McDERMOTT QUILTY & MILLER LLP

28 STATE STREET, SUITE 802 BOSTON, MA 02109 30 ROWES WHARF, SUITE 600 BOSTON, MA 02110

April 6, 2018

VIA HAND DELIVERY & ELECTRONIC MAIL (gary.j.webster@boston.gov)

Brian Golden, Director Boston Planning and Development Agency Boston City Hall, 9th Floor Boston, MA 02201 Attn: Gary Webster

RE: 77-81 Terrace Street, Mission Hill, Boston, MA

Notice of Project Change ("NPC")

Dear Director Golden:

Our office continues to represent Mission Hill Living, LLC (the "<u>Proponent</u>"), the owner and developer of land located at 77-81 Terrace Street in the Mission Hill neighborhood of Boston (the "<u>Premises</u>"), as it pertains to the above-referenced matter. The Proponent acquired the Premises and related permits to the project, as hereinafter defined, in 2014.

Prior Approvals and Project Background

On February 13, 2014, the Boston Redevelopment Authority ("BRA") authorized the issuance of a Certificate of Approval for the development pursuant to Article 80E (Small Project Review). A copy of the Board Memorandum and Vote is attached hereto. Pursuant to the Board Memorandum, the project proposed to construct a new three (3) story mixed-use building of approximately 47,069 square feet and approximately 35 feet high, including 44 residential units, two (2) ground floor commercial spaces, and 30 onsite parking spaces in order to revitalize a vacant and environmentally contaminated site at the Premises (the "Project"). The Premises is approximately 59,286 square feet of land on 11 contiguous parcels known and numbered from 778 to 796 Park Street and 77 Terrace Street, which was awarded to the Proponent through the Department of Neighborhood Development's public bidding process, as part of the City's E+Green Building Program. As originally approved, ten (10) of the 44 units were to be designated affordable, exceeding the City of Boston's Inclusionary Development Policy ("IDP").

77-81 Terrace Street – Notice of Project Change April 6, 2018 Page 2 of 3

Additionally, on March 11, 2014, the Boson Zoning Board of Appeal ("Board") granted the necessary relief and approvals for the Project with the Board's Zoning Decision signed on April 22, 2014, and entered into the public record with the Inspectional Services Department ("ISD") on May 13, 2014. A copy of the Zoning Decision is attached.

Subsequent to the Zoning Decision being entered in with ISD, abutters to the Premises filed an appeal with the Suffolk Superior Court on May 30, 2014, with the subject appeal docketed as 14 PS 488389 Brookins, et al. v. The Boston Zoning Commission, et al. CUTLER (the "Abutter Appeal"). The Abutter Appeal case was subsequently transferred via Final Order of Transfer to the Land Court Department of the Trial Court on November 18, 2014. A trial was held on December 15 and 16, 2015, and the Land Court took the matter under advisement on February 22, 2016. By decision dated October 18, 2016, the Court entered in final judgment in favor of the Proponent and dismissed the Abutter Appeal; this resulted in an ultimate resolution of the matter on March 8, 2017, when a final Motion to Dismiss Appeal was entered by the Land Court.

As a result of the almost three (3) years it took to adjudicate the Abutter Appeal in the court system, the Proponent was legally prevented from taking any action with regards to the Project and experienced severe economic hardships as a result, which in turn necessitated the subject Project revisions detailed below and the instant Notice of Project Change.

Notice of Project Change – April 2018

The Proponent now proposes changes to the Project approved by the BRA and ZBA in 2014. The changes which this NPC seeks approval of are as follows, however, the initial vision and benefits of the Project remain intact, including participation in the City's E+ Green Building Program, inclusion of community roof gardens and LEED Platinum compliance.

Changes to Units Size and Classification

	Originally Approved	Proposed
Commercial Space:		
Number	2	3
Square Feet	4124 sf	5690 sf
Residential Units		
Number	44	60
Bedrooms	64	75
Square feet	42,580 sf	43,844 sf
Ownership/Rental	Rental	Rental
Parking		
Car	30	33
Bike	82	82

77-81 Terrace Street – Notice of Project Change April 6, 2018 Page 3 of 3

The proposed changes are the result of the following:

Changes to building Layout

The layout of the building has been modified to accommodate an increase of 16 units with only a slight increase in square footage of the Project. This has been achieved by converting a significant number of two story townhouse units to one story flats and by creating a more efficient organization of units. The common green spaces that were a key aspect of the design remain preserved. These include a community roof garden and solar array as well as five (5) large community courtyards from which residents access their units. The changes described herein are shown in the attached summary of the development program, floor plans, roof plan and revised elevation showing the size of the units as proposed by the NPC. The revised Project described herein remains under 50,000 gross square feet and therefore within Article 80 Small Project Review.

Thank you for your time and attention to this matter. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Joseph P. Hanley, Esq.

JPH/njz Enclosures

cc: Mission Hill Living, LLC

Yissel Guerrero, Mayor's Office of Neighborhood Services (via electronic mail only) Councilor Zakim (via electronic mail only)

EXHIBITS

BOARD APPROVED

MEMORANDUM

FEBRUARY 13, 2014

TO:

BOSTON REDEVELOPMENT AUTHORITY AND

BRIAN P. GOLDEN, ACTING DIRECTOR

FROM:

HEATHER CAMPISANO, DEPUTY DIRECTOR FOR DEVELOPMENT

REVIEW

TYLER NOROD, SENIOR PROJECT MANAGER

SUBJECT:

PARKER AND TERRACE STREET DEVELOPMENT, MISSION HILL

SUMMARY: This Memorandum requests that the Boston Redevelopment Authority ("BRA") authorize the Director to: (1) issue a Certification of Approval for the proposed development located at 778-796 Parker Street and 77 Terrace Street in Mission Hill (the "Proposed Project"), in accordance with Article 80E, Small Project Review of the Boston Zoning Code (the "Code"); (2) enter into an Affordable Rental Housing Agreement and Restriction in connection with the Proposed Project, (3) recommend approval to the ZBA of the zoning relief from for four (4) Variances in the 3F-3000 Residential Sub-District, two (2) Variances in the Local Industrial Sub-District and two (2) Variances for Miscellaneous Provisions, as requested by Sebastian Mariscal Studio (the "Proponent/ Developer") in its appeal in BZC - 33423; and (4) take any other action and execute any other agreements and documents that the Director deems appropriate and necessary in connection with the Proposed Project.

PROJECT SITE

The Proposed Project is located at 778-796 Parker Street and 77 Terrace Street in Mission Hill. The site is owned by the City of Boston and consists of eleven parcels totaling of 57,757 square feet (the "Project Site"). The uses in the immediate area are primarily residential with some local commercial uses located along Terrace Street. The Project Site is vacant land being used for community garden space and an art park. The Project Site also offers steep grade changes between Parker and Terrace Street providing unique challenges and opportunities for the Proposed Project.

The Project Site is an excellent location for Transit Oriented Development (TOD). The Project Site is within a short walking distance of the Longwood Medical Area and ample public transportation options including Orange and Green Line stations, multiple bus routes, and the Southwest Corridor Bike Path.

PROPOSED PROJECT

The Proposed Project comprises the construction of a new energy positive building consisting of approximately forty-four (44) residential units of which thirty-four (34) will be offered as market rate, while ten (10) units will be reserved as affordable housing. This unit make up will provide approximately twenty-nine percent (29%) of the Project's market rate units as affordable which is in excess of the Mayor's Executive Order requiring fifteen percent (15%) of the market rate units to be designated as affordable. The affordable units will be outlined in further detail below.

Given the excellent TOD nature of the Project Site, the Proponent has proposed to construct eighty-two (82) bicycle spaces along with 30 vehicular parking spaces that will be accessed along Terrace Street. The Project will offer storage space for each residential unit along with equipment areas. In addition, each unit has been designed around an outdoor space that helps create a unified indoor/outdoor experience and further erodes the perceived massing of the building. Below the residential space, approximately 4,124 square feet of retail space will help further activate Terrace Street.

The Proposed Project's unique massing is terraced into the hillside of the Project Site allowing for the Project to be hidden from view from Parker Street. Instead of a building, the view from Parker Street will largely be of green open space, including community gardens, flexible open space and photovoltaic panels laid out in rows. A series of courtyards will step down through the Project Site, providing dramatic passage between Parker and Terrace Streets while creating a new connection for pedestrians.

The estimated total development cost for the Proposed Project is approximately \$13 million.

DEVELOPMENT TEAM

The development team consists of:

Proponent & Developer/Designer:

Sebastian Mariscal Studio

Sebastian Mariscal

Legal Counsel:

McDermott, Quilty & Miller, LLP

Joseph Hanley

PUBLIC PROCESS

The Developer for this Project Site was designated through an extensive Request For Proposal ("RFP") process managed by the Department of Neighborhood Development ("DND"). The Developer was selected after the review of several other competing

proposals from other development teams. The Developer's proposal finished the RFP process receiving significant support from both the community and the DND.

On January 7, 2014, the Developer filed an Application for Small Project Review with the BRA. The BRA sponsored a public meeting on January 23, 2014 at 6:30 p.m., at the Tobin Community Center, located on 1481 Tremont Street in Mission Hill. The public comment period concluded on February 7, 2014.

The public meeting was advertised with the *Mission Hill Gazette*. In addition, the public meeting was posted on the BRA's calendar for the Mission Hill neighborhood and email list were notified through local state and city elected officials and local community groups such as Mission Hill Neighborhood Housing Services ("MHNHS"). The Developer has also conducted extensive outreach, made presentations and/or met with local elected officials, area and abutting residents, Mission Hill Neighborhood Housing Services and the Community Alliance of Mission Hill outside of the BRA sponsored public meeting.

AFFORDABLE HOUSING

The Inclusionary Development Program requires that the number of on-site affordable units shall not be less than 15% of the total number of market rate units. Ten (10) units within the Proposed Project will be created as affordable housing (the "Affordable Units") resulting in approximately twenty-nine percent (29%) of the market rate units being reserved as affordable.

Ten (10) of the units in the Proposed Project will be affordable to households earning up to 120% of the AMI based upon United States Department of Housing and Urban Development ("HUD") guidelines.

The sizes, AMI and locations for the Affordable Units are as follows:

Number of Bedrooms/Baths	Location of Affordable Unit	Percent of Median Income
1/1	A1-7	30%
1/1	A1-16	30%
1/1	A2-2	30%
2/1.5	B6-1	30%
1/1	A1-10	70%
1/1	A3-1	70%
2/1	B2-1	70%
1/1	A1-12	120%
1/1	A1-15	120%
2/1	B3a-2	120%

Rental prices and income limits will be adjusted according to HUD at the time of the initial rental of the Affordable Units.

The Affordable Rental Housing Agreement and Restriction ("ARHA") must be executed along with, or prior to, the issuance of the Certification of Approval for the Proposed Project. The Proponent must also submit an Affirmative Marketing Plan (the "Plan") to the Boston Fair Housing Commission and the BRA. Preference will be given to applicants who meet the following criteria, weighted in the order below:

- (1) Boston resident; and
- (2) Household size (a minimum of one (1) person per bedroom).

The Affordable Units will not be marketed prior to the submission and approval of the Plan. A deed restriction will be placed on the Affordable Units to maintain affordability for a total period of fifty (50) years (this includes thirty (30) years with a BRA option to extend for an additional period of twenty (20) years). The household income of any subsequent renter of the Affordable Units during this fifty (50) year period must fall within the applicable income limit for each Affordable Unit.

PUBLIC BENEFITS

The Proposed Project will result in an enhanced use of the site, more in keeping with the residential character of the surrounding area. The new construction proposed for the site will create ten (10) new affordable residential units which will be approximately four (3) more affordable units than required by City policy. The Proposed Project will be energy positive in its design with a projected energy surplus of twenty-one percent (21%). This will be achieved through sustainable design of the building including geothermal heating systems, water filtration systems and 14,500 square foot solar farm on the roof. The unique topography of the Project Site and the creative design of the Proposed Project will allow for no new visual impact from Parker Street. Instead of a new building, pedestrians along Parker Street will be exposed to green open space including community gardens. In addition, the Project Site is well situated to take advantage of its proximity to public transit and alternative means of transportation decreasing the Project's reliance on automobiles. As such, the Proposed Project will provide reduced parking at thirty (30) spaces and offer eighty-two (82) bicycle parking spaces.

ZONING

The Project Site is located within the 3F-3000 and LI districts as defined by the Code. As such, the Proposed Project will require Variances from the City of Boston Board of Appeal for certain use, dimensional, parking, loading and other violations.

RECOMMENDATIONS

The Proposed Project complies with the requirements set forth in Section 80E of the Code for Small Project Review. Therefore, staff recommends that the Director be authorized to: (1) issue a Certification of Approval for the Proposed Project at 778-796 Parker Street and 77 Terrace Street in Mission Hill; (2) enter into an Affordable Rental Housing Agreement and Restriction, and take any other action and execute any other agreements and documents that the Director deems appropriate and necessary in connection with the Proposed Project; (3) recommend approval to the ZBA of the zoning relief for four (4) Variances in the 3F-3000 Residential Sub-District, two (2) Variances in the Local Industrial Sub-District and two (2) Variances for Miscellaneous Provisions, as requested by the Developer in its appeal in BZC - 33423; and (4) take any other action and execute any other agreements and documents that the Director deems appropriate and necessary in connection with the Proposed Project.

Appropriate votes follow:

VOTED:

That the Director be, and hereby is, authorized to issue a Certification of Approval, approving the development at 778-796 Parker Street and 77 Terrace Street in Mission Hill (the "Proposed Project") by Sebastian Mariscal Studios (the "Developer") in accordance with the requirements of Small Project Review, Article 80E, of the Boston Zoning Code, subject to continuing design review by the Boston Redevelopment Authority; and

FURTHER

VOTED:

That the Director be, and hereby is, authorized to execute an Affordable Rental Housing Agreement and Restriction for the creation of ten (10) on-site Affordable Units and execute any other agreements and documents that the Director deems appropriate and necessary in connection with the Proposed Project.

FURTHER

VOTED:

In reference to eth City of Boston Board of Appeal case BZC- 33423, Sebastian Mariscal Studio, regarding the Project at 77-81 Terrace Street, Ward 10, Mission Hill, for four (4) Variances in the 3F-3000 Residential Sub-District, two (2) Variances in the Local Industrial Sub-District and two (2) Variances for Miscellaneous Provisions, all in the Mission Hill Neighborhood District; the Boston Redevelopment Authority recommends APPROVAL WITH PROVISO: that plans be submitted to the Authority for design review approval.



City of Boston Board of Appeal NOTICE OF DECISION CASE NO. BZC ³³⁴²³ PERMIT # ERT321725

Inspectional Services Department 1010 Massachusetts Avenue, 4th Floor PPEAL SUSTAINED Boston, MA 02118 WITH PROVISOS 617-635-4775

Members
Christine Araujo – Secretary
Bruce Bickerstaff
Mark Fortune
Peter Chin
Michael Monahan
Anthony Pisani, AIA
Robert Shortsleeve - Chairman

In reference to appeal of

Sebastian Mariscal Studio

concerning premises

77-81 Terrace Street, Ward 10

to vary the application of the Zoning Act, Ch. 665, Acts of 1956, as amended, in this specific case, I beg to advise that the petition has been granted.

Decision has been filed in the office of the Commissioner of the Inspectional Services Department. 1010 Massachusetts Avenue, fifth floor, Boston, MA 02118, and is open for public inspection. Date of entry of decision in the Inspectional Services Department was May 13, 2014

FOR THE BOARD OF APPEAL

Derric Small

Principal Administrative Assistant



OFFICE OF THE BOARD OF APPEAL

March 11, 2014 DATE

Decision of the Board of Appeal on the Appeal of

Sebastian Mariscal Studio

to vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

77-81 Terrace Street, Ward 10

in the following respect: Variance

Article(s): 59(59-7) 59(59-8: Lot Area for Additional Dwelling Unit, Usable Open Space & Front Yard (Other Side) 59(38-1) 58(58-3.9) Insufficient) 59(59-18) 59(59-19) 59(59-37: Off street parking & Off Street Loading Insufficient)

Erect a building for forty-four (44) residential units, retail space, and parking for thirty vehicle.

In his formal appeal, the Appellant states briefly in writing the grounds of and the reasons for his appeal from the refusal of the Building Commissioner, as set forth in papers on file numbered BZC-33423 and made a part of this record.

In conformity with the law, the Board mailed reasonable notice of the public hearing to the petitioner and to the owners of all property deemed by the Board to be affected thereby, as they appeared on the then most recent local tax lists, which notice of public hearing was duly advertised in a daily newspaper published in the City of Boston, namely:

THE BOSTON HERALD on Tuesday, February 18, 2014.

The Board took a view of the petitioner's land, examined its location, layout and other characteristics.

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA to render a recommendation to the Board, as prescribed in the Code.

After hearing all the facts and evidence presented at the public hearing held on Tuesday, March 11, 2014 and in accordance with notice and advertisement aforementioned, the Board finds as follows:

The Appellant appeals to be relieved of complying with the aforementioned section of the Boston Zoning Code, all as per Application for Permit # ERT321725 and dated Janury 23, 2014, and plans submitted to the Board at its hearing and now on file in the Building Department.



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 1 of 14

Decision of the Board of Appeal on the Appeal of

This appeal seeks permission to consolidate lots and construct a new building with forty-four (44) residential units, retail space and onsite parking for thirty (30) vehicles.

The reason for this appeal is to allow the Appellant, Sebastian Mariscal Studio, to revitalize this vacant and environmentally-contaminated property site in the Mission Hill neighborhood with a mixed-use residential and retail development that incorporates community gardening, local artists, affordability and significant energy/sustainability measures. The result is to provide 44 new units of much-needed housing with ground level retail, on-site parking and ample bicycle storage with an innovative development that features nearly as much open space as land area and little to no building height or massing at the residential section of the neighborhood. The appeal is necessary, as the requested relief requires Variances under the terms of the Boston Zoning Code (Zoning Code) as follows: Mission Hill Neighborhood District Residential Sub-District - Article 59, Section 7, Use/Basement Units Forbidden; Article 59, Section 8, Lot Area for Additional Dwelling Units Insufficient, Usable Open Space Insufficient and Front Yard Insufficient (Other Street - 59-38.1 and 58-38.9); Local Industrial Sub-District -Article 59, Section 18, Use/Multi-Family Dwellings Forbidden; Article 59, Section 19, Front Yard Insufficient (Other Street – 59-38.1 and 58-38.9); Miscellaneous Provisions – Article 59, Section 37, Off-Street Parking and Off-Street Loading Insufficient; and, Article 80, Section 80E-2, Small Project Review (applicability). In this regard, the Appellant specifically seeks, and by this decision is hereby granted, relief from the Zoning Code violations identified in the Building Commissioner's written denial letter dated February 5, 2014, and appealed by the Appellant on the same date.

By way of background, and as set forth in the written and oral testimony and



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 2 of 14

Decision of the Board of Appeal on the Appeal of

documentation submitted to the Board at the public hearing, the subject premises consists of approximately 59,286 square feet of vacant and environmentally-contaminated land on 11 contiguous parcels known and numbered from 778 to 796 Parker Street and 77 Terrace Street, Ward 10, Mission Hill; which lots are being consolidated herein with an address of 77-81 Terrace Street (the "Premises"). Owned by the City of Boston, the Premises is being awarded and conveyed to the Appellant through the Department of Neighborhood Development's public bidding process, as part of the City's E + Green Building Program for new building projects that generate more energy than they consume.

The Premises is divided into two separate Sub-Districts in the Mission Hill Neighborhood Zoning District, with ten (10) lots along Parker Street in a 3F-3000 Residential Sub-District and the remaining lot on Terrace Street in the Local Industrial Sub-District. The site also features a significant change in grade of approximately 35 feet from Terrace up to Parker Street. While the surrounding area along Parker Street is predominantly residential in character, the Terrace Street section of the neighborhood has become less industrial and more mixed-use residential, with the recent construction of over sixty (60) units of housing at the new Oliver Lofts building across the street from the Premises in the Local Industrial Sub-District. The immediate area is also in very close proximity to public transportation, including the MBTA's Roxbury Crossing subway station and along the Southwest Corridor public pathway system.

The Appellant proposes to revitalize this vacant and environmentally-contaminated property site with an innovative development that utilizes the significant topographical slope of the site to create a diverse and sustainable mixed-use residential and retail program, with certain energy-positive, affordability, open space and community programming amenities. In this regard, the Proposed Project will feature 44 new units of high-quality housing with 30 on-site vehicle parking spaces, 82 bicycle storage spaces and ground floor retail with local artist space in



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 3 of 14

Decision of the Board of Appeal on the Appeal of

a structure built into the steep grade of the site (the "Proposed Project"). A roof-top community garden with an abundance of open space and a solar energy farm will occupy the site area above the structure, with little to no height or massing impact from the residential section off Parker Street. The on-site parking is also accessed from Terrace Street, further mitigating any potential impacts on the residential section along Parker Street. As one of the City's first E + Green Building projects of this size, the Proposed Project will generate 21% more energy than it consumes; with onsite solar, geothermal and other sustainability measures. The Appellant is also exceeding the City's Inclusionary Zoning requirements for affordable housing, by creating ten (10) Affordable on-site units, resulting in over 20% of on-site affordability.

The Appellant submits that the Board should grant the requested relief for a number of compelling reasons summarized herein:

1. The relief requested is complimentary to the character of the surrounding neighborhood and consistent with planning.

The relief requested would merely allow the Appellant to improve this underunderutilized and environmentally-contaminated property site with a diverse and innovative mixed-use housing and retail development that compliments the surrounding community and is consistent with City's community planning goals.

First, the Appellant submits that the Proposed Project includes several unique aspects which render the grant of the requested relief appropriate under the circumstances. In this regard, the Appellant has utilized the unique topography of the site to mitigate and address neighborhood input on building height and massing impacts as well as the need for certain community programming. By building the new structure into the steep grade of the site, the Proposed Project presents little to no building height or massing along Parker Street. The result is to create a new



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 4 of 14

Decision of the Board of Appeal on the Appeal of

building which is less of a structure and more akin to a park along Parker Street, with community gardens and an arts center along Terrace Street. The on-site parking is also accessed from Terrace Street, further mitigating any potential impacts on the residential section along Parker Street, and the Appellant notes that the Proposed Project includes a building height and floor area ratio that is less than that required by the Zoning Code. Thus, the Board finds that the overall size and scale of the Proposed Project and its community programming amenities are consistent with the character of the surrounding neighborhood, and the subject relief would result in a significant improvement to the existing state of conditions at the Premises.

Second, the Appellant submits that the Proposed Project will further certain public policy and planning initiatives for sustainable building, affordable housing and transit-oriented development. As part of the City of Boston's E + Green Building program, the Proposed Project will achieve the highest level of LEED certification by the U.S Green Building Council; producing a net energy surplus of 21 percent through the use of geothermal and solar energy. The Appellant is also exceeding the City's Inclusionary Zoning guidelines for the creation of Affordable housing by allocating ten (10) units of Affordable housing on-site, resulting in over 20 percent affordability. The Proposed Project will also achieve an important public policy objective by providing a diverse mixed-use residential and retail development in close proximity to public transportation and along a major public bike path. To market its new development in an area known for easy public transportation and a culture of bicycle commuting, the Appellant has also integrated certain transit-oriented and sustainable development measures into the Proposed Project, including over 82 bicycle storage spaces and an electric car charging station in its onsite parking facility. Thus, the Board finds that the Proposed Project is consistent with the City's planning and public policy objectives for sustainable building, affordable housing and transit-oriented development.



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 5 of 14

Decision of the Board of Appeal on the Appeal of

2. The Proposed Project has been favorably received and extensively processed through Article 80E Small Project Review.

Beginning with the City of Boston Department of Neighborhood Development's public bidding process in September of 2013 and extending through the Article 80E Small Project Review process with the Boston Redevelopment Authority ("BRA"), the Proposed Project underwent extensive community and development review, resulting in significant neighborhood support. In particular, the Appellant conducted the following outreach activities and administrative process over the past six (6) months:

- Community presentations on the Proposed Project hosted by the Department of Neighborhood Development, both before and after the Appellant's award announcement;
- Neighborhood meetings and/or presentations to the Mission Hill Neighborhood Housing Services, Community Alliance of Mission Hill and Mission Hill Main Streets organization;
- Presented the Proposed Project at the official BRA-sponsored community meeting;
- Hosted site visits and conducted focus group meetings with local community gardeners and artists;
- Meetings with the Mission Hill Artist Collective and Mission Hill Bikes organization;
- Individual meetings and outreach with several abutters and area residents; and,
- Meetings with and presentations to all local elected officials, including then District City Councilor Ross and now District City Councilor Zakim, State Senator Chang-Diaz, State Representative Sanchez and the Mayor's Office of Neighborhood Services.

As a result of this extensive community and administrative process, the Appellant obtained significant community support, as follows:

 Supported by all major neighborhood interest groups in Mission Hill, including Mission Hill Neighborhood Housing Services, the Community Alliance of Mission Hill and the Mission Hill Main Streets program;



BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 6 of 14

Decision of the Board of Appeal on the Appeal of

- Favorably-received and supported by all local elected officials, including then District City Councilor Ross and now District City Councilor Zakim, State Senator Chang-Diaz, State Representative Sanchez and the Mayor's Office of neighborhood Services; and,
- Over 115 residents and community leaders offered support for the project by correspondence and/or support petition provided to the Board;

At the public hearing before the Board, representatives of the Boston Redevelopment Authority, Department of Neighborhood Development, Mayor's Office of Neighborhood Services, State Senator Chang-Diaz, District City Councilor Zakim and At-Large City Councilors Flaherty and Presley were recorded in favor of the relief requested, as were the Mission Hill Neighborhood Housing Services organization, Mission Hill Main Streets, the New England Regional Council of Carpenters and Local 103 of the International Brotherhood of Electrical Workers. The Board also received testimony in support by State Representative Sanchez and from numerous residents, community gardeners and local artists from the Mission Hill neighborhood. The Appellant also provided the Board with a signed neighborhood support petition and letters of support from over 115 Mission Hill residents and community leaders. Although two individuals spoke in opposition to the proposal at the hearing, the testimony of these individuals did not demonstrate to the Board that these parties would be aggrieved by a decision granting the requested relief. Rather, the Board finds that the extensive Article 80E Small Project Review process, coupled by the Appellant's extensive community outreach and overwhelming support are evidence that the requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning Code, and the granting of said relief is in the public interest.

3. The relief requested relief is consistent with the spirit and intent of the Boston Zoning Code for the requested Variances.



BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 7 of 14

Decision of the Board of Appeal on the Appeal of

The Appellant submits, and the Board finds that, for the reasons detailed herein and below, the Proposed Project complies with the applicable regulations for the issuance of the relief requested, and further that such relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning Code.

a) The Residential Uses: Multi-Family & Basement Units

First, the Appellant submits that the proposed Multi-Family Residential Use is appropriate for the site itself and consistent with the City's planning and policy goals for the revitalization of Terrace Street. Since the Premises is divided into two separate zoning Subdistricts, only that portion of the site along Terrace Street forbids the proposed Residential use. The zoning requirements for the remaining land area along Parker Street allow the proposed Multi-Family Use, and the Proposed Project is a comprehensive development for the entire site. Furthermore, the surrounding area along Terrace Street has become less industrial and more of a mixed-use residential community, including the recent construction of over 60 units of housing at the new Oliver Lofts building across the street from the Premises and also in the Local Industrial Sub-District. The retail program included in the Proposed Project is located on Terrace Street, as an Allowed Use in the Local Industrial Sub-District, and only a portion of the residential use occupies this section of the Sub-District. In support of the Appellant's proposed residential use and its consistency with planning for the area, the Board also received numerous letters of support, petitions and testimony at the public hearing from area residents, community leaders, local elected and appointed officials and major neighborhood interest groups. Thus, the Appellant submits and the Board finds that the proposed Residential use is complimentary to, and not negatively impactful on, the surrounding community.



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 8 of 14

Decision of the Board of Appeal on the Appeal of

Second, the Appellant submits that there are unique circumstances and mitigating design aspects which render the grant of relief for so-called Basement Units appropriate. In particular, the residential units included in the Proposed Project are not typical basement level units and, as such, do not present the same issues of concern with regard to egress, window openings, open space, ceiling height and the like. Since the structure itself is built into the steep grade of the site, however, the units are considered below grade and subject to interpretation as so-called Basement Units. Unlike typical basement level units, nearly all of the units in the Proposed Project include their own open space, with full window openings, ample light and ceiling height. This is accomplished by the innovative design of the structure, which includes several courtyards open to the community garden space above. Thus, the relief requested is reasonable and appropriate for the grant of the subject Variance.

Finally, the Appellant submits that there are circumstances and conditions peculiar to the premises but not to the neighborhood itself such that literal enforcement of the use regulations of the Zoning Code would deprive the Appellant of the reasonable use of the premises. Specifically, the unique topography of the project site, as well as certain zoning restrictions and environmental remediation conditions affecting the premises, make the requested relief necessary and appropriate for the reasonable re-use of the premises as proposed. Without the requested use Variances, a substantial hardship will be created which will prevent the successful development and preferred re-use of the premises. Furthermore, granting the requested relief for the Multi-Family residential uses is appropriate and reasonable considering the demonstrated need to improve the premises with an enhanced and vibrant re-use, as supported by area residents, community leaders, local elected and appointed officials and major neighborhood interest groups.



BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 9 of 14

Decision of the Board of Appeal on the Appeal of

b) The Dimensional Variances: Lot Area for Additional Units, Open Space & Front Yard (Residential Sub-District) & Front Yard (LI Sub-District).

The Appellant submits and that there are certain facts and unique circumstances which, upon further examination, render the grant of the relief requested dimensional Variances to be reasonable and acceptable, as detailed herein and below.

The Board notes that the intent and purpose of dimensional zoning requirements is to reasonably constrain the size and density of a building and to keep the structure and scope of uses in an appropriate scale with the surrounding neighborhood. In this case, both the specific location of the property site, which area along Terrace Street includes larger buildings of greater density than that proposed by the Appellant (including a recent development with over 60 units), and the unique scope of the project itself is appropriate for the issuance of the requested dimensional Variances.

First, with regard to the subject Variance for Insufficient Lot Area for Additional Dwelling Units, the Appellant submits that there are significant mitigating factors and unique circumstances with render the grant of the subject Variance appropriate and acceptable. This particular zoning violation relates to the fact that the property is divided into two separate zoning districts, and it is required only for the portion of the Premises located in the 3F-3000 Residential Sub-District. In utilizing the unique topography of the site, the Proposed Project seeks to combine all the parcels into one, with a single structure built into the steep grade of the overall property site. Once combined, and taken as a whole, the dimensional deviation for the number of total units based on the entire property site is appropriate in scale. Therefore, the Board finds that this particular dimensional zoning violation is de minimis, and the grant of relief is justified by the circumstances presented.



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 10 of 14

Decision of the Board of Appeal on the Appeal of

Second, the Appellant submits that the dimensional zoning violation for Insufficient Open Space is mitigated and addressed by the unique circumstances of the Proposed Project itself. In particular, the Proposed Project will include nearly as much open space as total lot area. Yet because the property site is divided into two separate zoning districts, a technical reading of the Zoning Code requires relief for Insufficient Open space in the 3F-3000 Residential Sub-District. Again, in utilizing the unique topography of the site, the Proposed Project seeks to combine all the parcels into one, with a single structure built into the steep grade of the overall property site. Once combined, and taken as a whole, the total amount of open space is nearly the same as the total combined lot area. Therefore, the Board finds that the abundant open space included in Proposed Project meets the spirit and intent of the zoning, and the grant of relief is justified by the circumstances presented.

Third, the Appellant submits that the subject Variances for Insufficient Front Yard in both the Local Industrial and 3F-4000 Residential Sub-Districts are mitigated by the unique circumstances of the site and Proposed Project. With regard to the Insufficient Front Yard in the 3F-4000 Residential Sub-District, this particular violation also relates to the fact that the property site is divided into two zoning sub-district. The Appellant notes, however, that the front yard at this section of the property merely abuts the contiguous lot of land in the combined site, and it does not have any actual frontage on a public way. Again, in utilizing the unique topography of the site, the Proposed Project seeks to combine all the parcels into one, with a single structure built into the steep grade of the overall property site. Above the structure at this part of the site is mostly open space, thereby presenting little if any set-back impacts above ground. Finally, the Appellant submits and the Board finds that Front Yard set-back in the Local Industrial Sub-District is appropriate for the Proposed Project, as the new building will front on Terrace Street



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 11 of 14

Decision of the Board of Appeal on the Appeal of

in general alignment with others on the Street. Thus, the Board finds that the grant of relief is appropriate under the circumstances.

c) The Off-Street Parking & Loading Variances

The Appellant submits and the Board finds that there are unique and mitigating circumstances which render the grant of the required Off-Street Parking and Loading Variances reasonable and appropriate.

several alternative modes of transportation providing practical, fast and effective access to numerous points in and outside the City of Boston. In this regard, the Premises is a short walking distance from the MBTA's Roxbury Crossing subway station and located along the Southwest Corridor's public bike path. To market its new development in an area known for easy public transportation and a culture of bicycle commuting, the Appellant has integrated certain transit-oriented and sustainable development measures into the Proposed Project, including over 82 bicycle storage spaces and an electric car charging station in its onsite parking facility. The Appellant will also manage the property with these and other transit-oriented and environmentally-friendly principals, in order to attract residents and visitors who do not exclusively rely upon motor vehicles as a primary means of transportation and, therefore, will lessen any potential impact on the neighborhood's parking issues. Combined with the 30 onsite parking spaces provided as part of the Proposed Project, the Appellant's transit-oriented development measures make the grant of relief acceptable under the circumstances.

The Appellant also submits that the creation of an Off-Street Loading facility is impractical and unwarranted for the small scale retail use associated with the Proposed Project. In order to mitigate residential impacts on Parker Street, the Appellant has designed the proposed



BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 12 of 14

Decision of the Board of Appeal on the Appeal of

project to direct traffic into the site from Terrace Street. The retail space is small in size and local in scope. As such, it is not expected to generate significant off-street loading demands, and the introduction of a loading facility in the limited space off Terrace Street is both impractical and unnecessary. Therefore, the Appellant submits and the Board finds that the grant of relief for this particular zoning violation is appropriate in this instance.

d) The Variance Standards

The Appellant also contends that there are circumstances and conditions peculiar to the premises but not to the neighborhood itself such that literal enforcement of the regulations would deprive the Appellant of reasonable use of the premises. The property site is underutilized and environmentally-contaminated. It also includes a challenging topographical grade, which might otherwise deter traditional redevelopment. In its current state, the property site is in need of environmental remediation. The practical effect of this contamination, and the challenge of the site's topography, is to limit much-needed improvement, thereby necessitating the dimensional Variances. As proposed by the Appellant and approved by this decision, the relief requested requires an appropriate and reasonable deviation from the subject dimensional violations which, taken together, render the grant of the relief appropriate.

Finally, the Appellant submits that literal enforcement of the regulations governing the Appeal herein would also prevent it from revitalizing this vacant and environmentally-contaminated property site with an innovative and sustainable development. The Proposed Project will provide forty-four (44) new units of high-quality housing, with a strong on-site affordability component, retail with local artist space and a roof-top community garden with an abundance of open space as one of the City's first E + Green Building projects of this size. Absent the relief granted herein, however, this environmentally-contaminated property will remain vacant and underutilized. Therefore, the subject premises are especially affected by the



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street BZC #33423 Hearing date: March 11, 2014 Permit #ERT321725 Page 13 of 14

Decision of the Board of Appeal on the Appeal of

circumstances above, and the Board finds that the relief granted will not substantially derogate from the intent or purpose of the Zoning Code, but will allow for the reasonable use of the property for a purpose substantially more in keeping with the nature of the surrounding community.

The Board of Appeal finds that all of the following conditions are met:

- (a) That there are special circumstances or conditions, fully described in the findings, applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness or shape of the lot, or exceptional topographical conditions thereof), which circumstances or conditions are peculiar to such land or structure but not the neighborhood, and that said circumstances or conditions are such that the application of the provisions of this Code would deprive the appellant of the reasonable use of such land or structure; and
- (b) That for reasons of practical difficulty and demonstrable and substantial hardship fully described in the findings, the granting of the variance is necessary for the reasonable use of the land or structure and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and
 - (c) That the granting of the variance will be in harmony with the general purposes and intent of this Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In determining its findings, the Board of Appeal has taken into account: (1) the number of persons residing or working upon such land or in such structure; (2) the character and use of adjoining lots and those in the neighborhood; and (3) traffic conditions in the neighborhood.

The Board is of the opinion that all conditions required for the granting of a Variance under Article 7, Section 7-3 of the Zoning Code have been met and that the varying of the terms of the



OFFICE OF THE BOARD OF APPEAL

77-81 Terrace Street
BZC #33423
Hearing date: March 11, 2014
Permit #ERT321725
Page 14 of 14

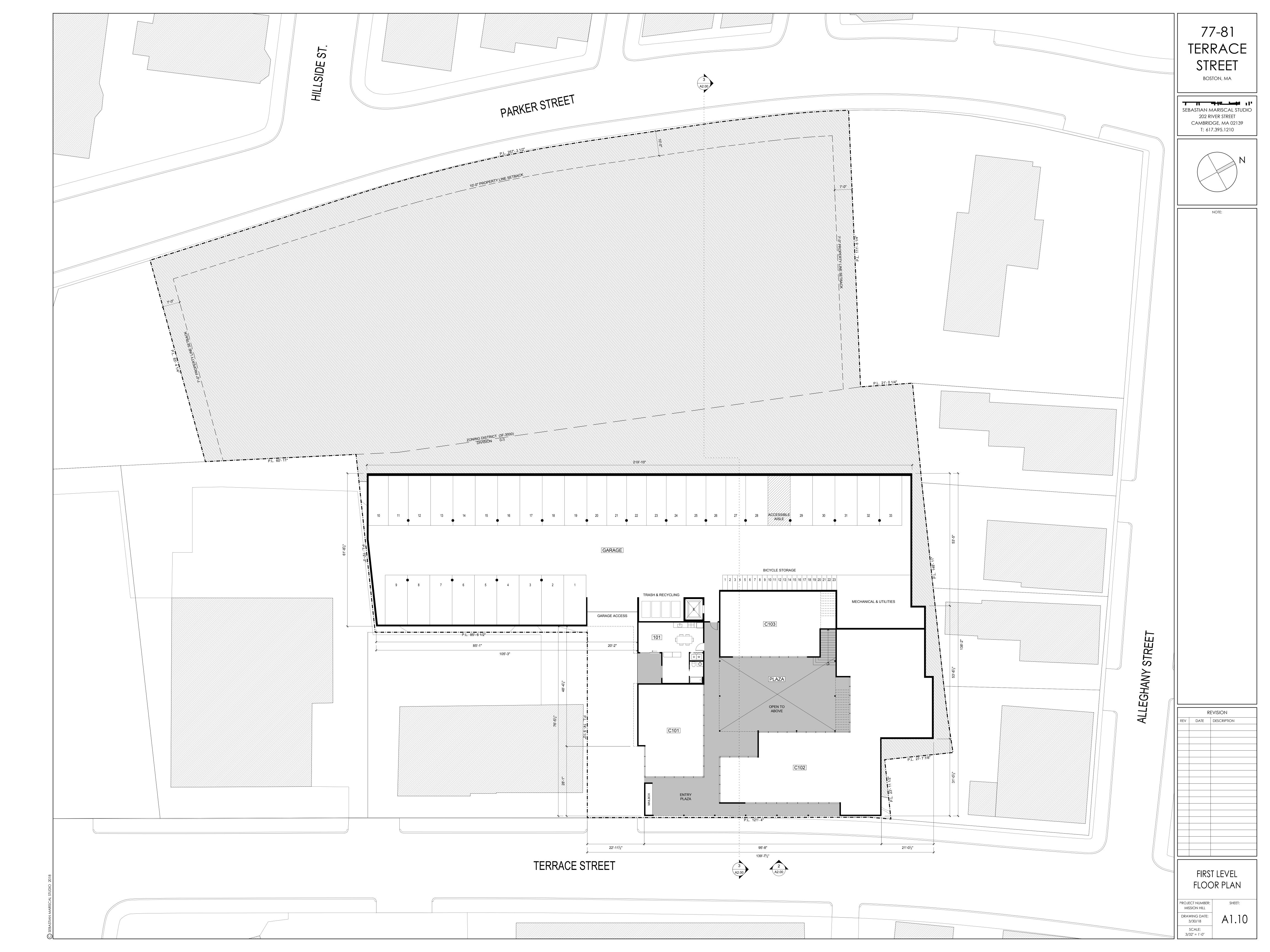
Decision of the Board of Appeal on the Appeal of

Zoning Code as outlined above will not conflict with the intent and spirit of the Zoning Code. Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) voted to grant the requested variance as described above, annuls the refusal of the Building Commissioner and orders him to grant a permit, in accordance with this decision with the following proviso(s) which if not complied will shall render this decision null and void.

APPROVED AS TO FORM

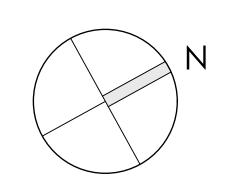
PROVISO: BRA design review

Assistant Corporation Counsel





SEBASTIAN MARISCAL STUDIO

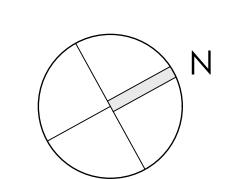


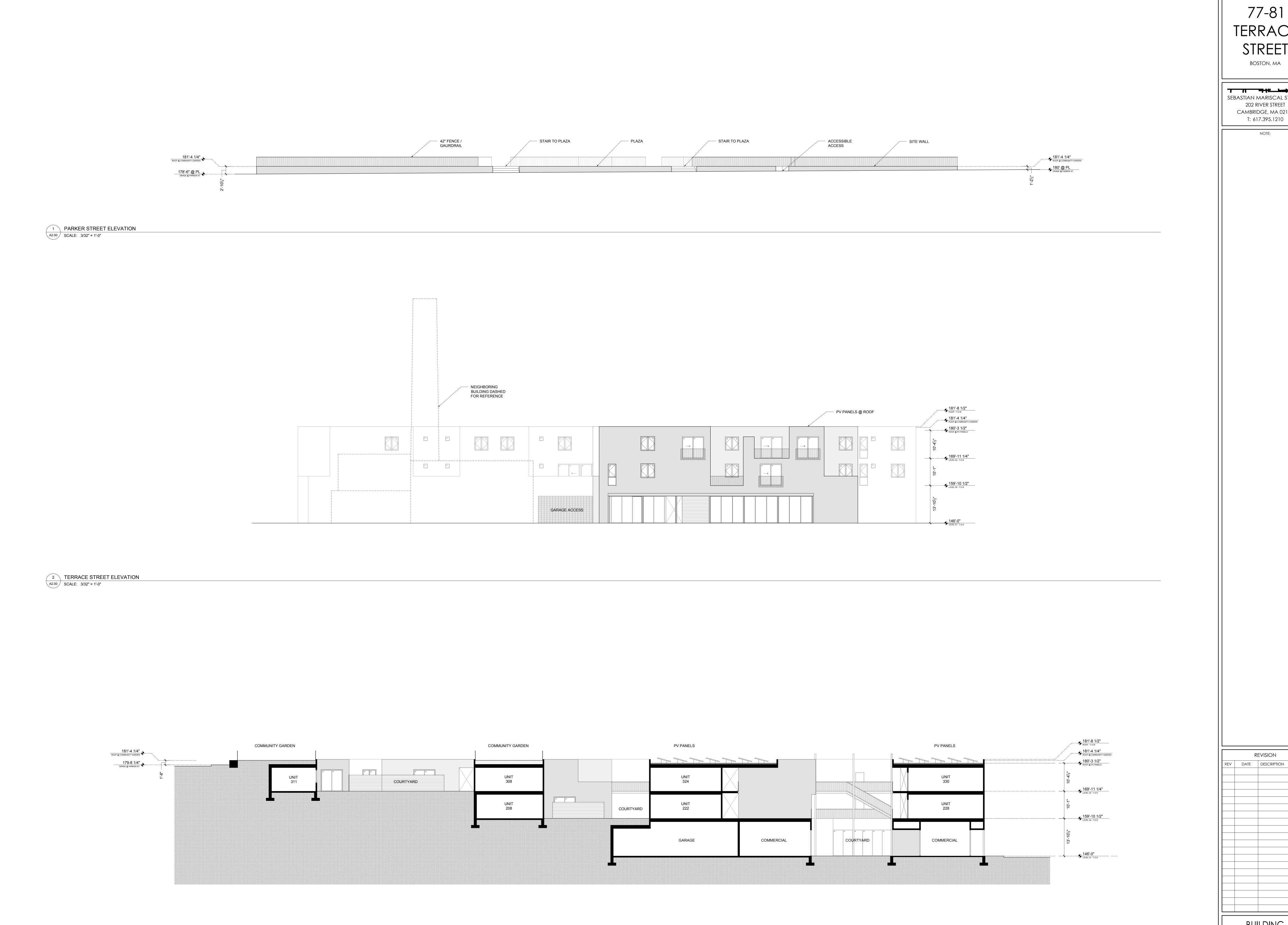
FLOOR PLAN





SEBASTIAN MARISCAL STUDIO





3 SECTION 1 A2.00 SCALE: 3/32" = 1'-0"

77-81 STREET

BOSTON, MA

SEBASTIAN MARISCAL STUDIO 202 RIVER STREET CAMBRIDGE, MA 02139

REVISION REV DATE DESCRIPTION

BUILDING **ELEVATIONS**

PROJECT NUMBER: MISSION HILL

DRAWING DATE: 3/30/18 SCALE: 3/32" = 1'-0"