

**IN THE CIRCUIT COURT OF
STONE COUNTY, MISSOURI**

STONE COUNTY PLANNING AND ZONING

PLAINTIFF

VERSUS

SILVER HAMMER CONSTRUCTION, LLC

DEFENDANT

PETITION FOR PERMANENT INJUNCTION

Comes now the Plaintiff and states as follows:

1. Under the provisions of §§64.800 to 64.895 RSMo, Stone County, Missouri has properly adopted an official master plan and planning and zoning orders, regulations and restrictions, including *Stone County Zoning Regulations*, and *Stone County Subdivision Regulations*, that apply to the unincorporated areas of the County.
2. The Commission appointed Joy Wilson as Stone County Planning and Zoning Director on April 10 1997, and designated her the enforcement officer for planning and zoning matters pursuant to the authority of §64.865 RSMo and Article 13 § 2.A of the *Stone County Zoning Regulations*.
3. §64.895.2 RSMo authorizes an appropriate civil action or proceeding to restrain or prevent violations of §§64.800 to 64.895 RSMo, and of the County's official master plan or a part thereof, and of the planning and zoning orders, regulations and restrictions made and adopted under the provisions of §§64.800 to 64.895 RSMo.

4. Stone County Zoning Regulations, Article 26 (Enforcement) Section 6 (Remedies) provides:

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of these Zoning Regulations or any amendment or supplement thereto, the Planning & Zoning Director, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

5. Defendants are the owners of real property in Stone County, Missouri, located outside the incorporated cities and villages in the County, which constitutes a Lot of Record ("the Lot") under the Zoning Regulations, *to-wit*,

ALL OF A TRACT OF LAND IN THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP TWENTY-SIX (26), RANGE TWENTY-FOUR (24), STONE COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY (R/W) LINE OF HIGHWAY "A" AND THE EAST RIGHT-OF-WAY (R/W) LINE OF HIGHWAY #13; THENCE NORTH 186 FEET; THENCE EAST 130 FEET; THENCE SOUTH 186 FEET; THENCE WEST 130 FEET TO THE POINT OF BEGINNING. ALSO DESCRIBED AS: ALL OF A TRACT OF LAND IN THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP TWENTY-SIX (26), RANGE TWENTY-FOUR (24), STONE COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY (R/W) LINE OF HIGHWAY "A" AND THE EAST RIGHT-OF-WAY (R/W) LINE OF MSH NO. 413 (FORMERLY KNOWN AS HIGHWAY #13); THENCE NORTH 186 FEET; THENCE EAST 130 FEET; THENCE SOUTH 186 FEET; THENCE WEST 130 FEET TO THE POINT OF BEGINNING.

6. The Lot is classified for zoning purposes as C-2, General Commercial District.

7. A C-2, General Commercial District does not allow for use as a church.

8. Defendant is allowing a church operation to be conducted on the lot.

9. The Stone County Planning and Zoning office notified Defendant of the violations of the *Stone County Zoning Regulations* and demanded that Defendant comply with the *Stone County Zoning Regulations*.

10. Despite the notification described above, Defendant has failed or refused to comply with the *Stone County Zoning Regulations*.

11. By not complying with the requirements set out above, Defendant commits a continuing violation of the provisions of the *Stone County Zoning Regulations* adopted under the provisions of §§64.800 to 64.895 RSMo, which promote the health, safety, and/or welfare of the citizens of Stone County, Missouri, and which are legally binding upon Defendant.

12. Injunction is a remedy authorized by §64.895.2.

13. Plaintiff will suffer immediate, irreparable, and/or ongoing injury, loss, or damage if the Court does not issue a permanent injunction restraining and enjoining Defendant's conduct.

Wherefore, Plaintiff prays that the Court grant the following relief:

A. Enter its judgment declaring that the real property described as:

A PART OF THE NW1/4 OF THE SW1/4, SECTION 20, TOWNSHIP 26 NORTH, RANGE 22 WEST, STONE COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE NE1/4 OF SAID SW1/4; THENCE NORTH 86°33'14" WEST ALONG THE NORTH LINE OF SAID NE1/4 OF THE SW1/4, A DISTANCE OF 1327.73 FEET TO AN EXISTING 60D NAIL. AT THE NE CORNER OF SAID NW1/4 OF THE SW1/4; THENCE SOUTH 01°32'40" WEST, ALONG THE EAST LINE OF SAID NW1/4 OF THE SW1/4, A DISTANCE OF 666.17 FEET TO AN IRON PIN SET AT THE NE CORNER OF THE SE1/4 OF THE NW1/4 OF THE SW1/4 FOR THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 01°32'40" WEST ALONG THE EAST LINE OF SAID NW1/4 OF THE SW1/4, A DISTANCE OF 610.95 FEET TO AN IRON PIN SET; THENCE NORTH 88°17'53" WEST PARALLEL WITH THE SOUTH LINE OF SAID NW1/4

OF THE SW1/4, A DISTANCE OF 713.95 FEET TO AN IRON PIN SET; THENCE NORTH 01°32'63" EAST PARALLEL WITH THE WEST LINE OF SAID SE1/4; OF THE NW1/4 OF THE SW1/4, A DISTANCE OF 609.35 FEET TO AN IRON PIN SET ON THE NORTH LINE OF THE SW1/4 OF THE NW1/4 OF THE SW1/4; THENCE SOUTH 88°25'34" WEST, ALONG THE NORTH LINE OF SAID SW1/4 OF THE NW1/4 OF THE SW1/4, A DISTANCE OF 50.00 FEET TO AN IRON PIN SET AT THE NORTHWEST CORNER OF SAID SE1/4 OF THE NW1/4 OF THE SW1/4; THENCE SOUTH 88°25'04" EAST, ALONG THE NORTH LINE OF SAID SE1/4 OF THE NW1/4 OF THE SW1/4, A DISTANCE OF 66190 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 10 ACRES MORE OR LESS, TOGETHER WITH RIGHTS OF INGRESS AND EGRESS OVER AND ACROSS A 25.00 FEET WIDE EASEMENT, SAID EASEMENT HAVING 12.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: COMMENCING AT THE NE CORNER OF THE NE1/4 OF SAID SW-1/4; THENCE NORTH 88°33'14" WEST, ALONG THE NORTH LINE OF SAID NE1/4 OF THE SW 1/4, A DISTANCE OF 1327.73 FEET TO AN EXISTING 60D NAIL AT THE NE CORNER OF SAID NW1/4 OF THE SW1/4, THENCE SOUTH 01°32'40" WEST ALONG THE EAST LINE OF SAID NW1/4 OF THE SW1/4; THENCE SOUTH 01°32'40" WEST, ALONG THE EAST LINE OF SAID NW1/4 OF THE SW1/4, A DISTANCE OF 666.17 FEET TO AN IRON PIN SET AT THE NORTHEAST CORNER OF THE SE1/4 OF THE NW1/4 OF THE SW1/4; THENCE NORTH 88°25'34" WEST, ALONG THE NORTH LINE OF SAID SE-1/4 OF THE NW1/4 OF THE SW1/4 AND ITS EXTENSION, A DISTANCE OF 678.40 FEET TO A POINT OF BEGINNING; THENCE NORTH 124°35" WEST A DISTANCE OF 53.02 FEET; THENCE NORTH 59°24'08" WEST, A DISTANCE OF 127.85 FEET; THENCE NORTH 66°27'24" WEST, A DISTANCE OF 190.56 FEET; THENCE NORTH 38°04'55" WEST A DISTANCE OF 109.23 FEET; THENCE NORTH 88°07'17" WEST, A DISTANCE OF 76.96 FEET; THENCE NORTH 81°43'21" WEST, A DISTANCE OF 83.79 FEET; THENCE SOUTH 60°24'15" WEST, A DISTANCE OF 134.65 FEET TO A POINT ON THE WEST LINE OF SAID NW1/4 OF THE SW1/4 FOR A POINT OF TERMINUS.

("the Lot") is classified for zoning purposes as C-2, General Commercial District, and that property in a C-2, General Commercial District may not be used for a commercial church operation.

- B. Enter its judgment mandating that Defendant cease the commercial church operation on the Lot, and that failure to do so by a date certain may result in the

Court's imposing a fine of \$500.00 per day for each day thereafter in which Defendant is found to be violating this Injunction, or an order of contempt and commitment, or both.

C. Assess costs and expenses against Defendant.



William McCullah

BY

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STATE OF MISSOURI

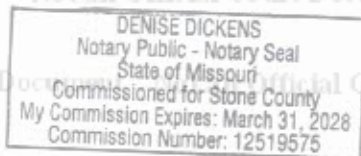
SS.

COUNTY OF STONE

Comes now Joy Wilson, of lawful age, being first duly sworn on her oath, deposes, acknowledges reading and approving the foregoing Petition for Permanent Injunction and Application for Preliminary Injunction, and states that the facts set out therein are true.

Joy Wilson
Joy Wilson

Subscribed to and sworn before me, a notary public, on 5-15 ²⁰²⁵/₂₀₂₄



Denise Dickens
Denise Dickens, Notary Public