

# **AGENDA ITEM SUMMARY**

## **FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 15**

**DATE: December 16, 2008**

**STAFF: Steve Olt**

### **SUBJECT**

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Resolution 2008-127 Making Findings of Fact and Conclusions Pertaining to the Appeal by Randy Whitman of the July 17, 2008, Determination of the Planning and Zoning Board to Deny the Whitman Storage Facility - Request for a Modification of Standard.

### **RECOMMENDATION**

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Staff recommends adoption of the Resolution.

### **EXECUTIVE SUMMARY**

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On August 19, 2008, an appeal of the July 17, 2008 decision of the Planning and Zoning Board to deny the Whitman Storage Facility – Modification of Standard was filed by the Appellant Randy Whitman.

On December 2, 2008, City Council voted to uphold the decision of the Planning and Zoning Board. In order to complete the record regarding this appeal, the Council should adopt a Resolution making findings of fact and finalizing its decision on the appeal.

### **BACKGROUND**

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The Appellant's notice of appeal was based on the allegation that:

“the Planning and Zoning Board failed to properly interpret and apply relevant portions of the City Code.”

At the December 2, 2008 hearing on this matter, Council considered the testimony of City staff, the Appellant, and the opponent to the Appeal. In subsequent discussion at this hearing, Council determined that the Planning and Zoning Board did properly interpret and apply relevant portions of the City Code.

City Council determined to uphold the decision of the Planning and Zoning Board.

RESOLUTION 2008-127  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING FINDINGS OF FACT AND CONCLUSIONS PERTAINING TO  
THE APPEAL BY RANDY WHITMAN OF THE JULY 17, 2008,  
DETERMINATION OF THE PLANNING AND ZONING BOARD TO DENY  
THE WHITMAN STORAGE FACILITY - REQUEST FOR A MODIFICATION  
OF STANDARD

WHEREAS, on July 17, 2008, the City's Planning and Zoning Board (the "Board") denied a request for Modification of Standard of Whitman Storage Facility Project #11-08 (hereafter, the "Project"); and

WHEREAS, on August 19, 2008, an Amended Notice of Appeal of the Board's decision was filed with the City Clerk by Randy Whitman (the "Appellant"); and

WHEREAS, on December 2, 2008, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered said appeal, reviewed the record on appeal, heard presentations from the Appellant and, after discussion, upheld the decision of the Board; and

WHEREAS, City Code Section 2-56(e) 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 2-56(e) of the City Code, the City Council hereby makes the following findings of fact and conclusions:

1. That the grounds for appeal as stated in the Appellants' Amended Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That the Board did not fail to properly interpret and apply the relevant provisions of the Land Use Code in denying the Appellant's request for Modification of Standard.
3. That, for the foregoing reason, the decision of the Board denying the request for Modification of Standard is upheld.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 16th day of December, A.D. 2008.

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Mayor

ATTEST:

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City Clerk