

909 Islington Street
Portsmouth, NH 03801

Ross Engineering, LLC
Civil / Structural Engineering

603-433-7560
alexross@comcast.net

15 Middle Street
Project Description



We are requesting a Technical Advisory Work Session for March 15, 2024. Site Review is required for the proposed third floor apartments at this address.

Attached to the Site Review application is the following:

- Letter from Attorney Derek Durbin outlining project and City of Portsmouth regulations that apply, and project background, with Exhibits.
- Floor Plans by JSN Associates, LLC dated December 1, 2023.
- Site Plans by Ross Engineering, LLC dated March 5, 2024.
- Agreement with City of Portsmouth, dated November 6, 2020.

Thank you. Sincerely,

Alex Ross, P.E.

March 4, 2024

City of Portsmouth
Attn: Peter Stith, Planner
Planning Board
1 Junkins Avenue
Portsmouth, NH 03801

RE: 3 Proposed Apartment Units (Third Floor)
Owner: 15 Middle Street Real Estate Holding Co., LLC
Property: 15 Middle Street, Portsmouth, Tax Map 126, Lot 12

Dear Peter,

This office represents 15 Middle Street Real Estate Holding Co., LLC, owner of the property located at 15 Middle Street, Portsmouth (the “Property”). This letter is meant to accompany the site plan review application and plan set being submitted by Ross Engineering, Inc. for the Property. Given the unique circumstances surrounding the property, I thought it would be helpful to provide a background behind the current request for site plan approval.

A portion of the first floor and the entire second floor consist of Hotel Thaxter, a 15-room Inn. The other portion of the first floor that is not occupied by Hotel Thaxter is occupied by the Restaurant, Nichinan. The third floor of the building is not presently utilized but is partially finished. In 2020, the determination was made by the City Planning Department that the construction of the Inn and Restaurant on the first two floors of the building was exempt from site plan review under Section 1.2.2 of the Site Plan Review Regulations because there was no increase in building height or gross floor area proposed. In addition, because the Property is located within the Downtown Overlay District, the Inn and Restaurant uses were exempt from the parking standards set forth in Section 10.1115.21 of the Zoning Ordinance.

A building permit (BLDG-20-184) was issued for the build-out of the first two floors of the building, and to allow for the partial finishing of the third floor so that it could be used for accessory purposes to the Restaurant and Inn. **Exhibit A**. Subsequent occupancy permits were issued by the City thereafter. **Exhibits B and C**. It was acknowledged at the time that all relevant permits were applied for the initial construction that the intent was to finish off and construct three (3) separate dwelling units on the third floor of the building. However, due to the structure of the construction financing, and for other reasons, the owner was unable to construct the 3 apartments at the same time as the Inn and Restaurant. As a result, an agreement was entered into between the City and the Owner of the property acknowledging that the future construction of the apartments would trigger site plan review. Accordingly, the Owner is submitting the foregoing site plan review application to approve the 3-unit use of the third floor.

The building on the Property has already been fully renovated, inspected and approved by the City. The framing, electrical, insulation and related improvements to the third floor are complete. However, the third-floor apartments cannot be finished and used as living space until the City grants site plan approval and those units are inspected in compliance therewith, hence the request for approval. Per Section 10.1112.311 of the Zoning Ordinance, 3.9 parking spaces are required for the apartment units since they are all under 1,500 square feet. This is offset, however, by the 4 parking space credit that applies in the Downtown Overlay District under Section 10.1115.23 of the Ordinance. Therefore, no parking spaces are required for the proposed use of the third floor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Derek R. Durbin". The signature is fluid and cursive, with a large initial "D" and "R".

Derek R. Durbin, Esq.
derek@durbinlawoffices.com



City of Portsmouth Building Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
BLDG-20-184
Date of Issue:
November 19, 2020
Expires:
November 19, 2021
Const. Cost:
\$790000

Owner: 15 Middle St. Real Estate Holding Co., LLC.
Applicant: Brendan McNamara
Contractor: Mike Hooroutunian, Kelsey Mills Construction **Phone #:** 603 717 1518
Location: 15 MIDDLE ST

Description of Work: Adaptive re-use, conversion of Existing Salvation Army Church to (15) Room Inn and Restaurant. No increase in gross floor area. Submitted plans include future 3rd Floor Residential Units for purposes of appropriate structural and mechanical provisions but this future development is not part of this submission and will be removed from final plans, or when deemed appropriate.

Map/Lot: 0126--0012--0000-

Design Occupancy Load:

Total # of Dwelling Units:

Use Group: Commercial Remodel - no addition

Constr. Type: Type V-B

Bldg. Code: IBC **Edition:** 2015

Remarks:

- Separate electrical, plumbing and mechanical permits required.
Construction per HDC approval/conditions of approval must be followed. Affidavit may be required from designer outlining compliance with HDC approval. Compliance Inspection and signoff required prior to permit closure. Contact Vincent Hayes for compliance inspection 603-427-9022
* Building Permit fee paid is based on applicant's estimated cost of construction. A final cost affidavit, confirming actual cost of construction including any/all change order work, signed by the owner or RDP must be submitted to the Building Official prior to the issuance of a Certificate of Occupancy (CO) Permit fee to be revised accordingly.
- *Attic to remain as unoccupied space.
*Revised drawings including basement floor plan and first floor separation details and notes as discussed during 11/18 ZOOM meeting between RDP and city Building Official, Fire Prevention, to be submitted within 7 days of application approval.
*All penetrations through Listed Assemblies to be properly firestopped and inspected by Building Official prior to covering.

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project. The CONTRACTOR shall be responsible for notifying the Inspection Department 48 hours in advance, for FOUNDATION, FRAMING, and FINAL inspections. A Certificate of Occupancy is required for all Building Permits. Buildings shall not be occupied until ALL inspections (BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, and FIRE) are complete and Occupancy has been issued. By signing this permit, the owner or his/her representative (Permit Holder), authorizes property access by city officials to conduct interior and exterior inspections and property tax assessments during and/or after the construction process.

The Permit Card Shall Be Posted and Visible From the Street During Construction.

Code Official:

This is an e-permit. To learn more, scan this barcode or

visit portsmouthnh.viewpointcloud.com/#/records/45727



City of Portsmouth
Certificate of Occupancy

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
BLDG-20-184
Date of Issue:
January 9, 2023
Expires:
Const. Cost:
\$790,000

Owner: 15 Middle St. Real Estate Holding Co., LLC.
Applicant: Brendan McNamara
Contractor: Mike Hooroutunian, Kelsey Mills Construction **Phone #:** 603 717 1518
Location: 15 MIDDLE ST

Description of Work: Adaptive re-use, conversion of Existing Salvation Army Church to (15) Room Inn and Restaurant. No increase in gross floor area. Submitted plans include future 3rd Floor Residential Units for purposes of appropriate structural and mechanical provisions but this future development is not part of this submission and will be removed from final plans, or when deemed appropriate.

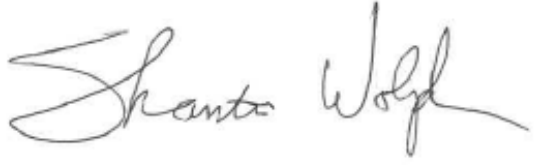
Map/Lot: 0126--0012--0000-
Design Occupancy Load: 142
Total # New Dwelling Units:
Use Group: Commercial Remodel - no
addition

Min Constr. Type: Type V-B
Bldg. Code: IBC **Edition:** 2015
Fire Sprinkler Required: true
Fire Alarm System Required: true

Limiting Conditions:

•

•
Code Official:
Code Official:

A handwritten signature in black ink that reads "Shanta Wolf". The signature is written in a cursive style with a large initial "S" and a long horizontal stroke at the end.

Date of Issue: January 9, 2023



City of Portsmouth Certificate of Occupancy

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
BLDG-20-184
Date of Issue:
December 13, 2022
Expires:
Const. Cost:
\$790,000

Owner: 15 Middle St. Real Estate Holding Co., LLC.
Applicant: Brendan McNamara
Contractor: Mike Hooroutunian, Kelsey Mills Construction **Phone #:** 603 717 1518
Location: 15 MIDDLE ST

Description of Work: Adaptive re-use, conversion of Existing Salvation Army Church to (15) Room Inn and Restaurant. No increase in gross floor area. Submitted plans include future 3rd Floor Residential Units for purposes of appropriate structural and mechanical provisions but this future development is not part of this submission and will be removed from final plans, or when deemed appropriate.

Map/Lot: 0126--0012--0000-

Design Occupancy Load: 142

Total # Dwelling Units:

Use Group: Commercial Remodel - no addition

Min Constr. Type: Type V-B

Bldg. Code: IBC **Edition:** 2015

Fire Sprinkler Required: true

Fire Alarm System Required: true

Limiting Conditions:

-
- **This Certificate does not include occupancy of Guest Room #1:**

Room # 1 is designated as an Accessible type guest room. There are several components of the toilet and bathing room that are not meeting the minimum requirements of the building code and of the accessibility code. The grab bars are an issue as well as the requirement for the toilet to be located with a wall or partition to the rear and to one side (604.2 Location). Understanding that correcting these issues will take additional time and resources, the City will issue the Occupancy Permit for the restaurant and the remaining guest rooms. The Building Permit will remain open for the "Accessible" room. In the meantime, should a guest require a room designated as "Accessible" the owner would need to make alternative but equal accommodations to the guest. I.e. an alternative hotel of equal caliber.

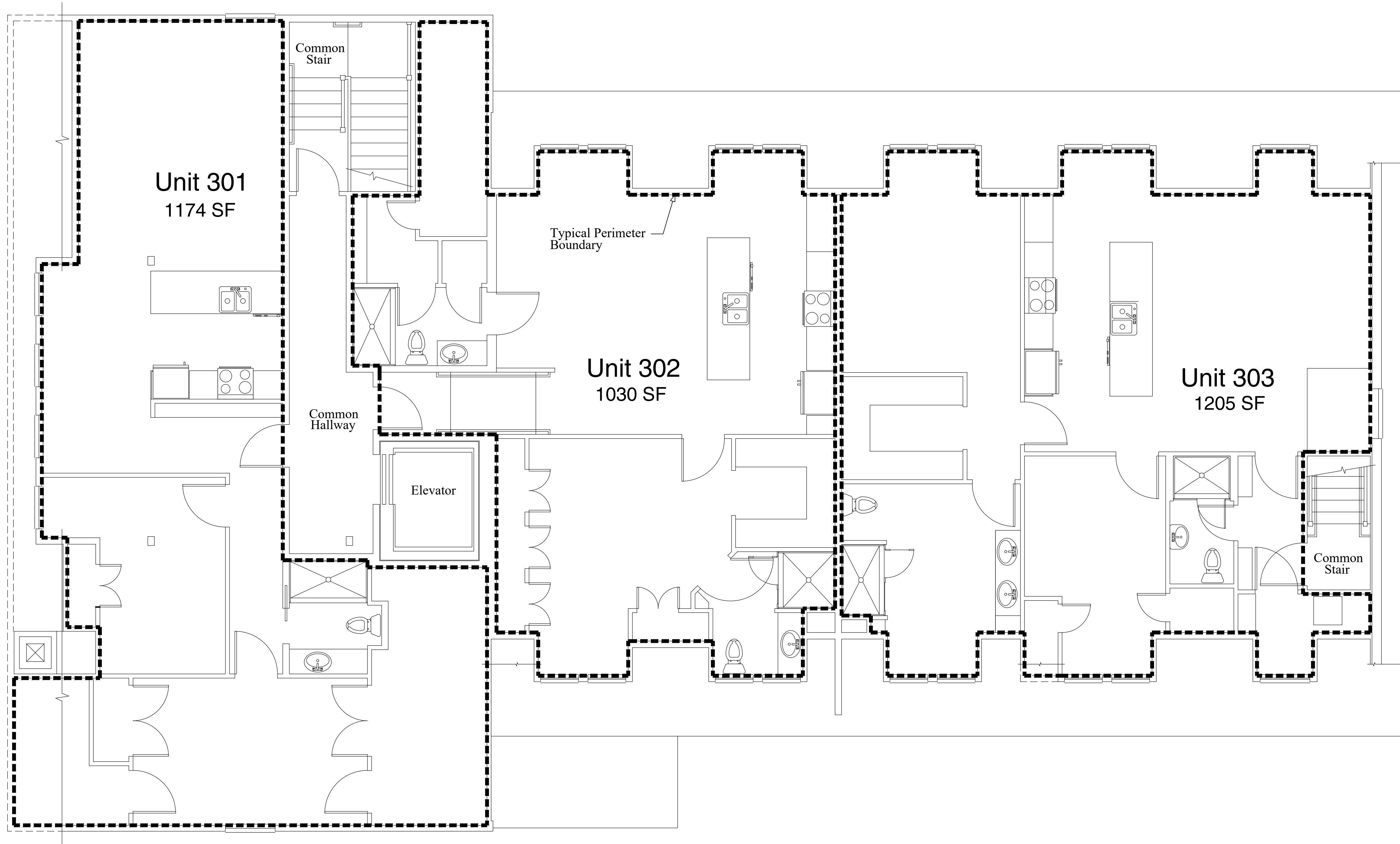
Code Official:

Code Official:

Date of Issue: December 13, 2022

Client:
 Jay McSharry

Hotel Thaxter
 15 Middle Street
 Portsmouth, NH



Attic Floor Plan

No scale

Note: The perimeter of each unit is taken at inside face of exterior wall stud or demising wall stud, discounting exterior wall thickness, demising wall thickness and common areas such as stairways and hallways.

Date: 12-01-2023
 Scale: As Noted
 Design By: RB
 Approved By: -

Revisions

Attic Floor Plan

Site Review Drawings

15 Middle Street

Portsmouth, New Hampshire

LIST OF PROJECT PLANS AND DOCUMENTS:

SITE PLAN SET

Site Plan 1"=20'
Site Plan 1"=10'

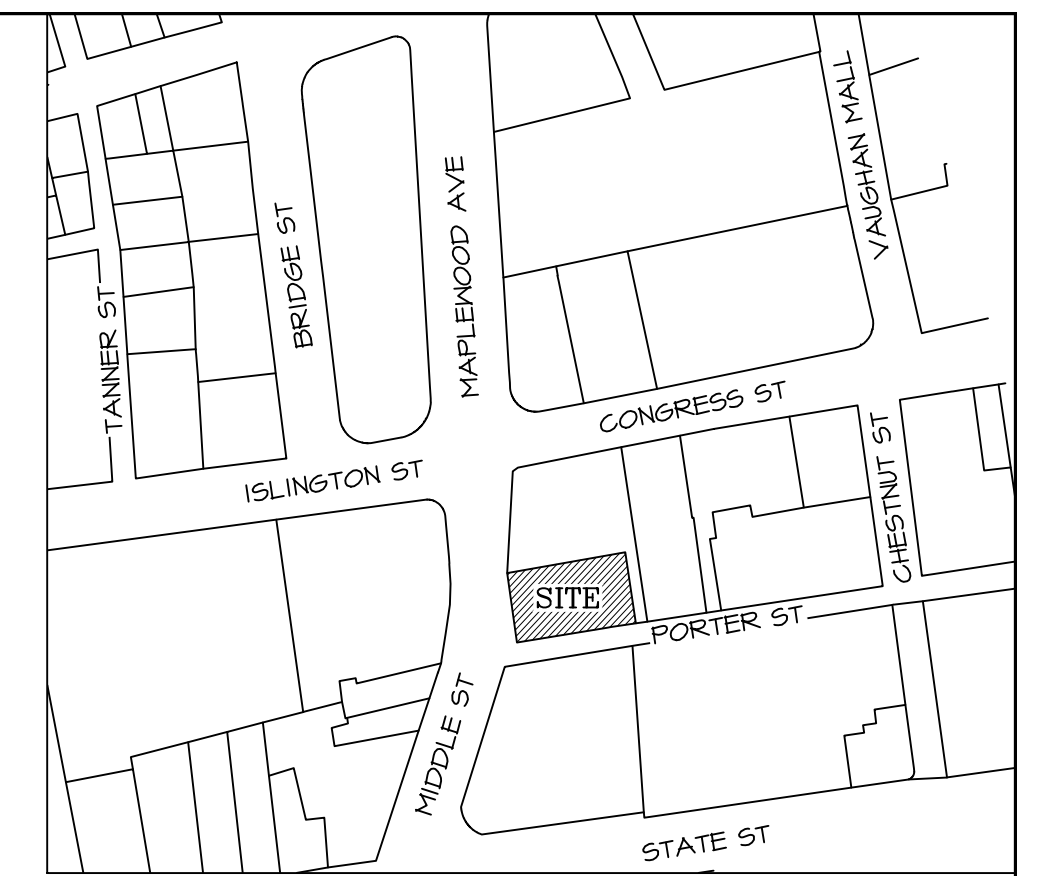
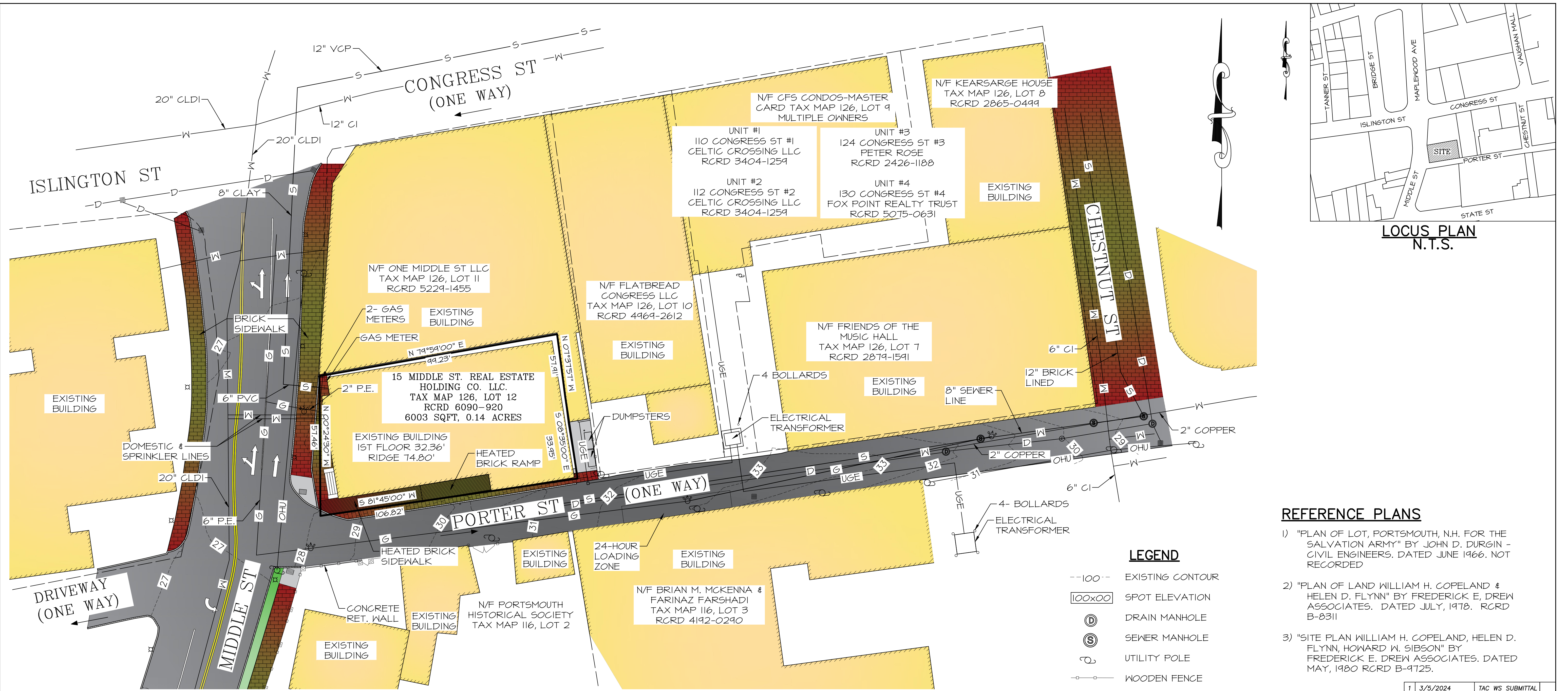
PREPARED BY:

ROSS ENGINEERING

Civil/Structural Engineering
& Surveying

909 Islington St.
Portsmouth, NH 03801
(603) 433-7560

March 5, 2024



LOCUS PLAN
N.T.S.

NOTES

- 1) OWNER OF RECORD:
SALVATION ARMY
TAX MAP 126, LOT 12
120-130 WEST 14TH ST
NEW YORK, NEW YORK 10011
RCRD: 1824-0567
AREA: 6,003 SF, 0.14 ACRES
- 2) BASIS OF BEARING HELD FROM PLAN REFERENCE #2.
- 3) PARCEL IS IN CIVIC CHARACTER DISTRICT 4 (CD4), DOWNTOWN OVERLAY DISTRICT AND HISTORIC DISTRICT:
SETBACKS:
FRONT.....0 FT
SIDE.....0 FT
REAR.....0 FT
- 4) THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #33015C0259E, PANEL 251 OF 681, DATED MAY 17, 2005.
- 5) A DETERMINATION WAS MADE IN 2020 BY THE CITY PLANNING DEPARTMENT THAT THE CONSTRUCTION OF THE INN AND RESTAURANT ON THE FIRST TWO FLOORS WAS EXEMPT FROM SITE PLAN REVIEW UNDER SECTION 1.2.2 OF THE SITE PLAN REVIEW REGULATIONS DUE TO THERE BEING NO INCREASE IN BUILDING HEIGHT OR GROSS FLOOR AREA PROPOSED. THE PROPERTY IS LOCATED IN THE DOWNTOWN OVERLAY DISTRICT AND IT WAS ALSO DETERMINED THAT THE INN AND RESTAURANT WERE EXEMPT FROM PARKING REQUIREMENTS IN THE SECTION 10.1115.21 OF THE ZONING ORDINANCE.
- 6) APARTMENTS ON THE 3RD FLOOR WERE PARTIALLY COMPLETED DURING THE CONSTRUCTION OF THE FIRST TWO FLOORS. AN AGREEMENT WAS ENTERED INTO BETWEEN THE CITY AND THE OWNER ACKNOWLEDGING THAT FUTURE CONSTRUCTION OF THE APARTMENTS ON THE 3RD FLOOR WOULD REQUIRE SITE PLAN REVIEW. THIS SITE PLAN REVIEW IS A RESULT OF THAT AGREEMENT. APPROVAL TO FINISH THE CONSTRUCTION OF THE APARTMENTS AND USE THEM AS LIVING SPACE IS REQUESTED.

- 7) PARKING REQUIREMENTS
PZO 10.1112.311 - DWELLING UNIT FLOOR AREA OVER 750 SF = 1.3 PARKING SPACES PER UNIT

1ST & 2ND FLOOR ARE EXEMPT FROM PARKING REQUIREMENTS AS PER SITE PLAN REVIEW IN 2020
3RD FLOOR APARTMENTS = 3 UNITS

3 UNITS x 1.3 SPACES PER UNIT = 3.9 SPACES REQUIRED

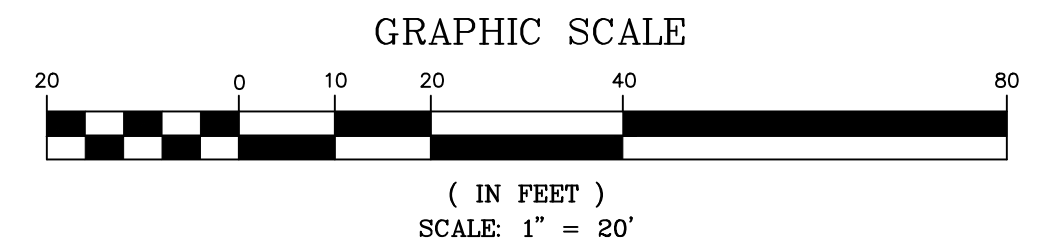
AS PER SECTION 10.1115.23 OF THE PORTSMOUTH ZONING ORDINANCE, ANY LOT IN THE DOWNTOWN OVERLAY DISTRICT THAT WOULD BE REQUIRED TO PROVIDE 4 OR FEWER OFF-STREET PARKING SPACES SHALL NOT BE REQUIRED TO PROVIDE ANY SPACES.

LEGEND

- 100-- EXISTING CONTOUR
- 100x00 SPOT ELEVATION
- ⊙ DRAIN MANHOLE
- ⊙ SEWER MANHOLE
- ⊙ UTILITY POLE
- WOODEN FENCE
- VERTICAL GRANITE CURB
- CATCH BASIN
- ⊕ WATER SHUT-OFF
- ⊕ GAS VALVE
- ⊙ LAMP POST
- ⊙ CLEANOUT

REFERENCE PLANS

- 1) "PLAN OF LOT, PORTSMOUTH, N.H. FOR THE SALVATION ARMY" BY JOHN D. DURGIN - CIVIL ENGINEERS. DATED JUNE 1966. NOT RECORDED
- 2) "PLAN OF LAND WILLIAM H. COPELAND & HELEN D. FLYNN" BY FREDERICK E. DREW ASSOCIATES. DATED JULY, 1978. RCRD B-8311
- 3) "SITE PLAN WILLIAM H. COPELAND, HELEN D. FLYNN, HOWARD W. SIBSON" BY FREDERICK E. DREW ASSOCIATES. DATED MAY, 1980 RCRD B-9125.



1	3/5/2024	TAC WS SUBMITTAL
ISS.	DATE	DESCRIPTION OF ISSUE
SCALE 1" = 20'		
CHECKED	A.ROSS	
DRAWN	D.D.D.	
CHECKED		
ROSS ENGINEERING Civil/Structural Engineering & Surveying 909 Islington St. Portsmouth, NH 03801 (603) 433-7560		
CLIENT JAMES MCSHARRY 58 PLEASANT POINT RD PORTSMOUTH, NH 03801		
SITE PLAN 15 MIDDLE ST PORTSMOUTH, NH 03801 TAX MAP 126, LOT 12		
JOB NUMBER	DWG. NO.	ISSUE
19-001	1 OF 2	1

AGREEMENT

15 Middle Street Real Estate Holding Company, LLC, a Limited Liability organized under the laws of the State of New Hampshire, with a principal place of business of 1 Middle Street, STE 1, Portsmouth, New Hampshire 03801 (“Grantor”) and the **City of Portsmouth**, a municipal corporation organized under the laws of New Hampshire, having a place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 (“Grantee”), hereby enter into the following agreement pertaining to certain real property located at 15 Middle Street, City of Portsmouth, County of Rockingham, and State of New Hampshire.

WHEREAS, Grantor is the owner of real property located at 15 Middle Street, Portsmouth, New Hampshire 03801 (the “Property”), by Warranty Deed of the Salvation Army, dated March 3, 2020, and recorded in the Rockingham County Registry of Deeds at Book 6090, Page 920; and

WHEREAS, Grantor is renovating the existing building on the Property to include a fifteen (15) room inn with restaurant space on the first and second floors of the building; and

WHEREAS, the third floor of the building is currently unused attic space; and

WHEREAS, Grantor desires to partially finish the third floor attic space for the purpose of adding dormers, a sprinkler system and insulation so that it may accommodate up to three (3) dwelling units in the future; and

WHEREAS, the Grantor does not intend to finish off or use the third floor attic space; and

WHEREAS, the third floor attic space will remain accessory to the inn/restaurant use of the building on the Property and not be used as living space unless and until all appropriate approvals have been granted by the City of Portsmouth; and

WHEREAS, pursuant to Section 1.2.2(a) of the Portsmouth Site Plan Review Regulations, adopted on December 17, 2009, as amended on September 15, 2016, so long as “there is no increase in building height or gross floor area”, the renovation work proposed by the Grantor is exempt from Site Plan review by the Portsmouth Planning Board; and

WHEREAS, the term “gross floor area” is defined by Section 10.5130 of the Portsmouth

Zoning Ordinance, adopted on December 21, 2009, as amended on December 16, 2019, as follows: "the sum of the areas of the several floors of a building or buildings as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and attics exclusively devoted to uses accessory to the operation of the building. If the exterior walls are greater than 6 inches thick, then the gross floor area shall be adjusted to a maximum of a 6-inch thick wall"; and

WHEREAS, Grantor acknowledges and understands that it must obtain Site Plan approval from the Portsmouth Planning Board before the third floor attic space is finished off and occupied for any purpose that is not accessory to the primary use of the building as an inn/restaurant space, failing which the Grantor will be in violation of the City's Site Plan Review Regulations and subject to enforcement action, including revocation of the Grantor's occupancy permit and/or restoration of any improvements made to the building in derogation of the City's ordinances in addition to potential civil penalties, costs and attorney fees; and

WHEREAS, the City of Portsmouth is relying on the Grantor's representations above in allowing it to proceed with its current renovation plans without Site Plan Review from the Portsmouth Planning Board; and

WHEREAS, said renovation plans are contained in a Plan Set prepared by JSN Associates LLC on file with the City of Portsmouth Planning Department entitled, "Conversion of Salvation Army Building to 15 Room Inn 5 Middle Street, Portsmouth, NH, dated 8/26/2020

NOW THEREFORE, in consideration for the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The representations made by the Grantor above are hereby incorporated by reference as if fully stated herein.

2. The Grantor may proceed with its renovation plans for the third floor of the building on the Property so long as it does not allow said space to be utilized for any purpose that would *not* be considered accessory to the primary use of the remainder of the building as inn/restaurant space in the absence of having obtained the required approvals, failing which the Grantor shall be in violation of the Portsmouth Site Plan Review Regulations.

3. This Agreement shall be binding upon and inure to the benefit of the Grantor and Grantee and their heirs, successors and assigns.

Executed this 6th day of November 2020.

15 Middle Street Real Estate Holding Company, LLC

By:


Name: James McSharry, Member

Duly Authorized

COUNTY OF ROCKINGHAM

The above-named James McSharry, personally appeared before me this 6th day of November 2020 in his capacity as a member of 15 Middle Street Real Estate Holding Company, LLC, duly authorized to execute this instrument, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of 15 Middle Street Real Estate Holding Company LLC.



[Handwritten Signature]

Notary Public/Justice of the Peace: _____

My Commission Expires: 5/20/25

Executed this 6th day of November 2020.

City of Portsmouth

By:

[Handwritten Signature: Juliet Walker]

Name: Juliet Walker, Planning Director

Duly Authorized

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

The above-named Juliet Walker, personally appeared before me this 6th day of November 2020 in her capacity as Planning Director of the City of Portsmouth, duly authorized to execute this instrument, and acknowledged the foregoing to be her free act and deed in her said capacity and the free act and deed of the City of Portsmouth.

Notary Public/Justice of the Peace: _____

My Commission Expires: _____