

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
May 22, 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,"

which passed Second Reading at the May 7, 2014 Council meeting, reports as follows:

The purpose of Bill 10 (2014) is to rezone approximately 2.3 acres of land
situated in Wahiawa from the R-7.5 Residential District to the R-5 Residential District at
the request of Vine 4 LLC (the "Applicant") to permit development of six additional
dwellings in addition to 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 in concurrence with the
recommendation of the Department of Planning and Permitting (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.

Your Committee finds that at a public hearing held on May 7, 2014 by the City
Council, no testimony was received on the proposed rezoning.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

JUN 4 2014

COMMITTEE REPORT NO.

164

REPORT OF THE COMMITTEE ON ZONING AND PLANNING

Voting Members:

Ikaika Anderson, Chair; Breene Harimoto, Vice-Chair;
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Committee Meeting Held
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Page 2

In Committee Report No. 119, which the Council adopted at its meeting on May 7, 2014, your Committee discussed the conditions recommended by the DPP and by the Planning Commission to be included in a Unilateral Agreement (U/A) for this rezoning. As discussed therein, at your Committee's meeting on April 24, 2014, the DPP Director testified that the Planning Commission's recommended condition requiring two on-site parking stalls for each dwelling unit is not necessary. The Applicant stated that it intends to provide the parking in any case. Your Committee Chair asked Council Chair Martin to consult with the Applicant on the issue.

Attached hereto is a proposed Unilateral Agreement (draft dated 05/15/14) submitted by the Applicant. The proposed Unilateral Agreement (U/A) reflects the conditions recommended by the DPP in Departmental Communication No. 99 (2014), but, based the foregoing, does not include the Planning Commission's recommended condition. At your Committee's meeting on May 22, 2014, a representative of the Applicant stated that parking requirements will be worked out during the cluster housing permit process. Council Chair Martin supported the deletion.

There was no public or written testimony offered on the Bill at your Committee's meeting of May 22, 2014.

Your Committee finds that the conditions recommended by the DPP to be included in the Unilateral Agreement for this rezoning are in conformance with the criteria specified in ROH Section 21-2.80 (b) and (c). In particular, your Committee finds that these conditions are necessary to prevent circumstances that may be adverse to public health, safety, and welfare and fulfill needs directly emanating from the proposed project.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON JUN 4 2014

COMMITTEE REPORT NO. 164

**REPORT OF THE COMMITTEE ON
ZONING AND PLANNING**

Voting Members:

00:11:08 05/22/2014

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

Committee Meeting Held
May 22, 2014
Page 3

Your Committee finds that the Department of Planning and Permitting and the Planning Commission have found that the rezoning proposed in this bill is consistent with the vision, policies, principles, and guidelines set forth in the Central Oahu Sustainable Communities Plan established by Chapter 24, Article 5, Revised Ordinances of Honolulu 1990, as amended.

Your Committee further finds that, pursuant to Chapter 24, Article 5, Revised Ordinances of Honolulu 1990, as amended, responsible City and State agencies have indicated that adequate public facilities and utilities for the proposed development will be available at the time of occupancy, or that conditions to ensure adequacy are otherwise sufficiently addressed.

Your Committee on Zoning and Planning is in accord with the intent and purpose of Bill 10 (2014) and recommends that, following the Applicant's recordation in the Bureau of Conveyances, and/or the Land Court, as is appropriate, of a Unilateral Agreement that conforms in all material respects to the proposed Unilateral Agreement attached hereto, the bill pass Third Reading. Pursuant to standard Council practice, the Clerk is directed to attach a copy of the executed and recorded Unilateral Agreement as Exhibit "B" to the bill after transmission of the copy to the Council by the Department of the Corporation Counsel. (Ayes: Anderson, Harimoto, Menor - 3; Noes: None; Excused: Kobayashi, Pine - 2.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON JUN 4 2014

COMMITTEE REPORT NO. 164

2014 05/15/14

DRAFT
5/15/14
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, 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 May 7, 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. Affordable Housing. If 10 or more dwelling units beyond the original 13 are to be constructed, then prior to a building permit approval for the tenth additional unit, the Declarant shall enter into an affordable housing agreement with the DPP in accordance with adopted rules. The agreement shall provide that at least 30 percent of the additional units must be within the affordable range.
2. 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.

3. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the Department of Planning and Permitting 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.

4. 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:

EXHIBIT "A"

