

Notice of Appeal

Filed by James Sack

NOTICE OF APPEAL

Action Being Appealed: 1901 & 1925 HULL ST HISTORICAL LANDMARK
NON ELIGIBILITY

Date of Action: 12/14/2022 Decision Maker: HISTORIC PRESERVATION
COMMISSION

FOR CITY CLERK'S
USE ONLY:
DATE FILED 12-27-2022
INITIALS: JSE

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

Name: JAMES SACK Phone #: 970.217.9705
Address: 2945 BASSICK ST Email: james.sack@cbrealty.com
FORT COLLINS CO 80526

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 FORS 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 14-22 Standards for Eligibility
14-23 Process for Determining Eligibility
SECTION 3.4.7 OF THE LAND USE CODE
HPC CHARTER 14.1

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: 	Date: 12/24/2022
Name: JAMES SACK	Email: james.sack@cbrealty.com
Address: 2945 BASSICK ST, FORT COLLINS 80526	Phone #: 970.217.9705
Describe how you qualify as a party-in-interest: I submitted written comments to city staff.	

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

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

ATTACH ADDITIONAL SIGNATURE SHEETS AS NECESSARY

Appeal Letter for 1901 & 1925 Hull St Historical Landmark Non Eligibility

December 27, 2022

Fort Collins City Council Members: Kelly Ohlson Emily Francis, Jeni Arndt, Susan Gutowsky, Julie Pignataro, Shirley Peel, Tricia Canonico

City Hall
300 Laporte Ave
Fort Collins CO 80521

RE: Notice of Appeal for 1901 & 1925 Hull Street Historical Preservation Commission Non Eligibility Status

Dear City of Fort Collins Councilmembers,

This appeal is made by myself, James Sack, with the support of neighbors in the Silverplume, Cedar Village, West Swallow, and Rossborough neighborhoods. This written notice of appeal is filed within the required 14 calendar days following the decision dated Dec. 14, 2022, in accordance with Municipal Code.

I am appealing the decision by the Historical Preservation Commission to make ineligible this property for landmark designation, based on the following grounds:

- 1) Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter.
- 2) Failure to conduct a fair hearing in that:
 - The Board, Commission, or other Decision Maker substantially ignored its previously established rules of procedure.
 - The Board, Commission, or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading.

**1901 & 1925 Hull St Historic Preservation Commission (HPC) Appeal Justification Item 1
Failure to Properly Interpret & Apply Relevant Provisions of City Code, LUC, Charter :**

The official determination by the HPC to not make eligible this property for historical, landmark status violates multiple sections of the Land Use Code (LUC) and Municipal City Code, as well as HPC's charter.

Chapter 14 Article I, Sec. 14.1, (City of Fort Collins Landmark Eligibility) states;

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of sites, structures, objects and districts of historic, architectural, archeological, or geographic significance, located within the City, are a public necessity and are required in the interest of the prosperity, civic pride and general welfare of the people.

Sec. 14-31 states: Staff shall review applications for Fort Collins landmark designation to determine whether the listed resource(s) satisfies the eligibility criteria contained in § 14-22.

And in an October 14, 2022 letter to the landowner and developer, Jim Bertolini, Senior Historic Preservation Planner, wrote, in a Statement of Eligibility, "This property is eligible for designation as a Fort Collins Landmark based on the eligibility standards in Municipal Code 14, Article II and is a "historic resource" under the City's Municipal and Land Use Codes."

In a nutshell, both an independent consultant and city staff came to the same overall conclusion, that of historic preservation for this property. Under City of Fort Collins Land Use Code 3.4.7, any development proposal requires identification of possible historic resources on or near the site, and then a determination of eligibility is made by city staff, in conjunction with a third-party historical consultant. By using Standards for eligibility, under Chapter 14, Article 2 (14.22) of the Municipal Code, city staff found that both sets of standards were met, Integrity and Significance, in determining that these two structures were examples of historical significance for an agriculture-related farmhouse in North Fossil Creek/Upper Spring Creek area.

The HPC did not take into consideration the extremely low number of surviving, eligible historic properties in this southwest quadrant of the city, as pointed out by city staff and reiterated by Ms. Shields. Here is the excerpt from city staff, pertaining to this issue:

The larger local context on agricultural development in this area is related to the North Fossil Creek area, which included farms along Taft Hill Road south of present-day Prospect Road to Horsetooth Road, and farms along present-day Shields Street from the New Mercer Ditch to Horsetooth Road. In a 1950 aerial photograph, staff identified at least 30 farms in this area that would reasonably be associated primarily with the uppers of Spring Creek. Of those that appeared in 1950, only thirteen (13) survive and based on available records, only 6 appear to retain enough historic integrity to be potentially eligible as examples of early agricultural development in the region. Those six properties appear to be:

o 2825-2917 S. Taft Hill Road, 1889 house, 1926 barn, significant number of outbuildings

o 3226 S. Shields, Cunningham Farm 1939

o 1901 Hull Street, Hull House, c.1924

o 1925 Hull Street, Shankula House, c.1924

o 2010 Hull Street, 1933

o 2034 S. Taft Hill Road, 1889

Of the six remaining properties identified by city staff, three are located in the targeted development plan, and the surrounding land around 2034 S Taft Hill Rd is currently under development. That leaves two properties total,

2825-2917 S. Taft Hill Road and 3226 S Shields, with city staff noting that 3226 S Shields has also been partially sold off/developed. In the Dec. 14 appeal, Mr. Knierim noted that other properties could potentially be singled out down the road as potential candidates for historic preservation, saying, "...there are better examples than this property. There just have to be." In essence, the Historic Preservation Commission is putting ALL of its hopes into the last remaining intact eligible property, 2825-2917 Taft Hill Road, as identified by city staff. This is extremely short-sighted and goes against the land use code and municipal code of the City of Fort Collins.

The objection of the citizens of Fort Collins should be that the Historic Preservation Commission's rushed decision in one short meeting session (with total discussion under 30 minutes), where most of the members clearly had not researched or given thought to this subject, flippantly went against both an independent, professional, historical consultant AND City of Fort Collins staff, including Jim Bertolini, Senior Historic Preservation Planner and Becca Shields, architectural historian. The culmination of days and weeks of research, interviews, and site visits was negated by a quick, uninformed, disinterested reaction from the HPC.

One of the main arguments from Mr. Rose, 'that so much is unknown about this property' is just plain silly and lazy. City staff and the architectural historian presented plenty of background about the original owners of 1901 and 1925 Hull, including a narrative about Gustav Pastor's immigration to the U.S. from Berlin, Germany in 1900, his subdivision into 10 large plots in 1924, one of which was purchased by John and Ruth Hull. A full-length Express Courier article from Oct. 25, 1925 describes Mr. Hull's challenges and successes as a veteran after WWI, pertaining to his and Ruth's ability to turn 4 acres into a productive agricultural endeavor. A farmhouse, in the vernacular style, was constructed in 1925, along with chicken coops, loafing sheds, barns, and other outbuildings. We know the names of the subsequent owners of this property, we know the agricultural uses that were applied to the property, and we know from genealogical records the Hulls family background.

Mr. Rose went on to say that, "these homes were modified in a pretty clumsy way", "there were multiple intrusions of additions that prevent them from being classified as simple farmhouses" and that they "don't reflect either significance or integrity." Bonnie Gibson said, "These aren't the kinds of structures that we should go after" and "We're not willing to die on a hill for these properties."

As is astutely pointed out in City staff's findings regarding this mid 1920's vernacular farmhouse semi-rural architectural style, "Members of the working- and middle-classes in Fort Collins did not construct many "high-style" examples of architectural trends." For Mr. Rose and the other HPC members to predicate their argument on 'unknowns' and a desire to magically conjure up Victorian or Queen Anne Georgian or Gothic Revival architecture in pre-modern Fort Collins smacks of aloofness and snobbery. One of two or three last remaining examples of early 1900's vernacular farmhouses, on its original land, in a quarter of the city with zero historical landmarks, has been slated for demolishing. What an affront to the City's history preservation codes.

1901 & 1925 Hull St Historic Preservation Commission (HPC) Appeal Justification Item 2: The Commission Substantially Ignored Its Previously Established Rules of Procedure

The City of Fort Collins' Historical Preservation charter and purpose, reads;

Historic preservation is a community-led process of preserving places that reflect the history and culture of a community. Whether it is the home of an important civic, artistic, or social leader, an outstanding example of architecture or building construction, a park that has served a neighborhood for a century, or a reflection of past technology or community development, the places around us speak to our ancestors and connect us to the unique identity that makes Fort Collins what it is today. Fort Collins preserves its important places because they:

- *Connect residents to the history and culture of their community.*
- *Conserve building materials and reduce construction waste.*
- *Support sustainable economic development goals.*

The vast majority of the meager 30 minutes of discussion, spent in the Dec. 14 appeal meeting, focused on the architectural integrity and design of one of these houses, rather than the City of Fort Collins Historical Preservation main tenets, that of connecting its residents to history and supporting sustainable economic goals.

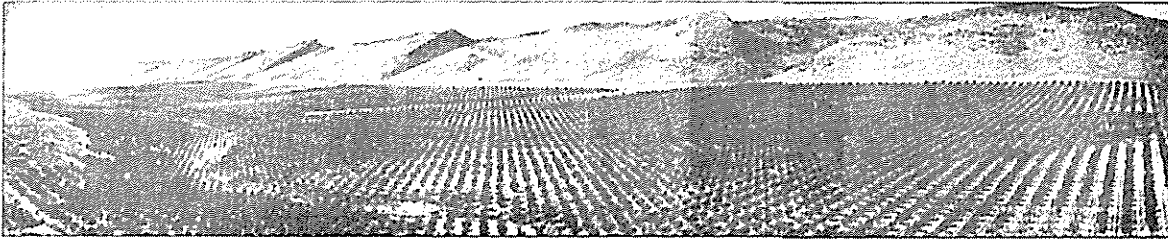
First, supporting sustainable economic development goals was not even touched on in this meeting and most likely not considered at all. These properties on the former Hull farmstead, sit strategically adjacent to the platted greenbelt trail spur off of Spring Creek Trail. Preserving both this land and the buildings accomplishes two of the city's three goals; support sustainable economic development goals along a walking/biking trail (Coy Hoffman Farmstead is one example of this) AND connect residents to the history and culture of our community, by remembering the cherry and fruit orchards that were the impetus for Colorado State University and the agricultural and economic growth through the twentieth century in Northern Colorado.

Second, connecting residents to the history and culture of their community is being entirely ignored by the HPC. In the Dec. 14 appeal meeting, city staff was asked how many other current National and/or City of Fort Collins historical preservation sites there were in the southwest quadrant of the city. After checking, he noted that there were none. Zero!

Among some of the more noted historically significant properties in town, Harmony School, Preston Farm, Gill-Nelson Farm are all listed in the city's southeast quadrant. Jessup Farm, Nelson Milkhouse, Plummer School, Tres Colonias neighborhood, and Johnson Farm are listed in the northeast quadrant. Grandview Cemetery, Maxwell House, Empire Grange Hall are listed in the northwest quadrant. And of course the College corridor heading north into Old Town has the lion's share of historically designated properties.

How can every other quadrant of the city have multiple historically-designated properties, while the southwest quadrant has none, and will continue to have none if this decision stands? An inequitable disservice is being carried out by the Historical Preservation Commission by siding with the developer in this case.

While Northern Colorado's past sugar beet industry has seen its share of attention, the region's fruit orchard history is just as impressive. By 1920, Colorado had four established fruit districts, and the Loveland-Berthoud-Fort Collins region had an enormous explosion of pie cherry tree planting underway. The Hull Family had a cherry orchard at roughly the same time as peak cherry production took place, in 1928, 1929, and 1930, and those orchards stretched throughout the Northern Fossil Creek and Spring Creek watersheds. Tart cherries, used in pies, were selected for their cold hardiness needed to survive the harsher conditions of the northern Front Range. "In 1888, Montmorency and Morella sour cherry orchards covered 10,000 acres in Loveland alone, and Spring Glade Orchard was the largest cherry orchard west of the Mississippi River.



Reporter-Herald file photo

The Spring Glade Cherry Orchard of Loveland was called the largest in the world in the Aug. 23, 1928, "Golden Anniversary of Loveland Edition" of the Reporter-Herald.

Colorado's Fruit Growing History Historic Context of Orchards first edition Prepared for the State Historical Fund Project Number #2018-M1-020 Prepared by Jude & Adalyn Schuenemeyer, CoDirectors Montezuma Orchard Restoration Project POB 1556 Cortez, Colorado 81321

Fruit growing in northern Colorado owes its beginning and development to two outstanding pioneers, Joseph S. McClelland and Charles Pennock. Establishing a homestead south of Fort Collins in 1873 (at the present site of Fossil Creek Nurseries), McClelland planted the region's first commercial orchard in 1876. He then gradually increased his planting to over 100 acres, raising over 165 kinds of apples. Growing a variety of fruit, nut and shade trees, McClelland's orchard became a testing ground for fruit growing in northern Colorado. 1 A civil war veteran, McClelland was president of the State Horticultural Society, served as a member of the State Board of Agriculture, and was also greatly interested in agricultural education. McClelland's son, Henri, acquired an early interest in the orchard and succeeded his father as owner/operator, continuing in that capacity until his death in Henrietta (Marsh) McClelland Joseph McClelland Agriculture in the Fort Collins Urban Growth Area 1862 - 1994 page 80 1947. Henri's daughter Irene, and her husband, Herbert S. Norlin, became active in running the orchard prior to Henri's death. The Norlin's added new trees and conducted research experiments in insect and disease control of the trees. In the 1970s and '80s, apple and cherry trees gave way to space for nursery stock and landscape materials, and the emphasis on fruit sales declined. 2 Charles and Lydia Pennock homesteaded south of Bellvue in the early 1880s, and soon established the Pennock Nursery and Seed Company. The Pennock's planted their first orchard in 1889, and began to experiment by planting specimens of different varieties of the same fruit. An active horticulturist, Pennock developed such varieties as the Rocky Mountain cherry and produced a plum/cherry hybrid. In the mid-1920s, Pennock was credited with having grown and tested more horticultural varieties of fruits than any other Colorado grower

Also prior to 1900, O.D. Shields of Loveland pioneered the growing of cherry and other fruit trees in the Big Thompson Valley. On a county-wide basis, though, the fruit industry did not really begin to take hold until the 1910s. It then developed rapidly in the 1920s, before falling on hard times during the depression. Cherry trees were particularly adaptable to the region's climate. They could grow much of the year without benefit of irrigation, however, when the trees began fruiting, they did need water to keep them in profitable production. For a time, sour cherries were shipped to pie bakeries in Kansas 5 City and Chicago. In about 1930, though, a canning factory was built north of Fort Collins, just east of Terry Lake. One of Fort Collins' better known fruit orchards was located at the present site of the Fort Collins Country Club. Appropriately named Cherryhurst, it was purchased in 1930 by Archer and Agnes Wright Spring.

The HPC, seemingly unprepared for this meeting, with a large amount of indecision and apathy, chose to ignore the third party architectural historian, city staff, city code, AND the bigger picture of untold history. Commissioners stated, "...there are better examples than this property. There just have to be." and have opted to put all of their eggs into one basket with 2825-2917 Taft Hill Road. Put into context, 1901 and 1925 Hull Street historical significance was discussed at the end of a 4 ½ hour meeting, with 30 minutes of disheveled and awkward interactions by a board of commissioners.

1901 & 1925 Hull St Historic Preservation Commission (HPC) Appeal Justification Item 3: The Commission Considered Evidence Relevant To Its Findings Which Was False

In the Dec. 14 Appeal, the developer mentioned numerous times that 1901 Hull should not be considered eligible for historic preservation because alterations have been made to the home over the years. Further, he ostracized and ridiculed the architecture as ‘vernacular’, and of no real architectural significance. And in the aforementioned Item 1 summary, Commissioners Rose and Gibson based much of their appeals on the non-importance of simple, altered farmhouses with no real “historical significance.”

Yet, this contradicts what the city and commission found when evaluating the Tres Colonias neighborhood before it was eventually designated as historically significant back in 2004. Adam Thomas and Timothy Smith of SWCA Environmental Consultants, said in the city’s analysis in April 2004 on page 26 (of 130);

“The results of the inventory and contexts indicate that these neighborhoods remained architecturally and culturally intact until the mid-1970s, when urban renewal efforts altered much of Buckingham, Andersonville, and Alta Vista.

This historical circumstance resulted in two situations affecting the survey methodology:

*1. The neighborhoods are not well represented in the historical record. They never appear on Sanborn Fire Insurance Maps, and residents are not listed in city directories until the mid 1930s – and even then are inaccurate. Moreover, residents either did not understand their obligation to record property transactions with the Larimer County Clerk or were unwilling to do so. As a result, three of the most important sources available to historians – Sanborn maps, city directories, and recorded land transactions – are of little use. **Fortunately, oral histories and memories of longtime residents help fill those gaps.***

*2. **Most structures are vernacular in architectural style.** That is to say, architects did not design these structures and master builders did not construct them. Instead, they reflect the traditions, values, and economic realities of the people who inhabited them. Evaluating vernacular architecture requires shifting criteria from style to form. Moreover, one must redefine the terms of integrity; numerous additions and accretions to vernacular structures are, in fact, part of their definition. These structures grow organically with need and financial ability. Because the significance of these properties would be difficult to determine on the basis of individual histories or architectural merit, the historical contexts were completed before survey work commenced. **These contexts provided the “bigger picture” through which to evaluate these properties.***

In summation, the Tres Colonias neighborhoods of Buckingham (built 1902-1953), Andersonville (built 1903-1953), and Alta Vista (built 1905-1953) may not have had their homes and businesses designed by fancy and renowned architects from Chicago, St. Louis, or New York, but both the Fort Collins City staff, commission, and consultants in 2004 looked beyond that. They looked at the ‘bigger picture’, as is REQUIRED by the city code, and recognized that simple vernacular architecture is only one tenet of history, and that oral history, land, memories, and culture are all contributing factors in connecting our present day with the past.

Simply put, this decision means that one part of the city’s history was treated one way in 2004, and now is being treated in an entirely different way in 2022.

As for the developer’s reasoning behind bulldozing these two farmhouses, the argument made at 3:18:20 goes against a number of historical projects that the City of Fort Collins has successfully accomplished. Mr. Catrell says, ‘... the existing zoning and city plans for the area will eventually eliminate any remaining rural nature, to the point that the two structures are going to look out of place, leaving future people asking, why are these still here?’

This is absolutely false and should have been called out, instead of being agreed to by Commissioner Dunn. For example, Nelson Milkhouse, part of Spencer Park, is situated on less than half an acre, on the corner of Swallow

and Lemay. It was once a 240 acre dairy farm that is now surrounded on two sides by Swallow and Lemay, by a credit union a few hundred feet to the west, and Parkview Dr single detached homes less than 100 feet to the south. It is a shining star as far as historical preservation goes, and is arguably one of the crown jewels in the City's efforts to save our history. It is preposterous to say that a property of historical significance and integrity cannot be melded together with surrounding neighborhoods of varying age and styles.

The third party consultant summarized how this property met the first requirement, *significance*, and city staff agreed:

Under Standard 3, the site is significant as a rare remaining example of a 1920s vernacular residence in a semi-rural setting. Members of the working- and middle-classes in Fort Collins did - 2 - not construct many "high-style" examples of architectural trends. Although the residence cannot be defined by a specific architectural style, its design does convey an important aspect of Fort Collins history and the time period in which it was constructed. In addition, vernacular agricultural residences are exceedingly rare in southwest Fort Collins.

Likewise, this same consultant summarized how the Hull Family property met the second necessary element, *integrity*;

Integrity is the ability of a property to convey its significance and historic associations. If a property has been altered and is no longer able to convey its connections to the past, it cannot be eligible for listing on the NRHP. As a semi-rural, vernacular, and agricultural property, essential physical characteristics include the physical appearance of the residence, location within a semirural setting, and the presence of outbuildings. Integrity is evaluated through seven aspects: location, design, setting, materials, workmanship, feeling, and association. The site retains integrity of location. Integrity of design is retained through the original footprint, massing, and door and window openings. Integrity of setting has been impacted by the removal of multiple outbuildings and the encroachment of modern development. Although setting has been impacted in this way, one outbuilding remains and the property retains its original lot of 3.6 acres. Integrity of materials has been slightly impacted by the addition of some modern windows and doors and the addition of metal sheeting to the roof. The residence does retain some original windows and doors, and the roof retains its original configuration although the exterior cladding has been altered. Integrity of workmanship is retained through the plain finishes of vernacular construction. Integrity of feeling and association have been impacted slightly by the removal of outbuildings and modern development, but the residence and single outbuilding are still able to clearly convey their early twentieth century construction and agricultural association. The site retains sufficient integrity to convey its historic associations.

Staff agreed, in the official Determination Letter on October 14, 2022, with the consultant's conclusions, noting, "the primary farmhouse's historic integrity related to Standard 3, Design/Construction as a strong example of vernacular farmhouse architecture."