

### NOTICE OF APPEAL

Action Being Appealed: Mason Street Infrastructure - ODP Approval

FOR CITY CLERK'S  
USE ONLY:  
  
DATE FILED:  
  
INITIALS:

Date of Action: 02/15/2024 Decision Maker: Planning & Zoning Commission

REC'D BY CITY CLERK  
FEB27'24PM3:57

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

Name: Charles Mesalian Phone #: 970-490-1251  
Address: 700 No. College Ave Email: FTCTALKERS@YAHOO.COM  
St. Louis Co. 80524

**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 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:  
  
LUC Division 3.3.2(d)(5) - Stormwater Drainage  
Subsequent MUC Section 26-543(a)(4) - Master Drainage Plan: Dry Creek Basin  
Subsequent MUC Section 26-544(a) - Conformity with master plan of the storm water facilities

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**

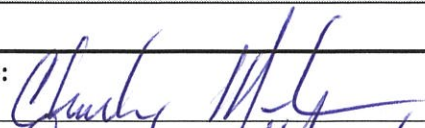
All new evidence the appellant wishes Council to consider at the hearing on the appeal must be submitted to the City Clerk within seven (7) calendar days after the deadline for filing a Notice of Appeal and must be clearly marked as new evidence. No new evidence will be received at the hearing in support 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: 2-27-24
Name: Charles Mesutian	Email: FTL TRUCKS@YAHOO.COM
Address: 700 N. College St Concord	Phone #: 970-490-1251
Describe how you qualify as a party-in-interest:	

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 of approval for the Mason Street Infrastructure – Overall Development Plan on the basis that the Board, Commission or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading.

Here are the codes in reference:

Land Use Code Division 3.3.2(D)(5) – *Stormwater Drainage*. The applicant shall provide stormwater facilities and appurtenances as required by Section 26-544 of the City Code and, where applicable, such facilities shall conform to Section 10-37 of the City Code.

Subsequent Sections:

Municipal Code Section 26-543(a)(4) – *Master Drainage Plans: Dry Creek Basin*:

- Dry Creek Master Plan, prepared by URS Corporation, Inc., dated December 2002;
- Stormwater Quality and Stream Restoration Update to the Dry Creek Basin Stormwater Master Drainage Plan, prepared by Ayres Associates, dated October 2012.

Municipal Code Section 26-544(a) - Prior to the final approval of the plat of any subdivision, or prior to commencement of construction upon any lot or parcel of land for which a drainage report and construction plan for the installation of stormwater facilities has not been prepared and approved by the City, the owners of the property being subdivided or upon which construction is being commenced shall, at such owners' cost, prepare a detailed drainage report and construction plans for the installation of all stormwater facilities required for such subdivision or lot, including any off-site facilities required to convey stormwater to existing drains, channels, streams, detention ponds or other points, all in conformity with the master plan of the stormwater basins, the Fort Collins Stormwater Criteria Manual adopted pursuant to § 26-500, and the Water Utilities Development Construction Standards adopted pursuant to § 26-29.

Throughout the “Overall Drainage Report – Mason Street Infrastructure”, prepared by Northern Engineering, dated December 15<sup>th</sup>, 2023, it is stated that the “regional” pond proposed is an interim pond that will account for the existing detention volume in addition to the developments required detention volume. The drainage report acknowledges that “notable offsite-runoff passes directly through the project site. It will not be quantified with the interim drainage design...” It also states that “Fort Collins will provide analysis of the upstream basins and the design of the ultimate regional Detention Pond.” During the Staff presentation for the Mason Street Infrastructure Overall Development Plan (ODP), it was stated that there is plenty of space for the

ultimate regional detention pond. It is believed that this is grossly misleading since there is no evidence or analysis provided to reference that the ultimate regional pond is feasible with the proposed ODP improvements.

An Overall Development Plan (ODP) is the groundwork or masterplan for future development. Without knowing what all entails the requirements of the regional pond, dependent on upstream analysis provided by the City of Fort Collins, this should be considered an incomplete masterplan or incomplete ODP for future developments to reference. There is no evidence provided that the ultimate regional pond is achievable. It is necessary to provide this analysis and evidence at the ODP level to ensure a guarantee to the upstream property owners, stakeholders, that a regional benefit could be satisfied.