

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

**FINDINGS AND DECISION**

HEARING DATE: January 26, 2021

PROJECT NAME: Flats on Mulberry

CASE NUMBER: FDP #200005

APPLICANT: Urban Rural Design  
C/O Brian Majeski  
252 Linden Street  
Fort Collins, CO 80524

OWNER: W.P. and Devon G. Dellenbach  
1404 43<sup>rd</sup> Avenue  
Greeley, CO 80634

HEARING OFFICER: Lori Strand

**PROJECT DESCRIPTION:** This is a request for a consolidated Project Development Plan and Final Development Plan (the “**Application**”) to convert one four-plex building and one duplex building into a lodging establishment with 14 hotel rooms, an office unit, and a laundry unit. The existing buildings are located at 221, 223, 227, and 229 W. Mulberry Street (the “**Subject Property**”). The Subject Property’s address will be consolidated to 229 W. Mulberry as part of this project. The Subject Property is comprised of approximately 9,000 square feet. Upon approval and recordation of the Final Plat of The Flats on Mulberry (the “**Plat**”), the Subject Property will be comprised of one lot.

The Subject Property was annexed into the City on March 24, 1887. The two existing buildings on the Subject Property were built in 1908 and 1909, and the Subject Property, including the existing buildings, was designated a Fort Collins Landmark under Chapter 14 of the Code of the City of Fort Collins (“**City Code**”) per Ordinance No. 073, 2019 of the Council of the City of Fort Collins. As such, any alterations, additions, and other changes to the Subject Property must be reviewed for compliance with Chapter 14 of the City Code.

Vehicular access to the Subject Property will continue to be by way of two existing driveways off W. Mulberry Street and a third existing driveway off S. Howes Street. There will be four on-site parking spaces: one driveway off W. Mulberry Street will access a van-accessible parking space, the second driveway off W. Mulberry Street will access one parking space, and the driveway off S. Howes will access two parking spaces.

The Applicant is proposing: to alter the east porch mud room on the rear elevation of existing unit #221 to add an accessible ramp; minor site changes to the existing parking (including reducing the

number of on-site spaces from five to four to allow for the van-accessible space); and other minor exterior work to the existing buildings including brick repointing, wood repairs, and storm windows. The proposed alterations and work have been approved by the City Historic Preservation Division as required by the City Code.

The Subject Property is zoned Downtown (D) Zone District and Campus North Subdistrict. Lodging establishments are a permitted use in the Campus North Subdistrict, subject to administrative (Type 1) review.

The surrounding zoning and land uses are as follows:

	North	South	East	West
<b>Zoning</b>	Downtown (D) – Canyon Avenue	Downtown (D) – Campus North	Downtown (D) – Campus North	Downtown (D) – Campus North
<b>Land Use</b>	Office (LPL Financial, Sanders Ink Studio, Barb Gibson Yoga Therapy)	Single-family Detached	Single-family Detached; Mixed-Use (Multi-family - Max Flats; Retail - Harbinger Coffee)	Multi-family Residential & Single-family Residential

No modifications of standards and no alternative compliance requests are made as part of the Application.

The Staff Report does not identify any issues of noncompliance or adverse effects of the development proposal, and no conditions of approval are recommended by the Staff Report.

**SUMMARY OF DECISION:**      Approved with conditions.

**ZONE DISTRICT:**                      Downtown (D) Zone District, Campus North Subdistrict

**HEARING:** The Hearing Officer opened the virtual hearing on Tuesday, January 26, 2021 at approximately 5:30 P.M. and reviewed the Order of Proceedings and Rules of Conduct for Administrative Hearings with the Applicant and members of the public present.

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

1. Development Review Staff Report prepared for the Flats on Mulberry (FDP #200005). A copy of the Staff Report is attached to this decision as **ATTACHMENT A** and is incorporated herein by reference.
2. Location and Zoning Map.
3. Site Plan, Lighting Plan, Exterior Conditions & Work, & Landscape Plan (6 sheets).

4. Final Plat of The Flats on Mulberry (1 sheet).
5. Utility Plan (4 sheets).
6. Ordinance No. 073, 2019 of the Council of the City of Fort Collins Designating the Alfred Parker Duplexes I and II, 221-229 West Mulberry Street, Fort Collins, Colorado, as a Fort Collins Landmark pursuant to Chapter 14 of the Code of the City of Fort Collins.
7. Memorandum from Karen McWilliams, Historic Preservation Division Manager, dated January 26, 2021, Regarding Staff Findings of Fact and Conclusions Pertaining to Mulberry Flats, 221-229 West Mulberry Street (FDP200005).
8. Confirmation of Publication (Ad# 0004553653) ordered January 13, 2021 evidencing proof of publication of Notice of Hearing in the Fort Collins Coloradan on January 14, 2021.
9. Copy of Written Notice of Public Hearing, dated January 12, 2021.
10. PowerPoint presentation prepared by Staff for the January 26, 2021 public hearing.
11. Email correspondence from Margaret Small, dated January 26, 2021, regarding parking concerns.
12. Historic Preservation Review Certificate of Appropriateness, dated October 12, 2020.
13. Parking Rental Agreement between Devon Dellenbach and ParkIt LLC, dated December 1, 2020, providing for use of two on-site parking spaces at First Presbyterian Church. This agreement may be terminated on 30 days' notice. The agreement provided to the Hearing Officer is signed by a representative of ParkIt LLC, but is not signed by Devon Dellenbach.
14. The City's Comprehensive Plan, the City Code, the Land Use Code, and the formally promulgated ordinances and polices of the City are all considered part of the record considered by the Hearing Officer.
15. Rules of Conduct for Administrative Hearings.
16. Administrative (Type 1) Order of Proceedings.

TESTIMONY: The following persons testified at the hearing:

From the City: Kai Kleer, City Planner  
 Karen McWilliams, Historic Preservation Division Manager  
 Spencer Smith, City Engineer

From the Applicant: Brian Majeski  
 William Dellenbach, owner

From the Public: Andrea Faucett, 219 W. Mulberry St., Fort Collins, 80634  
 Janet Strote, 210 W. Magnolia Unit 270, Fort Collins, 80521

The virtual hearing on this matter was closed at approximately 6:50 P.M.

## FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly posted, mailed, and published.
  - A. The Hearing Officer specifically finds that posted notice was provided consistent with Land Use Code requirements based on Mr. Kleer's testimony that posted notice was first provide on February 11, 2020 and that the date stated in the Staff Report was in error.
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 due to a public health emergency.
3. Public comments provided at the hearing and by written testimony submitted prior to the hearing expressed concern regarding the lack of on-site parking on the Subject Property and limited off-site parking in the area of the Subject Property.
4. 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 Application complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
  - B. The Application complies with the applicable General Development Standards contained in Article 3 of the Land Use Code.
    - (a) The Hearing Officer specifically finds that the minimum off-street parking requirement for a lodging establishment does not apply to the Subject Property based on the existing building exemption set forth in Section 3.2.2(K)(2)(b) of the Land Use Code.
    - (b) The Hearing Officer specifically finds that the procedures and requirements of Section 3.4.7 of the Land Use Code have been met based on the written and oral testimony provided by Karen McWilliams, Historic Preservation Division Manager, and the Historic Preservation Review Certificate of Appropriateness.
  - C. The Application complies with relevant standards contained in Division 4.16, Downtown District (D), Campus North Subdistrict of Article 4 of the Land Use Code.
5. The Application's satisfaction of the applicable Article 2, 3, and 4 requirements of the Land Use Code is sufficiently evidenced by the Staff Report and the testimony and materials presented to the Hearing Officer.

## DECISION

Based on the findings set forth above, the Hearing Officer hereby approves the Flats on Mulberry (FDP #200005) for the Subject Property, subject to the following conditions:

- (1) The Site Plan, Lighting Plan, Exterior Conditions & Work, & Landscape Plan (the “**Plan Set**”) shall be updated to accurately reflect the number of units in the project to include the laundry and office units as directed by the Department of Community Development and Neighborhood Services staff.
- (2) Three (3) on-site parking spaces and one (1) van-accessible parking space shall be maintained on the Subject Property, and the Plan Set shall be updated to accurately reflect this requirement.
- (3) The Plan Set shall be updated to accurately reflect the number of enclosed and fixed bicycle parking spaces to be provided within the Subject Property, consistent with Land Development Code requirements and as directed by the Department of Community Development and Neighborhood Services staff.
- (4) Because the address for the Subject Property is being changed from 221-229 W. Mulberry Street to 229 W. Mulberry Street, the “Project Construction Phasing Notes” on the Plan Set shall be updated to correspond with the “Building A through D” nomenclature shown on the floor plans.

DATED this 2<sup>nd</sup> day of February 2021.



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Lori Strand  
Hearing Officer

**ATTACHMENT A**

Staff Report  
Flats on Mulberry  
(FDP #200005)

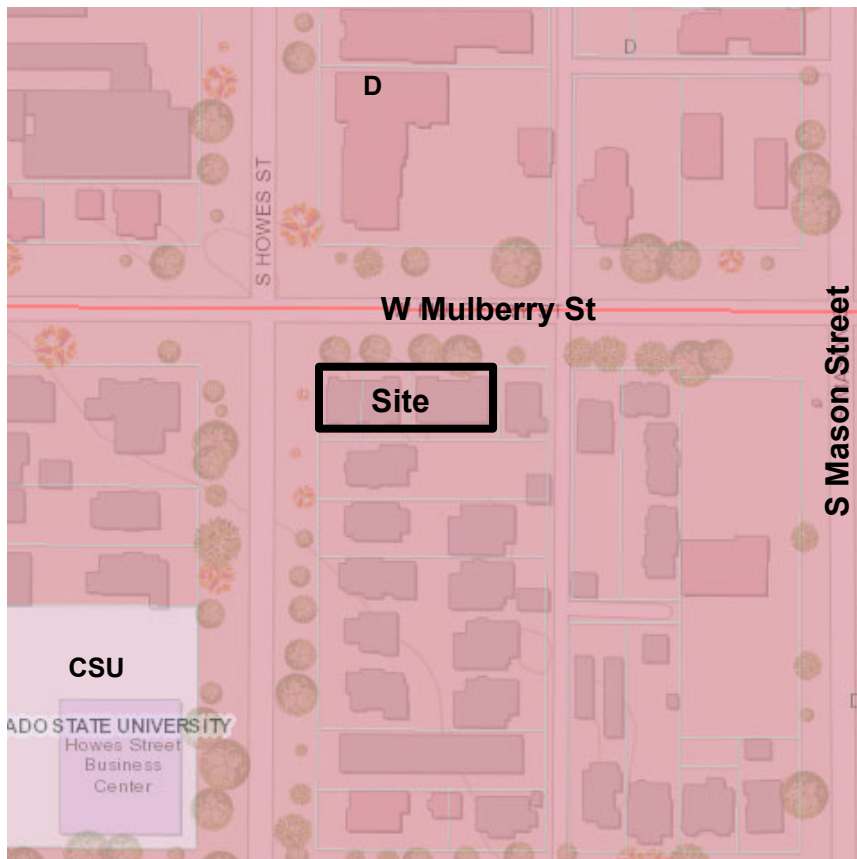
Administrative Hearing: January 26, 2021

**FDP200005, Flats on Mulberry**

**Summary of Request**

This is a proposed change of use to convert one townhome and one duplex into a Hotel. Combined, the two buildings would create a 14-unit hotel. Parking will remain unchanged with exception to the addition of a handicapped accessible space.

**Zoning Map (ctrl + click map to follow link)**



**Next Steps**

If approved by the Administrative Hearing Officer, the applicant will be eligible to submit and record the development plan, plat and utility plans. Thereafter, the applicant could then apply for construction and building permits.

**Site Location**

Located at 221, 223, 227, and 229 W Mulberry Street on the southeast corner of W Mulberry Street and S Howes Street (parcel #'s 9714106013, 9714106021, and 9714106014).

**Zoning**

Downtown (D), Campus North Subdistrict

**Property Owner**

W.P and Devon G Dellenbach  
1404 43<sup>RD</sup> Avenue  
Greely, CO 80634

**Applicant/Representative**

Urban Rural Design  
C/O Brian Majeski  
252 Linden Street  
Fort Collins, ,CO 80524

**Staff**

Kai Kleer, City Planner

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**Staff Recommendation**

Staff recommends approval the Final Development Plan.

## 1. Project Introduction

### A. PROJECT DESCRIPTION

- This is a request for consideration of a combined Project Development Plan (PDP), Final Development Plan (FDP) to convert two existing buildings into a 14-unit hotel.
- The building closest to the corner is a single-family attached (townhome) with two units. The building further east, located at 221/223 W Mulberry Street, was converted in 1952 from a duplex into a 4-unit apartment. The project proposes to remodel the interior of each building into 7 hotel room, totaling 14 rooms.
- No exterior modifications are proposed to the building.
- The site is location within the Downtown (D) zone district, in the Campus North Subdistrict.

### B. DEVELOPMENT STATUS/BACKGROUND

#### 1. Annexation and Planning

The subject properties were annexed into the City on March 24, 1887 as part of the Harrison Addition. The property was platted as Block 105 and includes the north portion of Lots 9&10.

The two buildings located within this development plan were built in 1909 and 1908. Evidence indicates that they were designed by Montezuma W. Fuller, Fort Collins’s first licensed architect. Today, these buildings still represent a duplex variation of the Foursquare style popular in Colorado during the early twentieth century. Notable details of the building include the hipped roof with widely overhanging eaves and exposed rafters; the center shingled dormer; the hipped roof porches with pillar supports and the rounded windows. The residence maintains a high degree of historic integrity and was designated as a Fort Collins Landmark by Ordinance NO 073, 2019. These designations include both the land and built resources. A copy of the ordinance is attached to this report.

#### 2. Surrounding Zoning and Land Use

	North	South	East	West
<b>Zoning</b>	Downtown (D) – Canyon Avenue	Downtown (D) – Campus North	Downtown (D) – Campus North	Downtown (D) – Campus North
<b>Land Use</b>	Office (LPL Financial, Sanders Ink Studio, Barb Gibson Yoga Therapy)	Single-family Detached	Single-family Detached; Mixed-Use (Multi-family - Max Flats; Retail - Harbinger Coffee)	Multi-family Residential & Single-family Residential

### C. OVERVIEW OF MAIN CONSIDERATIONS

Early in the process, the applicant had several concepts to convert the two buildings into a short-term rental, multi-family, or lodging establishment. Through iterative discussions, the applicant chose to change the building into a hotel to help streamline utility services and parking requirements for the site.

Between the 2018 Conceptual Review meeting and a 2020 submittal of the Final Development Plan, the property contained within the development plan was designated as a Fort Collins Landmark.



## D. CITY PLAN (2019)

City Plan is the City's comprehensive plan for land use, transportation, and transit. Several policies are relevant to the evaluation of the current proposal.

*p. 47 "Policy LIV 10.2 - PRESERVE HISTORIC RESOURCES. Preserve historically significant buildings, sites and structures throughout Downtown and the community. Ensure that new construction respects the existing architectural character of the surrounding historic resources without artificially duplicating historic elements.*

*Policy LIV 10.5 - PLANNING AND ENFORCEMENT. Recognize the contribution of historic resources to the quality of life in Fort Collins through ongoing planning efforts and enforcement of regulations.*

*Policy LIV 10.6 - LANDMARK DESIGNATION. Actively encourage property owners to designate eligible properties as historic landmarks."*

While the Downtown Plan is the primary guiding document for this area of the community because it is more specific than City Plan, the proposal for change-of-use of this site also aligns well with the guidance contained in City Plan.

## E. DOWNTOWN PLAN (2017)

Fort Collins has shaped downtown development through an adopted subarea plan since 1989. The most recent update to the Downtown Plan was adopted by City Council in 2017. The Downtown Plan serves as a guide for budgets, projects, programs, investments, regulations and other efforts focused in the downtown area. In addition to overall policy guidance, the 2017 Downtown Plan also incorporated recently completed planning efforts and studies (e.g., the Poudre River Downtown Master Plan, the citywide Pedestrian Plan, and the Bicycle Master Plan) into a comprehensive plan for Downtown Fort Collins.

The following Policy provides the most relevant guidance from the Downtown Plan:

*"Policy UD 4b: Historic Building Retention and Reuse. Retain and reuse historic buildings that contribute to Downtown character and provide opportunities to maintain a distinctive sense of place."*

In alignment with the policy, the project is will be a change of use to an existing historic building. The project has also gone beyond the policy statement and was designated a Fort Collins Landmark by Ordinance 076, 2019.

## 2. Public Outreach

### A. NEIGHBORHOOD MEETING

Pursuant to *LUC Section 2.2.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting was not required for Administrative (Type 1) projects. No comments have been received by phone, email, or letter. Any communication received between the publication of this staff report and the public hearing will be forwarded on to the Administrative Hearing Officer for their consideration.

## 3. Land Use Code Article 2 – Applicable Standards

### A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

#### 3. Conceptual Review – CDR180062

A conceptual review meeting was held on August 30, 2018.

#### 4. First Submittal – PDP200012

The Final Development Plan was submitted on February 7, 2020.

#### 5. Neighborhood Meeting

Pursuant to *LUC Section 2.2.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting was not required for Administrative (Type 1) projects.

#### 6. Notice (Posted, Written and Published)

Posted Notice: May 20, 2020 Sign #532.

Written Hearing Notice: January 12, 2021.

Published Hearing Notice: January 14, 2021.

**4. Land Use Code Article 3 – General Development Standards**

**A. DIVISION 3.2 - SITE PLANNING AND DESIGN STANDARDS**

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p><b>3.2.1 – Landscaping and Tree Protection</b></p>	<p>The standards of this section require that a development plan demonstrate a comprehensive approach to landscaping that enhances the appearance and function of the neighborhood, buildings, and pedestrian environment. The proposed plan provides the following:</p> <ul style="list-style-type: none"> <li>• A varied palette of shrubs, grasses, and evergreen material. Planting beds will be framed with a precast edging to separate the rock mulch front and side yards from landscape areas. Elements of landscaping will be mirrored on both sites to provide symmetry.</li> <li>• One existing Crab Apple on the rear of the site will be removed and is in poor condition. A payment-in-lieu will be collected by forestry staff.</li> <li>• 5 mature street trees along West Mulberry and South Howes Streets will be protected and preserved.</li> </ul>	<p>Complies</p>
<p><b>3.2.1(E)(6) – Screening</b></p>	<p>Building elements, such as trash collection, open storage, service areas and loading docks must be screened with landscaping from off-site view.</p> <ul style="list-style-type: none"> <li>• The plan provides screening through an existing 6' wood fence that is located along the rear and side property lines. Trash and recycling are tucked behind the building in four locations, out of site from public view.</li> <li>• There is a pad mounted a/c unit located in the front landscape bed of both buildings. The FDP proposes a row of 9 evergreens (Yew) to screen this existing mechanical equipment from public view.</li> </ul>	<p>Complies</p>
<p><b>3.2.1(F) – Tree Preservation Mitigation</b></p>	<p>This standard requires that developments provide on-site mitigation in the form of a defined number of replacement trees if existing significant trees are removed. The number of mitigation trees is determined by City Forestry staff based off existing tree species, breast diameter, and health/condition. Mitigation values can range between 1 and 6 for a tree that is removed. Dead, dying, and certain invasive species are exempt from this standard.</p> <p>The plan proposed the removal of one tree. Because of limited space on-site a payment-in-lieu is required.</p>	<p>Complies</p>
<p><b>3.2.2(C)(4) – Bicycle Parking Space Requirements</b></p>	<p>This standard requires 1 space for every 4 units with 60% enclosed and 40% on outdoor fixed racks.</p> <p>In compliance, the FDP provides 6 bike-parking spaces. One rack will be provided interior to each building entrance and one 2-space rack located outside in-between the two buildings.</p>	<p>Complies</p>
<p><b>3.2.2(C)(8) – Transportation Impact Study</b></p>	<p>A traffic study was waived by the City Traffic Engineer due to a low change in trip generation.</p>	<p>N/A</p>

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p><b>Section 3.2.2(K)(2)</b></p>	<p>The <i>minimum</i> number of required parking spaces for lodging establishments ranges between .5/unit and 1/unit. r</p> <p>If this were new construction, the site would be required to provide between 7 and 14 spaces. However, 3.2.2(K)(2)(b) – Existing Building Exemption, allows the development plan to be exempt from minimum parking requirements.</p> <p>The FDP proposes 4 on-site parking spaces and 3 off-site parking spaces that will be managed through a private agreement.</p>	<p>Complies</p>
<p><b>3.2.2(K)(5) – Handicap Parking</b></p>	<p>Handicap-accessible spaces must have a stall width of 13 feet and be placed as close as possible to the nearest building entrance. Parking standards require a minimum amount of 8 handicap spaces based on the total spaces in the lot.</p> <p>The FDP complies with this standard by providing 1 space in between the two buildings.</p>	<p>Complies</p>
<p><b>3.2.4 – Site Lighting</b></p>	<p>This standard requires that exterior lighting not adversely affect the properties, neighborhood, or natural features adjacent to the development. Further, the standard requires exterior lighting to be examined in a way that considers the light source, level of illumination, hours of illumination and need.</p> <p>The FDP provides lighting in all needed areas of the site and complies with the requirements of this section using fully shielded, down-directional, 3,000 Kelvin or less fixtures.</p>	<p>Complies</p>
<p><b>Section 3.2.5 – Trash and Recycling Enclosures</b></p>	<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> <p>The FDP proposes to manage trash and recycling in four areas behind the building. These areas are fully screened from public view located behind the building and by an existing 6’ foot wood fence.</p>	<p>Complies</p>

**B. DIVISION 3.4 - ENVIRONMENTAL, NATURAL AREA, RECREATIONAL AND CULTURAL RESOURCE PROTECTION STANDARDS**

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
<p><b>3.4.7 – Historic and Cultural Resources</b></p>	<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> <p>Review of this project under 3.4.7 has resulted in the property receiving designation as a Fort Collins Landmark by Ordinance No. 073, 2019. These designations include both the land and built resources.</p> <p>A Certificate of Appropriateness (COA) was required and has been approved by Historic Preservation staff as meeting the code requirements contained in Fort Collins Municipal Code Chapter 14, Article IV, which includes the Secretary of the Interior’s Standards for the Treatment of Historic Properties.</p>	<p>Complies</p>

**C. DIVISION 3.6 - TRANSPORTATION AND CIRCULATION**

This Section is intended to ensure that the transportation network of streets, alleys, roadways, and trails is in conformance with adopted transportation plans and policies established by the City.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<b>3.6.6 – Emergency Access</b>	<p>This standard states, " all developments shall provide adequate access for emergency vehicles and for those persons rendering fire protection and emergency services by complying with Article 9, Fire Department Access and Water Supply, of the Uniform Fire Code as adopted and amended pursuant to Chapter 9 of the City Code. All emergency access ways, easements, rights-of-way or other rights required to be granted pursuant to the Uniform Fire Code must include not only access rights for fire protection purposes, but also for all other emergency services."</p> <p>The project has been reviewed by Poudre Fire Authority (PFA) and currently meets the needs and requirements of PFA regulations.</p>	Complies

**5. Land Use Code Article 4 – Applicable Standards:**

**A. DIVISION 4.16 – DOWNTOWN**

The Downtown District is intended to provide a concentration of retail, civic, employment and cultural uses in addition to complementary uses such as hotels, entertainment, and housing, located along the backdrop of the Poudre River Corridor. It is divided into nine (9) subdistricts as depicted on Figure 18. The development standards for the Downtown District are intended to encourage a mix of activity in the area while providing for high quality development that maintains a sense of history, human scale, and pedestrian-oriented character.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<b>4.21(F) – Permitted Uses</b>	<p>Hotel (Lodging Establishment) is a permitted use within the Campus North Subdistrict and is subject to a Type 1 (Administrative) review.</p> <p>Hotel is defined by Article 5 – Definitions as, "a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are five (5) or more guest rooms. The terms hotel/motel/lodging establishment shall not include homeless shelters, seasonal overflow shelters, and short term primary and non-primary rentals."</p>	Complies

## 6. Findings of Fact/Conclusion

In evaluating the request for the Flats on Mulberry, FDP200005, Staff makes the following findings of fact and conclusions:

1. The Final Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
2. The Final Development Plan complies with relevant standards located in Article 3 – General Development Standards.
3. The Final Development Plan complies with relevant standards located in Division 4.16 Downtown (D) Campus North Subdistrict in Article 4.

## 7. Recommendation

Staff recommends approval of Flats on Mulberry FDP200005, based on the Findings of Fact and supporting explanations found in the staff report and hearing materials.

## 8. Attachments

1. Location & Zoning Map
2. Site, Landscape, and Elevation Plans
3. Plat
4. Utility Plans
5. Fort Collins Landmark Designation