

SUBJECT

Resolution 2013-054 Making Findings of Fact and Conclusions Regarding the Appeal of the April 18, 2013 Planning and Zoning Board Approval of the Max Flats Project Development Plan.

EXECUTIVE SUMMARY

On April 18, 2013, the Planning and Zoning Board considered and approved the application for the Max Flats, Project Development Plan. On May 2, 2013, a Notice of Appeal was filed seeking to modify the approval.

On June 4, 2013, City Council voted 5-2 (Nays: Cunniff, Overbeck) concluding that the evidence presented did not indicate the Board failed to conduct a fair hearing by considering evidence relevant to its findings which was substantially false or grossly misleading, nor did it substantially ignore its previously established rules of procedure. City Council voted 7-0 that the Planning and Zoning Board properly interpreted and applied the Land Use Code in approving the Plan, but that, based upon information presented to the City Council on appeal, the City Council determined that the decision of the Board should be modified by the addition of the following conditions of approval:

- a. Five trees must be planted along the west side boundary of the property.
- b. Juliet balconies must be installed along the west side of the building as shown on the elevation presented to the City Council on appeal.
- c. The tower elements must be added to the building as shown on the elevation presented to the City Council on appeal.
- d. All materials cladding the building must be consistent on all elevations around the building.

In order to complete the record regarding this appeal, Council should 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 Planning and Zoning Board failed to conduct a fair hearing in that it considered evidence was substantially false and grossly misleading and that it substantially ignored its previously established rules of procedure. The Appellant also alleged that the Planning and Zoning Board failed to properly interpret and apply relevant provisions of the Land Use Code.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

RESOLUTION 2013-054
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS
REGARDING THE APPEAL OF THE APRIL 18, 2013
PLANNING AND ZONING BOARD APPROVAL OF THE
MAX FLATS PROJECT DEVELOPMENT PLAN

WHEREAS, on April 18, 2013, the Planning and Zoning Board (the "Board") approved a project development plan for the project known as the Max Flats Project Development Plan (the "Plan"); and

WHEREAS, on May 2, 2013, a Notice of Appeal of the Board's decision was filed with the City Clerk by Bruce Froseth and Susan Kreul-Froseth(the "Appellants"); and

WHEREAS, on June 4, 2013, 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 Board with four modifications; 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 Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That the Board conducted a fair hearing in approving the Plan.
3. That the Board properly interpreted and applied the Land Use Code in approving the Plan, but that, based upon information presented to the City Council on appeal, the City Council has determined that the decision of the Board should be modified by the addition of the following conditions of approval:
 - a. Five trees must be planted along the west side boundary of the property.
 - b. Juliet balconies must be installed along the west side of the building as shown on the elevation presented to the City Council on appeal.
 - c. Tower elements must be added to the building as shown on the elevation presented to the City Council on appeal.
 - d. All materials cladding the building must be consistent on all elevations around the building.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 18th day of June, A.D. 2013.

Mayor

ATTEST:

City Clerk