



Development Review Center  
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[fcgov.com/DevelopmentReview](http://fcgov.com/DevelopmentReview)

May 9, 2019

Jason Messaros  
BHA Design Inc.  
1603 Oakridge Drive  
Fort Collins, CO 80525

**RE: 221 East Mountain Avenue, BDR180012 – Manager’s Decision**

Dear Jason:

On April 25, 2018, the City of Fort Collins received an application for a Basic Development Review development plan to demolish the existing vacant auto repair building and construct a new four-story mixed-use building at 221 East Mountain Avenue. The mixed uses comprise office, retail, and 24 dwelling units. The proposed project is in the Downtown (D) zoning district, in the Old City Center subdistrict. It is within the Transit-Oriented Development (TOD) Overlay Zone as well.

Staff finds that the proposal complies with all applicable standards in the Land Use Code, including a Modification of a standard in the Downtown zone requiring the fourth story to be stepped back within a 35-degree angle from where the fourth floor meets the property line; and also including Alternative Compliance with the required number of off-street vehicle parking spaces. The standard requirement is 48 spaces; the plan provides 40 spaces in an underground parking structure and also adds 11 on-street parking spaces as part of a complete new streetscape.

48 bicycle parking spaces are located in the garage, exceeding the minimum requirement of 39 total spaces. The building is located at the sidewalks, as is typical in the Old City Center subdistrict, and occupies 99% of the site in a manner that does not allow for fixed exterior bike racks as part of the private development. Bike parking in the Old City Center context is typically provided as part of public improvements and operations in the public right-of-way.

The plan is dependent upon encroachment permits being granted for a number of components including steps, private utilities, planters, and foundation construction.

During the two-week open comment period from March 20 through April 3, 2019 the City received no comments regarding this request.

The request for a modification of a standard in Land Use Code subsection 4.16 D(4)(a), *Building Mass Reduction*, 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 plan which does not provide the required setback at the fourth story (with the entire story fitted within a 35-degree angle from where the fourth floor meets the property line), 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) which allows for a plan to meet the purposes of the standard equally well as a plan that complies with the standard, based upon the following factors:

- Overall similarity in scale of the building to two other recently developed buildings at this large 5-way intersection – the Mitchell Block and Elizabeth Hotel which have 4- and 5-story portions.
- Erosion of the building mass starting at the third story balconies.
- Partial setbacks of the fourth story where balconies are formed.
- An appropriate pedestrian environment at ground level with building entrances and windows, complete new streetscape with sidewalks, and street parking.

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

1. 221 East Mountain Avenue, BDR180012, 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. 221 East Mountain Avenue, BDR180012, complies with the applicable sections of Article Three, General Development Standards of the Land Use Code, with alternative compliance with subsections 3.2.2(K)(1)(a) and 3.2.2(K)(2)(c) as explained below.
3. 221 East Mountain Avenue, BDR180012, complies with standards for number of off-street parking spaces in Land Use Code subsection 3.2.2(K)(1)(a) using alternative compliance criteria in subsection 3.2.2(K)(2)(c), because:
  - 11 new on-street spaces are provided in the plan in addition to the 40 garage spaces for a total of 51 new spaces as compared to the standard requirement of 48 off-street spaces based on the proposed uses.
  - Long-term parking associated with residential and office development creates the most pressing need for off-street parking and the plan provides all required parking for these uses.
  - Standard requirements for retail use are not met by off-street parking in the plan; however public parking exists throughout the Old City Center subdistrict and is typically used to meet demand by almost all Downtown retail businesses. Therefore, to the extent that any businesses in the proposed development rely on public parking, it would be consistent with Downtown's overall operations. This includes street parking, parking garages, and public parking lots. In particular, two parking structures exist next door and one block to the north.
  - The garage has 7 spaces in excess of stated requirements for the residential and office uses that, while unlikely to be used for retail customers, could be used by retail employees.
  - Parking underground is maximized, thus avoiding impacts on the pedestrian and visual environment from surface parking. The plan provides new streetscape development that significantly enhances the pedestrian environment at this location, with parking comprising an intrinsic component of the plan as a whole.
4. 221 East Mountain Avenue, BDR180012, complies with applicable standards in Article Four, Downtown zone district with a modification of a standard in subsection 4.16 D(4)(a) *Building Mass Reduction* as explained below.

5. The modification of a standard in subsection 4.16 D(4)(a), *Building Mass Reduction*, which requires the fourth story to be stepped back within a 35-degree angle from where the fourth floor meets the property line, would not be detrimental to the public good and meets the applicable requirements for modifications in subsection 2.8.2(H)(1) which allows for a plan to meet the purposes of the standard equally well as a plan that complies with the standard, based upon the following factors:
  - Overall similarity in scale of the building to two other recently developed buildings at this large 5-way intersection – the Mitchell Block and Elizabeth Hotel which have 4- and 5-story portions.
  - Erosion of the building mass starting at the third story balconies.
  - Partial setbacks of the fourth story where balconies are formed.
  - An appropriate pedestrian environment at ground level with building entrances and windows, complete new streetscape with sidewalks, and street parking.
6. The approved plan is subject to subsequent granting of encroachment permits for all encroachments into abutting public right-of-way.

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

Approved  
\_\_\_\_\_  
Decision

5/9/19  
\_\_\_\_\_  
Date

\_\_\_\_\_  
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](http://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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