



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 01-07

BILL 85 (2000), CD1

A BILL FOR AN ORDINANCE

TO REZONE LANDS SITUATED AT KAPOLEI, EWA, OAHU, HAWAII (AMENDING A PORTION OF ZONING MAP NO. 12, EWA BEACH-IROQUOIS POINT, ORDINANCE NO. 86-114, AND A PORTION OF ZONING MAP NO. 13, MAKAKILO, ORDINANCE NO. 86-115).

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

SECTION 1. Council Findings and Purpose.

The Council finds as follows:

A. Act 337, Session Laws of Hawaii 1987, created the Housing Finance and Development Corporation ("HFDC") to address the serious shortage of safe and sanitary affordable housing units in the State.

B. Act 15, Session Laws of Hawaii 1988, imposed a five-year moratorium on certain provisions of Chapter 201E, Hawaii Revised Statutes, which were in conflict with the provisions of Act 15, and granted temporary enhanced authority to the HFDC to develop affordable housing projects which were exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon.

C. The Villages of Kapolei project was initiated by the HFDC under Act 15, bypassing, among other things, planning, zoning, and subdivision regulations of the City and County of Honolulu (the "City").

D. The Villages of Kapolei project is located to the east of the City of Kapolei in Ewa on approximately 888 acres of land, described as all parcels with Tax Map Key plats 9-1-59, -60, -68, -71, -72, -77 to -81, -84, -91, -92, -98, -99, -104, and -105, and certain parcels with Tax Map Key plat 9-1-16.

E. Pursuant to Act 350, Session Laws of Hawaii 1997, the Housing and Community Development Corporation of Hawaii ("HCDCH") is the successor in interest to the HFDC.



F. The Villages of Kapolei project consists of developed areas previously developed by the HCDCH or its predecessor, the HFDC, and undeveloped areas which the HCDCH intends to develop.

G. The land encompassing the Villages of Kapolei project is currently zoned AG-1 Restricted Agricultural District under the City's Land Use Ordinance, which is inconsistent with existing and planned uses for the land.

H. It is necessary to change the current AG-1 Restricted Agricultural District zoning for the Villages of Kapolei project in order to implement the long-range vision for this area as expressed in the Ewa Development Plan.

I. A zoning map amendment will resolve the inconsistencies between the actual and planned uses versus the current permitted uses under the existing zoning for the land encompassing the Villages of Kapolei project.

Accordingly, the purpose of this ordinance is to rezone certain lands encompassing the Villages of Kapolei project in order to resolve the inconsistencies between the actual and planned uses versus the current permitted uses under the existing zoning for those lands.

SECTION 2. Land situated at Kapolei, Ewa, Oahu, Hawaii, hereinafter described, is hereby rezoned from AG-1 Restricted Agricultural District to R-3.5 Residential District, R-5 Residential District, A-1 Low Density Apartment District, A-2 Medium Density Apartment District with a height limit of 40 feet, AMX-1 Apartment Mixed Use District, B-1 Neighborhood Business District, BMX-3 Business Mixed Use District with a 60-foot height limit, and P-2 General Preservation District. The boundaries and said areas of said R-3.5, R-5, A-1, A-2 (with a 40-foot height limit), AMX-1, B-1, BMX-3 (with a 60-foot height limit), and P-2 districts shall be described as shown on the map attached hereto, marked Exhibit "A" and made a part hereof, and further identified as all parcels with Tax Map Key plats 9-1-59, -60, -68, -71, -72, -77 to -81, -84, -91, -92, -98, -99, -104 and -105, and certain parcels with Tax Map Key plat 9-1-16.



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HONOLULU, HAWAII

ORDINANCE 01 - 07

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SECTION 3. Structures existing on the land subject to this ordinance on the effective date of this ordinance, and which were built in accordance with the plans or with the approval of the Housing Finance and Development Corporation or the Housing and Community Development Corporation of Hawaii, shall be considered conforming. Any subsequent additions, total reconstruction, change in use, or movement of structures shall comply with City development standards and requirements then in force.

SECTION 4. Unilateral Agreements executed by various affected landowners, marked as Exhibits "B-1," "B-2," and "B-3," and attached hereto, are by reference incorporated herein and made a part hereof.



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HONOLULU, HAWAII

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SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:

John DeSoto

DATE OF INTRODUCTION:

October 30, 2000
Honolulu, Hawaii

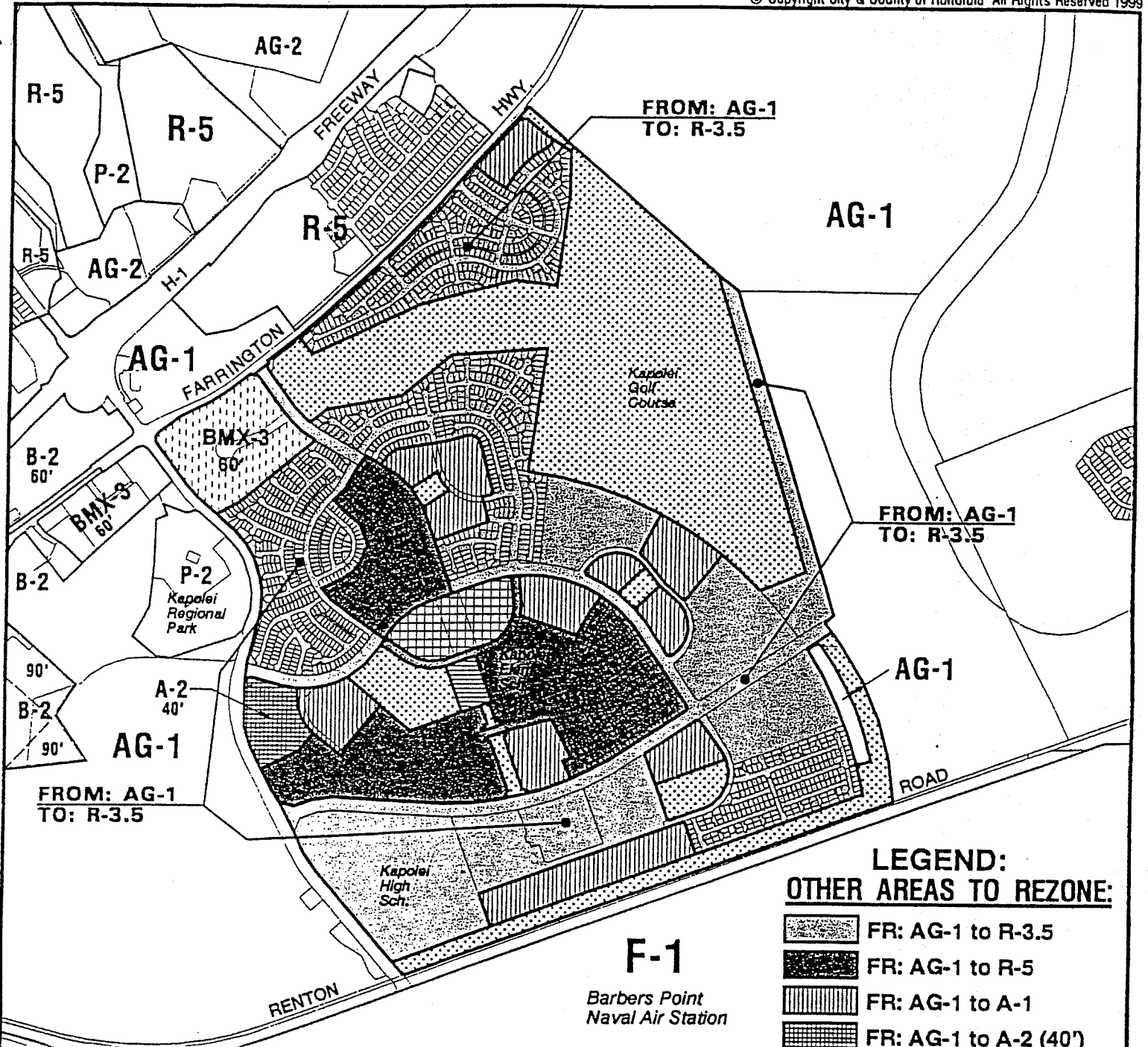
Councilmembers

APPROVED AS TO FORM AND LEGALITY:


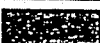



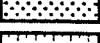
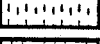
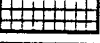
James W. Stuebel
Deputy Corporation Counsel

APPROVED this 29th day of March, 2001.

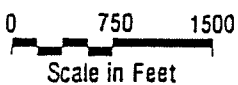
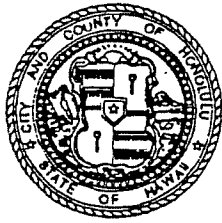
Jeremy Harris
JEREMY HARRIS, Mayor
City and County of Honolulu



**LEGEND:
OTHER AREAS TO REZONE:**

-  FR: AG-1 to R-3.5
-  FR: AG-1 to R-5
-  FR: AG-1 to A-1
-  FR: AG-1 to A-2 (40')
-  FR: AG-1 to P-2
-  FR: AG-1 to BMX-3 (60')
-  FR: AG-1 to AMX-1
-  FR: AG-1 to B-1

**PORTION OF
ZONING MAPS NO. 12 & 13
(EWA BEACH - IROQUOIS POINT)
(MAKAKILO)**



APPLICANT: DEPT. OF PLANNING AND PERMITTING
 TAX MAP KEY(S): 9-1-16, 59, 60, 68, 71, 72, 77 to 81, 84, 91, 92, 98, 99, 104 & 105
 FOLDER NO: 99/Z-5
 LAND AREA: APPROXIMATELY 888 ACRES
 PREPARED BY: DEPT. OF PLANNING & PERMITTING
 CITY AND COUNTY OF HONOLULU

PUBLIC HEARING: PLANNING COMMISSION CITY COUNCIL
 9/27/00 12/1/00

OFFICE OF THE
DISTRICT CLERK OF THE LAND COURT
HONOLULU, HAWAII

THE RECORDATION OF THIS DOCUMENT WAS
RECORDED AS FOLLOWS:

DOCUMENT NO. 2688010
DATE 3/6/01 TIME 3:00pm

LAND COURT

REGULAR SYSTEM

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

Villages of Kapolei Association
91-1111 Kama'aha Loop
Kapolei, Hawaii 96707

TITLE OF DOCUMENT: UNILATERAL AGREEMENT AND DECLARATION FOR
CONDITIONAL ZONING

PARTY TO DOCUMENT: VILLAGES OF KAPOLEI ASSOCIATION, a Hawaii
nonprofit corporation

TAX MAP KEY NO. (1) 9-1-16:057

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 6th day of March, 2001, by VILLAGES OF KAPOLEI ASSOCIATION, a Hawaii nonprofit corporation, whose address is 91-1111 Kama'aha Loop, Kapolei, Hawaii 96707 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Kapolei, Oahu, Hawaii, consisting of approximately 4.09 acres, described as Tax Map Key No. (1) 9-1-16: 057, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), desires to make the Land subject to this Unilateral Agreement in connection with the zone change referred to below; and

WHEREAS, the Declarant plans to continue to operate an existing recreation center on the Land; 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 AG-1 Restricted Agricultural District to B-1 Neighborhood Business District (the "zone change"); and

WHEREAS, a public hearing regarding the zone change, Bill 85 (2000), was held by the Council on December 1, 2000; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 105 that the said zone change be approved, subject to, among other conditions, 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 zone change (the "Rezoning Ordinance");

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

1. The use of the Land shall be limited to a meeting facility and its accessory uses as defined in Article 10 of the Land Use Ordinance, Chapter 21, Revised Ordinances of Honolulu 1990, as amended. Permissible accessory uses shall include, but shall not be limited to: 1) office uses directly connected with the carrying out and/or performance of the Declarant's duties, responsibilities, obligations, and/or functions as a community association¹; 2) recreational or social services, programs, activities, and/or events, and day care services, for the benefit of the community association members; 3) a farmer's market no more frequently than once a week for the benefit of the community association members; 4) recreational facilities, including, but not limited to, swimming pools, tennis courts, basketball courts, soccer fields, and baseball fields for community association members; and 5) such other uses as are consistent with the Declarant's duties, responsibilities, obligations, and/or functions as a community association. This condition shall not alter or affect any restriction or requirement applicable to the Land pursuant to its

¹ References herein to the Association as a "community association" shall mean and include the Association as a "community association," "planned community association," "master homeowner's association," "master planned community," "homeowner's association," and "planned unit development."

classification as a private park under the City's park dedication ordinance and rules.

2. 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 any further development on the Land comply with all applicable LUO and other governmental provisions and requirements.
3. 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 any development or use on the Land until applicable conditions are met.
4. 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.
5. Nothing in Paragraphs 3 or 4 above shall serve to release any rights, remedies, defenses, and/or claims of the Declarant.

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. References to the Declarant shall include its successors and assigns, if any.

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. Nothing in this paragraph shall serve to release any rights, remedies, defenses, and/or claims of the Declarant.

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

VILLAGES OF KAPOLEI ASSOCIATION, a
Hawaii non-profit corporation

By 
Its President

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU)

SS:

On this 6th day of March, 2001, before me personally appeared Carol L. Smith, to me personally known, who being by me duly sworn, did say that she is the President of the Villages of Kapolei Association and that said instrument was signed in behalf of said Association by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said Association, acting by and through its Board.

C. Loo-Hoy

Notary Public (Signature)

Claire Loo-Hoy

(Print Name)

L. S.

State of Hawaii

My commission expires: 02/17/02

EXHIBIT "A"

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

LOT 9264, area 4.091 acres, more or less, as shown on Map 689, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 for the Trustees under the Will and of the Estate of James Campbell, deceased;

Being land(s) described in Transfer Certificate of Title No. 475,557 issued to THE VILLAGES OF KAPOLEI ASSOCIATION, a Hawaii non-profit corporation.

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR : HOUSING FINANCE AND DEVELOPMENT CORPORATION,
a public body and body corporate and politic
of the State of Hawaii

GRANTEE : THE VILLAGES OF KAPOLEI ASSOCIATION, a Hawaii
non-profit corporation

DATED : May 31, 1996
FILED : Land Court Document No. 2312773

-Note:- LOT 9264 shall have access to Farrington Highway over and across Lots 6765 and 6768, as shown on Map 571, and over and across aid road Lot 5349, as set forth by Land Court Order No. 116996, filed June 16, 1994.

SUBJECT HOWEVER TO THE FOLLOWING:

1. Any and all Real Property Taxes that may be due and owing.
Tax Key: 9-1-016-057 (1) Area Assessed: 4.091 acres

2. HOUSING FINANCE AND DEVELOPMENT CORPORATION-CAMPBELL ESTATE, KAPOLEI VILLAGE CONDEMNATION AGREEMENT, effective as of April 11, 1989, filed as Land Court Document No. 1650349, recorded in Liber 23409 at Page 224, by and among the STATE OF HAWAII by its Board of Land and Natural Resources, HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and body corporate and politic, the STATE OF HAWAII DEPARTMENT OF TRANSPORTATION, an executive department of the State of Hawaii, and F. E. TROTTER, INC., W. E. McVAY, INC., P. R. CASSIDAY, INC. and H. C. CORNUELLE, INC., all Hawaii professional corporations, the duly appointed, qualified and acting TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual corporate capacities.

3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : QUITCLAIM DEEDS

DATED : January 3, 1990 and January 4, 1990, and June 20, 1990 and July 9, 1990, respectively

FILED : Land Court Document Nos. 1696820 and 1745093

The foregoing includes, but is not limited to, matters relating to reservation of minerals, water and prehistoric and historic remains.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION OF CONDITIONS IMPOSED BY THE LAND USE COMMISSION

DATED : June 6, 1990

FILED : Land Court Document No. 1736622

Said Declaration was amended by instrument dated February 6, 1992, filed as Land Court Document No. 1888121.

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, VILLAGES OF RAPOLET

DATED : July 26, 1990
FILED : Land Court Document No. 1752834

Said Declaration was amended by instruments recorded in the Land Court as Document Nos. 2199063 and 2238460; and 2620834.

6. DESIGNATION OF EASEMENT "5854" (area 4,641 square feet)

PURPOSE : storm drain
SHOWN : on Map 836, as set forth by Land Court Order No. 123488, filed February 26, 1996

7. DESIGNATION OF EASEMENT "5933" (area 220 square feet)

PURPOSE : water meter
SHOWN : on Map 844, as set forth by Land Court Order No. 123954, filed April 9, 1996

8. DESIGNATION OF EASEMENT "6262" (area 10,205 square feet)

PURPOSE : irrigation waterline
SHOWN : on Map 910, as set forth by Land Court Order No. 129082, filed September 30, 1997

9. Declaration of Restrictive Covenants (Private Park) recorded in the Land Court as Document No. 2632611.
10. Grant of Easement (5854) recorded in the Land Court as Document No. 2532872.

01 - 07

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

The original of this document was
recorded as follows:

DOCUMENT NO. 2689090
DATE MAR 12 2001 TIME 10:00

LAND COURT

REGULAR SYSTEM

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

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for
Conditional Zoning

PARTY TO DOCUMENT: HOUSING AND COMMUNITY DEVELOPMENT CORPORATION
OF HAWAII, Declarant

TAX MAP KEY NOS. (1) 9-1-16:035 (por.), 036-039, 058, 059,
064, 076 (por.), 088, 093; 9-1-104:001-087;
9-1-105:001-117

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 6th day of March, 2001, by HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII, a public body and a body corporate and politic of the State of Hawaii, whose address is 677 Queen Street, Suite 300, Honolulu, Hawaii, 96813 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, Act 337, Session Laws of Hawaii 1987, created the HOUSING FINANCE AND DEVELOPMENT CORPORATION ("HFDC") to address the serious shortage of safe and sanitary affordable housing units in the State; and

WHEREAS, Act 15, Session Laws of Hawaii 1988, imposed a five-year moratorium on certain provisions of Chapter 201E, Hawaii Revised Statutes, which were in conflict with the provisions of Act 15, and granted temporary enhanced authority to the HFDC to develop affordable housing projects which were exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; and

WHEREAS, the Villages of Kapolei project was initiated by the HFDC under Act 15, bypassing, among other things, planning, zoning, and subdivision regulations of the City and County of Honolulu (the "City"); and

WHEREAS, the Villages of Kapolei project is located to the east of the City of Kapolei in Ewa on approximately 888 acres of land, more particularly described as all parcels with Tax Map Key plats 9-1-59, -60, -68, -71, -72, -77 to -81, -84, -91, -92, -98, -99, -104, and -105, and certain parcels with Tax Map Key plat 9-1-16; and

WHEREAS, the land encompassing the Villages of Kapolei is currently zoned AG-1 Restricted Agricultural District under the City's Land Use Ordinance, which is inconsistent with existing and planned uses for the land; and

WHEREAS, pursuant to Act 350, Session Laws of Hawaii 1997, the Declarant is the successor in interest to the HFDC; and

WHEREAS, the Villages of Kapolei project consists of developed areas previously developed by the Declarant or its predecessor, the HFDC, and undeveloped areas which the Declarant intends to develop; and

WHEREAS, the developed areas of the Villages of Kapolei (hereinafter referred to as the "Developed Land") are more particularly described in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, the undeveloped areas of the Villages of Kapolei (hereinafter referred to as the "Undeveloped Land") consist of

approximately 148.8 acres, are described as Tax Map Key Nos. (1) 9-1-16:035 (por.), 036-039, 058, 059, 064, 076 (por.), 088, 093; 9-1-104:001-087; 9-1-105:001-117; and are more particularly described in Exhibit B, attached hereto and made a part hereof; and

WHEREAS, the Declarant is the owner in fee simple of the Undeveloped Land and desires to make the Undeveloped Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to continue to develop the Villages of Kapolei project on the Undeveloped Land; and

WHEREAS, the City Council (the "Council") of 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 both the Developed Land and the Undeveloped Land from the AG-1 Restricted Agricultural District to the: (1) R-3.5 Residential District; (2) R-5 Residential District; (3) A-1 Low Density Apartment District; (4) A-2 Medium Density Apartment District with a 40-foot height limit; (5) AMX-1 Apartment Mixed Use District; (6) B-1 Neighborhood Business District; (7) BMX-3 Business Mixed Use District with a 60-foot height limit; and (8) P-2 General Preservation District (collectively referred to as the "zone change"); and

WHEREAS, a public hearing regarding the zone change, set forth in Bill 85 (2000), was held by the Council on December 1, 2000; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 105 that the said zone change be approved, subject to, among other conditions, 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 zone change (the "Rezoning Ordinance");

NOW THEREFORE, the Declarant hereby covenants and declares as follows with respect to the Undeveloped Land:

1. Prior to submitting an application for any subdivision approval (other than subdivision approval for the purpose of conveying an undeveloped portion of the Undeveloped Land to another developer for further subdivision and development), grading permits, or building permits, whichever comes first, the Declarant shall submit to the City Department of

Planning and Permitting ("DPP"), for its review and approval, a Master Site Development Plan for the area known as the Northwest Corner in the Villages of Kapolei project, identified by Tax Map Key No. 9-1-16: 035, and consisting of approximately 22.89 acres. The Master Site Development Plan for the Northwest Corner shall address the following elements to assure implementation of policies, principles and guidelines in the Ewa Development Plan:

a. Building location and massing which:

- (1) Reflect provisions for safe and pleasing pedestrian and bicycle circulation within the site, and connecting the site to other focal points in the Kapolei community.
- (2) Avoid location of open parking, loading and open storage areas adjacent to residential uses.
- (3) Assign bulkier masses away from streets to create a friendly, pedestrian-oriented streetscape, and promote major streets as public view corridors.
- (4) Contribute to a vibrant streetscape, particularly along Barbers Point Access Road and Farrington Highway, through such means as locating retailing establishments along the street frontages, lush landscaping and open areas, and attractive signage.

b. Landscaping concepts which:

- (1) Recognize the established landscaping themes of adjacent projects in Kapolei.
- (2) Promote pedestrian circulation by providing visual and shade relief.
- (3) Implement the concept of a Hawaiian garden city.

The development of the Northwest Corner shall conform to the approved Master Site Development Plan, provided that the Master Site Development Plan may be amended from time to time with the prior written approval of the DPP.

2. Prior to submitting an application for any subdivision approval, grading permits, or building permits, whichever comes first, for any developments after the effective date

of the Rezoning Ordinance, the Declarant shall submit to the DPP and the City Department of Environmental Services ("DES"), for review and approval, a Revised Sewer Master Plan. The Revised Sewer Master Plan shall include, but not be limited to:

- a. A discussion of the existing wastewater system in terms of its capacity and physical condition.
- b. A discussion of any new wastewater facilities and/or improvements to existing facilities that may be required to accommodate demand from future developments on land which is vacant at the time of the Plan.
- c. Disclosure of any deficiencies in the existing wastewater system with respect to City standards for the proper installation, collection and transmission of wastewater from existing and future developments to its designated treatment facility for eventual disposal.
- d. All proposed mitigation measures to correct identified deficiencies affecting the proper collection and transmission of wastewater from existing and future developments to its designated treatment facility for eventual disposal.
- e. A timetable for implementation and completion of all proposed improvements and mitigation measures to adequately correct or handle all identified deficiencies affecting the proper collection and transmission of wastewater from existing and future developments to its designated treatment facility for eventual disposal. This timetable shall also disclose its timing with that of future development projects within the Villages of Kapolei.

The Declarant shall comply with the approved Revised Sewer Master Plan, provided that the Plan may be amended from time to time with the prior written approval of the DPP and the DES.

3. The Declarant shall comply with the following traffic mitigation measures.
 - a. A summary listing of any new developments that have occurred within the Villages of Kapolei shall be included in the annual status report required to be submitted by the Declarant to the DPP pursuant to

Condition 5 of this Declaration. The summary shall include the Declarant's assessment of whether an updated Traffic Impact Analysis Report ("TIAR") should be provided by the Declarant, based on the reported new developments. The DPP shall determine whether an updated TIAR shall be provided, based on the DPP's review of the summary. If the DPP determines that an updated TIAR is required, the Declarant shall submit an updated TIAR to the DPP for review and approval within six months of the DPP's written determination. The updated TIAR shall address the increase in traffic generated by the new developments and the need to revise any traffic forecasts and projections that were contained in the initial TIAR dated June 20, 1994, as supplemented prior to the effective date of the Rezoning Ordinance. The updated TIAR shall include an analysis of traffic signal warrants at all critical intersections and other traffic related recommendations, as needed to improve traffic flow and circulation throughout the Villages of Kapolei. The Declarant shall implement the recommendations contained in the updated TIAR regarding improvements to roadway infrastructure--including, but not limited to, the installation of traffic signals at intersections that meet the signal warrants--all in accordance with City standards.

- b. Regarding the development of areas which are vacant on the effective date of the Rezoning Ordinance, a TIAR shall be prepared for each of the following areas, at such time when the specific uses of these areas have been identified:
- (1) A vacant area between the Kapolei Parkway and the existing drainage channel, referred to as Villages 7 and 8;
 - (2) A vacant 9.807-acre parcel identified as Tax Map Key No. 9-1-16: 064, planned to be developed as an elderly housing project;
 - (3) A vacant 22.89-acre site identified as Tax Map Key No. 9-1-16: por. 035, located south of the intersection of Farrington Highway and Barbers Point Access Road, referred to as the Northwest Corner; and

- (4) Three contiguous vacant parcels identified as Tax Map Key Nos. 9-1-16: 037, 038 and 039, bounded by Kama'aha Avenue and Kama'aha Loop, referred to as the Village Center.

The Declarant shall implement all recommendations contained in the TIARs referred to above.

4. Prior to subdivision, cluster or building permit approval, whichever comes first, the Declarant shall enter into a binding agreement with the DPP to participate in an affordable housing program acceptable to the DPP and in accordance with adopted rules and regulations for unilateral agreements requiring affordable housing. The agreement shall provide that no less than 30 percent of the total number of dwelling units developed in the Villages of Kapolei shall be affordable to households with incomes not exceeding 120 percent of the Median Income, with no less than ten percent of the total number of dwelling units being affordable to households with incomes not exceeding 80 percent of the Median Income. As used herein, "Median Income" means the median income for Honolulu, Hawaii, adjusted for household size, as determined by the United States Department of Housing and Urban Development. In determining compliance with this condition, dwelling units developed by the Declarant or HFDC in the Villages of Kapolei prior to the effective date of the Rezoning Ordinance shall be included.
5. On an annual basis, the Declarant shall submit a written status report to the DPP documenting satisfaction of and/or describing progress made toward complying with each condition of this Declaration. 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.
6. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. Other LUO or other governmental requirements are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for any further development by Declarant in the Villages of Kapolei comply with all applicable LUO and other governmental provisions and requirements.
7. In the event of noncompliance with any of the conditions set forth in this Declaration, the Director of the DPP shall

inform the Council and may initiate action to rezone the Land, seek civil enforcement, or take appropriate action to terminate or stop any development by Declarant in the Villages of Kapolei until applicable conditions are met.

8. Failure to fulfill any of the conditions set forth in this Declaration 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 City department or agency.

That the conditions imposed in this Declaration 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 Undeveloped Land shall conform to the conditions in this Declaration 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 Undeveloped Land and shall bind and constitute notice to all the parties to this Declaration and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Undeveloped Land. 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.

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

APPROVED AS TO FORM:

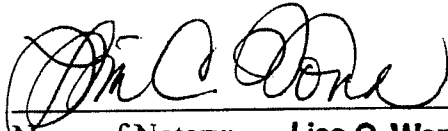

Deputy Attorney General

By 
Its EXECUTIVE DIRECTOR

"Declarant"

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

On this 6th day of March, 2001, before me appeared **SHARYN L. MIYASHIRO**, to me personally known, who, being by me duly sworn, did say that she is the Executive Director of **HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII**, a public body and body politic of the State of Hawaii; and that said instrument was signed in the name and on behalf of said corporation by authority of its Board of Directors; and said officer acknowledged that such officer executed said instrument as the free act and deed of said corporation.


Name of Notary: **Lisa C. Wond** 25
Notary Public, State of Hawaii
My Commission expires: 7. 12. 2003

01-07

DEVELOPED PARCELS			
LCA	Map No.	LOT #	VILL. NO. PROJECT NAME/LOCATION
1069	505	All developed except those shown on the Undeveloped Parcel list.	Varies
1069	507	All lots developed.	1 KUMU IKI
1069	532	All lots developed.	1 KUMU IKI
1069	550	All lots developed.	1 KUMU IKI
1069	571	All lots developed except those shown on the Undeveloped Parcel list.	Varies
1069	594	All lots developed.	Varies
1069	609	All lots developed.	3 MALANAI
1069	637	All lots developed.	3 MALANAI
1069	649	All lots developed except those shown on the Undeveloped Parcel list.	Varies
1069	650	All lots developed except those shown on the Undeveloped Parcel list.	3 MALANAI
1069	661	All lots developed except those shown on the Undeveloped Parcel list.	2 A'ELOA
1069	663	All lots developed or planned for construction.	4 KEKUILANI
1069	673	All lots developed.	3 MALANAI
1069	683	All lots developed.	3 MALANAI
1069	689	All lots developed.	3 MALANAI
1069	727	All lots developed.	Varies
1069	803	All lots developed or planned for construction except those shown on the Undeveloped Parcel list.	3 MALANAI
1069	821	All lots developed.	5 IWALANI
1069	896	All lots developed except those shown on the Undeveloped Parcel list.	2 AELOA
1069	897	All lots developed or planned for construction except those shown on the Undeveloped Parcel list.	7&8 MAKAMAE
			6 VILLAGE 6

UNDEVELOPED PARCELS

LCA	Map No.	LOT #	TMK	VILL. NO.	PROJECT NAME/LOCATION	LAND USE	ACREAGE	TITLE HOLDER	TCT #
1828	1	2	9-1-16:035 portion		NORTHWEST CORNER	RESIDENTIAL	3.727	HCDCH	341501
1069	505	5351	9-1-16:035 portion	NW	NORTHWEST CORNER	MULTI FAMILY	22.890	HCDCH	341501
1069	505	5353	9-1-16:035 portion	NW	NORTHWEST CORNER	LANDSCAPE	0.506	HCDCH	341501
1069	571	6762	9-1-16:037	VC	VILLAGE CENTER	MULTI FAMILY	6.000	HCDCH	341501
1069	571	6763	9-1-16:038	VC	VILLAGE CENTER	COMMERCIAL	3.361	HCDCH	341501
1069	571	6764	9-1-16:039	VC	VILLAGE CENTER	RESIDENTIAL	6.015	HCDCH	341501
1069	649	8044	9-1-16:058	VC	DAY CARE CENTER	EDUCATION	0.673	HCDCH	420149
1069	649	8053	9-1-16:064	6	ELDERLY HOUSING	MULTI FAMILY	9.807	HCDCH	420149
1069	661	8278	9-1-16:036	2A	ELOA	MULTI FAMILY	3.501	HCDCH	426166
1069	661	8280	9-1-16:093	2A	ELOA	MULTI FAMILY	4.517	HCDCH	426166
1069	803	10747	9-1-16:059	5	MULTIFAMILY	MULTI FAMILY	7.615	HCDCH	512787
1069	896	12031	9-1-16:088	7&8	LARGE LOT - MAKAMAE	SINGLE FAMILY	8.796	HCDCH	375758
1069	896	12033	9-1-16:076 portion	7&8	LARGE LOT - MAKAMAE	SINGLE & MULTIFAMILY	40.228	HCDCH	375758
1069	905	12282	9-1-16:076 portion	7&8	NEIGHBORHOOD PARK	PARK	6.000	HCDCH	496704
1069	905	12283	9-1-16:076 portion	7&8	MULTIFAMILY - MAKAMAE	MULTI FAMILY	6.323	HCDCH	496704
1069	905	12055 - 12258	9-1-104:001-087; 9-1-105:001-117	7&8	SMALL LOTS - MAKAMAE	SINGLE FAMILY	18.841	HCDCH	496704
							148.800	acres	

01 - 07

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(BUREAU OF CONVEYANCES)

A copy of this document was
filed as follows:

2689121
MAY 2001 3:29 pm

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail Pickup To:

Carlsmith Ball LLP
1001 Bishop Street
Suite 2200, Pacific Tower
Honolulu, Hawaii 96813
Telephone: 523-2500
Attn: Patricia Devlin, Esq.

TITLE OF DOCUMENT:

UNILATERAL AGREEMENT AND DECLARATION
FOR CONDITIONAL ZONING

PARTIES TO DOCUMENT:

DECLARANT: KAPOLEI PEOPLE'S, INC., a Hawaii corporation
ANN
-701
91-~~71~~ Farrington Highway
Kapolei, Hawaii 96707

ANN
3-4-21

TAX MAP KEY(S): Tax Map Key (1) 9-1-16: por 110 (This document consists of 6 pages.)

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), is made this 9 day of March, 2001, by KAPOLEI PEOPLE'S, INC., a Hawaii corporation, whose address is 91-701 Farrington Highway, Kapolei, Hawaii 96707 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Kapolei, Oahu, Hawaii, consisting of approximately 16.928 acres, described as Tax Map Key (1) 9-1-16: por 110, 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 housing project 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 1-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from AG-1 Restricted Agricultural District to R-3.5 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the zone change, Bill 85 (2000), was held by the Council on December 1, 2000; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 105 that the said zone change be approved, subject to, among other conditions, 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 zone change (the "Rezoning Ordinance");

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

1. Prior to subdivision, cluster or building permit approval, whichever comes first, the Declarant shall enter into a binding agreement with the City Department of Planning and Permitting (DPP) to participate in an affordable housing program acceptable to the DPP and in accordance with adopted rules and regulations for unilateral agreements requiring affordable housing. The agreement shall provide that no less than 30 percent of the total number of dwelling units developed on the Land shall

be affordable to households with incomes not exceeding 120 percent of the Median Income, with no less than 10 percent of the total number of dwelling units being affordable to households with incomes not exceeding 80 percent of the Median Income. As used herein, "Median Income" means the median income for Honolulu adjusted for household size, as determined by the United States Department of Housing and Urban Development.

Notwithstanding any of the foregoing, this Condition 1 shall be subject to the applicable provisions of Ordinance 99-51 (relating to temporary amendments to affordable housing conditions in unilateral agreements) and any amendment or repeal thereof.

2. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental provisions and requirements.
3. 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.
4. 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.

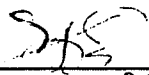
DECLARANT:

KAPOLEI PEOPLE'S INC., a
Hawaii corporation

By *N. Nakamura*
NOBUO NAKAMURA
Its President and CEO

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

On this 9th day of March, 2001, before me personally appeared **NOBUO NAKAMURA**, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person 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.


Name: D. Staples

Notary Public, State of Hawaii, 19287

JUDICIAL COUNCIL
My commission expires: 6-12-2003

EXHIBIT A

All of that certain parcel of land situate at Honouliuli, District of Ewa, City and County of Honolulu, State of Hawaii, more particularly described as follows:

LOT 6770, containing an area of 16.928 acres, as shown on Map 571, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 of the Trustees under the Will and of the Estate of James Campbell, deceased.

BEING a portion of the land described in and covered by Land Court Certificate of Title No. 464,914, issued to Kapolei People's, Inc., a Hawaii corporation, and conveyed by Quitclaim Deed dated November 7, 1995, recorded in said Office as Document No. 2271439, from Housing Finance and Development Corporation, a public body and body corporate and politic of the State of Hawaii established pursuant to Chapter 201E, Hawaii Revised Statutes.

Note: Lot 6770 shall have access to a public road over Lots 6768 and 6757, as shown on Map 571, and Lots 5349 and 5354, as shown on Map 505, as set forth by Land Court Order No. 103583, filed August 26, 1991.

Tax Map Key: Oahu 9-1-16: por 110

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 01-07

BILL 85 (2000)

INTRODUCTION DATE: OCTOBER 30, 2000

INTRODUCED BY: JOHN DESOTO

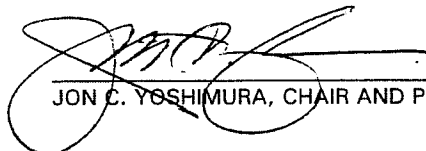
	AYE	NO	A/E	
1ST READING DATE: 11/15/00 REMARKS: Holmes/Mansho - Bill passed 1st reading and referred to Zoning. - 9.	BAINUM	X		
	CACHOLA	X		
	DeSOTO	X		
	FELIX	X		
	HOLMES	X		
	MANSHO	X		
	MIRIKITANI	X		
	OKINO	X		
	YOSHIMURA	X		
	TOTAL	9	0	0
2ND READING DATE: 12/1/00 DRAFT: COMMITTEE REPORT: ZCR-471 PUBLIC HEARING DATE: 12/1/00 REMARKS: DeSoto/Holmes - Bill passed 2nd reading. Public hearing held concurrently, closed and referred to Zoning. - 8. Excused: Yoshimura. - 1.	BAINUM	X		
	CACHOLA	X		
	DeSOTO	X		
	FELIX	X		
	HOLMES	X		
	MANSHO	X		
	MIRIKITANI	X		
	OKINO	X		
	YOSHIMURA			E
	TOTAL	8	0	1
3RD READING DATE: 3/14/01 DRAFT: CD1 COMMITTEE REPORT: ZCR-105 REMARKS: DeSoto/Felix - Bill passed 3rd reading, as amended. - 9.	BAINUM	X		
	CACHOLA	X		
	DeSOTO	X		
	FELIX	X		
	HOLMES	X		
	MANSHO	X		
	MIRIKITANI	X		
	OKINO	X		
	YOSHIMURA	X		
	TOTAL	9	0	0

Referred to: ZONING
Reference: D-797-00; D-171-01

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.



GENEVIEVE G. WONG, CITY CLERK



JON C. YOSHIMURA, CHAIR AND PRESIDING OFFICER