: Por. 23

FOLDER NO. : 2012/Z-2

LAND AREA: 22.815 Acres (Approx.)

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

PUBLIC HEARING: PLANNING COMMISSION

CITY COUNCIL

NOV 14 2012

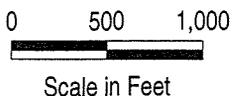
APR 17 2013

ORD. NO. 13-13

2012/Z-2

EFF. DATE: MAY 20 2013

EXHIBIT A



I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances.

Doc T-8520039
CT 881477
as of April 30, 2013 8:01 AM



Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

LAND COURT

REGULAR SYSTEM

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

cc

Gentry Investment Properties-Legal Dept.
P. O. Box 295
Honolulu, HI 96809

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for Conditional Zoning

PARTY TO DOCUMENT: Gentry Investment Properties, a Hawaii limited partnership

PROPERTY: Lot 17263, Map 1324, Ld. Ct. App. 1069
Certificate of Title No. 881,477

TAX MAP KEY NO. (1) 9-1-69:023

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this “Unilateral Agreement” or this “Declaration”), made this 25th day of April, 2013, by GENTRY INVESTMENT PROPERTIES, a Hawaii limited partnership, whose post office address is P. O. Box 295, Honolulu, Hawaii 96809 (hereinafter referred to as the “Declarant”),

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of that certain parcel of land situated in Ewa, Oahu, Hawaii, consisting of approximately 67.768 acres, described as Tax Map Key No.

EXHIBIT B

1

9-1-69:023, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant, or its affiliate, Gentry Homes, Ltd., plans to develop single family detached condominium units (the "Project") on a portion of the Land consisting of approximately 22.815 acres and more particularly described in Exhibit B attached hereto and made a part hereof (the "Zone Change Area"); 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 Zone Change Area from the R-5 Residential District to the A-1 Low Density Apartment District with a 30-foot height limit (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill No. 77 (2012), was held by the Council on April 17, 2013; and

WHEREAS, the Council recommended by its Zoning and Planning Committee Report No. 126 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, Declarant hereby covenants and declares as follows:

1. **Transportation.** The Declarant shall carry out the following requirements related to traffic and transportation improvements for the Project:

a. Prior to the issuance of any building permits for dwellings in the Zone Change Area, the Declarant shall ensure that the future portion of Kamakana Street serving the Land shall connect to Geiger Road. All necessary roadway improvements shall be constructed at the intersection of Kamakana Street and Geiger Road, including provisions for possible future signalizations. Updates to the 2010 Traffic Impact Analysis Report (TIAR) shall be provided to the Department of Planning and Permitting (DPP) approximately every two years to determine when traffic signals will be warranted. These updates will also be reviewed in coordination with the Department of Transportation Services (DTS). Updates to the 2010 TIAR shall include the Land, and Areas 17, 16, and 16A situated in TMK: 9-1-069:021 and 022. The Declarant shall be responsible for the installation of the signals and all necessary street appurtenances and interconnect conduits. Updates to the TIAR shall continue until the entire roadway system between Ocean Pointe and Geiger Road is completed.

b. The Declarant shall fund and construct a mixed use pedestrian and bicycle pathway that connects to Kapolei Parkway in the vicinity of the 'Ewa Makai Middle School and the Land. The pathway shall be completed prior to building permit approval of the Land's 130th dwelling unit. The Declarant shall be responsible for the maintenance of this pathway until such time that this responsibility is transferred to the homeowners association.

c. The Declarant shall include traffic calming measures in the Project's street network where feasible. Traffic calming measures may consist of vehicular or pedestrian connections between the single family and multi-family areas of Area 17A.

d. Prior to subdivision approval for any roadway lot, the Declarant shall submit a roadway master plan to the DPP for review and approval. Street widths, location, traffic calming devices, if applicable, and other pertinent street information shall be provided in this plan. The roadway master plan may be amended from time to time with the approval of DPP.

e. The Declarant shall prepare and submit a vehicular parking analysis to DPP for review and approval if required to mitigate impacts to street network in the Land due to a lack of sufficient off-street parking in the Project area. The methodology and scope of the parking analysis shall be coordinated among the Declarant, DPP and DTS.

2. **Restriction on Types of Residential Units.** No residential units other than single-family detached residential condominium units shall be developed in the Zone Change Area.

3. **Prior Agreements.** The conditions established in those certain Unilateral Agreements filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on June 29, 1998 as Document No. 2467238, and incorporated in Ordinance 98-44; and on March 17, 2004 as Document No. 3084363, and incorporated in Ordinance 04-08 respectively, shall remain in effect. In the event of any conflict between said conditions and the conditions of this Unilateral Agreement, the conditions of this Unilateral Agreement shall prevail.

4. **Annual Reports.** On an annual basis, the Declarant shall submit a written status report to the 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 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.

5. **Compliance with Other Governmental Requirements.** The Declarant acknowledges that approval of this zone change does not constitute compliance with other LUO or 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.

6. **Noncompliance or Failure to Fulfill Any Conditions.** In the event of noncompliance or failure to fulfill 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 the 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, Declarant hereby makes the following additional declarations:

As used herein, any 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 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 Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the DPP 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 shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that Declarant or its successors and assigns may file a petition with the DPP 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 party hereto has executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

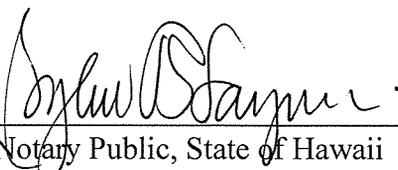
DECLARANT:

GENTRY INVESTMENT PROPERTIES,
a Hawaii limited partnership
By NTM LLC
Its General Partner

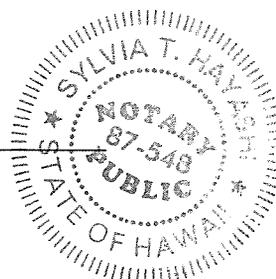
By 
Norman Gentry
Its: Member-Manager

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

On April 25, 2013, before me appeared NORMAN GENTRY, to me personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Notary Public, State of Hawaii
Printed Name of Notary: Sylvia T. Hayashi
My commission expires: October 26, 2015



Doc. Date: <u>April 25, 2013</u>	#Pages: <u>8</u>
Name: <u>Sylvia T. Hayashi</u>	<u>First Circuit</u>
Doc. Description: <u>Unilateral Agreement and Declaration for Conditional Zoning</u>	
 Signature	<u>4-25-13</u> Date
NOTARY CERTIFICATION	(Stamp or Seal)

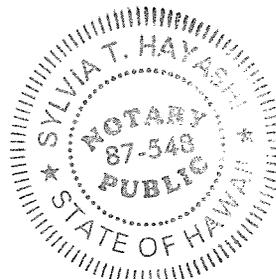


EXHIBIT A

Lot No. 17263, area 67.768 acres, as shown on Map 1324, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 of the Trustees under the Will and of the Estate of James Campbell, deceased, being the land described in and covered by Land Court Certificate of Title No. 881,477, issued to Gentry Investment Properties, a Hawaii limited partnership.

End of Exhibit "A"

7. 286° 50' 571.46 feet along the remainder of said Lot 17263;
8. 304° 24' 41.40 feet along the remainder of said Lot 17263;
9. 315° 02' 30" 18.01 feet along the remainder of said Lot 17263;
10. 325° 35' 55.73 feet along the remainder of said Lot 17263;
11. 332° 20' 400.35 feet along the remainder of said Lot 17263;
12. 67° 30' 20" 1,082.83 feet along the remainder of said Lot 17263, to the point of beginning and containing an area of 22.815 acres.

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

ORDINANCE **13-13**

BILL 77 (2012), CD1

Introduced: 12/07/12 By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

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

Links: [BILL 77 \(2012\)](#)
[BILL 77 \(2012\), CD1](#)
[CR-42 \(2013\)](#)
[CR-89 \(2013\)](#)
[CR-126 \(2013\)](#)

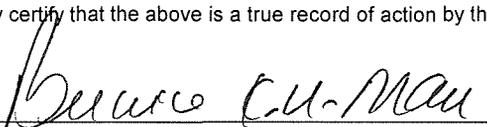
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

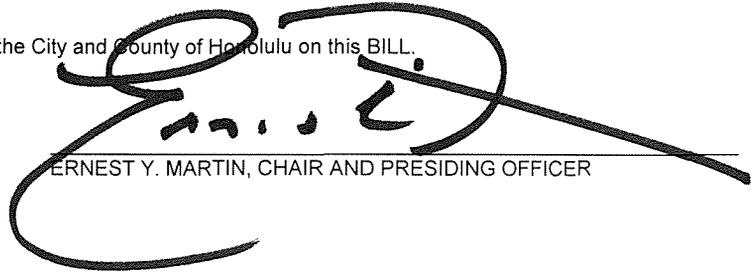
NOTE: COUNCILMEMBERS MANAHAN, MENOR AND PINE TOOK OFFICE ON WEDNESDAY, JANUARY 2, 2013

COUNCIL	01/30/13	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING.							
ANDERSON	Y	CHANG	Y	FUKUNAGA	Y	HARIMOTO	Y	KOBAYASHI	Y
MANAHAN	Y	MARTIN	Y	MENOR	Y	PINE	Y		
ZONING AND PLANNING	02/14/13	CR-42(13) – RECOMMENDING A 90-DAY EXTENSION OF TIME. (NEW DEADLINE FOR COUNCIL ACTION 6/1/13)							
COUNCIL	02/20/13	CR-42(13) ADOPTED. (DEADLINE 6/1/13)							
ANDERSON	Y	CHANG	Y	FUKUNAGA	Y	HARIMOTO	Y	KOBAYASHI	Y
MANAHAN	Y	MARTIN	Y	MENOR	Y	PINE	Y		
ZONING AND PLANNING	03/28/13	CR-89(13) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.							
PUBLISH	04/06/13	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.							
COUNCIL/PUBLIC HEARING	04/17/13	CR-89(13) ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING.							
ANDERSON	Y	CHANG	Y	FUKUNAGA	Y	HARIMOTO	Y	KOBAYASHI	Y
MANAHAN	Y	MARTIN	Y	MENOR	Y	PINE	Y		
PUBLISH	04/24/13	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER							
ZONING AND PLANNING	04/25/13	CR-126(13) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN <u>CD1</u> FORM..							

COUNCIL	05/08/13	CR-126(13) ADOPTED AND BILL 77 (2012), CD1 PASSED THIRD READING AS AMENDED.							
ANDERSON	Y	CHANG	Y	FUKUNAGA	Y	HARIMOTO	Y	KOBAYASHI	Y
MANAHAN	Y	MARTIN	Y	MENOR	Y	PINE	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


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER