

**ORDINANCE NO. 5****Series 2013**

February 19, 2013: Introduced as Council Bill 5, Series 2013 by Councilor Scott Roswell, seconded by Councilor Russell Stewart and considered in full text on first reading. Passed by a vote of 5 yes and 1 no.

April 2, 2013: Considered in full text on second reading. Passed by a vote of 4 yes and 0 no.

**A BILL FOR AN ORDINANCE  
TO REZONE 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**

WHEREAS, Denver First Church of the Nazarene ("DFC"), as the property owner, submitted an application to the City of Cherry Hills Village ("City"), requesting rezoning of the property generally located at 3800 East Hampden Avenue, Cherry Hills Village, and legally described in Exhibit A (the "Property") from its current zoning of R-3A, Variable Lot Residential District to R-1, 2 ½-Acre Residential District; and

WHEREAS, DFC desires to further develop the Property with a parking lot and landscape buffer as more fully described in DFC's application for a permit pursuant to Article XX of the City's Zoning Ordinance ("Expanded Use Permit"); and

WHEREAS, the R-3A zone district does not allow church or accessory church uses on the Property thereby necessitating the zone change to R-1, which allows churches and accessory church uses subject to approval of an Expanded Use Permit; and

WHEREAS, the Planning and Zoning Commission held a duly noticed public hearing of the rezoning application on November 13, 2012 and, having considered its content and testimony, voted to recommend approval to the City Council; and

WHEREAS, the Planning and Zoning Commission's recommendation of approval was conditional on the Property being consolidated into one legally platted lot in order to meet the minimum lot area requirement for the R-1 zone district; and

WHEREAS, the City Council held a duly noticed public hearing of the rezoning application at which time evidence and testimony were presented to the City Council; and

WHEREAS, the City Council's approval is conditional on the Property being consolidated into one parcel in order to meet the minimum lot area requirement for the R-1 zone district; and

WHEREAS, DFC has agreed to enter into an agreement with the City to submit a complete application for a lot consolidation plat combining the Property into one parcel within 365 days following execution of such agreement, with the possibility of a six month extension, and with such agreement stating that the rezoning approval by the City Council may be terminated if the plat approval deadline is not met.

WHEREAS, the City Council finds that the proposed rezoning is consistent with the requirements outlined in Section 16-2-40 of the Cherry Hills Village Municipal Code ("Code") relating to rezoning applications; and

WHEREAS, the City Council finds that the proposed rezoning is consistent with the Cherry Hills Village Master Plan Future Land Use/Development Map, which designates the Property's future land use category as Institutional, a category consistent with the current and anticipated use of the Property; and

WHEREAS, the City Council finds that the proposed use of the Property as a parking lot and landscape buffer is a suitable and appropriate use of the Property and is compatible with the surrounding properties.

NOW, THEREFORE, the Council of the City of Cherry Hills Village, ordains:

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Section 1. Incorporation of Recitals. The recitals contained above are incorporated herein by reference and are adopted as findings of the City Council.

Section 2. Rezoning. The zoning classification of the Property described in Exhibit A shall be, and is hereby, changed from R-3A, Variable Lot Residential District to R-1, 2 1/2-Acre Residential District, subject to the conditions set forth in the development agreement dated \_\_\_\_ between the City and the DFC and the following conditions:

- a) Prior to filing the zoning map amendment with the City Clerk, DFC shall execute and cause to be recorded a development agreement ("DA") in substantially in the same form as presented at the City Council public hearing, and as finally approved as to form by the City Attorney;
- b) DFC shall submit and process a lot consolidation plat in accordance with the terms and conditions set forth in the DA, and no building permits for the Expanded Use Permit shall be issued for the Property until such time as a lot consolidation plat is processed, approved and recorded; and
- c) DFC shall pay all reasonable fees and costs incurred by the City and its consultants in review and processing of the rezoning.

Section 3. Zone Map Amendment. The City of Cherry Hills Village Zoning Map is hereby amended to show the change in zoning classification set forth in Section 2 of this Ordinance and a certified copy of such amendment shall be filed with the City Clerk.

Section 4. Revocation. Should DFC fail to comply with the conditions of approval set forth in Section 2 in accordance with the conditions and time frames established by City Code or the DA, the City Council may initiate rezoning of the Property and repeal of this Ordinance and the associated Expanded Use Permit following a duly noticed public hearing.

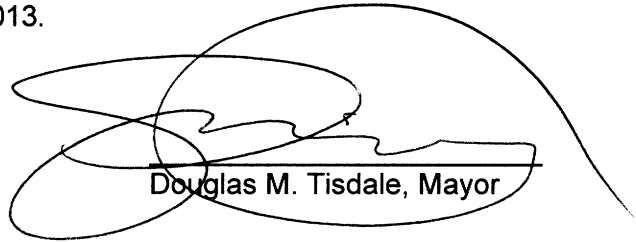
Section 5. Safety. The City Council of the City of Cherry Hills Village deems this Ordinance to be necessary for the public health, safety and welfare.

Section 6. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

Section 7. Effective Date. This Ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 5, Series 2013, by the City Council of the City of Cherry Hills Village, Colorado this 2<sup>nd</sup> day of April, 2013.

(SEAL)




Douglas M. Tisdale, Mayor

ATTEST:

APPROVED AS TO FORM:



Laura Smith, City Clerk



Linda C. Michow,  
City Attorney

Published in the Villager  
Published: 4-11-13  
Legal # 3227

**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 5, SERIES 2013**

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE TO REZONE LOTS 1 THROUGH 5, BLOCK 1, HIGHLINE MEADOWS IN CHERRY HILLS FROM R-3A, VARIABLE LOT RESIDENTIAL DISTRICT TO R-1, 2 1/2-ACRE RESIDENTIAL DISTRICT AND AMENDING THE ZONING MAP

Copies of the Ordinances are on file at the office of the City Clerk and may be inspected during regular business hours.

Published in The Villager  
Published: April 11, 2013  
Legal #: 3227

**Exhibit A**

Lots 1 through 5, Block 1, Highland Meadows in Cherry Hills, City of Cherry Hills  
Village, County of Arapahoe, State of Colorado

Reception No. A7083141

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