



ELBERT COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS MEETING MINUTES

Regular Meeting Held in the BOCC Meeting Room

June 28, 2023 at 9:00 AM

A. INVOCATION/PLEDGE OF ALLEGIANCE: PASTOR ALENA LAMIRATO

Pastor Alena Lamirato provided the Invocation and led the Pledge of Allegiance.

B. CALL TO ORDER AND ROLL CALL

The regular meeting of the County Commissioners was called to order at 9:02 AM. Deputy Clerk Amanda Moore called the roll and all commissioners were present.

C. APPROVAL OF AGENDA

Motion: Approval of Agenda as presented.

Commissioner Grant Thayer made a motion to Approve the Agenda as presented. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

D. CONSENT AGENDA

Motion: Approval of Consent Agenda as presented

Commissioner Dallas Schroeder made a motion to Approve the Consent Agenda as presented. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

1. Approval of CDS Mylars as needed
2. Approval of Vouchers as needed
3. Acknowledgement of Receipt of Variance Reports
4. Ratification of Declaration of Flood Emergency
5. Ratification of Intergovernmental Agreement between Elbert County and Phillips County regarding Child Support

Ratification of a Resolution to Appoint a Referee(s) for the Board of Equalization

6.

627830 B: 837 P: 406 MM
07/12/2023 10:35:06 AM Page: 1 of 17 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co





E. ELECTED OFFICIALS/DEPARTMENT HEADS/STAFF REPORTS

Finance Manager Tiffany Hermes provided an audit update. Ms. Hermes said the auditors will be coming out this week and they plan on filing for an extension. Ms. Hermes stated that they are in a much better place than they were last year.

County Attorney Bart Greer explained that he received a request for the new property owners adjacent to the missile silo to continue the lease that was in place for the previous owners for agricultural reasons.

Commissioners agreed to allow the attorney to provide a lease.

County Manager Shawn Fletcher provided an update on the upcoming phases of the employee compensation plan. Mr. Fletcher stated that they will make sure to stay competitive in order to attract qualified employees and retain good employees. Mr. Fletcher stated that the Office of Emergency will be meeting with FEMA in order to access flood damage.

County Treasurer Sherry Hewlett said that delinquent notices were mailed out on June 16th, but if you made a payment after that and received a letter, please call their office and they can check your balance for you.

F. CITIZEN PUBLIC COMMENT

Leah Braton, 24747 County Rd 73, Kiowa - email comment attached to minutes.

Brenda Kelly, 26501 Flower Cir, Simla - Ms. Kelly stated that she is against this project. Ms. Kelly said there is already a corridor for this power line to go thru.

Kerry Jibblits, 19656 Wedemeyer Rd, Kiowa - Ms. Jibblits thanked the Road and Bridge crew for all of their hard work. Ms. Jibblits is representing Elbert County Preservation and is voicing her concerns over fire risk due to Xcel Power Lines. Ms. Jibblits stated that the deadly Marshall fire was caused by Xcel. Ms. Jibblits stated that Xcel continues to build infrastructure because they get paid to do so, and that their profit last year was 1.8 billion.

Don Gray, 16000 Hwy 86, Kiowa - Mr. Gray stated that he had talked to an Xcel representative and that person said that the potential route is in fact the "final route". Mr. Gray stated that Xcel explained that agreements have already been written up and trespassing is allowed if they use a certain state statute.

Suni Mills, 27310 Forest Ridge Dr, Kiowa - Ms. Mills stated that she is dressed in all red because it signifies death. Ms. Mills said that the Marshall Fire was the most destructive fire in Colorado and many things were destroyed. Ms. Mills stated that it was sparked by an Xcel transmission and power line. Ms. Mills is fearful of the potential of death if these transmission lines are allowed to go through Elbert County.

Bart McTaggart, 39600 Fox Trot Cir, Elizabeth - Mr. McTaggart expressed his concerns over rules and regulations not being followed and the potential impact that would have on the County. Mr. McTaggart urges the Commissioners be considerate of the domino effect of bad decisions.



Commissioner Richardson stated that an application still has not been submitted by Xcel.

Commissioner Richardson explained the road situation in Elbert county and the efforts going in to repair them.

Suni Mills , 27310 Forest Ridge Dr, Kiowa - stated that the roads are getting soft and asked if the County plans on adding gravel to the roads not on the damaged list.

Commissioner Richardson stated that the roads with severe damage are the only roads they are working on at this time.

G. DISCUSSION ITEMS

1. Darlene Carpio, Regional Director Colorado Eastern Plains to provide an update from Congressman Ken Buck's Office

Regional Director of Colorado Eastern Plains, Darlene Carpio provided an update from Congressman Ken Buck's Office. Ms. Carpio started out by saying if their office can help in any way regarding FEMA, to let them know. Ms. Carpio stated that she would be more than happy to bring up the concerns over the Xcel Transmission Lines. Ms. Carpio spoke regarding legislation currently being worked on by Mr. Buck.

2. Safe Streets and Roads for All (SS4A) through U.S. Department of Transportation

Finance Manager Tiffany Hermes explained the Safe Streets and Roads Grant. Ms. Hermes stated that the grant could help with roads and bridges that would not be covered by FEMA. Ms. Hermes stated that the grant is due in July and that they are asking for \$10,000,000.

No Comments

H. ACTION ITEMS

1. Consideration of June 14, 2023 Minutes

Motion: Approval of June 14, 2023 Minutes

Commissioner Grant Thayer made a motion to Approve the Minutes as presented and dispense with the reading. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

2. Public Hearing - New Liquor License for The Patch in Elizabeth - Amanda Moore

Motion: To Open a Public Hearing for The Patch in Elizabeth

Commissioner Grant Thayer made a motion to open a Public Hearing for The Patch in Elizabeth. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer

No - None

Public Hearing Opened at 9:49 AM.



Applicant Dusty Smith requested a continuance to July 26th.

Motion: To Continue to July 26th at 9am.

Commissioner Grant Thayer made a motion to continue to July 26th at 9am. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder
No - None

Motion: To Close a Public Hearing for The Patch in Elizabeth

Commissioner Grant Thayer made a motion to close a Public Hearing for The Patch in Elizabeth. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer
No - None

Public Hearing Closed at 9:50 AM.

3. Consideration of a Resolution for Supplemental Appropriation for the 2022 Budget

Motion: To Open a Public Hearing for a Resolution for Supplemental Appropriation for the 2022 Budget.

Commissioner Dallas Schroeder made a motion to open a Public Hearing for a Resolution for Supplemental Appropriation for the 2022 Budget . Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder
No - None

Public Hearing Opened at 9:51 AM.

Finance Manager Tiffany Hermes, stated that three additional funds needed supplemental appropriation. Road & Bridge, Sales & Use tax, and Growth & Development. Ms. Hermes explained that additional revenues will cover increased costs on all of the fund balances.

Public Comment: None

Motion: To Approve the Supplemental Appropriation for the 2022 Budget.

Commissioner Dallas Schroeder made a motion to Approve the Supplemental Appropriation for the 2022 Budget. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder
No - None



Motion: To Close a Public Hearing for a Resolution for Supplemental Appropriation for the 2022 Budget.

Commissioner Dallas Schroeder made a motion to close a Public Hearing for a Resolution for Supplemental Appropriation for the 2022 Budget . Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Closed at 9:55 AM.

I. BOARD PLANNING

1. Agenda Items for Next Meeting

R & B Update

Audit Update

2nd Meeting in July

Prop HH position discussion

Budget Update

Commissioner Richardson called a recess at 9:56 AM to return at 1:00 PM for the Land Use Hearings.

J. LAND USE HEARINGS 1:00 P.M.

The Land Use Hearing was called to order at 1:00 PM. Deputy Clerk Amanda Moore call the roll and all commissioners were present.

1. Reformation Church Appeal of Administrative Decision

Motion: To Open a Public Hearing for Reformation Church Appeal of Administrative Decision

Commissioner Grant Thayer made a motion to open a Public Hearing for Reformation Church Appeal of Administrative Decision . Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Opened at 1:04 PM

Planning Manager Steve Hoese presented the request to appeal the administrative denial of a site plan amendment to allow a 20,400 sq ft building located at 489 Rocky Cliff Rd, Elizabeth. Mr. Hoese stated the applicant was instructed to clarify the use of the building. When the plans were turned into planning, they felt it was not a barn/building but rather for commercial use as they wanted to use it for sorting and storing clothing for clothing drives and storing books. They also mentioned adding restrooms and holding events and weddings. CDS did not receive any information on additional parking or drainage and feels this is not supported by our regulations as it is located in a residential area and being used for commercial purposes. recommended denial and the Planning Commission had a split decision of 4 to 4.



Commissioner Richardson asked, if it is a right by use, why are they coming to BOCC for approval?

Commissioner Thayer asked why it would be considered a commercial building when it is a non-profit?

Applicant Representative Chad Roach stated that they were blindsided by the administrative denial and felt it was due to staff changes. Mr. Roach stated that there is no money being exchanged for the clothing drive or books, everything is based off of volunteers. Mr. Roach stated that weddings and funerals for their members would be held in the building. Mr. Roach is appealing the denial because he feels the definition of church is being misunderstood and there is no commercial use.

Attorney Tasha Power of Moye White, 1400 16th ST, Denver - Ms. Power feels the denial was done incorrectly and that the property is not commercial nor for commercial use.

Commissioner Richardson asked if they had a number in mind for max occupancy or had soil reports completed?

Public Comment:

Josh Schwisow, 2526 Coach House Loop, Castle Rock - Mr. Schwisow explained that as a church they strive to be good members of the community. Mr. Schwisow stated that they publish Christian books and materials and give them to the community and country and it is done for non-profit.

Brenda Kelly 26501 Flower Cir, Simla - Ms. Kelly stated that as a County we should help its churches.

Robert Harder, 160305 North Cliff, Elbert - Mr. Harder stated that church hours are much different than businesses.

Jodee Metcalf, 9850 Zenith Meridian , Parker - Ms. Metcalf is a member of the church and recipient of the clothing drive during the recession. The church helps those who are in need.

Frank Yaeger, 347 Roky Cliff Rd, Elizabeth - Mr. Yaeger said he votes no as a neighbor and opposes the size of the building & possible uses.

Craig Stevens, 419 Rock Cliff Rd, Elizabeth - Mr. Stevens is not debating religion but he is debating the need for a 20,000 sq ft building. Mr. Stevens stated that there were supposed to be two access points.

Janet Taylor, 245 Rocky Cliff Rd, Elizabeth - Ms. Taylor stated that she does not understand why they need so much space for books and clothing storage and is opposed to the building.

Shiloh Strawser, 11219 Pinevale Ln, Franktown- loves to volunteer and bless the people of the neighborhood.

Todd Strawser, 11219 Pinevale Ln, Franktown - Mr. Strawser said that he is a Pastor at the church and the challenge goes back to 2011. Mr. Strawser asks what the neighbors would like them to do.



Sarah Bryand, 2463 S Placer St, Franktown -Ms. Bryand stated that she volunteers at the church.

Kerry Kramer, 12885 McCune Rd, Elbert - Mr. Kramer stated that he has been working on the church addition and has an issue with the process of going back to the beginning.

Tara Craig - Ms. Criag has been a member for 9 years. She asked that this application be approved. Ms. Craig stated that they plan to move closer to the church so they can better serve those in the community.

Steven Craig - Mr. Craig said that the ministry is not just for Sundays. Mr. Craig was discouraged by the Planning Commission decision and the wasted \$85,000 the church spent.

Julie Petterson, 2329 S Evans Way, Franktown - Ms. Petterson has been a member for 10 years and loves the community. Ms. Petterson loves to serve and bless those around her.

Daniel Craig, 741 County Road 146, Elizabeth - Mr. Craig stated that this was a field trip for the family to see the process of a public hearing. Mr. Craig stated that the whole family volunteers their time at the clothing event. The size of the building should show the size of the service in the community.

Elana Russo - Ms. Russo said it is a blessing to volunteer.

Abigail Swanson, 4552 Glen Haven Cir, Elizabeth - Ms. Swanson grew up in this community and loves reaching out to help the community. This will allow them to help more, rain or shine.

Rebekah Swanson, 4552 Glen Haven Cir, Elizabeth - Ms. Swanson stated that this building will be to good use. Ms. Swanson is thankful for the freedom of religion and appreciates the neighbors concerns.

Scott French, 360 Rocky Cliff Rd, Elizabeth - Mr. French is opposed to this building and confused as to the actual use of the building.

Bill Roach, 2463 S Placer St, Franktown - Mr. Roach asked, please preserve the right and let them build their building. It represents love and comfort.

Gabriel Eden, 34544 Columbine Trl, Elizabeth - Ms. Eden asked, please act with the application and not the mistruths that have been told.

Neil Bringe, 30633 Longhorn Cir, Elizabeth - Mr. Bringe explained that the loading dock is for the ease of loading and unloading pallets of homeschool and Christian materials and books.

Shane Kramer, 12885 McCune Rd, Elbert - Mr. Kramer stated that he was 17 years old, but with the church, he had already had 7 years of leadership experience.

Joe Zwack 456 Rocky Cliff Rd, Elizabeth - Mr. Zwack stated that he is the neighbor directly to the North. He has concerns over the size of the building and of safety for his children. Mr. Zwack asked for clarification on the shipping and receiving of books.

Public Comment Closed



Commissioner Richardson called a recess at 3:07 PM and returned at 3:18 PM.

There was discussion at length regarding the use of the proposed building, books and shipments, events and floor plan. Commissioners would like to hold a work study session to go over the exact requirements and documentation as well as what needs to be completed.

Motion: To find zoning adequate and the need to formalize the site plan.

Commissioner Grant Thayer made a motion to find zoning adequate and the need to formalize the site plan. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Motion: To Close a Public Hearing for Reformation Church Appeal of Administrative Decision

Commissioner Grant Thayer made a motion to close a Public Hearing for Reformation Church Appeal of Administrative Decision . Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Closed at 3:53 PM

Commissioner Richardson called a recess at 3:54 PM and returned at 4:02 PM

2. BOA - Spring Valley Water Tank Variance case VA-22-0039

Motion: To Open a Public Hearing as the Board of Adjustments for Spring Valley Water Tank Variance VA-22-0039

Commissioner Grant Thayer made a motion to open a Public Hearing as the Board of Adjustments for Spring Valley Water Tank Variance VA-22-0039 . Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Opened at 4:02 PM

Planning Manager Steven Hoese presented the application for a variance of 35 feet to 52 feet for a water tank in the Spring Valley subdivision. Mr. Hoese went over the reasons for the variance and stated that staff recommend approval with conditions.

Applicant Representative CJ Kirst added the plan to add 50 trees to the area to help conceal the tank and help with appearance.



The commissioners discussed briefly other options for the tank and safety if it were to fail.

Public Comment: None

Motion: To Approve the Spring Valley Water Tank Variance VA-22-0039

Commissioner Dallas Schroeder made a motion to Approve the Spring Valley Water Tank Variance VA-22-0039. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Motion: To Close a Public Hearing as the Board of Adjustments for Spring Valley Water Tank Variance VA-22-0039

Commissioner Dallas Schroeder made a motion to close a Public Hearing as the Board of Adjustments for Spring Valley Water Tank Variance VA-22-0039 . Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Closed at 4:18 PM

K. ADJOURNMENT

Motion: To Adjourn

Commissioner Dallas Schroeder made a motion to Adjourn. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

The meeting Adjourned at 4:18 PM.



Amanda Moore

From: Leah Braton <leahtards@aol.com>
Sent: Tuesday, June 27, 2023 6:12 PM
To: ClerktoBOCC
Subject: [External] BOCC Meeting 6.28.2023
Attachments: 20230612_163035.jpg; 20230613_173859.jpg; 20230622_085605.jpg; 20230612_183741.jpg

Hi,

My thoughts on these proposed transmission lines in our beautiful, quiet Bijou Basin is we do not want them! We were told the sound transmitted would be the sound of a generator. When you are used to silence, a generator is very loud.

We were told we would get used to them. How do you get used to something that is a total eye sore when you live with this beauty all around us. (see photos)

My husband was in total opposition of this project being within 10 miles of our home, approximately [CR 77](#) and Hwy 86.

His battle with [Xcel](#) began when he first heard about the possibility of these transmission lines being placed in our view and ear shot.

My husband was the healthiest man I have ever know and his blood pressure began to rise and it took a toll on him. He died after 72 days in the hospital from a brain [aneurism](#) cause by stress! Needless to say, I hate this project!

Have a blessed day!

Leah Braton 
303-525-8678



Elbert County Board of Commissioners
215 Commanche St
Kiowa, CO 80117

June 26, 2023

To the Elbert County Commissioners:

As Pastors, Elders, and Church officers of various churches throughout Elbert County, we appreciate the opportunity to address the County Commission regarding the Reformation Church Outbuilding planning submittal. The position that the County Planning Staff have taken is very troubling to Christian churches in this county and we consider it a significant encroachment on our right to exist freely according to our rights under county, state, and federal law.

Our church is on a property where the Elbert County Code allows the ***use of a church by right***. There is no special permit or review required – Reformation is fully and unconditionally allowed by the code to be a church on their property. The County code defines a church use as: *A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained, and controlled by a religious body organized to sustain public worship.*

The County had treated the outbuilding as being an accessory use to a church for 7 months. In the final few days before making their administrative decision on the case, an unfortunate departure of the planning director and staff planner that had worked on our case from the beginning led to a new team of staff overseeing the final decision. This staff re-characterized the use as being commercial, and they denied the application.

We are very troubled by the staff's attempt to characterize the church's outbuilding as a commercial use, despite the clear right for a church to have accessory uses and buildings under the code. At the heart of this discussion is the right of churches in this county to exist as churches have throughout the long and respected history of Christianity. Reformation Church is but one of many Christians churches in this county that has sought to be the hands and feet of Jesus Christ in proclaiming the gospel and caring for the needs of people in our community. The church is more than one gathering for worship on a Sunday morning. Throughout history, Churches have counseled and cared for their members, reached out to the poor, sick, dying and suffering, fed the hungry, and brought hope and light to communities through various ministries of speaking and service. Churches have developed programs to minister to children through programs like Awana or Vacation Bible School, providing education through Christian schools and education, as well as many other various children's clubs and youth groups. Churches have long been involved in non-profit ministry, pro-life causes, and food banks. They have developed libraries of resources and materials that minister to their members.

Furthermore, churches are a common – if not the most common – venue for events like weddings, baptisms, funerals and other significant life-defining events. These events are not only hosted at churches but are usually heavily led and moderated by church clergy. For the better part of the entire history of Western Civilization and well pre-dating the founding of our nation, Churches have found themselves at the center of all these activities and more. To suggest otherwise is to undermine the very concept and definition of what a church is.

Nearly every church in this County engages regularly in many of the varied and accessory aspects of what it means to be a church. A quick search of the county will reveal food banks, community programs, Christian events, community outreach, resource libraries, and much more. The county definition of a church seems to carefully incorporate the allowance of these ministry uses by the wording "accessory uses" and "accessory buildings." Furthermore, the code clearly states that where a church is an approved use under the land code, it includes both "accessory uses" and "accessory buildings," making them also a *use by right*.

The uses proposed by Reformation are primarily Christian education materials, largely – though not exclusively – written by members of the church, and secondarily clothing which is gathered from county residents and then given away to poor families twice a year. Additionally, there is a minority of the space for office and flex area. The flex area supports the sorting and distribution of the clothing but could also be used for occasional events like weddings and funerals. These events are not fundamentally Commercial, and they fall directly under the kinds of events churches have done and should continue to do to be faithful to the Bible.

The above uses encompass the heart of what Christians have stood for nearly 2,000 years. To deny them is not simply inconsistent with the Elbert County Code's allowance for accessory uses, but it casts a shadow on the ability of every church in this county to be an active and life-giving part of the community. Government employees should not be allowed to pick and choose which of the church's historic roles the church will be allowed to fulfill and which ones will require onerous and expensive burdens like rezoning.

We would further add that the Supreme Court of the United States has made it clear that Federal law under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) prohibits governments from restricting a church's right to use and expand their property. The RLUIPA has been demonstrated at the Supreme Court level to restrict local jurisdictions from burdening or unreasonably limiting church structures. Specifically, state and local governments are prohibited from creating the "substantial burden" that "arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses." This is exactly what the Elbert County Planning Department has done in this case. Upon the basis of Elbert County's own planning code which allows us accessory building as a use by right, we respectfully request the Commissioners to overturn the erroneous decision to deny Reformation Church's application to build their outbuilding.

Sincerely,

Pastor Bob from Pine Valley Church

Pastor John from Majestic View of Kiowa

Pastor Josh Schwisow of Reformation Church of Elizabeth

Deacon George Sechrist of Reformation Church of Elizabeth

Deacon Robert Harder of Reformation Church of Elizabeth

Pastor Kevin Swanson of Reformation Church of Elizabeth

Pastor Ken Nevling of Calvary Elizabeth

Pastor Todd Strawser of Reformation Church of Elizabeth

Deacon Chad Roach of Reformation Church of Elizabeth

Deacon Neal Bringe of Reformation Church of Elizabeth



June 27, 2023

Elbert County Board of Commissioners
215 Comanche Street
Kiowa, CO

Re: Reformation Church | 489 Rocky Cliff Circle, Elizabeth, CO (the “**Property**”)
Appeal of Denial of Site Plan Amendment Application

BOCC Agenda Item 2023-1788
CED Project No. SP-22-0061

Dear Commissioners,

This firm, on behalf of Reformation Church (“**Applicant**”), submits this appeal of the decision of the Elbert County Planning Commission, which upheld the decision of the director of Elbert County Community and Economic Development (“**CED**”) denying the Applicant’s requested Site Plan Amendment No. SP-22-0061 (the “**Amendment**”).

As background, Applicant owns and operates the Reformation Church of Elizabeth (the “**Church**”) located at 489 Rocky Cliff Circle in Elizabeth. Applicant submitted its initial application to amend its approved Site Plan for the Property on October 13, 2022.

Applicant seeks approval to construct an additional building on its Property for the purpose of supporting the Church’s religious and charitable mission by collecting, storing and distributing gently used clothing to the needy, storing and distributing religious books pursuant to its ministry, and to host occasional gatherings associated with its church use.

The details regarding the building and its uses are set forth in the Applicant’s filings and communications with CED staff. Unfortunately, they have been somewhat mischaracterized by CED staff in a way that casts the Applicant’s proposed building and use in a negative light. On behalf of the Applicant, we seek to clarify their proposed use of their Property and urge you to approve Applicant’s requested Site Plan amendment.

Applicant’s proposed use for the Property

Applicant proposes to construct a new building that is directly related and necessary to the fulfillment of Applicant’s religious use of the Church and the Property. The building will be approximately 20,400 square feet in size and will consist primarily of space to store donated clothing Applicant accepts throughout the year to distribute periodically to community members in need of such items, as well as office space sufficient to house the Church’s ministry efforts to store and distribute religious books in furtherance of its religious purposes. Additionally, some gatherings connected with the Church and its



Elbert County Board of Commissioners
Site Plan Amendment Application and Appeal
Reformation Church, Elizabeth, CO
June 27, 2023
Page 2

operations, such as weddings, funerals, and similar Church-associated events, will be held at the Property and may utilize the proposed building from time to time.

In order to comply with building occupancy requirements, the building has to be designed to include functional restrooms sufficient to service the anticipated occupancy uses of the building described above.

Importantly, and in direct answer to comments by CED in its staff report to the BOCC, *Reformation Church never has and will not charge any money for the used clothing items it collects and distributes to needy members of the Elbert County community.* Clothing drives to provide clothing to the less fortunate are a crucial part of Applicant's ministry and religious activities. This is in no conceivable way a commercial enterprise by the Church. It is an integral part of the Church's activities, year-round. Likewise, the Church does not propose to operate a for-profit bookstore on the Property.

In response to comments from neighbors that the proposed building will be used as a homeless shelter and presents a safety threat to the neighboring community, *these comments have no basis in fact and nothing to do with Applicant's proposed use for the Property.* Applicant is not going to provide housing or shelter to anyone, on a permanent or temporary basis. To suggest that it will appears to be an effort to generate fear of the Church and, God forbid, homeless people less fortunate than many of us.

Use of the Property for Church and Accessory Uses is a use by right permitted by the Elbert County Zoning Regulations.

The Property is currently zoned RA-1 (residential agricultural). Please refer to the enclosed copy of the permitted land uses table of the current Elbert County Zoning Regulation - Amendment 4 ("ECZR") You will note that, as listed under Institutional Uses, a Religious Institution is a permitted land use under the RA-1 zoning classification. This means that a Religious Institution, or Church, as a use by-right under the ECZR.

You will also note that the definition of a 'Church' under the ECZR is:

"Church: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship."
(ECZR, page 192)



Elbert County Board of Commissioners
Site Plan Amendment Application and Appeal
Reformation Church, Elizabeth, CO
June 27, 2023
Page 3

The building proposed by Applicant on its Property clearly and squarely constitutes an accessory building and use for the Church, and is contemplated and permitted by the ECZR.

Applicant has received review and comment for conditions for approval of the proposed building from other County departments during the application process, and is fully able and willing to work to comply with those recommendations and conditions.

Conclusion

CED staff has wrongly characterized the Applicant's proposed building and use for its Property as a commercial use requiring commercial rezoning of the Property. This mischaracterization attempts to reclassify the Applicant's use of its Property as commercial, rather than religious, in nature. This belies the facts of the Applicant's proposed site plan amendment and the spirit of the Elbert County Zoning Regulation.

We strongly object to CED's mischaracterization of Applicant's proposed building on its Property. Anti-discrimination laws, including the federal Religious Land Use and Institutionalized Persons Act of 2000 (42 U.S.C. §§ 2000cc, *et seq*), prohibit discrimination against religious institutions in zoning laws and their application to such institutions.

The Board of County Commissioners must reverse the 4-4 decision of the Elbert County Planning Commission and approve Applicant's requested site plan amendment for the reasons set forth above. Applicant is a positive, contributing member of the Elbert County community who brings spiritual benefit and charitable work to your community, and looks forward to growing its capacity to continue to do both with this facility.

Thank you for your consideration.

Sincerely,

Moye White LLP

Christopher S. Jensen



Elbert County Board of Commissioners
Site Plan Amendment Application and Appeal
Reformation Church, Elizabeth, CO
June 27, 2023
Page 4

Enc.

cc: Chad Roach, Reformation Church