

APPLICATION OF THE DAVENPORT INN, LLC
70 Court Street, Portsmouth, NH
Map 116, Lot 49

APPLICANT'S NARRATIVE

I. **THE PROPERTY:**

The applicant, The Davenport Inn, LLC, is under contract to acquire the Nathaniel Treadwell House located 70 Court Street. The applicant intends to use the existing building as an inn, with eight units and an onsite caretaker's residence.

The property in question is approximately 5,380 square feet in size and is in the MRO and CD4-L1 zones. It has most recently been used as offices. No changes are proposed to the exterior of the structure as it will remain as it stands today. A bed and breakfast facility would be allowed on this property by special exception.

In order to accommodate the proposed use of the property as an inn, additional relief is required. The existing maneuvering aisle in the parking area to the rear of the property is 13.4 feet wide at its narrowest point, so a variance from Section 10.1114.21, which requires a maneuvering aisle of at 24 feet, is necessary. The applicant is concurrently applying for a Conditional Use Permit regarding the amount of required on-site parking.

The Treadwell House has a most colorful history. Originally built in 1758 by the late Charles and Mary Treadwell, it has at various times served as an inn or rooming house, originally at the corner of Fleet and State Streets. It operated as The Davenport Inn for a number of years. It then served as Governor Bradstreet Gilman's headquarters during the War of 1812. It was an inn used primarily by attorneys practicing at the Portsmouth Courthouse during the mid 1800's. It was the home of the Portsmouth YWCA during the mid-twentieth century. Faced with its demolition to make way for what is now the TD Bank on State Street, it was saved and painstakingly moved to its current location in the 1950s. (See Photos and Newspaper articles)

The property boasts several significant and unique architectural features. Features such as moldings, stairwells, spindles, and pendants that in other historic buildings have been lost forever due to significant fires in Portsmouth's history, neighborhood destruction of the 70's, and today's development are present on this property.

By utilizing the property as an inn, the applicant will be fulfilling a desire to allow the public access to and the experience and enjoyment of these unique historical and architectural features of this property, in perpetuity. It should be noted that a bed and breakfast, which is essentially an owner-occupied inn that provides meals to guests, would be permitted at this location by special exception. Section 10.440.10.20. The

applicant feels a commercial style kitchen would not be appropriate to this location or this historic building. Other uses permitted by right include multifamily dwellings of up to eight units. Section 10.440.1.50.

II. **THE VARIANCES:**

The Applicant believes all criteria necessary to grant the requested variances are met.

Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

The essential characteristics of the neighborhood would not be altered by this project. There is a varied mixture of municipal, commercial and residential development in the immediate vicinity, including single and multi-family dwellings, The Hotel Portsmouth (formerly the Sise Inn), other inns, public housing, retail, law offices, the Middle School, fire station, business and professional offices.

The existing narrow drive aisle configuration has been in place for well over fifty years. Were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened.

Substantial justice would be done by granting the variance. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. The proposed change in use will not require any exterior modifications to the historic structure beyond appropriate and permitted signage. The use will permit access by members of the public to experience and enjoy the architectural and historical heritage of the Treadwell House, which would be lost if the property were to be converted into a permanent, private dwelling(s). The inn use proposed is consistent and compatible with other uses in the vicinity and uses permitted by right in this zone.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The property boasts a unique history and architecture that render it particularly well suited for a place of public accommodation, as it was for decades. No changes will be made to exterior or current configuration of the building as it exists. The proposed inn will assure that this part of historic Portsmouth will be preserved for visitors and the public to experience and enjoy in a manner that simply is not possible should the property be converted into high end residential use.

The use is a reasonable use. Mixed residential and commercial uses are permitted by right in this zone. There are examples of inns in the immediate neighborhood which have been successfully integrated into their surroundings, including the Hotel Portsmouth just doors away on Court Street, The Sailmakers Inn of Court Street, and 53 Austin Street within a short distance.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The overriding philosophy underpinning the Character Districts is the promotion of building design and development that is compatible with and respectful of the established character of its surroundings and consistent with the enhancement and preservation of the area. 105A11. As there will be no exterior modifications to the historic structure, these goals are met with this proposal. Rigid application of use restrictions is necessarily of far less importance in Character Districts where the form, mass and style of the development conforms to the purpose and intent of the ordinance.

Accordingly, the proposed use requested here would not in any way frustrate the purpose of the ordinance and there is no fair and substantial relationship between the purpose of the ordinances and their application to this property.

II. **Conclusion.**

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated: January 25, 2022

By: *John K. Bosen*
John K. Bosen, Esquire





















PORTSMOUTH, N.H. HISTORIC DISTRICT SURVEY

Site
number:



Address 70 Court St. cor. Mark St.
New tax map(1979) ul6 lot 49 size 5307
Old tax map 23 lot 36 size

Owner Treadwell House Inc.
Address same

Location of legal description:
Buckingham County Registry of Deeds
Hampton Road; Exeter, New Hampshire
03833

Representation in existing surveys:
ABS ___ NR ___ NHL ___
AER ___ Other ___

Date c. 1758
Source: Estimate Other: ___

Historic name Charles Treadwell House
Common name
Original owner
Architect/bldr.

Functional type house
Present use, if different
lawyer's offices

Moved Date ___
Entered ___ Date ___
from 321 State Street

Effect: Focal ___ Contributing
non-contributing ___ Intrusion ___

Photo roll ___ no. ___
Negative with: Portsmouth Advocates
Description ___
Date taken ___ by ___

1. Style Georgian No. of stories 2 1/2 No. of bays 5x

2. Overall plan: Rectangle, along street.

3. Foundation: Brick ___ Stone ___ Poured concrete ___ Concrete block
Artificial stone ___ Other ___

4. Wall structure: Woodframe Brick ___ Stone ___ Other ___
If wood: Post and beam Balloon frame ___

5. Wall covering: Clapboard Wood shingle ___ Flushboard ___ Imitation ashlar ___
Brick ___ Stone ___ Stucco ___ Composition board ___ Aluminium ___ Vinyl ___
Sheet metal ___ Asphalt shingles ___ Other ___

6. Roof: Gable Hip ___ Shed ___ Mansard ___ Flat ___ Gambrel ___ Other ___

7. Specific features (location, no., appearance of porches, windows, doors, chimnies, dormers, ells/wings--see also description), decorative elements:
1-story ell on left side of rear.

8. Outbuildings:

 PORTSMOUTH
ADVOCATES, INC.

P.O. BOX 4066 · PORTSMOUTH, NEW HAMPSHIRE 03801
603-431-2499

(over.....

DESCRIPTION:

A 2 1/2-story gable-roofed Georgian house with continuous horizontal cornice breaking forward over windows, panelled corner pilasters, triangular-pedimented first story windows. The doorway is anomalous, having a transom light, full side-lights enclosed by Tuscan pilasters supporting a high frieze band and low projecting triangular pediment. The house is notable for its spacious central stair ball with large round headed landing window in the rear.



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 PORTSMOUTH
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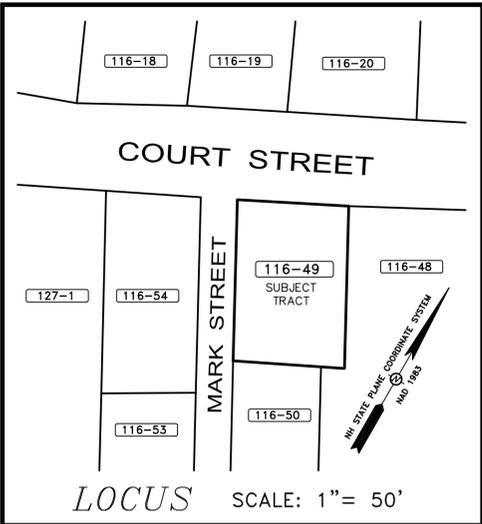
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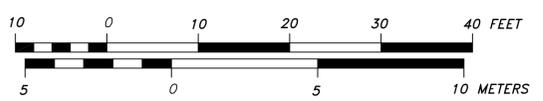
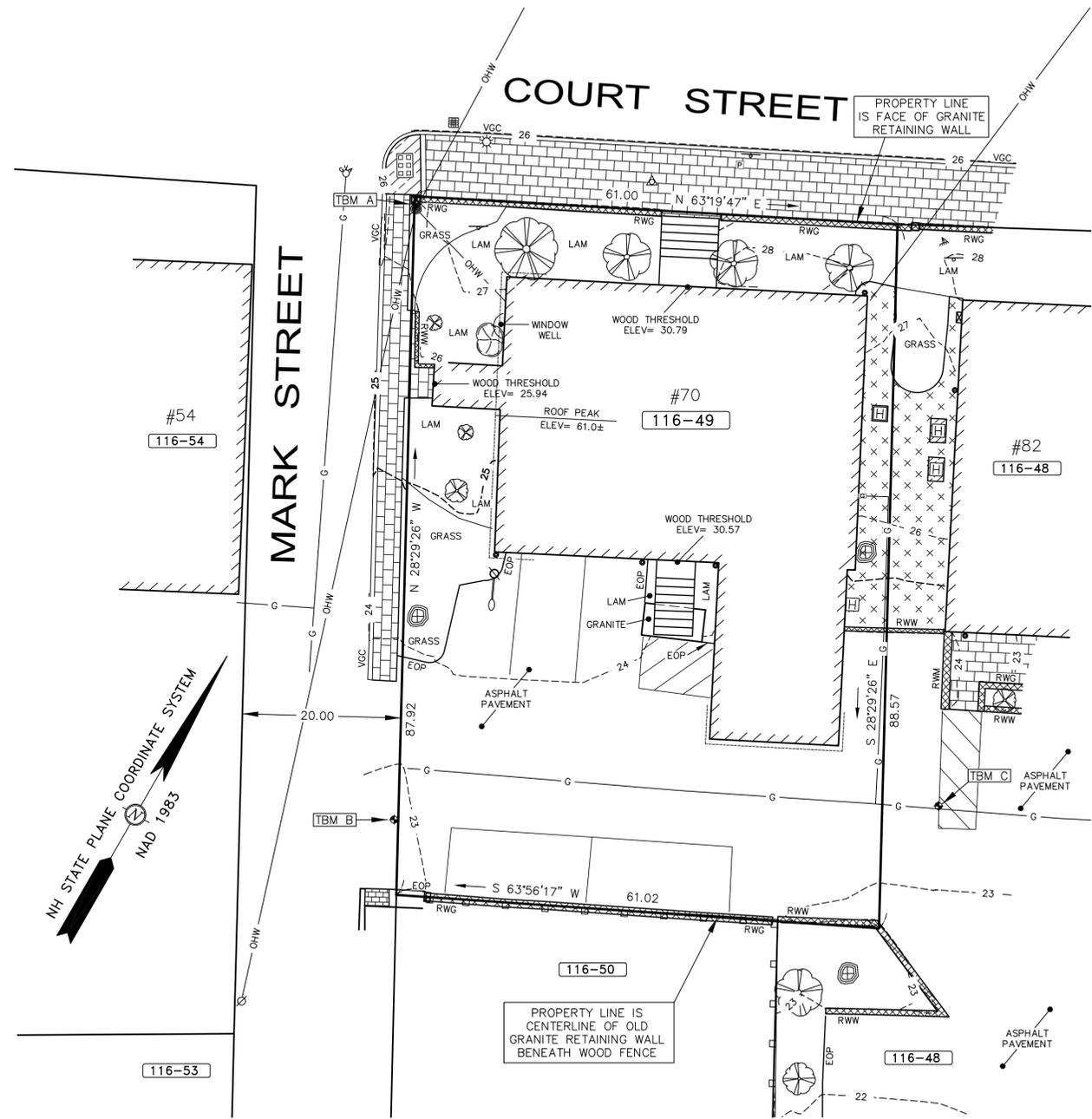




LOCUS SCALE: 1" = 50'

- LEGEND:**
- ▲ SURVEY NAIL SET
 - WOOD FENCE
 - PSNH PUBLIC SERVICE CO. OF NH
 - 110-5 TAX SHEET - LOT NUMBER
 - RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
 - EOP EDGE OF PAVEMENT
 - VGC VERTICAL FACED GRANITE CURB
 - RWM MORTARED RETAINING WALL
 - RWW WOOD RETAINING WALL
 - RWG GRANITE RETAINING WALL
 - PARK METER KIOSK
 - SIGN
 - UTILITY POLE
 - UTILITY POLE W/TRANSFORMER
 - ☆ LIGHT POLE
 - UTILITY POLE WITH ARM & LIGHT
 - ◀ DIRECTED LIGHT
 - GAS METER
 - GAS VALVE
 - CATCH BASIN
 - ROOF DOWNSPOUT
 - DECIDUOUS TREE
 - DECIDUOUS SHRUB
 - OHW OVERHEAD WIRES
 - ▨ CEMENT CONCRETE
 - ▨ BRICK PAVERS
 - ▨ CRUSHED STONE
 - ▨ RETAINING WALL
 - LAM MULCH LANDSCAPED AREA
 - x12.5 SPOT GRADE
 - ⊕ STUMP FOUND

TBM	DESCRIPTION	ELEV.
A	SURVEY NAIL FOUND IN UTILITY POLE PSNH 4 22 A (1.35' ABOVE GROUND)	27.98
B	SURVEY NAIL SET IN ASPHALT	22.84
C	SURVEY NAIL SET IN ASPHALT	23.41



NOTES:

- OWNER OF RECORD.....TREADWELL HOUSE, INC. C/O CHARLES DOLEAC, ESQ. ADDRESS.....82 COURT ST, PORTSMOUTH, NH 03801 DEED REFERENCE.....2357/1111 TAX SHEET / LOT.....116-49 PARCEL AREA5,380 S.F.
- SUBJECT TRACT IS ZONED MRB, HD & CD4-L1. SEE CITY OF PORTSMOUTH ZONING ORDINANCE.
- THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- ON SITE CONTROL ESTABLISHED USING SURVEY GRADE GPS UNITS. HORIZONTAL DATUM: NAD 1983 (2011)(EPOCH 2010.0000) VERTICAL DATUM: NAVD 1988 PRIMARY BM: CITY CONTROL POINT "ROBE"
- CONTRACTOR TO VERIFY SITE BENCHMARKS BY LEVELING BETWEEN 2 BENCHMARKS PRIOR TO THE SETTING OR ESTABLISHMENT OF ANY GRADES/ELEVATIONS. DISCREPANCIES ARE TO BE REPORTED TO JAMES VERRA AND ASSOC., INC.
- PARCEL 116-49 IS SUBJECT TO A ROW FOR ALL PURPOSES IN FAVOR OF PARCEL 116-48. SEE RCRD BK 2357, PAGE 1111.

REFERENCE PLANS:

- PLAN OF WILLIAM P. JONES HOMESTEAD, UNDATED, RCRD PLAN 0099.

MAP-LOT	OWNER OF RECORD	DEED REF.
119-19	UNITARIAN-UNIVERSALIST CHURCH OF PORTSMOUTH N.H. 73 COURT ST, PORTSMOUTH, NH 03801	N/A
116-20	CITY LIGHTS, LLC PO BOX 1389, PORTSMOUTH, NH 03802-1389	N/A
116-48	82 COURT ST, LLC 82 COURT ST, PORTSMOUTH, NH 03801	5357/2696
116-50	KATIE C. JENKINS & JASON R. JENKINS 35 MARK ST, PORTSMOUTH, NH 03801	4821/202
116-53	BERNARD A. COHEN 28 MARK ST, PORTSMOUTH, NH 03801	2877/2906
116-54	IRENE R. LEBEL REV. TRUST OF 2014 C/O FRANCES D. LEBEL & THOMAS L. LEBEL 457 BROAD ST, PORTSMOUTH, NH 03801	5514/736

SURVEYOR:
James Verra and Associates, Inc.
LAND SURVEYORS
101 SHATTUCK WAY - SUITE 8
NEWINGTON, N.H. 03801- 7876
603-436-3557
JOB NO: 23985
JOB NO: 23985

ENGINEER:

133 COURT STREET PORTSMOUTH, NH 03801
(603) 433-2335 www.ALTUS-ENG.com

ISSUED FOR:
ENGINEERING DESIGN
ISSUE DATE:
JANUARY 18, 2022

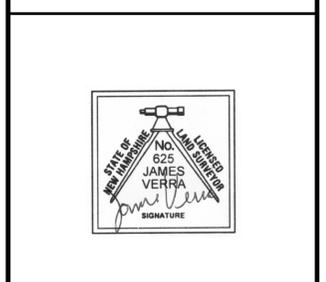
REVISIONS

NO.	DESCRIPTION	BY	DATE
1	ENGINEERING DESIGN	JV	1/18/22

DRAWN BY: JCS
APPROVED BY: JV
DRAWING FILE: 23985.DWG

SCALE:
22" x 34" - 1" = 10'
11" x 17" - 1" = 20'

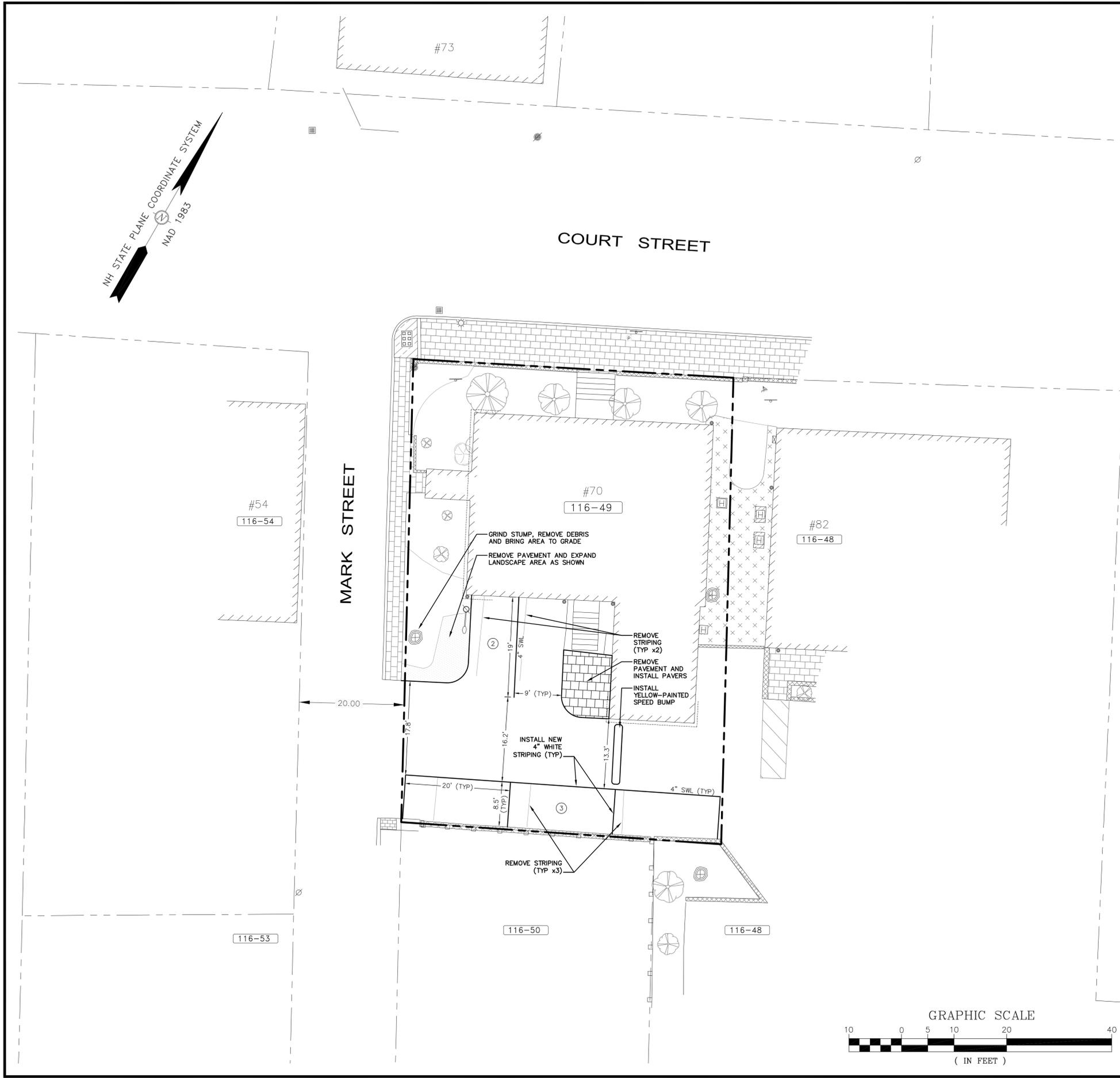
OWNER/APPLICANT:
TREADWELL HOUSE, INC.
C/O CHARLES DOLEAC, ESQ.
82 COURT STREET
PORTSMOUTH, NH 03801
ASSESSOR'S PARCEL 116-49



PROJECT:
PROPOSED SITE DEVELOPMENT PLANS
70 COURT STREET & MARK STREET
PORTSMOUTH, N.H.
ASSESSOR'S PARCEL 116-49

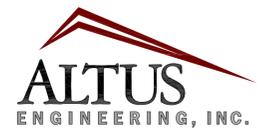
TITLE:
EXISTING CONDITIONS PLAN

SHEET NUMBER:
1 OF 1



SITE NOTES

- DESIGN INTENT – THIS PLAN SET IS INTENDED TO DEPICT THE REDEVELOPMENT OF THE SITE FOR A RESTAURANT USE.
- APPROXIMATE LOT AREA: ±5,380 S.F. (±0.12 AC.)
- ZONE: CHARACTER DISTRICT 4-L1 (CD4-L1) HISTORIC DISTRICT OVERLAY (HD)
- DIMENSIONAL REQUIREMENTS – BUSINESS:
 - MIN. LOT AREA: 3,000 S.F.
 - MIN. STREET FRONTAGE: 150'
 - FRONT SETBACK: 15'
 - SECONDARY FRONT YARD: 12'
 - SIDE SETBACK: 5' MIN. TO 20' MAX.
 - REAR SETBACK: 5'
 - FRONT LOT LINE BUILDOUT: 60% MIN. TO 80% MAX.
 - MAX. BUILDING HEIGHT: 35' (2 STORIES, SHORT 3RD)
 - MAX. BLDG. COVERAGE: 60%
 - MINIMUM OPEN SPACE: 25% (23.3% EXISTING, 26.9% PROPOSED)
- PARKING REQUIREMENTS:
 - INN, HOTEL, MOTEL: 1.25/ROOM (INCLUDES CARETAKERS RESIDENCE)
 - 9 ROOMS x 1.25 = 10 SPACES
 - TOTAL PARKING REQUIRED = 11 SPACES
 - TOTAL PARKING PROVIDED = 5 SPACES (6 SPACE DEFICIT)
- VARIANCE FROM SECTION 10.440.10.30 REQUIRED TO ALLOW AN INN IN THE CD4-L1 ZONE.
- VARIANCE FROM SECTION 10.1114.21 REQUIRED FOR REDUCED MANEUVERING AISLE WIDTH.
- CONDITIONAL USE PERMIT UNDER SECTION 10.1112.14 REQUIRED TO ALLOW A REDUCTION IN THE REQUIRED NUMBER OF PARKING SPACES.
- PAVEMENT MARKINGS SHALL BE CONSTRUCTED USING WHITE, YELLOW OR BLUE TRAFFIC PAINT (WHERE SPECIFIED) MEETING THE REQUIREMENTS OF AASHTO M248, TYPE F OR EQUAL. PAINTED ISLANDS AND LOADING ZONES SHALL BE 4"-WIDE DIAGONAL WHITE LINES 3'-0" O.C. BORDERED BY 4"-WIDE WHITE LINES. PARKING STALLS SHALL BE SEPARATED BY 4"-WIDE WHITE LINES. SEE DETAILS FOR HANDICAP SYMBOLS, SIGNS AND SIGN DETAILS.
- PAVEMENT MARKINGS AND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE "MANUAL ON UNIFORM TRAFFIC DEVICES," "STANDARD ALPHABETS FOR HIGHWAY SIGNS AND PAVEMENT MARKINGS" AND THE AMERICANS WITH DISABILITIES ACT (ADA), LATEST EDITIONS.
- ALL CONSTRUCTION SHALL MEET THE MINIMUM STANDARDS OF THE CITY OF PORTSMOUTH & NHDOT'S STANDARD SPECIFICATION FOR ROAD & BRIDGE CONSTRUCTION, LATEST EDITIONS. THE MORE STRINGENT SPECIFICATION SHALL GOVERN.
- ALL BONDS AND FEES SHALL BE PAID/POSTED PRIOR TO INITIATING CONSTRUCTION.



133 Court Street
(603) 433-2335
Portsmouth, NH 03801
www.altus-eng.com

NOT FOR CONSTRUCTION

ISSUED FOR:
BOARD OF ADJUSTMENT

ISSUE DATE:
JANUARY 25, 2022

NO.	DESCRIPTION	BY	DATE
0	ZBA	EBS	01/25/22

DRAWN BY: _____ EBS
APPROVED BY: _____ EBS
DRAWING FILE: _____ 5301-SITE.dwg

SCALE:
22" x 34" - 1" = 10'
11" x 17" - 1" = 20'

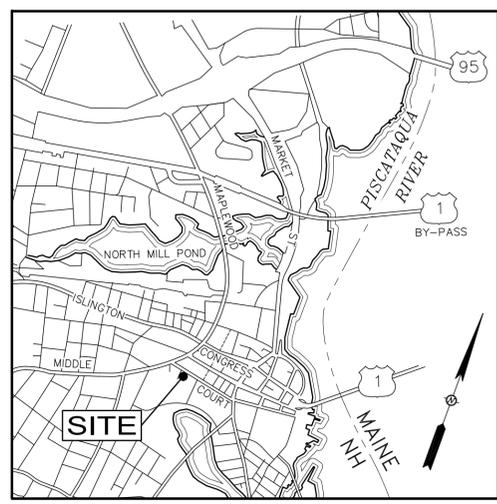
OWNER:
TREADWELL HOUSE, INC.
c/o CHARLES DOLEAC, ESQ.
82 COURT STREET
PORTSMOUTH, NH 03801

APPLICANT:
DAVENPORT, LLC
c/o 266 MIDDLE STREET
PORTSMOUTH, NH 03801

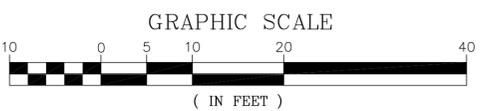
PROJECT:
DAVENPORT INN
TAX MAP 116, LOT 49
70 COURT STREET
PORTSMOUTH, NH

TITLE:
BOARD OF ADJUSTMENT SITE PLAN

SHEET NUMBER:
C - 1

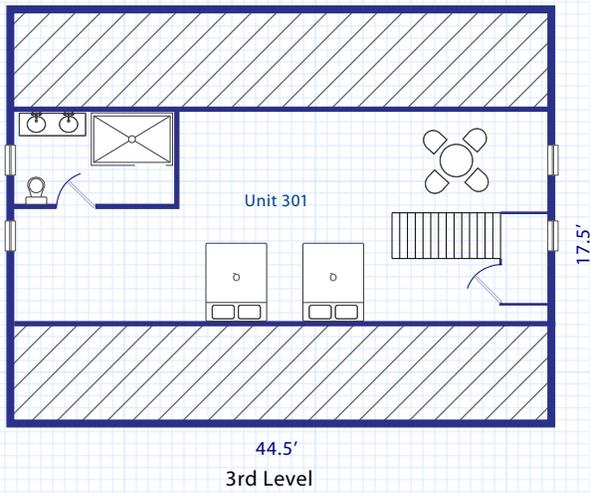
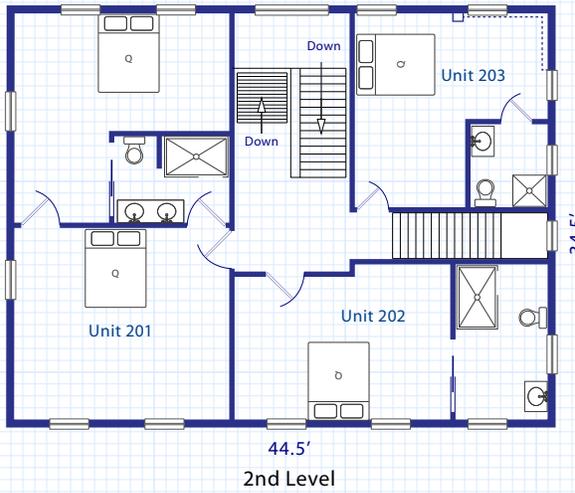
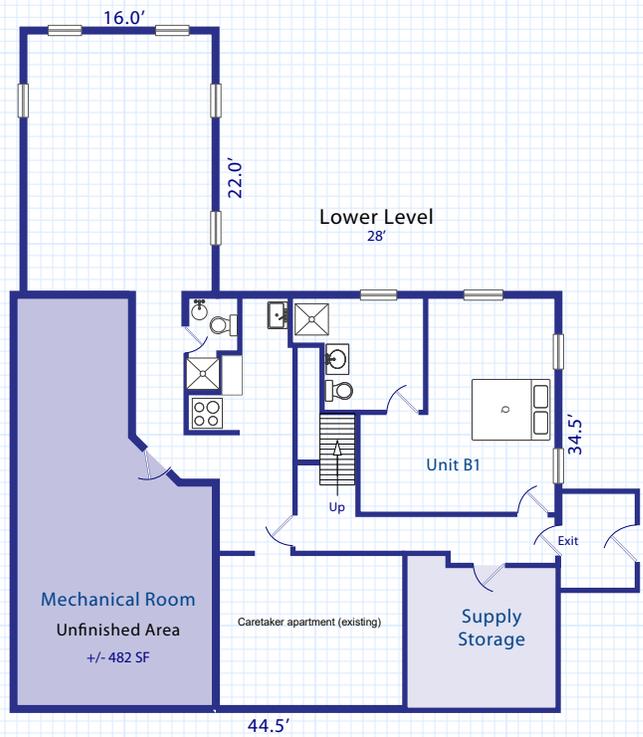
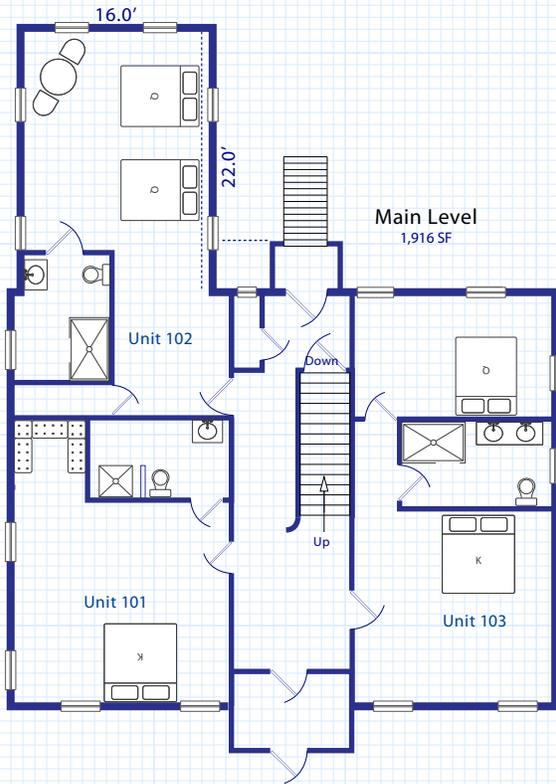


LOCUS MAP NOT TO SCALE



70 Court Street, Portsmouth, NH

Total Area: 5,367 SF



Scale: 1" = 16'