

**RESOLUTION APPROVING A SPECIAL USE PERMIT  
FOR PROPERTY LOCATED AT 218 WEST MARKET STREET**

**WHEREAS**, landowner Heirloom Downtown Mall Development, LLC is the current owner of a lot identified on 2023 City Tax Map 33 as Parcel 276 (City Parcel Identification No. 330276000), having an area of approximately 0.562 acre (24,480 square feet) (the "Subject Property"), and

**WHEREAS**, the landowner proposes to redevelop the Subject Property by constructing a mixed use building at a height of up to 101 feet on the Subject Property, with retail space on the ground floor facing West Market Street, residential dwelling units at a density of up to 240 dwelling units per acre, and underground parking ("Project"); and

**WHEREAS**, the Subject Property is located within the Downtown Architectural Design Control District established by City Code §34-272(1) and contains an existing building that is classified as a "contributing structure", and the City's board of architectural review (BAR) has been notified of this special use permit application and the BAR believes that any adverse impacts of the requested additional height, the loss of the existing contributing structure, and the massing of the proposed building to be constructed can be adequately addressed within the process of obtaining a certificate of appropriateness from the BAR;

**WHEREAS**, the Project is described in more detail within the Applicant's application materials dated October 10, 2022 submitted in connection with SP23-00002, as required by City Code §34-158 (collectively, the "Application Materials"); and

**WHEREAS**, the Planning Commission and City Council conducted a joint public hearing, after notice and advertisement as required by law, on June 13, 2023; and

**WHEREAS**, upon consideration of the comments received during the joint public hearing, the information provided by the landowner within its application materials, and the information provided within the Staff Report, the Planning Commission voted to recommend approval of the proposed special use permit for the Project; and

**WHEREAS**, upon consideration of the Planning Commission's recommendation, and the Staff Reports discussing this application, public comments received, as well as the factors set forth within Sec. 34-157 of the City's Zoning Ordinance, this Council finds and determines that granting the proposed Special Use subject to suitable conditions would serve the public necessity, convenience, general welfare or good zoning practice; now, therefore,

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that, pursuant to City Code §§ 34-557 and 34-560, a special use permit is hereby approved and granted to authorize a building height of up to 101 feet, residential density of up to 240 dwelling units per acre, and reduced setback requirements for the Project, subject to the following conditions:

1. The specific development being approved by this special use permit ("Project"), as described within the October 10, 2022 exhibits submitted as part of the application

materials, as required by City Code Section 34-158(a)(1), shall have the following minimum attributes/ characteristics:

- a. Not more than one building shall be constructed on the Subject Property (the “Building”). The Building shall be a Mixed Use Building, containing residential and commercial uses in the percentages required by the Ordinance adopted by City Council on July 16, 2018 amending Article VI (Mixed Use Corridor Districts) of Chapter 34 (Zoning Ordinance) (relating to bonus height or density within mixed use zoning districts).
  - b. The commercial floor area within the Building shall contain space to be occupied and used for retail uses, which shall be located on the ground floor of the Building. The square footage of this retail space shall be at least the minimum required by the City’s zoning ordinance or, if none, equivalent square footage in relation to the gross floor area of the Building as depicted in the October 10, 2022 exhibits submitted as part of the application materials (subject to adjustment of the GFA, as necessary to comply with requirements of any COA approved by the BAR.
  - c. Underground parking shall be provided within a parking garage structure constructed underneath the Building.
  - d. Public pedestrian access between West Market Street and Old Preston Avenue shall be provided during normal business hours.
2. The mass of the Building shall be broken up to provide compatibility with the character defining features of the Downtown Architectural Design Control District (City Code §34-272(1)), subject to approval by the City’s board of architectural review.
3. There shall be pedestrian engagement with the street with an active, transparent, and permeable façade at street level.
4. The Landowner (including, without limitation, any person who is an agent, assignee, transferee or successor in interest to the Landowner) shall prepare a Protective Plan for the building located on property adjacent to the Subject Property at 110 Old Preston Avenue (“Adjacent Property”). The Protective Plan shall provide for baseline documentation, ongoing monitoring, and specific safeguards to prevent damage to the building, and the Landowner shall implement the Protective Plan during all excavation, demolition and construction activities within the Subject Property (“Development Site”). At minimum, the Protective Plan shall include the following:

- a. **Baseline Survey**—Landowner shall document the existing condition of the building at 110 Old Preston Avenue (“Baseline Survey”). The Baseline Survey shall take the form of written descriptions, and visual documentation which may include color photographs and video recordings. The Baseline Survey shall document the existing conditions observable on the interior and exterior of the Adjacent Property, with close-up images of cracks, staining, indications of existing settlement, and other fragile conditions that are observable. The Landowner shall engage an independent third party structural engineering firm (one who has not participated in the design of the Landowner’s Project or preparation of demolition or construction plans for the Landowner, and who has expertise in the impact of seismic activity on historic structures) and shall bear the cost of the Baseline Survey and preparation of a written report thereof. The Landowner and the Owner of the Adjacent Property (“Adjacent Landowner”) may both have representatives present during the process of surveying and documenting the existing conditions. A copy of a completed written Baseline Survey Report shall be provided to the Adjacent Landowner, and the Adjacent Landowner shall be given fourteen (14) days to review the Baseline Survey Report and return any comments to the Landowner.
- b. **Protective Plan**--The Landowner shall engage the engineer who performed the Baseline Survey to prepare a Protective Plan to be followed by all persons performing work within the Development Site, that shall include seismic monitoring or other specific monitoring measures of the Adjacent Property as recommended by the engineer preparing the Protective Plan. A copy of the Protective Plan shall be provided to the Adjacent Landowner. The Adjacent Landowner shall be given fourteen (14) days to review the Report and return any comments to the Landowner.
- c. **Advance notice of commencement of activity**--The Adjacent Landowner shall be given 14 days’ advance written notice of commencement of demolition at the Development Site, and of commencement of construction at the Development Site. This notice shall include the name, mobile phone number, and email address of the construction supervisor(s) who will be present on the Development Site and who may be contacted by the Adjacent Landowner regarding impacts of demolition or construction on the Adjacent Property.  
The Landowner shall also offer the Adjacent Landowner an opportunity to have meetings: (i) prior to commencement of demolition at the Development Site, and (ii) at least fourteen (14) days prior to commencement of construction at the Development Site, on days/ times reasonably agreed to by both parties. During any such preconstruction meeting, the Adjacent Landowner will be provided information as to the nature and duration of the demolition or construction activity and the Landowner will review the Protective Plan as it will apply to the activities to be commenced.

Permits--No demolition or building permit, and no land disturbing permit, shall be approved or issued to the Landowner, until the Landowner provides to the department of neighborhood development services: (i) copies of the Baseline Survey Report and Protective Plan, and NDS verifies that these documents satisfy the requirements of these SUP Conditions, (ii) documentation that the Baseline Survey Report and Protective Plan were given to the Adjacent Landowner in accordance with these SUP Conditions.

5. Additional Building design requirements. In addition to the requirements of condition 2 herein, the Building shall incorporate the following design elements:
  - a. The Building shall have windows on all elevations.
  - b. After 45-feet, the Building shall have no less than 10-feet of building setback along the length of the West Market Street streetwall and no less than 5-feet of building setback along the length of the Old Preston Avenue streetwall.
6. Affordable Housing. The Owner shall comply with the requirements of City Code Section 34-12 as follows:
  - a. Number and Location of Affordable Units. Prior to issuance of the permanent certificate of occupancy for the Building the Owner shall construct 8 affordable dwelling units either on-site or off-site, or some combination of on-site and off-site. The aggregate size of all affordable units will be at least 5,800 square feet of gross floor area. Prior to commencing construction of the affordable units, the Owner will consult with and seek guidance as to the on-site and/or off-site locations of such affordable units from organizations such as, but not limited to, Piedmont Housing Alliance, Charlottesville Redevelopment and Housing Authority, New Hill Development Corporation, and from Neighborhood Development Services and the City's Housing Coordinator.
  - b. Levels of Affordability. The 8 affordable dwelling units shall have the following levels of affordability:
    - i. 4 units shall be affordable to those earning up to 80% of the Area Median Income ("AMI").
    - ii. 2 units shall be affordable to those earning up to 60% AMI.
    - iii. 2 units shall be affordable to those earning up to 50% AMI.

- c. Affordable Term. The 8 affordable dwelling units shall remain affordable for the following terms:
    - i. 6 of the affordable units shall remain affordable for a period of at least 8 years.
    - ii. 2 of the affordable units shall remain affordable for a period of at least 16 years.
  - d. Non-Concentration of Units. If there are 3 or more affordable units constructed within the Building, they will not be concentrated or isolated to a single floor of the Building, but instead will be spread out among 2 or more floors.
  - e. Variety of Unit Type and Size. If there are 3 or more affordable units constructed within the Building, they will be of a variety of unit types, to include a mix of studios, one-bedroom, and two-bedroom units.
7. Reduced Rent for Community Space. The Owner will make commercial space within the Building available to a community organization at a discounted rent rate on the following terms:
- a. The community space will be available to a 501(c)(3) organization whose primary mission is to further financial literacy, job creation, or business growth for the citizens from the historic Vinegar Hill Community of Charlottesville, such as, but not limited to Conscious Capital Group or Vinegar Hill Magazine.
  - b. The community space shall contain at least 700 square feet of gross floor area and shall be built out to a standard of “white box construction” ready for tenant improvements.
  - c. The lease term shall be for a minimum of 5 years.
  - d. The base rent rate shall not exceed 50% of the market rent rate for such comparable space (other commercial space in the Building, if any, otherwise other Class A commercial space in downtown Charlottesville).
  - e. Other commercially reasonable lease terms typical for similar commercial space.