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September 1, 2021

David Rheume, Chair
Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: 238 Deer Street, Tax Map 125, Lot 3

Dear Chair Rheume and Board Members:

Enclosed please find materials which are part of the information submitted on the City's on line permitting system. We seek variance relief from the open space requirements, Article 10.5A41.10C, rear yard setback, Article 10.5A41.10C, and the definition of penthouse, Article 15.

We respectfully request that this matter be placed on the Board's September 21, 2021 agenda. In the meantime, if there are any questions about the application materials, please do not hesitate to contact me.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers, Esq.
SCS/jlh
Enclosures

cc: Client
Ambit Engineering
McHenry Architects

DONAHUE, TUCKER & CIANDELLA, PLLC
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VARIANCE APPLICATION FOR
238 DEER STREET, LLC (the “Applicant”)

The Applicant requests variance relief from the following provisions of the Portsmouth Zoning Ordinance: open space, Article 5A, Figure 10.5A410C, rear yard setback, Article 5A, Figure 10.5A410C and the definition of penthouse, Article 15, so as to enable the top-most portion of the building to be deemed a penthouse. The proposed building is shown on C2 of the Ambit Engineering materials and the architectural plans for the proposed penthouse are shown on sheet A2 and A4 of the McHenry Architecture materials.

A. Introduction and Factual Background.

The existing building is located at 238 Deer Street and is currently the home of The Stately Bar and Grill, a popular bar and restaurant. Prior to that time, it was the long-standing home of the Portsmouth VFW. The Applicant now seeks to redevelop the property into a mixed-use building which will contain commercial use on the first floor and on the upper floors will contain twenty-one (21) proposed market rate micro residential units, varying in size from 402 sq. ft to 500 sq.ft.

The existing building currently consists of two stories and occupies 4,243 square feet of the 6,181 sq ft lot. Immediately adjacent to the property to the west and to the southwest is land of 30 Maplewood Avenue Condominium, a residential condominium and to the east, 46 Maplewood Avenue Condominium which is currently under construction. The property of 30 Maplewood Avenue Condominium is burdened by a public access easement which lies between the condominium building under construction and the existing building of the applicant. The public access walkway continues around the rear of the Applicant’s existing building. To the west of the Applicant’s property lies land of 30 Maplewood Avenue Condominium and which is used as parking for 30 Maplewood Avenue Condominium. Photographs depicting the existing building and Property of Applicant, and its relationship to the immediate abutting properties to the west, southwest and east are shown in the McHenry Architecture Materials. See photo 5, page A9 and photo 12, page A10 relative to 30 Maplewood and photo 8, page A10 relative to 46 Maplewood.

The proposed site development has already received a conditional use permit from the Portsmouth Planning Board to allow no on-site parking spaces where 12 spaces are required and it has undergone preliminary TAC review. Should the Applicant successfully obtain the variance relief requested herein, then the Applicant intends to immediately seek site plan approval from the Portsmouth Planning Board.

The proposed site development has also been extensively reviewed by the Historic District Commission (HDC) and undergone several design changes as a result of requests made during HDC work sessions. HDC regulations preclude the issuance of HDC approval prior to obtaining a variance, however, should the Applicant be successful in obtaining these variances,

then based on recent meetings with the HDC in which no further design objections were voiced, the Applicant is hopeful that HDC approval will be granted.

B. Relief Requested.

The Applicant requests relief from Article 5A, Figure 10.5A410C for the amount of open space provided with the proposed development of the site. The Applicant also requests relief from Article 5A, Figure 10.5A410C for the setback of the proposed building from the rear yard lot line. Finally, the Applicant seeks relief from the strict definition of what constitutes the penthouse under Section Article 15 so as to deem the top-most portion of the building, and the units contained therein, as an allowed use.

C. Statutory Variance Criteria.

To obtain a variance under the provisions of the Portsmouth Zoning Ordinance, Article 2, Section 10.2.33 and RSA 674:33, the applicant must show that: 1) the variance will not be contrary to the public interest; 2) that the spirit of the ordinance is observed; 3) substantial justice is done; 4) the values of surrounding properties will not be diminished; and 5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, because owing to special conditions of the property that distinguish it from other properties in the area, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and the proposed use is a reasonable one, or if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

We respectfully request that the above referenced variances be granted. Based on the evidence presented below, the variance criteria outlined in the Portsmouth Zoning Ordinance and in RSA 674:33 have been met.

D. Analysis for Open Variance from Article 5A, Figure 10.5A410C for Open Space.

1. The variance will not be contrary to the public interest.

Under New Hampshire law, a variance is contrary to the public interest only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” See Chester Rod and Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005), Farrar v. City of Keene, 158 N.H. 684, 691 (2009) and Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007). Also, “... mere conflict with the terms of the ordinance is insufficient”. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011). To conduct this analysis, zoning boards must determine whether granting the variance will “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare”.

There is no undue conflict between the Applicant’s proposal and the basic zoning objective of the open space requirement of the Portsmouth Zoning Ordinance. While there is no

explicit language cited regarding the purpose of the open space language, it is reasonable to infer that the requirement is designed to foster a sense of light and space on any given lot and to not have property be completely occupied by various improvements. Here, the proposed amount of open space will not alter the essential character of the neighborhood or threaten the public health, safety or welfare. Further, and consistent with the purpose of Character District 4, the proposed configuration of the building will be compatible with the established character of the surroundings and will help to preserve and enhance the area by enabling the existing building to be removed and replaced with one which is more compatible with the surrounding area. In addition, the Applicant's proposal will include space which will function as if was open space and thus largely satisfy the intent of the ordinance. Specifically, the Applicant's property will benefit from the public access easement immediately adjacent to it on 30 Maplewood Avenue. Also, the building on Applicant's property will feature open deck areas on the penthouse level, some of which will be accessible to all unit owners, and some of which will only be accessible to the units within the penthouse. Finally, on the west side of the building reserved space for plantings and relocated paving lines will also enhance a sense of open space. See sheet C2 of Ambit Engineering Materials.

For the above referenced reasons, it would be reasonable for the Board of Adjustment to determine that granting the variance will not be contrary to the public interest.

2. The spirit of the Ordinance is observed.

Under New Hampshire law, the criteria pertaining to the spirit of the ordinance is considered to be coextensive with the requirement that the variance not be contrary to the public interest. Chester v. Rod and Gun Club, Malachy Glen Associates Inc. v. Town of Chichester, 155 N.H. 102, 105-106 (2007), Fararr. For the reasons set forth in Section D.1. above, the open space variance request is consistent with the spirit of the Ordinance.

3. Substantial justice is done.

The test for this variance criteria is noted in Malachy Glen and consists of determining whether the loss to the individual applicant by denying the variance is outweighed by a gain to the general public. 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning §24.11 at 308 (2000). If no determination is made that the general public will be benefitted, then substantial justice will not be done. In this case, the loss to the Applicant by denying the open space variance would not be outweighed by any gain to the general public since denying the variance would cause the building footprint to shrink, thus increasing the odds that the proposed development project will not be viable, and compliance with the full requirement for open space will be of marginal benefit to the general public who can already enjoy the public access on the abutting property.

For the reasons set forth above, substantial justice will be done if the variance is granted.

4. The proposal does not diminish property values.

The nature of the immediately surrounding properties consists of extensively built out lots or parking areas which do not meet the definition of open space. The actual use of the property will consist of commercial and residential, which is allowed as a matter of right and which is consistent with surrounding uses. As a result, the surrounding properties will not suffer a diminution in property values and the Applicant is unaware of any evidence to the contrary.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

As set forth in the provisions of RSA 674:33, I, there are two options by which the Board of Adjustment can find that an unnecessary hardship exists:

a. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

ii. The Proposed use is a reasonable one.

or,

b. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The special condition of this property is that it is a small lot in the midst of larger lots which surround it on three sides, and on the fourth side, it is abutted by Deer Street. There is no fair and substantial relationship between the general public purpose of the open space zoning ordinance and the specific application to this specific property. While the proposed development of the property will create a lack of conformity with the open space requirement, the functionality of other aspects of the development, particularly the ability to use the public access walkway on 30 Maplewood, to use the deck space on the penthouse level will all help to satisfy the core general public purpose of the open space ordinance.

The proposed use is also a reasonable one. The small nature of the lot means that flexibility in design is at a premium. Also, the design must be able to execute the fundamental purpose of the proposal for micro units, and to do so in a way which will make the proposal viable. Given these constraints, and given the open space functional equivalent provided, the overall proposal is a reasonable one.

For the reasons set forth above, the Applicant respectfully requests that the Board of Adjustment find that the variance request meets the statutory test for hardship.

E. Analysis for Variance from Article 15, regarding Compliance with Penthouse Definition.

In order to construct a building containing the number of units which will make the project a viable one, the Applicant has determined that twenty-one units are required. It is not feasible to accomplish this goal within the three stories allowed as a matter of right. The Applicant has determined that the best approach, and the one which deviates the least from the spirit of the ordinance regarding the number of stories, is to have three stories and a penthouse on top of the third floor, and the cumulative height of all elements of the building which will not exceed the allowable height.

While the Applicant believes that the strategy described above complies with the spirit of the ordinance, it does not strictly comply with the definition of the ordinance, which calls for a penthouse to have a fifteen-foot (15') setback from all edges of the roof and to have a total floor area which does not exceed 50% of the floor below.

The Applicant now seeks relief from the strict terms of the definition of penthouse and asks that the proposal be deemed a penthouse.

1. The variance is not contrary to the public interest.

a. Granting relief to allow a penthouse with an 8' setback will not be contrary to the public interest. Article 15 of the Zoning Ordinance provides the following relevant definitions:

The definition of story indicates that the "An attic, half story or penthouse shall not be counted as a story, but a short story shall be counted as a story".

The definition of penthouse indicates that it is "A habitable space within the uppermost portion of a building above the cornice which is set back at least 15 feet from all edges of the roof and the total floor area of which does not exceed 50% of the area of the story below..."

The definitions provide no explicit reference to the purpose of requiring a fifteen-foot setback from roof edges in order to have the space be deemed a "penthouse". However, since the property is located in Character Based District 4, it is reasonable to ascertain the purpose of the setback variance by looking to the underlying character-based zoning for CBD 4. Under Article 5A, Section 10.5A11, the purpose of such zoning "...is to encourage development that is compatible with the established character of its surroundings and consistent with the City's goals for the preservation or enhancement of the area. "A review of the existing character of the surroundings indicates that there are a variety of penthouse configurations, which may not be uniformly consistent with the 15' requirement. As a result, allowing a penthouse with an 8' setback, which Applicant contends will still have the look and feel of an appropriate setback

when viewed from the street or the neighboring properties, will not alter the essential character of the locality. Further, having an 8' roof setback, rather than a 15' setback will not create a public health, safety or welfare risk.

b. Granting a variance to allow a penthouse with more than 50% of the total floor area of the floor below will not be contrary to the public interest.

As with the fifteen-foot setback requirement, there is no explicit statement as to the purpose of requiring a ceiling on the total floor area of the penthouse as it relates to the size of the floor below. Again, however, looking at the purpose of the character-based zoning, the established character of the surroundings shows variations in the configurations in the amount of floor area in the penthouse relative to the floor below. Moreover, as shown on sheet A2 of the architectural plans, a significant portion of the total floor area as shown in the red cross hatch area is occupied by stairs, corridors, elevator and utility spaces, much of which must be spaced and located as shown due to Building Code requirements. The actual habitable area which will comprise the proposed four units is 1,907 square feet, which is less than 50% of the total floor area below and less than 50% the habitable area of the floor below. The differential between the total floor area of the third story and the penthouse is, at sixty percent, rather than fifty percent, a relatively modest difference. Given the size and scale of the building, an overage of the allowed amount by 10% will still be compatible with the established character of the surroundings in the character-based district and will not alter the essential character of the locality. Further, having a total floor area of 60% larger than the floor below, but which total floor area is comprised of 1,299 square feet of non-habitable space, will not create a public health, safety or welfare risk.

For the reasons set forth above, it would be reasonable for the Board of Adjustment to determine that granting the variance will not be contrary to the public interest.

2. The spirit of the Ordinance is observed.

Under New Hampshire law, the criteria pertaining to the spirit of the ordinance is considered to be coextensive with the requirement that the variance not be contrary to the public interest. Chester v. Rod and Gun Club, Malachy Glen Associates Inc. v. Town of Chichester, 155 N.H. 102, 105-106 (2007), Fararr. For the reasons set forth in E.1. above, the variance request to allow a penthouse within an 8' setback and floor area which exceeds 50% of that below is consistent with the spirit of the Ordinance.

3. Substantial justice is done.

The test for this variance criteria is noted in Malachy Glen and consists of determining whether the loss to the individual applicant by denying the variance is outweighed by a gain to the general public. If no determination is made that the general public will be benefitted then substantial justice will not be done. In this case, the loss to the Applicant by denying the variance from the strict definition of "penthouse" relative to the setback requirement and the floor area requirement means that the Applicant will need to make a much greater request for relief in the form of an additional story and/or height. In turn, a greater request for relief will increase the risk of a denial, and ultimately of a project that will not be viable. This loss to the

Applicant will not be outweighed by any gain to the general public since the general public already is exposed to penthouses and upper stories of various configurations in the character-based district.

For the reasons set forth above, substantial justice will be done if the variance is granted.

4. The proposal will not diminish surrounding property values.

The surrounding properties include multi story buildings some of which have penthouse configurations. The residential use within the penthouse is permitted as a matter of right and is consistent with nearby uses. As a result, the surrounding properties will not suffer a diminution in property values and the Applicant is unaware of any evidence to the contrary.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

The special condition of this property is that it is a small lot surrounded on three sides by much larger lots capable of more flexibility in design options, and on the fourth side by Deer Street. There is no fair and substantial relationship between the general public purpose of the penthouse definition requiring a 15' setback and sizing of less than 50% of the floor area of the floor below and the specific application of the ordinance to this particular property. While the proposed penthouse may not be in technical compliance with the terms of the definition, the appearance of the penthouse will be compatible with the established character of nearby buildings featuring setbacks and floor area, and thus the ordinance as applied here, has no substantial relationship to the purpose. Moreover, the proposed use is a reasonable one. The size of the lot relative to other lots located in the area means that strict application of ordinance provisions impacting design decisions will make the design of a building on such a small lot even more challenging than it already is. Further, the impact of the strict penthouse definition applied to this particular property when compared to the application to the definition on some larger properties in the surrounding area means that the effects are particularly burdensome for the Applicant because it severely constricts design options. Finally, the origin of this proposal is a desire to meet the urgent need for housing in the downtown which will be within reach of people who can afford market rate housing, provided that the housing units are small and not presented as "luxury" housing. The viability of the proposal calls for the designated number of units. The use of a penthouse configuration will enable this number of units and require less relief than if the proposal called for a fourth story.

For the reasons set forth above, the Applicant respectfully requests that the Board of Adjustment find that the variance request meets the statutory test for hardship.

F. Analysis for Variance from Article 5A, Figure 10.5A410C for Rear Yard Setback.

1. The variance will not be contrary to the public interest.

As with the other variances requested, the test for the public interest criteria for the rear yard setback variance is whether it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives. “Chester Rod and Gun Club, Malachy Glen””

There is no undue conflict between the Applicant’s proposal and the basic objective of the rear yard setback requirement of the Portsmouth Zoning Ordinance. As with the open space requirement, there is no stated purpose for the rear yard setback, but it is reasonable to assume that the purpose of the ordinance is to prevent overcrowding on the lot. Here, the proposed rear yard setback, which actually is an increase from the existing rear yard setback, will not alter the essential character of the neighborhood nor will it threaten the public health, safety or welfare. As stated in the open space variance request, the neighborhood is comprised of a variety of building configurations, and the rear yard setback will be compatible with the established character of the neighborhood. Also, the Applicant’s proposed building will back up to a portion of the public access easement which burdens the 30 Maplewood Avenue property , and thus the Applicant’s rear yard will not have the sense of overcrowding which it otherwise might experience.

For the reasons set forth above, it would be reasonable for the Board of Adjustment to determine that granting the variance will not be contrary to the public interest.

2. The spirit of the Ordinance is observed.

Under New Hampshire law, the criteria pertaining to the spirit of the ordinance is considered to be coextensive with the requirement that the variance not be contrary to the public interest. Chester v. Rod and Gun Club, Malachy Glen Associates Inc. v. Town of Chichester, 155 N.H.102,105-106 (2007), Fararr. For the reasons set forth in Section F1 above, the rear yard setback variance is consistent with the spirit of the Ordinance.

3. Substantial justice is done.

As is stated in the earlier variance requests, the test for this variance criteria is based on a determination of whether the loss to the individual applicant by denying the variance is outweighed by a gain to the general public. If no determination is made of a benefit to the general public resulting from the denial of the variance, then substantial justice will not be done. As with the variance request for the open space requirement, the general public will not enjoy any benefit from strict compliance with the rear yard setback requirement. Conversely, the loss to the Applicant resulting from the denial of the rear yard setback will be substantial since it could cause the footprint of the building to shrink and increase the design challenges which are already experienced due to the small size of the lot.

For the reasons set forth above, substantial justice will be done if the variance is granted.

4. The proposal does not diminish property values.

The use of the proposed building will include the allowed uses of commercial and residential. The configuration of the proposed building, including the rear yard setback, particularly when viewed in the light of the adjacent public access easement is not dissimilar to other properties in Character District 4. As a result, the surrounding properties will not suffer a diminution in property values and the Applicant is unaware of any evidence to the contrary.

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

As stated in earlier variance requests, the special condition associated with this lot is that it is small and is surrounded by much larger lots capable of more flexibility in design options. Further, in the case of the rear yard setback request, the rear portion of the building backs up against the public access easement consisting of open space, and the effect of this public access easement will help to offset any sense of rear yard overcrowding that might otherwise be present.

There is no fair and substantial relationship between the general public purpose of the rear yard setback and the specific application of the ordinance to this particular property since the offered setback, coupled with the proximity of the public access easement, will help to satisfy the intent and purpose of the ordinance. Further, as stated earlier, the small size of this lot relative to adjacent larger lots means that the strict application of the ordinance will have a more pronounced and burdensome impact on what are already significant design challenges.

Moreover, the proposed use is a reasonable one. The design of the building includes as much rear yard setback as is possible while still creating a footprint of a size to accommodate the twenty-one micro units required to make the proposal viable.

For the reasons set forth above, the Applicant respectfully requests that the Board of Adjustment find that the variance request meets the statutory test for hardship.

G. Conclusion.

The Applicant has satisfied the statutory criteria necessary to obtain variances and respectfully requests that all the requested variances be granted.

238 DEER STREET: MIXED-USE BUILDING

ZONING BOARD OF ADJUSTMENT - SEPTEMBER 2021, PORTSMOUTH, NEW HAMPSHIRE

- GENERAL PROJECT DESCRIPTION:
- CONSTRUCT NEW 3 STORY, WITH A PENTHOUSE, MIXED-USE BUILDING TO INCLUDE:
 - GROUND FLOOR RETAIL
 - 21 APARTMENTS (400-500 SF EACH) ON UPPER FLOORS

SHEET LIST	
Sheet Number	Sheet Name
PFR	PETITION FOR RELIEF
C	COVER AND CRITERIA
C1	EXISTING CONDITIONS
C2	SITE PLAN
A1	CONTEXT AND SITE PLAN
A2	BUILDING DATA
A3	FLOOR PLANS
A4	FLOOR PLANS
A5	ELEVATIONS
A6	PERSPECTIVES
A7	INTERIOR CONCEPT / OWNER INSPIRATION
A8	EXISTING PHOTOGRAPHS
A9	CONTEXT PHOTOGRAPHS
A10	CONTEXT PHOTOGRAPHS
A11	FOUNDRY PLACE CONTEXT



PERSPECTIVE FROM DEER STREET - EXISTING

DIMENSIONAL CRITERIA			
CHARACTER DISTRICT 4 (CD4) / DOWNTOWN OVERLAY			
	REQUIRED	EXISTING	PROPOSED
BUILDING FOOTPRINT	15,000 SF MAX.	4,546 SF	5,286 SF
GROSS BUILDING		4,546 SF	19,190 SF
LOT SIZE	NR ²	6,181 SF	6,181 SF
BUILDING COVERAGE	90%	74%	85%
RIGHT SIDE YARD SETBACK (BRIDGE STREET)	NR ²	2' - 9"	0' - 1"
LEFT SIDE YARD SETBACK (PUBLIC WALKWAY)	NR ²	0' - 0" +/-	2' - 6"
REAR YARD SETBACK	5' - 0"	0' - 7" +/-	3' - 6"
FRONT YARD SETBACK	0' - 0"	1' - 1" +/-	0' - 1"
FRONT YARD (MAX PRIMARY)	10' - 0"	1' - 1" +/-	0' - 1"
FRONT YARD (MAX SECONDARY)	N/A ³	N/A ³	N/A ³
LOT AREA PER DWELLING UNIT	NR ²	N/A ³	294.33 SF
LOT FRONTAGE	NR ²	68.14'	68.14'
LOT DEPTH	NR ²	92.04'	92.04'
BUILDING HEIGHT (STORIES)	3	1	3 + PENTHOUSE
BUILDING HEIGHT (FEET)	40' - 0" + 2' - 0" PENTHOUSE	23' - 0" +/-	42' - 0"
MAX GROUND FLOOR ELEVATION	3' - 0"	5' - 10" +/-	0' - 0"
FAÇADE GLAZING (OTHER)	20% MIN TO 50% MAX	N/A ³	42%
MINIMUM GROUND STORY HEIGHT	12' - 0"	14' - 0" +/-	12' - 0"
MINIMUM SECOND STORY HEIGHT	10' - 0"	N/A ³	10' - 2"
PENTHOUSE AREA	50% MAX OF STORY BELOW	N/A ³	3,206 SF-60% ⁴ 1,907 SF-35.6% ⁵
PENTHOUSE SETBACK	15' - 0"	N/A ³	8' - 0"
OPEN SPACE	10%	9.67%	2.70%

1. RED INDICATES VARIANCE REQUEST
2. NOT REQUIRED IN CD4
3. NOT APPLICABLE
4. WITH CIRCULATION AND UTILITY SPACES
5. WITHOUT CIRCULATION AND UTILITY SPACES

238 DEER STREET
PORTSMOUTH, NH 03801



PERSPECTIVE FROM DEER STREET



LOCUS MAP

© 2021 McHenry Architecture

DEER STREET MIXED-USE BUILDING

238 DEER STREET
PORTSMOUTH, NH 03801

COVER AND CRITERIA

ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

McHENRY ARCHITECTURE

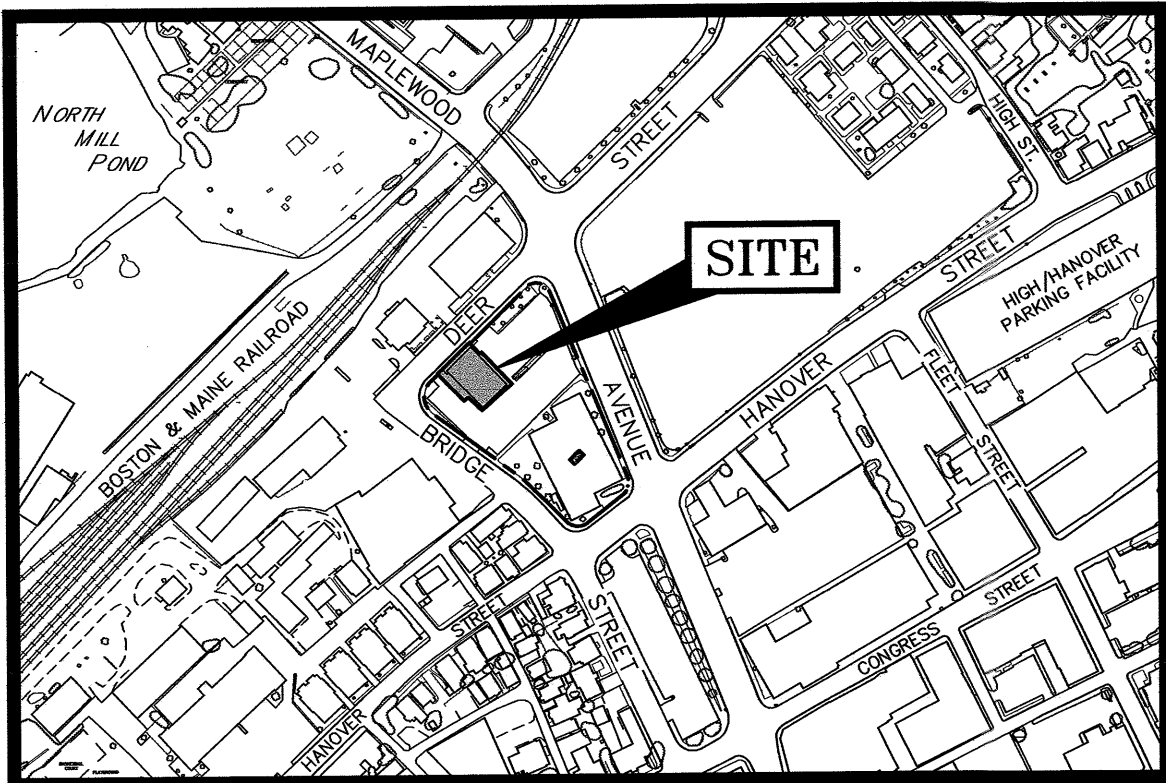
4 Market Street
Portsmouth, New Hampshire

C

09/21/2021

McHA: RD / MG

NOT TO SCALE

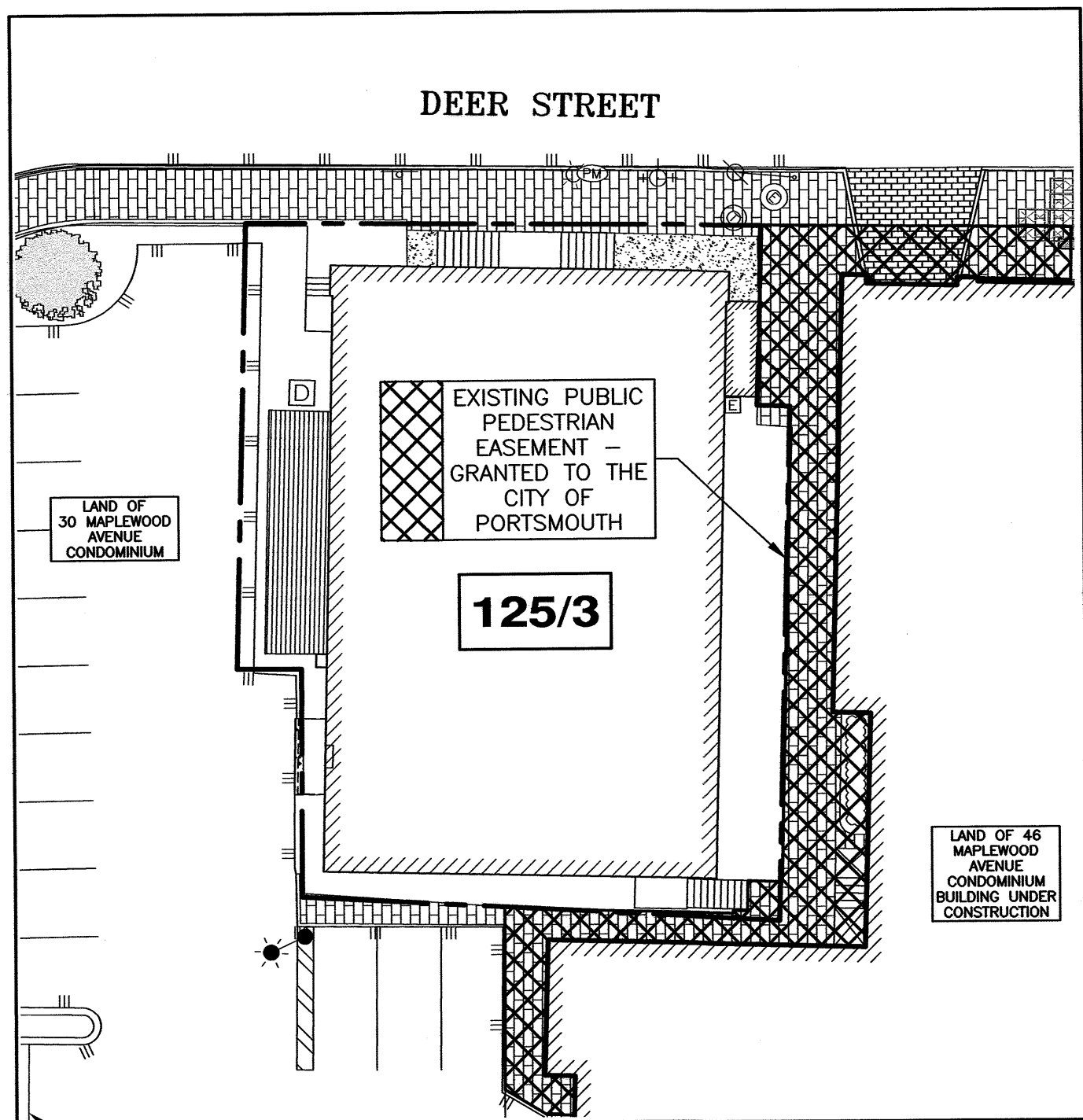


LOCATION MAP

SCALE: 1" = 300'

PLAN REFERENCES:

1. VAUGHAN STREET URBAN RENEWAL PROJECT N.H. R-10, PORTSMOUTH, NEW HAMPSHIRE, DISPOSITION PLAN PARCEL 7. DATED OCT. 1973 BY ANDERSON-NIHOLS & CO., INC. RCRD #D-4119.
2. VAUGHAN STREET URBAN RENEWAL PROJECT N.H. R-10, PORTSMOUTH, NEW HAMPSHIRE, DISPOSITION PLAN PARCEL 10. DATED OCT. 1973 BY ANDERSON-NIHOLS & CO., INC. RCRD #D-4125.
3. VAUGHAN STREET URBAN RENEWAL PROJECT N.H. R-10, PORTSMOUTH, NEW HAMPSHIRE, DISPOSITION MAP. DATED NOV. 1969 BY ANDERSON-NIHOLS & CO., INC. RCRD #D-2408.
4. EASEMENT SITE PLAN, TAX MAP 125 - LOT 2, 30 MAPLEWOOD, LLC TO PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (PSNH), SCALE: 1" = 20', OCTOBER 2013 BY AMBIT ENGINEERING. RCRD D-38148.
5. PROPOSED EASEMENT TO CITY OF PORTSMOUTH, SCALE: 1" = 10', 9/18/13 BY AMBIT ENGINEERING. BK 5512, PG 1046.
6. CONDOMINIUM SITE PLAN, TAX MAP 125 - LOT 2, BY AMBIT ENGINEERING. RCRD D-38936; AMENDED AT RCRD D-39005.
7. SUBDIVISION PLAN TAX MAP 125 - LOT 2, OWNER: 30 MAPLEWOOD, LLC, 30-46 MAPLEWOOD AVENUE, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, PREPARED BY AMBIT ENGINEERING, INC., SCALE 1" = 20', DATED OCTOBER 2015 REVISED 4/18/17, RCRD D-40246
8. PLAN OF LAND NO. 238 DEER ST. PORTSMOUTH, N.H., SCALE: 1IN = 10 FT., DATED MAY 1954 PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS RCRD #02164



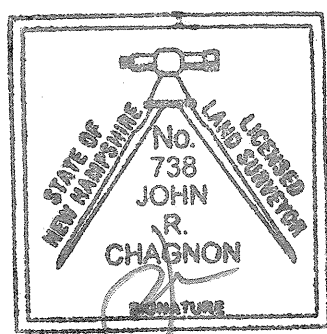
PUBLIC WALKWAY EASEMENT

1"=20'

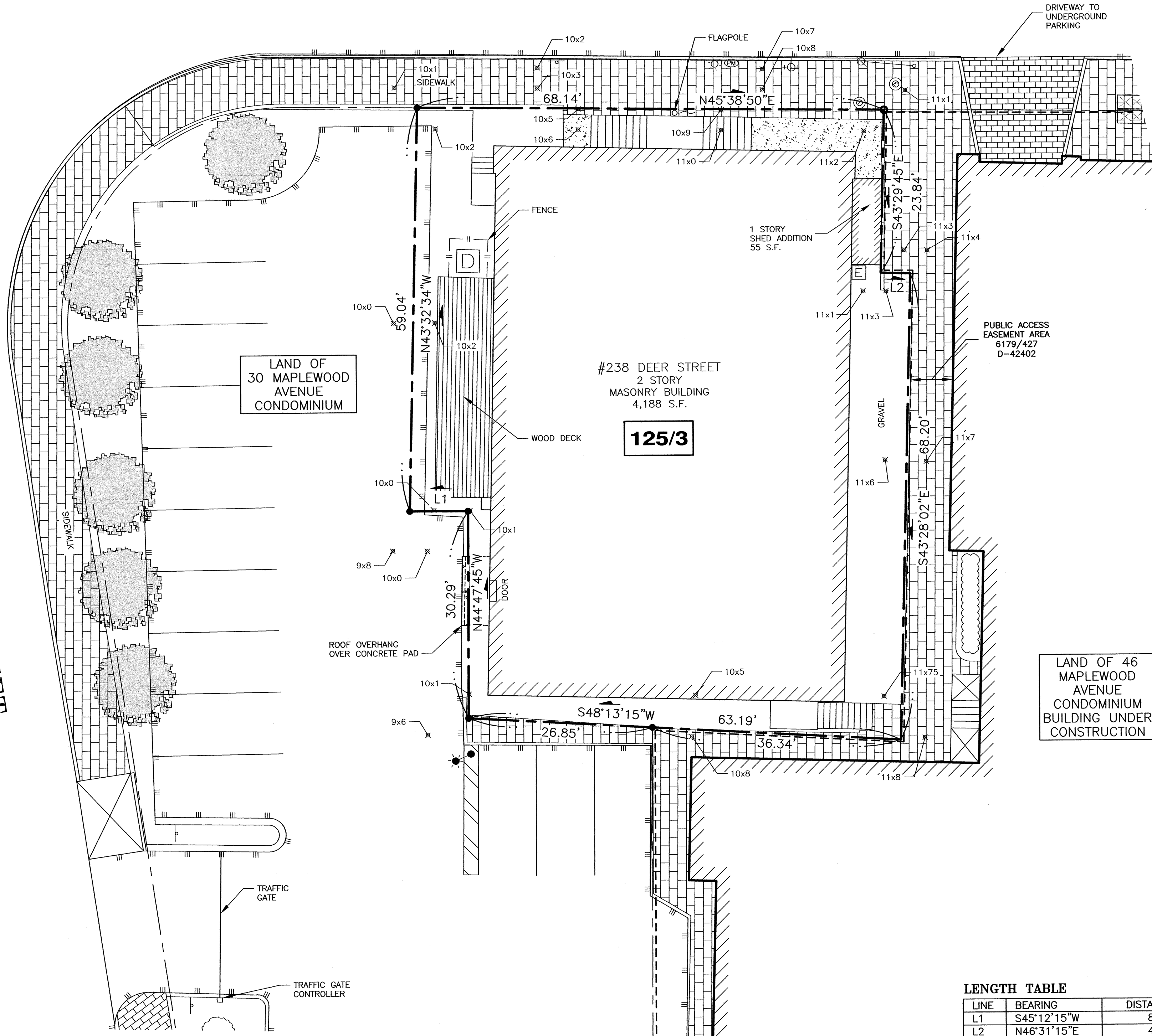
I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

JOHN R. CHAGNON, LLS 738

9.1.21
DATE



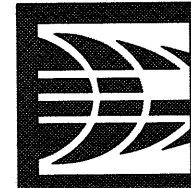
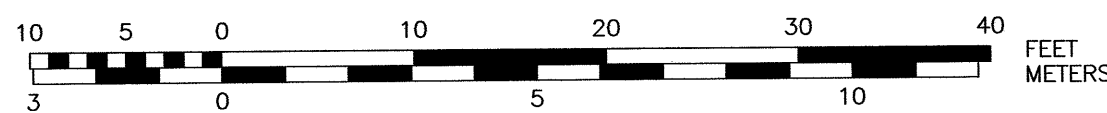
BRIDGE STREET



LENGTH TABLE

LINE	BEARING	DISTANCE
L1	S45°12'15"W	8.50'
L2	N46°31'15"E	4.30'

GRAPHIC SCALE



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) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 125 AS LOT 3.

2) OWNER OF RECORD:
238 DEER STREET, LLC.
238 DEER STREET
PORTSMOUTH, NH 03801
5890/1712
RCRD #02164

3) PARCEL IS LOCATED IN THE CHARACTER DISTRICT 4, HISTORIC DISTRICT, AND DOWNTOWN OVERLAY DISTRICT.

4) DIMENSIONAL REQUIREMENTS:

CHARACTER DISTRICT 4 (CD4):	
MIN. LOT AREA:	NO REQUIREMENT
FRONTAGE:	NO REQUIREMENT
SETBACKS:	
FRONT (MAX.)	10 FEET (PRIMARY)
SIDE	NO REQUIREMENT
REAR	5 FEET
MAXIMUM STRUCTURE HEIGHT:	40 FEET
MAXIMUM STRUCTURE COVERAGE:	90%
MAXIMUM BUILDING FOOTPRINT:	15,000 S.F.
MINIMUM OPEN SPACE:	10%
MINIMUM FRONT LOT LINE BUILDOUT:	50%

5) LOT AREA: 6,181 S.F., 0.1419 ACRES.

6) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259F, JANUARY 29, 2021

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE BOUNDARY AND EXISTING CONDITIONS ON MAP 125, LOT 3.

SITE DEVELOPMENT
238 DEER STREET, LLC
238 DEER STREET
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	9/1/21
REVISIONS		

SCALE: 1" = 10'

AUGUST 2021

EXISTING
CONDITIONS PLAN

C1

ZONING DEVELOPMENT STANDARD

CD4: CHARACTER DISTRICT 4

BUILDING PLACEMENT (PRINCIPLE):

	REQUIRED	EXISTING	PROPOSED
MAX. PRINCIPLE FRONT YARD:	10.0'	1'	0'
MAX. SECONDARY FRONT YARD:	N/A	N/A	N/A
MIN. SIDE YARD:	NR	0'	0'
MIN. REAR YARD:	5.0'	3.5'	3.5'
FRONT LOT LINE BUILDOUT:	50% MIN.	78%	92%

BUILDING TYPES:

ALLOWED BUILDING TYPES: ROWHOUSE, APARTMENT, LIVE/WORK, SMALL/LARGE COMMERCIAL
PROHIBITED: HOUSE & DUPLEX

ALLOWED FACADE TYPE: STOOP, STEP, SHOPFRONT, OFFICEFRONT, RECESSED-ENTRY
PROHIBITED: PORCH & FORECOURT

BUILDING FORM:

	REQUIRED	EXISTING	PROPOSED
MAX STRUCTURE HEIGHT:	40.0' + 2.0' PENTHOUSE	23' +/-	42'
STRUCTURE HEIGHT (IN STORIES):	3	1	3 + PENTHOUSE
PENTHOUSE AREA:	50% MAX. OF STORY BELOW	N/A	3,206 S.F. - 60% 1,907 S.F. - 35.6%
PENTHOUSE SETBACK:	15.0'	N/A	8.0'
MAX. FINISHED FLOOR SURFACE OF GROUND FLOOR ABOVE SIDEWALK GRADE:	36 INCHES	6'	1'
MIN. GROUND STORY HEIGHT:	12.0'	14.0'	12.0'
MIN. SECOND STORY HEIGHT:	10.0'	N/A	10.5'
FACADE GLAZING (OTHER):	20% MIN. TO 50% MAX.	N/A	42%

ROOF TYPE ALLOWED: FLAT, GABLE, HIP, GAMBREL, MANSARD

LOT OCCUPATION:

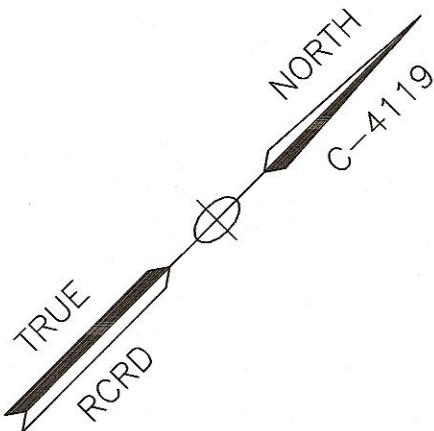
	REQUIRED	EXISTING	PROPOSED
MAX BUILDING BLOCK:	200'	53'	63'
MAX FACADE MOD. LENGTH:	80'	53'	21'
MIN. ENTRANCE SPACING:	50'	N/A	N/A
MAX BUILDING COVERAGE:	90%	74%	85%
MAX BUILDING FOOTPRINT:	15,000 SF	4,243 S.F.	5,286 S.F.
GROSS BUILDING:		8,346 S.F.	19,190 S.F.
MIN. LOT AREA:	NR	6,181 S.F.	6,181 S.F.
MIN. LOT AREA/DWELLING (LOT AREA/# OF UNITS):	NR	N/A	N/A
MIN. OPEN SPACE :	10%	9.67%	2.7%

IMPERVIOUS SURFACE AREAS

(TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
BUILDING	4,243	5,286
DECKS	264	0
STAIRS	194	0
CONCRETE	137	0
PAVEMENT	458	70
BRICK WALKWAY	104	559
GRAVEL	531	0
TOTAL	5931	5915
LOT SIZE	6,181	6,181
% LOT COVERAGE	96.0%	95.7%

DEER STREET



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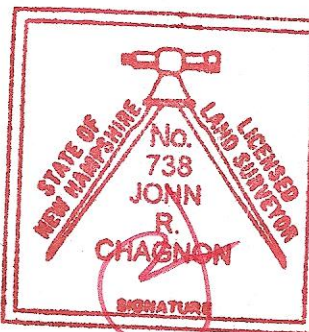
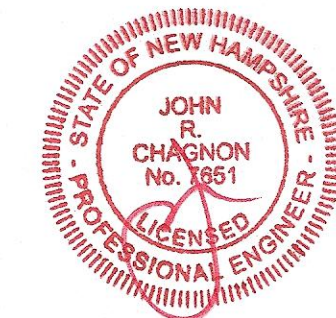
7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED REPLACEMENT STRUCTURE ON MAP 125, LOT 3.

SITE DEVELOPMENT

238 DEER STREET, LLC
238 DEER STREET
PORTSMOUTH, N.H.

0	ISSUED FOR COMMENT	9/1/21
NO.	DESCRIPTION	DATE

REVISIONS



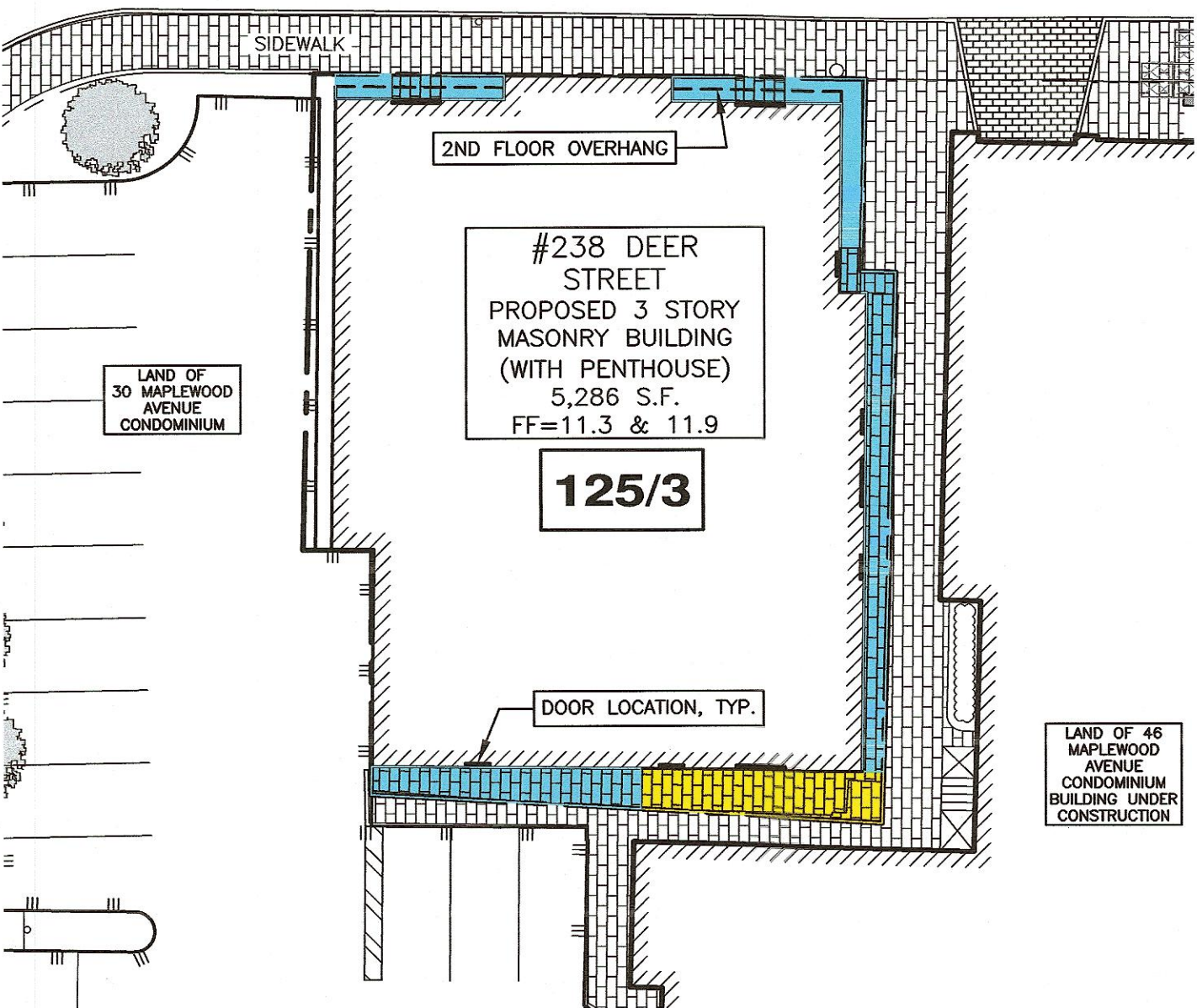
SCALE: 1" = 10'

AUGUST 2021

SITE PLAN

C2

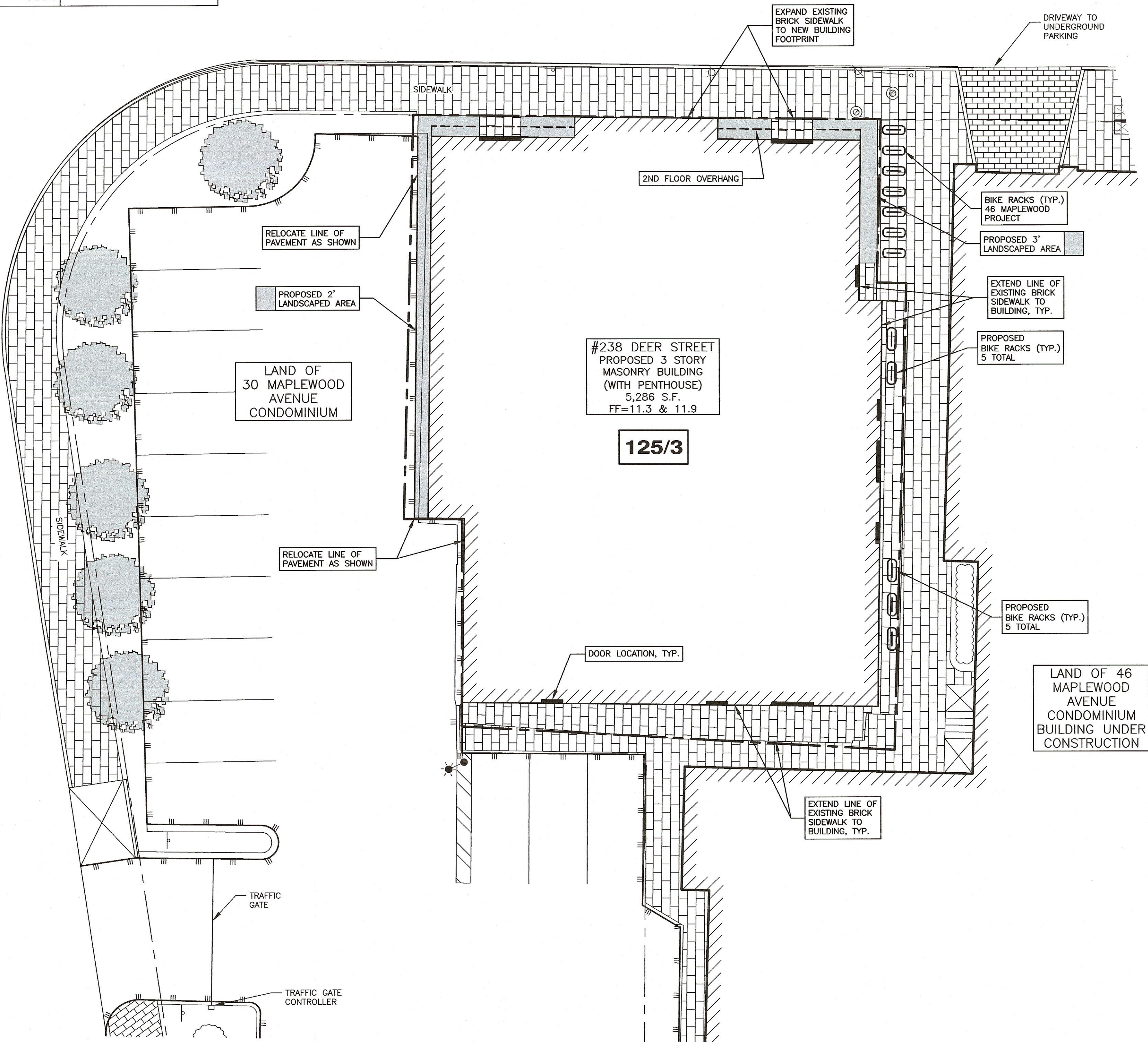
DEER STREET



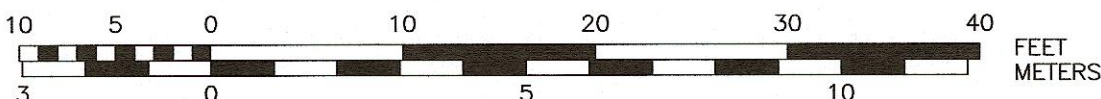
OPEN SPACE EXHIBIT 1"=20'

MEETS ORDINANCE CRITERIA		169 S.F. (2.7%)
MEETS ORDINANCE INTENT		536 S.F. (8.7%)
TOTAL		705 S.F. (11.4%)

BRIDGE STREET



GRAPHIC SCALE





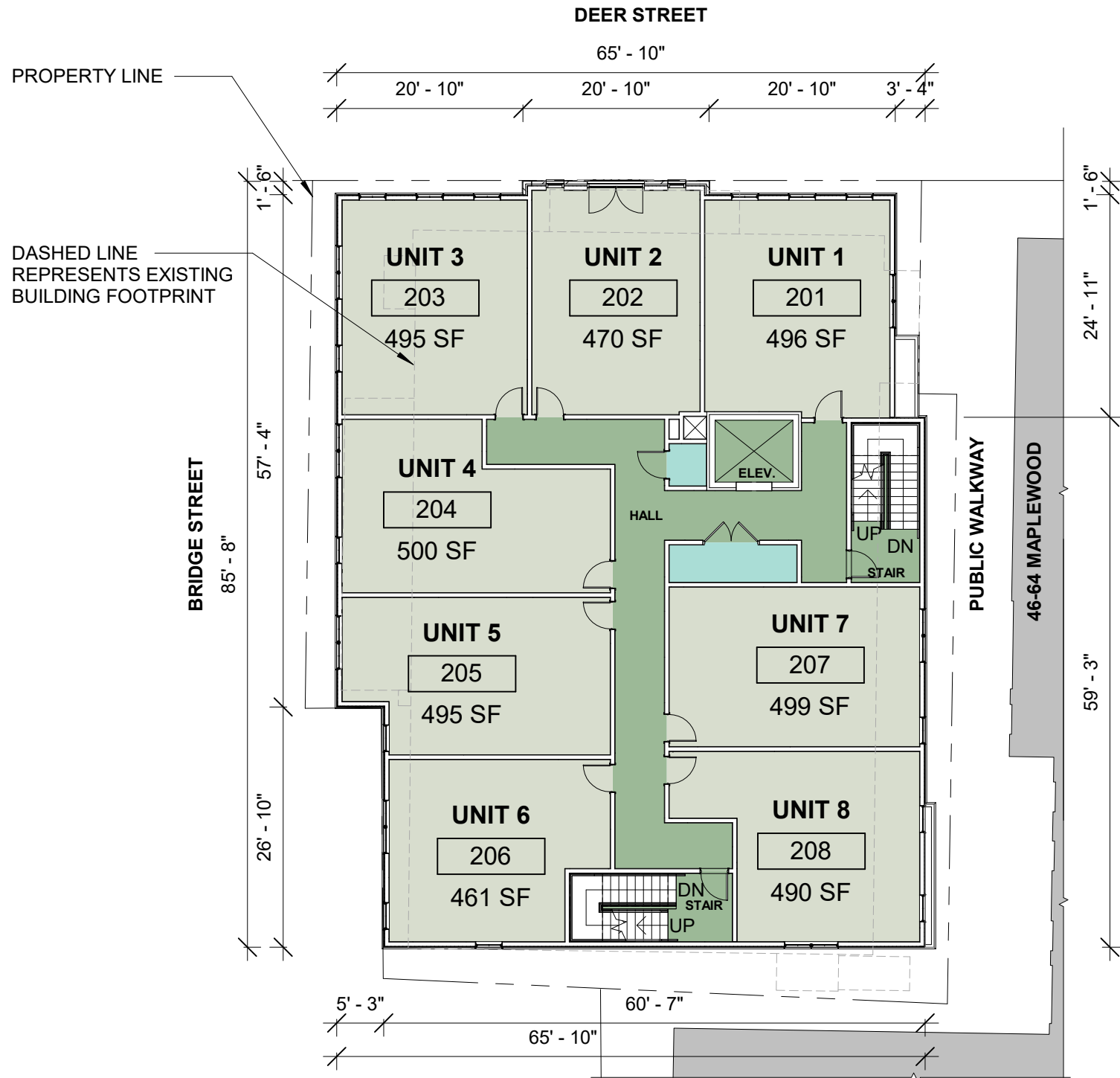
DEER STREET MIXED-USE BUILDING
238 DEER STREET
PORTSMOUTH, NH 03801

CONTEXT AND SITE PLAN
ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

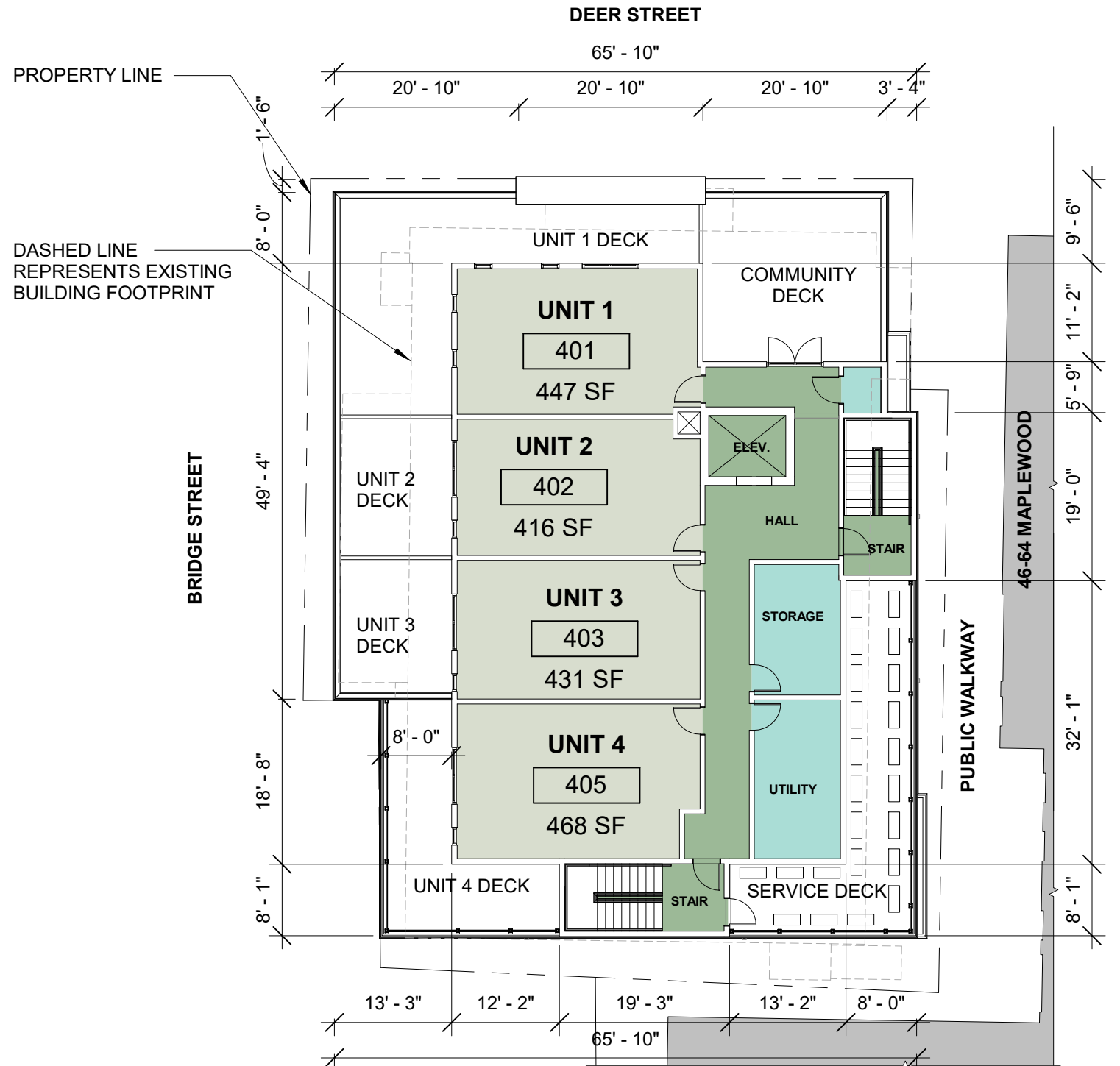
McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

A1

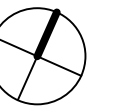
06/02/2021
McHA: RD / MG
NOT TO SCALE



1 SECOND AND THIRD FLOOR
1/16" = 1'-0"



2 FOURTH FLOOR
1/16" = 1'-0"



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DEER STREET MIXED-USE BUILDING

238 DEER STREET
PORTSMOUTH, NH 03801

FLOOR PLANS

ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

McHENRY ARCHITECTURE

4 Market Street
Portsmouth, New Hampshire

A4

09/21/2021

McHA: RD / MG

Scale: 1/16" = 1'-0"

Z:\Active Project Files\20062-238 DEER STREET\Dwgs\2-SD\238 DEER STREET - SD.rvt



1 NORTH ELEVATION (DEER STREET)
1/16" = 1'-0"

2 EAST ELEVATION (PUBLIC WALKWAY)
1/16" = 1'-0"



3 SOUTH ELEVATION (REAR)
1/16" = 1'-0"

4 WEST ELEVATION (BRIDGE STREET)
1/16" = 1'-0"

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PERSPECTIVE FROM WEST (FROM DEER STREET)



PERSPECTIVE FROM SOUTH (FROM BRIDGE STREET)



AERIAL FROM WEST



AERIAL FROM EAST

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DEER STREET MIXED-USE BUILDING

238 DEER STREET
PORTSMOUTH, NH 03801

PERSPECTIVES

ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

McHENRY ARCHITECTURE

4 Market Street
Portsmouth, New Hampshire

A6

09/21/2021
McHA: RD / MG
NOT TO SCALE



EXAMPLE EFFICIENCY UNIT FLOOR PLAN - 400SF



EXAMPLE EFFICIENCY UNIT



EXAMPLE EFFICIENCY UNIT

OWNER CONCEPT
PRECEDENT:
EXAMPLE
EFFICIENCY UNIT



EXAMPLE EFFICIENCY UNIT

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DEER STREET MIXED-USE BUILDING
238 DEER STREET
PORTSMOUTH, NH 03801

INTERIOR CONCEPT /
OWNER INSPIRATION

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Portsmouth, New Hampshire

A7

09/21/2021
McHA: RD / MG
NOT TO SCALE

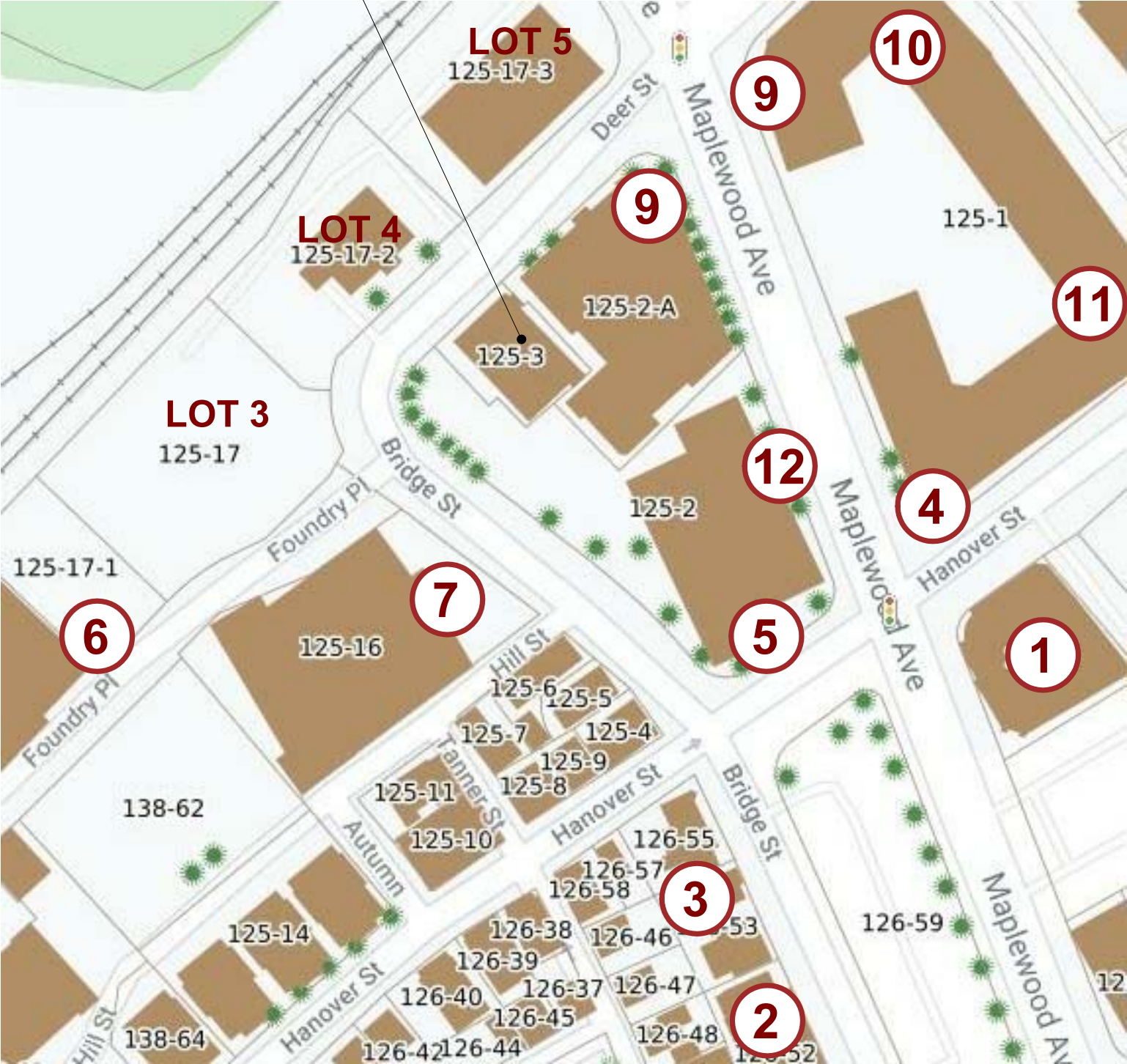


EXISTING PICTURE FROM DEER STREET AND MAPLEWOOD AVE INTERSECTION



EXISTING PICTURE FROM FOUNDRY GARAGE ROOF

238 DEET STREET
PORTSMOUTH, NH 03801



CONTEXT PHOTO KEY MAP

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1: 25 MAPLEWOOD AVE



2: 40 BRIDGE STREET



1: BRIDGE STREET



4: 195 HANOVER ST - PORTWALK



5: 30 MAPLEWOOD AVE



6: 100 FOUNDRY PLACE

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DEER STREET MIXED-USE BUILDING
238 DEER STREET
PORTSMOUTH, NH 03801

CONTEXT PHOTOGRAPHS
ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

A9

09/21/2021
McHA: RD / MG
NOT TO SCALE



7: 126 BRIDGE STREET



8: 46 MAPLEWOOD AVE



9: 195 HANOVER ST - PORTWALK



10: 195 HANOVER ST - PORTWALK



11: 195 HANOVER ST - PORTWALK



12: 30 MAPLEWOOD AVE

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DEER STREET MIXED-USE BUILDING
238 DEER STREET
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CONTEXT PHOTOGRAPHS
ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

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09/21/2021
McHA: RD / MG
NOT TO SCALE



LOT 3: APPROVED FOUNDRY PLACE



LOT 4: APPROVED FOUNDRY PLACE



LOT 5: APPROVED FOUNDRY PLACE



LOT 3: 165 DEER STREET



LOT 4: 163 DEER STREET



LOT 5: 161 DEER STREET

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DEER STREET MIXED-USE BUILDING
238 DEER STREET
PORTSMOUTH, NH 03801

FOUNDRY PLACE CONTEXT
ZONING BOARD OF ADJUSTMENT, SEPTEMBER 2021

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

09/21/2021
McHA: RD / MG
A11
NOT TO SCALE