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HAND DELIVERED

July 26, 2023

Phyllis Eldridge, Chair
Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: 686 Maplewood Avenue, Map 220, Lot 90
Chinburg Development, LLC

Dear Chair Eldridge and Board Members:

Enclosed please find new application materials for variance relief regarding the above referenced property. The new application has been prepared to address observations and comments provided by the Board at their June 21, 2023 meeting in which a previous application was denied. As this filing constitutes a re-application, the Applicant has conducted the necessary Fisher v. Dover analysis which is included in the narrative analysis for the project enclosed herewith.

We respectfully request that this matter be placed on the Board's August 15, 2023 agenda. In the meantime, if you have any questions or require additional information do not hesitate to contact me.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Justin L. Pasay
JLP/sac
Enclosures

cc: Chinburg Development, LLC
Ambit Engineering
CJ Architects
The Gove Group

DONAHUE, TUCKER & CIANDELLA, PLLC
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111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

VARIANCE APPLICATION OF

Chinburg Development, LLC (the “Applicant”) for property located at 686 Maplewood Avenue, Portsmouth, NH 03801, which is further identified as City Assessor Map 220, Lot 90 (the “Property”). The Property is located within City’s Single Residence B District (the “SRB District”) and the Highway Noise Overlay District.

A. Introduction and Factual Context

i. **Development Team and Application Materials**

The Applicant’s development team consists of John Chagnon, PE, LLS, of Ambit Engineering, Inc. (“Ambit”), Carla Goodknight, AIA, NCARB of CJ Architects, and The Gove Group Real Estate, LLC (“Gove”). Included herewith are the following enclosures:

- Aerial Photograph, Zoning Map and Assessor Map 220. See Enclosure 1.
- Proposed Site Plan, Residential Development, 686 Maplewood Avenue, Portsmouth, New Hampshire, Permit Plans, from Ambit, dated July 2023, to include an Existing Conditions Plan on C1 (the “**Existing Conditions Plan**”), and a Variance Plan on C2 (the “**Variance Plan**”). See Enclosure 2.
- Floor Plans & Elevations, with renderings, from CJ Architects, dated 26 July 2023. See Enclosure 3.
- Landscaping and Screening Plan from Chinburg Development, LLC dated 25 July 2023 (the “Landscape and Screening Plan”). See Enclosure 4.
- Neighborhood Density Calculation and Map from Gove (the “**Density Calculation**”). See Enclosure 5.
- Trip Generation Memorandum from Ambit, dated 23 April 2023 (the “**Trip Generation Memo**”). See Enclosure 6.
- Property Value Impact Letter from Gove, dated July 2023. See Enclosure 7.
- Previous Variance Plan from Ambit. See Enclosure 8.
- Minutes of the Board of Adjustment Meeting June 21, 2023. See Enclosure 9.

ii. Fisher v. Dover, 120 N.H. 187 (1980) Analysis

As a foundational matter, the Applicant addresses the Fisher v. Dover doctrine which is rooted in the notion of administrative finality, and submits to the Board of Adjustment that it should consider this application because it is materially different than the application the Applicant formerly filed with Board of Adjustment in April of 2023. Further, the revised application addresses concerns expressed by the Board regarding the incorporation of two-family dwellings on the Property and the overall density of the former proposal.

In April of 2023, the Applicant filed a variance application with the Board of Adjustment to accommodate a multi-family condominium project on the property consisting of four (4) two-family dwellings and one (1) single family dwelling (one of which was proposed to be an affordable unit) with associated site improvements. See Enclosure 8. At its 21 June 2023 public meeting, the Board denied three (3) of the four variances requested by the Applicant. In so doing, and as depicted in that meeting’s minutes, several of the Board members stated that the

density (9 units) of the proposal was too great and expressed displeasure with the Applicant's proposal to incorporate two-family units within the SRB District. See Enclosure 9.

In New Hampshire, unless a Board of Adjustment application presents a "material change of circumstances affecting the merits of the application ... or the application is for a use that materially differs in nature and degree from its predecessor, the [Board of Adjustment] may not lawfully reach the merits of the petition." See 15 Loughlin, New Hampshire Practice, Land Use Planning and Zoning, 4th Ed., § 21.20. The burden of proving a material change of circumstances is on the applicant. Id. Further, applicants who submit a new proposal in an effort to meet the municipality's concerns are generally not barred from doing so under Fisher v. Dover. See id. citing Bois v. Manchester, 113 N.H. 339 (1973) (subsequent petition was found to be sufficiently different; first petition was to change two-family dwelling into lodging house for 18 persons; subsequent application was to change two-family dwelling into residential use center for no more than 15 boys with a trained staff of three) and Morgenstern v. Town of Rye, 147 N.H. 558 (2002).

In this case, the Applicant's new proposal materially differs in nature and degree from the original proposal and constitutes a response to the observations and opinions of the Board of Adjustment at its 21 June 2023 hearing. More specifically, the new proposal does not contemplate any two-family dwellings and reduces the density of the proposal by a third (from 9 proposed units to 6 proposed units). The result of the new proposal is a density on the Property of 10,462 sf per unit, which is higher than the average density in the Immediate Neighborhood (7,361 sf per unit), higher than the average density in the Expanded Neighborhood 1 (7,995 sf per unit) and higher than the average density in the Expanded Neighborhood 2 (9,359 sf). See Enclosure 5.

Because the new proposal does not contemplate any two-family dwellings, and because the new proposal reduces by a third the proposed density on the Property, the new proposal is materially different than the original proposal and the Board of Adjustment ought to consider the merits of same.

iii. Property Description, Existing Conditions and Applicable Zoning Regulations

As depicted in **Enclosure 1**, at 62,776 sf (1.4411 acres) in size, the Property is unique due to its size, which is larger than all other SRB District Properties in the surrounding area, and its awkward configuration. See id.; **Enclosure 2**. More specifically, the Property enjoys only 47.31 ft of frontage. Id. The Property is bound to the north by Route 95, to the east by Maplewood Avenue, to the south by the property located at 650 Maplewood Avenue (City Assessor Map 220, Lot 88) which is located within the City's Business Zoning District and is improved by a wholesale/retail business use, and to the south by 64 and 74 Emery Street (City Assessor Map 220, Lots 87-2 and 87-3), both of which are improved with two-family duplexes. See Enclosures 1 and 2; See also pictures of Property filed with application. The Property is unimproved and largely cleared in the central portion of same, though there exists a mature vegetative buffer along the northern boundary and the majority of the western and southern boundaries as well. Id. A 100 ft easement (45 ft of which is located on the Property) to

accommodate a public electric utility and its overhead electrical wires, is located on the southern portion of the Property. See Enclosure 2, Existing Conditions Plan.

The Property is among the first lots situated to the west of the Business District Area along the Route 1 By-Pass to be zoned within the SRB District, the purpose of which is to “provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acres) and appropriate accessory uses.” See Zoning Ordinance, Section 10.410. As such, the Property is uniquely situated as a transition between the more densely situated downtown area with its associated mixed uses, and less dense residential areas to the west. The grade and topography of the Property also presents unique circumstances, as depicted on the **Existing Conditions Plan.** See Enclosure 2. More specifically, the Property rises from a 40 ft elevation at the Maplewood Avenue level, to 60 feet at the back (south) portion of the Property before it slopes down to the surrounding properties.

The SRB District has the following dimensional requirements:

- Lot area: 15,000 sf
- Lot area per dwelling unit: 15,000 sf
- Continuance street frontage: 100 ft
- Depth: 100 ft
- Minimum front yard: 30 ft
- Minimum side yard: 10 ft
- Minimum rear yard: 30 ft
- Max Structure Height: 35 ft
- Max roof appurtenance: 8 ft
- Max Building Coverage: 20%
- Minimum open space: 40%

See Zoning Ordinance, Section 10.520.

iv. Revised Project Proposal

In light of the Board’s response to the original application, the Applicant has revised its proposal. The Applicant now proposes to develop the Property into a multi-family condominium consisting of six (6) single-family dwellings with associated site improvements (the “Project”). See Variance Plan. None of the proposed dwellings are proposed to be affordable in nature. Like the original proposal, the aesthetic of the Project will be traditional / colonial to complement the existing historic character of the City. See Enclosure 3. The proposed single-family dwellings will have a lower-level two-car garage, second floor kitchen, dining room, living room and office, and third floor master bedroom and bathroom, with two additional bedrooms and a bathroom. Id. See Enclosures 2, 3.

The Project will be served by a single driveway from Maplewood Avenue which will be complemented by a 5 ft sidewalk to facilitate pedestrian foot-traffic to/from the proposed dwelling units. The Project will comply with all setback requirements, building coverage

requirements and open space requirements. See Enclosure 2, Variance Plan. Further, the Project satisfies the off-street parking requirement of 9 spaces via the provision of 16 spaces. Id.

The Project proposes a robust landscaping and screening program as depicted on the Landscape and Screening Plan. See Enclosure 4. Collectively, the proposed landscaping plan will provide tasteful screening of the Property from abutting properties and Maplewood Avenue alike, and it will provide insulation barrier from the noise of Route 95.

Finally, the Project incorporates a 6,500 sf recreation area as depicted on the **Variance Plan**, which area will serve as an amenity to residents of the neighborhood. This area will provide green space, dog walking and additional passive recreational opportunities for residents.

v. Requested Relief

The Applicant requests the following variance relief to accommodate the Project:

- **One Dwelling Per Lot:** The Applicant requests variance relief from Article 5, Section 10.513 of the Zoning Ordinance to permit six (6) free-standing buildings with dwellings, as depicted on the plans, where no more than one free-standing dwelling is permitted in the SRB District.
- **Density Relief:** The Applicant requests variance relief from Article 5, Section 10.520 of the Zoning Ordinance to permit 10,462 sf of lot area per each of the six (6) dwelling units, where 15,000 sf of lot area per dwelling unit is required in the SRB District.
- By way of additional context, the Applicant conducted a density calculation of the immediate and expanded neighborhoods around the Property and determined the following foundational facts regarding density in this area of Portsmouth:
 - Of the 14 residential properties in the immediate neighborhood, which is located to the east of Route 95, four (4) include two-family dwellings, to include 64 and 74 Emery Street which are immediate abutters to the Project, and one (1), which abuts the Property to the east and is located at 678 Maplewood Avenue, includes a 3-unit multi-family dwelling. See Enclosure 5.
 - The average square footage of lot area per dwelling unit in the Immediate Neighborhood is 7,361 sf. Id.
 - As you head west on Maplewood Ave, the average square footage of lot area per dwelling unit in the Extended Neighborhood 1, on the southern side of Maplewood is 7,995 sf. Id.
 - The average square footage of lot area per dwelling unit in the Extended Neighborhood 2, on the northern side of Maplewood is 9,359 sf.

- The proposed square footage of lot area per dwelling unit in the Project is 10,462 sf, which is 3,101 sf (29%) more square footage per dwelling unit than the properties in the Immediate Neighborhood; 2,467 sf (24%) more square footage per dwelling unit than the properties in the Extended Neighborhood 1; and 1,103 sf (10%) more square footage per dwelling unit than the properties in the Extended Neighborhood 2. Id.
- **Frontage Relief:** The Applicant requests variance relief from Article 5, Section 10.520 of the Zoning Ordinance to permit development of the Project with 47.31 ft of frontage where 100 ft is required in the SRB District. (NOTE: This variance request is added in an abundance of caution. The Board granted a frontage variance with regard to the 9 – unit proposal previously presented to the Board and as such, this relief may not be required).

vi. Previous Proposals and Additional Permitting

In February of 2017, the Property received a Special Exception to construct a religious place of assembly (the Islamic Society of the Seacoast Area) and a variance from the above referenced frontage requirement. Thereafter, in April of 2019, the City’s Planning Board granted a corresponding Site Plan Review Application for the proposal, which was ultimately abandoned by the owner of the Property. Of note, and as detailed in Ambit’s Trip Generation Memo, the Mosque proposal contemplated considerably more traffic than this Project. See Enclosure 6.

Prior to that, we understand that a 28-unit multi-family proposal and a 6,000 sf warehouse proposal were unsuccessful in obtaining necessary entitlements to be developed.

As noted above, in June of 2023, the Applicant’s nine-unit proposal, which incorporated four (4) two-family dwellings, was denied by the Board of Adjustment.

To the extent that the Applicant receives the variance relief it seeks by this application, it will pursue Site Plan Review and a Highway Noise Overlay District Conditional Use Permit from the City’s Planning Board.

vii. Statutory Variance Criteria

Pursuant to Article 2, Section 10.233 of the City’s Zoning Ordinance and RSA 674:33, to obtain a variance in Portsmouth, an applicant must show that: (1) the variance will not be contrary to the public interest; (2) the spirit of the ordinance is observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means that, owing to special conditions of the property that distinguish it from other properties in the area: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the Proposed use is a reasonable one; or if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in

strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. See RSA 674:33, I (b).

Because the Applicant's Project will be consistent with the essential character of the surrounding area, will not compromise the public health in any way, will provide substantial justice, will not compromise the property values of surrounding properties, and because there is no rational connection between the intent of the underlying ordinance provisions and their application to the Property under the unique circumstances of this case, as outlined below, we respectfully request that the requested variance be granted.

viii. Analysis

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

The New Hampshire Supreme Court has indicated that the requirement that a variance not be "contrary to the public interest" is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. See *Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 580 (2005); *Malachy Glen Associates, Inc. v. Town of Chichester*, 155 N.H. 102, 105-06 (2007); and *Farrar v. City of Keene*, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." *Chester Rod & Gun Club*, 152 N.H. at 581; *Farrar*, 158 N.H. at 691. See also *Harborside Associates, L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 514 (2011) ("[m]ere conflict with the terms of the ordinance is insufficient.") Moreover, these cases instruct boards of adjustment to make the determination as to whether a variance application "unduly" conflicts with the zoning objectives of the ordinance "to a marked degree" by analyzing whether granting the variance would "alter the essential character of the neighborhood" or "threaten the public health, safety or welfare" and to make that determination by examining, where possible, the language of the Zoning Ordinance. See supra.

The requested variances derive from Article 5, Sections 10.513 or 10.520 (the Table of Dimensional Standards – Residential and Mixed Residential Districts), all of which pertain, in this case, to the intended aesthetic of the SRB District. The specific purpose of the SRB District is to "provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses." Zoning Ordinance, Article 4, Section 10.410. The general purpose of the Zoning Ordinance as a whole is to "promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan" via the regulation of, among other things, the intensity of land use and the preservation and enhancement of the visual environment. Zoning Ordinance, Article 1, Section 10.121. To summarize, the objectives of the SRB District and the dimensional and use restrictions inherent to same which are implicated by this application, are to provide low to medium density and aesthetically consistent development in the area between downtown and the commercial Gateway Corridor along Woodbury Avenue.

Here, as a foundational point, the Applicant's proposal does not create any marked conflict with the underlying provisions of the Zoning Ordinance because, on the contrary, and

due to the Property's unique configuration, physical characteristics, and the existing built environment that surrounds the Property, the Project is consistent with the existing neighborhood and ultimately advances the purpose of the ordinance to provide low to medium density in a transitional area that generally has more density than that which is proposed. See Enclosure 5.

More specifically, the Project contemplates less density than the Immediate Neighborhood, Extended Neighborhood 1 and Extended Neighborhood 2. See Enclosures 1, 5. The proposed square footage of lot area per dwelling unit in the Project is 10,462 sf, which is 3,101 sf (29%) more square footage per dwelling unit than the properties in the Immediate Neighborhood; 2,467 sf (24%) more square footage per dwelling unit than the properties in the Extended Neighborhood 1; and 1,103 sf (10%) more square footage per dwelling unit than the properties in the Extended Neighborhood 2. Id. As such, the Project contemplates the perfect transitional compromise between the more densely settled downtown area, and the less dense SRB District area located to the west of the Property and proposes less traffic than previously approved proposals for the Property. See Enclosure 6. For these reasons, there is no "marked conflict" between the Project proposal, and the objectives of the zoning ordinances in question.

For the same reasons, the Project also plainly satisfies the case law requirements because the essential character of the neighborhood will not be affected for the reasons explained throughout this narrative. The density and multiple buildings per lot variances will not alter the essential character of the neighborhood because the Property the density all around the Property, to include the two-family and multi-family properties which abut the Property, are higher than what the Project proposes. See Enclosures 1 – 6.

As the Applicant's Project will be consistent with the intent of the SRB District and the general purposes of the Zoning Ordinance, and because the Project will not alter the essential character of the neighborhood or threaten the public health or safety, it would be reasonable and appropriate for the Board of Adjustment to conclude that granting the Applicant's variance requests will satisfy the public interest prong of the variance criteria.

2. The spirit of the Ordinance is observed.

As referenced above, the requested variances observe the spirit of the Zoning Ordinance and New Hampshire jurisprudence regarding the "public interest" prong of the variance criteria because the Applicant's Project will be consistent with the general and implied purposes of the Zoning Ordinance provisions at issue in this case. Further, the Project will not compromise the character of the neighborhood or threaten the public health, safety, or welfare. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be "contrary to the public interest" is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. As discussed above, the requested variances are consistent with the general spirit of the Ordinances in question and with the character of the surrounding neighborhood. As a result, for the reasons stated above, the Applicant respectfully asserts that it would be reasonable and

appropriate for the Board of Adjustment to conclude that the requested variance will observe the spirit of the Zoning Ordinance.

3. Substantial justice is done.

As noted in Malachy Glen, supra, “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, supra, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the applicant from its denial.

In this case, the public does not gain anything by denying the requested variance. The Property has been the site of several development proposals, none of which have materialized. The Project contemplates the perfect transitional development between the downtown area and the SRB District to the west of the Property and proposes residential density which is less than the density of the surrounding area, all in an aesthetic which compliments the historic charm of the greater Portsmouth area. See Enclosures 1 – 3. The public benefits from a Project which will create housing, advance the essential character of the area and generate additional tax revenue.

On the contrary, if the variances are denied, the Project will not be developed and will not generate additional tax revenue. Further, the Applicant will not be able to reasonably use property it intends to purchase for a use which is consistent with the surrounding area and which will have a *de minimis* impact on the neighborhood.

Certainly, the Applicant will benefit from the variance, if granted, as they will facilitate the reasonable use of the Property in furtherance of the Applicant’s goals, which has been encouraged by the New Hampshire Supreme Court.

As the requested variances benefit the Applicant and do not detriment the public, there is no gain to the general public from denying the request that outweighs the loss to the Applicant from its denial, and this prong of the variance criteria is satisfied.

4. The proposal will not diminish surrounding property values.

Given the nature of the proposed conditions of the Property and the surrounding area, as discussed above and depicted in the Enclosures, the Applicant’s proposal will not diminish surrounding property values. The proposed residential development will be substantially consistent with the surrounding area (albeit less dense) and will otherwise be situated on a hill adjacent to Route 95. See Enclosure 7. The Applicant’s Project will obviously enhance the value of the Property, thereby enhancing the value of surrounding properties in turn. Certainly, there is no evidence in the record that could reasonably support the conclusion that the proposed Project will diminish surrounding property values. As the weight of the evidence supports the conclusion that the Project will not diminish the value of surrounding properties, it would be

reasonable for the Board of Adjustment to conclude that this prong of the variance criteria is satisfied.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

a. Legal Standard

As set forth in the provisions of RSA 674:33, I, there are two options by which the Board of Adjustment can find that an unnecessary hardship exists:

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The Proposed use is a reasonable one.

(the “First Hardship Test”)

or,

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. (the “Section Hardship Test”).

The Applicant respectfully reminds the Board of Adjustment that the mere fact that the Applicant is seeking a variance from the express provisions of the Zoning Ordinance is not a valid reason for denying the variance. See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates, 162 N.H. at 2011 (“mere conflict with the terms of the ordinance is insufficient”).

b. Summary of Applicable Legal Standard

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying property which is the subject of a variance request. This requirement finds its origins in the Standard State Zoning Enabling Act of the 1920s “since it is the existence of those ‘special conditions’ which causes the application of the zoning ordinance to apply unfairly to a particular property, requiring that variance relief be available to prevent a taking.”¹ The Supreme Court has determined that the physical improvements on a property can constitute the “special conditions” which are the subject of the first prong of the First Hardship Test. Harborside, 162 N.H. at 518 (the size and scale of the buildings on the lot could be considered special conditions); Cf Farrar, 158, N.H. 689 (where variance sought to convert large,

¹ 15 Loughlin, New Hampshire Practice, Land Use Planning and Zoning, §24.20 (4th Ed.) citing The Standard State Zoning Enabling Act.

historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

The second prong of the First Hardship Test analysis, pertaining to the relationship between the public purpose of the ordinance provision in question, and its application to the specific property in question, is the codified vestige of a New Hampshire Supreme Court case called Simplex Technologies, Inc. v. Town of Newington (“Simplex”).² To summarize, the Board’s obligation in this portion of its hardship analysis is to determine the purpose of the regulation from which relief is being sought and if there is no specific purpose identified in the regulation, then to consider the general-purpose statements of the ordinance as a whole, so that the Board may determine whether the purpose of said ordinance is advanced by applying it to the property in question.

The final prong of the First Hardship Test analysis is whether the proposed use is “reasonable.”

The Applicant respectfully reminds the Board of Adjustment of the New Hampshire Supreme Court’s substantive pivot in Simplex. The Simplex case constituted a “sharp change in the New Hampshire Supreme Court’s treatment of the unnecessary hardship requirement.” The Simplex Court noted that under the unnecessary hardship standard, as it had been developed by the Court up until that time, variances were very difficult to obtain unless the evidence established that the property owner could not use his or her property in any reasonable manner.”³ This standard is no longer the required standard in New Hampshire. The Applicant does not have an obligation to affirmatively prove that the underlying Property cannot be reasonably used without the requested variance modification. Rather, the critical question under the First Hardship Test is whether the purpose of the Zoning Ordinance is fairly and substantially advanced by applying it to the Applicant’s Property considering the Property’s unique setting and environment. This approach is consistent with the Supreme Court’s pivot away from the overly restrictive pre-Simplex hardship analysis “to be more considerate of the constitutional right to enjoy property”.⁴

The Second Hardship Test, which we will not focus on in this narrative, is satisfied by establishing that owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

c. Analysis

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying Property which distinguish it from others in the area. Here, as discussed at length in Section A above, which is incorporated herewith by reference, the Property does have special conditions that distinguish it from others in the area to specifically include the fact that it is substantially larger than all other residential properties in the area

² 145 N.H. 727 (2001).

³ 15 Loughlin, 24.16.

⁴ Id. citing Simplex, 145 N.H. at 731.

within the SRB District, the Property's configuration which creates only 47.31 ft of frontage, the Property's existence immediately adjacent to Route 95, and the grade and topography of the Property which slopes up from Maplewood Avenue and makes the Property difficult to observe from Maplewood Avenue. Through these unique characteristics, the Property is uniquely situated to accommodate the proposed Project which will constitute the highest and best use for this parcel.

As there are special conditions of the Property, the first prong of the First Hardship Test is satisfied.

The second prong of the First Hardship Test pertains to the relationship between the public purpose of the ordinance provisions in question, and their application to the specific property in question. To summarize, the Board of Adjustment must determine whether the purpose of the underlying ordinances are advanced by applying them to the property in question.

Here, as discussed above, the requested variances derive from Article 5, Sections 10.513 or 10.520 (the Table of Dimensional Standards – Residential and Mixed Residential Districts), and they pertain to the intended aesthetic of the SRB District, which was designed to “provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses.” Zoning Ordinance, Article 4, Section 10.410. Further, the general purpose of the Zoning Ordinance is to “promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan” via the regulation of, among other things, the intensity of land use and the preservation and enhancement of the visual environment. Zoning Ordinance, Article 1, Section 10.121. To summarize, the objective of the SRB District and the dimensional and use restrictions inherent to same which are implicated by this application, are to provide low to medium density and aesthetically consistent development in the area between downtown and the commercial Gateway Corridor along Woodbury Avenue.

In this case, denying the variance will not advance the purposes of these ordinances because the opposite is true: granting the requested variances will facilitate development of the Property in a way that is consistent with the surrounding neighborhood, but which ultimately has less density than the surrounding area and which advances the core objectives of the SRB District and the general purposes of the Zoning Ordinance by enabling reasonable development of land in a manner that advances the aesthetic of the neighborhood and the zoning district. See Enclosures 1 – 5.

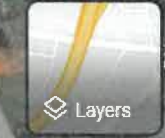
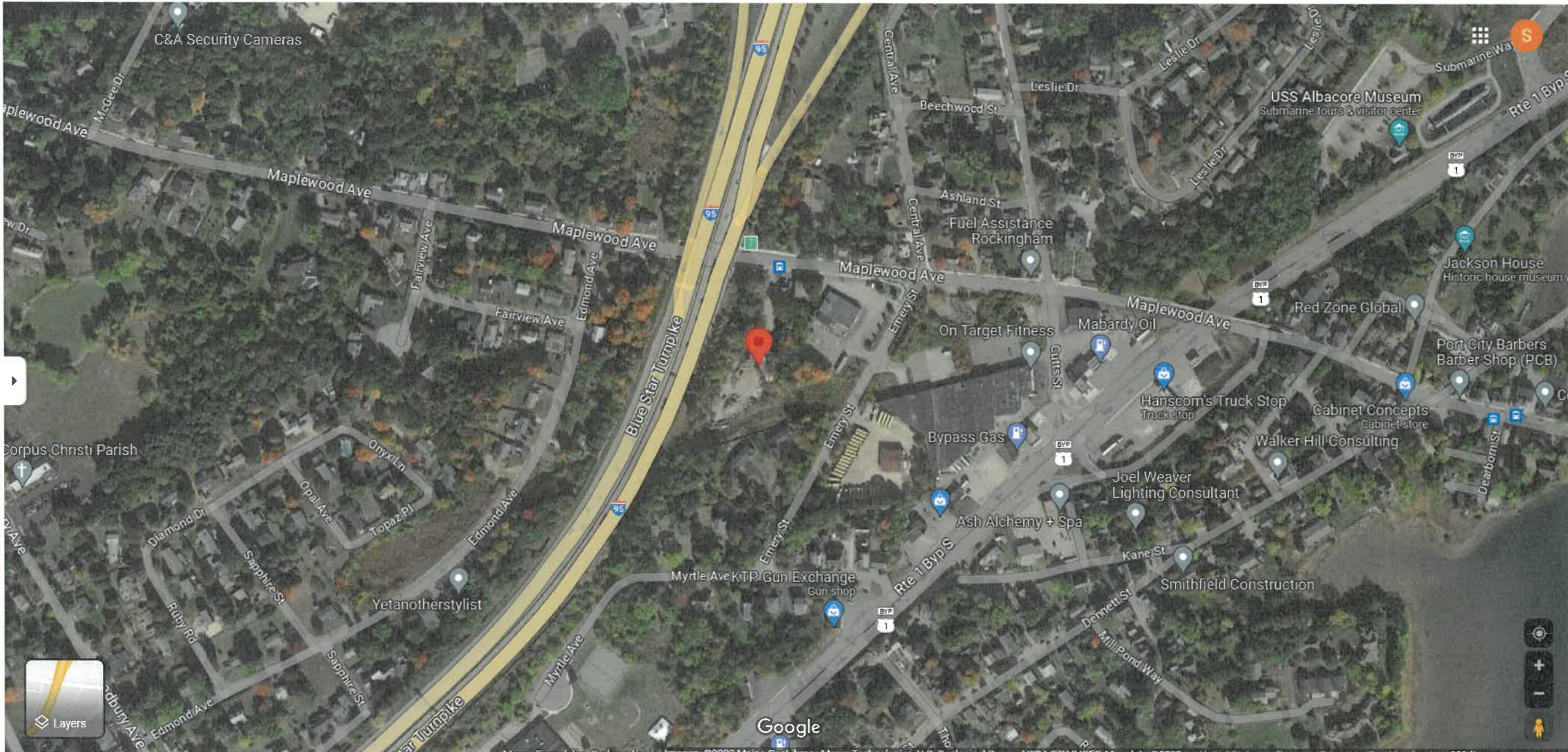
The Applicant's proposal would advance the general and implied purposes of the Zoning Ordinances in question for all the reasons detailed in this narrative and denying the requested variance would only serve to frustrate the same. As such, the second prong of the hardship criteria is satisfied in this case.

The final analysis under the First Hardship Test is to determine whether the proposed use is reasonable. Here, the proposed Project is reasonable because it constitutes residential development that is substantially similar (albeit development with less density) to the surrounding neighborhood. As explained above, the essential character of the neighborhood will remain the same. As such, the Applicant's proposal is reasonable.

On these facts, the Applicant respectfully submits that its variance request satisfies the final prong of the statutory variance criteria.

ix. Conclusion

The Applicant respectfully submits that they have satisfied the statutory variance criteria in this matter and its Application should be approved.



City of Portsmouth, NH
Property

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Search Selection Themes Markup

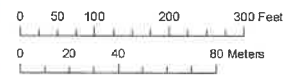
Themes
transparency

- 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
- Mixed Residential Districts**
 - MRC Mixed Residential Office
 - MRB Mixed Residential Business
 - G1 Gateway Corridor
 - G2 Gateway Center
- Business Districts**
 - GB General Business
 - B Business
 - WB Waterfront Business
- Industrial Districts**
 - OR Office Research
 - I Industrial
 - WI Waterfront Industrial
- Airport Districts**
 - AIR Airport
 - AI Airport Industrial
 - PI Pease Industrial
 - ABC Airport Business Commercial
- Conservation Districts**
 - M Municipal
 - NRP Natural Resource Protection
- Character Districts**
 - CD5 Character District 5
 - CD4 Character District 4
 - CD4W Character District 4-W
 - CD4-L1 Character District 4-L1
 - CD4-L2 Character District 4-L2

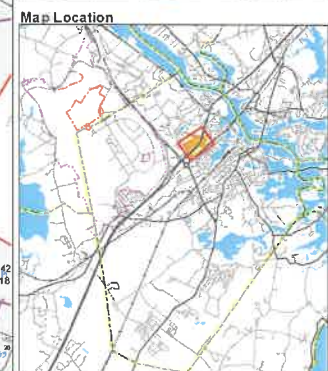
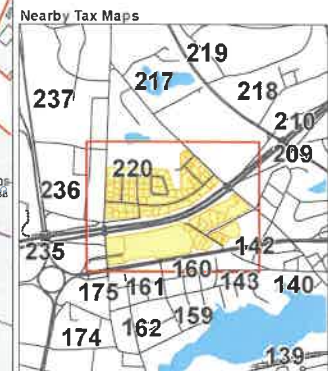
43.081322, -70.773832



- 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)
 - Address number
 - 235-137 Parcel number from a neighboring map
 - 8' Parcel line dimension
 - Street name
 - Parcel boundary
 - Parcel/ROW boundary
 - Water boundary
 - Structure (1984 data)
 - Parcel covered by this map
 - Parcel from a neighboring map (see other map for current status)



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 220

APPLICANT:
CHINBURG DEVELOPMENT, LLC
 3 PENSTOCK WAY
 NEWMARKET, NH 03857
 Tel. (603) 868-5995

OWNER:
ISLAMIC SOCIETY OF THE SEACOAST AREA
 42N DOVER POINT ROAD
 DOVER, NH 03820

CIVIL ENGINEER & LAND SURVEYOR:
AMBIT ENGINEERING, INC.
 A DIVISION OF HALEY WARD, INC.
 200 GRIFFIN ROAD, UNIT 3
 PORTSMOUTH, N.H. 03801
 Tel. (603) 430-9282
 Fax (603) 436-2315

ARCHITECT:
CJ ARCHITECTS
 233 VAUGHAN STREET, SUITE 101
 PORTSMOUTH, NH, 03801
 Tel. (603) 431-2808

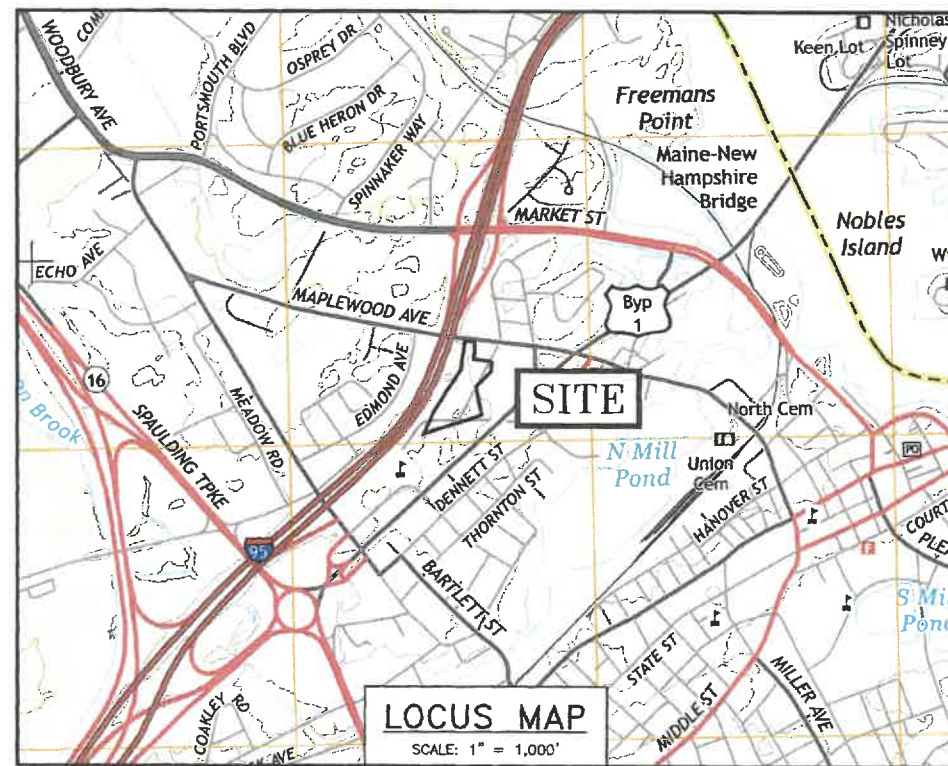
LEGAL REPRESENTATION:
DONAHUE, TUCKER & CIANELLA, PLLC
 111 MAPLEWOOD AVE., SUITE D
 PORTSMOUTH, NH, 03801
 Tel. (603) 766-1686

PROPOSED SITE PLAN RESIDENTIAL DEVELOPMENT 686 MAPLEWOOD AVENUE PORTSMOUTH, NEW HAMPSHIRE PERMIT PLANS

REQUIRED PERMITS:
 PORTSMOUTH BOA: 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
---	UD	FOUNDATION DRAIN
100	100	EDGE OF PAVEMENT (EP)
97+3	98+0	CONTOUR
○	○	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
 1" Character-Based Zoning Area
 (Refer to Zoning Map Sheet 2 of 2
 Character Districts Regulating Plan)

Residential Districts
 R Single Residence A
 SRA Single Residence A
 SRA Single Residence B
 SRA Single Residence C
 SRA Single Residence D
 SRA Single Residence E
 SRA Single Residence F
 SRA Single Residence G
 SRA Single Residence H
 SRA Single Residence I
 SRA Single Residence J
 SRA Single Residence K
 SRA Single Residence L
 SRA Single Residence M
 SRA Single Residence N
 SRA Single Residence O
 SRA Single Residence P
 SRA Single Residence Q
 SRA Single Residence R
 SRA Single Residence S
 SRA Single Residence T
 SRA Single Residence U
 SRA Single Residence V
 SRA Single Residence W
 SRA Single Residence X
 SRA Single Residence Y
 SRA Single Residence Z

Mixed Residential Districts
 MRD Mixed Residential Office
 MRC Mixed Residential Office
 MRC Mixed Residential Office



INDEX OF SHEETS

DWG No.	Description
C1	EXISTING CONDITIONS PLAN
C2	VARIANCE SITE 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)

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

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

SEWER & WATER:
 PORTSMOUTH DEPARTMENT OF PUBLIC WORKS
 680 PEVERLY HILL ROAD
 PORTSMOUTH, N.H. 03801
 Tel. (603) 766-1438 ATTN: JIM TOW

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

**PROPOSED SITE PLAN
 RESIDENTIAL DEVELOPMENT
 686 MAPLEWOOD AVENUE
 PORTSMOUTH, N.H.**

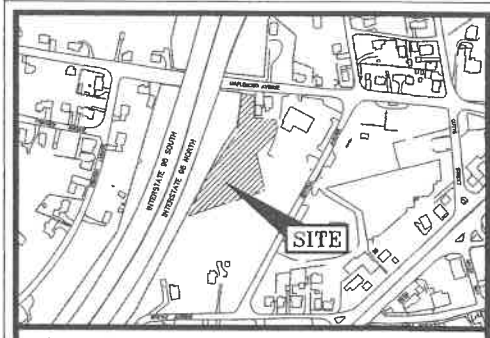


WWW.HALEYWARD.COM
 200 Griffin Road, Unit 3
 Portsmouth, NH 03801
 603.430.9282
 PLAN SET SUBMITTAL DATE: 24 JULY 2023

PORTSMOUTH APPROVAL CONDITIONS NOTE:
 ALL CONDITIONS ON THIS PLAN SET SHALL REMAIN IN EFFECT IN PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE CITY OF PORTSMOUTH SITE PLAN REVIEW REGULATIONS.

APPROVED BY THE PORTSMOUTH ZONING BOARD

CHAIRMAN _____ DATE _____



LOCATION MAP SCALE 1"=300'

LEGEND

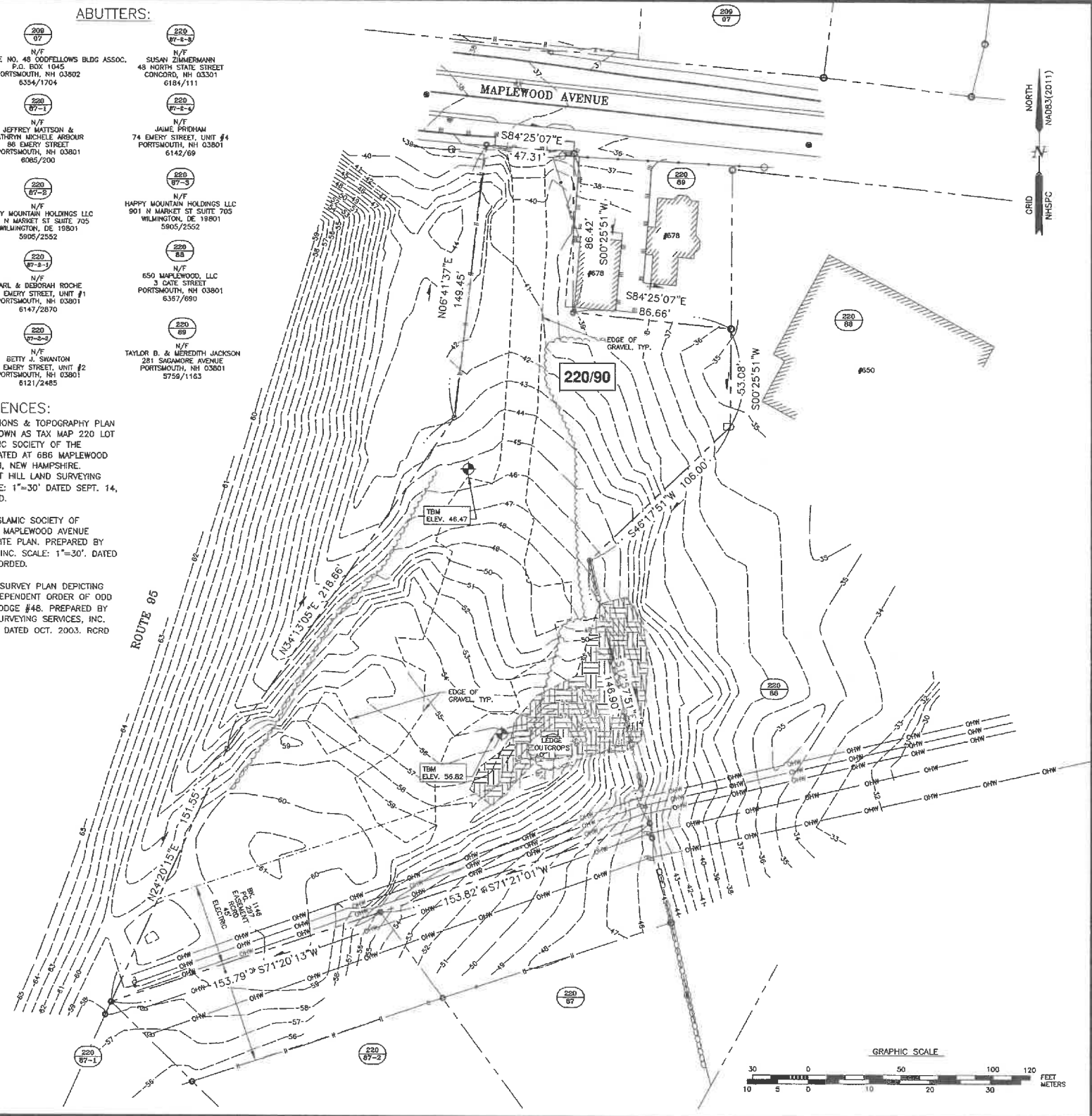
EXISTING	DESCRIPTION
124/21	MAP 124 / LOT 21
N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
---	BOUNDARY LINE
---	SETBACK LINE
RR SPK FND	RAILROAD SPIKE FOUND
IR FND	IRON ROD FOUND
IP FND	IRON PIPE FOUND
DH FND	DRILL HOLE FOUND
BND w/ DH	BOUND w/ DRILL HOLE
FM	FORCE MAIN
S	SEWER LINE
G	GAS LINE
D	STORM DRAIN
W	POTABLE WATER LINE
---	UNDERGROUND ELECTRIC
---	OVERHEAD WIRES
100	CONTOUR LINE
97x3	SPOT ELEVATION
---	EDGE OF PAVEMENT
---	WOODS / TREE LINE
U/P	UTILITY POLE (w/ GUY) (w/ LIGHT)
*	LIGHT POLE
W	SHUTOFF/CURB STOP (WATER, GAS, SEWER)
V	GATE VALVE
H	HYDRANT
CB	CATCH BASIN
TM	TELEPHONE MANHOLE
SM	SEWER MANHOLE
DM	DRAIN MANHOLE
FF	FINISHED FLOOR
INV.	INVERT
TBM	TEMPORARY BENCHMARK
TYP.	TYPICAL

ABUTTERS:

200 07 N/F 05000 LODGE NO. 48 OODFELLOWS BLDG ASSOC. P.O. BOX 1045 PORTSMOUTH, NH 03802 6354/1704	200 07-8-3 N/F SUSAN ZIMMERMANN 48 NORTH STATE STREET CONCORD, NH 03301 6184/1111
220 87-1 N/F JEFFREY MATSON & KATHRYN NICHELE ARBOUR 86 EMERY STREET PORTSMOUTH, NH 03801 8085/2000	220 87-2 N/F JAMIE PREDHAM 74 EMERY STREET, UNIT #4 PORTSMOUTH, NH 03801 6142/69
220 87-3 N/F HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 705 WILMINGTON, DE 19801 5905/2552	220 87-3 N/F HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 705 WILMINGTON, DE 19801 5905/2552
220 87-3-1 N/F CARL & DEBORAH ROCHE 64 EMERY STREET, UNIT #1 PORTSMOUTH, NH 03801 6147/2870	220 88 N/F 650 MAPLEWOOD, LLC 3 GATE STREET PORTSMOUTH, NH 03801 6357/690
220 87-2-2 N/F BETTY J. SHANTON 64 EMERY STREET, UNIT #2 PORTSMOUTH, NH 03801 6121/2485	220 89 N/F TAYLOR B. & MEREDITH JACKSON 281 SAGAMORE AVENUE PORTSMOUTH, NH 03801 5759/1163

PLAN REFERENCES:

- EXISTING CONDITIONS & TOPOGRAPHY PLAN FOR VACANT LOT KNOWN AS TAX MAP 220 LOT 90 OWNED BY ISLAMIC SOCIETY OF THE SEACOAST AREA LOCATED AT 686 MAPLEWOOD AVENUE PORTSMOUTH, NEW HAMPSHIRE. PREPARED BY KNIGHT HILL LAND SURVEYING SERVICES, INC. SCALE: 1"=30' DATED SEPT. 14, 2017. NOT RECORDED.
- SITE PLAN FOR ISLAMIC SOCIETY OF SEACOAST AREA 686 MAPLEWOOD AVENUE PORTSMOUTH, N.H. SITE PLAN. PREPARED BY AMBIT ENGINEERING, INC. SCALE: 1"=30'. DATED MAY 2019. NOT RECORDED.
- LAND BOUNDARY SURVEY PLAN DEPICTING LAND OWNED BY INDEPENDENT ORDER OF ODD FELLOWS, OSCOOD LODGE #48. PREPARED BY KNIGHT HILL LAND SURVEYING SERVICES, INC. SCALE: 1" = 40 FT. DATED OCT. 2003. RCRD D-31278.



AMBIT ENGINEERING, INC.
A DIVISION OF HALEY WARD, INC.

WWW.HALEYWARD.COM
200 Griffin Road, Unit 3
Portsmouth, NH 03801
603.430.9282

- NOTES:**
- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 220 AS LOT 90.
 - OWNERS OF RECORD:
ISLAMIC SOCIETY OF THE SEACOAST AREA
42N DOVER POINT ROAD
DOVER, NH 03820
5806/2816
 - APPLICANT:
CHINBURG DEVELOPMENT, LLC
3 PENSTOCK WAY
NEWMARKET, NH 03857
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 3301SC0259F. EFFECTIVE JANUARY 29, 2021.
 - EXISTING LOT AREA:
62,776 S.F.
1.4411 ACRES
 - PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.
 - DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 15,000 S.F.
FRONTAGE: 100 FEET
SETBACKS: FRONT 30 FEET
SIDE 10 FEET
REAR 30 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 20%
MINIMUM OPEN SPACE: 40%
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 220 LOT 90 IN THE CITY OF PORTSMOUTH.
 - RCRD 5759/1160 PLACED A BURDEN ON TAX MAP 220 LOT 90. THE EASEMENT DESCRIBED IN RCRD 5759/1160 HAS BEEN EXTINGUISHED DUE TO THE REMOVAL OF THE DECKS AND THE NON-REPLACEMENT WITHIN THE SIX (6) MONTHS ALLOWED BY THE EASEMENT DEED.

**RESIDENTIAL DEVELOPMENT
CHINBURG DEVELOPMENT
686 MAPLEWOOD AVE.
PORTSMOUTH, N.H.**

NO.	ISSUED FOR COMMENT	DESCRIPTION	DATE
0	ISSUED FOR COMMENT		4/13/23

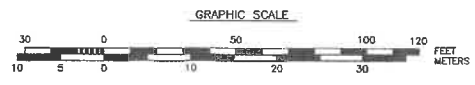
REVISIONS

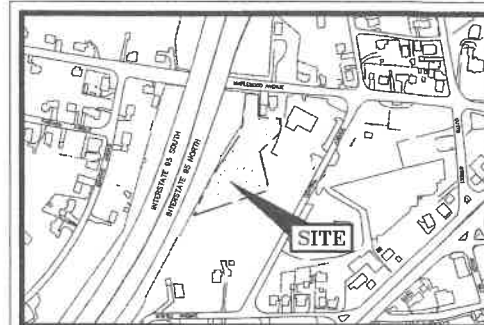
SCALE: 1"=30' FEBRUARY 2023

EXISTING CONDITIONS PLAN **C1**

"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 DATE 4-13-23





LOCATION MAP SCALE 1"=300'

LEGEND:

N/F	HOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11	MAP 11 / LOT 21
O	IRON ROD/IRON PIPE FOUND
---	APPROXIMATE BOUNDARY
100	CONTOUR
97.5	SPOT ELEVATION
---	EDGE OF PAVEMENT (EP)
---	WOODS / TREE LINE
EL.	ELEVATION
FF	FINISHED FLOOR
IN.	INVERT
TBM	TEMPORARY BENCHMARK
TYP.	TYPICAL
LSA	LANDSCAPED AREA
①	PARKING SPACE

IMPERVIOUS SURFACE AREAS (TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURES	0	5,856
DECKS	0	606
COVERED PORCHES	0	270
PATIOS	0	642
PAVEMENT	0	11,611
SIDEWALKS	0	2,392
GRAVEL	12,999	0
CURBING	0	44
RETAINING WALL	0	358
TOTAL	12,999	21,779
LOT SIZE	62,776	62,776
% LOT COVERAGE	20.7%	34.7%

PROPOSED BUILDING COVERAGE: 6,732 S.F./62,776 S.F. = 10.7%
 PROPOSED OPEN SPACE: 40,997 S.F./62,776 S.F. = 65.3%
 BUILDING HEIGHT TO CONFORM TO ORDINANCE.

VARIANCE APPLICATION:

1) ARTICLE #5, SECTION 10.520 TO PERMIT 10,462 S.F. OF LOT AREA PER DWELLING UNIT WHERE 15,000 S.F. OF LOT AREA PER DWELLING UNIT IS REQUIRED.

2) ARTICLE #5, SECTION 10.513 TO PERMIT 6 FREE STANDING BUILDINGS WITH DWELLINGS WHERE NO MORE THAN ONE FREE STANDING DWELLING IS PERMITTED.

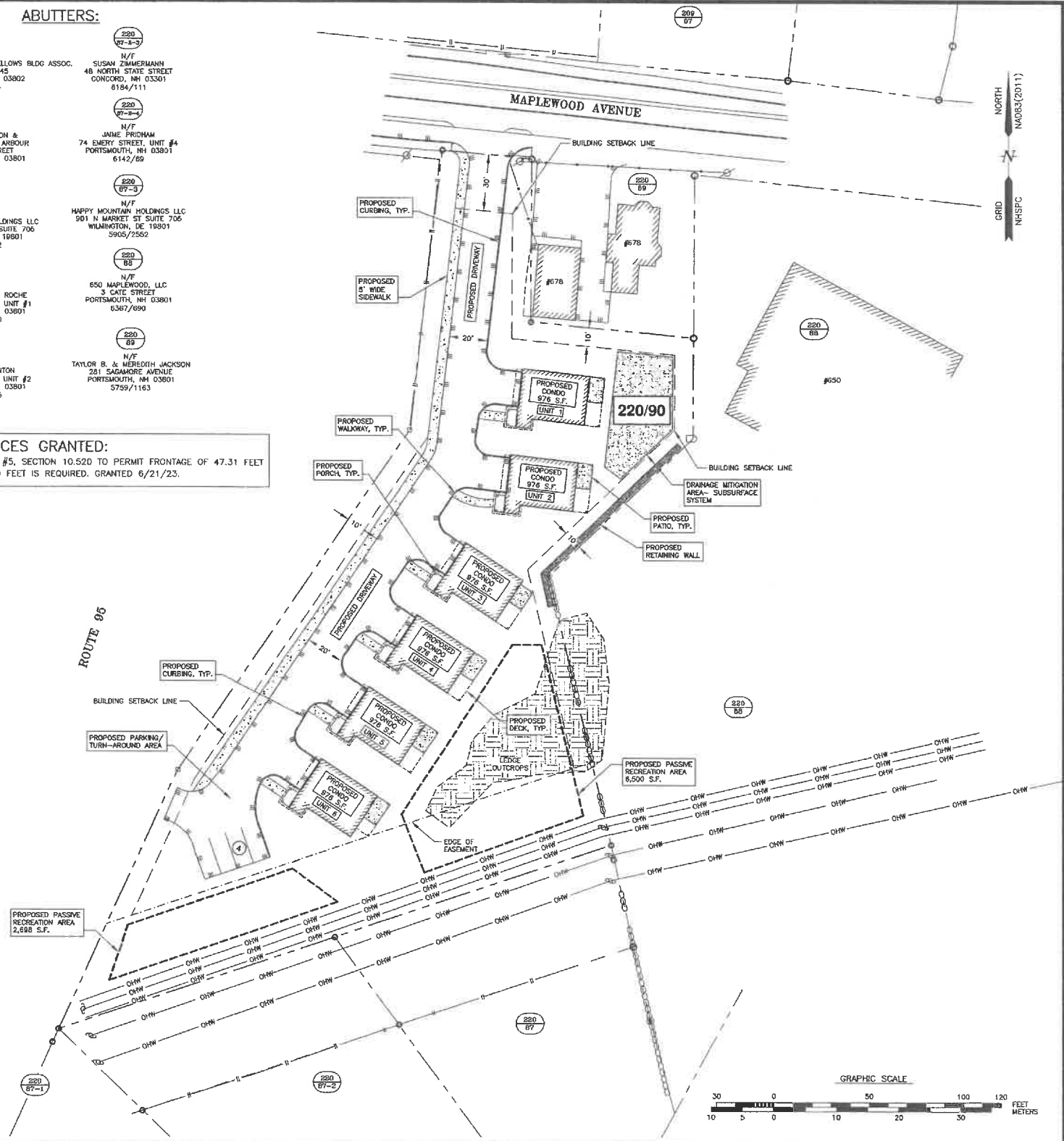
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John R. Chagnon 7-24-23
 JOHN R. CHAGNON, SLS DATE

- ABUTTERS:**
- 220 07 OSWOOD LODGE NO. 48 COOPFELLOWS BLDG ASSOC. P.O. BOX 1045 PORTSMOUTH, NH 03802 6354/1704
 - 220 07-1 JEFFREY WATSON & KATHRYN MICHELE ARBOUR 26 EMERY STREET PORTSMOUTH, NH 03801 6065/200
 - 220 07-2 HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 206 WILMINGTON, DE 19801 5905/2552
 - 220 07-3 SUGAN ZIMMERMANN 46 NORTH STATE STREET CONCORD, NH 03301 6184/111
 - 220 07-4 JANE PRICHAM 74 EMERY STREET, UNIT #4 PORTSMOUTH, NH 03801 6142/69
 - 220 07-5 HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 206 WILMINGTON, DE 19801 5905/2552
 - 220 08-1 CARL & DEBORAH ROCHE 64 EMERY STREET, UNIT #1 PORTSMOUTH, NH 03801 6147/2870
 - 220 08-2 BETTY J. SWANTON 64 EMERY STREET, UNIT #2 PORTSMOUTH, NH 03801 6121/2485
 - 220 08-3 SUGAN ZIMMERMANN 46 NORTH STATE STREET CONCORD, NH 03301 6184/111
 - 220 08-4 JANE PRICHAM 74 EMERY STREET, UNIT #4 PORTSMOUTH, NH 03801 6142/69
 - 220 08-5 HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 206 WILMINGTON, DE 19801 5905/2552
 - 220 08-6 650 MAPLEWOOD, LLC 3 GATE STREET PORTSMOUTH, NH 03801 6367/690
 - 220 08-7 TAYLOR B. & MEREDITH JACKSON 231 SAGAMORE AVENUE PORTSMOUTH, NH 03801 5799/1163

VARIANCES GRANTED:

1) ARTICLE #5, SECTION 10.520 TO PERMIT FRONTAGE OF 47.31 FEET WHERE 100 FEET IS REQUIRED. GRANTED 6/21/23.



AMBIT ENGINEERING, INC.
 A DIVISION OF HALEY WARD, INC.

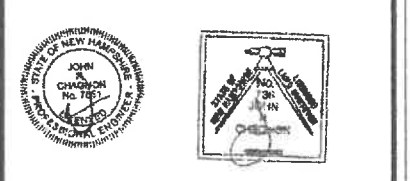
200 Gail's Road, Unit 3
 Portsmouth, NH 03801
 603-433-7252

WWW.HALEYWARD.COM

- NOTES:**
- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 220 AS LOT 90.
 - OWNERS OF RECORD: ISLAMIC SOCIETY OF THE SEACOAST AREA 42N DOVER POINT ROAD DOVER, NH 03820 5806/2816
 APPLICANT: CHINBURG DEVELOPMENT, LLC 3 PENSTOCK WAY NEWMARKET, NH 03857
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL J3015C0259F, EFFECTIVE JANUARY 29, 2021.
 - EXISTING LOT AREA: 62,776 S.F. 1.4411 ACRES
 - PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.
- DIMENSIONAL REQUIREMENTS:**
- | | |
|----------------------------|-------------|
| MIN. LOT AREA: | 15,000 S.F. |
| FRONTAGE: | 100 FEET |
| SETBACKS: FRONT | 30 FEET |
| SIDE | 10 FEET |
| REAR | 30 FEET |
| MAXIMUM STRUCTURE HEIGHT: | 35 FEET |
| MAXIMUM BUILDING COVERAGE: | 20% |
| MINIMUM OPEN SPACE: | 40% |
- THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DEVELOPMENT ON ASSESSOR'S MAP 220 LOT 90 IN THE CITY OF PORTSMOUTH.
 - VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS OBSERVATIONS.
 - BUILDINGS FROM PLANS BY CJ ARCHITECTS DATED 7-24-23.
 - PARKING CALCULATION:
 REQUIRED: 1.3 PER UNIT
 6 UNITS X 1.3 = 8 SPACES
 GUEST REQUIRED: 1 PER 5 UNITS = 1 SPACE
 TOTAL SPACES REQUIRED = 9
 PROVIDED PARKING: 16 SPACES

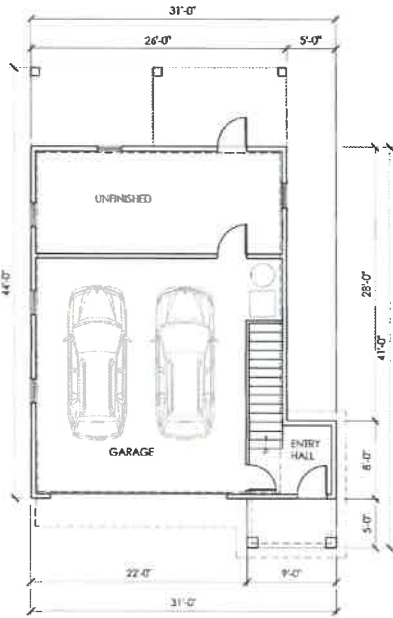
**RESIDENTIAL DEVELOPMENT
 CHINBURG DEVELOPMENT
 686 MAPLEWOOD AVE.
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	7/24/23
REVISIONS		



SCALE: 1"=30' JULY 2023

VARIANCE SITE PLAN **C2**



LOWER LEVEL PLAN
1/8" = 1'-0"



FIRST FLOOR PLAN
1/8" = 1'-0"



SECOND FLOOR PLAN
1/8" = 1'-0"



FRONT ELEVATION
1/8" = 1'-0"



RIGHT ELEVATION
1/8" = 1'-0"



BACK ELEVATION
1/8" = 1'-0"



LEFT ELEVATION
1/8" = 1'-0"

NOT FOR CONSTRUCTION

REVISIONS:

CHINBURG PROPERTIES, INC.
686 MAPLEWOOD AVENUE
PORTSMOUTH, NH



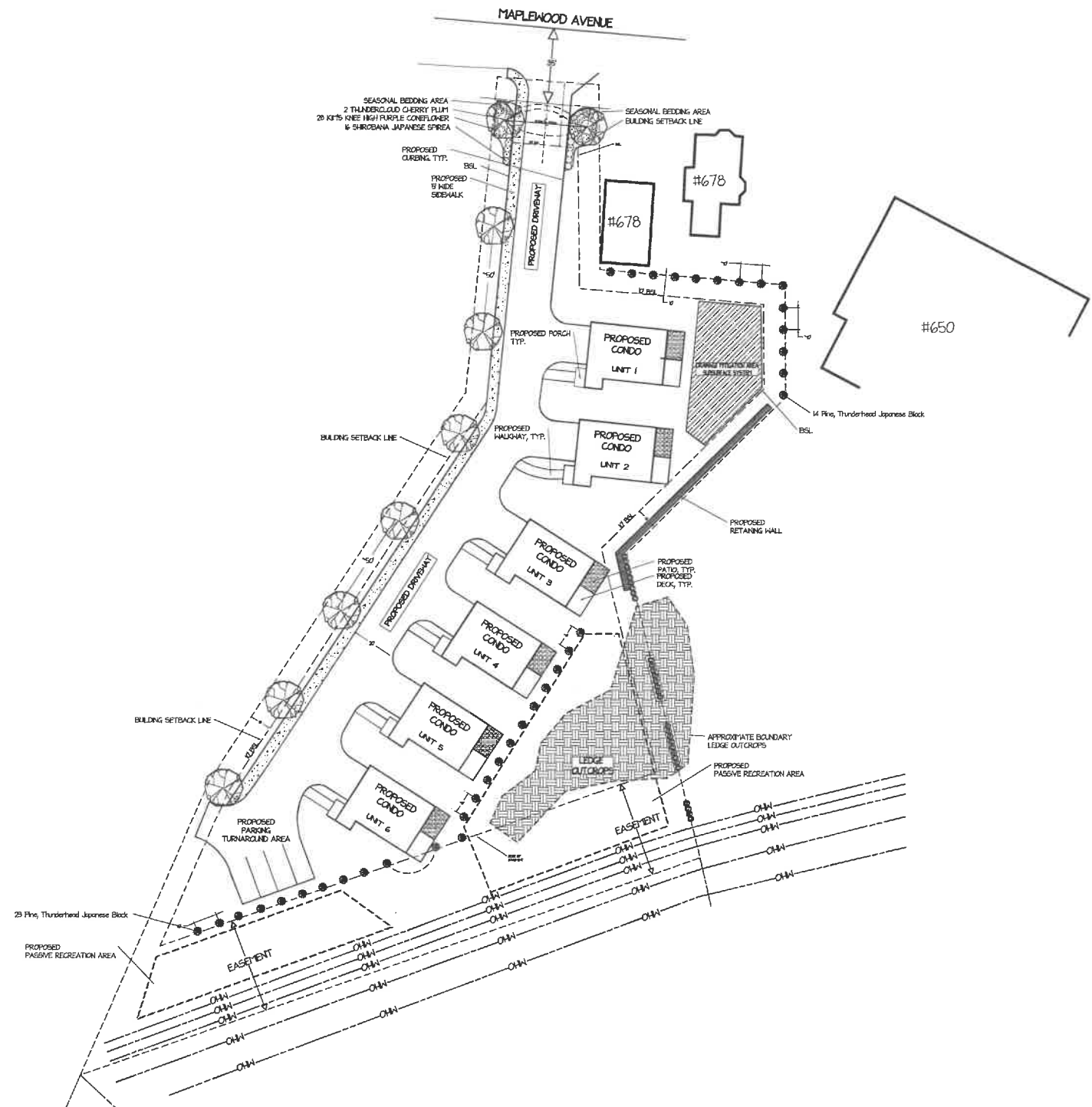
CJ ARCHITECTS
230 VAUGHAN STREET
SUITE 101
PORTSMOUTH, NH 03801
(603) 431-2908
www.cjarchitects.net

FLOOR
PLANS
&
ELEVATIONS

DATE:	07/26/23
DRAWN BY:	RDL
APPROVED BY:	C.J.G.
SCALE:	1/8" = 1'-0"
JOB NUMBER:	22303

A1

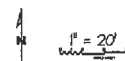
NOTES



CALL BEFORE YOU DIG



THUNDERHEAD BLACK PINE
HEIGHT: 10'-12'
WIDTH: 10'-12'



PLANT LEGEND

Qty	Botanical Name	Common Name	Remarks
Trees			
37	<i>Pinus thunbergiana</i> Thunderhead	Pine, Thunderhead Japanese Black	2" - 25" cal.
14	<i>Pinus thunbergiana</i> Thunderhead	THUNDERHEAD JAPANESE BLACK PINE	36" - 42"
5	<i>Platanus x acerifolia</i> Bloodgood	BLOODGOOD LONDON PLANETREE	2" - 25" cal.
2	<i>Prunus cerasifera</i> Thundercloud	THUNDERCLOUD CHERRY PLUM	2" - 25" cal.
Shrubs			
32	<i>Spiraea japonica</i> Shirobana	SHIROBANA JAPANESE SPIREA	#3
Perennials			
28	<i>Astilbe chinensis</i> Pumiid	PUMILA CHINESE ASTILBE	#1
28	<i>Echinacea purpurea</i> Kim's Knee High	KIM'S KNEE HIGH PURPLE CONEFLOWER	#1

COMMENTS

NO.	DATE	DESCRIPTION
1	07.25.23	

686 MAPLEWOOD
CONCEPT PLAN
LANDSCAPE



SCALE 1" = 20'
DRAWN BY MIC
CHECKED BY ES
DATE 07.25.23
DATE OF PLOT



ENCLOSURE 5

Address	Map	Lot	Unit(s)	Lot Size		
Immediate Neighborhood						
553 Maplewood Ave		209	13	1	0.22	For Immediate Only
18 Cutts St		209	14	1	0.11	AVERAGE OF ABOVE
42 Cutts St		209	15	2	0.11	7361 Sq Ft per unit
1 Ashland St		209	16	1	0.11	0.168 acres per unit
8 Central Ave		209	18	2	0.33	
579 Maplewood Ave		209	11	1	0.22	
5 Central Ave		209	1	1	0.11	
7 Central Ave		209	2	1	0.22	
635 Maplewood		209	10	1	0.37	
639 Maplewood		209	9	1	0.06	
641 Maplewood		209	8	1	0.12	
678 Maplewood		220	89	3	0.17	
64 Emery Street		220 87-3		2	0.49	
74 Emery Street		220 87-2		2	0.74	
Expanded Neighborhood 1						
768 Maplewood Ave		220	75	1	0.29	For Immed & Exp 1
230 Edmond Ave		220	76	1	0.15	AVERAGE OF ABOVE
237 Edmond Ave		220	72	1	0.25	7,995 sq ft per unit
41 Fairview Ave		220	71	1	0.25	0.18 Acres per unit
832 Maplewood Ave		220	73	1	0.23	
43 Fairview Ave		220	70	1	0.14	
860 Maplewood Ave		220	74	1	0.3	
139 Fairview Ave		220	66	1	0.14	currently vacant prev 1
139 Fairview Ave		220	67	1	0.11	
115 Fairview Ave		220	68	1	0.11	
91 Fairview Ave		220	69	1	0.34	
Expanded Neighborhood 2						
769 Maplewood		219	65	1	0.73	For Immed, Exp 1&2
791 Maplewood		219	64	1	0.54	AVERAGE OF ABOVE
825 Maplewood		219	62	1	0.26	9,359 sq ft per unit
873 Maplewood		219	61	1	0.37	0.21 Acres per unit
897 Maplewood		219	60	1	0.25	
899 Maplewood		219	59	1	0.11	
				37	7.95	

Our proposed density is 6 units in 1.44 Acres
 10,462 Sq Ft per unit
 0.24 Acres Per Unit



200 Griffin Road, Unit 3, Portsmouth, NH 03801
Phone (603) 430-9282 Fax 436-2315

27 July, 2023

**Trip Generation
Proposed Residential Development
686 Maplewood Avenue
Portsmouth, NH**

On behalf of Chinburg Development, LLC, we hereby submit this Trip Generation in support of the applicant's filing with the Portsmouth Zoning Board for a Variance, as allowed in the Portsmouth Zoning Ordinance. The Variance seeks to develop the property into 6 residential dwelling units. The site has been vacant for some time but previously approvals were granted to construct a Mosque, which had a proposed peak trip generation of 76 trips in the PM peak hour.

The base trip generation for the proposed 6-unit development is based on a review of the Institute of Transportation Engineers (ITE), *Trip Generation Manual*, 11th Edition. The land use code (LUC) that best resembles the proposed use is LUC 270 – Planned Unit Development. Using that description, the proposed use the site generates the following peak hour trips:

Weekday Morning Peak Hour: 4 Trips (23% entering; 77% exiting)
Weekday Evening Peak Hour: 5 Trips (64% entering; 36% exiting)

The applicant believes that the added trip generation from the site is not excessive, will not impact the adjacent street networks, and represents a significant decrease from the previous approval.

Please feel free to call if you have any questions or comments about this application.

Sincerely,

John R. Chagnon, PE
Ambit Engineering, Inc. – Haley Ward

Land Use: 270

Residential Planned Unit Development

Description

A residential planned unit development (PUD), for the purposes of trip generation, is defined as containing any combination of residential land uses. These developments might also contain supporting services such as limited retail and recreational facilities.

Additional Data

Caution—The description of a PUD is general in nature because these developments vary by density and type of dwelling. It is therefore recommended that when information on the number and type of dwellings is known, trip generation should be calculated on the basis of the known type of dwellings rather than on the basis of Land Use 270. Data for this land use are provided as general information and would be applicable only when the number of dwellings is known.

The sites were surveyed in the 1980s, and the 1990s, and the 2000s in Minnesota, South Dakota, and Virginia.

Source Numbers

111, 119, 165, 169, 357

Residential Planned Unit Development (270)

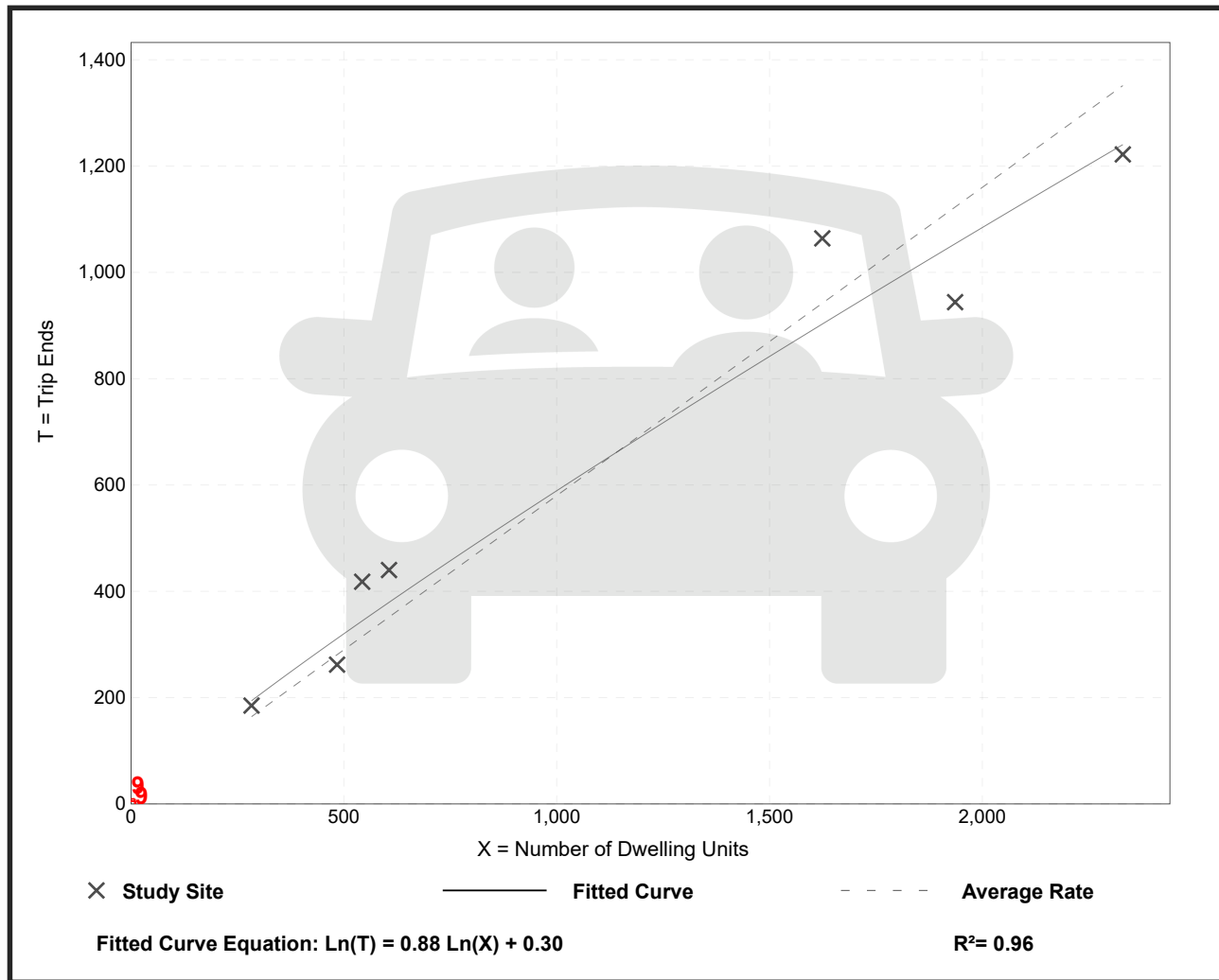
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
AM Peak Hour of Generator

Setting/Location: General Urban/Suburban
 Number of Studies: 7
 Avg. Num. of Dwelling Units: 1115
 Directional Distribution: 23% entering, 77% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.58	0.49 - 0.77	0.10

Data Plot and Equation



Residential Planned Unit Development (270)

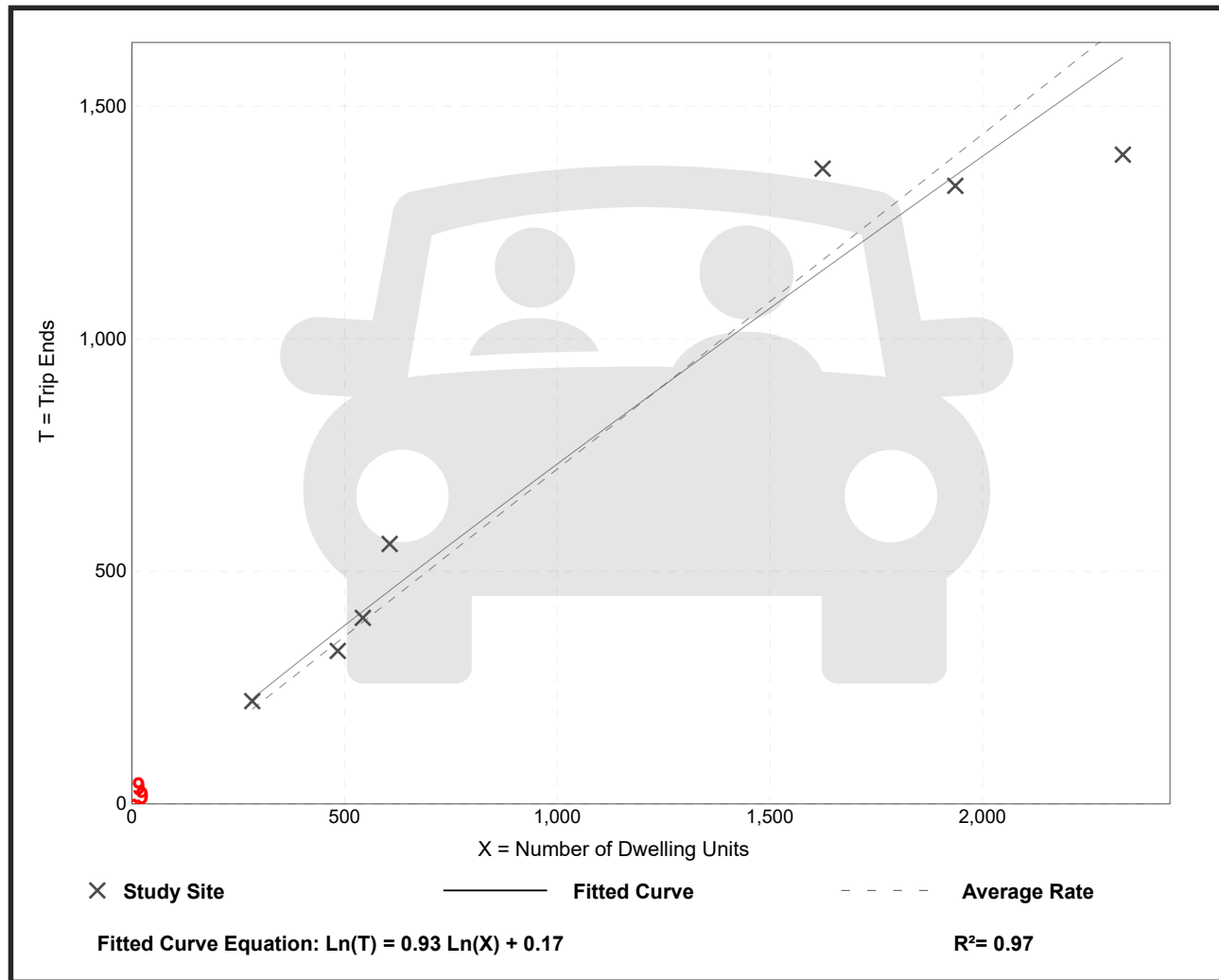
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
PM Peak Hour of Generator

Setting/Location: General Urban/Suburban
 Number of Studies: 7
 Avg. Num. of Dwelling Units: 1115
 Directional Distribution: 64% entering, 36% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.72	0.60 - 0.92	0.11

Data Plot and Equation



July 2023

Members of the Portsmouth Zoning Board,

In regard to the impact this project will have on the surrounding property values it is our opinion that it will cause no decrease but will instead only increase the value of the surrounding properties.

In general, we have found that new construction lifts the values of surrounding properties by creating a desirable neighborhood setting. In many cases, the existing construction homes reap the benefits of new construction in their neighborhood as people invest in the existing home stock and update them continuing to raise values.

We think this would be especially true at this site which is walking distance to downtown and has a mix of existing construction and new construction. Specifically, this site is currently a cleared gravel lot that has been most recently used as a staging area for construction and is bounded by Interstate 95, a three-unit property, a large commercial lot with an industrial building and two newer duplexes. Transforming this vacant gravel lot into a residential development will blend with the surrounding properties and bring a more cohesive feel to the area.

Sincerely,



Colton Gove
Director of Land Development
The Gove Group Real Estate, LLC | Licensed in NH & ME
Cell: 603-686-3188
Office: 603-778-6400
Email: cgove@thegovegroup.com
70 Portsmouth Avenue, Stratham, NH 03885
www.thegovegroup.com

ENCLOSURE 8

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

7:00 P.M.

June 21, 2023

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

MEMBERS EXCUSED: Jody Record, Alternate

ALSO PRESENT: Stefanie Casella, Planning Department; Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:03. She introduced City Staff Planner Jillian Harris, who will be assisting Ms. Casella moving forward. She briefly reviewed the items that would be heard at the June 27 meeting. She stated that Alternate Ms. Geffert would take a voting seat for all petitions and approvals.

I. APPROVAL OF MINUTES

A. Approval of the May 16, 2023 minutes.

*The May 16 minutes were **approved** as submitted by unanimous vote.*

B. Approval of the May 23, 2023 minutes.

*The May 23 minutes were **approved** as amended by unanimous vote.*

(The amendments were to reflect that the SRA zone should be the SRB zone on page 10, and Mr. Rossi's name was missing the 'l' in at the beginning of the minutes).

II. OLD BUSINESS

A. Request for 1-year extension - **420 Pleasant Street** (LU-21-126)

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the request for the 1-year extension, seconded by Mr. Mannle.*

Mr. Rheume said he would support the motion but cautioned that the pandemic was starting to run its course as an excuse for not getting a project done that had a building permit.

The motion passed by unanimous vote, 7-0.

- B. Request for rehearing on the appeal of 1 Raynes Avenue** - As ordered by the Superior Court on February 2, 2023, the Board will “determine, in the first instance, whether it has jurisdiction over the issues presented” by Duncan MacCallum (Attorney for the Appellants) in the January 14, 2022 appeal of the December 16, 2021 decision of the Planning Board for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** which granted the following: a) site plan approval b) wetlands conditional use permit; and c) certain other, miscellaneous approvals, including an approval related to valet parking. Said properties are shown on Assessor Map 123 Lot 14, Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District. (LU-21-54)

DISCUSSION AND DECISION OF THE BOARD

Vice-Chair Margeson moved to deny the rehearing, seconded by Mr. Rossi.

Vice-Chair Margeson said she wasn't sure if the Board was allowed to do a motion for a rehearing on a remand from the Superior Court, but pursuant to Paragraphs 1 through 9 of the motion that related to Mr. Rheume's participation and the rehearing, she said it wasn't a matter that she thought was in the Board's purview to weigh in on. She said the ZBA was a board of statutory jurisdiction and the administrative code of the City and beyond the Board's jurisdiction. She said the issues raised in Paragraphs 11 through 13 as to the participation of Mr. Pezzullo was something dealt with in the remand from Superior Court and that she didn't find that the ZBA had jurisdiction over that matter as well. She said the rest of the appeal had to do with the parking that was a matter on the remand from the Superior Court but thought it wasn't well pleaded and didn't think it was appropriate to supplement the record at this time, given the limitations the Board was given when they first looked at it. Lastly, she said the issue of Paragraph 13 about the possible contamination of the site with hazardous waste was not something that was part of the remand from the Superior Court. Therefore, she said she did not find that the Board had any need to or were even allowed to hear the motion for rehearing. Mr. Rossi said he did not attend that meeting but familiarized himself with the facts of the matter and concurred with Vice-Chair Margeson's statements.

The motion passed by unanimous vote, 7-0.

- C. Request for Rehearing - 170 Aldrich Road (LU-23-47)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Rheume said he wasn't at the meeting but watched the proceedings on the video. He said that, due to the communication issues with the applicant and his presentation, one of the key factors that seemed to turn the Board's opinion about the case was the presentation by the attorney for an abutter who presented a lot of information and the applicant didn't have an effective opportunity to rebut that opinion due to technical issues. He said the applicant was attending remotely and the testimony by the opposing attorney was an influential discussion and that the applicant would normally have an opportunity to come back during the 'to, for, or against' section to rebut the information from the opposing attorney but wasn't able to due to technical issues. He said it made sense to rehear the case out of fairness. Ms. Geffert said the Board should encourage the applicant to be present in person for the rehearing. Mr. Mattson said he normally wouldn't take granting a rehearing lightly but thought the situation with the remote technical difficulties was unique. Chair Eldridge noted that the Board had questions for the applicant that they were not able to get answers to due to the technical difficulties. Ms. Casella said the applicant is always encouraged to participate in any way that they can, but in the past there had not been technical issues, so moving forward she thought presentations from a virtual source should be reconsidered.

*Mr. Mattson moved to **grant** the rehearing, with the **stipulation** that the applicant be required to attend in person. The motion was seconded by Mr. Rheume. The motion passed by a vote of 6-1, with Mr. Rossi voting in opposition.*

Mr. Rossi and Mr. Rheume recused themselves from the following request.

D. Request for Rehearing - 635 Sagamore Avenue (LU-22-209)

DECISION OF THE BOARD

*Vice-Chair Margeson moved to **grant** the rehearing.*

She said the process of the Board was perhaps not the cleanest that it could have been, but the reliance on Walker v. City of Manchester in terms of finding the abutting properties nonconforming was misplaced. She said Sagamore Court was property zoned General Apartment Mobile Home, and although the Tidewatch Condominiums was in the SRA zone, it was a planned unit development because it was over 10 acres.

No one seconded the motion.

*Mr. Mattson moved to **deny** the rehearing, seconded by Mr. Mannle.*

Mr. Mattson said Vice-Chair Margeson made an interesting point but that he hadn't received any extra information regarding Walker v. City of Manchester, so he was not convinced to change his previous position of not granting the rehearing. Mr. Mannle said he thought there were a few confusing parts of trying to single the parcel out and that it was unrelated to Tidewatch Condominiums. He said Tidewatch was a new development with ten acres, and if the applicant's parcel was 10.2 acres, the Board would be dealing with the same thing. He said it was in the SRA

zone and the zoning request was for a living unit. He said it could have been a duplex or triplex. He said if the applicant had a petition for two buildings with garages that were two units each and copied the same style and floorplan as Tidewatch, the Board would be doing this again. He said the original decision to deny was proper and that he would support the motion. Ms. Geffert said she appreciated the observation by Vice-Chair Margeson of the Walker v. City of Manchester case but thought the Board was looking at the character of the area on each side of Sagamore Avenue and the character of the current use, which was a dilapidated industrial nonconformance, so honoring the zoning ordinance took on a broader perspective based on the current nonconforming use. She thought the Board correctly assessed the four-unit residential development following the spirit of the ordinance and one of the things that swayed her was that the applicant changed it from five units to four to make it more in keeping with the surrounding area and lot coverages in the existing zoning. She said she understood how the Walker v. City of Manchester case could be interpreted but thought the applicant's parcel was a special one and its current nonconforming use made the Board's consideration different than the Walker case. Chair Eldridge said the request for rehearing relied on seeing the development as overly crowded when in fact each house was on about a half-acre and met all the setback requirements, and she felt that the Board judged it correctly.

The motion passed by a vote of 4-1, with Vice-Chair Margeson voting in opposition.

Mr. Rossi and Mr. Rheame returned to their voting seats. Mr. Mattson recused himself from the following petition.

- E. The request of **The Islamic Society of the Seacoast Area ISSA (Owner)**, and **Chinburg Development, LLC (Applicant)**, for property located at **686 Maplewood Avenue** whereas relief is needed to construct four (4) duplexes and one (1) single living unit to create a total of nine (9) living units which requires the following: 1) Variance from Section 10.440, Use # 1.30 to permit four (4) two-family unit structures where they are not permitted, 2) Variance from Section 10.513 to permit five (5) free standing buildings with dwellings where not more than one is permitted, 3) Variance from Section 10.520 to allow a) 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required; and b) 47 feet of frontage where 100 feet is required. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District. (LU-23-57)

SPEAKING TO THE PETITION

[Timestamp 33:05] Attorney Justin Pasay was present on behalf of the applicant, with project engineer John Chagnon, architect Carl Goodnight, and realtor Colton Gove of the Gove Group. Attorney Pasay briefly reviewed the application and seven exhibits. He said nine condominium units were proposed, with one affordable unit, and he described what the units would look like.

[Timestamp 38:35] Mr. Chagnon reviewed the site plan and said they would meet with the Technical Advisory Committee (TAC) to review landscaping, utilities, and other features.

In response to Mr. Rossi's questions, Mr. Chagnon said the parking area at the back of the lot encroached into the easement and would be paved. He said it would require a joint use agreement with Public Service that would be part of future approvals.

[Timestamp 45:03] Attorney Pasay reviewed the criteria and said they would be met. In response to Mr. Rheume's questions, Attorney Pasay said the development would be a multi-family condominium one, and each of the units would be for sale and the owners would be part of the condo association. He said the timeframe and the proposed affordable unit were issues addressed at the site plan review. He said they hadn't designed which unit would be the affordable one but if the variance was granted, they would put a more formal proposal together regarding the specific nature of the affordable unit and reference the Statute with the Planning Board. It was further discussed.

Attorney Pasay said the recreation area was stated as an amenity to the neighborhood residents but would only be utilized by the owners for the condominiums. Mr. Rheume said that was something different than stating that it would be open to the neighborhood residents. Mr. Rheume referred to the square foot per dwelling units. He said if the units were reduced to eight, the calculation would be 7,847 sf per dwelling unit, which would be around 7,995 sf per unit. He said it was also a bit above the 7,500 sf per dwelling unit for the GRA district. He said the closest other residential area was all GRA, which would be at 7,500 square feet. He asked why the ninth unit was needed and what the negative impacts would be if the Board felt that eight units were more appropriate. Attorney Pasay said the proposal had already gone from 10 units to nine, and one of the units would be affordable. Mr. Gove said they could get rid of the affordable unit and the 7,800 square feet but figured that the affordable unit was more important to everyone. Mr. Mannle said the development would be in character with the rest of the neighborhood. Attorney Pasay said four units out of 14 in the immediate vicinity were multi-family or two-family units. Mr. Mannle said the chart stated that there were five multi-family units, and out of those six extra units, he asked how many were 2,100 square feet. Attorney Pasay said he didn't have that information. Mr. Mannle asked why the applicant would compare it with an ADU or an apartment that was 400 square feet and say it was the same. Attorney Pasay said they were comparing the number of units to the size of the lots and suggesting that their proposal with nine units was roughly equivalent to the density.

Mr. Rossi said the density calculations were perplexing to him, like having multiple units per structure v. one unit per structure, or two v. three and so on. He said how it would change if it were looked at in terms of the number of structures on the property as opposed to the number of units. He said he didn't see anything in the immediate area with that dense of an allocation or use of multiple structures on a similar-sized property. Attorney Pasay said it went to the uniqueness of the property, a 1.44 acre parcel that had an odd configuration. He said when the available upland on the property was contracted and the ability to develop it made economic sense against the idea of proposing a subdivision road and making lot sizes that were consistent, it became a question of feasibility and viability, and the result was a condo proposal. He said it was a novel approach to developing the property that avoided tons of impervious surface in the form of a big road that the City wants to accept and also avoided a subdivision process. He said they focused on the dwelling unit per lot area calculation because it was the most reasonable approach to comparing the density of the properties. Mr. Rossi said when seeking variances from both the number of dwelling units per

building and the number of square feet per dwelling unit, it got a bit hard to compare on an apples-to-apples basis with surrounding properties.

Vice-Chair Margeson commented that the most problematic part of the application was the two-family dwelling units, which were not allowed in the SRB zone, and the five freestanding buildings and the density relief. She said the parcel was about 1-1/2 acres, and an argument could be made that the applicant might have a hardship due to the small frontage from the street for putting three single-family dwellings on the property. Attorney Pasay said the basis and the law behind the hardship analysis went to whether there were unique circumstances of the property and whether or not applying the specific ordinance in question to the property due to the unique circumstances accomplished the goal of the ordinance. He said they had an ordinance that prohibited on some level multiple buildings and prohibited two-family dwellings. In that context, he said the question was whether or not applying the ordinance accomplished the prohibition on those types of uses in the zoning ordinance, and he said the answer had to be no. He said there were duplexes that surrounded the property and the purpose of the ordinance was not being satisfied by applying it to the property. He said the same applied to the density analysis, which he further explained. [Timestamp 1:05:58]

Vice-Chair Margeson said the property was subdivided and enough street frontage would be needed to access all three of the dwellings. She asked for further explanation about subdividing the property even with the 47-ft front line. Attorney Pasay said at some level, there needed to be a private road proposal or a condo development or relief to accommodate a city road so that the lots interior to the property had frontage in a manner consistent with the zoning ordinance. He said it would require a lot of relief. Mr. Chagnon said the existing lot was oddly shaped and if it were properly configured in a way that could be subdivided, it would be an equivalent area of property to a similar block. He said there were eight or nine units in that block and by today's standards, it couldn't be subdivided in the same way but by past standards it would have worked out to nine lots.

Ms. Geffert asked the applicant to address the noise overlay by creating dense housing units so close to a highway and to also address parking on the lot. Attorney Pasay said the design accounted for the fact that there would have to be additional design criteria and standards met. Mr. Chagnon said the driveways were at least 20 feet from the curb line, so each unit would have a garage space and room to park a car outside. He said other spaces could be dedicated for additional parking if TAC felt that there should be more.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Rheume said it came down to an SRB lot and whether a single residence was an appropriate use for the lot. He said the board previously on two occasions said no and agreed that a single residence use was not a proper use for the property. He said the Board generally didn't want

duplexes in an SRA district, but in that case the property was remote and not visible to most people, so he found that it was less of an issue. He said the property was in some ways misplaced in the SRB district because it was surrounded by businesses or other duplexes and was more akin to the GRA zone. He said he felt more comfortable putting the parcel into that envelope. He said the issue he most struggled with was the density issue. [Timestamp 1:19:50] Mr. Mannle said he thought nine units were too much for the lot. He noted that the applicant said they could get rid of the affordable unit if they lost a unit, and he said it didn't work that way. Mr. Rossi said he didn't place much value on the affordable unit because it was a difficult location for residential use and he couldn't see the units commanding a premium in the market.

Vice-Chair Margeson said she would not support the application because the request was turning the lot into something more like the GRA, GRB, and GRC zones, and that was moderate to high density. She said the GRA and GRB zones were not really contiguous to the lot but were more contiguous to the SRB lot across the street. She said in terms of the previous variances and special exceptions granted for the lot, the places of religious assembly are allowed by special exception for the SRB zone and the variance was for the 47 feet of street frontage. She said if the applicant didn't get it, they would not be able to build on the lot. She said she didn't think the applicant demonstrated hardship for the two-family dwellings and the amount of dwellings on the lot. She said she could probably find a hardship, given the street frontage and the size of the lot, for three single-family dwellings but couldn't find it for the two-family dwelling relief and the density relief. She said it was a large lot that could probably get three lots for the SRB calculation, which would bring it down to below what was allowed under the GRA, GRB or GRC zones. For those reasons, she said she could not support it but could support the frontage relief because if that was denied, the applicant would not be able to build. Mr. Rossi said he concurred in general. Chair Eldridge said it was a great project and if the rules were followed, it would be an exceptionally large lot for one home, but she couldn't see the hardship. She said the uniqueness of the property wasn't really driving the way that the applicant proposed to use it.

*Mr. Mannle moved to **grant** only the variance for the 47-ft variance (Item 3.b). Vice-Chair Margeson seconded.*

Mr. Mannle said approving the 47-ft variance request would not be contrary to the public interest because the frontage was big enough for cars but not big enough for zoning. He said it was an access point for a 1-1/2 acre lot. He said it would observe the spirit of the ordinance and substantial justice would be done because access to the property was needed. He said it would not diminish the values of surrounding properties because they would not be affected. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, noting that the lot's hardship was having the remnants of subdivisions that took effect when Route 95 was built. He said the original size of the lot went across the street and further down. He said the parcel was one huge one at the time and got cut up, and the sliver with 47 feet of frontage was left over. He said not granting the variance for it would result in a hardship. Vice-Chair Margeson said the special conditions of the property is that it has just 47 feet of street frontage, so owing to those special conditions, it can't be reasonably used and there is no fair and substantial relationship between the purposes of the zoning ordinance and its application to the property.

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

Vice-Chair Margeson moved to deny the request to construct four duplexes and one single living unit to create a total of nine living units which requires relief from Section 10.440 (use 1.30) to permit four two-family structures where they are not permitted, and Section 10.513 to permit five freestanding dwellings where not more than one is permitted, and Section 10.520 for 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required. Mr. Mannle seconded the motion.

Vice-Chair Margeson said the two-family dwelling relief, the one dwelling per lot relief, and the density relief were contrary to the public interest and the spirit of the ordinance. She said the purpose and intent of the SRB district was to have one freestanding dwelling unit on the property and not to have any two-family dwellings on the subject lot. As far as the density relief request, she said the lot was big and the relief would bring the lot size down to 6,975 sf where 15,000 sf per dwelling unit was required, which was also directly contrary to the purpose and intent of the SRB district that required 15,000 sf of lot. She said the application failed the hardship test because the applicant did not demonstrate hardship for having a two-family dwelling unit and more than one dwelling unit per lot for the density relief. Mr. Mannle concurred and had nothing to add.

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

Mr. Mattson returned to his voting seat.

III. NEW BUSINESS

- A. The request of **Charles Silva Jr and Margaret Moran (Owners)**, for property located at **434 Marcy Street** whereas relief is needed to construct an addition to the rear of the existing structure, remove the existing shed, and construct a new shed which requires the following: 1) Variance from Section 10.521 to allow: a) 8 foot left yard setback where 10 feet is required; and b) 43% building coverage where 30% is allowed. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. 3) Variance from Section 10.573.20 to allow a) 1 foot rear yard where 11 feet is required; and b) 1 foot right side yard where 11 feet is required. Said property is located on Assessor Map 102 Lot 41 and lies within the General Residence B (GRB) and Historic District. (LU-23-53)

SPEAKING TO THE PETITION

Architect Anne Whitney was present on behalf of the applicant. She said the three immediate abutters were in support of the project. She reviewed the petition and the criteria. In response to Mr. Rheume's questions, Ms. Whitney said the residents at 28 South Street had a 6-ft fence toward the back of the applicant's property that went down to around four feet. She said the existing shed became the fence on that side. She said the applicant would fill in that fence to keep it at the 6-ft

height and that the abutter agreed. She said the new shed would be about 11 feet tall and have a small gable roof that would stick up above the fence a bit, so the neighbors would see some siding and some roof. She said the ordinance's maximum for a fence was six feet.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

*Mr. Mattson moved to **grant** the variances for the petition, seconded by Mr. Mannle.*

Mr. Mattson said granting the variances would not be contrary to the public interest because the proposed use was not in conflict with the explicit and implicit purposes of the ordinance and would not alter the essential character of the neighborhood, threaten public health, safety or welfare or otherwise injure public rights. He said it would observe the spirit of the ordinance because it was a small and modest addition that would be minimally visible from the street and entirely within the character of the neighborhood. He noted that it would also be going before the Historic District Commission. He said granting the variances would do substantial justice because the benefit to the applicant would not be outweighed by any harm to the public or other individuals. He said it wouldn't really be visible from the street, and the improvements to the property would benefit the applicant and do no harm to others. He said granting the variance would not diminish the values of surrounding properties, noting that there was no suggestion that this would be the case. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. He said the property had special conditions that distinguished it from others in the area, and owing to those special conditions, a fair and substantial relationship does not exist between the general public purposes of the ordinance's provision and the specific application of that provision to the property. He said it was a reasonable proposed use of the single family residence on a small, undersized lot that was half the size of what was permitted in the already dense zone. He said the purpose of preserving air, light and privacy would be preserved with the very modest change to the structure. Mr. Mannle concurred. He said the property was in the south end, where nothing conformed. He said the request was small except for the shed, but the existing shed would be gotten rid of, which was a tradeoff that didn't bother him. Vice-Chair Margeson said she would not support the motion. She said the proposed shed brought the right and rear setbacks way out of conformance and thought a smaller shed could have been put in the existing footprint.

*The motion **passed** by a vote of 6-1, with Vice-Chair Margeson voting in opposition.*

- B.** The request of **David Hugh Mason and Lisa Ann Mason (Owners)**, for property located at **239 Cass Street** whereas relief is needed to demolish a single story addition on the rear of the primary structure, construct a two (2) story rear addition to the primary structure, and demolish and enlarge existing garage which requires the following: Variance from Section 10.521 to allow: a) 1 foot right yard where 10 is

required for the primary structure; b) 3 foot left yard where 10 is required for the accessory structure; c) 4 foot rear yard where 20 is required for the accessory structure; d) 37% building coverage where 30% is allowed on the lot. Said property is located on Assessor Map 147 Lot 4 and lies within the General Residence C (GRC) District. (LU-23-69)

SPEAKING TO THE PETITION

Project designer Amy Dutton was present on behalf of the applicant and reviewed the petition and the criteria. [Timestamp 2:03:50]

Mr. Rheume said the proposal was to get a full two stories in the descending topography as opposed to continuing the 1-1/2 story roofline. He said the request was for a lot more than what currently existed and asked if the applicant contemplated continuing the 1-1-2 story roofline and using some selective dormering, particularly on the side away from the neighbor. Ms. Dutton said they had 3'9" knee walls so they would have to do an addition and then dormer it. She said they were trying to not hit the 50 percent rule and impact the existing structure the least amount as possible. She explained that if they were to take 50 percent or more, they would have to comply with the building code 100 percent. She said they proposed about 30 percent, which meant that they would not have to take everything up to the current 2008 building code. She said they could improve the staircase but didn't have to bring it all the way up to a full code staircase. Mr. Rheume asked why the proposed more substantial structure would be less impactful than a 1-1/2 story roofline. Mr. Dutton said they couldn't get the living square footage out of the existing house. She said if the dormered out the existing house, they'd touch that roof and not gain anything. She said there was the issue of hitting the code in the bathroom. Mr. Rheume said the floor plan indicated that the bathroom would be swapped over from the 1-ft setback side to the driveway side and a new bath would be added, which he thought was a decent size in that new extension, but there was the compromise of what the applicant wanted v. what was fair to the neighbors in terms of the new structure being built one foot from the property line.

Mr. Mattson said the only variance the applicant would need would be for the right yard setback if they weren't changing the garage. Ms. Dutton said the existing garage sat one foot and two feet from the property lines and it would still be nonconforming. Mr. Mattson said it would be the expansion of a nonconforming structure. Ms. Dutton said the house didn't comply. Mr. Mattson asked Ms. Dutton to clarify how a 1-ft setback would be gained. Ms. Dutton said they would just be straightening out the foundation. The setback relief requests were further discussed. Vice-Chair Margeson said she shared Mr. Rheume's concerns about the addition on the back, noting that other homes on the street would not have that addition on the back. She said she was concerned about the character of the neighborhood, given the extension on the back, but wasn't sure if there was any basis in the application for that concern. Ms. Geffert confirmed that the applicant would experience a hardship if they weren't able to take the addition up to the proposed height.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variances for the petition as presented and advertised, seconded by Ms. Geffert.*

Mr. Rossi referred to Sections 10.233.21 and .22 of the ordinance and said granting the variances would observe the spirit of the ordinance and there would be no loss to the public interest by allowing an extension to the rear of the home. Referring to Section 10.233.23, he said granting the variances would do substantial justice because there would be no loss to the community or the town in general that would outweigh the loss to the applicant if the variances were to be denied. Referring to Section 10.233.24, he said granting the variances would not diminish the values of surrounding properties. He noted that the abutters were notified and had the opportunity to express any concerns as to massing and the impact on their properties but didn't. Referring to Section 10.233.25 of the ordinance, he said the existing conditions of the lot are the 1-ft clearance to the right side lot line for the primary structure, so any change to the structure to bring it up to contemporary standards for livability would require a variance, which was a special condition of the property. He said it already existed with essentially a zero lot line clearance that would be increased to one foot and would bring it closer into compliance. He said the same was true for the variances related to the garage and the setback, noting that they were either within the requirements or decreased the amount of noncompliance. He said the current location of the garage was a special condition that allows the new garage to be less noncompliant than the current condition.. Ms. Geffert concurred.

Mr. Rheume said he would not support the motion. He agreed that the existing 1-1/2 story was one foot off, and the addition on the back bowed out a bit and the applicant was correcting that, but he thought going up a whole story on a 1-1/2 story house wasn't warranted. He said the spirit of the ordinance was to prevent the imposition of light and air on abutters' properties. He said he was fine with the garage but thought the one-foot property line asked for was more than necessary to meet the fundamental objectives of having a larger house. Mr. Mannle agreed but thought the garage was the problem because it was driving three out of 4 variance requests. He said the request was to demolish the garage and have a clean slate. He said the applicant was only going down by a foot for a bigger garage and that he would want to see something more conforming with the zoning. Chair Eldridge said she would support the motion because the fact that the garage would be taller would keep its windows from looking into the neighbors' windows, and the view of the garage from the street would be the same.

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

- C. The request of **Danielle Okula, Dennis Okula, and Irinia Okula (Owners)**, for property located at **2 Sewall Road** whereas relief is needed to install a 6 foot fence where along the front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is located on

Assessor Map 170 Lot 22 and lies within the Single Residence B (SRB) District.
(LU-23-71)

SPEAKING TO THE PETITION

The applicant was not present.

DECISION OF THE BOARD

*Mr. Rossi moved to **postpone** the petition to the July meeting, seconded by Mr. Mannle. The motion passed by unanimous vote, 7-0.*

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting adjourned at 9:28 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

APPLICANT:
CHINBURG DEVELOPMENT, LLC
 3 PENSTOCK WAY
 NEWMARKET, NH 03857
 Tel. (603) 868-5995

OWNER:
**ISLAMIC SOCIETY OF
 THE SEACOAST AREA**
 42N DOVER POINT ROAD
 DOVER, NH 03820

CIVIL ENGINEER & LAND SURVEYOR:
AMBIT ENGINEERING, INC.
 A DIVISION OF HALEY WARD, INC.
 200 GRIFFIN ROAD, UNIT 3
 PORTSMOUTH, N.H. 03801
 Tel. (603) 430-9282
 Fax (603) 436-2315

ARCHITECT:
CJ ARCHITECTS
 233 VAUGHAN STREET, SUITE 101
 PORTSMOUTH, NH, 03801
 Tel. (603) 431-2808

LEGAL REPRESENTATION:
DONAHUE, TUCKER & CIANELLA, PLLC
 111 MAPLEWOOD AVE., SUITE D
 PORTSMOUTH, NH, 03801
 Tel. (603) 766-1686



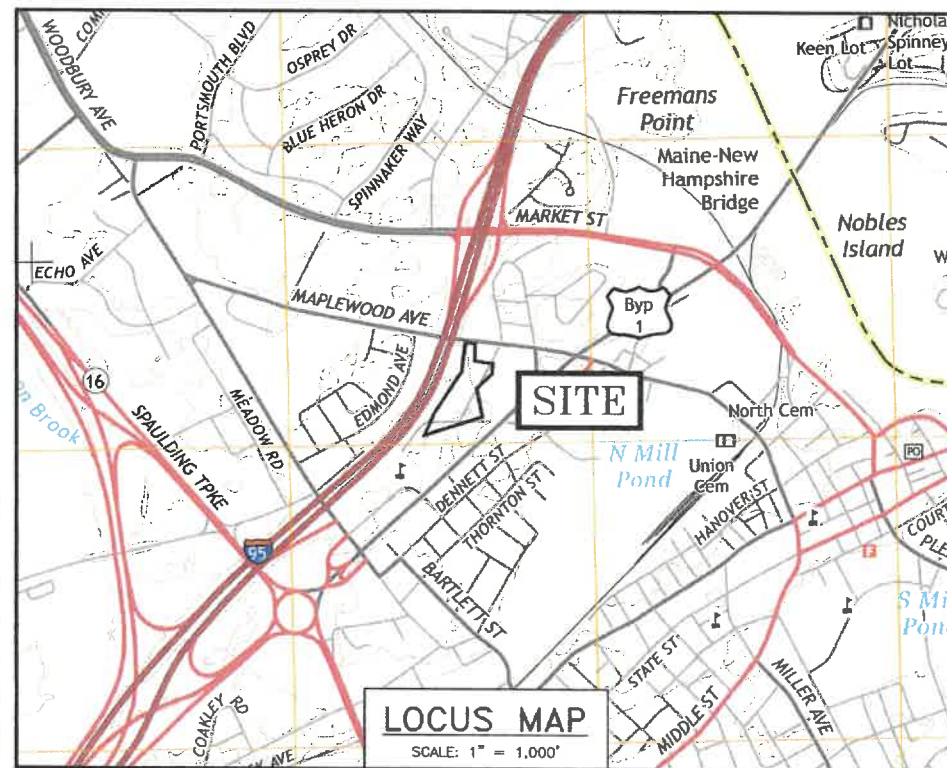
Legend

Character Districts:
 Character-Rated Zoning Area
 (Refer to Zoning Map Sheet 2 of 2
 Character Districts Programming Plan)

Residential Districts:
 R1 Rural
 SRA Single Residence A
 SRS Single Residence S
 CRA General Residence A
 CRB General Residence B
 CRC General Residence C
 CAWH Garden Apartment/Mobile Home Park

Mixed Residential Districts:
 MRO Mixed Residential Office
 MRR Mixed Residential Business

PROPOSED SITE PLAN RESIDENTIAL DEVELOPMENT 686 MAPLEWOOD AVENUE PORTSMOUTH, NEW HAMPSHIRE PERMIT PLANS



REQUIRED PERMITS:
 PORTSMOUTH BOA: PENDING

Enclosure 9

LEGEND:

EXISTING	PROPOSED	
---	---	PROPERTY LINE
S	S	SETBACK
SL	SL	SEWER PIPE
G	G	SEWER LATERAL
D	D	GAS LINE
W	W	STORM DRAIN
WS	WS	WATER LINE
UZE	UZE	WATER SERVICE
CHW	CHW	UNDERGROUND ELECTRIC
	UD	OVERHEAD ELECTRIC WIRES
		FOUNDATION DRAIN
100	100	EDGE OF PAVEMENT (EP)
97+3	96+0	CONTOUR
		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		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
ROP	ROP	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 =	SI OFF FT/FT
TBM	TBM	TEMPORARY BENCH MARK
TYP	TYP	TYPICAL



INDEX OF SHEETS

DWG No.	DESCRIPTION
C1	EXISTING CONDITIONS PLAN
C2	VARIANCE SITE 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)

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

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

SEWER & WATER:
 PORTSMOUTH DEPARTMENT OF PUBLIC WORKS
 680 PEVERLY HILL ROAD
 PORTSMOUTH, N.H. 03801
 Tel. (603) 766-1438 ATTN: JIM TOW

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

PORTSMOUTH APPROVAL CONDITIONS NOTE:
 ALL CONDITIONS ON THIS PLAN SET SHALL REMAIN IN EFFECT IN PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE CITY OF PORTSMOUTH SITE PLAN REVIEW REGULATIONS.

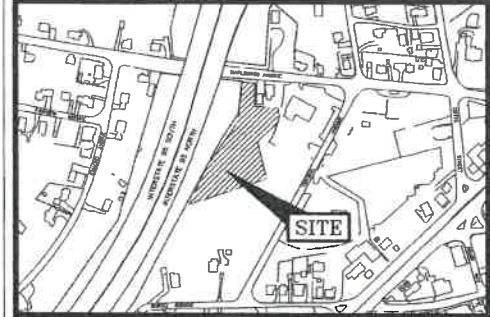
APPROVED BY THE PORTSMOUTH ZONING BOARD

CHAIRMAN _____ DATE _____

**PROPOSED SITE PLAN
 RESIDENTIAL DEVELOPMENT
 686 MAPLEWOOD AVENUE
 PORTSMOUTH, N.H.**



WWW.HALEYWARD.COM
 200 Griffin Road, Unit 3
 Portsmouth, NH 03801
 603.430.9282
 PLAN SET SUBMITTAL DATE: 20 APRIL 2023



LOCATION MAP SCALE 1"=300'

LEGEND

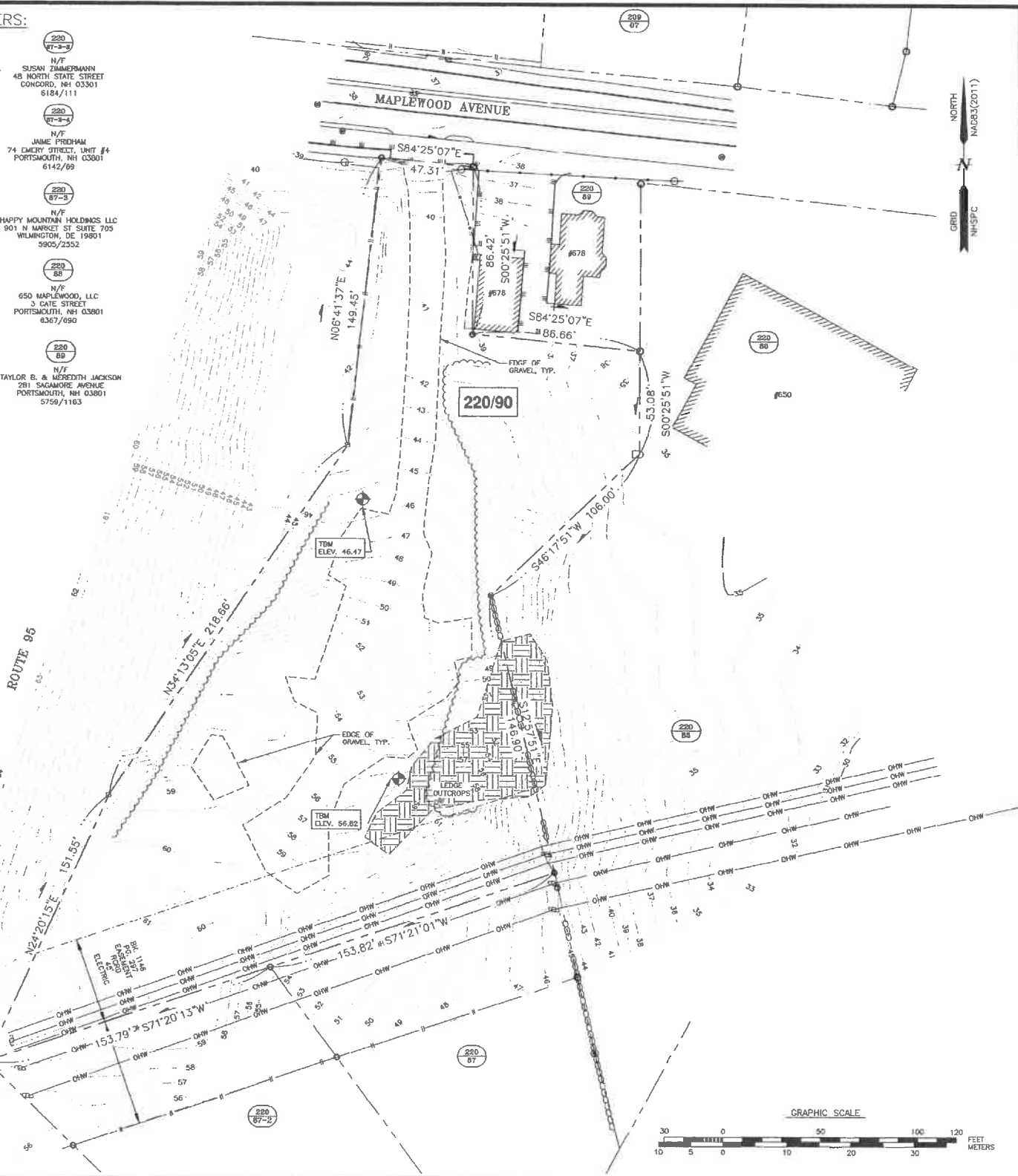
EXISTING	DESCRIPTION
124/21	MAP 124 / LOT 21
N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
---	BOUNDARY LINE
---	SETBACK LINE
□ RR SPK FND	RAILROAD SPIKE FOUND
○ IR FND	IRON ROD FOUND
○ IP FND	IRON PIPE FOUND
○ DH FND	DRILL HOLE FOUND
□ END w/ DH	BOUND w/ DRILL HOLE
FM	FORCE MAIN
S	SEWER LINE
G	GAS LINE
D	STORM DRAIN
W	POTABLE WATER LINE
---	UNDERGROUND ELECTRIC
---	OVERHEAD WIRES
100	CONTOUR LINE
97.3	SPOT ELEVATION
---	EDGE OF PAVEMENT
---	WOODS / TREE LINE
○	UTILITY POLE (w/ CLM) (w/ LIGHT)
*	LIGHT POLE
○	SHUTOFF/CURB STOP (WATER, GAS, SEWER)
○	GATE VALVE
HYD.	HYDRANT
CB	CATCH BASIN
○	TELEPHONE MANHOLE
○	SEWER MANHOLE
○	DRAIN MANHOLE
FF	FINISHED FLOOR
INV.	INVERT
TM	TEMPORARY BENCHMARK
TYP.	TYPICAL

ABUTTERS:

220 07 N/F OSGOOD LODGE NO. 48 ODD FELLOWS BLDG ASSOC. P.O. BOX 1045 PORTSMOUTH, NH 03802 6354/1704	220 08 N/F SUSAN ZIMMERMANN 48 NORTH STATE STREET CONCORD, NH 03301 6184/111
220 09 N/F JEFFREY MATSON & KATHRYN MICHELLE ANDOUR 88 EMERY STREET PORTSMOUTH, NH 03801 6055/200	220 10 N/F JANE FRIEDMAN 74 EMERY STREET, UNIT #4 PORTSMOUTH, NH 03801 6142/09
220 11 N/F HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 705 WILMINGTON, DE 19801 5905/2552	220 12 N/F HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 705 WILMINGTON, DE 19801 5905/2552
220 13 N/F CARL & DEBORAH ROCHE 64 EMERY STREET, UNIT #1 PORTSMOUTH, NH 03801 6147/2870	220 14 N/F 650 MAPLEWOOD, LLC 3 DATE STREET PORTSMOUTH, NH 03801 6367/690
220 15 N/F BETTY J. SWANSON 64 EMERY STREET, UNIT #2 PORTSMOUTH, NH 03801 6121/2485	220 16 N/F TAYLOR E. & MEREDITH JACKSON 281 SAGAMORE AVENUE PORTSMOUTH, NH 03801 5759/1163

PLAN REFERENCES:

- 1) EXISTING CONDITIONS & TOPOGRAPHY PLAN FOR VACANT LOT KNOWN AS TAX MAP 220 LOT 90 OWNED BY ISLAMIC SOCIETY OF THE SEACOAST AREA LOCATED AT 686 MAPLEWOOD AVENUE, PORTSMOUTH, NEW HAMPSHIRE. PREPARED BY KNIGHT HILL LAND SURVEYING SERVICES, INC. SCALE: 1"=30' DATED SEPT. 14, 2017. NOT RECORDED.
- 2) SITE PLAN FOR ISLAMIC SOCIETY OF SEACOAST AREA 686 MAPLEWOOD AVENUE PORTSMOUTH, N.H. SITE PLAN. PREPARED BY AMBIT ENGINEERING, INC. SCALE: 1"=30'. DATED MAY 2019. NOT RECORDED.
- 3) LAND BOUNDARY SURVEY PLAN DEPICTING LAND OWNED BY INDEPENDENT ORDER OF ODD FELLOWS, OSGOOD LODGE #48. PREPARED BY KNIGHT HILL LAND SURVEYING SERVICES, INC. SCALE: 1" = 40 FT. DATED OCT. 2003. RCRD D-31278.



"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."

[Signature] 4.20.23
JOHN R. CHAGNON, LLS DATE

AMBIT ENGINEERING, INC.
A DIVISION OF HALEY WARD, INC.

200 Griffin Road, Unit 3
Portsmouth, NH 03801
603-430-9582

WWW.HALEYWARD.COM

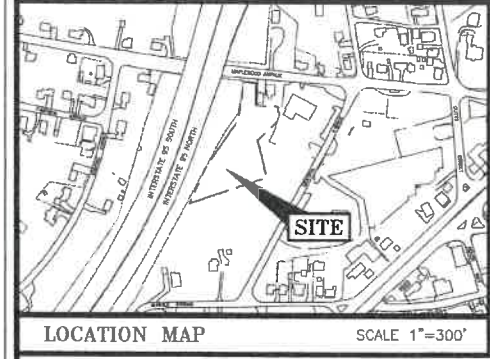
- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 220 AS LOT 90.
 - 2) OWNERS OF RECORD:
ISLAMIC SOCIETY OF THE SEACOAST AREA
42N DOVER POINT ROAD
DOVER, NH 03820
5806/2816
- APPLICANT:
CHINBURG DEVELOPMENT, LLC
3 PENSTOCK WAY
NEWMARKET, NH 03857
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, EFFECTIVE JANUARY 29, 2021.
 - 4) EXISTING LOT AREA:
62,776 S.F.
1.4411 ACRES
 - 5) PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.
- DIMENSIONAL REQUIREMENTS:**
- | | |
|----------------------------|---------------|
| MIN. LOT AREA: | 15,000 S.F. |
| FRONTAGE: | 100 FEET |
| SETBACKS: | FRONT 30 FEET |
| | SIDE 10 FEET |
| | REAR 30 FEET |
| MAXIMUM STRUCTURE HEIGHT: | 35 FEET |
| MAXIMUM BUILDING COVERAGE: | 20% |
| MINIMUM OPEN SPACE: | 40% |
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 220 LOT 90 IN THE CITY OF PORTSMOUTH.
 - 8) RCRD 5759/1160 PLACED A BURDEN ON TAX MAP 220 LOT 90. THE EASEMENT DESCRIBED IN RCRD 5759/1160 HAS BEEN EXTINGUISHED DUE TO THE REMOVAL OF THE DECKS AND THE NON-REPLACEMENT WITHIN THE SIX (6) MONTHS ALLOWED BY THE EASEMENT DEED.

**RESIDENTIAL DEVELOPMENT
CHINBURG DEVELOPMENT
686 MAPLEWOOD AVE.
PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ISSUED FOR APPROVAL	4/20/23
0	ISSUED FOR COMMENT	4/13/23

SCALE: 1"=30' FEBRUARY 2023

EXISTING CONDITIONS PLAN **C1**



LEGEND:

N/F	NEW OR FORMERLY
RP	RECORD OF PRODATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11	MAP 11 / LOT 21
○	IRON ROD/IRON PIPE FOUND
---	APPROXIMATE BOUNDARY
100	CONTOUR
97.3	SPOT ELEVATION
---	EDGE OF PAVEMENT (EP)
---	WYFYS / TRFSE LINE
EL	ELEVATION
FF	FINISHED FLOOR
HW	HEIGHT
TBM	TEMPORARY BENCHMARK
TYP	TYPICAL
LSA	LANDSCAPED AREA
①	PARKING SPACE

IMPERVIOUS SURFACE AREAS (TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURES	0	6,480
DECKS	0	864
COVERED PORCHES	0	360
PAVEMENT	0	11,625
SIDEWALKS	0	2,157
LEDGE	3,291	3,291
GRAVEL	17,995	0
CURBING	0	178
RETAINING WALL	0	211
TOTAL	16,290	25,166
LOT SIZE	62,776	62,776
% LOT COVERAGE	25.9%	40.1%

PROPOSED BUILDING COVERAGE: 7,704 S.F./62,776 S.F. = 12.3%
 PROPOSED OPEN SPACE: 37,999 S.F./62,776 S.F. = 60.5%
 BUILDING HEIGHT TO CONFORM TO ORDINANCE.

VARIANCE APPLICATION:

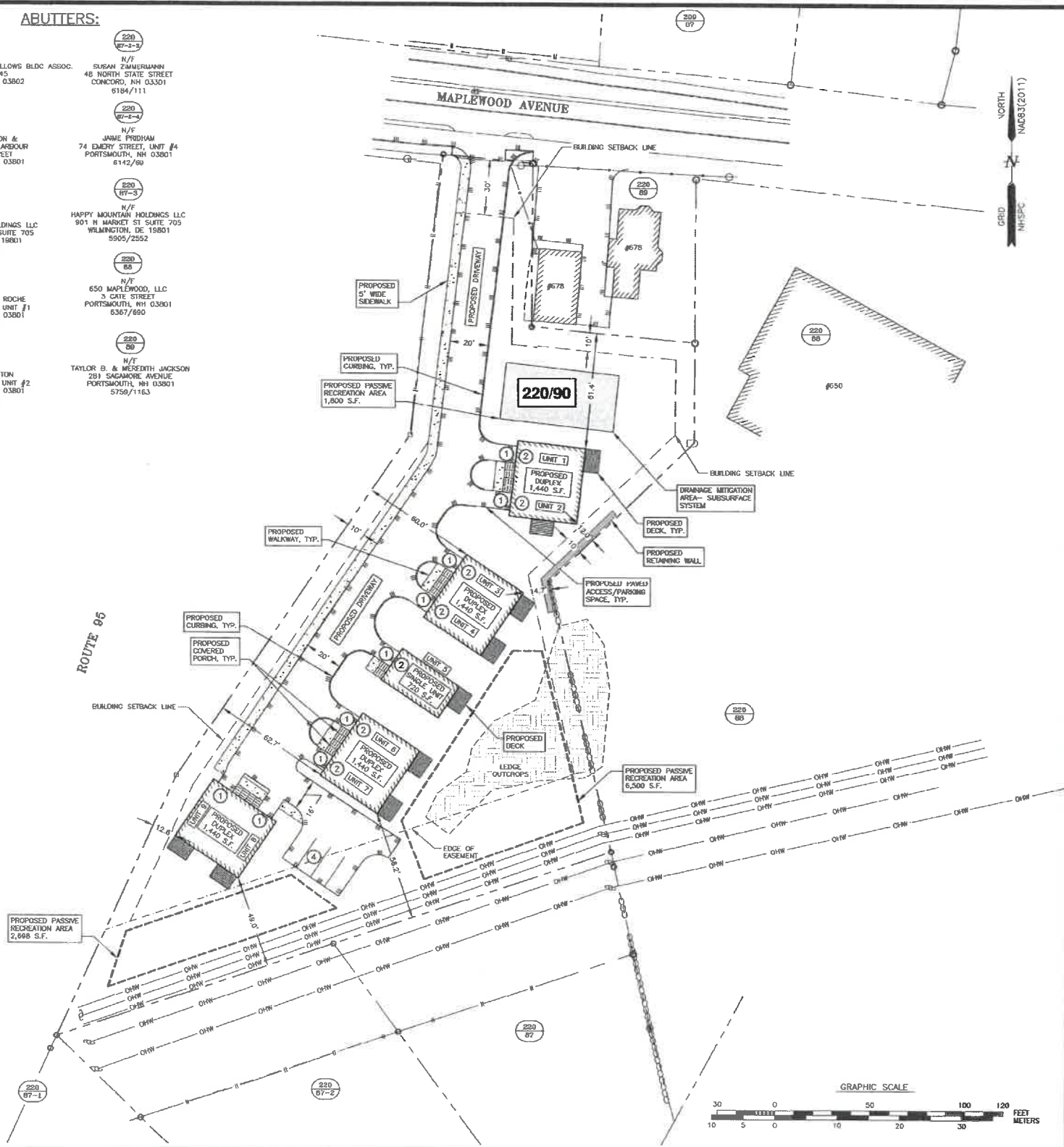
- ARTICLE #5, SECTION 10.520 TO PERMIT FRONTAGE OF 47.31 FEET WHERE 100 FEET IS REQUIRED.
- ARTICLE #4, SECTION 10.440-1.30 TO PERMIT 2 FAMILY DWELLINGS WHERE ONLY SINGLE FAMILY ARE ALLOWED.
- ARTICLE #5, SECTION 10.520 TO PERMIT 6,975 S.F. OF LOT AREA PER DWELLING UNIT WHERE 15,000 S.F. OF LOT AREA PER DWELLING UNIT IS REQUIRED.
- ARTICLE #5, SECTION 10.513 TO PERMIT 5 FREE STANDING BUILDINGS WITH DWELLINGS WHERE NO MORE THAN ONE FREE STANDING DWELLING IS PERMITTED.

"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 4-20-23
 JOHN R. CHAGNON, LLS DATE



- ABUTTERS:**
- 220 07 N/F OSWOOD LODGE NO. 48 OSWELLOWS BLDG ASSOC. P.O. BOX 1045 PORTSMOUTH, NH 03802 6354/1704
 - 220 07-1 N/F JEFFREY MATTHEW & KATHRYN MICHELE ARBOUR 86 EMERY STREET PORTSMOUTH, NH 03801 6065/200
 - 220 07-2 N/F HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 705 WILMINGTON, DE 19801 5905/2552
 - 220 07-3 N/F CARL & DEBRAH ROCHE 64 EMERY STREET, UNIT #1 PORTSMOUTH, NH 03801 6147/2870
 - 220 07-4 N/F BETTY J. SWANTON 84 EMERY STREET, UNIT #2 PORTSMOUTH, NH 03801 6121/2485
 - 220 07-5 N/F SUSAN ZIMMERMANN 48 NORTH STATE STREET CONCORD, NH 03301 6184/1111
 - 220 07-6 N/F JANE FROHAM 74 EMERY STREET, UNIT #4 PORTSMOUTH, NH 03801 6142/69
 - 220 07-7 N/F HAPPY MOUNTAIN HOLDINGS LLC 901 N MARKET ST SUITE 705 WILMINGTON, DE 19801 5905/2552
 - 220 08 N/F 650 MAPLEWOOD, LLC 3 CATE STREET PORTSMOUTH, NH 03801 6367/680
 - 220 08 N/F TAYLOR B. & WENDITH JACKSON 281 SAGAMORE AVENUE PORTSMOUTH, NH 03801 5759/1163



WWW.HALEYWARD.COM
 200 GIFFIN ROAD, UNIT 3
 PORTSMOUTH, NH 03801
 603.430.7802

NOTES:

- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 220 AS LOT 90.
 - OWNERS OF RECORD: ISLAMIC SOCIETY OF THE SEACOAST AREA 42N DOVER POINT ROAD DOVER, NH 03820 5806/2816
 APPLICANT: CHINBURG DEVELOPMENT, LLC 3 PENSTOCK WAY NEWMARKET, NH 03857
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE JANUARY 29, 2021.
 - EXISTING LOT AREA: 62,776 S.F. 1.4411 ACRES
 - PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.
- DIMENSIONAL REQUIREMENTS:**
- | | |
|----------------------------|-------------|
| MIN. LOT AREA: | 15,000 S.F. |
| FRONTAGE: | 100 FEET |
| SETBACKS: FRONT: | 30 FEET |
| SIDE: | 10 FEET |
| REAR: | 30 FEET |
| MAXIMUM STRUCTURE HEIGHT: | 35 FEET |
| MAXIMUM BUILDING COVERAGE: | 20% |
| MINIMUM OPEN SPACE: | 40% |
- THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DEVELOPMENT ON ASSESSOR'S MAP 220 LOT 90 IN THE CITY OF PORTSMOUTH.
 - VERTICAL DATUM IS NAVD83. BASES OF VERTICAL DATUM IS RETAINMENT RTM GPS OBSERVATIONS.
 - BUILDINGS FROM PLANS BY GJ ARCHITECTS DATED 3-27-23.
 - PARKING CALCULATION:
 REQUIRED: 1.3 PER UNIT
 9 UNITS X 1.3 = 12 SPACES
 GUEST REQUIRED: 1 PER 5 UNITS = 2 SPACES
 TOTAL SPACES REQUIRED = 14
 PROVIDED PARKING: 20 SPACES

**RESIDENTIAL DEVELOPMENT
 CHINBURG DEVELOPMENT
 686 MAPLEWOOD AVE.
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ISSUED FOR APPROVAL	4/20/23
0	ISSUED FOR COMMENT	4/13/23



SCALE: 1"=30' FEBRUARY 2023

VARIANCE SITE PLAN **C2**

Portsmouth ZBA Application
686 Maplewood Avenue
Proposed Site Development

SITE PHOTOGRAPHS

Site Photograph #1

February 2023



Site Photograph #2

February 2023



Site Photograph #3

February 2023



Site Photograph #4

February 2023



Site Photograph #5

February 2023



Site Photograph #6

February 2023



Site Photograph #7

February 2023



Site Photograph #8

February 2023

