

AGENDA ITEM SUMMARY

March 6, 2018

City Council

STAFF

Jason Holland, City Planner
Brad Yatabe, Legal

SUBJECT

Resolution 2018-023 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Planning and Zoning Board's Decision Approving the Johnson Drive Apartments Project Development Plan PDP170034.

EXECUTIVE SUMMARY

The purpose of this item is to make Findings of Fact and Conclusions of Law regarding the appeal ("Appeal") of the Planning and Zoning Board's Decision Approving the Johnson Drive Apartments Project Development Plan PDP 170034.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On January 18, 2018, the Planning and Zoning Board considered the application for the Johnson Drive Apartments Project Development Plan PDP 170034 at a Type II Hearing and rendered a decision to approve PDP 170034.

On February 1, 2018, two appellants filed a Notice of Appeal with assertions regarding the Planning and Zoning Board's decision as follows:

- I. Failure to conduct a fair hearing in that the Board considered evidence relevant to its findings which was substantially false or grossly misleading.
- II. Failure to properly interpret and apply relevant provisions of the Land Use Code.

On February 27, 2018, City Council considered the record on appeal and testimony from the Appellants, Parties-In-Interest, Applicant, and City staff. The City Council determined that the appeal was without merit, denied the appeal in its entirety and upheld the Planning and Zoning Board's decision approving PDP 170034.

RESOLUTION 2018-023
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
JOHNSON DRIVE APARTMENTS PROJECT DEVELOPMENT PLAN PDP170034

WHEREAS, on January 18, 2018, the Planning and Zoning Board (the "Board") reviewed and approved the Johnson Drive Apartments Project Development Plan PDP170034 (the "PDP"); and

WHEREAS, on February 1, 2018, Eric Sutherland and Paul Patterson (the "Appellants") filed an appeal (the "Notice of Appeal") of the P&Z approval of the PDP with the City Clerk; and

WHEREAS, the Appellants asserted in the Notice of Appeal that the Board failed to conduct a fair hearing because it considered evidence relevant to its findings which was substantially false or grossly misleading; and

WHEREAS, the Appellants also asserted in the Notice of Appeal that the Board failed to properly interpret and apply Land Use Code Sections 2.4.2(H), 3.2.2(K), 3.4.1(I)(2), 3.6.4, 3.10.5(F)(3), and 4.21; and

WHEREAS, on February 27, 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 Appellants and other parties-in-interest in support of the appeal and the opponent of the appeal, the PDP applicant; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the February 27, 2018, hearing that the Board did not fail to conduct a fair hearing on January 18, 2018, because the Board did not consider evidence relevant to its findings which was substantially false or grossly misleading; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the February 27, 2018, hearing that the Board did not fail to properly interpret and apply Land Use Code Sections 2.4.2(H), 3.2.2(K), 3.4.1(I)(2), 3.6.4, 3.10.5(F)(3), and 4.21; and

WHEREAS, Council finds that Appellants' appeal is without merit in its entirety and is denied, and the Board's January 18, 2018, decision in PDP170034 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 27, 2018, Council hearing, the Appellants' 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 27, 2018, Council hearing, the Appellants' allegation that the Board failed to properly interpret and apply the identified provisions of the Land Use Code is without merit and is denied in its entirety.
5. That the Board's January 18, 2018, decision in PDP170034 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 6th day of March, A.D. 2018.

Mayor

ATTEST:

City Clerk