



Development Review Center
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September 15, 2021

Kirk Longstein
728 Cherry Street
Fort Collins, CO 80521

RE: 728 Cherry Street - Stand Alone Modification, MOD210002 – Director’s Decision

Dear Kirk:

A conceptual review meeting was held on March 5, 2021, with staff providing information and options for the proposed minor subdivision including consideration by the applicant for a standalone modification of standards for the lot split and size of new lot. On July 9, 2021, the City of Fort Collins Development Review Division received and processed a request for the 728 Cherry Street Stand Alone Modification to the minimum lot size requirement of 5,000 square feet. If the Modification is approved, staff anticipates the applicant would proceed with a BDR Minor Subdivision to create one additional new lot of 3,920 square feet and create an opportunity for a new detached single-family dwelling unit. The property is located in the Neighborhood Conservation, Medium-Density (NCM) zone district and is subject to a Basic Development Review. This request has been processed in accordance with Section 2.18.3 – Basic Development Review Procedures, of the City of Fort Collins Land Use Code pursuant to the applicable standards in the Land Use Code.

Staff finds that the proposed smaller Lot B is consistent with the 2017 Old Town Neighborhoods Plan policy direction for this location that supports preserving and maintaining the character of the westside neighborhoods with a combination of large and small lots. The Plan also supports enhancements within the neighborhood to provide new opportunities for housing choice along with quality architectural design of new buildings. The proposed lot change is consistent with City Plan and the 2021 Housing Strategic Plan supporting infill and redevelopment, additional housing options and living in place opportunities.

Staff finds that the proposal complies with all applicable standards in the Land Use Code, including a Modification of Standards in the NCM zone requiring a minimum lot size not to be less than 5,000 square feet for a single-family dwelling. The existing lot is 9,571 square feet, and the proposed minor subdivision would resize the existing Lot A at 5,651 S. F., and new Lot B at 3,920 S. F.

Lot B and potential new detached single-family dwelling is oriented towards Cherry Street, and staff recommends the existing curb-cut off Cherry Street be removed and future access be taken from the existing alley. The minimum lot width in the NCM is 40 feet, and the proposed Lot B width is 56 feet, exceeding minimum lot frontage. The request for a standalone Modification of Standards for a reduced lot size does not include an application for a Basic Development Review (BDR) re-plat. If the modification is approved the applicant will proceed with the plat and PDP for a new single-family dwelling on Lot B.

During the two-week open comment period from August 27 through September 10, 2021, the city received no comments regarding this request.

The request for a modification of a standard in Land Use Code subsection 4.8 (D)(1), *Minimum Lot Area 5,000 square feet*, 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).

The applicant has provided the request for modification of standards with justification, see attached file. The application did not include a final plat of a subdivision or a project development plan due to the uncertainty of the decision makers' acceptance of the proposal.

Modification requests are reviewed on a case-by-case basis considering specific location, context, and circumstances. In reviewing the proposed plan which proposes a minor subdivision to create a new lot less than the required 5,000 square feet (3,920 S. F.), staff finds that the proposed plan would not be detrimental to the public good. The proposed Lot B would permit a single-family dwelling, relocates vehicular access from Cherry Street to the existing alley, and results in no adverse impacts to the public. The modification request meets the applicable requirements for modifications in subsection 2.8.2(H)(3), 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, and (4) which allows for a plan will not diverge from the standard except in a nominal, inconsequential way, based upon the following factors:

- **Section 2.8.2 (H) (3) – “Hardship”.** The property’s legal description includes the two historical plat lines positioned perpendicular the 1920s house, contrary to the neighborhoods conforming lot areas with addresses along Grant Street. This corner lot includes the existing principal building oriented to the south, resulting in minimal opportunity for consideration of adding an accessory dwelling unit, or single-family dwelling behind the principal building. This condition was not self-created by the owners when they purchased this property and results in a unique hardship for this property, not only for potential expansion of the existing home, but also for adding a new detached single-family dwelling on the same lot, with only 216 S. F. of allowable addition on rear portion of lot.

- **Section 2.8.2 (H)(4) – “Nominal and Inconsequential”.** Staff was initially concerned with the proposed size of Lot B, but after analyzing 118 lots in a six-block area surrounding this property for lot comparison, finds that the proposed Lot B of 3,920 square feet, is consistent with the lot pattern and size within the vicinity. The average lot size is 6,331 S. F., 60 lots (50%) include a lot size less than 5,000 S. F., and three lots less than 4,000 S. F. Staff finds that Lot B does not diverge from the established lot context on the block, except in a nominal and inconsequential way when considered from the perspective of the larger neighborhood area.


The Community Development and Neighborhood Services (CDNS) Director hereby makes the following findings of fact:

1. 728 Cherry Street - Stand Alone Modification, MOD210002, has been accepted and properly processed in accordance with the requirements of Section 2.18 of the Land Use Code governing development review procedures.
2. 728 Cherry Street - Stand Alone Modification, MOD210002, complies with the applicable sections of Article Three, General Development Standards of the Land Use Code.
3. 728 Cherry Street - Stand Alone Modification, MOD210002, complies with applicable standards in Article Four, Neighborhood Conservation Medium-Density zone district with a modification of a standards in subsection 4.8 (D)(1) *Minimum Lot Size* as explained below.
4. The modification of a standards in subsection 4.8 D (1), *Minimum Lot Size*, which requires a lot not to be less than 5,000 square feet for a single-family dwelling, would not be detrimental to the public good and meets the applicable requirements for modifications in subsection 2.8.2(H)(3), “unique hardship”, and (4) “nominal and inconsequential”, based upon the following factors:

Section 2.8.2 (H) (3) – “Hardship”. The property’s legal description includes the two historical plat lines positioned perpendicular the 1920s house, contrary to the neighborhoods conforming lot areas with addresses along Grant Street. This corner lot includes the existing principal building oriented to the south, resulting in minimal opportunity for consideration of adding an accessory dwelling unit, or single-family dwelling behind the principal building. This condition was not self-created by the owners when they purchased this property and results in a unique hardship for this property, not only for potential expansion of the existing home, but also for adding a new detached single-family dwelling on the same lot, with only 216 S. F. of allowable addition on rear portion of lot.

Section 2.8.2 (H)(4) – “Nominal and Inconsequential”. The proposed Lot B of 3,920 square feet, is consistent with the lot pattern and size within the vicinity (118 lots analyzed surrounding this property). The average lot size is 6,331 S. F., 60 lots (50%) include a lot size less than 5,000 S. F., and three lots less than 4,000 S. F. Lot B does not diverge from the established lot context on the block, except in a nominal and inconsequential way when considered from the perspective of the larger neighborhood area.

Based on these findings of fact, the CDNS Director of the City of Fort Collins makes the following decision:

<u>Approval</u>	<u>9/15/21</u>
Decision	Date
	
Paul Sizemore City of Fort Collins, CDNS Director	

This final decision of the CDNS Director 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 CDNS Director. 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.