

# REPORT OF THE COMMITTEE ON ZONING

Charles K. Djou, Chair; Rod Tam, Vice-Chair  
Romy M. Cachola, Ann H. Kobayashi, Barbara Marshall, Members

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Committee Meeting Held  
January 13, 2004

Honorable Donovan Dela Cruz  
Chair, City Council  
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Bill 71 (2003) entitled:

" A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT HONOLULU, OAHU, HAWAII (AMENDING A PORTION OF ZONING MAP NO. 4, NUUANU-McCULLY, ORDINANCE NO. 86-107),"

transmitted by Departmental Communication No. 1031 dated October 17, 2003, and which passed First Reading at the November 5, 2003 Council meeting, reports as follows:

The purpose of Bill 71 (2003) is to rezone approximately 5.069 acres of land in Honolulu from the A-2 Medium Density Apartment District with a 150-foot height limit to the BMX-3 Community Business Mixed Use District with a 150-foot height limit at the request of the Central Union Church to create transferable development potential that can be used to provide financial support for the long-term protection of historic structures, public open space and trees.

Your Committee finds that the Planning Commission, after a public hearing held on October 1, 2003 at which no testimony was received in opposition to the zone change request, voted to recommend approval of the rezoning in concurrence with the recommendation of the Department of Planning and Permitting (DPP) in the Attachment to Departmental Communication No. 1031 (2003).

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## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON \_\_\_\_\_

COMMITTEE REPORT NO. 8

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Page 2

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

1. Prior to granting of additional City land use approvals and/or permits for the portion of the parcel subject to the zone change (except as needed for maintenance, repair or renovation of existing structures), the Applicant shall apply for and obtain a listing for the 5.069-acre site on the State of Hawaii Register of Historic Places.
2. Prior to granting of additional City land use approvals and/or permits for the portion of the parcel subject to the zone change (except as needed for maintenance, repair or renovation of existing structures), the Applicant shall submit a landscaping plan to the Department of Planning and Permitting for review and approval, to include a plan to retain and protect the existing trees, retain the Great Lawn and other existing lawns as open space, and either retain the Punahou Street at-grade parking lot as a parking area or return it to open space.
3. Within one year of the approval of the zone change, the Applicant shall apply for, and obtain approval to subdivide the BMX-3 zoned area from the portion of the parcel remaining in the A-2 Zoning District.
4. The amount of transferable floor area that will be available for use under the Land Use Ordinance provisions for off-site joint development of two or more zoning lots shall be based on the amount of floor area that could have been developed on the site under A-2 zoning.

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Page 3

5. In the event the property is to be further developed under the BMX-3 Community Business Mixed Use District, the Applicant shall complete any required improvements to the wastewater system at its own cost.
6. Standard condition concerning governmental approvals.
7. Standard condition concerning an annual written status report to the DPP of compliance with conditions of approval for the zone change.
8. The Applicant and the property owner(s), representatives for the Applicant and property owner(s) and for the heirs, personal representatives, assigns, lessees, and any subsequent owner(s) of the subject property, shall defend, indemnify and hold harmless the City and all of its corporate affiliates, departments, agents, employees, officers, directors, and successors in any action or proceeding from any and all losses, liabilities, damages, costs, claims, demands, suits, actions, payments and judgments arising from this permit action.

In the Attachment to Departmental Communication No. 1031 (2003), the DPP reported the Applicant is proposing to rezone to the BMX-3 District a 5.069-acre portion of an 8.394-acre parcel. The site includes Central Union Church's Sanctuary, Atherton Chapel, adjoining lawn areas, the Great Lawn along South Beretania Street and the Punahou Street parking area. The Applicant is seeking the rezoning to the BMX-3 District and a subsequent Conditional Use Permit-major (DPP public hearing required) in order to create transferable development potential on the property. This transferable development potential can be used to provide financial support for the long-term protection of significant historic structures and valuable public open spaces and trees.

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Page 4

Your Committee notes that ROH Section 21-5.370 ("Off-site joint development of two or more zoning lots") is intended to provide an incentive for the preservation of certain historic properties by permitting the transfer of development rights from a zoning lot in a Business Mixed Use Zoning District with a historic site, building or structure to up to four other lots within a Business Mixed Use District. This permits qualified property owners to sell, trade, broker or otherwise transfer a portion of the floor area that would normally be permitted under the applicable zoning district regulations on the lot where the historic site is located. If the DPP Director approves the required Conditional Use Permit, the unused floor area from the donor site with the historic site, building or structure can be used by the recipient site to increase its floor area to no more than 15 percent in excess of the maximum floor area that would otherwise be permitted on the lot. Only floor area may be transferred; all other zoning requirements applicable to the receiving lot are not affected.

On January 13, 2004, your Committee received testimony in support of the proposed rezoning.

In response to questions from the Chair of your Committee, a representative of the Applicant stated on January 13, 2004 that the Central Union Church has applied to be placed on the Hawaii Register of Historic Places but has not yet been put on that register. The Applicant also does not yet have any purchasers for the transferable development rights that the rezoning and subsequent Conditional Use Permit approval would create. The Applicant's agent further stated that transfer of development rights is a development option that is widely used on the Mainland.

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

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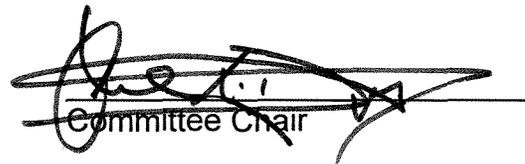
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January 13, 2004  
Page 5

Your Committee on Zoning recommends that Bill 71 (2003) pass Second Reading, be scheduled for public hearing and be referred back to Committee. (Ayes: Djou, Kobayashi, Marshall, Tam - 4; Noes: None; Excused: Cachola - 1.)

Respectfully submitted,

  
Committee Chair

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**CITY COUNCIL**  
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HONOLULU, HAWAII

ADOPTED ON JAN 28 2004

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