

DATE: September 4, 2012
STAFF: Lindsay Ex

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

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SUBJECT

Resolution 2012-085 Making Findings of Fact and Related Determinations Regarding the Appeal of the June 25, 2012 Administrative Hearing Officer Approval of the Legacy Senior Residences Project Development Plan.

EXECUTIVE SUMMARY

On June 25, 2012, the City of Fort Collins Hearing Officer issued a written decision approving the Legacy Senior Residences Project Development Plan with three Modifications of Standard. On July 9, Save the Poudre filed a Notice of Appeal, alleging the Hearing Officer failed to properly interpret and apply the Land Use Code and considered evidence relevant to its findings that was substantially false and grossly misleading.

On August 21, 2012, City Council voted 4-2 (Nays: Ohlson, Poppaw) that the Hearing Officer conducted a fair hearing and upheld the Hearing Officer's decision approving the Project Development Plan and the three Modifications of Standard.

In order to finalize this appeal process, Council is required to adopt a Resolution making findings of fact and finalizing its decision on the Appeal.

BACKGROUND / DISCUSSION

The Appellant's Notice of Appeal was based on allegations that the Hearing Officer failed to properly interpret and apply the Land Use Code and considered evidence relevant to its findings that was substantially false and grossly misleading.

At the August 21, 2012 hearing on the matter, Council considered the testimony of the appellant, the applicants, and City staff. After consideration of the record and discussion, City Council voted 4-2, determining that the Hearing Officer conducted a fair hearing and that the Land Use Code was properly interpreted and applied in regards to the Modification to Section 4.17(D)(3)(c)(4) of the Land Use Code and the Project Development Plan. Accordingly, the Council upheld the decision of the Hearing Officer on June 25 and approved the Legacy Senior Residences Project Development Plan with three Modifications of Standard.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

RESOLUTION 2012-085
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND RELATED DETERMINATIONS
REGARDING THE APPEAL OF THE JUNE 25, 2012 ADMINISTRATIVE
HEARING OFFICER APPROVAL OF THE
LEGACY SENIOR RESIDENCES PROJECT DEVELOPMENT PLAN

WHEREAS, on June 25, 2012, the City's Administrative Hearing Officer (the "Hearing Officer") approved three modifications of standard and a project development plan for the project known as Legacy Senior Residences (the "PDP"); and

WHEREAS, on July 9, 2012, a Notice of Appeal of the Hearing Officer's decision was filed with the City Clerk by Gary Wockner/Save the Poudre: Poudre Waterkeeper (the "Appellant"); and

WHEREAS, on July 27, 2012, the Appellant filed an Amended Notice of Appeal of the Hearing Officer's decision with the City Clerk; and

WHEREAS, the appeal involved one of the modifications of standards as well as the PDP; and

WHEREAS, on August 21, 2012, 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 Appellant and other parties-in-interest and, after discussion, upheld the decision of the Hearing Officer; and

WHEREAS, City Code Section 2-57(g) provides that no later than the date of its 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 2-57(g) 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 Appellant's Amended Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That the Hearing Officer held a fair hearing and did not consider any evidence relevant to his findings which was substantially false or grossly misleading.
3. That the Hearing Officer did not fail to properly interpret and apply the provisions of the Land Use Code in granting the modification of standard which was the subject of the appeal.

4. That the Hearing Officer did not fail to properly interpret and apply the provisions of the Land Use Code in approving the PDP.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 4th day of September, A.D. 2012.

Mayor

ATTEST:

City Clerk