

Exhibit 1 - Plaintiff's Opening Brief 2018civil01

1 some ability to lease space, but I understand their concerns...but, we need to make sure that they have
2 enough space that it can be leased to a business.

3 CHAIR SCHNEIDER: Other questions? Before we move into deliberation, anything else Jason,
4 you want to add before we start to deliberate?

5 MR. HOLLAND: Thank you; I don't have anything additional to add. Thank you.

6 CHAIR SCHNEIDER: Okay, let's move into deliberation then. Comments? Concerns?
7 Opinions?

8 BOARDMEMBER HANSEN: I have just a couple comments. I guess the first one...I don't
9 know if we really...if we can do anything at this point...I think we saw, either in the staff presentation or
10 in the applicant's presentation, analysis of parking usage, utilization, in similar projects. It looks like it
11 was about 50%. But, we didn't get that compared to the lease rate of the units. You know, the TOD
12 started with, you know, no parking standard, and quickly decided that was the wrong answer. And I think
13 we kind of took a guess at what might be the right answer with this 0.75 as a starting point, and then
14 reductions. There is...parking, especially structured parking, is a big investment on the part of the
15 developer. That's one downside. From a boardmember, I'm more concerned about there being...if there
16 is parking in the neighborhood, parking issues in the neighborhood, and we have a parking garage that's
17 not being fully used, is there some way we can get some of that drawn into...it could even be, you know,
18 rent by the hour spaces. If they're not leased, I wonder if there's some provision we could make for that?
19 Kind of just take that comment and put it aside, but it's at top of my mind now so I wanted to mention it.

20 I think the...the trash enclosure...there's a design standard in the Land Use Code for those. It
21 needs to match the building. It's...functionally, I think it kind of needs to go where it's at. That's in a lot
22 more visible location than we usually see a trash enclosure, so, if we get a motion that...I think there's a
23 proposed condition associated with that. I think it should address a height and design standard, just
24 because it's in a really highly visible location on a highly trafficked trail. People passing it at a pedestrian
25 speed instead of a vehicle speed; you have a lot more time to experience that...that structure.

26 You had a condition about reducing the bold colors. I kind of liked the bold colors...just a
27 comment.

28 Yeah, and on the amount of retail, I mean, it's a tough...that's a tough situation to try to guess on.
29 You want...the point of the mixed-use is to create a vibrant mix of activities going on and providing a
30 mixed-use building does that, but I think even worse than having not enough opportunities for mixed-use
31 would be having vacant spaces. There's nothing that's less comfortable than having...walking by empty
32 storefronts. So, I understand in this particular situation, how not having a higher percentage of retail
33 space could be acceptable.

34 CHAIR SCHNEIDER: Jennifer?

35 BOARDMEMBER CARPENTER: I'm probably going to go one step further than you did, Jeff,
36 on the parking, and whether or not its being used. And I'd like to request from staff that that's something
37 that we put on a worksession topic, that we look at that again and maybe do some actual studies of how
38 much of it is being used and see if there's something we can do. I guess my gut is telling me that if
39 you're charging for it, it's getting used less. And I think I would like to be able to look at something

1 where, if we're going to mitigate for it, that it's not something that's charged separately for, because I
2 think we're leaving parking spaces empty while people park for free out on the streets, which none of us
3 wants.

4 And, would also like to request that we look at maybe some...something for increased...if we're
5 going to give increased occupancy, that we have 24-hour on-site management. I think that's probably not
6 a bad idea when you're starting to talk about having five bedrooms and that kind of thing.

7 One of my pet peeves has been not enough mixed-use on a lot of our projects that we have, we
8 get a minimal amount of mixed-use. It's a tough one, I agree, it's a tough one.

9 CHAIR SCHNEIDER: Jennifer, is the 24-hour on-site, is that something that you want to add as a
10 condition of approval?

11 BOARDMEMBER CARPENTER: No; because I don't think right now it's really anything that I
12 have anything to hang that on in the Land Use Code. It's something that I would like to add to a
13 worksession topic, that we talk about that. And, again, is that needed or not? But I would like to be able
14 to pursue that separate from this project. This project just brought it up top of mind, as Jeff said. I think
15 at this point, I'm feeling like they're meeting everything that we have...all of the Land Use Code
16 requirements that we have now, so there's really not any way to change that. So, I'll probably be
17 supporting the project.

18 CHAIR SCHNEIDER: Okay, any other comments, deliberation? Bill?

19 BOARDMEMBER WILLIAM WHITLEY: Well, I'll be supporting this project too because I
20 can't think of a reason not to. But, that's not a great recommendation, but there are a lot of challenges on
21 this site; there are a lot of challenges in the area. I think they're meeting them as best they can.

22 CHAIR SCHNEIDER: Okay...motion? Entertain a motion?

23 BOARDMEMBER HANSEN: Alright, I...Mr. Chair, I move that the Fort Collins Planning and
24 Zoning Board approve the Johnson Drive Apartments Project Development Plan, PDP 170034, based on
25 the findings of fact and the two following conditions of approval included in the staff report: those
26 conditions being that the applicant should provide, no later than final plan approval, a detailed trash and
27 recycling enclosure design including truck access and circulation, compactor and dumpster locations, in a
28 manner substantially compliant with the Planning and Zoning Board approval, and in accordance with the
29 adopted engineering standards and trash and recycling standards in Section 3.2.5 of the Land Use Code,
30 and the second condition being that the applicant should provide, no later than final plan approval,
31 materials, samples, and colors to ensure compliance with Section 3.10.5(c) of the Land Use Code. This
32 approval and the conditions are based on the agenda materials, the information and materials presented
33 during the worksession and in this hearing, and the Board discussion on this item with the following
34 findings: that the PDP complies with all applicable Land Use Code requirements as stated in the staff
35 report prepared for this hearing and contained in the agenda materials. The information, analysis,
36 findings of fact and conclusions contained in the staff report included in the agenda materials for this
37 hearing are adopted by this Board.

38 CHAIR SCHNEIDER: We have a first, do we have a second?

1 BOARDMEMBER CARPENTER: I'll second it, but can I add a friendly amendment too, and I
2 don't know exactly how we'll word it, but...

3 CHAIR SCHNEIDER: Go ahead and try.

4 BOARDMEMBER CARPENTER: Okay. I've really liked your idea that, because that trash
5 enclosure is so visible...is there something that we can add that maybe gives us a little heightened design?

6 BOARDMEMBER HANSEN: Yeah, I was wondering about that as I was thinking about this.
7 And I think the language in the proposed condition...it's kind of implying that it goes with the discussion
8 that we had.

9 CHAIR SCHNEIDER: I think staff and the applicant team both understand what we're looking
10 for.

11 BOARDMEMBER HANSEN: Understand the intent of that, yeah.

12 CHAIR SCHNEIDER: So, I don't know if we need a friendly amendment...I think they're in
13 agreement. Seeing some head nods out there, so...

14 BOARDMEMBER CARPENTER: Okay, leave it as is. I'll just second it.

15 CHAIR SCHNEIDER: We have a first and a second. Any final comments? No? I guess I will
16 say that I'll reluctantly support this. My concern is that I think you're meeting the bare minimums as far
17 as amenities, parking, be it bicycle, be it the cars...not comfortable with all the reductions. I understand
18 that's part of the Land Use Code, which we'll have a conversation about probably in the near future. It is
19 a tough site, I don't disagree with that, but this is one that I don't feel has gone above and beyond to try
20 and capture some of the things that we're looking for in the TOD. I know you're meeting all the
21 requirements, but it's just not, to me, one of those projects that feels like it's...it's just meeting the bare
22 minimums. And I respect and understand why and what have you, so I will support it, but reluctantly
23 support it, so...with that, roll call please.

24 BOARDMEMBER HANSEN: I'd like to add a similar comment that...it's meeting the standards
25 that we're supposed to meet this by, but it feels like it's meeting it minimally. The one exception might
26 be the attention that's paid to the top of the building, which I think is appropriate, because it's going to be
27 like a second layer, you know, as you're going along College, which is a major travel corridor, you know.
28 I think that's one place where this building excels. Other than that, the project is barely squeaking by.

29 CHAIR SCHNEIDER: Okay. Roll call please.

30 MS. GERBER: Hansen?

31 BOARDMEMBER HANSEN: Yes.

32 MS. GERBER: Rollins?

33 BOARDMEMBER ROLLINS: Yes.

34 MS. GERBER: Whitley?