



Portal & Associates

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February 4, 2008

The Honorable Pegeen Hanrahan, Mayor,
and City Commissioners
City of Gainesville
200 East University Avenue
Gainesville, FL 32602

Madame Mayor and Commissioners:

The Catholic Diocese of St. Augustine has asked me to represent their concerns regarding the amendment of development standards contained in Section 30-91 of the City of Gainesville Code of Ordinances, especially those effecting places of religious assembly, food distribution centers and shelters for the homeless. The following areas are of concern:

1. Minimum Lot Size Requirements

Proposed requirement for 1 acre for each 100 members is extravagant and *requires* churches be sited in an urban sprawl pattern. This proposal is inconsistent with the policy direction to develop infill properties and make the most efficient use of land. With drainage and parking requirements considered, sites are usually developed at a floor area ratio (FAR) of .20. Even when a portion of the buildings are constructed with a second story, an FAR of .35 is usually the maximum achieved. To thin the development pattern even further is in contradiction to the efficient use of land.

This change in policy would create a hardship for large congregations who receive land by way of donation. Commercially designated land is seldom donated. Donated land is, instead, usually residential or agricultural. In order to plan for a large congregation in a residential area, the proposal would require a minimum of 50 acres be obtained. This ordinance language may result in there being few if any large congregations locating within the City limits in the future.

It has been suggested that there is no rational basis for treating churches in a different manner than schools. On the contrary, schools have significantly greater impacts than do churches. Schools have 10s of 1000s of square feet dedicated to separate locker rooms, gymnasiums, cafeterias, theaters, laboratories, garages, administrative support and clinics. They also include play fields of every kind, which are often attended by hundreds of spectators in an outdoor and amplified setting. Schools generate far greater solid waste, wastewater and use hundreds of thousands of gallons more potable water each year than do churches.

A comparison of church and school sites in the same area and of comparable size will demonstrate this point. The following traffic impact projection is based on International

Traffic Engineers Trip Generation Manual, Studies by the Arkhoma Regional Planning Council for the Federal Highway Administration and the Virginia Transportation Research Council for US Department of Transportation and on the City of Gainesville Parking Standards. Analysis also compares water, wastewater and solid waste production at accepted levels of service.

Size/Impact Estimate	Littlewood Elementary	Holy Faith Catholic Church	% of difference
Acreage	15	17	
Approx. building space	29,900 s.f.	103,000 s.f.	School 340% greater
Attendance	600 5 days per week	2,500 over two days plus 30 daily Sunday/Saturday	School 10% greater over the course of week
Person Hours per week	24,450	3,750	School 650% greater
Peak Hour trips	149	19	School 784% greater
Trips per week	10,000	1,666	School 600% greater
Potable water and waste water each per week*	122,250 gallons	6,000 gallons	School 2,037% greater
Solid Waste	123 tons per year	35 tons per year	School 350% greater

*Based on partial use of each site

These levels of impact do not address the considerable impact created by the noise associated with outdoor events, of which the Church has very few.

All reduction of use rights should be accompanied by some basis for the restriction. We measure the need for restriction by the impact that a particular use has upon its surroundings and facilities. As is demonstrated above, schools are, in every respect, are a significantly higher generator of impact. Churches should not be subject to the same rigorous standards as apply to other, far more intense uses.

In fact, to further demonstrate the baseless nature of the proposed restrictions it should be noted that the impact created by a given church may not be as great as the impact of the residential properties surrounding it. For instance, a congregation of 100 meeting once on Sunday will generate approximately 67 automobile trips on a given Sunday (Gainesville LDRs attribute the need for one parking space for each 3 seats). This impact compares to that impact created by one acre of single-family homes as follows.

Use in acres	Trips created daily	Trips created weekly
Church of 100	67	150 (based on usual week long use rates)

Residences up to 4 per acre	40	280
Residences up to 8 per acre	80	560

It should be noted that most of the residential impact would be during peak hour traffic while most of the church impact will not. Over the course of a week's time, the residential uses will create far greater impact on traffic facilities and associated noise than will the church. This same impact inequity will apply to water, wastewater, and solid waste utilities. The church will have no additional impact on recreation and school facilities. In order to create the same weekly impact as an acre of single-family land in an RSF-3 district, a church on one acre would need approximately 370 members. There is therefore no clear relationship between the proposed restriction and the impacts of churches upon facilities and utilities.

The proposed limitation based on acreage puts the City at a disadvantage in revenue collection. As an example, Holy Faith sits on 17 acres but according to this ordinance should be on 50 acres. The proposal therefore requires that in the future, Catholic parishes take an additional 23 acres off the tax roles. If developed as half acre lots, at current average new home prices, that same land would produce \$73,400 annually in ad valorem taxes or up to \$146,800 annually for quarter acre lots. Additionally, there are costs associated with the sprawl of residential uses caused by the need for churches to purchase large amounts of land that are then left vacant.

This acreage policy would render numerous churches non compliant. Holy Faith is one such congregation. This policy change would imply that the beautiful, park-like campus of Holy Faith would need its buildings spread out over almost 3 times as much land as it currently includes in order for it to be appropriate. What are the health, safety and public welfare concerns being addressed by the proposed increased restrictions for churches? The City should carefully demonstrate a public welfare threat in order to justify this dramatic reduction in property use rights. We have not been shown files indicating a widespread problem being created by churches. If these problems exist, a committee of the effective and offending parties should be convened to craft remedies to address the specific problems. This broad-brush approach to an unspecified threat is punitive and encroaches on the normal activities of peaceful citizen institutions.

2. Enforcement Against Non-Conforming Uses

What about church buildings that are sold when one congregation out-grows them? Given historic development standards, any purchasing congregation that was large enough to support the building, would be too large for the site. When this new group goes to get their zoning compliance or occupational permits, will they be told they are too large to be approved for use of the structure? Will they be required to obtain a permit to continue or reestablish a non-conforming use? This will result in buildings being left vacant and will create a financial burden for the congregation that can then not sell the property. Vacancies also carry a public expense burden.

Typically, the code would require compliance with new standards if 50% or more of the building was being altered or repaired. Many Churches including St. Augustine have been the victims of arson. Should a non-conforming church be vandalized to a point requiring major renovation, would they be forced to come into compliance with the code? Would this mean they could not use the Church if they are too large by the new acreage standards? Couldn't the ordinance at least provide relief from enforcement for properties suffering from vandalism, hate-crimes or terrorism? What about significant hurricane damage? Would the non-conforming churches be closed down because they are too large to be allowed to permit a major repair?

3. Undefined Standards for Compatibility

The proposed standards include a requirement that the church development be compatible with surrounding uses. To some extent this goes without saying because it is enforced by adopted development standards. Given that fact, what is the additional standard of compatibility? What standards will the board use to determine what is compatible when they know nothing of the new proposed congregation? Will the board be empowered to discriminate against certain congregations because they double their impact by meeting twice on Sunday or because they use their building during the week when others do not?

Certain faith groups meet twice on Sunday. Therefore their 100 members have the same impact on the area as the 200 members of a church that meets once for each half of their congregation. The way the regulation is proposed the 100 members meeting twice is allowed twice the impact of the 100 meeting once. Also, some congregations do not meet during the week others meet one or more times during the week. The measure of 100 per acre is therefore not an egalitarian measure of church impact upon a neighborhood.

4. Service of Food.

Additional setbacks may be unnecessary if the needy are not gathering near the property line. They may also be ineffective if outdoor dining areas are placed at the edge of the buffer area. It would make more sense to require a distance between the property line and the service/eating area or a buffer around outdoor eating areas. In this way you regulate for the impact instead of arbitrarily require larger lots with no assurance the requirement accomplishes the protection you seek

The 2000 ft. setback is an existing provision that needs to be removed. It was put in place ostensibly to protect the university students from those who would be attracted to churches providing free food. However, UF allows the Hare Krishna group to serve free food on campus. There are no walls or screens to prevent non-students from accessing that food. If the rationale to the restriction of church rights is based on protection of campus, but the University allows the activity by others on its own property, the regulation is discriminatory and unnecessary.

The regulation also creates confusion regarding the allowance of regular ministry. It is the nature and mission of all Christians to feed the hungry. The St. Augustine's community has been arbitrarily deprived of this right despite there being no evidence that anyone associated with the church's activities has ever posed a threat to the UF community. The regulation also leaves other questions unanswered. For instance, can the churches continue to serve free food to students and the elderly? Several congregations do it all the time. Some I can say with certainty serve 150 or more students for free at least once during the week. Others serve up to 50 elderly at a time. Some of these students and elderly are needy. Many do not belong as members of the congregation. Are the Churches expected to screen diners to turn away any who qualify as financially needy in order to avoid violating the code? What about other churches in residential areas? If they have kitchens, it is because they prepare and serve food to their members; usually at no cost? Who will enforce the code to ensure that no more than 20 of those attending a meal are financially needy?

5. The Provision of Shelter

The City should keep in mind that the provision of food and shelter are voluntarily provided by the churches. If you severely limit those who want to provide assistance, you guarantee that many will go without shelter. Have you ever considered asking your own children to sleep out doors in 30 or 40-degree weather?

It is inappropriate to vacate the needy from their shelter by 7:30 in the morning. Many of those seeking shelter have children to consider. Leaving so early would almost assure that most have no food before being put out on the street. Also, many shelter activities provide counseling, medical referral, housing or job placement assistance. These services cannot be provided if the needy have been forced off the property by early morning.

6. Lack of Effective Notice

The Diocese questions the effectiveness of public notice regarding this item. Diocesan officials only became aware of the proposed changes within the last two weeks as final reading of the ordinance was being scheduled. Even if notice met the technical letter of the law, it was not effective. Such a serious reduction of property rights should have been discussed in information sharing workshops. Churches being seriously affected should have been individually noticed.

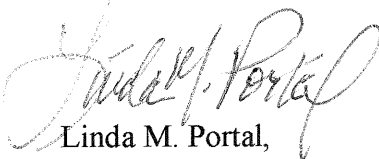
7. The Lack of a Clear Nexus Between the Public Good and the Reduction of Rights.

The proposed limitations are not tied to impact and the City has not demonstrated a threat created by the existing impact. There is, therefore, no clear nexus between the impact of the use and the restriction of property rights.

The Diocese respectfully request that the proposed amendment be denied or at very least sent back to committee for further public input and discussion. The Diocese and its member parishes would be glad to participate in further discussion of remedies for specific development concern relating to church activities and services to the poor.

Thank you for your consideration.

Very Truly,



Linda M. Portal,
Principal