

AGENDA ITEM SUMMARY

September 12, 2017

City Council

STAFF

Clay Frickey, City Planner
Tom Leeson, Director, Comm Dev & Neighborhood Svcs
Brad Yatabe, Legal

SUBJECT

Resolution 2017-085 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Planning and Zoning Board Decision to Approve the Crowne at Old Town North Project Development Plan PDP 170007.

EXECUTIVE SUMMARY

The purpose of this item is to make findings of fact and conclusions of law regarding the appeal of the Planning and Zoning Board June 15, 2017, decision to approve the Crowne at Old Town North Project Development Plan. The appeal was heard by City Council on September 5, 2017.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On June 15, 2017, the Planning and Zoning Board approved the Crowne at Old Town North Project Development Plan (PDP). On June 28, 2017, a community member filed an appeal with the following allegations:

- Failure to conduct a fair hearing in that the recommendation of approval made by staff was based on grossly misleading evidence with respect to the enclosed bicycle parking requirement.
- Failure to conduct a fair hearing in that the Planning and Zoning Board was not provided with enough information regarding the concerns of the appellant prior to or during the hearing, resulting in a failure to receive all evidence.
- Failure to conduct a fair hearing in that the Planning and Zoning Board did not inquire further about the allegation raised by the appellant. Instead, the Planning and Zoning Board relied on staff's recommendation of approval, which shows that the Board has a close relationship with staff that interfered with their judgment.
- Failure to properly interpret Land Use Code (Code) Section 3.2.2(C)(4)(b). The appellant alleges the project did not provide sufficient enclosed bicycle parking.

On September 5, 2017, City Council considered the appeal allegations and testimony from parties in interest. Council discussed all specific assertions of the appeal. City Council denied the appellant's allegation that the Planning and Zoning Board failed to conduct a fair hearing. City Council did find that the Planning and Zoning Board failed to properly interpret and apply Land Use Code Section 3.2.2(C)(4)(b) relating to enclosed bicycle parking. City Council approved the PDP with a condition of approval that the applicant redesign the site so that the enclosed bicycle parking meet the 60 percent requirement using ground level spaces next to entrances and walkways and using garage spaces or interior corridors, but excluding balconies and outdoor patios. City

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Council found that the redesign referenced in the condition satisfied the applicable Land Use Code requirements.

RESOLUTION 2017-085
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
CROWNE AT OLD TOWN NORTH PROJECT DEVELOPMENT PLAN PDP170007

WHEREAS, on June 15, 2017, the Planning and Zoning Board (the “Board”) reviewed and approved the Crowne At Old Town North Project Development Plan PDP170007 (the “PDP”); and

WHEREAS, on June 28, 2017, Eric Sutherland (the “Appellant”) filed an appeal (the “Notice of Appeal”) of the P&Z decision 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) considered evidence relevant to its findings which was substantially false or grossly misleading; (2) improperly failed to receive all relevant evidence offered by the Appellant; and (3) was biased against the Appellant 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, the Notice of Appeal also asserted that the Board failed to properly interpret and apply Land Use Code Section 3.2.2(C)(4)(b) regarding adequate bicycle parking; and

WHEREAS, on September 5, 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 Appellant and City staff, and heard presentations from the Appellant and the opponent of the appeal, the PDP applicant (the “Applicant”); and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the September 5, 2017, hearing that the Board did not fail to conduct a fair hearing on June 15, 2017, because:

1. The Board did not consider evidence relevant to its findings which was substantially false or grossly misleading; and
2. The Board did not improperly fail to receive all relevant evidence offered by the Appellant; and
3. The Board was not biased against the Appellant 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, after discussion, the City Council found and concluded based on the evidence in the record and presented at the September 5, 2017, hearing that the Board did fail to properly interpret and apply Land Use Code Section 3.2.2(C)(4)(b) regarding adequate bicycle parking because the Applicant's proposal for enclosed bicycle parking presented to the Board did not satisfy Section 3.2.2(C)(4)(b); and

WHEREAS, Council approved the PDP as approved by the Board on June 15, 2017, with the following condition:

That the redesign proposed by the Applicant adding enclosed bicycle parking spaces to meet the 60 percent requirement using the ground level spaces next to entrances and walkways and using garage spaces or interior corridors, but excluding balconies and outdoor patios, shall be added to the approved PDP.

WHEREAS, Council found that the proposed redesign referenced in the above condition meets the applicable requirements of the Land Use Code; and

WHEREAS, Council found that except as stated above, and based upon the evidence in the record and presented at the September 5, 2017, hearing, the Appellant's appeal is without merit and is denied; 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 September 5, 2017, Council hearing, the recitals set forth above are adopted as findings of fact.
3. That the Appellant's allegation that the Board failed to conduct a fair hearing is without merit and is denied in its entirety.
4. That the Board did fail to properly interpret and apply Land Use Code Section 3.2.2(C)(4)(b) because the Applicant's proposal for enclosed bicycle parking presented to the Board did not satisfy Section 3.2.2(C)(4)(b).
5. Except as stated, and based upon the evidence in the record and presented at the September 5, 2017, hearing, the Appellant's appeal is otherwise without merit and is denied.

6. That the PDP is approved with the condition stated above and satisfaction of the condition will meet the applicable requirements of the Land Use Code.
7. 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 an adjourned meeting of the Council of the City of Fort Collins this 12th day of September, A.D. 2017.

Mayor

ATTEST:

Chief Deputy City Clerk