

RESOLUTION 2016-052
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 DENYING
THE MAPLE MIXED-USE PROJECT DEVELOPMENT PLAN, PDP150025

WHEREAS, on April 14, 2016, the Maple Mixed-Use Project Development Plan PDP150025 (the "PDP") was reviewed at a public hearing by Hearing Officer Kendra Carberry (the "Hearing Officer"); and

WHEREAS, on April 25, 2016, the Hearing Officer issued a written decision (the "Administrative Denial") denying the PDP and the Modification; and

WHEREAS, on May 9, 2016, Development Company, LLC, (the "Appellant") filed a Notice of Appeal of the Administrative Denial with the City Clerk; and

WHEREAS, the Notice of Appeal asserted that the Hearing Officer failed to conduct a fair hearing because she considered evidence relevant to her findings that was substantially false or grossly misleading; 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 Denial, specifically Land Use Code Section 3.4.7, Historic and Cultural Resources, Section 3.5.1, Building and Project Compatibility, Section 2.8, Modification of Standards, and Section 4.16(D)(5)(e), Downtown District Building Standards Exterior Facade Materials; and

WHEREAS, on July 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 representatives for the Appellant and opponents of the appeal (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 April 14, 2016; and
2. The Hearing Officer did fail to properly interpret and apply Land Use Code Sections 3.4.7, 3.5.1, 2.8, and 4.16(D)(5)(e), when she denied the PDP and the Modification; and
3. The Administrative Denial shall be overturned and the PDP approved because the PDP complies with Land Use Code Sections 3.4.7, 3.5.1, 2.8, and 4.16(D)(5)(e), in accordance with the findings stated in the City Staff Report submitted to the Hearing Officer for the April 14, 2016, hearing; and

4. The Modification of Standard pertaining to Land Use Code Section 4.16(D)(5)(e) regarding exterior facade materials shall be approved because:
 - i. It is not detrimental to the public good; and
 - ii. The PDP as proposed will promote the general purpose of the exterior facade materials standard equally well or better than would a plan that complies with the standard because the cement fiber lap siding and panels relate well to the wood siding on the houses found in the adjacent area;and
5. Except as to the failure of the Hearing Officer to properly interpret and apply the Land Use Code provisions set forth herein, 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 in support of its decision on the Appeal as follows:

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.
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 the Hearing Officer did not fail to conduct a fair hearing on April 14, 2016.
4. That the Hearing Officer did fail to properly interpret and apply Land Use Code Sections 3.4.7, 3.5.1, 2.8, and 4.16(D)(5)(e), when she denied PDP15-0025 in her Administrative Denial issued on April 25, 2016.
5. That the Administrative Denial is overturned and the PDP is approved because the PDP complies with Land Use Code Sections 3.4.7, 3.5.1, 2.8, and 4.16(D)(5)(e), in accordance with the findings stated in the City Staff Report submitted to the Hearing Officer for the April 14, 2016, hearing.
6. That the Modification of Standard pertaining to Land Use Code Section 4.16(D)(5)(e) regarding exterior facade materials is approved because it is not detrimental to the public good and it will promote the general purpose of the exterior facade materials standard equally well or better than would a plan that

complies with the standard because the cement fiber lap siding and panels relate well to the wood siding on the houses found in the adjacent area.

7. That except as to the failure of the Hearing Officer to properly interpret and apply the Land Use Code provisions set forth herein, the Appeal is without merit and is denied.
8. 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 July, A.D. 2016.



Mayor

ATTEST:


City Clerk