

# City of Newburyport Zoning Board of Appeals Application for a SPECIAL PERMIT for NON-CONFORMITIES

Petitioner: Windward Shaw LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

Phone: 978-463-7700 Email: lisa@mtclawyers.com

Property Address: 149 State Street

Map and Lot(s): 34 - 14 Zoning District: B1

Book and Page(s): 36281 - 339

Owner(s) Name: Gordon Realty Holdings, LLC

Mailing Address (if different): \_\_\_\_\_

This request for a Special Permit for Non-Conformities is made under section(s):  
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Extension or Alteration (IX.B.2) | <input checked="" type="checkbox"/> Over 500 s.f. increase (IX.B.3.c) |
| <input type="checkbox"/> Parking                                     | <input type="checkbox"/> Plum Island Overlay District (XXI-G)         |
| <input type="checkbox"/> Upward Extension                            | <input type="checkbox"/> FAR  |
| <input type="checkbox"/> Open Space                                  | <input type="checkbox"/> Footprint Expansion                          |
| <input type="checkbox"/> Height                                      | <input type="checkbox"/> Height Increase                              |
| <input type="checkbox"/> Lot Area                                    |   |
| <input type="checkbox"/> Use   |   |
| <input type="checkbox"/> Rear Yard                                   |   |
| <input type="checkbox"/> Lot Coverage                                |   |
| <input type="checkbox"/> Side Yard                                   |   |
| <input type="checkbox"/> Lot Frontage                                |   |
| <input type="checkbox"/> Front Yard                                  |   |

Description of request:  
Construct loading dock attached to commercial building.

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

**City of Newburyport Zoning Board of Appeals**  
**Application for a SPECIAL PERMIT for NON-CONFORMITIES**

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	26,250 sq ft	26,250 sq ft	10,000 sq ft
Frontage	150 ft	150 ft	90 ft
Height*	13.1 ft	13.1 ft	35 ft
Lot Coverage (%)**	13.3%	17.1%	30%
Open Space (%)***	N/A	N/A	N/A
Front Setback	8.7 ft	8.7 ft	20 ft
Side A Setback	20.7 ft	20.7 ft	20 ft
Side B Setback	57.8 ft	21.6 ft	20 ft
Rear Setback	101.7 ft	101.7 ft	20 ft
Parking Spaces			
FAR****			

\*Height is measured to median roof line.

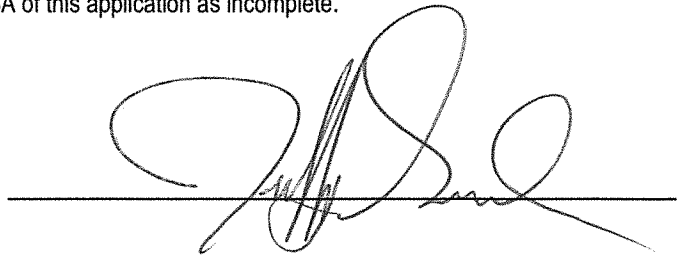
\*\*Total building footprint divided by the lot area expressed as a percentage.

\*\*\*Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

\*\*\*\*FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

Petitioner's and Owner's signature(s):



Lead, Talerman & Costa, LLC  
Attorneys at Law

30 Green Street  
Newburyport, MA 01950  
Phone 978.463.7700  
Fax 978.463.7747  
  
www.mtclawyers.com

March 20, 2020

By Hand

Rob Ciampitti, Chair  
Zoning Board of Appeals  
City of Newburyport  
City Hall  
60 Pleasant Street  
Newburyport, Massachusetts 01950

Re: Request for Special Permit for Non-Conformities;  
149 State Street, Newburyport, MA (the "Property")  
Assessor's Map: 34 Lot: 14

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Windward Shaw LLC (the "Applicant"), the contractor for owner of the Property Gordon Realty Holdings LLC, relative to the construction of a loading dock to a commercial building (the "Structure"). The Applicant seeks a Special Permit for Non-Conformities to construct a loading dock attached to an existing commercial building located on the Property (the "Structure").

The Property is located in the B1 zoning district under the Newburyport Zoning Ordinance (the "Ordinance"). The Property complies with all dimensional controls for a retail services use in the B1 district. The Structure is pre-existing nonconforming for front yard setback; the front yard setback is 8.7 feet where a minimum of 20 feet is required. The Structure otherwise complies with the applicable dimensional requirements.

The Applicant proposes to construct a loading dock and related delivery area comprising less than 1,000 square feet and attached to the southern side of the existing Structure. The loading dock will comply with all setback requirements under the Ordinance. The Applicant is seeking Conservation Commission approval given the existence of wetlands on the Property.

Because the existing Structure is pre-existing nonconforming for front yard setback, the Applicant will require a Special Permit for non-conformities under section IX-B-2.B of the Ordinance for the proposed addition. Section IX-B-2.B allows the modification of structures or uses where the Board finds:

1. That there will be no intensification or extension of an existing nonconformity or the addition of a new nonconformity; and
2. That the proposed change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

1. As shown on the plans attached hereto, the proposed addition will comply with all dimensional requirements of the Ordinance and therefore this prong is satisfied.

*Millis Office*

730 Main Street, Suite 1F  
Millis, MA 02054  
Phone 508.376.8400

2. The proposed change will not be substantially more detrimental to the neighborhood. The Property is more than twice the required size for a retail services use and the proposed addition is less than 1,000 square feet. The Property is located in the B1 district and the proposed addition will be set back more than 20 feet from the abutting property to the south. The rear of the proposed addition will be more than 100 feet from the rear lot line. Two bays will accommodate deliveries of goods to the Property, which presently occur in the open and in front of the property. The provision of a designated loading area to easily unload trucks does not constitute a change that is substantially more detrimental to the neighborhood.

The Applicant respectfully requests that the Board find that the proposed changes are not substantially more detrimental to the neighborhood than the pre-existing, nonconforming Structure and grant a Special Permit for Non-Conformities.

Respectfully submitted  
Windward Shaw LLC  
By its Attorney

   
Lisa L. Mead

Attachment  
cc: client

CITY OF NEWBURYPORT, MA  
ZONING DETERMINATION

APR# 2020-031

Name: Windward Shaw LLC for Gordon Realty Holdings, LLC c/o Lisa Mead, MTC LLC

Address: 149 State Street (Map 34 Lot 14) Zoning District(s): B1

Request: Construct addition of less than 1000sf to existing structure that is nonconforming for front yard setback. Existing lot and addition conform to the NZO for dimensional requirements.

ZONING BOARD REVIEW REQUIRED

Variance

- Dimensional Controls (VI)
  - Lot Area
  - Lot Frontage
  - Lot Coverage
  - Parking (VII)
  - Modification
- Open Space
- Height
- Lot Width
- Front Yard
- Side Yard
- Rear Yard

Sign Variance

- Signs (VIII)
  - Type
  - Lighting
  - Size
  - Location

Other

\_\_\_\_\_

Special Permit

- Table of Use Regulations (V.D) #: \_\_\_\_\_
- Spacing (VI.D)
- In-Law Apartment (XIIA)
- Bonus for Multifamily Developments (XVI)
- Personal Wireless Communication Services (XX)
- Demolition Control Overlay District (XXVIII)\*
- Wind Energy Conversion Facilities (XXVI)
- Other \_\_\_\_\_

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
  - Parking
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - Use
  - Rear Yard
  - Lot Coverage
  - Side Yard
  - Lot Frontage
  - Front Yard
- Over 500 sf. increase (IX.B.3.c)
- Plum Island Overlay District (XXI-G)
  - FAR
  - Lot Coverage
  - Height
  - Setbacks
  - Open Space

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Use Regulations (V-D) # \_\_\_\_\_
- One residential structure per lot (VI.C)
- Open Space Residential Development (XIV)
- Water Resource Protection District (XIX)
- Federal Street Overlay District (XXII)
- Courts and Lanes (XXIII)
- Waterfront West Overlay District (XXIV)
- Towle Complex Redev. Overlay District (XXV)
- Downtown Overlay District (XXVII)\*
- Other \_\_\_\_\_

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
  - Parking
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - Use
  - Rear Yard
  - Lot Coverage
  - Side Yard
  - Lot Frontage
  - Front Yard
- Over 500 sf. increase (IX.B.3.c)

Site Plan Review (XV)

- Major
- Minor

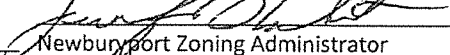
Smart Growth District (XXIX)

- Plan Approval

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- \*Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

\_\_\_\_\_  03/09/2020  
Newburyport Zoning Administrator Date

### 149 STATE ST

**Location** 149 STATE ST **MBLU** 34/ 14/ //

**Owner** GORDON REALTY HOLDINGS LLC **Assessment** \$508,500

**PID** 1901

**Building Count** 1

**Current Value**

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$231,100	\$277,400	\$508,500

**Owner of Record**

**Owner** GORDON REALTY HOLDINGS LLC **Sale Price** \$663,000

**Co-Owner** **Certificate**

**Address** 149 STATE ST **Book & Page** 36281/0339

NEWBURYPORT, MA 01950 **Sale Date** 10/26/2017

**Instrument** 1U

**Ownership History**

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
GORDON REALTY HOLDINGS LLC	\$663,000		36281/0339	1U	10/26/2017
BEBOSAM LLC	\$200,000		29830/0019	1S	10/01/2010
OROURKE JOSEPH TRUSTEE	\$100,000		07570/0488	00	11/05/1984
CLOTHESLINE INC	\$0		4449/ 462		

**Building Information**

**Building 1 : Section 1**

**Year Built:** 1930  
**Living Area:** 3,000

Building Attributes	
Field	Description
STYLE	Commercial
MODEL	Commercial

Land

Land Use

Use Code 3220  
Description STORE/SHOP MDL-94

Land Line Valuation

Size (Acres) 0.60  
Depth 0  
Assessed Value \$277,400

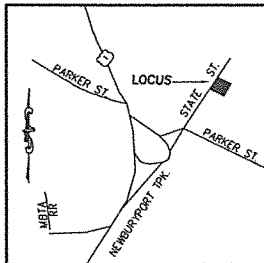
Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV1	PAVING-ASPHALT			23000 S.F.	\$26,500	1
SGN1	SIGN-1 SD W/M			200 S.F.&HGT	\$7,800	1

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$204,200	\$277,400	\$481,600

(c) 2020 Vision Government Solutions, Inc. All rights reserved.



**BASIS OF BEARINGS**  
 MASSACHUSETTS STATE PLANE  
 COORDINATE SYSTEM

**DEED REFERENCES**

BOOK 36281 PAGE 339  
 BOOK 2768 PAGE 478  
 BOOK 2718 PAGE 260

SEE BOOK 27877 PAGE 283 ABOUT  
 TERMS OF A NOTICE OF ACTIVITY AND  
 USE LIMITATION.

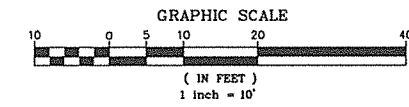
**PLAN REFERENCES**

1917 ESSEX COUNTY LAYOUT #2211  
 PLAN BOOK 114 PLAN 9  
 PLAN 297 OF 1970  
 PLAN BOOK 413 PLAN 45  
 PLAN BOOK 463 PLAN 16

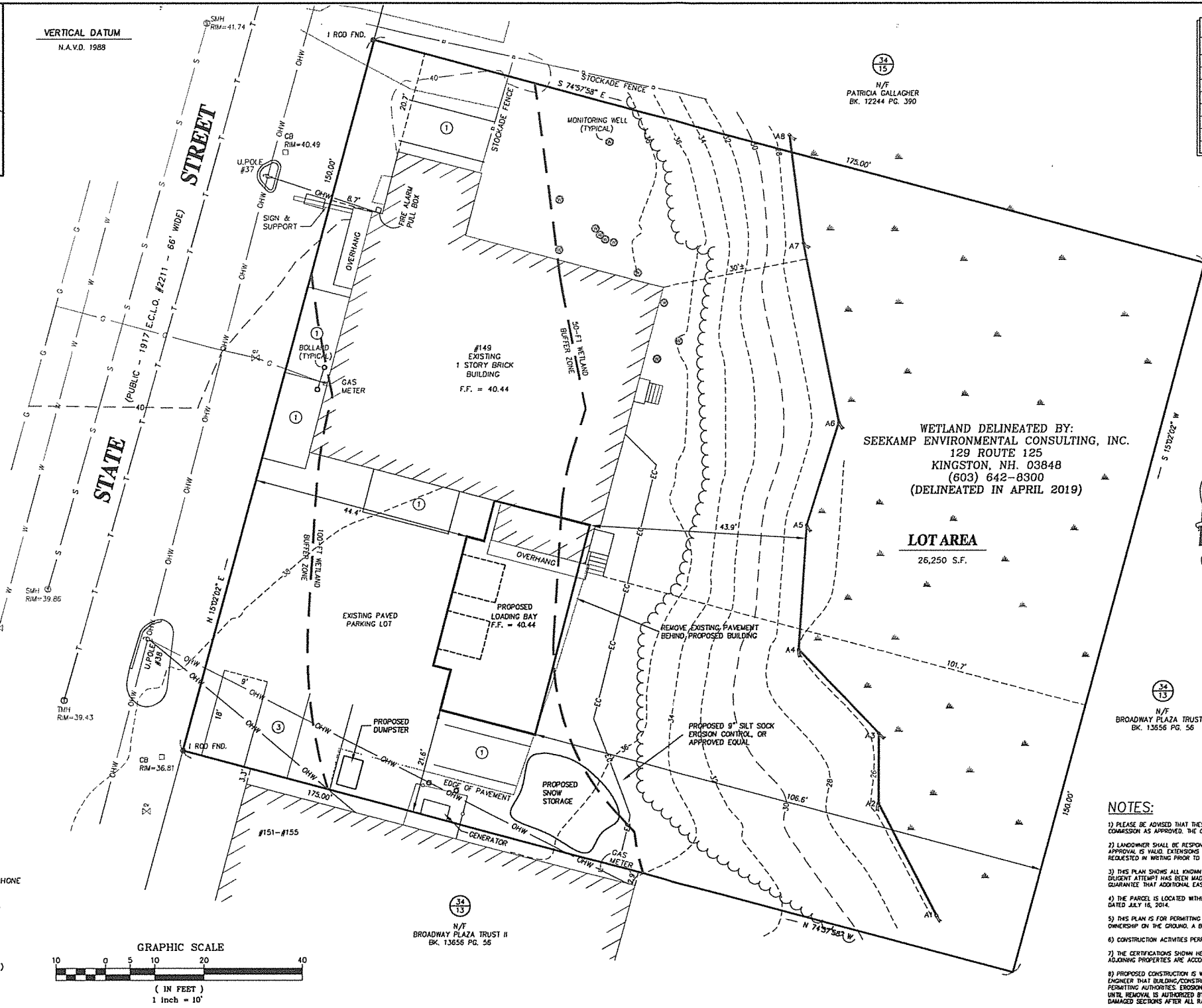
U. POLE #18-1  
 "TBM" MAG NAIL SET  
 IN U. POLE 39-1  
 ELEV = 42.52  
 (N.A.V.D. OF 1988)

**LEGEND**

●	IRON ROD
○	FND.
N/F	NOW OR FORMERLY
U	UTILITY POLE
D	DRAINAGE
W	WATER
S	SEWER
G	GAS
OHW	OVERHEAD WIRE
T	UNDERGROUND TELEPHONE
CB	CATCH BASIN
SMH	SEWER MANHOLE
TMH	TELEPHONE MANHOLE
○	MONITORING WELL
○	GAS VALVE
○	WATER SHUT OFF
○	WATER VALVE
○	CONCRETE PAD (1'x1')
OHV	OVERHANG
○	ASSESSORS MAP
○	ASSESSORS LOT



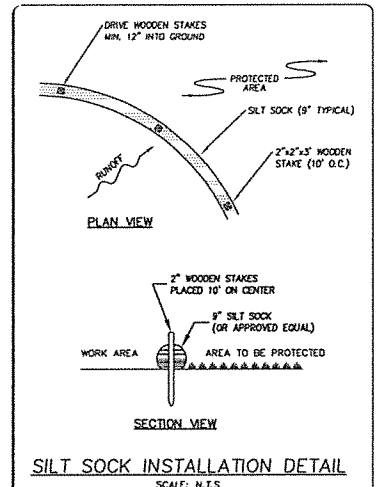
**VERTICAL DATUM**  
 N.A.V.D. 1988



**ZONING TABLE**  
 149 STATE STREET - ASSESSORS MAP 34 LOT 14  
 ZONING DISTRICT B-1

	REQUIRED	EXISTING	PROPOSED
LOT AREA:	10,000 S.F.	26,250 S.F.	26,250 S.F.
LOT FRONTAGE:	90 FT.	150 FT.	150 FT.
FRONT SETBACK:	20 FT.	8.7 FT.	8.7 FT.
SIDE SETBACK:	20 FT.	20.7 FT.	20.7 FT.
REAR SETBACK:	20 FT.	101.7 FT.	101.7 FT.
LOT COVERAGE:	30%	13.3%	17.1%
OPEN SPACE:	N/A	N/A	N/A
BLDG HEIGHT:	35 FT.	13.1 FT.	13.1 FT.

EXISTING 100' WETLAND BUFFER DISTURBANCE = 7,014 S.F. (26.7%)  
 NO ADDITIONAL BUFFER DISTURBANCE PROPOSED



- NOTES**
- ALL MATERIAL SHALL MEET SPECIFICATIONS BY FILTREX OR APPROVED EQUAL.
  - SILT SOCK SHALL BE INSPECTED WITHIN 24 HOURS AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REPAIRS THAT ARE REQUIRED SHALL BE MADE IMMEDIATELY.
  - THE CONTRACTOR SHALL REMOVE SEDIMENT AT THE BASE OF THE UPSLOPE SIDE OF THE SILT SOCK WHEN ACCUMULATION HAS REACHED 1/2 OF THE EFFECTIVE HEIGHT OF THE SILT SOCK.
  - SILT SOCK SHALL BE MAINTAINED UNTIL DISTURBED AREA ABOVE THE DEVICE HAS BEEN PERMANENTLY STABILIZED AND CONSTRUCTION ACTIVITY HAS BEEN COMPLETED.

- NOTES:**
- PLEASE BE ADVISED THAT THESE PLANS SHOULD BE CONSIDERED TO BE A PROGRESS PRINT UNLESS STAMPED BY THE LOCAL CONSERVATION COMMISSION AS APPROVED. THE CONTRACTOR SHOULD OBTAIN AN APPROVED COPY TO USE DURING CONSTRUCTION.
  - LANDOWNER SHALL BE RESPONSIBLE FOR CONTACTING THE LOCAL CONSERVATION COMMISSION TO DETERMINE THE LENGTH OF TIME THE APPROVAL IS VALID. EXTENSIONS TO THE APPROVAL EXPIRATION DATE MAY BE GRANTED BY THE COMMISSION, AT THEIR DISCRETION, IF REQUESTED IN WRITING PRIOR TO THE DATE OF EXPIRATION.
  - THIS PLAN SHOWS ALL KNOWN UNRECORDED OR UNWRITTEN EASEMENTS WHICH EXIST ON THE SUBJECT PARCEL. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT, VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT ADDITIONAL EASEMENTS DO NOT EXIST.
  - THE PARCEL IS LOCATED WITHIN FLOOD HAZARD ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS DEPICTED ON FEMA MAP 25000C0136C, DATED JULY 16, 2014.
  - THIS PLAN IS FOR PERMITTING AND CONSTRUCTION OF THE PROPOSED STRUCTURE ONLY AND SHOULD NOT BE USED TO ESTABLISH LINES OF OWNERSHIP ON THE GROUND. A BOUNDARY LINE SURVEY / STAKEOUT IS RECOMMENDED TO ESTABLISH LINES OF OWNERSHIP ON THE GROUND.
  - CONSTRUCTION ACTIVITIES PERFORMED SHALL COMPLY WITH ALL FEDERAL, STATE, AND LOCAL REQUIREMENTS.
  - THE CERTIFICATIONS SHOWN HEREON ARE NOT INTENDED AS CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT TOWN ASSESSOR RECORDS.
  - PROPOSED CONSTRUCTION IS WITHIN AN AREA SUBJECT TO THE WETLANDS PROTECTION ACT. IT IS STRONGLY RECOMMENDED BY THE DESIGN ENGINEER THAT BUILDING/CONSTRUCTION PERMIT BE ISSUED PRIOR TO THE REVIEW AND APPROVAL OF ALL APPROPRIATE ENVIRONMENTAL PERMITTING AUTHORITIES. EROSION CONTROL MEASURES SHALL BE ESTABLISHED PRIOR TO THE START OF WORK AND SHALL REMAIN IN PLACE UNTIL REMOVAL IS AUTHORIZED BY THE CONSERVATION COMMISSION OR ITS AGENT. CONTRACTOR RESPONSIBLE FOR INSPECTING AND REPAIRING DAMAGED SECTIONS AFTER ALL RAIN EVENTS.

NO.	DATE	DESCRIPTION	BY
2	3/10/20	ADD PARKING SPACES	C.M.Y.
1	3/6/20	UPDATE BUILDING FOOTPRINT	C.M.Y.

**MEI MILLENNIUM ENGINEERING, INC.**  
 ENGINEERING AND LAND SURVEYING  
 62 ELM ST., SALISBURY, MA 01952 (978) 463-8980  
 13 HAMPTON RD., P.O. BOX 745 EXETER, NH 03833 (603) 778-0528

**PLAN TO ACCOMPANY A  
 NOTICE OF INTENT**  
 IN  
**NEWBURYPORT, MA**

**PREPARED FOR**  
 GORDON REALTY HOLDINGS, LLC  
 149 STATE STREET  
 NEWBURYPORT, MA 01950

**SHOWING**  
 EXISTING CONDITIONS & PROPOSED SITE IMPROVEMENTS  
 149 STATE STREET  
 (MAP 34, LOT 14)

SCALE: AS NOTED	CALC. BY: Z.T.J.	PROJECT: M193522
DATE: JAN. 23, 2020	CHKD. BY: E.W.B.	SHEET: 1 OF 1