

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING**

FINDINGS AND DECISION

HEARING DATES: June 5, 2024
July 9, 2024 (re-hearing)

PROJECT NAME: Mason Street Infrastructure Project

CASE NUMBER: FDP 230016

OWNER (Parcel No. 9702100007): N College 1311, LLC
262 E. Mountain Ave.
Fort Collins, CO 80524

OWNER (Parcel No. 9702100918): City of Fort Collins

APPLICANT: N College 1311, LLC

APPLICANT REPRESENTATIVE: Klara Rossouw
Ripley Design Inc.
419 Canyon Avenue, Suite 200
Fort Collins, CO 80521

HEARING OFFICER: Lori Strand

PROJECT DESCRIPTION & BACKGROUND:

The combined project development plan/final development plan for the Mason Street Infrastructure Project (the “**FDP**”) consists of the construction and installation of a stormwater detention pond and associated pipes, water lines, and sewer lines including vaults, electric conduits and vaults (collectively, the “**Minor Public Facilities**”), the modification of a natural habitat buffer zone (“**NHBZ**”), and the construction of a new segment of North Mason Street (a 2-lane collector) (the “**Roadway Improvements**” and, together with the Minor Public Facilities and NHBZ modification, the “**Project**”). No occupied structures are proposed as part of the Project.

The Applicant (and not the City) will be responsible for completing the Project in accordance with the FDP.

The Project will occur within an approximately 13-acre area generally located south of and adjacent to Hibdon Court, north of Hickory Street, and west of North College Avenue. The Project area includes parcel numbers 9702100918 (currently owned by the City) and 9702100007 (currently owned by the Applicant) (collectively, the “**Property**”). The Roadway Improvements will be constructed along the path of an existing asphalt access drive (currently located within an easement) that runs north/south through the eastern portion of the Property.

Contemporaneously with the FDP for the Project, the Applicant is seeking the City’s approval of the Mason Street Infrastructure subdivision plat (the “**Plat**”) to establish three lots (“**Lot 1**”, “**Lot 2**”, and “**Lot 3**”), one tract (“**Tract A**”), and the right-of-way for the Roadway Improvements (the “**ROW**”). A draft of the Plat is included in the record for this case (*see* Item No. 7 in the Evidence list below); however, the Plat will be reviewed and approved or denied through a separate City process. Through a land swap, the City and Applicant intend for the City to ultimately own Lot 1, which is where the stormwater detention pond and a significant portion of the NHBZ will be located, and to retain ownership of the land described as Tract A where another portion of the NHBZ will be located. Lot 2 and Lot 3 will be owned by the Applicant.

The Project is further summarized in the “Project Description” section of the Development Review Staff Report for the July 9, 2024 virtual public re-hearing on the FDP; a copy of the staff report is attached to and incorporated in this decision as **ATTACHMENT A** (the “**Staff Report**”). The Project is detailed in the site and landscape plans and utility plans included in the record of this case (*see* Item No. 5 and Item No. 6, respectively, in the Evidence list below).

City staff’s analysis of the FDP’s compliance with the City of Fort Collins Land Use Code (“**LUC**”)¹ is set forth in the Staff Report.

The FDP does *not* include any requests for modifications of LUC standards or for alternative compliance of LUC standards.

ZONING:

Hearing Officer approval of the FDP is required because the Property is zoned Service Commercial District (C-S), and C-S zoning requires Administrative (Type 1) Review to establish a “minor public facility” use. *See* LUC § 4.22(B)(2)(b)(4).²

¹ The FDP was reviewed for compliance with applicable standards contained in the City of Fort Collins Land Use Code adopted in 1997, as the same has been subsequently amended, because this code was in effect at the time the application for the FDP was submitted. The FDP was *not* reviewed for compliance with the *new* Land Use Code adopted by City Council on May 7, 2024 and effective May 17, 2024

² Section 5.1.2 of the LUC defines “minor public facility” as:

structures or facilities, such as electrical generating and switching stations, substations, underground vaults, poles, conduits, water and sewer lines, pipes, pumping stations, natural gas pressure-reducing stations, repeaters, antennas,

The Property is also subject to the Mason Street ODP, dated June 3, 2024 (the “**ODP**”) (*see* Item No. 13 and Item No. 14 in the Evidence list below). The ODP establishes, among other things, a “Drainage Phasing Schedule” and “Site Phasing Schedule” for the Property and identifies improvements within three parcels and a tract of land; said parcels and tract generally align with the boundaries of Lots 1, 2, and 3 and Tract A of the Plat. Interim detention pond, interim water quality, and interim street storm conveyance and other improvements, and the construction of North Mason Street, including a sidewalk on the west side of the street, are identified in the ODP as “required improvements” for the “Mason Street Infrastructure” phase of the ODP.

STAFF RECOMMENDATION: The Staff Report recommends approval of FDP with one condition.

SUMMARY OF DECISION: Approved with one condition.

HEARINGS: This matter was initially heard as an Administrative (Type 1) Review virtual hearing conducted on Wednesday, June 5, 2024. Following the closing of the June 5th hearing, City staff advised the Hearing Officer that the Zoom link for the hearing was not posted. This prevented members of the public from virtually attending the hearing. Therefore, a re-hearing on this matter was held virtually on Tuesday, July 9, 2024.

The Hearing Officer reviewed the Rules of Conduct and Order of Proceedings with the Applicant and other attendees of the virtual hearings.

EVIDENCE: The following documents and materials are part of the record in this case:

1. Recording of June 5, 2024 hearing on the Project.
2. Staff Report for June 5, 2024 hearing (14 pages).
3. Staff Report for July 9, 2024 re-hearing (14 pages).
4. Applicant’s Project Narrative (2 pages).
5. Site and Landscape Plans for June 5, 2024 hearing (10 sheets) and Site and Landscape Plans for July 9, 2024 hearing (10 sheets). These plan sets are the same except that the July 9th plans reflect updated signature blocks.
6. Utility Plan Set (42 sheets).
7. Mason Street Infrastructure subdivision plat (2 sheets).

transmitters and receivers, valves and stormwater detention ponds, that are not occupied by persons on a daily basis except for periodic inspection and maintenance, are capable of operation without daily oversight by personnel and do not generate daily traffic. Such facilities also include similar structures for fire protection, emergency service, parks and recreation and natural areas. Minor public facilities shall not include outdoor storage and wireless communication facilities.

8. Mason Street Infrastructure Fort Collins, Colorado, Final Drainage Report, dated May 28, 2024 (104 pages) documenting stormwater impacts associated with the Project. The report concludes, among other things, that the drainage design for the Project complies with the City of Fort Collins Stormwater Criteria Manual and all applicable state and federal regulations governing stormwater discharge.
9. Ecological Characterization Study Memorandum, dated February 17, 2023, from Cedar Creek Associates, Inc. to City of Fort Collins, summarizing information required by LUC § 3.4.1(D)(1)(a) through (k) (8 pages). This memorandum states that the most prominent ecological feature on the Property is Dry Creek, which bisects the Property, and is considered a natural habitat feature by the City.
10. Memorandum, dated May 14, 2024, from Kirk Longstein, Senior Environmental Planner, and Matt Simpson, Water Utilities Development Review Engineer, to Jason Graham, Director of Water Utilities, and Caryn Champine, Director of Planning, Development, and Transportation, regarding Hickory Regional Stormwater Facility—Natural Habitat Buffer Zone Requirements (4 pages). Pursuant to this memorandum, the Fort Collins Water Utilities Director and the Fort Collins Planning, Development, & Transportation Director jointly agree to the transfer of NHBZ mitigation responsibilities to the City’s Hickory Stormwater Detention Pond as presented in this memorandum, which shall be fully implemented with the design and construction (by the City at a future date) of the final pond.
11. North College 111 Overall Development Plan Traffic Impact Study, dated May 24, 2023, submitted to the Applicant from Fox Tuttle Transportation Group, LLC (31 pages).
12. Email correspondence between Clark Mapes, City Planner, and Hearing Officer, in which Mr. Mapes clarifies which FDP improvements constitute “minor public facilities” (3 pages).
13. Unexecuted Mason Street ODP (3 sheets).
14. Executed sheet 1 of Mason Street ODP (1 sheet).
15. Applicant Administrative Hearing Presentation for June 5, 2024 (25 slides).
16. Applicant Administrative Hearing Presentation for July 9, 2024 (26 slides).
17. Staff Administrative Hearing Presentation for June 5, 2024 Hearing by Clark Mapes, Fort Collins City Planner (16 slides).
18. Staff Administrative Hearing Presentation for July 9, 2024 Hearing by Clark Mapes, Fort Collins City Planner (17 slides) and cover email for the same confirming that attachments to the Staff Report for the July 9, 2024 re-hearing are the same attachments as those attached to the Staff Report for the June 5, 2024 hearing (1 page).
19. Email correspondence from Clark Mapes, Em Myler, and David Howell, dated July 9, 2024, to the Hearing Officer confirming that no written comments had been received for the Project (collectively, 6 pages).
20. Order Confirmation of Publication of Notice of June 5, 2024 Hearing to be published on May 26, 2024 in *The Coloradoan* and Coloradoan.com (2 pages).
21. Order Confirmation of Publication of Notice of July 9, 2024 Re-Hearing to be published on July 1, 2024 in *The Coloradoan* and Coloradoan.com (2 pages).

- 22. Copy of Written Notice of June 5, 2024 Virtual Public Hearing dated May 21, 2024 (2 pages).
- 23. Copy of Written Notice of July 9, 2024 Virtual Public Hearing dated June 24, 2024 (4 pages).
- 24. Administrative (Type 1) Order of Proceedings and Rules of Conduct.
- 25. The City’s Comprehensive Plan, the North College Corridor Plan, the City of Fort Collins Master Streets Plan, the Dry Creek Basin Water Quality Master 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.

TESTIMONY:

The following persons provided testimony during the June 5, 2024 virtual hearing:

- From the City: Clark Mapes, City Planner
Matt Simpson, City Utilities
- From Applicant: Klara Rossouw, Ripley Design
- From the public: None.

The virtual public hearing on June 5, 2024 was opened at approximately 5:30 P.M. and closed at approximately 6:45 P.M.

The following persons provided testimony during the July 9, 2024 virtual re-hearing:

- From the City: Clark Mapes, City Planner
Sophie Buckingham, City Engineer
Matt Simpson, City Utilities
- From Applicant: Klara Rossouw, Ripley Design
- From the public: Reid Kenser, 1601 N. College Avenue
Debbie Bradberry, 1601 N. College Avenue

The virtual public hearing on July 9, 2024 was opened at approximately 5:30 P.M and closed at approximately 6:25 P.M.

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the June 5, 2024 virtual public hearing was timely mailed and published; however, the Zoom link for the June 5th hearing was not properly posted which prevented members of the public from attending the hearing. As a result, the City re-scheduled the virtual public hearing for this case. Evidence presented to the Hearing Officer established the fact that notice of the July 9, 2024 virtual re-hearing was properly mailed and published. Evidence presented to the Hearing

Officer also established that the Property was properly posted with a sign indicating that a development proposal for the Property was under review.

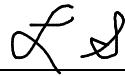
2. Based on the testimony provided at the public hearings and a review of the documents and materials in the record of this case (specifically including the Staff Report and the hearing presentations by Mr. Mapes and Ms. Rossouw), the Hearing Officer concludes that the Project is consistent with the City Plan and the North College Corridor Plan, as well as the Master Streets Plan and Dry Creek Basin Water Quality Master Plan.
3. Based on testimony provided at the public hearings and a review of the documents and materials in the record of this case (*see* Evidence list above), the Hearing Officer concludes as follows:
 - A. The FDP complies with the applicable procedural and administrative requirements of Article 2 of the LUC.
 - B. The FDP is consistent with the Mason Street ODP as required by Section 2.4.2 of the LUC. The FDP implements the Mason Street Infrastructure phase of the ODP.
 - C. The FDP complies with the applicable General Development Standards set forth in Article 3 of the LUC.
 - D. A vestigial and isolated remnant of the Dry Creek stream corridor is located within the Property. As such, Subsection 3.4.1(E) of the LUC requires Hearing Officer approval of the natural habitat buffer zone established by the FDP. An ecological characterization study was prepared by the Applicant and submitted as required by Section 3.4.1 (*see* Item No. 9 in the Evidence list above). The Project plan documents (including those referenced in the Evidence list above as Item No. 5) relocate a portion of the Dry Creek natural habitat buffer zone shown on the Mason Street ODP from the land described as Lot 2 of the Plat (the “**Area to be Mitigated**”) to the land described as Lot 1 of the Plat (the “**Mitigation Area**”). The Mitigation Area is slightly greater in size than the Area to be Mitigated. The Project plan documents also maintain the natural habitat buffer zone depicted on the Mason Street ODP over the land described as Tract A of the Plat. The Hearing Officer finds that the natural habitat buffer zone as shown in the Project plan documents complies with the LUC, including the performance standards set forth in Section 3.4.1(E); the Hearing Officer specifically incorporates the findings on pages 10-12 of the Staff Report related to the Project’s compliance with Section 3.4.1 of the LUC.
 - E. The FDP complies with the applicable zone district standards contained in Article 4 of the LUC.
 - F. The FDP’s satisfaction of the requirements of LUC Articles 2, 3, and 4 and the ODP is sufficiently evidenced by the documents and materials in the Evidence listed above, including the Staff Report, and by the testimony of City staff and Applicant’s representatives during the virtual public hearings.

DECISION

Based on the findings set forth above, the Hearing Officer hereby approves the FDP, including the natural habitat buffer as shown in the plan documents, subject to the following condition of approval which condition the Applicant voluntarily agreed to during the July 9, 2024 re-hearing:

- A. The FDP will not receive City signature until all FDP requirements are met as determined by the Director of Community Development and Neighborhood Services, including but not limited to the acquisition of all required utility easements and execution of a development agreement, per typical FDP procedures.

DATED this 16th day of July, 2024.



Lori Strand
Hearing Officer

ATTACHMENT A

Development Review Staff Report for July 9, 2024 re-hearing

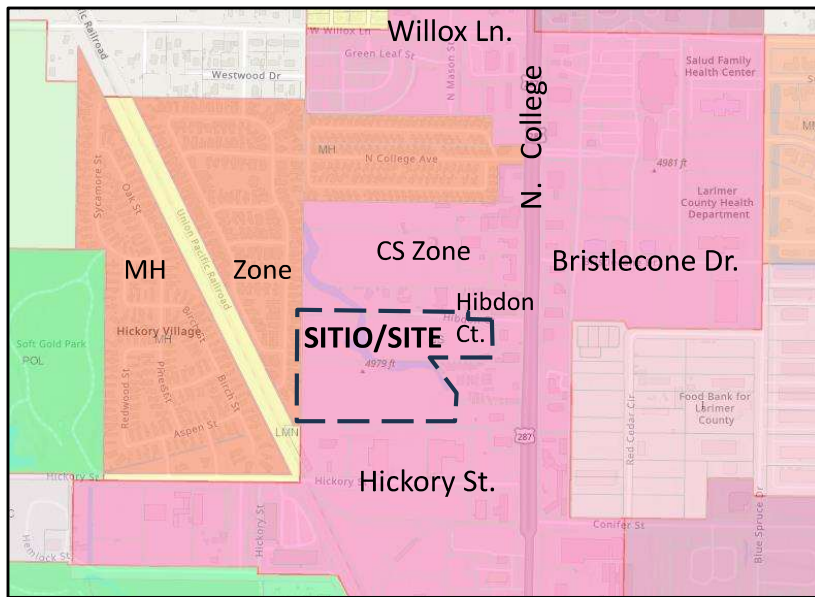
June 24, 2024

Mason Street Infrastructure Preliminary/Final Development Plan

Summary of Request

This is a proposed combined Project Development Plan/Final Development Plan, #FDP230016, for infrastructure improvements associated with a new segment of North Mason Street extending south from Hibdon Court.

Zoning Map



Land Use Code

This project was submitted and reviewed under the pre-May 2025 Land Use Code.

Next Steps

If this development plan is approved, then final plan documents can be signed and recorded per typical Final Development Plan procedure. Applicants will then be able to proceed with permits for construction.

Location

Hibdon Court and the existing access drive north of Hickory Street, on the west side of the North College Avenue corridor. Parcel #'s 9702100918 and 9702100007.

Property Owner

North College 1311, LLC
262 E. Mountain Avenue
Fort Collins, Colorado 80524

Applicant/Representative

Klara Rossouw
Ripley Design Inc.
419 Canyon Avenue Ste. 200
Fort Collins, CO 80521

Staff

Clark Mapes, City Planner

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Staff Recommendation

Approval of the PDP/FDP with a condition noting that the FDP will not receive City signature until all Final Development Plan requirements are met as determined by the Director of Community Development and Neighborhood Services, including but not limited to the acquisition of all required utility easements and execution of a development agreement.

1. Project Introduction

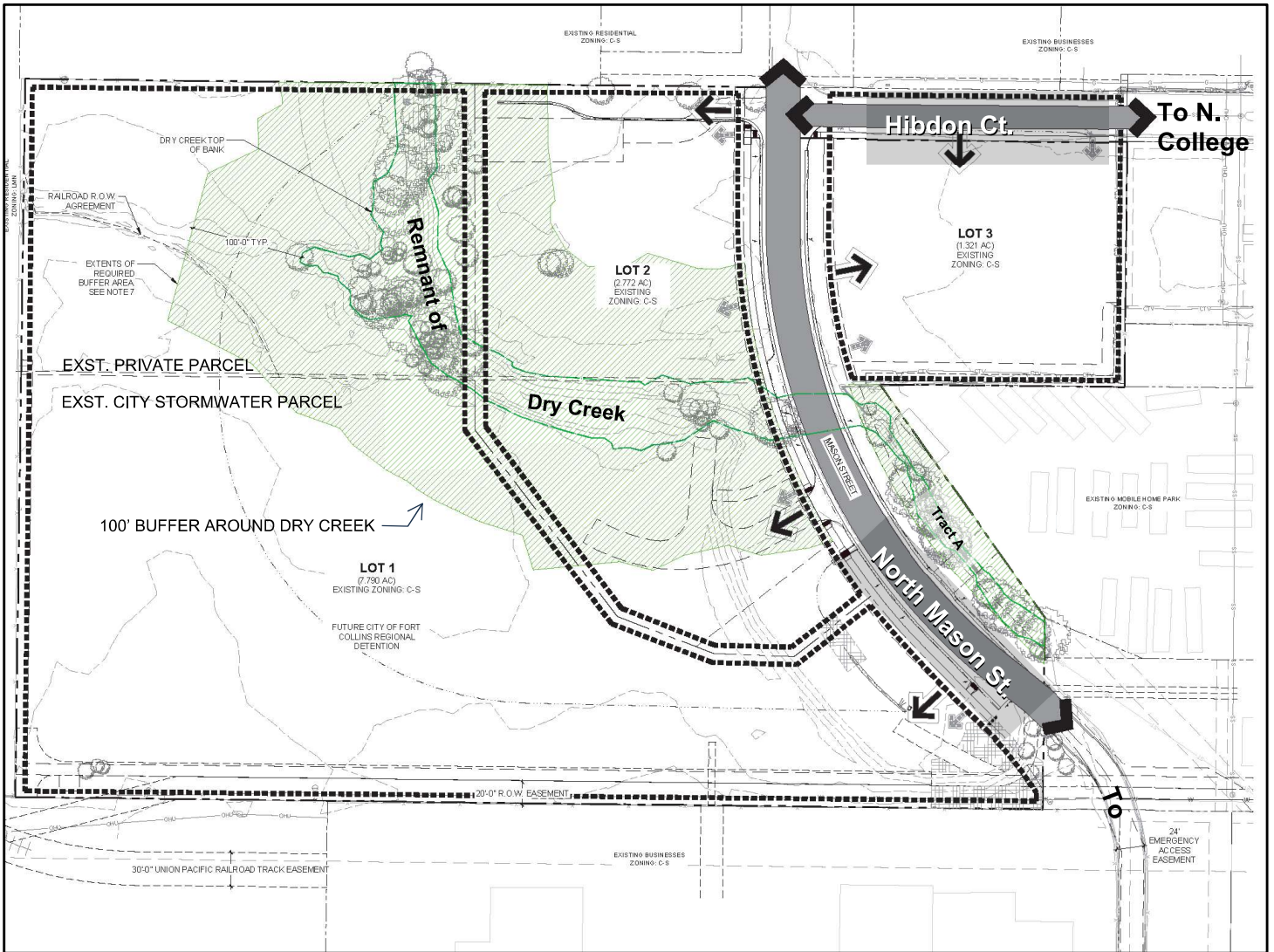
A. PROJECT DESCRIPTION

Combined PDP/FDP. The combined FDP aspect of this development plan reflects the fact that the applicants have worked out plan details to the degree that there is no benefit to a separate subsequent application for an FDP. If this PDP/FDP is approved, staff will then continue to process the Final Plan including proceedings to obtain and record any easements, execute a Development Agreement, sign the plans and record the subdivision plat, per typical FDP procedure.

The Site. The site is situated around an access drive that would become a new segment of North Mason Street and Hibdon Court, north of Hickory Street on the west side of North College Avenue.



Approved Overall Development Plan. This PDP/FDP (proposed development plan) for infrastructure follows an Overall Development Plan (ODP) for the infrastructure which was approved by the Planning and Zoning Commission on February 15, 2024. The 3-sheet ODP shows general infrastructure parameters to guide subsequent multiple development plans, starting with this one. The image below is the ODP site plan which is directly implemented in the proposed plan.



The proposed development plan includes the following main components:

- A subdivision plat that creates three lots and street right-of-way for the new segment of North Mason Street, consistent with the ODP shown above. It also identifies a residual tract on the east side of the street as Tract A. Lot 1 will be used for a City regional detention pond known as Hickory Pond. Lots 2 and 3 are zoned for a wide range of uses for potential future development. Lot 2 has a development plan currently submitted in review for a homeless shelter. Tract A was part of the existing City stormwater parcel before the access drive separated it, and it remains in City ownership with future disposition to be determined outside the scope of this plan.

The 3 lots are a reconfiguration of two land parcels involving a transaction between the owners of the two parcels—the applicant and the City stormwater department. Negotiation of the transaction has involved significant exploration of stormwater drainage and detention needs on Lot 1.

- Grading design for stormwater drainage and the detention pond which will be constructed by the applicants and owned by the City. The pond provides interim, partial construction of a long-planned regional pond that would be expanded in a future City capital project. The ultimate pond would be part of a whole system for storm drainage on the west side of the North College corridor area, at the southern end of the larger Dry Creek drainage basin which extends north of the city almost to the Wyoming border.
- Removal of the existing asphalt drive across the property. The drive is currently in an access easement.
- Construction of underground utilities including water, sewer, storm drainage, and electric utilities, mostly within the new street right-of-way and also including off-site easements.
- Construction of the new segment of North Mason Street across the subject property, with a transition to the existing drive southward to Hickory
- A separate process is proceeding to acquire off-site easements and right-of-way to connect to existing public utility systems. This FDP will not be signed and recorded nor a development construction permit issued until these off-site rights are established.
- A Natural Habitat Buffer Zone (NHBZ) for the vestigial remnant of Dry Creek that crosses the site. The NHBZ preserves parts of the existing channel and its vegetation; and includes a mitigation area with landscape restoration to mitigate loss of part of the channel.

B. DEVELOPMENT STATUS/BACKGROUND

1. Annexation & Original Development

The land was annexed as part of the 1959 North College Annex. The North College corridor area was divided up and developed on the outskirts of the city, across the river and train tracks, on floodplain land, with property owners building private water and sewer systems, throughout much of the 20th century both before and after annexing into the City. Parcels along the highway developed as a commercial strip of highway-oriented buildings, with full-movement vehicle access to every parcel and no defined street edge improvements or coordinated drainage system. Original ad hoc development included little to no attention to rear areas behind the highway frontage in terms of infrastructure or integrated City development.

The corridor served early automobile tourist traffic with motels and auto courts; and also served as a lower-rent business incubator area and lower-income housing area with several mobile home parks.

2. Planning

In the 1990s, the community began to show interest in comprehensive planning to better integrate the North College corridor with the rest of the city south of the river.

The first North College Corridor Plan was adopted in 1995 and updated in 2006. Retrofitting an extension of Mason Street west of North College Avenue, including utilities that would go into the right-of-way, has been a basic part of all planning for the evolving corridor.

Relatedly, planning for flood improvements and retrofitting a drainage system into the corridor has been a significant continuous effort since the early 2000s and continuing today and into the future.

Extensive City planning and investment has led to dozens of incremental improvements in the corridor totaling many tens of millions of dollars including a 2016 North College Improvements capital project that built the existing access drive across the property as a related part of streetscape improvements on North College Avenue.

3. Dry Creek

An isolated remnant of Dry Creek runs across the subject property. Dry Creek was a significant tributary of the Poudre River prior to original settlement within the Dry Creek drainage basin; and prior to land development in the North College corridor throughout the 1900s. Original development of the North College corridor was built up across the creek and its floodplain, virtually eliminating the channel and most evidence of it. The remnants of the channel on the site are among a few intermittent vestiges of the creek. A major City capital project upstream removed the FEMA regulatory floodplain in the 2004-2008 timeframe.



4. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Service Commercial (CS)	Service Commercial (CS)	Service Commercial (CS)	Manufactured Housing (MH)
Land Use	Two houses, auto repair with outdoor storage, Montclair mobile homes with outdoor storage	Industrial operations (steel supply)	Commercial buildings along the highway, Stonecrest mobile homes	Mobile Home Parks -- North College Mobile Plaza and Hickory Village

C. OVERVIEW OF MAIN ISSUES IN STAFF'S REVIEW

This is an engineering project to retrofit drainage, underground utilities, and a new street segment into an area with older existing land division and development lacking infrastructure. Main issues have included:

- Collaboration between the City and applicant team on interrelated objectives, starting with a land transaction to reconfigure the two existing parcels into three lots; and also including needs for off-site easements and right-of-way to extend connections to City systems that do not currently reach the site.
- Design of the earthwork, involving the majority of Lot 1 and Lot 2, with excavation for the interim Hickory detention pond and the material used to raise Lot 2 with fill to accommodate future building construction and paving, while preserving a portion of the Dry Creek channel.
- The exact alignment of the segment of North Mason Street across the property, which is widened from a 24-foot drive in an access easement, to a street with a 71-foot right-of-way.
- Fitting and connecting new water, sewer, storm drain pipes, and electric service into the complicated arrangement of existing development in the area.
- Identifying a Natural Habitat Buffer Zone (NHBZ) to meet code standards.
- Dealing with a narrow tract of property on the east side of the new street which is part of the plan, called Tract A. This property looks and functions as part of the abutting mobile home park on the east, with the mobile home development encroaching onto it, but it is actually part of the existing City-owned parcel. It was physically separated from the rest of the parcel when the access drive was built. It contains a small remnant of Dry Creek with a line of cottonwood trees that define the edge of the mobile home property and it is considered to be part of the NHBZ in the plan.

Resolving the private development encroachment onto Tract A is a peripheral issue relative to the infrastructure plan, but it required extensive research and consideration of alternative approaches to appropriate ownership and maintenance. Final resolution remains to be determined and extends beyond the scope of this plan. In the plan, the City simply continues to own it in its existing condition.

2. Comprehensive Plan

The Land Use Code's purpose statement, per Section 1.2.2(a), is to ensure that all growth and development that occurs is consistent with City Plan, and its adopted components – which for this project includes the North College Corridor Plan. The following analysis further describe the project's consistency with City Plan and the corridor plan in terms of the project's specific alignment with and impact on progress towards the guiding vision and policies presented in such plans.

A. CITY PLAN (2019)

The City's comprehensive plan, *City Plan*, was developed with the participation of thousands of community members and "articulates the community's vision and core values; and establishes the overall policy foundation" to provide "high-level policy direction" towards achieving a shared community vision of growth and transportation throughout the City.

B. NORTH COLLEGE CORRIDOR PLAN (2006)

The *North College Corridor Plan* is an adopted element of City Plan with much more specific, pertinent policy direction tailored to the circumstances of the area. It specifically describes the need to evolve a more complete network of streets, providing public access and utilities, behind the highway frontage. It emphasizes the need to adapt citywide standards to fit specific circumstances when retrofitting streets into existing developed and partially developed areas.

Relatedly, it explains that "Almost any (re)development project has multiple infrastructure needs and one requirement leads to another, all the way down to the lack of a drainage system for the entire area. While a drainage system is not an end in itself, it is perhaps the first priority in land development." It explains the

issue and need in detail, and notes that a drainage system report was done in the same time frame as the corridor plan.

And likewise, it explains the need and issues related to other utility infrastructure which is aging or lacking.

A number of infrastructure improvements have been completed consistent with the plan since 2006, with one example being the alley-like access drive which will become a segment of North Mason Street.

The proposed plan is directly consistent with the corridor plan.

3. Land Use Code Article 1

A. PURPOSE (SECTION 1.2.2)

Land Use Code Section 1.2.2 lists a wide range of over-arching, high-level objectives (i.e., “reducing energy consumption and demand”) that are further developed and implemented in Articles 1 through 7 of the Land Use Code to ensure that proposed development meets the overall purpose to “improve and protect the public health, safety, and welfare” of the community.

As they may apply to the subject property and proposed project, the following sections of this report describe design elements of the proposed development plan that provide evidence of and the degree to which compliance would be achieved relative to the specific and enumerated standards within the Land Use Code.

The requirements, standards, and definitions contained in Articles 1 through 7 of the Land Use Code have been crafted to fulfill and implement the stated purpose of this Code in § 1.2.2. By satisfying the purposes statements, and meeting the applicable specific requirements, standards, and definitions set forth in Articles 1 through 7, this project demonstrates consistency with Land Use Code § 1.2.2 (B) through (O) to the extent (B) through (O) are applicable to this project.

4. Land Use Code Article 2

A. DIVISION 2.2 – DEVELOPMENT REVIEW PROCEDURES

Applicable Code Standard	Summary of Code Requirement and Staff Analysis	Staff Findings
2.2.1-2.2.8 Procedural Steps	<p>These subsections outline the required steps for processing development applications. Pertinent steps have been:</p> <p>Preliminary Design Review</p> <p>A Preliminary Design Review meeting for the original concept for this infrastructure and a Fort Collins Rescue Mission development held on October 14, 2022.</p> <p>First Application Submittal: May 24, 2023.</p> <p>Neighborhood Meeting: May 10, 2023.</p> <p>Notice (Posted, Written and Published)</p> <ul style="list-style-type: none"> Posted Notice: Sign posted June 7, 2023, Sign #740. Written Hearing Notice: May 21, 2024, 1187 addresses mailed. Published Hearing Notice: May 26, 2024. 	Complies

5. Land Use Code Article 3 – General Development Standards

Only a few of the Sections in Article 3 pertain to the plan, involving engineering infrastructure and landscaping.

A. DIVISION 3.2 - SITE PLANNING AND DESIGN STANDARDS

Applicable Code Standards	Summary of Code Requirement and Analysis	Staff Findings
<p>3.2.1 Landscaping and Tree Protection</p> <p>3.2.1(D) – Tree Planting Standards</p> <p>3.2.1(D)(1)(c) – Full Tree Stocking</p> <p>3.2.1(F) – Tree Preservation and Mitigation</p>	<p>The standards of this Section require development plans to demonstrate a comprehensive approach to landscaping that restores all areas disturbed by construction and enhances the appearance and function of the development and the neighborhood.</p> <ul style="list-style-type: none"> • The plan includes three main landscaping components: <ul style="list-style-type: none"> - preservation of parts of the Dry Creek channel and its vegetation, which happen to be the parts most heavily vegetated by native trees; - restoration of the remaining site area which is completely regraded for the functional purposes of the plan, with specialized seed mixes for the gradations of topography from the detention pond to upland areas, with native trees and shrubs in the NHBZ area; and - Street trees and irrigated turfgrass in the new parkway strip along the west side of the new segment of N. Mason Street abutting Lot 2. • The plan includes tree mitigation with an inventory of the existing trees on the property conducted in accordance with Forestry and Environmental Planning staff. 14 trees are to be removed; and mitigation for those trees is accounted for with planting of 25 new mitigation trees and fee in lieu provided for 12 trees. 	<p>Complies</p>
<p>3.2.1(J) – Irrigation</p>	<p>This Section requires automatic irrigation of landscape plantings, with plans to be approved prior to construction. Irrigation plans are included in the FDP plan set and will be approved by Water Utilities staff prior to construction.</p> <ul style="list-style-type: none"> • Two separate irrigations systems for vegetation establishment will be installed with this project. The Lot 1 (City) system will be abandoned or removed at the end of the developer’s vegetation establishment requirements. The City Utilities department may install a permanent system at the time of final implementation of the Hickory Pond on Lot 1. The Lot 2 system will remain until ultimate development of Lot 2, where it can be modified to meet the needs of the final site. 	<p>The plan enables compliance at Building Permit stage</p>

B. DIVISION 3.3 - ENGINEERING STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.3.1(C) – Public Sites, Reservations and Dedications	<p>This standard requires the applicant to dedicate rights-of-way for public streets, and all easements needed to serve the area being developed.</p> <ul style="list-style-type: none"> • The project includes a subdivision plat that provides right-of-way for the new segment of North Mason Street, and a complete framework of easements for needed drainage, access, utilities, and temporary construction throughout the plan. • The utility plans (not the plat) provide design for off-site utility connections with easements and right-of-way to be acquired by the City in a separate process. 	Complies
Section 3.3.2 Development Improvements	<p>This Section requires engineering improvements to be designed and constructed according to the city’s various design criteria and standards, and to be approved by the City Engineer prior to construction.</p> <p>This Section also requires a Development Agreement between the applicant and the City in conjunction with signing and recording the FDP with the County Clerk and Recorder.</p> <ul style="list-style-type: none"> • The utility plan set meets all pertinent criteria and standards including three approved variances for technical details of street design, a Stormwater variance for detention pond overflow design, and a Wastewater (sanitary sewer) variance for minimum slope in the North Mason sewer main design (as directed by Utilities Engineering Staff). <p style="padding-left: 40px;">These variances are as determined by the City Engineer and Stormwater staff.</p> <ul style="list-style-type: none"> • A Development Agreement will be signed and recorded in conjunction with the FDP. 	Complies
Section 3.3.2(D) Improvements Prior to Building Permit	<p>This subsection pertains to Building Permit applications. It requires the infrastructure to be completed per applicable design criteria and standards prior to issuing a permit.</p>	The plan enables compliance at Building Permit stage

3.3.5 Engineering Design Standards	<p>This Section requires projects to comply with requirements and specifications for the following services as certified by the appropriate agency:</p> <ul style="list-style-type: none"> • water supply • sanitary sewer • mass transit • fire protection • flood hazard areas • telephone • walks/bikeways • irrigation companies • electricity • natural gas • storm drainage • cable television • streets/pedestrians • broadband/fiber optic <p>The plan complies for all of these services that are pertinent to the infrastructure project.</p>	Complies
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C. DIVISION 3.4 - ENVIRONMENTAL, NATURAL AREA, RECREATIONAL AND CULTURAL RESOURCE PROTECTION STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.4.1 – Natural Habitats	<p>The purpose of this Section is to ensure that when property is developed, the way in which the physical elements of the development plan are designed and arranged on the site will protect any natural habitats and features on the site.</p> <p>To the maximum extent feasible, the development plan must be compatible with and protect natural habitats and features and the plants and animals that inhabit them and integrate them within the developed landscape of the community by: (1) directing development away from sensitive resources, (2) minimizing impacts and disturbance through the use of buffer zones, (3) enhancing existing conditions, or (4) restoring or replacing the resource value lost to the community (either on-site or off-site) when a development proposal will result in the disturbance of natural habitats or features.</p> <p>It applies when development is proposed within 500 feet of an identified natural habitat or feature. In this case, the remnant of Dry Creek that runs across the property is considered a Natural Habitat Feature in the code.</p> <p>An Ecological Characterization Study (ECS) was done for the site as required to evaluate habitat values and make recommendations regarding protection and restoration. The ECS is attached.</p>	Complies

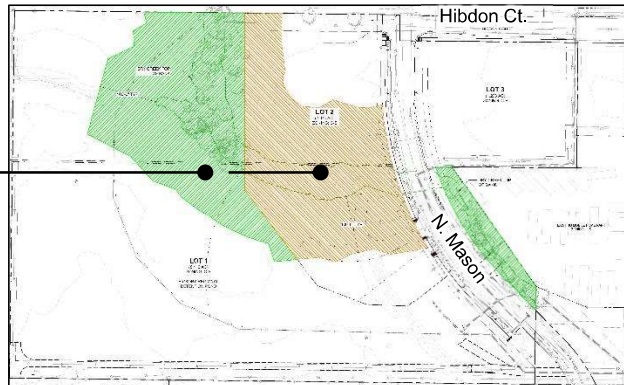
The main findings of the ECS are that wildlife use of the site is low due to the surrounding urban development, seasonal mowing, and dominance by non-native species. The site's potential as a wildlife movement corridor is limited by the lack of flowing water, significant native vegetation or quality surrounding habitat. However, the mature trees located along the drainage channel and southeast boundary of the site provides suitable perching, nesting, and foraging habitat for songbirds and raptors.

The code requires establishment of natural habitat buffer zones (NHBZs) surrounding natural resources. The general standard buffer distance for Dry Creek is 100 feet from the edge of the habitat. That 100-foot standard may be varied if certain qualitative performance standards are met in the development plan. Those performance standards are Section 3.4.1(E)(1).

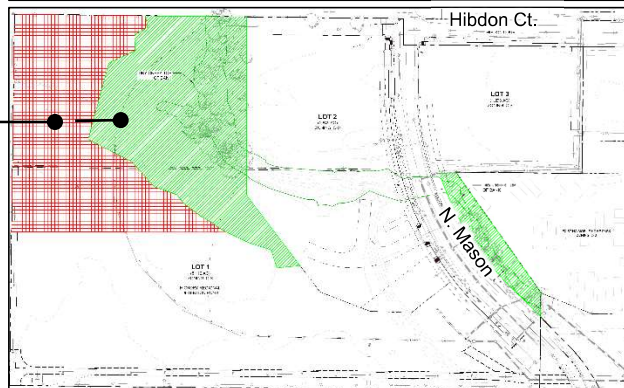
- The plan proposes excavation to create the City regional detention pond on Lot 1, and using that excavated material as fill on Lot 2 to help enable potential development. The grading removes the part of the channel and its vegetation that runs across Lot 2.

As part of the whole approach, the plan shifts the general 100' buffer from Lot 2 to a mitigation area on Lot 1 in the detention pond. The plan provides plantings in the mitigation area to restore the loss of resource value due to the grading.

NHBZ area as measured 100' around Dry Creek. The tan-colored eastern portion on Lot 2 is to be replaced by a restoration area shown below in red, on the west side



NHBZ mitigation and restoration area on Lot 1 in the proposed plan ~77,013 sq.ft.



- The applicant is responsible for all interim improvements to the City's Hickory Pond and restoration of the NHBZ on Lot 1 per this plan. The City will take over maintenance of Hickory Pond, including the NHBZ area, upon final stabilization of the site when NHBZ mitigation vegetative ground cover targets have been met.

	<ul style="list-style-type: none"> • The plan for the interim pond condition accounts for the City’s intention to further excavate the ultimate Hickory Pond in a future capital project. The plan focuses on woody plant materials along the pond’s side walls so that trees and shrubs can avoid final condition grading changes. • Buffer mitigation area on part of the detention pond on Lot 1: as part of future work by the City to construct the ultimate Hickory Pond improvements, a Minor Amendment will be processed and will include design features that mimic and complement the Dry Creek remnant. This is noted on the plan and will be noted in the Development Agreement. Also, the attached ‘NHBZ Technical Memo Hickory Pond’ explains the approach as agreed by the responsible City departments. • Staff finds that: <ul style="list-style-type: none"> - the project is designed to preserve the ecological character and the limited wildlife use of the channel remnant, and adequately mitigates the foreseeable impacts of development, thus meeting subsection 3.4.1(1)(a). - the project is designed to preserve the most valuable stand of existing trees and vegetation that contributes to the site's ecological, shade, canopy, aesthetic, habitat, and cooling value. Related to requirements for mitigation of loss of existing trees in Landscaping Section 3.2.1(F), trees and vegetation to be removed are mitigated based on values established by the City Environmental Planner including trees, shrubs, and grasses, to be planted within the buffer zone, thus meeting subsection 3.4.1(1)(c). - The project is designed to maintain or enhance the natural ecological characteristics of the site, including the requirements for future restoration and potential enhancement in the ultimate future detention pond, thus meeting subsection 3.4.1(1)(g). - Where the development causes disturbance within the buffer zone, the applicant will undertake restoration and mitigation measures within the buffer zone, with replanting of native vegetation. The applicant is undertaking mitigation measures to restore the lost natural resource, thus meeting subsection 3.4.1(2)(b). 	
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D. DIVISION 3.6 - TRANSPORTATION AND CIRCULATION

This Section is intended to ensure that the transportation network of streets, alleys, roadways, and trails is in conformance with adopted transportation plans and policies established by the City.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.6.1 – Master Street Plan	<p>This Section requires development to be in conformance with the City’s Master Street Plan.</p> <p>The proposed segment of North Mason Street is to be constructed as a Collector per the Master Street Plan.</p>	Complies

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.6.2 – Streets, Streetscapes, Alleys, and Easements	<p>This Section requires transportation network improvements to be designed to promote the public health, safety, and welfare of the City, with requirements in accordance with the Larimer County Urban Area Street Standards and requires necessary easements for utilities and access.</p> <ul style="list-style-type: none"> The plan introduces a long-planned street connection in the form of a segment of North Mason Street in conformance with standards. The plan includes a subdivision plat that dedicates needed ROW and easements. 	Complies
3.6.3 – Street Pattern and Connectivity Standards	<p>This Section requires that development contribute to the local street system with streets designed to be safe, efficient, convenient and attractive considering use by all modes of transportation that will use the system.</p> <ul style="list-style-type: none"> The proposed segment of North Mason Street fulfills this requirement. 	Complies
3.6.4 – Transportation Level of Service Requirements	<p>This Section contains requirements for the transportation needs of proposed development to be safely accommodated by the existing transportation system, or that appropriate mitigation of impacts will be provided by the development to meet adopted Level of Service (LOS) standards.</p> <ul style="list-style-type: none"> A Traffic Impact Study was reviewed and accepted by staff as part of the previously approved Overall Development Plan for North Mason infrastructure. It used assumptions for potential future land uses. It concluded that no operational concerns related to levels of service were identified, and the previous conclusions and approval pertain to this plan for the street. <p>The 17-page study is attached without its additional 114 pages of numerical tables and appendix background information.</p>	Complies

6. Land Use Code Article 4

The site is zoned C-S, Service Commercial, Division 4.22, which permits the project as Minor Public Facilities. No zone district standards pertain to the plan.

7. Findings of Fact/Conclusion

In evaluating the request for the Mason Street Infrastructure Project Development Plan/Final Development Plan #FDP230016, staff makes the following findings of fact and conclusions:

1. By demonstrating compliance with the specific standards, requirements, and definitions of Articles 1 through 5 of the Land Use Code through the submittal materials for the Project Development Plan/Final Development Plan, this project satisfies and aligns with the purpose of the Land Use Code stated in Section 1.2.2(A) through (O). Specifically, the project satisfies Section 1.2.2(A) because it is consistent with City Plan and the North College Corridor Plan.
2. The plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
3. The plan complies with the applicable standards in Article 3 of the Land Use Code.
4. No zone district standards in Article 4 of the Land Use Code are applicable, and the infrastructure project comprises a permitted use classified as Minor Public Facilities.

8. Recommendation

Staff recommends that the Hearing Officer approve the Mason Street Infrastructure Project Development Plan/Final Development Plan #FDP230016, based on the Findings of Fact and supporting explanations found in the staff report, with one condition:

- The Final Development Plan will not receive City signature until all Final Development Plan requirements are met as determined by the Director of Community Development and Neighborhood Services, including but not limited to the acquisition of all required utility easements and execution of a development agreement, per typical FDP procedure.

9. Attachments

1. Applicant Narrative
2. Site and Landscape Plan Set
3. Utility Plan Set
4. Plat
5. Drainage Report
6. Ecological Characterization Memo
7. NHBZ Memo
8. Traffic Impact Study
9. Staff Presentation