

**STAFF CONTACT:** Lea Brumfield  
**PLANNING COMMISSION:** November 5, 2019  
**BOARD OF SUPERVISORS:** December 18, 2019

**ZTA: 2019-03 – Religious Assembly Use in RA**

**ORIGIN:** The Board of Supervisors adopted a Resolution of Intent to amend the Zoning Ordinance on March 20<sup>th</sup>, 2019. (Attachment A)

**PROPOSAL:** Amend the Zoning Ordinance to codify equal treatment of religious assembly uses in the Rural Area (RA) under the Religious Land Use and Institutionalized Person Act (RLUIPA) of 2000 and permit nonconforming RA religious assembly uses minor expansions that do not increase capacity.

**PUBLIC PURPOSE TO BE SERVED:** Brings County Zoning Ordinance into compliance with Federal regulations and provides clarity to both applicants and County staff administering permits.

**BACKGROUND:** RLUIPA states, “No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” The County permits nonreligious assembly in the RA by-right for up to 200 persons at Farm Wineries, Breweries, and Distilleries, and for Events at Agricultural Operations. The Zoning Ordinance currently requires a Special Use Permit for all religious assembly uses in the Rural Area, but on October 9, 2017, the Zoning Administrator issued a Letter of Determination clarifying that religious assembly uses of under 200 persons are permitted by-right under RLUIPA. This clarification has not, however, been codified in the Zoning Ordinance.

This ZTA was brought to the Board as part of a work session on March 20, 2019, where it was suggested that the ZTA be drafted following the adoption of a ZTA on events at agricultural operations. The events at agricultural operations ZTA, adopted May 15, 2019, aligned regulations for events at agricultural operations with regulations for events at farm wineries, breweries, and distilleries.

**STAFF COMMENT:**

RLUIPA permits the County to regulate religious assembly uses on no less than “equal terms with a nonreligious assembly or institution.” The most permissive nonreligious assembly uses in the Rural Area are assemblies of up to 200 persons at agricultural operations, including farm wineries, breweries, and distilleries.

The highest degree of regulation permitted at religious assemblies would correspondingly include restrictions based on maximum attendees at a single time, parcel size, visitor trips per day, the nature of the event (educational, workshops, sales-related, accessory events, the primary religious assembly use, etc.), minimum yards for primary structures, outdoor event and activity areas, parking areas, tents, and portable toilets, among other regulations. Additionally, standard regulations regarding outdoor amplified music decibel limitations apply. Of those potential regulations, this proposed ZTA restricts religious assembly uses only to reduce substantial impacts on public health, safety, or welfare.

This ZTA also addresses the current requirement that nonconforming religious assembly uses in the Rural Area seek a special use permit for any alterations or additions to their structures, including for minor additions that do not increase the structure's capacity. In some cases, these permits have cost significantly more than the improvements themselves. By permitting by-right minor improvements to nonconforming religious assembly uses, this ZTA seeks to reduce an onerous permitting requirement for established religious assemblies that serve small rural communities.

Zoning Ordinance section 33.6(B) establishes factors to be reasonably considered by the Planning Commission and Board of Supervisors in the review of ZTAs. The factors applicable are reviewed below:

(i) the existing use and character of the property

This ZTA will permit existing religious assembly uses to continue unchanged in use, with the potential for improved character through more streamlined approval of minor additions that will not increase assembly numbers.

(ii) the Comprehensive Plan

The Comprehensive Plan states in Chapter 7 – Rural Areas:

Strategy 5c: Consider amending the Zoning Ordinance to allow community centers and religious institutions at an appropriate scale in designated crossroads communities without legislative review in existing structures.

This ZTA allows religious institutions by right at a scale approved for other, non-religious assemblies in the Rural Area, including Rural Area crossroads communities. This is a use supportive of Rural Area residents.

(iii) the suitability of property for various uses

The suitability of property for religious assembly uses of no more than 200 persons is not impacted by this ZTA, as this use is established under RLUIPA.

(iv) the trends of growth or change

Older religious assembly uses, including nonconforming religious assembly uses, increasingly seek improvements to their structures, as their structures age and their needs evolve. This ZTA clarifies that by-right religious assembly uses of no more than 200 persons are not required to seek a special use permit, and removes the burden of onerous and costly special use permits for minor additions for religious assembly uses of more than 200 persons.

(v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies

Demand for religious assembly uses in the Rural Area with assemblies of no more than 200 persons has remained consistent, and this ZTA is not anticipated to increase demand for religious assembly uses. Demand for religious assembly uses of over 200 persons has increased, but these uses continue to require a Special Use

Permit.

(vi) the community's transportation requirements

This ZTA does not impact the community's transportation requirements.

(vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services

This ZTA does not impact the community's requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public service areas.

(viii) the conservation of natural resources

This ZTA does not impact the conservation of natural resources.

(ix) preserving flood plains

This ZTA does not impact the preservation of flood plains.

(x) protecting life and property from impounding structure failures

This ZTA does not impact impounding structures.

(xi) preserving agricultural and forestal land

This ZTA codifies the by-right use category of religious assembly of no more than 200 persons as previously established by RLUIPA, and therefore does not impact preservation of agricultural and forestal land.

(xii) conserving properties and their values

This ZTA codifies the by-right use category of religious assembly of no more than 200 persons as previously established by RLUIPA, and protects neighboring property values by requiring neighbor notice, by increasing required yards, and by imposing a curfew on outdoor amplified music.

(xiii) encouraging the most appropriate use of land throughout the County

This ZTA codifies the by-right use category of religious assembly of no more than 200 persons as previously established by RLUIPA, and therefore does not impact appropriate use of land throughout the County. The appropriateness of use for religious assemblies of more than 200 persons will be determined during the special use permit review process.

### Strategic Plan

This ZTA facilitates the highest level of public service, and addresses the Core Values of Integrity and Stewardship by providing fair treatment of religious assembly uses under RLUIPA and honoring our role as stewards of the public trust and administrators of local regulations.

**Staff Time and Budgetary Impacts**

The adoption of this Zoning Text Amendment is not anticipated to have any staff time or budgetary impacts.

**RECOMMENDED ACTION:**

Staff recommends adoption of the Zoning Text Amendment as outlined in Attachment B.

**ATTACHMENTS:**

Attachment A – Resolution of Intent

Attachment B – Proposed Ordinance Language