

ORDINANCE NO. 055, 2018,
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE RELEASE OF A RESTRICTIVE COVENANT
ON PROPERTY AT THE COLONY AT RIGDEN FARM

WHEREAS, on October 31, 2006, the City and Timberline at Rigden Farm, LLC (“Developer”) entered into an Agreement of Restrictive Covenants Affecting Real Property (“Covenant”) related to the Developer’s project known as the Colony at Rigden Farm, proposed to be developed on a portion of Tract C, Rigden Farm Filing One (the “Property”); and

WHEREAS, the Covenant authorized the Developer to receive certain benefits from the City, including priority processing, development impact fee payment delay, and other incentives in exchange for including in the Project five home-ownership units that would meet the definition of affordable housing under the City’s Land Use Code; and

WHEREAS, by its terms, the Covenant would go into effect when the City issued the certificate of occupancy for the five affordable units and would last for a period of twenty years; and

WHEREAS, the Covenant was recorded in the real property records of the Larimer County Clerk and Recorder and is binding on successors in interest to the Property; and

WHEREAS, since 2007 two multi-family buildings have been built on the Property, but all the units in both buildings are rentals – no ownership housing product was developed, and neither the Developer nor its successors requested or received any of the incentives permitted under the Covenant; and

WHEREAS, the current owner of the Property has requested that the City release the Covenant because the owner intends to sell the Property, and the prospective buyer wants the covenant removed before it will purchase the Property; and

WHEREAS, City staff recommends approving the release of the Covenant because it serves no purpose to the City – it was never triggered, as no ownership product was developed, and no incentives were provided by the City; and

WHEREAS, the Property is now fully developed and the Covenant only clouds the title to the Property making it harder to sell; and

WHEREAS, the City’s right under the Covenant to restrict the use of the Property constitutes an interest in real property owned by the City that the City would be giving up by releasing the Covenant; and

WHEREAS, Section 23-111 of the City Code states that the City Council is authorized to sell, convey or otherwise dispose of any interest in real property owned in the name of the City,

provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, at its regular meeting on February 1, 2018, the Affordable Housing Board reviewed the request and voted to recommend releasing the Covenant.


NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and finding contained in the recitals set forth above.

Section 2. That the City Council hereby finds that releasing the Covenant on the Property on the terms and conditions described herein is in the best interests of the City.

Section 3. That the City Manager is hereby authorized to execute such documents as are necessary to release the Covenant, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 17th day of April, A.D. 2018, and to be presented for final passage on the 1st day of May, A.D. 2018.


Mayor

ATTEST:

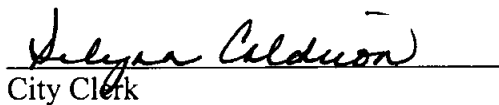

City Clerk



Passed and adopted on final reading on the 1st day of May, A.D. 2018.


Mayor

ATTEST:


City Clerk

