

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

ADMINISTRATIVE HEARING DATE: August 31, 2005

PROJECT NAME: 1310 Laporte Ave – McKinley Cottages
Subdivision Project Development Plan

CASE NUMBER: #35-04

OWNER: B.R.E. – 1310 Laporte, LLC
4610 Skyline Dr.
Fort Collins, CO 80526

APPLICANT: Mikal Torgerson
M. Torgerson Architects
223 N. College Ave.
Fort Collins, CO 80524

HEARING OFFICER: Pete Wray
Interim Director of Current Planning

PROJECT DESCRIPTION:

This is a request to subdivide an un-platted parcel of land into four lots. The existing lot is located at the northeast corner of Laporte Avenue and McKinley Avenue. It currently contains an existing historic home, addressed 1310 Laporte Ave. and is in the NCL—Neighborhood Conservation – Low Density District.

SUMMARY OF HEARING OFFICER DECISION: Approval

ZONING DISTRICT: NCL—Neighborhood Conservation – Low Density District.

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 4:00 p.m. on August 31, 2005 in Conference Room A at 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 testimony provided during the hearing; and (4) a sign up sheet of persons attending 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:

Anne Aspen, City Planner
Marc Virata, Civil Engineer I

From the Applicant:

Mikal Torgerson, applicant
Troy Jones, applicant
Jeanette Cullup, applicant
Kent Bruxvoort, applicant

From the Public:

Toni VanBeber, 203 Bishop Street, FC
Bruce Egly, 220 N. McKinley, FC
Denise Walters, 139 N. McKinley

Written Comments: None

FACTS AND FINDINGS

1. Compatibility with Surrounding Uses:

The surrounding zoning and land uses are as follows:

- N: NCL – Existing residential (Reclamation Village);
- W: NCL – Existing residential with LMN beyond;
- S: NCL – Existing residential;
- E: NCL – Existing residential.

The Neighborhood Conservation, Low Density District is intended to preserve the character of areas that have a predominance of developed single-family dwellings and have been given this designation in accordance with an adopted subarea plan.

This parcel was the subject of a modification request brought by the same applicant last fall. A neighborhood meeting was held and it went before the Administrative Hearing Officer on October 18, 2004. At the time, the proposed lots did not meet the minimum lot size for the NCL District; the request was to modify the standard in the Zone District Standards that stated the minimum lot size. The request was denied.

Since that time, the owner has acquired additional property to the north and east of the 1310 Laporte property. The proposed lots are now all over 6000 square feet each, so the modification is no longer needed. Another neighborhood meeting was held on May 23rd, 2005.

Testimony at the public hearing indicated concerns with the proposed subdivision of the existing property into four lots and the resulting inherent impacts on the existing historic home and overall character of the neighborhood.

This subdivision meets the Plat Standards as all four lots are over 6000 square feet in size and as a result, the PDP complies with the applicable development standards and with other Fort Collins standards with respect to all of these concerns. With a future project development plan for each parcel, architectural design can be compatible with surrounding existing residences.

As the Hearing Officer, I understand and share the concerns of the citizens testifying that the existing historic home and large lot will be substantially impacted by three additional homes built immediately adjacent to this residence. Additional comments are highlighted below.

2. Article 2 - Administration:

This Subdivision, PDP complies with the applicable requirements of the LUC, specifically the procedural requirements located in *Division 2.1 - General Procedural Requirements, Division 2.2 - Common Development Review Procedures for Development Applications, and Section 2.4 - Project Development Plan* in **Article 2 - Administration**.

3. Article 3 – General Development Standards

This Subdivision, PDP complies with the applicable requirements of the LUC, specifically the plat requirements located in *Section 3.3.1 - Plat Standards* in **Article 3 - General Development Standards**.

- A. The subdivision plat is in compliance with Section 3.1.1 *Applicability*. The applicant has expressed that the future development will be single family homes as allowed in the NCL District Standards, subject only to Basic Development Review. As such, the plat is only required to comply with the NCL Zone District Standards and the standards contained in Section 3.8. This proposal complies with all pertinent supplemental codes in Section 3.8. Item 5 below addresses the zone district standards.
- B. The subdivision plat is in compliance with Section 3.3.1 *Plat Standards* in that:
- 1) The subdivision plat will be filed and recorded only after having been approved by the Director of Planning, with such approval evidenced in writing on the plat and signed by the City Clerk.
 - 2) No building permit or certificate of occupancy shall be issued for construction of any new principal building or no act which changes the use of any building shall be permitted until the subdivision plat is filed and recorded in the City of Fort Collins.
- C. The subdivision plat is in compliance with Section 3.3.1(B) *Lots* in that:
- 1) The four lots are over 6,000 square feet in size, the minimum allowed in the NCL – Neighborhood Conservation Low Density District; each lot has direct vehicular access to a public street or public alley (alley east of Leland Street for Lots 1 and 4, and McKinley Avenue for Lots 2 and 3), and the side lot lines are substantially at right angles or radial to street and alley lines.
 - 2) The general layout of lots, roads, driveways, utilities, drainage facilities and other services within the proposed lots accomplishes the purpose and intent of the Land Use Code.

- D. The subdivision plat is in compliance with Section 3.3.1(C) *Public Sites, Reservations and Dedications* in that:
- 1) The applicant has dedicated appropriate rights-of way for public streets, drainage easements, utility easements and access easements as needed to serve the area being platted.
 - 2) Reservation of sites for flood control, open space and other municipal uses has been made in accordance with the requirements of this Land Use Code.

Based on the Staff Report and evidence taken at the hearing, the Hearing Officer finds that the project development plan complies with the applicable sections of Article 3, Divisions 3.2, 3.3, 3.4, 3.5 and 3.6 of the Land Use Code.

5. Article 4 - District Standards:

This Subdivision request complies with the applicable requirements of the LUC, specifically the NCL – Neighborhood Conservation, Low Density District standards located in Section 4.6 of the Land Use Code located in Article 4 – District Standards.

- A. *Permitted Uses* - The applicant has expressed that the intent of the subdivided lots is to create a single family detached dwelling on each lot except the lot containing the existing house which will remain. Single family detached dwellings are a permitted use in this zone district, subject to a Basic Development Review.
- B. *Land Use Standards* – The lots proposed on the subdivision plat meet the density standards. Each lot is over 6000 sf. At the time of Basic Development Review, the proposed buildings will be reviewed to ensure that they are under 2000 sf. total floor area.
- C. *Dimensional Standards* – The four proposed lots meet the 40-foot wide minimum lot width. At the time of Basic Development Review, the proposed buildings will be reviewed to ensure that they meet the setback requirements and building height standards.
- D. *Development Standards* – At the time of Basic Development Review, the proposed buildings will be reviewed to ensure that they meet these standards.

As set forth above in the discussion about compatibility and is detailed in the Staff Report, the Project Development Plan complies with the Land Use Code and density standards for the NCL Zone. The Hearing Officer finds that strict adherence to the letter and intent of this standard is important. Policy direction established in City Plan and subsequently incorporated into the Land Use Code provides support for infill and

redevelopment within existing residential neighborhoods. The minimum size of lots of 6000 square feet or larger is consistent with the intent of allowing an increase in density for new development, while at the same time blending in with existing smaller properties in existing neighborhoods. City Plan also sets policy direction for preserving existing historic buildings. While this PDP subdivision does not directly impact the existing historic home, the indirect impact on the overall character of the exiting residence is substantially diminished. This appears to be a matter of degree for this specific situation. A subdivision of an existing vacant parcel into smaller lots would not foster much concern. Additionally, if a subdivision of one additional lot on this property was approved, it appears little public opposition would result. It is this unintended consequence of challenging the integrity of an historic home and surrounding property by providing infill opportunities within existing older neighborhoods that has raised a concern. Our community does not have many historic homes on large lots left. This one in now appears compromised.

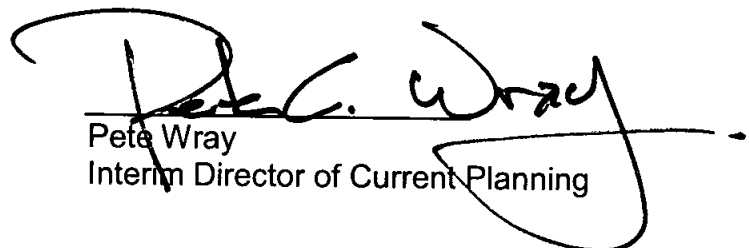
SUMMARY OF CONCLUSIONS

- A. The 1310 Laporte Ave. –McKinley Cottages Subdivision meets the procedural requirements located in Division 2.1 - General Procedural Requirements, Division 2.2 - Common Development Review Procedures for Development Applications, and Section 2.4 - Project Development Plan located in **Article 2 - Administration**.
- B. The 1310 Laporte Ave. –McKinley Cottages Subdivision meets the applicability and plat requirements located in *Sections 3.1.1 - Applicability and 3.3.1 - Plat Standards* contained in **Article 3 - General Development Standards**.
- C. The 1310 Laporte Ave. – McKinley Cottages Subdivision meets the zone district standards located in Section 4.6 – Neighborhood Conservation, Low Density District, contained in **Article 4 – District Standards**.

DECISION

The 1310 Laporte Ave. –McKinley Cottages Subdivision PDP, Type I (#35-04) is hereby approved by the Hearing Officer without condition.

Dated this 14th day of September, 2005, per authority granted by Sections 1.4.9(E) and 2.1 of the Land Use Code.


Pete Wray
Interim Director of Current Planning

