

Agenda# VAR - 2023-1769

BOARD OF ZONING APPEALS VARIANCE APPLICATION

IF YOU REQUIRE ASSISTANCE WITH THIS APPLICATION, PLEASE CONTACT THE PLANNING OFFICE AT 803-285-6005. THE COMPLETED APPLICATION, THE APPLICATION FEE OF \$275.00 SF RESIDENTIAL/\$375.00 COMMERCIAL AND ALL ADDITIONAL SUPPORTING DOCUMENTS ARE REQUIRED TO BE SUBMITTED.

THE FOLLOWING INFORMATION MUST BE PROVIDED FOR THE REQUEST:

PROPERTY INFORMATION:
TAX MAP NUMBER: 0016-00-031.00
STREET ADDRESS: 7520 Charlotte Hwy
CITY/ STATE/ ZIP CODE: Indian Land, SC 29707
LOT DIMENSIONS/ LOT AREA: 6.5 Acres PLAT BOOK/PAGE: P
CURRENT ZONING
CLASSIFICATION: INS: Institutional
PROPERTY OWNER OF RECORD:
NAME: Faith Presbyterian USA
ADDRESS: 7520 Charlotte Hwy
CITY/STATE/ZIP CODE: Indian Land, SC 29707803-548-8810
EMAIL ADDRESS: mainoffice@faithpresusa.com
SIGNATURE OF OWNER/ DATE: David Mbender 10/2/2023
I HAVE APPOINTED THE INDIVIDUAL OR FIRM LISTED BELOW AS MY REPRESENTATIVE IN CONJUNCTION WITH THIS MATTER RELATED TO THE BOARD OF ZONING APPEALS.
AGENT OF OWNER:
_{NAME:} Janis Tacy
ADDRESS: 86620 Arrington Road
CITY/STATE/ZIP CODE: Lancaster, SC 29720
_{EMAIL ADDRESS:} rjtacy@gmail.com
SIGNATURE OF AGENT/DATE: Jakes Jacy October 2, 2023 SIGNATURE OF OWNER/DATE: Sould When Dan 10/3/2033
SIGNATURE OF OWNER/DATE: Sould Mbender 10/2/2023
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VARIANCE APPLICATION

E FILED	: October 2, 2023 APPLICATION NO
THE DE\	PLICANT HEREBY APPEALS TO THE BOARD OF ZONING APPEALS FOR A VARIANCE FROM THE STRICT APPLICATION T E PROPERTY DESCRIBED IN THE NOTICE OF APPEAL (FORM 1) OF THE FOLLOWING PROVISIONS TO THE UNIFIE VELOPMENT ORDINANCE: tion 2.4 District Dev Standards, INS Principal Bldg, Side/Rear Setback (min) 35 ft. The UDO is a Lancaster County law and, according to the Supremacy Clause of
	US Constitution, it is superseded by federal law, specifically The Religious Land Use and Institutionalized Persons Act of 2000 (continuation 1 attached).
	20 de l'altradori, il le daportodade dy rederat lam, specimodry frie renigious Edite ose una mantationalizat r el sons ret el 2000 (continuation i attached).
PLC	THAT A ZONING PERMIT MAY BE ISSUED TO ALLOW USE OF THE PROPERTY IN A MANNER SHOWN ON THE ATTACHE OT PLAN, DESCRIBED AS FOLLOWS: ariance to allow a setback of 20 ft for the construction of the building on the plot plan (Enclosure 2).
	analice to allow a setback of 20 ft for the construction of the building of the plot plan (Elficiosure 2).
	R WHICH A ZONING OFFICIAL HAS DENIED A PERMIT ON THE GROUNDS THAT THE PROPOSAL WOULD BE IN VIOLATIO THE CITED SECTION (S) OF THE UNIFIED DEVELOPMENT ORDINANCE.
Sec	ction 2.4 District Development Standards, Institutional (INS) requires that for the Principal Building, the Side and Rear Setback
mu	st be a minimum of 35 ft rather than the 20 ft on the plot plan.
	E APPLICATION OF THE ORDINANCE WILL RESULT IN UNNECESSARY HARDSHIP, AND THE STANDARDS FOR A VARIANCE BY STATE LAW AND THE ORDINANCE ARE MET BY THE FOLLOWING FACTS:
i.	THAT THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICLETTER OF THIS ORDINANCE;
	See attached response to 2.i.
ii.	THAT IF THE APPLICANT COMPLIES WITH THE PROVISIONS OF THE ORDINANCE, THE PROPERTY OWNER SEEKIN THE VARIANCE CAN SECURE NO REASONABLE RETURN FROM, OR MAKE NO REASONABLE USE OF HIS PROPERTY;
	See attached response to 2.ii.
iii.	THAT SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST WHICH ARE PECULIAR TO THE LAND, STRUCTURE OF BUILDING INVOLVED AND WHICH ARE NOT APPLICABLE TO OTHER LANDS, STRUCTURES OR BUILDINGS LOCATED THE SAME LAND DEVELOPMENT DISTRICT;
	See attached response to 2.iii.
iv.	THAT THE VARIANCE WILL NOT MATERIALLY DIMINISH OR IMPAIR ESTABLISHED PROPERTY VALUES WITHIN THE SURROUNDING AREA;
	See attached response to 2.iv.
	THAT THE SPECIAL CONDITIONS AND CIRCUMSTANCES REFERENCED IN III. ABOVE DESUIT EDOM THE ADDITIONS

OF THIS ORDINANCE AND NOT FROM THE ACTIONS OF THE APPLICANT;

	See attached response to 2.v.
vi.	THAT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THIS ORDINANCE AND PRESERVES ITS SPIRIT;
	See attached response to 2.vi.
vii.	THAT THE VARIANCE IS THE MINIMUM NECESSARY TO AFFORD RELIEF; AND
	See attached response to 2.vii.
viii.	THAT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE HAVE BEEN ASSURED AND SUBSTANTIAL JUSTICE HAS BEEN DONE
	See attached response to 2.viii.
	FOLLOWING DOCUMENTS ARE SUBMITTED IN SUPPORT OF THIS APPLICATION: (A PLOT PLAN MUST BE SUBMITTED) attached list of Enclosures 1-6.
Date:	Oxtober 2, 2023 Applicant Signature: Janes Jacy

application by the due date. A copy of this acknowledgment will be attached with your application for our records.
I,, have signed that I am aware of the Zoning Board of Appeals hearing date.
Movember 14,2023 (Hearing Date)
I understand that I will be asked to speak on behalf of my request and that I, or a
representative will need to be in attendance. If for some reason I or a representative will not
be able to attend the scheduled meeting, I must request a deferral to another date, or
withdraw my application, if I do not want my application considered by the Zoning Board of
Appeals.
I acknowledge that failure to attend the meeting does not result in my application being automatically deferred to the next month. The zoning Board of Appeals will still hold the hearing on my request and can take any form of action, including denial. Should my request be denied, I will not be permitted to resubmit the request to the Zoning Board of Appeals for a period of six months, unless conditions have changed substantially and the Zoning Board of Appeals votes unanimously to rehear the matter.
00/1/2202
Janes Jacy October 2, 2023
(Property owner / Applicant's signature) (Date)

Faith Presbyterian Church Variance Application: Continuation 1 and Responses 2 (i)-(viii) & 3

Continuation 1.

Federal Law: The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) (Enclosure 1), 42 U.S.C. §§ 2000cc to 2000cc-5, is a civil rights law that prohibits any state, county or other governmental agency from imposing or implementing any land use regulation that imposes a substantial burden on the religious exercise for a person, assembly or institution (42 USC 2000cc(a)(1). Faith Presbyterian Church is the type of faith assembly and institution covered by this statute. For our purposes, the statute mandates that no county (including councils and planning boards and zoning boards) may implement or apply a "zoning law" that "limits or restricts a claimant's use or development of land (including a structure affixed to the land)," if the claimant owns or has other interests in the property (42 USC 2000cc-5, Definitions (1)-(5), unless the county can show an overwhelmingly compelling reason.

Facts: In 2015, Lancaster County approved Faith's construction of an entire building based upon the 20 ft setback line requirement in effect at that time. For financial reasons, Faith constructed two-thirds of that building. In 2023 Faith submitted plans to Lancaster County Planning Department to complete that project as approved in 2015 with the addition running along the same building line. Based on the prior approval of plans for the entire building using the 20 ft setback requirement, Faith Church reasonably believed the county would approve the completion of that building following the same line with a 20 ft setback. However, a new UDO was adopted in 11.28.2016 which rezoned Faith Presbyterian Church to Institutional District and that district requires a 35 ft setback; therefore, representatives of the Lancaster County Planning did not approve the plans because the building extension (which was part of the building plans approved in 2015) encroaches the 35 ft setback requirement. Faith was not aware of the rezoning to Institutional nor the 35 ft setback.

Religious Exercise: The US Department of Justice cites several US Supreme Court Cases stating that exercise of religion "under RLUIPA includes construction or expansion of places of worship and other properties used for religious exercise" www.justice.gov/media/956061/dl?inline question 2 (copied here without footnotes):

"2. What does "religious exercise" include?

RLUIPA provides that "religious exercise" includes any exercise of religion, "whether or not compelled by, or central to, a system of religious belief." Thus, a county or municipality cannot avoid the force of RLUIPA by asserting that a particular religious activity is something that a religious group merely wants to do rather than something that it must do. For example, a town could not claim that Sunday school classes are not religious exercise because they are less central to a church's beliefs or less compulsory than worship services.

RLUIPA also specifies that "[t]he use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise . . ." This provision makes clear that religious exercise under RLUIPA includes construction or expansion of places of worship and other properties used for religious exercise."

Substantial Burden on Faith Presbyterian Church: Under RLUIPA, the action of Lancaster County to impose the 35 ft setback requirement (rather than the original 20 ft setback) imposes a substantial burden on the religious exercise for the claimant and congregation of Faith Presbyterian Church. The substantial burden imposed by the implementation of this 35 ft setback is outlined further in this Variance Application and summarized below:

1. Faith is located on 6.5 acres. (Enclosure 4). There is an existing historical 100+ years historic church; behind the historic church and to the left, is a cemetery with graves dating back to the 1700s. The playground is located between the Worship Center built in 2017 and the historic church. The area between the cemetery and Six Mile Creek Road is reserved for columbariums because it is possible this area is in the Six Mile Creek drainage basin and thus in the Carolina Heelspliter Overlay District. The only buildable land is the vacant area next to the Worship Center and along Six Mile Creek Road. Being such a young church and with so little land available for development, when designing its campus, Faith

Church decided the area along Six Mile Creek Road should be preserved for future congregations (25-50 years from now) to meet their needs. The 35 ft setback severely restricts Faith's use or development of its land. (42 USC 2000cc-5(5).

- 2. Because Faith Church has generated all of its architectural drawings, maps and interior and exterior plans for the building addition following the same building line of the Worship Center built in 2015, the imposition of this 35 ft setback would create "significant delay, uncertainty, or expense in constructing or expanding our place of worship...," which, according to the Department of Justice explanation of this statute, constitutes a "substantial burden". www.justice.gov/media/956061/dl?inline question 9 (copied without footnotes):
 - "9. What kinds of burdens on religious exercise are "substantial burdens" under RLUIPA?
 - ... Courts look at the degree to which a zoning or landmarking restriction is likely to impair the ability of a person or group to engage in the religious exercise in question... Courts have looked at factors such as the size and resources of the burdened party, the actual religious needs of an individual or religious congregation, the level of current or imminent space constraints, whether alternative properties are reasonably available... Examples of actions that some courts have found to constitute a substantial burden on religious exercise under RLUIPA include:
 - . . . imposing a significantly great restriction on religious use of a property; and
 - creating significant delay, uncertainty, or expense in constructing or expanding a place of worship, religious school, or other religious facility. . . . "
- 3. Strict adherence to the 35 ft setback will eliminate approximately 30% of available space or 80-90 seats, two and possibly three classrooms created by moveable walls, creates a kitchen that does not function, and imposes a substantial burden on Faith's religious exercise due to the lack of space to fulfill its purpose as a worshipping community.
- 4. Any delays that push orders into next year will automatically cause a cost increase, which is a substantial burden on this church. Considerable capital has been invested in the construction of the Worship Center; the value of that expense will be significantly diminished if the whole building cannot be completed as originally designed and approved in 2015.
- 5. It is an extreme burden to have a sanctuary that seats 250 people, but a fellowship area that seats only 175; it is an extreme burden not to have enough classrooms to share our faith in Bible classes, Sunday School, small groups, Vacation Bible School, and religious conferences; it is an extreme burden to say "no" to groups (big and small) because of the lack of space and rooms. Strict adherence to the 35 ft setback will severely limit and restrict Faith's use and development of its property and the exercise of its religious beliefs.

Burden of Proof on Lancaster Count: According to the federal statute, since Faith Church has demonstrated that the implementation of the 35 ft setback lines substantially burdens its religious exercise, in order to do so, the county has the burden of proving (1) that increasing the setback line from 20 ft. to 35 ft. furthers a "compelling governmental interest" and (2) that increasing the setback line to 35 ft is the "least restrictive means of furthering that compelling governmental interest" (42 USC 2000cc, (a)(1),(A),(B). In Holt v. Hobbs, 135 S. Ct. 853, 860, 864 (2015), the US Supreme Court affirmed that the strict scrutiny analysis required by the statute is "exceptionally demanding" and that the protection it affords is "expansive." Holt also holds that if any "less restrictive means is available for the Government to achieve its goals, then the Government must use it." In the case at hand, Lancaster County has not met that burden of proof. They have not demonstrated how the 35 ft setback imposed on the project under consideration would further their "governmental interest" more than would a 20 ft setback line, nor has the county demonstrated that the 35 ft setback is the least restrictive means of furthering any "government interest".

Conclusion: The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) prohibits Lancaster County from implementing the 35 ft setback lines on the Faith Church property for purposes of this building expansion because it limits and restricts Faith's use and development of its land and places a substantial burden on Faith's religious exercise. Therefore, the claimant seeks a variance from that requirement, allowing Faith Church to use the original 20 ft setback. Because federal law supersedes county law, this variance should be granted.

Attached Responses to:

- 2. THE APPLICATION OF THE ORDINANCE WILL RESULT IN UNNECESSARY HARDSHIP, AND THE STANDARDS FOR A VARIANCE SET BY STATE LAW AND THE ORDINANCE AR MET BY THE FOLLOWING FACTS:
 - i. THAT THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THIS ORDINANCE;

To adhere to the strict 35 ft setback would pose an unnecessary hardship and burden on Faith Presbyterian Church and prevent the church from making full use of its property—a violation of RLUIPA. It will reduce usable space by 30% (eliminating 80-90 seats), eliminate two possibly three classrooms, and create a kitchen that does not function. (Enclosure 3)

The current structure was built as Phase I of a whole building. The location of the whole building was determined by two factors: keeping it in line with the historic church built in the 1830s while ensuring the entire building would meet the then required 20 ft setback. Ultimately, the location was determined by the end wall of Phase II which is 21' 6" from the property line as it was the closest to the 20 ft setback. The requested addition (Phase II) will complete the whole building.

The sanctuary and common areas were built in Phase I. The sanctuary seats 250 people; Phase II was designed to seat 250 people at tables. The common areas were designed to be used by both Phases – the most important ones being the kitchen and the bathrooms. Strict adherence to the 35 ft setback will connect the addition's back wall to the middle of the kitchen, effectively cutting it in half. To use the kitchen, all food and beverage will have to be carried through a door – the pass through is eliminated. Because of the proximity of the kitchen door, the hallway to the bathrooms and sanctuary, and the double doors to the outside, additional space will have to be used for food tables rather than seating or classrooms. The kitchen is a major problem and its location cannot be moved because of the bathrooms and connecting hallway.

Additionally, we estimate strict adherence to the 35 ft setback will eliminate approximately 30% of available space or 80-90 seats, as well as possibly two classrooms. It is unreasonable to allow the church to build a sanctuary seating 250 people but only allow it to build a fellowship area that seats 175. This is an unnecessary burden and a difficulty that can only be overcome by allowing the church to build Phase II at the original setback of 20 ft.

Phase II is designed as one large room with moveable walls to create classrooms. Its flexibility allows for as many as five classrooms; tables to seat 100 people and three classrooms; seating for 250 people and no classrooms; or a combination of seating and rooms depending on the need. Phase II is intended to provide a multi-purpose room that is available to the congregation and the community for classes, events, receptions, and meetings big and small. Access to a kitchen is integral to the functionality of the space. This restriction renders the kitchen inefficient, makes it very difficult to use, and creates an unnecessary hardship on the congregation and community who wish to use the space. The elimination of 30% of seating restricts the number of people who can attend an event or can sit comfortably at a table for a

reception. The elimination of classrooms reduces the number of meetings/groups that can meet at one time, i.e. more than one Sunday School class, three different age groups at Vacation Bible School, or multiple groups at a religious conference.

ii. THAT IF THE APPLICANT COMPLIES WITH THE PROVISIONS OF THE ORDINANCE, THE PROPERTY OWNER SEEKING THE VARIANCE CAN SECURE NO REASONABLE RETURN FROM, OR MAKE NO REASONABLE USE OF HIS PROPERTY;

If required to comply to the 35 ft setback, the church will be severely restricted in the use of its property to fulfill its purpose of being "a worshipping community who makes disciples by gathering in the name of God, gifting by the Holy Spirit, and going into the world to share the love of Jesus Christ." Phase II is needed to serve the current congregation and the community. A 35 ft setback will limit Faith's ability to serve; thus imposing a substantial burden on its religious exercise and restrict the use of its land – a violation of RLUIPA.

Gathering: Phase I built our worship space and common area, so we have a place to gather and worship. It is also a multi-purpose room that is used for fellowship events by moving chairs and setting up tables. Since opening in 2017, we have grown. End 2016 active members were 113; average attendance was 92. Year-to-date 2023 active members are 219; August average attendance was 149 and online views 81 (sometimes more than one is watching). Our current congregation is older and less able to move tables and chairs. We need maximum space in Phase II so that tables seating 100 people can remain up. Gathering through fellowship is a major tenant of our Christian faith.

Gifting: Gifting ministries prepare us for discipleship and Christian education is a basic Gifting ministry. Currently we are using every available space for education activities – most of which happen in the historic church which has been completely restored and is our Church Office. There is one large meeting area in the middle of the church office. It seats 15 comfortably. It is not enough-- we need at least three classrooms:

- a. Women's Bible study regularly has 25-30 women attending. We have tried meeting in the Sanctuary but it is too large and it is very hard to hear conversations. A larger room is needed.
- b. Vacation Bible School uses every inch of our property. Children are divided into three age groups—and it is challenging to keep the groups apart. We need individual rooms with easy access to morning snacks and afternoon lunch. The space to the south of the Church Office is used for slip n' slide water day. The playground and gaga pit are well used and are located safely between the buildings away from traffic. The 35 ft setback cuts through the playground which may have to be relocated to a less safe area. The playground has very little flexibility because of the way the cemetery juts out. (Enclosure 4)
- c. Adult Sunday School meets in the church office every Sunday. There is no room for a dedicated children's Sunday School and without additional space, we will continue to be unable to offer children's Sunday School. We need at least three classrooms available at all times. With the loss of 30% of our space, we may only be able to have two rooms.
- d. The choir rehearses in the Sanctuary every Sunday morning until about 15 minutes before service; sometimes the handbell choir does also. With three classrooms, the choirs would have the option of rehearsing separately. It is also possible the worship area would be available earlier.
- e. We have groups meeting throughout our campus and in private homes: in October at least 15 meetings in the Church Office; 8 in homes; two coffee groups with children meet every week in the nursery; and the choirs rehearse every week in the sanctuary. And these are just the meetings that are on the calendar! Additional meeting space is needed.

Going: It is our Going ministries that will be most affected by the setback restriction. We are serving our community now: with food distributions, as a polling location, previously a Covid

testing site, Bloodmobile, etc. But we know the need is great. Many groups and organizations have asked to use our facilities for such things as memorial services and receptions, dementia enrichment activities, Lancaster County civic events, health fairs, and indoor blood drives to name a few. In most cases we have had to say no because we don't have the space. This is why we want to build this addition and why it is called **The Ministry Center.** The 35 ft setback creates a kitchen and space that does not function efficiently. Organizations may look at the space and say "no, it just won't work."

This restriction renders the kitchen inefficient and reduces space by 30% which in turn reduces seating to 175 seats (the sanctuary seats 250) and eliminates two rooms and maybe three. Phase II will not meet the needs of the congregation and community and denies Faith the reasonable use of its property in the fulfillment of its purpose as a worshipping community—a violation of RLUIPA. If this variance is denied, we will have to put the project on pause, do a cost-benefit analysis, confer with our architect to decide what is the best path forward—and incur unnecessary expenses.

iii. THAT SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST WHICH ARE PECULIAR TO THE LAND, STRUCTURE OF BUILDING INVOLVED AND WHICH ARE NOT APPLICABLE TO OTHER LANDS, STRUCTURES OR BUILDINGS LOCATED IN THE SAME LAND DEVELOPMENT DISTRICT.

- a. Faith is located on 6.5 acres. (Enclosure 4). There is an existing historical 100+ years old church at the top of the hill, overlooking Highway 521.
- b. Behind the historical church and to the left, is a cemetery with graves dating back to the 1700s. The border of the cemetery extends to the Indian Land Fire Department, goes behind the Church Office and juts into the playground.
- c. The Worship Center (Phase I) was approved in 2015 and built in 2017. The playground is located between the Worship Center and the historic church—a protected area away from roads, parking, and traffic.
- d. The area between the cemetery and Six Mile Creek Road is reserved for columbariums. One has been constructed and another will probably start next year. A total of eight are planned. It is possible this area is in the Six Mile Creek drainage basin and thus in the Carolina Heelspliter Overlay District.
- e. The only buildable land is the vacant area next to the current structure built in 2017 and the vacant area along Six Mile Creek Road. Being such a young church and with so little land available for development, when designing its campus, Faith Church decided the area along Six Mile Creek Road should be preserved for future congregations (25-50 years from now) to meet their needs. The 35 ft setback severely restricts Faith's use and development of its land—a violation of RLUIPA.
- f. It is doubtful other properties zoned Institutional have a historical church and a cemetery, are located on a hill, and have a possible Heelspliter Overlay in the back of their property.

iv. THAT THE VARIANCE WILL NOT MATERIALLY DIMINISH OR IMPAIR ESTABLISHED PROPERTY VALUES WITHIN THE SURROUNDING AREA.

The variance will not diminish or impair established property values. On the same side of Highway 521, surrounding areas are zoned LNR (with setbacks of 20 ft); the only exception is the Indian Land Fire Department which is zoned INS. Properties on the opposite side of Highway 521 are zoned GB, NLN, and RB (Enclosure 5). If you compare the surrounding area as it looked in 2017 when we began construction on Phase I to how it looks now in 2023, you will see all properties are essentially unchanged (Enclosure 6).

V. THAT THE SPECIAL CONDITIONS AND CIRCUMSTANCES REFERENCED IN III ABOVE, RESULT FROM THE APPLICATION OF THIS ORDINANCE AND NOT FROM THE ACTIONS OF THE APPLICANT.

The special conditions referenced in iii above have not been changed by the applicant; rather Faith has strived to enhance, preserve, and protect the historical nature of the property. The historic church received a \$150,000 facelift and has been restored from floor to ceiling. It is a safe, energy efficient building, housing administrative offices, a large meeting room, and the church library. The cemetery has been given new life. Intrusive trees have been removed, head stones have been restored, graves have been mapped, and the area is mowed and treated regularly for weeds and ants. It is an active cemetery and funerals continue to occur.

vi. THAT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THIS ORDINANCE AND PRESERVES ITS SPIRIT.

The campus of Faith Presbyterian Church (Enclosure 4) was designed with our architect in 2014 and was approved by the County with the BZA decision dated December 11, 2015, the Building Permit was issued January 20, 2017, and the Certificate of Occupancy was issued August 15, 2017. We were unaware of the requirement to file an extension request every two years to complete the approved development plan. The campus design has not changed. The only thing that has changed is Faith's zoning classification and accompanying setback requirement from 20 ft to 35 ft. which seemed to go into effect when the current UDO was adopted November 28, 2016 – two months before the County issued our building permit. Neighboring residential areas will not be impacted by the approval of this variance application as the setback is on the North side of the building, along a row of trees, facing vacant property, and cannot be seen from Highway 521, nor Six Mile Creek Road. From the front, the addition will be seamless—same brick, same roof line, same windows. It will look like the whole building was built at the same time. We believe our campus design is in harmony with the surrounding area and preserves the intent and spirit of the ordinance.

vii. THAT THE VARIANCE IS THE MINIMUM NECESSARY TO AFFORD RELIEF.

Granting the variance is the only way to afford relief and not violate RLUIPA. Phase I (sanctuary, kitchen, bathrooms, center hall, parking lot) is already built. The historic church and cemetery cannot be moved. We have a sanctuary that seats 250 people; we need a fellowship space that seats the same. On a regular basis, we need three classrooms and tables seating 100 people. On those occasions that we need more seating, the movable walls will retract so the entire 250 chairs can be set up. Anything less is not workable and denies Faith the full use of its property and limits the exercise of its religious mission—a violation of RLUIPA.

viii. THAT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE HAVE BEEN ASSURED AND SUBSTANTIAL JUSTICE HAS BEEN DONE.

The public health, safety and general welfare will be assured and enhanced by approval of this variance. Faith will able to make full use of its property. There will be an equal number of seats in the sanctuary and the fellowship space; additional rooms will allow expansion of Christian education classes; the community will have access to a flexible, safe space to meet, learn, and fellowship, along with a kitchen, bathrooms, and parking. Our only desire is to build **The Ministry Center** in a size and manner that meets the needs of the community and the congregation. Justice will be served only if this variance is approved.

3. THE FOLLOWING DOCUMENTS ARE SUBMITTED IN SUPPORT OF THIS APPLICATION: (A PLOT PLAN MUST BE SUBMITTED)

Enclosure 1 The Religious Land Use and Institutionalized Persons Act of 2000.

Enclosure 2 Plot Plan

Enclosure 3 Phase II Floor Plan as Impacted by a 35 ft Setback

Enclosure 4 Faith Presbyterian Church Campus

Enclosure 5 Aerial Map of Surrounding Areas with Zoning

Enclosure 6 Comparison of Surrounding Areas – 2017 vs 2023

Religious Land Use And Institutionalized Persons Act Of 2000

42 U.S.C. § 2000cc Table of Contents

§ 2000cc. Protection of land use as religious exercise

§ 2000cc–1. Protection of religious exercise of institutionalized persons

§ 2000cc–2. Judicial relief

§ 2000cc-3. Rules of construction

§ 2000cc-4. Establishment Clause unaffected

§ 2000cc-5. Definitions

§ 2000cc. Protection of land use as religious exercise

(a) Substantial burdens

(1) General rule

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

- (A) is in furtherance of a compelling governmental interest; and
- (B) is the least restrictive means of furthering that compelling governmental interest.

(2) Scope of application

This subsection applies in any case in which—

- (A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;
- (B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or
- (C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) Discrimination and exclusion

(1) Equal terms

No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) Nondiscrimination

No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(3) Exclusions and limits

No government shall impose or implement a land use regulation that—

- (A) totally excludes religious assemblies from a jurisdiction; or
- (B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

§ 2000cc-1. Protection of religious exercise of institutionalized persons

(a) General rule

No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

(b) Scope of application

This section applies in any case in which—

- (1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or
- (2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

§ 2000cc-2. Judicial relief

(a) Cause of action

A person may assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) Burden of persuasion

If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2000cc of this title, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) Full faith and credit

Adjudication of a claim of a violation of section 2000cc of this title in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

- (d) Omitted
- (e) Prisoners

Nothing in this chapter shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(f) Authority of United States to enforce this chapter

The United States may bring an action for injunctive or declaratory relief to enforce compliance with this chapter. Nothing in this subsection shall be construed to deny, impair, or otherwise

affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

(g) Limitation

If the only jurisdictional basis for applying a provision of this chapter is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

§ 2000cc-3. Rules of construction

(a) Religious belief unaffected

Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

(b) Religious exercise not regulated

Nothing in this chapter shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) Claims to funding unaffected

Nothing in this chapter shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this chapter may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

- (d) Other authority to impose conditions on funding unaffected
 - Nothing in this chapter shall—
 - (1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or
 - (2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this chapter.
- (e) Governmental discretion in alleviating burdens on religious exercise

A government may avoid the preemptive force of any provision of this chapter by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) Effect on other law

With respect to a claim brought under this chapter, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any law other than this chapter.

(g) Broad construction

This chapter shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.

(h) No preemption or repeal

Nothing in this chapter shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this chapter.

(i) Severability

If any provision of this chapter or of an amendment made by this chapter, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this chapter, the amendments made by this chapter, and the application of the provision to any other person or circumstance shall not be affected.

§ 2000cc-4. Establishment Clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. In this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

§ 2000cc-5. Definitions

In this chapter:

(1) Claimant

The term "claimant" means a person raising a claim or defense under this chapter.

(2) Demonstrates

The term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

(3) Free Exercise Clause

The term "Free Exercise Clause" means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion.

(4) Government

The term "government"—

(A) means—

- (i) a State, county, municipality, or other governmental entity created under the authority of a State;
- (ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and
- (iii) any other person acting under color of State law; and
- (B) for the purposes of sections 2000cc–2 (b) and 2000cc–3 of this title, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.

(5) Land use regulation

The term "land use regulation" means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.

(6) Program or activity

The term "program or activity" means all of the operations of any entity as described in paragraph (1) or (2) of section 2000d–4a of this title.

(7) Religious exercise

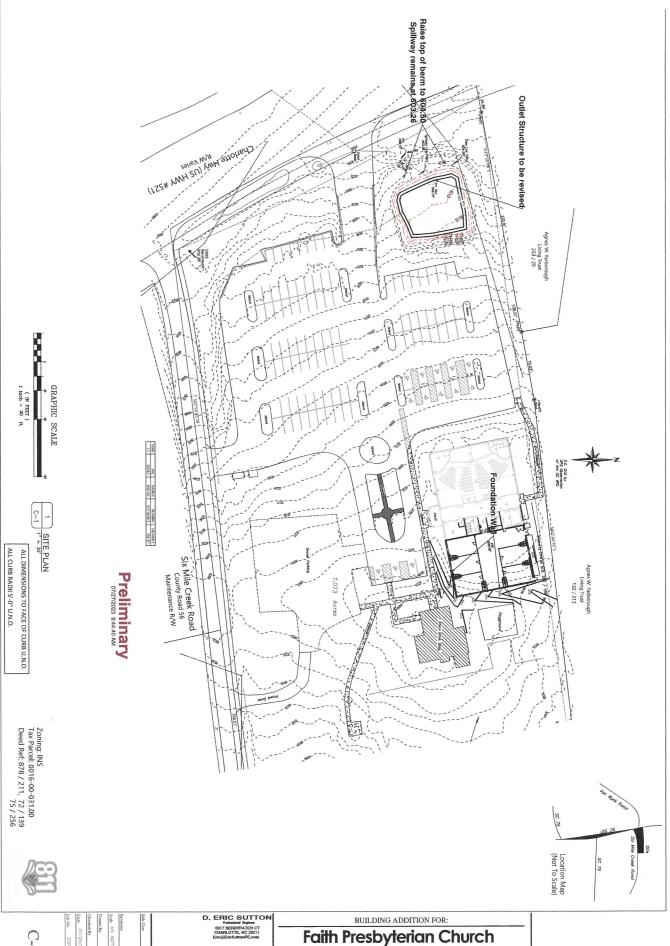
(A) In general

The term "religious exercise" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

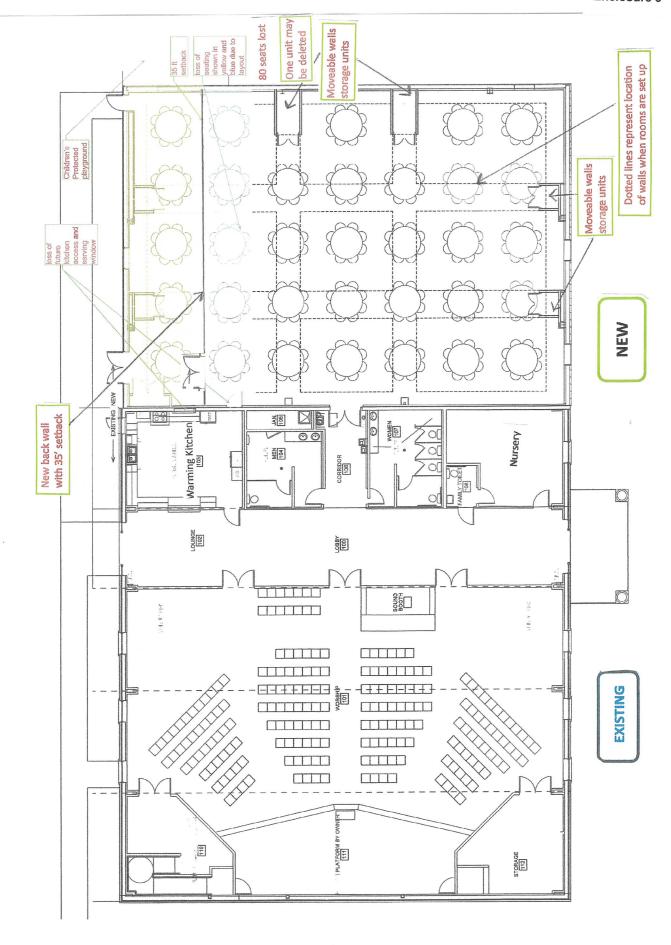
(B) Rule

The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.

https://www.justice.gov/crt/title-42-public-health-and-welfare
Updated August 6, 2015
Updated June 6, 2023



7520 CHARLOTTE HIGHWAY INDIAN LAND, SC 29707



iii. Supporting Document: Faith Presbyterian Church Campus 1.21.23

(Source: Lancaster County Online Assessors Data Base)

location of 35 ft setback Phase 2 extends Phase 1 toward the playground cemetery border behind Blue lines: approximate Red line: approximate historic church, toward 100+ years old historic Protected playground and gaga pit Indian Land Fire Dept church

iv. Supporting Document: Aerial map of surrounding areas with zoning (Source: Lancaster County Online Assessors Data Base)



iv. Supporting Document: Comparison of surrounding areas – 2017 vs 2023 (Source: Lancaster County Online Assessors Date Base)

2017



2023



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2017



2023



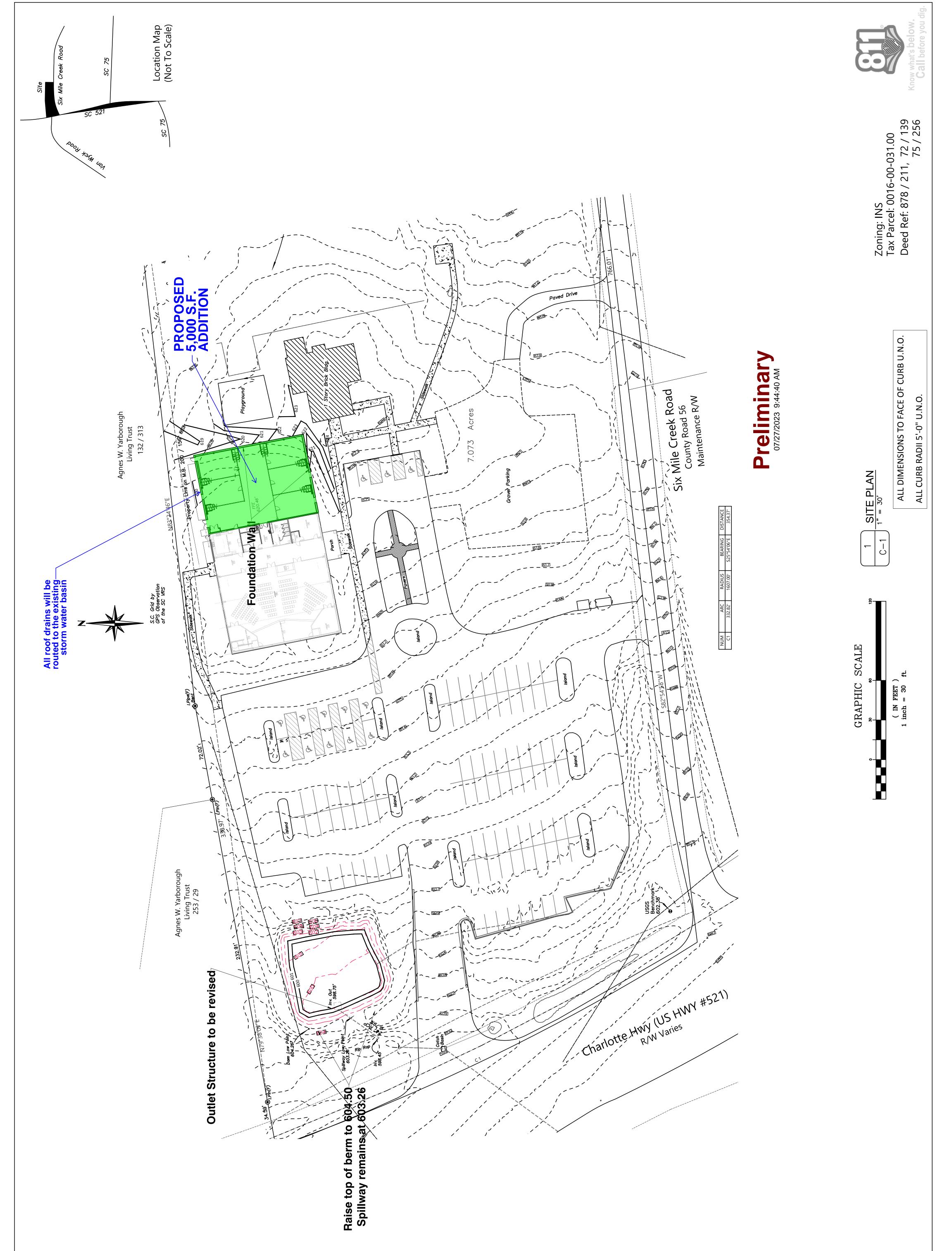
INDIAN LAND, SC 29707

7520 CHARLOTTE HIGHWAY

D. ERIC SUTTON
Professional Engineer
6617 BERRYPATCH CT
CHARLOTTE, NC 28211
Eric@EricSuttonPE.com

BUILDING ADDITION FOR:

Faith Presbyterian Church





Rev. Dr. David M. Bender, Pastor Dmbender33@aol.com

7520 Charlotte Hwy Indian Land, SC 29707 (803) 548-8810 www.faithpresusa.org

October 2, 2023

Lancaster County Administration Building
Planning Department
Attn: Allison Hardin, Development Services Director
Ashley Davis, Deputy Planning Director
101 N. Main Street
Lancaster, SC 29720

RE: Faith Presbyterian Church (USA) Tax Number: 0016-00-031.00

Dear Ms. Hardin and Ms. Davis,

Faith Presbyterian Church has submitted a Variance Application, Case #20231769, to the Lancaster County Board of Zoning Appeals (BZA) for a variance from the strict application of Section 2.4 District Development Standards of the UDO adopted 11.28.2016 which sets the INS setback requirement of 35 ft for side and rear. The UDO is a Lancaster County law and, according to the Supremacy Clause of the US Constitution, it is superseded by federal law, specifically The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) (Enclosure 1). Faith Presbyterian Church has reviewed the statute and believes it is applicable to its situation and that a 35 ft setback imposes a substantial burden on its religious exercise and severely limits and restricts Faith's use and development of its land.

- 1. **Basic Facts**—Faith Presbyterian Church (USA) is the owner of the property located at 7520 Charlotte Highway, Indian Land, Lancaster County, SC. On that property and in the buildings affixed thereto we practice our Christian faith through worship, Bible study and many ministries. In 2015, Lancaster County approved Faith's construction of an entire building based upon the 20 ft setback line requirement in effect at that time. The location of the whole building was determined by two factors: keeping it in line with the historic church built in the 1830s and ensuring the entire building would meet the then required 20 ft setback. Ultimately, the location was determined by the end wall of Phase II which is 21' 6" from the property line and was the closest to the 20 ft setback. For financial reasons, Faith constructed two-thirds of that building, Phase I only. The requested addition is Phase II and will complete the building.
- 2. Faith submitted plans to Lancaster County Planning Department for Phase II (as was approved in 2015), with the addition running along the same building line. Based on the approval in 2015 of plans for the entire building using the 20 ft setback requirement, Faith Church reasonably believed the county would approve the completion of that building following the same line with a 20 ft setback. However, a new UDO was adopted in 11.28.2016 which rezoned Faith Presbyterian Church to Institutional District and that district requires a 35 ft setback;

therefore, representatives of the Lancaster County Planning did not approve the plans because the building extension (which was part of the building plans approved in 2015) encroaches on the 35 ft setback requirement. Faith was not aware of the rezoning to Institutional nor the 35 ft setback.

- 3. **Religious Exercise:** The US Department of Justice cites several US Supreme Court Cases stating that exercise of religion "under RLUIPA includes construction or expansion of places of worship and other properties used for religious exercise" www.justice.gov/media/956061/dl?inline question 2 (copied here without footnotes):
 - "2. What does "religious exercise" include?

RLUIPA provides that "religious exercise" includes any exercise of religion, "whether or not compelled by, or central to, a system of religious belief." Thus, a county or municipality cannot avoid the force of RLUIPA by asserting that a particular religious activity is something that a religious group merely wants to do rather than something that it must do. For example, a town could not claim that Sunday school classes are not religious exercise because they are less central to a church's beliefs or less compulsory than worship services.

RLUIPA also specifies that "[t]he use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise . . ." This provision makes clear that religious exercise under RLUIPA includes construction or expansion of places of worship and other properties used for religious exercise."

- 4. **Substantial Burden on Faith Presbyterian Church:** Under RLUIPA, the action of Lancaster County to require the 35 ft setback (rather than the original 20 ft setback) imposes a substantial burden on the religious exercise for the claimant and congregation of Faith Presbyterian Church. The substantial burden imposed by the implementation of this 35 ft setback is detailed in the Variance Application and summarized below:
 - a. Faith is located on 6.5 acres. (Enclosure 2). There is an existing historical 100+ years historic church; behind the historic church and to the left, is a cemetery with graves dating back to the 1700s. The playground is located between the Worship Center built in 2017 and the historic church. The area between the cemetery and Six Mile Creek Road is reserved for columbariums because it is possible this area is in the Six Mile Creek drainage basin and thus in the Carolina Heelspliter Overlay District. The only buildable land is the vacant area next to the Worship Center and along Six Mile Creek Road. Being such a young church and with so little land available for development, when designing its campus, Faith Church decided the area along Six Mile Creek Road should be preserved for future congregations (25-50 years from now) to meet their needs. The 35 ft setback severely restricts Faith's use or development of its land. (42 USC 2000cc-5(5).
 - b. Surrounding areas on the same side on Hwy 521 are zoned LNR (with setbacks of 20 ft); the only exception is the Indian Land Fire Department which is zoned INS. Properties on the opposite side of Highway 521 are zoned GB, NLN, and RB (Enclosure 3). When you compare the surrounding area as it looked in 2017 when construction began on Phase I to how it looks now in 2023, you will see all properties are essentially unchanged (Enclosure 4).

- c. Because Faith Church has generated all of its architectural drawings, maps and interior and exterior plans for the building addition following the same building line of the Worship Center approved in 2015 and built in 2017, the imposition of this 35 ft setback would create "significant delay, uncertainty, or expense in constructing or expanding our place of worship...," which, according to the Department of Justice explanation of this statute, constitutes a "substantial burden". www.justice.gov/media/956061/dl?inline question 9 (copied without footnotes):
 - "9. What kinds of burdens on religious exercise are "substantial burdens" under RLUIPA?
 - ... Courts look at the degree to which a zoning or landmarking restriction is likely to impair the ability of a person or group to engage in the religious exercise in question... Courts have looked at factors such as the size and resources of the burdened party, the actual religious needs of an individual or religious congregation, the level of current or imminent space constraints, whether alternative properties are reasonably available, ... Examples of actions that some courts have found to constitute a substantial burden on religious exercise under RLUIPA include . . .
 - imposing a significantly great restriction on religious use of a property; and
 - creating significant delay, uncertainty, or expense in constructing or expanding a place of worship, religious school, or other religious facility. . . . "
- d. Strict adherence to the 35 ft setback will eliminate approximately 30% of available space or 80-90 seats, two and possibly three classrooms created by moveable walls, creates a kitchen that does not function, and imposes a substantial burden on Faith's religious exercise due to the lack of space to fulfill its purpose as a worshipping community (Enclosure 5).
- e. Any delays that push orders into next year will automatically cause a cost increase, which is a substantial burden on this church. Considerable capital has been invested in the construction of the Worship Center; the value of that expense will be significantly diminished if the whole building cannot be completed as originally designed and approved in 2015.
- f. It is an extreme burden to have a sanctuary that seats 250 people, but a fellowship area that seats only 175; it is an extreme burden not to have enough classrooms to share our faith in Bible classes, Sunday School, small groups, Vacation Bible School, and religious conferences; it is an extreme burden to say "no" to groups (big and small) because of the lack of space and rooms. Strict adherence to the 35 ft setback will severely limit and restrict Faith's use and development of its property and the exercise of its religious beliefs.
- 5. **Burden of Proof on Lancaster County:** According to the federal statute, since Faith Presbyterian Church has demonstrated that the implementation of the 35 ft setback lines substantially burdens its religious exercise, in order to do so, the county has the burden of proving (1) that increasing the setback line from 20 ft. to 35 ft. furthers a "compelling governmental interest" and (2) that increasing the setback line to 35 ft is the "least restrictive means of furthering that compelling governmental interest" (42 USC 2000cc, (a)(1),(A),(B). In Holt v. Hobbs, 135 S. Ct. 853, 860, 864 (2015), the US Supreme Court affirmed that the strict scrutiny analysis required by the statute is "exceptionally demanding" and that the protection it affords is "expansive." Holt also holds that if any "less restrictive means is available for the Government to achieve its goals,

Faith Presbyterian Church (USA) October 2, 2023 Page 4

then the Government must use it." In the case at hand, Lancaster County has not met that burden of proof. They have not demonstrated how the 35 ft setback imposed on the project under consideration would further their "governmental interest" more than would a 20 ft setback line, nor has the county demonstrated that the 35 ft setback is the least restrictive means of furthering any "government interest".

Faith Presbyterian Church asks the Planning Department to review The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). Faith believes this statute is applicable. Faith believes this 35 ft setback severely limits and restricts Faith's use and development of its land and places a substantial burden on Faith's religious exercise. Based on when we turned in our Variance Application, our case should be heard on November 14, 2023. Because RLUIPA is a federal law and federal law supersedes county law, this variance could be granted by the Planning Department without a BZA hearing. Therefore, Faith Presbyterian Church is asking the Planning Department, based on RLUIPA, to grant a variance from the INS 35 ft setback requirement and approve Faith Presbyterian Church's plot plan with a 20 ft. setback (Enclosure 6).

Sincerely,

Rev. Dr. David M. Bender, Pastor

Faith Presbyterian Church (USA)

Registered Owner

803-448-2779

Dick Bonner

Construction Director

704-953-8644

Janis A. Tacy

Agent of Owner

803-577-1032

Enclosure 1 The Religious Land Use and Institutionalized Persons Act of 2000.

Enclosure 2 Faith Presbyterian Church Campus

Enclosure 3 Aerial Map of Surrounding Areas with Zoning

Enclosure 4 Comparison of Surrounding Areas – 2017 vs 2023

Enclosure 5 Phase II Floor Plan as Impacted by a 35 ft Setback

Enclosure 6 Plot Plan

- c. Because Faith Church has generated all of its architectural drawings, maps and interior and exterior plans for the building addition following the same building line of the Worship Center approved in 2015 and built in 2017, the imposition of this 35 ft setback would create "significant delay, uncertainty, or expense in constructing or expanding our place of worship...," which, according to the Department of Justice explanation of this statute, constitutes a "substantial burden". www.justice.gov/media/956061/dl?inline question 9 (copied without footnotes):
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Religious Land Use And Institutionalized Persons Act Of 2000

42 U.S.C. § 2000cc Table of Contents

§ 2000cc. Protection of land use as religious exercise

§ 2000cc–1. Protection of religious exercise of institutionalized persons

§ 2000cc-2. Judicial relief

§ 2000cc-3. Rules of construction

§ 2000cc-4. Establishment Clause unaffected

§ 2000cc-5. Definitions

§ 2000cc. Protection of land use as religious exercise

(a) Substantial burdens

(1) General rule

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

- (A) is in furtherance of a compelling governmental interest; and
- (B) is the least restrictive means of furthering that compelling governmental interest.
- (2) Scope of application

This subsection applies in any case in which—

- (A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;
- (B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or
- (C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) Discrimination and exclusion

(1) Equal terms

No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) Nondiscrimination

No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(3) Exclusions and limits

No government shall impose or implement a land use regulation that—

- (A) totally excludes religious assemblies from a jurisdiction; or
- (B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

§ 2000cc-1. Protection of religious exercise of institutionalized persons

(a) General rule

No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

(b) Scope of application

This section applies in any case in which—

- (1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or
- (2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

§ 2000cc-2. Judicial relief

(a) Cause of action

A person may assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) Burden of persuasion

If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2000cc of this title, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) Full faith and credit

Adjudication of a claim of a violation of section 2000cc of this title in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(d) Omitted

(e) Prisoners

Nothing in this chapter shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(f) Authority of United States to enforce this chapter

The United States may bring an action for injunctive or declaratory relief to enforce compliance with this chapter. Nothing in this subsection shall be construed to deny, impair, or otherwise

affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

(g) Limitation

If the only jurisdictional basis for applying a provision of this chapter is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

§ 2000cc-3. Rules of construction

(a) Religious belief unaffected

Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

(b) Religious exercise not regulated

Nothing in this chapter shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) Claims to funding unaffected

Nothing in this chapter shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this chapter may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

- (d) Other authority to impose conditions on funding unaffected
 - Nothing in this chapter shall—
 - (1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or
 - (2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this chapter.
- (e) Governmental discretion in alleviating burdens on religious exercise

A government may avoid the preemptive force of any provision of this chapter by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) Effect on other law

With respect to a claim brought under this chapter, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any law other than this chapter.

(g) Broad construction

This chapter shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.

(h) No preemption or repeal

Nothing in this chapter shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this chapter.

(i) Severability

If any provision of this chapter or of an amendment made by this chapter, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this chapter, the amendments made by this chapter, and the application of the provision to any other person or circumstance shall not be affected.

§ 2000cc-4. Establishment Clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. In this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

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In this chapter:

(1) Claimant

The term "claimant" means a person raising a claim or defense under this chapter.

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The term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

(3) Free Exercise Clause

The term "Free Exercise Clause" means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion.

(4) Government

The term "government"—

(A) means—

- (i) a State, county, municipality, or other governmental entity created under the authority of a State;
- (ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and
- (iii) any other person acting under color of State law; and
- (B) for the purposes of sections 2000cc–2 (b) and 2000cc–3 of this title, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.

(5) Land use regulation

The term "land use regulation" means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.

(6) Program or activity

The term "program or activity" means all of the operations of any entity as described in paragraph (1) or (2) of section 2000d–4a of this title.

(7) Religious exercise

(A) In general

The term "religious exercise" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

(B) Rule

The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.

https://www.justice.gov/crt/title-42-public-health-and-welfare
Updated August 6, 2015
Updated June 6, 2023

Enclosure 2

iv. Supporting Document: Aerial map of surrounding areas with zoning (Source: Lancaster County Online Assessors Data Base)

Indian Land Fire Dept INS LDR Faith Presbyterian Church INS SIX MILE CREEK RD 0016-00-029.00 LDR CHARLOTTE HAY CHARLOT LDR CHARLOTTE HWY HARLOTTE HWY 0016-00-043.00 GB 0016-00-008.00 0016-00-009.00 NLN 0016-00-044.01 00.010-00-0100 RB RB

vi. Supporting Document: Combartson of Supporting at ease 2057 vs 2023.

Isnael Tableson Common Online Assessors Date Reset.

iv. Supporting Document: Comparison of surrounding areas – 2017 vs 2023 (Source: Lancaster County Online Assessors Date Base)

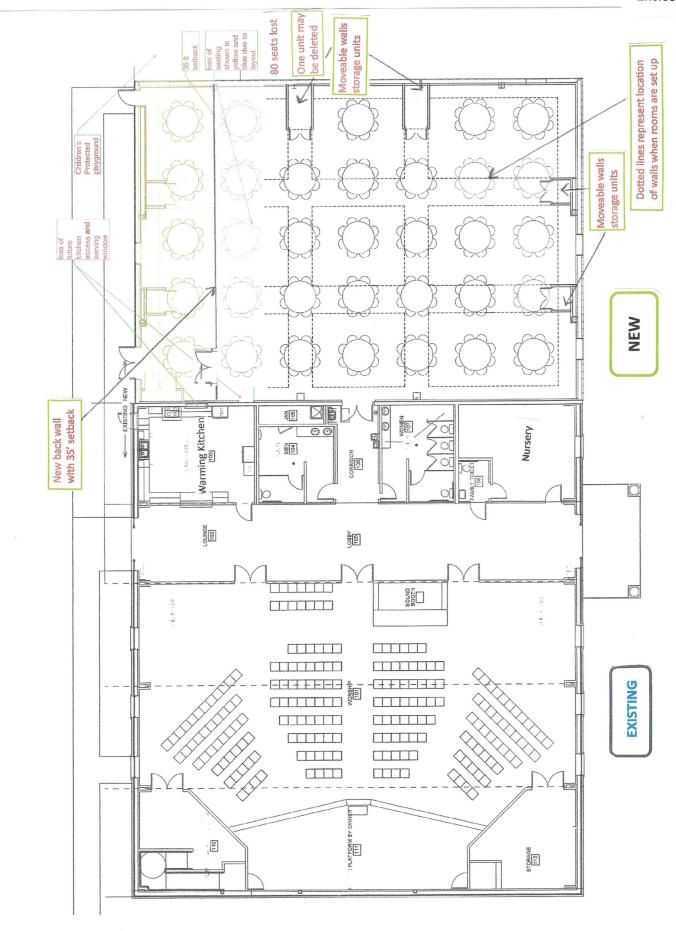
2017



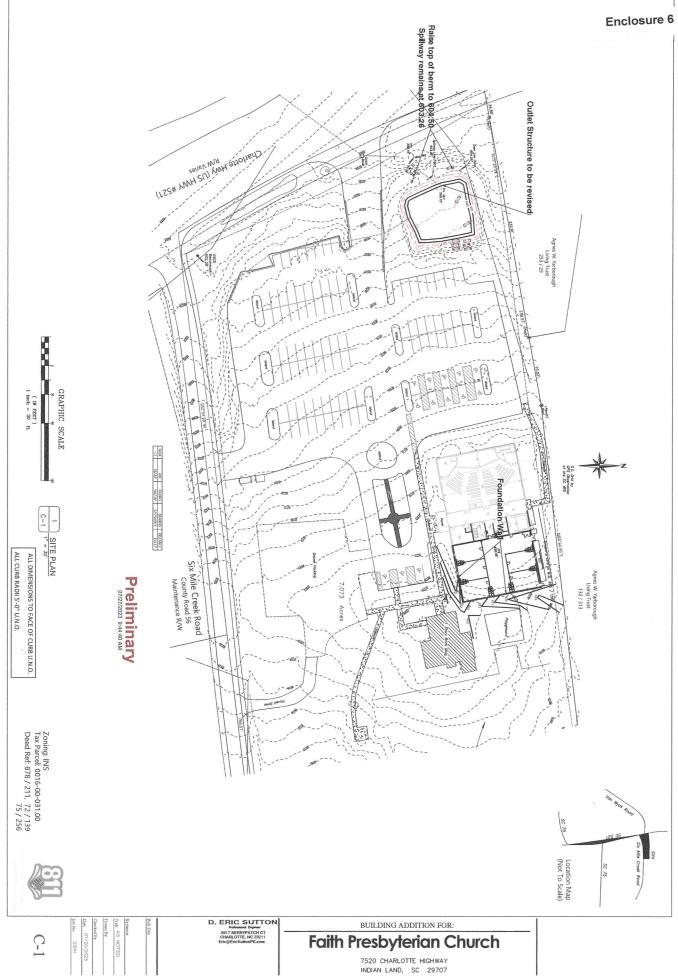
2023



Enclosure 5



Faith Presbytedon Church





August 24, 2023

Eric Sutton
D. Eric Sutton, PE
6617 Berrypatch Court
Charlotte, NC 28211

Lancaster County
Planning Department
P. O. Box 1809
Lancaster, SC 29721
803.285.6005
planning@lancastercountysc.net

Project Number	20231432
,	202314

Project Name Faith Presbyterian Church

Location 7520 Charlotte Hwy

 Stage
 Sketch Plan

 Parcel(s)
 0016-00-031.00

Status Not Approved

Dear: Eric Sutton

We have completed our review of the plan identified above. The comments listed on the attached report must be addressed in your next plan stage.

Sincerely,

Sincerely,

Chanda Kirkland, Development Service Coordinator

Lancaster County Government

101 N Main St

Lancaster, SC 29720 P: (803) 416-9390

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Plan Review Comments

Building - Darin Robinson - (803) 416-9399 drobinson@lancastersc.net

Conditional

Review Comments:

- Accessible route required from accessible arrival point and parking to all elements on site and those required accessible building entrances (Maximum 1:20 running slope of walking surface of accessible route/ ramp runs shall not exceed 1:12 slope)
- All Accessibility requirements per 2021 IBC code and 2017 ICC ANSI 117.1 Standard for Accessibility
- Required fire protection sprinkler system for occupant load exceeding 300, as may relate to any upgrade of Utility water service for fire lines
- Minimum fire separation distance for exterior walls of 10 ft. between existing building structure and new Assembly structure building addition, for construction of Type II-B or V-B, before required 1 hour fire resistance rating of such exterior walls
- *** Further more detailed review upon next stage Civil submittal

County Engineer - Stephen Blackwelder - 8035482406 sblackwelder@lancastersc.net

Approved

Review Comments:

General Comments:

- 1. Most of our comments and questions will be at the Construction Document review of the civil plans. Below are some general observations from the sketch plan submitted.
- 2. BMP pond(s) will need to be design to for all newly proposed impervious area.
- 3. For the proposed addition, is there adequate parking space? There are no new spaces being added during this project.
- 4. Existing stormwater flows on the surface from existing building to the BMP pond. There is an erosion issue in the swale at the end of the pavement. This needs to be addressed.
- a. You might consider a drop inlet and piping this water into the pond. This is not a requirement, just a suggestion to help with future maintenance issues.
- 5. Our office did not exist when the sanctuary building was built. We will need to see the SWPPP and hydraulic calculations for that portion as well as for the addition to assure that pond is sized appropriately. From the note on the sheet provided, it would appear modification to the existing pond is needed.

Fire Marshal - John Magette - 8032838888 jmagette@lancastersc.net

Approved

Review Comments:

- 1. This is a sketch plan review only. A more detailed review will be completed at civil and building submission.
- 2. All sides of the building must be within 200 feet of a fire apparatus access road.
- 3. Show FDC and hydrant on civil submission.

Planning - Matthew Blaszyk - 803-285-6005 mblaszyk@lancastersc.net

Not Approved

Review Comments:

Most of Planning's in depth comments and questions will be provided at the Civil Plan Stage. Below are higher level comments from the sketch plan submitted:

Label on the plat that the parcel is located in the Highway Corridor Overlay District.

Label the proposed use of the addition on the sketch plan.

Depict the entirety of TM Number 0016-00-031.02 on the plan and label the adjacent property owners name, TM Number, and

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zoning for 0016-00-031.02, 0016-00-029.00, and 0016-00-030.00 on the sketch plan.

Depict the setbacks for TM Number 0016-00-031.02 on the plat. Section 2.4 of the Lancaster County Unified Development Ordinance requires a 35ft side setback for the Institutional Zoning District .The proposed addition must meet these setback requirements.

UDO Section 7.1.5 A requires a Type A buffer between the LDR and INS properties. More details for a Type A buffer can be found in section 7.1.5 B of the UDO. Please depict this buffer on your resubmital.

Label the open space calculations on for the parcel. A minimum of 10 percent of the site must be devoted to usable open space which may include greens, unaltered natural features (UDO 4.3.2.L.1).

A full landscaping and photometric lighting plan are required at the civil plan stage more information about the requirements of this plan can be found in sections 4.3.2.i, 4.3.2.J, 7.1 and 7.3 of the UDO.

In HCOD. The parcel is located in the Highway Corridor Overlay District. This district has additional architectural requirements that apply to building materials used. "Buildings, signs, walls, and other structures within the Highway Corridor Overlay District shall be constructed using quality finish materials (i.e., brick, wood, masonry, stone, concrete siding, or stucco) Metal is permissible if in combination with other building materials for use as trim, windows, doors, roofing, other architectural elements, and signs". (UDO 4.3.2.F.4.A) The North and East sides of the addition need to be altered to meet this requirement.

The Highway Corridor Overlay District outlines the requires as followed. "Building Vernacular: Variation in architecture and materials is required. There shall be no large expanse of blank exterior walls along the corridor. Variation in exterior walls may be achieved through the use of windows, projections, recesses, columns, horizontal and vertical offsets, awnings, canopies, or other architectural features." (UDO 4.3.2.F.3) The North and East sides of the building need to be altered to meet this requirement.

All Civic Uses are required to have 1 bicycle parking space per 5,000 SF of gross floor area, 3 minimum. Please include these spaces on your resubmittal. (UDO 7.2.6. A)

E911 Address - Sandra Burton - (803) 416-9325 sburton@lanc911.com

Approved

Review Comments:

7520 Charlotte Hwy, Indian Land SC 29707 is a valid address for Faith Presbyterian Church.

LC Water & Sewer District - Erin Evans - 8032856919 eevans@lcwasd.org

Not Approved

Review Comments:

LCWSD is a separate entity from the County. We have our own submittal requirements. Please check our website, www.lcwasd.org, under the Developers tab for our policies and procedures.

The developer must submit 2 sets of hard copy water and sewer plans directly to LCWSD, adhering to the LCWSD Water & Wastewater Extension Policy.

Please provide any flow increases for the addition on the Projected Flows Table (Appendix 6).

SCDOT - David Gamble - (803) 385-4280 GambleDD@scdot.org

No Review Needed

Review Comments:

This phase of the project does not directly access a state maintained road, no review is required.

Impact Fee - Chanda Kirkland - 803-416-9390 ckirkland@lancastersc.net

Approved

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Review Comments:

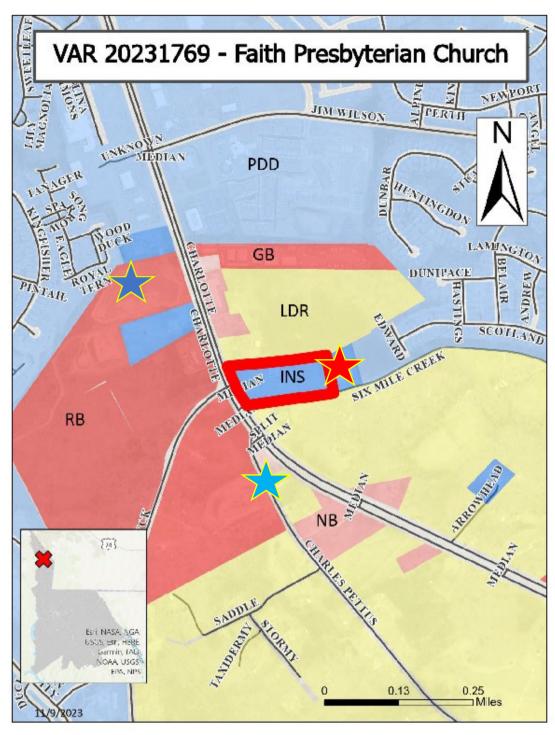
This project is located in the Indian Land Fire District, the following impact fees apply:

The Lancaster County Development Impact fee for Institutional use is \$1,330.00 per 1,000 square feet.

Fees will be collected at the time of building permit issuance. Should you wish to arrange prepayment that can be coordinated after you receive approval. This is only an estimate and not an invoice for payment.

Development Impact fees increase July 1. If you have any questions or would like further information on the Development Impact fee you can contact me.

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Subject Property

Proposal:

Variance Request Sec 2.4 District Development Standards: Setbacks



Greenway Square Retirement Community



IL Fire Department



Southern Paws