

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

EMBER LEE SHINN
MANAGING DIRECTOR
GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

June 23, 2014

Ms. Bernice K. N. Mau
City Clerk
Office of the City Clerk
530 South King Street
Honolulu, Hawaii 96813

RECEIVED
CITY CLERK
& C OF HONOLULU
2014 JUN 20 PM 3:53

Dear Ms. Mau:

SUBJECT: Approved Bills

The following bills are approved and returned herewith:

- | | |
|-----------------------------|--|
| Bill 71 (2013),
CD2, FD1 | Relating to interim planned development permits for Transit-Oriented Development within close proximity to future rail stations. |
| Bill 24 | Relating to fees and charges for use of parks and recreation Facilities. |
| Bill 26, CD1 | Relating to collection and disposal charges. |
| Bill 29 (2014) | To rezone land situated at Kahaluu, Oahu, Hawaii. |
| Bill 10 (2014) | To rezone situated at Wahiawa, Oahu, Hawaii. |
| Bill 32, CD1 | To rezone land situated at Makaha Valley, Oahu, Hawaii. |

Sincerely,

A handwritten signature in black ink, appearing to read "Kirk Caldwell", is written over a horizontal line.

Kirk Caldwell
Mayor



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO INTERIM PLANNED DEVELOPMENT PERMITS FOR TRANSIT-ORIENTED DEVELOPMENT WITHIN CLOSE PROXIMITY TO FUTURE RAIL STATIONS.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the provisions of the Land Use Ordinance (LUO) pertaining to transit-oriented development (TOD) Special Districts and Planned Development Permits. An Interim Planned Development-Transit (IPD-T) permit is being created to define a regulatory path for catalytic TOD projects prior to the adoption and implementation of the individual neighborhood TOD plans and TOD development regulations. The amendments will provide a new, interim permit process to facilitate creative development and redevelopment in transit-enhanced neighborhoods within close proximity to future rail stations.

SECTION 2. Section 21-2.110-2, Revised Ordinances of Honolulu (ROH) 1990, as amended ("Planned development-resort and planned development-apartment projects"), is amended to read as follows:

"Sec. 21-2.110-2 Planned development-resort, [and] planned development-apartment, and interim planned development-transit projects.

- (a) Applications for approval of planned development-resort (PD-R) and planned development-apartment (PD-A) projects in the Waikiki special district, and interim planned development-transit (IPD-T) projects, shall be processed in accordance with the following subsections.
- (b) Preapplication Procedures. Before the submission of an application, the applicant shall: [first present]
 - (1) For IPD-T projects, attend a pre-application meeting with the department to conduct an informal review of the project, unless the department determines that such a meeting is unnecessary. The applicant shall be prepared to discuss how the project can accomplish the goals and objectives of Section 21-9.100-4 and:
 - (A) The approved neighborhood TOD plan for the affected area; or



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(B) If the neighborhood TOD plan has not yet been approved, the draft neighborhood TOD plan. As used in this section, "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department or the council, commencing with the first public review draft released by the director to the community for review and comment;

and

- (2) Present the proposal to the neighborhood board in whose district the project is to be located. Notice of the presentation, or the applicant's good faith efforts to make such a presentation, shall be given to all owners of properties adjoining the proposed project.
- (c) Upon acceptance of the completed application by the director, the director shall notify the council of the acceptance, providing the council with the date of the director's acceptance of the application and a brief description of the proposal contained in the application. The director shall hold a public hearing concerning the conceptual plan for the project at a date set no less than 21 nor more than 60 calendar days after the date on which the completed application is accepted, unless the 60-day period is waived by the applicant. This hearing may be held jointly and concurrently with any other hearing required for the same project. The director shall give written notice of the public hearing to the neighborhood board in whose district the project is to be located no less than 15 days prior to the public hearing.

For IPD-T projects, a complete application must demonstrate how the project achieves consistency with:

- (1) The approved neighborhood TOD plan for the affected area; or
- (2) If the neighborhood TOD plan has not yet been approved, the draft neighborhood TOD plan.
- (d) [The] Except for applications for IPD-T projects, the conceptual plan for the project shall also be presented to the design advisory committee for its appropriate recommendations prior to transmittal of the application to the council for a conceptual plan review and approval.
- (e) Upon conclusion of the public hearing and (except for IPD-T projects) design advisory committee review, and not more than 80 days after acceptance of the application, unless the applicant waives the 80-day period, the director shall submit a report and recommendations to the council.



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- (f) The council shall approve the [application] conceptual plan for the project, in whole or in part, with or without conditions or modifications, by resolution, or shall [deny the application.] disapprove the conceptual plan. The council may [deny the application] disapprove the conceptual plan by resolution, but if the council does not take final action within 60 days after its receipt of the application, the application shall be deemed denied. The applicant may request, and the council may approve, an extension of time if it is made in writing, prior to the requested effective date of the extension. An application for council approval of a conceptual plan for a PD-R, [or] PD-A, or IPD-T project may be processed concurrently with development plan amendments under Chapter 24, special management area use permits under Chapter 25, and zoning district changes.
- (g) [Upon approval of a] If the council approves the conceptual plan for the project [by the council], the application, as approved in concept by the council, shall continue to be processed for further detailed review and final [approval] action by the director.
 - (1) The director shall present the detailed plan for the project to the design advisory committee for its recommendation[.], except in the case of IPD-T projects.
 - (2) Within 45 days of council approval, the director shall approve the application in whole or in part, with or without conditions or modifications, or deny the application, with reasons for final action set in writing to the applicant.
 - (3) The applicant may request in writing to the director an extension of time as may be necessary for good cause.
- (h) A final approval by the director shall be considered a major special district permit for the project, notwithstanding that the application has been processed in accordance with this section and not Section 21-2.40-2."

SECTION 3. Chapter 21, Article 9, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-9.100-5 to read as follows:

"Sec. 21-9.100-5 Interim planned development – transit (IPD-T) projects.

The purpose of the IPD-T permit is to provide opportunities for creative, catalytic redevelopment projects within the rail corridor that would not be possible under a strict adherence to the development standards of this chapter prior to the adoption of the



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TOD neighborhood plans or amendments to this chapter relating to the future TOD zones (special districts), or both. Qualifying projects must demonstrably exhibit those kinds of attributes that are capable of promoting highly effective transit-enhanced neighborhoods, including diverse employment opportunities, an appropriate mix of housing types, support for multi-modal circulation, and well-designed publicly accessible and useable spaces. Flexibility may be provided for project uses, density, height and height setbacks, yards, open space, landscaping, streetscape improvements, parking and loading, and signage when timely, demonstrable contributions are incorporated into the project benefiting the community, supporting transit ridership, and implementing the vision established in Section 21-9.100-4. Reflective of the significance of the flexibility represented by this option, it is appropriate to approve projects conceptually by legislative review and approval prior to a more detailed administrative review and approval by the department.

Prior to the adoption of TOD special district standards, proposed development on sites with at least portions of an eligible zoning lot that are within no more than one-half mile of a future rail station identified in the Honolulu Rail Transit Project (H RTP) Environmental Impact Statement (EIS), accepted by the Governor of the State of Hawaii on December 16, 2010, and any future supplemental EISs for the project, may qualify for an IPD-T permit in the interim, subject to the following:

- (a) Eligible zoning lots. IPD-T projects may be permitted on zoning lots that meet the following standards:
 - (1) A portion of the zoning lot shall be within a one-half-mile radius of a planned H RTP station, as approved by the Honolulu Authority for Rapid Transportation. For purposes of this section, the minimum distance requirement shall be measured as the shortest straight line distance between the edge of the station area and the zoning lot line(s) of the project site;
 - (2) The minimum project size shall be 20,000 square feet. Multiple lots may be part of a single IPD-T project if all of the lots are under a single owner and/or lessee holding leases with a minimum of 30 years remaining in their terms. Multiple lots in a single project must be contiguous, provided that lots that are not contiguous may be part of a single project if all of the following conditions are met:
 - (A) The lots are not contiguous solely because they are separated by a street or right-of-way; and



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(B) Each noncontiguous portion of the project, whether comprised of a single lot or multiple contiguous lots, shall have a minimum area of 20,000 square feet.

When a project consists of noncontiguous lots as provided above, pedestrian walkways or functioning design features connecting the separated lots are strongly encouraged to unify the project site. Multiple lots that are part of an approved single IPD-T project shall be considered and treated as one zoning lot for purposes of the project, provided that no conditional use permit-minor for a joint development of multiple lots shall be required therefor;

(3) The project site shall be entirely in the state-designated urban district;

(4) All eligible zoning lots shall be in the apartment, apartment mixed use, business, business mixed use, resort, industrial, or industrial-commercial mixed use districts; except that this subdivision shall not apply to landscape lots, right-of-way lots, or other lots utilized for similar utilitarian (infrastructure) purposes; and

(5) Upon the enactment of a TOD special district and its related development regulations, all zoning lots within that TOD special district shall no longer be eligible for this interim permit, but shall henceforth comply with all applicable TOD special district regulations and requirements enumerated by this chapter.

(b) Standards for review.

(1) Significant flexibility and the possibility of increased development potential are being made available to eligible IPD-T projects. The degree of flexibility must be commensurate with the contributions that these projects can provide towards the enhancement of highly effective transit-enhanced neighborhoods, particularly as these contributions relate to the success of TOD. The highest degree of flexibility may be authorized by this permit for those projects which demonstrate:

(A) The ability to contribute positively to the economic enhancement of the affected area, particularly with regard to providing a broad mix of uses and diverse employment opportunities;

(B) The provision of measures or facilities, or both, to promote a highly functioning, safe, interconnected, multi-modal circulation system,



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supporting easy access to, and effective use of the transit system on a pedestrian scale;

- (C) The provision of usable, safe, and highly accessible public accommodations, gathering spaces, pedestrian ways, bicycle facilities, or parks; and
- (D) An appropriate mix of housing and unit types, particularly affordable or rental housing, or both; with qualifying affordable housing being located on the project site or within one-half mile of an identified H RTP transit station, subject to the requirements set forth below. For purposes of this section, "affordable housing" shall mean housing that is affordable to households with incomes not exceeding 120 percent of the annual median income for Oahu. Off-site affordable housing is only allowed subject to the following requirements:
 - (i) At least 50 percent of the total affordable housing requirement for the project, as satisfied pursuant to rules adopted by the department in accordance with HRS Chapter 91 (the "department's affordable housing rules"), must be within the project site;
 - (ii) Up to 50 percent of the total affordable housing requirement for the project, as satisfied pursuant to the department's affordable housing rules, may be provided on lands that are within one-half mile of an identified H RTP transit station, if:
 - (aa) The units are rental (as opposed to for sale) housing;
 - (bb) The rentals meet the affordable housing guidelines for households with incomes not exceeding 60 percent of the "area median income" as defined in the department's affordable housing rules; and
 - (cc) The rentals remain affordable for a period of not less than sixty (60) years; and
 - (iii) Up to 35 percent of the total affordable housing requirement for the project, as satisfied pursuant to the department's affordable housing rules, may be provided on lands within one-half mile of an identified H RTP transit station, if:



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- (aa) The units are rental housing;
- (bb) The rentals meet the affordable housing guidelines for households with incomes not exceeding 80 percent of the "area median income" as defined in the department's affordable housing rules; and
- (cc) The rentals remain affordable for a period of not less than twenty (20) years.

If the department's affordable housing rules establish separate factors for determining the satisfaction of affordable housing requirements for transit-oriented developments, then satisfaction of the above percentages will be based on those factors.

The IPD-T option offers developers opportunities to increase development potential, provided equitable contributions that benefit the general public, the transit system, and TOD are demonstrated.

- (2) IPD-T projects shall be generally consistent with:
 - (A) The approved neighborhood TOD plan for the affected area; or
 - (B) If the neighborhood TOD plan has not yet been approved, the draft neighborhood TOD plan. As used in this section, "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department or the council, commencing with the first public review draft released by the director to the community for review and comment.
- (c) Use Regulations.
 - (1) Permitted uses and structures may be any of those uses permitted in the BMX-4 central business mixed use district; except that hotels shall not be permitted on any zoning lot in an apartment, apartment mixed use, industrial, or industrial-commercial mixed use district, unless it is otherwise in compliance with the standards enumerated by Section 21-5.360(b) (provided that this subdivision does not preclude hotels in the I-2 intensive industrial district and the IMX-1 industrial-commercial mixed use district from qualifying as a conditional use under Section 21-5.30(a)); and



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- (2) Ground floors and pedestrian-accessible spaces should be utilized to the extent feasible for active uses, such as, but not necessarily limited to outdoor dining, retail, gathering places, and pedestrian-oriented commercial activity. These spaces should also provide public accommodations such as, but not necessarily limited to, benches and publicly accessible seating, shaded areas through either trees or built structures, publicly accessible restrooms, trash and recycling receptacles, facilities for recharging electronic devices, publicly accessible telecommunications facilities, and Wi-Fi service.
- (d) Site Development and Design Standards. The standards set forth by this subsection are general requirements for IPD-T projects. When, in the paragraphs below, the standards are stated to be subject to modification or reduction, such modification or reduction shall be for the purpose of accomplishing a project design consistent with the goals and objectives of Section 21-9.100-4 and this subsection. Also, pursuant to Section 21-9.100-5(b), the modification or reduction in the following standards shall be commensurate with the contributions provided in the project plan, and the project shall be generally consistent with the draft or approved neighborhood TOD plan for the area.
- (1) Density.
- (A) The maximum floor area ratio (FAR) may be up to twice that allowed by the underlying zoning district or 7.5, whichever is lower; provided that where a draft or approved neighborhood TOD plan identifies greater density for the site, a project on that site shall be consistent with the specified density contained in the plan and may be considered for that density; and
- (B) For lots in the B-2, BMX-3, BMX-4, and IMX-1 districts, the maximum increase shall apply in addition to any eligible density bonuses for the underlying zoning district; that is, the increase shall apply to the zoning lot plus any applicable floor area bonuses.
- (2) Height.
- (A) For project sites where there is no draft neighborhood TOD plan, the maximum building height may be up to twice that allowed by the underlying zoning district, or 450 feet, whichever is lower; and



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- (B) Where there is a draft or approved neighborhood TOD plan, the maximum height shall not exceed the maximum height specified in the plan, provided that where existing height limits exceed those in the plans, the existing height limit shall prevail.
- (3) Transitional height and/or street setbacks may be modified where adjacent uses and street character will not be adversely affected.
- (4) Yards shall be as specified by the approved conceptual project plan, provided that building placement will not cause adverse noise, sunlight blockage, privacy and/or wind affects to adjacent uses, and street character will not be adversely affected.
- (5) Open Space.
- (A) Project open space shall be as specified in the approved conceptual project plan, with a preference for publicly accessible, highly usable parks and gathering spaces rather than buffering or unusable landscaped areas.
- (B) Where appropriate, usable open space may be:
- (i) Transferred to another accessible site within the vicinity of the project that shall be utilized as a public park, plaza or gathering place for the affected community; or
- (ii) Provided in the form of connections or improvements, or both, to nearby open spaces, pedestrian ways or trails, such as, but not necessarily limited to streetscape and intersection improvements, pedestrian walkways or bridges, arcades, or promenades;
- or both.
- (6) Landscaping and screening standards shall be as specified in the approved conceptual project plan and project landscaping shall include adjacent rights-of-way. Streetscape landscaping, including street trees or planting strips, or both, should be provided near the edge of the street, rather than adjacent to the building, unless infeasible.
- (7) Parking and loading standards shall be as follows:



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- (A) The number of parking and loading spaces provided shall be as specified in the approved conceptual project plan;
 - (B) Service areas and loading spaces shall be located at the side or rear of the site, unless the size and configuration of the lot renders this infeasible;
 - (C) Vehicular access shall be provided from a secondary street wherever possible and placed in the location least likely to impede pedestrian circulation; and
 - (D) The provision of car-sharing programs and vehicle charging stations is encouraged.
- (8) Bicycle parking shall be accommodated on the project site, subject to the following:
- (A) The number of bicycle parking spaces provided shall be as specified in the approved conceptual project plan;
 - (B) Long-term bicycle parking shall be provided for residents of on-site dwelling units in the form of enclosed bicycle lockers or easily accessible, secure and covered bicycle storage;
 - (C) Bicycle parking within enclosed parking structures shall be located as close as is feasible to an entrance of the facility so that it is visible from the street or sidewalk. The provision of a fenced and gated area for secure bicycle parking within the structure is encouraged;
 - (D) Each bicycle parking space shall be a minimum of 15 inches in width and six feet in length, with at least five feet of clearance between bicycle and vehicle parking spaces. Each bicycle must be easily reached and movable without moving another bicycle; and
 - (E) The provision of space for bicycle-sharing stations is encouraged either on the exterior of the building or within a parking structure, provided the area is visible and accessible from the street.
- (9) Signs.



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- (A) Sign standards and requirements shall be as specified in the approved conceptual project plan. The sign standards and requirements may deviate from the strict sign regulations of this chapter, provided the flexibility is used to achieve good design, compatibility, creativity, consistency, and continuity in the utilization of signs on a pedestrian scale;
 - (B) All projects shall include appropriate measures to accommodate TOD-related way-finding signage, which shall be considered "public signs" for purposes of Article 7; and
 - (C) Where signage is not otherwise specified by the approved conceptual plan for the project, the project signage shall comply with the underlying sign regulations of this chapter.
- (e) Application Requirements. An application for approval of an IPD-T project shall contain:
- (1) A project name;
 - (2) A location map showing the project in relation to the future rail station area and the surrounding area;
 - (3) A site plan showing property lines, the locations of buildings and other major structures, building access and activity zones, the proposed open space and landscaping system, access and circulation for vehicles, bicycles, and pedestrians, bus or trolley stops, and other major activities;
 - (4) A narrative description of the overall development and urban design concept; the general mix of uses; the basic form and number of structures; the relationship of buildings to each other and to the streets, and how that is used to create active public space; the estimated number of proposed dwelling or lodging units, and the proposed mix of housing types; general building height and density; how the project achieves and positively contributes to TOD and transit-enhanced neighborhoods; proposed public amenities and community benefits; the planned development of usable, publicly accessible spaces, accommodations and landscaping; how the project supports walking, bicycling, and active living; proposals to enhance multimodal circulation and access; proposed off-street parking and loading; and possible impacts on security, public health and safety, infrastructure and public utilities;



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- (5) An open space plan, showing the reservation of land for public, semi-public, and private open space, including parks, plazas, and playgrounds, an integrated circulation system indicating proposed movement of vehicles, goods, pedestrians, and bicyclists within both the project area and adjacent areas, including streets and driveways, sidewalks and pedestrian ways, bicycle lanes, bicycle tracks, and multi-use paths, off-street parking, and loading areas;
 - (6) A narrative explanation of the project's architectural and urban design relating the various design elements to support pedestrian- and transit-oriented development, and a discussion of any impacts to any cultural or historic resources, as well as any public views protected by law or ordinance;
 - (7) Details of the project, including proposed floor area, open space, open space bonuses, and maximum FAR;
 - (8) A parking and loading management plan or transportation demand management plan, or both;
 - (9) A wind and shadow study to analyze the effects of mid-rise and high-rise structures, particularly anticipated effects at the ground level. Where adverse effects are anticipated, mitigative measures shall be included in the proposal; and
 - (10) Any other information deemed necessary by the director to ascertain whether the project meets the requirements of this section.
- (f) Procedures. Applications for approval of IPD-T projects shall be processed in accordance with Section 21-2.110-2. Fees shall be as enumerated for Planned Development applications in Section 6-41.1(a)(19).
- (g) Conceptual Plan for a Project. No project shall be eligible for IPD-T status unless the council has first approved a conceptual plan for the project. The approved conceptual plan must set forth the allowable uses and the site development and design standards for density, height, transitional height and/or street setbacks, yards, open space, landscaping and screening, parking and loading, bicycle parking, and signs, if the uses and standards depart from the uses and standards applicable in the underlying zoning district. If uses and standards are not otherwise specified, the uses and standards applicable to the underlying zoning district apply.



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- (h) Guidelines for Review and Approval of the Conceptual Plan for a Project. Prior to or concurrently with its approval of a conceptual plan for an IPD-T project, the council shall find that the project concept, as a unified plan, is in the general interest of the public, and that:
- (1) Requested project boundaries and requested flexibility with respect to development standards and use regulations are consistent with the objectives of TOD and the provisions enumerated in Sec. 21-9.100-4; and
 - (2) Requested flexibility with respect to development standards and use regulations is commensurate with the public amenities and community benefits proposed.
- (i) Deadline for Obtaining Building Permit for Project.
- (1) A council resolution of approval for a conceptual plan for an IPD-T project shall establish a deadline within which the building permit for the project shall be obtained. For multiphase projects, deadlines shall be established for obtaining building permits for each phase of the project. The resolution shall provide that the failure to obtain any building permit within the prescribed period shall render null and void the council's approval of the conceptual plan and all approvals issued thereunder; provided that in multiphase projects, any prior phase that has complied with the deadline applicable to that phase shall not be affected. A revocation of a building permit pursuant to Section 18-5.4 after the deadline shall be deemed a failure to comply with the deadline.
 - (2) The resolution shall further provide that a deadline may be extended as follows:
 - (A) The director may extend the deadline if the applicant demonstrates good cause, but the deadline shall not be extended beyond one year from the initial deadline without the approval of the council, which may grant or deny the approval in its complete discretion.
 - (B) If the applicant requests an extension beyond one year from the initial deadline and the director finds that the applicant has demonstrated good cause for the extension, the director shall prepare and submit to the council a report on the proposed extension, which report shall include the director's findings and recommendations thereon and a proposed resolution approving the extension.



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- (C) The council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by resolution.
 - (D) If the council fails to take final action on the proposed extension within the first to occur of (i) 60 days after the receipt of the director's report or (ii) the applicant's then-existing deadline for obtaining a building permit, the extension shall be deemed to be denied.
 - (E) The director shall notify the council in writing of any extensions granted by the director that do not require council approval.
- (i) Further Processing by Director. If the council approves the conceptual plan for the IPD-T project, the application, as approved in concept by the council, shall continue to be processed by the director as provided under Section 21-2.110-2. Additional documentation may be required by the director as necessary. The following criteria shall be used by the director to review applications:
- (1) The project shall conform to the approved conceptual plan and any conditions established by the council in its resolution of approval. Any change to the conceptual plan will require a new application and approval by the council. The director may approve changes to the project that do not significantly alter the size or nature of the project, if the changes remain in conformance with the conceptual plan and any conditions established by the council. Any increase in the height or density of the project will be considered a significant alteration and a change to the conceptual plan;
 - (2) The project also shall implement the objectives, guidelines, and standards of Section 21-9.100-4 and this section;
 - (3) The project shall contribute significantly to the overall desired urban design of TOD areas;
 - (4) The project shall demonstrate a pedestrian system, publicly accessible spaces and accommodations, landscaping and other amenities which shall be integrated into the overall design of the project, and shall enhance the pedestrian experience between the project and surrounding TOD areas;



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- (5) The project shall involve a broad mix of uses or other characteristics, or both, which support the economic development and vitality of the affected TOD enhanced neighborhood; or include an appropriate mix of housing types, particularly affordable housing and rental housing; or both; and
- (6) The parking management plan or transportation demand management plan shall support transit ridership and alternative modes of travel and minimize impacts upon public streets where possible."

SECTION 4. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the ROH, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



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SECTION 5. This ordinance takes effect upon its approval.

INTRODUCED BY:

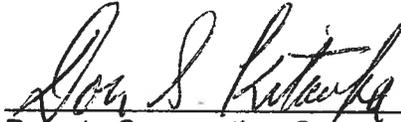
Ernest Martin (BR)

DATE OF INTRODUCTION:

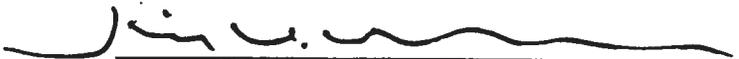
December 20, 2013
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel DON S. KITAOKA

APPROVED this 20 day of June, 20 14.


KIRK CALDWELL, Mayor
City and County of Honolulu

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

ORDINANCE

BILL 71 (2013), CD2, FD1

Introduced: 12/20/13 By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

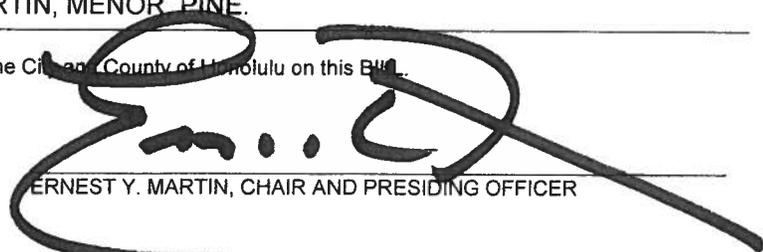
Title: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO INTERIM PLANNED DEVELOPMENT PERMITS FOR TRANSIT-ORIENTED DEVELOPMENT WITHIN CLOSE PROXIMITY TO FUTURE RAIL STATIONS.

Voting Legend: * = Aye w/Reservations

01/29/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
02/06/14	ZONING AND PLANNING	CR-38(14) – RECOMMENDING A 90-DAY EXTENSION OF TIME.
02/19/14	COUNCIL	CR-38(14) ADOPTED AND 90-DAY EXTENSION OF TIME GRANTED. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE
04/24/14	ZONING AND PLANNING	CR-118(14) - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AS AMENDED IN CD1 FORM AND SCHEDULING OF A PUBLIC HEARING.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-118(14) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/22/14	ZONING AND PLANNING	CR-163(14) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.
06/04/14	COUNCIL	NOTE: BILL 71 (2013), CD2, PROPOSED FD1 POSTED ON THE AGENDA WAS NOT CONSIDERED. BILL AMENDED TO HANDCARRIED FD1 (OCS/060314/01:25/YL). 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. CR-163(14) ADOPTED AND BILL 71(2013), CD2, FD1, PASSED THIRD READING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

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



A BILL FOR AN ORDINANCE

RELATING TO FEES AND CHARGES FOR USE OF PARKS AND RECREATION FACILITIES.

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

SECTION 1. Purpose and intent. The purpose of this ordinance is to amend the fees for camping.

SECTION 2. Section Chapter 10-2.13, Revised Ordinances of Honolulu 1990, is amended to read as follows:

“Sec. 10—2.13 Fees for Camping.

The following fees shall be assessed for use of campsites:

- [(1) \$5.00 per day for campsites holding up to 5 people.]
- [(2)](1) \$10.00 per day for campsites holding up to 10 people.
- [(3)](2) \$75.00 per day for campsites holding up to 60 people.
- [(4)](3) \$125.00 per day for campsites holding up to 100 people.
- (4) \$187.50 per day for campsites holding up to 150 people.
- (5) \$312.50 per day for campsites holding up to 250 people.”

Proceeds from the fees assessed under this section shall be deposited in the camping revenue account in the general fund and shall be used to improve and maintain city campsites.

An additional fee of \$2.00 per permit issued shall be assessed to pay for the administrative costs associated with the issuance of the permit. The monies from this fee shall be deposited in the general fund. A permit shall be valid for one or more consecutive days.”

SECTION 3. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



A BILL FOR AN ORDINANCE

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

[Handwritten signature]
_____ (br)

DATE OF INTRODUCTION:

MAR 13 2014
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Amy R. Kondo

Deputy Corporation Counsel **AMY R. KONDO**

APPROVED this 20th day of June, 20 14.

[Handwritten signature]

KIRK W. CALDWELL,
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE

BILL 24 (2014)

Introduced: 03/13/14 By: ERNEST MARTIN (BR)

Committee: BUDGET

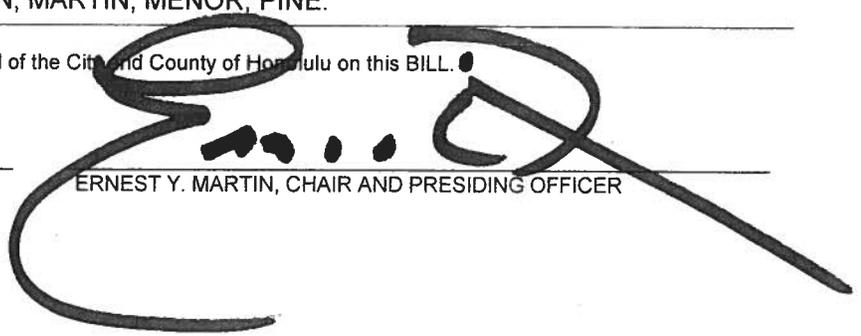
Title: A BILL FOR AN ORDINANCE RELATING TO FEES AND CHARGES FOR USE OF PARKS AND RECREATION FACILITIES.

Voting Legend: * = Aye w/Reservations

04/16/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
04/23/14	BUDGET	CR-108 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-108 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/13/14	BUDGET	CR-143 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
06/04/14	COUNCIL	CR-143 ADOPTED AND BILL 24 (2014) PASSED THIRD READING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

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



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 26 (2014), CD1

A BILL FOR AN ORDINANCE

RELATING TO COLLECTION AND DISPOSAL CHARGES.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the time period for payment of refuse collection and disposal charges.

SECTION 2. Section 9-4.3, Revised Ordinances of Honolulu 1990, as amended ("Payments of charges"), is amended by amending subsections (a) and (b) to read as follows:

- "(a) Collection and disposal charges shall be paid at the time of disposal or billed monthly or bimonthly by the director of budget and fiscal services or the director's designated billing agency, such determination to be made by said [director, and] director. Charges billed shall be paid within [60] 30 days after the date of the bill.
- (b) [Charges] Billed charges not paid within [60] 30 days shall become delinquent and shall be subject to interest at the rate of one percent per month for each month or fraction thereof that such charges remain delinquent."

SECTION 3. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

March 25, 2014
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Amy R. Kondu
Deputy Corporation Counsel **AMY R. KONDU**

APPROVED this 20th day of June, 2014.

Kirk Caldwell
KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE

BILL 26 (2014), CD1

Introduced: 03/25/14 By: ANN KOBAYASHI

Committee: BUDGET

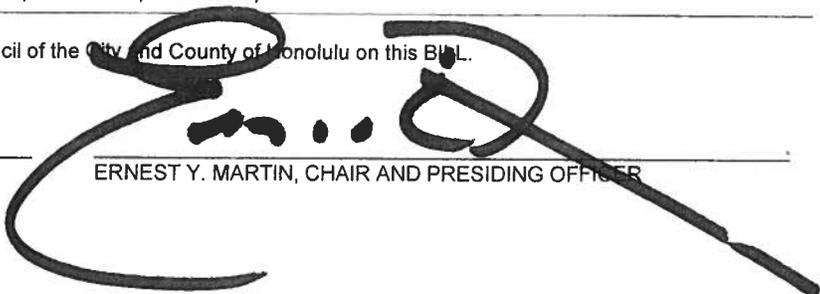
Title: A BILL FOR AN ORDINANCE RELATING TO COLLECTION AND DISPOSAL CHARGES.

Voting Legend: * = Aye w/Reservations

04/16/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
04/23/14	BUDGET	CR-109 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-109 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/13/14	BUDGET	CR-144 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM.
06/04/14	COUNCIL	CR-144 ADOPTED AND BILL 26 (2014), CD1 PASSED THIRD READING AS AMENDED. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

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



A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT KAHALUU, OAHU, HAWAII.

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

SECTION 1. Zoning Map No. 21 (Kualoa-Waiahole-Kahaluu), Ordinance 86-122, is hereby amended as follows: Land situated at 47-357 Ahuimanu Road, Kahaluu, Oahu, Hawaii hereinafter described, is hereby rezoned from the AG-2 General Agricultural District to the R-10 Residential 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 Keys: 4-7-025: 016, 017, and portion of 024.

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:

[Handwritten signature]

(br)

DATE OF INTRODUCTION:

APR 1 2014

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

[Handwritten signature]

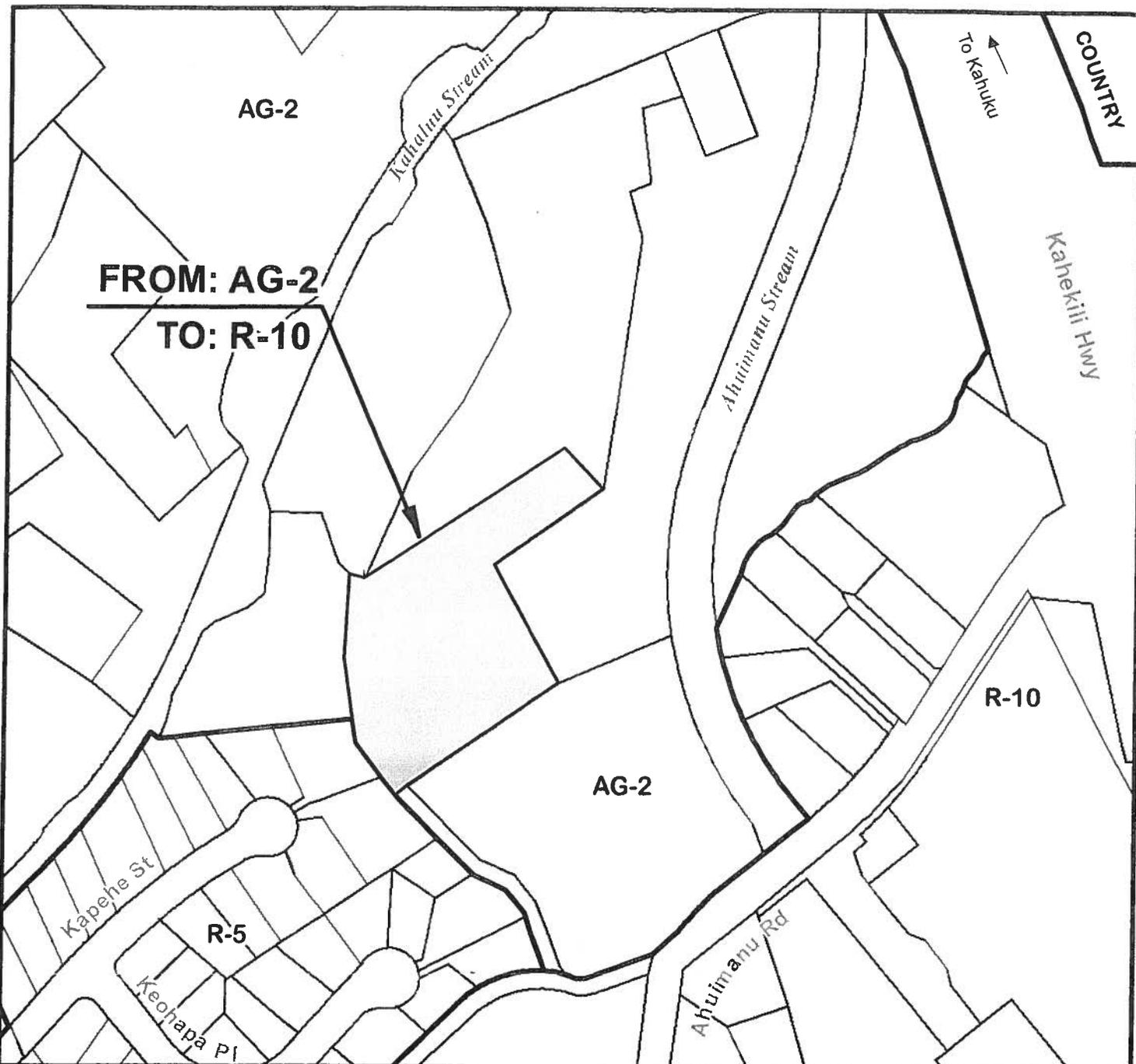
Deputy Corporation Counsel DON S. KITAOKA

APPROVED this 20 day of June, 20 14.

[Handwritten signature]

KIRK CALDWELL, Mayor
City and County of Honolulu

2014 JUN 1 11:30 AM
CITY AND COUNTY OF HONOLULU
RECEIVED



PORTION OF
ZONING MAP NO. 21
(KUALOA - WAIAHOLE - KAHALUU)

Lands situated approximately 400' Northwesterly of Ahuimanu Road between Ahuimanu Stream and Kahaluu Stream.

APPLICANT: BERTHA S.M. AWA TRUST
(AKA BERTHA P. AWA TRUST)

TAX MAP KEY(S): 4-7-025:016, 017 & por. of 024

FOLDER NO.: 2013/Z-10

LAND AREA: APPROXIMATELY 1.785 ACRES

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

PUBLIC HEARING PLANNING COMMISSION CITY COUNCIL

ORD. NO.

MAR 5 2014

MAY 07 2014 2013/Z-8

EFF. DATE:

EXHIBIT A

BILL 29 (2014)



0 50 100 200



Scale in Feet



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-8914343
CT 242504, 263624
DATE May 29, 2014 8:02 AM

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
BUREAU OF CONVEYANCES
DATE _____ Doc A-52620597
DOCUMENT NO. May 29, 2014 8:02 AM

LAND COURT

REGULAR SYSTEM

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

THE GRAD LAW FIRM
DAVIES PACIFIC CENTER, SUITE 1800
841 BISHOP ST, HONOLULU, HI 96813

Total pages: 12

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for
Conditional Zoning

PARTIES TO DOCUMENT:

MAXIE V. AWA, also known as MAXIE VIRGINIA KAMEKONA AWA, as
Successor Trustee under that certain testamentary trust created
under the Last Will and Testament of Joseph M. Awa, Sr. dated
February 14, 1977, as amended; and BERTHA S. M. AWA and SHEILA
ANN ISERI, (1) as Successor Co-Trustees under that certain
unrecorded Bertha S. M. Awa Revocable Trust Agreement dated May
23, 1984, as amended; and (2) as Successor Co-Trustees under that
certain unrecorded Bertha Pang Awa Revocable Trust dated May 23,
1984, as amended

TAX MAP KEY NO. (1) 4-7-025:016 & 017

[Form: 2/13]

EXHIBIT B

D-423

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 20th day of May, 2014, by MAXIE V. AWA, also known as MAXIE VIRGINIA KAMEKONA AWA, as Successor Trustee under that certain testamentary trust created under the Last Will and Testament of Joseph M. Awa, Sr. dated February 14, 1977, as amended; and BERTHA S. M. AWA and SHEILA ANN ISERI, (1) as Successor Co-Trustees under that certain unrecorded Bertha S. M. Awa Revocable Trust Agreement dated May 23, 1984, as amended; and (2) as Successor Co-Trustees under that certain unrecorded Bertha Pang Awa Revocable Trust dated May 23, 1984, as amended, each having all powers under said trust agreements, including full powers to sell, convey, exchange, mortgage, lease, assign or otherwise deal with and dispose of all lands of the trust estate and interests therein, whose address is 47-357 Ahuimanu Road, Kaneohe, Hawaii 96744 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of those certain parcels of land situate at Kahuluu, District of Koolaupoko, City and County of Honolulu, State of Hawaii, consisting of approximately 0.139 and 1.52 acres, described as Tax Map Key No. (1) 4-7-025:016 and 017, respectively, 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, there currently exist five (5) single-family dwellings 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 AG-2 General Agricultural District to the R-10 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning,

Bill 29 (2014), was held by the Council on May 7, 2014; and

WHEREAS, the Council recommended by its Zoning and Planning Committee Report No. 166 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. After-the-Fact Building Permit. The Declarant shall obtain an after-the-fact building permit for the addition of the covered lanai on Unit B1 (47-357-B1 Ahuimanu Road) and any other buildings and structures built on the Land without a permit. The Declarant shall submit an application to the Department of Planning and Permitting (DPP) for the permit within 30 days of the effective date of the Rezoning Ordinance, provided that this deadline may be extended by the DPP if the DPP finds that the delay is due to reasons beyond the control of the Declarant.

2. Drain Connection License. The Declarant shall obtain a Drain Connection License for the existing drainage system across Parcel TMK 4-7-025: 041 that provides drainage from the Land to the Kahaluu Flood Control Channel. The Declarant shall apply for the License prior to the approval of the after-the-fact building permit required by Condition 1.

3. Easement. The Declarant shall designate a flowage easement on Parcel TMK 4-7-025: 041 in favor of Parcel TMK 4-7-025: 017 for the existing drainage system that drains into the Kahaluu Flood Control Channel. The Declarant shall submit a subdivision application to the DPP to designate the easement prior to the approval of the after-the-fact building permit required by Condition 1.

4. Any Other Building Permit. Prior to approval for any other building permit involving an increase in floor area and submitted by the Declarant after the effective date of the Rezoning Ordinance, the following shall apply:

a. Transportation System. The Declarant shall widen the pavement of the access roadway from Ahuimanu Road to the northern tip of Parcel TMK 4-7-025: 016 from 10 feet to a minimum of 20 feet in accordance with City standards.

b. Water System. The Declarant shall upgrade the water system from Ahuimanu Road to the Land according to the Board of Water Supply Water System Standards.

5. Compliance with Other Governmental Requirements. The Declarant acknowledges 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 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. 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. 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.

7. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the 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 the 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:

Maxie V. Awa

MAXIE V. AWA, also known as
MAXIE VIRGINIA KAMEKONA AWA,
as Successor Trustee under
that certain testamentary
trust created under the Last
Will and Testament of Joseph
M. Awa, Sr. dated February 14,
1977, as amended,

Bertha S. M. Awa

BERTHA S. M. AWA, (1) as
Successor Co-Trustee under
that certain unrecorded Bertha
S. M. Awa Revocable Trust
Agreement dated May 23, 1984,
as amended; and (2) as
Successor Co-Trustee under
that certain unrecorded Bertha
Pang Awa Revocable Trust dated
May 23, 1984, as amended

Sheila Ann Iseri

SHEILA ANN ISERI, (1) as
Successor Co-Trustee under
that certain unrecorded Bertha
S. M. Awa Revocable Trust
Agreement dated May 23, 1984,
as amended; and (2) as
Successor Co-Trustee under
that certain unrecorded Bertha
Pang Awa Revocable Trust dated
May 23, 1984, as amended

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

On this 20th day of May, 2014, before me personally appeared MAXIE V. AWA, also known as MAXIE VIRGINIA KAMEKONA AWA, to me personally known or adequately proven to be the person(s) described in and who executed the foregoing instrument, who, being by me duly sworn or affirmed, did say that such person(s) executed the same 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.

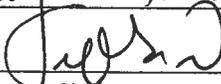


Notary Public, State of Hawaii

Jeffrey S. Grad

(Printed name)

My commission expires: 11/20/14

Doc. Date: <u>5/20/14</u>	# Pages: <u>12</u>
Name: <u>Jeffrey S. Grad</u>	First Circuit
Doc. Description: <u>Unilateral Agreement; Declaration for Conditional Zoning</u>	
	(Seal)
Notary Signature	Date
NOTARY CERTIFICATION	

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

On this 20th day of May, 2014, before me personally appeared BERTHA S. M. AWA, to me personally known or adequately proven to be the person(s) described in and who executed the foregoing instrument, who, being by me duly sworn or affirmed, did say that such person(s) executed the same 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.

Jeffrey S. Grad
Notary Public, State of Hawaii
Jeffrey S. Grad
(Printed name)

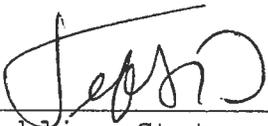
My commission expires: 11/20/14

Doc. Date: <u>5/20/14</u>	# Pages: <u>12</u>
Name: <u>Jeffrey S. Grad</u>	First Circuit
Doc. Description: <u>Unilateral Agreement / Declaration for Conditional Zoning</u>	(Seal)
<u>Jeffrey S. Grad</u> Notary Signature	<u>5/20/14</u> Date

NOTARY CERTIFICATION

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

On this 20th day of MAY, 2014, before me personally appeared SHEILA ANN ISERI, to me personally known or adequately proven to be the person(s) described in and who executed the foregoing instrument, who, being by me duly sworn or affirmed, did say that such person(s) executed the same 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.



Notary Public, State of Hawaii
Jeffrey S. Grad

(Printed name)

My commission expires: 11/20/14

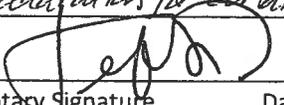
Doc. Date: <u>5/20/14</u>	# Pages: <u>12</u>
Name: <u>Jeffrey S. Grad</u>	First Circuit
Doc. Description: <u>Unilateral Agreement; Declaration for Conditional Zoning</u>	
	<u>5/20/14</u>
Notary Signature	Date
NOTARY CERTIFICATION	

EXHIBIT "A"

PARCEL FIRST:

All of that certain parcel of land situate at Kahuluu, District of Koolaupoko, City and County of Honolulu, State of Hawaii, described as follows:

LOT A-71, area .139 acre, more or less, as shown on Map 18, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 979 of Bishop Trust Company, Limited.

Being the land described in Transfer Certificates of Title Nos. 242,504 and 263,624.

PARCEL SECOND:

All of that certain parcel of land (being all of the land(s) described in and covered by Royal Patent Number 1552, Land Commission Award Number 2246-D, Apana 1 to Ioba) situate, lying and being at Kahaluu, District of Koolaupoko, City and County of Honolulu, State of Hawaii, containing an area of 1.52 acres, Tax Map key No. 4-7-25-017 and thus bounded and described:

Beginning at the north corner of Lot A-71 of Land Court Application 979, as shown on Map 10 of said Land Court Application, and thence running:

1.	236° 20'	317.10	feet along Lots A-70 and A-72 of Ld. Ct. App. 979;
2.	316° 4'	76.00	feet along Lot A-72 of Ld. Ct. App. 979;
3.	54° 24'	178.90	feet along same;
4.	330° 43'	181.00	feet along same;
5.	54° 43'	243.45	feet along same;
6.	167° 47'	288.05	feet along Lot A-71 to the point of beginning.

Being the land having been acquired as follows:

1. By BISHOP TRUST COMPANY, LIMITED, as Trustee of that certain residuary trust created under the Last Will and Testament of Joseph M. Awa, Sr. dated February 14, 1977, as to an undivided 1/2 interest, by ORDER APPROVING FINAL ACCOUNTS AND DISTRIBUTING AND SETTling ESTATE had in the matter of the estate of JOSEPH M. AWA, SR., aka JOSEPH M. AWA, aka JOSEPH MAKa AWA, aka JOSEPH MAKa AWA, SR., deceased, dated January 16, 1980, filed in the Circuit Court of the First Circuit, State of Hawaii, Probate No. 39881, on January 17, 1980, recorded in Liber 23117 at Page 725.

2. By BISHOP TRUST COMPANY, LIMITED, a Hawaii corporation, Trustee under unrecorded Trust Agreement of the Bertha Pang Awa Revocable Trust dated May 23, 1984, with full powers to sell, mortgage, lease or otherwise deal with the land, as to an undivided 1/2 interest, by QUITCLAIM DEED of BERTHA SAM MOI AWA, unmarried, dated August 3, 1989, recorded in Liber 23521 at Page 195.

Note:

1. AFFIDAVIT TO NOTE RESIGNATION OF TRUSTEE AND ACCEPTANCE OF TRUSTEESHIP BY DESIGNATED SUCCESSOR TRUSTEE dated August 7, 1997, recorded as Document No. 97-136842 sets forth the following:

(a) The resignation of HAWAIIAN TRUST COMPANY, LIMITED, as Trustee of the Joseph M. Awa, Sr. Trust dated February 14, 1977.

(b) The appointment of MAXIE V. AWA, also known as Maxie Virginia Kamekona Awa, wife of Bertram Lee Awa, as Successor Trustee of the Joseph M. Awa, Sr. Trust dated February 14, 1977; and ELLEN E. AWA, also known as Ellen Emiko Ikehara Awa, wife of Joseph Maka Awa, Jr., as alternate Successor Trustee of said Trust.

2. AFFIDAVIT TO NOTE RESIGNATION OF TRUSTEE AND ACCEPTANCE OF TRUSTEESHIP BY DESIGNATED SUCCESSOR TRUSTEE dated August 7, 1997, recorded as Document No. 97-136843 sets forth the following:

(a) The Resignation of HAWAIIAN TRUST COMPANY, LIMITED, as Trustee under unrecorded Trust Agreement of the Bertha Pang Awa Revocable Trust dated May 23, 1984.

(b) The appointment of BERTHA S. M. AWA, also known as Bertha Sam Moi Awa, Bertha P. Awa and Bertha Pang Awa; and SHEILA ANN ISERI, also known as Sheila Ann Ululani Awa Iseri, as Successor Co-Trustees of the Bertha S. M. Awa Revocable Trust dated May 23, 1984, as amended (formerly known as the Bertha Pang Awa Revocable Trust).

END OF EXHIBIT "A"

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE

BILL 29 (2014)

Introduced: 04/01/14 By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

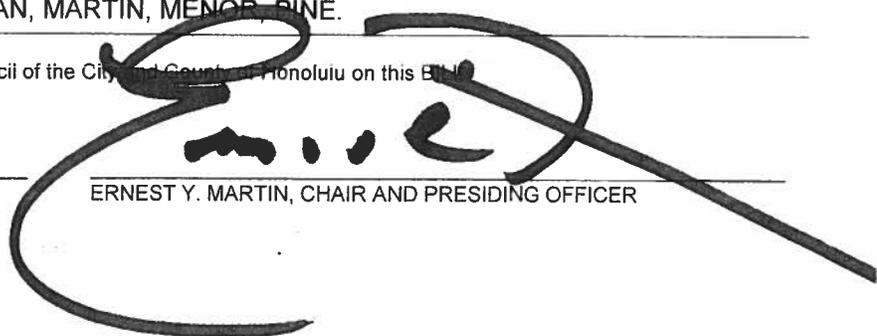
Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT KAHALUU, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

04/16/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
04/24/14	ZONING AND PLANNING	CR-121 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-121 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/22/14	ZONING AND PLANNING	CR-166 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
06/04/14	COUNCIL	CR-166 ADOPTED AND BILL 29 (2014) PASSED THIRD READING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

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



A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT WAHIAWA, OAHU, HAWAII

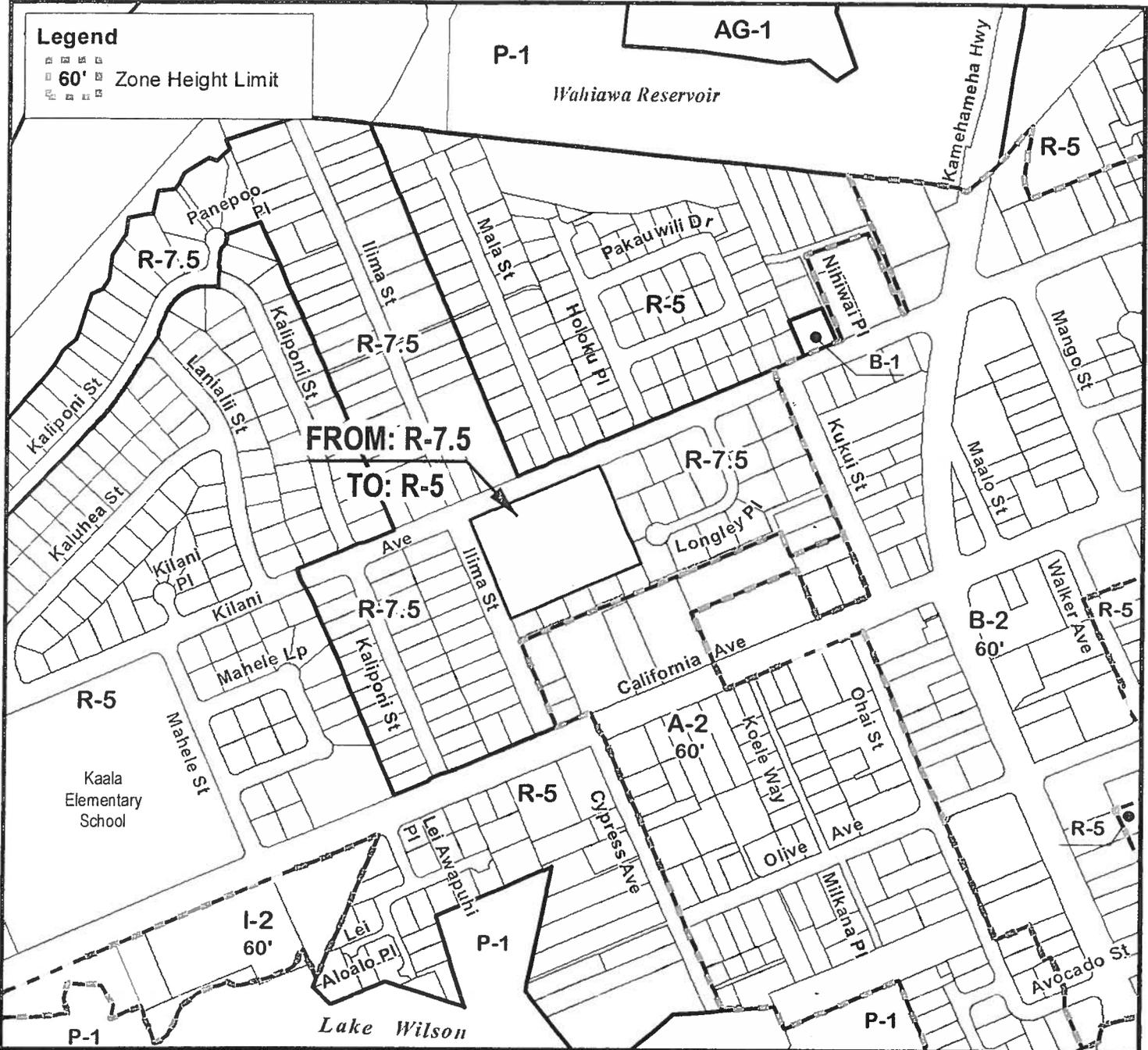
BE IT ORDAINED by the People of the City and County of Honolulu.

SECTION 1. Zoning Map No. 11 (Wahiawa-Whitmore), Ordinance No. 86-113, is hereby amended as follows: Land situated at Wahiawa, Oahu, Hawaii hereinafter described, is hereby rezoned from the R-7.5 Residential District to the R-5 Residential 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: 7-3-004: 027.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.

Legend

60' Zone Height Limit



**PORTION OF
ZONING MAP NO. 11
(WAHIAWA-WHITMORE)**

Land situated at the southeasterly corner of the intersection of Kilani Avenue and Ilima Street.

APPLICANT: VINE4, LLC.
TAX MAP KEY(S): 7-3-004:027
FOLDER NO.: 2013/Z-7
LAND AREA: 2.32 ACRES
PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING
CITY AND COUNTY OF HONOLULU

PUBLIC HEARING PLANNING COMMISSION CITY COUNCIL

JAN 2

2013/Z-5

ORD. NO.
EFF. DATE:

EXHIBIT A

BILL 10 (2014)



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

[Form: 2/13]

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

pat/ld

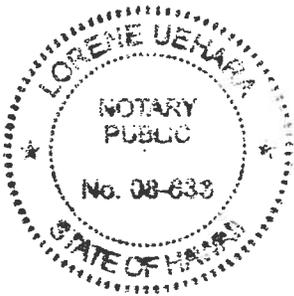
[Handwritten Signature]

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.



[Handwritten Signature]

Name: **LORENE UEHARA**

Notary Public, State of Hawaii

My commission expires: SEP 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

[Handwritten Signature] MAY 23 2014
Signature of Notary Date of Notarization and Certification Statement

LORENE UEHARA

Printed Name of Notary

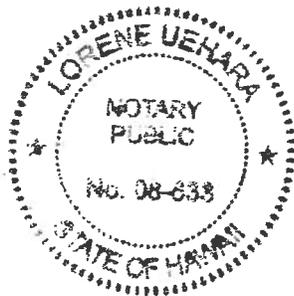


EXHIBIT "A"

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

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

ORDINANCE

BILL 10 (2014)

Introduced: 02/19/14 By: ERNEST MARTIN (BR)

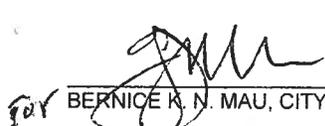
Committee: ZONING AND PLANNING

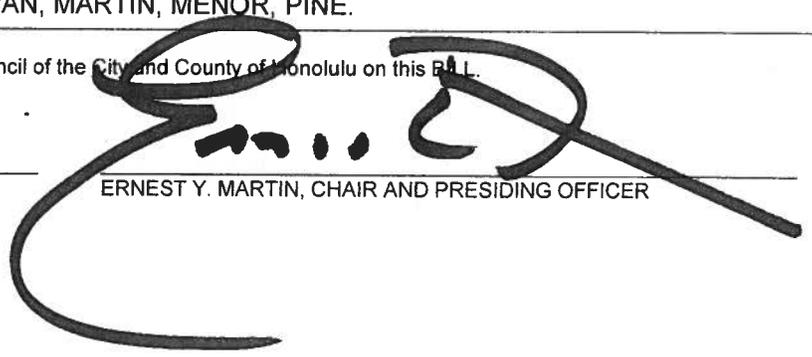
Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT WAHIAWA, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

03/12/14	COUNCIL	BILL PASSED FIRST READING AND WAS REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
03/20/14	ZONING AND PLANNING	BILL DEFERRED IN COMMITTEE.
04/24/14	ZONING AND PLANNING	CR-119 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-119 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/22/14	ZONING AND PLANNING	CR-164 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
06/04/14	COUNCIL	CR-164 ADOPTED AND BILL 10 (2014) PASSED THIRD READING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

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.


for BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT MAKAHA VALLEY, OAHU, HAWAII.

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

SECTION 1. Zoning Map No. 15 (Lualualei-Makaha), Ordinance 86-117, is hereby amended as follows: Land situated at Makaha Valley, Oahu, Hawaii hereinafter described, is hereby rezoned from the AG-2 General Agricultural District to the P-2 General Preservation 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: 8-4-002: Portion of 055.

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 takes effect upon its approval.

INTRODUCED BY:

Ernest Martin (BR)

Kymberly Pine (BR)

DATE OF INTRODUCTION:

April 7, 2014
Honolulu, Hawaii

_____ Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel DON S. KITAOKA

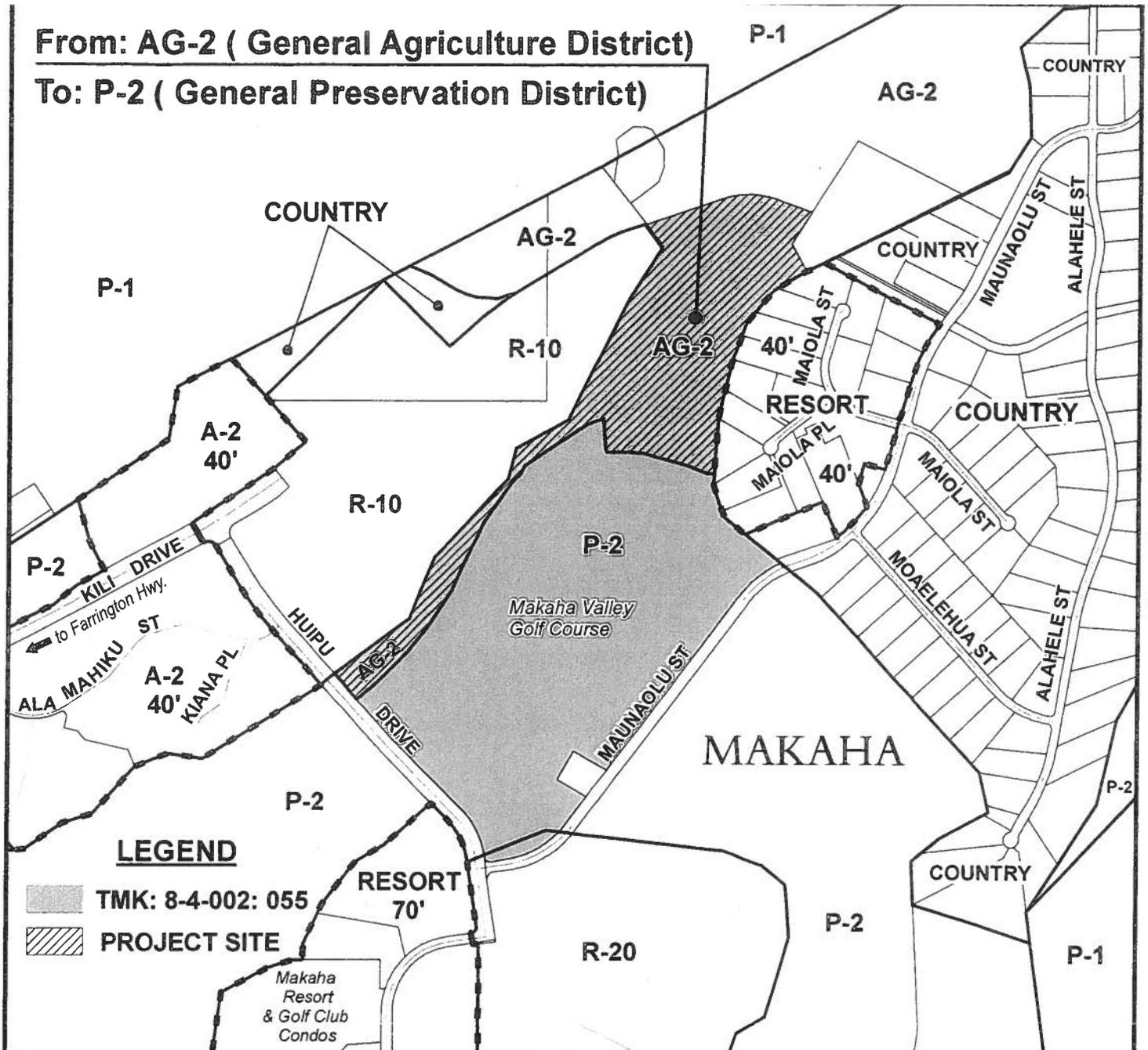
APPROVED this 20 day of June, 20 14.



KIRK CALDWELL, Mayor
City and County of Honolulu

From: AG-2 (General Agriculture District)

To: P-2 (General Preservation District)



LEGEND

-  TMK: 8-4-002: 055
-  PROJECT SITE

Makaha Resort & Golf Club Condos

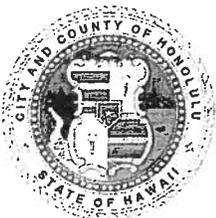
PORTION OF EXISTING ZONING MAP # 15 (LUALUALEI-MAKAHA)

Land situated approximately 2,550 feet East from the intersection of Kili Drive and Huipu Drive and approximately 830 feet West from the intersection of Maiola Street and Maiola Place.



0 400 800

1 INCH = 800 FEET



APPLICANT: HAWAII MGCW LLC
TAX MAP KEY(S): 8-4-002: PORTION OF 055
FOLDER NO.: 2013/Z-8
LAND AREA: 28.3 Acres (Approx.)
PREPARED BY: DEPARTMENT OF PLANNING AND PERMITTING
 CITY AND COUNTY OF HONOLULU
PUBLIC HEARING: PLANNING COMMISSION CITY COUNCIL
 March 5, 2014 **MAY 07 2014** 2013/Z-6

Bill 32 (2014), CD1

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

Doc T - 8908308

CT 1073854

as _____ May 23, 2014 8:02 AM



Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

Land Court

Regular System

After Recordation Return By: Mail (X) Pickup () To:

Patrick Seguirant Architect
91-1030 Kaihi Street
Ewa Beach, Hawaii 96706
Telephone: 683-4477

TITLE OF DOCUMENT:	Unilateral Agreement and Declaration for Conditional Zoning
PARTY TO DOCUMENT:	HAWAII MGCW LLC
TAX MAP KEY NO.:	(1) 8-4-002: 055

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 23rd day of May, 2014, by HAWAII MGCW LLC, a Hawaii limited liability company, whose address is 770 Auloa Road, Kailua, Hawaii 96734 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Makaha, City and County of Honolulu, State of Hawaii, consisting of approximately 87.44 acres, described as Tax Map Key No. (1) 8-4-002: 055, 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

EXHIBIT B

D- 428

WHEREAS, the Declarant plans to develop a golf course 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 a portion of the Land from the AG-2 General Agricultural District to the P-2 General Preservation District (the "zone change"); and

WHEREAS, the portion of the Land subject to the zone change, consisting of approximately 28.3 acres, is depicted as the parallel-lined area designated as "Project Site" on the portion of Zoning Map No. 15 attached hereto as Exhibit B and made a part hereof; and

WHEREAS, a public hearing regarding the change in zoning, Bill 32 (2014), was held by the Council on May 7, 2014; and

WHEREAS, the Council recommended by its Zoning and Planning Committee Report No. 167 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. Transportation. Prior to issuance of any grading, demolition, and/or building permit, whichever comes first, for the Project site or any portion of Tax Map Key 8-4-002: 055, the Declarant shall prepare a Construction Management Plan (CMP) and submit it to the DPP for review and approval. The CMP shall identify the type, frequency, and routing of heavy trucks and construction-related vehicles. Every effort shall be made to minimize impacts from these vehicles and related construction activities. The CMP shall include provisions to limit vehicular activity to timeframes outside of peak traffic periods, utilizing alternate routes for heavy trucks, staging locations for construction workers and vehicles, and other mitigation measures that may impact traffic. The Declarant shall document the condition of roadways in the immediate vicinity of the Project site prior to the commencement of construction activities and provide remedial measures, as necessary, such as restriping, road resurfacing, and/or reconstruction if the condition of these roadways has deteriorated due to the Project's construction activity.
2. Compliance With Other Governmental Requirements. The Declarant acknowledges 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 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 DPP documenting its satisfaction of and/or describing its 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.

4. Noncompliance or Failure to Fulfill Any Condition. 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 the 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.

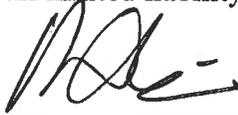
That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

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:

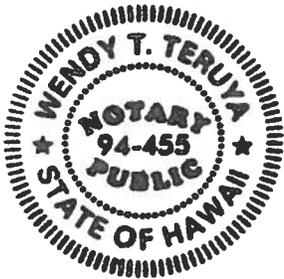
HAWAII MGCW LLC,
a Hawaii limited liability company

By  _____

Micah Kane
Its Authorized Representative

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

On this 23rd day of May, 2014, before me personally appeared MICAH KANE, to me personally known, who, being by me sworn, did say that he is the Authorized Representative, HAWAII MGCW LLC, a Hawaii limited liability company, that the foregoing instrument was signed in behalf of said limited liability company; and that he acknowledged said instrument to be the free act and deed of said limited liability company.



Wendy Teruya

Name Wendy T. Teruya
Notary Public, State of Hawaii

My commission expires: 8/3/2014

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

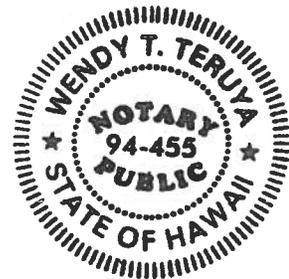
Document Identification or Description: Unilateral Agreement and Declaration for Conditional Zoning

Doc. Date: 5/23/14 or Undated at time of notarization.

No. of Pages: 7 Jurisdiction: First Circuit
(in which notarial act is performed)

Wendy Teruya
Signature of Notary Date of Notarization and Certification Statement
5/23/14

Wendy T. Teruya
Printed Name of Notary



(Official Stamp or Seal)

EXHIBIT "A"
(Tax Map Key 8-4-002: 055)

All of that certain parcel of land situate at Makaha, Waianae, City and County of Honolulu, being a portion of the land described as follows:

LOT 1447, area 87.440 acres, more or less, as shown on Map 186, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1052 (amended) of Waianae Company.

Together with a right of way across Easement "62" across Lot 1248, as shown on Map 168, and Lot 1241, as shown on Map 131, Lot 975, as shown on Map 58, and Lot 1005, as shown on Map 75, of said Application, as set forth by Land Court Order No. 29882.

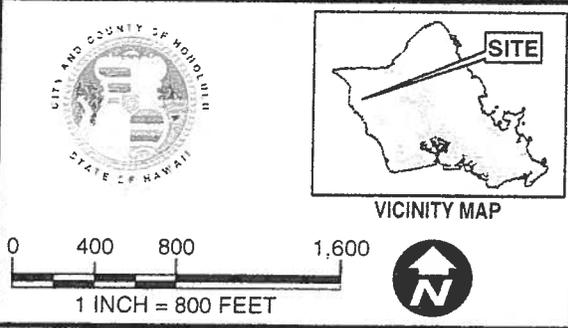
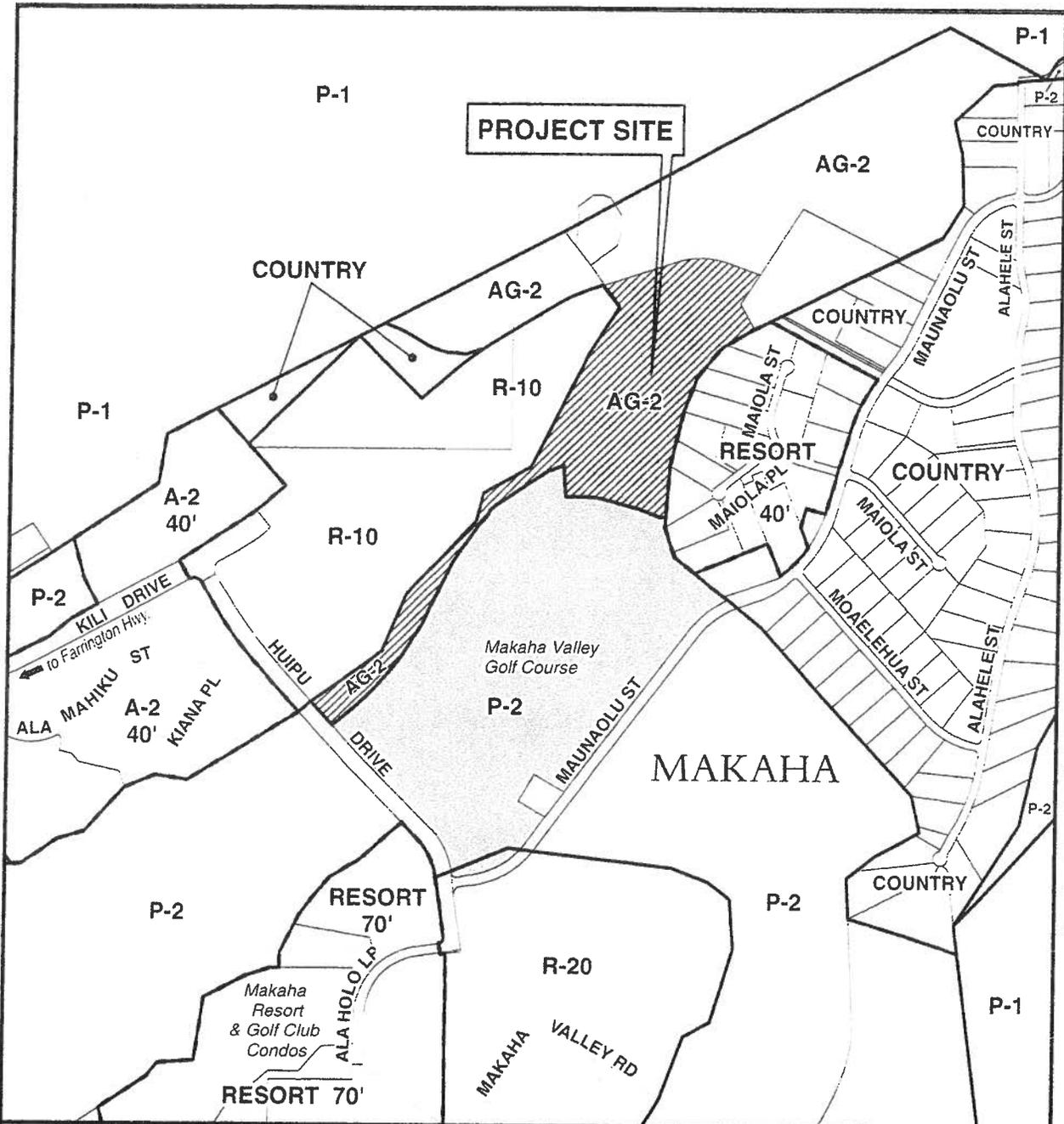
Together also with a right of way for road, utility and irrigation purposes across Lot 632, as shown on Map 15, Lot 649, as shown on Map 17, Lot 1429-C, as shown on Map 185, and Lot 1428, as shown on Map 171, of said Application.

Together also with a right of way across Easement "158", as shown on Map 156, across Lot 1025-B, Easement "159", as shown on Map 156, across Lot 1025-C, and Easement "160", as shown on Map 156, across Lot 1430-A, of said Application.

Together also with a right of way across Easement "157", as shown on Map 156, across Lot 1005, of said Application.

Being land conveyed to HAWAII MGCW LLC, a Hawaii limited liability company, by WARRANTY DEED dated January 16, 2014, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T-8803320, and duly noted on Land Court Certificate of Title No. 1,073,854.

EXHIBIT "B"
(Tax Map Key 8-4-002: 055)



LOCATION MAP with Zoning - Makaha

TMK: 8-4-002: 055
 PROJECT SITE
TAX MAP KEY(S): 8-4-002: Portion of 055
FOLDER NO.: 2013/Z-8

Prepared by: Department of Planning & Permitting
City & County of Honolulu

Date Prepared: November 4, 2013

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CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE

BILL 32 (2014), CD1

Introduced: 04/07/14 By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

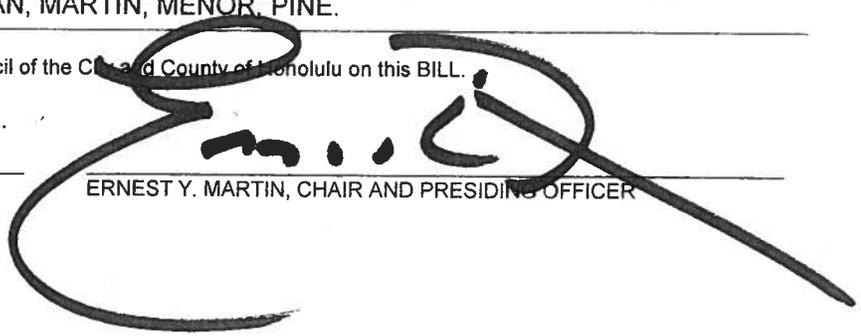
Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT MAKAHA VALLEY, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

04/16/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
04/24/14	ZONING AND PLANNING	CR-122 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AS AMENDED IN CD1 FORM AND SCHEDULING OF A PUBLIC HEARING.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-122 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/22/14	ZONING AND PLANNING	CR-167 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
06/04/14	COUNCIL	CR-167 ADOPTED AND BILL 32 (2014), CD1 PASSED THIRD READING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

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