



**MINUTES OF THE ARAPAHOE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
JULY 11, 2006**

State of Colorado, County of Arapahoe. At a public hearing of the Board of County Commissioners for Arapahoe County, Colorado held at 5334 S Prince St. Littleton CO 80166 there were:

<b>Rodney Bockenfeld, Chair</b>	<b>Present</b>
<b>Frank Weddig, Chair Pro Tem</b>	<b>Present</b>
<b>Susan Beckman, Commissioner</b>	<b>Present</b>
<b>Lynn Myers, Commissioner</b>	<b>Present</b>
<b>Bernie Zimmer, Commissioner</b>	<b>Present</b>
<b>Kathryn Schroeder, County Attorney</b>	<b>Present</b>
<b>Nancy A. Doty, Clerk to the Board</b>	<b>Absent &amp; Excused</b>
<b>Jennifer Gayer, Deputy Clerk to the Board</b>	<b>Present</b>

When the following proceedings, among others, were had and done, to wit:

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ADOPTION OF THE AGENDA**

Deputy County Attorney Jack Bush explained in July and August the Board sits as the County Board of Equalization. He said in that process the Board hears protests of valuation of taxable real property and personal property. He explained pursuant to statute, it is necessary for the Assessor to present a report to the Board identifying the valuation of all personal and all real property in the County as well as any protests received and acted upon. He said The Board will also receive a report from the Assessors office concerning the taxable personal property and how the Assessor handled all of the protests last month. He said these two matters should be added as consent item 8 and consent item 9.

County Attorney Kathryn Schroeder said Commissioner Beckman has asked to have Consent Agenda Item 6 be removed from the consent Agenda for a separate discussion and vote.

**The motion was made by Commissioner Zimmer and duly seconded by Commissioner Weddig to adopt the Agenda with the following amendments:**

1. Add Consent Agenda Item 8 as acknowledging receipt of the report of the County Assessor concerning the valuation of all taxable real property and a list of all persons who protested their values and actions taken.

2. Add Consent Agenda Item 9 as acknowledging receipt of the report of the County Assessor concerning the valuation and actions taken, and a list of all persons who failed to file schedules and actions taken.
3. Remove Consent Agenda Item 6 for a separate discussion and a vote.

**The motion passed unanimously.**

## **ADOPTION OF THE MINUTES**

**The motion was made by Commissioner Myers and duly seconded by Commissioner Weddig to adopt the minutes of the June 20, 2006 Public Hearing and the June 27, 2006 Public Hearing.**

**The motion passed 3-0, Commissioner Beckman and Commissioner Bockenfeld abstained.**

## **CEREMONIES**

There were no ceremonies.

## **CITIZEN COMMENTS**

There were no citizen comments.

## **CONSENT AGENDA**

**The motion was made by Commissioner Zimmer and duly seconded by Commissioner Beckman to approve the Consent Agenda as amended:**

1. Add Item 8 as acknowledging receipt of the report of the County Assessor concerning the valuation of all taxable real property and a list of all persons who protested their values and actions taken.
2. Add item 9 as acknowledging receipt of the report of the County assessor concerning the valuation and actions taken, and a list of all persons who failed to file schedules and actions taken.
3. Remove Item 6 for a separate discussion and a vote.

**The motion passed unanimously.**

## **CONSENT AGENDA ITEM 6 removed for a separate discussion and vote**

Commissioner Beckman said she would like to bring an issue to the Board's attention. She said Item 6 is a straightforward request for approval of a preliminary plat for increased density. She said the density was granted in 1996. She explained the reason for pulling this item is that it looks like there is going to be a requirement of a sound wall with the noise study that is to be required. She said there are existing neighborhoods currently in that area that are being significantly impacted by widening of Coal Mine Road. She said the County engineers are currently doing a noise study and there may be a policy discussion with the Board to determine if the County follows the federal or state guidelines on noise mitigation when the County widens roads and which have impacts

on existing neighborhoods. She said she just wanted to make that point for reference when the Board has this discussion later.

**The motion was made by Commissioner Beckman and duly seconded by Commissioner Zimmer to approve Case No. P06-003, Estates @ Foxhaven, Filing No. 2, Preliminary Plat.**

**The motion passed unanimously.**

## **GENERAL BUSINESS AGENDA**

### **Item A – Resolution No. 060504 – Public Hearing, Six Month Temporary Suspension of Land Use Applications within the proposed City of Centennial/Arapahoe County Joint Planning Area**

Assistant County Attorney Tom McNish established jurisdiction for the Board to consider this item. He explained that the item is continued from the June 20, 2006 Public Hearing.

Commissioner Bockenfeld stated this matter was continued from the June 20, 2006 Public Hearing so that the full Board could discuss and vote on the proposed temporary suspension. (Commissioner Beckman and Commissioner Bockenfeld were absent from the meeting on June 20, 2006.) He explained that they have listened to the recording of that meeting, reviewed the staff report and materials submitted at that meeting and will participate in today's discussion. He said the Board would limit the public testimony to those who have not previously spoken on this matter. He said the Board will also allow previous speakers to address the Board today with any new information. He said this matter is in regard to a six-month temporary suspension of the land use applications within the proposed City of Centennial, Arapahoe County Joint Planning Area (JPA).

Sue Conaway, Planning Division Manager, presented the staff report, a copy of which has been retained for the file. She said there is no new information since June 20, 2006. She said she could discuss the area that this exemption would apply to if the Board chooses to make that determination. She said the purpose of the request is to ask that the Board impose a six-month temporary suspension on certain types of land use applications within the proposed area. She displayed a graphic to indicate the proposed area:

- Northern Boundary is Arapahoe Road
- Southern Boundary is County Line Road
- Western Boundary is I-25, includes Centennial Promenade
- Eastern Boundary is Parker Road

She said the temporary suspension covers areas that cross hatched, and show up in the pink areas of the map. She said within those areas, however, there are some areas that are excluded because they have vesting with the County including Panorama Office Park on the west side of I-25; Inverness; Dove Valley Business Park; Centennial Airport; 17-Mile House; and Dry Creek Office Park. She said the County is trying to develop a planning agreement with the City of Centennial to achieve similar design standards. She stated Centennial is present today. She said the applications and types of uses that would be included in this temporary suspension would be automobile and motor vehicle sales, rental storage and retail gasoline stations, motor vehicle repair, convenience stores with and without gas stations, car washes, trash transfer and re-cycling centers, outdoor storage, self storage, restaurant and drive through facility, industrial and commercial uses, truck or vehicle parking, concrete or asphalt batch plant, animal related uses like kennels, billboards and all sexually oriented businesses. She said included in the back up material is a copy of the work plan, which Centennial would be presenting along with a schedule.

John Pazour, Centennial City Manager, said there are four council members present today – Council Member Suhaka, Council Member Whiteman, Council Member Todd Miller and Council Member Moon. He also

recognized Bob Widner, City Attorney, and Wayne Reed, Director of Planning and Development. He said this is the City's request for a continuation of the suspension of planning activity within the planning area. He introduced Mr. Widner, City Attorney.

Bob Widner, City Attorney for Centennial, said he would use the same presentation and same slide show he used on June 20, 2006. He thanked the Board for the opportunity. He said he would present a work plan for the planning area that is both east and west of Centennial Airport. He said a copy of the work plan is included in the back up material, a copy of which has been retained for the file.

He said there are seven elements of the presentation:

1. Opportunities
2. Potential Objectives
3. Study Area
4. Timeline
5. Work Plan
6. Resources
7. Temporary Suspension

Commissioner Weddig said Commissioner Bockenfeld and Commissioner Beckman have reviewed the documentation and minutes from the last hearing and asked for an abbreviated version of this presentation.

Commissioner Bockenfeld said he asked that the presentation be reviewed for the benefit of the constituents that were not present last time.

Mr. Widner said there are a number of opportunities. He said collaboration on the growth management and annexation strategy will be coordinated on how the area will develop as opposed to being two different sets of land use regulations. He said this is the largest area in the southeast metro area that has opportunities to negate a comprehensive master plan and workable area that would benefit almost everyone. He said that would increase the value for the landowners. He said the City would like to analyze the development impact to the airport to make sure the interest of the airport advances. He said another opportunity would be to promote business development and have a plan in place so each property benefits the other. He said the City would like to enhance the roadway network in the area. He said there is also an opportunity to improve revenues.

Mr. Widner said there are several objectives. He explained that Centennial would like to protect and enhance the long-term property values and promote a high quality of development. He said the city would like to protect the viability of Centennial Airport, which is a major economic driver for the area. He said another objective is to enhance the tax base to provide services to the area. He said the capital and on-going costs must be balanced.

Wayne Reed, Director of Planning and Development for Centennial, discussed the study area. He said there have been minor modifications, including the map that is being presented. He said the map was revised per Sue Conaway, Planning Director for Arapahoe County. He said the JPA area is 3.5 square miles/22,000 acres. He said the area is contained within the Arapahoe County urban service area. He said the area is bounded by I-25 on the west, except Panorama Corporate Center and Centennial Promenade properties, Jordan Road to the east, Arapahoe Road to the north and the city limits on the north side, and the Arapahoe/Douglas County line to the south. He said the airport and the 17-Mile house properties are excluded. He said this area is an important gateway from E 470 but said many of the roadways have not been improved over the years.

He presented the calendar and time line and said there have been small adjustments. He said the timeline for each task has remained identical. He said the JPA is structured to be complete in six months and the timeline reflects Centennial's estimate of the amount of time it would take to complete each task. He said there are significant opportunities for public involvement and stakeholder input. He said there would also be monthly meetings with the city council and the commissioners and planning commissions.

Mr. Reed said the objectives must be determined and that process will include staff from Arapahoe County and Centennial, property owners, Centennial Airport management and special districts and the Board and the Council. This will be completed by September. Task 2 will require review of available plans and reports. He said information will be collected to build an accurate understanding of existing and proposed land uses, infrastructure, transportation and other important features. He said this task will be completed by mid-September. He said task 3 will include a market analysis to examine key aspects of the JPA business environment. He said the marketing conditions will be researched as well as long-term economic trends and other factors that may impact future development. The market analysis will determine what the impact of different land uses are in the area. He said that task would be complete by the end of September. He said task 4 is a process that the city wants to work through in six months and will include key stakeholders. He said this is an important component of the planning process. He said task 5 will involve the formulation of goals and policies tailored to the opportunities and constraints of the planning area and will incorporate the objectives and findings of the market and fiscal analysis. He said land use, urban design, transportation and economic development will be considered. He said task 5 should be completed by mid-November.

Mr. Reed said after tasks 1-5 are complete, land use planning will begin with task 6. Studies will be conducted and will be completed at the end of November. He said task 7.1 would examine regulations that would be appropriate. He said the current regulations will be examined in conjunction with master development plans and a consistent application of development standards will be established. He said this task should be completed by the end of December. He said task 7.2 goes with 7.1.

Mr. Reed said task 8 is to prepare and present a final JPA sub area plan to the County and City for adoption, including a land development code, a final sub area plan and an Arapahoe County/Centennial IGA. He said that would take about three months. He said this may start sooner than November. He said task nine involves a development and action plan. He said the city will be aggressive in pointing out the steps that need to be taken to make this a successful planning effort. He said the creation of specific policies will consider an economic development strategy and will aggressively expand and attract and retain businesses within the JPA. He said task 9 will run concurrent with task 8 and will be performed from November to January. He said task 10 is an intergovernmental agreement between the County and the City. He said there is a lot of work to be done. He said Centennial has taken a proactive approach to write an RFP to seek qualified consultants to do the market analysis and the land use plan. He said if the Board approves the long-term temporary suspension, the City will proceed.

Mr. Widner said the City is requesting the extension of the temporary suspension, which is a necessary component of the planning effort. He said the development that goes in the area will influence the neighboring businesses and sets a tone for development and there are certain types of land uses that Centennial would like to step away from so that the appropriate style of development can be considered. He said it may prove that some of those uses may be best for the area, but until it is known, it is not wise to approve developments that could have a detrimental impact on the area. He said the City is asking the Commissioners to extend the moratorium for a period of six months to accomplish the joint planning effort. He said there will be property owners that will have to wait for development but they will also be at the table working on the plan so they understand the opportunities that could be realized on their properties.

Commissioner Weddig said the timeline is important. He asked if Centennial is prepared to embark on this project today. He said a revised calendar was presented today and he said he hopes it is not necessary to extend the deadlines. He said there are elections in November and it would be unfair to bring a new commissioner or two into this project. He said the Board wants to see this project done by the early part of January.

Mr. Widner said the city will be aggressive. He stated that the RFP has already been issued. He said the Board hasn't made the decision to extend the moratorium but Centennial has already implemented the steps to begin. He said six months is a reasonable amount of time, but there are many individuals that will have to participate. He said Centennial plans on achieving the goal of six months.

Commissioner Weddig said County staff is aware of some inconsistencies and the needs to look at the development standards and have started looking at those standards.

Commissioner Myers said the current Board would be seated until January 2, 2007, and that date should be noted in the work plans.

Commissioner Beckman said she hopes that through this process there is a close connection in working with Joe Hart. She said many of the stakeholders have already been consolidated and organized into a working group that has already done a market analysis. She hoped that there are not conflicting market analyses. She said it looks like a lot of work has already been done. She said it is important to keep this process on track as well as the Arapahoe Road corridor study. She said time is money and she hoped that there is coordination.

Mr. Widner agreed and said there must be efficiencies.

Commissioner Bockenfeld reminded the audience to comment on new information only and that the BOCC has reviewed the recordings and heard the previous testimony.

John Madden representing Jordan Arapahoe said the CarMax application is a unique opportunity and if it is not approved as an exemption to the moratorium, it would be lost as well as the revenues. He said he would respond to comments made by Centennial at the last meeting. He said he would also comment on the Board summary report. He read from the Board summary, "the temporary suspension shall not apply to any pending land use applications that are already in process". He said the report also states that the Board may take some other action as a result of discussion and testimony from the July 11<sup>th</sup> hearing. He respectfully requested that the CarMax application be exempted from the moratorium. He referred to the area on the site map. He said the property involving CarMax is the last 1,400 feet that goes up to Arapahoe Road and is two parcels. He said the land is under contract with CarMax. He said the two parcels were brought to the County planning staff's attention prior to the moratorium. He said there was a pre-application meeting before the moratorium was presented. He said \$100,000 has been spent to get the application ready. He said he has confirmed that there was no other pre-application meeting in the past six months. He said he has confirmed with Tom McNish that the Board has the authority to include CarMax in an exemption as a pending application. He said there have been two criticisms raised. He said one is that Jordan Arapahoe needs joint coordinated planning and that including the CarMax application will lead to low-quality used car lots. He said if the project is not exempted, there is a risk that substantial property rights will be forfeited. He said regarding the Jordan Arapahoe property, it was platted in 1999. He said there were long discussions with the prior Board to reach the appropriate land uses for Jordan Arapahoe and the property that is within the city of Centennial. He said the infrastructure has been installed at the cost of Jordan Arapahoe. He said most of the land has been marketed, developed and moved into the public sector. He said on either side of this property is land owned by Centennial. He said on one side is the hospital and the other side is the airport. He believes this moratorium involved the property rights of a number of people. He said if this opportunity is lost now it will be gone forever.

Alan Thurman, 5455 S. Clarkson, said he is a managing partners for Jordan Arapahoe and is a member of the Dove Valley Metropolitan District and the Arapahoe Water and Wastewater Authority. He said six other members of Jordan Arapahoe are members of Dove Valley Metro District. He said the participants have been active in making this entire area useful to the County. He said the group financed many of the infrastructure projects before there was a tax base. He said the Arapahoe County citizens have put this effort forth honestly and he looks forward to the County holding to the trust that was developed for that effort.

Jacob Mason owns 2.5 acres of property. He said he has followed all the rules and requirements of Arapahoe County concerning the property. He said he was encouraged by Arapahoe County staff to continue the development of his property. He said he has a large investment in the property and he cannot afford to look for other areas to develop. He asked the Commissioners to please protect his personal property rights and exempt the Jordan Arapahoe property from the moratorium.

Marty Flaum, 10023 Urban Street, Westminster, commended the BOCC and Centennial for their foresight to create a JPA. He said he is representing Mr. Mason who owns property on Arapahoe Road. He said based on the County documents, he is asking for an exemption because Mr. Mason has been in the process. He said this Board holds dear the personal property rights. He thanked the Board for their time.

Munsey Ayers, 950 17<sup>th</sup> Street, said he is representing CarMax. He requested that CarMax's application not be withdrawn. He explained that on May 18<sup>th</sup>, CarMax had a pre-application meeting for the FDP application, which would have been in process but for the fact that on May 23<sup>rd</sup> the BOCC adopted the first one-month moratorium on the processing of the applications. He said this property has zoning in place and an approved PDP in place, which allows auto sales as a use by right. He said Centennial has talked about the need for a moratorium to protect things while the joint planning takes place. He said CarMax is not seeking a rezoning because the zoning is already there. He said CarMax wants to implement what this Board's predecessors approved in 1999. He said this project would be consistent with the Comprehensive Plan. He said CarMax has spent in excess of \$100,000 on consultants and other costs related to the acquisition and getting the FDP ready to submit. He said there are some questions that have not been answered satisfactorily. He asked why this suspension has to apply to this site and this application. He said Mr. Pazour sent a letter on May 12<sup>th</sup> after the pre-application meeting was scheduled and six days before the meeting and several months after CarMax has talked with representatives from Centennial about the desire to have a CarMax on this location. He asked about the timing. He said this joint planning process could go on without forsaking neighbors and denying property rights that have been previously granted. He asked the Board to consider the 18 acres out of 500 that are subject to the moratorium. He said the project would not be a threat to Centennial Airport.

Mark VonEngel, 5 Belleview Drive, said he is the managing partner of 25 acres of property at the corner of Easter and Lima behind Wal-Mart. He requested that his property be exempt from the suspension. He said he is in the process of the Final Plat for the property, which has taken two years. He said he has an existing preliminary development plan approved by Arapahoe County. He said it is vital that he have the opportunity to include some of the excluded uses in his development planning. He said when Wal-Mart was built Wal-Mart put deed restrictions on the neighboring property (his property), which limits the amount of retail he can develop. He said many of the light industrial uses that are excluded would drastically affect him.

Jerry Kemp, 5570 E. Davidson Place, said he has two issues. He said the Board is stopping normal commerce and the action the Board takes today will be added to two months, which would be eight out of twelve months of a normal fiscal year. He said that is two thirds of an entire year that the Board will stop commerce. He said that is just like telling a grocery store they cannot open for business. He referred to the map and said the X's represent areas that are already developed and built out. He said the O's represent properties that are in opposition to this plan. He said several owners are opposed to the JPA because this plan removes their ability to sell their land. He said all the landowners that are affected by the six-month extension of a moratorium are opposed. He suggested that what is currently in place has been put in place over the years with normal activity by staff and Board members. He wondered why the County cannot continue on a normal path. He said if there are changes to be made, why weren't the stakeholders notified in advance of potential changes or allowed in discussions.

Don Geld, 14250 E. Easter Place, said he is also asking for his property to be excluded from the Centennial East Corporate Center. He said he has a phenomenal amount of money tied up in this property. He said his purchase was based on an approved PUD. He said not only is the Board proposing to take that PUD away from him, but is also delaying FDPs for proposed buildings in the area. He said he has existing leases that are under contract that he has to have buildings done and he can't get the buildings through the FDP phase because of this proposal. He said if the Board wants to do something, it should be done in the future, but to hold it up for three months then an additional six months, the plan would probably get drug out. He said he knows of two property deals where the buyers backed out because of this proposal. He begged and pleaded with the Commissioners to stop the plan and to protect his property rights and exclude his lots.

Commissioner Beckman asked if former commissioner Steve Ward's issue has been resolved.

Sue Conaway said it is in process and would not be affected. Ms. Conaway explained that the Board does have choices. She said the temporary suspension could be continued for six months, however one issue is that the current Board may not be seated while the work progresses. She recommended that the plan be complete by January 2, 2007. She said another option is that the Board could continue to work with Centennial to come to a JPA without the temporary suspension. She said that decision is in the Board's hands.

Commissioner Weddig asked about the PDPs and FDPs that will not be accepted for specific properties that are subject to the moratorium. He said for existing properties that are included in the temporary suspension, they could come in with other uses.

Ms. Conaway agreed. She said most of the PDPs that have been approved allow for office uses, manufacturing/warehouse uses and many others except for residential.

Commissioner Weddig said he wants that to be clear because there is a misconception that the subject properties cannot apply for FDPs or PDPs for any uses, and that is not true. That is specific to the listed uses.

Commissioner Zimmer said if someone applies for a use that is not listed, that person could continue as if the moratorium were not in affect.

Ms. Conaway said that is correct.

Mr. Widner said it would not be appropriate to comment on just one property but the moratorium is limited. He said the suspension does not stop all the construction or the transfer of property for office parks. He said the suspension is to stop the uses that have significant impacts on future opportunities. He said the question is what is the best use for a particular piece of property. He said that cannot be answered until the planning process is complete. He said the best use might be a car dealership. He said this is a reasonable step to accomplish a reasonable planned activity. He said Centennial feels it is a smart step to protect the well being and health of the community for the long term.

Mr. Weddig said the standards and guidelines between the County and the City are a big issue and the meshing of those should result in a better end product for everyone. He said most of the uses are not prohibited.

Mr. Widner said this would be a matched effort by the city and the county to have the same regulations to ensure that it won't matter if a property develops in Centennial or Arapahoe County because the regulations will be the same.

**The motion was made by Commissioner Beckman that the Arapahoe County Board of County Commissioners adopt a 6-month temporary suspension of land use applications within the proposed City of Centennial/Arapahoe County Joint Planning Area.**

**Seconded by Commissioner Weddig.**

Commissioner Beckman said the timing for suspensions is never good. She said the County has a history with the Four Square Mile are and the Airport Influence Area, in which there have been suspensions. She reiterated that this suspension is not about one property. She said since 2001, Arapahoe County and Centennial have been contemplating a land use plan. She said since Centennial was formed, Centennial contracted with various land use planners and tried to create its own personality and character. She said Arapahoe County and Centennial are so entwined that there must be coordination and direction. She said Mayor Pye has stated that this plan must happen and the Board agrees. She said this is a milestone with Arapahoe County's relationship with Centennial. She said this is not easy for a Board who strongly believes in personal property rights. She added that a vote in favor of this plan does not mean that these specific uses would go away. She said that each would be analyzed.

**Commissioner Zimmer asked that the motion be amended to add that that the end of the suspension be January 2, 2007.**

**Commissioner Beckman accepted the amendment.**

**Commissioner Weddig accepted the amendment.**

Commissioner Bockenfeld said this is a reasonable request. He said the stakeholders can all benefit from this process, including the County.

**The motion passed unanimously.**

**Item B – Resolution No. – Public Hearing, Case No. Z06-002, Heritage Christian Center, 1<sup>st</sup> Amended Preliminary Development Plan**

Assistant County Attorney Tim Knapp established jurisdiction for the Board to consider this item.

Carol Kuhn of the Planning Division presented the staff report, a copy of which has been retained for the file. She said recently large multifunctional churches have become more common around the United States and the churches are getting larger to serve a greater community area. She said there are several multifunctional churches in Arapahoe County such as St. Thomas Moore and Cherry Hills Community Church. She said Heritage Christian Center (HCC) is presenting this application to clarify some existing and proposed uses. She said the applicant is asking to increase the building square footage, increase the minimum parking and to decrease the building setbacks, decrease the minimum open space and increase the percentage of parking, and to increase the maximum building height from 50' to 51' and to remove four un-built single-family residences as allowed uses. She said currently HCC is not in conformance with the Preliminary Development Plan or the Final Development Plan. She said the differences between the existing PDP and FDP are outlined in the staff report. She said the intent is to bring the building into conformance and to allow the church to expand its facility with a two-story addition. She said on March 20<sup>th</sup>, there was a zoning violation, which has been addressed. She explained that the Zoning Administrator visited the site and found nothing that would trigger a zoning violation and the case was closed in June. She said the Planning Commission heard this case on June 6, 2006 and the Planning Commission voted to conditionally approve HCC. She said the conditions were outlined in the staff report. She said the applicant has addressed the conditions. She said one of the notable items was the fire code violation; the applicant has indicated that they are working with the fire department. Staff has added a condition of approval that there would not be any building permits issues for any FDPs until the building code and fire code violations have been addressed. She said staff has visited the site. She said she has photos from before and after the zoning violations. She said it is staff's opinion that the site has been cleaned up. She said the fence is in need of repairs, but that could be addressed at the FDP level. She said an issue at Planning Commission was that the open space shall not go below 21.3% and the applicant has made a note on the plans and the zoning document. She said the applicant has agreed to put street trees on east Florida Avenue and will be placed 40 feet on center and shall be evergreens between 14'-16' tall. She further stated that HCC wanted coordination with neighborhood regarding church projects and activities. A communication plan is to be implemented as a condition of approval. HCC has developed a special event planning procedure.

Commissioner Weddig said there are three major frontages on this property. He asked if the street trees would be planted along all three frontages.

Ms. Kuhn replied no. She explained that the neighborhood only asked for street trees on East Florida Avenue.

Commissioner Weddig asked what the Arapahoe County Code states regarding frontages.

Ms. Kuhn stated that Arapahoe County does not have a regulation for street tree plantings. She said the requirement is one tree and 10 shrubs for every 1,000 square feet of required landscaped area. She said there will be trees and shrubs added but there won't be a 40' on center requirement that requested by the Planning Commission.

Commissioner Weddig said the impression is that if the applicant does not proceed with the FDP or PDP amendment that they won't have to correct the violations. He assumed that there are deadlines to correct the various problems.

Ms. Kuhn said she is not sure how the fire code violations get rectified, but the building department is working with the applicant. She said there will be no new building permits issued for any new expansions. She said there is not a deadline for corrections.

Commissioner Weddig said the corrections must be made regardless if there is new expansion or not and that should be addressed. He said the PDP is currently out of compliance with the existing conditions. He said at minimum the County would want those corrections.

Ms. Kuhn said this PDP amendment brings the existing site into conformance.

Ms. Kuhn said regarding the large metal buildings, the bus barn was shown on the first amended PDP and that was approved on April 26, 1993 and showed a future bus garage, a maintenance building, two barns and three sheds. She said the County does not require a permit for buildings that are less than 120 square feet.

Commissioner Weddig said this is a commercial site that is subject to a PDP. He asked if the County has no say when it comes to buildings that are less than 120 square feet even if there is a site plan.

Ms. Kuhn said no building permit is required.

Commissioner Weddig clarified that the applicant would be in violation of the site plan if the out buildings are there.

Ms. Kuhn said yes, every site improvement is supposed to be shown on the FDP, but this case is regarding the PDP.

Mr. Knapp said Commissioner Weddig is correct and the applicant would be in violation of the site plan if there is something there that has not been approved such as an outbuilding. He said Ms. Kuhn is also correct in that the building department does not regulate that.

Commissioner Weddig said the County may not be up to speed because this site has overgrown what is shown on the PDP.

Ms. Kuhn said the goal is to put the church into conformance.

Commissioner Zimmer said the proposal is to double the square footage of the existing building but increase the parking by only 50%. He said parking is barely adequate now. If the building size is doubled, shouldn't the parking be doubled? He said the open space that was there is being cut by two thirds. He asked if the proposed parking and open space conform to the regulations.

Ms. Kuhn explained that the parking requirement for a church is 1 space per every 100 square feet of worship area or 1 space for every 3 fixed seats. She said the County allows the churches to break down offices, school rooms, administrative areas and gathering areas differently than the worship space. She said the worship space at HCC is not getting larger, only the offices, school and bookstore.

Don Ash with Scott Cox and Associates, 1530 55<sup>th</sup> Street, Boulder, CO, representing HCC. He clarified that the table that is on the drawings compared to the original PDP square footage and parking counts with the revised PDP. He said the square footage and parking counts of the existing structures are larger than what the approved PDP is. He said the increases are not as large as it may seem on the drawings.

Mr. Ash introduced the project team. He presented the site plan. He said the project is located south of Mississippi and west of Havana. He said E. Florida Avenue is on the south side of the site and Clinton runs along the east side. He said the property is bounded by Alton Park to the north and adjacent properties to the east, west and south. He

said the existing buildings are approximately 137,000 sq ft. He said the proposed addition would be 63,000 sq ft. He said the proposed open space ratio is 21%, which does not include detention ponds. He said the project also includes renovating the parking areas, where 1,300 spaces would be added. He said the current parking count is 1,400; the total would be 1,700 spaces. He said the current building is serving the parishioners well, but there are some basic functions that HCC would like to add to the existing building to help maintain the current level of service. He said the sanctuary seats 3,000 people. He said the plan would add a congregation hall, extended bookstore, youth services, seating in the gymnasium and a youth hang out room. He said the sanctuary will not be expanded. He said the additions would not increase the number of parishioners at the church. He said the expansion is designed to maintain the current level of service.

Mr. Ash said one problem is the limited congregating space. He said there is little area for the congregation to meet and exchange ideas and pleasantries during Sunday services. He said that forces the congregation outside into the parking areas. He said the building addition houses a congregation hall, which will help minimize the noise and disturbance to the area.

Mr. Ash then discussed the architecture. He presented renderings of the conceptual elevations of the addition. He said the addition is a mix of brick, stucco and stone with earth tone hues. He said that would compliment the existing neighborhood and does not draw too much attention to the structure. He said the west elevation has two major entrances, which will be the main route in and out of the church. He said there are breaks in the façade that break up the mass of the building.

Mr. Ash referred to the site plan and said a big issue is traffic and circulation. He said the parking configuration would be changed. He said currently the main entrance is on the southeast corner, where there is limited parking. He said during normal services, the parishioners tend to park as close to the entrance as possible. He said the entrances on the west side will be expanded, which orients the traffic flow to the main parking area. He said the two covered entrances will be placed on the west side so the entrance will be where the bulk of the parking is. He said there is enough parking for 1,375 cars and the plan is to increase that to 1,688 spaces. He said these parking counts are based on square footage of the uses. He said the site is in compliance with exiting codes regarding the number of parking spaces. He said the main parking area has parking striping that runs north and south. He said as people head into the building, they have to go through countless rows of cars. He said the striping would be turned 180 degrees and pedestrian corridors would be provided. He commented that would get people in and out of the parking lot better and help traffic circulation. He said HCC would also provide a circulation drive around the entire parking lot and there would be two-way traffic around the entire facility. He said there is a major entrance on Florida, which is controlled by local police during Sunday services. He said there are other entrances that are also used on Sundays. He said the building addition would not increase the number of seats in the sanctuary therefore the number of cars will not be increased. He said the goal is to redesign the parking areas to efficiently handle the number of cars. He said the traffic counts and noise should be minimized based on the proposed improvements.

He said HCC is proposing to keep the existing trees and plant new trees to help buffer the property from adjacent homes. He said there is a large landscape buffer along the north side/Alton Park. He said the applicant has been working with the Four Square Mile area and the Alton Park HOA to make sure there is an adequate buffer. He said there would be two large ponds on the northeast corner, which would help buffer. He said there is also a 38' buffer on South Alton and an 85' setback on Florida.

Mr. Ash said there was some confusion regarding a drive through coffee shop during the Planning Commission hearing. He clarified that there would not be a drive through coffee shop. He said there would be a coffee shop inside that will be open during the week and service people in the church. He said there have been meetings with the Four Square Mile neighborhood group and the applicant is actively involved to make sure the applicant is addressing their concerns. He said all the issues were addressed in the PDP phase, although some issues will be addressed at the FDP phase.

Mr. Ash said the applicant received a letter from Cunningham Fire Protection District regarding the past fire violations. He said there was a routine inspection that uncovered some problems, but they have been addressed except for one issue. He said the fire rating of the ceiling in the sanctuary area is an issue. He said there are some lights in the ceiling that are missing the box that goes over the fixture. He said it was noted that some of the fixtures

do not have UL rating tags. He said the church is working to resolve those issues. He said someone has been hired full time to address maintenance issues.

Mr. Ash said at Planning Commission the building height was reduced to 51 feet and the facades were reduced as well. He said there were also conditions regarding junk that had to be removed. He said another condition of approval was that the church work with the fire chief. He said the applicant is also working on reducing the noise emitted from the HVAC system. He said some homeowners requested that the HVAC be placed on the ground to minimize the noise. He said the applicant would agree to that, but he doesn't know if it is possible. He said a communication plan has been established with the neighborhood groups.

Garrett Leonard, 8429 Porcupine Point, Parker, CO, thanked the Board. He said his father is the pastor of the church, which started in the basement of their home 22 years ago. He said over time, the church has turned into Heritage Christian Center. He said the primary purpose for expansion is to take care of the people. He said one of the foundations of the church's beliefs is discipleship and leadership and part of that is fellowship. He said this new addition allows the church to create fellowship areas. He said the church believes in helping other people to achieve greatness and that includes fellowship. He said this would be an opportunity for the church to get to know the people. He said the church welcomes all people and has a mix of races. He said the issues with the fire department have been long standing. He said the ceiling is a fire rated acoustic tile. He explained that there are fixtures for productions and dramas the church holds. He said the current code states that the ceiling does not have to be fire rated because of its height, but based on the fact that the building was constructed in 1992, it then requires the ceiling to conform to that code. He said engineers have looked at changing the rating of the building, but that process is a lot longer than fixing the problem. He said other safety issues and code violations have been addressed. He said people often drop off items that they think the church would use or give away to people, and as a result, the church has accumulated a lot of junk on the property. He said that has been addressed as well. He further stated that HCC is working with the Four Square Mile group and listened to recommendations.

Commissioner Beckman asked if there is now a heightened awareness and concern about the site and the condition of the site and the impact that it has on the community around the church.

Mr. Leonard answered yes. He said in general the neighborhood has been very supportive. He said several issues have been resolved and he hoped that the congregation would no longer drop off their unwanted items at the church.

Commissioner Weddig said he has visited the site because this is a very important project for the community and the church. He said outdoor storage is not allowed on this site and there are a number of things that need to be under a roof. He hoped that the bus barn gets dressed up and looks better.

Rick Janna asked for the Board's support. He said at the Planning Commission hearing, there was concern regarding possible property values depreciating. He said he is a real estate broker and has been involved in thousands of sales. He said a facility such as this weighs heavily on homeowners minds. He said the youth center will be an asset to the surrounding community and will help property values. He said he has known Bishop Leonard for 40 years and he is a man of his word. He said many of the items that are of concern would be taken care of. He asked for the Board's support. He said this church has addressed needs in the community for over 20 years. He said there is a need to help the youth.

Anna Sweet, 985 E. Mississippi Avenue, said she lives one block from the church. She said her life changed at HCC. She said she is the pastor of the Hispanic church at HCC and there are about 400 families who are excited about this project. She believes this would provide a safe environment for Hispanic people. She said this church embraces all cultures and believes it will make an impact on the Hispanic community and the youth. She said she has kids and she cannot wait for the project to be completed. She said there are not many areas that provide a safe environment for children.

Greg Moore, 16595 e. Stanford Place, Aurora, thanked the Board. He said he supports the project for many reasons. He said the impact would be positive. He said any organization of this type would have a positive effect.

Tamara Olson, 12186 Sunset Creek Drive, Payton, CO said she drives 70 miles to attend HCC. She said she fully supports this for a number of reasons, but mostly because she believes in Bishop Leonard's heart for the community. She said he has listened to the neighbors' concerns and then plans to resolve the issues. She said this project will have a positive impact on the property values and that is very important. She said the Board should ask the homeowners if they are getting what they need.

Greg McDonough, 5694 E. Andes, Aurora said he has been a member of Heritage for 14 years. He asked for the Board's support. He said he is proud of what his children have received from HCC. He said he appreciates Heritage because after September 11<sup>th</sup>, the building was no longer just a building, but a gathering place where the community responded. He said he is thankful that there was a place like HCC for people to go. He said over the years one sees how the church changes peoples lives and that touches the heart. He said in times of need, HCC has been there for the congregation and the community.

Raylene Owen, 1741 S. Parker Road, representing ACCORD, acknowledged that there are positive things that come out of churches and the goal is not to determine the good or the bad of this situation. She said the decision is whether or not this project adheres to Arapahoe County standards and how that will affect the Four Square Mile (FSM) residents. She said the size of the church causes a great impact on the immediate area. She said there are people coming from very far away and the neighbors are very impacted by the size of this organization. She said ACCORD understands that many people are helped, some of that comes at the expense of the FSM area. She said many deficiencies have been pointed out now that the church desires this project, and now there is a scramble to clear those deficiencies up. She said there has not been an immediate response, as this has been going on for over 14 years. She said a Planning Commission member stated that the church has not been a good neighbor and it is a challenge to the congregation to change that history that they have created. She said ACCORD is concerned about the nonconformance of the PDP and FDP. She said ACCORD would like to see the square feet clarified. She said the violations should be addressed before the project proceeds. She said there is concern that the open space has been reduced to almost the minimum. She said the detention ponds cannot be counted as open space. She said if feasible, the applicant will place the HVAC on the ground and that must be addressed and directed as such. She said when that equipment is placed on the roof, there is more noise. She said the HVAC would also need to be adequately screened. She said security is another concern of ACCORD and that has not been addressed in the staff report. She said ACCORD is also concerned that there is no enlargement of the sanctuary. She said there is a possibility that the new area will have temporary seating and plasma screens to accommodate more people.

Ivy Stevenson, 18031 E. Kentucky Avenue, said she supports the Legacy Center. She said she has been a member of HCC for nine years. She said she is involved in the children's ministry but the focus for now is on the youth. She said the children open up when they come to the service and are able to go into their community to support their friends and neighbors. She said they also realize who they are and are able to share what they know about themselves. She said it is a pleasure to work with the children. She thanked the Board for their support.

Mark Lampert, 9022 E. Colorado Drive representing Four Square Mile neighborhoods, said the FSM task force met with the church. He thanked Scott Cox and Associates for their work. He said the Planning Commission set fourteen stipulations and most of them have been addressed. He said FSM has three major religious institutions and the area has always been noted at a religious area. He said FSM is looking forward to working with HCC on the mechanical noise issue. He said the mechanical units must be on the ground. He said the maximum height will be 51 feet and there must be a mandate that the equipment be placed on the ground. He said the residents are concerned about the problems that got out of hand in the past. He wondered if there is a rush to get things cleaned up because of the proposal. He said FSM will not be the "police" for the area and said staff should be the "police". He said those violations should never have been allowed for as long as they were. He said FSM wants to continue working with staff to ensure that the area is always in compliance. He said regarding landscaping along Alton, there should be more clusters of trees. He said FSM looks forward to working with Pastor Miller regarding the communication plan. He said it is important to acknowledge that. He said Copperstone and Alton Park have expressed concern about this project. He said Copperstone is concerned about drive through traffic. He said on Wednesdays and Sundays there are tremendous backups at the intersections. He said the drive through will be monitored through monitoring and educating their people. He said FSM is trying to correct all the wrongs from the past and learn from them.

Ms. Kuhn said no outdoor storage would be allowed on the site. She said if the plan is approved the applicant would have to comply with that. If not, someone could file a complaint and the zoning inspector would issue a violation. She said staff recommends approval based on the three conditions in the staff report. She stated that the conditions must be met before the Planning Commission hears the FDP case.

Commissioner Myers said the Planning Commission did an excellent job with the details and recommendations. She said the Heritage Christian Center and the other religious communities in FSM are unique and are good for the community, but everyone must be a good neighbor. She said the County has worked with the other religious organizations regarding other issues over the years. She asked if the fourteen recommendations are included in the note.

Ms. Kuhn explained that the presentation to the Planning Commission was for an addition that was to be 58' tall. Mr. Lampert asked the applicant to lower the height so the HVAC equipment would not be located on the roof. She said there are concerns regarding placing the HVAC on the ground because there could be more reverberation and sound bouncing. She said it's not clear whether or not it would be good to place the HVAC on the ground. She said the applicant is working on addressing that at the FDP level, however if that means all the existing HVAC equipment would have to be moved onto the ground, the applicant may not be willing to do that because of the cost. She said someone who has experience with HVAC told her that the noise could be louder by placing the HVAC on the ground. She said the applicant may not be willing to redo the entire A/C for the entire building. She said the height of the addition has been limited to 51 feet. She said the applicant is working with the fire department.

Mr. Knapp clarified that all fourteen recommendations from the Planning Commission are not identified in the draft motion. He said many of the items have been addressed and item 6 is directed to Cunningham Fire Department. He said the Board could reference these 14 items to make sure they are complied with prior to the FDP.

Commissioner Myers said she is pleased to see a task force coming forward to address this application. She asked for information regarding the task force.

Commissioner Weddig asked about the outbuildings. He expects that some of them would be needed. He asked if the site would be brought into conformance and if the outbuildings would be located on the site plan.

Ms. Kuhn said at the FDP stage any existing and proposed outbuildings would be shown. She said one area could be designated for outbuildings and the County could require screening.

Commissioner Weddig said he would like the outbuildings to be consolidated. He said he would like to get control over these kinds of unregulated buildings. He felt that they are not appropriate in this type of development.

Ms. Kuhn explained that could be done through an amendment process administratively. She said a 10% change to the Land Development Code is allowed under the administrative amendment section. She said if there were any structures that are not shown on the FDP or the applicant would like to add another building, an amendment would be necessary.

Commissioner Weddig said the current outbuildings should be relocated on the site so that the FDP will show the new location.

Ms. Kuhn said staff will ask the applicant to try to consolidate the outbuildings per the request of the BOCC. She said that could be a condition of approval.

Mr. Knapp said that might not be appropriate for the site plan, but the message is being sent from the Board for the FDP phase. He felt that does not have to be a condition at this time.

Ms. Kuhn said staff would work with the applicant to get them to consolidate and anything new that is not shown on the FDP would have to go through an amendment.

Commissioner Zimmer asked since the County doesn't regulate or issue building permits for buildings under 120 sq feet, what process does the Board have, if any, for ensuring compliance?

Mr. Knapp explained that the "blueprint" is the FDP, which will show the footprint of the building, where outbuildings would be and that is what the Board would approve. He said that is what the County will be looking for. He said as development occurs on this site, the inspectors will ensure that the construction complies with the footprint. He said the problem is that years down the road zoning would respond to citizen complaints as opposed to going out and looking for violations. He said there should be a cooperative effort between the HOAs to report violations.

Mark Lampert said the task force includes residents that are board members of adjacent HOAs or interested parties that have knowledge of what the project is. He said the task force is the main representative of the FSM neighborhood for the applicant. He said that does not circumvent the individual right of every homeowner to speak his or her minds. He said the task force is an information gathering organization. He said by utilizing the task force, the applicant can meet with the applicant to encourage better dialog.

**The motion was made by Commissioner Beckman to approve Case No. Z06-002, Heritage Christian Center, 1<sup>st</sup> Amended Preliminary Development Plan. The Board of County Commissioners has read the staff report and received testimony at the public hearing. The Board of County Commissioners finds itself in agreement with staff findings 1 through 6 including all plans and attachments as set forth in the staff report dated June 26, 2006, and approve this case subject to the following conditions:**

1. Applicant shall make all minor changes and corrections requested by the Planning and Engineering Divisions prior to completion of the final mylars.
2. The applicant shall address any outstanding items identified in the Engineering Division Staff report dated May 3, 2006.
3. The applicant shall address the building and fire code violations prior to taking the Final Development Plan to the Planning Commission for consideration and recommendation.
4. The fourteen recommendations made by the Planning Commission must be followed and resolved.

**Seconded by Commissioner Zimmer.**

The motion was amended by Commissioner Weddig that it is the Board's desire that the HVAC units be placed on the ground and that the existing units, where feasible, be screened. He said if the applicant can prove that the units would be quieter for the neighborhood if they are placed on the roof, he would be agreeable.

Ms. Kuhn said the height of the building is measured from the highest point of the building including mechanical equipment. She said additional screening cannot be added if the height is already at 51 feet. She said that is based on the definition in the Arapahoe County building code.

Commissioner Weddig said the County should work on that because that is not the same as other jurisdictions.

Commissioner Weddig said there are a number of units that are on lower parts of the building that could be screened.

Commissioner Beckman said recommendation No. 8 from the Planning Commission covers that issue. She said this is something that could also be reviewed at the FDP. She said there is a strong message to the applicant.

Commissioner Weddig said this is an extensive expansion and he wants it to meet the 2006 codes, not the 1992 codes. He said what was represented as a dining hall will also be a youth center, and that was not clear in the documentation. He said that raises some concerns. He said regarding the morning services and the lack of space to visit afterwards brings up the parking issue. He said that issue would not go away and he encouraged the applicant to look at the parking situation and try to find more spaces. He said this site is 22 acres and the building is 200,000

square feet. He said this is a specific use and the site must be kept up over the years. He said in retail centers, there is concern about converting big boxes. He said from time to time churches have that same problem.

**The motion passed 5-0.**

## **COMMISSIONER COMMENTS**

Commissioner Beckman said this is an exciting project but she asked that the applicant remember the neighbors. She said when this kind of project happens in neighborhoods, it does impact the residents and their homes. She said it should be a top goal of this church to make sure they are taken care of.

Commissioner Zimmer said he lives next to another large church and he has watched them go from being a good neighbor to a bad neighbor and back to good neighbor. He said he understands that things change but he urged the church to keep an eye on the neighbors because they are important.

Commissioner Bockenfeld said the Arapahoe County Fair will celebrate the 100<sup>th</sup> anniversary this year. He said it will be held July 21<sup>st</sup> through the 26<sup>th</sup>. He commended Commissioner Weddig and Commissioner Myers, who were at the City of Aurora last night making a presentation on channel 8.

**There being no other business before the Board, the Chair adjourned the hearing at 12:17 PM.**

## **ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS**

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**NANCY A. DOTY, CLERK TO THE BOARD  
BY JENNIFER GAYER, DEPUTY**