

**PLANNING COMMISSION**  
**DRAFT MINUTES**

June 26, 2023 (Part 2, ZDO-287)  
Meeting held online via Zoom

Commissioners present: Tammy Stevens, Carrie Pak, Gerald Murphy, Tom Peterson, Louise Lopes, Michael Wilson, Kevin Moss.

Commissioners absent: Tom Middaugh, Steven Schroedl

Staff present: Martha Fritzie, Jennifer Hughes, Darcy Renhard, Ellen Rogalin

Commission Chair Murphy opened the public hearing for ZDO-287 at 8:37 pm.

Martha Fritzie presented staff's report for file number ZDO-287. This is a legislative Zoning and Development Ordinance (ZDO) amendment package to ensure that our ZDO is compliant with a federal law called the Religious Land Use and Institutionalized Persons Act (RLUIPA). This law requires local zoning codes to treat places of worship equal to similarly situated non-religious uses. There is a lawsuit filed against the County alleging unequal treatment in our ZDO, which has prompted Planning staff and County Counsel to review our ZDO. They found potential conflicts in nearly all of our zoning districts, most of which allow certain recreational uses that are potentially "similar" to assembly uses. Even though staff is not necessarily in agreement with all of the allegations in the lawsuit, in order to ensure that we do not have any potential conflicts, staff decided that we do need to make some amendments to the ZDO. The proposal would amend the allowance for places of worship in almost all of our zoning districts.

A number of our commercial zoning districts did not need any changes. Most of the changes that are proposed would make a place of worship approvable as a primary use as opposed to being a conditional use as it is now. A primary use in our ZDO means that the use itself is allowed without any additional land use approvals and that the use has been determined to be appropriate for that zoning district. It does not exempt anyone from the development standards in the ZDO, so they may still be required to go through other land use approvals like design review or flood plain development, if it were necessary. It would simply remove the requirement to go through the conditional use process, which is a discretionary land use approval and includes considerations of various factors such as the surrounding areas and consistency with our Comprehensive Plan. Even if a conditional use were approved, an applicant may still be required to go through the additional development review processes. Right now places of worship are required to go through the conditional use process in a lot of our zones, whereas some of these other uses that were identified as potentially being similar do not. This is why we are proposing the changes.

There are a few zones where places of worship are not currently allowed, including all of the urban and rural industrial zones and the open space management zone.

Staff is proposing amendments that would allow for places of worship to match the most permissive use that may be similarly situated. Alternatively, we could take a different route and make whatever the most permissive current uses are more restrictive to match what places of worship currently are. Staff met with the Board of County Commissioners several months ago in a policy session to discuss this, and the Board directed staff to be more permissive with places of worship.

Places of worship are currently allowed in the residential zones as a conditional use. The proposal is to change this to a primary use.

Places of worship are currently allowed as a primary use in 7 of the 15 commercial zones. They are allowed as a conditional use in the other 8 commercial zones. We are proposing to make them allowed as a primary use in all 15 commercial zones.

Places of worship are not listed in the industrial zones, meaning that they are not allowed. The most permissive use that may be similarly situated are recreational facilities, which may arguably be considered similar as a place of assembly. One consideration to keep in mind is that under the Metro Urban Growth Management Functional Plan, there is a size limit for any types of places of assembly that are in regionally significant industrial areas. This would also apply to places of worship if they were to locate in one of these areas.

In the open space management district, places of worship are not listed as a use. There are some other potentially similar uses that are listed as conditional uses, including indoor recreational facilities and libraries. Staff's proposal would add places of worship as a use in this zone, but as a conditional use.

We received one comment from DLCD stating that they are concerned that the allowance does not adequately protect the industrial areas. Martha noted that there are already places of assembly allowed in the industrial zones, and that there are some size limits imposed. It makes it difficult to argue that allowing churches in an industrial zone is somehow different than allowing other places of assembly when it comes to protecting industrial areas. The other solution would be to restrict, or just not allow, some of these other uses in the industrial zones. Staff is still recommending that the Planning Commission recommend adoption of ZDO -287 as presented tonight in Attachment A.

Commissioner Wilson asked if a person would be allowed to open up any type of space as long as they call it a place of worship. Jennifer answered that there would have to be some sort of evidence that it truly was a faith based organization. It would not remove the development standards required. Could they do an outdoor place of worship? The answer is probably yes, but they would still have to adhere to the development standards which include noise standards. Commissioner Wilson is very concerned about industrial properties being used for something that does not promote industry or provide jobs in the community.

Commissioner Pak asked if the Planning Commission could recommend approval for part of the amendment package, but recommend something different for part of it. Martha replied that they can do that.

Commissioner Stevens said that there was an experience a while ago where a religious organization was running a rehabilitation center on EFU land. There is a wide range of activities that can fall under the umbrella of a "religious organization".

Commissioner Lopes said that the State may have a definition for religions or recognized religious organizations. They have requirements when hiring chaplains for the correction facilities, so we might try looking to them for a good definition.

Commissioner Murphy said that there are some abandoned buildings that already have services, fire protection, square footage, etc. could be bought for a good price but that are not even being used right now. It would be putting something to use that has been abandoned. He asked if the open space management properties are things that are government owned or if they are privately owned. Martha answered that a lot of them are government owned properties at this point in time. There aren't a lot of them in the urban area.

Jennifer explained that a lot of them are government owned parks or school playgrounds, but there are also golf courses and cemeteries.

Commissioner Peterson likes the idea of reconsidering how we treat industrial space. There is a major shortage of industrial land, so he is always concerned when we start using industrial space for other uses. He would support not including the industrial land as a zone for places of worship to be a primary use. He also realizes that would mean changing the code to make it equitable for both sides, but he is in support of doing that.

Commissioner Wilson and Commissioner Murphy agree with Commissioner Peterson in that industrial land needs to be more protected for industrial use. It is much safer and easier for industrial practices to be conducted away from residential and other public functions.

Commissioner Moss moved to recommend approval of ZDO-287 as presented by staff, with the exception of allowing places of worship as a primary use in the industrial zones. Commissioner Murphy seconded. (*Ayes=7; Nays=0. Motion passes.*)

Commissioner Moss moved to recommend approval of allowing places of worship as a primary use in the industrial areas as presented by staff. The motion died for lack of a second.

There being no further business, the hearing adjourned at 9:45 p.m.