

RESOLUTION 2016-019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE
APPEAL OF THE HEARING OFFICER DECISION APPROVING THE CAPSTONE
COTTAGES PROJECT DEVELOPMENT PLAN, PDP140004

WHEREAS, on December 3, 2015, the Capstone Cottages Project Development Plan PDP140004 (the "PDP") was reviewed at a public hearing by Hearing Officer Kendra Carberry (the "Hearing Officer"); and

WHEREAS, on December 17, 2015, the Hearing Officer issued a written decision (the "Administrative Approval") approving the PDP with conditions; and

WHEREAS, on December 30, 2015, Jerry Gavaldon and Betty Aragon-Mitotes (the "Appellants") filed a Notice of Appeal of the Administrative Approval with the City Clerk; and

WHEREAS, the Notice of Appeal asserted that the Hearing Officer failed to conduct a fair hearing because she: (1) Substantially ignored previously established rules of procedure; and (2) Was biased against the Appellants by reason of a conflict of interest or other close business, personal or social relationship that interfered with the decision maker's independence of judgment; and

WHEREAS, the Notice of Appeal also asserted that the Hearing Officer failed to properly interpret and apply the Land Use Code in rendering the Administrative Approval, specifically Land Use Code Section 3.5.1, Building and Project Compatibility, and Section 3.6.4, Transportation Level of Service; and

WHEREAS, on February 16, 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 representatives for the PDP and the Appellants (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 Hearing Officer did not fail to conduct a fair hearing on December 3, 2015; and
2. The Hearing Officer did not fail to properly interpret and apply the Land Use Code when she approved the PDP; and
3. The Administrative Approval shall be modified by eliminating the condition described as condition "c" in the Administrative Approval (which requires removal of the roadway connection between the PDP and the Andersonville neighborhood to the north of the PDP from the PDP, leaving a trail connection only), and by requiring bollards be

installed as part of the construction of said roadway connection, not to be removed without further Council action; and

4. Except as to the stated modification, 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.

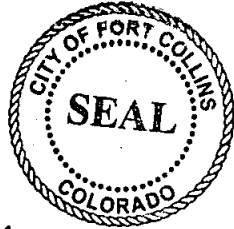
Section 3. That the Hearing Officer did not fail to conduct a fair hearing on December 3, 2015.


Section 4. That based on the evidence in the record and presented at the Council Hearing, the Decision is hereby modified by eliminating the condition described as condition "c" in the Administrative Approval (which requires removal of the roadway connection between the PDP and the Andersonville neighborhood to the north of the PDP from the PDP, leaving a trail connection only), and by requiring bollards be installed as part of the construction of said roadway connection, not to be removed without further Council action.

Section 5. That the Land Use Code was properly interpreted and applied by the Hearing Officer when she approved PDP14-0004 in her Decision issued on December 17, 2015, and that, except as modified by this Resolution, the Appeal is found to be without merit and is denied.


Section 6. 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 March, A.D. 2016.




Mayor

ATTEST:


City Clerk