

RESOLUTION 2024-012  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADOPTING FINDINGS OF FACT IN SUPPORT OF THE CITY  
COUNCIL'S DECISION ON APPEAL TO UPHOLD THE PLANNING AND  
ZONING COMMISSION APPROVAL OF THE POLESTAR VILLAGE  
PROJECT DEVELOPMENT PLAN PDP220010

A. On November 17, 2023, the Planning and Zoning Commission ("P&Z") approved the Polestar Village Project Development Plan PDP220010.

B. On December 1, 2023, Charles Thompson and other parties-in-interest (the "Appellants") filed a notice of appeal ("Appeal") with the City alleging that P&Z failed to conduct a fair hearing because:

(1) P&Z considered evidence relevant to its findings that was substantially false or grossly misleading; P&Z improperly failed to receive all relevant evidence offered by the appellant; and

(2) P&Z was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the decision maker's independence of judgment.

C. The Appeal also alleged that P&Z failed to properly interpret and apply the following Land Use Code Sections: 3.6.2(A), 3.6.2(I), 4.4(B), 4.4(C), and 4.5(A).

D. On December 8, 2023, the Appellants filed with the City a document containing new evidence related to the fair hearing allegations raised in the Notice.

E. On January 29, 2024, the Polestar Village applicant, a party-in-interest opposed to the appeal, (parties-in-interest opposed to the Appeal are collectively referred to as the "Appellees") filed with the City a written response to the allegations raised in the Appeal.

F. On February 6, 2024, the City Council, after giving notice in accordance with City Code Section 2-52, held a public hearing ("Hearing") pursuant to City Code Section 2-54 to consider the allegations raised in the Notice.

G. At the Hearing, and prior to receiving testimony from the Appellants and Appellees regarding the merits of the Appeal allegations, City Council decided the following preliminary matters:

(1) Council denied the Appellees' objection to the emails contained in the Appellants' December 8, 2023, filing.

(2) Council sustained the Appellees' objection to the failure to interpret and apply the Land Use Code Appeal allegations and dismissed all of the

failure to properly interpret and apply allegations contained in the Appeal. In dismissing those allegations, Council found that:

a. City Code Section 2-49(b)(4) requires that every notice of appeal shall include the grounds for the appeal including specific allegations of error and a summary of the facts contained in the record on appeal which support such allegations.

b. The allegations that the Planning and Zoning Commission failed to properly interpret and apply the Land Use Code set forth in the Appellant's Notice of Appeal listed only the numbers of certain Land Use Code sections without providing any specific allegations of error or a summary of facts contained in the record supporting such allegations.

c. The information provided did not comply with City Code Section 2-49(b)(4) and did not provide sufficient notice to any party opposed to the appeal to allow such party to sufficiently prepare to address such allegations at this February 6, 2024, appeal hearing.

d. Dismissal of the failure to properly interpret and apply allegations is required as a matter of fairness to any party opposed to the appeal and to comply with the City's adopted appeal procedure.

(3) Council admitted into the Hearing record for Council consideration the December 8, 2023, Appellants' filing and the January 29, 2024, Appellees' filing.

H. In determining the Appeal fair hearing allegations at the Hearing, the City Council considered the record on appeal; testimony from City staff; statements and arguments by the Appellants in support of the appeal; and statements made by the Appellees in opposition to the notices of appeal.

I. City Council determined that P&Z conducted a fair hearing when it approved the Polestar Village PDP finding that the Appellants did not establish with competent evidence in the record that any of the fair hearing issues have merit and, therefore, Council dismissed the Appeal fair hearing allegations.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The allegations set forth in the Appeal that P&Z failed to properly interpret and apply the Land Use Code are dismissed because the Appeal did not comply with City Code Section 2-49(b)(4), did not provide sufficient notice to any party opposed

to the appeal to allow such party to sufficiently prepare to address such allegations at the Hearing, and dismissal is required as a matter of fairness to the Appellees.

Section 2. The allegations set forth in the Appeal that P&Z failed to conduct a fair hearing are dismissed because the Appellants did not establish with competent evidence in the record that any of the fair hearing issues have merit.

Passed and adopted on February 20, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: February 20, 2024  
Approving Attorney: Brad Yatabe