
Special Permit & Site Plan Review Application

Proposed Endodontic Office

Property Location:

*2 Holmes Road
Lenox, MA 01240*

Applicant:

*OJ Realty, LLC
c/o Sarah Martinelli, Manager
2019 State Road
Richmond, MA 01254*

Architect:

*Burr and McCallum Architects
720 Main Street
Williamstown, MA 01267*

Civil Engineer:

*Foresight Land Services, Inc
1496 West Housatonic Street
Pittsfield, MA 01201*

June 1, 2020

FORESIGHT
LAND SERVICES



TABLE OF CONTENTS

**SPECIAL PERMIT APPLICATION AND SITE PLAN REVIEW APPROVAL
For Proposed Endodontic Office
2 Holmes Road, Lenox, MA**

1. Application for a Special Permit and Site Plan Review Approval
2. Project Narrative and Municipal Impacts
3. Site Photographs
4. Figures:
 - Exhibit A-1 Locus Map
 - Exhibit A-2 Zoning Map
 - Exhibit A- 3 Assessor's Map
 - Exhibit A- 4 Aerial Photograph
5. Purchase and Sale Agreement
6. Plans
 - Existing Conditions Plan, Foresight Land Services (1 Sheet)
 - Proposed Conditions Plan, Foresight Land Services (1 Sheet)
 - Architectural Plan and Elevations, Burr and McCallum Architects (2 Sheets)

The Commonwealth of Massachusetts
TOWN OF LENOX

Filing fee is due with the petition. If hearing expenses exceed this amount the Zoning Board of Appeals will bill the petitioner.

The undersigned hereby petitions the Town of Lenox Zoning Board of Appeals for:

☒ A Special Permit for exception under the provisions of Section 5.3.3 of the Town of Lenox Zoning By-Law. (Nonconforming Structures)

☐ A Variance from the following provisions of Section _____ of the Town of Lenox Zoning By-Law.

To permit the following use or activity (describe proposed use or activity):

Conversion of the former NBT bank building to a dental office, including interior renovations and the removal of the drive-through portion of the building and associated driveway. The existing lot and building are non-conforming with regard to the size and dimensional requirements of the C-1A district.

For premises:

Owner of Record NBT Bank NA

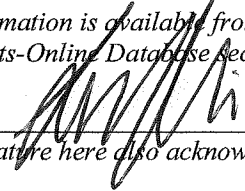
Address 52 South Broad Street, Norwich, NY 13815

Map and Parcel Map 50, Parcel 14

Zoned as C-1A

Deed Reference Book 4850 Page 343

(This information is available from the Assessor's Office or townoflenox.com in the Property Assessments-Online Database Section.)

Petitioner  OJ Realty, LLC, Sarah Martinelli, Manager
(Your signature here also acknowledges that you agree to pay all hearing expenses relative to this petition.)

Address (Mailing Address) 2019 State Road, Richmond, MA 01254

Telephone Number 703-801-8003

Email address Sarah.E.Martinelli@gmail.com

Date 05/29/2020

LENOX SPECIAL PERMIT &
SITE PLAN REVIEW APPLICATION

PROJECT NARRATIVE
PROPOSED ENDODONTIC OFFICE
2 Holmes Road, Lenox, MA

EXISTING CONDITIONS

2 Holmes Road in Lenox Mass is currently occupied by NBT Bank. The property is approximately 0.63± acres and is developed with a 1,632 square foot commercial brick building, a paved parking lot and drive-through lane, and landscaped grounds. The property is abutted by commercial uses to the north and south, a church and residence to the east, and Yokun Brook across Rt. 20 to the west.

The property falls within the Commercial (C-1A) zoning district and is currently non-conforming as follows:

- Minimum required lot size for C-1A district not met;
- Minimum 30 foot lot line setback to building not met on south side;
- Parking lot setback not met;
- Sign number and setbacks not met.

The property is not within the flood hazard zone as shown on Flood Insurance Rate Map for Lenox, Panel 250029 002B, effective July 5, 1982. There are no wetlands or priority or estimated wildlife habitats on site, per MassGIS NHESP and wetlands layers.

PROPOSED PROJECT SCOPE

OJ Realty, LLC is proposing to convert the bank building into an endodontic practice (root canal specialist) to be known as “Shire City Endo”. The existing bank drive-through facility and associated asphalt driveway will be removed and landscaped. The front porch will be enclosed and the interior will be renovated to dental office space as shown on the included architectural floor plans. The existing parking lot, storm drainage, and much of the existing landscaping, including all mature trees, will remain.

The applicant requests a Special Permit and Site Plan Review from the Zoning Board of Appeals for change in use of an existing non-conforming property.

The proposed plan reduces the building non-conformity by removing the drive-through overhang, which is non-confirming with regard to the 30 foot setback to lot line. Required, existing and proposed dimensional requirements are listed in the following table:

Dimensional Requirements of the C-1A Zoning District

Requirement	C-1A Requirement	Existing Conditions	Proposed Conditions
Minimum Lot Area	1 acre	0.63± acre	No change
Minimum Lot Frontage	200 feet	575± ft	No change
Minimum Lot Width at Bldg Setback	200 feet	200+ ft	No change
Minimum Setbacks:			
A. 1. Building to Street Line	50 feet	50 ± feet	No change
2. Building to Lot Line	30 feet	21± ft to Drive-Thru	30± feet
3. Building to District Boundary	50 feet	Not Applicable	Not Applicable
B. Sign Setback	30 feet	0± feet	No change
C. Parking Area Setback	30 feet	4.5± ft	No change
Maximum Height	35 feet	27.5± ft	24± ft
Maximum Building Coverage	30 %	8.5% ±	7.6% ±

ZONING REQUIREMENTS

The primary applicable zoning regulations include, but are not limited to:

- 3.5 Site Plan Approval in the C-1A and C-3A Zones
- 5.3.3 Nonconforming Structures
- Section 6 Dimensional Requirements
- Section 7.1 Off-Street Parking and Loading Requirements
- Section 7.2 Signs
- Section 7.3 Lighting
- Section 7.4 Drainage and Erosion Control

MUNICIPAL IMPACTS

Site information is provided alphabetically by topic below.

Access

The existing access to the parking lot off Old Holmes Road will be maintained. The drive-through lane and exit onto Old Holmes Road will be removed and curbing and landscaping will be installed. No new accesses are proposed.

Electric/Telephone/Internet

Existing electric, telephone and internet wiring will be used or upgraded as necessary.

Employees

Up to 2 dentists and 5 support staff will be employed at this office. All employees will be full-time.

Landscaping

Existing mature trees and many of the shrubs and landscaped beds will remain, and additional (infill) and/or replacement shrubs and landscaped beds will be added. Low conifers will be added on the berm to the north for screening. Fencing will be added to the rear and west for screening. The existing drive-through lane and exit will be removed, and the asphalt associated with this demolished and taken off-site for disposal. Topsoil will be spread as necessary, and loam and seed applied for new lawn areas.

Lighting

Existing pole lighting will be removed. Lighting infrastructure will be limited to building exterior only and will be downward directional/shielded to prevent overflow at the property lines. Lighting will meet all applicable Town Codes.

Operation Days/Hours

Office hours are expected to be Monday-Friday for a 9 hour period (to be determined), starting no earlier than 7am and ending no later than 7pm. Regular Saturday office hours are not anticipated at this time, but may be proposed in the future for a maximum of 8 hours (8am to 4pm).

Parking and Loading

Per zoning section 7.1.5, an office space of 1,866 square feet requires 7 parking spaces. The existing parking lot of 16 spaces plus 1 accessible space is more than sufficient for the needs of this dental practice. No oversized vehicles are expected for deliveries or pick-ups.

Signage

The large existing NBT sign will remain, but be refaced with the practice name “Shire City Endo”. Two existing ~2x3’ lawn signs will also be re-faced with the practice name. One of the signs will be relocated as shown on the site plan, placing it further from the property line. The practice name will also be listed on two building-mounted signs, as shown on the architectural elevation drawings. Freestanding signs in the C-1A district require a 30 foot setback; therefore the existing signs are already non-conforming with respect to Section 7.2.6. The applicant proposes to make the site more conforming by relocating one of the small free-standing signs further from the property line. See photos for view of existing signs.

Solid Waste

The practice will generate minimal solid waste. The existing dumpster enclosure will be removed, and a rolling waste and recycling of standard residential size will be used with weekly pick-up. As a medical practice, the office will generate sharps and a small amount of biohazardous waste. Sharps containers and medical waste will be removed via a mail return program with Solmetex, a Massachusetts-based company. Waste and recycling containers will be located at the southeast corner of the property, as shown on the proposed Site Plan.

Stormwater Management

Existing site drainage is channeled to two existing drainage structures. One is located within the parking lot, and a second at the existing exit driveway. Both of these structures will remain. Site infiltration will be significantly improved with the removal of asphalt from the drive-through lane, and reduction in roof area with the removal of the drive-through overhang.

Traffic Impacts

Traffic is expected to be significantly reduced relative the existing drive-through bank traffic. Traffic trips were estimated by referencing the Institute of Transportation Engineers (ITE) Land Use Trip Generation Manual, 10th Edition. Drive in banks typically generate 20.45 trips per peak PM hour per 1000 feet of floor space, while medical offices typically generate 3.2 trips per peak PM hour per 1000 feet of floor space in a suburban setting. The trips per hour are estimated as shown in the table below:

Use	Trips/Hour*
Bank (Drive-In)	42
Dental Practice	6
Increase(Decrease) in Traffic:	(-36)

* Peak Hour (PM) Per Institute of Transportation Engineers (ITE) Common Trip Generation Manual, 10th Ed.

Water/Sewer

The onsite building is serviced by the Town of Lenox municipal drinking water and sewer systems. The water service is metered. Estimated water and sewer usage is contained in the table below, estimates based on Title 5 system design criteria (310 CMR15.203).

Use	Max. Flow (Gal/Day)
Bank (75 GPD per 1000 SF, min. 200 GPD)	200
Dental Practice (200 GPD Per Dentist)	400
Increase(Decrease) in Flow:	+200

As the site is connected to Town water, there is sufficient capacity for this minor increase in potential water use.

Summary and Conclusion

The changes proposed under this special permit include renovations to the proposed building façade and complete interior fit-out to support a dental practice. The building height will be slightly reduced due to removal of the cupola. Building footprint will decrease due to removal of the drive-through overhang, but internal square footage will slightly increase due to the additional of a vestibule on the east side, and enclosure of the existing open front porch.

The existing non-conformities of lot size and parking lot set-back will remain as-is, and a lot line non-conformity will be reduced.

A decrease in traffic will result from the conversion of a drive-through banking use to a private dental practice.

Improvements to site drainage will occur. Existing drainage management will be maintained, and the amount of impervious surface will significantly decrease due to removal of the drive-through lane. Therefore, stormwater drainage will be decreased relative to the current condition.

The existing municipal utility connections are adequate to handle the new water and sewer flows. The internal water and sewer systems will be updated and tied into the existing municipal connections.

Existing pole lights will be removed. Lighting infrastructure will be downward directional/shielded to prevent overflow at the property lines.

Compliance with both the letter and the spirit of the Zoning Ordinance is demonstrated by this Narrative for the proposed medical use.

, wiSITE PHOTOGRAPHS



Photo 1: Front/north side of building. Entrance to be removed. Porch to be enclosed.



Photo 2: East side of building. Entrance to be move further to the left, and vestibule to be added.



Photo 3: Northeast view from Rt. 7/20. Light post and flag pole to be removed. Large sign to remain with faces replaced.



Photo 4: Rear/south side. Drive through overhang to be removed, drive-through lane/asphalt to be removed, then grass and landscaping installed.



Photo 5: Rear drive-through looking west. Overhang, dumpster enclosure and asphalt to be removed and replaced with grass and landscaping. Mature trees to remain.



Photo 6: Free standing sign at parking entrance to remain, with practice name added “Shire City Endo”. Mature maple tree and lawn to remain.

LOCUS MAP



Approximate Scale: 1 inch ~ 250 feet

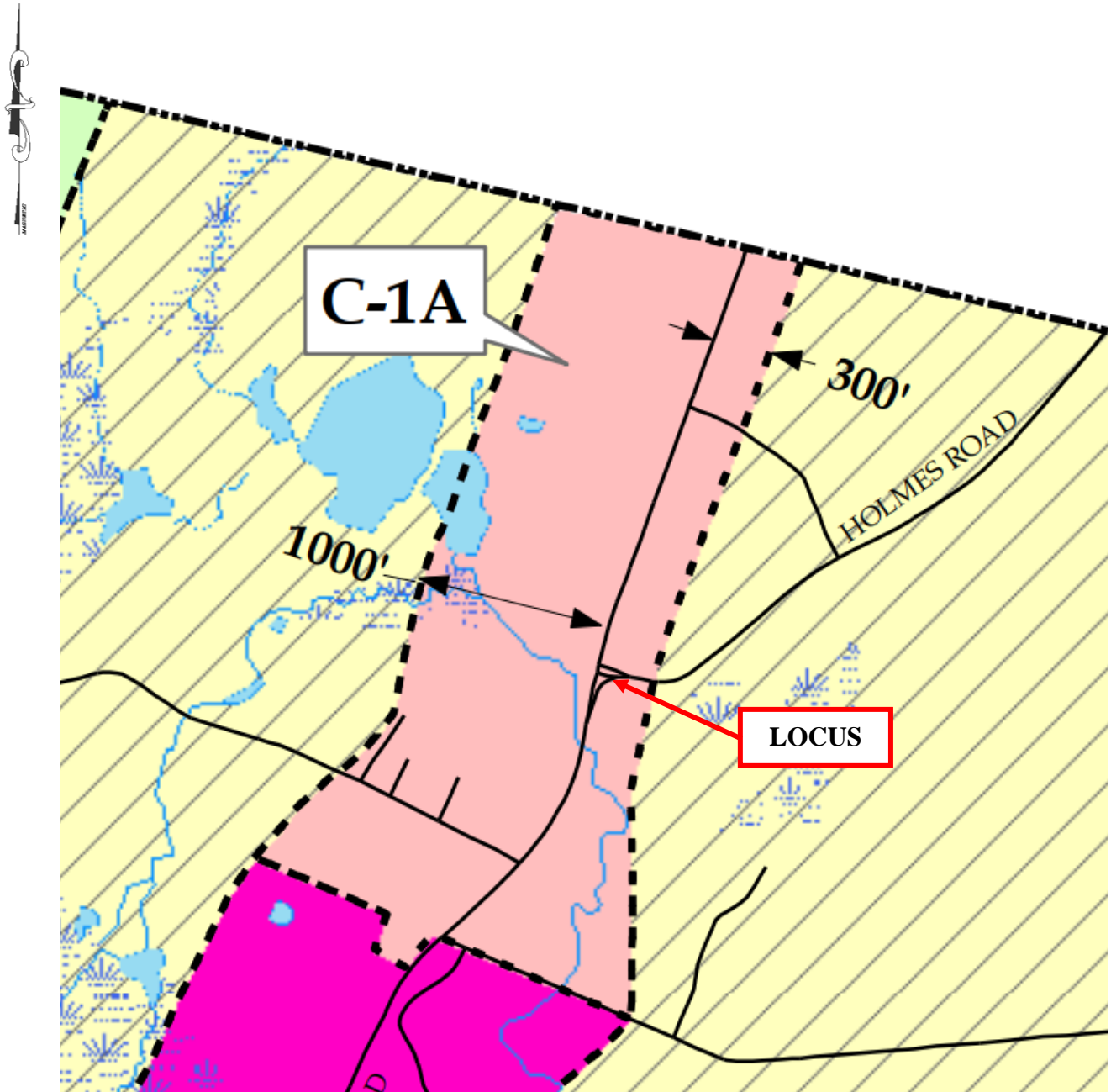
FORESIGHT LAND SERVICES, INC.
ENGINEERING • SURVEYING • PLANNING
1496 West Housatonic Street
Pittsfield, MA 01201

FLS Project #E2823

Exhibit A-1
Source: MassGIS

2 Holmes Road
Lenox, MA 01240

TOWN OF LENOX ZONING MAP



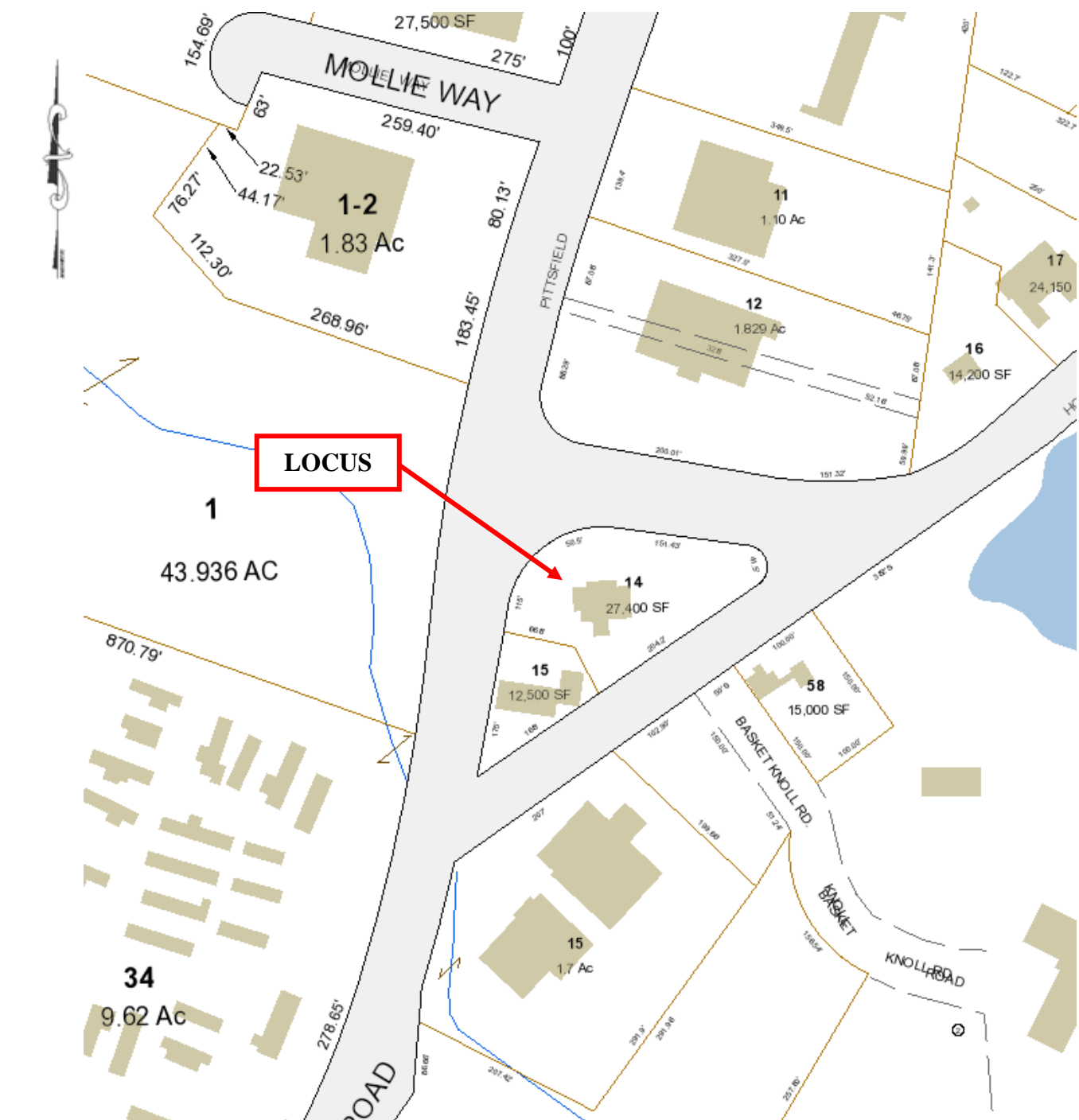
Not to Scale

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Exhibit A-2
Source: Town of Lenox Zoning Map

2 Holmes Road
Lenox, MA 01240

ASSESSOR'S MAP



Not to Scale

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1496 West Housatonic Street
Pittsfield, MA 01201

FLS Project #E2823

Exhibit A-3

Source: <https://www.axisgis.com/LenoxMA/>

2 Holmes Road
Lenox, MA 01240

AERIAL PHOTOGRAPH



Approximate Scale: 1 inch ~ 60 feet

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Pittsfield, MA 01201
FLS Project #E2823

Exhibit A-4
Source: Google Earth Photo 5/10/2014

2 Holmes Road
Lenox, MA 01240

PURCHASE AND SALE AGREEMENT

1. PARTIES.

This Agreement is made this 7th day of April, 2020 between NBT Bank, N. A., a national banking association having a business address at 52 South Broad Street, Norwich, NY, (hereinafter called the "SELLER"), and OJ Realty, LLC, a Massachusetts limited liability company having a business address of [REDACTED] (hereinafter called the "BUYER").

2. DESCRIPTION.

Subject to the terms and conditions hereinafter set forth, the SELLER agrees to sell and the BUYER agrees to buy the following described premises: 2 Holmes Road, Lenox MA, said premises being more particularly described on Exhibit "A" which is attached to this Agreement and incorporated herein by reference, (hereinafter referred to as the "premises").

3. BUILDINGS. STRUCTURES. IMPROVEMENTS. FIXTURES.

Included in the sale as part of said premises are all buildings, structures, improvements and fixtures (excepting those removed as part of Seller's Work, below defined) located in or on the premises belonging to the SELLER and used in connection therewith.

Notwithstanding the foregoing, prior to closing, the SELLER, at SELLER's sole cost, shall (a) remove from the premises the following items: the safe, the ATM, the teller line completely, the security system, all cameras, the burglary system, the safe deposit boxes, and the Night Drop, and (b) dispose of any debris resulting from the removal of the foregoing items, leaving the premises in "broom clean" condition (the foregoing collectively referred to herein as the Seller's Work.).

The lighted sign box and pole on the lawn together with the small directional signs along the driveway shall remain on the premises. The Seller will remove the NBT Bank sign faces and replace them with white plexiglass faces.

4. TITLE.

The premises are to be conveyed by a good and sufficient Quitclaim Deed of the SELLER which shall, convey a good, clear record, and marketable title to the same free from all encumbrances, except:

- a. Usual public utilities servicing the premises, if any;
- b. Such taxes for the current year as are not due and payable on the date of delivery of the Deed;
- c. Any liens for municipal assessments and/or orders for which assessments may be made after the date of this Agreement;
- d. Restrictions, covenants, conditions, reservations, easements, rights of way and agreements of record which do not materially affect the value or current use of the premises; and
- e. Provisions of existing building and zoning laws.
- f. Environmental laws, rules and regulations applicable to the Premises but not in violation.

5. BUYER'S TITLE EXAMINATION.

Upon execution of this Agreement by both parties, the BUYER agrees to order a title examination at his sole cost and expense. Within forty-five (45) days of the date of this Agreement, BUYER shall furnish to SELLER written notice of any objections to title. Any matter not mentioned in the aforesaid notice which is contained in the title report or commitment received by BUYER shall not thereafter be deemed to affect the marketability of title. The BUYER shall afford the SELLER a reasonable time (which shall be deemed to be a period of not more than thirty (30) days from the date written notice of any defect is delivered by the BUYER to the SELLER) to cure or correct any defects or objections to title at SELLER's sole expense. In the event SELLER is unable to cure such defects or objections to title at a cost not to exceed \$25,000, the BUYER shall have the option either of accepting such title as the SELLER can convey or rescinding this Agreement; and if the BUYER shall elect to rescind, then the SELLER shall repay to BUYER all sums deposited on account of the purchase price hereunder, and this Agreement shall then be rescinded without any further loss, cost, damage, right or remedy in favor of any party against the other. Any encumbrance arising after the date of the notice (but before transfer of title) or not set forth in the title report or commitment shall be the responsibility of the SELLER, who shall be given a reasonable time to remove the encumbrance.

(Reasonable time shall be deemed a period not to exceed thirty (30) days from the date written notice of the encumbrance is given to SELLER).

6. EXTENSION TO PERFECT TITLE.

If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, then any deposits made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto, unless the SELLER elects to use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty (30) days.

7. FAILURE TO PERFECT TITLE.

If at the expiration of the extended time the SELLER shall have failed to remove the title defects or deliver possession, as the case may be, all as herein agreed, then any deposits made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

8. BUYER'S RIGHT TO ACCEPT TITLE.

The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the premises in their then condition and to pay the purchase price without deduction, in which case the SELLER shall convey such title.

9. CONSIDERATION.

For the conveyance of the premises the BUYER is to pay the sum of [REDACTED] Dollars. The BUYER has paid a deposit in the amount of [REDACTED] Dollars upon signing this Agreement (which includes a [REDACTED] deposit accompanying BUYER's initial offer to purchase the premises). At the time of closing, upon delivery of the deed and other documents of conveyance the purchase price shall be paid as follows: (i) the deposit shall be released to the SELLER and (ii) the balance of the purchase price in the amount of [REDACTED] Dollars shall be paid by BUYER to SELLER by certified or bank check, attorney's trust account check, or wire transfer.

10. THE TIME FOR PERFORMANCE.

The deed is to be delivered and the consideration paid at the offices of the Berkshire Middle District Registry of Deeds, 44 Bank Row, Pittsfield, MA at 10:00 AM on June 15th, 2020 ("Closing Date"), or by delivery of SELLER'S original transaction documents in escrow to either BUYER'S Counsel, BUYER'S Lender's Counsel or the agent or title company providing fee and/or mortgage title insurance for the transaction contemplated by this Agreement unless some other place and time or logistic should be mutually agreed upon. To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any and all encumbrances or interests; and all instruments so procured to clear the title shall be recorded simultaneously with the delivery of the deed, or within a reasonable time thereafter in accordance with local conveyancing practices.

10a). EXTENSION OF TIME FOR PERFORMANCE. The Time for Performance shall be extended for an Excused Delay (below defined) which materially affects the Buyer's ability to close or obtain financing, the inability of the Seller to close on sale of the Premises for similar reasons, the unavailability of movers, contractors to complete Seller's Work or some other such cause that prevents either party from fulfilling its obligations under the Agreement due to an Excused Delay, unless Buyer and Seller mutually agree otherwise. As used herein an Excused Delay means a delay preventing the closing to occur caused by an Act of God, declared state of emergency or public health emergency, pandemic (specifically including COVID-19), government mandated quarantine or travel ban, war, acts of terrorism, and/or order of government or civil or military authorities or closure of applicable State Office of recording and title agent and title insurer having no ability to provide gap coverage in lieu of closed recording office. The Time for Performance shall expire at the earlier of 10 business days after the end of the Excused Delay or 90 days after the Closing Date. In the event that the closing cannot occur during the 90-day extension, unless the Buyer and the Seller agree to further extend the closing, the Agreement shall terminate, and the Deposit shall be returned to the Buyer. Buyer shall have the right to sooner terminate the Agreement if Buyer no longer qualifies for the mortgage it applied for or if Buyer's lender withdraws or terminates the mortgage commitment. As any Excused Delay would not be due to either the fault of Buyer or Seller, any rate lock extension fees occurring during an Excused Delay shall be paid equally by Buyer and Seller.

11. ACCEPTANCE OF DEED.

The acceptance of a deed by the BUYER shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the

delivery of the deed.

12. CASUALTY LOSS.

In case of any damage to the premises by fire or other casualty (but specifically excepting as damage "Seller's Work"), the cost of which is greater than \$25,000, unless the premises shall previously have been restored to their former condition by the SELLER, the BUYER may, at the BUYER'S option, either cancel this Agreement and recover all sums deposited hereunder, or require as part of this Agreement that the SELLER pay over or assign, on delivery of the deed, all sums recovered or recoverable on any and all insurance, if any, covering such damage plus any deductible amount but for which insurance coverage would be applicable.

13. EMINENT DOMAIN.

SELLER agrees to give BUYER immediate written notice of any action or proceeding threatened, contemplated, instituted, or pending in eminent domain or for condemnation affecting any part of the premises. If before closing of title all or any part of the premises is taken by eminent domain or condemnation or made subject to any eminent domain or condemnation proceeding or any such proceeding is threatened, this Agreement may be terminated at the election of BUYER by written notice to SELLER given within ten (10) days after notice thereof from SELLER and, upon such election, the deposit shall be returned to BUYER. If BUYER does not elect so to terminate, then this Agreement shall remain in full force and effect and SELLER will turn over or credit to BUYER at the closing all monies received by SELLER by reason of such taking and shall assign all SELLER's right, title and interest in and to any awards that may be made for such taking.

14. POSSESSION.

Full possession of the premises, free of all tenants and occupants, is to be delivered to the BUYER at the time of the delivery of the Deed, the SELLER's Work to have been completed in accordance hereunder, and the premises to be then in the same condition in which they now are, excepting changes resulting from completion by SELLER of Seller's Work and reasonable use and wear of the buildings thereon excepted.

15. ADJUSTMENTS.

Water rates, sewer use, real property taxes and related tax abatements shall be apportioned as of the day of delivery of the deed. If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on

the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained, which latter provision shall survive the delivery of the deed.

16. DEPOSITS.

All deposits made hereunder shall be held by Stone House Properties, LLC (the "Broker") and shall be duly accounted for at the time for performance of this Agreement. In the event of a dispute between SELLER and BUYER, as to any or all of the provisions of this Agreement or the performance thereof, the Broker shall place all deposits hereunder in an escrow account at an FDIC-insured bank, unless some other agreement is reached in writing between the parties, until the dispute is resolved either by court judgment or by binding settlement between the parties. In the event that the Broker is made a party to any lawsuit by virtue of acting as escrow agent, Broker shall be entitled to recover reasonable attorney's fees and costs, which fees and costs may be deducted from the escrowed funds. Such fees and costs shall be assessed as court costs in favor of the prevailing party.

17. ENVIRONMENTAL CONTINGENCY

BUYER's performance of his obligations under this Agreement is contingent on the BUYER's satisfaction that the premises are in compliance with the requirements of Massachusetts General Laws, Chapter 21E. Any tests or investigations that BUYER or BUYER's mortgage lender requires shall be at BUYER's sole expense. If the BUYER does not provide written notice to SELLER that the BUYER is not satisfied with the condition of the premises on or before May 26, 2020, the BUYER shall be bound to perform BUYER's obligations under this Agreement. Notwithstanding anything to the contrary hereinabove BUYER may not perform any invasive testing of the Premises or the improvements thereon without the prior written consent of SELLER.

18. RIGHT TO INSPECT; ACKNOWLEDGMENT.

This Agreement is subject to the right of the BUYER to obtain, at BUYER's own expense, a physical inspection of the premises and written report to include, but not be limited to completion of the SELLER's Work, the structural condition of the building (including the roof), the condition of all systems in the buildings or on the premises, the presence of insect infestation, the presence of asbestos, urea formaldehyde foam insulation, lead based paint and/or radon gas, the adequacy and suitability of the water supply and the condition and adequacy of the sewerage system, by the consultant(s) of the BUYER's own choosing. The BUYER's right of inspection shall expire on May 15, 2020. The BUYER and the BUYER's consultant(s) shall have the right of access to the premises at

reasonable times upon twenty-four (24) hours advance notice to the SELLER, for the purpose of inspecting, as aforesaid, the condition of said premises. If the BUYER is not satisfied with the results of such inspection(s), this Agreement may be terminated by the BUYER, at the BUYER's election, without legal or equitable recourse to either party, the parties thereby releasing from each other from all liability under this Agreement, and the deposit shall be returned to the BUYER, provided however, that the BUYER shall have notified the SELLER, in writing, together with a copy of the written report(s) of the inspection(s) on or before May 21, 2020 of the BUYER's intention to so terminate. If such notice and written reports are not received on or before May 21, 2020 the BUYER shall be bound to perform BUYER's obligations under this Agreement. Notwithstanding anything hereinabove to the contrary BUYER may not perform any invasive testing, as part of an inspection, of the Premises or any improvements thereon without the prior written consent of SELLER.

Assuming that on or before May 26, 2020, the date by which all of the conditions to BUYER's obligations hereunder shall have been met, the SELLER shall commence the Seller's Work and shall complete such Seller's Work and notify BUYER in writing of such completion on or before June 10, 2020. SELLER shall deliver the Premises with Seller's Work complete, broom clean with all electrical wires, plumbing fixtures, if any, or other materials associated with the Seller's Work cut and capped flush with floors, walls and ceilings where any equipment or permanently affixed systems, safes, vaults, counters etc., have been removed as part of Seller's Work. Other than as set forth above SELLER shall not be required to restore ceilings, walls or floors to original condition as a result of SELLER's completion of Seller's Work.

19. MORTGAGE CONTINGENCY.

This Agreement is contingent on the BUYER's ability to obtain a commercial mortgage loan commitment in the amount of [REDACTED] to be applied toward the purchase of the premises and the necessary alterations to the premises. If, despite the BUYER's diligent efforts, a commitment for such loan cannot be obtained on or before May 26, 2020, the BUYER shall so advise the SELLER in writing and this Agreement shall become null and void, and all deposits made hereunder shall be refunded and all obligations to each other shall cease at the option of the SELLER. If SELLER shall elect not to declare this Agreement terminated and shall permit BUYER and BUYER'S Lender to continue to process such financing then BUYER shall continue to diligently perform unless and until BUYER'S Lender shall issue a declination letter disapproving BUYER for financing in the amount set forth above, setting forth the reason for such declination in such written declination letter. If such declination letter is issued then upon delivery of the same to SELLER this Agreement shall be deemed null and void, terminated, of no further force and effect and all deposits made hereunder shall be returned to BUYER and thereafter neither party hereto shall

have further rights or obligations to the other. If such written declination letter or BUYER written request to terminate for lack of commitment of lender, which is accepted in writing by SELLER is not received on or before the expiration date hereinabove specified, the BUYER shall be bound to perform the BUYER's obligations under this Agreement. Further, the BUYER agrees to provide such reasonable documentation of the BUYER's failure to obtain such loan commitment as the SELLER may request. In no event shall the BUYER be deemed to have used "diligent efforts" to obtain such mortgage commitment unless the BUYER submits a complete mortgage loan application conforming to the foregoing provisions forthwith.

20. PERMITTING CONTINGENCY.

This Agreement is contingent upon the BUYER's ability to obtain permits from the Zoning Board of Appeals of the Town of Lenox, MA to change the use of the premises from that of a bank to that of a professional licensed dental practice and to alter and add to the physical structure (not more than 400square feet of area) from that of a bank to that of a dental practice including dental operations, waiting area, private dentist offices and business and accounting areas. If despite the BUYER's diligent efforts such permits cannot be obtained on or before May 26, 2020, the BUYER shall so advise the SELLER in writing and this Agreement shall become null and void, and all payments made hereunder shall be refunded and all obligations of each party to the other shall cease.

21. DEFAULT.

If the BUYER shall fail to fulfill the BUYER's agreements herein, all deposits made hereunder by the BUYER together with any interest earned thereon shall be forfeited by the BUYER and retained by the SELLER, as liquidated damages (it being agreed that said liquidated sum is equitable and reasonable and that SELLER's actual damages might be impossible to ascertain). The retention of said sum shall be SELLER's sole remedy and there shall be no further liability of either party under this Agreement.

22. SALE ON AN "AS IS" BASIS.

The BUYER acknowledges that it has been afforded sufficient opportunity to examine the premises, public records pertaining to the premises, and any other data necessary to become adequately familiar with the condition and uses of the premises. Accordingly, the BUYER agrees to accept the premises "as is", with no warranties by the SELLER, express or implied, as to the condition of the premises or as to factors limiting its use and/or occupancy, except as otherwise stated in this Agreement.

The BUYER further acknowledges that the BUYER has not been influenced to enter into this Agreement nor has the BUYER relied upon any warranties or representations not set forth or incorporated in this Agreement.

23. CONSTRUCTION OF AGREEMENT.

This Agreement has been executed in one or more counterparts and each executed copy shall be deemed to be an original, is to be construed under the laws of the Commonwealth of Massachusetts, is to take effect as a sealed instrument, sets forth the entire agreement between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns and may be canceled, modified or amended only by a written instrument executed by the parties hereto or their legal representatives.

24. NOTICE.

Any notice required to be given in this Agreement shall be in writing and sent by first class mail, postage prepaid return receipt requested or by e-mail at the address set forth below followed by concurrent notice by first class mail and shall be deemed to be duly given on the third day following the date of the postmark and shall be sent to the address set forth in Paragraph 1.

Seller's e-mail address: [REDACTED]
Buyer's e-mail address: [REDACTED]
Broker's e-mail address: [REDACTED]
Co-Broker's e-mail address: [REDACTED]
Buyer's Attorney's e-mail address: [REDACTED]
Seller's Counsel's e-mail address: [REDACTED]

25. SEPARABILITY.

If any provisions of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision shall be valid and be enforceable to the fullest extent permitted by law.

26. RECORDING.

The parties agree that neither this Agreement nor a notice of same shall be recorded in the Berkshire County Registry of Deeds or the Berkshire Registry District of the Land Court. If this Agreement or a notice of same is so recorded,

then this Agreement shall be void at the sole option of the SELLER. In such event the deposit shall be forfeited to SELLER as liquidated damages and the parties shall have no further obligation to the other hereunder.

27. BROKER.

Each party represents to the other that it has not dealt with any real estate broker other than Stone House Properties, LLC ("Broker") in the negotiations leading up to this Agreement. SELLER shall pay a six (6%) percent commission to Stone House Properties, LLC. which shall, in turn, pay a co-brokerage commission of two and a half (2.5%) percent to Tucker Welch Properties, LLC. Each party shall indemnify, defend and hold the other party harmless from a breach of these representations by such party.

28. RESTRICTIVE COVENANT.

Land Use Restriction. Neither the BUYER, nor its transferees, successors, and/or assigns, may make use of all or a portion of the premises conveyed herein for any of the following purposes: (1) A retail or commercial bank, loan production office, savings and loan association, credit union, insurance brokerage, insurance company, mortgage banking and/or mortgage brokerage office, automatic teller machine facility, institutions dealing in trusts, companies offering financial planning or estate planning services, stock brokerages; (2) without regard to the existence of a Federal, State or local permit or license, and without regard to the legality of such activity otherwise, the sale, display, storage, warehousing, distribution, manufacture, development, cultivation, or horticultural activities associated with, cannabis products or cannabis-based products (marijuana); (3) production of, sale, display, storage, warehousing, distribution, inclusive of internet distribution or streaming, or services in connection with, performances of, or manufacture of, so-called "adult recreational" or "adult entertainment" materials, and/or pornographic and/or similar products, activities or services of any kind, on any media, including, without limitation, literature, magazines, books, movies, CD's, internet production, streaming of content, services, hosting or live performance. The above restrictions are intended to and shall run with the land.

IN WITNESS WHEREOF, the parties have executed this Purchase and Sale Agreement as of the date first-above written.

SELLER:
NBT Bank, N.A.

Janette D. Liffman
Witness

BY: *Joseph R. Stagliano*
Joseph Stagliano
Its: Executive Vice President

BUYER:
OJ Realty, LLC

Nicholas P. Martinelli
Witness

BY: *Sarah E. Martinelli*
Sarah E. Martinelli
Its: Manager

BROKER:
Stone House Properties, LLC

BY: *Suzanne Crerar*
Suzanne Crerar
Its: Authorized Broker

Exhibit A

LEGAL DESCRIPTION

2 Holmes Road, Lenox, MA

Beginning at a Massachusetts Highway Bound on the easterly side of the Lenox-Pittsfield Road also known as Route 20;

thence S. 62° 52' 10" E., 66.82 feet to an iron pipe found;

thence S. 24° 27' 40" E., 66.00 feet to an iron pipe found;

thence N. 65° 12' 20" E., 204.20 feet to a Massachusetts Highway Bound;

thence along a curve having a radius of 17.56 feet and an arc length of 41.50 feet

to a Massachusetts Highway Bound, said Bound being N. 2° 30' 22" W., 32.50 feet from the previous Bound;

thence N. 70° 13' 05" W., 151.43 feet to a Massachusetts Highway Bound;

thence along a curve to the left having a radius of 75.00 feet and an arc length of 50.50 feet to a Massachusetts Highway Bound;

thence along a curve to the left having a radius of 125.00 feet and an arc length of 115.00 feet, more or less, to the Massachusetts Highway Bound at the point and place of beginning;

Containing 0.63 acres of land.

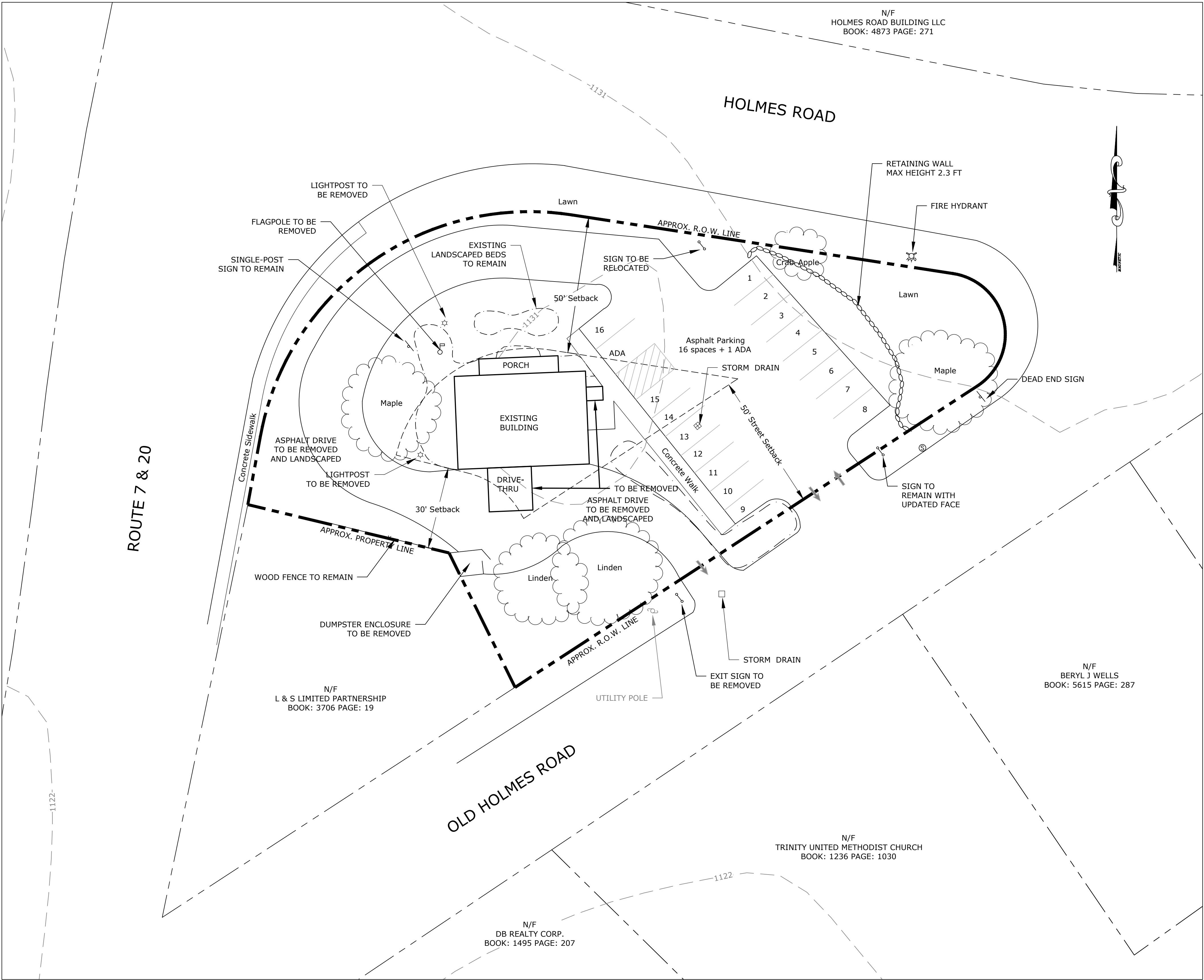
Beginning all of the parcel shown on a plan entitled "Plan of Land in Lenox, Mass., Owners: Samuel B. & Selma George, Scale: 1" = 20', July, 1976" and recorded in the Berkshire Middle District Registry of Deeds in Book 4171, Page 116.

Being the same premises conveyed to NBT Bank, N.A. by deed of Berkshire Bank dated November 23, 2011, and recorded November 23, 2011 in the Berkshire Middle District Registry of Deeds in Book 4850, Page 343.

General Notes About Compiled Site Plan Base Map:

The site plan base map is compiled from available sources and is not the result of a recent field survey. Compiled information includes MassGIS (Office of Geographic and Environmental Information, Commonwealth of Massachusetts Office of Environmental Affairs) Aerial Photos, FEMA flood maps, and other published sources. Property lines are compiled from deeds, record surveys and assessors mapping. Utilities are from available plans, records and direct observation.

All compiled information is approximate only and is subject to field verification and change.



SITE DATA

Data provided by Town of Lenox, MA
Zoning Bylaw
Dated: May 4, 2017
Zoned: C-1A

Dimensional Requirements:

Min. Lot Dimensions
Area = 1 Acre
Min. Lot Frontage = 200 FT
Min. Lot Width at Bldg. setback line = 200 FT

Min. Setbacks:
Street line = 50 FT
Lot line = 30 FT
District Boundary line = 50 FT
Sign = 30 FT
Parking = 30 FT

Max Lot Coverage % = 30 FT
Max Building Height = 35 FT

LEGEND

--- APPROX. PROPERTY LINE
--- EDGE OF PAVEMENT
--- +1131- ELEVATION CONTOUR
--- PROPERTY LINE SETBACK
--- EXISTING LANDSCAPED BED

RECORD OWNER

NBT BANK NA
BOOK 4850 PAGE 343

COMPILED PLAN OF EXISTING SITE CONDITIONS

Prepared For

OJ REALTY, LLC

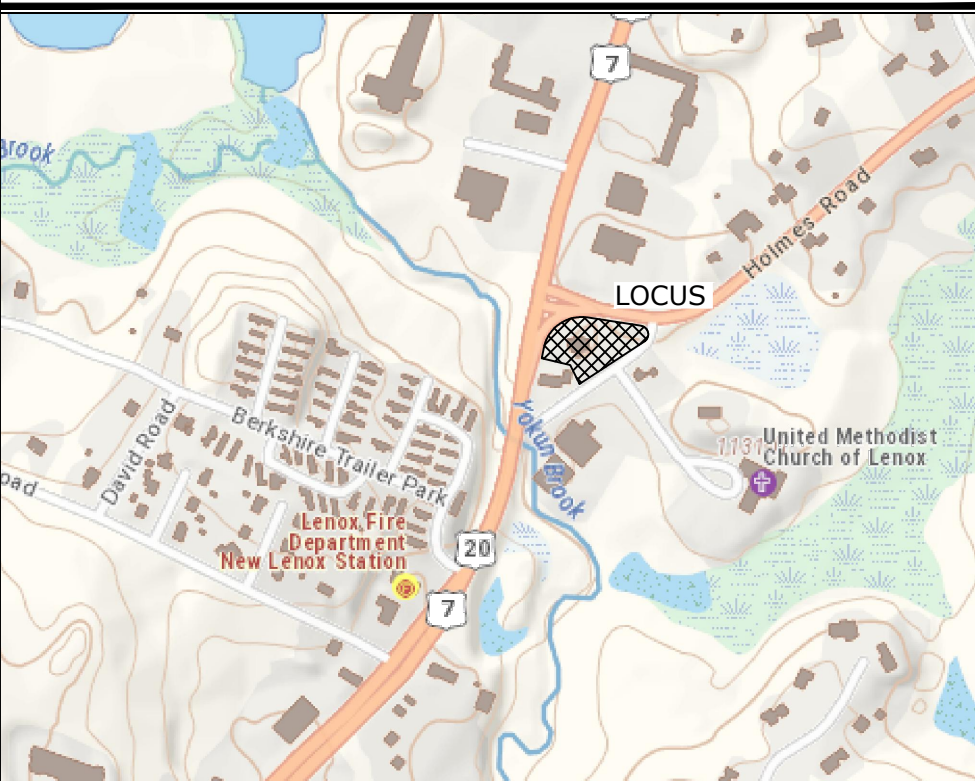
2 HOLMES ROAD
LENOX, MA

FORESIGHT LAND SERVICES ENGINEERING SURVEYING PLANNING

FORESIGHT LAND SERVICES, INC.
1496 WEST HOUSTON STREET - PITTSFIELD, MA 01201
TEL: (413) 499-1560 FAX: (413) 499-3307 WWW.FORESIGHTLAND.COM

SCALE: 1" = 20'	DWN. BY: DMW	CHK. BY:
DATE: June 1, 2020	DWG. NO. E2823-COMPILED2	
JOB NO. E2823	Layout Tab: Existing	

VICINITY MAP APPROXIMATE SCALE: 1" = 500'



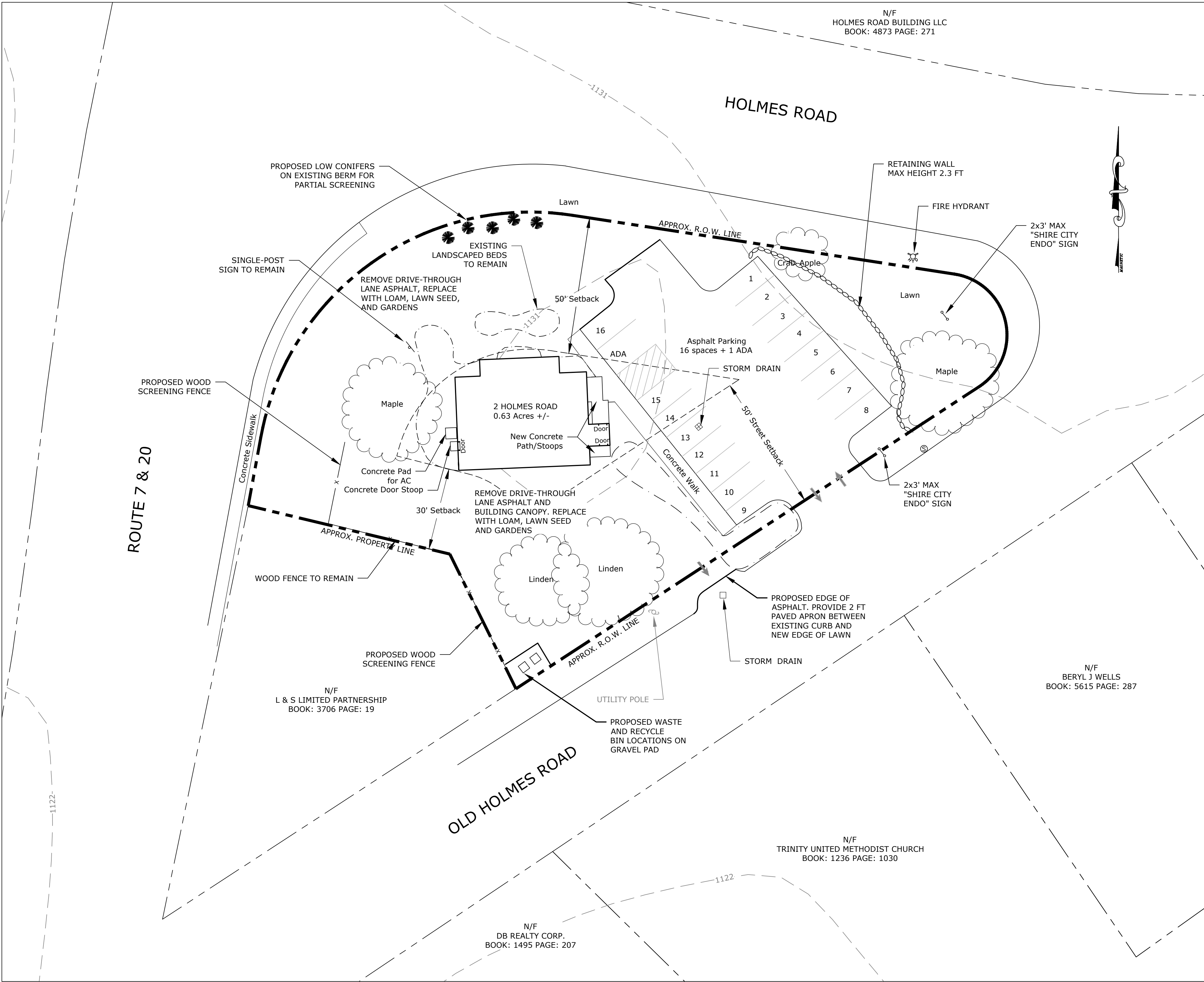
GRAPHIC SCALE



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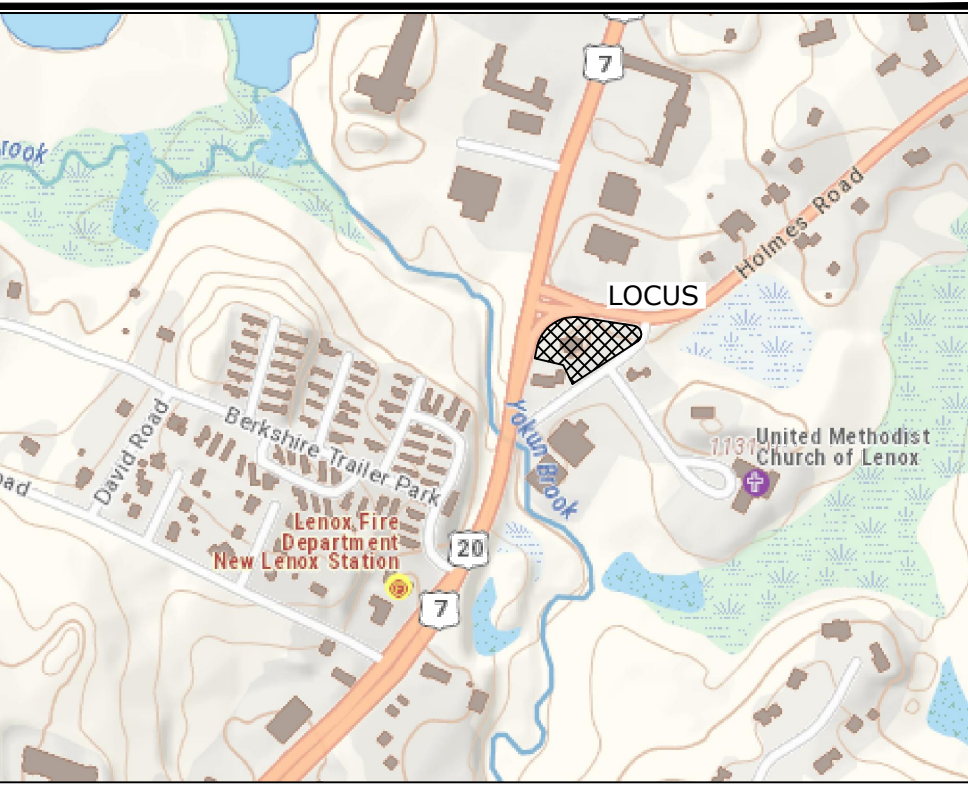
LEGEND

--- --- --- ---
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EDGE OF PAVEMENT
ELEVATION CONTOUR
PROPERTY LINE SETBACK
EXISTING LANDSCAPED BED

RECORD OWNER

NBT BANK NA
BOOK 4850 PAGE 343

VICINITY MAP APPROXIMATE SCALE: 1" = 500'



GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

COMPILED PLAN OF
PROPOSED SITE CONDITIONS

Prepared For

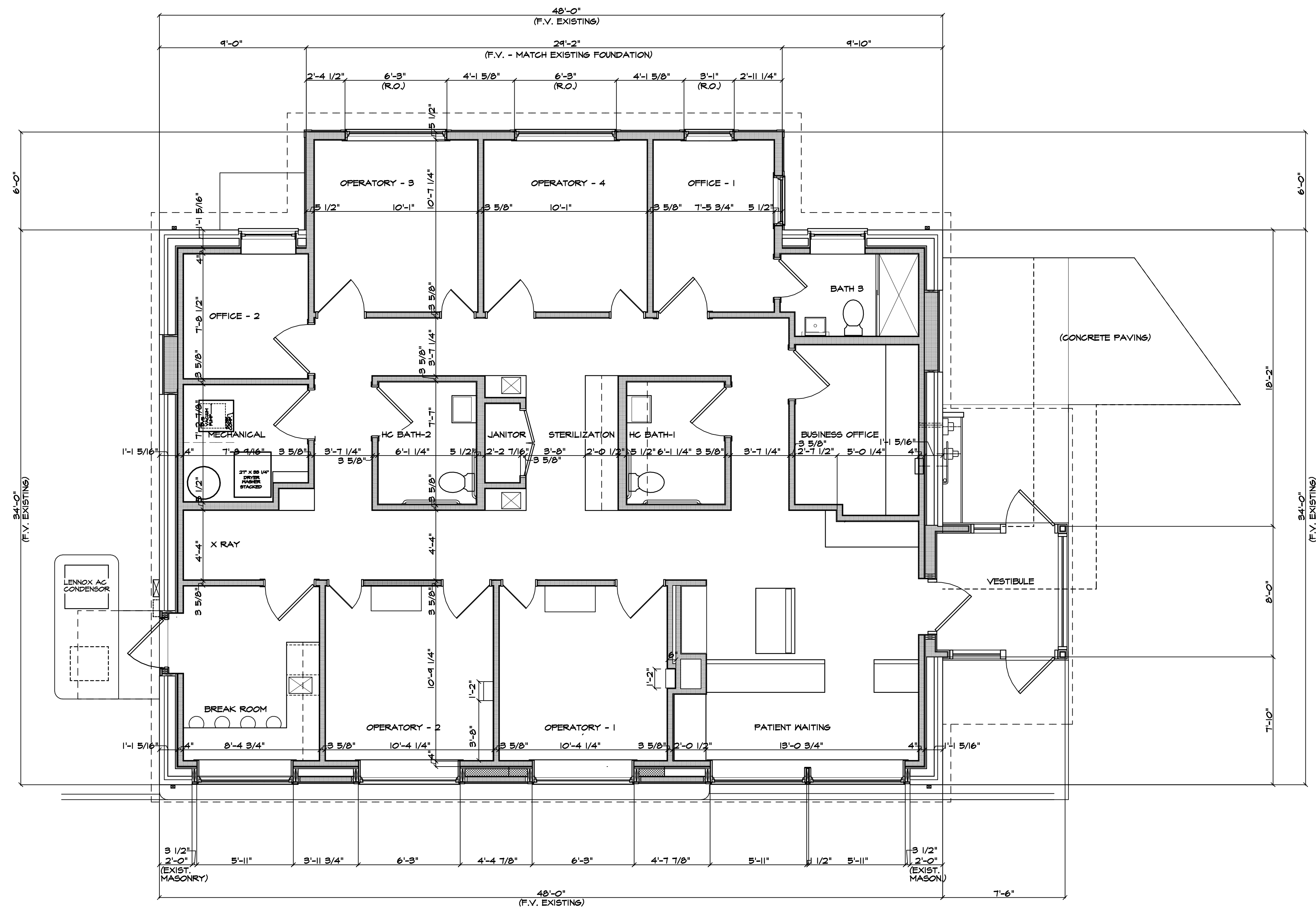
OJ REALTY, LLC

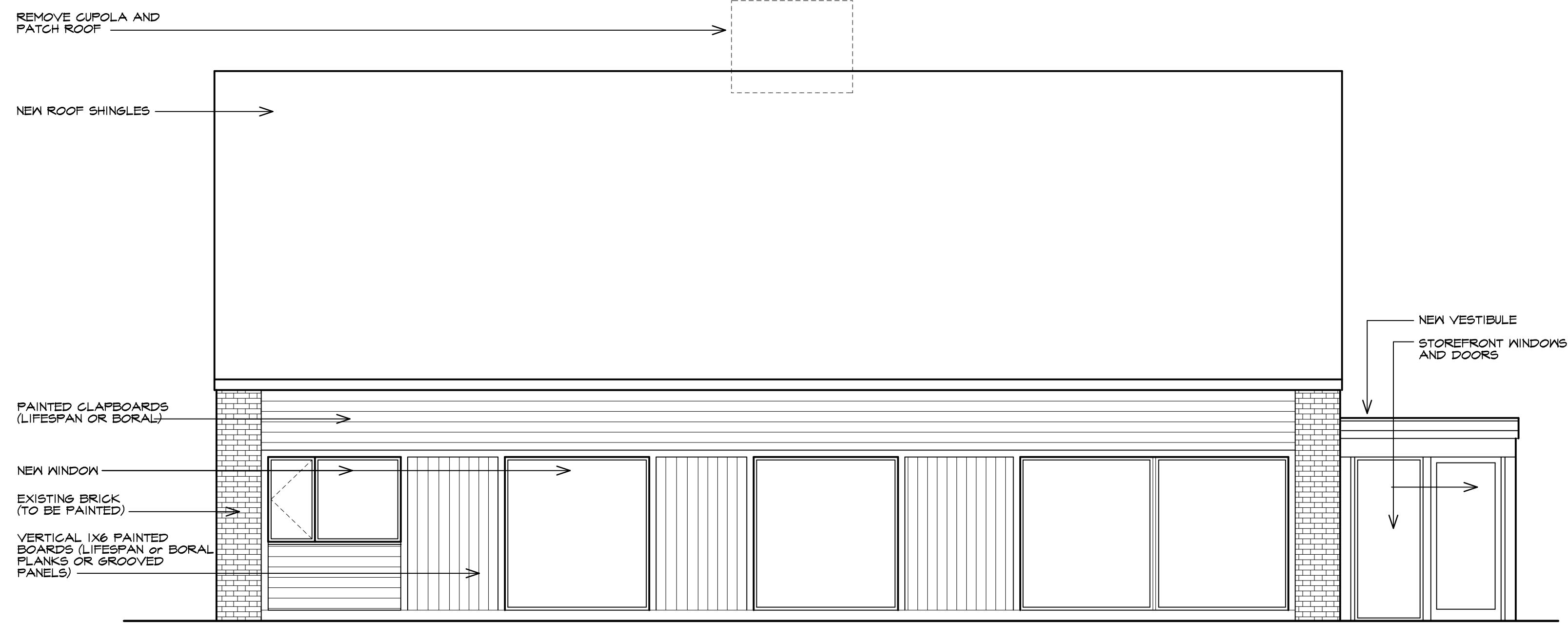
2 HOLMES ROAD
LENOX, MA

FORESIGHT LAND SERVICES ENGINEERING SURVEYING PLANNING

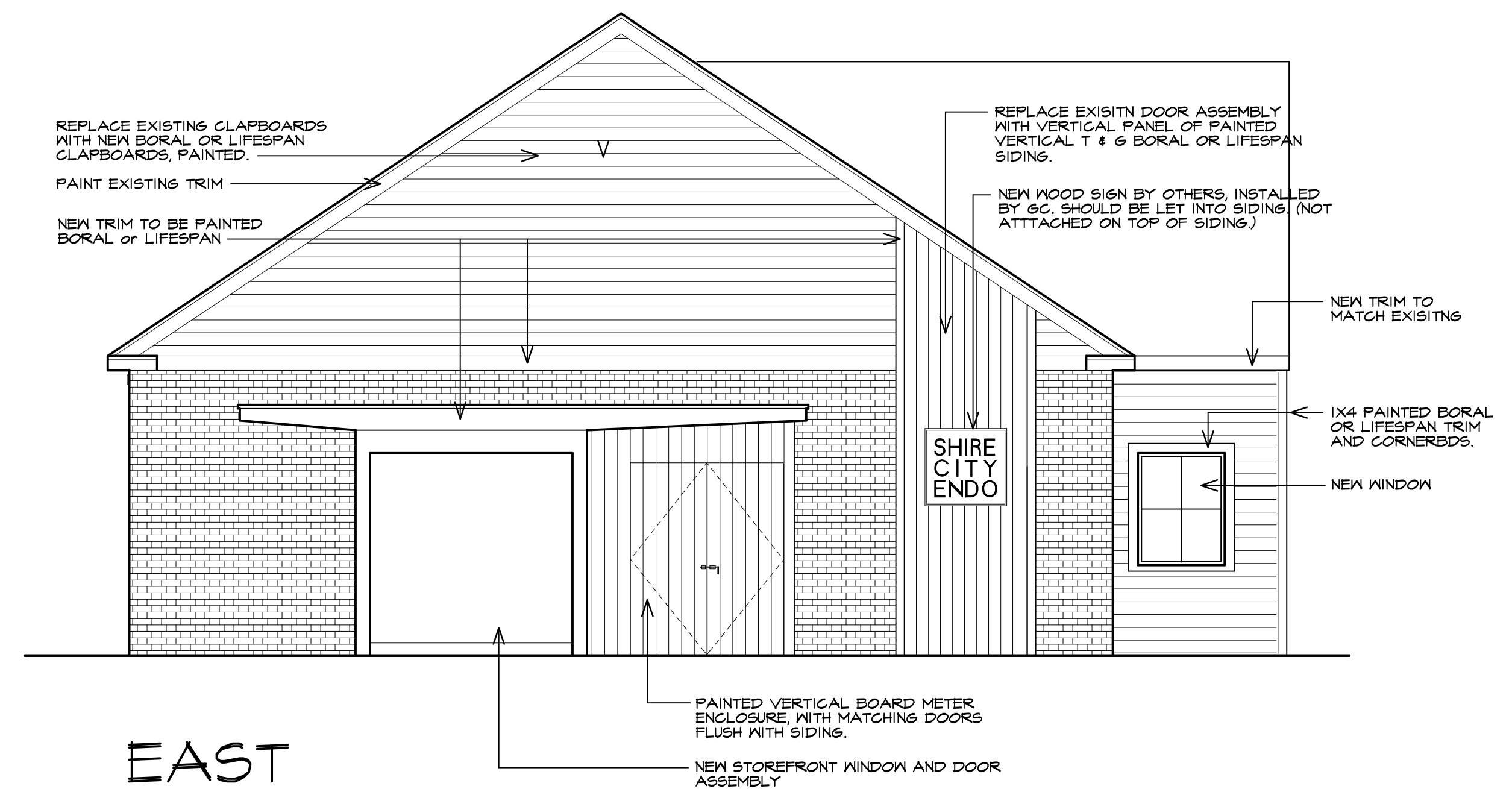
FORESIGHT LAND SERVICES, INC.
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TEL: (413) 499-1560 FAX: (413) 499-3307 WWW.FORESIGHTLAND.COM

SCALE: 1" = 20'	DWN. BY: DMW	CHK. BY:
DATE: June 1, 2020	DWG. NO. E2823-COMPILED2	
JOB NO. E2823	Layout Tab: Proposed	

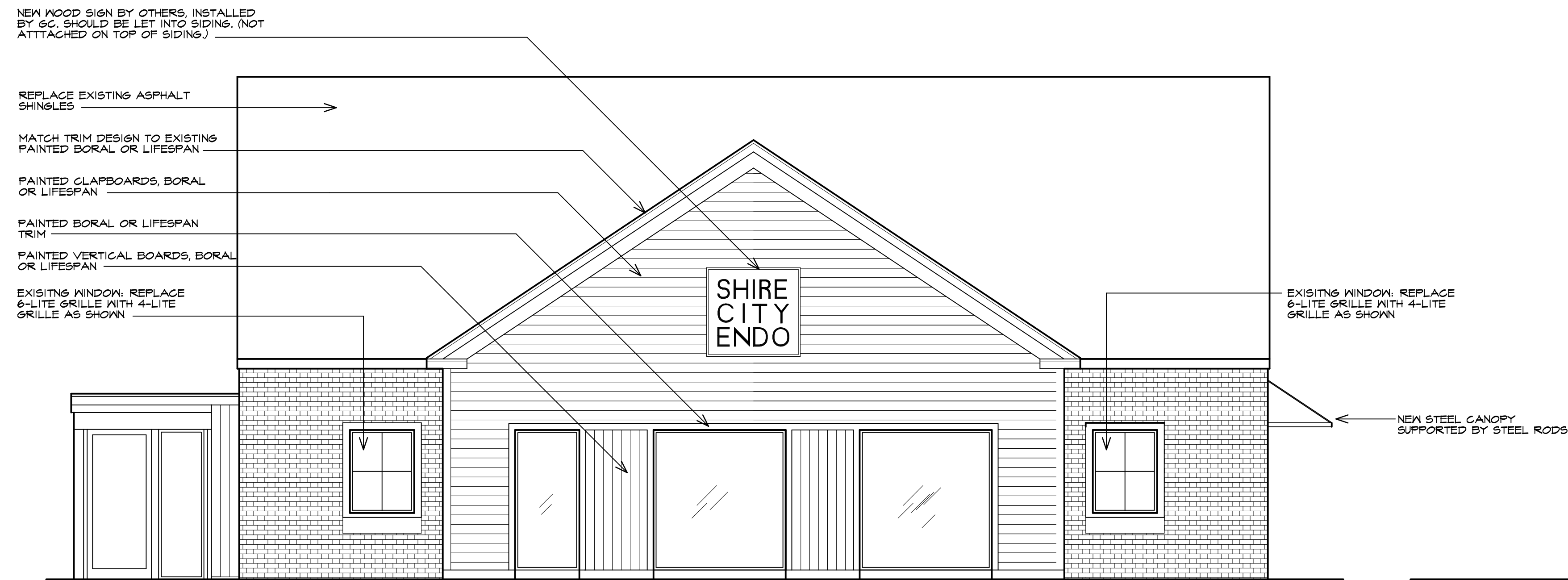




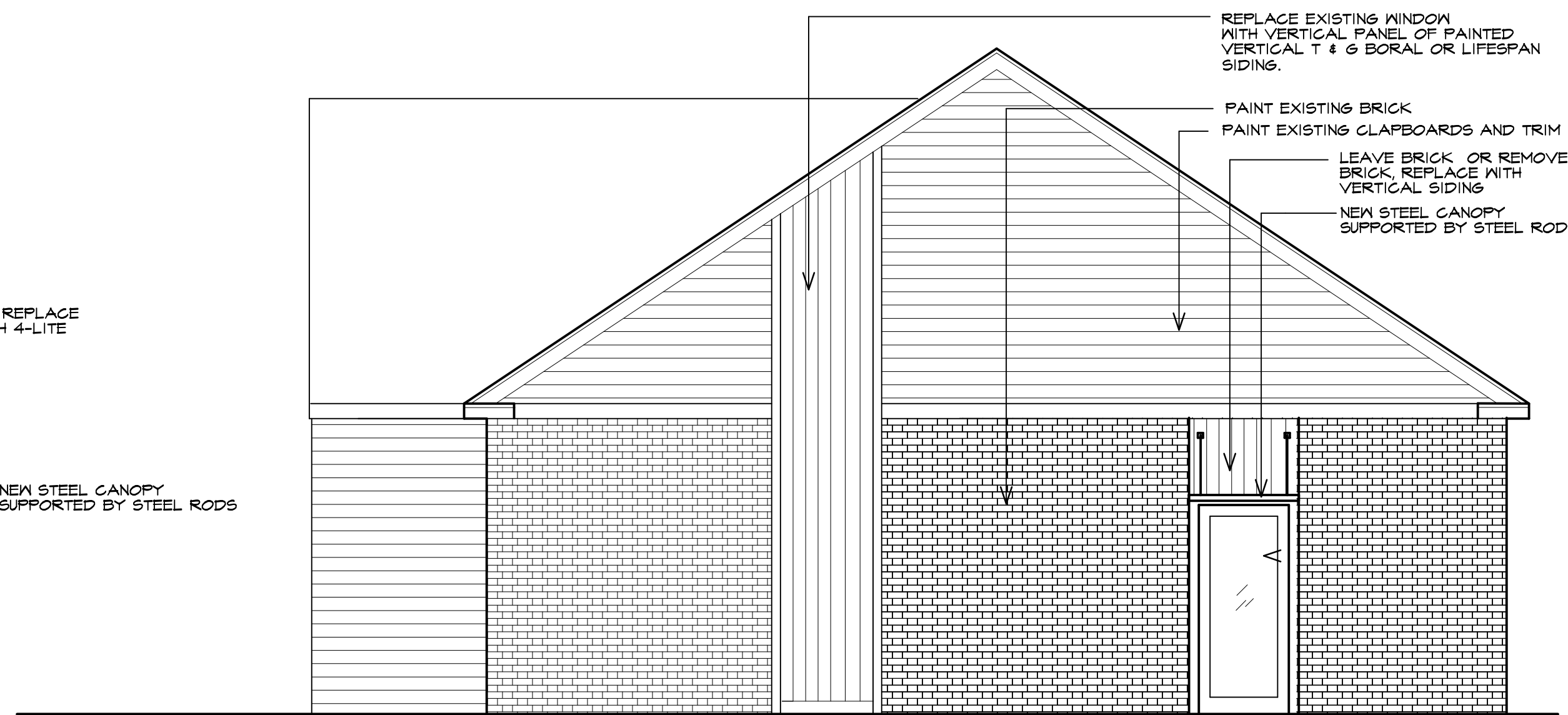
SOUTH



EAST



NORTH



WEST

BURR & McCALLUM ARCHITECTS
P.O. BOX 945, 120 MAIN STREET
WILLIAMSTOWN, MASS. 01267
TELEPHONE: 419-459-2121
FAX NO.: 419-459-2751

SHIRE CITY ENDO
2 HOLMES ROAD, LENOX MA.

EXTERIOR ELEVATIONS

DATE: PRELIM. 5-21-2020

SCALE:
1/4" = 1'-0"

A1.1