

Exhibit 1
Summary of Application for Relief

First, the Application for relief, developed through pre-application meetings with the Department of Planning and Development, is for two (2) separate variances, one (1) use variance, and one (1) dimensional variance:

1. Table 12 – 1 for “Dwelling – Multi-family” in an R-2 Zone
 - a. (Use Variance)
2. Table 14 -1 parking, 26 spaces proposed, 71 required based on the 71-unit proposal, amounting to 45 spaces worth of relief
 - a. (Dimensional Variance)

As submitted into the record, the application itself, by and through its Appendix “A” which is incorporated by reference herein, includes a detailed analysis of the proposal relative to the application’s questions. The following summarizes the Applicant’s responses to the questions in Appendix A as presented in Application Appendix A and additional testimony and evidence submitted into the record as of the April 13, 2022, Providence Zoning Board of Review meeting:

1. The **hardship** is the fact that the structure is a 50,000 square foot historic nursing facility in an R-2 zone on an abnormally large lot which is already a fully occupied parcel completely bounded by streets.
2. The unique characteristics:
 - a. Land – The abnormally large site occupies an entire city block with the exception of a single residential structure built into the center of the Northerly boundary of the site making it an odd “U” shaped lot that is otherwise bounded by four (4) roads
 - b. Structure – The layout of the 50,000sqft nursing facility has a myriad of small rooms and it is a contributing historic structure which requires minimal alterations (i.e. limited to no changes of the exterior, windows, hallways, stairwells, devising walls etc.)
3. (a) The **hardship**, again, namely, *is the fact that the structure is a 50,000 square foot historic nursing facility in an R-2 zone on an abnormally large lot which is already a fully occupied parcel completely bounded by streets*, is not caused by an economic disability.
3. (b) The **hardship**, again, namely, *is the fact that the structure is a 50,000 square foot historic nursing facility in an R-2 zone on an abnormally large lot which is already a fully occupied parcel completely bounded by streets*, is not caused by a physical disability.

Exhibit 1
Summary of Application for Relief

4. The owner/applicant has taken no prior action with respect to the property.
5. The variances are not being sought **primarily** for **greater** financial gain¹ because:
 - a. Use Variance - The only economically viable option for a 50,000sqft historic nursing facility is a Dwelling Multi-Family use.
 - b. Dimensional Variance – The number of units is driven by the layout of the existing structure. The number of parking spaces is limited by the availability of physical space on the land. The building dictates 71 units, the land dictates 26 parking spaces.
6. The requested relief is the least relief necessary because:
 - a. Use Variance – The only relief less than Dwelling Multi-Family, is Dwelling – Three Family. That would result in three (3) units of 16,666.67sqft apiece. That is plainly inappropriate.
 - i. There are no viable alternative uses. Please refer to Appendix A response 7 for a use-by-use analysis.
 - b. Dimensional Variance – The proposed unit count is drive by the historic structure, and the proposed parking is driven by the limited site. There building requires that there are no fewer units than 71, and the land is maxed out at 26 parking spaces.
 - i. There are no viable alternative uses. Please refer to the architectural schematic and presentation from Kevin Diamond, specifically his testimony regarding maintaining existing walls (comparison of the grey and yellow walls) relative to the letter from the Historic Tax Credit Expert citing the risks associated with changing the walls.

¹ This Application Question 5 parts from the State Law legal standards. The Application Question is about the reason for the variances sought but the state law is a question seeking to define the hardship. This critical distinction changes the “primarily for greater financial gain” standard from a measurement about the existing conditions to a measurement about what the changes might do. This change inappropriately moves the legal standard from a straightforward review of knowable facts regarding the present financial issues of the site (the hardship) to a complicated, multivariable speculation about what might occur as a direct or indirect result of granting the relief (to what extent might variances impact costs, revenue, and value over the long term and short term).

The impact is that a lay board with particular insight into the current character of a neighborhood is being asked to perform the duty of financial real estate experts capable of analyzing the sort of financial projections and market analysis set forth in the Financial Packages attached hereto. This burdensome shift in duty imposed upon laypeople would not appear to be the intent of the General Assembly.

Exhibit A
Annotated Controlling Law

No language has been altered or added, however there are annotations to aid in interpretation. Specifically:

- Immaterial language is struck and grayed.
- Where there is a breaking out of the controlling law, that break out is in red.
- The words hardship and relief have been **bolded and underlined** to call out their distinct roles.

Rhode Island General Laws §45-24-41

[...]

(d) In granting a variance, the zoning board of review, ~~or, where unified development review is enabled pursuant to § 45-24-46.4, the planning board or commission,~~ shall require that evidence to the satisfaction of the following standards is entered into the record of the proceedings:

- (1) That the **hardship** from which the applicant seeks relief is:
 - (i) due to the unique characteristics of the subject land or structure and
 - (ii) not to the general characteristics of the surrounding area;
 - (iii) and is not due to a physical or economic disability of the applicant,
 - a. excepting those physical disabilities addressed in § 45-24-30(a)(16);
- (2) That the **hardship**:
 - (i) is not the result of any prior action of the applicant and
 - (ii) does not result primarily from the desire of the applicant to realize **greater** financial gain;
- (3) That the granting of the requested variance:
 - (i) will not alter the general character of the surrounding area or
 - (ii) impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and
- (4) That the **relief** to be granted is the least relief necessary.

(e) The zoning board of review, ~~or, where unified development review is enabled pursuant to § 45-24-46.4, the planning board or commission,~~ shall, in addition to the above standards, require that evidence is entered into the record of the proceedings showing that:

Commented [DC1]: Hardship is not defined by the statute. Under the well settled rules of statutory interpretation, this means the word "hardship" must be given its plain and ordinary meaning.

Merriam-Webster defines Hardship as: "something that causes or entails suffering or privation"

(and further defines privation as the state of being deprived)

Commented [DC2R1]: Critically, "relief" and "hardship" are distinct.

Commented [DC3]: Greater is does not mean "more" its correct definition is:

"Having much more than average degree or quantity"
Oxford Learner's Dictionary

Commented [DC4]: Properly restated:

The **hardship** does not result primarily from the desire of the applicant to realize greater financial gain.

Commented [DC5R4]: Critically, this DOES NOT SAY that the "RELIEF" does not result primarily from the desire of the applicant to realize greater financial gain.

Commented [DC6]: "Relief" is not defined by the statute. Under the well settled rules of statutory interpretation, this means the word "relief" must be given its plain and ordinary meaning.

Merriam-Webster defines "relief" as: "legal remedy or redress"

Commented [DC7R6]: As a "remedy or redress" this requires that the statute must be construed liberally. See *Ayers-Schaffner v. Solomon*, 461 A.2d 396, 399 (R.I.1983).

Exhibit A
Annotated Controlling Law

(1) In granting a use variance,:

- (i) the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. ~~Noneconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and~~

(2) In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief. ~~The zoning board of review, or, where unified development review is enabled pursuant to § 45-24-46.4, the planning board or commission has the power to grant dimensional variances where the use is permitted by special use permit if provided for in the special use permit sections of the zoning ordinance.~~

The City of Providence Zoning Ordinance's standards for granting a variance, set forth in PVD

Code §1902(B) mirror the State Statutory standards except they add the following requirement:

5. In addition to the above, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, will consider the written opinion of the Department of Planning and Development prior to making a decision on a variance petition.

Commented [DC8]: Liberal construction for the purpose of facilitating a remedy here would appear to give the opinion of DPD critical weight when the DPD makes findings and a recommendation to support relief.

In other words, it appears that the power of the findings and recommendation within the written report of the DPD should result in the granting of relief absent material evidence submitted into the record to the contrary.



Conley, Dylan <dconley@wjclaw.com>

Zoning Board hearing tonight

Dinerman, Lisa <Ldinerman@providenceri.gov>

Wed, Apr 13, 2022 at 4:47 PM

To: "Conley, Dylan" <dconley@wjclaw.com>

Cc: "Thompson, Alexis" <Athompson@providenceri.gov>

I'm not answering him. Too late

Courtesy of the Cloud

On Apr 13, 2022, at 4:01 PM, Conley, Dylan <dconley@wjclaw.com> wrote:

Hi Lisa, Alexis

I have reviewed all the case law Lisa was kind enough to send my way. For the reasons stated below I am confident this matter is distinct and we meet all criteria necessary. I greatly appreciated being sent this material as it has given me a moment to respond in kind and I am no longer concerned regarding tonight's presentation! Thank you!

1) Specific to Sea View, in dicta the unpublished opinion states that lack of evidence regarding economic viability other than bald assertions fails to meet the standard of loss of any beneficial use.

Our analysis relative to beneficial use includes a detailed use-by-use review of all permitted and special-use-permitted uses in the zone. In addition we were prepared to address finances on the record and have provided that information in advance of the hearing.

We are distinct from that case in both the facts as to the difference in uses as well as the evidence presented, particularly considering the evidence relative to how the use is driven by the historic structure.

2) Specific to East Bay Mental Health, another unpublished opinion, the standard cited is that a landowner must prove that 'rigid insistence upon the property being devoted to a use permitted by the zoning regulations will deprive of all beneficial use.' To that end we again cite to our use-by-use analysis showing how no permitted use is viable.

Again as to the finances, and distinct as to both cases, the proposed use is driven by the building itself not primarily the finances related thereto. No permitted use is remotely viable.

3) Specific to Bonati, another unpublished opinion, another case related to the applicant's attempt to use less-ideal financial outcomes to argue loss of all beneficial, the Board saw evidence of a more beneficial use instead of a loss of all beneficial use. Here again, as completely distinct from all cases, the proposed use is driven by the existing historic structure and the only use that does not amount to a loss of all beneficial use as stated in our expert land-use report, is multifamily.

4) As to the distinction primarily. In each of the above cases there is not a historic building that limits the use options at the site. Our argument of loss of all beneficial use is driven by the historic structure primarily. The most dense residential by-right use is a 2-family. The only other residential use available between multi-family and two-family is a three family. That building cannot function as a three family. We have met the thresholds of least relief necessary (multi-family use) and loss of all beneficial use through analysis of the physical structure. Finances are secondary.

Again, while none of the cases identify least relief necessary related to a use variance, the number of units is not a factor within the "dwelling - multifamily" use. In theory, the only other use relief available that involves the number of units is a three-family. For all the reasons stated in our report, three units are not viable in that location. Above the three-family use the only other use is "multi-family". Multi-family use is the least use-variance relief necessary.

Specific to the finances, we have submitted the documentation to prove that without the historic tax credits, the project is not viable.

If there is anything else we can produce, just let me know, thanks!

Dylan Conley, Esq.
 Law Office of William J. Conley, Jr.
 123 Dyer Street, 2nd Floor
 Providence, RI 02903
 Office: 401-415-9835
 Direct: 401-632-0598

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On Wed, Apr 13, 2022 at 3:24 PM Conley, Dylan <dconley@wjclaw.com<<mailto:dconley@wjclaw.com>>> wrote:
 Thank you!

Dylan Conley, Esq.
 Law Office of William J. Conley, Jr.
 123 Dyer Street, 2nd Floor
 Providence, RI 02903
 Office: 401-415-9835
 Direct: 401-632-0598

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On Wed, Apr 13, 2022 at 3:23 PM Dinerman, Lisa <Ldinerman@providenceri.gov<<mailto:Ldinerman@providenceri.gov>>> wrote:

Here are a few cases. I have more.

From: Conley, Dylan <dconley@wjclaw.com<<mailto:dconley@wjclaw.com>>>
 Sent: Wednesday, April 13, 2022 3:10 PM
 To: Dinerman, Lisa <Ldinerman@providenceri.gov<<mailto:Ldinerman@providenceri.gov>>>
 Subject: Re: Zoning Board hearing tonight

Hi Lisa,

Thank you again for reaching out, all of our financials will be sent over shortly, but that is largely proprietary information especially since the real estate transaction is not complete.

Also, if you could please send me the caselaw you identified it would be greatly appreciated, I have been unable to pull up a case about seaview v. cranston zbr on westlaw. Thanks again! As always, much appreciated!

Dylan Conley, Esq.
Law Office of William J. Conley, Jr.
123 Dyer Street, 2nd Floor
Providence, RI 02903
Office: 401-415-9835
Direct: 401-632-0598

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2 attachments

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1996 WL 936989

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT RULES
BEFORE CITING.

Superior Court of Rhode Island, Providence County.

SEA VIEW REALTY CORP.

v.

ZONING BOARD OF REVIEW OF CRANSTON,
ET AL

C.A. No. PC 94-2949

FILED OCTOBER 9, 1996

DECISION

GIBNEY, J.

*1 Before the court is an appeal from a decision of the Zoning Board of Review for the city of Cranston (the Board). Sea View Realty Corporation (Sea View) appeals the Board's decision to deny Sea View a variance. Jurisdiction is pursuant to R.I.G.L. 1956 45-24-69.

I

The property in question is located at 8 Aborne Street, in the city of Cranston, and is identified as Lot 28 on Assessor's Plat #1. The lot contains a two-story building and is in a district zoned for commercial use only. For many years, the second floor of the building has been used for residential purposes. This use existed at the time Cranston's zoning ordinance was adopted and therefore remains legal. The first floor, however, had been used for commercial purposes, which continued until 1992, when Sea View began to rent it as a residential apartment. In 1993, the Cranston Department of Inspections notified

Sea View that the residential use of the first floor was in violation of Cranston Zoning Ordinance 30-15, which prohibits such a use in a commercial zone.

After receiving a summons to appear before the Cranston Municipal Court in March of 1994, Sea View filed an application for a variance

with the Zoning Board. Sea View requested relief from section 30-15 of the Cranston zoning ordinance, which prohibits residential apartments in a commercial district.

At the hearing, Sea View requested that the present use of the building as a two-family residence be allowed to continue because the first floor could no longer be rented as commercial space due to changes in the character of the neighborhood. Two witnesses appeared before the Board in support of the variance. Raymond Mooney, general manager of Sea View, testified as to the circumstances surrounding the changing use of the property. Mr. Mooney explained that Sea View had experienced difficulty renting the first floor to commercial tenants because the end of Aborne Street suffered from a lack of traffic and was not visible from the nearby major roads. (Tr. at 5.) Furthermore, although Sea View had a number of different commercial tenants, Mr. Mooney testified that they had 'a problem renting the property long term, ' which resulted in 'a lot of vacancies.' (Tr. at 4-5.) Sea View therefore contended that 'the only viable use . . . for this property is to rent it as an apartment.' (Tr. at 5.)

Alex Scungio, a registered land surveyor, testified that he had completed a study of the area in connection with the variance application. Mr. Scungio testified as to the general character of the street, and agreed with Sea View's attorney that the 'area is a mixed use of business and residences.' (Tr. at 11.) Mr. Scungio also testified that the immediate area surrounding Sea View's building was 'more residential.' (Tr. at 11). There was no further discussion at the Board meeting regarding the existing 'mixed use' of businesses and residences within an area zoned solely for commercial purposes.

*2 The Board voted four to one to deny Sea View's application and filed a written decision on May 16, 1994. The instant appeal timely followed. Essentially, Sea View contends that the variance should be granted because the testimony at the hearing established that the commercial zoning leaves the property without any economically beneficial use.

II

Superior Court review of a zoning board decision is controlled by R.I.G.L. 1956 45-24-69 (D), which provides:

(D) The court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further

proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:

(1) In violation of constitutional, statutory or ordinance provisions;

(2) In excess of the authority granted to the zoning board of review by statute or ordinance;

(3) Made upon unlawful procedure;

(4) Affected by other error of law;

(5) Clearly erroneous in view of the reliable, probative and substantial evidence of the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

When reviewing a zoning board decision, a Superior Court trial justice may not substitute his or her own judgment for that of the zoning board if he or she conscientiously finds that the board's decision was supported by substantial evidence. 🚩🏠 *Apostolou v. Genovesi*, 120 R.I. 501, 507, 388 A.2d 821, 825 (1978). Substantial evidence in this context has been construed as 'more than a scintilla but less than a preponderance.'

Caswell v. George Sherman Sand & Gravel Co., Inc., 424 A.2d 646, 647 (R.I. 1981).

Sea View first argues that the Board applied the wrong standards in considering the evidence presented at the hearing. The Board's written decision denying the application includes the following findings:

1) That the granting of the application would substantially injure the appropriate use of the property.

2) That the granting of the application would not be in harmony with the character of the neighborhood or appropriate to the uses of the buildings in that district; and

3) That there was not evidence of any undue hardship relative to the lot in question.

Sea View challenges this language, contending that the Board applied the wrong standard by examining 'the appropriate use of the building'

and requiring evidence of an 'undue hardship.' Sea View asserts that the Board's decision is erroneous under R.I.G.L. 1956 45-24-41, which provides the applicable standard to be used by a zoning board when considering a variance. That section provides in pertinent part:

*3 (C) In granting a variance, the zoning board of review shall require that the evidence to the satisfaction of the following standards be entered into the record of the proceedings:

(1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the surrounding area; and not due to a physical or economic disability of the applicant;

(2) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

(3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and

(4) That the relief granted is the least relief necessary.

(D) The zoning board of review shall, in addition to the above standards, require that the evidence be entered into

the record of the proceedings showing that: (1) in granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance.

A review of the record indicates that the legal standards used by the Board are not clearly erroneous. Section 45-24-41(C)(3) requires that before allowing a variance a zoning board enter into the record evidence that ‘the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance.’ The language of a zoning ordinance represents a declaration of the public interest, and must be given a ‘reasonable interpretation.’ See *Coderre v. Zoning Board of Review of the City of Pawtucket*, 105 R.I. 266, 272-73, 251 A.2d 397, 401 (1969) (citing *Heffernan v. Zoning Board of Review*, 50 R.I. 29, 144 A. 674 (1929)). The Board’s finding that approving Sea View’s application ‘would substantially injure the appropriate use of the building’ and ‘would not be in harmony with the character of the neighborhood’ therefore is not erroneous.

The Board’s final finding, that there was no evidence of an ‘undue hardship’ presented at the hearing, is consistent with 45-24-41 (D), which requires that the evidence establish that no beneficial use can be made of the property. Although the Board used the term ‘undue’ rather than ‘unnecessary’ hardship, with respect to hardship, the petitioners must show that ‘all beneficial use has been lost and the grant of a variance becomes necessary to avoid an indirect confiscation.’ *Rhode Island Hospital Trust National Bank v. East Providence Zoning Board of Review*, 444 A.2d 862 (R.I. 1982). ‘Unnecessary hardship exists when literal application of the zoning ordinance completely deprives an owner of all beneficial use of his property’ *Almeida v. Zoning Board of Review of the Town of Tiverton*, 606 A.2d 1318 (R.I. 1992). The record clearly indicates that Sea View did not meet this standard before the Board.

*4 Sea View also argues that the evidence presented at the hearing establishes that the property is without any beneficial use when commercially zoned. In order to obtain a use variance an applicant must demonstrate to the board that literal application of the zoning ordinance would completely deprive the landowner of all beneficial use of his or her property. *Almeida*, 606 A.2d at 1320. Furthermore, an applicant may not rely on bald assertions of economic hardship, but must present truly probative evidence to the zoning board, such as cost data or financial statements. *Gaglione v. DiMuro*, 478 A.2d 573, 576 (R.I. 1984). A ‘mere showing of a more profitable use that would result in a financial hardship if denied’

does not satisfy the requirements for obtaining a use variance. *Rhode Island Hospital Trust National Bank*, 444 A.2d at 864.

The record shows that Sea View failed to meet its burden of proof before the Board. Both witnesses failed to present any probative evidence that application of commercial zoning to the property would deprive Sea View of any beneficial use. No financial information of any kind was presented to the Board, nor did either witness offer any testimony regarding actual costs or financial losses experienced by Sea View. ‘[S]tatements of economic unfeasibility that are mere conclusions and are unsupported by financial statements or cost data do not constitute probative evidence.’ *Gaglione*, 478 A.2d at 576. Without additional cost or financial data, ‘a naked assertion of economic unfeasibility is meaningless.’ *Id.* Mr. Mooney, general manager of Sea View, testified only that the nature of the surrounding area made it difficult for Sea View to keep commercial tenants in the first floor ‘for the long term.’ (Tr. at 4.) Other than claiming that, in his own

opinion, the only viable use for the property would be to rent it as an apartment, Mr. Mooney did not assert that Sea View was unable to earn a return on the property. (Tr. at 5.) The second witness, Mr. Scungio, testifying to the general character of the neighborhood, likewise did not offer any probative evidence of economic loss. Mr. Scungio agreed that the area is a ‘mixed use of business and residences,’ suggesting that commercial use is indeed viable in the immediate area. (Tr. at 11.) The Board’s finding ‘that there was not evidence of any undue hardship regarding the lot in question’ is supported by the evidence of record. It is well-settled that a zoning board ‘is without jurisdiction to amend the provisions of the zoning ordinance in the guise of granting a variance or exception.’ *Charles Land Co. v. Zoning Board of Review of the City of Providence*, 99 R.I. 161, 166, 206 A.2d 453, 456 (1965).

III

*5 After a thorough review of the entire record, this court finds that Sea View failed to present sufficient probative evidence to the Board that the property as currently zoned is without any beneficial use. The decision of the Board is supported by the probative evidence of record, and no substantial rights of the appellant have been prejudiced. Accordingly, the Board’s decision of May 16, 1994, to

deny the application for a variance is hereby affirmed.

All Citations

Not Reported in A.2d, 1996 WL 936989

Counsel shall prepare an appropriate judgment for entry.

End of Document

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2003 WL 21297125

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT RULES
BEFORE CITING.

Superior Court of Rhode Island.

EAST BAY MENTAL HEALTH CENTER, INC. and
Rhode Island Housing and Mortgage Finance
Corporation, Appellants

v.

Eugene SAVEORY, Jude Kostas, Patrick Caine,
Clark Richardson, Antonio H. Cunha, and Daniel
F. Harrington, in their capacity as Members or
Alternate Members of the Zoning Board of Review
of the City of East Providence, Appellees

No. Civ.A. PC01-6791.

|
May 14, 2003.

DECISION

GIBNEY, J.

*1 East Bay Mental Health Center and the Rhode Island Housing and Mortgage Finance Corporation (“the appellants”) appeal a decision of the Zoning Board of Review of the City of East Providence (“the Board”). The Board denied the appellants’ request for a use variance to convert a twenty unit communal assisted living facility for the elderly to a ten unit apartment-style assisted living facility for the mentality ill on the grounds that, *inter alia*, the appellants failed to show a loss of all beneficial use if required to conform to the zoning ordinance. This Court has jurisdiction pursuant to G.L. (1956) § 45-24-69. After reviewing the entire record and considering the arguments, the Court affirms the decision of Board.

Facts and Travel

Appellant Rhode Island Housing and Mortgage Finance Corporation (“Rhode Island Housing”), which is a quasi-governmental corporation, owns real property at 70 Turner Avenue in East Providence. Said property includes

a ten thousand square foot building, which originally housed a convent. The property is located in a densely populated residential area that is zoned for one and two family residences. In 1992, East Bay Geriatric Center purchased the building and applied for a use variance in order to convert the facility to an adult day care center and assisted living residence for the elderly.¹ The 1992 Zoning Board of Review (“1992 Board”) approved a use variance for a twenty unit assisted living facility and a sixty person adult day care center. The assisted living facility included a communal kitchen and dining room but individual/separate living quarters. The record reflects that East Bay Geriatric Center defaulted on its mortgage, causing Rhode Island Housing to foreclose on the property.

Subsequently, Appellant East Bay Mental Health Center (“East Bay”), which is a nonprofit corporation, entered into a conditional purchase and sale agreement with Rhode Island Housing for the subject property. The agreement was conditioned upon East Bay’s receiving the required zoning clearance. East Bay proposed to transform the facility into a ten to twelve unit assisted living residence for the mentally ill. Unlike the previous assisted living facility for the elderly, this residence would have kitchenettes and bathrooms installed for each unit. Moreover, the residents would have leases to their units.

East Bay first sought a zoning certificate from the Zoning Officer for the City East Providence (Zoning Officer) stating that their proposed use was either permitted under the 1992 variance or qualified as a community residence. The Zoning Officer found that the proposed changes were substantial and thus denied the appellants’ request for a zoning certificate. The appellants appealed the Zoning Officer’s decision to the Board.² Simultaneously and in the alternative, the appellants applied to the Board for a use variance in order to modify the terms of the 1992 use variance. On December 5, 2001, the Board held a meeting on the appellants’ request for a use variance. At the meeting, the appellants’ real estate expert, Neil Amper (“Amper”), testified that the appellants would be denied all beneficial use of their property if the use variance request was denied. The Board issued a decision on December 18, 2001, denying the requested use variance based upon, *inter alia*, its findings: (1) that the proposed use was not compatible with neighboring land use, (2) that the proposed use would create a nuisance, (3) that the proposed use would hinder the future development of the City, (4) that the proposed use would not conform to all applicable sections of the requested use variance, and (5) that the applicant would not be deprived of all beneficial use if it was required to conform to the zoning ordinance. The appellants filed the instant appeal to this Court.

Jurisdiction and Standard of Review

*2 This Court has jurisdiction over these appeals pursuant to G.L. (1956) § 45-24-69(a). This Court's scope of review is narrow:

(d) The court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

- (1) In violation of constitutional, statutory, or ordinance provisions;
- (2) In excess of the authority granted to the zoning board of review by statute or ordinance;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

This Court's review is circumscribed by and deferential to the administrative agency. *Restivo v. Lynch*, 707 A.2d 663, 667 (R.I.1998). It cannot substitute its judgment for that of the zoning board, but must uphold a decision supported by substantial evidence contained in the record. *Hein v. Town of Foster Zoning Bd. of Rev.*, 632 A.2d 643, 646 (R.I.1993). "Substantial evidence ... means such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means [an] amount more than a scintilla but less than a preponderance." *Lischio v. Zoning Board of Review*, No.2001-505-M.P., 2003 R.I. LEXIS 57, at *12 n.5 (R.I. Supreme Ct. filed March 21, 2003) (quoting *Caswell v. George Sherman Sand and Gravel Co., Inc.*, 424 A.2d 646, 647 (R.I.1981)). Thus, the Court must examine the record to determine whether competent evidence exists to support the Zoning Board's decision. *New England Naturist Assoc., Inc. v. George*, 648 A.2d 370, 371 (R.I.1994).

The Denial of the Requested Use Variance

The law places a heavy burden upon the applicant for a use variance. "It is well settled that to obtain a variance from a permitted use of property, a landowner must prove that 'rigid insistence upon the property being devoted to a use permitted by the zoning regulations will deprive him of all beneficial use of his property and will therefore be confiscatory.'" *Gaglione v. DiMuro*, 478 A.2d 573, 576 (R.I.1984) (quoting *Goodman v. Zoning Bd. of Rev. of Cranston*, 105 R.I. 680, 683, 254 A.2d 743, 745 (1969)); *Lischio v. Zoning Board of Review*, No.2001-505-M.P., 2003 R.I. LEXIS 57 (R.I. Supreme Ct. filed March 21, 2003); G.L. (1956) § 45-24-31(62)(i); East Providence Zoning Ordinance § 19-1.

General Laws (1956) § 45-24-41(c), (d) lists the evidentiary requirements that an applicant must satisfy in order to receive the requested relief. General Laws (1956) § 45-24-41(c) states:

*3 "In granting a variance, the zoning board of review requires that evidence to the satisfaction of the following standards is entered into the record of the proceedings:

- (1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30;
- (2) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
- (3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and
- (4) That the relief to be granted is the least relief necessary."

Section 45-24-41(d) states in part:

"The zoning board of review shall, in addition to the above standards, require that evidence is entered into the record of the proceedings showing that: (1) in granting a use variance the subject land or

structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance....”

The applicant carries the burden of assuring that record contains evidence sufficient to meet the statute’s requirements. The Court must determine whether substantial evidence exists for the Board’s denial of the appellants’ use variance request.

The appellants argue that there is no permitted beneficial use of the property, other than the assisted living facility that they have proposed. The appellants state that the building in question is unique in its R-3 zoned neighborhood, which allows only for one family dwellings. The appellants contend, however, that the building is not suitable for use as a one family dwelling. Furthermore, the appellants state that there is a deed restriction on the property that requires it to be used as affordable housing, which restricts their ability to market the building as a one family dwelling. The appellants imply that since East Bay Geriatrics failed financially while using the facility in accordance with the 1992 variance, the permitted use—a communal assisted living facility for the elderly—cannot currently be considered a beneficial use. The appellants therefore argue that they have been prejudiced by the Board’s denial of their variance request because it denies them all beneficial use of the property.

The Board maintains that the appellants bore the burden of proving that they were entitled to the requested relief. The Board held that the appellants failed to provide sufficient evidence that the facility could not be used as a one family dwelling or in a manner consistent with the 1992 use variance. Specifically, in the Board’s decision, it pointed to the fact that the appellants’ real estate expert, Amper, testified that the property was never marketed as a one or two family residence. The Board further argues that Amper’s testimony that the property is not marketable as a one or two family residence was conclusory and unsupported by probative evidence. The Board also contends that the deed restriction on the property was placed there by the owner, Rhode Island Housing, and that, therefore, the appellants cannot allege a loss of all beneficial use that resulted in part from a self-imposed restriction. The Board concludes that the denial of the use variance did not deprive the appellants of all beneficial use of the property.

*4 In *Gaglione v. DiMuro*, 478 A.2d 573 (R.I.1984), the Supreme Court quashed the grant of a use variance for the construction of townhouses on a property zoned for single family dwellings. The Supreme Court held that the variance applicant’s expert testimony (in the form of a report) contained no financial data and amounted to little more than the expert’s general opinion that an apartment complex was more beneficial than a single family home. “[T]o obtain a variance, an applicant must demonstrate by probative evidence that a literal application of the terms of the ordinance would deprive him of all beneficial use of his property.” *Id.* at 576 (citing *Coupe v. Zoning Bd. of Rev. of the City of Pawtucket*, 104 R.I. 58, 59, 241 A.2d 821, 822 (1968)) (emphasis in original). “[S]tatements of economic unfeasibility that are mere conclusions and are unsupported by financial statements or cost data do not constitute probative evidence.” *Id.* (citing *Goodman v. Zoning Bd. of Rev. of the City of Cranston*, 105 R.I. 680, 684-84, 254 A.2d. 743, 746 (1969)); *Compare Marks v. Zoning Bd. of Rev. of the City of Providence*, 102 R.I. 545, 549-50, 232 A.2d 382, 384-85 (1967) (quashing use variance to convert church into funeral home where applicant’s expert merely stated that the permitted residential use was economically prohibitive without producing any cost estimates for renovating the church into single family home or other factual data), with *Bilodeau v. Zoning Bd. of Rev. of the City of Woonsocket*, 103 R.I. 149, 150-52, 235 A.2d 665, 666 (1967) (affirming grant of use variance where expert presented evidence “that the cost of converting the present building to multi-residence uses would be so great that amortization of the cost of conversion would require a rental charge per unit that would be far higher than that which could be commanded by such rental units in the neighborhood”).

In the instant appeal, the record reflects that Amper did not present any documentation supporting his conclusion that the property was not desirable as a one family dwelling. The Supreme Court has held that difficulty in marketing property for residential purposes is not sufficient to prove loss of all beneficial use. See *Smith v. Zoning Bd. of Rev. for the City of Warwick*, 104 R.I. 1, 5, 241 A.2d 288, 290-91 (1968) (stating that applicant’s testimony that property near heavily traveled railroad tracks was not marketable as residential property was not probative to show loss of all beneficial use). Here, the record reflects that the appellants never even attempted to market the property as a one family dwelling. The record also reflects, through the testimony of the appellants’ expert, Amper, that he was not even sure what the value of the property would be as a single family dwelling. City of East Providence Zoning Board of Review, Hearing of December 5, 2001, at 48 (hereinafter “Transcript”). The expert’s testimony that the property was not appropriate

for a one dwelling is therefore not probative evidence.

*5 Amper further testified that it would not be financially feasible to either renovate the twenty room structure to accommodate a one family household or demolish the existing facility and construct a one family dwelling. Transcript at 43, 55. In *Rhode Island Hosp. Trust Nat'l Bank v. East Providence Zoning Bd.*, 444 A.2d 862 (R.I.1982), the appellants sought a use variance to construct an apartment complex on two plots, one of which was in an area zoned for one and two family dwellings. The appellants argued that property acquisition expenses, coupled with the site preparation expenses, made it unfeasible to construct a one or two family dwelling on the plot zoned for said use. *Id.* at 863-64. The Supreme Court affirmed this Court's finding that the evidence of record of financial hardship was insufficient to prove the loss of all beneficial use. In *Gaglione*, the Supreme Court reiterated that zoning boards cannot equate economic unfeasibility in the real estate market with the loss of all beneficial use. *Id.* at 577.

In the instant appeal, it first must be stated that Amper's testimony regarding the financial unfeasibility of renovating the facility was not supported by projected construction, demolition, or renovation costs, but rather his conclusion hung solely on his bald assertion that such projects were unfeasible. Notwithstanding that fact, Amper's testimony-that it would be unfeasible to renovate the structure in accordance with permitted uses-was still inadequate to show the loss of all beneficial use. Thus, the Board's finding to that effect was not arbitrary, capricious, nor an abuse of discretion.

The record is also devoid of evidence showing that the facility could not be used as a twenty unit elderly assisted living facility and day care center. The record reflects that the previous owner's mortgage was foreclosed, but it lacks any evidence as to the circumstances surrounding the foreclosure. The mere fact that the East Bay Geriatric Center was unsuccessful does not automatically preclude the property's permitted use as a twenty unit elderly assisted living facility and day care center from being a beneficial use. Amper's testimony that it was unfeasible to use the facility in accordance with the various permitted uses-one family dwelling and twenty unit elderly home-was not probative evidence; rather, it was an unsupported conclusion.

The East Providence Zoning Ordinance permits other uses in the R-3 zone besides one family dwellings. Other permitted uses for the property include family day care homes, municipal facility, watershed protection, park, school, church, cultural activity, and transit shelter. The

appellants' expert testified that these uses were not appropriate for this property. Transcript at 43-47. His testimony, however, consisted of little more than conclusory "no" answers to the questions presented to him of whether each use was appropriate. "It is not enough to show that the property cannot beneficially be devoted to one particular lawful use, or even to the primary or most common use allowed in that district; every permitted use must be excluded before the standard is satisfied and a use variance may be granted." Roland F. Chase, *Rhode Island Zoning Handbook* § 132 at 152 (1993) (citing *Weaver v. United Congregational Church*, 120 R.I. 419, 388 A.2d 11 (1978)); see *Weaver*, 120 R.I. at 424, 388 A.2d at 13 (stating that variance applicants must prove that their land cannot be put to each permitted use, including church, library, offices, rooming houses, etc., in order to show the loss of all beneficial use). Here, the appellants failed to show by probative evidence that the property could not be put to each permitted use. Therefore, the Court finds that the Board's determination that the appellants failed to provide evidence sufficient to show a loss of all beneficial use was not effected by error of law nor was it arbitrary or capricious.

*6 As to the appellants' argument that a deed restriction, which required that the premises offer affordable housing, prevented them from marketing the property as a single family residence, the Court finds the existence of the deed restriction to be beyond the scope of the use variance application. "It has been rather uniformly held that any consideration of building restrictions placed upon property by private contracts has no place in proceedings under zoning laws for a building permit or a variance." 4 E.C. Yokley, *Zoning Law and Practice* § 26-5 at 349 (4th ed.1979). The Court gleans from the record that the current owner, Rhode Island Housing, placed the deed restriction on the property before East Bay Geriatric Center purchased it. Section 45-24-41(c)(2) states that an use variance applicant must show that "the hardship is not the result of any prior action of the applicant." "[I]f the landowner creates the problem not only is there no unfairness in refusing to vary the terms of the ordinance, but to allow a self-created hardship to qualify would encourage landowners to violate the law. The rule may result in land that cannot be put to a productive use, but to rule otherwise would render zoning ordinances ineffective to control land use." 7 Patrick J. Rohan, *Zoning and Land Use Controls* § 43.02[6][a] at 43-66 (1978). The appellants have not shown a loss of all beneficial use of property by stating that a deed restriction that they placed upon the property prevents them from selling or marketing the property in accordance with its permitted use as a single family home.

Conclusion

After reviewing the entire record, the Court affirms the decision of the Board. The Court finds that the Board's decision is supported by the reliable, probative, and substantial evidence of record. Furthermore, the Court also finds the Board's decision did not constitute an abuse of discretion, was not affected by error of law, is not arbitrary or capricious, and is not in violation of constitutional or statutory provisions. Since the substantial rights of the

appellants have not been violated, the Court affirms the decision of the Board. Counsel are directed to confer and submit to this Court the proper order for entry after notice.

All Citations

Not Reported in A.2d, 2003 WL 21297125

Footnotes

- 1 At this time, Rhode Island Housing apparently placed an affordable mortgage restriction on the property that will remain in effect until 2008.
- 2 The Board affirmed the Zoning Officer's decision. The appellants then appealed that decision to this Court. *See East Bay Mental Health Ctr. v. Saveory*, C.A. No. PC01-6770, Rhode Island Superior Court (filed Dec. 26, 2001).

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1990 WL 1243721

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT RULES
BEFORE CITING.

Superior Court of Rhode Island.

BONATI BROTHERS, INC.

v.

ZONING BOARD OF REVIEW OF THE CITY OF
CRANSTON, et als

No. C.A. PC 88-5144.

April 26, 1990.

DECISION

CALDARONE, J.

*1 This is an appeal from a decision of the Zoning Board of Review of the City of Cranston. The plaintiff here seeks reversal of the zoning board's October 13, 1988 decision denying its petition for a variance. Jurisdiction in this Court is pursuant to *Rhode Island General Laws* 1956 (1988 Reenactment) § 45-24-20.

Bonati Brothers, Inc., hereinafter called the "plaintiff," filed an application for a variance with the Zoning Board of Review of the City of Cranston, hereinafter to be referred to as the "board". The property concerned is 4.46 plus acres located at the end of Randall Street and Bellevue Avenue in the city of Cranston. It is designated as Lot 2285 on Assessor's Plat 12/6. The land is zoned A-12, which under the zoning ordinance of Cranston, is defined as single-family, residential dwellings with a minimum square footage of 12,000 square feet. Condominiums are prohibited in an A-12 zone. In his application, plaintiff requested a variance to construct forty-eight (48) condominium units (8 buildings, six units in each) on said property.

A scheduled hearing was held on October 12, 1988. At this meeting, plaintiff testified that the site conditions, namely ledge, necessitated his requesting a variance. The board also heard testimony from a civil engineer and a

real estate expert presented by the plaintiff and a real estate appraiser and a real estate expert presented by the defendant. In addition, several neighboring lot owners testified in opposition to the requested variance. A petition within excess of 130 names was also presented.

After the hearing, the zoning board rejected the plaintiff's request for a variance. The plaintiff filed the instant appeal.

The Superior Court review of a zoning board decision is controlled by *Rhode Island General Laws* 1956 (1988 Reenactment) § 45-24-20(d), which provides in pertinent part as follows:

45-24-20. Appeals to Superior Court

(d) The court shall not substitute its judgment for that of the zoning board as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are: (1) in violation of constitutional, statutory or ordinance provisions; (2) in excess of the authority granted to the zoning board by statute or ordinance; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative and substantial evidence of the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

In reviewing a zoning board decision, the Superior Court "... is not empowered to substitute its judgment for that of the zoning board if it can conscientiously find that the board's decision was supported by substantial evidence in the whole record." *Apostolou v. Genovesi*, 388 A.2d 821, 825 (R.I.1978). This requisite "substantial evidence" has been further defined "... as more than a scintilla but less than a preponderance." *Id.* at 824; "... such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id.* at 826.

*2 The plaintiff contends that the zoning board's denial of its application for a variance be reversed for lack of substantial evidence of record. Specifically, this alleged lack of substantial evidence regards the board's finding "no unnecessary hardship" on the applicant who they also found had not been denied all reasonable use of his property. To the contrary, this court's reviewing of the whole record reveals that the decision of the board was supported by substantial evidence, an examination of

which follows.

Rhode Island General Laws 1956 (1988 Reenactment) § 45-24-19(c) clearly sets forth the standard for the granting of a variance. Variances are authorized when the applicant demonstrates that the ordinance as applied will result in unnecessary hardship and that such variance will not be contrary to the public interest. *Rozes v. Smith*, 120 R.I. 515, 518, 388 A.2d 816 (1978). Plaintiff's threshold burden is to demonstrate the "unnecessary hardship" caused by the applied zoning regulation. The court has interpreted an "unnecessary hardship" as "a deprivation of all beneficial use of one's land." *Rhode Island Hospital Trust National Bank v. East Providence Zoning Board of Review*, 444 A.2d 862, 864 (R.I.1982); *DeStefano v. Zoning Board of Review of Warren*, 405 A.2d 1167, 1170 (R.I.1979).

An examination of the whole record reveals that the plaintiff has not demonstrated a deprivation of all beneficial use of its land. At the hearing, plaintiff testified that the ledge on his parcel constitutes a hardship regarding the construction of the permitted single-family homes. Plaintiff then presented a civil engineer who testified that under the existing zoning classification possibly twelve (12) single family home lots could be developed. (Tr. 43) However, the engineer believed that condominiums would be more economically feasible due to their affording more flexible placement and thus requiring less costly blasting. (Tr. 36) Under cross-examination, the expert witness further testified that due to the ledge on the sight, not only single family homes but also the proposed condominiums would have to be built on slab. (Tr. 49) Additionally testifying that a conventional ranch house can be built at a depth of three feet and that at least fifty percent of the plaintiff's parcel possesses ledge at a depth greater than three feet (Tr. 45), the engineer provided the board with evidence that a great portion of the land can be utilized under the present zoning classification.

The next witness for the plaintiff, a real estate expert, also testified that irregular site conditions did not make the construction of single family homes economically feasible (Tr. 59). However, this expert provided no specific figures for the projected cost of a single-family home project on this site. In *Gaglione v. DiMuro*, 478 A.2d 573 (R.I.1984), the court found that a report containing the opinion that single family homes upon certain property would be "economically unfeasible" and which report lacked any "... specific financial information demonstrating that the present return on the parcel reflects a confiscatory taking by the city through enforcement of its zoning classification," could not be considered

"probative evidence." *Id.* at 576. In light of *Gaglione*, the board may have properly regarded this expert's opinions to be unsupported by the specific financial information necessary to make his testimony "probative evidence."

*3 The plaintiff has not carried its burden of demonstrating an "unnecessary hardship." Case law clearly distinguishes "unnecessary hardship" from "a more profitable use" *Rhode Island Hospital Trust*, 523 A.2d at 862; *Sundin v. Zoning Board of Review of the City of Warwick*, 98 R.I. 161, 164, 200 A.2d 459 (1964); or a "personal inconvenience" *Gartsu v. Zoning Board of Review of the City of Woonsocket*, 104 R.I. 719, 721, 248 A.2d 597 (1968); or even "serious financial hardship" *Rhode Island Hospital Trust National Bank*, 523 A.2d at 865. Plaintiff's site ledge appears to fall within the above categories. The plaintiff's civil engineer cited the cost for potential blasting and/or excessive amounts of fill required as being "costly" and possibly in excess of twenty thousand dollars. (Tr. 47). The real estate expert presented by the board projected development costs, including blasting, of fifteen (15) to twenty (20) thousand dollars per potentially twelve lots. (Tr. 121) Although such costs could more easily be spread among forty-eight (48) units than over twelve (12) homes, the board's expert testified that "a good profit" (Tr. 120) would be generated by use of the land as zoned: specifically, on the sale of (12) twelve, single family home lots a gross profit of approximately 720,000. dollars. (Tr. 116) Essentially, the board was here presented with evidence that the plaintiff was being deprived of the most profitable use of the land as zoned.

Such "cost ineffectiveness," as that here offered by the plaintiff, has not previously presented to the court substantial evidence of an "unnecessary hardship."

Similar evidence presented to a zoning board that an eighteen (18) unit apartment building would be a more beneficial and profitable use than a one or two family home was "insufficient" to demonstrate an "unnecessary hardship" warranting a variance. *Rhode Island Hospital Trust National Bank*, 388 A.2d at 864. In *Rhode Island Hospital Trust National Bank*, the court held that the site expenses involved were a "financial" hardship as distinguished from an "unnecessary hardship." *Id.* Another petitioner's evidence that a greater expenditure of funds was required to provide adequate sewerage facilities for single-family homes than for the proposed apartment house, golf course, and clubhouse demonstrated to a reviewing court that current zoning denied to applicant the most profitable use, not all beneficial use of his land. *Sundin v. Zoning Board of Review of the City of Warwick*, 98 R.I. 161, 200 A.2d 459 (1964). And again, a petitioner's added

expenditures for fill to prepare a site for its zoned use did not constitute evidence of an “unnecessary hardship” to the court in *Franco v. Zoning Board of Review of the Town of Smithfield*, 90 R.I. 210, 156 A.2d 914 (1959). The court in *Franco* emphasized that “ [m]ere inconvenience or additional expenses necessary to make the land available for beneficial uses within the scope of the ordinance will not warrant us in holding that, in the circumstances of this case, the decision of the board was arbitrary or contrary to law.” ’ *Id.* at 216 (quoting *Ricci v. Zoning Board of Review*, 72 R.I. 58, 47 A.2d 923 (1946)). Plaintiff’s site preparation costs, including ledge removal, are analogous to the expenditures rejected as “unnecessary hardships” in the above cases.

*4 After review, this court finds that the decision of the zoning board is supported by reliable, probative, and substantial evidence of the whole record and is not clearly erroneous. For the reasons, herein above set out, the decision of the Zoning Board of Review of the City of Cranston is affirmed.

All Citations

Not Reported in A.2d, 1990 WL 1243721

1998 WL 388351

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK
COURT RULES BEFORE CITING.

Superior Court of Rhode Island.

Theresa S. TOBIN, Charles Mcfarland,
Jane Mcfarland, Caroline Guertin, Omer
R. Dike, Elaine Della Torre, Elizabeth
S. Palter, Constance Cheseborough,
Patricia R. Henry & Raymond Lanowy

v.

Sandra L. CARLSON, Anthony Catauro Thomas
Scorpio, Arthur Strother & Ralph Lennon, in
their capacities as members of the Providence
Zoning Board of Review and the Jewish
Home for the Aged of Rhode Island, Alias &
Hillside Health Center Associates, L.P., Alias

No. C.A. 96-3633.

I

Jan. 23, 1998.

DECISION

SHEEHAN, J.

*1 This is an appeal from a decision of the Providence Zoning Board (Board). Ten citizens (plaintiffs) who reside in the neighborhood of 99 Hillside Avenue, Providence, Rhode Island, where the Jewish Home for the Aged (Jewish Home) is located, appeal the Board's June 13, 1996 decision granting defendant Hillside Health Center Associates, L.P.'s (Hillside) request for variances. Jurisdiction is pursuant to G.L.1956 § 45-24-69.

Facts/Travel

In April, 1995, Hillside filed an application with the Board pursuant to Section 902 of the Providence Zoning Ordinance (Ordinance) requesting permission to be relieved from Sections 200, 303(15.3), 704.2(A,B) and 705.6(D) of the Ordinance.

Hillside sought to expand the Jewish Home which had previously functioned as a nursing facility. Specifically, Hillside sought to increase the intensity of the use of the facility by increasing the maximum number of residents and by creating additional parking spaces. As a result, Hillside sought relief from the regulations governing the expansion of a non-conforming use, front and side-yard paving limitations, and landscaping.

The Jewish Home ceased operating as a nursing facility in 1993 when the owner of the facility, a non-profit corporation called The Jewish Home for the Aged (JHARI), voted to close the facility as a result of substantial financial losses it was incurring. *See, Ruth Meyer v. Jewish Home For The Aged Of Rhode Island*, C.A. No. 93-5374, Decision at 6. (R.I. filed Jan. 19, 1994).¹ On October 18, 1993, JHARI entered into a conditional sales agreement to sell the Jewish Home to Hillside, and subsequently, Hillside applied to the Department of Health to transfer ownership of the home and its license. (Tr. at 23.) The license is on a "hold" status pending the sale of the Jewish Home and the Department of Health's approval of the transfer of the license to Hillside.

¹ In *Meyers*, the plaintiffs sought equitable relief to prevent JHARI from closing the Jewish Home and liquidating their assets by selling the buildings. The trial justice denied relief on the basis that the Home was on the verge of "financial collapse," that it would quickly become insolvent if it continued to operate, and that the plaintiffs had failed to show "waste, fraud, conflict of interest, or bad faith."

On April 20, 1996, the Board held a public hearing on Hillside's proposal to increase the existing 254 bed facility to a 275 bed facility. Specifically, Hillside requested 236 beds in the main structure and 39 assisted living units in the annex building. Hillside presented four expert witnesses at the hearing. Hillside's Chief Financial Officer, John Montecalvo (Montecalvo), a licensed nursing home administrator for ten years and a manager of approximately 900 nursing home beds in Rhode Island, testified regarding the need for the increased intensity in use. Montecalvo testified that, "in order [for the project] to be affordable

under the current reimbursing and Department of Health regulations, it's necessary for us to have an optimum number of beds to support what the costs are for the facility.” (Tr. at 18.) Montecalvo further testified that he had conducted a financial analysis of the project by “running all the numbers for a 200 bed up to a 250 bed.” (Tr. at 18.) In addition, Montecalvo testified that the main facility would operate at a loss if it operated with less than 236 beds, and he testified that the main facility would lose several hundred thousand dollars per year if it operated with 200 beds. (Tr. at 18.)

*2 In regard to the annex building, Montecalvo testified that he began his financial analysis at 18 beds and ended at 45 beds and he testified that the annex building would generate a reasonable return of six to eight percent if it operated with 39 beds given the renovations that needed to be completed and given the type of care that assisted living requires. Moreover, he testified that the annex building would lose approximately \$140,000 on an annualized basis if it operated with 18 beds. Finally, Montecalvo testified that the proposal to utilize one building for assisted living and one for a nursing facility was the result of the unique circumstances and age of the two buildings.

Gene Mancino (Mancino), of Mancino Associates Architects, an expert in architecture, testified that there was “no other elderly care design or use” for the annex building. (Tr. at 15.) Jim Cronan, (Cronan) a professional Engineer and expert in the area of parking and traffic design issues, testified that the expansion of parking was sufficient to service the use of the facility. James Sloan (Sloan), a real estate expert, testified that in their present conditions, the buildings are functionally obsolete as either a nursing or an assisted living facility. Sloan further testified that because the building's only feasible use is as a nursing or assisted living facility that the Board's denial would constitute a serious hardship and the loss of all beneficial use of the property. Finally, Sloan testified that the relief requested was the least amount necessary and that the proposal would not have a negative impact on the surrounding property values.

Approximately seven citizens (objectors) testified in opposition to the project. The objectors testified that increasing the number of beds in the Jewish Home would increase existing traffic, parking, noise, and

pollution problems associated with the operation of the Jewish Home. State Representative Gordon D. Fox, Councilman Kevin Jackson, and State Senator Rhoda Perry all expressed their opposition to the plan.

At the end of the hearing, the Board voted to continue its decision for a month in order to “go back and re-look at the property” and to consider the objections raised by the residents. (Tr. at 54.) On June 25, 1996, the Board granted the variance request subject to fourteen restrictions which it placed on the operation of the facility. On July 2, 1996, the appellants filed a timely appeal with this Court.

The appellants contend that Hillside failed to establish that “it was denied all beneficial use of the property and that granting a the [sic] variance is necessary to avoid indirect confiscation of the property.” Further, appellants assert that Montecalvo was an interested party whose testimony was not supported by financial statements or cost data. Appellants also contend that the hardship from which Hillside sought relief was the result of Hillside's “prior action” of entering into a conditional sales agreement with JHARI in violation of G.L.1956 § 45-24-41.

*3 Alternatively, Hillside contends that Montecalvo's testimony was consistent with the trial justice's decision in *Meyers* not to enjoin the closure and sale of the Jewish Home. In addition, Hillside contends that the appellants cannot rely upon material outside the certified record as support for their appeal. Finally, Hillside argues that the hardship from which it seeks relief was not self-created because the hardship pre-existed in the inability of the 254-bed facility to operate without sustaining losses.





Standard of Review

Superior Court review of a zoning board decision is controlled by G.L.1956 (1991 Reenactment) § 45-24-69(D), which provides:

“(D) The Court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of

the appellant have been prejudiced because of findings, inference, conclusions, or decisions which are:


- (1) In violation of constitutional, statutory, or ordinance provisions;
- (2) In excess of the authority granted to the zoning board of review by statute or ordinance;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

When reviewing a decision of the zoning board, a justice of the Superior Court may not substitute his or her judgment for that of the zoning board if he or she conscientiously finds that the board's decision was supported by substantial evidence.   *Apostolou v. Genovesi*, 120 R.I. 501, 507, 388 A.2d 821, 825 (1978). “Substantial evidence as used in this context means such relevant evidence that a reasonable mind might accept as adequate to support a conclusion and means an amount more than a scintilla but less than a preponderance.” *Caswell v. George Sherman Sand and Gravel Co., Inc.* 424 A.2d 646, 647 (R.I.1981) (citing   *Apostolou*, 120 R.I. at 507, 388 A.2d 824-25). The reviewing court “examines the record below to determine whether competent evidence exists to support the tribunal's findings.” *New England Naturist Ass'n, Inc. v. George*, 648 A.2d 370 (R.I.1994) (citing *Town of Narragansett v. International Association of Fire Fighters, AFL-CIO, Local 1589*, 119 R.I. 506, 380 A.2d 521 (1977)).

Variances

In the instant matter, Hillside sought both a variance to increase the intensity of the existing nonconforming use of the Jewish Home and a dimensional variance

from the regulations regarding front and side-yard paving limitations, parking, and landscaping. As a result, Hillside had the burden of proving under


 G.L.1956 § 45-24-46(C)


(1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not to the denial of the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting hereto those physical disabilities addressed in § 45-24-30(16) herein;

*4 (2) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

(3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and

(4) That the relief to be granted is the least relief necessary.

In seeking a use variance Hillside had the additional burden of proving the Jewish Home could not yield any beneficial use if it was required to conform to the provisions of the zoning ordinance. Moreover, in order to prevail in their request for a dimensional variance, Hillside had the burden of proving that they would suffer a hardship amounting to more than a mere inconvenience if the Board denied their request for a variance. The mere fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.  G.L. (1956) § 45-24-46(D)(2).

In considering a request for a use variance, the Board must determine whether denial of the request would deprive the owners of all beneficial use of their property so as to amount to confiscation of the property.  *Rozes v. Smith*, 120 R.I. 515, 388 A.2d 816 (1978). In contrast, in considering a request for a dimensional or *viti* variance, the Board must determine whether denial of the requested relief would have

an adverse impact amounting to more than a mere inconvenience. ¹*Bamber v. Zoning Board of Review*, 591 A.2d 1220, 1223 (R.I.1991).

Hillside contends that they satisfied the standard for a use variance pursuant to *Vican v. Zoning Board of Review*, in which the Rhode Island Supreme Court noted that a use variance may be granted where there is evidence that the cost of using the property for the permitted use is so prohibitive that it would in effect amount to deprivation of all beneficial use.

¹103 R.I. 429, 238 A.2d 365 (1968). The record reflects that the Board heard testimony that the Jewish Home could not operate at less than 275 beds without incurring substantial economic losses. (Tr. at 17-19.) Further, Sloan testified that due to the “functional obsolescence” of the buildings there is no use for the Jewish Home for purposes other than use as a nursing facility. (Tr. at 34.) With respect to dimensional relief, the record also contains testimony that 44 additional parking spaces are necessary to comply with zoning requirements regarding the number of parking spaces needed to operate a 275 bed facility and that front and side-yard paving limitations and landscaping requirements are necessary to create those additional parking spaces. (Tr. at 4-6.) Consequently, the record reflects that the Board had evidence before it that denial of the use variance would result in the deprivation of all beneficial use of the property and that denial of the requested dimensional variances would amount to more than a mere inconvenience.

*5 The appellants contend, however, that Hillside's evidence with respect to the use variance was not probative because Montecalvo, who testified regarding the economic viability of the Jewish Home, was an interested party. Hillside argues that Montecalvo's testimony was probative in regard to the issue of the financial viability of the facility and that his testimony was consistent with the other experts' testimony. In addressing the issue of the testimony of an interested party, our Supreme Court in *Michaud v. Michaud*, stated:

“in such a situation a trier of fact may well be compelled to question the entitlement of such evidence to credence. Where, however, the evidence of a party to the action is not contradicted by direct evidence, nor by any legitimate inferences from the evidence, and it

is not opposed to the probabilities; nor, in its nature, surprising, or suspicious, there is no reason for denying to its conclusiveness.” ²98 R.I. 95, 200 A.2d 6, 8 (1964) (quoting ³*Hull v. Littauer*, 162 N.Y. 569, 57 N.E. 102 (1900)).

Therefore, even assuming that Montecalvo was an interested party, the Board was not required to disregard his testimony. Furthermore, the objectors and the Board had the opportunity to cross examine Montecalvo to determine bias. In fact, a review of the record indicates that the Board did question Montecalvo regarding his calculations, the project's start-up costs, Hillside's corporate structure, and potential taxpayer liability for the financing of the project in the event of a default. (Tr. at 19-24). Thus, the Board had an opportunity to cross-examine Montecalvo to determine any bias he might have had.

The appellants further claim that Montecalvo's testimony did not constitute probative evidence because his testimony was not supported by financial statements or cost data. The appellants cite *Gaglione v. DiMuro*, 478 A.2d 573 (R.I.1984) for the proposition that statements of economic unfeasibility that are mere conclusions and unsupported by financial statements or cost data do not constitute probative evidence.² However, in *Gaglione*, the court did not state that financial statements or written cost data are the *only* types of evidence considered probative on the issue of economic unfeasibility. Furthermore, in the case at bar, the record reflects that the Board had before it *Meyer v. Jewish Home for the Aged of Rhode Island*, in which a trial justice of this Court denied the plaintiffs' request for an injunction to prevent JHARI from selling the Jewish Home. (Tr. at 7.) In *Meyer*, the trial justice referenced, in great detail, the financial losses that led to the closing of the Jewish Home. (Record Ex. A.) In addition, Montecalvo testified regarding the cost of acquisition and the cost of making renovations. (Tr. at 21-22). He also testified that the main building is “functionally obsolete” as a nursing facility. (Tr. at 21.) As a result, the record contains probative evidence of a loss of all beneficial use.

² The appellants apparently inadvertently cited *Doyle v. McNulty* which begins on the

last page of *Gaglione v. DiMuro*, 478 A.2d 573 (R.I.1984). As *Gaglione* supports the appellants' proposition, this Court will refer to *Gaglione* in this decision.

*6 The appellant also contends that the requested variance would alter the surrounding neighborhood area. Appellants point to the testimony of the residents who opposed the variance. In *Smith v. Zoning Board of Review of the City of Warwick*, this Court noted that the lay opinions from neighboring property owners on the question of the effect of a proposed use on neighboring property values and traffic conditions had no probative force. 103 R.I. 328, 334, 237 A.2d 551, (1968). In the case at bar, the record reflects that the objectors testified, based on their personal experiences, about the problems with traffic, noise, and pollution which resulted from the Jewish Home being located in a residential neighborhood. However, it is well settled that lay testimony is not probative with regard to traffic issues or property values.

Further the appellants contend that the relief Hillside sought was not the least amount of relief necessary. In support of their assertion, appellants point to correspondence in which Hillside's attorney admitted that the Jewish Home could operate with less than 275 beds. (Ex. 2.) This Court cannot consider evidence outside the certified record. Section 45-24-69 requires the zoning board of review to "file the original documents acted upon by it and constituting the record of the case appealed from or certified copies thereof, together with such other facts as may be pertinent." The certified record before this Court does not contain the correspondence referred to by the appellants.

Finally, the appellants argue is that the relief which Hillside sought is a result of Hillside's entering into a conditional sales agreement to purchase the Jewish Home. Section 45-24-41(c)(2) requires that the hardship from which the applicant seeks relief not be the result of any prior action of the applicant or result primarily from the applicant's desire to realize greater financial gain. In determining whether the hardship from which an applicant seeks relief was self-created, our Supreme Court has held that the fact that an owner knew a lot was undersized or otherwise didn't conform to zoning requirements would not provide the basis for a denial of his application for a variance. *DeStefano v. Zoning Board of Review, City of Warwick*, 405 A.2d 1167, 122 R.I. 241 (1979). In the instant matter, the Board had evidence before it that the facility was obsolete and could not function as a nursing facility in its present condition and had been closed as a result of its inability to function without incurring substantial economic losses. Accordingly, the record demonstrates that the hardship from which Hillside sought relief was not self-created. After review of the entire record, this Court finds that the decision of the Board is supported by reliable, probative and substantial evidence, and the appellants' substantial rights have not been prejudiced. Accordingly, the appeal is denied, and the June 13, 1996 decision of the Providence Zoning Board of Review is affirmed.

*7 Counsel shall prepare the appropriate order for entry of judgment.

All Citations

Not Reported in A.2d, 1998 WL 388351

180 George M Cohan Financial Analysis

Prepared April 19, 2022 by Dustin Dezube

Introduction

Providence is currently experiencing a shortage of available housing, making the creation of additional housing units now more important than ever. Yet real estate development carries many risks. To attract capital, investors require market returns commensurate with the risk, and below market financial returns make development unviable.

Key financial metrics and returns were calculated for the redevelopment of 180 George M Cohan into 71 residential units using a dynamic spreadsheet-based model. The model shows that investment returns, even with 71 units, are below average, thereby demonstrating, pursuant to R.I. Gen. Laws §45-24-41(2) “That the hardship [. . .] does not result primarily from the desire of the applicant to realize greater financial gain.”

The financial model was subsequently modified to evaluate the impact of reducing the overall unit count upon the project’s feasibility. The model was used to create a sensitivity analysis of unit reduction and calculate key financial metrics across a range of 61 to 71 units. The model illustrates how each disallowed unit further negatively impacts the feasibility of developing 180 George M Cohan, thereby demonstrating that a Use Variance allowing for the use Dwelling - Multi-Family as defined in Providence Zoning Code §1204, is in fact the least relief necessary and the subject structure cannot yield any beneficial use if it is required to conform to the permitted uses in an R-2 zone pursuant to R.I. Gen. Laws §45-24-41(d-e).¹ For all the same reasons, a unit count of 71 with 26 parking spaces is the least relief necessary and any relief less than that would amount to a hardship greater than a mere inconvenience pursuant to R.I. Gen. Laws §45-24-41(d-e).

¹ For further evidence hereof, please see expert report and testimony of Paige Bronk as submitted into the record.

Building the Financial Model

The first step in creating the original financial model was devising a schematic design (included as Exhibit A), that was both efficient and sensitive to the historic nature of the property. To this end, a “light touch” approach was utilized. Units were created in a way that paid homage to the building’s existing configuration with window, hallway, stairwell locations largely controlling the unit count; the structure itself inherently sets a functional minimum unit count at 71. When the option to create a new unit presented itself, rather than subdividing pre-existing spaces into smaller units, larger units were created. For example, newly created unit 301, a 1 bedroom, is the largest unit in the building at 1,150 square feet. Although this is a large enough space to subdivide into smaller units, the space in its entirety was instead preserved as one large unit. In other instances, some small units that already existed and could readily be repurposed were kept intact to avoid needlessly increasing construction costs.

The decision to already minimize unit count by avoiding subdivision of large spaces and creating larger units is illustrated by Table 1 below. Specifically, both the median and average size for newly created units are greater than for their preexisting counterparts.

Table 1 - Median and Average SQFT for Existing and New Units

Unit Type	Total	MEDIAN (SQFT)	AVERAGE (SQFT)
Existing	43	365	419
New	28	445	465

After the proposed plans were completed, the property management team and leasing specialists reviewed the schematic plans together and established the market rent for each unit, based upon experience and comparable rentals. These rents were compiled into a projected rent roll (Exhibit B) , which includes the monthly rent, unit type, square footage, and the rent per square foot for each unit.

A construction budget was created through a similar collaborative process involving architects, construction managers and subcontractors. Based upon the plans, anticipated construction material needs and costs for items such as sheetrock and flooring were determined using historical data devised from the contractor's historic budgets for these items. Electrical, plumbing, and mechanical estimates were obtained from subcontractors after they had been provided with the proposed schematics, toured the building, and reviewed the scope of work in depth. The construction budget is included as Exhibit C. The total Project Cost was estimated to be \$12.95M, which is the sum of the construction budget, \$7.75M, and the purchase price of \$5.2M.

Next, a projected profit and loss statement spreadsheet was created (included as Exhibit D). Revenue was derived from the rent roll and parking count and includes a vacancy factor of 3%. Expenses used in the profit and loss statement were derived from a combination of historical data provided by the Seller, Providence Living historical data, and industry averages.

Based upon the projected profit and loss spreadsheet, an additional spreadsheet was created to evaluate cash flows from the development over a 10 year hold period followed by a hypothetical sale of the property. The projected sale price was determined by taking the NOI in year 10 and dividing it by the terminal cap rate, which per PwC, a large investor survey, averaged 6.12%. Debt was modeled from the term sheet provided by Bank Rhode Island. Together, these two spreadsheets comprised the model, which was used to calculate the following key financial metrics:

Net Operating Income (NOI) - NOI is the yearly income less the yearly operating expenses.

Loan Amount - The amount of financing provided by the bank

Federal Historic Tax Credits - equal to 20% of qualified rehabilitation expenditures and based upon consultant advice and past experience, estimated to be 16% of total building improvements

Cash Requirement (Cash)- the amount of Cash, or Equity, required from investors to fund a project

Loan Payment - the total interest and principal payments due in a year

Cash Flow - The amount of distributable cash generated by the deal. The Cash Flow is equal to the NOI less the Loan Payment.

Capitalization Rate - The Capitalization Rate (**CAP Rate**) is a metric used to compare the financial performance of real estate investments. The Cap Rate is calculated by dividing the (NOI) by the value of an asset. Importantly, the CAP Rate is not directly dependent on interest rates; while it is a very helpful metric to compare the value of real estate assets and viability of projects in the same interest rate environment, because it does not take into account interest rates, it cannot by itself be used to calculate a specific rate of return when debt is involved.

Cash on Cash Return - The Cash on Cash Return (**Cash-on-Cash**), is a very important metric for determining the viability of any potential investment in real property and therefore a mathematical determinant of project viability. It measures the percent return an investor makes on a real estate asset in relation to the Cash Requirement needed to purchase the asset. It is calculated by taking the difference between the NOI and the Loan Payment, and then dividing this difference by the Cash Requirement. It shows an investor what the yield on their Cash will be. Unlike the CAP Rate, the Cash-on-Cash takes into account interest rates.

Internal Rate of Return (IRR) - The IRR is another important commonly utilized way to value a Real Estate asset. It takes into account cash flows over the duration of an investment, including the initial Cash Requirement as well as a sale. As an example, if one were to invest \$1,000 and received \$10 each month for a year this would generate a higher IRR higher than the same \$1,000 investment if paid \$120 at the end of a year. In each case, the investor makes \$120 in a year, but in the first case the investor receives money sooner rather than later.

Using the Model to Evaluate the Impact of Unit Reduction

The financial model was subsequently modified to evaluate the impact of reducing the overall unit count upon the key economic metrics detailed above.

The first step in modifying the financial model was understanding how the unit count reduction would be accomplished. The overall approach taken was to minimize the negative impact on the project's feasibility, and to that end, several considerations were taken into account. Rather than simply forgoing the development of a certain number of units, which would have had the largest negative impact on the project by reducing the leasable square footage, consideration was instead

given to consolidating pairs of two adjacent units into a single larger unit. The latter approach decreases the overall unit count but preserves the total leasable square footage. The hope was that this analysis could be used to identify the fewest number of units possible that could keep the project viable.

Several factors were taken into consideration in determining which units to consolidate. Consultation with Mrs. Kim Smith, historic tax credit consultant, revealed that while it is paramount to preserve the stairwells and corridors, some unit consolidation would be acceptable depending on what historic features, if any, would be altered through the consolidation process. For example, consolidation by going through a masonry wall still requires the wall itself to be maintained.

Another factor taken into consideration was the newly created unit's marketability and rental value relative to the two precursor units. As units get larger, the rent per square foot exhibits logarithmic decay. This is illustrated in Exhibit E which charts rent per square foot versus apartment size. While this graph was created using data from other rental units in Downtown Providence and thus cannot be used to directly calculate rent for this location, the same principle holds true. Units to be combined were chosen carefully to minimize the decrease in rent of the combined unit relative to the sum of the rent of the uncombined units. Again, the purpose of this analysis and approach was to mathematically identify the fewest number of units necessary to maintain project viability.

The savings in construction costs achieved through consolidating specific units was also carefully considered. Consolidating units saves money on those construction costs that are calculated on a per unit basis. For example, going from two (2) studios to a single 1 bed/1bath unit saves the construction of an entire bathroom. At the same time, there are certain costs that only partially decrease and still others that don't decrease at all. In the example above, the cost of building kitchens will partially decrease, because although one less kitchen has to be built, the new larger unit will require a larger kitchen. Other expenses, including upgrading the electrical service, sheetrock, and flooring, will not differ at all.

Furthermore, it is less expensive to consolidate adjacent units in open spaces that have yet to be built out as compared with consolidating units that are already partitioned off in terms of essentials such as plumbing and electrical. The latter has the additional costs of demolishing the partition walls, rerouting any electrical and plumbing found within those walls, and if going through a brick wall, the added cost of structural masonry work. The building plans in its current configuration for reference are included as Exhibit F. Additionally, due to the nature of the structure of this building, altering walls on the lowest level has structural impacts on the structures above. Commonly, this building has a wall and support structure that repeats on each level. In other words, it is not possible to freely eliminate a wall on the first floor without impacting the wall above it on the second and third and so on.

The 20 units whose combination was estimated to have the least impact upon project feasibility are shown below in Table 2 in order of their impact, starting with the least. Consolidating these units decreases the overall unit count by 10, bringing the total down to 61 units. For each pair of consolidated units, the construction budget was reviewed and adjusted line by line, and the sums of these adjustments are shown in Table 2 in the column titled “Construction Savings.” The table also includes the proposed rent for the newly created unit relative to the rent of its precursor units.

Table 2. Impact of Unit Consolidation Upon Construction Costs and Rent

Total Units	Units combined	Description	Construction Savings	Rent Pre Consolidation	Rent Post Consolidation	Decline in Rent
71	None	N/A	0	N/A	N/A	\$0
70	116 & 118	(1) 1 bed 1 bath & (1) studio combined into (1) 2 bed 1 bath (880 SQFT)	\$25,257	\$3,200	\$2,816	-\$384
69	119 & 120	(2) 1 bed 1 bath combined into (1) 2 bed 2 bath (1,220 SQFT)	\$16,323	\$3,750	\$3,450	-\$300
68	502 & 503	(1) 1 bed 1 bath & (1) studio combined into (1) 1 bed 1.5 bath (875 SQFT)	\$19,192	\$3,300	\$2,538	-\$763
67	202 & 204	(2) studios combined into (1) 1 bed 1 bath (575 SQFT)	\$16,622	\$2,630	\$1,915	-\$715
66	102 & 104	(2) studios combined into (1) 1 bed 1 bath (575 SQFT)	\$16,622	\$2,600	\$1,885	-\$715
65	106 & 108	(2) studios combined into (1) 1 bed 1 bath (585 SQFT)	\$16,622	\$2,600	\$1,885	-\$715

64	206 & 208	(2) studios combined into (1) 1 bed 1 bath (585 SQFT)	\$16,622	\$2,630	\$1,915	-\$715
63	207 & 209	(2) studios combined into (1) 1 bed 1 bath (570 SQFT)	\$16,622	\$2,630	\$1,915	-\$715
62	107 & 109	(2) studios combined into (1) 1 bed 1 bath (550 SQFT)	\$16,622	\$2,600	\$1,885	-\$715
61	201 & 203	(2) studios combined into (1) 1 bed 1 bath (565 SQFT)	\$16,622	\$2,630	\$1,915	-\$715

Model Variables

The two variables used in the modified model were **Project Cost**, calculated by reducing the original project cost of \$12.95M by the collective **Construction Savings** detailed in Table 2, and the **Decline in Rent**, that also resulted from each pair of units that was consolidated. These variables were used in the model to recalculate the key financial metrics for a total number of units ranging from 71 down to 61. The full financial model is shown below as Figure 1 .

Results

The revised financial model was used to calculate key financial metrics across a total unit count ranging from the original proposal of 71 down to 61. The results are shown below in Table 3.

Table 3. Key Financial Metric Heat Map for a Total Unit Count of 61-71 Units

Units	Project Cost	Decline in Rent	Loan Amount	Cash	NOI	Loan Payment	Cash Flow	CAP Rate	Cash-on-Cash	IRR	IRR w/ Tax Credits
71	\$12.950M	\$0.00K	\$9.600M	\$3.57M	\$0.751M	\$0.610M	\$0.155M	5.80%	4.35%	8.13%	10.26%
70	\$12.925M	-\$4.61K	\$9.575M	\$3.57M	\$0.747M	\$0.609M	\$0.153M	5.78%	4.28%	7.99%	10.12%
69	\$12.908M	-\$8.21K	\$9.535M	\$3.59M	\$0.743M	\$0.606M	\$0.152M	5.76%	4.24%	7.94%	10.07%
68	\$12.889M	-\$17.36K	\$9.435M	\$3.67M	\$0.736M	\$0.600M	\$0.150M	5.71%	4.10%	7.81%	9.93%
67	\$12.873M	-\$25.94K	\$9.340M	\$3.75M	\$0.728M	\$0.594M	\$0.149M	5.66%	3.97%	7.68%	9.81%
66	\$12.856M	-\$34.52K	\$9.250M	\$3.82M	\$0.721M	\$0.588M	\$0.147M	5.61%	3.85%	7.54%	9.67%
65	\$12.839M	-\$43.10K	\$9.150M	\$3.91M	\$0.713M	\$0.582M	\$0.146M	5.56%	3.74%	7.42%	9.56%
64	\$12.823M	-\$51.68K	\$9.060M	\$3.98M	\$0.706M	\$0.576M	\$0.144M	5.51%	3.62%	7.28%	9.42%
63	\$12.806M	-\$60.26K	\$8.960M	\$4.06M	\$0.699M	\$0.570M	\$0.143M	5.46%	3.52%	7.16%	9.30%
62	\$12.789M	-\$68.84K	\$8.870M	\$4.14M	\$0.691M	\$0.564M	\$0.141M	5.41%	3.41%	7.01%	9.16%
61	\$12.773M	-\$77.42K	\$8.775M	\$4.21M	\$0.684M	\$0.558M	\$0.140M	5.35%	3.31%	6.88%	9.03%

A heat map was created for the key financial performance metrics, CAP Rate, Cash-on-Cash, and internal rate of return (IRR). The midpoint for the heat map for each metric was derived from data taken from the PcW and RERC investment surveys, both of which are broad market surveys completed by real estate investors that serve as a meterstick for acceptable financial returns. The ranges were extrapolated from the ranges around institutional data from those data sets. The CAP Rate average was 5.71% (range 3.89%-8.08%), the IRR average was 8.72% (range 6.59%-13.17%), and the Cash-on-Cash average was 8.62% (range 7.92%-9.32%).

Loan Amount

The Loan Amount (**Loan**) for each unit count was determined based upon the term sheet provided by Bank Rhode Island. One of the covenants in the term sheet is that the Debt Service Coverage Ratio (**DSCR**), defined as the ratio of NOI divided by the annualized loan payments (**Loan Payment**), be greater or equal to 1.25. While the bank has other covenants, such as a loan to value not to exceed 75%, for this particular project it is the DSCR that is the limiting factor and controls the maximum Loan. The Loan was solved for a DSCR of 1.25 in the third year,

which is the year after the construction interest-only period ends. As the NOI drops with each unit that is removed, so too must the Loan to maintain a minimum DSCR of 1.25.

Cash

The Cash Requirement (**Cash**), also known as equity, that is required for any given total number of units was calculated by taking the Project Cost plus certain closing costs associated with obtaining a commercial loan, less the Loan. As the Loan decreases for each unit that is disallowed, the Cash increases.

NOI

The net operating income (**NOI**) was calculated by the model. It takes into account the reduction of rent that results from each pair of units that are consolidated, and also factors in reduced expenses that are dependent upon the gross rent, such as management fees, that also get reduced. The NOI decreases for each unit that is disallowed.

Loan Payment

The Loan Payment was calculated based upon the term sheet from Bank Rhode Island and factors in the interest rate (4.82% as of April 19th), a 30 year amortization period, and the Loan determined as noted above. The Loan Payment is related to the Loan Amount, and also decreases with each unit that is removed.

Cash Flow

The Cash Flow is equal to the NOI less the Loan Payment. The Cash Flow decreases as the number of units decreases.

Capitalization Rate

The CAP Rate decreases as the unit count is reduced from 5.8% for 71 units down to 5.35% for 61 units.

Cash on Cash Return

The Cash on Cash Return (**Cash-on-Cash**) decreases as the unit count is reduced, dropping from 4.35% for 71 units all the way down to 3.31% for 61 units.

Internal Rate of Return (IRR)

The IRR decreases as the unit count drops, declining from 8.13% for 71 units all the way down to 6.88% for 61 units.

IRR with Federal Historic Tax Credits

Federal Historic Tax Credits (**Tax Credits**) represents the annualized amount of tax credits expected to be generated by the deal. The Tax Credits decline slightly with unit count reduction because of the construction cost savings realized through unit consolidation. Tax Credits are typically allocated to tax credit investors through complex partnership agreements. The complexity surrounding their usage under the tax code and the 5-year time horizon over which they are allocated makes them less attractive to investors than cash, and as a result, they are typically discounted from their face value. This model discounts them by a factor of 30% and uses them to recalculate an IRR factoring them in as a cash distribution.

Discussion

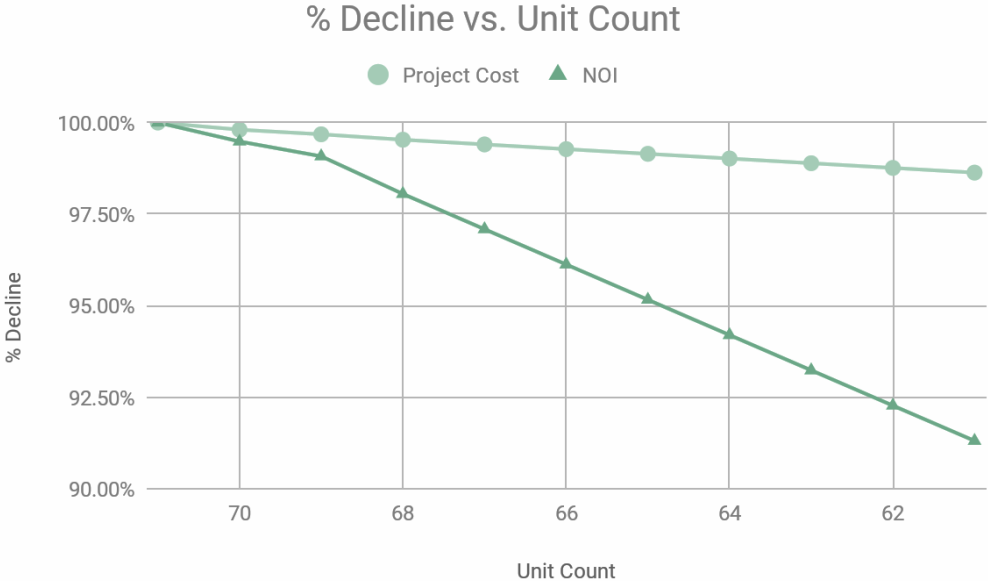
Development of real estate, and in particular the adaptive reuse of historic buildings as planned for 180 George M Cohan, carries many inherent risks – risks include, but are not limited to, construction going over budget or taking longer than expected, inability obtaining required permits and approvals, and floating interest rates variability which can dramatically impact project feasibility. Unfortunately, many of these risks have already come to pass for this project, including substantial increases in interest rates from the time the offer was made through today.

Given the inherent risks in investing in real estate, no private market party will assume the upfront cost of any real estate redevelopment project without a return commensurate to the investment placed at risk. In other words, without a minimum return that compensates investors for their willingness to risk their Cash on redeveloping a historic property, they will not do so.

The original financial model used to underwrite the redevelopment of 180 George M Cohan into 71 units was modified to assess the impact of unit count reduction on project viability. The model demonstrates that for every pair of units that is consolidated, the key financial performance metrics – CAP Rate, Cash-on-Cash, and IRR - all decrease. As the Cash-on-Cash and IRR are already far below what the market requires as further detailed below, any further reduction essentially renders the project unfeasible.

That all three metrics decline with the reduction of each unit is not unexpected, for they all are a function of the net operating income (NOI). The graph below shows the percentage decline in both NOI and Project Cost relative to the original proposal with 71 units as a function of unit count. It illustrates how NOI drops off at a steeper rate than Project Cost through unit consolidation. Again, importantly, these metrics are all already below what the market requires, leaving no room for them to be further decremented.

Figure 2. Graph Illustrating the % Declines in NOI & Project Cost vs. Unit Count



The extra premium that real estate investors require to compensate for the extra risk associated with real estate investments is reflected in the spread that investors require between Cash-on-Cash, or real estate yield, and the U.S 10 Year Treasury Note, which is viewed as a “risk free” investment. These spreads are shown in Table 4. According to the 1Q2022 RERC

Investment Survey, a broad market survey completed by real estate investors which serves as a meterstick for accepted standards, as of 1Q2022 investors require a spread of 5.5% between the 10-Year Treasury and real estate yield.

Table 4. Cash-on-Cash Required by Real Estate Investors vs 10-Year Treasury

RERC Required Real Estate Yields Vis-À-Vis Capital Market Returns

	1Q 2022	4Q 2021	1Q 2021	1Q 2020	1Q 2019	1Q 2018
Real Estate Yield (%)	7.4	7.4	7.7	7.8	7.7	7.9
Moody's Baa Corporate (%) ¹	3.9	3.3	3.5	3.9	5.0	4.5
Moody's Aaa Corporate (%) ¹	3.2	2.6	2.7	2.9	3.8	3.7
10-Year Treasurys (%) ¹	1.9	1.5	1.3	1.4	2.7	2.8
Yield Spread (Percentage Points)						
Moody's Baa Corporate (%)	3.5	4.1	4.2	3.9	2.7	3.4
Moody's Aaa Corporate (%)	4.2	4.8	4.9	4.9	3.9	4.1
10-Year Treasurys (%)	5.5	5.9	6.3	6.4	5.0	5.1

¹Data represent quarterly averages.
Sources RERC Investment Survey (preliminary data), Federal Reserve, Moody's, 1Q 2022.

Importantly, the quarterly average for 1Q 2022 for the 10 Year Treasury was 1.9%, but it has since climbed over a full point higher to 2.92% as of April 19th. Table 4 also shows how the spread between the 10-Year Treasury and real estate yield has ranged from 5% to 6.4% since 1Q2018. Applying these spreads to the April 19th 10-Year Treasury rate of 2.92% imputes a required Cash-on-Cash range of **7.92% - 9.32%**. As a construction project with an associated increased risk profile, the real estate yield for 180 George M Cohan would need to be at the high end of this range as compared with other stabilized assets. However, the Cash-on-Cash for the redevelopment of 180 George M Cohan even with the proposed 71 units is only **4.1%**, which is significantly below the lowest yield required to attract investors. This is clear proof that the use variance is not being sought primarily for greater gain and that the full 71 units requested is in fact the least relief necessary.

The project's already below-market Cash-on-Cash is a result of the interest rate risk described above that is inherent in real estate development. Interest rate risk is further amplified in construction projects because of their particularly long lead times and the tendency to fix rates only upon construction completion. As a case in point, when the offer to purchase 180 George M Cohan was signed back in November 2021, the 10-Year Treasury was only 1.44%; as of April

19th 2022, it has more than doubled to 2.92%. To put this in perspective, the loan interest rate at that time the offer was made would have been 3.38%, and as a result the debt service coverage ratio would have improved. This would have allowed for the loan amount to increase to the full \$10,500,000 detailed in the term sheet, and the Cash-on-Cash with these parameters increases to an attractive 7.69%. The rise in interest rates has decreased the Cash-on-Cash return from 7.69% all the way down to 4.1%, even with the full 71 units.

The project internal rate of return (IRR), like Cash-on-Cash, is also dependent on interest rates, and therefore also much lower than market requirements. Table 5 contains data from PcW, which is another large investor survey, and shows an average IRR of 8.72% for non institutional investors (non-institutional investors are smaller entities such as Providence Living that don't invest in very large assets with institutional funds, like an insurance company).

Table 5. PwC Investor Survey Containing Key Investor Metrics

CAPITALIZATION RATES			
Survey	Date	Range	Average
PwC	First Quarter 2022	3.00% - 7.00%	4.40%
PwC Noninstitutional	First Quarter 2022		5.71%
PwC - Refers to National Apartment market regardless of class or occupancy			
PwC Noninstitutional - Reflects the average rate for this property type, adjusted by the average premium			
TERMINAL CAPITALIZATION RATES (OAR _{out})			
Survey	Date	Range	Average
PwC	First Quarter 2022	3.50% - 7.00%	4.81%
PwC Noninstitutional	First Quarter 2022		6.12%
PwC - Refers to National Apartment market regardless of class or occupancy			
PwC Noninstitutional - Reflects the average rate for this property type, adjusted by the average premium			
DISCOUNT RATES (IRR)			
Survey	Date	Range	Average
PwC	First Quarter 2022	5.00% - 10.00%	6.62%
PwC Noninstitutional	First Quarter 2022		8.72%
PwC - Refers to National Apartment market regardless of class or occupancy			
PwC Noninstitutional - Reflects the average rate for this property type, adjusted by the average premium			
OTHER INVESTOR SURVEY INFORMATION			
Survey	Data	Range	Average
PwC First Quarter 2022	Rent Change Rate	0.00% - 15.00%	3.84%
	Expense Change Rate	0.00% - 6.00%	3.00%
PwC - Refers to National Apartment market regardless of class or occupancy			

In comparison, the IRR for the redevelopment of 180 George M Cohan with the full 71 units is only 8.13%, below the average of 8.72%, and again leaving no room to reduce the unit count below 71. This redemonstrates the need for the full 71 units and highlights that the motivation behind seeking the use variance is not one of greater financial gain and that the full 71 units requested is the least relief necessary.

Again, pursuant to R.I. Gen. Laws §45-24-41(d-e), the hardship, namely the fact that the 50,000 square foot nursing facility and its permissible use is functionally obsolete, does not result primarily from the desire to realize greater financial gain. Separately, but for all the same reasons, the relief needed, namely the need for the Dwelling - Multi-Family “use” with 71 units and its subsequent and corresponding dimensional need for 26 parking spaces, is based on the unique characteristics of the land and is the least relief necessary. Any reduction to relief requested for the parking spaces is more than a mere inconvenience because it threatens project viability through its corresponding reduction in unit count.

In the model, in order to illustrate their usefulness, Tax Credits are included in a second IRR calculation where they are treated as cash discounted at 70% of their face value. This reduction to face value reflects the marketplace for their monetization as well as increased costs associated with their usage; consulting fees are expensive, and for this project, will cost another \$25,000 not factored into the model elsewhere. The complex legal structure also adds significant legal cost. Furthermore, the design requirements that have to be followed in order to obtain Tax Credits drive up construction costs, again effectively reducing the value of Tax Credits. Beyond these upfront costs, Tax Credits cannot be used to offset certain tax liabilities, such as self employment tax, and for most people, active income as well. Thus, while they are awarded over 5 years, it may take much longer than that to realize their benefit, further effectively reducing the IRR. For this reason, even the 70% figure used in this model may be too high. While Tax Credits certainly can help a project, the extent to which they do so is very difficult to accurately measure, and is most likely less than this model would suggest.

The CAP rate in itself is more in line with market expectations. With 71 units, the CAP Rate is projected to be 5.8%. The average CAP Rate for PwC Noninstitutional property was 5.71%, very close to the projected CAP Rate for 180 George M Cohan. The difference of nine hundredths of a percentage point, especially given the risks involved, is not remotely “considerably better than average.” It is worth noting that while CAP Rates are not directly dependent on interest rates, they are likely to increase as interest rates rise. The band of investment capitalization rate is a technique used to determine CAP Rate requirements for a given Cash-on-Cash yield. For a Cash-on-Cash yield of 6% with an interest rate of 4.82%, this calculation imputes a CAP Rate of 6.26%.² Thus, while the projected CAP Rate is in line with 1Q 2022 market expectations, it is likely to fall short of CAP Rates found in future surveys.

The revised financial model demonstrates that consolidating units to reduce unit count, even when done in a thoughtful manner to minimize the economic impact, has a critically negative impact upon the project’s economics, making an already anemic project entirely not viable. Even the current proposal of 71 units represents an investment that the current market would not sustain. In other words, this proposal represents greater investment in the building for less return than the market will bear. To put in the terms of use variance parlance, if the building was resold next month, 71 units is less than the least relief necessary for project viability.

The risks associated with investing in historic building redevelopment are myriad and challenging, and certain risks including rapidly rising interest rates, have already negatively impacted the project. This is why so many historic properties remain under-developed or abandoned. The structures and their legal uses are commonly not viable market investments and therefore such buildings slip into decay. Taking into account the Cash-on-Cash, IRR, and CAP rate, if the building were sold today in this current interest rate environment, even the 71 unit proposal is not viable at the current purchase price. Anything less than the 71 units makes the project not feasible.

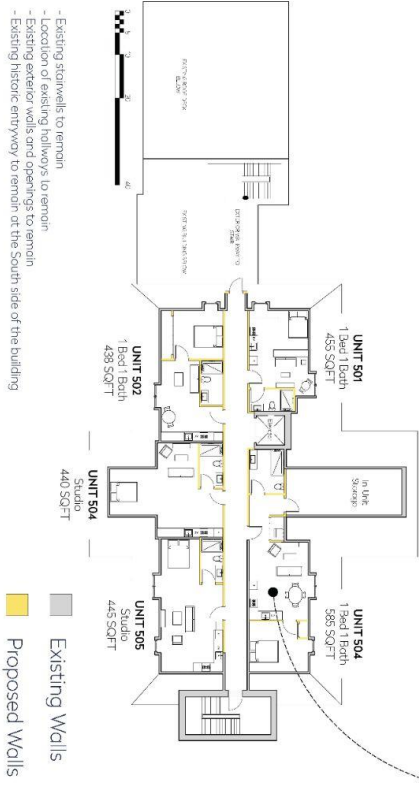
² Mortgage Constant (6.36%) x Loan to Value (74.1%) = 4.71%
 Equity Dividend Ratio (6%) x Equity Ratio (25.9%) = 1.55%
 Band of Investment Capitalization Rate = 6.26%

This financial analysis makes it clear that the request for a use variance does not result primarily from the desire of the applicant to realize greater financial gain. For all the same reasons, a unit count of 71 with 26 parking spaces is the least relief necessary, and any relief less than that would amount to a hardship greater than a mere inconvenience pursuant to R.I. Gen. Laws §45-24-41(d-e). The requested relief is thus critical to redeveloping this historic building into residential units and breathing new life back into an iconic Providence building.

Exhibit A



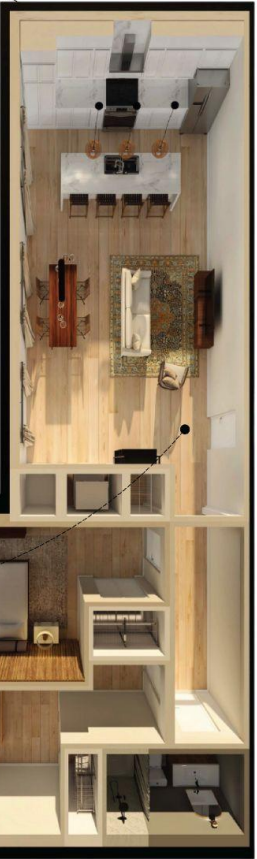
Unit 503 - 1 Bed 1 Bath - 870 SQFT



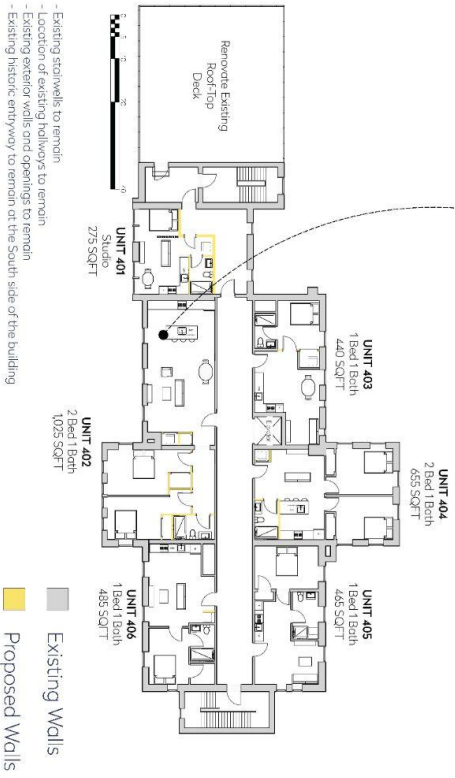
FIFTH FLOOR

PROVIDENCE
ARCHITECTURE CO.

RESIDENCES AT INDIA POINT



Unit 402 - 2 Bed 1 Bath - 1,025 SQFT



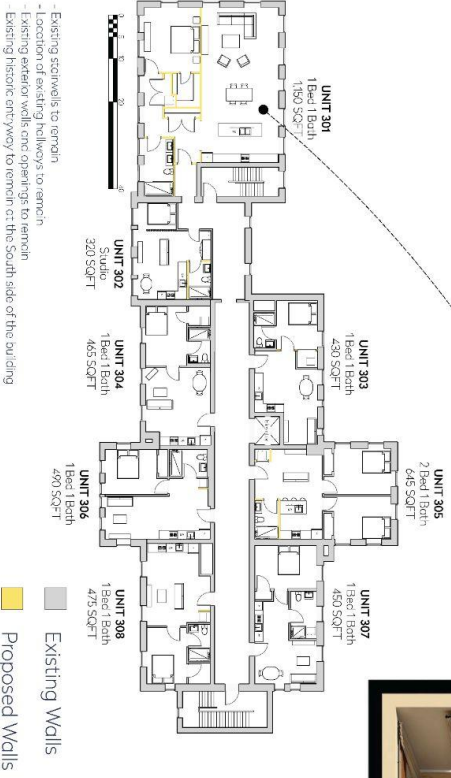
PROVIDENCE
ARCHITECTURE Co.

RESIDENCES AT INDIA POINT

FOURTH FLOOR



Unit 301 - 1 Bed 1 Bath - 1,150 SQFT



- Existing scooties to remain
- Location of existing hallways to remain
- Existing exterior walls, once openings to remain
- Existing historic entryway to remain on the south side of the building

PROVIDENCE
ARCHITECTURE Co.

RESIDENCES AT INDIA POINT

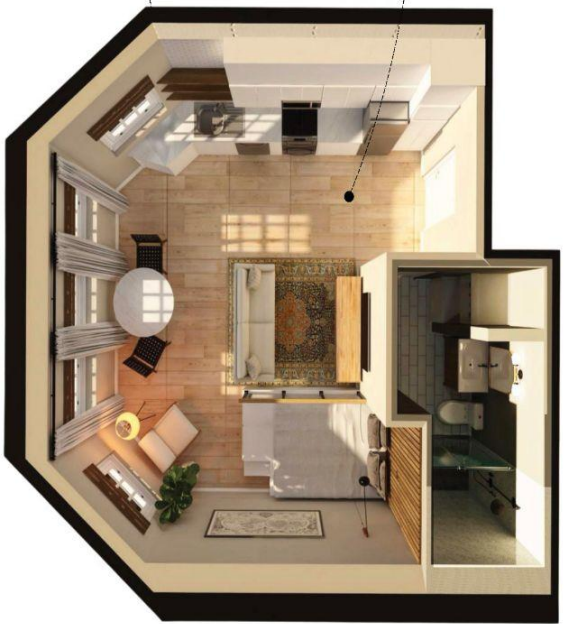
THIRD FLOOR

- Existing structural walls to remain
- Location of existing hallways to remain
- Existing exterior walls and openings to remain
- Existing historic entryway to remain on the south side of the building

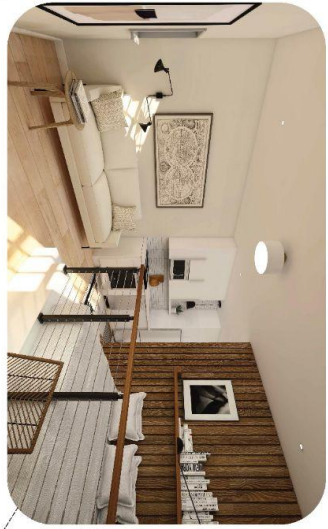
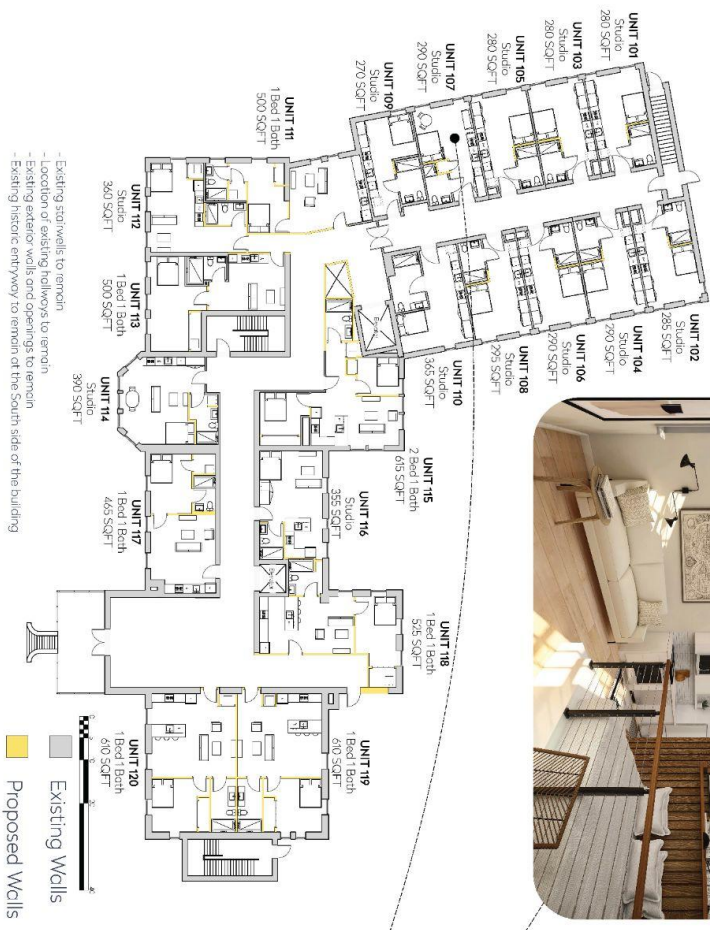
- Existing Walls
- Proposed Walls

RESIDENCES AT INDIA POINT

SECOND FLOOR



Unit 214 - Studio - 395 SQFT



RESIDENCES AT INDIA POINT

Unit 107 - Studio - 280 SQFT

FIRST FLOOR



Unit G06 - 1 Bed 1 Bath - 700 SQFT

RESIDENCES AT INDIA POINT

GARDEN LEVEL

Exhibit B

Projected Rent Roll							
Unit	Type	Existing/New	Proposed Beds	Existing Beds	SQFT	Rent	Rent/SQFT
101	Studio	Existing	1	2	280	\$1,300	\$4.64
102	Studio	Existing	1	2	285	\$1,300	\$4.56
103	Studio	Existing	1	2	280	\$1,300	\$4.64
104	Studio	Existing	1	2	290	\$1,300	\$4.48
105	Studio	Existing	1	2	280	\$1,300	\$4.64
106	Studio	Existing	1	2	290	\$1,300	\$4.48
107	Studio	Existing	1	2	280	\$1,300	\$4.64
108	Studio	Existing	1	2	295	\$1,300	\$4.41
109	Studio	Existing	1	2	270	\$1,300	\$4.81
110	Studio	Existing	1	1	365	\$1,350	\$3.70
111	1 Bed	New	1	0	500	\$1,700	\$3.40
112	Studio	Existing	1	2	360	\$1,400	\$3.89
113	1 Bed	Existing	1	2	500	\$1,700	\$3.40
114	Studio	New	1	0	390	\$1,550	\$3.97
115	2 Bed	New	2	0	615	\$2,200	\$3.58
116	Studio	New	1	0	355	\$1,500	\$4.23
117	1 Bed	New	1	0	465	\$1,700	\$3.66
118	1 Bed	New	1	0	525	\$1,700	\$3.24
119	1 Bed	New	1	0	610	\$1,850	\$3.03
120	1 Bed	New	1	0	610	\$1,900	\$3.11
201	Studio	Existing	1	2	280	\$1,315	\$4.70
202	Studio	Existing	1	2	285	\$1,315	\$4.61
203	Studio	Existing	1	2	285	\$1,315	\$4.61
204	Studio	Existing	1	2	290	\$1,315	\$4.53
205	Studio	Existing	1	2	285	\$1,315	\$4.61
206	Studio	Existing	1	2	290	\$1,315	\$4.53
207	Studio	Existing	1	2	290	\$1,315	\$4.53
208	Studio	Existing	1	2	295	\$1,315	\$4.46
209	Studio	Existing	1	2	280	\$1,315	\$4.70
210	Studio	Existing	1	1	365	\$1,360	\$3.73
211	1 Bed	New	1	0	507	\$1,750	\$3.45
212	Studio	Existing	1	2	360	\$1,425	\$3.96
213	1 Bed	Existing	1	2	490	\$1,725	\$3.52
214	Studio	New	1	0	395	\$1,570	\$3.97
215	2 Bed	New	2	0	625	\$2,220	\$3.55
216	1 Bed	Existing	1	4	465	\$1,720	\$3.70
217	1 Bed	Existing	1	4	425	\$1,600	\$3.76
218	1 Bed	Existing	1	4	490	\$1,700	\$3.47
219	2 Bed	Existing	2	4	645	\$2,200	\$3.41
220	1 Bed	Existing	1	4	475	\$1,850	\$3.89
221	1 Bed	Existing	1	4	450	\$1,800	\$4.00
301	1 Bed	Existing	1	7	1150	\$3,100	\$2.70
302	Studio	Existing	1	1	320	\$1,500	\$4.69
303	1 Bed	Existing	1	4	430	\$1,750	\$4.07
304	1 Bed	Existing	1	4	465	\$1,800	\$3.87
305	2 Bed	Existing	2	4	645	\$2,300	\$3.57
306	1 Bed	Existing	1	4	490	\$1,800	\$3.67
307	1 Bed	Existing	1	4	450	\$1,800	\$4.00
308	1 Bed	Existing	1	4	475	\$1,900	\$4.00
401	Studio	New	1	0	275	\$1,400	\$5.09
402	2 Bed	Existing	2	8	1025	\$3,300	\$3.22
403	1 Bed	Existing	1	4	440	\$1,750	\$3.98
404	2 Bed	Existing	2	4	655	\$2,300	\$3.51
405	1 Bed	Existing	1	4	465	\$1,875	\$4.03
406	1 Bed	Existing	1	4	485	\$1,900	\$3.92
501	1 Bed	New	1	0	455	\$1,800	\$3.96
502	1 Bed	New	1	0	435	\$1,800	\$4.14
503	Studio	New	1	0	440	\$1,500	\$3.41
504	1 Bed	New	1	0	585	\$1,950	\$3.33
505	1 Bed	New	1	0	445	\$1,850	\$4.16
G01	1 Bed	New	1	0	700	\$1,600	\$2.29
G02	Studio	New	1	0	375	\$1,350	\$3.60
G03	1 Bed	New	1	0	430	\$1,600	\$3.72
G04	Studio	New	1	0	420	\$1,400	\$3.33
G05	1 Bed	New	1	0	395	\$1,550	\$3.92
G06	1 Bed	New	1	0	540	\$1,600	\$2.96
G07	1 Bed	New	1	0	494	\$1,550	\$3.14
G08	Studio	New	1	0	330	\$1,350	\$4.09
G09	1 Bed	New	1	0	445	\$1,600	\$3.60
G10	Studio	New	1	0	228	\$1,250	\$5.48
G11	Studio	New	1	0	440	\$1,400	\$3.18
Total	71		77	126	31,044	\$116,630	\$3.76

Exhibit C

180 George M Cohan Construction Budget

SCHEDULE OF VALUES	PRICE	PRICE/SQFT
S1 - DUE DILIGENCE	\$ 5,000	\$0.10
S2 - ARCHITECTURE	\$ 120,000	\$2.34
S3 - ENGINEERING (mechanical, electrical, structur	\$ 140,000	\$2.73
S4 - INSURANCE	\$ 44,000	\$0.86
S5 - LOAN INTEREST	\$ 218,025	\$4.24
S6 - PROPERTY TAXES	\$ 114,434	\$2.23
S6 - UTILITIES	\$ 25,000	\$0.49
S8 - CONSULTANT	\$ 15,000	\$0.29
S9 - LEGAL	\$ 15,000	\$0.29
S9 - PERMIT	\$ 50,000	\$0.97
01B - DUMPSTERS	\$ 15,000	\$0.29
01D - ROUGH CONSTRUCTION CLEAN	\$ 60,000	\$1.17
01E - FINAL CONSTRUCTION CLEANING	\$ 10,650	\$0.21
01G - SAFETY	\$ 1,000	\$0.02
02A - DEMOLITION INTERIOR	\$ 60,000	\$1.17
03A - CONCRETE FLATWORK	\$ 50,000	\$0.97
04A - MASONRY	\$ 60,000	\$1.17
06A - ROUGH CARPENTRY	\$ 255,000	\$4.96
06B - FINISH CARPENTRY	\$ 355,000	\$6.91
07A - INSULATION	\$ 40,000	\$0.78
07B - ROOFING	\$ 30,000	\$0.58
07F - BATHROOM PREP	\$ 106,500	\$2.07
08A - STEEL DOORS & FRAMES	\$ 27,000	\$0.53
08B - WOOD DOORS	\$ 47,600	\$0.93
08D - STOREFRONTS & ENTRANCES	\$ 7,000	\$0.14
08E - METAL WINDOWS	\$ 30,000	\$0.58
08F - FINISH HARDWARE	\$ 17,750	\$0.35
09A - BLUEBOARD & PLASTER	\$ 107,608	\$2.09
09B - CERAMIC TILE	\$ 118,800	\$2.31
09D - FLOORING	\$ 144,000	\$2.80
09E - Chicago Grid	\$ 216,000	\$4.20
09F - PAINTING	\$ 179,806	\$3.50
11A - APPLIANCES	\$ 203,841	\$3.97
12 - FURNISHINGS	\$ 53,250	\$1.04
13 - SPECIAL CONSTRUCTION - Roof Deck	\$ 65,381	\$1.27
13A - BATHROOMS	\$ 181,050	\$3.52
13B - MILLWORK	\$ 497,000	\$9.67
14 - CONVEYING SYSTEMS	\$ 100,000	\$1.95
15A - MECHANICAL	\$ 800,000	\$15.57
15B - PLUMBING	\$ 450,000	\$8.76
15C - GAS PIPING	\$ 10,000	\$0.19
15C - SPRINKLER	\$ 205,492	\$4.00
16A ELECTRICAL & FIRE ALARM	\$ 1,000,000	\$19.47
32A - SITEWORK	\$ 200,000	\$3.89
32B - ASPHALT PAVING	\$ 30,000	\$0.58
32C - LANDSCAPE/HARDSCAPE	\$ 50,000	\$0.97
OVERHEAD & PROFIT	\$ 602,164	\$11.72
SUBTOTAL	\$ 7,133,350	\$138.85
CONTINGENCY	\$ 616,650	\$12.00
TOTAL	\$ 7,750,000	\$150.86

Exhibit D

180 George M Cohan Projected Profit & Loss Statement

Purchase Price	\$5,200,000
Improvements	<u>\$7,750,000</u>
Total Cost	\$12,950,000

Units	71
Gross SQFT	51,373
Leasable SQFT	31,044
Price/SQFT	\$252

Revenue

Base Rent	\$116,630
Parking	\$3,250
Total Monthly Income	\$119,880
Vacancy	-\$3,596
Total Effective Monthly Gross Income	<u>\$116,381</u>
Total Effective Annual Gross Income	\$1,396,573

Assumptions

26 spots @ \$125/mo

3%

Expenses

Property Taxes 180 George M Cohan	\$293,600
Insurance	\$46,685
Water & Sewer	\$32,200
Electric	\$12,500
Gas	\$6,000
Internet & Telephone	\$840
Property Management & Leasing	\$111,726
Leasing & Marketing	\$69,829
Repairs & Maintenance	
Janitorial	\$7,000
Security & Life Safety	\$2,100
Elevator Contract & Repairs	\$7,733
HVAC	\$5,000
Plumbing	\$3,000
Landscaping & Snow Removal	\$1,800
Pest Control	\$1,200
Trash Removal	\$6,900
General Repairs	\$20,949
Administrative	\$2,000
Replacement Reserve	<u>\$13,966</u>
Total Expenses	\$645,027

assumes assessment value of \$112,676/unit

per insurance agent, based upon \$200/SQFT replacement cost

\$453/unit

Separately metered utilities in pro forma, house only

Only hot water

Telephone only for elevator

8%

5%

Net Operating Income (NOI) \$751,547

CAP Rate 5.80%

Exhibit E

Rent / SQFT vs. Size

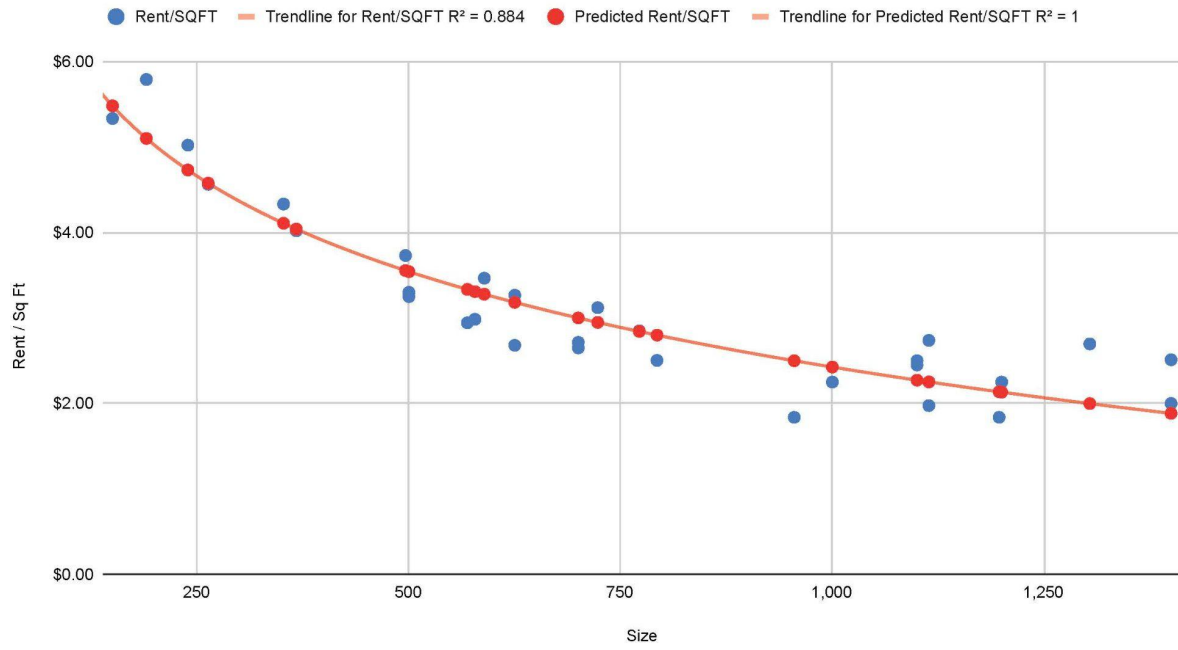
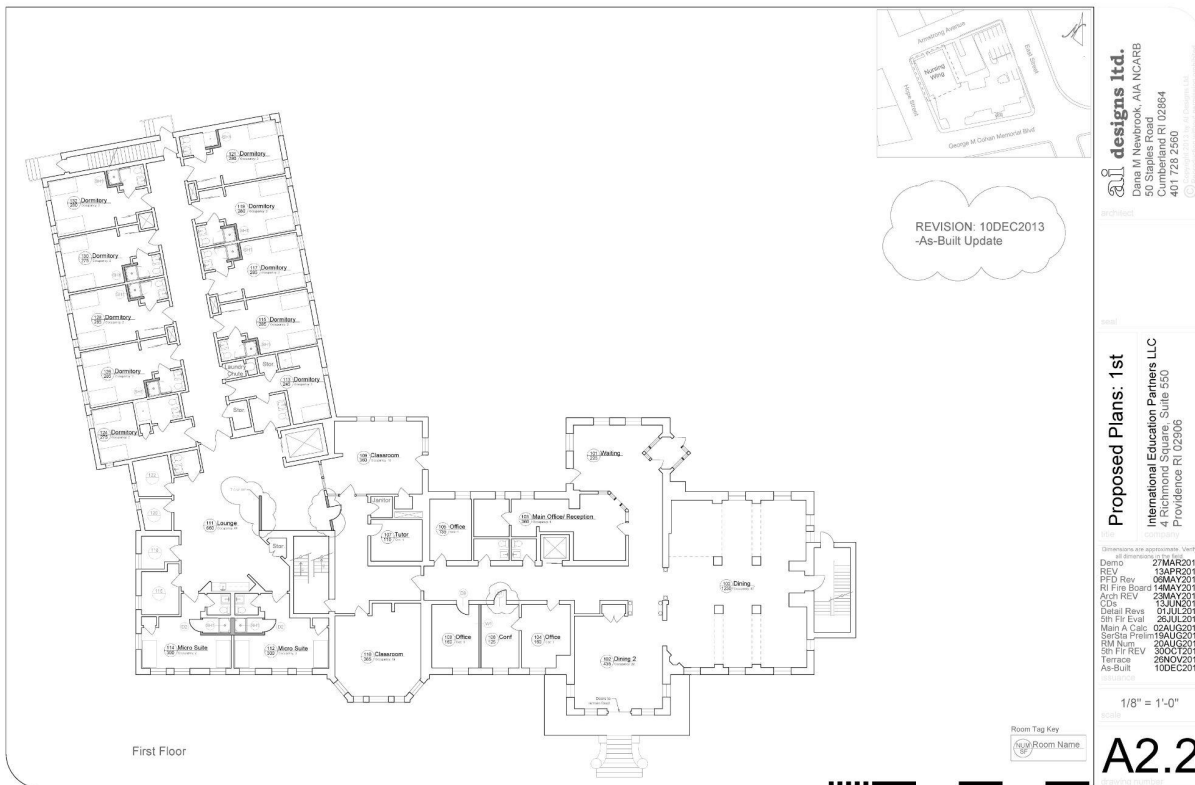
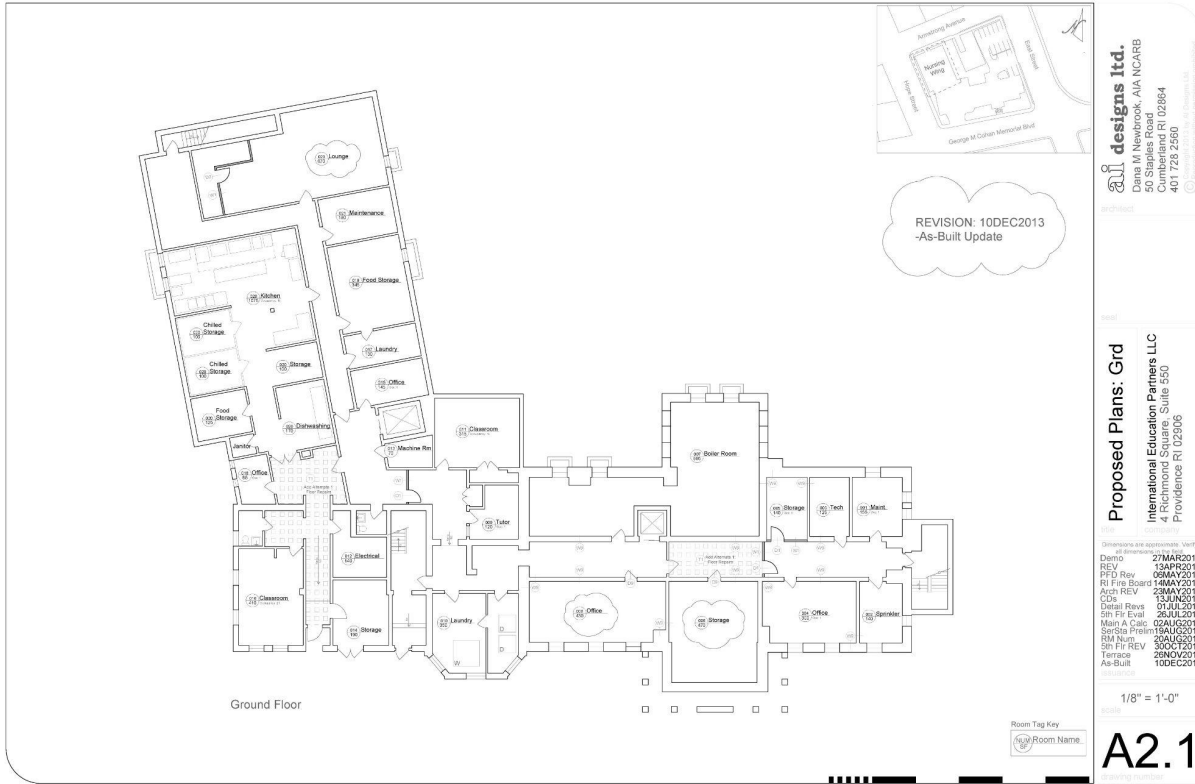


Exhibit F



ai designs ltd.
 Dana M Newbrook, AIA NCARB
 50 Staples Road
 Summit Hill, RI 02864
 401.728.2500
 www.aidesigns.com

Proposed Plans: Grd
International Education Partners LLC
 4 Richmond Square, Suite 550
 Providence RI 02906

Dimensions are approximate. Verify all dimensions on site.
 Demo 27MAR2013
 REV 13APR2013
 PFD Rev 06MAY2013
 RI Fire Board 14MAY2013
 Arch REV 23MAY2013
 CD 13JUN2013
 Detail Revs 01JUL2013
 Site Plan 25JUL2013
 Main A Calc 02AUG2013
 Section Print 15AUG2013
 RM Num 20AUG2013
 Site Plan Rev 30OCT2013
 Terrace 26NOV2013
 As-Built 10DEC2013

1/8" = 1'-0"

A2.1

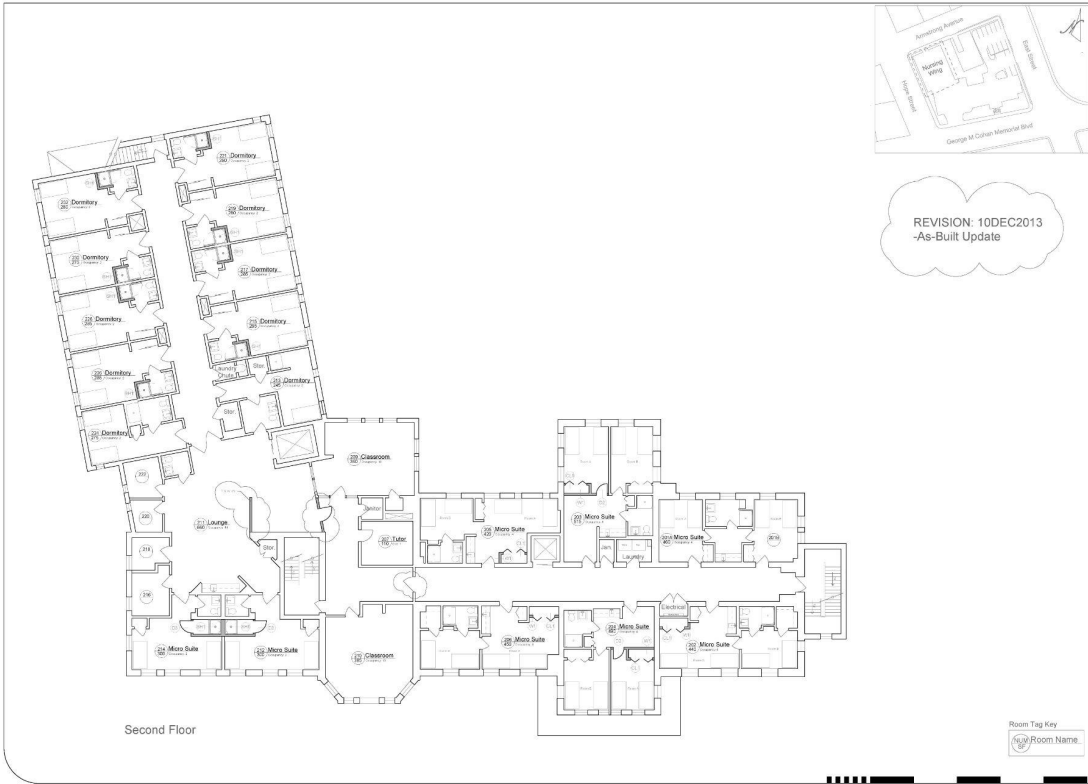
ai designs ltd.
 Dana M Newbrook, AIA NCARB
 50 Staples Road
 Summit Hill, RI 02864
 401.728.2500
 www.aidesigns.com

Proposed Plans: 1st
International Education Partners LLC
 4 Richmond Square, Suite 550
 Providence RI 02906

Dimensions are approximate. Verify all dimensions on site.
 Demo 27MAR2013
 REV 13APR2013
 PFD Rev 06MAY2013
 RI Fire Board 14MAY2013
 Arch REV 23MAY2013
 CD 13JUN2013
 Detail Revs 01JUL2013
 Site Plan 25JUL2013
 Main A Calc 02AUG2013
 Section Print 15AUG2013
 RM Num 20AUG2013
 Site Plan Rev 30OCT2013
 Terrace 26NOV2013
 As-Built 10DEC2013

1/8" = 1'-0"

A2.2



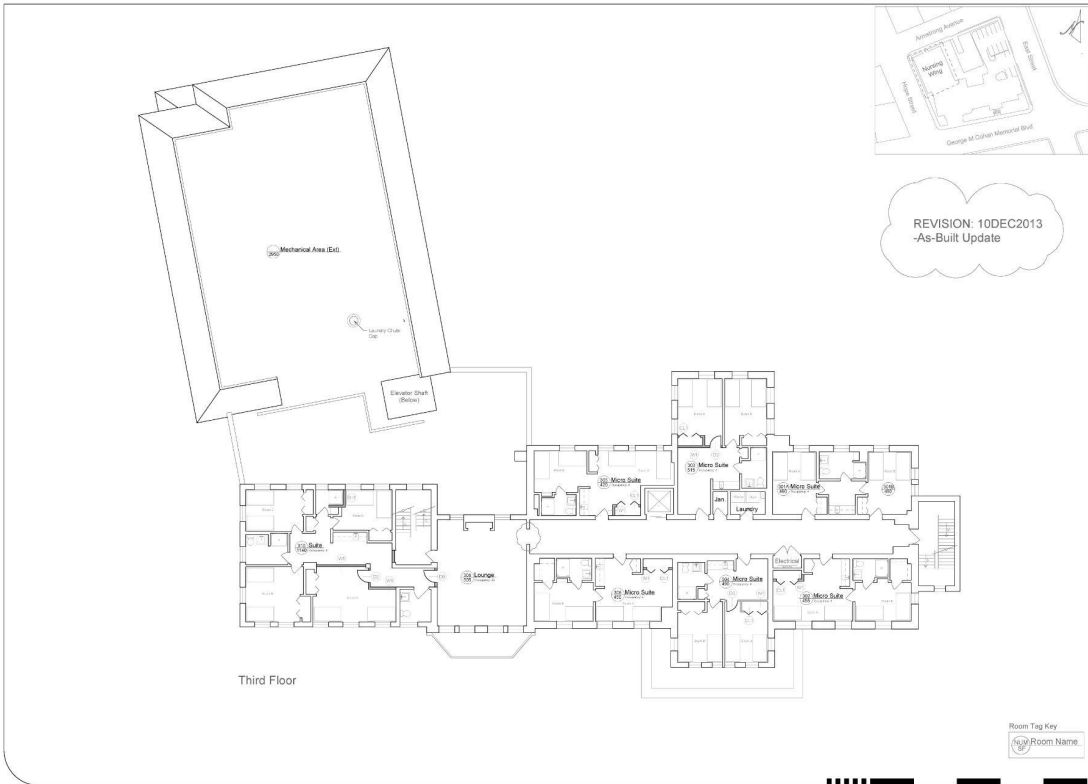
ai designs ltd.
Dana M Newbrook, AIA NCARB
50 Staples Road
Providence, RI 02864
401.728.2500
www.aidesigns.com

Proposed Plans: 2nd
International Education Partners LLC
4 Richmond Square, Suite 550
Providence RI 02906

Dimensions are approximate. Verify all dimensions on site.
 Demo 27MAR2013
 REV 13APR2013
 PFD Rev 06MAY2013
 RI Fire Board 14MAY2013
 Arch REV 23MAY2013
 CD 13JUN2013
 Detail Revs 01JUL2013
 Sfr Fir Eval 25JUL2013
 Main A Calc 02AUG2013
 Section Permit 15AUG2013
 RM Num 26AUG2013
 Sfr Fir REV 30OCT2013
 Terrace 26NOV2013
 As-Built 10DEC2013

1/8" = 1'-0"

A2.3



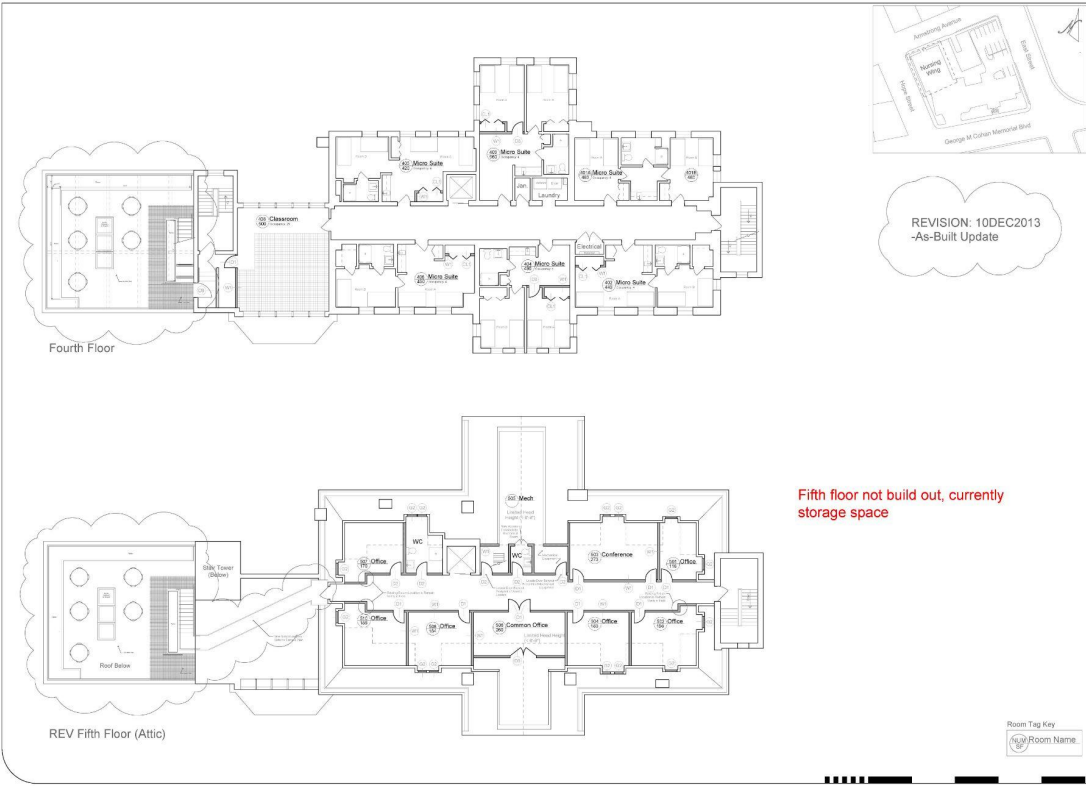
ai designs ltd.
Dana M Newbrook, AIA NCARB
50 Staples Road
Providence, RI 02864
401.728.2500
www.aidesigns.com

Proposed Plans: 3rd
International Education Partners LLC
4 Richmond Square, Suite 550
Providence RI 02906

Dimensions are approximate. Verify all dimensions on site.
 Demo 27MAR2013
 REV 13APR2013
 PFD Rev 06MAY2013
 RI Fire Board 14MAY2013
 Arch REV 23MAY2013
 CD 13JUN2013
 Detail Revs 01JUL2013
 Sfr Fir Eval 25JUL2013
 Main A Calc 02AUG2013
 Section Permit 15AUG2013
 RM Num 26AUG2013
 Sfr Fir REV 30OCT2013
 Terrace 26NOV2013
 As-Built 10DEC2013

1/8" = 1'-0"

A2.4



designs itc.
 Dana M Newbrook, AIA NCARB
 50 Staples Road
 Providence, RI 02864
 401.728.2500
 www.danadesigns.com

Proposed Plans: 4th & 5th
 International Education Partners LLC
 4 Richmond Square, Suite 550
 Providence RI 02906

Dimensions are approximate. Verify all dimensions.
 Demo 27MAR2013
 REV 13APR2013
 PFD Rev 06MAY2013
 RI Fire Board 16MAY2013
 Arch REV 23MAY2013
 CD 13JUN2013
 Detail Revs 01JUL2013
 Site For Eval 26JUL2013
 Main A Call 02AUG2013
 Specifics Print 15AUG2013
 RM Num 26AUG2013
 Site For Rev 30OCT2013
 Terrace 26NOV2013
 As-Built 10DEC2013

1/8" = 1'-0"

Room Tag Key
 Room Name

A2.5

Exhibit 6

Comprehensive Plan Citations

1. P. 122, LU3 Maintain and Enhance Residential Areas, Subsection B promotes the adaptive reuse of historic non-residential buildings in residential areas through increased residential density.
2. P. 22-23 Limited Areas for Growth
 - a. There is a discussion about facilitating density in former Mill Buildings, this project is comparable in concept
 - b. 2.3 Opportunities Smart growth calls for infill and higher densities
3. P. 25, Sustainability and the Environment, Goal 1 –
 - a. Reuse and Infill is sustains historic buildings as well as sustains the health of the city through appropriate density
4. P. 35, Sustainability and the Environment, Objective SE4: Sustainability and the Built Environment, subsection F is a specific call out for the reuse of existing buildings
5. P.39 is a specific call out to funding the State Historic Tax Credit to make historic structures viable, this Federal Historic Tax Credit Project is no different
6. P. 44 Objective BE5 Preservation Planning, subsections A and B look to prevent displacement through rehabilitation of structures of historic merit
7. P. 45, Objective BE 7, Neighborhood Character and Design, Subsection E-1 – focus of rehabilitation of infill in residential areas
8. P. 110, LU2 Direct Growth, Subsection B3, specifically calls out the encouragement of the adaptive reuse of historic structures where financially feasible.
 - a. The proposal today comes at 0 cost to the City
9. P. 56 – Housing – Create, Revitalize and Preserve

180 George M Cohan Pro Forma Profit & Loss Statement

Purchase Price	\$5,200,000	
Improvements	\$7,750,000	Tax Credits = \$1,240,000
TOTAL	\$12,950,000	

Units	71
Gross SQFT	51,373
Leasable SQFT	31,044
Price/SQFT	\$252

Revenue		
Base Rent	\$116,630	
Utility Reimbursement Income/Amenity Fee	\$0	
Parking	\$3,250	28 spots @ \$125/mo
Total Monthly Income	\$119,880	
Vacancy	-\$3,499	
Total Effective Monthly Gross Income	\$116,381	
Total Effective Annual Gross Income	\$1,396,573	

Expenses		Notes
Property Taxes 180 George M Cohan	\$293,600	assumes assessment value of \$112,676/unit
Insurance	\$46,085	
Water & Sewer	\$32,200	453/unit
Electric	\$12,500	Separately metered utilities in pro forma, house only
Gas	\$6,000	Only hot water
Internet & Telephone	\$840	Telephone only for elevator
Property Management & Leasing	\$111,726	8%
Leasing & Marketing	\$89,829	5%
Repairs & Maintenance		
Janitorial	\$7,000	
Security & Life Safety	\$2,100	
Elevator Contract & Repairs	\$7,733	
HVAC	\$5,000	
Plumbing	\$3,000	
Landscaping & Snow Removal	\$1,800	
Pest Control	\$1,200	
Trash Removal	\$9,900	
Supplies	\$0	
General Repairs	\$20,949	
Administrative	\$2,000	
Replacement Reserve	\$13,886	1%
Total Expenses	\$646,027	\$0
Expenses/SQFT		

Net Operating Income \$761,547

CAP Rate 5.60%

Debt/Equity

LTV	75%
APR - SWAP?	4.01%
ARV @ 5.5% CAP	\$13,860,000

Acquisition Loan Amount	\$3,800,000
Construction Loan Amount	\$6,800,000
Total Loan Amount	\$10,600,000

Down Payment \$2,450,000

Debt Service

Total Mortgage Payment	(606,325)
Principal Payment	(179,427)
Interest Payment	(426,896)
Debt service coverage ratio	1.24

Unit	Type	New Living Space	Proposed	Existing	SQFT	Rent	Rent/SQFT
101	Studio	Existing	1	2	285	\$1,300	\$4.64
102	Studio	Existing	1	2	285	\$1,300	\$4.56
103	Studio	Existing	1	2	285	\$1,300	\$4.64
104	Studio	Existing	1	2	290	\$1,300	\$4.48
105	Studio	Existing	1	2	280	\$1,300	\$4.64
106	Studio	Existing	1	2	290	\$1,300	\$4.48
107	Studio	Existing	1	2	280	\$1,300	\$4.64
108	Studio	Existing	1	2	285	\$1,300	\$4.41
109	Studio	Existing	1	2	270	\$1,300	\$4.81
110	Studio	Existing	1	1	365	\$1,356	\$3.70
111	1 Bed	New	1	0	500	\$1,700	\$3.40
112	Studio	Existing	1	2	360	\$1,400	\$3.89
113	1 Bed	Existing	1	2	500	\$1,700	\$3.40
114	Studio	New	1	0	390	\$1,550	\$3.97
115	2 Bed	New	2	0	615	\$2,200	\$3.58
116	Studio	New	1	0	355	\$1,500	\$4.23
117	1 Bed	New	1	0	465	\$1,700	\$3.66
118	1 Bed	New	1	0	525	\$1,700	\$3.24
119	1 Bed	New	1	0	610	\$1,850	\$3.03
120	1 Bed	New	1	0	610	\$1,900	\$3.11
201	Studio	Existing	1	2	280	\$1,315	\$4.70
202	Studio	Existing	1	2	285	\$1,315	\$4.61
203	Studio	Existing	1	2	285	\$1,315	\$4.61
204	Studio	Existing	1	2	290	\$1,315	\$4.53
205	Studio	Existing	1	2	285	\$1,315	\$4.61
206	Studio	Existing	1	2	290	\$1,315	\$4.53
207	Studio	Existing	1	2	290	\$1,315	\$4.53
208	Studio	Existing	1	2	295	\$1,315	\$4.46
209	Studio	Existing	1	2	280	\$1,315	\$4.70
210	Studio	Existing	1	1	365	\$1,360	\$3.73
211	1 Bed	New	1	0	507	\$1,750	\$3.45
212	Studio	Existing	1	2	360	\$1,425	\$3.96
213	1 Bed	Existing	1	2	490	\$1,725	\$3.52
214	Studio	New	1	0	395	\$1,570	\$3.97
215	2 Bed	New	2	0	625	\$2,220	\$3.55
216	1 Bed	Existing	1	4	465	\$1,720	\$3.70
217	1 Bed	Existing	1	4	425	\$1,600	\$3.76
218	1 Bed	Existing	1	4	490	\$1,700	\$3.47
219	2 Bed	Existing	2	4	645	\$2,200	\$3.41
220	1 Bed	Existing	1	4	475	\$1,850	\$3.89
221	1 Bed	Existing	1	4	450	\$1,800	\$4.00
301	1 Bed	Existing	1	7	1150	\$3,100	\$2.70
302	Studio	Existing	1	1	320	\$1,500	\$4.69
303	1 Bed	Existing	1	4	430	\$1,750	\$4.07
304	1 Bed	Existing	1	4	465	\$1,800	\$3.87
305	2 Bed	Existing	2	4	645	\$2,300	\$3.57
306	1 Bed	Existing	1	4	490	\$1,800	\$3.67
307	1 Bed	Existing	1	4	450	\$1,800	\$4.00
308	1 Bed	Existing	1	4	475	\$1,900	\$4.00
401	Studio	New	1	0	275	\$1,400	\$5.09
402	2 Bed	Existing	2	8	1025	\$3,300	\$3.22
403	1 Bed	Existing	1	4	440	\$1,750	\$3.98
404	2 Bed	Existing	2	4	655	\$2,300	\$3.51
405	1 Bed	Existing	1	4	465	\$1,875	\$4.03
406	1 Bed	Existing	1	4	485	\$1,900	\$3.92
501	1 Bed	New	1	0	455	\$1,800	\$3.96
502	1 Bed	New	1	0	435	\$1,800	\$4.14
503	Studio	New	1	0	440	\$1,500	\$3.41
504	1 Bed	New	1	0	585	\$1,950	\$3.33
505	1 Bed	New	1	0	445	\$1,850	\$4.16
G01	1 Bed	New	1	0	700	\$1,800	\$2.29
G02	Studio	New	1	0	375	\$1,350	\$3.60
G03	1 Bed	New	1	0	430	\$1,600	\$3.72
G04	Studio	New	1	0	420	\$1,400	\$3.33
G05	1 Bed	New	1	0	395	\$1,550	\$3.92
G06	1 Bed	New	1	0	540	\$1,600	\$2.96
G07	1 Bed	New	1	0	494	\$1,550	\$3.14
G08	Studio	New	1	0	330	\$1,350	\$4.09
G09	1 Bed	New	1	0	445	\$1,600	\$3.60
G10	Studio	New	1	0	228	\$1,250	\$5.48
G11	Studio	New	1	0	440	\$1,400	\$3.18
Total	71		77	126	31,044	\$116,630	\$3.76

75 EAST CONSTRUCTION BUDGET

SQFT 51,373
TOTAL UNITS 71
NEW UNITS 27
DURATION (MOS) 12

SCHEDULE OF VALUES	PRICE	PRICE/SQFT
S1 - DUE DILIGENCE	\$ 5,000	\$0.10
S2 - ARCHITECTURE	\$ 120,000	\$2.34
S3 - ENGINEERING (mechanical, electrical, structural, civil)	\$ 140,000	\$2.73
S4 - INSURANCE	\$ 44,000	\$0.86
S5 - LOAN INTEREST	\$ 218,025	\$4.24
S6 - PROPERTY TAXES	\$ 114,434	\$2.23
S6 - UTILITIES	\$ 25,000	\$0.49
S8 - CONSULTANT	\$ 15,000	\$0.29
S9 - LEGAL	\$ 15,000	\$0.29
S9 - PERMIT	\$ 50,000	\$0.97
01B - DUMPSTERS	\$ 15,000	\$0.29
01D - ROUGH CONSTRUCTION CLEAN	\$ 60,000	\$1.17
01E - FINAL CONSTRUCTION CLEANING	\$ 10,650	\$0.21
01G - SAFETY	\$ 1,000	\$0.02
02A - DEMOLITION INTERIOR	\$ 60,000	\$1.17
03A - CONCRETE FLATWORK	\$ 50,000	\$0.97
04A - MASONRY	\$ 60,000	\$1.17
06A - ROUGH CARPENTRY	\$ 255,000	\$4.96
06B - FINISH CARPENTRY	\$ 355,000	\$6.91
07A - INSULATION	\$ 40,000	\$0.78
07B - ROOFING	\$ 30,000	\$0.58
07F - BATHROOM PREP	\$ 106,500	\$2.07
08A - STEEL DOORS & FRAMES	\$ 27,000	\$0.53
08B - WOOD DOORS	\$ 47,600	\$0.93
08D - STOREFRONTS & ENTRANCES	\$ 7,000	\$0.14
08E - METAL WINDOWS	\$ 30,000	\$0.58
08F - FINISH HARDWARE	\$ 17,750	\$0.35
09A - BLUEBOARD & PLASTER	\$ 107,608	\$2.09
09B - CERAMIC TILE	\$ 118,800	\$2.31
09D - FLOORING	\$ 144,000	\$2.80
09E - Chicago Grd	\$ 216,000	\$4.20
09F - PAINTING	\$ 179,806	\$3.50
11A - APPLIANCES	\$ 203,841	\$3.97
12 - FURNISHINGS	\$ 53,250	\$1.04
13 - SPECIAL CONSTRUCTION - Roof Deck	\$ 65,381	\$1.27
13A - BATHROOMS	\$ 181,050	\$3.52
13B - MILLWORK	\$ 497,000	\$9.67
14 - CONVEYING SYSTEMS	\$ 100,000	\$1.95
15A - MECHANICAL	\$ 800,000	\$16.57
15B - PLUMBING	\$ 450,000	\$8.76
15C - GAS PIPING	\$ 10,000	\$0.19
15C - SPRINKLER	\$ 205,492	\$4.00
16A ELECTRICAL & FIRE ALARM	\$ 1,000,000	\$19.47
32A - SITEWORK	\$ 200,000	\$3.89
32B - ASPHALT PAVING	\$ 30,000	\$0.58
32C - LANDSCAPE/HARDSCAPE	\$ 50,000	\$0.97
OVERHEAD & PROFIT	\$ 602,164	\$11.72
Subtotal	\$ 7,133,360	\$138.85
Contingency	\$ 841,650	\$12.49
Total	\$ 7,775,000	\$151.34

Line Item	Lab	Avg SQFT	Med SQFT	Proposed Beds	Existing Beds	Min SQFT	Max SQFT	Total SQFT	SUM of Beds	Avg PerM SQFT
1000		420	440	33	44	420	440	16,372	14,440	33.74
1001		600	670	92	92	600	670	36,000	18,270	33.44
1002		700	640	12	20	700	640	1,020	17,600	33.45
Grand Total		450	430	77	129	400	4,180	34,672	116,130	33.73

Condo Projections			
Upper Stories		39883	
Construction Cost	200	\$7,938,600	
Acquisition		\$5,100,000	
Improvements		\$7,938,600	
Total		\$13,036,600	
Condos			
Sale Price	450		
Total SQFT	30872	\$123,488	
	13892400	\$200	
Less cost of sale	13058856		13892400
Purchase Price			
			\$256,000
			Closing credit \$5,000
			1st Time Homebuyer credit \$7,500
			Down Payment \$8,928
			Less Credits -\$3,576
			APR 4.00%
			Loan Amount \$246,078
Condo Fee			
			\$1,174.80
			160
			Total \$1,324.80
			Property Taxes/Insurance 250
			\$1,574.80

Parking in the Fox Point Neighborhood

Message

Dustin Dzube <dustin@providenceliving.com>
Byron Conley <dconley@wjohw.com>, Falgo Bronk <pbronk03@gmail.com>
Alisha Imhoff <alish@providenceliving.com>, Kevin Diamond <kevin@providencearchitecture.com>

Tue, Apr 12, 2022 at 9:

Cylan and Falgo,

I, our property manager, did some research on the parking situation in the Fox Point neighborhood for us.

In Trenton and East Transit St., we have a total of 91 bedrooms occupied by 98 tenants. Out of these tenants, only 30 of them require parking which equates to 34.8%. If you base this on the total bed count, the % decreases to 33%.

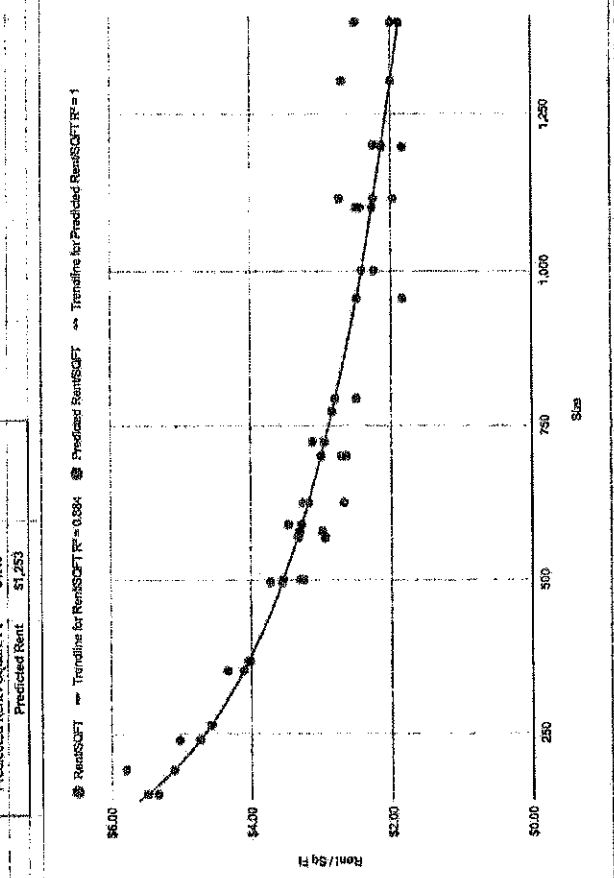
180 George M Cohan, we are proposing 71 units with a total of 77 beds. We expect to target the same young professional demographic and it is reasonable to assume that a similar percentage of residents will require parking.

1% of the 77 bedrooms is 25.4 which is right in line with our 28 spots.

Dustin Dzube
18 Wickenden St #L2
Providence, RI 02903
(817) 603-6964

Predict Rent by Mike
 Square Feet: 226
 Predicted Rent / Square Ft: \$4.48
 Predicted Rent: \$1,253

Change me
 Works well within reasonable range of your data, e.g. 150 - 1,800



Size	Rent/SQFT	Rent	LN(size)	Predicted Rent/SQFT	Diff
1100	\$2.45	\$2,958	\$7.00	\$2.27	-\$0.18
1180	\$2.50	\$2,750	\$7.00	\$2.27	-\$0.23
1197	\$1.84	\$2,200	\$7.08	\$2.14	-\$0.30
1400	\$2.80	\$2,800	\$7.24	\$1.88	-\$0.12
1300	\$2.25	\$2,708	\$7.08	\$2.13	-\$0.12
1304	\$2.70	\$2,616	\$7.17	\$2.00	-\$0.70
1114	\$2.74	\$3,080	\$7.02	\$2.25	-\$0.49
1114	\$1.97	\$2,200	\$7.02	\$2.25	-\$0.28
1400	\$2.61	\$3,256	\$7.24	\$1.88	-\$0.63
500	\$3.25	\$1,625	\$6.21	\$3.24	-\$0.02
500	\$3.20	\$1,600	\$6.21	\$3.54	-\$0.24
625	\$2.66	\$1,675	\$6.44	\$3.15	-\$0.50
578	\$2.98	\$1,725	\$6.36	\$2.91	-\$0.92
583	\$3.47	\$2,041	\$6.28	\$3.28	-\$0.19
565	\$2.84	\$1,675	\$6.34	\$3.33	-\$0.34
625	\$3.27	\$2,041	\$6.44	\$3.15	-\$0.09
180	\$6.78	\$1,100	\$5.26	\$5.19	-\$0.61
150	\$5.33	\$800	\$5.01	\$5.46	-\$0.15
239	\$5.02	\$1,200	\$5.48	\$4.72	-\$0.29
486	\$3.73	\$1,820	\$6.21	\$3.55	-\$0.17
387	\$4.02	\$1,575	\$5.81	\$4.04	-\$0.02
283	\$4.95	\$1,200	\$5.57	\$4.89	-\$0.01
352	\$4.33	\$1,525	\$5.86	\$4.11	-\$0.22
700	\$2.85	\$1,855	\$6.55	\$3.00	-\$0.35
700	\$2.71	\$1,900	\$6.55	\$3.00	-\$0.29
955	\$1.84	\$1,735	\$6.36	\$2.50	-\$0.66
1000	\$2.25	\$2,250	\$6.91	\$2.43	-\$0.18
755	\$2.50	\$1,875	\$6.68	\$2.80	-\$0.32
772	\$2.85	\$2,200	\$6.65	\$2.84	-\$0.01
723	\$3.12	\$2,736	\$6.58	\$2.55	-\$0.17

Construction price SQFT related to unit density

220	\$2.50	5.2%
250	\$3.00	8.8%
275	\$3.50	9.2%

How much of a construction budget is unit sqft dependent?

Size	Unit
Windows	Kitchen
Flooring	Electrical
Doors	Plumbing
Foundation	Milwork
Siding	
Roof	