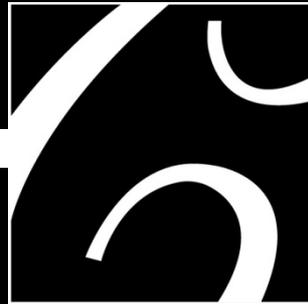


CARTER CONBOY

Attorneys & Counselors at Law



Downtown Walk

Area Variance – Renewal Request

May 22, 2016



WITT CONSTRUCTION, INC.

563 NORTH BROADWAY, SARATOGA SPRINGS, NY 12866

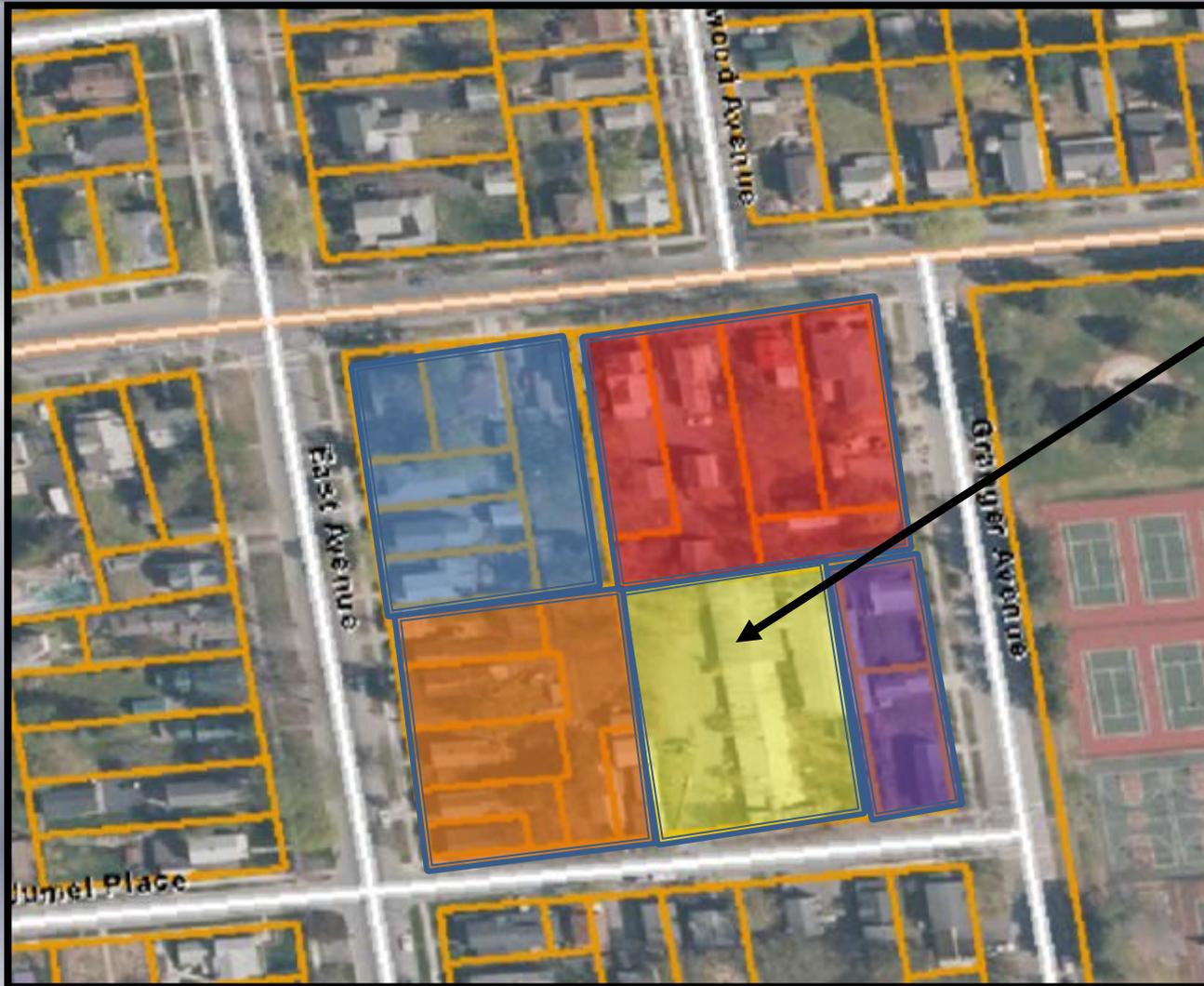
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Presented by:

Libby Coreno, Esq., Carter Conboy, PC

John Witt, ANW Holdings, LLC

Aerial View: 27 Jumel Place



Existing Neighborhood:
Granger/East/Jumel/Lake
City Block

- 21 lots total
- 27 Jumel (shown in yellow)
- 7 lots to the west (shown in orange) with 11 units
- 6 lots to the northwest (shown in blue) with 7 units
- 5 lots to the north (shown in red)
- 2 lots to the east (shown in purple)

Existing Site Condition

(North from Jumel Place)



Existing Site Condition



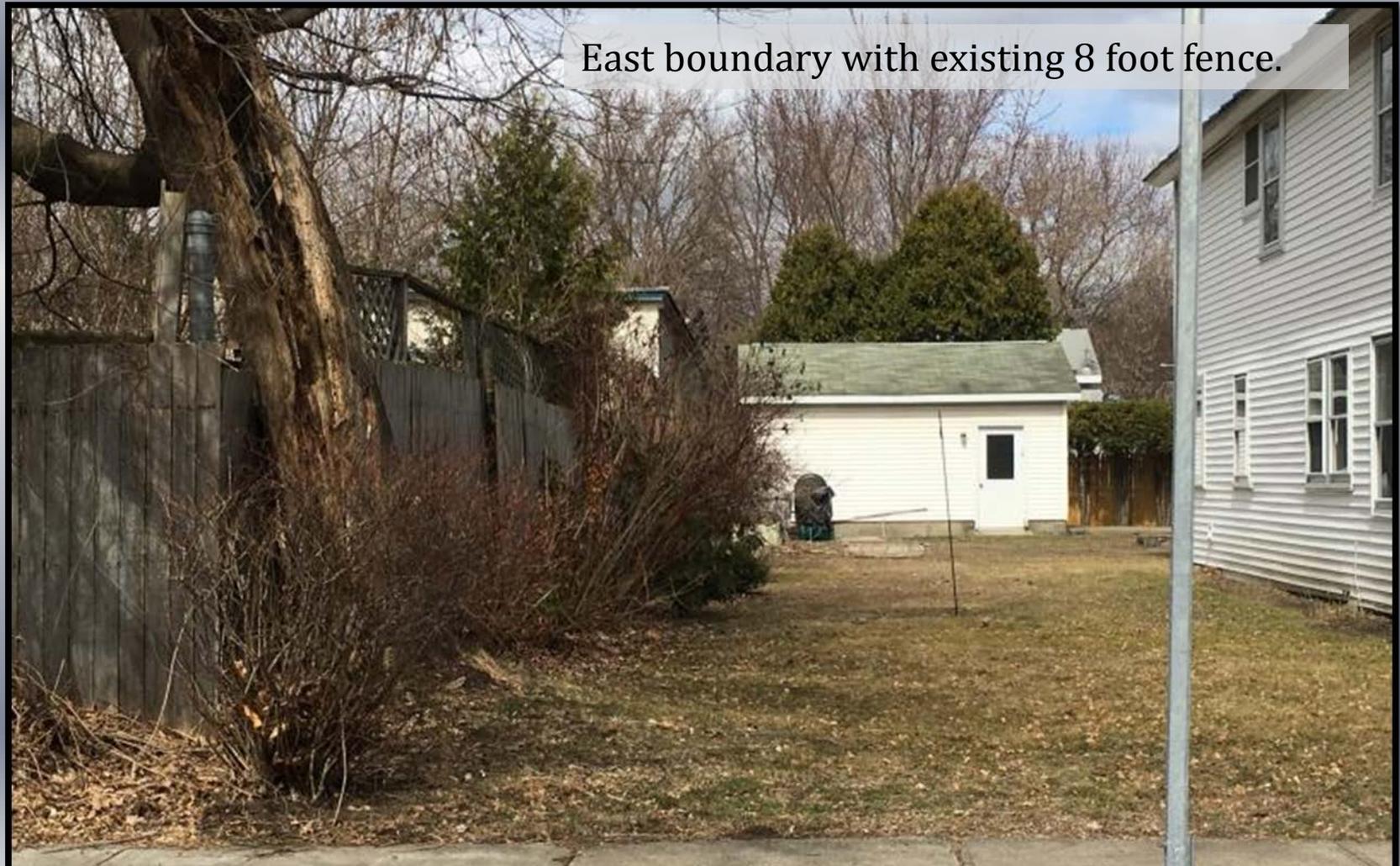
Existing Site Condition



Existing Site Condition



Existing Site Condition



Project History: Pre-2013

Date	Event
1924	Tarrant Manufacturing moves its operations from Ash and Federal Street to 27 Jumel Place. (Source: Troy Record, April 23, 1968)
1953	Unfavorable advisory opinion issued on rezoning request by Tarrant Manufacturing.
1957	Favorable advisory opinion issued on rezoning request by Tarrant Manufacturing.
1967	Tarrant Manufacturing moves from Jumel Place to a new plant on Excelsior Avenue. (Source: Troy Record, April 23, 1968)
1980	Area variance approved to construct loading dock to existing Adirondack Stihl building.
1996	Area variance approved for minimum front yard, side yard, rear yard and maximum building lot coverage. Use variance for ballet school and two apartments. Site plan approval for current configuration.
Until 2013	Non-conforming karate studio (Tenkara Karate-Do)

Downton Walk Concept Plan

DOWNTON WALK



Northern Approach

Proposed Project Aerial



Concept Rendering



Concept Rendering



Concept Rendering



2013 Area Variance Relief

Type of Relief	Required	Existing	Proposed	Total Relief
Maximum Principal Building Coverage	30%	49.4%	43.58%	13.58% (45%)
Maximum Principal Buildings	1	1	7	6 (600%)
Minimum Front Yard Setback for 2 units on Jumel Place	10 ft	1 ft	5 ft	5 ft (50%)
Minimum Rear Yard Setback for 2 units located at the rear	25 ft	.7	6	19 ft (76%)

Condition: All prior variances are discontinued

2013 Area Variance Findings

Area Variance Test	2013 Findings
Whether the benefit can be achieved by other feasible means?	<ul style="list-style-type: none"> • Several prior applications for redevelopment have been unsuccessful • Current structure, use and variances not conducive to residential neighborhood • Existing site has unique non-conforming elements • Evidence of previous economically unfeasible redevelopment proposals • Lesser number of units is not economically feasible • Proposal is the “best economically feasible use as shown on the proposed site plan.”
Whether the variance will create an undesirable change in the neighborhood character?	<ul style="list-style-type: none"> • Positive impact in removal of non-conforming structure • Project substantially conforms to the UR-3 residential zone • Removal of a varied use/illegal use • Favorable Planning Board advisory opinion (Scale and density compatible)
Whether the relief requested is substantial?	<ul style="list-style-type: none"> • Yes – relief is substantial • Mitigated by: (i) removal of non-conforming structure; (ii) maximum density is 8 units and project requests 7; (iii) demonstrated need for access for parking and service vehicles; and (iv) setbacks will increase from existing structure
Whether the relief will have an adverse impact on the physical environment?	<ul style="list-style-type: none"> • Reduce traffic and noise (positive impact) • Improve overall neighborhood • Increase in permeability
Is the requested relief self-created?	<ul style="list-style-type: none"> • Yes but that is not fatal to the application and it is outweighed by the installation of a use and structures more in conformance with the neighborhood than currently exists.

2014 Area Variances

Type of Relief	Required	1 st Approval (10/28/13)	2 nd Approval (5/1/14)	Total Relief granted by prior approvals
Maximum Building Coverage	30%	43.5%	46%	53%
Minimum Front Yard (2 units on Jumel for front stoops only)	10 ft	5 ft	1 ft	90%
Maximum Fence Height	6 ft	Not Applicable	8 ft	2 ft (33%)
Minimum Principle Building	1	7	No change	6 (600%)
Minimum Rear Yard	25 ft	6 ft	No change	19 ft (76%)

Condition: All prior variances are discontinued; minimum front yard for front stoops and stairways on Jumel only; no fence along Jumel or beyond front foundation line along Jumel.

2014 Area Variance Findings

Area Variance Test	2014 Findings
Whether the benefit can be achieved by other feasible means?	<ul style="list-style-type: none"> • Cited prior precedent of 2013. • Additional relief from minimum front yard did not alter rationale and findings. • Fence height would increase the benefit of privacy in the neighborhood which cannot be achieved by another method.
Whether the variance will create an undesirable change in the neighborhood character or a detriment to nearby properties?	<ul style="list-style-type: none"> • Cited prior precedent of 2013. • Reiterated positive improvement to neighborhood. • Fence would increase character of neighborhood
Whether the relief requested is substantial?	<ul style="list-style-type: none"> • Yes – relief is substantial • Mitigated by benefit of privacy fencing.
Whether the relief will have an adverse impact on the physical environment?	<ul style="list-style-type: none"> • Cited prior precedent of 2013. • Beneficial impact on property • Nothing about the additional relief changes the original findings. • Fence would not be an adverse impact on neighborhood.
Is the requested relief self-created?	<ul style="list-style-type: none"> • Yes but that is not fatal to the application.

2016 Application for Renewal of Area Variances

- ANW Holdings has a contract to purchase 27 Jumel Place
- Estate proceedings delayed the owner's ability to transfer title
- Variances from 2013 and 2014 expired per City Code (18 month maximum)
- Required to request renewal of variances
- No project changes

Legal Review Standard: Renewal of Variances

Whether the record demonstrates a material change in the project sufficient for the ZBA to deviate from its prior precedential findings?

American Red Cross, Thompkins County Chapter v. Board of Zoning Appeals of the City of Ithaca, 161 A.D.2d 878 (3d Dep't 1990).

2016: Renewal Request for Area Variances

Type of Relief	Required	1 st Approval (10/28/13)	2 nd Approval (5/1/14)	Total Relief granted by prior approvals	2016 Request
Maximum Building Coverage	30%	43.5%	46%	53%	No change
Minimum Front Yard (2 units on Jumel for front stoops only)	10 ft	5 ft	1 ft	90%	No change
Maximum Fence Height	6 ft	Not Applicable	8 ft	2 ft (33%)	No change
Minimum Principle Building	1	7	No change	6 (600%)	No change
Minimum Rear Yard	25 ft	6 ft	No change	19 ft (76%)	No change

Cost of Land & Development for Project

Land Acquisition & Development Costs – 2013 to 2016			
Cost Item	2013	2016	Difference
Land Purchase	\$370,000	\$370,000	n/a
Professional Fees	23,000	60,000	\$37,000
Interest	42,000	45,000	3,000
Taxes	20,000	20,800	800
Soil Testing	11,700	12,500	800
Construction (water line)	60,000	212,000	152,000
Dirt (Fill)	21,000	22,000	1,000
Demo and Asbestos Removal	155,000	165,850	10,850
Lot Clearing	10,000	10,700	700
Silt Fencing	6,000	6,500	500
Electric Lines (x2)	24,000	48,000	24,000
Trees	12,000	12,800	800
Administrative Cost	*75,000	100,000	25,000
Sub-total	\$829,700	\$1,086,150	\$256,450
Reasonable Return for Risk	20%	20%	
TOTAL ACQUISITION AND LAND DEVELOPMENT COSTS	\$995,640	\$1,303,380	Increase of 31%

* Unreported in 2013

Carter Conboy, PC - Libby Coreno, Esq.

Price of Homes: 2013 to present

Number of Units	% of Land to Home Cost	Land Cost per Unit - 2013	Min Average Home Price -2013	Land Cost Per Unit -2016	Min Average Home Price -2016
7 units	20%	\$129,377	\$646,885	\$186,197	\$930,000
6 Units	20%	\$150,940	\$754,700	\$217,230	\$1.08M
5 units	20%	\$181,128	\$905,640	\$260,676	\$1.3M
3 units	20%	\$301,880	\$1.5M	\$434,460	\$2.18M
2 units	20%	\$452,820	\$2.2M	\$651,690	\$3.25M

- Average home prices not supported by the market
- Project remains practical and feasible at 7 units only as stated in 2013 and 2014
- Homes will be offered at staggered price points from \$585,000 to \$1.2M (Ex C of Applicat

2013 Lot Coverage Detail



Estimated lot coverage: 43.5%

Estimated Permeability: 40.6%

Estimated Non-Permeability: 59.4%

Minimum Permeability: 34% (application)

Minimum Permeability per Code: 25%

Fence Detail: Response to Comment



Estimated Height Detail: Response to Comment

Ridge

House 1

33'-6"

House 2

27'

House 3

27'

House 4

32'

House 5

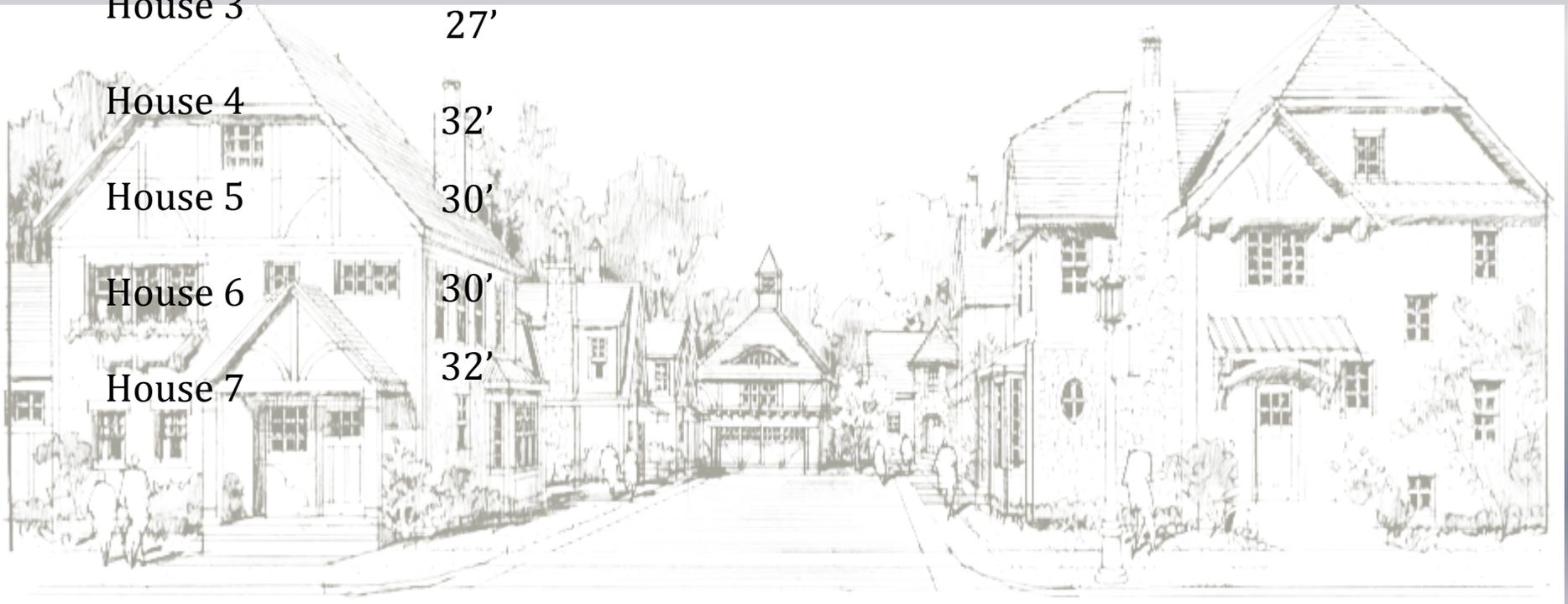
30'

House 6

30'

House 7

32'



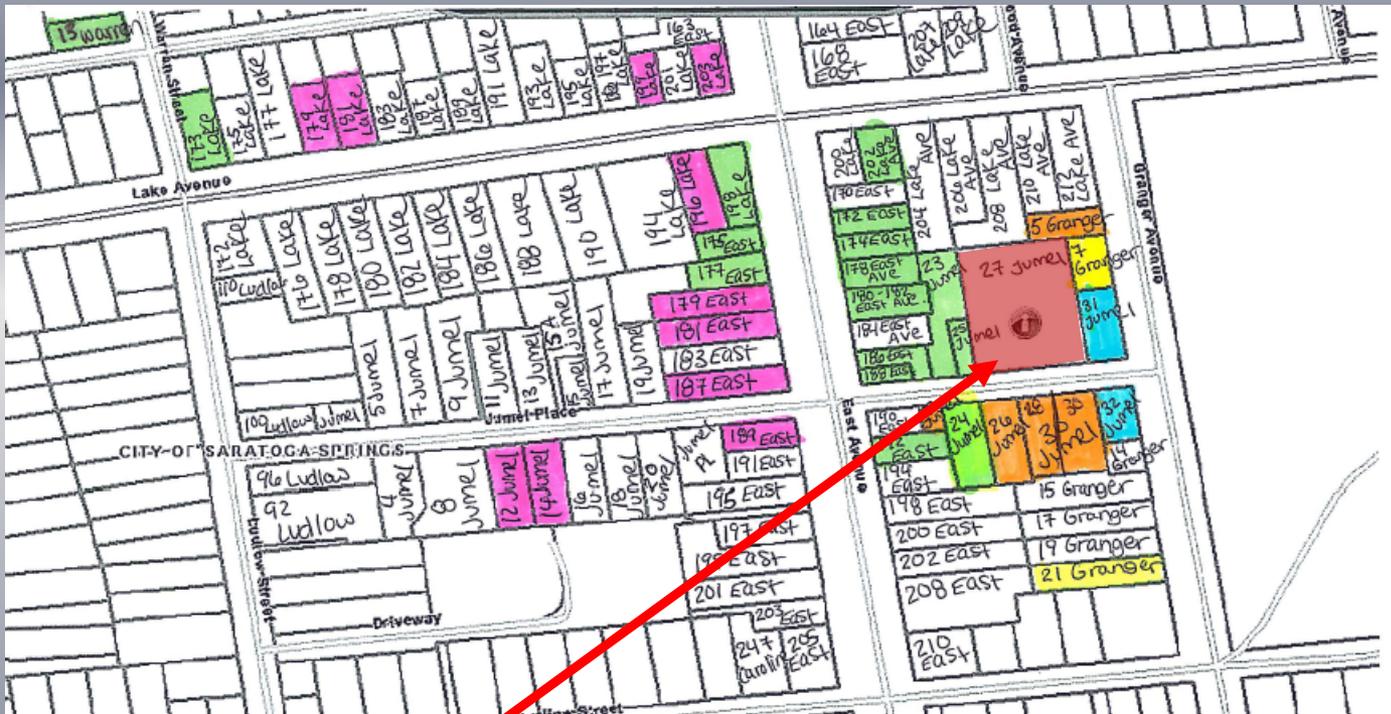
Precedent and Continued Project Merit

1. No material change in the project since the 2013 and 2014 relief was granted.
2. ANW has demonstrated that all factual findings upon which the Board relied in 2013 and 2014 remain constant.
 - Specifically, the development and acquisition costs to average home price ratio (20%) remains constant.
3. As a result, Downton Walk continues to demonstrate its entitlement to the area variance relief granted in 2013 and 2014.

Response to Third-Party Objection

1. Feasible Alternative: ANW has continuously maintained that the project is **not feasible** at any number of units less than 7. No evidence has been proffered which contradicts ANW's previous presentation of alternatives or the Board's findings.
 - Specifically, the risk is too great that 6 or less homes priced above \$1M is beyond market and represents an unacceptable risk to ANW because (1) the units **will not sell at that price point** and (2) there is **no profit**.
2. Multiple Alternatives: The Board has relied upon not only ANW assertions but evidence of numerous other redevelopment alternatives which were **equally found not to**

Downtown Walk: 34 Neighbors in Support of the Project

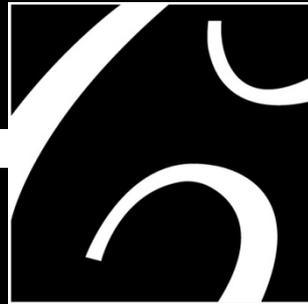


27 Jumel Place

- 15 Support letters
3/8/16
- 4 Support letter
3/10/16
- 11 Support letter
3/17/16
- 2 Support letter
3/15/15
- 2 Support but no signed letter

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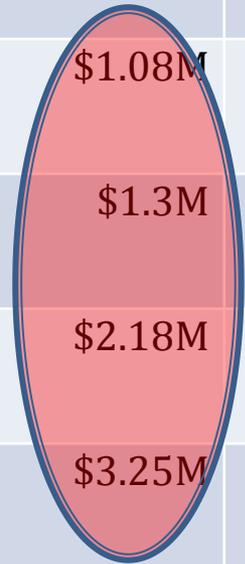
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John Witt, ANW Holdings, LLC

Revised Price of Homes: 2013 to present

Number of Units	% of Land to Home Cost	Land Cost per Unit - 2013	Min Average Home Price -2013	Land Cost Per Unit - 2016	Min Average Home Price -2016	Ratio of Increase in Min Avg Home Price
7 units	20%	\$142,234	\$711,170	\$186,197	\$930,000	31%
6 Units	20%	\$165,940	\$829,700	\$217,230	\$1.08M	31%
5 units	20%	\$199,128	\$995,640	\$260,676	\$1.3M	31%
3 units	20%	\$331,880	\$1.66M	\$434,460	\$2.18M	31%
2 units	20%	\$497,820	\$2.49M	\$651,690	\$3.25M	31%



- Average home prices not supported by the market
- Project remains practical and feasible at 7 units only as stated in 2013 and 2014
- Homes will be offered at staggered price points from \$585,000 to \$1.2M (Ex C of Application)