

# **Rocky Mountain Christian Church victimized by new zoning regulations**

by Randy Bright <http://www.tulsabeacon.com/?p=3766#more-3766>

Rocky Mountain Christian Church has been struggling since 2004 to get permission from the Boulder County Board to add a gymnasium, chapel, art gallery and education building to its existing facilities. The addition would add 132,000 square feet to its current campus of 116,000 square feet.

But in 1996, Boulder County adopted a new zoning code, the Boulder County Land Use Code that was the eventual result of the adoption of the Boulder County Comprehensive Plan in 1978.

In the Introduction to the Comprehensive Plan it states, “Since its initial adoption in 1978, the overall philosophy of the Plan has changed very little... growth should be channeled to municipalities, agricultural lands should be protected, and preservation of our environmental and natural resources should be a high priority in making land decisions.”

Later in the Plan, it discusses how development will be done around CSA’s, Community Service Areas, which it defines as a “boundary line drawn around a municipality within which a city expects to accommodate future urban growth.” It also says, “land outside CSA’s and their transition areas will remain rural; urban services will not be extended there and zoning will prohibit urban development and densities...”

RMCC property has always been in an Agricultural zone, even prior to the adoption of the new Code, and churches were allowed “by right”. However, when the code was changed in 1996, it required churches with an occupancy of 100 or more to obtain a special review from the Board of County Commissioners. This applied even to existing churches. With the adoption of the new code, RMCC and probably many other churches became a “non-conforming use.”

In 1997, RMCC sought and obtained approval to expand their facilities, but there was a catch - the approval was given on the condition that the church give the County a “conservation” easement to 14 acres of their land which, at that time totaled 50 acres.

RMCC made two other applications for other construction projects in 2000 and 2002, which allowed them to add storage space and to expand their school.

But in 2004, the church made another application to expand their facilities from 116,000 square feet to 240,800. It later reduced its application and made other modifications in response to concerns by the Board. However, in 2006 the Board denied the application, claiming that the church would conflict with open areas and would “overwhelm the area.”

The church then filed suit against the Boulder County Board.

According to a court document written by the judge in the case, “The church claims that the county’s conduct in processing the church’s application and the county’s denial of the church’s 2004 Special Use application, violated various provisions of the United States and Colorado constitutions.

The church alleges that the county’s actions discriminated both against religion, and between religions, by unreasonably limiting religious assemblies and institutions and structures within the county. As part of these claims, the church alleges that the county has imposed a substantial burden on the church’s exercise of religion, and that the burden imposed does not serve a compelling governmental interest.”

The document is very long, and it found some things in the church’s favor, and some in the county’s. The short version of the outcome can be summarized by a press release dated April 2, 2009, titled, “Court Rules in Favor of Rocky Mountain Christian Church Against Boulder County Commissioners.” It stated that a jury had found that the church’s application had been unfairly denied, and that the judge had ordered that the church be compensated for their legal costs (which other reports indicate exceeded \$1.25 million).

The judge in the case said, “The record in this case does not demonstrate conclusively that RMCC’s special use application violates the land use code.”

Unfortunately, that’s not the end of the story. Boulder County has appealed the case, and it is now being heard by the 10th Circuit U.S. Court of Appeals. To make matters worse, groups like the American Planning Association are joining the fray to support the county.

I’ll be following this case and writing more about it later, but what really struck me was that, even though I do fairly frequent Internet searches for cases like these, this one has been around for six years and never made a blip on my radar. Makes me wonder how many more churches are languishing in court that we still haven’t heard about.

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