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TO: The Conservation Commission
FR: Lisa L. Mead
RE: Michael and Kerrin Costello (the "Applicant") 249-251 Water Street (the "Property") / Notice of Intent and Preemption/Performance Standards/Request for Variance
DA: May 25, 2020

Reference is made to the above-captioned matter. In that connection, this memorandum is for the purpose of providing more information and basis for the Conservation Commission to consider when determining whether or not to determine the Commission's Regulations are preempted, if the proposal meets the Performance Standards or if the Commission is to grant a variance for the requested work within the VE Flood Zone which covers the entire Property and which areas are covered under section 6.5.27 of the Newburyport Wetlands Ordinance (the "Ordinance") and sections 3 and 8(E) of the regulations (the "Regulations"). The Applicant proposes to construct a foundation under an existing exterior wall on the northerly side of the existing historical home, a foundation to the southerly side of an existing side porch in order to accommodate outdoor trash receptacles and like materials, construct a deck and pilings to support a second floor deck and 4 foot expansion of living space, make some landscape improvements including areas to encourage habitat and excavation to move a municipal drain line and small amounts of fill to repair areas behind the seawall – all as more fully set forth on the plan.

I Preemption

The Commission is preempted from applying their regulations preventing improvements to the Historic Structure in the floodplain.

As the Board is aware the structure is an historic structure and as such the historic commission has determined that both pre and post construction the structure will retain its designation and importantly will not take away from the designation in the Joppa Historic District. As such, the structure and qualifies for a waiver from the limitations of FEMA through the state building code at 780 CMR 105.3.1.1. This waiver allows the substantial improvement to a structure in the VE zone notwithstanding the construction requirements for other structures in the VE zone.

Because the legislature granted the State Board of Building Regulators authority to create the state building code, the Commonwealth has pre-empted the localities from passing bylaws, ordinances and/or regulations which would frustrate the provisions of the state building code. Here the building code allows for a waiver of the FEMA flood zone construction requirements on historic properties so long as they reconstructed/improved property does not lose its designation. Here the Historic Commission has already found this to be the case. As a result, the Commission can't now prohibit the Applicant from making improvements to the structure on the basis of complying with the local flood zone requirements – which do not have the same waiver.¹

¹ See *St. George Greek Orthodox Cathedral of Western Massachusetts Inc v. Fire Dept. of Springfield*, 426 Mass 120 (2012) wherein the Supreme Judicial Court determined that the State Building Code preempted the Springfield local ordinance. The Court provided that where "the purpose of the State legislation would be frustrated [by

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II Performance Standards

Notwithstanding the fact that the Commission is pre-empted from prohibiting the proposed improvements to an Historic Structure, the Applicant meets the Commission's Performance Standards for Construction in land with coastal storm flowage.

Here, the Applicant is constructing a foundation under an existing exterior wall to the north and then running to the east and south, in order to save the wall and shore up the house, construct a true foundation under the existing enclosed "side porch" and create an enclosed trash storage area. No new living space is created as a result of the construction of the new foundation. There will be new living space constructed on the second floor which will be supported by five (5) pilings. That new living space is 4 feet by 32 +/- 1 feet and is at elevation 23.4 feet which is above the flood elevation.

The Applicant will be constructing a wood deck off the rear of the house with open wood steps. The deck will be located 1.8 feet off the ground and is not considered living space. There will be large rocks under the deck. Additionally, the Applicant will be removing the existing asphalt driveway and replacing with pavers. There will be two blue stone patio areas to the rear of the house. Additionally, the Applicant will be installing shrubs and other plantings to allow new habitat potential. The Applicant will also be filling a small area at the seawall in repair of the failing/sinking areas behind the wall in order to stop future erosion and failure of the wall. Finally, in conjunction with the City of Newburyport, the Applicant will assist in moving the current drain line from under the house to the side of the driveway and will provide the City with an easement for same.

The Applicant believes it meets the performance standards for construction in the land subject to coastal storm flowage and I refer you to the submittal of Thomas Hughes for further detail on the performance standards.

III Variance

In the event the Commission is not in agreement that they are preempted from applying the Regulations to the structure, or that absent the improvements to the structure the other proposed work still falls under the Ordinance and Regulations, and further that the proposed work does not meet the performance standards noted above, the Applicant requests the Commission grant a variance from the imposition of the Regulations on the structure and proposed improvements. Section 6.5-30 of the Ordinance provides that the Commission may grant variances from certain requirements when an overriding public interest is demonstrated or when it is necessary to avoid so restricting the use of property so as to constitute an unconstitutional taking of the property without compensation. The Commission is afforded a considerable amount of discretion in their determination whether a public interest exists.

A. Overriding Public Interest:

1. The public interest in this instance is the preservation of an historic structure and the reduction of the intensity of use of that structure and the Property. As the Commission is aware, the Property is currently a two family use. By renovating the structure and making the related improvements in the area, the structure will become

a local enactment] so as to warrant an inference that the Legislature intended to preempt the field." Here, the State Building Code at 780 CMR 105.3.1.1 specifically exempts alterations to a historic building from the definition of "substantial improvement" which triggers the requirement to comply with 780 CMR 322 which governs construction in flood hazard areas, including AO zones, A zones, and V zones. In the case of the Applicants, the intent of exempting historic buildings from complying would be frustrated by the Newburyport Wetlands Protection Ordinance and/or Commission Regulations requiring design standards that take future sea level rise into account.

a single family use, thereby reducing the stress on the area. Further, clearly the preservation of historic structures has been determined to be of such importance that the federal and state regulatory agencies have determined that the applicable regulations do not apply to the renovation and improvement of historic structures so long as they retain their historic designation. One must not only take into consideration the structure itself, but also the setting in which it is located. The Applicants have submitted significant evidence to the Commission related to the structure and the Joppa Historic District including the approval of the Historic Commission of the proposed improvements. As noted above the Commission is required, in my opinion, to follow the path laid by the Commonwealth and Federal Government in regards to the improvements to the structure. Clearly, the preservation of historic structures is an overriding public interest.

2. The public interest is also be served by the work the Applicant proposes to correct the erosion behind the seawall and to move and improve the city drain line.

a. Seawall: The seawall not only serves as a break to the rear of the Applicant's Property but the seawall serves the entire length of Water Street in Joppa.

b. The drain line serves as a release to the Water street catchment system. There currently is no easement of record for the drain line running through the Applicant's property. The improved, relocated and legally located drain line is in the public interest.

B. Mitigation Proposed:

1. The Applicant will assist the City in moving the city drain line. The Applicant will provide the engineering, a recorded easement to run in perpetuity which does not now exist which will allow the drain line to legally exist and allow future maintenance.
2. The Applicant will repair the rear of the seawall where it is eroding.
3. The Applicant will plant vegetation which increases habitat for the entire Joppa Flats Estuary system as well as serve to increase friction on moving floodwaters.
4. The applicant will replace a paved driveway with pavers.
5. The applicant will install large stone in an area in front of the existing house foundation (to be replaced) to disperse flood water energy.
6. The applicant will install area drains within the area behind the seawall to provide a route for floodwaters to retreat, reducing the duration and severity of flooding in some instances where the existing seawall traps floodwaters. These drains will be equipped with backflow preventers.

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PROJECT NARRATIVE
to Accompany a
NOTICE OF INTENT
For
Michael and Kerrin Costello
Renovation and Addition to Historic Residence
249 - 251 Water Street
Newburyport
March 13, 2020
Revised May 27, 2020

Overview

Michael and Kerrin Costello are looking to repair and renovate the home at 249 - 251 Water Street in Newburyport. The existing building is a two-family house that is historically significant. The structure was built in 1895 and was the home of the South End Gun Club. The Newburyport Historic Commission has determined that the structure is historically significant. The work will expand the structure and includes landscaping which will provide for both outdoor space for the Costellos and restoration of a riparian buffer in an area of lawn.

Additionally the work will include the replacement and relocation of an existing drain line for which the City does not have an easement. This work is expected to be done either by the City or by the Costellos in cooperation with the City (or a combination of both City and private work). The Costellos will then grant the City an easement for the drainage line, providing a significant public benefit.

Current site conditions

The property consists of approximately 4,352 square feet and is entirely within the Riverfront Area associated with the Merrimac River. The property has a seawall that runs the perimeter of the property along the water side. The seawall consists of a revetment with concrete blocks on top. The seawall extends along a significant portion of the Water Street shoreline. In some places along the wall in the general area of the site, soil has been washing through the revetment, resulting in sink holes and some settling of the concrete blocks. The top of this wall is coastal bank. At the bottom of the revetment is salt marsh and/or tidal flats. The entire property is within the buffer zone to those resource areas. Lastly, the lot is entirely located within the VE15 floodplain as mapped by FEMA.

The existing two-family structure's foundation is fieldstone below grade and continues as brick wall above grade. The foundation was evaluated by a structural engineer and found to be in good condition given its age, however, the fieldstone and brick are "more vulnerable to damage than a new cast-in-place concrete wall."

The upland portion of the property consists of the historic building, the driveway and a lawn. A portion of the lawn has regularly been used for parking as an extension of the driveway.

Proposed Project

The proposed project consists of renovation and an addition to the existing structure as well as landscaping and replacing a City drain line.

As part of the project, the applicant proposes to construct a replacement foundation wall to protect the historic foundation located behind it. In addition, the proposed project includes a second-floor addition and deck supported by columns. At the first level, the structure will have a new deck with large stone underneath to break up water energy during a flood and open risers on the deck stairs to allow water to flow through. A small at grade storage area is being added onto the footprint of the structure on the road side near the driveway.

The stone under the deck and the replaced foundation along the seaward side of the existing structure will serve to protect the historic structure from damage from smaller flooding events and not have any adverse effect to large floods.

The work proposed qualifies for exceptions available under the FEMA and Massachusetts Building Code regulations for historically significant houses. In February, the Historical Commission affirmed the historical significance of the original structure and the original structure in the historic setting of the Joppa Historic District with consideration given to the proposed work.

In addition to the work on the proposed home, the applicant is proposing landscaping, including conversion of lawn to patio space and native plantings, installation of driveway stripes for the area in the lawn that has been used for driveway space for many years, replacement of the City storm drain with area drains connecting to it, and installation of filter fabric to prevent sink holes along the back of the seawall.

Overall, the project provides for significant plantings in the buffer zone and inner riparian zone along Joppa Flats where very little exists today other than lawn. Additionally, the project results in the City being able to legally maintain a drain line that runs through the property.

Wetlands Protection Act

Buffer Zone to Salt Marsh and Bank

Erosion controls are being installed along the top of the seawall to prevent any sediment from entering the wetland resource area and to confine the limit of work, other than the minor maintenance and repairs to the seawall which will be done by hand.

Land Subject to Coastal Storm Flowage

There are no performance standards for work in Land Subject to Coastal Storm Flowage. The project is unique in that due to the historic nature, it is not possible to elevate the structure as would normally be required by the building code.

Riverfront

The project complies with the requirements under 310 CMR 10.58(4) as the alterations are within the limits for a single-family home. The applicant evaluated options, such as doing nothing, which would result in the demise of the structure, a demolition and construction of a new structure, which would have similar impacts on the riverfront since there is no room to move away from the river, and the project as proposed. The project as proposed was chosen and both improves the riverfront area through native vegetation and maintains important historical elements of the home.

It is also important to note that conversion of lawn to patio is greater than 50 feet from MHW it would qualify as an exempt minor activity, so the work that is being proposed within lawn is generally considered low impact.

Newburyport Wetlands Ordinance & Regulations

In addition to the Wetlands Protection Act, the project falls under the Newburyport Wetlands Ordinance. The work includes the filter fabric for the seawall, landscaping, patio and planting of native vegetation within the buffer zone. Overall, the project results in the benefit of establishing native plants within this area which currently consists of lawn. We believe that the work proposed, when considered in the context of the mitigation offered through the plantings will represent an improvement to all of the values and interests of the wetland ordinance. The performance standards are addressed below:

Ordinance, 6.5-34.B.

...Disturbance of any kind is prohibited within this 25-Foot No-Disturbance Zone including but not limited to grading, landscaping, vegetation removal, pruning, cutting, filling, excavation, roadway construction and /or driveway construction. Within the No Disturb Zone established by the Commission, no grading, planting, site work, construction, or storage of materials is allowed. Vegetation in the No Disturb Zone shall not be cut or trimmed in any manner unless authorized by the Commission as part of regular maintenance required for man-made drainage systems (such as seasonal mowing).

Notwithstanding the above limitations, no activity which will result in the alteration of land within the presumptive No Disturbance Zone shall be permitted by the Commission with the following exceptions:

...H. Construction of accessory structures/uses associated with lawfully existing single family houses where the Conservation Commission finds that alternatives outside the buffer area are not available; the size and impacts of the proposed structure/use have been minimized; and the structure/use is located as far from the resource as possible...;

...J. Where a lot is located entirely within buffer area, the Commission may permit activities within the buffer area when the applicant has demonstrated that the proposed work has been designed to minimize impacts to the buffer area. As mitigation, the Commission may require the applicant to plant or maintain a naturally vegetated buffer of the maximum feasible width given the size, topography, and configuration of the lot...

The proposed increase in non-vegetated surfaces is offset by the conversion of lawn areas to native plantings. The project qualifies under both subsections of the Ordinance above for relief from the 25 foot no-disturb zone since it is both associated with a single family home and on a lot entirely located within the buffer zone.

Regulations, Section 8.A.4. 4. Performance Standards for Buffer Zones

The following standards apply to the Buffer Zone of all the resource areas identified in Sections 6(A)(2)(a through d) of these Regulations:

(a.) 25-Foot No-Disturbance Zone. Except as otherwise provided in these Regulations, no activity is permitted within 25 feet of the delineated edge of the above-mentioned wetland resource areas as defined in Section 6(A)(2)(a through d). The Commission

has adopted this standard because the alteration of land immediately adjacent to a wetland or water body is likely to result in the alteration of the wetland itself.

Alterations typically result from extension of lawns, depositing/dumping of yard waste, over-grading, siltation, extension of impervious areas, deposition of construction debris, unregulated filling, and clearing of vegetation, all of which is prohibited.

The ordinance provides the Commission with discretion to approve projects in the buffer zone that are accessory to existing single family homes. Regulations can not be more stringent than the enabling ordinance.

(b.) No-Disturbance Zone Demarcation. *To maintain the perpetual integrity of the No-Disturbance Zone and to ensure that there will be no encroachments into this Zone by the applicant or future owners of the subject property, the Commission may require the No-Disturbance Zone to be marked on the ground, at the applicant's expense, with permanent markers. These markers shall be made of weather resistant material (e.g., granite, or concrete), and the Commission shall determine their number, size and location. The Commission may require one or more of these markers to bear, on their upland side, writing (i.e. permanent plaque or engraving) that shall read "No Disturbance Beyond This Point By Order of the Newburyport Conservation Commission."*

In this case, it would make no sense to mark the No-disturb zone at 25 feet given the developed nature of the lot and the surrounding area.

(c.) Limit on scope of alteration. *In addition to complying with the above setbacks, the total disturbance to the Buffer Zone by any project or projects cumulatively shall not exceed twenty percent (20%) of the Buffer Zone existing on the project site (e.g., if a project site has a total of 100 square feet of Buffer Zone and Project "A" disturbs 20 square feet of that Buffer Zone, any subsequent development of that site will have to avoid any disturbance of the Buffer Zone).*

The entire lot has been disturbed prior to the adoption of the regulations and ordinance.

(d.) Minor activities in the outer 50 feet of the Buffer Zone. *Minor activities that are proposed within the outer 50 feet of the Buffer Zone (50 feet or more from the delineated edge of the wetland resource) may be allowed through a "Letter Permit" at the discretion of the Commission's agent. Minor activities are those that in the judgment of the Commission's agent or the Commission will not have an impact on the resource area.*

As the project includes not only buffer zone work, this section does not apply.

(e.) Activities prohibited in the Buffer Zone. *Underground fuel storage tanks and other structures or facilities for the storage of gasoline, oil, or other fuels or hazardous materials located outside of any dwelling or building shall not be located in any Buffer Zone.*

No such structures or facilities are proposed.

(f.) Additional conditions. *For work in the Buffer Zone, the Commission may impose conditions to protect the adjacent resource area. The potential for adverse impacts to resource areas from work in the buffer zone may increase with the extent of the work and the proximity to the resource area. The Commission may consider the characteristics of the buffer zone, such as the presence of steep slopes, which may increase the potential for adverse impacts on resource areas. Conditions may include limitations on the scope and location of work in the buffer zone as necessary to avoid*

adverse impact on resource areas. The Commission may require erosion and sedimentation controls during construction, a clear plan of work, and the preservation or addition of natural vegetation adjacent to the resource area and/or other measures commensurate with the scope and location of the work within the Buffer Zone.

The Notice of Intent includes provisions to protect the wetlands during work in the form of erosion controls.

8.E. 3. Performance Standards for Land Subject to Coastal Storm Flowage

When the Commission determines that Land Subject to Coastal Storm Flowage (A, AO, AH and/or V-Zones) overlays other resource areas listed in these Regulations, the applicable performance standards for each resource area shall be independently as well as collectively applied and the project shall be appropriately conditioned to protect all stated interests. When Land Subject to Coastal Storm Flowage (A, AO, AH and/or V-Zones) is significant to the interests of flood control and storm damage prevention, or any other interest in Section 2 above, the following performance standards shall apply:

- (a) *Any activity shall not have an adverse effect by increasing the elevation or velocity of flood waters or by increasing flows due to a change in drainage or flowage characteristics (e.g. change in direction) on the subject site, adjacent properties, or any public or private way.*

The proposed changes do not significantly alter flow patterns given the location of the proposed addition and the existing home. The placement of large stones under the deck will allow for a breaking up of the energy of flood waters that would normally reflect off of the existing solid wall of the building.

- (a) *Relative sea level rise and the landward migration of resource areas in response to relative sea level rise shall be incorporated into the design and construction of structures and other activities proposed in Land Subject to Coastal Storm Flowage.*

- (i) *At a minimum, for activities proposed in A and V-Zones, a rate of relative sea level rise in Massachusetts of 40 inches by the year 2070 shall be incorporated into the project design and construction. (40 inches of SLR by 2070 was selected because it is consistent with both the National Oceanic and Atmospheric Administration's (NOAA's) and the BRAG Report's likely SLR scenarios, is the basis for the City of Boston's neighborhood coastal resilience plans and was adopted by the Boston Planning and Development Agency as part of their "Coastal Flood Resilience Design Guidelines" in 2019);*

The proposed design is limited by the presence of an existing historic structure. The Boston resilience plans referenced

recognize the competing needs to preserve historic properties. In this case, we are attempting to make the structure more resilient by protecting the existing foundation with the new foundation on the seaward side. Additionally, the migration landward of the resource area is generally controlled by the existing revetment and seawall.

- (ii) ***Any activity within the ten (10) year floodplain of Land Subject to Coastal Storm Flowage shall not have an adverse effect by impeding the landward migration of other resource areas within this area of the floodplain.***

FEMA flood insurance studies for coastal floodplains do not typically provide 10 year flood elevations. We did go through the existing study and did not find that data available for the location of the project. This is a feature found in inland flood studies. If the Commission can provide us with the elevation of a ten year flood we can attempt to address this standard more directly. It is likely that the 10 year flood is restricted already by the existing revetment and seawall.

- (c) ***When the AH-Zone (or an A-Zone which is hydraulically constricted) is significant to the interests of flood control or storm damage prevention, the following additional performance standards shall apply:***

- (i) ***A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the Commission, would otherwise be confined within said area, unless,***
- (ii) ***Compensatory storage is provided for all flood storage volume that will be lost as the result of a proposed project within this area when, in the judgment of the Commission, said loss will cause an increase or contribute incrementally to an increase in the horizontal extent and level of flood waters. Compensatory flood storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100 year flood elevation, which would be displaced by the proposed activity. Compensatory flood storage shall be provided within the same general area as the lost area and must maintain or create an unrestricted hydraulic connection within said area.***

This site is not within those zones.

- (d) ***When Land Subject to Coastal Storm Flowage is significant to wildlife and their habitat a proposed activity shall not impair the capacity of those portions of Land Subject to Coastal Storm Flowage to provide important wildlife habitat functions. Alterations may be permitted only if they will have no adverse effect on wildlife and their habitat.***

The NHESP mapped habitat runs along the seawall. The work is proposed within existing lawn area and has no current habitat value. It is exempt under MESA as well.

- (e) ***When Land Subject to Coastal Storm Flowage is significant to the prevention of pollution there shall be no adverse effects to the critical characteristic of this area to remove suspended solids and other contaminants from runoff before entering into other wetland resource areas.***

The installation of filter fabric along the seawall will limit the pollution of Joppa Flats by ongoing sediment erosion through the seawall.

- (f) ***The following activities proposed within velocity zones (V-Zones) of Land Subject to Coastal Storm Flowage are likely to have an adverse effect on the protected interests and are therefore prohibited (unless the applicant proves with a preponderance of credible evidence that the proposed activity and resultant alteration will not have an adverse effect on said interests):***

- (i) ***Construction or placement of new structures, including buildings, sheds, garages, additions, and substantial improvements to existing structures supported on a solid foundation or proposed below the base flood elevation plus two (2) feet;***

The proposed project is a renovation to an existing structure. It is modest and designed to protect a historic structure while not having an adverse effect on the floodplain.

- (ii) ***New parallel/shear walls or vertical walls for existing structures;***

The proposed project is an addition to an existing structure that is on the second level of the building above the floodplain. The project replaces existing foundation walls, but does not result in new wall. It is modest and designed to protect a historic structure while not having an adverse effect on the floodplain.

- (iii) ***Impermeable paving for new roads, driveways and parking lots;***

The proposed work constitutes improvements to existing driveway and parking area and converts the paved driveway to pavers.

- (iv) ***New or proposed expansions of coastal engineering structures;***

The project only proposes to maintain the existing coastal engineering structure.

- (v) ***New or expanded septic systems;***

This does not apply.

- (vi) ***New or expanded stormwater management systems/discharges;***

The project includes improvements to the City stormwater system.

(vii) *New or expanded utilities;*

This does not apply.

(viii) *New underground storage tanks; and*

This does not apply.

(ix) *New activities and uses that change the physical characteristics of the land through draining, excavating, dredging, dumping, filling, removing vegetation, removing or transferring loam, peat, sand, soil or other material substance which will reduce the natural storage capacity of the land, interfere with the landward migration of coastal resources in response to sea level rise, interfere with the natural drainage/tidal patterns of any watercourse, or degrade the water quality of surface or groundwater.*

The proposed will not impact these items and is making improvements to the existing condition. The project includes 2 area drains with backflow preventers that will help flood waters recede.

(g) *A proposed activity within a velocity zone of a beach or coastal bank shall not destroy or otherwise impair the function of any portion of said landform and/or shall not have an adverse effect on adjacent wetland resources. Activities and their ancillary uses in velocity zones which result in alteration to vegetative cover, interruptions in the supply of sediment to other wetland resources, and/or changes to the form or volume of a dune or beach will have an adverse effect on said landform's ability to provide storm damage prevention and flood control and are therefore prohibited.*

The project is not located on a beach and is located behind a coastal bank that is armored. The project will convert significant areas from lawn to more beneficial vegetative cover.

These activities include, but are not limited to:

(i) *Construction of new structures, including buildings, sheds, garages, additions, and substantial improvements to existing structures;*

See the separate memo from Lisa Mead regarding substantial improvement.

(ii) *Foundations other than open pilings or columns;*

The second floor addition is supported on piles/columns. The first floor foundation is a replacement.

(iii) *New or proposed expansions of roads, driveways, parking lots, impermeable paving for existing unpaved roads, driveways or parking lots;*

The project is changing the surface material of existing parking areas to pavers. Most of this is conversion of pavement to pavers, while a small portion is converting lawn parking to paver stripes.

(iv) New or proposed expansions of coastal engineering structures;

This is not proposed.

(v) New or expanded septic systems;

This is not proposed.

(vi) New or expanded stormwater management systems/discharges;

The applicant is proposing replacement of existing stormwater infrastructure and the addition of two area drains to alleviated aerial flooding.

(vii) New or expanded utilities;

This is not proposed.

(viii) New underground storage tanks; and

This is not proposed.

(ix) New activities and uses that change the physical characteristics of the land through draining, excavating, dredging, dumping, filling, removing vegetation, removing or transferring loam, peat, sand, soil or other material substance which will reduce the natural storage capacity of the land, interfere with the landward migration of coastal resources in response to sea level rise, interfere with the natural drainage/tidal patterns of any watercourse, or degrade the water quality of surface or groundwater.

The proposed work will not alter the natural storage capacity of the land or interfere with the migration of coastal resources. The migration of coastal resources is already limited by the pre-existing revetment and seawall.

(h) The following activities proposed within the AO-zone of a beach or coastal bank of Land Subject to Coastal Storm Flowage are likely to have an adverse effect on the protected interests and are therefore prohibited (unless the applicant proves with a preponderance of credible evidence that the proposed activity and resultant alteration will not have an adverse effect on said interests):

The project is not located within the A0 zone.

(i) Construction of new structures, including buildings, sheds, garages, additions, and substantial improvements to existing structures supported on a solid foundation or proposed below the base flood elevation plus one (1) foot or three (3) feet above the highest adjacent ground elevation (whichever is higher);

(ii) New parallel walls/shear walls, vertical walls or breakaway walls, foundation piers, grade beams, or foundation/structural slabs for existing structures;

(iii) New or proposed expansions of roads, driveways, parking lots, or

impermeable paving for existing unpaved roads, driveways or parking lots;

- (iv) New or proposed expansions of coastal engineering structures;*
- (v) New or expanded septic systems;*
- (vi) New or expanded stormwater management systems/discharges;*
- (vii) New or expanded utilities;*
- (viii) New underground storage tanks; and*
- (ix) New activities and uses that change the physical characteristics of the land through draining, excavating, dredging, dumping, filling, removing vegetation, removing or transferring loam, peat, sand, soil or other material substance which will reduce the natural storage capacity of the land, interfere with the landward migration of coastal resources in response to sea level rise, interfere with the natural drainage/tidal patterns of any watercourse, or degrade the water quality of surface or groundwater.*

(i) Notwithstanding the provisions of (a) – (h) above, the Commission may permit the following activities provided that the applicant demonstrates, to the satisfaction of the Commission, that best available measures are utilized to minimize adverse effects on all critical characteristics of Land Subject to Coastal Storm Flowage, and provided that all other performance standards for underlying resource areas are met:

- (i) Beach and bank nourishment and restoration projects, including fencing, native plantings and other devices designed to increase stabilization and decrease erosion;*
A portion of the project includes native plantings.
- (ii) Pedestrian walkways for public shoreline access and non-motorized use;*
- (iii) Elevated decks or walkways with appropriate height and spacing between planks to allow sufficient sunlight and precipitation penetration;*
The proposed project includes a deck elevated above grade.
- (iv) Boat launching facilities, navigational aids, piers, docks, wharves, dolphins, float stops;*
- (v) Improvements necessary to maintain or improve the structural integrity/stability of existing coastal engineering structures;*
A portion of the work is designed to maintain the stability of the existing structure.
- (vi) A project which will restore, rehabilitate or create a salt marsh or freshwater wetland;*
- (vii) Projects that are approved, in writing, or conducted by the Division of Marine Fisheries that are specifically intended to*

- increase the productivity of land containing shellfish, including aquaculture, or to maintain or enhance marine fisheries; and*
- (viii) Projects that are approved, in writing, or conducted by the Division of Fisheries and Wildlife that are specifically intended to enhance or increase wildlife habitat.*
 - (ix) Projects designed to protect critical public infrastructure from storm surge and sea level rise.*

Conclusion:

In summary, the project as proposed complies with the Wetland Protection Act, the Newburyport Wetlands Ordinance, and the Newburyport Wetlands Regulations. We ask that the Commission approve this unique project as proposed.



Civil Engineering
Transportation/Traffic
Water/Wastewater
Geotechnical
Land Surveying
Environmental
Planning

Mr. Joe Teixeira, Chairman
Conservation Commission
Newburyport City Hall
Office of Planning and Development
60 Pleasant Street, 1st Floor
Newburyport, MA 01950

Dear Chairman Teixeira and members of the Commission:

I, Stephen Sawyer, PE, have reviewed the Architectural Plans and completed site design in collaboration with Hughes Environmental Consulting and Winter GEC to confirm the proposed improvements at 249-251 Water Street meet the performance standards of the Newburyport Wetlands Regulations related to land subject to coastal storm flowage. To that end I certify that the proposed improvements;

Will not have an adverse effect by increasing the elevation or velocity of flood waters or by increasing flows due to a change in drainage or flowage characteristics (e.g. change in direction) on the subject site, adjacent properties, or any public or private way.

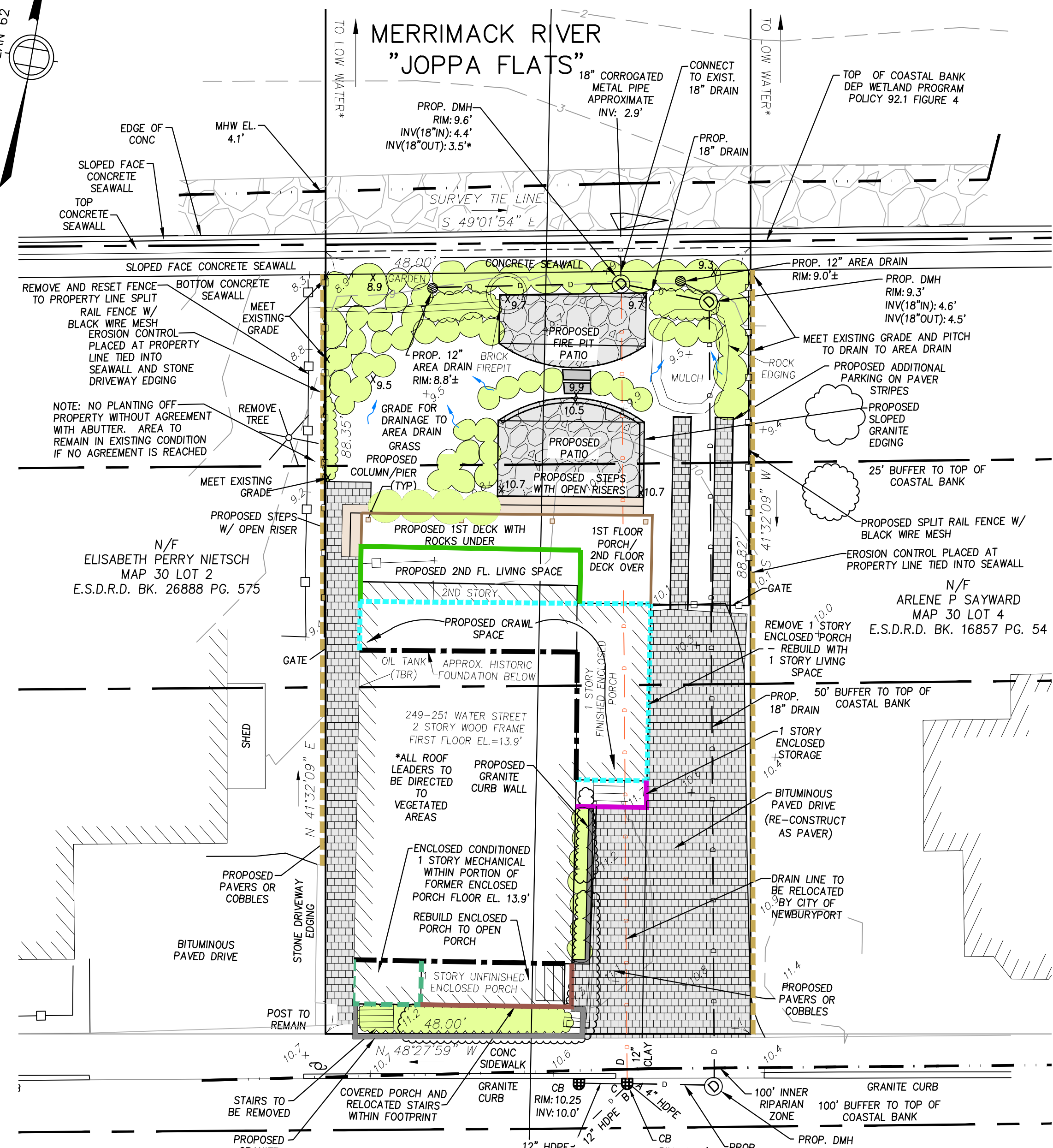
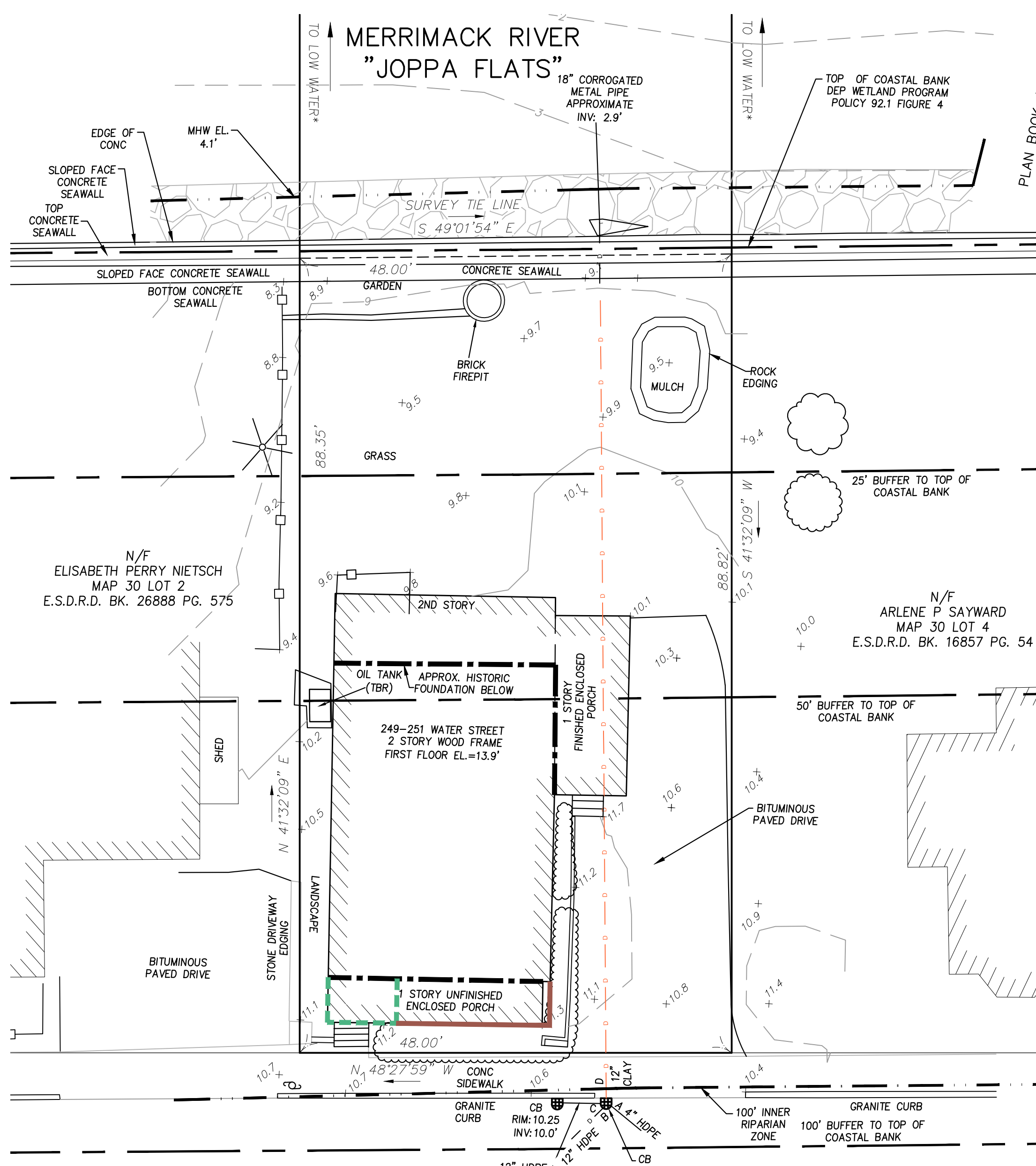
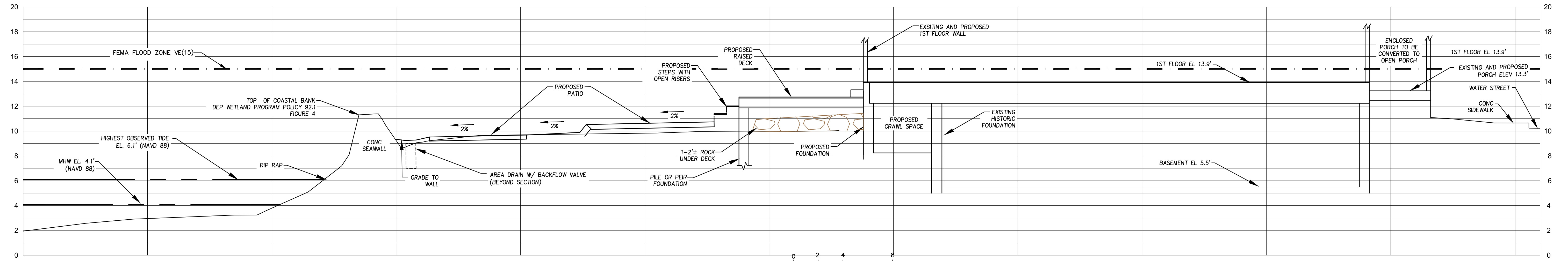
Further, given the proposed design using a pile/column system and irregular rocks with gaps under the deck, the proposed modifications to the property will not result in flood damage due to filling which causes lateral displacement of flood waters that is any different than exists on the property today. The proposed rock system should dampen and absorb any potential wave energy versus the existing conditions of a vertical wall face which would tend to reflect wave energy. Additionally, the project as proposed will not have any adverse impact on the flood storage capacity. In the more common flood events where static flood elevation is below elevation 9.0, the flood storage capacity will be increased by allowing slash-over flood waters to recede though the area drains on the property where floodwater is currently impounded by the landward edge of the seawall.

Signed this day of May 27, 2020

Stephen B Sawyer

Stephen Sawyer, PE





NOTES

THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON THE LOT AS OF THE DATE OF THIS SURVEY. INFORMATION IS THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED ON OCTOBER 25, 2019.

DESIGN INFORMATION RELATED TO BUILDING ADDITIONS AND PROPOSED SITE IMPROVEMENTS IS AS PROVIDED BY THE CLIENT'S ARCHITECT, THE CLIENT, CLIENT'S ENVIRONMENTAL CONSULTANT, ENGINEER AND CLIENT'S LANDSCAPE ARCHITECT. INFORMATION SHOWN HEREON IS FOR REFERENCE ONLY. SEE ARCHITECTURAL AND LANDSCAPE PLANS FOR ANY RELEVANT DETAILS.

OWNERSHIP INFORMATION USED IN THE PREPARATION OF THIS PLAN WAS OBTAINED FROM THE CITY OF NEWBURYPORT ASSESSOR'S OFFICES.

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE VE(15), A SPECIAL FLOOD HAZARD AREA, OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 25009C0136G, WHICH BEARS AN EFFECTIVE DATE OF 7/16/2014.

TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS PLAN CONFORMS TO THE TECHNICAL AND PROCEDURAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

P.L.S. *Everett J. Chandler*
EVERETT J. CHANDLER, P.L.S.
 MASS. REGISTRATION NO. 41783

- PROPOSED 2ND FLOOR CANTILEVER LIVING SPACE OVER 1ST FLOOR RAISED PATIO WITH ROOF DECK OVER
- - - - REBUILD EXISTING 1 AND 2 STORY BUILDING ON CRAWL SPACE FOUNDATION
- PROPOSED NEW GROUND EXTERIOR STORAGE
- PROPOSED 2ND FLOOR DECK OVER 1ST FLOOR DECK
- - - - APPROXIMATE HISTORIC FOUNDATION
- - - - FORMER ENCLOSED PORCH CONVERTED TO CONDITIONED MECHANICAL ROOM

LOCUS TITLE INFORMATION

249-251 WATER STREET

OWNER: 249 WATER STREET NOMINEE TRUST
 DEED REFERENCE: BOOK 36892 PAGE 323
 ASSESSORS: MAP 30 PARCEL 3

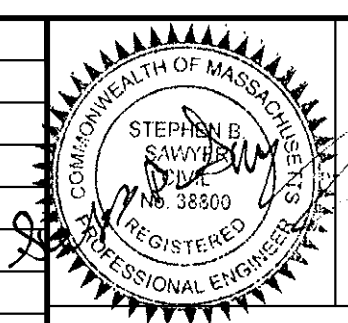
	Existing	Proposed	Existing	Proposed	Existing	Proposed
	25' Buffer	25' Buffer	50' Buffer	50' Buffer	100' Buffer	100' Buffer
Building	0	0	361	461	973	913
Covered Porch	0	0	0	0	0	83
Deck / 2nd Floor Deck	0	0	0	176	0	0
Patio	0	241	0	60	0	0
Uncovered Steps	0	0	0	47	18	0
Driveway	0	0	90	89	611	546
Paver Parking Strips	0	20	0	67	0	0
Landscape Edging Etc	52	0	0	0	14	30
Concrete	0	0	9	0	11	0
Concrete Sidewalk (City)	0	0	0	0	7	7
Pavers Areas	0	0	0	77	0	293
TOTAL	52	261	460	977	1634	1579

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Winter GEC, LLC
 44 MERRIMACK STREET
 NEWBURYPORT, MA 01950
 978-270-8626

DCI
 Design Consultants Inc.
 Somerville - Quincy - Newburyport
 www.dci-ma.com

SCALE:			
HORIZ:	AS NOTED		
VERT:	N.A.		
NO.	DATE	BY	REVISIONS
1	5/26/20	EJC	CLARIFICATIONS BASED ON CON-COM MEETING
			REVISIONS



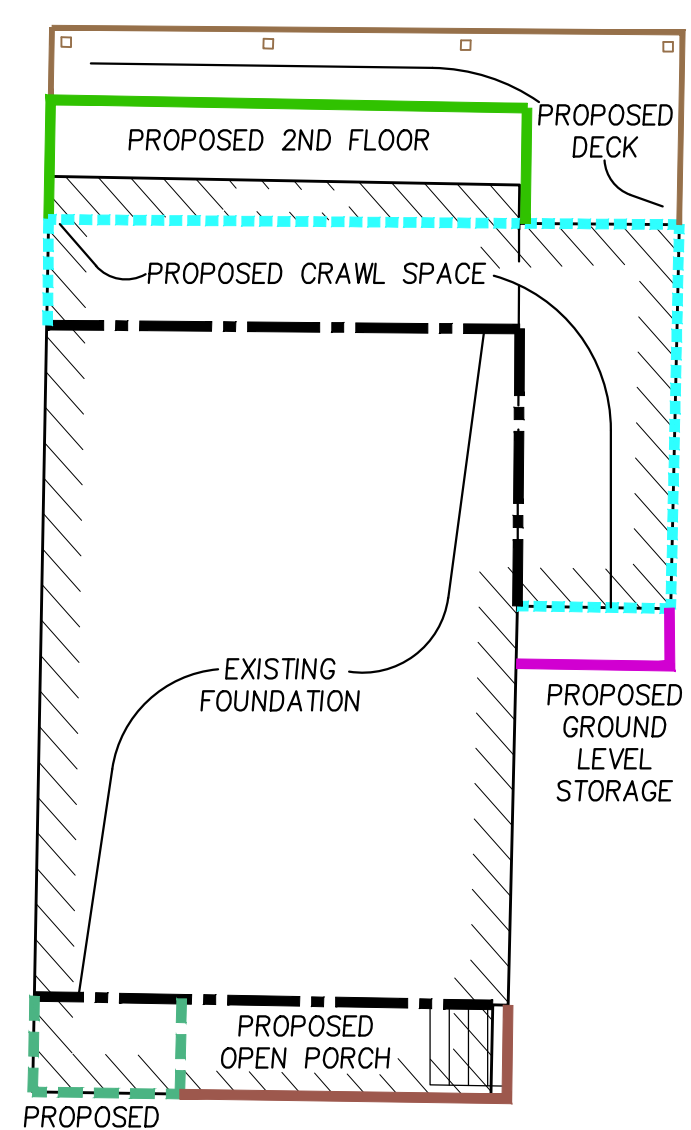
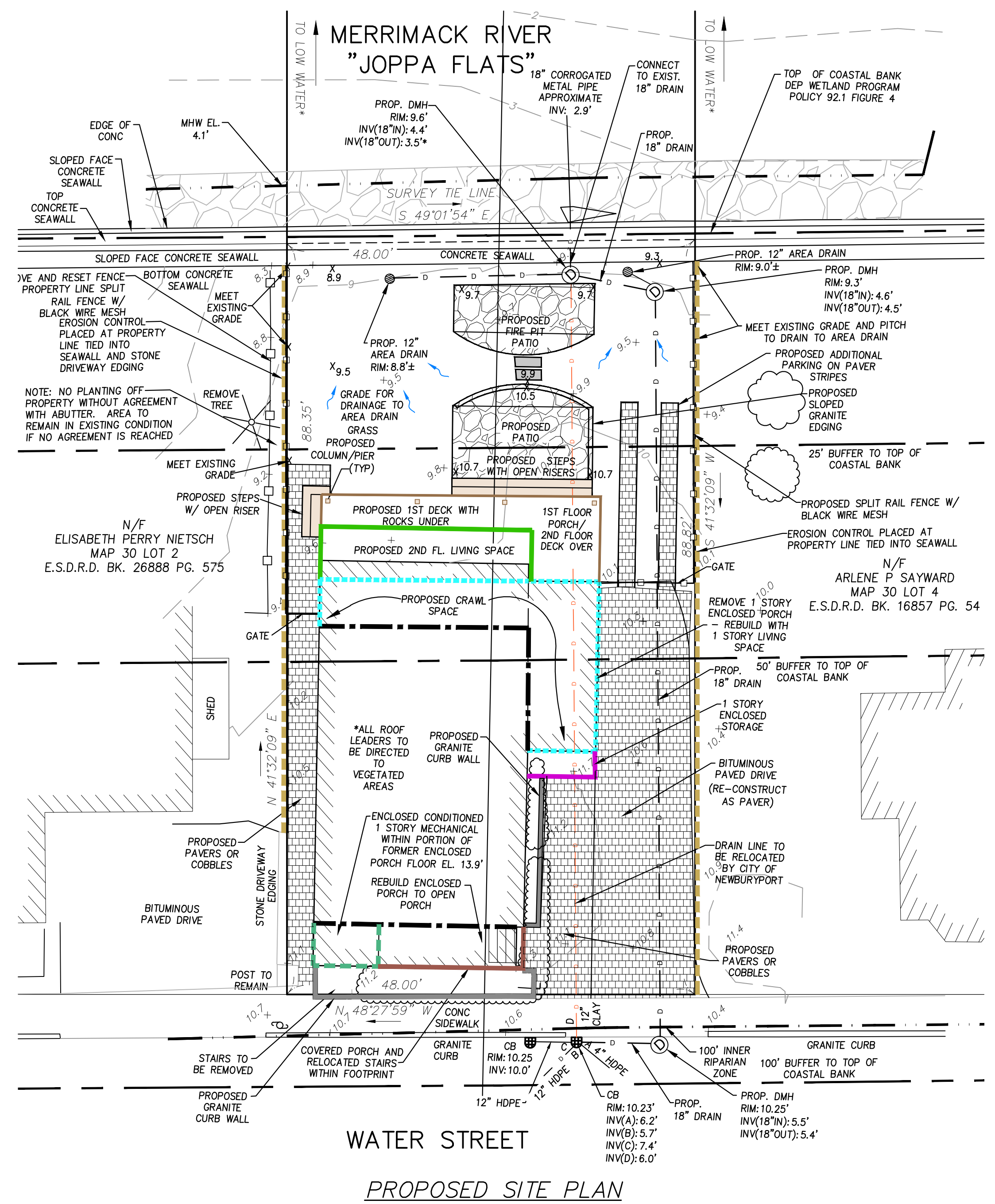
FIELD: CO
 CALCS: EC
 CHECKED: EJC
 APPROVED: EJC/SBS

NOTICE OF INTENT PLAN
249-251 WATER STREET

PLAN OF LAND IN
NEWBURYPORT, MASSACHUSETTS
 SURVEYED FOR
MICHAEL COSTELLO

PROJECT NO.
 2019-249WATER
 DATE: FEB 26, 2020
 SHEET NO.
 1 OF 2

PLAN BOOK 414 PLAN 62



STRUCTURE RENOVATION DETAIL

- PROPOSED 2ND FLOOR CANTILEVER LIVING SPACE OVER 1ST FLOOR RAISED PATIO WITH ROOF DECK OVER
- - - REBUILT EXISTING 1 AND 2 STORY BUILDING ON CRAWL SPACE FOUNDATION
- PROPOSED NEW GROUND EXTERIOR STORAGE
- PROPOSED 2ND FLOOR DECK OVER 1ST FLOOR DECK
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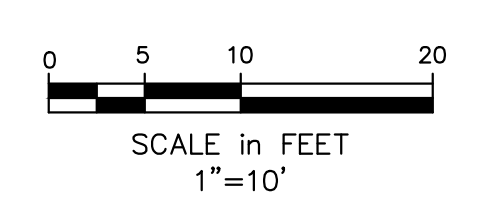
BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE VE(15), A SPECIAL FLOOD HAZARD AREA, OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 25009C0136G, WHICH BEARS AN EFFECTIVE DATE OF 7/16/2014.

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P.L.S. 
 EVERETT J. CHANDLER, P.L.S.
 MASS. REGISTRATION NO. 41783

LOCUS TITLE INFORMATION

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 OWNER: 249 WATER STREET NOMINEE TRUST
 DEED REFERENCE: BOOK 36892 PAGE 323
 ASSESSORS: MAP 30 PARCEL 3



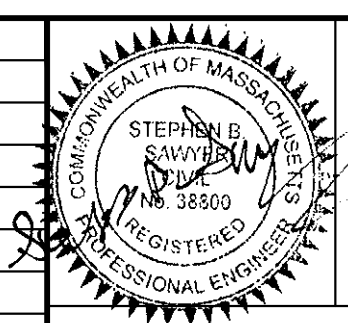
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 44 MERRIMAC STREET
 NEWBURYPORT, MA 01950
 978-270-8626



SCALE:
 HORIZ: AS NOTED
 VERT: N.A.

NO.	DATE	BY	REVISIONS
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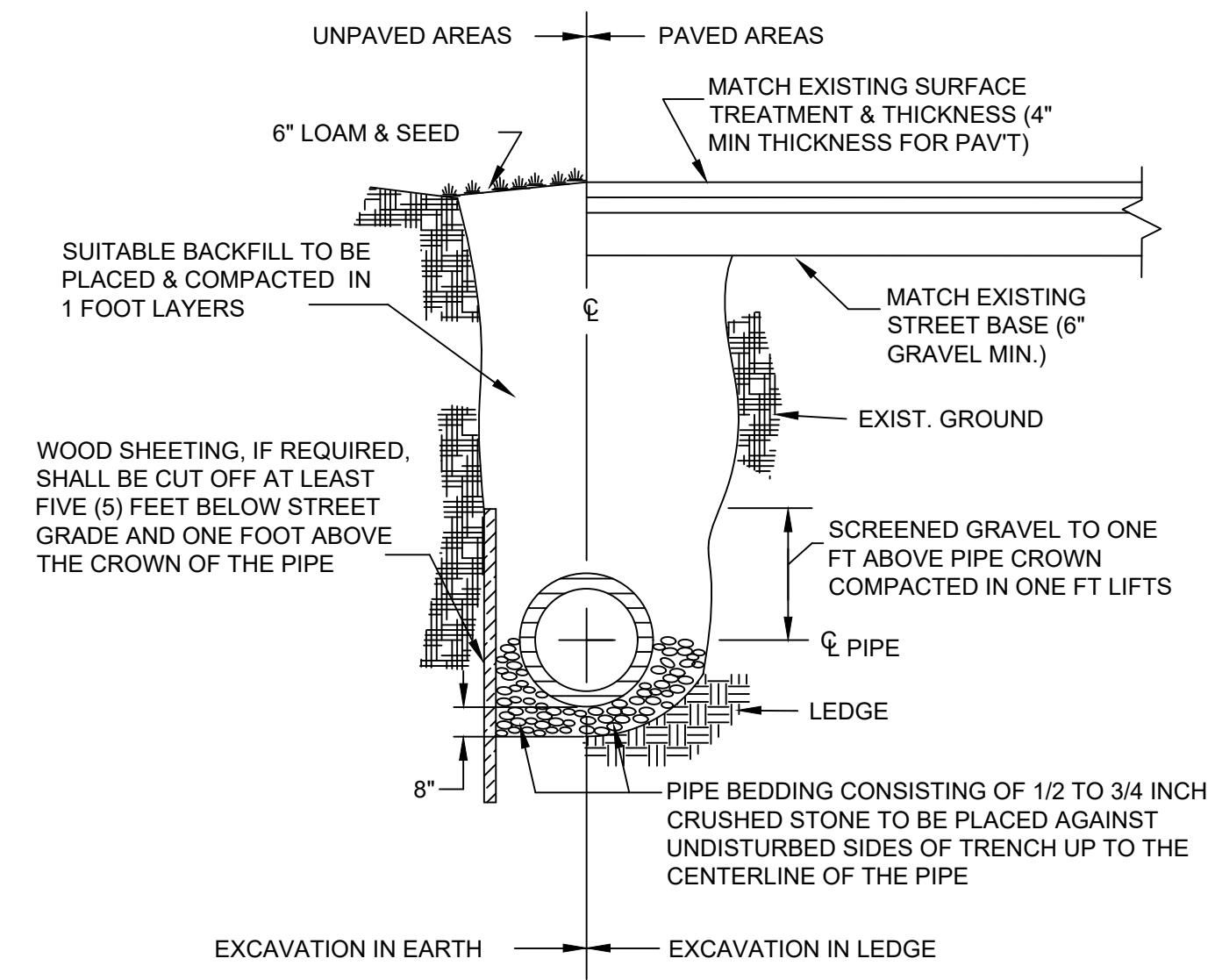


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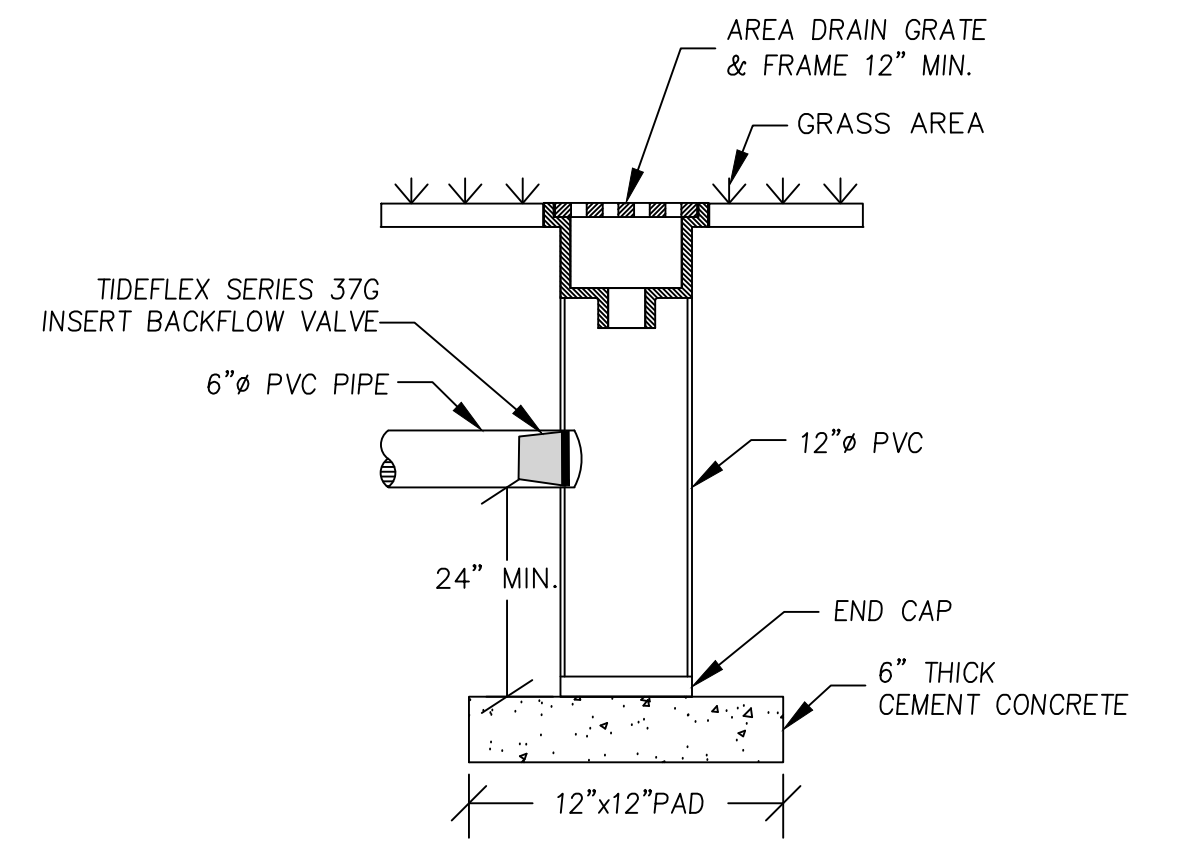
NOTICE OF INTENT PLAN
 249-251 WATER STREET

PLAN OF LAND IN
 NEWBURYPORT, MASSACHUSETTS
 SURVEYED FOR
 MICHAEL COSTELLO

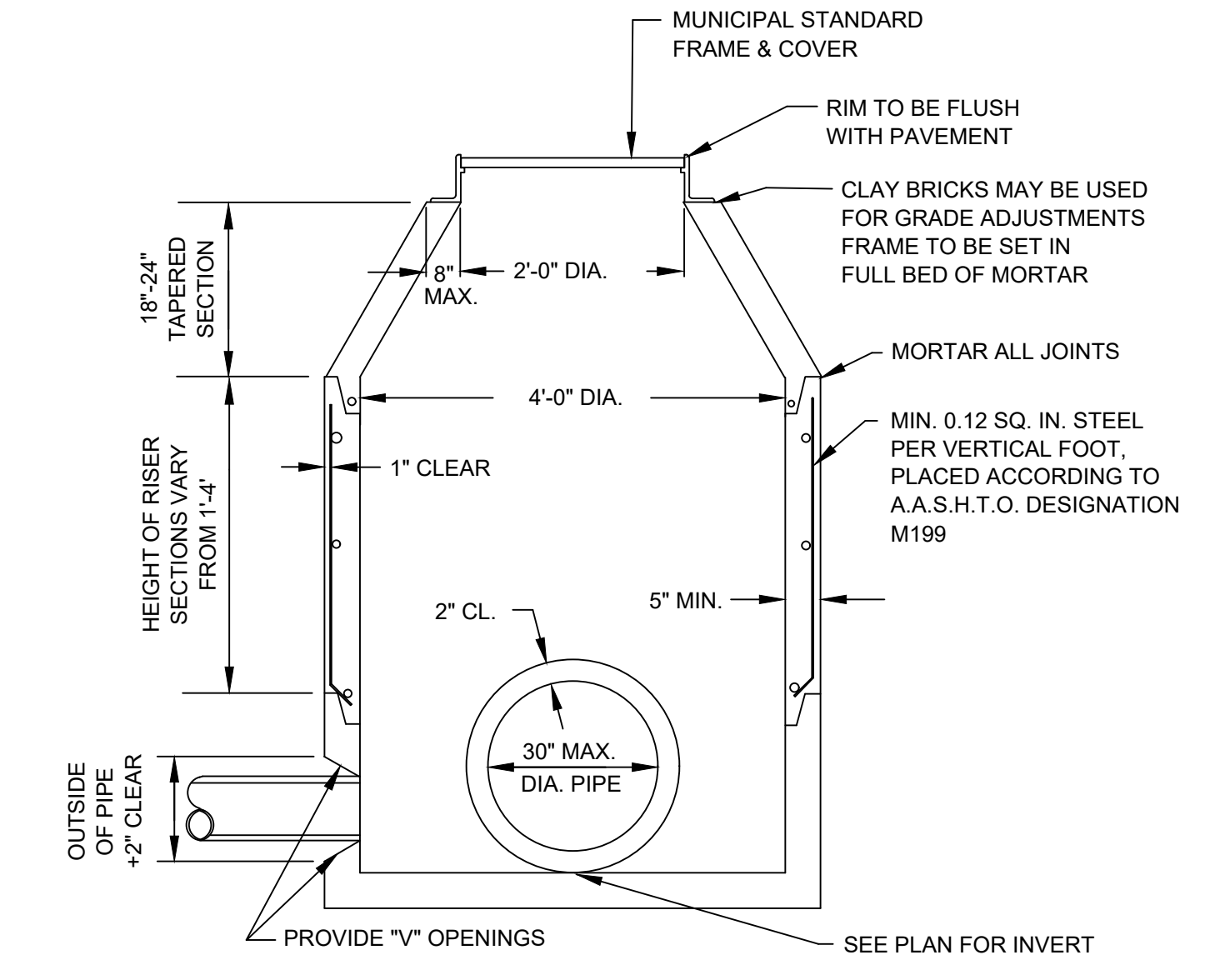
PROJECT NO.
 2019-249WATER
 DATE: FEB 26, 2020
 SHEET NO.
 2 OF 3



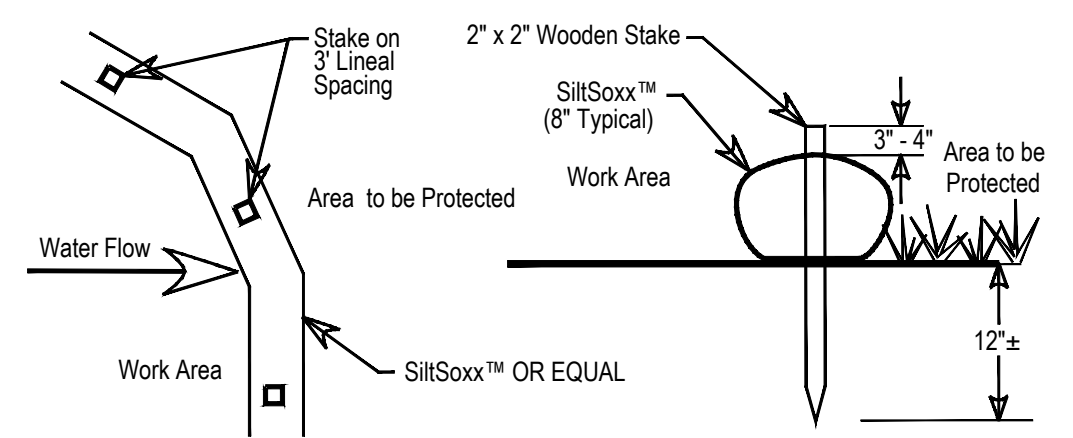
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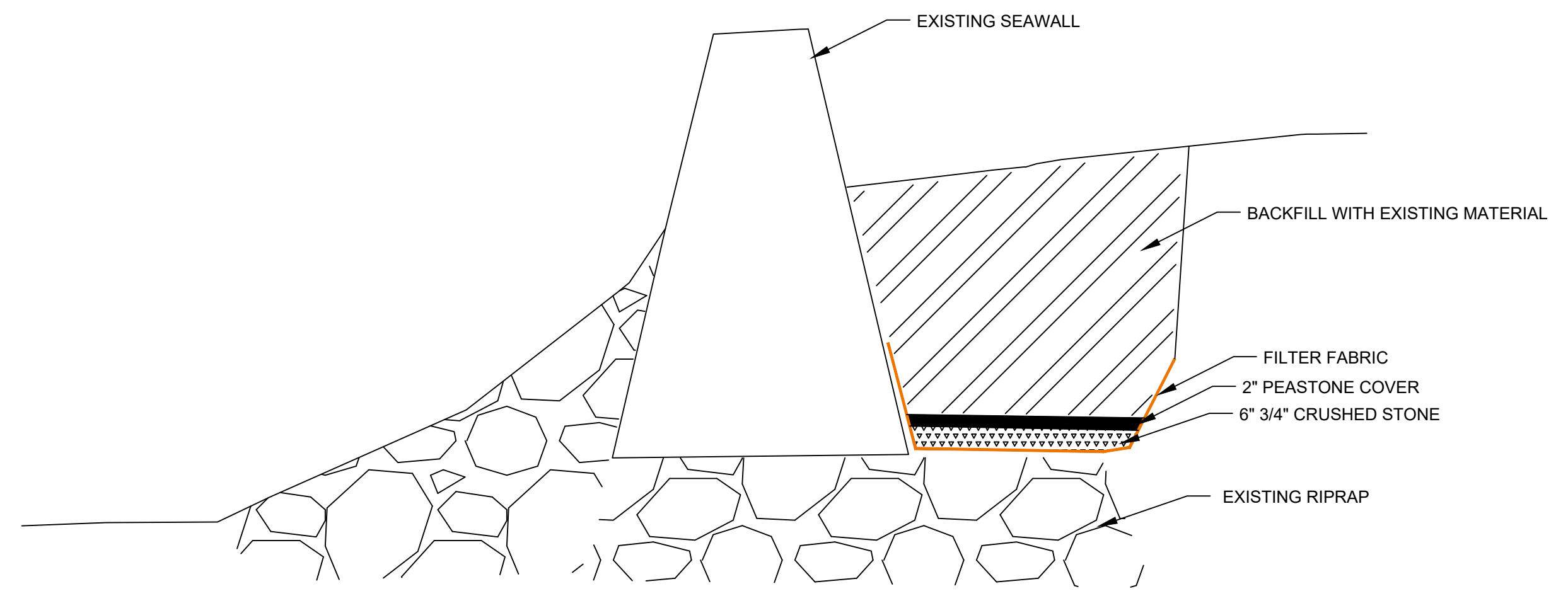
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3 PRECAST CONCRETE DRAIN MANHOLE
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4 EROSION CONTROL
NOT TO SCALE



5 SEAWALL EROSION MITIGATION DETAIL
NOT TO SCALE

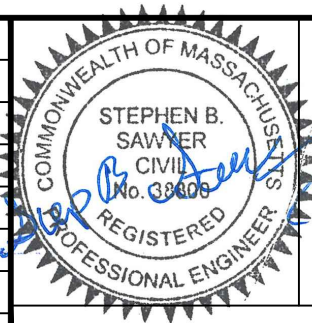
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NEWBURYPORT, MA 01950
978-270-8626



SCALE:
HORIZ: AS NOTED
VERT: N.A.

NO.	DATE	BY	REVISIONS
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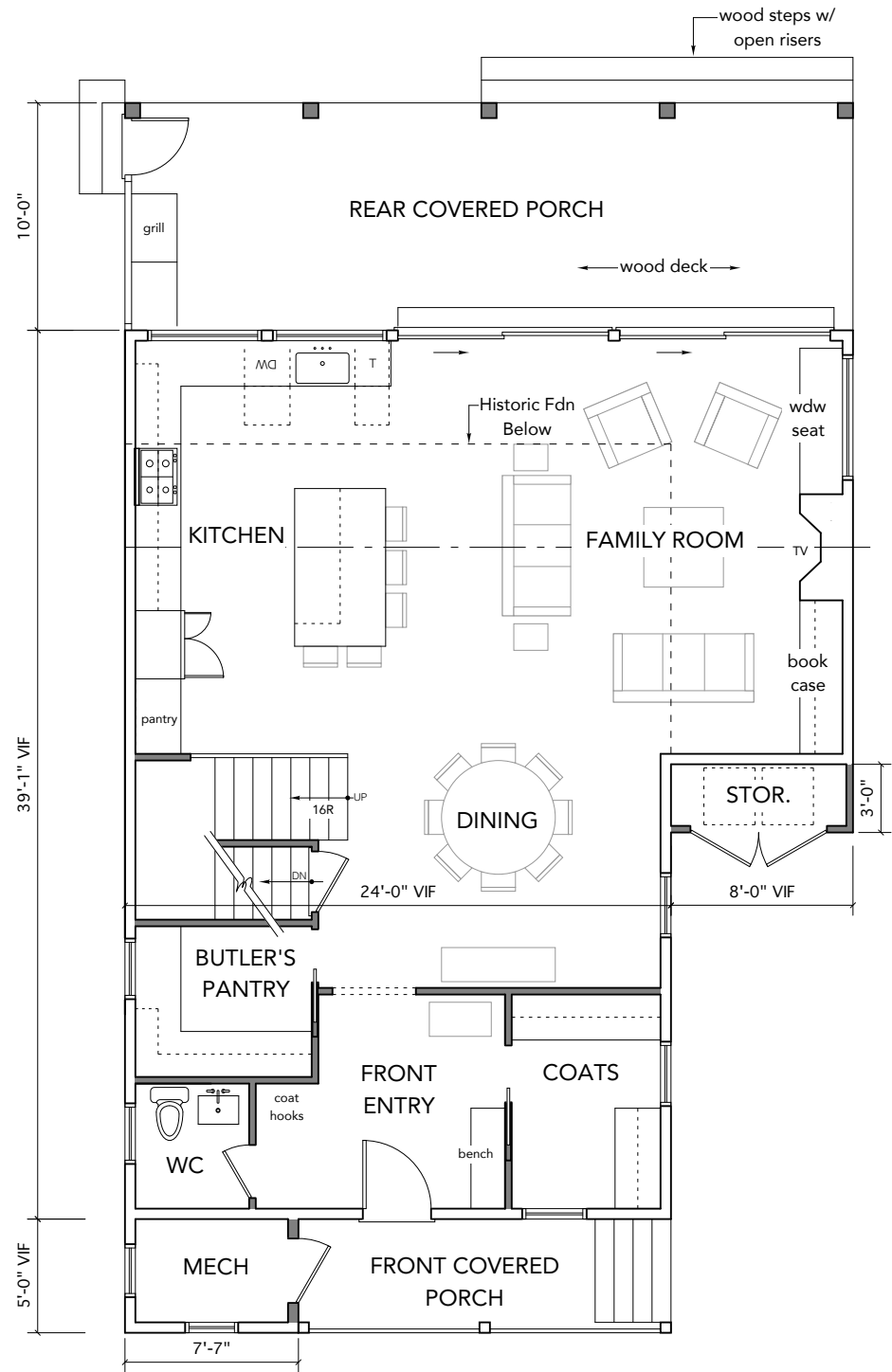


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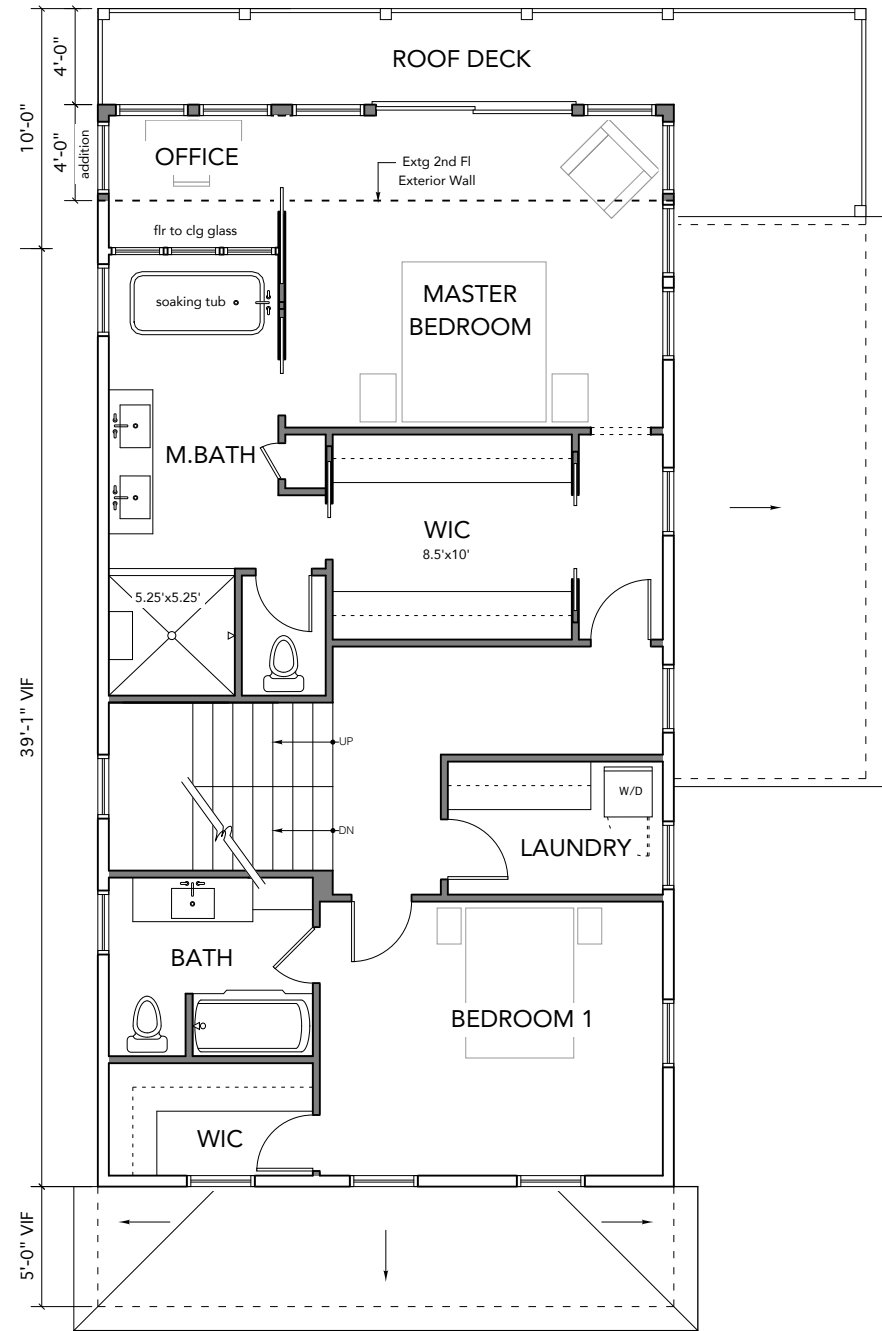
NOTICE OF INTENT PLAN
CONSTRUCTION DETAILS
249-251 WATER STREET

PLAN OF LAND IN
NEWBURYPORT, MASSACHUSETTS
SURVEYED FOR
MICHAEL COSTELLO

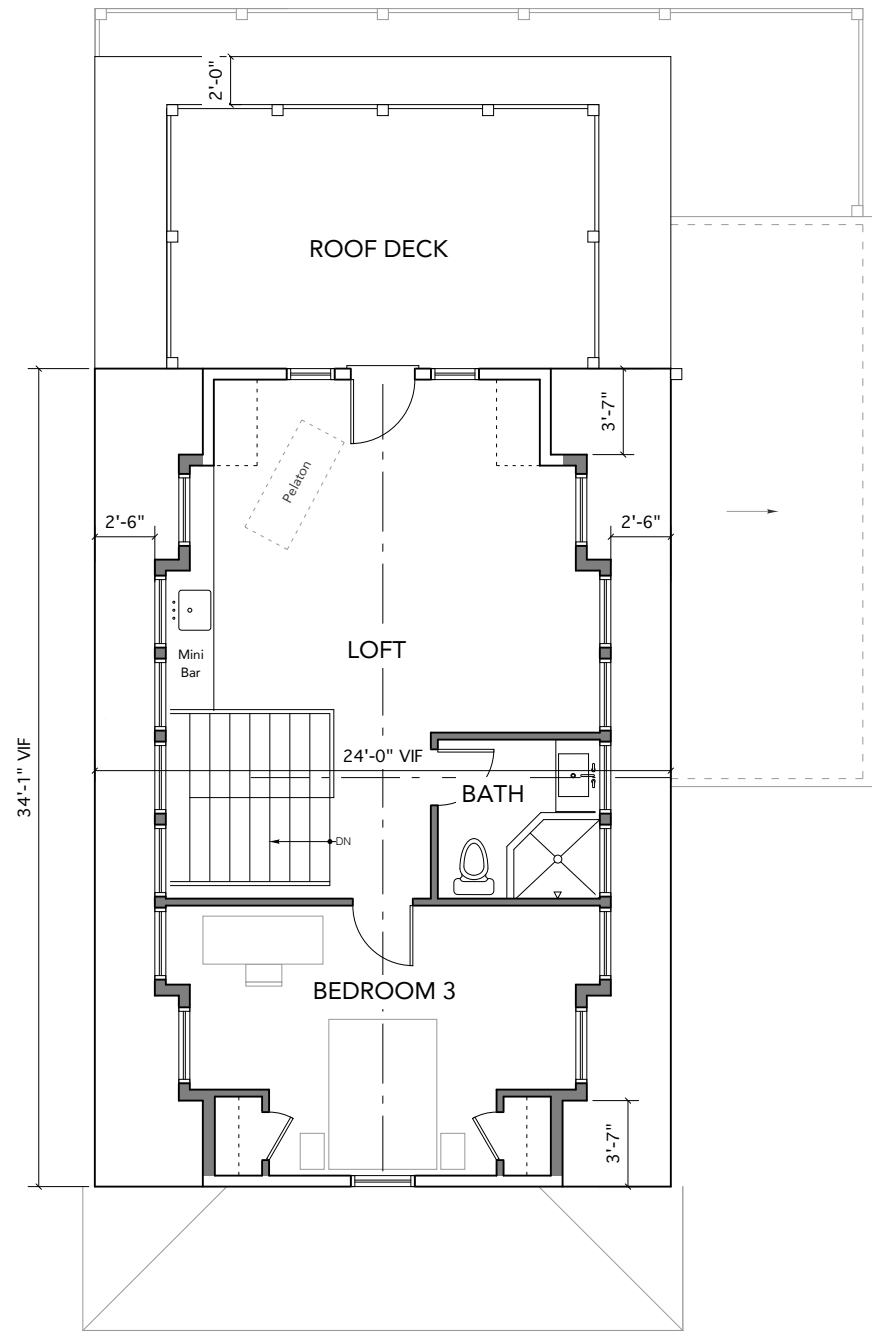
PROJECT NO.
2019-249WATER
DATE: FEB 26, 2020
SHEET NO.
3 OF 3



1 First Floor Plan
SCALE: 1/8" = 1'-0"



2 Second Floor Plan
SCALE: 1/8" = 1'-0"



3 Third Floor Plan
SCALE: 1/8" = 1'-0"

project:

COSTELLO RESIDENCE

249-251 Water Street
Newburyport, MA
01950

architect:

GRAF ARCHITECTS

2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442
www.grafarch.com

title:

PROPOSED Floor Plans

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

25 may 2020

SF CALCULATIONS

1st Floor	1,129 SF
2nd Floor	1,080 SF
3rd Floor	581 SF
TOTAL	2,790 SF

A01

project:

COSTELLO RESIDENCE

249-251 Water Street
Newburyport, MA
01950

architect:

GRAF ARCHITECTS

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Newburyport, MA
01950

T. 978 499 9442

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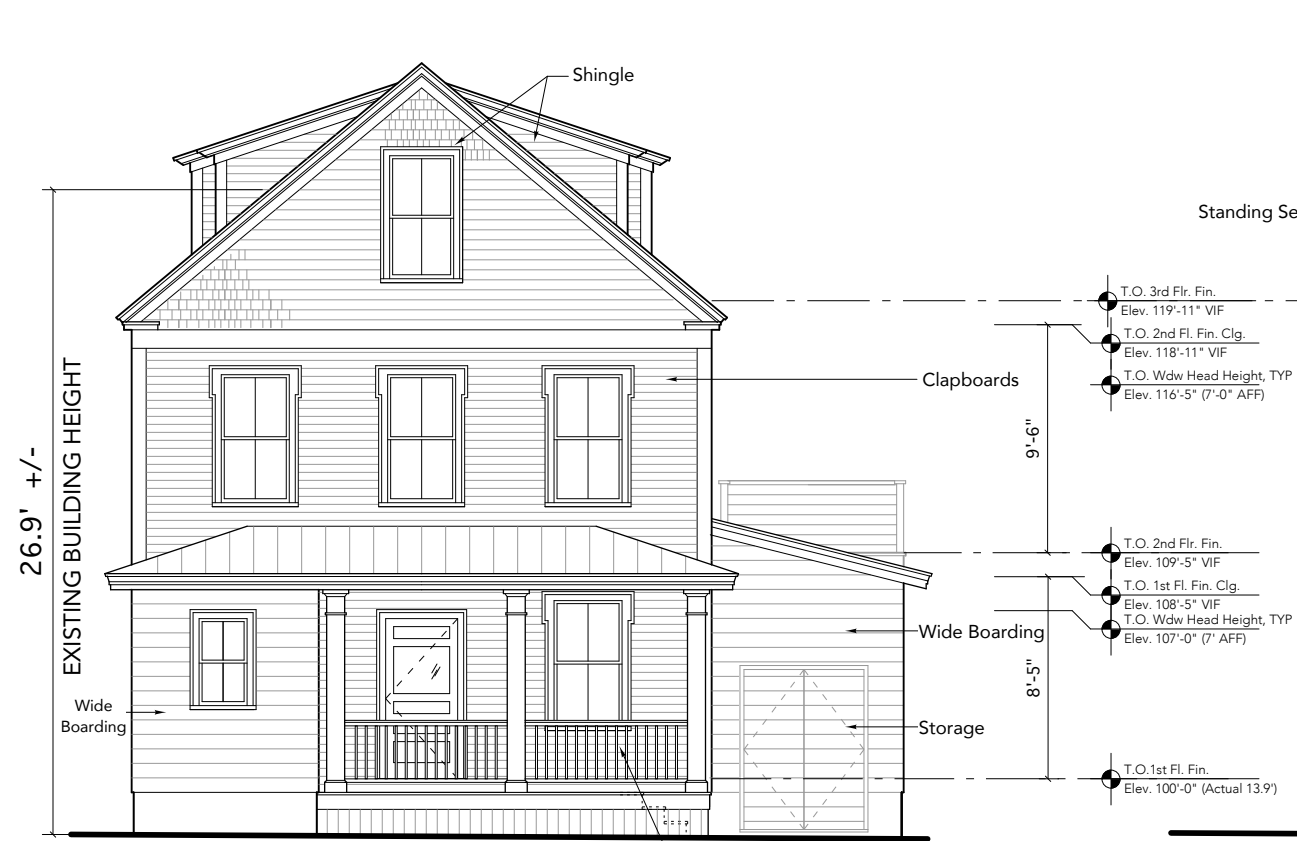
title:

PROPOSED Exterior Elevations

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

25 may 2020

A02



1 Front Exterior Elevation - PROPOSED
SCALE: 1/8" = 1'-0"



2 Side Exterior Elevation - PROPOSED
SCALE: 1/8" = 1'-0"



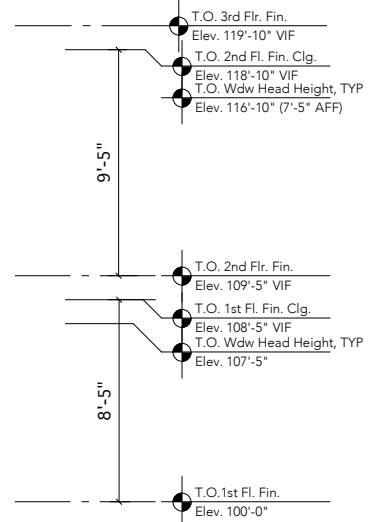
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SCALE: 1/8" = 1'-0"



4 Side Exterior Elevation - PROPOSED
SCALE: 1/8" = 1'-0"



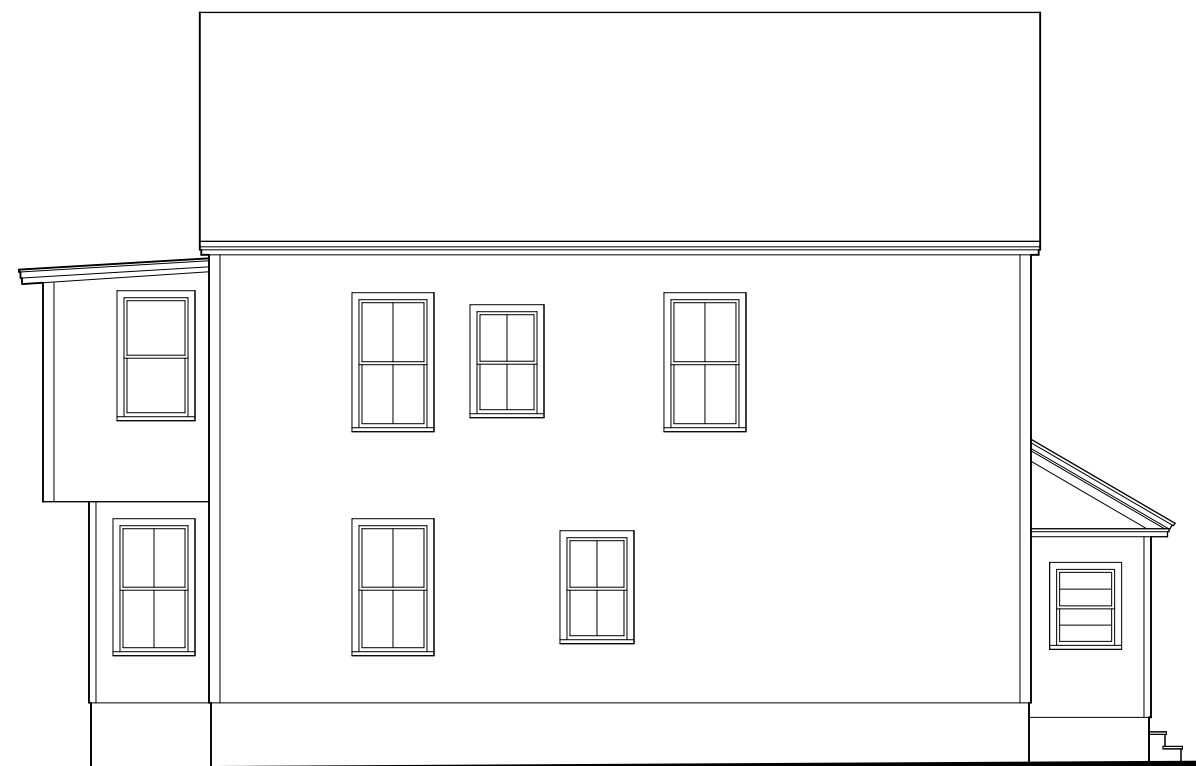
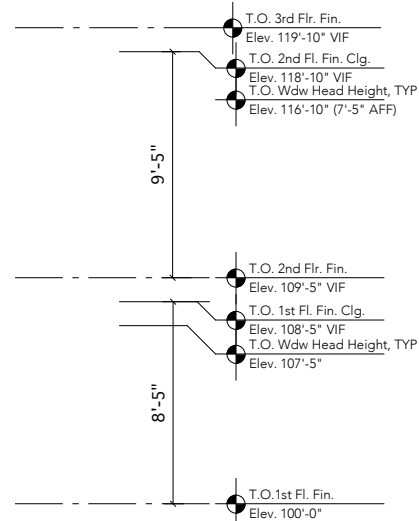
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2 Side Exterior Elevation - EXISTING
SCALE: 1/8" = 1'-0"



3 Rear Exterior Elevation - EXISTING
SCALE: 1/8" = 1'-0"



4 Side Exterior Elevation - EXISTING
SCALE: 1/8" = 1'-0"

project:
**COSTELLO
RESIDENCE**

249-251 Water Street
Newburyport, MA
01950

architect:
**GRAF
ARCHITECTS**
2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442
www.grafarch.com

title:
**EXISTING
Exterior Elevations**

SCALE: 1/8" = 1'-0"
25 may 2020

EX1

