

EXHIBIT B

Breaching Faith ... Breaching the Social Contract ...
Breaching the Law:

The Loss of Trust Is a Terrible Thing

2018-05 Calvary Chapel - Neighbourhood Report v3.4 20180521

on

The Calvary Chapel Site Development Plan (SDP16-0031) at May 18th 2018

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Background

In December 2015, a priest and friend of Pastor Dave Love of Calvary Chapel, asked some of his parishioners (Grants and Browns) to welcome and help Dave Love in his interest in buying the lot adjacent to their homes for the purposes of building a new church. They agreed. They met with Pastor Love and Joey Mckee. Calvary had not yet purchased the land. The Grants and Browns told Calvary they did not want additional traffic on Canyon, and they did not want a large church on the property. Mr. Love said that when Calvary Chapels outgrow a church, they plant a new one so not to worry. He said they wanted their own property as they were leasing the property where they were meeting, and the lease would be running out (it has since been renewed). Dave Love also stated that Calvary wanted to be good neighbours and would do anything that neighbours requested. A neighbourhood meeting was held on January 31, 2016, but many neighbours did not attend due to incorrect information on the meeting place given in the notice. Browns and Grants received an email on February 19, 2016 saying Calvary had purchased the land.

Neighbours received a letter dated September 21, 2016 from Jason Alwine, Calvary's building planning engineer, saying that the proposed zoning would be B-Commercial. The Town's planner, Kathy Marx, told Jason Grant that the zoning had to be commercial. The neighbours strenuously objected to any commercial zoning since the church could just sell it for a profit to a commercial developer and neighbours knew from reading the Town's ordinances that churches can be part of residential zones. The church agreed reluctantly to not ask for a commercial zoning. Meetings were held with neighbours in the fall of 2016 at which they expressed concerns about the location of the building, setback, traffic, drainage issues, and the leveling of the property. Many times, the planning staff told the neighbours that the issues would be discussed later after the property was annexed and zoned as a PD for a church only. Kathy Marx told neighbours in an email that the various details were "not relevant" at this stage. Town staff did not want to talk about details, even though the neighbours expressed concerns. In March 2017, the neighbours were told that the zoning request would be going to the Town Council May 2 and May 16. Kathy Marx said in one email that there would be open space well beyond the 30 ft. setback. The neighbours didn't get a copy of the PD Site and Zone Plan as promised before the March 12, 2017 meeting with neighbours. The neighbours had to wait until March 3 after neighbours requested it.

Information given to neighbours in meetings and emails changed often. Promises were broken. The information frequently changed. Documents were promised, but never sent. The Town was not giving neighbours the necessary and important documents and information needed. Kathy Marx always said they would look at anything neighbours (especially that the Grants, the Weides, and the Browns) brought to her attention "later".

The PD was approved June 20, 2017. Kathy Marx said in an email dated June 21, 2017 that the details could now be discussed. The neighbors did not receive documents such as traffic studies or drainage reports until March 2018, and then only when requested.

Background (continued)

The neighbours did not receive any more information regarding how the plans had changed between June 20, 2017 and January 5, 2018 for a Planning Commission meeting scheduled for January 11, 2018. At that time the neighbours realized that many things had changed significantly. Neighbours asked the Planning Commission to vote against it, but they relied on assertions from Town staff and voted for it. Calvary and town staff stated that neighbours were informed and approved of it all, but in fact neighbours had not seen many of the changes and had not seen anything since September 2017.

At the January 11, 2018 meeting before the Planning Commission, Kathy Marx told the Commissioners that the Town had an easement on the Brown and Zoetewey properties to maintain the detention pond on the Calvary property. Neighbours raised the point during the Planning Commission meeting that the easement did not exist as stated by Kathy Marx. Jeri Brown contacted Kathy Marx the next day and told her that the Town did not have an easement. Kathy Marx still claimed the Town had an easement though she could not produce any proof of an easement. Jeri Brown researched the easement issue including with the Douglas County Recorder, wrote many emails, and ultimately the Town admitted that there was no such easement as was falsely told the Planning Commission on January 11, 2018. After further discussions, the Development Office admitted there was no such easement and that the whole project would go back to start over with neighbourhood meetings since Town planning staff had given disinformation to the Planning Commission. Since Kathy Marx made many false statements about easements, Jeri Brown decided to research and read the Municipal Code. Others did the same. Neighbours started writing letters and emails pointing out all the inaccuracies and misinterpretations of the Code used by the Development Office. This has continued, and a string of emails show that the Town staff do not know or understand the Municipal Code. The Browns have had several meetings with the Town Manager.

Executive Summary

Issues of both Law and Morality permeate this project as it stands at May 18th 2018 ...

Breaching Faith with Citizens and Neighbors ...

The Town has tried to be expeditious with this project. In its overwhelming desire develop this parcel in the face of historical difficulty accomplishing this very thing, the Town has cut far too many corners. **The neighbors stand to lose far more than any other stakeholder should something go wrong.** See the drainage section of this report for a good example.

The lack of transparency and honesty is all too prevalent. Deceitful actions and words have been used by both the Town and the developer.

Property owners are looking at 15-20% immediate and permanent devaluation on their homes due to incongruous development and structures, and compounded by drainage and traffic issues.

Breaching the Social Contract ...

Uneven enforcement of the Law is prima facie discriminatory and benefits some with significant and disproportionate harm to others (in this case, the citizens are harmed).

This violates the whole basis of the "Consent of the Governed", a principle on which this country was founded, and for which untold patriots have given "Their Lives, Their Fortunes, Their Sacred Honor."

Master Plans are part of the Social Contract, and have the force of law if promulgated under the authority of the municipal code.

Denial of Due Process ...

Castle Rock claims that its Boards are "quasi-judicial" but, if that is so, then the required Due Process is woefully lacking and very biased against the Residents of Castle Rock.

The Planning Department processes constrain citizen input excessively, and Calvary has stated that it doesn't care if the Town violates its own ordinances (as long as it benefits Calvary).

Executive Summary (continued)

Issues of both Law and Morality permeate this project as it stands at May 18th 2018 ...

Breaching the Law ... The development Department has waived so many requirements of the law such that Title 17 has been effectively eviscerated to approve this Calvary development. This is just a partial list of proposed Title 17 waivers:

- 17.02.060C4— adverse impacts on environment not substantially mitigated
- 17.10.020K— traffic circulation is not safe or efficient
- 17.10.020K— does not mitigate congestion along pedestrian ways
- 17.10.030A1— does not fit with the landscape in a way that is not unduly intrusive
- 17.10.030A2— visual impacts not reasonably mitigated
- 17.10.030A6— negatively impacts to wildlife not duly considered
- 17.10.030B— grading not adequately shaped to complement natural land forms
- 17.10.030C— roads not designed to minimize disturbance
- 17.14— Definitions:

Setback = minimum required distance between structure & property line (i.e. 30')

Structure = anything constructed or erected (not allowed in setback areas), to include "fences over 6 feet tall = structures" and "retaining walls over 48 inches tall = structures"

- 17.32.010E— not in harmony with surrounding neighborhoods
- 17.34.030B1— adequate buffer areas not provided
- 17.34.030C1— traffic circulation is not separated from living areas, is over capacity and noisy
- 17.34.030C3— does not accommodate an adequate, functional and safe street system
- 17.34.030D5— does not provide adequate consideration to future extension of streets
- 17.34.030D6— does not appropriately mitigate all traffic impacts, on and off-site
- 17.34.030F1— does not demonstrate sensitivity/limit disturbance to environmental character
- 17.50.010A1— visibility of undesirable nonresidential uses and activities not minimized
- 17.50.010A3— attractive transition between nonresidential & residential uses not created
- 17.50.040B— 100% of buffer and screening not provided on nonresidential property
- 17.50.040D— buffers not free of structures (retaining wall over 48 inches)

Breaching Faith with Citizens and Neighbours

The Town and Calvary Chapel are blatantly ignoring their MORAL DUTY to neighbours and citizens ...

BREACH OF FAITH: "The violation of moral duty."

- **In the headlong and arrogant rush to develop this parcel, the Town and Calvary Chapel continue in their attempts to roll by, or over, immediately impacted residents who have lived in the adjacent homes, some for as long as a quarter of a century or more.**
- **It has recently become clear via two recent and separate professional opinions that the immediately adjacent homes will immediately and permanently lose from 15-20% of their home value with such large retaining walls, with some homes only 12-15 paces away from a wall that soars to mid-roof level or higher. Just to glorify the people and organizations involved, the project as conceived, along with those sponsoring it, exhibits no conscience or qualms in damaging others to get what they want. For most families, their largest single asset is the value of their home. In other cases, families are relying on property appreciation to help fund their retirement or other family plans. Others who are retired also don't deserve such devaluation. Doing this to these families is both unconscionable and immoral, amounting to theft on a grand scale. The Town, in approving this, will effectively be engaged in a "taking" for the benefit of a church.**
- **A trail of deceit follows this project like the stench of a feed lot hangs about a holding pen for cattle.**
- **The lack of transparency and honesty is all too prevalent. Throughout this development process, Calvary Chapel and the Town of Castle Rock have consistently violated normal human standards of transparency, decency, and truthfulness, primarily via half-truths, spin, hiding important information and a failure to correct prior assertions originally made with a great show of confidence. This was done to the citizens to still their voices, with trust between the government and the governed the clear victim.**

From the Town Manager's web pages:

"The Town is proud to be a values-based and best-practices organization. We are dedicated to delivering world-class public service, while striving to be responsible with our resources. We honor our obligation to transparency, and we value clear, direct and honest communication."

Breaching the Social Contract

The Town is violating its Social Contract with Its Citizens at Multiple Levels (John Locke, 1690) ...

Social Contract: "In both moral and political philosophy, the social contract is a theory or model that originated during the Age of Enlightenment. Usually, the social contract concerns the origin of society and the legitimacy of the authority of the state over the individual. Social contract arguments typically posit that individuals have consented, either explicitly or tacitly, to surrender some of their freedoms and submit to the authority of the ruler or magistrate (or to the decision of a majority), in exchange for protection of their remaining rights."

- **Uneven enforcement of the Law** is prima facie **discriminatory** and perhaps is evidence of cronyism, and it benefits some (in this case, it benefits developers) with significant and disproportionate harm to others (in this case, the citizens are harmed).
- This violates the **whole basis of the "Consent of the Governed"**, a principle on which this country was founded, and for which untold patriots have given "Their Lives, Their Fortunes, Their Sacred Honor."
- **Master Plans** are part of the Social Contract, and **have the force of law** if promulgated by the Town under the authority of the municipal code.
- **Such activities are also plainly unlawful** (see the next section).

See: John Locke's "Second Treatise of Government", "The Declaration of Independence", et al.

Breaching the Law

Title 17 of the Castle Rock Codes establishes relevant definitions, ordinance interpretation standards and ordinance applicability ...

- Unless specifically excluded, **the entire Title 17 applies. NO TOWN OFFICIAL HAS ANY AUTHORITY UNDER LAW TO WAIVE ANY PORTION OF THE LAW.** Only the Town Council may approve any deviations in exceptional circumstances. (17.50.010 C)
- **The most conservative application** will be applied if ordinances appear to conflict. (17.01.020 A)
- **Definitions are part of the law** and apply to all of Title 17. (17.14 Definitions)

Relevant sections of Title 17 ...

- **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 ..."**
- **17.01.020 A - "Whenever the requirements of this Title are at variance** with the requirements of the Castle Rock Municipal Code or any other lawfully adopted rule, regulation, or ordinance, **the more restrictive or that imposing the higher standards shall govern."**
- **17.14 - Definitions ...** "For the purpose of this Title, certain **words or phrases are defined**" ... et seq

- **17.50.010 C -** The Town Council may approve deviations from these regulations as part of the site plan approval process upon a finding that strict application of this Chapter would either preclude any reasonable use of the property subject to such application, or that application of one (1) or more of these regulations would not advance the underlying purpose of these regulations due to unusual or exceptional configuration, size, topography or buildings on the residential and/or nonresidential properties affected by such application.

NOTE: For purposes of this report, Relevant Laws include Comprehensive Master Plan requirements promulgated under the law. An abbreviated list of breached laws and implementation documents follows ...

Breaching the Law (continued)

Following is a list that includes (1) ordinances already breached in the SPD process as approved, and (2) ordinances and Comprehensive Master Plan requirements that will be breached should the town move forward with Calvary plans as of the March 27, 2018 neighbourhood meeting. This simplified list is developed in further detail later in the report.

- **17.01.010 A** Conformance with Castle Rock Municipal Code
- **17.01.020 A** More restrictive standards will govern
- **17.02.060 C 2** Harmonious development in conformity with the Comprehensive Plan
- **17.02.060 C 3** Compatibility with existing adjacent properties
- **17.10.020 B** Harmonious development in accordance with the Comprehensive Plan
- **17.10.020 K** Safe and efficient circulation of traffic
- **17.10.030** **Land Suitability**
- **17.10.030 A 1** Fit with the landscape
- **17.10.030 A 2** Visual impacts
- **17.10.030 A 3** Site features undisturbed and preserved
- **17.10.030 A 4** Natural drainage shall not be disturbed
- **17.10.030 A 6** Wildlife impacts
- **17.10.030 B** Grading to natural land forms (rather than shaping the slope)
- **17.10.030 C** Roads in steeply sloping areas
- **17.10.030 F 1** Sensitivity to drainage, topography ... view sheds

continued on next page ...

Breaching the Law (continued)

Following is a continuation of the list on the prior page that includes (1) ordinances already breached in the SPD process as approved, and (2) ordinances and Comprehensive Master Plan requirements that will be breached should the town move forward with Calvary plans as of the March 27, 2018 neighbourhood meeting. This simplified list is developed in further detail later in the report.

- 17.14 **Definitions**
- 17.32.010 **PD District Purpose**
- 17.32.010 B Preserve existing landscape
- 17.32.010 E Harmonious with surrounding neighbourhoods
- 17.34.030 **PD Plan approval criteria**
- 17.34.030 A 3 Design principle compliance
- 17.34.030 B 1 Appropriate relationships between use areas
- 17.34.030 C 1 Adequate [traffic] circulation
- 17.34.030 C 3 Circulation and connectivity: safe street system
- 17.34.030 D 5 Consideration of future streets
- 17.34.030 D 6 Mitigate all traffic impacts
- 17.34.030 F 1 Preservation of Natural Features
- 17.34.040 A 3 Town regulations govern and control
- 17.38.010 C Compatibility with neighbourhoods
- 17.50.010 A Assure that impacts are mitigated

continued on next page ...

Breaching the Law (continued)

Following is a continuation of the list on the prior page that includes (1) ordinances already breached in the SPD process as approved, and (2) ordinances and Comprehensive Master Plan requirements that will be breached should the town move forward with Calvary plans as of the March 27, 2018 neighbourhood meeting. This simplified list is developed in further detail later in the report.

- **17-50.010 A1** Minimize visibility of non-residential uses
- **17-50.010 A3** Visually attractive transitions
- **17-50.020** Definitions
- **17-50.030 A1** Applicability of non-residential adjacent to residential
- **17-50.040 F** Required buffers ... must be kept free of structures

• 2020 Comprehensive Master Plan

• 2030 Comprehensive Master Plan

- RG-5.1** Infill must be compatible in scale
- RG-5.2** Buffers and mitigation measures

Denial of Due Process for Residents

The processes used by Castle Rock and the quasi-judicial posture assumed by the various boards of Castle Rock effectively eliminate Due Process for residents, and that has given Calvary Chapel freedom to withhold necessary information which it has done on various occasions ...

- The Planning Commission hearing protocols do not allow for fair presentations of materials constraining citizen input and shutting down rebuttals of even glaring disinformation given at meetings;
- The Town asserts that Town of Castle Rock Commissions and Councils are in a "quasi-judicial" role, but if judicial in nature, short shrift is paid to due process;
- The Planning Department processes constrain citizen input excessively; and,
- Calvary Chapel is pleased to hide behind Town processes to deny providing critical information to residents, and they make full use of this opportunity.

[Here follows the Bill of Particulars ...](#)

The Bill of Particulars – Introduction

The neighbours to this development have never been “against” a church being built on this parcel, **ASSUMING** that the church would be a “good” neighbour. However, the neighbours have **NEVER** wanted a church being built on this property **AT ANY COST** to surrounding families.

It is has become painfully clear that Calvary Chapel wants to squeeze every last useable square foot out of this parcel for its own purposes and glorification. It is equally clear that it can only do so by violation of law and breach of faith, irreparably damaging future neighbours and its own reputation. Many of Calvary’s problems would be alleviated by scaling back the size of the church.

This parcel became an “orphaned” parcel early in the development history of Castle Rock. While quite beautiful and in an attractive location, the lot has significant development challenges ... it is very narrow, it has a very pronounced topography sloping nearly 10% to the west, access is very difficult and drainage has historically been problematic in the whole neighbourhood area. The fact that it has taken so long to be annexed speaks to confirming the parcel’s development challenges.

The parcel was originally zoned “Rural Residential.” Attempts have been made to get it re-zoned to “Commercial”, but they have met resistance for compatibility and other issues. Calvary even sought to get it re-zoned to “Commercial” to raise its value for financing, resale and-or to “flip” the parcel to earn significant returns, possibly to help fund a more appropriate building in a more appropriate location.

In the end, the neighbours feel that there are only three viable land uses for that parcel, in order of decreasing value:

1. A Town of Castle Rock (gateway) Park
2. Rural residential development
3. A small church development

Finally, many of the following particulars and related laws are very much inter-related. We will do our best to make these issues as clear as possible.

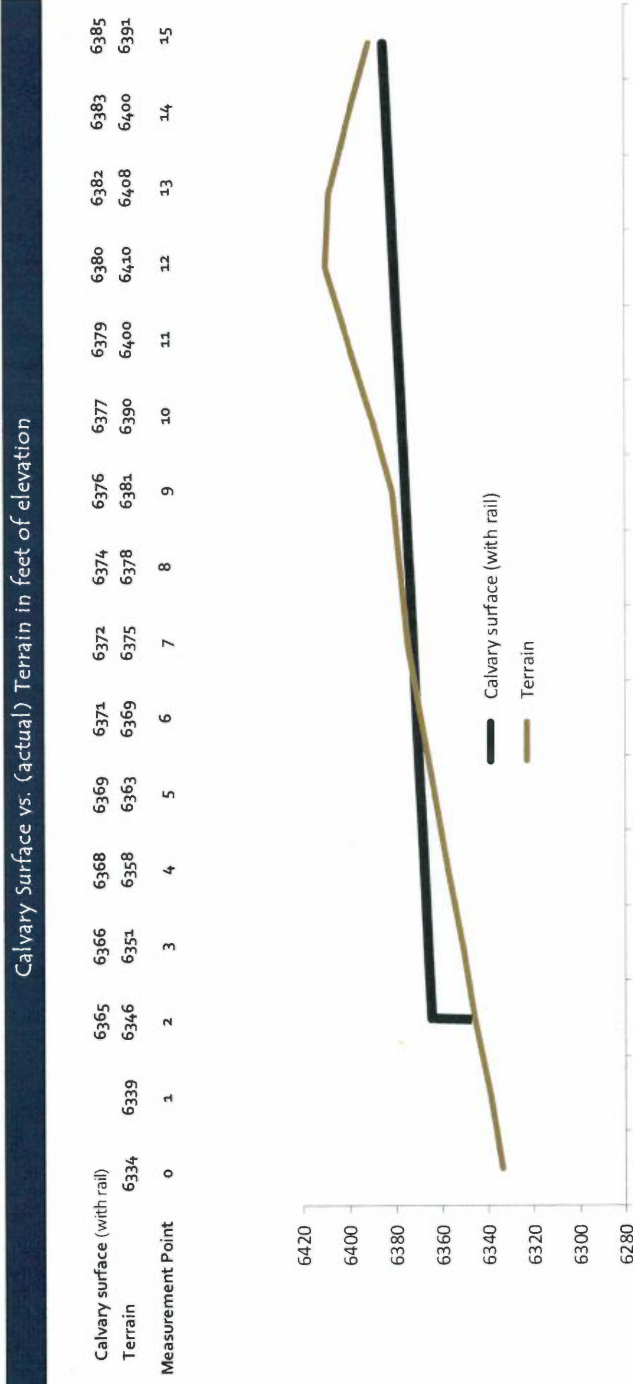
Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations

SUMMARY ... Calvary Chapel is clearly comfortable doing whatever it takes to get the church structure it wants including allowing the Town to violate the law as long as it benefits them, harming its future neighbours, damaging the image of Castle Rock, and ignoring the desires of Citizens for their Town as documented in the Town's Master Plans and other documents. The Town will be doing exactly the same thing again via staff recommendations should it approve these plans. Of specific note:

- The grading will essentially level this attractive property, turning the lot, in the words of one neighbour, into an "aircraft carrier" for cars. The top of the property to the east will be cut off and used as fill behind the retaining wall to level this property. Some important statistics:
 1. several neighbours are within 15 paces or less of planned structures from their homes;
 2. the first observable structure is a retaining wall and guard rail that rises to nearly 20 feet at the northwest corner;
 3. for one neighbour, the wall towers mid-way up their roof, for another it is level with half way up their third floor bedroom windows, and for a third, it looms over their roof ... the remainder of the neighbours have similar issues;
 4. for the majority of this property, the slope will be reduced from 9.42% to about 3.00%, **a terrain removal of more than 68%** (see the next page); and,
 5. planned structures will use 20% of the minimum set-back area requirements to preserve maximum parking lot size. The use of a retaining wall over 4 feet tall is specifically precluded within the minimum 30 feet of required set-back or interface area.
- In a deceitful maneuver, when Calvary changed its plans and provided documentation at the March 27th neighbourhood meeting, it conveniently and deceptfully omitted that the very large retaining wall now encroached into the set-back, violating Town Ordinances. Mr. Wrede of the Town's Development Department stated that retaining walls are allowed in the setback, but he failed to mention the size of the retaining walls and the definition of a structure. Further, Mr. Wrede, speaking as an expert and cutting off discussion, was just plainly wrong in saying that the ordinances only referred to "habitable structures" not being permitted in the set-back. The word "habitable" is not a part of the definition of a structure in Title 17. The definition of structure in Chapter 17.14 sheds light on retaining walls that exceed 48 inches. Mr. Wrede also stated in an email to neighbours that the definition of a structure doesn't apply to the interface regulations despite the definition section of Title 17 clearly stating that it applies to all of Title 17. Interpretation of ordinances and application must be the most restrictive. **(17.14 Definitions)**

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

- The planned grading seeks to eliminate any hint of the natural terrain (analysis provided by the neighbours when Calvary refused):



This is how Calvary Chapel plans to fulfill their “duty to faithfully comply with the law” with respect to (1) “Site features preserved” and (2) “Grading to natural landforms.”

(17.10.030 A 3 and 17.10.030 B) ... v1.3

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

- This infill project is not compatible in scale with existing neighbourhood. Grading, lots and structures do not conform to the natural slope, nor do they preserve natural features. The plans as presented do not preserve existing landscape and design harmonious and compatible use. The plan as presented does not give any recognition that this is a Gateway to the Town. Design principles are not being followed but are still in effect and on the Town website. The plan as shown is not compatible with the established neighbourhood. (17.02.060 C 2, 17.02.060 C 3, 17.10.030 A 1, 17.10.030 A 2, 17.10.030 A 3, 17.10.030 B, 17.10.030 C, 17.32.010 E, 17.34.030 F 1, 2020 Comprehensive Plan - Design Principles, 2030 Comprehensive Master Plan RG-5.1 and 2030 Comprehensive Master Plan RG-5.1)

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

RELEVANT LAWS ... for reference, excerpted from Title 17, 2020 Comprehensive Master Plan and 2030 Comprehensive Master Plan

- **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 ...**"
- **17.01.020 A** - "**Whenever the requirements of this Title are at variance with the requirements of the Castle Rock Municipal Code or any other lawfully adopted rule, regulation, or ordinance, the more restrictive or that imposing the higher standards shall govern.**"
- **17.02.060 C2** - Conformity with the most recently adopted versions of the Town's Vision, Comprehensive Master Plan and long-range or master plans.
- **17.02.060 C3** - Compatibility with existing and planned development on adjacent properties and in the surrounding area or neighbourhood, or measures will be taken to substantially buffer or otherwise substantially mitigate any incompatibility.
- **17.10.020 B** - Promote orderly growth and provide for the harmonious development of the Town in accordance with the Comprehensive Plan.
- **17.10.030 - Land Suitability**
- **17.10.030 A 1** - In the site planning and layout of any development, consideration shall be given to the relationship of roads, lots and buildings to existing slopes, grades, natural vegetation and drainage ways. All structures and roadways shall achieve a fit with the landscape that is not unduly intrusive.

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

RELEVANT LAWS ... for reference, excerpted from Title 17, 2020 Comprehensive Master Plan and 2030 Comprehensive Master Plan (continued)

- **17.10.030 - Land suitability (continued)**
- **17.10.030 A 2** - Visual impacts upon off-site areas shall be reasonably mitigated. For hillside development (in areas of steep slope), visual impacts should be mitigated through the appropriate siting of lots and structures, for example providing a mountain or hillside backdrop where the lot/structure is visible. ... As part of the site development plan, plat, and/or building permit review process, building envelopes should be defined to restrict the siting of improvements relative to major public views of hillside and ridgeline areas. (See Chapter 17.48 Skyline/Ridgeline Protection Regulations).
- **17.10.030 A 3** - Unique site features, which would add value to a subdivision or site development or to the Town, such as topographic or rock formations, trees or brush stands, historic sites or areas and similar irreplaceable features, shall receive special consideration in any project design, site planning or development proposal. Such features shall be left undisturbed and preserved in the subdivision or site design to the greatest extent practicable.
- **17.10.030 A 6** - Consideration shall be given to wildlife impacts in the layout of open space areas within the development. All development proposals involving sensitive lands should be referred to the State Division of Wildlife for information and comment on animal habitat preservation. Where designated threatened or endangered species are present, the developer must conform to all applicable state and federal restrictions and permitting requirements.
- **17.10.030 B** - Grading should be shaped to complement the natural land forms rather than shaping the slope to accommodate structures, roads, and lots. Lots and structures in sloping areas should be designed to conform to the slope by means of stepped foundations or similar methods that will keep grading and site preparation to a minimum.
- **17.10.030 C** - Roads in steeply sloping or heavily vegetated areas shall be designed to minimize the area of disturbance. Clearing of vegetation within the right-of-way shall be feathered to create more natural appearing edges and to accommodate snow storage.

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

RELEVANT LAWS ... for reference, excerpted from Title 17, 2020 Comprehensive Master Plan and 2030 Comprehensive Master Plan (continued)

- **17-14 Definitions** - For the purpose of this Title, certain words or phrases are defined below. **Structure** means anything constructed or erected which requires a location on the ground or is attached to something having a location on the ground, but not including fences (or walls used as fences) less than 6-feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities. All signs shall be considered structures. Retaining walls less than 48-inches in height will not be considered a structure for the purposes of enforcing setback requirements.
- **Chapter 17.32 - PD Planned Development District**
- **17-32.010 - Purpose** in accordance with Section 24-67-101, et seq., C.R.S., the Planned Unit Development Act of 1972, the purpose of the PD District is:
 - **17-32.010 B** - (the planned purpose is) To preserve to the greatest extent possible the existing landscape features and amenities and to utilize such features in a harmonious fashion.
 - **17-32.010 E** - (the planned purpose is) To allow compatible land uses to be developed in accordance with a general development plan which has been designed to be in harmony with surrounding neighborhoods
- **17-34.030 PD Plan approval criteria** - The PD Plan shall be evaluated under the following criteria:
 - **17-34.030 A 3** - Complies with design principles found in Chapter 17.10.
 - **17-34.030 B 1** - Provides appropriate relationships between use areas, both internal and surrounding, with adequate buffer areas provided if warranted.
 - **17-34.030 F 1** - Preservation of Natural Features - Demonstrates sensitivity and limits disturbance to the site in terms of plan design and density to the site's major environmental characteristics including drainageways, topography, view sheds and vegetation.

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

RELEVANT LAWS ... for reference, excerpted from Title 17, 2020 Comprehensive Master Plan and 2030 Comprehensive Master Plan (continued)

- **17-34.040 A 3** - Relationship to Town regulations. All Town ordinances and regulations, as the same are amended from time to time, shall apply to and be enforceable in a PD. Accordingly, such Town ordinances and regulations shall govern and control over any conflicting provisions in the PD zoning regulations unless such conflicting provision is vested as an express development right under the applicable development agreement.
- **17-38.010 C** - The SDP ensures that the proposed development is consistent and compatible with: Surrounding neighbourhoods and with the residential-nonresidential interface regulations.
- **17-50.010 A** - The purpose of this Chapter is to protect the public health, safety and welfare by establishing regulations to mitigate the impacts between residential and nonresidential activities and land uses. Buffers and design standards established in this Chapter are intended to help assure that nonresidential uses adjacent to residential uses are visually attractive and a visually interesting interface between residential and nonresidential uses is provided. While it may be impractical to completely hide an entire building or land use, this Chapter promotes a compatible residential/nonresidential interface. A compatible interface would include part or all of the following:
 - **17-50.010 A 1** - Minimize the visibility of undesirable, nonresidential uses and activities from residential uses through building orientation and screening.
 - **17-50.010 A 3** - Create a visually attractive transition between nonresidential and residential uses with the use of walls, fences, berms and/or landscaping.
 - **17-50.020 Definitions** - Mitigate impact of nonresidential land uses means to reduce or minimize the visibility and to improve the appearance of land uses, activities and structures associated with nonresidential uses.

Bill of Particulars #1 – Retaining Wall, Grading and Set-back Violations (continued)

RELEVANT LAWS ... for reference, excerpted from Title 17, 2020 Comprehensive Master Plan and 2030 Comprehensive Master Plan (continued)

- **17-50.030 Applicability A 1** - These regulations are applicable to development on: Nonresidential property that is adjacent to residential property.
- **17-50.040 F** - Required buffers shall be provided based on the intensity of the use and/or the building size and as shown on Table 1 below. For the purpose of this Chapter, more intense uses include, but are not limited to, towing services, manufacturing, processing and fabrication, outdoor storage, terminal for public transit vehicles or motor freight terminal and contractor yard for vehicles, equipment, materials and/or supplies. (per the ordinance table, **minimum 30-foot buffer**)
- **2020 Comprehensive Master Plan - Design Principles**
- **2030 Comprehensive Master Plan - RG-5.1 - SCALE AND CHARACTER** [Town Emphasis] Infill development in new and existing neighborhoods shall ensure compatibility with the surrounding neighborhoods, including the maintenance of the predominant existing setbacks and the use of complimentary building materials, colors, and forms, while allowing flexibility for innovative design solutions.
- **2030 Comprehensive Master Plan - RG-5.2 - BUFFERS AND MITIGATION MEASURES** [Town Emphasis] Incorporate appropriate buffers or other mitigation measures such as, but not limited to, landscape screening, fencing or walls between residential areas and other land use activities to minimize noise, traffic or other conditions that may pose a nuisance or danger to residents.

Bill of Particulars #2 – The Traffic Plan Harms Neighbours

The Traffic Plan as it stands negatively affects the neighbourhood and is incomplete:

- Canyon Drive historically has been, and still is, primarily a residential road even though the Town designated it as a connector street.
- The traffic study does not address the impact on the neighbours given that many driveways are on Canyon Drive. Neighbours often won't be able to exit their own driveways. Use of Canyon Drive by Calvary will negatively impact the community. (17.34.030 C 1 and C3)
- Traffic must provide for safe and efficient circulation and mitigation of congestion. (17.10.020 K)
- The study does not discuss the impact on Canyon Drive when Woodlands Boulevard is extended and Fifth Street is widened. Nor has this been discussed at any meeting. The report says that there will be 111 cars turning right on to Canyon which will then have to quickly turn onto Woodlands Boulevard. The report does not address how many cars can fit in that short section of Canyon Drive or how it will impact the houses on the corner of Woodlands Boulevard and Canyon Drive. Many of those drivers will opt to drive west, down Canyon Drive rather than waiting their turn to use Woodlands Boulevard, further impacting the neighbourhood negatively.
- The traffic study does not address all the many other church activities currently planned by Calvary Chapel at the church on days other than Sunday that will negatively impact the neighbourhood.
- The Town could require Calvary to put a roundabout on Fifth Street so that they can enter and exit onto Fifth Street.
- The traffic study was not provided to neighbours until March 13, 2018 well after the January Planning Commission meeting, and then only when it was officially requested. At the March 27, 2018 neighbourhood meeting no clear and consistent explanation was provided as to why a light onto Fifth Street, or roundabout, either providing full access would not be allowed.

Bill of Particulars #2 – The Traffic Plan Harms Neighbours (continued)

RELEVANT LAWS (for reference):

- **17-34.030 C 1 - Circulation and connectivity:** Provides an adequate circulation system in terms of capacity and connectivity, which is designed for the type of traffic generated, safety, and separation from living areas, convenience, accessibility, noise and exhaust control.
- **17-34.030 C 3 - Circulation and connectivity:** Accommodates an adequate, functional and safe street system for vehicular traffic generated by the development and passing through the development.
- **17-34.030 D 5 -** Provides adequate consideration to the future extension of streets and utilities to adjacent properties.
- **17-34.030 D 6 -** Identifies and appropriately mitigates all traffic impacts, on- and off-site.
- **17.10.020 K -** Provide for the safe and efficient circulation of traffic throughout the Town, the mitigation of congestion in the streets and highways and along pedestrian ways.

Bill of Particulars #3 – Wildlife Impacts Have Not Been Adequately Considered

Impacts on wildlife have not been adequately considered:

- Careful consideration of wildlife impacts must be addressed, and the Division of Wildlife must be consulted. No consultation has been obtained. (17.10.030 A 6)
- The lot currently has wildlife movement trails throughout especially for deer, bear, birds of prey and coyotes. Deer come to the lot and the neighbouring lots to eat the acorns from the natural scrub oak. Bears consider this property to be a part of their territory, migrating through it for food. The lot hosts birds of prey that can be seen, regularly perched in trees looking for prey.
- No study of wildlife has been provided to the neighbours and the previous Development Department's report to the Planning Commission did not substantively deal with wildlife issues. All that the Town of Castle Rock testified was that they had referred this question to the Colorado Division of Wildlife but received no response. In fulfilling the law and its duties, the Town of Castle Rock should have pursued this until a full and adequate response was received.

RELEVANT LAWS (for reference):

- 17.10.030 A 6 - Consideration shall be given to wildlife impacts in the layout of open space areas within the development. All development proposals involving sensitive lands should be referred to the State Division of Wildlife for information and comment on animal habitat preservation. Where designated threatened or endangered species are present, the developer must conform to all applicable state and federal restrictions and permitting requirements.

Bill of Particulars #4 – Significant Drainage Issues Have Not Been Addressed

Historically, drainage has presented many significant problems in this area. A few years ago, the problems were sufficiently significant such that the Town was required to provide compensation to residents for having failed to anticipate and resolve these drainage problems. The problems still exist.

- Drainage has been a problem for the neighbours, especially on Oakwood Drive, ever since Woodlands II was developed starting in 1993.
- Neighbours were told by Calvary Chapel that ALL WATER from their development would go into the planned detention pond.
- Neighbours eventually received a copy of the drainage report after requesting it on March 20, 2018. The report does not address underground intermittent streams that have historically flooded neighbour's basements and yards on Oakwood Drive for the last 24 years. The report also shows that some site outflow is directed onto other neighbour's properties.
- Since the current plan essentially concretes over the entire lot except for the minimum required buffers and the detention pond, the drainage impact could be quite severe as it is for neighbours on Oakwood Drive whose backyards sit in water many months in the spring and summer.
- Excavating this parcel is likely to exacerbate the flooding problems already existing in the area, with unpredictable and damaging consequences to the neighbourhood.

Bill of Particulars #4 – Significant Drainage Issues Have Not Been Addressed (continued)

Historically, drainage has presented many significant problems in this area. A few years ago, the problems were sufficiently significant such that the Town was required to provide compensation to residents for having failed to anticipate and resolve these drainage problems. The problems still exist.

- In at least two projects in recent history in this immediate area, both ground water and surface water planning were supposedly addressed. What in fact happened was that the developments both substantially aggravated the water problems for residents in that area. The two developments were rather small by comparison to this planned project, so who can predict what will happen especially in the face of already complex (under) ground water issues and their changing nature when influenced by large construction? Some recent pictures of what happens to residents with water problems brought on by construction:



Bill of Particulars #4 – Significant Drainage Issues Have Not Been Addressed (continued)

RELEVANT LAWS (for reference):

- **17.10.030 A 1** - In the site planning and layout of any development, consideration shall be given to the relationship of roads, lots and buildings to existing slopes, grades, natural vegetation and drainage ways. All structures and roadways shall achieve a fit with the landscape that is not unduly intrusive.
- **17.10.030 A 4** - Significant natural drainage ways shall not be disturbed or re-routed except where of general benefit to the overall development.
- **17.34.030 F 1** - Demonstrates sensitivity and limits disturbance to the site in terms of plan design and density to the site's major environmental characteristics including drainage-ways, topography, view sheds and vegetation.

Next Steps

Town of Castle Rock Suggested Actions:

- Mandate Calvary compliance
- Purchase property for a small Gateway Park or open space
- Restructure planning department to insure legal compliance and giving proper influence to citizens ... stop discriminatory practices

Neighbourhood Follow-on Actions:

- Political campaign?
- Writ of Mandamus or other legal remedy?
- Letter campaign?
- Media campaign?
- Form a Town of Castle Rock Government watchdog not-for-profit?