

**EVANS LEGAL GROUP, P.C.**

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John Evans, Ph.D. J.D.  
Principal Attorney

June 16, 2018

Mayor Jennifer Green  
Mayor Pro Tem Renee Valentine  
Councilmember Jess Loban  
Councilmember James Townsend  
Councilmember Jason Bower  
Councilmember George Teal  
Councilmember Brett Ford  
Council Chambers  
100 N. Wilcox Street  
Castle Rock, CO 80104

RE: In Matter of RES 2018-061 A Resolution Approving the Calvary Chapel Castle Rock Site Development Plan  
[located at the northwest corner of 5th Street and Woodlands Boulevard]

Dear Mayor and Councilmembers:

This Law Firm has been retained to represent a group of Castle Rock residents on the above referenced matter. These are residents of an area most financially impacted by the Resolution 2018-061 and who are opposed to the Calvary Chapel SDP that will be presented to you for approval on June 19, 2018.

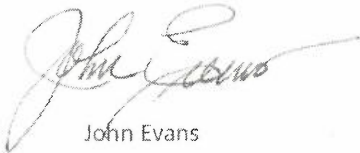
As the two attached documents demonstrate, the residents living adjacent to or in close proximity to the Calvary parcel find that the SDP as it is currently drafted do not comply with the Municipal Code, the Comprehensive Plan, and Ordinance 2017-018, which approved the PD in June 2017. We have provided a legal memorandum summarizing our Firm's factual findings and provide you a copy of our legal analysis for your review.

Most importantly, this project's footprint significantly devalues our clients' homes and quality of life for their families. As the enclosed summary by a certified appraiser testifies, it is by any reasonable measure a significant devaluation of by their most important investment - their homes.

Hopefully, you have walked the properties and have observed for yourselves that fact that if this parcel is developed according to the current SDP, it will impose extreme burdens upon the neighbors of these properties and drastically change the character and quality of life in this neighborhood. Further, the adoption of the ordinance with its improper grading of the topography, the building of large retaining walls for a parking lot, traffic congestion on their neighborhood streets, and drainage issues impose an impossible financial loss on residents that have resided in this neighborhood for decades.

For the reasons stated, we "thank you" ask for your support to reject RES 2018-061.

FOR EVANS LEGAL GROUP, P.C.



John Evans

Throupe & Associates LLC

Ron Throupe Ph.D., CRE MAI FRICS  
Mgr. Ptr. AVP

Real Estate Appraisals & Consulting

344 Arroyo Drive

Castle Rock, CO 80104

Phone: 303-690-1234

Fax: 303-690-1235

June 15, 2018



Jeri Brown  
1280 Canyon Drive  
Castle Rock, CO 80104

Re: Brown et al. vs. City of Castle Rock

To Whom It May Concern:

Our services have been retained by John and Jeri Brown et al. We have enclosed a Bio of AVP members along with a current resume to review. The assignment is to provide a preliminary opinion on any potential for diminution in value to proximate properties as a result of the proposed planned development of a Calvary Chapel church. The proposed development is located in the southwest ¼ of section 1, township 8 south, range 67 west of the 6<sup>th</sup> P.M. County of the Douglas, state of Colorado. The Parcel numbers listed with the County Assessor are: # 2505-013-00-015 and # 2505-013-00-016.

The owner of the property is Calvary Chapel who purchased the property 2016 for \$675, 000 from CGD Mortgage Investors LLC, according to county records. These two parcels will be described as the Calvary Chapel property within this document.

The property owners proximate to the Calvary Chapel have expressed concern that their property values will be affected by the currently proposed plan for site redevelopment by Calvary Chapel church. The proximate property owners include, but not limited to:

American Valuation Partners <sup>TM</sup> (AVP), Denver Colorado  
[www.americanvaluationpartners.com](http://www.americanvaluationpartners.com)

1280 Canyon (John and Jeri Brown),  
1360 Canyon (Richard and Barbara Weide),  
1400 Canyon (Jason and Alyssa Grant),  
1590 Canyon (Robert and Jennie Kinnaird),  
948 Oakwood (Kim and Shawn Byrne),  
946 Oakwood (Bob and Carole Alex);

The scope of work includes a review of the history of the Calvary Chapel property, together with related documents pertaining to the physical condition and proposed development. A physical inspection of the Calvary Chapel property and surrounding neighborhoods was performed on June 10, 2018. In addition, a review of pertinent literature on damages and stigma related scenarios. Specifically, in forming this preliminary opinion, we reviewed the following documents including as listed in a letter dated October 21, 2016 from Jeri Brown.

- Cavalry Chapel Site Development Plan, J.R Engineering; sheet 4 of 10. grading plan, last revised 11/2/17;
- Calvary Chapel Site Development Thomas & Thomas: Section JeriE-E (NTS), (F-F) NTS, C-C (NTS), J-J (NTS) D-D (NTS) A-A(NTS) B-B(NTS) I-I(NTS) H-H(NTS) G-G(NTS) ISO views;
- Calvary Chapel Site Development Thomas & Thomas; Section location Plan View;
- Calvary Chapel Site Development Plant engineering consultants; sheet 9. electrical site plan;
- Calvary Chapel Site Development Plant engineering consultants; sheet 10, Photometric site Plan electrical site plan;
- Bill of particulars #1- Retaining Wall, Grading and Set-back Violations;
- Agenda Memorandum. Town of Castle Rock, May 24, 2018;
- Notice of adopted Ordinance, town of Castle Rock, June 20, 2017;

- Calvary Chapel Castle Rock, section location plan view, West Wall and South Wall sections, North wall sections, West wall sections. Isometric grading Views; Thomas & Thomas;
- Ordinance violations listing to the Town of Castle Rock;
- Tax Assessor database and records, Douglas County CO;
- Letter dated October 21, 2016 to Ron Throupe with a list of provided documentation;
- The Dictionary of Real Estate Appraisal, 6th Edition, The Appraisal Institute, Chicago IL 2015;
- Real Estate Damages, 3<sup>rd</sup> Edition, Randall Bell, Appraisal Institute, Chicago IL 2016;
- Mitchell Phillip S., "Estimating Economic Damages to Real Property Due to Loss of Marketability, Rentability, and Stigma," *The Appraisal Journal*, April 2000, 62-170;
- Mundy, Bill, Stigma and Value, *The Appraisal Journal*, Jan. 1992, at 7-13;
- Throupe, Ron, John Kilpatrick, Bill Mundy, Will Spies, "Valuation of Impaired Property," *The Environmental Law Reporter*, 2007, Vol. 37, No. 7, 10562-10572;
- Throupe, Ron, Roby Simons, Xue Mao, A Review of Hydro "Fracking" and Its Potential Effects on Real Estate," *Journal of Real Estate Literature*, 2013, Vol. 21, No. 2, 205-232.

***Please note that we have not performed an appraisal under the Uniform Standards of Professional Appraisal Practice (USPAP), and this letter is not to be interpreted as an appraisal report under those standards.***

### **Detrimental Conditions**

A diminution in value is defined as "The difference between the unimpaired and impaired values of the property being appraised. This difference can be due to the increased risk and/or costs attributable to the property's environmental condition (Advisory Opinion 9)."<sup>1</sup> Based on the information available it appears that any alleged diminution in value would stem from the

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<sup>1</sup> The Dictionary of Real Estate Appraisal, 6th Edition, The Appraisal Institute, Chicago IL 2015, pg. 351

“assessment” and “repair” stages shown in the detrimental condition matrix with the issue being a loss of use or uncertainty factor (discount) and the “ongoing stage” with the issue being market resistance (residual stigma).<sup>2</sup>

In addition, there is potential loss of quiet enjoyment to proximate properties based on the Calvary Chapel proposed site and plan stemming from additional traffic loads on Canyon Drive, loss of views, encroachment and change of elevations near property lines. As well as any effects from drainage and underground waters relocations from development. Brown et al. also claim that ordinances related to the comprehensive plan of Castle Rock, traffic planning, site review and requirements, and drainage have not been followed.

### **Stigma**

Stigma related damages were originally defined by Patchin (1991) as “any residual loss in property value from an uncontaminated condition beyond the cost to cure the contamination.” This is analogous to Mundy who in a series of articles described various factors of stigma damages in terms of real risks vs. perceived risks by the public (1992a). Chalmers and Roer (1993) defined stigma as “increased risk associated with the property and the effect of this on marketability and financability.” Mitchell (2000) summarized the results of these historical articles and coined the category as indirect damages, “all loss of income and value of a property, from the moment of the discovery of the situation until the property has returned to its nominal market value” and later calls these “lingering residual effects.” These effects on property include marketability, rentability and stigma.

Mundy (1991a) identifies the phenomenon of stigma, which is in the lexicon to this day. In his definition, Mundy lists specific criteria for stigma for contamination, which are:

1. Responsibility—Is someone or some company specifically shouldering the blame?
2. Exposure—Has there been a risk amplification, such as in the media?
3. Disruption—Does the contamination impact daily lives?
4. Concealability—Is the risk hidden?

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<sup>2</sup> Real Estate Damages, 3<sup>rd</sup> Edition, Randall Bell, Appraisal Institute, Chicago IL, 2016, pg. 20.

5. Aesthetic effect— Can the contamination be seen, felt, or smelled?
6. Prognosis—Will the contamination be cleaned up in the near future?
7. Peril—Is there a health risk?
8. Fear—What is the general concern level associated with this contamination?
9. Involuntary—Are the property owners themselves innocent in this contamination?

These criteria are the conditions for environmental stigma. Mundy also established the prevailing formula for valuation of contaminated property, analogous to the method well established in the eminent domain appraisal literature:

Value Unimpaired  
Minus Value Impaired  
Equals Diminution in Value

Absence of a decrease in selling price, value is diminished due to the increased time necessary to realize liquidity as well as an increase in the discount rate to account for higher risks of holding a relatively illiquid asset. (Mundy 1992). Stigma, as it applies to real estate affected by environmental risk, is generally defined as "an adverse public perception about a property that is intangible or not directly quantifiable."<sup>5</sup> It is an additional impact on value, over and above the cost of cleanup or remediation. This research on stigma is based on contaminated property but the concepts are transferable to other detrimental conditions. Detrimental conditions or perceived negative externalities described by Bell (2016) include construction defects. These types of detrimental conditions may have a component called "market resistance". Resistance by the public to purchase because of concerns about the condition of the property or the cure of a prior condition.

### **Diminution and Property Values**

Research by many appraisers and researchers nationwide indicate that diminution in value can, in some cases, be attributed to stigma. When the diminution in value of a property is greater than the cost to cure and monitor the situation, there is a negative impact on the value of the property,

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<sup>5</sup> Roddewig, Richard, Stigma Environmental Risk and Property Value: 10 Critical Inquiries, Appraisal Journal, October 1996, pgs. 375-386.

which can be stigma. This concept is not only used for contamination but also for other negative effects on property value. Stigma is as much public perception as reality and can impact the price potential buyers are willing to pay.

Many theoretical studies debate at what point stigma should eventually subside. This debate is based on whether a cure is possible, complete, and understood or accepted by the market. An overall diminution in value, which may or may not include a stigma effect, is a measurement of damage typically evaluated by some type of "Before vs. After" methodology. A review article by Throupe et al. (2007) demonstrates the many methods used to determine damages in practice.

### **Conclusions**

Based on our review it is our opinion that a diminution in market value to proximate properties resulting from the currently proposed plan for the Calvary Chapel property is likely. This is also supported by the claims of local Realtors who have also stated this opinion to Brown et al. This is significant because Realtors are a source of local knowledge and market perceptions.

It is our understanding that we may be asked to conduct further research to address any alleged diminution in market value of homeowners properties in vicinity of the proposed Calvary Chapel Church proposed site. At that time, opinions may be modified or refined to reflect any new information developed or obtained.

Sincerely,

A handwritten signature in cursive script that reads "Ron Throupe".

Ron Throupe Ph.D. CRE MAI FRICS  
Colorado License Number: 100016449



## References

Bell, Randall, Real Estate Damages, 3<sup>rd</sup> Edition, Appraisal Institute, Chicago IL, 2016;

Mitchell Phillip S., "Estimating Economic Damages to Real Property Due to Loss of Marketability, Rentability, and Stigma," *The Appraisal Journal*, April 2000, 162-170.

Mundy, Bill, Stigma and Value, *The Appraisal Journal*, Jan. 1992, at 7-13.

Throupe, Ron, John Kilpatrick, Bill Mundy, Will Spies, "Valuation of Impaired Property," *The Environmental Law Reporter*, 2007, Vol. 37, No. 7, 10562-10572.

Throupe, Ron, Roby Simons, Xue Mao, A Review of Hydro "Fracking" and Its Potential Effects on Real Estate," *Journal of Real Estate Literature*, 2013, Vol. 21, No. 2, 205-232.

The Dictionary of Real Estate Appraisal, 6th Edition, The Appraisal Institute, Chicago IL, 2015.

The Appraisal of Real Estate, 14th Edition, The Appraisal Institute, Chicago IL, 2013.

## LEGAL MEMORADUM

In Matter of RES 2018-061: A Resolution Approving the Calvary Chapel Castle Rock Site Development Plan [located at the northwest corner of 5th Street and Woodlands Boulevard]

### Summary of Ordinances Violated

SDP violates Ordinance 2017-018 by reducing the amount of landscape and buffer requirements.

The SDP diminishes the property value of the land and buildings belonging to citizens of Castle Rock in violation of the Comprehensive Plan and Municipal Code chapter 17.10 General Design Principles, section 17.10.20 (J).

The SDP violates the Municipal Code by adding traffic congestion to a neighborhood street that is already overburdened by school traffic and thus violates 17.10.020 (K) and the Comprehensive Plan.

The SDP does not Adequately Address Drainage Issues and the Impact of Underground Streams on Public and Private Property.

The SDP violates the Municipal Code and the Comprehensive Plan by not following the topography when grading a property on a slope.

The SDP violates ordinances and the Comprehensive Plan which require following the Design Plan as it relates to the Gateway Provisions found on your website found at

<http://www.crgov.com/DocumentCenter/View/240/Design-Guidelines---Full-Version>

The SDP violates provisions related to Wildlife.

The Lack of Compliance with Applicable Laws discriminates Against the Residents; and the Lack of Timely Information and Time for Meaningful Input and Rebuttal Violates Citizens Due Process Rights

### Legal Analysis

1. SDP violates Ordinance 2017-018 by reducing the amount of landscape and buffer requirements.

The Ordinance approved by you in June 2017, requires landscape and buffer area to be 43% of the property. The buffer is supposed to be a minimum of 30 feet. However, the buffer is 24 feet along the residential area to the south, reducing the southern buffer by 20%. Buffers to the west along another residential property line is approximately 27 ft, reducing the buffer here by 10%. There is no longer the required 43% landscape and buffer area.

Interface regulation 17.50.040 requires a 30 ft. buffer and states that buffers must be kept free of structures. There is a statement that retaining walls are allowed in the Interface code provisions. However, retaining walls and structures are not defined in this chapter (chapter 50) although there is a definition section in the Interface provisions. Section 17.50.020 defines some specialized terms that are not used in other chapters. Structure is only defined in 17.14, which states that the definitions in this section apply to *all of Title 17*. Section 17.14 defines structure as "anything erected which requires a location on the ground or is attached to something having a location on the ground... retaining walls less than 48-inches in height will not be considered a structure for the purposes of enforcing setback requirements." This implies that retaining walls over 48 inches would not be allowed in the setback or buffer. Setback is also defined in 17.14. "Setback means the minimum required distance between a

building or other structure and a property line. Retaining walls less than 48-inches in height will not be considered a structure for the purposes of enforcing setback requirements”.

The interface regulation’s purpose (17.50.010) is to protect established residential areas from any negative impacts of new nonresidential uses. 17.01.020 requires a more restrictive reading of any ordinance when there is conflict between provisions. Town staff has stated in writing that they are limited to following ONLY the Interface provisions and that the other provisions don’t apply. If you follow the staff’s logic, any size retaining wall can go anywhere inside the 30 ft. buffer, even only one foot or inches away from a resident’s property line practically negating the requirement of a 30 ft. buffer.

The Current and Proposed SDP measures from the parking lot on top of the retaining wall, not the structure that holds up the parking lot and building. Current and Proposed SDP under “Site Development Plan General Notes”, #12, states:

“Retaining walls, sections of retaining walls 4-feet in height or higher or tiered walls must be designed by a structural engineer licensed in the state of Colorado and must receive a building permit from the Town of Castle Rock prior to the issuance of the public works permit.”

This note supports and is consistent with the definitions above that any retaining wall over 4 ft. in height is a structure as it requires a building permit.

**2. The SDP diminishes the property value of the land and buildings belonging to citizens of Castle Rock in violation of the Comprehensive Plan and Municipal Code chapter 17.10 General Design Principles, section 17.10.20 (J).**

The appraisal affidavit which was obtained by the affected residents at great effort and expense, states in conclusion:

Based on our review it is our opinion that a diminution in market value to proximate properties resulting from the currently proposed plan for the Calvary Chapel property is likely. This is also supported by the claims of local Realtors who have also stated this opinion to Brown et al. This is significant because Realtors are a source of local knowledge and market perceptions.

Two local real estate professionals have told one of the neighbors (the Browns) that the diminution in value is likely to be 15-20%. The appraiser said they would only be able to give an exact amount *after* the project is completed.

Reducing the value of property surrounding an infill development is a violation of the Municipal Code and the Comprehensive Plan. Development is supposed to enhance the value, not diminish it.

**17.10.010 - Applicability.**

A. The general design principles set forth in this Chapter apply to the design and layout of PD Plans, **Site Development Plans**, Subdivision Plats (see Title 16, CRMC), and Construction Documents (see Title 15, CRMC), as well as to the design and layout of individual lots, sites or tracts.

17.10.020 - Purpose and intent.

...

J. Conserve and enhance the value of land throughout the Town and the value of buildings and improvements upon the land.

**3. The SDP violates the Municipal Code by adding traffic congestion to a neighborhood street that is already overburdened by school traffic and thus violates 17.10.020 (K) and the Comprehensive Plan.**

The traffic report was not given to the Town Council prior to the June 2017 meeting that approved the PD. Nor was the traffic report given to residents until it was requested by one neighbor in February 2018. None of the questions asked after neighbors had a chance to read the very complicated report were addressed in any specific way at any meeting. The residents have continued to seek answers over a long period of time. Residents were never asked to give input on the traffic although they actually have a great deal of experience since they drive the affected streets every day. None of the neighborhood meetings sought to understand traffic issues and observations from the people who actually live in the neighborhood and drive the streets daily. The report, which never even mentions the impact on neighbors, was approved without residents' input.

And yet the Code requires efficient circulation of traffic. The neighbors repeatedly have tried to be heard. Today, when there is school traffic, the people along Canyon Drive can not get out of their driveways. There will be congestion on the neighborhood streets due to large amounts of traffic generated by the church as planned by the SDP. The parcel was previously zoned Rural Residential in the County for five one-acre homes, so none of this type of project was ever anticipated. Indeed, they were initially told it would be a small church. Most of the neighbors have been in their homes for over 20 years. This neighborhood cannot accommodate the huge amount of traffic generated by the SDP which overbuilds on the land.

The Comprehensive Plan requires compatibility with existing neighborhoods and mitigation of noise and traffic. But there have been no efforts to mitigate the traffic and the noise for this project.

17.10.020 - Purpose and intent.

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; and

2030 Comprehensive Plan:

Principle RG-5: Infill development that is sensitive to the scale and character of the surrounding neighborhoods

RG-5.1: SCALE AND CHARACTER

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.

## RG-5.2: BUFFERS AND MITIGATION MEASURES

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.

### 4. The SDP Does not Adequately Address Drainage Issues and the Impact of Underground Streams on Public and Private Property

There are huge concerns about drainage and flooding issues. The Town Water Department only recently became aware of the underground streams by their own admission even though residents alerted the Town staff to this issue *two years ago*. The underground streams originate beyond Founders and flow downhill under the streets and under residents' properties on Canyon and Oakwood and beyond. These underground streams change course unpredictably and have done so in the past, especially when there is construction uphill from the residents.

There is no mention of drainage at all in Ordinance 2017-018. Nor was there a drainage report in any of the exhibits. Neighbors weren't given any drainage reports until they requested them in February 2018.

Although the Water Department recently started trying to figure out ways to mitigate the impact of these underground streams, the solution of a concrete pond that will hold water at all times causes other major problems, such as mosquitoes and vermin. The engineer admitted that they could only try to fix the problem, but there are no guarantees that anything will fix the potential for flooding and damage to homes and streets. These natural drainage ways will be disturbed by the huge amount of digging and construction needed to overbuild this lot according to the SDP in violation of 17.30.030 (A)(4).

#### Chapter 17.10 - Land Development - General Design Principles

##### 17.10.010 - Applicability.

A. The general design principles set forth in this Chapter apply to the design and layout of PD Plans, **Site Development Plans**, Subdivision Plats (see Title 16, CRMC), and Construction Documents (see Title 15, CRMC), as well as to the design and layout of individual lots, sites or tracts.

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##### 17.10.020 - Purpose and intent.

This Chapter is intended to ensure that the development of land is done in such a manner as to:

A. Protect and provide for the public health, safety and general welfare of the Town;

.....

##### 17.10.030 - Land suitability.

A. Terrain, vegetation, unique site feature preservation.

.....

4. Significant natural drainage ways shall not be disturbed or re-routed except where of general benefit to the overall development.

**5. The SDP violates the Municipal Code and the Comprehensive Plan by not following the topography when grading a property on a slope**

The SDP does not follow the requirement that grading should be shaped to complement the natural land forms rather than shaping the slope to accommodate structures, roads, and lots. The proof that the grading does not follow the terrain is the fact that Calvary has to build a 15 foot wall plus a 3 ½ foot fence plus junipers, that could be of a height of 6 feet or more on the western end to be able to put in a parking lot. The SDP moves dirt from the top and puts it at the bottom for their ease at the detriment of neighbors adjacent to that tall wall. The wall also blocks the views of several of the neighbors. The current elevation at the high point is 6410 and the lowest elevation is 6336 between the east end and the end of the retaining wall (74 ft.) The SDP shows a high point of 6385 and the low point is 6365 or 20ft for this same area. The slope will be reduced from 9.42 % to about 3%, a terrain removal of more than 68%. When a lot is cut off and reduced by 54 ft. and 68 % of the terrain is removed, then it is not following the terrain as required by law.

Chapter 17.10 - Land Development - General Design Principles

17.10.010 - Applicability.

A. The general design principles set forth in this Chapter apply to the design and layout of PD Plans, **Site Development Plans**, Subdivision Plats (see Title 16, CRMC), and Construction Documents (see Title 15, CRMC), as well as to the design and layout of individual lots, sites or tracts.

17.10.030 - Land suitability.

A. Terrain, vegetation, unique site feature preservation.

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.

.....

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.

.....

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.

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**6. The SDP violates ordinances and the Comprehensive Plan which require following the Design Plan as it relates to the Gateway Provisions found on your website found at**

**<http://www.crgov.com/DocumentCenter/View/240/Design-Guidelines---Full-Version>**

Page 93 of the Design Plan explains the meaning and importance of the Gateway:

Gateways can be defined as entrances that define the Town's and a district's boundaries. Just as your home or business should have an identifiable entrance so do our communities. We should not ignore or neglect what is likely to be the first impression of our visitors and customers. Through proper design, the entrances or gateway treatments should provide a strong sense of identity and arrival to the Town.

The 2030 Comprehensive Plan states on pages 16-18:

About the 2030 update In March 1999, Town Council appointed a Vision Committee of residents, business owners and community participants to create the Town's Vision for 2020 and beyond. With assistance from the Community Development Department and an independent planning consultant, the Vision Committee solicited broad input on the Town's future through an extensive public participation program. The result of this effort, "Our Legacy, Our Future: Vision 2020," has served as the Town's collective concept of what it wants to become in the future. It declares Castle Rock's common goals, which guide Town decisions, unite the community with a common purpose and motivate residents and leaders to meet the Vision's goals.

*Public input and community surveys confirm the Vision 2020 and existing Comprehensive Master Plan goals and themes remain viable and should be carried forward with minor adjustments. ....*

The 2030 Plan supports the premise that the Gateways are still viable as in the Town's Design Guidelines. The portion of Fifth St in question is still a gateway according to the above. There is nothing to say that it is NOT still a Gateway. The map on page 95 shows that this parcel is in the Gateway, especially the western end.

And Gateways have certain requirements (From p. 94 of the Town's Design Guidelines), which the SDP does not follow by adding a huge retaining wall at the lower (western) end of the property:

- Gateways should establish and present a positive and identifiable image of Castle Rock;
- The existing scenic quality should be protected;
- The visual appearance of key thoroughfares and highways should be improved;
- An identifiable image for the Town based on cultural history, natural characteristics and characteristic design elements should be established;

.....

Applicable Ordinances:

17.10.010 - Applicability.

A. The general design principles set forth in this Chapter apply to the design and layout of PD Plans, **Site Development Plans**, Subdivision Plats (see Title 16, CRMC), and Construction Documents (see Title 15, CRMC), as well as to the design and layout of individual lots, sites or tracts.

....

7.10.020 - Purpose and intent.

This Chapter is intended to ensure that the development of land is done in such a manner as to:

.....B. Promote orderly growth and provide for the harmonious development of the Town in accordance with the Comprehensive Plan; ....

F. Preserve and enhance the natural beauty and topography of the Town and ensure appropriate development with regard to such natural features; .....

#### **7. The SDP violates provisions related to Wildlife**

The SDP does not take into account the impact on wildlife as required by the Municipal Code. The Code in 17.10.030 states that wildlife must be considered. Only in sensitive land is it necessary to contact the Colorado Department of Wildlife. The Town did refer it to the Department of Wildlife, but when they heard nothing back, they closed that inquiry without making their own. The neighbors tried to bring to the Town staff their concerns over wildlife, but it fell on deaf ears. One neighbor called the Colorado Department of Wildlife and was told they don't look at parcels this small. They agreed to go by, but nothing of substance was told to the neighbor. They clearly weren't interested.

The Town has a duty to investigate the wildlife issues and not just merely refer it to a body that isn't interested. The Town failed in this duty.

Chapter 17.10 - Land Development - General Design Principles

17.10.010 - Applicability.

A. The general design principles set forth in this Chapter apply to the design and layout of PD Plans, **Site Development Plans**, Subdivision Plats (see Title 16, CRMC), and Construction Documents (see Title 15, CRMC), as well as to the design and layout of individual lots, sites or tracts. 17.10.030 - Land suitability.

A. Terrain, vegetation, unique site feature preservation.

.....

*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.

**8. The Lack of Compliance with Applicable Laws discriminates Against the Residents; and the Lack of Timely Information and Time for Meaningful Input and Rebuttal Violates Citizens Due Process Rights**

When laws, whose plain meaning are applied inconsistently in favor of developers, it discriminates against citizens. The arbitrary and capricious application of laws violates the due process rights of residents as guaranteed by the United States Constitution because it results in a partial taking of their property. Residents are not permitted time to rebut the Town staff and the developers at town public meetings, although the staff and developers are granted unlimited presentation time and unlimited rebuttal time. Citizens are only permitted four minutes to present and no time for rebuttal. Citizens are not given documents in a timely manner in order to fully understand what the Town plans to impose on them.

**Conclusion.**

**For the above reasons, Counsel should deny RES 2018-061 A Resolution Approving the Calvary Chapel Castle Rock Site Development Plan [located at the northwest corner of 5th Street and Woodlands Boulevard].**