

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

Ikaika Anderson, Chair; Breene Harimoto, Vice-Chair;  
Ann H. Kobayashi, Ron Menor, Kymberly Marcos Pine

---

Committee Meeting Held  
April 24, 2014

Honorable Ernest Y. Martin  
Chair, City Council  
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred Bill 10 (2014) entitled:

"A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT WAHIAWA, OAHU, HAWAII,"

transmitted by Departmental Communication No. 99 dated February 5, 2014, and which passed First Reading at the March 12, 2014 Council meeting, reports as follows:

The purpose of Bill 10 (2014) is to rezone approximately 2.3 acres of land in Wahiawa from the R-7.5 Residential District to the R-5 Residential District at the request of Vineyard Investment Realty, LLC (the "Applicant"), to permit the development of six dwellings in addition to the 13 existing dwellings on the property.

Your Committee finds that the Planning Commission, after a public hearing held on January 22, 2014, at which one written testimony and no public testimony was received, voted to recommend approval of the rezoning request with the conditions recommended by the Director of the Department of Planning and Permitting (the "DPP") in the Attachment to Departmental Communication No. 99 (2014), plus an additional condition in the Unilateral Agreement that the Declarant provide a minimum of two on-site parking stalls for each dwelling unit in the project.

---

## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON MAY 7 2014

COMMITTEE REPORT NO. 119

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

Ikaika Anderson, Chair; Breene Harimoto, Vice-Chair;  
Ann H. Kobayashi, Ron Menor, Kymberly Marcos Pine

---

Committee Meeting Held  
April 24, 2014  
Page 2

At your Committee's meeting on April 24, 2014, the Director of the DPP stated that upon review of the additional on-site parking stalls condition recommended by the Planning Commission, it is the DPP's position that this condition is not necessary and need not be included in the Unilateral Agreement. The Applicant stated that it intends to provide the parking stalls in any case. Council Chair Martin remarked that it would seem the condition should then be omitted from the Unilateral Agreement. Committee Chair Anderson asked Chair Martin, as councilmember of the Applicant's district, to consult with the Applicant on the issue.

Your Committee has reviewed the conditions recommended by the DPP to be included in the Unilateral Agreement for this rezoning, as set forth in the Attachment to Departmental Communication No. 99 (2014) and finds that they appear to be in conformance with the criteria specified in Section 21-2.80 (b) and (c), Revised Ordinances of Honolulu 1990, as amended (ROH). In particular, your Committee finds that the conditions appear to be necessary to prevent circumstances that may be adverse to public health, safety and welfare and fulfill needs directly emanating from the proposed project.

Attached hereto is the proposed Unilateral Agreement (draft dated 04/09/14) submitted by the Applicant. The proposed Unilateral Agreement (U/A) reflects the DPP's recommended conditions, and also the condition providing that two on-site parking stalls be provided for each unit in the project, as recommended by the Planning Commission. Your Committee Chair intends to further consider the Planning Commission's recommended condition when this bill is referred back to Committee.

---

**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON     MAY 7 2014    

COMMITTEE REPORT NO.     119

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

Ikaika Anderson, Chair; Breene Harimoto, Vice-Chair;  
Ann H. Kobayashi, Ron Menor, Kymberly Marcos Pine

---

Committee Meeting Held  
April 24, 2014  
Page 3

Your Committee finds that the rezoning proposed in this bill appears to be consistent with the General Plan and Development Plan of the City and in the best interests of the people of the City and County of Honolulu. Your Committee plans to consider this matter further following the receipt of public testimony at the public hearing thereon to be held as required by law.

Your Committee finds that the time needed for further consideration of Bill 10 (2014) could exceed the time limit provided for that consideration. It, therefore, recommends that Bill 10 (2014) be granted a 90-day extension of time subject to receipt of a written request from the Applicant. (Ayes: Anderson, Kobayashi, Menor, Pine – 4; Noes: None; Excused: Harimoto - 1.)

Your Committee on Zoning and Planning further recommends that Bill 10 (2014) pass Second Reading, be scheduled for public hearing, and be referred back to Committee. (Ayes: Anderson, Kobayashi, Menor, Pine – 4; Noes: None; Excused: Harimoto - 1.)

Respectfully submitted,



\_\_\_\_\_  
Committee Chair

---

**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON     MAY 7 2014    

COMMITTEE REPORT NO.     119

DRAFT  
4/9/14  
BILL 10 (2014)  
PROPOSED U/A

LAND COURT

REGULAR SYSTEM

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

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for  
Conditional Zoning

PARTY TO DOCUMENT: VINE4, LLC

TAX MAP KEY NO. (1) 7-3-004: 027

**UNILATERAL AGREEMENT AND  
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by VINE4, LLC, a Hawaii limited liability company, whose address is 167-B S. Kamehameha Hwy., Wahiawa, Hawaii 96786 (hereinafter referred to as the "Declarant"),

[Form: 2/13]

**WITNESSETH:**

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Wahiawa, Hawaii, consisting of approximately 2.32 acres, described as Tax Map Key No. 1-7-3-004:027, 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 plans to develop nineteen (19) single family homes 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 the R-7.5 Residential District to the R-5 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 10 (2014), was held by the Council on March 12, 2014; and

WHEREAS, the Council recommended by its Zoning and Planning Committee Report No. \_\_\_\_\_ 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. Minimum Parking. The Declarant shall provide a minimum of two (2) on-site parking stalls for each dwelling unit in the Project.
2. Affordable Housing. If 10 or more dwelling units beyond the original 13 are to be constructed, prior to a building permit approval for the tenth additional unit, an agreement shall be executed with the DPP in accordance with adopted rules. The agreement shall provide that at least 30 percent of the additional units are to be within the affordable range.

3. Compliance with Other Governmental Requirements. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other government 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.
4. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of 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.
5. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of DPP 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 Revised City Charter.

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:

---

