

1. VICTORY APOSTOLIC CHURCH, INC., ZONING MAP AMENDMENT & VICTORY APOSTOLIC CHURCH, INC., ZONING DEVELOPMENT PLAN

- a. MARC 2012-3: VICTORY APOSTOLIC CHURCH, INC. (4/2/12)\* - petition for a zone map amendment from an Agricultural Rural (A-R) zone to a Planned Neighborhood Residential (R-3) zone, for 1.56 net (2.04 gross) acres, for property located at 1420 Greendale Road. A conditional use permit has also been requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 7) recommends Medium Density Residential (MD) future land use for the subject property. The petitioner proposes Planned Neighborhood Residential (R-3) zoning to allow for a 13,200 square-foot church, and associated off-street parking. The petitioner has also requested that a conditional use permit for the church be granted by the Planning Commission for the subject property.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan, for the following reasons:
  - a. The Future Land Use Element of the Plan recommends Medium Density Residential (MD) for the subject property, which is defined as 5–10 dwelling units per net acre.
  - b. The proposed church land use is a permissible conditional use in the Planned Neighborhood Residential (R-3) zone.
  - c. The property will be restricted to a maximum residential density, in keeping with the maximum density recommended by the Plan, of 15 dwelling units.
  - d. The proposed development of a church is supported by Goal #14, Objective I and Goal #20, Objective P of the 2007 Comprehensive Plan, which allow for adequate community facilities (including churches) to satisfy public need, and which encourage developing self-sustaining neighborhoods by enabling a range of services in close proximity (also including worship facilities).
2. This recommendation is made subject to the approval and certification of ZDP 2012-9: Victory Apostolic Church, Inc. prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of any approval by the Planning Commission.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use shall be restricted on the subject property via conditional zoning:
  - a. A maximum of 15 residential dwelling units may be permitted on the subject property.

This restriction is appropriate and necessary for the subject property in order to ensure compatible development; and if a conditional use does not develop on the subject property, the property will develop in a manner recommended by the 2007 Comprehensive Plan.

- b. ZDP 2012-9: VICTORY APOSTOLIC CHURCH, INC. (4/2/12)\* - located at 1420 Greendale Road.  
(Banks Engineering)

The Subdivision Committee Recommended: Postponement. There were questions regarding the lack of tree inventory information on the site, and the necessary public improvements to Greendale Road.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Correct note #8.
8. Remove notes #10, #12 and #14 from plan.
9. Correct Planning Commission certification.
10. Denote proposed detention location.
11. Addition of tree inventory map per Article 26 of the Zoning Ordinance.
12. Complete topographic information near access point.
13. Denote that Kentucky Transportation Cabinet approval of access will be required at the time of a final development plan.
14. Discuss tree canopy and potential tree protection area requirement.
15. Discuss improvements to Greendale Road.

\* - Denotes date by which Commission must either approve or disapprove request.

c. REQUESTED CONDITIONAL USE

CHURCH

The Staff Recommends: Approval, for the following reasons:

- a. The church use proposed at this location will not adversely affect the subject or surrounding properties. This church use is not expected to generate high volumes of traffic, and there is no aspect of the proposed use, such as noise, that is anticipated to be disturbing to the surrounding neighborhood. Although some of the trees in the center of this site will be removed, the property will be well landscaped along its borders, and the entrance to the property from Greendale Road will be improved.
- b. All necessary public services and facilities, such as police and fire protection, and all utilities are available and adequate for the proposed use.

This recommendation is made subject to the following conditions:

1. Provided the subject property is rezoned R-3 by the Urban County Council; otherwise, any Planning Commission action of approval is null and void.
2. Should the subject property be re-zoned to R-3, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Commission.
3. All necessary permits shall be obtained from the Division of Building Inspection prior to any paving or construction on the subject property.
4. The parking lots and driveways shall be paved, with spaces delineated, and shall be landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance. In addition, a 20' landscape buffer shall be maintained along the northern and eastern property boundaries.
5. The final design of the parking lots, access drives and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
6. Any outdoor pole lighting utilized for the parking lots on subject property shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing adjoining or nearby residential properties.
7. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.

Zoning Presentation: Ms. Wade presented the staff's zoning report, briefly orienting the Commission to the location of the subject property on Greendale Road, well north of the existing 90-degree turn and south of the railroad crossing. She said that the subject property is bordered to the north and northwest by properties zoned A-R; to the southwest and south, by properties zoned R-3 which have been developed for mostly single-family residential use; and across the railroad tracks to the east, by Light Industrial zoning, including the recently developed Kentucky Eagle Beer distributorship.

Ms. Wade explained that a home had formerly been located on the subject property, but it had been demolished. In addition, a portion of the property is heavily wooded, and there is an existing large utility easement to the rear of the property. The petitioner proposes to construct a two-story church, 13,200 square feet in size, on the subject property, with associated parking. Ms. Wade displayed several aerial photographs of the property, including: 1) a view from Greendale Road to the south, noting the new residential development and the termination of the sidewalk improvements; 2) a view from the subject property to the north, with the railroad tracks in the background; 3) a view of the detention basin on the adjoining property, which serves the nearby residential development; and 4) a front view of the subject property.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Medium Density Residential use for the subject property, which is typically defined as 5 – 10 dwelling units per net acre. That definition also includes a range of 0 – 8 units per gross acre, and the petitioner has requested that the staff review this request in terms of gross acreage, rather than net acreage. Ms. Wade explained that church properties are typically recommended for Semi-Public Facilities land use, but that generally refers to existing churches. The petitioner is requesting the R-3 zone in order to be consistent with the recommendations of the Comprehensive Plan, as well as the existing residential zoning in the area. This rezoning is also being requested because the church building is proposed to be larger in size than the 10,000 square feet currently allowed for churches in the A-R zone.

Ms. Wade stated that the proposed R-3 zoning is in agreement with the recommendation of the Comprehensive Plan. She added that it is common, when a property is proposed for rezoning to accommodate a semi-public use, for the staff to propose conditional zoning restrictions to limit the density allowable on the property should it be developed or ultimately redeveloped for residential use. Therefore, the staff is recommending a conditional zoning restriction to limit the allowable density for the property. Although the petitioner is not proposing any dwelling units for the subject property, the two gross acres could be developed with 16 dwelling units and still comply with the Medium Density Residential recommendation of the Comprehensive Plan. Ms. Wade said that the staff found several Goals and Objectives that support the location of churches in residential areas, in order to allow those neighborhoods to be

self-sustaining and provide opportunities for non-residential uses to locate near them. She said that the staff and the Zoning Committee are recommending approval of this request, for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan, for the following reasons:
  - a. The Future Land Use Element of the Plan recommends Medium Density Residential (MD) for the subject property, which is defined as ~~5-40-0~~ - 8 dwelling units per net-gross acre.
  - b. The proposed church land use is a permissible conditional use in the Planned Neighborhood Residential (R-3) zone.
  - c. The property will be restricted to a maximum residential density, in keeping with the maximum density recommended by the Plan, of ~~45-16~~ dwelling units.
  - d. The proposed development of a church is supported by Goal #14, Objective I and Goal #20, Objective P of the 2007 Comprehensive Plan, which allow for adequate community facilities (including churches) to satisfy public need, and which encourage developing self-sustaining neighborhoods by enabling a range of services in close proximity (also including worship facilities).
2. This recommendation is made subject to the approval and certification of ZDP 2012-9: Victory Apostolic Church, Inc. prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of any approval by the Planning Commission.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use shall be restricted on the subject property via conditional zoning:
  - a. A maximum of ~~45-16~~ residential dwelling units may be permitted on the subject property.

This restriction is appropriate and necessary for the subject property in order to ensure compatible development; and if a conditional use does not develop on the subject property, the property will develop in a manner recommended by the 2007 Comprehensive Plan.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, noting the location of the Norfolk-Southern railroad and 100' Kentucky Utilities transmission easement on the subject property. He stated that the petitioner is proposing to construct one church building, 13,200 square feet in size and two stories in height, with the associated required parking spaces and a one-way traffic circulation pattern. The development plan also indicates the proposed locations for the dumpster, as well as the access point to Greendale Road.

Mr. Martin stated that the Subdivision Committee recommended postponement of this development plan, in accordance with the staff's recommendation of postponement due to the lack of information provided about the tree canopy and possible improvements to Greendale Road. With regard to the staff's concerns about improvements to Greendale Road, Mr. Martin said that portions of that roadway have been improved as development has occurred. There are two areas near the subject property where the transition to a narrower cross-section can be noted by changes in the pavement. The staff is recommending that such a transition should be constructed at some point along the petitioner's street frontage, but that decision can be deferred until the time of the final development plan. Mr. Martin explained that the petitioner has other issues to address at that time, including the possible relocation of a large utility pole near the existing right-of-way. He added that the petitioner has agreed to construct sidewalks along their frontage, which will connect to the sidewalk system already in place for one of the adjoining residential developments.

Mr. Martin said that the petitioner had addressed several of the recommended conditions, so the staff prepared a revised recommendation, which was distributed to the Commission members prior to the start of today's hearing. He said that the staff is now recommending approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. ~~Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~
6. 7. Correct note #8.
8. ~~Remove notes #10, #12 and #14 from plan.~~
9. ~~Correct Planning Commission certification.~~
10. ~~Denote proposed detention location.~~
11. ~~Addition of tree inventory map per Article 26 of the Zoning Ordinance.~~
12. ~~Complete topographic information near access point.~~
13. ~~Denote that Kentucky Transportation Cabinet approval of access will be required at the time of a final development plan.~~

7. Denote any Commission approval of a Conditional Use Permit on the plan.
- 8.44. Discuss Resolve tree canopy and potential tree protection area requirement at the time of Final Development Plan.
- 9.45. Discuss Resolve improvements to Greendale Road at the time of Final Development Plan.

Commission Question: Mr. Owens asked if it would be more appropriate to locate the dumpster further away from Greendale Road, as it could be very visible in such a location. Mr. Martin answered that the dumpster area could be relocated; but, he noted that there is a screening requirement that could also reduce its visibility. He added that the most important consideration in the location of a dumpster is the ability of the Division of Solid Waste to access it safely.

Conditional Use Presentation: Mr. Sallee presented the staff report on the requested conditional use, explaining that a church is a conditional use in a Planned Neighborhood Residential (R-3) zone. He displayed an aerial photograph of the subject property, noting the expanse of trees along the western and southern perimeters of the property.

Mr. Sallee stated that the church is proposed to accommodate approximately 200 seats and 50 parking spaces on the property, although there could be some adjustments to those numbers on the final development plan. He said that the perimeter of the property will be well-screened, due to the heavy treeline, so the staff believes that the proposed church will not adversely impact the surrounding residential uses. The staff finds that adequate public facilities also exist to serve the proposed church, including sidewalks for pedestrian use. Mr. Sallee said that the staff also believes that the proposed parking spaces will be adequate to serve the church, and that occasional overflow parking could be accommodated in the existing large utility easement at the rear of the property.

Mr. Sallee stated that the staff is recommending approval of the requested conditional use. He explained that, at the Zoning Committee meeting, there had been some concern among the Committee members that the church might want to feature outdoor recreational uses at some point in the future. In order to eliminate possible future applications to the Board of Adjustment to permit such additional uses, the staff is suggesting an addition to the conditions for approval that would permit such recreational uses. The additional condition would read:

8. Outdoor recreational uses, accessory to the church, are also included with this approval, provided they are depicted on the Final Development Plan approved for the subject property.

Mr. Sallee stated that the staff is recommending approval of this conditional use request, for the reasons as listed in the staff report and on the agenda.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He explained that the church is currently meeting in a rented space in a shopping center. The petitioner purchased the subject property eight months ago, and the former residence had already been removed at that time. Mr. Murphy said that the petitioner is in agreement with the staff's recommendations, including the conditions for approval of the zone change, development plan, and conditional use request. The petitioner appreciates the staff's accommodation of their need to calculate density on the property by gross acreage, rather than net, because that change will assist in obtaining financing to fund the construction on the property.

With regard to the staff's recommendation to include possible recreational uses along with the conditional use permit, Mr. Murphy said that the petitioner believes that that is appropriate, and they will depict such uses on the Final Development Plan as required by the new condition #8.

Mr. Murphy stated, with regard to Mr. Owens's question about the proposed dumpster location, that the petitioner has been informed that the subject property will not require dumpster service at this time. Due to the small size of the congregation, the subject property can be served by Herbie carts at this time, although a proposed dumpster location must be indicated on the development plan. Mr. Murphy noted that the petitioner will work with the staff at the time of the Final Development Plan to determine the best location for the dumpster.

Mr. Murphy concluded by stating that the petitioner believes that the proposed church will be a provide a good transition from the nearby railroad tracks and industrial uses to the adjoining residential developments, and he requested approval.

Citizen Comment: There were no citizens present to comment on this proposal.

Zoning Action: A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 9-0 (Penn absent) to approve MARC 2012-3, for the reasons provided by staff in their revised recommendation.

Conditional Use Action: A motion was made by Ms. Blanton, seconded by Ms. Beatty, and carried 9-0 (Penn absent) to approve the requested conditional use, for the reasons as provided by staff, subject to the conditions as listed in the revised staff recommendation.

Development Plan Presentation: A motion was made by Ms. Blanton, seconded by Mr. Owens, and carried 9-0 (Penn absent) to approve ZDP 2012-9, subject to the nine conditions as listed in the revised staff recommendation.