

City of Gainesville

*City Hall
200 East University Avenue
Gainesville, Florida 32601*



Meeting Minutes

Tuesday, February 26, 2008

5:15 PM

ADDENDUM

City Hall, Room 17

Community Development Committee

*Commissioner Scherwin Henry, Chair
Commissioner Jack Donovan, Member
Commissioner Craig Lowe, Member*

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.

CALL TO ORDER

The meeting was called to order at 5:20 PM.

ROLL CALL

Present: Craig Lowe, Jack Donovan and Scherwin Henry

ADOPTION OF THE AGENDA

Approved as recommended.

DISCUSSION OF PENDING REFERRALS

070871. Land Development Code Amendment - Religious Land Use and Institutionalized Persons Act (NB)

Chair Henry stated that a second meeting will be scheduled to fine tune items of concern.

Erik Bredfeldt, Director of Planning and Development Services, stated that staff had been attempting to strike a balance between the desires of the religious community to fulfill their faith mission, and at the same time, address legitimate concerns of the neighborhood regarding the compatibility and quality of life issues. He stated that the ordinance was referred to the CDC to examine issues relative to neighborhood compatibility. Based upon correspondence submitted to the staff and the City Commission, seven major concerns had been identified by the staff. Proposed language in the ordinance of concern is: 1) minimum lot size and setback requirements for places of religious assembly; 2) hours of operation associated with places of religious assembly operating food distribution centers or residents for destitute people; and 3) compatibility requirements proposed for places of religious assembly and food distributions or residents for destitute people. He recommended that the Committee review the issues in an expeditious manner due to the ongoing investigation by the Department of Justice. He stated that there are four other issues that were raised that are in the existing Development Code which relate to: 1) the number of meals provided; 2) saturation regarding ¼ mile and 2,000 foot distances; 3) 2,000 foot distance buffer around the University of Florida campus; and 4) indoor areas meeting all codes.

Ralph Hilliard, Planning Manager gave a powerpoint presentation to the Committee on the RLUIPA requirements.

Commissioner Lowe stated that the requirements proposed by staff related to all places of religious assembly, without regard to whether they provide social services.

Ms. Beverly Hill asked how the City would deal with a growing church.

Mr. Hilliard stated that in the event of a problem, citizens would contact the Code Enforcement Division to issue a Notice of Violation to the place of religious assembly. He noted that the Fire and Building Inspectors will check for the building capacity and code requirements.

Chair Henry stated that, hopefully, a church would understand when they had reached capacity in their area and would not want to negatively impact a neighborhood by continuing to grow.

Father Gillespie indicated that it might be difficult to find parcels of land inside the City limits for adequate expansion, and a church would, therefore, be required to go out in the County.

Commissioner Lowe pointed out that the regulations addressed areas that are zoned single-family. He stated that one of the goals of the City was to increase density in multi-family housing, but also to protect single-family neighborhoods.

Commissioner Donovan stated that the Commission would encourage developers to consider areas of the City for more intense development, but there also needed to be a zoning change.

Commissioner Lowe stated that he thought a scalable type of regulation would be preferable.

Commissioner Donovan stated that there is more than one zoning category in the City. He noted that, if the City took precautions to protect the single-family neighborhoods, it did not mean that churches could not be located in other parts of the City.

Mr. Joe Jackson asked what happens to a church that is not growing, but needs to update its facility without expanding its capacity.

Mr. Hilliard stated that a renovation deals with the interior. He indicated that most of the interior renovations deal with safety factors, and that he didn't see it as an issue, except to go to the BOA and get a permit.

Mr. Jackson asked if the burden was on the applicant to show that the code requirements are met so that an existing church was on less than ½ acre, how could it possibly meet the burden for a renovation.

Mr. Marion Radson, City Attorney stated that, in such a case the church would be non-conforming and would have a right to ask for a special exception. He stated that the request would have to be based on competent substantial evidence and the burden is on the applicant to prove the need.

Commissioner Donovan asked what would justify that in a single-family neighborhood.

Mr. Hilliard stated that staff looked at the minimum amount of space that would be required to provide the appropriate buffers for a single-family neighborhood.

Dr. Goldstein stated that the City Attorney's proposal was not only consistent with other communities, but would actually be a compromise down. He stated that if the City Attorney believes that one acre satisfies the legal requirement, then it is a reasonable way of maintaining the neighborhoods.

Commissioner Lowe stated that a definition of regulations that would preserve the character in a single-family neighborhood would be a matter of judgment. He stated that the ordinance approved at first reading comes close to meeting those needs.

Father Gillespie stated that he wasn't clear if the ordinance spoke to building capacity or the number of people in the congregation. He stated there have been no complaints filed with the City Police for over function of churches.

Chair Henry indicated that the ordinance spoke to the number of people that could be seated in the sanctuary.

A citizen stated that, if there were multiple churches in one neighborhood, it would still be one neighborhood. She stated that there were over 10 buildings in her neighborhood, and there is no way they are neighborhood churches, because there weren't enough people living in the neighborhood to attend all the religious organizations. She requested that the Committee consider each church on an individual basis and redefine the definition of neighborhoods.

A citizen asked the Committee to take into account the seating capacity of a church, as the minimum number of people of that will be present. She stated that the parking regulations might not be able to handle the parking problems. She noted that if there were 5,000 parishioners, there could be six or seven services.

Mr. Hilliard stated that increased amount of traffic to and from a church over a longer period of time could negatively affect a neighborhood.

Commissioner Lowe stated that it was important to have an appropriate lot size and to realize that there were a number of activities at a church during a week.

Commissioner Donovan stated that the City wanted to avoid negative impacts on the neighborhoods and not to limit the free exercise of religion. He indicated that a church might consider how to renovate and improve the physical structure in single-family neighborhoods rather than expand.

Mr. Jackson submitted a letter into the record with regards to lot size and setback requirements. He stated that the problem with staff's new recommendations was that the proposed standard was too much of a one-size-fits-all. He suggested that having an absolute minimum lot size of 20,000 square feet was excessive for a small congregation. He indicated that the existing code provision of 100 square feet per person did not need revisions. He suggested that the building capacity of existing facilities needed to be established to understand how any proposed lot size requirement would affect existing churches.

Mr. Hilliard stated the Building Division does not have that information coded into

their computer system. He noted that the building capacity is a certificate that is put in the back of a building showing the capacity of that facility.

Mr. Goldstein stated that the relationship of the number of people, the method and frequency with which they come to a church would be very difficult to establish.

Mr. Jackson indicated he was concerned about how the new regulations would affect existing churches. He stated that as he understands staff's recommendation, renovations, even those that do not increase capacity of the structure, are subject to the special exception process which would impact existing congregations. He stated that the nonconforming status of a property would result in requirements for existing facilities that couldn't be justified on grounds of safety concerns. He indicated that, if construction activities didn't increase the capacity of the facility, then the Commission should make sure there are no hurdles for a congregation to be able to update and expand its facility.

Mr. Harnsberger stated that since he has been on the BOA, he doesn't believe there has been a situation involving interior renovations.

Mr. Pavel Gubanikhin stated that congregations start very small and tend to grow over time. He stated that the City needs to be more proactive when making their considerations.

Mr. Hilliard stated that he is not sure where the multiple factor derives from. He stated that it has been in the Code since the 1980's. His findings with other communities are that they just have an acreage or square footage figure, and that there is no multiplier.

Stephanie Marchman, Assistant City Attorney, stated that, as instructed by the City Commission on February 4, 2008, the City Attorney's office sent a letter to the Justice Department giving them an update on the process. The Justice Department asked when the CDC was going to meet and when the item will go back to the City Commission. She explained to the Justice Department that she couldn't be sure, and at the earliest they could get back to the City Commission was March 10th.

Mr. Radson stated that they are now looking at March 24th to go back to the City Commission, and that he needs two weeks before that date to advertise for 2nd reading.

Pastor Dix indicated that he wanted to be clear that what is being proposed would, by default, penalize larger congregations.

A citizen stated that the Committee needed to keep in mind that, although an ordinance sets the minimum lot size, it couldn't regulate frequency of use. He pointed out that, in a single-family neighborhood, a church with a capacity of 100 people could have them coming and going all day long, every day. He suggested that, since the frequency of use could not be regulated, the City should consider a larger lot size.

Mr. Jackson stated that the City needs to be sure that the ordinance is drafted in a way that all the existing facilities know that if they are not considering expansion of

their capacity, that they won't be adversely affected by the ordinance. He indicated that he was also concerned with the requirements for parking, buffering, and for the facility itself, if it has to have a site plan as part of the Special Use Permit process. He stated that there was no need to amend the existing lot size requirements to accommodate those goals because they are accomplished through other provisions of the Code. He stated that the existing provisions establishing lot size and setback requirements could be retained, and any amendments to those requirements could await further discussion and resolution another day, while the rest of the ordinance is sent back to the City Commission for approval.

Mr. Goldstein stated that the neighborhoods are hanging on trying to make sure this one remaining City doesn't turn its inner city into an institutional commercial rental mess.

Ms. Lawson stated the issues at hand are policy issues and they have nothing to do with the RLUIPA ordinance.

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Mr. Hilliard spoke to the issue of existing rules dealing with destitute people in residences.

A citizen asked how long someone can stay at a residence.

Commissioner Donovan stated that there needed to be some security which could be supervision or someone on-site. He stated that he would like to start with a much smaller number to house individuals.

A citizen stated that many people needed help, but if the restrictions were greater it would also create a greater problem.

Ms. Hill asked if there is a space requirement for 20 people living in a facility, and which codes indicated how many a house could accommodate.

Mr. Hilliard stated that there are no room requirements, only a statement that a facility had to meet all State and City codes. He pointed out that everyone is to meet the Building and Fire State Standard Codes.

Mr. Hilliard stated that a new church would need a Special Use Permit and go through the process. He noted that a church wouldn't be able to buy a house in the neighborhood and simply open it up as a residence for destitute people. It is not allowed in the single-family structure. He explained that there would have to be a Special Use Permit for a place of religious assembly, and that facility would have to meet all the minimum lot size requirements and compatibility standards. He noted that the matter would also have to go before the City Plan Board. He indicated that it was anticipated that all beds would be in the church facility.

Ms. Portal asked if there is any kind of performance standard on the impact of beds in a structure based on size or its relevant lot size.

Mr. Radson stated that the requirement is the Administrative Permit issued by the City Manager that has limitations, but there are no greater limitations.

Commissioner Donovan stated that there needed to be some parameters regarding the numbers. He asked staff to look at providing shelter on a non-transitional basis by right. He suggested that a church should be allowed to shelter three families or three individuals and have the privilege to shelter up to 15 with a Special Use Permit.

A citizen asked if compatibility restrictions would be applied if persons were sheltered outdoors. He was concerned about the homeless using church property on a rotating basis where they stayed outdoors. He noted that most of the churches that have land available are not in the commercial or business districts, but are more suburban.

Mr. Hilliard stated that staff was encouraging the Commission not to allow any outdoor shelters of destitute people outside a place of religious assembly. He explained that only indoor facilities would be allowed to have beds for sleeping in residential districts.

Commissioner Donovan requested that staff clarify the requirements for indoor and outdoor shelters in single-family neighborhoods.

Commissioner Lowe stated that there were some areas, even though they were not properties zoned single-family, where certain uses may or may not be compatible.

Mr. Jackson stated that the clarification that is being requested would require an amendment to the text of the ordinance.

Mr. Jackson prepared a proposed revised version of Section 12, Section 30-91 of the Land Development Code and entered it into the record. He suggested that the requirement that either Food Distribution Program or the Shelter Program be operated responsibly, and not to interfere unreasonably with the use and enjoyment of neighboring properties. He indicated that the Code would extend to everything from lighting, litter or any other impact such a program might have on surrounding property.

Ms. Hill asked if staff could legally define what is reasonable or unreasonable.

RECOMMENDATION *Lot size requirement: 1) One acre for churches with a capacity of up to 100 people; and 2) another half acre for each additional 50 people.*

Staff to provide to the Committee: 1) the number of congregations in greater Gainesville (urban reserve area); 2) a map of distribution (color coded); and 3) what kind of permitting process if any is required on renovations both internal and external.

A motion was made by Member Lowe, seconded by Member Donovan, that this matter be Approved as Recommended. The motion carried unanimously.

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NEXT MEETING DATE

March 7, 2008 5:15 PM.

ADJOURNMENT

The meeting adjourned at 9:15 PM.