

# **AGENDA ITEM SUMMARY**

## **FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 36**

**DATE: February 21, 2006**

**STAFF: Steve Olt**

### **SUBJECT**

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Resolution 2006-018 Making Findings of Fact and Conclusions Pertaining to the Appeal of the Determination of the Planning and Zoning Board Regarding the Shields Street Lofts Project Development Plan.

### **RECOMMENDATION**

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Staff recommends adoption of the Resolution.

### **EXECUTIVE SUMMARY**

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On December 14, 2005, an appeal of the December 8, 2005 decision of the Planning and Zoning Board to deny the Shields Street Lofts (515 South Shields Street), Project Development Plan (the "Project") was filed by the Appellants Mikal S. Torgerson and Troy W. Jones.

On February 7, 2006, City Council voted to overturn the Planning and Zoning Board's denial of the Project and remand the Project back to the Board for further discussion regarding the non-residential parking impacts of the development on surrounding properties as a component of the "compatibility" requirement in Section 5.1.2 of the Land Use Code. 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**

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The Appellants notice of appeal was based on the allegation that relevant laws of the Land Use Code were not properly interpreted and applied.

At the February 7, 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 the Planning and Zoning Board did not properly interpret and apply relevant provisions of the Land Use Code.

City Council decided to overturn the decision of the Planning and Zoning Board and remanded the Project back to the Board for further discussion on the non-residential parking impacts associated with the development.

RESOLUTION 2006-018  
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  
SHIELDS STREET LOFTS PROJECT DEVELOPMENT PLAN

WHEREAS, on December 8, 2005, the City's Planning and Zoning Board (the "Board") denied the Shields Street Lofts Project Development Plan No. 15-05 (the "Plan"); and

WHEREAS, on December 14, 2005, a Notice of Appeal of the Board's decision was filed with the City Clerk by M. Torgerson Architects (by Mikal S. Torgerson and Troy W. Jones) (the "Appellants"); and

WHEREAS, on February 7, 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, remanded the Plan for rehearing before the Board, and requested the Board to consider the Plan in light of the findings of fact and conclusions of the Council as set forth in this Resolution; 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' Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That the Board failed to properly interpret and apply the provisions of the Land Use Code in denying the Plan on the basis of Section 3.5.1 of the Land Use Code pertaining to size, height, bulk, mass, and scale because the building complies with Section 3.5.1(C) since it is similar in mass and scale to other structures on the same block upon which the building is proposed to be located.
3. That the Plan complies with the parking requirements for the residential component of the Plan as those standards are set out in Section 3.2.2(K)(1) pertaining to residential parking requirements for the residential component of the Plan. The nine parking spaces provided in accordance with the Plan complies with the said section.

4. That the Board failed to adequately consider the parking impacts of the non-residential component of the Plan. In particular, the Board failed to properly interpret and apply Section 3.5.1 of the Land Use Code pertaining to project compatibility, for the following reasons:
  - (a) Even though Section 3.2.2(K)(2) only sets forth a maximum number of parking spaces (and no minimum number of parking spaces), Section 3.5.1 of the Land Use Code authorizes the approval of development projects only when they are compatible with the surrounding area;
  - (b) The definition of "compatibility" in Section 5.1.2 specifically includes parking impacts as a component of compatibility.
  - (c) Section 3.2.2(B) requires the parking system within the development to accommodate the movement of vehicles to and from surrounding areas safely and conveniently;
  - (d) Section 3.5.1(J) authorizes the imposition of conditions to ensure that new development will be compatible with existing neighborhoods and uses. Although subsection (J) contains a list of six possible conditions or restrictions that may be imposed in order to ensure compliance therewith, said list is not limited to those six issues, and the compatibility of parking with existing neighborhoods and uses is an additional appropriate topic for the imposition of a condition; and
5. That the Board, upon rehearing, should consider the parking that would be reasonably necessary for the non-residential component of the Plan in order to ensure project compatibility with the surrounding area and should impose a condition requiring the supply of such necessary parking.
6. That, for the foregoing reasons, the decision of the Board denying the Shields Street Lofts Project Development Plan No. 15-05 is hereby overturned and is remanded for rehearing in accordance with these findings of fact and conclusions.

Passed and adopted at a regular meeting of the City Council held this 21st day of February, A.D. 2006.

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Mayor

ATTEST:

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City Clerk