

Werner, Jeffrey B

From: Werner, Jeffrey B
Sent: Wednesday, October 19, 2022 4:15 PM
To: jd@bdarchitects.com
Cc: Jeffrey Levien; Whitney Hudson
Subject: 218 West Market Street - BAR Oct 18, 2022

BAR Discussion: Options for modifying required height step backs.
BAR # 19-09-04 (Sept 2019: BAR recommended SUP would have no adverse impact.)
218 West Market Street, TMP 330276000
Owner: Heirloom Real Estate Holdings LLC
Applicant: Jeff Dreyfus, Bushman Dreyfus Architects
Project: New structure
(No formal action taken.)

Mr. Dreyfus:

The BAR discussed the referenced project on October 18, 2022 and requested that staff report to the NDS Director they are generally supportive of the applicant's suggested modifications to the step backs on West Market Street (to a min of 10-ft) and Old Preston Avenue (to a min of 5-ft). Applicant sought BAR input prior to formally submitting for the Special Use Permit amendment necessary to modify the step backs.

For specifics of the discussion, the meeting video is on-line at:
<https://boxcast.tv/channel/vabajtzeuuyv3iclkx1a?b=uzjazbhfohchjty5hs6f>

If you have any questions, please contact me at wernerjb@charlottesville.gov.

Sincerely,
Jeff

Jeff Werner, AICP
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City of Charlottesville
Board of Architectural Review
Staff Report
October 18, 2022



Discussion only. No action will be taken.

Possible modifications to the height setbacks.

218 West Market Street

Tax Parcel 330276000

Owner: Market Street Promenade, LLC, Owner

Applicant: Heirloom Real Estate Holdings LLC, Applicant

Prior BAR Reviews (germane to this discussion)

March 13, 2019 – BAR approved the demolition of 218 West Market Street. Demolition is contingent upon the granting of a COA and building permit for its replacement.

September 17, 2019 - BAR recommended the SUP would not have an adverse impact.

http://weblink.charlottesville.org/public/0/edoc/791628/2019-09_218%20West%20Market%20Street_BAR.pdf

See motion below. Meeting minutes in appendix.

November 16, 2021 - BAR approved demolition of 218 West Market Street. (CoA had expired.)

Application

- Applicant submittal: Bushman Dreyfus narrative and drawings *218 West Market / Amendment of Special Use Permit*, dated October 10, 2022 (8 pages).

Prior to a formal request [to City Council] to amend the SUP*, the applicant seeks the BAR's input re: the alternatives and consistency with ADC District design guidelines. (* City Council approved the SUP September 8, 2020. See Appendix)

(**Note for clarity:** This discussion is re: the *stepbacks* of the building's upper floors, not the *setbacks* from the property line.)

From the applicant's narrative (refer to the entire document for complete summary):

In our preliminary planning, the design team has identified a zoning anomaly for this site that we wish to correct through an amendment to the existing Special Use Permit.

The zoning ordinance states the following:

- "After forty-five (45) feet, there shall be a minimum setback of twenty-five (25) feet along the length of the street wall. However, any streetwall fronting upon a numbered street within this district between Ridge Street and 10th Street East shall, after forty-five (45) feet, be required to have a setback of five (5) feet."

We are requesting an amendment to the existing Special Use Permit to require the following:

- A minimum ten (10) foot setback on West Market Street
- A minimum five (5) foot setback on Old Preston Avenue.

Discussion

BAR's September 17, 2019 recommendation to Council re: the SUP.

Gastinger moved to recommend that the proposed Special Use Permit for 218 West Market Street will not have an adverse impact on the Downtown ADC District, with the understanding that the final design and details will require BAR review and approval and that increased density and height is granted with the understanding that the building design will have the flexibility to mitigate potential impacts on the Downtown ADC District by addressing these items of considerations and concern:

- The building's massing will be broken up to provide compatibility with the character-defining features of the historic district
- Provide adequate protection of adjacent historic structures
- Provide a plan to replace the street trees on site
- Improve pedestrian character of Old Preston and Market Street
- Provide pedestrian through access between Market Street and Old Preston.

Mohr seconded. Approved (9-0).

Suggested Motions

No action will be taken.

Criteria, Standards, and Guidelines

Review Criteria Generally

Sec. 34-284(b) of the City Code states that, in considering a particular application the BAR shall approve the application unless it finds:

- (1) That the proposal does not meet specific standards set forth within this division or applicable provisions of the Design Guidelines established by the board pursuant to Sec.34-288(6); and
- (2) The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the protected property that is the subject of the application.

Pertinent Standards for Review of Construction and Alterations include:

- (1) Whether the material, texture, color, height, scale, mass and placement of the proposed addition, modification or construction are visually and architecturally compatible with the site and the applicable design control district;
- (2) The harmony of the proposed change in terms of overall proportion and the size and placement of entrances, windows, awnings, exterior stairs and signs;
- (3) The Secretary of the Interior Standards for Rehabilitation set forth within the Code of Federal Regulations (36 C.F.R. §67.7(b)), as may be relevant;
- (4) The effect of the proposed change on the historic district neighborhood;
- (5) The impact of the proposed change on other protected features on the property, such as gardens, landscaping, fences, walls and walks;
- (6) Whether the proposed method of construction, renovation or restoration could have an adverse impact on the structure or site, or adjacent buildings or structures;
- (7) Any applicable provisions of the City's Design Guidelines.

Pertinent Guidelines for New Construction and Additions include:

D. Massing & Footprint

While the typical footprint of commercial building from the turn of the twentieth century might be 20 feet wide by 60 feet long or 1200 square feet per floor, new buildings in the downtown can be expected to be somewhat larger. Likewise, new buildings in the West Main Street corridor may be larger than this district's historic buildings. It is important that even large buildings contribute to the human scale and pedestrian orientation of the district.

- 1) New commercial infill buildings' footprints will be limited by the size of the existing lot in the downtown or along the West Main Street corridor. Their massing in most cases should be simple rectangles like neighboring buildings.
- 2) New infill construction in residential sub-areas should relate in footprint and massing to the majority of surrounding historic dwellings.
- 3) Neighborhood transitional buildings should have small building footprints similar to nearby dwellings.
 - a) If the footprint is larger, their massing should be reduced to relate to the smaller-scaled forms of residential structures.
 - b) Techniques to reduce massing could include stepping back upper levels, adding residential roof and porch forms, and using sympathetic materials.
- 4) Institutional and multi-lot buildings by their nature will have large footprints, particularly along the West Main Street corridor and in the 14th and 15th Street area of the Venable neighborhood.
 - a) The massing of such a large scale structure should not overpower the traditional scale of the majority of nearby buildings in the district in which it is located.
 - b) Techniques could include varying the surface planes of the buildings, stepping back the buildings as the structure increases in height, and breaking up the roof line with different elements to create smaller compositions.

E. Height & Width

The actual size of a new building can either contribute to or be in conflict with a historic area. This guideline addresses the relationship of height and width of the front elevation of a building mass. A building is horizontal, vertical, or square in its proportions. Residential buildings' height often relates to the era and style in which they were built. Houses in the historic districts for the most part range from one to three stories with the majority being two stories. Most historic residential buildings range in width from 25 to 50 feet. While some commercial buildings are larger, the majority are two to three stories in height. Most historic commercial buildings range from 20 to 40 feet in width. The West Main Street corridor has a greater variety of building types. Early nineteenth-century (Federal and Greek Revival) and early-twentieth-century (Colonial Revival) designs often have horizontal expressions except for the townhouse form which is more vertical. From the Victorian era after the Civil War through the turn of the century, domestic architecture is usually 2 to 2 1/2 stories with a more vertical expression. Commercial buildings may be divided between horizontal and vertical orientation depending on their original use and era of construction.

- 1) Respect the directional expression of the majority of surrounding buildings. In commercial areas, respect the expression of any adjacent historic buildings, which generally will have a more vertical expression.
- 2) Attempt to keep the height and width of new buildings within a maximum of 200 percent of the prevailing height and width in the surrounding sub-area.
- 3) In commercial areas at street front, the height should be within 130 percent of the prevailing average of both sides of the block. Along West Main Street, heights should

relate to any adjacent contributing buildings. Additional stories should be stepped back so that the additional height is not readily visible from the street.

- 4) When the primary façade of a new building in a commercial area, such as downtown, West Main Street, or the Corner, is wider than the surrounding historic buildings or the traditional lot size, consider modulating it with bays or varying planes.
 - a) Reinforce the human scale of the historic districts by including elements such as porches, entrances, storefronts, and decorative features depending on the character of the particular sub-area.
- 5) In the West Main Street corridor, regardless of surrounding buildings, new construction should use elements at the street level, such as cornices, entrances, and display windows, to reinforce the human scale.

F. Scale

Height and width also create scale, the relationship between the size of a building and the size of a person. Scale can also be defined as the relationship of the size of a building to neighboring buildings and of a building to its site. The design features of a building can reinforce a human scale or can create a monumental scale. In Charlottesville, there is a variety of scale. For instance, an institutional building like a church or library may have monumental scale due to its steeple or entry portico, while a more human scale may be created by a storefront in a neighboring commercial building.

- 1) Provide features on new construction that reinforce the scale and character of the surrounding area, whether human or monumental. Include elements such as storefronts, vertical and horizontal divisions, upper story windows, and decorative features.
- 2) As an exception, new institutional or governmental buildings may be more appropriate on a monumental scale depending on their function and their site conditions.

Appendix

Meeting minutes from September 17, 2019

Special Use Permit

BAR 19-09-04, 218 West Market Street, Tax Parcel 330276000

Market Street Promenade, LLC, Owner /

Heirloom Real Estate Holdings LLC, Applicant

Increased building height and increased density

Mr. Ball recused himself from this application.

Staff Report, Jeff Werner: 218 West Market Street is a contributing structure in the Downtown ADC District. City assessment records indicate the commercial building was constructed in 1938. A c1955 Sanborn Map indicates this structure at the site. The brick building previously housed an A&P Grocery but has since been substantially modified. A covered arcade was added to the north and east elevations in the 1980s. Earlier this year the BAR approved the demolition of the building on the subject parcel and the demolition is contingent upon the granting of a COA and building permit for its replacement. The applicants have submitted a SUP request in anticipation of constructing on the site a mixed-use development with retail and commercial uses on the ground floor and residential units on the upper floors. The SUP request is to allow additional residential density and increased building height. Zoning permits 43 dwelling units per acre; allowing up to 24 units on the property by right. The request would increase the density to 240 DUs per acre, allowing 134 units on the property. The increase density will accommodate a variety of residential units in the development. Zoning permits 70-feet in height by right. The request is to increase the height to 101-feet. The additional height would enable the development's increased density and mixed-use functions. The applicants have illustrated the maximum envelope with a SUP. The submittal materials also provide studies of a more sculpted building. These studies are not intended to establish a design direction, but provide an idea of how a more developed building might appear on the site. Per City Code Sec. 34-157(7) "When the property that is the subject of the application for a special use permit is within a design control district, city council shall refer the application to the Board of Architectural Review or Entrance Corridor Review Board, as may be applicable, for recommendations as to whether the proposed use will have an adverse impact on the district, and for recommendations as to reasonable conditions which, if imposed, that would mitigate any such impacts. The BAR or ERB, as applicable, shall return a written report of its recommendations to the city council." In evaluating this SUP request, the Planning Commission and, ultimately, City Council will take into consideration the BAR's recommendation on whether or not the SUP, if approved, would adversely impact Downtown ADC district and, if so, any proposed conditions to mitigate the impact. The BAR's recommendations are not a function of how the site will be used or occupied, but an evaluation of the requested SUP relative to the criteria within the ADC Design Guidelines. That is, will allowing the requested increased residential occupancy and the increased overall height result in a project that conflicts with the Guidelines? In reviewing the SUP the BAR has the opportunity to discuss and offer recommendations on the proposed massing and building envelope, and how it engages the streetscape and neighboring properties, etc., etc. Furthermore, the BAR may request that the Planning Commission and City Council consider including these design recommendations as conditions of approval for the SUP. There has been a lot of discussion in the community about additional density and parking Downtown. Our purview is the visual aspect of the exterior, which should be made clear going forward.

Applicant, Jeff Dreyfus: We are talking about density and height on this particular site. We are asking for a recommendation that the SUP for both density and height does not have an adverse impact on the district. As we've discussed with 612 West Main, we have a long way to go with final design of a building and the COA gives the BAR the opportunity to sculpt the building as we go through the process. The initial submission shows the maximum allowable building envelope if it were built to its greatest volume. There is no intention to go there and it wouldn't be allowed by the BAR. However, the increased density and height on this site will give us a lot more flexibility from an economic perspective to be able to sculpt the building in a way that it is taller and thinner. Before we begin this process, we would like to know that we have the ability to increase the height and density, which is why we are here tonight.

QUESTIONS FROM THE PUBLIC:

None.

QUESTIONS FROM THE BOARD:

Ms. Miller: Some of those comments probably have an affect on the historic district.

Mr. Werner: I'm talking about the uses like how many apartments, who would be renting them, etc., which are not relative to the design of the exterior.

Mr. Lahendro: What are some of the guiding principles that you would use to design the building and have it be acceptable within the historic district and to the BAR?

Mr. Dreyfus: An important criterion is the scale of the street on both sides and trying to maintain the scale of buildings nearby. This is an interesting site because it steps down dramatically as you move toward the larger site. Part of the presentation includes views from Ridge-McIntire because this needs to be seen in the larger context. We show its height is relative to other buildings that have already been approved, including the Code Building and West 2nd. The step backs required by zoning begin to enforce that already, but perhaps we continue to cornice line coming from the mall of the Whiskey Jar building and step backs happen from there so that the scale steps up, not right on the street. That is one of the most critical urban design elements in all of this so that it begins to fit in. We will continue to discuss materials as well. We feel strongly that the entry into the parking area is well located off of Old Preston instead of having people turn into West Market. This is a much safer way to go. The number of cars coming and going from there won't be huge and it allows us to get the parking off of the West Market Street façade.

Mr. Gastinger: On Old Preston all existing trees on the site would need to be removed and presumably the street trees along Market Street would also need to be removed. Can you confirm if that is the case and what opportunities this project might have in improving the pedestrian character of those two streets?

Mr. Dreyfus: I can't speak to the trees at the moment. One of the most important elements of this structure is how pedestrians are welcomed into the building. It might be with an indent plaza of sorts with setbacks under canopies, but I can't speak to it at the moment. If continuing some of the greenery down that street is critical, then we would like to hear that now so we can begin to think about that. I forgot to mention that It's important to understand that we tried to compare the by-right height and what the shadows cast would look like vs. with the SUP during the sun

studies we did toward the back of this. The one difference is on the longest day of the year. The only difference is that the shadow would be cast on the lawn of those condos furthest south, but it wouldn't even cast a shadow on the roof of those, so the impact is very minor.

COMMENTS FROM THE PUBLIC:

Mr. Gastinger: We received an email just before this meeting started from the public and I thought it would be appropriate to read it aloud. It is from Joey Conover and it says "Hello BAR members. I am writing regarding the 218 West Market SUP request on tomorrow's agenda as the property manager for the neighboring building at 110-114 Old Preston Avenue. I wanted to bring a few items to your attention for consideration. I have an event but plan to attend as I am able. 1) Increased height density: In general, we feel the increased density is healthy for the increasing housing stock the urban core of Charlottesville. Although we are hoping increased height does not feel overly imposing and appreciate the proposed setbacks, it is necessary to increase the housing stock and the height may be worth it. Adding more retail along Old Preston Avenue and West Market expands the pedestrian commercial area in a positive way. There will likely be future design considerations, but at this time we support the project moving forward. 2) Neighbors: Please note that the application has our building marked on their SUP plans as Vinegar Hill, which no longer exists as a commercial business. There are two separate unrelated buildings that touch this project, Lighthouse Theater and our building, which currently houses Vibe Think and the Albemarle County Economic Development Office. 3) Historic Preservation: Our building at 110 Old Preston Avenue was built prior to 1900. It's built primarily out of stone, including the party wall with the current Artful Lodger building. We continue to be concerned about the structural integrity of our historic building and would like to hear public reassurance that this new project will take particular care in the demolition of the existing building, which is currently tied to our building with steel beams, as well as excavation during underground parking and subsequent construction. There is also a roof overhand that currently goes over the property line, which appears original. This may affect their design. 4) Green roof: For aesthetic and environmental reasons we highly recommend the BAR require this project include at least the amount of green roof that has been proposed, if not more. There is a large storm water drain that goes under the sidewalk along Old Preston Avenue. I understand that the Heirloom is planning to direct all roof rainwater to this direction, where most of it already goes. 5) Old Preston façade: The elevations on page 7 are not 100% clear if the levels along Old Preston will be parking apertures, or if that is retail level. I think it is retail, but if not, I would recommend that this façade be a more public facing retail-oriented façade to continue the feel of the Downtown Mall. 6) Pedestrian access: There is a lot of foot traffic through the current parking lot at 218 West Market. I would suggest that the BAR require that the project maintain pedestrian access along the Whiskey Jar side of the building to allow public movement through that corridor. If you have any questions, please do not hesitate to ask."

COMMENTS FROM THE BOARD:

Mr. Mohr: I don't find any issue with density or height. I think it will all be in the massing of the building. The comments about pedestrian connections and the transparency of the building to the street from both directions are important. I would hesitate to call it a structure and I would rather see it developed more as a compound or a series of structures. The massing models make me nervous because they don't seem to be separated.

Ms. Miller: It makes a lot of sense to have density here, but this application does make me nervous because the previous building with the same owner and team used every square inch of

allowable space. Increasing density might encourage bad behavior with the building that is to come. While density is great in this spot, I don't think a giant building is. It would need to be broken into pieces or significantly shaved back in order to be a good addition to the historic district. The points made about the pedestrian experience, trees, and being sure not to damage the existing stone wall are all important too.

Mr. Mohr: They didn't build absolutely to the edge.

Mr. Lahendro: I am willing to support the density and height, but we have a long way to go to design the building. It will be a challenge to do a building this large that is compatible with the other buildings and storefronts that abut it on both sides. We also have pedestrian access from all sides to this building and it is anchoring the end of the mall. The trees that are already there at the end are very welcoming and I strongly urge them to stay or have something like them.

Mr. Schwarz: My first thought when they were going for maximum height was absolutely not because it is out of context, but looking more closely, it seems like it is at an area where there will hopefully be more height nearby. The renderings imply that there is an illusion of multiple buildings. Actions like that are going to go a long way in making it successful. I am very concerned that because of the slope to the site, you will end up with a big parking plinth underneath as you walk along the side. The idea of maintaining pedestrian access throughout the eastside of the side is intriguing. I don't know if it's possible or if it will create a scary space, but it continues the block module that we have Downtown. I am not ready to make it a condition, but you should definitely investigate it. It would also allow you to pull the building off the side and get some windows there so it isn't just a wall.

Mr. Mohr: A lot of what happens in development of towns like ours is that we lose the topography. There is a sense from going to a higher street to a lower street and big bases wipe that out.

Mr. Gastinger: I encourage you not to give up on Old Preston because of its current condition. Changing the entrance of the parking lot itself might open up new possibilities with a significant section of that street. I encourage the City to also re-think that section to the extent that they can because that street is going to gain even more importance as the town becomes more dense and Preston continues to develop. The street trees are going to be a significant loss and it will be critical to find ways to mitigate that.

Mr. Balut: I am supportive of the application. This is an amazing site and it has great potential, so you have a great opportunity to make a wonderful statement by continuing the mall and making a good pedestrian experience on at least three sides. It will be a crucial part of the project so I look forward to seeing how that will develop. This would be a great opportunity to play with the massing and find ways that it can be more elegant and compatible with every adjacency. I am encouraged by the massing studies already and I encourage you to keep going in that direction. I encourage the green roof that you have and to add more to encourage more greenery and reduce storm water runoff on the site.

Mr. Sarafin: I am generally in favor. The pedestrian piece is very important, as well as making provisions to 110 Old Preston as work is being done. At the street level and scale, what happens at Old Preston needs to relate to those historic buildings. It is a challenging site, but it's also a

site that could be better utilized. While there may be concern about what is visible from the mall side, what we would be gaining from the other side is helping to better ground and anchor the mall. It also begins to extend it some.

Mr. Lahendro: Going forward, I will be looking closely at the materiality, the transparency at the pedestrian level and engaging the public, landscaping, and tying that building into the fabric of this historic area.

Mr. Schwarz: You may want to look at the zoning code's street wall requirements to make sure your hands aren't tied with that. You may want to speak with the Planning Commission about it. One condition we may want to add is the adequate protection of adjacent buildings.

Ms. Miller: The pedestrian and street trees up to three sides of the building, which reinforces the block size, might be a good condition too.

Mr. Lahendro: I don't know if that is tied into density and height, or if that is something that would come to us later when we get to the details.

Mr. Mohr: One of the reasons we agree to the increased density and height is so that you have some room to make the building a compound or a series of buildings. We aren't just saying to fill up the void.

Mr. Sarafin: We have a pretty clear list of concerns that, if addressed and met, there will not be an adverse impact on the district. We want a nice list for City Council to consider. We've thought about them and will continue to think about them and so should they when crafting the conditions that will be put on this SUP.

Mr. Mohr: We don't want to pin them down right now about specifics because we don't really know what the specifics are yet. We have to have faith in our processes, and these are all considerations. It's also a transition zone in that it's moving from the Downtown Mall scale to presumably a larger scale that will eventually occupy that entire portion of the town.

Mr. Schwarz: As labeling this a transition zone, I would be concerned with the Planning Commission sticking in a bulk plane on the east side, which wouldn't serve any good.

Mr. Mohr: It's not strictly about the scale of the mall.

Mr. Lahendro: All of these are concerns, but there is one condition, which is that the increased density and height is approved, providing the massing is broken up to provide compatibility with the character-defining features of the historic district.

Ms. Miller: I don't want to arbitrarily say fewer units per acre because we don't know what the applicant can do to creatively make it work and meet our Guidelines, but I also don't want them to think they can just have the maximum number of approved units and the building has to meet that.

Mr. Balut: Even if there is a by-right volume and they maximize that, we have the right to deny that request if we feel it isn't compatible with the district. We don't have to stipulate too much

because it is already understood. If we as a Board don't feel that the maximum by-right volume proposed is compatible, then we would just not vote in favor of it.

Mr. Sarafin: There is value in underscoring this point for City Council.

Mr. Schwarz: In the staff conditions, I would strike the phrase that says "based on the general design and building footprint as submitted," and instead just recommend that the SUP will not have an adverse impact. I also like Mr. Lahendro's comment about having a condition that says the massing will be broken up to provide compatibility with the character-defining features of the historic district.

Ms. Miller: Could we also have a loftier goal regarding the trees on the site and say that they will maintain street trees on site?

Mr. Gastinger: My only concern with that is that all of the trees are already compromised in significant ways.

Ms. Miller: It wouldn't necessarily be those trees, but they could find a way to work trees in.

Mr. Gastinger: What about saying to provide street trees to mitigate?

Mr. Mohr: We should do better than just mitigating it. We want something positive.

Mr. Gastinger: We can say they will provide a plan to replace the street trees lost on site.

Motion: Gastinger moved to recommend that the proposed Special Use Permit for 218 West Market Street will not have an adverse impact on the Downtown ADC District, with the understanding that the final design and details will require BAR review and approval and that increased density and height is granted with the understanding that the building design will have the flexibility to mitigate potential impacts on the Downtown ADC District by addressing these items of considerations and concern:

- The building's massing will be broken up to provide compatibility with the character-defining features of the historic district
- Provide adequate protection of adjacent historic structures
- Provide a plan to replace the street trees on site
- Improve Pedestrian character of Old Preston and Market Street
- Provide pedestrian through access between Market Street and Old Preston.

Mohr seconded. Approved (9-0).

SUP approved by City Council September 8, 2020

<http://weblink.charlottesville.org/public/0/edoc/797104/20200908Sep08.pdf>

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

WHEREAS, landowner Market Street Promenade, LLC is the current owner of a lot identified on 2019 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 submitted in connection with SP19-00006 and a preliminary site plan dated August 13, 2019, 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 November 12, 2019; 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, and residential density of up to 240 dwelling units per acre, for the Project, subject to the following conditions: 1. The specific development being approved by this special use permit (“Project”), as

described within the August 13, 2019 site plan exhibit submitted as part of the application materials, as required by City Code §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 August 13, 2019 site plan exhibit 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.

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.



Memorandum

To: Jeff Werner
From: Jeff Dreyfus
Date: 10/10/2022
Subject: 218 West Market / Amendment of Special Use Permit

To the members of the BAR:

The owner of 218 West Market Street was granted a Special Use Permit on September 8, 2020 (with an extension approved on March 4, 2022) for increased height and density on the parcel as the City looks to expand its housing stock and affordable housing options.

In our preliminary planning, the design team has identified a zoning anomaly for this site that we wish to correct through an amendment to the existing Special Use Permit.

The zoning ordinance states the following:

"After forty-five (45) feet, there shall be a minimum setback of twenty-five (25) feet along the length of the street wall. However, any streetwall fronting upon a numbered street within this district between Ridge Street and 10th Street East shall, after forty-five (45) feet, be required to have a setback of five (5) feet."

We are requesting an amendment to the existing Special Use Permit to require the following:

- A minimum ten (10) foot setback on West Market Street
- A minimum five (5) foot setback on Old Preston Avenue.

As the only through-block parcel on the north side of the downtown mall, this parcel is an anomaly in the City, as it requires a 25' setback on both West Market Street and Old Preston Avenue. This presents impediments to maximizing the parcel's potential for increased density and for contributing positively to the urban fabric on both streets. The double 25' setback on this parcel results in a building footprint that makes it impossible to achieve the type of density the Special Use Permit allows and that the City is looking to achieve because it will cramp and distort the standard dimensions and shapes of units. Additionally, if the 25' setback were consistently applied along West Market Street (as currently required), it will result in a downtown core of podium buildings with small towers sitting atop 3 story bases.

In conversations with NDS staff, we learned that there was no consideration for the uniqueness of this particular parcel when the current zoning ordinance was adopted. The requirement for a 25' setback on Old Preston Avenue seems contrary to the nature of the street itself. While a 25' setback on the downtown mall seems reasonable in respect to the predominantly 3-story height of historic structures, side streets perpendicular to the downtown mall require only a 5' setback. As a narrow street with the Omni's utility yard and parking garage fronting it, Old Preston Avenue is more like a side street of the downtown mall than it is an extension of the mall.

We also learned that the 25' setback requirement along West Market Street was adopted largely to prevent a tall structure from encroaching too closely on Market Street Park should such a structure ever be built on the open parking lot south of the park. While this may be reasonable for that particular site, the 25' setback would result in an entire street of podium structures if all parcels



along West Market Street were developed to meet this requirement. Urbanistically, this is contrary to the typical 10' +/- building setback typically employed in new construction to allow light and air to make its way to the street while accommodating reasonably sized terraces for residential units.

It's also important to note that the setback requirements for other zoning districts in the City range from 0' to 10'; with this in mind, the 25' setback required on the entirety of Market Street seems excessive.

Modifying the setback requirement via an amendment to the SUP will allow the City to correct the zoning anomaly of a 25' setback on a minor street such as Old Preston Avenue, and it will rectify the disparity between the required 25' setback on Market Street and the more typical urban condition of a 10' setback to moderate building scale and provide residential terraces of a reasonable size.

This request does not constitute a design proposal, nor does it increase density or height as those are fixed by the SUP. The setbacks define the envelope within which the design team must work to create a building that will be approved at a later date by the BAR. Modifying the setbacks at this time will provide the BAR and the design team greater flexibility in how we shape and sculpt a building that is appropriate for this particular site.

As an amendment to the existing Special Use Permit, this setback modification must go before the BAR, the Planning Commission and finally, City Council. In this process, the BAR is charged with the following:

"When the property that is the subject of the application for a special use permit is within a design control district, city council shall refer the application to the BAR or ERB, as may be applicable, for recommendations as to whether the proposed use will have an adverse impact on the district, and for recommendations as to reasonable conditions which, if imposed, that would mitigate any such impacts. The BAR or ERB, as applicable, shall return a written report of its recommendations to the city council."

With this application, we seek the BAR's recommendation that the proposed Special Use Permit amendment will not have an adverse impact on the design control district, knowing that the final design of any structure on this site still awaits input, review and approval by the Board of Architectural Review.

Sincerely,
Jeff Dreyfus

**REQUEST FOR STEPBACK RELIEF AT
218 WEST MARKET STREET**

218 WEST. MARKET ST.

- ZONE:** MIXED-USE DOWNTOWN CORRIDOR "D"
ARCHITECTURAL DESIGN CONTROL
DISTRICT URBAN CORRIDOR PARKING
ZONE
- PRIMARY STREETS:** WEST MARKET ST., OLD PRESTON AVE.
- LAND AREA:** 0.56 ACRES/24,393 SF
- DENSITY:** 240 DUA - 9/8/20 APPROVED SUP
- DWELLING UNITS:** 134 UNITS - 9/8/20 APPROVED SUP
- STREET WALL HT:** 40' MIN., 45 ' MAX.
- OVERALL HEIGHT:** 101' - PER 9/8/20 APPROVED SUP
- AVERAGE
GRADE PLANE:** 448'-3"
- STEPBACK:** 25' AFTER 45', **BOTH STREET WALLS**

Sec. 34-558. - Streetwall regulations.

"After forty-five (45) feet, there shall be a minimum setback of twenty-five (25) feet along the length of the streetwall. However, any streetwall fronting upon a numbered street within this district between Ridge Street and 10th Street, East shall, after forty-five (45) feet, be required to have a setback of five (5) feet.

SPECIAL USE PERMIT MODIFICATION

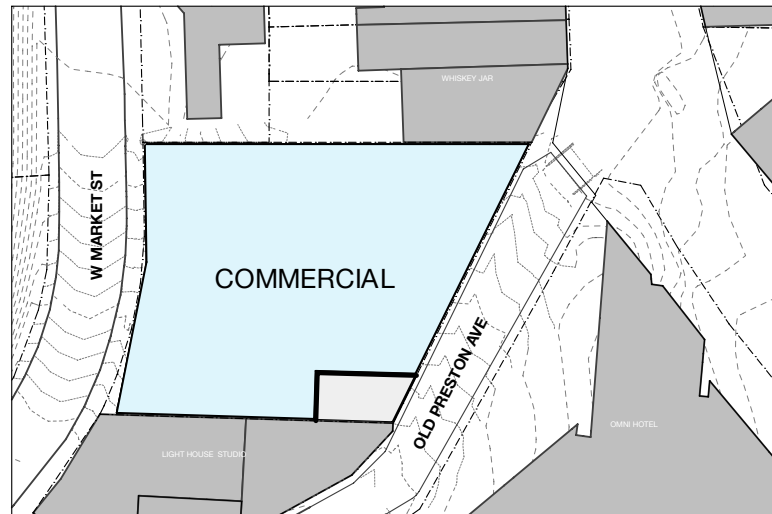
- STEPBACK:** 5' AFTER 45' ALONG OLD PRESTON AVENUE
10' AFTER 45' ALONG WEST MARKET STREET

"After forty-five (45) feet, there shall be a minimum setback of five (5') along the length of the Preston Avenue streetwall and ten (10') feet along the length of the West Market Street streetwall.

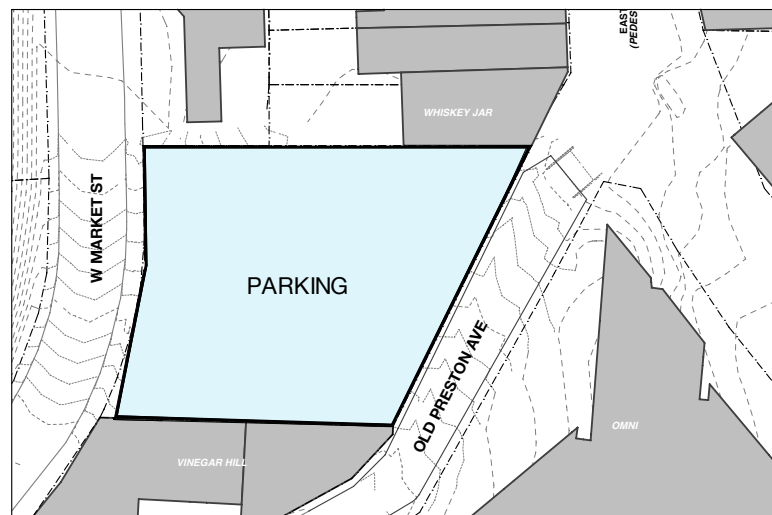




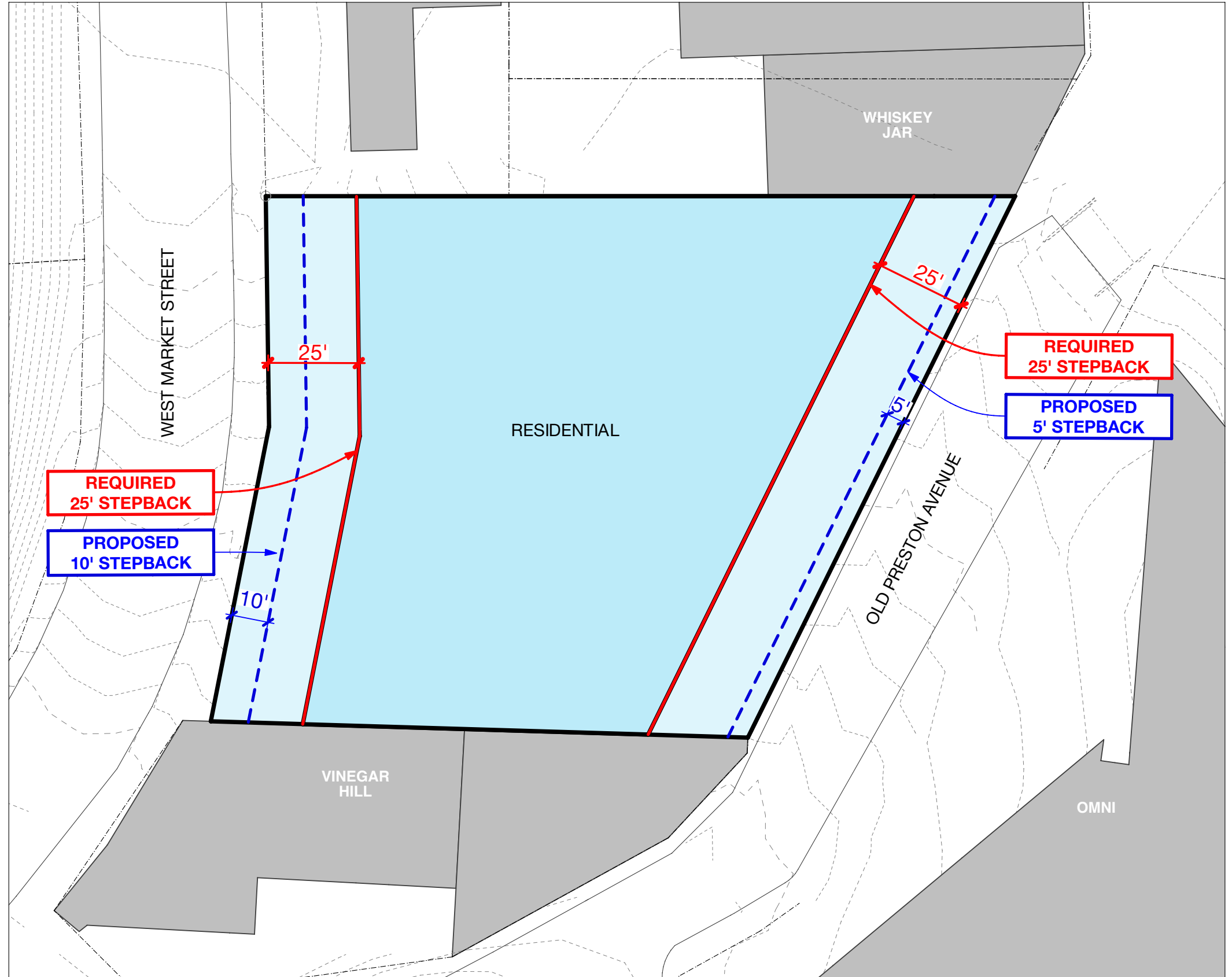
LEVELS 2 AND 3



LEVEL 1



PARKING - BASEMENT LEVEL

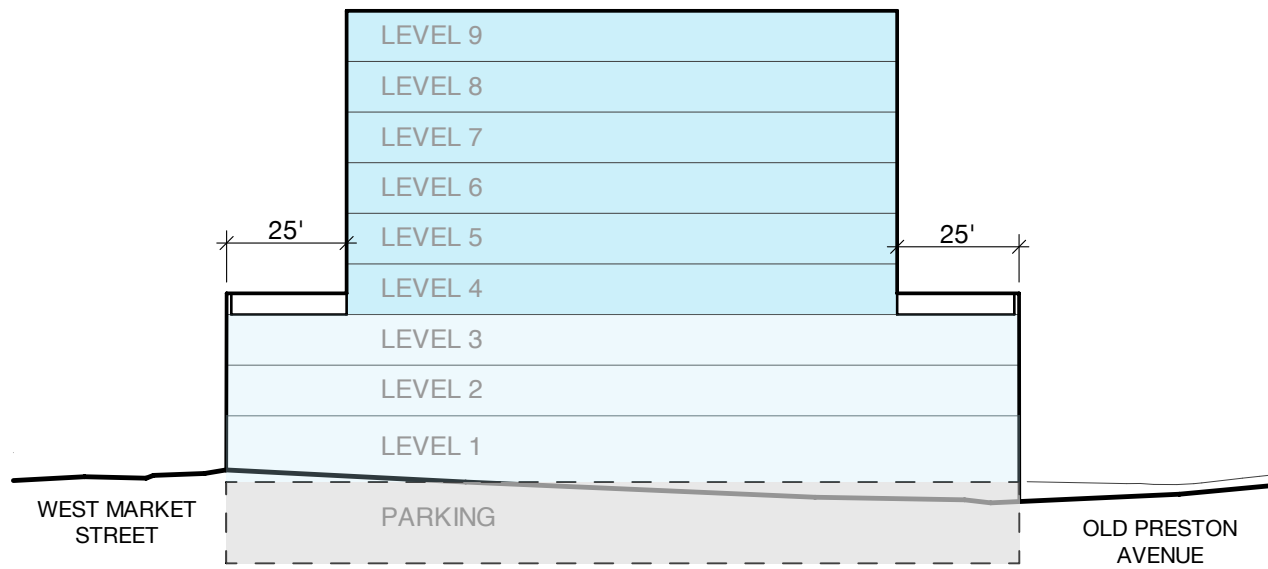


LEVELS 4 -9

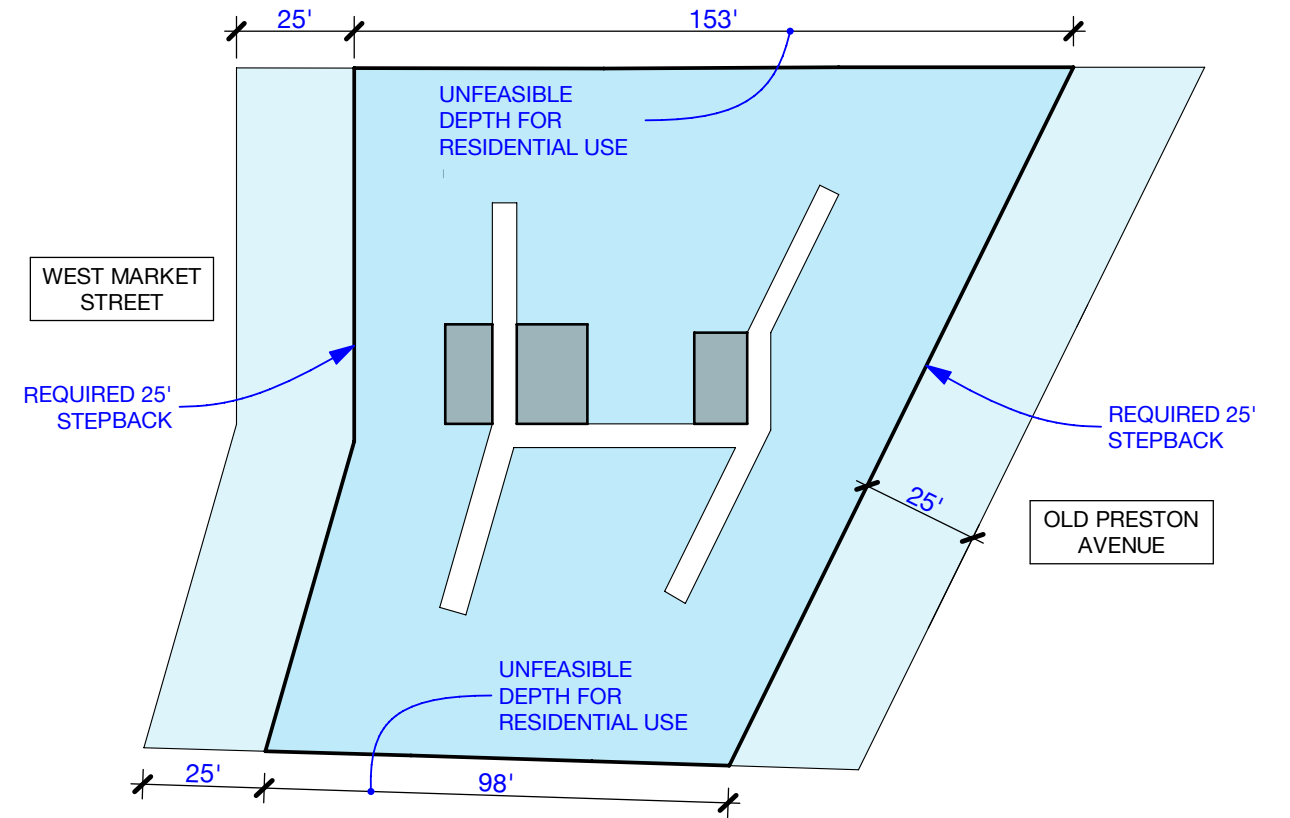


FLOOR PLAN LAYOUTS EXPERIENCE A HARDSHIP FOR PROPERLY DESIGNED RESIDENTIAL UNITS.

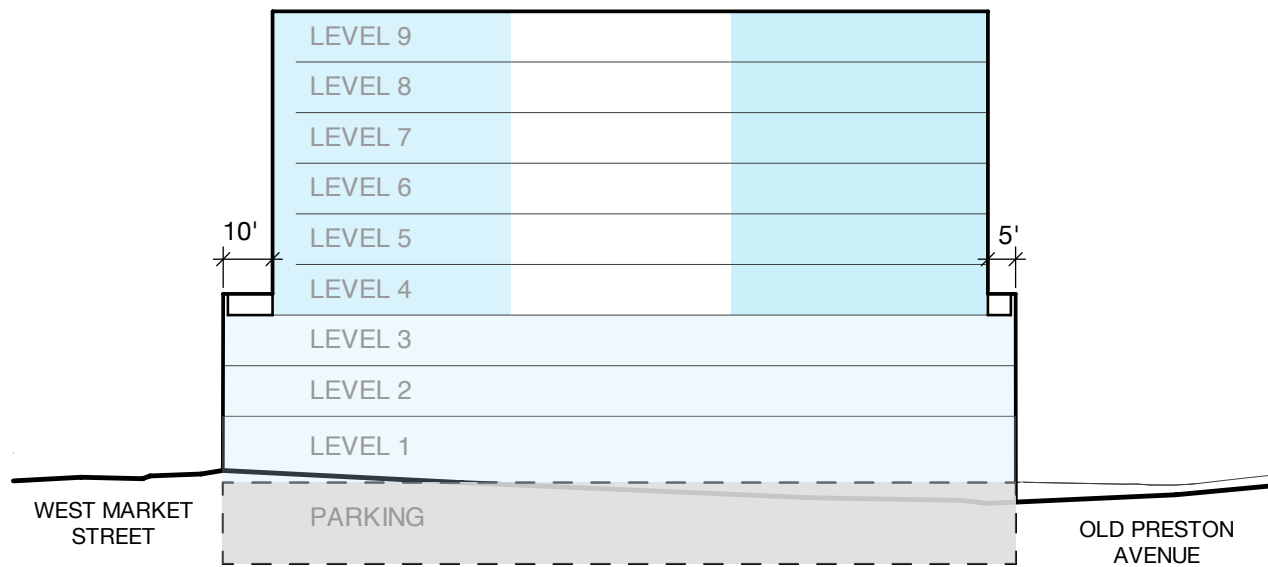
NOTE: STEPBACK RELIEF WILL NOT CHANGE UNIT QUANTITY.



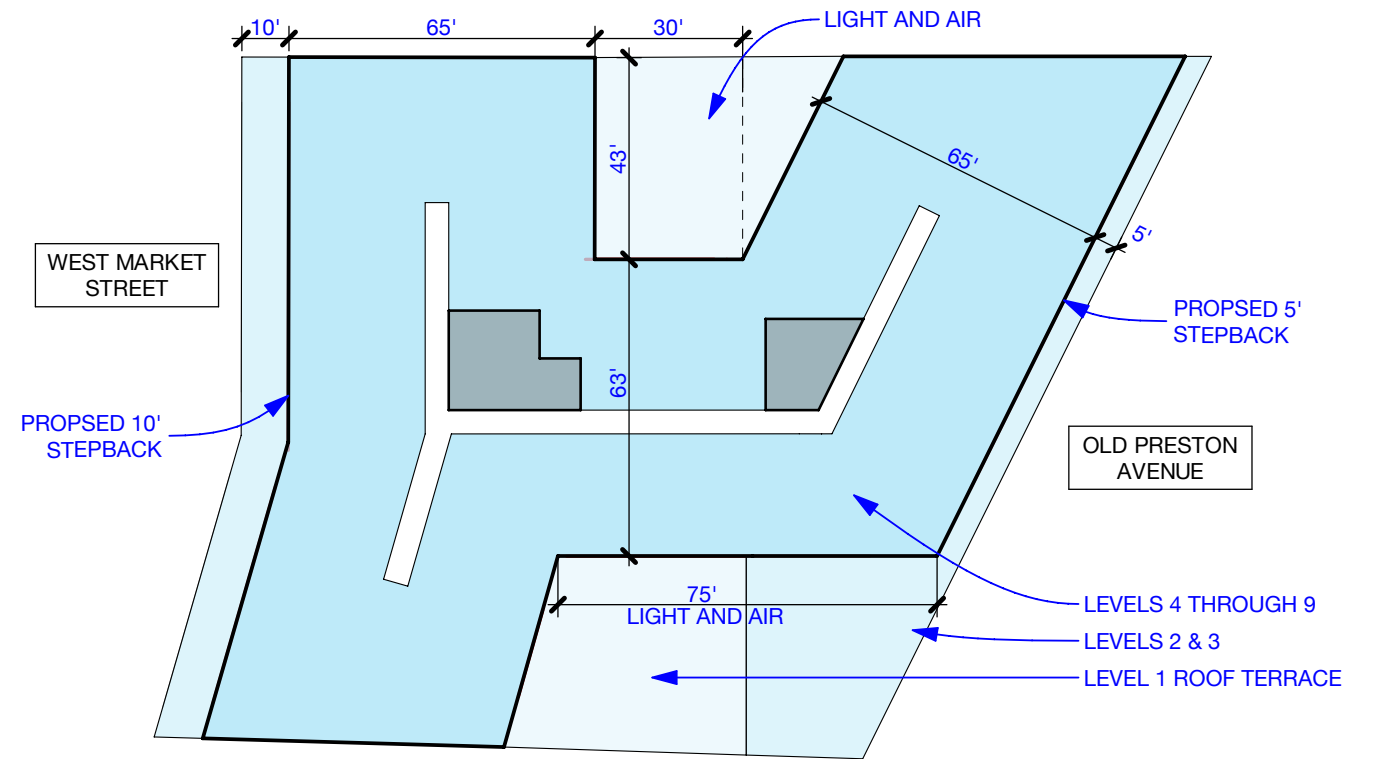
REQUIRED STEPBACKS



REQUIRED STEPBACKS

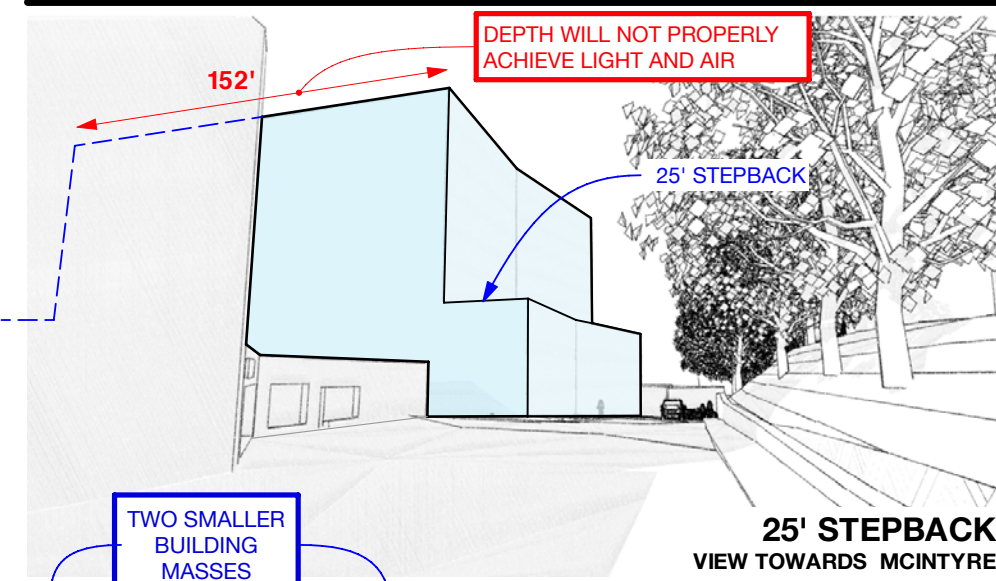


PROPOSED STEPBACKS

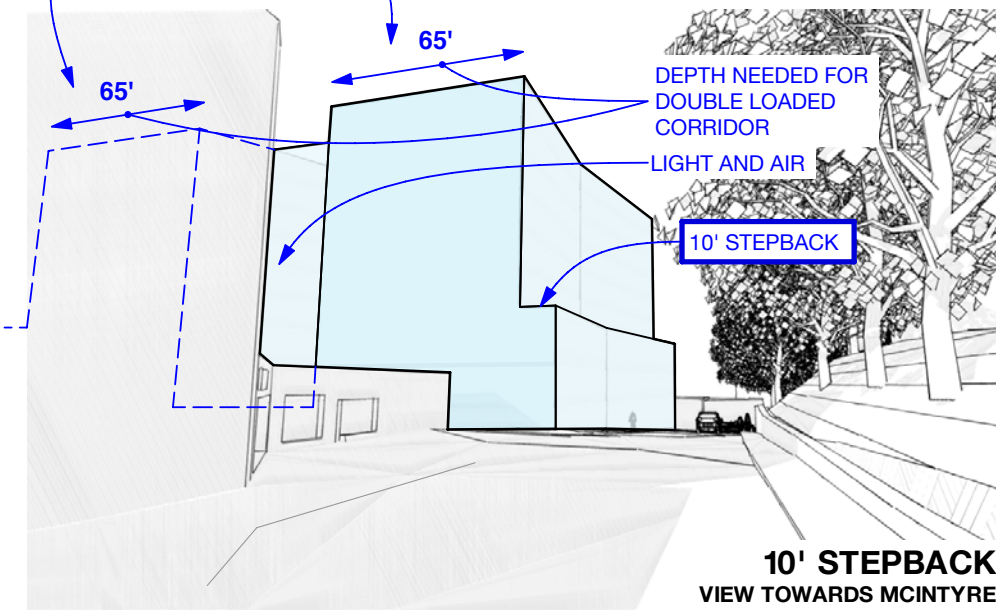


PROPOSED STEPBACKS

WEST MARKET - VIEW TOWARDS MCINTYRE



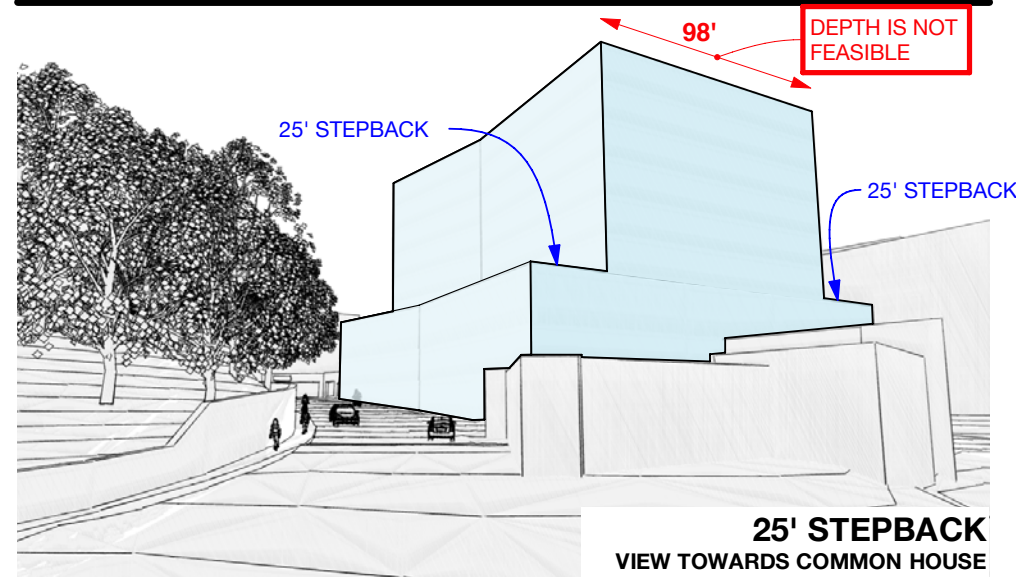
25' STEPBACK
VIEW TOWARDS MCINTYRE



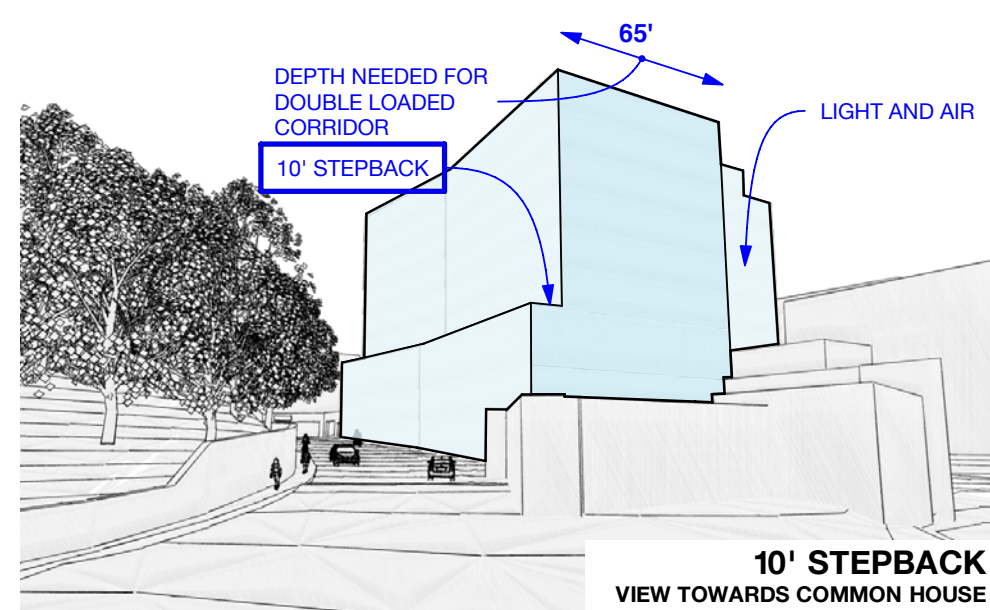
10' STEPBACK
VIEW TOWARDS MCINTYRE



WEST MARKET - VIEW TOWARDS COMMON HOUSE



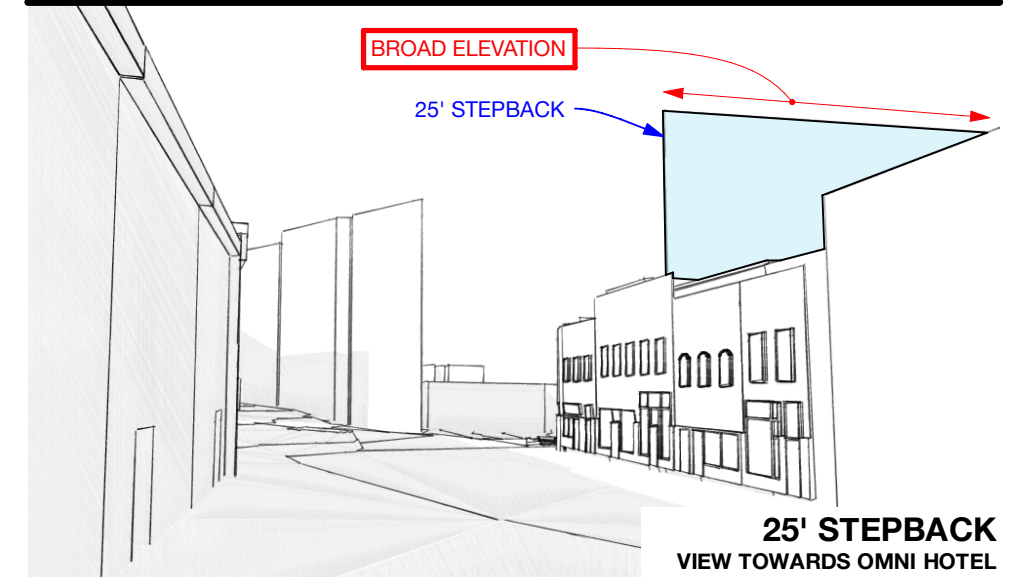
25' STEPBACK
VIEW TOWARDS COMMON HOUSE



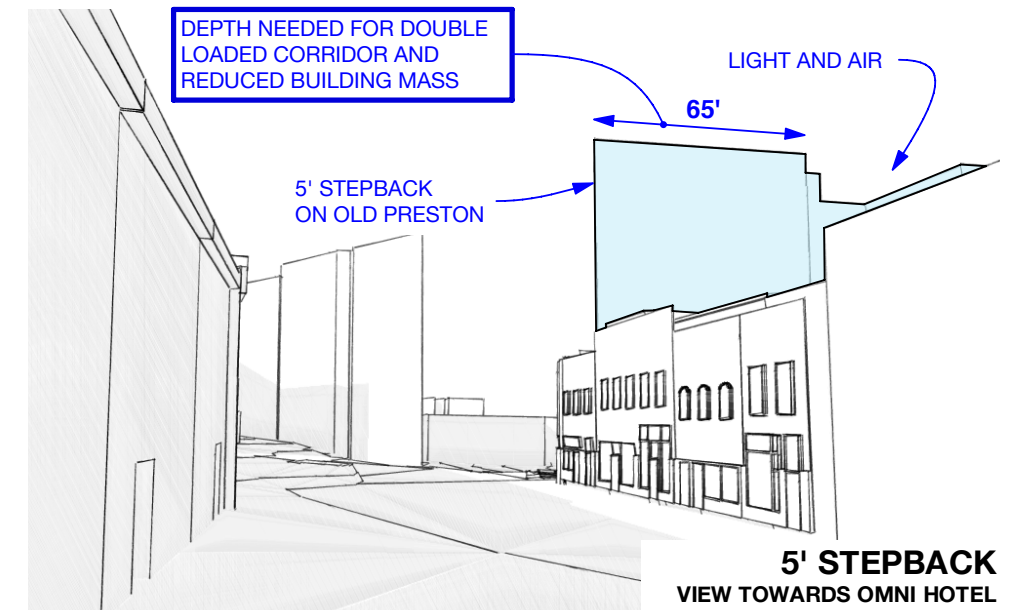
10' STEPBACK
VIEW TOWARDS COMMON HOUSE



DOWNTOWN MALL - VIEW TOWARDS OMNI HOTEL



25' STEPBACK
VIEW TOWARDS OMNI HOTEL



5' STEPBACK
VIEW TOWARDS OMNI HOTEL



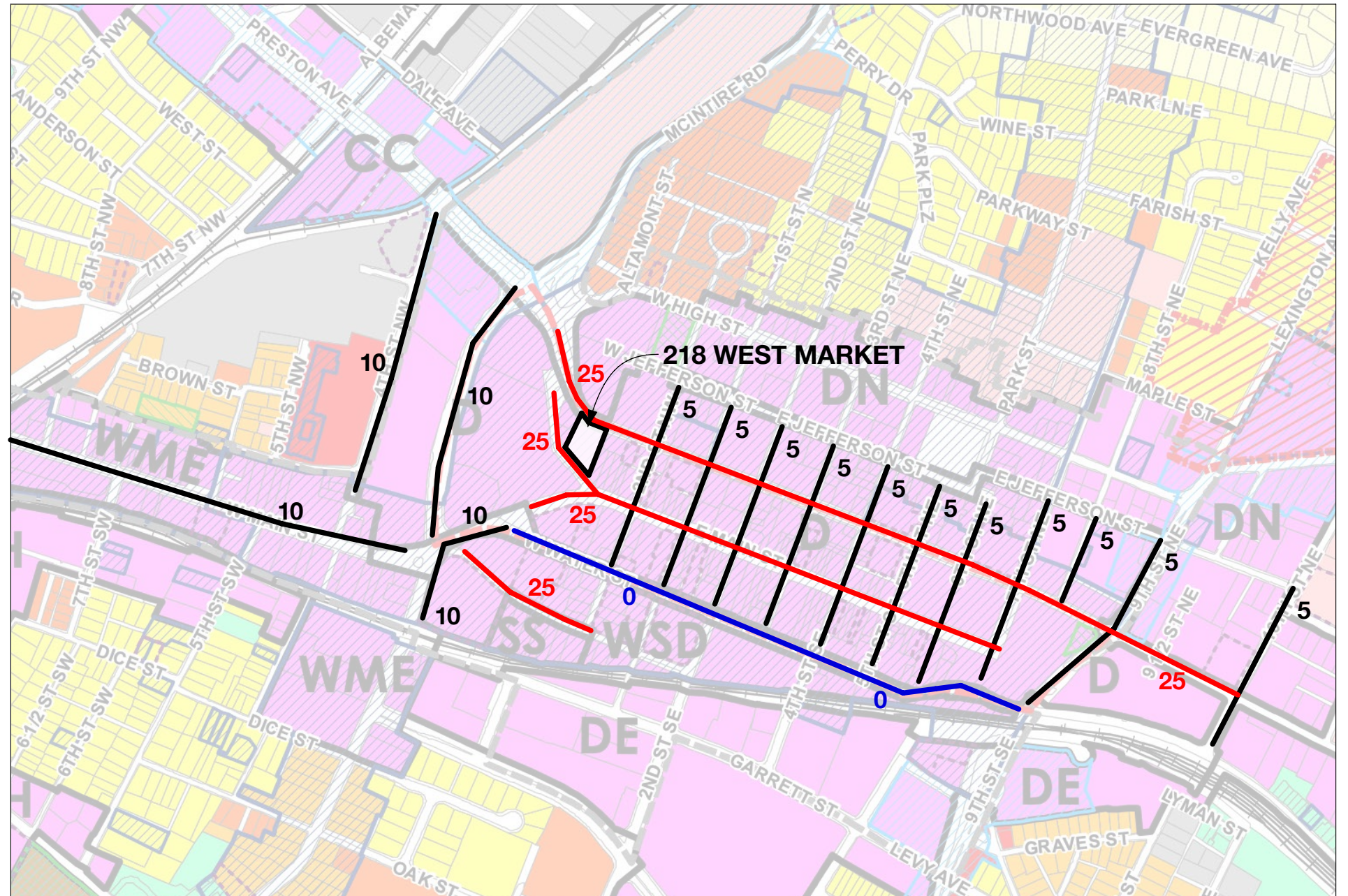
**5' AND 10' STEPBACK PRECEDENT AT MIXED-USE LOCATIONS
218 WEST MARKET STREET IS UNIQUELY BURDENED**

COMPARISON OF STEPBACK REGULATIONS:

Downtown Stepback Requirement: 25' stepback after 45' along entire streetwall. Buildings fronting on Water Street are exempt.

Stepbacks in Nearby Zoning Districts and other Mixed Use Districts:

- Downtown Extended: 10' after 50', along 70% of the streetwall.
- Downtown North: Only for facades facing a low-density residential district, 10' after 3 stories, along 70% of the streetwall. Otherwise, none.
- Water Street: None along Water Street.
- Along South Street: 25' after 45' because of small height limits applicable to the South Street zoning district with historic buildings, and 10' after 45' along Ridge Street.
- West Main East: 10' after 40'.
- West Main West: 10' after 40'.
- Corridor: High Street: None, max. building height is only 35'.
- Neighborhood Commercial: 10' after 45 feet, only along 50% of the streetwall.
- Central City Corridor: 10' after 45' along 70% of the streetwall.
- Highway: None.
- Cherry Ave: 10' after 35'.
- Urban: None.



None of the other mixed use districts require a 25 foot stepback on the front other than Water Street District, and there the stepback is only required for those buildings that front on South Street. South Street's zoning district's intent is to "preserve the historic pedestrian scale" of a small grouping of large historic homes, where the maximum building height is 45 feet.

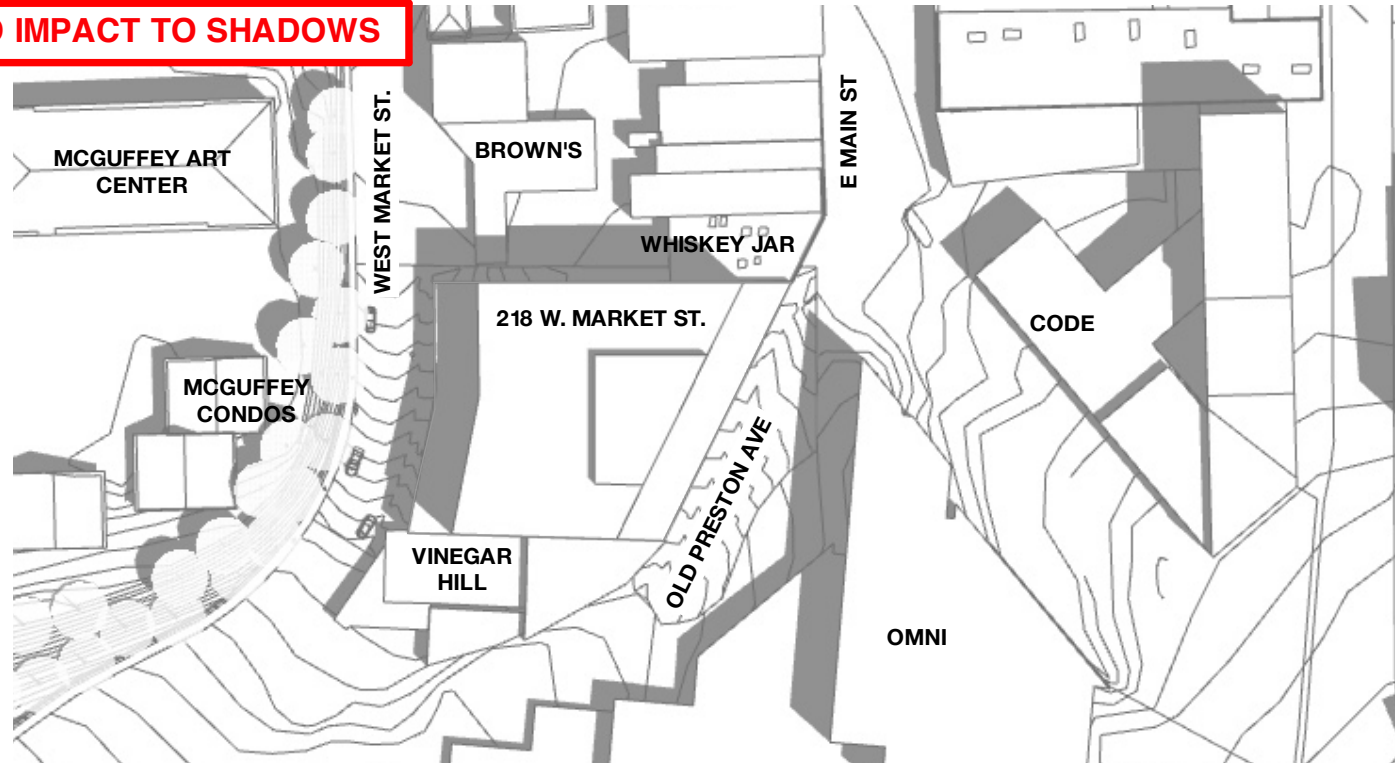
The buildings along Market Street do not have an equivalent "special" district to protect per the "purpose and intent" of the South Street zoning district.

For buildings in the Downtown District that front on Water Street, and for buildings in the Water Street District that front on Water Street, there is NO stepback requirement – note the 101' streetwall of the CODE building along Water Street.

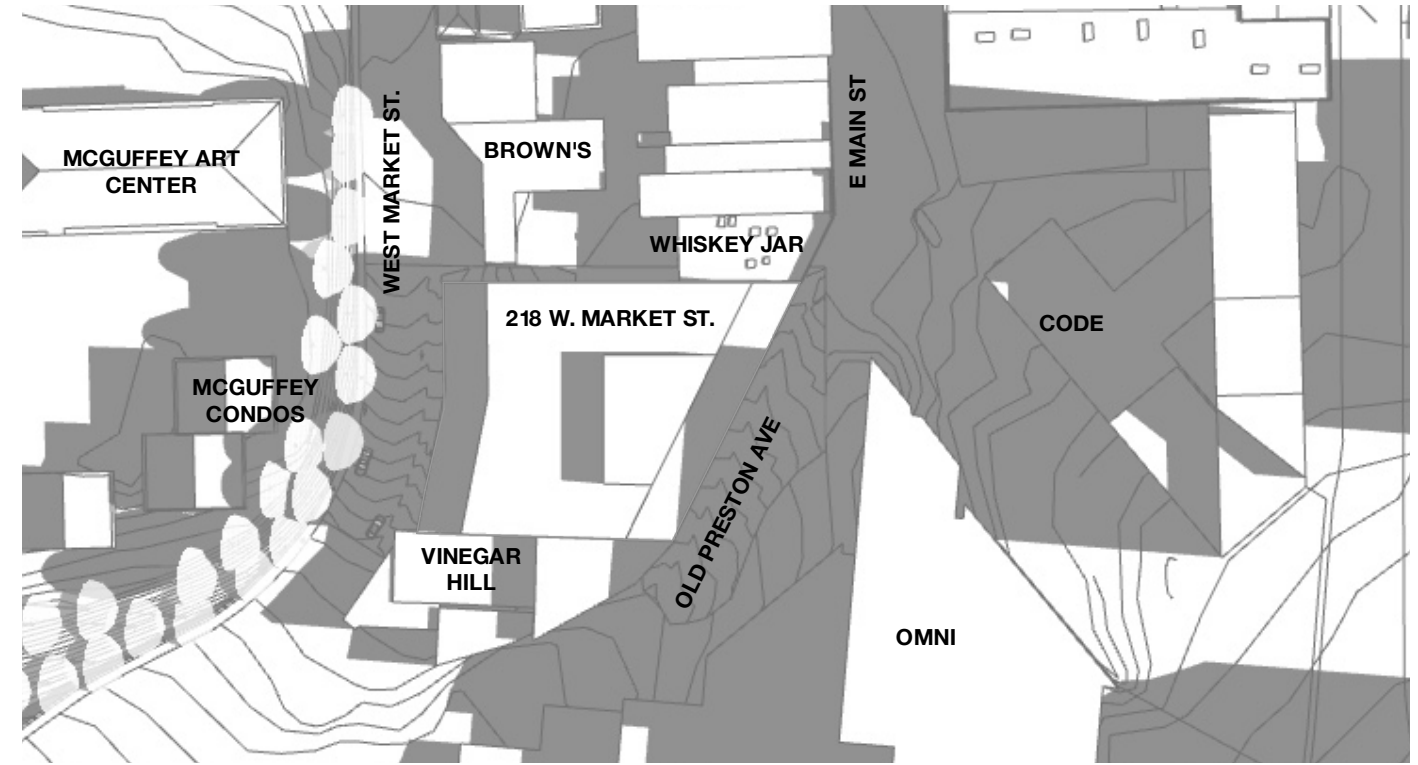
LEGEND

- 0' STEPBACK ———
- 5' STEPBACK ———
- 10' STEPBACK ———
- 25' STEPBACK ———

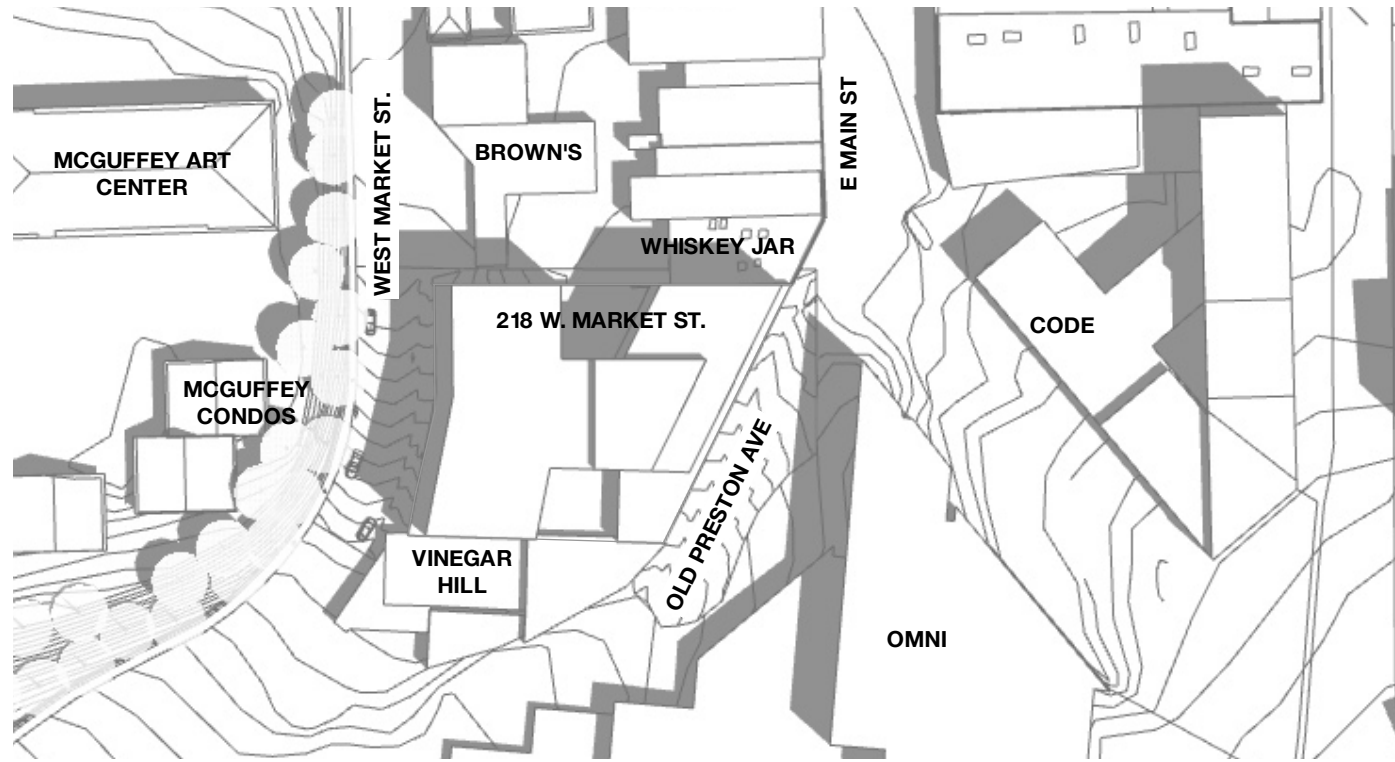
NO IMPACT TO SHADOWS



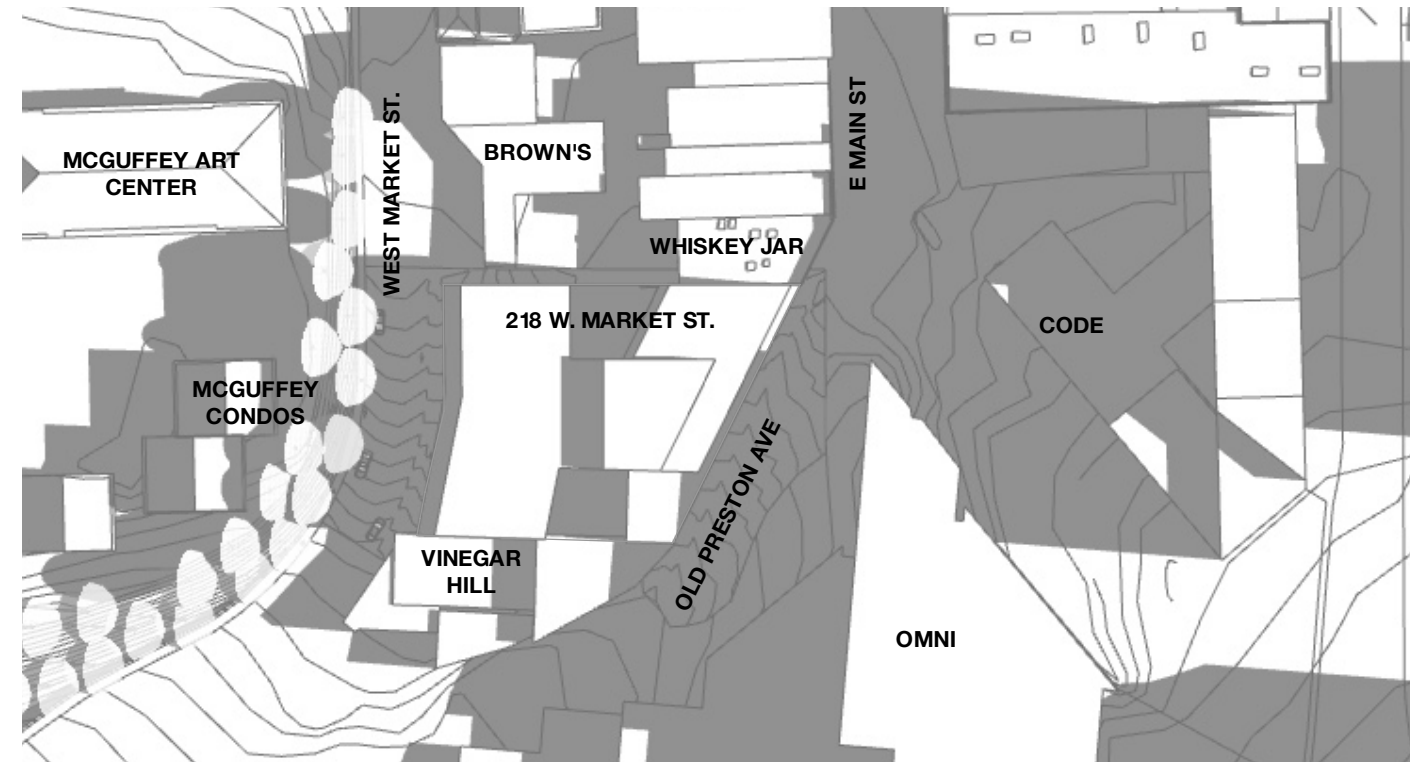
REQUIRED STEPBACKS - LONGEST DAY OF THE YEAR: 2PM JUNE 21ST



REQUIRED STEPBACKS - SHORTEST DAY OF THE YEAR: 2PM DECEMBER 21ST



PROPOSED STEPBACKS - LONGEST DAY OF THE YEAR: 2PM JUNE 21ST



PROPOSED STEPBACKS - LONGEST DAY OF THE YEAR: 2PM DECEMBER 21ST

