



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

**ADMINISTRATIVE HEARING DATE:** March 21, 2007

**PROJECT NAME:** 1635 South Lemay Avenue Modification of Standard

**CASE NUMBER:** #7-07

**APPLICANT:** John Testa  
4221 Cobb Lake Drive  
Fort Collins, CO 80524

**OWNER:** Don L. Hahn  
1142 Spanish Oak Court  
Fort Collins, CO 80525

**HEARING OFFICER:** Cameron Gloss  
Current Planning Director

**PROJECT DESCRIPTION:**

The Applicant has submitted a request to modify Section 3.2.2(K) (2) (a) that restricts the maximum number of off-street parking spaces. The modification request is for 8 parking spaces, where a maximum of 4 spaces is permitted, that are intended to serve a future beauty salon. The site is located on the west side of South Lemay Avenue, between East Prospect Road and Spring Creek.

**SUMMARY OF HEARING OFFICER DECISION:** Conditional Approval

**ZONING DISTRICT:** NC – Neighborhood Commercial

**STAFF RECOMMENDATION:** Approval

**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 3:30 p.m. on March 21, 2006 in Conference Room A, 281 N. 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; and (3) a tape recording of the public 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:

Steve Olt, City Planner

From the Applicant:

John Testa

From the Public:

None

Written Comments:

None

## FACTS AND FINDINGS

### 1. **Site Context/Background Information**

N: NC- existing single-family residential  
E: NC- existing shopping center, residential, Spring Creek  
S: MMN- existing residential & commercial (chiropractic center)  
W: LMN- Spring Creek & residential

This property was annexed in July 1967 as part of the Second Spring Creek Annexation.

The property was subdivided as part of the East Acres Subdivision in 1930.

### 2. **Modification to Section 3.2.2(K)(2)(a):**

The applicant is seeking a request to exceed the maximum parking standard. Section 3.2.2 (K)(2)(a) limits Personal and Business Service Shops to 4 parking spaces per 1,000 square feet of floor area. With an existing building of 1,008 square feet in size, (excluding the basement, which has insufficient headroom to be considered "habitable" and will be used for storage) a maximum of four spaces can be provided on-site under the standard.

The Applicant's justification for the modification is based on the premise that there are unique and exceptional physical conditions found on the site. The property abuts Spring Creek, a natural habitat and feature protected under the City's Land Use Code. As such, a natural habitat buffer encumbers the south portion of the site in distances ranging from 20 – 55 feet. Buffer requirements limit the ability to expand the existing single family house that, although not eligible for historic designation, has architectural integrity worth maintaining.

On-site parking needs are driven largely by the proposed use and the lack of opportunities for parking to be provided off-site. The applicants proposed beauty salon use will include 3-4 full-time employees with a corresponding number of clients. The proposed use is similar in operation to medical offices and similar service uses where there is both a high degree of client overlap and turnover. This greater parking need associated with the use, along with the lack of opportunity for on-street parking on the adjacent street or within a joint parking arrangement on nearby properties, contributes to the physical hardship unique to the subject property.

The Hearing Officer has reviewed the request for modification to the parking standards and is convinced that the modification will not be detrimental to the

public good if adequate steps are taken to protect visual quality. With the site located below the roadway grade of S. Lemay Avenue and also adjacent to the paved Spring Creek multi-use trail, there is the potential for the public to be adversely impacted; therefore, attention must be given to landscape screening treatments that will reduce potentially negative visual impacts that surface parking will have on these well-traveled public ways. In order to ensure that the application fulfills the intent of the standard, with respect to visual impacts, a condition has been added to this approval requiring that sufficient landscaping be provided in conjunction with a future development plan.

### **SUMMARY OF CONCLUSIONS**

- A. The 1635 South Lemay Avenue Modification of Standard is subject to administrative review and the requirements of the Land Use Code (LUC).
- B. With respect to the Modification to Subsection 3.3.2 (K)(2)(a) the maximum number of off-street parking spaces for non-residential uses:
  - 1. Granting the requested modification would not be detrimental to the public good and would not impair the intent and purposes of the Land Use Code.
  - 2. There are physical conditions unique to this property due to proximity to Spring Creek where strict application of the parking standard to be modified would result in unusual and exceptional hardship upon the owner and such difficulties are not caused by act or omission of the applicant or owner.

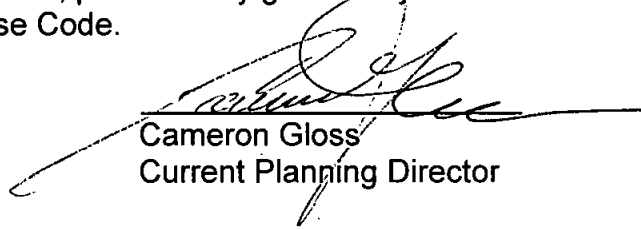
### **DECISION**

The 1635 South Lemay Avenue Modification of Standard, #7-07 is hereby approved by the Hearing Officer subject to the following condition:

The Applicant shall provide landscape screening at the following locations at the perimeter of surface parking areas. Plant material used within the landscaped areas shall be of a type, size and configuration to achieve opacity in its winter seasonal condition within three years of parking area construction:

- 1) Between the parking area and the street within a planting strip a minimum of five feet in width; and
- 2) Along the south and west sides of the parking area.

Dated this 22<sup>nd</sup> day of March 2007, per authority granted by Sections  
1.4.9(E) and 2.1 of the Land Use Code.



Cameron Gloss  
Current Planning Director

Administrative Public Hearing  
March 21, 2007

① 1639 South Lemay Avenue - Modification of Standard

<u>Name</u>	<u>Address</u>	<u>Phone</u>
JOHN TESTA	4221 COBB LAKE DR FT. COLLINS, CO 80524	491-9511