



Town of Ayer
Zoning Board of Appeals
Ayer Town Hall – 1 Main Street – Ayer, MA 01432

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SEP 15 2023

TOWN OF AYER
TOWN CLERK

9:00am
SO

Wednesday September 20, 2023

6:00 PM

Remote Participation Meeting Agenda

In accordance with Chapter 2 of the Acts of 2023, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (Meeting ID# 857 9728 7177) or by calling (312-626-6799). For additional information about remote participation, please contact Samantha Benoit, Administrative Coordinator at zba@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

6:00 PM **Call to Order**

Approval of Agenda

Public Hearing – Application for Special Permit – DMG Investments, LLC.
201-205 West Main Street (Filed August 30, 2023)

Approval of Meeting Minutes
July 19, 2023

Board Discussion

Adjournment

The next regularly scheduled ZBA Meeting is Wednesday October 18, 2023 at 6:00 PM.



Town of Ayer
Zoning Board of Appeals
Ayer Town Hall – 1 Main Street – Ayer, MA 01432

12:00pm

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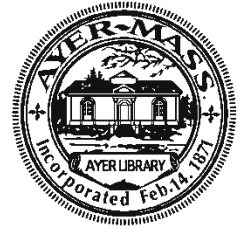
Public Hearing Notice

TOWN OF AYER
TOWN CLERK

CO

The Ayer ZBA will be conducting a remote public hearing at 6:00pm on Wednesday September 20, 2023 regarding an application submitted by DMG Investments, LLC for the property located at 201-205 West Main Street Ayer, MA. The applicant is seeking a Special Permit to build within the Floodplain Overlay District pursuant to the Ayer Zoning Bylaw Section 8.2.5.A.1, Section 8.2.5.A.2 (Use Regulations of the Floodplain Overlay District) and Section 8.2.5.C.2 (Uses allowed by Special Permit in the Floodplain Overlay District). For Zoom/Call-In information please contact zba@ayer.ma.us or 978-772-8220 x 114.

Advertised: September 6, 2023 and September 13, 2023 – *The Lowell Sun*



**Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING**

Name of Applicant: Cian Hamill on behalf of DMG Investments LLC
(Full Name)

100 Wall Street, Suite 1601, New York, NY 10005
(Address)

(347) 574-3454
(Phone Number)

cianhamill@dmginvestments.com
(Email Address)

Applicant is: Owner Tenant Licensee Prospective Buyer*
**If you are a tenant, licensee or prospective buyer please include a letter from the property owner acknowledging the application with the Zoning Board of Appeals.*

The name and address of each holder or legal title to the land which is the subject of this petition (list as it appears on the Deed):

S&J West Main Realty Trust

Location of Property:

201 West Main Street, Ayer, MA 01432

Assessor's Map 32 **Parcel** 14 & 15 **Land Size** 203,262 sf / 4.67 acres

Zoning District: A-1 A-2 GR **GB** DB LI I MUT HCS
Circle One ***WEST AYER VILLAGE - VILLAGE CORE (LOT 15) & VILLAGE STREET (LOT 14) ZONES

Registry of Deeds Book 62369 **Page** 524 & 526

Aquifer Protection Overlay District (circle one) Zone I **Zone II** N/A

The undersigned hereby petitions the Town of Ayer Zoning Board of Appeals to vary the terms of the Zoning Bylaws for the following purpose:

- A VARIANCE from the requirements of the Town of Ayer Zoning Bylaws
- A SPECIAL PERMIT for a specific use which is subject the approval of the Zoning Board of Appeals
- A SPECIAL PERMIT to expand, alter, or change a non-conforming use or structure.
- ADMINISTRATIVE APPEAL (i.e. Building Inspector Decision)

Did you request a building permit from the Town of Ayer Building Inspector? No

If yes, were you denied a permit by the Town of Ayer Building Inspector? N/A

If you were denied a permit, please attach a copy of the decision from Building Commissioner's Office.

State briefly the reasons for application and include the appropriate citation(s) from the Ayer Zoning Bylaw:

Filing for Special Permit under Ayer Zoning Bylaw Section 8.2.5.A.1-2 - (1)a technical evaluation by a Registered Professional Engineer demonstrates that the new construction or encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge; and (2) [new construction] is otherwise allowed by a special permit from the Board of Appeals under subsection C below; and Ayer Zoning Bylaw Section 8.2.5.C.2 - If any land in the Flood Plain Overlay District is proven to the satisfaction of the Board of Appeals as being in fact not subject to flooding or not unsuitable because of drainage conditions for any use which would otherwise be permitted if such land were not, by operation of this section, in the Floodplain Overlay District, and said Board finds that the use of such land for any such use will not interfere with the general purpose for which the Floodplain Overlay District has been established and will not be detrimental to the public health, safety, or welfare, the Board of Appeals may, after a public hearing with due notice, issue a special permit for any such use. Please refer to the accompanying narrative for additional information.

Date: 8/21/2023

Signed by  (Petitioner)

347-574-3454
(Daytime Phone Number)

cianhamill@dmginvestments.com
(Email)

August 30, 2023

Ayer Zoning Board of Appeals
Ayer Town Hall
1 Main Street
Ayer, MA 01432

Attn: Samantha Benoit, Administrative Coordinator

**Re: Special Permit for Use within Flood Plain Overlay District
DMG Investments, LLC
201-205 W Main Street (Map 32, Lots 14 & 15)
Ayer, MA**

Dear Members of the Board:

On behalf of the Applicant, DMG Investments, LLC, we respectfully submit this Special Permit application package under Ayer Zoning Bylaw Sections 8.2.5.A.1-2 and 8.2.5.C.2 for the above referenced project. The following documents are enclosed to complete this application:

- 13 copies of the Special Use Permit Application;
- 13 copies of an Owner Authorization Letter;
- 13 copies of Compensatory Floodplain Calculations prepared by Bohler Engineering MA, LLC;
- One (1) copy of an abutters list certified by the Ayer's Assessors Office;
- Five (5) full size (24"x36") and eight (8) reduced size (11"x17") copies of the Proposed Site Plan, Grading Plan, and Drainage Plan, prepared by Bohler Engineering MA, LLC and dated June 20, 2023;
- Five (5) full size (24"x36") and eight (8) reduced size (11"x17") copies of the Existing Conditions Plan prepared by Feldman Geospatial revised through September 8, 2022;
- Check in the amount of \$165.00 payable to the Town of Ayer for Special Use Permit filing fee (under separate cover).

Payment of the legal ad fee and mailing of the abutter's notifications will be provided upon acceptance of the submission package by your office per the application requirements.

Project Description

The project site is located at 201-205 W Main Street in Town of Ayer, Massachusetts, identified as Map 32 Lots 14 and 15 on the Town of Ayer Tax Assessor's Maps. The approximately 4.67 acre property currently includes an existing building and cleared land which is used for vehicle and materials storage. The subject site is located within the West Ayer Village - Village Core (Lot 15) & Village Street (Lot 14) Zoning Districts, within a Zone II overlay, and within the Flood Plain Overlay District. There is a vernal pool located to the east of the site, bordering vegetative wetlands (BVW) located on the northeastern portions of the site, and an NHESP species habitat overlay.

The proposed mixed-use development would consist of 2,066± sf and 4,064± sf ground floor retail spaces and an additional three stories consisting of 170 residential units. The development would be serviced by 172 proposed parking spaces. Access to the project is proposed to be provided via a driveway on West Main Street to the east of the proposed building. The proposed project will also include other site upgrades inclusive of site lighting, landscaping, utility, and storm water management infrastructure.

Variances for lot width and building height were granted by the Zoning Board of Appeals on April 24, 2023. A Notice of Intent for work within the 100-foot buffer area is currently being heard by the Ayer Conservation Commission. NHESP has issued a determination that the proposed project will not adversely affect a resource habitat area nor result in a prohibited take of a rare species on site. A Special Permit application pursuant to the Ayer Zoning Bylaws Section 8.1.4(C)(3), Site Plan Review Application, and Stormwater Management Permit Application are currently being heard by the Ayer Planning Board.



The project site is located within the FEMA Flood Zone AE with a Base Flood Elevation (BFE) of 217.1 per available FEMA mapping dated 12/6/2022. Portions of the site at and below the BFE will be disturbed as part of the proposed development, and additional areas of the site have subsequently been designed for compensatory flood storage. Compensatory Floodplain Calculations have been provided for the existing and proposed conditions on site and are included as part of this submission.

We trust that this information is sufficient to complete our Special Permit application at this time. We look forward to discussing this project with the Zoning Board of Appeals at the next scheduled hearing date. Please do not hesitate to contact us at (508) 480-9900 should you have any questions or wish to discuss the project further.

Sincerely,

BOHLER ENGINEERING MA, LLC

A handwritten signature in blue ink, appearing to read "Drew Garvin".

Drew Garvin, Project Manager



Brighter Horizons Environmental Corp.

August 16, 2023

To Whom It May Concern,

This letter is to acknowledge the application to the Zoning Board of Appeals for the property located at 201-205 West Main Street, Ayer, MA. As the property owners, we are aware of, and consent to, the application submitted by the prospective buyer, DMG Investments LLC.

Regards,

Jason Squeglia
President

BRIGHTER HORIZONS ENVIRONMENTAL

201 West Main Street Ayer, MA 01432 | Office 978-970-0500 | Fax 978-970-0501 | info@bhenv.com
www.bhenv.com

West Ayer Village - Proposed Mixed Use Residential Development
Floodplain Analysis Calculations

COMPENSATORY FLOODPLAIN CALCULATIONS

DMG Investments, LLC

201 West Main Street, Ayer, MA

Area #1						
Elevation (FT)	Existing Surface Area (SF)	Existing Volume (CF)	Proposed Surface Area (SF)	Proposed Volume (CF)	Net Volume (CF)	
211	610	788	610	788	0	N/A
212	1,577	1,636	1,556	1,654	18	Increase
213	2,592	3,224	2,640	3,315	91	Increase
214	3,650	4,847	3,610	4,874	27	Increase
215	4,450	7,008	4,821	7,276	268	Increase
216	5,191	9,135	5,291	9,235	100	Increase
217	6,157	11,855	5,916	11,953	99	Increase
217.1	6,261	9,636	5,971	9,693	57	Increase
Total		48,129		48,788	659	Increase

Note:

Flood Zone "AE" at Elevation 217.1 per current FEMA maps.



SITE INFORMATION

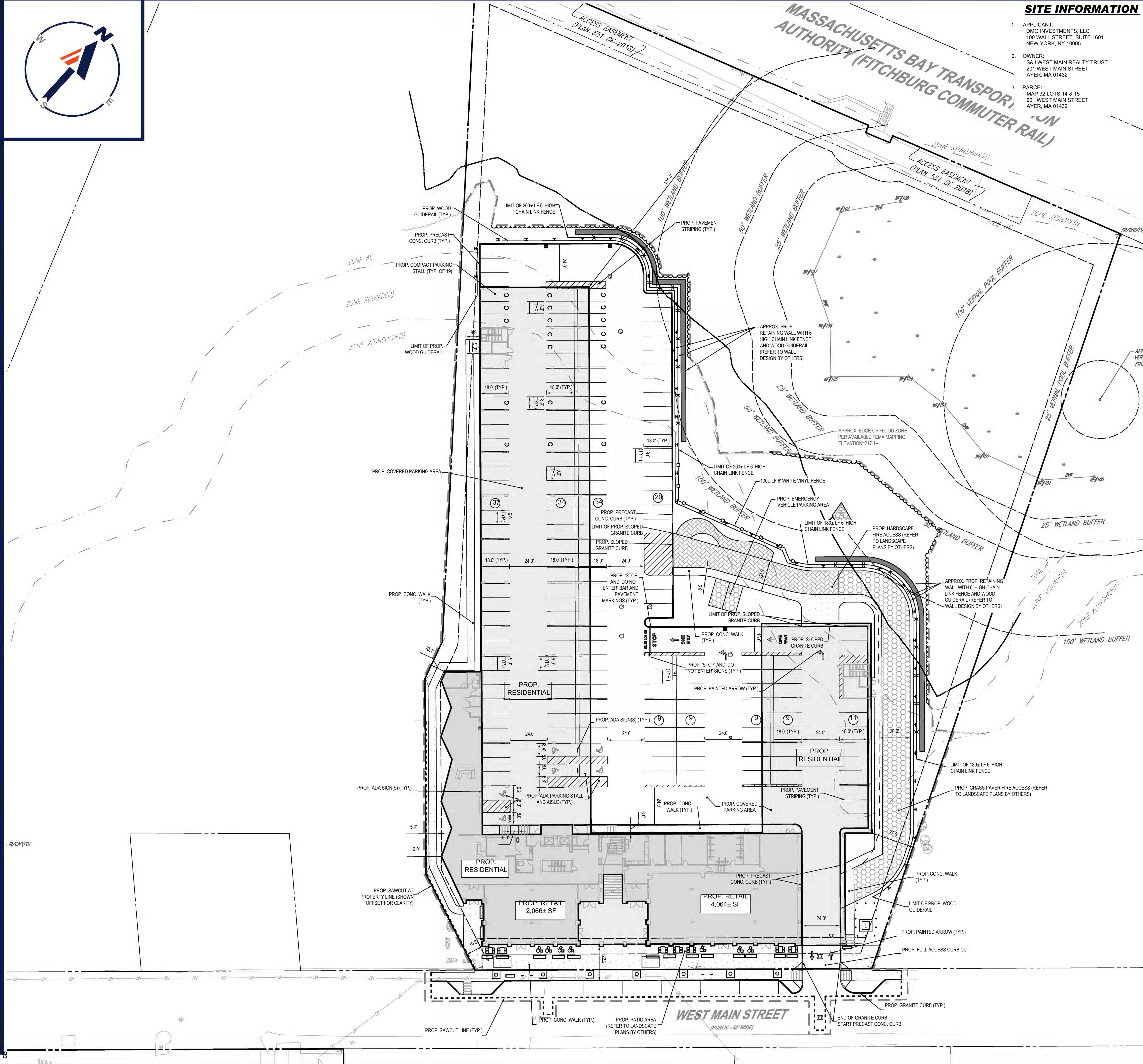
- APPLICANT:
DMG INVESTMENTS, LLC
100 WALL STREET, SUITE 1601
NEW YORK, NY 10005
- OWNER:
S&J WEST MAIN REALTY TRUST
201 WEST MAIN STREET
AYER, MA 01432
- PARCEL:
MAP 32 LOTS 14 & 15
201 WEST MAIN STREET
AYER, MA 01432

ZONING ANALYSIS TABLE

ZONING DISTRICT	REQUIRED PERMIT	REQUIRED	EXISTING	PROPOSED
WEST AYER VILLAGE (VILLAGE CORE & VILLAGE STREET ZONES)	SPECIAL PERMIT FROM PLANNING BOARD REQUIRED FOR GREATER THAN 15% PROP. IMPERVIOUS AREA			
OVERLAY DISTRICT	AQUIFER PROTECTION OVERLAY DISTRICT			
LOT AREA	NS	203,382 SF	NO CHANGE	
LOT WIDTH	60 FT (MIN.) / 192 FT (MAX.)	254.1 FT (E)	NO CHANGE (V)	
MAX. BLDG. COVERAGE	60%	1.0%	28.3%	
FRONT SETBACK	10 FT (MIN.) / 20 FT (MAX.)	23.2 FT (E)	15.0 FT	
MIN. SIDE SETBACK	10 FT	23.4 FT	10.0 FT	
MIN. REAR SETBACK	25 FT	417.1 FT	165.8 FT	
BUILDING HEIGHT	1 STORY (MIN.) / 3 STORIES (MAX.)	2 STORIES	4 STORIES (V)	
MAX. IMPER. COVERAGE	NS	8.0%	48.0%	
PARKING SPACES	289	5	172 (V)(1)	
ACCESS. PARKING SPACES	6	NA	6	
PARKING STALL CRITERIA STANDARD: 9 FT x 18 FT COMPACT: 8 FT x 16 FT	USE/CATEGORY: RETAIL, RESIDENTIAL REQUIRED PARKING: RETAIL: RESIDENTIAL: CALCULATION: RESIDENTIAL: [APPROX. 21 STUDIO UNITS X (1 SPACE/UNIT) + APPROX. 125 1-BEDROOM UNITS X (1.5 SPACES/UNIT) + APPROX. 24 2-BEDROOM UNITS (2 SPACES/UNIT)] X 1.05 = 270 SPACES RETAIL: 6,130± SF X (3 SPACES/1,000 SF) = 19 SPACES			
ACCESSIBLE PARKING CRITERIA STANDARD: 5 FT x 18 FT STALL (MIN.) 5 FT x 18 FT AISLE (MIN.) VAN: 8 FT x 18 FT STALL (MIN.) 8 FT x 18 FT AISLE (MIN.)	1-25 SPACES = 1 MIN. ACCESSIBLE SPACE 26-50 SPACES = 2 MIN. ACCESSIBLE SPACES 51-75 SPACES = 3 MIN. ACCESSIBLE SPACES 76-100 SPACES = 4 MIN. ACCESSIBLE SPACES 101-150 SPACES = 5 MIN. ACCESSIBLE SPACES 151-200 SPACES = 6 MIN. ACCESSIBLE SPACES 201-300 SPACES = 7 MIN. ACCESSIBLE SPACES 301-400 SPACES = 8 MIN. ACCESSIBLE SPACES	401-500 SPACES = 9 MIN. ACCESSIBLE SPACES 501-1,000 SPACES = 10 MIN. ACCESSIBLE SPACES 1001+ SPACES = 11 MIN. ACCESSIBLE SPACES	MIN. 3 SPACES PER 1,000 SF GFA MAX. 1 SPACE PER 200 SF GFA 1 SPACE PER STUDIO UNIT 1.5 SPACES PER ONE BEDROOM UNIT 2 SPACES PER 2+ BEDROOM UNIT PLUS 5% ADDITIONAL SPACES FOR VISITOR PARKING	

(1) 10% OF REQUIRED PARKING SPACES MAY BE COMPACT SPACES (8 FT x 16 FT) IN PARKING AREAS EXCEEDING 50 SPACES (12% PROVIDED).

- REQUESTED RELIEF:
- \$10.5.16.B - LOT WIDTH. THE APPLICANT IS REQUESTING RELIEF TO INCREASE THE MAXIMUM LOT WIDTH TO 254.1 FT. (GRANTED 04/24/2023)
 - \$10.5.16.C - BUILDING HEIGHT. THE APPLICANT IS REQUESTING RELIEF TO INCREASE THE MAXIMUM BUILDING HEIGHT TO FOUR (4) STORIES. (GRANTED 04/24/2023)
 - \$9.1.2 - OFF-STREET PARKING REQUIREMENTS. THE APPLICANT IS REQUESTING RELIEF TO REDUCE THE REQUIRED OFF-STREET PARKING TO 172 SPACES.
 - \$9.1.5 - OFF-STREET PARKING DESIGN STANDARDS. THE APPLICANT REQUESTING RELIEF TO INCREASE THE MAXIMUM PERCENTAGE OF SMALL-CAR PARKING SPACES TO 12%.



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SITE CIVIL AND CONSULTING ENGINEERING
PROGRAM MANAGEMENT
LANDSCAPE ARCHITECTURE
SUSTAINABLE DESIGN
PERMITTING SERVICES
TRANSPORTATION SERVICES

REVISIONS

REV	DATE	COMMENT	DRAWN BY	CHECKED BY
1	02/14/2023	REVISED BUILDING FOOTPRINT	CPB	DEG
2	06/07/2023	REVISED FOR SITE PLAN REVIEW	CPB	DEG
3	06/20/2023	REVISED FOR NOI SUBMISSION	CPB	DEG

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ISSUED FOR PERMIT

PROJECT No.: MAA220121.00
DRAWN BY: CPB
CHECKED BY: DGLMD
DATE: 01/30/2023
CAD ID: MAA220121.00-SFPD-3A

PROPOSED SITE PLAN DOCUMENTS

FOR
DMG INVESTMENTS, LLC
PROPOSED WEST AYER VILLAGE MIXED USE RESIDENTIAL DEVELOPMENT
MAP: 32 LOT: 14 & 15
201 & 205 WEST MAIN STREET,
TOWN OF AYER,
MIDDLESEX COUNTY,
MASSACHUSETTS

BOHLER
352 TURNPIKE ROAD
SOUTHBOROUGH, MA 01772
Phone: (508) 480-9900
www.BohlerEngineering.com

J.G. SWERLING
JOSHUA G. SWERLING
PROFESSIONAL ENGINEER
MASSACHUSETTS LICENSE # 00707
NEW HAVEN, CONNECTICUT
CONNECTIONS LICENSE No. 11425

GENERAL CONTRACTOR TO PROVIDE A SITE SPECIFIC WALL DESIGN AND CALCULATIONS THROUGH THE GENERAL CONTRACTOR'S SELECTED WALL MANUFACTURER'S LICENSED PROFESSIONAL STRUCTURAL ENGINEER.

MAINTENANCE OF A CLEAR SIGHT LINE IS THE RESPONSIBILITY OF THE PROPERTY OWNER

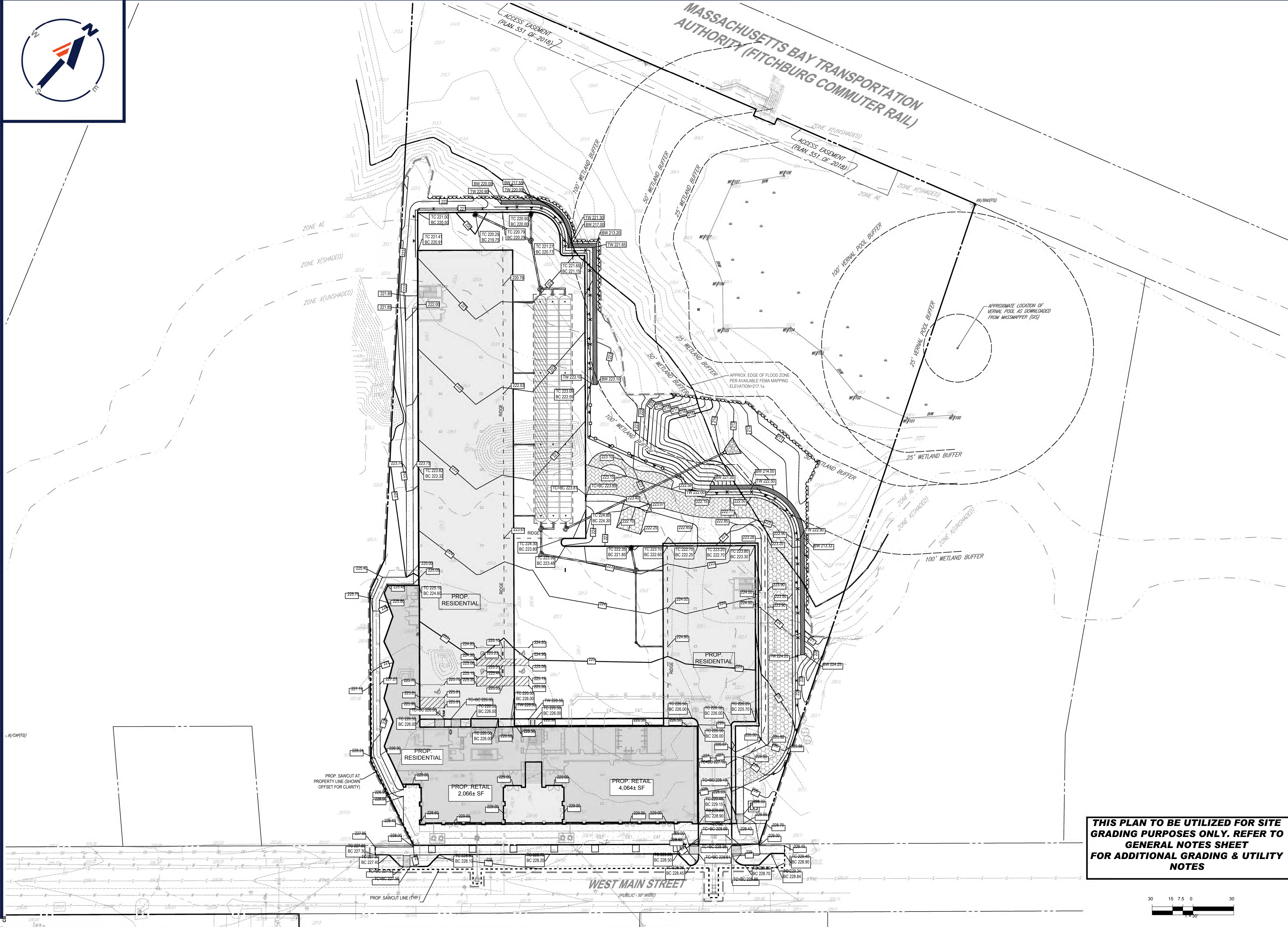
THIS PLAN TO BE UTILIZED FOR SITE LAYOUT PURPOSES ONLY. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL NOTES

SITE LAYOUT PLAN

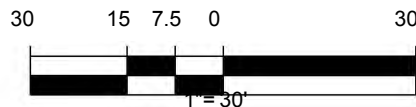
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C-301

REVISION 3 - 06/20/2023

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THIS PLAN TO BE UTILIZED FOR SITE GRADING PURPOSES ONLY. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL GRADING & UTILITY NOTES



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 PROGRAM MANAGEMENT
 LANDSCAPE ARCHITECTURE
 SUSTAINABLE DESIGN
 PERMITTING SERVICES
 TRANSPORTATION SERVICES

REVISIONS

REV	DATE	COMMENT	CHECKED BY
1	02/14/2023	REVISED BUILDING FOOTPRINT	CPB
2	06/07/2023	REVISED FOR SITE PLAN REVIEW	CPB
3	06/20/2023	REVISED FOR NOI SUBMISSION	DEG

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PROJECT No.: MAA220121.00
 DRAWN BY: CPB
 CHECKED BY: DGLMD
 DATE: 01/30/2023
 CAD ID: MAA220121.00-SPPD-3A

PROPOSED SITE PLAN DOCUMENTS

FOR
DMG INVESTMENTS, LLC
 PROPOSED WEST AYER VILLAGE MIXED USE RESIDENTIAL DEVELOPMENT
 MAP: 32 LOT: 14 & 15
 201 & 205 WEST MAIN STREET, TOWN OF AYER, MIDDLESEX COUNTY, MASSACHUSETTS

BOHLER
 352 TURNPIKE ROAD
 SOUTHBOROUGH, MA 01772
 Phone: (508) 480-9900
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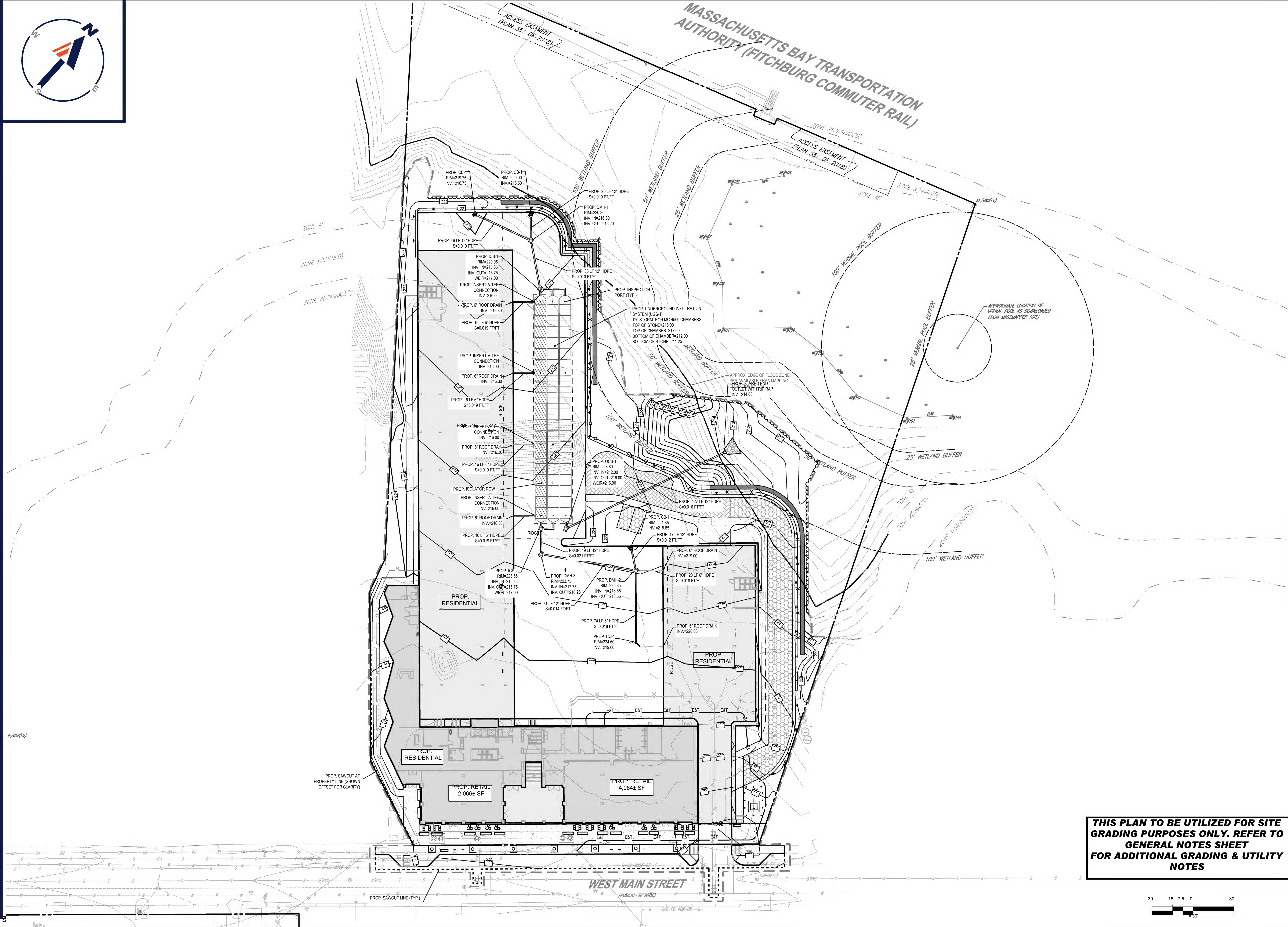
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 JOSHUA G. SWERLING
 PROFESSIONAL ENGINEER
 MASSACHUSETTS LICENSE # 007097
 NEW HAMPSHIRE LICENSE # 007097
 CONNECTICUT LICENSE # 00785
 RHODE ISLAND LICENSE # 11425

GRADING PLAN

SHEET NUMBER:
C-401

REVISION 3 - 06/20/2023

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REVISIONS

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DMG INVESTMENTS, LLC

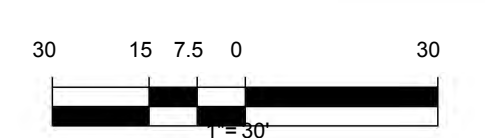
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 CONNECTICUT LICENSE # 0785
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SHEET TITLE:
DRAINAGE PLAN

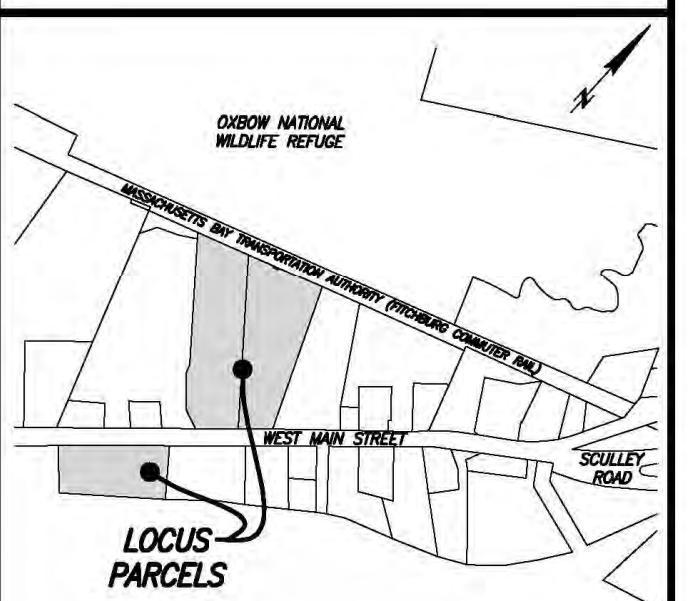
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REVISION 3 - 06/20/2023

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 10/20/2023

BOSTON HEADQUARTERS
152 HAMPDEN STREET
BOSTON, MA 02119

WORCESTER OFFICE
27 MECHANIC STREET
WORCESTER, MA 01608
(617)357-9740
www.feldmangeo.com



LOCUS MAP NOT TO SCALE

ADDRESS:

**201-203
WEST MAIN STREET
AYER, MASS.**

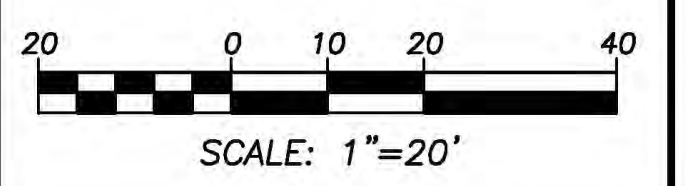
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PROJ MGR: TRA	APPROVED:
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REVISIONS:

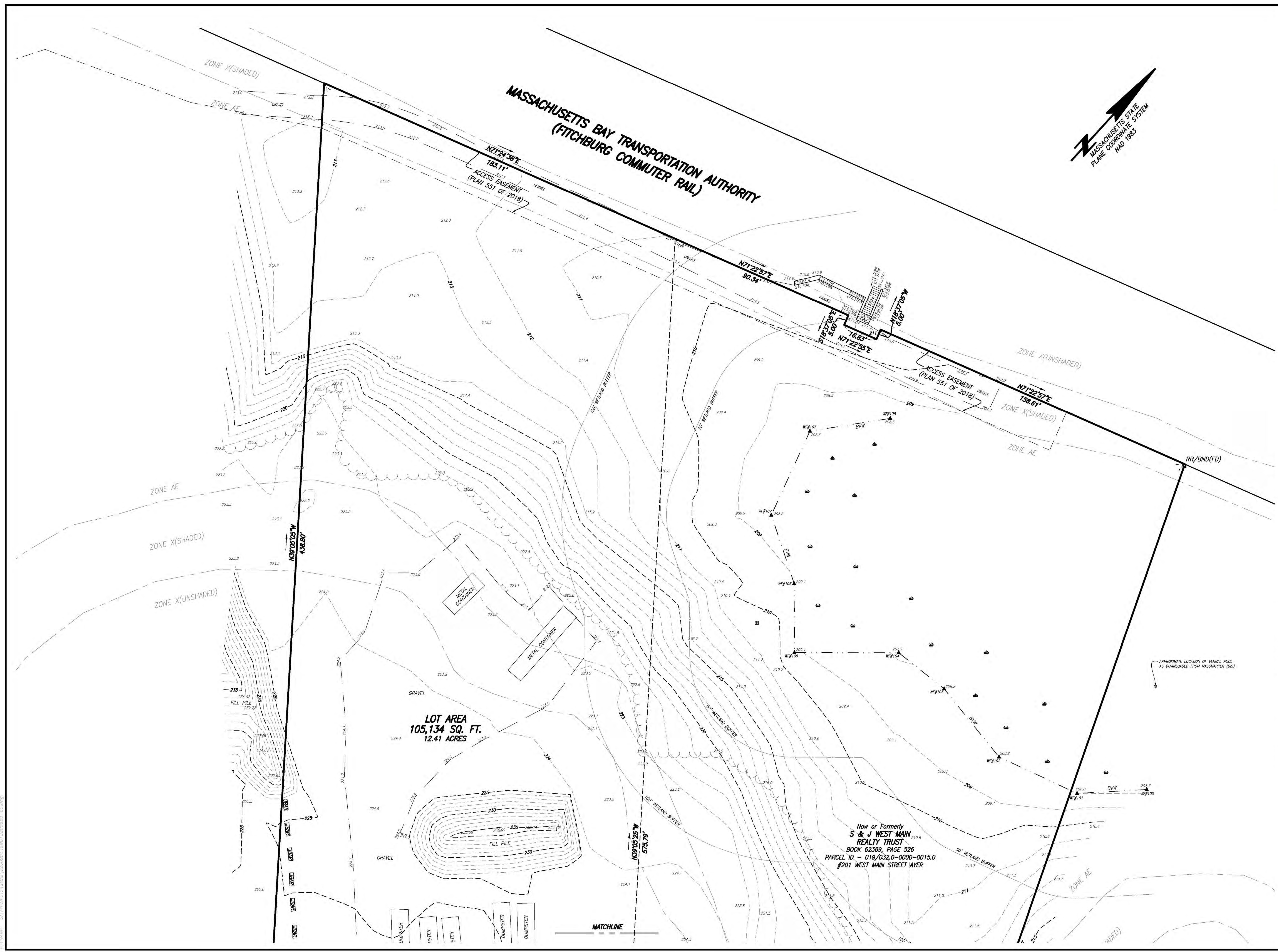
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**EXISTING CONDITIONS
PLAN**

DATE: SEPTEMBER 8, 2022



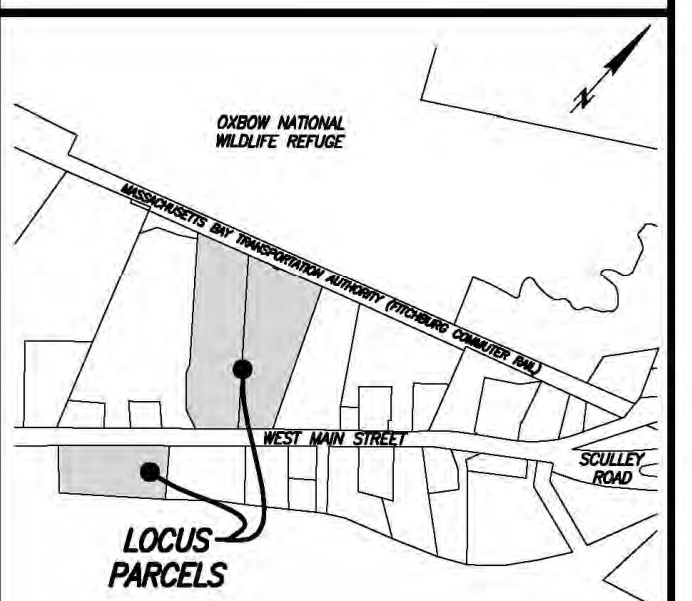
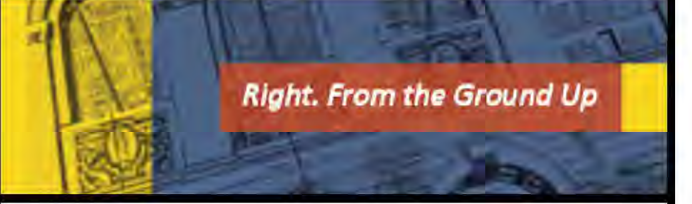
SHEET NO. 3 OF 4



10/1/2022 10:51:30 AM - 551 PRODUCTIONS 2022 10/1/2022 10:51:30 AM - 551 PRODUCTIONS 2022 10/1/2022 10:51:30 AM - 551 PRODUCTIONS 2022

BOSTON HEADQUARTERS
152 HAMPDEN STREET
BOSTON, MA 02119

WORCESTER OFFICE
27 MECHANIC STREET
WORCESTER, MA 01608
(617)357-9740
www.feldmangeo.com



LOCUS MAP NOT TO SCALE

ADDRESS:

**201-203
WEST MAIN STREET
AYER, MASS.**

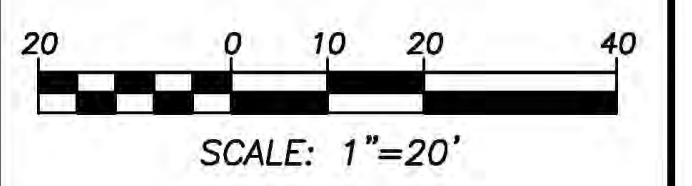
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PROJ MGR: TRA	APPROVED:
CALC: UK	CADD: UK
FIELD CHK:	CRD FILE: 2200983-EC

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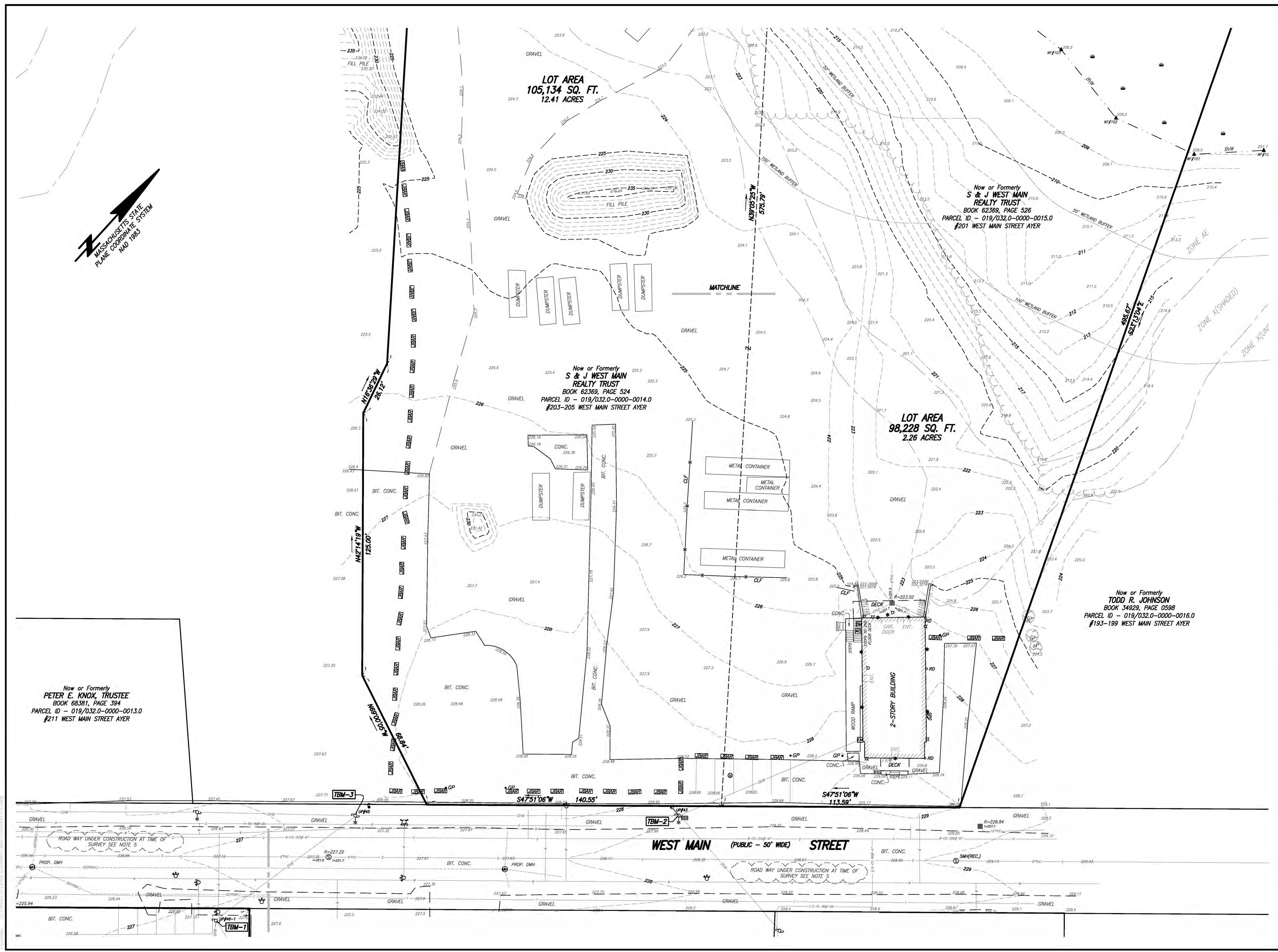
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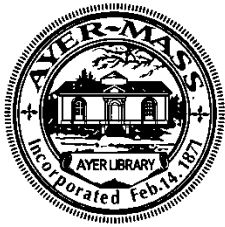
**EXISTING CONDITIONS
PLAN**

DATE: SEPTEMBER 8, 2022



SHEET NO. 2 OF 4





Town of Ayer
Zoning Board of Appeals
 Ayer Town Hall – 1 Main Street – Ayer, MA 01432

Department Head Review Summary

Applicant: DMG Investments
Address: 201-205 W. Main St.
Application for: Special Permit – Floodplain

Department	Comments
Town Manager	Defer to ZBA
Board of Health	<ul style="list-style-type: none"> • Major concerns over trash disposal area. • What will retail spaces be? Will there be Food Service, where will deliveries be? • How will snow removal take place – residential areas and parking lot.
Department of Public Works	See attached
Fire Department	No Fire Department issues
Police Department	PD had reviewed and no commentary on issues w/ floodplain. Will defer to departments w/ specific oversight.
Building Commissioner/Zoning Enforcement Officer	They have the ability not to encroach the floodplain by reducing the size of the project.
Conservation Commission/Agent	The Conservation Commission met with DMG back in July/Aug. at which time the Commission expressed concerns with snow storage onsite. DMG agreed to not have snow storage on site. The ZBA should note that snow storage was/is planned in the floodplain area. Also FEMA is in the process of updating floodplain maps and with more intense rain events floodplains are being arranged and stressed.
Treasurer/Tax Collector	Taxes current on both parcels
Town Clerk	No issues with Town Clerk's Office



Town of Ayer
Zoning Board of Appeals
Ayer Town Hall – 1 Main Street – Ayer, MA 01432

Assessor	No Comment
Economic & Community Development	Defer to Conservation Commission and Town Planner
Town Planner	DPW should review stormwater report and the flood compensation to make sure the applicant's calculations are correct.

Dan S. Van Schalkwyk, P.E., Director
Kimberly Abraham, Water & Sewer Superintendent
Matt Hernon, P.E., Town Engineer
Pam Martin, Business Manager



25 BROOK STREET
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September 8th, 2023

TO: Ayer Zoning Board of Appeals

**RE: Special Permit for Use within Flood Plain District
201- 205 West Main Street (Map 32, Lots 14 & 15)**

The Ayer Department of Public Works (DPW) has reviewed documents submitted by DMG Investments, LLC (Applicant) to the Zoning Board of Appeals (ZBA) on August 20th, 2023. The Applicant proposes a mixed-use residential development at the combined 201 – 205 West Main Street parcel. The proposed four-story development contains ground-floor retail and 170 residential units. The Applicant is seeking a Special Permit to build within the Floodplain Overlay District pursuant to Ayer Zoning Bylaw Sections 8.2.5.A.1-2 and Section 8.2.5.C.2.

Documents reviewed by DPW include:

- Application for a Hearing, submitted by DMG Investments, dated August 21st, 2023
- Letter from Bohler (Engineer), dated August 30th, 2023
- Proposed Site Plan Documents by Bohler, dated June 20th, 2023
- Compensatory Floodplain Calculations

DPW’s comments are summarized below:

- Bohler has provided calculations which adequately demonstrate that the proposed conditions provide an increase in compensatory flood storage volume over existing conditions.
- Small portions of the proposed development encroach Zone AE on the latest FEMA Maps. However, these areas are proposed to be at an elevation well above the Zone AE elevation.
- The Applicant recently submitted a Site Plan Review Application to the Planning Board. Significant changes to the site’s design could be made during the Site Plan Review process. This could require a new application to ZBA for a Special Permit for use within the Flood Plain Overlay District.

Should you have any questions or comments, please do not hesitate to contact this office.

Regards,

AYER DEPARTMENT OF PUBLIC WORKS

Dan Van Schalkwyk, P.E.
Director

Matt Hernon, P.E.
Town Engineer



Town of Ayer
Zoning Board of Appeals
Ayer Town Hall – 1 Main Street – Ayer, MA 01432

Wednesday, July 19, 2023

Remote Participation Open Session Meeting Minutes

Present: Samuel Goodwin, Chair; Michael Gibbons, Vice-Chair; Ronald Defilippo, Clerk; Jess Gugino; John Ellis; Marylin Schmalenberger, Alternate Member

Also Present: Samantha Benoit, Administrative Coordinator

Call to Order: S. Goodwin called the meeting to order at 6:02pm. He stated that in accordance with Chapter 2 of the Acts of 2023, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (Meeting ID# 857 9728 7177) or by calling (312-626-6799). For additional information about remote participation, please contact Samantha Benoit, Administrative Coordinator at sbenoit@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

Approval of the Agenda: J. Ellis asked that the notice at the bottom of the agenda noting the next meeting of the ZBA be changed from July 19, 2023 to August 16, 2023.

M. Gibbons made a motion to approve the agenda as amended.

Seconded by J. Gugino.

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Public Hearing – Application for a Variance – Tim Santiago – 1 Wright Way (Filed June 6, 2023).

S. Goodwin opened the public hearing at 6:05pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on June 30, 2023, and July 7, 2023. The applicant is seeking a Variance from the Ayer Zoning Bylaw area requirements for property located within the A-2 Zoning District, which requires 12,000 sq. ft. Proposed Lot 1-A will contain 12,005 sq. ft. and 116.21 ft. of frontage and proposed Lot 1-B will contain 8,695 sq. ft. and 123.55 ft of frontage on Wright Way.

Kevin Conover of David E. Ross Associates Inc. presented on behalf of the applicant Tim Santiago. The applicant was also present.

K. Conover explained that there is currently a house on the property located at 1 Wright Way, and that the applicant would like to divide the property to build a second single family home

where the garage is currently located. In doing so the lot where T. Santiago would build (Lot 1B) would not have the required square footage as laid out in the Ayer Zoning Bylaws. The building of and size of this home would be consistent with existing density of the area.

S. Goodwin asked as to why this variance was being asked for and noted his concerns about the lot shape.

K. Conover explained that the Town of Ayer does not take the shape of a lot into consideration but only the total square footage.

T. Santiago explained his reasoning for the variance request. He currently lives with his parents who are getting older. He would like to live close by so he can care for them but also have a space of his own.

S. Goodwin noted that given the size of the lot the home would be small in size.

K. Conover explained that the house would be 24 feet wide. The structure would be small and conform with all required setbacks. The size of the home would be consistent with other homes in the neighborhood.

S. Goodwin asked what would happen to the home in the future.

T. Santiago explained he has no plans to move into the larger home in the future and the property would likely stay in the family. The future has not been considered at this time.

J. Ellis noted that everything appears too close and tight.

R. Defilippo agreed that the lot appears too small. The plan takes advantage of the unusable portion of the lot to justify the frontage and square footage. He also noted the Police Departments concern about parking.

K. Conover addressed the parking situation. The current home has parking on the south side of the property. The new home would most likely have parking in front of the house as most other houses do in the neighborhood.

J. Gugino also has concerns about the unusable portion of lot 1B, and is not concerned about the increased density near the pond.

K. Conover noted that all work would occur outside of the buffer zone.

J. Gugino reiterated her concern about the increased density.

K. Conover explained that there is already a garage in existence where the home would be built.

M. Gibbons primary concern was the setbacks, and that more variances may be needed.

K. Conover the applicant is proposing to build something that would not need variances, and would be consistent with what is already in the neighborhood.

J. Ellis asked if this would become two properties.

K. Conover explained that the variance is needed in order to make this lot two properties.

J. Gugino noted that in doing so the Board would be creating a new non-conforming lot. She also asked if an addition could be made instead.

K. Conover explained the applicant would like his own space.

Geoff Tillotson, Clerk of the Ayer Planning Board, asked if the applicant has explored accessory structures and dwelling units. The addition of that bylaw was to allow for accessory structures to be added to a property in cases such as this and would not require an ANR from the Planning Board.

K. Conover asked if the dwelling unit could be detached.
G. Tillotson believes it can be.

K. Conover recommended to his client the withdrawal of the application to further investigate the possibility of an accessory structure.

K. Conover asked to withdraw the application without prejudice.

Motion: S. Goodwin made a motion to allow the applicant to withdraw without prejudice.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Motion: S. Goodwin made a motion to accept the meeting minutes of June 21, 2023.

Seconded: R. Defilippo.

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Board Discussion

The Board will be updating their Rules and Procedures in an upcoming meeting. S. Goodwin would like this to be an in-person meeting in September or October, depending on how many applications have been received.

M. Gibbons would be willing to hold a special meeting in which this is the only item that is discussed.

R. Defilippo is also willing to attend an extra meeting.

Motion: J. Ellis made a motion to adjourn the meeting.

Seconded by M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Meeting Adjourned at 6:36pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____