

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 * HONOLULU, HAWAII 96813
PHONE: (808) 768-4141 * FAX: (808) 768-4242 * INTERNET: www.honolulu.gov



KIRK CALDWELL
MAYOR

ROY K. AMEMIYA, JR.
MANAGING DIRECTOR
GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

April 7, 2017

Mr. Glen Takahashi
City Clerk
Office of the City Clerk
530 South King Street
Honolulu, Hawaii 96813

Dear Mr. Takahashi:

SUBJECT: Approved Bills

The following Bills are approved and returned herewith:

- | | |
|---------------------|--|
| Bill 3, CD1 | Relating to the transportation surcharge. |
| Bill 7, CD2 | Relating to real property taxation. |
| Bill 8 | Relating to real property taxation. |
| Bill 81 (2015), CD2 | Relating to private streets and roads. |
| Bill 49 (2016) | To rezone land situated at Moanalua, Oahu, Hawaii. |
| Bill 52 (2016), CD1 | To rezone land situated at Moanalua, Oahu, Hawaii. |

Sincerely,

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

Kirk Caldwell
Mayor

Attachments

RECEIVED
CITY CLERK
C & C OF HONOLULU
2017 APR -7 PM 3:44

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

ORDINANCE

BILL 3 (2017), CD1

Introduced: 01/04/17

By: JOEY MANAHAN

Committee: BUDGET

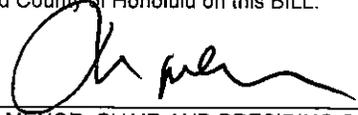
Title: A BILL FOR AN ORDINANCE RELATING TO THE TRANSPORTATION SURCHARGE.

Voting Legend: * = Aye w/Reservations

01/25/17	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 7 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE. 2 ABSENT: MARTIN, OZAWA.
02/08/17	BUDGET	CR-61 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
02/11/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/22/17	COUNCIL/PUBLIC HEARING	CR-61 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA*, MANAHAN, MARTIN*, MENOR, OZAWA, PINE. 1 NO: KOBAYASHI.
03/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
03/08/17	BUDGET	CR-85 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
03/22/17	COUNCIL	MOTION TO AMEND BILL TO HAND-CARRIED FD1 (OCS2017-0294/3/21/2017 8:10 AM) FAILED. 4 AYES: FUKUNAGA, KOBAYASHI, MARTIN, OZAWA. 5 NOES: ANDERSON, ELEFANTE, MANAHAN, MENOR, PINE. CR-85 ADOPTED AND BILL 3 (2017), CD1 PASSED THIRD READING. 6 AYES: ANDERSON, ELEFANTE, MANAHAN, MENOR, OZAWA, PINE. 3 NOES: FUKUNAGA, KOBAYASHI, MARTIN.

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.


GLEN I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

RELATING TO THE TRANSPORTATION SURCHARGE.

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

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to amend the ordinances pertaining to the county surcharge on general excise and use taxes.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as HRS Section 46-16.8, Ordinance 05-27 established a one-half percent general excise and use tax surcharge to fund the operating and capital costs of the locally preferred alternative for the City's mass transit project and related improvements to comply with the Americans with Disabilities Act (ADA), which ordinance became effective on January 1, 2007, and was to be repealed on December 31, 2022.

Among other things, Section 3 of Act 240, Session Laws of Hawaii, Regular Session of 2015, amended HRS Section 46-16.8 to provide for a five-year extension of the general excise and use tax surcharge beyond December 31, 2022, to December 31, 2027, for any county that established a tax surcharge prior to the effective date of Act 240 on July 14, 2015, and that enacted an ordinance to implement the extension.

On February 1, 2016, Ordinance 16-1 was enacted. Among other things, it implemented the five-year extension of the general excise and use tax surcharge to December 31, 2027, and imposed a maximum amount of \$4.815 billion as the amount that may be expended on the minimum operable segment of the locally preferred alternative for the City's mass transit project.

Since the enactment of Ordinance 16-1, it has become clear that the general excise and use tax surcharge, even with the five-year extension, will not be enough to build the minimum operable segment.

On November 16, 2016, the Council passed Resolution 16-248, CD1, reaffirming the Council's support of extending the surcharge on the general excise tax in order to complete the minimum operable segment of the Honolulu Rail Project to Ala Moana Shopping Center.

On December 1, 2016, the Honolulu Authority for Rapid Transportation submitted an Update of the Financial Plan for the Full Funding Grant Agreement. The Financial Plan Update indicates that the projected total capital cost of the project is \$8.2 billion, based on current construction estimates, with additional funding for financing required to complete the minimum operable segment.



A BILL FOR AN ORDINANCE

The \$4.815 billion cap imposed by Ordinance 16-1 is incompatible with the projected total capital cost of the project of \$8.2 billion and associated financing costs.

Therefore, this ordinance is intended to amend Ordinance 16-1: (1) to remove the \$4.815 billion cap, and (2) to make Chapter 6, Article 60 (Revolving Special Funds, Housing Mortgage Loans and Fees; Transportation Surcharge—Use of Funds), consistent with the Revised Charter of the City and County of Honolulu 1973 (2000 ed.), as amended, and with State law.

SECTION 2. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990, is amended to read as follows:

“Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for purposes of funding the ~~[operating and]~~ capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.

Sec. 6-60.2 Use of funds.

(a) As required by HRS Section 248-2.6(d), moneys received from the state derived from the imposition of the surcharge established under this article will be a general fund realization. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:

- (1) Capital costs of a locally preferred alternative for a mass transit project;
and
- (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).

~~[(b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of \$4.815 billion of surcharge moneys levied from January 1, 2007 to December 31, 2022 may be expended on the minimum operable segment and associated debt financing costs.]~~



A BILL FOR AN ORDINANCE

~~(c) Notwithstanding the restrictions detailed in subsection (b) above, any surcharge moneys collected in excess of the \$4.815 billion may be expended in the following order of priority:~~

~~(1) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;~~

~~(2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;~~

~~(3) Planning and design costs for route expansion; and~~

~~(4) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law,~~

~~provided that these additional surcharge expenditures may be expended only after the Honolulu Authority for Rapid Transportation provides for council review an update on the expenditures to date on the mass transit project and the anticipated use and amount of the additional surcharge expenditures above the \$4.815 billion limit.~~

~~(d) No surcharge moneys may be expended for any purpose if the expenditure of such moneys will result in the project ending cash balance falling below the amount set forth in the Updated Final Financial Plan for the Full Funding Grant Agreement.~~

~~(e) The Honolulu Authority for Rapid Transportation shall submit to the council no later than January 1, 2017, any and all costs associated with: 1) contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement; 2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project; 3) planning and design costs for route expansion; and 4) infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law.~~

~~(f)] (b) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.~~



A BILL FOR AN ORDINANCE

- ~~[(g) Prior to and as a prerequisite for any transfer of moneys received from the surcharge, the Honolulu Authority for Rapid Transportation shall submit to the council a quarterly updated cash balance summary that contains all revenues and expenditures, including both capital expenditures and operating and maintenance expenditures.~~
- ~~(h) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:~~
- ~~(1) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.~~
 - ~~(2) A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.~~
- ~~(i) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:~~
- ~~(1) The names of general contractors and their respective subcontractors;~~
 - ~~(2) The type of services provided by each general contractor and subcontractor;~~
 - ~~(3) A detailed description and justification for the work done by each general contractor and subcontractor; and~~
 - ~~(4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.]~~
- (c) The annual report of the Board of Directors of the Honolulu Authority for Rapid Transportation required by the Revised Charter of the City and County of Honolulu, must include:
- (1) Any and all costs associated with:



A BILL FOR AN ORDINANCE

- (A) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;
 - (B) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;
 - (C) Planning and design costs for route expansion within the limits of the locally preferred alternative adopted by Ordinance 07-001; and
 - (D) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law.
- (2) An updated cash balance summary that contains all revenues and expenditures. The summary will include cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period;
- (3) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program; and
- (4) All amounts invoiced by and paid to general contractors for the fiscal year just ended. The amounts must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:
- (A) The names of general contractors and their respective subcontractors;
 - (B) The type of services provided by each general contractor and subcontractor;
 - (C) A detailed description and justification for the work done by each general contractor and subcontractor; and
 - (D) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.



A BILL FOR AN ORDINANCE

~~[(j)]~~ (d) For purposes of this article, "capital costs" means the same as defined in HRS Section 46-16.8, as it may be amended, for a county with a population greater than 500,000.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, ~~[Section 6-60.1]~~ this article will be repealed on December 31, 2022."

SECTION 3. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990, is repealed.

~~["Article 60. Transportation Surcharge—Use of Funds~~

~~Sec. 6-60.1 Establishment of surcharge—Conditions.~~

~~Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for purposes of funding the capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.~~

~~Sec. 6-60.2 Use of funds.~~

~~(a) As required by HRS Section 248-2.6(d), moneys received from the state derived from the imposition of the surcharge established under this article will be a general fund realization. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:~~

- ~~(1) Capital costs of a locally preferred alternative for a mass transit project; and~~
- ~~(2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).~~

~~(b) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.~~



A BILL FOR AN ORDINANCE

~~(c) The annual report of the Board of Directors of the Honolulu Authority for Rapid Transportation required by the Revised Charter of the City and County of Honolulu, must include:~~

~~(1) Any and all costs associated with:-~~

~~(A) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;~~

~~(B) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;~~

~~(C) Planning and design costs for route expansion within the limits of the locally preferred alternative adopted by Ordinance 07-001; and~~

~~(D) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law;~~

~~(2) An updated cash balance summary that contains all revenues and expenditures. The summary will include cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period;~~

~~(3) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program; and~~

~~(4) All amounts invoiced by and paid to general contractors for the fiscal year just ended. The amounts must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:~~

~~(A) The names of general contractors and their respective subcontractors;~~

~~(B) The type of services provided by each general contractor and subcontractor;~~

~~(C) A detailed description and justification for the work done by each general contractor and subcontractor; and~~



A BILL FOR AN ORDINANCE

~~(D) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.~~

~~(d) For purposes of this article, "capital costs" means the same as defined in HRS Section 46-16.8, as it may be amended, for a county with a population greater than 500,000.~~

Sec. 6-60.3 Repeal of surcharge.

~~Pursuant to Section 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, this article will be repealed on December 31, 2022."~~

SECTION 4. Ordinance 16-1 is amended by repealing SECTION 3.

SECTION 5. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990 ("Revolving Special Funds, Housing Mortgage Loans and Fees"), as enacted in Section 4 of Ordinance 16-1, is amended to read as follows:

"Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for purposes of funding the ~~[operating and]~~ capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.

Sec. 6-60.2 Use of funds.

(a) As required by HRS Section 248-2.6(d), moneys received from the state derived from the imposition of the surcharge established under this article will be a general fund realization. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:

- (1) Capital costs of a locally preferred alternative for a mass transit project; and



A BILL FOR AN ORDINANCE

- (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).

~~[(b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of \$4.815 billion of surcharge moneys levied from January 1, 2007 to December 31, 2027 may be expended on the minimum operable segment and associated debt financing costs.~~

~~(c) Notwithstanding the restrictions detailed in subsection (b) above, any surcharge moneys collected in excess of the \$4.815 billion may be expended in the following order of priority:~~

~~(1) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;~~

~~(2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;~~

~~(3) Planning and design costs for route expansion; and~~

~~(4) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law,~~

~~provided that these additional surcharge expenditures may be expended only after the Honolulu Authority for Rapid Transportation provides for council review an update on the expenditures to date on the mass transit project and the anticipated use and amount of the additional surcharge expenditures above the \$4.815 billion limit.~~

~~(d) No surcharge moneys may be expended for any purpose if the expenditure of such moneys will result in the project ending cash balance falling below the amount set forth in the Updated Final Financial Plan for the Full Funding Grant Agreement.~~

~~(e) The Honolulu Authority for Rapid Transportation shall submit to the council for no later than January 1, 2017, any and all costs associated with: 1) contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement; 2) ADA accessibility improvements to the~~



A BILL FOR AN ORDINANCE

~~minimum operable segment of the locally preferred alternative for the mass transit project; 3) planning and design costs for route expansion; and 4) infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law.~~

- ~~(f)] (b) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.~~
- ~~[(g) — Prior to and as a prerequisite for any transfer of moneys received from the surcharge, the Honolulu Authority for Rapid Transportation shall submit to the council a quarterly updated cash balance summary that contains all revenues and expenditures, including both capital expenditures and operating and maintenance expenditures.~~
- ~~(h) — At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:~~
- ~~(1) — A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.~~
 - ~~(2) — A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.~~
- ~~(i) — Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:~~
- ~~(1) — The names of general contractors and their respective subcontractors;~~
 - ~~(2) — The type of services provided by each general contractor and subcontractor;~~
 - ~~(3) — A detailed description and justification for the work done by each general contractor and subcontractor; and~~



A BILL FOR AN ORDINANCE

~~(4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.]~~

(c) The annual report of the Board of Directors of the Honolulu Authority for Rapid Transportation required by the Revised Charter of the City and County of Honolulu, must include:

(1) Any and all costs associated with:

(A) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;

(B) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;

(C) Planning and design costs for route expansion within the limits of the locally preferred alternative adopted by Ordinance 07-001; and

(D) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law;

(2) An updated cash balance summary that contains all revenues and expenditures. The summary will include cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period;

(3) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program; and

(4) All amounts invoiced by and paid to general contractors for the fiscal year just ended. The amounts must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:



A BILL FOR AN ORDINANCE

- (A) The names of general contractors and their respective subcontractors;
- (B) The type of services provided by each general contractor and subcontractor;
- (C) A detailed description and justification for the work done by each general contractor and subcontractor; and
- (D) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

[~~(d)~~] (d) For purposes of this article, "capital costs" means nonrecurring costs required to construct a transit facility or system, including debt service, costs of land acquisition and development, acquiring of rights-of-way, planning, design, and construction, including equipping and furnishing the facility or system. "Capital costs" also include nonrecurring personal services and other overhead costs that are not intended to continue after completion of construction of the minimum operable segment of the locally preferred alternative for a mass transit project.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 7 of Act 240, Session Laws of Hawaii, Regular Session of 2015, [~~Section 6-60.1~~] this article will be repealed on December 31, 2027."

SECTION 6. Ordinance material to be repealed is bracketed and stricken. New ordinance 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 material that has been bracketed and stricken, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 3 (2017), CD1

A BILL FOR AN ORDINANCE

SECTION 7. The repeal in SECTION 3 of this ordinance takes effect on December 31, 2022. SECTION 5 of this ordinance takes effect on January 1, 2023. The other Sections of this ordinance take effect upon approval.

INTRODUCED BY:

Joey Manahan

Ikaika Anderson

DATE OF INTRODUCTION:

January 4, 2017
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Lisa S. Hirahara
Deputy Corporation Counsel **LISA S. HIRAHARA**

APPROVED this 7th day of April, 20 17.

Kirk Caldwell
KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE

BILL 7 (2017), CD2

Introduced: 01/17/17

By: IKAIKA ANDERSON – BY REQUEST

Committee: BUDGET

Title: A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAXATION.

Voting Legend: * = Aye w/Reservations

01/25/17	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 7 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE. 2 ABSENT: MARTIN, OZAWA.
02/08/17	BUDGET	CR-62 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
02/11/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/22/17	COUNCIL/PUBLIC HEARING	CR-62 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR- ADVERTISER.
03/08/17	BUDGET	CR-86 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.
03/22/17	COUNCIL	CR-86 ADOPTED AND BILL 7 (2017), CD2 PASSED THIRD READING AS AMENDED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, 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.


GLEN I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXATION.

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 determination of the rates for properties in the "Residential A" real property tax classification.

SECTION 2. Section 8-11.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 8-11.1 Real property tax—Determination of rates.

(a) Unless a different meaning is clearly indicated by the context, as used in this section:

"Base tax year" means the tax year immediately prior to the budgeted tax year.

"Budgeted tax year" means the tax year beginning July 1 from which real property tax revenues are to help finance the proposed legislative and executive budgets.

"Class of property" means a class of real property established in accordance with Section 8-7.1(c).

"Estimated uncontrollable cost adjustment" means a factor representing costs that the city is mandated or obligated to pay.

"Initial tax rate" means the preliminary tax rate for a class of property as determined in Section 8-11.1(b).

"Net taxable real property" means the fair market value of property determined pursuant to this chapter ~~[which] that~~ the director ~~[of budget and fiscal services]~~ certifies as the tax base as provided by ordinance less exemptions as provided by ordinance and, in all cases where appeals from the director's assessment are then unsettled, less 50 percent of the value in dispute.

"Tax rate" means the dollar amount of tax levied under this chapter per \$1,000.00 of net taxable real property, computed to the nearest cent.



A BILL FOR AN ORDINANCE

- (b) The council shall annually set the tax rate or rates in accordance with this subsection for the classes of real property established in accordance with subsection 8-7.1(c). A resolution setting the tax rate or rates ~~[shall]~~ must be adopted by the council during the same meeting at which the applicable legislative and executive budget bills are passed on third reading. The tax rate or rates ~~[shall]~~ must be set according to the following procedures. The procedures provide for initial tax rates for the net taxable real property within each class of property to be established by the director. The initial tax rates are established in a way that the average real property tax liability within each class of property does not change in the budgeted tax year compared to the base tax except for the estimated uncontrollable cost adjustment only.
- (1) ~~[Tax]~~ The director shall establish the initial tax rates for all taxable classes of property ~~[shall be initially established by the director]~~ using the following method:
- (A) The director shall establish the estimated change in the operating uncontrollable costs of the ~~[City and County of Honolulu,]~~ city, expressed as a percentage of the base tax year's total net tax liability of all classes ~~[-]~~ ;
 - (B) The director shall determine the average tax liability for each class of property for the base tax year as follows: sum the net tax liability for the base tax year of all parcels within the class, then divide the result by the total number of tax parcels in the class;
 - (C) The director shall then determine the average tax liability for each class of property for the budgeted tax year as follows: adjust the figure determined under paragraph (B) by the estimated uncontrollable cost adjustment;
 - (D) The director shall then determine the amount to be raised by the initial tax rate for each class of property for the budgeted tax year as follows: multiply the figure determined under paragraph (C) for each class of property by the total number of tax parcels in the class for the budgeted tax year; and



A BILL FOR AN ORDINANCE

- (E) The director shall then determine the initial tax rate per \$1,000.00 of net taxable real property in each class of property for the budgeted tax year as follows: divide the figure determined under paragraph (D) for each class of property by the assessed valuation of net taxable real property within each class of property for the budgeted tax year, then multiply the result by 1,000, then round the result to the nearest cent.
- (2) The mayor may propose to the council that the initial tax rates be adopted or be increased or decreased for any class of property. The tax rates proposed by the mayor ~~shall~~ must be set forth in the form of a resolution transmitted to the council at the same time that other revenue measures for the budgeted tax year are transmitted.
- (3) Upon receipt of the mayor's proposed tax rate resolution, the council may adopt the initial tax rates, the mayor's proposed tax rates, or propose new rates.
- (c) (1) The council shall advertise its intention to set the tax rate or rates and the date, time, and place of a public hearing in accordance with law. The date of the public hearing ~~shall~~ must be not less than 10 days after the advertisement is first published and ~~shall~~ must set forth the proposed tax rate or rates to be considered by the council.
- (2) After the public hearing provided for in subdivision (1) of this subsection, the council shall readvertise and reconvene to adopt a resolution setting the tax rate or rates for the tax year for which property tax revenues are to be raised. The advertisement ~~shall~~ must state the rate or rates proposed to be set and the date, time, and place of the meeting scheduled for setting the rate or rates. The date, time, and place of the meeting ~~shall~~ must also be announced at the public hearing required by subdivision (1) of this subsection.
- (3) If, after adopting an increase or decrease in the tax rates as provided by subdivisions (1) and (2) of this subsection, the council determines that it requires a further increase or decrease in tax rates, the council shall readvertise and follow the requirements of subdivisions (1) and (2) of this subsection.



A BILL FOR AN ORDINANCE

- (d) The council shall notify the director [~~of budget and fiscal services~~] of the tax rate or rates set for a tax year before the commencement of that tax year. Upon receipt of the notification, the director shall use the rate or rates in the levying of property taxes as provided by this chapter.
- (e) The director [~~of budget and fiscal services~~] shall, on or before February 1st preceding the tax year, furnish the council with a calculation certified by the director as being as nearly accurate as possible of the net taxable real property within the city, separately stated for each class established in accordance with subsection 8-7.1(c) plus such additional data relating to the property tax base as may be necessary. The director shall include the amount of all tax credits granted under Article 13 for the current tax year and the amount of all tax credit denials appealed during the current tax year as part of the information required by this subsection.
- (f) Insofar as the validity of any tax rate is concerned, the provisions of subsection (e) of this section as to dates [~~shall be deemed~~] are directory; provided, that all other provisions of this section [~~shall be deemed~~] are mandatory.
- (g) Notwithstanding any provision to the contrary, [~~there shall be~~] a minimum real property tax of \$300.00 a year is levied upon each individual parcel of real property taxable under this chapter [a minimum real property tax of \$300.00 a year], except for properties exempt under Section 8-10.27 and except as provided in Section 8-10.28(b)(2).
- (h) Notwithstanding any provision to the contrary, rates for property classified as residential A must be assigned to two tiers based on the valuation of the property. The tiers are as follows:
 - (1) Residential A Tier 1 tax rate: applied to the net taxable value of the property up to \$1,000,000; and
 - (2) Residential A Tier 2 tax rate: applied to the net taxable value of the property in excess of \$1,000,000."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. 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 material that has been bracketed and stricken, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 7 (2017), CD2

A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval and applies to the tax years beginning July 1, 2017.

INTRODUCED BY:

Ikaika Anderson (br)

Ron Menor

DATE OF INTRODUCTION:

January 17, 2017
Honolulu, Hawaii

_____ Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Duane W.H. Pang
Deputy Corporation Counsel **DUANE W.H. PANG**

APPROVED this 1th day of April, 20 17.

Kirk Caldwell
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 8 (2017)

Introduced: 01/17/17

By: IKAIKA ANDERSON – BY REQUEST

Committee: BUDGET

Title: A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAXATION.

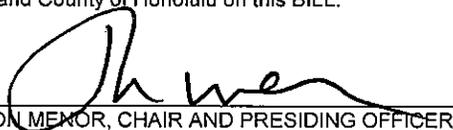
Voting Legend: * = Aye w/Reservations

01/25/17	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 7 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE. 2 ABSENT: MARTIN, OZAWA.
02/08/17	BUDGET	CR-63 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
02/11/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/22/17	COUNCIL/PUBLIC HEARING	CR-63 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR- ADVERTISER.
03/08/17	BUDGET	CR-87 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
03/22/17	COUNCIL	CR-87 ADOPTED AND BILL 8 (2017) PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, 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.



GLEN I. TAKAHASHI, CITY CLERK



RON MENOR, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXATION.

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

SECTION 1. Purpose. The purpose of this ordinance is to include condominium units in the residential use dedication program.

SECTION 2. Section 8-7.1 Revised Ordinances of Honolulu 1990 ("Valuation - Considerations in fixing"), is amended by amending subsection (c) (3) to read as follows:

- (3) When real property is subdivided into condominium units, each unit and its appertaining common interest:
 - (A) ~~[Shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; and]~~ Shall be deemed a parcel and assessed separately from other units; and
 - (B) Shall be ~~[deemed a parcel and assessed separately from other units;]~~ classified as follows:
 - (i) If the unit has a single, legally permitted, exclusive actual use, it shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; or
 - (ii) If the unit has multiple, legally permitted uses; it shall be classified:
 - (aa) Upon consideration of the unit's highest and best use into one of the general classes in the same manner as real property; or
 - (bb) Residential, only upon approved dedication as provided in Section 8-7.5 when the unit is legally permitted multiple exclusive uses including residential use; or
 - (iii) If the unit is a condominium parking unit or a condominium storage unit; it shall be classified Residential, only upon approved dedication



A BILL FOR AN ORDINANCE

when the unit is used in conjunction with a unit in residential use within the project.

SECTION 3. Section 8-7.5, Revised Ordinances of Honolulu 1990 ("Certain property dedicated for residential use"), as amended, is amended to read as follows:

"Sec. 8-7.5 Certain property dedicated for residential use.

(a) As used in this section:

"Apartment building" means a multi-family dwelling that is situated on a single parcel, which parcel is not subdivided into condominium units.

"Condominium unit" is a dwelling or lodging unit that is part of a condominium property regime established pursuant to HRS Chapter 514A and/or 514B

"Condominium parking unit" is a unit that is a part of a condominium property regime established pursuant to HRS Chapter 514A and/or 514B described as a parking stall.

"Condominium storage unit" is a unit that is a part of a condominium property regime established pursuant to HRS Chapter 514A and/or 514B described as a storage space.

"Detached dwelling" is as defined in Section 21-10.1.

"Dwelling unit" is as defined in Section 21-10.1.

"Lodging unit" is as defined in Section 21-10.1.

"Multi-family dwelling" means a building containing three or more dwelling or lodging units, as defined in Section 21-10.1, which is not a hotel.

"Owner" means a person who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least five years from the date of the petition.

"Residential use" means the actual use of a dwelling unit or lodging unit as a residence: (1) by occupants for compensation for periods of 30 or more consecutive days; (2) by the unit owner personally or (3) by the unit owner's guest(s) without compensation. For purposes of this definition, compensation includes, but is not limited



A BILL FOR AN ORDINANCE

- to, monetary payment, services or labor of employees. Residential use specifically excludes the use of the unit as a transient vacation unit or for time sharing. For purposes of this dedication, residential use shall include the use of the unit as a group living facility, a boarding facility, or as special needs housing for the elderly.
- (b) The owner of a parcel may dedicate the parcel for residential use and have the property classified as residential and assessed at its value in residential use, provided that the property:
- (1) Is within an apartment, apartment mixed use, resort, business, business mixed use, industrial or industrial mixed use district; or if it is in the Waikiki special district, is zoned apartment mixed use subprecinct, resort mixed use precinct, or resort-commercial precinct; or is in a transit-oriented development zone pursuant to Section 21-9.100;
 - (2) Is used exclusively for residential use, except that a portion of the property may be used for nonprofit purposes pursuant to Section 8-10.10; and
 - (3) The parcel is improved with one or more detached dwellings, as defined in Section 21-10.1 or with one or more apartment buildings or with both dwellings and apartment buildings or is a condominium unit that is legally permitted multiple uses including residential use and is actually and exclusively used as a residence, or
 - (4) A condominium parking unit or a condominium storage unit that is used in conjunction with a unit in residential use within the project.
- (c) The owner of real property who wishes to dedicate such property for residential use and have the property assessed at its value in residential use according to subsection (b) shall petition the director and declare in such petition that if the petition is approved, the owner shall meet the applicable requirements of subsection (b) pertaining to the property.
- (d) The approval of the petition by the director to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of such person's [land] property for a minimum period of five years, automatically renewable thereafter for additional periods of five years subject to cancellation by either the owner or the director. Cancellation of the dedication by the owner must be in writing and submitted to the director by September 1st only within the 5th year of the date of the dedication, or the latest five-year renewal period.



A BILL FOR AN ORDINANCE

Upon sale or transfer of the dedicated property, the dedication shall continue for the remainder of the five year dedication or latest five-year renewal subject to all restrictions and penalties. Upon expiration of the fifth year the dedication will not automatically renew and will be cancelled by the director.

For the purpose of this dedication, there is no change in use if the owner demolishes and constructs or reconstructs one or more detached dwellings or multi-family dwellings, provided that such construction or reconstruction is permitted pursuant to Chapter 21, Revised Ordinances of Honolulu 1990, as amended, the replacement structure or structures are completed no less than 24 months after the building permit is issued, and at least the same number of dwelling or lodging units as those demolished are developed. The five-year dedication will be suspended during this period of demolition and construction or reconstruction, and the parcel and any improvements thereon will continue to be classified and assessed at their value in residential use during the suspension.

- (e) (1) Failure of the owner to observe the restrictions on the use of such person's property [~~or the sale of the property~~] shall cancel the [~~special tax assessment privilege~~] dedication retroactive to the tax year preceding the tax year in which the breach of the dedication occurs, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a 10 percent per year penalty retroactive to the tax year preceding the tax year in which the breach of the dedication occurs. Any assessment under Chapter 36, levied upon a special improvement district noted in Appendix 36-A, that would have been due but for the dedication shall also be due and payable along with applicable penalties and interest, retroactive to the tax year preceding the tax year in which the breach of the dedication occurs. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the property in the manner requested in the petition or the overt act of changing the use for any period[, or the sale of the real property]. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the property.
- (2) The additional taxes and penalties, due and owing as a result of failure to observe the restrictions on use or any other breach of the dedication shall be a paramount lien upon the property as provided for by this chapter. Any special assessment under Chapter 36, due and owing as a result of failure to observe the restrictions on use or any other breach of the dedication shall be a lien against the land and improvements of the parcel of land in accordance with ROH Section 36-3.5.



A BILL FOR AN ORDINANCE

- (f) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year. The notice of assessment shall serve as notification of approval or disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication shall be effective as of October 1st of the same calendar year.
- (g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.”

SECTION 4. Ordinance material to be repealed is bracketed and stricken. 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 5. This ordinance shall take effect upon its approval and shall apply to the tax years beginning July 1, 2018 and thereafter.

INTRODUCED BY:

[Signature] (br)
[Signature]

DATE OF INTRODUCTION:

JAN 17 2017

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy Corporation Counsel **DUANE W.H. PANG**

APPROVED this 7th day of April, 2017.

[Signature]
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 81 (2015), CD2

Introduced: 12/03/15 By: KYMBERLY PINE

Committee: PUBLIC WORKS,
INFRASTRUCTURE AND
SUSTAINABILITY

Title: A BILL FOR AN ORDINANCE RELATING TO PRIVATE STREETS AND ROADS.

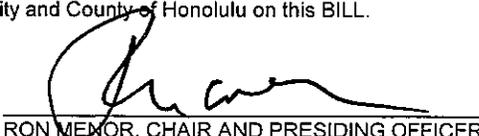
Voting Legend: * = Aye w/Reservations

12/09/15	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON PUBLIC WORKS, INFRASTRUCTURE AND SUSTAINABILITY. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/13/16	PUBLIC WORKS, INFRASTRUCTURE AND SUSTAINABILITY	CR-19(16) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBIC HEARING AS AMENDED IN CD1 FORM.
01/16/16	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/27/16	COUNCIL/PUBLIC HEARING	CR-19(16) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFEREED TO COMMITTEE ON PUBLIC WORKS, INFRASTRUCTURE AND SUSTAINABILITY. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
02/03/16	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/08/17	PUBLIC WORKS, INFRASTRUCTURE AND SUSTAINABILITY	BILL DEFERRED IN COMMITTEE.
03/08/17	PUBLIC WORKS, INFRASTRUCTURE AND SUSTAINABILITY	CR-92(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.
03/22/17	COUNCIL	CR-92(17) ADOPTED AND BILL 81 (2015), CD2 PASSED THIRD READING AS AMENDED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, 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.



GLEN I. TAKAHASHI, CITY CLERK



RON MENOR, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

RELATING TO PRIVATE STREETS AND ROADS.

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

SECTION 1. Purpose. The purpose of this ordinance is to authorize the City, when maintaining private streets and roads, to re-install anti-speed bumps that are removed during surface maintenance, provided that certain conditions are met.

SECTION 2. Section 14-32.2, Revised Ordinances of Honolulu 1990 ("Surface maintenance"), is amended by amending subsection (b) to read as follows:

"(b) Paved roads shall be maintained by remedial patching. Remedial patching shall be with like materials, for example: (i) asphalt concrete shall be used for asphalt concrete paved roads, and (ii) Portland cement concrete or asphalt concrete, as determined by the director and chief engineer, shall be used for Portland cement concrete paved roads. If the director and chief engineer determines that the pavement is in such poor condition that remedial patching is impractical and not cost effective, resurfacing may be provided.

Unpaved roads shall be maintained by remedial patching. Remedial patching shall be with like materials, for example: (i) coral for coral, and (ii) crushed rock for crushed rock. If the director and chief engineer determines that the street or road surface is in such poor condition that remedial patching is not cost effective and does not serve the best interests of motorists, bicyclists, and pedestrians, paving with asphalt concrete material may be provided.

The decks of bridges associated with private, nondedicated, and nonsurrendered streets and roads may be maintained by remedial repairs. Remedial repairs shall be with like materials, for example, deteriorated wood planks shall be replaced with wood planks. If the director and chief engineer determines that the deck is in such poor condition that remedial repairs are impractical and not cost effective, the deck may be replaced with like material. The director and chief engineer may also provide for the maintenance, repair, or replacement of railings.

Maintenance work to be performed by the city pursuant to this section shall not include installation or maintenance of curbs, shoulders, gutters, drainage facilities, or similar infrastructure[-]; provided that anti-speed bumps that are removed as part of the city's maintenance of private streets and roads may be reinstalled by the city if the department of transportation services determines that the conditions for installation in Section 15-24.18 have been met. Prior to the



A BILL FOR AN ORDINANCE

removal of anti-speed bumps as part of the city's maintenance of private streets and roads, the director and chief engineer must notify persons residing within the immediate vicinity and persons having the right to control the use of the portion of the private street or road on which the anti-speed bumps are located of the removal of the anti-speed bumps and explain in writing to such persons conditions under which the city may reinstall the anti-speed bumps. For the purposes of this section only, "anti-speed bump" means a convex mound, approximately three feet wide at the base and approximately four inches in height at the apex, placed across the width of a private, nondedicated, and nonsurrendered street or road for the purpose of controlling the speed of vehicular traffic."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. 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 material that has been bracketed and stricken, or the underscoring.



A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

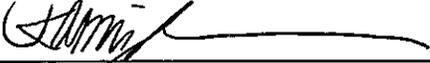
Kymberly Marcos Pine

DATE OF INTRODUCTION:

December 3, 2015
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel **KAMILLA C.K. CHAN**

APPROVED this 7th day of April, 20 17.


KIRK CALDWELL, Mayor
City and County of Honolulu

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**Bill 81 (2015), CD1
RELATING TO PRIVATE STREETS AND ROADS.**

The PROPOSED CD2 makes the following amendments:

- A. Deletes the proposed new definition of "Director and chief engineer" in ROH Section 14-32.1.
- B. Amends ROH Section 14-32.2 by adding the following:

Prior to the removal of anti-speed bumps as part of the city's maintenance of private streets and roads, the director and chief engineer must notify persons residing within the immediate vicinity and persons having the right to control the use of the portion of the private street or road on which the anti-speed bumps are located of the removal of the anti-speed bumps and explain in writing to such persons conditions under which the city may reinstall the anti-speed bumps. For the purposes of this section only, "anti-speed bump" means a convex mound, approximately three feet wide at the base and approximately four inches in height at the apex, placed across the width of a private, nondedicated, and nonsurrendered street or road for the purpose of controlling the speed of vehicular traffic.

- C. Makes miscellaneous technical and nonsubstantive amendments.

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

ORDINANCE

BILL 49 (2016)

Introduced: 08/08/16

By: ERNEST MARTIN – BY REQUEST

Committee: ZONING AND HOUSING

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

Voting Legend: * = Aye w/Reservations

09/07/16	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
11/02/16	COUNCIL	<u>M-2598</u> – APPROVED 120-DAY EXTENSION OF TIME. (DEADLINE: 11/03/16 + 120 DAYS) 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/04/17		<u>CC-7(17)</u> MENOR - BILL RE-REFERRED FROM COMMITTEE ON ZONING AND PLANNING TO COMMITTEE ON ZONING AND HOUSING.
01/14/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/19/17	ZONING AND HOUSING	CR-38(17) - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
01/25/17	COUNCIL/PUBLIC HEARING	CR-38(17) ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 ABSENT: OZAWA.
02/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/09/17	ZONING AND HOUSING	CR-66(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
02/22/17	COUNCIL	90-DAY EXTENSION OF TIME APPROVED. CR-66(17) AND BILL 49 (2016) DEFERRED TO NEXT COUNCIL MEETING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/22/17	COUNCIL	CR-66(17) ADOPTED AND BILL 49 (2016) PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, 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.



GLEN I. TAKAHASHI, CITY CLERK



RON MENOR, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

RELATING TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII

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

SECTION 1. Zoning Map No. 6 Red Hill — Fort Shafter, Ordinance 86-109, is hereby amended as follows: Land situated at 830 Main Street, Honolulu, Oahu, Hawaii, hereinafter described, is hereby rezoned from the F-1 Military and Federal Preservation 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: 1-1-002: 031.

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:

AUG 8 2016

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

[Handwritten signature]

Deputy Corporation Counsel

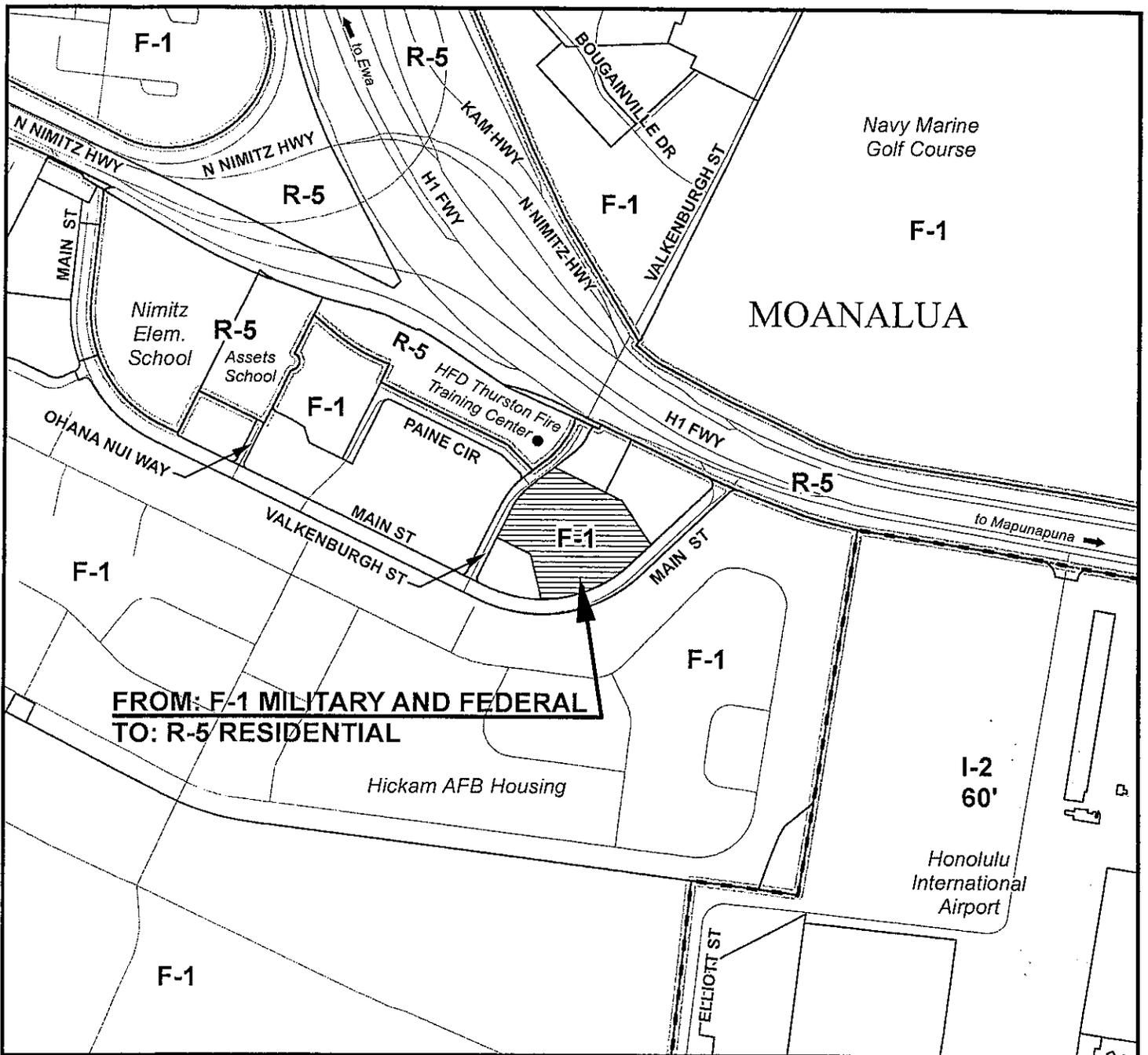
DON S. KITAOKA

APPROVED this 7th day of April, 2017.

[Handwritten signature]

KIRK CALDWELL, Mayor
City and County of Honolulu

61-0-113-0-0000003



**FROM: F-1 MILITARY AND FEDERAL
TO: R-5 RESIDENTIAL**

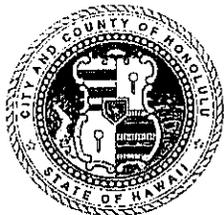
**PORTION OF
EXISTING ZONING MAP # 6
(RED HILL - FORT SHAFTER)**

Land situated at 830 Main Street in an area known as Ohana Nui of the Joint Base Pearl Harbor-Hickam (JBPHH) military installation, approximately 439 feet from the intersection of Main Street and Valkenburgh Street and approximately 0.5 miles west of Honolulu International Airport.

APPLICANT: HOLY FAMILY CATHOLIC ACADEMY
APPLICANT TMK: 1-1-002: 031
FOLDER NO.: 2016/Z-3
TOTAL LAND AREA: 4.444 ACRES (APPROX.)
PREPARED BY: DEPARTMENT OF PLANNING AND PERMITTING
 CITY AND COUNTY OF HONOLULU
PUBLIC HEARING: PLANNING COMMISSION CITY COUNCIL



1 INCH = 600 FEET
 Copyright City & County of Honolulu
 All Rights Reserved 2016



ORD. NO.:

2016/Z-2

EFF. DATE:

EXHIBIT A

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

RECORDED Doc T - 9935198
CT 1088122
DATE March 15, 2017 10:45 AM

LAND COURT

REGULAR SYSTEM

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

Robert Bruce Graham, Jr.
Ashford & Wriston, LLLP
First Hawaiian Center, Suite 1400
Honolulu, Hawaii 96813

Tele: (808) 539-0440

TITLE OF DOCUMENT:

**AMENDED AND RESTATED UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

PARTY(IES) TO DOCUMENT:

Roman Catholic Church In The State of Hawaii
1184 Bishop Street
Honolulu, Hawaii 96813

TAX MAP KEY NO. (1) 1-1-002:031
Transfer Certificate of Title No. 1088122

(This document consists of 6 pages.)

**AMENDED AND RESTATED UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "**Unilateral Agreement**" or this "**Declaration**"), made this 14th day of March, 2017, by **ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII**, a Hawaii nonprofit corporation, the address of which is 1184 Bishop Street, Honolulu, Hawaii 96813 (hereinafter referred to as the "**Declarant**"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Moanalua, City and County of Honolulu, State of Hawaii, consisting of approximately 4.444 acres, described as Tax Map Key No. (1) 1-1-002:031, 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 continue to operate a church and a school 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 F-1 Military and Federal Preservation District to R-5 Residential District (the "**zone change**"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 49 (2016), was held by the Council on January 25, 2017; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 66 (2017) 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**"); and

WHEREAS, Declarant previously executed that certain Unilateral Agreement And Declaration For Conditional Zoning dated February 16, 2017, and filed in the Office of the Assistant Registrar of Land Court of the State of Hawaii as Document No. T-9908316, duly noted on Transfer Certificate of Title No. 1088122 (the "**Original Declaration**"); and

WHEREAS, the fifth recital in the Original Declaration contains an erroneous reference to Zoning Committee Report No. 38, and should instead refer to Zoning Committee Report No. 66 (2017), as set forth above; and

WHEREAS, Declarant now wishes to amend and restate the Original Declaration in full for the purpose of correcting the mistaken recital and otherwise ratifying and confirming the Original Declaration;

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. Affordable Housing. Prior to building permit approval for more than six residential dwelling units on the Land, the Declarant shall execute a binding agreement to participate in an affordable housing plan that is acceptable to the Department of Planning and Permitting of the City and County of Honolulu (“DPP”), in accordance with adopted rules. The agreement shall provide for no less than 30 percent of the total number of dwelling units constructed to be affordable housing units.

2. Flight Operations Disclosure. The Declarant shall inform all prospective purchasers, lessees, renters, or residential occupants of the Land of potential aircraft flight and airport activity and related impacts, including, but not limited to, noise, fumes, smokes, vibrations, and odors. The Declarant shall record the disclosure statement with the State of Hawaii Bureau of Conveyances or the State of Hawaii Land Court, or both, as appropriate, within 60 days from the effective date of the Rezoning Ordinance and provide a copy of the recorded document to the DPP for its records.

3. 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 any future development of the Land complies with all applicable LUO and other governmental provisions and requirements, including but not limited to all rules and regulations relating to flight operations in airspace above properties located within airport areas.

4. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. 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, or as necessary.

5. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the DPP shall inform the City Council and may seek civil enforcement or take appropriate action to terminate or stop any future development of the Land 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:

A. As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

B. 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.

C. 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.

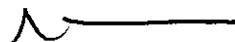
D. That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

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, Declarant has executed this Amended and Restated Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANT:

**ROMAN CATHOLIC CHURCH IN THE
STATE OF HAWAII**

By  _____
(Rev. Msgr.) Gary L. Secor
Its Vice President

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

On this 14TH day of March, 2017, before me personally appeared GARY L. SECOR, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Elina B. Simon

Name: Elina B. Simon

Notary Public, State of Hawaii

My commission expires: June 28, 2017

(Notary Stamp or Seal)

<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description:	Amended and Restated Unilateral Agreement and Declaration for Conditional Zoning
Document Date:	<u>undated at time of notarization</u>
No. of Pages:	<u>6</u>
Jurisdiction (in which notarial act is performed):	
First Circuit	
<u>Elina B. Simon</u>	<u>MAR 14 2017</u>
Signature of Notary	Date of Notarization and Certification Statement
<u>Elina B. Simon</u>	
Printed Name of Notary	



(Notary Stamp or Seal)

EXHIBIT A

Property Description

All of that certain parcel of Land situate at Moanalua, City and County of Honolulu, State of Hawaii, described as follows:

Lot 3943, consisting of approximately 4.444 acres, more or less, as shown on Map 750, as set forth in Land Court Order No. 188770 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application 1074, being the property covered by Certificate of Title No. 1088122 issued to the Roman Catholic Church in the State of Hawaii.

BEING the land conveyed to the Roman Catholic Church In The State Of Hawaii by instrument dated November 19, 2014 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T9088458A.

TMK Oahu 1-1-002-031

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

ORDINANCE

BILL 52 (2016), CD1

Introduced: 08/26/16

By: ERNEST MARTIN – BY REQUEST

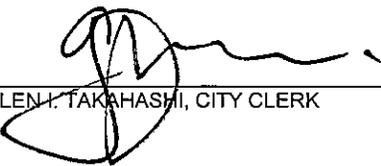
Committee: ZONING AND HOUSING

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

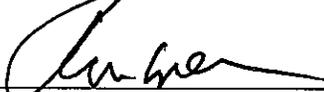
Voting Legend: * = Aye w/Reservations

09/07/16	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
11/02/16	COUNCIL	<u>M-2599</u> – APPROVED 120-DAY EXTENSION OF TIME. (DEADLINE: 11/24/16 + 120 DAYS) 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/04/17		<u>CC-7(17)</u> MENOR - BILL RE-REFERRED FROM COMMITTEE ON ZONING AND PLANNING TO COMMITTEE ON ZONING AND HOUSING.
01/14/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/19/17	ZONING AND HOUSING	CR-39(17) - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
01/25/17	COUNCIL/PUBLIC HEARING	CR-39(17) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 ABSENT: OZAWA.
02/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/09/17	ZONING AND HOUSING	CR-67(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED.
02/22/17	COUNCIL	CR-67(17) AND BILL 52 (2016), CD1 DEFERRED TO NEXT COUNCIL MEETING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/22/17	COUNCIL	CR-67(17) ADOPTED AND BILL 52 (2016), CD1 PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, 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.



GLEN I. TAKAHASHI, CITY CLERK



RON MENOR, CHAIR AND PRESIDING OFFICER



A BILL FOR AN ORDINANCE

RELATING TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII

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

SECTION 1. Zoning Map No. 6 Red Hill — Fort Shafter, Ordinance 86-109, is hereby amended as follows: Land situated at 515 Main Street, Honolulu, Oahu, Hawaii, hereinafter described, is hereby rezoned from the F-1 Military and Federal Preservation 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: 1-1-002: 047.

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)

DATE OF INTRODUCTION:

August 26, 2016
Honolulu, Hawaii

Councilmembers

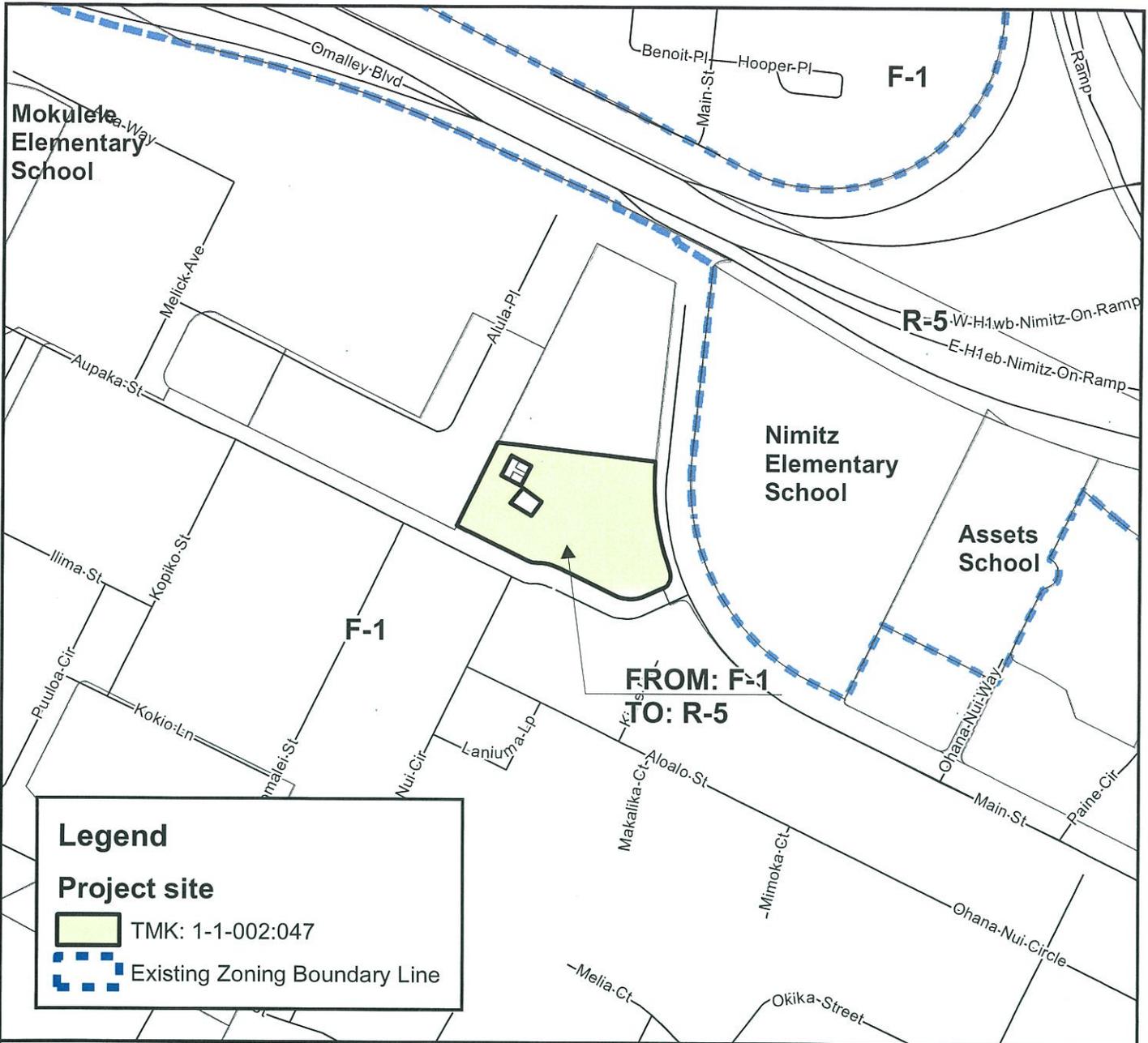
APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

DON S. KITAOKA

APPROVED this 7th day of April, 2017.

KIRK CALDWELL, Mayor
City and County of Honolulu



Legend

Project site

 TMK: 1-1-002:047

 Existing Zoning Boundary Line



PORTION OF ZONING MAP NO. 6 (RED HILL - FORT SHAFTER)

Land situated on the northwesterly corner of the intersection of Main Street and Aupaka Street.

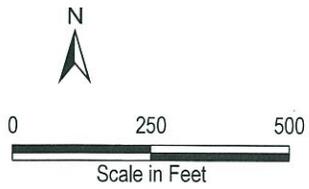
APPLICANT: Church of Christ at Pearl Harbor

TAX MAP KEY(S): 1-1-002:047

FOLDER NO.: 2106/Z-4

LAND AREA: 2.462 Ac.

PREPARED BY: CITY COUNCIL
CITY AND COUNTY OF HONOLULU



ORD. NO.:
EFF. DATE:

PUBLIC HEARING: PLANNING COMMISSION CITY COUNCIL

EXHIBIT A

BILL: 52 (2016)

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-9909317
CT 1113609
DATE/TIME February 17, 2017 3:29 PM

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

Robert E. Strand, Esq.
Carlsmith Ball LLP
ASB Tower, Suite 2100
Honolulu, Hawaii 96813

Tel. No. 808/523-2500

TITLE OF DOCUMENT:

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

PARTIES TO DOCUMENT:

DECLARANT: CHURCH OF CHRIST AT PEARL HARBOR
515 Main Street
Honolulu, Hawaii 96818

TAX MAP KEY(S): (1) 1-1-002:047

(This document consists of __ pages.)

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), is made this 15th day of February, 2017, by **CHURCH OF CHRIST AT PEARL HARBOR**, whose address is 515 Main Street, Honolulu, Hawaii 96818 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Moanalua, City and County of Honolulu, State of Hawaii, consisting of approximately 2.512 acres, described as Tax Map Key No. (1) 1-1-002:047, 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 continue to operate a church, a day-care facility and a residence for the minister and the minister's family 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 F-1 Military and Federal Preservation District to R-5 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 52 (2016), was held by the Council on January 25, 2017; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 67 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. Prior to building permit approval for more than six residential dwelling units on the Land, the Declarant shall execute a binding agreement to participate in an affordable housing plan that is acceptable to the Department of Planning and Permitting of the City and County of Honolulu ("DPP"), in accordance with adopted rules. The agreement shall provide for no less than 30 percent of the total number of dwelling units constructed to be affordable housing units.

2. Flight Operations Disclosure. The Declarant shall inform all prospective purchasers, lessees, renters, or residential occupants of the Land of potential aircraft flight and airport activity and related impacts, including, but not limited to, noise, fumes, smokes, vibrations, and odors. The Declarant shall record the disclosure statement with the State of

Hawaii Bureau of Conveyances or the State of Hawaii Land Court, or both, as appropriate, within 60 days from the effective date of the Rezoning Ordinance and provide a copy of the filed document to the DPP for its records.

3. 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 any future development of the Land complies with all applicable LUO and other governmental provisions and requirements, including but not limited to all rules and regulations relating to the flight operations in airspace above properties located within airport areas.

4. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. 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, or as necessary.

5. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the DPP shall inform the City Council and may seek civil enforcement or take appropriate action to terminate or stop any future development of the Land 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:

A. As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

B. 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.

C. 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.

D. 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, Declarant has executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

**CHURCH OF CHRIST AT PEARL
HARBOR**

By  _____

Name: William Wood

Its: President

Declarant

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

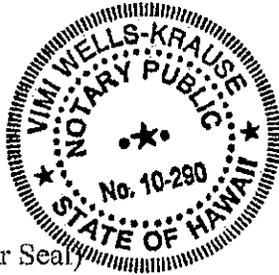
On this 15th day of February 2017, before me personally appeared **WILLIAM WOOD**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Vimi Wells-Krause

Name: Vimi Wells-Krause

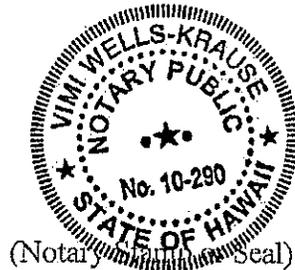
Notary Public, State of Hawaii

My commission expires: September 5, 2018



(Notary Stamp or Seal)

<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description:	<u>Unilateral Agreement and Declaration for Conditional Zoning</u>
Document Date:	<u>February 15, 2017</u>
No. of Pages:	<u>6 Including this page and Exhibit A</u>
Jurisdiction (in which notarial act is performed):	
First Circuit	
<i>Vimi Wells-Krause</i>	<u>February 15, 2017</u>
Signature of Notary	Date of Notarization and Certification Statement
Vimi Wells-Krause	
Printed Name of Notary	



(Notary Seal)

EXHIBIT A

Property Description

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

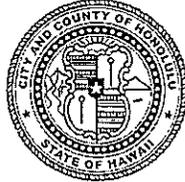
Lot 3945, consisting of approximately 2.512 acres, more or less, as shown on Map 754, as set forth in Land Court Order No. 189043 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application 1074, being the property covered by Certificate of Title No. 1113609 issued to the Church of Christ at Pearl Harbor.

BEING the land conveyed to the Church of Christ at Pearl Harbor by instrument dated March 21, 2016 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document Nos. T-9579151A through T-9579151C.

TMK Oahu 1-1-002-047

DEPARTMENT OF THE CORPORATION COUNSEL
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 110 • HONOLULU, HAWAII 96813
PHONE: (808) 768-5193 • FAX: (808) 768-5105 • INTERNET: www.honolulu.gov



KIRK CALDWELL
MAYOR

DONNA Y. L. LEONG
CORPORATION COUNSEL

PAUL S. AOKI
FIRST DEPUTY CORPORATION COUNSEL

March 7, 2017

The Honorable Ron Menor, Chair
and Presiding Officer
and Members
Honolulu City Council
530 S. King Street, Room 202
Honolulu, Hawaii 96813

RECEIVED
CITY CLERK
& C.O. OF HONOLULU
2017 MAR 10 PM 12:20

Dear Chair Menor and Councilmembers:

Re: Bill No. 52 (2016), CD1 – Unilateral Agreement and Declaration
for Conditional Zoning (Moanalua Zone Change, Church of Christ
at Pearl Harbor (2016/Z-4))

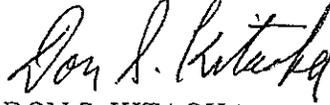
This letter is to advise you that the above-referenced Unilateral Agreement and Declaration for Conditional Zoning (hereinafter called the “Unilateral Agreement,” a copy of which is attached) has been recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T-9909317.

The recordation is required by Section 21-2.80, Revised Ordinances of Honolulu 1990, as amended. We have reviewed the property description and data attached to the Unilateral Agreement and conclude that the Unilateral Agreement has been recorded in the appropriate recording system (Land Court), the property description is complete, and the document has been signed by the proper parties.

The Honorable Ron Menor, Chair
and Presiding Officer
and Members
March 7, 2017

In view of the above, we conclude that the Unilateral Agreement has been appropriately recorded as required by Section 21-2.80, Revised Ordinances of Honolulu 1990, as amended, and the Council may consider further action on Bill 52 (2016), CD1, as it deems appropriate.

Very truly yours,



DON S. KITAOKA
Deputy Corporation Counsel

APPROVED:



DONNA Y.L. LEONG
Corporation Counsel

DSK:ml
Attach.

17-01416



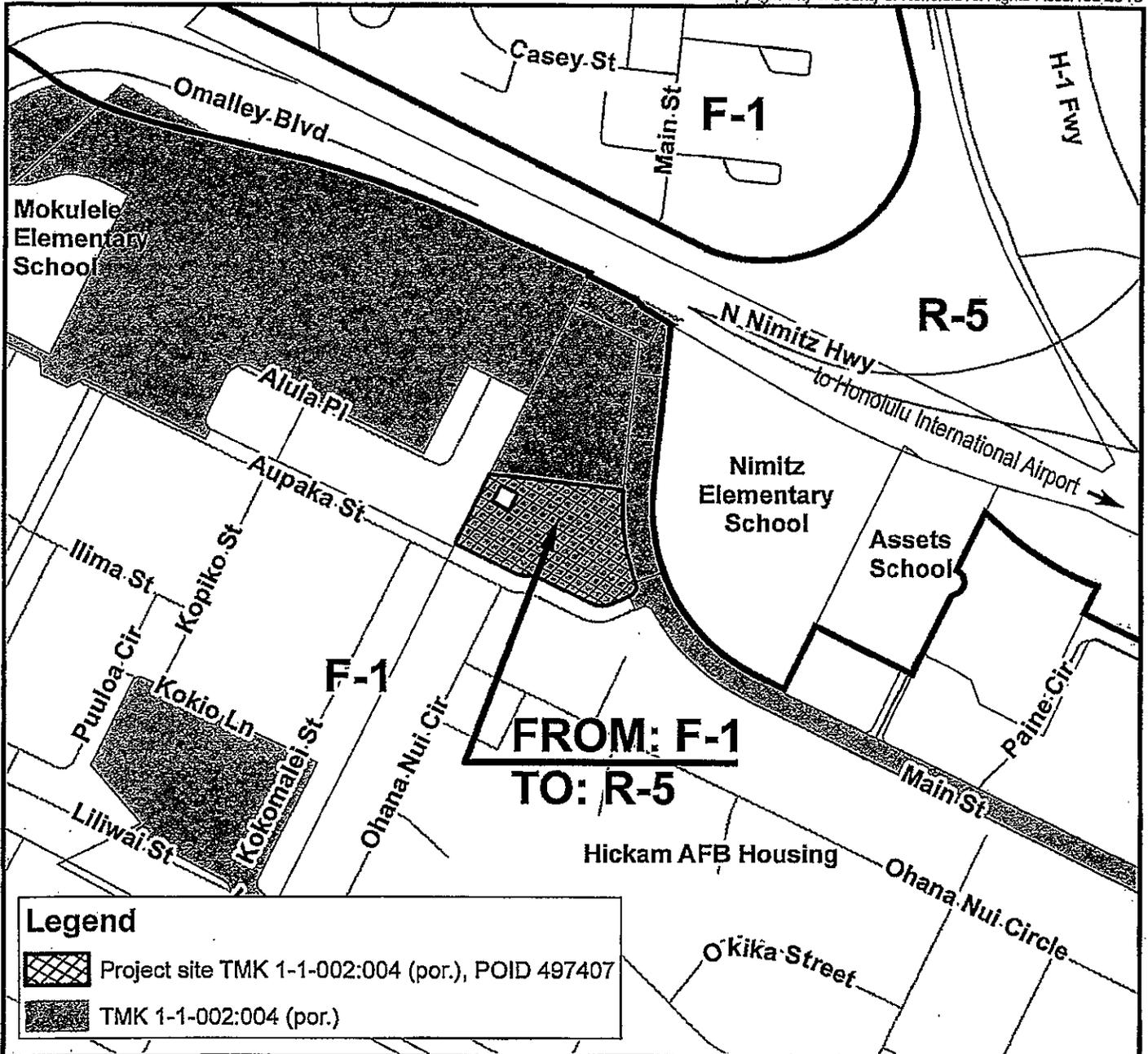
A BILL FOR AN ORDINANCE

RELATING TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII

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

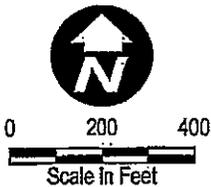
SECTION 1. Zoning Map No. 6 Red Hill — Fort Shafter, Ordinance 86-109, is hereby amended as follows: Land situated at 515 Main Street, Honolulu, Oahu, Hawaii, hereinafter described, is hereby rezoned from the F-1 Military and Federal Preservation District to the R-5 Residential District. The boundaries 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: 1-1-002: 004 (portion), Lot 3945.

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



**PORTION OF
ZONING MAP NO. 6
(RED HILL - FORT SHAFTER)**

Land situated on the northwesterly corner of the intersection of Main Street and Aupaka Street.



APPLICANT: Church of Christ at Pearl Harbor
TAX MAP KEY(S): 1-1-002:004 (por.)
FOLDER NO.: 2016/Z-4
LAND AREA: 2.568 Ac.
PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING
 CITY AND COUNTY OF HONOLULU
PUBLIC HEARING **PLANNING COMMISSION** **CITY COUNCIL**

ORD. NO.
EFF. DATE:

EXHIBIT A

BILL

2016/Z-3

EXHIBIT B

DRAFT UNILATERAL AGREEMENT INCORPORATING THE CONDITIONS RECOMMENDED BY THE DPP IN THE DIRECTOR'S REPORT

To be prepared by the Applicant and submitted to the Council