

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC
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August 21, 2020

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

Re: Conditional Use Permit Application
Richmond Property Group, LLC, Owner/Applicant
18 Garrison Avenue
Tax Map 2, Lot 12-12

Dear Ms. Edwards and Members of the Conservation Commission:

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 project for which the Conservation Commission expressed support at its April 27, 2020 meeting. 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 Commission may have at its August 24, 2020 meeting.

I. Exhibits

- A. 5/7/20 Previously Approved Site Plan
- B. 8/7/20 Conceptual 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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(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, to allow among other items, a driveway and utilities and an accessory building within the WCOD, as detailed in Section III below. Exhibit A (Approved Site Plan). The Conservation Commission reviewed that site plan prior to that approval and found that the WCOD criteria were met.¹

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, it 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 new proposal is substantially similar to the prior approved design, especially with respect to work within the WCOD. Exhibit C (Overlay Site Plan); Exhibit D (List of Site Changes). As with the original design or any proposal for this Property, little to nothing can be constructed without impacting the wetland buffers.

As with the previously approved plan, there are no direct wetland impacts nor development within the Pettee Brook setbacks under the proposed amendment. While the overall footprint is slightly larger in the new design, the structure is located farther from the western and southern wetland setbacks. Exhibit C. 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. *Id.* Overall the new proposal is consistent with the prior approved design and continues to meet the WCOD Conditional Use criteria for the same reasons, as outlined further below.

¹ See email from Michael Behrendt available at https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_board/page/55715/conservation_commission_statement_4-29-20.pdf

III. Conditional Use Requests Approved by the Planning Board on May 13, 2020

1. Article XII.1, Section 175-53 (Table of Uses) – To permit fraternity use in the CB District.
2. Article XII.1, Section 175-54 (Table of Dimensions) – To permit an height of $\pm 34.5'$ (maximum 47.8').
3. Article XIII, Section 175-61.A.1 – To permit a driveway and utilities in the WCOD.
4. Article XIII, Section 175-61.A.3 – To permit a non-residential (institutional) building in a core commercial (CB) zone.
5. Article XIII, Section 175-61.A.4 – To permit accessory structures in the WCOD.

IV. 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 maintaining all improvements within the previously disturbed area of the Property located closest to Garrison Avenue and farthest from the wetlands and Pettee Brook. RPG has further mitigated impacts via the use of porous pavement for the driveway and parking area. The proposed amendment places the new building slightly farther from the wetlands and Pettee Brook than the previously approved design.

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.

V. Conclusion

Accordingly, for all of the reasons stated, RPG's proposed amended plan continues to meet the WCOD Conditional Use Criteria set forth in Section 175-61.B of the Zoning Ordinance. We look forward to discussing these changes further at the Commission's August 24, 2020 meeting.

Respectfully submitted,

RICHMOND PROPERTY GROUP, LTD.

/s/ Kevin M. Baum

Kevin M. Baum

Hoefle, Phoenix, Gormley & Roberts, PLLC

127 Parrott Avenue

Portsmouth, NH 03801

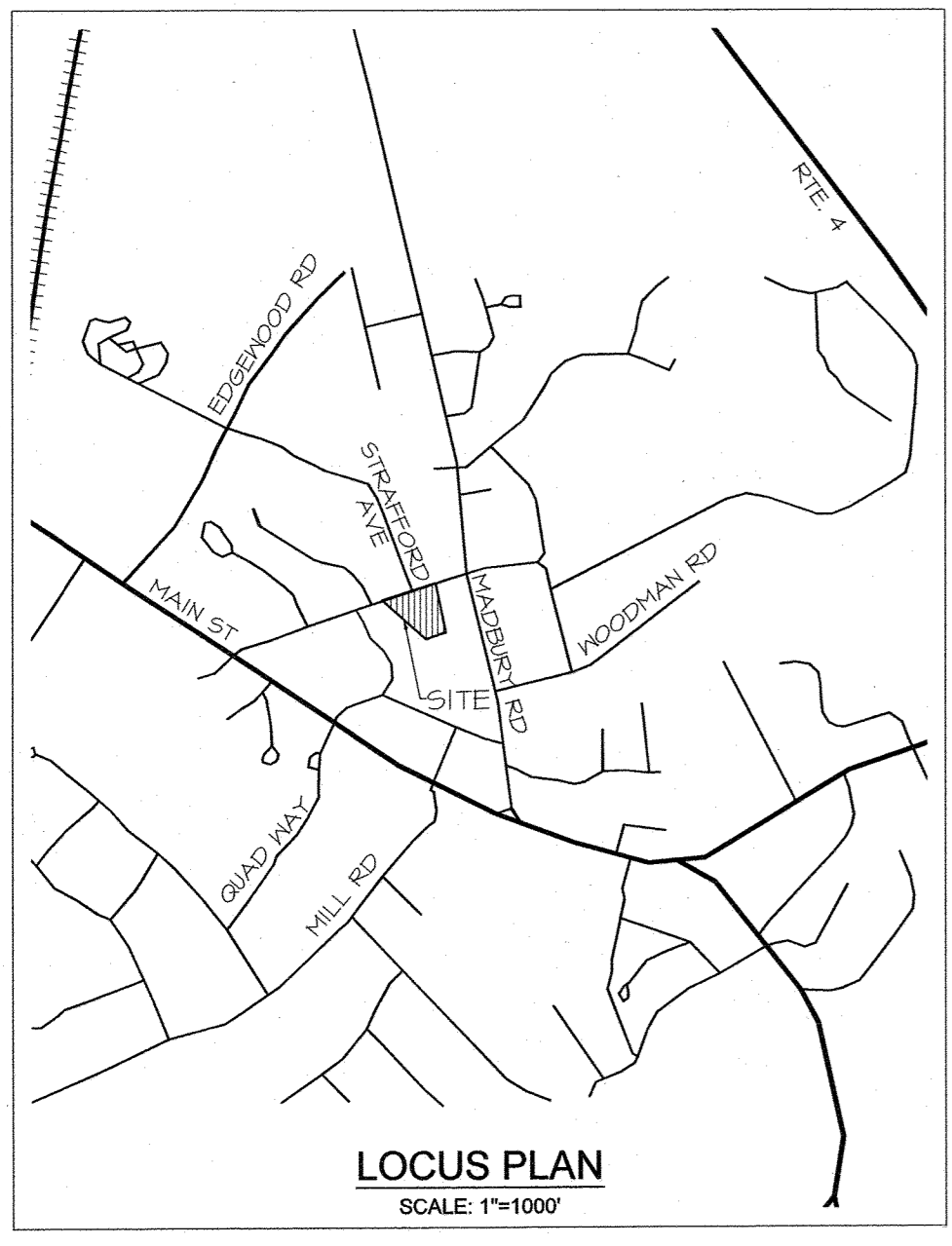
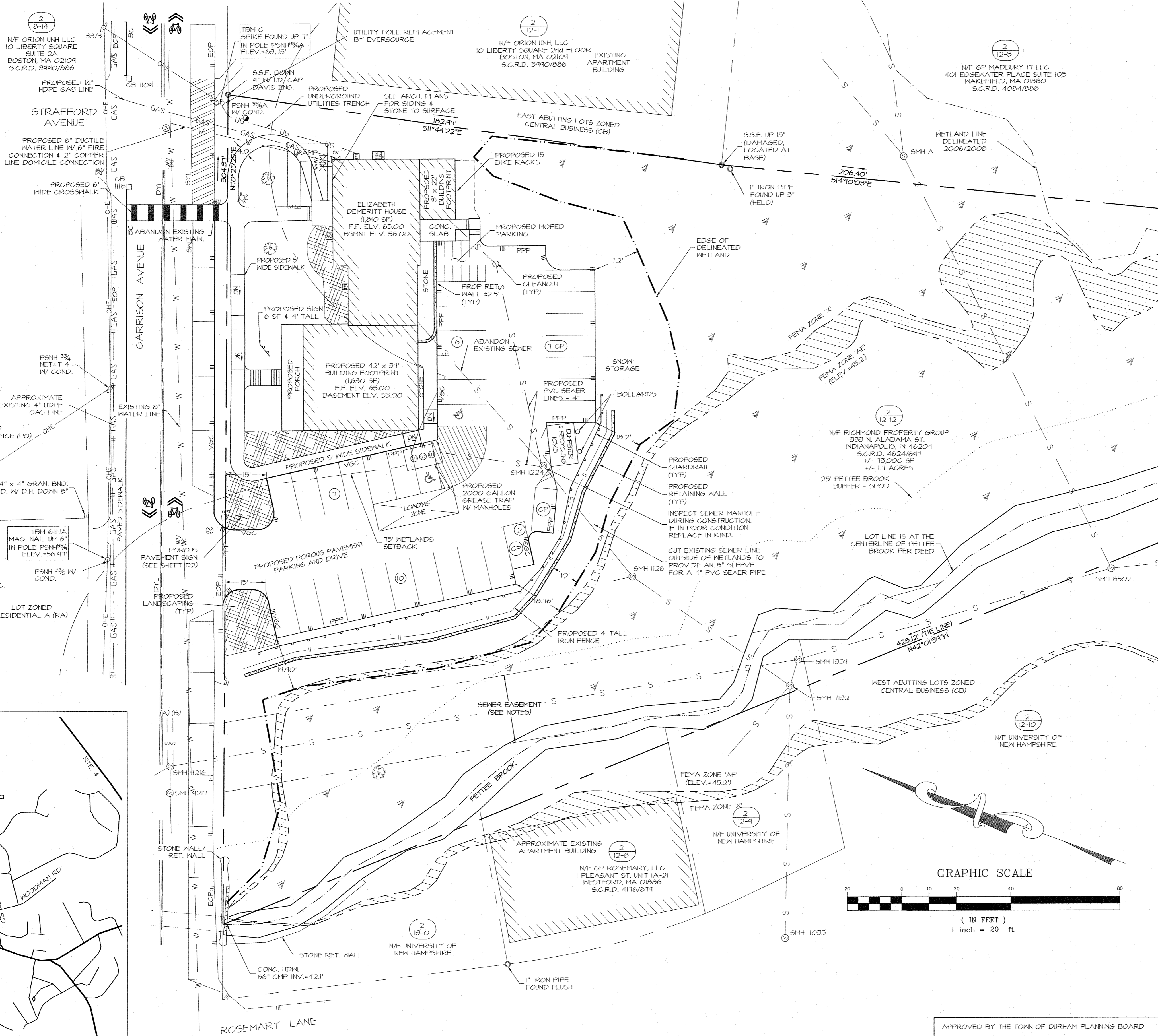
kbaum@hpgrlaw.com

(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
SGC	SLOPED GRANITE CURB
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---	PROPERTY LINE
---	EDGE OF PAVE (EOP)
---	EOP WITH 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 GEDENVIRONMENTAL, 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'
 - 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.

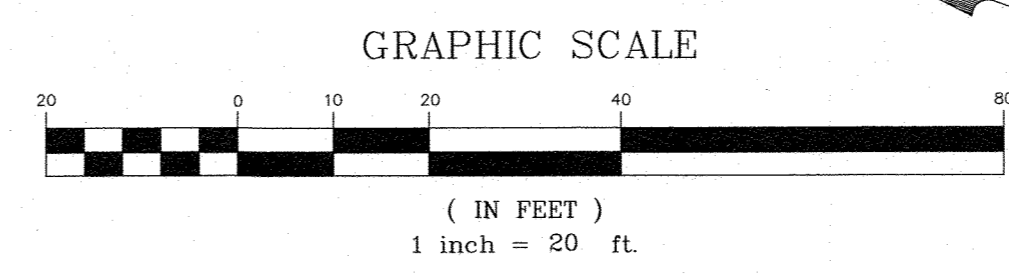
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2	APR 24, 2020	FOR APPROVAL	
1	MAR 24, 2020	FOR APPROVAL	
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CHECKED:	BDS	CHECKED:	BDS

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 civil & structural consultants, land planners
 118 PORTSMOUTH AVENUE, A202
 STRATHAM, NH 03885
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 WWW.EMANUELENGINEERING.COM

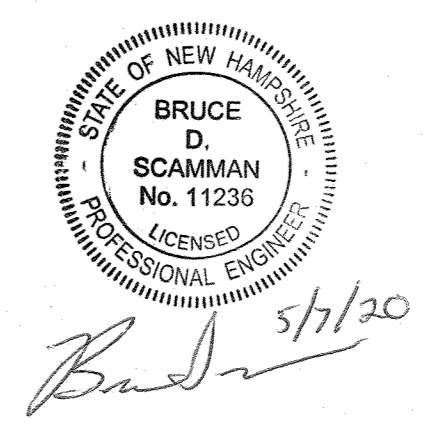
CLIENT:
 RICHMOND PROPERTY GROUP
 333 N. ALABAMA ST.
 INDIANAPOLIS, IN 46204

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

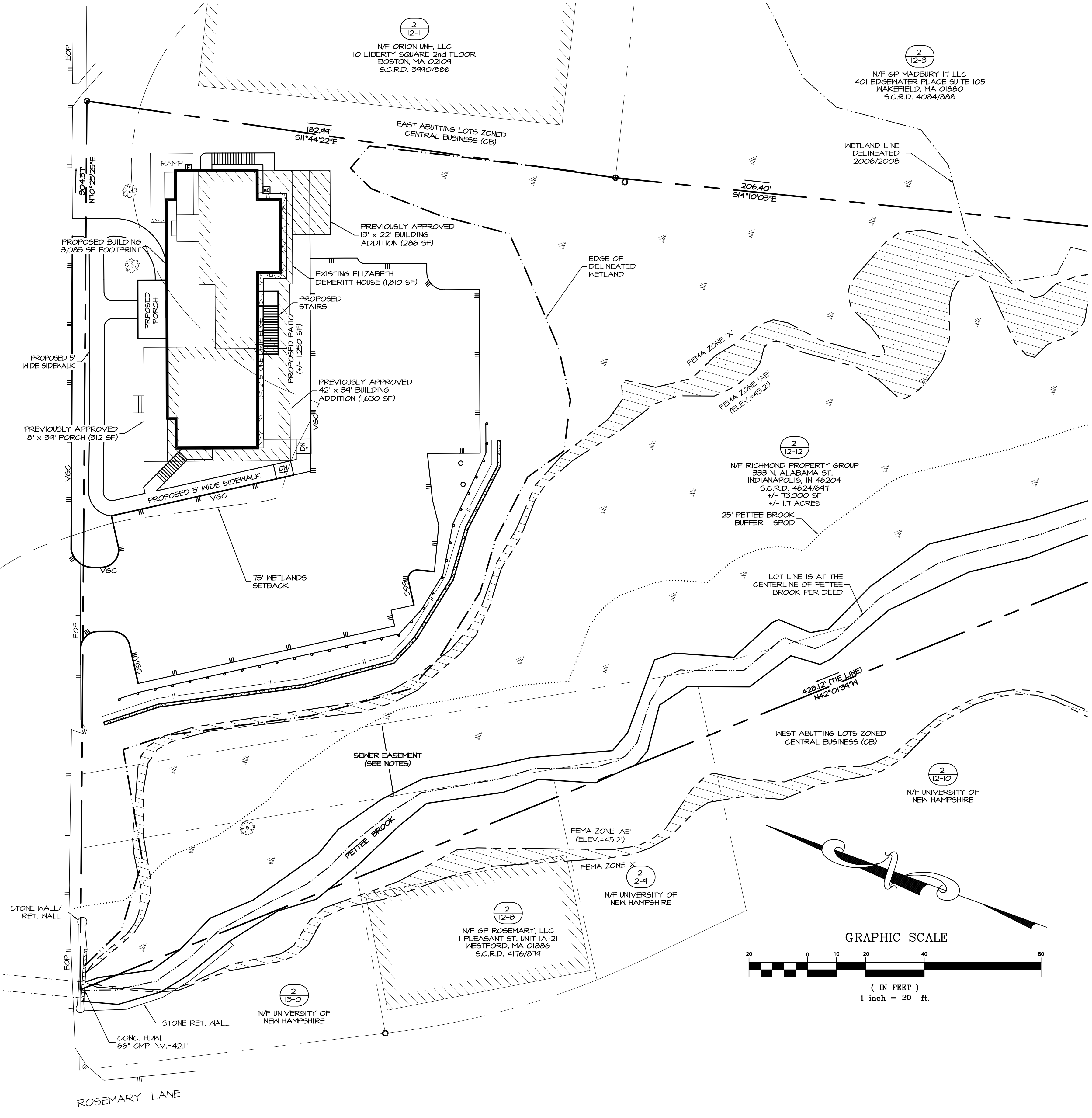
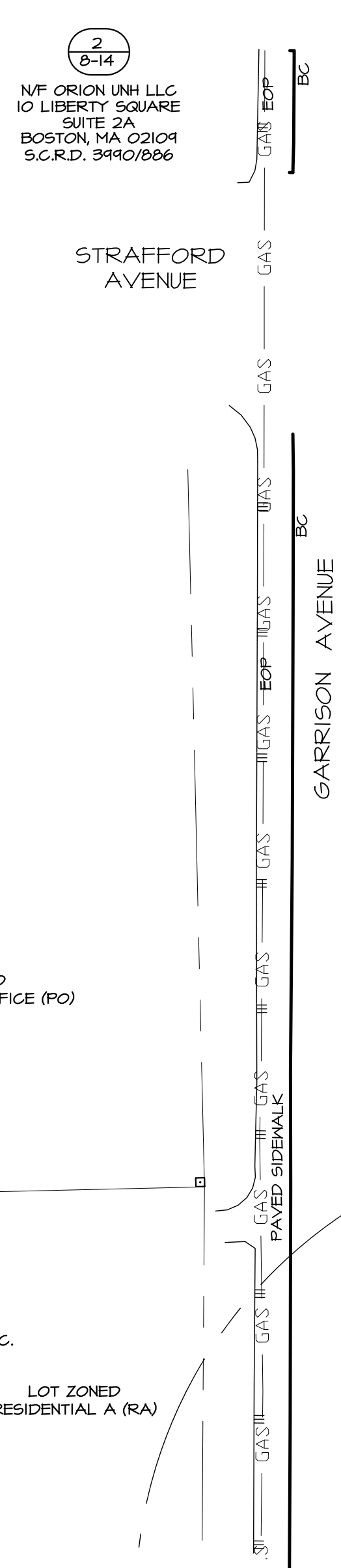


APPROVED BY THE TOWN OF DURHAM PLANNING BOARD
 CHAIRPERSON _____ DATE _____



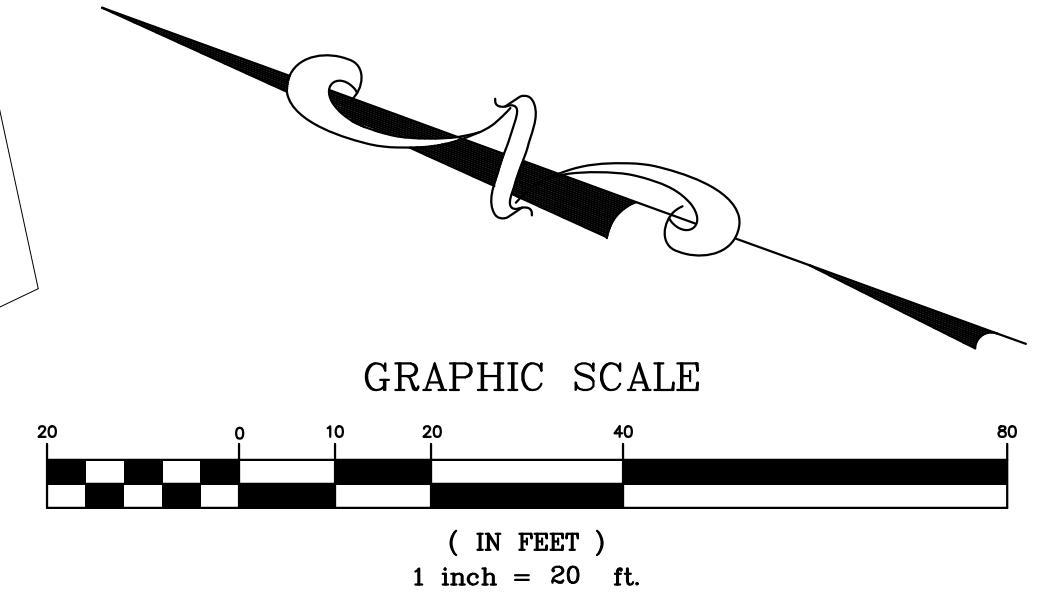
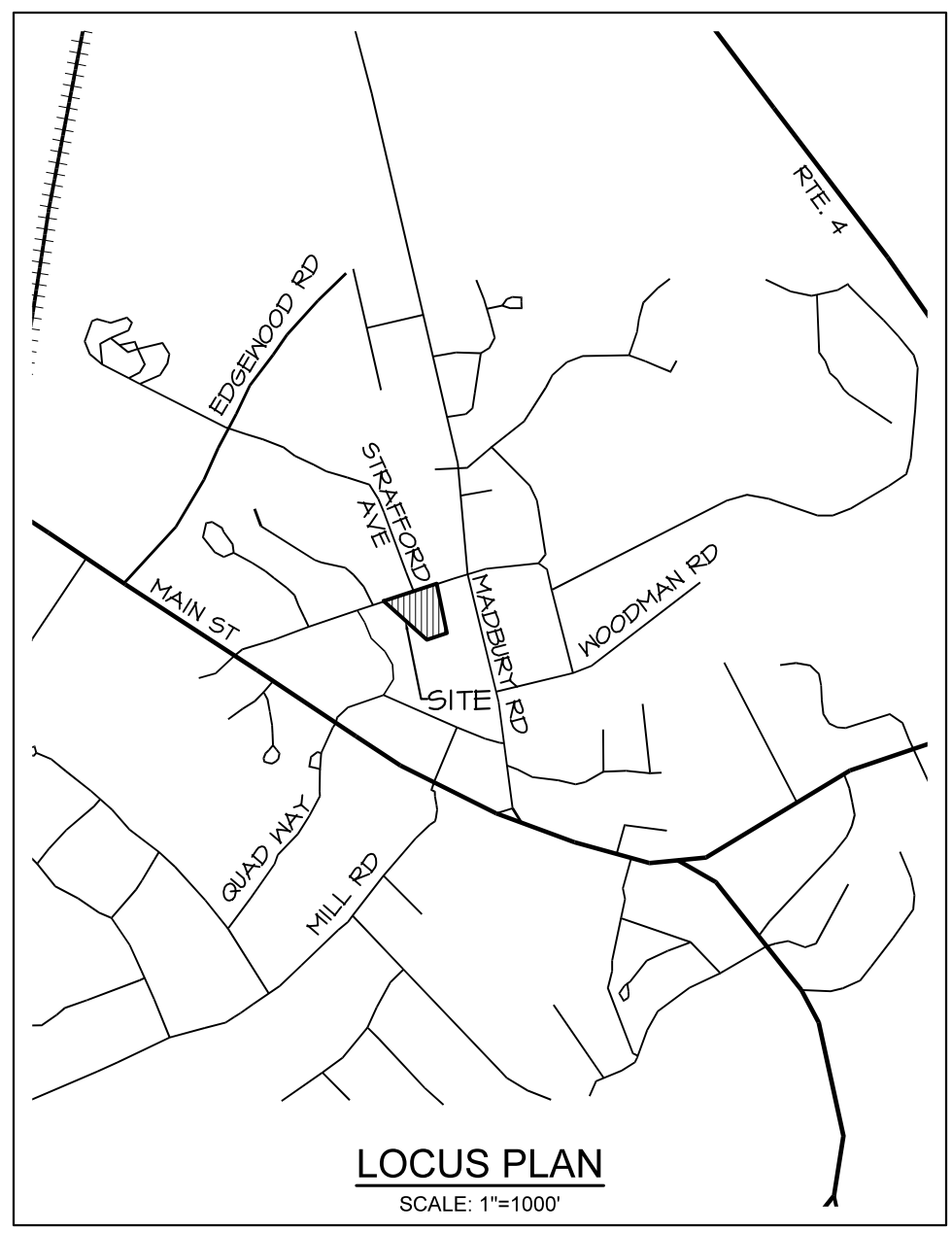
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 - THE INTENT OF THIS PLAN IS TO SHOW A PROPOSED CONCEPTUAL AMENDED BUILDING FOOTPRINT FOR A FRATERNITY HOUSE OVERLAYED BY THE EXISTING BUILDING ON SITE, AND THE BUILDING ADDITIONS THAT WERE APPROVED BY THE DURHAM PLANNING BOARD ON MAY 13, 2020.
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1	AUG 7, 2020	CONCEPTUAL	
ISS. DATE:	DESCRIPTION OF ISSUE:		CHK.
DRAWN: JJM	DESIGN: JJM		
CHECKED: BDS	CHECKED: BDS		

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RICHMOND PROPERTY GROUP
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TITLE:
OVERLAY SITE PLAN
FOR
RICHMOND PROPERTY GROUP
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