



Development Review Center
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May 21, 2019

Pete Levine
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RE: West Oak Subdivision a.k.a. Oak/Whitcomb Replat, BDR 180038 – Manager’s Decision

Dear Pete:

On November 15, 2018, the City of Fort Collins received an application for a Basic Development Review development plan to replat property at 525 West Oak Street and 214 and 218 South Whitcomb Street. The new plat creates re-configured lots at those same addresses.

This request has been processed in accordance with Section 2.18.2 – Basic Development Review – Minor Subdivisions, of the City of Fort Collins Land Use Code. In addition, the request has been reviewed by the standards of Section 3.3.1 – Plat and Development Plan Standards and Division 4.8 Neighborhood Conservation, Medium Density District (NCM).

The 525 West Oak parcel (lot 1 on the plat) has a non-residential building originally used as a church and later used as a Larimer County facility in conjunction with 214 South Whitcomb (lot 2 on the plat) and the rear portion of 218 South Whitcomb (lot 3 on the plat). Existing conditions of the subject property are an unusual and unique result of this past use by Larimer County.

The 214 South Whitcomb property had previously been joined with the 525 West Oak property to form a larger unified parcel. The replat separates the 214 South Whitcomb parcel back onto a lot of its own. The lot is 5,000 square feet and contains a single family detached dwelling.

The purpose of the separation is to enable the sale of 214 South Whitcomb as a single family dwelling on its own lot.

The 218 South Whitcomb property has a single family detached dwelling on a lot that had been 6,337 square feet extending clear to the alley; however the rear portion of the lot was converted and incorporated into a unified parking lot for 525 West Oak that currently extends behind 214, 216, and 218 South Whitcomb northward to Oak Street. This conversion of the rear portion of the 218 South Whitcomb lot was done under a private lease agreement.

The replat separates the dwelling portion of 218 South Whitcomb from the parking lot portion. The new lot matches and fits the conditions on the ground. The new rear lot line is located where an existing fence demarcates the rear yard of the existing dwelling, with the parking lot occupying the area behind the fence. The new rear lot line aligns with the existing rear lot line of 216 South Whitcomb which is next door to the north (flanked by 214 and 218).

The purpose of the separation is to enable the sale of the 218 South Whitcomb property as a single family dwelling on a lot that does not include part of the parking lot.

Staff finds that the proposal complies with all applicable standards in the Land Use Code, including a Modification of a standard in the Neighborhood Conservation Medium Density zone district, code subsection 4.6 D(1), which requires a minimum lot area not less than 5,000 square feet. The plat creates a lot at 218 South Whitcomb that is 3,496 square feet.

The request for a modification of a standard requires findings under criteria in Section 2.8 of the Land Use Code, as follows:

Land Use Code Modification Criteria:

"The decision maker may grant a modification of standards only if it finds that the granting of the modification would not be detrimental to the public good, and that:

(1) the plan as submitted will promote the general purpose of the standard for which the modification is requested equally well or better than would a plan which complies with the standard for which a modification is requested; or

(2) the granting of a modification from the strict application of any standard would, without impairing the intent and purpose of this Land Use Code, substantially alleviate an existing, defined and described problem of city-wide concern or would result in a substantial benefit to the city by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the city's Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council, and the strict application of such a standard would render the project practically infeasible; or

(3) by reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy system, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the owner of such property, provided that such difficulties or hardship are not caused by the act or omission of the applicant; or

(4) the plan as submitted will not diverge from the standards of the Land Use Code that are authorized by this Division to be modified except in a nominal, inconsequential way when considered from the perspective of the entire development plan and will continue to advance the purposes of the Land Use Code as contained in Section 1.2.2.

Any finding made under subparagraph (1), (2), (3) or (4) above shall be supported by specific findings showing how the plan, as submitted, meets the requirements and criteria of said subparagraph (1), (2), (3) or (4).

Modification requests are reviewed on a case-by-case basis considering specific location, context and circumstances. In reviewing the proposed plat, which does not provide the required 5,000 square feet for lot 3 at 218 South Whitcomb, staff finds that the proposed plan would not be detrimental to the public good and meets the applicable requirements for modifications in subsection 2.8.2(H)(1) and (3) above.

Under 2.8.2(H)(1) above, staff finds that the plan meets the purposes of the lot area standard equally well or better than a plan that complies with the standard, because the lot as proposed matches and fits the conditions on the ground. The new lot line is located where an existing fence demarcates the rear yard of the existing dwelling, and aligns with the the rear lot line of the property next door to the north which has the same physical conditions in terms of the parking lot. A plan providing the required 5,000 square feet would necessarily include an arbitrary portion of the existing parking lot associated with 525 West Oak in the area behind the fence.

Under 2.8.2(H)(3) above, staff finds that the physical conditions of the parking lot resulting from past development by Larimer County create an unusual practical difficulty in providing a 5,000 square foot lot, which would necessarily include an arbitrary portion of the existing parking lot associated with 525 West Oak in the area behind the fence. This condition is not due to any act or omission of the applicant.

Staff finds no detriment to the public good because the plat creates new lots flanking the existing lot at 216 South Whitcomb in a configuration that is consistent with the configuration of the 216 lot and the conditions on the ground, which have existed for a number of years without problems affecting the public good. The primary issue affecting the public good would be the lack of space and vehicular access on the new lots for any off-street parking as required by code.

To address this parking issue, the plat is accompanied with private easement agreements that burden Lot 1 with providing the required parking in its parking lot for 214 South Whitcomb (lot 2 on the plat) and 218 South Whitcomb Street (lot 3 on the plat). The agreements are to be recorded immediately following the recording of the plat in order for the plat to be valid.

The Development Review Manager hereby makes the following findings of fact:

1. The West Oak Subdivision, BDR180038, has been accepted and properly processed in accordance with the requirements of Section 2.18 of the Land Use Code containing Basic Development Review procedures.
2. The West Oak Subdivision, BDR180038, complies with the applicable sections of Article Three, General Development Standards of the Land Use Code.
3. The West Oak Subdivision, BDR180038, requires a Modification of the only applicable standard in Article Four, Neighborhood Conservation Medium Density zone district, which is subsection 4.6 D(1), *Required Lot Area*, as explained below.
4. The modification of the *Required Lot Area* standard, subsection 4.6 D(1) in the Neighborhood Conservation Medium Density zone district, to allow Lot 3 on the plat to comprise 3,496 square feet instead of the standard 5,000 square feet, would not be detrimental to the public good and meets the applicable requirements for modifications in subsection 2.8.2(H)(1) and (3). This is because the smaller lot is consistent with the established physical conditions on the ground, whereas a 5,000 square foot lot would be less consistent with with the established conditions.

5. The plan is subject to subsequent granting of access and maintenance easement agreements that burden Lot 1 with providing required off-street parking for lots 2 and 3.

Based on these findings of fact, the Development Review Manager of the City of Fort Collins makes the following decision:

Approved
Decision

5/23/19
Date

Rebecca Everette
Rebecca Everette
City of Fort Collins, Development Review Manager

This final decision of the Development Review Manager may be appealed to the Planning & Zoning Board, in accordance with Article II, Division 2.18.3(L) of the Land Use Code, within 14 calendar days of the date of final action by the Development Review Manager. Guidelines explaining the appeal process, including the Code provisions previously referenced, can be found online at fcgov.com/cityclerk/appeals.php, or may be obtained in the City Clerk's Office at 300 Laporte Avenue.

With Copies To:

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cathy@tbgroup.us