

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 17

DATE: January 6, 2004

STAFF: Troy Jones

SUBJECT

Resolution 2004-002 Making Findings of Fact and Conclusions Regarding the Appeal of a Decision of the Administrative Hearing Officer Relating to the Discount Tire at Fossil Creek Project Development Plan.

RECOMMENDATION

Staff recommends adoption of the Resolution.

EXECUTIVE SUMMARY

On December 16, 2003, Council conducted a hearing on the appeal of the rehearing for the Discount Tire at Fossil Creek Project Development Plan, and voted 6-0 to uphold the hearing officer's approval of the project.

BACKGROUND

A Notice of Appeal was filed with the City Clerk on October 21, 2003, with respect to the October 1, 2003, decision of the Hearing Officer approving the Project, by Marilee J. Lube, who lives nearby. An Amended Notice of Appeal was filed with the City Clerk on November 10, 2003, by Ms. Lube. The Appellant contended that the Hearing Officer did not properly interpret the Land Use Code and Charter. Council voted by a vote of 6-0 that the hearing officer did in fact properly interpret the Land Use Code and Charter. By adopting the Resolution, Council will uphold the Hearing Officer's approval of the Discount Tire at Fossil Creek Project Development Plan.

RESOLUTION 2004-002
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS REGARDING
THE APPEAL OF A DECISION OF THE ADMINISTRATIVE HEARING OFFICER
RELATING TO THE DISCOUNT TIRE AT FOSSIL CREEK
PROJECT DEVELOPMENT PLAN

WHEREAS, on October 7, 2003, the City's Administrative Hearing Officer (the "Hearing Officer") approved (with conditions) the Discount Tire at Fossil Creek Project Development Plan (the "Project"); and

WHEREAS, on October 21, 2003, a Notice of Appeal of the Hearing Officer's decision was filed with the City Clerk by Merilee J. Lube, (the "Appellant"); and

WHEREAS, on November 10, 2003, an Amended Notice of Appeal of the decision was filed with the City Clerk by the Appellant; and

WHEREAS, on December 16, 2003, 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 Hearing Officer; and

WHEREAS, City Code Section 2-56(e) 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 City Code Section 2-56(e), the 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 Hearing Officer did not fail to properly interpret and apply the relevant provisions of the Land Use Code.
3. That, for the foregoing reason, the decision of the Hearing Officer approving (with conditions) the Project is hereby upheld.

Passed and adopted at a regular meeting of the City Council held this 6th day of January, A.D. 2004.

Mayor

ATTEST:

City Clerk