

# HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

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ATTORNEYS AT LAW

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May 26, 2021

**HAND DELIVERED**

Peter Stith, Principal Planner  
Kimberli Kienia, Administrative Assistant  
Portsmouth Zoning Board of Adjustment  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: Tuck Realty Corp.-Applicant  
Project Location: 668 Middle Street  
Tax Map 147/Lot 18  
GRA Zone

Dear Mr. Stith, Ms. Kienia & Zoning Board Members:

On behalf Tuck Realty Corp., we are pleased to submit the following documents in support of a request for zoning relief:

- Portsmouth Land Use Application LU-21-23 uploaded today.
- 05/26/21 – Memorandum and Exhibits in support of zoning relief (original and eleven (11) copies).

Very truly yours,



R. Timothy Phoenix  
Kevin Baum

RTP/msw  
Encl.

cc: Michael Garrepy-Tuck Realty Corp.  
Jones and Beach Engineers  
Art Form Architecture, Inc.

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DANIEL C. HOEFLE	R. PETER TAYLOR	GREGORY D. ROBBINS	DUNCAN A. EDGAR
R. TIMOTHY PHOENIX	JOHN AHLGREN	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	KIMBERLY J.H. MEMMESHEIMER	SAMUEL HARKINSON	SAMUEL R. REID
STEPHEN H. ROBERTS	KEVIN M. BAUM	JACOB J.B. MARVELLEY	

## MEMORANDUM

**TO:** Portsmouth Zoning Board of Adjustment (“ZBA”)  
**FROM:** R. Timothy Phoenix, Esquire  
Kevin M. Baum, Esquire  
**DATE:** May 26, 2021  
**RE:** Tuck Realty Corp. - Applicant  
Project Location: 668 Middle Street  
Tax Map 147/Lot 18  
GRA Zone

Dear Chairman Rheume and Zoning Board Members:

On behalf of Tuck Realty Corp. (“Tuck” or “Applicant”), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief to be considered by the Zoning Board of Adjustment (“ZBA”) at its June 15, 2021 meeting.

### **I. Exhibits**

- A. Plan Set – by Jones & Beach Engineers, Inc.
  - 1. Existing Conditions Plan (Sheet C1)
  - 2. ZBA Plan (Sheet A1)
- B. Subdivision Plan for 660 Middle Street – approved December 6, 2010.
- C. Site Photographs.
- D. Tax Assessors Card.
- E. City GIS Map – identifying nearby zoning districts and surrounding area.
- F. Tax Map 147.

### **II. Property/Project**

The subject property (the “Property”) is located at 668 Middle Street with frontage on both Middle Street and Chevrolet Avenue. **Exhibit A; C.** The Property is currently developed with two residential buildings, an approximately 3,840 square foot (living space), three-family residence to the front of the lot, closest to Middle Street, and an approximately 1,920 square foot (living space), single family carriage house toward the middle of the lot. Id. The Property is located in the GRA Zoning District, with the front portion containing the three-family residence, also within the Historic District. The lot, at ±81,050 square feet, is significantly larger than most others in the nearby area. **Exhibit C** (aerial photograph).

Tuck proposes to subdivide the Property into three lots, consistent with the similar layout approved by the ZBA and Planning Board in 2010. **Exhibit A.2; Exhibit B.** Proposed Lot 3 will be approximately 43,644 square feet. Id. It will include the two existing residential buildings and retain access from Middle Street. Id. There will be no structural change to either of the

existing buildings, other than modest repairs or similar cosmetic upgrades. The number of dwelling units in each existing building will remain unchanged. Thus, the resulting lot will meet all density and other dimensional requirements of the Portsmouth Zoning Ordinance (“PZO”), with the exception of portions of the rear carriage house building and side stairs of the front residence, which are partially within the right side setback. Id. However, these conditions predate the relevant provisions of the PZO, and are, therefore, grandfathered. Residential use, which will continue on the lot, is permitted by right in the GRA Zone.

The rear portion of the lot will be subdivided into two lots, each with frontage on Chevrolet Avenue. Id. Proposed Lot 1 will be approximately 18,646 square feet and proposed Lot 2 approximately 18,756 square feet. Id. The proposed lots comply with all dimensional requirements of the PZO. No buildings are currently proposed for either Lot 1 or Lot 2 and Tuck’s expectation and intent is that any future residential structures will be constructed in compliance with PZO requirements. The existing structure on Lot 2 will be removed. Id.

Despite its prominence and longstanding presence, Chevrolet Avenue is a private right of way and not a City street. Accordingly, relief is needed to allow frontage and for the future construction of a structure on a private right of way. Given the nature of Chevrolet Avenue and for the other reasons discussed below, this proposed limited subdivision meets the statutory variance criteria and the following relief should be granted.

### **III. Relief Required**

1. PZO §10.521 – to allow for 114’ and 100’ of frontage on a private right of way, where 100’ of frontage on a formally accepted street or other road approved by the Planning Board and constructed to City subdivision specifications.
2. PZO §10.521 – to allow 69.83’ of frontage on Middle Street where 100’ is required.<sup>1</sup>
3. PZO §10.512 – to allow construction of a structure on a lot with access to a private right of way.

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<sup>1</sup> Lot 3’s frontage on Middle Street is long existing and will not be modified by this proposed subdivision. Thus, Tuck believes it to be grandfather with no relief necessary. However, Tuck has included this requested variance out of an abundance of caution and upon discussions with City Planning Staff in the event the ZBA deems in necessary.

**IV. Variance Requirements**

- 1. The variances will not be contrary to the public interest.**
- 2. The spirit of the ordinance is observed.**

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives." Id. "Mere conflict with the zoning ordinance is not enough." Id.

The Portsmouth Zoning Ordinance was enacted for the general purpose of promoting the health, safety, and welfare in accordance with the Master Plan by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – no changes are proposed to the existing residential buildings. The newly created rear lots will comply with all dimensional and use requirements of the PZO while allowing access from Chevrolet Avenue.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – lot sizes, building coverage, building height and bulk, yards and open space requirements are all met; the proposal is consistent with the surrounding area and creates a natural transition to the nearby Frank Jones Brew Yard/Brewery Lane Apartments development across Chevrolet Avenue.
3. The design of facilities for vehicular access, circulation, parking and loading – the Property has access from both Chevrolet Avenue and Middle Street; sufficient parking areas and driveways are maintained on the lots and will be more fully vetted during Planning Board review. **Exhibit A.2**
4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – these purposes are not undermined and will be fully vetted during Planning Board review; the proposal will result in continued residential use of the Property in compliance with PZO open space and building coverage requirements.
5. The preservation and enhancement of the visual environment – the historic existing structures will be maintained on Lot 2; the proposal provides a transition to the mixed use area across Chevrolet Avenue. Id.
6. The preservation of historic districts, and buildings and structures of historic or architectural interest – the proposal maintains the existing historic structures. Id.; **Exhibit C.**
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat, and air quality – all building coverage and open space requirements are met (**Exhibit A.2**); the project will be fully vetted during Planning Board review.

In considering whether variances “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives.” Malachy Glen, *supra*, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality.... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

The proposal maintains the existing historic structures on the Property while allowing additional residential lots within the large, rear portion of the parcel closest to the CD4-W and GRC Zones and Brewery Lane commercial area. The resulting lot sizes comply with existing zoning within the GRA, while allowing frontage on Chevrolet creates a transition to the adjacent mixed use West End commercial area. **Exhibit A.2.** Lot 3 will remain virtually unchanged both with respect to the existing historic structures and its longstanding frontage on Middle Street. The proposed layout largely mirrors that approved for the neighboring property (660 Middle) in 2010. **Exhibit B.** Accordingly, the Project will neither “alter the essential character of the locality nor threaten the public health, safety or welfare.”

**3. Granting the variance will not diminish surrounding property values.**

As noted, the existing residences will be preserved and the view of the Property from and frontage to Middle Street (and the Historic District) will remain essentially unchanged. The rear portion of the Property, will eventually be developed with compliant residences with access to Chevrolet, thereby creating a transition to the West End commercial area and avoiding additional traffic onto Middle Street. There will be little to no noticeable effect to surrounding residential properties and the commercial/mixed use area to the rear will be enhanced by the inclusion of walkable residential lots. The layout is consistent with the previously approved neighboring parcel, creating similarly sized lots along Chevrolet Avenue. Thus, if anything, granting the variances will improve the surrounding property values.

**4. Denial of the variances results in an unnecessary hardship.**

a. Special conditions distinguish the property/project from others in the area.

The Property is significantly larger than all of the nearby residential lots. It abuts or is near multiple different zoning districts, containing a mix of commercial/residential uses, with most of the surrounding residential lots having lesser lot area and more density than Tuck’s

proposal. Additionally, the property has frontage on two longstanding heavily traveled roadways, with relief needed only due to Chevrolet Avenue's non-public status. These factors combine to create special conditions that distinguish the Property from others in the area.

- b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

Frontage requirements are put into place to ensure that lots to be developed have available access to public streets and adequate space to safely drive to and from the property. This requirement is effectively met in this instance. Proposed Lots 1 and 2 will have 114 and 100 feet of frontage, respectively, on Chevrolet Avenue. This fully meets the frontage length requirement, meeting safety goals. Relief is only required because Chevrolet is not a City street. Chevrolet Avenue has long existed and provided adequate access to the Brewery Lane commercial area and surrounding feeder streets. In fact, portions of the road are public, just not the area immediately adjacent to the Property. Accordingly, Lots 1 and 2 will have adequate frontage to ensure safe access to and from the proposed lots.

Likewise, the frontage for Lot 3 will not change nor will the driveway from the existing historic structures to Middle Street. While a gate on Chevrolet Avenue exists, Middle Street has been the primary, if not the sole, access to and from the residences for years without any know incident. Moreover, the ±69.83 feet of frontage, while less than the required 100 feet, is consistent with that of other properties in the area. **Exhibit A; Exhibit F.** Accordingly, the purposes of the 100 foot public street frontage requirement are either met or consistent with surrounding properties, and therefore, so there is no reason to strictly apply these provisions of the PZO in this instance.

- c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). The proposal maintains residential uses on the Property, which are permitted in the GRA Zone. Accordingly, the use is reasonable.

**5. Substantial justice will be done by granting the variance.**

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C., 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." Malachy Glen, *supra* at 109.

“The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions.” N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that “no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people.” Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). “Property” in the constitutional sense has been interpreted to mean not the tangible property itself, but rather the right to possess, use, enjoy and dispose of it. Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added).

The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69. To “determine whether an ordinance is arbitrary and unreasonable, the injury or loss to the landowner must be balanced against the gain to the public.” Metzger v. Town of Brentwood, 117 N.H. 497, 501 (1977). In other words, [w]hen the restriction as applied to a particular piece of land is unnecessary to accomplish a legitimate public purpose or the gain to the public is slight but the harm to the citizen and his [or her] property is great, the exercise of the police power becomes arbitrary and unreasonable and this court will afford relief under the constitution of this state. Id. at 503.

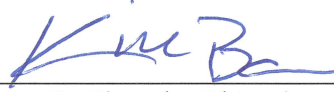
The proposal allows Tuck to make better use of a large lot, with the addition of new residential lots on the rear of the currently undeveloped portion of the Property. The proposal maintains the existing historic structures to the front of the Property while creating additional appropriately sized residential lots compliant with the dimensional requirements of the PZO and consistent with other properties in the area. Thus, there is no benefit to the public from denying the requested variances. In contrast, Tuck will suffer great harm as it would be unable to reasonably utilize the large undeveloped rear portion of the lot and existing Chevrolet Avenue frontage. Accordingly, there is no benefit to the public that would outweigh the hardship to the applicant if the variances are denied.

V. **Conclusion**

For all of the reasons stated, the Applicant respectfully request that the Portsmouth Zoning Board of Adjustment grant the requested variances.

Respectfully submitted,

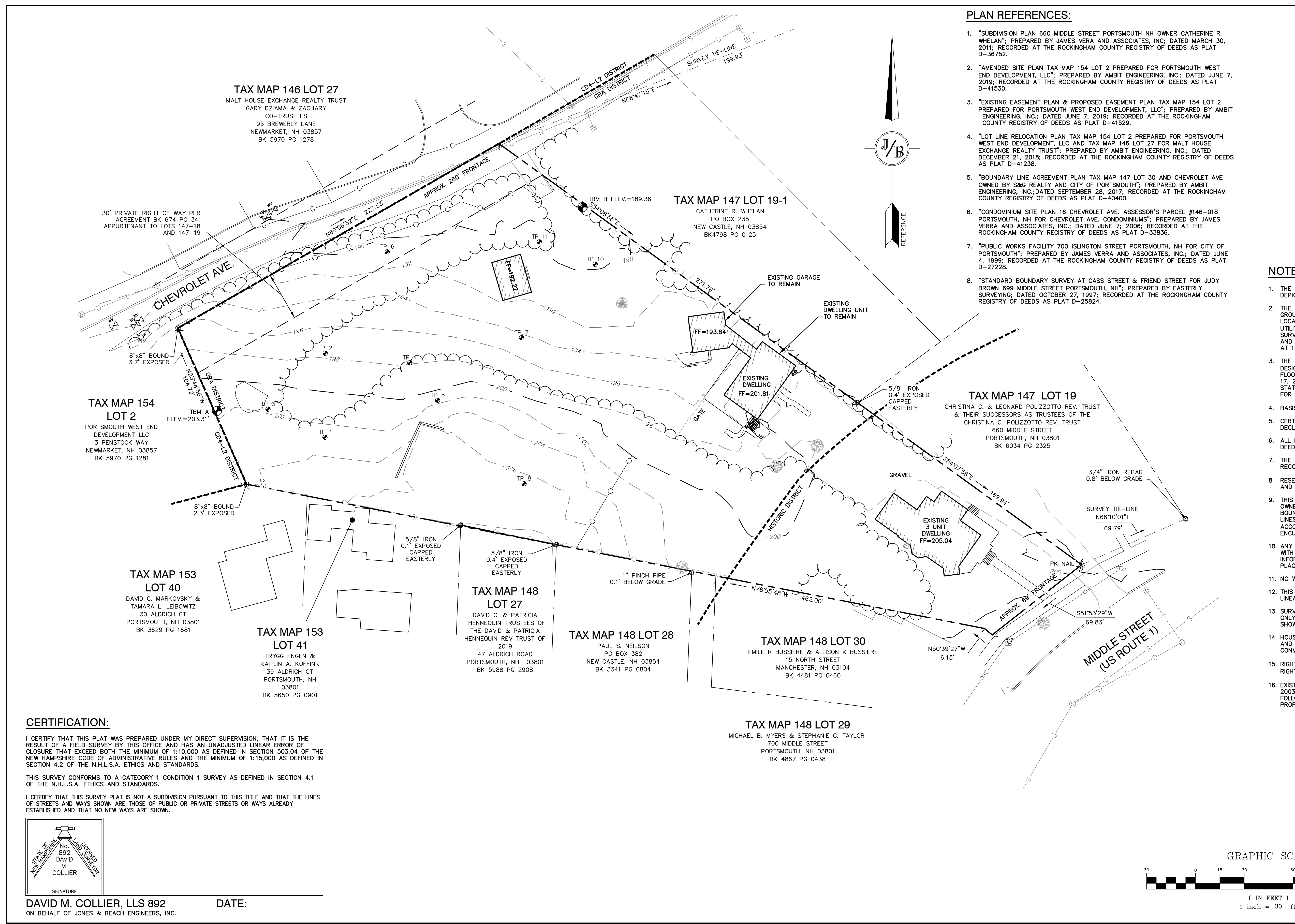
Tuck Realty Corp.



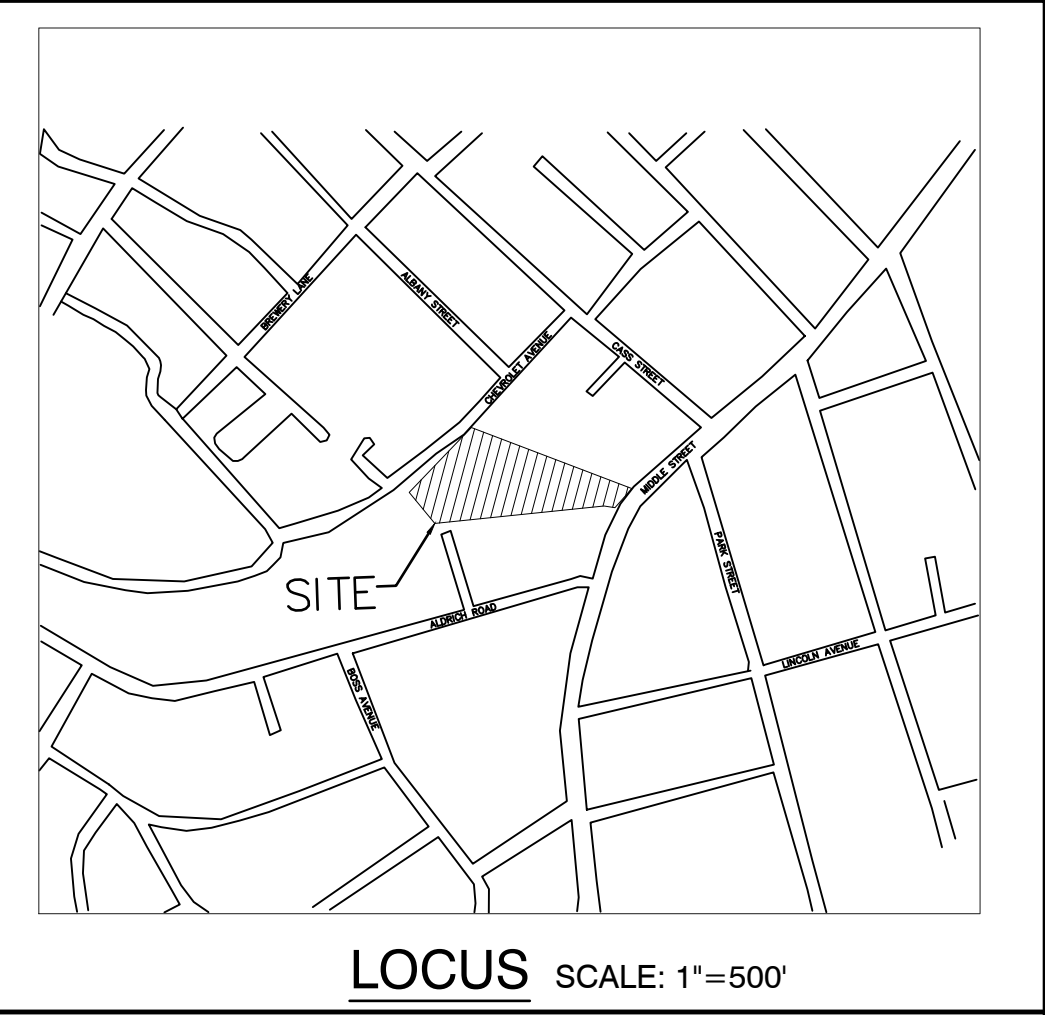
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By: R. Timothy Phoenix  
Kevin M. Baum





- PLAN REFERENCES:**
- "SUBDIVISION PLAN 660 MIDDLE STREET PORTSMOUTH NH OWNER CATHERINE R. WHELAN", PREPARED BY JAMES VERRA AND ASSOCIATES, INC.; DATED MARCH 30, 2011; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-36752.
  - "AMENDED SITE PLAN TAX MAP 154 LOT 2 PREPARED FOR PORTSMOUTH WEST END DEVELOPMENT, LLC", PREPARED BY AMBIT ENGINEERING, INC.; DATED JUNE 7, 2019; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-41530.
  - "EXISTING EASEMENT PLAN & PROPOSED EASEMENT PLAN TAX MAP 154 LOT 2 PREPARED FOR PORTSMOUTH WEST END DEVELOPMENT, LLC", PREPARED BY AMBIT ENGINEERING, INC.; DATED JUNE 7, 2019; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-41529.
  - "LOT LINE RELOCATION PLAN TAX MAP 154 LOT 2 PREPARED FOR PORTSMOUTH WEST END DEVELOPMENT, LLC", PREPARED BY AMBIT ENGINEERING, INC.; DATED DECEMBER 21, 2018; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-41238.
  - "BOUNDARY LINE AGREEMENT PLAN TAX MAP 147 LOT 30 AND CHEVROLET AVE OWNED BY S&G REALTY AND CITY OF PORTSMOUTH", PREPARED BY AMBIT ENGINEERING, INC.; DATED SEPTEMBER 28, 2017; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-40400.
  - "CONDOMINIUM SITE PLAN 16 CHEVROLET AVE. ASSESSOR'S PARCEL #146-018 PORTSMOUTH, NH FOR CHEVROLET AVE. CONDOMINIUMS", PREPARED BY JAMES VERRA AND ASSOCIATES, INC.; DATED JUNE 7, 2006; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-33836.
  - "PUBLIC WORKS FACILITY 700 ISLINGTON STREET PORTSMOUTH, NH FOR CITY OF PORTSMOUTH", PREPARED BY JAMES VERRA AND ASSOCIATES, INC.; DATED JUNE 4, 1999; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-27228.
  - "STANDARD BOUNDARY SURVEY AT CASS STREET & FRIEND STREET FOR JUDY BROWN 699 MIDDLE STREET PORTSMOUTH, NH", PREPARED BY EASTERLY SURVEYING; DATED OCTOBER 27, 1997; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAT D-25824.



- NOTES:**
- THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS OF LOT 18 DEPICTED HEREON TAX MAP 147.
  - THE UTILITY LOCATIONS SHOWN HEREON WERE DETERMINED BY OBSERVED ABOVE GROUND EVIDENCE AND SHOULD BE CONSIDERED APPROXIMATE IN LOCATION ONLY. LOCATION, DEPTH, SIZE, TYPE, EXISTENCE OR NONEXISTENCE OF UNDERGROUND UTILITIES AND/OR UNDERGROUND STORAGE TANKS WAS NOT VERIFIED BY THIS SURVEY. ALL CONTRACTORS SHOULD NOTIFY IN WRITING ALL UTILITY COMPANIES AND GOVERNMENT AGENCIES PRIOR TO ANY EXCAVATION WORK OR CALL DIG-SAFE AT 1-888-DIG-SAFE.
  - THE SUBJECT PARCEL IS LOCATED WITHIN AN AREA HAVING A ZONE X DESIGNATION BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD INSURANCE RATE MAP NO. 33015C0259E, WITH EFFECTIVE DATE OF MAY 17, 2005, FOR COMMUNITY PANEL NO. 259 OF 681, IN ROCKINGHAM COUNTY, STATE OF NEW HAMPSHIRE, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR COMMUNITY IN WHICH SAID PREMISES IS SITUATED.
  - BASIS OF BEARING: HORIZONTAL: ASSUMED. VERTICAL: ASSUMED AT 200.00'.
  - CERTAIN DATA HEREON MAY VARY FROM RECORDED DATA DUE TO DIFFERENCES IN DECLINATION, ORIENTATION, AND METHODS OF MEASUREMENT.
  - ALL BOOK AND PAGE NUMBERS REFER TO THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.
  - THE TAX MAP AND LOT NUMBERS ARE BASED ON THE CITY OF PORTSMOUTH TAX RECORDS AND ARE SUBJECT TO CHANGE.
  - RESEARCH WAS PERFORMED AT THE CITY OF PORTSMOUTH ASSESSOR'S OFFICE AND THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.
  - THIS SURVEY IS NOT A CERTIFICATION TO OWNERSHIP OR TITLE OF LANDS SHOWN. OWNERSHIP AND ENCUMBRANCES ARE MATTERS OF TITLE EXAMINATION NOT OF A BOUNDARY SURVEY. THE INTENT OF THIS PLAN IS TO TRACE THE BOUNDARY LINES OF DEEDS REFERENCED HEREON. OWNERSHIP OF ADJOINING PROPERTIES IS ACCORDING TO ASSESSOR'S RECORDS. THIS PLAN MAY OR MAY NOT INDICATE ALL ENCUMBRANCES EXPRESSED, IMPLIED OR PRESCRIPTIVE.
  - ANY USE OF THIS PLAN AND OR ACCOMPANYING DESCRIPTIONS SHOULD BE DONE WITH LEGAL COUNSEL, TO BE CERTAIN THAT TITLES ARE CLEAR, THAT INFORMATION IS CURRENT, AND THAT ANY NECESSARY CERTIFICATES ARE IN PLACE FOR A PARTICULAR CONVEYANCE, OR OTHER USES.
  - NO WETLANDS WERE OBSERVED ON THE SUBJECT PREMISES.
  - THIS PLAN IS THE RESULT OF A CLOSED TRAVERSE WITH A RAW, UNADJUSTED LINEAR ERROR OF CLOSURE GREATER THAN 1 IN 150,000.
  - SURVEY TIE LINES SHOWN HEREON ARE NOT BOUNDARY LINES. THEY SHOULD ONLY BE USED TO LOCATE THE PARCEL SURVEYED FROM THE FOUND MONUMENTS SHOWN AND LOCATED BY THIS SURVEY.
  - HOUSE LOCATIONS OF ABUTTING PROPERTIES ARE FROM AERIAL PHOTOGRAPHY AND DIGITIZED ON PLAT, BUILDINGS WERE LOCATED ON SUBJECT PARCEL BY CONVENTIONAL SURVEYING METHODS.
  - RIGHT OF WAY WENT FROM A 50' IN WIDTH (SEE DEED BK. 512 PG. 429) TO 30' RIGHT OF WAY (SEE DEED BK. 674, PG. 341).
  - EXISTING 20' WIDE GAS EASEMENT ON SUBJECT PARCEL SEE DEED BK 4470 PG 2003. LOCATION OF EASEMENT UNDETERMINED AT THIS TIME. EASEMENT SHALL FOLLOW THE ROUTE OF PIPELINES 10 FEET ON EACH SIDE EXTENDED TO PROPERTY LINE.

**CERTIFICATION:**

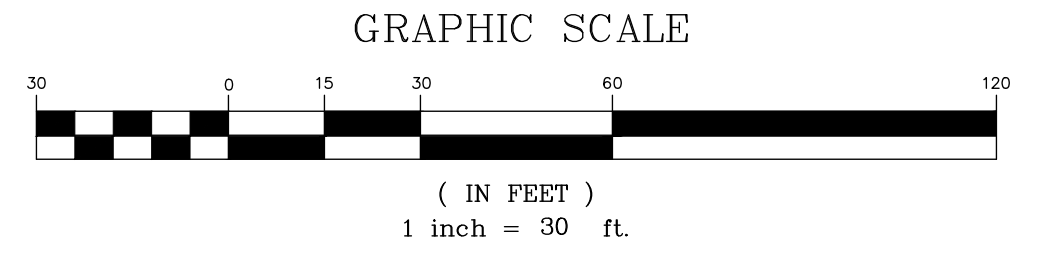
I CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN UNADJUSTED LINEAR ERROR OF CLOSURE THAT EXCEED BOTH THE MINIMUM OF 1:10,000 AS DEFINED IN SECTION 503.04 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES AND THE MINIMUM OF 1:15,000 AS DEFINED IN SECTION 4.2 OF THE N.H.L.S.A. ETHICS AND STANDARDS.

THIS SURVEY CONFORMS TO A CATEGORY 1 CONDITION 1 SURVEY AS DEFINED IN SECTION 4.1 OF THE N.H.L.S.A. ETHICS AND STANDARDS.

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION 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.

DAVID M. COLLIER, LLS 892  
ON BEHALF OF JONES & BEACH ENGINEERS, INC.

DATE: \_\_\_\_\_



<b>PROJECT PARCEL</b> CITY OF PORTSMOUTH TAX MAP 147, LOT 18
<b>APPLICANT</b> TUCK REALTY CORPORATION PO BOX 190 EXETER, NH 03833
<b>TOTAL LOT AREA</b> 81,046 SQ. FT. 1.86 ACRES

Design: JAC	Draft: AJB	Date: 11/11/20
Checked: JAC	Scale: AS NOTED	Project No.: 20686
Drawing Name: 20686-PLAN.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		

REV.	DATE	REVISION	BY
1	5/26/21	REVISED FOR ZBA	AJB
0	1/26/21	ISSUED FOR REVIEW	LAZ
REV.	DATE	REVISION	BY

Designed and Produced in NH

**J/B Jones & Beach Engineers, Inc.**

85 Portsmouth Ave. Stratham, NH 03885

Civil Engineering Services

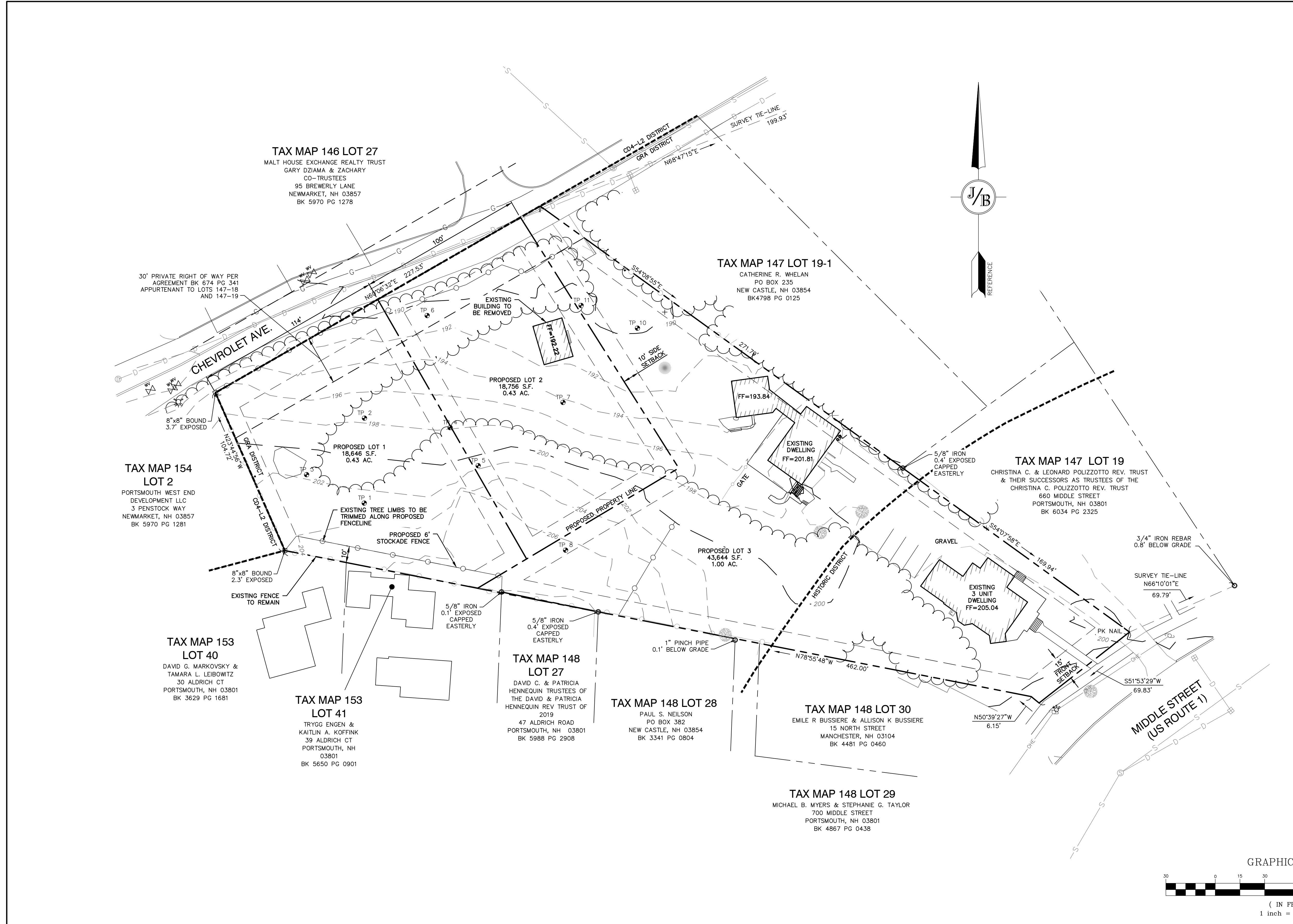
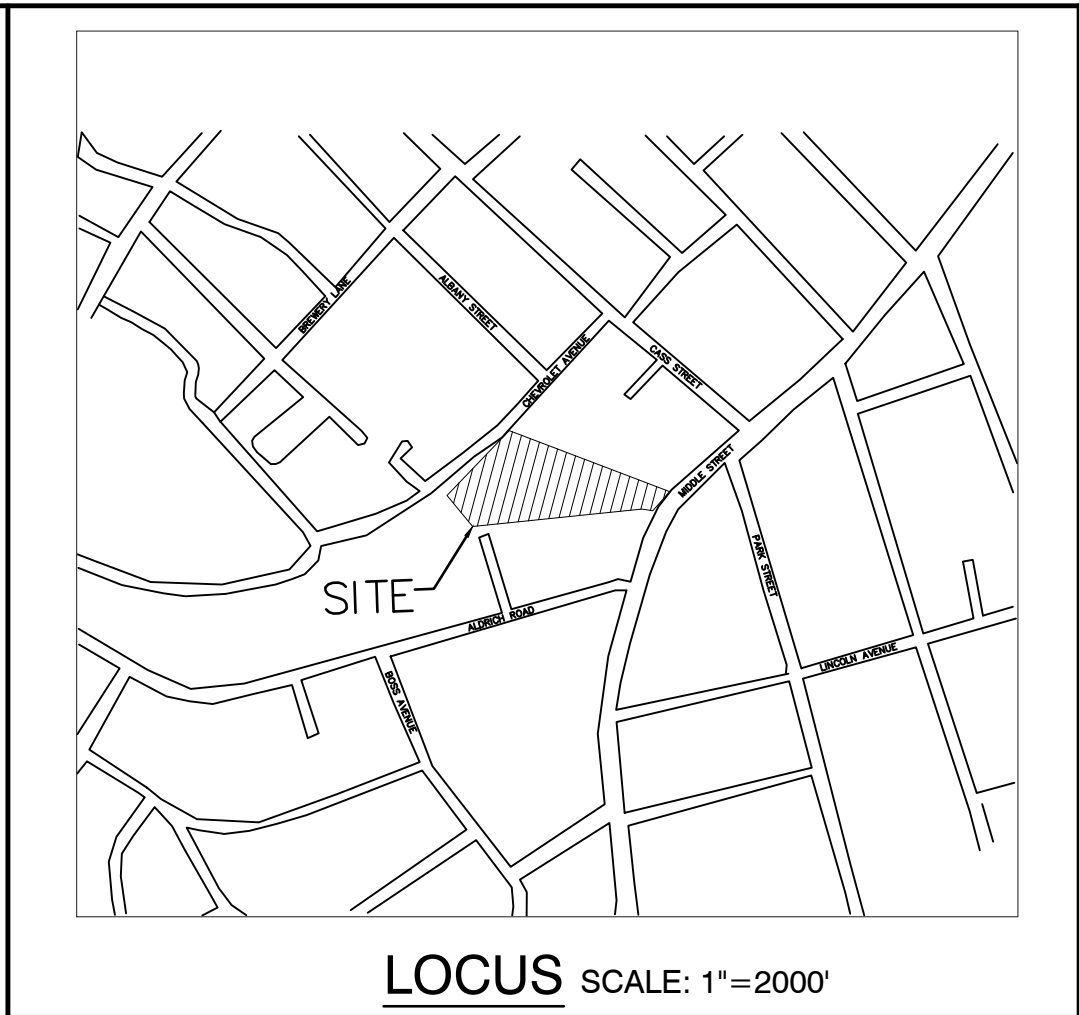
603-772-4746  
FAX: 603-772-0227  
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	<b>EXISTING CONDITIONS PLAN</b>
Project:	<b>668 MIDDLE STREET PORTSMOUTH, NH</b>
Owner of Record:	ELIZABETH B. LARSEN, TRUSTEE OF THE ELIZABETH B. LARSEN TRUST OF 2012 668 MIDDLE STREET, PORTSMOUTH, NH 03801 DEED BK 5390 PG 2799

DRAWING No.

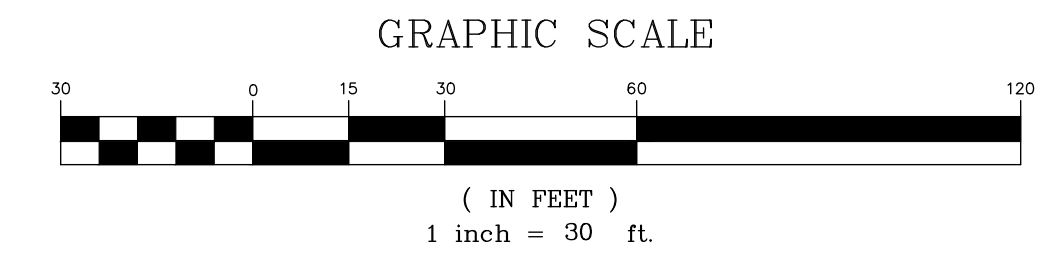
**C1**

SHEET 1 OF 3  
JBE PROJECT NO. 20686



**SITE NOTES:**

1. THE INTENT OF THIS PLAN IS SUBDIVIDE TAX MAP 147, LOT 18 INTO THREE PROPOSED LOTS.
2. ZONING DISTRICT: GENERAL RESIDENCE A (GRA)  
 LOT AREA MINIMUM = 7,500 S.F.  
 MAX DENSITY = 1 DWELLING UNIT PER 7,500 S.F. LOT AREA  
 LOT FRONTAGE MINIMUM = 100'  
 LOT DEPTH MINIMUM = 70'  
 BUILDING SETBACKS (MINIMUM):  
 FRONT SETBACK = 15'  
 SIDE SETBACK = 10'  
 REAR SETBACK = 20'  
 MAX. BUILDING HEIGHT = 35' WITH SLOPED ROOF, 30' WITH FLAT ROOF  
 MAX. BUILDING COVERAGE = 25%  
 MIN. OPEN SPACE = 30%
3. PROPERTY LINES, EASEMENTS, ZONELINE LOT AREAS, AND EXISTING FEATURES SHOWN HEREON ARE APPROXIMATE.
4. VARIANCES REQUESTED:  
 10.521 - STREET FRONTAGE  
 10.512 - STREET ACCESS



<b>PROJECT PARCEL</b> CITY OF PORTSMOUTH TAX MAP 147, LOT 18
<b>APPLICANT</b> TUCK REALTY CORPORATION PO BOX 190 EXETER, NH 03833
<b>TOTAL LOT AREA</b> 81,048 SQ. FT. 1.86 ACRES

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REV.	DATE	REVISION	BY
1	5/26/21	REVISED FOR ZBA	AJB
0	1/26/21	ISSUED FOR REVIEW	LAZ
REV.	DATE	REVISION	BY

Designed and Produced in NH

**J/B Jones & Beach Engineers, Inc.**

85 Portsmouth Ave. PO Box 219 Stratham, NH 03885

Civil Engineering Services

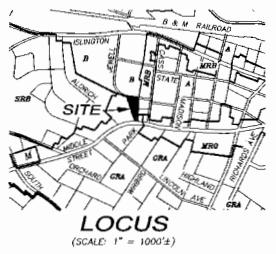
603-772-4746  
FAX: 603-772-0227  
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	<b>ZBA PLAN</b>
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DRAWING No.	<b>A1</b>
SHEET 2 OF 3 JBE PROJECT NO. 20686	

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L-CHIP  
R0A112306

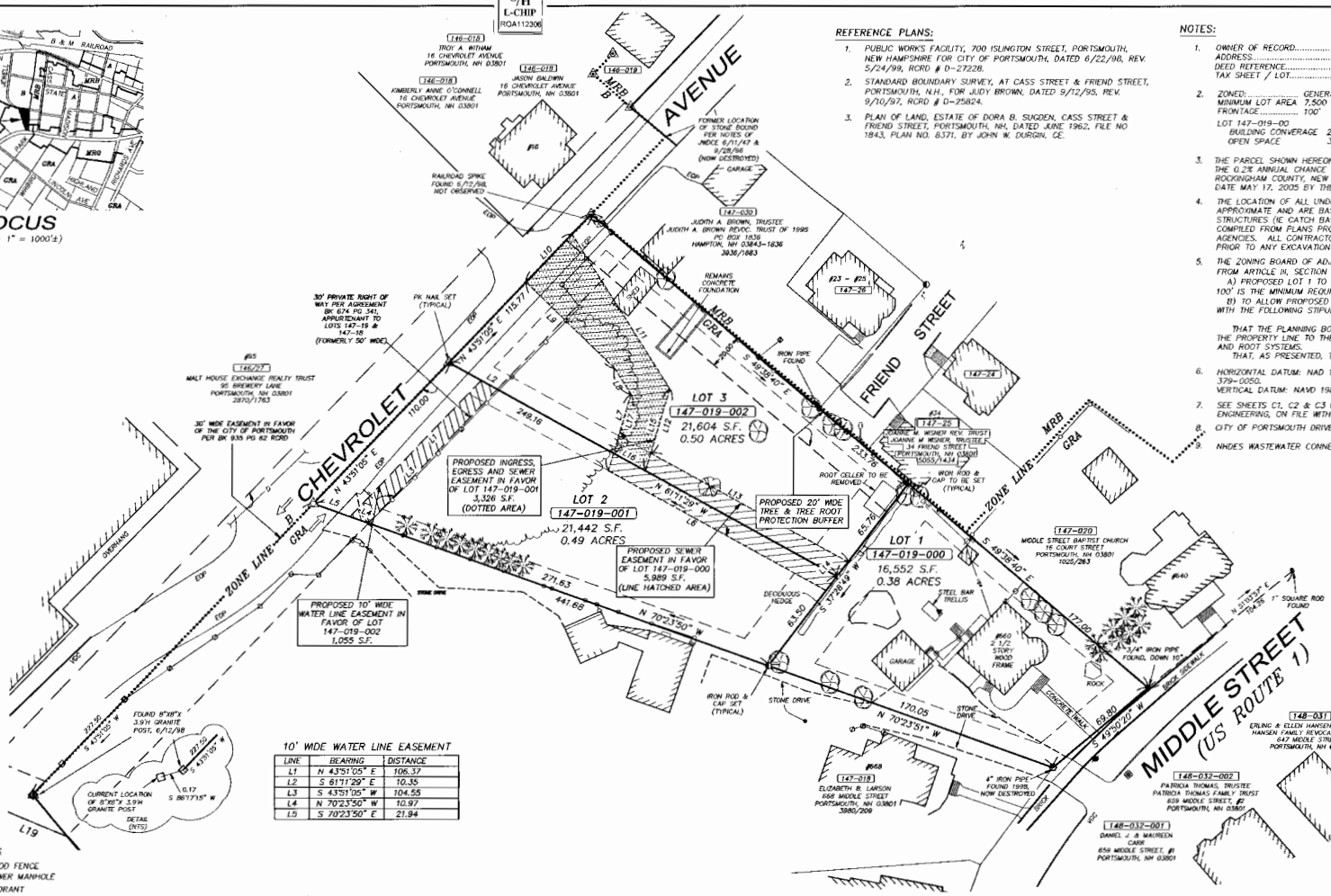
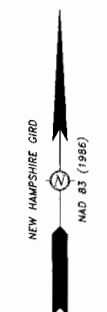


**REFERENCE PLANS:**

- PUBLIC WORKS FACILITY, 700 ISLINGTON STREET, PORTSMOUTH, NEW HAMPSHIRE FOR CITY OF PORTSMOUTH, DATED 6/22/96, REV. 5/24/99, RECORD # 19-23226.
- STANDARD BOUNDARY SURVEY, AT CASS STREET & FRIEND STREET, PORTSMOUTH, N.H., FOR JUDY BROWN, DATED 9/12/95, REV. 9/10/97, RECORD # 0-25824.
- PLAN OF LAND, ESTATE OF DORA B. SUNSDEN, CASS STREET & FRIEND STREET, PORTSMOUTH, NH, DATED JUNE 1962, FILE NO. 1843, PLAN NO. 0371, BY JOHN W. DURGIN, CE.

**NOTES:**

- OWNER OF RECORD..... CATHERINE R. WHELAN  
ADDRESS..... 660 MIDDLE STREET, PORTSMOUTH, NH 03801  
DEED REFERENCE..... 4798/125  
TAX SHEET / LOT..... 147-019
- ZONED: GENERAL RESIDENCE A FRONT YARD SETBACK..... 15'  
MINIMUM LOT AREA 7,500 S.F. SIDE YARD SETBACK..... 10'  
FRONTAGE..... 100' REAR YARD SETBACK..... 20'
- LOT 147-019-00 BUILDING COVERAGE 25% MAX 12.2% EXISTING  
OPEN SPACE 30% MIN 79.8% EXISTING
- THE PARCEL SHOWN HEREON LIES WITHIN ZONE "C", OTHER AREAS OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 3301200202E, EFFECTIVE DATE MAY 17, 2005 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- THE ZONING BOARD OF ADJUSTMENT, ON AUGUST 26, 2008, GRANTED VARIANCES FROM ARTICLE IX, SECTION 103-302(A) FOR A THREE LOT SUBDIVISION WITH:  
A) PROPOSED LOT 1 TO HAVE 70' OF FRONTAGE ON MIDDLE STREET WHERE 100' IS THE MINIMUM REQUIRED, AND  
B) TO ALLOW PROPOSED LOTS 2 & 3 TO HAVE ACCESS OFF A RIGHT-OF-WAY, WITH THE FOLLOWING STIPULATIONS:  
THAT THE PLANNING BOARD BE REQUESTED TO SPECIFY A 20' BUFFER ALONG THE PROPERTY LINE TO THE NORTH FOR THE PROTECTION OF EXISTING TREES AND ROOT SYSTEMS.  
THAT AS PRESENTED, THERE WILL BE ONLY ONE CURB OUT FOR LOTS 2 & 3.  
HORIZONTAL DATUM: NAD 1983 (1986) PRIMARY BENCH MARK: NHDOT DISK 379-0050.  
VERTICAL DATUM: NAVD 1988. PRIMARY BENCH MARK: NHDOT DISK 379-0050.  
SEE SHEETS C1, C2 & C3 FOR PROPOSED SEWER & WATER SERVICES, BY ALTUS ENGINEERS, ON FILE WITH THE PORTSMOUTH PLANNING DEPARTMENT.  
CITY OF PORTSMOUTH DRIVEWAY PERMIT GRANTED SEPTEMBER 20, 2010.  
NHDES WASTEWATER CONNECTION PERMIT #0210-0709, 8/2/2010.



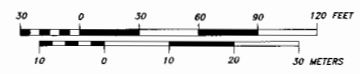
**10' WIDE WATER LINE EASEMENT**

LINE	BEARING	DISTANCE
L1	N 43°1'05" E	106.37
L2	S 81°1'29" E	10.35
L3	S 43°1'05" W	104.55
L4	N 70°23'50" W	10.97
L5	S 70°23'50" E	21.94

**20' WIDE SEWER EASEMENT & 20' INGRESS AND EGRESS EASEMENT**

LINE	BEARING	DISTANCE
L6	N 61°1'59" W	159.67
L7	N 16°25'10" E	44.83
L8	N 32°06'06" W	17.22
L9	N 45°30'19" W	69.49
L10	N 43°1'05" E	37.36
L11	S 32°06'06" E	102.87
L12	S 16°25'10" W	37.77
L13	S 61°1'59" E	126.64
L14	S 32°06'06" W	20.23
L15	S 16°25'10" W	48.00
L16	N 61°1'59" W	20.48
L17	N 16°25'10" E	34.60

APPROVED FOR THE RECORD:  
*John E. Reini* 12.6.10  
CHAIR, PORTSMOUTH PLANNING BOARD DATE

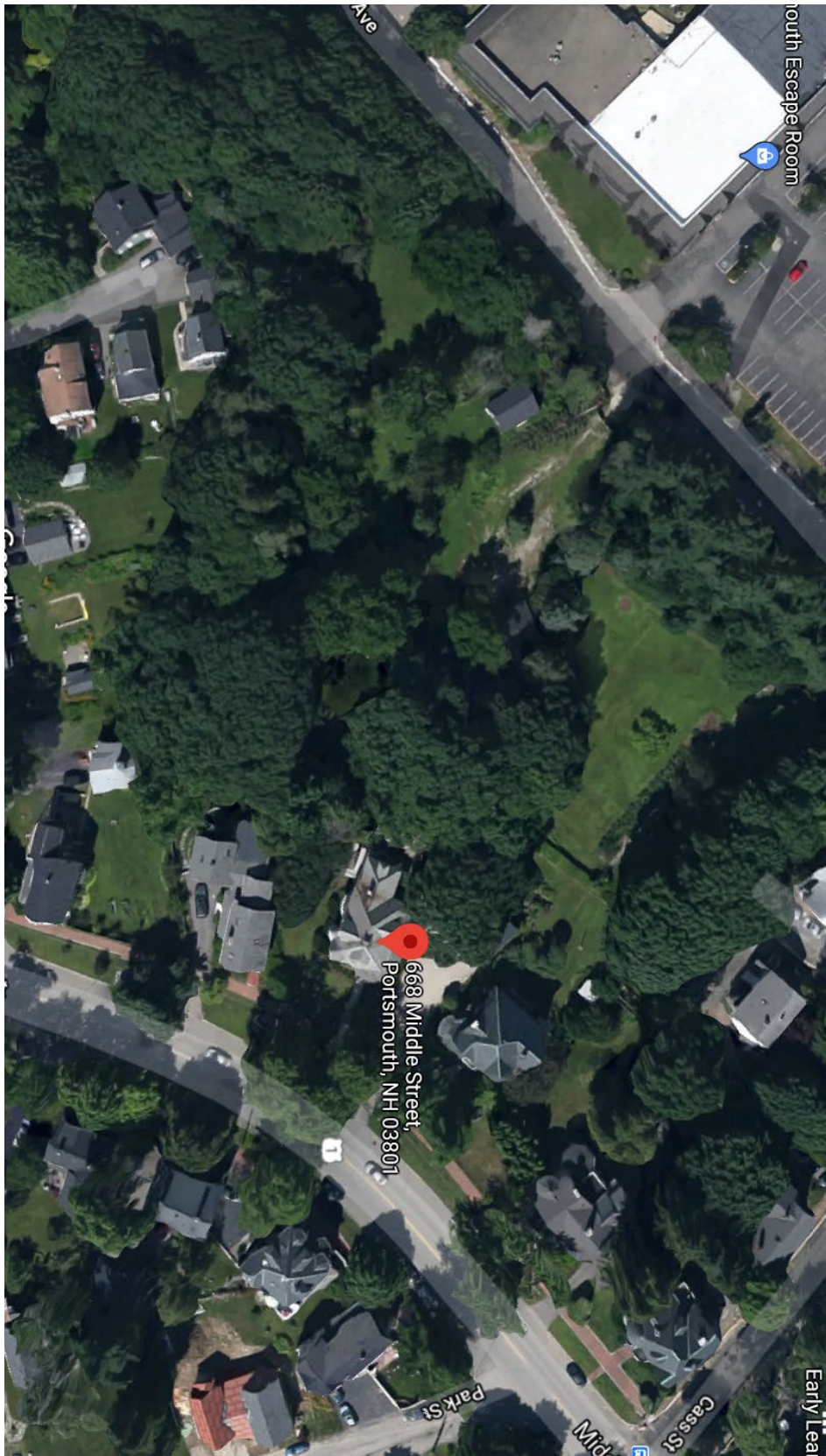


- LEGEND:**
- WOOD FENCE
  - SEWER MANHOLE
  - HYDRANT
  - UTILITY POLE
  - SEWER LINE
  - WATER LINE
  - DRAIN LINE
  - OVERHEAD WIRES
  - WATER LINE
  - DRAIN LINE
  - OVERHEAD WIRES
  - DOUBLE YELLOW LINE
  - EDGE OF ASPHALT PAVEMENT
  - RESIDENTIAL LIGHTING
  - DECIDUOUS TREE
  - CONIFEROUS TREE
  - DECIDUOUS SHRUB
  - CHAIN LINK FENCE
  - CATCH BASIN
  - WOOD RETAINING TIMBER
  - VERTICAL FACED GRANITE CURB
  - WATER GATE VALVE
  - UTILITY POLE W/ARM

**D-36752**

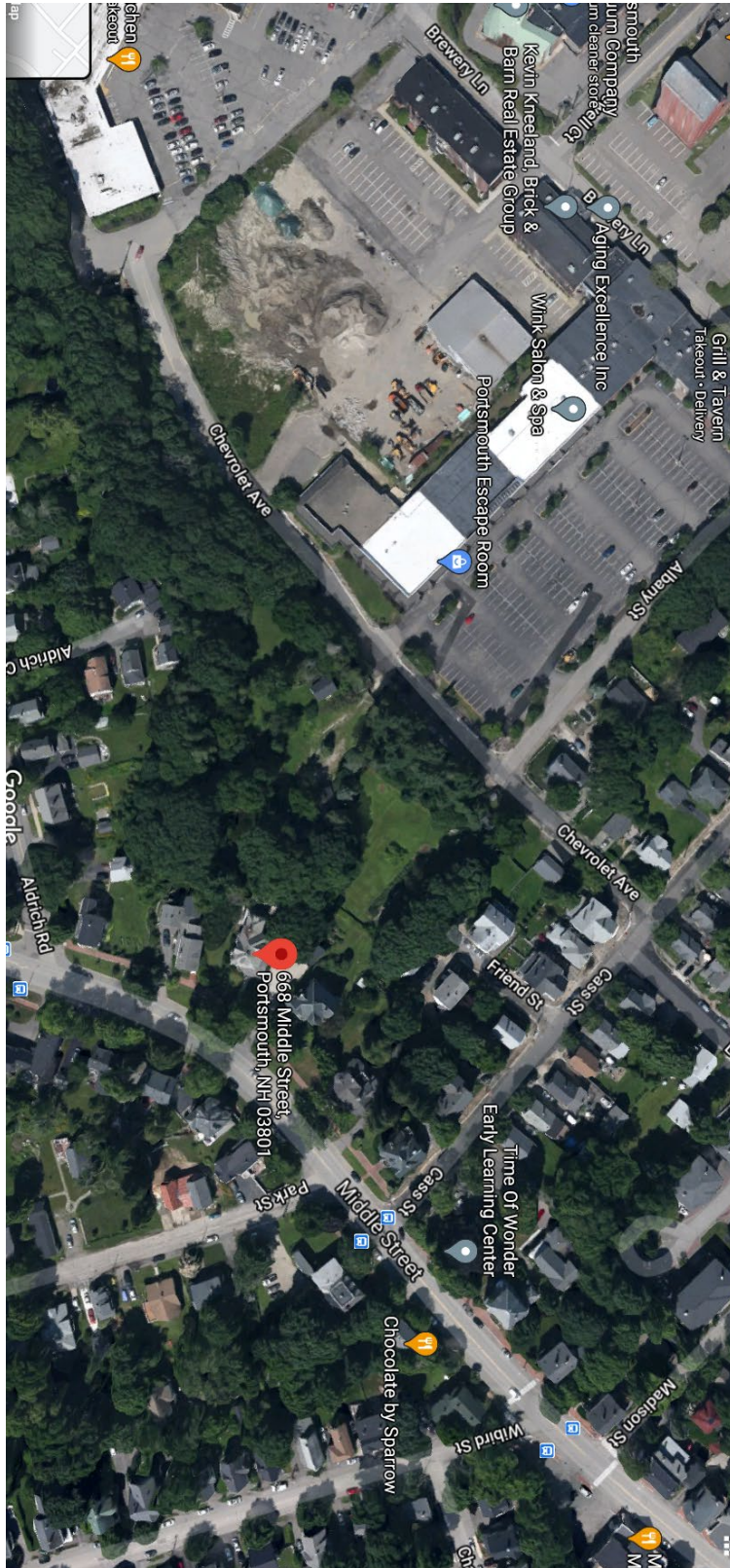
REV. NO.	10-25-2010	ADDED NOTES: R & R	DATE	5-28-2010
DATE		DESCRIPTION		
<b>SUBDIVISION PLAN</b>				
<b>660 MIDDLE STREET</b>				
<b>PORTSMOUTH, NEW HAMPSHIRE</b>				
<b>ASSESSORS PARCEL: 0147-0019</b>				
Owner: <b>CATHERINE R. WHELAN</b>				
<b>JAMES VERRA AND ASSOCIATES, INC.</b>				
101 SHATTUCK WAY NEWTON, N.H. 03801-7876 603-456-3327				
PROJECT NO.	2010-001	DRAWN BY	NEW	DATE
COPYRIGHT ©2009 BY JAMES VERRA AND ASSOCIATES, INC.				
SHEET:	1	OF	1	

**Exhibit C  
Site Photographs**



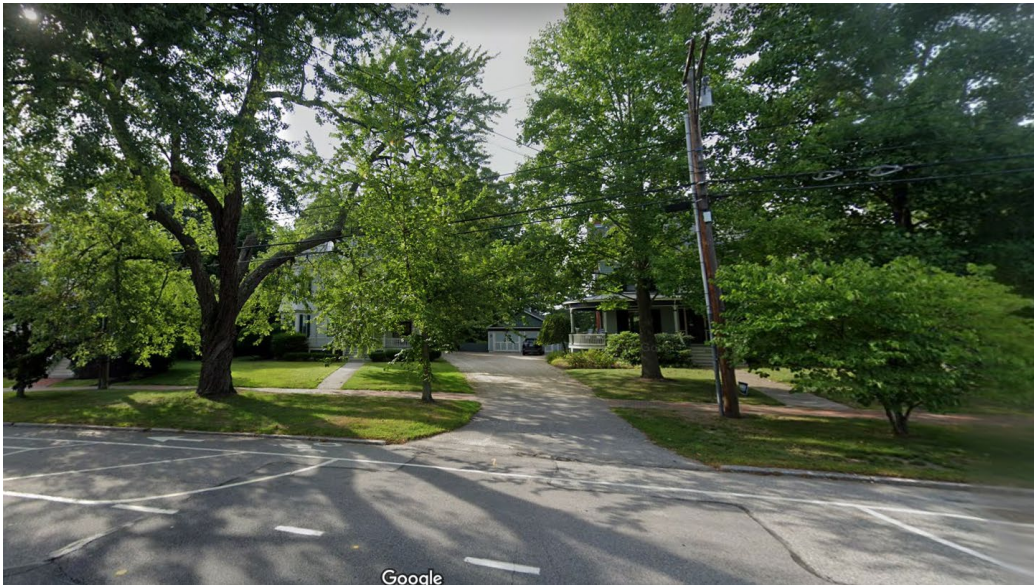
Aerial View of Property

**Exhibit C**  
**Site Photographs**



Aerial View of Property showing surrounding uses and densities

**Exhibit C**  
**Site Photographs**



View of the Property from Middle Street (east)



View of existing buildings from Middle Street

**Exhibit C  
Site Photographs**



View of Three-Family Residence from Middle Street (southeast)

**Exhibit C**  
**Site Photographs**



View of Carriage House (Single Family Residence) from front (east)



**Exhibit C**  
**Site Photographs**



View of Carriage House (Single Family Residence) from rear (west)

**Exhibit C**  
**Site Photographs**



View from Property from the rear (northwest)

**Exhibit C**  
**Site Photographs**



View from Property from the northwest



View from Property from Chevrolet Avenue (northwest)

**668 MIDDLE ST**

**Location** 668 MIDDLE ST

**Mblu** 0147/ 0018/ 0000/ /

**Acct#** 34521

**Owner** LARSEN ELIZABETH B TRUST OF 2012

**PBN**

**Assessment** \$2,207,100

**Appraisal** \$2,207,100

**PID** 34521

**Building Count** 2

**Current Value**

Appraisal			
Valuation Year	Improvements	Land	Total
2020	\$1,808,600	\$398,500	\$2,207,100

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$1,808,600	\$398,500	\$2,207,100

**Owner of Record**

**Owner** LARSEN ELIZABETH B TRUST OF 2012  
**Co-Owner** LARSEN ELIZABETH B TRUSTEE  
**Address** 668 MIDDLE ST  
 PORTSMOUTH, NH 03801

**Sale Price** \$0  
**Certificate**  
**Book & Page** 5390/2799  
**Sale Date** 12/20/2012  
**Instrument**

**Ownership History**

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
LARSEN ELIZABETH B TRUST OF 2012	\$0		5390/2799		12/20/2012
LARSEN ELIZABETH B	\$0		3980/0209		01/21/2003

**Building Information**

**Building 1 : Section 1**

**Year Built:** 1892  
**Living Area:** 3,840

Replacement Cost: \$1,365,826

Building Percent Good: 79

Replacement Cost

Less Depreciation: \$1,079,000

**Building Attributes**

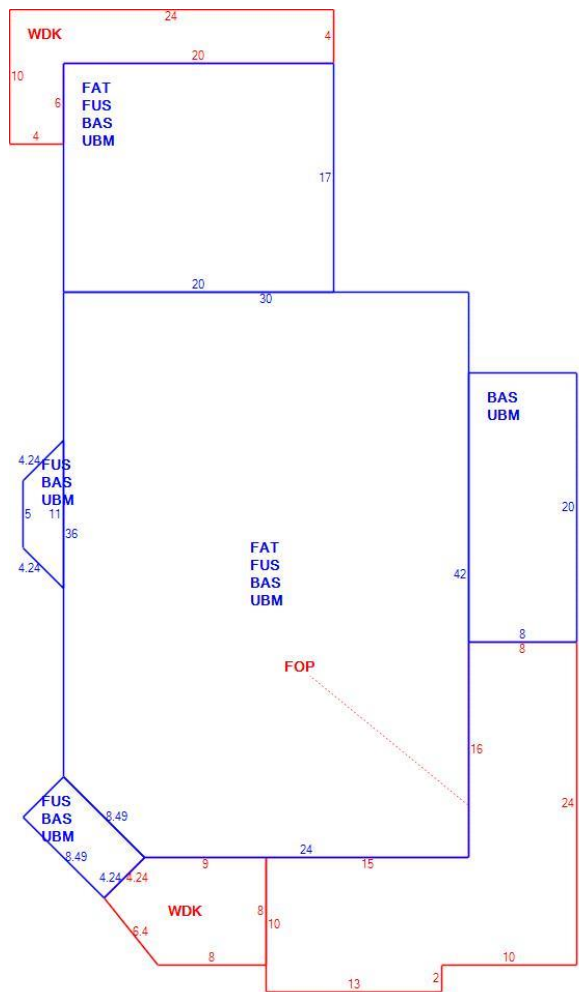
Field	Description
Style:	3 Unit
Occupancy	3
Exterior Wall 2	
Interior Wall 2	
Interior Flr 2	Ceram Clay Til
Model	Residential
Grade:	X-
Stories:	2
Exterior Wall 1	Clapboard
Roof Structure:	Gable/Hip
WB Fireplaces	1
Extra Openings	3
Roof Cover	Slate
Interior Wall 1	Plastered
Extra Openings	0
Bsmt Garage	
Interior Flr 1	Hardwood
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	4 Bedrooms
Total Bthrms:	4
Total Half Baths:	0
Total Xtra Fixtrs:	2
Total Rooms:	14
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	B
Metal Fireplaces	0

**Building Photo**



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos/\00\01\97\91.jpg>)

**Building Layout**



(ParcelSketch.ashx?pid=34521&bid=34521)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,802	1,802
FUS	Upper Story, Finished	1,642	1,642
FAT	Attic	1,582	396

FOP	Porch, Open	338	0
UBM	Basement, Unfinished	1,802	0
WDK	Deck, Wood	202	0
		7,368	3,840

## Building 2 : Section 1

**Year Built:** 1900  
**Living Area:** 1,920  
**Replacement Cost:** \$785,802  
**Building Percent Good:** 89  
**Replacement Cost Less Depreciation:** \$699,400

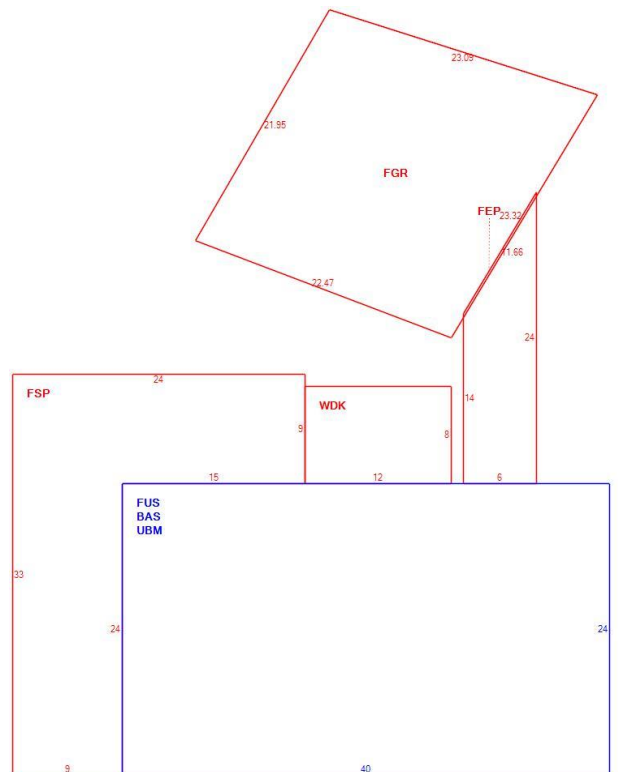
Building Attributes : Bldg 2 of 2	
Field	Description
Style:	3 Unit
Occupancy	3
Exterior Wall 2	
Interior Wall 2	
Interior Flr 2	Ceram Clay Til
Model	Residential
Grade:	A
Stories:	2
Exterior Wall 1	Clapboard
Roof Structure:	Gable/Hip
WB Fireplaces	1
Extra Openings	0
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Plastered
Extra Openings	0
Bsmt Garage	
Interior Flr 1	Hardwood
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	4
Total Half Baths:	0
Total Xtra Fixtrs:	1
Total Rooms:	8
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	B

## Building Photo



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos/A00\00\93\54.JPG>)

## Building Layout



(ParcelSketch.ashx?pid=34521&bid=40101)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	960	960

Metal Fireplaces	0
------------------	---

FUS	Upper Story, Finished	960	960
FEP	Porch, Enclosed	114	0
FGR	Garage, Attached	506	0
FSP	Porch, Screened	432	0
UBM	Basement, Unfinished	960	0
WDK	Deck, Wood	96	0
		4,028	1,920

### Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FBLA	FINISHED BSMNT	480.00 S.F.	\$20,500	2

### Land

#### Land Use

**Use Code** 1050  
**Description** THREE FAM  
**Zone** GRA  
**Neighborhood** 104  
**Alt Land Appr** No  
**Category**

#### Land Line Valuation

**Size (Acres)** 1.85  
**Frontage**  
**Depth**  
**Assessed Value** \$398,500  
**Appraised Value** \$398,500

### Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
BRN9	BARN			432.00 S.F.	\$9,700	1

### Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2020	\$1,808,600	\$398,500	\$2,207,100
2019	\$1,808,100	\$398,500	\$2,206,600
2018	\$1,643,600	\$346,000	\$1,989,600

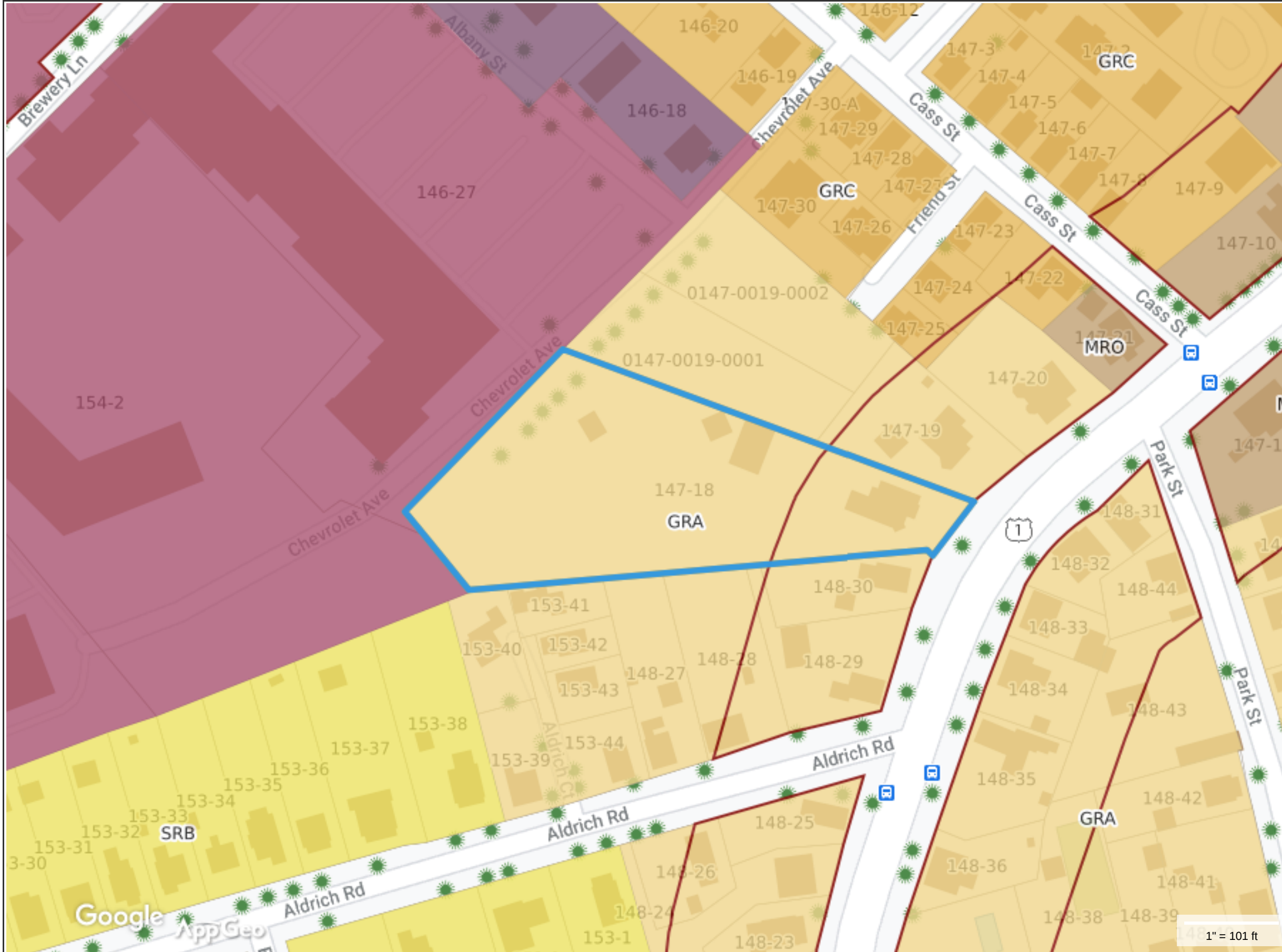
Assessment			
Valuation Year	Improvements	Land	Total
2020	\$1,808,600	\$398,500	\$2,207,100
2019	\$1,808,100	\$398,500	\$2,206,600
2018	\$1,643,600	\$346,000	\$1,989,600





668 Middle Street

# EXHIBIT E



**Property Information**

**Property ID** 0147-0018-0000  
**Location** 668 MIDDLE ST  
**Owner** LARSEN ELIZABETH B TRUST OF 2012



**MAP FOR REFERENCE ONLY**  
**NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 4/1/2019  
 Data updated 7/17/2019

1" = 101 ft

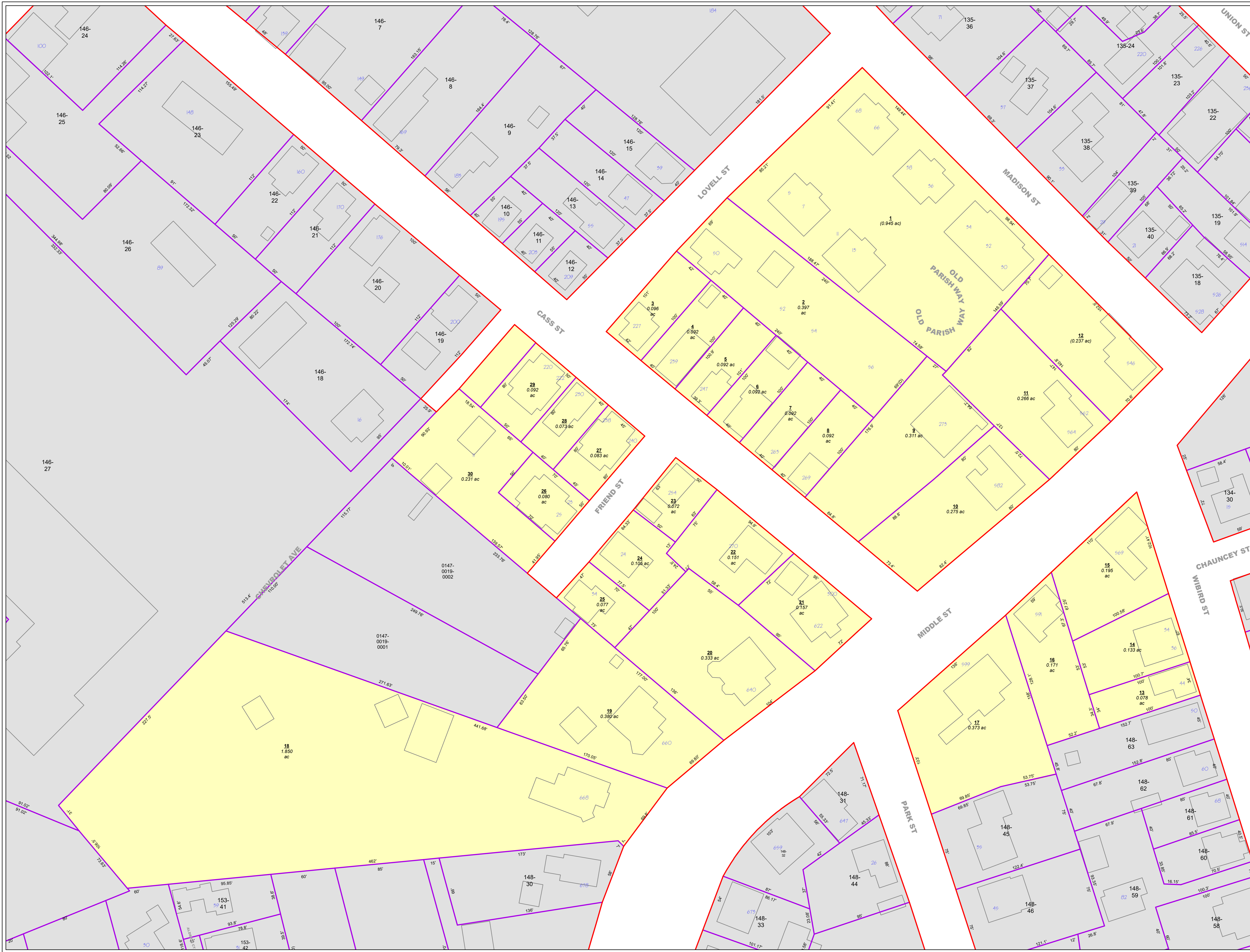
# Map Theme Legends

## 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
  - AI 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-B
  - 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

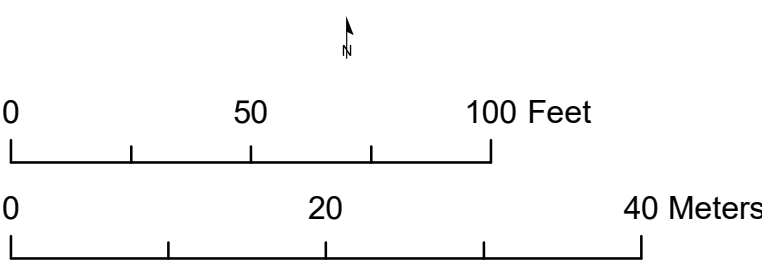
City of Portsmouth

# EXHIBIT F

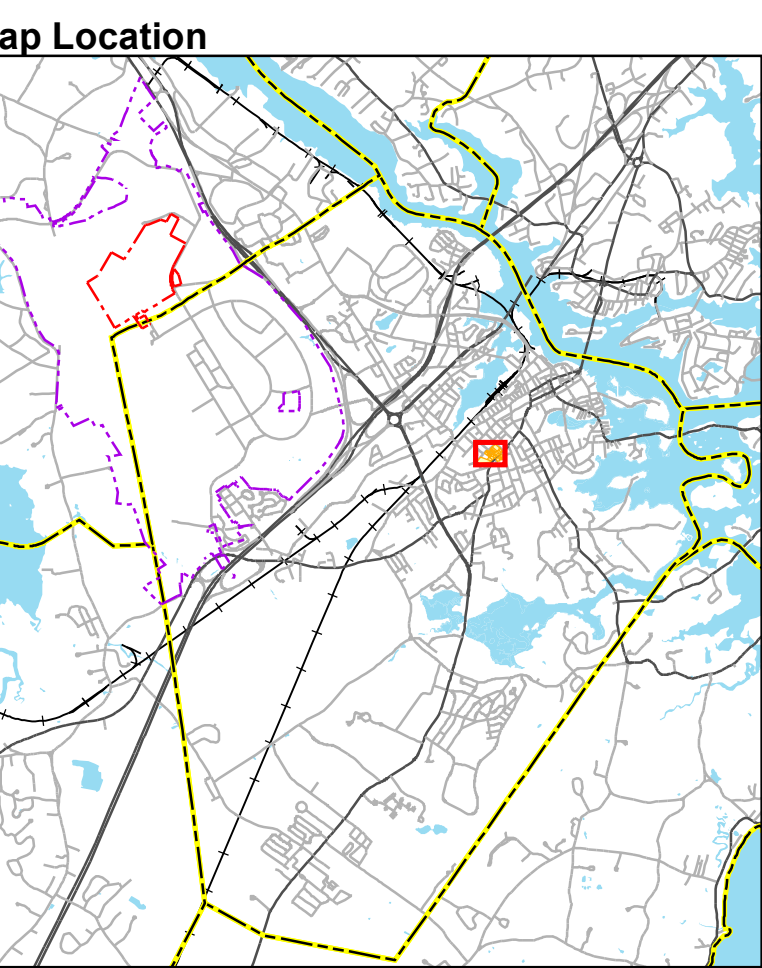
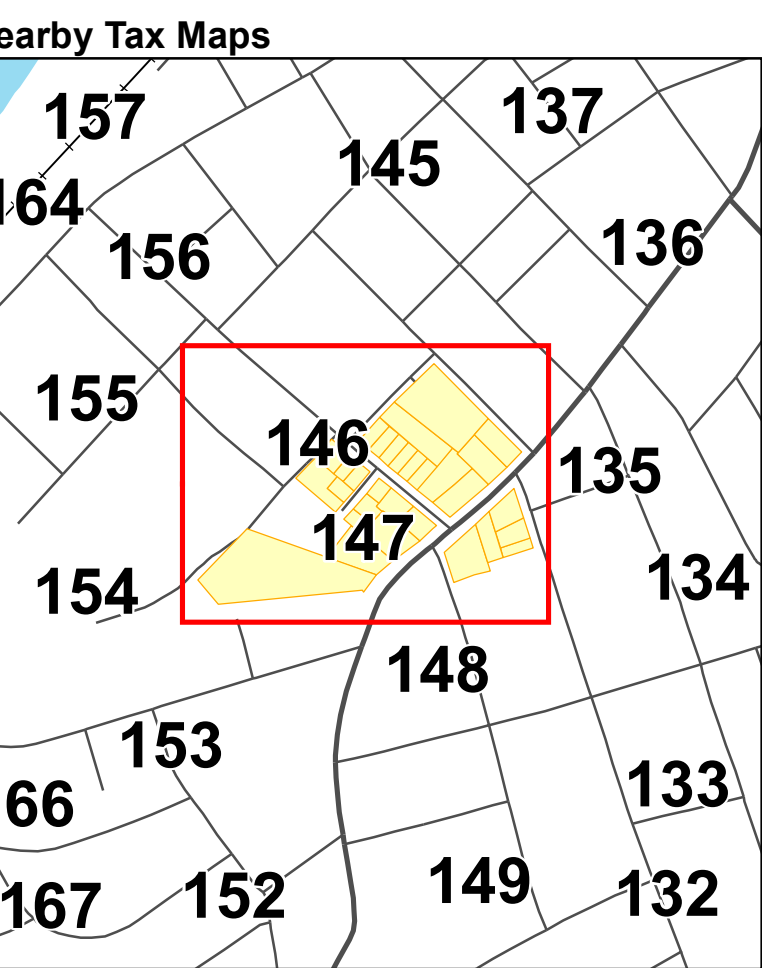


**Partial Legend**  
See the cover sheet for the complete legend.

- 7-5A** Lot or lot-unit number
- 2.56 ac Parcel area in acres (ac) or square feet (sf)
- 25 Address number
- 233-137 Parcel number from a neighboring map
- 68' Parcel line dimension
- SIMMS AVE Street name
- Parcel/Parcel boundary
- Parcel/ROW boundary
- Water boundary
- Structure (1994 data)
- Parcel covered by this map
- Parcel from a neighboring map (see other map for current status)



*This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.*



Portsmouth, New Hampshire  
2019  
**Tax Map 147**