

REQUEST OF REV. ROBERT C. PITMAN, PASTOR OF CHRIST  
UNITED METHODIST CHURCH, FOR A ZONING MAP AMENDMENT  
FROM COMMERCIAL SERVICES (C-3) TO SUBURBAN RESIDENTIAL  
ONE (SR-1) AND FOR A CONDITIONAL USE PERMIT TO ALLOW  
THE CONSTRUCTION OF A CHURCH

This is a request of the Christ United Methodist Church to have the zoning designation of property located along KY 18 revert from an unused Commercial Services (C-3) back to its original Suburban Residential One (SR-1). Also requested of the Planning Commission is approval of a Conditional Use Permit to allow the construction of a church. The 8 acre tract, located at the western-most intersection of KY 18 and Boone Aire Road, is currently owned by Lloyd Stevenson, Charles Durnbaugh, and Paul Long, Trustees for Christ United Methodist Church.

HISTORY

In August, 1984, the C.D.E. Corporation requested and received a recommendation for a zoning map amendment from SR-1 to C-3. The intended uses, reflected in a Concept Development Plan, were an automobile dealership and a retail shopping center. The vote for recommendation was 6 yes, 4 no, 5 absent. The Fiscal Court agreed with the Commission's recommendation and approved the request with County Ordinance Number 920.57. However, the Court imposed six conditions (see attachment) including one that prohibited the sales and service of new and used motor vehicles. A large amount of landscaped earthen berms were also required by the Court, further making this property commercially undevelopable. (In November, 1984, a number of residents filed a complaint against the Planning Commission, the Fiscal Court, and the C.D.E. Corporation, charging that the zone change was improper and illegal. The case was dismissed in March, 1986.)

For two years after the adoption of this zone change, the land was undeveloped. In September, 1986, the C.D.E. Corporation sold this property to the Christ United Methodist Church. Soon thereafter, a sign was erected announcing the "Future Home" of the Church. Rev. Pitman was informed that since these types of temporary signs are permitted only during the construction period plus 60 days, a violation of the zoning ordinances existed. To resolve the violation, and to eliminate the conditions imposed by the previous zone change, a reversion of the zone change is being sought.

SURROUNDING LAND USES AND ZONING

- North - across KY 18; property zoned C-3/PD with an intended use of a new automobile dealership.
- Northeast - zoned C-2/PD; original plans to be developed as Heritage Hill Industrial Park; plans to develop as office/commercial.

Southeast - zoned SR-1; undeveloped with an old mobile home.

South & West - SR-1; Boone Aire Country Club and Estates subdivision of single-family houses; directly behind subdivision is Boone County Golf Course.

#### RELATIONSHIP TO COMPREHENSIVE PLAN

The 1986 Boone County Comprehensive Plan Land Use Map indicates the future land use of this site to be Low Density Residential. The text states: "Development to the east of Camp Ernst Road and south of KY 18 should be in carefully planned residential areas." (p. L-14) Also, "the use of interconnecting parking lots or frontage roads on this section of KY 18 is critically important to the success of any development and trafficability on this portion of KY 18." (p. L-15) The Future Land Use Map does not indicate any undeveloped land to be used for public/institutional purposes, including churches. This map merely reflects which properties are presently being used for public or institutional purposes. The text makes no reference to the location of future churches.

#### CONCEPT DEVELOPMENT PLAN

No Concept Development Plan was required for this change to a residential zoning district. However, a rough plan has been submitted indicating a church building with a seating capacity of approximately 400 people and a parking lot with a capacity of between 150 to 200 cars. This very preliminary drawing shows one curb cut onto Boone Aire Road and one onto KY 18.

#### CONDITIONAL USE

The Planning Commission must consider seven general standards applicable to all Conditional Uses:

1. The use of this property as a church would be harmonious and in accordance with the general objectives of the Comprehensive Plan. One of the overall objectives of the plan reads: "There is nothing inherently incompatible between the various broad categories of land use. Residential, commercial, industrial and institutional uses can coexist provided proper design principles are applied in developments to minimize frictions created by activities of whatever diversity." (p. G-1) Another goal of the plan is "to ensure that adequate public services and facilities exist for all development." (p. G-4)
2. Since no formal site plan has been submitted, the design, construction, operation and maintenance of the development cannot be evaluated in terms of its

harmoniousness and appropriateness in appearance with the existing or intended character of the general vicinity. Staff feels that the use of this property as a church will not change the essential character of the area.

- 3) A church will not be hazardous to existing or future neighboring uses.
- 4) The site will be served adequately by essential public facilities and services such as highways, streets and fire and police protection.
- 5) A church will not create excessive additional requirements at public cost for public facilities and services.
- 6) A church will not involve uses, activities, processes, material, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- 7) Again, since there is no formal site plan staff does not know if planned vehicular approaches to the property will be designed so as not to create an interference with traffic on surrounding public thoroughfares. Special consideration of the new Access Management article of the zoning regulations, in general, and provisions for a frontage road specifically should be taken.

The Commission must also consider two specific standards for a Conditional Use in the proposed SR-1 zoning district:

- 1) Staff does not believe that the use of this property as a church will contradict the low density character of the proposed district. An 8 acre site of SR-1 property could be developed with as many as 43 dwelling units.
- 2) Again, since no site plan has been filed, the arrangement of uses, buildings or structures cannot be compared with the organization of permitted and accessory uses to be protected.

#### SPECIAL CONCERNS/CONDITIONS

In granting Conditional Use Permits, the Commission may prescribe appropriate conditions and safeguards. Since the Florence/Burlington corridor could be considered the "front door" to the county seat, staff would recommend the Commission consider the following conditions to be attached to the Conditional Use Permit, if approved:

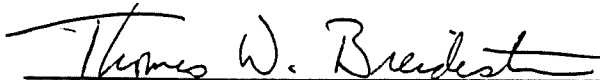
1. Should the zone change be approved, and the Conditional

Use accepted, the development of the property should be in accordance with formal site plan to be approved by the Boone County Planning Commission.

2. That signage be limited to one monument type, low-rise sign, no higher than 7 feet and with no more than 100 square feet. This sign should be attractively landscaped. Building mounted signage should be as permitted in Article 19 of the Boone County Zoning Regulations.
3. The provisions of Article 17a of the Zoning Regulations (Access Management) should be followed during site plan review.
4. A detailed landscaping plan should be submitted during the site plan review process to ensure proper aesthetic development of this highly visible property.

#### CONCLUSION

Should the Planning Commission recommend and the Fiscal Court approve this request, the 1986 Comprehensive Plan Land Use Map will need to be changed to reflect the public/institutional use of the property.



Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:mcb

of the request. Mayor King stated Dorothy Hill was the owner and he had talked to Mrs. King who lives in Florida, and she agreed with the zone change. Chairman Kroger asked if she would be willing to write a letter to this effect.

Chairman Kroger asked Jim Sturdevant if he had talked to anyone else concerning this. Jim stated yes, he had received a telephone call from Mrs. Hill's realtor. Mr. Sturdevant stated the gentleman was from Cincinnati, but did not have his name at present, but had it on file.

Chairman Kroger asked if there was anyone else to speak in behalf of this request. There being none, Chairman Kroger closed this Public Hearing and stated it would be heard on March 4, 1987.

#### PUBLIC HEARING

#2 ZONING MAP AMENDMENT - Rector Jones, Chairman; Tom Breidenstein, Staff

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A request of Rev. Robert Pitman of Christ United Methodist Church for a Zoning Map Amendment from Commercial Services (C-3) to Suburban Residential One (SR-1) and a Conditional Use Permit on the same application to allow the construction of a church. The 8.0 acre site is located at the triangular piece of property formed by the western intersection of KY 18 and Boone Aire Road and is owned by Lloyd Stephenson, Charles Durmbaugh, and Paul Long, Trustees of Christ United Methodist Church of Florence. A waiver of fees has been requested.

Mr. Tom Breidenstein, staff member, stated the applicant is requesting a conditional use permit with the zone change request. He wanted to remind the Commission since the changes to KRS 100, last year, our Zoning Regulations have been changed to allow for the Planning Commission to grant conditional use permits during a zone change request. Mr. Breidenstein gave a brief history of this property. (See Staff Report)

Chairman Kroger asked if Rev. Pitman was going to speak for the church. He stated he was very excited about the area and had begun services in September and now have nearly 150 members. He stated that one main reason they bought the property was because they foresee their church being in a metropolitan region, and not just serving a neighborhood area, but serving outward to many people. He thought the church would be a well added

addition to the area.

Chairman Kroger asked if there was anyone else in the audience who would like to speak in behalf of the request. Hearing no one, he asked if there was anyone wishing to speak in opposition or seeking further information. Hearing none, he proceeded with questions from the Commissioners.

Mr. Viox asked a question to the staff. He wanted to know if a church was not allowed in a C-3 zone. Tom Breidenstein stated it was allowed under the C-3 zone with a conditional use permit. However, this property had restrictions placed on it which made development of the parcel very difficult. Mr. Viox stated with a new application for a new use, do those conditions from the Fiscal Court still stand?

Mr. Gerald Newton, Director, stated they are seeking to revert it back to its original zone and by doing so, the conditions would be removed.

Mr. Viox stated if he came before this Board to put in some other use other than a car dealership in a C-3, which was the promised use by the previous developer, would that not be simply a change of concept plan that would come through this body, then back to Fiscal Court, and he would be selling his deal to Fiscal Court for that new application. He wanted to know if the Commission was doing the same thing.

Mr. Gerald Newton stated the end result may be the same and the process is about the same. In terms of getting the zoning more appropriate to the surrounding land uses, however, it would be reasonable to revert back to the SR-1.

Mr. Viox stated the difference in his mind was that we have the Comprehensive Plan, and now we would have to ask for a plan change. In the other one, there was not a plan change. He stated that was what he was leading to.

Mr. Gerald Newton stated as Staff Report indicates, institutional uses were not placed on the Comprehensive Plan map or within its text. As churches come in, they would automatically need to be adjusted on that Comprehensive Plan. (The land use map does reflect Residential development as discussed in the Staff Report.)

Mr. Viox stated to Chairman Kroger that he had a question for the applicant. Mr. Viox asked Rev. Pitman if he had decided on a particular architecture for these buildings. Rev. Pitman stated he did not have an architect as yet, but thought it would be a more traditional type of building.

Chairman Kroger asked if there were any further questions.

Mr. Collins asked if the airport noise level had been

thought about. Rev. Pitman stated he had talked to some architects and they told them they could reduce the noise level.

Chairman Kroger asked if there were any further questions.

Mr. Don McMillan asked if this was a plan of the entrances, and asked if we are to approve the cut on KY 18. Tom Breidenstein stated that a Concept Development Plan was not necessary as a part of the zone change to a residential district.

Chairman Kroger asked if there was anyone else wishing to speak. He asked Rev. Pitman when he planned on starting. Rev. Pitman stated they hoped they hoped to break ground a year from now, in the spring of 1988. Chairman Kroger asked Rev. Pitman if the sign was still up. Staff member Tom Breidenstein stated there was a period of 60 days before construction, as to when the sign could be erected. Chairman Kroger cited the Sign Ordinance and asked if they would address that issue. Rev. Pitman asked what a variance would do regarding the Sign Ordinance. Chairman Kroger referred to Atty. Dale Wilson.

Mr. Wilson stated the limits as to what a Board of Adjustments can do relative to variances. The Boards are not empowered to grant a variance for something that is in violation of Zoning Regulation. That would put them in a position of being a legislative body, in affect, amending a zoning regulation by granting a variance. The state law states that no variance shall be granted for a use that is now allowed in the Zoning Regulations.

Chairman Kroger asked Mr. Newton, since the Commission is going to be in a position to decide on conditional use permits, what would be expected by the Board of Adjustments in an application. Mr. Newton stated it depended on each application. In some cases, they don't present a formal Site Plan and they wait to see if the use is going to be approved and the condition of that approval may require the submission of a Site Plan. Each of the points that Tom went through in the Staff Report, are also items, the Planning Commission needs to consider to see that the applicant has adequately met those points before granting a Conditional Use Permit.

Chairman Kroger asked Atty. Dale Wilson the order of approval; the zone change and then the issuance of the conditional use permit? Atty. Wilson stated that was the correct order; the conditional use permit could not be granted until the zoning for that conditional use is in place, but he thought it could be considered contemporaneously in that it is part of conditions of the zone change.

Rev. Pitman asked what the possibility was of leaving the zone as C-3 and dropping the conditions that were imposed when the property was rezoned.

Atty. Wilson stated there would need to be a Public Hearing to address modification of that Concept Development Plan. Mr. Wilson clarified that the Concept Development Plan was an agreed set of conditions to this C-3 zoning that was previously granted. If there are any major changes in those conditions, the applicant would have to go back through the Public Hearing process. Basically, another Public Hearing to address the modification to that prior Concept Development Plan would be needed with proper notice. As of right now, there has not been a notice to the public that this is a modification of that prior C-3. It has been advertised as a zone change.

Chairman Kroger asked Rev. Pitman if he was aware of the Staff Report for this meeting, and had he read it? Rev. Pitman stated he had. He stated he had no problems with it.

Chairman Kroger asked if there was anyone else wishing to speak.

Mr. Don Davis asked if the applicant had any plans in the future as far as selling off any part of the land. Rev. Pitman stated he intended to keep all of the eight (8) acres because he will be looking into the future for needs the church might have.

Chairman Kroger asked for any further discussion. There being none, he closed the Public Hearing and stated action would be scheduled for the March 4, 1987, Business Meeting.

#### PUBLIC HEARING

#3 CONCEPT DEVELOPMENT PLAN - Rector Jones, Chairman; Kevin Costello, Staff

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A request of Imants Rutens (applicant) for Robert and Joanna West (owners) for the utilization of an underlying zone in Planned Development. The 0.45 acre site is currently zoned Commercial Services/Planned Development (C-3/PD) as recommended in the Parkway Corridor Study.

Staff member Kevin Costello stated this was the first project in the Parkway Corridor Study area under review. Mr. Costello read the Staff Report (see Staff Report) and gave a brief slide presentation.

Chairman Kroger asked if the applicant was here. Mr. Ron Erpenbeck, architect, stated he was retained by Mr. Rutens to provide some professional services. He stated his first task was to get the zone change which was accomplished two weeks ago in the City of Florence, and the second request was to do a Site Plan. The applicant's intended use is for furniture sales and bedroom sets. Mr. Erpenbeck stated he had worked on some

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Rector Jones, Chairman

DATE: March 4, 1987

RE: Request of Rev. Robert Pitman of Christ United Methodist Church for a Zoning Map Amendment from Commercial Services (C-3) to Suburban Residential One (SR-1) and a Conditional Use Permit on the same application to allow the construction of a church. The 8.0 acre site is located at the triangular piece of property formed by the western intersection of KY 18 and Boone Aire Road and is owned by Lloyd Stephenson, Charles Durmbaugh, and Paul Long, Trustees of Christ United Methodist Church of Florence. A waiver of fees has been requested.

REMARKS:

We, the Committee, recommend approval of the Zoning Map Amendment based upon the following findings of fact and subject to the following conditions:

Findings of Fact

1. The proposed rezoning is in compliance with the 1986 Boone County Comprehensive Plan Future Land Use Map which indicates the future use of this property to be Low Density Residential.
2. The 1986 Boone County Comprehensive Plan text states "that development to the east of Camp Ernst Road and south of KY 18 should be in carefully planned residential areas" (p. L-14). Other references to the Comprehensive Plan can be found in the Staff Report.

Conditions

1. Development of this property as a church shall be in accordance with a formal Site Plan as approved by the Boone County Planning Commission.
2. The provisions of Article 17a (Access Management) of the Boone County Zoning Regulations shall be followed during Site Plan Review. Included in this provision will be continuing condition number 5 of Boone County Fiscal Ordinance 920.57 which states, "That an access road be constructed across the property to the next property line East and that right-of-way be granted and access to


the cross-over to Burlington Pike be granted to the adjoining property owner."

3. A detailed landscaping plan shall be submitted during Site Plan Review to ensure the proper aesthetic development of this highly visible property.
4. That signage be limited to one monument type, low-rise sign, no higher than 7 feet and with no more than 100 square feet. This sign shall be attractively landscaped. Building mounted signage shall be as permitted in Article 19 of the Boone County Zoning Regulations.

Further, the Committee recommends approval of a Conditional Use Permit for this site if the Boone County Planning Commission recommends and the Boone County Fiscal Court approves this zone change request. Since the general and specific standards used to evaluate the Conditional Use of a church have been satisfied, specific conditions for the Conditional Use Permit will be the same conditions stated above for the zone change. The Committee wishes to again emphasize that the Conditional Use Permit will become valid only after and if the zoning map change occurs.

The Committee also recommends approval of the applicant's request for a waiver of fees, except hard costs.

  
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Rector Jones, Chairman

  
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Donald Davis

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Melvin Delong

  
\_\_\_\_\_  
Fred Burch

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William Viox

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Larry Barnett

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT ADOPTING A MAP AMENDMENT TO THE BOONE COUNTY, KENTUCKY, ZONING MAP, SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM COMMERCIAL SERVICES (C-3) TO SUBURBAN RESIDENTIAL ONE (SR-1) LOCATED AT THE TRIANGULAR PIECE OF PROPERTY FORMED BY THE WESTERN INTERSECTION OF KY 18 AND BOONE AIRE ROAD, BOONE COUNTY, KENTUCKY, AS REQUESTED BY LLOYD STEPHENSON, CHARLES DURMBAUGH, AND PAUL LONG, TRUSTEES OF CHRIST UNITED METHODIST CHURCH OF FLORENCE AND AS RECOMMENDED FOR APPROVAL BY THE BOONE COUNTY PLANNING & ZONING COMMISSION VIA RESOLUTION (R-12-87).

WHEREAS, the Boone County Planning Commission received a request for approval and adoption for a map amendment for a zone change from Commercial Services (C-3) to Suburban Residential One (SR-1) located at the triangular piece of property formed by the western intersection of KY 18 and Boone Aire Road, Boone County, Kentucky which is more particularly described below, and

WHEREAS, the Boone County Planning Commission has conducted a Public Hearing serving as a due process trial-type hearing and made finding recommending approval of the zone change request.

NOW, THEREFORE, BE IT RESOLVED BY THE BOONE COUNTY PLANNING COMMISSION AS FOLLOWS:

SECTION I

That the zone change for the real estate which is more particularly described below shall be and is hereby recommended for approval and adoption this map amendment being a zone change from Commercial Services (C-3) to Suburban Residential One (SR-1) for property located at the triangular piece of property formed by the western intersection of KY 18 and Boone Aire Road, Boone County, Kentucky. The real estate which is the subject of this zone change recommendation is more particularly described as follows, to wit:

See attached legal description which is incorporated by reference as if fully set out herein.

(ATTACHMENT - EXHIBIT "A")

SECTION II

That as a basis for the recommendation of approval and adoption of the zone change request the findings of fact of the Boone County Planning Commission as set forth in its minutes and official records for this change request shall be and are hereby incorporated by reference as if fully set out in this Resolution and marked as "Exhibit B."

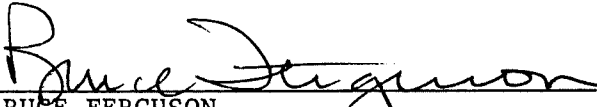
SECTION III

That a copy of this Ordinance recommending approval of a map amendment for a zone change from Commercial Services (C-3) to Suburban Residential One (SR-1) for property located at the triangular piece of property formed by the western intersection of KY 18 and Boone Aire Road, Boone County, Kentucky shall be forwarded to the Boone County Fiscal Court, Kentucky having jurisdiction over the property for its action on the recommendation of the Boone County Planning Commission.

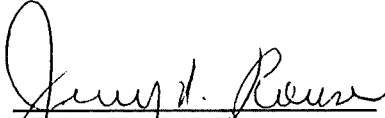
THAT, this ordinance shall take effect and be in full force when passed, published and recorded according to law.

Introduced, seconded and given First Reading in the 7<sup>th</sup> day of April, 1987.

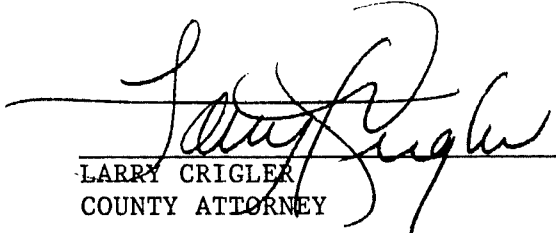
Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 5<sup>th</sup> day of May, 1987, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the Boone County Fiscal Court Clerk and declared to be in full force and effect.

  
BRUCE FERGUSON  
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:

  
JERRY W. ROUSE  
BOONE COUNTY CLERK

SUBMITTED BY:

  
LARRY CRIGLER  
COUNTY ATTORNEY

06/11/87  
DATE PUBLISHED