

RESOLUTION 68 54
OF THE COUNCIL OF THE CITY OF FORT COLLINS SETTING FORTH
FINDINGS AND CONCLUSIONS REGARDING REFERENDUM PETITIONS
FILED IN CONNECTION WITH ORDINANCE NO 19, 1968

WHEREAS, heretofore the City Council passed and adopted Ordinance No 19, 1968, the date of final reading of said ordinance being May 23, 1968, and the effective date of said ordinance pursuant to the provisions of the Charter of the City of Fort Collins being ten days after such final passage date, and

WHEREAS, said Ordinance No 19, 1968, was an ordinance changing the zoning classification for certain property located in the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 24, Township 7 North, Range 69 West of the 6th P M in the City of Fort Collins, Colorado, and

WHEREAS, such property was removed from the RL-Low Density Residential District under said zoning ordinance and part of said property was placed in the RM-Medium Density Residential District and part in the RP-Planned Residential District under said zoning ordinance, and

WHEREAS, thereafter and within the time allowed by the Charter of the City of Fort Collins, petitions for a referendum on said ordinance were duly filed with the City Council protesting against the going into effect of such ordinance, and

WHEREAS, such petitions were referred to the election board of the City of Fort Collins and report was made by the City Clerk that such petitions contained the signatures of more than 15% of the total vote cast at the last general City Election, and

WHEREAS, the City Council has made a study of this matter and desires to set forth herein its findings and conclusions regarding such referendum petitions

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows

1 The City Council hereby finds and determines as follows

a The Ordinance which is the subject of the referendum petitions was an ordinance changing the zoning classification for certain property in the City

from the RL-Low Density Residential District to the RM-Medium Density Residential District and the RP-Planned Residential District

b In addition to the evidence presented at the hearing on such rezoning petition and the arguments there presented, the City Council notes that the land in question has not been developed for any urban purpose, that said land was originally zoned under the zoning ordinances of the City of Fort Collins at the time it was annexed to the City in a Low Density Residential classification and that said land has remained in such classification since it was annexed to the City in April of 1957. Since such land was annexed to the City the land on all sides of the subject property has been developed, such developments including the South College Heights Subdivisions and the Indian Hills Subdivisions and the limits of the City have extended more than a mile beyond the subject property, however, the subject property has remained undeveloped. Such fact indicates to the City Council that the original zoning for said property was not correct and was one of the reasons for the passage of the rezoning ordinance

2 The City Council having heard the evidence presented at the hearing on the rezoning ordinance is of the opinion that failure to grant the rezoning would have constituted arbitrary and capricious action on the part of the council which would have resulted in a direction from the Court having appropriate jurisdiction of the matter to grant the rezoning requested


3 The City Council further finds and determines that an ordinance changing the zoning classification for property within the City cannot be lawfully enacted without a public hearing before the City Council after public notice is published and without a study and recommendation concerning such amendment by the Planning and Zoning Board. In addition the hearing before the Planning and Zoning Board requires additional notice to persons interested all as set forth in Section 19-46 of the Code of Ordinances of the City of Fort Collins, Colorado, 1958, as amended. Since neither an initiated ordinance nor a referendum would comply with such notice and hearing requirements the referendum is not applicable to a rezoning ordinance

4 In addition the City Council notes that Article 19 of the Charter of the City of Fort Collins empowers the City Council to zone the City and such article does not make such power subject to the referendum

5 For the foregoing reasons the City Council is of the opinion that in passing the ordinance which is the subject of the referendum petitions the City Council was acting in an administrative manner and not in a legislative manner and because of this such ordinance is not a proper subject for a referendum


6 For the foregoing reasons the City Council hereby determines that Ordinance No 19, 1968, is not subject to a referendum and because of this the City Council does not accept the petitions for the referendum and Ordinance No 19, 1968, shall continue in full force and effect

Passed and adopted at a regular meeting of the City Council held this 3rd day of July, A D , 1968



Mayor

ATTEST



City Clerk