



ITEM # 7
DATE: 10/23/03

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



MEMORANDUM

DATE: October 17, 2003

TO: Montgomery County Planning Board

VIA: Joseph R. Davis, Chief *JRD*
Development Review Division

FROM: A. Malcolm Shaneman, Supervisor (301) 495-4587 *AMS*
Richard A. Weaver, Senior Planner (301) 495-4544 *R.W.*
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Resubdivision of Lot 13 and 14, Block 21 - B. F. Leighton's Addition to Woodside

PROJECT NAME: B. F. Leighton's Addition to Woodside

CASE #: 1-04013

REVIEW BASIS: Chapter 50, Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations, and Resubdivision Criteria

ZONE: R-60

LOCATION: Southeast side of Grace Church Road, approximately 300 feet southwest of Second Avenue

MASTER PLAN: Silver Spring

APPLICANT: Lyle Graser and Will and Sara Thomas

FILING DATE: August 29, 2003

HEARING DATE: October 23, 2003

STAFF RECOMMENDATION: Approval, Pursuant to Section 50-29 (b) (2) of the Montgomery County Subdivision Regulations and Subject to the Following Conditions:

- 1) Prior to Planning Board release of building permits, applicant to provide a final tree protection plan for technical staff reviews and approval. Tree protection plan must include on-site tree protection measures prior to, during and after construction
- 2) Compliance with the conditions of approval of the MCDPS stormwater management approval
- 3) Prior to issuance of building permits, applicant to submit an engineered sediment and erosion control plan to MCDPS for review and approval
- 4) Compliance with conditions of MCDPWT letter dated, October 15, 2003, unless otherwise amended
- 5) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
- 6) Other necessary easements

PRIOR PLANNING BOARD ACTION

On May 1, 2003, a Pre-Preliminary Plan No. 7-03045 for the subject property was brought before the Planning Board to discuss the proposed resubdivision. The Planning Board discussed the merits of the application and advised the applicant that the Board did not object to the submission of a preliminary plan. At that hearing, particular attention was given by the Board to both of the proposed lots with respect to width, frontage, size and area

DISCUSSION OF ISSUES

Conformance to Chapter 50-29(b)(2)

In order to support an application for Resubdivision, the Planning Board must find that the proposed lot(s) comply with all seven of the "Resubdivision Criteria" as set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

"Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision."

Defined Neighborhood

In administering the Resubdivision section, the Planning Board must delineate an area within which it conducts its lot character analysis. In this case, staff recommends a neighborhood delineation that will enable the Board to effectively determine whether the proposed lots comply with the resubdivision criteria with respect to the character of those existing recorded lots most impacted by the resubdivision criteria and has also attached to this staff report an illustration, which delineates the neighborhood.

In defining the appropriate neighborhood for lot character comparison purposes, it has been long-standing Planning Board practice, facts circumstances permitting, to limit the neighborhood to include only lots within the same zone and developed under the same standards as the subject property

The lots surrounding the subject property are zoned R-60. For this application, staff included all “whole” lots within Block 21, which includes the subject properties. Staff excluded Part of Lot 8 at the corner of Elkhart Street and Second Avenue. For the purposes of this review, staff included Part of Lot 7, Block 21, located on Elkhart Street. This Part of a Lot was the subject of a preliminary plan of resubdivision (1-02071) approved by the Planning Board on June 12, 2002 as a 60 foot wide lot. While the Planning Board approved it, it has not been recorded to date. A plat application for Part of Lot 7 (Shown as New lot 23 on the tabular summary) has been submitted and was conditionally approved by the Planning Board. It is currently under review. *The inclusion or exclusion of this lot would not affect staff’s recommendation on this application with regard to the resubdivision criteria.*

Also included in the neighborhood delineation are the “whole” lots located on the northern side of Grace Church Road in Block 20. Again, staff excluded the three parts of lots, identified as Part of Lot 4. Staff feels that the neighborhood illustrated for Planning Board consideration provides a good representation of the overall lot characteristics.

DESCRIPTION

Vicinity

The lots within the B. F. Leighton’s Addition to Woodside subdivision were originally recorded by plat in 1890. The original lots have remained relatively intact, except for two resubdivisions. The first resubdivision in 1945, created lots 18, 19, and 20 in Block 21. The second resubdivision in 1992 resulted from an abandonment of a portion of Third Avenue and created Lots 21 and 22, Block 21.

The neighborhood is well established with existing homes. A number of otherwise “buildable” lots do remain vacant within the defined neighborhood. An existing home crosses the lot line between the two lots that are the subject of this application.

Proposal

This application for resubdivision proposes to shift the dividing lot line between the subject lots, 14 ft. to accommodate a side yard setback of 8 ft. for the existing house that now partially straddles the dividing lot line. Staff notes that had the applicant been able to meet their needs by shifting the lot line to a lesser degree (i.e. less than 5% of the total lot area), this applicant would have qualified for a minor subdivision. However, in order to shift the lot line to meet setbacks for the existing house, the “5% rule” for a minor lot line adjustment was not possible.

This lot line shift results in two lots; one with a width and frontage of 61 ft. and the second with a width and frontage of 89 ft. The narrower lot would be 9,150 square feet in size and the wider lot would be 13,350 square feet in size. Respectively, lot area (within the established setbacks) is 5,400 square feet and 7,870 square feet.

Master Plan Compliance

The property is located within the *Approved and Adopted Silver Spring Master Plan* area. The master plan does not make specific recommendations for this property but does give general guidance and recommendations regarding zoning and land use. The master plan recommends that the area including

this property be maintained as a medium density (R-60) residential area. If a preliminary plan were ultimately approved for this application, it is staff's conclusion the lots would comply with the general guidelines adopted in the master plan.

ANALYSIS

As shown on the attached tabular summary, sixteen (16) of the twenty-seven (27) lots (including the two (2) proposed lots) within the defined neighborhood are of identical character with respect to size, area, width, frontage, shape, alignment, and suitability for residential use. The specific characteristics of the remaining lots, with respect to size, area, width and frontage vary somewhat but it is staff's determination that the delineated neighborhood is made up of lots of the same character. The attached vicinity map and tabular summary support this conclusion. Similarly, although proposed lots 13 and 14 have sizes, areas, with, and frontages that are respectively larger and wider and smaller and narrower than the sixteen (16) uniform lots, staff is of the opinion that the two proposed lots are of the same character as to each of the seven resubdivision criteria when compared with all the lots in the defined neighborhood. The attached vicinity map and summary supports the staff's analysis

CONCLUSION

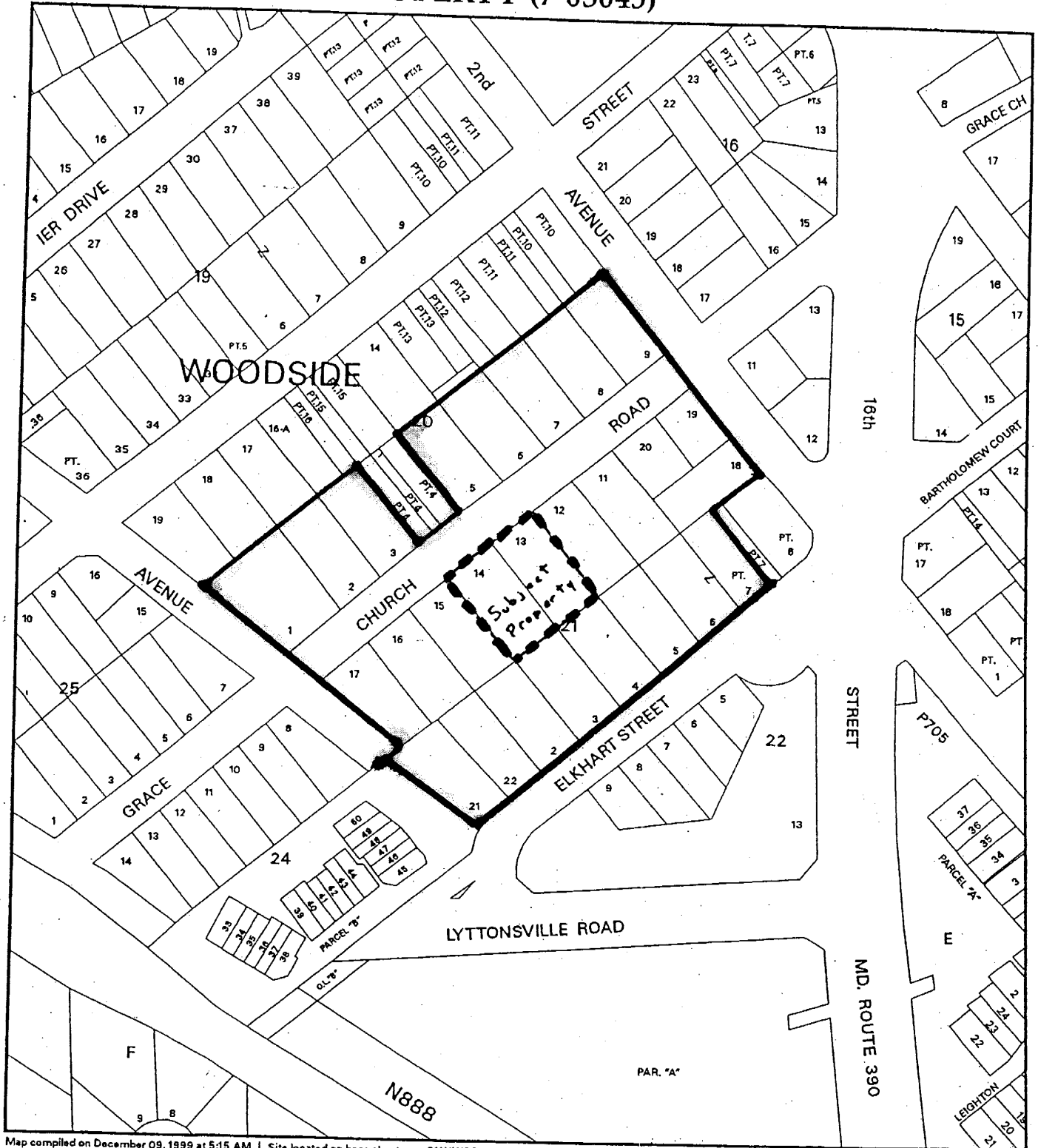
The proposal complies with all seven of the resubdivision criteria. At the pre-preliminary plan hearing the Planning Board suggested that in it's opinion a high correlation existed between the size, area, frontage, width, shape, alignment and suitability for residential use of the proposed lots and the same characteristics of the existing lots in the defined neighborhood. The pre-preliminary plan application is identical to the preliminary plan previously reviewed by the Planning Board. Therefore, staff recommends that the application be approved, pursuant to Section 50-29 (b)(2) and subject to the conditions cited above.

Attachments

Vicinity and Neighborhood Delineation Map	5
Neighborhood Development Map	6
Proposed Resubdivision Plan	7
Tabular Summary	8

To date no citizen correspondence has been submitted to the file

VICINITY MAP FOR
GRASER/THOMAS PROPERTY (7-03045)



Map compiled on December 09, 1999 at 5:15 AM | Site located on base sheet no - 211NW02

NOTICE

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Key Map



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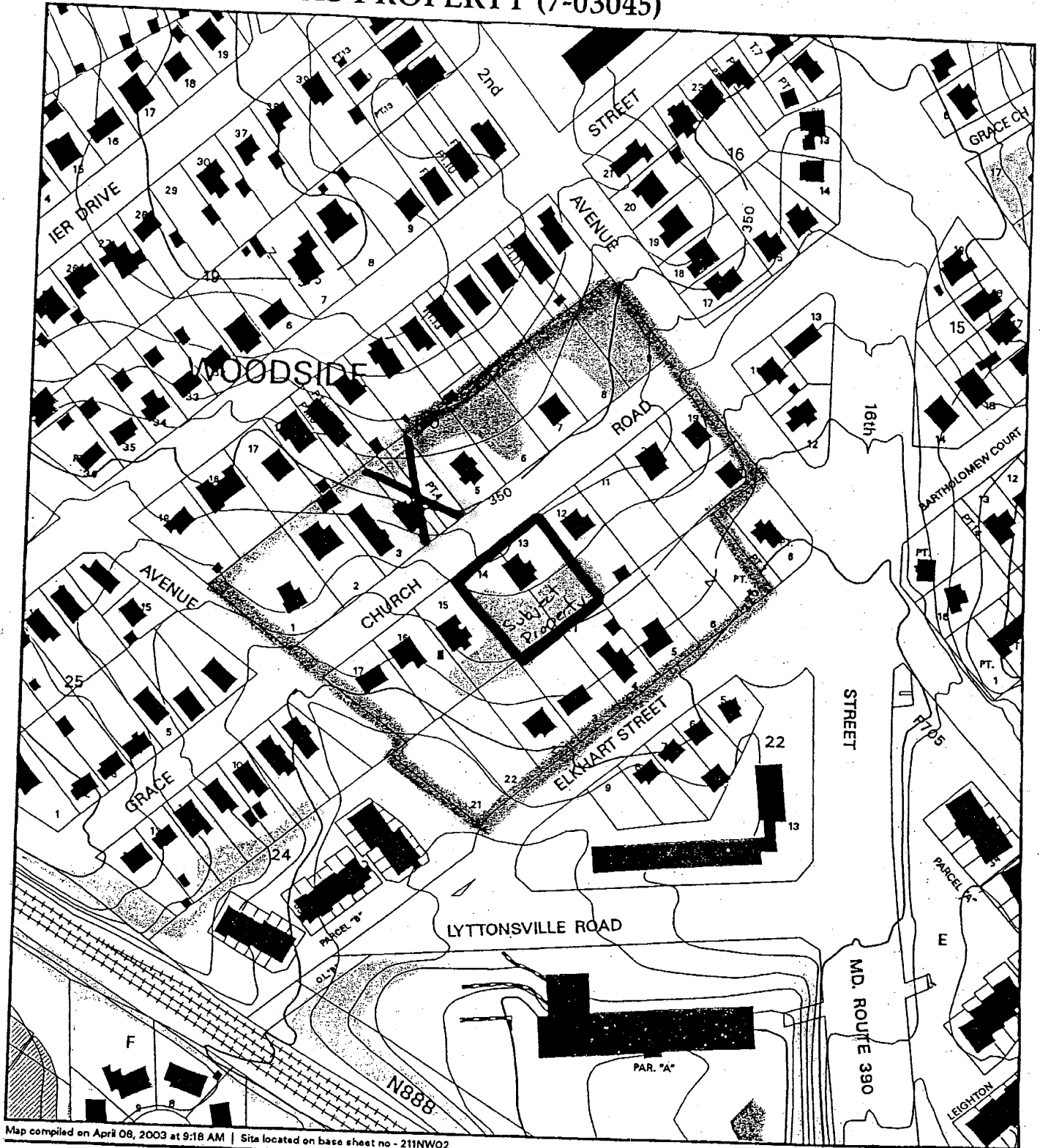
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8717 Georgia Avenue - Silver Spring, Maryland 20910-3760

VICINITY MAP FOR

GRASER/THOMAS PROPERTY (7-03045)



Map compiled on April 08, 2003 at 9:18 AM | Site located on base sheet no - 211NW02

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Key Map



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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-0760

Comparable Lot Data Table

Lot #	Block	Frontage	Alignment	Size	Shape	Width*	Area**
1	20	corner	perpendicular	18,175	square	103	10,720
2	20	75	perpendicular	11,250	rectangular	75	6,640
3	20	75	perpendicular	11,250	rectangular	75	6,640
5	20	75	perpendicular	11,250	rectangular	75	6,640
6	20	75	perpendicular	11,250	rectangular	75	6,640
7	20	75	perpendicular	11,250	rectangular	75	6,640
8	20	75	perpendicular	11,250	rectangular	75	6,640
9	20	75	perpendicular	11,250	rectangular	75	6,640
2	21	75	perpendicular	11,250	rectagular	75	6,640
3	21	75	perpendicular	11,250	rectagular	75	6,640
4	21	75	perpendicular	11,250	rectagular	75	6,640
5	21	75	perpendicular	11,250	rectagular	75	6,640
6	21	75	perpendicular	11,250	rectagular	75	6,640
23(new)	21	60	perpendicular	9,000	rectagular	60	5,310
17	21	corner	perpendicular	10,590	rectagular	77	6,250
16	21	75	perpendicular	11,250	rectagular	75	6,640
15	21	75	perpendicular	11,250	rectagular	75	6,640
12	21	75	perpendicular	11,250	rectagular	75	6,640
11	21	75	perpendicular	11,250	rectagular	75	6,640
18	21	60	perpendicular	9,000	rectagular	60	5,310
19	21	corner	perpendicular	6,750	square	75	3,980
20	21	75	perpendicular	6,750	square	75	3,980
21	21	61	perpendicular	11,440	rectagular	60	6,750
22	21	60	perpendicular	9,750	rectagular	65	5,750
Proposed 13		89	perpendicular	13,350	rectangular	89	7,870
Proposed 14		61	perpendicular	9,150	rectangular	61	5,400
* Denotes width at building line							
** Denotes area within BRL's							