

PROCESS FOR DISCUSSION OF RLUIPA ISSUES ON 11/10/08

1. Review JDonovan table and preferences for RSF
2. Review JJackson revised ordinance
3. Review JJackson email explanations
4. Provide time for CCom and staff preliminary response
5. Provide time frame by frame of table for citizen response to RSF table and preferences, including reference to relevant JJackson proposals
6. CCom and staff to discuss till motion is made.
7. Citizen final comment
8. Discussion of whether to address other zoning districts at this meeting or later.

Dear Commissioners Donovan, Hawkins and Henry:

The attached proposal addresses church-based food distribution programs. This email summarizes the changes the proposal makes to the existing language of Code Section 30-91(c), and then explains the rationale for these changes.

1. Currently, the City Code imposes no restrictions on the charitable distribution of groceries and other necessities by church-based food pantries, or on the provision of meals in conjunction with religious services, weddings, and other special events. The proposal begins with a sentence in paragraph (c) confirming that these are permitted accessory uses for any lawful place of religious assembly.
2. The proposal eliminates three existing restrictions on church-based meal distribution programs for the needy. These restrictions are the 20-meal limit, the quarter-mile spacing requirement, and the 2000-foot buffer around the UF campus.
3. In residential zoning districts, paragraph (1) of the proposal imposes a new requirement limiting the hours of operation (with specific times to be inserted by the Committee). Additionally, in residential zoning districts, paragraph (2) of the proposal clarifies and confirms the requirement that an indoor eating area be utilized.
4. In all zoning districts, paragraph (4) of the proposal imposes a new requirement that all reasonable efforts be made to minimize impacts on neighboring properties. If issues or concerns arise, the proposal imposes an obligation on the place of religious assembly to seek to resolve them, either directly or through mediation.
5. In all zoning districts, paragraph (3) of the proposal preserves and strengthens the existing Code requirements concerning submission of a management plan, and paragraph (5) of the proposal preserves the existing Code limitations on signage. Slight changes in wording are made for consistency and clarity.
6. In all zoning districts, paragraph (6) of the proposal requires a church to obtain a "registration certificate" from the city manager, and provides for annual renewal of the certificate only upon demonstration of substantial compliance with all of the foregoing restrictions. This is substantively identical to the existing Code requirement of a city manager "permit." The change in wording from "permit" to "registration certificate" is intended to respond to previously expressed concerns that people of faith should not need to seek "permission" from the city manager in order to engage in this form of worship. The change in wording does not alter the fact that the activity in question is prohibited without the required document.

Neighborhood advocates may oppose elimination of the 20-meal limit, quarter-mile spacing requirement, and 2000-foot UF buffer. But these restrictions have not been enforced, and directly relevant court decisions establish that they are not enforceable. See *Stuart Circle Parish v. Board of Zoning Appeals*, 946 F. Supp. 1225, 1236 (E.D. Va. 1996). Neighborhoods would in fact be better served by the proposed restrictions, which directly require that potential adverse impacts be minimized, than by existing restrictions that cannot be and are not in fact enforced.

It is no answer to say that the existing provisions of the Code do no harm. The 20-meal limit has been and continues to be violated every week at Holy Trinity Episcopal Church. The failure of the City to uphold this provision of its Code undermines respect for the law generally. Moreover, the presence of these restrictions in the City Code exposes the City (and its taxpayers) to the risk of a lawsuit that should be avoided. These unenforced and unenforceable provisions should be eliminated, and should be replaced with the real protections offered by the attached proposal.

I look forward to the discussion Monday evening. Thank you for your consideration.

Sincerely,

Joseph S. Jackson

CURRENT PROVISION:

070871

Section 30-91 Places of Religious Assembly

- (c) Food distribution centers for the needy. The city manager or designee may issue a permit for a food distribution center for the needy within any zoning district where places of religious assembly are permitted by right or by special use permit with the following restrictions:
- (1) No more than 20 meals may be served in a 24-hour period.
 - (2) The place of religious assembly can physically provide an indoor eating area meeting all state, county and city codes for the proposed use.
 - (3) No food distribution center for the needy may be closer than 1,320 feet from any other place of religious assembly having a food distribution center for the needy, nor shall any place of religious assembly have an accessory food distribution center for the needy located in the area described in appendix D located at the end of this chapter, and as shown on the map maintained in the department of community development.
 - (4) Each place of religious assembly shall file with the city manager a management program addressing hours of operation, personnel, management of solid waste, litter and lighting. The name, address, and phone number of the person responsible for the facility shall be kept up to date.
 - (5) Signage. Food distribution centers for the needy shall be limited to two wall-mounted, nonilluminated signs displaying the name of the facility, hours of operation and other functional information and directions. No more than one sign shall be displayed on any building face. No sign shall exceed 18 square feet, nor shall the total combined area for two signs exceed 30 square feet.

PROPOSED PROVISION:

Section 30-91 Places of Religious Assembly

- (c) Food distribution. Charitable distribution of groceries and other necessities, and provision of meals in conjunction with religious services, weddings, and other special events, are permitted accessory uses to any lawful place of religious assembly. In addition, if a place of religious assembly wishes to provide meals to the needy on a regular basis not in conjunction with religious services, it may do so only upon compliance with the following restrictions:
- (1) In residential zoning districts, meals may be served only between _____ a.m. and _____ p.m.
 - (2) In residential zoning districts, meals must be provided in an indoor eating area meeting all state, county and city codes for the proposed use.
 - (3) A management plan must be filed with the city manager or designee, specifying the days and hours of operation; the steps to be employed to prevent noise, litter, lighting, and other adverse impacts from interfering with neighboring properties; and the name, address, and phone number of the person responsible for the facility. All aspects of the management plan must be kept up to date.
 - (4) All reasonable efforts must be made to minimize impacts, including noise, litter and lighting, on neighboring properties. If any issues or concerns arise regarding impacts on any neighboring properties, the place of religious assembly must seek to resolve those concerns either directly or with the assistance of mediation services offered by the City of Gainesville Police Department.
 - (5) Signage for the meal program shall be limited to two wall-mounted, nonilluminated signs displaying the name of the facility, hours of operation and other functional information and directions. No more than one sign shall be displayed on any building face. No sign shall exceed 18 square feet, nor shall the total combined area for two signs exceed 30 square feet.
 - (6) The place of religious assembly must obtain a registration certificate for the meal program from the city manager or designee. The registration certificate shall be issued without charge, shall be valid for one year, and shall be renewed annually upon application by the place of religious assembly demonstrating substantial compliance with all of the foregoing restrictions.

70871

Powell, Emily L.

From: Joe Jackson [JJackson@law.ufl.edu]
Sent: Sunday, November 09, 2008 11:30 PM
To: Donovan, John F. - Commissioner; Hawkins, Jr., Thomas; Henry, Scherwin L.
Cc: Bredfeldt, Erik A.; Powell, Emily L.
Subject: Nov. 10 CDC meeting - proposal re: food distribution regulations
Attachments: CDC proposal 11102008.pdf

Dear Commissioners Donovan, Hawkins and Henry:

The attached proposal addresses church-based food distribution programs. This email summarizes the changes the proposal makes to the existing language of Code Section 30-91(c), and then explains the rationale for these changes.

1. Currently, the City Code imposes no restrictions on the charitable distribution of groceries and other necessities by church-based food pantries, or on the provision of meals in conjunction with religious services, weddings, and other special events. The proposal begins with a sentence in paragraph (c) confirming that these are permitted accessory uses for any lawful place of religious assembly.
2. The proposal eliminates three existing restrictions on church-based meal distribution programs for the needy. These restrictions are the 20-meal limit, the quarter-mile spacing requirement, and the 2000-foot buffer around the UF campus.
3. In residential zoning districts, paragraph (1) of the proposal imposes a new requirement limiting the hours of operation (with specific times to be inserted by the Committee). Additionally, in residential zoning districts, paragraph (2) of the proposal clarifies and confirms the requirement that an indoor eating area be utilized.
4. In all zoning districts, paragraph (4) of the proposal imposes a new requirement that all reasonable efforts be made to minimize impacts on neighboring properties. If issues or concerns arise, the proposal imposes an obligation on the place of religious assembly to seek to resolve them, either directly or through mediation.
5. In all zoning districts, paragraph (3) of the proposal preserves and strengthens the existing Code requirements concerning submission of a management plan, and paragraph (5) of the proposal preserves the existing Code limitations on signage. Slight changes in wording are made for consistency and clarity.
6. In all zoning districts, paragraph (6) of the proposal requires a church to obtain a "registration certificate" from the city manager, and provides for annual renewal of the certificate only upon demonstration of substantial compliance with all of the foregoing restrictions. This is substantively identical to the existing Code requirement of a city manager "permit." The change in wording from "permit" to "registration certificate" is intended to respond to previously expressed concerns that people of faith should not need to seek "permission" from the city manager in order to engage in this form of worship. The change in wording does not alter the fact that the activity in question is prohibited without the required document.

Neighborhood advocates may oppose elimination of the 20-meal limit, quarter-mile spacing requirement, and 2000-foot UF buffer. But these restrictions have not been enforced, and directly relevant court decisions establish that they are not enforceable. See *Stuart Circle Parish v. Board of Zoning Appeals*, 946 F. Supp. 1225, 1236 (E.D. Va. 1996). Neighborhoods would in fact be better served by the proposed restrictions, which directly require that potential adverse impacts be minimized, than by existing restrictions that cannot be and are not in fact enforced.

It is no answer to say that the existing provisions of the Code do no harm. The 20-meal limit has been and continues to be violated every week at Holy Trinity Episcopal Church. The failure of the City to uphold this provision of its Code undermines respect for the law generally. Moreover, the presence of these restrictions in the City Code exposes the City (and its taxpayers) to the risk of a lawsuit that should be avoided. These unenforced and unenforceable provisions should be eliminated, and should be replaced with the real protections offered by the attached proposal.

I look forward to the discussion Monday evening. Thank you for your consideration.

Sincerely,

Joseph S. Jackson

11/24/2008

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08
Residential Single Family (RSF)

070071

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/1/0/08
Zoned: Mixed Use Residential

070871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08
Zoned: Mixed Use

070871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08

Zoned: Office

076871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08
Zoned: Commercial

070871
070871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08
Zoned: Industrial

070871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08
Zoned: Public Facilities

070871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed

SERVICE AND PERMIT STANDARDS
FOR PLACES OF RELIGIOUS ASSEMBLY – draft 11/10/08
Zoned: Public Planned Use Districts

070871

Services	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Other
# of people per day served meals	Current policy: 20 meals per day with CMP	B: NA L: NA D: NA	B: NA L: NL with CMP D: NA	B: NL with CMP L: NL with CMP D: NL with CMP	B: NL with SUP L: NL with SUP D: NL with SUP	B: NL L: NL D: NL	
# of people per day served groceries	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day served bagged meals	Current policy: NL	NA	20 with CMP	NL with CMP	NL with SUP		
# of people per day sheltered	Current policy: 20 persons per day with CMP	NA	3 persons per day with CMP	NL with CMP	NL with SUP	NL	
Distance between meal sites	Current policy: 1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance between shelter sites	1320'	NA	1320' whenever service is being provided	NL with CMP	NL with SUP	NL	
Distance from campus(es)	Current policy: 2000'	1000'	500'	NL with CMP	NL with SUP	NL	
Other							

Key: B = Breakfast; L = Lunch; D = Dinner; BR = By Right; CMP = City Manager Permit;
 SUP = Special Use Permit; NL = No Limit; NA = Not Allowed