

RESOLUTION 2018-018
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'S DECISION APPROVING THE
UNION ON ELIZABETH PROJECT DEVELOPMENT PLAN/FINAL PLAN PDP/FDP170024

WHEREAS, on December 14, 2017, the Planning and Zoning Board (the "Board") reviewed and approved the Union on Elizabeth Project Development Plan/Final Plan PDP/FDP170024 (the "PDP/FDP"); and

WHEREAS, on December 28, 2017, Rory Heath (the "Appellant") filed an appeal (the "Notice of Appeal") of the P&Z approval of the PDP/FDP with the City Clerk; and

WHEREAS, the Notice of Appeal asserted that the Board failed to conduct a fair hearing, alleging that it: (1) exceeded its authority or jurisdiction as contained in the Code or Charter; (2) substantially ignored its previously established rules of procedure; (3) considered evidence relevant to its findings which was substantially false or grossly misleading; (4) improperly failed to receive all relevant evidence offered by the Appellant; and (5) was biased against the Appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Board's independence of judgment; and

WHEREAS, the Notice of Appeal also asserted that the Board failed to properly interpret and apply Land Use Code Sections 3.4.7, 3.5.1(G)(1), 3.5.1(A), 3.5.1(B), 3.5.1(C), 4.18(A), 4.18(B), and, as stated in the Notice of Appeal, "With all due respect to the board staff and the time of the board staff, the exemptions/ exceptions granted at the 12/14/2017 hearing were illegal. Additionally, their application, in this case and in consideration of the sheer mass of the building structure, was also illegal;" and

WHEREAS, on February 13, 2018, 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, received new evidence for consideration, and heard presentations from the Appellant and the PDP/FDP applicant (the "Applicant"), who opposed the appeal; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the February 13, 2018, hearing that the Board did not fail to conduct a fair hearing on December 14, 2017, because:

1. The Board did not exceed its authority or jurisdiction as contained in the Code or Charter;
2. The Board did not substantially ignore its previously established rules of procedure;
3. The Board did not consider evidence relevant to its findings which was substantially false or grossly misleading;
4. The Board did not improperly fail to receive all relevant evidence offered by the Appellant;
and

5. The Board was not biased against the Appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Board's independence of judgment;

and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the February 13, 2018, hearing that the Board did not fail to properly interpret and apply Land Use Code Sections 3.4.7, 3.5.1(G)(1), 3.5.1(A), 3.5.1(B), 3.5.1(C), 4.18(A), 4.18(B), nor did Appellant's allegation "With all due respect to the board staff and the time of the board staff, the exemptions/ exceptions granted at the 12/14/2017 hearing were illegal. Additionally, their application, in this case and in consideration of the sheer mass of the building structure, was also illegal" establish that the Board failed to properly interpret and apply the Land Use Code; and

WHEREAS, Council finds that Appellant's appeal is without merit in its entirety and is denied and the Board's December 14, 2017, decision in PDP/FDP170024 is upheld; 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:

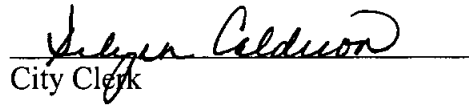
1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
2. That the grounds for appeal stated in the Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
3. That based on the evidence in the record and presented at the February 13, 2018, Council hearing, the Appellant's allegation that the Board failed to conduct a fair hearing is without merit and is denied in its entirety.
4. That based on the evidence in the record and presented at the February 13, 2018, the Appellant's allegation that the Board failed to properly interpret and apply the Land Use Code is without merit and is denied in its entirety.
5. That the Board's December 14, 2017, decision in PDP/FDP170024 is upheld.
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 20th day of February A.D. 2018.



Mayor

ATTEST:



City Clerk

