

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

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September 4, 2020

Karen Edwards, Administrative Assistant
Durham Planning Board
8 Newmarket Road
Durham NH 03824

Re: Site Plan Amendment/Conditional Use Permits
Richmond Property Group, LLC, Owner/Applicant
18 Garrison Avenue
Tax Map 2, Lot 12-12

Dear Ms. Edwards and Members of the Planning Board:

On behalf of the Owner and Applicant, Richmond Property Group, LLC (“RPG” or “Applicant”), please accept this letter addressing the proposed changes to RPG’s fraternity house, for which this Board previously granted Site Plan Review and Conditional Use Permit approval on May 13, 2020. As discussed below, the revised proposal continues to meet the requirements of the Wetland Conservation Overlay District (“WCOD”). We look forward to discussing the changes and answering any questions the Planning Board may have.

I. Exhibits

- A. 5/7/20 Previously Approved Site Plan
- B. 9/2/20 Amended Site Plan
- C. 8/7/20 Overlay Site Plan
- D. List of Site Changes

II. Background

RPG is a non-profit, 501(c)7 organization, created for the purpose of ownership and management of Alpha Tau Omega (“ATO”) fraternity houses. It currently owns and operates ATO properties at over 15 universities across the country, including the property located at 18 Garrison Avenue (the “Property”) in the Central Business (“CB”) Zoning District. The Property is currently improved with a two-story building known as the Elizabeth Demeritt House, with an asphalt parking area to the right (northwest) of the building and a shed and fuel oil tanks to the rear

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JOHN AHLGREN

GREGORY D. ROBBINS

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MONICA F. KIESER

SAMUEL R. REID

STEPHEN H. ROBERTS

MATTHEW G. STACHOWSKE

SAMUEL HARKINSON

(southwest) of the building. All of the existing improvements, and those proposed by RPG, are located on the northeast portion of the Property closest to Garrison Avenue, an area of the lot that has long been developed and the underlying soils previously excavated, regraded and filled. The Property is almost entirely within the WCOD.

RPG's proposed fraternity house project, for an addition to the existing structure and associated parking area, was reviewed and approved by the Town's land use boards last Spring. RPG received multiple variances from the Zoning Board of Adjustment on March 17, 2020 to allow the parking area within the WCOD (as well as parking within the front court). RPG received Site Plan Review plan approval and Conditional Use Permit approval the Planning Board on May 13, 2020. Exhibit A (Approved Site Plan).

Since that approval, RPG has met with multiple contractors and have been informed that the costs to renovate the existing structure and construct the addition were well above the anticipated project budget. As a result, RPG has revised its plans to include a single new building in approximately the same location as the prior structure and proposed addition. Exhibit B (Amended Site Plan). The proposed fraternity/institutional use has not changed. RPG is also continuing the use of pervious pavement to reduce the overall impervious area relative to existing conditions and to provide on-site stormwater treatment. As with the original design, there are no direct impacts to wetlands.

The building height, footprint and location has been modified slightly. The structure is now a single building with a slightly smaller overall footprint (reduced from ±3,440 to ±3,060 square feet). The building has also been relocated slightly farther from the western and southern wetland setbacks and Pettee Brook. The building height is slightly higher than the original design (36 ft. vs. 34.5 ft. average) but still consistent with or lower than other properties in the area. As with the prior design, much of the height is due to the sloping elevation of the lot, with the front of the building on Garrison Avenue at 31.5 feet, far lower elevation than the rear and providing the appearance of a two story building when viewed from the street.

III. Conditional Use Approvals to be Considered by the Planning Board

RPG seeks confirmation from the Planning Board that the amended plan remains consistent with the Conditional Use Permits approvals previously issued relative to height, location of the driveway and utilities and accessory structures. The other CUP approvals related to fraternity/institutional use remain unchanged and, therefore, are not at issue with the plan

amendment. Overall the new proposal is consistent with the prior approved design and continues to meet the Conditional Use criteria for the same reasons previously found by this Board as outlined further below. The Conservation Commission reviewed the proposed amendment on August 24, 2020 and voted to find that the revised plan still meets the four WCOD criteria for conditional use approval.

Accordingly, RPG requests that the Planning Board affirm its approval of the following conditional uses with respect to the proposed site plan amendment:¹

1. Article XII.1, Section 175-54 (Table of Dimensions) – To permit an height of ±34.5’ (maximum 47.8’).
2. Article XIII, Section 175-61.A.1 – To permit a driveway and utilities in the WCOD.
3. Article XIII, Section 175-61.A.4 – To permit accessory structures in the WCOD.

IV. Section 175-23.C Conditional Use Criteria

1. Site Suitability:

The proposed site plan amendment does not impact the suitability of the Property for RPG’s ATO fraternity house. It was acquired from UNH for this express purpose and with the understanding that ATO would become a house chapter. The site improvements remain within the previously disturbed area of the lot but with a smaller overall building footprint and located slightly farther from the wetlands and Pettee Brook. RPG will retain the use of porous pavement to reduce impervious surfaces and provide stormwater treatment and inclusion of the retaining wall with fencing to delineate the house from the wetland area/brook. The Property is surrounded by other institutional properties, including UNH facilities (Stoke Hall, Paul College of Business and Economics, UNH Entrepreneurship Center, Graduate School of Analytics and Data Science), other fraternity and sorority houses (Alpha Xi Delta Tau, Alpha Chi Omega, Kappa Delta, Sigma Alpha Epsilon, Sigma Beta) and student housing with similar or greater building heights. Moreover, the primary reason for the height is due to the slope of the Property away from Garrison Avenue. Thus, the height of the building will be in line with that of other properties on Garrison Avenue in in the surrounding area.

¹ If deemed necessary, RPG respectfully requests that the Planning Board also affirm its approval of the fraternity (Article XII.1, Section 175-53) and institutional uses (Article XIII, Section 175-61.A.3).

2. *External Impacts:*

The proposed amendment will not result in any external impacts greater than those of adjacent properties. As noted, the Property is surrounded by similar structures, including many other fraternity and sorority houses. As with the original approved design, the proposal moves the parking spaces farther from Garrison Avenue than existing and places much of the parking behind the building, further shielding it from external view. RPG will also add significant landscaping to further mitigate any visual impacts and improve the overall aesthetics of the site. With respect to height, the additions generally maintain the approximate height of the existing building, with a slight (<2 ft.) increase but remaining similar or lower than that of the surrounding properties. All non-WCOD related setbacks are met.

3. *Character of the Site Development:*

The proposed layout and design of the site remains compatible with the surrounding institutional neighborhood. Much of Garrison Avenue and other nearby lots are built out to the street, and in many cases, to Pettee Brook. The proposed design improves conditions by reducing the overall building footprint and moving the improvements slightly farther from the wetlands and Pettee Brook.

4. *Character of the Building and Structures:*

The design of the building additions likewise remain compatible with the surrounding area. In consultation with the Planning Staff, RPG has looked to other Greek housing and historic buildings in Durham to create a design that complements the area and the proposed institutional use.

5. *Preservation of Natural, Cultural, Historic, and Scenic Resources:*

As with the original approved design, the proposed amendment maintains improvements within the area of previously disturbed soils. The overall building footprint has been reduced and structure moved slightly farther from the wetlands and Pettee Brook. The use of porous pavement for the driveway and parking area reduces overall impervious area from existing conditions and provides on-site stormwater treatment. There are no direct impacts to wetlands and all work is kept completely out of the Pettee Brook shoreland setback. Additionally, the inclusion of the retaining wall with a 4' fence further serves to delineate developed area and keep users away from

the wetlands and Pettee Brook, thus preserving this resource area. While the new design is slightly taller, it is in line with similar surrounding uses. RPG has worked with Planning Staff to create an architectural design that complements the other nearby institutional uses.

6. *Impact on Property Values:*

The amended proposal continues to revitalize an aging, underdeveloped lot. As with the original design, the proposal moves parking farther from Garrison Avenue and behind the building and adds landscaping along the street line and throughout the lot. The new building design is tasteful and complements the surrounding institutional uses. In light of these factors, the proposed use will clearly not cause or contribute to a significant decline in property values of adjacent properties.

7. *Availability of Public Services and Facilities:*

This criteria remains unchanged. The Property is located near downtown Durham and in close proximity to the UNH campus. It is served by municipal water and sewer and other public utilities. As part of the design, RPG will install a grease trap to protect the municipal wastewater system. Additionally, as the proposed fraternity use will house UNH students there will be no impact to local schools.

8. *Fiscal Impact:*

This criteria likewise remains unchanged. There will be no negative fiscal impact to the Town as a result of the proposed fraternity use. The proposal adds an up to date and up to code building while adding no students to the public schools. If anything, the proposal will serve to increase the assessed value of the Property resulting in an overall positive fiscal impact to the Town.

V. Section 175-61.B WCOD Conditional Use Criteria

1. *There is no alternative location on the parcel outside of the WCOD that is reasonably practical for the particular use:*

Nearly all of the Property is within the WCOD's 75-foot wetland buffer. Thus, nothing can reasonably be constructed without impacting the WCOD. RPG has minimized impacts to the WCOD to the extent practicable by continuing to maintain all improvements within the previously

disturbed area of the Property located closest to Garrison Avenue. The amended design reduces the overall building footprint and locates the structure farther from the wetlands and Pettee Brook. RPG has further mitigated impacts via the use of porous pavement for the driveway and parking area.

2. *The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board:*

Soil disturbance will be kept to a minimum and within the previously disturbed area of the Property. RPG has balanced the need to minimize soil disturbance against the benefit of removing the existing asphalt and adding new porous pavement to reduce overall impervious surfaces and provide stormwater treatment. Additionally, the proposal maintains significant undeveloped areas on the Property around the wetlands and Pettee Brook, far in exceedance of that for similar nearby properties.

3. *The location, design, construction and maintenance of the facilities will minimize any detrimental impact on the wetland and mitigation activities will be undertaken to counterbalance any adverse impacts:*

As previously discussed, RPG proposes to replace the existing impervious parking area with porous pavement. The use of porous material will reduce overall impervious surfaces on the Property and add stormwater treatment that is not currently in place. Additionally, RPG proposes to maintain the previously undisturbed portions of the Property to preserve the existing floodplain area.

4. *Restoration activities will leave the site, as nearly as possible, in its existing condition and grade at the time of application of the Conditional Use Permit:*

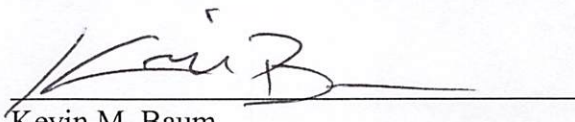
RPG does not propose any material change to the existing grade of the Property. The proposed improvements are limited to the area of the lot with previously disturbed soils. The undisturbed area closest to the wetlands and Pettee Brook will be maintained and protected by the addition of the retaining wall and fence. Overall conditions of the Property will be improved by the removal of the impervious parking lot and inclusion of porous pavement to reduce impervious surfaces and provide stormwater treatment.

VI. Conclusion

Accordingly, for all of the reasons stated, RPG's proposed amended plan continues to meet the WCOD Conditional Use Criteria set forth in Sections 175-23.C and 175-61.B of the Zoning Ordinance. We look forward to discussing these changes further at the Planning Board's September 9, 2020 meeting.

Respectfully submitted,

RICHMOND PROPERTY GROUP, LTD.

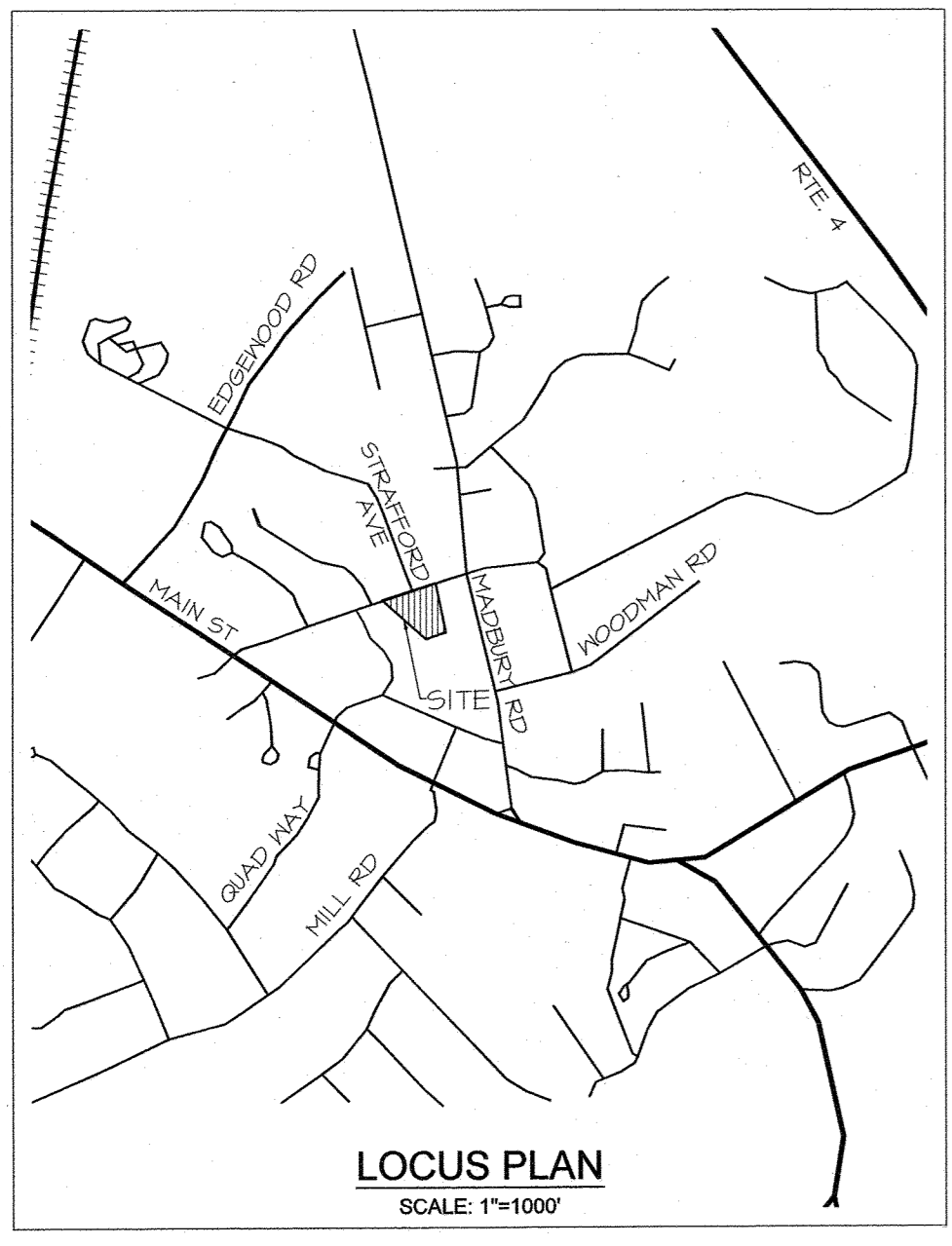
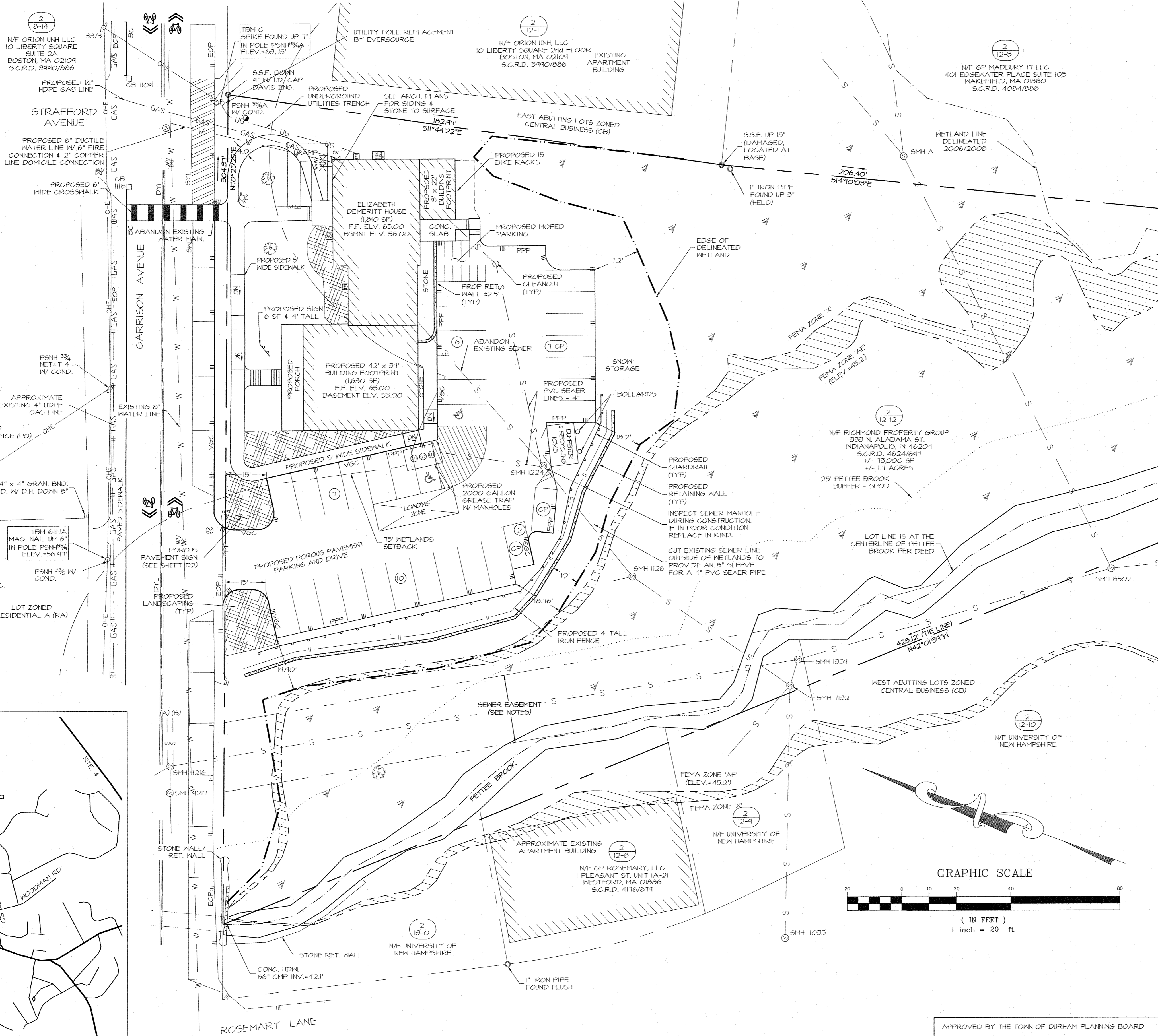
A handwritten signature in black ink, appearing to read "Kevin B", is written over a horizontal line.

Kevin M. Baum
Hoefle, Phoenix, Gormley & Roberts, PLLC
127 Parrott Avenue
Portsmouth, NH 03801
kbaum@hpgrlaw.com
(603) 436-0666

EXHIBIT A

LEGEND

□	BOUND FOUND
○	IRON PIPE FOUND
(TYP)	TYPICAL
PPP	PROP. POROUS PAVE.
PTP	PROP. TRAD. PAVE.
VGC	VERT. GRANITE CURB
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---	WATER VALVE
---	TREE
---	PARKING SPACES IN ROW
---	COMPACT PARKING SPOT
---	LANDSCAPING
---	FEMA FLOOD ZONE X



- NOTES:**
- OWNER OF RECORD: TAX MAP 2, LOT 12-12 RICHMOND PROPERTY GROUP 333 N. ALABAMA ST. INDIANAPOLIS, IN 46204 S.C.R.D. 4626 PG 641
 - THE INTENT OF THIS PLAN IS TO SHOW A PRELIMINARY PROPOSED SITE PLAN FOR A FRATERNITY, DEPICTING BUILDING, DRIVEWAY, DRAINAGE, AND SITE IMPROVEMENTS.
 - PARCEL IS ZONED CENTRAL BUSINESS (CB) PER THE 2006 DURHAM ZONING DISTRICT MAP.
 - A PORTION OF THE PARCEL IS IN A FLOOD HAZARD ZONE, REFERENCE FLOOD INSURANCE RATE MAP 3301C0308E, DATED SEPTEMBER 30, 2015.
 - SURVEY FIELDWORK CONDUCTED BY DOUCET SURVEY, LLC IN AUGUST, 2019.
 - SOILS AND WETLANDS WERE DELINEATED BY GZA GEODENVIRONMENTAL, INC. DURING AUGUST, 2019.
 - PROPERTY TO BE SERVICED BY TOWN WATER AND SEWER.
 - ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
 - THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
 - BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE @ 811 OR 1-888-DIG-SAFE.
 - ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.
 - THIS PARCEL IS SUBJECT TO AND/OR BENEFIT OF EASEMENTS, RESTRICTIONS, ETC. FOR MORE INFORMATION, SEE EXISTING CONDITIONS PLAN BY DOUCET SURVEY, AS PART OF THIS PLAN SET.
- NOTES (CONT.):**
- ANNUAL REPORT TO TOWN ON POROUS PAVEMENT MAINTENANCE IS REQUIRED.
 - THE WETLAND MEADOW SHOULD BE MOVED APPROXIMATELY 2 TIMES PER YEAR TO PREVENT INVASIVE SPECIES FROM INHABITING WETLANDS.
 - THE FOLLOWING CB DISTRICT REQUIREMENTS ARE PER THE TOWN OF DURHAM'S SITE PLAN REGULATIONS AND ZONING ORDINANCE, DATED 2019:
 - *TOTAL NUMBER OF RESIDENTS AND ON-SITE EMPLOYEES FOR THE PROPOSED FRATERNITY IS 44.
 - 1) MINIMUM ONE PARKING SPACE PER RESIDENT (CB DISTRICT EXEMPT W/ FEES)
 - REQUIRED = 44 SPACES
 - PROPOSED = 32 SPACES
 - 2) MAXIMUM 30% OF PARKING ARE COMPACT SPACES
 - MAX = 4 SPACES
 - PROPOSED = 4 SPACES
 - 3) ONE HANDICAP PARKING SPACE PER 25 SPACES
 - REQUIRED = 2 SPACES
 - PROPOSED = 2 SPACES
 - 4) MINIMUM PARKING SPACE DIMENSIONS:
 - PERPENDICULAR = 9'x16'
 - PARALLEL = 8'x22'
 - COMPACT = 8'x16'
 - HANDICAP = 8'x16'
 - 5) PARKING LOTS AT THE SIDE OF PRINCIPLE BUILDINGS SHALL BE SET BACK AS FAR AS THE FRONT OF THE BUILDING OR 15 FT, WHICHEVER IS GREATER.
 - REQUIREMENT NOT MET
 - VARIANCE GRANTED MARCH 17, 2020
 - 6) MINIMUM AMOUNT OF BIKE RACKS IS 1/3 OF REQUIRED PARKING SPACES
 - REQUIRED = 15 BIKE RACKS
 - 7) MAXIMUM BUILDING HEIGHT IS 30 FT
 - HEIGHT = 34.5'
 - 8) MINIMUM LOT FRONTAGE = 50 FT
 - PROVIDED = 304 FT
 - 9) MINIMUM LOT SIZE = 5,000 SF
 - PROVIDED = 13,000 SF
 - 10) WETLAND SETBACK(BUFFER) = 15 FT
 - PROVIDED < 15 FT
 - VARIANCE GRANTED MARCH 17, 2020, & CONDITIONAL USE APPLICATION IN PROCESS.

REFERENCE PLANS:

- "PLAN OF LAND, LAND OF THE UNIVERSITY OF NEW HAMPSHIRE FOR GAMMA THETA CORPORATION, GARRISON AVENUE, (NO TAX MAP/LOT NUMBER ASSIGNED) DURHAM, NEW HAMPSHIRE" DATED JULY 11, 2014 BY DOUCET SURVEY, INC. S.C.R.D. PLAN 108-020.
- "EXISTING CONDITIONS PLAN OF 17 & 21 MADBURY ROAD FOR A6 ARCHITECTS, PC" DATED MAY 11, 2006 BY DOUCET SURVEY, INC.
- "TOWN OF DURHAM SEWER EASEMENTS, PETTEE BROOK INTERCEPTOR" DATED NOVEMBER 1964 BY G.L. DAVIS & ASSOCIATES S.C.R.D. POCKET 4 FOLDER 4 PLAN 26.
- "RE-SUBDIVISION OF LAND IN DURHAM, NH PREPARED FOR THETA GAMMA OF DELTA ZETA HOUSE CORP." DATED AUGUST 4, 1980 BY JOHN W. DURGIN ASSOCIATES, INC. S.C.R.D. DRAWER 21, PLAN 86.
- "PLAN OF LAND FOR ERNEST CUTTER" DATED OCTOBER 1911 BY JOHN W. DURGIN ASSOCIATES, INC.
- "UNIVERSITY OF NEW HAMPSHIRE GARRISON AVENUE AREA" DATED SEPTEMBER 16, 1957 BY G.L. DAVIS & ASSOCIATES.

AREA CALCULATIONS

TOTAL AREA OF IMPERVIOUS LOT*	EXISTING IMPERVIOUS AREA	PROPOSED IMPERVIOUS AREA**	PROPOSED POROUS PAVE. AREA
11,900 SF	9,507 SF	6,410 SF	10,070 SF

* TOTAL AREA OF LOT IS MEASURED BY THE LINE, NOT PETTEE BROOK.
** PROPOSED IMPERVIOUS AREA EXCLUDES POROUS PAVE. PARKING LOT & DRIVEWAY.

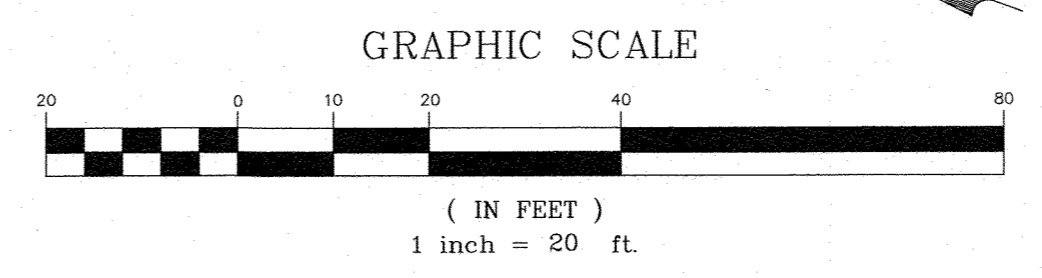
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2	APR 24, 2020	FOR APPROVAL	
1	MAR 24, 2020	FOR APPROVAL	
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EMANUEL ENGINEERING
civil & structural consultants, land planners
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STRATHAM, NH 03885
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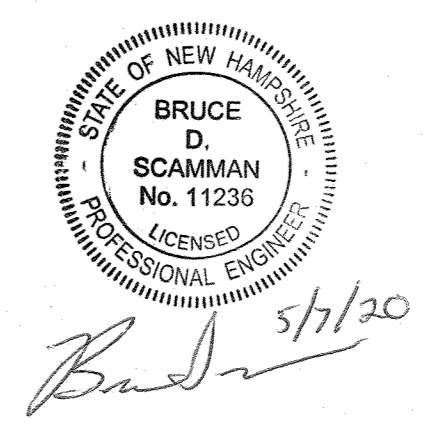
CLIENT:
RICHMOND PROPERTY GROUP
333 N. ALABAMA ST.
INDIANAPOLIS, IN 46204

TITLE:
SITE PLAN
FOR
RICHMOND PROPERTY GROUP
ELIZABETH DEMERITT HOUSE
18 GARRISON AVENUE (SITE)
DURHAM, NH 03824

PROJECT:	SCALE:	SHEET:
19-083	1"=20'	C2

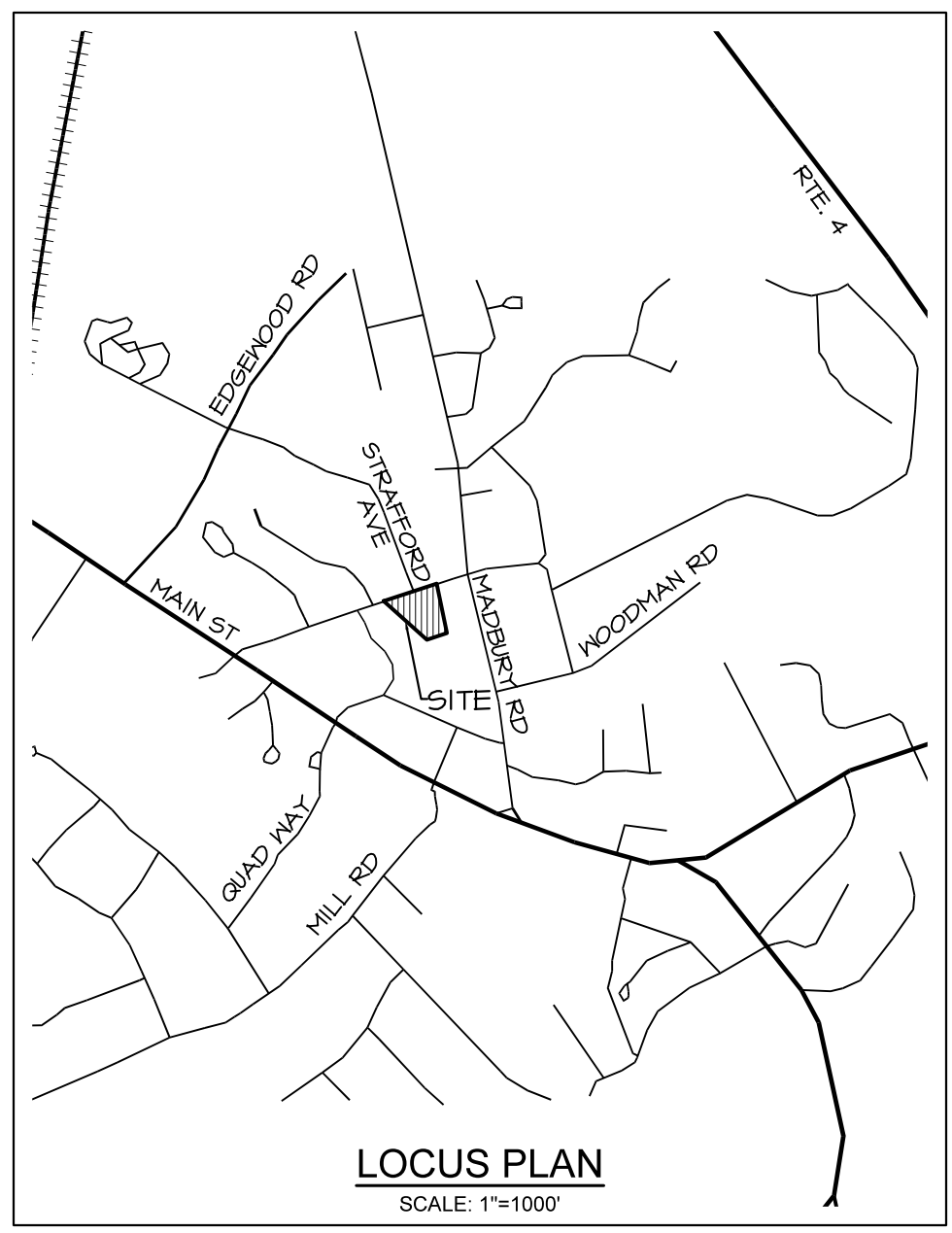
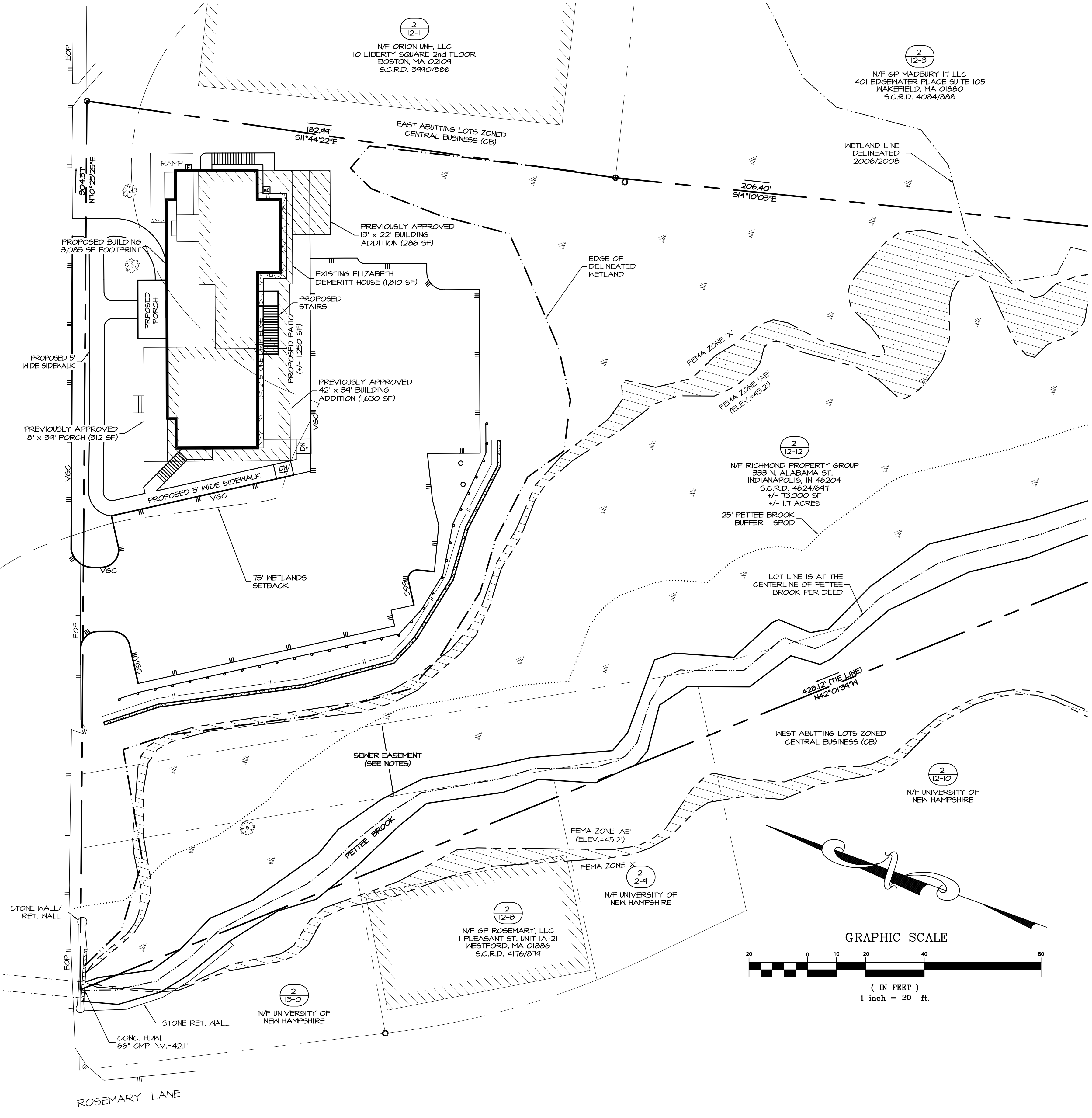
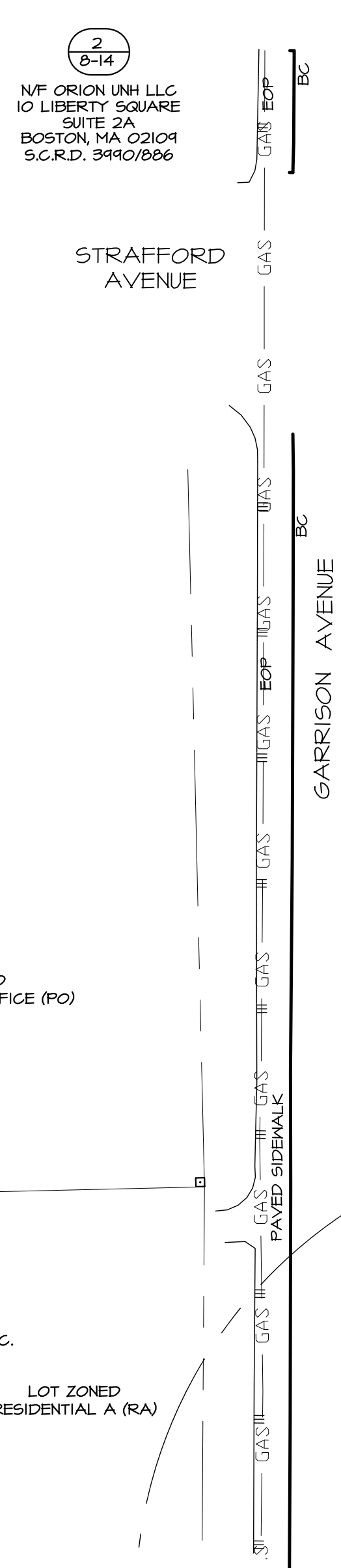


APPROVED BY THE TOWN OF DURHAM PLANNING BOARD
CHAIRPERSON _____ DATE _____



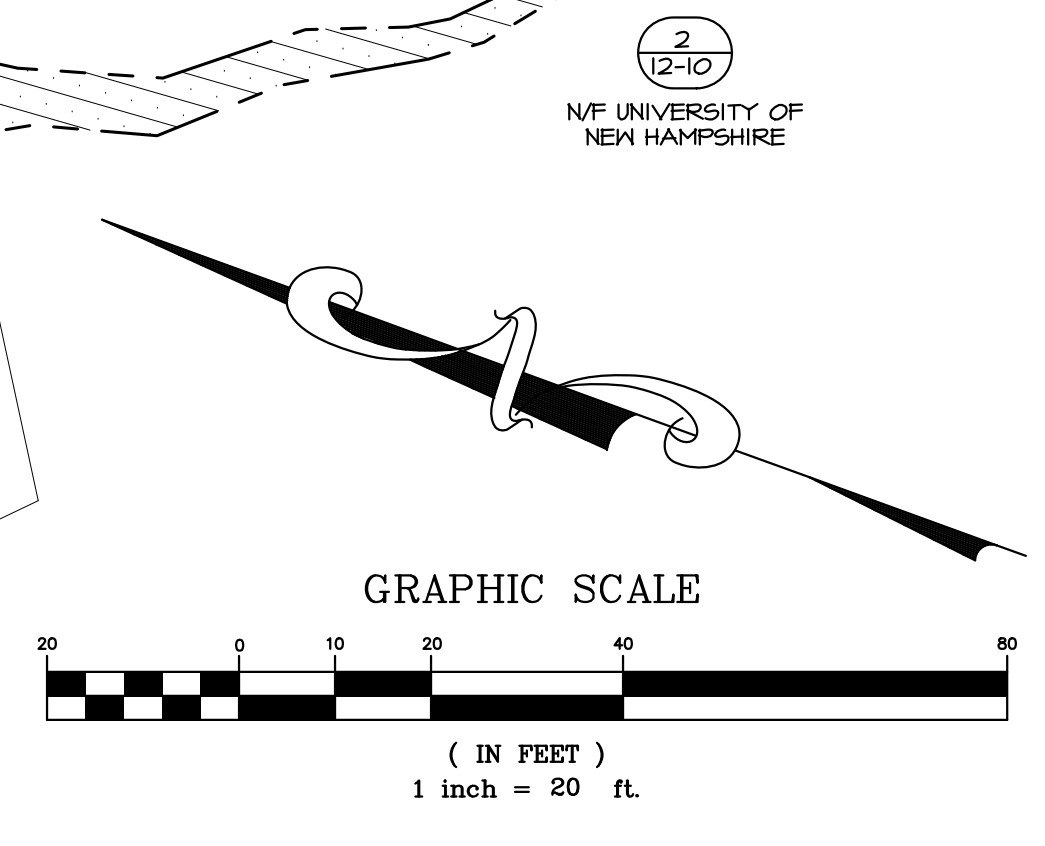
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- NOTES:**
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 - THE INTENT OF THIS PLAN IS TO SHOW A PROPOSED CONCEPTUAL AMENDED BUILDING FOOTPRINT FOR A FRATERNITY HOUSE OVERLAYED BY THE EXISTING BUILDING ON SITE, AND THE BUILDING ADDITIONS THAT WERE APPROVED BY THE DURHAM PLANNING BOARD ON MAY 13, 2020.
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DRAWN: JJM	DESIGN: JJM		
CHECKED: BDS	CHECKED: BDS		

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 INDIANAPOLIS, IN 46204

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 FOR
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 ELIZABETH DEMERITT HOUSE
 18 GARRISON AVENUE (SITE)
 DURHAM, NH 03824

PROJECT:	SCALE:	SHEET:
19-083	1"=20'	CP2



EXHIBIT D

August 7, 2020

Michael Behrendt
Durham Town Planner
Town of Durham
8 Newmarket Road
Durham, NH 03824

RE: Amended Site Plan (List of Changes) - "Richmond Property Group"
18 Garrison Avenue
Durham, NH
Tax Map 2 Lot 12-12

Dear Mr. Behrendt,

In regards to Richmond Property Group located at 18 Garrison Avenue, Durham, NH 03824, Tax Map 2, Lot 12-12, we are looking to amend the site plan that was approved by the Durham Planning Board on May 13, 2020. Amendments to the site plan can be found on sheet CP1 - Conceptual Amended Site Plan dated August 7, 2020. The building footprints of the approved site plan compared to the proposed amended building footprint can be found on sheet CP2 - Overlay Site Plan dated August 7, 2020.

The amended site plan proposes approximately 5,900 square feet of impervious surface, while the previously approved site plan proposed 5,775 square feet of impervious surface, resulting in a 125 square foot net increase. Aside from minor grading changes required near the rear of the proposed building, the proposed porous pavement lot (including the number of parking spaces), drainage, retaining wall, guard rail, and fencing are generally unchanged from the originally approved site plan. The list of changes from the previously approved site plan includes:

- A proposed 3,085 square foot building to replace the existing building with proposed additions (previously 3,726 square foot total building footprint)
- The elevation of the proposed finished floor is 64.00 rather than 65.00
- A basement is no longer proposed in this design

civil & structural consultants, land planners

- Doors are proposed on all sides of new building (4 total)
- Walkways (stairs and/or ramps also where required) are proposed to access each newly proposed door
- A proposed 10'x20' porch on the front of the proposed building
- A proposed 2' wide drip edge along the rear of the building to collect stormwater from the roof, conveying it into the porous pavement
- A proposed +/-1,250 square foot patio in the rear of the proposed building
- A proposed set of stairs in the rear of the building
- Revised sidewalks/walkways to conform to the new building footprint
- Revised location of proposed grease trap and septic lines to conform to new building footprint
- Revised location of proposed gas line, water line, utility line, and other associated utilities to conform to new building footprint
- Revised gutter line, yard drain location, and associated drainage in front of the proposed building
- The proposed bike rack area has been moved to conform to new building footprint
- Removal of proposed 125 square foot concrete slab in rear of building
- More than a 4 foot planting strip is now provided between the building and parking lot on the side of the building, therefore a waiver for Site Plan Regulation 5.8.9 will no longer be required

Thank you,

Bruce Scamman P.E.

Copy to: Sarah Layton
Issac Schlosser
Kevin Baum
File