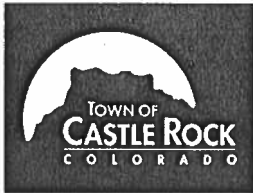


Town's Exhibit A

**Appeal of Zoning Manager
from Church of the Rock**



Development Services Department
100 N. Wilcox Street, Castle Rock CO 80104
Tammy King, Zoning Manager
720-733-3557 tking@crgov.com

BOARD OF ADJUSTMENT (BOA)
APPEAL OF ZONING MANAGER DECISION

Achieving the Community Vision through Excellence, Dedication and Service

Applicant Information

APPLICANT: Church of the Rock **COMPANY:** _____
PHONE: 303-688-0777 **E-MAIL:** mreagor@drc-law.com
ADDRESS: 4881 Cherokee Drive **CITY/ZIP:** Castle Rock, CO 80109
APPLICANT'S SIGNATURE: *[Signature]* Michael W. Reagor, Attorney for Church of the Rock

Owner Information

OWNER: Church of the Rock **COMPANY:** _____
PHONE: 303-688-0777 **E-MAIL:** mreagor@drc-law.com
ADDRESS: 4881 Cherokee Drive **CITY/ZIP:** Castle Rock, CO 80109
OWNER'S SIGNATURE: *[Signature]* Michael W. Reagor, Attorney for Church of the Rock

Property Information

SITE ADDRESS: 4881 Cherokee Drive, Castle Rock, CO 80109
LEGAL DESCRIPTION: See Enclosures.
CURRENT ZONING: PD Zoning

Submittal Requirements

- Narrative of applicant's interpretation

Staff Only

Meeting Date _____ Staff Acceptance Date and Signature _____

DYMOND • REAGOR
A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW
SUITE 1040, THE EDWARD BUILDING
8400 E. PRENTICE AVENUE
GREENWOOD VILLAGE, COLORADO 80111-2922

Michael W. Reagor
mreagor@drc-law.com

Telephone (303) 793-3400
Facsimile (866) 861-7066

October 13, 2023

VIA EMAIL AND REGUALR MAIL

Ms. Tammy King
Zoning Manager
Town of Castle Rock
100 N. Wilcox Street
Castle Rock, CO 80104

Via e-mail: tking@crgov.com

Re: Appeal of Zoning Decision
September 29, 2023 Letter of Determination
4881 Cherokee Drive, Castle Rock, CO 80109

Dear Ms. King:

I represent the Church of the Rock (“the Rock”), owner of 4881 Cherokee Drive, Castle Rock, CO 80109 (“the Property”), and Applicant for the Appeal to the Board of Adjustment of the Zoning Manager’s September 29, 2023 Zoning Decision Letter of Determination (“Determination”), attached as Exhibit 1. Separately this office overnighted to your office via FedEx the required fee.

1. Procedural history

On November 9, 2022, the Castle Rock Town Attorney, Michael Hyman, sent a letter, attached as Exhibit 2, to Pastor Mike Polhemus, the Lead Pastor of the Rock. That letter informed the Rock of a “potential violation” of Planned Development Zoning Regulations applicable to the Property (“PD Zoning Regulations”) because the Rock had three vehicles (hereinafter, “Campers”) parked next to the Rock main church building on the Property. Prior to this letter, the Rock had been contacted by TCR Zoning Inspector Scott Seubert and informed him that the Campers were not then occupied. Mr. Hyman stated in his letter that “the use of these RV’s for residential purposes as well as storage of these vehicles on the property are violations of the PD Zoning Regulations.” The letter included photos of the three Campers.

The next day, November 10, TCR by letter from Mr. Seubert sent a “Notice of Zoning Violation” to the Rock, attached as Exhibit 3. The letter stated that the Rock was violating the TCR Municipal Code (“the Code”) by “ALLOWING STORAGE OR RESIDENCY IN CAMPERS ON THE PROPERTY” and requested that the Rock “REMOVE STORAGE OR

Ms. Tammy King
Zoning Manager
October 13, 2023
Page 2

RESIDENCY OF CAMPERS FROM THE PROPERTY.” The letter did not identify the section of the Code being violated by the Rock.

On February 14, 2023, leaders from the Rock, as well as undersigned (“the Rock Team”), met with TCR staff, including Town Manager David Corliss, yourself, Ms. Vargish and Mr. Hyman (“the TCR Team”), to discuss the two November letters. During that meeting, there was a robust discussion regarding the Town Manager’s concerns, the Rock’s compassionate care ministries, and the Rock’s position that it was not in violation of any section of the Code.

On March 9, 2023, the TCR Team again met with the Rock Team. During that meeting, the Rock’s delivered its position set forth in the letter attached as Exhibit 4. As stated in the letter, Church staff met with TCR Zoning personnel both before and after the March 9 meeting to address the concerns identified by the Zoning Manager.

On November 1, 2023, the Rock received the September 29, 2023 Letter of Determination.

The Determination letter refers to the May 6, 2004 Church of the Rock PD, Ordinance 2003-27, recorded at Reception No. 2004046665, and the Permitted Uses stated therein. The Determination states that

“a parsonage is the only accessory residential use permitted at the above mentioned address. Further, RV’s parked on-site, that serve as a residence are not an allowed use”

2. Material facts

The Rock stipulates that the following facts are true and correct.

1. From March 2023 through September 2023, there have been no more than two Campers on the Property, and they have been parked in the Property back parking lot (next to open space).
2. One of those Campers is a mobile home, which is moved by driving the vehicle; and one is a travel trailer, which is moved by attaching the front of the trailer to a vehicle.
3. From March 2023 to the present, these Campers have been used on an occasional basis to provide overnight shelter for certain temporarily unhoused persons participating in Church compassionate care programs.
4. Each of these persons has been provided limited overnight shelter as part of specific Rock church programs designed to responsibly help and restore the poor, needy and

Ms. Tammy King
Zoning Manager
October 13, 2023
Page 3

destitute. See <https://www.therock.org/ministries/>. These compassionate care programs require that any person receiving food, money or shelter assistance seek employment and cease destructive behaviors. This shelter assistance program operates alongside the Rock's other compassionate ministries, including a food bank which provides free food to all in need.

5. Such overnight shelter assistance has been provided since 2016 in conjunction with the Rock's provision of shelter through the Winter Shelter Network, which is a network of Douglas County churches which serve the unhoused by providing temporary shelter for those in need to receive "rest, meals and connection" during the winter months. <https://www.wintershelternetwork.org/>. This program is specifically supported by the Douglas County Board of Commissioners.
6. When the Winter Shelter Network is activated, the Rock provides overnight shelter and food to women and children, within an open area inside the main Church building containing cots, for the safety and welfare of these individuals. Volunteers from the Rock staff the shelter network when it is activated during the winter months because of cold or harsh weather conditions.
7. Outside of the Winter Shelter Network operation, the Rock is unable to provide regular overnight shelter assistance inside the Church building due to limited overnight staff and volunteer assistance monitoring on a regular basis. The Winter Shelter Network does not provide shelter assistance to men. The use of the Campers has provided the ability to assist the unhoused men, women, and children with temporary overnight shelter assistance. The Rock is able to properly monitor use of the Campers, as the use of the Campers does not require the same level of staffing as the Winter Shelter Network.
8. The Rock's overnight shelter assistance provide life sustaining care for the poor and needy, and opportunities for Christian Believers to participate in the care of their neighbors.
9. The temporary shelter assistance administered through these programs is transitional, for a limited period, and provided pursuant to Biblical stewardship guidelines.
10. The Rock has a history of helping the needy and homeless, including shelter assistance, through its compassionate care programs, and these programs are an essential part of the Rock's mission and purposes.

Ms. Tammy King
Zoning Manager
October 13, 2023
Page 4

11. As an evangelical Christian church, the Rock follows the teachings of both the Old Testament and the New Testament relating to caring for the poor and needy. The Bible specifically directs God's people to care for the poor and needy, and these Scriptures, and others, state the sincerely held beliefs of the Rock regarding caring for the poor and needy:

- Isaiah 10:2 admonishes that Believers "must give generously to the poor and do so without a grudging heart", and "openhanded toward the poor and the needy".
- Isaiah 58:7 communicates that Christians are to "share your food with the hungry and to provide the poor homeless with shelter".
- Proverbs 19:17 teaches that "whoever is kind to the poor lends to the Lord, and He will reward them for what they have done".
- Proverbs 29:7 confirms that "the righteous care about justice for the poor, but the wicked have no such concern".
- Leviticus 25:35 requires that "if your brother becomes poor and cannot maintain himself with you, you shall support him as though he were a stranger and a sojourner, and he shall live with you. Take no interest from him or profit, but fear your God, that your brother may live beside you".
- Proverbs 21:13 teaches that "whoever shuts their ears to the cry of the poor will also cry out and not be answered".
- In Luke 6:38, Jesus taught that giving to others in their need is the true measure of a person's faith.
- In Luke 11:41, Jesus instructed His followers that "but now as for what is inside you—be generous to the poor, and everything will be clean for you."
- Jesus's half-brother James taught that Believers must care for others in need of food or clothing, and especially orphans and widows in need. James 1:27, 2:15-16.

3. Argument

A. The Rock is not using the Campers as a parsonage.

The Rock is not using the Campers as a parsonage and has never claimed this use.

B. The use of the Campers for the described occasional temporary shelter assistance is permitted under the PD Zoning regulations and the Town Zoning Code.

The PD Zoning Regulations at section A(4), page 1, provide that the PD Zoning Regulations prevail and govern over the TCR Zoning Ordinance unless there is a Code provision that addresses a particular subject not addressed in the PD Zoning Regulations.

Ms. Tammy King
Zoning Manager
October 13, 2023
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Under the PD Zoning Regulations, the Rock may use the Property for “Church and related uses”. The PD Zoning then lists by bullet point specific types of “Church and related uses”. However, that list is not exclusive and cannot be interpreted as exhaustive. See also Sherman v. Colo. Springs Planning Comm’n, 763 P.2d 292 (Colo. 1988) (due process requires a zoning code to be sufficiently explicit so that a reasonable landowner can understand and comply with land uses).

Chapter 17.14 of the Code defines a “place of worship” to include churches but does not otherwise define a church or church activities. Both the PD Zoning Regulations and the Code allow for “church related uses”, which includes programs essential to the Rock’s mission and sincerely held religious beliefs. Those programs include the shelter assistance provided through the Rock’s compassionate care ministries, including shelter assistance provided in the Campers.

Further, the Zoning Code at 17.14.010, defines an “accessory use” as “a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.” The Rock’s compassionate care ministries, including use of their indoor facilities and occasional use of the Campers for shelter assistance as described, is a permitted “accessory use” because it is naturally and normally incidental to the main use of the premises, including the Rock’s compassionate care ministries. See, e.g., East Side Baptist Church of Denver, Inc. v. Klein, 175 Colo. 168, 487 P.2d 549 (1971) (board of adjustment found that use of buses was an accessory use within the meaning of the zoning code); Mahrt v. First Church Christ Scientist, 142 N.E.2d 567 (Ohio App. 1955) (church’s use of land as parking lot was an accessory use within the meaning of a zoning ordinance authorizing accessory uses to permitted uses, including because such use was not expressly prohibited under the ordinance); Diocese of Rochester v. Planning Board of Brighton, 136 N.E.2d 827 (N.Y. 1956) (same); Corporation of Presiding Bishop, etc., v Ashton, 448 P.2d 185 (Idaho 1968) (lighted church recreation field on which softball was played was a permissible accessory religious use within the meaning of a city zoning ordinance).

C. The Rock’s use of its Property is protected under RLUIPA.

Under the Religious Land Use and Institutional Persons Act, 42 U.S.C. § 2000cc-5(7) (“RLUIPA”), “[t]he term ‘religious exercise’ includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief,” and “[t]he use . . . of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.”

Congress passed RLUIPA to protect persons from land use regulations that impose a substantial burden on the person’s free exercise of religion. Such regulations include zoning

Ms. Tammy King
Zoning Manager
October 13, 2023
Page 6

laws that limit a church's use of its property. Prater v. City of Burnside, KY, 289 F.3d 417 (6th Cir. 2002). A substantial burden on a church's mission caused by application of a zoning law may violate RLUIPA. Hand of Hope Pregnancy Resource Center v. City of Raleigh, 386 F.Supp.3d 618 (E.D. N.C. 2019).

The Code expressly states that RLUIPA is, among other federal laws relating to land use, a "Controlling Legal Requirement", and that the Code shall be interpreted consistent with RLUIPA. TCR 17.01.020.

The Board should consider RLUIPA in determining this appeal.

First, the Rock's limited occasional use of the Campers for shelter assistance is consistent with the Rock's sincerely held Christian faith and its demonstrated care and love for those in the Castle Rock community, including those suffering temporary housing crisis. Harbor Missionary Church Corp. v. City of San Buenaventura, 642 Fed.Appx. 726 (9th Cir. 2016).

Second, RLUIPA should protect the Rock's limited use of its Property for this limited shelter assistance program, pursued as part of a firm commitment to help the poor and homeless. Importantly, presently this the ministry cannot be operated at a separate location, because the Rock cannot reasonably use its indoor facilities and cannot afford to purchase other property to provide this limited shelter assistance. City of Woodinville v. Northshore United Church of Christ, 162 P.3d 427 (Wash. Ct. App. Div. 1 2007).

The Board should find that RLUIPA protects the Rock's use of its Property, including the Campers, for this limited shelter assistance program.

D. Summary

In considering the Rock's appeal, the Board should consider also these principles:

- As a general matter "[c]hurches ... and other institutions dedicated to religious objectives are in some degree protected from the full impact of zoning restrictions. These uses are favored for reasons ranging from their unique contribution to the public welfare to constitutional guarantees of freedom of worship." Rapid City v. Kahler, 334 N.W.2d 510, 512 (S.D., 1983) (deletion added), quoting 2 Anderson, American Law of Zoning, (2nd ed), § 12.18.
- Thus, for example, it is an "almost universal rule that churches and their attendant uses are permitted in residential areas" Church of Jesus Christ of Latter Day Saints v. Idaho Falls, 92 Idaho 571, 574, 448 P.2d 185 (1968); accord In re Diocese of Rochester v. Brighton Twp. Planning Bd., 136 N.E.2d at 858 (1956) ("It is well established in

Ms. Tammy King
Zoning Manager
October 13, 2023
Page 7

this country that a zoning ordinance may not wholly exclude a church or synagogue from any residential district.”)

- As one court has reasoned, churches need not be established only in sparsely settled areas; instead, “wherever the souls of men are found, there the house of God belongs.” O'Brien v. Chicago, 347 Ill.App. 45, 51, 105 N.E.2d 917 (1952).
- As a corollary to the favored status of churches, courts have held that zoning authorities must be flexible and accommodating in reviewing requests to permit church building projects. “It is well settled that ... greater flexibility is required in evaluating an application for a religious use than an application for another use and every effort to accommodate the religious use must be made.” In re Genesis Assembly of God v. Davies, 208 A.D.2d 627, 628, 617 N.Y.S.2d 202 (1994) (citations omitted).
- One component of this accommodating and flexible approach is to broadly define what constitutes a “church” activity or use in light of changing religious needs and circumstances. “[T]he concept of what constitutes a church has changed from a place of worship alone, used once or twice a week, to a church used during the entire week, nights as well as days, for various parochial and community functions.” Beit Havurah v. Norfolk Zoning Bd. of Appeals, 177 Conn. 440, 447–448, 418 A.2d 82 (1979), quoting 2 Rathkopf, Zoning & Planning, § 20.03, p. 20–53 (1978).
- More than half a century ago, the New York Court of Appeals handed down an oft-cited summary of what constitutes a church in contemporary society:

A church is more than merely an edifice affording people the opportunity to worship God. Strictly religious uses and activities are more than prayer and sacrifice and all churches recognize that the area of their responsibility is broader than leading the congregation in prayer. Churches have always developed social groups for adults and youth where the fellowship of the congregation is strengthened with the result that the parent church is strengthened.... When a member of the congregation cements friendships with other members of the congregation, the church benefits and becomes stronger. It is a religious activity for the church to provide a place for these social groups to meet, since the church by doing so is developing into a stronger and closer knit religious unit. To limit a church to being merely a house of prayer and sacrifice would, in a large degree, be depriving the church of the opportunity of enlarging, perpetuating and strengthening itself and the congregation.

In re Community Synagogue v. Bates, 1 N.Y.2d 445, 453, 154 N.Y.S.2d 15, 136 N.E.2d 488 (1956).

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Ms. Tammy King
Zoning Manager
October 13, 2023
Page 8

The Rock recognizes that the use of its Property for its mission and spiritual purposes cannot be used as a justification to avoid the Castle Rock Zoning Code. But the limited activities here are wholly consistent with the Rock's mission of providing for and protecting the poor and needy, in a blessed community that currently struggles to help those who need a hand up.


The use of the Campers for occasional overnight shelter are closely related, in substance and in space, to the Rock's mission and purpose.

The violation alleged here is limited to the specific facts at issue: limited overnight shelter assistance provided through three Campers located in the back parking lot of the Property.

The Rock requests that the Board of Adjustment reverse the Zoning Manager's Determination of a zoning violation.

Respectfully submitted,

Dymond • Reagor, PLLC

By: 
Michael W. Reagor

MWR/

Enclosures as stated



Development Services
100 N. Wilcox Street
Castle Rock, CO 80104

LETTER OF DETERMINATION

Date: September 29, 2023
Address: Church of the Rock
4881 Cherokee Drive, Castle Rock, CO 80109
Through: TJ Kucewesky, Assistant Director of Development Services
Kevin Wrede, Planning Manager
Subject: Allowed accessory living quarters/residences

Per Church of the Rock PD, Ordinance 2003-27, Reception #2004046665 and recorded on May 6, 2004:

F.1.b. Permitted Uses:

All provisions of this Title, as amended from time to time, shall apply in PD Districts unless otherwise

b Permitted Uses

- 1) Church
- 2) Church related educational facilities
- 3) Church related day care center subject to licensing requirements of the State
- 4) Parsonages
- 5) Non-profit ministry related administrative offices.
- 6) Trails, pedestrian and bicycle
- 7) Open space and ponds to include storm water drainage detention areas
- 8) Indoor and outdoor church related recreational facilities
- 9) Utilities and appurtenant facilities including by not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities

- Parsonage is not defined in the PD
- Parsonage is not defined in the Castle Rock Municipal Code
- American Planning Association (APA) defines parsonage as:
 - o "The permanent place of residence of the pastor or minister of a church"

Determination:

Per the allowed uses as defined in the Planned Development (PD) and the definition with the APA, a parsonage is the only accessory residential use permitted at the above mentioned address. Further, RV's parked on-site, that serve as a residence are not an allowed use.

Per 17.06.020.B.3

A written notice of appeal of any administrative decision shall be filed within fifteen (15) days of the decision being appealed. The notice of the appeals shall be filed with the Manager and shall state with specificity the reason for appeal. The Board (Board of Adjustment) shall hear such appeal within sixty (60) days of the filing of the notice of appeal.


Tammy King
Zoning Manager


Tara Vargish
Director of Development Services



Office of the Town Attorney

Michael J. Hyman, Town Attorney

November 9, 2022

Via Certified Mail & First Class Mail
Receipt # 7021-1970-0001-6989-0466

Pastor Mike Polhemus
Church of the Rock
4881 Cherokee Drive
Castle Rock, CO 80109
Mike@therock.org

RE: Potential Violation of PD Zoning Regulations

Pastor Polhemus,

This letter is to inform you of a potential violation of the Zoning Regulations for the Church of the Rock Planned Development ("PD Zoning Regulations"). Recently, it has come to the Town of Castle Rock's (the "Town") attention that there are currently three (3) Recreational Vehicles ("RVs") parked next to the Church of the Rock (the "Church"). While you have indicated that these RVs are not occupied they appear to still be connected to electricity and the Town has received several complaints from citizens that the RVs appear to be occupied. The use of these RVs for residential purposes as well as the storage of these vehicles on the property are violations of the PD Zoning Regulations.

According to Section F of the PD Zoning Regulations the following uses are permitted:

- Church and Related Uses
 - Church
 - Church related educational facilities
 - Church related day care center subject to licensing requirements of the State
 - Parsonages
 - Non-profit ministry related administrative offices
 - Trails, pedestrian and bicycle
 - Open space and ponds to include storm water drainage detention areas
 - Indoor and outdoor church related recreational facilities

- Utilities and appurtenant facilities including but not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities
- Dedicated Open Space – OSD
 - Open Space
 - Flood Plain
 - Parks, playgrounds and picnic areas, excluding camping and overnight parking
 - Utilities and appurtenant facilities including but not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities
 - Public and private streets, drives, and trails for pedestrian and bicycle use

Per the PD Zoning Regulations residential uses are not permitted nor is the storage of RVs. Please remove the RVs and cease all residential uses on the property.

Sincerely,

Lena McClelland
Assistant Town Attorney





Zoning Division
Development Services
100 N. Wilcox Street
Castle Rock, CO 80104

November 10, 2021

CASE NUMBER: ZCE2111-018

VIA CERTIFIED and REGULAR MAIL

TRACKING #: 91 7199 9991 7036 1053 9662

CHURCH OF THE ROCK
4881 CHEROKEE DR
CASTLE ROCK, CO 80109

RE: NOTICE OF ZONING VIOLATION

Subject Property: 4881 CHEROKEE DR

To Whom It May Concern:

The Town of Castle Rock is committed to sustaining a high quality-of-life as a family-friendly and safe community. We value the contributions you and your family make to the Town to help foster a sense of pride and to embrace a positive and healthy living environment. In an effort to better ensure that the Town's objectives and goals are met, as you may know, the Town has adopted a Municipal Code designed to protect the health, safety and welfare of Castle Rock residents. To that end, the Code regulates a variety of activities and practices. Some regulations are intended to prevent negative impacts to surrounding property owners. Through its application, Town staff strives to apply the Code in an equal and uniform manner. It has come to our attention that the property, located at 4881 CHEROKEE DR is in violation of Municipal Code:

17.01.030 - Enforcement authority.

This Title shall be enforced by the Town and its authorized officers, agents and representatives. Town officials may seek enforcement of this Title by injunctive or other equitable relief as necessary to protect the public health, safety and welfare.



Nature of the Violation: ALLOWING STORAGE OR RESIDENCY IN CAMPERS ON THE PROPERTY

Please take the following corrective action: REMOVE STORAGE OR RESIDENCY OF CAMPERS FROM THE PROPERTY

Department Mission: "Implementing Community Vision through Development Activities"

Town staff would be happy to discuss this matter with you in more detail, and we invite you to come in, or to call us, so that we might explore possible options to bring the above-referenced residential property into compliance with the Code. In the expectation of reaching a satisfactory resolution to this matter, kindly contact **Scott Seubert, Zoning Inspector, at (720) 733-2212 or sseubert@crgov.com**, to advise us of your intentions. To the extent that you do not have any questions, and prefer to handle the situation, then we are requesting that you undertake efforts to ensure compliance with the Code within **fifteen (15) days from the date of this letter**. In the event that the situation has not been rectified within the next fifteen (15) days, then the Town may be forced to pursue compliance through available legal channels.

We are hopeful that it will not be necessary for the Town to initiate any Code Enforcement action.

Thank you for your attention to this matter and your anticipated cooperation is sincerely appreciated.

Kind Regards,



Scott Seubert
Zoning Inspector
sseubert@crgov.com
Phone: 720-733-2212

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SUITE 1010, THE EDWARD BUILDING
8400 E. PRENTICE AVENUE
GREENWOOD VILLAGE, COLORADO 80111-2922

Michael W. Reagor
mreagor@dic-law.com

Telephone (303) 793-3100
Facsimile (866) 861-7066

March 9, 2023

VIA EMAIL ONLY

Mr. Michael J. Hyman
Town Attorney
Town of Castle Rock, Colorado
100 N. Wilcox Street
Castle Rock, CO 80104

Re: November 9, 2022 letter to Church of the Rock

Dear Mr. Hyman:

Recently team members from the Church of the Rock ("the Rock") met with Town of Castle Rock ("TCR") officials regarding your office's November 9, 2022 letter ("the Letter") addressed to Mike Polhemus, Lead Pastor of the Rock. In that letter, your office informed Pastor Polhemus that the use of three recreational vehicles ("RVs") parked on the Rock's property for residential purposes would violate the PD Zoning Regulations applicable to the Rock.

When we met with the TCR team on February 14, Pastor Polhemus confirmed his team would consider the concerns stated in the letter and provide a response.

Separately from this letter, Pastor Polhemus and his team are meeting with TCR officials to address specific concerns relating to use and parking of vehicles, including RVs, on the Rock property.

As an evangelical Christian church, the Rock follows the teachings of both the Old Testament and the New Testament relating to caring for the poor and needy. The Bible specifically directs God's people to care for the poor and needy:

- Proverbs 19:17 teaches that "whoever is kind to the poor lends to the Lord, and He will reward them for what they have done."
- Proverbs 29:7 confirms that "the righteous care about justice for the poor, but the wicked have no such concern."
- Leviticus 25:35 requires that "if your brother becomes poor and cannot maintain himself with you, you shall support him as though he were a stranger and a sojourner,

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Michael Hyman, Esq.
March 9, 2023
Page 2

- and he shall live with you. Take no interest from him or profit, but fear your God, that your brother may live beside you.”
- Proverbs 21:13 teaches that “whoever shuts their ears to the cry of the poor will also cry out and not be answered.”
 - In Luke 6:38, Jesus taught that giving to others in their need is the true measure of a person’s faith.
 - In Luke 11:41, Jesus instructed His followers that “but now as for what is inside you—be generous to the poor, and everything will be clean for you.”
 - Jesus’s half-brother James taught that if a brother is in need of food or clothing, Believers fulfill Jesus’s teaching by meeting that need.

The Rock has developed and pursues specific programs to responsibly help and restore the poor, needy and destitute. See <https://www.therock.org/ministries/>. These compassionate care programs require that any person receiving food, money or shelter assistance seek employment and cease destructive behaviors. The Rock also operates a food bank that provides free food to all in need. Further, the Rock participates in the Winter Shelter Network, a network of churches in the Douglas County area that serve the homeless by providing temporary shelter for those in need to receive “rest, meals and connection” during the winter months. <https://www.wintershelternetwork.org/>.

All these programs provide life sustaining care for the poor and needy, and opportunities for Believers to participate in the care of their neighbors. The temporary shelter care administered through these programs is transitional, for a limited period and provided pursuant to Biblical stewardship guidelines. When the Rock is unable to provide overnight shelter to specifically approved persons within the church building, on a limited basis it has used RVs legally parked on its property to provide overnight shelter. The Rock has a history of helping the needy and homeless through its compassionate care programs, and these programs are an essential part of the Rock’s mission and purposes.

The Letter notes that permitted uses of the Rock’s property under the PD Zoning Regulations include “church and church related uses”, specified further as “church” and “church related educational facilities”. Chapter 17.14 of the Castle Rock Municipal Code defines a “place of worship” to include churches, but does not otherwise define a church or church activities.¹ The PD Zoning Regulations and the TCR Code allow for “church related uses”, which includes

¹ As you are no doubt aware, under the Religious Land Use and Institutional Persons Act, 42 U.S.C. § 2000cc-5(7), “[t]he term ‘religious exercise’ includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief,” and “[t]he use . . . of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.”

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A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

Michael Hyman, Esq.
March 9, 2023
Page 3

programs essential to the Rock's mission and commitments. Those programs include shelter provided through the Rock's compassionate care ministries.

The Zoning Code, 17.14.010, defines an "accessory use" as "a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises." The Rock's compassionate care programs involve use of their indoor facilities and occasional use of legally permitted and parked RVs to provide limited overnight shelter for specifically approved persons participating in the Rock's programs.

Under these circumstances, the use of the Rock's property for its compassionate care programs is an accessory use incidental to its principal use of the property and permitted under the PD Zoning Regulations.

Nonetheless, as we indicated, Pastor Polhemus and his team will work with the Town to ensure code compliance and to ensure the Rock's neighbors understand the Rock's compassionate care ministries. The Rock is committed to responsibly providing care through these programs, as well as ensuring the safety of the neighborhood. The Rock will continue to use its care programs to care for the most vulnerable and to proclaim the Gospel of Jesus Christ.

Please contact me if you have further questions or concerns.

Very Truly Yours,

Dymond • Reagor, PLLC

By: 

Michael W. Reagor

MWR/mr

Town's Exhibit B

**Ordinance No. 2003-27
with PD Zoning Regulations**



OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$21.00
3 PGS
2004046666
05/06/2004 01:53 PM

PLAT IDENTIFICATION SHEET

GRANTOR: Open Bible Church of the Rock, Inc.
(OWNER)

GRANTEE: Church of the Rock Preliminary PD Site Plan
(NAME OF PLAT)

OLD LEGAL:

Section: 32

Township: 7

Range: 67

NEW LEGAL:

Subdivision/Condo Name:

Filing #

Phase

Lot #

Building #

Block #

Unit #

CHURCH OF THE ROCK

PRELIMINARY PD SITE PLAN

A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN DOUGLAS COUNTY, STATE OF COLORADO

LEGAL DESCRIPTION:

A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 32; THENCE S87°01'04"W, 1719.73 FEET MORE OR LESS ALONG THE NORTHERLY LINE OF SAID NORTHWEST QUARTER TO A POINT FROM WHICH THE NORTHWEST CORNER BEARS S87°01'04"W, 882.23 FEET; THENCE S00°00'00"E, 1,342.60 FEET MORE OR LESS TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHWEST QUARTER; THENCE N87°35'05"E, 1726.85 FEET MORE OR LESS ALONG SAID SOUTH LINE TO THE EASTERLY LINE OF THE SAID NORTH HALF OF THE NORTHWEST QUARTER; THENCE N00°25'06"W, 1359.25 FEET MORE OR LESS ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING. CONTAINING 2,327,147 SQUARE FEET OR 53.42 ACRES MORE OR LESS.

FOR THE PURPOSE OF THIS DESCRIPTION THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION IS ASSUMED TO BEAR S87°01'04"W AND ALL BEARINGS ARE REFERENCED THERETO.

OWNERSHIP CERTIFICATION:

THE UNDERSIGNED ARE ALL OF THE OWNER OF CERTAIN LANDS KNOWN HEREIN AS THE CHURCH OF THE ROCK PD IN THE TOWN OF CASTLE ROCK.

J.R. Polhemus for Church of the Rock, Pres.
OPEN BIBLE CHURCH OF THE ROCK, INC., A COLORADO NONPROFIT CORPORATION

SIGNED THIS 22 DAY OF January, 2004

THE FOREGOING DEDICATION STATEMENT WAS ACKNOWLEDGED BEFORE ME THIS 22nd DAY OF January, 2004, BY J.R. Polhemus AS President for Church of the Rock OF

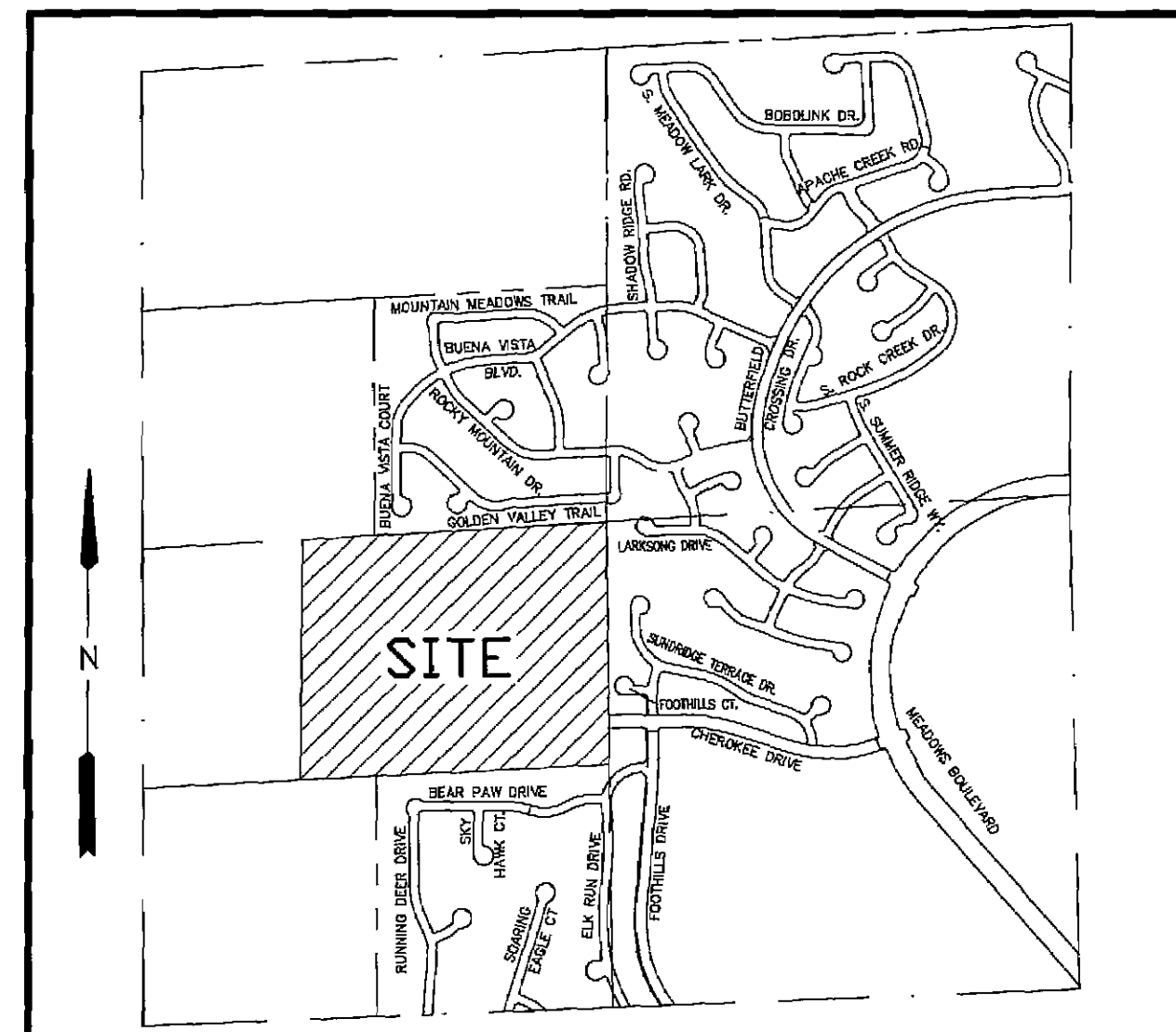
OPEN BIBLE CHURCH OF THE ROCK, INC., A COLORADO NONPROFIT CORPORATION

Susan I. Rasmussen
WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES: 9-1-2007

SUSAN I. RASMUSSEN
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires Sept. 1, 2007



VICINITY MAP

GRAPHIC SCALE



SCALE: 1 inch = 1000 ft

SHEET INDEX

1. COVER SHEET
2. SITE PLAN

NOTES:

1. THE 100-YEAR FLOOD PLAIN AREAS ARE SHOWN ON THE PLAN.
2. THERE ARE EXISTING MAJOR UTILITIES ON THE SITE.
3. THE CONTOUR INTERVAL IS 1 FOOT.

LAND USE SUMMARY:

CHURCH OF THE ROCK DATA						
LAND USE	ACRES	% OF TOTAL	MAX. GROSS RESIDENTIAL DENSITY	MAX D.U.	MIN. LOT SIZE (SF)	MAX NON-RESIDENTIAL LEVEL OF DEVELOPMENT
CH	37.31	69.8				
CHURCH AND RELATED USES						75,000 S.F. * FLOOR AREA
OPEN SPACE	16.11	30.2				
TOTAL	53.42	100.0				75,000 S.F. * FLOOR AREA

* THE CHURCH SANCTUARY IS LIMITED TO A MAXIMUM OCCUPANCY OF 1200 SEATS, PERMANENT OR TEMPORARY. A MINIMUM OF TWO AND A HALF HOURS (2.5 HOURS) BETWEEN THE COMMENCEMENT OF ANY TWO SERVICES IS REQUIRED.

OWNERS:

OPEN BIBLE CHURCH OF THE ROCK, INC.
1638 NORTH PARK STREET
CASTLE ROCK, COLORADO 80104
(303) 688-0777
CONTACT: J.R. POLHEMUS

ENGINEER:

JOHNSTON ENGINEERING ASSOCIATES, INC.
7550 W. YALE AVE. SUITE B-200
DENVER, COLORADO 80227
(303) 969-9001
CONTACT: GRIFF JOHNSTON

PREPARED BY:

JOHNSTON ENGINEERING ASSOCIATES, INC.

DEVELOPER:

CHURCH OF THE ROCK
1638 NORTH PARK STREET
CASTLE ROCK, COLORADO 80104
(303) 688-0777
CONTACT: J.R. POLHEMUS

SURVEYOR:

JOHNSTON ENGINEERING ASSOCIATES, INC.
7550 W. YALE AVE. SUITE B-200
DENVER, COLORADO 80227
(303) 969-9001
CONTACT: GARY LEE HARVEY

DATE: AUGUST 30, 2000

REVISED: JANUARY 9, 2004

JOHNSTON ENGINEERING ASSOCIATES INC.
CIVIL ENGINEERS AND LAND SURVEYORS

7550 WEST YALE AVENUE SUITE B-200 DENVER, COLORADO 80227
(303) 969-9001 (TELE) (303) 969-9016 (FAX)

TITLE CERTIFICATION:

I, Laryce L. Nitsch, AN AUTHORIZED REPRESENTATIVE OF Land Title Guarantee, A TITLE INSURANCE COMPANY LICENSED TO DO BUSINESS IN THE STATE OF COLORADO, HAVE MADE AN EXAMINATION OF THE PUBLIC RECORDS AND STATE THAT ALL OWNERS, MORTGAGEES AND LIENHOLDERS OF THE PROPERTY ARE LISTED IN THE CERTIFICATE OF OWNERSHIP AND LIENHOLDER SUBORDINATION CERTIFICATE.

SIGNED THIS 16th DAY OF January, 2004

Laryce L. Nitsch Title Officer
AUTHORIZED REPRESENTATIVE (NOTARIZED SIGNATURE)

Land Title Guarantee Company
TITLE INSURANCE COMPANY

THE FOREGOING DEDICATION STATEMENT WAS ACKNOWLEDGED BEFORE ME THIS 16th DAY OF January, 2004, BY Laryce L. Nitsch AS

TITLE OFFICER, Land Title Guarantee Co. OF

TITLE INSURANCE COMPANY

Susan I. Rasmussen
WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES: 9-1-2007

SUSAN I. RASMUSSEN
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires Sept. 1, 2007

LAND SURVEYOR'S CERTIFICATE:

I, GARY LEE HARVEY, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY AND LEGAL DESCRIPTION REPRESENTED BY THE CHURCH OF THE ROCK PRELIMINARY PD SITE PLAN WAS MADE UNDER MY SUPERVISION AND THE MONUMENTS SHOWN THEREON ACTUALLY EXIST AND THIS SITE PLAN ACCURATELY REPRESENTS THAT SURVEY.

SIGNED THIS 9th DAY OF JANUARY, 2004.

Gary Lee Harvey
GARY LEE HARVEY, PROFESSIONAL
LAND SURVEYOR NO. 34175
FOR AND ON BEHALF OF JOHNSTON
ENGINEERING ASSOCIATES INC.



TOWN CERTIFICATION:

A. PLANNING COMMISSION RECOMMENDATION:

THE PRELIMINARY PD SITE PLAN AND ZONING REGULATIONS FOR THE CHURCH OF THE ROCK PD WERE RECOMMENDED FOR APPROVAL BY THE PLANNING COMMISSION OF THE TOWN OF CASTLE ROCK, COLORADO ON THE 10th DAY OF April, 2003.

Calley S. Faltin
CHAIRMAN

2-9-04
DATE

ATTEST:

Arnell A. Sullivan
DIRECTOR OF DEVELOPMENT SERVICES

2-6-04
DATE

B. TOWN COUNCIL APPROVAL:

THE PRELIMINARY PD SITE PLAN AND ZONING REGULATIONS FOR THE CHURCH OF THE ROCK PD WERE APPROVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO, ON THE 12th DAY OF August, 2003.

Ray Watson
SEAL
TOWN CLERK

5-5-04
DATE

5-5-04
DATE

CLERK AND RECORDERS CERTIFICATE:

THIS PRELIMINARY PD SITE PLAN WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF DOUGLAS COUNTY AT 1:57 PM ON THE 6th DAY OF May, 2004, RECEPTION NO. 200404666

DOUGLAS COUNTY CLERK AND RECORDER

Christine
DEPUTY

CHURCH OF THE ROCK
PRELIMINARY PD SITE PLAN
SHEET 1 OF 2

CHURCH OF THE ROCK

PRELIMINARY PD SITE PLAN
A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 32,
TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN
DOUGLAS COUNTY, STATE OF COLORADO

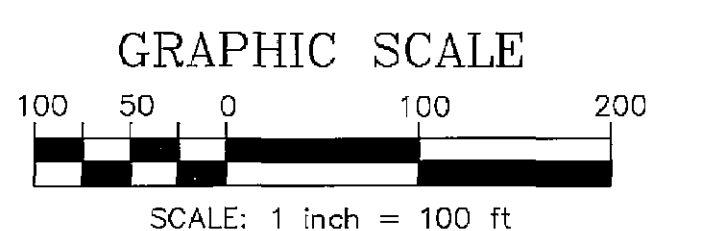


LEGEND

EXISTING	
---	SECTION LINE
---	PROPERTY LINE
---	RIGHT-OF-WAY
---	CONTOUR
---	INDEX CONTOUR
---	UTILITY (AS NOTED)
⊠	ELECTRIC TRANSFORMER
⊠	FIRE HYDRANT
⊠	WATER VALVE
⊠	STORM SEWER MANHOLE
⊠	SANITARY SEWER MANHOLE
⊠	CLEANOUT
⊠	CATCH BASIN/AREA INLET
⊠	CABLE TV PEDESTAL
⊠	TELEPHONE PEDESTAL



NORTH



JOHNSTON
ENGINEERING
ASSOCIATES
INC.
CIVIL ENGINEERS AND LAND SURVEYORS

7550 WEST YALE AVENUE SUITE B-200 DENVER, COLORADO 80227
(303) 969-9001 (TELE) (303) 969-9016 (FAX)

CHURCH OF THE ROCK
PRELIMINARY PD SITE PLAN
SHEET 2 OF 2

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ORDINANCE NO. 2003 - 27



AN ORDINANCE AMENDING THE TOWN'S ZONE DISTRICT MAP BY APPROVING THE CHURCH OF THE ROCK PD SITE PLAN, THE CHURCH OF THE ROCK PD ZONING REGULATIONS AND THE CHURCH OF THE ROCK ANNEXATION AND DEVELOPMENT AGREEMENT

123
WHEREAS, Open Bible Church of the Rock, Inc ("Owner") has requested PD Planned Development zoning of the parcel described in **Exhibit A** (the "Property"); and

WHEREAS, Owner has requested approval of the Church of the Rock PD Zoning Regulations as described in the attached **Exhibit B** as the same affect the Property (the "Zoning Regulations"); and

WHEREAS, Owner has requested approval of "Church of the Rock Preliminary P.D. Site Plan" (the "Site Plan"); and

WHEREAS, public hearings on the Zoning Regulations and Site Plan have been held before the Planning Commission and Town Council in accordance with the applicable provisions of the Castle Rock Municipal Code; and

WHEREAS, Owner and Town have agreed to the terms and conditions of The Church of the Rock Annexation and Development Agreement (Development Agreement); and

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Conditional Approval. The Zoning Regulations and Site Plan are approved for the Property under the following conditions:

- 1) Particular attention be paid to the use of native landscaping to provide buffering between any structure and the parking lots at the time of the last PD Site Plan;
- 2) The church sanctuary be limited to a maximum occupancy of 1200 seats, permanent or temporary, within the zoning regulations so that peak traffic generation can be estimated and mitigated.
- 3) Minimum building setback from the PD boundary be established at 250 feet.
- 4) The maximum student enrollment be set at 150 students within the zoning regulations to ensure that peak traffic generation can be established and mitigated and mitigation can be determined.
- 5) Incorporate within the zoning regulations that there must be a minimum of two and a half hours (2.5 hours) between the commencement of services to ensure minimum traffic congestion will occur on surrounding streets.
- 6) Amend the zoning document to A) delete Section D1c, to delete sec F1a3, (references to off-street parking); B) amend Section G1 to read "the façade to be predominately non-metallic and the roof is to be non-metallic" and C) delete Section F1b numbers 4 (Parsonages) and 5 (Non-profit ministry related administrative offices) as permitted uses.

- 7) In the event ball fields are developed they are to be unlighted and not gated so as to allow public use.

Section 2. Development Agreement. The Development Agreement is approved.

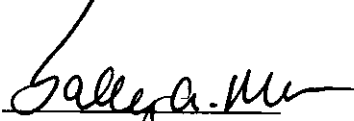
Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 4. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

SUBMITTED this 9th day of June, 20 and approved for publication and further reading by a vote of the Town Council of the Town of Castle Rock of 5 for and 1 against.

PASSED, APPROVED AND ADOPTED this 12th day of August 2003 by a vote of the Town Council of the Town of Castle Rock, Colorado of 5 for and 2 against.

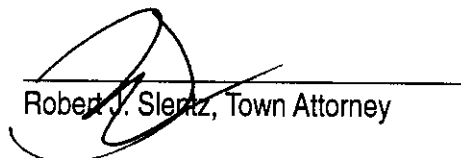
ATTEST:


Sally A. Misere, Town Clerk

TOWN OF CASTLE ROCK


Millie S. Bennett, Mayor

Approved as to form:


Robert J. Slentz, Town Attorney

Approved as to content:

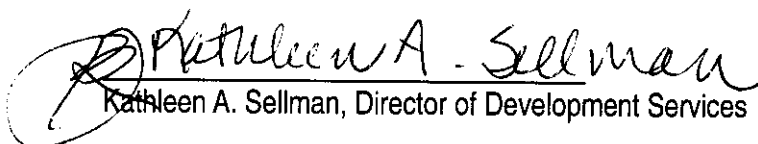

Kathleen A. Sellman, Director of Development Services

Exhibit A

LEGAL DESCRIPTION

A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE PURPOSE OF THIS DESCRIPTION THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION IS ASSUMED TO BEAR SOUTH 87 DEGREES 01 MINUTES 04 SECONDS WEST AND ALL BEARINGS ARE REFERENCED THERETO:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 32; THENCE SOUTH 87 DEGREES 01 MINUTES 04 SECONDS WEST 1719.73 FEET ALONG THE NORTHERLY LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 1342.60 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 87 DEGREES 35 MINUTES 05 SECONDS EAST 1728.85 FEET ALONG SAID SOUTH LINE TO THE EASTERLY LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 25 MINUTES 06 SECONDS WEST 1359.25 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

Exhibit B

ZONING REGULATIONS

CHURCH OF THE ROCK

PLANNED DEVELOPMENT

Prepared for:

Church of the Rock
1638 North Park Street
Castle Rock, Colorado 80104

Prepared by:

Johnston Engineering Associates, Inc.
7550 West Yale Avenue
Suite B-200
Denver, Colorado 80227
(303) 969-9001

September 8, 2000
Revised April 3, 2001
Revised September 18, 2001
Revised April 25, 2002
Revised November 6, 2002
Revised July 15, 2003
Job No. 2027.01

**Zoning Regulations
For
Church of the Rock Planned Development**

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A. General Provisions

1. Adoption / Authorization. The Town Council has adopted the Church of the Rock PD Site Plan and Zoning Regulations pursuant to Section 17.60 of Title 17 (Zoning) of the Castle Rock Municipal Code after appropriate public notice and hearing.
2. Applicability. The Church of the Rock Preliminary PD Site Plan and Zoning Regulations, as approved by the Castle Rock Town Council, shall run with and bind all landowners of record, their successors, heirs, or assigns of the land.
3. Maximum Level of Development. The total floor area approved for development within the established Use Areas is the *maximum* allowed for development.
4. Relationship to Town Regulations. The provisions of this Preliminary PD Site Plan and Zoning Regulations shall prevail and govern the development of the Church of the Rock PD, provided however, that where the provisions of this Preliminary PD Site Plan and Zoning Regulations do not address a particular subject, the relevant provisions of the Town of Castle Rock Zoning Ordinance, as amended, or any other applicable provisions of the Town Municipal Code shall be applicable.
5. Severability of provisions. In the event that any provisions hereof shall be determined to be illegal or void by the final order of any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
6. Phasing. The Phasing order indicated upon the Preliminary PD Site Plan is advisory in nature and is not to be construed as obligatory upon Developer.

B. Development Agreement

In addition to these regulations, certain provisions of this PD property are controlled by an agreement between the Town of Castle Rock and the PD property owners. This agreement entitled _____, was adopted by the Town on ____ day or _____ month, 2003, by Ordinance No. _____.

C. Definitions

In addition to the standard definitions in the Town of Castle Rock Zoning Ordinance (Title 17), the following definitions of terms shall apply to this Planned Development:

1. Building Height

The vertical distance from the average finished grade (not including berming of grading for the purpose of permitting a higher building) surrounding a structure to the uppermost point of the roof of the structure. Chimneys, ventilators, elevator housings, skylights, solar collectors, air conditioning and heating units, antennas and necessary mechanical appurtenances usually constructed above roof level are not to be considered in determining building height. Church spires shall be limited to no more than 20 feet above the building.

2. Building Setbacks

The horizontal distance between a platted lot line and a building or structure. This distance does not include the projections of eaves, overhangs, fireplaces, patios, decks, fire escapes, mechanical units or similar architectural appurtenances except that no such projection shall extend beyond one lot line of the lot on which they are located. In instances where buffer areas are provided, the width or depth of any such buffer area may be subtracted from the required setback to either reduce or eliminate the setback.

4. Temporary Construction Trailers

Temporary construction trailers may be manufactured or portable structures placed on a development site for the duration of the construction period of a phase or phases of a project and will be removed from the site after construction is complete.

D. Overall Project Standards

The standard zoning requirements of the Town of Castle Rock Zoning Ordinance including off-street parking, landscaping, site development, accessory and temporary uses, and use by special review and variance processes, shall apply to this PD, except as modified by the following:

1. Church and Related Uses Development Standards.

- a. Maximum Building Height 35 feet excluding spire
- b. Maximum Spire Height 20 feet above building height
- c. Off-street parking shall be provided at a rate of one space per 4 seats in the main sanctuary. Occasional overnight parking for church related tour buses shall be permitted.

2. Temporary Uses

Construction offices and material storage shall be permitted during, and for a

period of 120 days after cessation of actual construction in those areas being served by such construction office or material storage area. All outdoor storage of materials must be screened from public view and all materials must be removed within 120 days of the cessation of the outdoor storage.

E. General Use Areas

<u>Land Use Area</u>	<u>Maximum Level of Development</u>	<u>Acreage</u>	<u>% of Total Acres</u>
CH		37.32	69.8%
Church and Related Uses	75,000 square feet		
OS		16.11	30.2%
Total		53.42	100.0%

F. Use Area Regulations

1. Church and Related Uses

a. Development Regulations

- 1) Maximum Building Height - 35 feet excluding spire
- 2) Maximum Spire Height - 20 feet above building height
- 3) Off-street parking shall be provided at a rate of one space per 4 seats in the main sanctuary while providing occasional overnight parking for church related tour buses
- 4) Setbacks - to be established at Final PD Site Plan. However, no building shall be constructed closer than 100 feet to the external PD boundary.

b. Permitted Uses

- 1) Church
- 2) Church related educational facilities
- 3) Church related day care center subject to licensing requirements of the State.
- 4) Parsonages
- 5) Non-profit ministry related administrative offices.
- 6) Trails, pedestrian and bicycle
- 7) Open space and ponds to include storm water drainage detention areas
- 8) Indoor and outdoor church related recreational facilities
- 9) Utilities and appurtenant facilities including by not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities

- 10) Public and private streets, drives, and trails for pedestrian and bicycle use
2. Dedicated Open Space - OSD
 - a. Development Regulations
 - 1) Maximum building height - As permitted in most permissive abutting area.
 - 2) Building setbacks- As permitted in most permissive abutting area
 - b. Permitted Uses
 - 1) Open Space
 - 2) Flood Plain
 - 3) Parks, playgrounds and picnic areas, excluding camping and overnight parking
 - 4) Utilities and appurtenant facilities including by not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities
 - 5) Public and private streets, drives, and trails for pedestrian and bicycle use

G. Design Guidelines/Criteria

In the preparation of the Final PD Site Plan, the following Design Guidelines should be taken into consideration when designing building facades.

1. Facades shall be predominately finished with nonmetallic materials, exclusive of roofs, which may be metal.
2. Buildings should be designed with the goal of 360-degree architecture. All walls should be designed with vertical and horizontal articulation and with architectural features so that they are visually attractive.
3. All outdoor storage, trash collection and loading areas should be located on the site where it is least visible to public view, and area to be screened. All mechanical equipment should be screened, whether it is on the roof, on the side of the building or on the ground.
4. Parking lots should be oriented to provide safe and convenient access for pedestrians, and should be distributed around the buildings.
5. Landscaping should be used around parking lot for screening purposes and used to break up the massing of large buildings within the development.

H. Lighting Standards

1. All lighting should be fully shielded (IESNA full cut-off type). House side shields for all pole-mounted equipment shall be available.
2. Parking lot lighting should be a maximum of 3 foot-candles initial with a uniformity of 10:1 maximum to minimum.
3. Entry lighting should be a maximum of 5 foot-candles initial.
4. Maximum allowable façade lighting will be established at 3 foot-candles with a shut off time of 10:00 p.m., excluding entry lighting as stated in #3 above.
5. Maximum pole height should be 25' for parking lot poles, and 12' on building.

I. Transitional Use

Any current activity not permitted by this section shall be considered to be a valid pre-existing non-conforming use within the area described above until a Final PD Site Plan for such area or areas has been approved. Provided, however, that the Town Council reserves the right to prohibit such agricultural uses in areas for which no Final PD Site Plan has been submitted if the Council determines that due to the proximity of such uses to developed areas a danger exists to the health, safety or welfare of the residents of such developed area(s).

Town's Exhibit C

Church of the Rock Annexation and Development Agreement



OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$91.00
18 PGS

2004046667
05/06/2004 01:53 PM

**CHURCH OF THE ROCK
ANNEXATION AND DEVELOPMENT AGREEMENT**

DATE: August 12, 2003.

PARTIES: **TOWN OF CASTLE ROCK**, a home rule municipal corporation, 100 Wilcox, Castle Rock, Colorado 80104 (Town).

OPEN BIBLE CHURCH OF THE ROCK, INC., a Colorado non-profit corporation, 1638 N. Park Street, Castle Rock, Colorado 80109 (Owner).

RECITALS:

A. The parties have determined that it is in their mutual interest to enter into an agreement governing the development of the property described in the attached **Exhibit 1** (Property), in conjunction with the annexation of the Property and the concurrent approval by the Town of a development plan for the Property.

B. The parties acknowledge that this agreement contains reasonable conditions and requirements to be imposed upon the development of the Property, and that these restrictions are imposed to protect and enhance the public health, safety and welfare of current and future residents of the Town.

C. As provided in the Development Plan and this Agreement, Owner has offered to limit the scale of the church and related facilities. The limits placed on development of the Property allow Owner to develop the Property to the size and capacity provided in the Development Plan and this Agreement, which size and capacity will allow the Owner to serve its community ministry in the Castle Rock area, (both current needs and projected future needs) and protect the public health and safety of surrounding residents, by limiting the offsite impacts from development of the Property. Accordingly, Owner acknowledges that this Agreement and the restrictions and limitations on development of the Property under the Development Plan serves a compelling governmental interest and that the provisions hereof are the least restrictive possible to accomplish that compelling governmental interest. Owner affirmatively states that nothing contained in this Agreement or the Development Plan imposes a substantial burden on Owner's exercise of religion or impairs Owner's or the members of Owner's congregation's ability to worship.

D. Owner further acknowledges that the representation and acknowledgement

made in Recital C are a material inducement for the Town to annex and zone the Property, and absent such representation and acknowledgement, the Town will not annex and zone the Property. Owner is apprised of the legal entitlements and constraints on development of the Property in unincorporated Douglas County, and has determined that development of the Property in the Town under the conditions contained in the Development Plan is more advantageous.

COVENANTS:

THEREFORE, in consideration of these mutual promises, the parties agree and covenant as follows:

UNOFFICIAL COPY

ARTICLE I DEFINITIONS

1.01 Defined Terms. Unless the context expressly indicates to the contrary, the following words when capitalized in the text shall have the meanings indicated:

Agreement: this Church of the Rock Annexation and Development Agreement and any amendments to this Agreement.

Charter: the Home Rule Charter of the Town, as amended.

Code: the Castle Rock Municipal Code, as amended.

Development Exactions: the fees and charges imposed by Town under the Town Regulations on development, including the System Development Fees.

Development Plan: the Church of the Rock PD Zoning Regulations, Preliminary PD Site Plan, and the associated preliminary utility, drainage and transportation plans.

Facilities: the infrastructure prescribed by Town Regulations necessary to furnish Municipal Services and Public Utilities to the Property, including the infrastructure required to extend or connect the Facilities to complimentary infrastructure off-site of the Property.

Final Site Plan: the zoning document prescribed under 17.60.220 of the Code.

Municipal Services: police and fire protection, water and wastewater, stormwater drainage and detention, transportation and street maintenance, general administrative services including code enforcement and any other service provided by Town within the municipality under its police powers.

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder. The use of the singular "Owner" shall refer to all Owners of the Property, unless the context of the Agreement otherwise limits the reference. As of the date of execution of this Agreement the Owner of the Property is Open Bible Church of the Rock, Inc., a Colorado non-profit corporation.

Plans: the plans, documents, drawings and specifications prepared by or for Owner for the construction, installation or acquisition of the Facilities, as approved by the Town.

Plat: a final subdivision plat of a portion of the Property.

Preliminary Site Plan: the Church of the Rock Preliminary PD Site Plan recorded at Reception No. ~~2004046666~~ of the public records of Douglas County, Colorado.

Property: the real property described in the attached *Exhibit 1*.

Public Utilities: the infrastructure necessary to extend services (other than Municipal Services) to the Property, which are provided by a public or quasi-public utilities including natural gas, electricity and cable television.

SIA: a Subdivision Improvements Agreement entered into between the Town and the subdivider of a Plat, as required under the Code.

System Development Fees: the capital recovery charges for water and wastewater plant imposed under 13.12.080 of the Code.

Town Regulations: the Charter, ordinances, resolutions, rules and regulations of the Town, including the Code, and the provisions of all zoning, subdivision and building codes, as the same may be amended from time to time and applied uniformly throughout the Town.

Water Rights: the right and interest to all Denver basin ground water underlying the Property, whether adjudicated or unadjudicated, including the rights adjudicated in Case No. 95CW287.

Certain other terms are defined in the text of the Agreement and shall have the meaning indicated.

1.02 Cross-reference. Any reference to a section or article number, without further description, shall mean such section or article in this Agreement.

ARTICLE II APPLICATION AND EFFECT

2.01 Binding Effect. The Agreement shall apply to the Property and its covenants shall be binding upon the successors and assigns of the parties in the same manner and to the same effect as if such successors were signatories to the Agreement. The parties acknowledge that the Property is both benefited and burdened by the mutual covenants of this Agreement, and such covenants shall constitute real covenants binding upon successors in interest to the Property, including any mortgagees or lienholders, irrespective of whether specific reference to this Agreement or its covenants is made in any instrument affecting title to the Property.

2.02 Owner Responsibility. The Owner of the Property upon which development approval is requested shall have the ultimate responsibility for performance of the covenants and obligations assumed by Owner under this Agreement, irrespective of whether development activity on the Property is undertaken by the Owner, a third party on behalf of and/or with the authorization of the Owner. Town shall accept performance of the covenants of the Agreement from a developer on behalf of Owner, unless such performance requires the conveyance, encumbrance or security of the Owner's interest in the Property, in which event the express consent or joinder of the Owner shall be required.

2.03 Town Regulations. Owner has reviewed Town Regulations, and acknowledges that Town Regulations serve a compelling governmental interest and that Town Regulations are the least restrictive possible to accomplish that compelling governmental interest. Owner affirmatively states that nothing contained in Town Regulations imposes a substantial burden on Owner's exercise of religion, or impairs Owner's or the members of Owner's congregation's ability to worship. The subsequent adoption by Town through the Town Regulations of comprehensive Town-wide regulations covering illumination, parking, signage, landscaping, Public Works regulations, and other site development regulations will not impose a substantial burden on the Owner's or the members of Owner's congregation's exercise of religion, or impair Owner's ability to worship, provided that such new Town

Regulations are not applied to the Property so as to preclude the use of the Property for the purpose and the extent and scale authorized under the Development Plan. In the event Owner believes a subsequent Town Regulation imposes a substantial burden on Owner's exercise of religion, or impairs Owner's ability to worship, Owner shall give Town notice in accordance with Section 8.03 herein. The parties shall have 120 days within which to resolve such concerns before Owner may file litigation against Town, provided that nothing contained herein shall be construed to prevent Owner from effectively and timely asserting any claims that it may have, including the filing of any litigation against the Town prior to the 120 day period if such filing is deemed necessary by legal counsel for the Owner to preserve Owner's legal position.

Unless otherwise provided in this Agreement, Town Regulations shall apply to the Property in the same manner and effect as within other areas of the municipality. Unless expressly stated to the contrary in this Agreement, the Agreement shall not in any manner restrict or impair the lawful exercise by the governing body of the Town of its legislative, quasi-legislative or other police powers as applied to the Property, including specifically, the amendment, modification or addition to the Town Regulations, subsequent to the execution of this Agreement.

Except as otherwise authorized in this Agreement, or as may be subsequently accepted by Owner pursuant to a statutory assessment process, no exaction, fee or assessment shall be imposed by the Town against the Property, which is not imposed in other areas of the Town pursuant to Town Regulations, provided that said exaction, fee or assessment is lawfully imposed. When this Agreement calls for compliance with the Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern, unless the provisions of this Agreement provide to the contrary.

2.04 Use and Standards. Owner shall comply with the zoning ordinance attached hereto and incorporated herein (Zoning Ordinance), as well as all Town Regulations. Failure to comply with Zoning Ordinance, or any Town Regulations shall constitute a breach of this Agreement by Owner. Town may withhold all approvals and permits on the Property and may

enforce Owner's obligation under the Zoning Ordinance, Town codes or regulations by an action for specific performance in addition to any remedies available to Town.

ARTICLE III GENERAL OBLIGATIONS

3.01 Municipal Services. Subject to the further provisions of 3.03 Town shall provide the Property with Municipal Services at an equivalent service level and on the same terms and conditions as provided elsewhere within its municipal boundaries, provided that the portion of the Property for which Municipal Services are requested has been developed in substantial compliance with this Agreement. Town reserves the right to contract with other governmental or private entities for delivery of Municipal Services to the Property, provided such service level is comparable to that provided by the Town in its proprietary capacity. The respective obligations of the parties for development of the infrastructure necessary for provision of the Municipal Services to the Property is addressed in Article V.

3.02 Permitted Development. Owner shall develop the Property in accordance with this Agreement and Town Regulations, and applicable state and federal law and regulations. Subject to the further provisions of 3.03, Town shall allow and permit the development of the Property in accordance with the Development Plan and the Town Regulations, upon submission of proper application, payment of fees, exactions and charges imposed by the Town Regulations, including Development Exactions, and compliance with conditions precedent to permitting imposed by this Agreement or Town Regulations. Town shall coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under this Agreement or to allow development of the Property, in accordance with this Agreement. Town shall not unreasonably withhold consent to or approval of a development request or application.

3.03 Growth Area Limitations. The Town may be a signatory to the August 20, 2000 Mile High Compact, an agreement between metropolitan area local governments (Compact). The Compact endorses certain constraints and limitations on the extent of urban

development in the metropolitan area and within specific local jurisdictions, which are contained in the Denver Regional Council of Government's Metro Vision 2020 (2020 Plan). The 2020 Plan allocates a total square-mileage urban area to the Town, and through the Compact the Town will commit not to permit urban development in excess of the applicable limits in the Plan, as the Plan may be modified and adjusted from time to time.

Given the urban area allocation made to the Town under the 2020 Plan, the Town does not anticipate that the Compact or 2020 Plan will restrict development in the Town in the near-term. However, development of the Property could be deferred or otherwise constrained as a result of limitations on urban development imposed by the Compact, the 2020 Plan (as amended or supplemented in the future) or any other regional system restricting the area and/or extent of urban development (collectively, Growth Plans). In no event shall the Town's restriction of development of the Property as necessary to comply with applicable Growth Plans (as reasonably determined by Town) constitute a breach of this Agreement or otherwise give rise to a legal or equitable claim by Owner against Town. The unconditional acceptance by Owner of the Compact and 2020 Plan and the potential limitation on development of the Property imposed by Growth Plans is a material inducement to the Town's annexation and zoning of the Property.

ARTICLE IV WATER RIGHTS

4.01 Requirement. It is the obligation of Owner to convey to Town the Water Rights (together with additional water resources, if needed in accordance with this Agreement), to support Town's obligation to provide a municipal water supply to the Property in accordance with this Agreement. Town shall have no obligation to issue land use approvals for additional development on the Property unless Owner is in compliance with the provisions of this Article IV.

4.02 Conveyance. Concurrently with recordation of this Agreement, Owner shall convey to Town by special warranty deed, free and clear of all liens and encumbrances,

marketable title to the Water Rights. The conveyance of the Water Rights shall transfer to Town the right to use, reuse, lease or sell the water withdrawn under the Water Rights. Post-conveyance, Owner shall execute such further reasonable and additional instruments of conveyance and other documents which Town reasonably determines necessary to grant to the Town the exclusive ownership, management and control of the Water Rights. Should it subsequently be determined that marketable title to any portion of the Water Rights did not vest in Town with the conveyance, the Water Credit established in 4.03 shall be reduced accordingly.

4.03 Water Credit. With conveyance of the Water Rights, a credit of 67 SFE shall be established against the Town's water dedication requirements for the benefit of the Property (Water Credit). The Water Credit of 67 SFE shall not be affected by changes in the conversion rate of Water Rights into SFE that the Town may implement through modifications to the Town Regulations after the date of this Agreement, including any future changes in the current 200% non-renewable dedication requirement under the Town Regulations.

The Water Credit is expressed as a single-family equivalent. An SFE is the measure of average annual wholesale water production that must be developed to meet the imputed demand from a single-family residence under the Town Regulations. Consequently, 1 SFE of Water Credit represents that the holder has satisfied the Town's water dedication requirement for one single-family residence.

4.04 Application of Water Credit. The Water Credit established under 4.03 shall be reduced (i.e. applied):

- (A) at the time of Plat approval by the total SFE assigned to all approved development (private and public) to the extent the water demand for such use can be determined at Plat approval; and
- (B) at the time of Final Site Plan approval or at building/irrigation permit issuance for those uses not accounted for at the time of Plat approval.

4.05 Water Bank. In order to properly account for the Water Credit, Town shall

administratively maintain an account designated the Church of the Rock Water Bank. The Church of the Rock Water Bank shall periodically be debited or credited in accordance with this Article IV. The Water Bank shall be formatted as follows:

CHURCH OF THE ROCK WATER BANK					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Deeds to Water Rights Final Plat			XX		67 67-XX

With any entry made by the Town, the Owner of the Water Bank (see 4.06) shall receive notification in writing, and any objection not resolved to the satisfaction of the Owner at the administrative level shall be referred to a mutually acceptable independent water engineer whose determination made in accordance with this Agreement shall be final and binding.

4.06 Ownership and Transfer of Water Credit. The Water Credit shall be applied in accordance with this Agreement on a "first-come, first-served" basis to approved development within the Property on a per unit basis, unless the Owner(s) direct the Town in writing to allocate a certain portion of the Water Credit for use on a specific portion of the Property (Allocated Water Credit). In the event of such allocation, the Allocated Water Credit may be used exclusively for the designated portion of the Property. The Allocated Water Credit may be transferred only after it is determined that the Allocated Water Credit exceeds the demand for the designated portion of the Property, in which event the Owner may reallocate the surplus for use on portions of the Property. Owner may grant a security interest in the Water Credit to a creditor, provided that such creditor's use of the Water Credit upon foreclosure of the security interest shall be subject to all rights, conditions and restrictions contained in Article IV.

The Water Credit may not be assigned or transferred for use on properties other than

the Property. After Town and Owner have agreed that full development has occurred, the total water demand for the Property has been determined, the Water Credit has been applied or allocated to meet such demand, and a surplus remains in the Water Bank, any unused portion of the Water Credit remaining and any unadjudicated water shall revert to the Town, at no cost or obligation to Town.

4.07 Required Water Sources. If the Water Bank is exhausted prior to full development of the Property, the Owner shall be required to provide additional water resources or pay to Town cash-in-lieu of water rights in accordance with (and is so authorized by) the Town Regulations then in effect. Absent provision of such additional water resources, Town shall not be obligated to approve further development approvals for the Property.

ARTICLE V FACILITIES DEVELOPMENT

5.01 General Responsibility. Except for the Town Facilities as defined in 5.03, development of the Facilities shall be the exclusive obligation of Owner, and Owner shall bear the cost of planning, design, construction and financing of the Facilities and all other related and incidental activities. The Facilities shall be developed in strict accordance with Town Regulations, the Development Plan, this Agreement and the applicable SIA and Plat. Except as otherwise expressly provided in this Agreement, Town shall have no obligation to develop Facilities.

5.02 Cooperation in Facilities Development. Town and Owner shall cooperate in obtaining necessary permits and approvals required by other governmental agencies in order to develop Facilities. Town shall apply for any such permits or approvals in its name or in the joint names of the Town and Owner, if so required by the governmental agencies.

5.03 Town Facilities. Town shall have the exclusive obligation to undertake those Facilities for which the System Development Fees are imposed, including water supply, treatment and storage, and wastewater collection and treatment (Town Facilities). Water and wastewater mains which are the responsibility of the Owner under the Town Regulations are

not Town Facilities. The refusal of the Town to approve Plats or other land use applications to the Property due to lack of available capacities in Town Facilities shall constitute an event of default under Article VII.

5.04 Facilities Control. Upon dedication of Facilities by Owner and acceptance by Town, Town shall have the exclusive management control of the Facilities and all capacities therein. Town may use or allow others to use the capacities in Facilities, provided that the capacities developed by Owner at Owner's cost shall be reserved for the benefit of the Property, or if used by Town to serve other properties, Town shall provide replacement or alternative capacities in such a manner as to not impede development on the Property. Town's failure to do so constitutes an event of default under Article VII.

5.05 Subdivision Improvements Agreement. The Town Regulations require that a subdivider enter into a SIA at the time of approval of a Plat. The SIA addresses with greater specificity the Facilities to be constructed to serve the Plat and the financial guarantees to assure construction of the Facilities. Unless modified in the SIA, the provisions of this Article V will apply to the development of such Facilities, irrespective of whether or not reference to this Article V is made in the SIA.

5.06 Off-site Facilities. Owner shall be obligated to acquire the necessary easement or fee interest (as required by Town) from adjacent properties necessary to develop all off-site Facilities. In the event Owner is unable to acquire such property interests, Town shall make best efforts to exercise its powers of eminent domain to condemn the necessary property, provided Owner has furnished Town with appropriate assurances and financial guarantees to cover the costs of such acquisitions.

5.07 Landscaping. Owner shall install landscaping along Cherokee Drive, including in the median in conformance with the Town's Landscape Regulations, from the east Property line boundary to Foothills Drive, to include 36 trees. Such trees shall have a minimum of 3-inch caliper for deciduous trees, and a minimum of 8 feet in height for coniferous trees.

5.08 Traffic Signal at Meadows Blvd. and Cherokee Drive. Owner shall contribute \$80,000 towards the signalization of Meadows Boulevard and Cherokee Drive, to

be paid to Town by Owner concurrently with and as a condition to recordation of the first final plat on the Property, provided that the payment of this amount does not entitle Owner to any offset of any Town imposed exaction, fee or assessment.

5.09 Conveyance of Tract of Land. At the time of first final plat of the Property, Owner shall convey a tract of land to the Town 60-feet in width along the entire south boundary of the Property from the east to the west boundaries of the Property. The exact location of the dedication shall be determined at the time of preliminary plat/final PD site plan for this development.

5.10 Improvements to Cherokee Right-of-Way. Owner shall construct all improvements required by the Town to extend the northbound left turn lane from Meadows Boulevard onto Cherokee Drive. Owner shall also restripe Cherokee Drive, west of Meadows Boulevard, to provide for an eastbound left turn lane at Meadows Boulevard. At the time of any building permit, should a right turn lane be required from eastbound Cherokee onto Meadows Boulevard to mitigate the impacts from the development of the Property, it will be the obligation of the Owner to make any required modifications and secure any required right-of-way to make the necessary improvements as determined by the Town. In the event Owner is unable to acquire this required right-of-way, Town shall assist, at Owner's expense. Owner shall construct Cherokee Drive from Foothills Drive to the Owner's east Property line as a divided roadway. The cross section shall have a 10-foot wide raised and landscaped median, with 18-foot flowline to flowline entry and exit lanes. The raised and landscaped median shall be continued into the Property extending to the first point of entry into the Property's parking lot. Should any future improvements ever be required due to traffic conditions generated by the development of the Property, the Owner shall be responsible for making improvements as directed by the Town. Should traffic conditions created by the Owner require that a police officer direct traffic, the cost of such traffic direction shall be at Owner's expense.

5.11 Connection of Trail. Owner shall include in the final PD site plan a trail system connecting to existing trails with public access, to be constructed by Owner, at Owner's expense, and to be conveyed to Town by easement.

**ARTICLE VI
PUBLIC LAND DEDICATION**

6.01 Public Land Dedication. Concurrently with and as a condition to recordation of the first Plat, Owner shall pay to the Town cash in lieu of public land dedication for the entire Property in an amount determined in accordance with the Town Regulations then in effect. The amount of credit, if any, to be given by the Town in recognition of trail construction as set forth in Section 5.11 above, shall be determined by the Director of Parks and Recreation and credited at the time such payment is due.

**ARTICLE VII
DEFAULT AND REMEDIES**

7.01 Event of Default. Failure of Town or Owner to perform any covenant, agreement, obligation or provision of this Agreement, constitutes an event of default under this Agreement.

7.02 Remedies. In addition to specific remedies provided elsewhere in the Agreement upon default, the non-defaulting party shall have the right to take whatever action at law or in equity appears necessary or desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under the Agreement, or to collect the monies then due and thereafter to become due subject to any express limitations on remedies provided elsewhere in this Agreement. In any such legal action, the prevailing party shall be entitled to recover its reasonable attorney's fees and litigation costs from the other party.

7.03 Default Notice. In the event either party alleges that the other is in default, the non-defaulting party shall first notify the defaulting party in writing of such default, and specify the exact nature of the default in such notice. The defaulting party shall have twenty (20) business days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder; provided that (i) such default is

capable of being cured, (ii) the defaulting party has commenced such cure within said 20-day period, (iii) the defaulting party diligently prosecutes such cure to completion. If such default is not of a nature that can be cured in such twenty (20) day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued.

ARTICLE VIII GENERAL PROVISIONS

8.01 Amendment. Any and all changes to this Agreement, in order to be mutually effective and binding upon the parties and their successors, must be in writing and duly executed by the signatories or their respective representative, heirs, successors or assigns.

8.02 Interpretation. In this Agreement unless the context otherwise requires:

- (a) All definitions, terms, and words shall include both the singular and the plural;
- (b) Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa; and
- (c) The captions or headings of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, article, or section of this Agreement.

8.03 Notice. The addresses of the parties to this Agreement are as listed below. Any and all notices allowed or required to be given in accordance with this Agreement are deemed to have been given when delivered to the other parties or five (5) days following the date the same is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested addressed to the other parties at the addresses noted, or such address as is subsequently endorsed in writing, or in the event of transfer of the Property to the address of such grantee as indicated in the recorded instrument whereby such grantee acquired an interest in the Property.

TOWN: Town Attorney
 Town of Castle Rock
 100 Wilcox Street

Castle Rock, CO 80104

OWNER: Open Bible Church of the Rock, Inc.
1638 North Park Street
Castle Rock, CO 80109

8.04 Severability. Except as otherwise expressly provided in the next sentence of this section, if any part, term, or provision of this Agreement is held by the Courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid. Notwithstanding the foregoing, in the event the provisions of either Sections 2.03 or 2.04 which permit and limit the scale, scope or permitted uses of the Property are found by a court of competent jurisdiction to be unenforceable in any material respect, the parties shall have 120 days within which to negotiate alternative acceptable language to accomplish the purposes set forth in Section 2.03 or 2.04. If the parties are unable to agree to any such provision within the 120 days, then either party may declare this Agreement void, at its election.

8.05 Verification. The Town and the Owner shall provide the other written verification regarding the status, performance or completion of any action required of the Town or the Owner under the Agreement or by the terms of any other agreement.

8.06 Entire Agreement. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written.

8.07 Conflicts. If the terms and provisions of this Agreement are in conflict with the Town Regulations, the terms and provisions of this Agreement, as it may be amended from time to time shall control.

8.08 No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to

such enforcement, shall be strictly reserved to Town, and Owner, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town, or Owner receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

ATTEST:

TOWN OF CASTLE ROCK


Sally A. Misare, Town Clerk


Millie S. Bennett, Mayor


Approved as to form:


Robert J. Slentz, Town Attorney

STATE OF COLORADO)

COUNTY OF Douglas)

) ss.

 The foregoing instrument was acknowledged before me this 26th day of April, 2004, by Sally A. Misare as Town Clerk and Millie S. Bennett as Mayor for the Town of Castle Rock, Colorado.

Witness my official hand and seal.

My commission expires: 9-21-07.

(SEAL) L. KING
NOTARY PUBLIC
STATE OF COLORADO


Notary Public

OWNER:

OPEN BIBLE CHURCH OF THE ROCK, INC.
a Colorado non-profit corporation.

By: _____

Its: _____

J.R.P.
President & Senior Pastor

STATE OF COLORADO

COUNTY OF _____

Arapahoe

) ss.

UNOFFICIAL COPY

The foregoing instrument was acknowledged before me this 23rd day of March, 2004 by J.R. Polhemus as President & Senior Pastor for Open Bible Church of the Rock, Inc., a Colorado non-profit corporation.

Witness my official hand and seal.

My commission expires: 3/15/2005



Brenda S. Pierce
Notary Public

J:\LEGAL\AGREEMENT\Church of the Rock DA clean.doc

EXHIBIT 1

A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE PURPOSE OF THIS DESCRIPTION THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION IS ASSUMED TO BEAR SOUTH 87 DEGREES 01 MINUTES 04 SECONDS WEST AND ALL BEARINGS ARE REFERENCED THERETO:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 32; THENCE SOUTH 87 DEGREES 01 MINUTES 04 SECONDS WEST 1719.73 FEET ALONG THE NORTHERLY LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 1342.60 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 87 DEGREES 35 MINUTES 05 SECONDS EAST 1728.85 FEET ALONG SAID SOUTH LINE TO THE EASTERLY LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 25 MINUTES 06 SECONDS WEST 1359.25 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

Town's Exhibit D

Examples of Complaints

From: [REDACTED]@msiho.com>

Sent: Friday, March 12, 2021 3:50 PM

To: Cara Reed <CReed@crgov.com>

Cc: [REDACTED]@comcast.net

Subject: Church of the Rock - Trailers/Campers

Hi Cara,

I need to touch base with the right person at the town concerning the activities at the Church of the Rock, see below assessors info. The homeowners that back to that property have contacted me concerning the trailers that are parked on the site. Seems that there are people living in the trailers 24/7 and now there is a porta potty set up that they are using. If you could please connected me that would be great. I've copied [REDACTED] who's alerted me on behalf of the neighboring homes.



Your feedback is important to us, please let us know how we are doing by taking our Customer Service survey.

<https://www.surveymonkey.com/r/LR55C27>

Tammy King
Zoning Manager
100 N Wilcox Ave
Castle Rock, CO 80104
720-733-3557

<div> <div></div> <div>ISU2110-000067</div> </div>					
Status	RESOLVED	Title	01 GENERAL QUESTION OR MY ISSUE ISNT LISTED BELOW @ 4881 CHEROKEE	Created	10/31/2021 E AUS
Type	01 GENERAL QUESTION OR MY ISSUE ISNT LISTED BELOW	Assigned	SCOTT SEUBERT	Updated	11/16/2021 SCSE
Subtype		Category	Development Services - Zoning	Due	11/02/2021 E AUS
Created Via	PHONE			Completed	11/16/2021 SCSE

<div> <div></div> <div>Location Details</div> </div> <div> <div>Name</div> <div>Audit ID 235132201025</div> <div>Address 4881 CHEROKEE</div> <div>City, State, Zip CASTLE ROCK CO 80104</div> <div>Phone</div> <div>Fax</div> <div>Email</div> </div>	<div> <div></div> <div>Contact Information</div> </div> <div> <div>Name</div> <div>Audit ID</div> <div>Address</div> <div>City, State, Zip</div> <div>Phone</div> <div>Fax</div> <div>Email</div> </div>
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Description & Resolution

Public Description (viewable online)	Resolution
There are two trailers (one travel trailer, one RV) on the church of the rock property that people are living in illegally. They are plugged into illegal electrical outlets on the property. The RV's need to be removed, as well as the illegal outlets. I am disappointed that the Town has done nothing to mitigate this situation.	Zoning will look into these issues and any violation will be addressed with owners of said property. SAID PROPERTY HAS BEEN ISSUED A NOTICE OF VIOLATION REGARDING RV/CAMPING.



ISU2211-000012

Status	REQUESTED	Title	42 BUILDING PERMITS OR BUILDING INSPECTIONS @ 4881 CHEROKEE	Created	11/05/2022	EAUS
Type	42 BUILDING PERMITS OR BUILDING INSPECTIONS	Assigned	TAMMY KING	Updated	11/08/2022	TAKI
Subtype		Category	Development Services - General	Due	11/07/2022	EAUS
Created Via	PHONE			Completed		



Location Details

Name	
Audit ID	235132201025
Address	4881 CHEROKEE
City, State, Zip	CASTLE ROCK CO 80104
Phone	
Fax	
Email	



Contact Information

Name	
Audit ID	
Address	
City, State, Zip	
Phone	
Fax	
Email	

Description & Resolution

Public Description (viewable online)

There are still RV's parked at the church of the rock. A new white one is parking there off and on. Please have these removed immediately. They are not permitted. There are lights on over there when not allowed, and people moving in and out of the property after the church is closed. The church's PD allowed only non-residential uses, which makes this illegal. Thank you.

Resolution

Our legal team is working on this.



General Information

Issue #: ISU2305-000161

Due : 6/1/2023



ISU2305-000161

Status	RESOLVED	Title	01 GENERAL QUESTION OR MY ISSUE ISNT LISTED BELOW @ 4881 CHEROKEE	Created	05/30/2023	EAUS
Type	01 GENERAL QUESTION OR MY ISSUE ISNT LISTED BELOW	Assigned	TAMMY KING	Updated	10/24/2023	TAKI
Subtype		Category	Development Services - Code Enforcement	Due	06/01/2023	EAUS
Created Via	PHONE			Completed	06/01/2023	TAKI



Location Details

Name: CHURCH OF THE ROCK
Audit ID: 235132201025
Address: 4881 CHEROKEE DR
City, State, Zip: CASTLE ROCK CO 80109
Phone:
Fax:
Email:



Contact Information

Name:
Audit ID: 235132107064
Address:
City, State, Zip: CASTLE ROCK CO 80109
Phone:
Fax:
Email:

Description & Resolution

Public Description (viewable online)

There are two RV's parked on the church's lot at this time (although we sometimes see two or three others as well). There are people living in them. Someone has lived in them for years. In addition, the church installed many (ten plus?) outside RV electrical outlets. Until these outlets are removed, they are encouraging RV's to park there. Please have the RV's removed and the outlets removed as well.

Resolution

We will look into the issues.

Tammy King

From: [REDACTED]@gmail.com>

Sent: Friday, June 9, 2023 1:16 PM

To: Tammy King <TKing@crgov.com>

Subject: Re: Tent

Last time I took a photo was 5/25. See below. The rv was plugged in and the steps were down. The curtains in the front were also pulled. I would assume someone was living there.

I would also like to see staff visit occasionally. Or, as I said before, ask the neighbors that complain as well.

I'll definitely document better.

They need to remove the illegal electrical outlets, or the Town is only encouraging the church to park RVs there.

I would never take Mike's word on anything. You should verify with facts.

Thanks,

[REDACTED]

Sent from my iPhone



On Jun 9, 2023, at 10:22 AM, Tammy King <TKing@crgov.com> wrote:

Hello again [REDACTED],

I just spoke with Pastor Mike and he assures me, that no one has lived in the trailers for well over a month. Do you have any recent proof that they are living in the trailers?



Your feedback is important to us, please let us know how we are doing by taking our Customer Service survey.
<https://www.surveymonkey.com/r/LR35C27>

Tammy King
Zoning Manager
100 N Wilcox Ave
Castle Rock, CO 80104
720-733-3557

From: [REDACTED] <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>

Sent: Friday, June 9, 2023 9:34 AM

To: Tammy King <TKing@crgov.com>

Cc: Ryan Hollingshead <RHollingshead@crgov.com>; Kevin Bracken <KBracken@crgov.com>

Subject: Re: Tent

Someone has been living in the RVs constantly for the past few years.

Mike is lying to you. I encourage you to also ask the other neighbors that have complained. They will also confirm this.

Thanks,

[REDACTED]

Sent from my iPhone

On Jun 9, 2023, at 9:32 AM, Tammy King <TKing@crgov.com> wrote:

Hello [REDACTED],

If you can forward those pictures, that would be great! We have been in constant contact with the church and they have assured us that no one is living in them. I will reach out to pastor Mike right now.

Thank you!



Your feedback is important to us, please let us know how we are doing by taking our Customer Service survey.

<https://www.surveymonkey.com/r/LR35C27>

Tammy King
Zoning Manager
100 N Wilcox Ave
Castle Rock, CO 80104
720-733-3557

From: [REDACTED] >
Sent: Friday, June 9, 2023 9:25 AM
To: Tammy King <TKing@crgov.com>; Ryan Hollingshead <RHollingshead@crgov.com>; Kevin Bracken <KBracken@crgov.com>
Subject: Re: Tent

Yes, the RVs are being lived in. I have photos of men living in them. The screen doors are open and the steps are out. Cars drive to and from them at night, and lights are on inside them at night.

They need to be removed.

Thanks,

[REDACTED]

Sent from my iPhone

On Jun 9, 2023, at 8:27 AM, Tammy King <TKing@crgov.com> wrote:

Good Morning,

We have no authority to ask them to remove the RV's. They are not being used and are owned by the church.



Your feedback is important to us, please let us know how we are doing by taking our Customer Service survey.

<https://www.surveymonkey.com/r/LR35C27>

Tammy King
Zoning Manager
100 N Wilcox Ave
Castle Rock, CO 80104
720-733-3557

From: [REDACTED]
Sent: Friday, June 9, 2023 7:17 AM
To: Tammy King <TKing@crgov.com>
Subject: Re: Tent

They have a loud amplified music at the church tent this morning. I've made a complaint to the police.

I also noticed there are two RVs parked on the property. Same ones that have been there for years. They need to be removed. Too bad that wasn't required before you issued them this permit.

Thanks,

[REDACTED]

Sent from my iPhone

From: [REDACTED]
To: [Tammy King](#)
Cc: [Kevin Bracken](#); [Ryan Hollingshead](#)
Subject: Church of the Rock - People Living in Trailers on Site 4881 Cherokee Dr.
Date: Sunday, November 19, 2023 8:06:06 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Hi, Tammy,

I am copying two Meadows council members so they know what is going on.

As you know, the church has submitted a pre-application for a zoning change on their property. I am certainly opposed to any proposed changes to the zoning on their property. This is a property surrounded by single-family homes. The original zoning change approval to the church 20 years ago was very controversial and should not have been permitted anyway (Planning Commission and staff did not recommend approval, but Town Council allowed it).

Issues the church will have with re-zoning:

1. Unable to maintain current property or meet current PD/Zoning requirements (detailed below).
2. Negative transportation impacts.
3. Large-scale sewer upgrades (including a very expensive lift station) will be needed.
4. The church does not have water and/or water rights to add new residential units.
5. Metro district issues:
 - o When the original church was approved hastily by a previous council, a note was made that “the church should negotiate with the metro district.” Sadly, no actual requirements were made of the church. As such, the church has not made one dollar in payment to the Meadows Metro District 1. Please note that our single-family home pays \$1598 per year to this district. The church has been allowed to utilize the infrastructure built by the metro district (water, sewer, roads, landscaping) but does not pay towards it. This will certainly be a huge issue that I will be pushing if the church decides to continue with the rezoning. I respectfully request that the church pay its fair share, including back taxes to the metro district. This could be in the order of \$3 million in back metro district taxes, assuming this church replaces about 100 homes for 20 years. A new development, with increased impacts, should be forced into joining the metro district and paying its fair share, which could be a large amount of money each year.

Current issues:

- For the past week or so, we noticed the church has allowed a new residential trailer to park on site. It is plugged into the illegal outdoor receptacles on the fringe of their parking lot (which still haven't been removed). Last night at 9:30pm, we noted a truck parked next to the new trailer, and lights on in the trailer. There is obviously somebody living in there. We respectfully request this trailer, along with the two other residential RV's, be removed from the property immediately. Photos below.
- Ugly, illegal signs still placed on property noting “future development.”
- There are quite a few outside storage containers, including a conex, on the property. Outside storage is not allowed on this property and should be removed. I am appalled at the condition of the outside of the church that has been allowed by the City, and the church itself. It has become an outside storage area that allows anyone willing to pay them a few dollars (this is not church-related). What would a new development be allowed to do, if the church can't even maintain its current parking area?
- Landscaping still does not meet the requirements of the original PD zoning.
 - a. A few small (very small) trees have been placed along the perimeter road, but they do not meet the PD requirements.
 - b. Many other landscaping items have died and not been replaced. The original church was approved under the lesser landscape requirements at the time. So we don't have much of a buffer anyway. As I've requested before, any new permits (including the ugly white tent that was allowed this summer) should require extensive landscaping to buffer this non-residential use from its neighbors.
 - c. They also have not removed the black gravel/ground-up asphalt they placed in the middle of their meadow 4 years ago as a parking lot for the commercial trailer they did not have a permit for.
 - d. There are extensive weeds still on the property.

From page 1 of the Final PD Site Plan (note that much of the landscaping has been dead for four plus years):

2. Pursuant to the Landscape Regulations of the Town of Castle Rock Municipal Code, the Owner of the property, subsequent owners, heirs, successors and assigns shall be responsible for the proper maintenance of the area subject to the approved Final PD Site Plan. Landscaping within public rights-of-way is to be maintained by the adjacent private property owner or the Homeowners Association, if applicable. Landscaping shall be continuously maintained including necessary watering, weeding, pruning, mowing, pest control, and replacement of dead or diseased plant material. Replacement for dead or diseased plant material shall be the same type of plant material as set forth in the approved Final PD Site Plan; for example, a tree must replace a tree, a scrub must replace a scrub, ground cover must replace ground cover, etc. Upon written notice by the Town, the Owner will have six (6) months to cure or replace damaged or dead landscape material. In the case of diseased landscape material, a shorter compliance period may be specified in said notice. The Town of Castle Rock Water Conservation Ordinance regulates times of seasonal irrigation and prohibits the wasting of potable water through improper irrigation.





Virus-free www.avast.com

Town's Exhibit E

**Correspondence from
the Town to the Rock
dated September 26, 2022**



Zoning Division
Development Services
100 N. Wilcox Street
Castle Rock, CO 80104

September 26, 2022

Church of the Rock
4881 Cherokee Drive
Castle Rock, CO 80109
Mike@therock.org

Dear Pastor Mike,

As of today, the following violations/concerns still exist on the church property and need to be resolved so the property can be in compliance with the Town's Municipal Code:

- Tent for services for the summer. The installation and use of a tent on the property is not in compliance with the approved Final PD Site Plan for the property, nor any subsequent Site Development Plan (SDP) Amendments. The use of the tent on the property requires a Temporary Use Permit (TUP) per Code section 17.16.020. Although Fire has approved the tent for safety compliance, the church has not applied for or been issued a Temporary Use Permit (TUP), after numerous requests. Please submit either a Temporary Use Permit for seasonal use of the tent, or a SDP amendment to request the use of this tent.



- Future Development Signs
 - No sign permit has been applied for or approved for these signs. These signs require a sign permit per Code 19.04.031 and must be in conformance with Chapter 19.04. The Town has notified you of this violation on December 6, 2021 and June 8, 2022. Please submit a sign permit application to the Town's Zoning department or remove these signs from the property.



- Deficient/dead landscaping.
 - Per CRMC Chapter 17.38.080.D Upon recordation of the Site Development Plan the owner and subsequent owners or assigns shall be required to have the site construction be in conformance with the approved Site Development Plan as well as maintain all site improvements (to include all landscaping) per the approved Site Development Plan or any subsequent amendments.
 - Landscaping was approved and required on the Site Development Plan (SDP) for the property. You have previously agreed in writing to have this landscaping replaced by Spring of 2022. Attached again for your review, are the two (2) approved plans showing the required landscaping for the property. Please provide a schedule for when this landscaping will be replaced and the property brought into compliance with the required landscaping for the property.
- Weeds:
 - Per the Castle Rock Code section 8.12.030, It is unlawful for any person having or being entitled to the ownership or possession of any real property, or any part thereof, within the Town to permit, allow or maintain any growth of weeds to a height greater than twelve (12) inches. You have been notified of the need to remove these weeds on numerous occasions over the years, as this requires continued maintenance. Please let us know when this item will again be resolved.



- RV's
 - Per Chapter 17.01.010.A No land shall be used or occupied and no structure shall be designed, erected, altered, used or occupied except in conformity with all regulations established in the Castle Rock Municipal Code, including this Title.
 - As previously discussed, RV's parking on the property for either storage or use to live in, is not an allowed use on the property under the current zoning. The Town understood these RV's to be temporary in nature, however they have remained on site throughout this year. The Town has received additional and increasing complaints regarding the RV's being onsite and occupied. Please provide us a schedule of when these will be removed from the property.



Overall, we'd like to meet with you to go over these items that have continued to occur or not be corrected on the property, so we can work together to get your property into compliance with the Town's codes. Please reach out at your earliest convenience so we can meet to discuss solutions and a timeline to remedy the outlined issues.

Thank you in advance for your cooperation.

Tammy King
Zoning Manager
100 N Wilcox Street
Castle Rock, CO 80104
720-733-3557
tking@crgov.com

Town's Exhibit F

**Correspondence from the
Town Attorney's Office
to the Rock dated
November 9, 2022**



Office of the Town Attorney

Michael J. Hyman, Town Attorney

November 9, 2022

Via Certified Mail & First Class Mail
Receipt # 7021-1970-0001-6989-0466

Pastor Mike Polhemus
Church of the Rock
4881 Cherokee Drive
Castle Rock, CO 80109
Mike@therock.org

RE: Potential Violation of PD Zoning Regulations

Pastor Polhemus,

This letter is to inform you of a potential violation of the Zoning Regulations for the Church of the Rock Planned Development ("PD Zoning Regulations"). Recently, it has come to the Town of Castle Rock's (the "Town") attention that there are currently three (3) Recreational Vehicles ("RVs") parked next to the Church of the Rock (the "Church"). While you have indicated that these RVs are not occupied they appear to still be connected to electricity and the Town has received several complaints from citizens that the RVs appear to be occupied. The use of these RVs for residential purposes as well as the storage of these vehicles on the property are violations of the PD Zoning Regulations.

According to Section F of the PD Zoning Regulations the following uses are permitted:

- Church and Related Uses
 - Church
 - Church related educational facilities
 - Church related day care center subject to licensing requirements of the State
 - Parsonages
 - Non-profit ministry related administrative offices
 - Trails, pedestrian and bicycle
 - Open space and ponds to include storm water drainage detention areas
 - Indoor and outdoor church related recreational facilities

- Utilities and appurtenant facilities including but not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities
- Dedicated Open Space – OSD
 - Open Space
 - Flood Plain
 - Parks, playgrounds and picnic areas, excluding camping and overnight parking
 - Utilities and appurtenant facilities including but not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities
 - Public and private streets, drives, and trails for pedestrian and bicycle use

Per the PD Zoning Regulations residential uses are not permitted nor is the storage of RVs. Please remove the RVs and cease all residential uses on the property.

Sincerely,



Lena McClelland
Assistant Town Attorney



Town's Exhibit G

Notice of Zoning Violation



Zoning Division
Development Services
100 N. Wilcox Street
Castle Rock, CO 80104

November 10, 2021

CASE NUMBER: ZCE2111-018

VIA CERTIFIED and REGULAR MAIL

TRACKING #: 91 7199 9991 7036 1053 9662

CHURCH OF THE ROCK
4881 CHEROKEE DR
CASTLE ROCK, CO 80109

RE: NOTICE OF ZONING VIOLATION

Subject Property: 4881 CHEROKEE DR

To Whom It May Concern:

The Town of Castle Rock is committed to sustaining a high quality-of-life as a family-friendly and safe community. We value the contributions you and your family make to the Town to help foster a sense of pride and to embrace a positive and healthy living environment. In an effort to better ensure that the Town's objectives and goals are met, as you may know, the Town has adopted a Municipal Code designed to protect the health, safety and welfare of Castle Rock residents. To that end, the Code regulates a variety of activities and practices. Some regulations are intended to prevent negative impacts to surrounding property owners. Through its application, Town staff strives to apply the Code in an equal and uniform manner. It has come to our attention that the property, located at 4881 CHEROKEE DR is in violation of Municipal Code:

17.01.030 - Enforcement authority.

This Title shall be enforced by the Town and its authorized officers, agents and representatives. Town officials may seek enforcement of this Title by injunctive or other equitable relief as necessary to protect the public health, safety and welfare.



Nature of the Violation: ALLOWING STORAGE OR RESIDENCY IN CAMPERS ON THE PROPERTY

Please take the following corrective action: REMOVE STORAGE OR RESIDENCY OF CAMPERS FROM THE PROPERTY

Department Mission: "Implementing Community Vision through Development Activities"

Town staff would be happy to discuss this matter with you in more detail, and we invite you to come in, or to call us, so that we might explore possible options to bring the above-referenced residential property into compliance with the Code. In the expectation of reaching a satisfactory resolution to this matter, kindly contact **Scott Seubert, Zoning Inspector**, at **(720) 733-2212** or **sseubert@crgov.com**, to advise us of your intentions. To the extent that you do not have any questions, and prefer to handle the situation, then we are requesting that you undertake efforts to ensure compliance with the Code within **fifteen (15) days from the date of this letter**. In the event that the situation has not been rectified within the next fifteen (15) days, then the Town may be forced to pursue compliance through available legal channels.

We are hopeful that it will not be necessary for the Town to initiate any Code Enforcement action.

Thank you for your attention to this matter and your anticipated cooperation is sincerely appreciated.

Kind Regards,



Scott Seubert
Zoning Inspector
sseubert@crgov.com
Phone: 720-733-2212

DYMOND • REAGOR
A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW
SUITE 1010, THE EDWARD BUILDING
8400 E. PRENTICE AVENUE
GREENWOOD VILLAGE, COLORADO 80111-2922

Michael W. Reagor
mreagor@dic-law.com

Telephone (303) 793-3100
Facsimile (866) 861-7066

March 9, 2023

VIA EMAIL ONLY

Mr. Michael J. Hyman
Town Attorney
Town of Castle Rock, Colorado
100 N. Wilcox Street
Castle Rock, CO 80104

Re: November 9, 2022 letter to Church of the Rock

Dear Mr. Hyman:

Recently team members from the Church of the Rock ("the Rock") met with Town of Castle Rock ("TCR") officials regarding your office's November 9, 2022 letter ("the Letter") addressed to Mike Polhemus, Lead Pastor of the Rock. In that letter, your office informed Pastor Polhemus that the use of three recreational vehicles ("RVs") parked on the Rock's property for residential purposes would violate the PD Zoning Regulations applicable to the Rock.

When we met with the TCR team on February 14, Pastor Polhemus confirmed his team would consider the concerns stated in the letter and provide a response.

Separately from this letter, Pastor Polhemus and his team are meeting with TCR officials to address specific concerns relating to use and parking of vehicles, including RVs, on the Rock property.

As an evangelical Christian church, the Rock follows the teachings of both the Old Testament and the New Testament relating to caring for the poor and needy. The Bible specifically directs God's people to care for the poor and needy:

- Proverbs 19:17 teaches that "whoever is kind to the poor lends to the Lord, and He will reward them for what they have done."
- Proverbs 29:7 confirms that "the righteous care about justice for the poor, but the wicked have no such concern."
- Leviticus 25:35 requires that "if your brother becomes poor and cannot maintain himself with you, you shall support him as though he were a stranger and a sojourner,

Town's Exhibit H

**Correspondence from
the Rock to the
Town dated March 9, 2023**

DYMOND • REAGOR
A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

Michael Hyman, Esq.
March 9, 2023
Page 2

- and he shall live with you. Take no interest from him or profit, but fear your God, that your brother may live beside you.”
- Proverbs 21:13 teaches that “whoever shuts their ears to the cry of the poor will also cry out and not be answered.”
 - In Luke 6:38, Jesus taught that giving to others in their need is the true measure of a person’s faith.
 - In Luke 11:41, Jesus instructed His followers that “but now as for what is inside you—be generous to the poor, and everything will be clean for you.”
 - Jesus’s half-brother James taught that if a brother is in need of food or clothing, Believers fulfill Jesus’s teaching by meeting that need.

The Rock has developed and pursues specific programs to responsibly help and restore the poor, needy and destitute. See <https://www.therock.org/ministries/>. These compassionate care programs require that any person receiving food, money or shelter assistance seek employment and cease destructive behaviors. The Rock also operates a food bank that provides free food to all in need. Further, the Rock participates in the Winter Shelter Network, a network of churches in the Douglas County area that serve the homeless by providing temporary shelter for those in need to receive “rest, meals and connection” during the winter months. <https://www.wintershelternetwork.org/>.

All these programs provide life sustaining care for the poor and needy, and opportunities for Believers to participate in the care of their neighbors. The temporary shelter care administered through these programs is transitional, for a limited period and provided pursuant to Biblical stewardship guidelines. When the Rock is unable to provide overnight shelter to specifically approved persons within the church building, on a limited basis it has used RVs legally parked on its property to provide overnight shelter. The Rock has a history of helping the needy and homeless through its compassionate care programs, and these programs are an essential part of the Rock’s mission and purposes.

The Letter notes that permitted uses of the Rock’s property under the PD Zoning Regulations include “church and church related uses”, specified further as “church” and “church related educational facilities”. Chapter 17.14 of the Castle Rock Municipal Code defines a “place of worship” to include churches, but does not otherwise define a church or church activities.¹ The PD Zoning Regulations and the TCR Code allow for “church related uses”, which includes

¹ As you are no doubt aware, under the Religious Land Use and Institutional Persons Act, 42 U.S.C. § 2000cc-5(7), “[t]he term ‘religious exercise’ includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief,” and “[t]he use . . . of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.”

DYMOND • REAGOR
A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

Michael Hyman, Esq.
March 9, 2023
Page 3

programs essential to the Rock's mission and commitments. Those programs include shelter provided through the Rock's compassionate care ministries.

The Zoning Code, 17.14.010, defines an "accessory use" as "a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises." The Rock's compassionate care programs involve use of their indoor facilities and occasional use of legally permitted and parked RVs to provide limited overnight shelter for specifically approved persons participating in the Rock's programs.

Under these circumstances, the use of the Rock's property for its compassionate care programs is an accessory use incidental to its principal use of the property and permitted under the PD Zoning Regulations.

Nonetheless, as we indicated, Pastor Polhemus and his team will work with the Town to ensure code compliance and to ensure the Rock's neighbors understand the Rock's compassionate care ministries. The Rock is committed to responsibly providing care through these programs, as well as ensuring the safety of the neighborhood. The Rock will continue to use its care programs to care for the most vulnerable and to proclaim the Gospel of Jesus Christ.

Please contact me if you have further questions or concerns.

Very Truly Yours,

Dymond • Reagor, PLLC

By:



Michael W. Reagor

MWR/mr

Town's Exhibit I

Screenshots



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WATCH & READ

EVENTS & CALENDAR

GIVE

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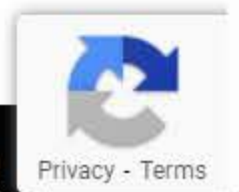
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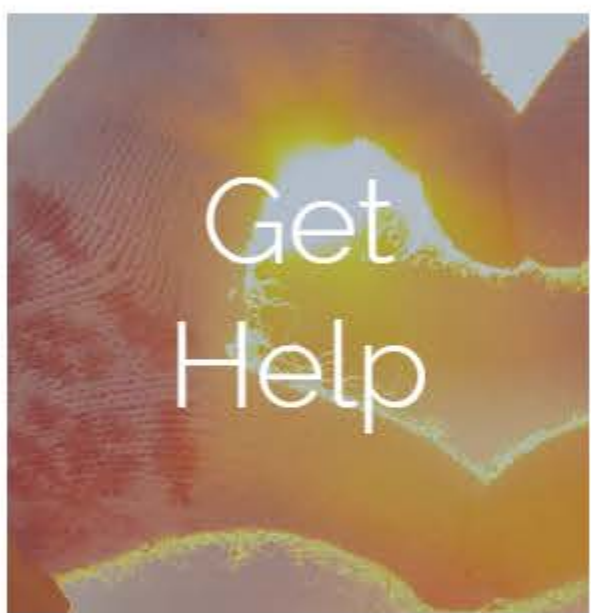
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- Blessing Room Food and Clothing Bank
- Care and Support
- Community Resources
- Compassion Assistance
- Counseling
- Funerals and Memorials



- BASE CAMP Student Ministries (6th-12th)
- Children (5weeks to 5th)
- Discovery Classes
- Young Adults
- Men's
- Women's
- Worship



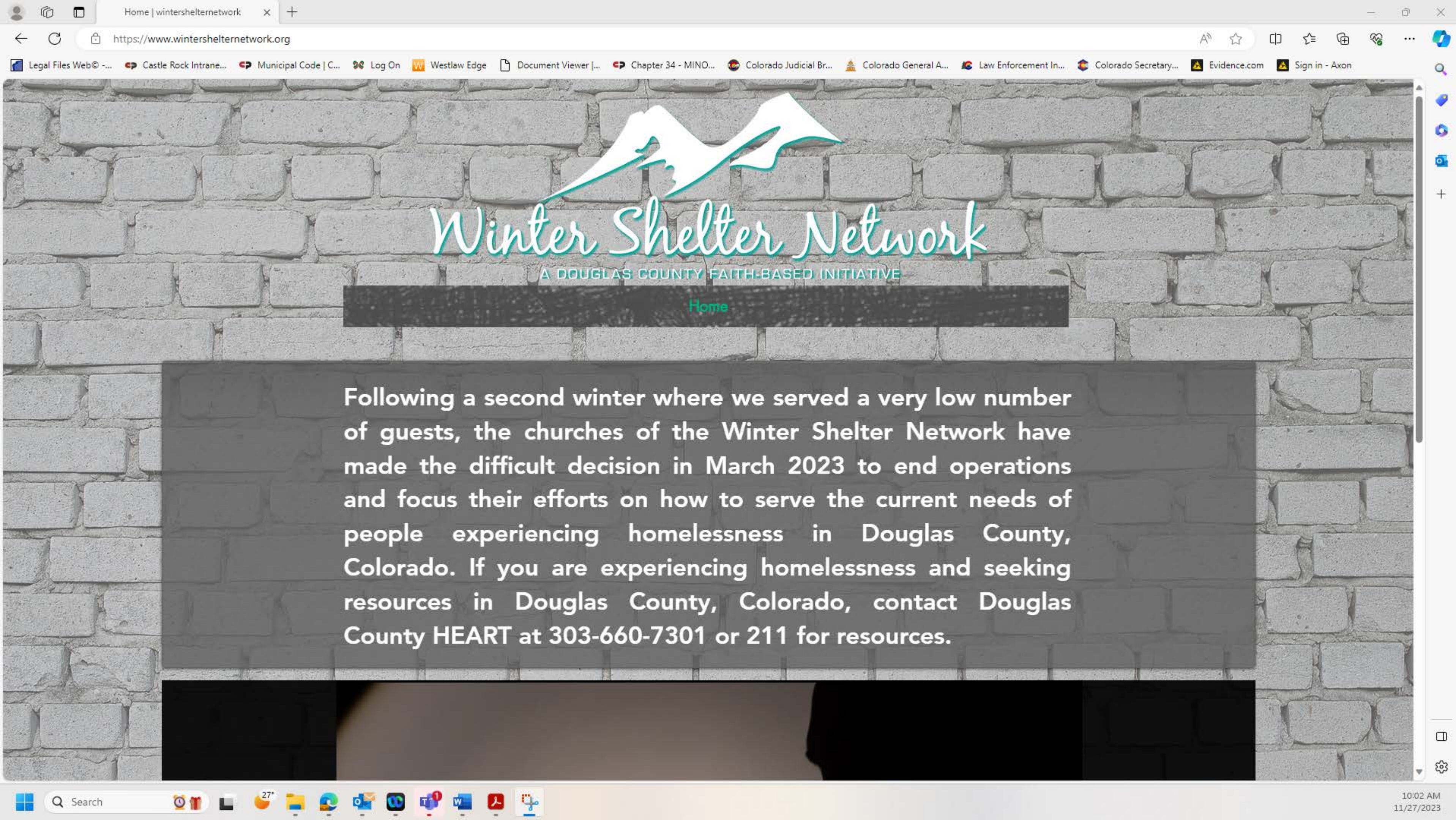
- Counseling
- Healing and Prophetic Rooms
- Prayer and Freedom Ministries
- Healing Heart Ministries



- Classes and Bible Studies
- Colorado School of Kingdom Ministry (CSKM)
- Wednesday Night at The Rock
- Discover Your Destiny
- MOPS (Mothers of Preschoolers)



- Serve
- Regional Outreach
- World Outreach (Missions)



Winter Shelter Network

A DOUGLAS COUNTY FAITH-BASED INITIATIVE

Home

Following a second winter where we served a very low number of guests, the churches of the Winter Shelter Network have made the difficult decision in March 2023 to end operations and focus their efforts on how to serve the current needs of people experiencing homelessness in Douglas County, Colorado. If you are experiencing homelessness and seeking resources in Douglas County, Colorado, contact Douglas County HEART at 303-660-7301 or 211 for resources.

Town's Exhibit J

Letter of Determination for the Rock



Development Services
100 N. Wilcox Street
Castle Rock, CO 80104

LETTER OF DETERMINATION

Date: September 29, 2023
Address: Church of the Rock
4881 Cherokee Drive, Castle Rock, CO 80109
Through: TJ Kucewesky, Assistant Director of Development Services
Kevin Wrede, Planning Manager *kw*
Subject: Allowed accessory living quarters/residences

Per Church of the Rock PD, Ordinance 2003-27, Reception #2004046665 and recorded on May 6, 2004:

F.1.b. Permitted Uses:

All provisions of this Title, as amended from time to time, shall apply in PD Districts unless otherwise

b. Permitted Uses

- 1) Church
- 2) Church related educational facilities
- 3) Church related day care center subject to licensing requirements of the State
- 4) Parsonages
- 5) Non-profit ministry related administrative offices.
- 6) Trails, pedestrian and bicycle
- 7) Open space and ponds to include storm water drainage detention areas
- 8) Indoor and outdoor church related recreational facilities
- 9) Utilities and appurtenant facilities including by not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities

- Parsonage is not defined in the PD
- Parsonage is not defined in the Castle Rock Municipal Code
- American Planning Association (APA) defines parsonage as:
 - o "The permanent place of residence of the pastor or minister of a church"

Determination:

Per the allowed uses as defined in the Planned Development (PD) and the definition with the APA, a parsonage is the only accessory residential use permitted at the above mentioned address. Further, RV's parked on-site, that serve as a residence are not an allowed use.

Per 17.06.020.B.3

A written notice of appeal of any administrative decision shall be filed within fifteen (15) days of the decision being appealed. The notice of the appeals shall be filed with the Manager and shall state with specificity the reason for appeal. The Board (Board of Adjustment) shall hear such appeal within sixty (60) days of the filing of the notice of appeal.

Tammy King
Tammy King
Zoning Manager

Tara Vargish
Tara Vargish
Director of Development Services

Town's Exhibit K

Photographs

Photos of property taken June 1, 2023:







Photos of property taken March 7, 2023





Photo taken December 20, 2022 (3 campers)



Town's Exhibit L

**Letter of Determination
regarding Definitions
dated November 22, 2021**



Development Services 100 N. Wilcox Street Castle Rock, CO 80104

Date: November 22, 2021

LETTER OF DETERMINATION

Subject: Definitions

Through: Tony Felts, Assistant Director of Development Services
Kevin Wrede, Planning Manager *kw*

Handwritten initials in blue ink, possibly "TF" or "KW", located to the right of the "Through:" line.

The Zoning Manager has been asked to make a determination for direction to the Town of Castle Rock Department of Development Services ("Development Services") regarding how to define terms in the Town of Castle Rock Municipal Code ("CRMC") which are undefined.

Determination:

Where Development Services requires a definition for a term which is undefined by the CRMC, the Town may, at its discretion, utilize the American Planners Association ("APA") definitions. While the APA is often a preferred avenue to define terms implicated by Development Services in its normal course of operations, the Town recognizes that the APA may not always provide an appropriate definition for terms within the CRMC and that such determination is fact specific. Nothing in this Policy shall preclude Development Services from referencing other resources to provide definitions for undefined terms in the CRMC, where the APA is determined by Development Services to provide an inapplicable definition.

Handwritten signature of Tammy King in blue ink.

Tammy King
Zoning Manager

Handwritten signature of Tara Vargish in blue ink.

Tara Vargish
Director of Development Services