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November 6, 2009

Attendee of the 1121 Remington Street – Accessory Building with Habitable Space Project Development Plan Public Hearing,

Please find attached to this letter a copy of the Type I Administrative Hearing Findings, Conclusions and Decision for the 1121 Remington Street – Accessory Building with Habitable Space Project Development Plan project, # 31-09.

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 6, 2009 by the Hearing Officer. The deadline to file an appeal is 5:00 p.m. on Friday, November 20, 2009. Guidelines explaining the appeal process, including the Code provisions previously referenced, can be found online at [fcgov.com/cityclerk/appeals.php](http://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:** November 2, 2009

**PROJECT NAME:** 1121 Remington Street –  
Accessory Building with  
Habitable Space Project  
Development Plan

**CASE NUMBER:** #31-09

**APPLICANT:** John Hahn, Hahn Plumbing &  
Heating  
130 Chestnut Street  
Fort Collins, CO

**OWNER:** Bill Norris  
1121 Remington 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 1121 Remington Street. The property is located in the Neighborhood Conservation Buffer (NCB) zone district. The accessory structure is existing and is currently used for storage and a work space. The proposed upgrade will extend water and sewer service to the structure for a utility sink. The City's Land Use Code (LUC) defines "habitable space" as "any building with water and/or sewer service" in the NCB zone district. In this case "habitable space does not necessarily mean a dwelling unit" (LUC, Section 4.9 (E)(3)(b)). The proposed use is permitted in the NCB zone district subject to administrative review (Land Use Code, Section 4.9(B)(2)(d)1).

**SUMMARY OF HEARING OFFICER DECISION:**

**ZONING DISTRICT:** NCL

**STAFF RECOMMENDATION:** 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 5:35 p.m. on November 2, 2009 in Conference Room A at 281 North College 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  
Emma McArdle, City Planner

From the Applicant:

John Hahn, Hahn Plumbing and Heating

From the Public:  
Tom and Cindy Laupa  
Rick Reider

Written Comments:

None

## **FACTS AND FINDINGS**

### **1. Background**

The surrounding zoning and land uses are as follows:

- N: NCB; existing single- and two-family residential
- S: NCB; existing single- and two-family residential
- E: NCB; existing single- and two-family residential
- W: CC, Community Commercial; existing commercial development (McAlister's Deli)

This property was annexed into the City in 1881 in the Lake Park Addition. It was platted as part of the Crafts Resubdivision of Lake Park Addition in 1890.

### **2. ARTICLE 3 – General Development 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 includes 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. Three long-

term compact parking spaces will be provided in the gravel area south of the barn.

**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 structure is the original barn for the residence, which was built in 1905. The size, massing, height and design of the building are consistent with other accessory buildings in the neighborhood.

**3. ARTICLE 4 - Districts**

**A. Division 4.9 – Neighborhood Conservation Buffer District**

Accessory Buildings with Habitable Space are permitted in the NCB – Neighborhood Conservation Buffer Zoning District, subject to an administrative (Type 1) Review.

This proposal complies with the purpose of the NCB District as it is an infill project with an accessory habitable building designed to serve the existing residence.

1. *Section 4.9(D) – Land Use Standards*

The existing accessory building is 402 square feet of floor area. Per *Section 4.9(D)(3) – Accessory Buildings with Habitable Space*, 600 square feet is the maximum floor area permitted for accessory buildings with habitable space located behind a street-fronting principal building.

2. *Section 4.9(E) – Dimensional Standards*

The structure is existing and its placement on the lot is considered to be “grand-fathered-in.” Therefore, these requirements do not apply.

3. *Section 4.9(F) – Development Standards*

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

The existing accessory building with habitable space is proposed to 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 accessory building with habitable space will be used for storage and a workspace.

This proposal complies with the standards in *Section 4.9(F)(3)(c)*, in that a separate yard area containing at least 120 square feet is provided for the accessory building, separate from that of the primary structure.

4. **Testimony at the Public Hearing**

At the hearing, public testimony was provided.

Neighbors questioned whether the structure would be considered a dwelling unit and rented separately from the home. Staff explained that this structure will not be a legal dwelling unit, based on the definition of “dwelling unit” in the City’s Land Use Code, and could not be rented separately from the house on the property. The LUC requires a dwelling unit have a minimum square footage and a kitchen and the lot itself does not meet the requirements to have two dwellings on it. The applicant verified that it is not the owner’s intent to create a dwelling by extending water and sewer service to this structure.

Neighbors also questioned if the structure would be metered separately from the house. The applicant verified that it would not.

### SUMMARY OF CONCLUSIONS

After reviewing the 1121 Remington Street Accessory Building with Habitable Space Project Development Plan, #31-09, hearing officer makes the following findings of fact and conclusions:

1. The proposed land use is permitted in the *NCB – Neighborhood Conservation, Buffer Zone District* of the *Land Use Code*.
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 4.9* of the *Land Use Code*.

### DECISION

The 1121 Remington Street – Accessory Building with Habitable Space Project Development Plan is hereby approved by the Hearing Officer without condition.

Dated this 6<sup>th</sup> day of November 2009, per authority granted by Sections 1.4.9(E) and 2.1 of the *Land Use Code*.

  
Ted Shepard  
Chief Planner

## Administrative Public Hearing Sign-In

Project: 1121 Remington St #31-09  
 Meeting Location: Conf A, 281 N College  
 Date: 11/2/09

**PLEASE PRINT CLEARLY**

Name	Address	Phone	Email
<span style="font-size: small; position: absolute; top: -15px; left: 10px;">Laupa</span> Tom & Cindy Laupa	1063 Remington	970-227-5127	BLAUPA@FtCollins.com
John W. Hahn	130 CHESTNUT -	484-7668	JOHN@HANNPLUMBING.COM
Rick REIDER	1112 REMINGTON	970 282-1863	RickREIDER@GMAIL.COM