



Community Planning and Environment Services

Current Planning

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

ADMINISTRATIVE HEARING DATE: March 4, 2002

PROJECT NAME: Bennett Road Bungalows Project Development Plan - #42-01

APPLICANT: Land Images, Inc.
c/o Michael Chalona
215 West Magnolia Street
Fort Collins, Colorado 80521

OWNER: Bennett Road Bungalows, LLC
P.O. Box 9644
Fort Collins, Colorado 80525

HEARING OFFICER: Linda Michow, Esq.
Gorsuch Kirgis LLP
Tower I, Suite 1000
1515 Arapahoe Street
Denver, Colorado 80202

PROJECT DESCRIPTION: The Applicant has submitted a Project Development Plan (referred to herein as the "Project" or the "PDP") proposing a total of 16 platted lots for 16 single family detached dwellings on 3.87 acres. The site is located on the north side of Bennett Road, east of City Park Avenue and west of South Shields Street.

SUMMARY OF HEARING OFFICER DECISION: Approval

ZONE DISTRICT: Low Density Residential (RL).

NOTICE OF PUBLIC HEARING AND NEIGHBORHOOD MEETING: Evidence presented to the Hearing Officer established that the hearing was properly noticed in accordance with the City of Fort Collins Land Use Code. City planning staff also held two neighborhood meetings.

PUBLIC HEARING: The Hearing Officer, presiding pursuant to the Fort Collins Land Use Code, opened the hearing at approximately 6:30 p.m. on March 4, 2002 in the City Council Chambers at City Hall located at 300 West LaPorte Avenue, Fort Collins, Colorado.

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RECORD OF HEARING: 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 agents to the City of Fort Collins; (3) a sign-up sheet of persons attending the hearing and citizens speaking in favor of or against the application; (4) numerous electronic mail and other written correspondence between the planning staff and members of the public concerning the Project; (5) photographs taken of Bennett Road and the Project; and (6) a tape recording of testimony provided during the hearing. The Fort Collins Land Use Code ("LUC"), the City's Comprehensive Plan, the West Central Neighborhood Plan, and the formally promulgated policies of the City are all considered part of the evidence considered by the Hearing Officer.

FACTS AND FINDINGS

1. The Project's Proposed Uses Are Permitted Uses within RL Zone District: The staff report reveals that the proposed development is adjacent to the following surrounding zoning and land uses:

N: RL, NCB existing single family houses (Western Heights).
S: RL existing school (Bennett Elementary).
E: NCB existing single family houses.
W: RL existing single family houses (Fairview 8th Filing).

The staff report indicates that the residential uses contemplated in the PDP are permitted within the RL zone district. No evidence presented at the hearing contradicted this finding.

Therefore, the Hearing Officer concludes that the proposed uses are permitted within the RL zone district.

2. Compliance with RL District Standards (Article 4): Based on the evidence presented at the hearing, the Project Development Plan complies with Section 4.3 and the RL Zone District. The unrefuted evidence reflects that the proposed single family detached dwellings are permitted in the RL zone district, subject to administrative review. As stated in the staff report, the Project conforms with the purpose of the RL District as it is a single family infill development comparable to the existing single family residential neighborhoods in the area.

The Hearing Officer also notes that the Project complies with Section 4.3(D) concerning density, lot size, and setbacks. Several neighbors testified that the Project included "too many" homes. The testimony of the City planner reflects that the density (number) of homes per acre is consistent with the LUC and with the surrounding neighborhoods. The evidence also illustrates that while the lots may be narrower than those found in adjacent subdivisions, the lots are deeper and therefore no smaller than lots in surrounding neighborhoods.

3. Compliance with Article 3 – General Development Standards: The evidence presented at the hearing establishes that the Project complies with all of the applicable requirements of Article 3, as explained below.

Landscaping and Tree Protection. The staff report outlines the Project's conformance with Section 3.2.1 concerning landscaping and tree protection and there was no evidence introduced at the hearing to contradict the staff report.

Parking and Access. The staff report outlines the Project's conformance with Section 3.2.2(C) concerning access, circulation and parking. Specifically, the staff report notes that the design of the Project provides necessary curb cuts and ramps for the physically disabled, bicyclists, and pedestrians to move freely and provides direct, safe and continuous walkway and bicycle connections to the major pedestrian and bicycle destination of Bennett Elementary School.

There was no evidence introduced at the hearing to contradict the staff report; therefore, the Hearing Officer finds that the Project is in conformance with Section 3.2.2(C).

Engineering Standards. The staff report indicates the Project's conformance with Section 3.3.1 concerning plat standards. A review of the plat for the Project reflects conformance with Section 3.3.1 in that the lot sizes, ranging in size from 8,220 to 9,213 square feet, are above the minimum of 6,000 square feet for the RL district.

Engineering Design Standards. The staff report indicates that the Project complies with Section 3.3.5 in that it complies with the design standards and specifications for such services as water supply, fire protection, telephone and storm drainage. Some neighbors raised concerns about drainage in and around the Project site. The plat reflects that a storm detention area consisting of approximately 29,000 square feet is

provided in the southeast corner of the Project site. The Applicant's Project engineer testified that a swale to be constructed along the rear (north) of the site will carry drainage from existing homes on the north as well as from those constructed on site to the detention area. City staff further testified that the Applicant is not required to address existing, off-site drainage problems but, rather, is only required to address drainage impacts generated by the Project.

The Hearing Officer concludes that the Project adequately addresses drainage and therefore complies with the applicable standards of the LUC.

Building and Project Compatibility. Section 3.5.1 of the LUC requires that new developments be designed to be compatible with the established architectural character of the area. Pursuant to this section, compatibility is achieved through repetition in roof lines, use of similar proportions in building mass, and similar building materials. The staff report indicates that the proposed single family dwellings are compatible with those found in the surrounding neighborhoods.

Testimony from neighboring property owners challenged the compatibility of the proposed single family units, comparing the one-story homes found in the adjacent subdivision to the proposed 1 ½ story units of Bennett Bungalows. The Hearing Officer finds that 1 ½ story single family units do not exceed the height limit prescribed in Section 4.3(D)(e). The evidence also revealed that in addition to the adjacent ranch-style homes, other adjacent neighborhoods include one and two story single family residences. And, as pointed out by the City Planner, Mr. Olt, compatibility does not require identical design and architectural features. The Hearing Officer finds, therefore, that the Project is compatible with the surrounding neighborhoods in terms of lot size and building heights.

Transportation and Circulation (Traffic). Section 3.6 of the LUC imposes standards for street layout, design, traffic impacts, etc. Testimony by the City's traffic engineer, Ward Stanford, revealed that traffic impacts of this Project do not justify a traffic impact study according to the City's standards. According to the traffic engineer, the requirement of a transportation impact study is triggered when the projected trips generated by the proposed uses at a site exceed 200 vehicles per day or 50 vehicles at peak hours. The traffic engineer testified that the Project is estimated to generate 10 trips per unit for a total of 160 trips per day and, at peak hours, a maximum number of vehicles in the "mid" to "upper teens" range. Therefore, the

evidence unequivocally shows that the Project does not meet the minimum required for a transportation impact study.

Several neighbors testified about the traffic concerns on Bennett Road and the proximity of the Project to Bennett Elementary School. The Applicant testified that the location of the Project near the School is no different than a number of schools within the City that are similarly located adjacent to residential neighborhoods.

The traffic engineer testified that the average speed on Bennett Road is 25 miles per hour and that additional striping of the bike lanes and signage are intended to mitigate traffic concerns.

The Hearing Officer finds that the weight of the evidence presented by the Applicant and corroborated by the City staff supports a finding of compliance with the City's traffic standards. There is no authority for the Hearing Officer to mandate that the Applicant or Owner exceed the minimum requirements of the Land Use Code in designing the development.

Conformance with the City's Comprehensive Plan and West Central Neighborhoods Plan.

The staff report explains in great detail how the Project conforms with the City's Comprehensive Plan and West Central Neighborhoods Plan. In previous neighborhood meetings, as evidenced by the written neighborhood information meeting minutes of the August 22 and November 8, 2001 meetings, the residents in the area objected to the Project because they believed the Project site had been designated in the West Central Neighborhoods Plan as a future park site. At the March 4 administrative hearing, there was no significant testimony from the residents concerning this issue. In fact, one resident testified that she felt "defeated" to the extent the Project site would not be developed as a pocket park.

The Hearing Officer has reviewed the applicable provisions of the Comprehensive Plan and the West Central Neighborhood Plan, minutes and agenda packets of the pertinent City Council meetings as well as the staff report. Based on this evidence, the Hearing Officer finds that the City Council carefully considered purchasing the Project site for a park but decided against it for funding reasons. The Hearing Officer agrees with the residents that West Central Neighborhood Plan identifies this site as potential park land. However, the Plan also provides that future park plans

are contingent upon available funding. There is no evidence in the record to suggest that adequate funding is available, as evidenced by the City Council's vote not to pursue the purchase of this site for park development.

SUMMARY OF CONCLUSIONS

- A. The PDP satisfies the development standards of the RL Zone District.
- B. The PDP complies with all applicable district standards of Division 4.3 of the Land Use Code, (RL) Low Density Residential zone district.
- C. The Project Development Plan complies with all applicable General Development Standards contained in Article 3 of the Land Use Code.

DECISION

The Hearing Officer hereby approves the Bennett Road Bungalows Project Development Plan, #42-01.

DATED THIS 18th day of March 2002.



Linda C. Michow, Hearing Officer

PLEASE SIGN IN
PLEASE PRINT YOUR NAME AND ADDRESS
COPY OF
HEARING
OFFICER REPORT

NAME ADDRESS

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