

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

FINDINGS AND DECISION

HEARING DATE: October 11, 2021

PROJECT NAME: PlanetScale Living

CASE NUMBER: PDP #200015

APPLICANT: Serdar Badem
Managing Director, Planet Scale Limited
12933 Regan Lane
Saratoga, CA 95070

OWNER: Planet Scale Limited
12933 Regan Lane
Saratoga, CA 95070

HEARING OFFICER: Lori B. Strand

PROJECT DESCRIPTION & BACKGROUND: PlanetScale Living PDP #200015 (the “**PDP**”) proposes to expand and change the use of an existing building located at 906 E. Stuart Street / Parcel #9724106924 (the “**Subject Property**”). The building on the Subject Property currently is vacant but was most recently used as school. The Applicant desires to expand and add a second story to the existing building for use as a 4-plex multi-family dwelling (the “**Project**”). One of the four units will be used as an affordable housing unit per a deed restriction recorded against the Subject Property. The Project includes six (6) off-street parking spaces (including one accessible space) and six (6) bicycle parking spaces.

The Subject Property is located in the Low Density Mixed-Use Neighborhood (L-M-N) zone district. The L-M-N district permits the proposed multi-family dwelling use, subject to administrative (Type 1) review.

The Applicant seeks approval of the PDP in order to be eligible to submit a Final Development Plan (FDP) to the City for review.

The PDP includes a request for the following modifications of standards to the City of Fort Collins Land Use Code (“**LUC**”) (each, a “**Modification of Standard**” and collectively, the “**Modifications of Standards**”):

- (1) Modification of Standard to LUC subsection 3.2.2(J)—Setbacks, to reduce the vehicular use area setback from five feet (5’) to three feet (3’) along the north and east property lot lines of the Subject Property.

- (2) Modification of Standard to LUC subsection 3.2.2(K)(1)(a)—Parking Lots, to reduce the required number of off-street parking spaces for the Project from seven (7) to six (6) spaces.
- (3) Modification of Standard to LUC subsection 4.5(D)(1)—Density, to increase the maximum density allowable for the Project from 12 dwelling units per gross acre of residential land to 12.54 dwelling units per gross acre of residential land.

City staff supports approval of all three (3) Modifications of Standards.

The surrounding zoning and land use to each side of the Subject Property are as follows:

| | North | South | East | West |
|-----------------|--|---|--|--|
| Zoning | Low Density Mixed-Use Neighborhood (L-M-N) | Low Density Mixed-Use Neighborhood (L-M-N) | Low Density Mixed-Use Neighborhood (L-M-N) | Low Density Mixed-Use Neighborhood (L-M-N) |
| Land Use | Single-family attached dwellings (Spring Meadows Condos) | Single-family detached dwellings (Indian Hills 6 th Subdivision) | Entryway landscape tract for Spring Meadows Condos | Single-family detached dwelling |

SUMMARY OF DECISION: Approved with one (1) condition.

ZONE DISTRICT: Low Density Mixed-Use Neighborhood District (L-M-N)

HEARING: The Hearing Officer opened the virtual hearing on the Project 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. The virtual hearing was closed at approximately 6:40 p.m.

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

1. Development Review Staff Report prepared for the October 11, 2021 hearing (the “**Staff Report**”). A copy of the Staff Report is attached to this decision as **ATTACHMENT A** and is incorporated herein by reference. Additional details regarding the Project and City staff’s analysis of the Project’s compliance with the LUC are set forth in the Staff Report.

2. Project Narrative from Owner/Applicant, dated July 4, 2020.
3. Vicinity Map.
4. Site Plan (9 sheets).
5. Utility Plans (12 sheets).
6. Drainage Report from HCI Engineering, dated July 30, 2021, concluding that the Project complies with applicable drainage criteria and that no anticipated impacts are anticipated as a result of the Project to adjacent or downstream properties.
7. Owner/Applicant request for five (5) modifications of standards, dated March 12, 2021 (the “**Applicant Modification Request**”).
8. Legal description for right-of-way deed.
9. Legal description for utility easement.
10. Owner/Applicant Existing Tree Removal Feasibility letter, dated August 12, 2021.
11. Material board.
12. Proof of publication of Notice of Hearing in the *Fort Collins Coloradan* on October 1, 2021.
13. Copy of Written Hearing Notice, dated September 27, 2021. Per page 3 of the Staff Report, this notice was mailed to 200 addresses.
14. The PowerPoint presentation prepared by City staff for the October 11, 2021 hearing.
15. Rules of Conduct for Administrative Hearings.
16. Administrative (Type 1) Hearing: Order of Proceedings.
17. The City’s Comprehensive Plan, the LUC, and the formally promulgated polices of the City are all considered part of the record considered by the Hearing Officer.

TESTIMONY: The following persons testified during the virtual hearing:

From the City: Kai Kleer, City Planner

From the Applicant: Serdar Badem

From the Public: Ben Linenberger
Mallory Wilson

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly posted, mailed and published. Specifically, in addition to the Staff Report and item nos. 12 and 13 of the Evidence listed above, Mr. Kleer testified during

the hearing that a sign was posted at the Subject Property on October 9, 2020, in compliance with the LUC's posted notice requirement.

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 the continuing public health emergency.
3. Based on testimony provided at the public hearing and a review of the materials in the record for this Project, the Hearing Officer concludes as follows:
 - A. The application complies with the applicable procedural and administrative requirements of Article 2 of LUC.
 - B. Granting the requested Modifications of Standards will, without impairing the intent and purpose of the LUC, result in a substantial benefit to the city by reason of the fact that the Project will substantially address an important community need specifically and expressly defined and described in the Fort Collins City Plan (the "**City Plan**"), and the strict application of the standards in LUC subsections 3.2.2(J), 3.2.2(K)(1)(a), and 4.5(D)(1) would render the Project practically infeasible. With respect to the foregoing, the Hearing Officer specifically finds that the Project, by providing an affordable housing unit, will address an important community need for affordable housing as specifically and expressly defined in the City Plan. *See, e.g.*, City Plan Policies LIV 5.5, LIV 5.6, and LIV 6.4, Principle LIV 6, and Strategies LIV-5d and LIV-6c; and 2021 Housing Strategic Plan strategies summarized in the Staff Report. The Hearing Officer also specifically finds that, given the size of the Subject Property, the required right-of-way dedication and utility easement, and the desire to reuse the existing building, strict application of the LUC standards would render the Project practically infeasible.
 - C. The Modification of Standard to LUC subsection 3.2.2(J)—Setbacks, to reduce the vehicular use area setback from five feet (5') to three feet (3') along the north and east property lot lines of the Subject Property will not be detrimental to the public good. With respect to the foregoing, the Hearing Officer specifically finds there is limited, if any, visibility by the public or adjacent properties to the vehicular use area, which area will be screened by existing and proposed landscaping and, to the north, by an existing six foot (6') fence.
 - D. The Modification of Standard to LUC subsection 3.2.2(K)(1)(a)—Parking Lots, to reduce the required number of off-street parking spaces for the Project from seven (7) to six (6) spaces will not be detrimental to the public good. With respect to the foregoing, the Hearing Officer specifically finds that adequate testimony was provided that the six (6) off-street parking spaces together with three (3) on-street

parking spaces in front of the Subject Property will provide sufficient parking for the Project and will minimize impacts to surrounding areas.

- E. The Modification of Standard to LUC subsection 4.5(D)(1)—Density, to increase the maximum density allowable for the Project from 12 dwelling units per gross acre of residential land to 12.54 dwelling units per gross acre of residential land will not be detrimental to the public good. With respect to the foregoing, the Hearing Officer specifically finds that an increase in density of 0.54 dwelling units per gross acre of residential land is nominal and inconsequential, and creates no greater impact on surrounding areas as would a project meeting the 12 du/acre standard.
 - F. With the approval of the Modifications of Standards to LUC subsections 3.2.2(J) and 3.2.2(K)(1)(a), the Application complies with the applicable General Development Standards contained in Article 3 of the LUC.
 - G. With the approval of the Modification of Standard to subsection 4.5(D)(1), the Application complies with the applicable standards contained in Article 4, Division 4.5 of the LUC (Low Density Mixed-Use Neighborhood District standards).
4. The Hearing Officer notes that the Applicant Modification Request included requests for five (5) modifications of standards and the site plan submitted to the Hearing Officer listed four (4) modifications of standards. During the hearing, the Hearing Officer inquired about the additional modifications of standards and Mr. Kleer testified and confirmed that only the Modifications of Standards to LUC subsections 3.2.2(J), 3.2.2(K)(1)(a), and 4.5(D)(1) were requested.

DECISION

Based on the findings set forth above, the Hearing Officer hereby enters the following ruling:

- A. The Modification of Standard to LUC subsection 3.2.2(J)—Setbacks, to reduce the vehicular use area setback from five feet (5') to three feet (3') along the north and east property lot lines of the Subject Property, is approved.
- B. The Modification of Standard to LUC subsection 3.2.2(K)(1)(a)—Parking Lots, to reduce the required number of off-street parking spaces for the Project from seven (7) to six (6) spaces, is approved.
- C. The Modification of Standard to LUC subsection 4.5(D)(1)—Density, to increase the maximum density allowable for the Project from 12 dwelling units per gross acre of residential land to 12.54 dwelling units per gross acre of residential land, is approved.
- D. The PlanetScale Living Project Development Plan (PDP #200015) is approved for the Subject Property, subject to Owner/Applicant's compliance with the following condition:

1. The site plan for the Project is revised to include only the Modifications to Standards described in paragraphs A, B, and C of this Decision.

DATED this 18th day of October, 2021.



Lori B. Strand
Hearing Officer

ATTACHMENT A

Staff Report
PlanetScale Living Project Development Plan
(PDP #200015)

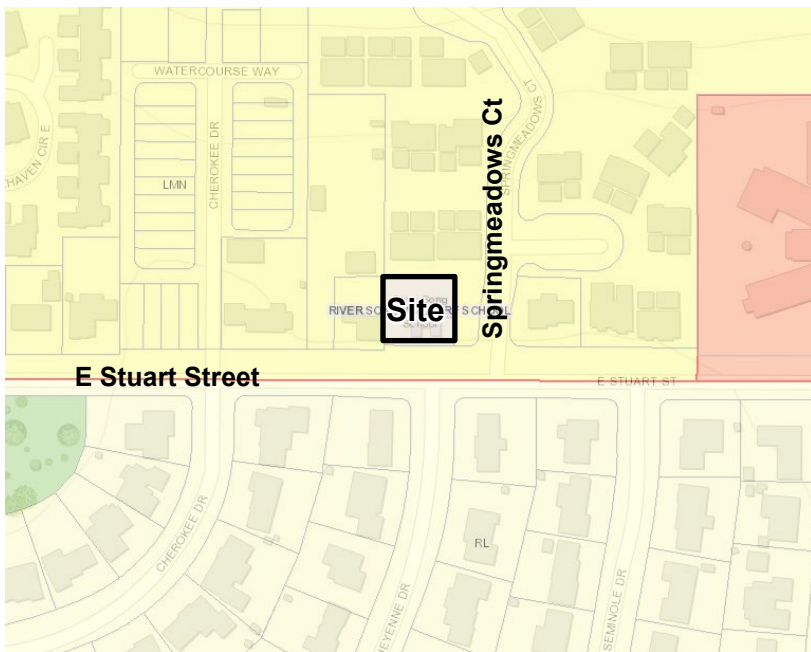
Administrative Hearing: October 11, 2021

PlanetScale Living, Project Development Plan – PDP200015

Summary of Request

This is a request to add onto and change the use of an existing building located at 906 E Stuart Street. (Parcel # 9724106924). The project would change the use from school into a 4-plex multi-family dwelling. The project site is located within the Low Density Mixed-Use Neighborhood District (L-M-N) and is requesting three modifications of standards to allow for a reduction in one parking space, reduced parking lot setback from the north and east property lines, and an increase to the maximum density from 12 du/ac to 12.5 du/ac.

Zoning Map (ctrl + click map to follow link)



Next Steps

If approved by the decision maker, the applicant would be eligible to submit for Final Development Plan. Subsequent rounds of review would be required to finalize site, landscape, and utility plan before recording. Once recorded, the applicant can apply for site and building permits.

Site Location

The site is located at the northwest corner of the intersection of E Stuart and Springmeadows Court.

Zoning

Low Density Mixed-Use Neighborhood (LMN) zone district.

Property Owner

Planet Scale Limited
12933 Regan Lane
Saratoga, CA 95070

Applicant/Representative

Sedar Badem
12933 Regan Lane
Saratoga, CA 95070

Staff

Kai Kleer, City Planner

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Staff Recommendation

Approval of the Project Development Plan and related Modification of Standards.

1. Project Introduction

A. PROJECT DESCRIPTION

- The proposed project would change the use of the former Waldorf School into a 4-unit multi-family dwelling. The renovation of the existing building will include expanding the footprint and adding a second story.
- The project proposes six off-street parking spaces four enclosed and two fixed bicycle parking spaces.
- The project is deed restricted to provide 10% of the units as Affordable Housing and will be providing a single-unit of Affordable Housing (25%) and satisfies this deed restriction.
- The plan provides a comprehensive approach to landscaping which includes foundation plantings, parking lot screening, and the preservation of three existing on-site trees.
- Trash and recycling containers will be located at the rear of the site and wheeled to the street by residents during collection days.
- A modification is required to allow for a reduction in off-street parking from 7 to 6 spaces.
- A modification to reduce the landscape setback along the north and east property lines from 5 to 3 feet.
- A modification to increase the density limit from 12 du/ac to 12.5 du/ac.

B. SITE CHARACTERISTICS

1. Development Status/Background

The property was annexed as part of the Spring Creek Second Annex in 1967. The site was developed in 1946 as a single-family detached dwelling. In 1975 the property and it was converted into a child-care center and has been occupied under this use until its sale in 2020.

The City was the previous owner of the property and with the sale, included a deed restriction to require a minimum of 10% Affordable housing.

2. Surrounding Zoning and Land Use

| | North | South | East | West |
|-----------------|--|---|--|--|
| Zoning | Low Density Mixed Use Neighborhood (LMN) | Low Density Mixed Use Neighborhood (LMN) | Low Density Mixed Use Neighborhood (LMN) | Low Density Mixed Use Neighborhood (LMN) |
| Land Use | Single-family attached dwellings (Spring Meadows Condos) | Single-family detached dwellings (Indian Hills 6 th Subdivision) | Entryway landscape tract (Spring Meadows Condos) | Single-family detached dwelling |

C. OVERVIEW OF MAIN CONSIDERATIONS

Major issues that required clarification and refinement through the review process have included:

- Off-street parking and parking lot layout.
- Ensuring that no off-site stormwater impacts would be created through the expansion of the paving area of the site.
- Screening the parking lot with fencing and landscaping.
- Compatibility in architecture through window placement, rooflines, and site landscape screening.

2. Public Outreach

A. NEIGHBORHOOD MEETING

A neighborhood meeting was not held for this project.

B. PUBLIC COMMENTS:

Staff has not received any comments for this proposal and will forward and any comments received between the public notice period and hearing will be forwarded to the Administrative Hearing Officer for their consideration.

3. Article 2 – Applicable Standards

A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR200008

A conceptual review meeting was held on February 06, 2020.

2. Neighborhood Meeting

Pursuant to 2.2.2 – Step 2: Neighborhood Meetings, a neighborhood was not required prior to submittal of the project.

3. First Submittal – PDP200015

The first submittal of this project was completed on October 7, 2020. The PDP required four rounds of staff review.

4. Notice (Posted, Written and Published)

Written Hearing Notice: September 27, 2021; 200 addresses mailed.

Published Hearing Notice: Posted in the Coloradoan on October 1, 2021.

<https://www.publicnoticecolorado.com?activeNotice=c470ee463059181bff53ecd981d7fcbe>

B. DIVISION 2.8 – MODIFICATION OF STANDARDS

The applicants are requesting a Modification of Standard to **Sections 3.2.2(J) – Setbacks, 3.2.2(K)(1)(a) – Required Number of Off-Street Spaces** and **4.5(D)(1) – Density**.

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 intent of the Land Use Code, but due to unique and unforeseen circumstances would not meet a specific standard of the Land Use Code as stated. The modification process and criteria in Land Use Code Division 2.8.2(H) provide for evaluation of these instances on a case-by-case basis, 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).

1. Modification to 3.2.2(J) – Setbacks

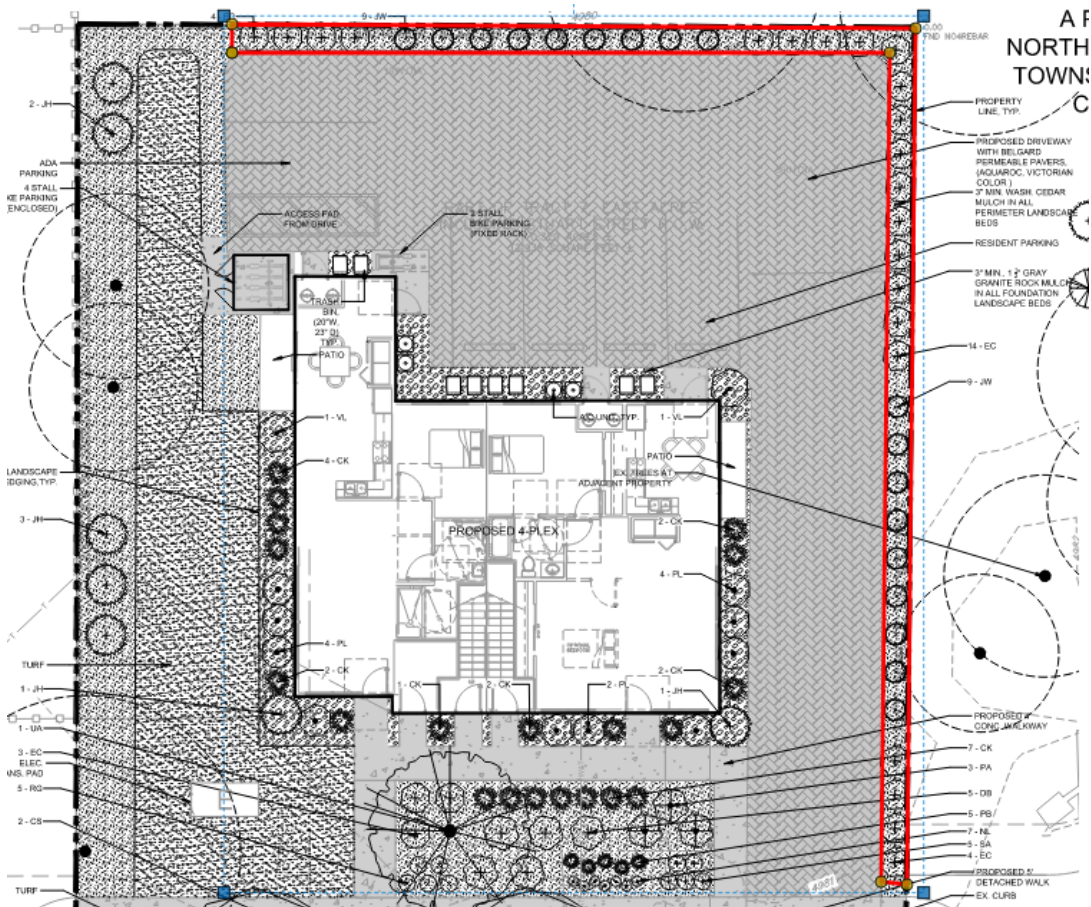
Standard

3.2.2(J) requires that any vehicular use area containing six (6) or more parking spaces or one thousand eight hundred (1,800) or more square feet shall be set back from the street right-of-way and the side and rear yard lot line (except a lot line between buildings or uses with collective parking) consistent with the provisions of this Section, according to the following table:

| Location | Minimum Average of Entire Landscape Setback Area (feet) | | Minimum Width of Setback at Any Point (feet) | |
|----------------|---|----------|--|----------|
| | Required | Proposed | Required | Proposed |
| East Lot Line | 5 ft | 3 ft | 5' | 3 ft |
| North Lot Line | 5 ft | 3 ft | 5' | 3 ft |

Overview

The proposed modification of standard would allow for the setback along the north and east portions of the vehicles use area to be reduced from the minimum requirement of 5 feet to 3 feet as depicted below.



Summary of Applicant Justification

The applicant’s request provides justification based upon numbered criteria 2.8.2H(3) along with lack of detriment to the public good. The request is attached and thoroughly explain the proposed justifications.

- The applicant explains that the reduction by 2 feet still provides enough space to accommodate enough shrubs to provide 70%-100% screening from adjacent properties and therefore, *lacks detriment to the public good*.
- The applicant contends that the re-use of the building creates *exceptional physical conditions* that requires a balance between landscaping and room for parking behind the building.

Staff Findings

Staff finds that the modification would not be *detrimental to the public good* and that the request satisfies *Criterion (1) – ‘equal-to or better-than’* and *Criterion (2) ‘alleviate an important community need’* in subsection 2.8.2(H).

Detriment to the public good.

Staff’s finding is based on the following considerations:

- The parking lot is not visible from E Stuart or from the abutting properties and views would be limited from Springmeadows Court based on existing trees and berming which are part of the adjacent HOA tract, fencing, and proposed perimeter landscaping/existing fencing.

Criterion (1), “equal-to or better-than.”

Staff’s finding is based on the following considerations:

The landscape setback areas provide a design that provides similar opacity in screening from the adjacent properties equally well as a 5 foot landscape area would and that the reduced dimensions reflect a carefully balanced set of tradeoffs reusing the existing building, setback dimensions and the overall parking lot configuration.

Aspects of the equal to or better than approach include:

- An existing 6-foot picket fence that will remain along the northern property line for screening purposes;
- A combination of 40 shrubs that consist of 18 Woodward Juniper and 22 Compact Burning Bush depicted below which at maturity will create a hedgerow between the properties adjacent to the vehicle use area; and fit within the 3-foot space.
- Use of plant species (Woodward Juniper) that will provide year-round screening.



Criterion 2, “alleviate an important community need”

Staff finds that the requested Modification addresses *criterion (2)*, ‘*alleviate an important community need*’ by providing 25% of the units as deed restricted Affordable housing. A reduction in landscape setback is a compromised approach in meeting parking, screening and circulation parts. More specifically, Strategy LIV 6c supports flexible development standards for affordable housing projects.

City Plan describes the community need with the following principles and policies.

- **Policy LIV 5.5 - Integrate and Distribute Affordable Housing.** Integrate the distribution of affordable housing as part of individual neighborhoods and the larger community.
- **Strategy LIV-5d.** Develop parameters for the potential use of public financing tools (specifically metro districts) for residential projects that will provide a greater range of housing and affordable housing and advance other community priorities.
- **Principle LIV 6:** Improve access and reduce barriers to housing that meets the needs of residents regardless of their race, ethnicity, income, age, ability or background.
- **Strategy LIV-6c.** Establish flexible development standards for affordable housing projects

The 2021 Housing Strategic Plan contains the following strategies, and builds upon guidance from the 2015-2019 Affordable Housing Plan:

- Incentivize new rental units affordable to households earning 60-80% of AMI.
- Incentivize the production of affordable housing.
- Support programs, projects, and organizations that improve housing access and affordability.

Staff recommends approval of the Modification of Standard.

2. Modification to 3.2.2(K)(1)(a)

Standard

3.2.2(K)(1)(a) requires the following number of parking spaces for multi-family dwellings:

| Number of Bedrooms/Dwelling Unit | Parking Spaces Per Dwelling Unit | Number of Bedrooms/Dwelling Unit |
|----------------------------------|----------------------------------|----------------------------------|
| One or less | 1.5 | One or less |
| Two | 1.75 | Two |
| Three | 2.0 | Three |
| Four and above | 3.0 | Four and above |

Overview

The proposed modification of standard would allow for the total number of off-street parking spaces to be reduced from seven (7) to six (6).

Summary of Applicant Justification

The applicant's request provides justification based upon numbered criteria 2.8.2H(2) along with lack of detriment to the public good. The previously mentioned, the request is attached and thoroughly explain the proposed justifications.

- The applicant explains that the plan will substantially '*alleviate an important community need*' for affordable housing; and
- The applicant contends that the re-use of the building creates '*exceptional physical conditions*' that limits on how many spaces can be fit behind the building.

Staff Findings

Staff finds that the granting of the modification would not be detrimental to the public good and that the request satisfies 2.8.2(H)(2), '*alleviate an important community need*'.

Staff finds that a reduction in parking would not be *detrimental to the public good* based on the following circumstances:

- Stuart Street provides on-street parking that can accommodate 3 spaces in-front of the lot (see image below) which reduces the likelihood for spill-over parking to have an effect on neighbors.



Staff finds that the requested Modification addresses 2.8.2(H)(2), 'alleviate an important community need' by providing 25% of the units as deed restricted Affordable housing. A decrease in the amount of parking for the site is a balance attempt to prevent encroachment into the 25 foot multi-family setback for the property to the west, maintaining parking behind the building, and reusing the existing driveway.

City Plan describes the community need with the following principles and policies.

- **Policy LIV 5.5 - Integrate and Distribute Affordable Housing.** Integrate the distribution of affordable housing as part of individual neighborhoods and the larger community.
- **Strategy LIV-5d.** Develop parameters for the potential use of public financing tools (specifically metro districts) for residential projects that will provide a greater range of housing and affordable housing and advance other community priorities.
- **Principle LIV 6:** Improve access and reduce barriers to housing that meets the needs of residents regardless of their race, ethnicity, income, age, ability or background.
- **Strategy LIV-6c.** Establish flexible development standards for affordable housing projects

The 2021 Housing Strategic Plan contains the following strategies, and builds upon guidance from the 2015-2019 Affordable Housing Plan:

- Incentivize new rental units affordable to households earning 60-80% of AMI.
- Incentivize the production of affordable housing.
- Support programs, projects, and organizations that improve housing access and affordability.

Staff recommends approval of the Modification of Standard

3. Modification to 4.5(D)(1) – Density

Standard

The maximum density of an affordable housing project (whether approved pursuant to overall development plans or project development plans) containing ten (10) acres or less may attain a maximum density, taken as a whole, of twelve (12) dwelling units per gross acre of residential land.

Overview

The gross size of the property is 98.4 ft x 140.67 ft or 13,890 sq ft in size and proposes 4 units.

At 12 du/ac each unit requires 3,630 sq ft of gross land area: therefore, the minimum lot size for this project is 14,520 sq. ft.

The project requires a modification of standard to exceed the maximum gross density from 12 du/ac to 12.54 du/ac.

Summary of Applicant Justification

The applicant's request provides justification based upon numbered criteria 2.8.2H (2) and (4) on the previous page along with lack of detriment to the public good. As previously mentioned, the request is attached and thoroughly explain the proposed justifications.

- The applicant explains that the plan will substantially '*alleviate an important community need*' for affordable housing; and
- The applicant contends that the re-use of the building creates '*nominal and inconsequential*' and is short of meeting the standard by 582 square feet or 4% of the overall lot size.

Staff Findings

Staff finds that an increase in density by .54 du/ac would not be *detrimental to the public good* due to the following circumstance:

- 582 square feet of lot size does not create any greater or lesser impact on neighboring properties.

Staff finds that the requested Modification addresses 2.8.2(H)(2), '*alleviate an important community need*' by providing 25% of the overall units as deed restricted Affordable housing. An increase in density to allow the project to take advantage of the 12 du/ac. In alignment with the Housing Strategic Plan, increasing the maximum density would be an incentive to provide more overall units.

City Plan describes the community need with the following principles and policies.

- **Policy LIV 5.5 - Integrate and Distribute Affordable Housing.** Integrate the distribution of affordable housing as part of individual neighborhoods and the larger community.
- **Strategy LIV-5d.** Develop parameters for the potential use of public financing tools (specifically metro districts) for residential projects that will provide a greater range of housing and affordable housing and advance other community priorities.
- **Principle LIV 6:** Improve access and reduce barriers to housing that meets the needs of residents regardless of their race, ethnicity, income, age, ability or background.
- **Strategy LIV-6c.** Establish flexible development standards for affordable housing projects

The 2021 [Housing Strategic Plan](#) contains the following strategies, and builds upon guidance from the 2015-2019 Affordable Housing Plan:

- Incentivize new rental units affordable to households earning 60-80% of AMI.

- Incentivize the production of affordable housing.
- Support programs, projects, and organizations that improve housing access and affordability.

Staff finds that the requested Modification addresses 2.8.2(H)(4), “*nominal and inconsequential*” based on the following consideration:

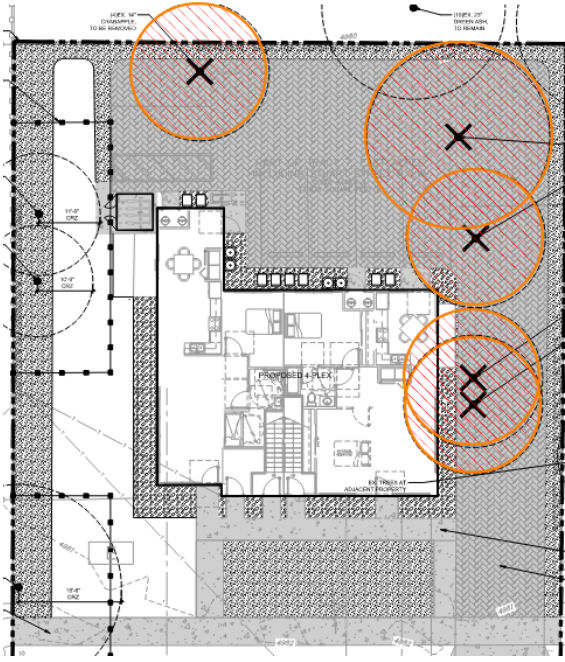
- Exceeding the 12 du/ac standard by .58 du/ac is a function of the overall lot size and infill nature of the project. A reduction in the overall number of units to three would reduce the overall density to around 9.4 units per acre and the project would not be able to take benefit of the density bonus that is intended to incentivize Affordable projects.

Staff recommends approval of the Modifications of Standard.

4. Article 3 - Applicable Standards

A. DIVISION 3.2 - SITE PLANNING AND DESIGN STANDARDS

| Applicable Code Standard | Summary of Code Requirement and Analysis | Staff Findings |
|--|--|----------------|
| 3.2.1 – Landscaping and Tree Protection | <p>This Code Section requires a fully developed landscape plan that addresses relationships of landscaping to the circulation system and parking, the building, abutting properties, and users of the site in a manner appropriate to the neighborhood context.</p> <p>The landscape plan includes the following main components:</p> <ul style="list-style-type: none"> • A combination of 25 columnar junipers along the perimeter of the site for the purposes of screening. • Two street trees planted at appropriate intervals in the parkway. • Preservation of three mature trees along the western property line. • Foundation plantings and garden bed around the perimeter of the building. • One canopy shade tree planted in front of the building. • Varied plant palette of shrubs and perennials. | Complies |
| 3.2.1(D) – Tree Planting Standards | <p>All developments are required to establish groves and belts of trees along all city streets, in and around parking lots, and in all landscape areas that are located within fifty (50) feet of any building or structure. Trees may be combined or interspersed with other landscape areas in remaining portions of the development. This section sets minimum requirements for “full tree stocking” and tree spacing.</p> <ul style="list-style-type: none"> • Trees meet spacing requirements of 30-40 foot spacing for canopy shade trees (Western Catalpa). • No species exceeds 15% of the total number of trees. • The proposed juniper species have been incorrectly calculated against the 50% canopy shade tree requirement and are not part of the City Foresters Recommended List of Trees as mentioned under 3.2.1(D)(4). | Complies |
| 3.2.1(E) – Landscape Standards | <p>This section sets minimum standards for landscape plans for all development applications to prevent erosion and meet the functional and visual purposes such as defining spaces, accommodating, and directing circulation patterns, managing visibility, attracting attention to building entrances and other focal points, and visually integrating buildings with the landscape area and with each other.</p> <p>The Project Development Plan meets requirements in this section as follows:</p> <ul style="list-style-type: none"> • Low water use plants. • Maintaining existing ornamental and evergreen shrubs on site. • Planting beds at least 5 feet in width surround the buildings and frame the pedestrian network. Plant selection for these areas is included on the planting schedule for the landscape plans. | Complies |
| 3.2.1(F) – Tree Preservation and Mitigation | <p>There are eight existing trees on site, five will be removed and three will be protected in place. As a result, seven mitigation trees are required. The plan is providing three upsized shade trees being (two catalpa and one accolade elm). The remaining 4 mitigation trees will be satisfied through other approved means by the City Forester.</p> | Complies |

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| <p>3.2.2 – Access, Circulation and Parking</p> | <p>This standard requires that development projects accommodate the movement of vehicles, bicycles, pedestrians, and transit throughout the project and to and from surrounding areas safely and conveniently and contribute to the attractiveness of the neighborhood. In compliance, the Project Development Plan includes the following:</p> <ul style="list-style-type: none"> • A 16 foot private drive consistent with engineering standards. • Removal of the existing attached sidewalk and installation of a detached sidewalk. • Six off-street parking spaces. • Adequate bicycle parking. | <p>Complies</p> |
| <p>3.2.2(J) – Setbacks</p> | <p>3.2.2(J) requires that any vehicular use area containing six (6) or more parking spaces or one thousand eight hundred (1,800) or more square feet shall be set back from the street right-of-way and the side and rear yard lot line.</p> <p>The project proposes to reduce the required setback from 5 ft to 3 ft along the north and east property lines.</p> | <p>Modification Requested</p> |
| <p>3.2.2(C)(4) – Bicycle Facilities</p> | <p>Bicycle parking requirements for a multi-family attached dwelling require one-space per bedroom with 60% enclosed and 40% on fixed racks.</p> <p>The plan proposes a total of four units with six bedrooms and requires 6 parking spaces. The plan provides four enclosed bike parking spaces within a pre-manufactured structure and two within a fixed rack.</p> | <p>Complies</p> |
| <p>3.2.2(C)(5) – Walkways</p> | <p>This section requires walkways that are located and aligned to connect areas or points of pedestrian origin and destination directly and continuously.</p> <p>The site will provide two walkways which connect directly into the Stuart Street sidewalk system.</p> | <p>Complies</p> |

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| <p>3.2.2(K)(1)(a) – Required Number of Off-Street Spaces</p> | <p>For multi-family projects, one bedroom units require 1.5 parking spaces while two bedrooms require 1.75 parking spaces. The plan proposes two, two-bedroom units and two one-bedroom units which requires 7 off-street spaces.</p> <p>The plan provides 6 off-street spaces and is requesting a modification of standard which is described in greater detail earlier.</p> | <p>Modification Requested</p> |
| <p>3.2.2(K)(5) – Handicap Parking</p> | <p>An Accessible space must be provided for all parking lots in the city. The standard requires that the space be convenient and as close as possible to the nearest accessible building entrance. For this site, one space is required.</p> <p>The project proposes one space in compliance with the standard.</p> | <p>Complies</p> |
| <p>3.2.2(L) – Parking Stall Dimensions</p> | <p>Land Use Code Section 3.2.2(L) details parking stall and drive-aisle requirements for parking lots. Parking and drive-aisles for residential uses have the option to comply with one or more of the following dimensional standards.</p> <p>Standard: 9 ft x 19 ft</p> <p>Long-term: 8.5 ft x 18 ft</p> <p>Compact: 8 ft x15 ft (40% max in Long-term Parking Lots)</p> <p>One-way Drive Aisle Width: 20 ft</p> <p>The project proposes all five 8.5 ft x 18 ft long term spaces and a 20-foot one-way drive aisle in compliance with this Section.</p> | <p>Complies</p> |
| <p>3.2.4 – Site Lighting</p> | <p>The plan proposes nine wall mounted fixtures, five near front entry doors and four near rear entry doors. The proposed fixture is 3,000K or less, fully shielded, and down directional.</p> | <p>Complies</p> |

B. DIVISION 3.3 - ENGINEERING STANDARDS

| Applicable Code Standard | Summary of Code Requirement and Analysis | Staff Findings |
|--------------------------|--|-----------------|
| <p>3.3.1(C)</p> | <p>An applicant is required to dedicate rights-of-way for public streets, drainage easements and utility easements as needed to serve the area being developed and/or platted. In cases where any part of an existing road is abutting or within the tract being developed and/or subdivided, the applicant shall dedicate such additional rights-of-way as may be necessary to increase such roadway to the minimum width required under this Land Use Code for such street.</p> <p>In compliance with the standard the project is dedicating 38 feet of additional right-of-way and behind that, a 9' utility easement along E Stuart Street.</p> <p style="text-align: center;">EAST STUART STREET</p> | <p>Complies</p> |

C. DIVISION 3.5 - BUILDING STANDARDS

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 | Summary of Code Requirement and Analysis | Staff Findings |
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| <p>3.5.1(B) 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, if any, on the same block face, abutting or adjacent to the subject property, opposing block face or cater-corner block face at the nearest intersection.</p> <p>The abutting property is a single-story residence with a 14.5-foot gable end facing the street. The plan proposes to add an additional story to the existing residence and would orient a 24.5-foot the gable end in a similar fashion toward the street. The proposed street-facing façade provides a similar roof pitch, overhang, fenestration pattern and secondary roof feature, similar in bulk, mass and scale with the abutting property.</p>   | |

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| <p>3.5.1(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. Additionally, the development plan shall create opportunities for interactions among neighbors without sacrificing privacy or security.</p> <p>The area of greatest sensitivity around the site is the abutting property to the west. The project provides a smaller second-story window for the laundry room and has removed a side facing window intended for the living room to help minimize views to the neighboring property.</p> | <p>Complies</p> |
| <p>3.5.1(E) – Building Materials</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>The project proposes the use of cultured stone base treatment, lap siding, board and batten, asphalt shingle roof, and aluminum clad windows and sliding doors. All proposed materials are in character with the surrounding properties which consist largely of 12" lap siding, natural and painted brick façade accents, plywood siding panel (T1-11), vinyl windows and asphalt shingles.</p> | <p>Complies</p> |
| <p>3.5.1(F) – Color</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>The project proposes gray and white colors consistent with the use of colors on the block and adjacent neighborhood.</p> | <p>Complies</p> |
| <p>3.5.2(D) – Relationship of Buildings to Streets, Walkways and Parking</p> | <p>This standard requires that the front façade of a residential building face a connecting walkway with no primary entrance more than 200 feet from a street sidewalk.</p> <p>In compliance, the plan proposes four separate front entrances to orient onto an internal walkway that connects directly with the Stuart Street sidewalk system.</p> | <p>Complies</p> |

D. 3.6 TRANSPORTATION AND CIRCULATION

| <p>Applicable Code Standard</p> | <p>Summary of Code Requirement and Analysis</p> | <p>Staff Findings</p> |
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| <p>3.6.6 – Emergency Access</p> | <p>This section is intended to ensure that emergency vehicles can gain access to, and maneuver within, the project so that emergency personnel can provide fire protection and emergency services without delays.</p> <p>The plan has been reviewed by Poudre Fire Authority and demonstrates the appropriate level of compliance with International Fire Code. The plan meets the requirements for perimeter access, signage, premise identification.</p> | <p>Complies</p> |

E. DIVISION 3.8 - SUPPLEMENTARY REGULATIONS

| Applicable Code Standard | Summary of Code Requirement and Analysis | Staff Findings |
|--|---|-----------------|
| <p>ww3.8.30(F)(1 - 7) Design Standards for Multi-Family Dwellings</p> | <p>Yards Along Single- and Two-Family Residential Development. Buffer yards shall be provided along the property line of abutting existing single- and two-family dwellings. Minimum depth shall be twenty-five (25) feet.</p> <p>The plan provides a 25-foot buffer yard to the single-family residence along the west side of the site. The condos located to the north do not qualify under the buffer yard standards.</p> | <p>Complies</p> |
| <p>3.8.30(F)(4) Design Standards for Multi-Family Dwellings</p> | <p>Entrances shall be made clearly visible from the streets and public areas through the use of architectural elements and landscaping</p> <p>The plan proposes two secondary roof features with bracketing which when combined provide a clear and visible entryway from the street.</p> | <p>Complies</p> |
| <p>3.8.30(F)(5) Design Standards for Multi-Family Dwellings</p> | <p>Roofs. Roof lines may be either sloped, flat or curved, but must include at least two (2) of the following elements:</p> <p>(a)The primary roof line shall be articulated through a variation or terracing in height, detailing and/or change in massing.</p> <p>(b)Secondary roofs shall transition over entrances, porches, garages, dormers, towers or other architectural projections.</p> <p>(c)Offsets in roof planes shall be a minimum of two (2) feet in the vertical plane.</p> <p>(d)Termination at the top of flat roof parapets shall be articulated by design details and/or changes in materials and color.</p> <p>(e)Rooftop equipment shall be hidden from view by incorporating equipment screens of compatible design and materials.</p> <p>The proposal includes a sloped gable-end primary roof line and provides a change in massing toward the northwest corner of the site. The scale of the roofline is consistent with a two-story residential building and provides a secondary entryway roof that transitions over the front and rear entryways of the building.</p> | <p>Complies</p> |
| <p>3.8.30(F)(6) Design Standards for Multi-Family Dwellings</p> | <p>Facades and Walls. Each multi-family dwelling shall be articulated with projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two-family dwellings, and shall not have repetitive, undifferentiated wall planes. Building facades shall be articulated with horizontal and/or vertical elements that break up blank walls of forty (40) feet or longer. Facade articulation may be accomplished by offsetting the floor plan, recessing or projection of design elements, change in materials and/or change in contrasting colors. Projections shall fall within setback requirements.</p> <p>The plan provides a recognizable base, middle and top treatment for the front and rear portions of the building. The stone veneer base treatment wraps around the building into a portion of the side façades. Covered doorways are provided at all entry points into the building and provide human scale proportions consistent with the adjacent single-family dwellings.</p> | <p>Complies</p> |

5. Article 4 – Applicable Standards:

A. DIVISION 4.5 – LOW DENSITY MIXED USE NEIGHBORHOOD DISTRICT (LMN)

The Low Density Mixed-Use Neighborhood District is intended to be a setting for a predominance of low density housing combined with complementary and supporting land uses that serve a neighborhood and are developed and operated in harmony with the residential characteristics of a neighborhood. The main purpose of the District is to meet a wide range of needs of everyday living in neighborhoods that include a variety of housing choices, that invite walking to gathering places, services and conveniences, and that are fully integrated into the larger community by the pattern of streets, blocks, and other linkages. A neighborhood center provides a focal point, and attractive walking and biking paths invite residents to enjoy the center as well as the small neighborhood parks. Any new development in this District shall be arranged to form part of an individual neighborhood.

Typically, Low Density Neighborhoods will be clustered around and integral with a Medium Density Mixed-Use Neighborhood with a Neighborhood Commercial Center at its core. For the purposes of this Division, a neighborhood shall be considered to consist of approximately eighty (80) to one hundred sixty (160) acres, with its edges typically consisting of major streets, drainageways, irrigation ditches, railroad tracks and other major physical features.

| Applicable Code Standard | Summary of Code Requirement and Analysis | Staff Findings |
|--------------------------------|---|------------------------|
| 4.5(B) - Permitted Uses | Any residential use consisting in whole or in part of multi-family dwellings (limited to eight [8] or less dwelling units per building) that contain fifty (50) dwelling units or less, and seventy-five (75) bedrooms or less is subject to a Type 1 review and is classified as a permitted use within the LMN zone district. | Complies |
| 4.5(D)(1) – Density | <p>The maximum density of an affordable housing project (whether approved pursuant to overall development plans or project development plans) containing ten (10) acres or less may attain a maximum density, taken as a whole, of twelve (12) dwelling units per gross acre of residential land.</p> <p>The property is 98.4 ft x 140.67 ft or 13,890 sq ft in size (before ROW dedication) and proposes 4 units.</p> <p>At 12 du/ac each unit requires 3,630 sq ft of gross land area: therefore, the minimum lot size for this project is 14,520 sq. ft.</p> <p>The project requires a modification of standard to exceed the maximum gross density from 12 du/ac to 12.54 du/ac and is analyzed earlier in this Report.</p> | Modification Requested |

6. Findings of Fact/Conclusion

In evaluating the request for the PlanetScale Living multi-family dwelling, PDP200015, Staff makes the following findings of fact:

1. The modification of standard to Section 3.2.2(J) – Setbacks to allow the proposed parking lot perimeter landscape setback along north and east property lines to be reduced would not be detrimental to the public good and that the request satisfies 2.8.2(H)(1) by providing adequate screening to the adjacent properties through landscaping and fencing and 2.8.2(H)(2) by the proposed project providing 25% of the units as deed restricted Affordable Housing.
2. The modification of a standard to subsection 3.2.2(K)(1)(a) to provide six (6) parking spaces rather than seven (7) per standard would not be detrimental to the public good because Stuart allows for on street parking which minimizes parking impacts to the neighborhood and meets the applicable requirements of subsections 2.8.2(H)(2) by the proposed project providing 25% of the units as deed restricted Affordable Housing.
3. The modifications of standard to subsection 4.5(D)(1) to increase the maximum density from 12 du/ac to 12.54 du/ac. This is because the proposed 1-unit of affordable housing would aid in substantially alleviate an important community need for such housing and the strict application of the standards would render the project practically infeasible and allowing the lot size to be 4% less than otherwise required would create no perceivable impacts or be detrimental to the public good.
4. The Project Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
5. With exception, the Project Development Plan complies with relevant standards located in Article 3 – General Development Standards with two modifications of standards to 3.2.2(J) and 3.2.2(K)(1)(a).
6. The Project Development Plan complies with relevant standards located in Division 4.5 Low Density Mixed-Use Neighborhood District (LMN) with one modification of standard to 4.5(D)(1).

7. Recommendation

Staff recommends approval of the three requests for Modification of Standard and approval of the PlanetScale Living Project Development Plan, PDP200015, based on the Findings of Fact.

8. Attachments

1. Project Narrative
2. Vicinity Map
3. Site Plan
4. Utility Plan
5. Drainage Report
6. Applicant's Modification Request
7. ROW Dedication
8. Utility Easement Dedication
9. Tree Removal Overview
10. Material Board

9. Links

The documents available at the following links provide additional information regarding the development proposal under review and are incorporated by reference into the hearing record for this item:

1. [All Submittal Documents](#) (enter PDP200015 into search bar)