

AGENDA ITEM SUMMARY

February 7, 2017

City Council

STAFF

Clark Mapes, City Planner

SUBJECT

Resolution 2017-011 Adopting Findings of Fact and Conclusions Regarding the Appeal of the Planning and Zoning Board Decision to Approve the Landmark Apartments Expansion, PDP#160013.

EXECUTIVE SUMMARY

The purpose of this item is to make Findings of Fact and Conclusions regarding the Appeal of the Planning and Zoning Board decision to approve the Landmark Apartments Expansion Project Development Plan.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On November 10, 2016, the Planning and Zoning Board approved the Landmark Apartments Expansion Project Development Plan (PDP). On November 22, 2016, two separate Notices of Appeal were filed:

- Per Hogestad filed a Notice of Appeal alleging that the Decision Maker failed to conduct a fair hearing in that the Board considered evidence relevant to its findings, which was substantially false or grossly misleading.
- Colleen Hoffman and Ann Hunt filed a Notice of Appeal alleging that the Decision Maker failed to conduct a fair hearing in that the Board improperly failed to receive all relevant information offered by the appellant; and also alleging that the Board failed to properly interpret and apply specified provisions of the Land Use Code.

On January 31, 2017, City Council considered the appeal allegations and testimony from parties in interest. All specific assertions in the two appeals were discussed.

City Council denied the appeals and thus upheld the Planning and Zoning Board's approval of the PDP, with the following additional conditions which are intended to address compatibility issues raised in the appeals:

1. The applicant must install signage requesting that drivers dim lights to reduce headlight glare into surrounding residential windows;
2. The applicant must add landscaping and other features to the Project as reasonably feasible to mitigate headlight glare into surrounding residential windows;
3. The applicant must remove all balconies from the east side of Building A;
4. The applicant must remove any balconies that would extend into any natural area buffer;

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5. The applicant must shift the emergency access road on the Project five feet to the west from the location shown on the plans approved by the Planning and Zoning Board;
6. The applicant must add landscaping and other features to the Project to discourage pedestrian traffic on the voluntary trail that currently exists to the east of the proposed emergency drive.

RESOLUTION 2017-011
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING FINDINGS OF FACT AND CONCLUSIONS REGARDING THE
APPEAL OF THE PLANNING AND ZONING BOARD DECISION
APPROVING THE LANDMARK APARTMENTS EXPANSION, PDP#160013

WHEREAS, on November 10, 2016, the Planning and Zoning Board (the "Board") reviewed and approved the Landmark Apartments Expansion Project Development Plan PDP#160013 (the "PDP" or "Project"); and

WHEREAS, pursuant to Chapter 2, Article II, Division 3, of the City Code, two separate Notices of Appeal of the Board's approval of the PDP were filed with the City Clerk on November 22, 2016; one by Per Hogestad (the "Hogestad Appeal") and the other by Colleen Hoffman and Ann R. Hunt (the "Hoffman-Hunt Appeal") (Hogestad, Hoffman and Hunt are referred to collectively as the "Appellants"); and

WHEREAS, the Hogestad Appeal asserts that the Board failed to conduct a fair hearing because it considered evidence relevant to its findings that was substantially false or grossly misleading related to standards set forth in the Land Use Code (the "LUC") in rendering its decision, specifically LUC Sections 3.4.1 (related to natural habitats and features), 3.4.6 (related to glare or heat), 3.5.1 (related to privacy as a component of compatibility) and 3.8.30 (related to compliance with standards regarding a 25 foot side-yard buffer); and

WHEREAS, the Hoffman-Hunt Appeal asserts that Board: (1) failed to conduct a fair hearing because it improperly failed to receive all relevant evidence offered by the appellant; and (2) failed to properly interpret and apply LUC Section 3.5 regarding compatibility; and

WHEREAS, on January 31, 2017, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, consolidated and considered both Appeals, reviewed the record on appeal and the applicable LUC provisions, and heard presentations from the Appellants and the opponent of the Appeals, the applicant for the PDP (the "Applicant"); and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the January 31, 2017, hearing (the "Appeal Hearing") that:

1. The Board did conduct a fair hearing on November 10, 2016 in its consideration of the PDP and did not consider evidence relevant to its decision that was substantially false or grossly misleading or improperly fail to receive all relevant evidence offered by the Appellants; and
2. The Board properly interpreted and applied the provisions of the City Code and LUC when it approved the PDP, except that pursuant to City Code Section 2-55(f), the Board's decision approving the PDP shall be modified to include the following additional conditions, as proposed or agreed by the Applicant at the Appeal Hearing:

- i. The Applicant must install signage requesting that drivers dim lights to reduce headlight glare into surrounding residential windows;
- ii. The Applicant must add landscaping and other features to the Project as reasonably feasible to mitigate headlight glare into surrounding residential windows;
- iii. The Applicant must remove all balconies from the east side of Building A;
- iv. The Applicant must remove any balconies that would extend into any natural area buffer;
- v. The Applicant must shift the emergency access road on the Project five feet to the west from the location shown on the plans approved by the Planning and Zoning Board;
- vi. The applicant must add landscaping and other features to the Project to discourage pedestrian traffic on the voluntary trail that currently exists to the east of the proposed emergency drive;

These conditions are intended to address issues raised in the Hoffman-Hunt Appeal regarding compatibility of the proposed buildings and uses included in the Project when considered in the context of the surrounding area; and

3. Except as so stated, based on the evidence in the record and presented at the Appeal Hearing, the Hogestad Appeal and the Hoffman-Hunt Appeal are without merit and are denied.

WHEREAS, City Code Section 2-55(g) 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 Appeals.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-55(g) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the grounds for appeal stated in the Hogestad Appeal and the Hoffman-Hunt Appeal conform to the requirements of Section 2-48 of the City Code.
2. That based on the evidence in the record and presented at the January 31, 2017, Appeal Hearing, the recitals set forth above are adopted as findings of fact.
3. That the Board did not fail to conduct a fair hearing on November 10, 2016 when it approved the PDP and it did not consider evidence relevant to its decision that was substantially false or grossly misleading or improperly fail to receive all relevant evidence offered by the Appellants.
4. That the Board did not fail to properly interpret and apply LUC Division 3.5-Building Standards, including but not limited to LUC §3.5.1-Building and Project Compatibility, when the Board approved the PDP on November 10, 2016, except that pursuant to City Code Section 2-55(f), the Board's decision approving the PDP shall be modified to

include the additional six conditions, as proposed or agreed by the Applicant at the Appeal Hearing, set forth above in the recitals, which conditions are intended to address issues raised in the Hoffman-Hunt Appeal regarding compatibility of the proposed buildings and uses included in the Project when considered in the context of the surrounding area.

5. That the Hogestad Appeal and the Hoffman-Hunt Appeal are without merit and are denied.
6. That adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-55(g).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of February, A.D. 2017.

Mayor

ATTEST:

City Clerk