

RESOLUTION 2024-071
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 MASON STREET
INFRASTRUCTURE OVERALL DEVELOPMENT PLAN ODP230001

A. On February 15, 2024, the Planning and Zoning Commission ("P&Z") approved the Mason Street Infrastructure Overall Development Plan ODP230001.

B. On February 27, 2024, Charles Meserlian ("Appellant") filed a notice of appeal ("Appeal") with the City alleging:

a. P&Z failed to conduct a fair hearing because it considered evidence relevant to its findings that was substantially false or grossly misleading; and

b. P&Z failed to properly interpret and apply Land Use Code Subsection 3.3.2(D)(5) regarding stormwater requirements for a building permit to be issued and City Code Sections 26-543(a)(4) and 26-544(a) regarding the Dry Creek Basin master plans and stormwater facilities required for subdivision plats.

C. On May 7, 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 Appeal.

D. At the Hearing the Appellant and the Appellant's engineer appeared and addressed Council, arguing in favor of the Appeal.

E. Also at the Hearing, representatives for the applicant for the Mason Street Infrastructure Overall Development Plan 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 Appellant and Appellant's engineer; and statements and arguments in opposition to the appeal made by representatives for the applicant for the Mason Street Infrastructure Overall Development Plan.

G. City Council determined that P&Z conducted a fair hearing when it approved the Mason Street Infrastructure Overall Development Plan, finding the P&Z considered evidence and staff recommendations that were appropriate for the level of detail required at the level of an overall development plan and that were not substantially false or grossly misleading and finding the Appeal's fair hearing issue was without merit.

H. City Council dismissed the Appeal's failure to properly interpret and apply allegations, finding Land Use Code Section 3.3.2(D) and City Code Section 26-544(a) are not required to be met for an overall development plan to be approved and City Code

Section 26-543(a)(4) adopts the Dry Creek Master Plan by reference and is not subject to interpretation or application.

I. The Council motion to dismiss the failure to interpret and apply allegations inadvertently referenced “Section 26-54(a),” instead of the correct reference to “Section 26-544(a),” and this Resolution corrects such reference.

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 allegation set forth in the Appeal that P&Z failed to conduct a fair hearing is dismissed because the Appeal’s fair hearing issue was without merit and the P&Z conducted a fair hearing and considered evidence and staff recommendations that were appropriate for the level of detail required at the level of an overall development plan and that were not substantially false or grossly misleading.

Section 2. The allegations set forth in the Appeal that P&Z failed to properly interpret and apply the Land Use Code and City Code are dismissed because the Land Use Code and City Code provisions set forth in the Appeal were not relevant to interpretation or application for an overall development plan.

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 May 21, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: May 21, 2024

Approving Attorney: Heather N. Jarvis