

III. NEW BUSINESS

- B. The request of **Sarnia Properties Inc. C/O CP Management Inc. (Owners)**, for property located at **933 US Route 1 BYP** whereas Special Exception is needed to allow a health club greater than 2,000 square feet GFA which requires the following: 1) Special Exception from Section 10.440, Use #4.42 to allow a health club where the use is permitted by Special Exception. Said property is located on Assessor Map 142 Lot 37 and lies within the Business and Highway Noise Overlay District. (LU-23-76)

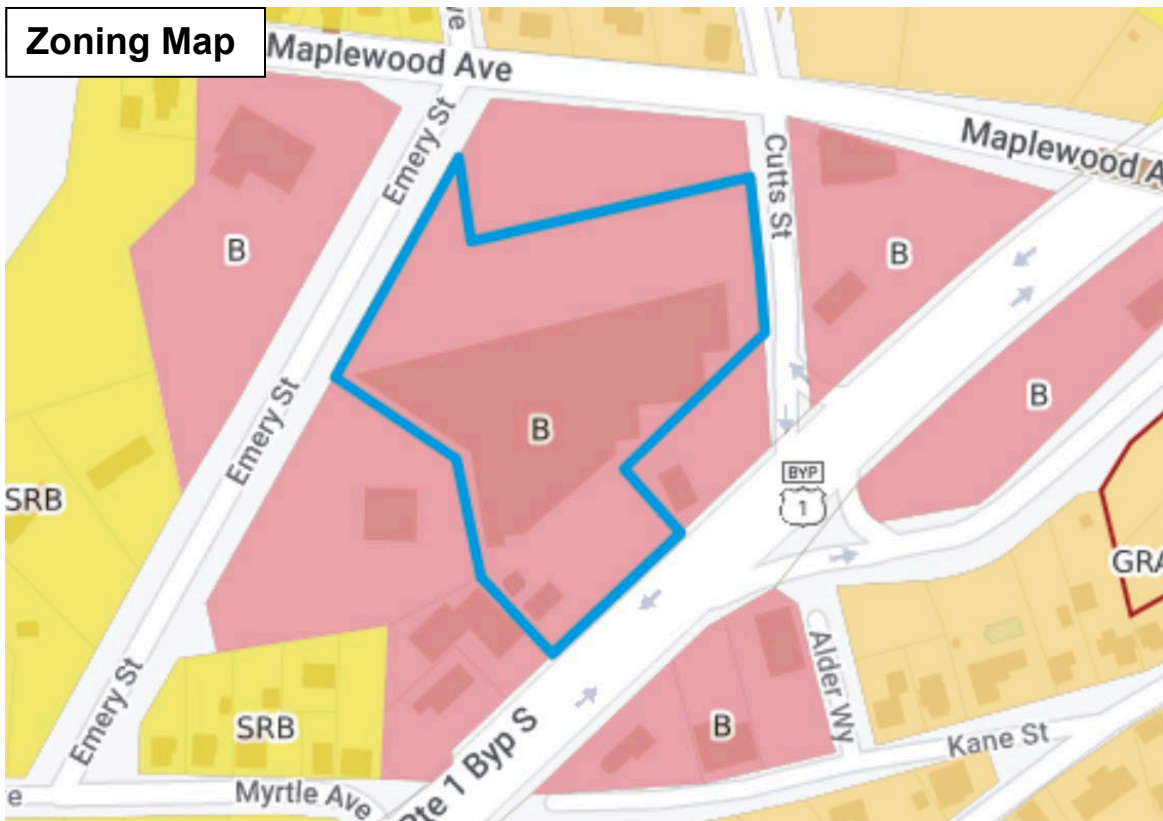
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Commercial	Change of Use – Health Club >2000SF	Primarily commercial
<u>Lot area (sq. ft.):</u>	152,460	152,460	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	N/A	N/A	2,500 min.
<u>Lot depth (ft.):</u>	>100	>100	80 min.
<u>Street Frontage (ft.):</u>	>150	>150	100 min.
<u>Front Yard (ft.):</u>	>20	>20	20 min.
<u>Side Yard (ft.):</u>	2	2	15 min.
<u>Rear Yard (ft.):</u>	>15	>15	15 min.
<u>Height (ft.):</u>	<50	<50	50 max.
<u>Building Coverage (%)</u> :	45	45	35 max.
<u>Open Space Coverage (%)</u> :	N/A	N/A	15 min.
<u>Parking:</u>	82	82	114
<u>Estimated Age of Structure:</u>	1962	Special Exception request(s) shown in red.	

Other Permits/Approvals Required

- Parking Conditional Use Permit - TAC & Planning Board
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

October 24, 1978 - The Board **granted** a variance to allow the construction of an addition to an existing building 2.5' from the left, 34' from the rear and 6.5' from the right property lines where 30', 50' and 30' respectively were required and a lot coverage of 47% where 30% was allowed.

January 5, 1988 - The Board **granted** a variance to allow the construction of a 14,570 s.f. addition to an existing structure with a 2' left yard where 30' was required, a 15' rear yard where 50' was required and building coverage of 63% where 30% was allowed. This was granted with the stipulation that (then) Plan R-9, Lot 89 and Plan U-42, Lot 37 be consolidated into one lot which would result in 50% coverage where 30% was allowed. The Board also granted an increase in the extent of a nonconforming use of a structure (Portsmouth Paper Company – wholesale and warehousing)

March 16, 2010 – The Board **granted** a request for a Special Exception to allow an auto dealership in the Business Zone and within 150' of a residential or mixed residential district where 200' was required and a Variance to allow auto dealership parking, outdoor storage or display less than 40' from a street right-of-way with the following stipulations: 1) That no more than six vehicles will be on the lot for sale at any one time; 2) That the approved use will be conducted within the 75' x 87' area shown on the plan submitted with the application; and 3) that there will be no repair or washing of vehicles.

June 24, 2016 – The Board **granted** a request for 1) A Variance under Section 10.440 to allow a light industry use in a district where this use is not allowed; and 2) A Variance from Section 10.1112.30 to allow 84 parking spaces where 103 parking spaces are required.

Planning Department Comments

The applicant is seeking a change of use to convert 12,000 SF of warehouse into a health club. Per Section 10.440.4.42, health clubs exceeding 2,000 SF GFA are permitted in the Business (B) District by special exception. The applicant is also seeking a conditional use permit from the Planning Board to provide less than the required number of parking spaces. The Technical Advisory Committee recommended approval of the conditional use permit at the June 6, 2023 meeting and Planning Board review is scheduled for the July 20, 2023 meeting.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*

2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

APPLICATION OF CJA CORPORATION dba VANGUARD KEY CLUBS
933 US Route 1 By-Pass
Map 142, Lot 37

APPLICANT’S NARRATIVE

A. The Project.

The Applicant, CJA Corporation, dba Vanguard Key Clubs, wishes to relocate its Portsmouth gym facility from its present location at 1 Raynes Avenue, where it has operated for over twenty years, to existing vacant storage space in the former Portsmouth Paper Company building on the By-Pass. The proposal is to convert 12,000 square feet of currently vacant storage space into a health club. The Vanguard Key Club business model is a high-end, low density unstaffed fitness facility. It does not hold classes, so traffic into the facility is not concentrated but rather spread out over the entire day. It has operated harmoniously at the Raynes Avenue facility since its inception. The applicant and its principal, Craig Annis, operate Vanguard Key Club facilities in Portsmouth, Dover, North Hampton, Kingston, Newburyport and York.

The property is in the Business (B) zoning district, the purpose of which is “[t]o provide for a mix of retail, commercial and residential uses in areas of the City where a mix of such uses is desirable.” §10.410.

Health clubs exceeding 2,000 square feet gross floor area are permitted in the Business zone by special exception. §10.440.4.42.

B. The Special Exception.

The Applicant believes the proposal easily meets the criteria for the necessary special exception. Those criteria are set forth in the ordinance at §10.232.20.

First, the use proposed here, “Health club,” is permitted within this district by special exception, see §10.440 Table of Uses, no. 4.42. §10.232.10.

Second, the proposed use will pose no hazard to the public or adjacent properties on account of potential fire, explosion or release of toxic materials. §10.232.22. No explosives, toxic materials or accelerants of any type are involved in the operation of a health club and none will be stored on site.

Third, there will be no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat,

vibration, or unsightly outdoor storage of equipment, vehicles or other materials. §10.232.23. The buildings, structures, parking areas and accessways already exist and have since 1968 according to city tax records. Nothing about the proposed health club use would create odor, smoke, gas, dust, pollutants, noise, glare, heat or vibrations. There will be no outdoor storage of equipment associated with this use.

A variety of commercial uses, including storage, warehouses, offices and health clubs have existed on this fully developed site for many years with no discernible effect on property values in the vicinity. The property is immediately abutted by a gas station, a school bus depot, a PSNH facility and a motorcycle shop. It has been the applicant's experience that, given its 24 hour accessibility to members, these facilities generally tend to discourage loitering or other "unsavory" activity that might otherwise occur in a dark parking lot behind a warehouse, which is a benefit to the neighboring properties.

The building already exists and no new construction or site disturbance is contemplated.

Fourth, there will be no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. §10.232.23. The existing use is comprised of industrial/warehouse/retail and office use. The applicant's operation is geared towards a specialized clientele and does not generate significant traffic. A conditional use permit related to the parking load on site is concurrently being reviewed by the Planning Board.

Fifth, there will be no excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools. §10.232.24. None of these services will be implicated by this proposal.

Finally, the project will result in no significant increase of stormwater runoff onto adjacent property or streets. §10.232.25. There will be no change to the existing building footprint or impervious surfaces.

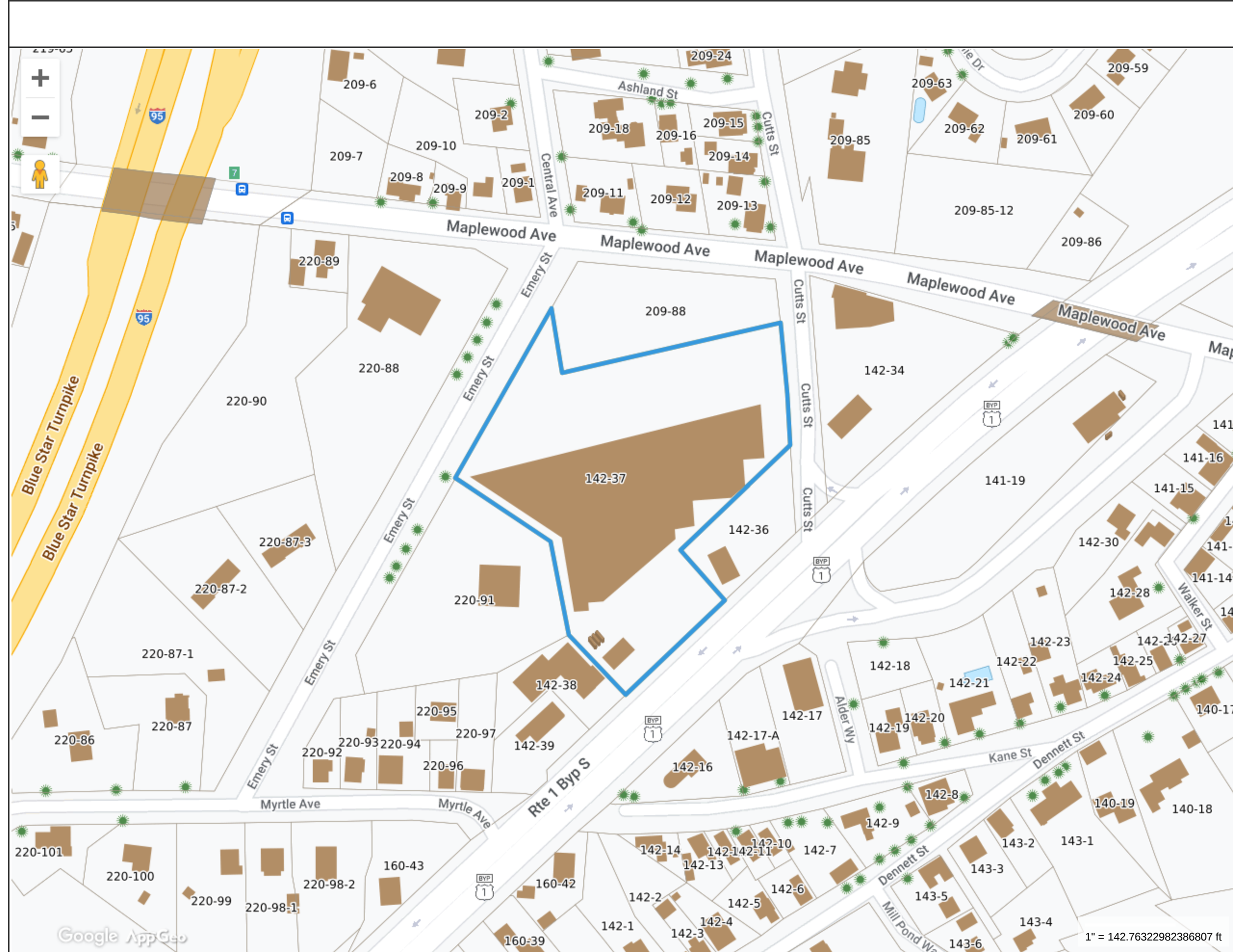
C. Conclusion.

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

Respectfully submitted,

Dated: May 29, 2023

By: /s/ Christopher P. Mulligan
Christopher P. Mulligan, Esquire



Property Information
Property ID 0142-0037-0000
Location 933 US ROUTE 1 BYP
Owner SARNA PROPERTIES INC



**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 09/21/2022
 Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

J:\JOBS\JN700s\Jn775\2010 Site Plan\Plans & Specs\Site\775wd02.dwg, C3_PROPOSED_PARKING PLAN



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

200 Griffin Road, Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

- 1) PARKING CALCULATION
 EXISTING STRUCTURE: 59,590 S.F.
 62,086 TOTAL G.S.F. INCLUDING MEZZANINES
 PROPOSED USE:
 BUSINESS OFFICE: 7,540 S.F. x 1/250 S.F. = 30.2 SPACES
 ADJACENT WAREHOUSE: 1,985 S.F. x 1/2000 S.F. = 1.0 SPACES
 INDOOR RECREATION (7,184 S.F.) 50 USER x 0.5 = 25.0 SPACES
 WAREHOUSE: 44,367 S.F. x 1/2000 S.F. = 22.2 SPACES
 BUSINESS OFFICE: 1,000 S.F. X 1/250 S.F. = 4.0 SPACES
 TOTAL REQUIRED: 82 SPACES
 TOTAL PROVIDED: 82 SPACES

2) THE PURPOSE OF THIS PLAN IS TO SHOW AN UPDATED USE OF A PORTION OF THE WAREHOUSE SPACE AT 933 U.S. ROUTE 1 BY-PASS.

BUILDING RE-USE
SARNIA PROPERTIES, INC.
933 U.S. ROUTE 1 BYPASS
PORTSMOUTH, N.H.

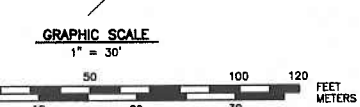
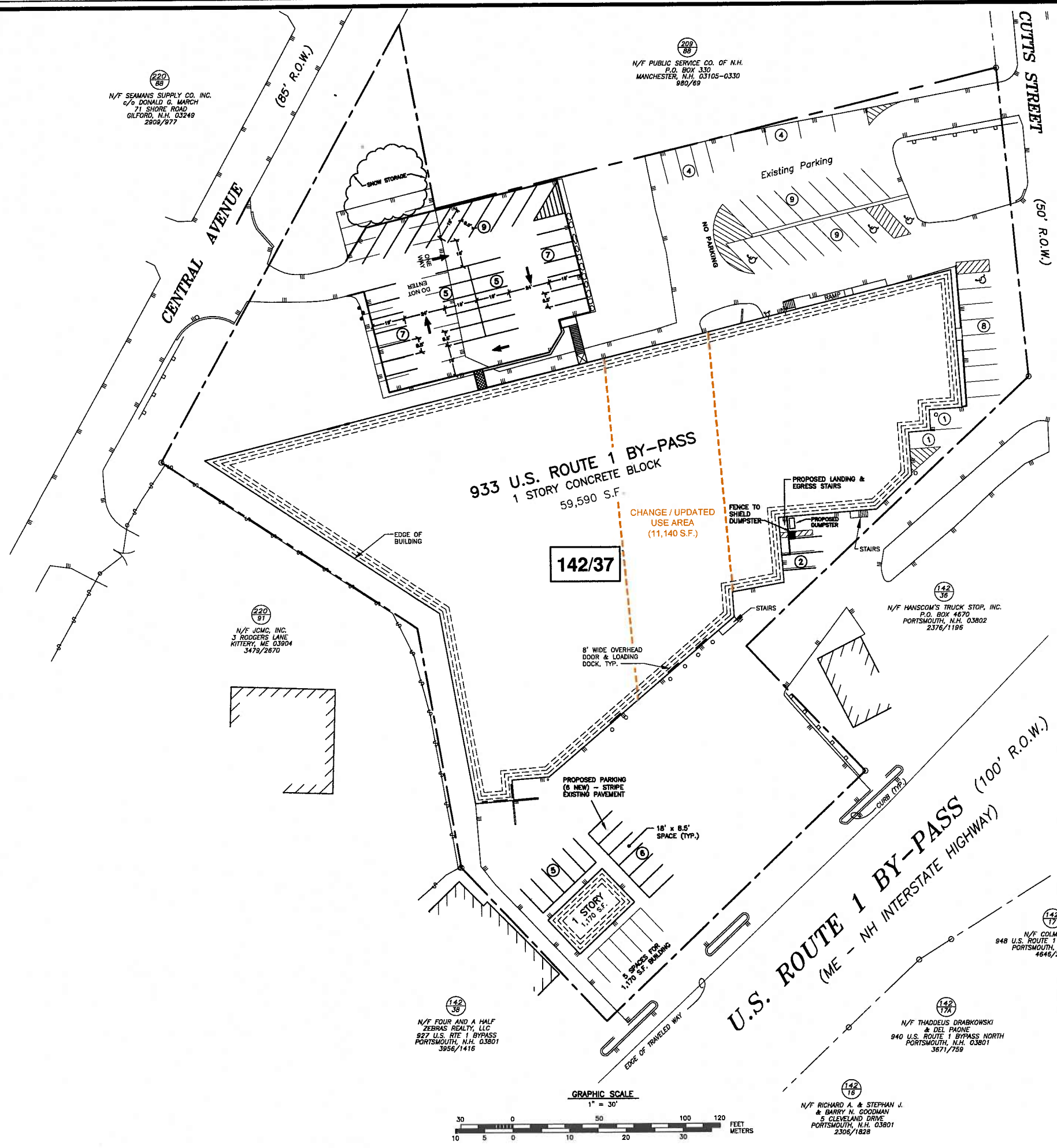
NO.	DESCRIPTION	DATE
3	REVISED PARKING CALCULATION, ADDED NOTE 2	7/27/11
2	REVISED COUNT TO 6 NEW SPACES	6/15/11
1	ADDED MORE PARKING SPACES, NOTE 1	6/6/11
0	ADDED TO PLAN SET	11/10/10

REVISIONS

NO.	DESCRIPTION	DATE

SCALE: 1" = 30' SEPTEMBER 2010

PROPOSED PARKING PLAN **C3**





AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

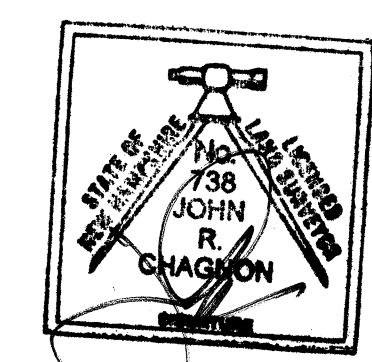
200 Griffin Road, Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

1) AREAS ARE CALCULATED FROM OUTSIDE FACE OF WALL TO CENTERLINE OF DEMISING WALL & FOR ZEN STONWORKS, TO OUTSIDE FACE OF LEASE AREA PROPOSED WALLS.

**PORTSMOUTH PAPER
BUILDING
933 US ROUTE ONE
BY-PASS
4 CUTTS STREET
PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	7/5/12
REVISIONS		



SCALE: 1" = 10' JULY 2012

**UNIT 5 SUB-LEASE
AREA PLAN**

C1

LEGEND:

- GLD GROUND LEVEL OVERHEAD GARAGE DOOR
- LD LOADING DOCK
- MD MAN DOOR
- IOD INTERIOR OVERHEAD DOOR
- UNIT/SUB-LEASE BOUNDARY

