

DEPARTMENT OF THE CORPORATION COUNSEL  
**CITY AND COUNTY OF HONOLULU**  
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KIRK CALDWELL  
MAYOR



DONNA Y. L. LEONG  
CORPORATION COUNSEL

SHERYL L. NICHOLSON  
FIRST DEPUTY CORPORATION COUNSEL

May 30, 2014

The Honorable Ernest Y. Martin, Chair  
and Members  
Honolulu City Council  
530 S. King Street, Room 202  
Honolulu, Hawaii 96813

RECEIVED  
CITY CLERK  
C & C OF HONOLULU  
2014 JUN -3 AM 9:39

Dear Chair Martin and Councilmembers:

Re: Bill No. 10 (2014) – Unilateral Agreement and Declaration for  
Conditional Zoning (Wahiawa Zone Change (2013/Z-7))

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. T-8912173.

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.

The Honorable Ernest Y. Martin, Chair  
and Members  
Page 2  
May 30, 2014

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 10 (2014), as it deems appropriate.

Very truly yours,



DON S. KITAOKA  
Deputy Corporation Counsel

APPROVED:



DONNA Y.L. LEONG  
Corporation Counsel

DSK:ml  
Attach.

14-03261/342795

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 T-8912173  
CT 1055070  
DATE May 27, 2014 8:02 AM

RECEIVED  
2014 MAY 27 P 1:14  
CITY COUNCIL  
HONOLULU, HAWAII

LAND COURT

REGULAR SYSTEM

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

VINE4 LLC  
167 B South Kamehameha Highway  
Wahiawa, HI 96786

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 23 day of MAY, 2014, by VINE4 LLC, a Hawaii Corporation, whose address is 167-B

S. Kamehameha Hwy., Wahiawa, Hawaii 96786 (hereinafter referred to as the "Declarant"),

**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. 164 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:

VINE4 LLC



Patrick ~~W D~~ Low



IN WITNESS WHEREOF, the parties hereto have executed these presents on the 23 day of May 2014.

VINEA, LLC

*9/2/14*

*[Signature]*

PATRICK LOW

"Declarant"

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

On this MAY 23 2014, before me personally appeared **PATRICK LOW**, 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(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



*[Signature]*

Name: **LORENE UEHARA**

Notary Public, State of Hawaii

My commission expires: DEC 28 2016

**NOTARY CERTIFICATION STATEMENT**

Document Identification or Description: Unilateral Agreement and Declaration for conditional zoning  
Document Date: MAY 23 2014  
No. of Pages (including this page): 6

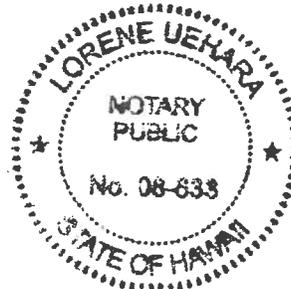
Jurisdiction (in which notarial act is performed): First Circuit

*[Signature]* MAY 23 2014

Signature of Notary Date of Notarization and Certification Statement

**LORENE UEHARA**

Printed Name of Notary



## EXHIBIT "A"

### LEGAL DESCRIPTION EXHIBIT

All those certain parcels of land situate at Wahiawa, District of Wahiawa, City and County of Honolulu, State of Hawaii, described as follows:

LOTS:           2-A, area 12,750.0 square feet, more or less,  
                  2-C, area 12,750.0 square feet, more or less,  
                  2-E, area 12,750.0 square feet, more or less,  
                  2-G, area 12,750.0 square feet, more or less, and  
                  3-G, area 12,750.0 square feet, more or less, as shown on Map 17;  
                  2-B-1, area 7,500.0 square feet, more or less,  
                  2-D-1, area 7,500.0 square feet, more or less,  
                  2-F-1, area 7,500.0 square feet, more or less,  
                  2-H-1, area 7,500.0 square feet, more or less, and  
                  3-H-1, area 7,500.0 square feet, more or less, as shown on Map 45,

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 12 of T. H. Gibson, W. B. Thomas and Byron O. Clark, Trustees.

Being all the property described in the following:

#### WARRANTY DEED

Recorded           :   January 31, 2013 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. T-8431192  
Grantor             :   D & M KONG FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership  
Grantee             :   VINE4 LLC, a Hawaii limited liability company

Being the property described in and covered by Transfer Certificate of Title No. 1,055,070