

Tulsa's new zoning code will not be friendly to churches

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As I continue to study the Public Review Draft of the proposed Tulsa Zoning Code, one thing is abundantly clear: the amount of time the city has allowed for public review is not long enough. This code is long, complicated and confusing.

My immediate concern is how the new code will affect the ability for churches to build in new locations, and whether or not the new regulations are written to favor tax-paying projects over tax-exempt projects.

Last week I discussed how the Planned Unit Development (PUD) is being eliminated as a zoning tool for projects that don't fit neatly within an individual zone. It is not that churches have used this tool that often, because in the past cities have seen the development of church projects as an important asset. That is not necessarily the case now, given that many cities are trying to achieve the highest possible concentration of taxpaying properties.

The district that is going to replace PUD's in our new code is the Master Planned District of MPD. Here are a few highlights found on pages 25-18 and 25-19 of the Public Review Draft. Bear in mind that I was told in the meeting last month that the MDP's are form-based codes, which are not usually favourable toward churches.

MDP's are described as "intended to result in development that is consistent with the city's adopted plans and that provides greater public benefits than could be achieved using conventional zoning regulations." In particular it aspires to bring about a "variety of housing types," "compact, mixed-use development patterns," "a transportation network," "buildings and other improvements that by their arrangement, massing, design, character and site-design elements establish a quality, liveable environment," "incorporation of open space amenities," "low-impact development (LID)" and "flexibility and creativity in responding to social, economic and market conditions."

Section 25.070-C states that "each MPD application must include a written explanation describing how the proposed development meets the purpose and intent described in section 25.070-A (the list I just described) and the supplemental review and approval criteria of section 25.040-D2," which in part says that an MPD will be subjected to criteria that questions "whether the development will result in public benefits that are equal to or greater than those that would have resulted from development under conventional zoning (non-MPD) regulations."

Another criteria looks at "whether appropriate terms and conditions have been imposed on the approval to protect the interests of surrounding property owners and residents, existing and future residents of the MPD and the general public."

The inference here is that an MPD must contain residential development, which a church likely would not, and that the impact of a church on its neighbours would be regulated through “imposed” terms and condition of the approval.

Furthermore, the proposed code includes other legal impositions. In section 25.070-D.3.b it states that “an MPD district subdivision plat must include all covenants necessary to reasonably ensure continued compliance with the approved development plan. In order that the public interest may be protected, the City of Tulsa must be made beneficiary of the covenants pertaining to such matters as location of uses, height of structure, setbacks, screening, and access. Such covenants must provide that the City of Tulsa may enforce compliance of the covenants...”

So how many churches will be willing to develop a new project under the kinds of conditions that the city would impose? Likely not many.

For many decades churches have had the ability to leap frog just outside a city limit with their new developments, not necessarily to escape onerous rules or interference from their city, but because that was where land of sufficient parcel size and low cost was available.

Other cities have circumvented churches and other developments from using that tactic by using an Urban Growth Boundary. The proposed code does not include that term, and I was told specifically that it does not contain that rule under any other name or inference.

However, it appears that some form of it does in fact exist in the proposed code. I will discuss that in next week’s article, but for now, the new code is not looking that great for church development. Churches, as well as other developments, should expect a long and arduous approval process with no real guarantee of success if this new code is enacted.



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