

200 Griffin Road, Unit 14, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

17 June 2025

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

RE: Request for Zoning Relief, 921 Islington Street, Proposed Site Development

Dear Ms. Eldridge and Zoning Board Members:

Variance Review for the above-mentioned project and request that we be placed on the agenda for your July 15, 2025, Meeting. The project is the reconstruction of the existing structure on the parcel to accommodate a proposed Restaurant, with the associated and required site improvements. The building footprint will remain unchanged. The prior gas station use has been discontinued, and the storage tanks have been removed. We believe that the restaurant will complement the surrounding commercial and mixed-use environment. The site's proximity to pedestrian-friendly infrastructure further enhances this re-use. Delivery and service vehicles will utilize designated loading area to avoid disrupting traffic flow. The existing Islington Street curb cut will be reduced in size, and secondary access will be provided at a safe location away from the Islington Street intersection. Street trees will be added, as well as appropriate sidewalk connections to the site.

We are requesting Zoning Board of Adjustment (ZBA) approval of the following Variances:

1. <u>Article 5, Section 10.575: Dumpster Location</u>: No dumpster shall be located within 20 feet of a Residential or Mixed Residential zoned lot nor within 10 feet of any lot line.

Proposal is to place the proposed dumpster 5 feet from the lot line.

The configuration of the proposed parking area is based on the location of the existing building, as well as the secondary entrance, which will be placed a safe distance from the Islington Street intersection. Given these location restraints to the site layout, the placement of the proposed dumpster, to maximize the safety of the ADA parking and loading zones, requires relief from the strict application of the code.

2. <u>Article 10, Section 10.113.20 Location of Parking Facilities on a Lot</u>: Required off-street parking spaces shall not be located in any required front yard, or between a principal building and a street

Proposal is to place the required parking in the front yard, between the principle building and the street.

The reconstruction of the existing structure will need to comply with the applicable design, safety, and operational standards, including the parking requirements. Since the building location will not change, the only place to place the parking safely is in the front yard setback, between the building and the street. We believe that the site plan shows sufficient parking capacity to accommodate the expected number of patrons and staff.

The aforementioned conditions are shown on the attached site plans. The Applicant believes that this project meets the criteria necessary for granting 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 relative to granting a variance. The variance should not be contrary to the public interest, or contrary to the spirit and intent of the ordinance. The test 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.

- 1. The location of the proposed dumpster is not contrary to the intent of the ordinance to provide suitable locations for dumpsters, away from abutting properties a sufficient distance. The abutting properties dumpster locations are in close proximity to the lot line.
- 2. The property is currently configured in a manner where cars park between the building and the front lot line. In order to accommodate the required parking and suitable drive aisles in the proposed condition for the change in use, parking must encroach into the front yard setback.

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.

- 1. Substantial justice will be done by approval of the variance to allow the dumpster to be placed closer to the property line than the ordinance requirement. The general public is well served by safer site ADA Parking and loading area layout.
- 2. Substantial justice will be done by approval of the variance to allow the parking to be located in front of the building and in the front setback. The public is served by the re-use of the existing structure and the change of use allowing the reduction of the existing curb cut, and subsequent addition of street tress and landscaping.

Approval will result in a benefit to the public and will outweigh the hardship to the owner if the variances are denied. Granting the variances will allow adaptive re-use of a property, which predates the current code requirements.

The values of surrounding properties will not be diminished by granting the variances.

The Board has to determine that granting the variances will not adversely impact the values of the surrounding properties.

- 1. The values of the surrounding properties will not be diminished by approval of the variance to allow the dumpster to be placed closer to the lot line, given the replacement of the existing, potentially harmful use, the storage and dispensing of petroleum products. The slight deviation from the standards in this instance is far outweighed by the positive impact the conversion of the site to a restaurant use will have.
- 2. The values of the surrounding properties will not be diminished by parking located in front of the building and in the front setback, considering the replacement of a wide-open curb cut with added sidewalk and street trees.

The re-use of this site from a gas station to a restaurant will have a positive impact on the values of the surrounding properties. The proposed use of the site will likely increase the value of the surrounding properties. Approval of the variances will result in a use which is more suited to the surrounding properties.

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 is currently developed with the existing structure located in the back of the lot. This makes parking behind the building impossible without removing the exiting building, which is a special condition of this lot. In the re-design of the site access and parking, the building placement and the lot configuration favor the placement of the dumpster within the required 10-foot setback.

- 1. The special conditions associated with the property are the buildings location in the rear of the lot, making the placement of the dumpster behind the location of the proposed pavement line important to the functioning of the re-development. Approval of the variances will result in a better design and a make the property consistent with the surrounding neighborhood context.
- 2. The desire to re-use the structure requires that the parking is created in front of the building. It would be a hardship to the owner to be required to tear down the structure to place it in the front of the lot. In addition, the configuration of the lot, where the left side line makes the lot narrower toward the back, is a special condition.

The special conditions associated with the property mean that approval of the variances will result in a reasonable re-use of the property. To deny the variance requests would not allow the proper enjoyment of the property and create an unnecessary hardship to the owner.

The use is a reasonable use.

The proposed restaurant reuse of the building is a permitted use in the CD4 – W Zone, whereas a motor vehicle service station is only allowed with a Conditional Use Permit.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.

The requirements for dumpster setbacks and parking behind structures do not present a fair and substantial relationship between the purpose of the ordinance as they are applied to this particular property. Thus, there is no fair and substantial relationship between the purposes of the setback and locational requirements, and their application to this property.

- 1. The requirement of a ten-foot dumpster setback bears no fair and substantial relationship between the ordinance and this particular property, given the location of the site and its urban surroundings.
- 2. The prohibition of parking in front of the structure bears no fair and substantial relationship between the ordinance and this particular property. Allowing the parking in the front yard will allow the existing building to be re-used. In contrast applying the requirement will not further the goals of he ordinance, given the number of parcels in close proximity with parking located in front of buildings, or in the front yard setback.

In contrast, approval of the variances will allow the proposed off-site improvements of the sidewalk and landscaping at this location, resulting in a benefit to the public, and increase the added value to the surrounding properties.

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. Approval of the variances will not adversely impact the health, safety and welfare of the public. In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner.

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

The following plans are included in our submission:

- Existing Conditions Plan This plan shows the results of a Standard Boundary and Topographic Survey at the site.
- Site Orthophoto This plan shows the site in context to the abutting properties.
- Demolition Plan This plan shows the required demolition to prepare the lot for the redevelopment.
- Variance Plan This plan shows the proposed site development.
- Offsite Improvements Plan This plan shows the reduction of the existing curb cut and the creation of added sidewalk and landscaping.

Sincerely,

John Chagnon, PE, LLS Senior Project Manager

 $P:\NH\5010220-Chinburg_Builders\1379-909\ Islington\ Street,\ Portsmouth\2024\ Site\ Development\03-WIP_Files\921\ Site\ Plan\Portsmouth\ ZBA\ZBA\ Application\ Submission\ Letter\ 6-14-25.doc$

921 Islington Site Photos



Islington Street looking West



Islington Street looking East

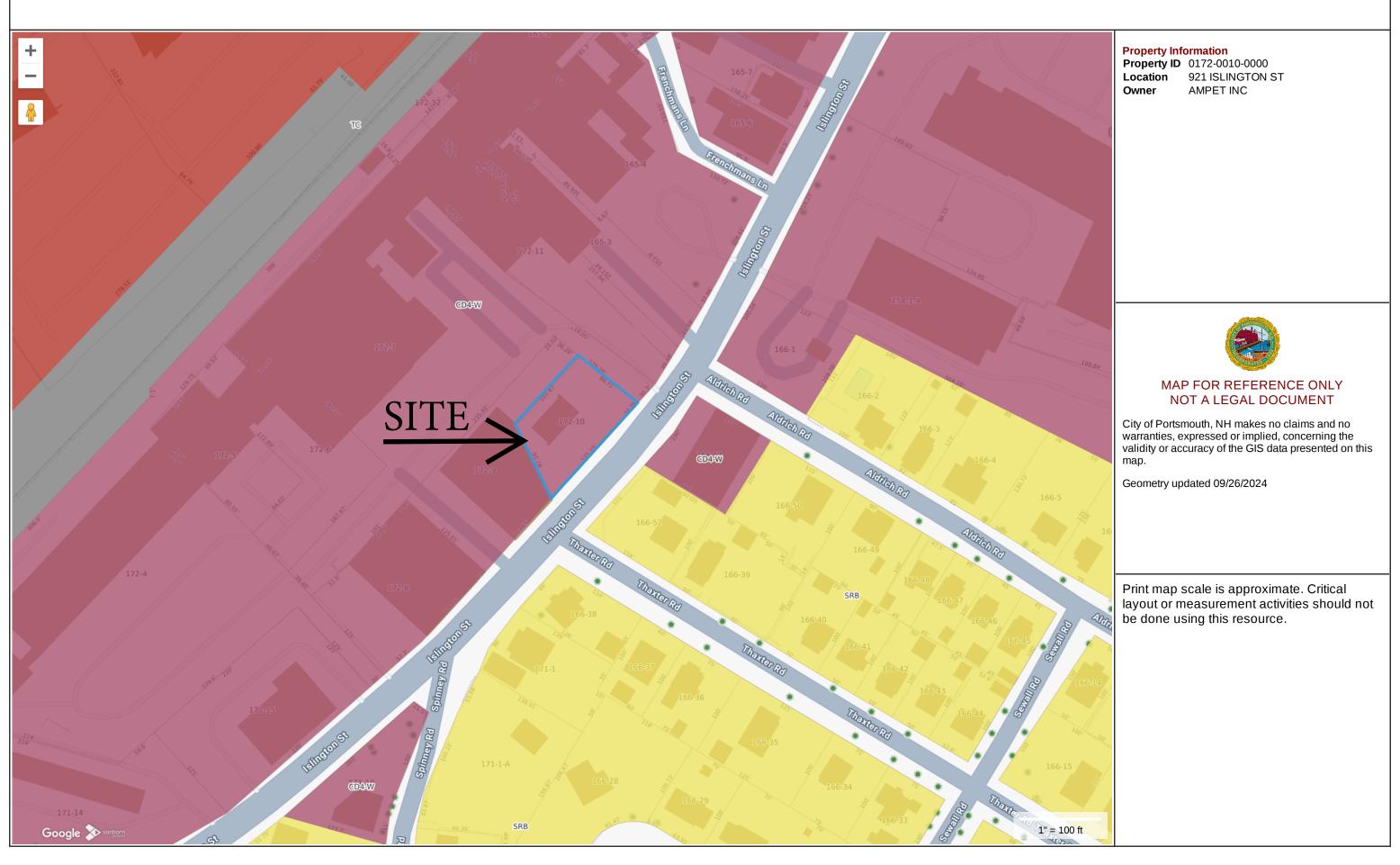


Site View Right Side



Site View Left Side

City of Portsmouth, NH
February 12, 2025

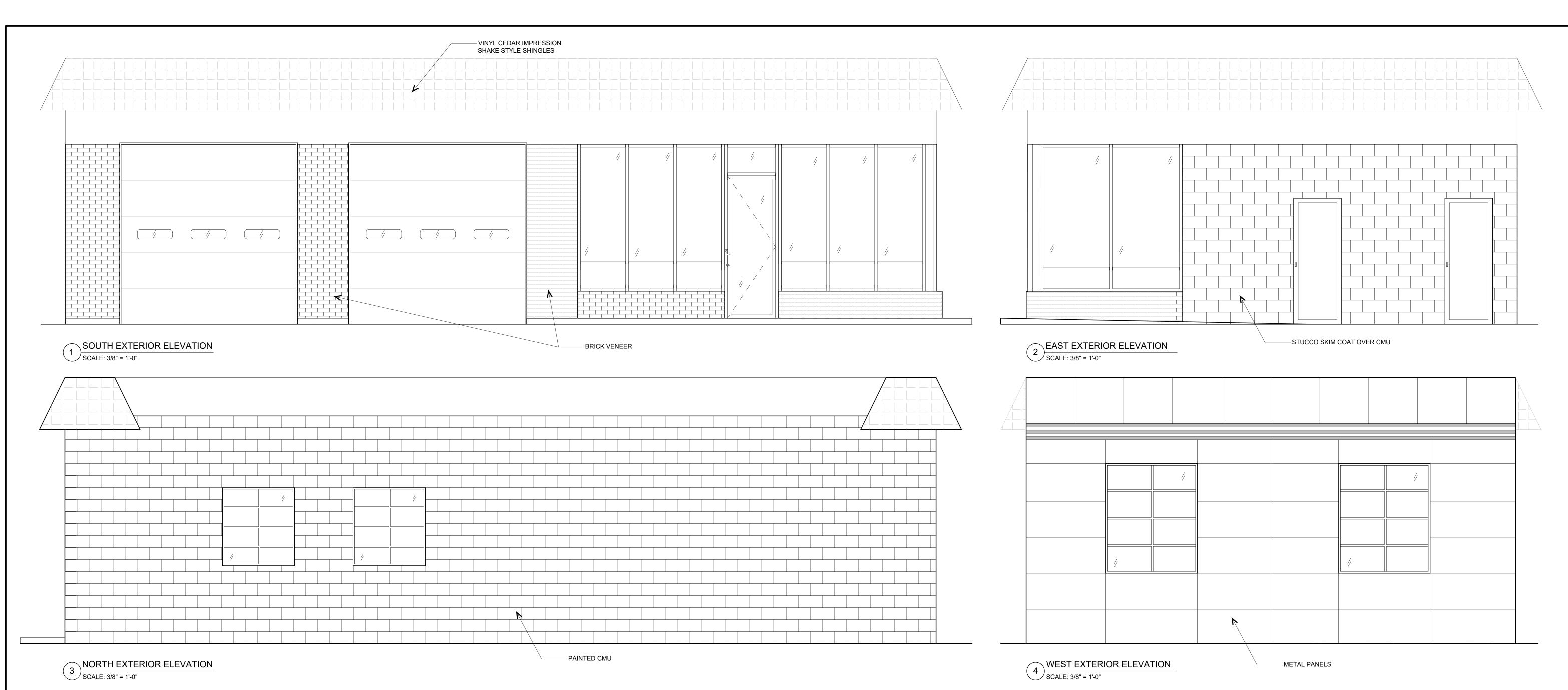


Map Theme Legends

Zoning

Residential Districts
R Rural
SRA Single Residence A
SRB Single Residence B
GRA General Residence A
GRB General Residence B
GRC General Residence C
GA/MH Garden Apartment/Mobile Home Park
Mixed Residential Districts
MRO 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
Al 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
Civic District
Civic District
Municipal District
Municipal District
Overlay Districts
OLOD Osprey Landing Overlay District
Downtown Overlay District
Historic District
Historic District

City of Portsmouth









5 EXISTING CONDITIONS PHOTO (CIRCA 2010-PRESENT)
SCALE: NONE

6 EXISTING CONDITIONS PHOTO (CIRCA 2010-PRESENT)
SCALE: NONE

HISTORIC CONDITION PHOTO (CIRCA 1950-1960)
SCALE: NONE

(Not for Construction) PORTSMOUTH ZBA SUBMISSION FOR 06/18/25

CHINBURG PROPERTIES
3 Penstock Way Newmarket, NH 03857
www.chinburg.com | (603) 868-5995

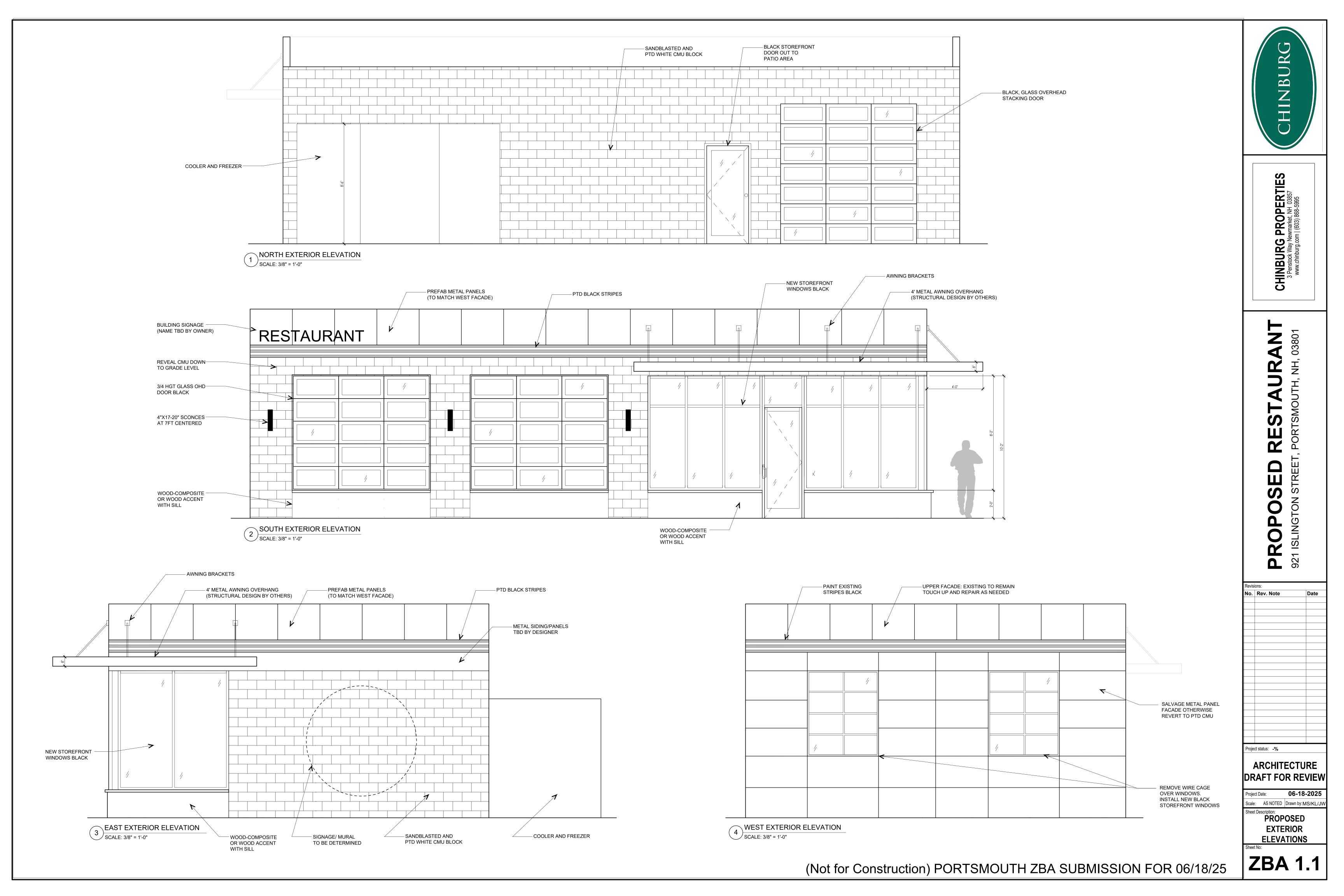
Project status: -%

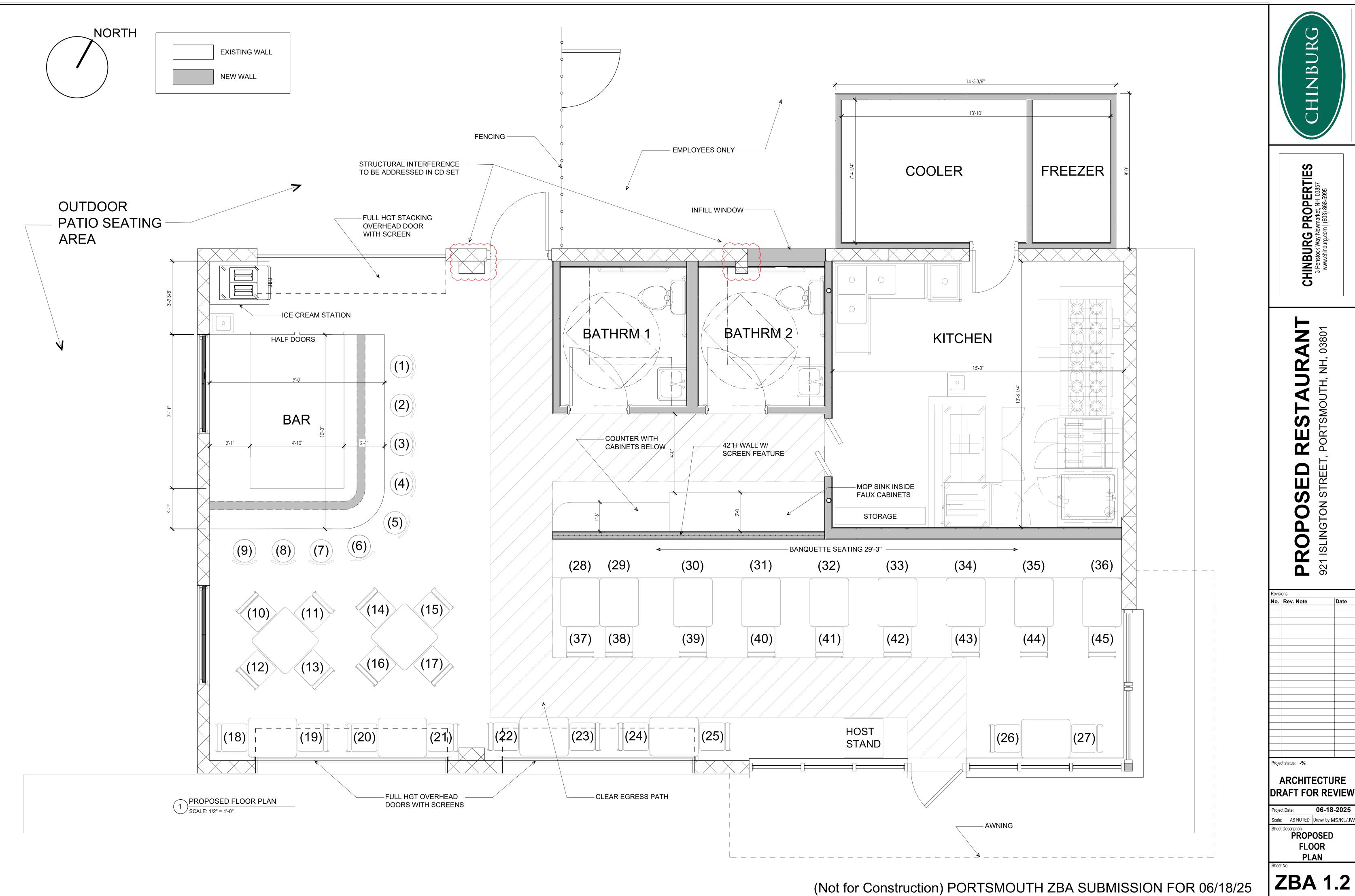
ARCHITECTURE DRAFT FOR REVIEW 06-18-2025

Sheet Description: **EXISTING**

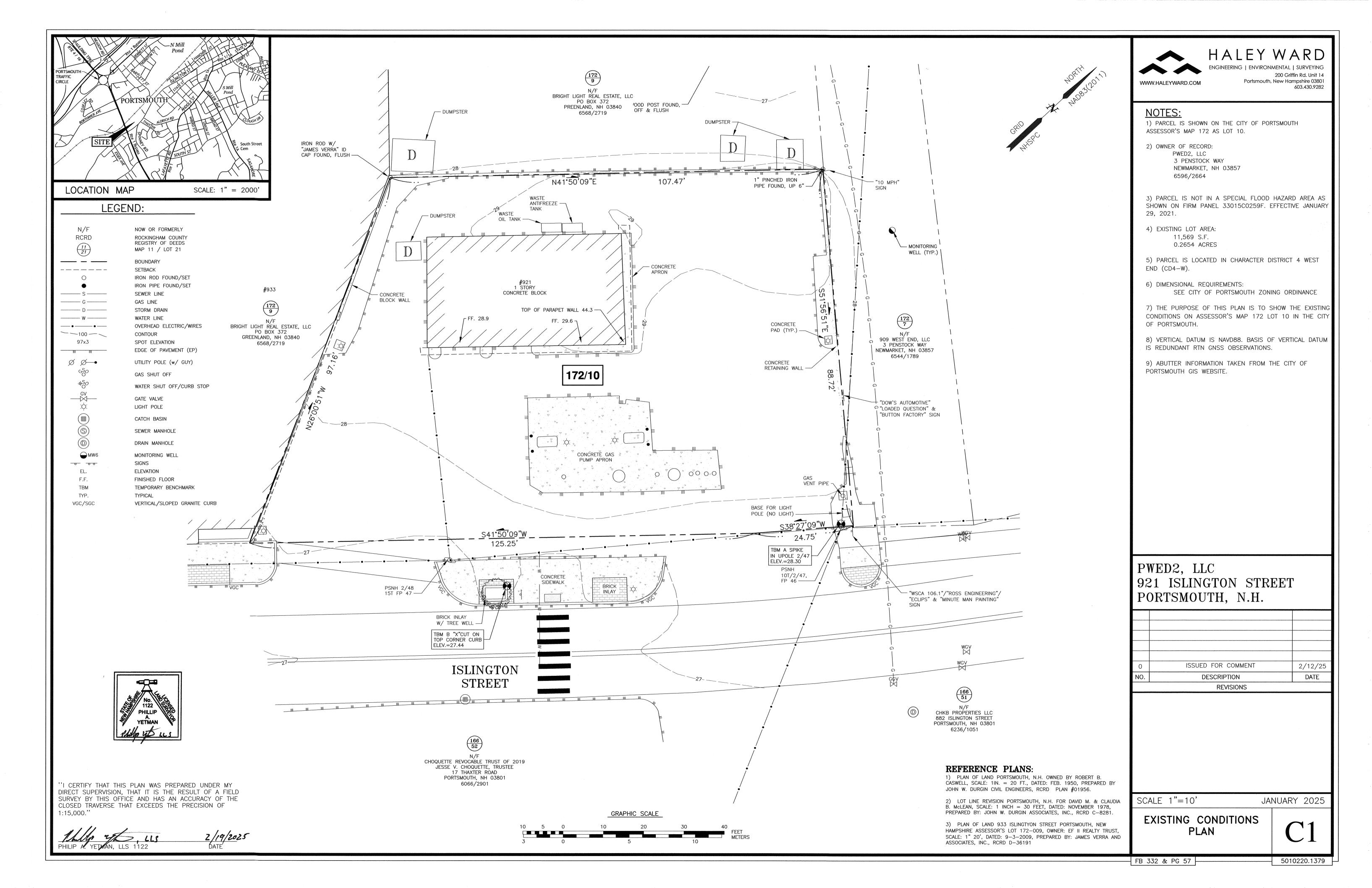
EXTERIOR ELEVATIONS

ZBA 1.0





06-18-2025







HALEY WARD

NEERING | ENVIRONMENTAL | SURVEYING 200 Griffin Rd. Unit 14 Portsmouth, New Hampshire 03801 603.430.9282

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 172 AS LOT 10.

2) OWNER OF RECORD:
PWED2, LLC
3 PENSTOCK WAY
NEWMARKET, NH 03857
6596/2664

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA: 11,569 S.F. 0.2654 ACRES

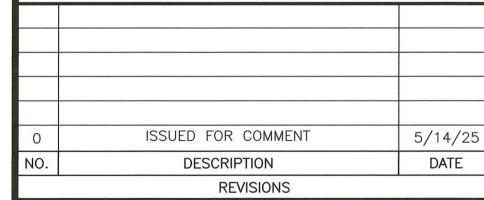
5) PARCEL IS LOCATED IN CHARACTER DISTRICT 4 WEST END (CD4-W).

6) DIMENSIONAL REQUIREMENTS:

SEE CITY OF PORTSMOUTH ZONING ORDINANCE

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE SITE AREA ON ASSESSOR'S MAP 172 LOT 10 IN THE CITY OF PORTSMOUTH.

PWED2, LLC 921 ISLINGTON STREET PORTSMOUTH, N.H.



SCALE 1"=10'

JANUARY 2025

SITE ORTHOPHOTO

S

- FB 332 & PG 57

5010220.1379

HALEY WARD **DEMOLITION NOTES** A) THE LOCATIONS OF UNDERGROUND UTILITIES ARE APPROXIMATE AND THE LOCATIONS ARE NOT GUARANTEED BY THE OWNER OR THE DESIGNER. IT IS WWW.HALEYWARD.COM THE CONTRACTORS' RESPONSIBILITY TO LOCATE UTILITIES AND ANTICIPATE CONFLICTS. CONTRACTOR SHALL REPAIR EXISTING UTILITIES DAMAGED BY BRIGHT LIGHT REAL ESTATE, LLC THEIR WORK AND RELOCATE EXISTING UTILITIES THAT ARE REQUIRED TO BE PO BOX 372 PREENLAND, NH 03840 RELOCATED PRIOR TO COMMENCING ANY WORK IN THE IMPACTED AREA OF __ DUMPSTER - "10 MPH" 6568/2719 1" PINCHED IRON PIPE FOUND, UP 6" -DUMPSTER -B) ALL MATERIALS SCHEDULED TO BE REMOVED SHALL BECOME THE PROPERTY 1) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT OF THE CONTRACTORS UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 SHALL DISPOSE OF ALL MATERIALS OFF-SITE IN ACCORDANCE WITH ALL FEDERAL, STATE, AND LOCAL REGULATIONS, ORDINANCES AND CODES. THE IRON ROD W/ HOURS PRIOR TO COMMENCING ANY EXCAVATION ON "JAMES VERRA" ID CONTRACTOR SHALL COORDINATE REMOVAL, RELOCATION, DISPOSAL, OR PUBLIC OR PRIVATE PROPERTY WITHIN 100 FEET OF CAP FOUND, FLUSH -SALVAGE OF UTILITIES WITH THE OWNER AND APPROPRIATE UTILITY COMPANY. UNDERGROUND UTILITIES. THE EXCAVATOR IS RESPONSIBLE TO MAINTAIN MARKS. DIG SAFE TICKETS EXPIRE IN THIRTY C) ANY EXISTING WORK OR PROPERTY DAMAGED OR DISRUPTED BY CONSTRUCTION / DEMOLITION ACTIVITIES SHALL BE REPLACED OR REPAIRED DAYS. WASTE TO THE ORIGINAL EXISTING CONDITIONS BY THE CONTRACTOR AT NO **ANTIFREEZE** ADDITIONAL COST TO THE OWNER. 2) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. TO BE REMOVED THE CONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING UTILITIES AND LOCATING AND PROTECTING ANY ABOVEGROUND OR CALL DIG SAFE AT LEAST 72 HOURS PRIOR TO THE COMMENCEMENT OF CONCRETE RETAINING WALL TO BE REMOVED ANY DEMOLITION/CONSTRUCTION ACTIVITIES. OIL TANK -UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF TO BE REMOVED TO BE REMOVED THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS E) SAWCUT AND REMOVE PAVEMENT ONE FOOT OFF PROPOSED EDGE OF GRAVEL TO BE REMOVED SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER PAVEMENT TRENCH IN AREAS WHERE PAVEMENT IS TO BE REMOVED. F) IT IS THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE THEMSELVES WITH - MONITORING 3) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION THE CONDITIONS OF ALL THE PERMIT APPROVALS. WELL (TYP.) \ CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION THE CONTRACTOR SHALL OBTAIN AND PAY FOR ADDITIONAL CONSTRUCTION — CONCRETE PERMITS, NOTICES AND FEES NECESSARY TO COMPLETE THE WORK AND AND SEDIMENT CONTROLS DURING CONSTRUCTION. (NHDES APRON ARRANGE FOR AND PAY FOR ANY INSPECTIONS AND APPROVALS FROM THE DECEMBER 2008). AUTHORITIES HAVING JURISDICTION. THE CONTRACTOR SHALL BE #921 1 STORY RESPONSIBLE FOR ANY ADDITIONAL AND OFF-SITE DISPOSAL OF MATERIALS CONCRETE BLOCK REQUIRED TO COMPLETE THE WORK. CONCRETE BLOCK WALL THE CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL EXISTING TOP OF PARAPET WALL 44.3 STRUCTURES, CONCRETE, UTILITIES, VEGETATION, PAVEMENT, AND CONCRETE TO BE REMOVED FF. 28.9 CONTAMINATED SOIL WITHIN THE WORK LIMITS SHOWN UNLESS SPECIFICALLY FF. 29.6 -CONCRETE BRIGHT LIGHT REAL ESTATE, LLC IDENTIFIED TO REMAIN. ANY EXISTING DOMESTIC / IRRIGATION SERVICE WELLS PAD (TYP.) -PO BOX 372 IN THE PROJECT AREA IDENTIFIED DURING THE CONSTRUCTION AND NOT GREENLAND, NH 03840 TO BE REMOVED 909 WEST END. LLC CALLED OUT ON THE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE 6568/2719 3 PENSTOCK WAY OWNER AND ENGINEER FOR PROPER CAPPING / RE-USE. NEWMARKET, NH 03857 6544/1789 ALL WORK WITHIN THE CITY OF PORTSMOUTH RIGHT OF WAY SHALL BE CONCRETE COORDINATED WITH THE CITY OF PORTSMOUTH DEPARTMENT OF PUBLIC RETAINING WALL TO BE REMOVED REMOVE TREES AND BRUSH AS REQUIRED FOR COMPLETION OF WORK. CONCRETE & ASSOCIATED CONTRACTOR SHALL GRUB AND REMOVE ALL SLUMPS WITHIN LIMITS OF TANKS TO BE REMOVED WORK AND DISPOSE OF OFF-SITE IN ACCORDANCE WITH FEDERAL, STATE, -WORK HAS BEEN COMPLETED AND LOCAL LAWS AND REGULATIONS. OVERHEAD ELECTRIC SERVICE TO BE REMOVED CONTRACTOR SHALL PROTECT ALL PROPERTY MONUMENTATION THROUGHOUT DEMOLITION AND CONSTRUCTION OPERATIONS. SHOULD ANY MONUMENTATION - "DOW'S AUTOMOTIVE" BE DISTURBED, THE CONTRACTOR SHALL EMPLOY A NH LICENSED LAND RETAINING WALL "LOADED QUESTION" & SURVEYOR TO REPLACE THEM. TO BE REMOVED "BUTTON FACTORY" SIGN TO BE RELOCATED PROVIDE INLET PROTECTION BARRIERS AT ALL CATCH BASINS WITHIN CONSTRUCTION LIMITS AND MAINTAIN FOR THE DURATION OF THE PROJECT. INLET PROTECTION BARRIERS SHALL BE HIGH FLOW SILT SACK BY ACF PUMP APRON ENVIRONMENTAL OR APPROVED EQUAL. INSPECT BARRIERS WEEKLY AND AFTER EACH RAIN OF 0.25 INCHES OR GREATER. CONTRACTOR SHALL TO BE REMOVED -COMPLETE A MAINTENANCE INSPECTION REPORT AFTER EACH INSPECTION. VENT PIPE SEDIMENT DEPOSITS SHALL BE REMOVED AFTER EACH STORM EVENT OR MORE OFTEN IF WARRANTED OR FABRIC BECOMES CLOGGED. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY CLEARING OR DEMOLITION ACTIVITIES. BASE FOR LIGHT POLE (NO LIGHT) -M) THE CONTRACTOR SHALL PAY ALL COSTS NECESSARY FOR TEMPORARY PARTITIONING, BARRICADING, FENCING, SECURITY AND SAFELY DEVICES PAVEMENT SAW CUT (TYP.) SAW CUT LINE REQUIRED FOR THE MAINTENANCE OF A CLEAN AND SAFE CONSTRUCTION - BRICK INLAY) ANY CONTAMINATED MATERIAL REMOVED DURING THE COURSE OF THE WORK W/ TREE WELL TBM A SPIKE WILL REQUIRE HANDLING IN ACCORDANCE WITH NHDES REGULATIONS. BRICK TO BE REMOVED IN UPOLE 2/47 CONTRACTOR SHALL HAVE A HEALTH AND SAFETY PLAN IN PLACE, AND ELEV.=28.30 COMPLY WITH ALL APPLICABLE PERMITS, APPROVALS, AUTHORIZATIONS, AND PROPOSED RESTAURANT 10T/2/47, FP 46 — 921 ISLINGTON STREET TINLAY "WSCA 106.1"/"ROSS ENGINEERING"/ PORTSMOUTH, N.H. "ECLIPS" & "MINUTE MAN PAINTING" TO BE RELOCATED REMOVE AND RE-USE CURE REMOVE AND RE-USE CURB TBM B "X"CUT ON TOP CORNER CURB ELEV.=27.44 ISSUED FOR COMMENT ISLINGTON **DESCRIPTION** STREET CHKB PROPERTIES LLC 882 ISLINGTON STREET PORTSMOUTH, NH 03801 6236/1051 CHOQUETTE REVOCABLE TRUST OF 2019 JESSE V. CHOQUETTE, TRUSTEE 17 THAXTER ROAD PORTSMOUTH, NH 03801 6066/2901 SCALE 1"=10" GRAPHIC SCALE **DEMOLITION**

REVISIONS

FB 332 & PG 57

PLAN

5010220.1379

JANUARY 2025

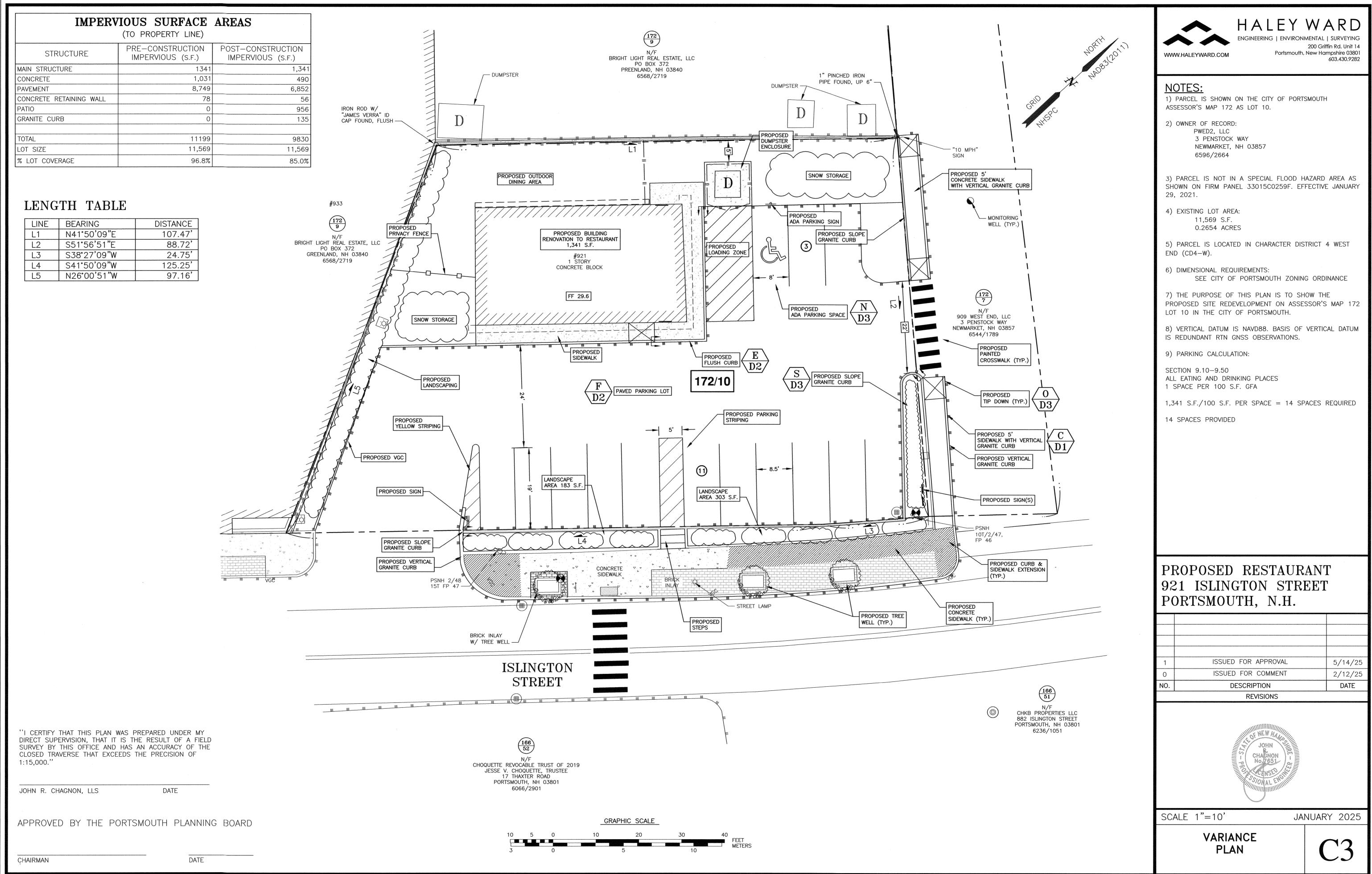
5/14/25

DATE

200 Griffin Rd. Unit 14

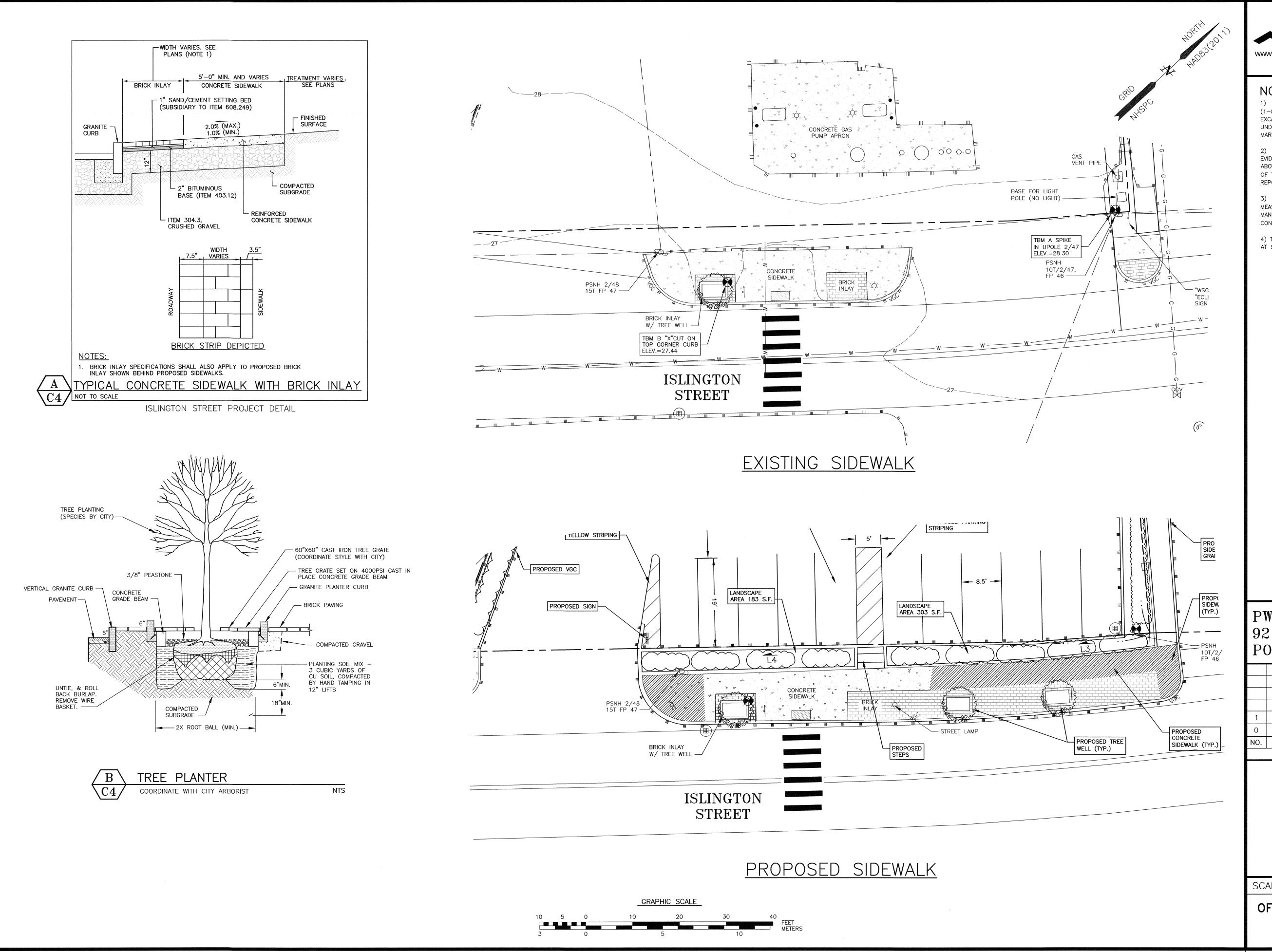
603.430.9282

Portsmouth, New Hampshire 03801



FB 332 & PG 57

5010220.1379



WWW.HALEYWARD.COM

HALEY WARD

GINEERING | ENVIRONMENTAL | SURVEYING
200 Griffin Rd. Unit 14
Portsmouth, New Hampshire 03801
603.430.9282

NOTES:

1) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY WITHIN 100 FEET OF UNDERGROUND UTILITIES. THE EXCAVATOR IS RESPONSIBLE TO MAINTAIN MARKS. DIG SAFE TICKETS EXPIRE IN THIRTY DAYS.

2) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.

3) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION. (NHDES DECEMBER 2008).

4) THE PURPOSE OF THIS PLAN IS TO SHOW THE OFFSITE IMPROVEMENTS AT 921 ISLINGTON STREET.

PWED2, LLC 921 ISLINGTON STREET PORTSMOUTH, N.H.

1 ISSUED FOR APPROVAL 5/14/25
0 ISSUED FOR COMMENT 2/12/25
NO. DESCRIPTION DATE
REVISIONS



SCALE 1"=10'

JANUARY 2025

OFFSITE IMPROVMENTS PLAN

C4

FB 332 & PG 57

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