

RESOLUTION 2016-038
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE
APPEAL OF THE MARCH 7, 2016, BUILDING REVIEW BOARD DECISION ON
REMAND REGARDING THE COY-HOFFMAN SILOS, 1041 WOODWARD WAY

WHEREAS, Woodward, Inc., (“Woodward”) is the owner of two silos (the “Silos”) located on its property within municipal limits at 1041 Woodward Way; and

WHEREAS, on September 18, 2015, the City of Fort Collins Chief Building Official (the “CBO”) issued his determination that the Silos were dangerous but not imminently dangerous; and

WHEREAS, Woodward appealed the September 18, 2015, CBO determination to the City of Fort Collins Building Review Board (the “BRB”); and

WHEREAS, on October 29, 2015, the BRB heard the appeal and adopted a motion upholding the CBO’s September 18, 2015, determination; and

WHEREAS, Woodward appealed the October 29, 2015, BRB decision to the City Council; and

WHEREAS, on January 19, 2016, the City Council heard the appeal and remanded the matter for further BRB consideration with direction as stated in Council Resolution 2016-009; and

WHEREAS, on March 7, 2016, the BRB heard the appeal on remand and adopted a motion upholding the CBO’s September 18, 2015, determination; and

WHEREAS, Woodward appealed the March 7, 2016, BRB decision to the City Council by filing its Notice of Appeal on March 21, 2016; and

WHEREAS, the Notice of Appeal claimed that the BRB failed to properly interpret and apply the City Code in making its decision at the March 7, 2016, remand hearing; and

WHEREAS, on April 19, 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 City Code provisions, and heard presentations from the representatives for Woodward and the parties-in-interest opposed to the Appeal (the “Council Hearing”); and

WHEREAS, the evidence for City Council consideration at the Council Hearing consisted of the evidence presented at the Council Hearing plus the evidence contained in the records of the October 29, 2015, and March 7, 2016, BRB hearings, and the January 19, 2016, 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 BRB failed to properly interpret and apply the City Council direction on remand regarding the consideration of the effect of natural conditions and events of a one-in-ten year probability on the Silos; and
2. The BRB failed to properly interpret and apply the term “imminent danger” as such term is defined in IPMC Section 202, adopted pursuant to City Code Section 5-46, and City Code Section 5-47(12); and
3. The evidence established that the Silos are an “imminent danger” as such term is defined in the City Code; and
4. The Silos pose an imminent threat to life, health, and property; and
5. The BRB decision to uphold the September 18, 2015, CBO determination is overturned.

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 BRB failed to properly interpret and apply the City Code at the March 7, 2016, remand hearing.

Section 4. That the BRB decision to uphold the September 18, 2015, CBO determination is overturned.

Section 5. That the Silos are an “imminent danger” as such term is defined in the City Code and pose an imminent threat to life, health, and property

Section 6. That the CBO is directed to forthwith issue an order to Woodward to demolish or repair the Silos on the basis that the Silos are an imminent threat to life, health, and property.

Section 7. 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 special meeting of the Council of the City of Fort Collins this 26th day of April, A.D. 2016.



Mayor

ATTEST:

W Winkelman
City Clerk