

REQUEST OF THE CHRIST UNITED METHODIST CHURCH
OF FLORENCE FOR A MODIFICATION OF A
PREVIOUSLY APPROVED ZONING MAP AMENDMENT

MARCH 23, 1988

This is the request of the Christ United Methodist Church to have a condition of approval for their March 4, 1987 Zoning Map Amendment eliminated. The 8.51 acre tract, located at the western-most intersection of KY 18 and Boone Aire Road, is currently zoned Suburban Residential One (SR-1) and is owned by the Christ United Methodist Church of Florence.

History

In August, 1984, the C.D.E. Corporation requested and received a recommendation for 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 Fiscal Court agreed with the Commission's recommendation and approved the request with County Ordinance Number 920.57. However, the Court imposed six conditions 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. Another condition of approval required:

"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."

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. To eliminate the conditions imposed by the previous zone change, the applicant applied for, and received, a Zoning Map Amendment from C-3 back to the original zoning district of SR-1. (Fiscal Court approval is dated May 5, 1987.) A Conditional Use Permit to allow the construction of a church in the residential zone was also granted along with the zone change. However, since the church's informal development plan indicated an access onto KY 18 at the median cut, the condition of the previous zone change quoted above was maintained.

One year after approval of the Zoning Map Amendment and Conditional Use Permit, the Christ United Methodist Church hired an architect who determined that an access onto KY 18 at the median crossover would not be in the best interests of the church. First, the KY 18 right-of-way along the church's

property is a drainage swale for the area. There is a 25 foot difference in elevation within 100 feet from the edge of pavement at the cross-over. Secondly, the western-most portion of the property is more "developable" since it is flatter and more visible from Burlington Pike. The natural access to this area is from Boone Aire Road. Third, since the slope of the eastern portion of the property prohibits development, the architect plans to dam the drainage swale to create a detention pond. Finally, if left undeveloped, the architect indicates that the eastern portion of the property, especially near Boone Aire Road, will be used for recreation. A softball diamond, as well as passive recreation, is proposed for this area.

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. Access to Heritage Hill is directly north of subject median cut.
- Southeast - zoned SR-1; undeveloped with an old mobile home, Reminiscent Herb Farm.
- 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) Boone Aire Road serves as a frontage road for Burlington Pike. The full condition for the Zoning Map Amendment as it relates to access reads:

"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."

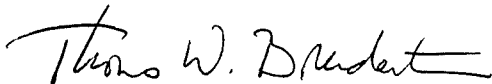
Article 17a encourages the use of frontage roads when direct access to Access Class I roadways (such as KY 18) would be to the detriment to the county.

Conclusion and Staff Concerns

Should the Planning Commission recommend, and the Fiscal Court ultimately approve this request for an elimination of the above mentioned condition, the Zoning Map and Comprehensive Plan will remain unchanged. The other conditions of approval (listed below) will still need to be satisfied.

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. A detailed landscaping plan shall be submitted during Site Plan Review to ensure the proper aesthetic development of this highly visible property.
3. 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.

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachments

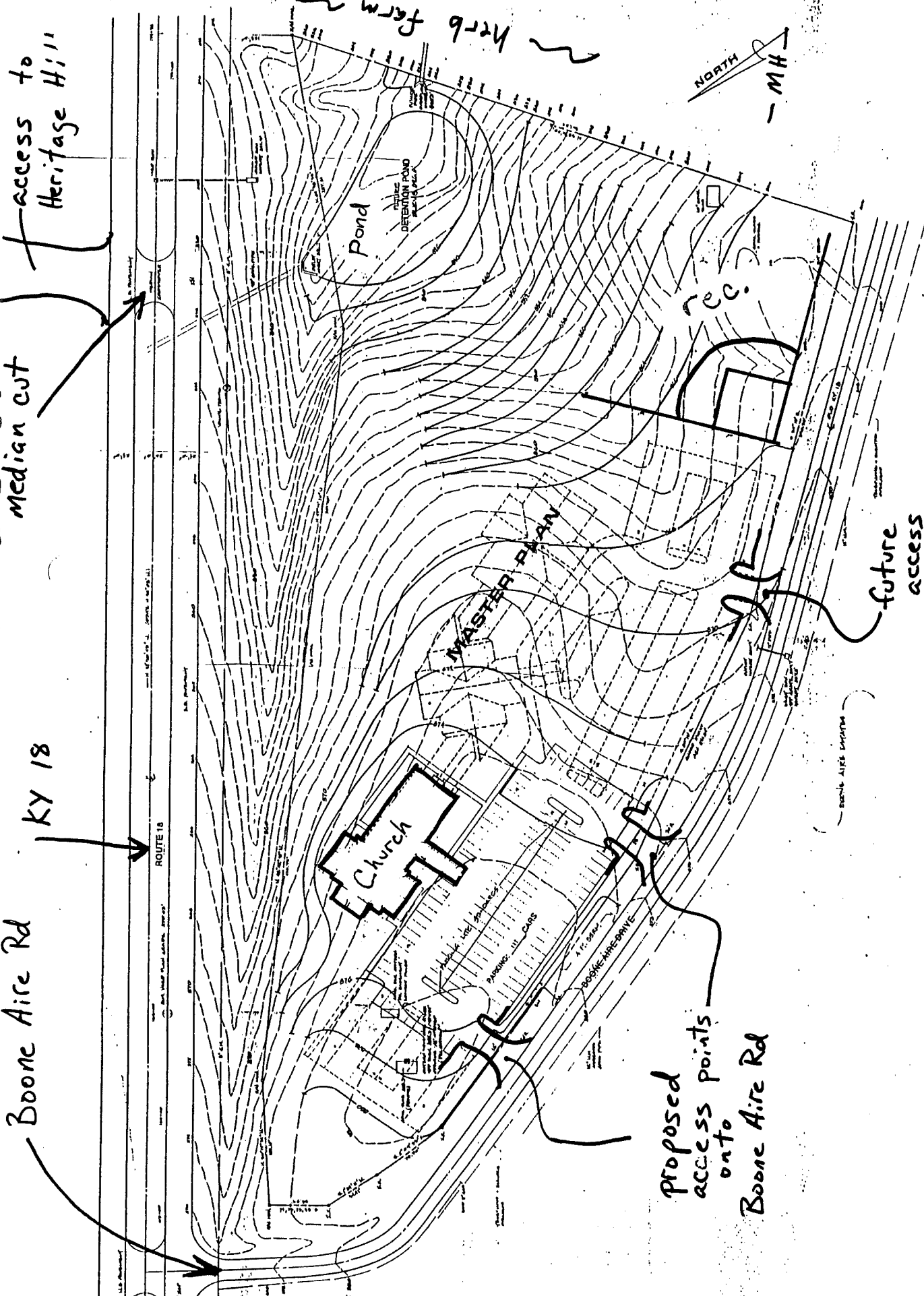


NO.	REVISIONS	DATE

RSA, INC.
 ROGER SHORT ASSOCIATES
 881 NORTH BEND ROAD
 CINCINNATI, OHIO 45224
 PHONE: (513)-881-4300

CHRIST UNITED METHODIST CHURCH
 Route 18 & Boone Aire Drive, Florence, KY 41018

DATE: 3-23-88
 A-1



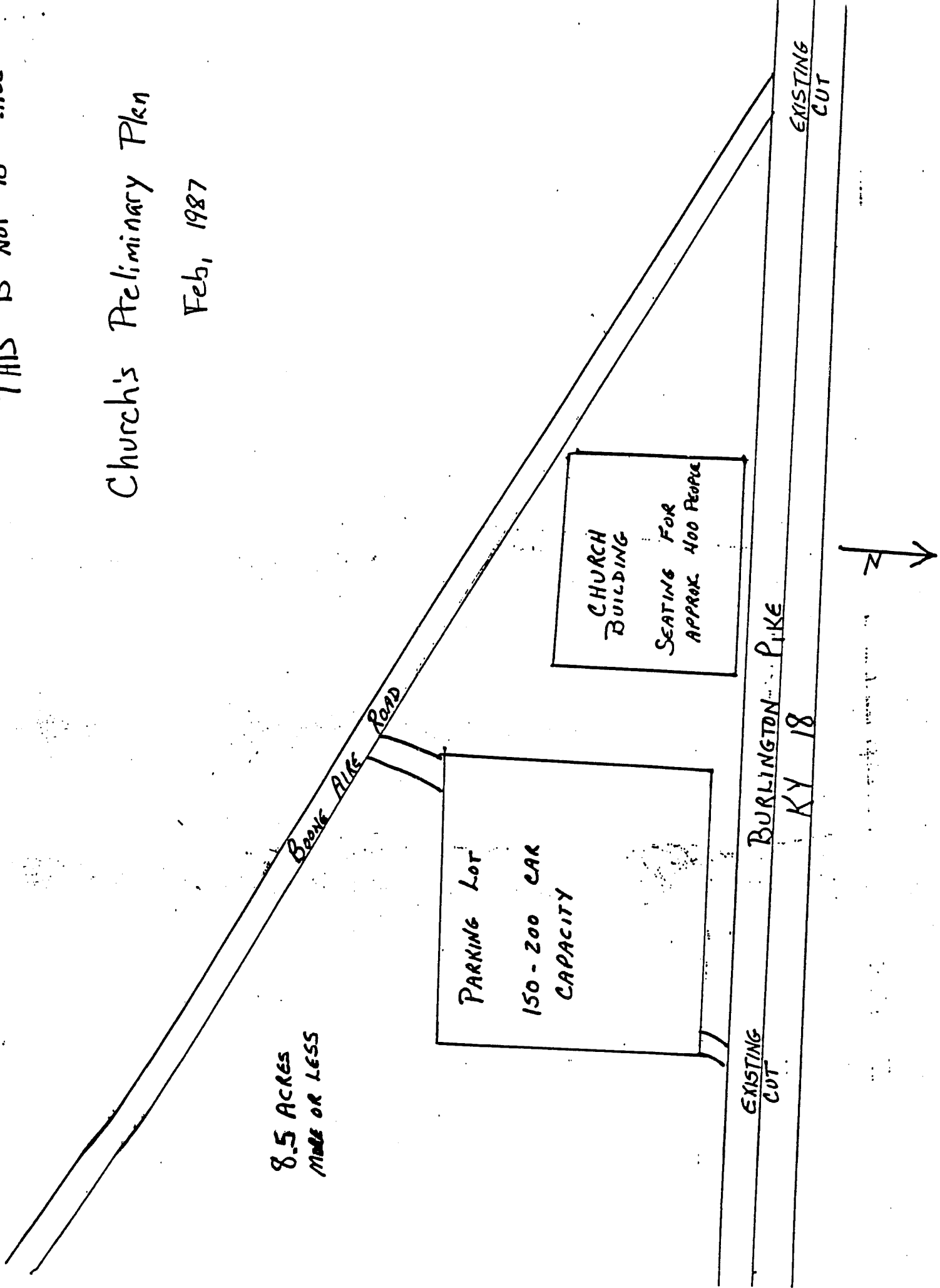
SITE PLAN
 3-23-88

Christ United Methodist Church 3-23-88

THIS IS NOT TO SCALE

Church's Preliminary Plan

Feb, 1987



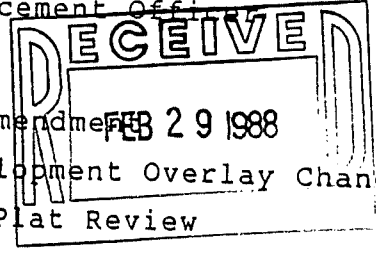
TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

65 109A1
36
101
notice

FOR:

- Zoning Text Amendment AS TO A CONDITION
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit



Applicant: CHRIST UNITED METHODIST CHURCH OF FLORENCE, KY. Owner
 Address: KY. 18 AT OLD BOONE AIRE ROAD, BURLINGTON, KY Agent

Telephone: c/o 283-0678

Location: SOUTH SIDE KY. 18 AT WEST TERMINUS OF OLD BOONE AIRE ROAD (OLD KY. 18.

Name of Property Owner: CHRIST UNITED METHODIST CHURCH OF FLORENCE, KY.

Address of Property Owner: c/o CHARLES DURNBAUGH, TRUSTEE, FLORENCE, KY 41042

Zoning District: _____ Area in Acres: 8.51

Deed Book: 379 Page Number: 115 Group Number: 2032

Description of Request: ELIMINATE ACCESS/SECONDARY ACCESS ROAD TO KY. 18

CONDITION IN EXISTING ORDINANCE THAT ADOPTED PRESENT ZONING FOR CHURCH.

NO MAP AMENDMENT. SAME USE

Applicant's Signature: *Gerald F. Dusing* ³⁷¹⁶²²⁰ 8100 BURLINGTON PIKE - SUITE 400
- P.O. BOX 576 - FLORENCE, KY 41042

Property Owner's Signature: *Charles Durnbaugh* Trustee

Application Fee: see below * Date Received: 2-29-88 By: TWB

Referred To: TWB Meeting Date: PH 3-23-88

Action Taken: _____ Date of Action: _____

* \$300 application fee "m hold"
 -waiver of fee requested
 8/04 publication fee + adjoining property owners due Invoice # 268446)

EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL of land lying on the Southeasterly corner of Old Ky. 18 and Ky. 18 in Boone County, Kentucky and being more particularly described as follows:

BEGINNING at a point in the Southwesterly right-of-way line of Ky. 18 at its intersection with the Southeasterly right-of-way line of Old Ky. 18 and running thence:

S. 35° 42' 42" W., along the Southeasterly right-of-way line of Old Ky. 18, a distance of 55.89 feet, to a point; thence continuing along the Southeasterly right-of-way line of Old Ky. 18 as follows:

S. 1° 24' 11" W. - 54.41 feet; S. 2° 09' 55" E. 0 76.7 feet; S. 19° 17' E. - 314.91 feet; S. 29° 15' E. - chord distance of 250.57 feet, arc distance 251.84 feet; S. 39° 13' E. - 396.36 feet to a point; thence N. 53° 41' 38" E., a distance of 561.89 feet, to a point, said point being 125 feet left of centerline sta. 174+32 (Ky. 18); thence N. 64° 58' 55" W., along the Southwesterly right-of-way line of Ky. 18, a distance of 287.31 feet, to a point; thence continuing along the Southwesterly right-of-way line of Ky. 18 as follows:

N. 47 degrees 51' 26" W. - 301.70 feet; N. 48° 42' 51" W. - 416.74 feet; N. 56° 17' 34" W. - 122.10 feet, to the place of beginning, and containing 8.51 acres more or less.

The above-described parcel being subject to any and all easements and/or rights-of-way of record.

ALSO BEING the same property conveyed to Grantor herein by C.D.E. Corporation, a Kentucky corporation, by Deed dated the 26th day of September, 1986 and recorded in Deed Book 352, Page 273 of the Boone County Clerk's records at Burlington, Kentucky.

The afore-described property was formerly in Group No. 2026.

EXHIBIT "B"

BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #3
March 23, 1988

Page 1

Following Public Hearing Item #1, Chairman Viox announced that Public Hearing Item #3 would be heard at this time:

3. Applicant: Christ United Methodist Church (owner)
Request: Revision of Concept Development Plan

This was a Public Hearing on the request of Christ United Methodist Church (owner) of Florence, Kentucky for a revision of a previously approved Concept Development Plan located on an 8.51-acre site near KY 18 and Old Boone Aire Road, Boone County, Kentucky. The site is zoned Suburban Residential One (SR-1).

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Viox asked if there was a representative of the church present who wished to speak.

Mr. Ed Drennen, speaking in behalf of the church, stated that the church is requesting removal of one condition of approval of the plan. The condition of approval required the church to build a road and when they hired an architect, they found that this was not economically feasible. The church initially planned to build in the center of the site with access onto Boone Aire Road and onto KY 18. They had not considered the topography at that time. The condition imposed requires the church to construct the access onto the adjacent property and this road will not be used by the church. He stated that the elevation falls about 25 feet initially and then even further down to a gully and a creek. He noted the location of a drainage pipe. He stated that the church parking will be along Mt. Zion Road and exit onto Boone Aire Road. He stated that to build the road, they would have to bring fill dirt onto the site and may even have to build a bridge. They would probably also have to extend the drainage pipe. He stated that the church had agreed to the condition without the engineers being involved and did not know what building the road would entail. He presented an artist's drawing of what the church will look like. He stated that the project is consistent with the Concept Development Plan, but the problem is the economics of the roadway. The banks want collateral and to know the benefits of the road to the church. He stated that the church is willing to give access to the neighbors, but they cannot afford to build the road. He asked that the condition regarding the road be deleted. He noted that the project initially intended for the site was a car dealership.

Chairman Viox asked if there was anyone else present who wished to speak in behalf of this request. There being no response, he asked if there was anyone present in opposition to the request.

Mr. David Koenig stated that he is representing Mrs. Delores Renaker, the adjoining property owner, as well as the lessees of the property. He stated that Mrs. Renaker objects to the elimination of the access road. He stated that this condition was imposed on the land in 1984 by the Fiscal Court and the Planning Commission and was in effect when the church purchased the property. This condition was also pointed out to the church when they requested the initial zone change a year ago. He stated that the condition was understood and accepted by the church. The Renakers would prefer that the church pay for the road, but are not asking that the road be built at this time. They are willing to defer the condition. Mr. Koenig read from the Zoning Regulations on Pages G5 and G6 in regard to major streets and highways. He stated that the highest and best use of the property is commercial and the Comprehensive Plan calls for access on KY 18. He stated that the church has been required to construct the access road and asked that the condition not be eliminated.

Mr. Robert Reese, 1455 Boone Aire Road, asked why the adjacent properties need the access road to KY 18 since the property is zoned residential.

Mr. Koenig stated that the Comprehensive Plan understands that the area will be developed commercially along the corridor. He stated that if the area were to develop commercially, the residents would prefer the traffic to use a controlled access point onto KY 18 and that is why the frontage road was developed. He stated that the State will not grant access to KY 18 at any point other than where the crossovers are.

Mr. Drennen quoted Section 16 of the Zoning Regulations in regard to access management. He stated that Boone Aire already has two accesses onto KY 18 and they are asking the church to build a third access.

Counselor Wilson stated that the Staff had raised a question regarding whether or not the Renaker property has access to KY 18 without this access point.

Mr. Koenig stated that it is his understanding that the property does not have such access. He stated that the Renaker tract and the Holt tract are between two access points and not served by either one.

Counselor Wilson asked if there was to be any other use on the subject parcel other than the church.

Mr. Breidenstein advised that the condition of approval did not limit the development of the property as a church. There is a Conditional Use permit that would allow the church.

In response to further questions from Counselor Wilson, Mr. Breidenstein stated that there could be other uses on the parcel in addition to the church.

Staff Member, Kevin Costello, stated that the Staff will contact the Transportation Cabinet to determine if the statements made by Mr. Koenig are correct.

Chairman Viox asked if there was anyone else present who wished to speak.

Mr. Steve Shiel stated that the initial review had considered an automobile dealership which would have direct access onto KY 18. The church favors the exiting Boone Aire access for reasons including safety.

Mr. Reese noted that the Renaker property is zoned SR-1 and is indicated as SR-1 on the Comprehensive Plan. He stated that to benefit from the access road, the property would require a zone change. He stated that the access road could be considered at the time of the zone change.

Mr. Breidenstein noted that the herb farm is also zoned SR-1.

Mr. Moore stated that the Site Plan indicates "Master Plan" and asked for further clarification.

Mr. Drennen stated that there are three phases indicated on the Plan and the church will go into the second phase when funds are available. He stated that they intend to put in a ballfield and picnic tables, but do not intend to develop the area towards the Renaker and Jones properties.

Mr. Moore asked if the Renaker's would insist that the church build the road in the future.

Mr. Koenig stated that Mr. Moore's comment was correct. He added that if the Highway Department would grant direct access, then the church would not need to build the road, which is why they recommend that the church defer building the roadway. He stated that the church could proceed with building the church.

Mr. Neltner questioned if the exact proposed location of the road was known. Mr. Breidenstein indicated how it is presumed the road will go, but there is not a concrete decision at this time.

Mr. Neltner asked if the applicant would be willing to grant an easement where the right-of-way would have gone or might go.

Mr. Drennen stated that the church would give a perpetual easement so the Renakers may build the road if they wish.

Mr. Sharp asked if the access road could go on the Renakers' property. Mr. Breidenstein advised that the condition of approval stated that the road would be at the median crossover.

Mr. Greene stated that those who develop the adjacent property could build the road. He noted that traffic to the church would only be once or twice a week and that the church does not need the road.

Mr. Barnett asked if the applicant would be willing to submit the drawings he had with him as part of the Concept Development Plan. Mr. Drennen agreed to do so.

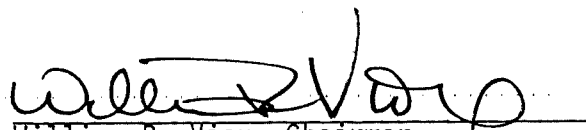
Mr. Barnett stated that when approval was recommended for the automobile dealership in 1984, the idea of the access road was to eliminate as many curb cuts as possible on KY 18. He stated that it made sense for commercial sites to use a common access. He noted that there will be future development of the property to the east of the site and road improvements will be necessary at that time and possibly access to the adjoining property to the east should be considered at that time.

Mr. Lloyd Stevenson, a member of the church, stated that this would be the worst place for an access road to the Renaker property. He stated that it is the lowest elevation point and would be the most costly. He stated that there were pre-existing circumstances in regard to the car dealership when this road was required and that is changed now that the church will be built on the site.


Chairman Viox asked if there were any further comments or questions.

There being no further discussion, Chairman Viox announced that this item will be on the Agenda for the Business Meeting on April 6, 1988 at 8 P.M. and closed this Public Hearing.

APPROVED:


William R. Viox, Chairman

ATTEST:


Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

April 6, 1988

8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:00 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Larry Barnett, Vice Chairman
Mr. Fred Burch
Mrs. Rita Bushelman
Mr. Lawrence Collins
Mr. Phil Damstrom
Mr. Melvin DeLong
Mr. R. N. Greene
Mr. Rector Jones
Mr. Don McMillian
Mr. Charles Moore
Mr. Barry Neltner
Mr. Ralph Rush
Mrs. Carol Smith
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mr. Floyd Sharp

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Viox noted that each member had received a copy of the Minutes of the Business Meeting of March 16, 1988 and the Public Hearings of March 23, 1988 and March 30, 1988 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Moore moved that they be approved. Mr. Rush seconded the motion and it carried unanimously.

Mr. Barnett stated that the Committee had been sensitive to the buffer area and believed that the buffer as currently proposed, including the berm and the trees, would afford better protection for the residents of the area than the previously proposed buffer would have provided.

There being no further discussion, Chairman Viox asked for a vote on the motion made by Mr. Barnett and it carried unanimously.

3. Revision of Concept Development Plan

A request of Christ United Methodist Church (owner) of Florence, Kentucky for a revision of a previously approved Concept Development Plan located on an 8.51-acre site near KY 18 and Old Boone Aire Road, Boone County, Kentucky. The site is zoned Suburban Residential One (SR-1).

Mr. Gerald Newton, Director, read the Committee Report which recommended elimination of Condition No. 2 of the March 4, 1987 Committee Report (see Committee Report).

Chairman Viox asked if the applicant was in agreement with the Committee Report.

Mr. Ed Drennen, attorney, stated that he understands the Committee Report to indicate that the applicant agrees to give the access, but the construction will be on the adjoining property.

Mr. Newton noted that the Committee Report refers to an easement.

Mr. Drennen stated that he is in agreement with the Committee Report.

Mr. Barnett moved by resolution to the Boone County Fiscal Court that the request be approved and that all costs, except the hard costs, be waived. Mr. McMillian seconded the motion.

In response to questions from Mr. Greene, Mr. Drennen advised that the easement which will be granted will be away from the area of the ballfields and the picnic tables. He added that he is not sure that the State will grant the access; but if the neighbors can acquire the access, they will give the easement.

There being no further discussion, Chairman Viox asked for a vote on the motion made by Mr. Barnett. Mr. DeLong stated that he would abstain from voting as he is involved with the church. All voting members were in favor and the motion carried.

EXHIBIT "C"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Donald McMillian, Chairman, Zone Change Committee

DATE: April 6, 1988

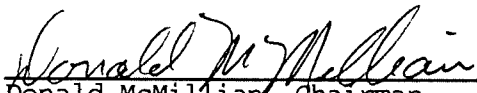
RE: Request of Christ United Methodist Church of Florence, Kentucky (owner) for a revision of a previously approved Concept Development Plan located on an 8.51 acre site near KY 18 and Old Boone Aire Road, Boone County, Kentucky. The site is zoned Suburban Residential One (SR-1).

REMARKS:

We, the Committee, recommend elimination of Condition #2 of the March 4, 1987, Committee Report which reads:

"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.'"

The Committee further recommends that the applicant and affected property owners(s) agree upon acceptable language for the purpose of recording an access easement from the median cross-over to the affected adjoining property to the east. Such an easement must be recorded with the Boone County Clerk and must be made available for the files of the Boone County Planning Commission. Further, we recommend that the applicant's request for a waiver of all "soft costs" be approved.


 Donald McMillian, Chairman


 Larry Barnett


 Fred Burch


 Rector Jones


 Carol Smith

DM:mcb

R-19-88

ORDINANCE 920.149

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT ADOPTING APPROVAL FOR A REVISION OF A PREVIOUSLY APPROVED CONCEPT DEVELOPMENT PLAN IN A SUBURBAN RESIDENTIAL ONE (SR-1) ZONE ON AN 8.51 ACRE SITE GENERALLY LOCATED NEAR KY 18 AND OLD BOONE AIRE ROAD, BOONE COUNTY, KENTUCKY AT THE REQUEST OF CHRIST UNITED METHODIST CHURCH (OWNER).

WHEREAS, the Boone County Fiscal Court received a request for approval for a revision of a previously approved Concept Development Plan in a Suburban Residential One (SR-1) zone on an 8.51 acre site generally located near KY 18 and Old Boone Aire Road, Boone County, Kentucky which is more particularly described below, and

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval for a revision of a previously approved Concept Development Plan in a Suburban Residential One (SR-1) zone on an 8.51 acre site generally located near KY 18 and Old Boone Aire Road, Boone county, Kentucky.

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

SECTION I

That the revision of a previously approved Concept Development Plan for the real estate which is more particularly described below shall be and is hereby recommended for approval in a suburban Residential One (SR-1) zone on an 8.51 acre site generally located near KY 18 and Old Boone Aire Road, Boone County, Kentucky. The real estate which is the subject of this request for approval for a revision of a previously approved Concept Development Plan in a Suburban Residential One (SR-1) zone is more particularly described in attached "Exhibit A."

SECTION II

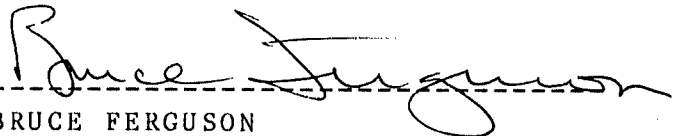
That as a basis for the recommendation of approval and adoption of the zone change request the findings of fact of the Boone County Planning and Zoning Commission as forth in its Minutes and official records for this zone change request, and the finding of facts of the Boone County Fiscal Court, if any, and any conditions and/or stipulations mandated by the Boone County Fiscal Court, if any, as set forth in its Minutes and official records for this zone change request, shall be and are hereby incorporated by reference as if fully set out in this Ordinance (ATTACHED - EXHIBITS "B" AND "C").

ORDINANCE 920.149
PAGE TWO


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 on the third day of May, 1988.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the seventeenth day of May, 1988, 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:


R. SCOTT KIMMICH
FISCAL COURT CLERK

SUBMITTED BY:


LARRY CRIGLER
BOONE COUNTY ATTORNEY

6/29/88
DATE PUBLISHED