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July 26, 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

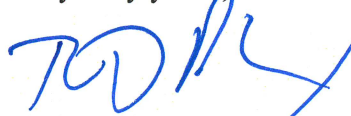
Dear Mr. Stith & Zoning Board Members:

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.
- 7/26/23 – Memorandum and exhibits in support of variance application.

We look forward to presenting this application to the Zoning Board at its August 15, 2023 meeting.

Very truly yours,



R. Timothy Phoenix
Monica F. Kieser

Encl.

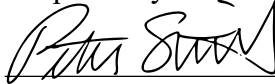
cc: Peter Smith & Cynthia Austin Smith
John Chagnon, Ambit Engineering, Inc. (email)
Jennifer Ramsey, Somma Studios (email)
Robbi Woodburn, Woodburn & Associates (email)

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



Peter Smith

Date:



Cynthia Austin Smith

Date:

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
DATE: July 26, 2023
RE: Owners/Applicants: Peter Smith & Cynthia Austin Smith
Property: 9 Kent Street
Tax Map 113, Lot 42
General Residence A District

Dear Chair 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 a requested variance from the Portsmouth Zoning Ordinance (“PZO” or “Ordinance”).

I. EXHIBITS

- A. Plan Set – Ambit Engineering,
 - Cover Page
 - Standard Boundary & Topographic Survey
 - C1 Demo Plan
 - C2-Variance Plan
- B. 7/26/23 Architectural Plan Set - Somma Studios
 - Elevations
 - Floor plans
- C. 3/23 Proposed Variance Plan, Notice of Decision (Denial) issued on 5/16/2023, 5/16/2023 Meeting Minutes.
- D. Site Photographs.
 - Satellite Views
 - Kent Street & Rockland Street Views
- E. Tax Map 113.
- F. Subdivision/Ownership History
 - 1899 Subdivision Plan
 - Deed changes 1903-Present.

II. PROPERTY

9 Kent Street is a 5,000 s.f. (50 ft. x100 ft.) corner lot (Rockland Street) in the General Residence A (“GRA”) 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.) to the rear of the lot, with no driveway or off street parking (the “Property”). The garage is in the rear yard setback but is not accessible for off-street parking due to the significant slope between Rockland Street and its location. (**Exhibit**

A). The existing home, AC unit, and garage is in the right side yard setback within inches of the common right side property line. A portion of the existing front deck is slightly within the front yard setback. Smiths intend to remove the existing duplex and construct a new single-family home with an incorporated garage accessed from Rockland Street (the “7/26 Project”). See Section VI, infra. The Project decreases existing density and complies with yard setback, coverage, and open space requirements, but because the existing duplex is razed and a new home constructed, Planning and Legal Staff have advised that relief is required because the lot fails to comply with today’s lot area and lot area/dwelling requirements. We respectfully disagree.

III. PURSUANT TO PORTSMOUTH ZONING ORDINANCE §10.310, NONCONFORMING LOTS, THE PROPOSED PROJECT REQUIRES NO VARIANCE FROM MINIMUM LOT SIZE

The 5000 ft.² lot has existed since at least 1899. (Exhibit F). PZO §10.311 provides:

Any lot that has less than the minimum lot area... 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. (Emphasis added)

At the outset, from its plain wording, this section establishes that if a lot is nonconforming, it is permissible as a building lot without a variance for the nonconforming lot size as long as any required variances are obtained with respect to any use or proposed structure (The residential use was established in the early 1900’s and is not changing). To determine otherwise would render the underlined language above meaningless. The ordinance section would instead merely need to read to the effect that “any lot that has less than the minimum lot area required by this ordinance shall require a variance from the lot size in order to establish any change of use or structure upon said nonconforming lot.”

The above interpretation is further buttressed by section 10.320 Nonconforming Buildings and Structures Section 10.321 provides:

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.

In the instant case, we have a presently nonconforming building which will be removed and reconstructed with a new building. The new building and all other improvements fully

comply with the Ordinance and decrease the density. Accordingly, the Project conforms with §10.321. Coupled with the language of §10.311 above, it is clear that the intent is to allow a lot that has existed and its present configuration long before zoning, to be permitted with structures as long as those structures comply with §10.321, or receive a variance pursuant to section §10.311. In an abundance of caution, Smith requests the variance below.¹

IV. MARCH 1, 2023 PROPOSED PROJECT

Pursuant to a March 1, 2023 application for variances submitted to the Portsmouth Zoning Board (the "3/23 Proposal" **Exhibit C**), Smith proposed 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 with landscaping and screening.

Prior to appearing before the Zoning Board of Adjustment ("ZBA") on May 16, 2023, Smiths' team reviewed the 3/23 Proposal on two occasions with City Staff. At Staff's suggestion, Smiths' Engineer appeared at a work session with the Technical Advisory Committee ("TAC") to discuss the curb cut on Rockland Street, and other aspects of the redevelopment proposal. In addition, Landscape Architect Robbi Woodburn met with the City's Trees and Greenery Committee to review landscaping elements. Site, architectural, and landscaping plan sets were adjusted based upon these meetings.

City Staff determined that dimensional relief was required for lot area, lot size/dwelling unit density, building coverage, and elements within the principal front yard on Kent Street, secondary front yard on the Rockland Street side, and rear yard setbacks. As a result of meetings with city staff, TAC and the Trees and Greenery Committee, Smith through its legal and professional representatives submitted a request for the following zoning relief from 5 separate sections of the zoning ordinance (17 separate specific requests) considered by the ZBA on May 16, 2023:

¹ If the variance is granted, this argument will be withdrawn upon expiration of the 30 days appeal period.

V. RELIEF REQUESTED FOR MARCH 23, 2023 “INITIAL” PROJECT

<u>Variance Section/Requirement</u>	<u>Existing</u>	<u>Proposed</u>
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> 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)
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> 10’ Front Yard Kent St. 13’ Front Yard Rockland St.	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)
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> <u>10’ Side Yard</u>	0.7’ (house) 1.7’ (garage)	0.6’ (house) 0.5’ (landscape wall/ pergola) 1.5’ (AC unit) 11.5’ (pool equipment pad)
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> <u>20’ Rear Yard</u>	5.6’ (garage)	4.5’ (landscape wall) 4.5’ (6 ft. privacy fence/pool) 10.3’ (pool equipment pad)
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> <u>25% Building Coverage</u>	35%	53% (includes pervious patio 18” above grade)

The 3/23 Proposal for the above zoning relief pursuant to the was denied by the ZBA at its hearing on May 16, 2023 (**Exhibit C**).

VI. JULY 26, 2023 PROPOSED PROJECT

In response to the comments and concerns expressed by the ZBA in consideration of and denial of the 3/23 Proposal (see **Exhibit C**), Smith and their design team completely redesigned the redevelopment. The only items not changing from the previous relief are the change from a two-family duplex to a single-family home, and the 5000 s.f. lot area, which cannot be changed. As a result of the design changes:

- i) No front yard setback relief is required or requested from Kent Street (wall, steps, porch, house)
- ii) No front yard setback relief is required or requested from Rockland Street (wall, steps, overhang, house)
- iii) No right side setback relief is requested or required (house, wall, Pergola, AC unit, pool equipment pad)
- iv) No rear yard setback relief is requested or required (wall, privacy fence, plunge pool, pool equipment pad)
- v) No building coverage relief is requested or required(3/23 proposal provided for building coverage to be 53%, due in large part to a proposed pervious patio more than 18 inches above existing grade. The present proposal complies with the 25% building coverage limit).²

The instant 7/23 Proposal was reviewed with Planning Staff to confirm that, except as follows, the instant 7/23 Proposal is zoning compliant.

VII. RELIEF REQUESTED FOR 7/23 PROPOSAL

<u>Variance Section/Requirement</u>	<u>Existing</u>	<u>Proposed</u>	<u>Comment</u>
<u>PZO §10.520/Table §10.521: Dimensional Standards</u>			
7,500 s.f. Lot area	5,000 s.f.	5,000 s.f.	<ul style="list-style-type: none"> • Prior nonconforming lot – cannot be changed • Significant improvement
7,500 s.f. Lot area/dwelling unit	2,500 s.f./dwelling	5,000 s.f./dwelling	

VII. ADDITIONAL PERMITS REQUIRED

- Demolition Permit
- Driveway Permit
- Building Permit

VIII. FISHER V. DOVER ANALYSIS

In Fisher v. City of Dover, 120 NH 187(1980), the New Hampshire Supreme Court held that once an applicant makes a request to the ZBA and is denied, the ZBA may hear a subsequent variance request only upon a finding of “a material change in circumstances” or unless it “materially differs in nature and degree from its predecessor”. The court based its decision on concerns that absent a material change in circumstances or a material difference, there would be no finality to ZBA proceedings, thus threatening “the integrity of the zoning plan” Id. However,

² See 3/23 zoning request chart, supra, p.4.

the limitation is not to be technically and narrowly imposed. Fisher citing Bois v. City of Manchester, 113 NH 339, 341(19 73).

In cases subsequent to Fisher, the Supreme Court clarified that this restriction does not apply to a subsequent application explicitly or implicitly invited by the ZBA and modified to address its concerns. Hill-Grant Living Trust v. Kearsarge Lighting Precinct; 159 NH and 529,536 (2009) (citing Morgenstern v. Town of Rye, 147 NH 558 (2002)). The instant 7/23 Proposal before the ZBA reduces the applicable variance requirements for which relief is sought from five separate zoning ordinance sections to one³ (lot size/lot size per dwelling unit which cannot be changed or avoided), and reduces the various locations on the lot/home requiring relief from 17 to one. The instant Proposal also addresses the concern of the ZBA with the 3/23 denial proposal. (See **Exhibit C.**)

Without question, the requirements of Fisher v. Dover and its progeny for a material change in circumstances, materially different application addressing previous concern is here met.

IX. VARIANCE REQUIREMENTS

- 1. The variances will not be contrary to the public interest.**
- 2. The spirit of the ordinance is 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 Malachy Glen Associates, 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." Id. "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":

³ We consider this to be one variance since it is relating to only one section of the ordinance, and because the lot size per dwelling unit is significantly improved creating a less nonconforming building/use. If the requested relief is considered two separate requests than the reduction is to 2 requests for relief.

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The proposal requests variance for lot size/lot size per dwelling unit for a single-family home on a 5000 s.f. lot where 7500 s.f. is required. The lot, size, which is consistent with many other lots in the area (see **Exhibit E**) is a prior nonconforming condition that cannot be changed. The proposal improves lot size per dwelling unit, doubling from 2500 s.f. (2 units) to 5000 s.f. (1) unit). As it proposes a permitted single-family home where a duplex presently exists and requires no dimensional relief while the existing structures significantly violate setbacks (**Exhibit D**), the redevelopment is more conforming compared to existing conditions.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – A duplex dwelling will be reduced to a single-family dwelling, thus will be less intensive, including for parking, than presently exists. Additionally, the project relocates the right side of the existing home, inches from to the common lot line to a compliant setback, a marked improvement.
3. The design of facilities for vehicular access, circulation, parking and loading Off-street underground garage parking spaces will be provided where none now exist. Vehicular access, circulation, parking and loading are therefore improved.
4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – Stormwater will be managed on-site and improved given the increased yard setbacks on this lot, similarly sized to others in the neighborhood. (**Exhibits E, F**) Lighting noise and vibration will be no different than any other single family home in the neighborhood, likely less so than from the use of the nearby sport courts.
5. The preservation and enhancement of the visual environment – The proposed dimensionally compliant home, aesthetically pleasing low ($\leq 18''$) walls and landscaping preserve and enhance the existing visual environment.
6. The preservation of historic districts, and buildings and structures of historic or architectural interest – The Property is not in the Historic District.
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – Redevelopment of the Property has no adverse impact compared to existing conditions.

Based upon the foregoing, the variances do not “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives.” Malachy Glen, supra, which also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality.... 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 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. One home on a 5000 s.f. lot translates to a purpose-compliant 8.8 units per acre (**Exhibits E, F**). *Id.* The Property is located in a thickly settled area of the City with many lots of the same or similar dimension. The tasteful single-family home decreases density, provides on-site parking, and improves dimensional nonconformance. Accordingly, granting the single variance for lot size which cannot be met and is consistent with lot sizes in the neighborhood will neither “alter the essential character of the locality,” which is significantly single-family nor “threaten the public health, safety or welfare”. As the proposed home will serve a single family and be fully code compliant, the variance for lot size improves, thus does not in any way negatively affect existing conditions.

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

The instant 7/23 proposal replaces an aging duplex and garage significantly violating right side and rear setbacks and no on-site parking with a tastefully designed code-compliant and dimensional-compliant single-family home and related improvements requiring only the lot size/lot size per dwelling unit variance, a situation that cannot be remedied. Off-street parking will be improved by the inclusion of the two-car garage beneath. The proposed project reduces existing nonconformities including dimensional compliance and density improvement from 2500 s.f. (duplex) to 5000 s.f. (single family home). These factors, clearly demonstrate that the many improvements proposed, now requiring only a variance from the lot size/lot size per dwelling unit of 5000 s.f. where 7500 s.f. is required, will not diminish surrounding property values.

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

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

The Property is small and narrow, with its northeasterly corner sloping toward South Mill Playground. The lot is 5000 s.f. where 7500 s.f. is required, with no driveway or access for off-

street parking. Because there is no way to make the lot, thus the Project, comply with the GRA lot size requirement, special conditions exist.

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

Lot area and density limits, exist in order to: prevent overburdening/overcrowding of the land; permit areas for stormwater management; and allow for adequate light, air and sightlines. With the exception of the required lot size/lot size per dwelling unit, the Project is entirely dimensionally compliant, improves existing conditions, and importantly relocates the proposed home at a compliant distance from the right side line, presently only inches away. Density is improved compared to existing conditions by replacing the existing duplex with a single-family home in an improved location on a lot, consistent with the lot sizes in the neighborhood. The outdoor living space is screened by a wall and vegetation. The Project's building coverage and open space compliance 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 to require a 7500 s.f. lot where a permitted 5000 s.f. lot was originally created, the lot/size is consistent with other lots in the area, and compliance is impossible.

- c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential uses are permitted in the GRA Zone. The Project decreases density while dimensionally improving existing conditions. Accordingly, the proposed use is reasonable and denial of the requested variance 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. Harborside Associates, L.P. v. Parade Residence Hotel, 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." Malachy Glen, supra at 109.

Smith is constitutionally entitled to the use of the lot as they see fit; including redevelopment for a permitted single-family home with an incorporated garage, fully zoning compliant except for lot size, which cannot be changed. "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; 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. L. Grossman & Sons, Inc. v. Town of Gilford, 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. Burrows v. City of Keene, 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. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69.

Granting the requested variance allows for tasteful and otherwise zoning-compliant redevelopment of an existing 5000 ft.² lot of record in a manner consistent with the lot sizes in the surrounding area. There is absolutely no harm to any neighbor or the general public from granting the lot size variance. It follows that there is no benefit to the public from denial. Conversely, Smith will be greatly harmed by denial as they will lose the opportunity to reasonably redevelop the Property with a dimensionally compliant proposal significantly improving existing conditions, requesting only relief for a condition (lot size) that cannot under any circumstances be met.

Accordingly, there is no benefit to the public from granting the variance that outweighs the harm to the owner from denial.

X. CONCLUSION

For all the reasons stated, Peter and Cynthia Smith respectfully request that the Portsmouth Zoning Board of Adjustment the requested lot size/lot size per dwelling unit variance.

Respectfully submitted,
Peter Smith & Cynthia Austin Smith

By:



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

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

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

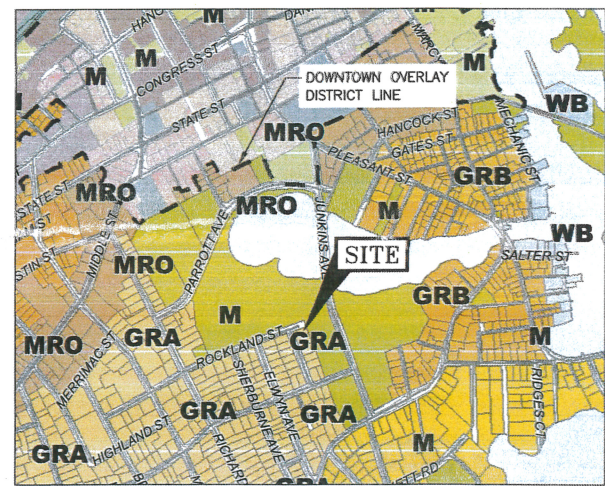
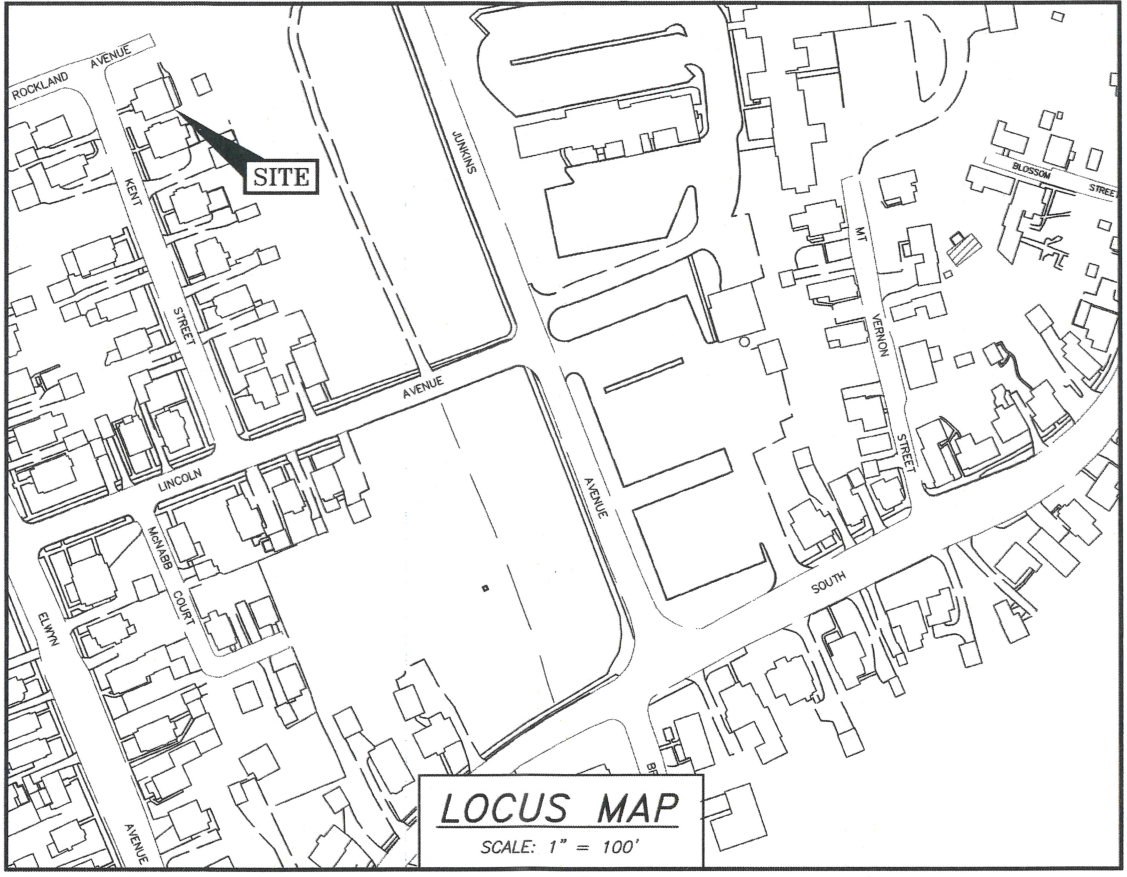
ARCHITECT:

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

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
W	W	WATER LINE
WS	WS	WATER SERVICE
UGE	UGE	UNDERGROUND ELECTRIC
OHW	OHW	OVERHEAD ELECTRIC/WIRES
---	---	FOUNDATION DRAIN
---	---	EDGE OF PAVEMENT (EP)
100	100	CONTOUR
97x3	98x0	SPOT ELEVATION
○	○	UTILITY POLE
⊙	⊙	WALL MOUNTED EXTERIOR LIGHTS
⊙	⊙	TRANSFORMER ON CONCRETE PAD
⊙	⊙	ELECTRIC HANDHOLD
⊙	⊙	SHUT OFFS (WATER/GAS)
⊙	⊙	GATE VALVE
⊙	⊙	HYDRANT
⊙	⊙	CATCH BASIN
⊙	⊙	SEWER MANHOLE
⊙	⊙	DRAIN MANHOLE
⊙	⊙	TELEPHONE MANHOLE
⊙	⊙	PARKING SPACE COUNT
⊙	⊙	PARKING METER
LSA	LSA	LANDSCAPED AREA
TBD	TBD	TO BE DETERMINED
CI	CI	CAST IRON PIPE
COP	COP	COPPER PIPE
DI	DI	DUCTILE IRON PIPE
PVC	PVC	POLYVINYL CHLORIDE PIPE
RCP	RCP	REINFORCED CONCRETE PIPE
AC	AC	ASBESTOS CEMENT PIPE
VC	VC	VITRIFIED CLAY PIPE
EP	EP	EDGE OF PAVEMENT
EL	EL	ELEVATION
FF	FF	FINISHED FLOOR
INV	INV	INVERT
S =	S =	SLOPE FT/FT
TBM	TBM	TEMPORARY BENCH MARK
TYP	TYP	TYPICAL



Legend

Character Districts
 [---] Character-Based Zoning Area
 (Refer to Zoning Map Sheet 2 of 2
 Character Districts Regulating Plan)

Residential Districts

- R Rural
- SRA Single Residence A
- SRB Single Residence B
- GRA General Residence A
- GRB General Residence B
- GRC General Residence C
- GAMH Garden Apartment/Mobile Home Park

INDEX OF SHEETS

DWG No.	Description
-	STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY
C1	DEMO PLAN
C2	VARIANCE PLAN

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

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

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

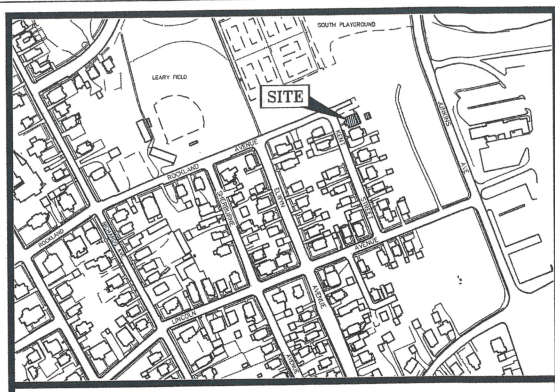
PLAN SET SUBMITTAL DATE: 19 JULY 2023



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:

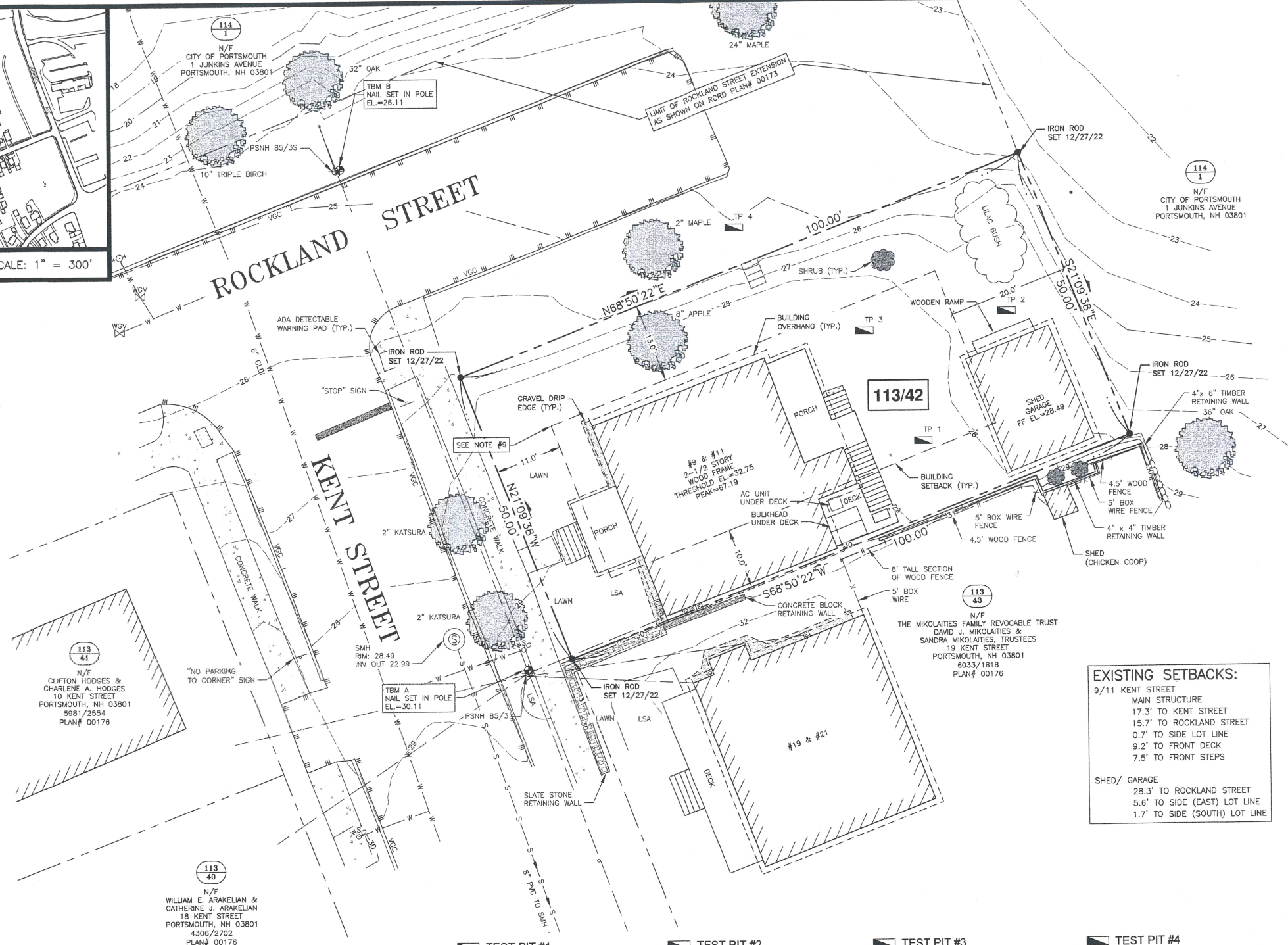
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 113 AS LOT 42.
- 2) OWNERS OF RECORD:
CYNTHIA AUSTIN SMITH &
PETER SMITH
9 KENT STREET
PORTSMOUTH, NH 03801
6358/448
PLAN# 00176
- 3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259F, DATED 1/29/2021.
- 4) EXISTING LOT AREA:
5,000 S.F.
0.1148 ACRES
- 5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 7,500 S.F.
FRONTAGE: 100 FEET
SETBACKS:
FRONT: 15 FEET
SIDE: 10 FEET
REAR: 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 25%
MINIMUM OPEN SPACE: 30%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY OF ASSESSOR'S MAP 113, LOT 42 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
- 9) IN ACCORDANCE WITH THE PORTSMOUTH ZONING ORDINANCE, ARTICLE 5, SECTION 10.516 FRONT YARD EXCEPTION FOR EXISTING ALIGNMENTS: THE AVERAGE FRONT SETBACK FOR LOT 113/42 ON KENT STREET IS 10' AND AVERAGE FRONT SETBACK ON ROCKLAND STREET IS 13'. MEASUREMENT TO STRUCTURES 18" ABOVE GRADE.



LOCATION MAP SCALE: 1" = 300'

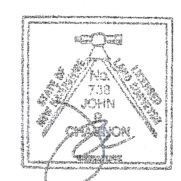
LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY
- REGISTRY OF DEEDS
- MAP 11 / LOT 21
- BOUNDARY
- SETBACK
- RAILROAD SPIKE FOUND/SET
- IRON ROD/ PIPE FOUND
- DRILL HOLE FOUND/SET
- S SEWER LINE
- G GAS LINE
- D STORM DRAIN
- W WATER LINE
- OVERHEAD ELECTRIC/WIRES
- CONTOUR
- 100 SPOT ELEVATION
- 97x.3 EDGE OF PAVEMENT (EP)
- WOODS / TREE LINE
- UTILITY POLE (w/ GUY)
- GAS SHUT OFF
- WATER SHUT OFF/CURB STOP
- GATE VALVE
- HYDRANT
- METER (GAS, WATER, ELECTRIC)
- SEWER MANHOLE
- SIGNS
- ELEVATION
- FF FINISHED FLOOR
- TBM TEMPORARY BENCHMARK
- TYP. TYPICAL
- VGC VERTICAL GRANITE CURB
- CCB CAPE COD BERM
- LSA LANDSCAPED AREA



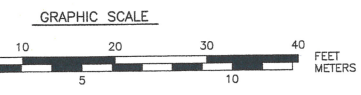
EXISTING SETBACKS:
9/11 KENT STREET
MAIN STRUCTURE
17.3' TO KENT STREET
15.7' TO ROCKLAND STREET
0.7' TO SIDE LOT LINE
9.2' TO FRONT DECK
7.5' TO FRONT STEPS
SHED/ GARAGE
28.3' TO ROCKLAND STREET
5.6' TO SIDE (EAST) LOT LINE
1.7' TO SIDE (SOUTH) LOT LINE

PLAN REFERENCES:
1) PLAN OF A LOT OF LAND OWNED BY ALFRED L. ELWYN PORTSMOUTH N.H. COMPILED FROM A SURVEY MADE 1899 BY A.C. HOYT C.E. RCRD PLAN# 00176.
2) STANDARD BOUNDARY SURVEY TAX MAP 113 - LOT 45 OWNER: MICHAEL T. ROCHE & SUSAN L. JAVUREK, PROPERTY LOCATED AT 45 KENT STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 10', DATED: MAY 2002, NOT RECORDED



"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHAGNON, LLS #738 DATE 2-7-23



TEST PIT #1
Date: 11/3/22
Logged by: STEVEN D. RIKER
ESHW: 34"
Observed Water: NONE
Restrictive layer: NONE
REFUSAL: NONE TO 66"
Percolation rate: 10 min./inch

DEPTH	DESCRIPTION
0" - 8"	10 YR 3/2 FINE SANDY LOAM, GRANULAR, FRIABLE
0" - 21"	10 YR 4/3 FINE SANDY LOAM, GRANULAR, FRIABLE
21" - 34"	ASH LAYER
34" - 53"	10 YR 3/4 FINE SANDY LOAM, GRANULAR, FRIABLE
53" - 61"	10 YR 4/6 FINE SANDY LOAM, GRANULAR, FRIABLE
61" - 66"	2.5 YR 5/4 FINE SANDY LOAM, GRANULAR, FRIABLE

TEST PIT #2
Date: 11/3/22
Logged by: STEVEN D. RIKER
ESHW: 57"
Observed Water: NONE
Restrictive layer: NONE
REFUSAL: NONE TO 75"
Percolation rate: 10 min./inch

DEPTH	DESCRIPTION
0" - 6"	10 YR 3/3 FINE SANDY LOAM, GRANULAR, FRIABLE
6" - 26"	10 YR 4/3 FINE SANDY LOAM, GRANULAR, FRIABLE
26" - 57"	ASH LAYER
57" - 75"	10 YR 5/4 FINE SANDY LOAM, GRANULAR, FRIABLE

TEST PIT #3
Date: 11/3/22
Logged by: STEVEN D. RIKER
ESHW: 55"
Observed Water: NONE
Restrictive layer: NONE
REFUSAL: NONE TO 75"
Percolation rate: 10 min./inch

DEPTH	DESCRIPTION
0" - 37"	10 YR 3/3 FINE SANDY LOAM, GRANULAR, FRIABLE
37" - 55"	ASH LAYER
55" - 75"	10 YR 5/4 FINE SANDY LOAM, GRANULAR, FRIABLE

TEST PIT #4
Date: 11/3/22
Logged by: STEVEN D. RIKER
ESHW: 56"
Observed Water: NONE
Restrictive layer: PAN AT 56"
REFUSAL: NONE TO 56"
Percolation rate: 10 min./inch

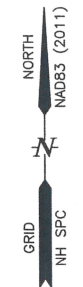
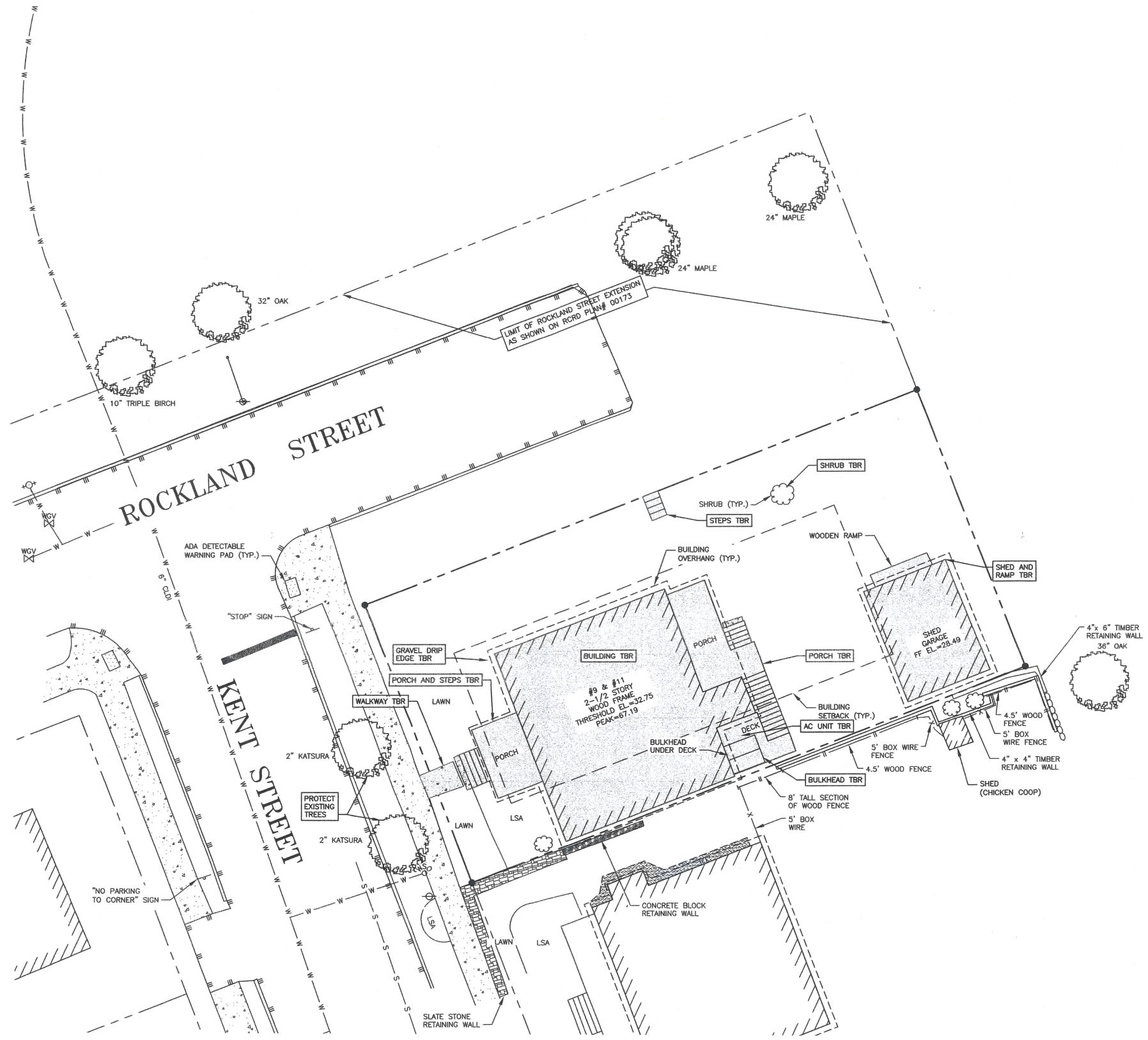
DEPTH	DESCRIPTION
0" - 5"	10 YR 4/3 FINE SANDY LOAM, GRANULAR, FRIABLE
5" - 18"	ASH LAYER
18" - 27"	10 YR 4/4 FINE SANDY LOAM, GRANULAR, FRIABLE
27" - 56"	2.5 YR 4/4 FINE SANDY LOAM, GRANULAR, FRIABLE
56" - 71"	2.5 YR 4/3 FINE SANDY LOAM, GRANULAR, FRIABLE

NO.	DESCRIPTION	DATE
3	ISSUED FOR APPROVAL	2/7/23
2	MONUMENTS SET	12/27/22
1	TEST PIT INFORMATION	11/10/22
0	ISSUED FOR COMMENT	7/13/22

STANDARD BOUNDARY & TOPOGRAPHIC SURVEY
TAX MAP 113 - LOT 42
OWNER:
CYNTHIA AUSTIN SMITH & PETER SMITH
9-11 KENT STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

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.
- I) ALL WORK WITHIN THE CITY OF PORTSMOUTH RIGHT OF WAY SHALL BE COORDINATED WITH THE CITY OF PORTSMOUTH DEPARTMENT OF PUBLIC WORKS (DPW).
- J) 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.
- L) 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.
- M) THE CONTRACTOR SHALL PAY ALL COSTS NECESSARY FOR TEMPORARY PARTITIONING, BARRICADING, FENCING, SECURITY AND SAFETY 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.



NOTES:

- 1) 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 WITHIN 100 FEET OF UNDERGROUND UTILITIES. THE EXCAVATOR IS RESPONSIBLE TO MAINTAIN MARKS. DIG SAFE TICKETS EXPIRE IN THIRTY DAYS.
- 2) 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.
- 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).

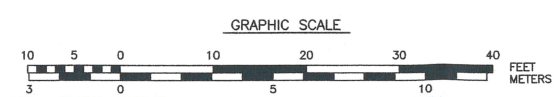
**SMITH RESIDENCE
9 KENT STREET
PORTSMOUTH, N.H.**

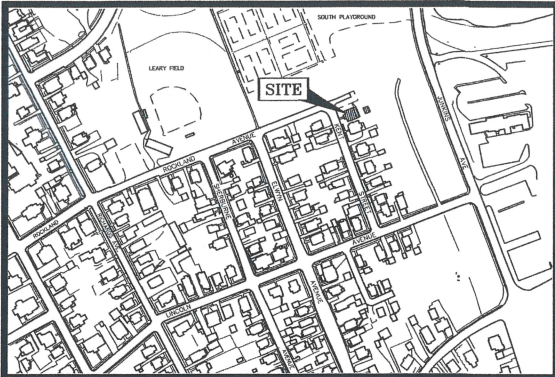
0	ISSUED FOR APPROVAL	7/19/23
NO.	DESCRIPTION	DATE
REVISIONS		



SCALE: 1" = 10' JULY 2023

DEMO PLAN **C1**





LOCATION MAP SCALE: 1" = 300'

PROPOSED SETBACKS:
 9 & 11 KENT STREET
 MAIN STRUCTURE
 14.0' TO KENT STREET
 16.0' TO ROCKLAND STREET
 12.0' TO SIDE (SOUTH) LOT LINE
 11.0' TO FRONT (KENT) STEPS

LANDSCAPE WALL:
 1.0' TO ROCKLAND STREET
 0' TO KENT STREET
 4.0' TO SIDE (AND REAR) LOT LINE

IMPERVIOUS SURFACE AREAS (TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURE	1,075	1,122
GARAGE/SHED	296	0
PORCHES/DECKS/PATIOS/SPA	315	741
STAIRS/RAMP/LANDINGS	111	178
CONCRETE/UTILITY PADS	27	36
DRIVEWAY	0	265
RETAINING WALLS	0	236
WINDOW WELL	0	4
WALKWAYS & SITTING AREA	0	306
TOTAL	1,824	2,888
LOT SIZE	5,000	5,000
% LOT COVERAGE	36.5%	57.8%

EXISTING BUILDING COVERAGE:

MAIN STRUCTURE	1,075 S.F.
GARAGE/SHED	296 S.F.
PORCH/DECKS	315 S.F.
STEPS OVER 18" AG	
FRONT PORCH STEPS	9 S.F.
BACK PORCH/DECK STEPS	52 S.F.
TOTAL	1,747 S.F.

BUILDING COVERAGE: 1,747/5000 = 35%

PROPOSED BUILDING COVERAGE:

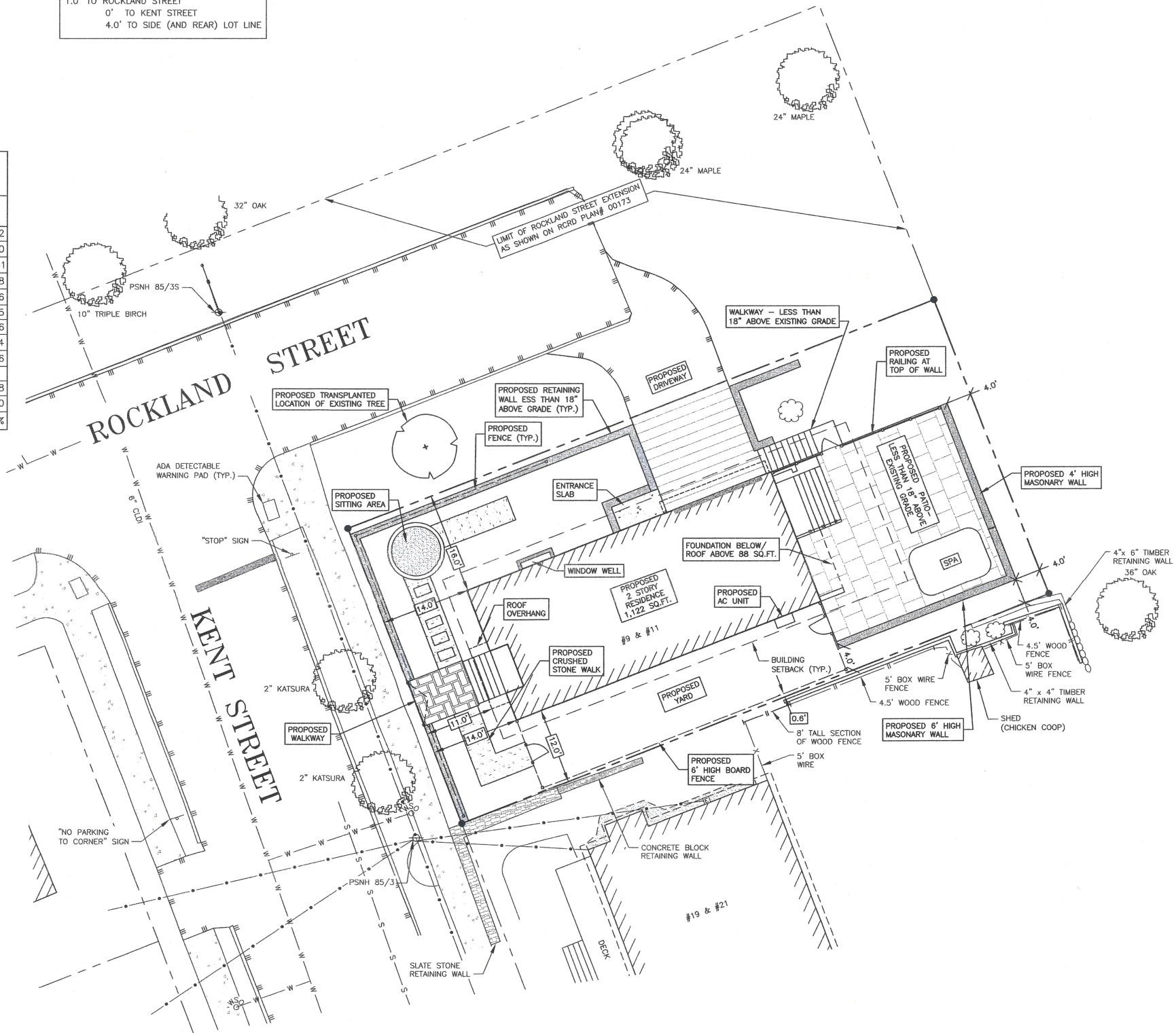
MAIN STRUCTURE	1,122 S.F.
STEPS OVER 18" AG	
FRONT STEPS	20 S.F.
STEPS ON PATIO	34 S.F.
FOUNDATION BELOW PATIO	88 S.F.
TOTAL	1,264 S.F.

BUILDING COVERAGE: 1,264/5000 = 25%

PROPOSED OPEN SPACE CALCULATION:

MAIN STRUCTURE	1,122 S.F.
PATIO	741 S.F.
STAIRS/STEPS	178 S.F.
CONCRETE PADS	36 S.F.
DRIVEWAY	265 S.F.
WINDOW WELL	4 S.F.
RETAINING WALLS	236 S.F.
WALKWAY	306 S.F.
TOTAL	2,888 S.F.

COVERAGE: 2,888/5000 = 58% COVERAGE
 100% - 58% = 42% OPEN SPACE



NORTH
 NORTH
 GRID
 NH SPC

- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 113 AS LOT 42.
 - 2) OWNERS OF RECORD:
 CYNTHIA AUSTIN SMITH &
 PETER SMITH
 9 KENT STREET
 PORTSMOUTH, NH 03801
 6358/448
 PLAN# 00176
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, DATED 1/29/2021.
 - 4) EXISTING LOT AREA:
 5,000 S.F.
 0.1148 ACRES
 - 5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
 MIN. LOT AREA: 7,500 S.F.
 FRONTAGE: 100 FEET
 SETBACKS:
 FRONT: 15 FEET
 SIDE: 10 FEET
 REAR: 20 FEET
 MAXIMUM STRUCTURE HEIGHT: 35 FEET
 MAXIMUM BUILDING COVERAGE: 25%
 MINIMUM OPEN SPACE: 30%
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED STRUCTURE AND SITE IMPROVEMENTS ON ASSESSOR'S MAP 113, LOT 42 IN THE CITY OF PORTSMOUTH.
 - 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

**SMITH RESIDENCE
 9 KENT STREET
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	7/19/23
REVISIONS		

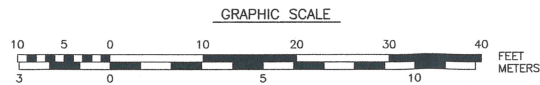
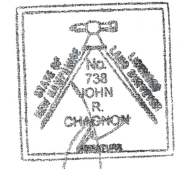
SCALE: 1" = 10' JULY 2023

VARIANCE PLAN

C2

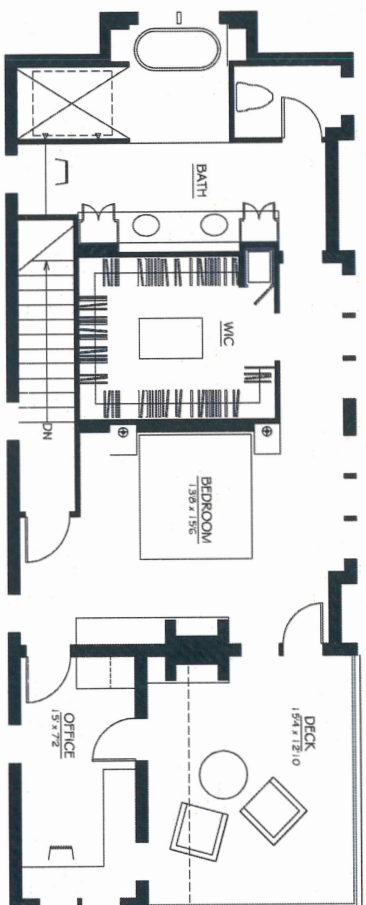
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John R. Chagnon
 JOHN R. CHAGNON, LLS #738 DATE 7-19-23

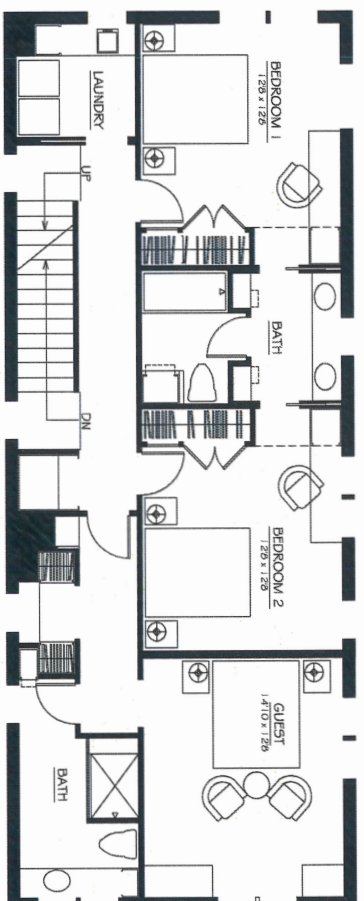


2023/07/19 10:00 AM: JOHN R. CHAGNON, LLS #738, STATE OF NEW HAMPSHIRE, PROFESSIONAL ENGINEER, LICENSE NO. 738, EXPIRES 07/19/2026.

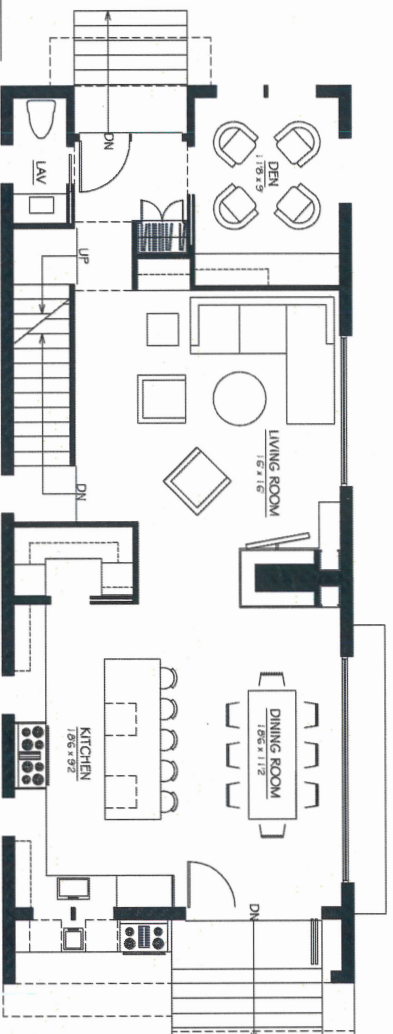
THIRD FLOOR



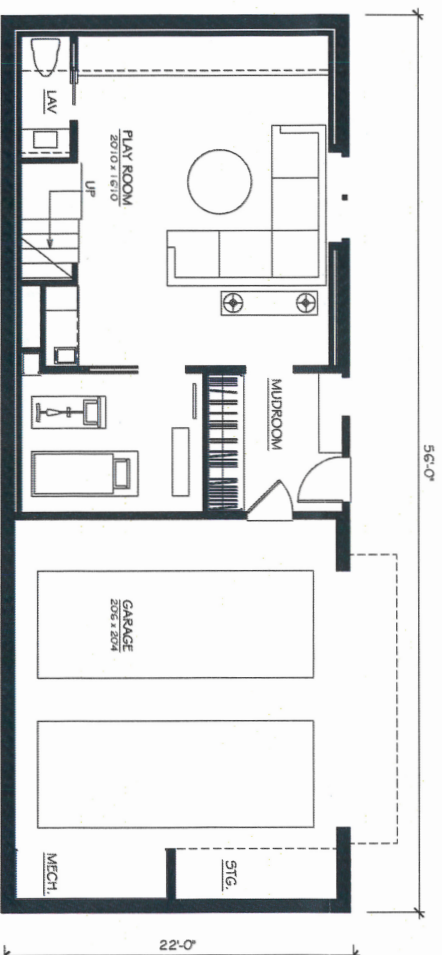
SECOND FLOOR



FIRST FLOOR



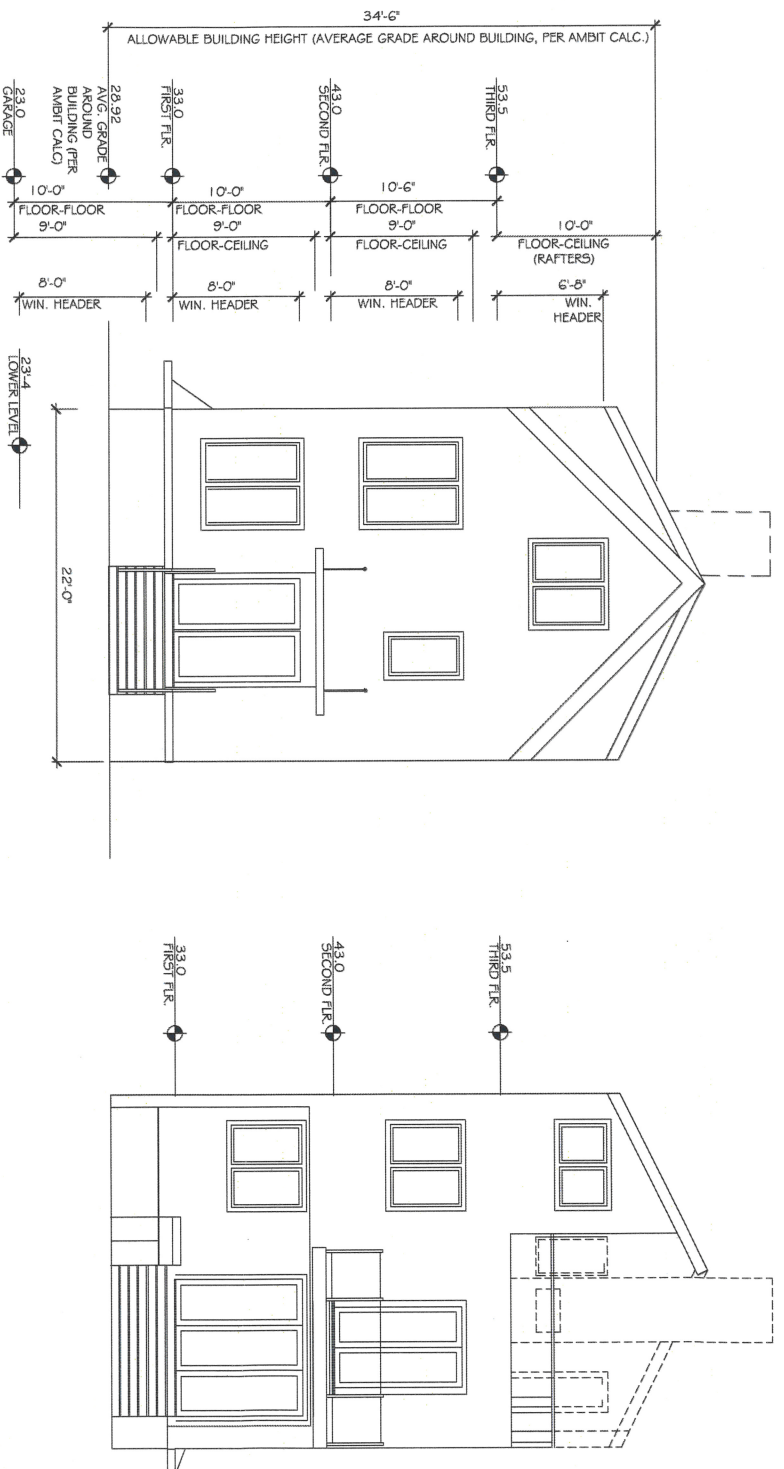
LOWER LEVEL



SMITH RESIDENCE (B)
9 KENT STREET, PORTSMOUTH, NH

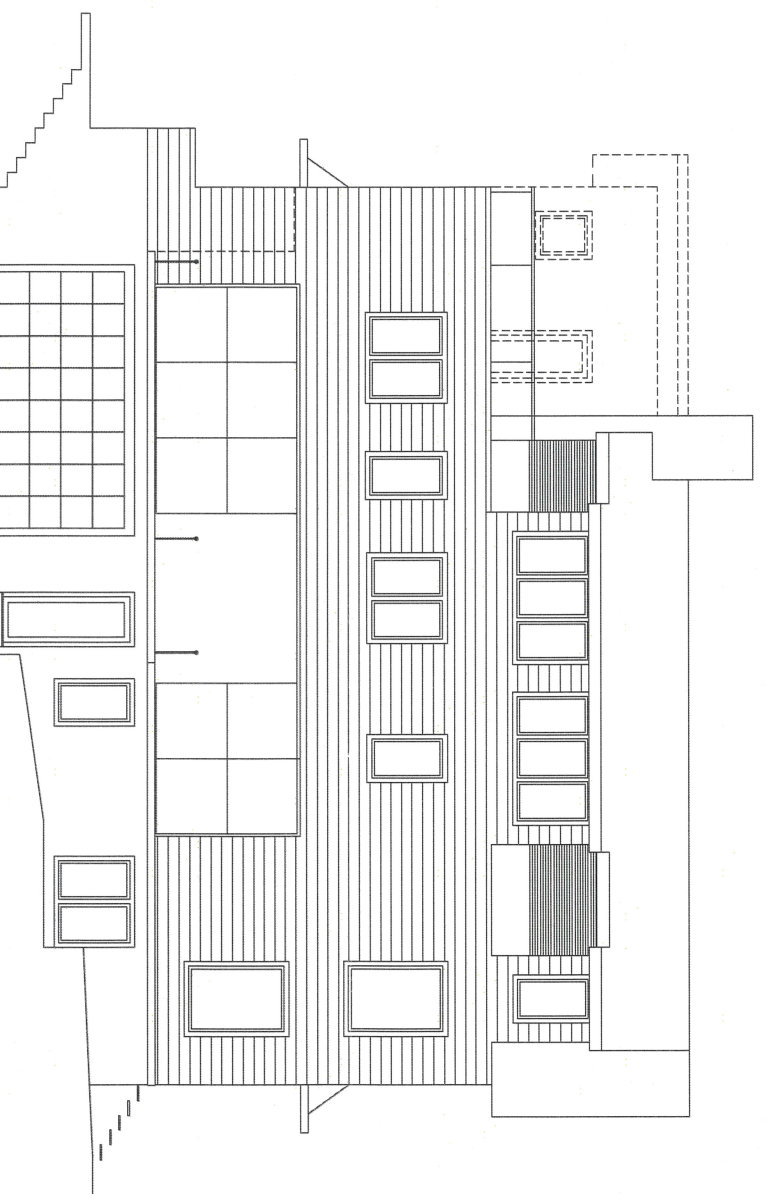
PROPOSED FLOOR PLANS
3/16" = 1'-0"

JULY 26, 2023
SOMMA STUDIOS

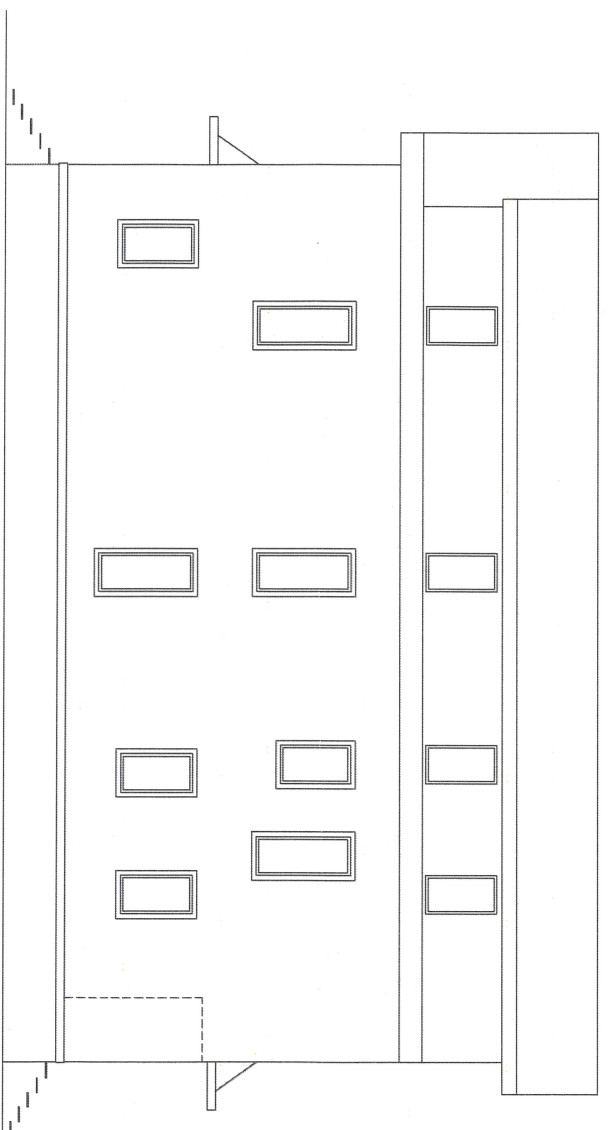


KENT STREET ELEVATION

BACK ELEVATION



ROCKLAND STREET ELEVATION

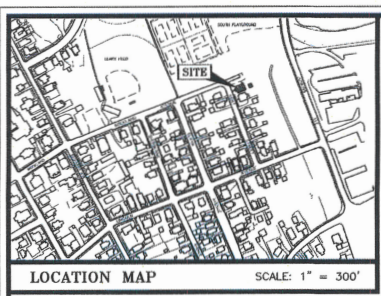


NEIGHBOR'S ELEVATION

SMITH RESIDENCE (B)
9 KENT STREET, PORTSMOUTH, NH

PROPOSED ELEVATIONS
3/16" = 1'-0"

JULY 26, 2023
SOMMA STUDIOS



PROPOSED SETBACKS:
 9' & 11' KENT STREET
 MAIN STRUCTURE
 14.3' TO KENT STREET
 9.7' TO ROCKLAND STREET
 0.6' TO SIDE (SOUTH) LOT LINE
 9.3' TO FRONT PORCH
 6.5' TO FRONT (KENT) STEPS
 12.5' TO SIDE (ROCKLAND) STEPS

LANDSCAPE WALL:
 1.0' TO ROCKLAND STREET
 0' TO KENT STREET
 4.5' TO SIDE (EAST) LOT LINE
 0.5' TO SIDE (SOUTH) LOT LINE

IMPERVIOUS SURFACE AREAS (TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURE	1,075	1,353
GARAGE/SHED	296	0
PORCHES/DECKS	315	458
STAIRS/RAMP/LANDINGS	111	205
CONCRETE PADS	27	28
DRIVEWAY	0	297
POOL FRAME WALL	0	37
RETAINING WALLS	0	303
668 S.F. TERRACE	0	668
EXTENDED ROOF OVERHANG	0	66
TOTAL	1,824	3,415
LOT SIZE	5,000	5,000
% LOT COVERAGE	36.5%	68.3%

EXISTING BUILDING COVERAGE:

MAIN STRUCTURE	1,075 S.F.
GARAGE/SHED	296 S.F.
PORCH/DECKS	315 S.F.
STEPS OVER 18" AG	9 S.F.
FRONT PORCH STEPS	32 S.F.
BACK PORCH/DECK STEPS	1,747 S.F.
TOTAL	1,747 S.F.

BUILDING COVERAGE: 1,747/5000 = 35%

PROPOSED BUILDING COVERAGE:

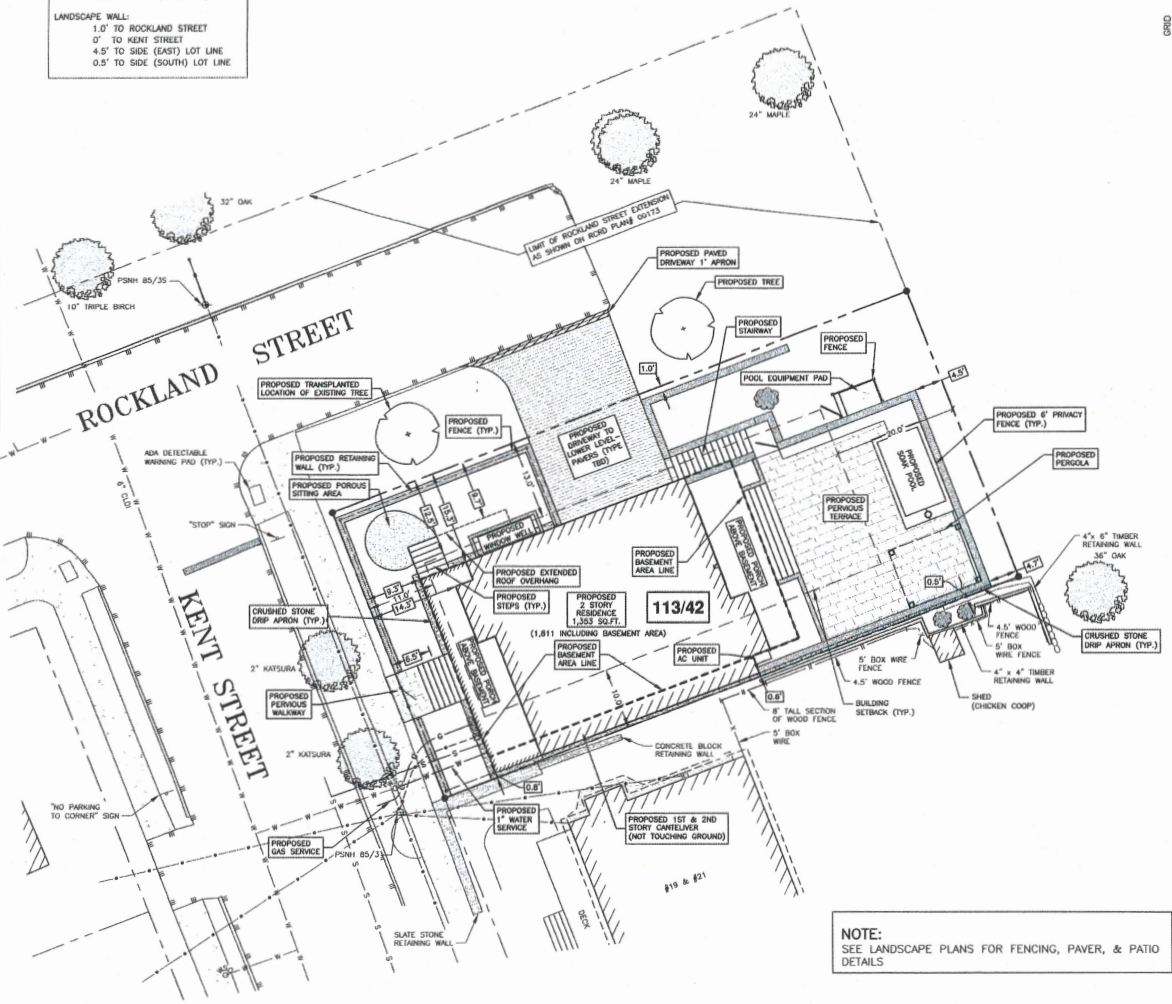
MAIN STRUCTURE	1,353 S.F.
PORCH/PATIOS	458 S.F.
STEPS OVER 18" AG	22 S.F.
FRONT PORCH STEPS	13 S.F.
STEPS ON PATIO	82 S.F.
STAIRWAY	60 S.F.
PERVIOUS TERRACE AREA	668 S.F. (INCLUDING PERGOLA FRAME)
POOL EQUIPMENT AREA	24 S.F.
TOTAL	2,660 S.F.

BUILDING COVERAGE: 2,660/5000 = 53%

PROPOSED OPEN SPACE CALCULATION:

MAIN STRUCTURE	1,353 S.F.
PORCH'S	458 S.F.
STAIRS/STEPS	205 S.F.
CONCRETE PADS	28 S.F.
DRIVEWAY	297 S.F.
POOL FRAME WALL	37 S.F.
RETAINING WALLS	303 S.F.
PERVIOUS TERRACE AREA	668 S.F. (INCLUDING PERGOLA FRAME)
TOTAL	3,349 S.F.

COVERAGE: 3349/5000 = 67% COVERAGE
 100% - 67% = 33% OPEN SPACE



NOTE:
 SEE LANDSCAPE PLANS FOR FENCING, PAVER, & PATIO DETAILS



AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 439-8882 Fax (603) 439-2315

- NOTES:**
- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 113 42 LOT 42.
 - OWNERS OF RECORD:
 CYNTHIA AUSTIN SMITH &
 PETER SMITH
 9 KENT STREET
 PORTSMOUTH, NH 03801
 6336/448
 PLAN# 00178
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 3301500269F, DATED 1/29/2021.
 - EXISTING LOT AREA:
 0,000 S.F.
 0.1148 ACRES
 - PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) DISTRICT.
 - DIMENSIONAL REQUIREMENTS:
 MIN. LOT AREA: 7,500 S.F.
 FRONTAGE: 100 FEET
 SETBACKS: FRONT: 15 FEET
 SIDE: 10 FEET
 REAR: 20 FEET
 MAXIMUM STRUCTURE HEIGHT: 35 FEET
 MAXIMUM BUILDING COVERAGE: 25%
 MINIMUM OPEN SPACE: 30%
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED STRUCTURE AND SITE IMPROVEMENTS ON ASSESSOR'S MAP 113, LOT 42 IN THE CITY OF PORTSMOUTH.
 - VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

**SMITH RESIDENCE
 9 KENT STREET
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
5	FOUNDATION	5/8/23
4	DRIVE APRON	3/1/23
3	ISSUED FOR APPROVAL	2/7/23
2	DENSITY CALCULATIONS	1/10/23
1	REVISED LAYOUT	12/28/22
0	ISSUED FOR COMMENT	12/22/22

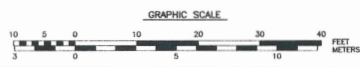


SCALE: 1" = 10' NOVEMBER 2022

SITE PLAN C2

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHAGNON, LLS #738 DATE: 5-8-23





Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

May 23, 2023

Cynthia Austin & Peter Smith
206 Court Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 9 Kent Street (LU-23-28)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 16, 2023**, considered your application for demolishing the existing two-family and constructing 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 shown on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to

deny the request because the expansion of the non-conformities and proposed changes to the existing property do not meet the spirit of the ordinance, substantial justice is not done, and there is no hardship.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

John Chagnon, Ambit Engineering, Inc.
R. Timothy Phoenix, Hoefle Phoenix Gormley & Roberts, PLLC

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

7:00 P.M.

May 16, 2023

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; Paul Mannle; Thomas Rossi; David Rheume; Jeffrey Mattson; Jody Record, Alternate; ML Geffert, Alternate

MEMBERS EXCUSED: None.

ALSO PRESENT: Stefanie Casella, Planning Department

The meeting was called to order at 7:05 p.m.

*Mr. Rossi moved to take the postponed petitions out of order to vote on, seconded by Ms. Geffert. The motion **passed** unanimously, 7-0.*

Chair Eldridge read the postponed items into the record. The motions were made and passed as noted under each postponed petition.

I. APPROVAL OF MINUTES

A. Approval of the April 18, 2023 Minutes.

Ms. Geffert noted that on page 12, the 15 Lafayette Road petition, the property was not 40 acres and that the sentence should read: Attorney Pasay reviewed the petition and noted that the property currently had a single-family dwelling but that it had two public roads of frontage.

Under Discussion and Decision of the Board on page 13, Ms. Geffert asked that the phrase ‘comply with the lot’ be changed to ‘comply with the law’ so that the sentence reads as follows: Ms. Geffert said they didn’t need a condition stating that the applicant would comply with the law because the applicant had to.

Mr. Rheume asked that a change be made for purposes of clarification to the end of the first paragraph on page 13 under Discussion and Decision of the Board to read as follows: He said that a stipulation requiring this would unduly restrict future property owners, which could be a source of a possible lawsuit against the city.

different density and lot sizes. He said the properties on Sylvester Street were the appropriate comparators. It was further discussed. (Timestamp 2:24:53).

The motion passed by a vote of 4-3, with Ms. Geffert, Mr. Rheaume, and Chair Eldridge voting in opposition.

Alternate Ms. Record took a voting seat.

- 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)

SPEAKING TO THE PETITION

Attorney Tim Phoenix was present on behalf of the applicant with the owners, the project engineer John Chagnon, project designer Jennifer Ramsey, and landscape architect Robbie Woodburn. He reviewed the petition and said they wanted to replace the existing duplex with a single-family home and an underground garage. He said the existing building coverage was 35 percent and the proposed was 53 percent. He said the backyard would be raised by 24 inches and have pervious pavers for better drainage, which he said was included in the coverage but was sort of an artificial component. He said several issues drove the plan, including the driveway, pervious pavement, topography, and so on. Mr. Chagnon addressed the drainage issues.

Mr. Rossi asked if the right yard setback was due to the overhangs. Attorney Phoenix said it was due to the cantilever that was over by three feet. Mr. Rossi asked what the hardship of the property was that required a cantilever in the house and bringing it right up to the lot line. Attorney Phoenix said many houses in the area had small lots and were close to the lot line. Mr. Rossi asked how close the external walls in the structure would be to the neighboring property. Mr. Chagnon said the house was pulled to the south due to the desire to park at that basement level. He said in order to get the cars off the street and under the structure with enough clearance, they were forced to push the house in the same location as it is now. Mr. Rossi concluded that the current condition of the house's right side was about .7 feet from the lot line. Attorney Phoenix said the existing was .5 feet.

Mr. Rheaume said the applicant stated that the project proposes a permitted single-family home where a duplex is now, so redevelopment is more than conforming compared to existing conditions.

He said he was confused by that statement and asked how it would make it more nonconforming because two-family homes were permitted in the GRA zone. Attorney Phoenix said he misstated it and that he should have said that it was less density but fewer units. Mr. Rheaume said the packet stated that the project would replace an aging duplex but didn't mention any rotting and so on. He asked if there were similar concerns with the structure. Mr. Smith said he was one of the owners and that he wasn't qualified to say whether the house was ready to fall down. Mr. Rheaume referred to the proposed cantilever and asked what the gap would be between the ground and the first floor. Mr. Chagnon said the cantilever had more to do with the structurability of the replacement home and the existing foundation wall would be used as the sheet pile. Ms. Ramsey said the original foundation floor would not change.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Dean Baltulonis of 159 Richards Avenue said his home was adjacent to the park and thought the project would be a nice upgrade to the backdrop of the park.

Jessica Kaiser (no address given) said the architectural elements showed modern components but pulled elements from the existing house and surrounding houses as well. She said the garage would sit underground and would not affect the mass.

Alex Greiner of 88 Lincoln Street said the project would be a great addition to the neighborhood.

SPEAKING IN OPPOSITION TO THE PETITION

Dave McGlass (no address given) said he was the abutter and thought the project would not meet the criteria. He said the stormwater impact would increase on his property and the metal roof oriented NS instead of EW would cause the snow to slide off onto their property. He said the overhang would go onto their property and the concrete foundation would be six inches from his property line. He said the stormwater treatment would require the owner to use his property. He said the front porch would be more forward than any other house on Kent Street and would impact the visual environment. He said there were no special conditions of the lot to create a hardship.

Bill Arakelian of 18 Kent Street said the existing property was structurally sound and did not present any undue hardships. He said the proposed design was inappropriate and there was no reason to drive all the setbacks further out of compliance.

Cliff Hodgson of 10 Kent Street said the setbacks would negatively affect the neighborhood and the size and appearance of the new home would alter the essential characteristics of the area. He said there was no hardship and that the owners seemed to think the rules didn't apply to them.

Jim Lee of 520 Sagamore Avenue said the project would alter the essential character of the neighborhood. He also noted that the board was always reluctant to grant a zero lot line.

Barbara Adams of 75 Kent Street said the project would double the size of the dwelling unit to 5,000 square feet and that a patio raised 24 inches with a special surface seemed like building coverage. She noted that the houses on Kent Street were all built in the 1900s and were traditional in size, shape and style, but the applicant wanted a larger 4-story modern California-style building with vertical siding and a metal roof and 300 feet of surrounding retaining cement walls. She said the building would be out of proportion and not compatible with the neighborhood and would alter the essential character of Kent Street. She said there was no hardship.

Matt Beebe of 81 Lincoln Avenue said there was no hardship and thought the design team should find a way to make the house more conforming and get it further away from the lot lines.

Sue Polidura of Middle Street said the proposed house was a very modern structure in a very old neighborhood and was more appropriate for a modern development.

Esther Kennedy of 41 Pickering Avenue read an excerpt from a note from Attorney Duncan MacCallum stating that it was difficult to draw the line between a person's property rights and the neighbor's property rights, but that was what zoning was and did and it required buildings to be a certain number of feet from the neighbor's boundaries for property air, light, and space between buildings. She said the applicant did not meet any of the criteria.

Petra Huda of 280 South Street said she couldn't fathom how the applicant would get all that 'stuff' into that spot. She said there was no hardship and that the petition should be denied.

Katherine Arakelian of 18 Kent Street said eight out of twelve houses on Kent Street were in opposition.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Phoenix said 53 percent was an artificial number because the house was 35 percent where 39 percent was the limit. He said the existing house was the same distance from the common lot line as the proposed house. He said stormwater and snow would be captured and the driveway and garage would free up street parking. He said the larger porch would not affect neighbors' views. He said the applicant was required to do a stormwater plan to document pre- and post-construction. He said the existing home was 2,700 square feet and the proposed home was 39,000 square feet.

Barbara Jenny of 81 Lincoln Avenue (via Zoom) said the project would affect her sense of light and view and also her view of the pond and park. She said she took issue with Attorney Phoenix using the term 'essentially' several times. She said measurements mattered.

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

*At this point in the meeting, Mr. Mannle moved to **extend** the meeting beyond 10:00, seconded by Ms. Record. The motion **passed** unanimously.*

DISCUSSION OF THE BOARD

Mr. Rossi said he liked the design and thought the house would improve the area and didn't think it would be out of keeping with the character of the neighborhood. He said housing styles were different from property to property and people didn't build the way they did years ago. He said he didn't think it would be contrary to the spirit of the ordinance and saw no loss to the public or diminishment of surrounding property values. He said he did have difficulty with the hardship of the land forcing the need for the variances. He thought most of the variances, especially the lot line clearance on the right side, were driven by the desire to have a garage under the residence, which caused everything to be raised and necessitated more drains, retaining walls, and so on. He said he did not think the property offered a hardship that required a subterranean garage and the resulting placement of the house six inches from the right side property line, so on that basis, he could not support it. Vice-Chair Margeson said she would not support it and that she wasn't persuaded that there was a hardship of special conditions that made the property exempt from the ordinance's requirements. She said a particular concern was the elimination of the primary front yard setback from 7 feet to zero, which affected the streetscape. She said the building coverage was also a hard one because it wasn't essentially open space but a structure. She said open space had to be free of structures, and it significantly increased the building coverage and made the property more nonconforming. Mr. Rheume said he could not approve it. He said the applicant was asking for more relief than what was needed for the existing structure in every way. He said the city wasn't getting much from the applicant per the balancing test. He said the applicant's term 'as desired' drove a lot of what was being requested for relief. He said the applicant argued that the 53 percent coverage wasn't a real number but was all the stuff they wanted to create in the backyard, and that just because it was made up of earth and stone didn't make it less impactful. He thought it would be more impactful because the rolling hill topography on the back of the property that contributed to the park had a positive effect that could be negatively impacted. He said the underground garage would be right along the neighbor's wall, and the roof pitch being oriented into a front gable would be more impactful because all the rain and snow would come down on the neighbor's property. He said the project failed several criteria and did not support the balancing test.

DECISION OF THE BOARD

*Mr. Rheume moved to **deny** the petition, seconded by Mr. Mannle.*

Mr. Rheume said the application only had to fail one criterion, and he thought it failed a few. He said a lot of relief was being asked for and neighboring properties would be negatively affected from a light and air standpoint as well as a water runoff standpoint and complexity of design. He said the maintainability of that design would cause the neighbor future issues. He said the structure was in a prominent location and some of the things asked for would negatively impact some of what the public would look for in that location. As for the hardship, he said it was brand new construction and that the applicant could build a new structure in full compliance or require less relief than requested. He said all the characteristics he saw were negative hardships that made the request relief even more egregious. Mr. Mannle concurred. He said the applicant was asking for seven variances for brand new construction, and that two of them couldn't change but five of them could get better. He said it didn't make sense on new construction.

*The motion **passed** by unanimous vote, 7-0.*

9 Kent St



Portsmouth, New Hampshire
Google Street View
Sep 2011



Google

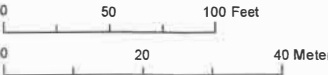
Image capture: Sep 2011 © 2023 Google



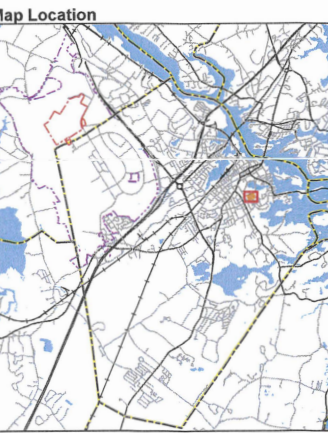
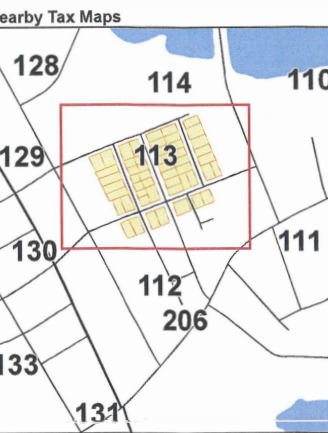


- Partial Legend**
 See the cover sheet for the complete legend.
- 7-5A Lot or lot-unit number
 - 2.56 ac Parcel area in acres (ac) or square feet (sf)
 - 25 Address number
 - 233-137 Parcel number from a neighboring map
 - 68 Parcel line dimension
 - SIMS AVE Street name
- Parcel/Parcel boundary
 - Parcel/ROW boundary
 - Water boundary
 - Structure (1994 data)
 - Parcel covered by this map
 - Parcel from a neighboring map (see other map for current status)

EXHIBIT E



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.



Portsmouth, New Hampshire
 2022
Tax Map 113



Know all Men by these Presents,

That I, J. Howard Grover of Portsmouth in the County of Rockingham and State of New Hampshire,

For and in consideration of the sum of one dollar to me in hand before the delivery hereof, well and truly paid by

John D. Dowd of said Portsmouth,

} Grover
to
Dowd

the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said John D. Dowd, his heirs and assigns forever,

} Delivered to
J. W. Kelley
Notail.

A certain lot or parcel of land situate in said Portsmouth at the corner of Kent Street and Rockland Street Extension, being lot numbered sixty six (66) on a plan of land by W. B. Whitney, Aug. 1899, recorded in Rockingham Deeds, Lib. 567, Fol. 481, bounded and described as follows, viz: Westerly by Kent Street fifty feet; Northerly by Rockland Street Extension, one hundred feet; Easterly by Langdon Park, fifty feet, and Southerly by lot numbered sixty five (65) on said plan, one hundred feet.

This deed is upon the express condition and part consideration that said grantee, his heirs and assigns, shall not erect, nor cause nor permit to be erected on said granted premises, any building or structure other than dwelling houses, or buildings in the nature of dwelling houses and the necessary out-buildings therefor; nor any structure upon said granted premises within the distance of fifteen feet from the street lines thereof.

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging to him the said Dowd and his heirs and assigns, to his and their only proper use and benefit forever. And I the said Grover for myself and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said Dowd and his heirs and assigns, that until the delivery hereof I am the lawful owner of the said premises, and am seized and possessed hereof in my own right in fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said Dowd

See Vol 596
Page 262

and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever. And I, wife of the said J. Howard Grover in consideration of aforesaid, do hereby relinquish my right of dower in the before-mentioned premises.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution, and such other rights whatsoever in said premises, and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "an Act to exempt the Homestead of Families from attachment and levy or sale or execution," or by any other Statute or Statutes of said State.

In witness whereof, we have hereunto set our hands and seals this tenth day of July in the year of our Lord 1903.

SIGNED, SEALED, AND DELIVERED IN PRESENCE OF US:

John D. Kelley
Barion S. Miller

J. Howard Grover
Mary D. Grover

State of New Hampshire, Rockingham, ss.

PERSONALLY appeared the above-named J. Howard Grover and acknowledged the foregoing instrument to be his voluntary act and deed. Before me,

A. D. 1903.

John D. Kelley Justice of the Peace.

Received and recorded July 24, 1903. William Merrill Register.

Handwritten note in a circle: "Handwritten"

Know all Men by these Presents,

That I, Anna Woud Fagan of Portsmouth, in the county of Rockingham, and State of New Hampshire.

for and in consideration of the sum of one dollar.

to me in hand, before the delivery hereof, well and truly paid by Oliver H. Woud, John F. Woud, and Lawrence W. Woud, all of Portsmouth aforesaid.

Fagan to Woud et al.

have remised, released and forever quitclaimed, and by these presents do remise, release and forever quitclaim unto the said Oliver H., John F. and Lawrence W. Woud their heirs and assigns forever all of my right, title and interest, which I now own as tenant in common with the said Oliver H., John F. and Lawrence W. Woud, in and unto a certain lot of land with the buildings thereon, situated on Kent Street, in said Portsmouth and bounded as follows, viz: westerly by Kent Street, fifty feet, northerly by Rockland Street, one hundred feet, easterly by Raymond Park, fifty feet, and southerly by land of Fred C. Young, one hundred feet. Said lot being the same as conveyed to my father the late John H. Woud by deed of J. Howard Groner and Mary H. Groner dated July 19, 1903, and recorded Rockingham Records Book 595, Page 435. Also said land is designated as lot number thirty three on plat number thirty one in the Tax Assessors records of the City of Portsmouth.

Delivered to Guy C. Corey

To have and to hold, the said premises, with all the privileges and appurtenances thereunto belonging to, the said grantee their heirs and assigns forever; and I do hereby covenant with the said grantee

that I will warrant and defend the said premises to them the said grantees their heirs and assigns, against the lawful claims and demands of any person or persons claiming by, from or under me,

And I, Albert A. Fagan husband of the said Anna Woud Fagan for the consideration aforesaid, do hereby release my right of dower in said premises.

And we, the said wife of said in consideration aforesaid, do hereby grant and release to said all the right, title, interest, claim or demand which we, or either of us, have in or to the above described premises, by virtue of an act of the Legislature of the State of New Hampshire, entitled "An Act to exempt the Homestead of families from attachment and levy or sale on execution", passed July 4, 1851.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution, or by any other Statute or Statutes of said State, or any act or amendment thereof, or any other Statute of said State."

In witness whereof I have hereunto set my hand and seal, this 9th day of July, in the year of our Lord, one thousand nine hundred and 1925

Signed, sealed and delivered in presence of us:

Guy C. Corey

Anna D. Fagan (S) Albert A. Fagan (S)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, SS. Personally appeared the above named Anna Woud Fagan and Albert A. Fagan and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME: Guy C. Corey (Noted) Notary Public Justice of the Peace

Received and Recorded July 13th - 7:30 AM 1925 J. A. Green Register.

Know all Men by these Presents,

THAT I, John F. Dowd of Portsmouth in the County of Rockingham and State of New Hampshire

Dowd
Dowd et al to } for and in consideration of the sum of One Dollar
to me in hand, before the delivery hereof, well and truly paid by Oliver H. and Laurence W. Dowd
of said Portsmouth

del. to } the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents
Barth Mitchell } do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said Oliver H. and Laurence W. Dowd, their heirs and assigns forever,

all of my right, title and interest, which I now own as tenant in common with the said Oliver H. and Laurence W. Dowd, in and unto a certain lot of land with the buildings thereon, situated on Kent Street, in said Portsmouth and bounded and described as follows: - Westerly by Kent Street, fifty feet, Northerly by Rockland Street, One Hundred Feet, Easterly by Langdon Park, fifty feet, and Southerly by land of Fred C. Young, One Hundred Feet. Said lot being the same as conveyed to my father, the late John H. Dowd by deed of J. Howard Grover and Mary H. Grover dated July 10, 1903 and recorded in Rockingham Records, Book 595, Page 435, and by deed of Anna Dowd Tagaw to Oliver H. and John F. and Laurence W. Dowd dated July 9, 1925 and recorded in Rockingham Records Book 786, Page 411.

Also conveying all furniture contained therein.

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging, to them the said Oliver H. and Laurence W. Dowd and their heirs and assigns, to them and their only proper use and benefit forever. And I the said John F. Dowd and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said Oliver H. and Laurence W. Dowd and their heirs and assigns, that until the delivery hereof I am the lawful owner of the said premises, and am seized thereof in my own right and fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said Oliver H. and Laurence W. Dowd and their heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, an unmarried wife of the said John F. Dowd in consideration aforesaid, do hereby release my right of dower in the above mentioned premises.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 7, 1857, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof I have hereunto set my hand and seal, this July day of July in the year of our Lord one thousand nine hundred and A. D. 1926.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF US:

John F. Mitchell

John F. Dowd (S.)
(S.)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, SS.

Personally appeared the above named John F. Dowd and acknowledged the foregoing instrument to be his voluntary act and deed.

A. D. 1926.

BEFORE ME,

John L. Mitchell

Justice of the Peace.

Received and recorded July 13 7:30 A.M. 1926.

John W. A. Green Register.

Know all Men by these Presents,

Book 0865 Page 0081

THAT we, Lawrence W. Dowd of Portsmouth in the county of Rockingham and State of New Hampshire

for and in consideration of the sum of One Dollar to me in hand, before the delivery hereof well and truly paid by Oliver H. Dowd of said Portsmouth

Dowd to Dowd

the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said Oliver H. Dowd and his heirs and assigns forever, all my right, title and interest in a certain lot of land with the buildings thereon situate in Kent Street in said Portsmouth and bounded and described as follows: West-erly by Kent Street fifty feet; Northerly by Rockland Street One Hundred feet; East-erly by Langdon Park fifty feet and Southerly by land of Fred C. Ypung, one hundred feet, my interest in the above described premises being one common and undivided half part thereof the said grantee being the owner of the other half part.

del. to J.L.Mit-chell

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging, to him the said Oliver H. Dowd and his heirs and assigns, to his and their only proper use and benefit forever. And I the said Lawrence W. Dowd for myself and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said Oliver H. Dowd and his heirs and assigns, that until the delivery hereof I am the lawful owner of the said premises, and am seized and possessed thereof in my own right and fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said Oliver H. Dowd and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, Elizabeth Dowd wife of the said Lawrence W. Dowd in consideration aforesaid, do hereby relinquish my right of dower in the above mentioned premises.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof as our Family Homestead, so as reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof have hereunto set our hand and seal this seventeenth day of September in the year of our Lord one thousand nine hundred and 1930.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF US:

John L. Mitchell

Lawrence W. Dowd (L.S.)

Elizabeth M. Dowd (L.S.)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, SS. Sept. 17, A. D. 1930. Personally appeared the above named Lawrence W. Dowd and Elizabeth Dowd and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME,

John L. Mitchell Justice of the Peace

Received and recorded. Sept. 25, 7:50 A.M. 1930 John W. A. Green Register.

1136 308

heirs and assigns, to their own use and behoof forever.

And I do hereby in my said capacity, covenant with the said Grantees, the survivor of them and his or her heirs and assigns, that I am duly authorized to make the sale of the premises aforesaid; that in all proceedings in the sale hereof, I have complied with the requirements of the statute in such cases provided, and with the terms and conditions of my appointment as executrix, and that I will WARRANT AND DEFEND the same to said Grantees, the survivor of them and his or her heirs and assigns, against the lawful claims of all persons claiming by, from and under me in my said capacity.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 23rd day of July, A.D. 1949.

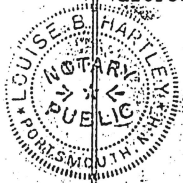
Signed, sealed and delivered in the Presence of

Louise B. Hartley *Eleanor H. Dowd*
Executrix of the Estate of
Oliver H. Dowd

STATE OF NEW HAMPSHIRE
Rockingham, ss.

July 23, 1949.

Then personally appeared the above named Eleanor H. Dowd and acknowledged the foregoing instrument by her subscribed to be her voluntary act and deed, both personally and as executrix aforesaid, before me,



Louise B. Hartley
Justice of the Peace
Notary Public

Received and recorded July 29, 9:25 A.M., 1949.

US Rev.
Stamps
\$6.60

1136 307



KNOW ALL MEN BY THESE PRESENTS, that I, Eleanor H. Dowd of Portsmouth, in the County of Rockingham and State of New Hampshire, as I am executrix of the Estate of Oliver H. Dowd, late of said Portsmouth, by appointment of the Honorable Probate Court of said County of Rockingham, by virtue and in execution of the authority conferred upon me in my said capacity by license of said Probate Court dated July 5, 1949, to sell the real estate of said estate, by private or public auction, as I shall deem proper, it appearing to me, the said executrix, that it is for the best interest of said estate that I sell the premises herein-after described by private sale, in consideration of the sum of SIX THOUSAND DOLLARS (\$6000.00), said sum being in my opinion the fair value of said premises, to me in hand, before the delivery hereof, well and truly paid by Calvin C. Wilder and Helen F. Wilder, both of said Portsmouth, receipt whereof I do hereby acknowledge, have granted, bargained and sold, and by these presents do hereby, in my said capacity, confirm unto the said Calvin C. Wilder and Helen F. Wilder, as joint tenants, with the right of survivorship, and not as tenants in common, the survivor of them and the heirs and assigns of the survivor of them, forever,

A certain parcel of land situate in said Portsmouth on the Easterly side of Kent Street and bounded and described as follows:

Beginning at a point which is the intersection of the Easterly side line of Kent Street and the Southerly side line of Rockland Street, said point being the Northwesterly corner of the within described premises; thence turning and running Easterly by said Rockland Street One Hundred One and One-half (101½) feet, more or less, to a point; thence turning and running Southerly by Langdon Park Fifty (50) feet, more or less, to the land of Z. Gertrude Young; thence turning and running Westerly One Hundred One and One-half (101½) feet by the land of said Young to Kent Street; thence turning and running Northerly by said Kent Street Fifty (50) feet, more or less, to the point of beginning.

Taxes for 1949 to be apportioned as of August 1, 1949. TO HAVE AND TO HOLD the same, with all the privileges and appurtenances thereto belonging to them, the said Calvin C. Wilder and Helen F. Wilder, the survivor of them and his or her

Return to:
Cynthia Austin Smith and Peter Smith
9 Kent Street
Portsmouth, NH 03801



LCHIP	ROA596509	25.00
TRANSFER TAX	RO111701	14,775.00
RECORDING		14.00
SURCHARGE		2.00

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Marilyn F. Jarest, Single, of 9 Kent Street, Portsmouth, NH 03801 and Kim Dawson, formerly known as Kim Davis, Married, of 121 Lost Mile Road, West Newfield, Maine 04095, for consideration paid grant(s) to Cynthia Austin Smith and Peter Smith, wife and husband, of 206 Court Street, Portsmouth, NH 03801, as joint tenants with rights of survivorship, with WARRANTY COVENANTS:

A certain parcel of land, together with any and all buildings and improvements thereon situate in Portsmouth, on the Easterly side of Kent Street, known as 9-11 Kent Street, Portsmouth, County of Rockingham and State of New Hampshire bounded and described as follows:

Beginning at a point which is the intersection of the Easterly side line of Kent Street and the Southerly side line of Rockland Street, said point being the Northwesterly corner of the within described premises; thence turning and running Easterly by said Rockland Street one hundred one and one-half (101 1/2) feet, more or less, to a point; thence turning and running Southerly by Langdon Park fifty (50) feet, more or less, to the land of Z. Gertrude Young; thence turning and running westerly one hundred one and one-half (101 1/2) feet by the land of said Young to Kent Street; thence turning and running Northerly by said Kent Street (50) feet, more or less, to the point of beginning.

Meaning and intending to describe and convey the same premises conveyed to John E. Jarest, Marilyn F. Jarest and Kim Davis, all as joint tenants with rights of survivorship, by deed recorded in the Rockingham County Registry of Deeds on June 17, 1988 in Book 2745, Page 1443. See death certificate of John E. Jarest, recorded in the said Registry of Deeds herewith.

I, Marilyn F. Jarest, hereby releases her homestead rights in the subject property. This is not homestead property of Kim Dawson or her spouse.

Executed this 24th day of November, 2021.

Marilyn F. Jarest

Marilyn F. Jarest

Kim Dawson

Kim Dawson, formerly known as Kim Davis

State of New Hampshire
County of Strafford

Then personally appeared before me on this 24th day of November, 2021, the said Marilyn F. Jarest and Kim Dawson and acknowledged the foregoing to be his/her/their voluntary act and deed.

Jessica Rozo

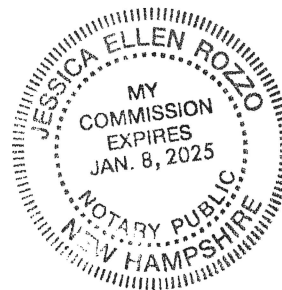
Notary Public

Jessica Rozo

Notary-Name Printed

My commission expires:

(seal)



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

August 8, 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
LU-23-119

Dear Mr. Stith & Zoning Board Members:

On behalf of Peter Smith & Cynthia Austin Smith, applicants, enclosed please find the following supplemental Exhibit in support of a request for zoning relief:

- Exhibit G – Landscape Plan

We will upload the supplemental exhibit to Viewpoint and hand deliver a hard copy. We look forward to presenting this application to the Zoning Board at its August 22, 2023 meeting.

Very truly yours,



R. Timothy Phoenix
Monica F. Kieser

Encl.

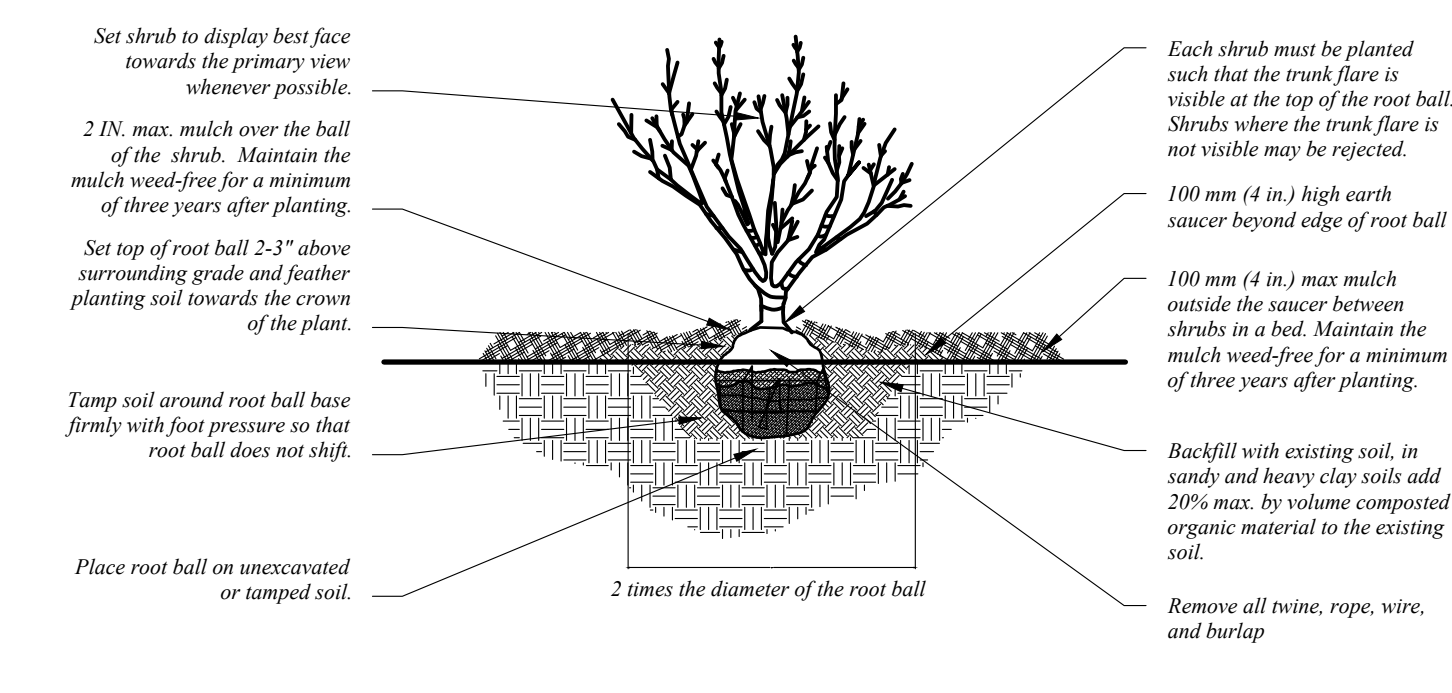
cc: Peter Smith & Cynthia Austin Smith
John Chagnon, Ambit Engineering, Inc. (email)
Jennifer Ramsey, Somma Studios (email)
Robbi Woodburn, Woodburn & Associates (email)

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

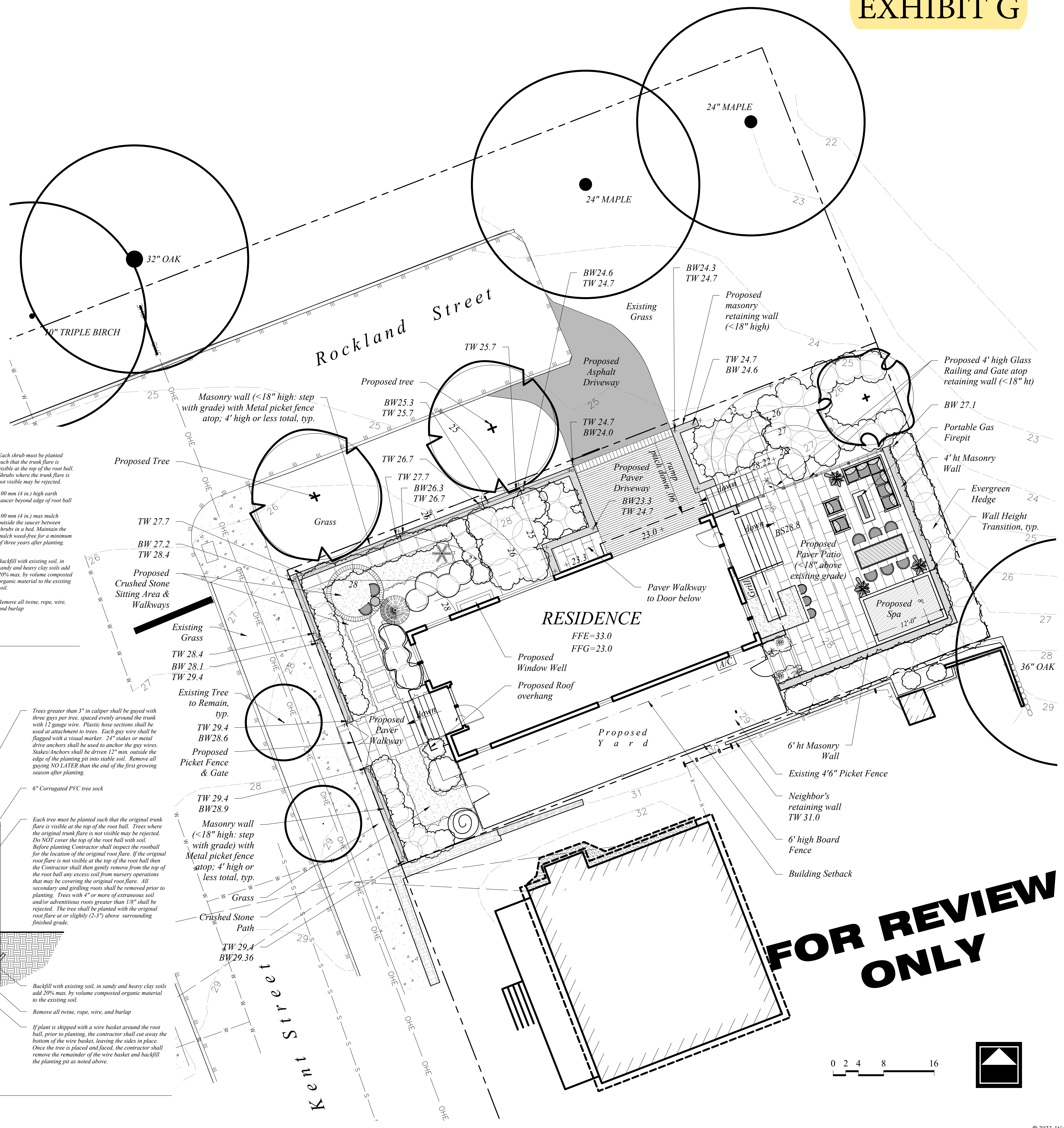
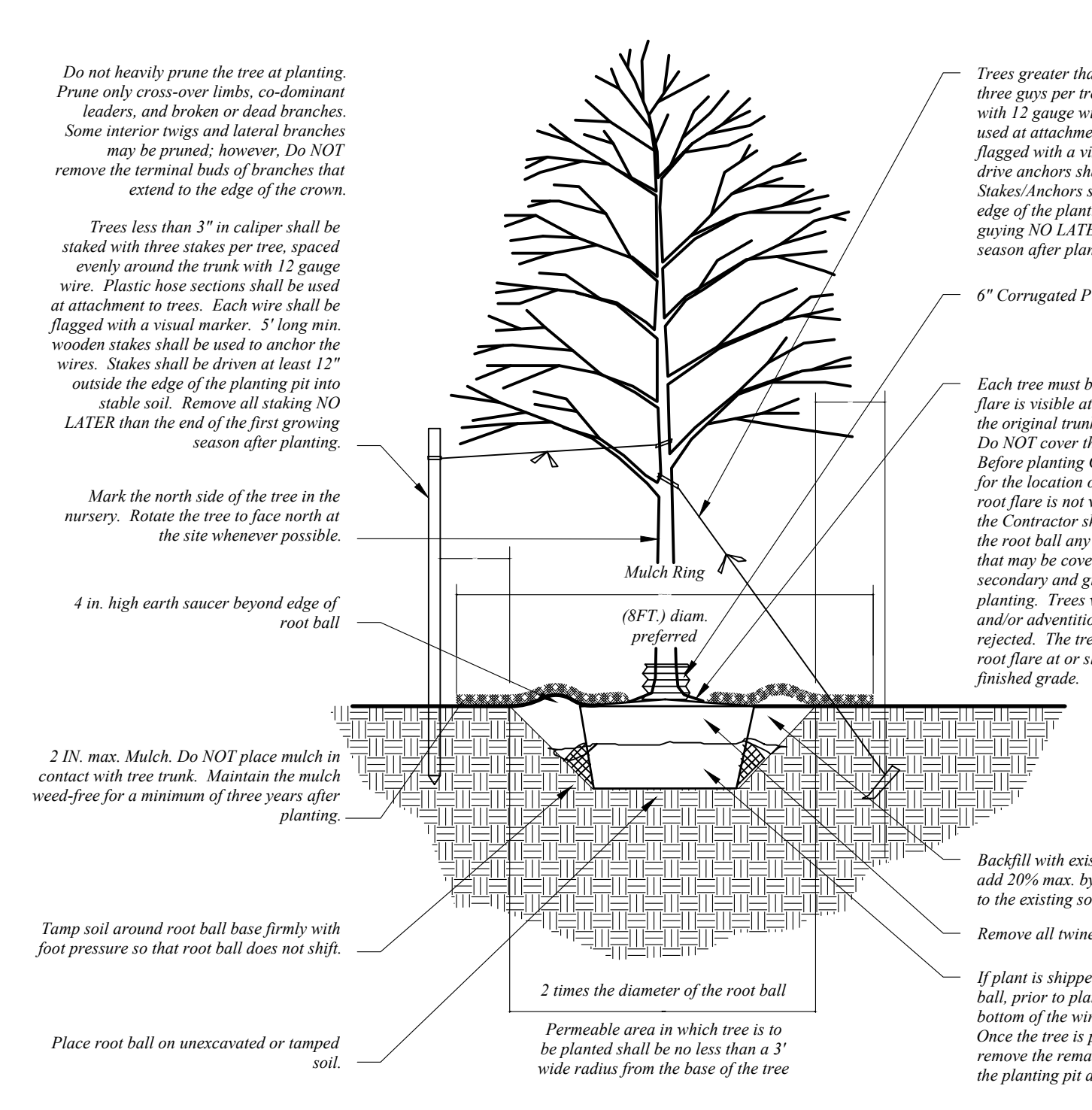
- Landscape Notes**
- Design is based on Engineering drawings by Ambit Engineering, Inc. received 07-13-2023 and Architectural Drawings by Somma Studios. Drawings may require adjustment due to actual field conditions.
 - This plan is FOR REVIEW purposes ONLY, NOT for Construction. Construction Documents will be provided upon request.
 - The contractor shall follow best management practices during construction and shall take all means necessary to stabilize and protect the site from erosion.
 - Erosion Control shall be in place prior to construction.
 - Erosion Control shall comply with State and Local Erosion & Sedimentation Control Practices
 - The Contractor shall verify layout and grades and inform the Landscape Architect or Client's Representative of any discrepancies or changes in layout and/or grade relationships prior to construction.
 - It is the contractor's responsibility to verify drawings provided are to the correct scale prior to any bid, estimate or installation. A graphic scale bar has been provided on each sheet for this purpose. If it is determined that the scale of the drawing is incorrect, the landscape architect will provide a set of drawings at the correct scale, at the request of the contractor.
 - Trees to Remain within the construction zone shall be protected from damage for the duration of the project by snow fence or other suitable means of protection to be approved by Landscape Architect or Client's Representative. Snow fence shall be located at the drip line or at the distance in feet from the trunk equal to the diameter of the tree caliper in inches, whichever is greater, and shall be expanded to include any and all surface roots. Do not fill or mulch on the trunk flare. Do not disturb roots. In order to protect the integrity of the roots, branches, trunk and bark of the tree(s) no vehicles or construction equipment shall drive or park in or on the area within the drip line(s) of the tree(s). Do not store any refuse or construction materials or portalets within the tree protection area.
 - Location, support, protection, and restoration of all existing utilities and appurtenances shall be the responsibility of the Contractor.
 - The Contractor shall verify exact location and elevation of all utilities with the respective utility owners prior to construction. Call DIGSAFE at 811 or 888-DIG-SAFE (1-888-344-7233.)
 - The Contractor shall procure any required permits prior to construction.
 - Prior to any landscape construction activities Contractor shall test all existing loam and loam from off-site intended to be used for lawns and plant beds using a thorough sampling throughout the supply. Soil testing shall indicate levels of pH, nitrates, macro and micro nutrients, texture, soluble salts, and organic matter. Contractor shall amend all soils to be used for lawns and plant beds per testing results' recommendations and review with Landscape Architect. All loam to be used on site shall be amended as approved by the Landscape Architect prior to placement.
 - Contractor shall notify landscape architect or owner's representative immediately if at any point during demolition or construction a site condition is discovered which may negatively impact the completed project. This includes, but is not limited to, unforeseen drainage problems, unknown subsurface conditions, and discrepancies between the plan and the site. If a Contractor is aware of a potential issue and does not bring it to the attention of the Landscape Architect or Owner's Representative immediately, they may be responsible for the labor and materials associated with correcting the problem.
 - The Contractor shall furnish and plant all plants shown on the drawings and listed thereon. All plants shall be nursery-grown under climatic conditions similar to those in the locality of the project. Plants shall conform to the botanical names and standards of size, culture, and quality for the highest grades and standards as adopted by the American Association of Nurserymen, Inc. in the American Standard of Nursery Stock, American Standards Institute, Inc. 230 Southern Building, Washington, D.C. 20005.
 - A complete list of plants, including a schedule of sizes, quantities, and other requirements is shown on the drawings. In the event that quantity discrepancies or material omissions occur in the plant materials list, the planting plans shall govern.
 - All plants shall be legibly tagged with proper botanical name.
 - Owner or Owner's Representative will inspect plants upon delivery for conformity to Specification requirements. Such approval shall not affect the right of inspection and rejection during or after the progress of the work. The Owner reserves the right to inspect and/or select all trees at the place of growth and reserves the right to approve a representative sample of each type of shrub, herbaceous perennial, annual, and ground cover at the place of growth. Such sample will serve as a minimum standard for all plants of the same species used in this work.
 - No substitutions of plants may be made without prior approval of the Owner or the Owner's Representative for any reason.
 - All landscaping shall be provided with the following:
 - Outside hose attachments spaced a maximum of 150 feet apart, and
 - An underground irrigation system, or
 - A temporary irrigation system designed for a two-year period of plant establishment.
 - If an automatic irrigation system is installed, all irrigation valve boxes shall be located within planting bed area.
 - The contractor is responsible for all plant material from the time their work commences until final acceptance. This includes but is not limited to maintaining all plants in good condition, the security of the plant material once delivered to the site, watering of plants, including seeding and weeding. Plants shall be appropriately watered prior to, during, and after planting. It is the Contractor's responsibility to provide clean water suitable for plant health from off site, should it not be available on site.
 - All disturbed areas will be dressed with 6" of loam and planted as noted on the plans or seeded except plant beds. Plant beds shall be prepared to a depth of 12" with 75% loam and 25% compost.
 - Trees, ground cover, and shrub beds shall be mulched to a depth of 2" with one-year-old, well-composted, shredded native bark no longer than 4" in length and 1/2" in width, free of woodchips and sawdust. Mulch for ferns and herbaceous perennials shall be no longer than 1" in length. Trees in lawn areas shall be mulched in a 5' diameter min. saucer. Color of mulch shall be black.
 - Drip strip shall extend to 6" min. beyond roof overhang and shall be edged with 3/16" thick metal edger.
 - In no case shall mulch touch the stem of a plant nor shall mulch ever be more than 3" thick total (including previously applied mulch) over the root ball of any plant.
 - Secondary lateral branches of deciduous trees overhanging vehicular and pedestrian travel ways shall be pruned up to a height of 8' to allow clear and safe passage of vehicles and pedestrians under tree canopy. Shrubs and ornamental plantings adjacent to vehicular travel way shall not exceed three feet in height where sightlines would be blocked. If pruning is necessary to maintain the required maximum height, plants shall be pruned to a natural form and shall not be sheared.
 - Snow shall be stored a minimum of 5' from shrubs and trunks of trees.
 - The Landscape Contractor shall guarantee all lawns and plant materials for a period of not fewer than one year. Dead, dying, or diseased planting shall be removed and replaced within the growing season.
 - Landscape Architect is not responsible for the means and methods of the Contractor.

Plant List TBD

Shrub Planting Detail
 Scale: NTS



Tree Planting Detail
 Scale: NTS



FOR REVIEW ONLY

