

RESOLUTION 2016-007
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING
THE APPEAL OF THE PLANNING AND ZONING BOARD DECISION
APPROVING THE UNCOMMON PROJECT DEVELOPMENT PLAN, PDP15-0013

WHEREAS, on October 29, 2015, the Planning and Zoning Board (“P&Z”) approved the Uncommon Project Development Plan, PDP15-0013 (the “Decision”); and

WHEREAS, on November 12, 2015, Councilmember Ross Cunniff filed a Notice of Appeal of the Decision City with the City Clerk; and

WHEREAS, the Notice of Appeal requested that City Council review whether P&Z properly interpreted and applied certain relevant portions of the Land Use Code in rendering the Decision; and

WHEREAS, based upon the Notice of Appeal and pursuant to City Code Section 2-48(c), the Director of Planning, Development, and Transportation identified the Land Use Code provisions applicable to the Appeal; and

WHEREAS, on January 12, 2016, 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 the applicable Land Use Code provisions, and heard presentations from the representative for Uncommon 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 Council Hearing that:

1. The Planning and Zoning Board properly interpreted and applied the Land Use Code when it approved PDP15-0013 on October 29, 2015, except that;
2. The Decision should be modified by the addition of two conditions:
 - i. The plaza area at the southwest corner of the building and the walkway along the south end of the building be open to the public except to the extent fencing is required for an outdoor café with such fencing not extending more than ten (10) feet from the building; and
 - ii. The project development agreement and project plans shall include an enforceable provision prohibiting rental by the bedroom;

and

3. Except as to the added 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 next 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:

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

Section 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.

Section 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 two following conditions:

- i. That, to ensure compliance with the requirement of Land Use Code Section 4.16(E)(1)(c) for specified ground floor open space, the project plans include enforceable requirements that the plaza area at the southwest corner of the building and the walkway along the south end of the building, referred to as the "paseo," be maintained as open to the public, except to the extent fencing is required to bound an outdoor café approved by the City, which fenced area shall not extend more than ten (10) feet from the building.
- ii. That, to ensure compliance with the compatibility requirements for the project cited in the Appeal, the project development agreement and the project plans include an enforceable provision prohibiting the rental by the bedroom of any portion of the project, unless a change of use is approved for the project.

Section 4. That, except as modified by this Resolution, the Planning and Zoning Board properly interpreted and applied the relevant sections of the Land Use Code when it approved PDP15-0013 on October 29, 2015, and that, except as modified by this Resolution, the Appeal is found to be without merit and is denied.

Section 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 19th day of January, A.D. 2016.




Mayor

ATTEST:

W Winkelman
City Clerk