

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 5, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-3072

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

MARANATHA BAPTIST CHURCH,

PETITIONER-RESPONDENT,

v.

**CITY OF PHILLIPS, CITY OF PHILLIPS PLANNING
COMMISSION AND CITY OF PHILLIPS BOARD OF ZONING
APPEALS,**

RESPONDENTS-APPELLANTS.

APPEAL from an order of the circuit court for Price County:
DOUGLAS T. FOX, Judge. *Reversed.*

Before Cane, P.J., Myse and Hoover, JJ.

PER CURIAM. The City of Phillips appeals from the trial court's order reversing the City's Board of Zoning Appeals decision which had denied the Maranatha Baptist Church a conditional use permit for construction of a new church in the City's commercial district. The City argues that the trial court erred

in its application of the city ordinance. Specifically, it contends that because the ordinance is unambiguous, the trial court improperly engaged in statutory interpretation and misread the ordinance. We agree with the City and therefore reverse the trial court's order.

The City has different zoning rules for commercial districts and residential districts. The trial court held that the church was a permitted use under the City's commercial zoning code and therefore did not need a conditional use permit. It reasoned that the City's residential zoning code describes churches as public or semi-public uses and because public or semi-public buildings are permitted uses in commercial districts, it follows that churches are permitted uses in commercial districts.

Courts read local zoning laws like statutes, *Eastman v. City of Madison*, 117 Wis.2d 106, 112, 342 N.W.2d 764, 767 (Ct. App. 1983), which on appeal we read as a question of law without deference to the trial court. *County of Adams v. Romeo*, 181 Wis.2d 183, 185-86, 510 N.W.2d 694, 694 (Ct. App. 1993). Here, the Church must meet the City's zoning code in order to qualify as a permitted use in a commercial district. *See* PHILLIPS ZONING CODE § 17.09(1)(d). The trial court viewed churches as public and semi-public buildings, by making reference to the residential zoning code that describes churches in terms of a "Public and semi-public uses." *See* ZONING CODE § 17.07(2)(d) (describing uses authorized by conditional use permit). We agree with the trial court that the residential zoning code describes churches as public and semi-public uses, but that

does not end the analysis. The commercial zoning code, § 17.09(2)(a), specifically provides that public and semi-public conditional uses as stated in the residential districts require a conditional use permit in order to be located within a commercial district. Clearly, under the City's residential zoning code, a church requires a conditional use permit.

Specific rules control over general ones, *see State v. Elliott*, 203 Wis.2d 95, 105, 551 N.W.2d 850, 854 (Ct. App. 1996), and the express control over the implied. *See Spencer v. Holman*, 113 Wis. 340, 343, 89 N.W. 132, 134 (1902). As a result, the specific, express commercial district rule, § 17.09(2)(a), controls. It requires landowners, such as churches, needing a conditional-use permit in a residential district to also get a conditional-use permit in a commercial district. Read in this context, the commercial zoning rules do not exempt churches from having to obtain a conditional-use permit. In short, we reverse the trial court's order and reinstate the board's decision.

By the Court.—Order reversed; the board's decision is reinstated.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

