

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 37

DATE: February 21, 2006

STAFF: Ted Shepard

SUBJECT

Resolution 2006- 019 Making Findings of Fact and Conclusions Pertaining to the Appeal of the Determination of the Planning and Zoning Board Regarding the Timberline Center Project Development Plan.

RECOMMENDATION

Staff recommends adoption of this Resolution.

EXECUTIVE SUMMARY

On December 29, 2005, an Amended Notice of Appeal was filed by V.F. Ripley Associates, Inc., regarding the December 8, 2005 decision of the Planning and Zoning Board. This decision approved the Timberline Center PDP but, in so approving, denied the Request for Modification to Section 4.23(B)(c)5. which requires a minimum of three-quarters of a mile (3,960 feet), measured in a straight line, as the distance between retail stores with fuel sales and any fueling station.

On February 7, 2006, City Council voted 6 – 1 to uphold the decision 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 Appellant's Notice of Appeal was based on the allegation that:

- Relevant laws were not properly interpreted and applied; and
- The Board failed to hold a fair hearing by improperly failing to receive all relevant evidence offered:

At the February 7, 2006 hearing on this matter, Council considered the testimony of City staff, the applicant's consultant and a citizen opposed to the Appeal. In subsequent discussion at this hearing, Council determined that:

- The Planning and Zoning Board properly interpreted and applied relevant provisions of the Code and Charter.

- The Planning and Zoning Board held a fair hearing and properly received all relevant evidence.

Council voted 6 – 1 to uphold the decision of the Planning and Zoning Board.

RESOLUTION 2006-019
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
TIMBERLINE CENTER PROJECT DEVELOPMENT PLAN

WHEREAS, on December 8, 2005, the City's Planning and Zoning Board (the "Board") approved the Timberline Center Project Development Plan No. 41-05A (the "Plan") but, in so approving, denied the request for modification pertaining to Building K1 which, if granted, would have authorized the construction of a convenience store with fuel sales at the location identified on the Plan for Building K1, which convenience store with fuel sales would be located closer than three-quarters of a mile from other fueling stations; and

WHEREAS, on December 21, 2005, a Notice of Appeal of the Board's decision was filed with the City Clerk by VF Ripley Associates, Inc. (by Linda Ripley) and by Timberline Development, LLC, owner/developer (by Kris Fleischli) (the "Appellants"); and

WHEREAS, on December 29, 2005, an Amended Notice of Appeal of the Board's decision was filed with the City Clerk by 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, upheld the decision of the Board, 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 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 denying the Applicants/Appellants' request to modify the standard that prohibits the use of Building K1 as a convenience retail store with fuel sales. The

establishment of a fueling operation at that location would be detrimental to the public good since it would contribute to a proliferation of fueling stations along Timberline Road which would be injurious to the aesthetics of the City along that major arterial passageway and to the City's economic vitality, and, contrary to Section 1.2.2(K) of the Land Use Code, would not foster a rational pattern of relationship among residential, business and industrial uses for the mutual benefit of all.

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

Mayor

ATTEST:

City Clerk