

**DATE:** April 17, 2012  
**STAFF:** Courtney Levingston  
Karen McWilliams

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**16**

**SUBJECT**

Resolution 2012-025 Making Findings of Fact Regarding the Appeal of the February 16, 2012, Planning and Zoning Board Denials of Two Stand-alone Modifications Concerning the Proposed Carriage House Apartments Located at 1305 to 1319 South Shields Street.

**EXECUTIVE SUMMARY**

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On March 1, 2012, an appeal of the February 16, 2012 decision of the Planning and Zoning Board to deny the Carriage House Apartments, Modification of Standards was filed by Charles A. Bailey with Catamount Properties, Ltd.

On April 3, 2012, City Council voted 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.

**BACKGROUND / DISCUSSION**

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The Appellants notice of appeal was based on the allegation that:

- The Planning and Zoning Board failed to conduct a fair hearing; and
- The Planning and Zoning Board improperly interpreted and applied relevant portions of the Code and Charter

At the April 3, 2012 hearing on this matter, Council considered the testimony of City staff, the Appellants, and the Opponents to the Appeal. In subsequent discussion at this hearing, Council determined that the Planning and Zoning Board conducted a fair hearing and properly interpreted and applied relevant portions of the Land Use Code.

City Council determined to uphold the decision of the Planning and Zoning Board.

**STAFF RECOMMENDATION**

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Staff recommends adoption of the Resolution.

RESOLUTION 2012-025  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING FINDINGS OF FACT REGARDING THE APPEAL OF THE  
FEBRUARY 16, 2012, PLANNING AND ZONING BOARD DENIALS OF  
TWO STAND-ALONE MODIFICATIONS CONCERNING THE  
PROPOSED CARRIAGE HOUSE APARTMENTS  
LOCATED AT 1305 TO 1319 SOUTH SHIELDS STREET

WHEREAS, on February 16, 2012, the Planning and Zoning Board (the “Board”) denied a requested stand-alone modification from Land Use Code Section 3.4.7(B) concerning the proposed Carriage House Apartments located at 1305 to 1319 South Shields Street, and a stand-alone modification from Land Use Code Section 3.4.7(E) concerning the proposed Carriage House Apartments located at 1305 to 1319 South Shields Street (together referred to as the “Modifications”); and

WHEREAS, on March 1, 2012, a Notice of Appeal of said decisions of the Board was filed in the Office of the City Clerk by the applicant for the Modifications, Charles A. Bailey on behalf of Catamount Properties, Ltd., alleging that the Board had failed to conduct a fair hearing by considering evidence that was substantially false and grossly misleading, and further alleging that the Board improperly interpreted and applied relevant portions of the Land Use Code in its denial of the Modifications; and

WHEREAS, on April 3, 2012, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, the City Council considered said appeal, reviewed the record on appeal, heard presentations by parties in interest to the appeal, and, after discussion, voted to uphold the decisions of the Board denying the Modifications; and

WHEREAS, City Code Section 2-56(e) provides that no later than the date of its next regular meeting after the hearing on an appeal, the City Council shall adopt, by resolution, findings of fact in support of its decisions on the appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-56(e) of the City Code, the City Council hereby makes the following findings of fact and conclusions:

1. That the grounds for appeal as stated in the Notice of Appeal conform to the requirements of Section 2-48 of the City Code;
2. That, in reaching its decisions to deny the Modifications, the Board did not fail to conduct a fair hearing;
3. That, in reaching its decision to deny the proposed modification from Land Use Code Section 3.4.7(B), the Board properly interpreted and applied the relevant provisions of the Land Use Code; and

4. That, in reaching its decision to deny the proposed modification from Land Use Code Section 3.4.7(E), the Board properly interpreted and applied the relevant provisions of the Land Use Code; and

5. That, in light of the foregoing, the February 16, 2012, decision of the Board denying the proposed modification from Land Use Code Section 3.4.7(B) is hereby upheld.

6. That, in light of the foregoing, the February 16, 2012, decision of the Board denying the proposed modification from Land Use Code Section 3.4.7(E) is hereby upheld.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 17th day of April A.D. 2012.

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Mayor

ATTEST:

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Interim City Clerk