

**Ross Engineering, LLC**  
**Civil / Structural Engineering**

909 Islington Street  
Portsmouth, NH 03801

603-433-7560  
alexross@comcast.net

**15 Middle Street**  
**Project Description**



We are requesting site plan approval for the proposed third floor apartments at 15 Middle Street.

This structure was built in 1865 as a church, and was The Salvation Army since 1966. It has recently been renovated to house The Hotel Thaxter, and the restaurant Nichinan. As part of the city agreement of 2020, site review approval is required for the final phase of this project to allow third floor apartments. We have attended a TAC work-session and meeting, and have included the three items listed on TAC's conditions of approval. No site improvements are proposed.

Thank you. Sincerely,

Alex Ross, P.E.

**15 Middle St**  
**Description of Sustainable Green Practices**  
**For the final phase (interior fit out of (3) Attic Apartments) of the adaptive re-use of the Historic Building (Church)**

- The most significant “sustainable” practice associated with this project is it’s preservation and adaptive re-use of the underutilized 1865 Church Building to a (15) Room Inn, Restaurant and Apartments (this phase). The elements of this approach are already in place as part of the first phase of this remodel/restoration.
- The highest standard of insulation has been employed to maximize energy efficiency and minimize the energy requirements, while preserving and structurally supporting the original elements of the building. This has been achieved using closed cell polyurethane foam within the wall and roof cavities. The quality of the Thermal Enclosure will be assured through the use of High-Performance Windows (Green Mountain Windows, Milestone Series), Quality Installed Insulation (Closed Cell spray foam), Fully-Aligned Air Barriers (spray foam) and Air Sealing (spray foam and thorough caulking).
- HVAC efficiencies will be achieved using Air Source Heat Pumps (Mitsubishi Multizone Ductless Hyper Heat Pumps). Heat Recovery Ventilation systems will be installed to each unit.
- LED energy efficient lighting will be used throughout.
- Water saving appliances will be used where possible, i.e., Front Loading Washers.

## **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 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> day of November \_\_\_ 2020.

City of Portsmouth

By: *[Handwritten Signature]*

Name: Juliet Walker, Planning Director

Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

The above-named Juliet Walker, personally appeared before me this 6<sup>th</sup> 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: \_\_\_\_\_

**Ross Engineering**  
**Civil/Structural Engineering & Surveying**

909 Islington Street  
Portsmouth, NH 03801

603-433-7560  
alexross@comcast.net

April 23, 2024

City of Portsmouth Planning Department  
1 Jenkins Avenue  
Portsmouth, NH 03801

**Waiver Request Letter**

Re: 15 Middle St  
Tax Map 126, Lot 12  
Portsmouth, NH

Dear chairman and Board Members:

We are requesting waivers to the Site Plan Review Regulations listed below, due to the fact that there is no proposed site work in this application.

**1) 2.5.3.1B Green Building Components:**

There is no proposed site work or proposed building. 3<sup>rd</sup> Floor apartments have been started, and as per agreement with the city, this request is to finish construction of the apartments and to get a certificate of occupancy.

**2) 2.5.4.3 (J-M)**

There is no site work proposed in this application. Lighting, landscaping, elevations, and open space will remain the same.

**3) 2.12 Site Plan Review Agreement**

A waiver is requested for site review agreement and associated surety. There is no site work proposed in this application.

**4) 3.2.1-1 Traffic Impact Study:**

There is no site work proposed in this application.

**5) 7.1 Low Impact Development Design:**

There is no site work proposed in this application.

**6) 7.4 Stormwater Management and Erosion Control Plan:**

There is no site work proposed in this application.

**7) 7.6. Post-Construction Stormwater Management Design Standards:**

There is no site work proposed in this application.

**8) 10.1 Dark Sky Outdoor Lighting:**

There is no site work proposed in this application.

Thank you for your consideration of this matter.

Sincerely,  
Alex Ross, P.E., LLS

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](mailto:derek@durbinlawoffices.com)

# Site Review

## 15 Middle Street

### Portsmouth, New Hampshire

LIST OF PROJECT PLANS AND DOCUMENTS:

SITE PLAN SET

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

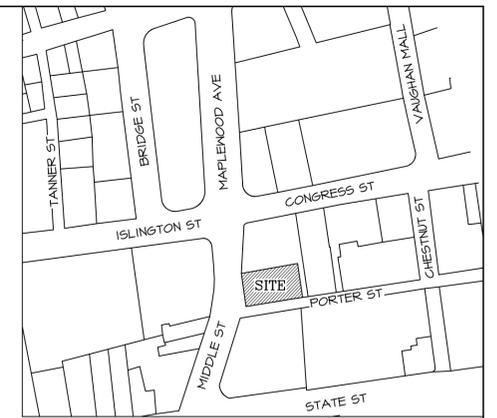
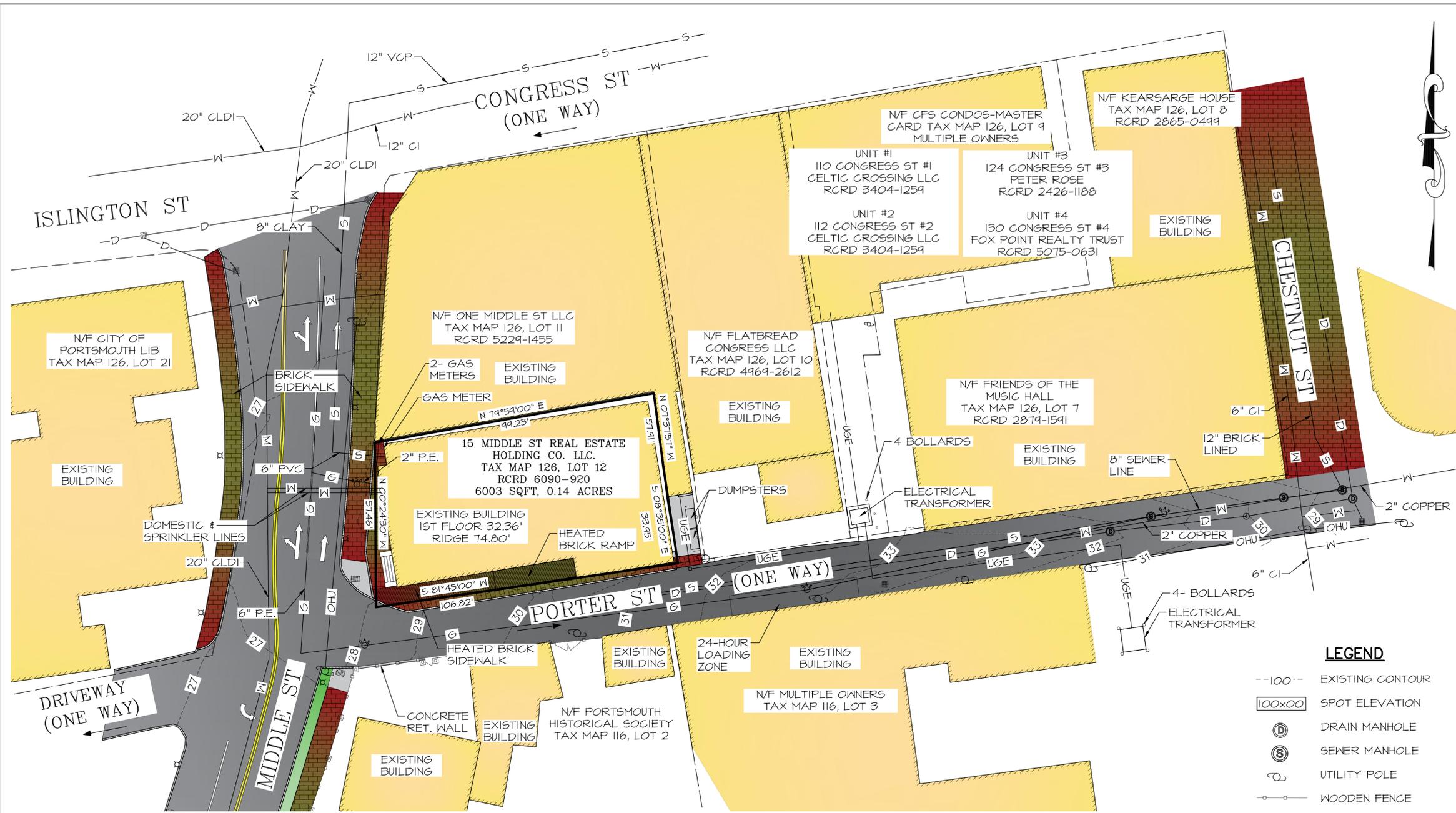
PREPARED BY:

ROSS ENGINEERING

Civil/Structural Engineering  
& Surveying

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

April 23, 2024



**LOCUS PLAN**  
N.T.S.

**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.
- 4) "UTILITY EASEMENT PLAN FOR ONE MIDDLE ST, L.L.C. & 15 MIDDLE ST REAL ESTATE HOLDING COMPANY, LLC - 150 CONGRESS ST & 15 MIDDLE ST" BY ROSS ENGINEERING. DATED DECEMBER 26, 2022. RCRD D-43709

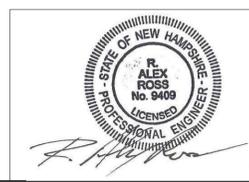
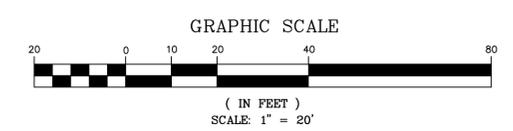
**LEGEND**

- 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

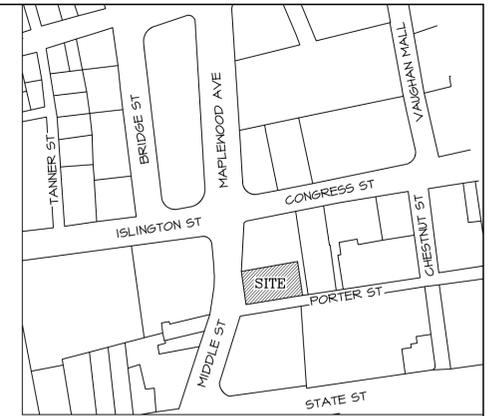
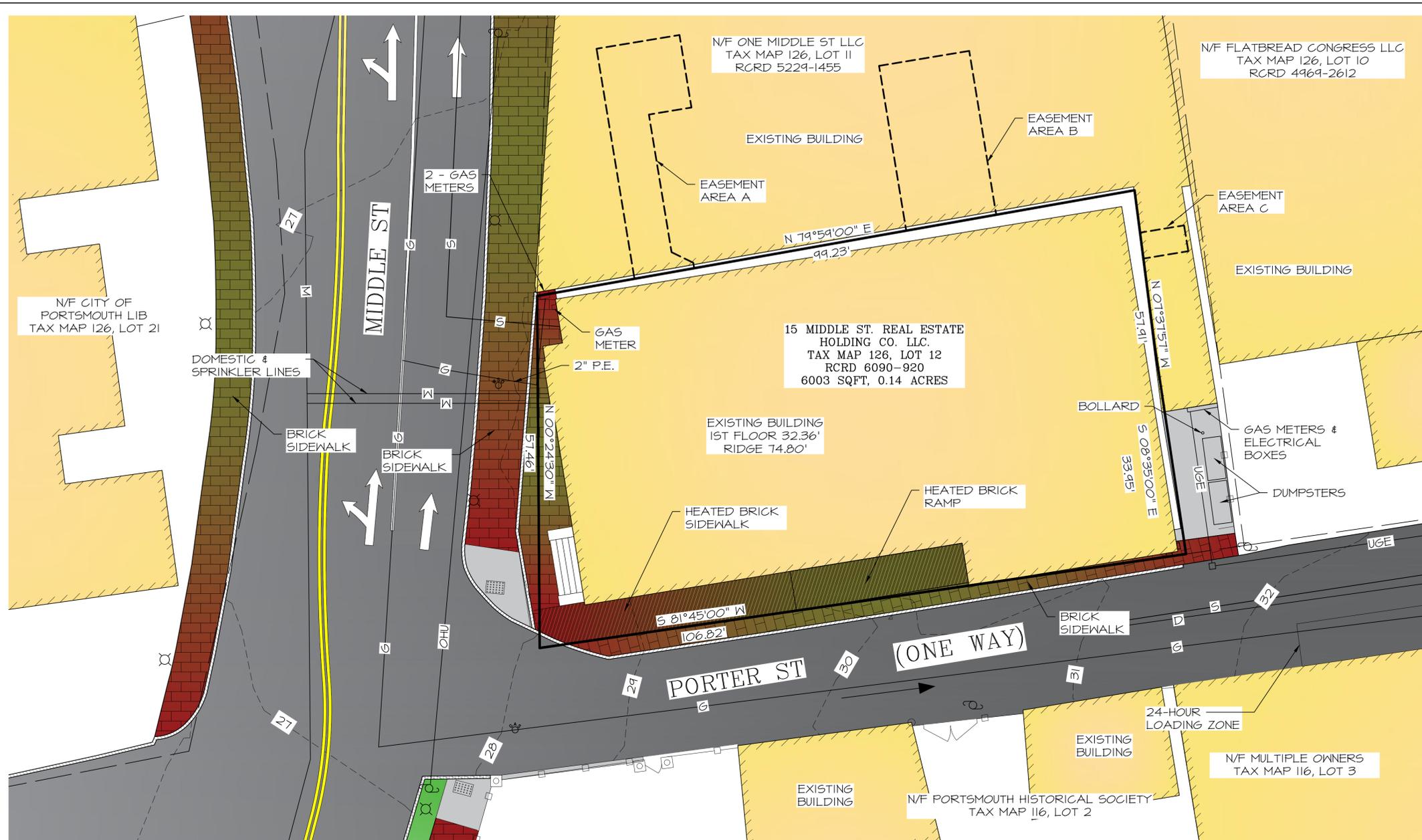
**NOTES**

- 1) OWNER OF RECORD:  
15 MIDDLE ST REAL ESTATE HOLDING CO LLC  
TAX MAP 126, LOT 12  
ONE MIDDLE ST SUITE 1  
PORTSMOUTH, NH 03801  
RCRD: 6090-920  
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 #33015C0259F, PANEL 251 OF 681, DATED JANUARY 29, 2021.
- 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 10.115.21 OF THE ZONING 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 10.115.21 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 10.112.311 - 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 10.115.23 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.
- 8) ALL NECESSARY BUILDING PERMITS MUST BE OBTAINED PRIOR TO THE COMPLETION OF THE 3RD FLOOR APARTMENTS.



3	4/23/2024	PB SUBMITTAL	
2	3/18/2024	TAC SUBMITTAL	
1	3/5/2024	TAC WS SUBMITTAL	
ISS.	DATE	DESCRIPTION OF ISSUE	
SCALE 1" = 20'			
CHECKED A.ROSS			
DRAWN D.D.D.			
CHECKED			
<b>ROSS ENGINEERING</b> Civil/Structural Engineering & Surveying 909 Islington St Portsmouth, NH 03801 (603) 433-7560			
CLIENT JAMES MCSHARRY 58 PLEASANT POINT RD PORTSMOUTH, NH 03801			
<b>SITE PLAN</b> 15 MIDDLE ST PORTSMOUTH, NH 03801 TAX MAP 126, LOT 12			
JOB NUMBER	DWG. NO.	ISSUE	
19-001	1 OF 2	3	



**LOCUS PLAN  
N.T.S.**

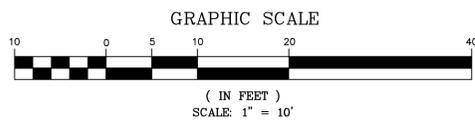
**NOTES**

- OWNER OF RECORD:  
15 MIDDLE ST REAL ESTATE HOLDING CO LLC  
TAX MAP 126, LOT 12  
ONE MIDDLE ST SUITE 1  
PORTSMOUTH, NH 03801  
RCRD: 6090-920  
AREA: 6,003 SF, 0.14 ACRES
- BASIS OF BEARING HELD FROM PLAN REFERENCE #2.
- PARCEL 15 IS IN CIVIC CHARACTER DISTRICT 4 (CD4), DOWNTOWN OVERLAY DISTRICT AND HISTORIC DISTRICT:  
SETBACKS:  
FRONT.....0 FT  
SIDE.....0 FT  
REAR.....0 FT
- THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #33015C0259F, PANEL 259 OF 681, DATED JANUARY 29, 2021.
- TAX MAP 126, LOT 12 IS SUBJECT TO A UTILITY EASEMENT TO THE BENEFIT OF TAX MAP 126, LOT 12 FOR THE PURPOSES OF CONSTRUCTING, MAINTAINING, IMPROVING, REPAIRING, REPLACING, OR ACCESSING AT ALL REASONABLE TIMES THE HEATING AND AIR CONDITIONING EQUIPMENT AND RELATED UTILITIES IN AREAS IDENTIFIED AS "AREA A", "AREA B" AND "AREA C" ON REFERENCE PLAN #4. SEE RECORDED EASEMENT RCRD 6461-2940 FOR MORE DETAIL.  
  
AREA A = ±345 SF  
AREA B = ±406 SF  
AREA C = ±24 SF
- 15 MIDDLE STREET SHARES THE USE OF THE DUMPSTERS LOCATED ON PARCEL 11 ALONG PORTER STREET.

**LEGEND**

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

THE PURPOSE OF THIS PLAN IS TO DEPICT THE SITE CONDITIONS FOR CITY SITE REVIEW AS REQUIRED FOR THE COMPLETION OF THIRD FLOOR APARTMENTS. NO SITE IMPROVEMENTS ARE PROPOSED.



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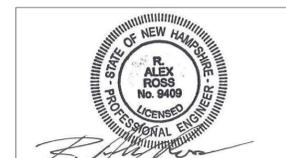
I ALEX ROSS, HEREBY CERTIFY:

- THAT THIS SURVEY PLAT WAS PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION.
- THIS PLAN IS A RESULT OF FIELD SURVEY PERFORMED BY DDD & AR DURING JAN OF 2019. THE ERROR OF CLOSURE IS BETTER THAN 1/15,000. SURVEY PER NHLSA STANDARDS; CATEGORY 1, CONDITION 1.
- "I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUB-DIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN."

R. ALEX ROSS DATE

CITY OF PORTSMOUTH PLANNING BOARD

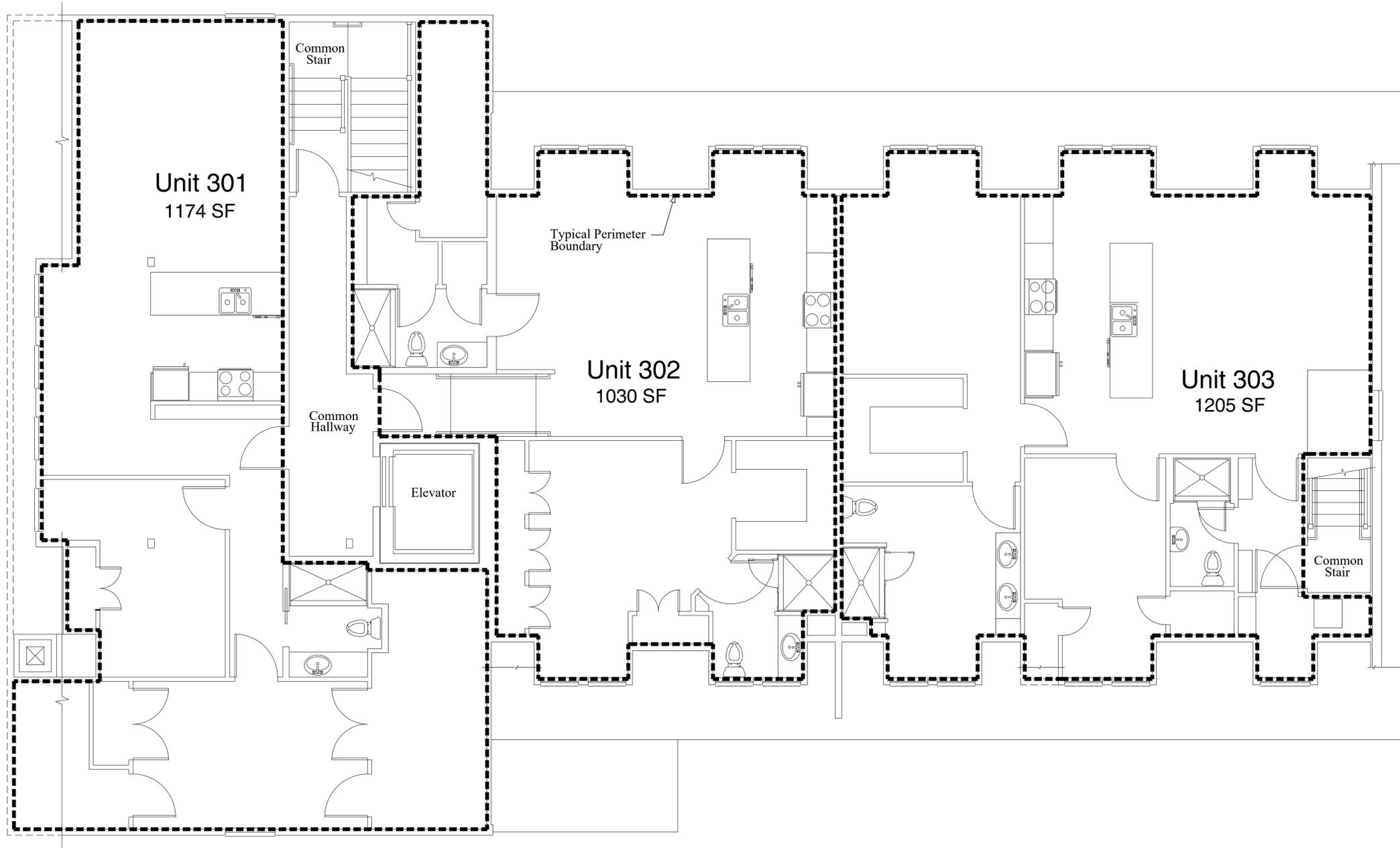
CHAIRPERSON DATE



3	4/23/2024	PB SUBMITTAL	
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ISS.	DATE	DESCRIPTION OF ISSUE	
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DRAWN	D.D.D.		
CHECKED			
<b>ROSS ENGINEERING</b> Civil/Structural Engineering & Surveying 909 Islington St. Portsmouth, NH 03801 (603) 433-7560			
CLIENT JAMES MCSHARRY 58 PLEASANT POINT RD PORTSMOUTH, NH 03801			
<b>SITE PLAN</b> 15 MIDDLE ST PORTSMOUTH, NH 03801 TAX MAP 126, LOT 12			
JOB NUMBER	DWG. NO.	ISSUE	
19-001	2 OF 2	3	

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**