

AGENDA ITEM SUMMARY

May 8, 2018

City Council

STAFF

Clay Frickey, City Planner
Chris Van Hall, Legal

SUBJECT

Resolution 2018-045 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Hearing Officer's Type 1 Administrative Decision Approving the Spirit at the River Project Development Plan, PDP 17-0026 With Additional Conditions.

EXECUTIVE SUMMARY

The purpose of this item is to make Findings of Fact and Conclusions regarding the appeal of the Hearing Officer decision to approve the Spirit at the River Project Development Plan. The appeal was heard by City Council on May 1, 2018.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On February 7, 2018, a Hearing Officer approved the Spirit at the River Project Development Plan (PDP). On February 20, 2018, a Council member filed an appeal with the following questions:

- How does the site plan comply with Land Use Code Section 3.4.1 in general, including but not limited to compliance with Section 3.4.1(E)(1), "...the decision maker shall reduce or enlarge any portion of the general buffer zone distance, if necessary in order to ensure that the performance standards set forth below are achieved" and the associated buffer zone table which calls out the relevant buffer as "Cache la Poudre River (Lincoln Avenue to east UGA boundary): 300 feet" given that the actual designed buffer ranges from 176 to 244 feet, with an average of 201 feet?
- How does the height/mass of the building comply with Land Use Code Section 4.20(D)(3)(a)(1), which specifies, "The maximum building height shall be three (3) stories"?
- How does the parking modification comply with Land Use Code Section 4.20(D)(3)(a)(2), which specifies that new parking lots and vehicle use areas shall be located in either interior block locations between buildings or in side yards?

On May 1, 2018, City Council considered the appeal allegations and testimony from parties in interest. Council discussed all specific questions raised in the appeal.

City Council upheld and modified the Hearing Officer's decision as follows:

- Council upheld the Hearing Officer's approval of the modification of standards to allow portions of the building to include four (4) stories.

Agenda Item 1

- Council upheld the Hearing Officer's approval of the modification of standards to provide for a drive aisle loop around the building, including a limited amount of parking and drive aisle behind the parking, with the additional condition that the Applicant work with staff to consider additional modifications to the site to reduce headlights shining into the adjacent buffer area.
- Council upheld the Hearing Officer's approval of the natural area buffer, subject to the two conditions imposed by the Hearing Officer, with the additional condition that the height of the berm at the southern edge of the drive aisle be modified to be at least 4' in height and maintain at least a 4:1 slope and that the Applicant work with staff to develop an improved landscape plan to increase plantings in the buffer zone.

RESOLUTION 2018-045
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING
THE APPEAL OF THE HEARING OFFICER'S TYPE I ADMINISTRATIVE
DECISION APPROVING THE SPIRIT AT THE RIVER PROJECT DEVELOPMENT
PLAN, PDP17-0026 WITH ADDITIONAL CONDITIONS

WHEREAS, on February 7, 2018, Hearing Officer Kendra L. Carberry ("Hearing Officer") approved the Type 1 administrative decision for Spirit at the River, Project Development Plan, PDP17-0026 with two conditions (the "Decision"); and

WHEREAS, on May 1, 2018, Councilmember Ross Cunniff filed a Notice of Appeal of the Decision with the City Clerk in accordance with City Code Section 2-46; and

WHEREAS, the Notice of Appeal requested that City Council consider questions essentially related to whether the Decision properly interpreted and applied certain portions of the Land Use Code in rendering the Decision, which questions can be summarized as: (1) how does the site comply with Land Use Code (LUC) 3.4.1 regarding natural area buffers; (2) how does the height/mass of the building comply with LUC 4.20(D)(3)(a)(1); and (3) how does the parking modification comply with LUC 4.20(D)(3)(a)(2) regarding parking lot location; and

WHEREAS, based upon Councilmember Cunniff's Notice of Appeal and pursuant to City Code Section 2-48(c), the Director of Planning, Development, and Transportation identified the Land Use Code provisions applicable to the Appeal; and

WHEREAS, on May 1, 2018, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, held a public hearing and considered the Appeal, reviewed the record on appeal and the applicable Land Use Code provisions, and heard presentations from the representative for Spirit at the River and other parties-in-interest (the "Council Hearing"); and

WHEREAS, after discussion, the City Council found and concluded, based on the evidence in the record and presented at the Council Hearing, to uphold and approve the Decision, subject to certain additional conditions related to the Poudre River buffer zone and other buffer areas adjacent to the Spirit at the River project; 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 Notice of Appeal conformed to the requirements of Section 2-48 of the City Code.

2. That based on the evidence in the record and presented at the Council Hearing, the recitals set forth above are adopted as findings of fact.
3. That based on the evidence in the record and presented at the Council Hearing, the Decision is hereby upheld and modified in accordance with the following:
 - a. The Hearing Officer's Decision approving the modification of standards included in the Spirit at the River Project Development Plan 170026 to allow portions of the building to include four (4) stories meets at least one of the criteria set forth in LUC §2.8.2(H)(1)-(4) and is not detrimental to the public good and for the reasons articulated by the Hearing Officer with no additional conditions or modifications.
 - b. The Hearing Officer's Decision approving the modifications of standards included in the Spirit at the River Project Development Plan 170025 to provide for a drive aisle loop around the building, including a limited amount of parking and drive aisle behind the parking, meets at least one of the criteria set forth in LUC §2.8.2(H)(1)-(4) and is not detrimental to the public good for the reasons articulated by the Hearing Officer, and with additional consideration of the need to reduce headlight intrusion on the neighboring buffer area from the west parking spaces, Council imposes the following additional condition:
 - i. Applicant shall work with staff to consider additional modifications to the site to reduce headlights shining into the adjacent buffer area.
 - c. The Hearing Officer's Decision approving the natural area buffer, subject to the two conditions imposed by the Hearing Officer, meets the performance standards of LUC §3.4.1(E)(1)(a)-(i) for the reasons articulated by the Hearing Officer, and with additional consideration of the need to reduce headlight and noise intrusion on the Poudre River buffer zone, Council imposes the following additional condition:
 - i. The height of the berm at the southern edge of the drive aisle shall be modified to the maximum height that will maintain a slope of four to one, with a minimum height of 4 feet, and that plantings in the buffer zone shall be increased based on an improved landscape plan developed in cooperation with Planning staff.
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 an adjourned meeting of the Council of the City of Fort Collins
this 8th day of May, A.D. 2018.

Mayor

ATTEST:

City Clerk