



Town of New Castle **Planning & Code Administration**
450 W. Main Street **Department**
PO Box 90 **Phone:** (970) 984-2311
New Castle, CO 81647 **Fax:** (970) 984-2716

Staff Report
First Baptist Church d/b/a New Hope Church Conditional Use Permit
New Castle Town Council – Meeting – April 16, 2013

Report Date: 4/11/13

Project Information

Name of Applicant: First Baptist Church d/b/a New Hope Church, Russell Talbot

Applicant's Mailing Address /Phone: POB 620, New Castle, CO. Telephone – 970.984.2656
E-mail: russell@appletpark.com

Property Address: 860 Castle Valley Blvd, New Castle, CO 81647

Property Owner: Lot C9C, LLC

Owner Mailing Address /Phone: POB 790, Glenwood Springs, CO 81602. Telephone – 970.379.2201

Proposed Use: Church, after-school teen center (not to be confused with a school), community room

Municipal Code Reference: Chapter 17.84 – Conditional Uses, Chapter 17.112 – Burning Mountain PUD, Phase II – Chapter 17.76 – Off-Street Parking

Size of Site: Lot C9C = 27,123 sq. ft., Lot C9D = 16,036 sq. ft.

Street Frontage: County Road 240 (aka Bruce Road)

Existing Zoning: Burning Mountain PUD, Phase II, Commercial General

Surrounding Zoning: Burning Mountain PUD, Phase II, Commercial General

Parking Requirements: One off-street parking space per three seats

Hours of Operation: **Monday – Friday:** 8 A.M. to 5 P.M. – office hours with occasional small group meetings in the evening such as bible studies and prayer meetings (small group meetings will not extend past 9:00 P.M.)
Saturday – 8:00 to 5 P.M. – small group meetings
Sunday – 10:00 A.M. to 12:00 P.M. – church services and small group meetings in the afternoon

1 Description of Application:

This application is a request for a conditional use permit for the following uses as listed in the application cover letter:

1. Church
2. After-school teen center
3. Community room

Per Municipal Code 17.112.040, Lots C9A, C9B, C9C and C9D, are classified as Commercial General zoning. Though, lots C9A or C9B are not a part of this application. Permitted uses that are applicable to this application:

- 1) Office for conduct of business or profession
- 2) Outdoor recreational amenities including volleyball courts, horseshoe pits, parks and playgrounds

All other uses not specifically identified under the permitted uses are Special Review Uses which undergoes the same process of Conditional Use Permits.

II Development Application Contents:

1. Applicant cover letter/Development Application
2. Site plan
3. Improvement Location Certificate (ILC)
4. List of property owners within 250 feet
5. Checklist – Conditional Use Permit Application
6. Proof of Ownership utilizing Garfield County Assessor Data Site
7. Agreement to abide by performance standards
8. GIS Map indicating property owners within 250 feet
9. Amended Declaration of Joint Parking Use

III Application Issues/Concerns:

Site Plan requirements:

- (1) Adjacent land uses and location of adjacent structures
Staff Comment – The submitted site plan shows the adjacent uses.
- (2) Boundary and size of lot
Staff Comment – The submitted site plan describes the boundary and size of lots C9C and C9D in the Burning Mountain PUD, Phase II
- (3) Boundary location, height and setbacks
Staff Comment – The submitted site plan shows the building location, height and setbacks. The height of the building is 30 feet. The minimum setbacks in this zone district are: Lot C9C has zero yard setbacks on all sides and Lot C9D has zero yard setbacks for the side and rear with a 20 foot front yard setback.
- (4) *Off-street parking and loading areas
Staff Comment – Off-street parking and loading areas are depicted on the site plan and the Improvement Location Certificate also shows additional parking. If the congregation had seating for 300 members, 100 off-street parking spaces would be required. There are 139 off-street parking spaces available. In addition, the applicant has submitted an Amended Declaration of Parking that allows for a joint parking agreement with City Market.

* 17.76.060 Town Council May Change Number of Spaces
(A) The Town Council may increase or decrease the number of off-street parking spaces in consideration of the following factors:
 - (1) Probable number of cars owned by occupants of dwellings in the planned unit development;
 - (2) Parking needs of any non dwelling uses;
 - (3) Varying time periods of use; and
 - (4) Whatever joint use of common parking areas is proposed.

(B) Regardless of a reduction in off-street parking spaces by the Town Council, adequate space and site design shall be provided to accommodate the standard

(5) Points of ingress and egress

Staff comment – Shown on the submitted site plan. There is one driveway in which to enter and leave the property. There are two exits – south to CR 240 and west through the New Castle Plaza.

(6) Service and refuse areas

Staff Comment – Shown on the submitted site plan. There are no known hazardous materials that will need disposal services.

(7) Signs and exterior lighting

Staff Comment – Although not shielded and downcast, the exterior lighting is located under the eaves which effectively allows for dark sky compliance. The applicant will be required to comply with sign code regulations in the municipal code.

(8) Fencing, landscaping and screening

Staff Comment – Existing landscaping and screening are not shown on the site plan or Improvement Location Certificate. Existing fencing is identified on the site plan and Improvement Location Certificate.

(9) Compliance with performance standards

Staff Comment – The applicant has submitted a signed document stating he will comply with all performance standards.

(10) Location and size of easements, power poles, fire hydrants, gas lines, water and sewer lines; anticipated utility requirements

Staff Comment – All existing utility services except for gas lines are shown on the site plan.

17.84.070 Alterations

No approved conditional use may be altered, structurally enlarged, expanded in parking area or expanded in ground area unless the site plan is amended and approved in accordance with the procedures applicable to approval of a conditional use as set out in chapter 17.84 – Conditional Uses

V Planning and Zoning Commission:

A hearing was held before the Planning and Zoning Commission on April 10, 2013. The conditional use permit was unanimously approved with the conditions set forth in **Resolution NO. PZ 2013-1**.

VI Staff Recommendation

The staff recommends approval of the First Baptist Church d/b/a New Hope Church Conditional Use Permit with the following conditions:

1. All representations of the applicant in written and verbal presentations submitted to the Town or made at public hearings before the planning commission or Town Council shall be considered part of the application and binding on the applicant.
2. The applicant shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations.
3. In the event the Town receives any complaints about the use of the site or observes or becomes aware of any violations of the conditional use approval, the Applicant and/or owner may be summoned before the Town Council in a public meeting to show cause why the permit should not be revoked, suspended, or additional conditions imposed. Such show-cause

hearing shall be open to the public and the Applicant or owner may present testimony or offer other evidence on its behalf.

4. The applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including without limitation all costs incurred by the Town's outside consultants such as legal and engineering costs.



RECEIVED

MAR 13 2013

Town of
New Castle, CO

March 14, 2013

First Baptist Church, Glenwood Springs
DBA: New Hope Church
298 West Main Street
New Castle, CO 81647

City of New Castle,

Thank you for receiving the application for a Conditional Use Permit for the purchase and remodel of the New Castle Bowling Alley, Burning Mountain Planned Unit Development Phase 2, PUD Plat.

It is the intent of New Hope Church to change the function of the premises from a bowling alley to a church.

New Hope Church has been a prominent part of the New Castle community for over 35 years. They have been searching for a building for a number of years, as well as considering the possibility of building on the 10 acres the church owns at the western end of New Castle.

Note: Nothing changes in the building exterior structurally, landscaping, lighting, refuge, ingress and egress, water, sewer, gas and electrical per existing site plan.

We believe that this repurposed building purchase will be good for New Castle, as well as for New Hope Church.

Some considerations are:

- With a present attending congregation of over 300, and growing, Sunday mornings are going to increase revenue at the City Market, the New Castle Diner and the other retail businesses. Any mid-week activity will also provide opportunities for congregants to shop while in the area.
- It is the intent of New Hope Church to use a portion of the space for a safe and healthy 'hang-out' for students, i.e. tutoring, video games. This is an

important piece, as there are not many available places for students, thus often resulting in boredom and activities that do not promote healthy relationships or behaviors.

- It is also the intent of New Hope Church that the facilities will be able to be used by the city, schools and other entities that need a larger location for certain events, i.e. school musicals, choir and band events.
- The current business is a frequently visited location for the New Castle Police and I can assure that their frequency will stop (unless they choose to come to worship), thus helping the department with their man-power issues.
- While parking is always a consideration, in this instance the high traffic points are opposite the typical retail hours. Sunday Morning is a low traffic point for retail and New Hope is dismissed by noon. During the week the parking is not at a volume level. The parking for all the businesses in the shared area are common, but even in this, New Hope Church will not place a burden on the available spaces.
- Another viable building is on Power Line Road in Rifle, and we would like to stay in New Castle.
- The land that is adjacent, that is intended to be purchased by New Hope Church, will potentially house ministries such as senior day care and job skills training.

Concerning schedule, the intent to close on the property is late April, with the permit process immediately following. Construction will occur over July and August with occupation of the project in mid-September.

While the Bowling Alley has been on the market for over three years, a like-usage buyer has not surfaced and we feel that what we can bring to the location will more than compensate for any perceived or real loss to the town and community of New Castle.

Thank you for your considerations and opportunity to further the community and community spirit of the town of New Castle.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Russell Talbott, moderator". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Russell Talbott, Moderator
New Hope Church

Administration Department
 (970) 984-2311
 Fax: (970) 984-2716
 www.newcastlecolorado.org



Town of New Castle
 PO Box 90
 450 W. Main Street
 New Castle, Co 81647

DEVELOPMENT APPLICATION

Applicant: First Baptist Church, (Glenwood) Springs DBA. New Hope Church

Address: PO Box 420 Phone: 970-984-2656
New Castle Co 81647 FAX:
 E-mail: russell@appletreepark.com

Property Owner: LOT C9C LLC

Address: PO Box 790 Phone: 970-379-2201
Glenwood Springs Co 81602 FAX:
 E-mail:

Contact Person: Scott Balcomb

Address: PO Box 790 Phone: 970-379-2201
Glenwood Springs Co 81602 FAX:
 E-mail:

Property Location/Address: 860 Castle Valley Blvd. New Castle Co

Legal Description: Burning Mountain PUD Phase 2 Subd. Acres: 0.99 acre
LOT C9C and C9D

Existing Zone (Not sure? Click here for help): Burning Mtn PUD Phase 2

Existing Land Use: Bowling Alley

TYPE(S) OF LAND USE(S) REQUESTED

- | | |
|--|---|
| <input type="checkbox"/> Pre-Annexation Agreement | <input type="checkbox"/> Lot Line Adjustment or Dissolution |
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Site Specific Development Plan/Vested Rights |
| <input type="checkbox"/> Subdivision (including Minor and Major Subdivisions, Lot Splits, Sketch Plans, Subdivision Preliminary Plans, Subdivision Final Plans, & Condominiumizations) | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Amended Plat | <input type="checkbox"/> Zoning |
| <input type="checkbox"/> Planned Unit Development (including PUD Sketch Plans, Preliminary PUD Development Plans, PUD Master Plans and Final PUD Development Plans) | <input type="checkbox"/> Zoning Amendment |
| <input type="checkbox"/> Floodplain Development Permit | <input type="checkbox"/> Re-zoning |
| | <input type="checkbox"/> R-1-HC Identification |
| | <input checked="" type="checkbox"/> Conditional Use Permit or Special Review Use Permit |
| | <input type="checkbox"/> Other |

This development would create 0 residences and 0 square feet of commercial space.

Applicant must also complete and submit the appropriate checklist for the type of land use requested. Both the applicant and the property owner must sign this application.

Applicants are encouraged to schedule a pre-application meeting with the Town Administrator and/or Town Consultants prior to submitting this application.

AGREEMENT TO PAY CONSULTING FEES AND EXPENSES

It is the policy of the Town of New Castle that all land use applications must be filed in the Office of the Town Clerk to receive formal consideration. Please refer to the Town Clerk's Office for all applicable procedures.

However, the Town encourages land use applicants to consult informally with members of the Town Staff, including outside consultants, prior to filing applications if the applicant has questions regarding areas within Staff members' particular expertise; PROVIDED THAT THE POTENTIAL APPLICANT AGREES TO REIMBURSE THE TOWN FOR ALL FEES AND EXPENSES RELATING TO SUCH INFORMAL MEETINGS.

The Town employs outside consultants for engineering, surveying, planning, and legal advice. These consultants bill the Town on an hourly basis as well as for expenses including but not limited to copies, facsimile transmissions, and long distance telephone calls.

It is the Town's policy that all persons wishing to hold informal meetings with members of the Town Staff acknowledge responsibility for all fees and expenses charged by outside consultants by signing this Agreement below.

I acknowledge and agree to pay the Town of New Castle all actual costs incurred by the Town in relation to legal, engineering, surveying, planning, or other services performed by consultants to the Town as a result of such consultants' review and comment upon, or other services related to, land use proposals and/or applications proposed by me or on my behalf, regardless of whether or not such application is formally filed with the Town. Interest shall be paid at the rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement. In the event the Town is forced to pursue collection of any amounts due and unpaid, the Town shall be entitled to collect all costs of collection in addition to the amount due and unpaid, including but not limited to reasonable attorney's fees and costs.

SO AGREED this 18th day of March, 2013.
First Baptist Church, Glenwood Springs DBA NewHope Church
Russell Talbot, Moderator [Signature]
Applicant (Print Name) Signature
970-984-2656 -office PO Box 620 New Castle CO 81647
970-989-5278 -cell Telephone Mailing Address
[Signature] PO Box 790
Property Owner Signature Mailing Address If Different From Above
Property Transaction Seller
Relationship to Applicant or Potential Applicant

Type of application: Conditional Use Permit

Property description: Birmingham TUD Phase 2 subd. lot 9C & 9D
860 Castle Valley Blvd (Bowling Alley)



CHECKLIST CONDITIONAL USE PERMIT APPLICATION

Authority: New Castle Municipal Code §§16.08.060 & §§17.84.010 et seq.

This is a helpful checklist and is not necessarily all inclusive for all Municipal Code requirements. It is still your responsibility to read and comply with all code requirements. All applications must include a non-refundable Application fee.

Signature Russell J. [Signature] Date 3-18-13
McGowan

The following items must be submitted to the Town Clerk:

- Development Application - Submit 15 copies
- Proof of legal ownership of all property involved - *Tax Record*
- Names and addresses of all property owners, ~~mineral owners~~ (if new surface development anticipated), ~~and lien holders of all property involved~~ *N/A*

- Complete site plan, drawn to scale, illustrating:
 - Adjacent land uses and location of adjacent structures, including sidewalks, alleys or streets
 - Boundary and size of site
 - Building location, height and setbacks; include any building modifications that the variance may create
 - Off-street parking and loading areas (see attached)
 - Points of ingress and egress
 - Service and refuse areas
 - Signs and exterior lighting - *Signage to change w/ BO Permit / Sign Permit per sign code*
 - Fencing, landscaping and screening
 - Compliance with performance standards (see attached)
 - Location and size of easements, power poles, fire hydrants, gas lines, water and sewer lines and other items which might impact the property, as well as anticipated utility requirements

- Time schedule for development - *cover letter*
- If you believe that any of the above requirements are not applicable, provide a statement explaining why you believe the requirements are not applicable. - *cover letter*
- Other information supporting your application - *cover letter Parking Agreement*
- List of owners of property within 250 feet of your property along with their mailing addresses. Source: Assessors Office.

\$250.00 Non-refundable Application Fee

*currently
No
change
in
use
only*

Garfield County Assessor Data Site

Jim Yellico, 109 8th Street, Glenwood Springs, CO, 81601
(P) 970.945.9134 | (F) 970.945.3953 | (E) jyellico@garfield-county.com

PROOF OF OWNERSHIP

Account Information

Account: R042306
Parcel: 212332403016
Owner Name: LOT C9C LLC
Owner Address: PO DRAWER 790, GLENWOOD SPRINGS, CO, 81602
Property Address: 860 CASTLE VALLEY BLVD, NEW CASTLE
Legal: Section: 32 Township: 5 Range: 90 Subdivision: BURNING MOUNTAIN P U D PH 2 Lot: C9C
Tax Area: 079
Subdivision: BURNING MOUNTAIN P U D PH 2

*Bowling
Alley*

Bid.

Sales Information

| Date | Deed Type | Doc Number | Grantor | Grantee | Amount |
|------------|-----------|------------|------------------------------|------------------------------|---------|
| 10/10/2005 | WD | 684649 | BURNING MOUNTAIN ASSOCIAT... | BURNING MOUNTAIN BOWL, LL... | 400,000 |

Taxable Values History

| Year | Land Actual | Imp Actual | Total Actual | Land Assessed | Imp Assessed | Total Assessed |
|------|-------------|------------|--------------|---------------|--------------|----------------|
| 2012 | 260,380 | 946,910 | 1,207,290 | 75,510 | 274,600 | 350,110 |
| 2011 | 260,380 | 946,910 | 1,207,290 | 75,510 | 274,600 | 350,110 |

Garfield County Assessor Data Site

Jim Yellico, 109 8th Street, Glenwood Springs, CO, 81601
(P) 970.945.9134 | (F) 970.945.3953 | (E) jyellico@garfield-county.com

Account Information

PROOF OF OWNERSHIP

Account: R042307
Parcel: 212332403017
Owner Name: LOT C9C LLC
Owner Address: PO DRAWER 790, GLENWOOD SPRINGS, CO, 81602
Property Address: CASTLE VALLEY BLVD, NEW CASTLE
Legal: Section: 32 Township: 5 Range: 90 Subdivision: BURNING MOUNTAIN P U D PH 2 Lot: C9D
Tax Area: 079
Subdivision: BURNING MOUNTAIN P U D PH 2

Bowling Alley

EAST LOT

Taxable Values History

| Year | Land Actual | Imp Actual | Total Actual | Land Assessed | Imp Assessed | Total Assessed |
|------|-------------|------------|--------------|---------------|--------------|----------------|
| 2012 | 121,040 | | 121,040 | 35,100 | | 35,100 |
| 2011 | 121,040 | | 121,040 | 35,100 | | 35,100 |

Property Details

| Model | Attribute Name | Attribute Value |
|--------|----------------|------------------------|
| LAND 0 | ABSTRACT_CODE | VACANT COM LOTS |
| | AREA_ACRES | 0 |
| | AREA_SQFT | 16036 |
| | NEIGHBORHOOD | VACANT COMMERCIAL LAND |

17.72.090 - Performance standards. 

A.

Smoke. No use shall be permitted in any district unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of smoke.

B.

Particulate Matter. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of particulate matter.

C.

Dust, Odor, Gas, Fumes, Glare or Vibration. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of dust, odor, gas, fumes, glare or vibration.

D.

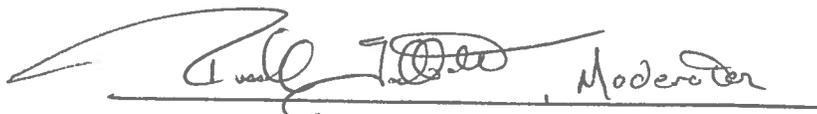
Radiation Hazards and Electrical Disturbances. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to radiation control.

E.

Noise. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to noise.

F.

Water Pollution. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to water pollution.



Russell Talbot, Moderator
New Hope Church
a DBA of: First Baptist Church
Glenwood Springs

Property Owners within 250 Feet of Subject Property:

Burning Mountain PUD Phase 2 Subdivision Lot C9C and C9D
address: 860 Castle Valley Blvd., New Castle Colorado
(Bowling Alley)

| | Parcel Number | Name | Address | Town | State | Zip Code |
|----|------------------|-------------------------------------|----------------------------|------------------|-------|------------|
| 1 | 2123-324-03-003 | Town of New Castle | PO Box 90 | New Castle | CO | 81647-0166 |
| 2 | 2123-324-03-004 | Burning Mountain Assoc. LLLP | PO Box 790 | Glenwood Springs | CO | 81602 |
| 3 | 2123-324-00-021 | Kuersten, Kathleen L & Robert E | PO Box 670295 | Chugiak | AK | 99567-0295 |
| 4 | 2123-324-00-027 | Senor, Jerry R D & Judith R | PO Box 397 | New Castle | CO | 81647 |
| 5 | 2123-324-03-005 | S & H, LLC | 627 N. Wild Horse Drive | New Castle | CO | 81647 |
| 6 | 2123-324-03-006 | S & H, LLC | 627 N. Wild Horse Drive | New Castle | CO | 81647 |
| 7 | 2123-324-03-018 | Lot C9 Property Owners Assoc. | PO Box 790 | Glenwood Springs | CO | 81602 |
| 8 | 2123-324-03-008 | Dillon Real Estate Real Estate Dept | 1014 Vine Street 7th Floor | Cincinnati | OH | 45202 |
| 9 | 2123-324-03-0014 | Burning Mountain Assoc. LLLP | PO Box 790 | Glenwood Springs | CO | 81602 |
| 10 | 21213-324-03-015 | Burning Mountain Assoc. LLLP | PO Box 790 | Glenwood Springs | CO | 81602 |

904

AMENDED DECLARATION OF JOINT PARKING USE

BURNING MOUNTAIN ASSOCIATES, LTD., DILLON REAL ESTATE CO., INC, a Kansas Corporation, and ALPINE BANK & TRUST (Declarants) hereby execute this Declaration for the uses and purposes herein set forth.

A. RECITALS

1. Declarants are the owners of Lots 5, 6, 7, 8 and 9, Burning Mountain Planned Unit Development, Phase 2, according to the plat thereof filed in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No. 486745 (Plat).
2. Lots 5, 6, 7, 8 and 9 may be developed for any of the purposes set forth on the Plat. *lot 05-09*
3. The parking of motor vehicles for Lots 5, 6, 7, 8 and 9 is located in part on each of the lots, the intent and purpose being that the owners, invitees, guests and users of Lots 5, 6, 7, 8 and 9 will share the parking area as a common appurtenance to each lot.
4. The purpose of this Declaration is to establish how the parking of motor vehicles pertaining to each lot and the use of all roadways on said lots shall be governed and maintained.

B. DECLARATION

The Declarants hereby declare that the above recitals are true and correct and shall be utilized to interpret and give effect to this Declaration.

1. **Joint Parking.** Declarants hereby declare that the areas subject to the provisions of this Declaration shall be those areas of Lots 5, 6, 7, 8 and 9 which are dedicated to parking and roadways which are used by and/or benefit more than one lot as shall be depicted on the final approved site plan of each Lot. These parking areas and roadways which are used by and/or benefit more than one lot shall be used jointly by the owners, invitees, guests and users of Lots 5, 6, 7, 8 and 9 (Parking Area).
2. **Size of Vehicles.** Except for vehicles using the driving lanes and roadways which are used by and/or benefit more than one lot in the Parking Area, only passenger vehicles and trucks not exceeding one (1) ton capacity shall be authorized to utilize the Parking Area. All other vehicles shall be excluded and signs so limiting the vehicle size shall be posted in the Parking Area.

Amended Declaration of Joint Parking Use

Page 1 of 5

Return to: Scott Balcomb - Delaney & Balcomb, P.C.
P.O. Drawer 790
Glenwood Springs, CO 81602

26th

3. **Parking Plan.** A parking plan in conformity with the Municipal Code of the Town of New Castle, Colorado shall be adopted for the Parking Area, and the parking plan shall be imposed upon the Parking Area by means of striping and other markings to indicate and direct vehicle traffic and parking places. The parking plan shall not be modified without the consent of the Town of New Castle and only after the owners of Lots 5, 6, 7, 8 and 9 have agreed upon such modification pursuant to paragraph B.9.

4. **Maintenance, Snow Removal and Parking Lot Lights; Sharing Expenses.** Maintenance and snow removal of the Parking Area and operation and maintenance of the parking lot lights shall be as agreed upon by the owners of Lots 5, 6, 7, 8 and 9. The costs of such maintenance, snow plowing, operation and maintenance of the parking lot lights, and liability insurance pursuant to paragraph B.5 shall be shared in the percentages as follows:

| | |
|-------|------|
| Lot 5 | 23% |
| Lot 6 | 30% |
| Lot 7 | 17% |
| Lot 8 | 10% |
| Lot 9 | 20%. |

Annually the owners of Lots 5, 6, 7, 8 and 9 shall choose a Manager who shall cause the maintenance and other requirements of this paragraph to be performed. The Manager shall not expend in excess of Five Thousand and no/100 Dollars (\$5,000.00) for any one maintenance function to be performed without the approval of a majority of the Lot owners. The Manager shall, monthly, forward billings, invoices and other evidence of expenditures to each Lot owner and bill each Lot owner their respective share thereof in accordance with the percentage amount of each as set forth in this paragraph. Payment shall be due and payable ten (10) days following date of billing. Failure of a Lot owner to pay shall subject such owner to such remedies as are available to the other Lot owner for collection of debt, including costs and reasonable attorney fees.

The Manager shall be compensated for his or her services in such amount as a majority of the Lot owners shall agree and the cost shared in the percentages set forth in this paragraph.

5. **Insurance.** The Declarants shall acquire and shall be responsible for maintaining liability insurance upon the Parking Area. The amount of such insurance, the scope of coverage and the insurance carrier shall be determined by the Lot owners pursuant to paragraph B.9. The cost of the insurance shall be paid as provided in paragraph B.4. The manner of assessment, collection and payment of costs and expenses shall be as determined by the owners of Lots 5, 6, 7, 8 and 9.

6. **Signage.** Except for seasonal and temporary signs approved by the Lot owners pursuant to paragraph B.9, the Parking Area shall not be used for advertising purposes and

no signage shall be allowed in the Parking Area other than signage directing vehicular traffic and the parking of vehicles.

7. **Landscaping.** Each Lot owner shall be responsible for their own landscaping and maintenance thereof.

8. **Seasonal Use of Parking Area.** Each Lot owner shall be allowed to use not more than ten (10) parking spaces for a period not to exceed One Hundred Twenty (120) days per year for temporary structures and equipment to be used in conjunction with marketing of products allied with the principal use of the Lot.

9. **Majority Vote.** All decisions and questions as to any matters the subject hereof or pertaining to parking in the Parking Area shall be determined by the majority vote of the Lot owners.

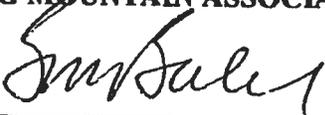
10. **Construed With Plat.** This Declaration shall be construed in conjunction with the Plat and as an adjunct thereof.

11. **Covenant Running With Land.** This Declaration shall be a covenant running with Lots 5, 6, 7, 8 and 9 and shall extend to and be binding upon the owners thereof, their successors and assigns of all kinds.

12. **Agreement Supersedes Prior Agreements.** This Agreement replaces and supersedes all prior agreements dealing with the subject matter hereof.

IN WITNESS WHEREOF, the Declarants have set their hands and seals this 3rd day of October, 1996.

BURNING MOUNTAIN ASSOCIATES, LTD.

By 
Scott Balcomb
General Partner

DILLON REAL ESTATE CO., INC.

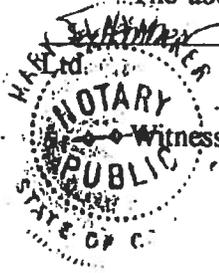
By 

ALPINE BANK & TRUST

By [Signature]

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The above and foregoing instrument was acknowledged before me this 26th day of September, 1996, by Scott Balcomb as General Partner of Burning Mountain Associates,



Witness my hand and seal.

[Signature]
Notary Public

Address: 0575 Hwy. 133, Carbondale, CO 81623
My commission expires: 04/19/99

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The above and foregoing instrument was acknowledged before me this 3rd day of October, 1996, by E. John Burgon as Vice-President of Dillon Real Estate Co., Inc.



Witness my hand and seal.

[Signature]
Notary Public

Address: 105 West Colorado Ave. Grand Jet CO
My commission expires:

My Commission expires 7/1/98

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The above and foregoing instrument was acknowledged before me this 19th day of September, 1996, by R. Bruce Robinson as Exec. Vice Pres. of Alpine Bank & Trust.

Witness my hand and seal.

Tracy A. Starhult
Notary Public



Address: 715 Palmer Ave #3, Glenwood Springs, CO 81601
My commission expires: 4/11/00

TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. TC 2013-5

A RESOLUTION OF THE NEW CASTLE TOWN COUNCIL APPROVING A
CONDITIONAL USE PERMIT FOR FIRST BAPTIST CHURCH D/B/A NEW
HOPE CHURCH FOR LOTS C9C AND C9D IN THE BURNING MOUNTAIN
PHASE II PUD.

WHEREAS, the First Baptist Church d/b/a New Hope Church (hereinafter “Applicant”) is seeking special review use approval pursuant to municipal code section 17.112.040(B) for Lots C9C and C9D of the Burning Mountains P.U.D. (Phase II) (hereinafter “Subject Property”); and

WHEREAS, the Applicant is seeking to locate a church and related uses in the General (Lot C9) district; and

WHEREAS, special review uses under section 17.112.040(B) of the code are processed as conditional use permit applications pursuant to § 17.84 of the municipal code; and

WHEREAS, on April 10, 2013 the Planning Commission held a noticed public hearing on the special review use application, accepted testimony from Staff, the Applicant and members of the public and voted 6-0 to recommend approval of the Conditional Use Permit; and

WHEREAS, the Town Council considered the application at its meeting of April 16, 2013; and

WHEREAS, pursuant to Municipal Code § 17.84.050 the Town Council hereby finds that the conditional use permit application:

1. Is eligible for conditional review under Sections 17.112.040(B) and 17.84.040 of the New Castle Municipal Code;
2. Is generally compatible with adjacent land uses;
3. Meets all requirements of Section 17.84.020, is in compliance with this title and minimizes potential adverse impact of the conditional use on adjacent properties and traffic flow;
4. Is consistent with the comprehensive plan; and
5. The town has the capacity to serve the proposed use with water, sewer, fire and police protection.

NOW, THEREFORE, BE IT RESOLVED BY THE NEW CASTLE TOWN COUNCIL AS FOLLOWS:

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the New Castle Town Council.

2. Approval. The Town Council hereby approves the conditional use permit pursuant to Section 17.84.050 of the New Castle Municipal Code as follows:

3. Listing of Approved Uses. As more fully set forth on the site plan, which is expressly incorporated herein by this reference, the following constitute the permitted uses for the Subject Property:

1. Church
2. Community room
3. After school teen center

4. Conditions.

A. The applicant shall comply with all applicable building, residential, electrical and municipal code requirements including sign code regulations.

B. In the event the Town receives any complaints about the use of the site or observes or becomes aware of any violations of the conditional use approval, the Applicant and/or owner may be summoned before the Town Council in a public meeting to show cause why the permit should not be revoked, suspended, or additional conditions imposed. Such show-cause hearing shall be open to the public and the Applicant or owner may present testimony or offer other evidence on its behalf.

C. All representations of the Applicant made verbally or in written submittals presented to the Town in conjunction with the application and before the planning commission or Town Council shall be considered part of the application and binding on the applicant.

D. The applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including without limitation all costs incurred by the Town's outside consultants such as legal and engineering costs.

THIS RESOLUTION TC 2013-5 was adopted by the New Castle Town Council by a vote of ____ to ____ on the 16th day of April, 2013.

NEW CASTLE TOWN COUNCIL

By: _____

Frank Breslin, Mayor

ATTEST:

Melody Harrison, Town Clerk