

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 25

DATE: February 7, 2006

STAFF: Steve Olt

SUBJECT

Resolution 2006-010 Making Findings of Fact Regarding the Appeal of the Planning and Zoning Board Approvals of the Innovation Island, Overall Development Plan and Project Development Plan and Upholding the Decisions of the Board.

RECOMMENDATION

Staff recommends adoption of the Resolution.

EXECUTIVE SUMMARY

On December 20, 2005, an appeal of the November 17, 2005 decisions of the Planning and Zoning Board to approve the Innovation Island, Overall Development Plan and Project Development Plan was filed by the Appellants Cathy Lund (as the "primary person of contact") and 23 other adjacent property owners.

On January 17, 2006, City Council voted to uphold the decisions of the Planning and Zoning Board. In order to complete the record regarding this appeal, the Council should adopt a Resolution making findings of fact and finalizing its decision on the appeal.

BACKGROUND

The Appellants' notice of appeal was based on allegations that:

- Relevant laws were not properly interpreted and applied
- The Planning and Zoning Board failed to hold a fair hearing by:
 - Ignoring its previously established rules of procedure
 - Considering substantially false or grossly misleading evidence
 - Improperly failing to receive all relevant evidence offered

At the January 17, 2006 hearing on this matter, Council considered the testimony of City staff, the Appellants, and the Opponents to the Appeal. In subsequent discussion at this hearing, Council determined that the Planning and Zoning Board did conduct a fair hearing and that relevant laws were properly interpreted and applied.

At the conclusion of the hearing, City Council voted to uphold the decisions of the Planning and Zoning Board.

RESOLUTION 2006-010
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS PERTAINING TO
THE APPEAL OF THE DETERMINATION OF THE
PLANNING AND ZONING BOARD REGARDING THE
INNOVATION ISLAND APPEAL

WHEREAS, on November 17, 2005, the City's Planning and Zoning Board (the "Board") approved the Innovation Island Overall Development Plan No. 40-50 and the Innovation Island Project Development Plan No. 40-05A (the "Plan"); and

WHEREAS, on November 30, 2005, a Notice of Appeal of the Board's decision was filed with the City Clerk by Overlook Citizens Action Committee (the "Appellants"); and

WHEREAS, on December 20, 2005, an Amended Notice of Appeal of the Board's decision was filed with the City Clerk by the Appellants; and

WHEREAS, on January 17, 2006, 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 Appellants and other parties-in-interest and, after discussion, upheld the decision of the Board by a vote of 6-1, with Councilmember Ohlson dissenting; 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 Section 2-56(e) of the City Code, the Council hereby makes the following findings of fact and conclusions:

1. That the grounds for appeal as stated in the Appellants' Amended Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That the Planning and Zoning Board held a fair hearing, followed its previously established rules of procedure, did not consider substantially false or grossly misleading evidence relevant to its findings, and did not fail to receive all relevant evidence that was offered.
3. That the Planning and Zoning Board did not fail to properly interpret and apply the provisions of the Land Use Code in approving the Overall Development Plan and Project Development Plan.

4. That, for the foregoing reasons, the decision of the Planning and Zoning Board approving the Innovation Island Overall Development Plan No. 40-50 and the Innovation Island Project Development Plan No. 40-05A is upheld.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 7th day of February, A.D. 2006.

Mayor

ATTEST:

City Clerk