

**REGULAR MEETING
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

7:00 P.M.

August 25, 2026

AGENDA

I. NEW BUSINESS

- A.** The request of **Road to the West, LLC (Owner)**, for property located at **140 West Road** whereas relief is needed to establish an indoor recreation space, restaurant, event space, and outdoor dining area which requires the following: 1) Variance from Section 10.440 to allow a) Use #9.43, a restaurant and function room with an occupant load from 250 to 500 where it is not allowed, b) Use #4.30, indoor recreation use where it is not allowed, and c) Use #19.50, outdoor dining as accessory use to a permitted principal use; 2) Variance from Section 10.1113.20 to allow parking spaces between the principal building and street; and 3) Variance from Section 10.1113.41 to allow a 2 foot parking space setback where 50 is required. Said property is located on Assessor Map 252 Lot 2-1301 and lies within the Industrial (I) District. (LU-26-107)

II. ADJOURNMENT

**Members of the public also have the option to join this meeting over Zoom; a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_bbdv0Ws5QIWrdZDGk0MgGQ



City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Stefanie Casella, Planner
DATE: August 19, 2026
RE: Zoning Board of Adjustment August 25, 2026

The agenda items listed below can be found in the following analysis prepared by City Staff:

- I. **New Business**
 - A. 140 West Road

I. NEW BUSINESS

- A.** The request of **Road to the West, LLC (Owner)**, for property located at **140 West Road** whereas relief is needed to establish an indoor recreation space, restaurant, event space, and outdoor dining area which requires the following: 1) Variance from Section 10.440 to allow a) Use #9.43, a restaurant and function room with an occupant load from 250 to 500 where it is not allowed, b) Use #4.30, indoor recreation use where it is not allowed, and c) Use #19.50, outdoor dining as accessory use to a permitted principal use; 2) Variance from Section 10.1113.20 to allow parking spaces between the principal building and street; and 3) Variance from Section 10.1113.41 to allow a 2 foot parking space setback where 50 is required. Said property is located on Assessor Map 252 Lot 2-1301 and lies within the Industrial (I) District. (LU-26-107)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	*Indoor Recreation, Restaurant and Event Space, Outdoor Dining Space	Primarily Commercial and Industrial Use
<u>Lot area (sq. ft.):</u>	2 acres	2 acres	2 Acres min.
<u>Lot depth (ft.):</u>	409	409	200 min.
<u>Street Frontage (ft.):</u>	558	558	200 min.
<u>Primary Front Yard (ft.):</u>	>70	>70	70 min.
<u>Secondary Front Yard (ft.):</u>	>70	>70	70 min.
<u>Right Yard (ft.):</u>	>50	>50	50
<u>Rear Yard (ft.):</u>	>50	>50	50 min.
<u>Height (ft.):</u>	30	30	70 max.
<u>Parking:</u>	78	**78	1 per 4 person max. occupancy
<u>Estimated Age of Structure:</u>	1989	Variance request(s) shown in red.	

*Indoor Recreation, Restaurant and Event Space and Outdoor Dining is not an allowed use in the Industrial District

**Parking spaces are located 2 feet from the front lot line and between the principal building and the street.

Other Permits/Approvals Required

- Building Permit
- Site Plan – Planning Board

Neighborhood Context



Previous Board of Adjustment Actions

October 22, 2013 – The Board **granted** the request to convert an existing industrial building to a health club use which requires the following: A Special Exception under Section 10.440, Use #4.42 to allow a health club in a district where this use is allowed by Special Exception with the following condition:

1) The parking spaces on the property will be laid out to meet the dimensional requirements outlined in Section 10.1114 of the Zoning Ordinance.

November 19, 2013 – The Board **granted** the request for parking for a health club which requires the following: 1) A Variance from Section 10.1112.30 to allow 103 parking spaces where 72 parking spaces exist and 145 parking spaces are required.

May 24, 2022 – The Board **granted** the request to convert an existing structure into a private indoor recreation facility which requires the following: 1) A Variance from Section 10.440 Use #4.30 to allow an indoor recreation use where the use is not permitted; 2) a Variance from Section 10.1113.41 to allow parking to be located 2 feet from the front lot line where 50 feet is required.

April 21, 2026 – The applicant **withdrew** the request for relief needed to create an outdoor dining area, which requires the following: 1) Variance from Section 10.440 Use #19.50 to allow an outdoor dining or drinking area, as accessory use where it is not allowed.

Planning Department Comments

The applicants' requests include relief needed to operate the Black Rock Social Club as it currently conducts business today and to add an outdoor dining area. The Board can find the complete list of variances requested by the applicant in the legal notice and on page 3 of the applicant's submission package.

All exhibits relating to the current request are labeled numerically in the applicant's submission. All exhibits organized alphabetically are in reference to the permitting history of the property.

As this application is extensive in its inclusion of history, permitting, licensing, and various other details of the site, Staff recommends the Board review the information thoroughly and focus on the requests before the Board. The requests have been clearly laid out on page 3 of the applicant's narrative and the Board should make determinations based on the variance criteria.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

(b) Owing to these special conditions, a fair and substantial relationship does not exist 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

Owing to these special conditions, 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.

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.



Trevor P. McCourt
Deputy City Attorney

CITY OF PORTSMOUTH

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(603) 610-7234

Date: August 20, 2026

To: Beth Margeson, Chair of the Portsmouth Zoning Board of Adjustment

From: Trevor P. McCourt, Deputy City Attorney TPM

Re: 140 West Road, Tax Map 252, Lot 2-13
LU-26-107

I. Purpose

The purpose of this memorandum is to identify what questions and decisions are properly before this Board with respect to the captioned variance requests. The only matters before the Board are five requests for variances. The Board should evaluate each request against the five statutory criteria in RSA 674:33, I(b), applying the facts relevant to those criteria. The Applicant makes several arguments regarding estoppel, however equitable powers are not available to this Board. These arguments cannot substitute for the statutory analysis, and are only relevant to the extent they have any bearing on the statutory variance criteria routinely applied by the Zoning Board of Adjustment. Therefore, it is my recommendation that the Zoning Board of Adjustment proceed to analyze the five requests for variances on their own merits, and make written findings in the ordinary course.

II. What Is Before the Board

The application seeks five distinct variances:

1. A use variance from the Table of Uses Section 10.440 and Section 9.40 to permit a restaurant, place of public assembly, or function room in the Industrial (I) district;
2. A use variance from § 10.440 and § 4.30 to permit indoor recreation;
3. A use variance from § 19.50 to permit an outdoor dining/drinking area;
4. A locational variance from § 10.1113.20 (location of parking on a lot, including parking between the principal building and the street); and
5. A dimensional variance from § 10.1113.41 (50-foot front setback for off-street parking in the Industrial district).

Each requested use is not permitted in the Industrial district. The Board's task is to test each variance against the five criteria and make findings.

III. Other Issues Presented by the Applicant

There is no administrative appeal in this record. The Applicant has not appealed any decision of the Director of Planning and Sustainability under RSA 676:5. The Board therefore is not reviewing, and has not been asked to review, any City official's determination. The only requests which have been properly noticed and are before the Board are the variance requests.

The Applicant states that it “do[es] not need variances due to municipal estoppel.” I recommend that the Board does not rule on that contention. This Board is a creature of statute, and its authority under RSA 674:33 and RSA 676:5 is limited to administrative appeals, variances, and special exceptions. Equitable estoppel is a judicial doctrine that lies outside that grant of authority. Accordingly, it is my recommendation that Board should treat the equitable narrative as background only and apply the facts in the record to the extent those facts bear on the variance criteria. The Applicant has applied for five variances; the Board should take the application as filed and decide it on the merits.

IV. Recommendation

1. The Board should decide the five variances on their merits under the RSA 674:33, I(b) criteria, treating each requested use as a use not permitted in the Industrial district and testing it against the five criteria with written findings.
2. The Board should not rest any decision on estoppel, constructive approval, reliance, or “equitable considerations.” Those are matters for another forum and outside the Board's jurisdiction.

cc: Peter Britz, Director of Planning and Sustainability
Stefanie Casella, Planner
John Bosen, Esq.



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ROBERT M. DEROSIER
NICHOLAS R. AESCHLIMAN

August 19, 2026

Beth Margeson, Chair
Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: **Road to the West, LLC (Applicant)**
140 West Road, Tax Map 252, Lot 2-13

Dear Chair Margeson and Board Members,

Please accept the Applicant's attached Application Narrative and supporting documentation with respect to the property located at 140 West Road. Included for your review and consideration are the following:

- Narrative with Exhibits A-G
- Letter of Authorization
- Floor Plan & Elevation
- Existing Conditions & Site Plans
- Exterior Photographs
- Interior Photographs

The Applicant respectfully requests that you include this submission on the agenda for the Board's August 25, 2026, meeting. Thank you, and please contact our office if you have any questions.

Yours truly,

John K. Bosen, Esq.
jbosen@dtclawyers.com

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ROAD TO THE WEST, LLC

140 West Road, Portsmouth

Map 252, Lot 2-13

APPLICANT'S SUBMISSION

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 - Narrative with Exhibits A-G
- Exhibit 2
 - Letter of Authorization
- Exhibit 3
 - Floor Plan & Elevation
- Exhibit 4
 - Existing Conditions & Site Plans
- Exhibit 5
 - Exterior Photographs
- Exhibit 6
 - Interior Photographs

Exhibit 1

ROAD TO THE WEST, LLC
140 West Road, Portsmouth
Map 252, Lot 2-13

APPLICANT'S NARRATIVE

I. Executive Summary and Procedural Background

The Applicant, Road to the West, LLC, owns the property located in the Industrial Zone at 140 West Road. On May 25, 2022, this Board approved the variances needed to convert the existing industrial building, formerly operating as the Blitz Trampoline Park, into a private club with indoor recreational uses, featuring, among other things, golf and sport simulators, racing simulators, axe throwing, billiards, arcade games, and a lounge area, which are not allowed in the Industrial zone. Included in the First Floor plans submitted with the original application to the Board was reference to a kitchen and bar (See **Exhibit A**). Initial site plan approval was granted by the Planning Board in August 2022. The property is now the Black Rock Social Club. The Black Rock Social Club is a venue for adults to enjoy recreation, immersive simulators, live music, and restaurant/bar provisions. Black Rock also hosts numerous events to raise money and awareness for local charities, aiming to raise a million dollars annually for nonprofit organizations.

Over the past several years, Applicant has devoted significant effort and resources to developing and improving this operation in close collaboration with City staff. Recently, the City informed the Applicant that certain aspects of the site's current configuration required further zoning approval and technical documentation. For example, the City was unclear whether the private club was authorized to serve food to its members. Additionally, the 2022 submission did not establish a broad, unrestricted "indoor recreation" permit; rather, it requested approval only for the specific indoor recreational activities presented to the 2022 Zoning Board. In 2022, the Applicant did not anticipate many of the activities later desired by Black Rock members and the nonprofit community, such as indoor concerts, performances, comedy shows, indoor public events, corporate meetings, and the use of the outdoor patio for food and beverage service. Since these uses are regulated separately under the Ordinance and were not included in the original 2022 approval, the Applicant is now seeking additional approvals or relief.

According to the Zoning Ordinance, representations made by the Applicant and materials submitted to the Board become conditions of approval.¹ For additional context, amended site plan approvals were granted on August 25, 2022, and June 2, 2023. Application BLDG-22-961 was filed on November 21, 2022, to convert the building into a social club featuring a kitchen, restaurant, gaming activities, new stairwells, and an elevator. Each floor plan and permit set associated with BLDG-22-961 contemplates food service, with schematics showing a kitchen, bar,

¹ 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.

back bar, and seating. The documentation included in OpenGov associated with BLDG-22-961 also includes Food Service Equipment Plans (See **Exhibit B**).

On November 30, 2023, Mr. Choquette informed City staff that the originally approved plans were cost-prohibitive and proposed a reduced scope that retained the BRSC concept while creating rentable spaces to offset costs. A meeting between the City and the Applicant on December 14, 2023, confirmed that the revised scope would be limited to interior renovations, advancing the Black Rock Social Club concept. This led to the filing of Application BLDG-24-272 on April 3, 2024, for interior renovations and fit-up for business, office, and storage uses. The BLDG-24-272 submission included equipment and bar details and mirrored BLDG-22-961 with respect to kitchen/bar/seating; it was contemplated as a supplemental filing, *not* a replacement of prior approvals. The building permit for BLDG-24-272 was issued on April 25, 2024. (See **Exhibit C**).

On April 30, 2024, the City asked the Applicant to sign a Release and Waiver Agreement in order to qualify for a partial refund of the building permit fees paid for the original, larger project. (See **Exhibit D**). The Release and Waiver Agreement effectively abandoned most of his prior land-use approvals but made no reference to BLDG-24-272.

Revisions were submitted under BLDG-24-272 via OpenGov on April 3, 2024; April 23, 2024; September 12, 2024; January 23, 2025; and July 22, 2025, reflecting adjustments to kitchen and bar equipment, the pizza oven location, and the bar layout. (See **Exhibit E** - See revision schedule highlighted on page 1 and the floor plans highlighted on page 2). Mr. Choquette experienced health-related delays during this period, which account for intervals between submissions.

In September 2025, Ms. Karen Conrad, City Manager, executed an Agreement with Mr. Choquette and provided a letter to the NH State Liquor Commission confirming the City's review and lack of objection to issuance of the Restaurant Beverage/Wine/Liquor license. The City also coordinated the issuance of a Permit to Operate a Place of Assembly, a Certificate of Occupancy, and a Food Establishment Permit, each subject to the conditions required by the State and City. (See **Exhibit F**).

The record available to us, including the OpenGov entries, the multiple plan revisions submitted in 2024-2025, the Certificate of Occupancy for BLDG-24-272, the City Manager's September 2025 letter to the NH State Liquor Commission, and Mr. Britz's October 3, 2025 email (that specifically read "the City is in agreement that you are allowed to operate an indoor recreation facility in this location") (see **Exhibit G**), indicates that Mr. Choquette advanced the buildout and operated in reliance on the permissions and coordination reflected in BLDG-24-272 and the City's subsequent actions and material representations. BLDG-24-272 contains detailed equipment and bar/kitchen plans that mirror the kitchen/bar/seating elements of BLDG-22-961 and is recorded as "Complete," whereas BLDG-22-961 and LU-22-99 are recorded as "Stopped." These facts are central to understanding the operative bases for Mr. Choquette's reliance.

It is clear from the record that neither the Applicant nor the City ever had a complete, shared understanding of the project's evolving scope and timelines, as evidenced by staggered and overlapping approvals and filings (BLDG-22-961; BLDG-24-272), multiple plan revisions from 2023 to 2025, the April 2024 Release Agreement, which omitted later submissions, and subsequent City actions (Certificate of Occupancy, Place of Assembly permit, and liquor-license coordination) that the Applicant reasonably interpreted as authorization to proceed.

At this stage, the Applicant intends to work cooperatively to resolve these issues and obtain full compliance with the Board and the City. As such, they are requesting two specific types of zoning relief.

A. Use variances for the restaurant/function room, indoor recreation, and outdoor dining (relief from Portsmouth Zoning Ordinance Section 10.440 Table of Uses; Portsmouth Zoning Ordinance Section 9.40 Restaurant, place of public assembly or function room; Portsmouth Zoning Ordinance Section 4.30 Indoor recreation; and Portsmouth Zoning Ordinance Section 19.50 Outdoor dining or drinking areas); and

B. Dimensional and locational variances for parking placement and front setback (relief from Portsmouth Zoning Ordinance Article 11, Section 10.1113.20 Location of Parking Facilities on a lot and Portsmouth Zoning Ordinance Section 10.1113.41 Off-street parking areas -- 50-foot front setback).

This narrative explains how the facts, the City's affirmative acts, the Applicant's reliance, and the proposed mitigation measures satisfy each statutory element and why legal and equitable considerations support granting appropriate relief.

II. Variance Analysis

A. Use Variances: Relief Requested from Portsmouth Zoning Ordinance Section 10.440 Table of Uses; Section 9.40 (Restaurant / Place of Public Assembly / Function Room); Section 4.30 (Indoor Recreation); and Section 19.50 (Outdoor Dining or Drinking Areas)

A.1 Scope of Requested Relief and Context

The Applicant requests use variances from the Board of Adjustment as follows: (1) a variance from Portsmouth Zoning Ordinance Section 10.440 (Table of Uses) and Section 9.40 to permit a restaurant, place of public assembly, or function room in an Industrial zone; (2) a variance from Section 10.440 and Section 4.30 to permit the proposed indoor recreation program (distinct from the prior, different indoor recreation special exception previously granted); and (3) a variance from Section 19.50 to permit outdoor dining or drinking areas as an accessory use to the principal use. The plan will include an outdoor dining area showing the number of tables, the type of service, and the exact footprint of seating areas, together with the vehicle-protection measures described below.

PROPOSED MAXIMUM INDOOR OCCUPANCY: 377 PERSONS²

A.2 Public Interest and Spirit of the Ordinance

Under Malachy Glen, the Board evaluates the public interest and the ordinance's spirit and intent together by asking whether the proposed uses will threaten public health, safety, or welfare, or undermine the ordinance's basic purpose.

The essential characteristics of the neighborhood would not be altered by this project. There is a varied mixture of municipal, commercial, and public utility development in the immediate vicinity, including retail, light industrial, self-storage, and the DPW transfer station. An indoor skating rink was approved by this board for 170 West Road in 2018, but it was never built. The dormant trampoline park use at this location is similar in character to what is proposed here. The expected peak hours of operation for a private social club – late afternoons, evenings, and weekends – will not unduly conflict with the surrounding business enterprises. The project must proceed through a full site review to adequately protect the public's interests.

In addition, the administrative record contains multiple City actions, including coordinated permitting activity, inspections, issuance of a Certificate of Occupancy, communications with regulatory bodies, and staff emails that bear directly on these concerns. Those affirmative acts reflect administrative review of the technical and safety aspects of the operation and support a finding that the City has already addressed the primary public-safety concerns associated with hospitality and assembly uses. The Applicant will further commit to enforceable operational conditions tailored to each use: defined hours and occupancy limits for the function room (Section 9.40 relief), operational protocols and supervision for indoor recreation (Section 4.30 relief), and detailed service and seating plans and vehicle protections for outdoor dining (Section 19.50 relief). These commitments, together with the City's prior oversight, demonstrate that the proposed uses will not threaten health, safety, or welfare or frustrate the ordinance's purpose.

A.4 No Diminution of Surrounding Property Values

The Board should find that the proposed uses will not diminish surrounding property values. The mass and scale of the existing building will not be altered. The site has been fully developed for many years, and there will be no significant change to the existing built environment. The City's inspections and the Certificate of Occupancy provide objective indicia that the facility meets safety and operational standards. Measures, such as landscaping, screening, limited hours, and vehicle protection for outdoor dining, will preserve neighborhood character and protect property values. The Board can adopt findings that the combination of prior City oversight and the proposed conditions eliminate any reasonable likelihood of diminution.

² This calculation includes the function room capacity.

A.5 Unnecessary Hardship

The property is uniquely situated at a 90-degree bend in West Road, which provides it with an abnormal amount of frontage subject to the 50-foot parking setback and no side yards at all. The Applicant seeks to take advantage of the existing building, which has been on the site for over thirty years, and adaptively repurpose it from health club use to a very similar use. The existing built environment is a special condition of this property.

In addition, the Applicant will primarily pursue Test A under RSA 674:33, demonstrating that no fair and substantial relationship exists between the ordinance's general purpose and its application to this property, and that the proposed uses are reasonable. The property presents special conditions that distinguish it from other lots: an existing building orientation and footprint established prior to the present application, the practical constraints of the site layout, and the history of City coordination and inspections that informed the Applicant's investment decisions.

These special conditions show that strict application of the ordinance's use restrictions (Sections 9.40, 4.30, 19.50) would be disproportionate to the ordinance's purpose in this factual context. If the Board prefers a fallback, Test B is satisfied because the property, as currently configured and used, cannot be reasonably used for conforming industrial purposes without denying the Applicant a reasonable return and without requiring demolition or wholesale reconfiguration that would be unreasonable in light of the City's prior oversight. The Board should make explicit findings of the special physical and administrative conditions, the reasonableness of the proposed uses, and the lack of a fair and substantial relationship between the ordinance's general purpose and its application here.

A.6 Operational Commitments Specific to Use Relief (Sections 9.40, 4.30, 19.50)

To address safety and neighborhood concerns associated with outdoor dining and assembly uses, the Applicant proposes specific, enforceable measures tied to the Portsmouth Zoning Ordinance Section 19.50 relief request: the first six parking spaces left of the lower patio will be designated for employees only and will be marked with vertical posts and signage; vertical signs will designate patio and picnic areas; drive lanes will be subject to a 5 mph speed limit with posted and painted speed legends; and a perimeter fence with two large sliding gates and code access will be installed to reduce through-driving in side and rear yards and to secure outdoor seating areas from vehicular intrusion.

The Applicant will provide a detailed seating plan showing the number of tables and the exact footprint of outdoor dining so the Board can evaluate circulation, egress, and safety in connection with Section 19.50. These measures directly address safety and character concerns and provide the Board with enforceable conditions to protect the public interest. (These mitigations are the type of conditions the Court in Malachy Glen found appropriate to protect public safety while avoiding ruinous enforcement.)

NUMBER OF OUTDOOR TABLES: **8 TABLES**

TABLE TYPES: **PICNIC**

MAXIMUM SEATING CAPACITY OUTDOORS: **48 SEATS**

B. Dimensional and Locational Variances for Parking: Relief Requested from Portsmouth Zoning Ordinance Article 11, Section 10.1113.20 (Location of Parking Facilities on a Lot) and Section 10.1113.41 (Off-Street Parking Setback Requirements — 50-Foot Front Setback in Industrial Zone)

B.1 Scope of Requested Relief and Context (Sections 10.1113.20 and 10.1113.41)

The City's review correctly identifies that required off-street parking spaces are generally prohibited from being located in any required front yard or between a principal building and a street under Portsmouth Zoning Ordinance Article 11, Section 10.1113.20, and that off-street parking areas in an Industrial zone are generally required to be set back from front lot lines by 50 feet under Portsmouth Zoning Ordinance Section 10.1113.41. The Applicant's existing parking layout places parking between the building and the street and does not meet the 50-foot front setback. Relief from these specific provisions is therefore necessary to regularize the site's functional layout and to enable the continued operation of the business.

EXISTING TOTAL PARKING SPACES: **78 SPACES**

REQUIRED PARKING SPACES: **95 SPACES³**

PARKING DELTA: **17**

B.2 Public Interest and Spirit of the Ordinance (Sections 10.1113.20 and 10.1113.41)

The parking location and front setback rules reflect legitimate municipal objectives: preserving streetscape character, ensuring pedestrian safety, and preventing parking from dominating the public frontage. The Board must evaluate whether those objectives are meaningfully advanced by strict application of Section 10.1113.20 and Section 10.1113.41 on this particular lot. The site's existing built form and the history of City coordination and oversight inform the conclusion that the ordinance's goals can be achieved through targeted mitigation rather than strict reconfiguration. The existing parking lot already encroaches significantly upon the front yard setback, and the requested relief does not constitute a major deviation from existing conditions and will facilitate the establishment of safe, compliant maneuvering aisles.

The Applicant's mitigation measures include employee parking designation for the first six spaces adjacent to the lower patio, vertical signage, speed reduction measures, painted speed legends, and a perimeter fence with controlled sliding gates, all of which directly advance the ordinance's safety and streetscape goals while preserving the site's practical functionality. The

³ This calculation was done using the shared parking methodology outlined in Section 10.1112.60 of the Ordinance.

Board can therefore find that, in this unique factual context, granting relief from Sections 10.1113.20 and 10.1113.41 will not undermine the ordinance's purpose and will protect public safety and neighborhood character. The project must proceed through a full site review to adequately protect the public's interests.

B.3 Substantial Justice (Sections 10.1113.20 and 10.1113.41)

Denying relief from Section 10.1113.20 and Section 10.1113.41 would force the Applicant to reconfigure the site in a manner that is disproportionate to the public benefit. The Applicant has invested in the existing layout and has relied on City coordination: reconfiguring parking to comply strictly with the front setback and the prohibition on parking between the building and the street would likely require removal or relocation of existing improvements, loss of viable parking, and significant expense. The Applicant's mitigation plan reduces public harm and preserves pedestrian and vehicular safety. Balancing these factors, substantial justice favors granting the parking variances with conditions requiring implementation of the proposed traffic-calming and protective measures. The project must proceed through full site review, so the interests of the public will be adequately protected

B.4 No Diminution of Surrounding Property Values (Sections 10.1113.20 and 10.1113.41)

The Board should find that the proposed parking arrangement, combined with the mitigation measures, will not diminish surrounding property values. The proposed fence, screening, and signage will reduce visual impacts on the streetscape, and the speed-control measures will protect pedestrian safety. The Applicant will present photographic evidence, along with appropriate screening and controls, to ensure that nearby values will not be depressed.

B.5 Unnecessary Hardship (Test A and Test B): Application to Sections 10.1113.20 and 10.1113.41

For the parking variances, Test A is the most persuasive route. The Applicant will show that the ordinance's general purpose, to preserve streetscape and safety, has no fair and substantial relationship to the application of Section 10.1113.20 and Section 10.1113.41 to this lot because of the site's existing built form, the orientation of the building, and the history of City coordination and oversight. The lot's physical constraints and the existing improvements make strict compliance unreasonable and unnecessary to achieve the ordinance's goals. If the Board requires Test B, the Applicant will demonstrate that the property cannot be reasonably used for the intended commercial and social club functions without the requested parking layout, and that the variance is necessary to enable reasonable use. The Board should adopt findings identifying the special conditions and the reasonableness of the requested relief under Sections 10.1113.20 and 10.1113.41.

B.6 Evidence and Conditions Specific to Parking Relief (Sections 10.1113.20 and 10.1113.41)

The Applicant submitted a parking table (please see page 2 of the Site Plans) linked to each use. The Applicant proposed additional parking relief to address additional considerations including: employee-only designation for the first six spaces left of the lower patio with vertical posts and signage; installation of vertical signs for patio and picnic areas; a 5 mph posted and painted speed limit; and installation of a perimeter fence with two sliding gates and code access to prevent through-driving.⁴ These conditions directly address the objectives of Sections 10.1113.20 and 10.1113.41 and provide the Board with concrete tools to protect the public interest.

III. Legal Analysis

The New Hampshire Supreme Court in *Malachy Glen*⁵ recognized in its analysis relative to substantial justice that “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” 15 P. Loughlin, *New Hampshire Practice, Land Use Planning and Zoning* § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, *The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997)). Where municipal actions and the administrative record reasonably induce reliance, and where strict enforcement would impose an undue financial burden or effectively destroy the applicant’s investment, the Board may grant variance relief. Here, the administrative record shows that denying relief now would impose a disproportionate burden: loss of investment, interruption of an operating business subject to City inspection and oversight, and substantial economic and community disruption.

In *Labrecque v. Town of Salem*, 128 N.H. 455, 459 (1986), the Court evaluated whether the proposed development was consistent with the area’s present use. That reasoning is directly applicable here: where the proposed uses align with the area’s existing commercial character, where technical measures protect public safety and environmental resources, and where denial would impose disproportionate economic harm on the Applicant, the substantial-justice factor favors granting relief.

The Court has also reiterated the principle, originally articulated in *Chester Rod and Gun Club v. Town of Chester*, 152 N.H. 577 (2005), that the “variance not be contrary to the public interest” element is closely related to the requirement that the variance be consistent with the spirit of the ordinance. A variance is contrary to the public interest only if it violates the basic objectives of the zoning ordinance; such a violation occurs when the variance would either “alter the essential character of the locality” or “threaten the public health, safety, or welfare.” This standard provides a concrete, fact-driven test for the Board: where the administrative record demonstrates that the

⁴ The Technical Advisory Committee will review details regarding parking.

⁵ *Malachy Glen Associates, Inc. v. Town of Chichester*, 155 N.H. 102 (2007).

uses and mitigations will not alter the essential character of the area or threaten health, safety, or welfare, the public-interest/spirit inquiry is satisfied and relief is appropriate.

The record documents multiple City actions, including coordinated permitting activity, inspections, issuance of a Certificate of Occupancy, communications with regulatory bodies, and staff emails, that informed the Applicant's reliance. Taken together, these facts (municipal oversight and induced reliance, plus the severe economic consequences of strict enforcement) support granting the requested variances, subject to any conditions this Board may impose.

IV. Equitable Considerations

A. Estoppel and Constructive Approval

Equitable doctrines such as estoppel and constructive approval are relevant to the Board's exercise of discretion. Where municipal conduct reasonably induces reliance and investment, the Board may consider whether strict enforcement would produce inequitable results. The administrative record here includes coordinated permitting activity, inspections, issuance of a Certificate of Occupancy, communications with regulatory bodies, and staff emails that the Applicant reasonably interpreted as authorizing the continued operation and refinement of the business.

Those affirmative acts support the finding that the Applicant reasonably relied on the City's conduct in advancing the business. Documentary evidence: inspection records, correspondence, and the Certificate of Occupancy, will show the sequence of administrative interactions that informed the Applicant's decisions.

B. Under-Inclusive Release and Mutual Mistake

If a release or waiver is materially underinclusive relative to the project as actually built and operated, equitable doctrines such as mutual mistake or lack of meeting of the minds may bear on whether the release should be enforced to bar relief. The Board may consider whether the Release and Waiver Agreement's scope, read in light of subsequent City actions, was intended to address the full scope of the project.

As referenced earlier, the Release and Waiver Agreement addressed certain earlier permit matters but did not encompass later operational refinements that the Applicant reasonably believed were authorized through ongoing coordination with City staff. Where both parties contributed to administrative ambiguity, the Board may find it equitable to grant relief.

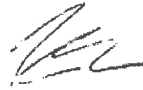
C. How Equitable Considerations Inform Relief

Equitable considerations do not supplant the statutory variance elements but inform the Board's discretion in fashioning relief. Where the record shows municipal conduct that induced the Applicant's reliance, the Board can reconcile the need for compliance with the realities of the site and the public interest by granting the requested variances.

V. Conclusion

The record, which includes municipal engagement, the Applicant's reasonable reliance, the property's unique constraints, and the Applicant's specific mitigation commitments, supports an equitable outcome. It balances the site's actual use with the zoning framework while protecting public health, safety, and neighborhood character.

Respectfully resubmitted,



Dated: August 19, 2026

By: _____

John K. Bosen, Esquire

EXHIBIT A



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

May 25, 2022

One Hundred Forty West Road Condos
140 West Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 140 West Road (LU-22-99)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 24, 2022**, considered your application for converting an existing structure into a private indoor recreation facility which requires the following: 1) A Variance from Section 10.440 Use #4.30 to allow and indoor recreation use where the use is not permitted. 2) A Variance from Section 10.1113.41 to allow parking to be located 2 feet from the front lot line where 50 feet is required. Said property is shown on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District. As a result of said consideration, the Board voted to **grant** the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Arthur Parrott, Chairman of the Zoning Board of Adjustment

GRAPHIC KEY

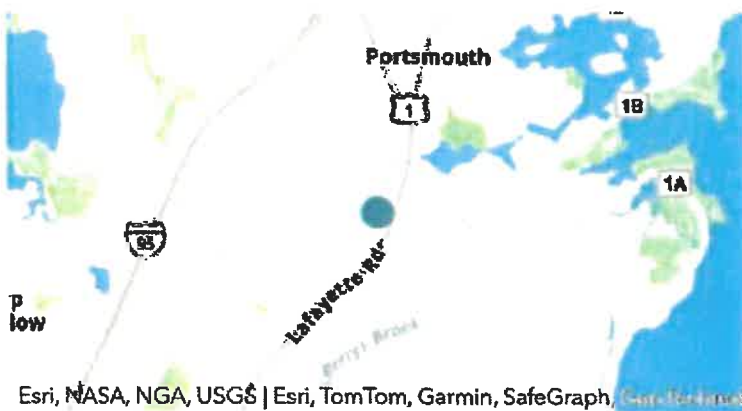


01/01/2025
 01/01/2025
 01/01/2025

EXHIBIT B

Building Permit Application (original)

BLDG-22-961



Esri, NASA, NGA, USGS | Esri, TomTom, Garmin, SafeGraph, Carto Technologies, Inc, M.. Powered by Esri (<https://www.esri.com/>)

Applicant

Alex Choquette

Location

140 WEST RD

Portsmouth, NH 03801

[View location details \(/locations/30366\)](/locations/30366)

Created

Nov 21, 2022

Status

Stopped

Expires

Jun 4, 2024

Details **Files (6)**

Alternative Project Address and Building Inspector Assigned

Land Use Review

Property Owner Information

Property Owner Full Name *

Black Rock Social Club - Alex Choquette

Property Owner Phone Number *

603 498 2519

Property Owner Email address *

alex@brsc.vip

New Field

--

Project Type and Cost

Project type *

Addition or renovation

Residential or Commercial Property *

Commercial

Please Provide a Brief Description of the Existing Land Use (E.g. Residential, Commercial, Duplex, Single-Family, Retail, Office) ?

existing business use

Cost of ALL Construction in whole numbers - no dollar signs or decimals (please do NOT include MEP costs) * ?

2,500,000

Cost of FOUNDATION construction (if applicable) only in whole numbers -- no dollar signs or decimals ?

40,000

Project Information

Detailed Description of Proposed Work * ⓘ

Commercial renovation. Convert building to a social club. Kitchen, restaurant, gaming activities, new stairwells and elevator. Construction to be performed in accordance with the most recent revised plans submitted prior to permit approval. Floor plan K29 uploaded Mar 21, 2023 is the set that shall be used for all related trade work with regard to restaurant equipment and layout. The cigar bar shown on some construction drawings is not authorized/approved under this permit's scope of work.

Proposed Building/Structures (IF APPLICABLE)

Building / Structure Description	Total Gross Floor Area (sq ft)	Area of Footprint (s.f.)	+ 2 Additional Fields
New stairtowers	2,380	2,380	...

General Contractor Information**General Contractor Name**

Careno Construction Company LLC

General Contractor Business Name

Careno Construction Company LLC

Mailing Address

270 West Road Unit 4

Phone Number

6034361006

Email address

build@carenoconstruction.com

Contractor has current workmen's compensation insurance or substantial equivalent. ⓘ



Contractor has current liability insurance or substantial equivalent. ⓘ



Other Project Contacts

Relationship to Project	If you selected "Other" please describe your relationship to the project	Full Name (First and Last)	+ 10 Additional Fields
Other (please describe below)	Construction Project Manager	Brad Scott	...

Additional Construction Information (if applicable) Water Service Sizing Review: When adding additional plumbing fixtures, Changing the Use and/or Changing the Occupancy of a structure the water supply system will be reviewed and designed per Section P2903 of the 2015/2018 IRC and /or Section 604 of the 2015/2018 IPC

Sewerage System

City

City Water?



Fire Sprinkler System? (Separate Permit/Plans Required)



Fire Alarm System? (Separate Permit/Plans Required)



Is this a RESIDENTIAL dwelling built before 1978?

--

Is this a COMMERCIAL structure built before 1978 that will be used for CHILD CARE OCCUPANCY?

--

Total area to be demolished (sq. ft.)

--

If you checked Yes to either of the previous two questions, is the contractor for this project an EPA-certified RRP contractor? ②

--

National Flood Insurance Program Data (if applicable)

Map Panel #

--

FIRM Zone

--

Elevation of lowest floor (feet (NGVD)) ?

--

Elevation Certificate Submitted ?

--

Is construction in a Special Flood Hazard Area (SFHA)? ?

--

Is construction located in an Extended Flood Hazard Area? ?

--

Plan Submission

I understand that this application will not be considered complete until I have provided the required plans as described above. (You will be prompted at the next screen to upload your plans.) *



Acknowledgement

I certify that the information given is true and correct to the best of my knowledge. No change from the information in this application will be made without approval of the Building Inspector. Construction activities shall not commence until the Building Permit is issued. I realize that when all necessary approvals have been acquired, a Building Permit may be granted by the Building Inspector to allow construction in conformance with this application and the plans/specifications submitted in support of said construction only. I further acknowledge that the proposed structure shall not be occupied or otherwise utilized without the issuance of a Building Certificate of Occupancy and only after all necessary inspections have been requested and completed. I am also aware that the disposal of waste generated from this project is my responsibility and not part of the City's Trash/Recycling Program. *



I hereby certify that as the applicant for permit, I am the *
Owner's authorized agent

By signing below, I agree that this is equivalent to a handwritten signature and is binding for all purposes related to this transaction. *

 Ben Careno
Nov 21, 2022

Documents

Building Permit

Issued Jun 5, 2023

City of Portsmouth, NH

Your Profile

[Sign Up \(/sign-up\)](#)

[Your Records \(/dashboard/records\)](#)

Resources

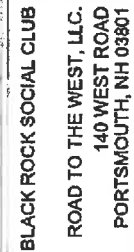
[Search for Records \(/search\)](#)

[Claim a Record \(/claimRecord\)](#)

[Employee Login \(https://portsmouthnh.workflow.opengov.com\)](https://portsmouthnh.workflow.opengov.com)

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GENERAL CODE COMPLIANCE REVIEW - CONT.



McHENRY
ARCHITECTURE
4 Norfolk Street
Portsmouth, New Hampshire
603.439.3274

PERMIT SET ONLY

Project Name:
BLACK ROCK SOCIAL CLUB

Drawing Name:
**GENERAL CODE REVIEW
- PLANS**

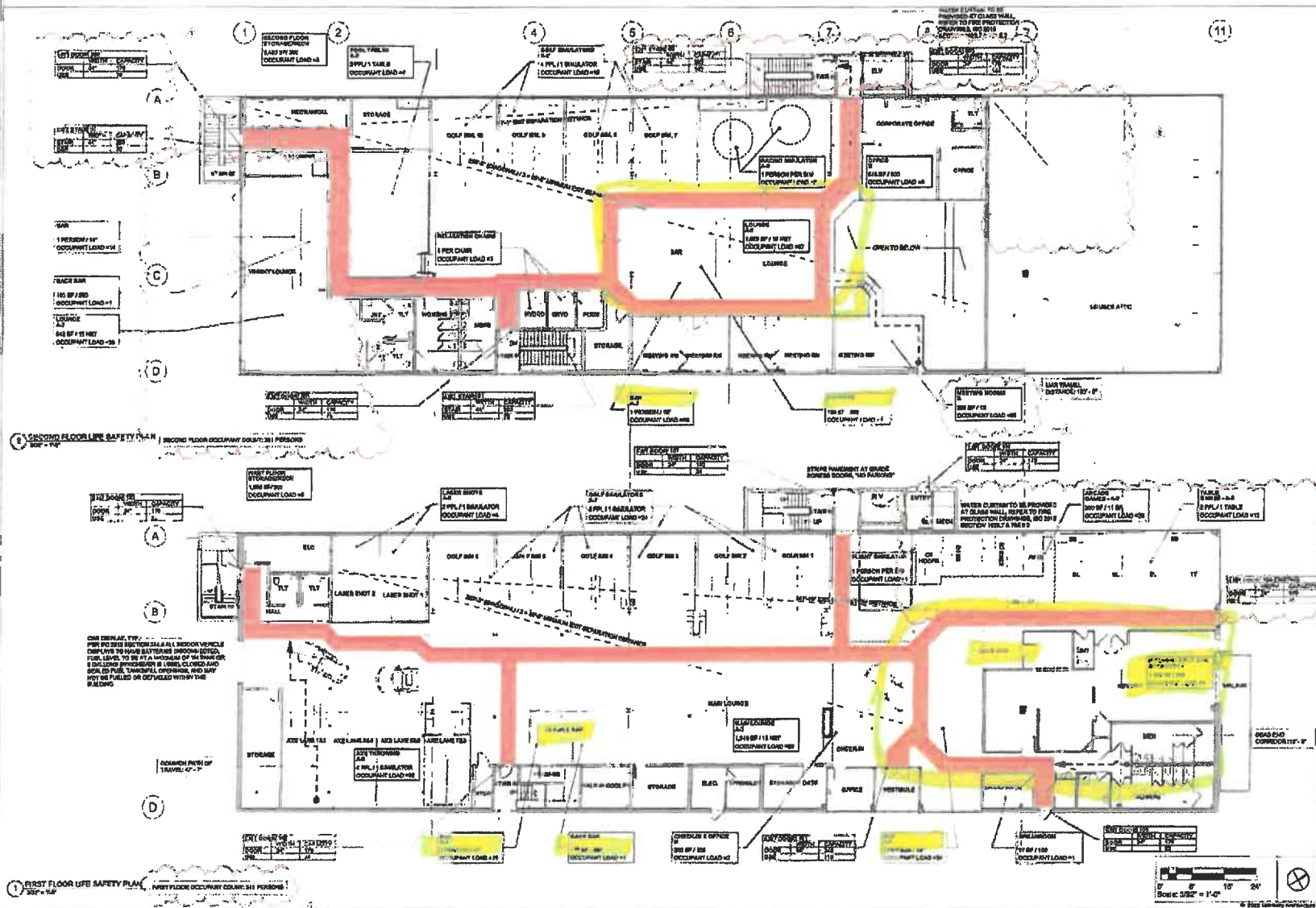
Project Number: 21121
Date: 11/16/2022
Drawn By: RD
Checked By: MG

T3

AS INDICATED

T3

GENERAL CODE COMPLIANCE REVIEW - CONT.

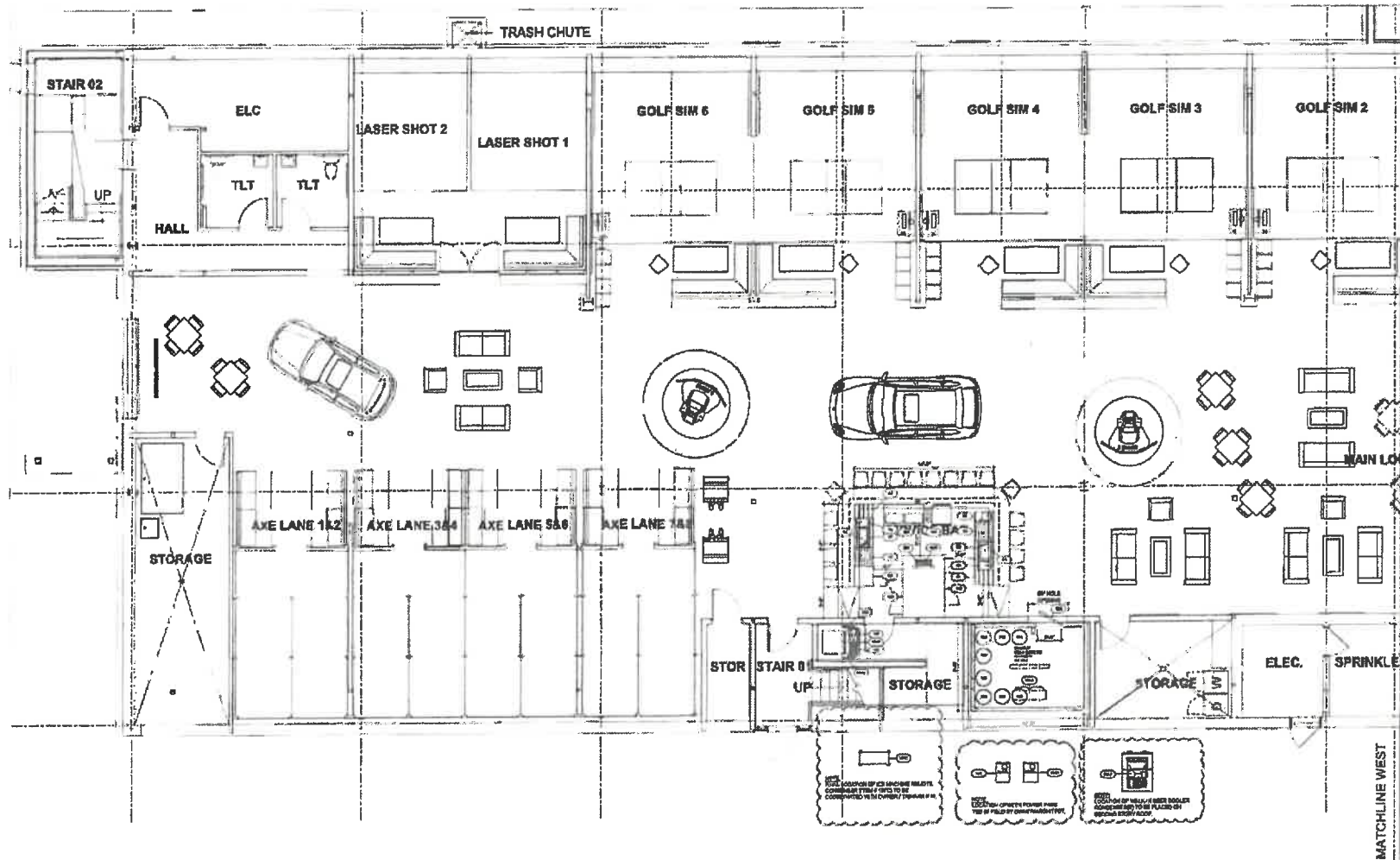


Project Number: 21321
Date: 11/15/2022
Dispersed By: RD
Checked By: MQ

T3

AS INDICATED

Food Service Equipment Layout → Filed under BLDG-22-961



FOODSERVICE EQUIPMENT LAYOUT - FIRST FLOOR WEST - SERVICE BAR
SCALE: 1/4" = 1'-0"

PRELIMINARY DRAWINGS ONLY
03-16-23
NOT FOR CONSTRUCTION



UNITED EAST

☎ 703/961-5500
 FAX 703/961-5501
 P 800-761-5439
 Advertising: 703/961-5500

The 40-year-old, 1.60-m-tall, 50-kg-weighted Vietnamese, is an advocate of a political system and the security of Tibet. He has not yet been in any other position of the minimum of his project.

Cancel just all liabilities to shareholders and simply writing common and preferred in the old equity trading agreement and in early 1980 at any interest or debt charges.

REVISIONS

DATE	BY	NO.	DESCRIPTION
08-14-22	REC	-	TAC & LIST
08-18-22	REC	-	IRON BASE PLAN
08-23-22	REC	A	EQUIP. REV.
09-11-22	REC	B	DESIGN REV.
09-28-22	REC	C	EQUIP. REV.
10-05-22	REC	D	EQUIP. REV.
10-12-22	REC	E	EQUIP. REV.
10-19-22	REC	F	EQUIP. REV.
10-26-22	REC	G	EQUIP. REV.
11-02-22	REC	H	EQUIP. REV.
11-09-22	REC	I	EQUIP. REV.
11-16-22	REC	J	CO-ORDINATION

Black Rock Social & Sports Club LLC

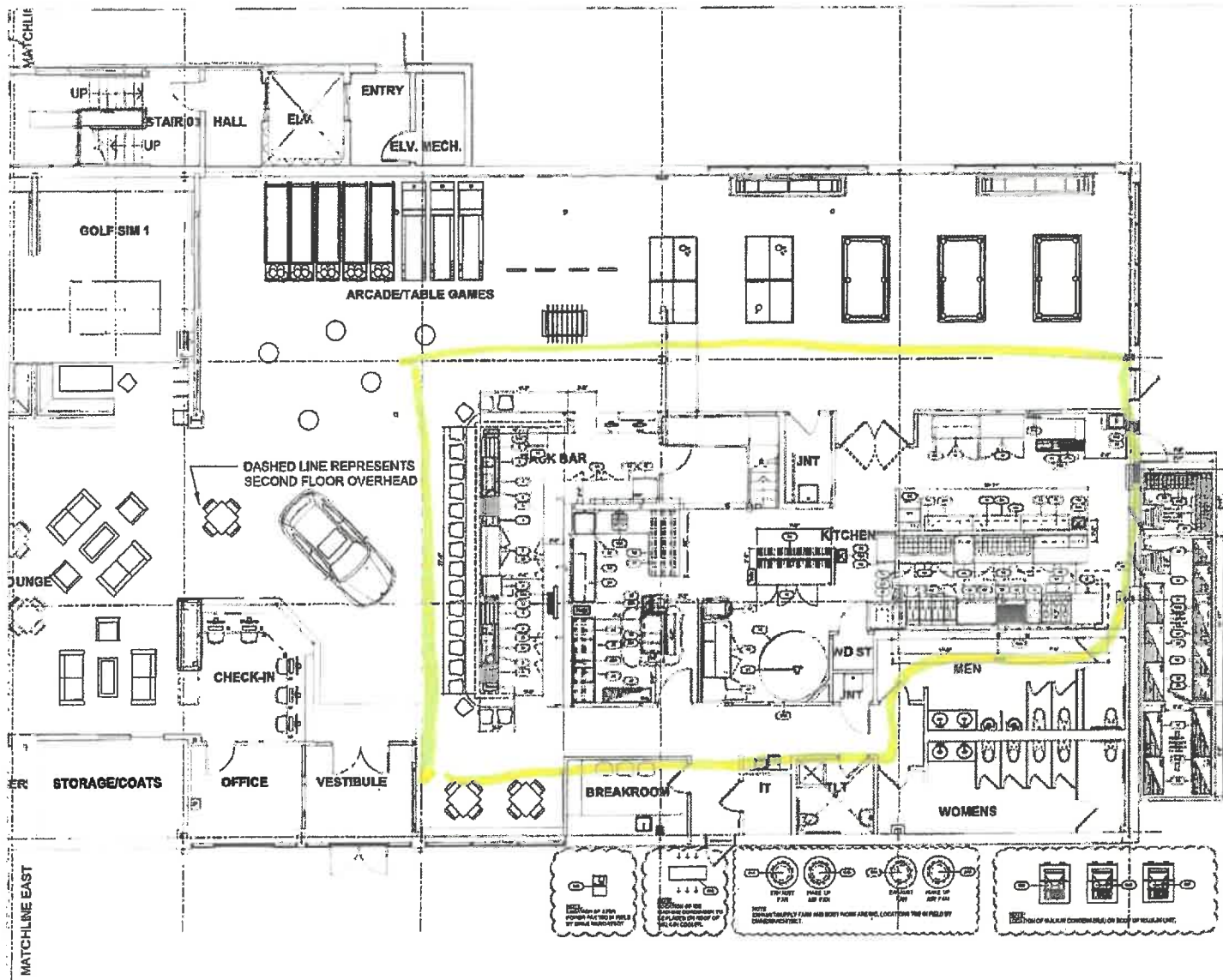
140 West Road
Portsmouth, NH 03801

FOOD SERVICE DRAWINGS

12-177
 0-17
 08-08-2022
 141' x 141'
 REC

WORK ITEM

QF100



FOODSERVICE EQUIPMENT LAYOUT - FIRST FLOOR EAST - KITCHEN & MAIN BAR
SCALE: 1/4" = 1' - 0"

PRELIMINARY DRAWINGS ONLY!
03-16-23
NOT FOR CONSTRUCTION



2000 Avenue E
Burlington, NJ 08009
P 609-265-0000
F 609-265-0001
www.tri-mark.com

This document contains confidential information. It is the property of TriMark, and its use is restricted to the project for which it was prepared. It is not to be used for any other purpose without the written consent of TriMark.

Client and all Contractors to check and verify existing conditions and equipment, as the client represents and warrants the accuracy of the information provided for the extension of the project without liability to TriMark.

REVISIONS			
DATE	BY	NO	DESCRIPTION
02-14-23	TRM	1	TAG & LIST
04-14-23	TRM	2	NEW BAR & KITCHEN
04-27-23	TRM	3	EQUIP. REV.
05-11-23	TRM	4	EQUIP. REV.
05-11-23	TRM	5	EQUIP. REV.
05-11-23	TRM	6	EQUIP. REV.
05-11-23	TRM	7	EQUIP. REV.
05-11-23	TRM	8	EQUIP. REV.
05-11-23	TRM	9	EQUIP. REV.
05-11-23	TRM	10	EQUIP. REV.
05-11-23	TRM	11	EQUIP. REV.
05-11-23	TRM	12	EQUIP. REV.
05-11-23	TRM	13	EQUIP. REV.
05-11-23	TRM	14	EQUIP. REV.
05-11-23	TRM	15	EQUIP. REV.
05-11-23	TRM	16	EQUIP. REV.
05-11-23	TRM	17	EQUIP. REV.
05-11-23	TRM	18	EQUIP. REV.
05-11-23	TRM	19	EQUIP. REV.
05-11-23	TRM	20	EQUIP. REV.

Black Rock Social & Sports Club LLC

140 West Road
Portsmouth, NH 03801

FOOD SERVICE DRAWINGS

PROJECT NO.	23-177
DATE	08-08-2022
SCALE	1/4" = 1'-0"
DRAWN BY	DEO
APPROVED BY	JO

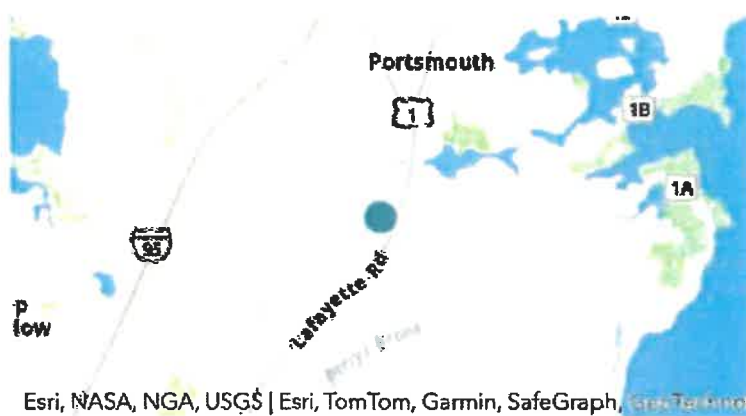
FOODSERVICE
EQUIPMENT PLAN

QF101

EXHIBIT C

Building Permit Application

BLDG-24-272



Esri, NASA, NGA, USGS | Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, M... Powered by Esri (<https://www.esri.com/>)

Applicant

Mark Gianniny

Location

140 WEST RD

Portsmouth, NH 03801

[View location details \(/locations/30366\)](/locations/30366)

Created

Apr 3, 2024

Status

Complete

Expires

Mar 22, 2025

Details **Files (13)**

Alternative Project Address and Building Inspector Assigned

Alternative Project Address * ?

NA

Commercial Project- Business Name * ?

--

Land Use Review

Property Owner Information

Property Owner Full Name * ?

ROAD TO THE WEST LLC - Alex Choquette

Property Owner Phone Number * ?

(603) 498-2519

Property Owner Email address * ?

alex@brsc.vip

Additional Information

--

Project Type and Cost

Release forms may be required by the Assessing Department. If Removing a M/H Structure you must complete the Manufactured Housing Release Form. When adding a M/H you must complete the Manufactured Housing Report Form.

<https://files.cityofportsmouth.com/files/assessors/ManufacturedHousingReport.pdf>

https://files.cityofportsmouth.com/files/assessors/SKM_C45822081211440.pdf If you have questions, please contact Scott Scott, Assessing at 603-610-7214 or by email at sascott@cityofporrtsmouth.com

Project type *

Addition or renovation

Residential or Commercial Property *

Commercial

Existing Land Use Description (Single Family, Business, Etc.) ?

Business

Cost of Construction. If the project is phased please deduct the cost of the foundation as that will be calculated separately. All numbers must be whole numbers -- no dollar signs or decimals (please do NOT include Mechanical, Electrical or Plumbing costs) * ?

200,000

Cost of FOUNDATION construction (if applicable) only in whole numbers -- no dollar signs or decimals ?

--

Project Information

Detailed Description of Proposed Work * ?

Commercial renovation. Work to include interior renovations and fit-up for areas to be used as a business office and storage. Interior work will include full and partial height partitions to create storage areas and separate the office area. Two single user bathrooms and two utility rooms will be added to the storage areas. Overhead doors and egress doors will be added to the exterior walls. Modifications to the existing mechanical, plumbing, electrical and fire sprinkler will be permitted separately. Exterior work is limited to the repaving of the existing parking lot.

All work to be performed in accordance with the most recent set of plans submitted prior to the date of permit approval.

Roofing

Strip and replace ?

--

Roof over existing ?

--

Roofing over existing shall not be permitted when any of the following conditions occur: 1- Where the existing roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base. 2- Where the existing roof covering is slate, clay, cement or asbestos cement tile. 3- Where the existing roof has two or more applications of any type of roof covering.

Roof Material to be used ?

--
Squares of roofing being installed ?

--
Roof Area being replaced ?

--

Proposed Building/Structures (IF APPLICABLE)

General Contractor Information

General Contractor Name

Steve Haraden

General Contractor Business Name

De Nero Construction

Mailing Address

5 Merrill Industrial Drive, Hampton, NH 03842

Phone Number

(603) 926-6700

Email address

info@deniroconstruction.com

Contractor has current workmen's compensation insurance or substantial equivalent. ?



Contractor has current liability insurance or substantial equivalent. ?



Other Project Contacts

Relationship to Project	If you selected "Other" please describe your relationship to the project	Full Name (First and Last)	+ 10 Additional Fields
Other (please describe below)	Owners Rep	Grant Shambo	...

Additional Construction Information (if applicable) Water Service Sizing Review: When adding additional plumbing fixtures, Changing the Use and/or Changing the Occupancy of a structure the water supply system will be reviewed and designed per Section P2903 of the 2015/2018 IRC and /or Section 604 of the 2015/2018 IPC

Sewerage System

City

City Water?



Fire Sprinkler System? (Separate Permit/Plans Required)



Fire Alarm System? (Separate Permit/Plans Required)



Is this a RESIDENTIAL dwelling built before 1978?

--

Is this a COMMERCIAL structure built before 1978 that will be used for CHILD CARE OCCUPANCY?

--

Total area to be demolished (sq. ft.)

--

If you checked Yes to either of the previous two questions, is the contractor for this project an EPA-certified RRP contractor? ②

--

National Flood Insurance Program Data (if applicable)

Map Panel #

--

FIRM Zone

--

Elevation of lowest floor (feet (NGVD)) ?

--

Elevation Certificate Submitted ?

--

Is construction in a Special Flood Hazard Area (SFHA)? ?

--

Is construction located in an Extended Flood Hazard Area? ?

--

Plan Submission

I understand that this application will not be considered complete until I have provided the required plans as described above. (You will be prompted at the next screen to upload your plans.) *



Acknowledgement

I certify that the information given is true and correct to the best of my knowledge. No change from the information in this application will be made without approval of the Building Inspector. Construction activities shall not commence until the Building Permit is issued. I realize that when all necessary approvals have been acquired, a Building Permit may be granted by the Building Inspector to allow construction in conformance with this application and the plans/specifications submitted in support of said construction only. I further acknowledge that the proposed structure shall not be occupied or otherwise utilized without the issuance of a Building Certificate of Occupancy and only after all necessary inspections have been requested and completed. I am also aware that the disposal of waste generated from this project is my responsibility and not part of the City's Trash/Recycling Program. *



I hereby certify that as the applicant for permit, I am the *
Owner's authorized agent

By signing below, I agree that this is equivalent to a handwritten signature and is binding for all purposes related to this transaction. *

 **Mark Gianniny**

Apr 3, 2024

Documents

Certificate of Occupancy

Issued Sep 25, 2025

Building Permit

Issued Apr 25, 2024

City of Portsmouth, NH

Your Profile

[Sign Up \(/sign-up\)](#)

[Your Records \(/dashboard/records\)](#)

Resources

[Search for Records \(/search\)](#)

[Claim a Record \(/claimRecord\)](#)

[Employee Login \(https://portsmouthnh.workflow.opengov.com\)](https://portsmouthnh.workflow.opengov.com)

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EXHIBIT D

RELEASE AND WAIVER AGREEMENT
140 WEST ROAD

THIS AGREEMENT made as of the 30th day of April, 2024 by and between the City of Portsmouth (the "City"), and Road to the West, LLC, a New Hampshire limited liability company with a principal address of 140 West Road, Portsmouth, New Hampshire 03801 ("Property Owner").

WHEREAS, the Property Owner owns certain real property located at 140 West Road, Tax Map and Lot number 0252-0002-1301 (the "Property"); and,

WHEREAS, the Property Owner has secured certain land use approvals, identified as LU-22-99 in the City's permitting system (the "Land Use Approvals"); and,

WHEREAS, the Property Owner has also secured a certain building permit to develop the Land Use Approvals, identified in the City's permitting system as BLDG-22-961 (the "Building Permit"); and,

WHEREAS, the Property Owner and the City have entered into a certain Site Review Agreement dated March 8, 2023 (the "SRA"); and,

WHEREAS, the SRA and the related site improvements associated with the Land Use Approvals are secured by a letter of credit from Kennebunk Savings Bank in the amount of \$836,618; and,

WHEREAS, the Property Owner paid a building permit fee in the amount of \$25,000; and,

WHEREAS, the City's Building Code Section 1202.2.15 states in relevant part "The building official shall authorize the refunding of fees as follows ... Not more than 50% of the permit fee paid when no work has been done under a permit issued in accordance with this Code" ; and,

WHEREAS, the Property Owner has not commenced any work on the Property associated with the Land Use Approvals or the Building Permit; and,

WHEREAS, the Property Owner wishes to abandon the Land Use Approvals and the Building Permit and make other use of the Property.

NOW THEREFORE, in exchange for the mutual consideration contained herein, the Parties agree as follows:

Release by Property Owner

1. The Property Owner agrees that it shall release and disclaim any right or entitlement to the Land Use Approvals and the Building Permit.
2. The Property Owner agrees that in order to change the use or occupancy of the Property, including but not limited to restarting the same project described in the Land Use Approvals, Property owner shall restart all approvals and be required to follow the laws, ordinances and codes existing at the time of any such revised application.
3. The Property Owner agrees to return the Building Permit to the City and agrees it will not conduct any work associated with the Building Permit.

Return and Release by the City

4. The City agrees to return to Property Owner \$12,500, which value represents half of the fee charged for the Building Permit.
5. The City agrees to release the Property Owner from the SRA and return the Letter of Credit to the Property Owner without further recourse under the terms of the SRA.

Miscellaneous:

6. **Representations and Warranties:** Each Party represents and warrants that it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder. **The Property Owner understands that counsel for the City represents the City and does not represent the Property Owner. The Property Owner represents it has consulted with its own legal counsel or hereby expressly waives the right to do so.**
7. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of New Hampshire, without regard to its conflict of laws principles.
8. **Compliance with other laws:** Nothing in this Agreement shall be construed to waive, relieve or otherwise release the Property Owner from compliance with any state, federal or local laws. Nothing in this Agreement

shall be construed to approve or permit any changed use or additional construction at the Property.

9. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written.
10. **Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Dated this 30th day of April, 2024

Road to the West, LLC

By: 
Alexander B. Choquette, Member

Dated this 21 day of May, 2024.

City of Portsmouth

By: 
Peter Britz, Director of Planning and Sustainability

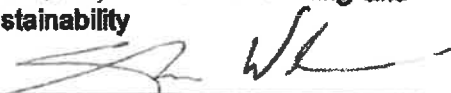
By: 
Shanti Wolph, Chief Building Inspector

EXHIBIT E



GENERAL CODE COMPLIANCE REVIEW

140 WEST ROAD
PORTSMOUTH, NH 03801

PROJECT DATA:

DESCRIPTION: WORK AT 140 WEST RD. INCLUDES EXTERIOR RENOVATION AND FIT-UP FOR AREAS TO BE USED AS A BUSINESS OFFICE AND STORAGE. INTERIOR WORK WILL INCLUDE FULL AND PARTIAL HEIGHT PARTITIONS TO CREATE STORAGE AREAS AND SEPARATE THE OFFICE AREA. TWO SINGLE USER BATHROOMS AND TWO UTILITY ROOMS WILL BE ADDED TO THE STORAGE AREAS. OVERHEAD DOORS AND EXTERIOR DOORS WILL BE ADDED TO THE EXTERIOR WALLS. MODIFICATIONS TO THE EXISTING MECHANICAL, PLUMBING, ELECTRICAL AND FIRE SPRINKLER WILL BE PERMITTED SEPARATELY. EXTERIOR WORK IS LIMITED TO THE REPAIRING OF THE EXISTING PARKING LOT.

STATE BUILDING CODE:

2018 INTERNATIONAL BUILDING CODE (2018 IBC)

LIFE SAFETY CODE:

2018 NATIONAL FIRE PROTECTION AGENCY 101 (NFPA 101)
2018 FIRE CODE NFPA 1 AMENDED BY SUPPLEMENT 1

STATE ENERGY CODE:

2018 INTERNATIONAL ENERGY CONSERVATION CODE (2018 IECC) WITH NEW HAMPSHIRE AMENDMENTS

STATE MECHANICAL CODE:

2018 INTERNATIONAL MECHANICAL CODE (2018 IMC) WITH NEW HAMPSHIRE AMENDMENTS

STATE ELECTRICAL CODE:

2018 NATIONAL ELECTRICAL CODE (NEC) 2018 NFPA 70E WITH NEW HAMPSHIRE AMENDMENTS

STATE PLUMBING CODE:

2018 INTERNATIONAL PLUMBING CODE (2018 IPC) WITH NEW HAMPSHIRE AMENDMENTS

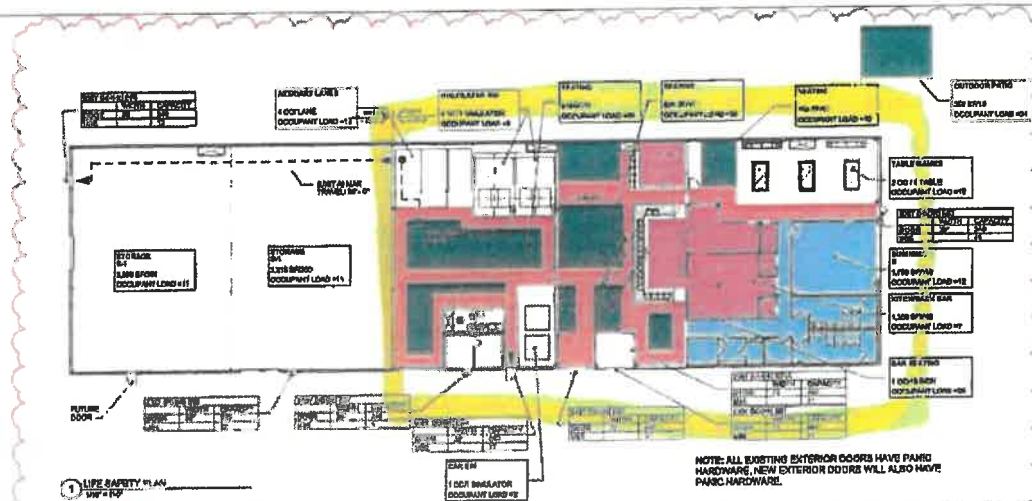
EXISTING BUILDING CODE:

2018 INTERNATIONAL EXISTING BUILDING CODE (2018 IEB) WITH NEW HAMPSHIRE AMENDMENTS

ADDITIONAL ACCESSIBILITY CODE:

THE ARCHITECTURAL BARRIER PREDESIGN CODE FOR THE STATE OF NH 2010 ADA STANDARDS FOR ACCESSIBLE DESIGN

CODE REVIEW	
SECTION	REMARKS
1.00 GENERAL	1.01 EXISTING BUILDING
1.02 EXTERIOR	1.02.1 EXTERIOR WALLS
1.03 ROOFING	1.03.1 ROOFING
1.04 FLOORING	1.04.1 FLOORING
1.05 CEILING	1.05.1 CEILING
1.06 PARTITIONS	1.06.1 PARTITIONS
1.07 DOORS	1.07.1 DOORS
1.08 WINDOWS	1.08.1 WINDOWS
1.09 ELEVATORS	1.09.1 ELEVATORS
1.10 STAIRS	1.10.1 STAIRS
1.11 RAMPWAYS	1.11.1 RAMPWAYS
1.12 PLATFORMS	1.12.1 PLATFORMS
1.13 SIGNAGE	1.13.1 SIGNAGE
1.14 FURNITURE	1.14.1 FURNITURE
1.15 EQUIPMENT	1.15.1 EQUIPMENT
1.16 UTILITIES	1.16.1 UTILITIES
1.17 MECHANICAL	1.17.1 MECHANICAL
1.18 ELECTRICAL	1.18.1 ELECTRICAL
1.19 PLUMBING	1.19.1 PLUMBING
1.20 FIRE PROTECTION	1.20.1 FIRE PROTECTION
1.21 ACCESSIBILITY	1.21.1 ACCESSIBILITY
1.22 OTHER	1.22.1 OTHER



INTERNATIONAL ENERGY CONSERVATION CODE:

SECTION	REMARKS
1.00 GENERAL	1.01 EXISTING BUILDING
1.02 EXTERIOR	1.02.1 EXTERIOR WALLS
1.03 ROOFING	1.03.1 ROOFING
1.04 FLOORING	1.04.1 FLOORING
1.05 CEILING	1.05.1 CEILING
1.06 PARTITIONS	1.06.1 PARTITIONS
1.07 DOORS	1.07.1 DOORS
1.08 WINDOWS	1.08.1 WINDOWS
1.09 ELEVATORS	1.09.1 ELEVATORS
1.10 STAIRS	1.10.1 STAIRS
1.11 RAMPWAYS	1.11.1 RAMPWAYS
1.12 PLATFORMS	1.12.1 PLATFORMS
1.13 SIGNAGE	1.13.1 SIGNAGE
1.14 FURNITURE	1.14.1 FURNITURE
1.15 EQUIPMENT	1.15.1 EQUIPMENT
1.16 UTILITIES	1.16.1 UTILITIES
1.17 MECHANICAL	1.17.1 MECHANICAL
1.18 ELECTRICAL	1.18.1 ELECTRICAL
1.19 PLUMBING	1.19.1 PLUMBING
1.20 FIRE PROTECTION	1.20.1 FIRE PROTECTION
1.21 ACCESSIBILITY	1.21.1 ACCESSIBILITY
1.22 OTHER	1.22.1 OTHER

TABLE OF DIMENSIONAL STANDARDS:

SECTION	REMARKS
1.00 GENERAL	1.01 EXISTING BUILDING
1.02 EXTERIOR	1.02.1 EXTERIOR WALLS
1.03 ROOFING	1.03.1 ROOFING
1.04 FLOORING	1.04.1 FLOORING
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1.18 ELECTRICAL	1.18.1 ELECTRICAL
1.19 PLUMBING	1.19.1 PLUMBING
1.20 FIRE PROTECTION	1.20.1 FIRE PROTECTION
1.21 ACCESSIBILITY	1.21.1 ACCESSIBILITY
1.22 OTHER	1.22.1 OTHER

FIRE SPRINKLER NOTE:

- CONTRACTOR TO VERIFY EXISTING NFPA 13 COMPLIANT FIRE SPRINKLER SYSTEM. THE CONTRACTOR SHALL INCLUDE OVERHEAD AND UNDERFLOOR CALCULATIONS SUBMITTED BY A PROFESSIONAL ENGINEER LICENSED IN NEW HAMPSHIRE.
- OWNER SHALL VERIFY ALL STATE AND LOCAL CODES, COORDINATE WITH THE ENGINEER'S COMMENTS.

LIFE SAFETY LEGEND:

SECTION	REMARKS
1.00 GENERAL	1.01 EXISTING BUILDING
1.02 EXTERIOR	1.02.1 EXTERIOR WALLS
1.03 ROOFING	1.03.1 ROOFING
1.04 FLOORING	1.04.1 FLOORING
1.05 CEILING	1.05.1 CEILING
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1.16 UTILITIES	1.16.1 UTILITIES
1.17 MECHANICAL	1.17.1 MECHANICAL
1.18 ELECTRICAL	1.18.1 ELECTRICAL
1.19 PLUMBING	1.19.1 PLUMBING
1.20 FIRE PROTECTION	1.20.1 FIRE PROTECTION
1.21 ACCESSIBILITY	1.21.1 ACCESSIBILITY
1.22 OTHER	1.22.1 OTHER



BRSC - INTERIOR RENOVATION

140 WEST ROAD
PORTSMOUTH, NH 03801



PERMIT SET ONLY:

SECTION	REMARKS
1.00 GENERAL	1.01 EXISTING BUILDING
1.02 EXTERIOR	1.02.1 EXTERIOR WALLS
1.03 ROOFING	1.03.1 ROOFING
1.04 FLOORING	1.04.1 FLOORING
1.05 CEILING	1.05.1 CEILING
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1.17 MECHANICAL	1.17.1 MECHANICAL
1.18 ELECTRICAL	1.18.1 ELECTRICAL
1.19 PLUMBING	1.19.1 PLUMBING
1.20 FIRE PROTECTION	1.20.1 FIRE PROTECTION
1.21 ACCESSIBILITY	1.21.1 ACCESSIBILITY
1.22 OTHER	1.22.1 OTHER

Project Name:
BRSC - INTERIOR RENOVATION

Drawing Name:
GENERAL CODE REVIEW

Project Number:
21121

Date:
04/03/2024

Drawn By:
NIG

Checked By:
NIG

Scale:
As indicated

T2

EXHIBIT F



Karen S. Conard

City Hall, One Jenkins Avenue
Portsmouth, New Hampshire 03801
Phone: (603) 861-1000
(603) 861-1000

September 26, 2025

VIA EMAIL ONLY- licensing@liquor.nh.gov

New Hampshire State Liquor Commission
Bureau of Enforcement & Licensing
50 Storrs Street
Concord, New Hampshire 03301

**Re: Black Rock Sports Club, LLC, d/b/a Black Rock Social Club
140 West Road, Portsmouth, NH**

Dear New Hampshire Liquor Commission:

This letter will confirm that the City of Portsmouth has no objection to the issuance of the Restaurant Beverage/Wine/Liquor license applied for by Black Rock Sports Club, LLC, d/b/a Black Rock Social Club provided there is a condition on the liquor license that limits alcohol sales and service to private or public events at public venues.

Black Rock Sports Club, LLC shall at all times comply with all City building, fire and health codes, City ordinances, including but not limited to the City's noise ordinance, regulations, and State statutes.

Please make the conditions of this letter a part of Black Rock Sports Club, LLC liquor license.

Sincerely,


Karen S. Conard
City Manager

cc: Alexander Choquette, Black Rock Sports Club, LLC
Jane Ferrini; Senior Assistant City Attorney, Portsmouth, NH
City of Portsmouth Liquor File

AGREEMENT

Agreement made this ____ day of September, 2025 by and between **Black Rock Social Club, LLC, Alexander B. Choquette, Member ("Black Rock Social Club")** with an address of 140 West Road, Portsmouth, New Hampshire (the "Premises"), and the City of Portsmouth (the "City") a municipal corporation organized and existing under the laws of the State of New Hampshire and having a usual place of business at 1 Junkins Avenue, Portsmouth, New Hampshire, as follows:

WHEREAS, the City received information on September 24, 2025 from **Black Rock Social Club** regarding its application to the New Hampshire Liquor Commission for a Restaurant Beverage/Wine/Liquor License ("Liquor License") to operate a restaurant serving alcoholic beverages at the Premises; and

WHEREAS, the information from **Black Rock Social Club** was reviewed and approved by the City on September 25, 2025; and

WHEREAS, **Black Rock Social Club** has agreed to certain conditions being placed upon the approval granted by the City; and

WHEREAS, the City and **Black Rock Social Club** wish to memorialize the following conditions and stipulations.

NOW THEREFORE, the parties hereto agree as follows:

1. That the City shall favorably recommend to the State of New Hampshire Liquor Commission the application of **Black Rock Social Club** to operate a restaurant serving alcoholic beverages at the Premises and issue **Black Rock Social Club** a Liquor License upon the following conditions:
 - a. That alcohol may be served inside the Premises.
 - b. That entertainment may be provided inside the Premises.
 - c. That at no time shall dancing be allowed inside the Premises.
 - d. That **Black Rock Social Club** shall at all times comply with the noise ordinance of the City of Portsmouth, New Hampshire.
 - e. That approval is issued in reliance on representations made by **Black Rock Social Club** to the City on September 25, 2025.
2. That **Black Rock Social Club** agrees to provide the telephone number of a contact person to the Portsmouth Police Department for purposes of notification if and when there are calls for police assistance that are directly attributable to the operation of a restaurant at the Premises.

3. Black Rock Social Club shall at all times comply with all City building, fire and health codes at the Premises.
4. Black Rock Social Club shall at all time adhere to all City Ordinances, regulations, and State statutes, including but not limited to the City's noise ordinance.
5. Black Rock Social Club shall remain in good standing with the State of New Hampshire Secretary of State Office.
6. That Black Rock Social Club agrees with the City of Portsmouth that in the event it fails to adhere to the conditions of approval contained in this agreement that it will voluntarily discontinue the sale of alcoholic beverages at the Premises until such time as it and the City agree to the terms under which such sale may recommence.

IN WITNESS WHEREOF, the parties hereto agree have executed this Agreement as of the day and year first written above.


Witness

Black Rock Social Club, LLC

By: 
Alexander B. Choquette, Member
Duly Authorized

City of Portsmouth


Witness

By: 
Karen S. Conard, City Manager
Duly Authorized



State of New Hampshire Liquor Commission



BLACK ROCK SOCIAL CLUB LLC
BLACK ROCK SOCIAL CLUB
140 WEST ROAD
PORTSMOUTH NH 03801

RESTAURANT

ON-PREMISES COCKTAIL LOUNGE

License No. **1729003**

Effective Date: **09/26/2025** Expires: **11/30/2026**

MAIN SEATS: 240 LOUNGE SEATS: 120 ADDITIONAL DINING ROOM SEATS: 120

This license is issued and is subject to the conditions prescribed in Title XIII of the revised statutes annotated and regulations enacted by the commission thereunder. This license is effective for the period specified above unless sooner revoked and is not transferable.

State Liquor Commission

Joseph W. Mollica, Chairman

Nicole Brassard Jordan Dep Commissioner

This document and any addendum must be conspicuously displayed on the described premises.

AUDIT NO. 3569125



**CITY OF PORTSMOUTH FIRE DEPARTMENT
BUREAU OF FIRE PREVENTION**



**PERMIT TO OPERATE A PLACE OF
ASSEMBLY**

Permit Number: POA-25-81

It appearing that the necessary safeguards for the safety of life are provided within the described premises in accordance with the provisions of New Hampshire RSA 155, this is to certify that:

Blackrock Social Club, LLC, owner or operator of the place of assembly known as **Blackrock Social Club**,

Located at **140 West Rd., Portsmouth, NH 03801** Portsmouth, NH

Is permitted to operate said premises in accordance with the provisions of such law for the period of ONE YEAR from the date of issue, unless sooner revoked.

Authorized capacity in persons, excluding employees:

Primary design 211

Option 3451

Option 1421

Option 2378

Permit conditions, if any: _

Issued: September 25, 2025

Expires: September 25, 2026

CITY OF PORTSMOUTH- FIRE DEPARTMENT
170 COURT ST
PORTSMOUTH, NH 03801
603-427-1515

Captain Shawn Wheeler

*It is the responsibility of the permittee to maintain a current permit; Renewals start at <https://www.cityofportsmouth.com/fire>
This permit shall be prominently displayed in public view within the place of assembly named above.*

5/12/26, 11:40 AM

about:blank



City of Portsmouth Certificate of Occupancy

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
BLDG-24-272
Date of Issue:
September 25, 2025
Expires:
Const. Cost:
\$200,000

Owner: ROAD TO THE WEST LLC
Applicant: Mark Gianniny
Contractor: Steve Haraden, De Nero Construction Phone #: (603) 926-6700
Location: 140 WEST RD

Description of Work: 140 West Road. Warehousing and Business Offices

Map/Lot: 0252-0002-1301-
Design Occupancy Load: 79
Of New Dwelling Units:
Occupancy Classification: Storage (Group S)
Use Group: Commercial Remodel - no
addition

Min Constr. Type: Type II-B
Bldg. Code: IEBC Edition: 2018
Fire Sprinkler Required: true
Fire Alarm System Required: true

Limiting Conditions: * Per City Ord. Sec. 11.502 (F) Street/Unit Number must be affixed to Main Structure as to be plainly visible from the street. Construction sites must post the address clearly on the property.

Maximum Occupant Load for Assembly Uses shall be determined by the Permit of Assembly.

Code Official:
Code Official:

Date of Issue: September 25, 2025

5/12/26, 11:30 AM

about:blank



City of Portsmouth, NH

Health Department
1 Jenkins Avenue
Portsmouth, NH 03801

Food Establishment Permit

2025-2026

Permit No. 36409 Catering:

Name of Establishment:

Black Rock Social Club, LLC

Address of Establishment:

140 West Road, Portsmouth, NH

Name of Licensee:

Black Rock Social Club, LLC

This license expires
September 30, 2026.
Unless sooner if revoked or
suspended.

By Health Officer:

Kim McNamara

OTHER:

Seating approved: 427 Indoor 200 Outdoor

This license may be suspended or revoked in accordance with the provisions of City and State Law. This license is not assignable or transferable. This license terminates without further notice in the event of any change of ownership or ownership interest in the entity holding the license for the named establishment.

EXHIBIT G

Peter Britz Email from October 3, 2025

----- Forwarded message -----

From: Peter L. Britz <plbritz@portsmouthnh.gov>

Date: Fri, Oct 3, 2025 at 1:17 PM

Subject: Black Rock Social Club Land Use Compliance

To: Alexander Choquette <alexebrian1568@gmail.com>

CC: Peter M. Stith <pmstith@portsmouthnh.gov>, Trevor McCourt <tmccourt@portsmouthnh.gov>, Jason C. Page <jcpage@portsmouthnh.gov>

Dear Mr. Choquette:

This email is to follow up on the work occurring on your site at the newly opened Black Rock Social Club. There are several items which need to be addressed as you proceed with the operation of the club where it is located in the Industrial Zone, with the benefit of a variance for indoor recreational use.

1. **The City is in agreement that you are allowed to operate an indoor recreation facility in this location.** Any additional uses on the site would need site review approval and other approvals. For instance, there is a container with Black Rock Social Club signage on the outside which is purported to be the site of a bar for outdoor drinking. While we have not had confirmation that this has occurred, I wanted to make it clear that that outdoor drinking and dining is not an allowed use at this location. You would need to first receive a variance from the Board of Adjustment to allow this use (Use #19.50 Accessory dining or drinking area, Not permitted in Industrial Zone).
2. If you receive the additional Planning approvals described above, you would then also need approval from the Health Department, and likely building, electrical, and plumbing permits in order to equip the storage container to serve food or drinks and
3. You need site review approval from TAC and the Planning Board to expand the uses on the site which is only approved for indoor recreation.

Additionally, there is a large tent outside of the building. While this in itself is not a violation currently it will become a violation if it stays up for greater than 90 days in an Industrial Zone (Use #18.20 Temporary Structure, 18.22 allows up to 90 days; 18.23 allows up to 180 with a Special Exception). Similar to the container, if you have specific uses you would like to permit you can get a variance for the use if it is not specifically allowed in this zone, and include the tent in the site review application so it is clearly an approved use on this site.

The location of the Black Rock Social Club in an Industrial Zone presents certain challenges as described above. We appreciate you making the effort to comply with our land use regulations and are more than happy to answer questions and meet with you at any point in the process to insure you remain in compliance with the City of Portsmouth regulations.

If you have questions or need additional information please do not hesitate to contact me.

Peter Britz Email from October 3, 2025

Best regards,

Peter

Peter Britz, Director of Planning and Sustainability

City of Portsmouth

[1 Junkins Avenue](#)

[Portsmouth, NH 03801](#)

(603)610-7215

Exhibit 2

LETTER OF AUTHORIZATION

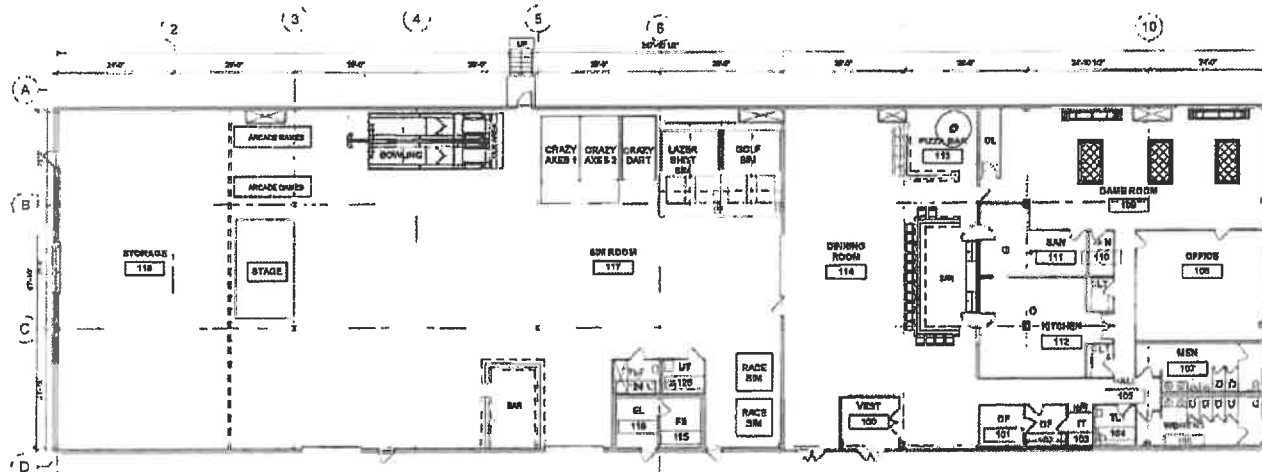
I, Alexander B. Choquette, duly authorized Member of Road to the West, LLC, owner of property depicted on Tax Map 252, Lot 2-13, located at 140 West Road, do hereby authorize Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the City of Portsmouth and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: July 20, 2026

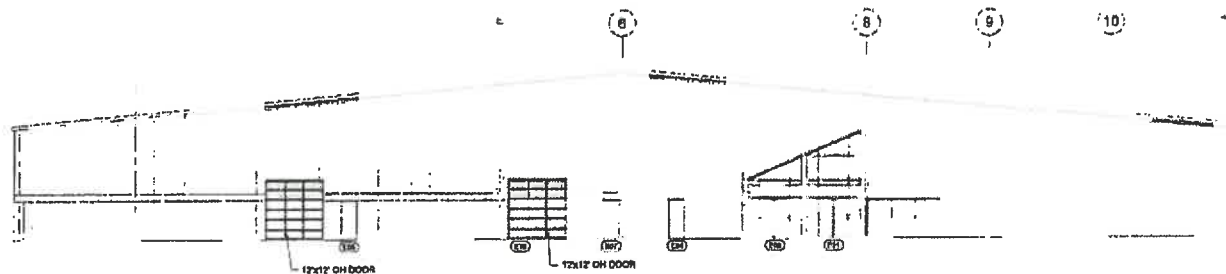
ROAD TO THE WEST, LLC

 7/20/2026
Alexander B. Choquette

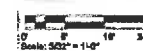
EXHIBIT 3



2. FLOOR PLAN
3/8" = 1'-0"



3. SOUTH ELEVATION
3/8" = 1'-0"



BLACK ROCK SOCIAL CLUB
140 WEST ROAD
PORTSMOUTH, NH 03801



NOT FOR CONSTRUCTION

Rev.	Description	Date
1	100% DEVELOPMENT, 100% DESIGN	10/1/2004
2	100% DEVELOPMENT, 100% DESIGN	10/1/2004
3	100% DEVELOPMENT, 100% DESIGN	10/1/2004
4	100% DEVELOPMENT, 100% DESIGN	10/1/2004
5	100% DEVELOPMENT, 100% DESIGN	10/1/2004
6	100% DEVELOPMENT, 100% DESIGN	10/1/2004
7	100% DEVELOPMENT, 100% DESIGN	10/1/2004
8	100% DEVELOPMENT, 100% DESIGN	10/1/2004
9	100% DEVELOPMENT, 100% DESIGN	10/1/2004
10	100% DEVELOPMENT, 100% DESIGN	10/1/2004

Project Name:
BLACK ROCK SOCIAL CLUB

Client Name:
BLACK ROCK SOCIAL CLUB

Project Number:
21121

Date:
7/22/2004

Drawn By:
MAG

Checked By:
MAG

Scale:
3/8" = 1'-0"

Sheet:
A101

Scale:
3/8" = 1'-0"

EXHIBIT 4

U "SUBDIVISION PLAN" BY KIMBALL CHASE
COMPANY, INC. DATED MAY 13, 1983.
RCRD D-11144.

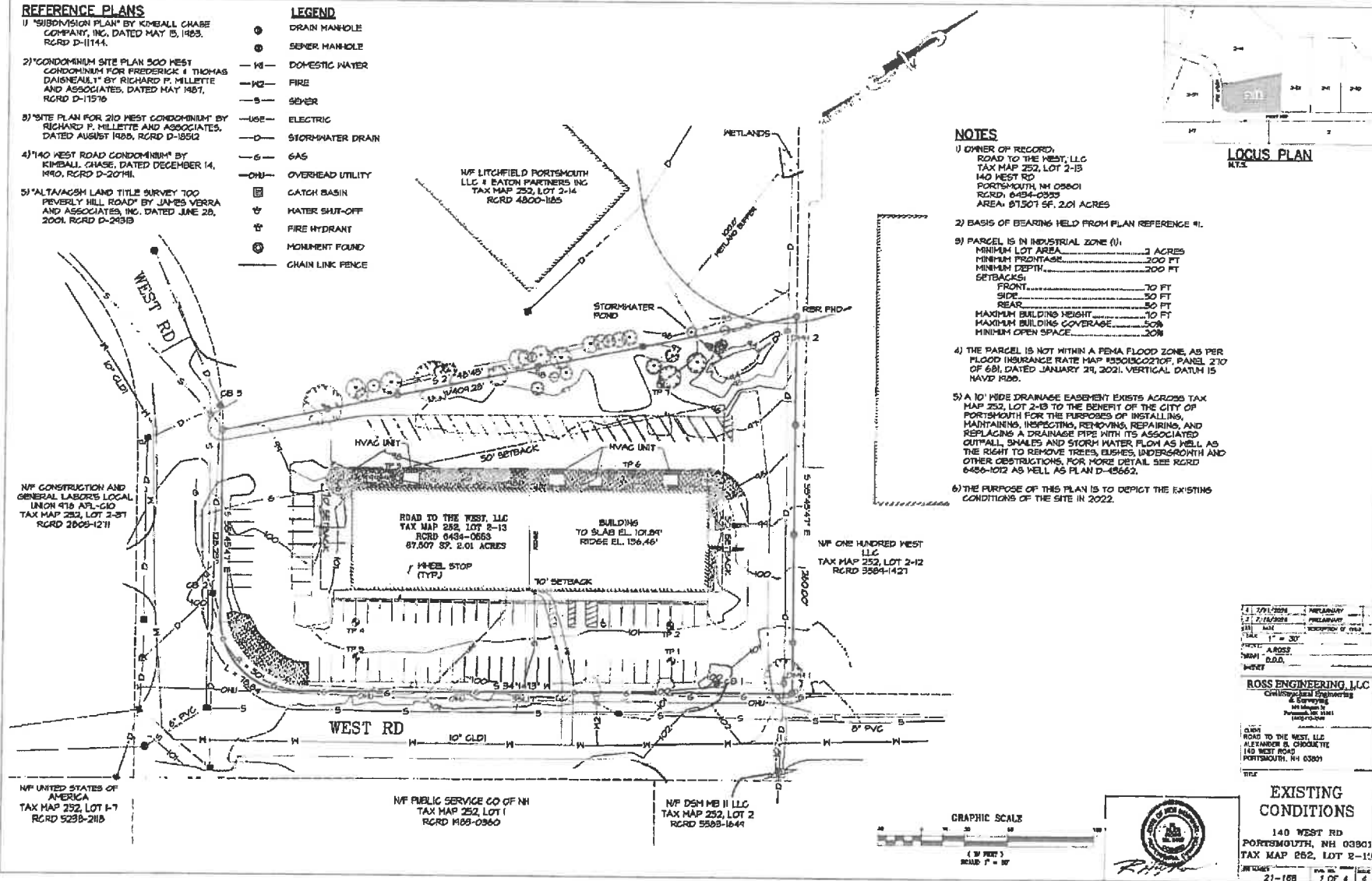
21" CONDOMINIUM SITE PLAN 500 WEST
CONDOMINIUM FOR FREDERICK & THOMAS
DAIGNEAULT, BY RICHARD P. MILLETTE
AND ASSOCIATES, DATED MAY 1987,
RCRD D-11576

3) "SITE PLAN FOR 210 WEST CONDOMINIUM" BY
RICHARD P. MILLETTE AND ASSOCIATES,
DATED AUGUST 1988, RCRD D-18512

4) 140 WEST ROAD CONDOMINIUM⁸ BY
KIMBALL, CHASE, DATED DECEMBER 14,
1990, RCRD D-20791.

5) "ALTAVAGSM LAND TITLE SURVEY TOO
PEVERLY HILL ROAD" BY JAMES VERRA
AND ASSOCIATES, INC. DATED JUNE 28,
2001. RCRD D-24313

	DRAIN MANHOLE
	SEWER MANHOLE
	DOMESTIC WATER
	FIRE
	SEWER
	ELECTRIC
	STORMWATER DRAIN
	GAS
	OVERHEAD UTILITY
	CATCH BASIN
	WATER SHUT-OFF
	FIRE HYDRANT
	MONUMENT FOUND
	CHAIN LINK FENCE



NOTES

1) OWNER OF RECORD:
ROAD TO THE WEST, LLC
TAX MAP 252, LOT 2-13
140 WEST RD
PORTSMOUTH, NH 05801
RCRD: 6434-0353
AREA: 87,507 SF, 2.01 ACRES

2) BASIS OF BEARING HELD FROM PLAN REFERENCE #1.

5) PARCEL IS IN INDUSTRIAL ZONE (U):

MINIMUM LOT AREA	3 ACRES
MINIMUM FRONTAGE	200 FT
MINIMUM DEPTH	200 FT
SETBACKS:	
FRONT	70 FT
SIDE	30 FT
REAR	50 FT
MAXIMUM BUILDING HEIGHT	10 FT
MAXIMUM BUILDING COVERAGE	50%
MINIMUM OPEN SPACE	20%

4) THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #55013C0210F, PANEL 270 OF 681, DATED JANUARY 29, 2021. VERTICAL DATUM IS NAVD 1988.

5) A 10' WIDE DRAINAGE EASEMENT EXISTS ACROSS TAX MAP 252, LOT 2-13 TO THE BENEFIT OF THE CITY OF PORTSMOUTH FOR THE PURPOSES OF INSTALLING, MAINTAINING, INSPECTING, REMOVING, REPAIRING, AND REPLACING A DRAINAGE PIPE WITH ITS ASSOCIATED OUTFALL, SNAILS AND STORM WATER FLOW AS WELL AS THE RIGHT TO REMOVE TREES, BUSHES, UNDERGROWTH AND OTHER OBSTRUCTIONS. FOR MORE DETAIL SEE RCRD 6456-1072 AS WELL AS PLAN D-45662.

6) THE PURPOSE OF THIS PLAN IS TO DEPICT THE EXISTING
CONDITIONS OF THE SITE IN 2022.

LOCUS PLAN

4 7/7/2028 PRELIMINARY
3 7/16/2028 PRELIMINARY
113 1432 DESCRIPTION OF FIELD
DATE 1" = 30'
PRINTED A.ROSS
SERIAL D.O.D.
COPY

ROSS ENGINEERING, LLC
Civil/Structural Engineering
& Surveying
100 Williams St.
Pawtucket, RI 02861

Q104
ROAD TO THE WEST, LLC
ALEXANDER B. CHOQUETTE
140 WEST ROAD
PORTSMOUTH, NH 03801

EXISTING CONDITIONS

140 WEST RD
PORTSMOUTH, NH 03801
TAY MAR 882 INT F M

21-188	1 OF 4	4
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PARKING OCCUPANCY RATE TABLE

USE	WEEKDAY				WEEKEND			
	DAYTIME (8 AM - 5 PM)	EVENING (6 PM - MIDNIGHT)	NIGHTTIME (MIDNIGHT - 5 AM)		DAYTIME (8 AM - 5 PM)	EVENING (6 PM - MIDNIGHT)	NIGHTTIME (MIDNIGHT - 5 AM)	
	PARKING OCCUPANCY RATE	# REQUIRED SPACES	PARKING OCCUPANCY RATE	# REQUIRED SPACES	PARKING OCCUPANCY RATE	# REQUIRED SPACES	PARKING OCCUPANCY RATE	# REQUIRED SPACES
OFFICE	100%		20%		10%		5%	
EATING & DRINKING PLACES	10%	51	100%	34	50%	66	100%	34
INDOOR RECREATION	40%	4	100%	10	50%	9	100%	10
TOTAL SPACES		66		55		77		45

LEGEND

-  MONUMENT FOUND
 CHAIN LINK FENCE
 UTILITY POLE

NOTES (CONT.)

5) PARKING
AS PER PORTSMOUTH ZONING
ORDINANCE 10.112.321 THE FOLLOWING
NUMBER OF PARKING SPACES ARE
REQUIRED

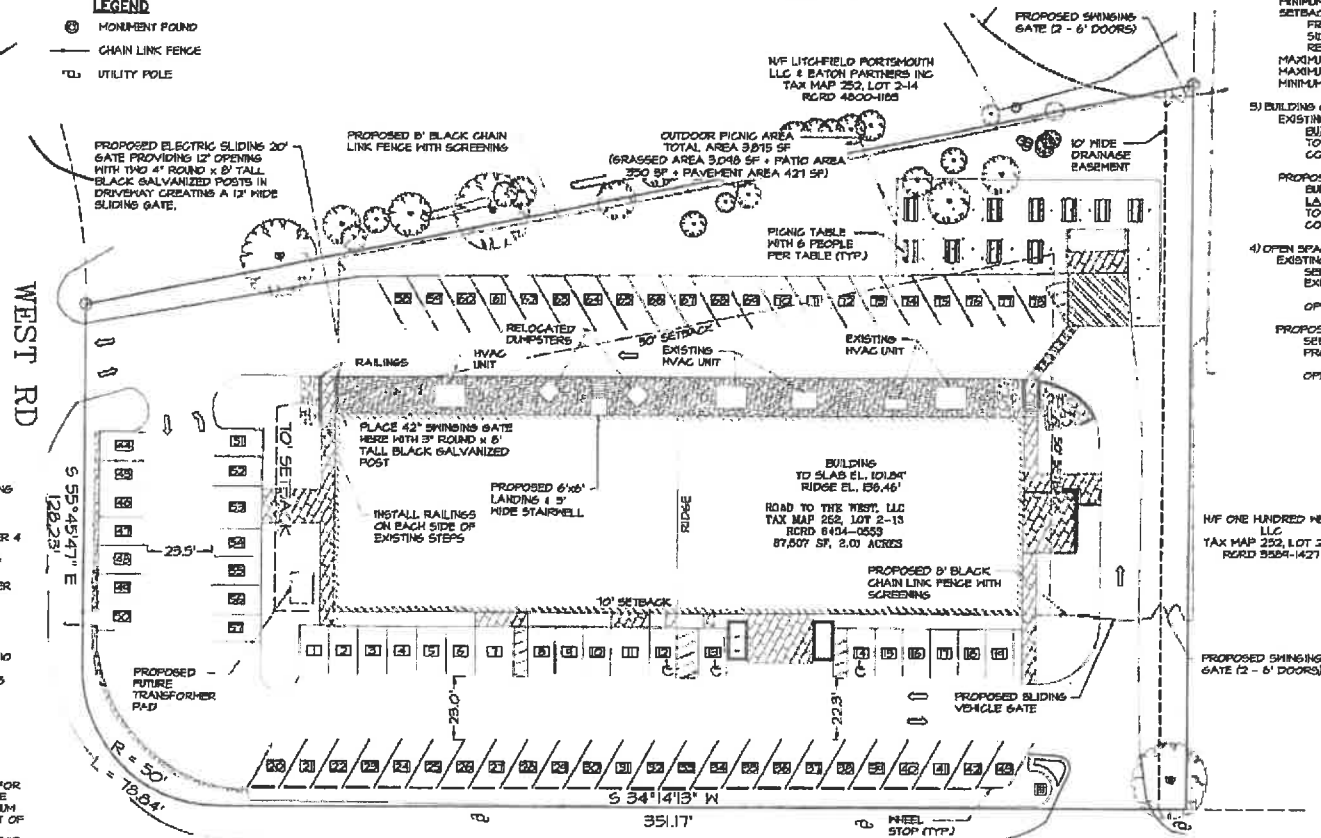
- INDOOR RECREATION (4.30) - 1 PER 4 PERSONS MAXIMUM OCCUPANCY
- OFFICE (5.10-5.90) - 1 PER 350 SF GFA
- EATING & DRINKING PLACES - 1 PER 100 SF GFA

REQUIRED PARKING
- MAXIMUM OCCUPANCY OF INDOOR
RECREATION = 40 PEOPLE
 $40 \text{ PEOPLE} \times 1 \text{ SPACE/4 PEOPLE} = 10$
- OFFICE GFA = 1,700 SF
 $1700 \text{ SF} \times 1 \text{ SPACE/350 SF} = 4.9 \approx 5$
- EATING & DRINKING PLACE GFA =
5,398 SF
 $5398 \text{ SF} \times 1 \text{ SPACE/100 SF} = 54$

ORDINANCE 10112.60 THE MINIMUM PARKING REQUIREMENT SHALL BE OBTAINED BY MULTIPLYING THE REQUIREMENT FOR EACH LAND USE FOR EACH OCCUPANCY RATE AT THE FIVE DIFFERENT TIME PERIODS. THE MINIMUM REQUIREMENT SHALL BE THE HIGHEST OF THE FIVE TIME PERIOD TOTALS. SEE PARKING OCCUPANCY RATE TABLE FOR MORE DETAIL.

MINIMUM REQUIRED PARKING = 95
SPACES

78 PARKING SPACES ARE SHOWN, THE
PARKING CAN BE RECONFIGURED TO
SHOW 95 SPACES.



NOTES

1) OWNER OF RECORD,
ROAD TO THE WEST, LLC
TAX MAP 252, LOT 2-B
140 WEST RD
PORTSMOUTH, NH 03801
RGRD: 6434-0883
AREA: 81,501 SF, 2.01 ACRES

2) PARCEL IS IN INDUSTRIAL ZONE (I);

MINIMUM LOT AREA	2 ACRES
MINIMUM FRONTAGE	300 FT
MINIMUM DEPTH	300 FT

SETBACKS:

FRONT	70 FT
SIDE	50 FT
REAR	50 FT

MINIMUM BUILDING HEIGHT

	10 FT
--	-------

MINIMUM BUILDING COVERAGE

	20%
--	-----

MINIMUM OPEN SPACE

	30%
--	-----

5) BUILDING COVERAGE
EXISTING

BUILDING	17,500 SF
TOTAL	17,500 SF
COVERAGE =	$17500 / 87507 = 20.0\%$

PROPOSED

BUILDING	17500 SF
LANDING & STAIRS 118'	54 SF
TOTAL	17554 SF
COVERAGE = 17554 / 87507	= 20.1%

4) OPEN SPACE
EXISTING
SEE EXISTING OPEN SPACE DETAIL.
EXISTING OPEN SPACE IS 21,485.

OPEN SPACE = $21485 / 87307 = 24.6\%$

PROPOSED
SEE PROPOSED OPEN SPACE DETAIL.
PROPOSED OPEN SPACE IS 21,510 SF.
 $OPEN\ SPACE = 21,516 / 0.8507 = 24,988$

H/F ONE HUNDRED WEST
LLC
TAX MAP 252, LOT 2-12
RCD 3589-1477

PROPOSED SWINGING
GATE (2 - 8' DOORS)

4 7/21/2028 PRELIMINARY
3 7/13/2028 PRELIMINARY
FEI DATE DESCRIPTION OF WORK
1 7 = 20
A.ROSS
WEEK D.O.D.

ROSS ENGINEERING, LLC
Civil/Structural Engineering
& Surveying
1000 Highway 50
Pawnee, WY 82401
(307) 322-1100

ROAD TO THE WEST, LLC
ALEXANDER B. CHOQUETTE
140 WEST ROAD
PORTSMOUTH, NH 03801

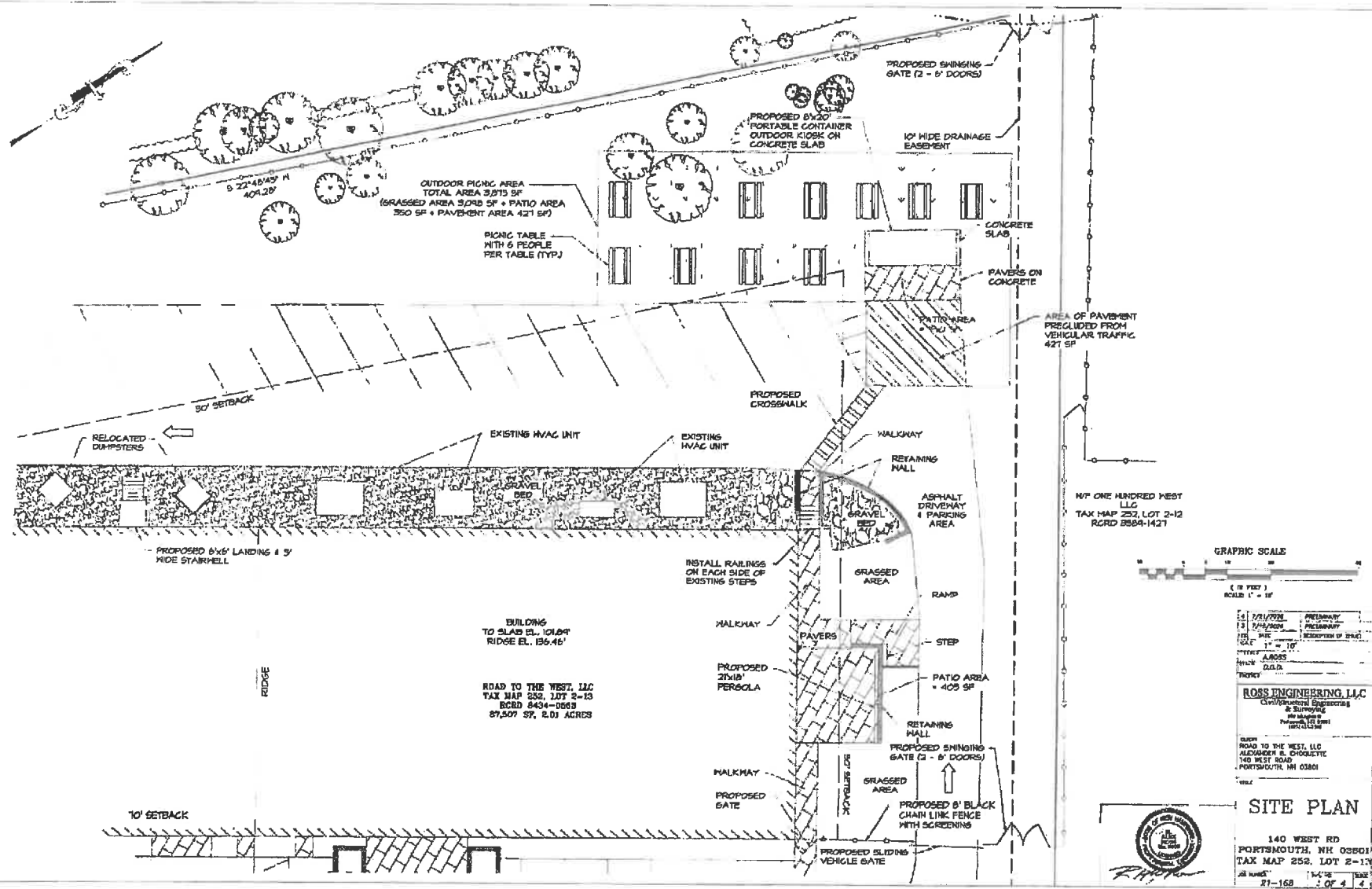
SITE PLAN

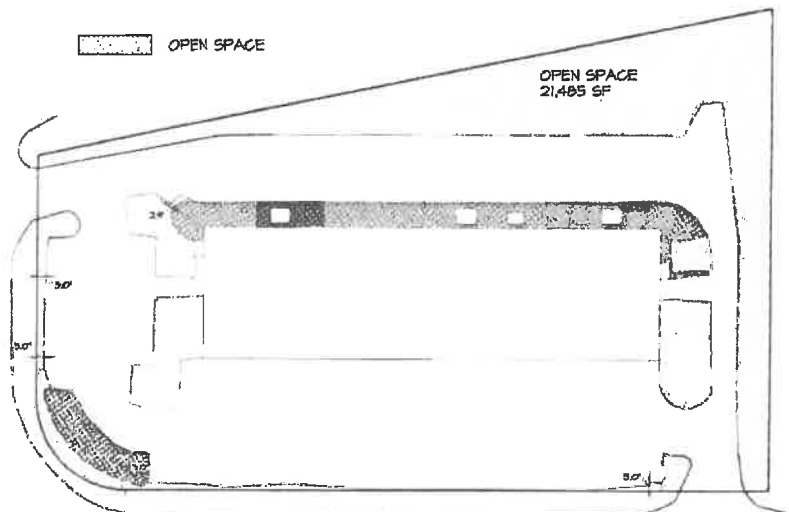
140 WEST RD
PORTSMOUTH, NH 03801
TAX MAP 252, LOT 2-1



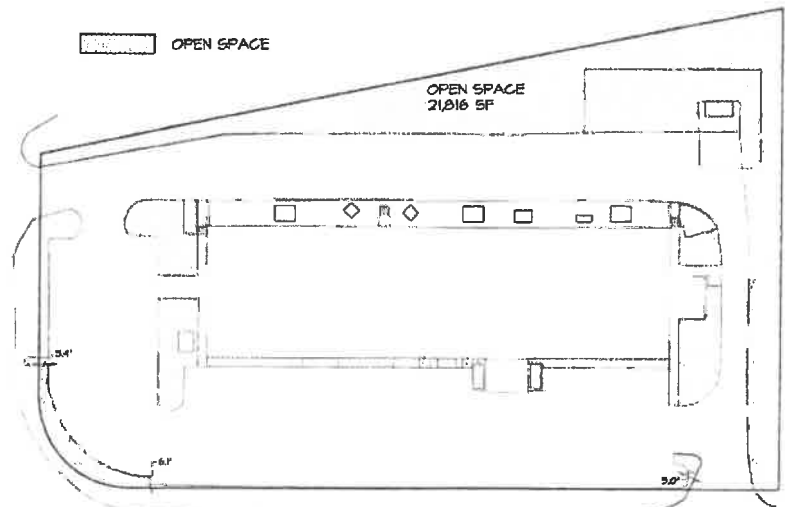
GRAPHIC SCALE

[IN WEST]
 1944-5-10





WEST RD
EXISTING OPEN SPACE DETAIL
 SCALE: 1" = 30'



WEST RD
PROPOSED OPEN SPACE DETAIL
 SCALE: 1" = 30'



1. PROJECT NO.	2014-001
2. DATE	2/13/2014
3. SHEET NO.	2 OF 4
4. SHEET TITLE	OPEN SPACE PLAN
5. PROJECT NAME	140 WEST RD
6. PROJECT ADDRESS	140 WEST RD
7. PROJECT CITY/STATE	PORTSMOUTH, NH 03801

ROSS ENGINEERING, LLC
 Civil/Structural Engineering
 & Surveying
 140 WEST RD
 PORTSMOUTH, NH 03801

PROJECT NO. 2014-001
 DATE 2/13/2014
 SHEET NO. 2 OF 4
 SHEET TITLE OPEN SPACE PLAN

TITLE

OPEN SPACE PLAN

140 WEST RD
 PORTSMOUTH, NH 03801
 TAX MAP 252, LOT 2-13

DATE 2/13/2014
 SCALE 1" = 30'



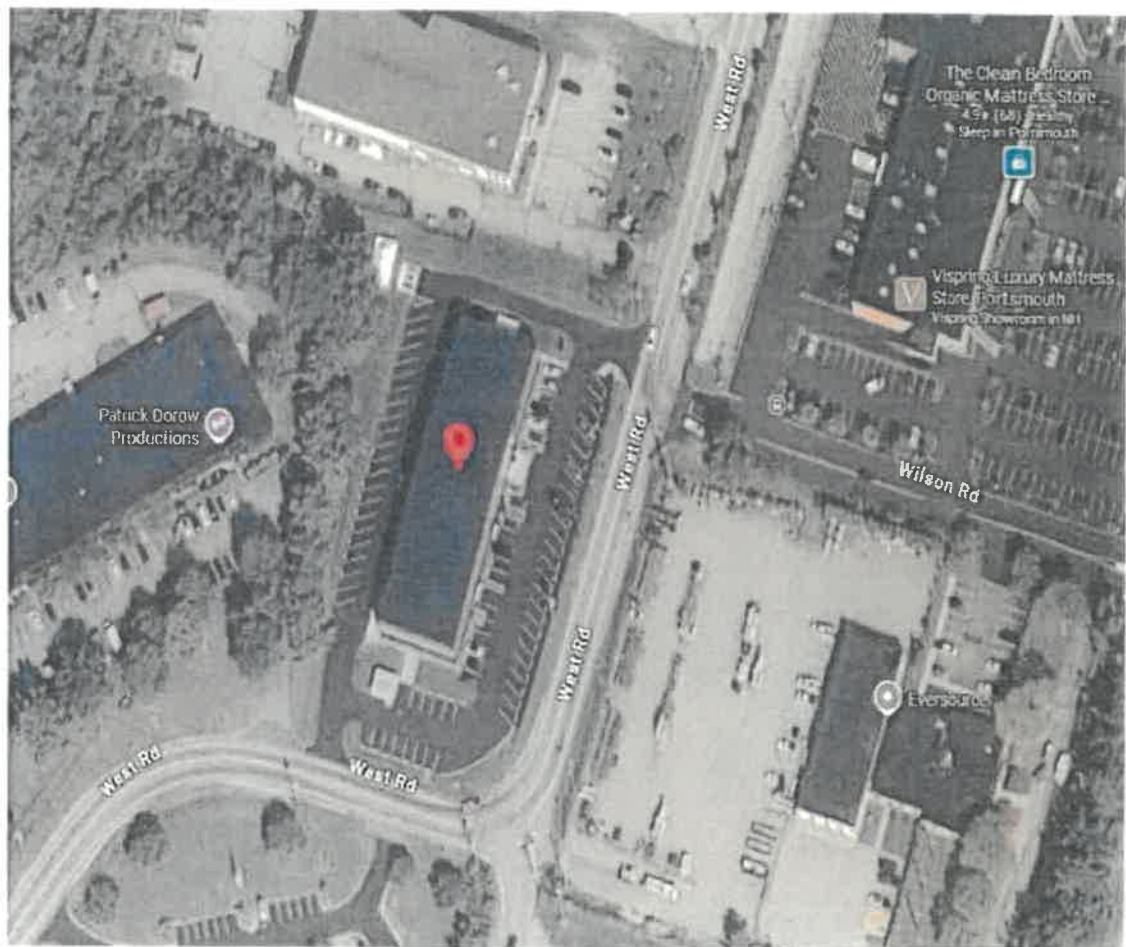
EXHIBIT 5

650 Islington Street
Portsmouth, NH 03801

Ross Engineering, LLC
Civil/Structural Engineering

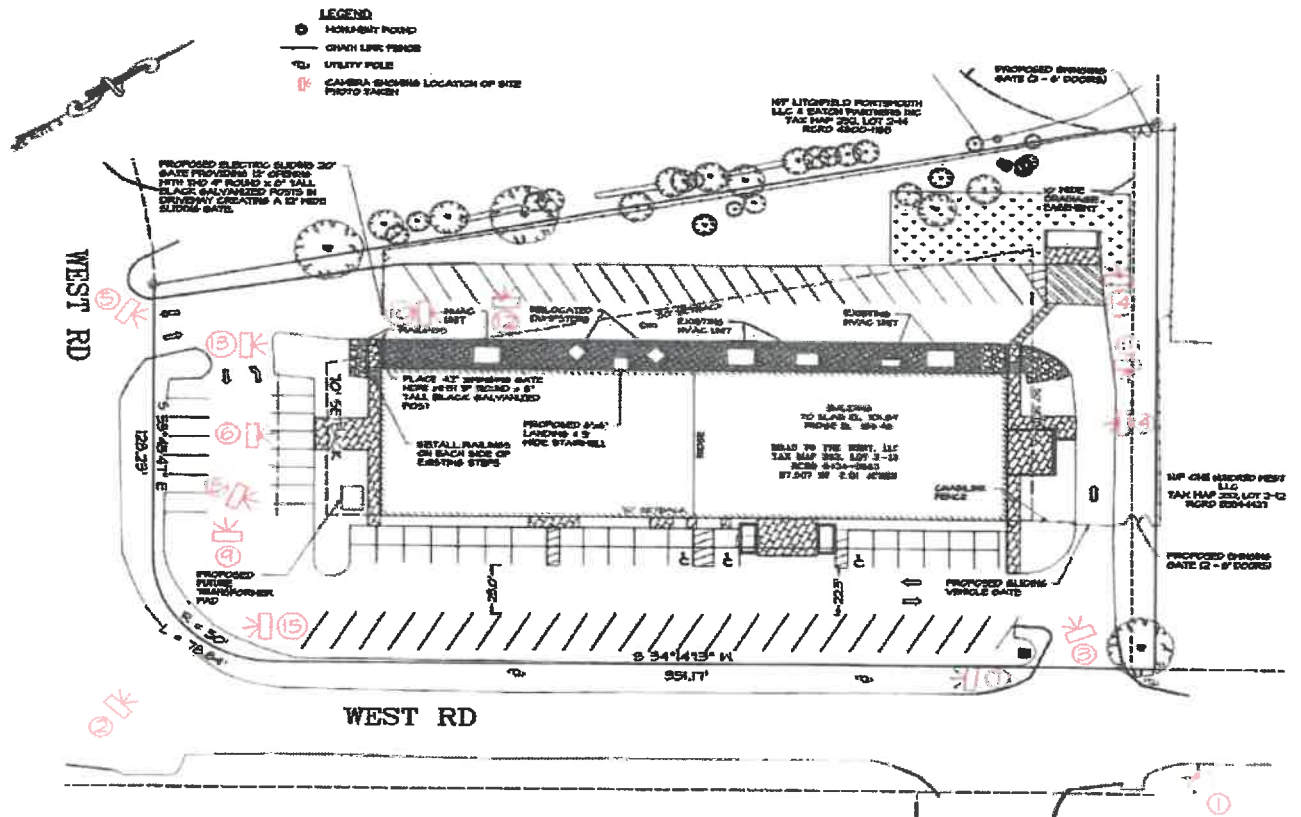
603-433-7560
alexross@comcast.net

EXTERIOR PHOTOS



Aerial view of site, 140 West Road.

603-433-7560
alexross@comcast.net



Site plan with locations of photos taken.

650 Islington Street
Portsmouth, NH 03801

Ross Engineering, LLC
Civil/Structural Engineering

603-433-7560
alexross@comcast.net



Figure 1: Front of building, on West Road looking southwest.

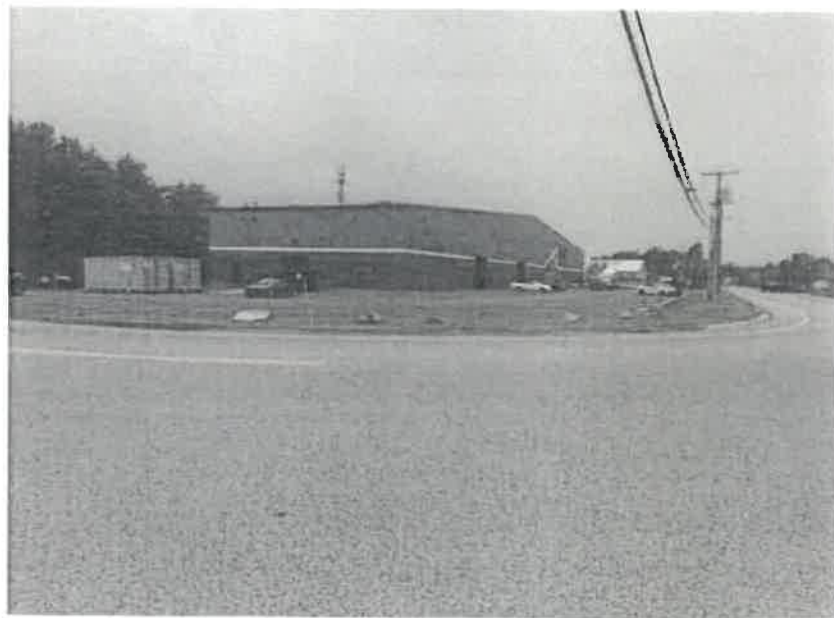


Figure 2: Front and left side of building, on West Road looking northwest.

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Portsmouth, NH 03801**

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Figure 3: Front and right side of building, looking west.



Figure 4: Right side of building, looking south.

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Portsmouth, NH 03801

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Figure 5: Rear of building, on West Road looking northeast.

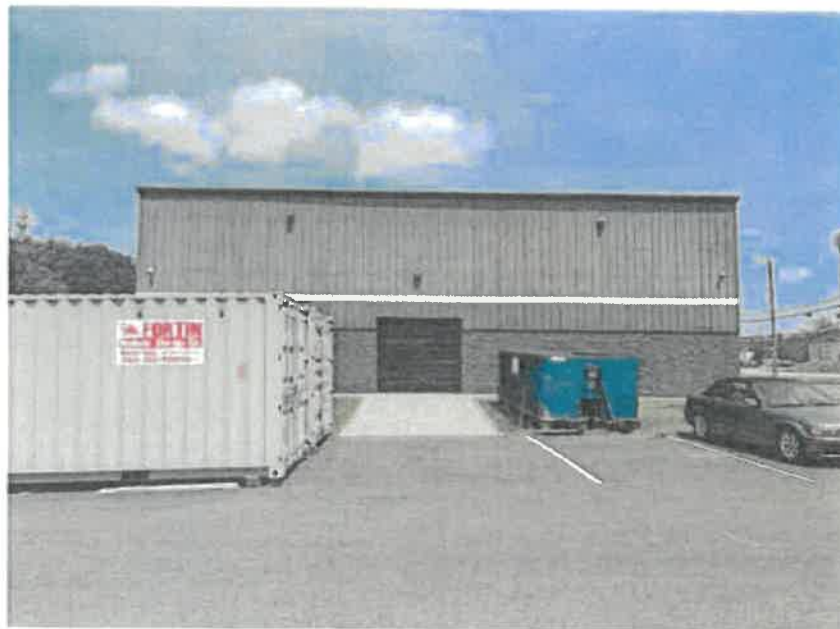


Figure 6: Left side of building, looking north.

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Figure 7: Front parking lot, looking south.



Figure 8: Left side and front parking lots, looking northeast.

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Figure 9: Left side parking lot, looking west.



Figure 10: Rear parking lot, looking northwest.

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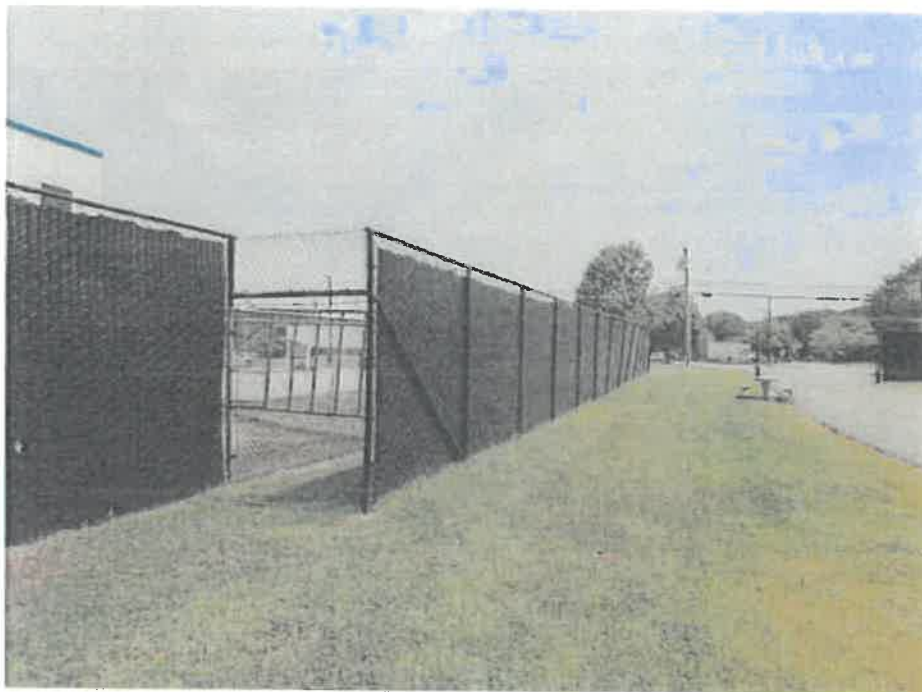


Figure 11: Fence on right side of site, looking east.



Figure 12: Fence on rear of site, looking west.

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Portsmouth, NH 03801

Ross Engineering, LLC
Civil/Structural Engineering

603-433-7560
alexross@comcast.net



Figure 13: Open space on left side of site, looking north.

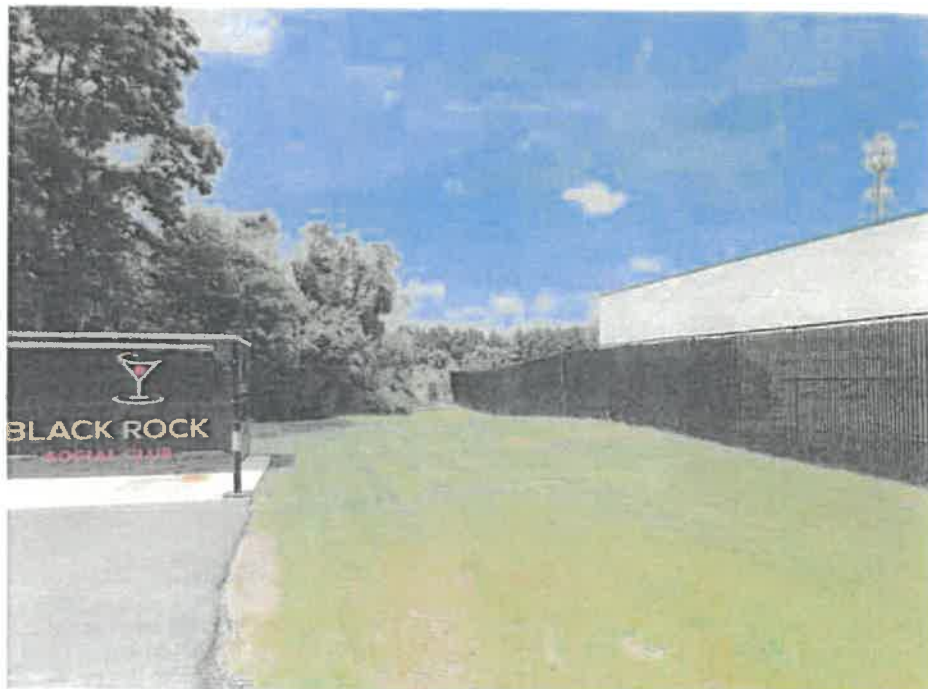


Figure 14: Fence at corner of right side and rear of site, looking northwest.

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Ross Engineering, LLC
Civil/Structural Engineering

603-433-7560
alexross@comcast.net



Figure 15: At corner of front and left side of site, looking southwest.

EXHIBIT 6



Figure 1: Dining Room, from main entrance



Figure 2: Dining Room, from auxiliary entrance



Figure 3: Dining Room, from far corner



Figure 4: Fun Room, from center of building to front left



Figure 5: Fun Room, from center of building to rear left



Figure 6: Fun Room, from far left end of building to center



Figure 7: Fun Room, interior detail, bowling lanes.



Figure 8: Fun Room, interior detail, skee-ball



Figure 9: Fun Room, interior detail, driving simulators

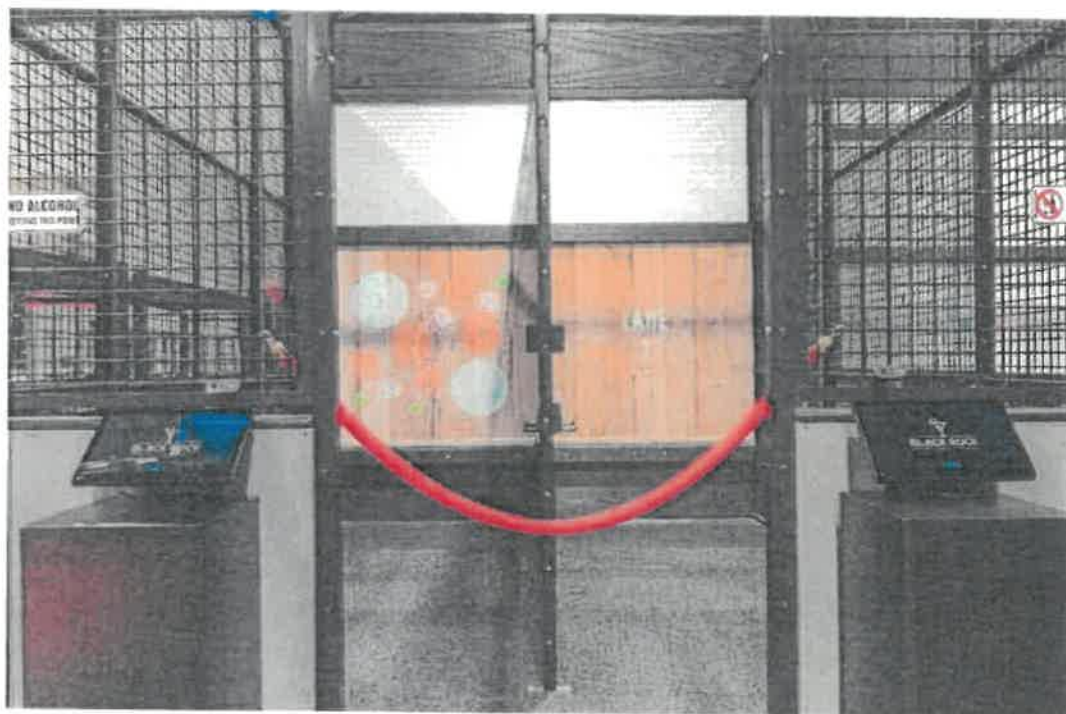


Figure 10: Fun Room, interior detail, axe throwing lanes



Figure 11: Fun Room, interior detail, sports and golf simulator

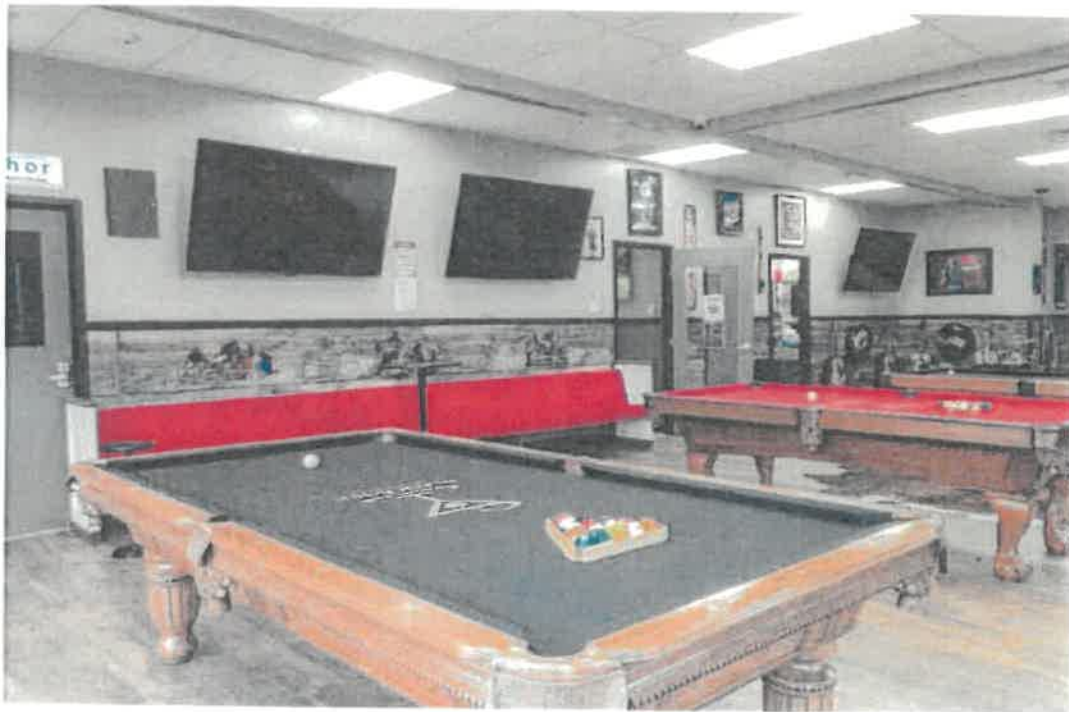


Figure 12: Billiards Room, from far right rear corner of building towards center



Figure 13: Kitchen detail from rear right of bar



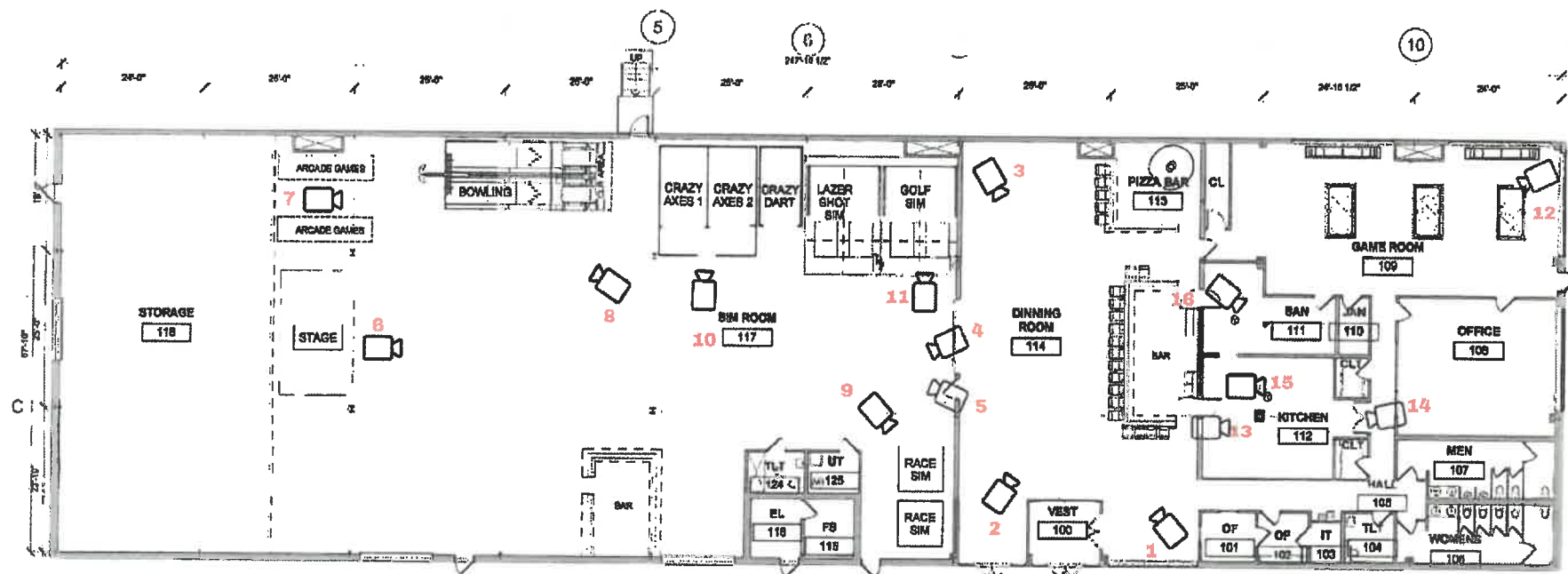
Figure 14: Kitchen detail from rear hallway towards center of building



Figure 15: Additional kitchen detail



Figure 16: Dish Room, from rear left of bar



2 FLOOR PLAN
5/22/16

Floor plan with locations of photos taken

Memorandum to the Portsmouth Zoning Board of Adjustment

Road to the West, LLC – Black Rock Social Club, 140 West Road

The administrative history of this property reflects several years of overlapping permits, revised plans, inspections, and coordinated City actions. Since 2022, both the Applicant and the City have worked through multiple submissions (LU-22-99, BLDG-22-961, BLDG-24-272), plan revisions, and operational refinements. Throughout this period, City staff conducted inspections, issued a Certificate of Occupancy, coordinated a Place of Assembly permit, and provided a letter of non-objection to the NH Liquor Commission. These affirmative acts reasonably informed the Applicant's reliance and investment in the Black Rock Social Club as it exists today. Because the original 2022 approvals did not encompass later-developed uses, the Applicant now seeks to ensure compliance with the City's zoning Ordinance at the site and obtain clear, comprehensive zoning relief. The requested variances will align the property's actual configuration and operations with the Ordinance while preserving public safety, neighborhood character, and the City's regulatory objectives.

Requested Variances

1. Use Variances

Relief is requested from the Portsmouth Zoning Ordinance to authorize the following uses at 140 West Road:

- **Restaurant / Function Room** Variance from **Section 10.440 (Table of Uses)** and **Section 9.40** to permit a restaurant, place of public assembly, or function room in the Industrial Zone.
- **Indoor Recreation** Variance from **Section 10.440** and **Section 4.30** to permit the indoor recreation program now proposed, which is distinct from the narrower indoor-recreation approval granted in 2022.
- **Outdoor Dining / Drinking Areas** Variance from **Section 19.50** to permit outdoor dining and drinking areas as accessory uses, supported by defined seating plans and vehicle-protection measures.

2. Dimensional & Locational Parking Variances

Relief is requested from the following provisions governing parking placement in the Industrial Zone:

- **Parking Between Building and Street** Variance from **Section 10.1113.20** to allow required parking spaces to remain between the principal building and West Road.
- **50-Foot Front Parking Setback** Variance from **Section 10.1113.41** to permit the existing parking area within the 50-foot front setback.

These variances are necessary due to the property's unique physical constraints and the City's prior coordination and inspections that shaped the Applicant's investment decisions.

Conclusion

The requested relief will bring the property into full compliance, reflect the uses already reviewed by City staff, and allow the Black Rock Social Club to continue operating safely and responsibly. The Applicant has committed to enforceable operational and safety measures for indoor recreation, assembly uses, and outdoor dining, as well as traffic-calming and protective features for parking. Granting these variances will resolve longstanding administrative ambiguity, protect public health and safety, and ensure substantial justice.