

CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

DATE: June 9, 2017

TO: Marc Laredo, Chairman, Land Use Committee
All Members, City Council

FROM: Ouida C.M. Young, Deputy City Solicitor

RE: Questions Raised by Council Members
#96-17 Draft Order
Washington Place Project

David Olson, Clerk of the City Council, provided me with a list of a number of questions raised by the councilors at the June 5, 2017, meeting regarding the Washington Place Project draft Order. He has identified those questions which he has asked me to answer.

1. Provide a copy of the Order that highlights the sections related to the alternative 140 plan.

See attached. Schedule B showing both projects is also attached but not highlighted.

2. Can the Order actually allow for the flexibility of both 140 and 160 units?

Yes. The last memorandum I prepared for the Land Use Committee set out my reasoning on this point. I am including that discussion here for the benefit of the members of the Council who are not on the Land Use Committee.

The Petitioner is requesting a Project with 160 residential units. However, based on circumstances which are entirely outside of the Land Use Committee's control, the Petitioner may be willing to voluntarily reduce the number of units from 160 to 140. To be clear, the Project requested by the Petitioner is for the 160 unit Project. Should the Petitioner decide at a later date to build only 140 residential units, there would be a small reduction in the size of the building fronting Walnut Street, and the access into the underground parking garage would move from Walnut Street to Washington Terrace. There would also be a pro rata reduction in the number of Inclusionary/Middle Income Units, as well as a reduction in the I&I contribution. All other requirements of the Special Permit would remain unchanged, including the off-site intersection and street improvements identified in Schedule G; the \$700,000 improvements identified in Schedule D; and the \$300,000 for the TDM plan.

I do believe that this degree of flexibility can be included in the draft Order provided that the City Council understands and approves of the smaller 140 unit Project. This is similar to the Chestnut Hill Square Special Permit that approved a shopping center with a residential building containing up to 100 units, but did not require that the residential building be built unless the developer elected to do so within a defined period of time. Accordingly, I have drafted the Order for a 160 unit Project, but made provisions for a clearly defined smaller 140 unit Project.

3. Has the City done this before? It was suggested in the Land Use Committee Report that the Chestnut Hill Square Special Permit did this, but in that case there was no difference in the footprint of the building. Has the Council done a special permit with footprint options?

In the case of the Chestnut Hill Square, the special permit allowed an entirely new building containing up to 100 residential units, the footprint of which replaces surface parking, to be added. The developer was permitted, but not required, to add the new building with residential units without further approval from the City Council, provided that the new building was constructed within a certain period of time. The set of plans approved by that special permit contained less information about the new residential building than the plans for the 140 unit Project included in the Washington Place Order in Schedule B.

The Petitioner has clarified that the plans between the 160 unit Project and the 140 unit Project do not change the footprint of the buildings. However, the ramp to the below grade garage is relocated from the Walnut Street side of the Project (the 160 unit Project) to the Washington Terrace side of the project (the 140 unit Project). The portion of the building along Washington Terrace which was over-hanging surface parking in the 160 unit Project is modified to accommodate the relocated ramp to the basement garage. Finally, the 5th floor of the building facing Washington Street is also reduced along the side of the building adjacent to the driveway into the Site from Walnut Street.

4. A copy of the Law Department's memorandum regarding the re-zoning protest.

The Clerk's Office is providing both the lengthy memorandum prepared with regard to the original Protest Petition as well as the much shorter memorandum prepared with regard to the current Protest Petition.

5. Can there be two special permit Orders, one for the 140 units and one for 160 units, and a Councilor can then choose which to support?

As noted above, the Petitioner is requesting a 160 unit Project with an option to only build 140 of those units. This is the Project before the Council, and if a Councilor does not want to approve the Petitioner's Project, the appropriate action is to vote against the draft special permit Order that came out of the Land Use Committee, not create a second competing special permit Order for a project not requested by the Petitioner.

The City Council, then Board of Aldermen, rejected both a dueling order approach and a Chinese menu approach for the conditions in terms of preparing special permit decisions in the late 1990s when several very controversial special permits were being considered. Special permit decisions are quasi-judicial decisions made by a special permit granting authority – here the City's legislative body. The decisions need to be supported by findings, which findings need to satisfy both the statutory requirements under G.L. c. 40A, as well as the requirements in Newton's Zoning Ordinance. While special permit orders or decisions can be amended on the floor of the Council, putting a special permit decision together should be undertaken in committee to insure that legally supportable findings and clear conditions are presented to the Council for action.

After much deliberation regarding how best to address the need to allow members to vote against the draft special permit decision that comes out of the Land Use Committee, the Council adopted a very specific procedure set out in the Council's Rules regarding Second Call of Committee Reports and Special Recording Requirements. See Art. V, Sec. 8 and Art. II, Sec. 2, subsection 2, para. 2. Any member who wishes to vote against the recommendations of the

Land Use Committee regarding a rezoning or special permit petition needs to second call the item and offer reasons for that action during debate. Should the recommendation of the Land Use Committee fail to carry, the Clerk and Planning and Law Departments are then required to put together the special permit decision that reflects the reasons offered by the prevailing side during the debate. The procedure set out in the Council's Rules should be followed if a member wishes to vote against the draft special permit Order for Washington Place brought forward by the Land Use Committee rather than draft a competing order.

CITY OF NEWTON
IN CITY COUNCIL
June 5, 2017

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL for a mixed use development consisting of three interconnected buildings with total gross floor area up to 236,000 square feet which shall incorporate no more than 160 residential units (approximately 180,000 square feet), not exceeding 47,165 square feet of retail sales, service establishment, restaurant, health club, and/or medical office space, no less than 2,000 square feet of office/community space, all in accordance with the recommendation of the Land Use Committee (the "LUC") and the reasons given by the Committee therefore, through its Chairman, Councilor Marc C. Laredo.

Procedural Background

The proposed development (the "Project") for Washington Place (the "Site") was submitted by Mark Newtonville, LLC (the "Petitioner") and reflects efforts to diversify Newton's housing stock, provide affordable housing choices, encourage pedestrian-oriented development with a mix of residential and business uses, and enhance the quality of life in Newtonville and Newton's village commercial centers, all in accordance with Newton's *Comprehensive Plan*.

The Petitioner filed a request to re-zone the Site from BU1/BU2/Public Use to MU4 and simultaneously filed special permit/site plan application for the Project with the City Clerk on May 9, 2016, *i.e.*, Docket ## 179-16 and 180-16. Notice of the public hearing was published on May 24, 2016 and May 31, 2016 in *The Boston Globe*, on June 1, 2016 in the *Newton Tab*, and re-noticed and re-published on November 18, 2016, November 25, 2016, December 28, 2016, and January 4, 2017 in *The Boston Globe* and on November 23, 2016 and December 28, 2016 in the *Newton Tab*, and mailed to all parties in interest in compliance with the Newton Zoning Ordinance and M.G.L. c. 40A §11. The Land Use Committee ("LUC") of the City Council opened the public hearing on June 7, 2016 and continued the public hearing on July 12, 2016, September 13, 2016, October 6, 2016, November 1, 2016, November 29, 2016, December 15, 2016, January 12, 2017, January 31, 2017, February 7, 2017, and February 28, 2017. The LUC also held a special meeting on March 20, 2017, at which meeting public testimony was not taken, to allow the City Council to identify concerns regarding the Petition prior to the close of

the public hearing.

Over the course of the public hearings on Docket # 179-16 presentations were made by the Petitioner and its Project team including its attorney, Stephen J. Buchbinder of Schlesinger and Buchbinder, LLP; Damien Chaviano of Mark Development, LLC; its architects, David Chilinski and Steven Allen of Prellwitz Chilinski Associates, Inc.; its landscape architect, Shauna Gillies-Smith of Ground, Inc.; its fiscal consultant, John Connery of Connery Associates; its transportation consultant, Randy Hart of Vanasse Hangen Brustlin, Inc. ("VHB"); its sustainability consultant, Lauren Baumann, of New Ecology; and its lighting consultant, Carrie Hawley of HLB Lighting. Presentations were also made by City staff including Alexandra Ananth, Chief Planner of Current Planning for the Planning and Development Department, and the City's transportation consultant and peer reviewer, Michael Santos of Howard Stein Hudson.

The LUC received extensive oral and written testimony from the public and written reports from the City's professional consultants and various City boards, commissions, and departments, including the Planning and Development Department, the Department of Public Works, the Planning and Development Board, the Urban Design Commission, and the Newtonville Area Council. During the review process, supplemental materials and testimony have been submitted in response to requests by the Council and the public. All testimony, written reports, and supplemental materials prepared by the Petitioner and its consultants, and the City and its staff, consultants, boards, and commissions, as well as public testimony and supplemental materials submitted by the public, are included in the record of the Council's proceedings, and provide factual and technical background for the Findings and Conditions set forth within the body of this order.

Because of a protest filed pursuant to G.L. c. 40A §5 challenging Petitioner's request to re-zone the Site, the Petitioner requested leave to withdraw without prejudice the special permit/site plan petition Docket #179-16 and the rezoning petition Docket #180(2). The LUC closed the public hearings on both petitions on March 28, 2017, and recommended approval of the request to withdraw without prejudice, which request was granted by the City Council on April 3, 2017.

On April 4, 2017, the Petitioner refiled the special permit/site plan approval for the Project, as well as a request to re-zone a portion of the Site totaling 92,907 sq. ft. from BU1/BU2/Public Use to MU4, *i.e.*, Docket ## 95-17 and 96-17, with the City Clerk. The northerly portion of the Site that is currently BU2 would not be rezoned. Given that the Project as refiled is identical to the Project proposed at the time the request to withdraw without prejudice was granted with the exception of the re-zoning request, the LUC is incorporating by reference all oral and written testimony and reports received by the LUC from the Petitioner and its consultants, the City staff and consultants, and from the public in connection with Docket ## 179-16 and 180-(1)&(2). No new special permits are required for the Project as refiled although the special permit waivers for FAR and lot area per dwelling unit are slightly changed.

Notice of the public hearing was published on April 18, 2017 and April 25, 2017 in *The Boston*

Globe and on April 26, 2017 in the *Newton Tab*, and mailed to all parties in interest in compliance with the Newton Zoning Ordinance and M.G.L. c. 40A §11. The LUC opened the public hearing on May 2, 2017 and continued the public hearing on May 30, 2017.

Following a final presentation by the Petitioner and City staff, as well as public testimony, the public hearing was closed on May 30, 2017 and on that date the LUC voted to recommend approval of the Project to the Council as follows:

Finding that all applicable provisions of the Zoning Ordinance have been complied with and taking into consideration the testimony and evidence provided by all interested parties, the Council GRANTS approval of this Special Permit/Site Plan Approval based on the following findings, as recommended by the LUC of the Council:

With regard to how the Project furthers the purposes of the MU4 District and meets the requirements of §7.3.3.C.1.-5., for those uses or dimensional waivers requiring special permits:

1. The Council finds pursuant to the requirements of §4.2.1.C.1.-5. that the Project is consistent with the purposes of the MU4 district and the Newton *Comprehensive Plan*, including the Mixed Use Centers Element adopted in November 2011, in that:
 - a. The Project will allow the development of buildings and uses appropriate to the Newtonville village commercial center and aligned with the vision of the City's *Comprehensive Plan* by providing a compact, pedestrian-oriented development with residences, shops, public gathering spaces, and mixed use development opportunities in a commercial village center. (§4.2.1.C.1 and §4.2.1.C.2)
 - b. The massing of the Project along two blocks on the north side of the Massachusetts Turnpike and at the corner of Washington and Walnut Streets as well as matching the Project's streetscape improvements to those streetscape improvements being made along Walnut Street south of the Turnpike will help visually connect Newtonville's commercial village center which is bifurcated by the Turnpike. (§4.2.1.C.2)
 - c. The Project will allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and a variety of businesses that serve the needs of the community. (§4.2.1.C.3)
 - d. The Project will expand the diversity of housing options available in the City. (§4.2.1.C.4)
 - e. The Project will promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community. (§4.2.1.C.5)
2. The Council finds that all residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units and are visitable

- by those in a wheelchair. In addition, per MAAB guidelines, 5% of the units will conform to "Group 2A" unit requirements and will be designed for immediate use and occupancy by anyone in a wheelchair, and with the ability to adapt additional components of the units upon need, at the Petitioner's sole cost and expense. This will add to the diversity of Newton's housing stock, thereby increasing housing choices and opportunities in the City.
3. The Council finds that the residential units fill a need for smaller, accessible, residential units as identified by multiple sources including the City's Housing Needs Analysis and Strategic Recommendations Report dated June 2016, the Metropolitan Area Planning Council's [Population and Housing Demand Projections for Metro Boston](#), and the two Demographic Trends and Projections Reports prepared by The Dukakis Center for the City of Newton.
 4. The Council finds that the Petitioner has taken steps to alleviate the increasing costs of housing in Newton by providing two income tiers of affordability as follows:
 - a. The first tier of affordability per Newton's Inclusionary Zoning Ordinance will set aside 15% of the total residential units as Inclusionary Units affordable to households earning up to 80% of Area Median Income ("AMI") as designated by the US Department of Housing and Urban Development (HUD), adjusted for family size (the "Inclusionary Units") in perpetuity. 50% of the Inclusionary Units will be set aside for households earning at or below 50% of AMI and 50% of the Inclusionary Units will be set aside for households earning at or below 80% of AMI. This results in a blended rate of no more than 65% of AMI.
 - b. The second tier of affordability provides an additional 10% of the total residential units affordable to households earning between 80% and 120% AMI (the "Middle Income Units") in perpetuity. The Inclusionary Units and the Middle Income Units will sometimes be referred to hereinafter as the "Deed Restricted Units."
 5. The Council finds that by including both tiers of affordability there will be potential for upward mobility within the Project, as residents may be afforded the option to transition from one tier to the next, where they would have otherwise been required to relocate or pay market rate rents if their income exceeded the cap on the Inclusionary Units.
 6. The Council finds that to the extent allowed by the Massachusetts Department of Housing and Community Development (DHCD), the Petitioner will seek permission to set aside 70% of the Deed Restricted Units as Local Preference Units.
 7. The Council finds that the specific Site is an appropriate location for the Project as the site plan maximizes the benefits of its Newtonville commercial village center location by expanding needed housing choices, diversifying commercial options in the village, connecting the Site to the village through intersection and streetscape improvements, and maximizing the number of parking stalls available on-site to the greatest extent

consistent with appropriate site planning. (§7.3.3.C.1)

8. The Council finds that the use as developed and operated will not adversely affect the neighborhood as the Project will enhance the long term economic stability of the commercial village center, the vitality and walkability of the village, and will create an approximately 9,000 square foot accessible public gathering space. (§7.3.3.C.2)
9. The Council finds that through improvements to the intersection of Walnut and Washington Streets for vehicles and pedestrians as well as the consolidation of driveways accessing the Site, there will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
10. Access to the site over streets is appropriate for the types and numbers of vehicles involved. The Petitioner conducted studies which conclude that the traffic generated by this Project is accommodated by improvements that the Petitioner will make at its sole cost and expense at the intersection of Washington and Walnut Streets. The City contracted with Howard Stein Hudson ("HSH") to perform a peer review of the Petitioner's Traffic Impact and Access Study. In general, both the Petitioner's study and the City's peer review conclude that the Project will have minimal impacts on surrounding roadways with the improvements at the intersection of Washington and Walnut Streets required by this Special Permit/Site Plan Approval. (§7.3.3.C.4)
11. The Council finds that the site planning, building design, construction, maintenance, and long-term operation of the Project will contribute significantly to the efficient use and conservation of natural resources and energy. The Project is located in a commercial village center close to multiple transit options and with the benefits of a walkable commercial village center. The building shall achieve LEED Gold for Homes Midrise Version 3 certification. (§7.3.3.C.5 and §7.4.5.B.8)

With regard to the special permit to allow retail sales establishments over 5,000 square feet, restaurants with more than 50 seats, personal service establishments over 5,000 square feet, standalone ATMs, health club(s) at or above the ground floor, animal service uses, and/or street-level medical office uses pursuant to §4.4.1.:

12. The Council finds that the Site is an appropriate location for retail sales establishments over 5,000 square feet, restaurants with more than 50 seats, personal service establishments over 5,000 square feet, standalone ATMs, health club(s) at or above the ground floor, animal service uses, and/or street-level medical office uses, as the proposed uses are appropriate for the commercial center of the village and will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed uses fill a demonstrated need for the uses within the vicinity, and that the proposed uses are not inconsistent with the purposes of the MU4 district or the City's *Comprehensive Plan*.

With regard to the special permit to allow a building in excess of 20,000 square feet of gross floor area, pursuant to §4.2.2.B.1.:

13. The Council finds that the size of the interconnected buildings is not inconsistent with

the MU4 district or the Mixed Use Centers Element of the *Comprehensive Plan*. The proposed site plan and buildings improve the pedestrian environment, create beneficial open space, and the proposed mix of uses will enhance the commercial and civic vitality of the Newtonville commercial village center.

With regard to the special permit to allow a building height of 60 feet and 5 stories, and to waive the setback requirement for buildings taller than 40 feet pursuant to §4.2.5.A.2 and §4.2.5.A.4.c.:

14. The height and number of stories is allowable by special permit in the MU4 district and the Council finds that the building height of up to 60 feet and 5 stories is compatible in visual scale to its Newtonville commercial village center surroundings, is appropriate given the width of the street, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of the MU4 district.
15. The waiver of the setback requirement for the portions of the buildings taller than 40 feet is appropriate as the varied 4-5 story height and predominant massing on Washington Street is appropriate at this corner location and scales downward as the building approaches its residential abutters.

With regard to the special permit to allow floor area ratio ("FAR") of not more than 2.5 pursuant to §4.2.3.:

16. The FAR is less than the maximum permitted by special permit in the MU-4 district (2.5). The Council finds that the FAR of not more than 2.5 is appropriate for the site and not inconsistent with the MU-4 district or the City's *Comprehensive Plan*.

With regard to the special permit to waive the lot area per dwelling unit requirement, pursuant to §4.2.5.A.3.:

17. The Council finds that a lot area per dwelling unit of approximately 581 square feet creates a beneficial living environment for the residents, does not adversely affect the traffic on Washington Street or Walnut Street, and better achieves the purposes of the MU-4 district than strict compliance with these standards.

With regard to the special permit to waive the front setback requirement, pursuant to §4.2.5.A.4.:

18. The Council finds that the waivers from the front setback requirement better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of this district.

With regard to the special permit to waive entrance requirements, pursuant to §4.2.5.A.6.:

19. The Council finds that a waiver of the requirement for an entrance every 50 feet on the building frontage facing Walnut Street, Washington Street, and Washington Terrace better enables appropriate use of the Site, supports pedestrian vitality, and better achieves the purposes of the MU-4 district than strict compliance with these standards.

With regard to special permits for the number of parking stalls and various requirements for the design of parking facilities in both the MU4 and BU2 districts, pursuant to §5.1.4.A.;

§5.1.4.C.; §5.1.8.A.; §5.1.8.B.1.2.; §5.1.9. B.; §5.1.10.; §5.1.12.; and §5.1.13.:

20. The Council finds that exceptions to the parking requirements, including a waiver for not more than 97 required parking stalls, to locate parking within a setback, and within five feet of a residential structure, to waive the dimensional requirements for some parking stalls, to waive the screening requirements for parking lots, to waive the interior landscaping requirements, and to waive the off-street loading requirements, are in the public interest or in the interest of safety, or protection of environmental features for the following reasons:

- a) The Project will provide 243 parking stalls in the underground garage and 109 parking stalls above ground. Six handicap stalls will be provided in the outdoor parking lot and 7 additional handicap stalls will be provided in the underground garage. The Petitioner is proposing 1.25 parking stalls per residential unit and a 1/3 reduction of the commercial parking requirement in addition to a waiver not to exceed 97 stalls. The approximately 900 square foot average size of the units will likely attract tenants who have only one automobile per unit and use public transit, making a parking waiver appropriate at this site. Covered bicycle parking will also be provided in the below-grade garage to encourage bike use. The Petitioner intends to have car-sharing services provided on-site and has submitted a Transportation Demand Management Plan and Transportation Demand Management Subsidy Program hereto attached as Schedules C and D.
- b) The parking for the market rate residential units and Middle Income Units will be charged separately and in addition to the rent so as to encourage reduced car ownership and parking demand while encouraging increased transit usage.
- c) The commercial and residential uses are complementary and will allow for shared usage of the garage at different times.
- d) The consolidation of the six existing curb cuts at the Site on Washington Street and Walnut Street into one access/egress at Washington Terrace and one access/egress on Walnut Street improves access management and public safety by reducing the number of entrances and exits into the Site, and conforms to engineering best practices by moving the entrances and exits as far as practicable from the Washington Street and Walnut Street intersection.
- e) The location of parking within property boundary setbacks and within five feet of a residential structure makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
- f) The allowance for reduced length of parking stalls (from 19 feet to 18 feet) will not create a nuisance or hazard to vehicles.
- g) The Petitioner will dedicate at least two stalls to Zipcar or other similar services and have at least 30 at-grade bike parking stalls and covered bike storage for at least 160 bicycles in the garage below.
- h) The waiver for some parking lot interior landscape screening helps maximize the

number of parking stalls that will be available to the public, and a sufficient number of trees will be added to the Site so as to improve the streetscape, perimeter screening for the abutting residential uses, and public plaza area.

- i) The provisions for on-street and off-street loading facilities are sufficient to service the buildings and related uses on the site.
- j) The waiver to allow for reduced parking lot lighting is in the public interest and in the interest of abutting residential properties.
- k) The waiver for curbing, wheel stops, guard rails and bollards is appropriate given the proposed layout of the parking lot.

With regard to the special permit to waive of the number, size, location, and height of signs pursuant to § 5.2.13

- 21. The Council finds that the nature of the use of the premises, the architecture of the buildings, and the Project's location at the intersection of Washington Street and Walnut Street, justifies exceptions to the limitations imposed by §5.2 on the number, size, location, and height of signs. The Petitioner will submit a Comprehensive Sign Package for all signage to the Urban Design Commission for review.

With regard to the site plan approval criteria under §7.4.5.B.1.-7.:

- 22. The Council finds that the Project has been designed to ensure the safety of vehicular and pedestrian movement within the Site and in relation to adjacent streets, properties, and improvements, including regulation of the number, design and location of access driveways and the location and design of handicap parking. The two access driveways include stop signs, open viewing, low planters, and wide sidewalks, and have been located as far away from the intersection as is practical. (§7.4.5.B.1)
- 23. The Council finds that the methods for disposal of sewage, refuse and other wastes , and that the methods of regulating surface water drainage are adequate for the following reasons:
 - a) The City Engineering Division has reviewed submitted plans and raised no concerns with respect to this Project. The Engineering Division will review all plans submitted for building permits for compliance with City of Newton Engineering Division design standards prior to the issuance of any building permits.
 - b) The Petitioner will be making a \$782,880 contribution to the City of Newton for municipal sewer Inflow and Infiltration improvements representing an 8:1 ratio, as more particularly set forth in General Condition 7. (§7.4.5.B.2)
- 24. The Council finds that provisions for on-street and off-street loading facilities are sufficient to service the buildings and related uses on the site. (§7.4.5.B.3)
- 25. The Council finds that screening of parking areas and structures on the site from adjoining premises is sufficient based on the landscape plans referenced in Condition #1. (§7.4.5.B.4)

26. The Council finds that the Project avoids unnecessary topographical changes. (§7.4.5.B.5)
27. The Council finds that all utility service lines on site will be undergrounded. (§7.4.5.B.6)
28. The Council finds that the proposed site design and massing is appropriate in the context of the Newtonville commercial village center location and will serve to improve connections to the south side of Newtonville with an active pedestrian streetscape designed to invite the public into the site and with pedestrian improvement designed to be consistent with the Walnut Street streetscape south of the Massachusetts Turnpike. The Petitioner has incorporated a number of building treatments and design elements that enhance the appearance of the structure, including articulating the façade to proportion building elements to a human scale and setting the fifth story back from the street in certain locations. (§7.4.5.B.6)
29. The Council finds that the Petitioner worked with the community to design a Project that mitigates the removal of the existing buildings on site. (§7.4.5.B.7)
30. The Council finds the Project will provide public benefits to the residents of Newton as the Project includes 2,000 square feet of accessible community space to be used by local non-profit organizations engaged in the arts and community education.

In light of the findings set forth above and the following conditions imposed by this Council Order, the City Council finds that the public convenience and welfare of the City will be served, and the criteria of §4.2.1.C. 1.-5.; §4.2.2. B.1.; §4.2.5.A; §4.2.5. A. 1.-4. and 6; §5.1.4. A; §5.1.4. C.; §5.1.8.A.; §5.1.8. B. 1., and 2.; §5.1.9. B.; §5.1.10.; §5.1.12.; §5.1.13.; and §7.4.5. B. 1.-8. for granting special permits/site plan approval will be satisfied.

PETITION NUMBER: #96-17

PETITIONER: Mark Newtonville, LLC . As used herein, "Petitioner" shall refer to Mark Newtonville, LLC, and its successors and assigns

LOCATION: 22 Washington Terrace, 16-18 Washington Terrace, 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Street, 869 Washington Street, 867 Washington Street, 861-865 Washington Street, 857-859 Washington Street, 845-855 Washington Street, 245-261 Walnut Street (a/k/a 835-843 Washington Street), 241 Walnut Street, Bailey Place, 22 Bailey Place, 14-18 Bailey Place, and an unnumbered lot on Bailey Place, also identified as Section 21, Block 29, Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 20, 21, 22, and 23, Ward 2, being

currently zoned BU1, BU2, and Public Use and being rezoned in part as MU4 (the Project Site)

OWNER: Mark Newtonville, LLC, Mark Lolich, LLC, and Sunoco, LLC, their successors and assigns

ADDRESS OF OWNER: 57 River Street, Suite 106, Wellesley, MA 02481

TO BE USED FOR: A mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights of not more than 60 feet and five stories, total gross floor area up to 236,000 square feet incorporating no more than 160 residential units, not exceeding 47,165 square feet of commercial space, not less than 2,000 square feet of community space, not less than 350 on-site parking stalls outside at grade or within a below-grade garage, and related site improvements; to authorize uses including retail of more than 5,000 square feet, personal service of more than 5,000 square feet, restaurants over 50 seats, standalone ATMs, health club establishments at or above ground floor, animal service, and street level office

CONSTRUCTION: Masonry structure over a structural steel and concrete base

EXPLANATORY NOTES: Special permits, site plan approval, and parking waivers for the Project, all as more specifically set forth in Schedule A, attached hereto, and as further referenced in the Findings.

ZONING: MU4 and BU2 pursuant to Petition #95-17

Approved subject to the following Conditions.

General Conditions

1. All buildings, parking areas, driveways, walkways, landscaping, and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with the plans identified in Schedule B, and which are hereby incorporated by reference (the "Special Permit Plan Set"). The Project approved by this Order contains 160 residential units as reflected in the site plan referred to as "160 Unit Plans." In the event that the Petitioner voluntarily elects to reduce the number of residential units from 160 to 140, this Order approves the Project with 140 residential units to be constructed consistent

with the site plan referred as "140 Unit Plans." The number of Inclusionary and Middle Income units will be reduced pro rata from 24 Inclusionary/16 Middle Income units in a 160 unit Project to 21 Inclusionary/14 Middle Income units in a 140 unit Project. The number of on-site parking stalls outside at grade within the Project Site or within a below-grade garage, shall be no less than 350 in a 160 unit Project, and no less than ____ in a 140 unit Project. While the I&I contribution will be reduced due to the reduction in the number of residential units, the Petitioner shall be required to comply with all other monetary or public benefit obligations in this Order regardless of whether the Project contains 160 or 140 residential units. Final elevations, final floor plans, and any other documents required to be revised by virtue of a decrease in the residential density from 160 to 140 units shall be submitted to the Director of Planning and Development for review and approval, consistent with the terms of this Order, and shall not require the further review or approval of the City Council.

2. The Petitioner shall merge the existing parcels in one new lot no later than thirty (30) days after the issuance of the first building permit (other than a demolition permit). Proof of recording a plan with the Middlesex South District Registry of Deeds shall be submitted to the Department of Planning and Development, the Inspectional Services Department, and the City Solicitor's office.
3. This Special Permit/Site Plan Approval shall be deemed to have been (i) vested, for the purposes of utilizing the benefits of the change of zone authorized by Council Order #96-17, upon the submission to the City of an application for a building permit (other than a demolition permit) for all or any portion of the Project; and (ii) vested and exercised, with respect to the entire Project, once construction under this Special Permit/Site Plan Approval has begun for any portion of the Project.
4. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall submit stamped and signed engineered plans for the reconstruction of the intersection at Walnut and Washington Streets as described on Schedule E attached hereto, for review and approval by the Director of Planning and Development and the Commissioner of Public Works in consultation with the Director of Transportation, and the City Engineer, for consistency with (i) the City's Complete Streets Policy, and (ii) to the extent such plans have been developed at the time of issuance of the building permit for the vertical construction of the Project, the Newtonville Streetscape Project south of the Massachusetts Turnpike. These improvements will be completed by the Petitioner at its sole cost and expense.
5. Prior to the issuance of any final certificates of occupancy, and at the Petitioner's sole cost and expense, the Petitioner shall complete the reconstruction of the intersection of Washington Street and Walnut Street as described on Schedule E attached hereto. The City Engineer shall also inspect and approve the improvements upon completion.

6. The Petitioner shall make or fund off-site improvements in the vicinity of the Project categorized as: (a) streetscape and street beautification initiatives in the vicinity of the Project including the bridge over the Massachusetts Turnpike and MBTA railroad line, and (b) transportation enhancements for all travel modes, including, but not limited to, pedestrian, bicycle, and elements related to the Newtonville MBTA commuter rail station. Within ninety (90) days after the issuance of a building permit for vertical construction, the City Council shall identify the specific improvements to be made under the foregoing categories and the City Council shall either direct the Petitioner to construct the improvements identified by the City Council, at Petitioner's expense, for an amount not to exceed \$700,000.00, or it shall direct the Petitioner to pay the sum of \$700,000.00 to the City, which the City shall use to construct the off-site improvements. In the event that the City Council elects to accept payment of \$700,000.00 for the off-site improvements, funds from the account in which the \$700,000.00 will be held shall be appropriated to construct the off-site improvements in accordance with municipal finance law. In the event that the City Council directs the Petitioner to construct the improvements and the final cost of the improvements is less than \$700,000.00, the Petitioner shall pay the balance to the City and the City shall use the funds for additional off-site improvements in accordance with the provisions of this condition. In the event that the City Council fails to identify the improvements to be made within ninety (90) days after the issuance of a building permit for vertical construction, in accordance with this condition, then the Petitioner shall pay the sum of \$700,000.00 to the City.
7. Prior to the issuance of any certificates of occupancy, temporary or final, for the residential portion of the site, the Petitioner, if it elects to pursue development of the Project with 160 residential units, shall pay an amount of \$782,880 to the City, which sum represents an 8:1 ratio for municipal sewer Inflow and Infiltration improvements in accordance with a memorandum from Associate City Engineer John Daghlion dated November 29, 2016, a copy of which is on file in the office of the City Clerk. In the event the Petitioner elects to pursue the Project with 140 residential units, Petitioner shall pay an amount to the City for municipal sewer Inflow and Infiltration improvements based on an 8:1 ratio calculated in a similar fashion to the calculations used in said Memorandum, but in no event shall the amount due exceed \$782,880.
8. Prior to the issuance of any certificates of occupancy, temporary or final, for the residential portion of the site, the Petitioner shall fund a Transportation Demand Management Subsidy Program (the "TDM Subsidy Program") in the amount of \$300,000. The details of the TDM Subsidy Program are set forth in Schedule C. The Transportation Demand Management Plan is attached as Schedule D. Ongoing costs associated with the Transportation Demand Management are not included in the \$300,000.00 amount.
9. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), 15% of the residential units in the Project shall be restricted for Inclusionary Units that shall be made available to households earning up to 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size. As proposed

in the Preliminary IHP, 50% of these units shall be made available to households earning up to 80% AMI, and 50% of these units shall be made available to households earning up to 50% AMI. Monthly housing costs (inclusive of heat, hot water, electricity, water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. The maximum number of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD). The Preliminary IHP assumes the Project will contain 160 residential units. If the Petitioner elects to pursue the Project with 140 residential units, the Petitioner shall revise the Preliminary IHP accordingly to reflect the actual number of residential units and the actual number of Inclusionary Units based on the percentages set forth in this condition.

10. In addition to the Inclusionary Units, and as proposed in the Preliminary IHP, 10% of the residential units in the Project shall be restricted for Middle Income Units that shall be made available to households earning between 80% and 120% of AMI, as designated by HUD, adjusted for household size. As proposed in the Preliminary IHP, 50% Middle Income Units shall be made available to households earning between 80% AMI and 100% AMI, and 50% of the Middle Income Units shall be made available to households earning between 100% AMI and 120% AMI. For the purposes of calculating rents, monthly housing cost calculation for the Middle Income Units will not include an allowance for utilities that are not included in the rent. The Preliminary IHP assumes the Project will contain 160 residential units. If the Petitioner elects to pursue the Project with 140 residential units, the Petitioner shall revise the Preliminary IHP accordingly to reflect the actual number of residential units and the actual number of Middle Income Units based on the percentages set forth in this condition.
11. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any building permits for the construction of the Project, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
12. The Middle Income Units will be subject to an Affordable Housing Use Restriction, in a form approved by the Law Department, which shall be substantially similar in form and intent to the Regulatory Agreement and Declaration of Restrictive Covenants that governs the Inclusionary Units. The restriction shall be in perpetuity and shall be executed between the Petitioner and the City prior to the issuance of any building permits for the construction of the project.
13. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan for review by the Director of Planning and Development. The

Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. The Inclusionary Housing Plan and Affirmative Marketing and Resident selection plan should include both the Inclusionary Units and the Middle Income Units and treat the units the same with respect to Affirmative Marketing and advancing Fair Housing in Newton. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.

14. The project shall include at least six three bedroom units, of which at least one of these units will be restricted as an Inclusionary Unit (made available to households earning up to 80% of AMI, as designated by HUD), at least one unit will be restricted as a Middle Income Unit (made available to households earning between 80% and 120% of AMI, as designated by HUD), and the remainder may be made available at market rates.
15. All residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use.
16. The Petitioner shall design and construct a high R-value, durable, environmentally sensitive building. Mechanical, Electrical and Plumbing systems shall be chosen and sized to meet the minimal heating and cooling loads and to ensure occupant comfort. The building shall achieve LEED Gold for Homes Midrise Version 3 certification, and proper commissioning, optimization, and education for building management and tenants shall be conducted to operate the building at the designed level of performance.

Conditions Related To Construction

17. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed, and only if the work complies with the provisions of the Noise Control Ordinance of the City of Newton. In addition, access to and egress from the Site for work conducted outside of the hours specified above, shall be from Washington Street only. Notwithstanding the foregoing, there shall be no restriction on work hours for work within Washington Terrace, Washington Street, and Walnut Street in order to limit disruption of the use of these roadways.
18. The Petitioner shall communicate regular construction updates to the Newtonville Area Council and all immediate abutters during construction as appropriate.
19. Not less than two (2) months prior to the commencement of any Site Work and/or other construction activities related to the work approved through this Special Permit, a Construction Liaison Committee shall be established consisting of two (2) designees of the

Petitioner, two (2) immediate abutters, and one (1) resident from _____ and _____, the Ward 2 Councilors, and any other interested Councilors. The City Council shall appoint the resident neighborhood members. Meetings of the Liaison Committee will be open to the public, and the Liaison Committee will establish such agenda and procedures as it shall see fit.

The purposes of the Liaison Committee shall be:

- To enhance and ensure communication as to the status and progress of the construction of the Project by the Petitioner.
- To provide a forum for initial presentation of a construction schedule and any significant changes to schedule or changes of plans for which public review is appropriate.
- To provide a public forum for presentation of supplementary permit requests to the extent required; and
- To receive and deal with construction-specific issues including, without limitation, noise, dust, parking and traffic; to monitor implementation of the final Construction Management Plan; and to receive notices and communications from the Department of Inspectional Services and the Planning and Development Department.

The Liaison Committee shall meet regularly (monthly for the first six (6) months of the construction period, and thereafter, every three (3) months, unless there is consensus within the Liaison Committee that no meeting is necessary until at least six (6) months after the initial occupancy of the final building to be completed. The first meeting shall be convened jointly by the Petitioner and the Ward 2 Councilors. The Liaison Committee shall work by consensus, but nothing in the establishment of the Liaison Committee shall inhibit any member, including the Petitioner, from engaging in any lawful activities.

The Liaison Committee shall, at a minimum, give written notice to the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development of its meetings, and such notice shall be posted on the construction activity website that the Petitioner shall be required to establish pursuant to its Construction Management Plan.

20. The Petitioner shall comply in all material respects with the final Construction Management Plan to be submitted for review and approval to the Commissioner of Inspectional Services, in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer. The Final Construction Management Plan shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the Project. This contact information shall be provided to the Commissioner of Inspectional Services and to the Newton Police Department, shall be posted on a construction activity website to be

established by the Petitioner, and shall be posted on the job site.

- b. The proposed schedule of the Project, including the general phasing of the construction activities.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
 - d. Proposed truck route(s) that minimize travel on local streets.
 - e. Proposed methods for dust control including but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; and locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the Site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Noise Ordinance. Staging activities shall be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities shall be located as far as practical from noise sensitive locations.
 - g. A plan for rodent control during construction.
 - h. Offer to provide a pre-construction survey at no charge to the owners of the properties abutting the Site.
21. The Petitioner shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
22. The Petitioner shall be responsible for repairing any damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
23. At the Petitioner's sole expense, the Petitioner shall locate all utility service lines on site underground, including any utility service lines along the Project's frontage on Washington and Walnut Streets if such lines are present, subject to necessary approvals from utility companies.

Conditions Precedent To The Issuance Of Any Building Permits

24. No building permit for the vertical construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:

- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County and/or the Southern Middlesex Land Court, as appropriate.
- b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
- c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
- d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
- e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
- f. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
- g. Submitted sample building façade materials and colors for review and approval by the Director of Planning and Development.
- h. Submitted a LEED Checklist to the Director of Planning and Development for review and approval, indicating which points the Project intends to realize in order to achieve LEED Gold for Homes Midrise Version 3 certification.
- i. Submitted to the Law Department copies of fully executed Regulatory Agreements and Affordable Housing Restriction for all Deed Restricted Units, as described in Conditions 9 through 12.

Conditions Precedent To The Issuance Of Any Occupancy Permits

25. No final occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition 1.

- b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in digital format.
- c. Completed the payment to the City for municipal sewer Inflow and Infiltration improvements as required in Condition 7.
- d. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
- e. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the improvements as described in Schedule E have been constructed to standards of the City of Newton Public Works Department.
- f. Submitted to the Department of Planning and Development and the Health Department a final environmental report from a Licensed Site Professional documenting that the Site can be used for residential apartments.
- g. Filed evidence that the criteria for LEED Gold certification have been satisfied.
- h. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
- i. Provided evidence satisfactory to the Law Department that the Regulatory Agreements for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds and/or Southern Middlesex Land Court, as appropriate.
- j. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units, such that no more than three market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
- k. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, including both the residential and commercial space, prior to installation of required on-site landscaping/ exterior hardscape improvements required in Schedule E , provided that the Commissioner of Inspectional Services in consultation with the Director of Planning and Development and the Commissioner of Public Works concludes that the level of completion of the improvements is sufficient to permit temporary occupancy of the buildings without harm to public safety or convenience. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form

satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.

- I. Completed the off-site improvements or paid to the City the amount of \$700,000.00 in accordance with General Condition 6.

Ongoing Conditions To Be In Effect For So Long As The Project Authorized By This Special Permit/Site Plan Approval Exists

26. The cost of residential tenant parking shall be charged separately from residential tenant rents provided, however, that one parking stall shall be provided for the household of each Inclusionary Unit which needs a parking stall without charge to the tenant of such unit.
27. All on-Site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
28. The Petitioner shall be responsible at its sole cost for trash and recycling disposal for the Project. The trash and recycling disposal shall be scheduled at such times to minimize any disruption of the on-site parking.
29. A Comprehensive Sign Package including all tenant signage shall be submitted for review by the Urban Design Committee.
30. Managed or valet parking is permitted pursuant to a professionally-prepared Parking Management Plan, which shall be maintained on file and available for review upon request by the Director of Planning and Development or the Director of the Transportation Division of Public Works. Valet parking may be located within the Project Site or off-Site.
31. Except as set forth in Condition #1, no changes to the Project shall be permitted, except as otherwise set forth in this Special Permit/Site Plan Approval, unless they are consistent with the Special Permit Plan Set. Consistency determinations shall be subject to review and approval by the Commissioner of Inspectional Services but shall not require approval of the Council. When making a request for a consistency determination, the Petitioner shall submit updated construction sequencing plans and a memorandum for the Commissioner of Inspectional Services demonstrating that such changes (i) do not constitute a reallocation or reconfiguration of square footage among uses in the Project or otherwise allowed in the MU4 district such that no increase in the parking waiver approved hereunder is required; (ii) do not require additional zoning relief (other than the categories of relief granted and/or modified pursuant to the Special Permit/Site Plan Approval; and (iii) maintain the same percentage of useable open space as shown on the Special Permit Plan Set. If the Commissioner of Inspectional Services grants any consistency ruling pursuant to this

Condition, he shall provide a copy to the Land Use Committee of the Council. The LUC shall not be required to vote or to approve the consistency request.

32. At its sole expense and within 12 months of the issuance of final certificates of occupancy, the Petitioner shall complete a post-occupancy traffic study to document and assess (i) the actual traffic characteristics, volumes, and operating conditions of the Project including safety and crash results; (ii) evaluate the success and refine the elements of the TDM Measures including parking utilization and residential and commercial tenant mode shares; and (iii) assess traffic volumes and operating conditions at the intersection of Walnut and Washington Streets, at the intersection of Washington Street and Lowell Avenue, at the intersection of Foster Street and Walnut Street, at the intersection of Foster Street and Lowell Avenue, at the intersection of Page Road and Walnut Street, and at the intersection of Page Road and Lowell Avenue. Traffic counts shall be performed under average-month conditions while public schools are in regular session. The results shall be submitted to the City prior to the end of the calendar year in which the study is completed. If the results indicate the actual measured traffic volumes associated with the Project as constructed and occupied exceed the trip estimates presented in the Traffic Impact Assessment by more than 10 percent of the projected trip generation for the then occupied uses as measured at the two primary driveways serving the Project or the intersection of Walnut and Washington Streets, then the Petitioner shall correct the problem by implementing the following mitigation measures:
 - a. Appropriately adjust the traffic signal timing, phasing and coordination for the Walnut and Washington Streets intersection;
 - b. Implement refinements to on-site traffic flow and parking management;
 - c. Expand or modify the elements of the Transportation Demand Management Plan measures in order to increase use of public transportation and/or other alternatives to automobile travel, subject to review of the Director of Planning and Development in consultation with the City's Director of Transportation.
33. At least 2,000 square feet of accessible community space as shown on Plan A1.13, Second Floor, shall be made available for lease to a local non-profit organization engaged in the arts through community education. The Owner shall lease such space to the non-profit organization for \$1.00 per year rent plus the cost of utilities actually consumed for such space. The Owner may also require that the non-profit lessee maintain insurance coverage. The terms of the lease shall require the non-profit lessee to provide programming for the use of such space and also require the non-profit lessee to allow other local non-profits or community groups to use such space at least one evening a week and/or at such other times as are convenient for the non-profit lessee. The Owner shall consult with the City's Cultural Affairs office to help find the original local non-profit organization, and any replacement lessee should the original local non-profit be unable to continue the lease at any time in the future while this special permit is being exercised.

34. The Petitioner and its successors shall not lease commercial space in the Project to any commercial banks. This condition does not prohibit ATM machines, provided that no ATM machine shall be allowed on the Washington or Walnut Streets exterior facades of the building.
35. Funded a Transportation Demand Management program with \$300,000 as described in Schedule C.
36. Petitioner may store snow on the Site to the extent that it does not impede parking and circulation and pedestrian movements. To the extent snow removal is necessary, such removal will be conducted pursuant to a Snow Removal Plan, which shall be maintained on file at the Project and available for review upon request by the Director of Planning and Development. The Petitioner shall remove snow along the sidewalks abutting the Site in accordance with the City's snow removal ordinance.

SCHEDULE B

PLANS

160 Unit Plans



Gross Ground Floor Area	
Space	Area (SF)
Total Ground Floor Commercial	39,260 SF
Commercial Loading	500 SF
Residential @ Ground Floor	5,405 SF
Ramp to Underground Garage	1,925 SF
Pedestrian Passage	810 SF
Shared Trash	1,205 SF
Total Ground Floor	49,105 SF

Gross Commercial Floor Area	
Total Ground Floor Commercial	39,260 SF
Basement Level Commerical	4,600 SF
Total Commercial	43,860 SF

Gross Floor Area	
Basement Commercial	4,600 SF
L1	49,105 SF
L2	51,115 SF
L3	49,025 SF
L4	47,045 SF
L5	30,585 SF
Total	231,475 SF

Community Space	
Community Room	2,030 SF
Community Crossing	810 SF
Total Community Space	2,840 SF

Unit Mix						
	ST	1BR	2BR	3BR	Total Units	
Building 1	7	28	28	2	65	
Building 2	5	14	7	3	29	
Building 3	4	33	28	1	66	
Total Units	16	75	63	6	160	
Unit Ratio	10.0%	46.9%	39.4%	3.8%	Net Rentable	Avg. Net Rentable Per Unit
Ratio Target	10%	35%	38%	5%		
Avg Unit Area	582.8	761.9	1093.3	1315.8		
Unit Count By Level					143,240.0	895.3
Level 2	Level 3	Level 4	Level 5	Total		
42	47	45	26	160		

Avg. Gross Unit Area
1,111.1

Washington Place Development

April 4, 2017

160 Unit Plans

160 Unit Plans

40 FOSTER ST
ROBERT & ELIZABETH SMITH

34 FOSTER ST
DAVID & FRANCINE SMITH

30 FOSTER ST
JOHN & MARI WILSON

20 FOSTER ST
ELLEN FITZPATRICK

14-16 FOSTER ST
BETTE WHITE

24-26 FOSTER ST LLC

227 WALNUT ST
PATRICK SLATTERY

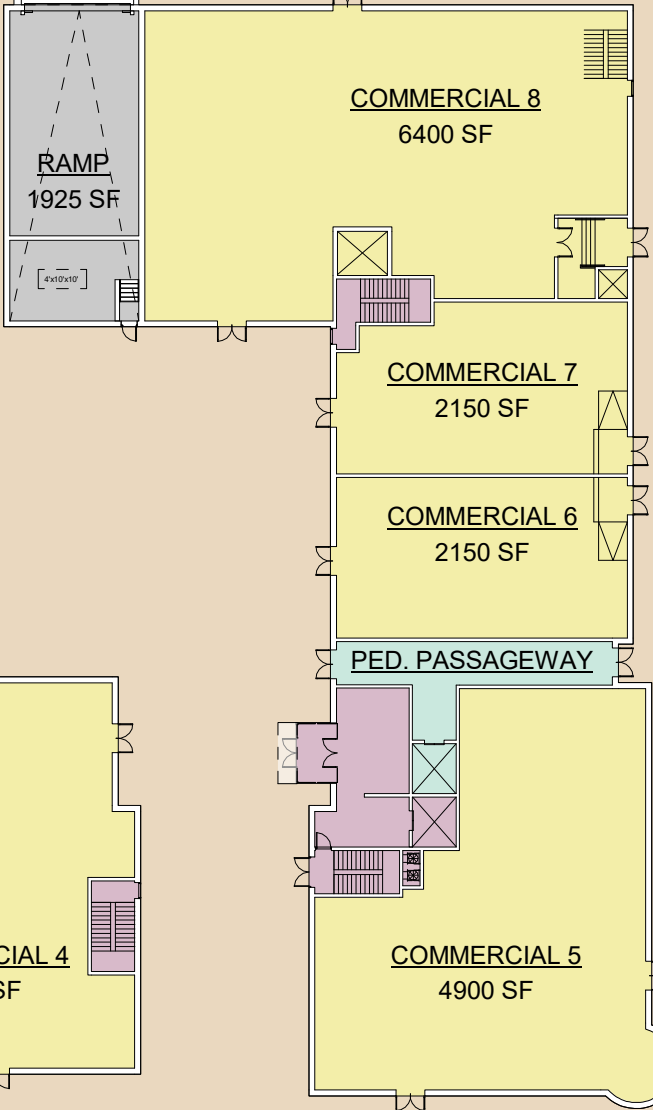
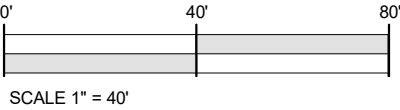
108 PARKING SPACES

BUILDING ABOVE

WASHINGTON TERRACE

WALNUT STREET

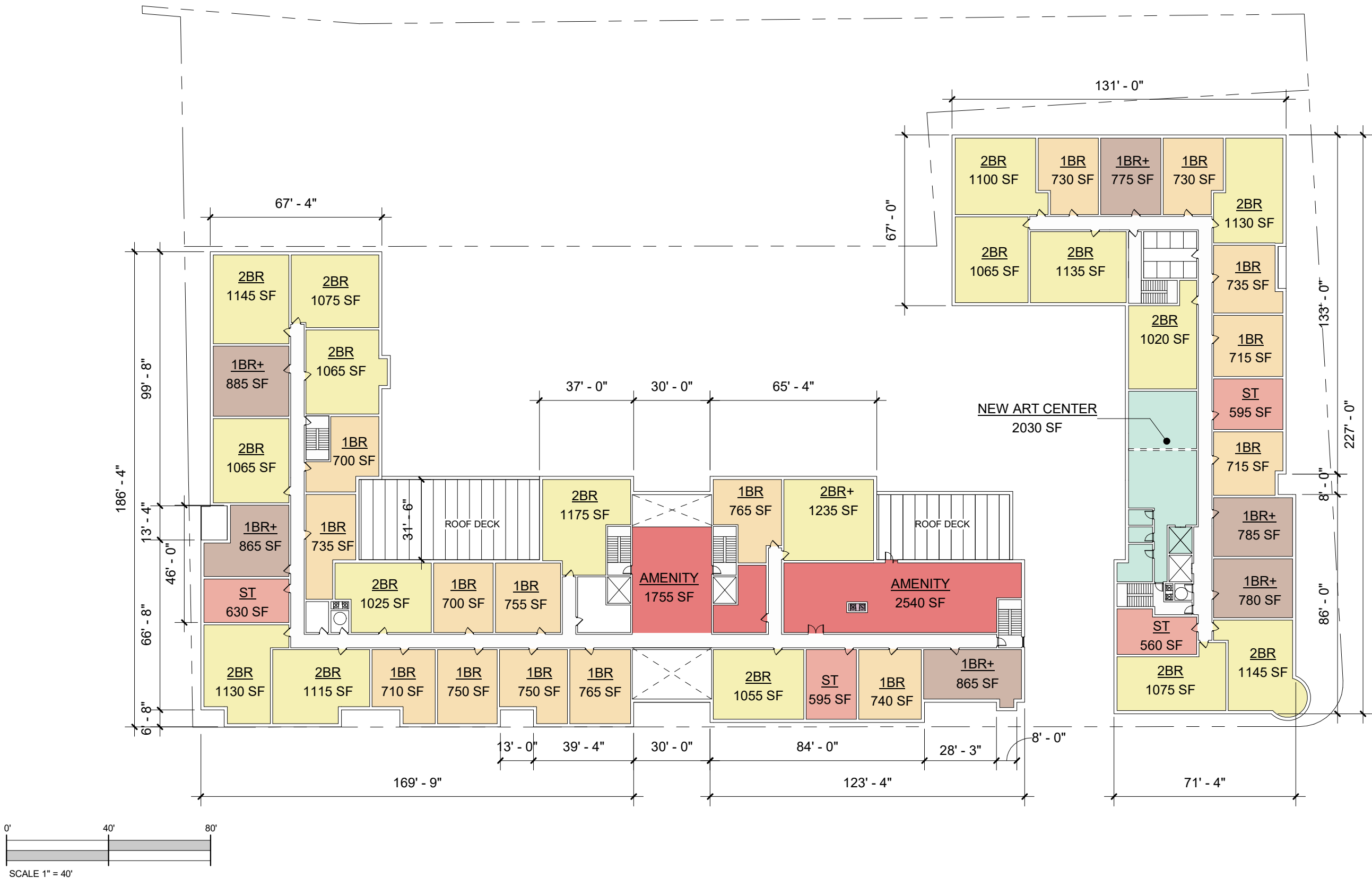
WASHINGTON STREET



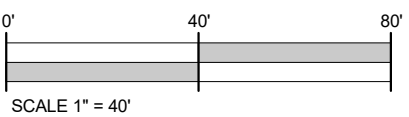
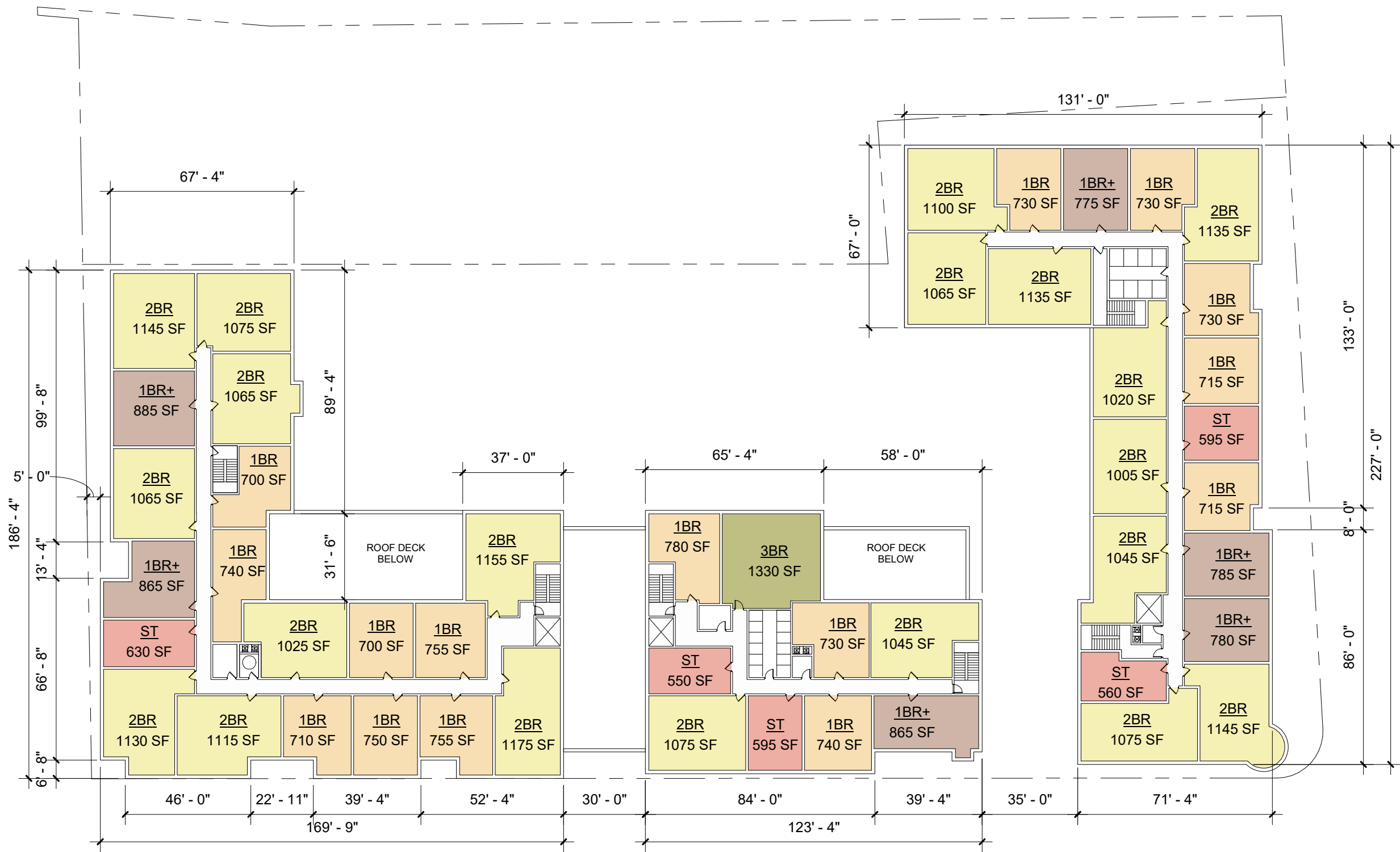
160 Unit Plans

WASHINGTON PLACE
Second Floor Plan

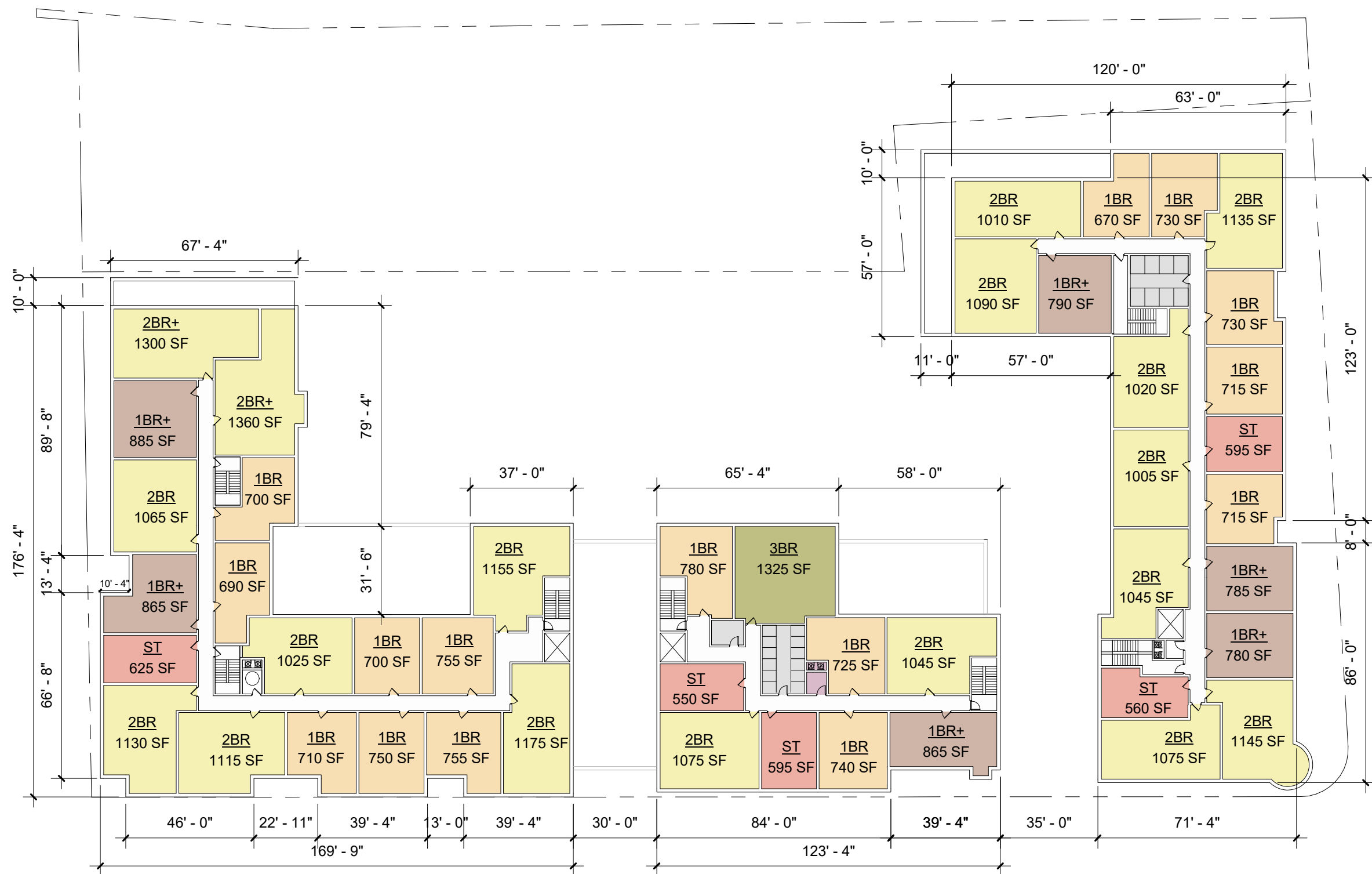
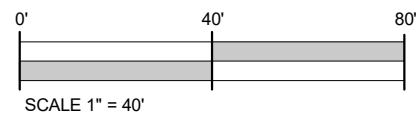
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160 Unit Plans



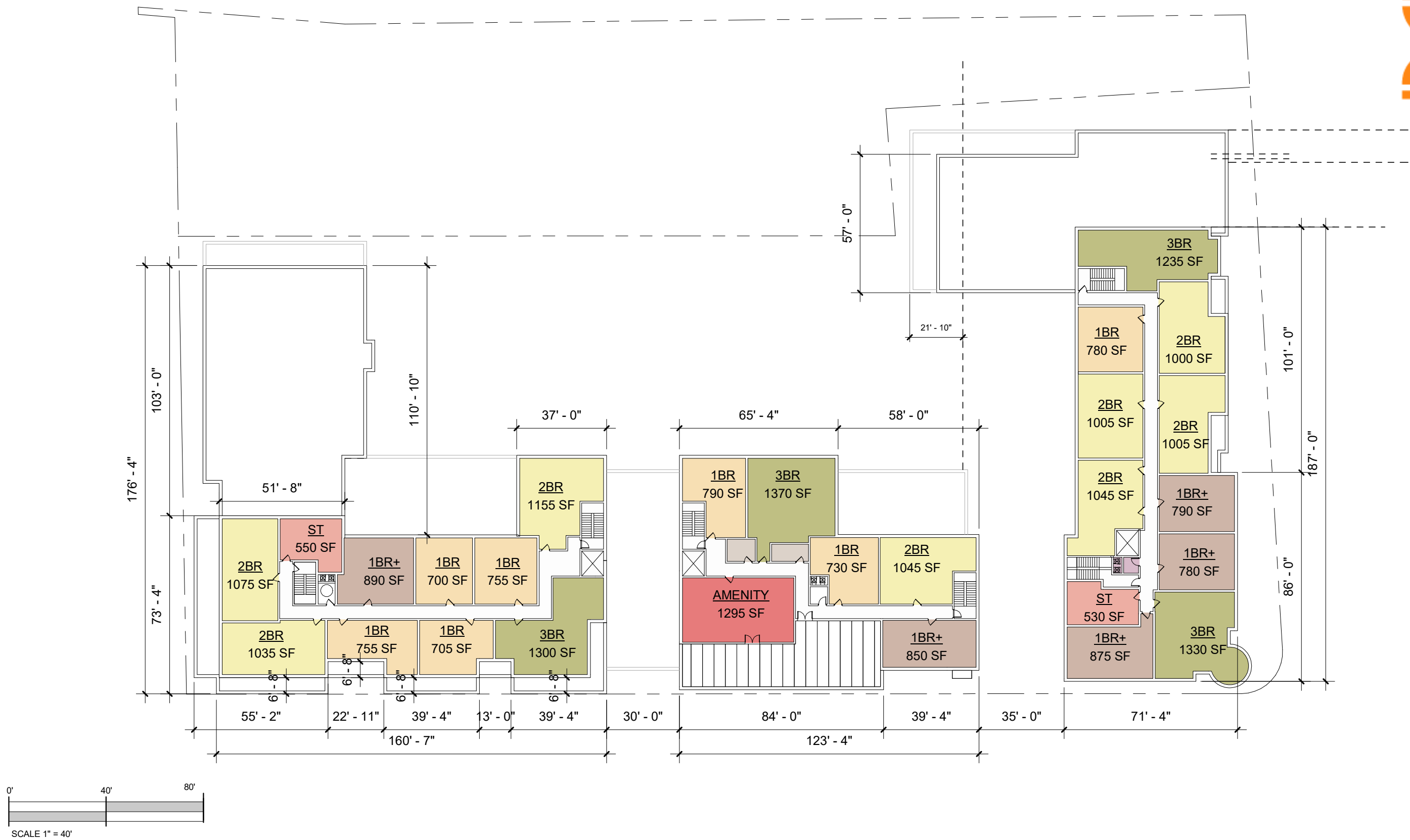
160 Unit Plans



160 Unit Plans

WASHINGTON PLACE Fifth Floor Plan

04/04/2017 | Scale: 1" = 40'-0"



140 Unit Plans



Gross Ground Floor Area	
Space	Area (SF)
Total Ground Floor Commercial	42,565 SF
Commercial Loading	1,375 SF
Residential @ Ground Floor	5,960 SF
Ramp to Underground Garage	1,155 SF
Pedestrian Passage	810 SF
Shared Trash	1,120 SF
Meter	240 SF
BOH	380 SF
Total Ground Floor	53,605 SF

Gross Commercial Floor Area	
Total Ground Floor Commercial	42,565 SF
Basement Level Commerical	4,600 SF
Total Commercial	47,165 SF

Gross Floor Area	
Basement Commercial	4,600 SF
L1	53,605 SF
L2	50,455 SF
L3	49,045 SF
L4	47,110 SF
L5	10,115 SF
Total	214,930 SF

Community Space	
Community Room	2,030 SF
Community Crossing	810 SF
Total Community Space	2,840 SF

Unit Mix						
	ST	1BR	2BR	3BR	Total Units	
Building 1	4	24	25	6	59	
Building 2	4	9	10	0	23	
Building 3	5	32	21	0	58	
Total Units	13	65	56	6	140	
Unit Ratio	9.3%	46.4%	40.0%	4.3%	Net Rentable	Avg. Net Rentable Per Unit
Ratio Target	10%	35%	38%	5%		
Avg Unit Area	565.4	769.1	1096.3	1283.3		
Unit Count By Level					126,435.0	903.1
Level 2	Level 3	Level 4	Level 5	Total		
42	47	43	8	140		

Avg. Gross Unit Area
1,119.5

Washington Place Development

May 23, 2017

140 Unit Plans with Alternate Site Plan

140 Unit Plans

40 FOSTER ST
ROBERT & ELIZABETH SMITH

34 FOSTER ST
DAVID & FRANCINE SMITH

30 FOSTER ST
JOHN & MARI WILSON

20 FOSTER ST
ELLEN FITZPATRICK

14-16 FOSTER ST
BETTE WHITE

24-26 FOSTER ST LLC

227 WALNUT ST
PATRICK SLATTERY

101 PARKING SPACES

WASHINGTON TERRACE

139' - 1"

COMMERCIAL 1
13610 SF

COMMERCIAL 2
3505 SF

FITNESS
1270 SF

RES LOBBY
2390 SF

COMMERCIAL 3
4995 SF

COMMERCIAL 4
4655 SF

METER
25 Y
35 Y

COMMERCIAL 8
6400 SF

COMMERCIAL 7
2350 SF

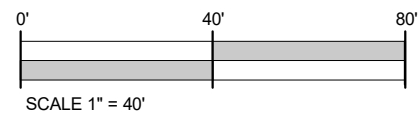
COMMERCIAL 6
2150 SF

PED. PASSAGEWAY

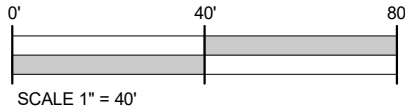
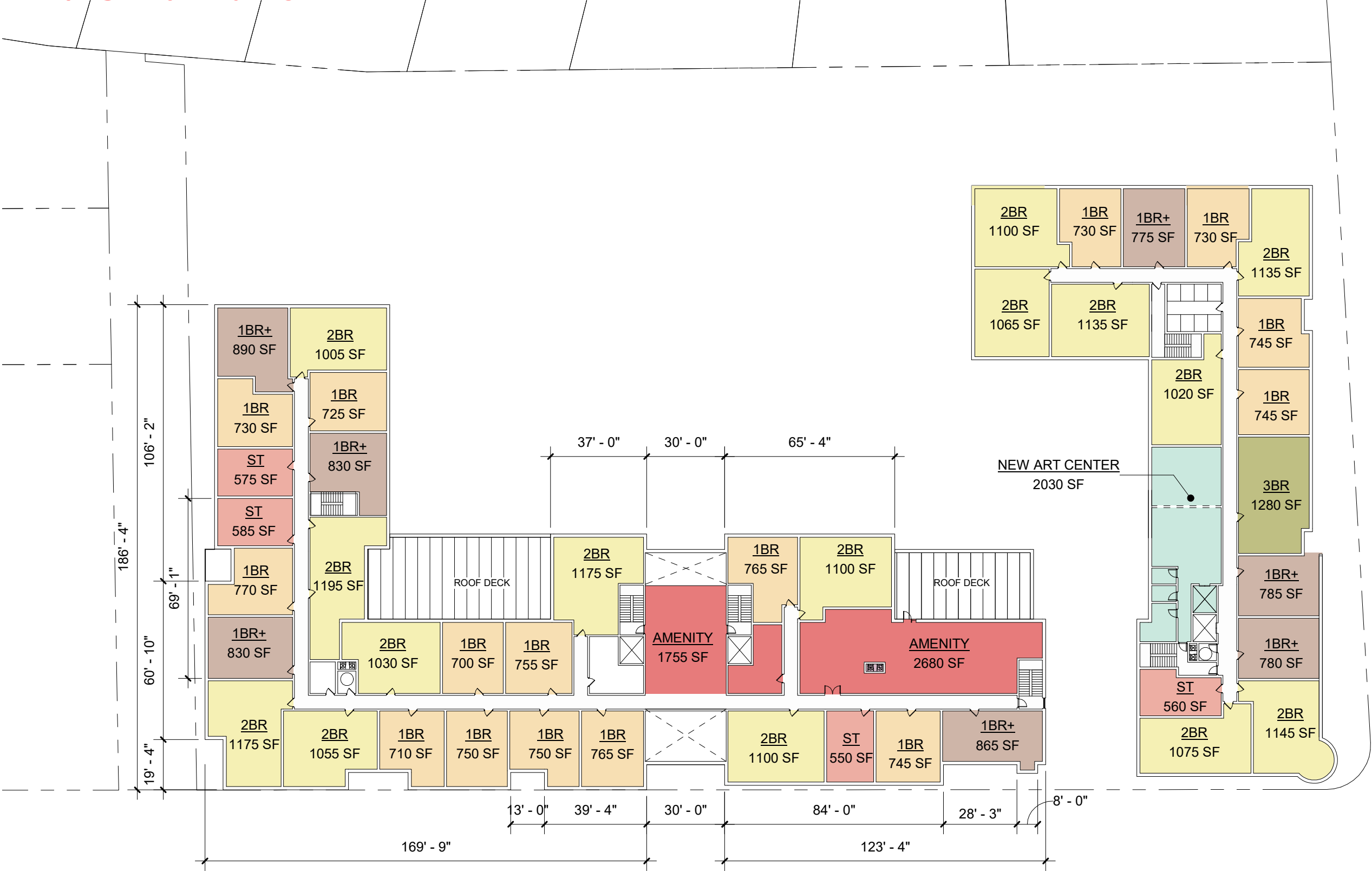
COMMERCIAL 5
4900 SF

WALNUT STREET

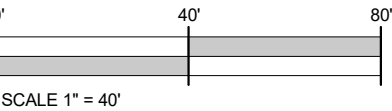
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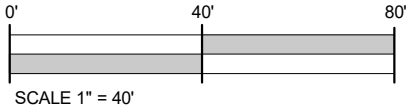
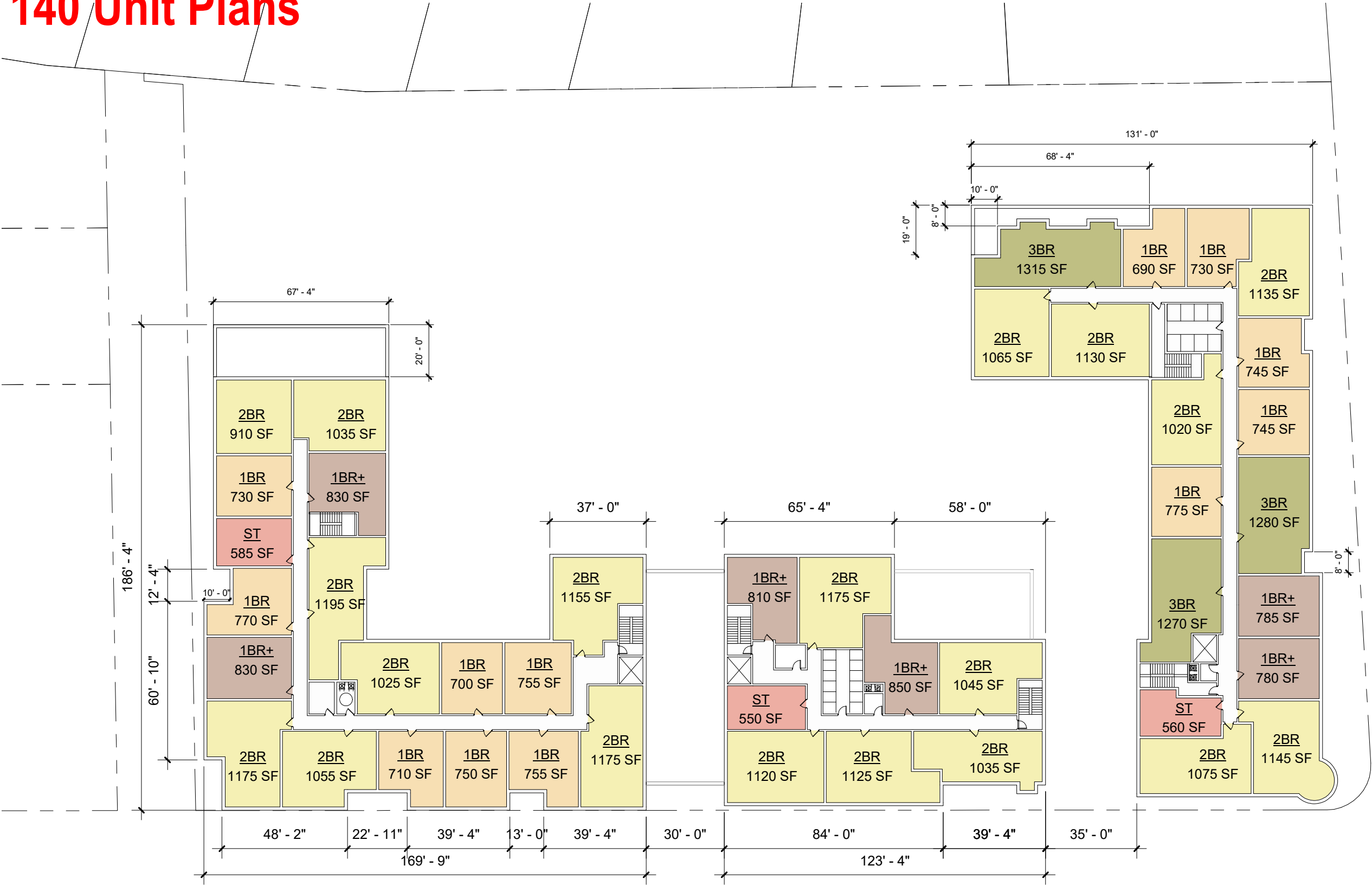
140 Unit Plans



140 Unit Plans



140 Unit Plans



140 Unit Plans

