

RESOLUTION 2020-098
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE
APPEAL OF THE HEARING OFFICER DECISION DENYING THE MODIFICATION OF
STANDARDS REQUEST FOR 613 SOUTH MELDRUM STREET, MOD200001

WHEREAS, on July 1, 2020, hearing officer Lori Strand (“Hearing Officer”) conducted a public hearing to review the stand-alone modification of standards request for five modifications of standards (“Requested Modifications”) to Land Use Code Sections 4.9(D)(2), 4.9(D)(5), and 4.9(E)(1)(b)2.2., MOD200001; and

WHEREAS, on July 15, 2020, the Hearing Officer issued a written decision denying the Requested Modifications finding that the Requested Modifications were not detrimental to the public good but that, if granted, the Requested Modifications would not promote the general purposes of the standards for which the modifications were requested equally well or better than a proposal in compliance with such standards; and

WHEREAS, on July 28, 2020, Jeff Palomo and Denise White (collectively the “Appellant”), the owner of the property subject to the Requested Modifications and an occupant of the property, respectively, filed a Notice of Appeal with the City Clerk appealing the Hearing Officer denial of the Requested Modifications; and

WHEREAS, the Notice of Appeal asserted that the Hearing Officer failed to properly interpret and apply Land Use Code Sections 4.9(D)(2), 4.9(D)(5), and 4.9(E)(2); and

WHEREAS, the reference to Land Use Code Section 4.9(E)(2) is incorrectly cited, although it is clear which standard is intended, and is corrected to be Section 4.9(E)(1)(b)2.2.; and

WHEREAS, on October 6, 2020, 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 Appellant and City staff; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the October 6, 2020, hearing that the Hearing Officer did not properly interpret and apply Land Use Code Section 2.8.2(H), *Modification Review Procedures, Standards*, because the Hearing Officer’s interpretation of Land Use Code Section 2.8.2(H)(1) did not consider the massing, size, and visual impacts in the context of the particular location and the stated purposes of the Neighborhood Conservation Buffer zone district; and

WHEREAS, City Code Section 2-56(c) 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(c) 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 October 6, 2020, Council hearing, the Appellant's allegation that the Hearing Officer failed to properly interpret and apply Land Use Code Section 2.8.2(H)(1) has merit because the Hearing Officer's interpretation did not consider the massing, size, and visual impacts in the context of the particular location and the stated purposes of the Neighborhood Conservation Buffer zone district.
4. That the Hearing Officer's decision issued on July 15, 2020, for MOD 200001 is hereby overturned, and Council finds that when the massing, size, and visual impacts are considered in the context of the particular location and the stated purposes of the Neighborhood Conservation Buffer zone district, the Requested Modifications meet the standards equally well or better than a plan that complies with such standards as required by Land Use Code Section 2.8.2(H)(1), and the Requested Modifications are therefore granted.
5. That except as stated in this Resolution, any other issues raised in the Notice of Appeal are hereby found to be without merit and denied.
6. That adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-56(c).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 20th day of October A.D. 2020.



Mayor

ATTEST:



City Clerk / Chief Deputy

