REGULAR MEETING* BOARD OF ADJUSTMENT EILEEN DONDERO FOLEY COUNCIL CHAMBERS MUNICIPAL COMPLEX, 1 JUNKINS AVENUE PORTSMOUTH, NEW HAMPSHIRE

Members of the public also have the option to join the meeting over Zoom (See below for more details)*

7:00 P.M.

May 16, 2023

AGENDA

<u>PLEASE NOTE</u>: DUE TO THE LARGE VOLUME OF AGENDA ITEMS SCHEDULED FOR May 16, 2023, THE BOARD WILL BE VOTING TO POSTPONE CONSIDERATION OF NEW BUSINESS ITEMS (III.) C. THROUGH J. TO THE MAY 23, 2023 BOARD OF ADJUSMENT MEETING.

I. APPROVAL OF MINUTES

- A. Approval of the April 18, 2023 minutes.
- B. Approval of the May 2, 2023 minutes.

II. OLD BUSINESS

- A. The request of 635 Sagamore Development LLC (Owner), for property located at 635 Sagamore Avenue whereas relief is needed to remove existing structures and construct 4 single family dwellings which requires the following: 1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required. Said property is located on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. (LU-22-209)
- **B.** The request of **Jared J Saulnier (Owner)**, for property located at **4 Sylvester Street** whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required.

Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. (LU-23-27)

C. The request of Cynthia Austin Smith and Peter (Owners), for property located at 9 Kent Street whereas relief is needed to demolish the existing two-family and construct a single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 5,000 square feet where 7,500 square feet is required for each; b) 53% building coverage where 25% is the maximum allowed; c) a 4.5 foot rear yard where 20' is required; d) a 0.5 foot side yard where 10 feet is required; e) a 0 foot front yard where 11 feet is allowed under Section 10.516.10; and f) a 9.5 foot secondary front yard where 13 feet is allowed under Section 10.516.10. 2) A Variance from Section 10.515.14 to allow a 1.5 foot setback for a mechanical unit where 10 feet is required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. (LU-23-28)

III. NEW BUSINESS

- A. The request of Angela Davis and Katherine Nolte (Owners), for property located at 276 Aldrich Road whereas relief is needed to construct a 5 foot by 4 foot landing which requires the following: 1) Variance from Section 10.521 to allow a) 3 foot secondary front yard where 30 feet is required; and b) 35% building coverage where 20% is allowed. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 116 Lot 14 and lies within the Single Residence B (SRB) District. (LU-23-29)
- B. Petition of Salem Manufactured Homes, LLC, for Appeal of an Administrative Decision to require a variance for the expansion of a non-conforming structure in accordance with Section 10.321 if the Zoning Ordinance for property located at 210 Oriental Gardens. Said property is located on Assessor Map 215 Lot 9-21 and lies within the Gateway Corridor (G1) District. (LU-23-43)

THE BOARD WILL BE VOTING TO POSTPONE CONSIDERATION OF THE FOLLOWING ITEMS TO THE MAY 23, 2023 BOARD OF ADJUSMENT MEETING.

C. The request of Peter Gamble (Owner), for property located at 170 Aldrich Road whereas relief is needed to demolish the existing garage and construct a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is

allowed. Said property is located on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. (LU-23-47)

- **D.** The request of **Shawn Bardong** and **Michiyo Bardong (Owner)**, for property located at **39 Dearborn Street** whereas relief is needed to demolish the existing shed and construct a two-story addition which requires the following: 1) Variance from Section 10.521 to allow a) 5 foot front yard where 15 feet is required; and b) 2 foot right side yard where 10 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 140 Lot 3 and lies within the General Residence A (GRA) and Historic District. (LU-23-5)
- E. The request of Thomas Rooney (Owner), for property located at 29 Spring Street whereas relief is needed to install two mechanical units in the rear of the primary structure which require the following 1) Variance from Section 10.515.14 to allow a) 7-foot side yard where 10 feet is required; and b) 4 foot rear yard where 10 is required. Said property is located on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. (LU-23-55)

*Please note the original notice had an error. The mechanical units are proposed to be located in the rear of the primary structure not the garage as previously advertised. *

- F. The request of Scott Day and Marta Day (Owners), for property located at 18 Walden Street whereas relief is needed to install a mechanical unit which requires a variance from Section 10.515.14 to allow a) 4 foot side yard where 10 feet is required; and b) 2 foot front yard where 10 feet is required. Said property is located on Assessor Map 101 Lot 20 and lies within the General Residence B (GRB) and Historic District. (LU-23-52)
- G. The request of The Islamic Society of the Seacoast Area ASSA (Owner), and Chinburg Development, LLC (Applicant), for property located at 686 Maplewood Avenue whereas relief is needed to construct four (4) duplexes and one (1) single living unit to create a total of nine (9) living units which requires the following: 1) Variance from Section 10.440, Use # 1.30 to permit four (4) two-family unit structures where they are not permitted, 2) Variance from Section10.513 to permit five (5) free standing buildings with dwellings where not more than one is permitted, 3) Variance from Section 10.520 to allow a) 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required; and b) 47 feet of frontage where 100 feet is required. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District. (LU-23-57)

- H. The request of Carl Krukoff (Owner), for property located at 3360 Lafayette Road whereas relief is needed to convert a two bay garage into a third living unit which requires the following: 1) Variance from 10.521 to allow 8,002.5 square feet per dwelling unit where 15,000 square feet is required, 2) Variance from 10.331 to allow a non-conforming use to be extended or enlarged without conforming to the requirements of the Zoning Ordinance, 3) Variance from section 10.440 Use #1.51 to allow three (3) dwelling units where one (1) is permitted. Said property is located on Assessor Map 297 Lot 12 and lies within the Single Residence B (SRB) District. (LU-23-59)
- I. The request of John Heath and Michael Meserve (Owner), for property located at 955 Woodbury Avenue whereas relief is needed to construct a shed which requires a Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal building. Said property is located on Assessor Map 219 Lot 33 and lies within the Single Residence B (SRB) District. (LU-23-56)
- J. The request of Shantar Zuidema and Abby Zuidema (Owners), for property located at 126 Burkitt Street whereas relief is needed to demolish the existing 10 foot by 16 foot deck and replace with a 6 foot by 4 foot enclosed porch which requires the following: 1) Variance from Section 10.521 to allow a 6 foot right side yard where 10 feet is required, and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 159 Lot 28 and lies within the General Residence A (GRA) District. (LU-23-61)

IV. OTHER BUSINESS

V. ADJOURNMENT

*Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://us06web.zoom.us/webinar/register/WN_DChAk-yORhmuQHsdWO9HUQ

MINUTES OF THE BOARD OF ADJUSTMENT MEETING CONFERENCE ROOM A MUNICIPAL COMPLEX, 1 JUNKINS AVENUE PORTSMOUTH, NEW HAMPSHIRE			
7:00 P.M.	April 18, 2023		
MEMBERS PRESENT:	Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; Paul Mannle; Thomas Rossi; David Rheaume; Jeffrey Mattson; Jody Record, Alternate; ML Geffert, Alternate		
MEMBERS EXCUSED:	None.		
ALSO PRESENT:	Stefanie Casella, Planning Department		

Vice-Chair Margeson moved to split the agenda into two meetings. (Old Business item II. G and all New Business Items moved to the second meeting on May 2, 2023 and Old Business item II. H moved to the May 16 meeting). Mr. Mannle seconded. The motion passed unanimously.

Chair Eldridge noted it was suggested that the second meeting take place on May 2 instead of the following week due to several members that would be absent.

Chair Eldridge welcomed the two new alternates, Jody Record and M. L. Geffert. She said Mr. MacDonald resigned and that Mr. Mattson was a regular board member.

Vice-Chair Margeson moved to suspend the rules to take items out of order for postponements, seconded by Mr. Mannle. The motion passed unanimously, 7-0.

Mr. Mannle moved to **postpone** *Old Business Item G, 4 Sylvester Street, to the May 2 meeting. Mr. Rossi seconded. The motion* **passed** *unanimously, 7-0.*

Per the request of the applicant's representative Attorney Tim Phoenix, Mr. Mannle moved to **postpone** Old Business Item H, 9 Kent Street, to the May 16 meeting. Mr. Rossi seconded. The motion **passed** unanimously, 7-0.

Mr. Mannle moved to **postpone** *New Business Item III,A, 729-733 Middle Street Condominium Association, to the May 2 meeting, seconded by Mr. Rossi. The motion* **passed** *unanimously, 7-0.*

Mr. Mannle moved to **postpone** *New Business Item III.B, 170 Mechanic Street, to the May 2 meeting. Mr. Rossi seconded. The motion* **passed** *unanimously, 7-0.*

Mr. Rossi moved to **postpone** New Business Item III. C, 250 Odiorne Point Road, to the May 2 meeting. Mr. Mannle seconded. The motion **passed** unanimously, 7-0.

Mr. Mannle moved to **postpone** *New Business Item III.D, 45 Richmond Street, to the May 2 meeting. Mr. Rossi seconded. The motion* **passed** *unanimously, 7-0.*

Mr. Rossi moved to **postpone** *New Business Item III. E, 45 Rockingham Street, to the May 2 meeting. Mr. Mannle seconded. Mr. Rheaume abstained. The motion* **passed** *unanimously, 7-0.*

Mr. Mannle moved to **postpone** *New Business Item III.F, 650 Maplewood Ave, to the May 2 meeting, seconded by Mr. Rossi. Mr. Mattson abstained. The motion* **passed** *unanimously, 7-0.*

Mr. Rossi moved to **postpone** New Business Item III.G, 361 US Route One Bypass, to the May 2 meeting. Mr. Mannle seconded. The motion **passed** unanimously, 7-0.

I. APPROVAL OF MINUTES

A. Approval of the March 21, 2023 minutes.

The Board requested amendments to the March 21 minutes (see timestamp 11:55).

Mr. Mannle moved to approve the March 21 minutes as amended, seconded by Mr. Mattson. The motion passed unanimously, 5-0, with Mr. Rossi abstaining.

B. Approval of the March 29, 2023 minutes.

Mr. Mattson requested an amendment to the minutes (timestamp 14:00).

Mr. Mannle moved to approve the March 29 minutes as amended, seconded by Vice-Chair Margeson. The motion passed unanimously, 4-0, with Mr. Rossi and Mr. Rheaume abstaining.

II. OLD BUSINESS

A. The request of 635 Sagamore Development LLC (Owner), for property located at 635 Sagamore Avenue whereas relief is needed to remove existing structures and construct 4 single family dwellings which requires the following: 1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required. Said property is located on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. (LU-22-209)

Mr. Rossi and Mr. Rheaume recused themselves from the petition.

SPEAKING TO THE PETITION

Attorney Tim Phoenix was present on behalf of the applicant. He noted that the application was continued previously but that the applicant was requesting another continuance due to Mr. MacDonald's resignation and the two recusals. He said the project was an ambitious one with a lot of neighborhood opposition and his client wanted the best outcome. He said he notified the opposition that he would not present the petition that evening.

The Board discussed it and decided to allow the continuance (timestamp 19:53). There was no public hearing.

DECISION OF THE BOARD

Mr. Mannle moved to **postpone** *the petition to the May 16 meeting, seconded by Mr. Mattson. The motion* **passed** *unanimously, 6-0.*

B. The rehearing of the request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** whereas relief is needed for construction of a 518 square foot garage addition and expansion of front dormer which requires the following: 1) A variance from Section 10.521 to allow a 14-foot front yard where 19 feet is required per Section 10.516.10. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 207 Lot 59 and lies within the Single Residence B (SRB) District. (LU-22-199)

Mr. Rossi and Mr. Rheaume resumed their voting seats, and Alternate Ms. Geffert took a voting seat.

SPEAKING TO THE PETITION

The applicant's representative Attorney Tim Phoenix was present, along with the owner Jeffrey Foy and John Chagnon of Ambit Engineering. Attorney Phoenix reviewed the petition. He explained that the petition was denied by the board the previous summer and wasn't appealed, but then the applicant presented a new application with a reduced scope, which the board again denied. He said Mr. MacDonald voted on the Fisher v. Dover issue but that his vote should not have been counted, so the resulting vote was a tie of 3-3 and allowed a rehearing. Attorney Phoenix asked whether he should review the Fisher v. Dover analysis or the merits of the petition. The board discussed it and concluded that Fisher v. Dover should be addressed.

Attorney Phoenix discussed the changes made to the project to greatly reduce it and felt that they could go forward with the merits hearing. (Timestamp 32:15). He said the changes were significant enough under Fisher v. Dover and that it was unfair to the owners, who made the effort to address the board's and neighbors' concerns, especially by reducing the two-car garage to a one-car garage.

Vice-Chair Margeson said the revised application removed one garage bay, which accounted for the 200-ft reduction, but there was still the traditional living space with the master bedroom and so on. Attorney Phoenix agreed but said the deck and trellis were moved to the back, and the deck was on top of the portion that the neighbors couldn't see through before. In response to Mr. Mattson's question, Mr. Foy said the deck area was significantly smaller in the proposed addition than previously at 20 percent less square footage.

Vice-Chair Margeson said the current primary front yard was eight feet and would be enlarged by the addition. Attorney Phoenix said the front setback was currently 15'8". Vice-Chair Margeson said it would be an improvement in the primary front yard setback. Mr. Mannle said he still felt that Fisher v. Dover applied because of the diminution of surrounding home values and the wetlands issue. He said the applicant could have gone to the Conservation Commission. Attorney Phoenix said the wetland was not in the board's purview but was a Planning Board issue. He said they had a respected appraiser, Peter Stanhope, who opined that the neighbor's property would not be diminished in value, and that other appraisers and realtors verified it (timestamp 44:13). Mr. Foy said he was assured that no additional property tax would be paid by the neighbors who had a view across his property. Mr. Foy said he had a valuation for his property view because it was on the waterfront. He said that the farther they went back with the addition, the closer they would get to the 50-ft buffer zone and that it would be environmentally better to be closer to Ridges Court. Mr. Chagnon said the board first had to render a decision before the applicant went before the Conservation Commission because the board had to decide whether the building had to be farther back. He also noted that there was currently a paved area that would be taken up by the building, making less of an impact on the buffer. It was further discussed. Mr. Mannle said Mr. Stanhope evaluated his property and the value was two-thirds less than the city's assessment. Attorney Phoenix said people didn't have a right to a view over someone else's property, but that his applicant tried to address those concerns.

Mr. Rossi said the only thing that gave him pause when the case was first heard was the community's objection to the obstructed view. He said the revised plan was substantially different in that regard, so he felt that it wasn't prohibited from a rehearing based on Fisher v. Dover. In response to Ms. Geffert's question, Mr. Chagnon said the reduced proposal would result in the removal of more impervious surface. The issue of whether Fisher v. Dover applied was further discussed (timestamp 49:19). Mr. Rheaume said the change in the front setback from 30 feet to 19 feet was a substantial one and sufficient enough that the board should hear the application on its revised merits.

Ms. Geffert moved that the applicant provided a revised plan that reflects material changes in the circumstances affecting the merits of the application and therefore is entitled to a rehearing by the board under the standard articulated by Fisher v. Dover.

Mr. Rossi declined to second the motion, noting that the board did that the last time and failed to get the votes to pass it and that Mr. Rheaume had pointed out that it would be more typical to make a motion to invoke Fisher v. Dover than a motion to invoke a negative finding. Mr. Rheaume clarified that historically it was the way the board treated it but it wasn't clear in the guidebook what the board was supposed to do in these instances. (Timestamp 1:06:50).

Ms. Geffert **amended** *her motion to move to rehear the application based on Fisher v. Dover. Mr. Rheaume seconded.*

Ms. Geffert said the basis for making the motion was what she considered material changes: the reduction in square footage, the increase in pervious surface, the limitation of setback incursion, the increase in viewsheds, and a change in the neighbors' response to the application.

Mr. Rheaume concurred and had nothing to add.

The motion **passed** by a vote of 5-2, with Mr. Mannle and Vice-Chair Margeson voting in opposition.

Attorney Phoenix then presented the merits portion of the petition. He said they added a dormer on the front of the house that would not be subject to Fisher v. Dover and was within the front setback. He said the addition was significantly smaller than previously proposed and that they would also remove the semi-circular driveway. He said they would go before the Planning Board for a Conditional Use Permit (CUP), which would also include comment from the Conservation Commission. He said the proposal addressed the concerns about viewsheds. He discussed the appraiser's figures and the city's tax assessment and said the neighbors did not pay more money for having a view. He reviewed the criteria and said they would be met.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Owner Jeff Foy said his real estate appraiser and agent said an occasional view of the harbor was a lower evaluation than a property that would have a water view 24 hours a day.

SPEAKING IN OPPOSITION TO THE PETITION

Attorney Derek Durbin was present on behalf of his client Kathleen Thompson of 56 Ridges Court. He referred to a March 20 letter of opposition and said prior arguments were made to the board regarding the property, like the view sheds and the diminution of property values. He said the board should focus on the reason the prior application was denied, which was the hardship criteria. He said the setback relief applied for was the same as previously and the location was the same. He said the burden was on the applicant to measure the setbacks and was not for the city to determine. He said the impact would be the same, so the unnecessary hardship was not met. He said the property was not unfairly burdened because its situation was like the surrounding properties in regard to its size and wetland buffer protection, so there were no special conditions associated with the property that unfairly burdened it in comparison with surrounding properties. He said the addition would make the structure more sprawling and out of character with the other homes in the neighborhood. He said the reduction of impervious surface would be discussed at the Conservation Commission and was not in the board's purview to consider as a material change.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Phoenix noted that he mistakenly said at the first meeting that they needed variance of 15.5 feet instead of 30 feet and that the board considered it at that time, but now there was a significant change. He said the test was whether the property had distinguishing characteristics from its surroundings, which it did because it was on the water. He said the reduction in size was not slight. He said Attorney Durbin's points about the petition not meeting the character of the neighborhood and hardship failed. He said he read the minutes from the previous meetings and noted that there wasn't a great deal of explanation of how and why the hardship was satisfied, so they tried to flush it out now.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

Vice-Chair Margeson said she would not support the variance requests because she didn't feel that the application materially differed from the previous one. Mr. Mattson said the unnecessary hardship was the catching point because the combinations of factors on the property created special conditions. Mr. Rossi said the whole case had gotten complicated, and in the current proposal both the addition and the dormer were set farther back from the front road than the existing structure. He said typically it wasn't bringing the property farther back out of conformance, so he didn't have a problem with it and would support the application. Mr. Rheaume said the only variance asked for was for a front yard setback of 16 feet where 19 feet was required. He said the applicant could get another 1400 square feet of additional building if he wanted to. He said the open space was only four percent and the applicant would improve it. He noted that there was no definition of view sheds or a requirement for it in the zoning ordinance, so the issue was really about an encroachment into the front yard setback. He said it was a further setback from the current rest of the home and that the addition was slightly smaller than the existing home, and the applicant moved the project farther away from the wetlands. He said the proposal met all the requirements.

The board further discussed the petition (timestamp 1:34:39).

DECISION OF THE BOARD

Mr. Rossi moved to **grant** *the variances for the application as presented and advertised, seconded by Mr. Rheaume.*

Mr. Rossi said granting the variances would not be contrary to the public interest or to the spirit of the ordinance because it was a residentially zoned area and the proposed project would continue the use of the property for residential purposes. He said substantial justice would be done, noting that no one claimed that there would be a general loss to the public of any kind if the variances were granted, so there would be no loss to the public that would outweigh the benefit to the applicant. He said granting the variances would not diminish the values of surrounding properties, noting that the board had contrary evidence presented by those for and against the proposal, and in weighing the facts and hearing the feedback from the tax assessment perspective, he didn't feel that there was adequate evidence to support the idea that the surrounding properties would be diminished in value should the variances be approved. He said literal enforcement of the provisions of the ordinance

would result in an unnecessary hardship due to the special condition of the property of the front of the existing structure already encroaching on the required 19-ft setback, so the board was starting with a nonconforming property and the proposed variance involved two structural elements that were set back farther than the existing structure and therefore did not increase the degree of nonconformance of the property. he said there was no obvious relationship between the provisions of the ordinance and a reason to deny the variances and that the hardship criterion were met.

Mr. Rheaume concurred. He said the substantial justice criteria was the balancing act between the public's interest and the owner's interest. He said the issue was a slice of the proposed addition, which was roughly over three feet by the length of the addition that the applicant needed relief for. He said he didn't see enough that indicated that not allowing the applicant to have that would be outweighed by the public interest. He noted that a viewshed was not necessarily something in the zoning ordinance, but the applicant was trying to provide some additional benefit there. He said the applicant had additional square footage that he could utilize that was somewhat constrained by the wetland considerations, but he could reform the allowed square footage into a new shape that would be detrimental to the neighbors, so he felt that the balancing test was in favor of the applicant. He said Mr. Rossi's point about the hardship test was excellent. He also noted that there were variations in the property's height that could drive the proposed addition into a certain configuration, which were all aspects that made the applicant's request reasonable.

The motion **passed** by a vote of 5-2, with Mr. Mannle and Vice-Chair Margeson voting in opposition.

C. The request of Michael Knight (Owner), for property located at 55 Mangrove Street whereas relief is needed to replace existing 6 foot chain link fence with 8 foot cedar fence which requires the following: 1) A Variance from Section 10.515.13 to allow an 8 foot fence on the rear and side lot lines where a 6 foot maximum is allowed. Said property is located on Assessor Map 219 Lot 7 and lies within the Single Residence B (SRB) District. (LU-23-15)

Alternate Ms. Record took a voting seat.

The owner/applicant Michael Knight was present and said he wanted to replace a dilapidated chain link fence with an 8-ft cedar one. He noted that he made it eight feet instead of six to match the height of the cedar fence on the front of the house. He said there were no houses beside or behind him. He reviewed the criteria and said they would be met.

In response to Mr. Rheaume's questions, Mr. Knight said the maintenance building for the Spinnaker Way Condominiums was on one side of his property and that a paper street was on the other side, where his fence would run along his property line and would not intrude on that street.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Rheaume moved to **grant** *the variance for the petition as presented and advertised, seconded by Mr. Mannle.*

Mr. Rheaume noted that the zoning ordinance used to have no restrictions on fence heights, but that it was tempered with the idea that many properties in Portsmouth were up against neighboring properties and streets and could create their own little gated communities, so the zoning ordinance was changed to try to limit the heights of fences. He said granting the variance would not be contrary to the public interest because the public interest was to prevent high fences from being placed near areas where the public would go by or that would create a hostile view for a close abutting neighboring property. He said it would observe the spirit of the ordinance because there would not be territorial border wars going on and he thought the request was reasonable due to all the nearby open areas. He said granting the variance would not diminish the values of surrounding properties because the condominium association's maintenance building and other nearby property values would not be negatively affected. He said the hardship was that there were unique factors about the property, including being up against a paper street and a protected piece of property and a generic use of a condo association that distinguished it from other similar properties. He said the request was a reasonable one. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 7-0.

D. The request of John T McDonald III and Mary R McDonald (Owners), for property located at 74 Sunset Road whereas relief is needed for an addition of a chimney bump out which requires the following: 1) Variances from Section 10.521 to allow a) a 6.5 foot left yard where 10 feet is required; and b) 26.6% building coverage where 20% is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 15 Lot 14 and lies within the Single Residence B (SRB) District. (LU-22-182)

Alternate Ms. Geffert took a voting seat and Ms. Record returned to alternate status.

SPEAKING TO THE PETITION

Attorney Tim Phoenix was present on behalf of the applicant, along with contractor Butch Ricci. Attorney Phoenix said they were before the board in September and were granted a variance to expand the small home by adding a dormer on the roof and connecting a breezeway to the garage. He said there were a set of steps on the right side of the house at that time that was closer to the right side lot line than they were not proposing. He said they received a building permit for it and the bump out and believed that they were building the new chimney lawfully. He said he had four letters from the abutters in approval. He reviewed the petition and noted that they added a chimney. He reviewed the dimensions, setbacks, and criteria.

Mr. Rossi confirmed that the structure would still be a single-family residence. He asked why the electric meters looked complicated for a single-family home. Mr. Ricci said there used to be three meters but that they would go down to one.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Mattson moved to **grant** *the variances for the petition as presented and advertised, seconded by Mr. Rheaume.*

Mr. Mattson said granting the variances would not be contrary to the public interest, and the spirit of the ordinance would be observed. He said it was a very small bump out for the fireplace that would not change the overall conditions of the property and was very similar in character to the other homes in the neighborhood, and there would be no harm to the public's health, safety, and welfare. He said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public and the project would have no detrimental effect on the public, and it would improve the applicant's quality of life. He said granting the variances would not diminish the values of surrounding properties because of the updated home and better layout. He said literal enforcement of the ordinance would result in an unnecessary hardship because the special conditions of the property were the location and layout of the current home on the property and the property was a smaller lot than the zoning put in after the property existed, so those were special conditions that distinguished it and there was no fair and substantial relationship between the general purposes of the ordinance regarding the setbacks and the specific application of that provision to the property. He said the proposed use was a reasonable one because the home would still be a single-family one with just a fireplace added.

Mr. Rheaume concurred. He said it was unfortunate that the board ran into situations like this and thought the board should have previously granted relief to include the small bump out.

The motion passed unanimously, 7-0.

E. The request of Joshua Wyatt and Erin Hichman (Owners), for property located at 196 Aldrich Road whereas relief is needed to demolish existing garage and construct new garage and construct new addition over existing side porch which requires the following: 1) Variances from Section 10.521 to allow a) a secondary front yard of 3 feet where 30 feet is required; b) a 6 foot rear setback where 10 feet 7

inches is required; c) 23% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.571 to allow and accessory structure to be 10 feet from the front lot line and located in the front yard. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 153 Lot 25 and lies within the Single Residence B (SRB) District. (LU-23-24)

Alternate Ms. Record took a voting seat and Ms. Geffert returned to alternate status.

SPEAKING TO THE PETITION

Owner/applicant Joshua Wyatt was present, along with his designer Hubert Krah. Mr. Wyatt revised the petition and said they wanted to update the house to make it suitable for his family. He said the house was on two public roads and the lot was small and already nonconforming. He said they wanted to demolish the garage and rebuild it toward the rear property line and enclose the side porch. He said the three most affected abutters were not opposed to the project. He reviewed the criteria and said they would be met.

Mr. Rheaume asked what the current dimensions for the garage were, and Mr. Krah said the garage was about 20'x12'. Mr. Rheaume asked if the applicant considered the difficulties associated with backing the vehicle in and out of the new garage arrangement. Mr. Wyatt said they had discussed it and thought it be used more as a shed to store equipment rather than cars. Mr. Rheaume said that being on a corner lot was a disadvantage because the secondary front yard imposed a 30-ft setback where 10 was required. He said the applicant was proposing a vertical expansion throughout the square footage of the home and that all that expansion would be subject to the board's purview. He said it would be going from a two-story home with a shallow attic space to an entire third story. Mr. Krah said the vertical expansion was the additional 30-ft setback and further explained it. Vice-Chair Margeson said the three feet for the primary structure was part of the variance request. Mr. Rheaume said it was three feet where 30 feet was required, so the 27 feet of the new structure required the board's approval, and his concern was that it was really a new addition over the entire square footage of the home. Ms. Casella said it was more nonconforming in the site plan. It was further discussed.

Mr. Rheaume said the vertical expansion was within the purview of the board, so it was a two-story home but all the neighboring properties were also two-story ones. He said he had not observed any building in the neighborhood that had a full third floor. He asked why the proposal would fit in with the character of the neighborhood. Mr. Krah showed a photo of the house across the street and said they had a larger lot and had added on horizontally. He said his client was limited in expanding the his house by the lot, and the third floor would really be an attic. He said they discussed dormers but felt they would be troublesome with the extension of the front porch. He said they were raising the roof by a 7-ft stud. Mr. Rheaume asked if the existing height of the building at 25'2" was a measurement to the top of the roof or one required by the ordinance. Mr. Krah said it was required by the ordinance.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE COMMISSION

Mr. Rheaume said they were looking at a third story across the whole exterior of the house, but it was the only way the applicant could expand. He said it created a situation in which the board had an obligation to preserve the neighborhood's look and feel. He said he didn't see anything else in the neighborhood that looked like what the applicant was asking for. He said the applicant was stuck with a small lot in a neighborhood of two-story homes and that the board had to be careful to not upset that balance. He said he thought the garage placement would be odd and his greatest concern was the relief for a very substantial vertical expansion that would stand out. Ms. Casella said the height restriction was 35 feet. Mr. Rossi said the public interest was less about the look of how many stories a house has in the neighborhood as compared to the ability of a neighborhood to sustain comfortable residences for families. Mr. Mattson said he had a few concerns about the height but thought the lot was a very small nonconforming one that could create some hardship.

DECISION OF THE COMMISSION

Vice-Chair Margeson moved to grant the variances for the petition as presented and advertised, seconded by Mr. Rossi.

Vice-Chair Margeson noted that there were four variance requests for the property, which she cited. She said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. She said those criteria were related to the property's dimensional variances and were to prevent overbulking and overcrowding of the primary building, and she didn't find it contrary to the spirit of the ordinance because the primary structure would go up and the garage would be moved from one part of the property to another. She said substantial justice would be done because there would be no loss to the public in that the overbulking of overcrowding of the lot wasn't an issue. She said granting the variances would not diminish the values of surrounding properties because any kind of improvement on a house almost automatically improved the values of surrounding properties. She said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the property had special conditions in that it was substantially smaller than the required lot area per the zoning ordinance and it was a quarter property hemmed in by Joffre Terrace, so the provisions of the zoning ordinance couldn't really be fairly applied to the property. She said the proposed use was a reasonable one and noted that the applicant was moving the garage from one part of the property to another and extending the primary structure upwards by seven feet. She said she took Mr. Rheaume's comments in good faith but felt that the lot was so small that any kind of expansion of the property would have to go vertically. For those reasons, she found that the applicant met the conditions of the variance.

Mr. Rossi said that, relating to the placement of the garage and the 6-ft setback from the rear property line, there was a special condition of the property in that it had a substantial grade coming from the rear, so the garage would be partially under the grade, and considerations of overcrowding and encroaching on the open space of the property behind it were not relevant

Mr. Rheaume said he was opposed to granting the variances because he didn't see the small lot as a hardship and thought the desire to go up vertically could be done more in keeping with the neighborhood's character. He said the zoning ordinance was generic in building height due to the 35 feet and didn't think it reflected the character of the neighborhood. He said the board would see more applications coming in for requests for 35-ft structures. Chair Eldridge said she would support it because she didn't think the added height would make the building a hulking one on the street, and she thought it was appropriate because that particular side of the lot was plagued with issues.

The motion **passed** by a vote of 5-2, with Mr. Rheaume and Mr. Mannle voting in opposition.

F. The request of Murdock Living Trust (Owner), for property located at 15 Lafayette Road whereas relief is needed to subdivide one lot into two lots w requires the following: 1) A Variance from Section 10.521 to allow 73.8 feet of continuous street frontage where 100 feet is required for the remainder lot. Said property is located on Assessor Map 152 Lot 2 and lies within the General Residence A (GRA) and Historic District. (LU-23-26)

Alternate Ms. Geffert took a voting seat and Ms. Record returned to alternate status.

SPEAKING TO THE PETITION

Attorney Justin Pasay was present on behalf of the applicant, along with the owner Jeff Murdock. Attorney Pasay reviewed the petition and noted that the 40-acre property currently had a singlefamily dwelling but that it had two public roads of frontage, one with access and one without and one conforming and one nonconforming. He said the lot was twice the size of the average single lot in the area and that the variance was requested to maintain the status quo on the existing front portion of the lot. He reviewed the criteria and said they would be met.

Vice-Chair Margeson said the new lot fronting on the other road could contain a building within the building envelope without any further relief being sought, and she asked if the applicant would accept a condition that whatever building would be built on the lot would fit within the building envelope. Attorney Passay said he would but that he preferred that there not be a condition or stipulation that would sully the marketability of the property.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

Mr. Rossi said he didn't think a stipulation was necessary. He said if there were a desire to be nonconforming on a lot, there may be good reasons to do so, and some future board would have the opportunity to weigh in. He said a stipulation would not prevent him from approving the application, however. Mr. Rheaume said he agreed with Vice-Chair Margeson that the property should be within the zoning ordinance when it got developed. He said future property owners' hands would be tied in developing the property, which could be a source for a possible lawsuit against the city. He thought it was overstepping the bounds of perpetuity, but otherwise he was on board. Mr. Mannle said he would support the variance request because it was more of a question of the character of the neighborhood and not whether the applicant was outside the variances. He said he would support the stipulation that the building has to be inside the confines of the area, and let the buyer beware. It was further discussed (Timestamp 3:19:28).

Ms. Geffert moved to **grant** *the variance for the petition as requested and advertised, seconded by Mr. Rheaume.*

Ms. Geffert said they didn't need a condition stating that the applicant would comply with a lot because the applicant had to. She said granting the variance would not be contrary to the public interest because the lot that would be created would be a conforming one, and the public interest would be served by the lot conforming to the zoning ordinance. She said it would observe the spirit of the ordinance because the lot would conform to the ordinance. She said granting the variance would do substantial justice because there would be no injustice created by granting the variance by creating a conforming lot. She said granting the variance would not diminish the values of surrounding properties, noting that there was no evidence in the record of that, and having another lot that was conforming would likely retain if not enhance values around the lot. She said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. She said the property had special conditions of having frontage on two streets, so a fair and substantial condition did not exist between the general public purpose of the ordinance, which would be guaranteeing substantial frontage on the already used portion of the lot for public health, safety and welfare and also aesthetics. She said that ship had sailed because the current portion of the lot used was nonconforming in terms of street frontage on Lafayette Road.

Mr. Rheaume concurred. He said the lot had remained undivided for a long time and was unique in the neighborhood. He said buildable lots were rare in Portsmouth and this would allow an opportunity for a fully conforming home to be a location for a future family. He said one of the things the applicant didn't mention was that both abutting properties on Lafayette Road also didn't conform with the 100-ft requirement. He said the 100-ft frontage requirement had not stuck out since 1942 when the house was built, and allowing it to continue the way would meet the expectations of the neighborhood. As for not including the stipulation, he said the real concern was that the board had an obligation to the citizens of Portsmouth and should not overstep their boundaries and create a situation in which someone could consider it an illegal taking and set the city up for losing a lawsuit.

The motion passed unanimously, 7-0.

<u>THE BOARD VOTED TO POSTPONE CONSIDERATION OF THE FOLLOWING ITEMS</u> <u>TO THE MAY 2, 2023 BOARD OF ADJUSMENT MEETING.</u>

A. The request of Jared J Saulnier (Owner), for property located at 4 Sylvester Street whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is Required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. (LU-23-27)

The petition was **postponed** to the May 2 meeting.

B. REQUEST TO POSTPONE The request of Cynthia Austin Smith and Peter (Owners), for property located at 9 Kent Street whereas relief is needed to demolish the existing two-family and construct a single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 5,000 square feet where 7,500 square feet is required for each; b) 53% building coverage where 25% is the maximum allowed; c) a 4.5 foot rear yard where 20' is required; d) a 0.5 foot side yard where 10 feet is required; e) a 0 foot front yard where 11 feet is allowed under Section 10.516.10; and f) a 9.5 foot secondary front yard where 13 feet is allowed under Section 10.516.10. 2) A Variance from Section 10.515.14 to allow a 1.5 foot setback for a mechanical unit where 10 feet is required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. REQUEST TO POSTPONE (LU-23-28)

The petition was **postponed** to the May 16 meeting.

NEW BUSINESS

A. Petition of 729-733 Middle Street Condominium Association, Nicole M. Bodoh and Craig Crowell, for Appeal of an Administrative Decision not to present to the Board of Adjustment the Motion for Rehearing of Variance Application of David Sinclair and Nicole Giusto for property located at 765 Middle Street due to an untimely request. Said property is shown on Assessor Map 148 Lot 37 and lies within the General Residence A (GRA) and Historic Districts.

The petition was **postponed** to the May 2 meeting.

B. The request of **Peter G Morin Trust, Peter G Morin Trustee (Owner),** for property located at **170 Mechanic Street** whereas relief is needed to install a generator which requires the following: 1) Variance from Section 10.515.14 to allow a) 4 foot rear yard where 10' is required and 5.5 foot rear yard where 10 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 102 Lot 7 and lies within the General Residence B (GRB) and Historic District. (LU-23-35)

The petition was **postponed** to the May 2 meeting.

C. The request of **RTM Trust, Ryan T Mullen and Heidi E K Trustees (Owners),** for property located at **253 Odiorne Point Road** whereas relief is needed to construct a deck extension which requires a Variance from Section 10.521 to allow a 30 foot rear yard where 40 feet is required. Said property is located on Assessor Map 224 Lot 10-19 and lies within the Single Residence A (SRA) District. (LU-23-36)

The petition was **postponed** to the May 2 meeting.

D. The request of **Cherie A Holmes** and **Yvonne P Goldsberry (Owners)**, for property located at **45 Richmond Street** whereas relief is needed to construct a greenhouse which requires the following: 1) Variance from Section 10.521 to allow a 5.5 foot rear yard where 15 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.... Said property is located on Assessor Map 108 Lot 18 and lies within the Mixed Residential Office (MRO) and Historic District. (LU-20-249)

The petition was **postponed** to the May 2 meeting.

E. The request of 45 Rockingham St LLC (Owner), for property located at 45 Rockingham Street whereas relief is needed to construct a front porch and rear addition which requires the following: 1) Variance from Section 10.521 to allow a) .5 foot front yard where 5 feet is require, b) 1.5 foot side yard where 10 feet is required, c) 41% building coverage where 35% is allowed; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 144 Lot 6 and lies within the General Residence C (GRC) District. (LU-23-41)

The petition was **postponed** to the May 2 meeting.

F. The request of **Bucephalus LLC (Owner)**, for property located at **650 Maplewood Avenue** whereas relief is needed to remove the outdoor fenced storage area and construct a 48 foot by 25.5 foot addition to the rear of the existing structure which requires a Variance from Section 10.592.20 to allow the expansion of space used for motorcycle sales located adjacent to a Residential district where 200 feet is required. Said property is located on Assessor Map 220 Lot 88 and lies within the Business (B) District. (LU-21-111)

The petition was **postponed** to the May 2 meeting.

G. The request of Cate Street Development LLC (Owner), for property located at 360 US Route 1 BYP whereas relief is needed to install a sign on the northern façade of the building which requires a Variance from Section 10.1271 to allow a sign to be installed on a façade not facing the street or with a public entrance; 2) Variance from Section 10.1242 to allow more than one parapet sign above the ground floor per facade. Said property is located on Assessor Map 172 Lot 1 and lies within the Gateway Corridor (G1) District. (LU-23-44)

The petition was **postponed** to the May 2 meeting.

H. OTHER BUSINESS

There was no other business.

I. ADJOURNMENT

The meeting adjourned at 10:27 p.m.

Respectfully submitted,

Joann Breault BOA Recording Secretary

MINUTES OF THE BOARD OF ADJUSTMENT MEETING CONFERENCE ROOM A MUNICIPAL COMPLEX, 1 JUNKINS AVENUE PORTSMOUTH, NEW HAMPSHIRE				
7:00 P.M.	May 2, 2023			
MEMBERS PRESENT:	Phyllis Eldridge, Chair; Paul Mannle; Thomas Rossi; David Rheaume; Jeffrey Mattson; Jody Record, Alternate; ML Geffert, Alternate			
MEMBERS EXCUSED:	Beth Margeson, Vice Chair			
ALSO PRESENT:	Stefanie Casella, Planning Department			

Chair Eldridge stated that alternates Ms. Geffert and Ms. Record would take voting seats throughout the meeting.

- I. OLD BUSINESS (Continued from April 18, 2023)
 - A. REQUEST TO POSTPONE The request of Jared J Saulnier (Owner), for property located at 4 Sylvester Street whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. REQUEST TO POSTPONE (LU-23-27)

DECISION OF THE BOARD

Mr. Mannle moved to postpone the petition to the May 16 meeting, seconded by Mr. Rossi.

Mr. Mannle said it was a routine postponement, noting that the previous agenda had a lot of old business and lack of board members..

The motion passed unanimously by a vote of 7-0.

B. POSTPONED TO MAY 16 2023 The request of **Cynthia Austin Smith and Peter** (**Owners**), for property located at **9 Kent Street** whereas relief is needed to demolish the existing two-family and construct a single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 5,000 square feet where 7,500 square feet is required for each; b) 53% building coverage where 25% is the maximum allowed; c) a 4.5 foot rear yard where 20' is required; d) a 0.5 foot side yard where 10 feet is required; e) a 0 foot front yard where 11 feet is allowed under Section 10.516.10; and f) a 9.5 foot secondary front yard where 13 feet is allowed under Section 10.516.10. 2) A Variance from Section 10.515.14 to allow a 1.5 foot setback for a mechanical unit where 10 feet is required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. **POSTPONED TO MAY 16 2023** (LU-23-28)

The petition was previously **postponed** to the May 16 meeting.

II. NEW BUSINESS

A. Petition of 729-733 Middle Street Condominium Association, Nicole M. Bodoh and Craig Crowell, for Appeal of an Administrative Decision not to present to the Board of Adjustment the Motion for Rehearing of Variance Application of David Sinclair and Nicole Giusto for property located at 765 Middle Street due to an untimely request. Said property is shown on Assessor Map 148 Lot 37 and lies within the General Residence A (GRA) and Historic Districts.

SPEAKING TO THE APPEAL

Attorney Chris Swiniarski representing the appellants Nicole Bodoh and Craig Crowell was present. He said the only item for the board to consider was whether the Planning Director Peter Britz had the authority to decide the Motion for Rehearing. He said the Planning Director could not usurp the BOA's authority. He said ample evidence was submitted by the appellants to show that the mail carrier simply signed off that the notices were delivered but didn't prove that they were received. [Meeting video timestamp 6:56].

Mr. Rheaume verified that the appellants were the owners of the two condominium units and the lot and formed the condominium association. He noted that the appellant was not appealing whether the Planning Director made a correct decision but was appealing whether he had any right to make that decision. He asked what the basis in law was that made the appellant believe that the only way that any type of appeal could be adjudicated was by going through the entire BOA. Attorney Swiniarski said there was no statutory authority giving the Director of Planning the right to decide a motion for a rehearing. Mr. Rheaume asked if there was something that specifically stated that only the BOA could make that decision. Attorney Swiniarski said it was a right only granted to the BOA and was a matter of wording. Mr. Rheaume said the appellant was minimizing the argument to the abutters' attorney stating that they didn't act quickly enough in responding after the BOA's decision. He asked why Attorney Swiniarski's client took over 30 days to respond. Attorney Swiniarski said it took time to figure out why there was a record at the post office with a signature stating that it was delivered and tracking down the information through the post office, but then realizing that the signature was the same on all the deliveries. He said they didn't discover the failure of notice until after the decision was made. Mr. Rheaume asked what the appellants' expectation would be for the city to ensure that they are fully carrying out the requirements of the State Statute. Attorney Swiniarski said they didn't have a legal answer for that yet and didn't expect the city to change its ways and do anything different. He said it was a unique situation.

Mr. Rossi said it was the first time he'd heard that the appellants' argument was based on the statement that the Planning Director did not have the authority to screen what comes or does not come before the BOA. He said he had difficulty relating that assertion to the other arguments made about the delivery of mail and its verification, and he asked what relevance that had to the argument if the main objection was that city staff did not have the authority to make the decision of whether or not it came before the board. Attorney Swiniarski said he was before the BOA to give some context of why it was submitted when it was and what has been deemed as untimely. Mr. Rossi said Attorney Swiniarski was also stating that he was not asking the board today to assess whether the Planning Director's decision was correct because that argument had no place in the board's deliberations that night. Attorney Swiniarski said it was to give some context to the convoluted procedure they were faced with, where a decision had to be made first on the administrative appeal of the Planning Director's decision. Mr. Rossi asked if Attorney Swiniarski could refer to a specific section of the ordinance. Attorney Swiniarski said it was Section RSA 677:2 and that he didn't have a copy of the Statute, only the reference.

Chair Eldridge said she also did not read in the appellants' submittal that it was the authority of Mr. Britz that they were questioning, but she pointed out that Mr. Britz didn't make the decision that there would not be a rehearing. She said he decided that the request for a rehearing was received too late and that those were separate issues. It was further discussed. [Timestamp 23:35].

SPEAKING TO THE REBUTTAL

Attorney Monica Kaiser was present on behalf of the abutters David Sinclair and Nicole Guesto. [Timestamp 27:25]. She said she also had not read about the administrative appeal being filed and the questioning of Mr. Britz's authority to determine whether something was timely submitted to the board. She said she did not think that the Statute required the board to make those decisions. She read from RSA 677:2 and noted that it stated 'within 30 days, a motion ... to the BOA', so it was true that if a motion for a rehearing was filed within 30 days, it came to the board, and only the board could determine the merits of that motion for rehearing, but the jurisdiction was predicated upon a timely filing, which did not occur. She said she disagreed that Mr. Britz was not authorized to make that type of decision. She said Section 2.1 of the ordinance validated certain authorities to the code official, which is this case was Mr. Britz. She said the board's rules of procedure also set forth minimum standards of what the base application required and it didn't address this specific issue of a rehearing but stated that the code enforcement officer was authorized to return the applications that did not meet minimum criteria. She said the city's obligation was just to send out the notice and that they didn't have to send it registered mail but they just had to have verification of mailing, which was very different from verification of receipt. She said the notices had to be sent

out no less than five days before the meeting, but all kinds of things could happen, like people away on vacation, and the law could not address every single one of them. She said Ms. Bodoh only had to file an application for a request for rehearing in 30 days but instead filed it two months later.

Mr. Rheaume asked if there was anything in the RSA that would delineate powers only to the BOA and restrict them from a designated code official with the city. Attorney Kaiser said an affected party may apply for a rehearing but didn't reserve it explicitly to the BOA or list the code official as someone who could entertain the merits of a rehearing request. She said the Statute included the phrase 'within 30 days' [timestamp 35:44]. Mr. Rossi asked Attorney Kaiser if she was familiar with the case of the Cardinal Development Corporation v. the Town of Winchester ZBA, which he read an excerpt from [timestamp 37:50]. He said it seemed to be an explicit acknowledgement that the Planning Director would not have had the authority to make an exception to the 30-day rule. Attorney Kaiser agreed. Attorney Swiniarski said there was no reason to debate that issue because they didn't claim that the Statute said anything else. He said it was stated that notice only had to be sent to the condo association, but notice was never sent to them. He said there was discussion about constructive knowledge from conversations and text messages but that it had no bearing. He said the references in RSA 677:2 stated a rehearing was allowed to go to bodies other than the BOA, but that was only in a municipality that did not have a BOA and wasn't applicable in this situation. He said he hadn't read the Cardinal Development Corporation case mentioned but based on its description, he said it was a decision made by the Planning Department. Mr. Rossi said there was no real argument put forth in the documentation that addressed whether the Planning Director had the authority to make the decision and that he only cited the case because he was grasping at straws to find support for the appellants' argument. It was further discussed. [Timestamp 42:47]. Mr. Mattson said the Planning Department was just notified of the 30-day rule as opposed to making a determination, so the authority of the Planning Director would almost be irrelevant because the 30day rule was the authority and the appellant was just being notified of the 30-day rule. Attorney Swiniarski said there had to be a yes or a no to have a rehearing and the BOA had to decide.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Mannle moved to deny the request, seconded by Mr. Rossi.

Mr. Mannle stated that, without certified mail, there was no assurance of whether an abutter's notice got there, but the issue was whether the Planning Director can make an administrative decision. He said the ordinance stated that appeals from decisions or orders from a code official may be made by any person within 30 days after the date the original written decision was filed. According to the documentation, he said that date would have been November 17, and anything after that was an invalid appeal because it was after the 30-day mark. He said the appellant wanted the board to consider three months late. He said Mr. Britz had the authority to make the decision he made.

Mr. Rossi concurred and had nothing to add. Mr. Rheaume said he wished the ordinance was clearer but thought it was clear enough that in Section 10.211, it stated that the ordinance shall be ministered and enforced by the code official. In Article 15, he said it defined the code official as 'any employee of the City of Portsmouth is authorized to administer and enforce the zoning ordinance, including but not limited to the Planning Director and the Chief Building Inspector'. He said in Section 10.234.20, it referenced appeals from decisions or orders from the code official made by any persons 30 days after the original decision was made. He said the ordinance was clear that the Planning Director had the power to make some levels of decisions, especially when an appeal did not make the specific date requirement.

The motion to deny passed unanimously by a vote of 7-0.

B. The request of **Peter G Morin Trust, Peter G Morin Trustee (Owner),** for property located at **170 Mechanic Street** whereas relief is needed to install a generator which requires the following: 1) Variance from Section 10.515.14 to allow a) 4 foot rear yard where 10' is required and 5.5 foot rear yard where 10 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 102 Lot 7 and lies within the General Residence B (GRB) and Historic District. (LU-23-35)

SPEAKING TO THE PETITION

The applicants Peter Morin and Carol Bird were present to speak to the petition. Mr. Morin said he proposed to place the generator at the back of the garage and that all the neighbors were in support. Ms. Bird reviewed the criteria and said they would be met.

Mr. Rheaume verified that the generator would operate only during a loss of normal power until the power was restored. Mr. Morin agreed but said a test run had to be done every week that would last 16 seconds. Mr. Rossi asked why the backup generator couldn't be placed on the other side of the existing garage window to give the 10-ft setback from the rear yard. Mr. Morin referred to the 8-ft line that went from the garage to the fence and said it had to be five feet from the window. Mr. Rossi asked if it would be adjacent to the walk line. Mr. Morin said it was all pavement and there was a grill outside the 8-ft line affixed to a gas line. He further explained it.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Rheaume moved to **grant** *the request for variances as presented and advertised, seconded by Mr. Mannle.*

Mr. Rheaume said it was a standby generator that would operate briefly for a weekly test; otherwise, its imposition to the neighboring properties would be limited to a timeframe where there would be a significant power outage. He said it might be possible for the applicant to put the generator on the opposite side of the window and meet the 5-ft requirement to be in full compliance with the back lot line and that there was nothing to indicate that the applicant was using the back area as a usable space with a grill and so on, but he thought it was a lot to ask the applicant to do for what he was requesting. He said granting the variances would not be contrary to the public interest because the generator would not be seen from any of the three streets bordering the applicant's property and the generator would not be right up against the abutter's house. He said it would observe the spirit of the ordinance because it wasn't a full structure and the 25' setback becomes a 10' setback. He said the goal was to keep light and air, and the standby generator was 29 inches high and well within the existing fence and some distance away from the neighboring house and property. He said substantial justice would be done because of the benefit to the applicant of having security in the unusual event of a power outage. He said granting the variances would not diminish the values of surrounding properties because the generator would be a small imposition and relatively far from the one significant abutter's house. He said literal enforcement of the ordinance would result in an unnecessary hardship due to the special conditions of the applicant having a lot that faced on three streets and limited the location of the generator. He said it was a reasonable request. Mr. Mannle concurred and had nothing to add.

The motion **passed** by a unanimous vote of 7-0.

C. The request of RTM Trust, Ryan T Mullen and Heidi E K Trustees (Owners), for property located at 253 Odiorne Point Road whereas relief is needed to construct a deck extension which requires a Variance from Section 10.521 to allow a 30 foot rear yard where 40 feet is required. Said property is located on Assessor Map 224 Lot 10-19 and lies within the Single Residence A (SRA) District. (LU-23-36)

SPEAKING TO THE PETITION

The applicant Ryan Mullen was present and said he needed drainage improvements and repairs to the deck and staircase that were disconnected due to water issues. He reviewed the petition and the criteria and said the two most affected neighbors were in support. The board had no questions. Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Mannle moved to **grant** *the request for variances as presented and advertised, seconded by Mr. Mattson.*

Mr. Mannle said it was a minimal request because it was a corner lot that would remain at 30 feet. He said granting the variances would observe the spirit of the ordinance because the house's location was already nonconforming. He said substantial justice would be done because the applicant had a wetlands problem in his backyard and was doing all he could do address it but was losing his outdoor space in the process, so he wanted to expand the deck. He said granting the variances would not diminish the values of surrounding properties because the project would have no effect on them. He said literal enforcement of the ordinance would result in an unnecessary hardship because the applicant had gone through the effort to comply with the wetlands ordinance and to remove the standing and running water from his property and from his neighbors' properties by sacrificing his backyard. He said it would be a benefit for the applicant and his neighbors to ensure that the water flowed away from their properties.

Mr. Mattson concurred and added that the project would not alter the essential characteristics of the neighborhood. He said it would benefit the applicant and would not be outweighed by any harm at all to the public. He said the irregular-shaped lot and the structure's location on the lot were unique conditions that resulted in being an unnecessary hardship.

The motion **passed** by a unanimous vote of 7-0.

D. The request of **Cherie A Holmes and Yvonne P Goldsberry (Owners)**, for property located at **45 Richmond Street** whereas relief is needed to construct a greenhouse which requires the following: 1) Variance from Section 10.521 to allow a 5.5 foot rear yard where 15 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 108 Lot 18 and lies within the Mixed Residential Office (MRO) and Historic District. (LU-20-249)

SPEAKING TO THE PETITION

Architect Anne Whitney was present on behalf of the applicant. She noted that they received initial approvals in 2021 to get rid of the existing garage and build another one with a greenhouse attached. She said the proposed greenhouse at that time was 10'x10 but they discovered that they could get better efficiency by going with a standard-sized greenhouse with a 30-inch module, which was where the request for extra footage came from. She said the prior stipulation to maintain a 5-ft setback along the rear property line would be done and they were only adding an extra 15-sf increase of the greenhouse. She reviewed the criteria.

Mr. Mannle verified that the greenhouse would now be five feet and change. Ms. Whitney agreed. Ms. Geffert asked why the new greenhouse would be better. Ms. Whitney said she had been unaware of the greenhouse company's standard sizing but later found out that the energy use would be more efficient for the same amount of money. Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Rheaume moved to grant the variances for the project as presented and advertised, with the following stipulation:

1. The variance will be 5 feet plus or minus as opposed to the advertised value of 5.5 feet as requested in the staff memo.

Mr. Mannle seconded the motion.

Mr. Rheaume said granting the variances would not be contrary to the public interest because there was nothing to distinguish the slightly smaller greenhouse from the slightly larger and more energyefficient one and the public wouldn't notice what was changed. He said the spirit of the ordinance would be observed because it was a setback relief but no greater than what was previously provided by the board, and the additional relief sought was minimal. He said there was no square footage relief and the applicant was still within the allowed building coverage. He said granting the variances would do substantial justice because there was nothing the public would perceive that would outweigh the advantages to the applicant by saving money and getting a more efficient greenhouse. He said the surrounding property values would not be diminished by such a minor variation to what was previously approved. Relating to the unnecessary hardship, he noted that the petition was previously approved and the applicant was only asking for a slight increase in the overall footprint and size of the structure, which was a special condition and reasonable. Mr. Mannle concurred and had nothing to add.

The motion passed by a unanimous vote of 7-0.

Mr. Rheaume recused himself from the following petition.

E. The request of 45 Rockingham St LLC (Owner), for property located at 45 Rockingham Street whereas relief is needed to construct a front porch and rear addition which requires the following: 1) Variance from Section 10.521 to allow a) .5 foot front yard where 5 feet is require, b) 1.5 foot side yard where 10 feet is required, c) 41% building coverage where 35% is allowed; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 144 Lot 6 and lies within the General Residence C (GRC) District. (LU-23-41)

SPEAKING TO THE PETITION

Attorney Kevin Baum was present on behalf of the applicant, with the project team and architects Mark Gianniny and Richard Desjardins. Attorney Baum said the notice included a variance that wasn't needed, the one for the front setback. He said a zero setback was permitted, which he further explained. He said the lot was small and had an 1890s single family home. He said the house would be kept but there would be an increase in volume. Mr. Gianniny reviewed the petition and diagrams in detail [timestamp 1:38:33]. Attorney Baum reviewed the criteria, noting that the special conditions were the very narrow site and that most of the existing home was already in the side setback that didn't leave much room on the other side.

Mr. Rossi said his concern was the size of the two dormers and their impact on the mass of the building. He said it did look substantially different from the houses that surrounded it and asked how that didn't alter the essential characteristics of the neighborhood. Attorney Baum said they were consistent with height requirements and that there were several other multi-family houses in the general area that were consistent in mass and far more built out on their lots. He said it was a reasonable compromise to allow the use of more livable space on the third floor. He said the neighbor was protected by the fact that no windows could be placed there. Mr. Rossi said the two houses were so close that the dormer wouldn't change the amount of sunlight in that little alleyway.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Mark Bodie of 121 State Street said he was in support of the project, noting that the home used to be in terrible disrepair and there used to be a lot of trash on the property, which was a constant headache for the neighborhood. He said the applicant addressed those issues and that the neighbors were excited about how the improvements would benefit the overall area.

SPEAKING AGAINST THE PETITION OR SPEAKING TO, FOR, OR AGAINST THE PETITION

No one else spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Mattson moved to grant the variances for the project as requested. He said he had some hesitation about the overall mass and dormers and the total buildout but that the variances requested didn't address that. *Ms. Geffert seconded the motion.*

Mr. Mattson said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance, would not alter the essential characteristics of the neighborhood, and air and light would be maintained around it. He noted that the side yard setback would be the same, so the addition was really onto the rear yard and would improve the front yard by removing the front yard encroachment. He noted that it was a dense neighborhood so the open space would be met. He said granting the variances would do substantial justice because it would improve the property and benefit the applicant and would outweigh any potential harm to the public, especially by removing the encroaching stairs into the sidewalk. He said granting the variances would not diminish the values of surrounding properties because renovating and improving the property would increase its value as well as those of the surrounding properties. He said literal enforcement of the provisions of the ordinance would result in unnecessary hardship because the requested variances were due to the small and narrow lot, which was already undersized and in a very dense zoning

district. He said the proposed use was reasonable. Ms. Geffert concurred and said the fact that the dormers were set back from the street were in keeping with the neighborhood.

The motion **passed** by a unanimous vote of 6-0, with Mr. Rheaume recused.

Mr. Rheaume returned to his voting seat and Mr. Mattson recused himself from the following petition.

F. The request of Bucephalus LLC (Owner), for property located at 650 Maplewood Avenue whereas relief is needed to remove the outdoor fenced storage area and construct a 48 foot by 25.5 foot addition to the rear of the existing structure which requires a Variance from Section 10.592.20 to allow the expansion of space used for motorcycle sales located adjacent to a Residential district where 200 feet is required. Said property is located on Assessor Map 220 Lot 88 and lies within the Business (B) District. (LU-21-111)

SPEAKING TO THE PETITION

Attorney Chris Mulligan was present on behalf of the applicant, Motorbikes Plus LLC, along with the company's principal John Thompson. Attorney Mulligan said the applicant was before the board in 2021 for a special exception to use the site for motor vehicle sales. He said his client planned to use the existing site as it was with very minor modifications to it for motorcycle sales. As the project progressed, he said his client found that rather than re-using the existing fenced-in outdoor storage behind the building, it would be better to construct a modest addition. He said the property was shaped in an unusual zig-zag pattern and on a corner lot with frontage on Maplewood Avenue and Emery Street and also had a wooded buffer and utility corridor between the building and the residential area further down on Emery Street. He reviewed the criteria and said they would be met.

Mr. Rheaume said he was confused as to why the application was coming before the board again and how Section 10.592 of the ordinance was being interpreted. He said that section spoke to the minimum distance between lots and any other residential/mixed-residential or character district, but he thought it fell under Section 10.592.20, which was based on the location of the use, so the minimum distance between use and any residential/mixed residential or character district and Sections 11.10 and 12.30, sales and repair of vehicles, were 200 feet in the existing and proposed conditions table, and setback from the residential district was zero feet existing and zero feet proposed. He said one section talked about a lot line and another talked about the use, but there was nothing in the presentation regarding specific distances of the new addition relative to any of the abutting properties, so it seemed irrelevant to the fact that there was an addition on it. He asked Attorney Mulligan why he was before the board. Attorney Mulligan said when they submitted the application two years before, the principal planner said that motor vehicle sales within 200 feet of a residential zone required relief. Mr. Rheaume said the zero foot setback was indicated in the table from the staff report. Ms. Casella said the zero foot setback related to the use of the lot as a whole, so because the lot abutted the residential lots, that was the zero foot setback. She said the city was treating the use as the use of the entire lot, not just the use of the building on the lot, and because that use was within 200 feet of the residential district. Mr. Rheaume asked what had changed from

the previous application, noting that the applicant wasn't changing the lot's dimensions or location but just adding a structure. Attorney Mulligan said the Planning Department's position is that representations made during presentations and materials submitted are considered conditions of approval, so when he came before the board two years ago, the proposal was to adaptively re-use the existing built environment and not change it. Since the applicant was now changing it however, he said it was a different project, even though the relief was similar. It was further discussed. Ms. Casella said the applicant was back because it wasn't what the board previously approved but was an increase in the square footage. Attorney Mulligan noted that the fence was gone and the two storage containers would be removed from the lot.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Rossi moved to **grant** the variance for the application as presented and advertised, with the following **stipulation**:

1. The two temporary storage units now in the space that is going to be built out shall be removed from the property.

Ms. Record seconded the motion.

Mr. Rossi said it was a change to a building for a use that was previously approved by the board, and the change is a reasonable one that will improve the general aesthetics of the property. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance, noting that the ordinance allowed this use of the property and that it had already been granted by special exception. He said substantial justice would be done, which was the balance of who benefits and who suffers, and he didn't think anyone would suffer from the project. He said the expansion of the building wasn't near the residential lot line and in fact was away from that lot line and would be hidden from it and also hidden from Maplewood Avenue, so it would have no impact on the public. He said granting the variance would not diminish the values of surrounding properties because finding a good use for the property and rehabbing the building would improve the values of the entire area. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship due to the special condition of the property of having already been approved for the use by special exception. He said that created a situation where denying a modest change in the structure would create a hardship not consistent with the previous actions of the board. He said the board should accept and approve the application. Ms. Record concurred and had nothing to add.

Mr. Rheaume said he would support the motion, although he didn't think the applicant needed to be in front of the board. He said there was nothing in what was previously approved that had anything to do with the size of the building, and he didn't see why a decision to add an addition changed in any way what the board previously approved. He said there were multiple months in a row that the board had to meet for a second time, and now they were meeting in May to complete their April business. He said the board had to be careful in granting the variance because a case could arise where an applicant would be before the board again and denied, and then there would be a court case where the applicant would say that they shouldn't have been before the board a second time.

The motion passed by a unanimous vote of 6-0, with Mr. Mattson recused.

Mr. Mattson resumed his voting seat.

G. The request of **Cate Street Development LLC (Owner)**, for property located at **360 US Route 1 BYP** whereas relief is needed to install a sign on the northern façade of the building which requires a Variance from Section 10.1271 to allow a sign to be installed on a façade not facing the street or with a public entrance; 2) Variance from Section 10.1242 to allow more than one parapet sign above the ground floor per facade. Said property is located on Assessor Map 172 Lot 1 and lies within the Gateway Corridor (G1) District. (LU-23-44)

SPEAKING TO THE PETITION

Attorney Chris Mulligan was present on behalf of the applicant ConvenientMD. He reviewed the petition, noting that the property was part of the West End Yard's development and that they proposed to install a series of signs on what would be the regional headquarters of ConvenientMD, which would be mostly office space and not a medical facility. He explained where the signage would be located and said the signage on the façade facing the north required relief because it didn't face a public way driveway, or parking lot with a principal entry. He said the motorists heading south could go past the building if it didn't have the proper signage. He said the other relief they were seeking was to identify the two parapet signs, of which the ordinance only allowed one. He said they wanted to place the logo sign on each one and that it was within the amount of allowed square footage but just the number and location of them were not compliant with the zoning ordinance. He reviewed the criteria and said they would be met.

Ms. Geffert asked how bright the parapet signs were and if the nearby condominium residents would see them. Attorney Mulligan said the signs would comply with the ordinance's illumination requirements. Mr. Mattson asked if the parapet entryway shown on the southern façade was just for ConvenientMD or also went to the other portion of the building. Attorney Mulligan said it was exclusive for ConvenientMD. Mr. Rheaume noted that the developers for the West End Yards got relief from the board for the main entry sign, and he asked if ConvenientMD headquarters would be included on that sign. Attorney Mulligan said they would not be included. Mr. Rheaume asked if there was anything further on Sign No. 1 that would help guide the clients to make a left-hand turn onto the street to access the building Attorney Mulligan said there were internal wayfinding signs throughout the West End Yards. Mr. Rheaume asked if the dual parapet signs were both main entrances to the headquarters of if one was a preferred entrance. Attorney Mulligan said the sign on the right side would be the main entry. Mr. Rheaume said it seemed like the signage in both locations was identical and could cause confusion. Attorney Mulligan said the facility wasn't an acute care walk-in one, so it would be easy to stick a small sign on the doors below the second

parapet sign noting that the main entry was to the right. He said the company name was spelled out under the right parapet sign but over the entrance. Mr. Rheaume said that ConvenientMD had their headquarters sign on the back side, and asked how the other signage would let people know not to expect medical services. Attorney Mulligan said they had an urgent care facility down the block, so it wasn't that far for someone who had an emergency situation to go to. He said there was a limited amount of square footage that the ordinance allowed to make the sign more prominent, and if they made the Convenient MD sign larger so that it indicated ConvenientMD Headquarters, they would run out of the amount of signage they were entitled to.

Mr. Rossi verified that there would not be a ConvenientMD indicator on the main entry sign. He asked which of the P01, P02, and P03 signs were designed to address the client's concern about people driving past the facility. Attorney Mulligan said it was the P03 sign and that it wasn't one of the parapet signs. Mr. Rossi asked what then was the rationale for the two parapet signs. Attorney Mulligan said it was for aesthetics due to the blank façade. Mr. Rossi asked how the two P01 signs were different from one another. Attorney Mulligan said one stated ConvenientMD on the bottom.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

Chair Eldridge said she thought the large P03 sign on the back of the building was useful if one was coming from the traffic circle because it was large enough that it could slow a motorist down before getting to the traffic circle. Mr. Rheaume said he felt that the P03 sign was an innocuous one but that the word 'headquarters' on it implied what the building's use was. He said it was a hardship for the property to have no road there and that the West End Yards was set up to connect all those properties in various ways, which stranded the applicant's building. He said his one concern with the application was that it should be clearly indicated on all signage that it's a headquarters and not a ConvenientMD where someone seeking medical attention would want to go.

DECISION OF THE BOARD

Ms. Geffert moved to grant the variances as presented and advertised, seconded by Mr. Mattson.

Ms. Geffert said granting the variances would not be contrary to the public interest because the public interest would be served by having signage to direct them to doors and buildings. She said it would observe the spirit of the ordinance because the entire property had been reconfigured to enable the use and the signs just pointed to the use. She said substantial justice would be done because it would serve the applicant's interest in pointing out to users of the facility the entrance and/or building in which the headquarters existed and would not divert them in other directions. She said the values of surrounding properties would not be diminished because the signs looked good

and did not misdirect users, so they would consequently enhance the values of surrounding properties. She said literal enforcement of the ordinance would result in an unnecessary hardship, noting that there was a headquarters sign that faced Hodgdon Way and the addition of a parapet sign. She said the applicant made the case of the driver's inability to see the facility in the building from Hodgdon Way, which was a hardship that the sign would alleviate. She said it would not harm any other people. She said it was less hardship but some hardship on the irregular signage on the north facing wall where one parapet had a sign and the other didn't, so there was some hardship that didn't seem to be counterbalanced by any public hardship. She said those special conditions allowed for the granting of the variances and support that the property could not be reasonably used in strict conformance with the ordinance. Mr. Mattson concurred and added that it would not alter the essential characteristics of the neighborhood in that Gateway Corridor District and the building had no street frontage on the bypass, so because of the way it was oriented, it wouldn't be possible to adhere the sign to the facade facing the street.

Mr. Rossi said he would support the motion because he thought it was to the public good that a company like ConvenientMD was expanding its footprint and making its headquarters there and that it showed corporate pride in what they were doing. Mr. Rheaume said he would also support the motion, although he still had reservations about the nature of the signage. He said he hoped the applicant would take that into consideration and realize that it was for their own benefit that people would not come into their headquarters for the wrong reasons.

The motion passed by a unanimous vote of 7-0.

III. OTHER BUSINESS

There was no other business.

IV. ADJOURNMENT

The meeting was adjourned at 10:08 p.m.

Respectfully submitted,

Joann Breault BOA Recording Secretary

II. OLD BUSINESS

A. The request of 635 Sagamore Development LLC (Owner), for property located at 635 Sagamore Avenue whereas relief is needed to remove existing structures and construct 4 single family dwellings which requires the following:
1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required. Said property is located on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District.

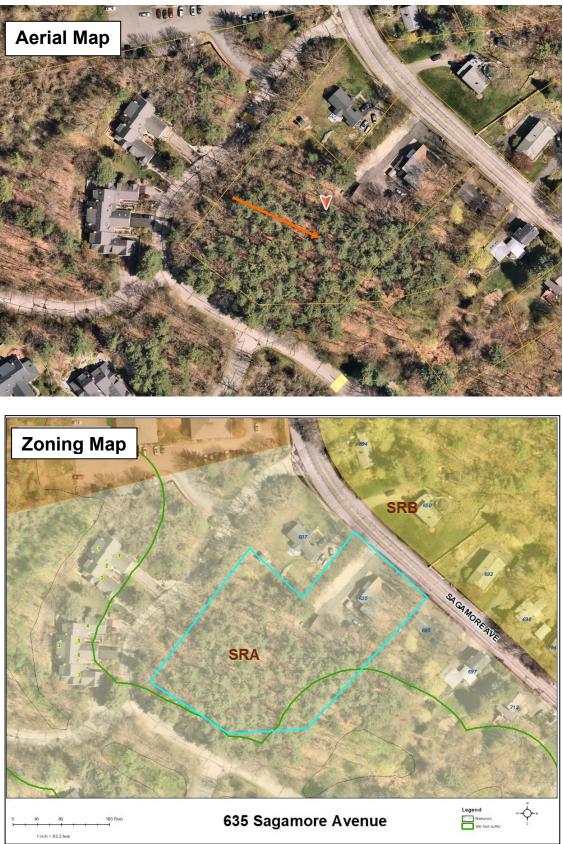
	Existing	Proposed	Permitted / Required	
Land Use:	Commercial w/ 1 apartment	4 single family dwellings	Primarily residential	
Lot area (sq. ft.):	84,795	84,795	43,560	min.
Lot Area per Dwelling Unit (sq. ft.):	84,795	21,198	43,560	min.
Lot depth (ft):	358	358	200	min.
Street Frontage (ft.):	160	160	150	min.
Primary Front Yard (ft.):	28	>30	30	min.
Right Yard (ft.):	60	>20	20	min.
Left Yard (ft.):	30	21	20	
Rear Yard (ft.):	219	>40	40	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	4	9.2	10	max.
Open Space Coverage (%):	>50	81	50	min.
Parking:	4+	16	6	
Estimated Age of Structure:	1950	Variance reque	st(s) shown in red.	

Existing & Proposed Conditions

Other Permits/Approvals Required

• TAC/Planning Board – Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

<u>April 19, 2022</u> – The BOA considered your application for remove existing commercial structure and construct 5 new single-family dwellings which requires the following: 1) A Variance from Section 10.513 to allow 5 principal structures on a lot where only 1 is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 22,389 square feet where 1 acre per dwelling is required. The Board granted your request to **postpone** to the May meeting.

<u>May 17, 2022</u> – The Board **granted** a request to postpone to the June meeting. <u>June 22, 2022</u> – The Board voted to acknowledge the **withdrawal** of the application. <u>November 15, 2022</u> - The Board **granted** a request to postpone to the June meeting. <u>December 20, 2022</u> - The Board **granted** a request to postpone to the June meeting. <u>January 17, 2023</u> - The Board **granted** a request to postpone to the March meeting.

Planning Department Comments

As shown in the history above, the applicant was before the Board this past spring with a proposal to construct 5 single family dwellings on one lot. Due to concerns from the abutters, the application was withdrawn so they could work on addressing concerns from the abutters. The new application proposes to demolish the existing structures and construct 4 free-standing single-family dwellings. The SRA zone requires 1 acre per dwelling unit and only allows 1 principal structure on a single lot. With 4 dwellings, the proposed lot area per dwelling will be 21,198, where 43,560 is required. With the exception of the density, all other dimensional requirements are in compliance with the proposed layout. This will require site plan review before TAC and Planning Board if the variances are granted. If granted approval, staff recommends the following stipulation for consideration:

1. The design and location of the dwellings may change as a result of Planning Board review and approval.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

- 1. Granting the variance would not be contrary to the public interest.
- 2. Granting the variance would observe the spirit of the Ordinance.
- 3. Granting the variance would do substantial justice.
- 4. Granting the variance would not diminish the values of surrounding properties.
- 5. The "unnecessary hardship" test:

(a) The property has <u>special conditions</u> that distinguish it from other properties in the area. **AND**

(b) <u>Owing to these special conditions</u>, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. **OR**

<u>Owing to these special conditions</u>, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

Hoefle, Phoenix, Gormley & Roberts, pllc

- ATTORNEYS AT LAW

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480 Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

October 26, 2022

HAND DELIVERED

Peter Stith, Principal Planner Portsmouth Zoning Board of Adjustment 1 Junkins Avenue Portsmouth, NH 03801

> Re: 635 Sagamore Development, LLC, Owner/Applicant Project Location: 635 Sagamore Avenue Tax Map 222, Lot 19 General Residence A (GRA Zone)

Dear Mr. Stith and Zoning Board Members:

On behalf of 635 Sagamore Development, LLC, applicant, enclosed please find the following documents in support of a request for zoning relief:

- Portsmouth Land Use Application uploaded to Viewpoint today.
- Owner Authorization.
- 10/26/2022 Memorandum and exhibits in support of zoning relief.

Very truly yours,

R. Timothy Phoenix Monica F. Kieser

Enclosures

cc 635 Sagamore Development, LLC Jones & Beach Engineers, Inc. Artform Architecture, Inc.

DANIEL C. HOEFLE R. TIMOTHY PHOENIX LAWRENCE B. GORMLEY STEPHEN H. ROBERTS R. PETER TAYLOR KEVIN M. BAUM GREGORY D. ROBBINS MONICA F. KIESER JACOB J.B. MARVELLEY DUNCAN A. EDGAR STEPHANIE J. JOHNSON OF COUNSEL: SAMUEL R. REID JOHN AHLGREN

Letter of Authorization

635 Sagamore Development, LLC, owner of property located at 635 Sagamore Avenue in Portsmouth, NH, known as Tax Map 222, Lot 19, do hereby authorize Jones & Beach Engineers, Inc. ("JBE"), Garrepy Planning Consultants, LLC ("GPC"), and Hoefle, Phoenix, Gormley & Roberts, PLLC ("HPGR") to act on its behalf concerning the previously mentioned property.

I hereby appoint JBE, GPC and HPGR as agents to act on behalf of 635 Sagamore Development, LLC in the Planning Board and Zoning Board application process, to include any required signatures.

635 Sagamore Development, LLC

Timothy J. Black, Duly Authorized

January 5, 2022 Date

MEMORANDUM

To: Portsmouth Zoning Board of Adjustment ("ZBA")
From: R. Timothy Phoenix, Esq. Monica F. Kieser, Esq.
Date: October 26, 2022
Re: 635 Sagamore Development, LLC, Owner/Applicant Project location: 635 Sagamore Avenue Tax Map 222, Lot 19 Single Residence A (SRA) District

Dear Chairman Parrott and Zoning Board Members:

On behalf of 635 Sagamore Development, LLC ("635 Sagamore" or "Applicant") we are pleased to submit this memorandum and the attached exhibits in support of zoning relief to be considered by the ZBA at its November 15, 2022 meeting.

I. EXHIBITS

- A. <u>Plan Set</u> by Jones and Beach Engineers
 - C1 Existing Conditions Plan
 - C2 ZBA Site Plan
 - C3 Topographic Site Plan
- B. Architectural Elevations and Floor Plans-by ArtForm Architecture, Inc.
 - Renderings
 - First Floor
 - Second Floor
 - Foundation Plan
 - Elevations
- C. Site photographs
- D. Tax Assessors Card
- E. <u>City GIS Map</u> identifying nearby zoning districts and surrounding area

II. PROPERTY/BACKGROUND

635 Sagamore Avenue is an 84,795 s.f lot with 150 ft. of frontage containing two buildings in poor condition; the front building contains Luster King, an automobile detailing shop and upstairs apartment, and behind a large service garage (the "Property"). The Luster King building is located partially within the front yard setback, access to it is over the entire frontage, and the use of the Property does not conform to the requirements of the Single Residence A District. 635 Sagamore proposes to remove the existing commercial building and garage and redevelop the Property with four new single-family homes with access via a private roadway from Sagamore Avenue (the "Project"). **(Exhibit A)**. The Project is more compatible with the neighborhood which includes the westerly abutter, Tidewatch Condominiums with 122 Units, and the Sagamore Court Condominium with 144 Units. **(Exhibit D)**. Other nearby abutters are largely developed with single family residences with similar density as the proposed project. The Luster King building is still served by septic, but municipal sewer service has been extended to the Property which will serve the proposed dwellings.

In March of this year, 635 Sagamore filed a variance application seeking relief from §10.513 and §10.521 (Dimensional Table) to permit five dwellings on the Property where one dwelling is required and 16,959 s.f. per dwelling unit where 43,560 s.f. per dwelling is required. Thereafter, Tidewatch Condominium Association ("Tidewatch") objected, through Counsel Brian Bouchard. 635 Sagamore withdrew the previous application in order to spend time working with Tidewatch to address its concerns. 635 Sagamore now proposes a twenty percent (20%) reduction four-unit residential development which retains a significant tree buffer and adds a mix of trees on the south and west side of the lot (the "Revised Project"). Given the reduction in units and generous plantings, Tidewatch Condominium Association has withdrawn its objection to the Revised Project, provided 635 Sagamore continues to coordinate with Tidewatch on issues related to landscaping and stormwater management.

The Revised Project requires similar relief as before as four dwelling units are proposed on a ± 1.947 acre lot (2.06 units per acre or 21,198 s.f. per dwelling). This density is less than nearby densely developed Sagamore Court Condominium (144 units/15.01 acre = 9.59 units per acre or 4,542 s.f. per dwelling) to the north and Tidewatch Condominium (122 units/53.59 acre = 2.27 units per acre or 19,189 s.f. per dwelling) directly to the west. Notably, the SRB Zone, located across Sagamore Avenue, permits a lot area of 15,000 square feet per dwelling unit or approximately 2.9 units per acre. The proposal at 21,198 s.f. square feet per unit falls between the single-family homes opposite the lot and the more densely developed condominium associations. Thus, in addition to cleaning up a long distressed and non-conforming site, including narrowing the current open frontage curb cut, the proposal creates a natural transition between the SRB Zone across Sagamore, the existing multi-building condominium developments to the north and west (rear) of the Property and the nearby single-family home lots.

III. RELIEF REQUIRED

The Project meets setback, lot coverage, and open space requirements. (Exhibit A).

Relief is required to allow the proposed structures on a single lot and for lot area per dwelling unit.

- 1.) **PZO §10.513 One Freestanding Dwelling/Lot** to permit four dwellings on a 1.947 acre lot.
- 2.) **PZO §10.521 (Table of Dimensional Standards) Lot Area Per Dwelling Unit** to permit four dwellings on 1.947 acres (21,198 s.f./dwelling area) where 43,560 s.f. is required for each dwelling.

IV. VARIANCE REQUIREMENTS

1. <u>The variance will not be contrary to the public interest</u>

2. The spirit of the ordinances observed

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to <u>Malachy Glen Associates</u>, Inc v. Town of Chichester, 155 NH 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinances basic zoning objectives." <u>Id.</u> "Mere conflict with the ordinance is not enough." <u>Id</u>.

The Portsmouth Zoning Ordinance was enacted for the general purpose (PZO§10.121) of promoting the health, safety and welfare in accordance with the Master plan by regulating:

- 1. <u>The use of land, buildings and structures for business, industrial, residential and other</u> <u>purposes</u> – The Property currently houses a non-conforming commercial auto detailing business and service garage. (**Exhibit C**). The proposal would replace those buildings with brand new, to code, residences consistent with surrounding uses.
- The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The Project complies with building coverage, height, yards and open space requirements. The reduced proposal with four dwellings on a single lot, at 2.06 dwelling units per acre is consistent with surrounding properties and less than the density permitted by right across Sagamore Avenue.
- 3. <u>The design of facilities for vehicular access, circulation, parking and loading-</u> The Project will be served by a private roadway from Sagamore Avenue. **(Exhibit A)**. There is currently no defined curb cut on the property so the redevelopment will improve driveway distances, site lines, and overall traffic safety from the Property compared to the existing commercial and residential use. **(Exhibit D)**. The driveway will undergo further review as part of the Planning Board and NHDOT review processes.

- 4. <u>The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and</u> <u>flooding – The</u> Property is currently used as a commercial auto detailing facility in the middle of a residential area. The Project will convert the Property to residential use with lighting, noise, and other conditions more appropriate for the neighborhood. A generous buffer will be preserved between the Project and Tidewatch Condominium. The Project maintains 81.3% open space. Stormwater runoff will be improved over the current development which is significantly paved and use of commercial cleaning chemicals will cease.
- <u>The preservation and enhancement of the visual environment The</u> Project vastly improves the visual environment for the immediate abutters on either side and across the street. In addition, a generous vegetated buffer is retained for the south/west abutters. Sagamore further screens the developed area with the addition of a significant tree buffer. (Exhibit A).
- 6. <u>The preservation of historic districts buildings and structures of historic or architectural</u> <u>interest</u> – The Property and the existing structures to be removed are of no known historic or architectural interest.
- 7. <u>The protection of natural resources, including groundwater, surface water, wetlands,</u> <u>wildlife habitat and air quality</u> – The Project will significantly improve conditions by terminating the use of commercial grade cleaning chemicals in favor of a compatible residential uses served by municipal sewer.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinances basic zoning objectives." <u>Malachy Glen</u>, supra, the New Hampshire Supreme Court also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would <u>alter the</u> <u>essential character of the locality</u>. Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would <u>threaten the public health</u>, <u>safety or welfare</u>. (Emphasis Added)

The Property is located on a busy street in a densely developed residential area. While there are some other nearby commercial use properties, they are located closer to Sagamore Creek in the Waterfront Business Zone, are largely less impactful and are more buffered from nearby residences than the current business operations on the Property. The Project would convert a long-standing commercial use that is grossly incompatible with the character of the locality to a residential use consistent with the surrounding area including two large condominium developments. The commercial traffic and the use of commercial grade cleaning chemicals will cease, thus improving the public health, safety and welfare. The wide open curb cut accessing the lot will be reduced to a controlled entry/exit. The Project creates a natural transition between these condominium developments and the adjoining GRB zone. Thus, permitting four code compliant, single-family dwellings on ± 1.947 acres does not alter the essential character of the locality nor will it threaten the public health, safety or welfare.

3. Granting the variances will not diminish surrounding property values

The commercial buildings currently located on the Property are distressed, incongruent with the surrounding residential neighborhood and frankly an eyesore. The Project cleans up the site, removes commercial buildings/uses and replaces them with brand new tastefully designed residences. In consultation with Tidewatch, a generous vegetated buffer is retained, which is supplemented by the addition of a robust landscape buffer plan. Given the termination of the commercial use, removal of the distressed structures, and efforts to screen the residential structures, the Project will increase the value of surrounding properties. Accordingly, this element of the variance criteria is satisfied.

4. Denial of the variances results in an unnecessary hardship

a. Special conditions distinguish the property/project from others in the area-

This portion of the SRA District on the north side of Sagamore Creek is comprised of only seven properties. **(Exhibit E)**. Discounting Tidewatch with 122 units on 53.59 acres, the 1.947 acre L-shaped lot significantly larger than the remaining five properties, yet contains just over the required frontage. Although zoned SRA and subject to a 43,560 s.f. minimum lot area and lot area/dwelling unit requirement, this neighborhood is bounded by the Sagamore Condominium Development with 144 Units on 15.01 acres, a handful of lots in the Waterfront Business District, and the SRB district across Sagamore Avenue with its reduced density requirement of just 15,000 s.f./dwelling unit. See <u>Walker v. City of Manchester</u>, 107 N.H. 382, 386 (1966) (hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood). The parcel size, shape, and location near other densely developed residential parcels combine to create special conditions.

b. <u>No fair and substantial relationship exists between the general public purposes of the</u> ordinance and its specific application in this instance.

The purpose of the requirements for one free standing dwelling per lot and lot area per dwelling unit is to prohibit overcrowding, allow for air, light, and separation between neighbors,

and to permit stormwater treatment. The Project meets all lot area, building and open space coverage, height and external setback requirements. Additionally, the proposal provides for voluntary setbacks between each of the four new buildings of at least 20 feet, consistent with the side setback requirement for the district. Thus, adequate area for air, light, separation between neighbors and stormwater treatment is provided. The proposed density is also consistent with the surrounding area, which includes many smaller sized lots with homes located in relatively close proximity. **(Exhibit E)**. Moreover, granting the requested variances will significantly improve the Property and surrounding area by removing two blighted, non-conforming commercial structures and replacing them with four brand new, homes where housing is sorely needed. The Property will be completely redeveloped, thus it follows that there is no reason to apply the strict requirements of the ordinance. This transitional location, located near and adjoining two densely development condominiums and across Sagamore Avenue from the SRB Zone is well suited for the proposed four building single-family development.

c. <u>The proposed use is reasonable</u>

If the use is permitted, it is deemed reasonable. <u>Vigeant v. Hudson,151</u> NH 747 (2005). The proposal is a residential use in a residential zone and thus is reasonable Accordingly denial would result in an unnecessary hardship.

5. <u>Substantial justice will be done by granting the variance.</u>

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508</u> (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." <u>Malachy Glen</u>, supra at 109.

"The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." <u>N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV;</u> <u>Town of Chesterfield v. Brooks</u>, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. <u>L. Grossman & Sons, Inc. v. Town of Gilford</u>, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to

mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it.* <u>Burrows v. City of Keene</u>, 121 N.H. 590, 597 (1981) (emphasis added). Sagamore is constitutionally entitled to the use of the lot as it sees fit subject only to the effect of the lot size and density requirements.

The Project: removes blighted buildings and a nonconforming commercial use; complies with all other dimensional requirements; maintains generous open space and vegetated buffers; provides additional screening with a robust planting plan, there will be no benefit to the public from denial and no harm to the public by granting the variances. Conversely, denial of the variances causes great harm to 635 Sagamore and its abutters by continuing the nonconforming commercial use of the Property. Accordingly, substantial justice is done by granting the variances.

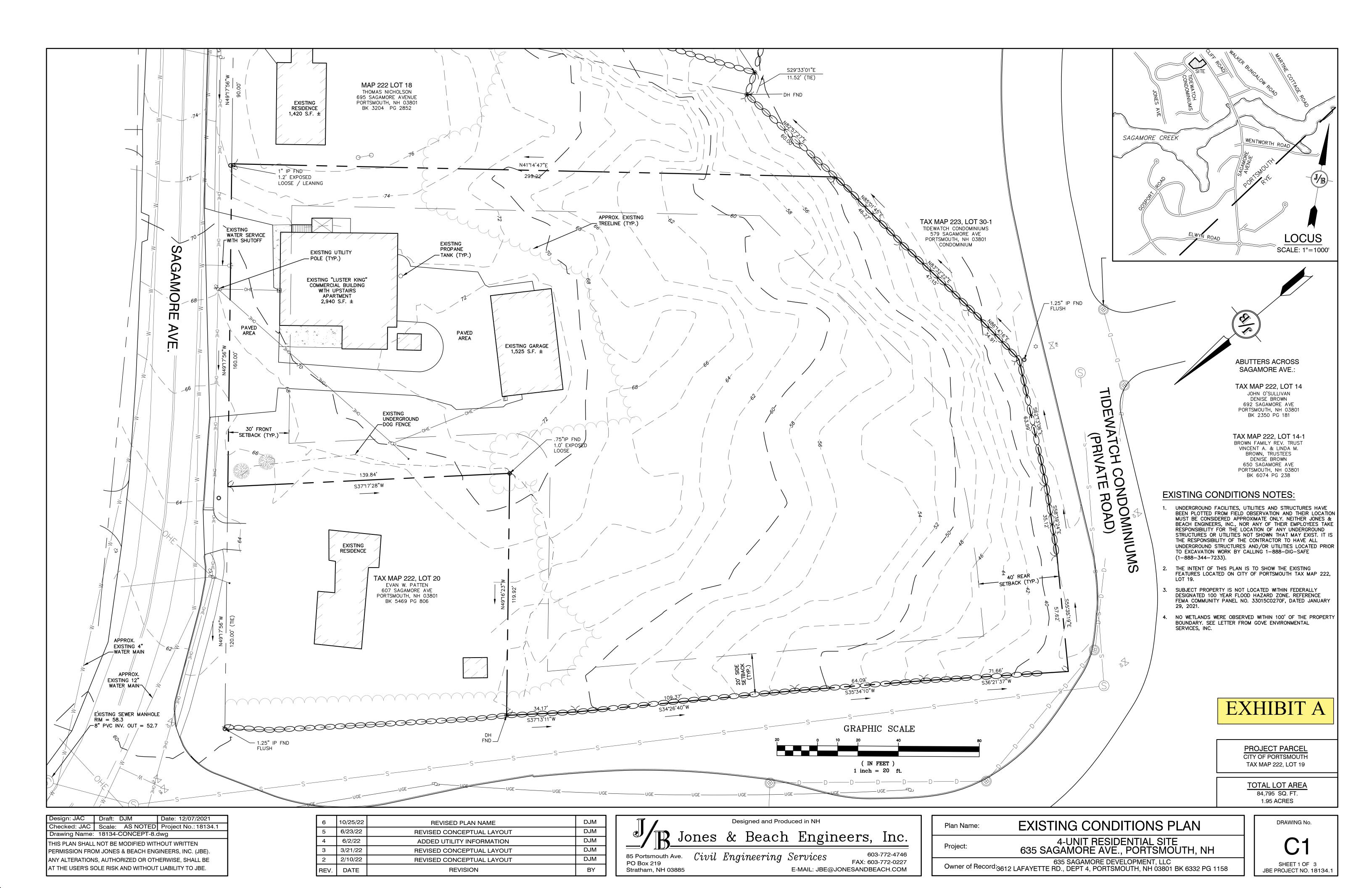
V. CONCLUSION

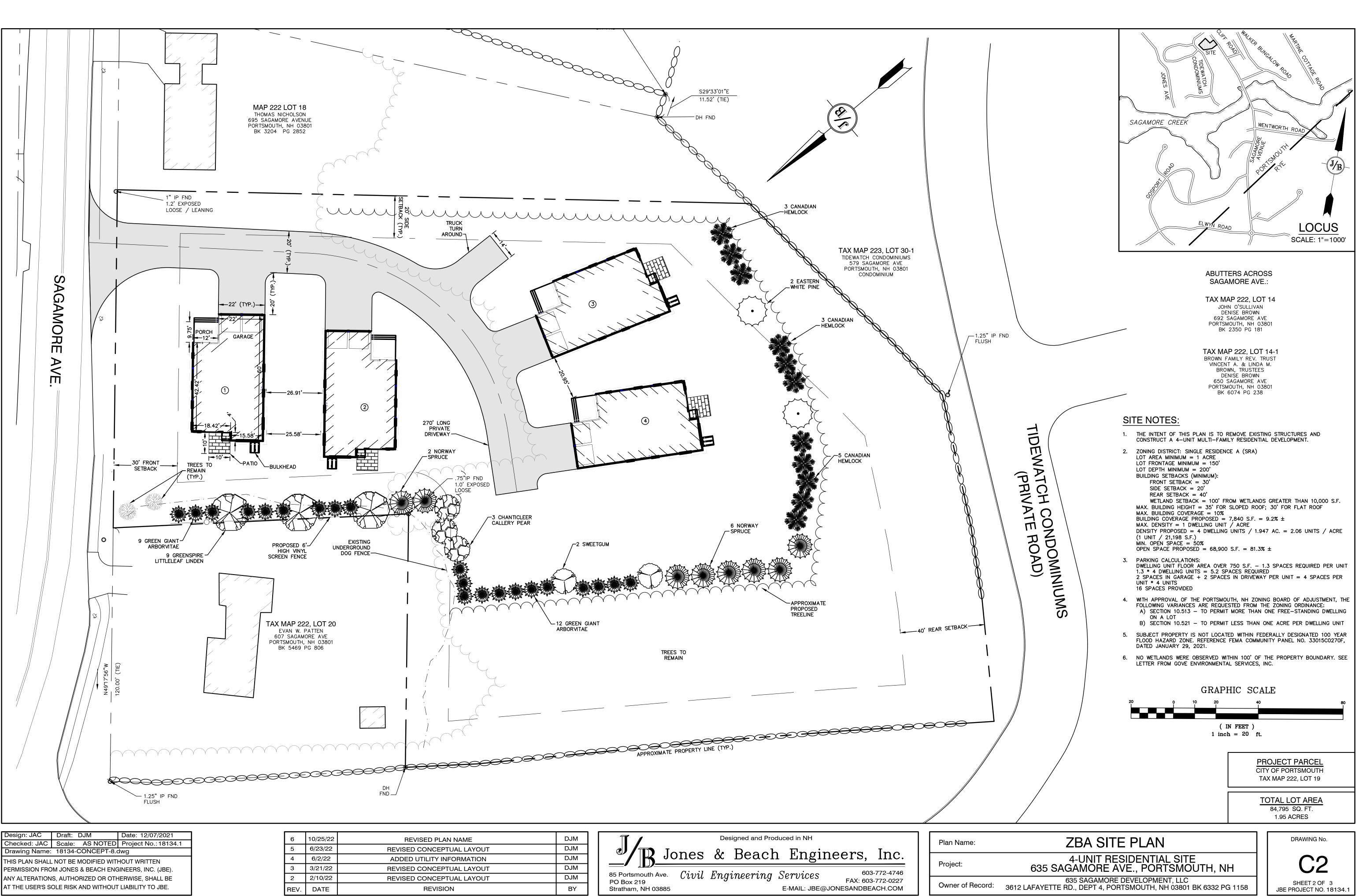
For all of the reasons herein stated, Sagamore respectfully requests that the Portsmouth Zoning of Adjustment grant the requested variances.

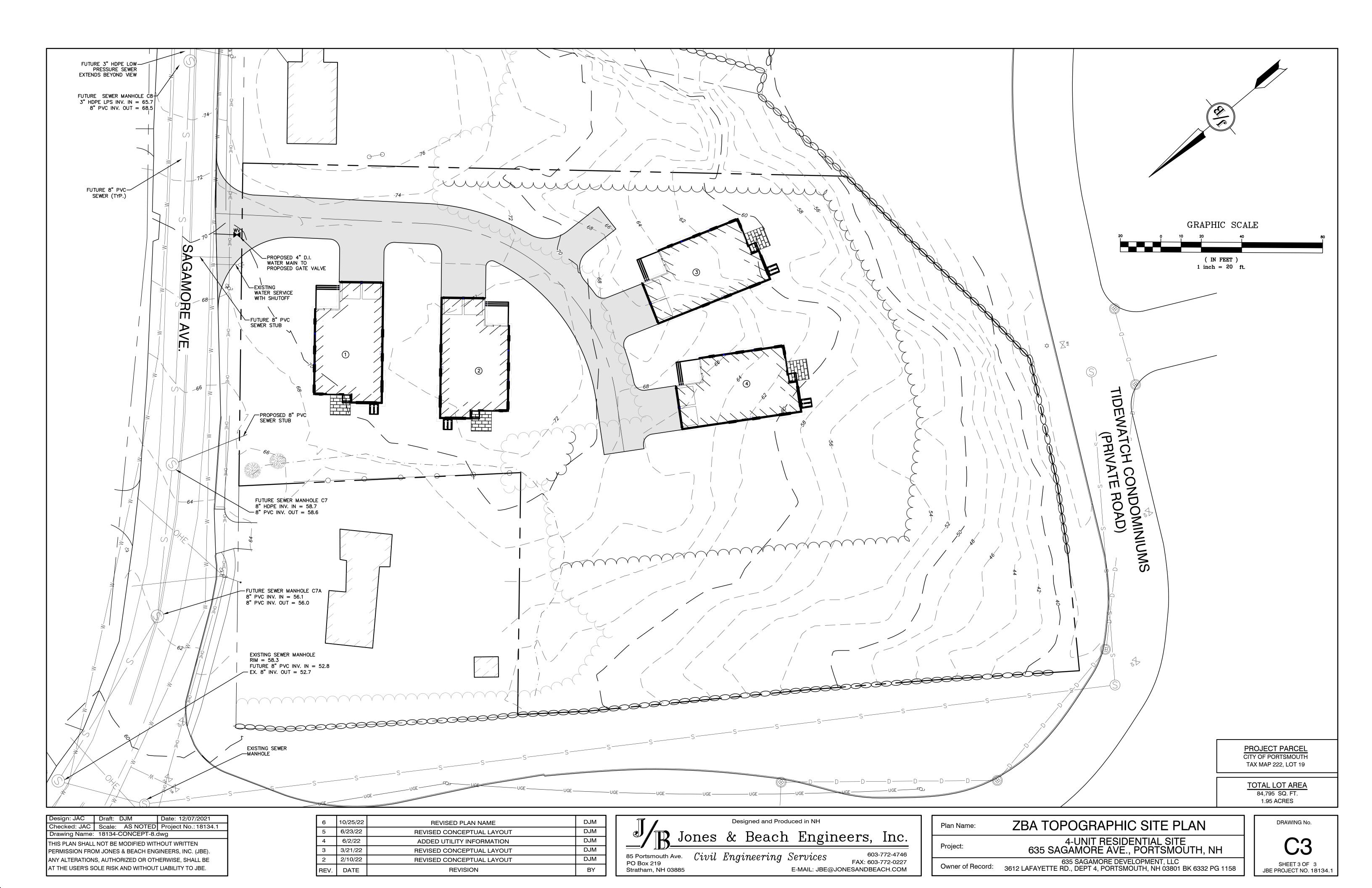
By:

Respectfully submitted, 635 Sagamore Development, LLC

R. Timothy Phoenix, Esq. Monica F. Kieser, Esq.







Sea Watch 419.126.v14 GL (1/27/2022)

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Dear Builders and Home Buyers,

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This design may not yet have Construction Drawings (as defined in the Terms), and is, therefore, only available as a Design Drawing (as defined in the Terms and together with Construction Drawings, "Drawings'). It is possible that during the conversion of a Design Drawing to a final Construction Drawing, changes may be necessary including, but not limited to, dimensional changes. Please see Plan Data Explained on www.ArtformHomePlans.com to understand room sizes, dimensions and other data provided. We are not responsible for typographical errors.

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To maintain design integrity, we pay particular attention to features on the front facade, including but not limited to door surrounds, window casings, finished porch column sizes, and roof friezes. While we may allow builders to add their own flare to aesthetic elements, we don't allow our designs to be stripped of critical details. Any such alterations require the express written consent of Artform.
Increasing ceiling heights usually requires adjustments to window sizes and other exterior elements.
Floor plan layout and/or Structural Changes:

Structural changes always require the express written consent of Artform

• If you wish to move or remove walls or structural elements (such as removal of posts, increases in house size, ceiling height changes, addition of dormers, etc), please do not assume it can be done without other additional changes (even if the builder or lumber yard says you can).

Artform Home Plans

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hanges: the express written consent of

EXHIBIT B

Sea Watch 419.126.v14 GL (1/27/2022)

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CRS 419.126.v14 GL Sea Watch

R Artform Home Plans

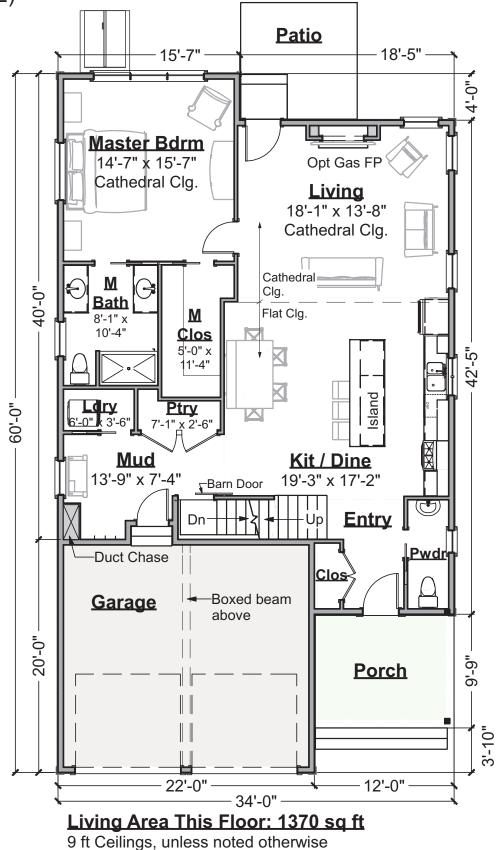
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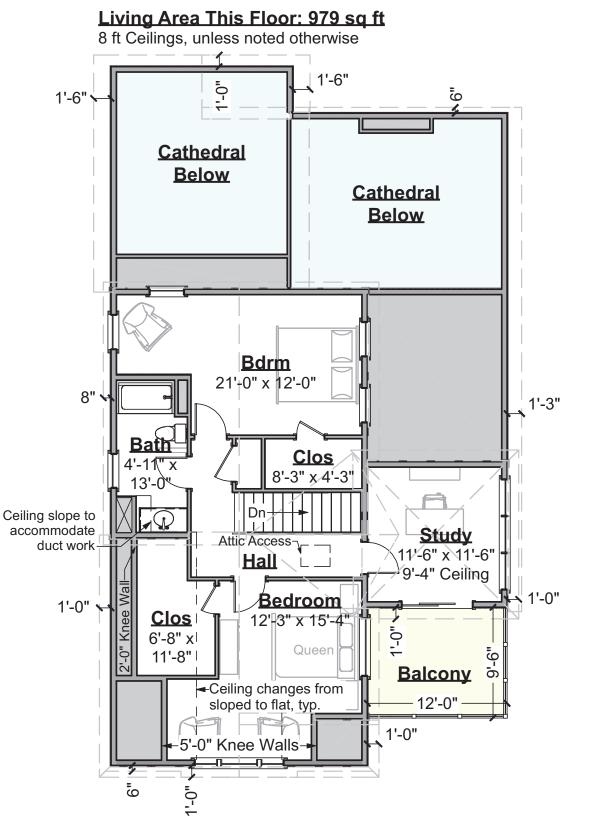
Artform Home Plans

603-431-9559

First Floor Plan Scale: 3/32" = 1'-0"



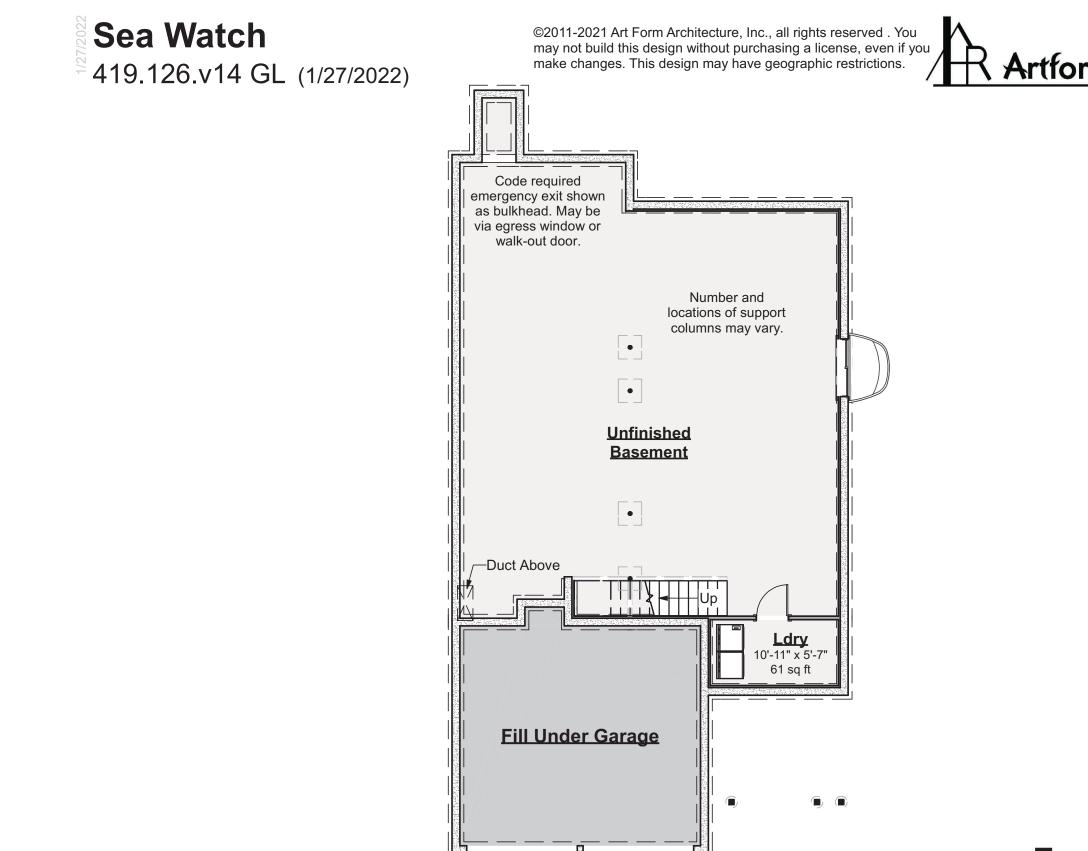




Artform Home Plans

603-431-9559

Scale: 3/32" = 1'-0"



Artform Home Plans

603-431-9559

Foundation Plan Scale: 3/32" = 1'-0"







R Artform Home Plans

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Front Elevation Scale: 1/8" = 1'-0"











603-431-9559

Right Elevation Scale: 1/8" = 1'-0"







R Artform Home Plans

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Rear Elevation Scale: 1/8" = 1'-0"









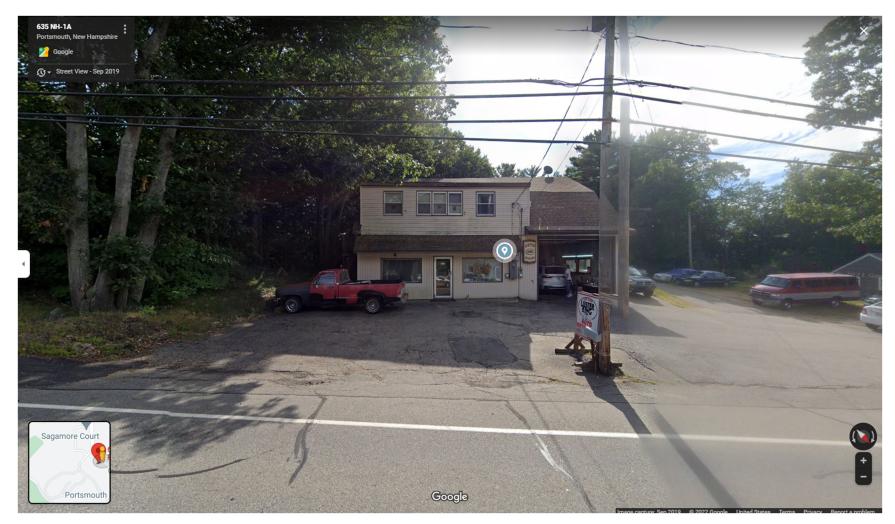


Left Elevation Scale: 1/8" = 1'-0"



Aerial view of Property





Front View of Property (Sagamore Ave)



Front View of Property



Front View of Property



Side View of Property



View of Service Garage and Shed



Rear View of Property











R Artform Home Plans

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Interior Views

Location	635 SAGAMORE AVE	Mblu	0222/ 0019/ 0000/ /
Acct#	35416	Owner	635 SAGAMORE DEVELOPMENT LLC
PBN		Assessment	\$682,800
Appraisal	\$682,800	PID	35416
Building Count	2		

Current Value

Appraisal				
Valuation Year	Improvements Land		Total	
2020	\$407,600	\$275,200	\$682,800	
Assessment				
Valuation Year	Improvements	Land	Total	
2020	\$407,600	\$275,200	\$682,800	

Owner of Record

Owner	635 SAGAMORE DEVELOPMENT LLC	Sale Price	\$387,133
Co-Owner		Certificate	
Address	3612 LAFAYETTE RD DEPT 4	Book & Page	6332/1158
	PORTSMOUTH, NH 03801	Sale Date	09/24/2021

Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
635 SAGAMORE DEVELOPMENT LLC	\$387,133		6332/1158	09/24/2021
HINES FAMILY REVO TRUST	\$0		4885/1538	02/11/2008

Building Information

Building 1 : Section 1

Year Built:	1950
Living Area:	4,477

Field		Description
E	Building A	Attributes
Less Depreciation:	\$277,4	00
Replacement Cost		
Building Percent Good:	54	
Replacement Cost:	\$513,72	21

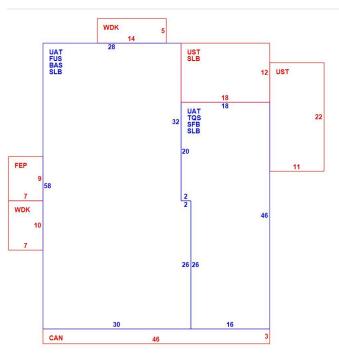
Field	Description
Style:	Retail/Apartment
Model	Commercial
Grade	С
Stories:	2
Occupancy	3.00
Residential Units	
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	Pre-Fab Wood
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Inlaid Sht Gds
Interior Floor 2	Carpet
Heating Fuel	Oil
Heating Type	Hot Water
АС Туре	Unit/AC
Bldg Use	PRI COMM
Total Rooms	
Total Bedrms	
Total Baths	
Kitchen Grd	
Heat/AC	NONE
Frame Type	WOOD FRAME
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Prtns	AVERAGE
Wall Height	10.00
% Comn Wall	
1st Floor Use:	
Class	

Building Photo

Building Photo

(http://images.vgsi.com/photos2/PortsmouthNHPhotos///0033/DSC01732_C

Building Layout



(ParcelSketch.ashx?pid=35416&bid=35416)

	Building Sub-Areas (sq ft)		<u>Legend</u>
Code	Description	Gross Area	Living Area
BAS	First Floor	1,676	1,676
FUS	Upper Story, Finished	1,676	1,676
TQS	Three Quarter Story	776	582
SFB	Base, Semi-Finished	776	543
CAN	Canopy	138	0
FEP	Porch, Enclosed	63	0
SLB	Slab	2,668	0
UAT	Attic	2,452	0
UST	Utility, Storage, Unfinished	458	0
WDK	Deck, Wood	140	0
		10,823	4,477

Building 2 : Section 1

Year Built:	2000
Living Area:	1,650
Replacement Cost:	\$153,450

Replacement Cost Less Depreciation:

\$128,900

		_
Building	Attributes	•

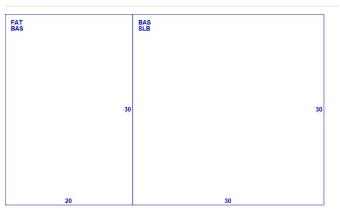
Building Attributes : Bldg 2 of 2		
Field	Description	
Style:	Service Shop	
Model	Commercial	
Grade	C	
Stories:	1	
Occupancy	1.00	
Residential Units		
Exterior Wall 1	Vinyl Siding	
Exterior Wall 2		
Roof Structure	Gable/Hip	
Roof Cover	Asph/F Gls/Cmp	
Interior Wall 1	Drywall/Sheet	
Interior Wall 2		
Interior Floor 1	Concr-Finished	
Interior Floor 2	Carpet	
Heating Fuel	Oil	
Heating Type	Hot Water	
АС Туре	None	
Bldg Use	AUTO S S&S	
Total Rooms		
Total Bedrms		
Total Baths		
Kitchen Grd		
Heat/AC	NONE	
Frame Type	WOOD FRAME	
Baths/Plumbing	AVERAGE	
Ceiling/Wall	CEIL & WALLS	
Rooms/Prtns	AVERAGE	
Wall Height	12.00	
% Comn Wall		
1st Floor Use:		
Class		

Building Photo

Building Photo

(http://images.vgsi.com/photos2/PortsmouthNHPhotos///0033/DSC01731_;

Building Layout



(ParcelSketch.ashx?pid=35416&bid=40140)

	<u>Legend</u>		
Code	Description	Gross Area	Living Area
BAS	First Floor	1,500	1,500
FAT	Attic	600	150
SLB	Slab	900	0
		3,000	1,650

Extra Features

Land

Land Use		Land Line Valua	Land Line Valuation	
Use Code	0310	Size (Acres)	1.93	
Description	PRI COMM	Frontage		
Zone	SRA	Depth		
Neighborhood	306	Assessed Value	\$275,200	
Alt Land Appr	No	Appraised Value	\$275,200	
Category				

Outbuildings

Outbuildings					<u>Legend</u>	
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV1	PAVING-ASPHALT			1344.00 S.F.	\$1,200	1
SHD1	SHED FRAME			96.00 S.F.	\$100	1

Valuation History

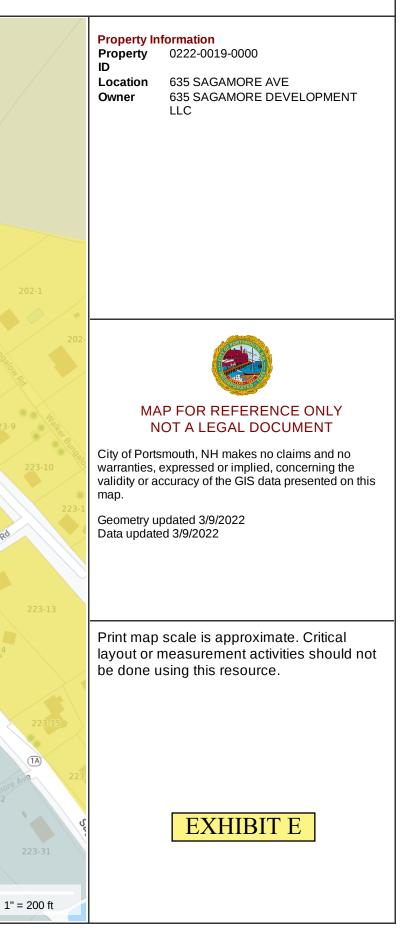
Appraisal				
Valuation Year	Improvements	Land	Total	
2020	\$418,400	\$275,200	\$693,600	
2019	\$418,400	\$275,200	\$693,600	
2018	\$391,100	\$254,800	\$645,900	

Assessment				
Valuation Year	Improvements	Land	Total	
2020	\$418,400	\$275,200	\$693,600	
2019	\$418,400	\$275,200	\$693,600	
2018	\$391,100	\$254,800	\$645,900	

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+GRA GRA -SRB GA/MH ²NRP³ SRB SRA SAVE Google App Geo

635 Sagamore Avenue



WHITE APPRAISAL

REAL ESTATE APPRAISING & CONSULTING Brian W. White, MAI, SRA

October 28, 2022



Timothy Phoenix, Esquire Hoefle, Phoenix, Gormley & Roberts, PLLC 127 Parrott Avenue P.O. Box 4480 Portsmouth, NH 03802-4480

RE: The Variance application for a four-unit freestanding single-family development to be located on 635 Sagamore Avenue in Portsmouth, New Hampshire.

Attorney Phoenix:

At your request, I have been asked to investigate the impact on the value of the abutting properties for the proposed four-unit freestanding single-family development to be located on 635 Sagamore Avenue (Map 222, Lot 19) and to prepare an analysis and opinion on the matter. I have reviewed the Portsmouth Zoning Ordinance that addresses the standards for the requested variance. To prepare this letter, I have completed research on the proposed subject property, the neighborhood and the Portsmouth marketplace. The following letter summarizes my analysis, findings and conclusions:

1. The Existing Development:

The subject property is a 1,947-acre parcel of land located on the southern side of Sagamore Avenue in the Single Residence A (SRA) zone. The subject property is currently improved with an older 4,477 square-foot, mixed-use, building that contains a first-floor commercial garage unit and two upper-level apartments and an older 1,650 square-foot, one-story, two-bay, garage building. The improvements were constructed in 1950 and 2000 and they appear to be in below average overall condition for the Sagamore Avenue area. The front portion of the parcel has paved drive and parking areas. The existing development utilizes approximately the front third of the parcel with the central and rear areas of the parcel being treed with a large number of evergreens and some deciduous trees. The terrain for the parcel has a natural downward slope in a northeast to southwest direction. The parcel is serviced with municipal water, electricity, telephone, natural gas, cable and internet. The central and rear portions of the parcel have several rock outcroppings. There are no wetland areas located on the parcel.

2. The Proposed Development:

The two older wood-frame buildings will be razed and a new paved drive will be installed off of Sagamore Avenue in the northeastern portion of the subject's parcel. This paved drive will extend into the central portion of the parcel providing access to four freestanding single-family residences. There will be a vehicle turn-around located at the end of the drive area.

Each of the single-family residences will have a front paved driveway that will provide access to a two-car garage. The residences will each contain two levels of finished living area with the three centrally located residences having a walk-out basement area given the natural sloping terrain. The units will have quality interior and exterior finishes that are commensurate with other similar new construction residences located in Portsmouth. Based on the proposed building plans, the proposed single- family residences will contain from 2,111 square feet to 2,349 square feet (2,230 SF average). The single-family homes will be surrounded by landscaped and grassed areas and there will be a rear patio area. There will be plantings located to the rear of the residences providing additional screening from abutting properties. According to Michael Garrepy, Consultant to the ownership of 635 Sagamore Development, LLC, the anticipated retail prices for the four proposed single-family residences will range from approximately \$1,000,000 to \$1,200,000.

3. Neighborhood & Abutting Properties:

The subject property is located in a large Single Residence A (SRA) zone and the land located directly across from the subject property on Sagamore Avenue is zoned Single Residence B (SRB). Both of these zones allow for single-family dwellings with a few other uses allowed as a conditional use or a special exception. Directly abutting the subject property on Sagamore Avenue are two single-family residences (Circa 1940 & 1964) that are small two-bedroom residences with a one-car garage. There are three single-family residences (Circa 1890, 1940 & 1985) located across Sagamore Avenue from the subject property. These residences range in size from a 1,248 square foot one-bedroom residence to a 2,861 square foot three-bedroom residence. In general, these abutting and nearby singlefamily residences are in average to above average overall condition. None of these nearby single-family residences have sold within the past several years. The average assessment for these five nearby single-family residences is approximately \$460,000. The Tidewatch Condominium development is a 116-unit single-family condominium development located at 579 Sagamore Avenue. The entry road for this development abuts the rear portion of the subject property to the south of the subject property. These townhouse style units were constructed beginning in the late 1980s and they are generally in above average to good overall condition. Over the past two years, units in this development have sold from \$650,000 to \$1,240,000 with an average sale price of approximately \$815,000.

4. Factors that impact Value and the Application to the Subject Property:

For the subject property, there are three potential factors that could directly impact the market value of the abutting properties. These factors are noise, view and use.

Noise:

It was previously noted that the proposed subject property will contain a single-entry drive and four freestanding single-family residences. Two of the subject's proposed residences will be located in the front third of the parcel along Sagamore Avenue while three of the proposed residences will be located in the center portion of the parcel. The rear third of the parcel will remain undeveloped and treed. At the present time, the subject's improvements contain a mixture of apartment units and two commercial units each containing garage space along with supporting drive and parking areas for business related vehicles. At the present time, the noises emitted from the subject property are from residential tenants entering and

exiting their apartment units and from vehicular traffic entering and exiting from the parking area. There are also likely noises from the car doors opening and closing. In addition, there are noises from the commercial garage work being completed along with the garage doors opening and closing. The subject's proposed residential development will contain a single paved drive (ingress and egress) that will extend into the center portion of the parcel. It is noted that given the sloping terrain of the parcel, the developed areas of the parcel will be located approximately 20 to 30 feet higher than the Tidewatch Condominium access road which is located to the rear of the subject's parcel. The vehicle noise from the proposed development will likely be somewhat similar to that currently emitted by the existing development. One difference is that the subject's proposed development will have a road extending into the center portion of the parcel and another difference is that each residential unit will have a two-car garage. The longer entry drive will bring vehicles into the center portion of the parcel which will likely slightly increase vehicle noise. The fact that each residential unit has a two-car garage will likely decrease the noise from opening and closing of car doors as they will largely be contained in garage areas as opposed to the current situation of many vehicles being parked outside. These differences will likely be off-setting. There will obviously be additional noise from the use and maintenance of the four singlefamily residences. However, these noises are no different than what is currently heard from the abutting and surrounding residences. The typical buyer of a property located in close proximity to the subject property would be aware of this potential. Considering all of these factors, it is reasonable to conclude that the proposed four-unit single-family development of the subject property will be configured in such a manner that there would not be an increase in non-residential noises that would be over and above that of any other permitted uses in the "SRA" and "SRB" zones.

View:

At the present time, the subject's combined mixed-use (commercial garage, apartments and exterior parking areas) development is very visible from the road traffic and the abutting residences located along Sagamore Avenue. It is visible in the distance with a heavy wooded screen from the Tidewatch Condominium access road and from the front areas of several townhouse-style condominium units in the development. From the front and central portions of the subject property, the two abutting older single-family residences area visible along with the three residences located across Sagamore Avenue to the north, east and west. To the south, the access road for the Tidewatch Condominium development is visible in the distance with a heavy wooded screen.

The existing mixed-use development of the subject property is an average condition development that some would consider to be an eyesore for the mostly above average to good condition residential neighborhood of the subject property. There is no screening of these mixed-use buildings and the supporting drive and parking areas from Sagamore Avenue. The proposed four-unit residential development will have a single paved drive located in the eastern portion of the parcel. The front building will be setback further from Sagamore Avenue than the existing mixed-use building and it will be surrounded by grassed and landscaped areas. A second single-family residence will be located approximately 25' to the rear of the front residence. The proposed subject property will greatly enhance the views from the neighboring single-family residences located along Sagamore Avenue. The subject's two rear detached single-family residences will be located in the central portion of the parcel which is currently undeveloped woods. These two detached residences will be

visible from the rear yard areas of the two abutting single-family residences and they will be visible in the distance from the front parking and building areas of several townhouse-style condominium units located in the Tidewatch Condominium development. The front portion of the development that abuts 607 Sagamore Avenue will contain a new 6' vinyl fence and new screening that will include Giant Arborvitae and Greenspire Littleleaf Linden trees. The western and southern developed areas that face the Tidewatch condominium access road will have additional screening that will include Canadian Hemlock, Eastern White Pine, Norway Spruce, Chanticleer Callery Pear, Sweetgum and Cherry trees. This fencing along with the proposed enhanced screening has been designed to provide additional screening from neighboring properties. Additionally, the rear portion of the property will remain undeveloped leaving the natural wooded screen in place. The views of several nearby residential properties will change but not to the extent that any negative impact will result. It could be argued that the views of the neighboring properties will be enhanced by replacing the older average condition mixed-use development and asphalt drive and parking lot with new construction freestanding single-family residences that will be in very good condition with retail values that will exceed that of all the neighboring properties.

Use:

The subject property is proposed for use as a four-unit freestanding single-family development. In the surrounding neighborhood, the Sagamore Avenue area is developed with a variety of residential uses (single-family, residential condominiums and apartments) and several scattered commercial and mixed-use developments. The interior streets located off of Sagamore Avenue are largely developed with residential uses. The proposed singlefamily development of the subject property will be in-line with that of the surrounding uses. In the Variance application, it is pointed out that the abutting Tidewatch Condominium development to the south and west is also located in the SRA zone. This townhouse-style condominium development contains 116 units located on 53.59 acres of land. This translates into a density of 2.16-units per acre. Sagamore Court Condominiums to the north of the subject property on Sagamore Avenue is a 144-unit development on 15.01-acres (9.59units/acre). The subject's proposed 4 units will be located on a 1.947-acre parcel (2.05units/acre). Considering the density of these abutting and nearby residential condominium developments, the subject's proposed density is reasonably in-line with the existing density in the immediate area. It can reasonably be concluded that the proposed use of the subject property as a four-unit freestanding single-family development is a use that will be compatible with the surrounding neighborhood.

5. Specific Standards – Variances:

The owners are requesting a Variance from the following – Portsmouth Zoning Ordinance – 10.513 - Permitting one freestanding dwelling per lot, where four freestanding single-family units are proposed) and Portsmouth Zoning Ordinance – Table of Dimensional Standards – permitting one dwelling unit per acre, where four dwelling units on a 1.947-acre parcel is proposed (2.05 dwelling units per acre). As Rosann Maurice-Lentz was unavailable for comment, I spoke with Scott Scott, Tax Assessor II for the City of Portsmouth. I wanted to get his opinion on the subject's proposed freestanding single-family development and that of several other recently proposed or recently constructed multi-unit residential developments located in the Sagamore Avenue area. He stated that he is very familiar with the Sagamore Avenue area. He indicated that the fact that the subject's units are freestanding units, and not

multi-unit buildings, makes them more attractive overall. Additionally, he stated that he doesn't "think that this development would bring down the surrounding values and it would more likely bring them up". I have attempted to gather market sales data from the Portsmouth area that would speak to the change in permitted units where freestanding single-family homes were permitted and possible value changes. In the greater Portsmouth area, there is no exactly similar property from which to extract paired-sales. Therefore, only general observations can be made based on my experience in the marketplace. Over the past several years in the greater Sagamore Avenue area of Portsmouth, several new multi-unit residential developments have been constructed or are currently proposed. In general, the addition of these new residential developments has resulted in upgrading the overall condition of the neighborhood and therefore enhancing the overall desirability of the area.

It is my opinion that granting the requested variance for the subject property to be improved with a four-unit freestanding single-family development would not result in the diminution in value of the abutting property values in the immediate vicinity of the subject property and the proposed subject property would not change the characteristics of the neighborhood. In fact, the addition of the proposed subject property will add several attractive and modern single-family residences to the neighborhood that very well could enhance the value of the surrounding properties as it will add a new residential units to a location that is currently under improved for the area.

Respectively submitted,

Brian W. White, MAI, SRA NHCG-#52

ADDENDA

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Street Scene - Front of the Subject Property Looking Southeast on Sagamore Avenue - (5/22)



Street Scene - Front of the Subject Property Looking Southeast on Sagamore Avenue - (5/22)



Street Scene - Rear of the Subject Property Looking Southeast on Tidewatch Condominium Access Road - (2/22)



Street Scene - Rear of the Subject Property Looking Northwest on Tidewatch Condominium Access Road - (5/22)



Subject Property – Front of the Property Looking Southwest from across Sagamore Avenue – (5/22)



Subject Property – Front of the Property and the Front Mixed-use Building Looking Southeast from High Street – (5/22)



Subject Property – Rear of the Front Mixed-use Building Looking East from Rear Paved Area – (5/22)



Subject Property – Front of the Rear Garage Building Looking Southwest from Paved Drive Area – (5/22)



Subject Property – Rear of the Rear Garage Building Looking Northeast from Rear Wooded Area – (5/22)



View of the Rear of the Subject Property from Tidewatch Condominium Access Road Looking Northeast - (5/22)

PHOTOGRAPHS OF THE SUBJECT/SURROUNDING PROPERTIES



View of the Rear of the Subject Property from Tidewatch Condominium Access Road Looking East - (5/22)



View of Typical Tidewatch Condominium Building Looking South from Access Road - (5/22)

PHOTOGRAPHS OF THE SUBJECT/SURROUNDING PROPERTIES



View of Tidewatch Access Road from rear of Proposed Residences Looking South - (5/22)



View of Tidewatch Access Road from rear of Proposed Residences Looking Southwest - (5/22)

PHOTOGRAPHS OF THE SURROUNDING PROPERTIES



View of Abutting Residence at 607 Sagamore Road Looking Southwest from Front of the Subject Property - (5/22)



View of Abutting Residence at 695 Sagamore Road Looking Southeast from Sagamore Road to the Front of the Subject Property - (5/22)

PHOTOGRAPHS OF THE SURROUNDING PROPERTIES



View of Residence located across Sagamore Road - 594 Sagamore Road Looking North from Sagamore Road to the Front of the Subject Property - (5/22)



View of Residence located across Sagamore Road - 650 Sagamore Road Looking Northeast from Sagamore Road to the Front of the Subject Property - (5/22)

PHOTOGRAPHS OF THE SURROUNDING PROPERTIES



View of Residence located across Sagamore Road - 692 Sagamore Road Looking East from Sagamore Road to the Front of the Subject Property - (5/22)

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Book: 6332 Page: 1158

Return to:

E # 21060614 09/24/2021 09:32:59 AM Book 6332 Page 1158 Page 1 of 2 Register of Deeds, Rockingham County

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LCHIP R0A585829 25.00 TRANSFER TAX R0109828 5,807.00 RECORDING 14.00 SURCHARGE 2.00

WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that I, WILLIAM A. HINES, married person, TRUSTEE OF THE WILLIAM A. HINES FAMILY REVOCABLE TRUST a/k/a The Hines Family Revocable Trust of 2006, of 635 Sagamore Avenue, Portsmouth, New Hampshire 03801, for consideration paid, hereby grant to 635 SAGAMORE DEVELOPMENT, LLC, a New Hampshire limited liability company with a mailing address of 3612 Lafayette Road, Dept. 4, Portsmouth, New Hampshire 03801 with WARRANTY COVENANTS, the following described premises:

A certain tract of land with the buildings thereon, situate on Sagamore Avenue in said Portsmouth, more particularly described as follows:

Beginning at a point on Sagamore Avenue at land now or formerly of Arnold, thence running Westerly by said Arnold land three hundred (300) feet, more or less, to land now or formerly of W.W. and D.M. Johnston; thence turning and running Northwesterly by said Johnston land one hundred and twentyfour (124) feet; thence turning and running Northerly also by said Johnston land one hundred sixtytwo (162) feet to land now or formerly of C.W. Walker; thence turning and running Easterly by said Walker land four hundred nineteen (419) feet to Sagamore Avenue; thence turning and running Easterly one hundred forty (140) feet; thence turning and running along said Sagamore Avenue thirty (30) feet to land of one Smith; thence turning and running Westerly one hundred forty (140) feet; thence turning and running Southerly ninety (90) feet; thence turning and running Easterly one hundred forty (140) feet to Sagamore Avenue; the last three bounds being land of Smith; thence turning running Southerly by said Sagamore Avenue one hundred sixty (160) feet to the point of beginning.

EXCEPTING AND RESERVING to the said William A. Hines and his wife Bonnie Hines a life estate in the above-described property permitting them to reside in the existing residential apartment on the property for the remainder of William A. Hines natural life, plus one year unless Bonne Hines shall have predeceased.

Meaning and intending to convey the same premises conveyed to the Grantor by deed of William A. Hines dated February 11, 2008 and recorded in the Rockingham County Registry of Deeds at Book 4885, Page 1538.

BY SIGNING BELOW, William A. Hines and Bonnie Hines release all homestead rights to the Premises.

Book: 6332 Page: 1159

TRUSTEE CERTIFICATE

I, William A. Hines, Trustee of the William A. Hines Family Revocable Trust A/K/A The Hines Family Revocable Trust of 2006, hereby covenant that said Trust is duly organized under the laws of the State of New Hampshire; that I am the sole trustee pursuant to said Declaration of Trust; that said Trust is still in full force and effect; that I have the power thereunder to convey as aforesaid; and that, in making this conveyance, I have, in all respects, acted pursuant to the authority vested in and granted to me therein and no purchaser or third party shall be bound to inquire whether the Trustee has said power or are properly exercising said power or to see to the application of any trust assets paid to the Trustee for a conveyance thereof.

Signed this 3rd day of September, 2021.

William A. Hines, Trustee of the William A. Hines Family Revocable Trust A/K/A The Hines Family Revocable Trust of 2006

Bonnie Hines

lustice of the Peace/Notary Public

My commission expires:

STATE OF NEW HAMPSHIRE COUNTY OF ROCKINGHAM

On this, the 3rd day of September, 2021, before me, the undersigned Officer, personally appeared William A. Hines, Trustee of the William A. Hines Family Revocable Trust A/K/A The Hines Family Revocable Trust of 2006, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same for the purposes set forth therein.

STATE OF NEW HAMPSHIRE COUNTY OF ROCKINGHAM

On this, the 3rd day of September, 2021, before me, the undersigned Officer, personally appeared Bonnie Hines, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same for the purposes set forth thermin,

Justice of the Peace/Notary Public COMMISSION

HITTER.

COMMISSI EXPIRES

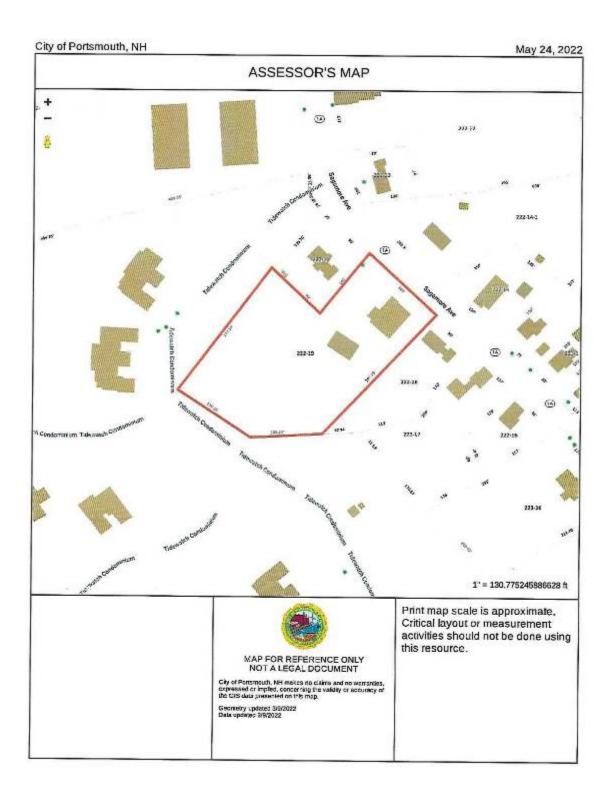
EXPIRES

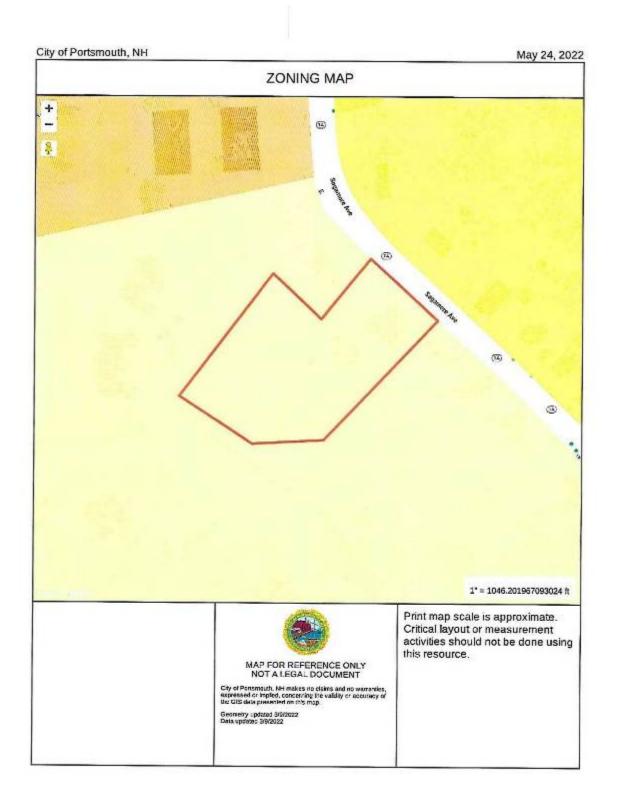
My commission expires:



May 24, 2022



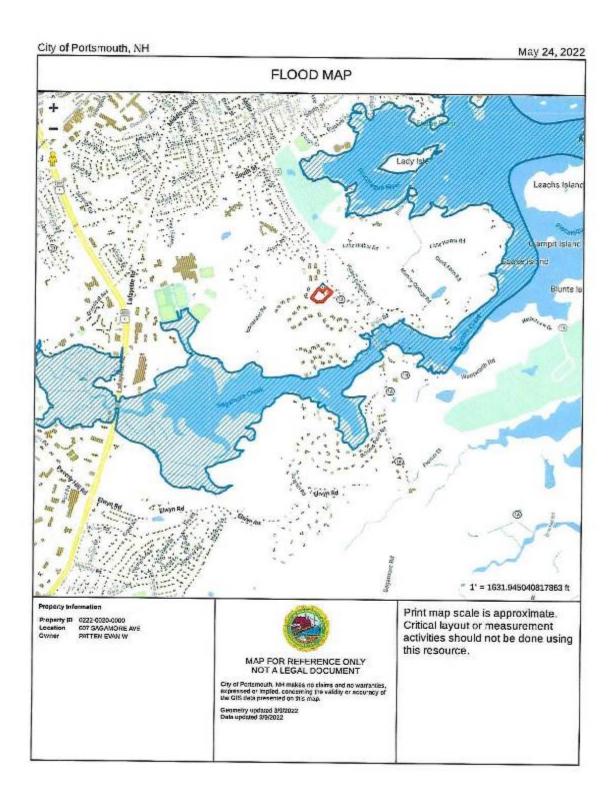




Map Theme Legends

Zoning

Residential Districts
R Rosal
BRA Bregie Headance A
SRII Secle Residence D
SPU Single Residence B BRA Opposed Readence A
Citta Canacal Residence B
CRE General Rockerge C
GRAMH Gorden Apartment/Acbile Home Park
Contract Contract Apartment webba Fistre Pare
Mixed Rasidoniial Districts
MRD Mined Residential Office
First MRB MasstRoading Business
Gi Galevay Contor
Business Districts OB Concel Increase
and Chicad Rosess
WB Watch & Busewas
Industrial Districts
Office Research
I koksaint
Waterfront Industrial
Alrport Districts
AIR Airpot
AF Airport Industrial
Pease Industrial
ABC Arport Business Commercial
Conservation Districts
M Municipal
NRP Natural Resource Protection
Character Districts
CDS Charamer Dissist 6
CD4 Charamer Distrig 4
CD4W Character District 4-B
GD4L1 Character District 4L1
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Civic District
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City of Portsmouth



Article 4 Zoolog District and Use Regulations Article 4 Zoning Districts and Use Regulations Section 18.410 Establishment and Purpose of Districts Section 18.420 District Location and Boundaries Section 18.430 Law Regulations Section 10.440 Table of Uses – Residential, Mixed Resk Section 10.420 District Location and Boundaries Section 10.440 das Regulations Section 10.440 Table of Uses - Residential, Nixed Residential, Business and Industrial Section 10.450 Table of Uses - Posso/Airport Districts Section 10.459 Table of Uses - Nurcleyet and Conservation Districts Section 10.459 Uses Permitted in the Transportation Contidor Districts Section 10.410 Establishment and Purpose of Districts The City of Portsmouth is hereby divided into the following zoning districts (the statements of purpose are for descriptive purposes and are not regulatory): District Purpose **Residential Districts** To provide areas for single-family dwellings and appropriate accessory uses at rural densities (up to one dwelling per five acros), and limited agricultural uses. Rard Residential R To provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acte), and appropriate Single Residence A SRA Single Residence B SRB accessery uses. To provide more for single-family, two-family and multifamily dwallings, with appreprints accessory uses, at machine to high densities (mapping from approximately 5 to 12 dwalling units per acre), together with appropriate accumory uses and limited services. General Residence A GRA General Residence B GRB General Residence C ORC To provide areas for garden quartaent development at moderate densities (up to 4 dwotling units per acre), and to accommodate oxisting developed mobile home parks. Garden Apartment/ Mobile Home Park GA/MH Mixed Use Districts To provide areas where a limited range of business establishments, including Swetwar units, can be loasted near or adjuscent to residential development, providing a transition between residential neighborhoods and commercial districts. Mixed Residential Office MRO Mixed Residentia) MRB Business Ar Annealed Through December 16, 2019 43

P -- Permitted \$ = Special Exception CU = Conditional Use Permit N = Prohibited

Section 10.440 Table of Uses - Residential, Mixed Residential, Business and Industrial Districts

	Use	R		GRA GRB		GA/ MH	MRO CD4- L1		MRB	CD5 CD4	GB	Gi	G2	B CD4- W	WB	OR	1	wi	Supplemental Regulations
1, P	lesidential Uses	1.58	NOF .		5	1219	27			18	100	13	215	-	100	1	-	1	en al la companya de la companya
1.10	Single family dwolling	P	Р	P	P	N	Р	p	p	P	N	P	Р	N	N	N	N	N	
1.20	Accessory dwelling unit 1.21 Attached 1.22 Detached	cu cu	CU CU	cu cu	cu N	NN	си м	CU N	CU N	CU N	NN	CU N	CU N	N N	N N	N N	N N	N N	10.814 (Accessory Dwelling Units)
1.25	Garden Cottage	CU	CU	CU	cu	N	CU	CU	CU	CU	N	N	N	N	N	N	N	N	10.815 (Garden Cottages)
1.30	Two-family dwelling	N	N	P	P	Р	Р	P	P	P	N	р	p	N	N	N	N	N	10.640 (Downsown Overlay district
1.40	Townhouse	N	N	S	7	Р	р	Р	P	P	N	P	Р	р	N	N	N	N	10.640 (Downtown Overlay distric
1.50	Multifamily dwelling 1.51 3 or 4 dwelling units 1.52 5 to 8 dwelling units 1.53 More than 8 dwelling units	N N N	N N N	S N N	P S N	P P P	P P N	P P N	P P N	р Р Р	N N N	9 9 9	P P P	P P P	N N N	N N N	NNN	N N N	10.5A32 (Character district permitted uses) 10.640 (Downtown Overlay district 10.813 (Multifamily Dwellings in the Business District)
1.60	Conversion of a building existing on January 1, 1980, with less than the required minimum lot area per dwelling unit specified in Article 5 1.61 To 2 dwelling units	N	N	s	5	N	р	P	P	s	N	N	N	N	N	N	N	N	10.640 (Downtown Overlay District) 10.812 (Conversion of Existing Dwelling to Multifamily Dwelling

As Amended Through December 16, 2019

30 | P a g e

4-7

	1	P - Per	mitted	\$ =	Specia	al Exce	ption	cu	= Com	ditiona	I Use I	Permit	N=	Prohi	bited			
Use	R		GRA GRB		GA/ MH	MRO CD4- LI	CD4- L2	MRB	CD5 CD4	GB	GI	G2	B CD4- W	wв	OR	.1	WI	Supplemental Regulations
1.62 To 3 or 4 dwelling units	N	N	s	5	N	P	P	р	s	N	N	N	N	N	N	N	N	1
1.63 To 5 to 8 dwelling units	N	N	N	8	N	s	s	s	s	N	N	N	N	N	N	N	N	
1.64 To more than 8 dwelling units	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
1.70 Live/work unit	N	N	N	R	N	P	P	P	P	N	P	P	P	N	N	N	N	
1.80 Manufactured housing park	N	N	N	N	Р	N	N	N	N	N	N	N	N	N	N	N	N	10.816 (Manufactured Housing Par Dimensional Standards)
1.90 Planned unit development (PUD) 1.91 Open space PUD	cu	cu	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.720 (Planned Unit Developments)
1.92 Residential density incentive PUD	N	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
2. Institutional Residence or Care Facilities	-			-		1				-					his		12.1	
2.10 Assisted living facility				-		-	-		-			- 11-	211121	12010	1000		* 750.	
2.11 Assisted living center	N	N	N	N	N	N	N	N	P	P	s	s	P	N	N	N	N	
2.12 Assisted living home	S	5	S	s	s	s	s	s	N	N	5	s	N	N	N	N	N	
20 Residential care facility								-							-	1		
2.21 5 or fewer residents	s	\$	s	s	\$	S	s	s	N	N	s	s	s	N	N	N	N	
2.22 More than 5 residents	N	N	N	N	N	s	s	s	P	s	s	s	S	N	s	N	N	

As Assended Through December 16, 2019

4.8

	SRB	GRA GRB				CD4-	MRB	CD5 CD4	GB	GI	G2	B CD4-	WD	OR	14		
										5225	120	W.	40	UR	- F	WI	Supplemental Regulations
		-								8	37	24		14			THE PERSON AND
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1	s	s	N	N	5	s	s	s	s	S	S	s	N	N	N	N	
	N	N	Ņ	N	s	s	s	5	s	s	s	s	N	N	N	N	
			-	-										-	_	_	
1	N	N	N	N	8	s	P	P	Р	s	5	P	р	N	N	N	
1	N	N	N	N	S	s	P	P	P	S	s	P	N	P	P	N	
	8	S	5	s	Р	P	P	P	P	P	P	Р	N	P	N	N	10.821 (Historic Preservation Buildings and Museums)
	N	N	N	N	P	P	N	P	P	S	s	P	N	P	N	N	10.821 (Historic Preservation Buildings and Museums)
	N	N N	N N	NN	NN	N N	N N	P S	P P	S N	SN	S N	NN	N N	N N	NN	10.592 (location) 10.860 (hours of operation)
		N	N	N	N	N	N	s	s	s	s	N	N	N	N	N	10.592 (location) 10.822 (yards) 10.860 (hours of operation)
	Concern Concerns		N N N N	N N N N N N	N N N N	N N N N N	N N N N N N	N N N N N N N	N N N N N N S	N N N N N N S P	N N N N N N S P N N N N N N N S S S	N N N N N N N S P N N N N N N N N N S S S S	N N N N N N S P N N N N N N N N N S S S S N	N N N N N N S P N N N N N N N N N N S S S S N N	N N N N N N S P N N N N N N N N N N S S S S N N N	N N N N N N S P N N N N N N N N N N N S S S S N N N	N N N N N N S P N N N N N N N N N N N N

As Amended Through December 16, 2019

4.9

	Use	R		GRA GRB			MRO CD4- L1	1 3 3 6 -	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	ı	wı	Supplemental Regulations
3.60	Centetery	s	s	N	М	N	N	N	N	N	N	N	N	N	N	N	N	N	
3.70	Club, fratemal or service organization	N	N	N	м	N	N	S	S	P	s	s	s	S	N	N	N	N	
3.80	Municipally operated pack and related activities	P	P	Р	,	P	P	P	р	p	р	P	Р	Р	P	P	P	P	For other municipal uses see Section 10.460 (Municipal districts)
4. R	ecreational Uses	en		100		1				-		110		191	175		100	-ante	A STATE OF STATE
4.10	Religious, sectarian or private non-peofit recreational use	N	5	N	N	N	s	s	N	P	P	S	s	Р	N	N	N	N	
4.20	Cinema or similar indoor amusement use with no live performance	N	N	N	N	N	N	N	N	P	P	S	s	P	N	N	N	N	10.825 (noise) 10.860 (hours of operation)
4.30	Indoor recreation use, such as bowling alley or areade	N	N	N	N	N	N	N	N	P	Р	8	s	Р	N	N	N	N	10.825 (noise) 10.860 (hours of operation)
4.40	Health club, yoga studio, martial aris school, or similar use																		
	4.41 Up to 2,000 sq. ft. GFA"	N	Ν	N		N	S	S	Р	P.	р	P	P	Р	N	N	s	N	
	4.42 More than 2,000 sq. ft. GFA	N	N	N	N	N	N	N	N	s	Р	s	s	s	N	N	s	N	
4.50	Outdoor recreation use	N	N	N	N	N	N	N	N	N	s	la	P	N	N	N	N	N	10.592 (location) 10.860 (hours of operation)
4.60	Amusement park, water park or theme park	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	

'GFA - gross floor area.

Az Amended Through December 16, 2019

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4-10

		-	P = Per	mitted	5-	Specie	al Exec	ption	CU	= Con	litiona	l Use l	Permit	N-	Prohi	bited			
	Usp	R		GRA GRB			MRO CD4- L1	CD4-	MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB	OR	T	wi	Supplemental Regulations
5. 0	Mfice Uses, Non-Medical			2.IR						10.0	183		-			100	-	113	
5.10	Professional office	N	N	N	N	N	P	р	S	P	p	P	p	Р	N	P	P	N	10.833 (Mixed Residential districts
5 20	Business office (incl. real estate office)	N	N	N	N	N	P	Р	P	Р	Р	р	р	p	N	2	P	N	10.833 (Mixed Residential districts
5.30	Financial Institution									-						-		-	
	5.31 Financial services office	N	N	N	N	N	P	P	P	р	P	р	р	р	N	P	p	N	
1.13	5.32 Retall bank	N	N	N	N	N	N	s	P	р	P	р	р	P	N	s	N	N	
5.40	Social service campus												and a first state			-			10.823
	5.41 Nonresidential	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	222820
1	5.42 Residential	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	s	N	
5.50	Media studio																		
	5.51 Excluding any transmitting antenna tower	N	N	N	N	N	s	s	8	P	P	\$	8	р	N	N	Р	N	
	5.52 Including accessory transmitting antenna lower	N	N	N	я	N	N	N	м	N	s	N	N	s	N	N	s	N	10.834
5.60	Publishing facility or similar electronic production operation	N	N	N	Ж	N	S	S	S	P	P	P	P	р	N	P	р	N	
5.70	Call Center	N	N	N	N	N	N	N	N	N	p	N	N	N	N	N	s	N	
6. M	ledical Services and Health Care				4							10							the fact some
6.10	Hospital	N	N	N	12	N	N	N	N	N	N	N	N	N	N	P	N	N	A CONTRACTOR OF THE OWNER

As Ansauled Through December 16, 2019

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			P = Per	mitted	5 -	Specia	al Exce	ption	CU	= Con	ditiona	Use	Permit	N =	Prohi	bited			
	Use	R		GRÁ GRB			MRO CD4- LI	CD4-	MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB	OR	I	wi	Supplemental Regulations
6.20	Medical offices and clinics (outpatient only)	N	N	N	N	N	s	s	8	P	P	P	Р	P	N	Р	N	N	
6.30	Clinics with inpatient care	N	N	N	N	N	N	N	N	N	\$	S	N	S	N	S	N	N	
6.40	Ambulatory surgical center	N	N	N	N	N	N	N	N	N	S	S	N	S	N	S	N	N	
6.50	Substance abuse treatment facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
6,50	Psychiatric hospital for the criminally insane	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
7. S	ervices, Other Than Health Care	1	1	12.	1		3			Line	-12		11	1		-	UP	107	Contraction - Distant The
7.10	Day Care	-	-		-					-	-	10.10				-	1	111111	A REAL PROPERTY AND A REAL
	7.11 Family day care facility	Р	P	Р	N	N	Р	Р	P	N	N	р	P	N	N	N	N	N	
	7.12 Group day care facility including private preschool and kindergarten	5	S	s	5	N	s	s	P	Р	P	բ Տ	s	N P	N N	N N	N	N	10.824 (group day care facilities) 10.860 (hours of operation)
7.20	Personal services	N	N	N	N	N	N	8	s	P	P	Р	s	P	N	N	N	N	
7.30	Consumer services such as copy shop, bicycle repair, and pet grooming	N	N	N	N	N	N	5	5	P	Р	Р	S	р	N	N	N	N	
7.40	Trude, craft and general service establishments, such as shops for plumbers, electricians, painters, paper hangers, upholstorors, sign painters and printers	N	N	N	N	N	N	N	S	P	Р	P	S	р	N	р	Р	Р	All storage of materials and equipment shall be located within a building

As Amended Through December 16, 2019

4.12

	Use	R		GRA GRB			MRO CD4- LI		MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	r	wi	Supplemental Regulations
7.50	Veterinary Care	N	N	N	N	N	N	N	s	N	s	s	s	s	N	s	s	N	10.832
7.60	Larandry and dry cleaning establishments																-		
	7.61 Drop-off/pick-up only for items to be dry cleaned or laundered off site	N	N	N	N	N	P	р	P	P	p	P	P	P	N	5	N	N	
	7.62 Self-service hundry for use by the general public	N	N	N	ĸ	N	s	s	P	5	P	P	s	р	N	N	N	N	
	7.63 Dty cleaning establishment with on-site cleaning facilities.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
7.70	Undertaking establishment, functal parlor or mortuary chapel, excluding crematorium	N	N	N	N	N	N	N	P	N	P	S	S	Р	N	N	N	N	
8. R	etail Trade	1	11.0						16				12	1.		12.2	1.5		2 Williams
8.10	Convenience goods			-						-	_		_	-		1			10.860 (hours of operation)
	8.11 Convenience 'goods 1																		Contraction and Contraction
	8.111 Hours of operation between 6:00 AM and 11:00 PM	N	N	N	N	N	N	P	P	P	P	P	Р	P	N	N	N	N	
	8.112 24 hours per day operation	N	N	N	N	N	N	N	N	P	P	s	N	s	N	N	N	N	
	8.12 Convenience goods 2																		
	8.121 Hoats of operation between 6:00 AM and 11:00 PM	N	N	N	N	N	N	Р	s	P	P	р	P	P	м	N	N	N	

As Awended Through December 16, 2019

4-13

		1	P = Per	mitted	5-	Specia	al Exce	ption	CU	- Conc	litiona	Use	Permit	N=	Prohi	bited			
	Use	R		GRA GRB		GA/ MH	MRO CD4 LI	CD4- L2	MRB	CD5 CD4	GВ	GI	G2	B CD4- W	wв	OR	1	WI	Supplemental Regulations
	\$.122 24 hours per day operation	N	N	N	N	N	N	N	N	s	s	s	N	s	N	N	N	N	1
8.30	Rotall sales conducted within a building														2.5				
	8.31 Not marine-related	N	N	N	N	N	N	Р	s	P	Р	р	Р	P	N	N	N	N	
1	8.32 Marine-related	N	N	N	N	N	N	N	N	P	Р	р	р	P	Р	N	N	N	
8.40	Shopping center	N	N	N	N	N	N	N	N	р	p	р	P	S	N	N	N	N	
8.50	Retail sales, large format	N	N	N	N	N	N	N	N	N	\$	N	N	N	N	N	N	N	
8.60	Fish market	N	N	N	N	N	N	N	N	р	Р	Р	p	р	P	N	N	N	10.860 (hours of operation)
8,70	Manufacture of goods sold at retail on the premises, such as crafts, coffee roasting and bakery goods	N	N	N	N	N	N	S	S	P	P	P	P	р	N	N	P	N	Maximum of 5 persons employed manufacture
s.80	Sexually oriented business	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	N	10.930 (Sexually Octented Businesses)
9. Es	ating and Drinking Places		油石	-147				-31			633	317		31.5			L.F		States and states
0.10	Nightelub or bar				-		-						-	-		1			10.590 (location)
	9.11 Occupant load less than 250	N	N	N	N	N	N	N	N	Р	р	р	s	N	N	N	N	N	
	9.12 Occupant load from 250 to 500	N	N	N	N	N	N	N	N	S	s	s	s	N	N	N	N	N	
	9.13 Occupant load greater than 500	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
20	Restaurant, take-out only	N	N	N	N	N	N	N	N	р	p	Р	P	P	N	N	N	N	
9.30	Restaurant, fast food	N	N	N	N	N	N	N	N	P	P	p	P	P	N	N	N	N	

4.14

		3	P = Per	mitted	8-	Speci	al Exce	ption	cu	= Cons	litiona	l Use l	Permit	N=	Prohi	bited	_		
Use		R		GRA GRB			MRO CD4- L1	CDA	MRB	CD5 CD4	GB	GI	G2	B CD4- W	wв	OR	1	WI	Supplemental Regulations
9.40 Rostaurant, place of pub or function room	lic assembly												_		_				10.590 (location) 10.860 (hours of operation)
9.41 Occupant load less	s than 50	N	N	N	ĸ	N	N	P	N	p	Р	P	Р	Р	N	N	N	N	
9.42 Occupant load fro	m 50 to 250	N	N	N	N	N	N	N	N	Р	Р	p	8	s	N	N	N	N	
9.43 Occupant load from	m 250 to 500	N	N	N	N	N	N	N	N	p	s	s	s	N	N	N	N	N	
9.44 Occupant load gre	ater than 500	N	N	N	N	N	N	N	N	\$	s	N	N	N	N	N	N	N	
9.50 Permanently moored ve restaurant or bar, with a load less than 250		N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
10. Lodging Establishme	nts			ie je				10						8.		3.13	91.4	198	Children and The Works
10.10 Boarding house		N	N	N	N	N	N	N	N	N	s	s	N	s	N	N	N	N	
10.20 Bed and breakfast																	_		
10.21 fied and Breakfa		N	N	s	N	N	S	s	P	P	N	s	s	р	N	N	N	N	
10.22 Bed and Breakfa	st 2	N	N	N	N	N	S	5	P	P	N	s	s	Р	N	N	N	N	
10.30 Inn		N	N	N	N	N	N	s	S	P	P	S	s	Р	N	N	N	N	
10.40 Hotel or motel																			10.836 (Office Research districts
10.41 Up to 125 rooms		N	N	N	N	N	N	N	N	Р	s	s	s	N	N	P	N	N	
10.42 126 to 250 rooms		N	N	N	N	N	N	N	N	Р	s	s	s	N	N	S	N	N	
10.42 251 to 500 rooms		N	N	N	N	N	N	N	N	р	s	s	N	N	N	N	N	N	
10.43 More than 500 ree	(1)5	N	N	N	N	N	N	N	N	Р	5	s	N	N	N	N	N	N	

		3	b = ladi	mitted.	5	Speci	al Exce	ption	CU	- Cons	fitiona	I Use	Pennit	N =	Prohi	bited			
	Use	R		GRA GRB			MRO CD4- L1	CD4- L2	MRB	CDS CD4	GB	GI	G2	B CD4- W	WB	OR	J	wı	Supplemental Regulations
10.50	Conference hotel	N	N	N	N	N	N	N	N	P	P	S	N	N	N	N	N	N	
10.60	Conference center	N	N	N	N	N	N	N	N	P	P	S	N	N	N	N	N	N	
н.	Motor Vehicle-Related Uses		22019	17				-			1		-	12.00		-		-	State of the second second
11.10	Sales, renting or leasing of passenger cars and light trucks, motorcycles, tractors, snownobiles and small power equipment (e.g., lawmowers), including accessory repair services	N	N	N	N	N	N	N	N	N	P	S	N	8	N	N	N	N	10.592 (location) 10.843 (motor vehicle related uses)
11.20	Motor vehicle service station, motor vehicle repair or washing facility for passenger cars and light trucks	N	N	N	N	N	N	N	N	N	S	S	N	S	N	N	s	N	10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses)
1.30	Sales, rontal, leasing, distribution, and repair of trucks over 10,000 lb gross vehicles weight (GVW), recreational vehicles, matthe craft or menufac- tured housing, and related equipment	N	N	N	N	N	N	N	N	N	s	S	N	S	N	N	S	N	10.581 (lot area) 10.592 (location) 10.843 (motor vohicle related uses)
11.40	Impound lot (principal or accessory use)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
11.50	Truck feeling facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	\$	N	10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses)

						_		_			_			-			_	-	1
	Use	R		GRA GRB		GA/ MH	MRO CD4- L1		MRB	CDS CD4	GB	GI	62	B CD4- W	wв	OR	1	wī	Supplemental Regulations
11.60	Truck terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	s	N	10.592 (location) 10.843 (motor vehicle related used
12.	Marine Craft Related Uses								N R		10.0	1007	21	-	22	100	150	ALC: N	Constant of the
12.10	Boat landings, boat docks, boathouses and associated marine uses				51.5														
	12.11 Non-commercial	p	P	P	P	P	р	Р	р	P	P	P	Р	P	N	N	N	N	
	12.12 Fishing boat landing 1	N	s	s	N	N	N	N	N	P	Р	N	N	N	р	N	N	Р	10.837.10 (Residential districts)
	12.13 Fishing boat landing 2	N	N	N	N	N	N	N	N	N	8	N	N	N	s	N	N	P	
2.20	Marina								-							-			
	12.21 With no repair, servicing or fueling facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	N	
	12.22 With repair, servicing or fooling facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	N	N	10.581 (lot area) 10.592 (location) 10.860 (hours of operation)
	Repair of commercial marine craft and marine-related structures	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	s	P	10.581 (lot area) 10.592 (location) 10.860 (hours of operation)
	Landside support facility for commercial passenger vessel	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	P	

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		P = Per	milled	\$-	Speci	nl Exce	ption	CU	= Cont	litiona	Use	Pannil	N=	Prohi	bited			
Use	R		GRA GRB		GA/ MH		CD4- L2	MRB	CD5 CD4	ĠΒ	GI	G2	B CD4- W	wв	OR	I	wi	Supplemental Regulations
13. Wholesale Trade, Warehousing and Distribution						2		15	5	8		101						
13.10 Wholesals use											-		1011233					
13.11 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
13.12 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Р	P	
13.20 Wholesale sales devoted to, and in the same establishment as, a permitted retail use																		
13.21 Occupying up to 20% of greas floor area of establishment	N	N	N	N	N	N	N	N	Þ	P	5	N	Р	N	N	N	N	
13.22 Occupying 21% to 40% of gross fleer area of establishment	N	N	N	N	N	N	N	N	N	Р	N	N	P	N	N	N	N	
3.30 Wholesale lumber yords, humber and contractor sales									-									
13.31 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	p	N	
13.32 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	р	s	
3.40 Warehousing or distribution of non- flummable, non-hezardous materials, not classified as a high hazard une												- 00	10102	- 25		-		
13.41 Not marine-dependent	N	N	N	ñ	N	N	N	N	N	N	N	N	1612	34	N	P	N	

-		-	-	_	-		1		_	_	_		_	-			_		and the second se
	Use	R		GRA GRB			MRO CD4- L1		MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB	OR	1	wi	Supplemental Regulations
	13.42 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	P	
14.	Industrial Uses				h:		13		-	-	-							(Ref.	
14.10	Light industry							-	-						-	1	-	-	
	14.11 Not marine-dependent	N	N	N	N	N	N	N	N	N	s	s	S	N	N	N	р	N	
	14.12 Marine-dependent	N	N	N	N	N	N	N	N	N	s	N	N	N	N	N	р	р	
14.20	Research and development	-				-				-						-		-	
	14.21 Not marine-dependent	N	N	N	N	N	N	N	Р	N	s	5	N	s	N	s	P	N	
	14.22 Marine-dependent	N	N	N	N	N	N	N	N	N	s	N	N	s	P	s	р	P	
14.30	Food processing 14.31 Not including scafood processing	N	N	N	N	N	N	N	N	N	р	s	N	N	N	N	P	р	10.592 (location) 10.851 (use contained in boilding
	14.32 Including seafood processing	N	N	N	N	N	N	N	N	N	s	N	N	N	N	N	s	s	
14.40	Electronics manufacturing	N	N	N	N	N	N	N	N	N	s	s	N	S	N	N	P	N	
4.50	General manufacturing				-	-		-				-				-		-	
	14.51 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	s	s	N	N	N	p	N	
	14.52 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	p	s	
14.60	Biological or chemical laboratory										-	-		11/2	1				

		- 1	P = Per	mitted	5-	Speci	al Exco	ption	CU	= Con	litiona	I Use I	Permit	N =	Prohi	bited			
	Use	R		GRA GRB		GA/ MH			MRB	CD5 CD4	GB	GI	G2	B CD4- W	wв	OR	I	wi	Supplemental Regulations
	14.61 Not marino-dopendent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	s	N	1
	14.62 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	s	s	
14.70	Recycling facility or recycling plant	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.592 (location) 10.853
14.80	High hazard use, including other uses listed in this section but not including uses described in 14.90	N	N	N	X	N	N	N	N	N	N	N	N	N	N	N	S	N	10.593 (location)
14.90	Storage (other than normal accessory use), processing, disposal, or transfer of petroleum, petrochemicals, natural gas and liquid petroleum products, coal, alcohol, wood pulp, solid or liquid waste, junk or hazardous waste as classified by Pederal or State law	м	N	N	N	N	N	N	X	N	N	N	N	N	N	N	N	N	
15.	Transportation and Utilities		1.11		1						175		1.54	11.1					Water and the second
	Public or private transformer station, substation, pumping station or initionatic telephone exchange, not including any business office, storage yard or storage builting																		
	15.11 Essential to service the area in which it is located	s	S	8	5	s	s	s	5	8	s	S	s	S	s	s	Р	\$	

An Animaled Through December 16, 2019

Use	R		GRA GRB			MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	GI	G2	B CD4- W	wв	OR	t	wi	Supplemental Regulations
15.12 Providing community-wide or regional service	N	И	N	N	N	N	N	N	N	s	N	N	N	N	N	s	s	
5.20 Heliport or helipad				_				-			_	-			-	-	-	
15.21 Helipad, as an accessory use to a permitted hespital use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	8	s	S	
15.22 Hellport	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
6. Wireless Telecommunications Facilities													-		1			
6.10 Satellite dish receiver 42 inches or less in diameter:																		
16.11 Building-mounted, maximum height less than or equal to 4 feet from the roof surface	P	P	Ρ	P	P	Р	P	P	P	р	P	P	P	P	P	P	P	
16.12 Ground-monated, complying with all yard requirements for the district	р	P	P	P	P	P	P	P	P	P	P	Y	Р	P	P	P	P	
6.20 Satellite dish receiver more than 42 inches in diameter:																		
16.21 Building-mounted, maximum height less than or equal to 4 fact from the roof surface	s	5	s	\$	S	S	s	8	s	s	s	s	S	s	s	s	s	

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			P = Per	mitted	\$ =	Speci	al Hxce	ption	CU	- Conc	litiona	I Use I	Permit	N-	Prohi	bited			
	Use	R		GRA GRB			MRO CD4- L1		MRB	CD5 CD4	GB	GI	62	B CD4- W	WB	OR	1	wt	Supplemental Regulations
	16.22 Ground-mounted, complying with all yard requirements for the district	s	s	s	S	s	s	5	s	s	s	s	s	3	s	s	s	s	
16,30	Whip antenna not more than 30 feet in height	S	S	s	ŝ	s	s	s	S	Р	Р	s	s	P	P	P	P	р	
16.40	Other wirelesss telecommunica- tions facility not included above	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.460 (Municipal districts) 10.920 (Wireless telecommunica- tions facilities)
17.	Agricultural Uses	1					-	- 11	8			96	100	100	18				
17.10	Farm, not including the keeping of form animals	P	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
17.20	Keeping of farm animals	s	S	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
18,	Temporary Uses																	1 8	STREET, STREET, STREET, ST
18.10	Construction trailer	p	Р	P	1	P	P	P	Р	р	P	Р	р	p	P	P	P	P	
18.20	Tomporary structure																-		
	18.21 Up to 30 days	P	р	P	7	P	P	Р	р	P	Р	. 8	Р	P	Р	р	P	р	
	18.22 31 to 90 days	5	5	s	\$	s	s	s	s	S	s	s	s	s	s	P	р	р	
	18.23 91 to 180 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	s	s	S	
	18.24 More than 180 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	

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	Use	R		GRA GRB			MRO CD4- LI	CD4- L2	MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB	OR	ī	wı	Supplemental Regulations
	Manufactured housing not on a foundation, as temporary replacement housing for a dwelling on the same lot destroyed by natural causes, provided that there is an active building permit for rebuilding the destroyed dwelling																		
	18.31 Up to 180 days	р	Р	Р	P	P	p	P	P	р	P	р	Р	P	р	p	P	Р	
	18.32 More than 180 days	s	s	s	5	s	S	s	s	s	s	s	s	s	s	p	Р	Р	
	Carts or trailers, including outdoor display area, used for the seasonal sale of dry goods, Christmas trees, flowers, fruits, vegetables, seasonal products and prepared food	N	N	N	N	N	N	N	N	Р	P	5	N	P	N	P	Р	P	
19.	Accessory Uses	151	80		112			_							100		173		
	Accessory use to a permitted principal use, but not including any outdoor storage	P	P	P	7	P	P	P	P	P	P	P	P	P	P	٢	P	P	10.811 (residential accessory uses
	Home occupation 19.21 Home occupation 1	р																	
	19.22 Home occupation 1	s				<i>x</i> .	P	P	P	P	2	P.	P	P	N	N	N	N	
	the second se	1654		S	5	N	s	S	P	ħ	P	Р	P	Б,	N	N	N	N	
	Concessions and services located within the principal building	N	N	N	P	P	P	P	P	p	P	P	P	P	P	P	Р	Р	

		1	P = Per	mitted	§	Specia	l Exce	ption	cu	= Con	litiona	Use	Permit	N -	Prohi	bited			
	Use	R		GRA GRB		GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	GI	62	B CD4- W	WB	OR	1	wi	Supplemental Regulations
19.40	Drive-through facility, as accessory use to a permitted principal use	N	N	N	N	N	N	N	N	N	CU	cu	N	CU	N	cu	N	N	10.835 (accessory drive-through uses)
19.50	Outdoor dining or drinking area, as accessory use to a permitted principal use	N	N	N	N	N	N	cu	N	P	P	P	P	cu	N	N	N	N	
20.	Accessory Storage		1P	.84	El .		-	-								- 10	26.5	(13)	I TAULT TON
20.10	Indoor storage of motor vehicles or boots as an accessory use	P	P	р	P	P	P	P	P	P	P	P	р	P	Р	Р	P	P	A SALES PROFILE AND A SALES
20.20	Outdoor storage of registered motor vehicles mined by residents of the premises or business. Such vehicles may include only one commercial vehicle, which shall be limited to so more than 2 axles and 6 wheels.	P	P	P	7	Р	P	P	P	р	p,	P	P	Р	P	P	P	P	
20.30	Outdoor storage for not more than 9 consecutive months of boats owned by residents of the property:																		
	20.31 Not more than one motorboat or salibeat longer than 12 feet	р	P	Р	P	P	Р	P	P	P	Р	P	Р	P	P	P	P	P	
	20.32 Any number of (a) motorbarts or stillboats up to 12 feet in length, or (b) hand-powered entit (cances and koyaks) without restriction as to length	P	P	P	P	P	P	P	Р	P	Р	P	р	P	P	P	P	р	

4.24

		1	P = Per	mitted	5 -	Speci	al Exce	ption	CU	= Can	litiona	l Use	Permit	N=	Prohi	bited			
	Use	R		GRA GRB		GA/ MH	MRO CD4- L1	CEM.	MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB	OR	1	wi	Supplemental Regulations
20.40	Outdoor storage of lobster traps, lobster buoys and associated rope	P	Р	P	P	P	P	P	P	N	P	р	P	P	Р	N	р	P	10,811.20
20.50	Outdoor storage of raw or partially finished material											1			-			-	
	20.51 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
	20.52 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	s	N	5	5	
20.60	Outdoor storage of michinery, equipment and vehicles			-	-			-			-					-	122		
	20.61 Not marine-dependent	N	N	N	ĸ	N	N	N	N	N	s	N	Ν	S	N	N	S	N	
	20.62 Marine-dependent (other than allowed by 20.30 or 20.40 above)	N	N	N	N	N	N	N	N	N	\$	N	N	s	s	N	s	s	

48 | P a g e

4.25

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480

Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

October 26, 2022

HAND DELIVERED

Peter Stith, Principal Planner Portsmouth Zoning Board of Adjustment 1 Junkins Avenue Portsmouth, NH 03801

> Re: 635 Sagamore Development, LLC, Owner/Applicant Project Location: 635 Sagamore Avenue Tax Map 222, Lot 19
> General Residence A (GRA Zone)

Dear Mr. Stith and Zoning Board Members:

On behalf of 635 Sagamore Development, LLC, applicant, enclosed please find the following documents in support of a request for zoning relief:

- Portsmouth Land Use Application uploaded to Viewpoint today.
- Owner Authorization.
- 10/26/2022 Memorandum and exhibits in support of zoning relief.

Very truly yours,

R. Timothy Phoenix Monica F. Kieser

Enclosures

cc 635 Sagamore Development, LLC Jones & Beach Engineers, Inc. Artform Architecture, Inc.

DANIEL C. HOEFLE R. TIMOTHY PHOENIX LAWRENCE B. GORMLEY STEPHEN H. ROBERTS

R. PETER TAYLOR KEVIN M. BAUM GREGORY D. ROBBINS MONICA F. KIESER

JACOB J.B. MARVELLEY DUNCAN A. EDGAR STEPHANIE J. JOHNSON

OF COUNSEL: SAMUEL R. REID JOHN AHLGREN

Letter of Authorization

635 Sagamore Development, LLC, owner of property located at 635 Sagamore Avenue in Portsmouth, NH, known as Tax Map 222, Lot 19, do hereby authorize Jones & Beach Engineers, Inc. ("JBE"), Garrepy Planning Consultants, LLC ("GPC"), and Hoefle, Phoenix, Gormley & Roberts, PLLC ("HPGR") to act on its behalf concerning the previously mentioned property.

I hereby appoint JBE, GPC and HPGR as agents to act on behalf of 635 Sagamore Development, LLC in the Planning Board and Zoning Board application process, to include any required signatures.

635 Sagamore Development, LLC

Timothy J. Black, Duly Authorized

January 5, 2022 Date

MEMORANDUM

To: Portsmouth Zoning Board of Adjustment ("ZBA")

From: R. Timothy Phoenix, Esq. Monica F. Kieser, Esq.

Date: October 26, 2022

Re: 635 Sagamore Development, LLC, Owner/Applicant Project location: 635 Sagamore Avenue Tax Map 222, Lot 19 Single Residence A (SRA) District

Dear Chairman Parrott and Zoning Board Members:

On behalf of 635 Sagamore Development, LLC ("635 Sagamore" or "Applicant") we are

pleased to submit this memorandum and the attached exhibits in support of zoning relief to be

considered by the ZBA at its November 15, 2022 meeting.

I. EXHIBITS

- A. Plan Set by Jones and Beach Engineers
 - C1 Existing Conditions Plan
 - C2 ZBA Site Plan
 - C3 Topographic Site Plan
- B. Architectural Elevations and Floor Plans-by ArtForm Architecture, Inc.
 - Renderings
 - First Floor
 - Second Floor
 - Foundation Plan
 - Elevations •
- C. Site photographs
- D. <u>Tax Assessors Card</u>
 E. <u>City GIS Map</u> identifying nearby zoning districts and surrounding area

II. PROPERTY/BACKGROUND

635 Sagamore Avenue is an 84,795 s.f lot with 150 ft. of frontage containing two buildings in poor condition; the front building contains Luster King, an automobile detailing shop and upstairs apartment, and behind a large service garage (the "Property"). The Luster King building is located partially within the front yard setback, access to it is over the entire frontage, and the use of the Property does not conform to the requirements of the Single Residence A District. 635 Sagamore proposes to remove the existing commercial building and garage and redevelop the Property with four new single-family homes with access via a private roadway from Sagamore Avenue (the "Project"). (Exhibit A). The Project is more compatible with the neighborhood which includes the westerly abutter, Tidewatch Condominiums with 122 Units, and the Sagamore Court Condominium with 144 Units. (Exhibit D). Other nearby abutters are largely developed with single family residences with similar density as the proposed project. The Luster King building is still served by septic, but municipal sewer service has been extended to the Property which will serve the proposed dwellings.

In March of this year, 635 Sagamore filed a variance application seeking relief from §10.513 and §10.521 (Dimensional Table) to permit five dwellings on the Property where one dwelling is required and 16,959 s.f. per dwelling unit where 43,560 s.f. per dwelling is required. Thereafter, Tidewatch Condominium Association ("Tidewatch") objected, through Counsel Brian Bouchard. 635 Sagamore withdrew the previous application in order to spend time working with Tidewatch to address its concerns. 635 Sagamore now proposes a twenty percent (20%) reduction four-unit residential development which retains a significant tree buffer and adds a mix of trees on the south and west side of the lot (the "Revised Project"). Given the reduction in units and generous plantings, Tidewatch Condominium Association has withdrawn its objection to the Revised Project, provided 635 Sagamore continues to coordinate with Tidewatch on issues related to landscaping and stormwater management.

The Revised Project requires similar relief as before as four dwelling units are proposed on a ± 1.947 acre lot (2.06 units per acre or 21,198 s.f. per dwelling). This density is less than nearby densely developed Sagamore Court Condominium (144 units/15.01 acre = 9.59 units per acre or 4,542 s.f. per dwelling) to the north and Tidewatch Condominium (122 units/53.59 acre = 2.27 units per acre or 19,189 s.f. per dwelling) directly to the west. Notably, the SRB Zone, located across Sagamore Avenue, permits a lot area of 15,000 square feet per dwelling unit or approximately 2.9 units per acre. The proposal at 21,198 s.f. square feet per unit falls between the single-family homes opposite the lot and the more densely developed condominium associations. Thus, in addition to cleaning up a long distressed and non-conforming site, including narrowing the current open frontage curb cut, the proposal creates a natural transition between the SRB Zone across Sagamore, the existing multi-building condominium developments to the north and west (rear) of the Property and the nearby single-family home lots.

III. RELIEF REQUIRED

The Project meets setback, lot coverage, and open space requirements. (Exhibit A).

Relief is required to allow the proposed structures on a single lot and for lot area per dwelling unit.

- <u>PZO §10.513 One Freestanding Dwelling/Lot</u> to permit four dwellings on a 1.947 acre lot.
- PZO §10.521 (Table of Dimensional Standards) Lot Area Per Dwelling Unit to permit four dwellings on 1.947 acres (21,198 s.f./dwelling area) where 43,560 s.f. is required for each dwelling.

IV. VARIANCE REQUIREMENTS

<u>The variance will not be contrary to the public interest</u>
 <u>The spirit of the ordinances observed</u>

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to <u>Malachy Glen Associates</u>. Inc v. Town of Chichester, 155 NH 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinances basic zoning objectives." <u>Id.</u> "Mere conflict with the ordinance is not enough." <u>Id</u>.

The Portsmouth Zoning Ordinance was enacted for the general purpose (PZO§10.121) of promoting the health, safety and welfare in accordance with the Master plan by regulating:

- <u>The use of land. buildings and structures for business, industrial, residential and other purposes</u> The Property currently houses a non-conforming commercial auto detailing business and service garage. (Exhibit C). The proposal would replace those buildings with brand new, to code, residences consistent with surrounding uses.
- The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The Project complies with building coverage, height, yards and open space requirements. The reduced proposal with four dwellings on a single lot, at 2.06 dwelling units per acre is consistent with surrounding properties and less than the density permitted by right across Sagamore Avenue.
- 3. <u>The design of facilities for vehicular access, circulation, parking and loading-</u> The Project will be served by a private roadway from Sagamore Avenue. (Exhibit A). There is currently no defined curb cut on the property so the redevelopment will improve driveway distances, site lines, and overall traffic safety from the Property compared to the existing commercial and residential use. (Exhibit D). The driveway will undergo further review as part of the Planning Board and NHDOT review processes.

- 4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding The Property is currently used as a commercial auto detailing facility in the middle of a residential area. The Project will convert the Property to residential use with lighting, noise, and other conditions more appropriate for the neighborhood. A generous buffer will be preserved between the Project and Tidewatch Condominium. The Project maintains 81.3% open space. Stormwater runoff will be improved over the current development which is significantly paved and use of commercial cleaning chemicals will cease.
- <u>The preservation and enhancement of the visual environment The</u> Project vastly improves the visual environment for the immediate abutters on either side and across the street. In addition, a generous vegetated buffer is retained for the south/west abutters. Sagamore further screens the developed area with the addition of a significant tree buffer. (Exhibit A).
- <u>The preservation of historic districts buildings and structures of historic or architectural</u> <u>interest</u> – The Property and the existing structures to be removed are of no known historic or architectural interest.
- The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The Project will significantly improve conditions by terminating the use of commercial grade cleaning chemicals in favor of a compatible residential uses served by municipal sewer.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinances basic zoning objectives." <u>Malachy Glen</u>, supra, the New Hampshire Supreme Court also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would <u>alter the</u> <u>essential character of the locality</u>. Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (Emphasis Added)

The Property is located on a busy street in a densely developed residential area. While there are some other nearby commercial use properties, they are located closer to Sagamore Creek in the Waterfront Business Zone, are largely less impactful and are more buffered from nearby residences than the current business operations on the Property. The Project would convert a long-standing commercial use that is grossly incompatible with the character of the locality to a residential use consistent with the surrounding area including two large condominium developments. The commercial traffic and the use of commercial grade cleaning chemicals will cease, thus improving the public health, safety and welfare. The wide open curb cut accessing the lot will be reduced to a controlled entry/exit. The Project creates a natural transition between these condominium developments and the adjoining GRB zone. Thus, permitting four code compliant, single-family dwellings on ± 1.947 acres does not alter the essential character of the locality nor will it threaten the public health, safety or welfare.

3. Granting the variances will not diminish surrounding property values

The commercial buildings currently located on the Property are distressed, incongruent with the surrounding residential neighborhood and frankly an eyesore. The Project cleans up the site, removes commercial buildings/uses and replaces them with brand new tastefully designed residences. In consultation with Tidewatch, a generous vegetated buffer is retained, which is supplemented by the addition of a robust landscape buffer plan. Given the termination of the commercial use, removal of the distressed structures, and efforts to screen the residential structures, the Project will increase the value of surrounding properties. Accordingly, this element of the variance criteria is satisfied.

4. Denial of the variances results in an unnecessary hardship

a. Special conditions distinguish the property/project from others in the area-

This portion of the SRA District on the north side of Sagamore Creek is comprised of only seven properties. (Exhibit E). Discounting Tidewatch with 122 units on 53.59 acres, the 1.947 acre L-shaped lot significantly larger than the remaining five properties, yet contains just over the required frontage. Although zoned SRA and subject to a 43,560 s.f. minimum lot area and lot area/dwelling unit requirement, this neighborhood is bounded by the Sagamore Condominium Development with 144 Units on 15.01 acres, a handful of lots in the Waterfront Business District, and the SRB district across Sagamore Avenue with its reduced density requirement of just 15,000 s.f./dwelling unit. See <u>Walker v. City of Manchester</u>, 107 N.H. 382, 386 (1966) (hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood). The parcel size, shape, and location near other densely developed residential parcels combine to create special conditions.

b. <u>No fair and substantial relationship exists between the general public purposes of the</u> ordinance and its specific application in this instance.

The purpose of the requirements for one free standing dwelling per lot and lot area per dwelling unit is to prohibit overcrowding, allow for air, light, and separation between neighbors,

Portsmouth Zoning Board of Adjustment Page 6 of 7

October 26, 2022

and to permit stormwater treatment. The Project meets all lot area, building and open space coverage, height and external setback requirements. Additionally, the proposal provides for voluntary setbacks between each of the four new buildings of at least 20 feet, consistent with the side setback requirement for the district. Thus, adequate area for air, light, separation between neighbors and stormwater treatment is provided. The proposed density is also consistent with the surrounding area, which includes many smaller sized lots with homes located in relatively close proximity. (Exhibit E). Moreover, granting the requested variances will significantly improve the Property and surrounding area by removing two blighted, non-conforming commercial structures and replacing them with four brand new, homes where housing is sorely needed. The Property will be completely redeveloped, thus it follows that there is no reason to apply the strict requirements of the ordinance. This transitional location, located near and adjoining two densely development condominiums and across Sagamore Avenue from the SRB Zone is well suited for the proposed four building single-family development.

c. The proposed use is reasonable

If the use is permitted, it is deemed reasonable. <u>Vigeant v. Hudson, 151</u> NH 747 (2005). The proposal is a residential use in a residential zone and thus is reasonable Accordingly denial would result in an unnecessary hardship.

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. <u>Harborside Associates, L.P. v. Parade Residence Hotel</u>, LLC, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." <u>Malachy Glen</u>, supra at 109.

"The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." <u>N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV;</u> Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. <u>L. Grossman & Sons, Inc. v. Town of Gilford</u>, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to

Portsmouth Zoning Board of Adjustment Page 7 of 7

October 26, 2022

mean not the tangible property itself, but rather the right to possess, use, enjoy and dispose of *it*. <u>Burrows v. City of Keene</u>, 121 N.H. 590, 597 (1981) (emphasis added). Sagamore is constitutionally entitled to the use of the lot as it sees fit subject only to the effect of the lot size and density requirements.

The Project: removes blighted buildings and a nonconforming commercial use; complies with all other dimensional requirements; maintains generous open space and vegetated buffers; provides additional screening with a robust planting plan, there will be no benefit to the public from denial and no harm to the public by granting the variances. Conversely, denial of the variances causes great harm to 635 Sagamore and its abutters by continuing the nonconforming commercial use of the Property. Accordingly, substantial justice is done by granting the variances.

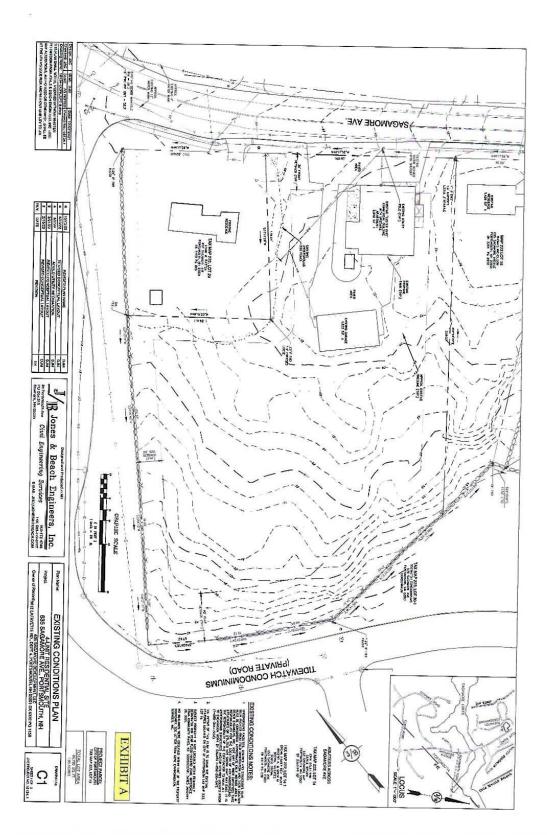
V. CONCLUSION

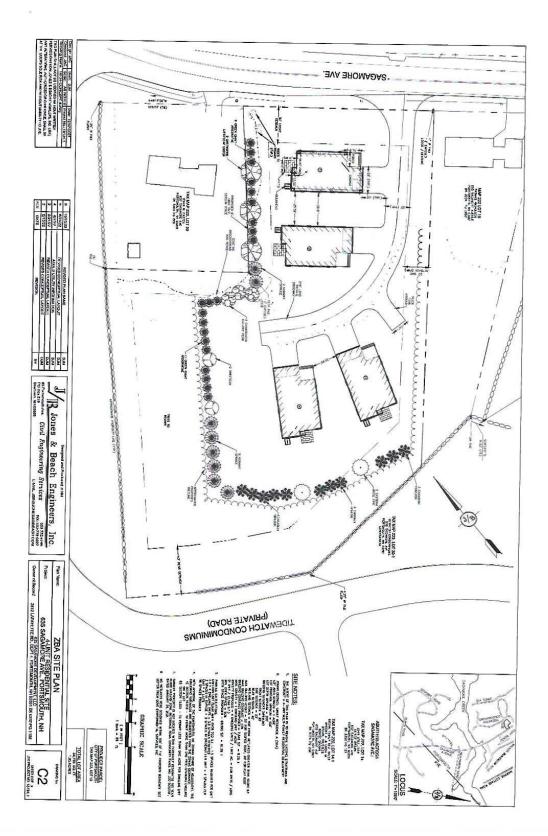
For all of the reasons herein stated, Sagamore respectfully requests that the Portsmouth Zoning of Adjustment grant the requested variances.

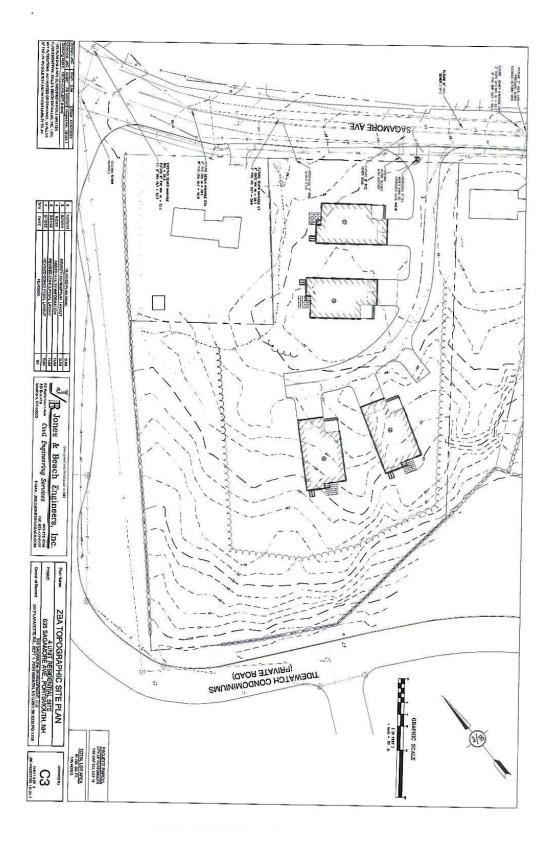
> Respectfully submitted, 635 Sagamore Development, LLC

By:

R. Timothy Phoenix, Esq. Monica F. Kieser, Esq.







419.126.v14 GL (1/27/2022)



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Dear Builders and Home Buyers,

Artform Home Plans 603-431-9559

In addition to our Terms and Conditions (the "Terms"), please be aware of the following:

This design may not yet have Construction Drawings (as defined in the Terms), and is, therefore, only available as a Design Drawing (as defined in the Terms and logether with Construction Drawings, Drawings). It is possible that uting the conversion of a Design Drawing to a final Construction Drawing, changes may be necessary including, but to finale to, dramension ichanges. Please see Plan Data Epilained on www.ArtformHomePlans.com to understand room sizes, dimensions and other data provided. We are not responsible for typographical errors.

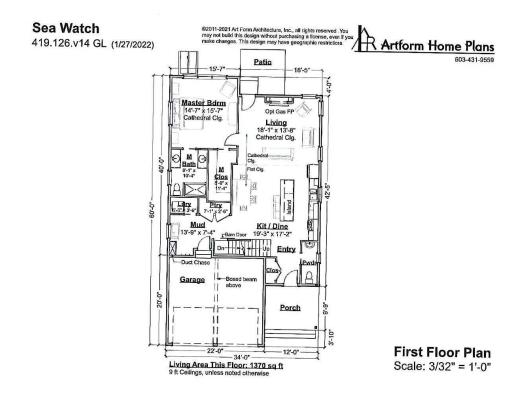
sices, dimensions and other data provided. We are not responsible for typographical errors. Artform Home Plans ("Artform") requires that our Drawings be built substantially as designed. Artform will not be obligated by or llable for use of this design with markups as part of any builder agreement. While we attempt to accommodate where possible and reasonable, and where the changes do not denigrate our design, any and all changes to Drawings must be approved in writing by Artform. It is recommended that you have your Drawing updated by Artform prior to attaching any Drawing to any builder agreement. Artform shall not be responsible for the misuse of or unauthorized alterations to any of its Drawings. • To maintain design Integrity, we pay particular attention to features on the forti facede, including but not limited to door surrounds, window zesings, finished porch column sizes, and roof frizzes. While we may allow builders to add their own flare to destruct elements, we dont allow our designs to be stripped of critical details. Any such alterations require the express written consent of Artform - Increasing calling heights usually requires adjustments to window sizes and other exterior elements. Ploor plan layout and/or Structural Changes: • If you wish to move or tromove walls or structural elements (such as removal of posts, increases in house size, ceiling height changes, removal of posts, increases in house size, ceiling height changes, removal of posts, increases in house size, ceiling height changes, removal of posts, increases in house size, ceiling height changes, addition of drimers, etc.), pleased on or assume it can be done without drur additional changes (even if the builder or lumber yard says you can).

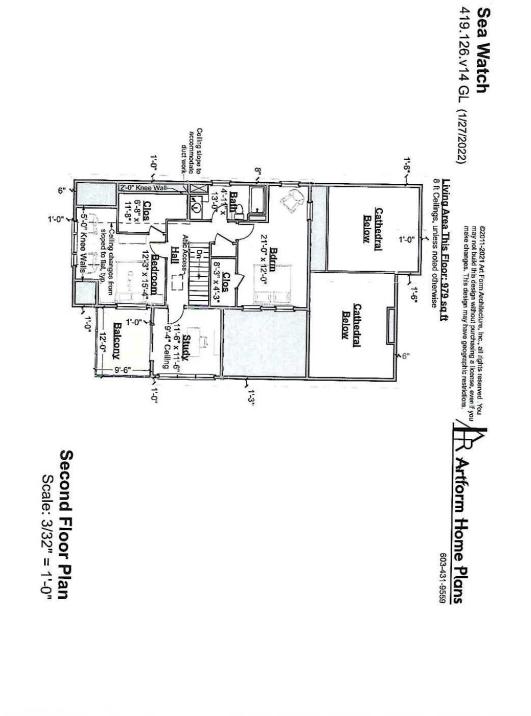
EXHIBIT B

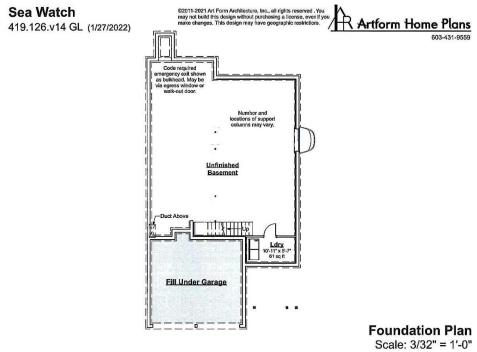
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Artform Home Plans 603-431-9559



Front Elevation Scale: 1/8" = 1'-0"



Right Elevation Scale: 1/8" = 1'-0"

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Artform Home Plans 603-431-9559



Rear Elevation Scale: 1/8" = 1'-0"



Left Elevation Scale: 1/8" = 1'-0"



Aerial view of Property





Front View of Property (Sagamore Ave)



Front View of Property



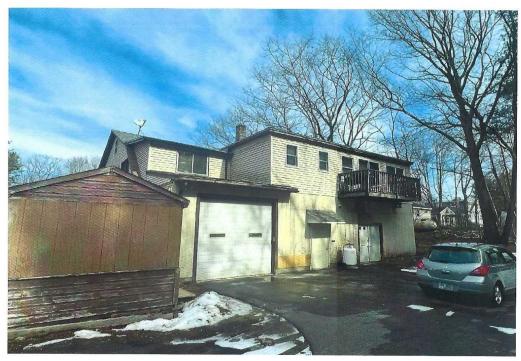
Front View of Property



Side View of Property



View of Service Garage and Shed



Rear View of Property



Interior Views

EXHIBIT D

635 SAGAMORE AVE

Location	635 SAGAMORE AVE	Mblu	0222/ 0019/ 0000/ /
Acct#	35416	Owner	635 SAGAMORE DEVELOPMENT LLC
PBN		Assessment	\$682,800
Appraisal	\$682,800	PID	35416
Building Count	2		

Current Value

Valuation Year	Improvements	Land	Total
2020	\$407,600	\$275,200	
	Assessment		
	Accessified	Land	Total

Owner of Record

Owner Co-Owner	635 SAGAMORE DEVELOPMENT LLC	Sale Price Certificate	\$387,133
Address	3612 LAFAYETTE RD DEPT 4	Book & Page	6332/1158
	PORTSMOUTH, NH 03801	Sale Date	09/24/2021

Ownership History

Owner	Sale Price	Certificate	Book & Page	Sale Date
35 SAGAMORE DEVELOPMENT LLC	\$387,133		6332/1158	09/24/2021
HINES FAMILY REVO TRUST	\$0		4885/1538	02/11/2008

Building Information

Building 1 : Section 1

Year Built:	1950
Living Area:	4,477

Replacement Cost: Building Percent Good: Replacement Cost Less Depreciation: \$513,721 54

tion: \$277,400

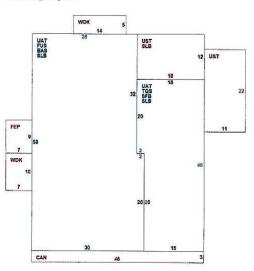
Field	allding Altributes
	Description
Style:	Retail/Apartment
Model	Commercial
Grade	C
Stories:	2
Occupancy	3.00
Residential Units	
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	Pre-Fab Wood
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Inlaid Sht Gds
Interior Floor 2	Carpet
Heating Fuel	Oil
Heating Type	Hot Water
АС Туре	Unit/AC
Bldg Use	PRI COMM
Total Rooms	
Total Bedrms	
Total Baths	
Kitchen Grd	
Heat/AC	NONE
Frame Type	WOOD FRAME
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Prtns	AVERAGE
Wall Height	10.00
% Comn Wall	
1st Floor Use:	
Class	

Building Photo

Building Photo

(http://images.vgsi.com/photos2/PortsmouthNHPhotos///0033/DSC01732_:

Building Layout



(ParcelSketch.ashx?pid=35416&bid=35416)

	Building Sub-Areas (sq	n	Legenr
Code	Description	Gross Area	Living Area
BAS	First Floor	1,676	1,676
FUS	Upper Story, Finished	1,676	1,676
TQS	Three Quarter Story	776	582
SFB	Base, Semi-Finished	776	543
CAN	Canopy	138	0
FEP	Porch, Enclosed	63	0
SLB	Slab	2,668	0
UAT	Attic	2,452	0
UST	Utility, Storage, Unfinished	458	0
WDK	Deck, Wood	140	0
		10,823	4,477

Building 2 : Section 1

Year Built:	2000
Living Area:	1,650
Replacement Cost:	\$153,450

Building Percent Good: 84 Replacement Cost

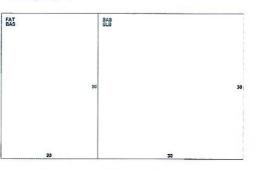
Building	
Field	Description
Style:	Service Shop
Model	Commercial
Grade	C
Stories:	1
Occupancy	1.00
Residential Units	
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Concr-Finished
Interior Floor 2	Carpet
Heating Fuel	Oil
Heating Type	Hot Water
АС Туре	None
Bldg Use	AUTO S S&S
Total Rooms	
Total Bedrms	
Total Baths	
Kitchen Grd	
Heat/AC	NONE
Frame Type	WOOD FRAME
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Prtns	AVERAGE
Vall Height	12.00
% Comn Wall	
st Floor Use:	
Class	

Building Photo

Building Photo

(http://images.vgsi.com/photos2/PortsmouthNHPhotos///0033/DSC01731_:

Building Layout



(ParcelSketch.ashx?pid=35416&bid=40140)

Code	Description	Gross Area	Living Area
BAS	First Floor	1,500	1,500
FAT	Attic	600	150
SLB	Slab	900	0
		3,000	1,650

Extra Features

۹ 🛛

in the second

Extra Features

LEGR

		No Data for Extra Features		
Land				
Land Use		Land Line Valua	tion	
Use Code	0310	Size (Acres)	1.93	
Description	PRI COMM	Frontage		
Zone	SRA	Depth		
Neighborhood	306	Assessed Value	\$275,200	
Alt Land Appr	No	Appraised Value	\$275,200	

Outbuildings

Category

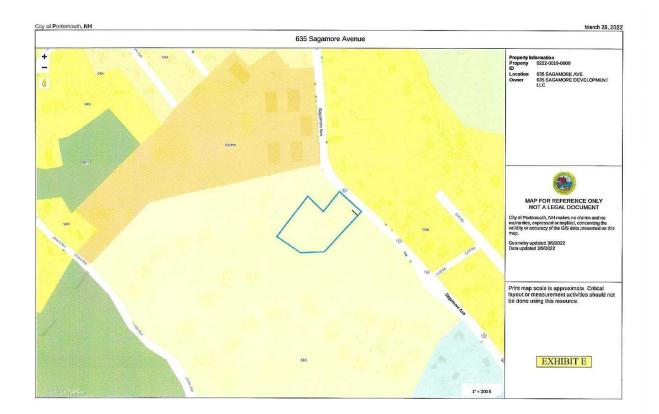
and the second second second second		Qu	tbulldings			Legen
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV1	PAVING-ASPHALT			1344.00 S.F.	\$1,200	
SHD1	SHED FRAME			96.00 S.F.	\$100	

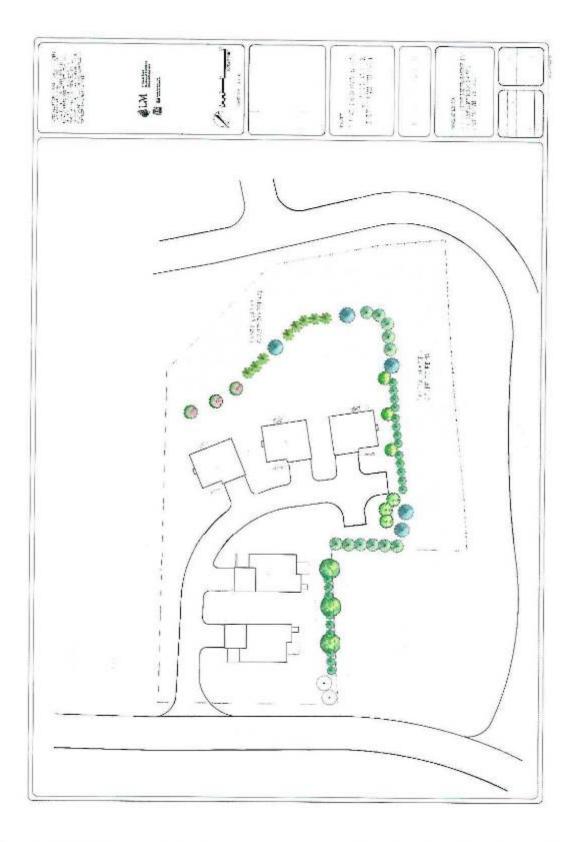
Valuation History

Valuation Year	Appraisal Improvements	Land	Total
2020	\$418,400	\$275,200	\$693,600
2019	\$418,400	\$275,200	\$693,600
2018	\$391,100	\$254,800	\$645,900

Valuation Year	Assessment	Land	Total
2020	\$418,400	\$275,200	\$693,600
2019	\$418,400	\$275,200	\$693,600
2018	\$391,100	\$254,800	\$645,900

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WHITE APPRAISAL REAL ESTATE APPRAISING & CONSULTING



Brian W. White, MAI, SRA

<u>CERTIFICATE</u>

I do hereby certify that, except as otherwise noted in this report:

- 1. the statements of fact contained in this report are true and correct;
- 2. the reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, unbiased professional analyses, opinions and conclusions;
- 3. I have no present or prospective interest in the property which is the subject of this report and I have no personal interest or bias with respect to the parties involved;
- 4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment;
- 5. my engagement in this assignment was not contingent upon developing or reporting predetermined results;
- 6. my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal;
- 7. my analysis, opinions, and conclusions, were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice;
- 8. Brian W. White, MAI, SRA a made a personal inspection of the property that is the subject of this report;
- 9. no one has provided significant real property appraisal assistance to the persons signing this certification;
- 10. I have prepared no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment;
- 11. the reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute;
- 12. the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives;
- 13. as of the date of this report, Brian W. White, MAI, SRA, has completed the continuing education program for Designated Members of the Appraisal Institute.

Respectively submitted,

Brian W. White, MAI, SRA NHCG-#52

130 VARNEY ROAD • DOVER, NEW HAMPSHIRE 03820 • BRIANWMAI@AOL.COM • (603) 742-5925

Oualifications of the Appraiser

Professional Designations:

Member, Appraisal Institute (MAI) – Awarded by the Appraisal Institute. MAI #9104 Senior Residential Appraiser (SRA)

Employment:

1989 to Present	White Appraisal – Dover, NH President – Senior Appraiser Owner of White Appraisal, a commercial and residential real estate appraisal firm. Complete appraisals on all types of commercial and residential properties. Consulting.
1988	Finlay Appraisal Services – Portsmouth, NH Senior Vice President/Chief Operations Officer Oversaw the operation of four appraisal offices. Completed commercial and residential appraisals on all types of properties.
1985	Finlay Appraisal Services – Portsmouth, NH and Appraisal Services Manager – South Portland, ME. Completed commercial and residential appraisals on all types of properties.
Education:	 Mitchell College Associate of Arts, Liberal Studies, 1979 University of Southern Maine Bachelors of Science, Business Admin., 1984 Bus 022 Real Estate Law Bus 023 Real Estate Practice Bus 025 Real Estate Valuation American Institute of Real Estate Appraisers 1A-1 Real Estate Appraisal Principles, 1985 1A-2 Basic Valuation Procedures, 1985 1B-A Cap. Theory and Technique (A), 1985 1B-B Cap. Theory and Technique (B), 1985 2-3 Standards of Pro. Practice, 1985 Exam #7 Industrial Valuation, 1986
	Society of Real Estate Appraisers 101 Intro. To Appraising Real Property, 1986 102 Applied Residential Property Val., 1987 201 Prin. Of Income Property Appraising, 1985 202 Applied Income Property Valuation, 1985

Education (Continued):

USPAP Update- 2017 USPAP Update- 2019 Business Practices & Ethics- 2021 USPAP 2022/2023 Update- 2021

Recent Seminars:

Current Use - 2018 Real Estate Damages Overview - 2018 Understanding and Using Public Data - 2018 Appraising Energy Efficient Residential Properties – 2018 Commercial Real Estate Roundtable - 2019 Appraiser Essentials with CRS and Green Fields – 2019 Land Development & Residential Building Costs - 2019 Myths in Appraiser Liability – 2019 Appraising in Uncertain Times - 2019 Market Trends in NH Real Estate – 2020 Appraising Commercial Properties during a Pandemic - 2020 Defining the Appraisal Problem: Sleuthing for the Approaches to Value-2021 Forest Valuation- 2021 Appraiser Essentials Paragon MLS-2021 Residential Building Systems- 2021 2021-2022 NH Market Insights- 2021 Implications for Appraisers of Conservation Easement Appraisals- 2022 NH's Housing Market & Covid: What a Long, Strange Road It's Been!- 2022

Appointments:

Board of Directors – New Hampshire Chapter of the Appraisal Institute - 1991 to 1993; 2000 to 2010 and 2015-2018 Vice President - New Hampshire Chapter of the Appraisal Institute – 2011-2012 & 2019 President – New Hampshire Chapter of the Appraisal Institute – 2013 & 2014

Experience:

Review Chairperson – New Hampshire Chapter of the Appraisal Institute – 1994 to 2010

Licenses:

N.H. Certified General Appraiser #NHCG -52, Expires 4/30/2023

Partial List of Clients:

Banks:	Attorneys:	Others:
Androscoggin Bank	John Colliander	City of Dover
Granite Bank	Karyn Forbes	Town of Durham
Federal Savings Bank	Michael Donahue	University of New Hampshire
Sovereign Bank	Richard Krans	Wentworth-Douglass
Eastern Bank	Simone Massy	The Homemakers
Century Bank	Samuel Reid	Strafford Health Alliance
TD Bank	Daniel Schwartz	Goss International
Kennebunk Savings Bank	Robert Shaines	Chad Kageleiry
Northeast Federal Credit Union	William Shaheen	Gary Levy
Profile Bank	Steve Soloman	Stan Robbins
Peoples United Bank	Gerald Giles	Daniel Philbrick
Key Bank	Ralph Woodman	Keith Frizzell
Optima Bank and Trust	Gayle Braley	Chuck Cressy
Provident Bank	Fred Forman	John Proulx

State of New Hampshire



Real Estate Appraisers Board

<u>Authorized as</u> Certified General Appraiser

Issued To

BRIAN W WHITE

License Number: NHCG-52

Issue Date: 01/01/1992 Expiration Date: 04/30/2023

II. OLD BUSINESS

B. The request of Jared J Saulnier (Owner), for property located at 4 Sylvester Street whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area and lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. (LU-23-27)

	Existing	Proposed		Permitted / Required	
Land Use:	Single Family Home	Lot 1	Lot 2	Primarily residential	
Lot area (sq. ft.):	16,067	9,645	6,421	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	16,067	9,645	6,421	15,000	min.
Lot depth (ft):	80	80	80	100	min.
Street Frontage (ft.):	200.01	119.9	40	100	min.
Primary Front Yard (ft.):	7.95	7.95	n/a	30	min.
Right Yard (ft.):	>10	9	10	10	min.
Left Yard (ft.):	9.7	9.7	10	10	
Rear Yard (ft.):	33.9	33.9	30	30	min.
<u>Height (ft.):</u>	21.75	21.75	n/a	35	max.
Building Coverage	11.1	18.5	0	20	max.
<u>Open Space</u> <u>Coverage (%):</u>	78.8	67.2	100	40	min.
Parking:	2	2	n/a	2	
Estimated Age of Structure:	1910		Variance i red.	request(s) show	n in

Existing & Proposed Conditions

Other Permits/Approvals Required

• Subdivision Review and Approval – TAC and Planning Board

Neighborhood Context



4 Sylvester Street

Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing to divide the existing lot into two 2 lots. As the road dead ends at the applicant's property the applicant is proposing to extend the public road by 40 feet to provide access to the new lot.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

- 1. Granting the variance would not be contrary to the public interest.
- 2. Granting the variance would observe the spirit of the Ordinance.
- 3. Granting the variance would do substantial justice.
- 4. Granting the variance would not diminish the values of surrounding properties.
- 5. The "unnecessary hardship" test:
 - (a) The property has <u>special conditions</u> that distinguish it from other properties in the area. **AND**
 - (b) <u>Owing to these special conditions</u>, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. **OR**

<u>Owing to these special conditions</u>, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801 Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 1, 2023

HAND DELIVERED

Peter Stith, Principal Planner Portsmouth City Hall 1 Junkins Avenue Portsmouth, NH 03801

Re: Jared J. Saulnier, Owner/Applicant 4 Sylvester Street Tax Map 232/Lot 36

Dear Mr. Stith & Zoning Board Members:

On behalf of Jared J. Saulnier ("Saulnier"), enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted via Viewpoint earlier today.
- Owner Authorization.
- 3/1/2023 Memorandum and exhibits in support of variance application.

We look forward to presenting this application to the Zoning Board at its March 21, 2023 meeting.

Very truly yours,

R. Timothy Phoenix Monica F. Kieser

Encl.

cc:

Jared J. Saulnier Altus Engineering (email)

DANIEL C. HOEFLE R. TIMOTHY PHOENIX LAWRENCE B. GORMLEY STEPHEN H. ROBERTS R. PETER TAYLOR ALEC L. MCEACHERN KEVIN M. BAUM JACOB J.B. MARVELLEY GREGORY D. ROBBINS PETER V. DOYLE MONICA F. KIESER DUNCAN A. EDGAR STEPHANIE J. JOHNSON OF COUNSEL: SAMUEL R. REID JOHN AHLGREN

OWNER'S AUTHORIZATION

I, Jared J. Saulnier, Owner/Applicant of 4 Sylvester Street, Tax Map 232/Lot 36, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent me before any and all City of Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date: 01-11-2023

Jared Saulnier

MEMORANDUM

TO:	Portsmouth Zoning Board of Adjustment ("ZBA")
FROM:	R. Timothy Phoenix, Esquire
	Monica F. Kieser, Esquire
DATE:	March 1, 2023
RE:	Jared J. Saulnier, Owner/Applicant
	4 Sylvester Street
	Tax Map 232/Lot 36
	Single Residence B District

Dear Chair Eldridge and Zoning Board Members:

On behalf of the Owner/Applicant, Jared J. Saulnier ("Saulnier"), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief for the subdivision of the existing lot to be considered by the ZBA at its March 21, 2023 meeting.

I. <u>EXHIBITS</u>

- A. Prospect Park, Annex #3, 1903 Rockingham County Registry of Deeds #00225
- B. <u>Plat of Land & Limited Elevations</u> issued by James Verra & Associates, Inc.
- C. <u>ZBA Plan</u> issued by Altus Engineering.
- D. Map of area depicting lots with less than required area, frontage, and/or depth.
- E. Site Photographs.
 - Satellite view
 - Street views
- F. <u>Tax Map 233</u>.

II. <u>PROPERTY/PROJECT</u>

4 Sylvester Street is a 16,067 s.f. lot with 200 ft. of frontage comprised of five (5) historic lots (40 ft. by 80 ft.) depicted on the 1903 Plan of Prospect Park, Annex #3 (the "Property"). **(Exhibits A & B)**. Although Sylvester Street is laid out on the Prospect Park Plan, it does not continue past the Property, which is the last house on the left, but continues on the other side of a wooded area with access from Marjorie. The Property is developed with a single family home and garage on the left side of the lot, and a shed and wood storage structure on the right side of the lot. A 20 ft. utility easement benefitting the City crosses the Property between the home and garage. The garage was constructed outside that easement area and is therefore 9.7 ft. from the left side lot line. The Property contains nearly twice the required frontage but like nearly all the historic lots, is 80 ft. deep, failing to conform to today's Single Residence B District Requirements.

Saulnier proposes to subdivide the Property into two lots, Lot 1 containing 9,645 s.f., and

119.90 ft. of frontage and the existing home and barn, and Lot 2 containing 6,421 s.f., 80 ft. of frontage and an existing lot depth of 80 ft. (the "Project"). (Exhibit C). The Project confers the benefit of an additional buildable lot in Portsmouth, where housing opportunities are in high demand and many lots fail to conform to current requirements for frontage, lot area, lot area/dwelling unit, and lot depth. (Exhibit D). In anticipation of a Subdivision Application, Saulnier seeks variances to permit two lots with less than 15,000 s.f., one with a side yard of less than 10 ft., and one lot with less than 100 ft. of frontage and less than 100 ft. lot depth.

Page 2 of 6

III. <u>RELIEF REQUIRED</u>

Variance Section/Requirement	Existing	<u>Proposed</u>
PZO §10.520/Table §10.521: Dimensional Standards 15,000 s.f. Lot area 15,000 s.f. Lot area/dwelling unit	16,067 s.f.	Lot 1: 9,645 s.f. Lot 2: 6,421 s.f.
PZO §10.520/Table §10.521: Dimensional Standards 100' Continuous Street Frontage	200.01'	Lot 1: 119.90' (no relief) Lot 2: 80.11' ft.
PZO §10.520/Table §10.521: Dimensional Standards 100' Lot Depth	80'	80'
PZO §10.520/Table §10.521: Dimensional Standards 10' Side Yard	Lot 1: 9.7' (left side)	Lot 1: 9.1' (right side)

IV. VARIANCE REQUIREMENTS

1. The variances will not be contrary to the public interest.

2. <u>The spirit of the ordinance is observed.</u>

The first step in the ZBA's analysis is to determine whether granting the variances is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to <u>Malachy Glen Associates</u>, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives". <u>Id</u>. "Mere conflict with the zoning ordinance is not

enough". Id.

Portsmouth Zoning Ordinance ("PZO") Section 10.121 identifies the general purposes and intent of the ordinance "to promote the health, safety and general welfare of Portsmouth...in accordance with the...Master Plan" This is accomplished by regulating:

- 1. The use of land, buildings and structures for business, industrial, residential and <u>other purposes</u> The intended use of the property is and will remain residential. The requested relief will satisfy the need for additional housing with creation of additional building lot on an underutilized area of land in a populated area where many similar sized lots exist.
- 2. <u>The intensity of land use, including lot sizes, building coverage, building height</u> <u>and bulk, yards and open space</u> – Lot 2 has 80.11 ft. of frontage where 100 ft. is required, but is the last lot on a dead-street; though under the required 15,000 s.f., it can accommodate a modest sized home without increasing the intensity of land use in the area. Many lots in the area are smaller than 15,000 s.f., lack 100 feet of frontage and/or depth, or required side yards, so the new lot fits in the area.
- 3. <u>The design of facilities for vehicular access, circulation, parking and loading</u> Both lots will have sufficient space to accommodate appropriate facilities for these needs.
- 4. <u>The impact on properties on of outdoor lighting, noise, vibration, stormwater</u> <u>runoff and flooding</u> – The creation of an additional residential lot will not impact surrounding properties.
- 5. <u>The preservation and enhancement of the visual environment</u> Allowance of an additional residential building lot among similarly sized developed lots will not negatively affect the visual environment.
- 6. <u>The preservation of historic districts and building and structures of historic</u> <u>architectural interest</u> – The Property is not located in the Historic Overlay District.
- 7. <u>The protection of natural resources, including groundwater, surface water,</u> <u>wetlands, wild life habitat and air quality</u> – The granting of the variances will not undermine these purposes of the Ordinance.

The intent of Single Residence B District is "[t]o provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses. PZO §10.410. The Property is comprised of five lots depicted on a plan recorded prior to zoning. The proposal meets the intentions of the Single Residence B District by providing another residential building lot that is consistent with many in the area. Given these factors, granting the limited requested variances will not conflict with the basic zoning objectives of the PZO.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives," <u>Malachy Glen, *supra*</u>, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would <u>alter the</u> <u>essential character of the locality</u>... Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would <u>threaten the public health, safety or welfare</u>. (emphasis added)

Notably, there are several properties in the immediate area with lot areas less than 15,000 s.f., less than 100 ft. of frontage, **and** less than 100 ft. lot depth; more yet lack required lot area **or** frontage, **or** depth. **(Exhibit D).** The minimal deviation from the required side yard is not noticeable and also matches yard setbacks of the small lots nearby. Given the existence of many similar lots in the area, granting the variances for a lot on a major thoroughfare in this area will not alter the essential characteristics of the neighborhood.

Similarly, there will be no threat to the public health, safety or welfare by granting the requested variances when the relief required is for a building lot size, frontage, depth, and side yard comparable to several existing in the surrounding area. Allowance of an additional residential building lot in a populated residential zone satisfies the need for additional housing and affords Saulnier the highest and best use of his land.

The requested variances neither alter the essential character of the locality nor threaten the public health safety or welfare. Accordingly, none of the variances are contrary to the public interest and all observe the spirit of the ordinance.

3. Granting the variance will not diminish surrounding property values.

Granting the requested variances will not diminish surrounding property values. The proposal will satisfy the need for housing in Portsmouth through creation of an additional building lot on Sylvester Street comparable to others in the surrounding area. The later addition of a modest home on a lot similar in size to many in the area will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

a. <u>Special conditions distinguish the property from others in the area.</u>

The Property contains nearly twice the required frontage and is comprised of five historic lots. The home and garage are located on the left side of the lot separated by a 20 ft. utility easement. This configuration under-utilizes prospective Lot #2 as an additional yard, when a more productive use would be as an additional residential building lot. A hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use

Memorandum Jared J. Saulnier

will have no adverse effect on the neighborhood. See <u>Walker v. City of Manchester</u>, 107 N.H. 382, 386 (1966). In <u>Walker</u>, an applicant sought to convert the use of a large building to a dwelling and funeral home in a residential zone. Denied by the Manchester Zoning Board of Adjustment, the Trial Court and Supreme Court found that a hardship existed, thus the variances should have been granted, where numerous other large dwellings in the area had been converted to office or other business use, and numerous funeral homes existed in an otherwise residential district via the issuance of variances. Here, the density, frontage, and lot configuration resulting from the requested variances are similar to the conditions in the surrounding area with similar sized developed lots and will have no adverse effect on the neighborhood, thus a hardship exists. Walker, supra.

Finally, a municipality's ordinance must reflect the current character of the neighborhood, See <u>Belanger v. City of Nashua</u>, 121 N.H. 389, 393 (1981). Granting the requested variances allow the subject lot to be in keeping with the character of other residential uses in the vicinity. Thus, the variances in this instance will allow the Ordinance to reflect the character of the area. In light of these conditions and restrictions, special conditions exist at the Property.

b. <u>No fair and substantial relationship exists between the general public purposes of</u> the ordinance and its specific application in this instance.

The purpose of dimensional requirements is to regulate density and prevent overcrowding of land and population. The purpose of frontage requirements is to provide air, light and promote visibility for motorists, cyclists, and pedestrians. The requested variances do not undermine the purpose of the Ordinance, particularly in the context of the Property's location at the end of Sylvester among many similar sized properties.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. <u>Vigeant v. Hudson</u>, 151 N.H. 747 (2005). Residential use is permitted and the creation of Lot 2 is consistent with the overall intent of the zoning district and similar conditions in the neighborhood. Thus, the improvements and variances required for them are reasonable.

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. <u>Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C</u>, 162 N.H. 508

Memorandum Jared J. Saulnier

(2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." <u>Malachy Glen</u>, *supra* at 109. The variances needed to create a building lot for a modestly sized residential home in a residential zone satisfy the need for housing and result in a lot comparable to many others in the surrounding area, so will not impact the general public. Conversely, Saulnier will be greatly harmed by denial of any of the variances, as he will lose the ability to create needed housing in Portsmouth. Without question, substantial justice will be done by granting each variance while a substantial injustice will be done by denying any of them.

V. <u>CONCLUSION</u>

For all of the reasons stated, Jared J. Saulnier respectfully requests that the Portsmouth Zoning Board of Adjustment grant each variance request.

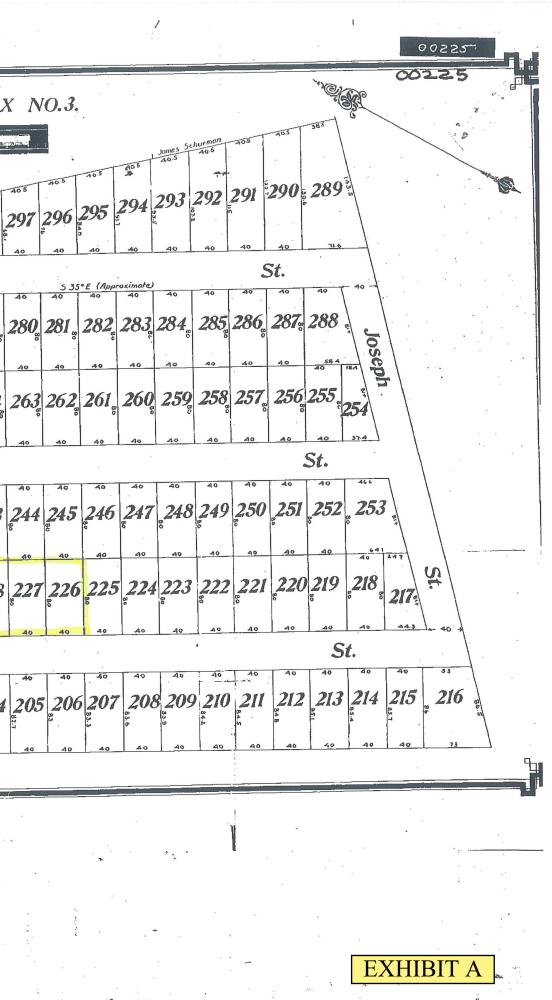
Respectfully submitted,

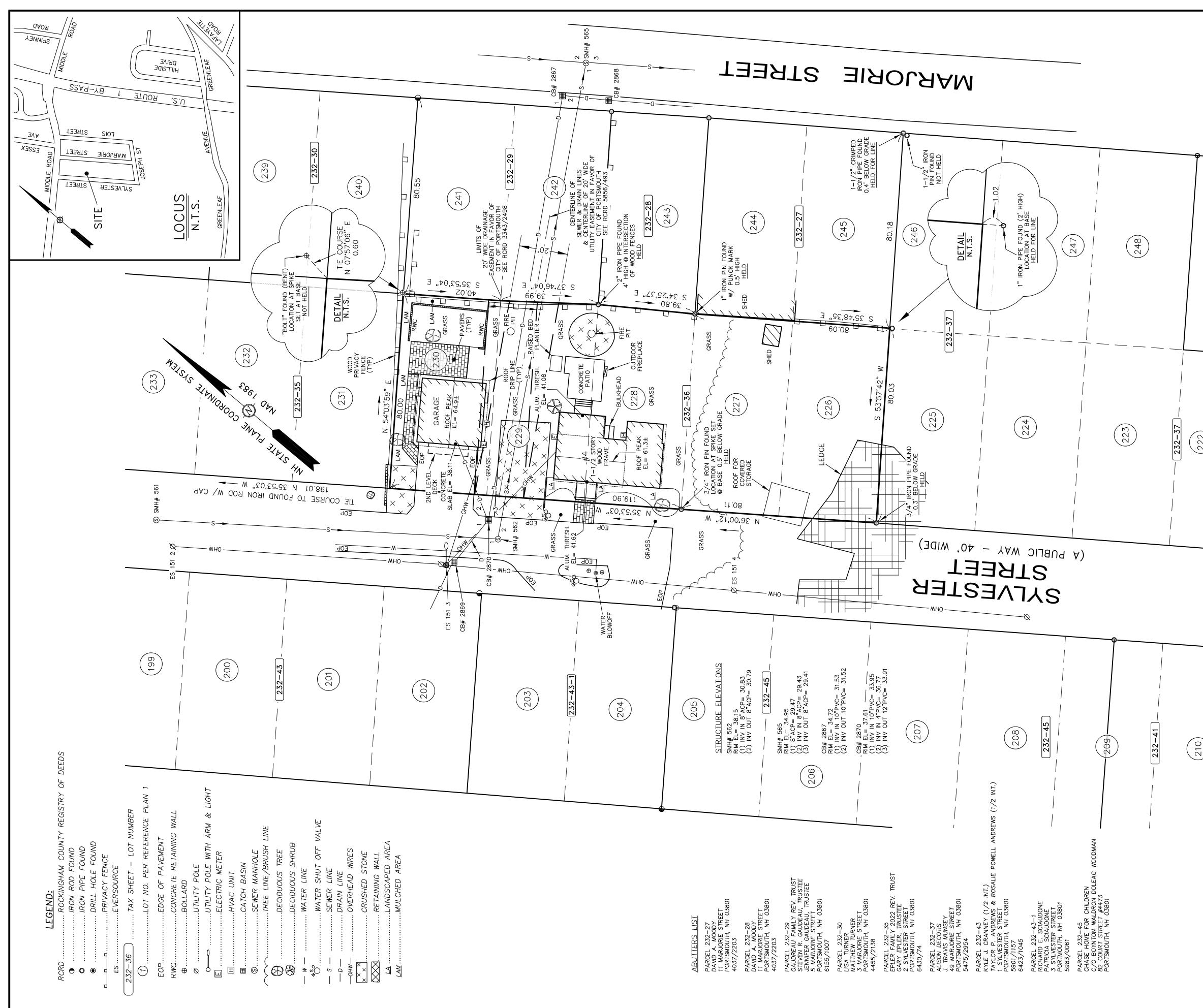
JARED J. SAULNIER

By:

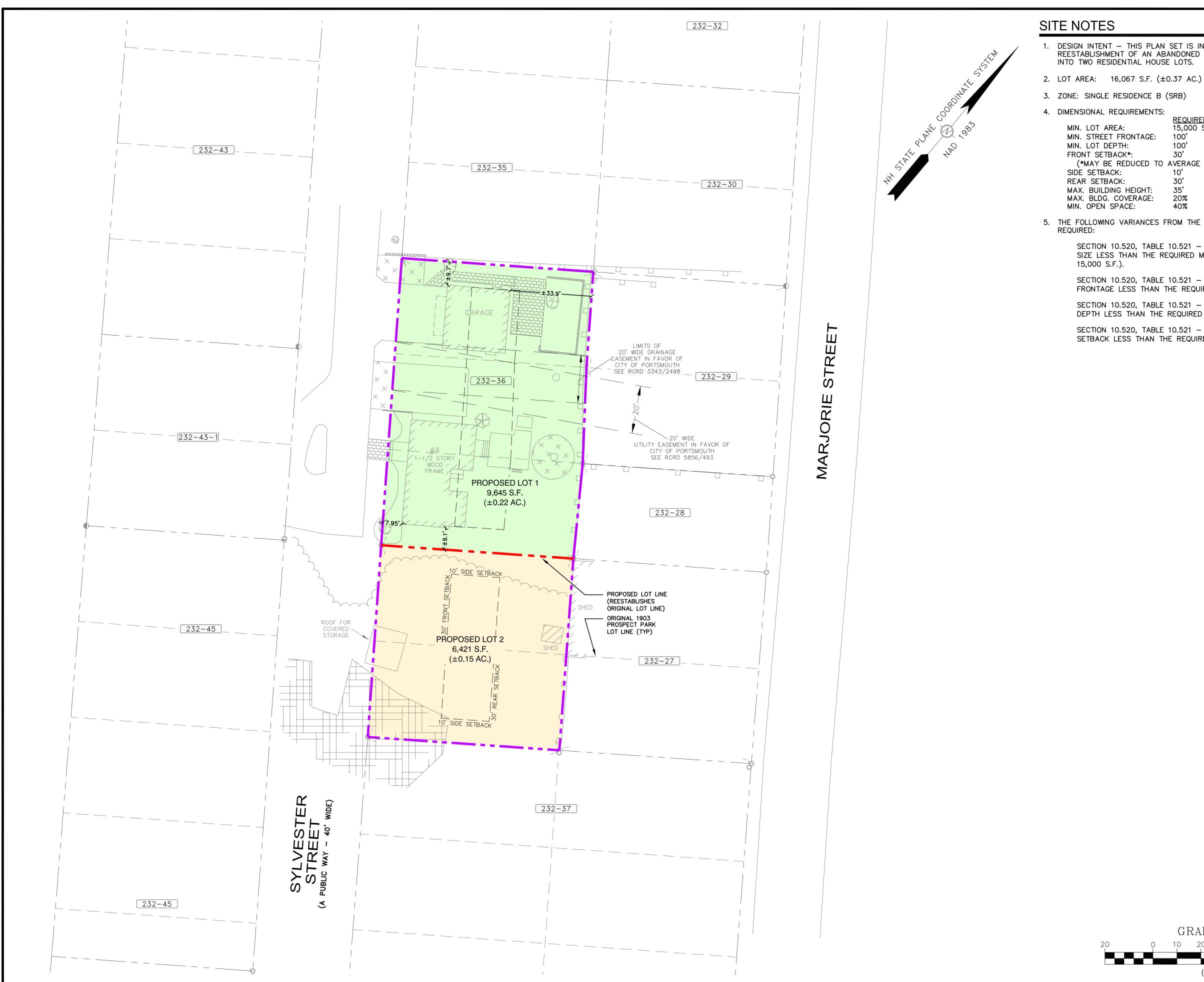
R. Timothy Phoenix Monica F. Kieser

PROSPECT PALK ANNEX NO.3. portsmouth in h Belonging to Leavitt, Woodworth & Sweatt 30 Court Street, Boston, Mass. Surveyed April 30, 1903 by John N. McClintock, A.M.C.E. Field Work by Edward N. Sampson, Boston, Mass. 299 298 297 296 303 302 301 300 304 Lois 35°E (Ap 273 274 275 276 277 278 279 \$7.1 272 80.5 271 269 268 267 266 265 264 263 262 261 260 259 258 257 256 255 79.6 270 Middle Margerie 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 237 236 233 232 231 230 229 228 227 226 225 224 223 222 221 220 219 218 235 Road 234 Sylvester 01 202 203 204 205 206 207 208 209 210 211 212 213 214 215 198 199 200 197





232-26					LAND & LIMITED ELEVATIONS	PORTSMOUTH, NEW HAMPSHIRE ASSESSOR'S PARCEL 232-36	JARED J. SAULNIER	IO: 24021 : 1" = 20' VAME: 24021 NO: 24021	and 4
(22)	REFERENCE PLANS:	 PROSPECT PARK, ANNEX NO. 3, PORTSMOUTH, NH, BELONGING TO LEAVITT, WOODWORTH & SWEATT, SURVEYED 4/30/1903, RCRD PLAN 00225. PLAN OF LAND, PORTSMOUTH, N.H., FOR MAX MILTON, SCALE: 1"=30', DATED 7/1974, FILE NO. 72A, PLAN NO. 4336, BY JOHN W. DURGIN. CEPA. NOT RECORDED. 		 EASEMENT PLAN, ACCESS EASEMENT, MARJORIE STREET, PORTSMOUTH, NH, DATED 3/2013, RCRD PLAN D-37716. PLAT OF LAND PREPARED FOR ARNE, LLC, 3 SYLVESTER STREET, PORTSMOUTH, NH, DATED 2/15/2019, RCRD PLAN D-41324. 	REV. NO. DATE	EXI	Current and Curren	JAMES VER	COPYRIGHT © 2022 by JAMES VERRA
	<u>NOTES:</u>	OWNER OF RECORDJARED J. ADDRESS	 THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET. ZONED:	4. THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.	 THIS PLAN IS BASED ON A FIELD SURVEY PERFORMED 8/2022 & 11/2022. ON SITE CONTROL ESTABLISHED USING SURVEY GRADE GPS UNITS. HORIZONTAL DATUM: NAD 1983 (2011)(EPOCH 2010.0000) VERTICAL DATUM: NAVD 1988 PRIMARY BM: CITY CONTROL POINT "ROBE" 	 PARCEL 232-36 IS SUBJECT TO 2 20' WIDE UTILITY EASEMENTS IN FAVOR OF THE CITY OF PORTSMOUTH AS SHOWN HEREON. PARCEL 232-36 LIES IN ZONE X (NO SCREEN), AREA OF MINIMAL FLOOD HAZARD AS SHOWN ON FLOOD INSURANCE RATE MAP 33015C0270F, REVISED 1/29/2021, BY FEMA. 	· · · · · · · · · · · · · · · · · · ·	20 0 20 40 60 80 FEET	



1. DESIGN INTENT – THIS PLAN SET IS INTENDED TO DEPICT THE REESTABLISHMENT OF AN ABANDONED LOT LINE TO SUBDIVIDE LOT 232–36

REMENTS:				
	REQUIRED	EXIST.	LOT 1	LOT 2
	15,000 S.F.	16,067	9,645	6,421
NTAGE:	100'	200.01'	119.90'	80.11'
	100'	80.02'	80.15'	80.17'
	30'	7.95'	7.95 '	30' MIN.
JCED TO	AVERAGE WITHIN	200' ON	SAME SIDE	OF STREET)
	10'	±9.7'	±9.1'	10' MIN.
	30'	±33.9'	±33.9'	30' MIN.
IGHT:	35'	±21.75'	±21.75'	35' MAX.
RAGE:	20%	11.1%	18.5%	20% MAX.
:	40%	78.8%	67.2%	40% MIN.

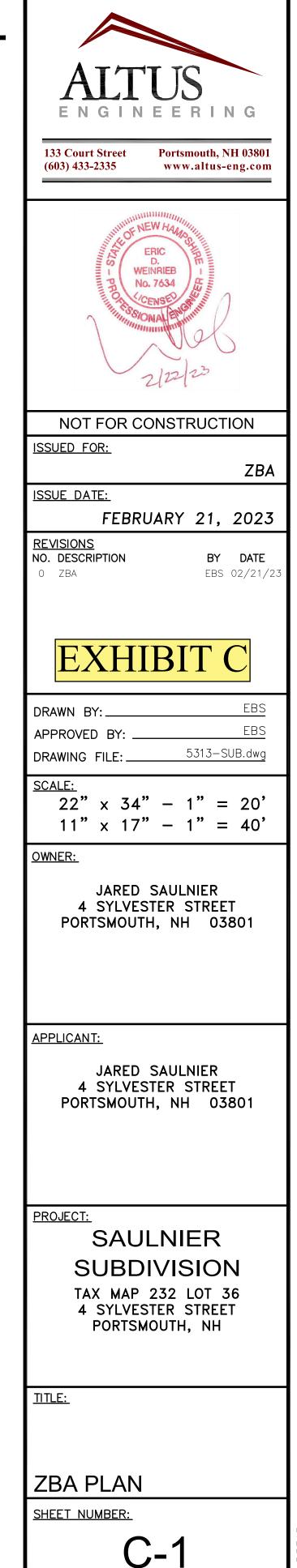
5. THE FOLLOWING VARIANCES FROM THE PORTSMOUTH ZONING ORDINANCE ARE

SECTION 10.520, TABLE 10.521 - VARIANCE REQUIRED TO ALLOW A LOT SIZE LESS THAN THE REQUIRED MINIMUM (9,645 S.F. AND 6,421 S.F. VS.

SECTION 10.520, TABLE 10.521 - VARIANCE REQUIRED TO ALLOW LOT FRONTAGE LESS THAN THE REQUIRED MINIMUM (80.11' VS. 100')

SECTION 10.520, TABLE 10.521 - VARIANCE REQUIRED TO ALLOW LOT DEPTH LESS THAN THE REQUIRED MINIMUM (80.17' VS. 100'). SECTION 10.520, TABLE 10.521 - VARIANCE REQUIRED TO ALLOW A SIDE

SETBACK LESS THAN THE REQUIRED MINIMUM (9.1' VS. 10').



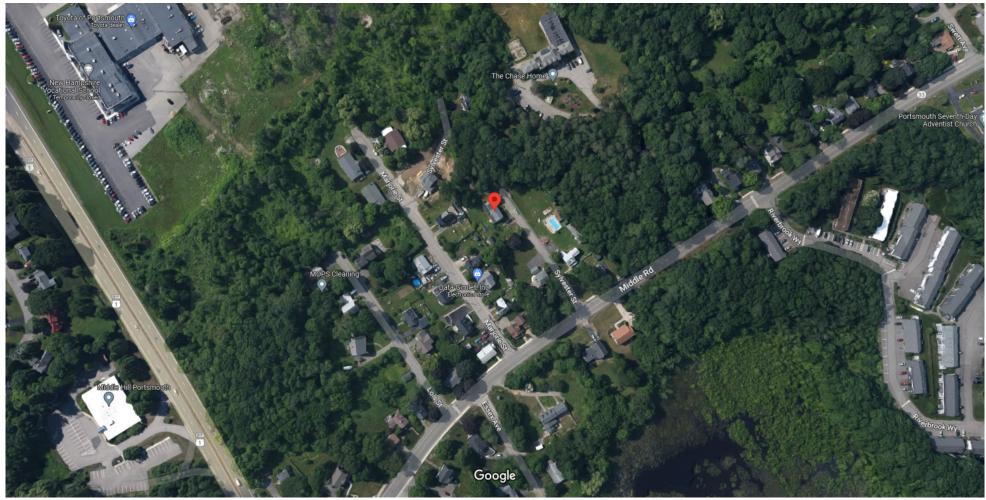
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(IN FEET)



Lots with less than the required Lot Area/Frontage/Depth

February 27, 2023



Imagery ©2023 Google, Imagery ©2023 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2023 100 ft



Google Maps 8 Sylvester St



Portsr Toyota of Portsmouth Image capture: Sep 2019 © 2023 Google

Google Maps 15 Sylvester St



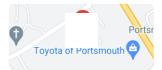
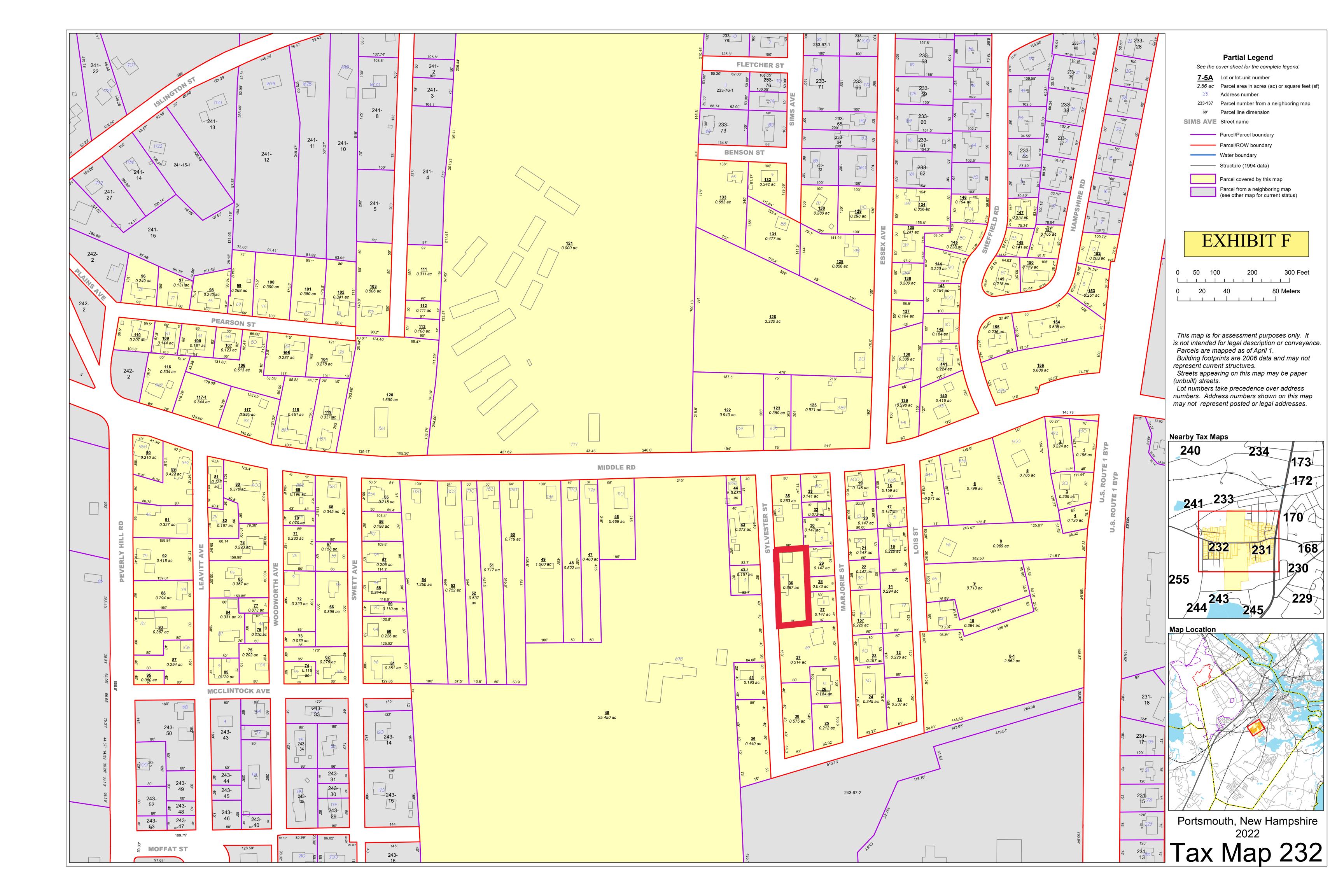


Image capture: Sep 2019 © 2023 Google



II. OLD BUSINESS

C. The request of Cynthia Austin Smith and Peter (Owners), for property located at 9 Kent Street whereas relief is needed to demolish the existing two-family and construct a single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 5,000 square feet where 7,500 square feet is required for each; b) 53% building coverage where 25% is the maximum allowed; c) a 4.5 foot rear yard where 20' is required; d) a 0.5 foot side yard where 10 feet is required; e) a 0 foot front yard where 11 feet is allowed under Section 10.516.10; and f) a 9.5 foot secondary front yard where 13 feet is allowed under Section 10.516.10. 2) A Variance from Section 10.515.14 to allow a 1.5 foot setback for a mechanical unit where 10 feet is required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. (LU-23-28)

	Existing	Proposed	Permitted / Required	
Land Use:	Two- family	Demo structure and construct new single unit	Primarily residential	
<u>Lot area (sq. ft.)</u> :	5,000	5,000	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	5,000	5,000	7,500	min.
Street Frontage (ft.):	50'+	50' +	100	min.
Lot depth (ft.)	100	100	70	min.
Primary Front Yard (ft.):	7	0	11 (using front yard averaging in 10.516.10)	min.
Secondary Front Yard (ft.):	16	9.5	13 (using front yard averaging in 10.516.10)	min.
Right Yard (ft.):	0.5	0.5	10	min.
Rear Yard (ft.):	6	4.5	20	min.
<u>Height (ft.):</u>	<35	35	35	max.
Building Coverage (%):	35	53	25	max.
Open Space Coverage (%):	63.5	33	30	min.
<u>Parking</u>	0	2 (2 car garage)	2	
Estimated Age of Structure:	1900	Variance request(s) shown in red.	

Existing & Proposed Conditions

Other Permits/Approvals Required

Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

July 19, 1988 – Relief from Zoning Ordinance including:

Variance from Article III, Section 10-302 are requested: a) construction of 4' x 20' rear egress stairs from the second floor to rear yard with 33% building lot coverage in a district where the maximum building lot coverage allowed is 20% and b) construction of said stairs with a 2 $\frac{1}{2}$ ' right yard where a 10' side yard is the minimum in this district. The Board voted to **grant** the request as advertised.

Planning Department Comments

The applicant is requesting relief from multiple dimensional standards to demolish the existing structure, construct a single living unit, and add new backyard features.

For this project, the complete demolition of the existing structure creates a vacant lot and will require relief for both the proposed structure dimensions that do not meet zoning and for the non-conforming dimensions of the lot. See Section 10.311 copied below for reference.

10.311 Any lot that has less than the minimum lot area or street frontage required by this Ordinance shall be considered to be nonconforming, and no use or structure shall be established on such lot unless the Board of Adjustment has granted a variance from the applicable requirements of this Ordinance.

At the request of staff, applicant presented the project to the Technical Advisory Committee at a Work session for the review of public infrastructure impacts as they relate to the project.

May 8 Update:

On May 8, 2023 the applicants submitted a revised foundation plan after receiving imput from the abutter. The changes are summarized in the letter dated May 10, 2023 from Jennifer Ramsay and are as follows: the right side of the structure will be 3 feet narrower on the basement level, the new building will be the same in every other aspect and dimension.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

- 1. Granting the variance would not be contrary to the public interest.
- 2. Granting the variance would observe the spirit of the Ordinance.
- 3. Granting the variance would do substantial justice.
- 4. Granting the variance would not diminish the values of surrounding properties.
- 5. The "unnecessary hardship" test:
 - (a) The property has <u>special conditions</u> that distinguish it from other properties in the area. **AND**
 - (b) <u>Owing to these special conditions</u>, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR

<u>Owing to these special conditions</u>, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

Hoefle, Phoenix, Gormley & Roberts, pllc

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801 Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 1, 2023

HAND DELIVERED

Peter Stith, Principal Planner Portsmouth City Hall 1 Junkins Avenue Portsmouth, NH 03801

Re: Peter Smith & Cynthia Austin Smith, Owners/Applicants 9 Kent Street Tax Map 113/Lot 42

Dear Mr. Stith & Zoning Board Members:

On behalf of Peter Smith and Cynthia Austin Smith, Owners/Applicants, enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted via Viewpoint earlier today.
- Owner Authorization.
- 3/1/2023 Memorandum and exhibits in support of variance application.

We look forward to presenting this application to the Zoning Board at its March 21, 2023 meeting.

Very truly yours,

R. Timothy Phoenix Monica F. Kieser

Encl.

cc: Peter Smith & Cynthia Austin Smith
 John Chagnon, Ambit Engineering, Inc. (email)
 Jennifer Ramsey, Somma Studios (email)
 Robbi Woodburn, Woodburn & Associates (email)

DANIEL C. HOEFLE R. TIMOTHY PHOENIX LAWRENCE B. GORMLEY STEPHEN H. ROBERTS R. PETER TAYLOR ALEC L. MCEACHERN KEVIN M. BAUM JACOB J.B. MARVELLEY

GREGORY D. ROBBINS PETER V. DOYLE MONICA F. KIESER DUNCAN A. EDGAR STEPHANIE J. JOHNSON OF COUNSEL: SAMUEL R. REID JOHN AHLGREN

OWNER'S AUTHORIZATION

We, Peter Smith and Cynthia Austin Smith, Owners/Applicants of 9 Kent Street, Tax Map 113/Lot 42, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent us before any and all City of Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date:

Cynthia Austin Smith

Date:

MEMORANDUM

TO: FROM:	Portsmouth Zoning Board of Adjustment ("ZBA") R. Timothy Phoenix, Esquire Monica F. Kieser, Esquire
DATE: RE:	March 1, 2023 Owners/Applicants: Peter Smith & Cynthia Austin Smith Property: 9 Kent Street Tax Map 113, Lot 42 General Residence District

Dear Chairman Eldridge and Members of the Zoning Board of Adjustment ("ZBA"):

On behalf of Owners/Applicants Peter Smith & Cynthia Austin Smith ("Smith"), we are pleased to submit this Memorandum and exhibits in support of the requested variances from the Portsmouth Zoning Ordinance ("PZO" or "Ordinance").

I. <u>EXHIBITS</u>

- A. <u>Redevelopment Plan Set</u> Ambit Engineering, Somma Studios, Woodburn & Associates
- B. <u>Average Grade Exhibit</u> Ambit Engineering, Inc.
- C. Front Setback Exhibit Ambit Engineering, Inc
- D. <u>Stormwater Report</u> Ambit Engineering, Inc.
- E. <u>Renderings</u> Tangram.
- F. <u>Site Photographs</u>.
 - Satellite Views
 - Kent Street & Rockland Street Views
- G. <u>Tax Map 113</u>.

II. <u>PROPERTY/PROJECT</u>

9 Kent Street is a 5,000 s.f. (50 ft. wide and 100 ft. deep) corner lot in the General Residence District containing a side-by-side duplex (1,075 s.f.), deck and porch (together 315 s.f.) and one car garage (296 s.f.), but no driveway or off street parking (the "Property"). The home, AC unit, and garage are in the right side yard setback, the garage is in the rear yard setback, and a portion of the existing front deck is slightly within the front yard setback. Smith intends to raze the existing two-family home in favor of a contemporary take on a single-family New Englander (1,353 s.f.) with a lower level garage accessed from Rockland, front/rear porches, and a pervious outdoor living area surrounded by a landscape wall (the "Project"). The outdoor living area an above-grade pervious patio, soaking pool, and pergola. The Project is accompanied by robust landscaping and screening, as well as implementation of a stormwater management system supported by a drainage analysis.

At the outset, Smith engaged their southerly neighbors ("Mikolaites") to discuss their proposed plans, specifically, the interplay between Smith's proposed landscape wall, the installation, and Mikolaites' fence along their mutual boundary. Smith's team also reviewed the Project on two separate occasions with City Staff. At Staff's suggestion, Smith's Engineer sought a work session with the Technical Advisory Committee ("TAC") to discuss the curb cut on Rockland Street, drainage and other aspects of the redevelopment proposal. The latest plan set incorporates feedback received from TAC. In addition, Woodburn & Associates met with the City's Trees and Greenery Committee to review landscaping elements.

After consideration, City Staff have determined that dimensional relief is required for lot area, lot size/dwelling unit, building coverage, and elements within the principal front on Kent, secondary front on Rockland, side, and rear yard setbacks. Notably, the building coverage percentage sought includes the outdoor living area, because Staff have applied the recent zoning amendments related to calculation of building height, which calculates building height in relation to existing average existing grade around the patio. Because the proposed pervious patio is 18 inches above existing grade to provide infiltration and accommodate drainage infrastructure, it is considered a structure for purposes of building coverage calculations. Similarly, any area in the front/side and rear yards where the height of the landscaping wall or pool fencing exceeds 4 feet/6 feet from existing grade, relief from yard setback regulations is required.

III. ADDITIONAL PERMITS REQUIRED

- Demolition Permit ZBA Application will serve this purpose.
- Driveway Permit
- Stormwater Permit
- Building Permit

[RELIEF CHART FOLLOWS]

III. **RELIEF REQUIRED**

Variance Section/Requirement	Existing	Proposed	
PZO §10.520/Table §10.521: Dimensional Standards 7,500 s.f. Lot area 7,500 s.f. Lot area/dwelling unit	5,000 s.f. 2,500 s.f./dwelling	No change to lot size 5,000 s.f./dwelling (improved)	
PZO §10.520/Table §10.521: Dimensional Standards 10' Front Yard Kent St. ¹ 13' Front Yard Rockland St. ²	Kent: 7.5' (steps) 9.2' (front deck) 17.3' (house) Rockland: 15.7' (house)	Kent: 0' (landscape wall) 6.5' (steps) 9.3' (porch) 14.3' (house) Rockland: 1.0' (landscape wall) 12.5' (steps) 9.7' (overhang) 15.3' (house)	
PZO §10.520/Table §10.521: Dimensional Standards 10' Side Yard	0.7' (house) 1.7' (garage)	0.6' (house) 0.5' (landscape wall/pergola) 1.5' (AC unit) 11.5' (pool equipment pad)	
PZO §10.520/Table §10.521: Dimensional Standards 20' Rear Yard ³	5.6' (garage)	 4.5' (landscape wall) 4.5' (6 ft. privacy fence/pool)⁴ 10.3' (pool equipment pad) 	
PZO §10.520/Table §10.521: Dimensional Standards 25% Building Coverage	35%	53% (includes pervious patio 18" above grade)	

¹ In accordance with PZO §10.516, 11 ft. is the average front setback derived from lots within 200 ft. on the east side of Kent Street.

² In accordance with PZO §10.516, 13 ft. is the average front setback derived from lots within 200 ft. on the south side of Rockland Street.

³ Staff has differing opinions about whether easterly lot line is a rear lot line, or a side lot line (given the two front yards). We request relief from the more stringent requirement in an abundance of caution. ⁴ Relief is requested for the fence because it will be 6ft. <u>above</u> the patio which is elevated above average grade.

IV. VARIANCE REQUIREMENTS

1. <u>The variances will not be contrary to the public interest.</u>

2. <u>The spirit of the ordinance is observed.</u>

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to <u>Malachy Glen Associates</u>, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives." <u>Id</u>. "Mere conflict with the zoning ordinance is not enough." *Id*.

The purpose of the Portsmouth Zoning Ordinance as set forth in PZO §10.121 is "to promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan... [by] regulating":

- 1. <u>The use of land, buildings and structures for business, industrial, residential and other purposes</u> The Project proposes a permitted single family home where a duplex presently exists, so redevelopment is more conforming compared to existing conditions.
- 2. <u>The intensity of land use, including lot sizes, building coverage, building height</u> <u>and bulk, yards and open space</u> – The lot is nonconforming as to lot size, density, building coverage, and yards. The Project decreases density by removing one dwelling unit and reconstructs a new home, AC unit and landscaping elements with yard setbacks similar to what exists today.
- 3. <u>The design of facilities for vehicular access, circulation, parking and loading</u> No driveway presently exists, a driveway from Rockland will connect to a below grade garage.
- 4. <u>The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff</u> <u>and flooding</u> – The Project utilizes pervious materials and a Stormwater Management Plan supported by drainage calculations to ensure there is no increase in stormwater runoff. TAC has reviewed the Project and feedback received from TAC informs the current design.
- 5. <u>The preservation and enhancement of the visual environment</u> The Project will replace an aging duplex with a tasteful new home and beautiful landscaping/screening.
- 6. <u>The preservation of historic districts, and buildings and structures of historic or</u> <u>architectural interest</u> – The Property is outside Historic District.
- The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – Redevelopment of the Property has no impact compared to existing conditions.

Based upon the foregoing, then variances do not "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives." <u>Malachy Glen, supra</u>, which also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would <u>alter the</u> <u>essential character of the locality</u>.... Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would <u>threaten the public health, safety or welfare</u>. (emphasis added)

The intent of the GRA District is to provide single-family, two-family, or multi-family homes in moderate to high densities (5-12 units/acre) with appropriate accessory uses. The Property is located in thickly settled area of the City. The Project's tasteful single-family home decreases density and provides interior parking, while also affording Smith a secluded outdoor living area surrounded by trees and shrubs. In conjunction with robust plantings, the Project's Stormwater Management Plan ensures stormwater is treated on the lot. Accordingly, granting each requested variance will neither "alter the essential character of the locality," nor "threaten the public health, safety or welfare."

3. Granting the variance will not diminish surrounding property values.

The Project replaces an aging duplex and garage with a tastefully designed single-family home essentially matching the existing yard setbacks, while the defined outdoor living space was developed in consultation with the immediate abutters. Front setback relief is minimal and elements within the rear yard setback will be screened from view by a row of evergreens. In light of these factors, granting the requested variances will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

a. <u>Special conditions distinguish the property/project from others in the area.</u>

The Property is small and narrow, with its northeasterly corner sloping toward South Mill Playground; it has no driveway. Although a corner lot, access for a driveway is limited on the Rockland Street side because the public way is not completely paved. These circumstances combine to create special conditions.

b. <u>No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance</u>.

Lot area, density limits, and building coverage requirements prevent overburdening of the land and overcrowding. Yard setback requirements provide sightlines, promote adequate air, light, space, separation between neighbors and, in conjunction with coverage requirements, ensure adequate space for stormwater treatment. The Project decreases density compared to existing conditions and replaces the existing duplex with a single-family home in a similar location. The outdoor living space is screened by a wall and evergreens and comprised of pervious materials. The Project's drainage analysis and Stormwater Management Plan ensure no increase in stormwater runoff. Accordingly, there is no fair and substantial relationship between the general public purposes of the PZO and its specific application in this instance.

c. <u>The proposed use is reasonable.</u>

If the use is permitted, it is deemed reasonable. <u>Vigeant v. Hudson</u>, 151 N.H. 747 (2005). Residential uses are permitted in the GRA Zone. The Project decreases density and tastefully redevelops an existing lot of record. Accordingly, the proposed use is reasonable and denial of the requested variances would create an unnecessary hardship.

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." <u>Malachy Glen, supra</u> at 109.

Applicant is constitutionally entitled to the use of the lot as they see fit; including redevelopment of the Property for a permitted single-family home with an incorporated garage, subject only to its effect on density, coverage requirements, and yard setbacks. "The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; <u>Town of Chesterfield v. Brooks</u>, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. <u>L. Grossman & Sons, Inc. v. Town of Gilford</u>, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to mean not the tangible property itself, <u>but rather the right to possess</u>, use, enjoy and dispose of it. <u>Burrows v.</u>

<u>City of Keene</u>, 121 N.H. 590, 597 (1981). (emphasis added). The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. <u>Simplex</u> <u>Technologies, Inc. v. Town of Newington</u>, 145 N.H. 727, 731 (2001); <u>Chesterfield</u> at 69.

Granting the requested variances allows for tasteful redevelopment of an existing lot of record in a manner consistent with the surrounding area. Given that the Project's home and patio/pergola match existing yard setbacks; the front relief is slight; the rear yard includes a screen of evergreen trees; and stormwater is infiltrated into the pervious patio, there is no benefit to the public from denial. Conversely, Smith will be greatly harmed by denial as they will lose the opportunity to redevelop the Property as desired. Accordingly, there is no benefit to the public that outweighs the harm to the owner from denial.

VI. <u>CONCLUSION</u>

For all the reasons stated, Smith respectfully requests that the Portsmouth Zoning Board of Adjustment grant each variance.

Respectfully submitted, Peter Smith & Cynthia Austin Smith

By:

R. Timothy Phoenix, Esquire Monica F. Kieser, Esquire



P. 603.766.3760

Date: May 8, 2023

To: City of Portsmouth Planning Department

RE: Zoning Board of Adjustments Submission Updates to 9 Kent Street

This brief is to explain the changes submit on May 8, 2023 for consideration at the Zoning Board of Adjustments hearing on May 16, 2023.

The proposed right-side foundation wall has been moved in 36" from its original location. Above grade, no changes from our original submission will be evident. This change was made in order to alleviate abutter concerns of below grade construction at the property line.

Thank you, Jennifer Ramsey SOMMA Studios **OWNER & APPLICANT:** CYNTHIA AUSTIN SMITH & PETER SMITH 9 KENT STREET PORTSMOUTH, NH 03801 (617) 803–2109

CIVIL ENGINEER & LAND SURVEYOR:

AMBIT ENGINEERING, INC. 200 GRIFFIN ROAD, UNIT 3 PORTSMOUTH, N.H. 03801 TEL. (603) 430–9282 FAX (603) 436-2315

ATTORNEY:

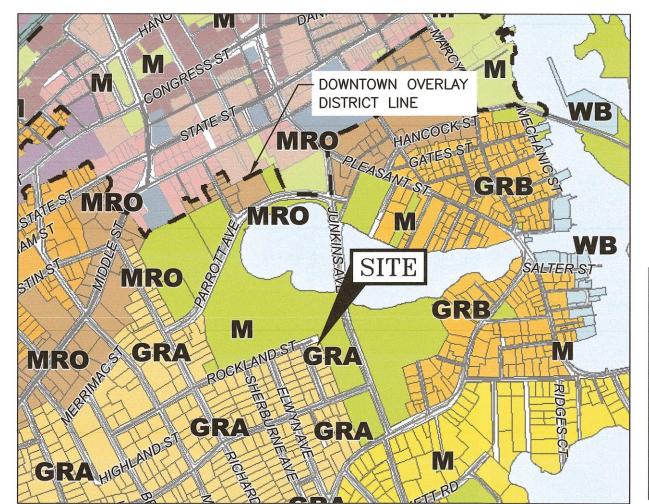
HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC 127 PARROTT AVENUE PORTSMOUTH, NH 03801 TEL. (603) 436-0666 FAX (603) 431-0879

LANDSCAPE ARCHITECT:

WOODBURN & COMPANY LANDSCAPE ARCHITECTURE, LLC 103 KENT PLACE NEWMARKET, N.H. 03857 TEL. (603) 659—5949 FAX (603) 659-5939

ARCHITECT:

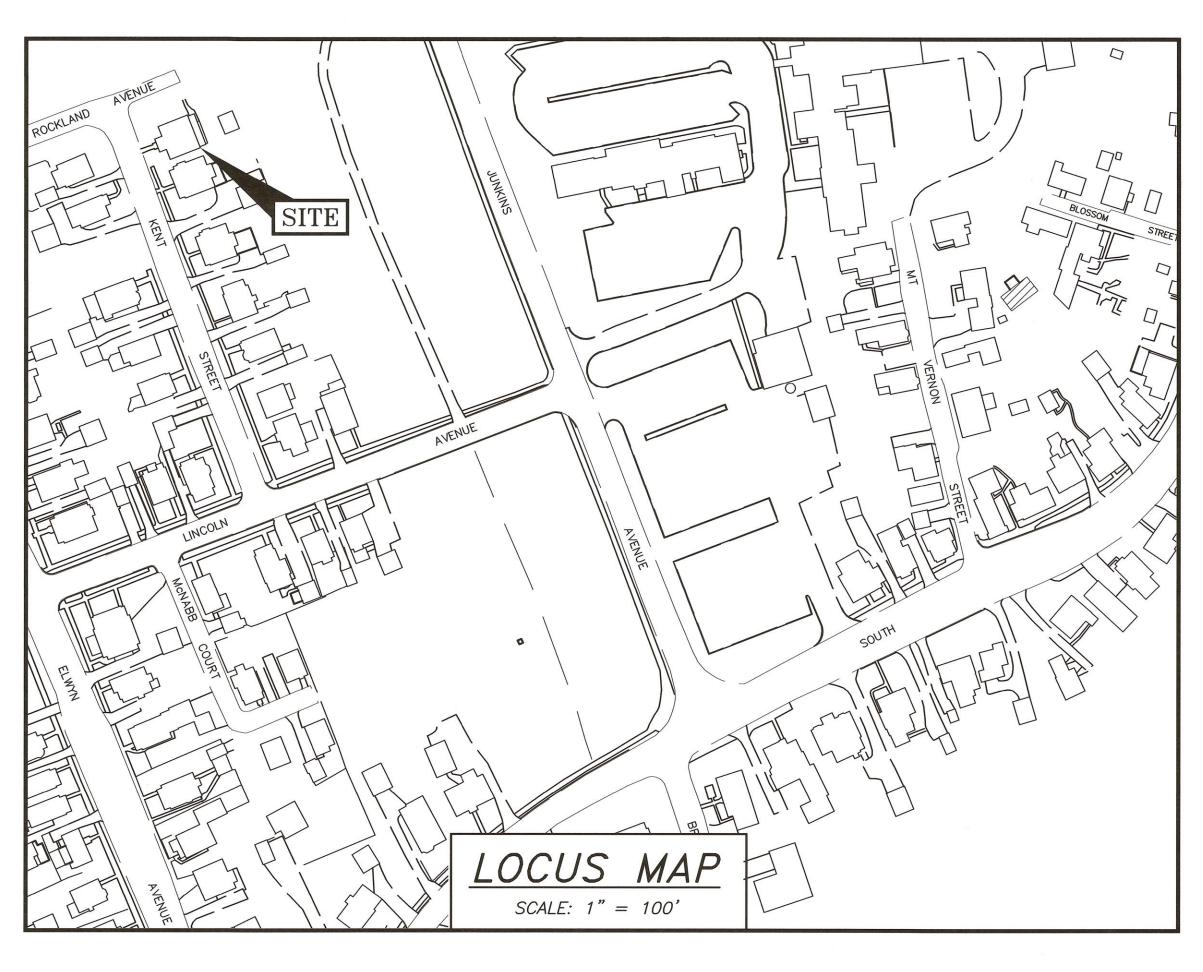
SOMMA STUDIOS 30 MAPLEWOOD AVENUE PORTSMOUTH NH 03801 TEL. (617) 766–3760 FAX (617) 766-3761



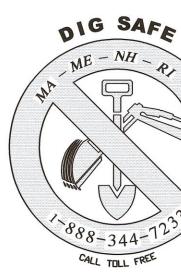
Le	Legend								
(Refer	Character Districts Character-Based Zoning Area (Refer to Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)								
Resid	dential I	Districts							
	R	Rural							
	SRA	Single Residence A							
	SRB	Single Residence B							
	GRA General Residence A								
	GRB	General Residence B							
	GRC	General Residence C							
	GA/MH	Garden Apartment/Mobile Home Park							

INDEX OF SHEETS

DWG No.	
	STANDARD BOUNDARY AND TOPOGRAPHIC SU
C1	DEMO PLAN
C2	SITE PLAN
L1	LANDSCAPE PLAN
C3	DRAINAGE & GRADING PLAN
C4	OFF SITE GRADING
C5	UTILITY PLAN
P1	SITE SECTIONS
D1-D3	DETAILS
_	PROPOSED ELEVATIONS
_	PROPOSED FLOOR PLANS



STRUCTURE REPLACEMENT SMITH RESIDENCE 9 - 11 KENT STREET, PORTSMOUTH, NEW HAMPSHIRE **PERMIT PLANS**



UTILITY CONTACTS

ELECTRIC: EVERSOURCE

1700 LAFAYETTE ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 436-7708, Ext. 555.5678 ATTN: MICHAEL BUSBY, P.E. (MANAGER)

SEWER & WATER: PORTSMOUTH DEPARTMENT OF PUBLIC WORKS 680 PEVERLY HILL ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 427-1530 ATTN: JIM TOW

NATURAL GAS:

UNITIL 325 WEST ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 294-5144 ATTN: DAVE BEAULIEU

COMMUNICATIONS: FAIRPOINT COMMUNICATIONS JOE CONSIDINE 1575 GREENLAND ROAD GREENLAND, N.H. 03840 Tel. (603) 427-5525

CABLE: COMCAST 155 COMMERCE WAY PORTSMOUTH, N.H. 03801 Tel. (603) 679-5695 (X1037) ATTN: MIKE COLLINS

SURVEY

Exhibit A

PERMIT LIST: PORTSMOUTH ZONING BOARD: PENDING PORTSMOUTH DRIVEWAY PERMIT: PENDING PORTSMOUTH TREES AND GREENERY: PENDING

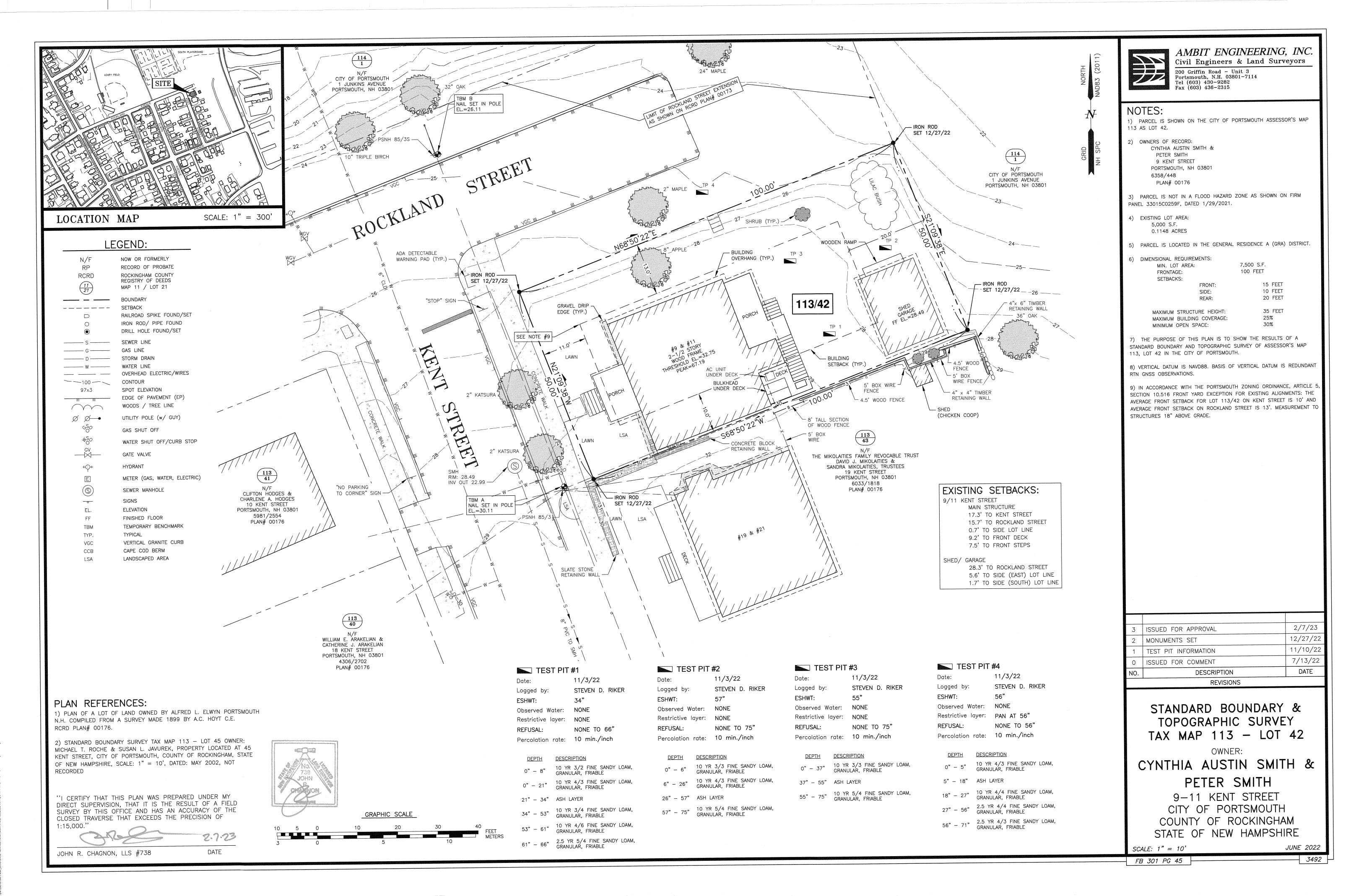
LEGEND:

EXISTING	PROPOSED	
		PROPERTY LINE SETBACK
S	S	SEWER PIPE
SL	SL	SEWER LATERAL
G	G	GAS LINE
D	D	STORM DRAIN WATER LINE
		WATER SERVICE
UGE	UGE	UNDERGROUND ELECTRIC
——————————————————————————————————————	OHW UD	OVERHEAD ELECTRIC/WIRES FOUNDATION DRAIN
<u> </u>		EDGE OF PAVEMENT (EP)
	<u>100</u>	CONTOUR SPOT ELEVATION
		UTILITY POLE
-Q- '''''		WALL MOUNTED EXTERIOR LIGHTS
		TRANSFORMER ON CONCRETE PAD
	\bigotimes	ELECTRIC HANDHOLD
NSO GSO	NSO GSO	SHUT OFFS (WATER/GAS)
\bowtie	GV	GATE VALVE
	++++HYD	HYDRANT
CB	CB	CATCH BASIN
\bigcirc	SMH	SEWER MANHOLE
0	DMH	DRAIN MANHOLE
\bigcirc	O TMH	TELEPHONE MANHOLE
(14)	14)	PARKING SPACE COUNT
PM		PARKING METER
LSA	$\begin{array}{cccc} \psi & \psi & \psi & \psi \\ \psi & \psi & \psi & \psi \\ \psi & \psi &$	LANDSCAPED AREA
TBD	TBD	TO BE DETERMINED
CI COP	CI COP	CAST IRON PIPE COPPER PIPE
DI	DI	DUCTILE IRON PIPE
PVC	PVC	POLYVINYL CHLORIDE PIPE
RCP AC	RCP	REINFORCED CONCRETE PIPE ASBESTOS CEMENT PIPE
VC	VC	VITRIFIED CLAY PIPE
EP	EP	EDGE OF PAVEMENT
EL. FF	EL. FF	ELEVATION FINISHED FLOOR
INV	INV	INVERT
S = TBM	S =	SLOPE FT/FT TEMPORARY BENCH MARK
TYP	TBM TYP	TYPICAL

STRUCTURE REPLACEMENT SMITH RESIDENCE 9 - 11 KENT STREET PORTSMOUTH, N.H.

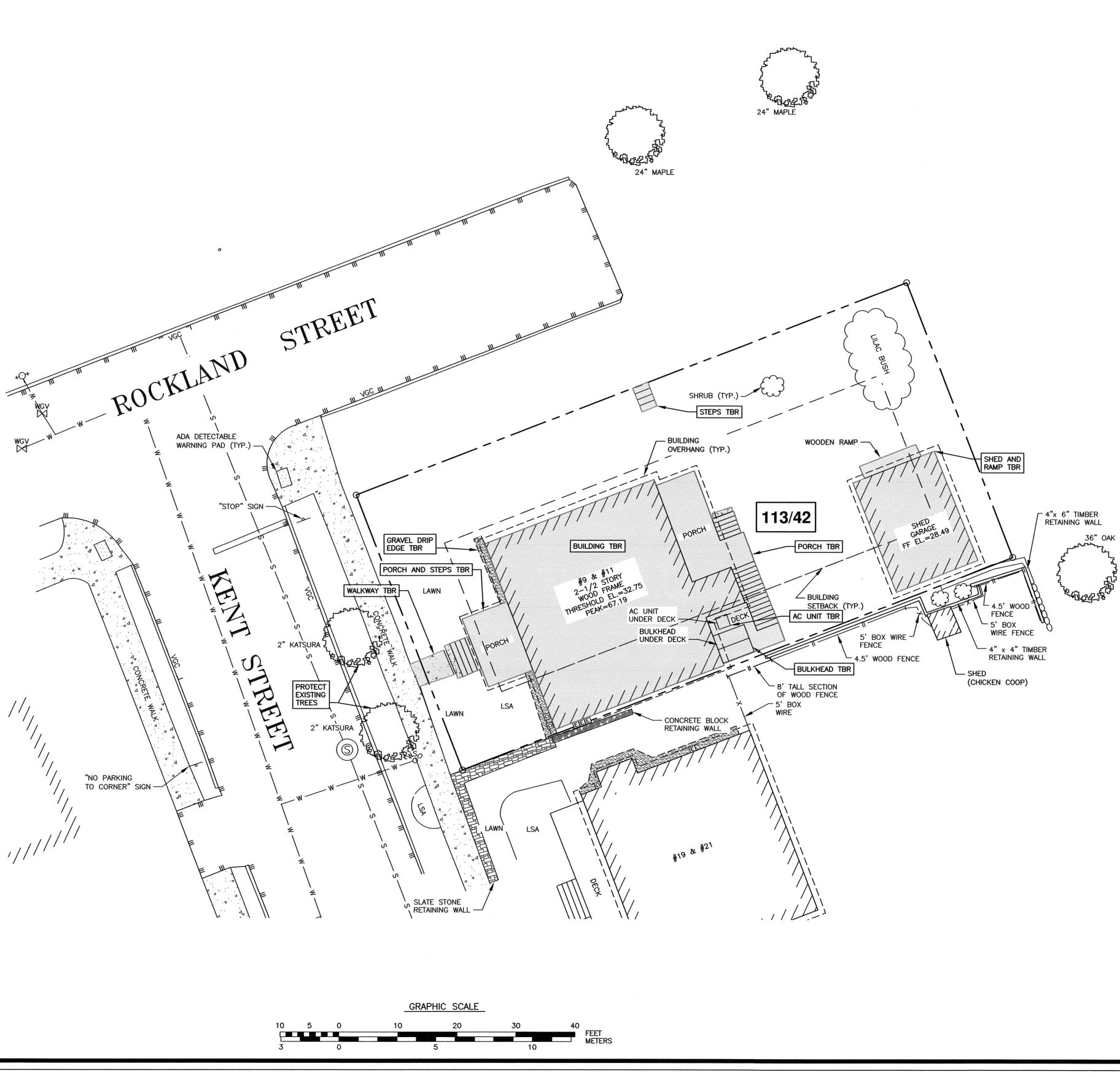


PLAN SET SUBMITTAL DATE: 8 MAY 2023



DEMOLITION NOTES

- A) THE LOCATIONS OF UNDERGROUND UTILITIES ARE APPROXIMATE AND THE LOCATIONS ARE NOT GUARANTEED BY THE OWNER OR THE DESIGNER. IT IS THE CONTRACTORS' RESPONSIBILITY TO LOCATE UTILITIES AND ANTICIPATE CONFLICTS. CONTRACTOR SHALL REPAIR EXISTING UTILITIES DAMAGED BY THEIR WORK AND RELOCATE EXISTING UTILITIES THAT ARE REQUIRED TO BE RELOCATED PRIOR TO COMMENCING ANY WORK IN THE IMPACTED AREA OF THE PROJECT.
- B) ALL MATERIALS SCHEDULED TO BE REMOVED SHALL BECOME THE PROPERTY OF THE CONTRACTORS UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL DISPOSE OF ALL MATERIALS OFF-SITE IN ACCORDANCE WITH ALL FEDERAL, STATE, AND LOCAL REGULATIONS, ORDINANCES AND CODES. THE CONTRACTOR SHALL COORDINATE REMOVAL, RELOCATION, DISPOSAL, OR SALVAGE OF UTILITIES WITH THE OWNER AND APPROPRIATE UTILITY COMPANY.
- C) ANY EXISTING WORK OR PROPERTY DAMAGED OR DISRUPTED BY CONSTRUCTION / DEMOLITION ACTIVITIES SHALL BE REPLACED OR REPAIRED TO THE ORIGINAL EXISTING CONDITIONS BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER.
- D) THE CONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING UTILITIES AND CALL DIG SAFE AT LEAST 72 HOURS PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION/CONSTRUCTION ACTIVITIES.
- E) SAWCUT AND REMOVE PAVEMENT ONE FOOT OFF PROPOSED EDGE OF PAVEMENT TRENCH IN AREAS WHERE PAVEMENT IS TO BE REMOVED.
- F) IT IS THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE THEMSELVES WITH THE CONDITIONS OF ALL THE PERMIT APPROVALS.
- G) THE CONTRACTOR SHALL OBTAIN AND PAY FOR ADDITIONAL CONSTRUCTION PERMITS, NOTICES AND FEES NECESSARY TO COMPLETE THE WORK AND ARRANGE FOR AND PAY FOR ANY INSPECTIONS AND APPROVALS FROM THE AUTHORITIES HAVING JURISDICTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY ADDITIONAL AND OFF-SITE DISPOSAL OF MATERIALS REQUIRED TO COMPLETE THE WORK.
- H) THE CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL EXISTING STRUCTURES, CONCRETE, UTILITIES, VEGETATION, PAVEMENT, AND CONTAMINATED SOIL WITHIN THE WORK LIMITS SHOWN UNLESS SPECIFICALLY IDENTIFIED TO REMAIN. ANY EXISTING DOMESTIC / IRRIGATION SERVICE WELLS IN THE PROJECT AREA IDENTIFIED DURING THE CONSTRUCTION AND NOT CALLED OUT ON THE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER AND ENGINEER FOR PROPER CAPPING / RE-USE.
- ALL WORK WITHIN THE CITY OF PORTSMOUTH RIGHT OF WAY SHALL BE COORDINATED WITH THE CITY OF PORTSMOUTH DEPARTMENT OF PUBLIC WORKS (DPW).
-) REMOVE TREES AND BRUSH AS REQUIRED FOR COMPLETION OF WORK. CONTRACTOR SHALL GRUB AND REMOVE ALL SLUMPS WITHIN LIMITS OF WORK AND DISPOSE OF OFF-SITE IN ACCORDANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS.
- K) CONTRACTOR SHALL PROTECT ALL PROPERTY MONUMENTATION THROUGHOUT DEMOLITION AND CONSTRUCTION OPERATIONS. SHOULD ANY MONUMENTATION BE DISTURBED, THE CONTRACTOR SHALL EMPLOY A NH LICENSED LAND SURVEYOR TO REPLACE THEM.
-) PROVIDE INLET PROTECTION BARRIERS AT ALL CATCH BASINS WITHIN CONSTRUCTION LIMITS AND MAINTAIN FOR THE DURATION OF THE PROJECT. INLET PROTECTION BARRIERS SHALL BE HIGH FLOW SILT SACK BY ACF ENVIRONMENTAL OR APPROVED EQUAL. INSPECT BARRIERS WEEKLY AND AFTER EACH RAIN OF 0.25 INCHES OR GREATER. CONTRACTOR SHALL COMPLETE A MAINTENANCE INSPECTION REPORT AFTER EACH INSPECTION. SEDIMENT DEPOSITS SHALL BE REMOVED AFTER EACH STORM EVENT OR MORE OFTEN IF WARRANTED OR FABRIC BECOMES CLOGGED. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY CLEARING OR DEMOLITION ACTIVITIES.
- THE CONTRACTOR SHALL PAY ALL COSTS NECESSARY FOR TEMPORARY PARTITIONING, BARRICADING, FENCING, SECURITY AND SAFELY DEVICES REQUIRED FOR THE MAINTENANCE OF A CLEAN AND SAFE CONSTRUCTION SITE.
- N) ANY CONTAMINATED MATERIAL REMOVED DURING THE COURSE OF THE WORK WILL REQUIRE HANDLING IN ACCORDANCE WITH NHDES REGULATIONS. CONTRACTOR SHALL HAVE A HEALTH AND SAFETY PLAN IN PLACE, AND COMPLY WITH ALL APPLICABLE PERMITS, APPROVALS, AUTHORIZATIONS, AND REGULATIONS





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Portsmouth, N.H. 03801-7114 Tel (603) 430-9282 Fax (603) 436-2315

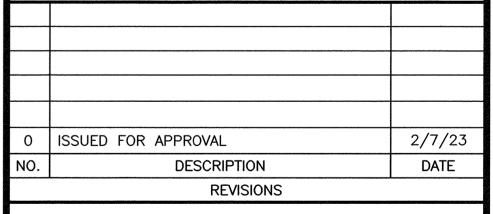
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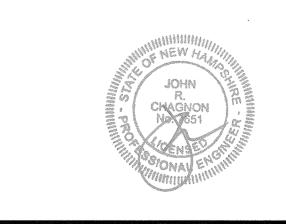
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SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, N.H.





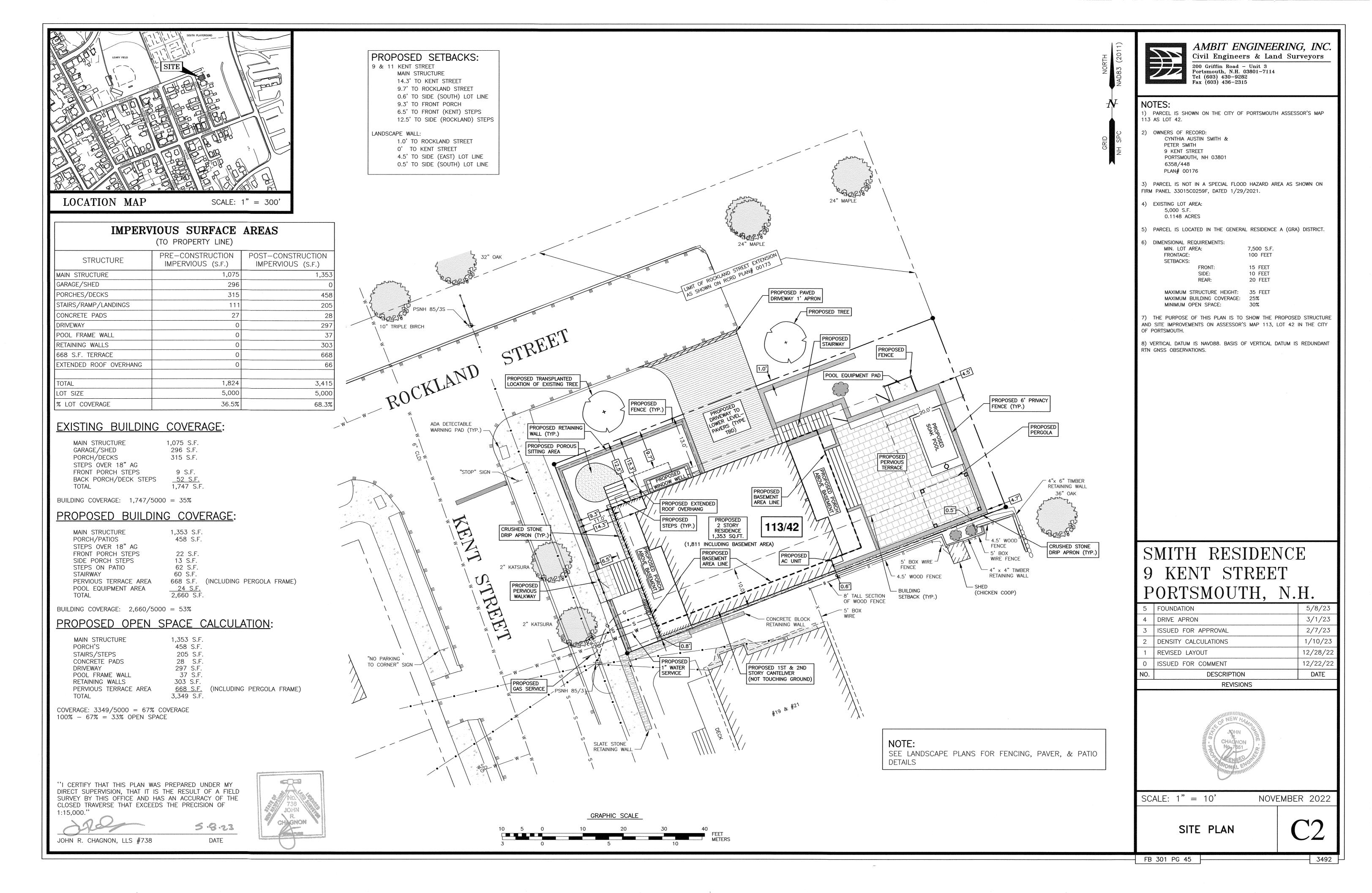
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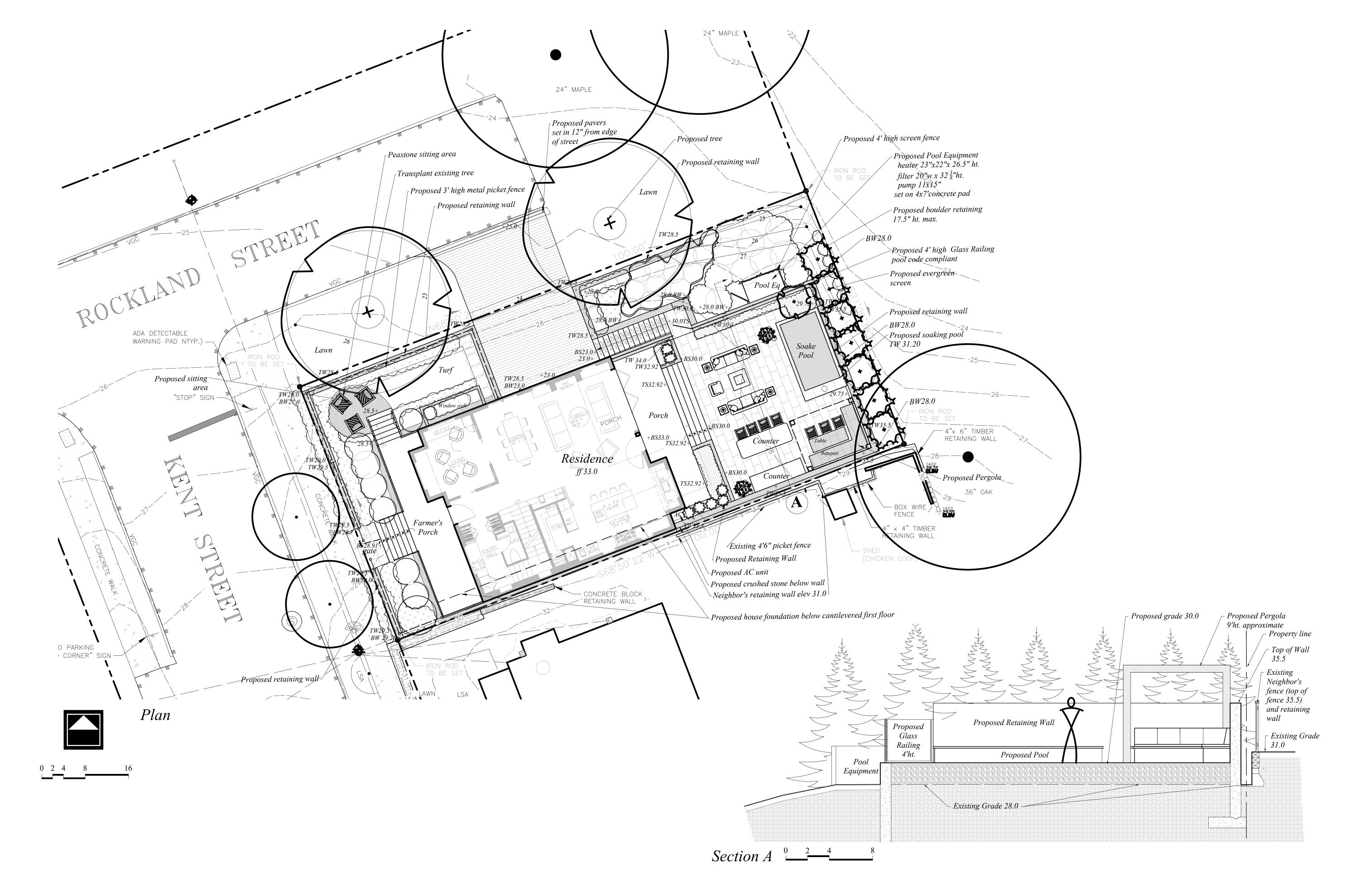
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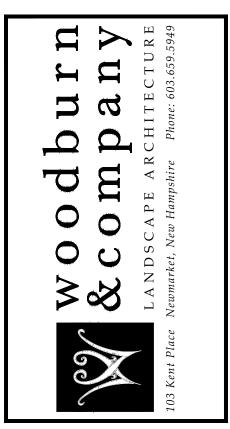
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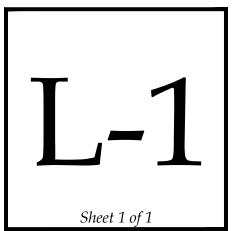




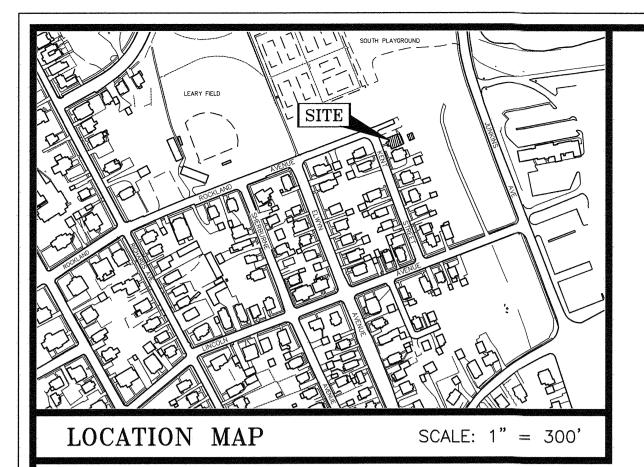
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Date:	2023-02-16 issued for ZBA
Revisions:	2023-05-07
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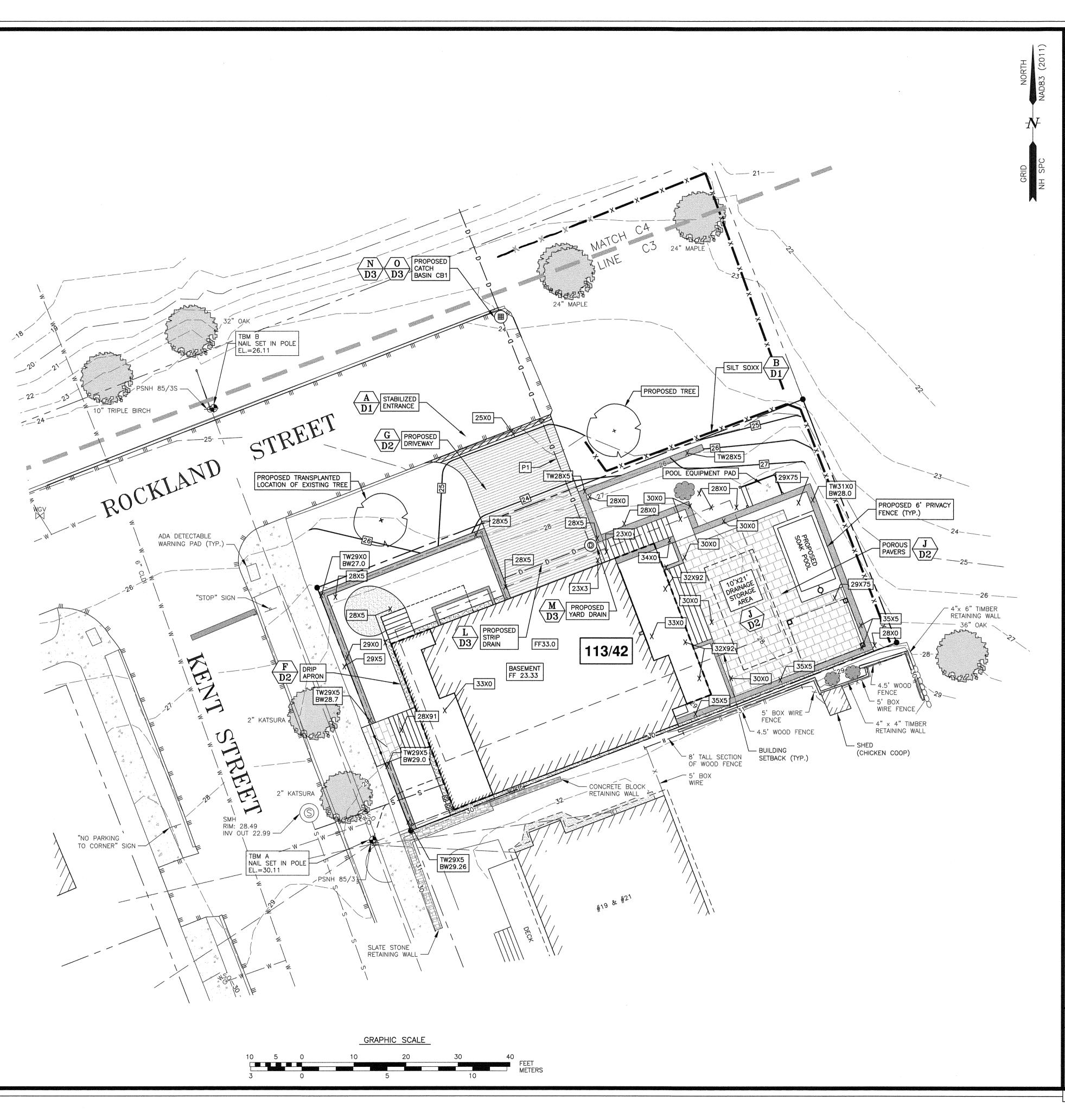


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DRAINAGE STRUCTURE TABLE						
STRUCTURE	PROP/EX	RIM	INVERT IN	INVERT OUT	SUMP	
YARD DRAIN PROP 23.0 21.75 STRIP DRAIN 20.0 HDPE						
CB1	PROP	19.74	16.74			
DMH1	PROP	18.5 +/-	14.94	14.50		
DMH 5398 EX 10.6 (12") 7.20 (54") 2.70						

DRAINAGE PIPE SCHEDULE						
PIPE # SIZE LENGTH INVERT IN INVERT OUT SLOPE						
P1	12" HDPE	38'	20	19.84	0.004	
P2	12" HDPE	24'	19.74	14.60	0.20	
P3	12"HDPE	100'	14.50	7.20	0.073	





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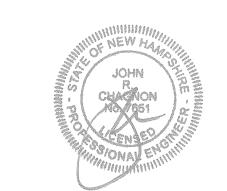
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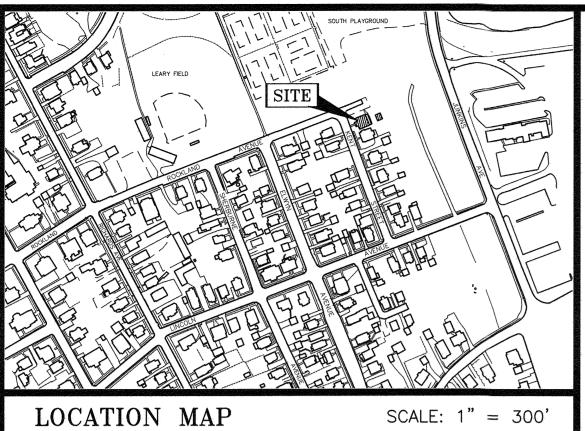
DRAINAGE	3/1/23
ISSUED FOR APPROVAL	2/7/23
DESCRIPTION	DATE
REVISIONS	
	ISSUED FOR APPROVAL DESCRIPTION



SCALE: 1" = 10'

DRAINAGE & GRADING PLAN FEBRUARY 2023

C3



DRAINAGE STRUCTURE TABLE						
STRUCTURE	PROP/EX	RIM	INVERT IN	INVERT OUT	SUMP	
YARD DRAIN	PROP	23.0	21.75 STRIP DRAIN	20.0 HDPE		
CB1	PROP	23.8	19.84	19.74	16.74	
DMH1	PROP	18.5 +/-	14.94	14.50		
DMH 5398 EX 10.6 (12") 7.20 (54") 2.70						

	DRAIN	NAGE	PIPE	SCHEDU	LE
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PIPE #	SIZE	LENGTH	INVERTIN	INVERT OUT	SLOPE
P1	12" HDPE	38'	20	19.84	0.004
P2	12" HDPE	24'	19.74	14.60	0.20
P3	12"HDPE	100'	14.50	7.20	0.073







24" MAPLE

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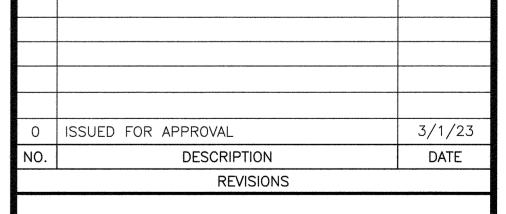
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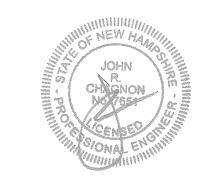
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SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, N.H.





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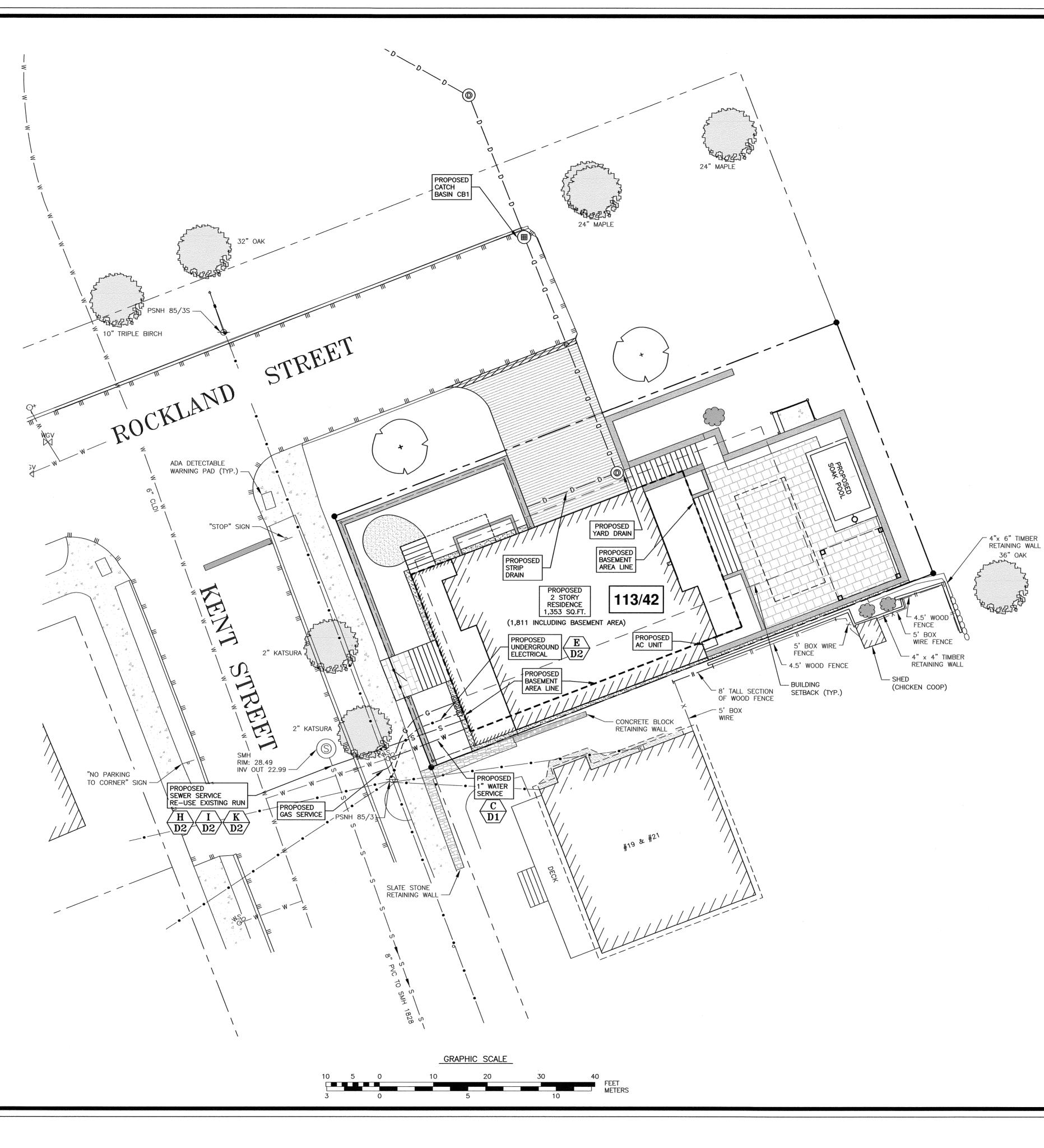
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FEBRUARY 2023

C4

SEWER STRUCTURE SCHEDULE				
STRUCTURE	PROP/EX	RIM	INVERT IN	INVERT OUT
SMH 1714	EX	28.49	N/A	22.99
SMH 1828	EX	28.24	21.29	21.24





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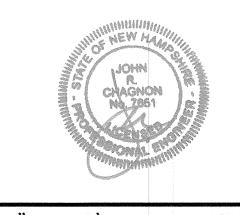
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4) PROTECT EXISTING STREET TREES DURING UTILITY WORK.

5) BUILDING WILL NOT BE SPRINKLED.

SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, N.H.

2	GAS LINE	5/8/23
1	SEWER LOCATION	3/1/23
0	ISSUED FOR APPROVAL	2/7/23
NO.	DESCRIPTION	DATE
	REVISIONS	

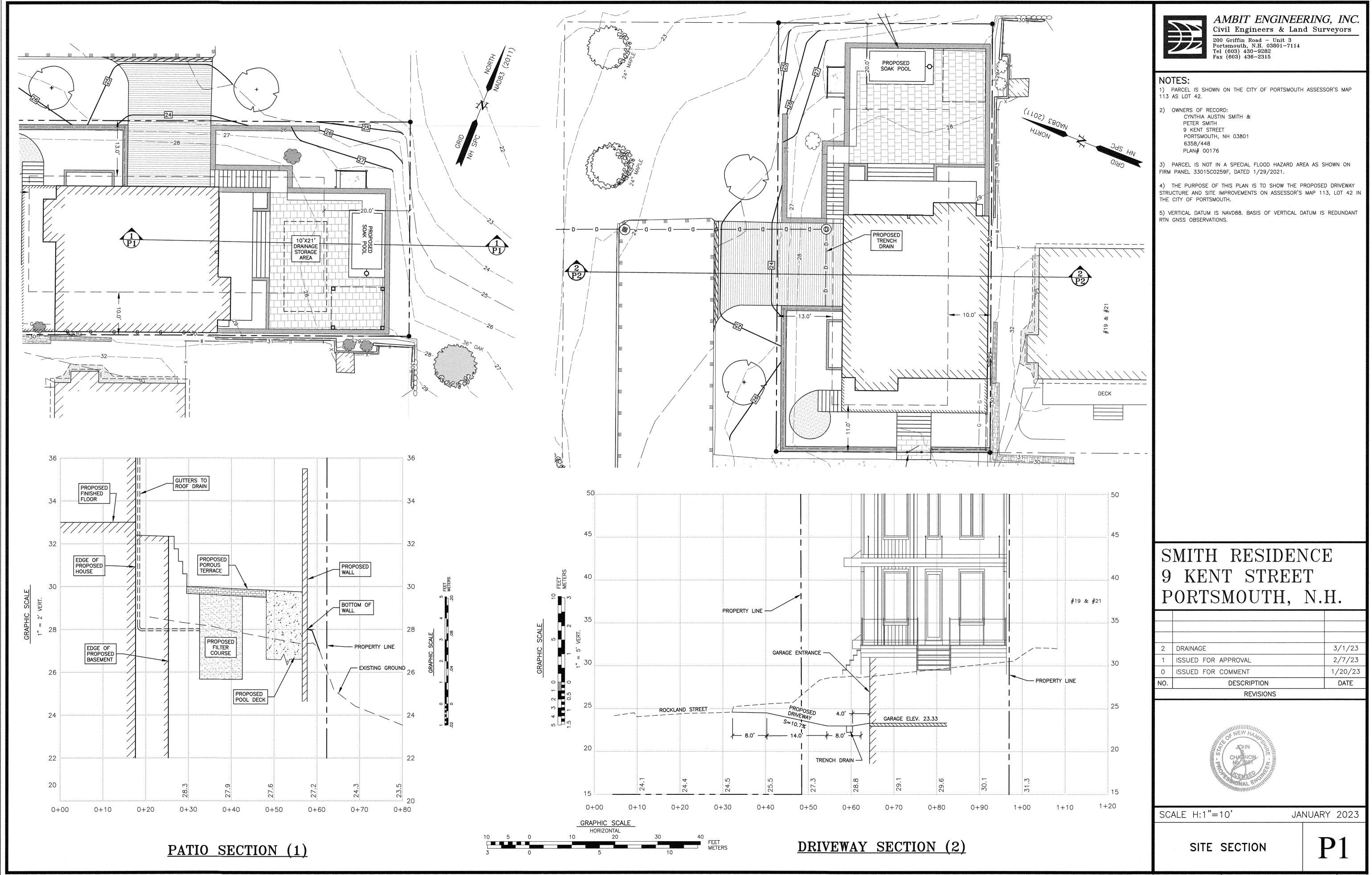


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UTILITY PLAN

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EROSION CONTROL NOTES

CONSTRUCTION SEQUENCE

DO NOT BEGIN CONSTRUCTION UNTIL ALL LOCAL, STATE AND FEDERAL PERMITS HAVE BEEN APPLIED FOR AND RECEIVED

INSTALL INLET PROTECTION AND PERIMETER CONTROLS, i.e., SILT FENCING OR SILTSOXX AROUND THE LIMITS OF DISTURBANCE AND CATCH BASIN FILTER BEFORE ANY EARTH MOVING OPERATIONS.

CUT AND GRUB ALL TREES, SHRUBS, SAPLINGS, BRUSH, VINES AND REMOVE OTHER DEBRIS AND RUBBISH AS REQUIRED.

REMOVE EXISTING GARAGE.

PERFORM IMPROVEMENTS. CONSTRUCT SITE UTILITIES AND BUILD HOME.

REMOVE TRAPPED SEDIMENTS FROM COLLECTION DEVICES AS APPROPRIATE, AND THEN REMOVE TEMPORARY EROSION CONTROL MEASURES UPON COMPLETION OF FINAL STABILIZATION OF THE SITE.

DURING CONSTRUCTION ACCESS WILL BE PROVIDED TO EXISTING PROPERTY LOCATED ON ROCKLAND

PROJECT DESCRIPTION

THE PROJECT CONSISTS OF A BUILDING REPLACEMENT WITH ASSOCIATED UTILITIES, GRADING, AND PARKING

THE TOTAL AREA TO BE DISTURBED IS APPROXIMATELY 0.115 ACRES.

BASED ON SITE OBSERVATIONS AND TEST PITS THE SOILS ON SITE CONSIST OF FINE SANDY LOAM WHICH ARE WELL DRAINED SOILS WITH A HYDROLOGIC SOIL GROUP RATING OF A.

THE STORMWATER RUNOFF FROM THE SITE WILL BE DISCHARGED TO CITY OF PORTSMOUTH PROPERTY WHICH ULTIMATELY FLOWS TO THE SOUTH MILL POND THEN TO THE PISCATAQUA RIVER.

GENERAL CONSTRUCTION NOTES

THE EROSION CONTROL PROCEDURES SHALL CONFORM TO SECTION 645 OF THE "STANDARD SPECIFICATION FOR ROAD AND BRIDGE CONSTRUCTION" OF THE NHDOT, AND "STORM WATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL HANDBOOK FOR URBAN AND DEVELOPING AREAS IN NEW HAMPSHIRF". THE PROJECT IS TO BE MANAGED IN A MANNER THAT MEETS THE REQUIREMENTS AND INTENT OF RSA 430:53 AND CHAPTER AGR 3800 RELATIVE TO INVASIVE SPECIES.

DURING CONSTRUCTION AND THEREAFTER, EROSION CONTROL MEASURES ARE TO BE IMPLEMENTED AS NOTED. THE SMALLEST PRACTICAL AREA OF LAND SHOULD BE EXPOSED AT ANY ONE TIME DURING DEVELOPMENT. NO DISTURBED AREA SHALL BE LEFT UNSTABILIZED FOR MORE THAN 45 DAYS

ANY DISTURBED AREAS WHICH ARE TO BE LEFT TEMPORARILY, AND WHICH WILL BE REGRADED LATER DURING CONSTRUCTION SHALL BE MACHINE HAY MULCHED AND SEEDED WITH RYE GRASS TO PREVENT EROSION.

THE PROJECT IS TO BE MANAGED IN A MANNER THAT MEETS THE REQUIREMENTS AND INTENT OF RSA 430:53 AND CHAPTER AGR 3800 RELATIVE TO INVASIVE SPECIES.

DUST CONTROL: DUST CONTROL MEASURES SHALL INCLUDE BUT ARE NOT LIMITED TO SPRINKLING WATER ON EXPOSED AREAS, COVERING LOADED DUMP TRUCKS LEAVING THE SITE, AND TEMPORARY MULCHING

DUST CONTROL MEASURES SHALL BE UTILIZED SO AS TO PREVENT THE MIGRATION OF DUST FROM THE SITE TO ABUTTING AREAS. IF TEMPORARY STABILIZATION PRACTICES, SUCH AS TEMPORARY VEGETATION AND MULCHING. DO NOT ADEQUATELY REDUCE DUST GENERATION, APPLICATION OF WATER OR CALCIUM CHLORIDE SHALL BE APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.

SILTSOXX SHALL BE PERIODICALLY INSPECTED DURING THE LIFE OF THE PROJECT AND AFTER EACH STORM, ALL DAMAGED SILTSOXX SHALL BE REPAIRED. SEDIMENT DEPOSITS SHALL PERIODICALLY BE REMOVED AND DISPOSED IN A SECURED LOCATION.

ALL FILLS SHALL BE PLACED AND COMPACTED TO REDUCE EROSION, SLIPPAGE, SETTLEMENT, SUBSIDENCE OR OTHER RELATED PROBLEMS.

ALL NON-STRUCTURAL, SITE-FILL SHALL BE PLACED AND COMPACTED TO 90% MODIFIED PROCTOR DENSITY IN LAYERS NOT EXCEEDING 18 INCHES IN THICKNESS UNLESS OTHERWISE NOTED.

FROZEN MATERIAL OR SOFT, MUCKY OR HIGHLY COMPRESSIBLE MATERIAL, TRASH, WOODY DEBRIS, LEAVES, BRUSH OR ANY DELETERIOUS MATTER SHALL NOT BE INCORPORATED INTO FILLS.

FILL MATERIAL SHALL NOT BE PLACED ON FROZEN FOUNDATION SUBGRADE.

DURING CONSTRUCTION AND UNTIL ALL DEVELOPED AREAS ARE FULLY STABILIZED, ALL EROSION CONTROL MEASURES SHALL BE INSPECTED WEEKLY AND AFTER EACH ONE HALF INCH OF RAINFALL.

THE CONTRACTOR SHALL MODIFY OR ADD EROSION CONTROL MEASURES AS NECESSARY TO ACCOMMODATE PROJECT CONSTRUCTION.

ALL ROADWAYS AND PARKING AREAS SHALL BE STABILIZED WITHIN 72 HOURS OF ACHIEVING FINISHED GRADE. ALL CUT AND FILL SLOPES SHALL BE SEEDED/LOAMED WITHIN 72 HOURS OF ACHIEVING FINISHED GRADE.

AN AREA SHALL BE CONSIDERED STABLE IF ONE OF THE FOLLOWING HAS OCCURRED:

BASE COURSE GRAVELS HAVE BEEN INSTALLED ON AREAS TO BE PAVED - A MINIMUM OF 85% VEGETATED GROWTH HAS BEEN ESTABLISHED

- A MINIMUM OF 3 INCHES OF NON-EROSIVE MATERIAL SUCH AS STONE OR RIPRAP HAS BEEN INSTALLED

- EROSION CONTROL BLANKETS HAVE BEEN INSTALLED.

- IN AREAS TO BE PAVED, "STABLE" MEANS THAT BASE COURSE GRAVELS MEETING THE REQUIREMENTS OF NHOOT STANDARD FOR ROAD AND BRIDGE CONSTRUCTION, 2016, ITEM 304.2 HAVE BEEN INSTALLED.

STABILIZATION SHALL BE INITIATED ON ALL LOAM STOCKPILES, AND DISTURBED AREAS, WHERE CONSTRUCTION ACTIVITY SHALL NOT OCCUR FOR MORE THAN TWENTY-ONE (21) CALENDAR DAYS BY THE FOURTEENTH (14TH) DAY AFTER CONSTRUCTION ACTIVITY HAS PERMANENTLY OR TEMPORARILY CEASED IN THAT AREA.

STABILIZATION MEASURES TO BE USED INCLUDE: - TEMPORARY SEEDING;

MULCHING.

ALL AREAS SHALL BE STABILIZED WITHIN 45 DAYS OF INITIAL DISTURBANCE. WHEN CONSTRUCTION ACTIVITY PERMANENTLY OR TEMPORARILY CEASES WITHIN 100 FEET OF NEARBY SURFACE WATERS OR DELINEATED WETLANDS, THE AREA SHALL BE STABILIZED WITHIN SEVEN (7) DAYS OR PRIOR TO A RAIN EVENT. ONCE CONSTRUCTION ACTIVITY CEASES PERMANENTLY IN THESE AREAS, SILTSOXX, MULCH BERMS, HAY BALE BARRIERS AND ANY EARTH/DIKES SHALL BE REMOVED ONCE PERMANENT MEASURES ARE ESTABLISHED. . DURING CONSTRUCTION, RUNOFF WILL BE DIVERTED AROUND THE SITE WITH EARTH DIKES.

PIPING OR STABILIZED CHANNELS WHERE POSSIBLE. SHEET RUNOFF FROM THE SITE WILL BE FILTERED THROUGH SILTSOXX, MULCH BERMS, HAY BALE BARRIERS, OR SILT SOCKS. ALL STORM DRAIN BASIN INLETS SHALL BE PROVIDED WITH FLARED END SECTIONS AND TRASH RACKS. THE SITE SHALL BE STABILIZED FOR THE WINTER BY OCTOBER 15.

MAINTENANCE AND PROTECTION

SILTSOXX SHALL BE REMOVED ONCE SITE IS STABILIZED, AND DISTURBED AREAS RESULTING FROM SILTSOXX REMOVAL SHALL BE PERMANENTLY SEEDED.

THE CATCH BASIN INLET BASKET SHALL BE INSPECTED WITHIN 24 HOURS AFTER EACH RAINFALL OR DAILY DURING EXTENDED PERIODS OF PRECIPITATION. REPAIRS SHALL BE MADE IMMEDIATELY, AS NECESSARY, TO PREVENT PARTICLES FROM REACHING THE DRAINAGE SYSTEM AND/OR CAUSING SURFACE FLOODING SEDIMENT DEPOSITS SHALL BE REMOVED AFTER EACH STORM EVENT, OR MORE OFTEN IF THE FABRIC BECOMES CLOGGED.

WINTER NOTES

PROLONGED RAINFALL.

ALL PROPOSED VEGETATED AREAS THAT DO NOT EXHIBIT A MINIMUM OF 85% VEGETATED GROWTH BY OCTOBER 15, OR WHICH ARE DISTURBED AFTER OCTOBER 15, SHALL BE STABILIZED BY SEEDING AND INSTALLING EROSION CONTROL BLANKETS ON SLOPES GREATER THAN 3:1, AND SEEDING AND PLACING 3 TO 4 TONS OF MULCH PER ACRE, SECURED WITH ANCHORED NETTING, ELSEWHERE. THE INSTALLATION OF EROSION CONTROL BLANKETS OR MULCH AND NETTING SHALL NOT OCCUR OVER ACCUMULATED SNOW OR ON FROZEN GROUND AND SHALL BE COMPLETED IN ADVANCE OF THAW OR SPRING MELT EVENTS.

ALL DITCHES OR SWALES WHICH DO NOT EXHIBIT A MINIMUM OF 85 PERCENT VEGETATIVE GROWTH BY OCTOBER 15, OR WHICH ARE DISTURBED AFTER OCTOBER 15, SHALL BE STABILIZED TEMPORARILY WITH STONE OR EROSION CONTROL BLANKETS APPROPRIATE FOR THE DESIGN FLOW CONDITIONS;

AFTER OCTOBER 15, INCOMPLETE ROAD OR PARKING SURFACES, WHERE WORK HAS STOPPED FOR THE WINTER SEASON, SHALL BE PROTECTED WITH A MINIMUM OF 3 INCHES OF CRUSHED GRAVEL PER NHDOT ITEM 304.3, OR IF CONSTRUCTION IS TO CONTINUE THROUGH THE WINTER SEASON BE CLEARED OF ANY ACCUMULATED SNOW AFTER EACH STORM EVENT;

STOCKPILES

LOCATE STOCKPILES A MINIMUM OF 50 FEET AWAY FROM CATCH BASINS, SWALES, AND CULVERTS. 2. ALL STOCKPILES SHOULD BE SURROUNDED WITH TEMPORARY EROSION CONTROL MEASURES

PRIOR TO THE ONSET OF PRECIPITATION PERIMETER BARRIERS SHOULD BE MAINTAINED AT ALL TIMES, AND ADJUSTED AS NEEDED TO 3.

ACCOMMODATE THE DELIVERY AND REMOVAL OF MATERIALS FROM THE STOCKPILE. THE INTEGRITY OF THE BARRIER SHOULD BE INSPECTED AT THE END OF EACH WORKING DAY. PROTECT ALL STOCKPILES FROM STORMWATER RUN-OFF USING TEMPORARY EROSION CONTROL MEASURES SUCH AS BERMS, SILT SOCK, OR OTHER APPROVED PRACTICE TO PREVENT MIGRATION OF MATERIAL BEYOND THE IMMEDIATE CONFINES OF THE STOCKPILES.

CONCRETE WASHOUT AREA

THE FOLLOWING ARE THE ONLY NON-STORMWATER DISCHARGES ALLOWED. ALL OTHER NON-STORMWATER DISCHARGES ARE PROHIBITED ON SITE: THE CONCRETE DELIVERY TRUCKS SHALL, WHENEVER POSSIBLE, USE WASHOUT FACILITIES AT THEIR OWN PLANT OR DISPATCH FAILITY

2. IF IT IS NECESSARY, SITE CONTRACTOR SHALL DESIGNATE SPECIFIC WASHOUT AREAS AND DESIGN FACILITIES TO HANDLE ANTICIPATED WASHOUT WATER; CONTRACTOR SHALL LOCATE WASHOUT AREAS AT LEAST 150 FEET AWAY FROM STORM DRAINS, SWALES AND SURFACE WATERS OR DELINEATED WETLANDS; 4. INSPECT WASHOUT FACILITIES DAILY TO DETECT LEAKS OR TEARS AND TO IDENTIFY WHEN MATERIALS NEED TO BE REMOVED.

ALLOWABLE NON-STORMWATER DISCHARGES

FIRE-FIGHTING ACTIVITIES FIRE HYDRANT FLUSHING:

- WATERS USED TO WASH VEHICLES WHERE DETERGENTS ARE NOT USED;
- WATER USED TO CONTROL DUST; POTABLE WATER INCLUDING UNCONTAMINATED WATER LINE FLUSHING;
- ROUTINE EXTERNAL BUILDING WASH DOWN WHERE DETERGENTS ARE NOT USED:
- PAVEMENT WASH WATERS WHERE DETERGENTS ARE NOT USED;
- UNCONTAMINATED AIR CONDITIONING/COMPRESSOR CONDENSATION; UNCONTAMINATED GROUND WATER OR SPRING WATER;
- FOUNDATION OR FOOTING DRAINS WHICH ARE UNCONTAMINATED;
- UNCONTAMINATED EXCAVATION DEWATERING; 11. 12. LANDSCAPE IRRIGATION.

WASTE DISPOSAL

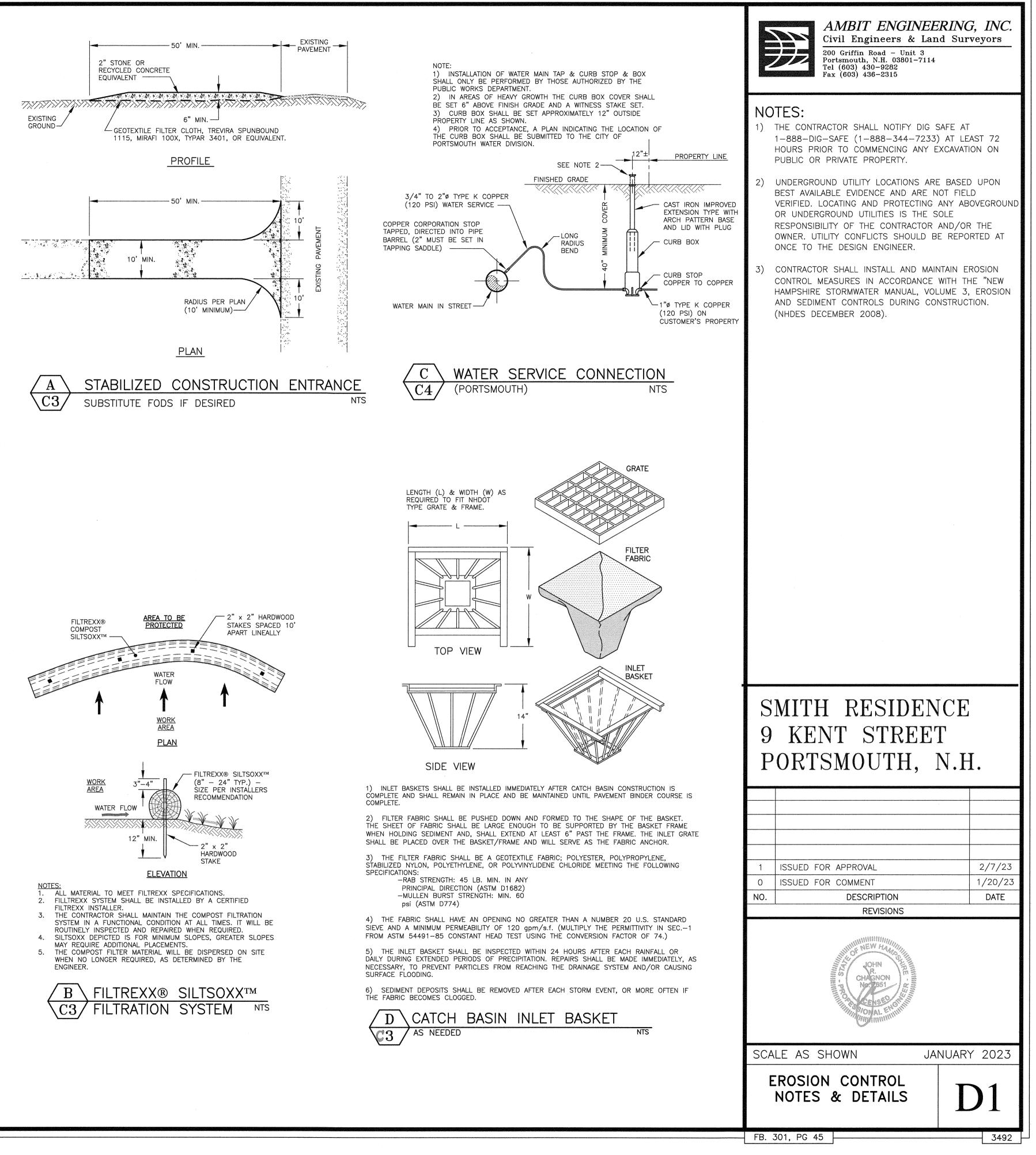
- WASTE MATERIAL
- ALL WASTE MATERIALS SHALL BE COLLECTED AND STORED IN SECURELY LIDDED RECEPTACLES. ALL TRASH AND CONSTRUCTION DEBRIS FROM THE SITE SHALL BE DEPOSITED IN A DUMPSTER:
- NO CONSTRUCTION WASTE MATERIALS SHALL BE BURIED ON SITE; - ALL PERSONNEL SHALL BE INSTRUCTED REGARDING THE CORRECT PROCEDURE FOR WASTE DISPOSAL BY THE SUPERINTENDENT.
- HAZARDOUS WASTE - ALL HAZARDOUS WASTE MATERIALS SHALL BE DISPOSED OF IN THE MANNER SPECIFIED BY LOCAL OR STATE REGULATION OR BY THE MANUFACTURER; - SITE PERSONNEL SHALL BE INSTRUCTED IN THESE PRACTICES BY THE SUPERINTENDENT.
- 3. SANITARY WASTE - ALL SANITARY WASTE SHALL BE COLLECTED FROM THE PORTABLE UNITS A MINIMUM OF ONCE PER WEEK BY A LICENSED SANITARY WASTE MANAGEMENT CONTRACTOR.

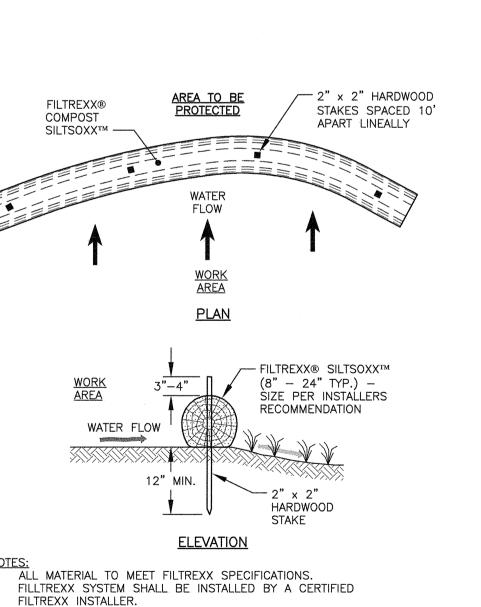
BLASTING NOTES

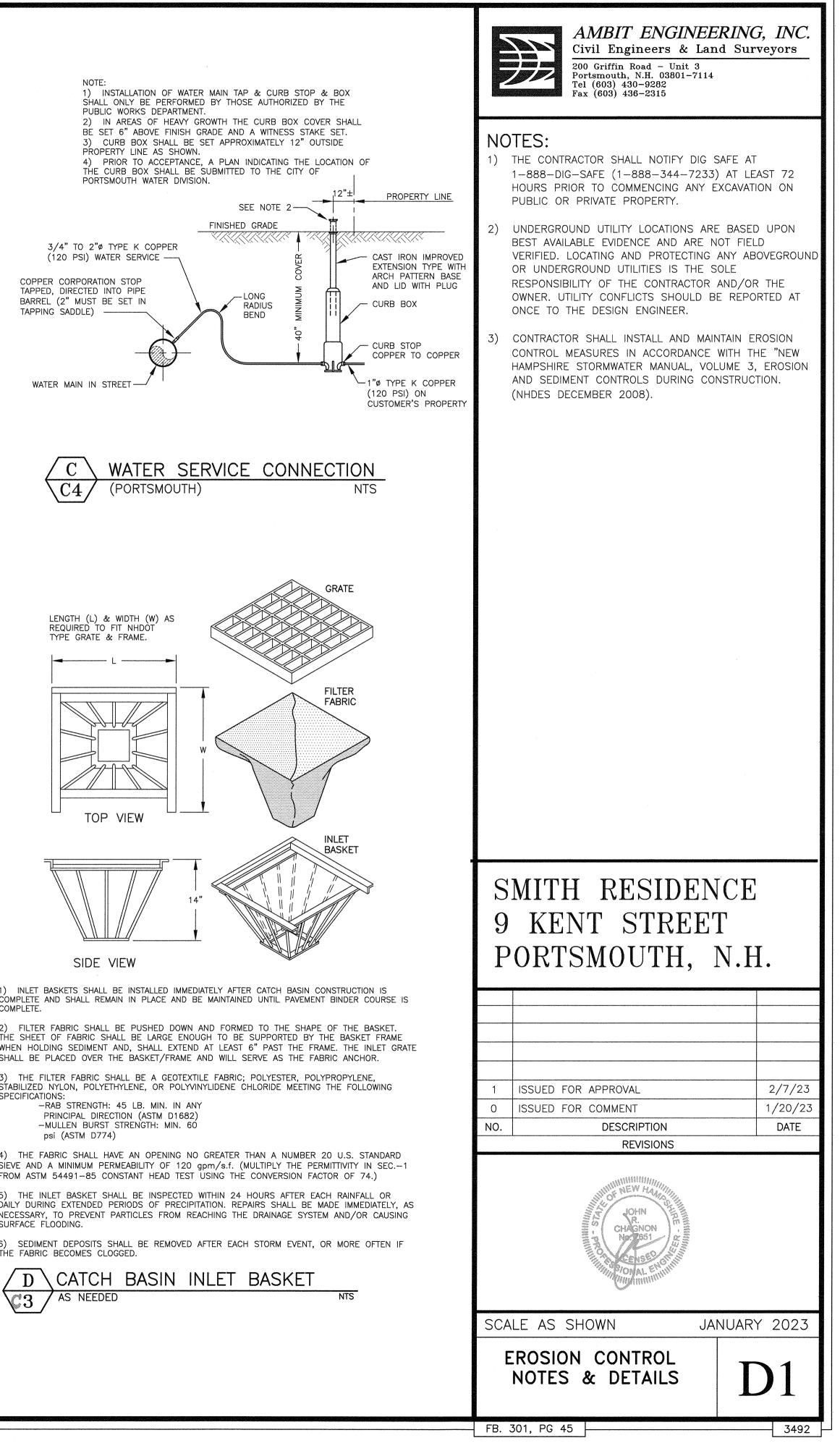
CONTRACTOR SHALL CONTACT THE NHDES AND/OR LOCAL JURISDICTION PRIOR TO COMMENCING ANY BLASTING ACTIVITIES. FOR ANY PROJECT FOR WHICH BLASTING OF BEDROCK IS ANTICIPATED, THE APPLICANT SHALL SUBMIT A BLASTING PLAN THAT IDENTIFIES:

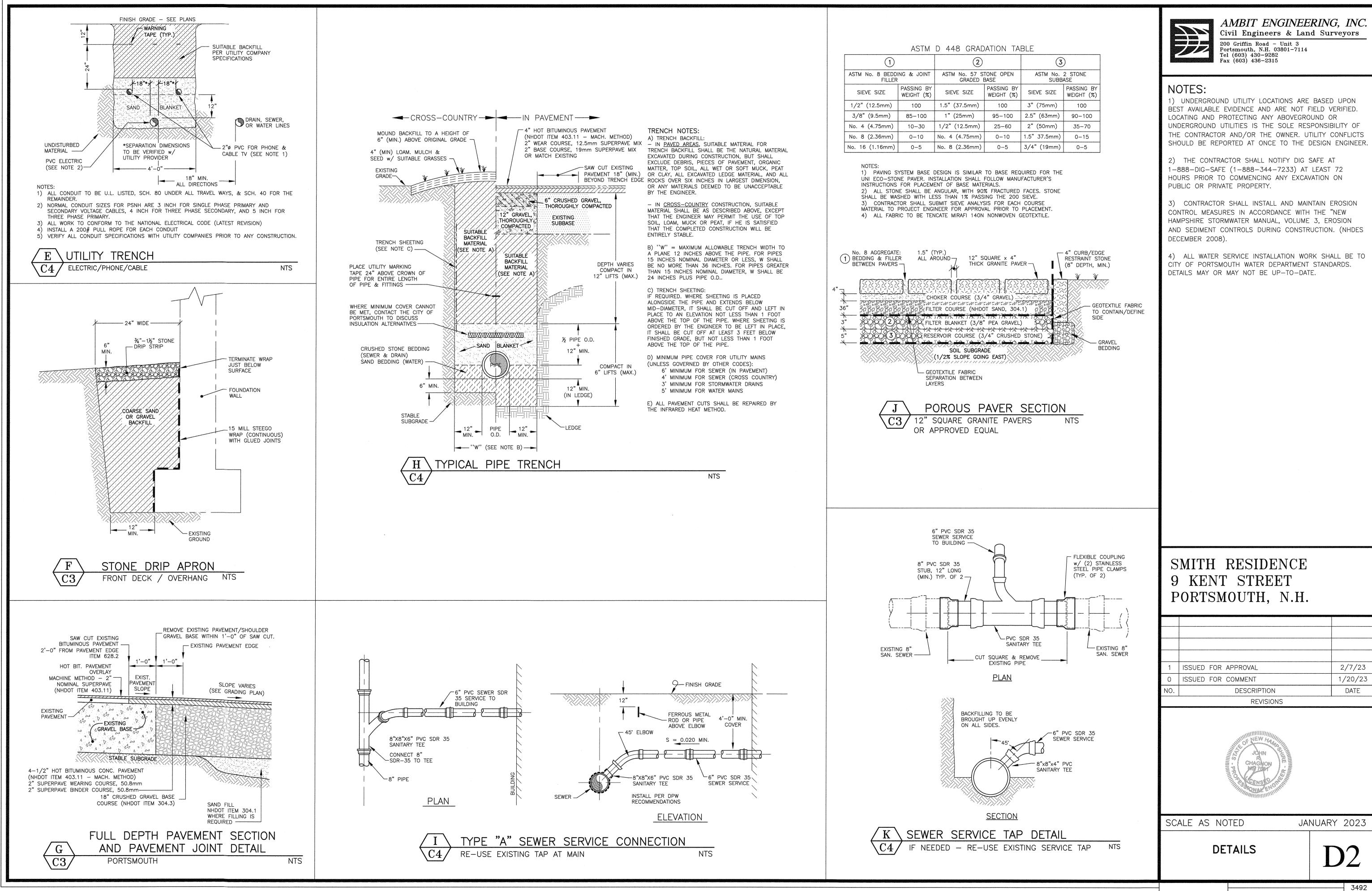
- WHERE THE BLASTING ACTIVITIES ARE ANTICIPATED TO OCCUR; - THE ESTIMATED QUANTITY OF BLAST ROCK IN CUBIC YARDS; AND - SITE-SPECIFIC BLASTING BEST MANAGEMENT PRACTICES.

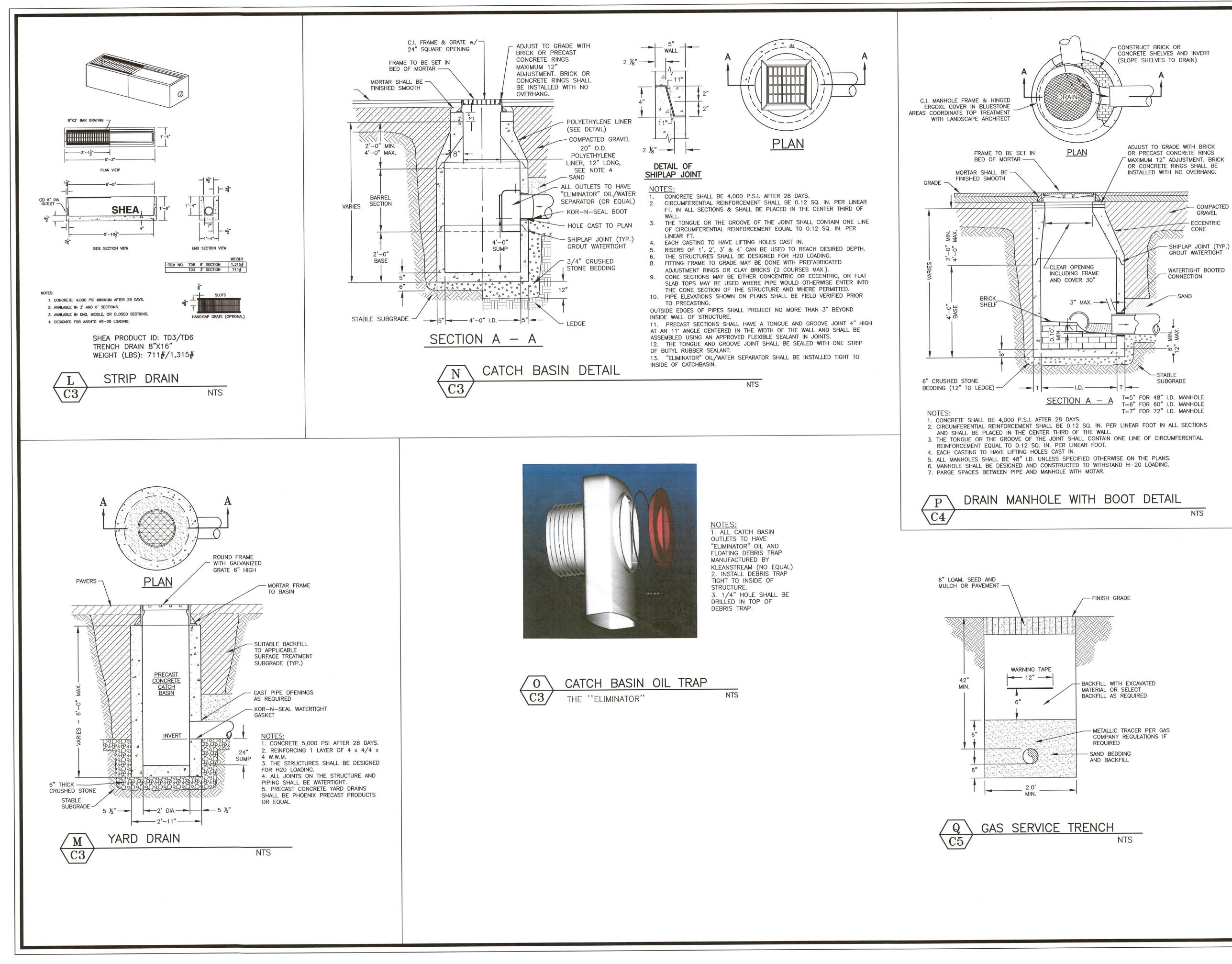
THE SILTSOXX BARRIER SHALL BE CHECKED AFTER EACH RAINFALL AND AT LEAST DAILY DURING













AMBIT ENGINEERING, INC. Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3 Portsmouth, N.H. 03801-7114 Tel (603) 430-9282 Fax (603) 436-2315

NOTES:

1) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.

2) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.

3) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION. (NHDES DECEMBER 2008).

SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, N.H.

2	ADD DETAIL Q	5/8/23
1	DETAILS N, O, P	3/1/23
0	ISSUED FOR APPROVAL	2/7/23
NO.	DESCRIPTION	DATE
	REVISIONS	
State of the second sec		



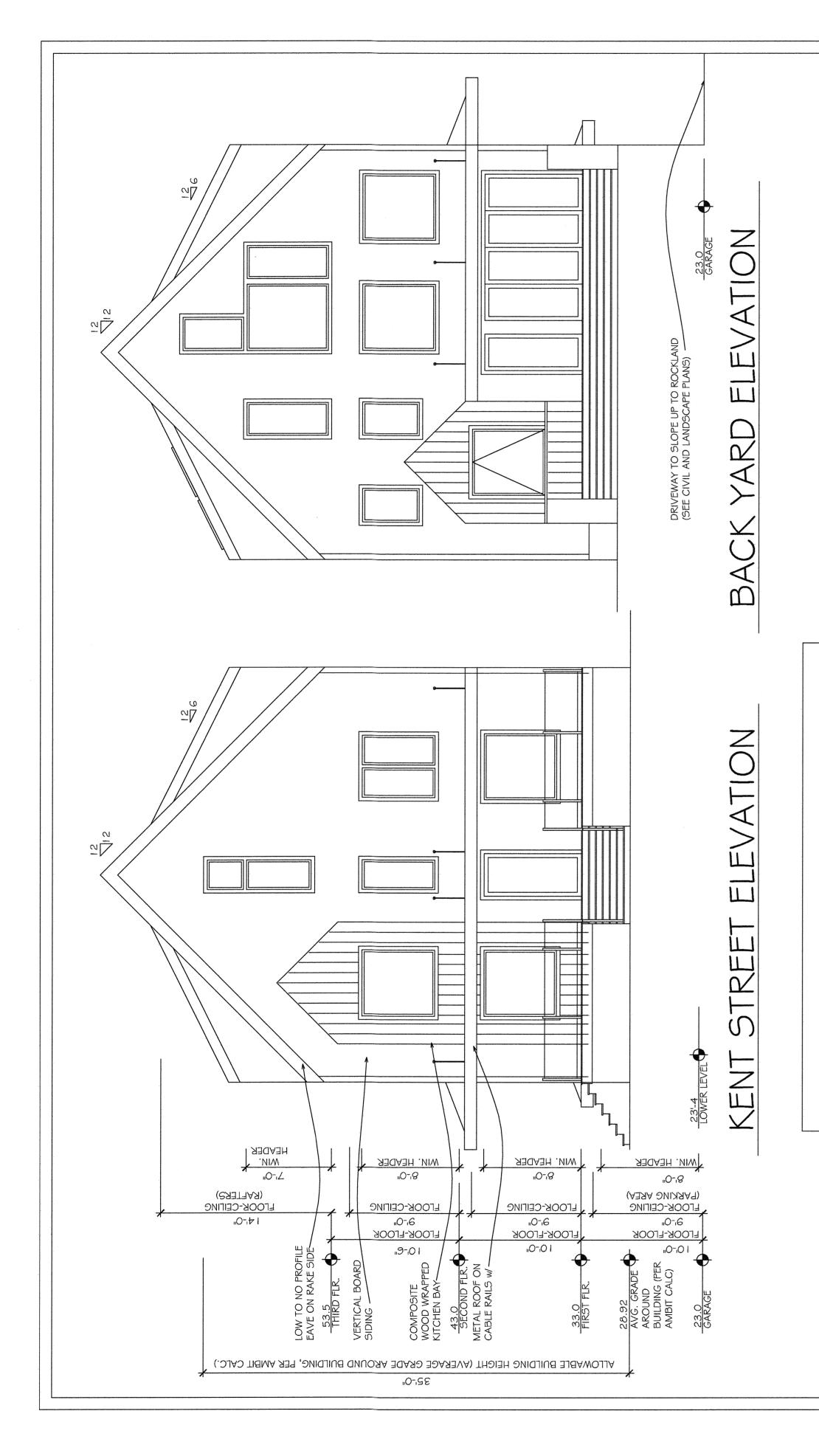
AS NOTED

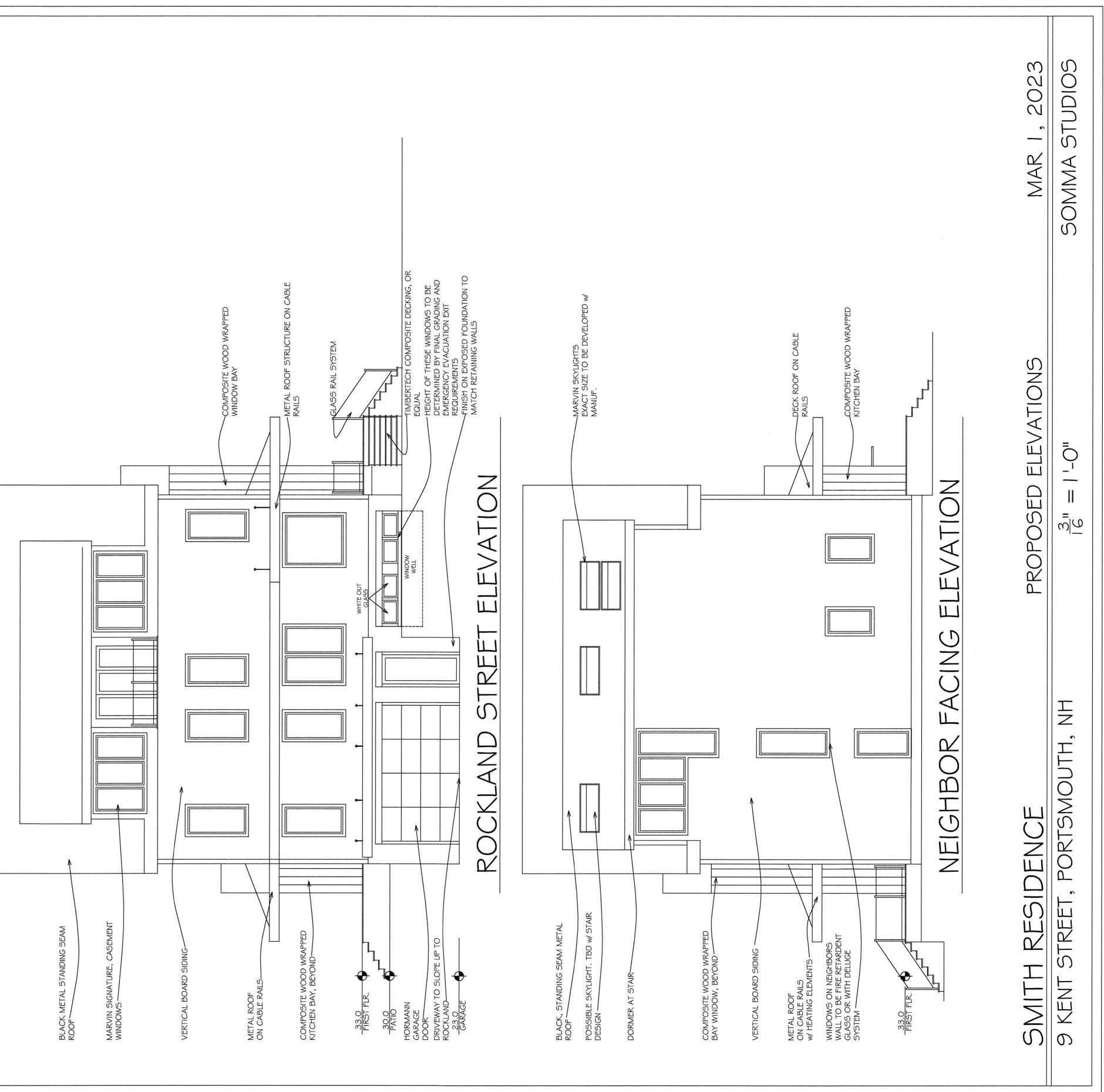
JANUARY 2023



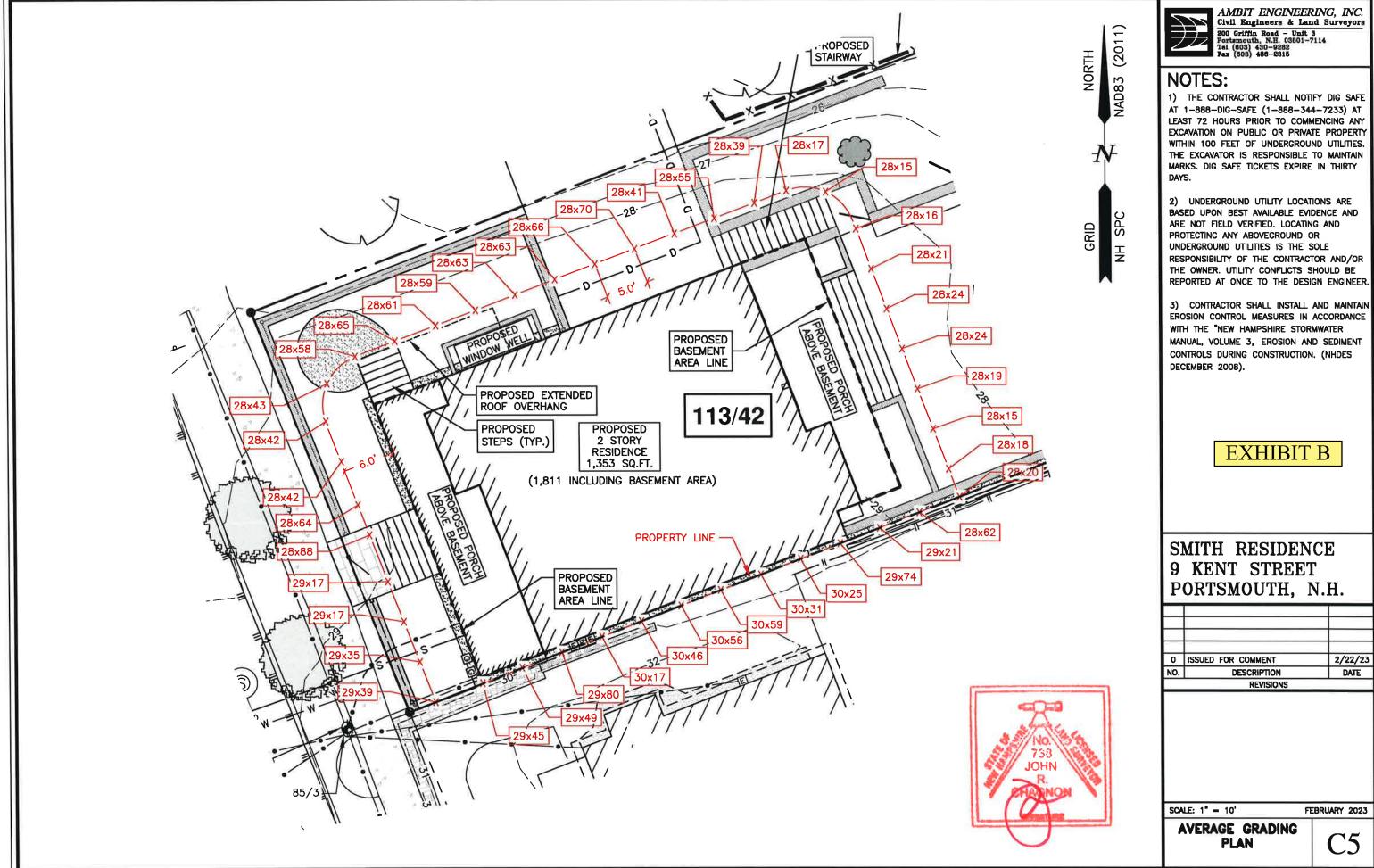
D3

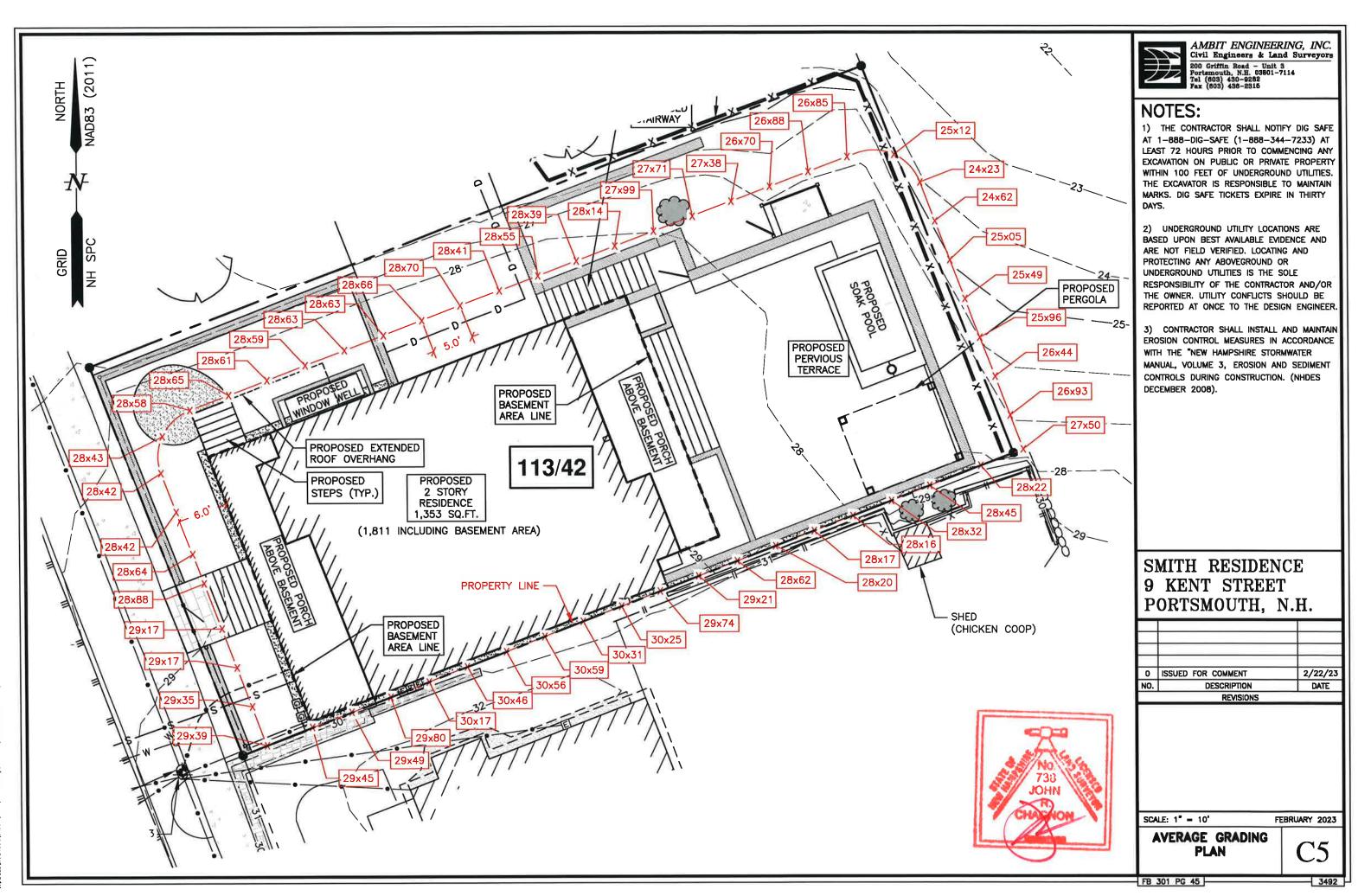
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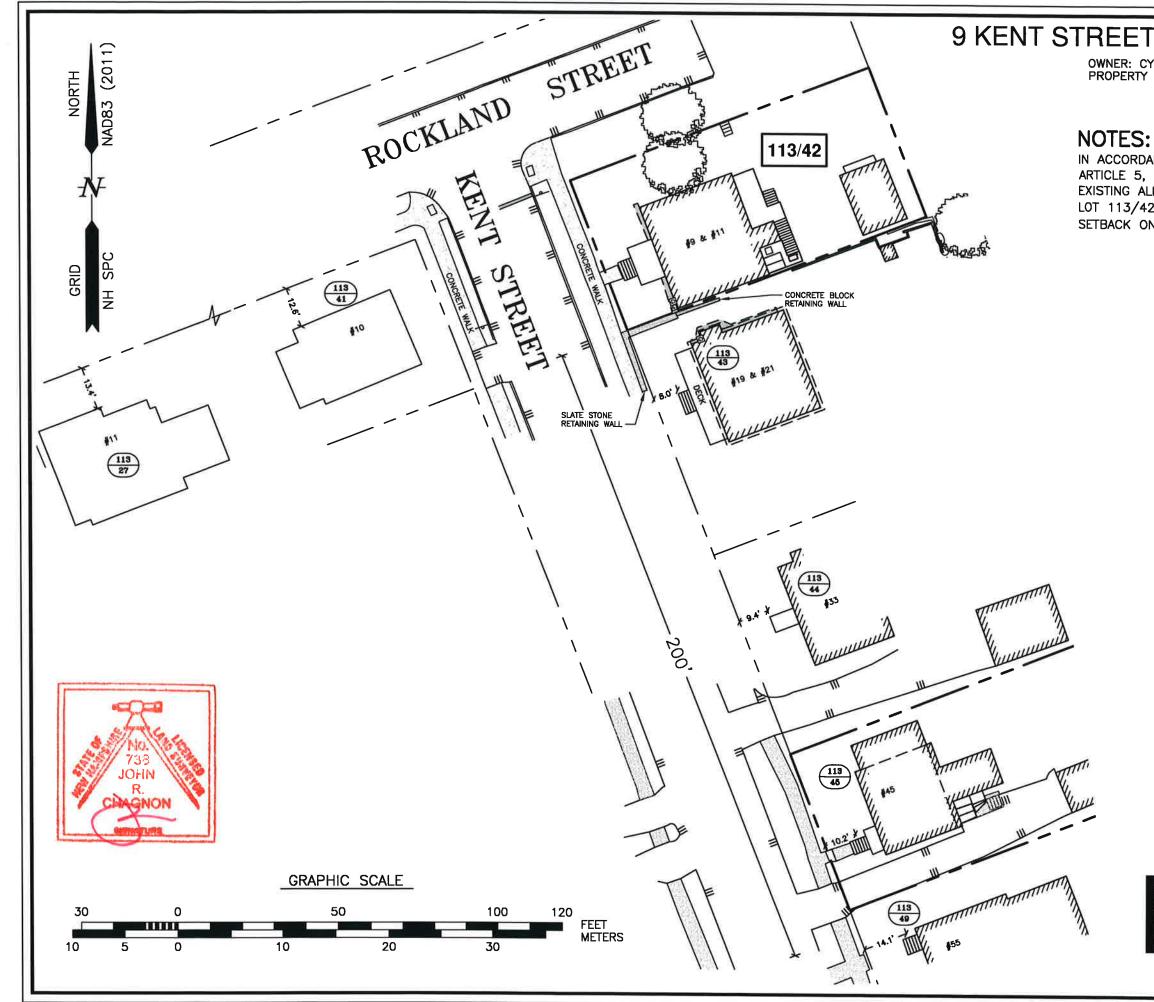






	Average (Grade Wo	ork Sheet	- Buildin	g Only	
Project		Smith Residence Calculated				
Address:	9 Ke	ent Street, Portsmouth, NH			2/23/2023	
6' of	fset from Bເ	uilding; Exis	ting Grades	5' OC		
SECTION	Elev	Elev	Elev	Elev	Total	
SOUTH	28.62	29.21	29.74	30.25	117.82	
	30.31	30.59	30.56	30.46	121.92	
	30.17	29.80	29.49	29.45	118.91	
					0.00	
					0.00	AVG PER SECTION
				12.0	358.65	29.89
WEST	29.39	29.35	29.17	29.17	117.08	
	28.88	28.64	28.42	28.42	114.36	
	28.43				28.43	
						AVG PER SECTION
				9.0	259.87	28.87
NORTH	28.58	28.65	28.61	28.59	114.43	
	28.63	28.63	28.66	28.70	114.62	
	28.41	28.55	28.39	28.17	113.52	
					0.00	
					0.00	AVG PER SECTION
				12.0	342.57	28.55
EAST	28.15	28.16	28.21	28.24	112.76	
	28.24	28.19	28.15	28.18	112.76	
	28.20				28.20	
					0.00	
						AVG PER SECTION
				9	253.72	28.19
Total	1,214.81	>	AVERAG	E GRADE		
#	42		28	.92		

Ave	rage Grad	de Work S	Sheet - Bi	uilding an	d Terrace	
Project	Smith Residence Ca			Calculated		
Address:	9 Ke	ent Street, Portsmouth, NH			2/23/2023	
6' of	fset from Bເ	uilding; Exis	ting Grades	5' OC		
SECTION	Elev	Elev	Elev	Elev	Total	
SOUTH	28.22	28.45	28.32	28.16	113.15	
	28.17	28.20	28.62	29.21	114.20	
	29.74	30.25	30.31	30.59	120.89	
	30.56	30.46	30.17	29.80	120.99	
	29.49	29.45			58.94	AVG PER SECTION
				18.0	528.17	29.34
WEST	29.39	29.35	29.17	29.17	117.08	
	28.88	28.64	28.42	28.42	114.36	
	28.43				28.43	
						AVG PER SECTION
				9.0	259.87	28.87
NORTH	28.58	28.65	28.61	28.59	114.43	
	28.63	28.63	28.66	28.70	114.62	
	28.41	28.55	28.39	28.14	113.49	
	27.99	27.71	27.38	26.70	109.78	
	26.88	26.85			53.73	AVG PER SECTION
				18.0	506.05	28.11
EAST	25.12	24.23	24.62	25.05	99.02	
	25.49	25.96	26.44	26.93	104.82	
	27.50				27.50	
					0.00	
						AVG PER SECTION
				9	231.34	25.70
Total	1,525.43	>	AVERAG	E GRADE		
#	54		28	.25		



9 KENT STREET FRONT SETBACK EXHIBIT

OWNER: CYNTHIA AUSTIN SMITH & PETER SMITH PROPERTY LOCATION: 9-11 KENT STREET CITY OF PORTSMOUTH COUNTY OF ROCKINGHAM STATE OF NEW HAMPSHIRE

IN ACCORDANCE WITH THE PORTSMOUTH ZONING ORDINANCE, ARTICLE 5, SECTION 10.516.10 FRONT YARD EXCEPTION FOR EXISTING ALIGNMENTS: THE AVERAGE FRONT SETBACK FOR LOT 113/42 ON KENT STREET IS 11'. THE AVERAGE SETBACK ON ROCKLAND STREET IS 13'.

KENT STREET				
MAP/LOT	SETBACK	AVERAGE		
113/43	8.0			
113/44	9.4			
113/45	10.2			
113/46	14.1			
4	41.7	11*		

ROCKLAND STREET				
MAP/LOT SETBACK AVERAGE				
113/41	12.6			
113/27	13.4			
113/2	26.00	13'		

EXHIBIT C

SCALE: 1"=30'

21 DECEMBER, 2022



AMBIT ENGINEERING, INC. Civil Engineers & Land Surveyors 200 Griffin Road - Unit 3 Portsmouth, N.H. 03801-7114 Tel (603) 430-9282 Fax (603) 436-2315

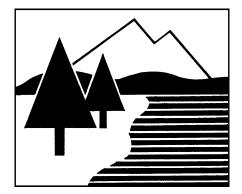
FB 301 PG 45

3492

DRAINAGE ANALYSIS

SMITH RESIDENCE

9 KENT STREET PORTSMOUTH, NH



PREPARED FOR PETER SMITH

06 FEBRUARY 2023 REVISED: 28 FEBRUARY 2023



AMBIT ENGINEERING, INC. Civil Engineers & Land Surveyors

200 Griffin Road, Unit 3 Portsmouth, NH 03801 Phone: 603.430.9282; Fax: 603.436.2315 E-mail: <u>jrc@ambitengineering.com</u> (Ambit Job Number 3492)

EXHIBIT D

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Site Specific Information	3
Pre-Development Drainage	4
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Offsite Infrastructure Capacity	6
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Conclusion	7
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Existing Subcatchment Plan Proposed Subcatchment Plan

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Soil Survey Information	D
FEMA FIRM Map	E
Inspection & Long-Term Maintenance Plan	F

EXECUTIVE SUMMARY

This drainage analysis examines the pre-development (existing) and post-development (proposed) stormwater drainage patterns for the Residence Redevelopment at the property known as 9 Kent Street in Portsmouth, NH. The site is shown on the City of Portsmouth Assessor's Tax Map 113 as Lot 42. The total size of the lot is 5000± square feet (0.115 acres) and the associated drainage area is 7,643± square-feet (0.175 acres).

The development will provide for a residence redevelopment, parking, and associated utilities. The development has the potential to increase stormwater runoff to adjacent properties, and should be designed in a manner to prevent that occurrence. The site contains an existing building which will be replaced. The proposed stormwater BMPs will offset the impact caused by the redevelopment. Part of the runoff from the site will be directed to an existing City drainage network using a proposed catch basin.

The hydrologic modeling utilized for this analysis uses the "Extreme Precipitation" values for rainfall from The Northeast Regional Climate Center (Cornell University), with a 15% increase to comply with local ordinance.

INTRODUCTION / PROJECT DESCRIPTION

This drainage report is designed to assist the owner, contractor, regulatory reviewer, and others in understanding the impact of the proposed development project on local surface water runoff and quality. The project site is shown on the City of Portsmouth Assessor's Tax Map 113 as Lot 42. Bounding the site to the north is Rockland Street followed by City property. Bounding the site to the east is City property. Bounding the site to the south is a private residence. Bounding the site to the west is Kent Street, followed by private residences. A vicinity map is included in the Appendix to this report.

The proposed project includes a building redevelopment, associated parking and utilities. This report uses the design to calculate the future impervious coverage of the proposed lot, as required by the City.

This report includes information about the existing site and the proposed site necessary to analyze stormwater runoff and to design any required mitigation. The report includes impervious surface analyses and the associated operations and maintenance manual. The report will provide a narrative of the stormwater runoff. Proposed stormwater management and treatment structures and methods will also be described, as well as erosion and sediment control practices. To fully understand the proposed site development the reader should also review a complete site plan set in addition to this report.

METHODOLOGY

"Extreme Precipitation" values from The Northeast Regional Climate Center (Cornell University) have been used for modeling purposes. These values have been used in this analysis, with a 15% addition to comply with local ordinances.

This report uses the US Soil Conservation Service (SCS) Method for estimating stormwater runoff. The SCS method is published in The National Engineering Handbook (NEH), Section 4 "Hydrology" and includes the Technical Release No. 20, (TR-20) "Computer Program for Project Formulation Hydrology", and Technical Release No. 55 (TR-55) "Urban Hydrology for Small Watersheds" methods. This report uses the HydroCAD version 10.20 program, written by HydroCAD Software Solutions LLC, Chocorua, N.H., to apply these methods for the calculation of runoff and for pond modeling. Rainfall data and runoff curve numbers are taken from "The Stormwater Management and Erosion Control Handbook for Urban and Developing Areas in New Hampshire."

Time of Concentration (Tc) is calculated by entering measured flow path data such as flow path type, length, slope and surface characteristics into the HydroCAD program. For the purposes of this report, a minimum time of concentration of 5 minutes is used. The storm events used for the calculations in this report are the 2-year, 10-year, 25-year, and 50-year (24-hour) storms. Watershed basin boundaries have been delineated using topographic maps prepared by Ambit Engineering and field observations to confirm.

SITE SPECIFIC INFORMATION

Based on the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), Soil Survey of Rockingham County, New Hampshire the site is made up of two soil types:

Soil Symbol	Soil Name and Slopes
799	Urban land – Canton Complex (3-15% slopes)

Canton complex is well drained with a stated depth to water table and restrictive feature of more than 80 inches. While there is a pond near the site which might suggest high runoff potential, the soil report and test pit observations suggested high infiltrative capacity, so the Hydrologic Soil Group will be assumed to be A, and the design infiltration rate will be 5 inches per hour.

The physical characteristics of the site consist of flat (0-15%) grades that generally slope from the south to the north. Elevations on the site range from 24 to 29 feet above sea level. The existing site is developed and includes an existing building located to the west of the lot, with a shed to the east. Vegetation around the developed portion of the lot consists of established grasses and some landscape areas.

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) number 33015C0259F (effective date January 29, 2021), the proposed development is located in Zone X and is determined to be outside of the 0.2% annual chance floodplain. A copy of the FIRM map is included in the Appendix.

PRE-DEVELOPMENT DRAINAGE

In the pre-development condition, the site has been analyzed as two subcatchment basins (E1 and E2) based on localized topography and discharge location. Subcatchment E1 contains the west half of the property and flows toward the South Mill Pond (Discharge Point 1 or DP1). Subcatchment E2 contains the east half of the property and flows toward DP1.

 Table 1: Pre-Development Watershed Basin Summary

Watershed	atershed Basin		CN	10-Year	50-Year	То
Basin ID	Area (SF)	(MIN)		Runoff (CFS)	Runoff (CFS)	Design
						Point
E1	2,922	5.0	56	0.09	0.25	DP1
E2	4,721	5.0	61	0.21	0.48	DP1

POST-DEVELOPMENT DRAINAGE

Proposed subcatchments P1, P2 and P2a occupy the same approximate space as subcatchments E1 and E2, with P1 matching E1 and both P2 and P2a matching E2. All subcatchments flow to the same discharge point. The peak discharge of P1 is mitigated with the use of a drip apron. The peak discharge of subcatchment P2a is mitigated with the use of permeable pavers. The subcatchments were analyzed for peak discharges using HydroCAD.

Watershed	Basin Area	Tc (MIN)	CN	10-Year	50-Year	Design
Basin ID	(SF)			Runoff	Runoff (CFS)	Point
				(CFS)		
P1	2,156	5.0	67	0.13	0.26	DP1
P2	2,820	5.0	55	0.09	0.23	DP1
P2a	2,667	5.0	84	0.27	0.46	DP1

Table 2: Post-Development Watershed Basin Sumn	iary
--	------

The overall impervious coverage of the subcatchment areas analyzed in this report **increases** from 1,824 square-feet (36.5%) in the pre-development condition to 3,415 square-feet (68.3%) in the post-development condition. The project proposes the construction of a drip apron and permeable pavers on site, reducing the peak flow discharge from the site as well as providing treatment.

Table 3 shows a summary of the comparison between pre-developed flows and postdeveloped flows for each design point. The comparison shows the reduced flows as a result of the drip apron and permeable pavers.

Table 3: Pre-Development to Post-Development Comparison

	Q2 (CFS)	Q10	(CFS)	Q50	(CFS)	
Design	Pre	Post	Pre	Post	Pre	Post	Description
Point							
DP1	0.08	0.02	0.30	0.13	0.52	0.49	South Mill Pond

The proposed development has been designed to match the pre-development drainage patterns to the greatest extent feasible. A plan sheet detailing the subcatchments and direction of runoff are included in the Attachments. In the developed condition, the site will have a drip apron and permeable pavers. As a result, discharge point DP1 will experience a net decrease in peak discharge for all design storms in the proposed condition. In addition, a catch basin is proposed adjacent to Rockland Street to help deal with off-site runoff. The catch basin is connected to an existing drainage network north of the property. The proposed drainage to the catch basin is detailed below for design purposes.

Table 4: Proposed Catch Basin Runoff

Design Point	Q2 (CFS)	Q10 (CFS)	Q25 (CFS)	Q50 (CFS)	Contributing
					Area (SF)
CB1	0.30	0.59	1.08	1.36	7,164

OFFSITE INFRASTRUCTURE CAPACITY

There is an overall reduction in off-site flow due to the drip apron and permeable pavers proposed by the project. The new basin will direct flow away from a city playground. The re-direction of flow will provide a net benefit to the City. As a result, there is no anticipated negative impact to City infrastructure.

EROSION AND SEDIMENT CONTROL PRACTICES

The erosion potential for this site as it exists is moderate due to the presence of construction areas that are highly erodible. During construction, the major potential for erosion is wind and stormwater runoff. The contractor will be required to inspect and maintain all necessary erosion control measures, as well as installing any additional measures as required. All erosion control practices shall conform to "The Stormwater Management and Erosion Control Handbook for Urban and Developing Areas in New Hampshire." Some examples of erosion and sediment control measures to be utilized for this project during construction may include:

- Silt Soxx (or approved alternative) located at the toe of disturbed slopes
- Stabilized construction entrance at access point to the site
- Temporary mulching and seeding for disturbed areas
- Spraying water over disturbed areas to minimize wind erosion

After construction, permanent stabilization will be accomplished by permanent seeding, landscaping, and compacting/surfacing the access drives with gravel.

CONCLUSION

The proposed development has been designed to match the pre-development drainage patterns to the greatest extent feasible. With the installation of the drip apron and permeable pavers, the post-development peak runoff will be sufficiently decreased to mitigate any issues caused by the proposed construction. Erosion and sediment control practices will be implemented for both the temporary condition during construction and for final stabilization after construction. The re-direction of street drainage away from the city playground is a net benefit. Therefore, there are no negative impacts to downstream receptors or adjacent properties anticipated as a result of this project.

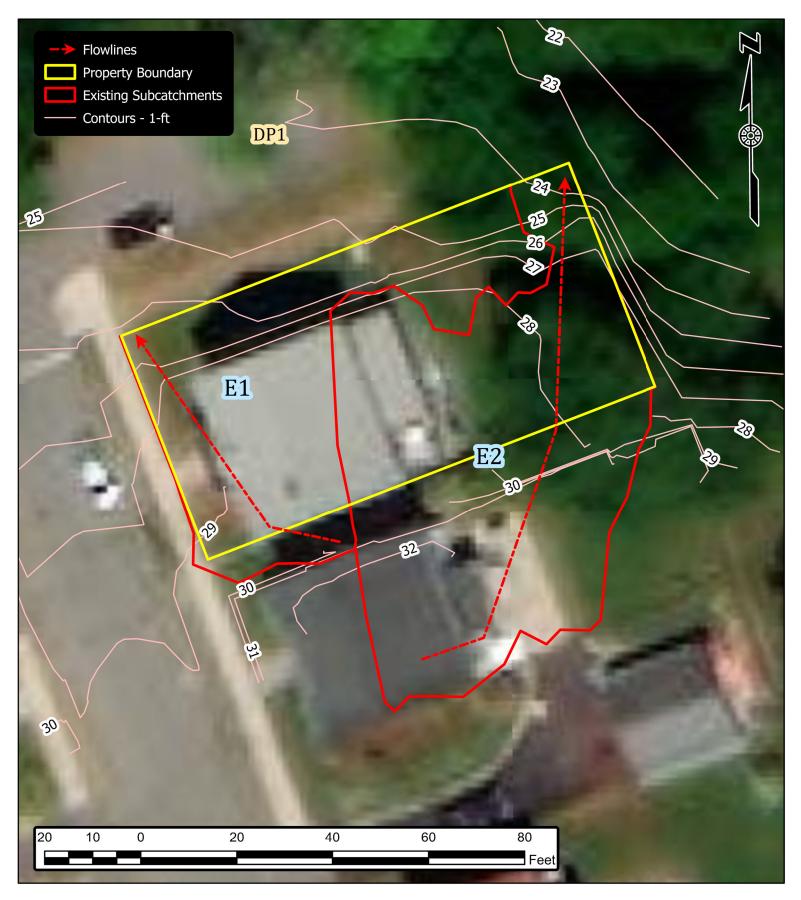
REFERENCES

- Comprehensive Environmental Inc. and New Hampshire Department of Environmental Services. *New Hampshire Stormwater Manual (Volumes 1, 2 and 3)*, December 2008 (Revision 1.0).
- Minnick, E.L. and H.T. Marshall. Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, prepared by Rockingham County Conservation District, prepared for New Hampshire Department of Environmental Services, in cooperation with USDA Soil Conservation Service, August 1992.
- 3. HydroCAD Software Solution, LLC. *HydroCAD Stormwater Modeling System Version 10.20* copyright 2022.

AMBIT ENGINEERING, INC.

Existing Subcatchments

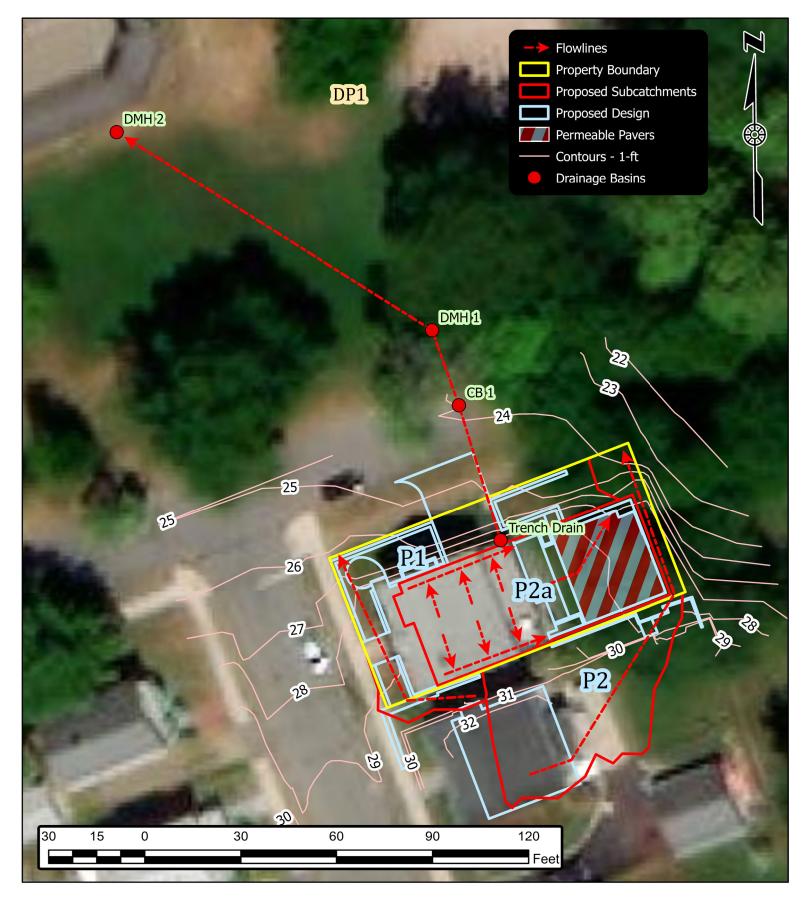
SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, NH JOB NUMBER: 3492 SCALE: 1" = 20' SUBMITTED: 12-23-2022



AMBIT ENGINEERING, INC.

Proposed Subcatchments

SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, NH JOB NUMBER: 3492 SCALE: 1" = 30' SUBMITTED: 02-28-2023



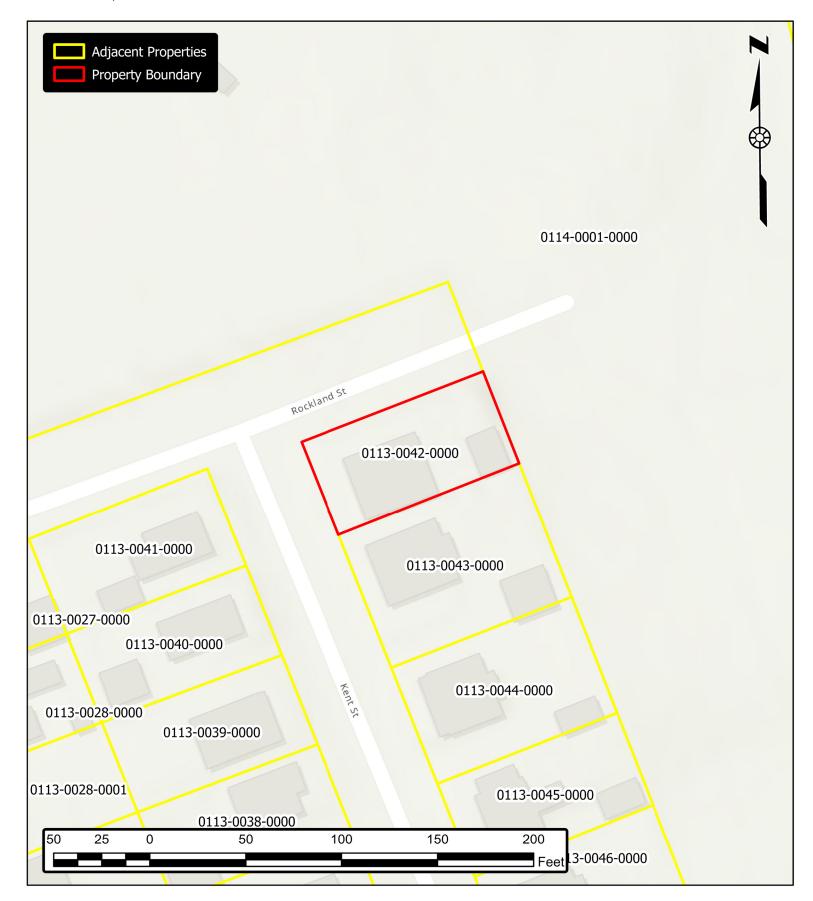
JN 3492

APPENDIX A

VICINITY (TAX) MAP



SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, NH JOB NUMBER: 3492 SCALE: 1" = 50' SUBMITTED: 12-22-2022



JN 3492

APPENDIX B

TABLES, CHARTS, ETC.

Extreme Precipitation Tables

Northeast Regional Climate Center

Data represents point estimates calculated from partial duration series. All precipitation amounts are displayed in inches.

Smoothing	Yes
State	New Hampshire
Location	
Longitude	70.756 degrees West
Latitude	43.071 degrees North
Elevation	0 feet
Date/Time	Thu, 22 Dec 2022 14:33:27 -0500

Extreme Precipitation Estimates

	5min	10min	15min	30min	60min	120min		1hr	2hr	3hr	6hr	12hr	24hr	48hr		1day	2day	4day	7day	10day	
1yr	0.26	0.40	0.50	0.65	0.81	1.04	1yr	0.70	0.98	1.21	1.56	2.03	2.66	2.92	1yr	2.35	2.81	3.22	3.94	4.55	1yr
2yr	0.32	0.50	0.62	0.81	1.02	1.30	2yr	0.88	1.18	1.52	1.94	2.49	3.21	3.57	2yr	2.84	3.43	3.94	4.68	5.33	2yr
5yr	0.37	0.58	0.73	0.98	1.25	1.61	5yr	1.08	1.47	1.89	2.43	3.14	4.07	4.58	5yr	3.60	4.40	5.04	5.94	6.70	5yr
10yr	0.41	0.65	0.82	1.12	1.45	1.89	10yr	1.25	1.73	2.23	2.89	3.75	4.86	5.53	10yr	4.31	5.32	6.09	7.11	7.98	10yr
25yr	0.48	0.76	0.97	1.34	1.78	2.34	25yr	1.53	2.14	2.78	3.63	4.74	6.17	7.10	25yr	5.46	6.83	7.81	9.03	10.05	25yr
50yr	0.54	0.86	1.10	1.54	2.08	2.76	50yr	1.79	2.53	3.29	4.33	5.66	7.39	8.58	50yr	6.54	8.25	9.43	10.81	11.97	50yr
100yr	0.60	0.97	1.25	1.77	2.42	3.26	100yr	2.09	2.98	3.91	5.16	6.77	8.85	10.38	100yr	7.83	9.98	11.39	12.96	14.27	100yr
200yr	0.68	1.10	1.43	2.05	2.83	3.84	200yr	2.44	3.52	4.62	6.14	8.08	10.60	12.55	200yr	9.38	12.06	13.76	15.55	17.01	200yr
500yr	0.80	1.32	1.72	2.49	3.49	4.78	500yr	3.01	4.39	5.78	7.71	10.22	13.47	16.14	500yr	11.92	15.52	17.68	19.78	21.48	500yr

Lower Confidence Limits

	5min	10min	15min	30min	60min	120min		1hr	2hr	3hr	6hr	12hr	24hr	48hr		1day	2day	4day	7day	10day	
1yr	0.23	0.36	0.44	0.59	0.72	0.88	1yr	0.63	0.86	0.93	1.33	1.69	2.24	2.49	1yr	1.98	2.39	2.87	3.19	3.90	1yr
2yr	0.31	0.49	0.60	0.81	1.00	1.19	2yr	0.86	1.16	1.37	1.82	2.34	3.06	3.45	2yr	2.71	3.32	3.82	4.55	5.09	2yr
5yr	0.35	0.54	0.67	0.92	1.17	1.40	5yr	1.01	1.37	1.61	2.12	2.73	3.78	4.19	5yr	3.35	4.03	4.72	5.53	6.24	5yr
10yr	0.39	0.59	0.73	1.03	1.33	1.60	10yr	1.14	1.56	1.80	2.39	3.05	4.37	4.85	10yr	3.87	4.67	5.43	6.41	7.19	10yr
25yr	0.44	0.67	0.83	1.19	1.56	1.90	25yr	1.35	1.86	2.10	2.75	3.53	4.73	5.88	25yr	4.19	5.65	6.64	7.78	8.67	25yr
50yr	0.48	0.73	0.91	1.31	1.76	2.17	50yr	1.52	2.12	2.35	3.06	3.92	5.35	6.78	50yr	4.73	6.52	7.71	9.03	10.00	50yr
100yr	0.54	0.81	1.01	1.46	2.01	2.47	100yr	1.73	2.41	2.62	3.40	4.33	6.02	7.82	100yr	5.32	7.52	8.95	10.49	11.55	100yr
200yr	0.59	0.89	1.13	1.63	2.27	2.81	200yr	1.96	2.75	2.93	3.77	4.77	6.75	9.02	200yr	5.97	8.68	10.38	12.20	13.35	200yr
500yr	0.68	1.02	1.31	1.90	2.71	3.36	500yr	2.33	3.28	3.41	4.30	5.43	7.86	10.89	500yr	6.95	10.47	12.63	14.92	16.17	500yr

Upper Confidence Limits

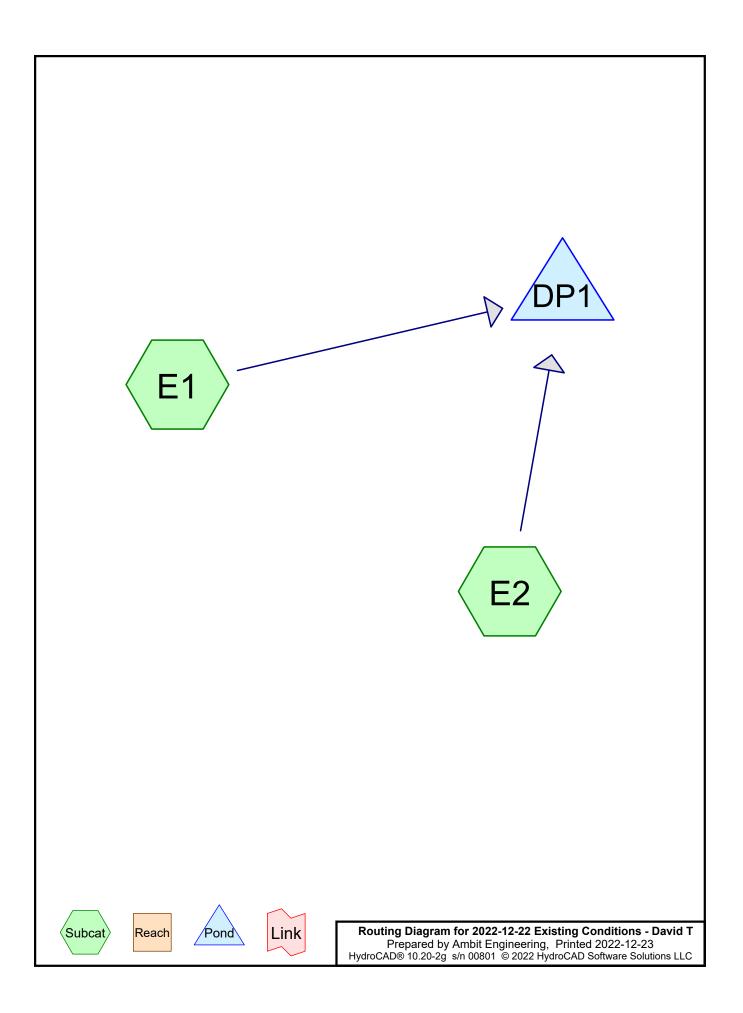
	5min	10min	15min	30min	60min	120min		1hr	2hr	3hr	6hr	12hr	24hr	48hr		1day	2day	4day	7day	10day	
1yr	0.28	0.44	0.54	0.72	0.89	1.08	1yr	0.77	1.06	1.26	1.74	2.20	2.98	3.17	1yr	2.64	3.05	3.58	4.37	5.04	1yr
2yr	0.34	0.52	0.64	0.87	1.07	1.27	2yr	0.92	1.24	1.48	1.96	2.52	3.42	3.71	2yr	3.03	3.56	4.09	4.84	5.63	2yr
5yr	0.40	0.62	0.77	1.05	1.34	1.62	5yr	1.15	1.59	1.89	2.54	3.25	4.34	4.97	5yr	3.84	4.78	5.38	6.38	7.16	5yr
10yr	0.47	0.72	0.89	1.25	1.61	1.98	10yr	1.39	1.93	2.28	3.11	3.96	5.34	6.21	10yr	4.72	5.97	6.83	7.85	8.76	10yr
25yr	0.58	0.88	1.09	1.56	2.05	2.57	25yr	1.77	2.52	2.96	4.08	5.16	7.76	8.36	25yr	6.87	8.04	9.17	10.35	11.42	25yr
50yr	0.67	1.02	1.27	1.83	2.47	3.13	50yr	2.13	3.06	3.60	5.01	6.34	9.71	10.48	50yr	8.59	10.08	11.48	12.74	13.98	50yr
100yr	0.79	1.20	1.50	2.16	2.97	3.82	100yr	2.56	3.73	4.38	6.17	7.79	12.15	13.14	100yr	10.75	12.63	14.36	15.72	17.11	100yr
200yr	0.93	1.39	1.77	2.56	3.57	4.66	200yr	3.08	4.56	5.35	7.60	9.57	15.23	16.48	200yr	13.48	15.85	18.00	19.38	20.94	200yr
500yr	1.15	1.71	2.20	3.20	4.55	6.06	500yr	3.93	5.92	6.94	10.05	12.62	20.58	22.27	500yr	18.21	21.41	24.26	25.55	27.37	500yr



APPENDIX C

HYDROCAD DRAINAGE

ANALYSIS CALCULATIONS



Project Notes

Defined 5 rainfall events from output (21) IDF

Event#	Event	Storm Type	Curve	Mode	Duration	B/B	Depth	AMC
	Name				(hours)		(inches)	
1	2-yr	Type III 24-hr		Default	24.00	1	3.69	2
2	10-yr	Type III 24-hr		Default	24.00	1	5.59	2
3	25-yr	Type III 24-hr		Default	24.00	1	7.10	2
4	50-yr	Type III 24-hr		Default	24.00	1	8.50	2

Rainfall Events Listing (selected events)

2022-12-22 Existing Conditions - David T Prepared by Ambit Engineering HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions LLC

Area Listing (all nodes)

Area	CN	Description
(acres)		(subcatchment-numbers)
0.115	39	>75% Grass cover, Good, HSG A (E1, E2)
0.001	50	Drip Apron (E1)
0.008	98	Paved parking, HSG A (E1, E2)
0.002	98	Paved parking, HSG A, Retwall (E1, E2)
0.050	98	Roofs, HSG A (E1, E2)
0.175	59	TOTAL AREA

2022-12-22 Existing Conditions - David T Prepared by Ambit Engineering HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions LLC

Soil Listing (all nodes)

Area	Soil	Subcatchment
(acres)	Group	Numbers
0.175	HSG A	E1, E2
0.000	HSG B	
0.000	HSG C	
0.000	HSG D	
0.001	Other	E1
0.175		TOTAL AREA

2022-12-22 Existing Conditions - David T Prepared by Ambit Engineering HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions LLC

HSG-A (acres)	HSG-B (acres)	HSG-C (acres)	HSG-D (acres)	Other (acres)	Total (acres)	Ground Cover	Subcatchment
0.115	0.000	0.000	0.000	0.000	0.115	>75% Grass cover, Good	E1, E2
0.000	0.000	0.000	0.000	0.001	0.001	Drip Apron	E1
0.010	0.000	0.000	0.000	0.000	0.010	Paved parking	E1, E2
0.050	0.000	0.000	0.000	0.000	0.050	Roofs	E1, E2
0.175	0.000	0.000	0.000	0.001	0.175	TOTAL AREA	

Ground Covers (all nodes)

2022-12-22 Existing Conditions - David T	Type III 24-hr	2-yr Rainfall=3.69"
Prepared by Ambit Engineering		Printed 2022-12-23
HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions LL	С	Page 7
Time span=0.00-24.00 hrs, dt=0.05 hrs, 4 Runoff by SCS TR-20 method, UH=SCS, W		

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment E1:

Runoff Area=2,922 sf 28.78% Impervious Runoff Depth>0.45" Tc=5.0 min CN=56 Runoff=0.02 cfs 0.003 af

Subcatchment E2:

Runoff Area=4,721 sf 37.60% Impervious Runoff Depth>0.66" Tc=5.0 min CN=61 Runoff=0.07 cfs 0.006 af

Pond DP1:

Inflow=0.08 cfs 0.008 af Primary=0.08 cfs 0.008 af

Total Runoff Area = 0.175 acRunoff Volume = 0.008 afAverage Runoff Depth = 0.58"65.77% Pervious = 0.115 ac34.23% Impervious = 0.060 ac

Summary for Subcatchment E1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.02 cfs @ 12.12 hrs, Volume= Routed to Pond DP1 : 0.003 af, Depth> 0.45"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 2-yr Rainfall=3.69"

	A	rea (sf)	CN	Description						
		2,045	39	>75% Gras	s cover, Go	ood, HSG A				
*		49	98	Paved park	ing, HSG A	A, Retwall				
		733	98	Roofs, HSC	βĂ					
		59	98	Paved park	ing, HSG A	Ą				
*		36	50	Drip Apron	а.					
		2,922	56	Weighted Average						
		2,081		71.22% Pei	vious Area	а				
		841		28.78% Impervious Area						
	Тс	Length	Slope	e Velocity	Capacity	Description				
	(min)	(feet)	(ft/ft) (ft/sec)	(cfs)					
	5.0					Direct Entry,				
						-				

Summary for Subcatchment E2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.07 cfs @ 12.10 hrs, Volume= 0.006 af, Depth> 0.66" Routed to Pond DP1 :

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 2-yr Rainfall=3.69"

Α	rea (sf)	CN	Description						
	2,946	39	>75% Grass cover, Good, HSG A						
*	23	98	Paved parking, HSG A, Retwall						
	1,451	98	Roofs, HSC	θĂ.					
	301	98	Paved park	ing, HSG A	Α				
	4,721	61	Weighted Average						
	2,946		62.40% Pei	rvious Area	а				
	1,775		37.60% Impervious Area						
-		~		A					
Tc	Length	Slope	,	Capacity	1				
(min)	(feet)	(ft/ft	(ft/sec)	(cfs)					
5.0					Direct Entry,				

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	=	0.175 ac, 34.23% Imp	ervious, Inflow De	epth > 0.58"	for 2-yr event
Inflow =	=	0.08 cfs @ 12.11 hrs,	Volume=	0.008 af	
Primary =	=	0.08 cfs @ 12.11 hrs,	Volume=	0.008 af, Atte	en= 0%, Lag= 0.0 min

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

2022-12-22 Existing Conditions - David T	Type III 24-hr 10-yr Rainfall=5.59"
Prepared by Ambit Engineering	Printed 2022-12-23
HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions	LLC Page 10
Time span=0.00-24.00 hrs, dt=0.05 hrs Runoff by SCS TR-20 method, UH=SCS,	Weighted-CN

Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment E1:

Runoff Area=2,922 sf 28.78% Impervious Runoff Depth>1.36" Tc=5.0 min CN=56 Runoff=0.09 cfs 0.008 af

Subcatchment E2:

Runoff Area=4,721 sf 37.60% Impervious Runoff Depth>1.73" Tc=5.0 min CN=61 Runoff=0.21 cfs 0.016 af

Pond DP1:

Inflow=0.30 cfs 0.023 af Primary=0.30 cfs 0.023 af

Total Runoff Area = 0.175 acRunoff Volume = 0.023 afAverage Runoff Depth = 1.59"65.77% Pervious = 0.115 ac34.23% Impervious = 0.060 ac

Summary for Subcatchment E1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.09 cfs @ 12.09 hrs, Volume= Routed to Pond DP1 : 0.008 af, Depth> 1.36"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 10-yr Rainfall=5.59"

	A	rea (sf)	CN	Description						
		2,045	39	>75% Gras	s cover, Go	ood, HSG A				
*		49	98	Paved park	ing, HSG A	A, Retwall				
		733	98	Roofs, HSC	βĂ					
		59	98	Paved park	ing, HSG A	Ą				
*		36	50	Drip Apron	а.					
		2,922	56	Weighted Average						
		2,081		71.22% Pei	vious Area	а				
		841		28.78% Impervious Area						
	Тс	Length	Slope	e Velocity	Capacity	Description				
	(min)	(feet)	(ft/ft) (ft/sec)	(cfs)					
	5.0					Direct Entry,				
						-				

Summary for Subcatchment E2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.21 cfs @ 12.09 hrs, Volume= 0.016 af, Depth> 1.73" Routed to Pond DP1 :

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 10-yr Rainfall=5.59"

A	vrea (sf)	CN	Description								
	2,946	39	>75% Gras	•75% Grass cover, Good, HSG A							
*	23	98	Paved parking, HSG A, Retwall								
	1,451	98	Roofs, HSC	βĂ							
	301	98	Paved park	ing, HSG A	Α						
	4,721	61	Weighted Average								
	2,946		62.40% Pervious Area								
	1,775		37.60% Impervious Area								
Tc	Length	Slope		Capacity	I I I I I I I I I I I I I I I I I I I						
(min)	(feet)	(ft/ft	(ft/sec)	(cfs)							
5.0					Direct Entry,						

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	a =	0.175 ac, 34.23% Impervious, Inflow Depth > 1.59" for 10-yr event
Inflow	=	0.30 cfs @ 12.09 hrs, Volume= 0.023 af
Primary	=	0.30 cfs @ 12.09 hrs, Volume= 0.023 af, Atten= 0%, Lag= 0.0 min

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

2022-12-22 Existing Conditions - David T	Type III 24-hr 25-yr Rainfall=7.10"
Prepared by Ambit Engineering	Printed 2022-12-23
HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions	LLC Page 13
Time span=0.00-24.00 hrs, dt=0.05 hrs Runoff by SCS TR-20 method, UH=SCS, Reach routing by Stor-Ind+Trans method - Pond ro	Weighted-CN

Subcatchment E1:

Runoff Area=2,922 sf 28.78% Impervious Runoff Depth>2.28" Tc=5.0 min CN=56 Runoff=0.17 cfs 0.013 af

Subcatchment E2:

Runoff Area=4,721 sf 37.60% Impervious Runoff Depth>2.77" Tc=5.0 min CN=61 Runoff=0.35 cfs 0.025 af

Pond DP1:

Inflow=0.52 cfs 0.038 af Primary=0.52 cfs 0.038 af

Total Runoff Area = 0.175 acRunoff Volume = 0.038 afAverage Runoff Depth = 2.58"65.77% Pervious = 0.115 ac34.23% Impervious = 0.060 ac

Summary for Subcatchment E1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.17 cfs @ 12.09 hrs, Volume= Routed to Pond DP1 : 0.013 af, Depth> 2.28"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 25-yr Rainfall=7.10"

	A	rea (sf)	CN	Description						
		2,045	39	>75% Gras	s cover, Go	ood, HSG A				
*		49	98	Paved park	ing, HSG A	A, Retwall				
		733	98	Roofs, HSC	βĂ					
		59	98	Paved park	ing, HSG A	Α				
*		36	50	Drip Apron	-					
		2,922	56	Weighted Average						
		2,081		71.22% Per	vious Area	а				
		841		28.78% Imp	pervious Ar	rea				
	Тс	Length	Slope	e Velocity	Capacity	Description				
(r	min)	(feet)	(ft/ft) (ft/sec)	(cfs)					
	5.0					Direct Entry,				

Summary for Subcatchment E2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.35 cfs @ 12.08 hrs, Volume= 0.025 af, Depth> 2.77" Routed to Pond DP1 :

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 25-yr Rainfall=7.10"

A	Area (sf)	CN	Description						
	2,946	39	>75% Grass cover, Good, HSG A						
*	23	98	Paved parking, HSG A, Retwall						
	1,451	98	Roofs, HSC	βĂ					
	301	98	Paved park	ing, HSG A	Α				
	4,721	61	Weighted Average						
	2,946		62.40% Per	vious Area	а				
	1,775		37.60% Impervious Area						
т.	1	<u>Olan</u>	Mala alter	0	Description				
Tc	5	Slope	,	Capacity	1				
(min)	(feet)	(ft/ft) (ft/sec)	(cfs)					
5.0					Direct Entry,				

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	a =	0.175 ac, 34.23% Impervious, Inflow Depth > 2.58" for 25-yr event	
Inflow	=	0.52 cfs @ 12.08 hrs, Volume= 0.038 af	
Primary	=	0.52 cfs @ 12.08 hrs, Volume= 0.038 af, Atten= 0%, Lag= 0.0 min	

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

2022-12-22 Existing Conditions - David T	Type III 24-hr 50-y	r Rainfall=8.50"
Prepared by Ambit Engineering	Prir	nted 2022-12-23
HydroCAD® 10.20-2g s/n 00801 © 2022 HydroCAD Software Solutions	LLC	Page 16
Time span=0.00-24.00 hrs, dt=0.05 hrs, Runoff by SCS TR-20 method, UH=SCS, Reach routing by Stor-Ind+Trans method - Pond rou	Weighted-CN	od

Subcatchment E1:

Runoff Area=2,922 sf 28.78% Impervious Runoff Depth>3.24" Tc=5.0 min CN=56 Runoff=0.25 cfs 0.018 af

Subcatchment E2:

Runoff Area=4,721 sf 37.60% Impervious Runoff Depth>3.83" Tc=5.0 min CN=61 Runoff=0.48 cfs 0.035 af

Pond DP1:

Inflow=0.73 cfs 0.053 af Primary=0.73 cfs 0.053 af

Total Runoff Area = 0.175 acRunoff Volume = 0.053 afAverage Runoff Depth = 3.60"65.77% Pervious = 0.115 ac34.23% Impervious = 0.060 ac

Summary for Subcatchment E1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.25 cfs @ 12.08 hrs, Volume= Routed to Pond DP1 : 0.018 af, Depth> 3.24"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 50-yr Rainfall=8.50"

	A	rea (sf)	CN	Description				
		2,045	39	>75% Gras	s cover, Go	ood, HSG A		
*		49	98	Paved park	ing, HSG A	, Retwall		
		733	98	Roofs, HSC	βĂ			
		59	98	Paved park	ing, HSG A	١		
*		36	50	Drip Apron	-			
		2,922	56	Weighted A	verage			
		2,081		71.22% Pervious Area				
		841		28.78% Impervious Area				
	Тс	Length	Slope	Velocity	Capacity	Description		
	(min)	(feet)	(ft/ft)	(ft/sec)	(cfs)			
	5.0					Direct Entry,		
						-		

Summary for Subcatchment E2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.48 cfs @ 12.08 hrs, Volume= 0.035 af, Depth> 3.83" Routed to Pond DP1 :

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 50-yr Rainfall=8.50"

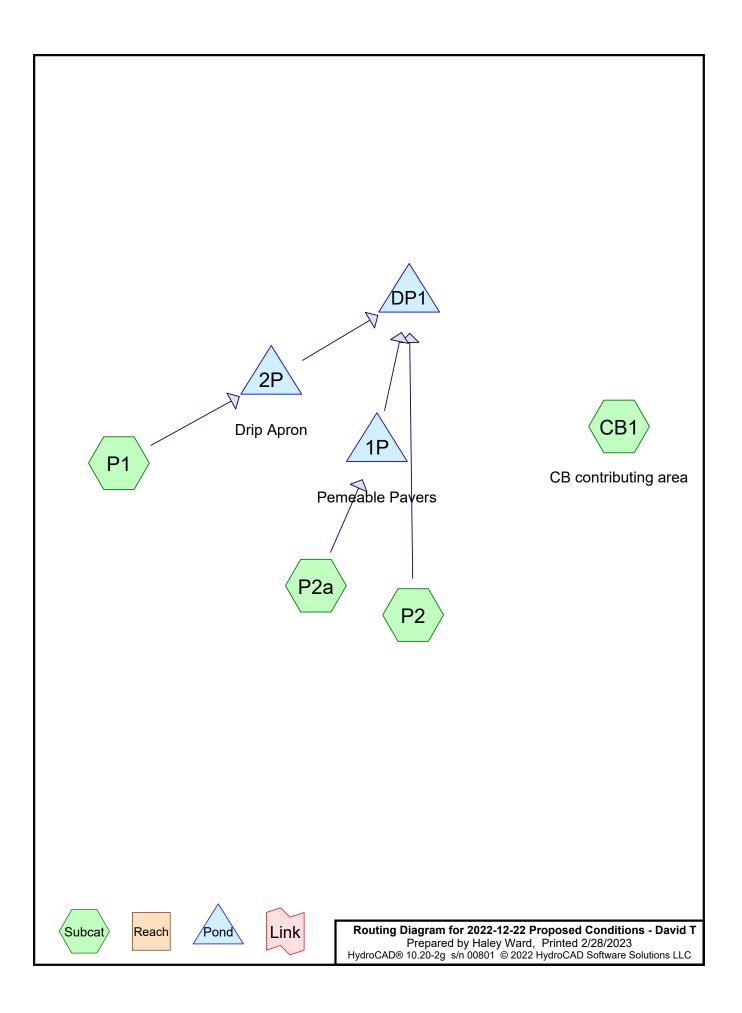
A	vrea (sf)	CN	Description				
	2,946	39	>75% Gras	s cover, Go	lood, HSG A		
*	23	98	Paved park	ing, HSG A	A, Retwall		
	1,451	98	Roofs, HSC	βĂ			
	301	98	Paved park	ing, HSG A	Α		
	4,721	61	Weighted Average				
	2,946		62.40% Pervious Area				
	1,775		37.60% Impervious Area				
Tc	Length	Slope		Capacity	I		
(min)	(feet)	(ft/ft	(ft/sec)	(cfs)			
5.0					Direct Entry,		

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	=	0.175 ac, 34.23% Impervious, Inflo	ow Depth > 3.60" for 50-yr event	
Inflow	=	0.73 cfs @ 12.08 hrs, Volume=	0.053 af	
Primary	=	0.73 cfs @ 12.08 hrs, Volume=	0.053 af, Atten= 0%, Lag= 0.0 min	I

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs



Project Notes

Defined 5 rainfall events from output (21) IDF

Event#	Event	Storm Type	Curve	Mode	Duration	B/B	Depth	AMC
	Name				(hours)		(inches)	
1	2-yr	Type III 24-hr		Default	24.00	1	3.69	2
2	10-yr	Type III 24-hr		Default	24.00	1	5.59	2
3	25-yr	Type III 24-hr		Default	24.00	1	7.10	2
4	50-yr	Type III 24-hr		Default	24.00	1	8.50	2

Rainfall Events Listing (selected events)

Area Listing (selected nodes)

Area	a CN	Description
(acres)	(subcatchment-numbers)
0.13	3 39	>75% Grass cover, Good, HSG A (CB1, P1, P2, P2a)
0.004	4 50	Drip Apron (CB1, P1, P2)
0.004	4 96	Gravel surface, HSG A (CB1, P1)
0.114	4 98	Paved parking, HSG A (CB1, P1, P2a)
0.00	9 98	Paved parking, HSG A, Retwall (P1, P2, P2a)
0.01	6 50	Permeable Pavers (P1, P2a)
0.05	9 98	Roofs, HSG A (CB1, P2, P2a)
0.00	3 98	Water Surface, HSG A (P2a)
0.34	0 72	TOTAL AREA

Soil Listing (selected nodes)

Area	Soil	Subcatchment
(acres)	Group	Numbers
0.321	HSG A	CB1, P1, P2, P2a
0.000	HSG B	
0.000	HSG C	
0.000	HSG D	
0.019	Other	CB1, P1, P2, P2a
0.340		TOTAL AREA

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HSG-A	HSG-B	HSG-C	HSG-D	Other	Total	Ground	Subcatchment
 (acres)	(acres)	(acres)	(acres)	(acres)	(acres)	Cover	Numbers
 0.133	0.000	0.000	0.000	0.000	0.133	>75% Grass cover, Good	CB1, P1,
							P2, P2a
0.000	0.000	0.000	0.000	0.004	0.004	Drip Apron	CB1, P1,
							P2
0.004	0.000	0.000	0.000	0.000	0.004	Gravel surface	CB1, P1
0.123	0.000	0.000	0.000	0.000	0.123	Paved parking	CB1, P1,
							P2, P2a
0.000	0.000	0.000	0.000	0.016	0.016	Permeable Pavers	P1, P2a
0.059	0.000	0.000	0.000	0.000	0.059	Roofs	CB1, P2,
							P2a
0.003	0.000	0.000	0.000	0.000	0.003	Water Surface	P2a
0.321	0.000	0.000	0.000	0.019	0.340	TOTAL AREA	

Ground Covers (selected nodes)

2022-12-22 Proposed Conditions - De Prepared by Haley Ward	avid T Type III 24-hr 2-yr Rainfall=3.69" Printed 2/28/2023					
HydroCAD® 10.20-2g s/n 00801 © 2022 HydroC	CAD Software Solutions LLC Page 7					
Time span=0.00-24.00 hrs, dt=0.05 hrs, 481 points Runoff by SCS TR-20 method, UH=SCS, Weighted-CN Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method						
Subcatchment CB1: CB contributing area Flow Length=189'	Runoff Area=7,163 sf 62.40% Impervious Runoff Depth>1.57" Slope=0.0258 '/' Tc=5.7 min CN=77 Runoff=0.30 cfs 0.022 af					
SubcatchmentP1:	Runoff Area=2,156 sf 42.39% Impervious Runoff Depth>0.96" Tc=5.0 min CN=67 Runoff=0.05 cfs 0.004 af					
SubcatchmentP2:	Runoff Area=2,820 sf 25.92% Impervious Runoff Depth>0.41" Tc=5.0 min CN=55 Runoff=0.02 cfs 0.002 af					
SubcatchmentP2a:	Runoff Area=2,667 sf 71.69% Impervious Runoff Depth>2.10" Tc=5.0 min CN=84 Runoff=0.15 cfs 0.011 af					
Pond 1P: Pemeable Pavers Discarded=0.04 cfs	Peak Elev=0.74' Storage=0.002 af Inflow=0.15 cfs 0.011 af 0.011 af Primary=0.00 cfs 0.000 af Outflow=0.04 cfs 0.011 af					

Pond 2P: Drip ApronPeak Elev=1.41' Storage=0.001 af Inflow=0.05 cfs 0.004 af
Discarded=0.01 cfs 0.004 af Primary=0.00 cfs 0.000 af Outflow=0.01 cfs 0.004 af

Pond DP1:

Inflow=0.02 cfs 0.002 af Primary=0.02 cfs 0.002 af

Total Runoff Area = 0.340 acRunoff Volume = 0.038 afAverage Runoff Depth = 1.36"45.79% Pervious = 0.156 ac54.21% Impervious = 0.184 ac

Summary for Subcatchment CB1: CB contributing area

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.30 cfs @ 12.09 hrs, Volume= 0.022 af, Depth> 1.57"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 2-yr Rainfall=3.69"

	A	rea (sf)	CN	Description				
		3,815	98	Paved park	ing, HSG A	١		
*		43	50	Drip Apron				
		82	96	Gravel surfa	ace, HSG A	A		
		168	98	Paved park	ing, HSG A	١		
		487	98	Roofs, HSC	βA			
		2,568	39	>75% Grass cover, Good, HSG A				
		7,163	77	77 Weighted Average				
		2,693		37.60% Pei	vious Area			
		4,470		62.40% Impervious Area				
	Тс	Length	Slope		Capacity	Description		
(m	nin)	(feet)	(ft/ft)	(ft/sec)	(cfs)			
	5.7	189	0.0258	0.55		Lag/CN Method,		

Summary for Subcatchment P1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.05 cfs @ 12.09 hrs, Volume= 0.004 af, Depth> 0.96" Routed to Pond 2P : Drip Apron

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 2-yr Rainfall=3.69"

	A	rea (sf)	CN	CN Description					
		1,082	39	>75% Gras	s cover, Go	bod, HSG A			
*		62	50	Drip Apron					
*		16	50	Permeable	Pavers				
		82	96	Gravel surfa	ace, HSG A	4			
*		226	98	Paved park	ing, HSG A	A, Retwall			
		688	98	Paved parking, HSG A					
		2,156	67	67 Weighted Average					
		1,242		57.61% Per	vious Area	l			
		914		42.39% Imp	ervious Are	ea			
(Tc min)	Length (feet)	Slope (ft/ft		Capacity (cfs)	Description			
	5.0					Direct Entry,			

Summary for Subcatchment P2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.02 cfs @ 12.14 hrs, Volume= Routed to Pond DP1 : 0.002 af, Depth> 0.41"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 2-yr Rainfall=3.69"

_	A	rea (sf)	CN	Description				
*		54	50	Drip Apron				
		2,035	39	>75% Gras	s cover, Go	lood, HSG A		
*		23	98	Paved park	ing, HSG A	A, Retwall		
_		708	98	Roofs, HSC	6 A			
		2,820	320 55 Weighted Average					
		2,089		74.08% Per	rvious Area	а		
		731		25.92% Imp	pervious Ar	rea		
	-		~		A			
	ŢĊ	Length	Slope		Capacity			
	(min)	(feet)	(ft/ft) (ft/sec)	(cfs)			
	5.0					Direct Entry,		

Summary for Subcatchment P2a:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.15 cfs @ 12.08 hrs, Volume= 0.011 af, Depth> 2.10" Routed to Pond 1P : Pemeable Pavers

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 2-yr Rainfall=3.69"

	A	ea (sf)	CN	Description				
*		665	50	Permeable	Pavers			
		289	98	Paved park	ing, HSG A	4		
		131	98	Water Surfa	ace, HSG A	4		
		90	39	>75% Gras	s cover, Go	ood, HSG A		
*		135	98	Paved park	ing, HSG A	A, Retwall		
		680	98	Roofs, HSC	6 A			
		677	98	Roofs, HSC	6 A			
		2,667	84	Weighted A	verage			
		755		28.31% Per	vious Area	3		
		1,912		71.69% Imp	pervious Ar	rea		
	Тс	Length	Slop	e Velocity	Capacity	Description		
(n	nin)	(feet)	(ft/f) (ft/sec)	(cfs)			
	5.0					Direct Entry,		

Summary for Pond 1P: Pemeable Pavers

Inflow Area = 0.061 ac, 71.69% Impervious, Inflow Depth > 2.10" for 2-yr event Inflow 0.15 cfs @ 12.08 hrs, Volume= 0.011 af = 0.04 cfs @ 11.85 hrs, Volume= Outflow = 0.011 af, Atten= 74%, Lag= 0.0 min 0.04 cfs @ 11.85 hrs, Volume= Discarded = 0.011 af Primary = 0.00 cfs @ 0.00 hrs, Volume= 0.000 af Routed to Pond DP1 :

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Peak Elev= 0.74' @ 12.46 hrs Surf.Area= 0.008 ac Storage= 0.002 af

Plug-Flow detention time= 14.9 min calculated for 0.011 af (100% of inflow) Center-of-Mass det. time= 14.5 min (836.3 - 821.8)

Volume	Invert	Avail.Storage	Storage Description
#1	0.00'	0.012 af	24.00'W x 14.00'L x 4.00'H Prismatoid
			0.031 af Overall x 40.0% Voids
#2	4.00'	0.008 af	24.00'W x 14.00'L x 1.00'H Prismatoid
		0.020 af	Total Available Storage
Device	Routing	Invert Ou	tlet Devices

#1	Discarded	0.00'	5.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01'
#2	Primary	4.00'	38.0' long Sharp-Crested Rectangular Weir 2 End Contraction(s)
			0.5' Crest Height

Discarded OutFlow Max=0.04 cfs @ 11.85 hrs HW=0.05' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.04 cfs)

Primary OutFlow Max=0.00 cfs @ 0.00 hrs HW=0.00' (Free Discharge) ←2=Sharp-Crested Rectangular Weir (Controls 0.00 cfs)

Summary for Pond 2P: Drip Apron

Inflow Area =	0.049 ac, 42.39% Imp	pervious, Inflow De	epth > 0.96"	for 2-yr event			
Inflow =	0.05 cfs @ 12.09 hrs	, Volume=	0.004 af	-			
Outflow =	0.01 cfs @ 11.90 hrs	, Volume=	0.004 af, Atte	en= 82%, Lag= 0.0 min			
Discarded =	0.01 cfs @ 11.90 hrs	, Volume=	0.004 af	-			
Primary =	0.00 cfs @ 0.00 hrs	, Volume=	0.000 af				
Routed to Pond DP1 :							

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Peak Elev= 1.41' @ 12.67 hrs Surf.Area= 0.002 ac Storage= 0.001 af

Plug-Flow detention time= 35.0 min calculated for 0.004 af (100% of inflow) Center-of-Mass det. time= 34.6 min (908.5 - 874.0)

2022-12-22 Proposed Conditions - David T

Prepared by Haley Ward

 Type III 24-hr
 2-yr Rainfall=3.69"

 Printed
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Volume	Invert	Avail.Storage	Storage Description
#1	0.00'	0.002 af	13.00'W x 6.00'L x 3.00'H Prismatoid
			0.005 af Overall x 40.0% Voids
#2	3.00'	0.002 af	13.00'W x 6.00'L x 1.00'H Prismatoid
		0.004 af	Total Available Storage
Device	Routing	Invert O	utlet Devices
#1	Discarded	0.00' 5 .	.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01'
#2	Primary		4.0' Iong Sharp-Crested Rectangular Weir 0 End Contraction(s)
		0.	.5' Crest Height
	_		

Discarded OutFlow Max=0.01 cfs @ 11.90 hrs HW=0.04' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.01 cfs)

Primary OutFlow Max=0.00 cfs @ 0.00 hrs HW=0.00' (Free Discharge) ←2=Sharp-Crested Rectangular Weir (Controls 0.00 cfs)

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	a =	0.175 ac, 46.54% Impervious, Inflow Depth > 0.15" for 2-yr	event
Inflow	=	0.02 cfs @ 12.14 hrs, Volume= 0.002 af	
Primary	=	0.02 cfs @ 12.14 hrs, Volume= 0.002 af, Atten= 0%, L	_ag= 0.0 min

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

2022-12-22 Proposed Conditions - I Prepared by Haley Ward	David T	Type III 24-hr	<i>10-yr Rainfall=5.59"</i> Printed 2/28/2023					
HydroCAD® 10.20-2g s/n 00801 © 2022 Hydro	CAD Software Solutions	LLC	Page 12					
Time span=0.00-24.00 hrs, dt=0.05 hrs, 481 points Runoff by SCS TR-20 method, UH=SCS, Weighted-CN Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method								
Subcatchment CB1: CB contributing area Flow Length=189			ous Runoff Depth>3.12" Runoff=0.59 cfs 0.043 af					
SubcatchmentP1:			ous Runoff Depth>2.22" Runoff=0.13 cfs 0.009 af					
SubcatchmentP2:			ous Runoff Depth>1.29" Runoff=0.09 cfs 0.007 af					
Subcatchment P2a:			ous Runoff Depth>3.81" Runoff=0.27 cfs 0.019 af					
Pond 1P: Pemeable Pavers Discarded=0.04 c		•	Inflow=0.27 cfs 0.019 af utflow=0.04 cfs 0.019 af					
Pond 2P: Drip Apron Discarded=0.02 c			Inflow=0.13 cfs 0.009 af utflow=0.08 cfs 0.009 af					
Pond DP1:		Ρ	Inflow=0.12 cfs 0.008 af rimary=0.12 cfs 0.008 af					
Total Runoff Area = 0.340 a	ic Runoff Volume = 0 45.79% Pervious = 0.1		ge Runoff Depth = 2.77" Impervious = 0.184 ac					

Summary for Subcatchment CB1: CB contributing area

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.59 cfs @ 12.09 hrs, Volume= 0.043 af, Depth> 3.12"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 10-yr Rainfall=5.59"

	A	rea (sf)	CN	Description				
		3,815	98	Paved park	ing, HSG A	١		
*		43	50	Drip Apron				
		82	96	Gravel surfa	ace, HSG A	A		
		168	98	Paved park	ing, HSG A	١		
		487	98	Roofs, HSC	βA			
		2,568	39	>75% Grass cover, Good, HSG A				
		7,163	77	77 Weighted Average				
		2,693		37.60% Pei	vious Area			
		4,470		62.40% Impervious Area				
	Тс	Length	Slope		Capacity	Description		
(m	nin)	(feet)	(ft/ft)	(ft/sec)	(cfs)			
	5.7	189	0.0258	0.55		Lag/CN Method,		

Summary for Subcatchment P1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.13 cfs @ 12.08 hrs, Volume= 0.009 af, Depth> 2.22" Routed to Pond 2P : Drip Apron

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 10-yr Rainfall=5.59"

	A	rea (sf)	CN	CN Description					
		1,082	39	>75% Gras	s cover, Go	bod, HSG A			
*		62	50	Drip Apron					
*		16	50	Permeable	Pavers				
		82	96	Gravel surfa	ace, HSG A	4			
*		226	98	Paved park	ing, HSG A	A, Retwall			
		688	98	Paved parking, HSG A					
		2,156	67	67 Weighted Average					
		1,242		57.61% Per	vious Area	l			
		914		42.39% Imp	ervious Are	ea			
(Tc min)	Length (feet)	Slope (ft/ft		Capacity (cfs)	Description			
	5.0					Direct Entry,			

Summary for Subcatchment P2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.09 cfs @ 12.09 hrs, Volume= Routed to Pond DP1 : 0.007 af, Depth> 1.29"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 10-yr Rainfall=5.59"

	A	rea (sf)	CN	Description				
*		54	50	Drip Apron				
		2,035	39	>75% Gras	s cover, Go	ood, HSG A		
*		23	98	Paved park	Paved parking, HSG A, Retwall			
		708	98	Roofs, HSC	β A			
		2,820	55	Weighted Average				
		2,089		74.08% Per	vious Area	a		
		731		25.92% Imp	rea			
	Tc (min)	Length (feet)	Slope (ft/ft		Capacity (cfs)			
	5.0					Direct Entry,		

Summary for Subcatchment P2a:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.27 cfs @ 12.07 hrs, Volume= 0.019 a Routed to Pond 1P : Pemeable Pavers

0.019 af, Depth> 3.81"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 10-yr Rainfall=5.59"

	Area	(sf)	CN	Description				
*		665	50	Permeable	Pavers			
		289	98	Paved park	ing, HSG A	4		
		131	98	Water Surfa	ace, HSG A	4		
		90	39	>75% Gras	s cover, Go	ood, HSG A		
*		135		Paved park		A, Retwall		
		680	98	Roofs, HSC	6 Á			
		677	98	Roofs, HSC	6 A			
	2,	667	84	Weighted A	verage			
		755		28.31% Pei	vious Area	3		
	1,	912		71.69% Imp	ervious Ar	rea		
				-				
	Tc Le	ength	Slope	e Velocity	Capacity	Description		
(m	in) ((feet)	(ft/ft) (ft/sec)	(cfs)			
ł	5.0					Direct Entry,		

Summary for Pond 1P: Pemeable Pavers

Inflow Area = 0.061 ac, 71.69% Impervious, Inflow Depth > 3.81" for 10-yr event Inflow 0.27 cfs @ 12.07 hrs, Volume= 0.019 af = 0.04 cfs @ 11.70 hrs, Volume= Outflow = 0.019 af, Atten= 86%, Lag= 0.0 min 0.04 cfs @ 11.70 hrs, Volume= Discarded = 0.019 af Primary = 0.00 cfs @ 0.00 hrs, Volume= 0.000 af Routed to Pond DP1 :

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Peak Elev= 1.96' @ 12.59 hrs Surf.Area= 0.008 ac Storage= 0.006 af

Plug-Flow detention time= 45.8 min calculated for 0.019 af (100% of inflow) Center-of-Mass det. time= 45.4 min (850.3 - 804.9)

Volume	Invert	Avail.Storage	Storage Description
#1	0.00'	0.012 af	24.00'W x 14.00'L x 4.00'H Prismatoid
			0.031 af Overall x 40.0% Voids
#2	4.00'	0.008 af	24.00'W x 14.00'L x 1.00'H Prismatoid
	0.020 af		Total Available Storage
Device	Routing	Invert Ou	tlet Devices

#1	Discarded	0.00'	5.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01'
#2	Primary	4.00'	38.0' long Sharp-Crested Rectangular Weir 2 End Contraction(s)
			0.5' Crest Height

Discarded OutFlow Max=0.04 cfs @ 11.70 hrs HW=0.06' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.04 cfs)

Primary OutFlow Max=0.00 cfs @ 0.00 hrs HW=0.00' (Free Discharge) ←2=Sharp-Crested Rectangular Weir (Controls 0.00 cfs)

Summary for Pond 2P: Drip Apron

Inflow Area =	0.049 ac, 4	2.39% Impervious, Inflov	v Depth > 2.22"	for 10-yr event		
Inflow =	0.13 cfs @	12.08 hrs, Volume=	0.009 af	-		
Outflow =	0.08 cfs @	12.21 hrs, Volume=	0.009 af, Atte	n= 35%, Lag= 7.9 min		
Discarded =	0.02 cfs @	12.20 hrs, Volume=	0.008 af			
Primary =	0.06 cfs @	12.21 hrs, Volume=	0.001 af			
Routed to Pond DP1 :						

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Peak Elev= 3.00' @ 12.20 hrs Surf.Area= 0.004 ac Storage= 0.002 af

Plug-Flow detention time= 80.5 min calculated for 0.009 af (100% of inflow) Center-of-Mass det. time= 80.1 min (927.9 - 847.7)

2022-12-22 Proposed Conditions - David T

Prepared by Haley Ward

Type III 24-hr 10-yr Rainfall=5.59" Printed 2/28/2023 LC Page 16

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Volume	Invert	Avail.Storage	Storage Description
#1	0.00'	0.002 af	
			0.005 af Overall x 40.0% Voids
#2	3.00'	0.002 af	13.00'W x 6.00'L x 1.00'H Prismatoid
		0.004 af	Total Available Storage
			-
Device	Routing	Invert Ou	utlet Devices
#1	Discarded	0.00' 5.	000 in/hr Exfiltration over Horizontal area Phase-In= 0.01'
#2	Primary		I.0' Iong Sharp-Crested Rectangular Weir 0 End Contraction(s)
		0.9	5' Crest Height

Discarded OutFlow Max=0.02 cfs @ 12.20 hrs HW=3.00' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.02 cfs)

Primary OutFlow Max=0.01 cfs @ 12.21 hrs HW=3.00' (Free Discharge) **2=Sharp-Crested Rectangular Weir** (Weir Controls 0.01 cfs @ 0.16 fps)

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	a =	0.175 ac, 46.54% Impervious, Inflow Depth > 0.55" for 10-yr event
Inflow	=	0.12 cfs @ 12.21 hrs, Volume= 0.008 af
Primary	=	0.12 cfs $@$ 12.21 hrs, Volume= 0.008 af, Atten= 0%, Lag= 0.0 min

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

2022-12-22 Proposed Conditions - Prepared by Haley Ward	David T	Type III 24-hr 25-yr Rainfall=7.10" Printed 2/28/2023
HydroCAD® 10.20-2g s/n 00801 © 2022 Hydro	oCAD Software Solutions	
	0-24.00 hrs, dt=0.05 hrs R-20 method, UH=SCS, rans method - Pond ro	Weighted-CN
Subcatchment CB1: CB contributing area Flow Length=189		62.40% Impervious Runoff Depth>4.45" 5.7 min CN=77 Runoff=0.84 cfs 0.061 af
Subcatchment P1:		42.39% Impervious Runoff Depth>3.38" 5.0 min CN=67 Runoff=0.20 cfs 0.014 af
Subcatchment P2:		25.92% Impervious Runoff Depth>2.19" 5.0 min CN=55 Runoff=0.16 cfs 0.012 af
Subcatchment P2a:		71.69% Impervious Runoff Depth>5.23" 5.0 min CN=84 Runoff=0.37 cfs 0.027 af
Pond 1P: Pemeable Pavers Discarded=0.04 c		Storage=0.009 af Inflow=0.37 cfs 0.027 af 00 cfs 0.000 af Outflow=0.04 cfs 0.027 af
Pond 2P: Drip Apron Discarded=0.02 c		Storage=0.002 af Inflow=0.20 cfs 0.014 af 82 cfs 0.004 af Outflow=0.34 cfs 0.014 af
Pond DP1:		Inflow=0.48 cfs 0.015 af Primary=0.48 cfs 0.015 af
Total Runoff Area = 0.340 a	ac Runoff Volume = (45.79% Pervious = 0.1	U I

Summary for Subcatchment CB1: CB contributing area

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.84 cfs @ 12.09 hrs, Volume= 0.061 af, Depth> 4.45"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 25-yr Rainfall=7.10"

vrea (sf)	CN	Description					
3,815	98	Paved parking, HSG A					
43	50	Drip Apron					
82	96	Gravel surfa	ace, HSG A	۱.			
168	98						
487	98	Roofs, HSG A					
2,568	39 :	>75% Grass cover, Good, HSG A					
7,163	77	Neighted A					
2,693		37.60% Pervious Area					
4,470	(62.40% Impervious Area					
Length	Slope	Velocity	Capacity	Description			
(feet)	(ft/ft)	(ft/sec)	(cfs)				
189	0.0258	0.55		Lag/CN Method,			
	43 82 168 487 2,568 7,163 2,693 4,470 Length (feet)	3,815 98 1 43 50 1 82 96 0 168 98 1 487 98 1 2,568 39 2 7,163 77 1 2,693 3 3 4,470 6 Length Slope (feet) (ft/ft)	3,815 98 Paved parki 43 50 Drip Apron 82 96 Gravel surfa 168 98 Paved parki 487 98 Roofs, HSG 2,568 39< >75% Grass 7,163 77 Weighted A 2,693 37.60% Per 4,470 62.40% Imp Length Slope Velocity (feet) (ft/ft) (ft/sec)	3,81598Paved parking, HSG A4350Drip Apron8296Gravel surface, HSG A16898Paved parking, HSG A48798Roofs, HSG A2,56839>75% Grass cover, Go7,16377Weighted Average2,69337.60% Pervious Area4,47062.40% Impervious AreaLengthSlopeVelocity(feet)(ft/ft)(ft/sec)(cfs)	3,81598Paved parking, HSG A4350Drip Apron8296Gravel surface, HSG A16898Paved parking, HSG A48798Roofs, HSG A2,56839>75% Grass cover, Good, HSG A7,16377Weighted Average2,69337.60% Pervious Area4,47062.40% Impervious AreaLengthSlopeVelocity(feet)(ft/ft)(ft/sec)(cfs)		

Summary for Subcatchment P1:

[49] Hint: Tc<2dt may require smaller dt

Runoff	=	0.20 cfs @	12.08 hrs,	Volume=	0.014 af,	Depth> 3.38"
Routed	to Pond	2P : Drip Ap	ron			-

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 25-yr Rainfall=7.10"

	Area (sf)	CN	Description					
	1,082	39	>75% Grass c	over, Go	bod, HSG A			
*	62	50	Drip Apron					
*	16	50	Permeable Pa	vers				
	82	96	Gravel surface	, HSG A	Α			
*	226	98	Paved parking	Paved parking, HSG A, Retwall				
	688	98	Paved parking, HSG A					
	2,156	67	Weighted Average					
	1,242		57.61% Pervio	ous Area	1			
	914		42.39% Impervious Area					
(mi	Tc Length n) (feet)	Slop (ft/f		apacity (cfs)	Description			
5	0.0				Direct Entry,			

Summary for Subcatchment P2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.16 cfs @ 12.09 hrs, Volume= Routed to Pond DP1 : 0.012 af, Depth> 2.19"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 25-yr Rainfall=7.10"

_	A	rea (sf)	CN	Description					
*		54	50	Drip Apron					
		2,035	39	>75% Gras	s cover, Go	ood, HSG A			
*		23	98	Paved park	Paved parking, HSG A, Retwall				
_		708	98	Roofs, HSC	Roofs, HSG A				
		2,820	55	Weighted Average					
		2,089		74.08% Pei	rvious Area	а			
		731		25.92% Impervious Area					
	-		01		0				
	Tc	Length	Slope		Capacity				
_	(min)	(feet)	(ft/ft) (ft/sec)	(cfs)				
	5.0					Direct Entry,			

Summary for Subcatchment P2a:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.37 cfs @ 12.07 hrs, Volume= Routed to Pond 1P : Pemeable Pavers 0.027 af, Depth> 5.23"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 25-yr Rainfall=7.10"

	Area (sf)	CN	Description			
*	665	50	Permeable	Pavers		
	289	98	Paved park	ing, HSG A	4	
	131	98	Water Surfa	ace, HSG A	4	
	90	39	>75% Gras	s cover, Go	ood, HSG A	
*	135	98	Paved park	ing, HSG A	A, Retwall	
	680	98	Roofs, HSC	6 A		
	677	98	Roofs, HSC	β A		
	2,667	84	Weighted A	verage		
	755	28.31% Pervious Area				
	1,912		71.69% Imp	pervious Ar	rea	
			-			
-	Tc Length	Slop	e Velocity	Capacity	Description	
(mi	n) (feet)	(ft/	ft) (ft/sec)	(cfs)		
5	.0				Direct Entry,	

Summary for Pond 1P: Pemeable Pavers

Inflow Area = 0.061 ac. 71.69% Impervious. Inflow Depth > 5.23" for 25-vr event Inflow 0.37 cfs @ 12.07 hrs, Volume= 0.027 af = 0.04 cfs @ 11.60 hrs, Volume= Outflow = 0.027 af, Atten= 89%, Lag= 0.0 min 0.04 cfs @ 11.60 hrs, Volume= 0.027 af Discarded = Primary = 0.00 cfs @ 0.00 hrs, Volume= 0.000 af Routed to Pond DP1 : Routing by Stor-Ind method. Time Span= 0.00-24.00 hrs. dt= 0.05 hrs. Peak Elev= 3.05' @ 12.82 hrs Surf.Area= 0.008 ac Storage= 0.009 af Plug-Flow detention time= 78.2 min calculated for 0.027 af (100% of inflow) Center-of-Mass det. time= 77.9 min (873.8 - 796.0) Volume Invert Avail.Storage Storage Description 0.012 af 24.00'W x 14.00'L x 4.00'H Prismatoid #1 0.00' 0.031 af Overall x 40.0% Voids 4.00' 0.008 af 24.00'W x 14.00'L x 1.00'H Prismatoid #2 0.020 af Total Available Storage Routing Invert Outlet Devices Device #1 Discarded 0.00' 5.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01' #2 Primary 4.00' 38.0' long Sharp-Crested Rectangular Weir 2 End Contraction(s) 0.5' Crest Height

Discarded OutFlow Max=0.04 cfs @ 11.60 hrs HW=0.05' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.04 cfs)

Primary OutFlow Max=0.00 cfs @ 0.00 hrs HW=0.00' (Free Discharge) ←2=Sharp-Crested Rectangular Weir (Controls 0.00 cfs)

Summary for Pond 2P: Drip Apron

[88] Warning: Qout>Qin may require smaller dt or Finer Routing [85] Warning: Oscillations may require smaller dt or Finer Routing (severity=8)

Inflow Area =	0.049 ac, 4	12.39% Impervious,	Inflow Depth > 3.38"	for 25-yr event
Inflow =	0.20 cfs @	12.08 hrs, Volume=	= 0.014 af	
Outflow =	0.34 cfs @	12.10 hrs, Volume=	= 0.014 af, Att	en= 0%, Lag= 1.2 min
Discarded =	0.02 cfs @	12.10 hrs, Volume=	= 0.010 af	
Primary =	0.32 cfs @	12.10 hrs, Volume=	= 0.004 af	
Routed to Pond	I DP1 :			

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Peak Elev= 3.01' @ 12.10 hrs Surf.Area= 0.004 ac Storage= 0.002 af

Plug-Flow detention time= 66.5 min calculated for 0.014 af (100% of inflow) Center-of-Mass det. time= 66.0 min (901.5 - 835.4) 2022-12-22 Proposed Conditions - David T

Prepared by Haley Ward

 Type III 24-hr
 25-yr Rainfall=7.10"

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Volume	Invert	Avail.Storage	Storage Description				
#1	0.00'	0.002 af	13.00'W x 6.00'L x 3.00'H Prismatoid				
			0.005 af Overall x 40.0% Voids				
#2	3.00'	0.002 af	13.00'W x 6.00'L x 1.00'H Prismatoid				
		0.004 af	Total Available Storage				
Device	Routing	Invert O	utlet Devices				
#1	Discarded	0.00' 5.	.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01'				
#2	Primary		4.0' long Sharp-Crested Rectangular Weir 0 End Contraction(s) .5' Crest Height				
	Rissanded OutFlow Mayro 02 of @ 12.10 km UW/-2.011 (Eres Discharge)						

Discarded OutFlow Max=0.02 cfs @ 12.10 hrs HW=3.01' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.02 cfs)

Primary OutFlow Max=0.19 cfs @ 12.10 hrs HW=3.01' (Free Discharge) **2=Sharp-Crested Rectangular Weir** (Weir Controls 0.19 cfs @ 0.39 fps)

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	a =	0.175 ac, 46.54% Impervious, Inflow Depth > 1.06" for 25-yr even	t
Inflow	=	0.48 cfs @ 12.10 hrs, Volume= 0.015 af	
Primary	=	0.48 cfs @ 12.10 hrs, Volume= 0.015 af, Atten= 0%, Lag= 0	.0 min

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

2022-12-22 Proposed Conditions - I Prepared by Haley Ward	David T	Type III 24-hr 50-yr Rainfall=8.50" Printed 2/28/2023
HydroCAD® 10.20-2g s/n 00801 © 2022 Hydro	CAD Software Solutions	
Time span=0.00	-24.00 hrs, dt=0.05 hrs -20 method, UH=SCS,	s, 481 points , Weighted-CN
Subcatchment CB1: CB contributing area Flow Length=189		f 62.40% Impervious Runoff Depth>5.73" 5.7 min CN=77 Runoff=1.08 cfs 0.079 af
SubcatchmentP1:		f 42.39% Impervious Runoff Depth>4.54" 5.0 min CN=67 Runoff=0.26 cfs 0.019 af
SubcatchmentP2:		f 25.92% Impervious Runoff Depth>3.13" 5.0 min CN=55 Runoff=0.23 cfs 0.017 af
SubcatchmentP2a:		f 71.69% Impervious Runoff Depth>6.57" 5.0 min CN=84 Runoff=0.46 cfs 0.034 af
Pond 1P: Pemeable Pavers Discarded=0.07 c		Storage=0.012 af Inflow=0.46 cfs 0.034 af 00 cfs 0.000 af Outflow=0.07 cfs 0.034 af
Pond 2P: Drip Apron Discarded=0.02 c		Storage=0.002 af Inflow=0.26 cfs 0.019 af 26 cfs 0.007 af Outflow=0.28 cfs 0.019 af
Pond DP1:		Inflow=0.49 cfs 0.023 af Primary=0.49 cfs 0.023 af
Total Runoff Area = 0.340 a	ic Runoff Volume = (45.79% Pervious = 0.1	U 1

Summary for Subcatchment CB1: CB contributing area

[49] Hint: Tc<2dt may require smaller dt

Runoff = 1.08 cfs @ 12.09 hrs, Volume= 0.079 af, Depth> 5.73"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 50-yr Rainfall=8.50"

	Area (sf)	CN	Description			
	3,815	98	Paved park	ing, HSG A	۱.	
*	43	50	Drip Apron			
	82	96	Gravel surfa	ace, HSG A	A Contraction of the second seco	
	168	98	Paved park	ing, HSG A	l l	
	487	98	Roofs, HSO	βA		
	2,568	39	>75% Gras	s cover, Go	ood, HSG A	
	7,163	77	Weighted A	verage		
	2,693		37.60% Pei	vious Area		
	4,470		62.40% Imp	pervious Ar	ea	
Тс	Length	Slope		Capacity	Description	
(min)	(feet)	(ft/ft	(ft/sec)	(cfs)		
5.7	189	0.0258	0.55		Lag/CN Method,	
5.7	105	0.0200	0.00		Eug/ort Method,	

Summary for Subcatchment P1:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.26 cfs @ 12.08 hrs, Volume= 0.019 af, Depth> 4.54" Routed to Pond 2P : Drip Apron

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 50-yr Rainfall=8.50"

	Area (sf)	CN	Description		
	1,082	39	>75% Grass c	over, Go	bod, HSG A
*	62	50	Drip Apron		
*	16	50	Permeable Pa	vers	
	82	96	Gravel surface	, HSG A	4
*	226	98	Paved parking	, HSG A	A, Retwall
	688	98	Paved parking	, HSG A	Α
	2,156	67	Weighted Aver	rage	
	1,242	57.61% Pervious Area			1
	914		42.39% Imperv	vious Are	ea
(mi	Tc Length n) (feet)	Slop (ft/f		apacity (cfs)	Description
5	0.0				Direct Entry,

Summary for Subcatchment P2:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.23 cfs @ 12.08 hrs, Volume= Routed to Pond DP1 : 0.017 af, Depth> 3.13"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 50-yr Rainfall=8.50"

	A	rea (sf)	CN	Description		
*		54	50	Drip Apron		
		2,035	39	>75% Gras	s cover, Go	ood, HSG A
*		23	98	Paved park	ing, HSG A	A, Retwall
		708	98	Roofs, HSC	β A	
		2,820	55	Weighted A	verage	
		2,089		74.08% Per	vious Area	а
		731		25.92% Imp	pervious Ar	rea
	Tc (min)	Length (feet)	Slope (ft/ft		Capacity (cfs)	
	5.0					Direct Entry,

Summary for Subcatchment P2a:

[49] Hint: Tc<2dt may require smaller dt

Runoff = 0.46 cfs @ 12.07 hrs, Volume= Routed to Pond 1P : Pemeable Pavers 0.034 af, Depth> 6.57"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Type III 24-hr 50-yr Rainfall=8.50"

	A	ea (sf)	CN	Description			
*		665	50	Permeable	Pavers		
		289	98	Paved park	ing, HSG A	4	
		131	98	Water Surfa	ace, HSG A	4	
		90	39	>75% Gras	s cover, Go	ood, HSG A	
*		135	98	Paved park	ing, HSG A	A, Retwall	
		680	98	Roofs, HSC	6 A		
		677	98	Roofs, HSC	6 A		
		2,667	84	Weighted A	verage		
		755	55 28.31% Pervious Area				
		1,912		71.69% Imp	pervious Ar	rea	
	Тс	Length	Slop	e Velocity	Capacity	Description	
(n	nin)	(feet)	(ft/f) (ft/sec)	(cfs)		
	5.0					Direct Entry,	

Summary for Pond 1P: Pemeable Pavers

Inflow Area = 0.061 ac. 71.69% Impervious. Inflow Depth > 6.57" for 50-vr event Inflow 0.46 cfs @ 12.07 hrs, Volume= 0.034 af = 0.07 cfs @ 12.57 hrs, Volume= Outflow = 0.034 af, Atten= 84%, Lag= 30.0 min 0.07 cfs @ 12.57 hrs, Volume= Discarded = 0.034 af 0.00 cfs @ 0.00 hrs, Volume= Primary = 0.000 af Routed to Pond DP1 : Routing by Stor-Ind method. Time Span= 0.00-24.00 hrs. dt= 0.05 hrs. Peak Elev= 3.99' @ 12.57 hrs Surf.Area= 0.008 ac Storage= 0.012 af Plug-Flow detention time= 105.1 min calculated for 0.033 af (100% of inflow) Center-of-Mass det. time= 104.5 min (894.3 - 789.7) Volume Invert Avail.Storage Storage Description 0.012 af 24.00'W x 14.00'L x 4.00'H Prismatoid #1 0.00' 0.031 af Overall x 40.0% Voids 4.00' 0.008 af 24.00'W x 14.00'L x 1.00'H Prismatoid #2 0.020 af Total Available Storage Device Routing Invert Outlet Devices #1 Discarded 0.00' 5.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01' #2 Primary 4.00' 38.0' long Sharp-Crested Rectangular Weir 2 End Contraction(s) 0.5' Crest Height **Discarded OutFlow** Max=0.04 cfs @ 12.57 hrs HW=3.99' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.04 cfs)

Primary OutFlow Max=0.00 cfs @ 0.00 hrs HW=0.00' (Free Discharge)

Summary for Pond 2P: Drip Apron

[88] Warning: Qout>Qin may require smaller dt or Finer Routing [85] Warning: Oscillations may require smaller dt or Finer Routing (severity=14)

Inflow Area =	0.049 ac, 4	12.39% Impervious,	Inflow Depth > 4.54	for 50-yr event
Inflow =	0.26 cfs @	12.08 hrs, Volume	= 0.019 af	
Outflow =	0.28 cfs @	12.06 hrs, Volume	= 0.019 af, A	tten= 0%, Lag= 0.0 min
Discarded =	0.02 cfs @	12.00 hrs, Volume	= 0.012 af	
Primary =	0.26 cfs @	12.06 hrs, Volume	= 0.007 af	
Routed to Pond	DP1 :			

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs Peak Elev= 3.01' @ 12.05 hrs Surf.Area= 0.004 ac Storage= 0.002 af

Plug-Flow detention time= 58.4 min calculated for 0.019 af (100% of inflow) Center-of-Mass det. time= 58.0 min (884.9 - 827.0) 2022-12-22 Proposed Conditions - David T

Prepared by Haley Ward

 Type III 24-hr
 50-yr Rainfall=8.50"

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Volume	Invert	Avail.Storage	e Storage Description				
#1	0.00'	0.002 a	f 13.00'W x 6.00'L x 3.00'H Prismatoid				
			0.005 af Overall x 40.0% Voids				
#2	3.00'	0.002 a [·]	f 13.00'W x 6.00'L x 1.00'H Prismatoid				
		0.004 a	f Total Available Storage				
Device	Routing	Invert C	Outlet Devices				
#1	Discarded	0.00' 5	.000 in/hr Exfiltration over Horizontal area Phase-In= 0.01'				
#2	Primary	3.00' 3	4.0' Iong Sharp-Crested Rectangular Weir 0 End Contraction(s)				
	-	0	.5' Crest Height				
D '	Rissanded QuitFlow Max=0.02 of @ 12.00 bro. LIW=2.01! (Free Discharge)						

Discarded OutFlow Max=0.02 cfs @ 12.00 hrs HW=3.01' (Free Discharge) **1=Exfiltration** (Exfiltration Controls 0.02 cfs)

Primary OutFlow Max=0.13 cfs @ 12.06 hrs HW=3.01' (Free Discharge) **2=Sharp-Crested Rectangular Weir** (Weir Controls 0.13 cfs @ 0.34 fps)

Summary for Pond DP1:

[40] Hint: Not Described (Outflow=Inflow)

Inflow Area	a =	0.175 ac, 46.54% Impervious, Inflow Depth > 1.60" for 50-yr event	
Inflow	=	0.49 cfs @ 12.07 hrs, Volume= 0.023 af	
Primary	=	0.49 cfs @ 12.07 hrs, Volume= 0.023 af, Atten= 0%, Lag= 0.0 m	nin

Routing by Stor-Ind method, Time Span= 0.00-24.00 hrs, dt= 0.05 hrs

APPENDIX D

SOIL SURVEY INFORMATION



United States Department of Agriculture

Natural Resources Conservation Service A product of the National Cooperative Soil Survey, a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local participants Custom Soil Resource Report for Rockingham County, New Hampshire





MAP LEGEND)	MAP INFORMATION
Area of Interest (AOI)		000	Spoil Area	The soil surveys that comprise your AOI were mapped at 1:24,000.
	Area of Interest (AOI)	۵	Stony Spot	1.24,000.
Soils	Soil Map Unit Polygons	0	Very Stony Spot	Warning: Soil Map may not be valid at this scale.
	Soil Map Unit Lines	Ŷ	Wet Spot	
~	Soil Map Unit Points	\triangle	Other	Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil
Energial			Special Line Features	line placement. The maps do not show the small areas of
Special (0)	Point Features Blowout	Water Features		contrasting soils that could have been shown at a more detailed scale.
×	Borrow Pit	\sim	Streams and Canals	
×	Clay Spot	Transport		Please rely on the bar scale on each map sheet for map
0	Closed Depression	+++	Rails	measurements.
*	Gravel Pit	~	Interstate Highways	Source of Map: Natural Resources Conservation Service
X	Gravelly Spot	~	US Routes	Web Soil Survey URL: Coordinate System: Web Mercator (EPSG:3857)
	Landfill	~	Major Roads	
٩	Lava Flow	~	Local Roads	Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts
A.		Background		distance and area. A projection that preserves area, such as the
عليه	Marsh or swamp	and the second s	Aerial Photography	Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required. This product is generated from the USDA-NRCS certified data as of the version date(s) listed below. Soil Survey Area: Rockingham County, New Hampshire
~	Mine or Quarry			
0	Miscellaneous Water			
0	Perennial Water			
\vee	Rock Outcrop			
+	Saline Spot			Survey Area Data: Version 25, Sep 12, 2022
°°°	Sandy Spot			Soil map units are labeled (as space allows) for map scales 1:50,000 or larger. Date(s) aerial images were photographed: Jun 19, 2020—Sep 20, 2020
-	Severely Eroded Spot			
\diamond	Sinkhole			
≫	Slide or Slip			
ø	Sodic Spot			The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
799	Urban land-Canton complex, 3 to 15 percent slopes	0.1	100.0%
Totals for Area of Interest		0.1	100.0%

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Rockingham County, New Hampshire

799—Urban land-Canton complex, 3 to 15 percent slopes

Map Unit Setting

National map unit symbol: 9cq0 Elevation: 0 to 1,000 feet Mean annual precipitation: 42 to 46 inches Mean annual air temperature: 45 to 48 degrees F Frost-free period: 120 to 160 days Farmland classification: Not prime farmland

Map Unit Composition

Urban land: 55 percent *Canton and similar soils:* 20 percent *Minor components:* 25 percent *Estimates are based on observations, descriptions, and transects of the mapunit.*

Description of Canton

Setting

Parent material: Till

Typical profile

H1 - 0 to 5 inches: gravelly fine sandy loam *H2 - 5 to 21 inches:* gravelly fine sandy loam *H3 - 21 to 60 inches:* loamy sand

Properties and qualities

Slope: 3 to 8 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Runoff class: Low
Capacity of the most limiting layer to transmit water (Ksat): High (2.00 to 6.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water supply, 0 to 60 inches: Low (about 5.3 inches)

Interpretive groups

Land capability classification (irrigated): None specified Land capability classification (nonirrigated): 2e Hydrologic Soil Group: A Ecological site: F144AY034CT - Well Drained Till Uplands Hydric soil rating: No

Minor Components

Udorthents

Percent of map unit: 5 percent *Hydric soil rating:* No

Scituate and newfields

Percent of map unit: 4 percent Hydric soil rating: No

Chatfield

Percent of map unit: 4 percent *Hydric soil rating:* No

Boxford and eldridge

Percent of map unit: 4 percent Hydric soil rating: No

Walpole

Percent of map unit: 4 percent Landform: Depressions Hydric soil rating: Yes

Squamscott and scitico

Percent of map unit: 4 percent Landform: Marine terraces Hydric soil rating: Yes JN 3492

<u>APPENDIX E</u>

FEMA FIRM MAP



SMITH RESIDENCE 9 KENT STREET PORTSMOUTH, NH



JOB NUMBER: 3492 SCALE: 1" = 200' SUBMITTED: 12-22-2022



<u>APPENDIX F</u> INSPECTION & LONG TERM

MAINTENANCE PLAN

INSPECTION & LONG-TERM MAINTENANCE PLAN FOR SMITH RESIDENCE

AMBIT ENGINEERING, INC.

9 KENT STREET PORTSMOUTH, NH

Introduction

The intent of this plan is to provide Peter Smith (herein referred to as "owner") with a list of procedures that document the inspection and maintenance requirements of the stormwater management system for this development. Specifically, the proposed drip apron and permeable pavers (collectively referred to as the "Stormwater Management System"). The contact information for the owner shall be kept current, and if there is a change of ownership of the property this plan must be transferred to the new owner.

The following inspection and maintenance program is necessary to keep the stormwater management system functioning properly and will help in maintaining a high quality of stormwater runoff to minimize potential environmental impacts. By following the enclosed procedures, the owner will be able to maintain the functional design of the stormwater management system and maximize its ability to remove sediment and other contaminants from site generated stormwater runoff.

<u>Annual Report</u>

The owner shall prepare an annual Inspection & Maintenance Report. The report shall include a summary of the system's maintenance and repair by transmission of the Inspection & Maintenance Log and other information as required. A copy of the report shall be delivered annually to the Portsmouth DPW, if required.

Inspection & Maintenance Checklist/Log

The following pages contain the Stormwater Management System Inspection & Maintenance Requirements and a blank copy of the Stormwater Management System Inspection & Maintenance Log. These forms are provided to the owner as a guideline for performing the inspection and maintenance of the Stormwater Management System. This is a guideline and should be periodically reviewed for conformance with current practice and standards.

Stormwater Management System Components

The Stormwater Management System is designed to mitigate the quality of site-generated stormwater runoff. As a result, the design includes the following elements:

Non-Structural BMPs

Non-Structural best management practices (BMP's) include temporary and permanent measures that typically require less labor and capital inputs and are intended to provide protection against erosion of soils. Examples of non-structural BMP's on this project include but are not limited to:

- Temporary and Permanent mulching
- Temporary and Permanent grass cover
- Trees
- Shrubs and ground covers
- Miscellaneous landscape plantings
- Dust control
- Tree protection
- Topsoiling
- Sediment barriers
- Stabilized construction entrance

Structural BMPs

Structural BMPs are more labor and capital-intensive structures or installations that require more specialized personnel to install. Examples on this project include but are not limited to:

- Permeable pavers
- Drip apron
- Catch basin with deep sump

Inspection and Maintenance Requirements

The following summarizes the inspection and maintenance requirements for the various BMP's that may be found on this project.

- 1. Grassed areas (until established): After each rain event of 0.5" or more during a 24-hour period, inspect grassed areas for signs of disturbance, such as erosion. If damaged areas are discovered, immediately repair the damage. Repairs may include adding new topsoil, lime, seed, fertilizer and mulch.
- 2. Plantings: Planting and landscaping (trees, shrubs) shall be monitored bi-monthly during the first year to insure viability and vigorous growth. Replace dead or dying vegetation with new stock and make adjustments to the conditions that caused the dead or dying vegetation. During dryer times of the year, provide weekly watering or irrigation during the establishment period of the first year. Make the necessary adjustments to ensure long-term health of the vegetated covers, i.e. provide

more permanent mulch or compost or other means of protection.

- **3. Permeable Pavers:** Ensure that sediments do not enter and plug pavement. Remove sediments, trash, and debris, as necessary. Repair outlet structures and appurtenances, as necessary. Vacuum at least twice annually.
- 4. **Drip Apron:** Ensure that sediments do not enter and plug drip apron surface. If system does not drain within 72 hours of a rainfall event, consult a qualified professional about restoration of function of the drip apron.
- 5. Storm Drain and Catch Basin Inlets/Outlets: Monitor drain inlets and outlet for excessive accumulation of sediments, in excess of 1 foot in the sump, monthly for the first year following construction, every other month thereafter. Remove sediments as required.
- 6. Gutters: Monitor gutters after leaf fall events (abscission) for clogging and overflowing. Remove debris as necessary.

Pollution Prevention

The following pollution prevention activities shall be undertaken to minimize potential impacts on stormwater runoff quality. The Contractor is responsible for all activities during construction. The Owner is responsible thereafter.

Spill Procedures

Any discharge of waste oil or other pollutant shall be reported immediately to the New Hampshire Department of Environmental Services (NHDES). The Contractor/Owner will be responsible for any incident of groundwater contamination resulting from the improper discharge of pollutants to the stormwater system, and may be required by NHDES to remediate incidents that may impact groundwater quality. If the property ownership is transferred, the new owner will be informed of the legal responsibilities associated with operation of the stormwater system, as indicated above.

Sanitary Facilities

Sanitary facilities shall be provided during all phases of construction.

Material Storage

No on site trash facility is provided until homes are constructed. The contractors are required to remove trash from the site. Hazardous material storage is prohibited.

Material Disposal

All waste material, trash, sediment, and debris shall be removed from the site and disposed of in accordance with applicable local, state, and federal guidelines and regulations. Removed sediments shall be if necessary dewatered prior to disposal.

Invasive Species

Monitor the Stormwater Management System for signs of invasive species growth. If caught early, their eradication is much easier. The most likely places where invasions start is in wetter, disturbed soils or detention ponds. Species such as phragmites and purple loose-strife are common invaders in these wetter areas. If they are found, the owner shall refer to the fact-sheet created by the University of New Hampshire Cooperative Extension or contact a wetlands scientist with experience in invasive species control to implement a plan of action for eradication. Measures that do not require the application of chemical herbicides should be the first line of defense.



Figure 1: Lythrum salicaria, Purple Loosestrife. Photo by Liz West. Figure 2: Phragmites australis. Photo by Le Loup Gris

CLOSED DRAINAGE STRUCTURE LONG-TERM MAINTENANCE SHEET

INSPECTION REQUIREMENTS					
ACTION TAKEN	FREQUENCY	MAINTENANCE REQUIREMENTS			
-Drain Manholes -Catch Basins	Monthly for 1 year following construction, Every other Month thereafter	Check for erosion or short-circuiting Check for sediment accumulation Check for floatable contaminants			
-Drainage Pipes	Monthly for 1 year following construction, 1 time per 2 years thereafter	Check for sediment accumulation/clogging, or soiled runoff. Check for erosion at outlets.			
-Gutters	After leaf fall events	Check for clogging, overflowing along roof edges.			
	MAINTENANCI	ELOG			
PROJECT NAME					
INSPECTOR NAME	INSPECTOR CONTACT INFO				
DATE OF INSPECTION	REASON FOR INSPECTION				
	LARGE STORM EVENT PERIODIC CHECK-IN				
IS CORRECTIVE ACTION NEEDED?	DESCRIBE ANY PROBLEMS, NEEDED MAINTENANCE				
DATE OF MAINTENANCE	PERFORMED BY				
NOTES	1				

DRIP APRON LONG-TERM MAINTENANCE SHEET

INSPECTION REQUIREMENTS					
ACTION TAKEN	FREQUENCY	MAINTENANCE REQUIREMENTS			
-Inspect drip apron for the occurrence of silt or vegetation -Check to see if trench drains within 72 hours of rainfall.	Bi-Yearly and following major storm events	 -Ensure that sediments do not enter and plug drip apron surface. -if system does not drain within 72 hours of a rainfall event, consult a qualified professional about restoration of function of the drip apron. 			

MAINTENANCE LOG					
PROJECT NAME					
INSPECTOR NAME	INSPECTOR CONTACT INFO				
DATE OF INSPECTION	REASON FOR INSPECTION				
	□LARGE STORM EVENT □PERIODIC CHECK-IN				
IS CORRECTIVE ACTION NEEDED?	DESCRIBE ANY PROBLEMS, NEEDED MAINTENANCE				
□YES □NO					
DATE OF MAINTENANCE	PERFORMED BY				
NOTES					

PERMEABLE PAVER LONG-TERM MAINTENANCE SHEET

INSPECTION REQUIREMENTS			
ACTION TAKEN	FREQUENCY	MAINTENANCE REQUIREMENTS	
-Inspect pavement surface for the occurrence of sediment, trash, debris, or structural damage. -Check pavement for surface ponding	Frequently in first few months following construction, Bi- annually after	 -Ensure that sediments do not enter and plug pavement. Remove sediments, trash, and debris, as necessary. -Repair outlet structures and appurtenances, as necessary. -Vacuum pavement at least twice annually. -Prevent vehicles with muddy wheels from accessing permeable pavement. 	
-No winter sanding permitted -Minimize application of salt	Continuous practice		

MAINTENANCE LOG			
PROJECT NAME			
INSPECTOR NAME	INSPECTOR CONTACT INFO		
DATE OF INSPECTION	REASON FOR INSPECTION		
	LARGE STORM EVENT PERIODIC CHECK-IN		
IS CORRECTIVE ACTION NEEDED?	DESCRIBE ANY PROBLEMS, NEEDED MAINTENANCE		
DATE OF MAINTENANCE	PERFORMED BY		
NOTES			

STABILIZED CONSTRUCTION ENTRANCE CONSTRUCTION MAINTENANCE SHEET

INSPECTION REQUIREMENTS			
ACTION TAKEN	FREQUENCY	MAINTENANCE REQUIREMENTS	
ENTRANCE SURFACE	After heavy rains,	-Top dress pad with new stone.	
-Check for sediment	as necessary	-Replace stone completely if completely	
accumulation/clogging of stone		clogged.	
-Check Vegetative filter strips		-Maintain vigorous stand of vegetation.	
WASHING FACILITIES (if	As often as	-Remove Sediments from traps.	
applicable)	necessary		
-Monitor Sediment Accumulation			

MAINTENANCE LOG			
PROJECT NAME			
INSPECTOR NAME	INSPECTOR CONTACT INFO		
DATE OF INSPECTION	REASON FOR INSPECTION		
	□LARGE STORM EVENT □PERIODIC CHECK-IN		
IS CORRECTIVE ACTION NEEDED?	DESCRIBE ANY PROBLEMS, NEEDED MAINTENANCE		
DATE OF MAINTENANCE	PERFORMED BY		
NOTES			



Methods for Disposing Non-Native Invasive Plants

Prepared by the Invasives Species Outreach Group, volunteers interested in helping people control invasive plants. Assistance provided by the Piscataquog Land Conservancy and the NH Invasives Species Committee. Edited by Karen Bennett, Extension Forestry Professor and Specialist.



Tatarian honeysuckle Lonicera tatarica USDA-NRCS PLANTS Database / Britton, N.L., and A. Brown. 1913. An illustrated flora of the northern United States, Canada and the British Possessions. Vol. 3: 282.

Non-native invasive plants crowd out natives in natural and managed landscapes. They cost taxpayers billions of dollars each year from lost agricultural and forest crops, decreased biodiversity, impacts to natural resources and the environment, and the cost to control and eradicate them.

Invasive plants grow well even in less than desirable conditions such as sandy soils along roadsides, shaded wooded areas, and in wetlands. In ideal conditions, they grow and spread even faster. There are many ways to remove these nonnative invasives, but once removed, care is needed to dispose the removed plant material so the plants don't grow where disposed.

Knowing how a particular plant reproduces indicates its method of spread and helps determine

the appropriate disposal method. Most are spread by seed and are dispersed by wind, water, animals, or people. Some reproduce by vegetative means from pieces of stems or roots forming new plants. Others spread through both seed and vegetative means.

Because movement and disposal of viable plant parts is restricted (see NH Regulations), viable invasive parts can't be brought to most transfer stations in the state. Check with your transfer station to see if there is an approved, designated area for invasives disposal. This fact sheet gives recommendations for rendering plant parts nonviable.

Control of invasives is beyond the scope of this fact sheet. For information about control visit <u>www.nhinvasives.org</u> or contact your UNH Cooperative Extension office.

New Hampshire Regulations

Prohibited invasive species shall only be disposed of in a manner that renders them nonliving and nonviable. (Agr. 3802.04)

No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, which includes all of their cultivars and varieties, listed in Table 3800.1 of the New Hampshire prohibited invasive species list. (Agr 3802.01)

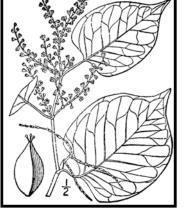
How and When to Dispose of Invasives?

To prevent seed from spreading remove invasive plants before seeds are set (produced). Some plants continue to grow, flower and set seed even after pulling or cutting. Seeds can remain viable in the ground for many years. If the plant has flowers or seeds, place the flowers and seeds in a heavy plastic bag "head first" at the weeding site and transport to the disposal site. The following are general descriptions of disposal methods. See the chart for recommendations by species.

Burning: Large woody branches and trunks can be used as firewood or burned in piles. For outside burning, a written fire permit from the local forest fire warden is required unless the ground is covered in snow. Brush larger than 5 inches in diameter can't be burned. Invasive plants with easily airborne seeds like black swallow-wort with mature seed pods (indicated by their brown color) shouldn't be burned as the seeds may disperse by the hot air created by the fire.

Bagging (solarization): Use this technique with softertissue plants. Use heavy black or clear plastic bags (contractor grade), making sure that no parts of the plants poke through. Allow the bags to sit in the sun for several weeks and on dark pavement for the best effect.

Tarping and Drying: Pile material on a sheet of plastic



Japanese knotweed Polygonum cuspidatum USDA-NRCS PLANTS Database / Britton, N.L., and A. Brown. 1913. An illustrated flora of the northern United States, Canada and the British Possessions. Vol. 1: 676.

and cover with a tarp, fastening the tarp to the ground and monitoring it for escapes. Let the material dry for several weeks, or until it is clearly nonviable.

Chipping: Use this method for woody plants that don't reproduce vegetatively.

Burying: This is risky, but can be done with watchful diligence. Lay thick plastic in a deep pit before placing the cut up plant material in the hole. Place the material away from the edge of the plastic before covering it with more heavy plastic. Eliminate as much air as possible and toss in soil to weight down the material in the pit. Note that the top of the buried material should be at least three feet underground. Japanese knotweed should be at least 5 feet underground!

Drowning: Fill a large barrel with water and place soft-tissue plants in the water. Check after a few weeks and look for rotted plant material (roots, stems, leaves, flowers). Well-rotted plant material may be composted. A word of caution- seeds may still be viable after using this method. Do this before seeds are set. This method isn't used often. Be prepared for an awful stink!

Composting: Invasive plants can take root in compost. Don't compost any invasives unless you know there is no viable (living) plant material left. Use one of the above techniques (bagging, tarping, drying, chipping, or drowning) to render the plants nonviable before composting. Closely examine the plant before composting and avoid composting seeds.

Be diligent looking for seedlings for years in areas where removal and disposal took place.

Suggested Disposal Methods for Non-Native Invasive Plants

This table provides information concerning the disposal of removed invasive plant material. If the infestation is treated with herbicide and left in place, these guidelines don't apply. Don't bring invasives to a local transfer station, unless there is a designated area for their disposal, or they have been rendered non-viable. This listing includes wetland and upland plants from the New Hampshire Prohibited Invasive Species List. The disposal of aquatic plants isn't addressed.

Woody Plants	Method of Reproducing	Methods of Disposal
Norway maple (Acer platanoides) European barberry (Berberis vulgaris) Japanese barberry (Berberis thunbergii) autumn olive (Elaeagnus umbellata) burning bush (Euonymus alatus) Morrow's honeysuckle (Lonicera morrowii) Tatarian honeysuckle (Lonicera tatarica) showy bush honeysuckle (Lonicera x bella) common buckthorn (Rhamnus cathartica) glossy buckthorn (Frangula alnus)	Fruit and Seeds	 Prior to fruit/seed ripening Seedlings and small plants Pull or cut and leave on site with roots exposed. No special care needed. Larger plants Use as firewood. Make a brush pile. Chip. Burn. After fruit/seed is ripe Don't remove from site. Burn. Make a covered brush pile. Chip once all fruit has dropped from branches. Leave resulting chips on site and monitor.
oriental bittersweet (Celastrus orbiculatus) multiflora rose (Rosa multiflora)	Fruits, Seeds, Plant Fragments	 Prior to fruit/seed ripening Seedlings and small plants Pull or cut and leave on site with roots exposed. No special care needed. Larger plants Make a brush pile. Burn. After fruit/seed is ripe Don't remove from site. Burn. Make a covered brush pile. Chip – only after material has fully dried (1 year) and all fruit has dropped from branches. Leave resulting chips on site and monitor.

Non-Woody Plants Method of Reproducing		Methods of Disposal	
<pre>garlic mustard (Alliaria petiolata) spotted knapweed (Centaurea maculosa) • Sap of related knapweed can cause skin irritation and tumors. Wear gloves when handling. black swallow-wort (Cynanchum nigrum) • May cause skin rash. Wear gloves and long sleeves when handling. pale swallow-wort (Cynanchum rossicum) giant hogweed (Heracleum mantegazzianum) • Can cause major skin rash. Wear gloves and long sleeves when handling. dame's rocket (Hesperis matronalis) perennial pepperweed (Lepidium latifolium) purple loosestrife (Lythrum salicaria) Japanese stilt grass (Microstegium vimineum) mile-a-minute weed (Polygonum perfoliatum)</pre>	Fruits and Seeds	 Prior to flowering Depends on scale of infestation Small infestation Pull or cut plant and leave on site with roots exposed. Large infestation Pull or cut plant and pile. (You can pile onto or cover with plastic sheeting). Monitor. Remove any re-sprouting material. During and following flowering Do nothing until the following year or remove flowering heads and bag and let rot. Small infestation Pull or cut plant and leave on site with roots exposed. Large infestation Pull or cut plant and pile remaining material. Unity of the plastic or cover with plastic sheeting). Monitor. Remove any re-sprouting material. 	
common reed (<i>Phragmites australis</i>) Japanese knotweed (<i>Polygonum cuspidatum</i>) Bohemian knotweed (<i>Polygonum x bohemicum</i>)	Fruits, Seeds, Plant Fragments Primary means of spread in these species is by plant parts. Although all care should be given to preventing the dispersal of seed during control activities, the presence of seed doesn't materially influence disposal activities.	 Small infestation Bag all plant material and let rot. Never pile and use resulting material as compost. Burn. Large infestation Remove material to unsuitable habitat (dry, hot and sunny or dry and shaded location) and scatter or pile. Monitor and remove any sprouting material. Pile, let dry, and burn. 	

January 2010

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TANGRAM 3DS









Imagery ©2023 Google, Imagery ©2023 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, Map data ©2023 50 ft

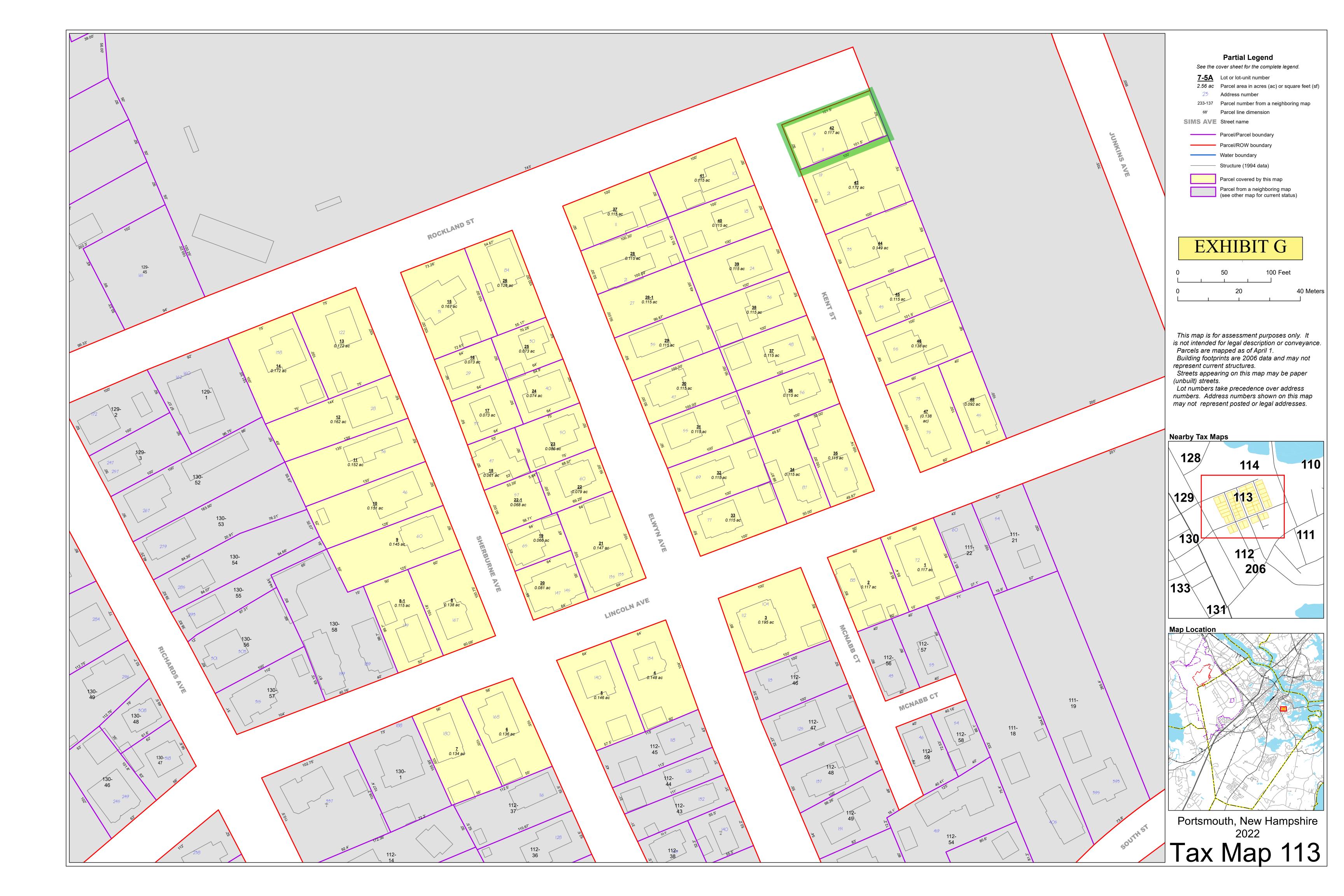


Google Maps 10 Kent St





Image capture: Sep 2011 © 2023 Google



III. NEW BUSINESS

A. The request of Angela Davis and Katherine Nolte (Owners), for property located at 276 Aldrich Road whereas relief is needed to construct a 5 foot by 4 foot landing which requires the following: 1) Variance from Section 10.521 to allow a) 3 foot secondary front yard where 30 feet is required; and b) 35% building coverage where 20% is allowed. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 116 Lot 14 and lies within the Single Residence B (SRB) District. (LU-23-29)

	<u>Existing</u>	Proposed	Permitted / Required	
Land Use	Single family	Construct a porch	Primarily residential	
Lot area (sq. ft.):	4,792	4,792	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	4,792	4,792	15,000	min.
Lot depth (ft):	100	100	100	min.
Street Frontage (ft.):	150	150	100	min.
Aldrich Front Yard (Primary)(ft.):	25	25	30	min.
<u>Seawall Rd Front Yard</u> (Secondary) (ft.):	7.5 (previously granted)	3	30	min.
Left Yard (ft.):	7.5 (previously granted	7.5	10	min
Rear Yard (ft.):	26	26	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	33 (previously granted)	35	20	max.
Open Space Coverage (%):	>40	>40	40	min.
Parking:	2	2	2	
Estimated Age of Structure:	1910	Variance reques	st(s) shown in red.	

Existing & Proposed Conditions

Other Permits/Approvals Required

• Building Permit

Neighborhood Context



35 70 140 1 inch = 66.7 feet 276 Aldrich Road

W- 0- E

Planning Department Comments

The applicants are seeking to construct a 5' by 4' landing on the right side of the house. The house is nonconforming on the side and secondary front off of Sewall Road. The front yard is compliant per Section 10.516.10 for existing alignments of the averaging of houses within 200 feet on the same side of the street. The new porch will result in 35% building coverage where 20% is the maximum. On May 24, 2022 the applicants obtained relief for a new front porch which is currently under construction.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

- 1. Granting the variance would not be contrary to the public interest.
- 2. Granting the variance would observe the spirit of the Ordinance.
- 3. Granting the variance would do substantial justice.
- 4. Granting the variance would not diminish the values of surrounding properties.
- The "unnecessary hardship" test:
 (a) The property has <u>special conditions</u> that distinguish it from other properties in the area. AND
 - (b) <u>Owing to these special conditions</u>, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. **OR**

<u>Owing to these special conditions</u>, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

276 Aldrich Rd. Written Statement for Variances

We are proposing the construction of new stairs with landing to access the side of our home. This construction would consist of 6 stairs from the existing patio to a 61" x 48" landing to the entrance of the side of the home. The reason for our request to increase the landing larger than the maximum 36' requirement is to catch the 2 existing foundations with the support posts as shown in the attached drawing, eliminating the need to have posts and footings in the drive and walkways creating safety hazards. Also, due to being a corner home, this side entry is our main entry into the home. We are requesting relief and variances of secondary front yard and side yard set-backs as well as building coverage. We have improved and maintained the large easement/right of way on the corner of Aldrich and Sewall since owning our property in 2017. We would like you to consider the large easement when evaluating our relief of set-backs on the secondary front yard and building coverage.

10.233.21 The variance will not be contrary to the public interest: The side stairs and landing would not impede on abutting neighbors. Also, it would not alter the character of the neighborhood.

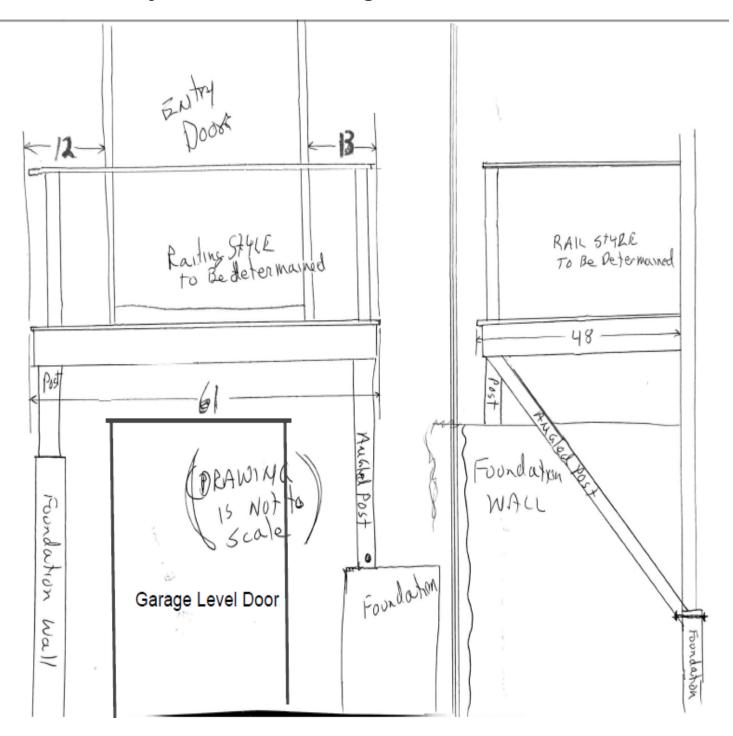
10.233.22 The spirit of the Ordinance will be observed: The new side stairs and landing would not threaten the health and safety of the general public and would provide safe access into the main entry of our corner house whereas parking is in the side driveway (Sewall Rd).

10.233.23 Substantial justice will be done: Because the loss to the applicant would outweigh any gain to the general public.

10.233.24 The values of surrounding properties will not be diminished: This would be an improvement to the home's overall curb appeal as well as a welcoming main entrance to the our home. All finishes would match the aesthetics of other porches in the neighborhood.

10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship: Due to the placement of the entry door to the lower level garage; the 36" maximum allowable width and depth of the landing would place the support post directly inline with the lower level garage entry. The proper construction of this landing would allow us to carry the width to 61"; securing the support post into the existing foundations on both sides while also allowing for a comfortable access to the main entrance of the home.

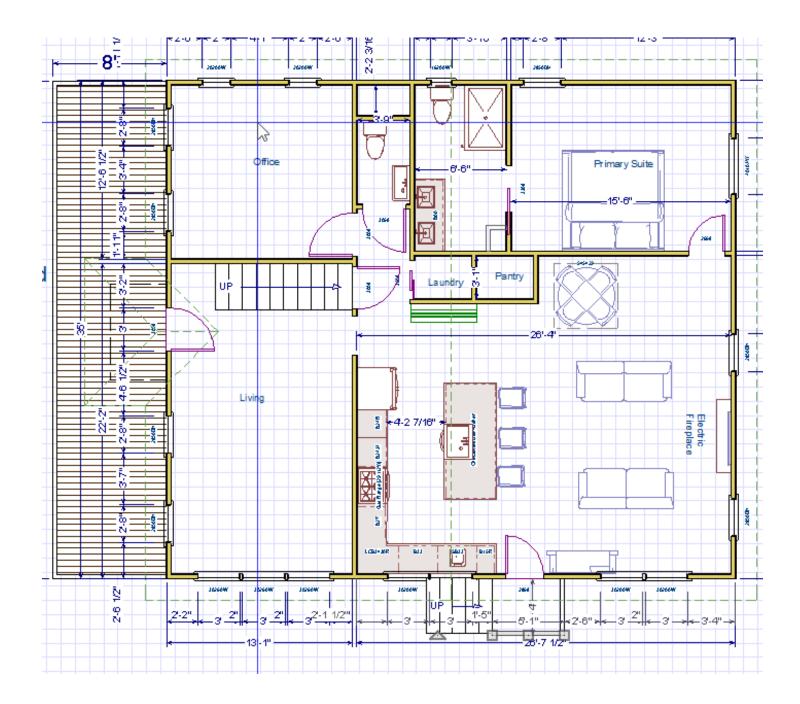
Side Entry Elevation Drawings



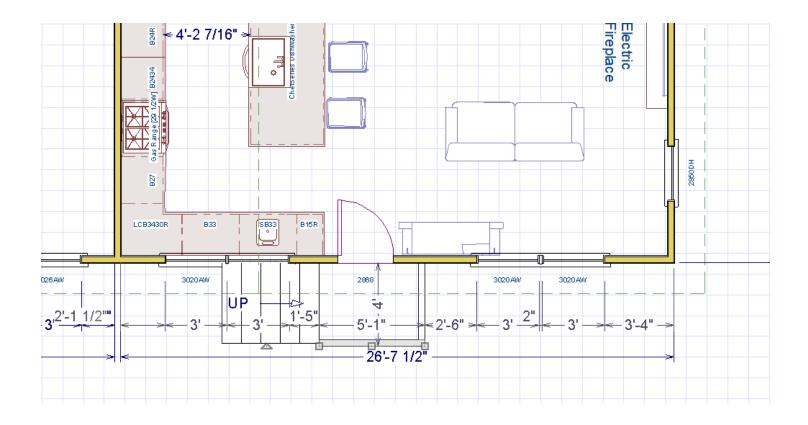
Existing Photos Showing Temporary Landing & Stairs with Foundation & Door Locations



First Level Floor Plan



Side Entry Floor Plan - Enlarged



Site Plan showing easement



276 Aldrich Rd.

Site Plan

III. NEW BUSINESS

B. Petition of **Salem Manufactured Homes**, **LLC**, for Appeal of an Administrative Decision to require a variance for the expansion of a non-conforming structure in accordance with Section 10.321 if the Zoning Ordinance for property located at 210 Oriental Gardens. Said property is located on Assessor Map 215 Lot 9-21 and lies within the Gateway Corridor (G1) District. (LU-23-43)

Neighborhood Context



0 40 80 160 Feet 1 inch = 84.6 leet 210 Oriental Gardens



Planning Department Comments

The applicant is appealing the determination of the Planning and Sustainability Director that a variance is required to grant a building permit for the replacement of a larger manufactured housing structure than the structure that was removed given the standards set forth in Section 10.321 of the Zoning Ordinance (provided below).

10.321 A lawful nonconforming building or structure may continue and be maintained or repaired, but may not be extended, reconstructed or enlarged unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.

The letter of decision from the Planning and Sustainability Director is included in meeting packet for the Boards reference.

John Kuzinevich, Esq. Law Office of John Kuzinevich

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Telephone:781 536-8835Cell:508 245-2105

E-mail: jjkuz@comcast.net

March 29, 2023

Via: Viewpoint

RE: Appeal of Administrative Decision - 210 Oriental Gardens

Board of Appeals City of Portsmouth 150 Junkins Avenue Portsmouth, NH 03801

Dear Chairman and Members of the Board:

I represent Salem Manufactured Homes, LLC ("SMH") which is responsible for replacing homes at the Oriental Gardens Mobile Home Park in Portsmouth ("Oriental Gardens"). This letter is submitted in support of its appeal of an administrative decision.

Oriental Gardens is located in the Office Research Zone. While a Manufactured Housing Park is a prohibited use under sec 10.440, use 1.80, it has operated for many years and is lawfully grandfathered. Recently, SMH sought a building permit to replace an existing home with a new home that is slightly larger, by 148 square feet, at 210 Oriental Gardens. On March 3, 2023, the Director of Planning and Sustainability ("Director") determined that the increased square footage would be an expansion of a non-conforming structure in violation of sec 10.321. It is important to note that Oriental Gardens constitutes one lot and meets all required size and setback criteria. This proposed change has no impact on these requirements. Further the unit is an interior unit which cannot be seen by the general public. Nor does it add a bedroom such that occupancy may be increased. Thus the proposed change has absolutely no effect on the public.

The Directors decision was legally incorrect for several reasons. First, the table of uses applies only to manufactured housing **parks**, not individual structures. The Director confused there structures within the park with the park itself. A manufactured housing park is a lot with designated areas of the lot to be used for individual homes and yards. The proposed change did nothing to change or expand the use of the entire property as a manufactured housing park. It

still had the same roadway network and designated spacing of homes. More importantly, the use and its limitation in the ordinance says nothing about the structures contained within the park. That is because the structures are irrelevant to the use as a park. As long as the structures are manufactured housing they are fully consistent with and do not expand the use.

This leads to the second error, when the Director determined the home at 210 Oriental Gardens was a non-conforming structure. As long as the use was grandfathered and the size of the structure considered irrelevant to the use, the structure was conforming and therefore could be enlarged without enlarging the use as a manufactured housing park. Indeed there were no prohibitions in zoning concerning the size of structure and certainly no size restrictions in the use prohibitions. This is further confirmed by the ordinance itself. Indeed 10.816.10 sets out dimensional requirements for manufactured housing. All homes within Oriental Gardens meet these requirements and are fully conforming.

Third, while the additional share footage of the home increases its size, it decreases the size of the lawn which was also being used as part of a mobile home park. Whether lawn or home, the use remains identical as structures cannot be separated from consideration of the other parts of the property and their use as integral to the operation of a manufactured housing park. The amount of the property used for a manufactured housing park is unaltered by this change.

Fourth, the Directer abused his discretion in upholding the denial of the building permit. As noted above, the proposed change has no effect on the public and is de minimus when considered in the overall context of the entire park. There was no basis too consider this an engagement or either a non-conforming use or structure.

Fifth, the Planning Department has historically interpreted the ordinance to allow replacement mobile homes to be larger, in some instances much larger that the homes they were replacing. See building permits attached to letter from SMH. An agency's historical interpretation of a statute or ordinance should be given great deference. *In re: Carrier*, 165 N.H. 719 (2013), *Genworth Life Insurance Company v. NH Dept. of Insurance*, 174 N.H. 78 (2021). Here without any reason, the Director has repudiated the Planning Department, contended it was wrong for years and advanced an unlawful interpretation of the ordinance instead. The Planning's Department's historical interpretation should have been given deference.

Finally, and most importantly, the Director illegally failed to consider NH RSA 674:19 which precludes application of zoning to existing structures and uses unless there is a proposal for a substantially different use or structure. He made no findings in that regard. *Town of Salem v. Wickson*, 140 N.H. 139 (1995) sets out the tests for making this determination. "In determining whether there has been a substantial change in the nature or purpose of the pre-existing nonconforming use, "we consider: (1) the extent the use in question reflects the nature and purpose of the prevailing nonconforming use; (2) whether the use at issue is merely a different manner of utilizing the same use or constitutes a use different in character, nature, and kind; and (3) whether the use will have a substantially different effect on the neighborhood."

Hurley, 143 N.H. at 571–72, 729 A.2d 998." When these factors are applied, it is patently clear that adding some square footage does not constitute a substantial change. The change is consistent with the pre-existing non-conforming use. It is merely a slightly different manner of using the existing use of a manufactured home in a park Lastly, as noted above, it has no impact on the neighborhood. Since the proposed home meets all of these tests and is not substantially different than the existing home, the zoning ordinance cannot preclude the proposal as a matter of law. See also: *Ray's Stateliness Market, Inc., v. Town of Pelham*, 140 N.H. 139 (1995).

Although not a legal basis as such calling for reversal, the Board should also consider policy. If variances are required for every time a mobile home is modified or replaced, it will radically drive up the cost. Thus, it is directly negatively impacting affordable housing which is desperately needed. In prior years, the city did not require such variances. This is the first instance where it reversed past practice. This blow to the sustainability of affordable housing should not be allowed.

Sincerely,

/s/ John Kuzinevich

John Kuzinevich



CITY OF PORTSMOUTH

Community Development Department

Planning Department (603) 610-7216

Mr. Glenn Gidley Salem Manufactured Homes, LLC PO Box 54 Salem, NH 03079

March 3, 2023

Dear Glenn:

This letter is in response to your letter of February 17, 2023 regarding installation of a replacement home at the Oriental Gardens Mobile Home Park. The application is to replace the home with a new home that is 148 square feet larger than the existing home. The home in question is located in an Office Research zone. According to the Table of uses in Article 4 section 10.440 use 1.80 Manufactured Housing Park is a prohibited use in the Office Research Zone. While the existing homes are lawful nonconforming uses within this park the expansion of a home inside the park is not allowed as it is an expansion of a non-conforming structure according to the definition in our zoning ordinance, Section 10.321 in Article 3 of our Zoning Ordinance.

A lawful nonconforming building or structure may continue and be maintained or repaired, but may not be extended, reconstructed or enlarged unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.

While I understand your desire to improve the property at this location it is our determination that in order to allow the expansion of a non-conforming structure a variance would be required. If you do not agree with this interpretation you have an avenue for an appeal of this administrative decision to the Board of Adjustment.

If you have questions or need additional information, please do not hesitate to contact me at (603)610-7215 or by email at <u>plbritz@cityofportsmouth.com</u>.

Sincerely,

Peter Britz Director of Planning and Sustainability

Cc: Susan Morell, City Attorney Trevor McCourt, Assistant City Attorney Kate Homet, Associate Environmental Planner

> 1 Junkins Avenue Portsmouth, New Hampshire 03801 Fax (603) 427-1593

SALEM MANUFACTURED HOMES, LLC PO BOX 54 SALEM, NH 03079 (603) 898-2144

February 17, 2023

Kate Homet Peter Britz City of Portsmouth Planning Department Portsmouth, NH 03801

RE: 210 Oriental Gardens Replacement of Manufactured Home Permit

Dear Kate and Peter,

I have reviewed your correspondence with Darlene Gidley at our Portsmouth Office regarding the above captioned matter and would like to point out that the new manufactured home applied for in our permit application is 148 square feet larger, including steps, than the prior home. This however does not translate to an expansion of a non-conforming use which requires a variance per your prior conversations. In this case, the use is the same as the previous use. Oriental Gardens is a manufactured home park in existence since the 1950's, the current use predates current zoning. The proposed manufactured home replacement meets the setbacks for current zoning. The use of the new proposed manufactured home is the same as the prior manufactured home; a 2-bedroom manufactured home.

I would also like to point out, this permit application must be approved based on Article 3-10.320 of the zoning ordinance because the manufactured home complies with the regulations in the current district. Additionally, and more importantly, the NH RSA 674:19 clearly states that applicability of the current zoning in this case simply does not apply, because the new home is not substantially different from the use to which the prior home was.

Please consult with your Planning Director regarding this matter and approve the permit application as this has been the practice for previous permits applied for recently at Oriental Gardens which I have been involved. I am enclosing copies of 2 permits for replacement homes at Oriental Gardens which were as much as 25% larger than the original footprint which did not require a variance. If we are required to file a variance by your Department, we will seek an administrative appeal with the Zoning Board of Adjustment instead, due to the flawed interpretation by Planning Department thus far.

We have had a decade long relationship, constructively working with the Planning Department as it pertains to Manufactured Housing and would like to continue same, without the expense and awkwardness of an appeal. If yourself or Peter would like to discuss this in a timely manner, prior to an appeal being filed, please contact me at (603) 898-2144.

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Thank you,

Glenn Gidley Enclosure

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TITLE LXIV PLANNING AND ZONING

LOCAL LAND USE PLANNING AND REGULATORY POWERS CHAPTER 674

Zoning

Section 674:19

674:19 Appleability of Zoning Ordinance. - A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration.

Source, 1983, 447:1, eff. Jan. 1, 1984.

8/2/2018



City of Portsmouth **Building Permit**

Inspection Department 1 Junkins Avenue Portsmouth, NH 03801 603-610-7243

Permit Number: 31947 Date of Issue: August 02, 2018 Expires: Fri Aug 02 2019 13:55:30 GMT+0000 (UTC) Const. Cost: \$40000

Owner: CLARK PRISCILLA Applicant: Darlene Gidley Contractor: Glenn Gidley, Salem Manufactured Homes Phone #: 603-898-2144 Location: 315 ORIENTAL GDNS

Description of Work: New Residential Manufactured Home: New 13'8 x 48'0 Single-wide home with entry landing and deck Install 13'6" x 48'0" new manufactured home with required slab and tie downs. Also to install a 4x6 PT free-standing deck and an 8x10 PT free-standing

Use Group:

Const. Type:

Bldg. Code:

New Dwelling Unit

IRC Edition: 2009

N/A

Zoning: Garden Apartment / Mobile Home Park (GA/MH) Map/Lot: 0215-0009-0001-Design Occupant Load: Total # of Dwelling Units: 1

Remarks:

STREET NUMBER

* Per City Ord. Sec. 11.502 (F) Street/Unit Number must be affixed to Main Structure as to be plainly visible from the street. Construction sites must post the address clearly on the property. No site activity allowed before 7:00AM or after 6:00PM. No weekend construction allowed.

* Separate electrical, plumbing and mechanical permits required.

* ELECTRIC SERVICE BONDING NOTE: The National Electrical Code/nrequires a "Concrete Encased Electrode" (NEC Art. 250.50) to be provided hby the electrician. Electrode must be installed during concrete foundation placement\nif new electric service is being installed.

* All stairs, handrails and guard systems shall be constructed to/nbuilding code requirements for strength, geometry, graspability, fall\nprotection and other code required dimensional features. NOTE: Contractor\nassumes all responsibility for code

* Deck ledger shall be attached to house band joists per IRC\nSection R502.2.2 and Table R502.2.2.1 or shall be freestanding and structurally\nindependent of house.

MOBILE HOME ANCHORED

* Manufactured home shall be installed and anchored by certified installers per New Hampshire Manufactured Housing State Law. State certification documents required

You must contact Dig Safe by calling 811 or visiting\nwww.digsafe.com prior to starting construction

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project. The CONTRACTOR shall be responsible for notifying the Inspection Department 48 hours in advance, to FOUNDATION, FRAMING, and FINAL Inspections. A Certificate of Occupancy is required for all Building Permits. Buildings shall not be occupied until ALL Inspections (BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, and FIRE) are complete and Occupancy

1/2



City of Portsmouth Building Permit

Inspection Department 1 Junkins Avenue Portsmouth, NH 03801 603-610-7243

 Owner:
 SALEM MANUFACTURED HOMES LLC

 Applicant:
 Darlene Gidley

 Contractor:
 Glenn Gidley, Salem Manufactured Homes Phone #: 603-427-8373

 Location:
 215 ORIENTAL GDNS

Description of Work: New Single Family Manufactured Home, Utility Shed, and Deck

install a new 20' x 44' manufactured home. Manufactured Home shall be installed on an approved slab with tie downs. Install a new 6' x 8' Utility Storage shed; Construct a free standing 8' x 12' deck as well as a 6' x 6' landing and steps. Manufactured Home, deck and utility shed Shall be located in approved location and with approved setbacks.

 Map/Lot:
 215-9-16 Use Group:
 New Dwelling Unit Misc.: Tanks, pools, sheds, tents

 Design Occupancy Load: Single Family
 Constr. Type:
 Other

 Total # of Dwelling Units: 1
 Bldg. Code:
 IRC
 Edition:
 2009

¢ 8 ×

* Per City Ord. Sec. 11.502 (F) Street/Unit Number must be affixed to Main Structure as to be plainly visible from the street. Construction sites must post the address clearly on the property. No site activity allowed before 7:00AM or after 6:00PM. No weekend construction allowed. * Separate electrical, plumbing and mechanical permits required.

* ELECTRIC SERVICE BONDING NOTE: The National Electrical Code requires a "Concrete Encased Electrode" (NEC Art. 250.50) to be provided by the electrician. Electrode must be installed during concrete foundation placement if new electric service is being installed.

* All stairs, handrails and guard systems shall be constructed to building code requirements for strength, geometry, graspability, fall protection and other code required dimensional features. NOTE: Contractor assumes all responsibility for code conformance.

* Deck ledger shall be attached to house band joists per IRC Section R502.2.2 and Table R502.2.2.1 or shall be freestanding and structurally independent of house. * Manufactured home shall be installed and anchored by certified installers per New Hampshire Manufactured Housing State Law. State certification documents

* Additions shall be designed and constructed to conform with the applicable provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.)

* Dryer Duct termination shall be as per Section M1502.3 and Table M1502.4.4.1. Where the exhaust duct is concealed the length shall be identified on a permanent label as per Section M1502.4.5. Clothes Dryers shall be exhausted in accordance with the manufacturer's instructions.

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project. The CONTRACTOR shall be responsible for notifying the Inspection Department 48 hours in advance, for FOUNDATION, FRAMING, and FINAL inspections. A Certificate of Occupancy is required for all Building Permits. Buildings shall not be occupied until ALL inspections (BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, and FIRE) are complete and Occupancy has been issued. By signing this permit, the owner or his/her representative (Permit Holder), authorizes property access by city officials to conduct interior and exterior inspections and property tax assessments during and/or after the construction process.

The Permit Card Shall Be Posted and Visible From the Street During Construction.

Code Official:

Wort Marilia

This is an e-permit. To learn more, scan this barcode or

visit portsmouthnh.viewpointcloud.com/#/records/39288

Permit Number: BLDG-19-709 Date of Issue: October 02, 2019 Expires: October 01, 2020 Const. Cost: \$70000