

**APPLICATION OF GREEN & COMPANY  
BUILDING and DEVELOPMENT, CORP.  
366 Broad Street, Portsmouth, Tax Map 221, Lot 68**

**APPLICANT'S NARRATIVE**

**I. THE PROPERTY:**

The applicant, Green & Company Building and Development Corp. is under contract to acquire the property located at 366 Broad Street. The property is within the General Residence A Zone. The property consists of a main structure with a carriage house attached by a breezeway, a standalone bungalow structure and a free-standing garage. There are seven (7) separate dwelling units spread over the three separate buildings on the property.

The property is non-compliant with current zoning both as to its use, dimensions, density, and property setbacks. Specifically, the property contains seven dwelling units where two dwelling units are permitted by right and four units are permitted by special exception. See 10.440.1.30 and 10.440.1.50. It is non-compliant with the required rear and right-side yard setbacks, as existing structures are 15.5 feet from the back property line and 2 feet respectively to the right property line, where 20 feet and 10 feet are required, see 10.521. It has 5,269.4 square feet of lot area per dwelling, where 7,500 square feet is required. Id. The lot is not compliant with 10.513 as there are two free-standing dwellings on the lot.

The applicant proposes to replace the existing buildings on the site with four (4) new, energy efficient, free-standing, 3-4 bedroom single family dwellings, which will be designed to mimic the existing streetscape and architectural styles of homes seen along Broad Street.<sup>1</sup> The proposal will bring the property fully into compliance with all applicable dimensional requirements. It will provide a total of 14-16 bedrooms within the four structures, where 11 currently exist. The proposal requires relief from 10.513, which prohibits more than one free-standing dwelling on a lot within the GRA district.

As proposed, the project will cure all offending setback and lot area non-conformities. Multiple residential structures already exist on the site, and this proposal brings the property into much greater zoning compliance than currently exists and fulfills the intent of the zoning ordinance in the GRA zone, the purpose of which is to provide residential uses at moderate to high densities. Section 10.410.

---

<sup>1</sup> The applicant has submitted building elevations which demonstrate *possible* building design elements. The dimensions, footprints, and basic designs will be maintained as represented, but final decisions regarding design details regarding windows, colors, trim details, etc. have not been yet been finalized. However, the proposed dwellings will meet all applicable setback, height and lot coverage requirements.

The project will require site plan approval by the Planning Board in the event the requested relief is granted.

## **II. THE VARIANCE**

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

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

In this case, were the variance to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. A significantly non-compliant property will be transformed into one which is designed to mimic the existing streetscape along Broad Street.

The essentially residential character of the neighborhood will not be altered by this proposal, nor would the health, safety or welfare of the public be threatened by granting the relief requested, as what is proposed brings the property into much greater zoning compliance than the existing conditions.

The project requires site plan review and approval from the Planning Board, further assuring that the interest of the public will be adequately protected.

**Substantial justice would be done by granting the variance.** Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. The proposed four dwelling units in this case would meet the 7500 square foot lot area per dwelling requirement and bring the property into compliance with use, density and setback requirements. A single multifamily structure with four dwelling units would be permitted by special exception.

In this case, there is no benefit to the public in denying the variance that is not outweighed by the hardship upon the owner.

**The values of surrounding properties will not be diminished by granting the variance.** The proposal eliminates significant zoning non-conformity. The property is large enough to accommodate four dwelling units under current zoning. Newly

constructed, energy efficient homes will increase property values. The home styles proposed are in keeping with the architectural styles seen throughout Broad Street. The values of the surrounding properties will not be negatively affected in any way.

**There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship.** The property as it exists now is non-conforming as to the number of permitted units, density, and setbacks. There is already more than one freestanding dwelling on the lot in violation of current zoning requirements. The property is relatively large at 36,590 sf.

**The use is a reasonable use.** The proposed residential use is permitted in this zone and is identical in character and is consistent with the existing use of the adjacent and abutting properties. The proposed plan conforms with all property setbacks, dimensional requirements, building coverage requirements and open space coverage requirements.

**There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.** The proposed redevelopment brings the property into full compliance with density and setback requirements. The property is already non-conforming as to the prohibition against more than one free-standing dwelling on a lot. There is no fair and substantial relationship between the purpose of this requirement and its application to this property.

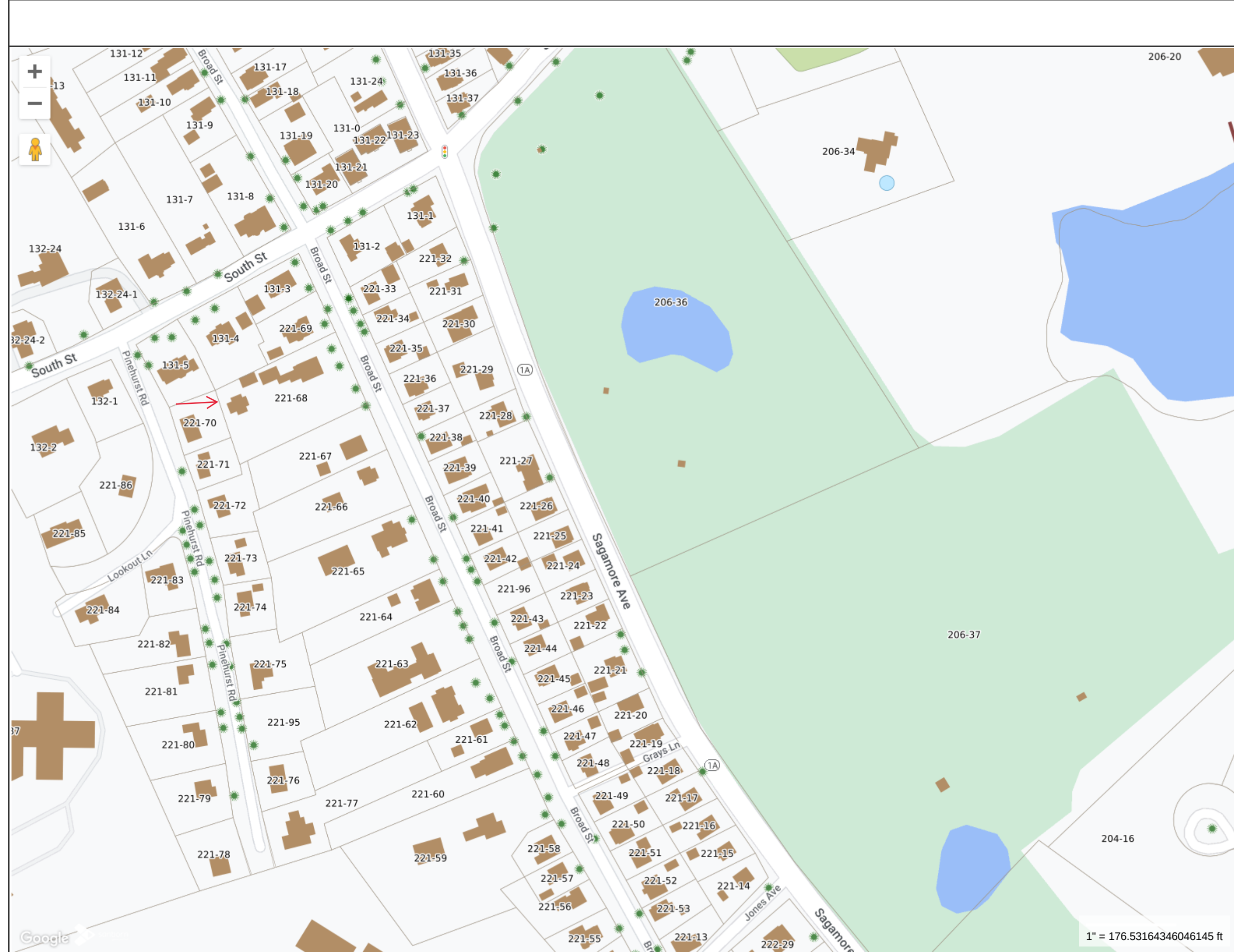
### **III. Conclusion.**

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

Respectfully submitted,

Dated: May 1, 2024

By: *John K. Bosen*  
John K. Bosen, Esquire



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

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

Geometry updated 08/24/2023  
Data updated 3/9/2022

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

1" = 176.53164346046145 ft



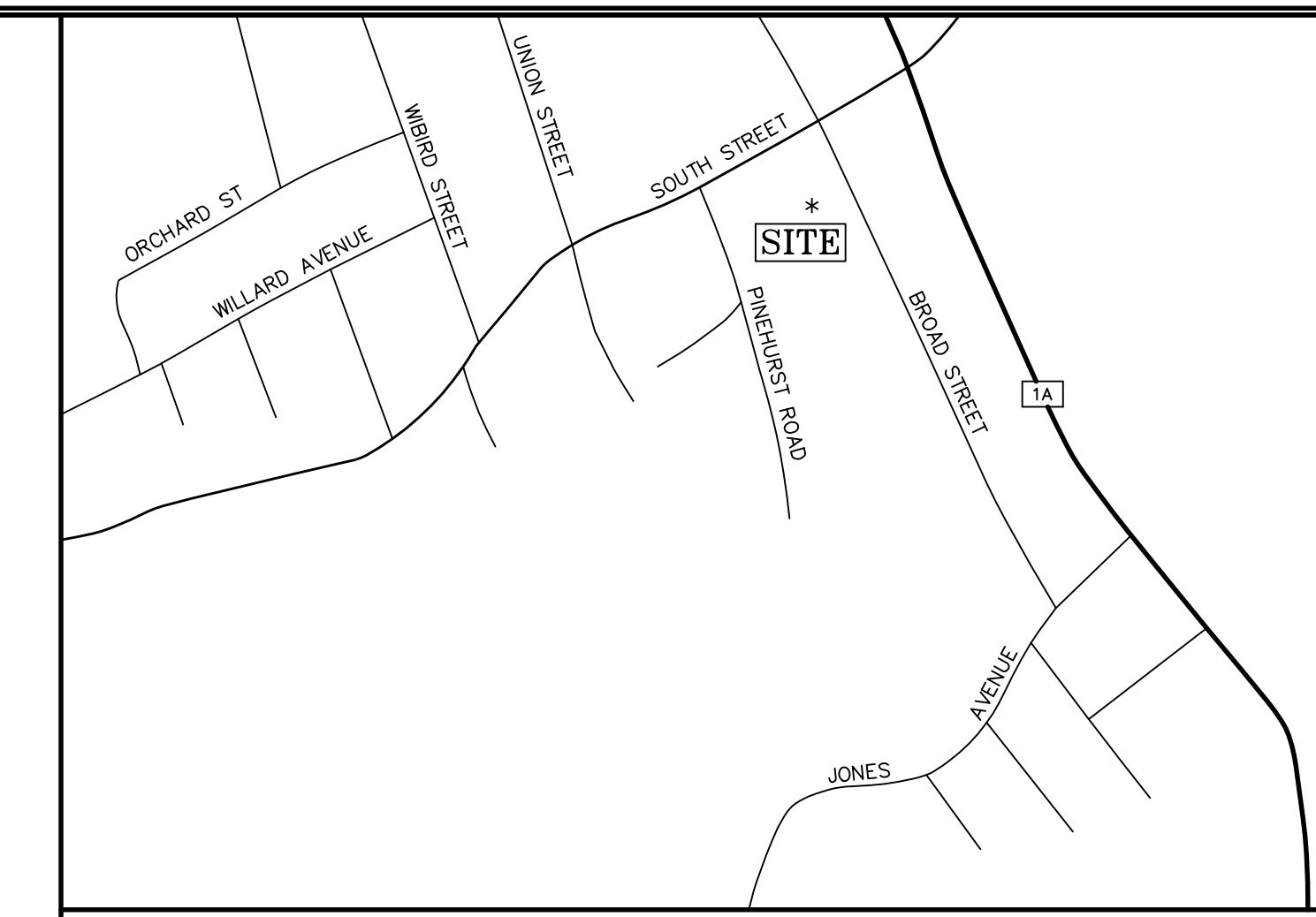
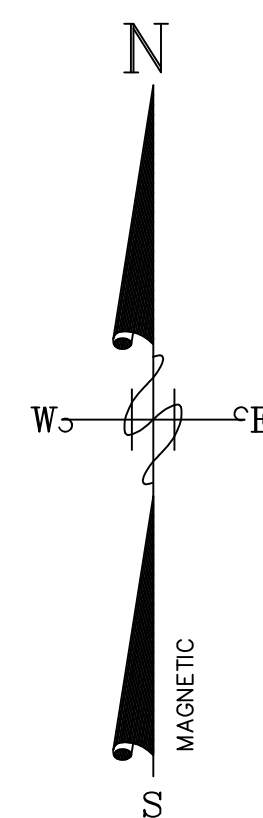




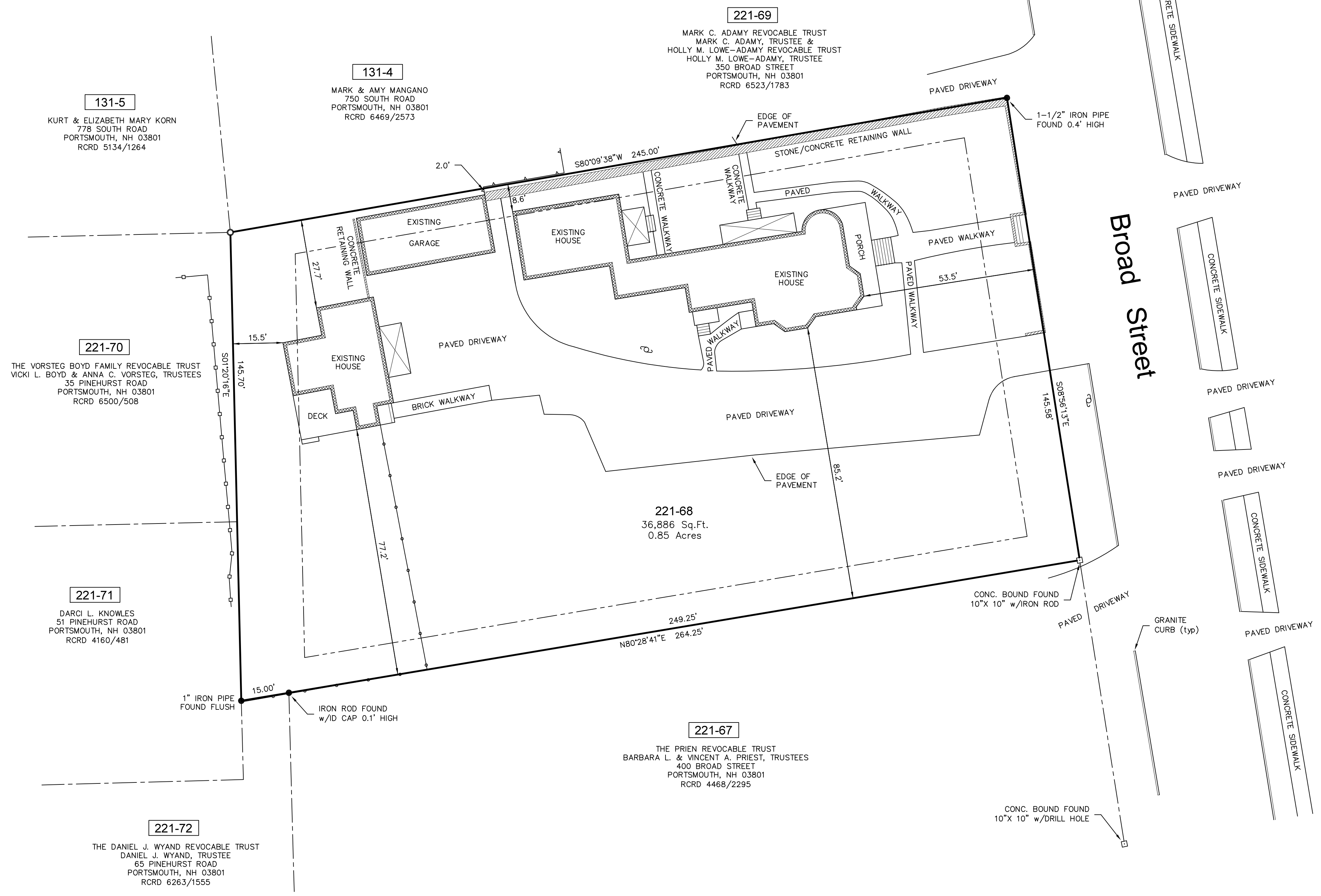








**LOCATION PLAN**



**LEGEND**

- 5/8" IRON ROD w/ID CAP TO BE SET STAMPED "ATLANTIC LLS 891"
- FOUND IRON ROD OR PIPE AS NOTED
- FOUND CONCRETE BOUND
- ⊕ UTILITY POLE
- n/f NOW OR FORMERLY
- R.C.R.D. ROCKINGHAM COUNTY REGISTRY OF DEEDS
- - - - - APPROXIMATE ABUTTERS LOT LINE
- - - - - EXISTING CHAIN LINK FENCE
- - - - - EXISTING WOOD STOCKADE FENCE
- - - - - EXISTING PVC FENCE
- - - - - BUILDING SETBACK LINE

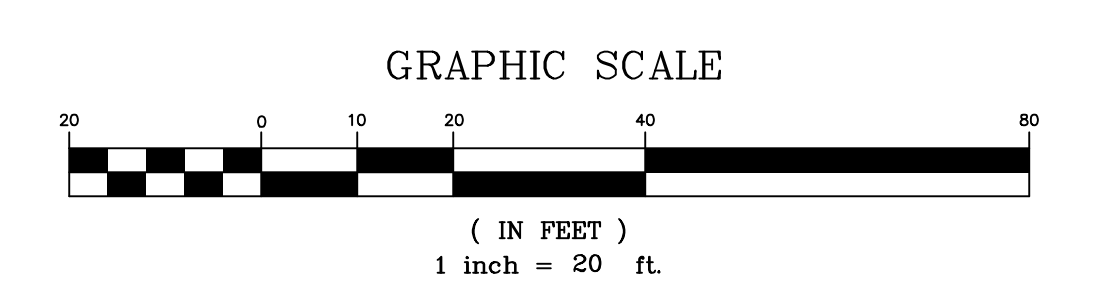
**NOTES**

1. RANDOM TRAVERSE ERROR OF CLOSURE IS LESS THAN 1 PART IN 10,000.
2. OWNER OF RECORD:  
366 BROAD STREET, LLC  
973 OCEAN BOULEVARD  
RYE, NH 03870  
TAX MAP 221, LOT 68  
BOOK 6218, PAGE 2646 R.C.R.D.  
PROPERTY ADDRESS:  
366 BROAD STREET  
PORTSMOUTH, NH 03801
3. ZONING DIMENSIONAL AND DENSITY REQUIREMENTS ARE AS FOLLOWS:  
a. ZONING DISTRICT: GRA  
b. BUILDING SETBACKS:  
FRONT: 15'  
REAR: 20'  
SIDE: 10'
4. TOTAL EXISTING BUILDING COVERAGE = 11%
5. TOTAL EXISTING OPEN SPACE = 66%

**ZBA PLAN of LAND**

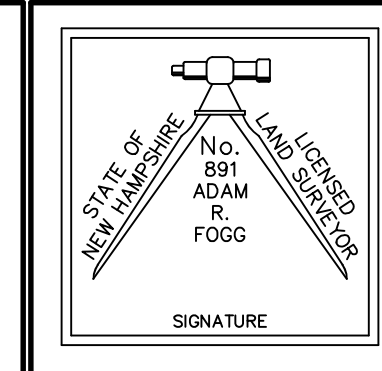
PREPARED FOR  
**366 Broad Street, LLC**  
 Tax Map 221 Lot 68  
 R.C.R.D. Deed Book 6218 Page 2646  
 LOCATED AT  
**366 Broad Street, Portsmouth, N.H.**

ISSUE	DATE	DESCRIPTION	BY	CHKD.	APP.



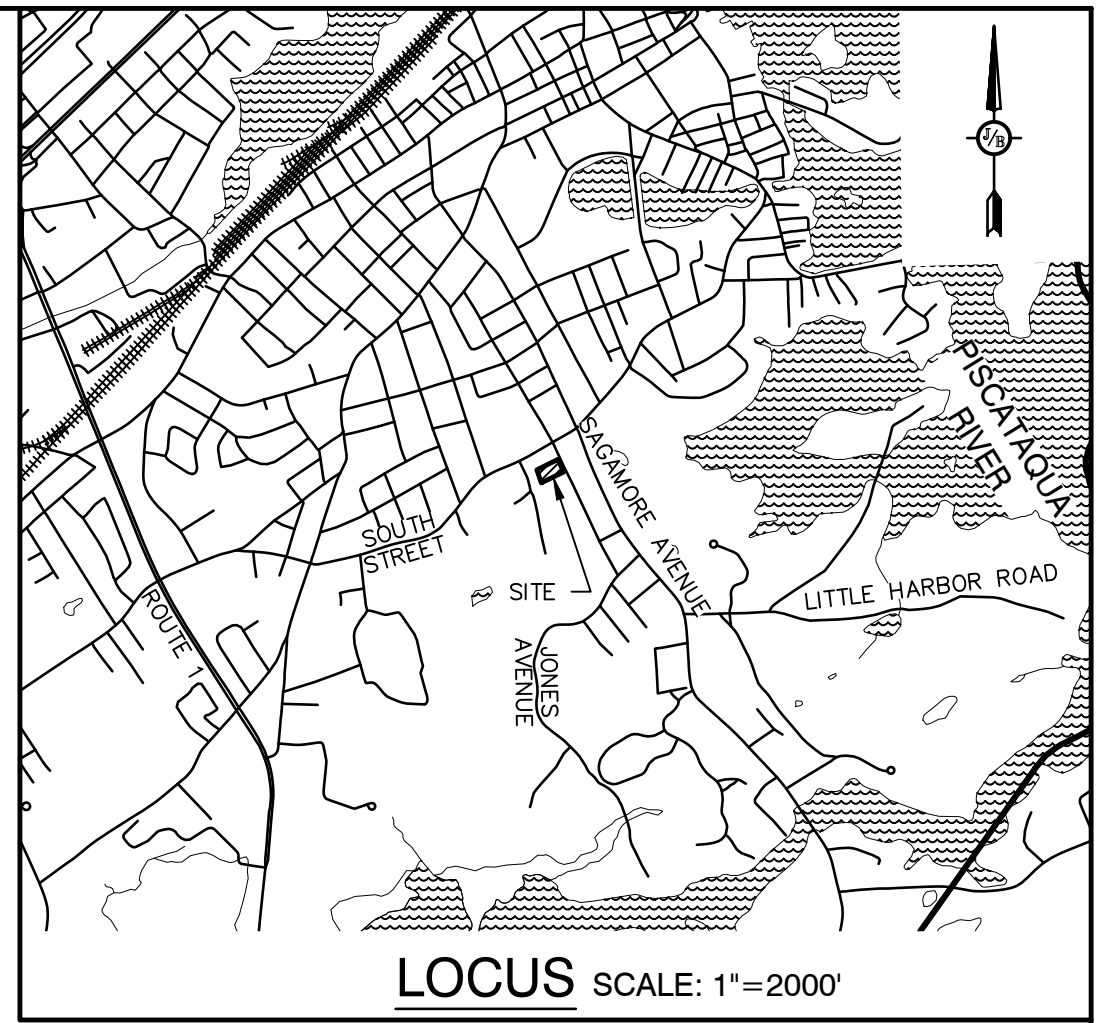
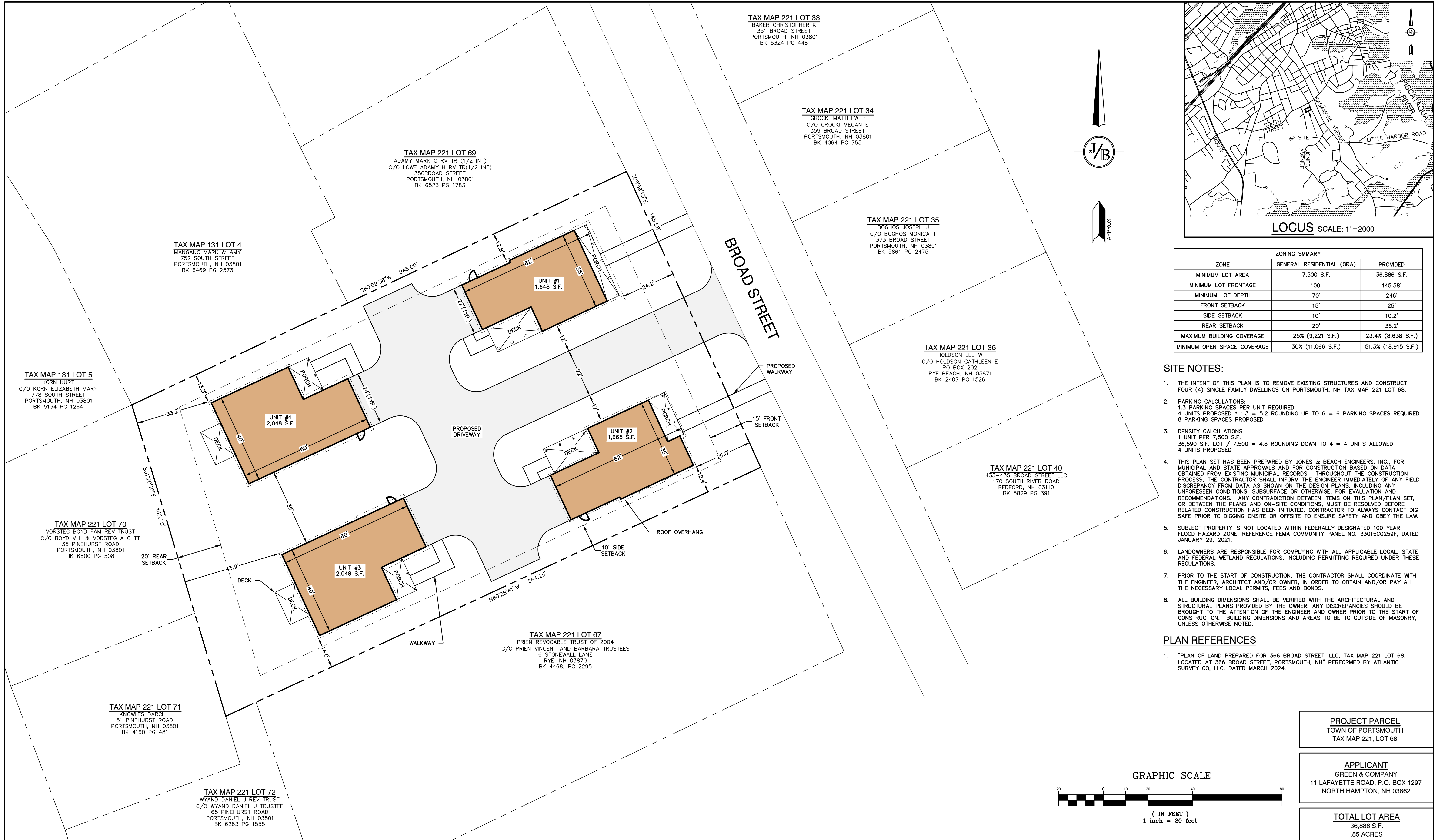
**ATLANTIC**  
 SURVEY CO, LLC  
 25 Nute Road, Dover, New Hampshire 03820

PREPARED BY:  
 SURVEYORS  
 PLANNERS  
 SEPTIC DESIGNERS  
 603-659-8939



DATE: April, 2024

FIELDWORK BY:	AF
DESIGNED BY:	AF
CAD FILE:	24101-ZBA
PROJECT No.:	24101
SHEET	1 OF 1



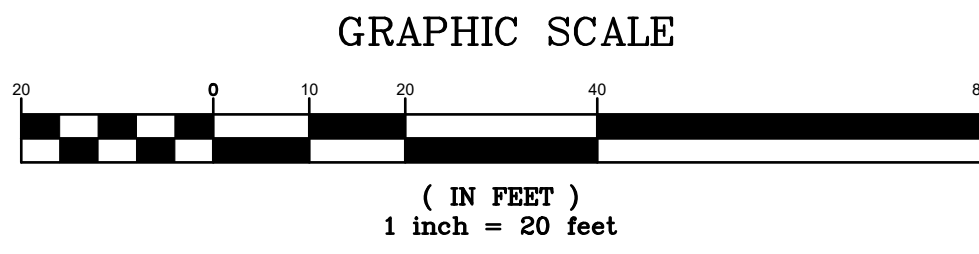
ZONING SUMMARY		
ZONE	GENERAL RESIDENTIAL (GRA)	PROVIDED
MINIMUM LOT AREA	7,500 S.F.	36,886 S.F.
MINIMUM LOT FRONTAGE	100'	145.58'
MINIMUM LOT DEPTH	70'	246'
FRONT SETBACK	15'	25'
SIDE SETBACK	10'	10.2'
REAR SETBACK	20'	35.2'
MAXIMUM BUILDING COVERAGE	25% (9,221 S.F.)	23.4% (8,638 S.F.)
MINIMUM OPEN SPACE COVERAGE	30% (11,066 S.F.)	51.3% (18,915 S.F.)

**SITE NOTES:**

- THE INTENT OF THIS PLAN IS TO REMOVE EXISTING STRUCTURES AND CONSTRUCT FOUR (4) SINGLE FAMILY DWELLINGS ON PORTSMOUTH, NH TAX MAP 221 LOT 68.
- PARKING CALCULATIONS:  
1.3 PARKING SPACES PER UNIT REQUIRED  
4 UNITS PROPOSED \* 1.3 = 5.2 ROUNDING UP TO 6 = 6 PARKING SPACES REQUIRED  
8 PARKING SPACES PROPOSED
- DENSITY CALCULATIONS  
1 UNIT PER 7,500 S.F.  
36,590 S.F. LOT / 7,500 = 4.8 ROUNDING DOWN TO 4 = 4 UNITS ALLOWED  
4 UNITS PROPOSED
- THIS PLAN SET HAS BEEN PREPARED BY JONES & BEACH ENGINEERS, INC., FOR MUNICIPAL AND STATE APPROVALS AND FOR CONSTRUCTION BASED ON DATA OBTAINED FROM EXISTING MUNICIPAL RECORDS. THROUGHOUT THE CONSTRUCTION PROCESS, THE CONTRACTOR SHALL INFORM THE ENGINEER IMMEDIATELY OF ANY FIELD DISCREPANCY FROM DATA AS SHOWN ON THE DESIGN PLANS, INCLUDING ANY UNFORESEEN CONDITIONS, SUBSURFACE OR OTHERWISE, FOR EVALUATION AND RECOMMENDATIONS. ANY CONTRADICTION BETWEEN ITEMS ON THIS PLAN/PLAN SET, OR BETWEEN THE PLANS AND ON-SITE CONDITIONS, MUST BE RESOLVED BEFORE RELATED CONSTRUCTION HAS BEEN INITIATED. CONTRACTOR TO ALWAYS CONTACT DIG SAFE PRIOR TO DIGGING ONSITE OR OFFSITE TO ENSURE SAFETY AND OBEY THE LAW.
- SUBJECT PROPERTY IS NOT LOCATED WITHIN FEDERALLY DESIGNATED 100 YEAR FLOOD HAZARD ZONE. REFERENCE FEMA COMMUNITY PANEL NO. 33015C0259F, DATED JANUARY 29, 2021.
- LANDOWNERS ARE RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL WETLAND REGULATIONS, INCLUDING PERMITTING REQUIRED UNDER THESE REGULATIONS.
- PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL COORDINATE WITH THE ENGINEER, ARCHITECT AND/OR OWNER, IN ORDER TO OBTAIN AND/OR PAY ALL THE NECESSARY LOCAL PERMITS, FEES AND BONDS.
- ALL BUILDING DIMENSIONS SHALL BE VERIFIED WITH THE ARCHITECTURAL AND STRUCTURAL PLANS PROVIDED BY THE OWNER. ANY DISCREPANCIES SHOULD BE BROUGHT TO THE ATTENTION OF THE ENGINEER AND OWNER PRIOR TO THE START OF CONSTRUCTION. BUILDING DIMENSIONS AND AREAS TO BE TO OUTSIDE OF MASONRY, UNLESS OTHERWISE NOTED.

**PLAN REFERENCES**

- "PLAN OF LAND PREPARED FOR 366 BROAD STREET, LLC, TAX MAP 221 LOT 68, LOCATED AT 366 BROAD STREET, PORTSMOUTH, NH" PERFORMED BY ATLANTIC SURVEY CO, LLC. DATED MARCH 2024.



<b>PROJECT PARCEL</b> TOWN OF PORTSMOUTH TAX MAP 221, LOT 68
<b>APPLICANT</b> GREEN & COMPANY 11 LAFAYETTE ROAD, P.O. BOX 1297 NORTH HAMPTON, NH 03862
<b>TOTAL LOT AREA</b> 36,886 S.F. .85 ACRES

Design: JAC	Draft: KDR	Date: 4/24/24
Checked: JAC	Scale: 1" = 20'	Project No.: 24047
Drawing Name: 24047-ZBA.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		

REV.	DATE	REVISION	BY
0	4/24/24	ISSUED FOR REVIEW	KDR

Designed and Produced in NH

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

85 Portsmouth Ave.    Civil Engineering Services    603-772-4746  
PO Box 219    Stratham, NH 03885    E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	<b>ZBA SITE PLAN</b>
Project:	<b>MULTI-FAMILY HOUSING 366 BROAD STREET, PORTSMOUTH, NH</b>
Owner of Record:	<b>366 BROAD STREET LLC 973 OCEAN BOULEVARD, RYE, NH 03870</b>

DRAWING No.	<b>C2</b>
SHEET 2 OF 2 JBE PROJECT NO. 24047	

4/30/2024

# New Englander

028.124.v9 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2006 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



©2006 Art Form Architecture, LLC  
New Englander 028.124.v9 GL

4/30/2024

# New Englander

028.124.v9 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2006 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



**Front**



**Rear**

**Front & Rear Elevations**  
Scale: 1/8" = 1'-0"

4/30/2024

# New Englander

028.124.v9 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2006 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



**Right**



**Left**

**Right & Left Elevations**  
Scale: 1/8" = 1'-0"

4/30/2024

# Rose Hip

821.124.v4 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2016 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



©2016 Art Form Architecture, LLC  
Rose Hip 821.124.v4 GL

4/30/2024

# Rose Hip

821.124.v4 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2016 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



Front



Rear

## Front & Rear Elevations

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



4/30/2024

# Rose Hip

821.124.v4 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2016 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



**Right**



**Left**

**Right & Left Elevations**

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

4/30/2024

# Plan Name TBD

1171.124 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2024 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



4/30/2024

# Plan Name TBD

1171.124 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2024 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



Front



Rear

## Front & Rear Elevations

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

4/30/2024

# Plan Name TBD

1171.124 GL (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2024 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



Right



Left

## Right & Left Elevations

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

4/30/2024

# Plan Name TBD

1171.124 GR (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2024 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



©2024 Art Form Architecture, LLC  
Plan Name TBD 1171.124 GR

4/30/2024

# Plan Name TBD

1171.124 GR (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2024 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



Front



Rear

## Front & Rear Elevations

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

4/30/2024

# Plan Name TBD

1171.124 GR (4/30/2024)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

©2024 Art Form Architecture, LLC, all rights reserved. You may not build this design without purchasing a license, even if you make changes. This design may have geographic restrictions.



Art Form Architecture, LLC

603-431-9559



Right



Left

Right & Left Elevations

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