

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

THE SUMMIT CHURCH-HOMESTEAD HEIGHTS BAPTIST CHURCH, INC.,

Plaintiff-Appellee

v.

CHATHAM COUNTY, NORTH CAROLINA BOARD OF COMMISSIONERS,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF
APPELLEE SUMMIT CHURCH AND URGING AFFIRMANCE

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INTEREST OF THE UNITED STATES

The Attorney General has statutory authority to enforce Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C 2000cc-2(f), including through enforcement actions seeking injunctive relief. This appeal concerns standing to bring a RLUIPA claim, whether zoning decisions deemed “legislative” by state law are within RLUIPA’s scope, and preliminary relief available to remedy violations. The United States has a strong interest in the enforcement of RLUIPA, which depends on an effective judicial remedy, and therefore has a substantial interest in the resolution of these issues on appeal.

The United States offers its views pursuant to Federal Rule of Appellate Procedure 29(a).

STATEMENT OF THE ISSUE

Plaintiff-appellee Summit Church-Homestead Heights Baptist Church, Inc. (Summit Church) applied to the Chatham County, North Carolina Board of Commissioners (the County) to rezone property so that it could build a church for its growing congregation. The County denied the application. Summit Church then sued the County under RLUIPA, 42 U.S.C. 2000cc *et seq.*, and sought a preliminary injunction. The

County sought dismissal of the Church's RLUIPA claims for lack of standing, arguing that the rezoning denial was a "legislative act" under state law and therefore not redressable under RLUIPA. The district court rejected this argument and found that the Church was likely to succeed on its RLUIPA claim that the County's rezoning denial substantially burdened the Church's religious exercise. It granted a preliminary injunction and enjoined the rezoning denial. The County now appeals the district court's entry of the preliminary injunction.

RLUIPA prohibits local governments from imposing or implementing land-use regulations that unjustifiably burden religious exercise. 42 U.S.C. 2000cc(a)(1). RLUIPA defines "land use regulation" to include a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land in which the claimant has a property interest. 42 U.S.C. 2000cc-5. RLUIPA applies to substantial burdens imposed by discretionary zoning decisions, where governmental entities, like the County, make "individualized assessments" of the proposed use of the property. 42 U.S.C. 2000cc-2(C); *Chabad Lubavitch of Litchfield Cnty., Inc. v. Litchfield Historic Dist. Comm'n*, 768 F.3d 183, 193 (2d Cir. 2014). RLUIPA affords successful

private litigants “appropriate relief” to remedy violations. 42 U.S.C. 2000cc-2(a). Numerous courts, including this one, have found that “appropriate relief” includes injunctions blocking or reversing zoning decisions made by local land use boards or other governmental entities that impose an unjustified substantial burden on religious exercise. *See, e.g., Redeemed Christian Church of God (Victory Temple) Bowie v. Prince George’s Cnty.*, 17 F.4th 497, 505-506 (4th Cir. 2021) (affirming injunction that required the county to approve a “legislative amendment” to its water and sewer plan to allow for proposed religious use).

The County does not challenge the district court’s finding that Summit Church was likely to prevail on its substantial burden claim. *See* Appellant Brief (County Br.). Rather, it argues that because this case involves a challenge to a rezoning decision defined as a “legislative act” under state law, the district court lacked jurisdiction to even consider the claim or enjoin the County’s rezoning denial as a matter of Tenth Amendment federalism and anti-commandeering concerns. *Id.* at 5-6. But, that argument is misplaced. Because the district court did not grant mandatory injunctive relief, the issues of what permanent injunctive relief might be warranted after a full adjudication on the merits or

whether an order requiring the County to affirmatively approve the Church's rezoning application would violate the Tenth Amendment are not before the Court. Instead, the question presented is whether RLUIPA authorizes the district court to enjoin a zoning decision deemed legislative under state law provided that the action violates the terms of RLUIPA. As explained below, RLUIPA clearly authorizes district courts to enjoin land use regulations that violate its terms. And a local government cannot use state law definitions or classifications to insulate its actions that violate RLUIPA from federal relief.

BACKGROUND

A. Factual Background

This case arises from a zoning dispute between Summit Church and the County over Summit Church's efforts to establish a new place of worship to accommodate its growing Chapel Hill congregation. J.A. 1819. Summit Church currently uses space at a local high school for worship services. J.A. 1819. However, its congregation has grown, and the space is no longer sufficient to fit its congregation. J.A. 1819. In December 2023, Summit Church acquired an option to purchase six parcels of land totaling approximately 97 acres in Chatham County where it could build

a new church campus. J.A. 1820-1824. In 2022, the County had given zoning approval to the prior developer of the same parcels to develop an active adult community, featuring residential units, a congregate care facility, office and daycare space, and a barn for events. J.A. 1821. As part of that approval, the County rezoned the parcels from R-1 Residential to “Conditional District-Compact Community.” J.A. 1821.¹ The prior developer did not submit further plans, and the zoning approvals expired. J.A. 1821. The parcels, however, remained in their new zoning classification of Conditional District-Compact Community.

Because the County had rezoned the property as Conditional District-Compact Community, no uses were allowed as of right on the parcels. J.A. 241; *see also* County Br. 2 (“No use is permitted by right in

¹ Under the County’s zoning code, “churches” are allowed in the R-1 district with a special use permit. J.A. 282. Accordingly, had the County not rezoned the property to a conditional zoning district, Summit Church (or any religious group) would have been able to develop a religious facility with a special use permit, which the County zoning code defines as a quasi-judicial process. J.A. 328 (“Requests for special use permits as authorized by this Ordinance shall be processed and considered in the same format as set forth in this Ordinance for conditional zoning district requests, but shall follow quasi-judicial procedures.”).

a conditional zoning district.”).² To develop the property for *any* use, Summit Church needed to receive rezoning approval from the County. J.A. 241. After working with County planning officials to ensure consistency with the County’s comprehensive land use plan, Summit Church applied to the Chatham County Board of Commissioners to rezone the parcels to zoning designations that would allow it to develop a church. J.A. 1822-1826.³

The Church’s application went through several rounds of hearings. During the process, objectors raised the Church’s religious mission and values. J.A. 1829-1831. The Planning Board, which serves as an advisory body to the County Board on rezoning applications, voted to recommend a denial of the rezoning, citing size, traffic, tax revenue, and

² In a conditionally zoned district “no use shall be permitted except as a conditional use subject to approval of a conditional zoning district *rezoning* authorized by the Board of Commissioners.” J.A. 241 (emphasis added).

³ Further, during the conditional zoning process, the County may propose and require “conditions and site specific standards” concerning parking, driveways, traffic, screening and buffers, the timing of development, street and right-of way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and “other matters that the Board of Commissioners may find appropriate.” J.A. 241.

job generation concerns. J.A. 1832-1833. In December 2024, the County held a public hearing on the Church's rezoning application and unanimously and categorically denied it, citing concerns that the proposal would not generate sufficient tax revenue or high-quality jobs. J.A. 1833-1836. Following the denial vote, the Chair of the County Board stated that "Chatham County is not a place to call home for that size of a church," suggesting that the Church would not get approval anywhere in the County. J.A. 1843-1845.

B. Procedural History

Summit Church sued the County in the United States District Court for the Middle District of North Carolina, claiming that the County's denial of its rezoning application violated RLUIPA's substantial burden, equal terms, nondiscrimination, and unreasonable limitation provisions. J.A. 8-60. It also sought a preliminary injunction. J.A. 751.

The County opposed the Church's motion for a preliminary injunction on the merits and simultaneously moved to dismiss the Church's complaint, arguing that the denial of the rezoning application was not a redressable injury. *See* Def.'s Opp'n to Pl.'s Mot. for Prelim. Inj. 5-6 (Doc. 16), *Summit Church-Homestead Heights Baptist Church*,

Inc. v. Chatham Cnty., No. 1:25-cv-113, 2025 WL 1725680 (M.D.N.C. June 20, 2025).⁴ More specifically, the County argued that, under North Carolina state law, rezoning is a “legislative act” and therefore, as a matter of “separation of powers,” the Court could not order it to rezone the property as requested by the Church or even consider the Church’s RLUIPA claims. *Ibid.* The United States filed a Statement of Interest arguing that the Church had standing to seek equitable relief to correct the alleged RLUIPA violation and that the County could not insulate its rezoning denial from RLUIPA by branding it as a legislative act. *See* Statement of Interest of United States (Doc. 23), *Summit Church-Homestead Heights Baptist Church*, *supra* (No. 1:25-cv-113).

At the hearing on the Church’s motion, the court denied the County’s motion to dismiss, finding that the reach of RLUIPA was “very broad” and that it was “clearly intended to bring zoning issues within the scope of RLUIPA.” J.A. 1751-1752. The district court cited several RLUIPA cases where courts granted injunctive relief requiring that local

⁴ “Doc. __, at __” refers to the docket entry and internal page numbers of documents filed in the district court, No. 1:25-CV-113 (M.D.N.C.), not included in the Joint Appendix.

governments, which had denied zoning permits, allow the religious group to use their property for religious exercise, including *Redeemed Christian Church*, 17 F.4th 497, and *Church of Our Savior v. City of Jacksonville Beach*, 69 F. Supp. 3d 1299, 1326 (M.D. Fla. 2014) (finding that city's denial of conditional use permit application violated RLUIPA and that the court intended to enter judgment directing the City to grant the church the permit). J.A. 1751-1752.

Following the hearing, the court issued an opinion granting in part Summit Church's motion and finding that it had demonstrated a likelihood of success on its substantial burden claim. *See* J.A. 1818-1867. The court "enjoined [the County] from denying Plaintiff's rezoning proposal, pending further order of th[e] court." J.A. 1867. It declined to issue a mandatory injunction requiring the County to approve the rezoning application, citing concerns with "a federal court commanding a local government to affirmatively act in the confines of traditional local control." J.A. 1865-1866 (citing *Rapanos v. United States*, 547 U.S. 715, 738 (2006)).

ARGUMENT

RLUIPA is a federal civil rights law that prohibits local governments from substantially burdening religious exercise through the enforcement of zoning laws. It authorizes courts to award injunctive relief to remedy violations. The district court found that Summit Church was likely to succeed on its substantial burden claim and preliminarily enjoined the County's rezoning denial. The court's preliminary injunction was well within the range of remedies authorized by RLUIPA and is in line with remedies granted by this and other courts.

RLUIPA applies to zoning laws as defined by federal law, not state law. The County's rezoning denial is precisely the sort of discretionary "individualized assessment" zoning decision that RLUIPA was intended to cover. State law definitions of whether a zoning law or decision is a "legislative act" do not immunize them from the reach of RLUIPA. Finally, the County's Tenth Amendment arguments are misplaced because the district court only enjoined the County's rezoning denial and declined to enter a mandatory injunction. Accordingly, this Court should affirm the district court's preliminary injunction.

**A. RLUIPA's Substantial Burden Provision Permits
"Appropriate Relief," Including Injunctive Remedies.**

RLUIPA's substantial burden provision prohibits local governments from imposing or implementing a "land use regulation in a manner that imposes a substantial burden on the religious exercise" of a religious assembly unless the burden serves a compelling governmental interest and is the least restrictive means for furthering that interest. 42 U.S.C. 2000cc(a)(1). "RLUIPA exempts religious land use from state laws when such laws substantially burden religious exercise without satisfying strict scrutiny." *Redeemed Christian Church*, 17 F.4th at 508 n.7.

In private actions, successful RLUIPA litigants may "obtain appropriate relief." 42 U.S.C. 2000cc-2(a). This includes declaratory and injunctive relief. *See, e.g., Redeemed Christian Church*, 17 F.4th at 505-506 (affirming district court's injunction which required County to approve church's application for a "legislative amendment" to water and sewer plan); *Fortress Bible Church v. Feiner*, 694 F.3d 208, 224 (2d Cir. 2012) (holding that "[a] district court has substantial freedom in framing an injunction" under RLUIPA).

B. The District Court's Preliminary Injunction is in Line with the Injunctive Relief Routinely Affirmed by This Court and Other Circuits in Similar RLUIPA Cases.

The district court's preliminary injunction enjoining the County from denying the Church's rezoning application (J.A. 1866-1867) is well within the scope of appropriate injunctive relief awarded by this and other courts in RLUIPA cases. For example, in *Redeemed Christian Church*, Prince George's County denied a church's application for a "legislative amendment" to the county's water and sewer plan, which the church needed to develop the property into a religious facility. 17 F.4th at 502, 505. After concluding that the county's denial violated RLUIPA's substantial burden provision, the district court "permanently enjoined the County from denying the [water and sewer change] Application and ordered the County to amend its Water and Sewer Plan and advance the Property to water and sewer Category 4," which was affirmed by this Court. *Id.* at 505-506, 512.

Similarly, in *Reaching Hearts Int'l, Inc. v. Prince George's County*, 584 F. Supp. 2d 766 (D. Md. 2008), *aff'd*, 368 F. App'x 370 (4th Cir. 2010), a church challenged under RLUIPA the county's denial of its application for a legislative amendment to the county's water and sewer plan and an

ordinance that had limited lot coverage of non-residential uses. *Id.* at 776, 779. The county argued that the church did not have standing to seek injunctive relief because, even if the court struck the ordinance, the church could not obtain the legislative amendment. *Id.* at 791. The district court found that the church's injury was redressable by enjoining application of the offending provisions of the zoning ordinance and ordered the county to process the legislative amendment application without regard to those provisions and without "discriminatory animus." *See ibid.* On appeal, this Court affirmed the injunction, finding that the court's remedial rulings were not "outside the range of choices permitted." *Reaching Hearts*, 368 F. App'x at 373 (quoting *Evans v. Eaton Corp. Long Term Disability Plan*, 514 F.3d 315, 322 (4th Cir. 2008)).

Although neither the *Reaching Hearts* nor *Redeemed Christian Church* courts specifically addressed the County's "legislative act" argument, both courts approved injunctive relief requiring the defendant counties to enact "legislative amendments" to their water and sewer

regulations, which are “legislative acts” under Maryland law.⁵ *Canaan Christian Church v. Montgomery Cnty.*, 335 F. Supp. 3d 758, 764 (D. Md. 2018) (“This Court determined long ago that amending a water and sewer plan is also a legislative act.”) (citing *Kent Island Joint Venture v. Smith*, 452 F. Supp. 455, 457-458 (D. Md. 1978)). And the *Reaching Hearts* court did so over standing and abstention objections. 584 F. Supp. 2d at 791-795.

Other circuits have granted similar injunctive relief in RLUIPA cases, including in cases challenging rezoning denials. For example, in *Saints Constantine & Helen Greek Orthodox Church v. City of New Berlin*, the Seventh Circuit granted summary judgment to a church and

⁵ In its brief, the County mischaracterizes the final injunctive relief awarded in *Redeemed Christian Church* and *Reaching Hearts* as an injunction “to approve a sewer application,” and “secondary permitting processes that the court could decide without forcing legislative action.” See County Br. 19, 24. Conspicuously absent from the County’s brief is that the zoning decisions at issue in *Redeemed Christian Church* and in *Reaching Hearts* were “legislative amendments” (a phrase mentioned 19 times in *Redeemed Christian Church*) to the County’s water and sewage plan. See, e.g., *Redeemed Christian Church*, 17 F.4th at 502 (“[T]he authority and responsibility to legislatively amend the Water and Sewer Plan rests solely with the County Council, which acts on behalf of the County itself. A category change application that is approved by the County Council constitutes a legislative amendment by the County to the Water and Sewer Plan.”).

awarded it injunctive relief on its substantial burden claim which challenged the denial of its application to “rezone a 14-acre chunk of its 40-acre property from residential to institutional so that it could build its church.” 396 F.3d 895, 898, 901 (7th Cir. 2005). The Tenth Circuit upheld a permanent injunction requiring the defendant county to approve a church’s special use application. *See Rocky Mt. Christian Church v. Board of Cnty. Comm’rs*, 613 F.3d 1229, 1240 (10th Cir. 2010). The Second Circuit affirmed a district court’s order requiring a zoning board to “immediately and unconditionally” approve a religious school’s special permit application. *Westchester Day Sch. v. Village of Mamaroneck*, 504 F.3d 338, 357 (2d Cir. 2007). In *Fortress Bible Church*, the Second Circuit affirmed an injunction that ordered a church’s site plan be deemed approved, the zoning board to grant a waiver from a parking requirement and a variance permitting a side building location, and the town to issue a building permit. 694 F.3d at 225-226. Finally, the Ninth Circuit affirmed a district court’s injunction that required the defendant county to grant a temple’s application for a conditional use permit. *Guru Nanak Sikh Soc. of Yuba City v. County of Sutter*, 456 F.3d 978, 996 (9th Cir. 2006).

Here, the district court’s preliminary injunction order, which only enjoined the County’s denial of Summit Church’s rezoning application, was well within the holdings of *Redeemed Christian Church, Reaching Hearts*, and other RLUIPA cases.

C. Federal Law Governs RLUIPA Claims.

The County argues that “Summit Church lacks standing to sue for an injunction that requires Chatham County to conduct conditional rezoning, a legislative function.” County Br. 8. It contends that North Carolina state zoning law governs the reach of RLUIPA and limits the district court’s ability to award injunctive relief. County Br. 5-14. But these arguments run contrary to RLUIPA’s text, the well-established principle that federal law applies to federal civil rights claims, and this Court’s holding in *Redeemed Christian Church*.

“[S]tanding in federal court is a question of federal law, not state law.” *Hollingsworth v. Perry*, 570 U.S. 693, 715 (2013). Indeed, RLUIPA provides that “[s]tanding to assert a claim or defense under [RLUIPA] shall be governed by the general rules of standing under article III of the Constitution.” 42 U.S.C. 2000cc-2(a). In determining standing to bring a RLUIPA claim, courts apply federal law. *See Midrash Sephardi, Inc.*

v. Town of Surfside, 366 F.3d 1214, 1223 (11th Cir. 2004) (applying federal standing principles to assess standing of RLUIPA plaintiff). In *Bauer v. Elrich*, this Court rejected a similar argument that state law determined standing to bring a claim for violation of a federal statute, holding that “state common law would [then] govern whether and how a federal statute may be enforced, irrespective of Congressional intent. Such a rule not only would run afoul of common sense, but also would violate basic constitutional principles.” 8 F.4th 291, 299 (4th Cir. 2021). Accordingly, federal law—not state law—determines the standing of Summit Church to bring its RLUIPA claim.

Second, for federal causes of action “the scope of the remedy as well as the substance of the rights created thereby is a matter of federal not state law.” *F.D. Rich Co. v. United States for the Use of Indus. Lumber Co.*, 417 U.S. 116, 127 (1974) (finding that federal law controlled the availability of attorney’s fees under the Miller Act, 40 U.S.C. 270a *et seq.*). Indeed, this Court has held that federal law—not state law—controls whether a particular ordinance or regulation is a land use regulation and

thus covered by RLUIPA.⁶ *Redeemed Christian Church*, 17 F.4th at 508. In *Redeemed Christian Church*, the defendant county argued that its water and sewer plan was a “comprehensive planning action” under “state law” and therefore not a “zoning” law for the purposes of RLUIPA. *Id.* at 507. This Court rejected that contention, holding that “if a State’s own definition of a ‘land use regulation’ controlled . . . a State could . . . define the applicable and key RLUIPA terms narrowly, thus limiting RLUIPA’s application.” *Id.* at 508; *see also Fortress Bible Church*, 694 F.3d at 218 (“We decline to endorse a process that would allow a town to evade RLUIPA by what essentially amounts to a re-characterization of its zoning decisions.”). This Court should likewise reject the County’s invitation to apply North Carolina law to restrict RLUIPA’s scope and remedies.

Third, the Supreme Court has repeatedly rejected the application of state statutes and doctrines that purport to limit the reach and remedies afforded by federal civil rights laws. “[A]lthough States retain substantial leeway to establish the contours of their judicial systems,

⁶ Notably, the County “concedes” that its rezoning decision is a “land use restriction” and thus subject to RLUIPA. *See County Br. 19.*

they lack authority to nullify a federal right or cause of action they believe is inconsistent with their local policies.” *Haywood v. Drown*, 556 U.S. 729, 736 (2009) (rejecting application of state law that divested state court over jurisdiction of federal civil rights claims seeking money damages from state correction officers); see *Howlett v. Rose*, 496 U.S. 356, 377-378 (1990) (rejecting application of state law sovereign immunity to section 1983 claims because “[t]o the extent that the Florida law of sovereign immunity reflects a substantive disagreement with the extent to which governmental entities should be held liable for their constitutional violations, that disagreement cannot override the dictates of federal law”); *Felder v. Casey*, 487 U.S. 131, 153 (1988) (rejecting application of state law notice-of-claim provisions to section 1983 claims because “[f]ederal law takes state courts as it finds them only insofar as those courts employ rules that do not impose unnecessary burdens upon rights of recovery authorized by federal laws”) (citation and internal quotation omitted); cf. *Moore v. Harper*, 600 U.S. 1, 34 (2023) (“As in other areas where the exercise of federal authority or the vindication of federal rights implicates questions of state law, we have an obligation to ensure that state court interpretations of that law do not evade federal law.”).

“[W]hen a federal law conflicts with a state law, the Supremacy Clause of the Constitution requires that the federal law preempt the state law.” *See Petersburg Cellular P’ship v. Board of Sup’rs of Nottoway Cnty.*, 205 F.3d 688, 701 (4th Cir. 2000) (citing U.S. Const. art. VI, cl. 2). “RLUIPA explicitly preempts state and local land use regulations that substantially burden religious exercise unless the regulations, as applied, are in furtherance of a compelling governmental interest.” *Camp Zion, Inc. v. Door Cnty.*, No. 23-cv-582, 2025 WL 3764917, at *9 (E.D. Wis. Dec. 30, 2025); *see also Redeemed Christian Church*, 17 F.4th at 508 n.7 (“RLUIPA exempts religious land use from state laws when such laws substantially burden religious exercise without satisfying strict scrutiny.”). Accordingly, state law concepts or doctrines cannot be used to shield a class of “land use regulation[s]” from the reach of RLUIPA by designating them as “legislative acts.” RLUIPA itself defines what a “land use regulation” is, 42 U.S.C. 2000cc-5(5), and that definition, not state law, is controlling in an action alleging a violation of RLUIPA.

Finally, the County’s invocation of state law also violates the principle that federal civil rights law should be “uniformly” applied. *Felder*, 487 U.S. at 153; *see also F.D. Rich Co.*, 417 U.S. at 127 (rejecting

application of state law policy regarding availability of attorney's fees because "[a] uniform rule also avoids many of the pitfalls which have already manifested themselves in using state law referents"). States vary widely on how they characterize zoning decisions. For example, numerous state courts have found that site specific rezonings, like the rezoning application in this case, are quasi-judicial. *See, e.g., Phoenix Dev., Inc. v. City of Woodinville*, 256 P.3d 1150, 1158 (Wash. 2011) (holding that "a city's decision to rezone is a quasi-judicial act"); *Board of Cnty. Comm'rs of Brevard Cnty. v. Snyder*, 627 So. 2d 469, 474-475 (Fla. 1993) (finding that a rezoning hearing before county commissioners was quasi-judicial); *Russell v. City of Central*, 892 P.2d 432, 436 (Colo. App. 1995) (finding that a hearing on a rezoning application was "quasi-judicial in nature"). Other states, like North Carolina, consider rezonings to be legislative. *See, e.g., Godfrey v. Zoning Bd. of Adjustment of Union Cnty.*, 344 S.E.2d 272, 276 (N.C. 1986); *see also Petersburg Cellular P'ship*, 205 F.3d at 699 (noting that, in Virginia, the issuance of conditional use permits is a legislative act). And Maryland considers "legislative amendments" to water and sewer plans—the discretionary permits at the center of the *Redeemed Christian Church* and *Reaching*

Heart cases—as legislative. *Canaan Christian Church*, 335 F. Supp. 3d at 764.

Under the County’s argument, the vagaries of state law determine whether any given discretionary zoning decision is subject to RLUIPA. Worse, state and local governments would be free to game their zoning codes such that most or all discretionary zoning decisions were “legislative acts” under state law, thus immunizing them from the reach of RLUIPA, an outcome explicitly rejected by *Redeemed Christian Church* and *Fortress Bible Church*.⁷ *Redeemed Christian Church*, 17 F.4th at 508; *Fortress Bible Church*, 694 F.3d at 218. Accordingly, this Court should reject the County’s invitation to use state law to restrict RLUIPA’s protections.

⁷ Indeed, the conditional zoning scheme established by Chatham County does exactly that. *Any* use requires rezoning approval (J.A. 241), so *every* conditional rezoning decision would be immune from RLUIPA. Had the County not conditionally rezoned the parcels at issue from R-1, Summit Church would have been able develop a church on the property with only a “quasi-judicial” special use permit (*see* J.A. 282, 328), which according to the County’s argument, *would* be covered by RLUIPA. *See* County Br. 16-18, 24-25.

D. The County's Rezoning Denial is Exactly the Sort of "Individualized Assessment" That RLUIPA Was Intended to Cover.

The County also argues that while RLUIPA can be applied to cases challenging "quasi-judicial" zoning decisions, it cannot be applied to "legislative" zoning decisions. County Br. 5-9, 16-18, 24-25. This is a false dichotomy. Congress made no distinction between legislative and quasi-judicial decisions when it drafted RLUIPA. Instead, RLUIPA applies to "zoning" laws. 42 U.S.C. 2000cc-5(5). And more specifically, RLUIPA's substantial burden provisions applies to "individualized assessments"—discretionary land use decisions like the County's rezoning denial. 42 U.S.C. 2000cc(a)(2)(C).

Congress enacted RLUIPA to address the "essentially standardless discretion" that local governments exercised over local land use decisions involving religious land uses. *Saints Constantine & Helen Greek Orthodox Church, Inc.*, 396 F.3d at 900 (applying RLUIPA's substantial burden provision to rezoning denial); *Guru Nanak*, 456 F.3d at 994 (discussing RLUIPA's legislative history, and noting that when drafting RLUIPA, Congress had compiled a "substantial amount" of evidence that "governmental entities nationwide purposefully exclude unwanted

religious groups by denying them use permits through discretionary and subjective standards and processes”).

Indeed, RLUIPA’s substantial provision applies when “the substantial burden is imposed in the implementation of a land use regulation . . . under which a government makes . . . individualized assessments of the proposed uses for the property involved.” 42 U.S.C. 2000cc(a)(2)(C). RLUIPA’s individualized assessment provision makes no distinction between legislative and quasi-judicial zoning decisions. Rather, it “codifies” the holding of *Sherbert v. Verner*, 374 U.S. 398 (1963), that “a government system for granting individual exemptions from a general rule must have a compelling reason to deny a religious group an exemption that is sought on the basis of hardship.” *Chabad Lubavitch*, 768 F.3d at 193 (quoting *Saints Constantine & Helen Greek Orthodox Church, Inc.*, 396 F.3d at 900) (citation modified); *see also Freedom Baptist Church of Delaware Cnty. v. Township of Middletown*, 204 F. Supp. 2d 857, 869 (E.D. Pa. 2002) (finding that individualized assessment provision “faithfully codifies the ‘individual assessments’ jurisprudence in the *Sherbert* through *Lukumi* line of cases”).

Chatham County’s conditional rezoning process, which requires the County Board to consider the “actual use or uses intended for the property” and myriad other site specific details of the property (J.A. 239-240), is a textbook example of an “individualized assessment” as contemplated by RLUIPA.⁸ See *Redeemed Christian Church*, 17 F.4th at 507 (“[A] governmental entity makes an individualized assessment — thus triggering RLUIPA — when it may take into account the particular details of an applicant’s proposed use of land when deciding to permit or deny that use.” (citation modified)); see also *International Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1066 (9th Cir. 2011) (holding that the City’s determination of plaintiff’s “rezoning and CUP request” was an “individualized assessment”).

Further, the record reflects that the County made an individualized assessment of the proposed use of the property when reviewing Summit Church’s rezoning application. The County reviewed the Church’s proposed use of the land and found that it would cause traffic problems,

⁸ Further, Chatham County’s Zoning Ordinance provides that for an approved conditional rezoning application “*only those uses and structures* indicated in the approved application and site plan shall be allowed on the subject property.” J.A. 244 (emphasis added).

that the proposed church was too big, and that the proposal did not “provid[e] a diversity in the tax revenue and does not provide more high-quality jobs for the area.” J.A. 1826-1827, J.A. 1834-1835. The County’s rezoning denial is an individualized assessment and thus squarely within RLUIPA’s substantial burden provision. *Redeemed Christian Church*, 17 F.4th at 507.

E. The Court’s Preliminary Injunction Does Not Raise Tenth Amendment Concerns.

The County’s argument that the district court’s preliminary injunction violates Tenth Amendment anti-commandeering and federalism principles (County Br. 14-25) is misplaced. The court only enjoined the County’s denial; it specifically declined to enter a mandatory injunction, noting that at the preliminary injunction stage, it was concerned with “commanding a local government to affirmatively act in the confines of traditional local control.” J.A. 1866. As even the County concedes, “RLUIPA allows a district court to enjoin municipal decisions that impose a ‘substantial burden’ on religious exercise.” County Br. 5. And that is all the court did—it enjoined a municipal decision that it found was likely to have imposed a substantial burden on Summit Church’s religious exercise. Accordingly, the issue of whether a

mandatory injunction requiring the County to approve the Church's rezoning application would violate anti-commandeering principles is hypothetical and not before the Court. *United States v. Raines*, 362 U.S. 17, 22 (1960) ("The delicate power of pronouncing an Act of Congress unconstitutional is not to be exercised with reference to hypothetical cases thus imagined."); *Golden v. State Bd. of Law Exam'rs*, 614 F.2d 943, 945 (4th Cir. 1980) ("The Supreme Court has cautioned federal courts 'never to anticipate a question of constitutional law in advance of the necessity of deciding it.'") (quoting *Raines*, 362 U.S. at 21).

Further, the County cites no case for the proposition that legislative zoning decisions are categorically immune from federal law under the Tenth Amendment. To the contrary, in *Village of Euclid v. Ambler Realty Co.*, the Supreme Court held that a local zoning ordinance that divided a jurisdiction into residential and other districts was a valid exercise of the village's police powers so long as the ordinance was not "clearly arbitrary and unreasonable." 272 U.S. 365, 395 (1926). *Euclid* merely established that local governments *could* regulate zoning, not that legislative zoning decisions were beyond the reach of federal civil rights laws.

Other cases cited by the County fare no better. In *SAS Assocs. 1, LLC v. City Council for City of Chesapeake*, a developer sued a city for failing to approve a rezoning request, alleging equal protection claims under section 1983 and the Fourteenth Amendment. 91 F.4th 715, 720 (4th Cir. 2024). This Court dismissed those claims for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) because the developer failed to plausibly allege that it was treated differently from a similarly situated comparator or that the rezoning denial was the result of discriminatory animus. *Ibid.* The case did not involve RLUIPA or religious liberties in any way. And even though the plaintiff was challenging the denial of a rezoning, *id.* at 718, this Court did not dismiss the case for lack of jurisdiction, as the County now urges.⁹

⁹ *Andon, L.L.C. v. City of Newport News*, 813 F.3d 510 (4th Cir. 2016), cited repeatedly by the County (County Br. 14, 18, 20) is also inapposite. While the Court stated generally that RLUIPA was not intended to “undermine the legitimate role of local governments” to enact and implement zoning laws, it did not rule on RLUIPA’s scope or appropriate remedies following the finding of a RLUIPA violation. *Andon*, 813 F.3d at 516. Instead, the Court found that the plaintiff had not plausibly alleged a substantial burden claim. *Id.* at 514-516. *Andon* says nothing about whether “legislative” zoning decisions are immune from RLUIPA.

Similarly, *Smith & Lee Assocs., Inc. v. City of Taylor*, 102 F.3d 781 (6th Cir. 1996), also cited by the County, County Br. 15-16, supports the district court's injunction and a finding that rezoning denials may be the subject of civil rights claims. There, the plaintiff was denied a "rezoning" that it needed to operate a home for elderly persons with disabilities in a single-family residential neighborhood. *Id.* at 785-786. It filed a Fair Housing Act (FHA) lawsuit, claiming that the rezoning denial constituted a denial of a reasonable accommodation. *Id.* at 786. The Sixth Circuit did not reject the case for lack of standing on the basis that the plaintiff had challenged the denial of a rezoning, as urged here by the County. Rather, it affirmed the district court's finding that the city had violated the FHA, noting that "the District Court could have enjoined Taylor from enforcing those provisions of its zoning ordinance that violated the FHAA," *id.* at 797, and held that "the City must allow [the plaintiff] to operate in single-family neighborhoods." *Id.* at 799. The Sixth Circuit found, however, that the district court did not have the power under the FHA to order the city to "amend its zoning ordinance" to adopt the *court's* own definition of "family," because "[t]he choice of how to comply with this opinion by accommodating the elderly disabled rests with the City

Council, not the Court.” *Id.* at 797. Here, the district court’s preliminary injunction, which only enjoined the County’s rezoning denial pending further order of the court, is entirely consistent with the holding of *Smith & Lee Assocs.*, which required the city to allow the plaintiff to operate its home. *Id.* at 799.

Moreover, the court’s preliminary enjoining of the rezoning denial is nothing like the massive affirmative statutory requirements at issue in the anti-commandeering cases cited by the County. For example, in *Murphy v. National Collegiate Athletic Ass’n*, the Supreme Court held that a federal anti-gambling statutory scheme that “regulate[d] a State’s exercise of its lawmaking power by prohibiting it from modifying or repealing its laws prohibiting sports gambling,” violated the Tenth Amendment. 584 U.S. 453, 463 (2018). In *Printz v. United States*, the Supreme Court struck down a federal statutory scheme that required thousands of local chief law enforcement officers to conduct background checks on gun purchasers. 521 U.S. 898, 935 (1997). And in *Mi Familia Vota v. Abbott*, the court found that it lacked jurisdiction to grant requested injunctive relief that would have required various state agencies to enact over a dozen specific COVID safety measures and

practices for voters. 977 F.3d 461, 469 (5th Cir. 2020). None of those cases involved land use, let alone an order enjoining a single discretionary rezoning decision like at issue here.

Accordingly, the district court's preliminary injunction enjoining the denial of Summit Church's rezoning application does not raise Tenth Amendment questions.

CONCLUSION

For the foregoing reasons, this Court should find that Summit Church has standing to bring its RLUIPA claims challenging the County's rezoning denial and affirm the district court's preliminary injunction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rules of Appellate Procedure 29(a)(5) and 32(a)(7)(B)(i) because it contains 6024 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Fourth Circuit Rule 32(b)(1). This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) and (6) because it was prepared in Century Schoolbook 14-point font using Microsoft Word for Microsoft 365.

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