

**Courthouse Plaza Shopping Center
Special Exception Requests
Statement of Support
November 9, 2023
Revised May 17, 2024**

Combined Properties, Incorporated, on behalf of Combined Courthouse LLC (the “**Applicant**”) is the owner of Courthouse Plaza Shopping Center, which is located at 10300 Willard Way and further identified as tax parcel 57-2-20-004D (the “**Property**”, “**Courthouse**”). Located in the heart of Fairfax City (the “**City**”), the Property is just north of Main Street with access from both University Drive and Blenheim Boulevard. Developed nearly two generations ago as a single-story retail shopping center, the Property is ripe for a dynamic redevelopment with an infusion of multifamily housing at its core, in line with the City’s and Applicant’s vision. As described in greater detail below, the Applicant is submitting a bold, yet scaled and Fairfax-appropriate proposal (the “**Project**”) to revitalize the Property into that desired, vibrant and thriving mixed-use community with the addition of a residential building.

Applicant Overview

Combined Properties is and plans to remain a longtime property owner in Fairfax City with four major properties, each strategically located along a main corridor: Pickett Shopping Center, Turnpike Shopping Center, Scout® on the Circle and Courthouse Plaza. Over the past decade, the Applicant has made significant improvements to both its Pickett and Turnpike centers, completing full façade renovations and successfully re-tenanting many of the spaces to re-create commercial centers with desired and complementary retailers. With Scout on the Circle, the Applicant replaced an outdated shopping center with the City’s first integrated, mixed-use buildings, anchored by a Giant grocery store and supported by structured parking. The revisions to all three properties made high-quality, lasting improvements, demonstrating the Applicant’s commitment and wherewithal to work closely with the City and community to create successful developments in an economically appropriate manner.

Building on the success of those three projects in the City, the Applicant is turning its attention to Courthouse to respond and adapt to the market’s evolving landscape and the City’s small area plan goals for the Property, all while working within lease constraints. As a retail center, redevelopment is constrained by tenant leases. This leads the Applicant to take a long-term, conservative approach to its real estate ownership and development and requires the Applicant to creatively work within and around those leases. As detailed below, the Courthouse redevelopment respects lease requirements, infuses the property with the needed, and called for, residential uses, and will provide overarching façade updates to help attract retailers and restaurants to the Property.

Property Background and Description

The Property is currently improved with a single-story retail center of 83,000 square feet. It occupies approximately 8.73 acres of land bound by Blenheim Boulevard to the east and University Drive to the west; each road provides both a signalized and unsignalized entrance into the Property. The shopping center was constructed 44 years ago consistent with the auto-oriented, parking lot-intensive, retail strip centers of the 1970s. Despite being anchored with a Safeway grocery store and zoned for commercial-retail uses, the Property’s layout and single-use format is no longer consistent with the City’s vision. Therefore, the Applicant seeks to remove a portion of the retail square footage and replace it with the desired residential uses to create a

synergized, mixed-use center. The Project is focused within the western portion of the Property and will utilize a Special Exception review to allow development on the western 3.85 acres (the “**Building Area**”) as shown in the accompanying development plan. The remaining building and retail uses within the Property will remain in place while benefitting from façade upgrades, of a similar expanse that were completed a decade ago at Combined’s Pickett and Turnpike shopping centers.

Two vacant pad sites, totaling approximately 9,000 square feet on 1.61 acres, exist to the south of the primary shopping center on Tax Map Parcel 57-2-20-003A (the “**Restaurants**”). A separate Special Use Permit is being processed for the former McDonald’s building to reintroduce a Restaurant with Drive Thru to that building, at the same time a lease has been executed to re-tenant the other pad site. And, the Applicant recently processed an administrative application to create an interparcel connection between the Property and the Restaurants to better link the parcels; this enhancement is expected to get underway in the new year.

The surrounding neighborhood is comprised mostly of commercial, institutional and lower density office uses, but change has started to take hold, most recently with the replacement of an outdated, low-rise office building and associated surface parking to the north into Capstone: The Flats on University, a student-oriented multifamily housing building to support George Mason University, which is located less than two (2) miles from the Property.

Zoning

The Property is zoned Commercial Retail (“**CR**”), the City’s primary commercial zoning district that governs the majority of properties along both Fairfax Boulevard and within Old Town Fairfax. The CR district is designed to “provide area for office and general business and retail establishments and uses accessory or complementary thereto.” Within Old Town Fairfax, there are overlay districts that establish additional zoning regulations on several of the properties, including Courthouse, which is sited within the Old Town Fairfax Transition Overlay District (“**TOD**”). The TOD was established to “encourage a compatible mixture of residential, retail, and office uses within the designated transition area in a manner which complements the scale, siting and design of the Old Town Fairfax Historic Overlay District,” which exists south of the Property. In support of the TOD and as explained further below, the City has identified the Property – through the Old Town Small Area Plan (“**SAP**” or “**Small Area Plan**”) – as appropriate for an infusion of residential uses. The TOD allows for certain upper story residential/mixed use buildings by-right, although certain Special Exception approvals are necessary for the Project.

Proposal

The Applicant has prepared a thoughtful, residential project to respond and adapt to the market’s evolving landscape and the City’s small area plan goals for the Property. Building upon the successful Capstone project to the north, the Project will introduce an upper story residential/mixed-use building along University Drive, which will extend the urban street edge and pedestrian experience into Old Town. The new building will replace the surface parking that now aligns University Drive and the retailers to the west of Safeway, adding approximately 315 residential units, 5,000 square feet of ground-floor retail and the associated vibrancy to an area that is now largely devoid of activity. Six percent of the units at the Project, consistent with City policy, will be rented as affordable units.

The Applicant will create two new streets to frame the building, beginning to achieve the interconnected goals identified in the Small Area Plan, and support the new development with structured parking, freeing up valuable land for coveted open space. The Applicant will lay the

framework for the desired street and pedestrian network with an expansive promenade along University Drive of more than 25 feet in width. Importantly, this wider streetscape along University Drive is permitted by Sec. 3.7.3.C.3.b.(2), which allows front yard setbacks greater than 10 feet to accommodate such things as pedestrian plazas and accessways, sidewalks and landscaping, all of which the Applicant has proposed.

The proposed streetscape along University extends the pedestrian experience provided in front of the recently completed The Flats on University, to more uniformly lead those residents, and residents north, into the City's urban core. The Applicant will also provide important contributions of open space with the introduction of a third-of-an acre public park to bridge the new development with the existing retail.

To complement the residential building, the Applicant has plans to thoughtfully upgrade the existing Safeway's exterior façade, along with the retail facades to the east, to correspond to the newly implemented and modernized design of the residential building. The exact design, materials and architectural elements of both the residential and the updated retail facades will be refined throughout this special exception process with separate applications being submitted to the City's Board of Architectural Review requesting its important insight and approvals. The design intent and focus for the Property includes appropriately bridging the historic core with more modern expressions. The enlivened retail will utilize the existing surface parking outside the Building Area, without needing to add additional surface parking along University Drive. With the focus on adding residential, it will allow the Applicant to right size the retail at the Property.

Although not part of this application, the Applicant is continuing its efforts to re-tenant and renovate the two vacant pad buildings along Blenheim Boulevard. This includes the drive-through special use permit the Applicant filed for the former McDonald's building and the recently executed lease for a new restaurant in the second building. As noted above, to facilitate cross movement between the restaurants and the Property, for both pedestrian and vehicular traffic, the City recently approved a new access point to link the Property with these adjacent restaurants.

Requested Special Exceptions

With complex redevelopment projects, there are often certain zoning requirements that cannot be strictly adhered. This project seeks relief from the following standards:

1. Section 3.5.1.D.1(b): Special Exception to allow more than 25% of the ground floor to be residential uses and/or residential accessory uses.

Recognizing the tenets of the Small Area Plan to add residential to Old Town Fairfax and with a keen awareness of the retail market and significant retail that exists at the Property today, the Applicant is requesting this Special Exception to allow more ground-floor residential uses than a strict adherence to the Ordinance would allow. The Proposal incorporates ground-floor retail at the University Drive entrance, the 'front door' of the Property, albeit at less than 25% of the ground floor area. The grade of the site is such that the first floor of the building aligns University Drive, while the second floor is at grade on the eastern side of the new building. Therefore, six stories present to University Drive and only five present to the east. The grade change is evident along Street 1, with the eastern portion of the building fronting that street being below grade and therefore not accessible from the sidewalk. As such, the retail is focused on the western portion of Street 1, wrapping along to University. Interestingly, the Small Area Plan only identifies Street 1 as a retail street, not University, so this zoning requirement is not in conformance with the retail expectations of the SAP.

This non-residential use will serve a marketable portion of the Property with street frontage along

University Drive, setting the Project and future retailer up for success. The Applicant is conscious of the architectural- and activity-related intentions of having ground floor non-residential uses and will provide architecture with high levels of fenestration and glazing to maintain the function and appearance of ground floor retail where ground floor non-residential uses are not provided. Building entrances and sidewalks will be located around the building, promoting activity. The Applicant will retain 67,000 square feet of retail between the existing shopping center and the Restaurants, thus maintaining a mixed-use environment across the Property. The intents for ground floor retail within the building will be met through design elements and amenitized ground-floor space.

2. Section 3.6.2: Special Exception to allow for greater than 24 dwelling units per acre.

Within the CR zoning district, Section 3.6.2 allows a maximum density of 24 dwelling units per acre for projects that include Affordable Dwelling Units. The Applicant proposes to exceed this density to allow for 36 dwelling units per acre, totaling 315 dwelling units at the Property. The Property is designated as an Activity Center on the 2035 Comprehensive Plan Future Land Use Map; the Activity Center Place Type applies to locations in the City where pedestrian-oriented, mixed-use development is strongly encouraged, and this special exception request seeks to accomplish this. While the number of units proposed may exceed that permitted in the CR zoning district, the proposed density is consistent with the goals of the Old Town Small Area Plan, which envisions up to a six-story residential building on the Property, which the Applicant is proposing. This Property is ideally suited to support the anticipated growth in the City given its proximity to existing public services, infrastructure, and a mixture of uses in Old Town that reduce auto dependency for transportation.

3. Section 3.7.3.C.2. Maximum Height Greater than 48' in TOD

To facilitate the redevelopment that is desired within Old Town North, the SAP calls for buildings of six floors, for which this proposal is consistent. However, to meet those Small Area Plan objectives, the Applicant must request a special exception to exceed the 48-foot maximum height for properties within the TOD. In conformance with Sec. 6.17.1.B.3, the Applicant requests a special exception to exceed the 60-foot maximum building height in CR and the 48-foot maximum building height in the TOD to allow the proposed multifamily building that is 65 feet in height. This request is necessary to meet the larger objectives of the SAP that call for infusing this portion of Old Town with multifamily development in a denser, more urban framework.

4. Section 3.7.3.C.3(b)(1). 10' Maximum Front and Side Street Setback

This special exception is requested to recognize that the existing development on the Blenheim Boulevard side of the Property exceeds the maximum 10-foot wide setbacks in the TOD. As redevelopment is not proposed on that side of the Property, this request for setbacks greater than 10 feet is made. The western portion of the Property, along University Drive, is being developed in accordance with Sec. 3.7.3.C(b)(2), which allows sidewalks and open spaces to exceed a strict adherence to the maximum 10-foot wide building setback of Sec. 3.7.3.C.3(b)(1).

5. Section 3.7.3.D. 10' Sidewalk in TOD

Similar to the request above, this special exception is requested to recognize the existing condition of a 5-foot wide sidewalk along Blenheim Boulevard, below the required 10-foot wide path. This Application proposes a minimum 10-foot wide sidewalk along University Drive within the Building Area, thus meeting this standard. By comparison, the sidewalk along Blenheim was constructed prior to the adoption of the Zoning Ordinance with narrower dimensional standards. There is no development proposed along that frontage or within that portion of the Property, so Section 7.5 of the Ordinance would seem to permit that existing nonconforming condition to

remain, which is why this Special Exception is sought. That said, we understand staff's desire for enhanced pedestrian streetscape. As a potential further improvement, the Applicant has studied the ability to widen the sidewalk without endangering the mature, healthy trees along Blenheim Boulevard. Creating a 10-foot wide sidewalk is not possible without severely endangering the trees because of the significant impact to the critical root zones. Although the survival of the trees cannot be guaranteed, a 7-foot wide sidewalk may be possible. We look forward to working with staff and the City Council on this sidewalk.

6. Sec. 4.5.6.B. Street Trees.

Along University Drive, the only public street adjacent to the Building Area, the Applicant is proposing trees approximately every 35 feet, consistent with the 50-foot maximum spacing. As such, the desired amount of trees will be planted along University Drive. However, because of the existing utility poles, underground utilities and existing sidewalk, the trees will be approximately 18 feet from the back of curb, which exceeds the 15-foot setback for street trees. This expanded distance for the planting of the street trees avoids existing utility conflicts and establishes the trees at a similar relationship to the street as the trees planted directly north within the Capstone project. Those trees are planted approximately 19 feet from the back of curb, closer to the building than the curb, just as the trees are proposed to be planted here. In addition, this special exception would allow the existing landscape condition along Blenheim Boulevard to remain.

7. Section 4.5.7.C.1 Perimeter Landscape Screening.

The Property consists of an existing shopping center parking lot with perimeter screening that was developed prior to the adoption of the Zoning Ordinance, which therefore does not satisfy the perimeter landscape screening requirements of Section 4.5.7.C.1. The parking lot is outside of the Building Area and will remain unchanged. Importantly, this Application will not create additional surface parking that must be screened. Therefore, this special exception is requested to recognize existing conditions.

8. Section 4.5.7.D.1 Interior Landscaping.

Similar to the above request, this request recognizes the existing shopping center parking lot was developed prior to the adoption of the Zoning Ordinance and therefore does not satisfy the interior landscape screening requirements of Section 4.5.7.D.1 for having interior landscaped islands provided for every ten spaces. This request recognizes the existing conditions. No new surface parking is proposed on which this standard would be applied.

Comprehensive Plan Conformance

The City refined its vision for the Property and the larger Old Town planning district in drafting the Old Town Fairfax Small Area Plan. The SAP is the blueprint for the Applicant's proposal, and along with the City's overarching Comprehensive Plan, the redevelopment largely conforms to the goals and recommendations in both.

Comprehensive Plan Adherence and Benefits of the Special Exceptions

Importantly, the Applicant's proposal is consistent with the Comprehensive Plan's overall strategies and objectives. Located within Area 3 – the Old Town Fairfax Activity Center – new development should provide the following benefits: a) a mix of uses within the development site, b) contributions toward a connected street grid, c) usable open space, and d) high quality design. The reimagining of Courthouse Plaza provides all desired benefits, achieving the City's observed goals of an activity center.

This Project will provide approximately 315 units, well below the City's goals for 1,250 units in the area by 2035, and will invigorate the site with refreshed retail. The Applicant will construct two new, private streets to facilitate the desired internal street grid and enhance the pedestrian experience through and around the Property with improved pedestrian and vehicular connections and a new promenade along University Drive. The Applicant will provide important contributions to open space with a quarter-acre park proposed with the opening of the residential building, in addition to interior courtyard amenities for the future residents. This significant green space will heavily amenitize an area that today is wholly paved. New plazas and enhanced pedestrian realms have also been added to both sides of the plaza with a 3,000 square foot plaza at the University Drive/Street 1 entrance and the modification of the abandoned bank drive thru into a 2,500 square foot pocket plaza on the eastern side of the project. Additionally, the remaining 1970s-designed and constructed center will be thoughtfully updated and modernized to provide visual interest to the Property while successfully transitioning to surrounding uses, consistent with Action Item CCAC2.1.4 of the Comprehensive Plan to "encourage redevelopment of privately-owned, underutilized sites north and south of Old Town Fairfax, such as the Courthouse Plaza shopping center ... as mixed-use developments."

The Property is designated as an Activity Center on the 2035 Comprehensive Plan Future Land Use Map; the Activity Center Place Type applies to locations in the City where pedestrian-oriented, mixed-use development is strongly encouraged. This is precisely the type of development that is proposed with the Project. The Comprehensive Plan notes that current housing shortages could include multifamily rentals and condominiums, and the Project achieves Outcome H1.1 to develop housing types that are underrepresented in the City's existing stock of housing units and Outcome H2.1 to add affordable housing.

The Comprehensive Plan envisions new development in Activity Centers to support a connected street network as recommended in the Multimodal Transportation Chapter; to provide an improved streetscape and pedestrian connections to surrounding uses, including links to the existing pedestrian network; and introduce inviting public and/or private open spaces. Buildings should be oriented toward streets or open spaces with direct pedestrian access to these areas and parking should be provided in structured or below-grade facilities where reasonable. All of these Comprehensive Plan goals are achieved with this redevelopment.

As detailed above, the Project will provide new street connections, inviting open spaces, a new building oriented toward University Drive to continue the urban built environment established with The Flats on University, and enhanced pedestrian connections to facilitate enjoyable pedestrian access to and from Old Town. Parking will be structured, in accordance with Comprehensive Plan guidance and the overall update to an outdated commercial center into a modern mixed-use development will achieve the desired design goals identified above and in Actions CCAC2.3.2 and CCAC2.3.3 of the Comprehensive Plan.

The Comprehensive Plan is aware that new residential development could displace commercial uses in Activity Centers and directs such new development to older commercial sites. The Courthouse Shopping Center has been a targeted redevelopment site of the City's for years and the Applicant is pleased to be able to bring forward this project in satisfaction of Actions CCAC1.1.1, CCAC1.1.2, and CCAC2.1.4 of the Comprehensive Plan.

Small Area Plan.

The Application is specifically guided by the goals and recommendations of the Small Area Plan that was adopted in 2020. The Small Area Plan recognizes the limitations on the quality and location of retail frontage (the City as a whole is over-retailed) and states that residential uses are

“key to supporting new developments in the Activity Centers” emphasizing that expanding residential choices can help nurture a well-balanced sustainable community. The SAP calls for

integrating residential uses to better balance the mix of uses in today's retail-centric areas. The Small Area Plan establishes the following detail and expectations for the Property:

- Six (6) story height limit;
- Grocery store anchor recommended;
- New publicly accessible open space;
- Above grade structured and underground parking to be integrated with site development;
- Retail frontage oriented toward new street and public open space.

The Applicant's redevelopment achieves the above, important goals -- adding residential supported by structured parking, replacing surface parking, introducing public open space to an area completely devoid of it and reactivating retail conveniently located to the public. As this application looks to right-size the retail throughout the Property, which has been stressed for years with vacancy, it limits the new commercial spaces to the key entrance at University Drive and proposed Street 1. Although a slight variation from the SAP, adding more ground-floor retail internal to the Project, would create parking and congestion challenges, with an unknown demand. Rather, the Applicant is maintaining approximately 67,000 square feet of existing retail and focusing its attention on enhanced open spaces with these Special Exceptions.

As such, the to-be-created Streets 1 and 2 will be residential streets and are designed in conformance with the standards identified for Typical Active Residential streets in the SAP. Travel lanes are proposed at 10 feet with an 8-foot lane for parallel parking on one side of the street. The streetscape -- street trees and the sidewalk - is a minimum of 15 feet along Street 1, 12.5 feet along Street 2 and 10.5 feet along Democracy.

Transportation

A stand-alone shopping center of more than 90,000 square feet is a significant traffic generator with little ability for internal trip capture as all the uses are retail. Per ITE, a shopping center like Courthouse would generate 8,482 daily trips. The Applicant's proposal to remove 25,000 square feet of retail and replace it with approximately 315 units and up to 5,000 square feet of retail will reduce daily trips by 1,000 vehicles. This is attributed to both the fact that residential units generate fewer trips than retail uses and the internal trip capture that occurs when a single site integrates a mix of uses. The Project will establish a new east-west street and begin a north-south connection, both adjacent to the multifamily building. Under a separate application, the Applicant received approval for an inter-parcel connection to better integrate the Restaurants with the rest of the development. The existing connections to Blenheim Boulevard will remain in place while the existing connection to University Drive will shift slightly south.

Conclusion

The Applicant understands and respects the responsibility of serving as a long-term member of the Fairfax City community and is looking forward to working in tandem with the City to provide high-quality retail and residential amenities at this important property. The existing auto-oriented and underutilized center is not aligned with the City's and Applicant's goals for the community nor Property, and with the leases to the west of Safeway appropriately aligned, the time is right to introduce the desired residential uses. If the Applicant misses this window, it will need to re-lease those spaces, thus delaying any meaningful redevelopment at the Property for years to come.

The Applicant believes a transition to a vibrant, mixed-use development is important for the future success of the community and has laid out a plan consistent with the SAP and respectful

of market constraints and the leases that apply to the Property. The Project will provide necessary improvements to the aging single-story retail center by redeveloping the shopping center into a pedestrian-oriented, mixed-use development providing public open space, affordable and market-rate multifamily housing and thoughtfully activated retail, which will all work in concert to engage the community and provide important resources for the neighborhood and Fairfax City as a whole.

Approval Considerations

(Pursuant to Section 6.17.7.A of the Zoning Ordinance)

1. Ensure the same general level of land use compatibility as the otherwise applicable standards;

The use and building massing proposed with this Application implement the Old Town Small Area Plan and specifically the goals for Area 3 of the Old Town Fairfax Activity Center, which envisions a mix of uses within the development site, contributions toward a connected street grid, usable open space, and high-quality design. The Special Exception requests relating to height and density are the product of an incongruity between the existing CR zoning district and the intention of the SAP, which allows for up to six stories, of which the Applicant proposes and through the appropriate level of density proposed will contribute toward the walkability and vibrancy desired. The Special Exception for ground floor residential uses still proposes some ground floor retail in the proposed building, the retention of extensive retail in the existing shopping center, and architectural features in non-retail areas to contribute towards the vibrant and mixed-use property proposed. The Special Exception requests relating to tree canopy and street trees are the product of the challenges of infill development, but the end product still results in an increase in tree canopy from what currently exists.

Several Special Exception requests are included to reflect the continuation of existing conditions in locations that are outside of the Building Area but within the Property. These Special Exception requests do not change the level of land use compatibility because there is no development activity proposed in these locations. The end result from the totality of these Special Exception requests is a new community that advances the City's goals for a walkable, urban environment.

2. Not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate transitioning, screening, setbacks and other land use considerations;

The Property is located adjacent to a variety of commercial and institutional uses in an area that is planned for revitalization in accordance with the Old Town Small Area Plan. The development of residential uses at the scale proposed will be compatible with the surrounding low-intensity commercial uses and will provide much-needed residential units to economically support the surrounding uses and the vibrancy of Old Town. Several Special Exception requests are included to reflect the continuation of existing conditions in locations that are outside of the Building Area but within the Property. These Special Exception requests will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because there is no development activity proposed in these locations. The Project will not adversely affect adjacent land uses but rather contribute to the walkable, mixed-use environment envisioned by the comprehensive plan for the Property and surrounding properties.

3. Be generally consistent with the purposes and intent of this chapter and the comprehensive plan;

The Property is located within the Old Town Small Area Plan and specifically within Area 3 of the Old Town Fairfax Activity Center, which envisions a mix of uses within the development site, contributions toward a connected street grid, usable open space, and high-quality design. The Small Area Plan identifies new buildings and streets on the Property as shown on the Development on Page 7, and this Project advances this vision by providing new building mass,

street improvements, and the resulting improvements in walkability and vibrancy.

The Property is located within an Activity Center on the 2035 Comprehensive Plan Future Land Use Map; the Activity Center Place Type applies to locations in the City where pedestrian-oriented, mixed-use development is strongly encouraged. This is precisely the type of development that is proposed with the Project. The Comprehensive Plan notes that current housing shortages could include multifamily rentals and condominiums, and the Project achieves Outcome H1.1 to develop housing types that are underrepresented in the City's existing stock of housing units and Outcome H2.1 to add affordable housing.

The Comprehensive Plan envisions new development in Activity Centers to support a connected street network as recommended in the Multimodal Transportation Chapter of the Comprehensive Plan; provide an improved streetscape and pedestrian connections to surrounding uses, including links to the existing pedestrian network; and include inviting public and/or private open spaces. Buildings should be oriented toward streets or open spaces with direct pedestrian access to these areas and parking should be provided in structured or below-grade facilities where reasonable. The Project will provide new street connections along with inviting open spaces within the Property. The new building will be oriented towards University Drive, continuing the urban built environment that exists with older buildings and the new Flats on University alike, and pedestrian connections and a wide promenade will be created to facilitate enjoyable pedestrian access to and from Old Town. Parking will be located in a structure in order to efficiently use space, in accordance with Comprehensive Plan guidance. The redesign of an outdated commercial center into a modern mixed-use development will achieve the desired design goals identified above and in Actions CCAC2.3.2 and CCAC2.3.3 of the Comprehensive Plan.

The Comprehensive Plan is aware that new residential development could possibly displace commercial uses in Activity Centers and directs for new residential development to first focus on lower value commercial sites. The Property contains older commercial uses that are in need of reinvestment and will provide new commercial uses in conjunction with the residential use proposed. This approach to revitalize an outdated commercial use satisfies Actions CCAC1.1.1, CCAC1.1.2, and CCAC2.1.4 of the Comprehensive Plan.

4. Be based on the physical constraints and land use specifics, rather than on economic hardship of the applicant.

The Special Exception requests to provide excess height and density than that allowed by the zoning ordinance represents an incongruity between the zoning ordinance and Small Area Plan and is specific to the land uses proposed on the Property. The Property is in the Old Town Small Area Plan and is designated as an Activity Center in the Comprehensive Plan Future Land Use Map, of which both policy documents envision the Property being used at levels of greater intensity and within the height proposed to advance the City's vision to be more walkable, vibrant, and pedestrian-oriented. The Special Exception regarding ground floor residential acknowledges the tepidity of the market for new retail and seeks to reinvest in the existing retail that will be retained rather than design empty storefronts. The building will remain 'active', as anticipated for mixed-use buildings, through providing some ground floor retail accompanied by thoughtful design in non-retail areas. The Special Exception requests advance the vision and desired land use within the comprehensive plan.

Several Special Exception requests are included to reflect the continuation of existing conditions in locations that are outside of the Building Area but within the Property and are based upon the land use specifics of this Application, which does not propose any changes in these locations.

Several Special Exception requests are proposed based upon the challenges of infill development and desires to implement the Comprehensive Plan. The Property consists of almost entirely impervious surface and has existing utilities along the perimeter, creating challenges in achieving the street tree setbacks and amount of tree canopy proposed. While this represents a slight deviation from the zoning ordinance requirements, the end product will provide a net increase in tree canopy and vegetation in what is currently a sea of asphalt.