

**BY: VIEWPOINT & HAND DELIVERY**

November 18, 2025

City of Portsmouth  
Attn: Stefanie Casella, Planner  
Zoning Board of Adjustment  
1 Junkins Avenue  
Portsmouth, NH 03801

**RE: Appeal of Administrative Decision (RSA 676:5)  
Robert M. Snover, Darcy Davidson, Trustees of the Robert M. Snover Revocable  
Trust  
58 Humphry's Court, Tax Map 101, Lot 47**

Dear Stefanie,

Please find an Appeal of an Administrative Decision filed on behalf of Robert Snover and Darcy Davidson pursuant to RSA 676:5, relative to property located at 58 Humphry's Court.

In addition to the above referenced Appeal, the Applicants are filing a Variance Application under separate cover.

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,



Derek R. Durbin, Esq.

**CITY OF PORTSMOUTH  
APPEAL of ADMINISTRATIVE DECISION**

Robert M. Snover, Darcy Davidson  
Trustees of the Robert M. Snover Revocable Trust  
(Owners/Appellants)

**58 Humphry's Court,  
Portsmouth, NH 03801  
Tax Map 101, Lot 47**

**Introduction**

Robert M. Snover and Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust, owners of the property at 58 Humphry's Court, Portsmouth, NH 03801 (the "Property"), hereby appeal the administrative determination made by Peter Britz, Planning Director, dated October 21, 2025, pertaining to the "lot area" of the Property (the "Administrative Determination"). For reference, the administrative determination letter is attached hereto as **Exhibit A**. The foregoing appeal is filed pursuant to RSA 676:5 and Section 10.629.10 of the Portsmouth Zoning Ordinance, as amended through May 5, 2025 (the "Ordinance"). The Appellants do not challenge the Planning Director's determination of the yard requirements, as set forth in this letter.

**Arguments**

Section 10.1530 of the Ordinance states that a "lot" is a "single parcel of land in the same ownership throughout **as shown or defined on a recorded instrument or defined by metes and bounds** and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for building on such land." "Lot area" is defined as "[t]he total horizontal area included within the property lines. A "lot line" is "[a] property line **bounding a lot.**" (**emphasis added**). Simply put, *lot area* is determined by the deeded boundaries of a *lot* or a recorded survey. The Appellants deed contains a metes and bounds description of the Property which adds up to 10,005 square feet of total land area. **Exhibit B**. A recent boundary survey of the Property conducted by Haley Ward confirms the metes and bounds description contained in the Appellants' deed. It is also consistent with the dimensions of the Property as shown on a recorded plan for Humphry's Court from 1900. **Exhibit C**. In the present case, the Appellants recorded deed and boundary survey describes and shows the Property as a 10,0005 square foot lot.

In his Administrative Determination, the Planning Director takes the position that a 163 square foot area in the northwest corner of the Property is "not part of the useable lot" and "cannot be counted as lot area because it is in the **street** outside of the **front lot line**" (**emphasis added**). The Appellants respectfully disagree with the City's position, which ignores the plain language of the *lot area* definition.

Whether the 163 square foot area is “part of the useable lot” or is developable land is irrelevant to the consideration of whether it is part of the Appellants’ *lot* and therefore, part of the total *lot area* (land area) of the Property. There are properties throughout the City that have areas within their boundaries and front lot line that are theoretically unusable and undevelopable because they are encumbered by a sidewalk, multi-use path, drainage easement, vehicular turn-around easement or access-related easement that benefits the City and the public. The City has nonetheless allowed Applicants to count these areas as part of the total *lot area* of the properties they are a part of. Ironically, a portion of the Appellants’ driveway is within the 163 square foot area. Therefore, the reality is that it is still part of their useable lot.

The Planning Director relies upon the definition of “lot line, front” in Section 10.1530 of the Ordinance in rendering his determination that the 163 square foot area cannot be counted towards lot area. A “front lot line” is defined as follows: [a] boundary of lot that separates the lot from a public place.” A “public place is defined as a “streetway, park, pedestrian alleyway or community space that provides public access.” The term “streetway” is not defined by the Ordinance but is used interchangeably with the term “street”. The term “street” is defined as a “thoroughfare or roadway which is either: (a) formally accepted by the City; (b) shown on a subdivision plan approved by the Planning Board and constructed to City subdivision specifications or for which surety has been posted to guarantee construction of all improvements required by the Planning Board.”

There is no evidence that the 163 square foot area was ever formally dedicated or accepted by the City, a burden which is upon the City to prove, not the landowner. A plan prepared by James Verra in 1998 demonstrates an intent by prior owners to retain ownership and rights over the 163 square foot area. **Exhibit D**. It is therefore not part of the *public place* associated with Humphry’s Court regardless of whether the public is permitted to use it. To the extent that the City can prove that the 163 square foot area was formally accepted and constitutes a *public place*, it appears that there is a direct conflict between the Ordinance definitions of *front lot line*, *lot line* and *lot*, which dictate how the term *lot area* is to be interpreted. Any such conflict in the Ordinance should be interpreted in favor of the Appellants and their deeded property rights.

## **Conclusion**

The *lot area* definition in the Ordinance is unambiguous. In the absence of ambiguity, the City must apply the plain language *lot area* definition, not turn to other sections of the Ordinance for guidance, such as the *front lot line* definition. Moreover, it appears that when the City adopted the *front lot line* definition, it did not contemplate a situation such as the Appellants’. It contemplated situations involving the dedication and acceptance of land to the City for public use, which makes sense.

There is no evidence to suggest that there was a formal dedication and acceptance of the 163 square foot area with the City. The proper venue and forum for the City to revise its *lot area* definition and requirement(s) to exclude certain areas within a landowner’s boundaries is through a formal zoning amendment process. Some municipalities have excluded ROW areas and other areas that are used by the public from their *lot area* definitions. Portsmouth has not.

The Appellants have deeded rights to 10,005 square feet of land. The City cannot unilaterally redefine the deeded boundaries of the Appellants' Property. That would be tantamount to inverse condemnation.

The Appellants hereby seek the reversal of the Planning Director's administrative determination dated October 21, 2025, and respectfully request that the Zoning Board of Adjustment find that they have 10,005 square feet of *lot area*.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Derek R. Durbin". The signature is fluid and cursive, with a large loop at the end.

Derek R. Durbin, Esq.  
144 Washington Street  
Portsmouth, NH 03801  
derek@udrbinlawoffices.com

# EXHIBIT A



## CITY OF PORTSMOUTH

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

Rober Snover and Darcy Davidson  
60 TJ Gamester Avenue  
Portsmouth, NH 03801

October 21, 2025

Dear Mr. Snover:

This letter is to serve as a follow up to our meeting on September 23 where we discussed the Planning & Sustainability Department's interpretation of the zoning on your property at 58 Humphrey's Court. You are proposing to subdivide a single property known as Map 101 Lot 47 into two parcels. Staff's interpretation of the zoning for this lot determines that a variance is required to allow the subdivision in order to create two buildable lots.

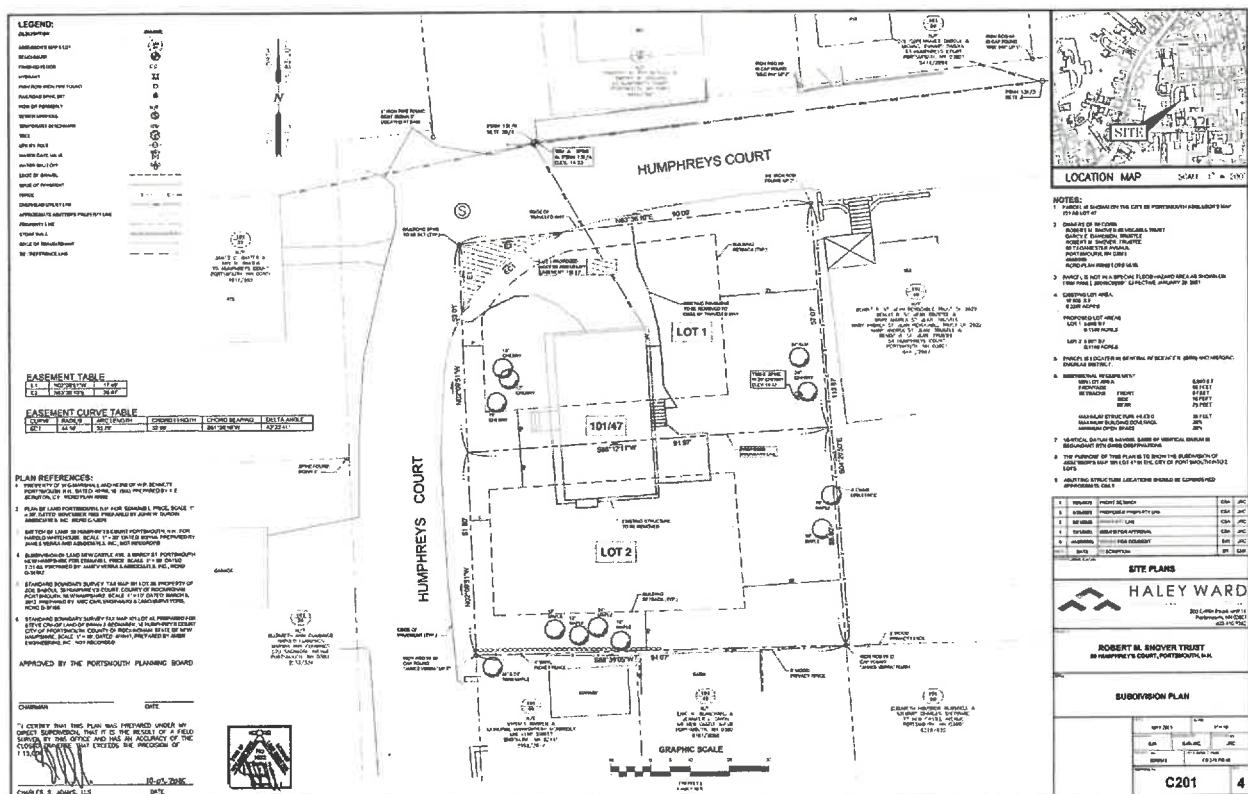
This parcel's frontage wraps around the 90 degree turn in Humphreys Ct. effectively creating one continuous front yard. At the point of the 90 degree turn the City street overlaps on the parcel creating a curve along the front lot line and an area of City street overlapping with a portion of what your survey has indicated as the lot area. The area of street amounts to 163 square feet, the curved edge of which borders a public place or City street and is not part of the Lot area for this parcel. Simply, this area is not included in the overall lot area because it is not part of the useable lot for this parcel as defined by the zoning ordinance where a front lot line is defined as:

*Lot Line, front*

*A boundary of lot that separates the lot from a public place. A corner lot, through lot or a waterfront lot shall have multiple front lot lines. In the case of a corner lot, through lot or a waterfront lot, the principal front yard shall be the line bordering a public place on which the lot has its address as defined by the City*

The dimensions of the entire lot is shown on a Haley Ward Subdivision Plan from 10/3/2025 as being 10,005 square feet with an area of travelled way (effectively City street) being 163 square feet. It is staff's determination that this 163 square foot area cannot be counted as lot area because it is in the street outside of the front lot line. The lot area for Map 101 Lot 47 is determined to be 10,005 square feet minus 163 square feet of public way or 9,842 square feet as shown on the Haley Ward plan. Therefore, there is no way to subdivide this parcel with two conforming lots having a required lot area of 5,000 square feet or greater.

In determining yards on this lot, the front lot line is the area of the public way that has a curve where it comes together off of the two legs of Humphreys Ct. It is from the center of that curve that the rear lot line is determined. In this case, the rear lot line is the area that comes to a point at the opposite side of the lot from the curve. (The area shown on the Haley Ward plan as EC1). Using the Zoning Ordinance interpretation of rear lot lines in the case of a lot which comes to a point for the rear lot line, a line 10 feet





RETURN TO  
 Boynton, Waldron, Doleac,  
 Woodman & Scott, P.A.  
 82 Court Street  
 Portsmouth, NH 03801

LCHIP	ROA693767	25.00
TRANSFER TAX	RO133533	13,500.00
RECORDING		14.00
SURCHARGE		2.00

### WARRANTY DEED WITH CERTIFICATE OF TRUSTEE

**KNOW ALL PERSONS BY THESE PRESENTS THAT, I RALPH R. WOODMAN, JR., TRUSTEE OF THE WHITEHOUSE FAMILY REVOCABLE TRUST OF 2000, of 58 Humphreys Court, Portsmouth, Rockingham County, New Hampshire.**

For consideration paid, grant to **DARCY E. DAVIDSON AND ROBERT M. SNOVER, AS TRUSTEES OF THE ROBERT M. SNOVER REVOCABLE TRUST u/t/a dated December 10, 1998, as amended and restated, with a mailing address of 60 TJ Gamester Avenue, Portsmouth County of Rockingham, State of New Hampshire 03801** with WARRANTY covenants, included in this conveyance is any and all personal property contents of the following described real estate:

The following described parcel of land with the buildings thereon situated in the City of Portsmouth, County of Rockingham and State of New Hampshire:

A certain tract of land, with the buildings thereon, situate on the Easterly side of Humphreys Court in said Portsmouth, more particularly bounded and described as follows:

**BEGINNING** at a point on the Easterly sideline of Humphreys Court at the Northwesterly corner of land of William and Ruth Atwell; thence Easterly by said Atwell land and land of heirs of Mary F. Tucker and Mary M. Woods, ninety-four feet (94') to a point at land of W.S. Call and George Strickland; thence Northerly by land of Strickland, one hundred thirteen feet (113') to Humphreys Court; thence Westerly by Humphreys Court, ninety feet (90') to a corner; thence Southerly by Humphreys Court, again one hundred five feet (105') to the point of beginning. Said tract of land is otherwise identified as Lot No. 26, Plan 5 of the Assessors Plan of the City of Portsmouth a/k/a Tax Map 101, Lot 47.


Being the same premises described in deed of Harold Whitehouse, Jr. and Ruth I. Whitehouse and Karen McKearney to The Whitehouse Family Revocable Trust of 2000 dated August 2, 2000 recorded in the Rockingham County Registry of Deeds at Book 3495, Page 2040.

**TRUSTEES' CERTIFICATE PURSUANT TO NH R.S.A. 564-A:7 II**


(1) The undersigned Trustee as Trustee under The Whitehouse Family Revocable Trust a/k/a The Whitehouse Family Trust of 2000 u/t/a dated August 2, 2000 (as amended), created by Harold Whitehouse, Jr. and Ruth I. Whitehouse as Grantors under a certain Declaration of Trust, has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust and no purchaser or third party shall be bound to inquire whether the Trustee has said power or are properly exercising said power or to see to the application of any trust asset paid to the Trustees for a conveyance thereof. (2) The Trustee has received all necessary or desirable direction from the beneficiaries of the trust agreement. (3) The trust agreement is a trust as defined by New Hampshire RSA 564-A:1 I, the trust has not been revoked and is still in full force and effect.

Dated as of this 26<sup>th</sup> day of November, 2024.

The Whitehouse Family Revocable Trust of 2000  
u/t/a dated August 2, 2000 (as amended)


  
Witness Mandy Bowden

By:

  
Ralph R. Woodman, Jr., Trustee

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS.

On this the 26<sup>th</sup> day of November, 2024, before me, the undersigned officer, personally appeared Ralph R. Woodman, Jr. as Trustee of The Whitehouse Family Revocable Trust of 2000 a/k/a The Whitehouse Family Trust of 2000 u/t/a dated August 2, 2000 (as amended) known to me or satisfactorily proven to be the persons whose names are subscribed to the within document and acknowledged that they executed the same for the purposes contained therein.

  
Notary Public/Justice of the Peace

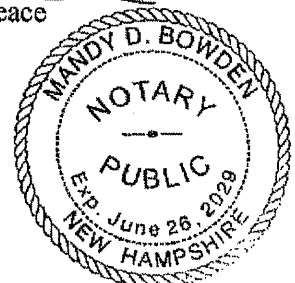
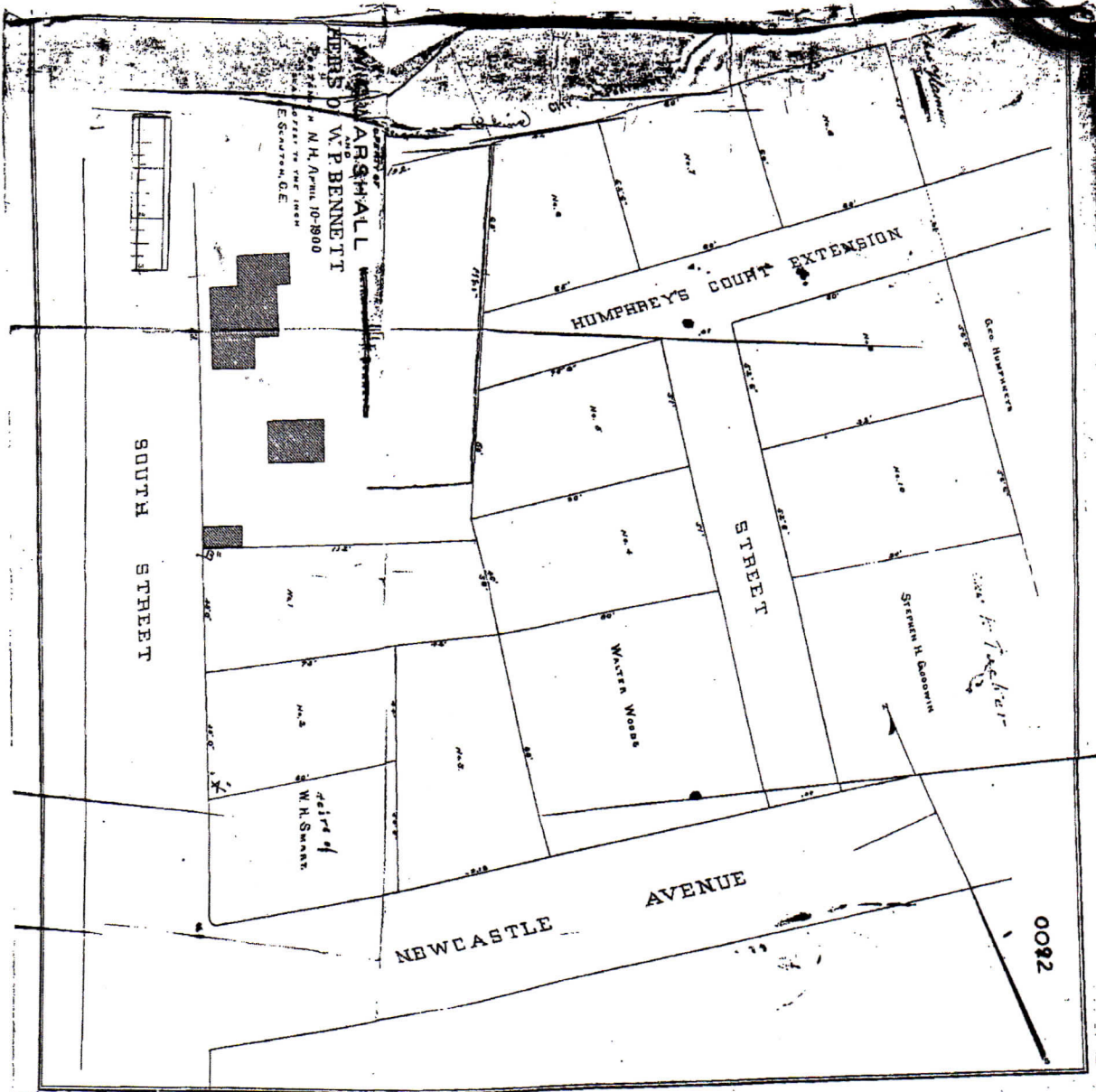


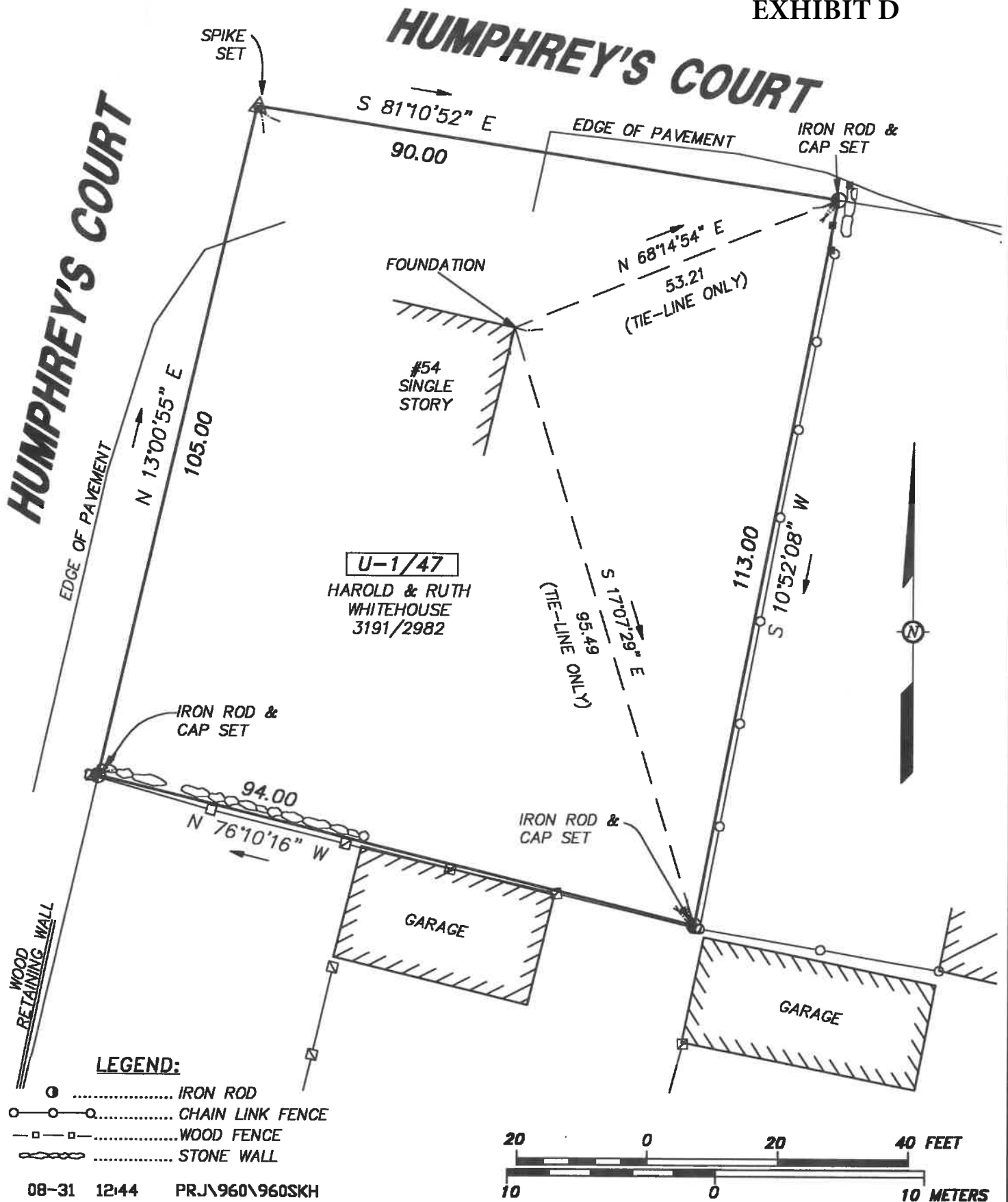


EXHIBIT C

#000922



# EXHIBIT D



## SKETCH OF LAND, 58 HUMPHREY'S COURT PORTSMOUTH, N.H., for HAROLD WHITEHOUSE

JAMES VERRA and ASSOCIATES, INC. -- 445 U.S. ROUTE 1 BY-PASS -- PORTSMOUTH, N.H.  
(c) Copyright 1998 (207) - 436 3557 FAX (207) -436-8339

DATE: 8/31/98  
JOB NO. 20960  
PLAN NO. 20960  
SCALE: 20'