

**APPLICATION OF 100 ISLINGTON STREET DEVELOPMENT, LLC**  
**100 Islington Street, Portsmouth**  
**Tax Map 137, Lot 25-1 through 25-7**

**APPLICANT'S NARRATIVE**

**I. THE PROPERTY:**

The applicant, 100 Islington Street Development, LLC, is under contract to acquire the above referenced property, which presently consists of land and a building housing seven mixed residential and commercial condominium units. The applicant proposes to redevelop the site into twenty four residential dwelling units with associated underground parking.

The applicant seeks variances from Figure 10.5A41.10A to permit a building footprint of 14,582 square feet where 2,500 is the maximum per building permitted; lot area per dwelling unit of 1,015 square feet where 3,000 is required; and front lot line buildout of 37% where 60% is the minimum required. See Proposed Site Plan submitted herewith.

The property is an unusually large lot as can be seen on the submitted tax map. According to the Sanborn Insurance map from 1920, the lot is the consolidation of two pre-existing lots. According to the city's tax records, the structure on the site was built in 1975. It consists of what appears to be two raised-ranch style buildings connected to one another and placed in the center of the lot, with surface parking along the front and northern side of the building. The property also has two uncommonly wide curb cuts onto Islington Street, unprotected sidewalks and a significant amount of impervious pavement. The current site plan is submitted herewith, along with existing conditions photos. The present design could charitably be described as less than inspiring. It certainly fails dramatically to comport with the purpose and intent of the city's Character Districts.

More specifically, the existing building is significantly non-conforming. The property is in the CD4-L2 zone and is non-compliant at least as to maximum front yard (exceeds 15 feet), maximum side yard (exceeds twenty feet), building footprint (exceeds 2,500 square feet), and front lot line buildout (0% where 60% is the minimum required). Figure 10.5A41.10A. The property is also non-compliant in that there is parking between the principal building and the right of way. Section 10.1113.12.

Per Figure 10.5A41.10A, the ordinance permits lot coverage of up to 60% yet limits the maximum building footprint to 2,500 square feet and requires 3,000 square feet per dwelling unit. It is the applicant's understanding that the Planning Department interprets the ordinance to permit multiple buildings on the same lot provided each individual building footprint does not exceed 2,500 square feet.

A substantial redevelopment of the entire lot is necessary to remedy the extensive existing non-conformities. Submitted herewith is a "Concept Plan" which shows what could potentially be built on the site without zoning relief: four stand-alone buildings, each with two residential units and exterior parking. This configuration is not preferred for a number of reasons. First, the eight dwellings spread over four buildings would result in very large, expensive condominium units. The project as proposed deploys very similar floor area volume to much smaller units, creating 24 units between 1,200 and 1,400 square feet, which is a very modest size for new construction. It also eliminates what would otherwise be required surface parking.

Although the proposed footprint is far in excess of what is permitted, the applicant believes there are compelling reasons to deviate from this requirement. First, it should be noted that the proposed footprint is not in excess of the allowable aggregate footprints of the individual buildings (stated another way, the maximum building coverage allowed by zoning for this lot at 60% would be 14,614 square feet). In addition, there are a number of buildings in the immediate vicinity which exceed the 2500 square foot limit, such as the Keefe House, the Whipple School and 51 Islington Street, so the project will not be out of place with its surroundings. Furthermore, the proposed structure is designed in a manner which breaks up the massing and scale of the building so that it fits harmoniously within and maintains the natural flow of the Islington Street streetscape. The proposal utilizes a two story form, with dormers providing the proposed third story. In order to remedy the many non-conformities with current zoning, a full redevelopment is necessary, and in order to achieve the desired design aesthetics that would accomplish substantial compliance with the CD4-L2 requirements, it is necessary to bury the parking. In turn, to meet parking requirements, it is necessary to have a building large enough to accommodate travel aisles. This drives the size and the shape of the building proposed. The proposed design also gives the appearance from Islington Street of two smaller structures, to promote consistency with adjacent properties.

As noted above, the size of the units proposed is intended to be relatively modest as opposed to what could otherwise be developed by right. Additional volume and density beyond what is permitted is necessary in order to make redevelopment viable.

## **II. CRITERIA:**

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

**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.

In this case, 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. The use proposed is certainly consistent with the existing neighborhood, which consists of a mix of retail, restaurants, services, business offices and the like. This project requires further approval from the Historic District Commission and the Planning Board, further assuring the health, safety and welfare of the public will be adequately protected.

**Substantial justice would be done by granting the variances.** 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. In this case, there is no benefit to the public in denying the variance that is not outweighed by the hardship upon the owner. Any significant expansion to the existing structure will require variance relief given the extent of the existing non-conformities. As noted above, within the CD4-L2 zone, 60% lot coverage is permissible, however, the existing building cannot be modified or extended without variances, nor is it possible to move the building or subdivide the lot. It is simply not reasonable for a property owner to lose two thirds of the otherwise permitted building coverage.

**The values of surrounding properties will not be diminished by granting the variances.** The newly constructed modern dwellings would be designed to respectful to the existing streetscape and compliant with the design prerogatives promoted by the recently enacted Character Districts. The project would not in any way be incompatible with the neighborhood and would be a vast improvement over the existing built environment. The project provides all the required parking and eliminates all exterior surface parking. The values of the surrounding properties will not be negatively affected in any way.

**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 in question consists of a consolidated lot with a larger lot size and more frontage than most along the Islington Street corridor. It slopes down from State Street where it abuts the imposing Whipple House condominium development. These characteristics, along with the extent to which the existing development is non-conforming with the requirements of the CD4-L2 zone, are special conditions that distinguish this property from others in the vicinity.

**The use is a reasonable use.** The proposed residential use is permitted by right in this zone.

**There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.** The general purpose of the Character Districts is to encourage development that is compatible with the established character of a property's surroundings. 10.5A11. The specific design standards required in the CD4-L2 zone regarding building footprint and lot area per dwelling are not appropriate for a lot of the size of the one in question here. The required front lot line buildout percentage could be met by sliding the northwestern corner of the building towards Islington Street, however, that would likely negatively impact the modest home on the corner of Summer Street. The project is otherwise substantially more conforming than the existing structure.

There is no fair and substantial relationship between the purpose of these requirements and their application to this property.


### **III. Conclusion.**

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

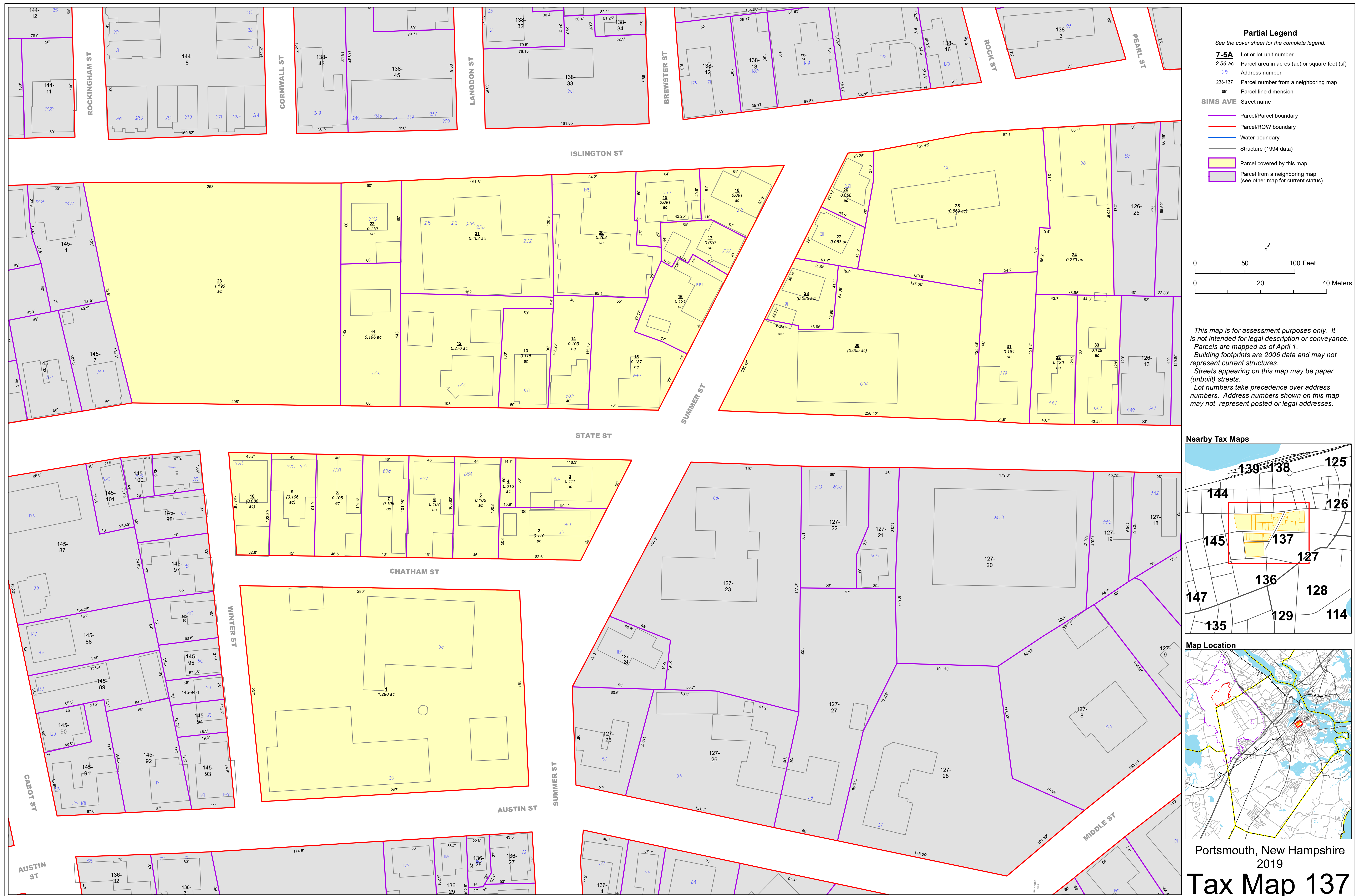
Respectfully submitted,

Dated: October 30, 2019

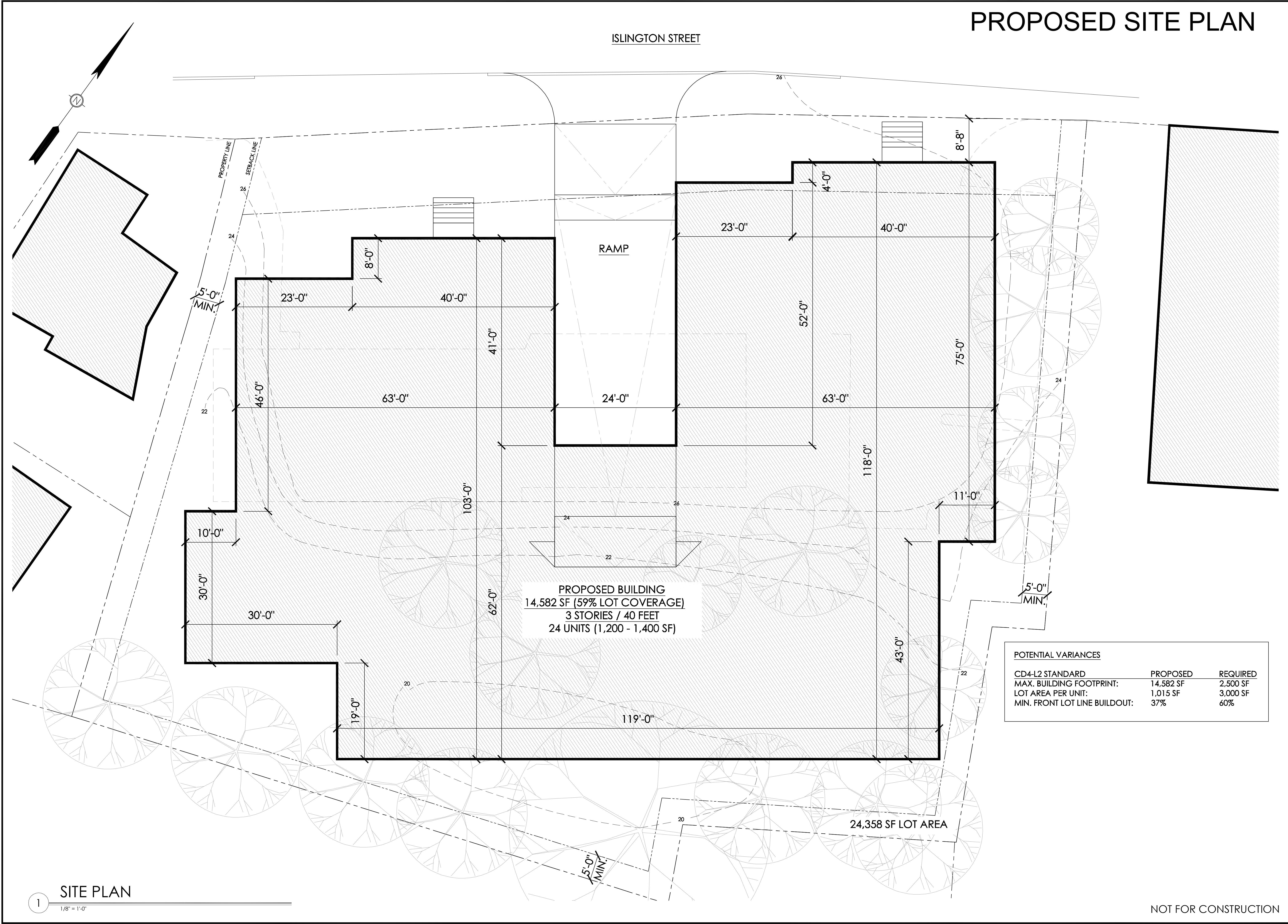
By:

  
John K. Bosen, Esquire









REVISIONS:

FEASIBILITY STUDY  
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PORTSMOUTH, NEW HAMPSHIRE

CJ ARCHITECTS  
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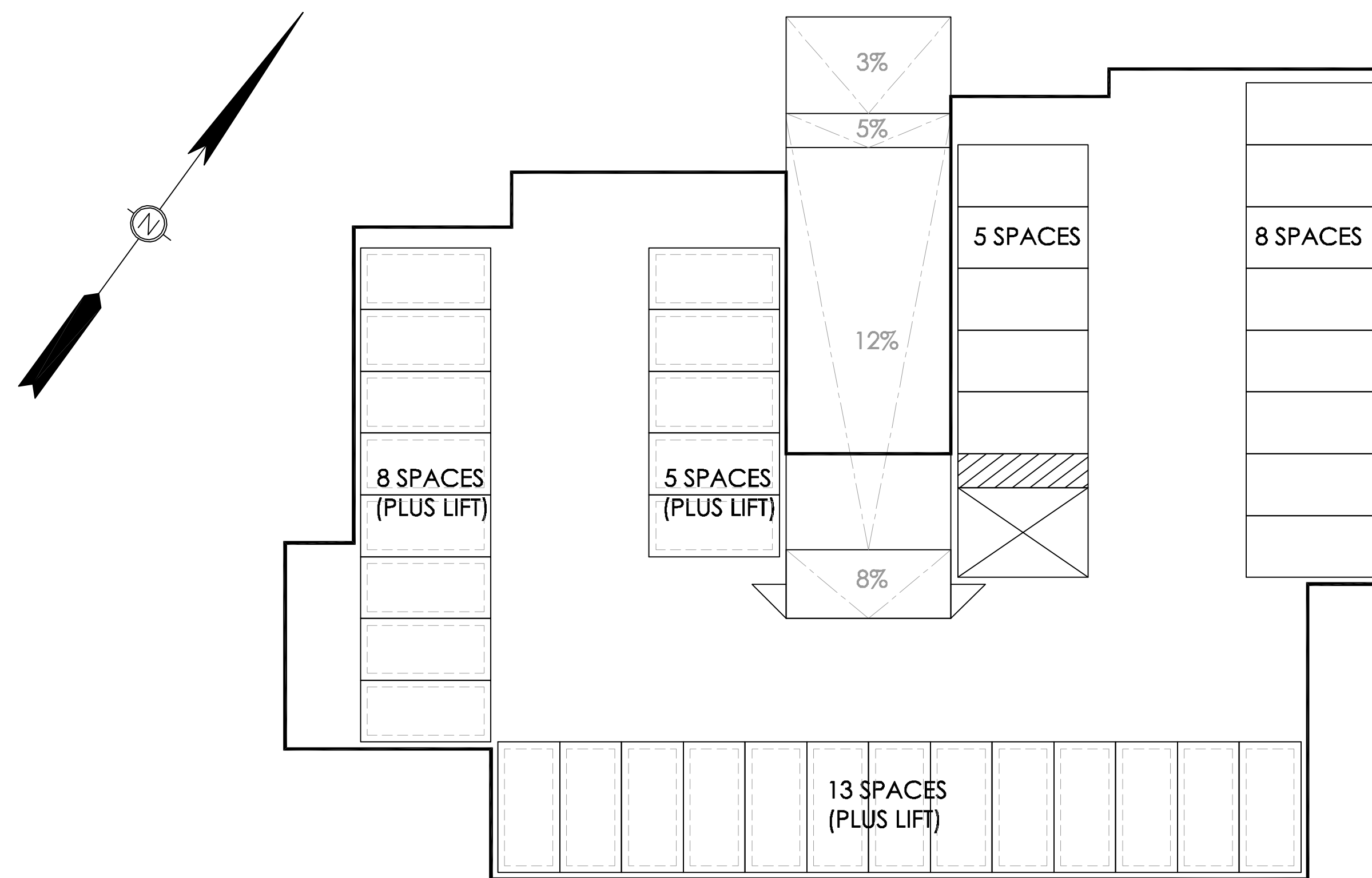
CONCEPTUAL  
SITE PLAN

DATE: 10/09/19  
DRAWN BY: WWB  
APPROVED BY: CJG  
SCALE: 1/8" = 1'-0"  
JOB NUMBER: --

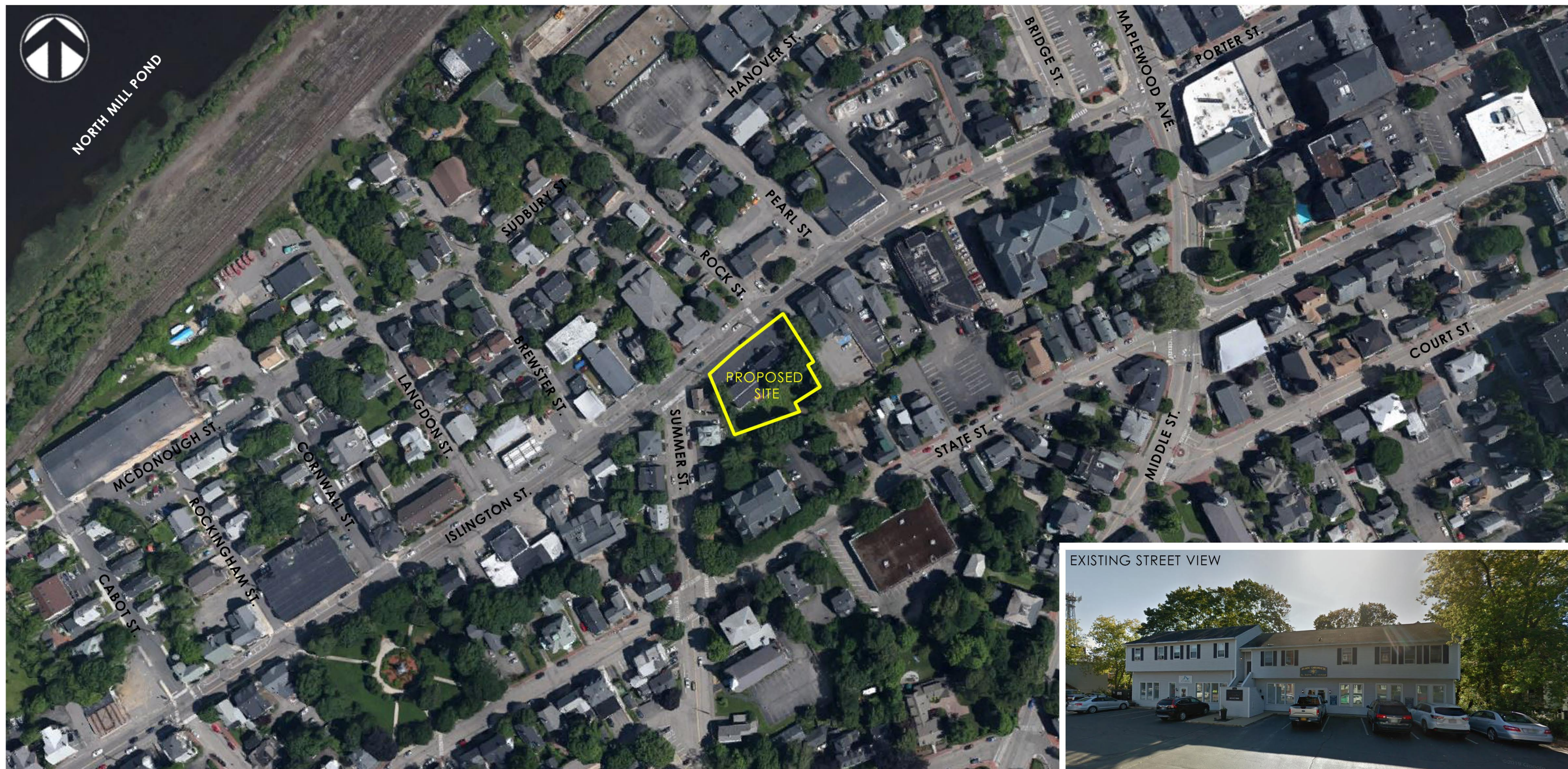
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THE EXISTING BUILDING CONSISTS OF 7 COMMERCIAL UNITS WITH SURFACE PARKING BETWEEN THE PRINCIPAL BUILDING AND ISLINGTON STREET. TWO EXISTING CURB CUTS EXTEND 60'+/- ALONG THE THE PROPERTY LINE FRONTING ON ISLINGTON STREET WITH AN UNDEFINED SIDEWALK.

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AERIAL VIEW OF SITE AND SURROUNDINGS  
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ISLINGTON STREET

REFERENCE PLANS:

SEE THE FOLLOWING PLANS BY JOHN W. DUNGIN,  
CIVIL ENGINEER:

1. "PLAN OF LOT 114 AND 115 WILKINSON ST., PORTSMOUTH,  
N.H." DATED FEBRUARY BY 1940.
2. "PLAN OF LOT 90 WILKINSON ST., PORTSMOUTH, N.H."  
DATED OCTOBER 1940.

SEE ALSO THE FOLLOWING PLANS:

3. "PLAN OF LAND, PROPOSED COUNTHOUSE, CITY OF  
PORTSMOUTH, N.H." BY MOUTON ENGINEERING CO.  
DATED JULY 1978 RECORDED ROCKINGHAM CO. REGIS-  
TER DEEDS AS PLAN NO. D-8034.
4. PLAN OF THIS SITE BY ABRAHAM SCHROEDER ARCHITECTS DAT-  
ED 1941 B3 REVISED 1943 MAY 85.

NOTE: DEED REF.: 2445/149  
PARCEL AREA 24,358 SQ. FT.  
ZONE: A

NIF  
FRANK E. BOOMA POST #6  
AMERICAN LEGION  
1067/016

**CERTIFICATION**

I HEREBY CERTIFY THAT THIS PLAN ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE SUBMITTED LAND, THE LOCATION AND DIMENSIONS OF CONVERTIBLE LAND (IF APPLICABLE), THE EXISTING IMPROVEMENTS AS OF THE DATE OF THIS PLAN, AND THE INTENDED LOCATION OF CONTEMPLATED IMPROVEMENTS (IF APPLICABLE). I FURTHER CERTIFY THAT THE BUILDING AS SHOWN IS SUBSTANTIALLY COMPLETED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAN COMPLIES WITH THE PROVISIONS OF R.S.A. CHAPTER 356-B:20, 1.

Paul M. Durgin 8/18/83  
PAUL M. DURGIN, L.L.S.

AS-BUILT SITE PLAN  
100 ISLINGTON CONDOMINIUMS  
PORTSMOUTH, N.H.

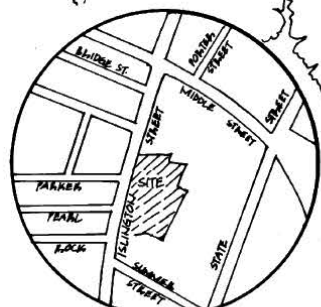
SCALE: 1 INCH = 10 FEET

AUGUST 1983

APPROVED FOR RECORD

PORTSMOUTH PLANNING BOARD

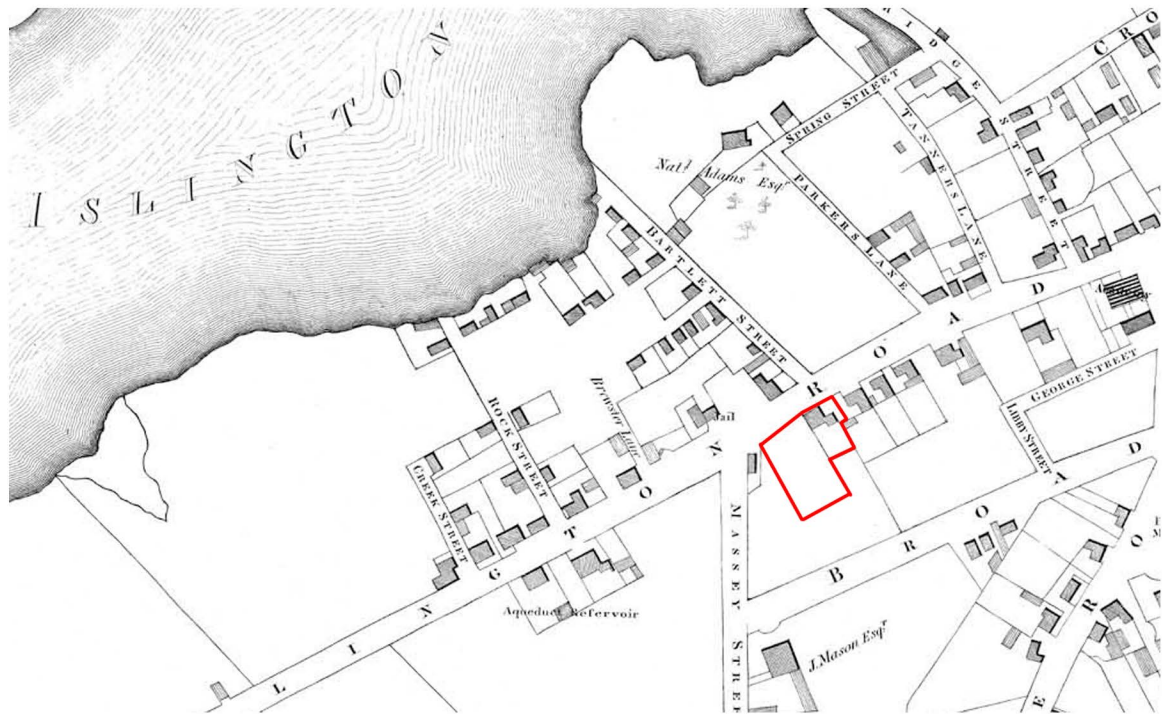
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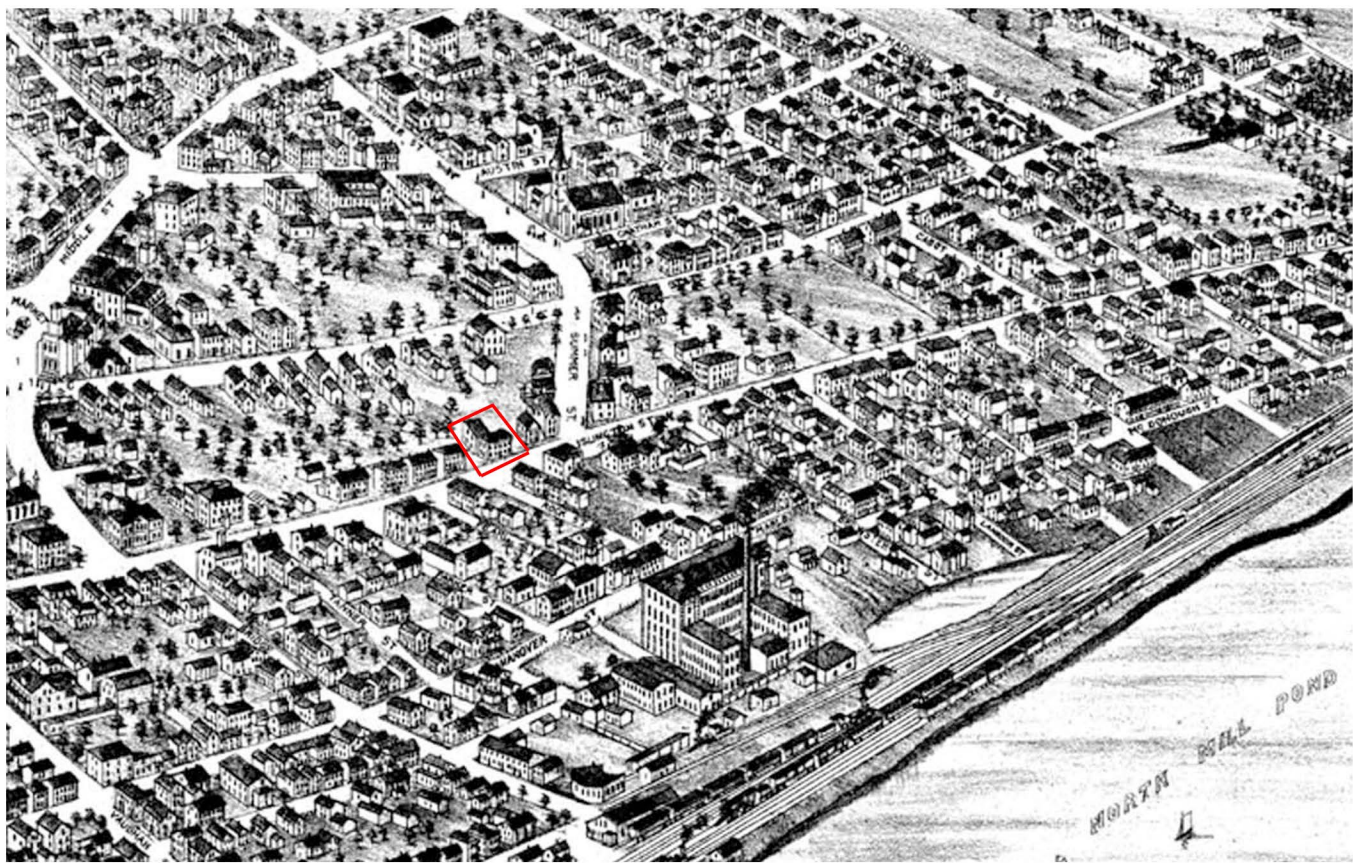
LOCUS MAP

FILE NO. 2295  
PLAN NO. 50180





1813 SITE CONTEXT



1877 SITE CONTEXT



1920 SITE CONTEXT

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HISTORIC CONTEXT  
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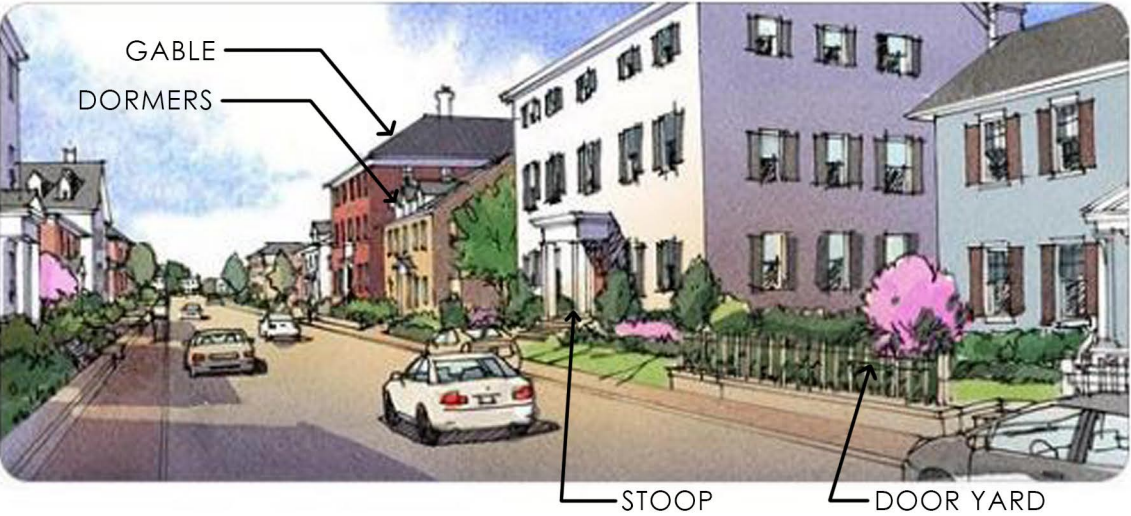
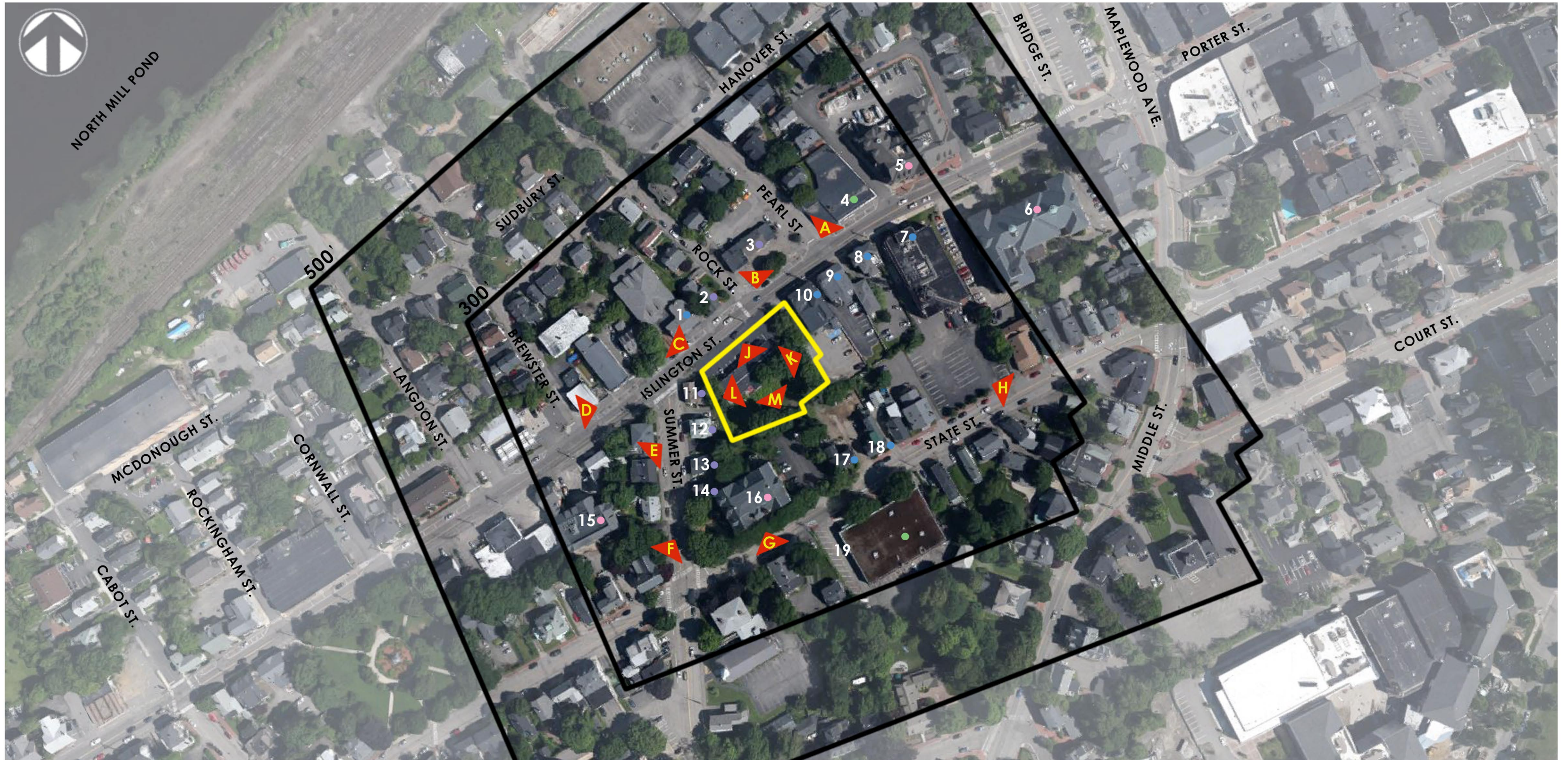


FIGURE 10.5A41.10A DEVELOPMENT STANDARDS  
CHARACTER DISTRICT 4 - LIMITED (CD4/L1-L2)

These districts consist of medium density areas with a mix of medium to large **houses**. Upper floor uses are almost entirely residential. **Ground floors** include some commercial **office uses**; areas zoned CD4-L2 also allow some **restaurant** and retail **uses** on the **ground floor**. There are shallow **front yards** and shallow to medium **side yards**, with variable private **landscaping**, and on-site accessory parking. **Streets** have **sidewalks** and **street trees**, and define medium to large **blocks**.

ZONING CONSIDERATIONS - CHARACTER DISTRICT 4- LIMITED 2		PROPOSED PROJECT MASSING
<b>LOT OCCUPATION AND BUILDING PLACEMENT</b>		
Maximum Building Coverage:	60%	Less than 60%
Maximum Building Footprint:	2,500 SF each building	TBD depending BOA
Minimum Lot Area per Dwelling Unit:	3,000 SF	TBD pending BOA
Minimum Front Lot Line Buildout:	60%	TBD pending BOA due to setback for door yard
Parking:	1.3 spaces per residential dwelling unit greater than 750 SF	1.3 spaces per residential dwelling unit greater than 750 SF
<b>BUILDING FORM</b>		
Maximum Building Height per Map 10.5A21B:	40 feet / 2-3 stories	40 feet / 3 stories
Roof Types Allowed:	Flat, Gable, Hip, Gambrel, Mansard	Hip & Mansard
Building Types Allowed:	Apartment Building, Rowhouse, Live/Work Building, Small & Large Commercial Building	Apartment Building / Condominium
Facade Types Allowed:	Porch, Stoop, Shopfront, Forecourt, Recessed-entry, Dooryard	Stoop / Door Yard





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A

VIEW FROM EAST DOWN ISLINGTON STREET



B

VIEW FROM EAST DOWN ISLINGTON STREET



C

VIEW FROM WEST DOWN ISLINGTON STREET



D

VIEW FROM WEST DOWN ISLINGTON STREET

100 ISLINGTON STREET  
PORTSMOUTH, NEW HAMPSHIRE

SITE AND SURROUNDINGS  
ISLINGTON STREET VIEWS  
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E

SUMMER STREET



F

SUMMER STREET



G

STATE STREET



H

STATE STREET

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SITE AND SURROUNDINGS  
SUMMER STREET AND STATE STREET VIEWS  
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J



K



L



M

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PORTSMOUTH, NEW HAMPSHIRE

SITE AND SURROUNDINGS  
VIEWS FROM SITE  
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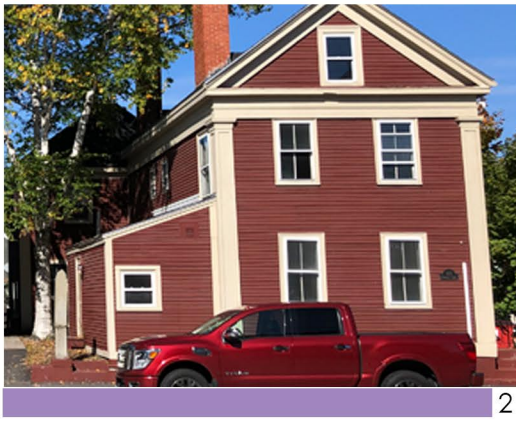
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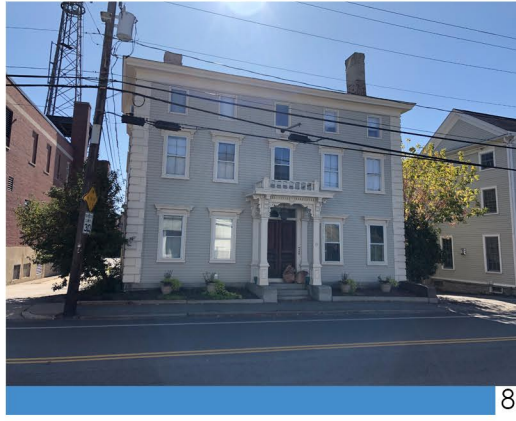
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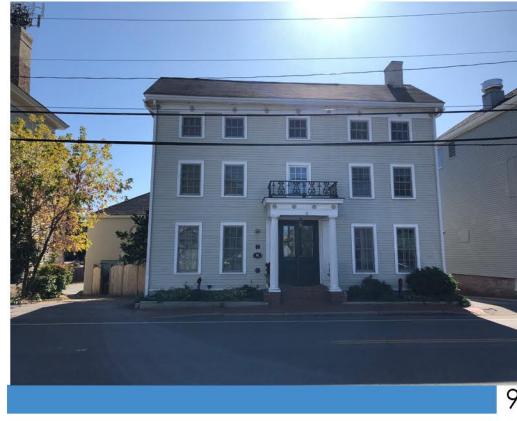
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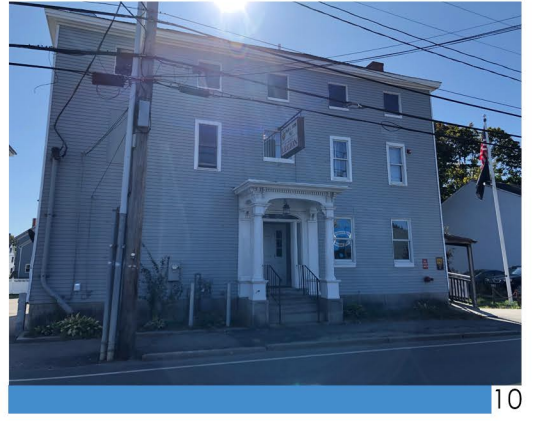
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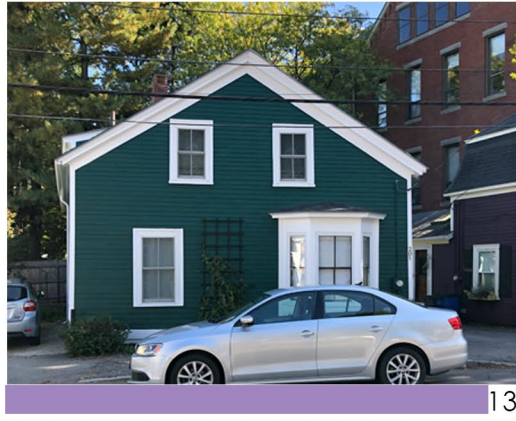
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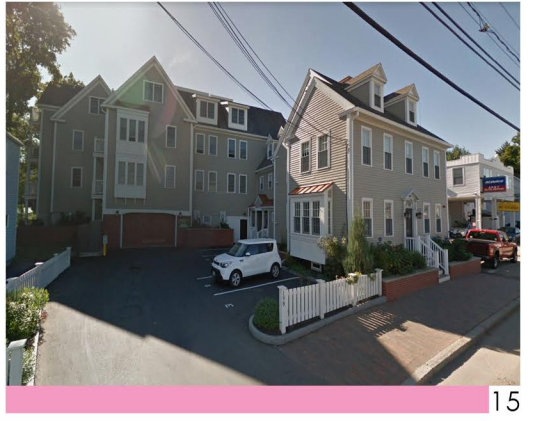
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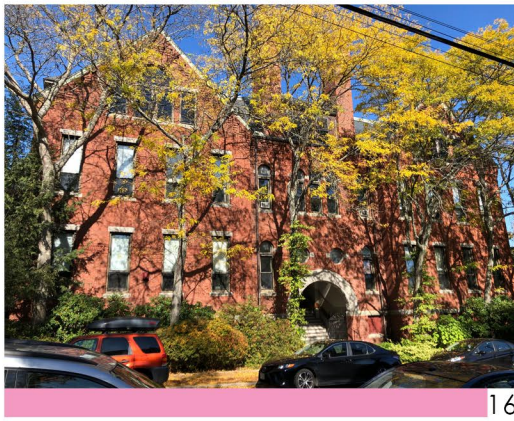
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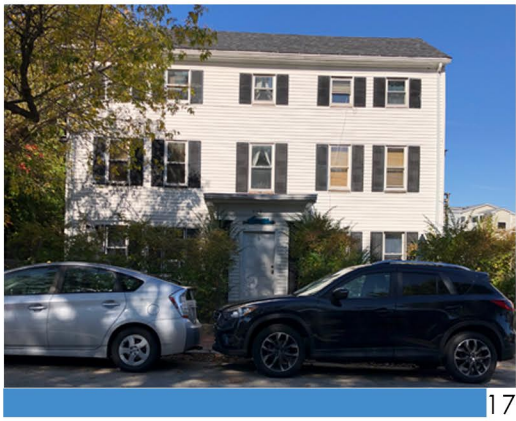
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KEY

- LARGE SCALE
- MEDIUM SCALE
- SMALL SCALE
- LARGE FOOTPRINT

100 ISLINGTON STREET  
PORTSMOUTH, NEW HAMPSHIRE

SITE AND SURROUNDINGS

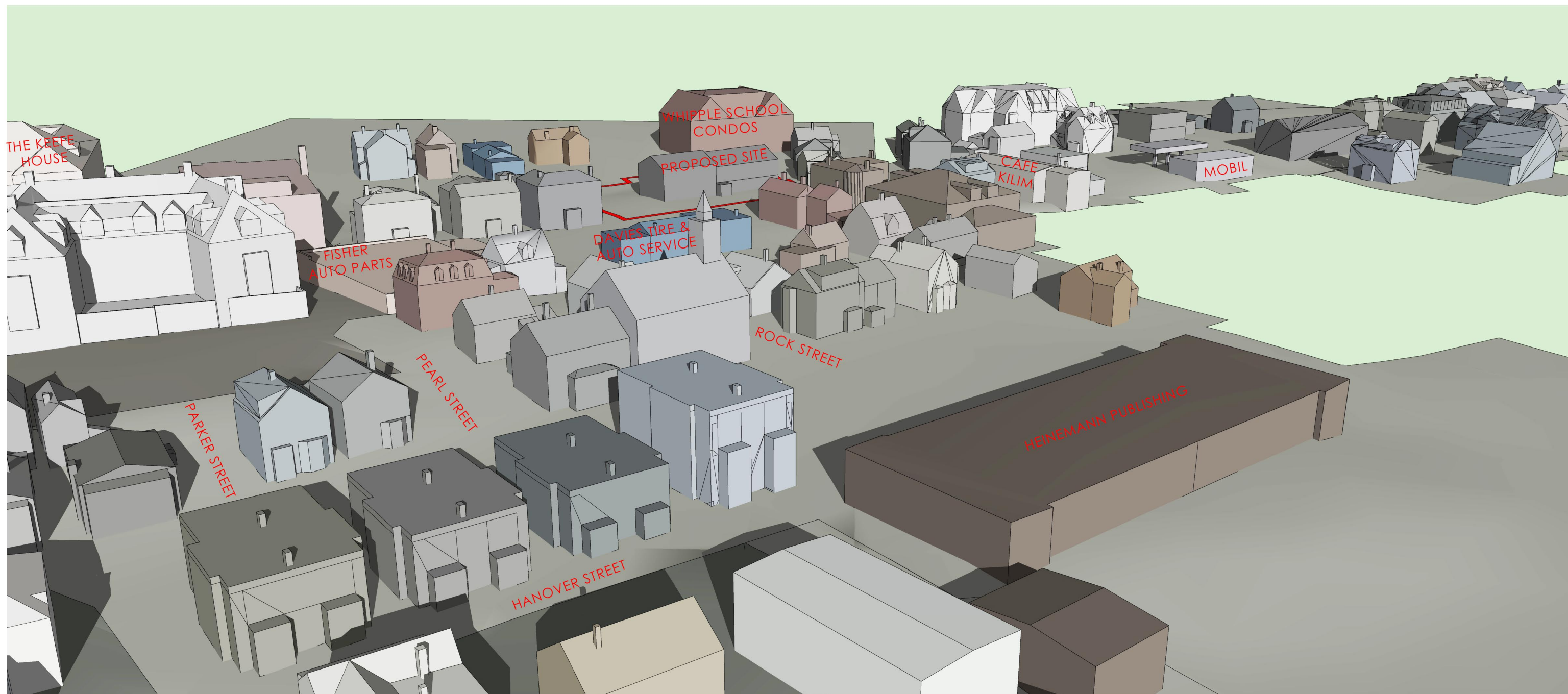
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EXISTING  
VIEW LOOKING SOUTH  
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PROPOSED  
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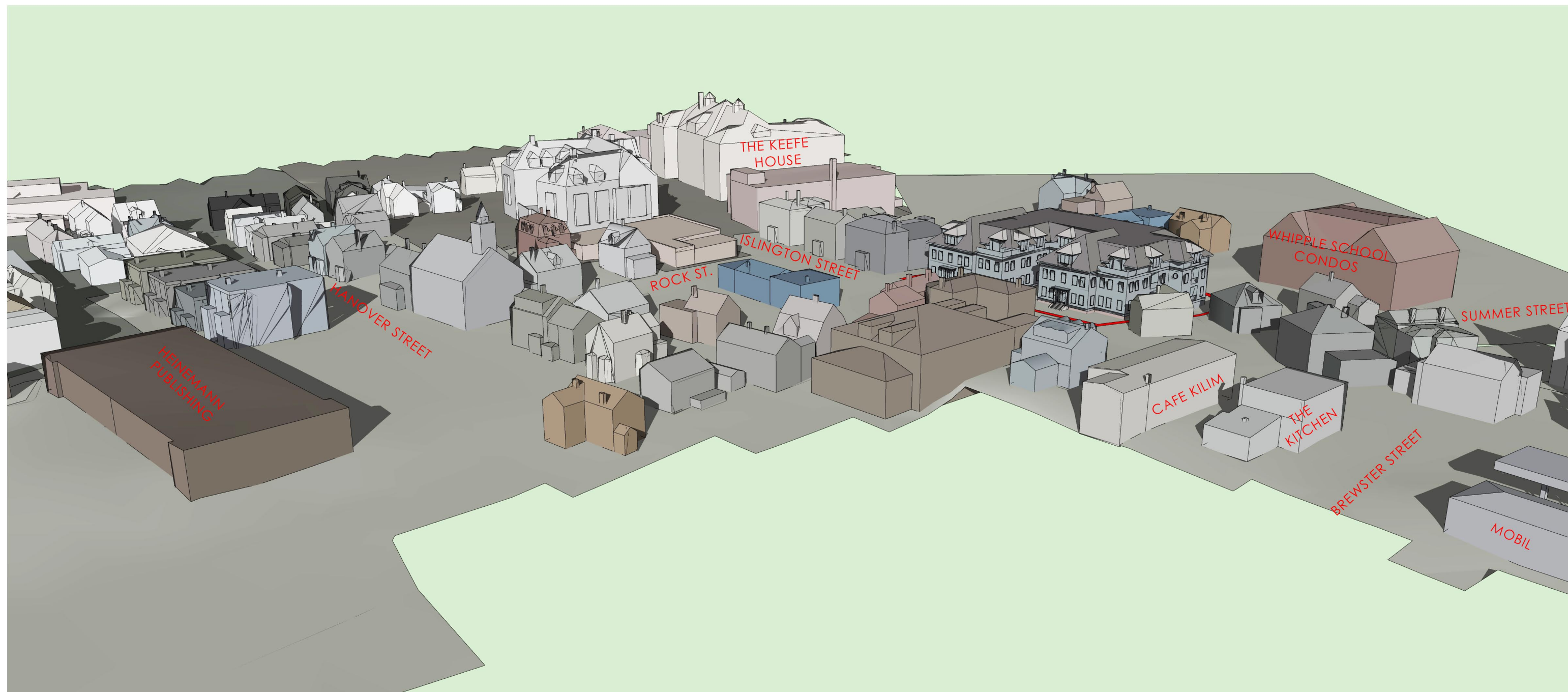
EXISTING  
VIEW LOOKING EAST  
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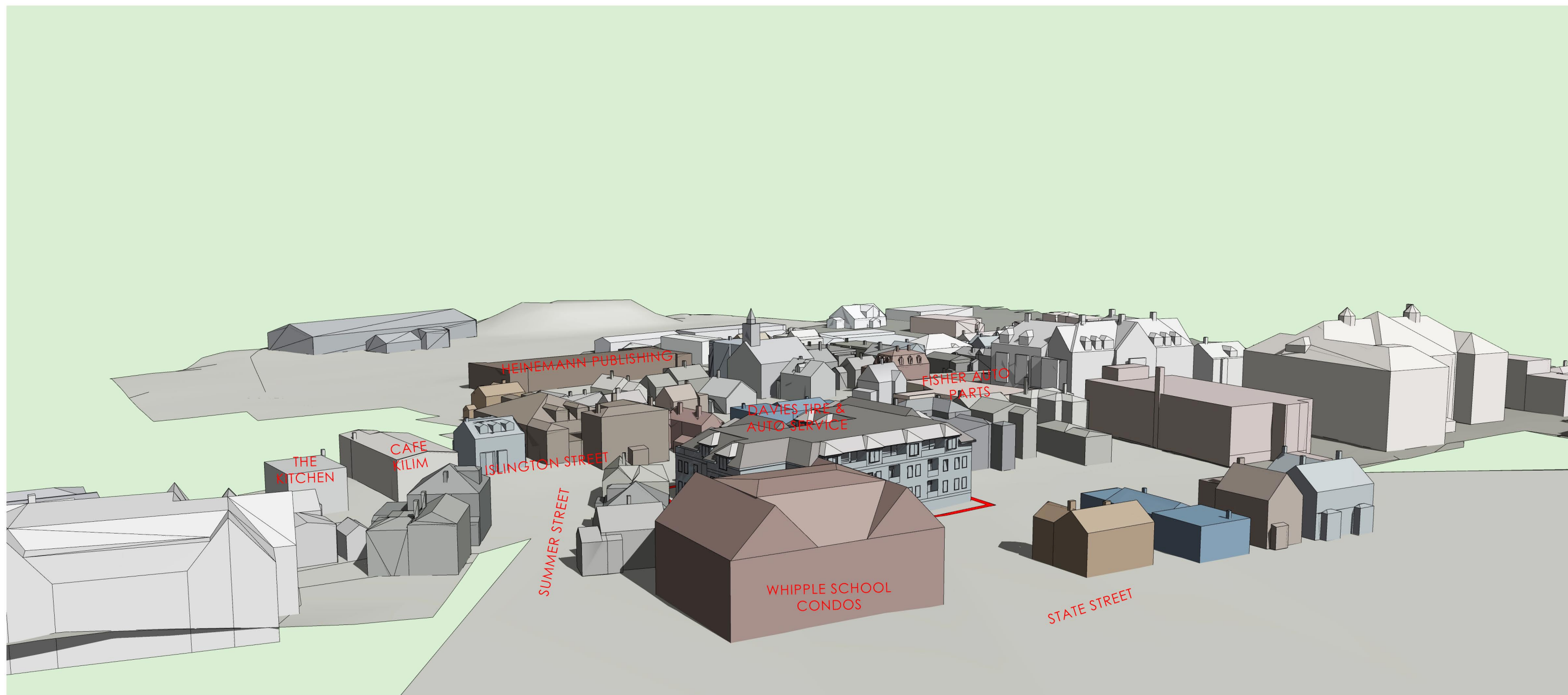
EXISTING  
VIEW LOOKING NORTH  
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PROPOSED  
VIEW LOOKING NORTH  
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ISLINGTON STREET  
PROPOSED VIEW FROM EAST  
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ISLINGTON STREET  
PROPOSED VIEW FROM WEST  
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