

Tulsa new zoning code could really affect our churches

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Last week I wrote about how I believe that the proposed Tulsa Zoning Code held a "soft" urban growth boundary, which is embodied in a particular section of the proposed code. I concluded the article with the statement that "Its impact will all depend on how it is interpreted and who has the power to interpret and enforce it."

Any code, regardless of its form, be it an older Euclidean code that separates uses into specific areas of the city or a form-based code that promotes density and mixed use, has the potential for abusing the property rights of its citizens.

That is why it is so vital not only to get the right code, but to place in it the checks and balances needed to prevent abuse from happening. If too much power is placed in one person or in a group of people who has an agenda of their own, or who are corrupt, there has to be an ability to restrain them from ignoring the code or for the party who is wronged to be able to preserve their rights through a fair justice system.

One only has to recall that when too much power is placed into one person, property rights and other rights can be violated. For example, at 2 a.m. on March 30, 2003, Mayor Daley of Chicago ordered bulldozers to destroy the runways of Meigs Field, a small airport, near downtown Chicago – with no permits, no approvals from the FAA who provided funding to the airport and no discussions with local officials. It was completely illegal, but the consequences he received for his crime were so inconsequential that it would discourage no one from doing a similar thing. His motivation for doing so? He stated that it was for security reasons, but other reports said that he wanted the land for a park or so Chicago could host the Olympics.

We could say that this was an isolated event, that nothing like this has happened since. It might be true that there has not been an extreme event like this since, but I would say that variations of abuses do in fact still happen.

To demonstrate my point, I would like to share some new anecdotal evidence of how zoning codes can be ignored in favor of an agenda. That is the story of Church of Our Savior in Jacksonville Beach, Florida, a case that was recently adjudicated in the church's favor last fall.

According to a statement on the Alliance Defending Freedom (ADF) website (Sept. 16, 2014), "the city twice denied Church of our Savior a property permit because city officials preferred that the church property be used for some other purpose, but the U.S. District Court of the Middle District of Florida ruled Tuesday that federal law prevents the city from engaging in that type of discrimination".

The church began its efforts to build its first facility in 2012. It was a growing church that met in rented facilities on Sundays and other days of the week, and was holding Bible studies in a local hamburger restaurant.

The church recognized that if it was to grow, and due to the hardships of using facilities not their own, it needed a permanent facility of their own.

After a diligent search for land that was of appropriate size and cost, the church purchased an option on two contiguous properties. It was their plan to build a 7,400-square-foot facility that would accommodate about 200 people.

The land was located in an RS-1 zone (residential), and per their code, churches were not allowed in that zone without obtaining a Conditional Use Permit or CUP. (In Tulsa, this would be the same thing as our Special Exception permit.)

To demonstrate another point I have made about the newer codes not being friendly to churches - Jacksonville Beaches codes would allow other secular assembly uses as a matter of right; so those uses would not be required to go through the review process that churches would be required to do, even though their impact on the community would be the same in terms of parking, traffic, etc.

Twice the city's Department of Planning and Development staff determined that the church met all of the city's mandated requirements, and twice they recommended approval of the Conditional Use Permit to the city Planning Commission. But the Planning Commission turned it down. Why?

The reason given in both instances was "the church was not consistent with the character of the neighborhood."

In October of 2013, the church, with the attorneys of ADF, sued Jacksonville Beach. In September of 2014, they won their case.

It is incredibly important for Tulsa to get its zoning code right. It must assert the importance of property rights, and compel city government to a standard that protects those rights. No church should have to go through what this one endured.



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