

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, March 2, 2021 at 6:30 p.m.
Electronic Meeting

Mayor Russell Stewart called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Russell Stewart, Mayor Pro Tem Katy Brown, Councilors Randy Weil, Afshin Safavi, Al Blum, Mike Gallagher, and Dan Sheldon were present on roll call. Also present were City Manager Chris Cramer, Deputy City Manager and Public Works Director Jay Goldie, City Attorney Kathie Guckenberger, Police Chief Michelle Tovrea, Finance Director Jessica Sager, Senior Planner Paul Workman, Parks and Recreation Coordinator Emily Black and City Clerk Laura Gillespie.

Absent: none

AUDIENCE PARTICIPATION PERIOD

None

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

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

- a. Approval of Minutes – February 16, 2021
- b. Letter of Amendment to the 2020 Chip Seal Contract with Vance Brothers, Inc.
- c. Modification of Premises Liquor License Application from Cherry Hills Country Club

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

Public Hearing – Denver First Church of the Nazarene

City Manager Cramer introduced the three applications from Denver First Church of the Nazarene (DFCN) for a site amendment, rezoning, and preliminary plat. He noted the applicant had submitted all necessary affidavits stating the public hearing notice requirements had been met; public comments received before Council packets were sent out were included in the Council packet; and one comment letter received after Council packets had been sent out had been emailed to City Council. He described the subject property at the southwest corner of Hampden Avenue and Monroe Street. He provided background of the site including ownership, previous zoning designations, and development. He explained the site plan amendment application was to remove the requirement to provide 264 parking spaces on the subject property; the rezoning application was to rezone the subject property from R-1 to R-4; and the preliminary plat application was to create four residential lots on the subject property. He indicated each

RECORD OF PROCEEDINGS

application had its own criteria outlined in the Municipal Code that the Planning and Zoning Commission (P&Z) used to make recommendations to City Council and which Council was required to use to make its determinations. He noted timing of any improvements was not a function of these processes, but a function of the free market.

Senior Planner Workman explained the Municipal Code required DFCN to maintain 935 parking spaces for its 2,800 auditorium seats, and the site plan amendment application sought a 24.8% parking reduction to the 703 parking spaces available on the DFCN main lot. He indicated to justify this parking reduction DFCN would voluntarily limit attendance to its Sunday and holiday services to 2,100 by closing off the balcony in their auditorium. He stated staff found the application met all criteria from the Code, Section 16-7-320(e) – it was consistent with or implemented the Master Plan as residential lots were more in keeping with the Master Plan than a parking lot; it complied with City ordinances and policies; the preliminary drainage plans were accepted by the City Engineer; traffic and parking needs were addressed by DFCN's self-imposed attendance limit for typical parking demand which was part of the site plan amendment, and the shared parking agreement between DFCN and Brave Church, with the City as a third-party beneficiary, for extraordinary parking demand; and construction would be required to meet all regulations. He added the applicant's parking study showed parking needs throughout 2019 were far below the proposed 703 spaces. He explained the rezoning request was from R-1 to R-4 to allow for the creation of four lots for residential development. He indicated staff found the rezoning application met the necessary criteria from the Code, Section 16-2-40(b), in that the proposed zoning would better implement the City's Master Plan. He noted the land use map in the Master Plan identified the subject property as institutional, but staff's research determined there had been no detailed analysis done at the time the map was adopted in 2008, but rather the categorization was likely due to the fact the lot was owned by DFCN at the time. He added the proposed rezoning would make the proposed lots more consistent with the existing residential lots in the immediate area. He stated staff believed the request met the goal on page 4 of the Master Plan "maintain the existing land use and development pattern" and the goal on page 6 of the Master Plan "balance private property rights and market trends for new development while minimizing impacts on immediately adjacent properties and the other overall context of the neighborhood". He explained the preliminary plat was the second step in a three-step process; the final step would be Council's consideration of the final plat, at which time the applicant would dedicate to the City in fee simple the trail corridor situated along Hampden Avenue and lying north of the proposed lots. He noted per the Code the final plat would not be reviewed by P&Z. He indicated the Code contained submittal requirements for a preliminary plat in Chapter 17, Article II, Division 2, and staff found those had been met – the preliminary plat had been submitted; the land dedication had been addressed; all relevant utilities had been contacted and comments would be addressed in the final plat; the applicant and staff have had preliminary discussions related to potential public and private improvements; and the other Code requirements were not applicable. He indicated the City Engineer and Denver Water had reviewed the preliminary drainage report and preliminary grading, erosion, and sediment control plans for compliance on this preliminary level. He noted the proposed four new lots would create consistency with the existing residential character of the area. He indicated staff found the applications met all criteria outlined in the Code. He explained the most common concerns raised during public testimony at the P&Z meeting for all three applications were enforcement, lack of plan details, parking management, and project timing. He stated P&Z voted 4 to 1 to recommend approval with conditions addressing concerns raised during public testimony for the site plan amendment, 4-1 with no conditions for the rezoning, and 4-1 with conditions for the preliminary plat. He indicated the City was authorized to enforce the site plan agreement and shared parking agreement pursuant to Chapter 16 of the Municipal Code.

City Manager Cramer reviewed the recommended motions for the three items including the conditions recommended by P&Z.

RECORD OF PROCEEDINGS

Councilor Blum asked what would happen if the shared parking agreement between DFCN and Brave Church was not completed in 90 days per the approval condition.

City Manager Cramer replied at that point DFCN would be in violation of their approval and would have to come back to City Council before moving forward.

City Attorney Guckenberger agreed.

Councilor Blum asked about enforcement of DFCN's self-imposed attendance limit through closing off the balcony. He disclosed that he toured DFCN before the applications were submitted.

Senior Planner Workman replied the self-imposed attendance limit was intended to account for normal services, and the site plan agreement and shared parking agreement addressed extraordinary parking situations where attendance might be above that limit. He noted the shared parking agreement was one option for DFCN to address extraordinary parking situations but not the only option. He indicated the City does not assume that any actor in the community is a bad actor; the City has the enforcement mechanisms in the Municipal Code as well as remedies through legal means if there is a violation of the site plan agreement; and the City was prepared to enforce these provisions in the same manner as any other property owner in violation of a land use application or conditions of approval.

City Attorney Guckenberger expanded on the specific provisions and processes of the site plan agreement and the Municipal Code regarding enforcement.

Councilor Blum asked about plans for the wall currently at the south end of the subject property, and about the open space shown on the south side of Jefferson.

Senior Planner Workman replied he understood that the applicant was in discussions with the Covington HOA to keep the wall. He indicated the open space parcel was dedicated when the Covington neighborhood was subdivided and was owned by the HOA.

Councilor Sheldon noted he also visited DFCN before the application was submitted. He asked what sanitation district the subject property was in and if the City had a will-serve and capacity for houses to go on this site.

Senior Planner Workman replied the property bordered two sanitation districts and the City had will-serve and capacity from both districts.

Councilor Sheldon asked about the master calendar referenced in the site plan agreement.

Senior Planner Workman explained that was a calendar of events and the applicant could speak to the construction and development timeline.

Councilor Sheldon asked if the new lots would get annexed into the Covington HOA.

Senior Planner Workman replied the packet mentioned the lots would either become part of the Covington HOA or a new HOA would be established, and the applicant had recently indicated to staff the Covington HOA desired to integrate the new lots into the Covington HOA.

Councilor Sheldon suggested the approval include a condition that the new lots be included in an HOA. He asked about the required timing of the shared parking agreement in relation to the site plan agreement and demolition of the parking lot.

RECORD OF PROCEEDINGS

Senior Planner Workman clarified that the final site plan amendment would not be approved until the shared parking agreement was fully executed. He explained the site plan amendment removed the obligation to have the parking spaces but was not an approval for demolition; the demolition would need to go through the normal building permit process and would not be approved until after the site plan amendment was complete.

City Attorney Guckenberger added the wording of the recommended motion required the shared parking agreement be executed within 90 days of Council's approval of the site plan amendment, and the approval was ineffective until the conditions were fulfilled.

Councilor Gallagher asked how often over the past several years development agreements approved requested parking reductions.

City Manager Cramer replied many past expanded use processes had requested and been granted parking reductions, and he was not aware of Council denying a requested parking reduction in the past several years.

City Attorney Guckenberger indicated an inexhaustive review of her firm's files showed parking reductions requested and granted since 2013.

Mayor Pro Tem Brown stated since she had been on Council, she did not recall Council denying a parking reduction request and she did recall almost every expanded use application requesting a parking reduction. She asked about DFCN's parking reduction request versus their self-imposed attendance limit which reduced their parking needs to the main lot, and the previous interpretation of parking requirements in the Code versus the current interpretation.

City Manager Cramer replied the previous development agreement contemplated the additional balcony seating, so DFCN had to get approval from the City to reduce their parking requirements based on closing the balcony.

Senior Planner Workman added the seats in the balcony were not being removed and DFCN could return to Council in the future to re-open the balcony. He explained the Code required a justification for a parking reduction request and DFCN had chosen to voluntarily close their balcony to provide that justification.

Mayor Pro Tem Brown asked what would happen to the shared parking agreement if Brave Church ownership changed.

Assistant City Attorney Samson replied the City was a third-party beneficiary to that agreement. He explained if Brave Church changed ownership and the new owners did not want to be bound by the shared parking agreement, DFCN would have to come up with another way to comply with the site plan agreement that was acceptable to the City.

Mayor Pro Tem Brown asked if DFCN's previous development agreement had required traffic management and if so, had it been removed intentionally from the new development agreement. She noted traffic issues impacted the wider neighborhood when all three churches ended services at the same time or near the same time.

Chief Tovrea indicated the Police Department had been providing traffic control on Sundays prior to COVID-19.

Assistant City Attorney Samson advised against imposing traffic management on one landowner based on their proximity to other traffic generating landowners, but suggested Council ask the applicant what they would be willing to assure with respect to traffic.

RECORD OF PROCEEDINGS

City Manager Cramer advised against imposing a new traffic management plan when the capacity was being reduced.

Mayor Pro Tem Brown clarified she was not suggesting that, but her recollection from being on Council when the 2013 DFCN development agreement was approved was that a traffic management plan had been included, as it had in many of the City's development agreements over the years. She indicated she would wait to hear from the applicant about this issue. She noted the request was not to restore the R-1 zoned property to the previous zone of R-3A but rather to R-4 and asked about the differences between R-3A and R-4.

Senior Planner Workman indicated R-3A was a variable lot size district and had different zoning regulations such as setback and bulk plane standards for each lot size, whereas R-4 had a single set of zoning regulations.

City Manager Cramer added there had been five lots in 2013 and the proposed plat had four lots.

Mayor Pro Tem Brown asked about the statement that the lots might be integrated into the Covington HOA considering all the letters in opposition to the applications from members of the HOA.

Senior Planner Workman explained the application materials represented that the new lots would either be included in the Covington HOA or a new HOA would be established; the applicant had recently indicated to staff that Covington HOA was potentially willing to annex the new lots into the Covington HOA; and he would let the applicant speak further to this issue.

Mayor Pro Tem Brown asked about the complicated drainage structures under the parking lot.

City Engineer Brian Valentine replied the current drainage structures under the subject property would be removed and the proposed construction would be compliant with the Municipal Code and Arapahoe County Stormwater Management Manual, as well as coordinating closely with Denver Water due to the property being adjacent to the High Line Canal.

City Traffic Consultant Jeremiah Simpson noted the application stated the three churches voluntarily staggered their services to manage traffic.

Councilor Weil disclosed he had visited DFCN prior to the application. He had no further questions of staff.

Councilor Safavi disclosed he had visited DFCN prior to the application. He had no further questions of staff.

Mayor Stewart asked how the proposed lot sizes compared to lot sizes in Covington.

Senior Planner Workman replied a random sampling of lots in Covington were roughly 0.5 acres in size and the proposed lots would range from about 0.6 acres to 0.8 acres.

Mayor Pro Tem Brown disclosed she had visited DFCN prior to the application.

Mayor Stewart disclosed he had visited DFCN prior to the application.

Steve Ferris, DFCN land consultant, indicated the site plan amendment was needed to rezone, and rezoning was needed to subdivide. He added the Municipal Code's requirements precluded the lot from being rezoned back to R-3A as it does not meet the minimum acreage required. He stated the site plan application met all the criteria of the

RECORD OF PROCEEDINGS

Municipal Code. He indicated DFCN was working with the Covington neighborhood on a good neighbor agreement, which includes annexation of the new lots into the Covington HOA and dedication of land south of the wall to the Covington HOA; if for some reason the lots were not added to the Covington HOA then a new HOA would be created.

John Aldridge, DFCN transportation planner, explained the parking study between all three churches had counted the number of parking spaces used over nineteen Sundays in 2019, before COVID-19; the most used spaces for all three churches combined was 1,154 on Easter Sunday; the total spaces available for all three churches combined was 1,576. He added they looked closely at the Institute of Transportation Engineer's parking generation manual and noted DFCN parking demand was consistent with national averages.

Mr. Ferris stated the rezoning application met all the criteria of the Municipal Code and the subject property best suited the High Line Canal as residential property. He indicated the preliminary plat application met all the criteria of the Municipal Code.

Jim Godwin, DFCN engineer, described the swale and detention pond proposed for the site. He stated every precaution was taken to prevent any runoff from getting to the High Line Canal and meet Denver Water's criteria. He indicated they had provided a stormwater management plan and erosion control plan. He confirmed the porous pavers and existing drainage system would be removed.

Mr. Ferris spoke to Councilor Sheldon's question about the construction timeline. He indicated they hoped to proceed with demolition soon because there was an opportunity to resell the parking lot materials and it had more worth early in the construction season. He noted they were discussing a two-phase approach with the Covington neighborhood whereby after the site plan amendment and agreements were finalized and approved, the parking lot would be demolished, the site would be seeded with grass and an interim detention pond would be installed, until the final plat was approved and recorded, at which point infrastructure installation could begin, including utilities, possibly walls, and landscaping, and land dedication to the Covington HOA would occur. He concluded 703 parking spaces were needed for the 2,100 seats in DFCN's auditorium with the balcony closed off; in the case of special events the shared parking agreement would be in effect; the subject property was ready to return to residential use which would better fit the character of the Village and was more compatible with the High Line Canal trail; and residential lots would improve the tax base.

Councilor Blum noted the timing of the demolition would be subject to the execution of the shared parking agreement. He asked if the wall on the south end of the subject property would stay.

Mr. Ferris replied the intent was to keep the wall in place subject to acceptance of the new lots into the Covington HOA.

Councilor Blum asked how DFCN would address any increase in attendance and subsequent parking demand in the future.

Mr. Ferris replied DFCN could be more proactive in sharing parking and staggering services with the other two churches; also DFCN owned a two acre lot at Jefferson and Colorado Blvd which was available for parking, although DFCN was hoping to sell it; and finally DFCN preferred the smaller, more intimate services and did not anticipate a return to crowds larger than 2,100, and believed they could be sustainable and successful with that attendance limit.

Councilor Blum asked how the balcony seats were closed off.

Mr. Ferris replied the balcony seats were only accessible with a key and by removing a barricade.

RECORD OF PROCEEDINGS

Councilor Blum asked about the timeline for developing the new lots with homes.

Mr. Ferris replied ideally the site plan amendment and agreements would be finalized in 60 days, demolition would begin in May, the plat would be finalized in six months, recorded by the end of the summer, and lots would be sold in the fall.

Councilor Blum asked if DFCN anticipated selling all the lots to one developer or selling them individually.

Mr. Ferris replied DFCN had not decided that yet.

Councilor Sheldon asked about the gap between demolition and final plat approval.

Mr. Ferris replied the funds from selling the parking lot materials could potentially pay for the demolition if it is done in the spring, and DFCN would seed the lot with grass so that it was a pleasant area until it was developed. He added if the site plan lagged then construction might happen in one phase instead of two.

Councilor Gallagher asked about the detention pond.

Mr. Ferris replied the southern-most lot would have a landscaped depression that would serve as a retention/detention pond.

Mr. Godwin explained the detention pond was much smaller than the sedimentation pond, and the pond was double the required size as a protective measure for the High Line Canal.

Mayor Pro Tem Brown had no further questions.

Councilor Weil had no further questions.

Councilor Safavi had no further questions.

Mayor Stewart opened the Public Hearing at 8:36 p.m.

Richard Abels, 21 Covington Drive, yielded his time to Pasquale Riggi.

Pasquale Riggi, 27 Covington Drive, indicated he was representing the committee that was working with DFCN on the redevelopment of the subject property, as well as representing the Covington HOA Board. He explained the HOA and DFCN had first discussed the issues of the wall, the piece of land south of wall, and adding the new lots into the HOA over two years ago, but had been overshadowed by larger issues such as parking, development timing and what the lot would look like in between demo and development. He noted after the January P&Z meeting it was clear the direction the City was going, so the HOA went back to DFCN to discuss those issues from two years ago. He stated it was important contextually to recognize the subject property was originally part of the Covington neighborhood development plan, and at that time DFCN decided not to be a part of the Covington HOA, but the HOA and DFCN agreed there could come a time when re-annexation into the HOA would make sense, so the Covington HOA had an article in its declaration of covenants that addresses that issue, which complicated the good neighbor agreement the HOA and DFCN were now working on. He indicated there was initial agreement between the HOA and DFCN that the wall and piece of land south of the wall would remain and be conveyed to the HOA; the HOA would take on the responsibility and maintenance costs of the wall and piece of land south of the wall; and the four new lots would be annexed into the HOA. He stated the HOA's support of DFCN's applications was conditional on the HOA and DFCN reaching a formal agreement on these items. He noted there was an issue with parking in this area and expressed concern that the current version of the shared parking agreement

RECORD OF PROCEEDINGS

excluded Sundays and holidays. He explained for six consecutive Sundays in 2021 overflow parking from Brave Church had been using DFCN's lot at Jefferson and Colorado or the DFCN's main lot. He stated Covington HOA paid annually for a water feature on the north side of Hampden Avenue at Wellshire Golf Course that was piped into the underground vaults, so if any of the proposed development impacted those systems, Covington HOA needed to be involved.

Hearing no further comments Mayor Stewart closed the Public Hearing at 8:45 p.m.

Mr. Ferris stated he understood the concern that the shared parking agreement did not include Sundays and holidays and the reason was DFCN did not plan to need extra parking for those times with the closing of the balcony, but Brave Church had asked DFCN that same question, and so perhaps they could include Sundays and holidays to make sure everyone was comfortable. He noted his understanding about the overflow parking from Brave Church was it was for convenience due to the DFCN lots being closer to the front door of Brave Church than Brave Church's southernmost parking lot, rather than Brave Church's lot being full; he added DFCN had asked that Brave Church attendees stop parking on the DFCN Jefferson lot.

Councilor Blum noted the issues raised by the neighbors seemed to have been addressed by the applicant. He indicated the critical piece for him was that approval be conditional on execution of the shared parking agreement.

Councilor Sheldon stated he felt it made sense to add Sundays and holidays to the shared parking agreement but would accept if City staff and the applicant's consultants agreed it was unnecessary. He indicated he would like to see a condition of approval added that the new lots be required to either be included in the Covington HOA or form a new HOA.

Councilor Gallagher agreed the shared parking agreement was critical.

Mayor Pro Tem Brown agreed parking was the largest concern of the neighbors and the community and felt DFCN had made numerous efforts to reassure the City and neighbors that the parking was sufficient and DFCN had a plan for addressing issues in the future. She was encouraged to hear the neighbors and DFCN were working through the issues. She had been heartbroken when the parking lot was originally required. She agreed with a public comment letter about the importance of R-1 zoning but she believed four residential lots was more in keeping with the Master Plan than a parking lot that was hardly ever used. She noted it was not perfect and the neighbors had legitimate concerns, but in the larger picture this was probably an improvement and for the betterment of the community as a whole based on the information presented.

Councilor Weil asked if there was another agreement with Plymouth Church. He agreed with Councilor Blum on the importance of the shared parking agreement; indicated successors and assigns should be party to that agreement; and agreed Sundays and holidays should be included. He asked for clarification if the proposed site plan agreement would supersede the 2013 development agreement, and if it was stated the City should ensure nothing was missed in the new agreement. He questioned what would happen if the 2,100 attendance limit was exceeded. He agreed with Councilor Sheldon's condition of an HOA.

Councilor Safavi agreed with the concerns raised by other councilors. He agreed the shared parking agreement was particularly important to address possible future increases in attendance. He agreed with Mayor Pro Tem Brown that the neighborhood and the City would be better off with residential lots rather than a little used parking lot.

Mayor Stewart agreed most of the neighbors' concerns had been addressed by the applicant and noted the City had many tools to address future issues.

RECORD OF PROCEEDINGS

City Manager Cramer clarified the shared parking agreement to which the City was a third-party beneficiary was an exhibit to the site plan agreement, so the site plan agreement could not be finalized until the shared parking agreement was executed, and the site plan amendment could not be finalized until the site plan agreement was executed.

Discussion was held regarding the possibility of making the shared parking agreement run with the land. Assistant City Attorney Sampson advised against imposing a condition on a third party. He explained the approval of DFCN's site plan amendment was based on the shared parking agreement and if that agreement were ever terminated DFCN would be obligated to determine another method to meet the extraordinary parking demands per the site plan agreement.

City Attorney Guckenberger explained the shared parking agreement was designed to address the overflow parking needed for extraordinary events, while DFCN's self-imposed attendance limit was designed to address parking for Sundays and holidays.

Councilor Weil questioned if holidays should be considered special events.

Mr. Ferris replied if a holiday service exceeded 2,100 attendants then it would be considered a special event and DFCN would have to anticipate it and accommodate it.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve Resolution 8, Series 2021, a resolution of the City Council of the City of Cherry Hills Village approving with conditions a site plan amendment pertaining to parcels owned by Denver First Church of the Nazarene and generally located at 3800 E. Hampden Avenue and in the 3500 block of South Monroe Street, subject to the following conditions:

1. The shared parking agreement with Brave Church must be executed within 90 days of approval of the site plan amendment by City Council.
2. Prior to the issuance of permits resulting in any site demolition or site work pertaining to the overflow parking property, Denver First Church of the Nazarene will be required to submit appropriate documentation to the City and applicable referral partners for review and approval, and notification to the Covington HOA.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on Resolution 8, Series 2021: 6 ayes. 0 nays. The motion carried.

Mayor Pro Tem Brown moved, seconded by Councilor Gallagher, to approve Council Bill 1, Series 2021, a bill for an ordinance of the City of Cherry Hills Village to rezone a parcel of land owned by Denver First Church of the Nazarene, located in the 3500 block of South Monroe Street, from R-1 (2½-Acre Residential) to R-4 (½-Acre Residential), and amending the Official Zoning Map consistent therewith on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

RECORD OF PROCEEDINGS

Vote on Council Bill 1, Series 2021: 6 ayes. 0 nays. The motion carried.

Councilor Sheldon asked Mr. Ferris if he was amenable to an additional condition to the approval of the preliminary plat requiring at the time of final plat recordation, the new lots shall a) be annexed into the Covington HOA or b) a new HOA which covenants, conditions, and restrictions (CCRs) shall be recorded at the time of final plat.

Mr. Ferris asked for a few months after final plat to complete the CCRs.

Mayor Pro Tem Brown noted many houses in the City did not have an HOA and asked what Councilor Sheldon's concern was.

Councilor Sheldon replied he was concerned with protecting the Covington neighborhood from design choices on the new lots such as paint color or HAM radios, in the case that Covington HOA was not able to annex the new lots into their HOA. He suggested building permit approvals could be predicated on the completion of the CCRs to give Mr. Ferris more time.

Councilor Weil agreed.

Mayor Pro Tem Brown stated she was not in agreement and an HOA of four houses was overly burdensome. She noted the City had defunct HOAs already.

City Attorney Guckenberger advised if Council approved this condition then everything should be in place before the sale of the property, so it binds whoever purchases the property.

Councilor Sheldon asked Mr. Ferris if he was amenable to having the CCRs recorded, or the new lots annexed into the Covington HOA, prior to any conveyance of the property.

Mr. Ferris replied he was.

City Attorney Guckenberger asked Mr. Ferris to confirm he was authorized to bind his client on that representation.

Mr. Ferris replied they were present with him and in agreement. He indicated DFCN was looking at another entity who would be the developer of the property. He noted they had been advised by several custom home builders that an HOA adds value to a property.

Councilor Sheldon moved, seconded by Councilor Weil, to approve Resolution 9, Series 2021, a resolution of the City Council of the City of Cherry Hills Village approving with conditions a preliminary plat for a parcel owned by Denver First Church of the Nazarene and located in the 3500 block of South Monroe Street, subject to the following conditions:

1. At the time of final plat submittal, all final drainage reports and plans must be submitted and prior to approval of the final plat all final drainage reports and plans must be approved by the applicable agencies.
2. As required by City Code, the applicant shall agree to terms for public and/or private improvements via a Subdivision Improvement Agreement.
3. Prior to the conveyance of any or all of the subject property, property shall either be a) annexed into the Covington HOA, or b) a new HOA shall be formed which covenants, conditions and restrictions shall be recorded prior to conveyance to a third party.

Mayor Pro Tem Brown explained she would vote no as she did not think a four house HOA made sense, the requirement was burdensome, and it should be their choice.

RECORD OF PROCEEDINGS

Councilor Gallagher agreed it was an undue burden and while he hoped the new lots would be annexed into the Covington HOA, he was not comfortable requiring a new HOA.

Councilor Safavi agreed the Covington HOA should be very motivated to annex the new lots but did not agree with requiring the creation of a new HOA. He stated he wanted the project to move forward.

Councilor Weil noted the condition would protect Covington HOA; there were sections of the City without HOAs with large unattractive buildings, and HOAs helped the overall image and aesthetic of the City. He added DFCN might decide it was easier to sell the lots without an HOA.

Mayor Pro Tem Brown replied her neighborhood did not have an HOA. She noted when Council discussed the fence ordinance, they decided it was not their job to set design standards. She indicated there were different neighborhoods in the City that felt different, Buell versus Old Cherry Hills versus Glenmoor versus her neighborhood, and people should be able to make those choices. She stated in a four house HOA everybody would have to be an officer.

Councilor Blum asked who the declarant would be.

Mayor Stewart replied the declarant had to own the property.

Councilor Sheldon explained he processed subdivisions for a living and for nine of the last ten subdivisions he had processed, the city or county had required the property go into an HOA or metro district to prevent design issues. He hoped the new lots were annexed into the Covington HOA but believed it was irresponsible to approve a subdivision in today's age without an HOA.

Councilor Gallagher indicated the west side of the City did not have HOAs and had a totally different feel. He agreed he hoped the new lots would be annexed into the Covington HOA, and it made sense for the new lots to have basic guidelines being so proximate to the Covington HOA.

Mayor Pro Tem Brown stated design standards should be the choice of the homeowners and agreed with Councilor Safavi that the Covington HOA should be very motivated to annex the new lots. She indicated it was not her personal preference to have every house look alike. She noted DFCN had stated they would likely create a new HOA if the lots could not be annexed into Covington, so it would probably happen either way, but she was not in favor of requiring it.

Councilor Safavi noted the applicant had stated the developers they had consulted advised being a part of an HOA would improve the value of the property, so they did want to be part of an HOA, but he was not in favor of imposing that requirement.

Councilor Blum stated if DFCN was the declarant they would have to go through this prior to conveying the property.

Councilor Sheldon replied DFCN could transfer declarant rights once the property conveys.

The following votes were recorded:

Safavi	no
Weil	yes
Brown	no
Gallagher	no

RECORD OF PROCEEDINGS

Sheldon	yes
Blum	yes

The vote was tied. Mayor Stewart voted no. He indicated the condition was too complicated under these circumstances.

Vote on Resolution 9, Series 2021: 3 ayes. 4 nays. The motion failed.

Mayor Pro Tem Brown moved, seconded by Councilor Safavi, to approve Resolution 9, Series 2021, a resolution of the City Council of the City of Cherry Hills Village approving with conditions a preliminary plat for a parcel owned by Denver First Church of the Nazarene and located in the 3500 block of South Monroe Street, subject to the following conditions:

1. At the time of final plat submittal, all final drainage reports and plans must be submitted and prior to approval of the final plat all final drainage reports and plans must be approved by the applicable agencies.
2. As required by City Code, the applicant shall agree to terms for public and/or private improvements via a Subdivision Improvement Agreement.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on Resolution 9, Series 2021: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

Council Bill 2, Series 2021; Authorizing a Supplemental Appropriation in the Arapahoe County Open Space Fund for Fiscal Year 2021 for the Hampden Underpass Trail Connection (first reading)

Parks Coordinator Black presented Council Bill 2, Series 2021 on first reading. She explained the construction timeline was dependent on Denver and the City's portion had been delayed until very late 2020, so the City had not spent as much on the project in 2020 as staff had anticipated. She indicated the project was now ahead of schedule and the funds from 2020 needed to be reallocated into 2021. She emphasized that the cost of the project had not changed, staff was not requesting additional funds, but simply shifting funds from 2020 to 2021. She indicated the project was expected to be completed in May 2021.

Mayor Pro Tem Brown moved, seconded by Councilor Blum, to approve Council Bill 2, Series 2021, authorizing a supplemental appropriation in the Arapahoe County Open Space Fund for fiscal year 2021 for the Hampden underpass trail connection on first reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

RECORD OF PROCEEDINGS

Vote on Council Bill 2-2021: 6 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Stewart reported the CML executive board met February 19th and approved everything the CML policy committee had approved; on February 22nd OSTAB met and he was appointed to a committee that will make recommendations to the Arapahoe County Commissioners on the ballot initiative to extend the open space sales tax; the Metro Mayors Caucus transportation subcommittee met on February 25th and the state legislature is discussing using fees to find the \$500 million needed for transportation projects, and the Metro Mayors were advocating that 75% be directed to the five metro planning organizations in Colorado where 85% of the population lives, and 50% of that amount would be for CDOT initiatives.

Members of City Council

Councilor Blum indicated he looked forward to meetings with CRL and Zayo Group.

Councilor Sheldon reported undergrounding on the east side of the City on Quincy was picking back up and thanked Deputy City Manager/Director Goldie for moving that along.

Councilor Gallagher had no report.

Mayor Pro Tem Brown had no report.

Councilor Weil reported at the last meeting of DRCOG there was an announcement of a federal surface transportation block grant of \$53 million coming in December, which would help with several projects, although none of them all that close to the City, the nearest being the I-25/Broadway intersection and some Santa Fe improvements; the DRCOG working session would be focused on greenhouse gas rule making and preliminary ideas for amendments to the Metro Vision. He indicated he had been able to check in with Board of Adjustment and Appeals member Steve Elkens and they had decided it would be best to advertise the position.

Councilor Safavi had no report.

City Manager & Staff

City Manager Cramer reported last week the City had some enormous news regarding the 1981 cold case and he asked Chief Tovrea to report on some updates since the press conference. He recognized the Chief, Detective, and entire Police Department on their amazing accomplishment. He reported staff was ready to present a revised RFP for Quincy Farm to Council but was still waiting for redlines from some Council members and suggested scheduling the next discussion for the April 6th meeting.

Chief Tovrea thanked Council for their support. She emphasized the focus was on the victim and her surviving family. She noted the Police Department received enormous support from Vikki Migoya, 18th Judicial District Attorney Director of Communications, who helped get the story out. She indicated the story had been picked up by local news channels, People Magazine, the New York Post, a news agency in the United Kingdom, True Crime, and Inside Edition. She explained what struck her the most were the several emails she received from residents who remembered the case and were grateful that Ms. Quayle had not been forgotten. She indicated having contact with Ms. Quayle's sister had been very impactful. She noted the suspect would be transported to Arapahoe County this week and the court system would take over.

RECORD OF PROCEEDINGS

Mayor Stewart noted District Attorney John Kellner had offered to come talk to Council.

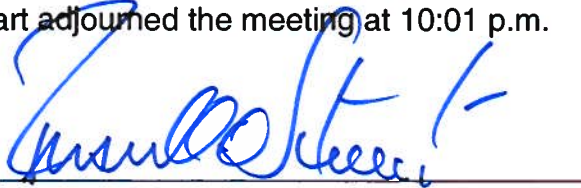
City Attorney

City Attorney Guckenberger reported her office was working on fiscal and contractual matters; the Comcast Franchise Agreement; and the City had passed its inaugural Colorado Bureau of Investigations audit.

ADJOURNMENT

Hearing no objection Mayor Stewart adjourned the meeting at 10:01 p.m.

(SEAL)



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk