

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

HEARING OFFICER: Joe Frank
Advance Planning Director

PROJECT NAME: Replat of 208-212 Peterson Street (Lots 7 and 8,
Block 152)

CASE NUMBER: #43-00

APPLICANT: Stewart and Associates, Inc.
Richard A. Rutherford
103 S. Meldrum St.
Fort Collins, CO 80522

OWNER: S.L.C. Company
401 W. Mulberry St.
Fort Collins, CO 80522

PROJECT DESCRIPTION:

This is a request to replat properties addressed as 208 and 212 Peterson Street from two lots to four lots, creating two lots fronting Peterson Street and two lots abutting the alley. Upon approval, the applicant intends to construct one detached single family "alley house" of 800 square feet on each of the newly created rear lots.

SUMMARY OF RECOMMENDATION AND DECISION:

This request complies with the applicable requirements of the Land Use Code (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 3.3.1 - Plat Standards* located in Article 3 - General Development Standards.

STAFF RECOMMENDATION: Approval

HEARING OFFICER DECISION: Approval

ZONING DISTRICT: NCM – Neighborhood Conservation Medium Density

NOTICE OF PUBLIC HEARING: Notice of public hearing was made on June 27, 2001 by mailing to property owners within 1,000 feet of the subject property.

The public hearing was advertised in the Coloradoan.

PUBLIC HEARING

After reviewing the Staff Report and recommendation, a public hearing was held on the subject application at 5:30 PM on July 10, 2001. The hearing was held in Conference Room A at 281 North College, Fort Collins, Colorado.

HEARING TESTIMONY, WRITTEN COMMENTS AND OTHER EVIDENCE:

The following is a list of those who attended the meeting:

From the City:

Cameron Gloss, Current Planning Director
Katie Moore, Development Review Engineer

From the Applicant:

Dick Rutherford, Project Engineer
Don Smith, Developer

Written Comments:

Staff noted that there had been a neighborhood meeting on January 30, 2001 and notes from the meeting were attached to the staff report. It was also mentioned that staff had received calls from concerned citizens about alley houses in general.

BACKGROUND

The staff report states the following:

1. Background

The surrounding zoning and land uses are as follows:

- N: NCM – Detached single family houses
NCB – Apartments
- E: LMN – Detached single family houses
- S: NCM – Detached single family houses, duplexes, and apartments
- W: NCM – City of Fort Collins Main Library

This proposal replats two lots that are part of the original Fort Collins townsite created in 1873.

The site is located on the eastside of Peterson Street, 100 feet south of E. Oak Street and lies within the Neighborhood Conservation Medium Density (NCM) District. The NCM district was created as an outgrowth of the Eastside/Westside Plan rezoning and implementing standards that occurred in 1991. At that time, the newly created NCM and NCB zones required a minimum lot area of 4,500 square feet per single family or two-family dwelling. This meant that if a lot had at least 9,000 square feet of lot area, then the potential existed for the construction of an alley house at the rear of the property.

Between 1991 and 1993 a significant number of alley houses were in constructed in the 500 and 600 blocks of Meldrum, Sherwood, and Whitcomb. Several were also built in the Eastside Neighborhood. The City began receiving numerous complaints from neighbors concerned the development of these secondary units was incompatible with the surrounding neighborhood. Many of these new buildings were larger than the house on the front of the lots, with the original house becoming subordinate in size to the new house.

City Council members also became concerned about impacts associated with increased residential density. As a result, Council adopted an emergency ordinance in December 1993 that resulted in an increase in the minimum lot area requirement from 4,500 square feet per building to 5,500 square feet per building. The intent of the ordinance was to temporarily halt construction of alley houses. Staff was also instructed to work with a consultant to prepare design guidelines, reevaluate the lot area/density issue, and arrive at a permanent solution.

In October 1994, the City hired Winter & Company and RNL Design as consultants to assist in the preparation of design guidelines. A citizen advisory committee was established consisting of residents of the eastside/westside neighborhoods, representatives from the Landmarks Preservation Commission and the Affordable Housing Board, and an at-large member. A public outreach process was begun and three public workshops were held. Additionally, staff met with existing neighborhood organizations and formed a focus group. Numerous other open houses and meetings were held as well. Notices of the open houses were delivered to each home in the areas, and over 100 people attended each session. This process resulted in proposed standards and guidelines that were originally presented to Council for adoption in August 1995. At that time, Council provided direction to staff to revise the document to simplify and clarify the text.

When new land use standards within the NCM zone were finally adopted, a minimum lot area equivalent of two times the total floor area of the buildings, but not less than 5,000 square feet for a single-family dwelling, was established. The size of an alley house was also specifically limited to 800 square feet of floor area. In 1997, when the present Land Use Code was adopted, these standards were transferred directly to the new code language.

The applicant proposes four lots, two of which fall below the minimum 5,000 square feet permitted under the NCM zone (4,500 sq. ft. and 4,435 sq. ft.). The Zoning Board of Appeals granted a variance to the minimum lot area standard on April 12, 2001. A more detailed discussion of the Board's findings is included under staff's analysis of this application relative to the General Development Standards of Article 3.

Although not part of the subdivision plat under review, it should be noted that the Landmark Preservation Commission has completed a complimentary review of proposed development plans and has found them architecturally compatible with the two historic houses at 208-212 Peterson Street.

2. Compliance with the Overall Development Plan

The request complies with the applicable requirements of the LUC, specifically the procedural requirements located in *Division 2.1 - General Procedural Requirements, and Division 2.2 - Common Development Review Procedures for Development Applications*

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

The request 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 replat is in compliance with Section 3.3.1(A) *General Provisions* 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.

B. The replat is in compliance with Section 3.3.1(B) *Lots* in that:

- 1) Each newly created lot has direct access to a public street (in this case, a public alley) and the side lot lines are substantially at right angles or radial to the street lines.
- 2) The general layout of driveways, utilities, drainage facilities and other services within the proposed development accomplishes the purposes and intent of the Land Use Code.

The subdivision and the construction of new single family houses are subject to the development standards within the NCM zoning district. Dwellings proposed to be constructed between the back of an existing dwelling and the rear property line may contain a maximum of 800 square feet of floor area and must comply with the setback requirements. Development Standards within the zoning district (Section 4.7(F)) specify parameters for building design, landscape/hardscape material, vehicular access, and site design.

The submitted replat and PDP satisfies all applicable Article 4 standards, except in the case of the minimum lot area standard of 5,000 sq. ft. This minimum standard was modified through a variance granted by the Zoning Board of Appeals on April 12, 2001. The Board found that the proposal will "advance and protect the public interest and purposes of the standard for which the variance is requested equally well or better than would a proposal

which complies with the standard for which the standard is requested”
because:

1. The overall purpose of the standard is to limit the density of development on a lot and ensure that there is adequate open space for the use and enjoyment of the occupants. Without the variance, the square footage of the land at the rear of 208 and 212 Peterson is large enough to allow two dwelling units in the form of a duplex, and the square footage of the proposed alley houses is less than the permitted duplex. Therefore, the two proposed homes do not increase the density beyond what is allowed and the size of the two homes is minimal, thereby preserving the same amount of open space that would be found with a duplex.
2. The proposed rear homes will be subordinate in size and height to the existing front houses, where a single duplex building would be larger than the front houses.
3. The Landmark Preservation Commission and City staff’s position is that a duplex structure would be out of character with the nearby-designated properties, and would adversely impact the historical significance of the National Register District. The proposed “alley house” design will preserve the historic attributes of the nearby properties and will protect the special character of this neighborhood better than a duplex would.

The applicant will move the electric transformer from the alley right-of-way onto the their property. This relocation will allow for concrete pavement of the 16 foot-wide alley from the subject property to the intersection of Oak Street.

C. The replat is in compliance with Section 3.3.1(C) *Public Sites, Reservations and Dedications* in that:

- 1) A 10 foot-wide utility, drainage and pedestrian access easement has been dedicated along the south side of Lots 7-A and 7-B to accommodate a 4.5 foot-wide paved walkway connecting the new units with the existing public sidewalk on Peterson Street. Included within the easement are water and sanitary sewer service lines connecting to existing mains in the alley (sanitary sewer) and the street (Water).

- 2) Gas services lines will be centered within utility easements on the north side of Lot 7-A and south side of Lot 8-A.
- 3) An additional 5 foot-wide easement has been dedicated adjacent the alley to permit vehicular access to the garages and provide clearance for electric utilities.
- 4) Site drainage will be conveyed from the site to the alley through easements situated on all four lots.

FINDINGS OF FACT

- A. The Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) contains a permitted use in the NCM – Neighborhood Conservation Medium Density Zoning District.
- B. The Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) request meets the procedural requirements located in Division 2.1 - General Procedural Requirements, and Division 2.2 - Common Development Review Procedures for Development Applications.
- C. The Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) meets the plat requirements located in *Section 3.3.1 - Plat Standards* located in Article 3 - General Development Standards.

STAFF RECOMMENDATION

Staff recommends approval of the Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152), Current Planning File #43-00.

FINDINGS AND CONCLUSIONS

After reviewing the staff report and the record of the public hearing, the Hearing Officer makes the following findings and conclusions:

- A. The Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) contains a permitted use in the NCM – Neighborhood Conservation Medium Density Zoning District.
- B. The Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) request meets the procedural requirements located in Division 2.1 - General

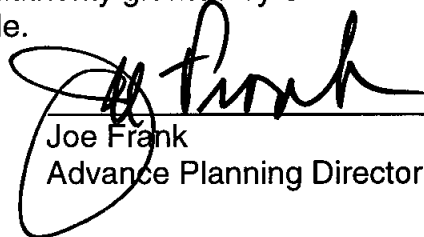
Procedural Requirements, and Division 2.2 - Common Development Review
Procedures for Development Applications.

- C. The Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) meets the plat requirements located in *Section 3.3.1 - Plat Standards* located in Article 3 - General Development Standards, except for the minimum lot area standard that was modified through a variance granted by the Zoning Board of Appeals on April 12, 2001
- D. Future development of the property will be required to meet Land Use Code Division 2.6 DEVELOPMENT CONSTRUCTION PERMITS; and, Division 2.7 BUILDING PERMITS.

DECISION

Based on the findings and conclusions, the request for the Replat of 208-212 Peterson Street (Lots 7 and 8, Block 152) is approved.

Dated this 11th day of July 2001, per authority granted by Sections 1.4.9(E) and 2.1 of the Land Use Code.



Joe Frank
Advance Planning Director

Replat of 208-212 Peterson
Administrative Hearing

Attendance

July 10, 2001

<u>Name</u>	<u>Address</u>	<u>Phone</u>	<u>e-mail</u>
Cameron Gloss	City of F.C.	221-6750	cgloss@fcgov.com
DONALD SMITH	P.O. Box 955 F.C.	221-9145	
Dick Rutherford	P.O. Box 429 Ft. C.	482-9331	stewarroc@westnet
Katie Moore	City of F.C.	221-6605	kamoore@fcgov.com