

Notice of Appeal

Filed by Timothy L. Goddard,
Attorney for GARA, LLC
November 1, 2022

NOTICE OF APPEAL

Action Being Appealed: Landmark Eligibility Determination of Quick Lube Building at
825 N. College Avenue

Date of Action: 10/19/2022 **Decision Maker:** Historic Preservation Commission

FOR CITY CLERK'S
USE ONLY:

DATE FILED:

INITIALS:

Appellant/Appellant Representative (if more than one appellant):

Name: Timothy L. Goddard for GARA, LLC

Phone #: (970) 493-5070

RECEIVED
City Clerk's Office

Address: 210 E. 29th Street
Loveland, CO 80538

Email: timg@hfglawfirm.com

11-1-2022

INSTRUCTIONS

For each allegation marked below, attach a separate summary of the facts contained in the record which support the allegation of no more than two pages, Times New Roman 12-point font. Please restate allegation at top of first page of each summary.

GROUND(S) FOR APPEAL

The Decision Maker committed one (1) or more of the following errors (check all that apply):



Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter. List relevant Code and/or Charter provision(s) here, by specific Section and subsection/subparagraph:

City Code, Section 14-22 as applied to the existing Quick Lube building at 825 N. College Avenue

Failure to conduct a fair hearing in that:



(a) The Board, Commission, or other Decision Maker exceeded its authority or jurisdiction as contained in the Code or Charter. [New evidence not allowed]



(b) The Board, Commission or other Decision Maker substantially ignored its previously established rules of procedure. [New evidence not allowed]



(c) The Board, Commission or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading. [New evidence allowed]



(d) The Board, Commission or other Decision Maker improperly failed to receive all relevant evidence offered by the appellant. [New evidence allowed]



(e) The Board, Commission or other Decision Maker 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. [New evidence allowed]

NEW EVIDENCE

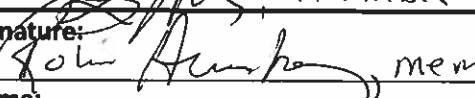
All new evidence the appellant wishes Council to consider at the hearing on the appeal must be submitted to the City Clerk within seven (7) calendar days after the deadline for filing a Notice of Appeal and must be clearly marked as new evidence. No new evidence will be received at the hearing in support of these allegations unless it is submitted to the City Clerk by the deadline (7 days after the deadline to file appeal) or offered in response to questions posed by Councilmembers at the hearing.


APPELLANTS

Parties-in-interest have the right to file an appeal.

A party-in-interest is a person who, or organization which, has standing to appeal the final decision of a board, commission or other decision maker. Such standing to appeal is limited to the following:

- The applicant.
- Anyone who owns or occupies the property which was the subject of the decision made by the board, commission or other decision maker.
- Anyone who received the mailed notice of, or spoke at, the hearing of the board, commission or other decision maker.
- Anyone who provided written comments to the appropriate City staff for delivery to the board, commission or other decision maker prior to or at the hearing on the matter that is being appealed.
- A City Councilmember.

Signature:  member	Date: 11/01/2022
Name: GARA, LLC	Email: gremarmstrongrealty@gmail.com
Address: P.O. Box 7383, Loveland, CO 80537	Phone #: (970) 388-7888
Describe how you qualify as a party-in-interest: Owner of the subject property.	

Signature: 	Date: 11/01/2022
Name: Timothy L. Goddard	Email: timg@hfglawfirm.com
Address: 210 E. 29th Street, Loveland, CO 80538	Phone #: (970) 493-5070
Describe how you qualify as a party-in-interest: Attorney for Appellant	

Signature:	Date:
Name:	Email:
Address:	Phone #:
Describe how you qualify as a party-in-interest:	

ATTACH ADDITIONAL SIGNATURE SHEETS AS NECESSARY

ATTACHMENT TO GARA, LLC NOTICE OF APPEAL

STATEMENT OF ERROR: THE HPC FAILED TO PROPERLY INTERPRET AND APPLY SECTION 14-22 OF THE CITY CODE AND CONSIDERED EVIDENCE THAT WAS GROSSLY MISLEADING

Three structures exist on the subject property at 825 N. College Avenue, all of which have a shared history. The structures are a residential building, a garage and a commercial building, which is currently a Quick Lube facility (the "Quick Lube Building"). Staff recommended that the Historic Preservation Commission ("HPC") find each of the three buildings are a historical resource. In doing so, staff primarily relied on a Colorado Cultural Resource Survey Form completed for the Colorado Department of Transportation ("CDOT") in 2010. In 2010, CDOT found that the Quick Lube Building and the residence were eligible for the National Register of Historic Places but was silent on the garage. Staff recommended that the garage also be found to be a historical resource based on what it called an accessory historic structure.

Staff, and its presentation, relied heavily on CDOT's study of the history of the property. But the building that Staff presented in the historical presentation has so substantially changed that the historical building no longer exists due to prior renovations and development. The issue should have been, and what the HPC should have determined, is whether the Quick Lube Building, as it exists today, retains sufficient integrity under Sec. 14-22 of the City Code to be a historical resource.

The HPC properly found that the residence and garage, despite their prior historical use, no longer qualify as what the HPC generally considers to be a historical resource. Yet, although all three of the buildings share a common history, the HPC voted 6 to 3 to find the Quick Lube Building is a historical resource. Several members of the HPC did properly express their concern with whether the Quick Lube Building retains sufficient integrity to be a historical resource, but at the urging of Staff and counsel, the HPC ultimately accepted Staff's recommendation, but only as to the Quick Lube Building. The HPC found the Quick Lube Building "[e]mbodies important commercial evolution in north Fort Collins in the twentieth century; and [i]s a classic example of the utterly unornate Oblong Box style of architecture."

Appellant contends that the HPC was prejudiced by Staff's overuse and emphasis of the history of the property, which caused a lack of proper consideration as to whether the Quick Lube Building retains sufficient integrity today to qualify as a historical structure. An analogy can be drawn to the old courthouse, which was demolished to construct the building that now exists. The old courthouse carried the history of the structure. That history is now relegated to photographs, articles and recollections. No one would claim the new courthouse retains the historical significance and integrity of the old courthouse. Rather, whether the new courthouse has historical significance today should be judged by the structure that now exists, not the structure that once existed.

The Staff report at page 7 acknowledges that when Standard Oil acquired the property in 1960, it significantly renovated the building "that brought it to its current condition." Appellant contends that when the building was renovated, the historical use of the building that once existed,

which was heavily relied on in Staff's presentation, was lost except for what is contained in historical photographs, articles and recollections of a building and use that once existed. Likewise, the context of the historical use of the building has been significantly altered by surrounding development. As Staff's report at page 7 notes "by 1969, much of the College Avenue frontage from the Poudre River north to the Route 1/Terry Lake Road intersection was built up with a mix of industrial and commercial businesses, including motels, shops, and other businesses." The prior development, including the widening of North College Avenue, has so altered the property that what remains today is a Quick Lube on a major roadway surrounded by commercial development. When one views the Quick Lube Building today, the "overall sense of past time" is no longer "evident." As such, by definition, the integrity required by §14-22(b) for the Quick Lube Building to be a historical resource is no longer present, just as the residence and garage have ceased to be historical resources. By focusing on a historical use of a building that no longer exists, rather than the integrity of the current Quick Lube Building, the HPC failed to properly interpret and apply the requirements of §14-22 and relied on evidence that was grossly misleading in its determination that the Quick Lube Building is a historical resource.