

RESOLUTION 2019-102  
OF THE CITY COUNCIL OF THE CITY OF FORT COLLINS  
MAKING FINDINGS, DETERMINATIONS AND CONCLUSIONS DENYING ON  
REHEARING THE CONSOLIDATED SERVICE PLAN FOR  
NORTHFIELD METROPOLITAN DISTRICT NOS. 1-3

WHEREAS, Colorado's Special District Act in Article 1 of Title 32 of the Colorado Revised Statutes (the "Special District Act") authorizes the formation of metropolitan districts to finance, construct, operate and maintain certain public improvements and to provide certain public services, but Section 32-1-204.5 in the Colorado Revised Statutes ("C.R.S.") provides that a metropolitan district cannot be organized within a municipality unless the municipality's governing body first approves by resolution the district's proposed service plan; and

WHEREAS, on February 5, 2019, City Council adopted Resolution 2019-016 approving the "City of Fort Collins Policy for Reviewing Service Plans for Metropolitan Districts" setting forth guidelines, requirements and criteria applicable to the City's consideration of metropolitan district service plans (the "City Policy"); and

WHEREAS, pursuant to the Special District Act and the City Policy, Landmark Homes (the "Applicant") submitted its application to the City for City Council's consideration of a Consolidated Service Plan (the "Service Plan") for the Northfield Metropolitan District Nos. 1-3 (the "Districts"); and

WHEREAS, the Applicant proposes that the Districts be organized to provide for the financing, planning, design, acquisition, construction, installation, relocation, redevelopment, operation and maintenance of all or a portion of certain public improvements described in the Service Plan for the approximately 56.3 acres of land to be included within the Districts' boundaries as also described in the Service Plan (the "District Property"); and

WHEREAS, the Applicant proposes to develop the District Property as a mixed-use development, but primarily as a residential development to include approximately 442 attached housing units (the "Development"); and

WHEREAS, in accordance with Section 3.I. of the City Policy, the Applicant has complied with the requirements for mailed and published notice of the City Council's August 20, 2019, public hearing on the Service Plan; and

WHEREAS, on August 20, 2019, the City Council took action which, under Section 2.c. of City Council's Rules of Procedure dated May 21, 2019, continued its consideration of the Service Plan to its September 3, 2019, regular meeting; and

WHEREAS, additional notice of this continued consideration was mailed and published by the Applicant; and

WHEREAS, at its September 3, 2019, the City Council adopted a motion to again continue the hearing on the Service Plan to be held at City Council's September 17, 2019, meeting; and

WHEREAS, on September 17, 2019, the City Council conducted its public hearing on the Service Plan, in which it reviewed the Service Plan and considered the testimony and other evidence concerning it presented at the hearing; and

WHEREAS, after the presentation of the testimony and other evidence and Council questions and discussion, a motion was made to adopt City Council Resolution 2019-092 approving the Service Plan, which motion failed on a vote of 4 against and 3 in favor; and

WHEREAS, the City Council then adopted a motion (by a vote of 6 in favor and 1 against) directing City staff to prepare a resolution for City Council to consider at its October 1, 2019, to adopt its supporting findings, determinations and conclusions for its denial of the Service Plan; and

WHEREAS, at City Council's adjourned September 24, 2019, meeting, Council adopted a motion to suspend City Council's Rules of Procedure to allow it to consider a motion from any Councilmember to reconsider the motion by which Council voted down Resolution 2019-092 and to conduct a rehearing on the Service Plan at Council's October 1, 2019, meeting; and

WHEREAS, after so suspending the Rules of Procedures, the City Council adopted a motion to reconsider the motion by which it voted down Resolution 2019-092 and to conduct a rehearing of the Service Plan at Council's October 1, 2019, meeting; and

WHEREAS, the City Council conducted the rehearing on the Service Plan at its October 1, 2019, meeting and received additional testimony and evidence, which together with the September 17, 2019, hearing constitutes the public hearing in this matter; and

WHEREAS, at the conclusion of the hearing, the City Council considered the adoption of Resolution 2019-101 to approve the Service Plan, as revised, and a motion to approve it failed; and

WHEREAS, this Resolution sets forth and represents the City Council's adopted findings, determinations and conclusions supporting its denial of the Service Plan on rehearing.

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

Section 1. That the City Council hereby makes and adopts the findings, determinations and conclusions contained in the recitals set forth above.

Section 2. That the City Council hereby finds, determines and concludes that the City's notice requirements in the City Policy have been substantially complied with by the Applicant regarding the City Council's public hearing on the Service Plan conducted on September 17, 2019, and the public rehearing on October 1, 2019.

Section 3. That the City Council hereby finds, determines and concludes under and in accordance with C.R.S. Sections 32-1-203(2)(b) and 32-1-204.5(1)(b) that the Applicant and the testimony and other evidence presented in the hearing have failed to establish, to the City Council's satisfaction, that the existing public services in the area available to serve the existing and projected needs for the District Property are inadequate and, therefore, require the formation of the Districts. Instead, the testimony and other evidence established that the Development and public improvements and services needed for it can be adequately provided by existing public services available to the District Property without the need for the Districts to be formed to provide such services. The Applicant has therefore failed to establish, as required by C.R.S. Section 32-1-203(2)(b), that the existing service in the area of the District Property is inadequate for the present and future needs of the proposed Development.

Section 4. That the City Council hereby finds, determines and concludes under and in accordance with C.R.S. Sections 32-1-203(2)(c) and 32-1-204.5(1)(b) that the Applicant and the testimony and other evidence presented in the hearing have failed to establish, to the City Council's satisfaction, that the Districts are capable of providing economical service to the District Property. Instead, the testimony and other evidence established that when the estimated price of the housing units to be built by the Applicant within the Development is considered in relationship to the fifty (50) mill property tax to be imposed by the Districts under the Service Plan on such housing units, which will almost double the property taxes on the units, the services to be provided will not be economical or affordable for Fort Collins residents likely to purchase a home in the area of the District Property. The Applicant has therefore failed to establish, as required by C.R.S. Section 32-1-203(2)(c), that the Districts are capable of providing economical service to the District Property.

Section 5. That the City Council hereby finds, determines and concludes that the Service Plan and the public benefits to be provided under it do not sufficiently provide, to the City Council's satisfaction, "extraordinary public benefits that align with the goals and objectives of the City" as required by Section 1.A. in the City Policy. The Service Plan fails to do this for the following reasons: **[List reasons]**.

Section 6. That the City Council hereby finds, determines and concludes, based on all of the foregoing, that the Applicant has failed to satisfy to the City Council's satisfaction that the Service Plan meets all of the applicable requirements of the Special District Act and the City Policy and, therefore, the City Council hereby denies approval of the Service Plan.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 1st day of October, A.D. 2019.

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Mayor

ATTEST:

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City Clerk