

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING
FINDINGS AND DECISION**

HEARING DATE: September 29, 2021

PROJECT NAME: 4235 S. Mason St. – Mason Center South

CASE NUMBER: FDP #200010

APPLICANT: Marc Shen
Maliakai Architectural Design
636 Fairfield Lane
Louisville, CO 80227

OWNER: Mason Center South, LLC
401 S. Lincoln Avenue
Loveland, CO 80537

HEARING OFFICER: Marcus McAskin

PROJECT DESCRIPTION: This is a request to establish a minor vehicle repair facility at 4235 S. Mason (parcel nos. 9735406003 & 9735406012, being the same property as described in that certain Warranty Deed dated December 18, 2020 and recorded on December 22, 2020 at Reception #20200108687) (the “Subject Property”).

The project would change the use of the existing building and an adjoining vacant parcel from Retail Foothills Vacuum and Sewing Center into a Minor Vehicle Repair land use. This building is a component of an existing body shop (Blue Ribbon Auto Body) located at 4221 S. Mason Street (two parcels north) and the building on the Subject Property is proposed to be used for vehicle sensor calibration, detailing, polishing, and similar services. The project site is located within the General Commercial (C-G) zone district.

BACKGROUND: The background of the Subject Property is summarized in the Development Review Staff report (attached as **ATTACHMENT A**). The Subject Property has remained largely unchanged since the original development of the Subject Property.

The surrounding zoning and land uses are as follows:

	North	South	East	West
Zoning	General Commercial (C-G) & TOD Overlay Zone	General Commercial (C-G) & TOD Overlay Zone	General Commercial (C-G) & TOD Overlay Zone	General Commercial (C-G) & TOD Overlay Zone
Land Use	Major Vehicle Repair (Blue Ribbon Auto Body); Retail (Magpies Boutique and Studio)	Minor Vehicle Repair (Big O Tires); Major Vehicle Repair (Fort Collins Collision Repair)	Retail (Big Lots)	Max Bus Rapid Transit (Troutman Stop); Mason Trail, New Mercer Canal, and BNSF Railway

SUMMARY OF DECISION: Conditionally approved.

ZONE DISTRICT: (C-G) General Commercial.

HEARING: The Hearing Officer opened the virtual hearing on Wednesday, September 29, 2021 at approximately 6:30 P.M. following the conclusion of the virtual hearing on the Howes Six Two Nine project (PDP #210008) (the “prior project”). The Hearing Officer reminded those in attendance that the Order of Proceedings and Rules of Conduct for Administrative Hearings had been reviewed with the Applicant and members of the public present prior to the commencement of the hearing on the prior project.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Development Review Staff Report prepared for 4235 S. Mason Street – Mason Center South (FDP #200010). A copy of the Staff Report is attached to this decision as **ATTACHMENT A** and is incorporated herein by reference.
2. Vicinity Map.
3. Site Plan for 4235 S. Mason Street – Mason Center South (5 pages).
4. Utility Plan for 4235 S. Mason Street – Mason Center South (8 pages).
5. Drainage report for 4235 & 4221 S. Mason Street, last revision September 8, 2021.
6. Confirmation of Publication of Notice of Hearing (Ad# 0004915070) ordered September 15, 2021 and published on September 16, 2021 in *The Coloradoan*.
7. Copy of Written Notice of Public Hearing dated September 15, 2021 (per Development Review Staff Report the Written Notice of Public Hearing was distributed to 166 addresses).
8. PowerPoint presentation prepared by Staff for the September 29, 2021 public hearing.
9. The City’s Comprehensive Plan, the Land Use Code, and the formally promulgated ordinances and polices of the City are all considered part of the record considered by the Hearing Officer.

10. Rules of Conduct for Administrative Hearings.
11. Administrative (Type 1) Order of Proceedings.

TESTIMONY: The following persons testified at the hearing:

From the City:	Kai Klear, City Planner
From the Applicant:	Ken Armfield, P.E. Armfield Engineering, LLC
	Mike Bailey C2RS Contracting
From the Public:	None

The virtual hearing on this matter was closed at approximately 6:58 P.M.

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly posted, mailed, and published.
2. As required by City Council Ordinance 079, Series 2020 (the “**City Ordinance**”), the Hearing Officer, in consultation with City staff, determined that it was desirable to conduct the hearing by remote technology so as to provide reasonably available participation by parties-in-interest and by the public, consistent with the requirements of the City Ordinance, because meeting in person would not be prudent for some or all persons due to a public health emergency.
3. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - A. the Application complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code;
 - B. the Application complies with the applicable General Development Standards contained in Article 3 of the Land Use Code; and
 - C. the Application complies with relevant standards contained in Division 4.21, General Commercial District (C-G) of Article 4 of the Land Use Code.
4. The Application’s satisfaction of the applicable Article 2, 3 and 4 requirements of the Land Use Code is sufficiently evidenced by the Staff Report and the testimony and materials presented at the hearing.

DECISION

Based on the findings set forth above, the Hearing Officer hereby **approves** the 4235 S. Mason Street – Mason Center South (FDP #200010) for the Subject Property, on the condition that the PROPERTY DESCRIPTION set forth on Sheet 1 (of 5) of the Site Plan for the Subject Property be deleted in its entirety and replaced/updated with the following:

A PART OF TRACT “A” OF FOSSIL CREEK COMMERCIAL PLAZA, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO, WHICH BEGINS AT THE SW CORNER OF SAID TRACT “A”, AND RUNS THENCE N 01° 06’ 24” E, 211.06 FEET; THENCE S 89° 46’ 52” E, 111.15 FEET; THENCE S 00° 13’ 08” W, 100.00 FEET; THENCE S 89° 46’ 52” E, 150.00 FEET; THENCE S 00° 13’ 08” W, 76.02 FEET; THENCE ALONG THE ARC OF A 25 FOOT RADIOUS CURVE TO THE RIGHT A DISTANCE OF 38.23 FEET, THE LONG CHORD OF WHICH BEARS S 44° 01’ 26” W, 34.61 FEET; THENCE S 87° 49’ 45” W, 240.67 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF FORT COLLINS IN DEED RECORDED MARCH 10, 2010 AT RECEPTION NO. 20100013588.

(the “Updated Property Description”).

The PROPERTY DESCRIPTION currently utilized in the Site Plan (Site Plan dated September 8, 2021) contains a reference to Quitclaim Deed recorded July 27, 2016 at Reception No. 20160048666 (the “prior QCD”).

The prior QCD was deemed deficient by that certain Correction Quit Claim Deed recorded December 22, 2020 at Reception No. 20200108686 in the Larimer County real property records (“County Records”). The Updated Property Description set forth above is the same legal description utilized in the current vesting deed of record for the Subject Property, being that certain Warranty Deed dated December 18, 2020 and recorded on December 22, 2020 at Reception #20200108687 of the County Records, and should be incorporated into the Site Plan prior to recording.

DATED this 6th day of October, 2021.



Marcus McAskin
Hearing Officer

ATTACHMENT A

Staff Report
4235 S. Mason Street – Mason Center South
(FDP #200010)

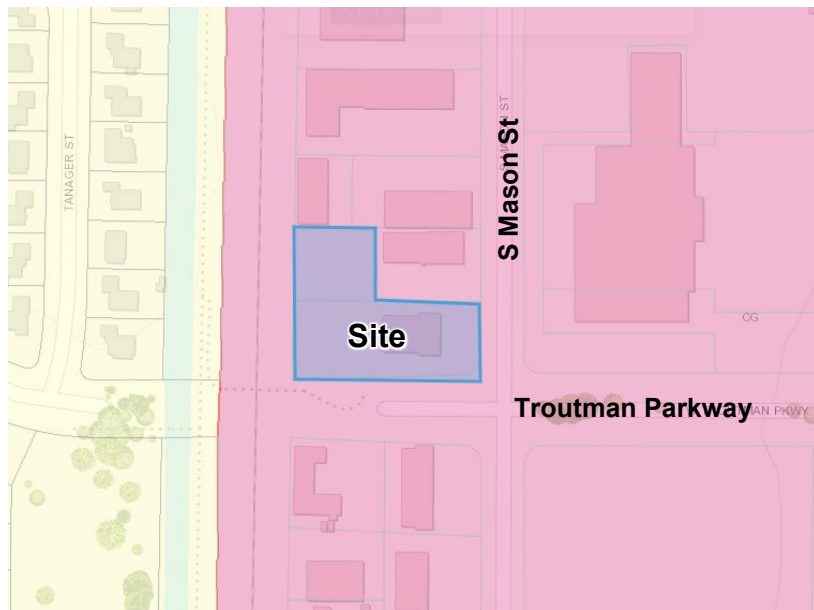
Administrative Hearing: September 29, 2021

4235 S Mason St – Mason Center South, Final Development Plan – FDP200010

Summary of Request

This is a request to establish a minor vehicle repair facility at 4235 S Mason (parcel # 9735406003 & 9735406012). The project would change the use of the existing building from retail sales into minor vehicle repair. The project site is located within the General Commercial (C-G) zone district.

Zoning Map (ctrl + click map to follow link)



Next Steps

If approved by the decision maker, the applicant would be required to submit a final plan set for review, minor clean-up, and recording. Once recorded, the applicant can apply for site and building permits.

Site Location

The site is located at the northwest corner of S Mason St and W Troutman Parkway.

Zoning

General Commercial (C-G)
Transit Oriented Development (TOD) Overlay Zone

Property Owner

Mason Center South LLC
401 S Lincoln Avenue
Loveland, CO 80537

Applicant/Representative

Marc Shen
Maliakai Architectural Design
636 Fairfield Lane
Louisville, CO 80027

Staff

Kai Kleer, City Planner

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Staff Recommendation

Approval of the Final Development Plan

1. Project Introduction

A. PROJECT DESCRIPTION

- The proposed project would change the use of the existing building and an adjoining vacant parcel from Retail Foothills Vacuum and Sewing Center into a Minor Vehicle Repair land use. This building is a component of an existing body shop (Blue Ribbon Auto Body) located at 4221 S Mason Street (two parcels north) and will only be used for calibration of sensors, detailing, polishing or the like.
- Site improvements include upgraded lighting, Connecting Walkway between the front of the building and the Troutman Parkway sidewalk system, perimeter screen fence and paving of the vehicle staging area, landscaping along the south property boundary, removal of rooftop HVAC, and new drive apron to comply with ADA standards.

B. SITE CHARACTERISTICS

1. Development Status/Background

The property was annexed as part of the Horsetooth Harmony Annex in 1978 and later platted by the Fossil Creek Commercial Plaza subdivision in 1979. The site was developed in 1983 as a rental business and included a gravel storage yard, 50'x75' engineered steel building, parking lot, and landscaping. The site has remained largely unchanged since the original development of the site.

2. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	General Commercial (C-G) & TOD Overlay Zone	General Commercial (C-G) & TOD Overlay Zone	General Commercial (C-G) & TOD Overlay Zone	General Commercial (C-G) & TOD Overlay Zone
Land Use	Major Vehicle Repair (Blue Ribbon Auto Body); Retail (Magpies Boutique and Studio)	Minor Vehicle Repair (Big O Tires); Major Vehicle Repair (Fort Collins Collision Repair)	Retail (Big Lots)	Max Bus Rapid Transit (Troutman Stop); Mason Trail, New Mercer Canal, and BNSF Railway

C. OVERVIEW OF MAIN CONSIDERATIONS

Major issues that required clarification and refinement through the review process have included:

- Paving of the vehicle staging area with an alternative city-approved surface.
- Screening of the vehicle staging area.
- Selection of low maintenance landscaping along south side of the site.
- Retrofitting the building placement to meet commercial building orientation standards.

2. Public Outreach

A. NEIGHBORHOOD MEETING

A virtual neighborhood meeting was held on March 9, 2020, where no members of the public were in attendance.

B. PUBLIC COMMENTS:

Staff has not received any comments for this proposal and will forward and any comments received between the public notice period and hearing will be forwarded to the Administrative Hearing Officer for their consideration.

3. Article 2 – Applicable Standards

A. BACKGROUND

This project was submitted on June 12, 2020 and required three rounds of staff review.

B. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR190092

A conceptual review meeting was held on November 14, 2019.

2. Neighborhood Meeting

Originally the project proposed a change of use to Major Vehicle Repair which was subject to review by the Planning & Zoning Commission (Type 2); however, during the review of the project the scope of use was changed to align with Minor Vehicle Repair land use definition and does not require a neighborhood meeting. Nevertheless, a neighborhood meeting was held with no one from the public in attendance.

3. First Submittal – FDP200010

The first submittal of this project was completed on June 12, 2020. The FDP required three rounds of staff review.

4. Notice (Posted, Written and Published)

Written Hearing Notice: September 15, 2021; 116 addresses mailed.

Published Hearing Notice: September 19, 2021, Coloradoan

4. Article 3 - Applicable Standards

A. DIVISION 3.2 - SITE PLANNING AND DESIGN STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.2.1 – Landscaping and Tree Protection	<p>This Code Section requires a fully developed landscape plan that addresses relationships of landscaping to the circulation system and parking, the building, abutting properties, and users of the site in a manner appropriate to the neighborhood context.</p> <p>The landscape plan includes the following main components:</p> <ul style="list-style-type: none"> • Five canopy shade trees along the southern property boundary in adequate size, species and spacing. • Removal of intervening asphalt between the building and revegetation with several shrubs. <p>The landscape plan submitted with the FDP addresses the more specific requirements in this section as outlined below.</p>	Complies
3.2.1(D) – Tree Planting Standards	<p>All developments are required to establish groves and belts of trees along all city streets, in and around parking lots, and in all landscape areas that are located within fifty (50) feet of any building or structure. Trees may be combined or interspersed with other landscape areas in remaining portions of the development. This section sets minimum requirements for “full tree stocking” and tree spacing.</p> <ul style="list-style-type: none"> • Trees meet spacing requirements of 30-40 foot spacing for canopy shade trees and 20-40 foot spacing for evergreen or ornamental trees. • No species exceeds 15% of the total number of trees. • All trees proposed meet the minimum size required – 2-inch caliper for canopy shade trees. 	Complies
3.2.1(E) – Landscape Standards	<p>This section sets minimum standards for landscape plans for all development applications to prevent erosion and meet the functional and visual purposes such as defining spaces, accommodating, and directing circulation patterns, managing visibility, attracting attention to building entrances and other focal points, and visually integrating buildings with the landscape area and with each other.</p> <p>The Final Development Plan meets requirements in this section as follows:</p> <ul style="list-style-type: none"> • Low water use plans that complement the fence placement along the southern property line. • Maintaining existing ornamental and evergreen shrubs on site. • Planting beds at least 5 feet in width surround the buildings and frame the pedestrian network. Plant selection for these areas is included on the planting schedule for the landscape plans. 	Complies
3.2.1(F) – Tree Preservation and Mitigation	<p>There are nine existing trees on site, all of which will be protected in place.</p>	Complies
3.2.2 – Access, Circulation and Parking	<p>This standard requires that development projects accommodate the movement of vehicles, bicycles, pedestrians, and transit throughout the project and to and from surrounding areas safely and conveniently and contribute to the attractiveness of the neighborhood. In compliance, the Final Development Plan includes the following:</p> <ul style="list-style-type: none"> • Improvement of the drive apron to comply with the requirements of the City’s Americans With Disabilities Act. • Clear connection between the street and entrance of the building without needing to walk through the parking lot or driveway. 	Complies

3.2.2(C)(4) – Bicycle Facilities	Bicycle parking requirements for minor vehicle repair requires a minimum of 4 spaces. The plan provides a 4 space bike rack along the southeast corner of the building.	Complies
3.2.2(C)(5) – Walkways	This section requires walkways that are located and aligned to connect areas or points of pedestrian origin and destination directly and continuously. Walkways must be at least 6 feet in width and must connect to the larger pedestrian network outside the site. When walkways cross a street, a striped crosswalk or other similar pavement treatment is required. The circulation of the site will remain largely unchanged with exception of the removal of a portion of the parking lot and addition of a Connecting Walkway. The Connecting Walkway is 6 feet in width and provides a direct connection from the street sidewalk to the front entry of the building.	Complies
3.2.2(K)(2) – Nonresidential Parking Requirements	Existing Buildings Exemption: Change in use of an existing building shall be exempt from minimum parking requirements. For the expansion or enlargement of an existing building which does not result in the material increase of the building by more than twenty-five (25) percent, but not to exceed five thousand (5,000) square feet in the aggregate, shall be exempt from minimum parking requirements. Though the project is exempt from current parking standards it does provide six parking spaces which includes one van accessible parking space.	Complies
3.2.2(L) – Parking Stall Dimensions	Land Use Code Section 3.2.2(L) details parking stall and drive-aisle requirements for parking lots. The proposed parking consists of 9'x19' stalls in compliance with minimum dimensional requirements.	Complies
3.2.4 – Site Lighting	The plan proposes the removal of three non-conforming wall mounted light fixtures and the installation of two light fixtures, one above the front entrance and a second above the rear shop door. The proposed fixtures are 3,000K or less, fully shielded, and down directional.	Complies

B. DIVISION 3.3 - ENGINEERING STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.3.1(C)	An applicant is required to dedicate rights-of-way for public streets, drainage easements and utility easements as needed to serve the area being developed and/or platted. In cases where any part of an existing road is abutting or within the tract being developed and/or subdivided, the applicant shall dedicate such additional rights-of-way as may be necessary to increase such roadway to the minimum width required under this Land Use Code for such street. In compliance with the standard the project is dedicating 12 feet of additional right-of-way and behind that, a 15' utility easement along S Mason Street.	Complies

C. DIVISION 3.5 - BUILDING STANDARDS

The purpose of this Section is to ensure that the physical and operational characteristics of proposed buildings and uses are compatible when considered within the context of the surrounding area.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.5.1(l)(1-7) – Outdoor Storage Areas / Mechanical Equipment	<p>This section is designed to ensure outdoor storage, trash collection, loading areas and utility equipment are screened and designed in a way that are harmonious with the overall architecture of the site.</p> <ul style="list-style-type: none"> The project proposes the removal of rooftop equipment in an effort to eliminate the need for rooftop screening. It was communicated that the roof was not strong enough withstand the additional load of a screen wall. The areas behind the building and the adjoining lot that will be used for vehicle staging will be screened by a 6-foot wood picket fence with split face CMU columns spaced on 40 foot intervals. 	Complies
3.5.3(C) – Relationship of Buildings to Streets, Walkways and Parking	<p>This standard requires that the main entrance of a commercial building to face and open directly onto a connecting walkway with pedestrian frontage.</p> <p>The plan proposes to comply with the standard to the extent feasible by removing a portion of the paved area between the building and Troutman Parkway and introducing a 6 foot wide connecting walkway that leads from the front entrance of the building into the street sidewalk system.</p>	Complies

D. 3.6 TRANSPORTATION AND CIRCULATION

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.6.6 – Emergency Access	<p>This section is intended to ensure that emergency vehicles can gain access to, and maneuver within, the project so that emergency personnel can provide fire protection and emergency services without delays.</p> <p>The plan has been reviewed by Poudre Fire Authority and demonstrates the appropriate level of compliance with International Fire Code. The plan meets the requirements for perimeter access, signage, premise identification and security gates.</p>	Complies

E. DIVISION 3.8 - SUPPLEMENTARY REGULATIONS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.8.11 – Fences and Walls	<p>The standards contained within this section control the height and placement of fencing.</p> <p>The project provides the necessary 2-feet of setback from the sidewalk leading to the transit center and 5-feet along the Troutman Parkway frontage.</p> <p>Due to the unique security requirements of the vehicle staging area it is appropriate to exceed the 4-foot height maximum (6-foot is proposed) along a portion of Troutman Parkway. The height is also mitigated by the setback from the street and proposed use of high quality materials which include 6" cedar pickets and split-face CMU columns.</p>	Complies

5. Article 4 – Applicable Standards:

A. DIVISION 4.21 – GENERAL COMMERCIAL (C-G)

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
4.5(B) - Permitted Uses	The Plan proposes minor vehicle repair. This land use is permitted subject to a Type 1 (Administrative Hearing) and is defined by the City’s Land Use Code as, “servicing and maintenance shall mean the use of any building, land area, premises or portion thereof, where light maintenance activities such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like are conducted.”	Complies
4.5(G) – Development Standards for the TOD Overlay Zone	Though this project is located within the TOD Overlay Zone it was found not subject to the requirements of Division 3.10 based on the level of change to the existing site. If the project were to fully redevelop the applicable standards of this section would apply.	N/A

6. Findings of Fact/Conclusion

In evaluating the request for the 4235 S Mason Street – Mason Center South, FDP200010, Staff makes the following findings of fact:

1. The Final Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
2. The Final Development Plan complies with relevant standards located in Article 3 – General Development Standards.
3. The Final Development Plan complies with relevant standards located in Division 4.21 General Commercial District (C-G).

7. Recommendation

Staff recommends approval of 4235 S Mason Street – Mason Center South Final Development Plan, FDP200010, based on the Findings of Fact.

8. Attachments

1. Vicinity Map
2. Site Plan
3. Utility Plan
4. Drainage Report

9. Links

The documents available at the following links provide additional information regarding the development proposal under review and are incorporated by reference into the hearing record for this item:

1. [All Submittal Documents](#) (enter FDP200010 into search bar)