

The constitutional rights of churches are still be denied

by Randy Bright <http://www.tulsabeacon.com/?p=4942>

On the heels of a great victory for the Religious Land Use Act (RLUIPA) in the case involving Rocky Mountain Christian Church, it didn't take long for another church to be denied a permit to build.

This time it is a small congregation, All Souls Church of God in Christ, near Atlanta, Georgia, who wanted to build an 8,400-square-foot building on a 5-acre tract of land. After renting storefront space for the past ten years, the congregation has purchased land and saved sufficient funds to build. Prior to purchasing the land, the church verified that a church could be built according to local zoning codes.

The church building was designed to accommodate 299 people, most likely because building codes require that churches that seat 300 or more in the assembly area must sprinkle the building. If a water line of sufficient size and pressure is not available, it is unlikely that the church could expand beyond its initial size.

When the church submitted for a permit to Coweta County, they worked with the county's Planning Department to make certain that their plans met the codes of the county and concerns of the planning officials. After meeting the requirements of eleven criteria for a conditional use permit and agreeing to do a traffic study and build a turning lane into their property, the planning officials made a recommendation to the Coweta Board of Zoning Appeals that the permit be granted.

But when the project was presented to the Board of Appeals, it recommended denial of the permit and when it reached the Coweta County Commissioners, they voted 3-2 to deny the permit.

I have been unable to find a reason for the denial, but according to an article in the Times-Herald, there were a number of protests made by neighbors.

One neighbor who lived next to the 5-acre tract was concerned about traffic, glare from lights, stormwater and the effect the church would have on her property value.

Another complained that there was residential development already underway in the area, and was concerned about how much more traffic the church would generate, even though the church was to have only 70 parking spaces.

The Times-Herald quoted one couple who said, "We're a neighborhood of very good people. We just don't need a church." The same couple claimed the church would be "10 times bigger" than other homes, when in fact their own home was about a third the size that the church would be.

Others complained that the church's septic tank might contaminate well water, although nearly all the homes and businesses in the area have septic tanks.

Readers who responded to the Times-Herald story were at both ends of the spectrum. Some said the church should have a right to build anywhere they wanted, and that the church was falsely denied, and others demonstrated a disdain for churches. The majority felt that the church had not been treated fairly.

What this demonstrates is how prone elected officials are to pressure by neighbors. The fact that the Commissioners denied the permit even though the Planning Department carefully scrutinized their plans to make certain that the church was in compliance with their codes speaks volumes about how easily a good project can be derailed. The NIMBY tactic (it's a great project, but Not In My Back Yard) is very effective when no other good reason can be found to deny a permit. One of the readers who responded to the article made an interesting comment. "Churches in the past needed to be in rural areas, residential areas, they were community churches. This is no longer the case. All churches belong in commercial areas where the roadways are designed to accommodate heavier traffic..."

Is this what we are coming to? Churches aren't wanted in rural areas because they don't fit the rural character of the land (as was the case with Rocky Mountain Christian Church). Churches aren't wanted in residential areas because they generate too much traffic and are out of scale with the neighborhood, and they're not wanted in commercial areas because they don't generate tax revenues. What's left?

This is why RLUIPA is so important. I'm not a lawyer, but I believe that this church could rightfully file a suit against the county for violation of their rights. It's just a shame that a community could reject one of the best neighbors a neighborhood could have. In the meantime, China is discovering that communities where citizens are becoming Christians are suffering less crime and have higher productivity on the job. Is there something wrong with this picture?

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