

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 26

DATE: February 18, 2003

FROM: Ted Shepard

SUBJECT:

Resolution 2003-022 Making Findings of Fact and Conclusions Regarding the Appeal of a Decision of the Planning and Zoning Board Granting the Request of In-Situ, Inc. to Modify Two Land Use Code Standards.

RECOMMENDATION:

Staff recommends adoption of the Resolution.

EXECUTIVE SUMMARY:

On January 2, 2003, City Councilmembers Roy and Hamrick filed a Notice of Appeal under Section 2-48 of the City Code regarding the December 19, 2002 decision of the Planning and Zoning Board to approve the In-Situ, Inc., request for modification of two Land Use Code standards. The two standards were *Section 3.4.1(E)(2), Buffer Zone Performance Standards* and *Section 4.16(D)(3)(a)(3), Buildings – Frequent View/Access*. On January 21, 2003, an Amended Notice of Appeal was filed.

At the February 4, 2003 hearing on this matter, Council considered the testimony of City staff, the applicant, the applicant's consultant and other parties-in-interest opposed to the appeal. After discussion at this hearing, Council determined that the Planning and Zoning Board properly interpreted and applied the relevant provisions of the Land Use Code in approving the modification of standards requested by In-Situ, Inc.

Therefore, Council voted 4-2 (Councilmembers Hamrick and Roy opposed, Councilmember Kastein absent) to uphold the decision of the Planning and Zoning Board. In order to complete the record regarding this appeal, the Council should adopt a resolution making findings of fact and finalizing its decision on the appeal.

RESOLUTION 2003-022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS REGARDING
THE APPEAL OF A DECISION OF THE PLANNING AND ZONING BOARD
GRANTING THE REQUEST OF IN-SITU, INC. TO MODIFY
TWO LAND USE CODE STANDARDS

WHEREAS, on December 19, 2002, the City's Planning and Zoning Board (the "Board") approved the request of In-Situ, Inc. to modify two standards contained in the City's Land Use Code; and

WHEREAS, on January 2, 2003, a Notice of Appeal of the Board's decision was filed with the City Clerk by Eric Hamrick and David Roy on behalf of the City Council (the "Appellant"), and an Amended Notice of Appeal was filed with the City Clerk on January 21, 2003, (the "Amended Notice of Appeal"); and

WHEREAS, on February 4, 2003, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered said appeal, reviewed the record on appeal, heard presentations from the parties in interest and, after discussion, upheld the decision of the Board; and

WHEREAS, City Code Section 2-56(e) 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 City Code Section 2-56(e), the Council hereby makes the following findings of fact and conclusions:

1. That the Board did not fail to properly interpret and apply the relevant provisions of the City's Land Use Code, and specifically Sections 2.8.2(H), 3.4.1(E) and 4.16(D)(3)(a)3, in approving the modifications of the standards set forth therein.
2. That, for the foregoing reasons, the decision of the Board approving such modifications is hereby upheld.

Passed and adopted at a regular meeting of the City Council held this 18th day of February, A.D. 2003.

Mayor

ATTEST:

City Clerk