

RESOLUTION 2016-093
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 BRICK STONE APARTMENTS
ON HARMONY PROJECT DEVELOPMENT PLAN PDP160019

WHEREAS, on October 13, 2016, the Planning and Zoning Board (the "Board") reviewed and approved the Brick Stone Apartments On Harmony Project Development Plan PDP160019 (the "PDP"); and

WHEREAS, on October 27, 2016, Amanda Morgan filed a Notice of Appeal (the "Morgan Appeal") and David Agee and David Ramsay filed a separate Notice of Appeal (the "Agee/Ramsay Appeal") (collectively the "Appellants"), with the City Clerk appealing the approval of the PDP; and

WHEREAS, the Morgan Appeal asserted that the Board failed to properly interpret and apply the Land Use Code (the "LUC") in rendering its decision, specifically LUC Section 1.2.2(C) in relation to the safety of the residents of the Harmony Road Apartments in using the current driveway access proposed to be shared with the PDP; and

WHEREAS, the Agee/Ramsay Appeal asserted that the Board failed to conduct a fair hearing because it considered evidence, specifically the traffic and drainage reports, relevant to its findings that was substantially false or grossly misleading; and

WHEREAS, the Agee/Ramsay Appeal additionally asserted that the Board failed to properly interpret and apply the LUC in rendering its decision, specifically LUC Sections 1.2.2(C), (E), (I), (M), (N), and 3.4.1(E), in relation to issues of traffic and pedestrian safety, stormwater drainage, and environmental impacts and natural habitat buffer zones; and

WHEREAS, on December 6, 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 LUC provisions, and heard presentations from the Appellants and the opponent of the appeal, the applicant for PDP160019 (the "Applicant"); and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the December 6, 2016, hearing that:

1. The Board did not fail to conduct a fair hearing on October 13, 2016, because it did not consider evidence relevant to its findings that was substantially false or grossly misleading; and
2. The Board did not fail to properly interpret and apply LUC Sections 1.2.2(C), (E), (I), (M), (N), and Section 3.4.1(E) when it approved the PDP; and

3. Pursuant to City Code Section 2-55(f), the Board's decision shall be modified to include the following five conditions of approval for PDP160019. The Applicant shall consult with City staff in order to fulfill the following conditions consistent with the LUC and other applicable laws and regulations:
 - i. Install a raised crosswalk across the access drive shared by the proposed development and Harmony Road Apartments to improve the safety of pedestrians crossing the access drive;
 - ii. Locate the eastern drainage outfall discharge point within the boundaries of the property subject to PDP160019 to discharge directly into the Mail Creek Impoundment as shown by the Applicant at the December 6, 2016, Council hearing;
 - iii. To the maximum extent feasible, utilize a temporary construction access at a location other than the access drive shared with the Harmony Road Apartments to minimize usage of the shared drive for construction;
 - iv. Install appropriate signage to caution vehicles regarding pedestrian and other use of the shared access drive; and
 - v. Review the lighting plan and, if necessary, add additional illumination for pedestrian use of the shared access drive;

and

4. Except to the extent reflected in the conditions set forth above, the failure to properly interpret and apply the LUC issue raised in the Morgan Appeal is without merit and is denied; and
5. Except to the extent reflected in the conditions set forth above, the failure to conduct a fair hearing and the failure to properly interpret and apply the LUC issues raised by the Agee/Ramsay Appeal are without merit and are denied.

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:

1. That the grounds for appeal stated in the Morgan Appeal and the Agee/Ramsay Appeal conform to the requirements of Section 2-48 of the City Code.

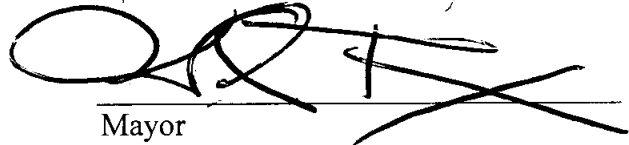
2. That based on the evidence in the record and presented at the December 6, 2016, Council hearing, the recitals set forth above are adopted as findings of fact.
3. That the Board did not fail to conduct a fair hearing on October 13, 2016.
4. That the Board did not fail to properly interpret and apply Land Use Code Sections 1.2.2(C), (E), (I), (M), and (N), and 3.4.1(E), when the Board approved PDP160019 on October 13, 2016.
5. That pursuant to City Code Section 2-55(f), the Board's decision shall be modified to include the five conditions of approval for PDP160019 set forth in the above recitals.
6. That except to the extent reflected in the conditions set forth above, the Morgan Appeal and Agree/Ramsay Appeal are without merit and are denied.
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 regular meeting of the Council of the City of Fort Collins this 20th day of December, A.D. 2016.



ATTEST:

W Winkelman
City Clerk


Mayor