



AGENDA ITEM SUMMARY

City Council

STAFF

Paul Sizemore, Director, Community Development & Neighborhood Services
Maren Bzdek, Manager, Historic Preservation Services
Jim Bertolini, Senior Historic Preservation Planner
Brad Yatabe, Legal

SUBJECT

Resolution 2022-107 Adopting Findings of Fact Supporting the Historic Preservation Commission's Decision to Deny Proposed Window Alterations to the Landmarked Property Located at 1306 West Mountain Avenue and Denying the Appeal.

EXECUTIVE SUMMARY

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's decision to deny the proposed window treatment for the northwest bedroom at 1306 West Mountain Avenue. The appeal was heard by Council on October 4, 2022.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On July 20, 2022, the Historic Preservation Commission (HPC) held a hearing to consider a proposed alteration to the designated City Landmark at 1306 West Mountain Avenue, the William & Violet Jackson/Robert Bailey Property. The proposal included an addition onto the rear of the property, along with associated alterations to the historic window pattern on the west elevation of the historic building near the northwest corner. The HPC approved the addition, but denied the associated window modifications, finding that the alteration did not meet Standards 2 and 5 of the *U.S. Secretary of the Interior's Standards for Rehabilitation* (adopted by reference in Municipal Code 14, Article IV). Following the July 20, 2022, HPC appeal hearing, on August 2, 2022, the property owner and their contractor filed a Notice of Appeal, with the following allegations:

1. The Historic Preservation Commission was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the HPC's independence of judgement.
2. The Historic Preservation Commission failed to properly interpret and apply relevant provisions of the City Code, specifically City Code Section 14-53 or more specifically, Secretary of the Interior Rehabilitation Standards 2 and 5 which are incorporated in Section 14-53.

On October 4, Council conducted a hearing to consider the allegations in the appeal, the record on appeal, and presentations by City staff, the Appellant and the owner of 1306 West Mountain Avenue, and Laura Bailey, a party-in-interest opposed to the appeal. Council noted that the proper City Code Section being appealed was Section 14-54, not 14-53 as stated in the notice of appeal, although it was clear that the notice of appeal intended Section 15-54. After discussion, Council voted (4-1, 1 recusal, 1 absence) to deny the appeal, finding that the Historic Preservation Commission conducted a fair hearing and properly interpreted City Code Section 14-54 with regards to Secretary of the Interior Rehabilitation Standards 2 and 5.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration

RESOLUTION 2022-107
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING FINDINGS OF FACT SUPPORTING THE HISTORIC PRESERVATION
COMMISSION'S DECISION TO DENY PROPOSED WINDOW ALTERATIONS TO THE
LANDMARKED PROPERTY LOCATED AT 1306 W. MOUNTAIN AVENUE AND
DENYING THE APPEAL

WHEREAS, the property located at 1306. W. Mountain Avenue was designated as a Fort Collins landmark in 2014 as the William and Violet Jackson Property (the "Property"); and

WHEREAS, pursuant to City Code Section 14-54, proposed alterations of a Fort Collins landmark must meet the United States Secretary of the Interior Standards for Rehabilitation of historic properties (the "Standards") in order for the HPC to approve such alterations; and

WHEREAS, on July 20, 2022, the Fort Collins Historic Preservation Commission (the "HPC") conducted a public hearing to review proposed alterations to the Property and at the hearing, the HPC on a 4-2 vote approved certain alterations but denied proposed alterations to remove an existing window in the northwest bedroom and install two new windows (the "Window Alterations") because the Window Alterations did not meet Standards #2 and #5; and

WHEREAS, pursuant to City Code Sections 2-46 and 2-49, a notice of appeal was timely filed (the "Appeal") and the party (the "Appellant") filing the Appeal is the Property owner's representative and is a party-in-interest eligible to file an appeal; and

WHEREAS, the Appeal alleged that the HPC failed to conduct a fair hearing because Commissioner Meg Dunn was biased against the Appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with her independence of judgment as a decision maker; and

WHEREAS, the Appeal further alleged that the HPC failed to properly interpret and apply City Code Section 14-53, specifically that the HPC improperly interpreted and applied Standards #2 and #5 and the Secretary of Interior's technical bulletin ITS Number 14 when the HPC denied the Window Alterations; and

WHEREAS, while the Appeal allegation of failure to properly interpret and apply refers to City Code Section 14-53, the correct City Code Section is 14-54 and, because it is clear from the Appeal that was what the Appellant intended, Council finds that it is reasonable to consider the Appeal as though it referenced City Code Section 14-54; and

WHEREAS, the City Council finds that based upon City staff testimony at the Appeal Hearing that the Secretary of Interior's technical bulletin ITS Number 14 is intended to provide guidance in the application of the Standards but is not itself a City Code, Land Use Code, or Charter provision subject to appeal pursuant to City Code Section 2-48; and

WHEREAS, on October 4, 2022, the City Council, after notice given in accordance with City Code Section 2-52, held a public hearing (the "Appeal Hearing") pursuant to City Code

Section 2-54 to consider the allegations raised in the Appeal at which hearing the City Council considered the record on appeal, and testimony from City Staff, the Appellant and Property owner, and Laura Bailey, a party-in-interest opposed to the Appeal; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the Appeal Hearing, that the HPC conducted a fair hearing because the Appellant did not establish with competent evidence in the record that Commissioner Dunn was biased against the Appellant, and there is competent evidence in the record indicating that Commissioner Dunn applied the appropriate legal standards in a reasoned and unbiased manner; and

WHEREAS, the City Council further found and concluded based on the evidence in the record and presented at the City Council Appeal Hearing, that the HPC properly interpreted and applied City Code Section 14-54 with regards to Standards #2 and #5 because the Appellant did not establish with competent evidence that the HPC failed to do so and, there is competent evidence in the record indicating a reasoned and reasonable HPC discussion and application of Standards #2 and #5 to the Window Alterations in light of the purpose of preserving the historic nature of the Property; and

WHEREAS, 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 such appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-56(c) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
2. That, based on the evidence in the record and presented at the City Council Appeal Hearing, the Council finds that the HPC conducted a fair hearing because Commissioner Meg Dunn was not biased against the Appellant for the reasons set forth in the recitals above.
3. That, based on the evidence in the record and presented at the City Council Appeal Hearing, the Council finds that the HPC properly interpreted and applied City Code Section 14-54 regarding Standards #2 and #5 for the reasons set forth in the recitals above.
4. That, based on the evidence in the record and presented at the Appeal Hearing, the Appeal is without merit and is denied in its entirety.
5. That 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 at a regular meeting of the Council of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor Pro Tem

ATTEST:

Chief Deputy City Clerk