

AGENDA ITEM SUMMARY

May 16, 2017

City Council

STAFF

Jason Holland, City Planner

SUBJECT

Resolution 2017-044 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Planning and Zoning Board Decision Approving the Water's Edge Project Development Plan PDP 160006.

EXECUTIVE SUMMARY

The purpose of this item is to make Findings of Fact and Conclusions regarding the appeal of the Planning and Zoning Board's Decision Approving the Water's Edge Project Development Plan. The Appeal was heard by City Council on May 2, 2017.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On March 16, 2017 the Planning and Zoning Board considered the application for the Water's Edge Project Development Plan (PDP) at a Type II Hearing and rendered a decision to approve the PDP with seven conditions.

On March 29, 2017, a Notice of Appeal was filed with two assertions regarding the Planning and Zoning Board's decision. The Notice claimed that the Planning and Zoning Board failed to conduct a fair hearing, in that:

1. The Board improperly failed to receive all relevant evidence offered by the Appellants.
2. The Board was biased against the Appellants by reason of a conflict of interest or other business, personal or social relationship that interfered with the decision maker's independence of judgement.

On May 2, 2017, City Council considered the record on appeal and testimony from the applicant, parties-in-interest, and City staff, and upheld the Planning and Zoning Board's approval of the Water's Edge Project Development Plan.

RESOLUTION 2017-044
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING
THE APPEAL OF THE PLANNING AND ZONING BOARD DECISION APPROVING
THE WATER'S EDGE PROJECT DEVELOPMENT PLAN PDP160006

WHEREAS, on March 16, 2017, the Planning and Zoning Board (the "Board") reviewed and approved the Water's Edge Project Development Plan PDP160006 (the "PDP"); and

WHEREAS, on March 29, 2017, John Daharsh and twenty-seven other parties-in-interest (the "Appellants") filed an appeal (the "Notice of Appeal") of the P&Z decision (collectively the "Appellants") with the City Clerk appealing the PDP approval; and

WHEREAS, the Notice of Appeal asserted that the Board failed to conduct a fair hearing because it: (1) improperly failed to receive all relevant evidence offered by the Appellants; and (2) was biased against the Appellants by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Board's independence of judgment; and

WHEREAS, on May 2, 2017, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered the Appeal, reviewed the record on appeal, received new evidence for consideration from the Appellants and City staff, and heard presentations from the Appellants and the opponent of the appeal, the PDP applicant; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the May 2, 2017, hearing that the Board did not fail to conduct a fair hearing on March 16, 2017, because:

1. The Board did not improperly fail to receive all relevant evidence offered by the Appellants; and
2. The Board was not biased against the Appellants by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Board's independence of judgment; and

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 Appeal.

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 Notice of 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 May 2, 2017, Council hearing, the recitals set forth above are adopted as findings of fact.

3. That the Appellants' appeal is without merit and is denied in its entirety.
4. 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 16th day of May A.D. 2017.

Mayor

ATTEST:

City Clerk