

RESOLUTION 2014-063
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING AND READOPTING RESOLUTION 2014-050
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE
APPEAL OF THE MARCH 19, 2014, ADMINISTRATIVE HEARING OFFICER
DECISION REGARDING THE MAJOR AMENDMENT TO THE SUMMIT ON COLLEGE
PROJECT DEVELOPMENT PLAN

WHEREAS, on March 19, 2014, Administrative Hearing Officer, Marcus McAskin (the "Hearing Officer") approved a major amendment to the Summit on College Project Development Plan (#130056) located west of the intersection of College Avenue and Stuart Street (the "Decision"); and

WHEREAS, on April 2, 2014, a Notice of Appeal of the Decision was filed by Jeffrey Leef, et. al, on behalf of the owners of a new restaurant known as The Laboratory (Appellant Leef); and

WHEREAS, on April 22, 2014, an Amended Notice of Appeal of the Decision was filed with the City Clerk by Councilmember Ross Cunniff (Appellant Cunniff); and

WHEREAS, on April 22, 2014, an Amended Notice of Appeal of the Decision was filed by Lester M. Kaplan as owner of the subject property located at 1801 South College Avenue (Appellant Kaplan); and

WHEREAS, Appellant Leef, et. al., Appellant Cunniff and Appellant Kaplan will hereinafter be referred to collectively as the Appellants; and

WHEREAS, on May 20, 2014, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered said appeals, reviewed the record on appeal, heard presentations from the Appellants and other parties-in-interest and, after discussion remanded the Decision to the Hearing Officer for further consideration; and

WHEREAS, City Code Section 2-57(g) provides that no later than the date of its regular meeting after the hearing of an appeal, City Council shall adopt, by resolution, findings of fact in support of its decision on the appeal, which the Council did in this appeal by the adoption of Resolution 2014-050 at its June 3, 2014, meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-57(g) of the City Code, the City Council hereby amends and readopts Resolution 2014-050, by making the following findings of fact and conclusions of law:

1. That the grounds for appeal as stated in the Appellants' Notices of Appeal conform to the requirements of Section 2-48 of the City Code.

2. That the Hearing Officer did not fail to conduct a fair hearing by exceeding its authority or jurisdiction as contained in the Code or Charter of the City.
3. That the Hearing Officer did not fail to conduct a fair hearing by considering evidence relevant to its findings which was substantially false or grossly misleading.
4. That the Hearing Officer failed to properly interpret and apply Section 3.4.1(I)(2) of the Land Use Code with regard to the impact of the major amendment upon Spring Creek viewsheds; and Section 3.5.1(J) of the Land Use Code with regard to the number of off-street parking spaces.
5. That the Decision is hereby remanded to the Hearing Officer for further consideration of the impact of the major amendment on Spring Creek viewsheds and for consideration of the possible reduction of the size of the parking structure building and the reduction of the number of parking spaces in the structure to a number closer to the minimum parking requirements as established by Ordinance No. 121, 2013, and presently contained in Section 3.2.2(K)(1)(a) for multi-family development in the Transit-Oriented Development (TOD) Overlay Zone, with a view toward compliance with the Land Use Code sections set out in paragraph 4 above.
6. That except for those provisions in paragraph 4 above, the Hearing Officer did not fail to interpret and apply any other provisions of the Land Use Code including, without limitation, that the Hearing Officer did not fail to properly interpret and apply the following sections of the Land Use Code:
 - (a) Any subparts of Section 3.5.1, other than Section 3.5.1(J);
 - (b) Section 4.21(B);
 - (c) Section 5.1;
 - (d) Section 3.10;
 - (e) Section 2.2.10(B)(1);
 - (f) Section 3.2.2;
 - (g) Section 2.8.2;
 - (h) Section 5.1.2;
 - (i) Section 2.2.1; and
 - (j) Any subparts of Section 3.4.1 other than Section 3.4.1(I)(2).

Passed and adopted at an adjourned meeting of the Council of the City of Fort Collins
this 22nd day of July, A.D. 2014.

Karen Weikusat
Mayor

ATTEST:

Wanda Nelson
City Clerk

