

ORDINANCE NO. _____

BILL NO. 114, FD1 (2024)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3 RESIDENTIAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR APPROXIMATELY 0.75 ACRES LOCATED AT LAHAINA, MAUI, HAWAI'I, TAX MAP KEY (2) 4-5-014:054 (GRACE BAPTIST CHURCH)

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. On March 22, 2024, the Maui County Council adopted Resolution 24-61, entitled "REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL RELATING TO A CONDITIONAL CHANGE IN ZONING FROM R-3 RESIDENTIAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR APPROXIMATELY 0.75 ACRES LOCATED AT LAHAINA, MAUI, HAWAI'I, TAX MAP KEY (2) 4-5-014:054 (GRACE BAPTIST CHURCH)." Section 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, provides a 120-day period after receipt of the referral within which the planning commission must make its report. The Maui Planning Commission did not report on the referral within that timeframe. Under the Charter, the Council may therefore pass the revision without the planning commission's review and report by an affirmative vote of at least two thirds of the Council's entire membership.

SECTION 2. Under Chapters 19.31 and 19.510, Maui County Code, a change in zoning from R-3 Residential District to P-1 Public/Quasi-Public District is granted for real property situated in Lahaina, Maui, Hawai'i, identified for real property tax purposes as tax map key (2) 4-5-014:054, comprising

approximately 0.75 acres, and more particularly described in Exhibit "A," subject to the condition established in Exhibit "B."

SECTION 3. Under Section 19.510.050, Maui County Code, the zoning granted by this Ordinance is subject to the Unilateral Agreement and Declaration for Conditional Zoning in Exhibit "C," which must be recorded with the Bureau of Conveyances or Land Court of the State of Hawai'i.

SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, consisting of a large, sweeping initial 'C' followed by a horizontal line and a small vertical stroke.

Department of the Corporation Counsel
County of Maui
paf:cmn:24-024i

INTRODUCED BY:

Tamara A.M. Paltin

TAMARA PALTIN

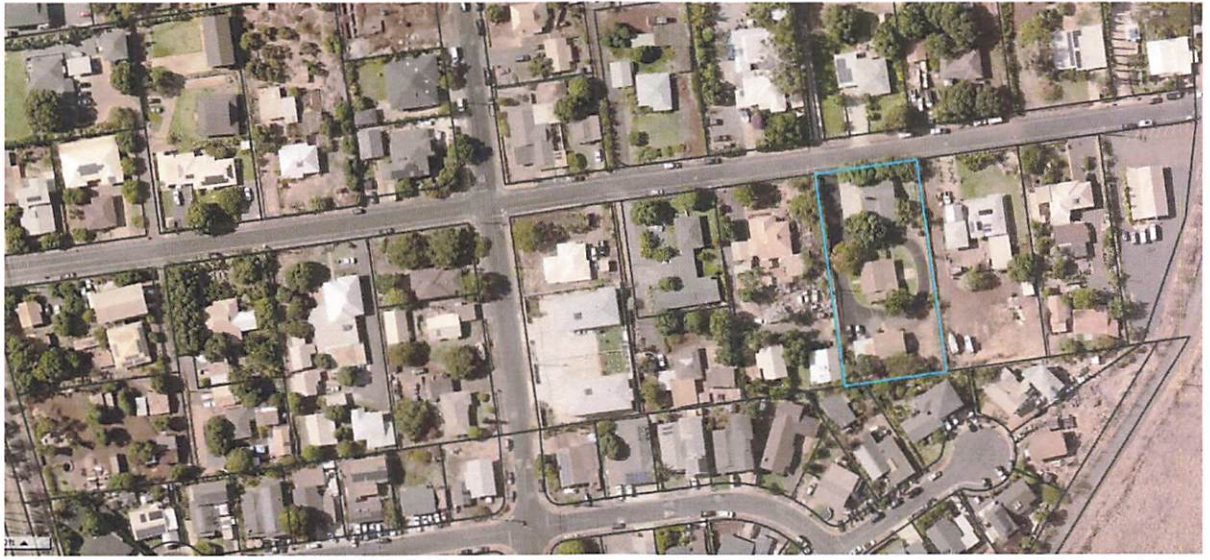
Exhibit "A"

LAND DESCRIPTION

Address: 164 Fleming Road, Lahaina, Maui, Hawai'i 96761.

Tax Map Key: (2) 4-5-014:054.

Maps: See next page.



paf:pmg:24-024c

Exhibit "B"

CONDITION OF ZONING

1. The only permitted uses are for a church and church-related accessory uses, including a parsonage, preschool, religious instruction, and church fundraisers.

paf:cmn:24-024k

4/AGM



STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

September 6, 2024 9:09 AM
Doc No(s) A - 9015000379

Pkg 12424366 OFC

/s/ LESLIE T KOBATA
REGISTRAR

LAND COURT SYSTEM

mw

REGULAR SYSTEM

Return By Mail (X) Pickup () To:

Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Total Number of Pages: 7

(Including exhibits, notary certification pages, and all other components)

Affects Tax Map Key (Maui) (2) 4-5-014:054

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, referred to as "**Declaration**" or "**Unilateral Agreement**," is made this 7th day of August, 2024, by the following "Declarant," who is the owner of real property located at 164 Fleming Road, Lahaina, Hawaii 96761, referred to as "**the Property**," comprised of 0.75 acre, and identified for real property tax purposes as tax map key (2) 4-5-014:054.

The Declarant is GRACE BAPTIST CHURCH, whose principal address is at 164 Fleming Road, Lahaina, Hawaii 96761, and whose authorized contact person is its President, Arza E. Brown, and any of their successors.

WITNESSETH:

WHEREAS, the Council is considering the establishment of zoning for the Property, described in Exhibit "1"; and

WHEREAS, the Declarant has agreed to execute this Unilateral Agreement in accordance with Section 19.510.050, Maui County Code;

EXHIBIT "C"

NOW, THEREFORE, the Declarant makes the following Declaration:

1. In accordance with Maui County Code. That this Declaration is made in accordance with the provisions of Section 19.510.050, Maui County Code, relating to Conditional Zoning;
2. Binding until Maui County written release. That until written release by the County of Maui, (a) the Property, and all its parts, are held subject to this Declaration's covenants, conditions, and restrictions, which are effective as to and run with the Property, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, without the execution, delivery, or recordation of any further deed, instrument, document, agreement, declaration, covenant, or the like with respect to the Property by the Declarant, the County of Maui, or any successor or assign; (b) the acquisition of any right, title, or interest in or with respect to the Property by any person or entity constitutes acceptance of all of the covenants, conditions, and restrictions of this Declaration by the person or entity; and (c) upon any transfer of any right, title, or interest in or with respect to the Property, the transferee assumes, is bound by, and is obligated to observe and perform all of the covenants, conditions, and restrictions of this Declaration;
3. Running with the land. That this Declaration and all of its covenants, conditions, and restrictions contained are effective as to and run with the land in perpetuity, or until the Declarant notifies the County Department of Planning that any of the covenants, conditions, and restrictions are satisfied by the Declarant, and the Department verifies the satisfaction and provides a written release of the covenant, condition, or restriction;
4. GRACE BAPTIST CHURCH as Declarant. That the term "Declarant" and any pronoun in reference to it, wherever used in this Declaration, means the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and includes any corporation or any other entity, and means and includes GRACE BAPTIST CHURCH as Declarant and the Declarant's successors and assigns;
5. Effective as of date Conditional Zoning ordinance approved. That this Declaration is fully effective on the effective date of the Conditional Zoning ordinance approving the establishment of a Change in Zoning from the R-3 Residential District to the P-1 Public/Quasi-Public District for the Property;
6. Develop consistent with Conditional Zoning conditions. That the Declarant agrees to develop the Property in conformance with the condition stated in Exhibit "2" and in the Conditional Zoning ordinance;
7. Conditions reasonable and rationally related to public health, safety, and welfare. That the conditions imposed are reasonable and rationally related to the objective of preserving the public health, safety, and general welfare and fulfill the need for the public service demands created by the Property's proposed use;

8. Conditions enforceable by County of Maui. AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County of Maui, the conditions imposed in this Declaration run with the land identified in this Declaration and bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in the Property. The Declarant further understands and agrees that the County of Maui has the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, with the understanding the Declarant or its successors and assigns may at any time file a petition with the County Department of Planning for the removal of the conditions and termination of this Unilateral Agreement, which will be processed in the same manner as petitions for Change in Zoning.

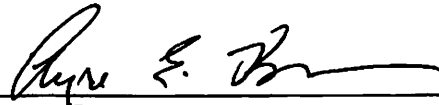
This Declaration may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, constitute one and the same Declaration.

Any persons signing this Unilateral Agreement represent that they are duly authorized and have legal capacity to execute and deliver this Unilateral Agreement. Each party represents to the other that the execution and delivery of this Unilateral Agreement and the performance of the party's obligations have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on the party and enforceable in accordance with its terms.


IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year indicated on the following notary public certification pages.

DECLARANT:

GRACE BAPTIST CHURCH

By: 
Arza E. Brown
Its President

Approved as to Form and Legality:

By: 
Print name: Michael Hopper
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII

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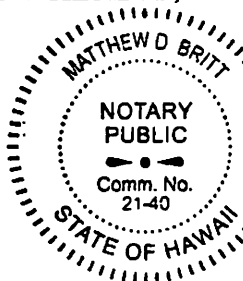
SS.

COUNTY OF MAUI

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On this 7th day of August 2024, before me personally appeared ARZA E. BROWN, to me personally known, who being by me duly sworn, did say that he is the PRESIDENT of GRACE BAPTIST CHURCH, and that said instrument was signed on behalf of GRACE BAPTIST CHURCH, and ARZA E. BROWN, as its PRESIDENT, acknowledged said instrument to be the free act and deed of GRACE BAPTIST CHURCH.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Matthew D. Britt
Notary Public, State of Hawaii

Print Name: Matthew D. Britt
My Commission Expires April 18, 2025

NOTARY PUBLIC CERTIFICATION

Doc Date: 8/7/2024 # Pages: 7
Notary Name: Matthew D. Britt Judicial Circuit: 2nd
Document Description: Unilateral
Agreement Agreement for
Conditional Zoning
Notary Signature: Matthew D. Britt
Date: 8/7/2024

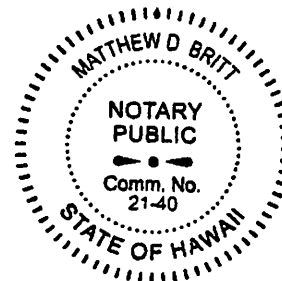


Exhibit "1"

LAND DESCRIPTION

Address: 164 Fleming Road, Lahaina, Maui, Hawai'i 96761.

Tax Map Key: (2) 4-5-014:054.

Maps: See next page.



paf:cmn:24-024n

Exhibit "2"
CONDITION OF ZONING

1. The only permitted uses are for a church and church-related accessory uses, including a parsonage, preschool, religious instruction, and church fundraisers.

paf:cmn:24-024o

DIGEST

ORDINANCE NO. _____
BILL NO. 114, FD1 (2024)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3 RESIDENTIAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR APPROXIMATELY 0.75 ACRES LOCATED AT LAHAINA, MAUI, HAWAI'I, TAX MAP KEY (2) 4-5-014:054 (GRACE BAPTIST CHURCH)


This bill proposes to change the zoning from R-3 Residential District to P-1 Public-Quasi-Public District (Conditional Zoning) for approximately 0.75 acres located at Lahaina, Maui, Hawai'i, tax map key (2) 4-5-014:054, for Grace Baptist Church.

I, MOANA M. LUTEY, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 114, FD1 (2024) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 13th day of August, 2024, by the following vote:

AYES: Councilmembers Tom Cook, Gabriel Johnson, Natalie A. Kama, Tamara A. M. Paltin, Keani N. W. Rawlins-Fernandez, Shane M. Sinenci, Nohelani U'u-Hodgins, Vice-Chair Yuki Lei K. Sugimura, and Chair Alice L. Lee.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 14th of August, 2024.



MOANA M. LUTEY, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.