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October 22, 2009

Attendee of the Project, 1101 W. Oak Street Accessory Building with Habitable Space Project Development Plan, # 22-09, Public Hearing,

Please find attached to this letter a copy of the Type I Administrative Hearing Findings, Conclusions and Decision for the Project Hearing of 1101 W. Oak Street Accessory Building with Habitable Space Project Development Plan, # 22-09.

Pursuant to Section 2.2.7(D) of the Fort Collins Land Use Code, this Decision has been mailed to the applicant and any person who provided testimony at the public hearing.

This final decision of the Administrative Hearing Officer may be appealed to the City Council, in accordance with Chapter 2, Article II, Division 3 of the City Code, within 14 calendar days of the date of final action November 4, 2009 by the Hearing Officer. The deadline to file an appeal is 5:00 p.m. on Wednesday, November 4, 2009. Guidelines explaining the appeal process, including the Code provisions previously referenced, can be found online at fcgov.com/cityclerk/appeals.php, or may be obtained in the City Clerk's Office at 300 LaPorte Avenue.

If you have any questions about the attached Decision or the appeal process, please contact me at 221-6343.

Sincerely,

A handwritten signature in black ink that reads "Ted Shepard".

Ted Shepard
Chief Planner

**CITY OF FORT COLLINS
ADMINISTRATIVE HEARING OFFICER
TYPE I ADMINISTRATIVE HEARING
FINDINGS, CONCLUSIONS AND DECISION**

ADMINISTRATIVE HEARING DATE: October 14, 2009

PROJECT NAME: 1101 West Oak Street --
Accessory Building with
Habitable Space,
Project Development Plan (PDP)

CASE NUMBER: #22-09

APPLICANT: Rick Foerster
5774 S. Kittredge Street
Centennial, CO 80015

OWNER: Eric and Catherine Gootee
1101 W. Oak Street
Fort Collins, CO

HEARING OFFICER: Ted Shepard
Chief Planner

PROJECT DESCRIPTION: This is a request for an accessory structure with habitable space located on the rear of a lot at 1101 West Oak Street. This structure will be used as a garage and workshop; the reason it is considered to have "habitable space" is because it will have water and sewer lines extended to the structure. The property is located in the Neighborhood Conservation Low Density (NCL) zone district. The proposed use is permitted in the NCL zone district subject to administrative review (Land Use Code, Section 4.7(B)(2)(c)1).

SUMMARY OF HEARING OFFICER DECISION:

ZONING DISTRICT: N-C-L, Neighborhood Conservation Low Density and located within the West Side Neighborhood Plan

STAFF RECOMMENDATION: Approval of Modification of Standard Request
Approval of PDP

NOTICE OF PUBLIC HEARING: Evidence presented to the Hearing Officer established no controversy or facts to refute that the hearing was properly posted, legal notices mailed and notice published.

PUBLIC HEARING

The Hearing Officer, presiding pursuant to the Fort Collins Land Use Code, opened the hearing at approximately 7:00 p.m. on October 14, 2006 in Council Chambers, 300 LaPorte Avenue, Fort Collins, Colorado.

HEARING TESTIMONY, WRITTEN COMMENTS AND OTHER EVIDENCE:

The Hearing Officer accepted during the hearing the following evidence: (1) Planning Department Staff Report; (2) application, plans, maps and other supporting documents submitted by the applicant and the applicant's representatives to the City of Fort Collins; (3) a sign up sheet of persons attending the hearing; and (4) a tape recording of the hearing. The LUC, the City's Comprehensive Plan (City Plan), and the formally promulgated policies of the City are all considered part of the evidence considered by the Hearing Officer.

The following is a list of those who attended the meeting:

From the City: Ted Shepard, Chief Planner and Emma McArdle, City Planner

From the Applicant: Rick Foerster and Eric Gootee

From the Public: Connie Werner Amalia Levy Marion Croak

Written Comments: Three written comments were received - Diana Hammerdorfer (opposed), John Johnston (support) and Anonymous (concerned about traffic and alley usage).

FACTS AND FINDINGS

1. Background

The surrounding zoning and land uses are as follows:

- N: NCL; existing single-family residential
- S: NCL; existing Poudre R-1 School District (Lab School for Creative Learning)
- E: NCL; existing single-family residential
- W: NCL; existing single-family residential

This property was annexed and platted as Lot 17 of Block 7 of the Scott Sherwood Subdivision Plat in 1907.

2. ARTICLE 3 – General Development Standards

The 1101 West Oak Street Accessory Building with Habitable Space, PDP complies with all of the applicable standards in Article 3 - General Development Standards of the *LUC*. Of specific note are Division 3.2 – Site Planning and Design Standards; Division 3.3 – Engineering Standards; and Division 3.5 Building Standards.

A. Division 3.2 – Site Planning and Design Standards

Section 3.2.1 - Landscaping and Tree Protection

The proposal complies with Section 3.2.1(E)(2) *Landscape Area Treatment* in that the Landscape Plan provides for landscaping in the areas that are not covered by the building or paving. The existing mature tree will remain on the site and the landscaping around the accessory building with habitable space will include irrigated turf and existing shrubs.

Section 3.2.2 – Access, Circulation and Parking

The proposal complies with Section 3.2.2(K)(1) *Residential Parking Requirements*, in that it provides a minimum of one off-street parking space since the lot has more than 40 feet of street frontage. Two parking spaces will be provided within the accessory building with habitable space.

B. Division 3.3 - Engineering Standards

The proposal complies with the design standards, requirements, and specifications for the services as set forth in this section of the *LUC*.

C. Division 3.5 - Building Standards

1. *Section 3.5.1 - Building and Project Compatibility*

The proposed new accessory building with habitable space is to be 22 feet in height. The size, massing, height and design of the building are consistent with other accessory buildings in the neighborhood.

3. ARTICLE 4 - Districts

A. Division 4.7 – Neighborhood Conservation Low Density District

Accessory Buildings with Habitable Spaces are permitted in the NCL, subject to an administrative Review. This proposal complies with the purpose of the NCL District as it is an infill project with an accessory habitable building designed to complement and serve the existing residence.

1. *Section 4.7(D) – Land Use Standards*

The proposed accessory building with habitable space will contain 650 feet of floor area. Per *Section 4.7(D)(3) – Accessory Buildings with Habitable Space*, 600 square feet is the maximum floor area permitted if located behind a street-fronting principal building. A Modification of Standard has been submitted.

This proposal complies with *Section 4.7(D)(5) - Floor Area Ratio*, in that the Floor Area Ratio (FAR) on the rear fifty percent of the lot is 0.137, and the maximum FAR permitted on the rear fifty percent of the lot is 0.33.

2. *Section 4.7(E) – Dimensional Standards*

This proposal satisfies all applicable dimensional standards more specifically the minimum side and rear yard setback requirements described in *Section 4.7(E)(3) and (4)*, and the maximum building height of one and one-half (1 ½) story, per *Section 4.7(E)(5)*.

3. *Section 4.7(F) – Development Standards*

This proposal satisfies all applicable development standards in the NCL District, described in detail below.

A. *Building Design*

The accessory building with habitable space design complies with the minimum front yard setback specified in *Section 4.7(F)(1)(c)*, as well as the roof pitch as described in *Section 4.7(F)(1)(g)*.

B. *Bulk and Massing*

Maximum building height per *Section 4.7(F)(2)(a) – Building Height* is 1 ½ stories (24 feet). The proposed accessory building with habitable space is 22 feet and 10 inches in height and is one and one-half story.

Per *Section 4.7(F)(2)(b)(1) – Eave Height*, the exterior eave height will not exceed thirteen feet from grade. The proposed building will have an eave height of 13 feet from grade.

C. *Carriage Houses and Habitable Accessory Building with Habitable Spaces*

The proposed accessory building with habitable space will contain habitable space as water and sewer service will be extended from the existing residence. Habitable space does not mean a dwelling unit, but rather space intended to serve for human occupancy. The proposed building will be used for a garage, storage and a workshop area.

This proposal complies with the standards in *Section 4.7(F)(3)(c)*, in that a separate yard area containing at least 120 s.f. is provided for the accessory building, separate from that of the primary structure; the major entries and windows do not face an abutting side or rear yard; and existing significant trees will be maintained.

B. *Request for Modification of Standard*

1. The applicant is requesting a Modification of Standard to *Section 4.7(D)(3)*, which requires accessory building with habitable space

have a maximum floor area of 600 s.f. The applicant is requesting an additional floor area of 50 s.f. for a staircase that accesses a loft storage space.

Applicants Justification:

The owners are requesting permission to increase the allowable square footage by fifty (50) square feet at the ground (garage floor) level. The additional square footage is created by increasing the front-to-back dimension of the garage by two (2) feet. Doing so will not prohibit the ability to provide at least one-hundred twenty (120) square feet of yard area that serve both the detached garage and the existing principle dwelling according to Division, 4.7, (F), (3), (c), 1 of the Fort Collins Land Use Code and in no case is the rear yard area any less than ten (10) feet, in the smallest dimension, between the home and the garage. The upper floor (attic) space contains 300 square feet where the ceiling height is 7 ½ feet high.

Approval of this modification request will allow for a standard twenty (20) foot parking space within the garage and enough room for the stairway to the attic space above. At the same time, this added depth will ensure the ability to maneuver around the parked vehicles in the garage.

A large garage just west of this site has been constructed, presumably before the current standards were adopted; however, it is deemed that this proposed request is a minimal increase to the current limitations. The new 2-car detached garage will be an attractive addition to the property and will complement the primary residence. The siding and trim will be painted to match the existing colors of the home. The roofing material will also match the home.

Staff's Evaluation of Applicant's Request

Staff has evaluated the applicant's request against the criteria provided in Section 2.8.2(H) of the LUC. Staff finds that the applicant's request to increase the floor area of the proposed accessory building with habitable space by 50 s.f. is "nominal and inconsequential" when "considered from the perspective of the entire development." Therefore, Staff recommends approval of this Modification of Standard Request.

4. West Side Neighborhood Plan

The property at 1101 West Oak Street is identified in the *West Side Neighborhood Plan* as an area to retain or convert to single family residential. This property will continue to serve as a single family residence. The accessory building with habitable space will be used as a garage and workshop. This proposal complies with the land use vision for the Single Family Area in that, while it is new construction, it is intended as an accessory use to serve the existing single-family residence. The character and architectural style will mimic the existing historic "barns," or accessory structures, along the alleys in this neighborhood. The accessory building with habitable space will not be a dwelling unit, and accessory uses are stated as suitable land uses in this area.

5. Testimony at the Public Hearing

At the hearing, public testimony was provided by one citizen who had questions about the height and amount of square footage upstairs. Further, this citizen expressed a concern that the upstairs does not convert to a dwelling unit in violation of the LUC. Finally, this citizen expressed a concern that the City of Fort Collins enforces the carriage house ordinance in a consistent manner.

In response, the applicant indicated that the height of the structure would be 22 feet and 10 inches and that the square footage upstairs would not be counted as floor space because the ceiling height is less than 7.5 feet. If the upstairs converted to a dwelling unit, this would be considered a zoning violation subject to all the penalties and fines allowed by the City Code.

SUMMARY OF CONCLUSIONS

After reviewing the 1101 West Oak Street Accessory Building with Habitable Space Project Development Plan, #22-09, the Hearing officer makes the following findings of fact and conclusions:

1. The proposed land use is permitted in the *NCL – Neighborhood Conservation, Low Density Zone District*.

2. The Project Development Plan complies with all applicable General Development Standards contained in *Article 3* of the *Land Use Code*.
3. The Project Development Plan complies with all applicable Land Use and Development Standards contained in *Article 4, Division 4.7* of the *Land Use Code*, with the exception of:
 - *Section 4.7(D)(3) Accessory Buildings with Habitable Space (or Potential Future Habitable Space)* This standard requires that the maximum size be 600 square feet whereas the applicant is requesting 650 square feet.
4. A Modification of Standard is requested for Section 4.7(D)(3) for an additional 50 square feet. The Modification has been evaluated and found not to diverge from the standard except in a nominal and inconsequential way when considered from the perspective of the entire development plan, and will continue to advance the purposes of the Land Use Code as contained in Section 1.2.2. This is primarily because the addition of 50 additional square feet will not be perceptible from the property lines.
5. The proposal is in conformance with the City's adopted *West Side Neighborhood Plan*.
6. The new garage, with water and sewer services, while representing a new condition in the neighborhood is found to be designed in a complementary manner with the neighborhood. The request, therefore, is found to be compatible when considered within the context of the surrounding area.

DECISION

1101 West Oak Street -- Accessory Building with Habitable Space, Project Development Plan (PDP), #22-09, and the Request for Modification to Section 4.7(D)(3) to allow an additional 50 square feet, are hereby approved by the Hearing Officer without condition.

Dated this 22nd day of October, 2009, per authority granted by Sections 1.4.9(E) and 2.1 of the Land Use Code.


Ted Shepard
Chief Planner

Emma McArdle - 1101 W Oak Street

From: Diana Hammerdorfer <dhammer11@gmail.com>
To: <emcardle@fcgov.com>
Date: 10/14/2009 2:49 PM
Subject: 1101 W Oak Street

I am opposed to the development proposal for 1101 W Oak because I think this will eventually turn into more rental property which our neighborhood doesn't need. I am also opposed to adding more structures to lots because it acts as a bigger heat-sink and allows less water percolation and changes the whole Old Town atmosphere. If there is a way to insure that it doesn't ever become rental property then I would be open to considering the project. Thanks for allowing me to voice my opinion.

Presented @
Hearing — EM
10/14

Administrative Public Hearing Sign-In

Project: 1101 W Oak St, Accessory Bld w/Habitable Space
Meeting Location: Council Chambers # 22-09
Date: 10/14/09

PLEASE PRINT CLEARLY

Name	Address	Phone	Email
Nonnie Werner	935 W. OAK ST. 80521	493-2881	
Amalia Levy	1125 W OAK ST 80521	493-0140	
MARION CROAK	1024 AKIN AVE. FT. COLLINS, 80521	970-988-9924	
ERIC GOOTEE	1101 WEST OAK FT. COLLINS 80521	9704930189	
RICK FOERSTER	5774 S. MITCHELL ST. CENTRAL CO 80515	303-493-2744	