

RESOLUTION 2024-137
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
RESCUE MISSION DEVELOPMENT PLAN FDP230022

A. On August 28, 2024, the Planning and Zoning Commission approved the Rescue Mission Development Plan FDP230022.

B. On September 6, 2024, Troy Jones (the "Jones Appellant") filed a notice of appeal with the City alleging the Commission failed to properly interpret and apply Land Use Code Sections 3.5.1(A) regarding the purpose of the Building Project Compatibility section, 3.5.1(J) regarding operational and physical compatibility standards, 1.2.4 regarding applicability of the Land Use Code, and Section 5.1.2 regarding the definition of "compatibility."

C. On September 11, 2024, Rebeca Mendoza and Debbie Bradberry (the "Mendoza-Bradberry Appellants") filed a notice of appeal with the City alleging the following grounds for appeal:

a. The Commission failed to conduct a fair hearing, because the Commission considered evidence relevant to the Commission's findings that was substantially false or grossly misleading;

b. The Commission failed to properly interpret and apply Land Use Code Section 1.2.4 regarding applicability of the Land Use Code, Sections 3.2.2(K) regarding parking requirements, 3.4.1 regarding environmental impact, 3.5.1(J) regarding operational and physical compatibility standards, and 4.22(B) regarding permitted uses in Service Commercial District ("C-S") zoned districts; and

c. The Mendoza-Bradberry Appellants also included in their notice of appeal arguments that the Commission failed to properly interpret and apply Land Use Code Section 3.5.1(C) regarding compatibility of building height, mass, scale and bulk.

D. On November 6, 2024, the City Council, after notice given 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 appeals.

E. At the Hearing the Jones Appellant and the Mendoza-Bradberry Appellants, and other parties-in-interest on their behalf, appeared and addressed the City Council, arguing in favor of the allegations in both appeals.

F. Also at the Hearing, representatives for the Applicant for the Rescue Mission Development Plan addressed the City Council, arguing in opposition to the allegations in both appeals.

G. In making its determination regarding the appeals at the Hearing, the City Council considered the record on appeal; information from City staff; statements and arguments in favor of the allegations in both appeals by the Mendoza-Bradberry and Jones Appellants representatives; and statements and arguments in opposition to the allegations in both appeals made by representatives for the Applicant for the Rescue Mission. On the record during the Hearing, City Council provided its findings and rationale for its determinations.

H. The City Council determined that (i) the Commission conducted a fair hearing when the Commission approved the Rescue Mission Development Plan, finding that the Commission considered evidence and staff recommendations that were appropriate and relevant for the Commission's decision on the Development Plan, (ii) the Commission did not consider evidence relevant to the Commission's decision that was substantially false or grossly misleading, and (iii) the Appellants did not establish with competent evidence that the fair hearing allegation had merit.

I. The City Council determined during the Hearing that the Commission properly interpreted and applied the requirements of the Land Use Code on each of the interpretation and application grounds the Mendoza-Bradberry Appellants alleged on appeal.

J. The City Council determined during the Hearing that the Commission properly interpreted and applied the requirements of the Land Use Code on each of the interpretation and application grounds the Jones Appellant alleged on appeal.

K. The City Council upheld the Commission's approval of the Rescue Mission Development Plan FDP230022.

L. City Code Section 2-56(c) provides that no later than the date of its next regular meeting after the hearing of an appeal, the City Council shall adopt by resolution findings of fact in support of its decision on the appeal.

In light of the foregoing recitals, which the City 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 Mendoza-Bradberry Appeal that the Planning and Zoning Commission failed to conduct a fair hearing are dismissed, because the Commission conducted a fair hearing and did not consider evidence relevant to the Commission's decision that was substantially false or grossly misleading and the Appellants did not establish with competent evidence that the fair hearing allegation had merit.

Section 2. The allegations set forth in the Mendoza-Bradberry Appeal that the Planning and Zoning Commission failed to properly interpret and apply the Land Use Code Sections 1.2.4, 3.2.2(K), 3.4.1, 3.5.1(C), 3.5.1(J), and 4.22(B) are without merit and dismissed, because the Commission properly interpreted and applied the requirements of the Land Use Code on each of the interpretation and application grounds for appeal.

Section 3. The allegations set forth in the Jones Appeal that the Planning and Zoning Commission failed to properly interpret and apply the Land Use Code Sections 1.2.4, 3.5.1(A), 3.5.1(J), and the “compatibility” definition in 5.1.2 are without merit and dismissed, because the Commission properly interpreted and applied the requirements of the Land Use Code on each of the interpretation and application grounds for appeal.

Section 4. The Planning and Zoning Commission’s approval of the Rescue Mission Development Plan FDP230022 is upheld.

Section 5. Adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-56(c).

Passed and adopted on November 19, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: November 19, 2024
Approving Attorney: Heather N. Jarvis