

RESOLUTION 2024-130
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 HEARING
OFFICER APPROVAL OF THE SANCTUARY ON THE GREEN
PROJECT DEVELOPMENT PLAN PDP2100018

A. On July 24, 2024, and July 28, 2024, the Administrative Hearing Officer approved the Sanctuary on the Green Project Development Plan PDP2100018 ("PDP").

B. On August 8, 2024, a group of thirty-three appellants ("Appellants") filed a notice of appeal ("Appeal") with the City alleging the following grounds for appeal:

a. The Hearing Officer failed to conduct a fair hearing, because he ignored a previously established rule of procedure related to allowing a development application to lapse, considered evidence relevant to his findings that was substantially false or grossly misleading, and improperly failed to receive all relevant evidence offered by the Appellants; and

b. The Hearing Officer failed to properly interpret and apply Land Use Code Sections 2.2.11 regarding lapse if an applicant does not respond to City comments within an established time frame, 1.2.2 regarding the overarching purposes of the Land Use Code, 3.5.1 regarding building and project compatibility, and 4.5(E)(3) and (4) regarding development standards for building heights for L-M-N zoned districts, and failed to interpret and apply the Northwest Subarea Plan.

C. On October 15, 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 Appellants raised in the Appeal.

D. At the Hearing representatives for the Appellants appeared and addressed Council, arguing in favor of the Appeal.

E. Also at the Hearing, representatives for the Applicant for the Sanctuary on the Green PDP addressed Council, arguing in opposition to the Appeal.

F. In making its determination regarding the Appeal allegations at the Hearing, the City Council considered the record on appeal; testimony from City staff; statements and arguments by the Appellants; and statements and arguments in opposition to the appeal made by representatives for the Applicant for the Sanctuary on the Green PDP. During the course of the Hearing, City Council provided on the record rationale for its determinations.

G. City Council determined that the Hearing Officer conducted a fair hearing when he approved the Sanctuary on the Green PDP, finding that the Hearing Officer considered evidence and staff recommendations that were appropriate and relevant for his decision. Council found the Hearing Officer did not ignore previously established rules

of procedure regarding lapse, did not consider evidence relevant to his decision that was substantially false or grossly misleading, and did not improperly fail to receive all relevant evidence.

H. City Council determined that the Hearing Officer properly interpreted and applied the requirements of the Land Use Code and the Northwest Subarea Plan on each of the interpretation and application grounds for appeal.

I. City Council upheld the Hearing Officer's approval of the Sanctuary on the Green PDP.

J. City Code Section 2-56(c) 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.

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 the Hearing Officer failed to conduct a fair hearing are dismissed, because the Hearing Officer conducted a fair hearing and did not ignore previously established rules of procedure, did not consider evidence relevant to his decision that was substantially false or grossly misleading, and did not improperly fail to receive all relevant evidence offered by the Appellants.

Section 2. The allegations set forth in the Appeal that the Hearing Officer failed to properly interpret and apply the Land Use Code and Northwest Subarea Plan are dismissed, because the Hearing Officer properly interpreted and applied the requirements of the Land Use Code and Northwest Subarea Plan on each of the interpretation and application grounds for appeal.

Section 3. 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 4, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: November 4, 2024

Approving Attorney: Heather N. Jarvis