

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING**

FINDINGS AND DECISION

HEARING DATE: November 13, 2024

PROJECT NAME: The Mark

CASE NUMBER: FDP # 240013

APPLICANT REPRESENTATIVE: Klara Rossouw
Ripley Design
419 Canyon Avenue, Suite 200
Fort Collins, CO 80521

APPLICANT: The Mark at Fort Collins, LLC
Landmark Properties, Inc.
315 Oconee Street
Athens, GA 30601

OWNER: Epoch Fort Collins DST LLC
1001 Morehead Square Dr., Suite 320
Charlotte, NC 28203-4173

HEARING OFFICER: Marcus McAskin

PROJECT DESCRIPTION: This is a request for a combined Project Development Plan / Final Development Plan (the “FDP” or the “Combined PDP/FDP”) to restart a student-oriented multi-family project at 255 Johnson Drive (parcel # 9723119001), which parcel is legally described as:

LOT 1, JOHNSON DRIVE APARTMENTS LOCATED IN THE
NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 7 NORTH,
RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF
FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO

(the “Subject Property”).

The development proposes a 6-story multi-family building with 193 units. There are 400 bike parking spaces and 318 vehicular parking spaces provided in a structured parking garage on-site.

The FDP proposes completing construction initiated following the City’s approval of a previous development plan for the Subject Property (PDP 170034 and FDP 190021, Johnson Drive Apartments project, collectively the “Prior Approval”).

Redevelopment of the Subject Property is proposed to maintain building placement and circulation patterns approved as part of the Prior Approval.

The Subject Property was annexed in 1957 as a part of the South College Avenue Consolidated Annexation. Additional details regarding the development status and background of the Subject Property is set forth in the Development Review Staff Report prepared for the November 13th virtual public hearing on the Combined PDP/FDP, a copy of which is attached to and incorporated in this written decision as ATTACHMENT A (the “**Staff Report**”). The Combined PDP/FDP is further detailed in the plan documents included in the record of this case (*see, e.g.*, Item Nos. 2 through 10 in the Evidence list below).

The Applicant (The Mark at Fort Collins, LLC) seeks approval of a Modification of a Standard for Section 2.3.4 of the Land Use Code [Building Standards / Building Height] to permit the construction of the proposed 6-story multi-family apartment building.

ZONING: The Subject Property is located in the General Commercial (CG) zone district¹ and is also located in the Transit-Oriented Development Overlay (TOD) district. Administrative review (Type 1 review) is required for the Project because the FDP includes multi-unit dwellings. *See* City of Fort Collins Land Use Code (“**LUC**”) Section 4.2 (the use table incorporated in Section 4.2 of the LUC identifies multi-unit dwellings in the CG zone district as subject to Type 1 review).

As set forth above, the FDP includes a request for the modification of the building height standard set forth in Section 2.3.4 of the LUC (“**Modification of Standard**”), which establishes a 4-story maximum for all buildings:

BUILDING STANDARDS

BUILDING HEIGHT	
All Buildings	4 stories max.
Affordable Housing Development Bonus	6 stories max.

¹ Pursuant to the Purpose Statement set forth in LUC Section 2.3.4, the General Commercial District is intended to be a setting for development, redevelopment and infill of a wide range of community and regional retail uses, offices and personal and business services. **Secondarily, it can accommodate a wide range of other uses including creative forms of housing.** (emphasis supplied).

The Applicant is requesting the Modification of Standard mainly due to the fact that the Prior Approval included a 6-story multi-unit building. The Applicant’s justifications for approval of the Modification of Standard request is set forth in the written modification request dated July 31, 2024 (see Item No. 7 in the Evidence list below).

As detailed in the Staff Report, City staff has determined that the FDP complies with the applicable requirements and standards of the LUC except for: (1) the Building Standards / Building Height requirement set forth in LUC Section 2.3.4, for which a Modification of Standard is requested; and (2) LUC Section 5.12.1(C)(4), which requires that exterior site lighting demonstrate no light trespass onto Natural Areas, Natural Habitat Buffer Zones or River Landscape Buffers as defined in Section 5.6.1(E), and for which the Applicant has submitted an Alternative Compliance request.

As detailed in the Staff Report, City staff supports approval of the Modification of Standard to LUC Section 2.3.4. Specifically, on pages seven and eight of the Staff Report, City Staff makes the following findings:

Staff Findings

Staff finds that the granting of the [Modification of Standard] would not be detrimental to the public good and that the request more particularly satisfies LUC 6.8.2(H), as follows:

Detriment to the public good. Staff’s finding is based on consideration of the fact that the previous approved plan was approved for 6 stories. Staff finds that the plan supports the goals of the sub-area plan and TOD, with no detriment to the public good in comparison to a revising the development plans to meet the current zone district height limits.

Regarding “equal-to or better-than.” Staff finds that the building height works as well or better than a four story building, for purposes of the standard, because:

- Supports the intents and goals of the TOD and Midtown Sub Area Plan.
- Has precedent for acceptability in the CG zone district.

Regarding “community need.” Staff finds that the building height increase provides more residential units near public transportation for students identified in policy LIV 6.3 of City Plan because:

- The additional height would provide housing for 204 more students that a 4 story building.
- Provides housing near transit and the trail system.

Regarding “hardship.” Staff finds that the existing condition of the site is a hardship, because:

- A significant portion of sitework and building foundation construction was performed and then abandoned by the previous development team, which resulted in the vesting of the project to expire.
- Existing site conditions make redesign of the building infeasible.

As further detailed in the Staff Report, City Staff also supports Alternative Compliance for the exterior lighting standard set forth in LUC Section 5.12.1(C)(4). Specifically, on page 13 of the Staff Report, City Staff makes the following finding: “The lighting plan includes alternative compliance for fixtures in the natural habitat buffer. This plan has been reviewed by staff and has been found compliant with the intent of the code.”

Applicant representatives confirmed at the November 13th hearing that Applicant has been fully authorized by the current record owner of the Subject Property (Epoch Fort Collins DST LLC) to file the application and seek approval of the Combined PFP/FDP.

SUMMARY OF DECISION: Approved.

HEARING: The Hearing Officer opened the remote hearing on the Application at approximately 5:30 p.m. on November 13, 2024.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Staff Report (21 pages) (attached to this Decision as ATTACHMENT A).
2. Vicinity Map (1 page).
3. Project Narrative (4 pages).
4. Site Plan and Landscape Plans (15 sheets).
5. Elevation Plans (15 sheets).
6. Alternative Compliance Request, submitted for LUC Section 5.12.1(C)(4) (2 pages).
7. Applicant’s Request for Modification of Standard – LUC Section 2.3.4 Building Standards, Building Height (6 pages).
8. Transportation Impact Study dated September 2024 (101 pages including appendices). The Transportation Impact Study’s (TIS) stated objectives include addressing the capacity and control requirements at and near the Subject Property, including competing capacity and operational level of service (LOS) analyses on key intersections, analyzing signal warrants, and conducting LOS evaluation of vehicle, pedestrian, bicycle and transit modes of transportation. The TIS concludes that all modes of travel (vehicle, pedestrian, bicycle and transit) will achieve acceptable levels of service, conditioned on the construction of the ramp over the Sherwood

Lateral Ditch². Specifically, once the Sherwood Lateral Ditch ramp is completed, acceptable pedestrian and bicycle LOS will be achieved. With respect to transit LOS, the TIS concludes that an acceptable LOS is achieved for transit based upon measures set forth in the City’s multi-modal transportation guidelines.

9. Utility Plans (25 sheets)
10. Ecological Characterization Study (ECS) memo dated July 17, 2024 (8 pages)
11. Affidavit of Publication dated November 4, 2024 confirming that the Notice of Hearing was published on November 4, 2024, in the *Fort Collins Coloradan* (1 page).
12. Copy of Written Notice of Virtual Public Hearing, dated October 29, 2024 (2 pages). 218 letters sent/addresses mailed per Section 4.A.5. of the Staff Report.
13. The PowerPoint presentation prepared by City staff for the November 13, 2024, hearing (23 slides).
14. The PowerPoint presentation prepared by the Applicant for the November 13, 2024, hearing (24 slides).
15. Rules of Conduct for Administrative Hearings.
16. Administrative (Type 1) Hearing: Order of Proceedings.
17. The Fort Collins City Plan (2019), Midtown Plan (2013), the LUC, and the formally promulgated policies of the City are all considered part of the record considered by the Hearing Officer.

TESTIMONY: The following persons testified or participated during the virtual hearing:

From the City: Arlo Schumann, City Planner
Steve Gilchrist, City Traffic Operations

From the Applicant: Klara Rossouw, Ripley Design
Hamilton Reynolds, Applicant (The Mark at Fort Collins, LLC /
Landmark Properties, Inc.)
Madison Whitaker, Applicant
Ellen Rodgers, Applicant
Stephanie Thomas, PE, EPS Group
Nathan Starck, RVi Planning & Landscape Architecture

² As set forth in the TIS, the Sherwood Lateral Ditch ramp is estimated to cost approximately \$1,000,000 to construct. As set forth in the TIS and as confirmed during the November 13th virtual public hearing, the City and the Applicant have agreed that twenty-five percent (25%) of the construction costs will be paid with the development of the Combined PDP/FDP (“Developer Ramp Contribution”). Details regarding the amount and timing of payment of the Developer Ramp Contribution will be set forth in a development agreement or other written agreement by and between the City and Applicant.

Josh Daly, Mode 3 Architecture
Matt Delich, Delich Associates

From the Public: Danue Laborde, 2200 Purdue Rd, Fort Collins, CO 80525
Guy Laborde, 2200 Purdue Rd, Fort Collins, CO 80525

The public comment portion of the hearing was opened at approximately 6:38 p.m. and closed at approximately 6:49 p.m. The virtual public hearing was closed at approximately 7:14 p.m.

FINDINGS & CONCLUSIONS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly mailed and published. Evidence presented to the Hearing Officer also established that the Property was properly posted with a sign indicating that a development proposal for the Property was under review.
2. As required by City Council Ordinance 079, Series 2020 (the “**City Ordinance**”), the Hearing Officer, in consultation with City staff, determined that it was desirable to conduct the hearing by remote technology so as to provide reasonably available participation by parties-in-interest and by the public, consistent with the requirements of the City Ordinance, because meeting in person would not be prudent for some or all persons.
3. The Staff Findings set forth in the Staff Report are incorporated herein as findings of the Hearing Officer.
4. The Project furthers the purposes of the LUC described in LUC Section 1.2.2 by, among other things, being consistent with the City Plan and the Midtown Plan (*see* Finding No. 5, below).
5. The Project is consistent with the Fort Collins City Plan (2019) and the Midtown Plan (2013) by, among other things, supporting the use of creative strategies to revitalize underutilized properties, promoting infill development on vacant and underutilized lots, and overall alignment with the vision, objectives and design concepts set forth in the Midtown Plan.
6. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - A. The Combined PDP/FDP complies with the applicable procedural and administrative requirements of Article 6 of the LUC.
 - B. The Modification of Standard to LUC Section 2.3.4 for Building Standards, Building Height, to permit the construction of a 6-story building where the CG General Commercial District limits all buildings (absent an affordable housing component) to a 4-story maximum: (i) will not be detrimental to the public good, and (ii) by reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to the Subject Property, the strict application of 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. In making the conclusion that the granting of the Modification of Standard will not be detrimental to the public good, the Hearing Officer finds that: (a) the Subject Property is at a low point, and that the proposed 6-story building will not be noticeably taller than other buildings in the immediate vicinity, and (b) the Subject Property is currently an abandoned construction site which may continue to pose hazards to the general public. Redevelopment of the Subject Property, consistent with the Prior Approval and the Combined PDP/FDP as submitted, will promote the public good and permit the implementation of certain visions and goals set forth in the City Plan and Midtown Plan. In concluding that the Modification of Standard should be granted in this case, the Hearing Officer also finds that the current extraordinary and exceptional situation pertaining to the Subject Property, including the unfinished building foundation and the expiration of the vested property rights associated with the Prior Approval, were not caused by any specific act or omission of the Applicant. Based on the foregoing, the Hearing Officer concludes that the proposed Modification of Standard will not be detrimental to the public good and satisfies the criteria set forth in LUC Section 6.8.2(H)(3).

- C. Except for LUC Section 5.12.1(C)(4), the Combined PDP/FDP complies with the development standards applicable to the development proposal (Article 3 and Article 5 of the LUC). With respect to the Alternative Compliance request (*see* Item No. 6 in the Evidence list above), the Hearing Officer has considered the extent to which the proposed design meets applicable functional safety and security needs, protects the natural habitat buffer zone from light intrusion, and demonstrates innovative design and use of motion sensor fixtures. Following review of the Applicant's Alternative Compliance Request and based upon written statements and other evidence accepted at the November 13th hearing, the Hearing Officer finds that the proposed alternative plan accomplishes the purposes of LUC Section 5.12.1(C)(4) equally well or better than would a plan which strictly complies with the relevant Code section. Accordingly, the Alternative Compliance request is approved pursuant to LUC Section 5.12.1(L).
- D. The Combined PDP/FDP complies with all other applicable procedural and administrative requirements set forth in Articles 1 through 7 of the LUC.

DECISION

Based on the findings set forth above, the Hearing Officer hereby approves The Mark Combined PDP/FDP (FDP #240013), the Modification of Standard to LUC Section 2.3.4, and the Alternative Compliance request for LUC Section 5.12.1(C)(4).

DATED this 18th day of November, 2024.



Marcus McAskin
Hearing Officer

ATTACHMENT A

Staff Report
The Mark
FDP 240013

Administrative Hearing: November 13, 2024

FDP240013, The Mark

Summary of Request

This is a request for a combination Project Development Plan / Final Development Plan to restart a student-oriented multi-family project at 255 Johnson Drive (parcel # 9723119001). The development proposes a 6-story multi-family building with 193 units. There are 400 bike parking spaces and 318 vehicular parking spaces provided in a structured parking garage on-site.

Zoning Map



Next Steps

If approved by the Hearing Officer, the applicant will be eligible to record the final documents. Upon approval and recording of the FDP, the project is eligible for building and other construction permits

Site Location

The site is approximately 0.07 mi west of S College Ave and 0.38 mi south of W Prospect Rd..

Parcel #: 9723119001

Zoning

General Commercial (CG)

Property Owner

Epoch Fort Collins DST LLC
1001 Morehead Square Dr. Suite 320
Charlotte, NC 28203-4173

Applicant/Representative

Klara Rossow
Ripley Design
419 Canyon Ave Suite 200
Fort Collins, CO 80521

Staff

Arlo Schumann, City Planner

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Staff Recommendation

Staff recommends Approval of the plan with one Modification of Standards.

1. Project Introduction

A. PROJECT SUMMARY

This Final Development Plan (FDP) proposes to build a 193 unit apartment building by completing the construction began under a previous development plan.

- The site is 2.803 acres in size.
 - Former mini storage facility.
 - Partially constructed Johnson Drive Apartments FDP190021.
- Redevelopment of the site will maintain current building placement and circulation patterns.
- The plan includes one modification request:
 - 2.3.4 Building Standards, Building Height

Site planning and development documents, and relevant exhibits are attached to this report, and an index to these can be found on page 22.

B. DEVELOPMENT STATUS/BACKGROUND

1. Subject Property

The site was annexed in 1957 as a part of the South College Avenue Consolidated Annexation. The previous development plat (Johnson Drive Apartments) was approved in 2019 with initial construction beginning in 2020. The Johnson Drive Apartments proposal included the redevelopment of four properties. These included the Johnson Drive Self-Storage business and three duplexes facing Spring Court

Conversations between staff and the applicant were focused on the Midtown Plan (2013) vision, which calls for multi-modal connectivity throughout midtown, and the existing site conditions of the partially built Johnson Drive Apartments project.

Subsections D and E below further describe the project’s consistency with City Plan and the Midtown Plan for this area in terms of the project’s specific alignment with and impact on progress towards the guiding vision and policies presented in such plans.

2. Surrounding Zoning and Land Use

	Zoning	Land Uses
North	General Commercial (CG)	Creekside Park.
South	General Commercial (CG)	Sherwood Lateral, Mini Storage Facility.
East	General Commercial (CG)	Auto Repair Shop, Duplex, Bank.
West	Employment (E)	Beyond the MAX line, Colorado State University Property (Undeveloped)

C. OVERVIEW OF MAIN CONSIDERATIONS

The plan has gone through extensive exploration of issues including the following:

- Review of the previously approved development plan design plans and elevations against current Land Use Code standards.
- Updated Traffic Study.
- Study of connectivity options across the Sherwood Lateral to the south to connect to the commercial shopping center to the south.
- Right of Way design including re-review of previous variances.
- Restoration of adjacent Parks area .

D. CITY PLAN (2019)

The City's comprehensive plan (2019 City Plan) was developed with the participation of thousands of community members and "articulates the community's vision and core values, and establishes the overall policy foundation" to provide "high-level policy direction" towards achieving a shared community vision of growth and transportation throughout the City. A basic aspect of the vision pertinent to this project proposal is the unique character and sense of place in Fort Collins.

The Land Use Code's purpose statement, per Section 1.2.2(A) is to ensure that all growth and development that occurs is consistent with City Plan, and its adopted components which for this project includes the Midtown Plan addressed in Subsection E.

- Policy LIV 2.1– REVITALIZATION OF UNDERUTILIZED PROPERTIES (P. 40) *Support the use of creative strategies to revitalize vacant, blighted or otherwise underutilized structures and buildings, including, but not limited to:*
 - *Adaptive reuse of existing buildings (especially those that have historic significance);*
 - *Infill of existing surface parking lots – particularly in areas that are currently, or will be, served by bus rapid transit (BRT) and/or high frequency transit in the future;*
 - *Public/private partnerships;*
 - *Infrastructure improvements/upgrades;*
 - *Streetscape enhancements; and*
 - *Voluntary consolidation and assemblage of properties to coordinate the redevelopment of blocks or segments of corridors where individual property configurations would otherwise limit redevelopment potential*
- Policy LIV 5.6 (p. 42) *EXISTING NEIGHBORHOODS: Expand housing options in existing neighborhoods (where permitted by underlying zoning) by encouraging:*
 - *Infill development on vacant and underutilized lots;*
 - *Internal ADUs such as basement or upstairs apartments;*
 - *Detached ADUs on lots of sufficient size; and*
 - *Duplexes, townhomes or other alternatives to detached single-family homes that are compatible with the scale and mass of adjacent properties.*

E. MIDTOWN PLAN (2013)

The parcel is located within the boundary of the Midtown Plan, adopted in October of 2013, providing an extended and more comprehensive vision and policy guidance for this Midtown/College Ave area of the City. The Midtown Plan is considered a "sub-area plan," which was adopted by the City as a component of City Plan. The plan provides a key vision, additional concepts, and designs elements to better convey the desired Midtown area with a cohesive mix of higher intensity uses and activities occurring in this transportation-centric corridor.

Two key visions for Midtown are as follows:

P 1-2, The vision for Midtown is that it will be a vital district, with a mix of uses and activities that serve a broad spectrum of the community. It will have a distinct identity that distinguishes it from other parts of the city and will serve as a destination in its own right.

P 1-2, The MAX line will become a central spine in Midtown, just as College Avenue is. New development will be of high quality, sustainable urban form that supports a pedestrian environment and fronts onto MAX through four-sided block development.

In fulfillment of these vision statements, The Mark contributes to the mix of uses by providing 193 residential units within an area described by the Plan as an area of auto-oriented commercial businesses. The proposed apartment building is adjacent the MAX, and Spring Creek Trail which supports a sustainable urban form and promotes a strong pedestrian and transit-oriented environment.

Objectives for Achieving the Vision, A Sustainable District and A Vibrant Mix of Uses:

- *A Sustainable District: Overall, Midtown should develop as a sustainable district culturally, economically and environmentally. This means providing a framework for livability that supports living, working, and recreation in a way that contributes to a strong economy and that makes the best use of natural resources.*
- *Currently, the surrounding land use densities are below nationally accepted thresholds for adequate support of high frequency transit. Within walking distance of MAX stations, there is an overall density of about 3.00 dwelling units per acre and there are approximately 8 employees per acre. Studies conducted by organizations such as the Institute of Transportation Engineers (ITE) and Transit Cooperative Research Program (TCRP) estimate that 15 dwelling units per acre, or 25 employees per acre, or a combination of dwelling units and employees is the minimum density needed to support high frequency transit such as MAX.*

The Plan is divided into three Distinctive Character Areas, with The Mark site located in the Upper Midtown Area, which is envisioned as having a gardens theme:

P 1-7, This area covers the northernmost portion of Midtown. A garden theme for this sub-district was derived from the close proximity to Colorado State University's demonstration gardens to the northeast of Midtown. Additionally, the Spring Creek Trail bisects the area, connecting nearby Spring Park, Creekside Park, and the Gardens on Spring Creek. Creekside Park should be the anchoring public feature and enhanced to serve this purpose.

New plazas and gardens should be designed to reflect a "floral" or "natural" theme that reinforces the connection to the university and its agrarian heritage. Developments that incorporate community gardens also should be encouraged.

In response to the Upper Midtown Gardens theme, The Mark provides the following:

- Varied palette of landscaping that provides year-round visual interest.
- Building materials that provide diverse textures and neutral earth-tone colors consistent with code requirements and plan guidance.

The Midtown Plan also envisions a Grand Promenade:

P 1-14, Finally, a key circulation concept is to develop a "grand promenade" along the western edge of the Midtown area, abutting the MAX line. This would be constructed to accommodate bikes and pedestrians,

with the anticipation that in the future many properties would orient to the transit line. Some courtyards and gardens would open onto the promenade, often in association with multi-family apartments and townhomes. South of Horsetooth Station, the promenade concept would transition over to Mason Street, using the existing sidewalks, but with consideration of enhancing the streetscape to make it more inviting for pedestrians.

Though the project does not fully realize the vision of the Grand Promenade between the building and the MAX line, staff has worked with the applicant and the Urban Renewal Authority to study a future connection from the south end of Spring Ct across the Sherwood Lateral connecting the commercial and shopping area to the south.

In summary, regarding the vision, objectives and design concepts as presented in the Midtown Plan, The Mark demonstrates alignment that is commensurate with the existing conditions. The proposed project will help support the MAX that provides high frequency bus rapid transit along the City's spine.

2. Public Outreach

Neighborhood Meeting

Pursuant to *LUC Section 6.3.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting is not required for Administrative Hearing (Type 1) projects and no meeting was held.

3. Land Use Code Article 1 – General

A. PURPOSE (§ 1.2.2)

LUC § 1.2.2 lists a wide range of over-arching, high-level objectives (i.e., “reducing energy consumption and demand”) that are further developed and implemented in Articles 1 through 7 of the Land Use Code to ensure that proposed development meets the overall purpose to “improve and protect the public health, safety, and welfare” of the community.

As they may apply to the subject property and proposed project, the following sections of this report describe design elements of the proposed development plan that provide evidence of and the degree to which compliance would be achieved relative to the specific and enumerated standards within the Land Use Code.

The requirements, standards, and definitions contained in Articles 1 through 7 of the Land Use Code have been crafted to fulfill and implement the stated purpose of this Code in § 1.2.2. By meeting the applicable specific requirements, standards, and definitions set forth in Articles 1 through 7, this project demonstrates consistency with Land Use Code § 1.2.2 (B) through (O) to the extent (B) through (O) are applicable to this project. The consistency of this project with City Plan and its adopted elements as required in § 1.2.2(A) is discussed in Subsections D and E of the Project Introduction Section above.

4. Land Use Code Article 6 – Administration and Procedures

A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Preliminary Design Review – PDR240006

A preliminary design review meeting was held on July 24, 2024.

3. First Submittal

The FDP was submitted on July 31, 2024.

4. Neighborhood Meeting

Pursuant to *LUC Section 6.3.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting is not required for Administrative Hearing (Type 1) projects and no meeting was held.

5. Notice (Posted, Written and Published)

Posted Notice: August 14, 2024, Sign #790.

Written Hearing Notice: October 29, 2024, 218 addresses mailed.

Published Hearing Notice: November 4, 2024.

B. MODIFICATION OF STANDARDS (LUC DIVISION 6.8)

The applicant requests one modification of standards, as summarized here and described in further detail below:

1. 2.3.4 Building Standards, Building Height

The Land Use Code is adopted with the recognition that there will be instances where a project would support the implementation of City Plan or other City policy, but due to unique and unforeseen circumstances would not meet a specific standard of the Land Use Code as stated. Accordingly, code standards include provisions for modifications. The modification process and criteria in the Code provide for evaluation of these instances on a case-by-case basis, as follows:

LUC 6.8.2(H) Step 8 (Standards):

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).

1. Modification to LUC 2.3.4 Building Standards, Building Height

Standard

BUILDING STANDARDS	
BUILDING HEIGHT	
All Buildings	4 stories max.
Affordable Housing Development Bonus	6 stories max.

Overview

Because the plan proposes a total of 6 stories, the plan requires a modification of standard to 2.3.4 Building Standards, Building Height

Summary of Applicant Justification

The applicant's modification request is attached. It describes the previously approved plan which included 6 stories and that the current proposal remains substantially the same as the previous vetted and approved plan.

The request is based on a lack of detriment to the public good, and on subparagraphs (1, 2, and 3) above -- the "equal-to or better-than", "community need" and "hardship" criteria. Key points made in the request include:

- The applicants state that the plan catalyzes development in an area that has multi-modal connectivity to other parts of the City.
- A 6-story building allows more units, therefore more people will be located within the transit corridor activating the streetscape and supporting the commercial and retail spaces along College Ave and increasing the units increases the amount of people who are able to walk to shops and retail in the area.
- Contributes to a mix of uses as described in the Midtown Plan and the Transit-Oriented Overlay (TOD) District.
- City Plan identifies a need for student housing and that the plan would provide housing for 397 individuals with close proximity to public transportation.
- There have already been previously approved plans for a 6-story building. The vesting of those plans expired and the building was never completed leaving a partially build foundation.

Staff Findings

Staff finds that the granting of the modification would not be detrimental to the public good and that the request more particularly satisfies LUC 6.8.2(H), as follows:

Detriment to the public good. Staff's finding is based on consideration of the fact that the previous approved plan was approved for 6 stories. Staff finds that the plan supports the goals of the sub-area plan and TOD, with no detriment to the public good in comparison to a revising the development plans to meet the current zone district height limits.

Regarding “equal-to or better-than.” Staff finds that the building height works as well or better than a four story building, for purposes of the standard, because:

- Supports the intents and goals of the TOD and Midtown Sub Area Plan.
- Has precedent for acceptability in the CG zone district.

Regarding “community need.” Staff finds that the building height increase provides more residential units near public transportation for students identified in policy LIV 6.3 of City Plan because:

- The additional height would provide housing for 204 more students than a 4 story building.
- Provides housing near transit and the trail system.

Regarding “hardship.” Staff finds that the existing condition of the site is a hardship, because:

- A significant portion of sitework and building foundation construction was performed and then abandoned by the previous development team, which resulted in the vesting of the project to expire.
- Existing site conditions make redesign of the building infeasible.

C. PERMITTED USES AND LEVEL OF DEVELOPMENT REVIEW

3. Permitted Uses and Level of Development Review are determined in the Table of Primary Uses Division 4.2

Per the table Multi-Unit Dwellings in the CG zone district are a Administrative review (“Type 1 review”).

5. Land Use Code Article 5 – General Development

A. RESIDENTIAL DEVELOPMENT (DIVISION 5.3)

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
5.3.2 – MULTI-BUILDING AND MIX OF HOUSING	The standards of this section require a mix of housing types and designs: <ul style="list-style-type: none"> • The standards do not apply to developments under 15 acres with 1 building. 	NA
5.3.2(D) – Relationship of Dwellings to Streets and Parking	Development projects containing residential buildings shall place a high priority on building entryways and their relationship to the street. Pedestrian usability shall be prioritized over vehicular usability. Buildings shall include human-scaled elements, architectural articulation, and in projects containing more than one (1) building, design variation. <ul style="list-style-type: none"> • The plan provides structured parking with the vehicular entrance on the south end of the site. • The ground floor at the NE corner and along the streets has pedestrian oriented entrances and ground floor amenity spaces 	Complies

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
5.3.2(E) – Block Requirements	<p>All development shall comply with the applicable standards set forth below, unless the decision maker determines that compliance with a specific element of the standard is infeasible due to unusual topographic features, existing development, safety factors or a natural area or feature:</p> <ul style="list-style-type: none"> • Street and block pattern have already been established. • Site is less than 7 acres. • Meets minimum building frontage 	Complies
5.3.2(F) – Residential Building Setbacks, Lot Width, and Size	<p>This standard establishes general setbacks for residential buildings unless specified by the zone district or building type.</p> <ul style="list-style-type: none"> • The project meets the required setbacks for the developments along nonarterial streets and typical side and rear yard setbacks 	Complies

B. DEVELOPMENT INFRASTRUCTURE (DIVISION 5.4)

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
5.4.4(C) – Public Sites, Reservations and Dedications	<p>This standard requires the applicant to dedicate rights-of-way for public streets, drainage easements and utility easements as needed to serve the area being developed. In cases where any part of an existing street is abutting or within the property being developed, the applicant must dedicate such additional rights-of-way to meet the minimum width required by Larimer County Urban Area Street Standards and the City of Fort Collins Land Use Code. The FDP complies with this standard by:</p> <ul style="list-style-type: none"> • Plat and dedications were part of the previous development plan. There are no new proposed dedications or easements. 	Complies
5.4.10(C) – TRANSPORTATION LEVEL OF SERVICE REQUIREMENTS	<p>All development plans shall adequately provide vehicular, pedestrian, mobility devices, and bicycle facilities necessary to maintain the adopted transportation level of service standards.</p> <ul style="list-style-type: none"> • A Traffic Impact Study was completed and reviewed for the project. Vehicular levels of service are met, and no roadway or intersection improvements are needed. City Traffic Operations will monitor whether any signal modifications are needed at College / Johnson Drive. • Bicycle and Pedestrian levels of service were also evaluated. There is an interest in providing a bicycle and pedestrian connection from the intersection of Spring Court and Arthur Drive directly to the south to provide a more convenient route to both the MAX station and the commercial shopping area; however, the existing steep incline and grade change surrounding the Sherwood Lateral and off-site private property to the south of the Sherwood Lateral currently prevent this applicant from constructing the connection. The City will continue to pursue construction of a bicycle/pedestrian connection at this location when opportunities arise. 	Complies

C. ENVIROMENTAL SITE SUITABILITY (DIVISION 5.6)

The purpose of this Section is to ensure that when property is developed consistent with its zoning designation, the way in which the proposed physical elements of the development plan are designed and arranged on the site will protect the natural habitats and features both on the site and in the vicinity of the site.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings												
5.6.1 – Natural Habitats and Features	<p>An ecological characterization study (ECS) was conducted in August 2017, with an emphasis on the Sherwood Lateral ditch located to the south of the project. Existing vegetation along the ditch is dominated by non-native and weedy species, as well as a narrow strip of wetlands along the ditch banks. Urban-adapted songbirds and small mammal species use the ditch as a movement corridor. A number of significant native and non-native trees are present on the site and warrant protection or mitigation. The ECS confirmed that a buffer zone narrower than the 50-foot standard would adequately protect the ecological functions of the ditch as long as: (1) the buffer is enhanced with plantings of native trees, shrubs and herbaceous species, (2) the ditch and wetlands are protected from water quality impacts, and (3) the natural features are protected from nighttime lighting.</p>	Complies												
5.6.1(E) – Natural Habitats and Features	<p>An average buffer of 42 feet from the Sherwood Lateral top of bank is provided, reduced from the standard buffer of 50 feet. However, additional habitat enhancements in the proposed detention area would result in more protected habitat area than a 50-foot buffer would require.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 10px 0;"> <thead> <tr> <th></th> <th style="text-align: center;">Standard Buffer</th> <th style="text-align: center;">Proposed Buffer + Enhanced Detention</th> <th style="text-align: center;">Difference</th> </tr> </thead> <tbody> <tr> <td>Buffer Distance</td> <td style="text-align: center;">50 ft</td> <td style="text-align: center;">42 ft (avg)</td> <td style="text-align: center;">- 8 ft</td> </tr> <tr> <td>Total Area</td> <td style="text-align: center;">19,933 sf</td> <td style="text-align: center;">21,542</td> <td style="text-align: center;">+ 1,609 sf</td> </tr> </tbody> </table> <p>Additionally, the project has taken the following measures to satisfy the nine buffer zone performance standards:</p> <ol style="list-style-type: none"> a. No disturbance of the wetlands or banks of the ditch. b. Additional planting of trees, shrubs, and native seed mixes within the buffer zone to enhance habitat and provide a visual buffer between the development and the ditch. c. A pedestrian path and gathering area to direct pedestrian use away from the more sensitive areas of the buffer zone. d. Preservation of six existing trees and planting of mitigation trees within the buffer zone. e. Minimized lighting and the use of motion sensor lighting adjacent to the buffer, as required for pedestrian safety and security (See alternative compliance discussion in Division 5.12). 		Standard Buffer	Proposed Buffer + Enhanced Detention	Difference	Buffer Distance	50 ft	42 ft (avg)	- 8 ft	Total Area	19,933 sf	21,542	+ 1,609 sf	Complies
	Standard Buffer	Proposed Buffer + Enhanced Detention	Difference											
Buffer Distance	50 ft	42 ft (avg)	- 8 ft											
Total Area	19,933 sf	21,542	+ 1,609 sf											

D. HISTORIC (DIVISION 5.8)

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings

5.8.1 – HISTORIC, LANDMARK PRESERVATION AND CULTURAL RESOURCES	<p>This standard is intended to ensure that development is compatible with and protects historic resources and that the design of new structures is compatible with and protects the integrity of historic resources located within the area of adjacency.</p> <ul style="list-style-type: none"> No Preservation Concerns design remains compatible as determined during previous applicant's submission. LUC 5.8.1 requirements met. 	N/A
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E. BUILDING PLACEMENT AND SITE DESIGN (DIVISION 5.9)

Applicable Standard	Code	Summary of Code Requirement and Analysis	Staff Findings
5.9.1 ACCESS, CIRCULATION AND PARKING		<p>In conformance with the Purpose, General Standard, and Development Standards described in this section, the parking and circulation system provided with the project is adequately designed with regard to safety, efficiency and convenience for vehicles, bicycles, pedestrians and transit, both within the development and to and from surrounding areas.</p> <p>Minimum required off-street parking for the project is provided in accordance with the Land Use Code. A total of 318 parking spaces are provided in accordance with the TOD standards which require a minimum of 298 parking spaces.</p> <p>A summary of these parking calculations is provided below for the purpose of providing information on the quantity of parking that is required, both with and without TOD demand mitigation, in order to compare these allowances to the amount of parking proposed.</p> <ul style="list-style-type: none"> Residential: 397 bedrooms x 0.75 spaces per bedroom = 298 parking spaces required <p>Bicycle Parking Provided:</p> <ul style="list-style-type: none"> Bicycle parking is provided in accordance with the minimum requirements. One space is required per bedroom, for a total of 397 bicycle spaces. A total of 400 bicycle parking spaces are provided. (159 FIXED, 241 COVERED) <ul style="list-style-type: none"> No bicycle parking is proposed within the dwelling units to satisfy the minimum land use code requirements for this project 	Complies

F. LANDSCAPING AND TREE PROTECTION (DIVISION 5.10)

Applicable Standard	Code	Summary of Code Requirement and Analysis	Staff Findings

<p>5.10.1 Landscaping and Tree Protection</p>	<p>The applicant has consulted with forestry staff to evaluate the existing trees on the site. Mitigation trees are provided in compliance with the requirements and are accommodated on-site with the proposed landscape plan.</p> <p>Section 5.10.1(D)(1)(c) Full tree stocking. Canopy shade trees, evergreen trees and ornamental trees are provided around the perimeter of the proposed residential buildings in accordance with the minimum spacing standards of this section.</p> <p>Section 5.10.1(D)(2) Street trees. Canopy shade trees are provided at approximately 40-foot intervals along the project's street frontages, in accordance with the standards of this section.</p> <p>Section 5.10.1(D)(3) Minimum Species Diversity. The project provides not more than 25% of any one tree species in compliance with this standard.</p> <p>Section 5.10.1(E)(2)(d) Foundation Plantings. The project complies with this section by providing building foundation wall landscape planting along all high-use and high-visibility areas at least 5 feet in width along at least 50% of such walls. In particular, foundation plantings have been augmented along the southern perimeter of the project where the slope of the site creates a greater amount of building wall exposure.</p>	<p>Complies</p>
<p>5.10.1(E)(3) – Water Conservation</p>	<p>Landscape plans are required to be designed in a way that employs water efficient techniques, such as using low water use plants, limiting high water-use turf to areas of high traffic, efficient irrigation design and use of mulch to conserve moisture. Landscape plans may not exceed an average of fifteen gallons per square foot of landscape.</p> <p>The landscape plan demonstrates only moderate (10 gallons/square feet/season) and low (3 gallons/square feet/season) water zones. Combined, all landscape areas within the site are calculated to average 4 gallons per square foot, in compliance with the Maximum allowance of 15 gallons/square foot.</p>	<p>Complies</p>

G. TRASH AND RECYCLING ENCLOSURES (DIVISION 5.11)

Applicable Code Standard	Code	Summary of Code Requirement and Analysis	Staff Findings
5.11.1 TRASH AND RECYCLING ENCLOSURES		<p>The purpose of this standard is to ensure the provision of areas, compatible with surrounding land uses, for the collection, separation, storage, loading and pickup of trash, waste cooking oil, compostable and recyclable materials.</p> <ul style="list-style-type: none"> The project provides sufficient trash and recycling space in accordance with the standards of this section. The applicant revised the plan to provide adequate trash and recycling bins based on guidance from a local trash hauler and has provided notes regarding the cycling of bins below the trash chutes. 	Complies

H. EXTERIOR SITE LIGHTING (DIVISION 5.12)

Applicable Code Standard	Code	Summary of Code Requirement and Analysis	Staff Findings
5.12.1 EXTERIOR SITE LIGHTING		<p>The purpose of this Section is to ensure adequate exterior lighting for the safety, security, enjoyment and function of the proposed land use; conserve energy and resources; reduce light trespass, glare, artificial night glow, and obtrusive light; protect the local natural ecosystem from damaging effects of artificial lighting; and encourage quality lighting design and fixtures.</p> <ul style="list-style-type: none"> The lighting standards require compliance with the applicable Lighting Context Area which determines the limitations for exterior artificial lighting. The Lighting Context Area for the CG zone district is LC2. The lighting plan demonstrates compliance with minimum and maximum lighting requirements for the LC2 context area and will ensure the site is in compliance with the lighting standards. The lighting plan includes alternative compliance for fixtures in the natural habitat buffer. This plan has been reviewed by staff and has been found compliant with the intent of the code. 	Complies

I. BUILDING STANDARDS (DIVISION 5.15)

The purpose of this Section is to ensure that the physical and operational characteristics of proposed buildings and uses are compatible when considered within the context of the surrounding area.

Applicable Code Standard	Code	Summary of Code Requirement and Analysis	Staff Findings

<p>5.15.1(C) – Building Size, Height, Bulk, Mass, Scale</p>	<p>Buildings shall either be similar in size and height, or, if larger, be articulated and subdivided into massing that is proportional to the mass and scale of other structures.</p> <p>In compliance with the general standard, the building includes human-scaled elements, architectural articulation, places priority on building entries and their relationship to Johnson Drive and Spring Court. Façade step-backs and open courtyard spaces are utilized along all facades to help reduce the apparent bulk of the building and provide a recognizable, contextually relatable building character. A significant portion of all building facades incorporate masonry, particularly along the south and east portions of the building where the building transitions to the public streets. Although the Land Use Code does not mandate conformance to a particular building style, the building’s proposed massing, materials and architectural elements provide and attractive appearance that contributes to the high level of architectural quality expected in the mid-town area</p>	<p>Complies</p>
<p>5.15.1(D) – Privacy Considerations</p>	<p>Elements of the development plan shall be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.</p> <p>There are no unusual or significant privacy concerns given the context of the site. The site is surrounded by public streets, the MAX Guideway retaining wall to the west and the Sherwood lateral to the south, all of which provide a suitable transition and separation that mitigate privacy concerns. The proposed building is set back from the north, east and south property lines to accommodate shade trees that further enhance privacy and soften views from adjacent properties.</p>	<p>Interrelated to 5.15.1(G) Complies</p>
<p>5.15.1(E) - Building Materials 5.15.1(F) - Building Color</p>	<p>Building materials shall either be similar to the materials already being used in the neighborhood or, if dissimilar materials are being proposed, other characteristics such as scale and proportions, form, architectural detailing, color and texture, shall be utilized to ensure that enough similarity exists for the building to be compatible, despite the differences in materials.</p> <p>Color shades shall be used to facilitate blending into the neighborhood and unifying the development. The color shades of building materials shall draw from the range of color shades that already exist on the block or in the adjacent neighborhood.</p>	<p>Complies</p>

<p>5.15.1(G)(1)(a) – Building Height Review.</p>	<p>The purpose of this Section is to establish a special process to review buildings or structures that exceed forty (40) feet in height. Its intent is to encourage creativity and diversity of architecture and site design within a context of harmonious neighborhood planning and coherent environmental design, to protect access to sunlight, to preserve desirable views and to define and reinforce downtown and designated activity centers. All buildings or structures in excess of forty (40) feet in height shall be subject to special review pursuant to this subsection (G).</p> <ul style="list-style-type: none"> • Shadowing: With buildings taller than 40 feet, further review is required based on the criteria described above. The criteria require that buildings or structures greater than forty (40) feet in height shall be designed so as not to have a substantial adverse impact on the distribution of natural and artificial light on adjacent public and private property. Adverse impacts include, but are not limited to, casting shadows on adjacent property sufficient to preclude the functional use of solar energy technology, creating glare such as reflecting sunlight or artificial lighting at night, contributing to the accumulation of snow and ice during the winter on adjacent property and shading of windows or gardens for more than three (3) months of the year. Techniques to reduce the shadow impacts of a building may include, but are not limited to, repositioning of a structure on the lot, increasing the setbacks, reducing building mass or redesigning a building shape. <ul style="list-style-type: none"> ○ Shadow study exhibits are provided and are attached with this staff report. Shadowing impacts are minimal and are cast onto the Johnson Drive right-of-way as well as portions of Creekside Park during portions of the day during winter months. No buildings are adjacent to the property within the shadow area. ○ The effects of shadowing are limited to the winter months and should not affect adjacent landscaping in Creekside Park. The additional shadowing of Johnson Drive could contribute to the accumulation of snow and ice along the street corridor. This may require that increased measures be taken to clear snow and ice along the street and sidewalk frontages during portions of the winter months. While this represents a change in current conditions for the Johnson Drive street frontage, this change in shadowing is not a unique street situation that would represent a substantial adverse impact. • Privacy: There are no unusual or significant privacy concerns given the context of the site. The site is surrounded by public streets, the MAX Guideway retaining wall to the west and the Sherwood lateral to the south, all of which provide a suitable transition and separation that mitigate privacy concerns. The proposed building is set back from the north, east and south property lines to accommodate shade trees that further enhance privacy and soften views from adjacent properties. • Neighborhood Scale: • The project provides appropriate design elements to address neighborhood scale within the surrounding context. This is achieved through a combination of design elements: 	<p>Complies</p> <p>Relates to Modification Requested for zone district building height.</p>
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	<ul style="list-style-type: none"> ○ Building step-backs, balconies and courtyards are provided at the 2nd building level around the entire perimeter of the building. The courtyard spaces provide a significant break in the building mass and are placed along each façade orientation to provide substantial massing breaks that increase the visual quality of the massing design when viewed from all directions towards the building; ○ In addition to the massing design, a base course of block masonry and two colors of brick are incorporated into all prominent facades, including views from the MAX corridor, further contributing to the quality of the building with no façade face treated as an inferior view. The use of brick, masonry block and textured metals provide a comfortable material scale and contribute to an appropriate overall scale in relation to the site context; ○ Views to the foothills and Horsetooth Rock from Creekside Park are not obscured by the proposed building; ○ The incorporation of transition space along the streets, with building setbacks along Johnson Drive and Spring Court that accommodate new detached sidewalks, street trees and foundation plantings in accordance with the standards. The extensive use of masonry, storefront windows and street-facing entrance canopies at the street level contribute to the attractive, appropriately scaled street environment. 	
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6. Land Use Code Article 3 – Building Types

A. APARTMENT BUILDING (SECTION 3.1.2)

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
Building Height	Maximum Building Height 3-12 Stories: <ul style="list-style-type: none"> • Height is determined by the zone district standards for building height. 	NA
Contextual Height Setback	Upper Story Setback applies to properties abutting a zone district with a lower maximum building height.	NA

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
Roof Design	<p>Roof lines may be either sloped, flat or curved, but must include at least two (2) of the following:</p> <ul style="list-style-type: none"> ▪ The primary roof line shall be articulated through a variation or terracing in height, detailing and/or change in massing. ▪ Secondary roofs shall transition over entrances, porches, garages, dormers, towers or other architectural projections. ▪ Offsets in roof planes shall be a minimum of two (2) feet in the vertical plane. ▪ Termination at the top of flat roof parapets shall be articulated by design details and/or changes in materials and color. ▪ Rooftop equipment shall be hidden from view by incorporating equipment screens of compatible design and materials. <ul style="list-style-type: none"> • Primary roof varies • Offsets are a minimum of 2 feet • Parapets are articulated • Rooftop equipment is screened 	Complies
Building Façade Articulation	<p>This standard is required when façades are 40 feet long or more.</p> <ul style="list-style-type: none"> • Façade articulation is accomplished by: Covered doorways, balconies, covered box or bay windows, and/or other similar features, recessing and projection of design elements, changes in materials and color, 	Complies
Massing	<p>The intent of the standard is to provide compatibility with the surrounding neighborhood and provide pedestrian scale to larger buildings.</p> <ul style="list-style-type: none"> ▪ Massing, wall plane, and roof design proportions shall be similar to a detached house, so that larger buildings can be integrated into surrounding lower scale neighborhoods. <ul style="list-style-type: none"> ○ Does not apply as lower scale neighborhoods are not adjacent. ▪ Projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features <ul style="list-style-type: none"> ○ These features are integrated in the building design. ▪ Dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two unit dwellings shall not have repetitive, monotonous undifferentiated wall planes. <ul style="list-style-type: none"> ○ Façade walls are divided as part of the building design. ▪ Horizontal and/or vertical elements that break up blank walls of forty (40) feet or longer. <ul style="list-style-type: none"> ○ The building design includes both vertical and horizontal elements. 	Complies
PRIMARY ENTRANCES	<p>Primary entrances shall include architectural features and shall be located on the street facing façade.</p> <ul style="list-style-type: none"> • The building entrances face the street and include landings, landscaping and canopies. 	Complies
Vehicular Access & Parking	<p>Off -Street Parking shall not be closer to the public street than the building.</p> <ul style="list-style-type: none"> • The parking is structured inside the building. 	Complies

7. Land Use Code Article 2 – Zone Districts

A. GENREAL COMMERCIAL DISTRICT -CG (SECTION 2.3.4)

The General Commercial District is intended to be a setting for development, redevelopment and infill of a wide range of community and regional retail uses, offices and personal and business services. Secondly, it can accommodate a wide range of other uses including creative forms of housing.

While some General Commercial District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the City’s intent that the General Commercial District emphasize safe and convenient personal mobility in many forms, with planning and design that accommodates pedestrians.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
Building Types	The following residential building types are permitted in the CG District.: <ul style="list-style-type: none"> Mixed-Use, Apartment, Row House and Duplex. 	Complies
Building Height	All buildings are limited to 4 stories unless it is a Affordable Housing project. <ul style="list-style-type: none"> The applicant is requesting a modification of standards to allow for 6 stories to match 	Modification requested
Outdoor Space	Pedestrian-oriented outdoor spaces shall be placed next to activity areas that generate the users (such as street corners, shops, stores, offices, day care and dwellings) <ul style="list-style-type: none"> Building entrances, leasing offices, and amenity spaces are located facing the street on the first level. 	Complies
Landscape & Open Space	In multiple-building developments, outdoor spaces and landscaped areas shall be integral to an open space system in conjunction with streets and connections, and not merely residual areas left over after buildings and parking lots are sited <ul style="list-style-type: none"> This is a single building development so this standard does not apply. 	NA

B. TRANSIT-ORIENTED DEVELOPMENT STANDARDS (SECTION 2.6.1)

The purpose of this Section is to modify the underlying zone districts south of Prospect Road to encourage land uses, densities and design that enhance and support transit stations along the Mason Corridor. These provisions allow for a mix of goods and services within convenient walking distance of transit stations; encourage the creation of stable and attractive residential and commercial environments within the TOD Overlay Zone south of Prospect Road; and provide for a desirable transition to the surrounding existing neighborhoods. Accordingly, in the event of a conflict between the provisions contained in this Division and the provisions contained in the specific zone district in Article 2, this Section shall control.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
2.6.1(C)1. - Building Orientation	<p>This standard requires that commercial entrances face streets, connecting walkways, plazas, parks or similar outdoor spaces, but not parking lots. Buildings shall face all street frontages to the maximum extent feasible, with the highest priority given to east-west streets that lead from transit stations to destinations.</p> <ul style="list-style-type: none"> The project orients to the street. <p>This standard is interrelated to the building orientation requirements of 5.9.1(C).</p>	Modification Requested
2.6.1(C)2 – Central Feature or Gathering Place	<p>This standard requires at least one prominent or central location within each transit station area to include a convenient outdoor open space or plaza with amenities such as benches, monuments, kiosks or public art. This feature and its amenities shall be placed adjacent to a transit station, to the extent reasonably feasible.</p> <ul style="list-style-type: none"> This project is near to a transit station but in within a transit station area. 	NA
2.6.1(C)3 – Outdoor Spaces	<p>To the extent reasonably feasible, buildings and extensions of buildings shall be designed to form outdoor spaces such as courtyards, plazas, arcades, terraces, balconies and decks for residents' and workers' use and interaction, and to integrate the development with the adjacent physical context. To the extent reasonably feasible, a continuous walkway system linking such outdoor spaces shall be developed and shall include coordinated linkages between separate developments.</p> <ul style="list-style-type: none"> The project includes 4 distinct open courtyard areas on the third level as well as balconies for some of the units. 	Complies
2.6.1(D)1. – Streetscape	<p>This standard requires a development provide formal streetscape improvements that include sidewalks with street trees in tree grates, planters, or other appropriate treatment for the protection of pedestrians, seating, and pedestrian light fixtures. Specific design details shall be subject to approval by the City Engineer in accordance with the design criteria for streets.</p> <ul style="list-style-type: none"> The City engineer has reviewed the proposed streetscape improvements and has found them to be satisfactory. 	Complies
2.6.1(D)2. – On-street Parking	<p>On-street parking shall be defined by landscaped curb extensions or bulb-outs. Conventional or enhanced crosswalks shall be provided at all intersections.</p> <ul style="list-style-type: none"> The site plan shows on street parking along Spring Ct and Johnson Dr. The City engineer has granted variances for a modified corner ramp and modified street cross section. 	Complies
2.6.1(D)3. – Off-street Parking	<p>Off-street parking shall be located behind, above, within or below streetfacing buildings to the maximum extent feasible. No parking will be allowed between the street and the front or side of a building.</p> <ul style="list-style-type: none"> The parking is structured on the first two levels of the building interior to the building envelop. 	Complies
2.6.1(E)1 – Articulation	<p>Exterior building walls shall be subdivided and proportioned to human scale, using projections, overhangs, and recesses to add architectural interest and variety and avoid the effect of a single, massive wall with no relation to human size.</p> <p>The building breaks down the wall massing by providing architectural interest using canopy overhang features, material changes, trellising, and glazing. Combined, this comprehensive approach complies with the standard.</p>	Complies

<p>2.6.1(E)2 - Rooflines</p>	<p>Flat-roofed buildings shall feature three-dimensional cornice treatment on all walls facing streets or connecting walkways, or a rail at the top of the wall of a usable rooftop deck, unless the top floor is stepped back to form a usable roof terrace area. A single continuous horizontal roofline shall not be used on one-story buildings. Accent roof elements or towers may be used to provide articulation of the building mass. To the Maximum extent feasible, a minimum pitch of 6:12 shall be used for gable and hipped roofs. Where hipped roofs are used alone, the minimum pitch shall be 4:12.</p> <p>The building features a three-dimensional cornice treatment on all four sides of the building. Further, the roof line is broken down into smaller sections using various roof heights and different cornice designs.</p>	<p>Complies</p>
<p>2.6.1(E)3 – Materials and Colors</p>	<p>The plan complies with the material and color standards by providing split face CMU, two brick types, lap and board and batten siding. Each material is neutral in color and consist of tans, grays, reds, and browns.</p>	<p>Complies</p>
<p>2.6.1(E)5 – Walls, Fences and Planters</p>	<p>Walls, fences, and planters shall be designed to match or be consistent with the quality of materials, style, and colors of the development.</p> <p>Consistent with the quality of materials used in the primary building, the plan provides seat walls and raised planters.</p>	<p>Complies</p>
<p>2.6.1(E)6 – Building Height</p>	<p>All buildings shall have a minimum height of twenty (20) feet, measured to the dominant roof line of a flat-roofed building, or the mean height between the eave and ridge on a sloped-roof building. In the case of a complex roof with different, co-dominant portions, the measurement shall apply to the highest portion.</p> <p>The plan provides for a dominant roof line exceeding the minimum requirements of this standard.</p>	<p>Complies</p>
<p>2.6.15(E)7 - Windows</p>	<p>Standard storefront window and door systems may be used as the predominant style of fenestration for nonresidential or mixed-use buildings if the building facade visually establishes and defines the building stories and establishes human scale and proportion. Minimum glazing on pedestrian-oriented facades of buildings shall be sixty (60) percent on the ground floor and forty (40) percent on upper floors. Projects functionally unable to comply with this requirement shall mitigate such noncompliance with ample, enhanced architectural features such as a change in massing or materials, enhanced landscaping, trellises, arcades, or shallow display window cases.</p> <p>The building provides ample fenestration along all facades. In areas where it is functionally not able to provide a window system, the design provides trellising, and change in materials.</p>	<p>Complies</p>

8. Findings of Fact/Conclusion

In evaluating the request for The Mark, FDP240013, Staff makes the following findings of fact and conclusions:

1. By demonstrating compliance with the specific standards, requirements, and definitions of Articles 1 through 7 of the Land Use Code through the submittal materials for the Project Development Plan, this project satisfies and aligns with the purpose of the Land Use Code stated in Section 1.2.2(A) through (O). Specifically the project satisfies Section 1.2.2(A) because it is consistent with City Plan and the Mid-Town Plan.
2. The Project Development Plan complies with the applicable procedural and administrative requirements of Article 6 of the Land Use Code.
3. The Final Development Plan complies with relevant standards located in Article 5 – General Development Standards with one (1) Modifications of Standards.
4. Staff supports the request for **Modification of Standards** to subsection 2.3.4 Building Standards, Building Height to allow for two additional stories about the allowed 4 for a total of 6 stories. Staff finds that granting this modification would not be detrimental to the public good. Staff finds that the plan submitted will promote the general purpose of the standard in an equal to or better than way than would a plan that complies, fulfills a community need and the current site conditions present a hardship. The justification for this finding is based on existing site conditions and that the previous approved plan was found to be compatible at 6 stories.
5. The Final Development Plan complies with relevant standards located in Section 2.3.4 – General Commercial District (C-G) in Article 2.

9. Recommendation

Staff recommends that the Hearing Officer approve one Modification of Standards to Land Use Code sections and subsection 2.3.4 Building Standards, Building Height; and approve The Mark, FDP240013 based on the Findings of Fact and supporting explanations found in the staff report and hearing materials.

10. Attachments

1. Vicinity Map
2. Project Narrative
3. Site and Landscape Plans
4. Elevation Plans
5. Lighting Alt Compliance
6. Modification Request - 2.3.4 Building Standards, Building Height
7. Traffic Study
8. Utility Plans
9. Environmental Characterization Study (ECS)