



August 7, 2014

Candace Havens, Director  
Department of Planning and Development  
1000 Commonwealth Ave.  
Newton, MA 02459

RE: 75-83 Court Street – Response to Department of Planning and Development June 27<sup>th</sup>  
Memo

Dear Candace,

Per the request of your department following the June 26<sup>th</sup> public hearing on the Court Street 40B application, we have prepared a written response to the June 27<sup>th</sup> memo issued by Alexandra Ananth and Steven Pantalone.

For the ease and benefit of your review, we have extracted the exact language directly from the City’s memo and included a response beneath each comment. We believe there were comments and observations included in the City’s memo that did not ask us as the applicant to respond. Thus, every comment from the June 27<sup>th</sup> memo has not been included below.

- C: The **applicant** should respond to the concern that the affordable units are not equivalent to the market rate units both in size and location.
  
- A. *The sizes of the affordable units are compliant with LIP standards and we believe consistent in size with many other affordable units permitted in Newton. We believe these units as designed will be extremely desirable to future low and moderate income buyers. Nevertheless, in response to comments by the ZBA, the development has been redesigned increase the size of the affordable units by an average of an additional 156SF per unit. In total, an additional 1,410SF has been cumulatively added to the nine affordable units and the overall building program. The locations of the affordable units have not changed as they were already even distributed throughout the building and spread evenly across all three floors of living area.*
  
- C: Concerns were raised regarding the necessity of 36 units and the mass of the structure. The **Planning Department** will initiate a peer review of the pro-forma and all other financial information provided to help analyze if a reduction in density is possible. The **applicant** should consider if subsidies could be sought in order to reduce the density of

the project. Additionally, the applicant should provide an estimated financial value for each of the waivers requested (as appropriate). This list should be part of the package that is peer reviewed by a financial consultant and therefore **should be submitted ASAP.**

- A. *Please see the "Density Memo" which has been submitted separately for your attention. Labeled as Attached "A"*
  
- C. **The applicant** should clarify the height of the building's three front gables.
  
- A. *The left gable peak is 41'-6" above sidewalk at entry, middle gable is 40'-3" and the right gable is 36'-3". An illustration has been included as Attached "B"*
  
- C. **The applicant** should describe the sustainable aspects of this building project
  
- A. *Please see the "Sustainability Memo" which has been submitted separately for your review. Labeled as Attached "C"*
  
- C. **The applicant** should respond to requests that waivers to the Light Trespass and Tree Preservation Ordinances be removed from their application. The applicant should submit plans addressing these waivers as well as a plan for signage. A shadow study should also be provided.
  
- A. *The revised waiver request has removed the waiver of the Light Trespass Ordinance, Revised Ordinances Section 20-23 et seq.*

*The revised waiver request has removed the waiver relating to project signage.*

*The Applicant has submitted a shadow study (Attached "E"). The analysis indicates the proposed development, particularly with an increased side setback, will have cast minimal shadows on 69 Court Street – which is the only proximate residential abutter. Moreover, the shadows cast will be far less than the shadows cast by an allowable special permit development which would allow for a 35' structure 15' from the property line. In addition, the shadows cast by 69 Court onto 67 Court Street and vice versa are much more significant at all points of the day than the shadow cast by the proposed development.*

*The Applicant maintains its need for a waiver from the Tree Ordinance. Additional analysis of this ordinance is on-going, but conformance to the Tree Ordinance would make the proposed landscaping plan infeasible.*

- C. **The applicant** should respond to requests to increase the amount of open space on site. Can the applicant provide a cross section showing the retaining wall and open space on the west side of the site? The applicant should explain how the area west of the retaining wall on the western property line will be maintained. The Planning Department would also like to see a cross section for the east side of the site to illustrate how the project will impact the immediate abutter. The applicant should consult with the abutter to the east on landscaping between the two properties.

- A. *The Applicant feels comfortable and confident that the amount of open space currently featured will be usable and attractive to prospective owners. We have carefully programmed the usable open space so that the open space is functional and meets the needs of the new owners. Moreover, the amount of open space is not grossly inconsistent with the amount of existing open space on the two combined lots. Our revised program has slightly increased the amount of open space from 32.3% to 34.6%.*

*An exhibit (Labeled as Attachment "D") has been attached to this submission which includes photographs of what the retaining wall to the west of the property (towards the Verizon parking lot) would look like. The space between the wall and the lot line will be 2'. In speaking with the retaining wall manufacturer, there will be no maintenance required for this wall as there will not be any heavy salting around that area.*

*The exhibit has also included photographs of what the property would look to like to the east, closest to 69 Court Street. That area would feature a fence, with additional plantings. The Applicant met with the immediate abutter at 69 Court Street to solicit specific concerns and suggestions relative to landscaping and buffering. The updated landscaping plan reflects that discussion to the best of the Applicant's ability. The abutter did request an 8' fence instead of a 6' fence.*

- C. **The applicant should provide an analysis of the demand for parking at comparable projects in order to justify the amount of parking provided at the expense of open space. Is the applicant open to decreasing the amount of parking in favor of open space? The applicant should also consider removing the three garages from the site plan.**

- A. *Per the recommendation of the City, we have eliminated the three garage structures at the rear of the property and replaced the structures with surface parking. We have also proposed the elimination of seven exterior spaces in response to the City's request.*

*We have specifically analyzed two current "flats" buildings which have a similar unit style and have targeted a similar demographic. The first project is a recently completed development called Hammond Pond Place which is located in Brookline on the Newton line in Chestnut Hill. That development features a total of 24 units and features 54 parking spaces including 6 visitor spaces. The other project is called in the Belclaire in Wellesley, which is in a similar village location and located extremely close to the commuter rail station. The Belclaire features 30 residential units and the Special Permit issued by the Wellesley Planning Board specifically requires two parking spaces per unit.*

*We initially anticipated that all 36 buyers, market and affordable would opt to purchase a second parking space. In reviewing those assumptions, we believe it is unlikely the 9 affordable buyers will purchase a second parking space; the parking supply assumptions now reflect only 1 affordable unit owner buying an additional space. We still anticipate that all 27 market rate buyers will likely buy a second parking space, and anticipate that at least two market rate owners will purchase a 3rd parking space. In summary, these revised assumptions lend themselves to the elimination of 7 parking spaces. This parking space reduction is intended to address the concerns of the City without*

*jeopardizing the viability and parking supply/demand anticipated at the completed development.*

- C. The **applicant** should further explain the plan for unsold parking spaces
  - A. *Unsold parking spaces will be offered to existing owners for rent on a monthly or annual basis. Should spaces remain unsold or unleased, they will be made available as guest parking until a demand arises allowing them to be sold or leased.*
- C. The **applicant** should consider locating most of the handicap parking inside the garage
  - A. *The proposed program now features two indoor handicap spaces and the spaces have been moved closer to the garage. There is an additional handicap space (van accessible) on the outside of the building.*

We are hopeful this letter addresses many of the previous issues and questions that were raised during the June 26<sup>th</sup> public hearing. While only submitted to us in abbreviated form, we are comfortable in general with the "potential conditions" also identified in the June 27th memo with the exception of the proposal to use unsold parking spaces as open space.

We look forward to presenting our updated program to the ZBA on September 3rd.

Please let me know if you have any questions.

Respectfully,  
SEB Court Street, LLC

By:   
Manager



August 5, 2014

Candace Havens - Director  
Department of Planning and Development  
1000 Commonwealth Ave.  
Newton, MA 02459

RE: 75-83 Court Street – Summary of Key Plan Changes

Dear Candace,

For the ease and convenience of review by the Planning Department and the Zoning Board of Appeals, we have highlighted key changes in the updated plans.

- The front of the building has shifted westerly 6' 4" further away from the closest abutter at 69 Court Street and towards the Verizon parking lot.
- The garage structures in the rear of the property have been removed and replaced with surface parking.
- The open space has increased to 34.6% (from 32.3%) and the lot coverage has decreased to 36.5% (from 39.7%)
- The front setback has increased from 9.4' to 12.1' with that setback measured to the front vestibule. The majority of the building is setback 18.2' from Court Street.
- The majority of trees along the rear property line will now be preserved.
- The parking has been reduced from 77 spaces to 70 spaces of which 45 are garage spaces.
- The program now features two garage handicap parking spaces which have also been moved closer to the elevator. There is an additional handicap van space on the exterior of the building.
- The curb line along the easterly lot line has been adjusted to increase the space between the abutter at 69 Court Street and the driveway to create a larger buffer zone which will allow for more landscaping.
- The curb line near the northeast corner has also been increased to provide more landscape area.
- The straight part of the driveway to the lot line has been increased to allow for more landscaping area which also allows the rip rap to be eliminated and replaced with plantings.
- The wall along the westerly terraced side of the property (closest to Verizon) has been moved two feet closer to the property line which increased the usable open space.

- The spine of the building has been elongated to allow for the affordable unit sizes to be increased per the request of the ZBA. The accompanying table shows the unit size increases, with the affordable units increasing in size on average by 156 SF.

We are hopeful this summary is useful in identifying plan changes. We look forward to presenting our updated program to the ZBA on September 3rd.

Please let me know if you have any questions.

Respectfully,  
SEB Court Street, LLC

By:

  
Manager

**REQUESTED COMPREHENSIVE PERMIT IN LIEU OF PERMITS UNDER CITY ORDINANCES**

**I. SUMMARY OF RELIEF REQUESTED:**

The Applicant requests that the Zoning Board of Appeals grant a comprehensive permit in lieu of the following permits, licenses and approvals without which the Project could not be constructed as proposed and the denial of which in many instances would render the project uneconomic within the meaning of G.L. c. 40B §20. Ordinance references herein are to the Newton Revised Ordinances of 2001, as amended, of which Chapter 30 is the Zoning Ordinance,

ZONING ORDINANCE - City of Newton Revised Ordinances Chapter 30

- A. Use: The Applicant seeks a comprehensive permit in lieu of use variances, special permits and approvals to allow the Property to be used for the Project including without limitation:
  - 1. Variance from the provisions of § 30-9(a) to permit the Property to be used as a multi-family dwelling for a total of 36 dwellings associated amenities, and accessory parking.
  - 2. Variance to waiver requirements of §30-24 (f) to conform the provisions for affordable housing the terms of the application, if and to the extent necessary.
  
- B. Density and Dimensional Controls: The Applicant seeks a comprehensive permit in lieu of such variances or special permits as may be required from or under §30-15 for construction of the Project in the Multi-Residence 1 District including without limitation:
  - 1. Variances from the dimensional requirements of § 30-15 Table 1 for single and two family dwellings <sup>1</sup>as follows:
 

Lot Area Per Unit:	Required: 5,000 s.f.	Provided: 1,448 s.f.
Front Yard Setback:	Required: 23ft <sup>2</sup> .	Provided: <del>9.4</del> +/- <b>12.1</b> ft.
Side Setback:	Required: 25ft <sup>3</sup> .	Provided: <del>18.9</del> ft. <b>15.0</b> ft.
<del>Rear Yard Setback:</del>	<del>Required: 15ft.<sup>4</sup></del>	<del>Provided: 10.5</del> +/- ft. <b>(now 52.7')</b>
Max Building Height:	Allowed 36 ft.	Provided: <del>49.5</del> +/- ft. <b>(54.5')</b>
Max Number of Stories:	Allowed 2.5	Provided: 3.5
Min. Amount of Open Space:	50%	Provided: <del>32.3</del> % <b>34.6</b> %
Max Building Lot Coverage:	30%	Provided: <del>39.7</del> % <b>36.5</b> %

<sup>1</sup> For comparison information only see comparison to requirements for Multi-Residence 2 District below

<sup>2</sup> Averaging per §30-15 (d)

<sup>3</sup> 10 ft. for single family use, 25 ft for attached dwellings

<sup>4</sup> 15 ft. for single family use, 25 ft for attached dwellings

2. ~~Variations from dimensional requirements of accessory structures under §30-15(m) as follows:~~
  - ~~§30-15 (m) (5) a) for more than one garage on the site~~
  - ~~§30-15 (m) (5) b) for more than 3 automobiles in a garage; and~~
  - ~~§30-15 (m) (5) c) for garage structures to exceed 700 s.f.~~
3. Variance in lieu of a certification of the Commissioner of Inspectional Services and the City Engineer under §30-17

C. Parking Requirements:

The applicant seeks a comprehensive permit in lieu of a special permit pursuant to §30-19 (m) in order to permit a parking facility in accordance with the submitted plans and to deviate from *inter alia* the following requirements under §30-19:

1. To the extent §30-19 (4) prevents assignment of parking spaces to unit owners, a waiver is sought from that provision
2. Number of parking stalls under §30-19 (d) if at any time less than 72 parking spaces are provided.
3. Application for parking and loading facility permit under §30-19(e)
4. Under §30-19(h) 1 to permit outdoor parking spaces to be located less than 5 feet from an building or structure containing dwelling units.
5. Under §30-19(h) 5 to permit "tandem" access to 7 parking spaces
6. Under §30-19(i)(2) as to interior landscaping requirements for outdoor parking facilities of 20 stalls or more under, (if necessary).
7. Under §30-19 (j) (1) to conform the lighting requirements to the plans submitted
8. Under §30-19 (j) (2) a) in lieu of any consent of the City Engineer to drainage of the parking facility
9. Under §30-19 (k)(3) a waiver is sought to conform the design of bicycle facilities to the design shown on the submitted plans
10. Any other relief which may be necessary or appropriate and may be granted by the Board of Aldermen under §30-19 (m) in order to conform the waivers sought to the plan submitted.

- D. ~~Signage: The Applicant seeks a comprehensive permit in lieu of a special permit under §§30-20 (1) to permit for a freestanding sign. The Applicant also seeks a waiver~~

~~of sign permit procedures under §30-20(e)(1) and insofar as applicable any hearing or procedure before the Urban Design and Beautification Commission.~~

- E. Site Plan Approval: The Applicant requests a comprehensive permit in lieu of site plan approval required under §30-23 in connection with special permits granted under §30-24.

#### NON-ZONING ORDINANCES

- F. Tree Ordinance - Revised Ordinances §20-31 et seq.

Revised Ordinances §20-31 et seq. provide a requirement for a permit and the payment of fees for removal of trees from the property under certain circumstances. To the extent that any permit or fee payment would otherwise be required under Revised Ordinances §20-31 et seq., the Applicant requests a comprehensive permit in lieu of a waiver of such permit and fees.

- G. Demolition Delay – Revised Ordinances §22-44

Revised Ordinances §22-44 provides for a review by the Newton Historic Commission and the possible imposition of a demolition delay for demolition of historically significant buildings. To the extent the existing house or other elements of the Property may be deemed to fall within the jurisdiction of the Newton Historic Commission under Revised Ordinances §22-44, a comprehensive permit is sought in lieu of a determination of the Newton Historic Commission that such structures or features are not preferably preserved.

- H. ~~Light Ordinance~~

~~Revised Ordinances §§20-23–20-28 provided limitations on installation of light sources which do not conform to the criteria stated. §20-26 provides for waivers to be granted by the Planning and Development Board. To the extent that any light source may not conform to the requirements of §20-24 or that the requirements of that section may be inconsistent with § 30-19 the Applicant seeks a comprehensive permit in lieu of any waiver requested under §30-26.~~

- I. Consent of the Planning Board

To the extent any consent or review of the Planning Board is required under Planning Board rules a comprehensive permit in lieu of such approval is sought

- J. Curb Cut Permit

The applicant requests a comprehensive permit in lieu of any sidewalk crossing permits or consent of the commissioner of public works to the extent necessary to comply with the requirements of Revised Ordinances §26-65

- K. Utility Connection Permits

The applicant seeks a comprehensive permit in lieu of such local approvals as are required to (i) open streets, (ii) make utility connections for water, sewer, gas, electric, cable or other utilities from time to time.

L. Additional Relief

The applicant seeks a comprehensive permit in lieu of all other permits, licenses or approvals as may be issued by the City of Newton as necessary to conform the relief sought to the plans filed with the application as the same may be amended from time to time. Included within the relief sought are all ancillary, subsidiary, usual, customary or necessary local permits approvals or licenses in lieu of which the Board may grant a Comprehensive Permit to the extent necessary to conform to the relief required for construction of the plans submitted herewith as amended from time to time

Comparison of Project Dimensions and Density to (1) Single Family-Residence 3 District Dimensional and Density Regulations for Residential Use and (2) *for information only - to Multi-Residence 2 Districts*

<u>CATEGORIES</u>	<u>SINGLE FAMILY Multi RESIDENCE 1 REQUIREMENTS</u>	<u>Court Street</u>	<u>FOR INFORMATION ONLY</u> <u>MULTI- RESIDENCE 2 REQUIREMENTS FOR MULTI- FAMILY DWELLING</u>
Minimum Required Lot Area	10,000 sq. ft.	52,112 sq. ft.	10,000 sq. ft.
Lot Area Per Unit	5,000 sq. ft.	1,448 sq. ft.	3,000 sq. ft.
Lot Frontage:	80'	179.01'	80'
Setbacks:	23'	9.4' <i>12.0</i>	23'
Front:	10'	18.9'	7.5'
Side:	15'	10.5' <i>52.7</i>	15'
Rear:			
Height:	36'	49.5'	36
Maximum Number of Stories	2.5	3.5	3.0
Building Lot Coverage:	30%	39.7%	30%
Minimum Usable Open Space:	50%	32.3%	50%





August 7, 2014

Candace Havens, Director  
Department of Planning and Development  
1000 Commonwealth Ave.  
Newton, MA 02459

RE: 75-83 Court Street - Responses to Planning staff memo requesting responses to (1) density reduction and (2) financial implications of waiver requests

Dear Candace:

We have addressed the questions/issues raised by Alexandra Ananth and Steven Pantalone in the City's June 27<sup>th</sup> Memo in a separate letter. We believe strongly that the issue of the proposed density and supporting rationale warrants a separate response. More specifically, we wish to address why the proposed density of 36 units is essential in order to make this project financially viable – and how a reduction of the number of units will make the project uneconomic within the meaning of 760 CMR. We also address the request for financial information linked to our waiver requests:

You have already received a copy of the development budget with our Comprehensive Permit Application. A summary of the major elements of our proposed budget is as follows:

## COSTS

**Acquisition**                      The development budget reflects the “as-is” appraised value of the site which is what is required by Department of Housing and Community Development (DHCD) Chapter 40B Guidelines Section IV B-1. The as-Is appraised value of the site is \$2,130,000 which is what is currently reflected in the budget. According to the Guidelines, an applicant is also allowed to include additional carrying costs associated with the land acquisition, since the site approval application was submitted. The submitted budget did not include those carrying costs which would be an additional \$17,500.

**Site Development**                The site development costs have been separated into 11 different sub-categories typically included as part of a 40B development budget. Although 40B projects, as part of the permitting process, only require preliminary engineering, the engineering plans we have submitted as part of the application

include construction level details and can be considered a “bid-set”. As such, this level of detail allows for more accuracy when estimating site development costs. Our estimates have since been supported by several independent construction cost estimators/general contractors.

#### Unit Construction

The proposed budget includes a hard cost construction estimate of \$150/sf which includes the underground garage space. We believe this estimate to be reasonable and perhaps optimistic. As indicated by Peter Smith, all of the development proposals at Austin Street were significantly higher on a SF basis for a similar type of construction. If the garage costs were budgeted separately, the construction estimate on a SF basis would be reduced to \$135/sf. This construction estimate has also since been supported by independent construction cost estimators who reviewed our plans. In addition, in our revised submittal, we have added 1,400sf to the 9 affordable units (about 150sf/unit on average) as a result of a request by the ZBA. Since the affordable units are not sold on a square foot basis, this additional cost has no revenue offset but just increases our costs.

#### Soft Costs

All of the line items included within the soft costs reflect a combination of fees and carrying costs. The largest single cost is construction loan interest which is also the most difficult to estimate with precise accuracy because it depends on future market conditions; we do know that the entire building – all 36 units, the garage and common spaces – have to be constructed before any units can be sold and furthermore, because of FannieMae requirements, there will a certain number of pre-sales required before any units can be closed. Therefore, our construction loan interest carry will be extended well beyond what occurs with a townhouse development. We have carried a slightly higher loan interest rate than currently existing (historically low) in the current capital marketplace to allow for likely future market adjustments and we have estimated a 30 month time frame for complete sell-out. Within this time frame, the actual sales activity is a matter of speculation, so while the estimate could vary by as much as 20%, it would only affect the profit margin by 1%.

In addition, the original budget did not include any payment for I&I mitigation as none was required by the City for the Parkview Homes development. Thus, any mitigation payment required by the City will further reduce the estimated profit.

#### REVENUES

##### Market Sales

The projected sales prices average \$350/sf across all market units which results in an average price of \$609,000/unit. There are very few comparable buildings in terms of new construction, single level living, underground parking, sizes of units and neighborhood characteristics from which to base our estimates. New

townhouses typically sell for higher square foot prices than flats, and units on the north side of the Mass Pike generally sell for less than units on other parts of Newton. In sum, we are basing our estimates on recent units sold in Newton (from MLS) which are as close to our development as possible in terms of style of units, and year of construction. For example, a townhouse recently closed on Court Street for above asking price at a gross sales price of \$730,000 which equates to a sales per SF of \$289. As we are projecting \$350/SF, it would be difficult to assume a much higher sales price estimate. Again, there can be different estimates from different “experts”, but the range of estimates will not affect our projected profit margin to any significant degree which would allow for any meaningful reduction in units.

#### Parking spaces

The original parking revenue projections were based on all 36 buyers opting to purchase a 2<sup>nd</sup> space for \$25,000. In reviewing this estimate, we believe that it is unlikely that the 9 affordable buyers will purchase a second space (we now project only 1 affordable household purchasing a 2<sup>nd</sup> space), but we are including a revenue projection that the 27 market unit buyers will likely buy a second space (and we believe at least one buyer will purchase 2 additional spaces), whether those are tandem spaces or outside spaces. In total, we have estimated that the 7 tandem spaces will be sold for \$25,000 each and that 20 outside spaces will sell to market unit buyers @ \$30,000 each. The total of \$775,000 is slightly lower than our original projection because we have employed an updated parking revenue model.

#### Profit Margin

The 13% profit margin falls below the 15% threshold which the Housing Appeals Committee (and the courts) has ruled as rendering the project “uneconomic”.

Any reduction in density, reduces the costs proportionately but reduces the revenues disproportionately as almost all the costs are fixed, including acquisition, site costs and most soft costs. Only the construction costs (and a few soft costs, like closing costs) associated with those units are reduced - which might total \$1.6M. However, the loss of 6 sales prices (2 affordable and 4 market) equates to \$2.75m, so the total loss is over \$1M of revenue and the resultant profit margin is reduced to 6%.

There are 2 critical facts associated with 40B budgets when considering for-sale housing:

- (1) There is a significant loss when selling affordable units. For instance, in this budget, the average unit cost is \$462,000 and the affordable units sell for approximately \$162,000. Thus, the development incurs a loss of approximately \$300,000 for each affordable unit;

- (2) Because of all the fixed costs in a development budget, a minimum total unit count is necessary to share these costs across all units. Any reduction in the number of units carries a disproportionate reduction in profit.

With an estimated profit of only 13%, which under DHCD guidelines is below the minimum “economic” allowable profit, there is no opportunity to reduce the density. The Planning Department’s suggestion of analyzing external subsidies for the project is not feasible and it is not a path we are choosing to pursue for a number of reasons and based on recent experience. For one, the timing and circumstances surrounding the Parkview Homes development is no longer replicable; the amount of federal subsidies available (HOME & CDBG) have been reduced in the interim and the availability of CPA funds is linked to aldermanic approval which, in our judgment, simply would not be forthcoming for our project. Therefore, we made the determination that subsidies would not nor could not cover the loss of units. Like almost every 40B development in the Commonwealth, we elected to not seek any external subsidies and are carrying the costs of providing the affordable units internally within the budget.

#### Waiver Costs

As prelude to the request for a calculation of the cost of each waiver request, we feel compelled to cite the standard for determining whether conditions or waiver denials render the project uneconomic is whether such conditions or waiver denials in the aggregate render the project uneconomic.

760CMR56.06(7)(2)(a)(3); Whiter Barn Lane, LLC v. Norwell Zoning Board Of Appeals (2011); Autumnwood, LLC v. Sandwich Zoning Bd. Of Appeals (2010). Such burden of proof is only applicable upon an appeal to the Housing Appeals Committee and is not applicable to hearings before the Newton Zoning Board of Appeals and as such, we are not required to demonstrate to the Board that each individual waiver request is necessary to prevent the project from being rendered uneconomic.

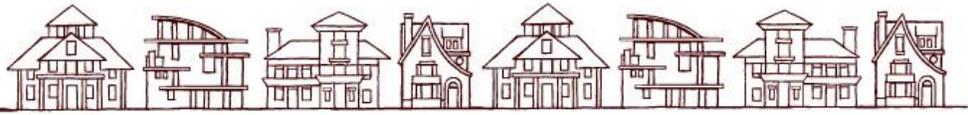
Having stated that for the record, we can say that most waiver requests, other than the waivers for multi-family use and for density relate either to procedural or administrative matters (approvals by the ZBA instead of other boards ) or to building the project as per the revised plans (use/ density/dimensional controls/parking requirements). A waiver related to Accessory Structures is no longer needed as the back garages have been eliminated. Other waivers relate to some additional costs which are difficult to quantify at this time, such as the Tree Ordinance (based on the number of trees to be removed and replaced) and the Demolition Delay ordinance for removal of the existing structures which will add unwanted time delays in the start of construction which increases carrying costs and adds costs to our construction contracts based on this delay.

Therefore, we respectfully request that all our waiver requests be granted.



# South Elevation

Gable Heights  
8.1.14



August 7, 2014

Candace Havens - Director  
Department of Planning and Development  
1000 Commonwealth Ave.  
Newton, MA 02459

RE: 75-83 Court Street – Sustainability

Dear Candace,

Per the request of your department as part of its June 27th memo issued by Alexandra Ananth and Steven Pantalone, we have attempted to answer your statement: “The **applicant** should describe the sustainable aspects of this building project.”

As such, we have analyzed LEED-Qualified Goals within the context of our proposed development and construction program. The underlined italicized text represents a specific LEED goal as well as the intent of the provision.

*LT107 – within ¼ mile of public transportation:*

*The intent is to encourage development in locations shown to have multimodal transportation choices or otherwise reduced motor vehicle use, thereby reducing greenhouse gas emissions, air pollution, and other environmental and public health harms associated with motor vehicle use.*

**Court Street:** Within walking distance to public bus stops on two major bus routes and less than 900’ to Newtonville commuter rail stop with service to Boston.

*LT108 – bicycle storage*

*The intent to promote bicycling and transportation efficiency and reduce vehicle distance traveled – to improve public health by encouraging utilitarian and recreational physical activity.*

**Court Street:** 2 nine-bike racks, one inside and one outside.

*SS112 – light pollution reduction*

*The intent is to increase night sky access and minimize neighborhood light impact*

**Court Street:** Proposing low light level, low mounting height shielded down casting fixtures.

*WE101 – outdoor water use reduction*

**Court Street:** The landscape does not require permanent irrigation outside the two-year establishment period. The planting has been designed with the goal of minimizing long term water use and that plantings will only require minimal irrigation during a period of drought. Once the landscape is established, irrigation will only be needed during a period of drought.

The landscape program also has minimized the amount of lawn on the project. There is only one small area of lawn on the project near the community patio areas for programmatic use. Lawns typically require significant amounts of water, fertilizer and mowing- both heavy fossil fuel users, so by eliminating lawn areas, we are reducing environmental impacts. Areas that would have typically been lawn are replaced with evergreen ivy groundcover which requires minimal care and water.

WE102 – indoor water use reduction

*Water-reducing fixtures with WaterSense label*

**Court Street:** Will meet or exceed State and Federal standards

EA108 – fundamental refrigerant management

*No CFC-based refrigerants in new heating, ventilating, air-conditioning, and refrigeration systems.*

**Court Street:** Will meet or exceed State and Federal standards

EQ111 – low VOC materials (LEED gets technical)

*The intent is to reduce the concentration of chemical contaminant that can damage air quality, human health, productivity, and the environment.*

**Court Street:** Will meet or exceed State and Federal standards

ND 37 – mixed-use neighborhood

*The intent is to reduce distance traveled and automobile dependence, encourage daily walking, biking, and transit use, and support car-free living by providing access to diverse land uses.*

**Court Street:** Is located within a reasonable walking distance to many retail, entertainment commercial and transportation opportunities.

NDP 39 – housing types & affordability

*Promote socially equitable and engaging neighborhoods by enabling residents from a wide range of economic levels, household size, and age groups to live in a community.*

**Court Street:** Will be providing several different housing opportunities which are particularly scarce in Newton, most notably, single-level living homeownership with secure parking and elevator access. Moreover, the gross sales prices of the market units will be below the overwhelming majority of market rate housing currently available in the City. Lastly, there are very few if any deed restricted homeownership affordable housing opportunities in the City of Newton.

NDP 47 – 48 access to civic, public spaces & recreation facilities

*The intent is to provide open space close to work and home that enhances community participation and improves public health.*

**Court Street:** Is located within a reasonable walking distance to several parks and recreation facilities (Albermarle, Hawthorne Park, YMCA, Newtonville private fitness offerings, etc.

MR101 – storage & collection of recyclables

*Provide dedicated areas accessible to waste haulers and building occupants for the collection and storage of recyclable materials for the entire building.*

**Court Street:** The trash and recyclable storage is appropriately designed and located in a ventilated room with exterior access for private collection.

MR112 – environmental product declaration: use materials with life-cycle information from manufacturers – these products being the most sustainable)

*The intent is to encourage the use of products and material for which life-cycle information is available and that have environmentally, economically, and socially preferable life-cycle impacts...and to reward project teams for selecting products from manufacturers who have verified improved environmental life-cycle impacts.*

**Court Street:** When the project has advanced to the stage of final design specifications and purchasing, materials and product selections that have verified overall sustainability will be given preference. Particularly with respect to:

- durable products and materials to maximize their lifespan
- locally or regionally produced materials
- recycled content and recyclable construction waste
- products with minimal packaging
- energy-efficient appliances and electronics - ENERGY STAR® appliances and electronics, including refrigerators, hvac, dishwashers washers/dryers.
- Materials and methods that enhance energy conservation and , to the degree practicable, exceed Newton stretch code and new Mass Energy Code adopted 7.1.14000000
- water-efficient fixtures and appliances - [WaterSense®](#) and [ENERGY STAR®](#), programs sponsored by EPA, have identified high-performance, water-efficient appliances, fixtures, water systems, and accessories that reduce water use in the dwellings and throughout the site.

We are hopeful this summary is useful in identifying plan changes. We look forward to presenting our updated program to the ZBA on September 3rd.

Please let me know if you have any questions.

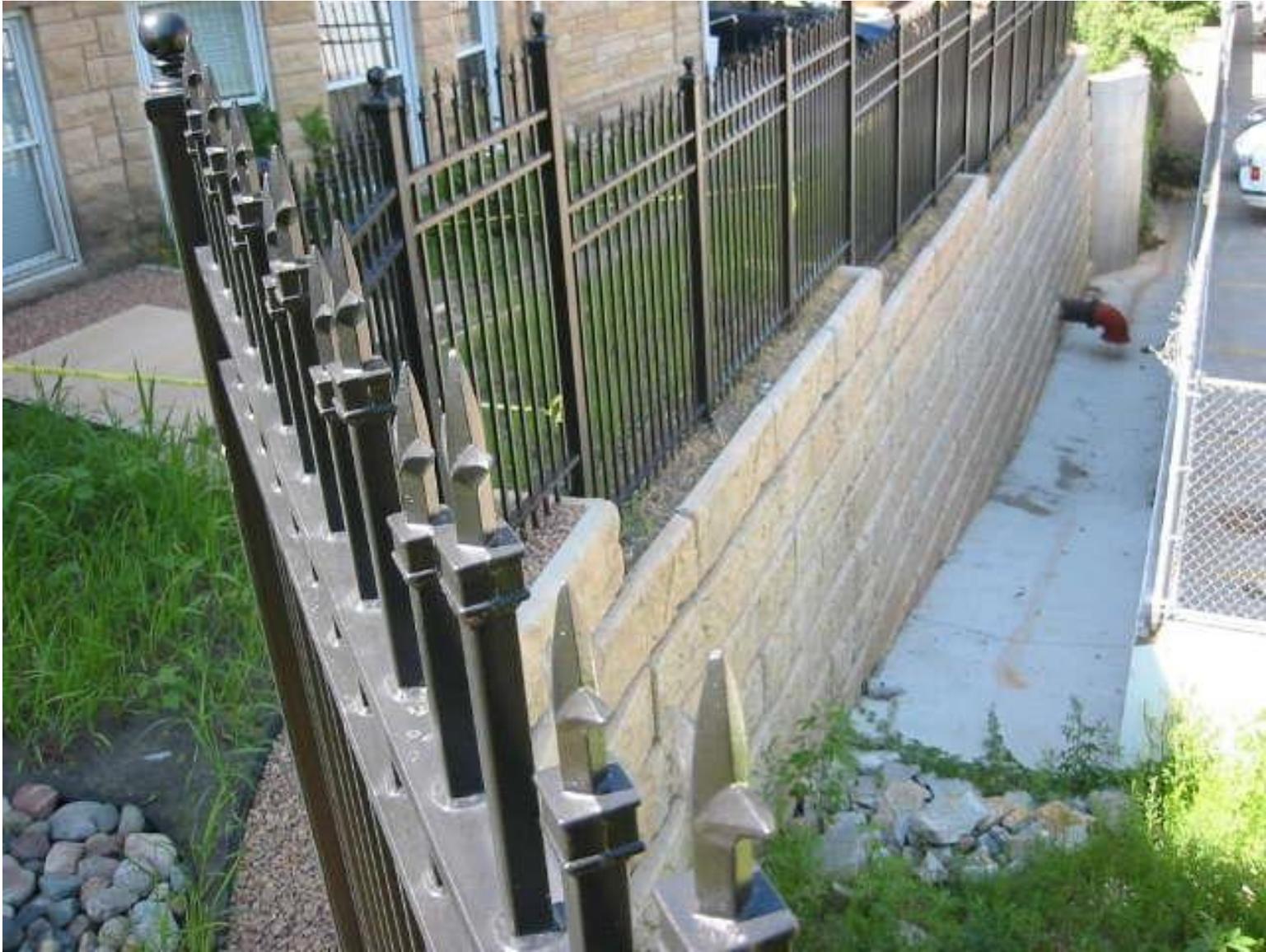
Respectfully,  
SEB Court Street, LLC

# Images / Westerly Side facing Verizon Parking Lot

Image 1



Image 2



# Images / Easterly Side facing 69 Court Street



Honey Locust: Gleditsia triacanthos



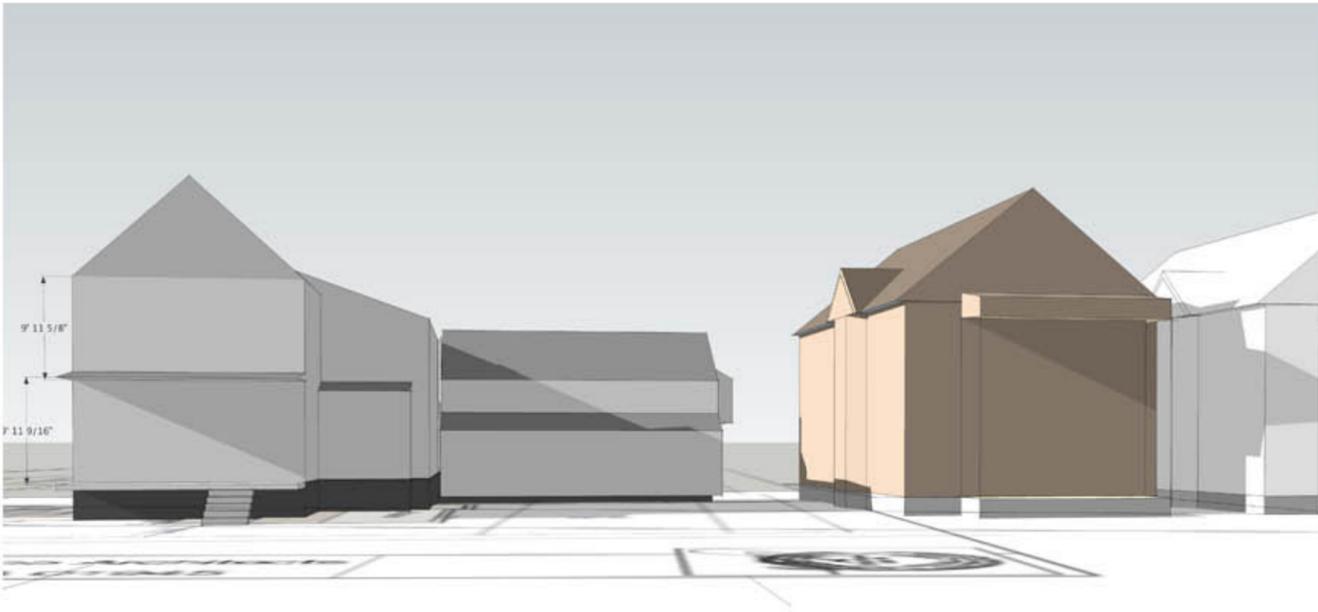
Fastigate Sweetgum



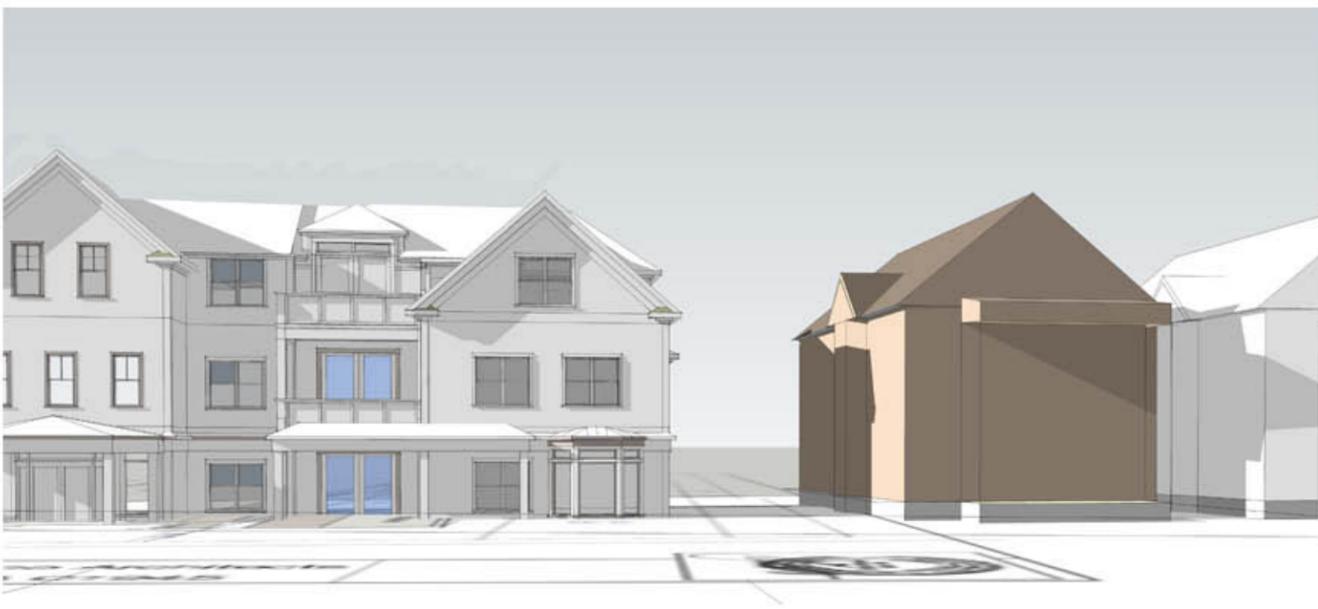
# Autumnal Equinox 4:30 pm



Proposed



Existing



As-of-Right  
Plan  
with 15'  
side yard  
and 35'  
Height

# Summer Solstice

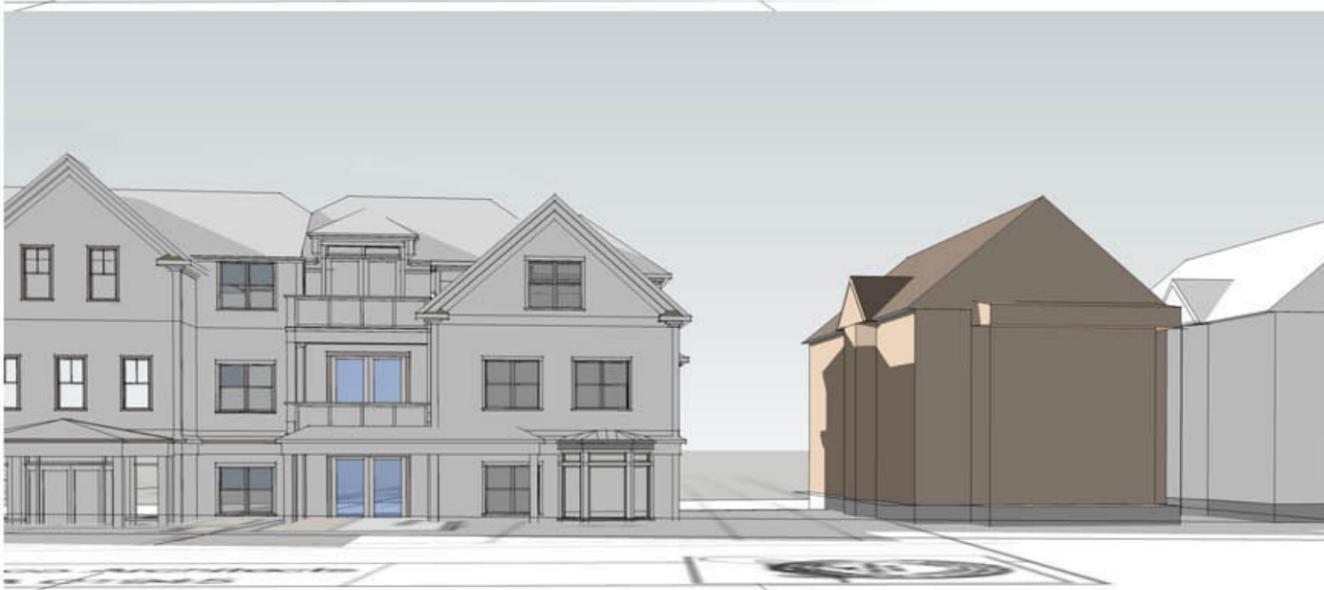
6:00 pm



Proposed



Existing



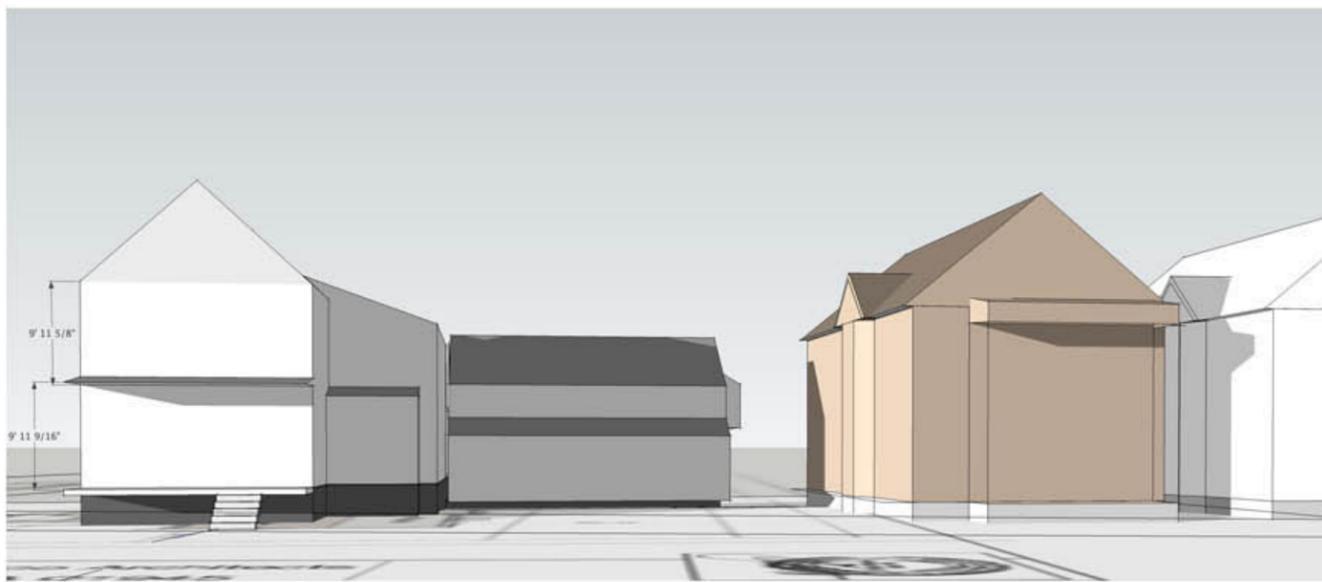
As-of-Right  
Plan  
with 15'  
side yard  
and 35'  
Height

# Winter Solstice

4 pm



Proposed



Existing



As-of-Right  
Plan  
with 15'  
side yard  
and 35'  
Height

# Court Street Newton,MA

## PROJECT INFORMATION

3.19.14      8.1.14

Unit #	Description	Floor Area	Floor Area	
101	2 BR, 2 BA	1720	1760	40
102	2 BR, 2BA	1325	1375	50
103	2 BR, 2BA	1325	1410	85
104	2 BR, 2 BA	1325	1375	50
105	2 BR, 2 BA	1650	1650	0
106 A	2 BR, 2 BA	1125	1225	100
107	2 BR, 2 BA	1530	1500	-30
108 A	2 BR, 2 BA	1250	1430	180
109	2 BR, 2 BA	1410	1410	0
110 A	2 BR, 2 BA	1165	1375	210
111	2 BR, 2 BA	1650	1610	-40
		15475	16120	

	17750	18920	increase
Garage Level	17750	18920	1170
Main Level	18400	19065	665
Second Floor	18400	19065	665
Third Floor	18000	18465	465
Loft Level	7950	8150	200
<hr/>			
Gross Floor Area - Residential	62750	64745	1995
Gross Floor Area - Garage/Basement	17750	18920	

27 MARKET UNITS  
 9 AFFORDABLE UNITS  
 -----  
 36 TOTAL UNITS

PARKING      70 SPACES

Second Floor				
Unit #	Description	Floor Area		
201	3 BR, 2 BA	1825	1800	-25
202	2 BR, 2 BA	1325	1375	50
203	2 BR, 2 BA	1325	1410	85
204	2 BR, 2 BA	1325	1375	50
205	2 BR, 2 BA	1650	1650	0
206 A	2 BR, 2 BA	1125	1225	100
207	2 BR, 2 BA	1530	1500	-30
208	1 BR, 1 1/2 BA	1250	1410	160
209	2 BR, 2 BA	1410	1410	0
210 A	2 BR, 2 BA	1165	1375	210
211	2 BR, 2 BA	1520	1480	-40
212 A	1 BR, 1 BA	815	925	110
		16265	16935	

Third Floor				
Unit #	Description	Floor Area		
301	3 BR, 2 1/2 BA	1800	1800	0
302	2 BR, LOFT, 2 1/2 BA	2185	2185	0
303	2 BR, LOFT, 2 1/2 BA	2185	2185	0
304	2 BR, LOFT, 2 1/2 BA	2185	2185	0
305	3 BR, LOFT, 3 BA	2435	2435	0
306 A	3 BR, 2 1/2 BA	1325	1675	350
307	1 BR, 1 1/2 BA	1030	1030	0
308	3 BR, LOFT, 3 BA	2185	2185	0
309	2 BR, LOFT, 2 1/2 BA	1980	2185	205
310	2 BR, LOFT, 2 1/2 BA	2330	2185	-145
311	2 BR, LOFT, 2 1/2 BA	2000	2185	185
312 A	2 BR, 2 BA	1160	1160	0
313 A	1 BR, 1 BA	775	925	150