

RESOLUTION 2015-081  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW  
REGARDING THE APPEAL OF THE ADMINISTRATIVE HEARING OFFICER  
MARCUS MCASKIN DECISION APPROVING THE RIVER MODERN PROJECT  
DEVELOPMENT PLAN

WHEREAS, on July 10, 2015, Administrative Hearing Officer Marcus McAskin (the "Hearing Officer") issued a decision approving the River Modern Project Development Plan (the "Decision"), subject to certain conditions; and

WHEREAS, a Notice of Appeal of the Decision was filed with the City Clerk by Max Oesterle, Pamela Oesterle, Kendra Bartley, Gerald Bartley and Shen Gruber (referred to individually as "Appellant" or collectively as "Appellants"); and

WHEREAS, the Appeal alleges that the Hearing Officer failed to properly interpret and apply certain relevant provisions of the Land Use Code; and

WHEREAS, on August 18, 2015, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered the Appeal, reviewed the record on appeal, and heard presentations from the Appellants and other parties-in-interest (the "Council Hearing"); and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the hearing that: (1) the Hearing Officer did not fail to properly interpret and apply the Land Use Code or City Code; (2) the Decision should be modified by the addition of two conditions requiring the Applicant to remove a balcony on the west side of Building No. 1 and to work with City staff to enhance the landscaping by increasing the number of trees to be planted; and (3) except as to the addition of two conditions as stated, the Appeal is without merit and is denied; and

WHEREAS, City Code Section 2-55(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.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-55(g) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the grounds for appeal as stated in the Appellants' Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That based on the evidence in the record and presented at the Council Hearing, the recitals set forth above are adopted as findings of fact.

3. That based on the evidence in the record and presented at the Council Hearing the Decision is hereby modified by the addition of the following conditions:

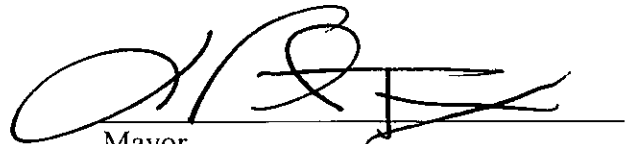
- a. In order to improve compliance with the privacy considerations of Land Use Code Section 3.5.1(D), the River Modern Project Development Plan shall be required to remove the high balcony on the west side of Building No. 1; and
- b. For the same reason of privacy considerations, the Applicant shall work with City staff to enhance the landscape plan for the project to increase the number of columnar trees along the east and west property boundaries by 25% from the number shown in the Project Development Plan approved by the Hearing Officer.

4. That the relevant sections of the City Code and Land Use Code were properly interpreted and applied by the Hearing Officer and that, except as modified in this Resolution, the Appeal is found to be without merit and is denied.

5. That adoption of this Resolution shall constitute the final action of the City Council in accordance with city Code Section 2-55(g).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 1st day of September, A.D. 2015.



  
Mayor

ATTEST:

  
City Clerk