



Heads up!
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August 20, 2012

Dear City Council members:

Here's some need-to-know information for the week:

Update on the Har HaShem Synagogue camping program

Staff received a complaint earlier this month related to homeless camping at the Har Hashem Synagogue (3901 Pinion). A summary of the complaint and staff's initial regulatory analysis can be found below.

In response to testimony heard at the Aug. 7, 2012 council meeting and council's subsequent discussion regarding camping at houses of worship, staff followed-up with Har HaShem regarding the operational characteristics and the management of its homeless camping program. Based on the attached letter from Har HaShem, staff finds that its homeless camping program meets the city's definition for accessory use (below) and will be appropriately managed.

"Accessory use" means a use located on the same lot as the principal building, structure, or use to which it is related and that:

- (1) Is subordinate to and customarily found with the principal use of the land; and*
- (2) Is operated and maintained for the benefit or convenience of the occupants, employees, and customers of or visitors to the premises with the principal use.*

Staff is following up with the complainant to facilitate communication between the parties and to help mitigate any potential impacts.

Regards,
Jane

Background: Complaint Summary – Initial Regulatory Analysis:

On July 10, 2012, Zoning Enforcement staff received a walk-in complaint. The complainant stated that the synagogue at 3901 Pinion was allowing approximately 15-20 individuals to camp on the property. The

complainant reported seeing at least one bus, tents, and people in the camping area during the day. The complainant is aggrieved by the fact that outdoor tent camping is occurring in a residential zone district across the street from his house.

On July 10, 2012, Zoning Enforcement staff visited the property and spoke with Executive Director Gary Fifer who stated that they have invited approximately 16 people to sleep outside on the property between the hours of 8 p.m.-7 a.m. A porta-let has been provided on-site and the individuals are not allowed to put up tents. Campers are directed to sleep between two buildings. The porta-let and the area where the campers sleep is not visible from the street.

Zoning Enforcement staff offered to follow up with Mr. Fifer after an analysis of our regulations was performed.

The city's Zoning Administrator found that the principal use of the congregation's property is a "religious assembly." Uses accessory to a principal use are allowed only to the extent that they are subordinate to and customarily found with the principal use of the land and are operated and maintained for the benefit or convenience of the occupants, employees and customers of or visitors to the premises with the principal use. The city's Zoning Administrator determined that while it is customary for houses of worship in Boulder to provide services and overnight indoor accommodations to the disadvantaged (and the city has allowed this accessory use historically), outdoor camping is not is customarily found at houses of worship in Boulder and is, therefore, not an allowed accessory use.

The city's Zoning Administrator further found that the property is zoned Residential Estate (RE) and that, in RE zoning districts, campgrounds are not allowed as a principal use. "Campground" is defined as "an area on which accommodations for temporary occupancy, such as tents or recreation vehicles, are located or may be placed for less than one month, and which is primarily used for recreational purposes and retains an open air or natural character."

On July 17, 2012, Zoning Enforcement staff mailed (and e-mailed) a land use violation warning letter to the synagogue with information about the violation and a compliance date of July 27, 2012. Shortly after receiving the letter, Mr. Fifer called Zoning Enforcement staff and confirmed receipt of the letter and stated that he while he did not agree, he would bring the property into compliance. Staff offered to meet with him to discuss the interpretation.



Congregation Har HaShem הר השם

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August 15, 2012

Charles Ferro
Land Use Review Manager
City of Boulder, Colorado
P&DS
PO Box 791
Boulder, CO 80306

Request for Acknowledgement and Approval of Accessory Use of Synagogue Property at
3901 Pinion Drive, Boulder, Colorado 80303

Dear Mr. Ferro:

Hella Pannewig, of the Boulder City Attorney's Office, directed us to share this matter with you.

Boulder Jewish Fellowship, Inc. d/b/a Congregation Har HaShem (hereafter "Har HaShem") is a synagogue affiliated with the Union for Reform Judaism, the largest branch of Judaism in North America. Har HaShem owns and occupies property at 3950 Baseline Road and 3901 Pinon Drive, Boulder, Colorado 80303.

This property is classified as a "Religious Assembly," an allowed use by right along with associated accessory uses under the City of Boulder Zoning Regulations in the Residential Estate zone where the property is located.

One of the basic and fundamental religious beliefs and obligations of Judaism is "to bring the homeless into your house." (Isaiah 58:3-7). To carry out this religious obligation, Har HaShem uses its buildings and grounds to plan and execute a multi-faceted program for providing assistance to the poor, the hungry and the homeless. One part of that program consists of inviting a selected and limited number of homeless people to sleep overnight on a designated area of the grounds behind the building known as 3901 Pinon Drive. Har HaShem believes that this program is an "accessory use" as a matter of right under the applicable zoning regulations.

However, on July 17, 2012, Har HaShem was instructed to stop this practice by Karl Eckinger of the City of Boulder Planning and Development Services. Har HaShem complied.

In order to keep this program manageable, healthful, and safe, Har HaShem proposes the following terms under which it plans to operate its by-right accessory use. We note that these terms were the basis of operation of Har HaShem's homeless sleeping program prior to July 17th.

1. On any night that Har HaShem's homeless sleeping area is open, Har HaShem shall:

- a. invite a maximum of approximately 25 selected homeless people to sleep there overnight.



Since 1982

Congregation Har HaShem is Boulder's inclusive Reform Jewish congregation in covenant with God, dedicated to t'filah (prayer), limud (learning) and k'hilah (building community). We rejoice in the celebration of Jewish ideals and traditions and are committed to the ongoing work of tikkum olam (repairing the world).

- b. provide and maintain adequate portable restroom facilities to accommodate the population sleeping in that area.
 - c. open the area only from 8:00 p.m. until 8:00 a.m. the next morning.
 - d. designate one or more of the guests as supervisor of the evening's guests. The supervisor shall report to Har HaShem's designated leader of this program.
2. The sleeping area shall be located in the rear of Har HaShem's building located at 3901 Pinon Drive, Boulder, Colorado 80303, marked in red on the drawing which accompanies this letter. People present in the sleeping area should not be visible from adjacent residential property or from nearby public roads or sidewalks.
 3. This homeless sleeping area may be open and available at Har HaShem's discretion from April 15 until October 31 of any year beginning with the remainder of the year 2012.
 4. Provided it does not violate any express prohibition in the Boulder Zoning Code, Har HaShem's homeless invitees may elect to park their vehicles, including but not limited to buses and vans, in Har HaShem's parking lot and to sleep in their vehicle overnight.
 5. Individual tents shall not be permitted to be erected in Har HaShem's sleeping area, provided however, that Har HaShem, in anticipation of inclement weather, may erect and maintain a communal tent within the sleeping area for the protection of its homeless guests from that inclement weather.
 6. No fires or any cooking of food shall be permitted in the Har HaShem homeless sleeping area.
 7. No loud music or other loud noise shall be permitted in the Har HaShem homeless sleeping area.

Har HaShem would appreciate your reviewing this request as soon as possible. Since time is of the essence for the homeless guests affected by the City's cease and desist order dated July 17, 2012, we would also appreciate your promptly providing Har HaShem with the City of Boulder's written acknowledgement and approval of Har HaShem's homeless sleeping area as an accessory use including the terms specified in this letter.

Respectfully submitted,

Gary Fifer
Executive Director

cc: Hella Pannewig