When the economy tanked and businesses closed, landlords got creative, filling vacant space in their malls and commercial buildings with gyms and clinics—and churches and mosques. It is all but impossible to tally how many such worship spaces have opened in retail or commercial space across the U.S., but the number seems to be growing.

Michigan’s Lake Benton Township, for one, is in a fight over the issue. The local planning commission voted five to two in March to grant a special use request for a church that wants to occupy a 130,000-square-foot former Sears store. The aptly named Overflow Church had been leasing 785 square feet in the adjacent mall when the Sears building owner, a private individual, donated the big box to the church.

Overflow now wants to use the old Sears space for worship and as a base for community development activities, but the owner of the mall sued, contending that the Sears property’s best use is retail and the church’s presence will hurt business. Mediation has been scheduled for June.

Arizona has had similar dustups, including complaints of over-capacity parking at churches and a Buddhist temple in residential areas. In Mesa, the neighbors’ problem was noise—sometimes churches do rock out. The Arizona legislature this year passed a law setting limits on what local government can do to restrain such activities. Opponents of the measure argued in vain that the new law would let groups gather for worship in potentially inappropriate places while giving local government little ability to shield neighbors from the impact.

The League of Arizona Cities and Towns opposed the bill. Executive director Ken Strobeck says the new law gives “preference to anybody who claims to be doing religious practice”—at malls as well as in neighborhoods.

Who gets preference?
Can local governments treat religious groups the way they treat other prospective tenants? Yes, to some extent—but religious organizations may warrant special protection under such state laws as well as the federal Religious Land Use and Institutionalized Persons Act, passed in 2000. Under RLUIPA, local land-use regulation must not unreasonably interfere with religious practice, and that may extend to commercial as well as residential uses.

There is a bigger question, too: Is our use of malls changing permanently? Malls have long been community centers, hosting everything from singles mixers to adopt-a-pet events. Will malls now evolve into gathering places with faith-based anchors?

And given RLUIPA and measures such as Arizona’s that protect religious organizations, what happens when an economic recovery gets going? Will mall landlords welcome back retailers to their accustomed spaces—and oust congregations? Or will malls decide that they like the predictable surge of worshipers who may stay after church to shop or dine?

There may be more questions than answers at this point. Here’s one: If you’re a mall owner and you have a church or...
Watch Your Back

If a church comes to a local planning commission and asks to locate in a mall, can the local government refuse? It can, but it might land itself in a RLUIPA suit. The federal law protects religious freedom in land-use and prison contexts. It comes into play fairly frequently.

Local government has prevailed in some cases. In a 2009 case, Little v. Town of Irondequoit Zoning Board of Appeals, a New York State judge ruled in favor of the municipality, which wouldn't allow a faith-based halfway house in a residential area. "Refusal to allow that in a residential zone didn't violate RLUIPA because there is a significant state interest in maintaining the residential zone," says attorney Steven Silverberg of Tarrytown, New York, a specialist in retail law. On the other hand, in a recent case, the 10th Circuit Court of Appeals ruled against Boulder County, Colorado, which had denied Rocky Mountain Christian Church's application to expand in an agricultural district. (More on this case is in News.)

So what happens if a church wants to move into a local mall and neighbors object? Or what if a mall that has leased vacant space to a church but decides not to renew the lease because it has a retail tenant in the pipeline?

Such questions may keep lawyers and planners busy. Janelle Schmitz, planning and economic development manager for Woodbury, Minnesota, has approved separate proposals to allow a church and mosque, both in commercial space. "Under RLUIPA," says Schmitz, "we have to be conscious that we are treating like uses the same."

Planners say the Rock Church in Brewer, Maine, fits in just fine with the surrounding retail.

mosque in your mall, does it mean that Victoria's Secret loses favor as a tenant, lest the racy national lingerie chain offend the pious?

Not necessarily. Bill Chamberlin's mall-based church, located in Annapolis, Maryland, targets mall regulars. "People who go to the mall," says the pastor, "look at that culture as being normal."

Hanging around after church

Westfield Group of Los Angeles, owner of the Annapolis center, has a few other churches in its 55 U.S. malls and one church at a mall in Australia. Katy Dickey, a spokeswoman for the firm, says the net effect of mall churches is positive—it's "a use that works fine," she says.

Likewise, at the 68,000-square-foot City Center in Brewer, Maine, the Rock Church draws 350 worshipers to the strip mall on Sunday mornings, a surge that encourages neighboring retailers to open on what would otherwise be a day off. Brewer planning director Linda Johns says she has tried to treat the church like any other business tenant. "Parking and traffic trigger the most concerns," she says—but "so far, churches make good neighbors."

Two other factors come into play. One concerns land use, the other the tax base.

When churches occupy existing space, they don't have to build a new facility on the outskirts of town. That helps preserve surrounding rural areas. "Churches are a very important part of many people's lives and also are important to a vibrant community," says Johns. "For small cities such as Brewer, mixed uses are necessary to utilize urban land and keep development from sprawling into our rural open space."

Further, such churches do in fact pay taxes, albeit indirectly, through their rent payments to mall landlords. Freestanding churches that own their own buildings are tax exempt.

Civic conflict

Chamberlin says he approached the mall theater operator in Annapolis in 2003 to ask for its space on Sunday mornings. The mall owner balked, he says, but the theater found that its lease allowed it to host public events. That led to his Church at the Mall.

It uses three of the theater's 11 screen
areas—one space as a nursery, one for children’s ministry, and one for worship. Chamberlin won’t say what the church pays in rent to Bow Tie Cinemas of Ridgefield, Connecticut, which now operates the theaters. The church maintains a separate office elsewhere in Annapolis.

The mall match is a good one for the church, at least in terms of parking. When church is in session, the flock of 140 has little or no competition for space because relatively few shoppers go to the mall on Sunday morning. The downside for the church is that it can’t hold events at other times of the week, when the mall and theater are busy.

Little alteration was required for Church at the Mall’s space. The church provides its own speaker units; the cinema’s speakers were too powerful, says Chamberlin. Church workers leave their equipment in the theaters during the week.

The only conflict was minimal: Firefighters run occasional Sunday-morning training drills at the near-empty Annapolis mall. That startled worshipers, but when emergency workers realized a church group was meeting, they scheduled their drills earlier in the day.

Malls and churches actually have a decades-old working relationship. Northshore Mall in Peabody, Massachusetts, has hosted Carmelite Chapel for 50 years without a hitch, according to city officials.

Indeed, churches have long met in commercial spaces in the U.S. The movement known as Pentecostalism started in Los Angeles in an Azusa Street warehouse once used as a cattle stable. In 1906, on a dirt floor covered in sawdust—when laws restricted intermingling of ethnic groups—blacks, whites, Hispanics, and Asians worshipped there. An estimated 600 million worshipers worldwide now call themselves Pentecostals. And storefront churches can be found in retail districts in many cities.

That doesn’t necessarily mean that a mall will work well as a place of worship. When the Islamic Society of Woodbury (Minnesota) sought space at a local shopping center, it was told that worshipers’ traffic would overburden adjacent streets during the mosque’s regular Friday services. The Muslim group now meets in commercial space nearby.

Religious organizations may not be a good match for the standard mall business model. A mall’s tenant mix is supposed to be self-supporting. What goes into one space must be a positive for what goes into the other spaces. Religious issues aside, heating, ventilating, and air conditioning systems are designed to accommodate strolling shoppers—not worshipers packed by dozens or hundreds into a tight space.

After hours

David Johnson understands that mall managers may be reluctant to lease space for worship, yet he has found a way to make churches work in his own flex centers, buildings designed for office and light industry. Johnson, owner of Crossroads Property Management in Oakdale, Minnesota, has leased to churches in three Twin Cities suburbs, and now is leasing to a mosque as well.

The key challenge in getting a conditional use permit for worship space, says Johnson, is to educate local officials on the compatibility of a church or mosque in a commercial project.

That’s not so hard for churches, where parking demand is highest on weekends and weeknights. A mosque is trickier because Muslims meet for worship on Fridays during the day. Nevertheless, Woodbury officials agreed that the building Johnson offered has sufficient parking to accommodate his Muslim tenants.

Further, church activity isn’t limited to Sunday morning and Wednesday nights anymore. “Churches are changing,” says Janelle Schmitz, Woodbury’s planning and economic development manager.

Of course, churches and mosques eventually may move on in search of a more permanent home. This will be the case for Waseem Khan, president of the Woodbury mosque in Minnesota. His Muslim congregation of 50 searched for six months before it settled in with Johnson’s firm. Yet when its lease expires, says Khan, the group hopes to find a more appropriate location.

Chamberlin’s church has been in the same spot for seven years. Yet even Church at the Mall wants a permanent home, he says.

Johnson has seen religious group tenants come and go. A good pastor may organize a flock, but if the pastor departs, then it’s goodbye, tenant. Indeed, leasing to religious groups is a little different from business as usual.

“Who signs on the lease? Typically, no one,” says Johnson. “If you have a good pastor and leader, you can have a very, very strong organization. If you lose your pastor, the whole thing can go down the tubes.”

Mammon

Sometimes churches out-and-out buy the whole mall. That happened in both Cincinnati and Memphis, Tennessee, but the Cincinnati effort failed. The Memphis venture is too new to tell.

Allen Temple in Cincinnati, a historic African American church, acquired Swiftton Commons in 1998 and later renamed it Jordan Crossing but couldn’t make a go of it and sold it to the city. The city now wants to tear down the 1950s-era center and create a high-tech office and light-industry space.

Michael Cervay, Cincinnati’s director of community development, counsels “an enormous amount of sensitivity” when a church approaches the city with a proposal to buy and convert a mall. “Churches get into these ventures with all the greatest intentions,” says Cervay—but may not have the skills to make it work. His advice to religious groups: “Know your strengths.”

In Memphis, World Overcomers Outreach Ministry Church acquired a faltering mall from private owners and reopened it last April. The 450,000-square-foot Hickory Ridge Mall will operate as a mixed-use center, including some of the retail for which it was designed.

Robert Lipscomb sees no problems with this arrangement. “There is no downside for us,” says Lipscomb, director of Memphis’s Division of Housing and Community Development, especially since the structure had sustained damage from a tornado a few years ago and the church restored it. After the 2008 storm, he says, the Hickory Ridge mall property “was empty and had no prospects.” Now it’s open again. The city’s exposure on the new deal, Lipscomb notes, is limited to a $300,000 loan guarantee.

In short, local government must have a little faith—as well as knowledge of federal law and the law of supply and demand—to make this approach work.

Marc Hequet is a freelance writer based in St. Paul, Minnesota.