

METROPOLITAN DEVELOPMENT COMMISSION  
DOCKET NO. 86-AO-2  
CITY-COUNCIL COUNCIL GENERAL  
ORDINANCE NO. 87, 1986

ZONING ORDINANCE 86-AO-2  
AMENDING  
THE DWELLING DISTRICTS ZONING ORDINANCE  
OF  
MARION COUNTY, INDIANA  
AND  
THE MARION COUNTY MASTER PLAN PERMANENT  
ZONING ORDINANCE

August 4, 1986

METROPOLITAN DEVELOPMENT COMMISSION

DOCKET NO. 86-AO-2

CITY-COUNTY GENERAL ORDINANCE NO. \_\_\_\_\_, 1986

AN ORDINANCE to amend Marion County Council Ordinance No. 8-1957, as amended, and the Marion County Master Plan Permanent Zoning Ordinance, as amended, and fixing a time when the same shall take effect.

WHEREAS, the fundamental rights of freedom of religion and peaceful assembly are protected by the First and Fourteenth Amendments to the Constitution of the United States and by Article I of the Constitution of the State of Indiana; and

WHEREAS, under prevailing judicial precedent in Indiana a religious use is always a permitted use in a residentially zoned area, subject to reasonable regulations which are necessary to promote the public health, safety or general welfare if the benefit to the public health, safety or general welfare outweighs any restriction which such regulation places upon the right of freedom of worship and assembly; and

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana, and the City-County Council of the City of Indianapolis and of Marion County, Indiana, have determined that it is necessary for the public health, safety, and general welfare to expressly permit the use of property within the dwelling and agricultural zoning districts for religious purposes and to provide for the reasonable regulation of religious uses of such property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

Section 1. That Marion County Council Ordinance No. 8, 1957, adopted by the Marion County Council on March 28, 1957, and the Dwelling Districts Zoning Ordinance of Marion County, Indiana (Ordinance No. 66-AO-02, as amended by 67-AO-1, 67-AO-2, 67-AO-3, 67-AO-6, 67-AO-8, 68-AO-1, 68-AO-5, 69-AO-4, 69-AO-5, 71-AO-5, 73-AO-1, 74-AO-3, 75-AO-1, 81-AO-2 and 82-AO-1), adopted as an amendment thereto, as amended, pursuant to IC 36-7-4, be amended as follows:

A. That subsections 2.01, A; 2.02, A; 2.03, A; 2.04, A; 2.05, A; 2.06, A; 2.07, A; 2.075, A; 2.08, A; 2.09, A; 2.10, A; 2.11, A; 2.12, A; 2.13, A and 2.135, A of the Dwelling Districts Zoning Ordinance of Marion County, Indiana, as amended, be amended to add the following language at the end of each of said subsections, said language to be preceded in each case by the number which follows the last number of the permitted uses listed in said subsections:

RELIGIOUS USES, as regulated in section 2.185.

B. That Chapter II of the Dwelling Districts Zoning Ordinance of Marion County, Indiana, as amended, be amended by adding a new section 2.185 to read as follows:

SECTION 2.185 RELIGIOUS USES

A. PERMITTED RELIGIOUS USES

A religious use, as defined in Section 2.19, shall be permitted in all dwelling districts and in all agricultural districts

subject to the grant of a SPECIAL EXCEPTION by the Board of Zoning Appeals having jurisdiction of the case; and the Board of Zoning Appeals is hereby authorized to grant such SPECIAL EXCEPTIONS and permit such religious uses in the dwelling districts and the agricultural districts. As used in this section the term Board of Zoning Appeals includes the Metropolitan Board of Zoning Appeals of Marion County, Indiana and the Municipal Boards of Zoning Appeals of the excluded cities of Beech Grove, Lawrence and Speedway.

B. RELIGIOUS USE REQUIREMENTS

Religious uses shall comply with the following requirements:

1. A SPECIAL EXCEPTION shall be granted by the Board of Zoning Appeals following application filed with the Secretary of said Board by the landowner petitioner (which application shall include a site and development plan as provided for in paragraph B hereof and may include a request for modification of development standards as provided for in paragraph C hereof), notice to owners of adjoining parcels of land and public hearing by said Board - all in accordance with the Rules of Procedure of the Board of Zoning Appeals  
UPON THE BOARD OF ZONING APPEALS DETERMINATION THAT:
  - a. The proposed use of the property is a religious use, as defined in Section 2.19.
  - b. Any adverse impact on the public health, safety, morals or general welfare caused by the grant

does not outweigh the restriction on the petitioner's right to religious worship and peaceful assembly.

- c. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property.
2. The landowner petitioner shall file with the application a site and development plan, drawn to scale, which shall include, where applicable:
    - a. Proposed use, buildings and structures, including the seating capacities thereof
    - b. Existing uses, buildings and structures, including the seating capacities thereof
    - c. A parking plan, including proposed off-street and on-street parking, demonstrating the number of parking spaces available for the proposed use
    - d. Vehicular entrances, exists and turn-off lanes
    - e. Building setbacks
    - f. Landscaping, screens, walls and fences
    - g. Exterior lighting
    - h. Signs, including location, size and design thereof
    - i. Sewage disposal facilities
    - j. Storm drainage facilities
    - k. Pedestrian ways
    - l. Other utilities, if above ground facilities are needed

- m. Such other information as the Administrator of the Division of Development Services shall reasonably request.
- 3. If applicable, the landowner petitioner shall also file with the application a request for modification of development standards indicating any development standard of the applicable dwelling district or agricultural district to be modified in connection with the grant of a SPECIAL EXCEPTION.
- 4. The grant of such SPECIAL EXCEPTION shall be conditioned upon the following requirements:
  - a. The religious use shall conform to all development standards of the applicable dwelling district or agricultural district, except as specifically modified by the grant of SPECIAL EXCEPTION.
  - b. The religious use shall conform to all conditions attached to the grant of SPECIAL EXCEPTION by said Board.

The Board, in connection with the granting of any SPECIAL EXCEPTION, may modify any development standard of the applicable dwelling district or agricultural district, if requested by the landowner petitioner, but the Board need not modify any development standard if it finds that the benefit to the public health, safety or general welfare derived from such development

standard outweighs any restriction on the right of freedom of worship and peaceful assembly caused by such development standard.

The Board may impose reasonable restrictions or conditions in connection with the grant of any SPECIAL EXCEPTION, including restrictions and conditions which are more restrictive than the applicable development standards, if the Board finds that such restrictions or conditions benefit the public health, safety or general welfare, and such benefit outweighs any restriction on the right of freedom of worship and peaceful assembly caused by the imposition of such restrictions or conditions.

C. That Section 2.19 of Chapter II of the Dwelling Districts Zoning Ordinance of Marion County, Indiana, as amended, be amended by adding a new definition to be numbered 27 and inserted in said section following the definition numbered 26, and by renumbering consecutively upwards the definitions following said new definition, which said definition shall read as follows:

27. RELIGIOUS USE

Religious use means a land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

Section 2. That Chapter V of the Marion County Master Plan Permanent Zoning Ordinance, adopted on November 12, 1948, and subsequently amended, be amended as follows:

A. That Section 1.001 of Chapter V be amended to add an item (8) to read as follows:

(8) Religious uses, as regulated by Section 2.185 of the Dwelling Districts Zoning Ordinance of Marion County, Indiana, as amended (Ordinance No. 66-AO-2, as amended).

B. That Section 2.001 of Chapter V be amended to add an item (9) to read as follows:

(9) Religious uses, as regulated by Section 2.185 of the Dwelling Districts Zoning Ordinance of Marion County, Indiana, as amended (Ordinance No. 66-AO-2, as amended).

Section 3. If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect other ordinance provisions or clauses or applications thereof which can be implemented without the unconstitutional or invalid provision, clause or application, and to this end the provisions and the clauses of this ordinance are declared to be severable.

Section 4. An emergency exists for the passage of this ordinance, and the same shall be in full force and effect from and after its adoption.

CITY-COUNTY COUNCIL OF INDIANAPOLIS  
AND OF MARION COUNTY, INDIANA

s/Beurt R. SerVaas  
President (or Presiding Officer)

Date: August 4, 1986

Attest: s/Beverly S. Rippy  
Clerk