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**RESOLUTION NO. 8
SERIES OF 2004**

**INTRODUCED BY: Doug Tisdale
SECONDED BY: Bonnie Blum**

**A RESOLUTION
OF THE CITY COUNCIL
OF
THE CITY OF CHERRY HILLS VILLAGE
APPROVING AN EXPANDED USE AND
HEIGHT AND SETBACK VARIANCES FOR
COLORADO COMMUNITY CHURCH,
LOCATED ON LOTS 1-48 BLK 10 & LOTS 25-40 BLK 9 & LOTS 13-36 BLK 11
SOUTH UNIVERSITY PARK TOG WITH VAC ST BETWEEN LOTS 25-40 BLK 9 &
LOTS 9-24 BLK 10 & VAC ST BETWEEN LOTS 25-36 BLK 10 & LOTS 13-24 BLK 11
& W 1/2 VAC ST ADJ LOTS 37-48 BLK 10 & VAC ALLEY IN BLK 10 & VAC ALLEY
ADJ LOTS 13-36 BLK 11,
ALSO KNOWN AS 3651 S. COLORADO BLVD.**

WHEREAS, the City Council ("City Council") of the City of Cherry Hills Village (the "City") is authorized pursuant to Section 16-20-40 of the Cherry Hills Village City Code (the "Code") to make decisions concerning applications for the expanded use of Nonprofit Institutions, Private Clubs, Public Recreational Facilities, and Nonprofit Recreational Facilities; and

WHEREAS, the City Council is also authorized pursuant to Section 16-20-40 to make decisions regarding variances in connection with an application for expanded use for such institutions or facilities; and

WHEREAS, upon application of the Colorado Community Church (the "Applicant"), the Planning and Zoning Commission of the City, following a public hearing on February 10, 2004, recommended approval of the application for an expanded use to permit the reconstruction of a portion of the Applicant's church building and recommended approval of an application for a setback variance and recommended denial of an application for a height variance; and

WHEREAS, the City Council, following proper notice, has conducted a public hearing in accordance with the Code and desires now to make findings and its decision,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO:

Section 1. Findings of the City Council. The City Council finds that the evidence presented establish the following facts:

(a) As to the variance to Section 16-5-30(a) of the Code to allow a cross tower of up to sixty (60) feet in height, the City Council finds that the criteria contained in Subsections 16-3-50(b)(1) through (9) of the Code have been met, including, inter alia,

(i) that the Applicant suffers from an exceptional and unnecessary hardship associated with the unique circumstances related to the location of existing structures on the site, which hardship includes the fact that because the building is located at a lower elevation than the adjacent street and behind other large church buildings, the height variance is needed to identify the Applicant's building as a religious structure;

(ii) the variance will not cause the structure to be at a higher elevation than other properties in the area, specifically the two adjacent churches that have a

significantly greater height for both the roof and the cross tower located thereon, and are of significantly greater bulk and mass than has been proposed by the Applicant;

(iii) there has been no conduct on the part of either the Applicant or the City to have brought about this hardship;

(iv) reasonable protection is afforded to adjacent properties by virtue of the lower elevation upon which the proposed structure will be constructed as well as the additional landscaping and the requirement for continued maintenance of existing landscaping;

(v) the variance in terms of the height of the cross tower is the minimum variance required under the circumstances and to place the cross tower structure at other locations on the Applicant's property would cause it to be at a higher elevation or in closer proximity to residential uses, causing greater impact visually to the neighbors without serving the purpose of announcing the location of the entrance to a religious building; and

(vi) the variance would be in the spirit of the City's Charter and will not in any way disserve the public health, safety or welfare and will not cause any circumstance under which the Applicant's neighbors would experience any substantial injustice.

(b) As to the variance of Section 16-5-30(c) of the Code to allow the northwest portion of the Applicant's building to encroach thirty (30) feet into the required two hundred (200) foot setback, the City Council finds that the criteria contained in Subsections 16-3-50(b)(1) through (9) of the Code have been met, including, inter alia,

(i) that by virtue of the L-shaped lot and the unusual configuration of the Applicant's property boundaries, a variance is necessary.

(ii) the reconstruction of the church building will reduce the amount of the variance currently existing and will improve the existing setback;

(iii) there are not alternate locations available for the building and denial of the variance would deprive the Applicant of rights commonly enjoyed by other properties in the immediate vicinity;

(iv) the Applicant has experienced an exceptional and unnecessary hardship that was the result of a natural disaster which severely damaged the church building and the Applicant desires to reconstruct the building in an improved condition with the same square footage as before and reducing the overall footprint of the building;

(v) there was no objectionable, reckless or negligent action on the part of the Applicant that brought about this circumstance and reasonable protection has been afforded to adjacent properties by virtue of the existing brick wall to the west, the additional landscaping to be provided and the Applicant's commitment to maintain the landscaping that is on the site;

(vi) this is the minimum variance required and reduces the overall footprint of the building; and

(vii) the variance is in the spirit of the City Charter and will not in any way disserve the public health, safety or welfare, will not adversely affect the Applicant's neighbors, and would serve substantial justice.

(c) As to the expanded use application, the City Council finds, subject to the conditions set forth below, that the application meets the requirements of the Code and should be approved subject to the following conditions:

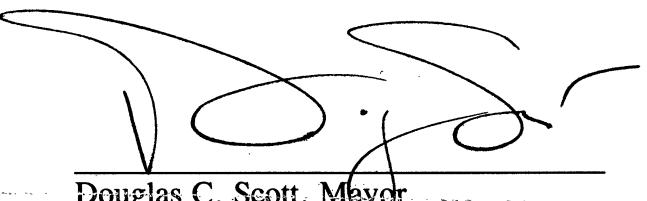
- (i) that prior to installation of the play structure, the Applicant submit details of the type of structure that is proposed and obtain City approval thereof;
- (ii) that the Applicant submit a lot consolidation plat pursuant to Chapter 17, Article VI in form acceptable to the City for approval and recording memorializing that the church building is located on a single conforming and legal lot;
- (iii) that the Applicant construct the expansion and the parking lot improvements according to applicable building codes and the fire code and any specific requirements that may have been requested by South Metro Fire and Rescue District;
- (iv) that the requirements for lighting, signage, landscaping, drainage, parking and traffic management are satisfied and no new signage is constructed;
- (v) approval of the setback variance for the building and approval of the height variance for the cross tower;
- (vi) obtain a building permit and begin construction within two (2) years of the date of this resolution;
- (vii) that the landscaping include an additional 84 trees and that existing landscaping is maintained; and
- (viii) that the cross tower be constructed with a matte finish and not be lighted in any manner.

Section 2. Decision of the City Council. Based on the findings and subject to the conditions in Section 1, the City Council hereby decides as follows:

- (a) The Applicant's request for a variance to Section 16-5-30(a) of the Code to allow a sixty (60) foot cross tower structure is approved;
- (b) The Applicant's request for a variance to Section 16-5-30(b) of the Code to allow the northwest portion of the building to encroach thirty (30) feet into the required two hundred (200) foot setback is approved; and
- (c) The Applicant's request for an expanded use, subject to compliance with the provisions of the application and the conditions stated in Section 1, is approved.

Section 3. Effective Date. This resolution shall take effect immediately upon adoption by the City Council.

Introduced, passed and adopted at the regular meeting of City Council this 20th day of April, 2004 by a vote of 4 Yes and 0 No.



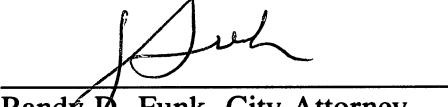
Douglas C. Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Randy D. Funk, City Attorney