

No. 25-965

IN THE
Supreme Court of the United States

DANIEL GRAND,

Petitioner,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT

**BRIEF OF *AMICUS CURIAE* AMERICAN
PLANNING ASSOCIATION IN SUPPORT OF
NO PARTY**

BRIAN R. SMITH

Counsel of Record

EVAN J. SEEMAN

RYAN D. HOYLER

ROBINSON & COLE LLP

One State Street

Hartford, CT 06103

(860) 275-8200

bsmith@rc.com

Counsel for Amicus Curiae

September 8, 2026

396352

COUNSEL PRESS

A  Proceed Service
The Appellate Experts®

(800) 274-3321 • (800) 359-6859

TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES	iii
INTEREST OF THE AMICUS.....	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	4
I. Planning and Zoning for Religious Use is Important – And Recognized by Federal Law	4
A. Planning and Zoning Mitigate Incompatibility.....	4
B. Planning and Zoning for Religious Land Uses	5
C. APA’s Professional Principles Help to Ensure a Fair Process	10
II. RLUIPA, the First Amendment, and Zoning ..	11
A. Requirement for Finality.....	13
B. Futility	15
III. Requiring Administrative Finality Serves Important Legal and Planning Interests	18

Table of Contents

	<i>Page</i>
A. Development of a Full Record	18
B. How Zoning Regulation is Applied	21
C. Avoiding Unnecessary Judicial Review	22
D. Principles of Federalism	27
CONCLUSION	29

TABLE OF CITED AUTHORITIES

	<i>Page</i>
CASES	
<i>Abbott Labs. v. Gardner</i> , 387 U.S. 136 (1967).....	22, 23, 25
<i>Alzandani v. Hamtramck Pub. Schs.</i> , 176 F.4th 455 (6th Cir. 2026)	16
<i>Anash, Inc. v. Borough of Kingston</i> , 184 F.4th 214 (3d Cir. 2026).....	20
<i>Church of Our Lord & Savior Jesus Christ v.</i> <i>City of Markham, Illinois</i> , 913 F.3d 670 (7th Cir. 2019).....	24
<i>City of Austin, Texas v. Reagan Nat’l Advert. of</i> <i>Austin, LLC</i> , 596 U.S. 61 (2022).....	9
<i>City of Lakewood v. Plain Dealer Pub. Co.</i> , 486 U.S. 750 (1988).....	27
<i>Congregation Anshei Roosevelt v.</i> <i>Plan. & Zoning Bd.</i> , 338 Fed. Appx. 214 (3d Cir. 2009).....	24
<i>Daybell v. Davis</i> , 366 F. App’x 960 (10th Cir. 2010)	16

Cited Authorities

	<i>Page</i>
<i>Dougherty v. Town of N. Hempstead Bd. of Zoning Appeals</i> , 282 F.3d 83 (2d Cir. 2002)	13-15
<i>Elliott v. Avangrid Mgmt. Co.</i> , No. 25-2102, 2026 WL 1799377 (2d Cir. June 23, 2026)	16
<i>Evans v. Bd. of Cnty. Comm’rs</i> , 994 F.2d 755 (10th Cir. 1993)	27
<i>Extra Energy, Inc. v. Dir., Off. of Workers’ Comp. Programs, United States Dep’t of Lab.</i> , No. 24-1618, 2026 WL 1802647 (4th Cir. June 23, 2026)	16
<i>Gilmore v. Weatherford</i> , 694 F.3d 1160 (10th Cir. 2012)	15-16
<i>Grace Cmty. Church v. Lenox Twp.</i> , 544 F.3d 609 (6th Cir. 2008)	18, 24
<i>Gray Television, Inc. v. Fed. Commc’ns Comm’n</i> , 130 F.4th 1201 (11th Cir. 2025)	16
<i>Grosz v. City of Miami Beach, Fla.</i> , 712 F.2d 729 (11th Cir. 1983)	6, 19
<i>Guatay Christian Fellowship v. Cnty. of San Diego</i> , 670 F.3d 957 (9th Cir. 2011)	24

Cited Authorities

	<i>Page</i>
<i>Harvard Maint., Inc. v. Nat'l Lab. Rels. Bd.</i> , 165 F.4th 886 (5th Cir. 2026)	15
<i>Health Equity Res. Urbana, Inc. v. Sullivan</i> , 927 F.2d 963 (7th Cir. 1991)	17
<i>Herr v. U.S. Forest Serv.</i> , 803 F.3d 809 (6th Cir. 2015)	15
<i>Hope Baptist Church of Castle Point v. City of Bellevue</i> , 655 F. Supp. 1216 (E.D. Mo. 1987)	25
<i>Hydraulic Press Brick Co. v. Council of City of Indep.</i> , 16 Ohio App. 3d 204, 475 N.E.2d 144 (1984)	26
<i>Jesus Christ Is the Answer Ministries, Inc. v. Baltimore Cnty.</i> , 915 F.3d 256 (4th Cir. 2019)	28
<i>Konikov v. Orange Cnty.</i> , 410 F.3d 1317 (11th Cir. 2005) (<i>per curiam</i>)	23
<i>Messiah Baptist Church v. Cnty. of Jefferson</i> , 859 F.2d 820 (10th Cir. 1988)	12
<i>Midrash Sephardi, Inc. v. Town of Surfside</i> , 366 F.3d 1214 (11th Cir. 2004)	13, 24

Cited Authorities

	<i>Page</i>
<i>Miles Christi Religious Order v. Twp. of Northville</i> , 629 F.3d 533 (6th Cir. 2010)	23
<i>Murphy v. New Milford Zoning Comm’n</i> , 402 F.3d 342 (2d Cir. 2005)	7, 8, 24
<i>New Mexicans for Bill Richardson v. Gonzales</i> , 64 F.3d 1495 (10th Cir. 1995)	15
<i>O’Shea v. Littleton</i> , 414 U.S. 488 (1974)	23
<i>Pakdel v. City and Cnty. of San Francisco</i> 594 U.S. 474 (2021)	14, 29, 30
<i>Portela-Gonzalez v. Sec’y of the Navy</i> , 109 F.3d 74 (1st Cir. 1997)	16
<i>Roman Catholic Bishop of Springfield v. City of Springfield</i> , 724 F.3d 78 (1st Cir. 2013)	28
<i>Simon v. E. Kentucky Welfare Rts. Org.</i> , 426 U.S. 26 (1976)	23
<i>State ex. rel. City of Lorain v. Stewart</i> , 119 Ohio St.3d 222, 893 N.E.2d 184 (Ohio 2008) . . .	26
<i>Steffel v. Thompson</i> , 415 U.S. 452 (1974)	24

Cited Authorities

	<i>Page</i>
<i>Suitum v. Tahoe Reg'l Plan. Agency</i> , 520 U.S. 725 (1997).....	12, 13
<i>Taylor Inv., Ltd. v. Upper Darby Twp.</i> , 983 F.2d 1285 (3d Cir. 1993)	13
<i>Temple B'Nai Zion, Inc. v. City of</i> <i>Sunny Isles Beach</i> , 727 F.3d 1349 (11th Cir. 2013).....	23, 27-28
<i>Tesoro Ref. & Mktg. Co. v. FERC</i> , 552 F.3d 868 (D.C. Cir. 2009)	16, 17
<i>Triple G Landfills v. Bd. of Comm'rs of</i> <i>Fountain Cnty.</i> , 977 F.2d 287 (7th Cir.1992)	28
<i>Trump v. California</i> , No. 26A124, 2026 WL 2473573 (U.S. Aug. 24, 2026)	29
<i>Trump v. New York</i> , 592 U.S. 125 (2020) (<i>per curiam</i>).....	29
<i>United Artists Theatre Circuit, Inc. v.</i> <i>Twp. of Warrington</i> , 316 F.3d 392 (3d. Cir. 2003).....	27
<i>Urban ex rel. Urban v. Jefferson Cnty.</i> <i>Sch. Dist. R-1</i> , 89 F.3d 720 (10th Cir. 1996).....	15

Cited Authorities

	<i>Page</i>
<i>Vaughn v. Harrison Cnty., Mississippi</i> , No. 1:25-CV-347-TBM-RPM, 2025 WL 3252301 (S.D. Miss. Nov. 21, 2025)	25
<i>Vill. of Belle Terre v. Boraas</i> , 416 U.S. 1 (1974)	5, 6
<i>Vill. of Euclid, Ohio v. Ambler Realty Co.</i> , 272 U.S. 365 (1926)	7, 9
<i>Williamson Cnty. Reg. Plan. Comm’n v.</i> <i>Hamilton Bank of Johnson Cnty.</i> 473 U.S. 172 (1985)	14, 17, 24, 29

STATUTES AND REGULATIONS

42 U.S.C. § 2000cc–3(e)	13
42 U.S.C. §§ 2000cc, et seq.	11
Ohio Revised Code § 2506.03	26

OTHER AUTHORITIES

4 Am. Land Plan. L. § 82:21 (rev. ed. 2026) (West)	12
146 Cong. Rec. S7774-01	12
APA, Ethical Principles in Planning (1992) https:// www.planning.org/ethics/ethicalprinciples/	10, 11

Cited Authorities

	<i>Page</i>
APA, American Institute of Certified Planners' Code of Ethics and Professional Conduct (Nov. 2021), https://www.planning.org/ethics/ethicscode/	10
Charles A. Wright et al., 13B Federal Practice and Procedure § 3532.3 (3d ed.) (West)	15
City of University Heights City Code, available at https://codelibrary.amlegal.com/codes/universityhts/latest/unhoh_oh/0-0-0-46195	21
Google Street View, available at https://www.google.com/maps/@41.4956981,-81.531357,3a,90y,84.2h,86.99t/data=!3m7!1e1!3m5!1sNGQro-kBEIE_8K19Qtn8Mg!2e0!6shttps:%2F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fcb_client%3Dmaps_sv.tactile%26w%3D900%26h%3D600%26pitch%3D3.007131537242472%26panoid%3DNGQro-kBEIE_8K19Qtn8Mg%26yaw%3D84.20276649373892!7i16384!8i8192?entry=ttu&g_ep=EgoyMDI2MDgxNy4wIKXMDSOASAFQA%3D%3D	9
J.E. Gotherman, et al., Baldwin's Ohio Practice, <i>Local Government Law—Municipal Law</i> §§ 25:48 to 25:50 (1st ed.) (West).	21
Oh. Plan. & Zoning L. § 9:11 (2026 ed.) (West)	6, 25

Cited Authorities

	<i>Page</i>
P. Salkin, 3 Am. Law Zoning § 28:8.50 (5th ed.) (West).....	28
Rathkopf, et al., 1 Rathkopf's The Law of Zoning and Planning (4th ed.) (West).....	4, 5, 10

INTEREST OF THE AMICUS¹

The American Planning Association (“APA”) is a non-profit, public-interest research organization founded to advance the art and science of land-use, economic, and social planning and development at the local, regional, state, and national levels. Based in Chicago and Washington, D.C., APA and its professional institute, the American Institute of Certified Planners (“AICP”), represent nearly 39,000 practicing planners, elected officials, and citizens in state and regional chapters across the United States. APA members work in the public and private sectors to formulate and implement communities’ future growth plans, land-use and zoning regulations, and similar planning tools. APA and its chapters educate planners on the planning and legal principles underlying land-use regulation through publications and training programs, as well as by filing amicus curiae briefs on important land-use law questions in state and federal courts across the country.

Formally constituted in 1978, APA, along with its predecessor organizations, traces its roots to 1917. The organization has 46 regional chapters and 17 divisions devoted to specialized planning interests. Sixty-five percent of APA members work for state and local government agencies. These members are involved, on a day-to-day basis, in formulating and enforcing land-use regulations. Other planners work in the private sector,

1. No counsel for any party authored this brief in whole or in part, and no entity or person, aside from amici, their members, and their counsel, made any monetary contribution toward the preparation or submission of this brief.

assisting developers, non-profits, and others with matters related to the built environment.

APA is centrally concerned with zoning's role in advancing sound planning, from making certain that sufficient infrastructure and public services exist to support growth, to ensuring that existing and proposed developments are consistent with public health and safety, and the protection of private property. APA is also concerned with ensuring that citizen and professional planners' expertise is incorporated into local planning and zoning processes. Because this case touches on the foregoing questions, APA respectfully submits this Brief of Amicus Curiae.

SUMMARY OF ARGUMENT

This case involves one of the quintessential and routine functions of planning: the application of existing land use regulations to a site-specific situation. Planners and local governments—often daily—confront questions around whether, and the degree to which, a person's home may be used for things besides purely residential activities like sleeping, eating, and family gathering. Indeed, homes today serve many functions. They are places of work, production of commercial goods, education, recreation, and, as is the case here, religious worship. That this case involves religious exercise is therefore also not unusual. Because this case implicates the role of planners and important planning principles, APA submits this Brief of Amicus Curiae in support of neither party. Good planning demands a rational, transparent, considered, and *complete* public process in the interpretation and application of local plans and zoning laws. It also demands that planners and

local governments advance the fundamental rights of all parties to the planning process, including those related to religious worship.

To achieve these ends, local governments and planners must have the opportunity to interpret and apply their zoning regulations to achieve finality in the zoning process. In addition to reflecting good planning, requiring finality in the zoning process preserves the federalist system and improves judicial efficiency. Without it, courts' decisions might constitute mere speculation. Nevertheless, there are some cases where a party's fundamental rights are at stake, and particularly where that party has not been afforded a fair and complete planning process, APA acknowledges that requiring finality would be futile.

This case raises legitimate questions about whether the Petitioner's special permit application was afforded the benefit of a flawless planning process. Nevertheless, the Petitioner's withdrawal from that process deprived the City of University Heights, Ohio ("City") and its planners of the ability to conduct a complete process and issue a decision on his application. Indeed, his proposal might have been approved. It is for these reasons that APA submits this brief.

ARGUMENT

I. Planning and Zoning for Religious Use is Important – And Recognized by Federal Law

A. Planning and Zoning Mitigate Incompatibility

Some uses are incompatible with others. No one wants a factory with excessive exhaust and runoff—which may include harmful chemicals—next to dense housing where people can be easily exposed to potentially dangerous effluent. Planning and zoning regulate and control the use of land to avoid these and many other types of incompatibilities; they address externalities such as health, safety, light, air, density, traffic, aesthetics, environmental issues, economic development, historic, cultural, and family values, and the general welfare of the community as a whole. Rathkopf, et al., 1 Rathkopf’s The Law of Zoning and Planning § 1:12 (4th ed.) (2026 update) (West). Through planning, communities set goals for their growth and development, organizing the interrelationships of differing land uses. *Id.*, § 1:41. Zoning, on the other hand, is the regulatory tool by which those planning objectives are implemented. *Id.*

Zoning affords legal protection for residents, workers, and other community members. Large trucks coming and going from industrial sites would prefer not to deal with school children crossing the road next door—and vice versa. Similarly, a large, multi-national corporate headquarters is more difficult to incorporate into a small residential community than a small, local business, such as a bank, without raising traffic, fire, and other risks.

Zoning also ensures that growth is planned, not uncontrolled. “A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land-use project addressed to family needs.” *Vill. of Belle Terre v. Boraas*, 416 U.S. 1, 9 (1974). “It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.” *Id.* Guiding growth helps protect property values. 1 Rathkopf’s, *supra*, § 16:2 (discussing how restrictions related to promoting the visual appearance of a community further the general welfare by protecting property values). Similarly, modern zoning defends rights as well, ensuring that owners have an understanding of what uses are available for their property—and ensuring that the right to those uses is protected. *Id.*, at § 38:29.

Modern zoning also incorporates relationships between the existing infrastructure of the community—including streets, highways, bridges, as well as parks, schools, public transit, and public use buildings—and the uses surrounding such infrastructure. *Id.*, at § 1:41. Planning, in particular, is concerned not just with the physical way the land is developed but “but the manner of its use and the existence of municipal facilities to facilitate such use.” *Id.*

B. Planning and Zoning for Religious Land Uses

Some religious uses, such as small prayer groups or even some smaller congregation facilities, are not particularly impactful uses. Indeed, “[c]hurches are considered to be such a positive force that excluding them from residential areas does not promote public health,

safety, morals, and welfare.” Oh. Plan. & Zoning L., § 10:20 Freedom of Religion (2026 ed.) (West). But some religious uses—just like any other use—can present incompatibilities that necessitate more planning and zoning scrutiny. The use of a property as a large religious structure presents issues such as traffic, parking, and public safety. *Grosz v. City of Miami Beach, Fla.*, 712 F.2d 729, 738 (11th Cir. 1983). Fire safety is a concern as well. *See Belle Terre*, 416 U.S. at 4. The Petitioner in this case clearly acknowledged fire safety as a concern in his initial special permit application. *See* Pet. App. 119a (acknowledging “three means of egress” from recreation room to be used for prayer gatherings).

Sometimes, the impacts of such uses are obvious on the face of the use itself:



Image 1 – Hartford, Connecticut, Temple of the Church of Jesus Christ of Latter-Day Saints in Farmington, Connecticut. Courtesy of Ryan D. Hoyer, co-counsel.

A large assembly structure like this one can generate more traffic and potential environmental impacts, while similarly having a potential aesthetic impact on the surrounding neighborhood compared with a single-family home.

However, the use of a residence for religious gatherings may have similar effects—depending on what is being done. Public safety is always a concern. More people—be they driving or walking—mean more risk for everyone. “Segregation of residential from nonresidential neighborhoods will increase the safety and security of home life, greatly tend to prevent street accidents, especially to children by reducing traffic and resulting confusion, ... decrease noise ... [and] preserve a more favorable environment in which to raise children.” *Vill. of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365, 394 (1926). That is to say, sometimes the use is not entirely obvious.

Below is a picture of the house at 25 Jefferson Drive in New Milford, Connecticut, involved in *Murphy v. New Milford Zoning Commission*, 402 F.3d 342 (2d Cir. 2005). where the residents held prayer meetings with upwards of sixty participants:



Image 2 – 25 Jefferson Drive in New Milford, Connecticut, involved in *Murphy v. New Milford Zoning Comm’n*, 402 F.3d 342 (2d Cir. 2005). Courtesy of Abby Conroy, Robinson & Cole LLP.

Additionally, below is a picture of the house involved in this appeal. In a single-family residential neighborhood, large gatherings produce heavier-than-usual traffic and present concerns regarding the capacity of the home to host such gatherings.



Image 3 – 2343 Miramar Boulevard in University Heights, Ohio, the property that is the subject of this case. Photo courtesy of Google Street View.²

Although small religious gatherings in a residence may have little to no effect on surrounding properties, depending on the particular use—and size of the gathering—it may have greater impact. For example, if such a use entails more people driving or walking, there may be greater public safety risk. “Segregation of residential from nonresidential neighborhoods will increase the safety and security of home life, greatly tend to prevent street accidents, especially to children by reducing traffic and resulting confusion, ... decrease noise ... [and] preserve a more favorable environment in which to raise children.” *Euclid*, 272 U.S. at 394. Or the effects may be entirely different and unrelated to traffic and parking—and relate instead to things such as fire safety and individual protection. Alternatively, the concerns may be unrelated to safety but may instead relate to the environment or—in some situations—aesthetics. *City of Austin, Texas v. Reagan Nat’l Advert. of Austin, LLC*, 596 U.S. 61, 66 (2022).

Good planning and zoning therefore ensures, through careful analysis of any proposed religious use, that the

2. Image taken from Google Street View, available at https://www.google.com/maps/@41.4956981,-81.531357,3a,90y,84.2h,86.99t/data=!3m7!1e1!3m5!1sNGQro-kBEIE_8K19Qtn8Mg!2e0!6shttps:%2F%2Fstreetviewpixels-pa.googleapis.com%2Fv1%2Fthumbnail%3Fcb_client%3Dmaps_sv.tactile%26w%3D900%26h%3D600%26pitch%3D3.007131537242472%26panoid%3DNGQro-kBEIE_8K19Qtn8Mg%26yaw%3D84.20276649373892!7i16384!8i8192?entry=ttu&g_ep=EgoyMDI2MDgxNy4wIKXMDS0ASAFQAw%3D%3D.

basic requirements for safety and compatibility are met. 1 Rathkopf's, *supra*, § 61:1. This helps protect public safety, security and property values.

C. APA's Professional Principles Help to Ensure a Fair Process

The American Institute of Certified Planners' (AICP) Code of Ethics and Professional Conduct ("APA Ethics Code")—which applies to APA members who achieve the status of certified planner—provides as an aspirational principle that those involved in the zoning process must "be conscious of the rights of others" and "safeguard the public trust." AICP, Code of Ethics and Professional Conduct.³ This latter principle is expanded into multiple sub-principles, including that planners should "[d]eal fairly with all participants in the planning process," "[e]xercise fair, honest, skilled, informed and independent professional judgment," and "[s]erve as advocates for the public or private sector only when the client's objectives are legal and consistent with the public interest." *Id.*

Furthermore, the APA offers guidance to members of the public who have been elected or appointed to planning and/or zoning commissions. These include understanding conscious and unconscious biases and privileges in an effort to be truly inclusive, understanding the rights of others with respect and compassion, participating in the process with integrity, and aiming for economic, social and racial equity. *See also* APA, Ethical Principles in Planning (1992) ("APA Principles") ("Planning Process Participants should ... [e]xercise fair, honest and independent judgment

3. Available at <https://www.planning.org/ethics/ethicscode/>.

in their roles as decision makers and advisors”).⁴ Specifically, the APA encourages its members, and those involved in zoning, to interpret history and cultural heritage in the most inclusive sense possible, reaching across barriers of race, ethnicity, religion, class or income. This includes supporting equal application of laws and resources without regard to form or nature of ownership, religious or cultural affiliation.

The APA’s guidelines also incorporate constitutional concerns—such as freedom of religious exercise—into zoning practices. The APA provides training and guidance on how to interpret First Amendment challenges and how to deal with The Religious Land Use and Institutionalized Persons Act (“RLUIPA”). 42 U.S.C. § 2000cc, et seq. The APA supports protecting and defending religious expression, while acknowledging the legitimate—and *sometimes* countervailing—interests that local governments may have in the planning and zoning process.

While none of the foregoing means that the zoning process will be free from controversy, it provides a measure of protection for applicants and community members and establishes guideposts for a fair process that can and should produce a lawful outcome.

II. RLUIPA, the First Amendment, and Zoning

Federal law recognizes the importance of local planning and planning procedures when siting and managing impacts of religious land uses. When enacting

4. Available at <https://www.planning.org/ethics/ethicalprinciples/>.

RLUIPA in 2000, Congress made clear that it did “not provide religious institutions with immunity from land use regulation, nor [did] it relieve religious institutions from applying for variances, special permits or exceptions, hardship approval, or other relief provisions in land use regulations, where available without discrimination or unfair delay.” 146 Cong. Rec. S7774-01, at *S7776. “[A] church has no constitutional right to be free from reasonable zoning regulations nor does a church have a constitutional right to build its house of worship where it pleases.” *Messiah Baptist Church v. Cnty. of Jefferson*, 859 F.2d 820, 824 (10th Cir. 1988); *see also* 4 Am. Land Plan. L. § 82:21 (rev. ed. 2026) (West) (citation omitted) (“[c]learly, it was not the intent of Congress to force municipalities to allow their residents to operate religious institution[s] in a residential subdivision.”).

Nevertheless, zoning is *designed* to deal with difficult situations and has inherent flexibility to bend to constitutionally-protected rights. This Court has acknowledged that local land use authorities are often highly discretionary. *Suitum v. Tahoe Reg’l Plan. Agency*, 520 U.S. 725, 738 (1997). As a result, as discussed above, the structure of local land use also provides for necessary flexibility, often in the role of the ZBA, which provides for appeals from decisions of local land use officials. The ZBA also provides for “variances” from local land use regulations, permitting individuals to make use of their land in ways in more productive ways than the zoning regulations permit, while also ensuring the protection of the comprehensive zoning plan as a whole.

“When such flexibility or discretion may be brought to bear on the permissible use of property as singular as

a parcel of land, a sound judgment about what use will be allowed simply cannot be made by asking whether a parcel's characteristics or a proposal's details facially conform to the terms of the general use regulations." *Suitum*, 520 U.S. at 738-39. Indeed, RLUIPA itself contemplates such flexibility. Specifically, RLUIPA contains a "safe harbor" provision, which permits local governments to avoid "the preemptive force" of RLUIPA by changing any regulations that result in substantial burden on religion or by providing exemptions to avoid such a substantial burden. 42 U.S.C. § 2000cc-3(e). However, unless parties burdened by a regulation come forward and make their burdens known to the government, the government cannot take advantage of this provision, rendering it useless.

A. Requirement for Finality

Therefore, in cases arising from the *application* of zoning regulations—such as this one—courts have historically required *some* level of finality. "This finality rule recognizes that, with respect to zoning disputes, a property owner suffers no mature constitutional injury until the zoning authority defines the application of the zoning ordinance and defines the harm to the owner. The finality rule also prevents the premature adjudication of zoning disputes." (Citation omitted.) *Taylor Inv., Ltd. v. Upper Darby Twp.*, 983 F.2d 1285, 1291 (3d Cir. 1993). Without a determination by the proper decision-making body in the zoning process, it becomes impossible for a reviewing court to "determine ... how [a special permit would] be applied and whether [the City] will use the [special permit] process to deny the [Petitioner a permit] to operate..." *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1224-25 (11th Cir. 2004).

This Court has regularly acknowledged the need for such finality. In *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson County*, it held that finality is important to confirm that the “initial decisionmaker has arrived at a definitive position on the issue that inflicts an actual, concrete injury.” 473 U.S. 172, 193 (1985), *partially overruled by Knick v. Twp. of Scott, Pennsylvania*, 588 U.S. 180 (2019). This relevant—and still-effective—portion of *Williamson County* requires a plaintiff to achieve a final agency decision to ripen a regulatory taking challenge. *Id.* at 186.

Despite partially overturning *Williamson County*, this Court has continued to reaffirm the requirement for finality in takings cases. In *Pakdel v. City and County of San Francisco*, the Court, per curiam, emphasized the importance of finality in the review of decisions by administrative bodies. 594 U.S. 474 (2021).

Further, *Pakdel* confirmed that *actual* finality—and certainly final exhaustion of administrative remedies—is *not* required so long as there is “*de facto* finality.” *Id.*, at 479 (“[t]he rationales for the finality requirement underscore that nothing more than *de facto* finality is necessary.”). That is to say, “[o]nce the government is committed to a position ... [any] potential ambiguities evaporate and the dispute is ripe for judicial resolution.” *Id.*

Indeed, this Court, and other courts, have acknowledged that there are certain exceptions, especially in cases involving First Amendment protected activities, to the finality rule. Specifically, in First Amendment cases, “the ripeness doctrine is somewhat relaxed.” *Dougherty v. Town of N. Hempstead Bd. of Zoning Appeals*, 282 F.3d

83, 90 (2d Cir. 2002); *see also* Charles A. Wright et al., 13A Federal Practice and Procedure § 3532.3 (1984) (“First Amendment rights of free expression and association are particularly apt to be found ripe for immediate protection, because of the fear of irretrievable loss.”). Courts have held that First Amendment rights fit within a more “relaxed” ripeness doctrine because the “rights of free expression and association are particularly apt to be found ripe for immediate protection, because of the fear of irretrievable loss.” (Citation omitted.) *New Mexicans for Bill Richardson v. Gonzales*, 64 F.3d 1495, 1500 (10th Cir. 1995). Nonetheless, this “relaxed” ripeness is most often applicable in facial challenges. *See id.* (applying to facial challenge).

B. Futility

Courts generally will not require an applicant to go through the administrative process to finality when the decision is pre-determined and clearly known ahead of time. Actual finality is excused “when administrative remedies would be futile, when they would fail to provide relief, or when an agency has adopted a policy or pursued a practice of generally applicability that is contrary to the law.” (Citation and quotations omitted.) *Urban ex rel. Urban v. Jefferson Cnty. Sch. Dist. R-1*, 89 F.3d 720, 724 (10th Cir.1996). The law does not require one to take on “hopeless causes.” *Herr v. U.S. Forest Serv.*, 803 F.3d 809, 823 (6th Cir. 2015).

“The futility exception, however, is a narrow one; to fit within the futility exception, a plaintiff must show that resort to the administrative process would be ‘clearly useless.’” (Citation omitted.) *Gilmore v. Weatherford*, 694

F.3d 1160, 1169 (10th Cir. 2012). “[T]he futility exception is not available for the asking. Reliance on the exception in a given case must be anchored in demonstrable reality. A pessimistic prediction or a hunch that further administrative proceedings will prove unproductive is not enough to sidetrack the exhaustion rule.” (Citation omitted.) *Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, 78 (1st Cir. 1997).

The narrowness of the futility exception is universally accepted by *all* the Circuits. *See, e.g., Elliott v. Avangrid Mgmt. Co.*, No. 25-2102, 2026 WL 1799377 (2d Cir. June 23, 2026) (referring to futility exception as “narrow”); *Extra Energy, Inc. v. Dir., Off. of Workers’ Comp. Programs, United States Dep’t of Lab.*, No. 24-1618, 2026 WL 1802647, at *1 (4th Cir. June 23, 2026) (referring to futility as “limited exception” to rule); *Alzandani v. Hamtramck Pub. Schs.*, 176 F.4th 455, 466 (6th Cir. 2026) (discussing narrow futility exception); *Harvard Maint., Inc. v. Nat’l Lab. Rels. Bd.*, 165 F.4th 886, 897 (5th Cir. 2026) (noting “extraordinary circumstance” necessary for futility exception to apply); *Daybell v. Davis*, 366 F. App’x 960, 962 (10th Cir. 2010) (referring to futility as a “narrow exception”) *Tesoro Ref. & Mktg. Co. v. FERC*, 552 F.3d 868, 874 (D.C. Cir. 2009) (noting use of futility exception “in only the most exceptional circumstances”) (citation omitted);

There is “no perceived futility exception.” *Gray Television, Inc. v. Fed. Commc’ns Comm’n*, 130 F.4th 1201, 1214 (11th Cir. 2025). Simply because a party believes that it *may* not receive a permit does not excuse finality. Indeed, even where an unfavorable decision is “highly likely, that does not satisfy [the] strict futility standard

requiring certainty of an adverse decision.” (Citation omitted.) *Tesoro Ref.*, 552 F.3d at 874; *see also Health Equity Res. Urbana, Inc. v. Sullivan*, 927 F.2d 963, 965 (7th Cir. 1991) (there must be “no reasonable prospect” of gaining relief to invoke futility).

Keeping the futility exception in mind, the circuit courts, following this Court’s lead in *Williamson County*, have elucidated a list of reasons why finality is important:

First ... requiring a claimant to obtain a final decision from a local land use authority aids in the development of a full record.... Second, and relatedly, only if a property owner has exhausted the [special permit] process will a court know precisely how a regulation will be applied to a particular parcel.... Third, a [special permit] might provide the relief the property owner seeks without requiring judicial entanglement in constitutional disputes. Thus, requiring a meaningful [special permit] application as a prerequisite to federal litigation enforces the long-standing principle that disputes should be decided on non-constitutional grounds whenever possible.... Finally, since *Williamson County*, courts have recognized that federalism principles also buttress the finality requirement. Requiring a property owner to obtain a final, definitive position from zoning authorities evinces the judiciary’s appreciation that land use disputes are uniquely matters of local concern more aptly suited for local resolution.

(Citation omitted.) *Grace Cmty. Church v. Lenox Twp.*, 544 F.3d 609, 615 (6th Cir. 2008); *see also Murphy*, 402 F.3d at 348-49.

These reasons are sensible and prevent federal courts from becoming overwhelmed with challenges to the application of zoning ordinances. They also enforce the local role of planning and zoning and protect homeowners from dangers that are inherent in the unplanned and disorganized growth of residential communities.

III. Requiring Administrative Finality Serves Important Legal and Planning Interests

As noted above, the APA Code requires planners—and those involved in the zoning process—to act with integrity and transparency and requires that the process be both orderly and public. Skipping finality can undermine not only the role of local government in self-administration, but the zoning process itself. Without finality, transparency becomes opaque—what happens in a courtroom is not always open to public *scrutiny*. By requiring the public planning and zoning officials to make a final decision, publicity and transparency (or lack thereof) become obvious. The process is either fair and conducted with integrity—or it is not.

A. Development of a Full Record

Further, the development of a record through to finality is necessary for any reviewing court to weigh the burden, *if any*, on religious practice and the impact of any potential “chilling effect.” For example, the situation that has arisen in this case is *nearly* identical to a case decided

by the Eleventh Circuit over forty years ago in *Grosz v. City of Miami Beach, Fla.* 721 F.2d at 729.

The facts of *Grosz* are nearly identical to those at issue in this case. However, because the Petitioner here withdrew from the zoning application process before any fact investigation could be completed by the relevant zoning authorities, it is unclear what other locations, if any, may be available, where they may be located, and whether the Petitioner would have even been prevented from undertaking his proposed religious use in the first place.

Indeed, it is unclear whether the only zoning enforcement that happened here—the cease-and-desist letter—imposed *any* burden on the Petitioner. The authorities from which it came are not the authorities designated to interpret the City zoning regulations. *See infra*, § III.b. Further, the letter was sent in response to an email that had been forwarded to multiple people advertising the opening of a new “shul.” Pet. App. 116a. The City alleges it had recently dealt with another “shul” that had hundreds of people attending. Pet. 10-11. Certainly, the City had a right to regulate the regular attendance of hundreds of people at a single-family home in a residential area. Did the City have a similar right to regulate in this instance? Because the Petitioner abandoned the fact-finding process below before the Planning and Zoning Commission, it is unclear how many people were attending the Petitioner’s prayer sessions.

The letter also stated that “[v]iolation of the City’s ordinances *may* result in ... the pursuit of additional remedies.” (Emphasis added.) Pet. App. 116a. None of

the language appears to indicate any imminence. *See, e.g., Anash, Inc. v. Borough of Kingston*, 184 F.4th 214, 227 (3d Cir. 2026) (where cease-and-desist letter stated that “[t]here will not be any follow-up requests regarding this situation’ and that failure to comply within five business days would result in the issuance of a citation.”). The Petitioner then waited eighteen months without any further zoning action—certainly, if there was any imminence to the threats of prosecution, such prosecution would have taken place in that year-and-a-half.

Finally, the Petitioner admits that he held at least one prayer group during the eighteen-month period between the cease-and-desist letter and his lawsuit. Pet. App. 13a. (“Grand admits, as an initial matter, that he has convened a minyan on the Sabbath at least once after the end of the Planning Commission meetings.”).

The Petitioner’s argument in his Petition—that any finality matured upon the issuance of the cease-and-desist—raises more questions than answers and creates further problems. Pet. 7. Would local health agencies be able to send cease-and-desist letters to stop blatant violations of the health code without risking immediate federal review if those violators claim religious protection?

Had the zoning process been completed below, both the Petitioner and the City would have been able to opine on what a “shul” meant to them. Further, the Petitioner would have been able to expand on the burdens imposed by the zoning regulations, and the City would have been able to contemplate whether this instance was an appropriate time and place to enforce the zoning regulations—or whether this instance was the type to utilize the zoning

process's flexibility to find a solution outside the often rigid bounds of local zoning regulation.

B. How Zoning Regulation is Applied

In this instance, the relevant agency tasked with decision-making for special permits is the City Planning Commission.⁵ *See, e.g.*, City of University Heights City Code (“City Code”) § 1274.01(d) (Planning Commission recommends approval of special use permits) (Pet. App. 75a); § 1244.03(c)(1) (any special permit application before the Zoning Board of Appeals for special uses in residential zone to be referred to Planning Commission).⁶ Similarly, had the Petitioner challenged the cease-and-desist order he received from the City such an appeal would go through the City Zoning Board of Appeals (“ZBA”).⁷ *See* City Code, § 1244.03(a) (appeals of decisions from administrative officials regarding the zoning regulations go through the ZBA).⁸

5. It is worth noting that the Mayor appears to sit as a member of the City Planning Commission, but is not the only member. *See* Pet. App. 28a.

6. This section of the City Code is available at https://codelibrary.amlegal.com/codes/universityhts/latest/unhoh_oh/0-0-0-46195.

7. Ohio also considers an application for variance to the ZBA to be an effective appeal of a cease-and-desist order. *See* J.E. Gotherman, et al., Baldwin’s Ohio Practice, *Local Government Law—Municipal Law* §§ 25:48 to 25:50 (1st ed.) (West) (variance application will be taken as “an appeal from the decision by a building inspector that a land use proposal fails to conform to the zoning ordinance”).

8. *See supra*, fn. 6.

Neither the Planning Commission nor the ZBA rendered a final decision here. Instead, this Court is left with a partial story. It is unknown whether either agency would have decided the use was not permissible or whether Mr. Grand would have worshipped as he wished happily ever after.

As the Sixth Circuit noted below, at least some members of the Planning Commission appeared to agree that either Mr. Grand should receive his permit or that he did not even require a permit for the activities he was proposing. Pet. App. 4a (“some members of the five-member Commission doubted whether Grand’s use would constitute a ‘[h]ouse of worship’ and thus wondered whether he needed a permit at all”). If the Petitioner had been granted his permit—and, again, we are left to *speculate*—there wouldn’t have been any need for judicial intervention at all.

C. Avoiding Unnecessary Judicial Review

As noted above, the Petitioner may well have received his special permit had he continued with the process before the Planning Commission. If the Petitioner had been successful, no further appeal would have been required and there would have been no need for this litigation. Similarly, if the Commission had determined no permit was required, there would have been no need for this litigation.

The purpose of the ripeness doctrine is “to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements....” *Abbott Labs. v. Gardner*, 387 U.S. 136, 148 (1967),

abrogated on other grounds, Califano v. Sanders, 430 U.S. 99 (1977). The doctrine serves the additional purpose of “shield[ing] agencies from judicial interaction ‘until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties.’” *Konikov v. Orange Cnty.*, 410 F.3d 1317, 1322 (11th Cir. 2005) (*per curiam*) (quoting *Abbott Labs.*, 387 U.S. at 148–49). In other words, “[h]aste makes waste, and the premature adjudication of legal questions compels courts to resolve matters, even constitutional matters, that may with time be satisfactorily resolved at the local level, and that may turn out differently in different settings.” *Temple B’Nai Zion, Inc. v. City of Sunny Isles Beach*, 727 F.3d 1349, 1356 (11th Cir. 2013), (quoting *Miles Christi Religious Ord. v. Twp. of Northville*, 629 F.3d 533, 537 (6th Cir. 2010)).

This Court has routinely held that it is not in the business of engaging in the adjudication of speculative harms. See *Simon v. E. Kentucky Welfare Rts. Org.*, 426 U.S. 26, 44 (1976) (“[U]nadorned speculation will not suffice to invoke the federal judicial power....”); see also *O’Shea v. Littleton*, 414 U.S. 488, 494 (1974) (“[a]bstract injury is not enough. It must be alleged that the plaintiff ‘has sustained or is immediately in danger of sustaining some direct injury’ as the result of the challenged statute or official conduct.... The injury or threat of injury must be both ‘real and immediate,’ not ‘conjectural,’ or ‘hypothetical.’”) (citation omitted).

The Court should be wary of the Petitioner’s broad, sweeping statement that this Court has “never extended ... any sort of prudential ripeness doctrine [] to religious-liberty claims.” Pet. Br. 3. Instead, ripeness is *always* an issue in every case. However, in certain First Amendment

cases, as discussed above (where relaxed ripeness applies in narrow circumstances), a *reasonable*—and *imminent*—threat of prosecution for conduct allegedly protected by the Constitution gives rise to a sufficiently ripe controversy.⁹ *Steffel v. Thompson*, 415 U.S. 452, 458-60 (1974). The same does not apply to allegations of speculation about contingent future events. *Midrash*, 366 F.3d at 1224.

Indeed, multiple Circuits have held that *Williamson County* finality applies to RLUIPA land-use cases. *See, e.g., Guatay Christian Fellowship v. Cnty. of San Diego*, 670 F.3d 957, 961 (9th Cir. 2011); *Grace Cmty. Church*, 544 F.3d at 617–18; *Murphy*, 402 F.3d at 351; *see also Congregation Anshei Roosevelt v. Plan. & Zoning Bd.*, 338 Fed. Appx. 214, 219 (3d Cir. 2009) (affirming dismissal of RLUIPA claim as unripe based upon *Williamson County*).¹⁰

This Court should decline the invitation from the Petitioner to abandon ripeness in First Amendment claims. Finality—whether it be administrative finality or *de facto* finality (in a case where futility or relaxed ripeness may apply)—serves to ensure the courts are not involved in improper speculation.

9. *See supra*, § III.A. It is unclear if the cease-and-desist letter alone, on its face, is such a threat that a reasonable person could see as chilling.

10. *See also Church of Our Lord & Savior Jesus Christ v. City of Markham, Illinois*, 913 F.3d 670, 678 (7th Cir. 2019) (alleging Seventh Circuit does not apply *Williamson County* finality to land use cases, but citing *only* cases dealing with *facial* challenges as opposed to as-applied challenges).

The zoning process serves similar purposes. It permits local administrative authorities to prepare a record that includes the factual information necessary for such authorities—and any reviewing court—to make an informed decision without being entangled in “abstract disagreement” about the application of zoning regulations in a site-specific application. *Abbott Labs.*, 387 U.S. at 148. Otherwise, a “[c]ourt[] is being asked to appraise the merits when the information needed to do that is unavailable.” *Vaughn v. Harrison Cnty., Mississippi*, No. 1:25-CV-347-TBM-RPM, 2025 WL 3252301, at *4 (S.D. Miss. Nov. 21, 2025). The zoning process also permits zoning authorities to exempt—or vary—the zoning regulations in specific instances where there is a clear hardship. *See* Oh. Plan. & Zoning L. § 9:11 (2026 ed.).

The APA is cognizant of the busy dockets dealt with by federal courts. *See, e.g., Hope Baptist Church of Castle Point v. City of Bellefontaine Neighbors*, 655 F.Supp. 1216, 1219 (E.D. Mo. 1987) (“[t]o allow the loser of each zoning decision, both those who seek a zoning change and those who seek to block changes, to sue in federal court on bald allegations of arbitrariness would significantly burden both federal courts and local zoning decisionmakers.”). Zoning applicants turning to federal court instead of local zoning authorities not only clogs the courts but removes local planners and elected decisionmakers from decision-making process.

Removing local decisionmakers muddies any transparency for those most involved—the local residents—by removing those accountable to the residents from the process. It also removes those most familiar with the facts and historic procedures: raising a claim of

improper procedure before a federal court miles away, which court may have never dealt with the particular municipality, removes those familiar with the process from the appeal.¹¹ It also removes any local factual understanding. That a house exists in a certain zone may mean one thing on paper but mean much more to those in the community who live in or near that zone.

Keeping final decision-making local keeps APA planners, many bound by the APA Code and APA Ethics

11. For example, in this appeal, Petitioner alleges that his application for special permit was “rigged” because he was required to participate in a “quasi-judicial” process. Pet. 4; *see also* Pet. Br. 12 (noting the procedure was “unprecedented”). However, special permit applications are often – if not *always* – quasi-judicial in nature. *See, e.g., Hydraulic Press Brick Co. v. Council of City of Indep.*, 16 Ohio App. 3d 204, 208, 475 N.E.2d 144, 148 (1984) (“council’s quasi-judicial function was purely administrative in determining whether this landowner’s proposed use violated those specific standards. The landowner’s request sought a ‘special permit’ for a generally authorized use.”). Similarly, his claim that such a process “locked the record” and did not permit further evidence appears to be a mistaken interpretation as well. Pet. 10; *see State ex. rel. City of Lorain v. Stewart*, 119 Ohio St.3d 222, ¶ 55, 893 N.E.2d 184 (Ohio 2008) (A quasi-judicial proceeding is one “in which notice, a hearing, and the opportunity for the introduction of evidence have been given.”). Any “locking of the record” appears to refer to an *appeal* of such a hearing. *See* Ohio R.C. § 2506.03 (hearings of appeal confined to transcript). Indeed, the Petitioner’s citation as evidence that the Mayor allegedly locked the record – Pet. Br. 14 – cites to no such thing, instead citing to a communication that took place after the Petitioner had closed his application. Nonetheless, there is also evidence that at least some members of the Commission appeared confused by the process utilized. *See* Pet. App. 135a (Commission members expressing such confusion).

Principles, involved in the process. Ensuring that as-applied land use decisions go through zoning in a proper and fundamentally fair manner as envisioned by the APA helps to resolve issues at the local level, lightens the judicial dockets at both the state and federal levels, and maintains a level of local transparency that judicial review lacks.

D. Principles of Federalism

Finally, the APA emphasizes the role of local government in zoning decisions as a matter of long-standing federalist tradition in this country. Land use policy has customarily been considered a feature of local government. *Evans v. Bd. of Cnty. Comm'rs*, 994 F.2d 755, 761 (10th Cir. 1993); *see also United Artists Theatre Circuit, Inc. v. Twp. of Warrington*, 316 F.3d 392, 402 (3d. Cir. 2003) (“[l]and-use decisions are matters of local concern” and a federal court should not act as a “zoning board of appeals.”).

Of course, this does not mean there is no role for federal courts in the zoning process. As noted above, when zoning regulations are facially unconstitutional, intervention in the local zoning process by federal courts is expected and welcome. *City of Lakewood v. Plain Dealer Pub. Co.*, 486 U.S. 750, 755 (1988). Indeed, facial challenges are *always* ripe for review.¹² *Id.*; *see also*

12. It is worth noting that the circuit split the Petitioner alleges does not exist. Both cases cited by Petitioner in the First and Eleventh Circuits dealt with a facial challenge – not an as-applied challenge. This matter deals with the *enforcement* of existing zoning regulations, not the enacting of new regulations directly targeting the Petitioner. Alternatively, in *Temple B’Nai*,

supra, § II.A (discussing same). As further noted above, courts regularly relax standing requirements when First Amendment challenges are raised. This also makes sense because a facial challenge necessarily states that a provision is *always* unconstitutional – and therefore requires no specific fact-finding beyond the words of the provision.

However, the application of zoning regulations—such as the challenge raised by the Petitioner here—is different. *How*—and *whether*—a zoning regulation is applied to a specific site is necessarily fact-dependent. In such instances, the *why* may matter as well—if the purpose is improper, then the result may be improper. *See, e.g., Jesus Christ Is the Answer Ministries, Inc. v. Baltimore Cnty.*, 915 F.3d 256, 260–61 (4th Cir. 2019) (impermissible influence “may be inferred where expressions of community bias are followed by irregularities in the government decision-making”). Such fact-finding is best done locally, where transparency is available via public participation, and where those most knowledgeable with existing procedures and historic practices are able to make a final—and *appealable*—decision.

727 F.3d 1349, the plaintiff alleged “an injury stemming from the City’s initial act of designating it to be a historic site, not from the application of any land use regulation to its property.” P. Salkin, 3 Am. Law. Zoning, *RLUIPA: Ripeness* § 28:8.50 (5th ed.) (West). Similarly, in *Roman Catholic Bishop of Springfield v. City of Springfield*, 724 F.3d 78 (1st Cir. 2013), the plaintiffs were challenging the *designation* of their church as a “single-parcel historic district,” not the enforcement of existing regulations. The Circuits are aligned on this issue. *See, e.g., Triple G Landfills v. Bd. of Comm’rs of Fountain Cnty.*, 977 F.2d 287, 289 (7th Cir. 1992) (final decision test does not apply to facial attacks upon the validity of a zoning ordinance).

The APA reemphasizes its support for the local zoning process and the role it plays in our federal system of government. Permitting local issues to be determined locally—while still allowing access to the federal courts for immediate facial harms (and those few instances where futility applies)—maintains the balance between local interests and the protections provided to all under the Constitution.

CONCLUSION

As recently as 2021, in *Pakdel*, this Court re-affirmed the importance of the finality prong. Further, this Court has reaffirmed the requirement of ripeness in *all* matters in its most recent cases. *See Trump v. California*, No. 26A124, 2026 WL 2473573, at *2 (U.S. Aug. 24, 2026) (*citing to Trump v. New York*, 592 U.S. 125, 131 (2020) (*per curiam*) for definition of ripeness). This Court should continue reaffirming the importance of ripeness and finality.

Finality ensures that that local governments maintain control of planning and zoning, which helps solidify and maintain the democratic processes fundamental to this country. By holding local officials accountable for proper planning and zoning, local residents can be sure of transparency in the process. They can also be sure that their local planning and zoning process is overseen by a certified APA planner, beholden to the APA Ethics Code and the APA Principles, and determined to see a fair and honest result.

The APA asks that the Court continue re-affirming the finality test as elucidated in *Williamson County* and

Pakdel. Requiring that there is at least a *de facto* final decision from the relevant government agency ensures that the courts do not waste time speculating and guessing on what potential harms may arise.

Respectfully submitted,

BRIAN R. SMITH

Counsel of Record

EVAN J. SEEMAN

RYAN D. HOYLER

ROBINSON & COLE LLP

One State Street

Hartford, CT 06103

(860) 275-8200

bsmith@rc.com

Counsel for Amicus Curiae