

# AGENDA ITEM SUMMARY

City Council



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## STAFF

Paul Sizemore, Director, Community Development & Neighborhood Services  
Maren Bzdek, Manager, Historic Preservation Services  
Jim Bertolini, Senior Historic Preservation Planner  
Claire Havelda, Legal

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## SUBJECT

**Resolution 2022-102 Adopting Findings of Fact Supporting the Historic Preservation Commission's Determination That 1802 North College Avenue was Eligible for Landmark Designation and Denying the Landowner's Appeal.**

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## EXECUTIVE SUMMARY

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's Decision Finding the Property at 1802 North College Avenue a Historic Resource for the Purposes of Development Review under Land Use Code 3.4.7 and therefore eligible for Landmark Designation. The appeal was heard by Council on September 20, 2022.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

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## BACKGROUND / DISCUSSION

On July 20, 2022, the Historic Preservation Commission (HPC) held a hearing to consider an appeal of a staff finding for the property at 1802 North College Avenue that determined the property eligible under the City's Landmark standards in City Code Section 14-22 and subject to the responsibilities in Land Use Code 3.4.7. A staff decision on this matter was issued on April 22, 2022, in response to a development application put forward by Raising Cane's that would demolish the existing properties at 1800 and 1802 North College Avenue for a new restaurant. Following the July 20, 2022, HPC appeal hearing, on August 3, 2022, the property owner filed a Notice of Appeal, with the following allegations:

1. The Historic Preservation Commission considered evidence relevant to its findings which was substantially false or grossly misleading.
2. The Historic Preservation Commission failed to properly interpret and apply relevant provisions of the City Code, specifically Municipal Code Section 14-22 for Standards of Eligibility and Section 14-23 for the Process for Determining Eligibility.

On September 20, Council conducted a hearing to consider the allegations in the appeal, the record on appeal, and presentations by City staff, the Appellant and their legal counsel, and proponents of finding the property Eligible. After discussion, Council voted (4-0, 3 absences) to deny the appeal, finding that

the Historic Preservation Commission conducted a fair hearing and properly interpreted applicable sections of the Municipal Code.

## **ATTACHMENTS**

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1. Resolution for Consideration

RESOLUTION 2022-102  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADOPTING FINDINGS OF FACT SUPPORTING THE HISTORIC PRESERVATION  
COMMISSION'S DETERMINATION THAT 1802 NORTH COLLEGE AVENUE WAS  
ELIGIBLE FOR LANDMARK DESIGNATION AND  
DENYING THE LANDOWNER'S APPEAL

WHEREAS, on July 20, 2022, the Fort Collins Historic Preservation Commission (the "HPC") conducted a public hearing to review the Landmark Eligibility determination of 1802 North College Avenue (the "Property"); and

WHEREAS, during this appeal hearing, the HPC upheld the City Staff determination that the Property was eligible to be considered for landmark designation pursuant to City Code Section 14-22; and

WHEREAS, pursuant to City Code Sections 2-48 and 2-49, the Appeal was filed timely, and the Appellant-Landowner is a party-in-interest eligible to file an appeal; and

WHEREAS, the Appeal alleged that the HPC failed to conduct a fair hearing because they considered evidence relevant to their findings that was substantially false or grossly misleading; and

WHEREAS, the Appeal further alleged that the HPC failed to properly interpret and apply City Code Section 14-22 (and further cited to Section 14-23 which describes the procedure for submitting an appeal – and was not further discussed in the Appellant's arguments on appeal); and

WHEREAS, on September 20, 2022, the City Council, after notice was given in accordance with City Code Section 2-52, held a public hearing pursuant to City Code Section 2-54 to consider the allegations raised in the Appeal, at which hearing the City Council considered the record on appeal, statements concerning physical characteristics of the subject property obtained by Councilmembers during the site inspection, and testimony from City Staff, the Appellant's representative, and parties-in-interest who opposed the Appeal; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the Council hearing on September 20, 2022, that the HPC did not fail to conduct a fair hearing as alleged by Appellant; and

WHEREAS, the City Council further found and concluded based on the evidence in the record and presented at the City Council hearing on September 20, 2022, that the HPC properly interpreted and applied City Code Section 14-22(a) regarding the *significance* of the Property because it related to an "individual" (Mr. Frank Perez) and "significant events" in history, including: 1) Mexican immigration to Fort Collins following World War II; 2) establishment of businesses reflecting Mexican foodways; and 3) a small immigrant business owner building a community space during a time in history rife with racial prejudice; and

WHEREAS, the City Council further found and concluded based on the evidence in the record and presented at the City Council hearing on September 20, 2022, that the HPC properly interpreted and applied City Code Section 14-22(b) as it relates to the *integrity* of the Property because it retains historic integrity based on its appearance when compared with the 1976 Assessor's Appraisal card photograph and accurately reflects the humble nature of a Mexican family-owned restaurant; and

WHEREAS, 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 such appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-56(c) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
2. That, based on the evidence in the record and presented at the City Council Hearing on September 20, 2022, the HPC did not fail to conduct a fair hearing, because they did not consider evidence relevant to their findings that was substantially false or grossly misleading.
3. That, based on the evidence in the record and presented at the City Council hearing on September 20, 2022, the Council finds that the HPC properly interpreted and applied City Code Section 14-22 for the reasons set forth in the recitals above.
4. That, based on the evidence in the record and presented at the hearing on September 20, 2022, the Appeal is without merit and is denied in its entirety.
5. That 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 at a regular meeting of the Council of the City of Fort Collins this 4th day of October, A.D. 2022.

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Mayor

ATTEST:

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City Clerk