



A BILL FOR AN ORDINANCE

A BILL FOR AN ORDINANCE TO REZONE LAND IN MAKAHA, WAIANAE, OAHU.

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

SECTION I. Zoning Map No. 15, Lualualei – Makaha, Ordinance 86-117, is hereby amended as follows: Land situated at Makaha, Waianae, Oahu, Hawaii hereinafter described, is hereby rezoned from the Country District to R-5 Residential District. The boundaries and area of said Districts shall be described as shown on the map attached hereto, marked Exhibit "A" and made a part hereof, and further identified as Tax Map Key 8-5-018:017.

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



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 07-38
BILL 54 (2007)

A BILL FOR AN ORDINANCE

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

INTRODUCED BY:

Burban Marshall (br)

DATE OF INTRODUCTION:

JUN 26 2007

Honolulu, Hawaii

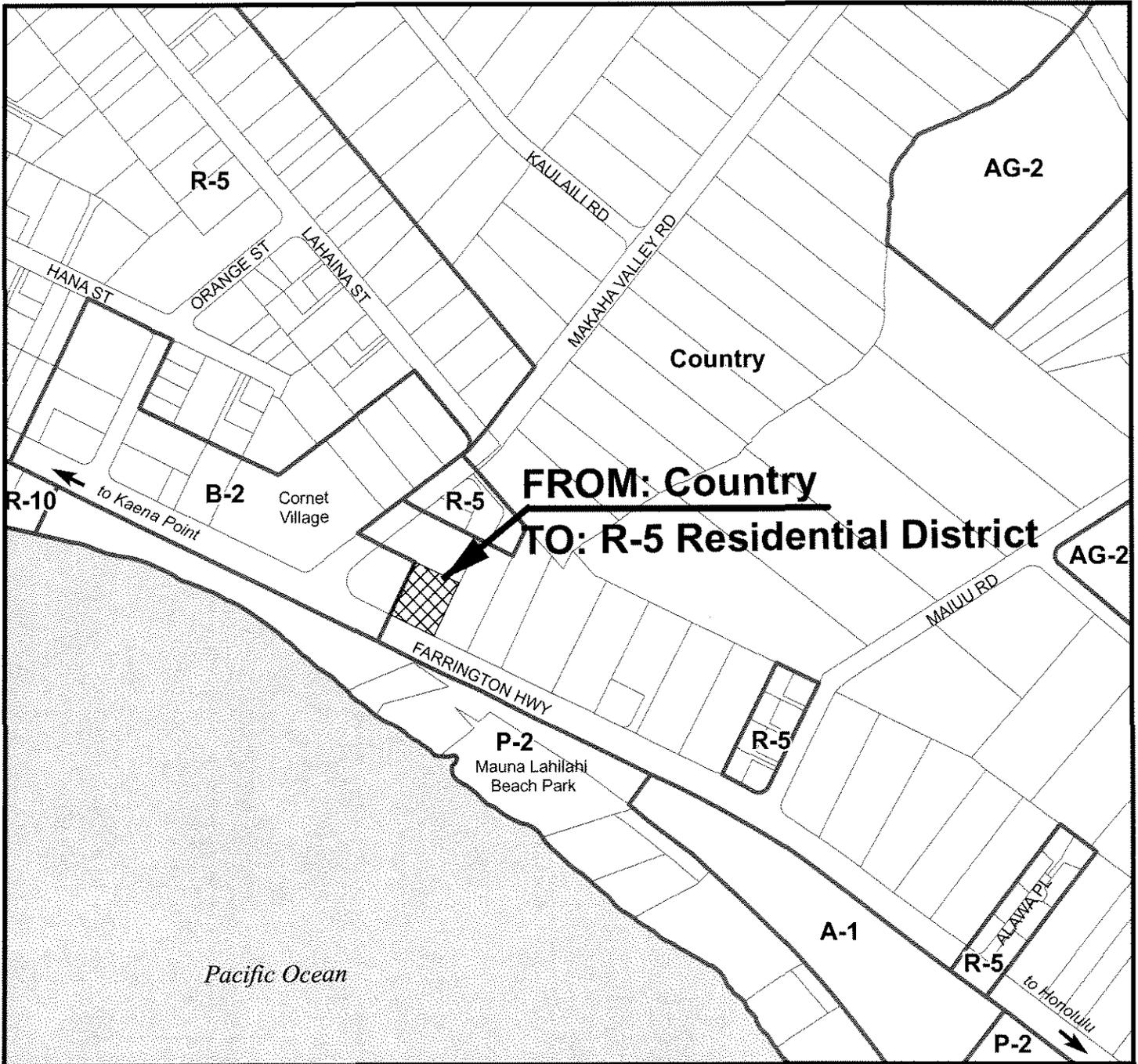
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don S. Kutsaba
Deputy Corporation Counsel

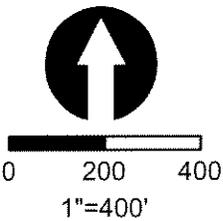
APPROVED this 4th day of October, 2007.

Mufi Hannemann
MUFU HANNEMANN, Mayor
City and County of Honolulu



PORTION OF
ZONING MAP NO. 15
 Lualualei-Makaha

Land situated approximately 150 ft. Easterly of the intersection
 of Makaha Valley Road and Farrington Hwy.



APPLICANT:	Patricia Chinn
TAX MAP KEY(S):	8-5-018:017
FOLDER NO. :	2007/Z-2
LAND AREA:	19,500 SF
PREPARED BY:	DEPARTMENT OF PLANNING & PERMITTING CITY AND COUNTY OF HONOLULU
PUBLIC HEARING:	PLANNING COMMISSION
	CITY COUNCIL

ORD. NO. 07-38
 EFF. DATE: OCT 04 2007

AUG 13 2007
 EXHIBIT A

AUG 15 '07
 2007/Z-2
 BILL 54 (2007)

Doc 3656880
CTN 803,876
SEP 17. 2007 03:29 PM

LAND COURT

REGULAR SYSTEM

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

Analytical Planning Consultants
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for
Conditional Zoning

PARTY TO DOCUMENT:

Patricia L. Chinn, Trustee
Patricia L. Chinn Trust
2228 Liliha Street, Suite 403
Honolulu, Hawaii 96817

TAX MAP KEY NO. (1) 8-5-018:017

Page 1 of 6

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 12th day of September, 2007, by Patricia L. Chinn, as Trustee of the Patricia L. Chinn Trust, whose address is 2228 Liliha Street, Suite 403, Honolulu, Hawaii 96817 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Makaha, Oahu, consisting of approximately .448 acres, described as Tax Map Key No. (1) 8-5-018:017, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to develop a residential development 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 Country District to R-5 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 54(2007), was held by the Council on August 15, 2007; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 303 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. No more than five (5) dwelling units shall be constructed on the Land.
2. Prior to grading or building permit approval, whichever comes first, the Declarant shall have an archaeological inventory survey prepared, submit it to the State Historic Preservation Division for approval, and carry out any mitigation actions recommended by the survey to the satisfaction of the State Historic Preservation Division.

3. On an annual basis, the applicant shall submit a written status report to the Department of Planning and Permitting documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report should be submitted to the Department of Planning and Permitting by December 31 of each year until such time as the Department of Planning and Permitting has determined that all conditions of approval have been satisfied.
4. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental provisions and requirements.
5. In the event of noncompliance with any of the conditions set forth herein, the Director of Planning and Permitting shall inform the Council and may initiate action to rezone the Land, seek civil enforcement, or take appropriate action to terminate or stop the Project until applicable conditions are met.
6. Failure to fulfill any of the conditions set forth herein may be grounds for revocation of the permits issued under this zoning and grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

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

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

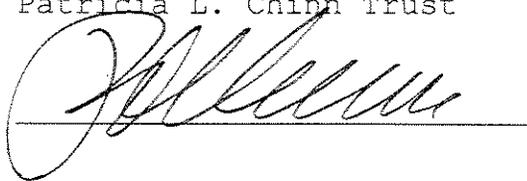
That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, the parties hereto have executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANT:

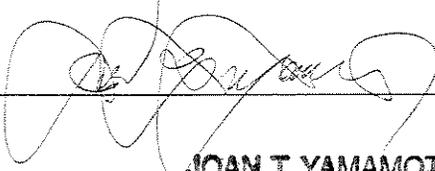
Patricia L. Chinn, Trustee
Patricia L. Chinn Trust



STATE OF HAWAII
city and
COUNTY OF HONOLULU

SS#

On this 12th day of September, 2007, before me appeared Patricia L. Chinn to me personally known, who, being by me duly sworn, did say that she is the Trustee of the Patricia L. Chinn Trust, fee owner, of that certain parcel of land described in Exhibit "A".



Name: JOAN T. YAMAMOTO

Notary Public of and for said State

My commission expires: 2-16-08

Exhibit "A"

The land referred to is situated in the State of Hawaii, and described as follows:

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

Lot 595, area 19,500 square feet, more or less, as shown on Map 10, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1052 (amended) of Waianae Company.

Being all the property described in EXCHANGE LIMITED WARRANTY DEED recorded May 1, 2006 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document 342879, to Patricia L. Chinn, as Trustee of the REVOCABLE TRUST OF PATRICIA L. CHINN.

Being the property described in and covered by Transfer Certificate of Title No. 803,876.

End of Exhibit "A"

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 07-38

BILL 54 (2007)

Introduced: 06/26/07 By: BARBARA MARSHALL (BR)

Committee: ZONING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND IN MAKAHA, WAIANAE, OAHU.

Links: [BILL 54 \(2007\)](#)
[D-0516\(07\)](#)
[CR-267](#)

COUNCIL	07/05/07	BILL PASSED FIRST READING AND REFERRED TO ZONING COMMITTEE.				
	APO Y	CACHOLA Y	*DELA CRUZ Y	DJOU Y	GARCIA Y	
	KOBAYASHI Y	MARSHALL Y	OKINO Y	TAM Y		
(*Note: Councilmember Dela Cruz was absent and not excused and pursuant to Council Rule 12.3 was recorded as an affirmative vote.)						
ZONING	07/31/07	CR-267 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING. (CURRENT DEADLINE FOR COUNCIL ACTION: 9/23/07)				
PUBLISH	08/04/07	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
COUNCIL/PUBLIC HEARING	08/15/07	BILL PASSED SECOND READING, CR-267 ADOPTED, PUBLIC HEARING CLOSED AND REFERRED TO ZONING COMMITTEE.				
	APO Y	CACHOLA E	DELA CRUZ Y	DJOU E	GARCIA Y	
	KOBAYASHI Y	MARSHALL Y	OKINO Y	TAM Y		
PUBLISH	08/24/07	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
ZONING	09/04/07	CR-303 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING. (Deadline: 9/23/07)				
COUNCIL	09/19/07	CR-303 ADOPTED AND BILL 54 (2007) PASSED THIRD READING.				
	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	GARCIA Y	
	KOBAYASHI Y	MARSHALL Y	OKINO Y	TAM Y		

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.


DENISE C. DE COSTA, CITY CLERK


BARBARA MARSHALL, CHAIR AND PRESIDING OFFICER