

APPLICATION OF LUCKY THIRTEEN PROPERTIES, LLC
Sagamore Avenue & Wentworth House Road, Portsmouth
Tax Map 201, Lot 9

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The owner, Lucky Thirteen Properties, LLC, and the applicant, the Bean Group, seek to develop the above-referenced property for business offices. We seek variances from the City's off-street parking requirements to permit:

- a) the construction of a parking area between the principal building and the public right of way, requiring a variance from Section 10.1113.12; and
- b) to develop the property without providing any off-street loading area, as would otherwise be required by Section 10.1120.

The property is an undeveloped lot at the corner of Route 1A (Sagamore Ave. and Route 1B (Wentworth House Road) and is within the MRB zone. The applicant plans to construct a +/-13,900 square foot real estate office building on the lot, which is a use permitted by right. See Section 10.440.5.20. The proposed development meets all dimensional requirements under the ordinance. The property has wetlands in its northeastern corner, so the proposal will require a conditional use permit from the Planning Board to permit disturbance within the 100 foot wetlands buffer. The applicant has met with the Conservation Commission and has had preliminary design review before the Technical Advisory Committee and believes the proposed development is viewed favorably by those bodies.

The existence of the wetlands and the general topography of the site necessarily drive the development of this lot toward the corner of Sagamore Ave. and Wentworth Road. The applicant also plans to have a robust landscaping plan and keeping the parking back ten (10) feet from the road for this purpose. This is also a corner lot, which has both a primary and secondary front yard, neither of which is permitted to have parking spaces within them. Developing the site in a manner that would place all parking behind the principal building would push the parking areas much closer to wetlands than is necessary or desirable. Siting the parking area as proposed will protect the wetlands from runoff and contamination.

The off-street loading requirement for a building of the size here proposed would otherwise be one space. Section 10.1122.10. Installation of the loading area and associated improvements, such as travel aisles and maneuvering areas would require an excessive amount of disturbance in the wetlands buffer. It is also demonstrably unnecessary. The proposed office building is intended to accommodate the Bean Group's expanding real estate operation, which is presently headquartered right across Wentworth Road, where an office building of approximately 9,000 square feet was recently constructed in 2016. Although the size of that building is below the threshold requiring

loading areas, the applicant's experience with the associated operations across the street indicate that dedicated loading space is unnecessary. The proposed use simply does not require frequent deliveries of goods or materials which conflict with the basic general parking scheme.

II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variance to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. The use proposed is certainly consistent with the existing neighborhood, which consists of a mix of retail, restaurant, social services, business offices and the like. Siting the parking areas away from the wetlands actually promotes the public welfare. Planning Board approval will be necessary, further protecting the health, safety and welfare of the public.

Substantial justice would be done by granting the variances. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. In this case, there is no benefit to the public in denying the variance that is not outweighed by the hardship upon the owner. The siting of the parking area in the proposal is driven by the existing wetlands in the northeast corner of the lot and the lot's topography. Requiring strict adherence to the prohibition of parking between the principal building and the street would push all the parking toward that corner, and would create significant negative impacts to the wetlands. In addition, requiring the construction of a single loading area would further impact the wetlands to negligible benefit.

The values of surrounding properties will not be diminished by granting the variances. The newly constructed modern business offices would not in any way be

incompatible with the neighborhood. The values of the surrounding properties will not be negatively affected in any way.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The property in question consists of a corner lot at the corner of Routes 1A and 1B. It is burdened by wetlands and is on the edge of the MRB/WB zone. These are special conditions that distinguish this property from others in the vicinity.

The use is a reasonable use. The proposed business office use is permitted by right in this zone.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the prohibition against parking areas between a principal building and a street is presumably to produce a pleasing, pedestrian friendly atmosphere that "hides" the unattractive parking behind structures. The purpose of the loading area requirements is presumably to prevent conflicts within permanent vehicular parking areas. The wetlands on this site limit the efficacy of these goals. There is no fair and substantial relationship between the purpose of these requirements and their application to the parking proposed for this property.

III. Conclusion.

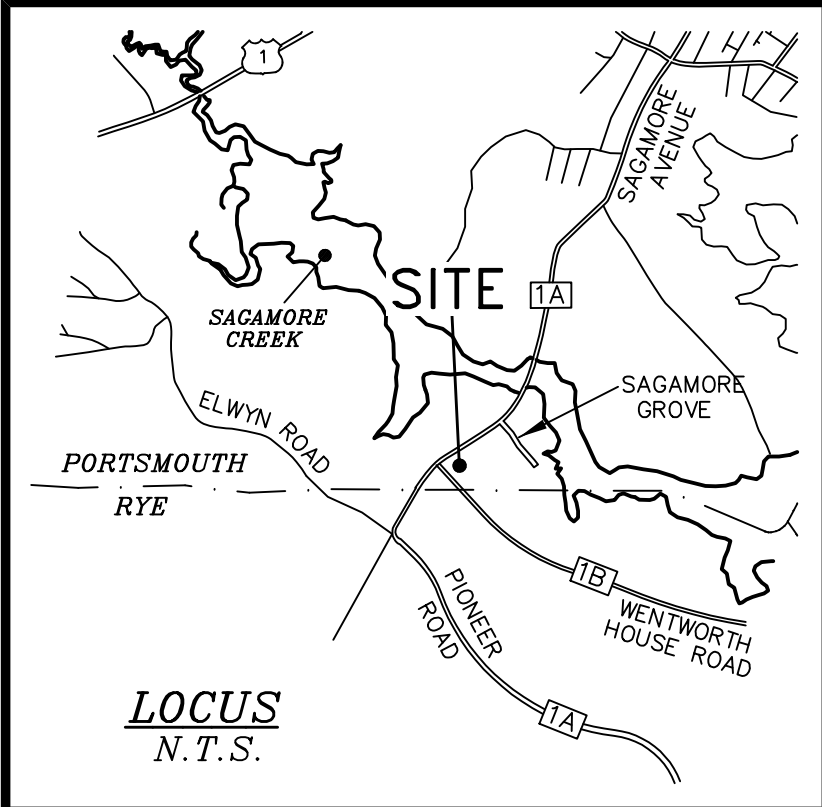
For the foregoing reasons, the applicant respectfully requests the Board grant the variance as requested and advertised.

Respectfully submitted,

Dated: August 26, 2019

By:


John K. Bosen, Esquire



LEGEND:	
	STONE WALL
	IRON ROD FOUND
	IRON ROD SET
	IRON PIPE FOUND
	BOUND as DESCRIBED
	DRILL HOLE
PSNH.....	PUBLIC SERVICE CO. OF NH
VZ.....	VERIZON
	TAX SHEET – LOT NUMBER
	SEE SIGN TABLE
RCRD.....	ROCKINGHAM COUNTY REGISTRY OF DEEDS
EOP.....	EDGE OF PAVEMENT
ETW.....	EDGE OF TRAVELLED WAY
VGC.....	VERTICAL FACED GRANITE CURB
	BOLLARD
	REFLECTOR
	SIGN
	DOUBLE POST SIGN
	UTILITY POLE
	UTILITY POLE W/TRANSFORMER
	LIGHT POLE
	UTILITY POLE WITH ARM & LIGHT
	GUY
	ELECTRIC METER
	HORIZONTAL PROPANE TANK
	WATER GATE VALVE
	WATER SHUT OFF VALVE
	HYDRANT
	CATCH BASIN
	TREE LINE/BRUSH LINE
	CONIFEROUS TREE
	WATER LINE
	DRAIN LINE
	UNDERGROUND UTILITIES
	OVERHEAD WIRES
	CEMENT CONCRETE
	RIP RAP
	SPOT GRADE

NOTES:

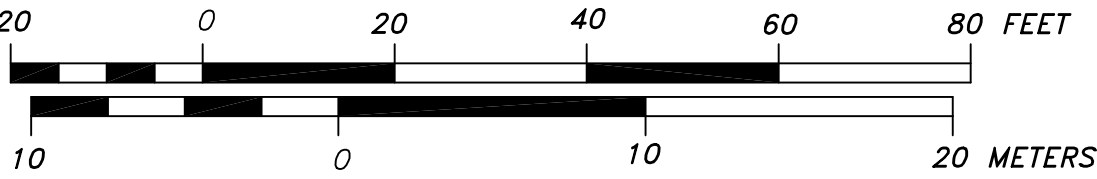
- OWNER OF RECORD.....LUCKY THIRTEEN PROPERTIES, LLC
ADDRESS.....PO BOX 4780, PORTSMOUTH, NH 03802
DEED REFERENCE.....5668/1925
TAX SHEET / LOT.....201-9
PARCEL AREA 59,243 S.F. (1.360 ACRES)
- ZONED:..... MRB FRONT YARD SETBACK5'
MINIMUM LOT AREA 7,500 S.F. SIDE YARD SETBACK.....10'
FRONTAGE..... 100' REAR YARD SETBACK.....15'
- THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
- 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.
- ON SITE CONTROL ESTABLISHED USING SURVEY GRADE GPS UNITS.
HORIZONTAL DATUM: NAD 1983 (2011)
VERTICAL DATUM: NAVD 1988
PRIMARY BM: CITY CONTROL POINT "ALBA"
- WETLANDS DELINEATION 12/2015 BY MICHEAL CUOMO, NHCWS# 4,
6 YORK POND RD, YORK, ME 03909.
- LOCATION OF "WARRANT HIGHWAY EASEMENT" PER RCRD BOOK 3123, PAGE 2896, DATED OCTOBER 18, 1995 & SHOWN ON "PLAN OF WENTWORTH ROAD (ROUTE 1-B), PORTSMOUTH, HIGHWAY EASEMENT". SAID PLAN IS NOT RECORDED & CAN NOT BE LOCATED BY NHDOT. SEE SAID DEED FOR OTHER RIGHTS GRANTED TO THE STATE OF NH.
- THE SUBJECT TRACT LIES IN ZONE X (UNSHADED), AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON FLOOD INSURANCE RATE MAP NO. 33015C0286E, EFFECTIVE DATE MAY 17, 2005, BY FEMA.

REFERENCE PLANS:

- PLAN OF LAND, 1150 SAGAMORE AVENUE, PORTSMOUTH, N.H., RYE CORNER GAS, LLC, DATED 4/8/2015, RCRD PLAN C-38865.
- PLAN OF LAND FOR NC WENTWORTH, LLC, WENTWORTH ROAD, NEW CASTLE, N.H., REVISED TO 8/14/2000, RCRD PLAN C-28285.
- LAND IN PORTSMOUTH, N.H., SADIE P. GOUSE TO FRANCES L. PENDERGAST, DATED 7/1954, RCRD PLAN 02283.
- PLAN OF LAND, PORTSMOUTH, N.H., SADIE P. GOUSE TO JOHN S. DIMOCK, DATED 6/1950, FILE NO. 109, PLAN NO. 1-420, BY JOHN W. DURGIN, CE, NOT RECORDED.
- PLAN OF LAND, PORTSMOUTH, N.H., SADIE P. GOUSE TO LEONARD & EMILY OSTERMAN, DATED 3/1946, FILE NO. 109, PLAN NO. 1-295, BY JOHN W. DURGIN, CE, NOT RECORDED.

ABUTTERS LIST

MAP-LOT	OWNER OF RECORD	DEED REF.
201-2	GOSSELIN LIVING TRUST ARMAND E. GOSSELIN AND FRANCES M. GOSSELIN, TRUSTEES 960 SAGAMORE AVE, PORTSMOUTH, NH 03801	3469/2151
201-8	WALTER J. ALLEN 1 SAGAMORE GRV, PORTSMOUTH, NH 03801	2296/878
201-10	BARBARA A. KUCHTEY PO BOX 252, NEW CASTLE, NH 03854	2705/2238
201-22	WENTWORTH-SAGAMORE, LLC 2 INTERNATIONAL DR, SUITE 301, PORTSMOUTH, NH 03801	
201-26	CITY OF PORTSMOUTH C/O CONSERVATION COMMISSION PO BOX 6697, PORTSMOUTH, NH 03802	
223-25	SEACOAST MENTAL HEALTH CTR 1145 SAGAMORE AVE, PORTSMOUTH, NH 03801	
223-25-B	CITY OF PORTSMOUTH 1 JUNKINS AVE, PORTSMOUTH, NH 03801	
224-19	JUSTIN P. NADEAU & MICHELLE FIRMBACH NADEAU 507 STATE ST, PORTSMOUTH, NH 03801	



SEE SHEET 2 FOR PLANIMETRIC INFORMATION

SURVEYOR:

James Verra and
Associates, Inc.
LAND SURVEYORS

101 SHATTUCK WAY – SUITE 8
NEWINGTON, N.H. 03801– 7876
603-436-3557
JOB NO: 23655
PLAN NO: 23655

ENGINEER:

ALTUS
ENGINEERING, INC.

133 COURT STREET PORTSMOUTH, NH 03801
(603) 433-2335 www.ALTUS-ENG.com

ISSUED FOR:

ENGINEERING DESIGN

ISSUE DATE:

DECEMBER 20, 2016

REVISIONS

NO.	DESCRIPTION	BY	DATE
1	ENGINEERING DESIGN	JV	12/20/16
2	ADD SET MONUMENTS	JV	5/18/17

DRAWN BY: JCS

APPROVED BY: JV

DRAWING FILE: 23655.DWG

SCALE:

22" x 34" – 1" = 20'
11" x 17" – 1" = 40'

OWNER:

LUCKY THIRTEEN
PROPERTIES, LLC
PO BOX 4780
PORTSMOUTH, NH 03802
ASSESSOR'S PARCEL
201-9



PROJECT:

PROPOSED SITE
DEVELOPMENT
PLANS
SAGAMORE AVENUE &
WENTWORTH HOUSE ROAD
PORTSMOUTH, N.H.
ASSESSOR'S PARCEL
201-9

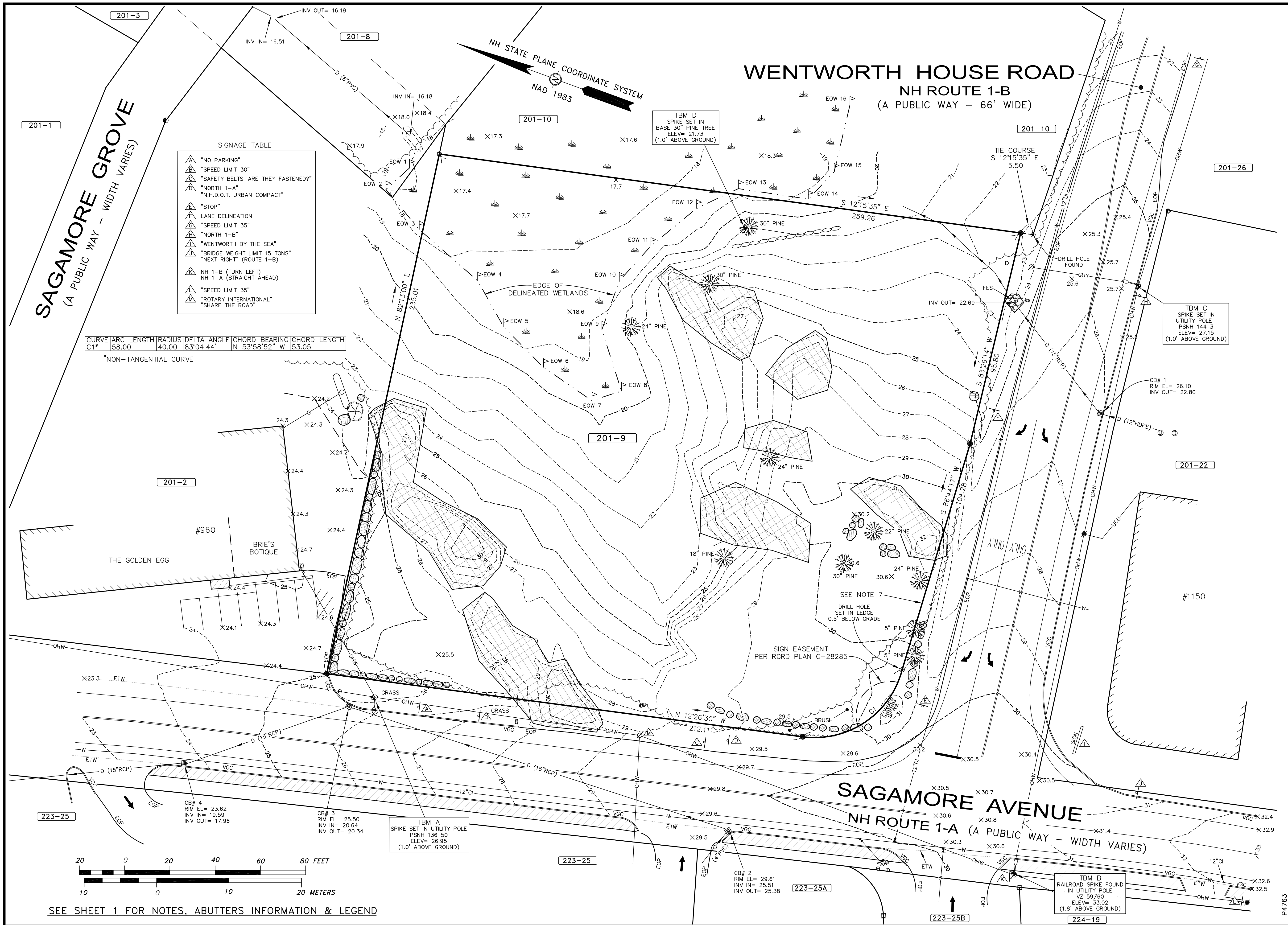
TITLE:

EXISTING
CONDITIONS
PLAN

SHEET NUMBER:

1 OF 2

P4763



SURVEYOR:
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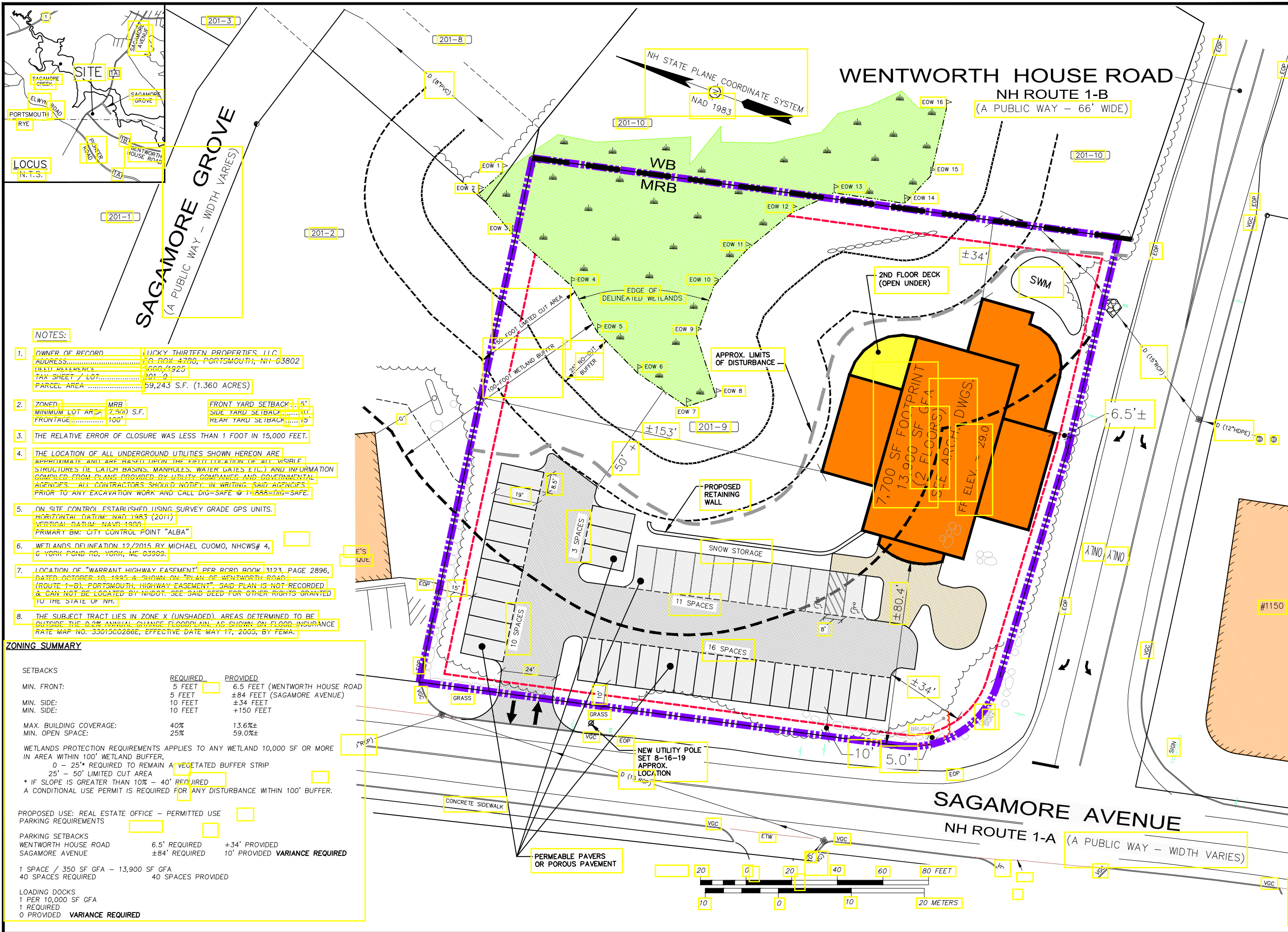
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PROPOSED SITE DEVELOPMENT PLANS
SAGAMORE AVENUE & WENTWORTH HOUSE ROAD
PORTSMOUTH, N.H.
ASSESSOR'S PARCEL
201-9

TITLE:
EXISTING CONDITIONS PLAN

SHEET NUMBER:
2 OF 2



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ZONING SUMMARY

SETBACKS	REQUIRED	PROVIDED
MIN. FRONT:	5 FEET	6.5 FEET (WENTWORTH HOUSE ROAD)
MIN. SIDE:	5 FEET	±84 FEET (SAGAMORE AVENUE)
MIN. SIDE:	10 FEET	±34 FEET
MIN. SIDE:	10 FEET	+150 FEET
MAX. BUILDING COVERAGE:	40%	13.6%±
MIN. OPEN SPACE:	25%	59.0%±

WETLANDS PROTECTION REQUIREMENTS APPLIES TO ANY WETLAND 10,000 SF OR MORE IN AREA WITHIN 100' WETLAND BUFFER,
0' - 25' REQUIRED TO REMAIN A VEGETATED BUFFER STRIP
25' - 50' LIMITED CUT AREA
* IF SLOPE IS GREATER THAN 10% - 40' REQUIRED
A CONDITIONAL USE PERMIT IS REQUIRED FOR ANY DISTURBANCE WITHIN 100' BUFFER.

PROPOSED USE: REAL ESTATE OFFICE - PERMITTED USE

PARKING REQUIREMENTS

PARKING SETBACKS	REQUIRED	PROVIDED
WENTWORTH HOUSE ROAD	6.5' REQUIRED	+34' PROVIDED
SAGAMORE AVENUE	±84' REQUIRED	10' PROVIDED VARIANCE REQUIRED

1 SPACE / 350 SF GFA - 13,900 SF GFA
40 SPACES REQUIRED 40 SPACES PROVIDED

LOADING DOCKS
1 PER 10,000 SF GFA
1 REQUIRED
0 PROVIDED **VARIANCE REQUIRED**

ENGINEER:

ALTUS
ENGINEERING, INC.

133 COURT STREET PORTSMOUTH, NH 03801
(603) 433-2335 www.ALTUS-ENG.com

ISSUED FOR:

BOARD OF ADJUSTMENT

ISSUE DATE:

AUGUST 28, 2019

REVISIONS

NO.	DESCRIPTION	BY	DATE
01	INITIAL SUBMISSION	EDW	08/28/19

DRAWN BY:

RLH

APPROVED BY:

EDW

DRAWING FILE:

5010CONCEPT2.DWG

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ASSESSOR'S PARCEL
201-9

APPLICANT:

BEAN GROUP
c/o MICHAEL BEAN
1150 SAGAMORE AVENUE
PORTSMOUTH, NH 03801

PROJECT:

REAL ESTATE OFFICE

SAGAMORE AVENUE & WENTWORTH HOUSE ROAD
PORTSMOUTH, N.H.
ASSESSOR'S PARCEL
201-9

TITLE:

BOARD OF ADJUSTMENT SITE PLAN

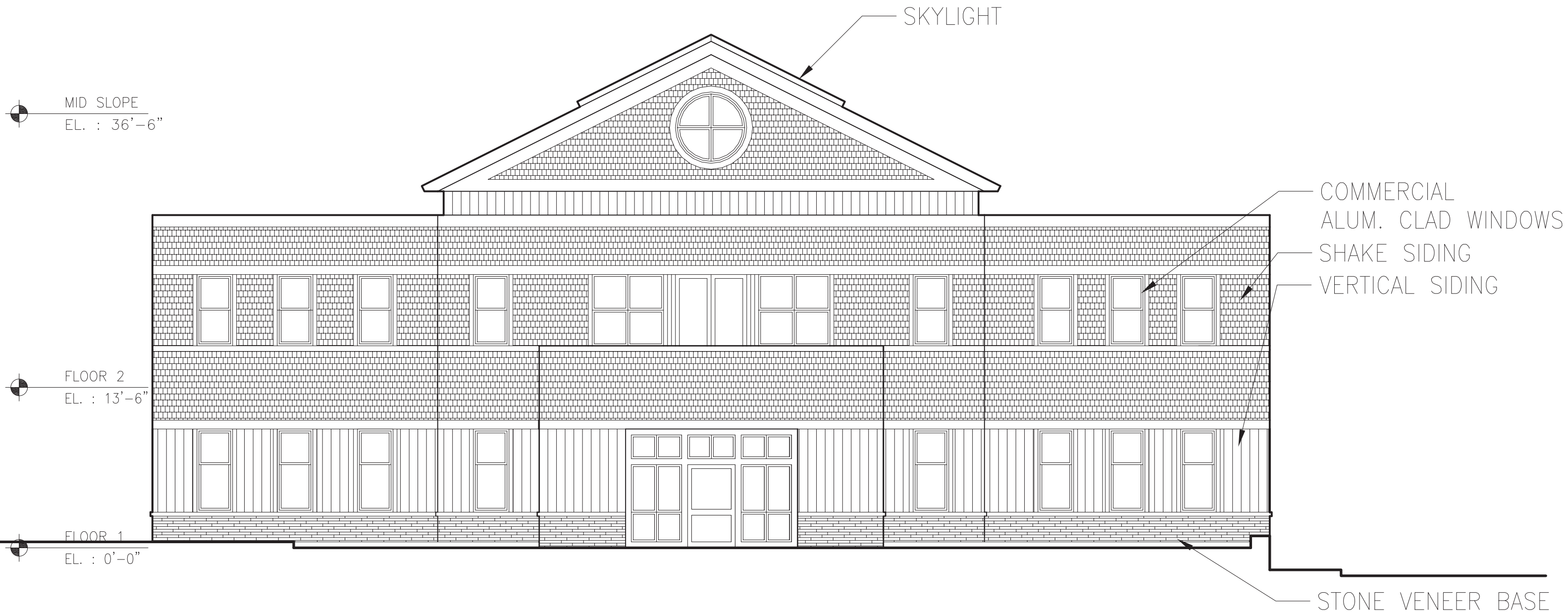
SHEET NUMBER:

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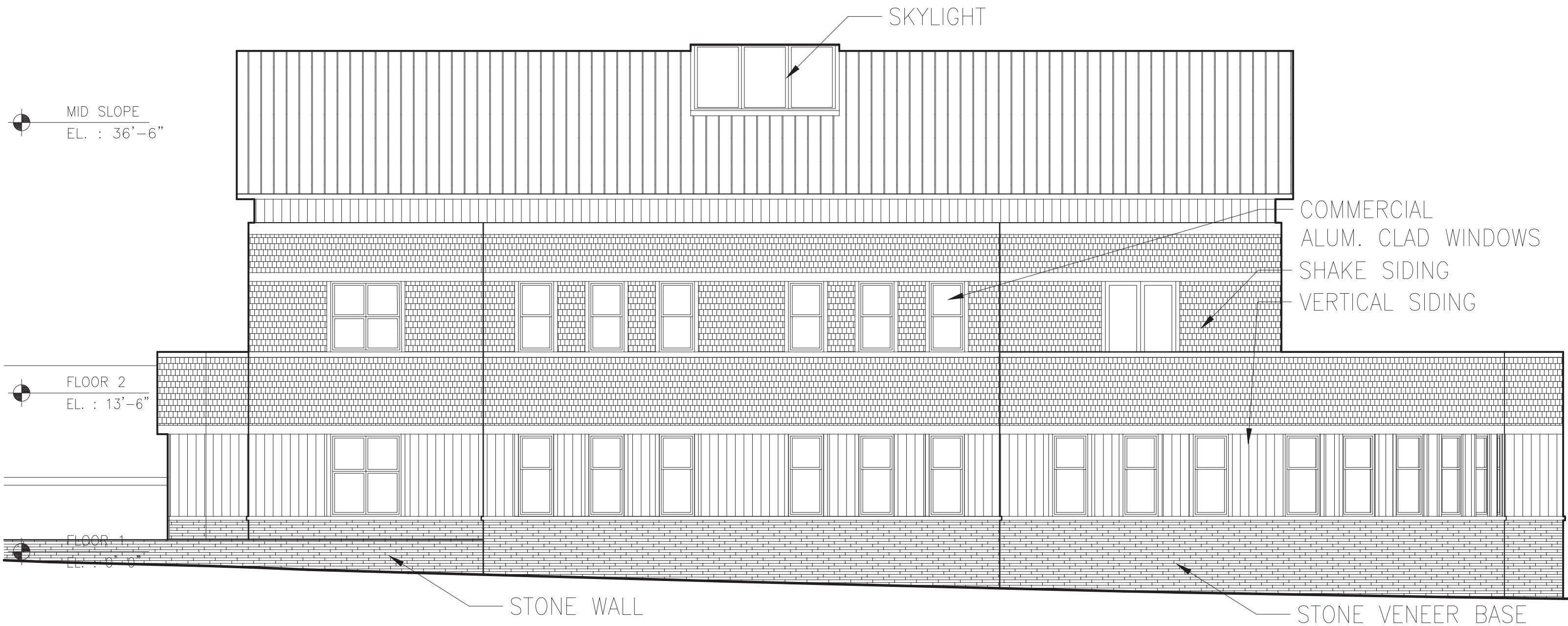
SAGAMORE AVE. PERSPECTIVE





SAGAMORE AVE. ELEVATION
1/8" = 1'-0"





WENTWORTH RD. ELEVATION
1/8" = 1'-0"

Bean Group | Portsmouth, NH
August 26, 2019
Zoning Board of Adjustment

McHENRY
ARCHITECTURE

4 Market Street
Portsmouth, NH 03801

design in context

