

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, March 5, 2013 at 6:30 p.m.
At the Village Center

Mayor Doug Tisdale called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Doug Tisdale, Councilors Mark Griffin, Russell Stewart, Alex Brown, Klasina VanderWerf, and Katy Brown were present on silent roll call. Also present were City Manager John Patterson, City Attorney Linda Michow, City Engineer Troy Carmann, Deputy City Manager and Public Works Director Jay Goldie, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Barlow, Parks, Trails & Recreation Administrator Ryan Berninzoni, Street Superintendent Ralph Mason, and City Clerk Laura Smith.

Councilor Scott Roswell arrived at 6:45 p.m.

Absent: none

PLEDGE OF ALLEGIANCE

Charlie Maher, Connor Jankowski, Will Henry, Isaac Bendell, and Matthew Peters of the Cherry Hills Elementary School 4th Grade Destination Imagination Team led the Council in the pledge of allegiance.

OPENING REMARKS

Mayor Tisdale made opening remarks regarding the public hearings and quasi-judicial proceedings. He explained that because these agenda items concerned land use applications affecting private property rights, the public hearings were quasi-judicial in nature. This meant the City Council served in a role similar to a judge. The City Council was required to conduct a fair and impartial hearing and to make a decision that was based only upon testimony and exhibits properly admitted into evidence and made a part of the record. As the Council was obligated to consider only evidence and testimony entered into the record during tonight's public hearing, he cautioned members of the public, the applicant and members of City Council to refrain from talking about these applications during any breaks or recesses.

POLICE DEPARTMENT AWARDS

Chief Tovrea explained that she had created an Excellence Award to recognize the Police Department and Public Works Department who had served the citizens of Cherry Hills Village and several metro area agencies with distinction and pride. They had continued a legacy which includes an uncompromising pledge to the highest standards of integrity and professionalism, outstanding leadership, and an unfailing loyalty and commitment to serving others. From May through November of 2012 both groups had responded to community needs, as a partner to many, to bring to a safe and successful conclusion several major events. These included the United States Amateur Gold Tournament at the Cherry Hills Country Club, a prolonged Special Weapons and Tactics operation on Sedgwick Drive, a natural gas hazardous materials incident at Cherry Hills Elementary, the large funeral of a retired officer of the Denver Fire Department and three major "in line of duty death" funerals for officers from Englewood, Denver and the Lakewood Police Departments.

Chief Tovrea presented awards to: Deputy City Manager and Public Works Director Goldie, Animal Control Officer John Newhouse, Police Technician Nathalie Klasens, Police Clerk Sarah Henderson, Code Enforcement Officer Chuck Friend, Officer Zach Lyons, Officer Cory Sack, Officer Kevin Nagy, Officer Nick Steele, Officer Heidi Berg, Officer Paul McCarthy, Officer Casey Firko, Detective Jerry Stinnett, Officer Greg Gillett, Officer Jen Callahan, Officer Dave Lynes, Senior Officer John Bayman, Sergeant John DeFelice, Sergeant Curt Wood, Senior Sergeant John Reynolds, and Commander Pat Weathers. Chief Tovrea indicated that Commander Weathers was an integral part of the Police Department. She thanked Commander Weathers' wife Jo Ann for assisting with the awards ceremony.

Mayor Tisdale thanked the Police Department and Public Works Department for their service.

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin to approve the following items on the Consent Agenda:

- a. Approval of Minutes – February 19, 2013
- b. Agreement for Professional Services with ICON Engineering

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

Council Bill 4, Series 2013; Amending Article VII of the Municipal Code Concerning Personal Use and Regulation of Marijuana and Marijuana Accessories (second and final reading)

Mayor Tisdale indicated that Council Bill 4, Series 2013 would be pulled and re-considered by Council after City Attorney Michow, Chief Tovrea and Council had the opportunity to review the Governor's Taskforce Report on marijuana due out on March 11th.

Public Hearing – Request by Denver First Church of the Nazarene to Allow and Expansion; an Off-Street Parking Reduction; and Variances to Minimum Yard Requirements, Floor Area Ratio Requirements, and Fence Height Requirements

Director Zuccaro indicated that he would address the three related Denver First Church (the Church) issues separately, although they did overlap and he would mention the other items during his presentation on the expanded use application. He explained that the Church was located north of the Covington subdivision, south of Hampden Avenue and west of Colorado Boulevard. He noted that the Wellshire Golf Course owned by the City of Denver was across Hampden Avenue.

He explained that the Church proposed an approximately 37,630 square-foot addition to the existing facility that included a gymnasium, bookstore, youth gathering space,

basement storage area, restrooms and an expanded lobby area. The main area of the expansion was proposed on the northwest side of the existing facility setback 90' from the front property line and 118.5' from the west property line. The building height of the addition was proposed to be 34.95 feet above the natural grade (31' and 10" above the finished floor elevation). Additional proposed site improvements included:

- A utility building and playground south of the existing administrative wing;
- Hardscape and a new lawn area and lighting around the north and south entries to the new lobby addition;
- A new parking lot on the Monroe Street Lots;
- A landscape buffer and eight-foot, five-inch tall wall at the south end of the new parking lot on the Monroe Street Lots;
- Entry pillars for Covington Subdivision located in the Jefferson Avenue right of way;
- New parking and restriping of a large portion of the existing parking lot on the main Church property, including new landscaping within the parking area; and
- Relocation of an existing driveway from Jefferson Avenue approximately 275 feet to the west.

He explained that the Church was requesting three variances. The first consisted of variances from the minimum setback requirements. The required setbacks are 200 feet from all property boundaries. The setbacks of the proposed additions were 90 feet from the north property line, 118.5 feet from the west property line and 144 feet from the south property line for the utility building. The existing building was constructed in 1972 after height and setback variances were granted by the City in 1971. The second variance request was a variance from the maximum Floor Area Ratio (FAR) requirement. The maximum allowed FAR is 0.23. The sum total of the existing and proposed floor area of the facility is 175,019 square feet (as calculated with high volume spaces counted at 200% of the floor area as required by Code). The area of the church property provided by the Church is 436,380 square feet. The resulting requested FAR is 0.40. When including the lots west of Monroe Street proposed to be used for parking, the total site area is 563,488 square feet. Thus, the FAR of the entire of the project site is 0.31. The third variance was a variance from the maximum fence height requirement of 6 feet. The proposal was to allow an eight-foot, five-inch tall masonry fence on the south side of the parking lot west of Monroe Street to buffer the parking from the Covington Subdivision. The wall was designed to match the existing masonry wall north of Jefferson Avenue constructed with the original development of the subdivision. A variance was approved by the City in 1998 to allow the extended height of the original subdivision wall.

Additionally, the Church proposed placing two subdivision entry pillars for the Covington Subdivision to match the material of the existing and proposed subdivision walls. The pillars are proposed at 8 feet in height and would be located in City right of way. Pillars located in the right of way may only be allowed with approval of an encroachment license by the City Council. Director Zuccaro indicated that staff did not have any concerns with the placement of the pillars as long as they are a minimum of two feet back from any trail or street and outside of the clear sight distance of the intersection.

Furthermore, the Church requested a parking reduction. Director Zuccaro explained that the total number of required parking spaces is determined by the cumulative use of the building based on floor area or number of fixed seats. A total of 1,352 parking spaces would be required for the existing and proposed spaces. The Church currently has 645 parking spaces and proposed that 967 total developed parking spaces be provided on the main church property and adjacent property west of Monroe Street. This would be a reduction of 28.5% from the required number, which would be within the allowed 40% reduction that the City may grant if it is demonstrated that the parking needs of the use

will be adequately served. The facility's most intensive use is the Auditorium. Based on the City's parking requirements, a minimum of one parking space must be provided for each 3 fixed seats within an auditorium. Based on the current seating in the auditorium of 2,864 seats, a minimum of 955 parking spaces are required, which would be achieved by the Church's proposed 967 total developed parking spaces in the main church property and adjacent property west of Monroe Street.

Director Zuccaro explained that Exhibit B of the proposed Development Agreement was intended to provide restrictions on the use of facilities to ensure adequate parking was provided and included a process to demonstrate adequate parking in instances when major events are planned that may exceed a demand for 950 parking spaces. Use of the facility's auditorium and gymnasium was limited to church activities only with the exception that the gymnasium may be rented up to 12 times per year and the auditorium rented up to six times per year to outside organizations or third parties for non-commercial uses. Use of the facilities to run any type of school or daycare operations was also prohibited. Exhibit B also defined Major and Minor Events. A Minor Event was any event requiring 450 or more parking spaces or 350 or more spaces if the event concludes during evening rush hour and would require traffic management. A Major Event was any event requiring more than 950 parking spaces and would require prior approval from the City based on proof of adequate off-street parking for the event. Exhibit B also required implementation of a parking management plan and maintenance of an event calendar so that the City and residents would be aware of planned events.

Director Zuccaro indicated that the Church had submitted a drainage addendum to the Covington at Cherry Hills Village Final Drainage Report in support of the application. The proposed site improvements would result in a net increase of approximately 5,658 square feet of impervious area to the main Church property and an additional 81,971 square feet of new paved area resulting from the development of the parking lot west of Monroe Street. The proposal included capture of most of the additional runoff from the main church property in an existing detention vault located underneath the southwest portion of the parking lot. The existing drainage vault was installed in 2000 as part of the Covington Subdivision and ultimately drains into the Wellshire Golf Course north of Hampden Avenue. The Church has indicated that the vault has capacity for an additional 40,005 square feet of impervious area. Additional runoff from the new impervious area on the main Church property was proposed to be un-detained and eventually flow into the Wellshire Golf Course. The Church's engineer has verbal concurrence from the Wellshire Golf Course superintendent to allow the additional un-detained runoff, but is awaiting written confirmation from the Wellshire Manager of Golf Operations. Director Zuccaro indicated that this was an outstanding item in the Church's application and that staff's recommendation was conditional upon receipt of this approval letter. The Church proposes to pave the new parking lot on the Monroe Street Lots with porous asphalt designed to allow absorption of stormwater into the pavement. Due to the expansiveness of the soils, the stormwater would then need to be drained after being filtered through the porous asphalt and sub-layers, through a pipe under Monroe, pass thru the existing drainage vault, and ultimately discharge to Wellshire Golf Course.

Director Zuccaro noted that the Church had provided a traffic impact report addressing operations of the surrounding roadway network. The report stated that the new facilities were intended to be an amenity to the existing congregation and were not intended to provide capacity for additional membership, thus the report does not recommend any public traffic improvements related to the proposed development.

Director Zuccaro indicated that the proposed Development Agreement required parking lot lighting to be turned off no later than 11:00 p.m. unless an exception is granted and the lighting in the new parking area west of Monroe Street to be turned off when the lot

was not in use. Approval of the rezoning for the lots west of Monroe Street was conditional on the Church obtaining approval of a lot consolidation plat within one year following approval of the agreement, with an option for a six-month extension. Approval of the Expanded Use Permit was conditional on the Church obtaining a building permit within one year following approval of the agreement, with an option for a six-month extension. Procedures for revocation of the permit were outlined for instances where the owner did not comply with any of the conditions of approval, violated any of the provisions in paragraphs 1 through 3 of Exhibit B, used the property in any materially different way from that represented in the application, or used the property in a way that threatened the public health, safety and welfare. Any revocation proceedings would be conducted by the City Council at a public hearing.

Director Zuccaro noted that the Planning & Zoning Commission (P&Z) had reviewed the expanded use permit application at several meetings with several public hearings and had approved the application 5 to 1 with three conditions, two of which had been met. The remaining condition was the final drainage report, which the City Engineer does not recommend approving without approval from the City of Denver and Wellshire Golf Course of the un-detained runoff from the proposed new parking lot.

Director Zuccaro added that notice of both public hearings before City Council had been published, mailed and posted to meet code requirements and that staff had received two letters in opposition to the application which were included in Council packets. He noted that a member of the Covington subdivision had expressed support for the application at the January 22, 2013 P&Z meeting.

Director Zuccaro stated that staff recommended approval of the application including all variance requests conditional on receipt of written approval from the City of Denver and Wellshire Golf Course.

Mayor Tisdale indicated that in discussion with City Attorney Michow and Director Zuccaro they had decided that procedurally Council would have the staff presentation, public hearing and discussion for Item 8b first, then for 8c and finally for 8d. He noted that Council was welcome to discuss issues related to the other items if they come up during the discussion of the expanded use permit.

Mayor Pro Tem Stewart asked why the five lots west of Monroe were rezoned to R-3A.

Director Zuccaro explained that those lots were originally platted as part of the Covington subdivision, which was established in 1997 when that area was rezoned from R-1 to R-3A. The Church purchased the lots later that year.

Mayor Pro Tem Stewart asked where the un-detained runoff would exit onto the Wellshire Golf Course in relation to the High Line Canal.

Director Zuccaro replied that it would be east of the High Line Canal.

Mayor Tisdale noted that it was near the 17th green.

Councilor K. Brown noted that there was a pond in that area.

City Engineer Carmann confirmed that the discharge would exit near the 17th green into a water feature.

Mayor Tisdale clarified that the main Church property was currently and had been zoned R-1.

Councilor A. Brown asked why the parking lot lighting requirements were different for the main lot versus the west lot.

Director Zuccaro replied that the lights in the main lot would be required to be off by 11p.m. as that was a zoning standard for all parking lot lights. He added that the main parking lot was in use all the time, whereas the west lot would be used very infrequently.

Councilor A. Brown asked if any discussion of vacating Monroe in relation to this proposal had occurred since it may help to address both the FAR and parking space number issues.

Director Zuccaro replied that there had been no discussion of vacating Monroe by P&Z and no serious discussion or analysis by staff. He noted that Monroe provided access to the Covington neighborhood and possibly the other churches in the area.

Councilor A. Brown noted that if Monroe was vacated and the Church had a single lot zoned R-1 any future change in use would require a subdivision.

Director Zuccaro confirmed that was correct.

Mayor Pro Tem Stewart asked if the lighting for the expansion would be required to comply with the new lighting ordinance.

Director Zuccaro replied that the lighting for the building and entry way would, but that the dark sky lighting ordinance did not regulate parking lot lighting. The parking lot lighting would fall under the old ordinance which was based on foot candles instead of lumens.

Councilor VanderWerf asked if the Village Master Plan Future Land Use/Development Map had been created based on public input or based on recommendation from the consultant hired by the City during the Master Plan process.

Director Zuccaro replied that the consultant provided several land use scenarios or concepts that were presented to the public for input. Then the citizen committee and the P&Z reviewed the input and formed the current Master Plan, which was recommended to and adopted by the City Council.

Councilor VanderWerf asked if there were many instances on the Master Plan map where the map recommended a different zone district than the current district.

Director Zuccaro replied there were not and that the Monroe Street lots under discussion tonight was one of the very few instances, and possibly the only instance, where the Master Plan identifies a land use inconsistent with current zoning.

Councilor VanderWerf indicated that it seemed that the proposed zoning change was based on the fact that the Monroe Street properties were identified in the Master Plan map.

Councilor Roswell asked how frequently the Church was planning on using the west lot.

Director Zuccaro replied that he believed the plan was to use the west lot infrequently, but noted that there was nothing in the development agreement that restricted use of the west lot and that if the Church chose to it could use the west lot seven days a week.

Councilor Roswell asked if the entrance to the west lot would be blocked when not in use.

Director Zuccaro suggested that question could be better addressed by the Church representatives during the public hearing.

Councilor K. Brown asked how the new parking spaces would be distributed to bring the total number to the proposed number of spaces.

Director Zuccaro replied that the west lot would have approximately 250 spaces and the remainder of the new parking spaces would be in the main lot due to re-striping.

Councilor K. Brown asked about the possibility of events occurring in both the auditorium and the gymnasium that would create a requirement for more than the 955 required by staff's calculations.

Director Zuccaro explained that P&Z had originally discussed prohibiting concurrent events in the auditorium and the gymnasium, but decided that it would be difficult for staff to determine when this prohibition was being violated. Therefore P&Z decided to determine parking requirements based on the use of the largest and most frequently used space, the auditorium, which staff can more easily visually verify by seeing the number of parking spaces used.

Councilor K. Brown asked how drainage was usually detained if underground vaults were no longer allowed.

Director Zuccaro replied that above-ground detention ponds were most frequently used.

Councilor Griffin congratulated Director Zuccaro on his in-depth memo. He indicated that the issue was well-vetted by P&Z and that he had a proclivity to rely on their good judgment. He noted the letters from neighbors included in the packet and encouraged any neighbors present to address Council on their issues. He asked if the Church had been used in the past for any City events or if there were any plans to use it in the future.

Director Zuccaro replied that he was not aware of any past events but that the Church's parking was planned to be used for the upcoming golf tournament at Cherry Hills Country Club.

Councilor Griffin asked for more information on the detention vault.

City Engineer Carmann explained that the vault was approximately 200 feet long and 16 feet across with an 8 foot radius. He noted that the system was designed to handle a significant amount of stormwater and could process drainage from an additional acre of asphalt before it would be full. He indicated that staff's recommendation was that far less drainage would be added to the vault than what it could hold.

Councilor Griffin indicated that in his experience there were two types of vaults, those that leaked and those that were going to leak. He asked who would be responsible for maintenance and repairs and what assurances the City had that those responsible would be able to cover all costs if the vault were to fail.

City Engineer Carmann replied that currently the vault was the Covington subdivision's responsibility, but if the Church contributed to the vault a new operation and management plan would have to be formed to reflect the shared responsibility. In the event of a failure or substandard operation and maintenance, those parties would be

liable for the costs of damage and repair. If those parties were not financially solvent the issue would become a legal one with possible civil damages.

Councilor Griffin encouraged the Council to be proactive rather than reactive to possible failure of the vault.

Mayor Pro Tem Stewart asked how the drainage water escaped the vault.

City Engineer Carmann explained that the vault is a gravity flow system and operates similarly to a drainage pond with a graduated outlet structure.

Mayor Tisdale added that the water drained under Hampden Avenue onto the Wellshire Golf Course.

Councilor A. Brown expressed concern that the development agreement did not have any mandatory requirements for traffic management, but rather suggested ideas and strategies.

Director Zuccaro explained that the intent was to require a traffic management plan for any minor event but to maintain flexibility because of the wide range of possible scenarios.

City Engineer Carmann added that the Church and the Police Department had a very good system of traffic management that they had developed over the years. He noted that there were many variables that were difficult to quantify.

Mayor Tisdale suggested that the applicant could further address Councilor A. Brown's question.

Councilor Roswell asked how the drainage facility was defined.

City Engineer Carmann replied that the boundary was defined by the vault pipe features. He noted that the stormwater draining from the west lot would pass through the vault but not be detained by the vault.

Councilor Griffin asked about the magnesium chloride from roads draining into the detention facilities and being an environmental hazard.

City Engineer Carmann explained that parking lot drainage was a grandfathered exception to the water quality system.

Mayor Pro Tem Stewart asked how the Religious Land Use and Institutionalized Persons Act (RLUIPA) applied to this application.

City Attorney Michow replied that RLUIPA could have an impact if the Council's decision was determined to potentially affect the Church's ability to exercise freedom of religion. She explained that this could occur in one of three ways: creating a substantial burden, treating the Church on unequal terms to other churches or similar uses, and discrimination. She indicated that a claim for discrimination was unlikely to be an issue with this case because the Church was already existing and the City was not considering closing it. She noted that the 10th Circuit Court had not given much guidance on this issue, but in a case between Boulder County and Rocky Mountain Church where the County had denied the Church's request for an expansion the Court had ruled in favor of the Church because of unequal treatment. She concluded that a risk existed that the City's denial or conditional approval of the Denver First Church's

application could be interpreted under RLUIPA to affect the Church's ability to exercise freedom of religion.

Mayor Tisdale noted that the same question was raised by P&Z and that basically the Church had proceeded on the basis that they be judged using the same standards as every other applicant, and P&Z was advised by Deputy City Attorney Foster to proceed in that manner and by a vote of 4 to 1 they recommended approval of the application.

Mayor Tisdale opened the Public Hearing at 8:00 p.m. He indicated that all information and material received in the Council packet was incorporated into the public hearing as part of the material that the Councilors have before them for consideration including various reports, correspondence, and minutes of past meetings, as well as staff's presentation tonight. He directed Council to rely on all this information as part of the evidence when considering their decision.

Doug Spuler, principal at The Beck Group and the Church's architect, explained that the Church was an essential part of the community fabric, and had provided its services to the community for more than 40 years. He indicated that the Church must expand to continue to provide a relevant and tangible benefit to the community. He noted that the proposed expansion was a relatively modest and was intended to serve the existing congregation and would not result in any new vehicle trips. He added that Church traffic was less than 1% of the traffic at primary intersections at peak times. He explained that the Church proposed to significantly increase the landscaped buffer on the southern edge of their property, add a fellowship lawn and park to the center of the property, a pocket park buffering the southern edge of the west parking lot, two monument entry features to the Covington subdivision intended to mitigate traffic flow, and a serpentine wall matching that on the Covington side. The main parking lot would have 702 parking spaces with the proposed additional spaces, and the west lot would have 265 spaces. The west lot would be paved and discretely lit, with additional burming to the north. The addition to the building was north and west of the current structure, tucked within the existing Church footprint. He noted that the new gymnasium would replace the current breezeway, and that public plazas would be added outside the front door on the north side of the structure and on the south side as well to increase public safety. He explained that the design for the expansion was in line with current campus architecture.

Mr. Chris Fasching, the Church's traffic consultant, addressed Councilor A. Brown's question about possible vacation of Monroe and indicated that the Church did not discuss the possibility, and while it might be helpful to have one large lot he would be concerned with access to the Covington neighborhood and parking for the Highline Canal trail. He addressed Councilor A. Brown's concern with the traffic management plan and explained that it was not meant to be a legal document. He noted that he spent a Sunday morning at the Church with a police officer who had been working with the Church on traffic management for a long time. He indicated that it was an ongoing work in progress and that the Church had not wanted to limit the effectiveness of the traffic management, but rather defer to the Police Department.

Mayor Tisdale indicated that Exhibit B to the development agreement stated that the Church "shall" implement and comply with a parking and traffic management plan.

Councilor A. Brown suggested that the development agreement be amended to give the City Manager authorization to require additional traffic management.

Mayor Tisdale suggested that another applicant representative could further address Councilor A. Brown's concern.

Councilor Roswell asked if the west lot parking would be restricted or available to the public at all times.

Mr. Fasching replied that the western lot would be used infrequently by the Church and would defer to another representative to further address the issue.

Councilor VanderWerf asked if the additional buffer reduced the trail and asphalt sidewalk that currently paralleled Jefferson.

Mr. Fasching indicated the trail would remain.

Mr. Spuler addressed Councilor A. Brown's concern with the traffic management requirement and explained that the Church interpreted the development agreement to require the Church to provide substantial traffic management plans per Mr. Fasching's documents when the specified thresholds are met.

Councilor A. Brown indicated that he did not mind the discretion that was built into the development agreement, but that he believed it was unacceptable if the City was unable to require effective traffic management if it was not occurring. He explained that he did not want to mandate particular aspects of a plan but believed the language should be stricter.

Mayor Tisdale noted that page 12 of the development agreement stated "The City may require that the Plan be updated from time to time to respond to new information or new issues, as identified by the City or [the Church]." He asked the applicant if it was their understanding that the Church was bound by the agreement that the City may require the Church to do more based upon what the City identifies as an issue.

Mr. Spuler replied that it was.

Mr. Curtis Clay, chair of the Church Expansion Committee, explained that the Church rarely used all of the parking on their main lot on Sunday mornings, and usually had 100 or more spaces left open. He noted that the Church had a relationship with their neighboring churches to use their parking lots for large events. He indicated that the addition of parking spaces in the western lot was proposed to deal with the City's concerns regarding parking spaces and would be rarely used. He noted that the Church was not prepared to make a formal commitment to lock off the western lot when it was not in use by the Church.

Councilor K. Brown asked about parking for the users of the High Line Canal.

Mr. Clay replied that the Church had signs posted in the southwest part of its property, where a trail connected the property to the High Line Canal, allowing parking to access the High Line Canal except on Sunday mornings.

Mayor Tisdale noted that Covington residents would likely rather that High Line Canal users park in the Church's west lot rather than on the street.

Mr. Clay indicated the Church would be willing to have a dialogue about parking for High Line Canal users in the future.

Councilor VanderWerf asked about the programming for the proposed gymnasium.

Mr. Clay explained that it would likely be used in the evenings for Church sport leagues. He noted that it would be open to other Village events. He stated that it would not be used for overflow from the sanctuary and was not intended for a more than 500 people.

Councilor VanderWerf asked if the Church would expect parents to drop off children for events or stay to watch.

Mr. Clay replied that it would depend on the age of the children and that typically parents of school-aged children stay while the Church can provide adult supervision for smaller children.

Councilor VanderWerf asked if the Church expected use of the gymnasium to be primarily organized games or pick-up games.

Mr. Clay replied that most use would be organized but that the Church would occasionally have open court sessions when staff was available to manage and supervise.

Councilor VanderWerf asked about community youth old enough to drive themselves.

Mr. Clay replied that the Church would be open to that possibility.

Councilor K. Brown asked if the playground would be open to community use.

Mr. Clay replied that while the new playground would not be fenced, use would be limited to when Church staff was able to provide supervision.

Mayor Tisdale indicated that the detention vault was effectively a large storm sewer, and was called a vault because in the case of a 100 year storm event it would prevent instantaneous discharge. Therefore the risk of failure would be during a 100 year storm event.

Mr. Clay replied that was correct and the drainage would run from the southeast to the northwest of the property.

Councilor Griffin asked about the maintenance and operation agreement for the vault.

Mr. Spuler replied that the Church representatives present were not fully prepared to answer that question.

Mayor Tisdale suggested that the applicant could address both the issue of permission to drain stormwater onto the Wellshire Golf Course and the issue of a maintenance and operations agreement for the detention vault at a continued public hearing at the next meeting.

Mr. Spuler indicated he appreciated the opportunity to return with further information. He clarified that the trail referred to by Councilor VanderWerf would remain intact and would be enhanced by the landscape buffer the Church was proposing to install.

Councilor VanderWerf asked if the trail might be widened.

Mr. Spuler replied that widening the trail had not been contemplated. He added that the proposed wall would not be directly adjacent to the trail.

Councilor Griffin asked about the proposed wall.

Mr. Spuler explained that it was designed by the same architect who had designed the wall on the Covington side.

Mayor Tisdale noted that the issues of a letter from the appropriate party allowing discharge onto the Wellshire and an operations and management agreement for the vault were reserved.

Hearing no further public comments, the Public Hearing was closed at 8:42 p.m.

Councilor K. Brown noted that she could not find reference in the January 22, 2013 P&Z minutes to a member of Covington expressing support for the application as indicated by staff.

Councilor VanderWerf noted that she appreciated the Church's work with the Covington neighbors and HOA and the accommodations the Church had made. She also appreciated the greenscaping that was being added and hoped it would be realized. She indicated that she had a general complaint not specific to the Church's application. She stated that it was a catch 22 to consider variances that would create non-conformance and that the fairness argument was a slippery slope.

Mayor Tisdale indicated that Councilor VanderWerf's point was well-taken but in the case of the Church it seemed the requested variances fit within the same context as the variances granted in 1971. He stated that the public hearing on this issue would be continued to the next meeting.

Mayor Pro Tem Stewart moved, seconded by Councilor A. Brown to continue the public hearing on Item 8b until the next regularly scheduled City Council meeting.

The motion carried unanimously.

Public Hearing – Council Bill 5, Series 2013; Rezoning Lots 1 Through 5, Block 1, Highline Meadows in Cherry Hills, From R-3A, Variable Lot Residential District to R-1, 2 ½-Acre Residential District and Amending the Zoning Map (second reading)

Director Zuccaro indicated that there had been no changes to Council Bill 5, Series 2013 since first reading. He explained that the Municipal Code provided four possible rezoning justifications and required applicants to meet one of those. He noted that the Church's application was based on conformance with the Master Plan and that the property is suitable for the proposed use as church parking. He stated that staff agreed with the Church's justifications and recommended approval conditional on consolidation of the five lots into one lot.

Councilor Roswell questioned the Master Plan Future Land Use/Development Map as a justification for rezoning.

Mayor Pro Tem Stewart indicated that aside from the Master Plan, the rezoning request could be justified because the property was suitable for the proposed use.

Mayor Tisdale noted that the rezoning would reverse the lots back to R-1 which they were prior to the establishment of the Covington subdivision. He added that the rezoning approval could be revoked if the Church did not meet the condition of consolidating the lots within a year, with a possible six month extension.

Mayor Tisdale opened the Public Hearing at 8:57 p.m.

Mr. Clay explained that the properties had originally been zoned R-1 and were rezoned to R-3A in 1997 with the creation of the Covington subdivision. He noted that R-3A was the only zone district that prohibited churches. The Church bought the five lots with the knowledge that the zoning prohibited churches. He noted that these five properties were

never integrated into the Covington development as far as infrastructure and while that fact did not define the issue it was one consideration.

Mayor Tisdale noted that all information, reports, documents, and presentations formed a part of the record as well as the prior public hearing in order to avoid the necessity of repeating of information or testimony.

Councilor VanderWerf asked who would be responsible for the care and maintenance of the permeable surface of the west parking lot.

Mr. Clay replied that it would be the Church's responsibility to comply with all the manufacturers requirements. He noted that it would be a significant expense to the Church but that they were prepared to comply.

Councilor VanderWerf asked if the pores of the permeable surface would collect dirt.

Mr. Matt Dixon, the Church's civil engineer, replied that there was a danger of the pores being clogged but that proper maintenance would prevent that from occurring.

Councilor Griffin asked how this surface compared to regular parking surfaces.

Mr. Dixon replied that it would look the same from the street, and would appear slightly more course at close view.

Mayor Tisdale asked if this was comparable to the product used in California called "grass-crete".

Mr. Dixon replied that it was a similar product.

Mayor Pro Tem Stewart asked if it would have to be resurfaced eventually.

Mr. Dixon replied that it could not be resurfaced, but that if sections needed to be repaired they could be replaced with traditional impervious asphalt.

Mayor Tisdale noted that it was not recommended to replace more than 10% of the surface with impervious asphalt in order to maintain the pervious nature of the surface.

Mayor Pro Tem Stewart asked how long it was expected to last.

Mr. Dixon replied that surfaces he knew of had lasted since the early 1980s. He added that holes could be drilled to re-open clogged pores.

Councilor Griffin asked about the depth of the asphalt.

Mr. Dixon replied that it was three or four inches thick, underneath it was a few inches of a gravel filter layer, and below that was 36 inches of large rock with 40% voids.

Councilor Griffin asked if there was any risk of the surface sinking.

Mr. Dixon replied that it was very structural and was ideal for an overflow parking lot as opposed to daily use.

Hearing no other comments, Mayor Tisdale closed the Public Hearing at 9:07 "sine die".

Mayor Tisdale noted that the Master Plan was a guiding document and not binding, but that the proposed zoning change was justified by the Master Plan, as well as by the

proposed use. He reminded Council that if the Church did not consolidate the lots within a year, with an optional six month extension, the rezoning would be revoked.

Director Zuccaro added that the City would initiate the rezoning process if consolidation did not occur in the specified timeframe.

Councilor A. Brown noted that while Items 8b, 8c and 8d were separate actions, they were all part of a common plan and application. He stated that the need for the Church to return with more information on the first item affected the other two, and suggested that the Council ought to continue Item 8c until the next meeting as well.

Mayor Pro Tem Stewart moved, seconded by Councilor A. Brown to move second reading of Item 8c until the next regularly scheduled City Council meeting.

The motion carried unanimously.

Revocable Encroachment License to Install and Maintain a Subdivision Entry Monument in City-Owned Right of Way for Covington Subdivision in Association with the Denver First Church of the Nazarene Expanded Use Permit Request

Director Zuccaro explained that the Church proposed to install subdivision entry monuments for Covington Subdivision in the East Jefferson Avenue right of way. The City required that structures in the right of way be set back at least two feet from the edge of the trail or street so there is a reduced chance of those structures being damaged by snow plowing or maintenance operations and to provide adequate “shy distance” for those using the trail or street. The City Engineer also recommends that a 25-foot clear sight triangle be maintained at the intersection to ensure safety. The proposed monuments meet these requirements. Staff’s recommended approval of the monuments is conditional on approval of the Expanded Use Permit application. The revocable encroachment license allows the City to revoke the license and have the licensee remove the structure if necessary to protect the public life, safety or welfare.

Councilor Griffin moved, seconded by Councilor A. Brown to continue Item 8d until the next regularly scheduled City Council meeting.

The motion carried unanimously.

Mayor Tisdale commended Director Zuccaro and P&Z for all their hard work on these issues.

NEW BUSINESS

None

REPORTS

Mayor’s Report

Mayor Tisdale reported that he attended the Colorado Municipal League (CML) Legislative Workshop addressing issues of transportation; the CML Policy Committee meeting addressing pending legislation including House Bill 10-60; the DRCOG Board retreat; the PTCO meeting at Cherry Hills Elementary School where he gave a State of the City report; the Englewood Business Summit; and the Metro Mayor’s lunch meeting where the discussion focused on marijuana and gun control. He noted that he would be absent from the April 16th meeting. He indicated that the City had received nine video

entries for the High Line Canal Video Competition. He reported that the City's second annual Tree Program had been announced 10 days ago and already half of the 65 available trees were reserved despite staff missing the deadline to include the program in the Village Crier.

Councilor K. Brown had no report.

Councilor Griffin reported that the City of Englewood was planning a controversial redevelopment project on the east side of Santa Fe from Oxford to Hampden, and that several Cherry Hills Village residents owned property and businesses in that area.

Mayor Pro Tem Stewart noted he would be absent from the next meeting.

Councilor Roswell had no report.

Councilor VanderWerf had no report.

Councilor A. Brown had no report.

Members of City Council

Parks, Trails and Recreation Commission (PTRC) Chair Bill Lucas reported that the first meeting of the Quincy Farm Visioning Committee (QFVC) on February 13th had gone very well. He noted that proposals for a facilitator were due by March 18th and that the selection was planned by April 1st. He requested that the deadlines for the QFVC reports to Council be extended from those established in Resolution 19, Series 2012 due to the QFVC's late start, hiring a facilitator in April, and the complexity of the undertaking. He proposed that the QFVC's progress report be presented by May 21st and the final report be presented by December 1st.

Mayor Tisdale indicated those extensions were acceptable.

Chair Lucas thanked the Council for the PTRC's newest members, Roger Eber and Colleen Dougherty. He noted that the PTRC would be meeting next Thursday.

Councilor K. Brown asked if it would be productive for the PTRC to examine trail access from parking areas.

Mayor Tisdale indicated that this would be appropriate only if it was a generic discussion about overall policy throughout the City, and not specific to any one property or area. He noted that this discussion could be related to the PTRC's continued review and discussion of their parks and trails inventory.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

City Manager Patterson indicated staff would delay the Community Development Annual Report until the next meeting.

City Attorney

City Attorney Michow had no report.

ADJOURNMENT

Mayor Tisdale noted that because the quasi-judicial matters on the agenda had been continued Council should refrain from commenting on these matters until the next Council meeting.

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin that Council proceed into Executive Session pursuant to CRS 24-6-402(4)(a) and (e) to discuss matters related to the acquisition of real property and to develop strategy for negotiations and to instruct negotiators relating to such real property and immediately upon completion of that discussion to stand adjourned.

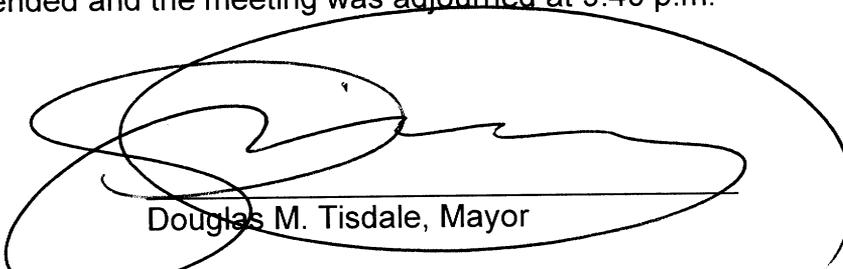
The following votes were recorded:

Katy Brown	yes
Mark Griffin	yes
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes

Vote on the Executive Session: 6 ayes. 0 nays. The motion carried.

The meeting ended at 9:35 p.m.

The executive session ended and the meeting was adjourned at 9:40 p.m.



Douglas M. Tisdale, Mayor



Laura Smith, City Clerk