



**CITY OF FORT COLLINS  
ADMINISTRATIVE HEARING OFFICER  
TYPE 1 ADMINISTRATIVE HEARING  
FINDINGS, CONCLUSIONS AND DECISION**

**ADMINISTRATIVE HEARING DATE:** August 13, 2004

**PROJECT:** Brazil 2004 Subdivision (#23-04)

**APPLICANT:** Ed Zdenek  
ZTI Group/Architecture  
2120 S. College  
Fort Collins, CO 80525

**OWNER:** Alvin Miller Trust  
C/o Rex Miller  
3833 Spruce Drive  
Fort Collins, CO 80526

**HEARING OFFICER:** Joe Frank  
Advance Planning Director

**PROJECT DESCRIPTION:**

This is a request to subdivide unplatted parcel of land into two lots. The existing lot is located near the corner of City Park Avenue and West Elizabeth Street and is zoned CC, Community Commercial.

**SUMMARY OF HEARING OFFICER DECISION:** Approval with conditions

**STAFF RECOMMENDATION:** Approval with conditions. The Staff recommendation contains a condition that will allow the applicant to proceed with real estate transactions once access easements are dedicated for Lot 2. The proposed utility easement locations cannot be determined until the engineering design is complete. Platting easements now may require the applicant and staff to dedicate new easements and vacate old easements by separate document once the utility plans determine their correct location.

**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 9:00 a.m. on Friday, August 13, 2004 in Conference Room A at 281 N. College Avenue, Fort Collins, CO

**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. 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 Hearing:

Sheri Wamhoff, Engineering, City of Fort Collins  
Anne Aspen, Current Planning, City of Fort Collins  
Ed Zdenick, applicant  
Rex Miller, representing the owner  
David McLaughlin, affected party

There were no written comments.

**FACTS AND FINDINGS**

1. Compatibility with Surrounding Uses:

The surrounding zoning and land uses are as follows:

**N:** CC: Existing restaurant and retail (McDonald's and the Patterson Building)

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**E:** CC: Existing commercial (Campus West Self Serve Car Wash and John XXIII University Center)

**S:** CC: Existing single family house and undeveloped land (John XXIII University Center)

**W:** CC: Existing commercial and retail (Schrader's Gas Station and Country Store, Campus West Liquor Depot)

The purpose of the Brazil 2004 Subdivision is to create two legally subdivided lots on a property that is currently one lot. The existing lot is 1.546 acres. The requested subdivision would create two lots: a 1.315 acre lot (57,291 sf) containing the vacant theater building fronting on West Elizabeth St. and a .231 acre lot (10,077 sf) fronting City Park Avenue.

The expressed intent of the applicant is to sell Lot 2 to a commercial establishment; however, no site layout or building plans for new structures are being reviewed at this time. The existing Campus West theatre will remain on the Lot 1. Staff has determined that there is no detriment to the development plan associated with the platting of the two lots.

## 2. Article 2 – Administration

The Brazil 2004 Subdivision 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* located in **Article 2 - Administration**.

## 3. Article 3 of the Land Use Code – General Development Standards

Brazil 2004 Subdivision complies with the applicable requirements of the LUC, specifically the plat requirements located in *Section 3.3.1 - Plat Standards* located in **Article 3 - General Development Standards**.

A. The subdivision plat is in compliance with Section 3.3.1(A) *General Provisions* in that:

- 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.
- 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.
- B. The subdivision plat is in compliance with Section 3.3.1(B) *Lots* in that:
- The two lots are over 10,000 square feet in size and Division 4.14 *Community Commercial District* does not set forth minimum lot dimensions; each lot has direct vehicular access to a public street or public alley (West Elizabeth and City Park Avenue respectively), and the side lot lines are substantially at right angles or radial to street and alley lines.
  - The general layout of lots, roads, driveways, utilities, drainage facilities and other services within the proposed lots has been previously established in the Campus West area.
- C. The subdivision plat is in compliance with Section 3.3.1(C) *Public Sites, Reservations and Dedications* in that:
- The applicant shall be required to dedicate rights-of way for public streets, drainage easements, utility easements and access easements as needed to serve the area being platted. This has been mostly done, and when the utility plans are finalized these will be revised as needed by separate document.
  - Reservation of sites for flood control, open space and other municipal uses shall be made in accordance with the requirements of this Land Use Code.

### **SUMMARY OF CONCLUSIONS**

1. The Brazil 2004 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**.
2. The Brazil 2004 Subdivision meets the plat requirements located in *Section 3.3.1 - Plat Standards* located in **Article 3 - General Development Standards**.

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**DECISION**

The Brazil 2004 Subdivision (#23-04) is hereby approved by the Hearing Officer with the condition that the Plat not be filed until access easements have been dedicated for Lot 2.

Dated this 13<sup>th</sup> day of August 14, 2004, per authority granted by Sections 1.4.9(E) and 2.1 of the Land Use Code.



Joe Frank  
Advance Planning Director

Parazil 2004 Administrative Hearing Sign-In

	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
sent 8/18	David McLaughlin	805 Parkview Pl. 80525	218-9270
sent 8/14 to Ed	Ray Miller	3833 Spruce Dr	184-8598
sent 8/14 to Ed	Ed Zdeach	2120 S. COLLEGE AVE	493-2393
	Sheri Wambhoff	281 N. College	221-6605