

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 17

DATE: March 21, 2006

STAFF: Anne Aspen

### SUBJECT

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Resolution 2006-033 Making Findings of Fact and Conclusions Pertaining to the Appeal of the Determination of the Administrative Hearing Officer Regarding the Raven View Project Development Plan and Modification of Standard.

### RECOMMENDATION

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Staff recommends adoption of the Resolution.

### EXECUTIVE SUMMARY

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On January 25, 2006, an Amended Notice of Appeal was filed regarding the December 13, 2005 decision of the Administrative Hearing Officer to approve the Raven View Project Development Plan and Modification of Standard.

On March 7, 2006, City Council voted 6 – 1 to modify and uphold the decision of the Administrative Hearing Officer. In order to complete the record regarding these appeals, 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 allegations that the Administrative Hearing Officer failed to properly interpret and apply relevant provisions of the Code and Charter.

At the March 7, 2006 hearing on this matter, Council considered the testimony of City staff, the appellants and the applicants. In subsequent discussion at this hearing, Council voted 6-1 to modify the decision of the Administrative Hearing Officer to include the following additional findings:

- (a) that granting the modification would not be detrimental to the public good; and
- (b) that the property has unique physical conditions of being nearly landlocked from public streets with the only access being to Taft Hill road, so that the strict enforcement of the City's LOS standards would work a substantial hardship upon the applicant.

RESOLUTION 2006-033  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING FINDINGS OF FACT AND CONCLUSIONS PERTAINING TO  
THE APPEAL OF THE DETERMINATION OF THE  
ADMINISTRATIVE HEARING OFFICER REGARDING THE  
RAVEN VIEW PROJECT DEVELOPMENT PLAN AND  
MODIFICATION OF STANDARD

WHEREAS, on December 13, 2005, an administrative hearing was held regarding the Raven View Project Development Plan and Modification of Standard; and

WHEREAS, on December 30, 2005, after deliberation, the administrative hearing officer concurred with the staff recommendation and approved the Raven View Project Development Plan and Modification of Standard; and

WHEREAS, on January 11, 2006, a Notice of Appeal of the hearing officer's decision was filed with the City Clerk by Lois and Robert Gore, Eric Stenner and Charles Fletcher (the "Appellants"); and

WHEREAS, on January 25, 2005, an Amended Notice of Appeal was filed with the City Clerk's Office by the Appellants; and

WHEREAS, on March 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, modified the decision of the hearing officer to include certain additional findings; 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 and Amended Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
2. That the hearing officer's decision approving the Raven View Project Development Plan and modification of standard number 12-05 and number 12-05A is hereby modified to include the following additional findings:
  - (a) that the granting of the modification of standard would not be detrimental to the public good;

- (b) that the property has unique physical conditions of being nearly landlocked from public streets with the only access being to Taft Hill Road such that the strict enforcement of the City's LOS standards would work a substantial hardship upon the applicant; and
- (c) that the decision of the hearing officer, as modified to include the above stated findings, should be upheld because the hearing officer properly interpreted and applied the provisions of the Land Use Code in approving the project.

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

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Mayor

ATTEST:

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City Clerk