

Real Estate Appraisal Report

FORMER TD BANK PROPERTY

500 Washington Road

&

SECOND PARSONAGE PROPERTY

575 Washington Road

Town of Rye

Rockingham County, New Hampshire

Prepared for:

Mr. Michael Donovan, Esquire
52 Church Street
Concord, New Hampshire

Date of Valuation:

December 4, 2019





December 16, 2019

Michael Donovan, Esquire
52 Church Street
Concord, New Hampshire 03301

Re: Appraisals: former TD Bank Building
500 Washington Road
&
Second Parsonage
575 Washington Road

Town of Rye, Rockingham County
New Hampshire

Dear Mr. Donovan:

At your request, the above referenced properties have been appraised to estimate the market value of the fee simple interest as of December 4, 2019, the date of my latest inspections. The function of this report is to determine the market value of the fee simple interest for each property and provide an analysis regarding the differential, if any, of the market value for the purposes of a potential exchange (swap) of properties. This includes a determination of the financial implications to each party based on the appraised values.

The analysis and conclusion within the attached appraisal report are based upon field research, interviews with market participants, publicly available data collected, and other information provided by you and Daniel Philbrick, the LLC manager of the former TD Bank Building. I have relied on information related to zoning, subdivision, and future permitted uses from your memo you provided me. A copy can be found in the addenda of this report.

The accompanying report has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice. Included is a summary description and analysis of the real estate, all pertinent data, valuation methodology, supporting relevant exhibits, and addenda to the report.

It should be clearly understood, the acceptance of this assignment was not conditioned upon my reporting a specific (dictated) value; nor was the acceptance of the assignment conditioned on my concluding a specific outcome for a possible exchange. The following is a report of the data and analysis upon which the above conclusions are based.

Respectfully submitted,
B.C. UNDERWOOD LLC



Brian C. Underwood, CRE

Identification of the Real Estate

The subject properties are located at 500 and 575 Washington Road in Rye, New Hampshire.

The former TD Bank property is located at 500 Washington Road and is further identified in the tax assessor's records as Map 16, Lot 201. The subject property is currently owned by 500 Washington Road, LLC of Rye, New Hampshire.

The Second Parsonage property is located at 575 Washington Road and is further identified in the tax assessor's records as Map 12, Lot 43. The subject property is currently owned by the Town of Rye.

Sales History

500 Washington Road was purchased in an arm's length transaction on May 7, 2018 for \$540,000 from TD Bank, N.A. by 500 Washington Road, LLC. The purchase price was the same as the appraised value in an October 2017 appraisal report prepared by Bergeron Commercial Appraisal for TD Bank, N.A. The property is currently used as a personal office by the owner.

There have been no transfers of the 575 Washington Road property in the past five years. The property is in the process of being vacated by the eight residential tenants. This appraisal report assumes that the property is vacant and unencumbered by any short term leases.

Purpose and Function

The purpose of the appraisal is to estimate the market value of the fee simple interest of the subject property for acquisition and disposition purposes. The owner of 500 Washington Road has proposed exchanging his property for the town's property located at 575 Washington Road. The function of this report is to determine the market value of the fee simple interest for each property and provide an analysis regarding the differential, if any, of the market value for the purposes of a potential exchange (swap) of properties. This includes a determination of the financial implications to each party based on the appraised values.

Intended Use

The intended use of this appraisal report is for possible acquisition and disposition purposes by the Town of Rye.

Real Property Interest

The market value of the fee simple interest was estimated.

Effective Date of the Appraisal

The interior of the former TD Bank building was inspected on November 14, 2019 with the assistance of the owner. The interior of the Second Parsonage was inspected on December 4, 2019 with the assistance of the property manager. The last exterior inspection of both properties was on December 4, 2019. The effective date of the appraisal is December 4, 2019. General assumptions and limiting conditions applicable to this appraisal are attached to this report.

500 & 575 WASHINGTON STREET, RYE, continued

Definition of Market Value

" . . .the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interest;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property, sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."¹

Definition of Fee Simple Interest

"Absolute ownership unencumbered by any other interest or estate subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."²

Scope of the Assignment

1. An inspection of the subject properties several times, the latest being on December 4, 2019.
2. A review of documents provided by the client regarding the subdivision of the Parsonage parcel, opinion of zoning from the town's legal counsel, and a general physical condition assessment report prepared by Lassel Architects dated June 3, 2015. These documents can be found in the addenda of this report.
3. The legal and zoning analyses provided from the Town of Rye have been relied upon. This analysis included a review of the zoning ordinance, interviewing town officials, and utilizing tax maps, topographical, and wetlands plans. A survey plan was reviewed for the former bank building.
4. Research and collection of market data related to market conditions and market activity. This includes interviews with local real estate brokers and review of another appraiser's work on the former bank building.
5. Due diligence to determine the existence of apparent adverse conditions.
6. Development of a highest and best use analysis for both properties.
7. Consideration of the cost, sales comparison and income capitalization approaches to value.

¹Rules and Regulations, *Federal Register*, Volume 55, Number 165, Page 34969.

²Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 3rd edition, (Chicago: Appraisal Institute), 1993, page 140.

500 & 575 WASHINGTON STREET, RYE, continued

8. Development of a sales comparison approach to estimate the market value of each property based on the conclusion of the highest and best use.
9. Arriving at value conclusions and writing this appraisal report.

Uniform Standards of Professional Appraisal Practice Compliance (USPAP)

On January 1, 2014, USPAP was updated to no longer include "summary appraisal" as a type of appraisal. Instead, the terms "appraisal" and "restricted appraisal" are now utilized as the two options for report formats. In the case of this appraisal report, an "appraisal" has been completed of the subject properties. The scope of the assignment has been outlined above consistent with the intended users and the purpose of the appraisal report.

Assignment Overview

The purpose of this appraisal is to estimate the market value of the subject properties based on their highest and best use. In determining their highest and best use, it is critical to understand the underlying land values, potential uses of the site as permitted by zoning or permitted as a pre-existing non-conforming use and to also consider the contributory value of the improvements, if any, for both parcels. The following is an assignment overview for each property:

500 Washington Road

The parcel contains 3.71 acres of land of which all but a very small portion (front left corner due to wetlands) is usable. The property was formerly a bank since circa 1965. There is a deed restriction on the property as follows:

...The grantee, its successor and assigns shall make no other commercial use of the foregoing premises than for commercial banking purposes, so long as the applicable zoning ordinance of the Town of Rye restricts the use of the land adjoining said premises to residential uses.

The town's current legal opinion is that municipal use for town hall type functions is not a "commercial use" as restricted in the deed.

Furthermore, the subject property abuts the Public Recreation & Conservation District to the rear. This could perhaps resolve the deed restriction since the parcel to the rear of the property is not zoned residential. In fact, residential uses are prohibited in the zone. It is beyond the scope of this report to provide a legal opinion regarding the deed restriction and its enforceability.

It should be noted that there is a five year restriction on the property for use as a commercial bank, retail bank branch, savings, bank, financial services institution, insurance company, brokerage firm, for the placement of an ATM, savings and loan, or credit union or affiliate thereof.

The former bank building contains 2,255 ^{ft}² of gross building area not including the canopy. The building was constructed circa 1965 and has been adequately maintained over the years. However, any repurposing of the building would most likely require a complete interior renovation.

500 & 575 WASHINGTON STREET, RYE, continued

575 Washington Road

The existing parcel contains a total of 1.9 acres and includes the parking lot for the public library and the historical society building. The conceptual subdivision of this parcel results in a parcel of land that contains 17,550 ^{ft}² or 0.403 acre that would only include the Second Parsonage buildings. The proposed new parcel would share the adjacent septic system with the public library. For the purposes of this assignment, the 0.403 acre conceptual lot will be appraised.

There are two improvements that are subject to this appraisal report and they are commonly referred to as the Second Parsonage. The primary building (7 residential units) is 2½ story wood frame structure constructed circa 1778 with 7,743 ^{ft}² of gross building and is in fair to poor condition. The second building (1 residential unit) is a 1¾ story masonry structure constructed circa 1850 and is assumed to be in fair condition. The interior of this building was not inspected due to tenant issues.

The primary building has a significant amount of deferred maintenance, functional obsolescence and overall depreciation. The ceilings are low, the layout and design of the apartment units is dysfunctional. Electrical and plumbing are mostly old and outdated. Approximately 75% of the windows are old, single pane and there is significant sill rot.

Extraordinary Assumptions

This appraisal report relies on the following extraordinary assumptions:

1. The parsonage parcel can be subdivided into a 0.403 acre parcel and the existing building foundation dimensions can be utilized for redevelopment of the site.
2. There are no historical value considerations for the removal of the parsonage parcel improvements. The scope of this assignment does not include analysis or consideration of any historical value or significance to the Second Parsonage.
3. The former bank building parcel can be redeveloped with a municipal use as interpreted by the town's legal counsel. While municipal use is different than commercial use in legal definition, for the purposes of this appraisal report, the property will be analyzed and appraised as a commercial property in the broader sense of the definition since it is zoned "commercial".

Location & Market Analysis Summary

The subject properties are located in Rye, New Hampshire. A brief overview of the area is presented as well as a short neighborhood description and summary of market conditions.

Overview

New Hampshire is experiencing a period of stable growth in the overall economy including the real estate market segment. The October 2019 unemployment rate for the state was 2.3% and 2.5% for Rockingham County compared to 2.0% and 2.2% respectively one year earlier indicating reasonable employment stability. Mortgage interest rates are near decade lows

500 & 575 WASHINGTON STREET, RYE, continued

around 4.0% for residential property and range from 5.5% to 7.0% for commercial properties. Interest rates for both residential and commercial properties are competitive.

The subject property is located in New Hampshire's Seacoast region. Rye has a population of approximately 5,440 and is in close proximity to the City of Portsmouth; the region's primary employment center. Its location in close proximity to Interstate 95 and the larger metropolitan area of Boston further enhances its desirability. The summertime population in Rye increases greatly due to seasonal rental properties and the beaches.

Market Analysis

The Town of Rye residential real estate market is strong. In 2018, there were a total of 83 single family residential sales in Rye. The median selling price was \$720,000. The median days on market was 46. Sale prices ranged from \$305,000 to \$4.95 million. In 2019 (as of 12/13/19), there were a total of 81 sales to date. The median selling price was \$792,160 up 10% year over year. The median days on market was 24 down 48% from the prior year. Sale prices ranged from \$340,000 to \$3.6 million. Currently, there are 29 active listings of residential property in Rye with a median asking price of \$1.285 million and a median days on market of 136.

The commercial market in Rye is limited since Rye is predominantly a residential area. Commercial development is limited to a few unique locations in Rye including both the subject properties' locations. The primary area for commercial zoning and development is along a short stretch of U.S. Route 1 (Lafayette Road) and a smaller area surrounding the traffic circle at NH Route 1A (Sagamore Road) near the Portsmouth city line. There were two sales of commercial land in Rye in the past three years. Both sales were located on Central Road and adjacent to the other. The sales ranged in price from \$400,000 to \$565,000. Both parcels contain wetlands and both have usable areas of approximately 0.5 acre.

The multi-family residential market in Rye is also limited. Generally, single family residences are the dominant inventory in Rye's rental market. Rents range from \$1,300 to more than \$4,000 per month. At the lower end of the range, the quality of unit is marginal at best and typically a one or two bedroom with limited amenities like a washer and dryer. Other than seasonal rentals, the vacancy rate of year round rental units in Rye is less than 5%.

Neighborhood Description

The subject properties are located along Washington Road in the heart of Rye both in close proximity to the town hall, public library, public safety building, First Congregational Church, and the Rye Junior High School. In terms of being centrally located in the heart of Rye, both properties have excellent locations.

The neighborhood is a mix of residential, commercial, and municipal buildings ranging from relatively new to 200+ years old. In addition, the Rye Town Forest abuts the former bank property and is within walking distance of the parsonage property. Both properties have frontage along Washington Road, a two lane, asphalt paved, town maintained road.

500 & 575 WASHINGTON STREET, RYE, continued

Exposure Period and Marketing Time

The value estimate contained in this report is premised upon a 12 month exposure time prior to the hypothetical sale on the effective date of the appraisal. Additionally, if properly priced and marketed, the property would be expected to sell within a 12 month marketing period.

Description of Real Estate for 500 Washington Road (former bank building)

Land Area: According to town's tax assessment records, the subject property contains 3.71 acres of land.

Location: The subject property is located at 500 Washington Road in the Town of Rye, Rockingham County, New Hampshire. The property is identified by the town as Map 16, Lot 201.

Shape and Frontage: The site is irregular in shape. The shape of the site does not diminish its utility. The subject site has 310 feet of road frontage along Washington Road.

Access: Primary access to the property is via a two lane, asphalt paved town road (Washington Road). There are two curb cuts on either side of the building.

Topography and Soil Conditions: The site has mostly level topography with adequate soil conditions to support commercial development. There are open fields and some areas of woods. There is a small area of wetlands at the front left corner of the property. This wetland area is along the boundary line and does not appear to impact the overall developability of the site.

Utilities: Public electric, water, telephone, and cable are available. Septic is a private, on site system.

Easements and Encroachments: There are no known easements or encroachments that have an adverse impact on the subject property's marketable rights or value.

Detrimental Conditions: It has been assumed that there is no environmental contamination on the subject property. As previously noted, there is a small area of wetlands on the property.

Zoning and Conformity: The subject property is zoned Commercial and also in the Historic Overlay District. The minimum lot size is 44,000 ^{ft}2 or 1.01 acre. Permitted uses include most commercial uses including, but not limited to retail, restaurant, motel / hotel, business, financial, professional, or government offices, automobile and boat sales, lumber yard and building supplies. It is important to note that single family and two family dwellings are not permitted in the zone. The current use of the property is a legal conforming use.

There is a deed restriction on the property as follows:

500 & 575 WASHINGTON STREET, RYE, continued

...The grantee, its successor and assigns shall make no other commercial use of the foregoing premises than for commercial banking purposes, so long as the applicable zoning ordinance of the Town of Rye restricts the use of the land adjoining said premises to residential uses.

The town's current legal opinion is that municipal use for town hall type functions is not a "commercial use" as restricted in the deed.

Furthermore, the subject property abuts the Public Recreation & Conservation District to the rear. This could perhaps resolve the deed restriction since the parcel to the rear of the property is not zoned residential. In fact, residential uses are prohibited in the zone. It is beyond the scope of this report to provide a legal opinion regarding the deed restriction and its enforceability.

It should be noted that there is a five year restriction on the property for use as a commercial bank, retail bank branch, savings, bank, financial services institution, insurance company, brokerage firm, for the placement of an ATM, savings and loan, or credit union or affiliate thereof.

For the purposes of this report, the former bank building parcel can be redeveloped with a municipal use as interpreted by the town's legal counsel. While municipal use is different than commercial use in legal definition, for the purposes of this appraisal report, the property will be analyzed and appraised as a commercial property in the broader sense of the definition since it is zoned "commercial".

Market and Appeal: The market and appeal for the subject property is good based on its overall size and location.

Functional Utility: The site is adequate for commercial use based on its overall size and location. It would be difficult to further subdivide the property without razing the existing building and the requirement of at least one variance.

Summary of Improvements for 500 Washington Road (former bank building)

Building: The subject property is improved with a 1½ story wood frame, former bank building that contains approximately 2,255 ^{ft}² of gross building area and built circa 1965. There is no basement. The building also has a drive-thru canopy covering two lanes.

Age & Condition: The building is approximately 54 years old and in average to good condition.

Exterior Finish: The exterior of the building is wood clapboard. Windows are double pane and screens. The roof is architectural asphalt shingle in good condition. The exterior wood clapboards require painting.

Interior Finish: The walls are painted drywall. Floors are mostly wall to wall carpet except for rolled vinyl goods in the kitchen and bathroom areas. The ceiling is suspended acoustical tile with recessed fluorescent light fixtures.

500 & 575 WASHINGTON STREET, RYE, continued

HVAC: The building is heated by a propane fired forced hot air system. There is also central air conditioning.

Site Improvements: There is a private septic system. The parking lot and driveway is asphalt paved in average condition. Landscaping is limited to mostly around the building with some mowed lawn.

Personal Property: None included.

Assessment and Taxes: The subject property is assessed by the Town of Rye as follows:

Improvements	\$182,300
Extra Features	\$35,800
Outbuildings	\$13,200
Land	<u>\$350,300</u>
Total Assessment	\$581,600

Based on the 2019 tax rate of \$10.22 per \$1,000, the annual tax liability calculates to \$5,943.95. The 2018 equalization ratio was 87.6%; therefore, the equalized assessed value calculates to \$663,927 or \$294.42 per ^{ft}2.

Description of Real Estate for 575 Washington Road (Second Parsonage Building)

Land Area: According to town’s tax assessment records, the subject property contains 1.9 acres of land. However, for the purposes of this appraisal report, the conceptual subdivision plan reflecting a land area of 0.403 acre has been utilized.

Location: The subject property is located at 575 Washington Road in the Town of Rye, Rockingham County, New Hampshire. The property is identified by the town as Map 12, Lot 43.

Shape and Frontage: The conceptual subdivision site is rectangular in shape. The shape of the site does not diminish its utility. The subject site has approximately 198 feet of road frontage along Washington Road and 83 feet of frontage along Old Parish Road.

Access: Primary access to the property is via a two lane, asphalt paved town road (Washington Road). In addition the property has access from Old Parish Road.

Topography and Soil Conditions: The site is level with adequate soil conditions to support commercial development.

Utilities: Public electric, water, telephone, and cable are available. Septic would be a private, off-site shared system with the Rye Historic Society. It has been assumed that the New Hampshire Department of Environmental Services will approve the subdivision and septic easement.

500 & 575 WASHINGTON STREET, RYE, continued

Easements and Encroachments: There are no known easements or encroachments that have an adverse impact on the subject property's marketable rights or value.

Detrimental Conditions: It has been assumed that there is no environmental contamination on the subject property.

Zoning and Conformity: The subject property is zoned Business and also in the Historic Overlay District. The minimum lot size is 44,000 ^{ft}² or 1.01 acre. However, two-family dwellings require a minimum lot size of 88,000 ^{ft}² or 2.02 acres. Permitted uses include most commercial uses including, but not limited to retail, restaurant, motel / hotel, business, financial, professional, or government offices. Also permitted are single and two family residential uses. The current use of the property is a pre-existing non-conforming use.

Market and Appeal: The market and appeal for the subject property is good based on its central location and zoning.

Functional Utility: The conceptual site is marginally adequate for commercial use based on its small size and non-conformity with current zoning requirements. However, as long as the existing footprints of the property can be redeveloped, the site would be desirable for redevelopment due to its location and zoning.

Summary of Improvements for 575 Washington Road (Second Parsonage building)

Building: The subject property is improved with a 2½ story wood frame, 7 unit apartment building containing 7,743 ^{ft}² of gross building area and built circa 1778. There is an unfinished basement with low ceilings. There is a second 1¾ story masonry building containing 655 ^{ft}² of gross building area and built circa 1850.

Age & Condition: The primary building is approximately 241 years old and in fair to poor condition. The smaller building is approximately 169 years old and assumed to be in fair condition. The interior of the smaller building was not inspected.

Exterior Finish: The exterior of the primary building is wood clapboard. 75% of the windows are single pane with screens. The remaining 25% are double pane with screens. The roof is asphalt shingle and in average condition. The exterior of the building including window sills have deferred maintenance and rot. The exterior of the smaller building is a painted brick with an asphalt shingle roof in fair condition. Windows are replacement double pane with screens.

Interior Finish: The walls and ceilings are painted plaster. The floors are a combination of hardwood and rolled vinyl goods in the kitchen and bathroom areas. The interior ceilings are low on both floors of the building.

HVAC: The building is heated by an oil fired forced hot air system.

500 & 575 WASHINGTON STREET, RYE, continued

Site Improvements: There is a private septic system shared with the public library. The parking lot and driveway is asphalt paved in average condition. Landscaping is limited.

Personal Property: None included.

Assessment and Taxes: The subject property is assessed by the Town of Rye as follows:

Improvements	\$947,500
Extra Features	\$0
Outbuildings	\$0
Land	<u>\$327,700</u>
Total Assessment	\$1,275,200

Based on the 2019 tax rate of \$10.22 per \$1,000, the annual tax liability calculates to \$13,032.54. The 2018 equalization ratio was 87.6%; therefore, the equalized assessed value calculates to \$1,455,708 or \$173.34 per ^{ft}2.

Highest and Best Use

Basic to the determination of a property's value is its highest and best use. This is defined as:

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.³

The highest and best use must be:

- *Physically Possible:* The use must be physically possible on the site or in the improvements planned or existing.
- *Legally Permissible:* The use must be permitted under zoning and other municipal, county, state, and federal regulations.
- *Financially Feasible:* The use must be capable of producing a positive return.
- *Maximally Productive:* The use must represent the most maximally productive use for the subject property.

The highest and best use of a site as vacant may be different than the highest and best use if it is improved. This is most likely to occur for older properties, where market conditions and neighborhood changes have been significant since the period when originally developed. Because the use of the land can be limited by the presence of improvements, the highest and best use of the subject property is determined in two ways:

- as though vacant and available to be put to its highest and best use

³Appraisal Institute, *The Appraisal of Real Estate*, 10th edition, Appraisal Institute: Chicago, 1992, page 45.

500 & 575 WASHINGTON STREET, RYE, continued

- as improved with the existing improvements

The highest and best use of the subject property will be that use which is physically possible, legally permissible, financially feasible, and maximally productive. An analysis of these criteria follows.

Highest & Best Use as though Vacant for 500 Washington Road (former bank building)

Physically Possible

The physical characteristics of the site are the first limitation on possible use of the site. The location and size of the site are the most important influences of its value. Generally, the larger the site the greater its potential to acquire economies of scale and development options.

The subject site contains approximately 3.71 acres. The overall size of the parcel, level topography and its road frontage enhances its possible use.

Legally Permissible

Uses that are legally permissible at the subject sites are largely controlled by the zoning district. The zoning of the subject property is Commercial and also in the Historic Overlay District. Permitted uses in the Commercial zoning district include: most commercial uses including retail, restaurant, motel / hotel, business, financial, professional, or government offices, automobile and boat sales, lumber yard and building supplies. It is important to note that single family and two family dwellings are not permitted in the zone.

The subject property is considered a legal conforming use. In addition, according to the town's attorney, the property could be further subdivided; however, with the existing improvements, at least one variance would be required.

There is a deed restriction on the property as follows:

...The grantee, its successor and assigns shall make no other commercial use of the foregoing premises than for commercial banking purposes, so long as the applicable zoning ordinance of the Town of Rye restricts the use of the land adjoining said premises to residential uses.

The town's current legal opinion is that municipal use for town hall type functions is not a "commercial use" as restricted in the deed.

Furthermore, the subject property abuts the Public Recreation & Conservation District to the rear. This could perhaps resolve the deed restriction since the parcel to the rear of the property is not zoned residential. In fact, residential uses are prohibited in the zone. It is beyond the scope of this report to provide a legal opinion regarding the deed restriction and its enforceability.

It should be noted that there is a five year restriction on the property for use as a commercial bank, retail bank branch, savings, bank, financial services institution, insurance company, brokerage firm, for the placement of an ATM, savings and loan, or credit union or affiliate thereof. Given that retail banking is generally going through a period of consolidation and

500 & 575 WASHINGTON STREET, RYE, continued

branch closures (like the former TD Bank), it is unlikely that the property would be utilized as another bank. However, financial services, insurance or a brokerage firm uses are generally in demand.

The question then becomes whether the deed restriction, in its current form is enforceable. For the purposes of this appraisal report, it has been assumed that it is enforceable; however the property still has commercial value (in the broader sense of the definition). This report relies upon the opinion of the town's legal counsel that municipal uses are not included in the deed restriction; therefore, the property can be utilized. It is beyond the scope of this appraisal report to provide any opinion or analysis regarding the deed restriction. In summary, the legally permissible uses of the site enhance the marketability and appeal of the property.

Financially Feasible

There is good demand for commercial real estate on the seacoast, including Rye. Given the lack of commercially zoned real estate in Rye, the short marketing periods over the past two years, and the market activity of other commercial land in Rye at strong price levels, the commercial use of the subject property is financially feasible.

Maximally Productive

The commercial uses that would be typically permitted by the zoning ordinance are both legally permissible, physically possible, and financially feasible. However, due to the deed restriction, the uses would be limited to municipal.

Highest and Best Use as Improved

The subject property is improved with a former bank branch building containing 2,255 ^{ft}². Given the overall size of the parcel (3.71 acres) the building is relatively small given the size of the parcel and what could be potentially developed on the lot.

The existing improvements provide a contributory value to the underlying land value. However, given the deed restriction that prevents other uses of the property along with an additional restricted on the use until May 2023. Therefore, restrictions on the use as described previously, would remain in place for another 41 months or 3.4 years. As a result, the only permitted current use of the property is for a municipal use. This results in only the Town of Rye being a potential buyer for the next 3.4 years. Otherwise, given the current restrictions, there are no other permitted uses and no use for the building.

The annual real estate tax liability related to the building itself calculates to \$2,229. The annual carrying cost is not so high that the building would be razed to reduce the annual tax liability. The property would have to be held for an additional 3.4 years assuming it is not utilized as a municipal use.

Highest and Best Use Summary

The current use of the subject property as a commercial building as previously described is legally permissible, physically possible, financially feasible, and maximally productive. The highest and best use as though vacant and the highest and best use as improved are the same.

500 & 575 WASHINGTON STREET, RYE, continued

Highest & Best Use as though Vacant for 575 Washington Road (Second Parsonage)

Physically Possible

The physical characteristics of the site are the first limitation on possible use of the site. The location and size of the site are the most important influences of its value. Generally, the larger the site the greater its potential to acquire economies of scale and development options.

The conceptual subdivision of the subject property contains approximately 0.403 acre. The level topography and its road frontage enhances its possible use; however its smaller non-conforming lot size limits developability.

Legally Permissible

Uses that are legally permissible at the subject sites are largely controlled by the zoning district. The subject property is zoned Business and also in the Historic Overlay District. The minimum lot size is 44,000 ^{ft}² or 1.01 acre. However, two-family dwellings require a minimum lot size of 88,000 ^{ft}² or 2.02 acres. Permitted uses include most commercial uses including, but not limited to retail, restaurant, motel / hotel, business, financial, professional, or government offices. Also permitted are single and two family residential uses. The current use of the property as an eight unit apartment complex is a pre-existing non-conforming use. For the purposes of this assignment, it has been assumed that the existing footprints of the two buildings could be redeveloped.

Financially Feasible

There is good demand for commercial real estate on the seacoast, including Rye. Given the lack of commercially zoned real estate in Rye, the short marketing periods over the past two years, and the market activity of other commercial land in Rye at strong price levels, the commercial use of the subject property is financially feasible. Also, given the strong rental market in Rye, if the property is redeveloped as residential units, the project would be financially feasible.

Maximally Productive

The commercial uses that would be typically permitted by the zoning ordinance are both legally permissible, physically possible, and financially feasible. The pre-existing non-conforming use as an apartment complex also provides additional development opportunities.

Highest and Best Use as Improved

The subject property's improvements have reached the end of their economic lives. The cost to repair, renovate, and restore the buildings exceeds to the cost to raze the buildings and build new modern structures that meet building codes and the desires of a typical tenant in today's market. Or, the property could be redeveloped into some other permitted commercial use.

The exchange / swap agreement requires the buyer to invest \$850,000 in renovations. Based on the total square footage of the two buildings of 8,398 ^{ft}², the required renovation cost of \$850,000 calculates to \$101.22 per ^{ft}² ($\$850,000 \div 8,398 \text{ ft}^2$). The \$850,000 investment is most likely inadequate to address the overall condition of the buildings. Based on an inspection of the subject property, if a renovation were to be undertaken the building, at a minimum, would be

500 & 575 WASHINGTON STREET, RYE, continued

taken down to its frame and rebuilt. It should be noted that the potential buyer of the property has not inspected the interior of the building.

This minimum renovation cost is compared to the new construction cost of approximately \$160 per ^{ft}² as indicated by *Marshall & Swift Valuation Service*, a reliable cost estimating guide commonly used by assessors and appraisers. Therefore, the existing improvements are considered a liability to the property and would be razed in order to make way for redevelopment of the site.

Highest and Best Use Summary

The current use of the subject property as an 8 unit apartment complex as previously described is not legally permissible under current zoning, physically possible, financially feasible, and maximally productive. However, given the age and condition of the improvements, the highest and best use as improved is not the same since the improvements have reached the end of their economic lives and would be razed to make way for redevelopment of the site. Therefore, the highest and best use of the subject property is as vacant site for redevelopment either with the pre-existing non-conforming use as residential apartments or some other commercial or mixed use as permitted.

Valuation Analysis

Three approaches to value are generally included in an appraisal. These methods include the cost approach, sales comparison approach, and income capitalization approach. After making an investigation of the region, neighborhood, and subject property, each of these three approaches has been developed (unless methodology or lack of data prevents it) to arrive at three separate indications of market value. These three approaches arrive at a value indication through dissimilar methods and by use of different types of data. Ideally, all three approaches measure market conditions.

The cost approach has been developed for the former bank property since the majority of the value of the property is in the land. Any new use of the building would most likely require a renovation (i.e. the current interior removed and a new tenant fit-up completed). Within the cost approach is a sales comparison approach to estimate the underlying market value of the land.

The sales comparison approach assumes that under normal conditions a given number of parties, acting intelligently and voluntarily, tend to set a pattern from which value can be estimated. Application of this approach relies on a comparison of the subject with a sufficient number of recent transactions of comparable properties in the market, based on a common unit, such as price per square foot of building area or market extracted overall capitalization rates. The sales comparison approach produces a good indication of value when sales of similar properties are available. The sales comparison approach was developed utilizing comparable land sales for both the former bank building and the Second Parsonage site. Since the highest and best use of the Second Parsonage site is to raze the existing buildings, the value all lies within the underlying land.

The income capitalization approach has not been developed since the former bank building would not typically be leased; rather owner occupied. This is especially true given its current

500 & 575 WASHINGTON STREET, RYE, continued

use restrictions. The income capitalization approach has not been developed for the Second Parsonage property because the highest and best use is as vacant land for redevelopment.

Sales Comparison Approach

The sales comparison approach is a process of comparing market data, that is, the prices paid for similar properties, prices asked by owners, offers made by prospective purchasers willing to buy, and rents and leases.

In applying the sales comparison approach, various appraisal principles are applied ensuring that all relevant issues have been included in the analysis. The principles of primary importance are supply and demand, balance, substitution, and externalities. Additionally, a fundamental premise of the sales comparison approach is the concept that from analysis of sales of reasonably similar properties, an appraiser has a factual basis upon which to estimate the value of his subject. Proper application of the sales comparison approach requires that:

- Only market transactions be weighed, and the data of each transaction be confirmed to the greatest extent possible.
- The degree of comparability of each sale to the subject be considered.
- The value conclusion be consistent with the analysis of the sales data.

A definition of market value is "the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus."⁴ For a conveyance to qualify as a market transaction, four factors must be present.

1. The conveyance must be "arm's length" that is, it must be either between two non-related parties or between related parties who have negotiated a price at a level that, if the buyer were the seller, the price he is paying is also the price he would accept for the property; and conversely, if the seller were the buyer the price he is accepting is also the price he would pay for the property. To this extent, a conveyance resulting from a buy-sell agreement, right of first refusal agreement, or lease/purchase optional agreement could be arm's length even though the buyer and seller are not entirely non-related.
2. Neither the buyer nor the seller would have been under compulsion to act.
3. The property should be on the open market to the class of purchasers best able to utilize the property.
4. The price must be expressed in the equivalent of cash, adjusted for any special financing, concessions, or terms.

⁴Rules and Regulations, *Federal Register*, Volume 55, Number 165, Page 34969.

500 & 575 WASHINGTON STREET, RYE, continued

The degree of comparability that exists between a sale and the subject is often a function of the volume of sales activity in a market. For any class of real estate, if sales are infrequent, the market area must be expanded in scope of time and/or geography to whatever extent necessary to accumulate sufficient data on which to base judgement.

To judge the degree of comparability between a sale and the subject, several guidelines can be applied.

- The sale should be in the same market as the subject. To the extent that a market is a meeting place for buyers and sellers of real estate of a given type, the boundaries of the market are set by the participants in merchandising and absorbing competitive properties. The boundaries of a market area are consequently economic in character and not purely physical or geographic.
- Physical characteristics of the sale and subject should be as similar as possible in terms of size and amenities customarily found within the applicable class of real estate.
- Real estate price trends over time must be taken into consideration.
- The functional adequacy of the sale property and the subject should be competitive in terms of the ability of each to support similar functions.

Sales of similar properties in Rye were researched and compared to the subject properties and their characteristics. Facts pertaining to the comparable sales are verified. For features that are dissimilar between the sales and the subject, adjustments are made leading to an indication of the price at which the property being appraised could be expected to sell.

In making adjustments, all relevant factors were considered. The following nine basic elements should always be considered in this approach:

- Property rights conveyed
- Financing terms
- Conditions of sale
- Market conditions
- Location
- Physical characteristics
- Economic characteristics
- Use
- Non-realty components of value

In applying the sales comparison approach, various appraisal principles have been applied ensuring that all relevant issues have been included in the analysis. These principles of primary importance are supply and demand, balance, substitution, and externalities.

The subject properties are unique in their location and setting. Sales of commercial land within the Town of Rye are limited at best. Utilizing commercial land sales along the U.S. Route 1 corridor (Lafayette Road) would require significant downward adjustments rendering the sale data less comparable and unreliable indicators of value for the subject properties. While it is

500 & 575 WASHINGTON STREET, RYE, continued

ideal to have at least three comparable sales, there are cases like this where the lack of truly comparable data prevents it. The sale of the former bank building was utilized in this analysis in order to estimate the market value of the Second Parsonage site. See the analysis below for additional comments and analysis.

500 & 575 WASHINGTON STREET, RYE, continued

COMPARABLE LAND SALE #1

Location: 255 Central Road, Town of Rye, Rockingham County, New Hampshire

Sale Information

Grantor: Sargent Family Real Estate Trust
Grantee: Tour Auto of NH LLC
Sale Price: \$400,000
Date of Sale: June 2, 2016
Conditions of Sale: Arm's Length

Property Description

Land Area: 0.6887 acre
Improvements: The property was improved with an older auto repair garage that had no value in the transaction. Furthermore, subsequent to the sale, two significant building permits were pulled that totaled \$160,000.
Comments: The rear of the site abuts a large wetland area and is adjacent to Comparable Sale #2.

Value Indicator

Price per Usable Acre: \$580,804
Price per Usable ^{ft}2: \$13.33

COMPARABLE LAND SALE #2

Location: 243 Central Road, Town of Rye, Rockingham County, New Hampshire

Sale Information

Grantor: Three Rivers Farm Irrevocable Trust
Grantee: Sanford Institution for Savings
Sale Price: \$565,000
Date of Sale: February 13, 2019
Conditions of Sale: Arm's Length

Property Description

Land Area: 1.8 acres
Improvements: None.
Comments: A large portion of the rear of the property is encumbered by wetlands. The usable area of the site is estimated at 0.55 acre.

Value Indicator

Price per Usable Acre: \$1,027,273
Price per Usable ^{ft}2: \$25.58

500 & 575 WASHINGTON STREET, RYE, continued

COMPARABLE LAND SALE #3

Location: 500 Washington Road, Town of Rye, Rockingham County, New Hampshire

Sale Information

Grantor: T.D. Bank, N.A.

Grantee: 500 Washington Road LLC

Sale Price: \$540,000 - \$90,200 improvements = \$449,800 residual land

Date of Sale: May 7, 2018

Conditions of Sale: Arm's Length

Property Description

Land Area: 3.71 acres (2.71 acres excess in the rear)

Improvements: A 2,255 ^{ft}² single story wood frame former bank building.

Comments: The current equalized assessed value of the contributory value of the improvements calculates to \$208,105 or \$92.29 per ^{ft}². As a check of reasonableness, *Marshall & Swift Valuation Service* was relied upon. The reliable cost estimating guide's depreciated reproduction cost calculates to \$89.79 per ^{ft}². Therefore, the contributory value of the improvements has been reconciled to \$90 per ^{ft}². However, an additional adjustment is required to account for the renovation costs for occupancy given the building's current condition. The estimated renovation cost is \$50 per ^{ft}². Therefore, the contributory value of the building calculates to \$40 per ^{ft}² or \$90,200. The parcel has excess land. Therefore, one acre of land has been allocated to the sale and the remaining land is considered backland with minimal value.

Value Indicator

Price per Usable Acre: \$449,800

Price per Usable ^{ft}²: \$10.33

500 & 575 WASHINGTON STREET, RYE, continued

The following is a summary of the three comparable sales utilized to estimate the market value of the underlying land:

	Sale Price	Usable Acreage	\$ per Acre	\$ per ^{ft} 2
Sale #1	\$400,000	0.69	\$580,804	\$13.33
Sale #2	\$565,000	0.55	\$1,027,273	\$25.58
Sale #3	\$449,800	1.00	\$449,800	\$10.33
Average	\$471,600	0.75	\$685,959	\$16.41

500 Washington Road Analysis (former bank building)

Since Sale #3 is the subject property. It was not relied upon in this analysis.

The remaining Sales #1 and #2 have a relative wide range of value. However, Sale #1 sold in 2016 and requires an upward adjustment to reflect improving market conditions since that time. Overall, the real estate market in Rye is strong. Due to the limited commercial sale data, it is difficult to extrapolate a time adjustment. However, given the limited data available primarily from the differential in equalization ratios from 2017 to 2018 an annual adjustment of 8% can be supported. This is further supported by the increase in median sale price of residential sales year over year of 10%. Therefore, the time adjustment for Sale #1 calculates to 24% (8% x 3 years). The adjusted sale price of Sale #1 calculates to \$496,000 (\$400,000 + 24%) or \$16.53 per ^{ft}2 on an adjusted basis. Sale #1 is also smaller than the subject property and based on the economies of scale a negative adjustment of -20% has been applied for difference in size; therefore, the adjusted price calculates to \$13.22 per ^{ft}2 (\$16.53 - 20%).

Sale #2 is the most recent sale and based on its much smaller size compared to the subject property, a negative adjustment is necessary to account for the economies of scale. A -25% adjustment has been applied for difference in size; therefore, the adjusted price calculates to \$19.19 per ^{ft}2 (\$25.58 - 25%).

The adjusted prices of Sales #1 and #2 range from \$13.22 to \$19.19 per ^{ft}2. Sale #2 has been given slightly more weight since it is a more recent sale and required less overall adjustment. A reconciled value of \$16 per ^{ft}2 has been estimated for the former bank property. Therefore, the market value of the 1.0 prime acre parcel calculates to \$696,960. As discussed in Comparable Sale #3's analysis the contributory value of the building in its "as is" condition calculates to \$90,200. Therefore, the total market value calculates to \$787,160 (\$696,960 + \$90,200).

Since the former bank property cannot be utilized as some sort of financial institute in order to comply with the deed restriction, the only use of the property for the next 41 months (3.4 years) is for municipal purposes according to the town's legal counsel. This factor impacts the market value of the property. In order to make an adjustment to account for the use restriction for the next 41 months, the market value of the property must be further discounted using a net present value method. A discount rate of 8% has been utilized given the overall strong market in Rye, the excellent location of the subject property and the limited land that is zoned

500 & 575 WASHINGTON STREET, RYE, continued

commercially. Therefore, based on a discount rate of 8%, present value of the subject property calculates to \$605,497 rounded to: \$605,000.

The estimated market value (\$605,000) of the subject property encumbered by the current use and deed restrictions represents a 7.2% annual increase in market value since it was purchased for \$540,000 in an arm's length transaction in May 2018. This annual increase is further supported by the overall MLS market data that shows a 10% increase year over year for residential sales in Rye and also the differential of the equalization ratio from 2017 to 2018 of 8%.

575 Washington Road Analysis (Second Parsonage)

The following is a summary of the three comparable sales utilized to estimate the market value of the underlying land (0.403 acre or 17,555 ^{ft}² based on the conceptual subdivision plan):

	Sale Price	Usable Acreage	\$ per Acre	\$ per ^{ft} ²
Sale #1	\$400,000	0.69	\$580,804	\$13.33
Sale #2	\$565,000	0.55	\$1,027,273	\$25.58
Sale #3	\$449,800	1.00	\$449,800	\$10.33
Average	\$471,600	0.75	\$685,959	\$16.41

Sale #1 sold in 2016 and requires an upward adjustment to reflect improving market conditions since that time. Overall, the real estate market in Rye is strong. Due to the limited commercial sale data, it is difficult to extrapolate a time adjustment. However, given the limited data available primarily from the differential in equalization ratios from 2017 to 2018 an annual adjustment of 8% can be supported. This is further supported by the increase in median sale price of residential sales year over year of 10%. Therefore, the time adjustment for Sale #1 calculates to 24% (8% x 3 years). The adjusted sale price of Sale #1 calculates to \$496,000 (\$400,000 + 24%) or \$16.53 per ^{ft}² on an adjusted basis.

Sale #2 is the most recent sale and also most similar in size to the subject property's 0.403 acre conceptual subdivision plan. No other adjustments were warranted.

Sale #3 is the least comparable of the three comparable sales. However, it was utilized given the lack of comparable sale data. Based on the economies of scale a positive adjustment of 20% has been applied. The adjusted sale price calculates to \$12.40 per ^{ft}².

The adjusted prices of Sales #1 - #3 range from \$12.40 to \$25.58 per ^{ft}². Sales #1 and #3 have the tightest range of value from \$12.40 to \$16.53 per ^{ft}² after adjustments. However, the most recent sale that is also the most similar in size to the subject property sold well above the range indicated by the other two comparable sales. Sales #1 and #2 were most similar in terms of size. These two sales had an adjusted range of value from \$16.53 to \$25.58 per ^{ft}². A reconciled value of \$22 per ^{ft}² has been estimated for the Second Parsonage parcel given the shared septic issue. Therefore, the market value of the 0.403 acre parcel (based on the conceptual subdivision plan) calculates to \$386,210 rounded to: \$390,000.

500 & 575 WASHINGTON STREET, RYE, continued

Final Reconciliation

The quantity and quality of the data was sufficient to provide reliable indicators of value for the subject property. The current deed restriction and the restriction of use of 500 Washington Road impacts the market value since the only other use as indicated by the town's legal counsel is for municipal purposes. If the long term deed restriction that was placed on the property circa 1964 is determined by a court to be no longer enforceable, then the market value estimate of the property would no longer be discounted to wait out the other use restriction that expires in 3.4 years because other alternative commercial uses are permitted in the zone.

The Second Parsonage property is in poor condition and the improvements no longer contribute any value to the property and are considered a liability. As indicated in the highest and best use analysis, the property should be redeveloped with new modern structures.

Therefore, the following are the market values of the fee simple interest of the subject property as of December 4, 2019 were as follows:

500 Washington Road (former bank)	\$605,000
575 Washington Road (Second Parsonage)	<u>\$390,000</u>
Differential	\$215,000

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. The facts and data reported and used in the valuation process are true and correct;
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, and conclusions;
3. I have no present or prospective interest in the properties that are the subject of this report, and I have no personal interest or bias with respect to the parties involved;
4. I have performed no services, as an appraiser or in any other capacity regarding the property that is the subject of this report within the three year period immediately preceding the acceptance of this assignment;
5. The value estimates found within were not based upon a requested minimum valuation, a specific valuation, or the approval of a loan;
6. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this report;
7. My analyses, opinions and conclusions were developed, and this report has been prepared, in accordance with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice and the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation;
8. Brian C. Underwood, CRE personally inspected the properties that are the subject of this report;
9. No one provided significant professional assistance to the person signing this report.



Brian C. Underwood, CRE

STATEMENT OF GENERAL AND LIMITING CONDITIONS

This report has been prepared under the following assumptions and limiting conditions:

1. Information furnished by others is assumed to be true, factually correct, and reliable. No effort has been made to verify such information and no responsibility for its accuracy is assumed by the appraiser. Should there be any material error in the assumptions in this report, the results of this report are subject to review and revision.
2. All mortgages, liens, and encumbrances have been disregarded unless specified within this report. The subject property is analyzed as though under responsible ownership and competent management. It is assumed in this analysis that there were no hidden or unapparent conditions of the property, subsoil, or structures which would render it more or less valuable. No responsibility is assumed for such conditions or for engineering which may be required to discover them. No responsibility is assumed for legal matters existing or pending, nor is opinion rendered as to title, which is assumed to be good.
3. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is noted.
4. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a non-conformity has been stated, defined and considered in the analysis. Please refer to the extraordinary assumptions found in the appraisal report.
5. It is assumed that all required licenses, consents or other legislative or administrative authority from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
6. Possession of this report, or a copy thereof, does not carry with it the right of publication.
7. The appraiser assumed that there is no hazardous waste contaminating the subsoils. The appraiser is not qualified to detect such substances on the property or to evaluate the effect of such substances on the value of the property.
8. Unless prior arrangements have been made, the appraiser, by reason of this report, is not required to give further consultation or testimony, or to be in attendance in court with reference to the property that is the subject of this report.
9. This report relies on the facts and opinions provided by the town's legal counsel. No other due diligence was performed beyond the information provided regarding the subject property's zoning and land use compliance and/or subdivision potential.
10. The conclusions apply only to the property specifically identified and described herein.
11. The appraiser has made no legal survey nor have they commissioned one to be prepared. Therefore, reference to a sketch, plat, diagram or previous survey appearing in the report is only for the purpose of assisting the reader to visualize the property.

ADDENDA

QUALIFICATIONS OF THE FIRM



B.C. Underwood LLC specializes in complex real estate. The following is a representative list of assignments, geographical areas covered, and clients served.

TYPES OF ASSIGNMENTS

Airport Land & Buildings	Market & Feasibility Studies
Apartment Buildings & Complexes	Mediation
Appraisal Review	Medical Buildings / Facilities
Athletic Clubs & Facilities	Mill Buildings
Automobile Dealerships	Mineral Rights
Bank Buildings	Mobile Home Parks
Bed & Breakfasts	Multi-Family Residential Properties
Business Valuation	Office Buildings & Parks
Campgrounds	Parking Lots
Commercial Land & Buildings	Partial Interests / Partition Actions
Condominium Buildings	Planned Residential Developments
Conservation Easements	Private Schools
Convenience Store Chains	Quarries
Diminution in Value Projects	Railroad Tourist Attractions
Easements & Rights of Way	Restaurants
Eminent Domain	Retail Petroleum Properties
Environmentally Contaminated Property	Self-Storage Facilities
Equestrian Properties	Senior Living Facilities
Estates & Luxury Residential Property	Service Garages
Fast Food Restaurants	Sports & Entertainment Facilities
Forest Land	Spring Water Plants
Group Homes	Shopping Malls
Going Concerns	Single Family Homes
Golf Courses	Strip Centers
Higher Education Institutions	Taverns & Inns
Hospitals	Tax Abatement
Industrial Land & Buildings	Time Share Projects
Impact on Property Value Studies	USPAP & Appraisal Methodology
Litigation Strategy & Support	Utility Corridors
Lumber Yards	Waterfront Property
Marinas	

GEOGRAPHICAL AREAS (counties)

Connecticut: New Haven

Maine: Androscoggin, Cumberland, York

Massachusetts: Barnstable, Bristol, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, Worcester

Georgia: Fulton

New Hampshire: Belknap, Carroll, Cheshire, Coös, Grafton, Hillsborough, Merrimack, Rockingham, Strafford, Sullivan

New York: Kings

Pennsylvania: Cumberland, Juniata

Rhode Island: Providence

Vermont: Rutland, Windham, Windsor

REPRESENTATIVE LIST OF CLIENTS

AMRESKO Commercial Finance
Arent Fox, PLLC
Bald Peak Land Company
Bank of America
Bank of America Private Clients Group
Bank of New Hampshire
Bangor Savings Bank
Beech River Mill, Inc.
Brewster Academy
Carlisle Capital
Chase Bank
Citizens Bank
Cleveland, Waters & Bass, P.A.
Cooper, Cargill, Chant Attorneys at Law
Creare
Danville, Town of
Dartmouth College
Dartmouth Hitchcock Medical Center
Devine, Millimet & Branch, P.A.
Eversource
Farm Credit East
Federal Deposit Insurance Corporation
Fletcher Tilton, P.C.
Franklin, City of
Gallagher, Callahan, & Gartrell, P.C.
Godbout Law, PLLC
Gov. Wentworth Regional School District
Green Mountain Furniture, Inc.
Grinnell & Bureau Attorneys at Law
Hinckley Allen LLP
Holland & Knight LLP
Huggins Hospital
J.P. Noonan, Inc.
Key Bank
Lakes Region Conservation Trust
Lakeview Management, Inc.
Mallet Company
Marriott, J. Willard Jr.; Chairman, Marriott
International
Martin, Lord, & Osman, P.A.
Latici, P.A.
Liberty Utilities
McLane Middleton, P.A.
Mobil Oil Corporation
Monziona Law Offices
Mount Washington Observatory
Mutual Oil Company
New Hampshire Motor Speedway
North Conway Country Club
Northern Pass Transmission LLC
Northway Bank
Orr & Reno
Pace Academy
Perkins Thompson Attorneys & Counselors
Phillips Exeter Academy
Pleasant View Gardens
Pike Industries, Inc.
Portsmouth, City of
PriceWaterhouseCoopers
RHP Properties
Ricci Lumber
Rochester Toyota
Rye, Town of
Salvation Army
Seward & Kissel LLP
Sheehan Phinney, P.A.
Sulloway & Hollis, PLLC
Sullivan & Gregg Attorneys at Law
TD Bank
Taylor Community
U.S. Trust Company
Upton & Hatfield LLP
Vermont Academy
Walker & Varney Attorneys at Law
Webster Land Corporation
Wescott Law P.A.
Wolfeboro, Town of

BRIAN C. UNDERWOOD, CRE QUALIFICATIONS

PROFESSIONAL DESIGNATIONS

Awarded the CRE designation, Counselor of Real Estate; The Counselors of Real Estate

PROFESSIONAL PUBLIC APPOINTMENTS

New Hampshire Real Estate Appraiser Board, Chairman (2008-2012)

PROFESSIONAL EXPERIENCE

B.C. Underwood LLC, Rye Beach, New Hampshire: Principal of an east coast real estate consulting & valuation firm founded in 1998 specializing in complex property types, litigation support, and mediation

Atlantic Valuation Consultants, Inc., Meredith, New Hampshire: President of an east coast real estate and business valuation firm specializing in market / feasibility studies, and litigation support.

Conwood Group, New Cumberland, Pennsylvania: Managing General Partner of a real estate investment company that owned and operated coin laundries.

LICENSEE

Certified General Real Estate Appraiser, State of New Hampshire
License Number: NHCG-394 (expires November 30, 2021)

PROFESSIONAL EDUCATION

Harvard Business School

- *Valuation*; Cambridge, Massachusetts; 1999

American Society of Appraisers Seminars

- *The Expert Witness*; Manchester, New Hampshire; 1996

Appraisal Foundation

- *Appraisal Investigator Training Level I*; Alexandria, Virginia; 2009
- *Appraisal Investigator Training Level II*; Scottsdale, Arizona; 2010

Appraisal Institute Courses

- 400: *National Uniform Standards of Professional Appraisal Practice (USPAP) Update Course*; 2018
- 410: *Standards of Professional Practice, Part A (Uniform Standards of Professional Appraisal Practice)*; Portland, Maine; 1997
- 420: *Standards of Professional Practice, Part B*; Hershey, Pennsylvania; 1993
- 110: *Appraisal Principals*; Hershey, Pennsylvania; 1993
- 120: *Appraisal Procedures*; Hershey, Pennsylvania; 1993
- 310: *Basic Income Capitalization*; Tallahassee, Florida; 1993
- 320: *General Applications*; Boston, Massachusetts; 1995
- 510: *Advanced Income Capitalization*; Tallahassee, Florida; 1993
- 540: *Report Writing & Valuation Analysis*; Tallahassee, Florida; 1995

Appraisal Institute Seminars

- Eminent Domain and Condemnation; 2017
- *Data Verification Methods*; 2015
- *Thinking Outside the Form*; 2015
- *Subdivision Valuation*; Manchester, New Hampshire; 2005
- *Automated Valuation Models*; Baltimore, Maryland; 1997
- *Mock Trial*; Boston, Massachusetts; 1995
- *Appraisal Practices for Litigation*; Boston, Massachusetts; 1995
- *GIS Seminar*; Boston, Massachusetts; 1995
- *Due Diligence, Contaminated Properties, & the Real Estate Appraiser*; Boston, Massachusetts; 1995
- *Environmental Risk and the Real Estate Appraisal Process*; Rockport, Maine; 1994

The Counselors of Real Estate Seminars

- *Global Economic Forces: The Deficit, the Dollar and Interest Rates*; Chicago, Illinois; 2005
- *Real Estate Capital Markets*; Chicago, Illinois; 2005
- *Big Thinkers on The Big Picture: Commercial Real Estate Markets*; Chicago, Illinois; 2005
- *Hedging: Protecting Your Assets in a Rising Interest Rate Environment*; Chicago, Illinois; 2005
- *Market Watch: A Real World View on Market Prospects*; San Francisco, California; 2007
- *Institutional Investment: When Residential Real Estate Brings the Highest Yields*; San Francisco, California; 2007
- *Banks, Banking Rules, Fed Policy, and Real Estate*; San Francisco, California; 2013
- *Outlook for the Economic Real Estate Market*; San Francisco, California; 2013
- *Real Estate Analytics, Investments and Beyond*; San Francisco, California; 2013
- *Reaching for Yield - The High Risk of Investments*; San Francisco, California; 2013
- *Money Never Sleeps*; San Francisco, California; 2013
- *Sustainability: Energy and Land Use*; San Francisco, California; 2013
- *A Vision for Boston*; Boston Massachusetts; 2014
- *Real Estate Outlook*; Boston, Massachusetts; 2014
- *Emerging Trends in Real Estate*; Boston, Massachusetts; 2014
- *Making Infrastructure Happen: Public-Private Partnerships*; Montreal, Canada; 2017
- *Retail Industry – In Crisis?*; Montreal, Canada; 2017
- *Trends in Tourism & Hospitality*; Montreal, Canada; 2017
- *Laying the Groundwork of Large Scale Development*; Montreal, Canada; 2017
- *The Global Economy & Real Estate Trends: Is Capital Following Growth?*; Montreal, Canada; 2017
- *The New City: The American Urban Scene*; Chicago, Illinois; 2019
- *The Global Economy & Real Estate Trends*; Chicago, Illinois; 2019
- *Technology: How Data is Being Leveraged*; Chicago, Illinois; 2019
- *Opportunity Zones: Challenges and Opportunities*; Chicago, Illinois; 2019
- *2019-2020 Top Ten Issues Affecting Real Estate*; Chicago, Illinois; 2019
- *Aging in Place: Innovation in Design & Programming*; Chicago, Illinois; 2019
- *University of Chicago's Influence on the South Side*; Chicago, Illinois; 2019

Massachusetts Board of Real Estate Appraisers Seminars

- *Teamwork in Eminent Domain*; Boston, Massachusetts; 1997

McKissock Learning

- Introduction to Legal Descriptions; November 2017
- Fundamentals of Appraising Luxury Homes; November 2019
- Expert Witness Testimony for Appraisers; November 2019

New Hampshire Association of Industrial Agents Seminars

- *Redeveloping Contaminated Sites*; Center Harbor, New Hampshire; 1994

New Hampshire Attorney General's Office

- *Wynn Arnold Administrative Law Workshop*; Concord, New Hampshire; 2009

New Hampshire Bar Association Seminars

- *Managing, Buying, & Selling Contaminated Properties*; Concord, New Hampshire; 1994

New Hampshire Superior Court, Office of Mediation & Arbitration

- *NH Superior Court Rule 170 Civil Mediation Training*; Concord, New Hampshire; 2010

ARTICLES PUBLISHED

How to Lower Real Estate Taxes, Coin Launderer & Cleaner; February 1996

Tax Abatements for Environmentally Contaminated Real Estate, New England Service Station & Automotive Repair Association; January 1995

SEMINARS PRESENTED

New Hampshire Tax Abatement Process, [presented together with Jack B. Middleton, Esquire & Jennifer L. Parent, Esquire; McLane Middleton]; Rochester, New Hampshire; 2014

New Hampshire Tax Abatement Process, [presented together with Jack B. Middleton, Esquire & Jennifer L. Parent, Esquire; McLane Middleton]; Concord, New Hampshire; 2013

Real Estate Appraisal Issues, New Hampshire Chapter, Appraisal Institute; Concord, New Hampshire; 2010 & 2011

Appraising Environmentally Contaminated Real Estate, New Hampshire Bar Association; Concord, New Hampshire; 1999

Real Estate Tax Abatement & Eminent Domain, [presented together with Jack B. Middleton, Esquire & Arthur G. Greene, Esquire; McLane Middleton]; North Conway, New Hampshire; 1999

Real Estate Tax Abatement Process, [presented together with Jack B. Middleton, Esquire; McLane Middleton]; Hanover, Portsmouth, and Manchester, New Hampshire; 1996

Real Estate Tax Abatement Process, [presented together with Jack B. Middleton, Esquire; McLane Middleton]; Manchester, New Hampshire; 1995

Tax Abatement for Environmentally Contaminated Real Estate, Independent Oil Marketers Association of New England; Westborough, Massachusetts; 1995

Tax Abatement Issues for Campground Owners, New Hampshire Campground Owners' Association; Laconia, New Hampshire; 1995

LITIGATION EXPERIENCE (admitted as expert witness)

- New Hampshire Superior Court
- New Hampshire Board of Tax and Land Appeals
- New Hampshire Circuit Court, Family Division
- New York Family Court
- Massachusetts Appellate Tax Board
- United States Bankruptcy Court
- Vermont Family Court

EXPERT WITNESS HISTORY

Testimony at Trial or Deposition

Trustees of Dartmouth College *v.* Town of Hanover
Town of Hanover Planning Board / New Hampshire Supreme Court

150 Greenleaf Realty Trust *v.* City of Portsmouth
Rockingham County Superior Court, New Hampshire

Gilman Family Trust *v.* Town of New London
Merrimack County Superior Court, New Hampshire

In Re: Carlucci
U.S. Bankruptcy Court, District of New Hampshire

Campbell *v.* Campbell
New York Family Court, New York

Cutter Family Partnership *v.* Town of Rollinsford
Rockingham County Superior Court, New Hampshire

Southern Spectrum LLC *v.* Town of Wolfeboro
Carroll County Superior Court, New Hampshire

Bridge *v.* Town of Sunapee
Sullivan County Superior Court, New Hampshire

Kraeger *v.* Town of Sunapee
Sullivan County Superior Court, New Hampshire

Ruedig *v.* Town of Sunapee
Sullivan County Superior Court, New Hampshire

Wolters *v.* Wolters
10th Circuit Court, Family Division, New Hampshire

Public Service of New Hampshire *v.* Town of Richmond
New Hampshire Board of Tax & Land Appeals

PROFESSIONAL & PUBLIC AFFILIATIONS

- New Hampshire Real Estate Appraiser Board by appointment of Governor Lynch
 - Chairman (2008-2012)
- The Counselors of Real Estate: Member
 - *Real Estate Issues* Editorial Board (2005-2007)
 - CRE Consulting Corps Steering Committee (2005 -2007)
- Mount Washington Observatory
 - Past Vice President & Treasurer
- Town of Wolfeboro Zoning Board of Adjustment
 - Chairman (1995-2008)
- First Congregational Church, Wolfeboro, New Hampshire
 - Moderator (2008-2010)

CONTACT INFORMATION

Brian C. Underwood, CRE
B.C. Underwood LLC
Post Office Box 88
Rye Beach, New Hampshire 03871

603.387.1340
bcu@bcunderwood.com
www.bcunderwood.com

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT	
500 WASHINGTON ROAD LLC	4	Rolling	2 Public Water 6 Septic	1 Paved	4 Bus. District	Code	Assessed
1393 OCEAN BOULEVARD						3410	218,100
RYE NH 03870						3410	350,300
						3410	13,200
		SUPPLEMENTAL DATA				Total	
		FEMA 05 L				581,600	
		FEMA 15 L				581,600	
		FEMA 05 I				581,600	
		FEMA 15 I				581,600	
		PRECINC 4:				581,600	
		VA-LAND-COMM				581,600	
		VA-BLDG-COMM				581,600	
		Assoc Pld#				581,600	

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)					
500 WASHINGTON ROAD LLC	5913	1009	05-07-2018	Q	I	540,000	00	Year	Code	Assessed V	Year	Code	Assessed
TD BANK NORTH	1713	0465	04-10-1964	Q	V	11,000	00	2019	3410	218,100	2018	3410	218,100
									3410	350,300		3410	350,300
									3410	13,200		3410	13,200
		Total						Total		Total		Total	
								581,600		581,600		581,600	

EXEMPTIONS		Amount	Description	Number	Amount	Comm Int
Year	Code					
		0.00				

ASSESSING NEIGHBORHOOD		Amount	Description	Number	Amount	Comm Int
Nbhd	Nbhd Name					
C2	B		Tracing			

1964 DEED TO BANK OF NEW HAMPSHIRE WHICH IS NOW TD BANK NORTH. 2007- OWNERSHIP & VAULT PRICE CORRECTED.

APPROXIMATED VALUE SUMMARY

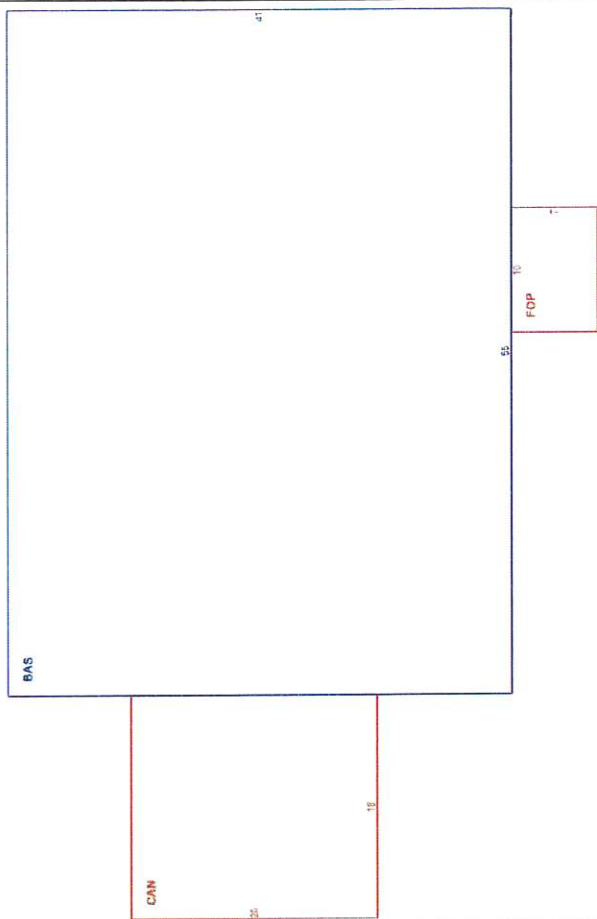
Appraised Bldg. Value (Card)	182,300
Appraised Xf (B) Value (Bldg)	35,800
Appraised Ob (B) Value (Bldg)	9,200
Appraised Land Value (Bldg)	350,300
Special Land Value	0
Total Appraised Parcel Value	581,600

BUILDING PERMIT RECORD		Amount	Insp Date	% Comp	Date Comp	Comments
Permit Id	Issue Date					
M-000091	04-21-2016	11,591		100		
3246	10-09-2013	12,000		100		REEROOF

LAND LINE VALUATION SECTION		Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value
B Use Code	Description											
1	BANK BLDG	43,560	5.81	1.00000	1	1.00	60	1.250		1.0000	7.26	316,400
1	BANK BLDG	2,710	10,000.00	1.00000	0	1.00	60	1.250		1.0000	12,500.00	33,900
Total Card Land Units		43,560										
Parcel Total Land Area												
Total Land Value												350,300

VISION

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
31		Branch Bank			
94		Comm/Ind			
05		Average +25			
1		Stories:			
1.00		Occupancy			
11		Exterior Wall 1			
11		Exterior Wall 2			
03		Roof Structure			
03		Roof Cover			
05		Interior Wall 1			
05		Interior Wall 2			
14		Interior Floor 1			
14		Interior Floor 2			
02		Heating Fuel			
04		Heating Type			
03		AC Type			
3410		Bldg Use			
00		Total Rooms			
0		Total Bedrms			
02		Total Baths			
02		Heat/AC			
02		Frame Type			
02		Baths/Plumbing			
05		Ceiling/Wall			
02		Rooms/Prtns			
8.00		Wall Height			
3410		% Conn Wall			
		1st Floor Use:			



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
PAV1	PAVING-ASP	L	9,200	2.00	2001		50		0.00	9,200
LT1	LIGHTS-IN W/	L	4	2000.00	2001		50		0.00	4,000
DUV	DRIVE-UP WI	B	1	11700.00	1989		44		0.00	5,100
DUV	W/PNEU TUB	B	1	24100.00	1989		44		0.00	10,600
ATM1	AUTOMATC T	B	1	33600.00	1989		44		0.00	14,800
VLT1	VAULT-AVG	B	80	150.00	1989		44		0.00	5,300

BUILDING SUB-AREA SUMMARY SECTION							
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value	
BAS	First Floor	2,255	2,255	2,255	176.64	398,318	
CAN	Canopy	0	360	72	35.33	12,718	
FOP	Porch, Open	0	70	18	45.42	3,179	
Ttl Gross Liv / Lease Area					2,685	2,345	414,215

Cathy Ann Seary

0/6-201

LCHIP ROA408799 25.00
TRANSFER TAX RO078986 8,100.00
RECORDING 22.00
SURCHARGE 2.00

540,000

12050

SPECIAL WARRANTY DEED

THIS INDENTURE, made this 7th day of May, 2018, between TD BANK, N.A., a national banking association, as successor by merger to The First National Bank of Portsmouth, whose address is 17000 Horizon Way, Mount Laurel, New Jersey 08054 ("Grantor"), and 500 WASHINGTON ROAD, LLC, a New Hampshire limited liability company, whose address is 161 Portland Avenue, Dover, NH 03820 ("Grantee");

(Handwritten initials)

WITNESSETH THAT:

Grantor, for and in consideration of the sum of Ten and No/100 U.S. Dollars (\$10.00), lawful money of the United States of America, to it in hand paid by the Grantee, at or before the ensealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee and its/his/her heirs or successors and assignees forever, the following parcel of land, together with all buildings and improvements thereon, situate, lying and being in the County of Rockingham, State of New Hampshire, and more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF (the "Land").

SUBJECT TO AND TOGETHER WITH, HOWEVER, THE FOLLOWING:

1. Real property taxes and assessments for the year 2018 shall be prorated as of the date of closing and for subsequent years.
2. Zoning and other regulatory laws and ordinances affecting the Land.
3. Easements, reservations, restrictions, rights of way, and other matters of record, if any, without re-imposing the same.
4. For a period of five (5) years from the recording hereof, the Land may not be used as a commercial bank, retail bank branch, savings bank, financial services institution, insurance company, brokerage firm, for the placement of an Automatic Teller Machine (ATM), savings and loan or credit union or affiliate thereof.

The within described premises is not a homestead property.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of the Land hereby conveyed in fee simple; that it has good right and lawful authority to sell and convey said Land; that it hereby specially warrants the title to said Land and will defend the same against the lawful claims of any persons claiming by, through or under the said Grantor but against no others.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed in its name by its proper officers, and its corporate seal to be affixed, the day and year first above written.

TD BANK, N.A., a national banking association

Christina Walters

Witness

Christina Walters

Printed Name of Witness

Vicki Sylvester

Witness

Vicki Sylvester

Printed Name of Witness

By: [Signature]

Name: Jason LaVecchia

Title: Head of ERE Operations

STATE OF New Jersey)
) ss.:
COUNTY OF Burlington

The foregoing Special Warranty Deed was acknowledged before me this 7 day of May, 2018, by Jason LaVecchia, as Head of ERE Operations of TD BANK, N.A., a national banking association, on behalf of the corporation, who (X) is personally known to me, or () produced _____ as identification.

[Signature]
Signature of Notary Public

Lauren Deacon
Printed Name of Notary Public

EXHIBIT A

(Property Description)

All that certain tract of parcel of land situated in Rye, Rockingham County, New Hampshire, and lying on the southeasterly side of Washington Road, and generally situated between land of Dona W. Berry on the Northeast and other land of Esther W. Parsons on the Southwest, and more particularly bounded and described as follows:

Beginning in the southeasterly line of Washington Road, at a point where an old stone wall situated northeasterly of the house and barn of Esther W. Parsons does or would intersect with said road line; thence running S 44° 14' E along the line of said old stone wall and the line extended thereof and along other land of Esther W. Parsons 150.0 feet to an iron pin; thence turning and running S 39° 03' E along other land of Esther W. Parsons a distance of 400.65 feet to an iron pin situated on a line which is parallel to and 50.0 feet measured on a perpendicular northwesterly of the line of a certain old stone wall on land of Esther W. Parsons which runs generally on a northeasterly line; thence turning and running N 35° 46' E along other land of Esther W. Parsons on such line parallel to said stone wall line and 50.0 feet northwesterly thereof and on the same course along an extension of said line parallel to said stone wall a distance of 264.2 feet to an iron pin at or in another stone wall at other land of said Esther W. Parsons; thence turning and running N 29° 26' W along the line of said stone wall and other land of Esther W. Parsons a distance of 178.4 feet to a point in said stone wall; thence turning and running N 29° 11' W along the line of said stone wall and other land of Esther W. Parsons a distance of 138.0 feet to an iron pin at or in said stone wall; thence turning and running N 41° 50' W on a line parallel to and measured on a perpendicular from and 50.0 feet distant from the nearest or southerly stone wall line bounding land of Dona W. Berry to the east, and along other land of Esther W. Parsons, a distance of 219.1 feet to an iron pin at or in an old stone wall at or near the southeasterly line of Washington Road, said point being 50.0 feet southwesterly of the southwesterly corner of land of said Dona W. Berry; thence turning and running along said old stone wall and the southeasterly side line of said Washington Road; S 42° 29' W a distance of 88.15 feet to a point in said stone wall; thence continuing along the line of said wall and road S 41° 42' W a distance of 227.6 feet to the point of beginning. Containing 3.61 acres, more or less.

Being the same premises conveyed by Deed of Esther W. Parsons to The First National Bank of Portsmouth dated April 10, 1964 and recorded in the Rockingham County Registry of Deeds in Book 1713, Page 465.

MICHAEL DONOVAN LAW, P.L.L.C

Michael L. Donovan
Attorney and Counselor at Law

52 Church Street
PO Box 2169
Concord, NH 03302-2169

Tel. (603) 731-6148
Fax: send a pdf
mdonovanlaw62@gmail.com

MEMORANDUM

TO: Michael J. Magnant
Rye Town Administrator

RE: TD Bank North Deed Restriction

DATE: March 1, 2018

Dear Mike:

You have asked me to review copies of records presented to the board of selectmen on February 26, 2018 by Jane Holway and to review the opinion I provided on September 7, 2017, which is that the restriction in the April 10, 1964 deed conveying the TD Bank North bank parcel from Esther W. Parsons to First National Bank of Portsmouth does not restrict municipal use of the property.

The documents you asked me to review (in addition to the 1964 deed which I had previously reviewed) are:

1. January 24, 1986 letter from Board of Selectmen Chair Maynard Young to Ms. Parsons with an enclosed Release Deed.
2. January 9, 1986 response from Mrs. Parsons (I believe this is incorrectly dated because she is responding to the January 24, 1986 communication).
3. March 10, 1986 letter to Richard Kutzleb from Ms. Parsons. (Mr. Kutzleb was chair of the Historic District Commission in 1986).
4. May 13, 1996 letter to Randolph Werner from James D. Brown, Chair of the Rye Planning Board.
5. May 15, 1996 response from Mr. Werner.
6. June 16, 1964 Agreement between Esther W. Parsons and First National Bank of Portsmouth.

Summary Opinion.

My opinion given to you verbally and in a brief email on September 7, 2017 has not changed. The restriction in the deed, on its face, applies to “commercial use” of the property. Municipal use is not a commercial use.

Discussion.

1. Facts. The deed restriction at issue is worded as follows:

“.... The grantee, its successors and assigns shall make no other commercial use of the foregoing premises than for commercial banking purposes, so long as the applicable zoning ordinance of the Town of Rye restricts the use of the lands adjoining said premises to residential uses.”

2. Law. The NH Supreme Court interprets the language in deeds as follows:

The proper interpretation of a contract, such as a deed, is a question of law for this court. If the language of the deed is clear and unambiguous, we will interpret the intended meaning from the deed itself without resort to extrinsic evidence.¹ Where there is no ambiguity in the terms used by the parties, we will review whether, as a matter of law, the interpretation of the trial court is consonant with the intentions of the parties expressed in the words they used in formulating their contract.

LeBaron v. Wight, 156 N.H. 583, 585-586 (2007). [Citations omitted].

When courts interpret language, the common meaning of the words used is applied. The common meaning of the words “commercial” and “commerce” is as follows:

Commercial. 1a (1) occupied with or engaged in commerce or work intended for commerce (2) of or relating to commerce (3) characteristic of commerce

Commerce. 2. The exchange or buying and selling of commodities on a large scale involving transportation from place to place. syn see Business.

Business. 3. a. A usually commercial or mercantile activity engaged in as a means of livelihood. B. a commercial or sometimes an industrial enterprise. C. usually economic dealings.

Merriam Webster’s Collegiate Dictionary, 10th Ed.

¹ Extrinsic evidence is evidence outside “the four corners” of a written document.

Memo: Michael J. Magnant
March 1, 2018
Page 3 of 3

3. Analysis. The language of the deed restriction is not ambiguous. Thus, a court would not turn to extrinsic evidence to interpret the restriction. Simply put, municipal use for town hall type functions is not a “commercial use.”

I hope this opinion adequately addresses the concerns of the board of selectmen. Please do not hesitate to contact me if you have any questions.

Very truly yours,

File Copy: Original signed and mailed

Michael L. Donovan

CURRENT OWNER		TOPO.	UTILITIES	STRT./ROAD	LOCATION
RYE TOWN OF		4	Rolling	1 Paved	2 Suburban
10 CENTRAL ROAD		2	Public Water		
RYE, NH 03870		6	Septic		
Additional Owners:		SUPPLEMENTAL DATA Other ID: FEMA 05 LN FEMA 15 LN ACCT NUM 2159 COLOR BEIGE LAND VA-LAND-NTAX BLDG VA-BLDG-NTAX GIS ID:			

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q	I	SALE PRICE	V.C.
RYE TOWN OF		3106/2865	06/30/1995			450,000	01

EXEMPTIONS		Amount	Description	Code	Number	Amount	Comm. Int.
Year	Type	Description					
OTHER ASSESSMENTS							
NBHD/ SUB		NBHD NAME		TRACING		BATCH	
0001/A							

ASSESSING NEIGHBORHOOD		Amount	Description	Code	Number	Amount	Comm. Int.
RYE TOWN OF							

APPROXIMATED VALUE SUMMARY		Amount	Description	Code	Number	Amount	Comm. Int.
Appraised Bldg. Value (Card)		841,700					
Appraised XF (B) Value (Bldg)		0					
Appraised OB (L) Value (Bldg)		0					
Appraised Land Value (Bldg)		327,700					
Special Land Value		0					
Total Appraised Parcel Value		1,275,200					
Valuation Method:		C					
Adjustment:		0					
Net Total Appraised Parcel Value		1,275,200					

CURRENT ASSESSMENT		Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
EXEMPT		9030	947,500	2017	9030	947,500	2016	9030	947,500
EXM LAND		9030	327,700	2017	9030	327,700	2016	9030	327,700
Total			1,275,200			1,275,200			1,275,200

PREVIOUS ASSESSMENTS (HISTORY)		Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
2017		9030	947,500	2017	9030	947,500	2016
2017		9030	327,700	2017	9030	327,700	2016
Total			1,275,200			1,275,200	

This signature acknowledges a visit by a Data Collector or Assessor

BUILDING PERMIT RECORD		Permit ID	Issre Date	Type	Description	Amount	Insp. Date	% Comp.	Comments
M-000063	10/06/2015	MECH	Permit	6,500	07/27/2015	0	REPLACE THE EXISTING OIL FIRE		
E-000345	08/19/2015	ELEC	Permit	500	07/27/2015	100	INSTALLATION OF 2 DEDECATED 1		
B-000306	12/23/2014	BLDG	Permit	12,500	07/27/2015	100	strip roof-re-root w 30 yr GAF timberlin		
101613	10/16/2013	AD	Addition	500	06/10/2014	100	NEW SONATUBES FOR EXISTING D		
3240	10/07/2013	EL	Electric	4,999	08/26/2012	100	MISC REPAIRS & UPDATES		
7244	06/02/2004	RE	Remodel	1,500	08/26/2012	100	REPL REAR STEPS		
5949	09/19/2001	RE	Remodel	2,250	08/26/2012	100	REPLACE DECKS		

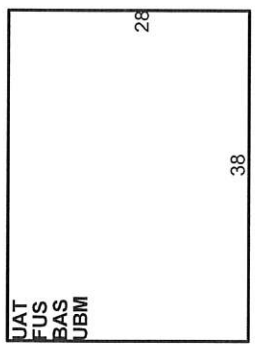
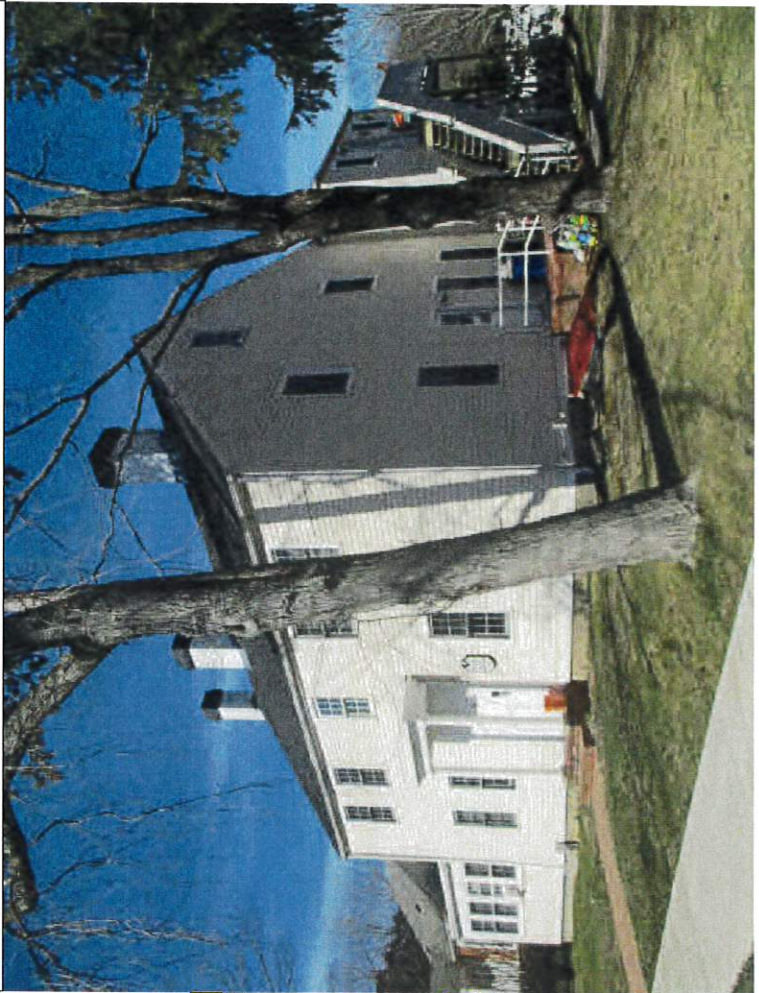
LAND LINE VALUATION SECTION		Permit ID	Issre Date	Type	Description	Amount	Insp. Date	% Comp.	Comments
B	Use								
#	Code	Description	Zone	Frontage	Depth	Units	Unit Price	I Factor	S Factor
1	903R	MUNICIPAL MDL-01	SRES			43,560	5.81	1.0000	T
1	9030	MUNICIPAL MDL-94	SRES			0.90 AC	10,000.00	1.0000	0

VISIT/CHANGE HISTORY		Permit ID	Issre Date	Type	Description	Amount	Insp. Date	% Comp.	Comments
		MO	05/15/2017	25	Revaluation Field Review				
		SM	03/30/2016	10	Permit Follow Up				
		DH	07/27/2015	10	Permit Follow Up				
		DH	06/10/2014	10	Permit Follow Up				
		RT	08/26/2012	20	Update FR				

TOTAL CARD LAND UNITS		1.90	AC	Parcel Total Land Area: 1.9 AC	Total Land Value: 327,700

CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd.	Ch.	Description
Style	63		Century +
Model	01		Residential
Grade	06		Good
Stories	2		2 Stories
Occupancy	7		MIXED USE
Exterior Wall 1	11		Clapboard
Exterior Wall 2			
Roof Structure	03		Gable/Hip
Roof Cover	03		Asph/F Gls/Cmp
Interior Wall 1	03		Plastered
Interior Wall 2			
Interior Flr 1	14		Carpet
Interior Flr 2	12		Hardwood
Heat Fuel	02		Oil
Heat Type	05		Hot Water
AC Type	01		None
Total Bedrooms	07		7 Bedrooms
Total Baths	7		
Total Half Baths	0		
Total Xtra Fixtrs			
Total Rooms	21		21 Rooms
Bath Style	02		Average
Kitchen Style	02		Average

CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)															
Code	Description	Unit Price	Yr	Gde	Dep	Rt	Chd	%Chd	Apr	Value							
COST/MARKET VALUATION																	
	Adj. Base Rate:	122.19															
	Net Other Adj:	1,054,988															
	Replace Cost	52,500.00															
	AYB	1,107,488															
	EYB	1778															
	Dep Code	1993															
	Remodel Rating	G															
	Year Remodeled																
	Dep %	24															
	Functional Obslnc	0															
	External Obslnc	0															
	Cost Trend Factor	1															
	Condition																
	% Complete	76															
	Overall % Cond	841,700															
	Apprais Val	0															
	Dep % Ovr	0															
	Dep Ovr Comment																
	Misc Imp Ovr	0															
	Misc Imp Ovr Comment																
	Cost to Cure Ovr	0															
	Cost to Cure Ovr Comment																
OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)																	
Code	Description	Sub	Sub	Description	L/B	Units	Unit Price	Yr	Gde	Dep	Rt	Chd	%Chd	Apr	Value		
BUILDING SUB-AREA SUMMARY SECTION																	
BAS	First Floor					4,075	4,075		4,075	14	23.76				497,924		
CAN	Canopy					0	72		71	12.31					1,711		
CRL	Crawl Space					0	705		9	23.91					8,675		
FOP	Porch, Open					0	46		9	1.00					1,100		
FUS	Upper Story, Finished					3,668	3,668		106	12.17					448,193		
UAT	Artic, Unfinished					0	1,064		674	24.44					12,952		
UBM	Basement, Unfinished					0	3,370		170	12.22					82,356		
WDK	Deck, Wood/Vinyl					0	170								2,077		
Ttl. Gross Liv/Lease Area:														7,743	13,170	8,634	1,107,488



CURRENT OWNER		TOPO.	UTILITIES	STRT./ROAD	LOCATION	CURRENT ASSESSMENT	
Yr.	Type	Description	Code	Assessed Value	Yr.	Code	Assessed Value
4	Rolling	1 Paved	2 Public Water	2 Suburban	947,500	9030	947,500
			6 Septic		327,700	9030	327,700
SUPPLEMENTAL DATA							
Other ID:		FEMA 05 LN		Total		1,275,200	
REX		FEMA 15 LN		PREVIOUS ASSESSMENTS (HISTORY)			
ACCT NUM		FEMA 05 IMI		Yr.	Code	Assessed Value	Yr.
COLOR		FEMA 15 IMI		2017	9030	947,500	2016
LAND		PRECINCT 4		2017	9030	327,700	2016
BLDG		VA-LAND-NTAX		Total: 1,275,200			
GIS ID:		ASSOC PID#		Total: 1,275,200			

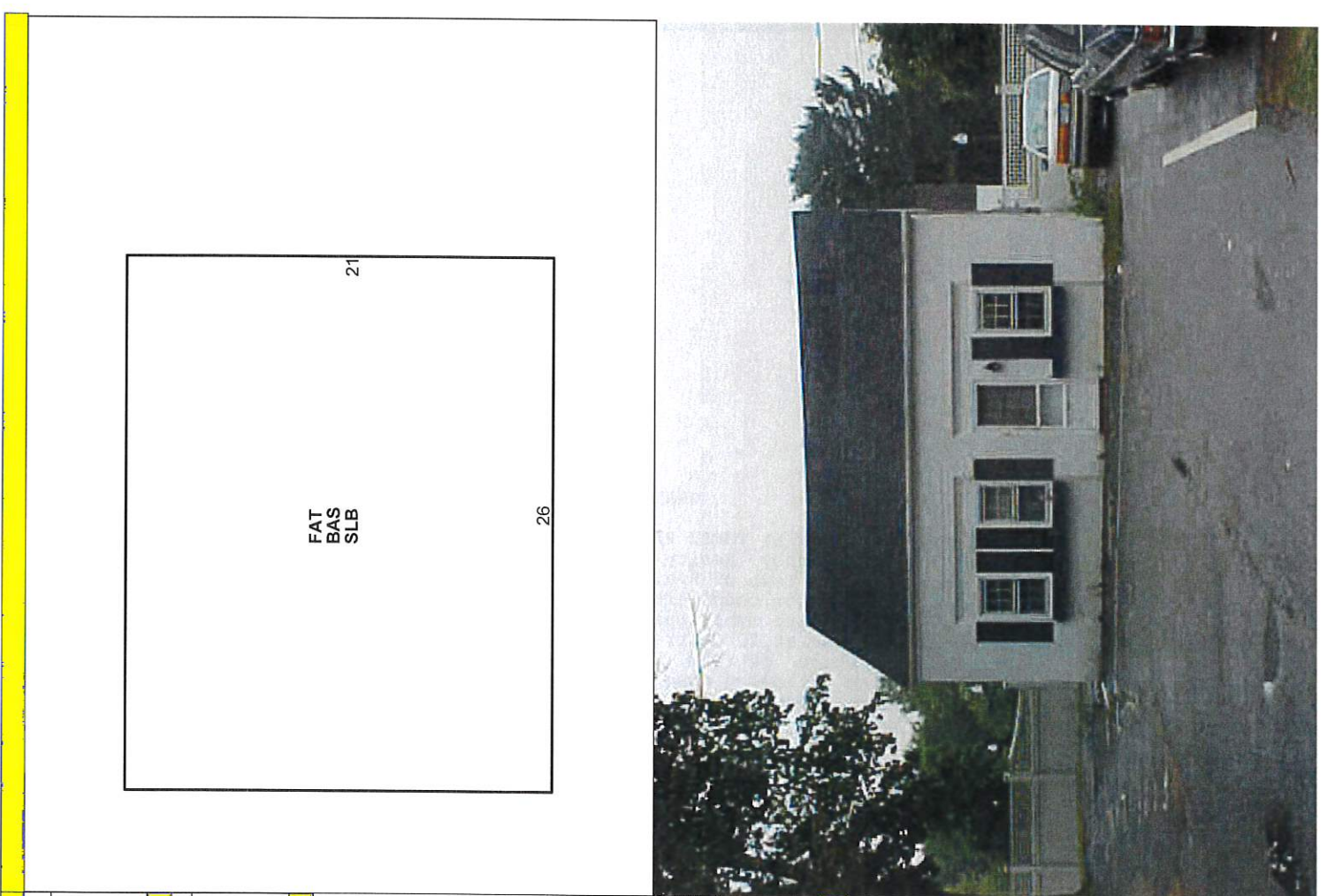
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q	v/i	SALE PRICE	V.C.
RYE TOWN OF		3106/2865	06/30/1995	1	Q	450,000	01

EXEMPTIONS				OTHER ASSESSMENTS			
Year	Type	Description	Amount	Code	Description	Amount	Comm. Int.
APPROAISED VALUE SUMMARY							
Appraised Bldg. Value (Card)		105,800					
Appraised XF (B) Value (Bldg)		0					
Appraised OB (L) Value (Bldg)		0					
Appraised Land Value (Bldg)		0					
Special Land Value		0					
Total Appraised Parcel Value		1,275,200					
Valuation Method:		C					
Adjustment:		0					
Net Total Appraised Parcel Value		1,275,200					

BUILDING PERMIT RECORD		Amount	Insp. Date	% Comp.	Comments		
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Comments

LAND LINE VALUATION SECTION		Zone	Frontage	Depth	Units	Unit Price	I. Factor	S. Factor	ST. Idx	S.I. Adj.	Notes-Adj	Rec Y/N	CU Cond	Special Pricing	Adj. Unit Price	Land Value
B Use Code	Description	Zone	Frontage	Depth	Units	Unit Price	I. Factor	S. Factor	ST. Idx	S.I. Adj.	Notes-Adj	Rec Y/N	CU Cond	Special Pricing	Adj. Unit Price	Land Value
2 903R	MUNICIPAL MDL-01	SRES			0 SF	0.00	1.0000	0	60	1.25		N	0.000		0.00	0

VISIT/ CHANGE HISTORY		Date	Type	IS	ID	Cd.	Purpose/Result
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Comments
	05/15/2017	MO	25	Revaluation Field Review			
	03/30/2016	SM	10	Permit Follow Up			
	07/27/2015	DH	10	Permit Follow Up			
	06/10/2014	DH	10	Permit Follow Up			
	08/26/2012	RT	20	Update FR			



CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)												
Element	Cd.	Ch.	Description											
Style	63		Century +											
Model	01		Residential											
Grade	04		Average +10											
Stories	1.75		1 3/4 Stories											
Occupancy	1													
Exterior Wall 1	20		Brick/Masonry											
Exterior Wall 2														
Roof Structure	03		Gable/Hip											
Roof Cover	03		Asph/F Gls/Cmp											
Interior Wall 1	05		Drywall											
Interior Wall 2														
Interior Flr 1	14		Carpet											
Interior Flr 2														
Heat Fuel	02		Oil											
Heat Type	05		Hot Water											
AC Type	01		None											
Total Bedrooms	02		2 Bedrooms											
Total Baths	1													
Total Half Baths	0													
Total Xtra Fixtrs														
Total Rooms	4		4 Rooms											
Bath Style	02		Average											
Kitchen Style	02		Average											
OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)														
Code	Description	Sub	Sub Description	L/B	Units	Unit Price	Yr	Gde	Dp	Rt	Chd	%Cnd	Apr	Valthe
BUILDING SUB-AREA SUMMARY SECTION														
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprac. Value								
BAS	First Floor	546	546	546	205,37	112,134								
FAT	Attic, Finished	109	546	109	41,00	22,386								
SLB	Slab	0	546	0	0,00	0								
Ttl. Gross Liv/Lease Area:		655	1,638	655		139,194								

FAT
BAS
SLB

26

21

OLD M/L = 13-54
NEW M/L = 12-43
575 WASHINGTON RD

4/13
\$450,000

3106 P2865

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that, I, Frederick H. Cook, Trustee of the Rodney Realty Trust, of 575 Washington Road, Apartment No. 12, Town of Rye, County of Rockingham, State of New Hampshire, 03870 for consideration paid, grant to the Town of Rye, a New Hampshire municipal corporation having a principal place of business at 10 Central Road, Town of Rye, County of Rockingham, State of New Hampshire, 03870, WITH WARRANTY COVENANTS, the following described premises situated in the Town of Rye, County of Rockingham, State of New Hampshire:

A certain parcel of land and the buildings and improvements thereon, located at 575 Washington Road, Town of Rye, County of Rockingham and State of New Hampshire, known as the Olde Parsonage Apartments and shown on the most current Town of Rye Tax Maps as Map No. 12, Parcel No. 43, being further described as follows:

Beginning at the southeasterly corner thereof at the intersection of Washington Road with Olde Parish Road; thence proceeding along the northerly sideline of Washington Road South 57 degrees 14 minutes West a distance of 208.43 feet to a point at land now or formerly of the Town of Rye upon which is situated the Town Library; thence turning and proceeding along said land of the Town of Rye North 34 degrees 56 minutes West a distance of 135.68 feet to a point; thence turning and proceeding still along land of said Town of Rye South 57 degrees 15 minutes West a distance of 78.0 feet to a point at land now or formerly of William G. Johnson; thence turning and proceeding along land of said Johnson North 35 degrees 52 minutes West a distance of 93.57 feet, North 35 degrees 24 minutes West a distance of 118.79 feet, North 36 degrees 09 minutes West a distance of 78.6 feet, and North 29 degrees 33 minutes West a distance of 98.09 feet to land now or formerly of Ricci and Hayes; thence turning and proceeding along land of said Ricci and Hayes North 57 degrees 34 minutes East a distance of 106.89 feet to a point; thence turning and proceeding still along land of said Ricci and Hayes South 36 degrees 54 minutes East a distance of 110.21 feet and South 37 degrees 36 minutes East a distance of 77.29 feet to a point which is at the beginning of a curve to the left; thence proceeding still along land of said Ricci and Hayes along said curve to the left of radius 110 feet, an arc distance of 145.62 feet to a point at land now or formerly of Mildred Wilson; thence turning and proceeding along land of said Wilson South 33 degrees 33 minutes East a distance of 103.57 feet to a point; thence turning and proceeding still along land of said Wilson

JUN 30 9 19 AM '95

002-182

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

EX 3106 P2866

North 63 degrees 54 minutes East a distance of 87.2 feet to a point in the westerly sideline of Olde Parish Road; thence turning and proceeding along said westerly sideline South 33 degrees 33 minutes East a distance of 123.0 feet to the point of beginning. Said parcel containing 1.9 acres, more or less, and being shown on an undated sketch produced by McKenna Associates of Portsmouth, New Hampshire.

Meaning and intending to convey the same premises as conveyed to grantor by Warranty Deed of Fleet Bank - NH dated April 5, 1991 and recorded at the Rockingham County Registry of Deeds at Book 2871, Page 2371.

This conveyance is subject to all easements, rights, restrictions and encumbrances of record.

This is not homestead property.

IN WITNESS WHEREOF I, set my hand this 30th day of JUNE, in the year of our Lord one thousand nine hundred ninety-five.

Mitchell D. Cannon
Witness

Frederick H. Cook
Frederick H. Cook, Trustee of the
Rodney Realty Trust

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS

6-30, 1995

Personally appeared before me the above named Frederick H. Cook, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained and that he did so in his capacity as Trustee of the Rodney Realty Trust.

Before me,

Janet C. Thompson
Notary/Justice of the Peace

JANET C. THOMPSON, Notary Public
My Commission Expires December 19, 1995

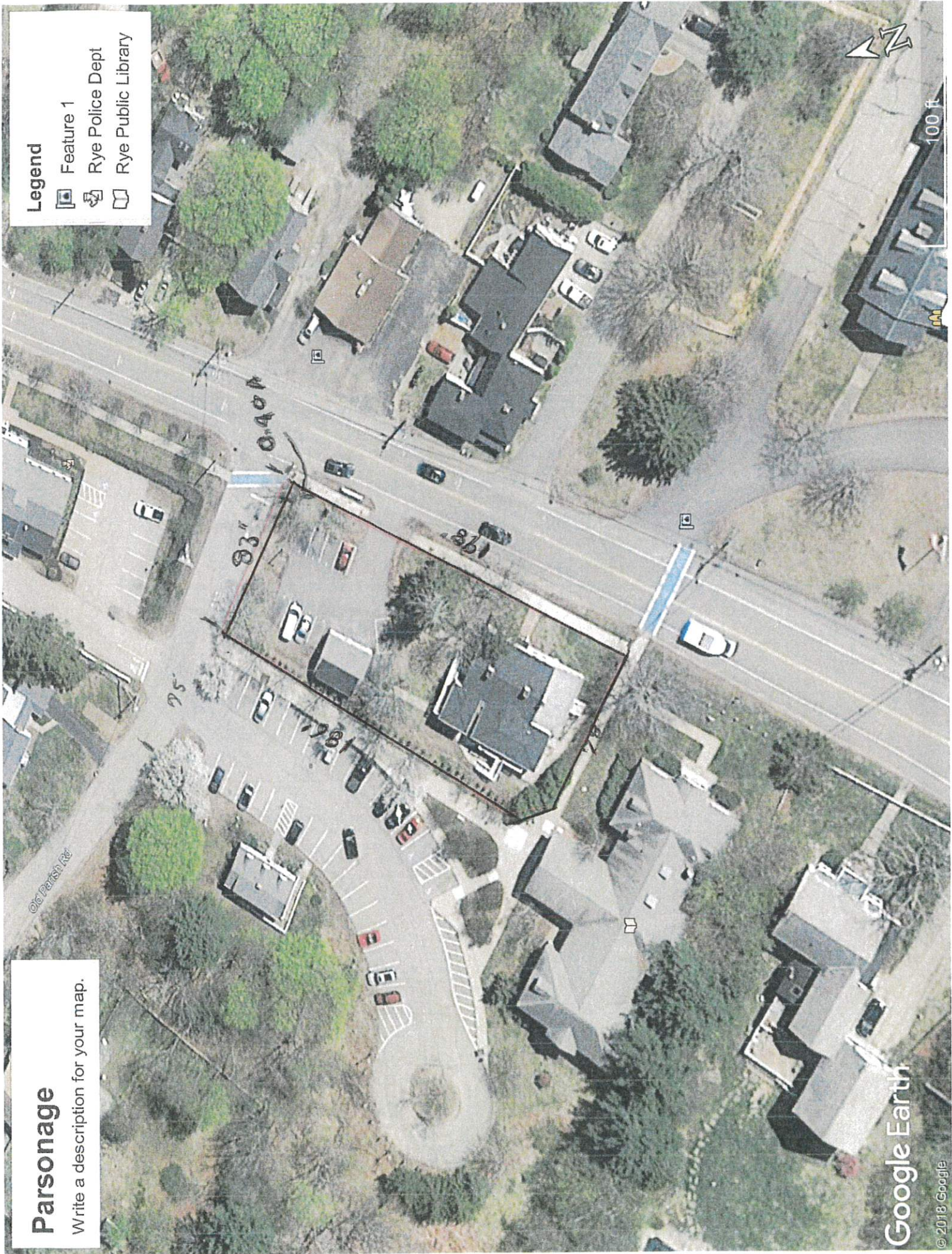


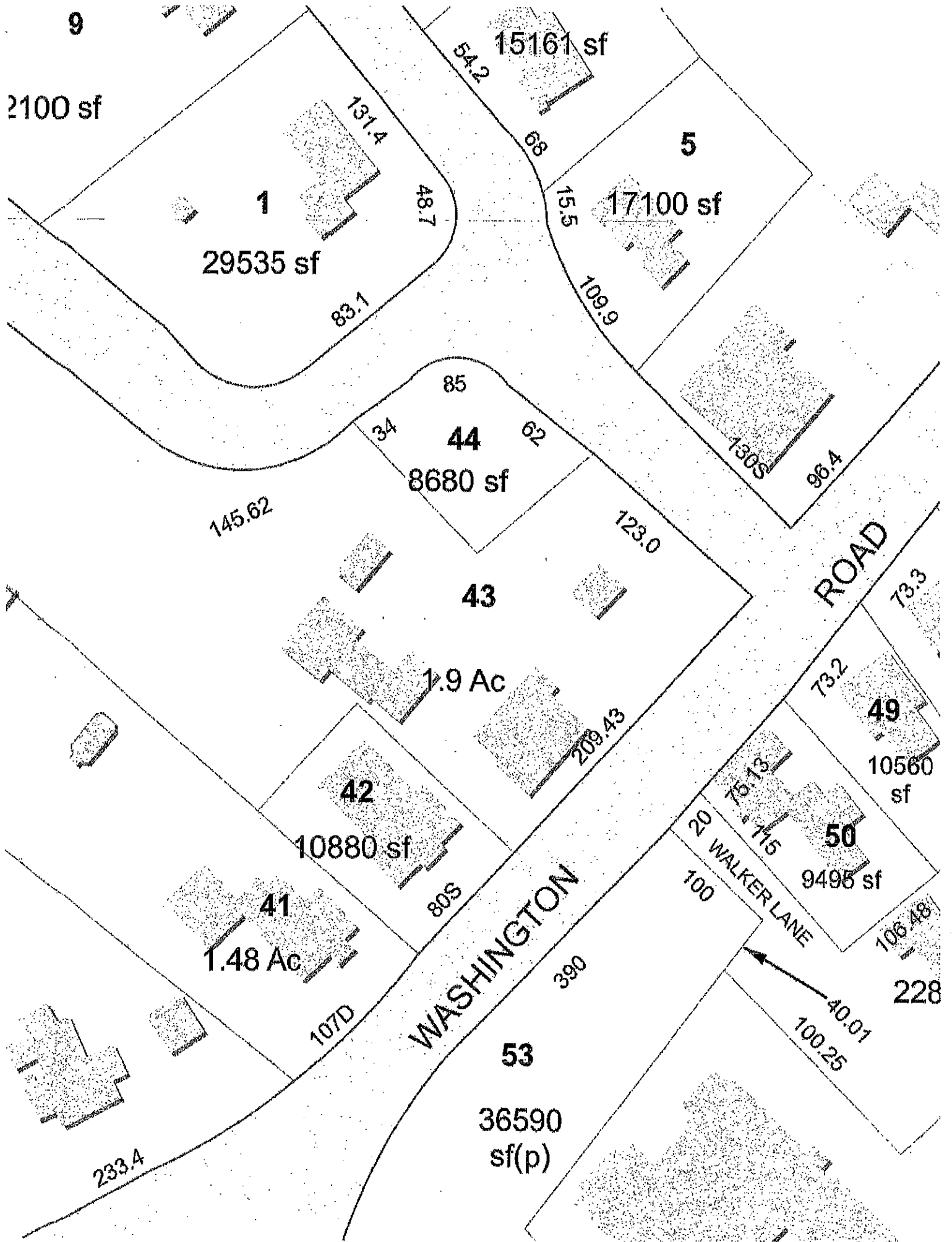
Parsonage

Write a description for your map.

Legend

- Feature 1
- Rye Police Dept
- Rye Public Library





2100 sf

9

15161 sf

29535 sf

17100 sf

8680 sf

1.9 Ac

10880 sf

1.48 Ac

10560 sf

9495 sf

36590 sf(p)

ROAD

WASHINGTON

WALKER LANE

233.4

107D

390

228

40.01
100.25

145.62

83.1

85

44

43

42

41

49

50

53

5

54.2

68

15.5

109.9

34

62

123.0

130S

96.4

73.3

73.2

209.43

80S

115

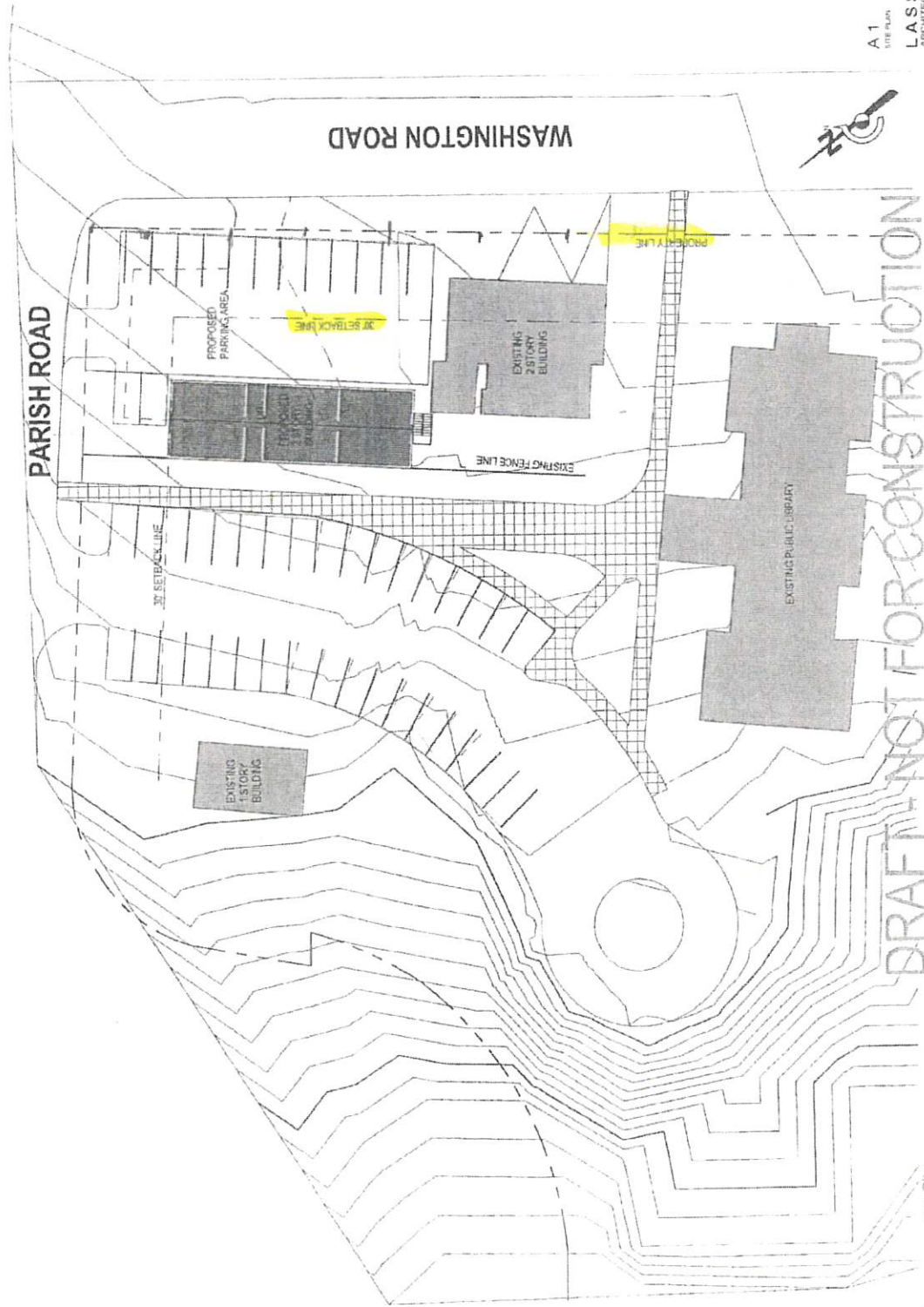
100

106.48

107D

7505571 = 561 x 96

OC = 30



A 1
 TITLE PAGE
 LASSSEL
 ARCHITECTS, PA
 One Pennsylvania
 Apartments
 3000 W. 12th St.
 Philadelphia, PA 19104
 © 2014/2015/2016

DRAFT - NOT FOR CONSTRUCTION

① Site
 1" = 30'-0"

Parsonage File



GENERAL PHYSICAL CONDITION ASSESSMENT REPORT

Rye Second Parish Apartments
575 Washington Rd
Rye, NH 03870

Prepared for:

The Housing Partnership

Inspection Date: June 3, 2015
Report Date: June 18, 2015

Rye Second Parsonage Apartment Facility Evaluation

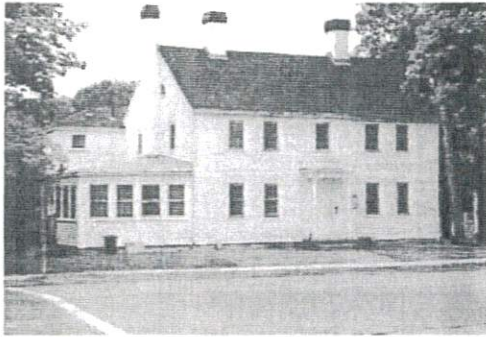


Figure 1 East Elevation



Figure 2 Carriage house

Rye Second Parsonage Apartments General Conditions:

The main building was built in 1810 and has additions built on the West and South sides. The property is on the corner of Washington Rd. and Old Parish Road adjacent to the Rye Public Library. There is a separate masonry carriage house that has been converted to an apartment. Parking is on site on a paved area. There are 7 apartments in the main house and one apartment in the carriage house. Each apartment can be accessed and/or exited from a front & rear stairway. The site is located within the Rye Historic overlay district and any exterior renovations will need to be reviewed by the Historic District Commission.

Site Conditions:

The property is set on a level site that could meet all ADA code requirements. Landscaping is well maintained and trees seem in good health. There was no ponding of water on the site following a rainy day before the inspection.

The parking lot will need to be addressed to repair multiple cracks and should receive an overlay treatment and not simply receive a sealant application at this point of its life cycle. It should also be raised to meet the level of Washington Road at the entrance.



Figure 3 Apartment path and masonry stair repair

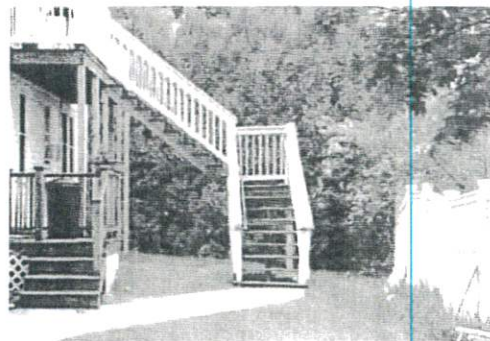


Figure 4 Second floor apartment stairs and rear fence



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Rye Second Parsonage Apartment Facility Evaluation

Exterior staircases to the second floor are pressure treated wood and the stringers and the posts have been repaired recently. Stairs are not level and are built with open risers. First floor apartments are served by brick stairs. One unit has a temporary repair to the brick that needs to be repaired to be level and have correct nosing. No unit is currently wheelchair accessible.

Pathways are made of several different materials including concrete, concrete pavers and brick pavers. They appear to be in acceptable condition for wear. One apartment does not have a paved path to the entrance and is only accessible by walking across the grass yard. Yard fence adjacent to the library parking lot has support issues where the posts enter the ground and is assumed to have rotted below grade.

Structural Conditions:

Main house first floor framing has areas of historical insect damage, rot and members that have been compromised by plumbing pipes. Building is structurally stable and all insect damage seems to have been at an earlier time. No active insects or evidence of active insects was seen. Work needs to be done to maintain the integrity of the certain framing members, and beams will need to be replaced or reinforced. Crawl spaces will need to be inspected fully and will need to have ventilation to the main basement area. The crawl space framing at the west side of the house is not visible but is out of plumb over the span of the rooms.

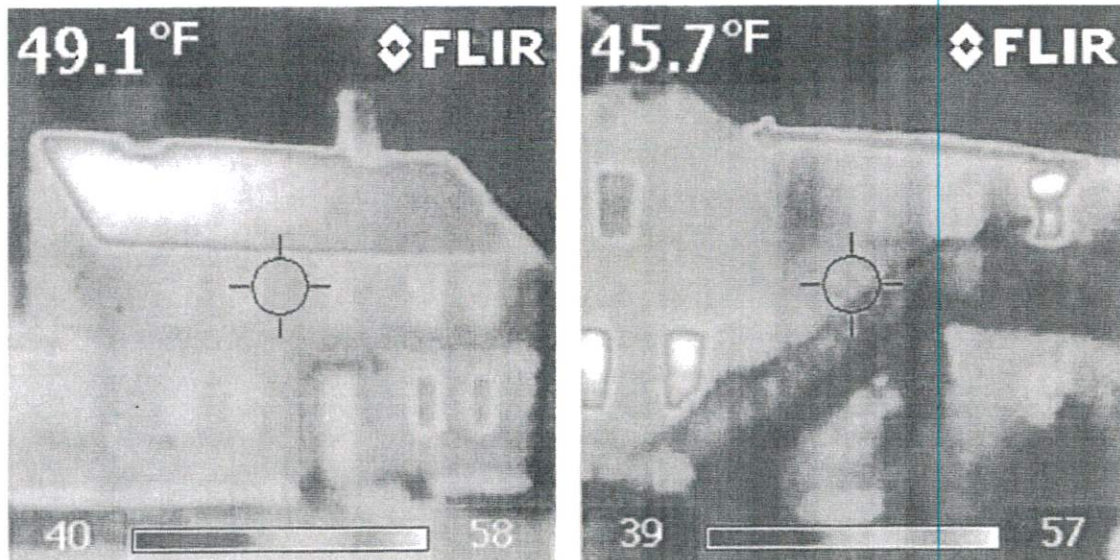
From the exterior, there are cracks in the concrete masonry foundation wall at the west side. Attic framing is rough timber and purlin framing and does not show any rot or insect damage. New sheathing was visible through the roof decking. The carriage house is slab on grade and shows no signs of foundation damage or framing concerns.

Exterior Conditions:

The main house roof is asphalt shingle and was replaced in 2014 according to the building maintenance supervisor. The southeast corner of the main house is low slope rolled roof and was not replaced at the same time as the shingles. The carriage house roof is older and does not show any wear or leaks. Siding is in need of attention as some of the clapboards have rotted or split. Window trim looks original to the house but is in poor condition and should be replaced due to wet rot on heads, jambs and sills. Exterior door jambs and sills are also in poor condition and should be replaced. Steel apartment doors at the second floor rear apartments are rusting and not sealing properly and should be replaced. Steel basement bulkhead is in poor condition has rusted out hinges and rust holes through the surface which are allowing water to enter the basement. Eaves were not checked for rot but need to be scraped and painted at a minimum. Some clapboards have been replaced as part of maintenance but the walls were not repainted so the color does not match precisely.

Masonry chimneys have lost mortar and should be repointed to prevent damage to the bricks. The brick masonry at the corners with downspouts also need to be repointed.

The front gutter on the main house is bent off the fascia and should be replaced. The leaders from the front gutter are not attached. Some leaders were clogged with leaves at the time of inspection and should be cleaned. All downspouts need diverters at the base and need splash blocks to prevent damage to the building foundation.



Interior Conditions:

The interiors are well maintained but mostly original components exist. The windows had been replaced within the last 15 years. The manufacturer is unknown and they appear to be in working condition as double paned vinyl units. The existing windows do not meet the current building code minimum clear opening dimensions for egress windows but were permitted when the building was built.

The kitchen & bathroom cabinets are original and could use replacing. The appliances vary in age and are all in working acceptable condition. Long term consideration would be to replace appliances with more efficient energy star rated appliances.

None of the kitchens have any venting and the bathrooms appear to be vented to the roof. Bathroom vents ducts are wooden at the attic and should be replaced with metal or flex duct. Most of the hallways and apartments had minimal odors within the hallways and units. Attic space has windows but has no venting.



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Rye Second Parsonage Apartment Facility Evaluation

The flooring is a variety of materials from wide plank floors, oak strip floors, sheet vinyl, and carpet.

No radon tests were taken at the property

Mechanical System Conditions:

The main house has one boiler with eight zones to heat the entire building. The boiler was installed in 1995 and still operates. The 20 year old boiler is operating at 83% efficiency and is reaching the end of its lifespan. A new boiler will be needed soon and a new oil boiler would operate much more efficiently. The units are heated through hot water baseboard systems. The carriage house has a propane heater where the owner provides the fuel for heat.

The main house oil fired water heater is less than 10 years old and seems in good operating condition. The carriage house water heater is electric and has standing water in the drain pan that it is in.

There are no sprinkler systems within the buildings.

Electrical Conditions:

We took minimal notes relating to the electrical system however note that each unit has their own meter. Tenants pay their own electrical fees.

Smoke and CO2 detectors were in place and were hard wired.

Special Needs Conditions:

The property has no ADA apartments for special needs populations. The building was occupied prior the 1991 Fair Housing Guidelines and the scope of work to repair the building would not require any units to be fully accessible. Any upgrades to meet handicap accessibility would be voluntary to benefit tenants. While making a fully accessible unit is not technically feasible in the historic building, reasonable accommodations can be made to provide a unit that is designed to accommodate a tenant with hearing and visual impairments.

Conclusions:

Critical repair needs :

- Bulkhead doors need to be replaced to prevent water from entering basement.
- Carriage house water heater needs to be evaluated because of water in the drain pan.
- Masonry stairs need to be repaired to meet current stair code. Current temporary repair does not provide any nosing.



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Rye Second Parsonage Apartment Facility Evaluation

- First floor south west apartment needs to have walkway from the exit continuous to the public way. Currently it exits onto an unpaved path.
- Unit 8 in carriage house needs to be verified to have GFI outlets in kitchen. No GFI was visible during the inspection.

Recommended repairs:

- Doors need to function properly. Second floor West apartments have steel doors that are sticking and not opening easily. Doors have visible rust on the surface and door frames show rot damage. New doors would also improve energy efficiency. New doors need to be approved by the Rye Historic District Commission.
- Exterior walls have local areas of rotted wood siding and trim. In order to extend the life of the exterior wall systems, siding and trim repairs, caulking and painting are recommended to be done.
- Gutters, downspouts and splash blocks need to be addressed. The gutter on the front of the main house needs replacing. Downspouts need to be secured to gutters where they have pulled away. Downspouts also need to be cleaned of debris that is clogging them. Diverters need to be installed at the base of the downspouts to direct water away from damaging the foundation and splash blocks need to be installed to carry water away from the house.

Capitol improvement repairs:

- The first floor structure needs review and repair. Beams and joists supporting the first floor have historic insect damage and current rot damage. The framing is stable and no additional termite damage seems to be occurring but the rot damage needs to be addressed and prevented from continuing. Full structural review needs to be done to determine which framing members need to be reinforced or replaced. Not all framing members are visible from the basement due to limited crawl space access. Crawl space ventilation needs to be addressed to meet code and prevent further rotting.
- Heating system boiler is at the end of its lifespan and should be replaced with a new more efficient boiler.
- Second floor apartment stairs and railings are reaching the end of their usable life and should be replaced. Existing stairs show signs of rot and are not level walking surfaces. Repairs have been made to sustain the structural integrity of the stair stringers but overall condition warrants replacement.
- Several window trim boards show signs of rot and need to be replaced. New trim needs to be approved by Rye Historic District Commission.



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Rye Second Parsonage Apartment Facility Evaluation

- Windows need to function properly. Any window that is not operable needs to be repaired or replaced. Any bedroom egress window that does not function would be a critical repair issue. New windows should be considered for the building to improve occupant comfort, improve energy efficiency and work with new trim to keep the structure water-tight and prevent future wood rot. New windows need to be approved by Rye Historic District Commission.
- Chimney and foundation brick need repointing. Eroded mortar needs to be repaired to prevent damage to bricks. New mortar will need to be mixed to be compatible with historic bricks.
- Programmable thermostats and temperature limiting thermostats can improve the amount of energy use in the building
- Low flow showerheads and toilets are recommended to reduce water use in the building.
- Kitchen range hoods are recommended. Hoods can prevent smoke detector false alarms when cooking. Hoods can also reduce cooking odors.
- Lighting fixtures should be updated to use CFL bulbs or LED bulbs to reduce energy use.
- Attic stair door should be replaced with an insulated door and sealed frame.
- Attic insulation was blown in as some point and should be evaluated to check R-value and adequate coverage.
- Attic ventilation needs to be installed to provide air flow and prevent ice dams on the roof in the winter.
- Bathroom vents need to be inspected. Wooden vents were visible in the attic and seemed to be connected to current bathroom vent system. These wooden vents are not well sealed to direct exhaust air to the outside.
- One unit should be converted to accommodate hearing and visually impaired. This can be a way to reasonably accommodate disabled clients since having a fully accessible unit is not readily feasible.
- Asphalt paving in the parking lot is beyond patching due to the amount of cracking and holes. It is recommended to re-grade and replace the paving to have a even walking and driving surface.

Proposed Ownership Structure:

Option 1 - Town transfers property to The Housing Partnership ("THP") for a sum TBD. THP becomes the managing general partner in a Limited Partnership for 15 years and retains responsibility for operating the property as senior or family affordable housing. The rehabilitated property makes property tax payments.

Option 2 - Town enters into a long-term ground lease with a new Limited Partnership at a lease rate TBD. THP is the managing general partner for 15 years and retains responsibility for operating the property as senior or family affordable housing. Property does not generate tax revenue.

In both scenarios a deed covenant is placed on the property that keeps it affordable to low-income households in perpetuity.

Timeline:

An affordable housing project requires between six months and two years to assemble all the required financing before construction can begin. The local approval process can add to this timeline.

Potential Investment:

\$40,000 - \$60,000 per unit for the Parsonage and carriage house.

\$150,000 - \$175,000 unit for new units.

These numbers are for Total Development Cost, exclusive of acquisition cost, and include architectural and engineering costs, permitting costs, legal, financing costs, developer fee, and tenant relocation costs.

MICHAEL DONOVAN LAW, P.L.L.C

Michael L. Donovan

Attorney and Counselor at Law

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ZONING NOTES: PARSONAGE RENOVATIONS

The property is in the Business District, so Section 202.4 does not apply.

However, Section 603.1 may apply depending on what is proposed. Any increase in building bulk which encroaches on a required yard setback will require a variance from the ZBA. The yard requirements of the B District are: side yard 20 ft.; front and rear yards 30 ft.

The present Parsonage encroaches into the required front yard, so any increase in bulk within the setback on this side will require a variance. The north side appears ok. The property lines can probably be drawn so that the rear and side facing the library do not encroach on required setbacks, but it will be tight.

In so far as the prohibited expansion of nonconforming use goes, it is my opinion that so long as the use is restricted to 8 or fewer dwelling units, there is not an expansion of use even if there are structural changes which enlarge the building. Whatever structural enlargement occurs is analyzed under Section 603, not 602. Sometimes Building Inspector Rowell does not understand this.

I note that in the B District office uses and a coffee shop are permitted uses.

With respect to Site Plan Review, the present planning board *Land Development Regulations* would require it for any of the following scenarios because this is a multi-family property: expansion of footprint > 15%; expansion of bulk of building > 15%; expansion of parking/drives > 15%.

However, the planning board will be adopting new LDR's which will be in effect when this project moves forward. It appears that the new LDR's will not apply to expansions of multi-family properties. I have not been directly involved in this effort, and I should confirm that with Kim Reed. I do not know at this point if I should contact Kim on this. I do not know how "secret" the swap negotiations are supposed to be.

If the carriage house is changed in use, it may require site plan review, or it may be exempt. There is a process by which one can apply to the board to get certain changes of use exempted.

Relevant zoning provisions follow.

Michael Donovan, Esq.

11/6/19

SECTION 603 NON-CONFORMING BUILDINGS AND STRUCTURES:

Where lawful buildings or structures exist at the effective date of this Ordinance which could not be built under the terms of this Ordinance by reason of restrictions on floor area, lot coverage, height, yard, location on the lot or other requirements concerning the building or structure, such buildings or structures may be continued as non-conforming buildings or non-conforming structures, so long as they remain lawful, provided that:

603.1 Expansion: Expansion of non-conforming parts of buildings or structures is not allowed. Those parts of any building or structure which are conforming may be expanded provided the expansion is conforming and the use is not changed. **For example, if a non-conforming building encroaches into a yard area established by this ordinance, the bulk of the building within the yard area shall not be expanded at all, either vertically or horizontally, within such yard area. (emphasis added).**

SECTION 602 NON-CONFORMING USES:

Lawful uses of land, structures or buildings existent at the effective date of this ordinance may be continued as non-conforming uses so long as they remain lawful, provided that:

602.1 Expansion: No such non-conforming use shall be enlarged, increased or extended.

In the SR and GR Districts, a lot which has more than one dwelling is a nonconforming use, and expansions of such dwellings are prohibited. See Section 202.4a. (Adopted 3/14/06)

202.4 Lots: In the Single Residence and General Residence Districts only, there shall be no more than one (1) principal building on one (1) lot. (Rev. 1992)

A. Lots with two or more dwellings: A lot which has two or more dwellings is a nonconforming use. On such lots, the following are prohibited expansions of a nonconforming use. (See Section 602.1)

- Increasing the building footprint of a dwelling.
- Enlarging the bulk of a dwelling.
- Adding decks, porches or other appurtenances to a dwelling, including roof decks.
- Enlarging decks, porches or other appurtenances of a principal building.

This provision applies to all lots which have two or more dwellings, including lots having such dwellings in the condominium form of ownership. (Adopted 3/14/06)

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RESPONSES TO APPRAISER'S LAND USE REGULATION QUESTIONS

1. The TD Bank property has 3.71 acres. With the exception of the small wetland area in the front left corner of the property, the remainder of the land appears to be all usable and developable.

- a. Can the property be further subdivided?

Donovan Response. The minimum frontage requirement of the Commercial District is 150 ft. The minimum lot size is 44,000 sf. If the lot were vacant it could be subdivided into two lots without needing any variances from the Rye Zoning Bd. of Adjustment (ZBA).

However, the bank building sits in the middle of the lot. If the building is retained, the new lot line would have to meet the side yard requirement of 20 feet from the bank building. Designing a lot layout that retains the building would result in one lot having frontage < 150 ft., thereby requiring a variance from the ZBA. See attached sample sketch plan.

- b. Are there any restrictions that you are aware of that would prevent the full development /use of the 3.71 acres?

Donovan Response. The property is in the Historic District Overlay.

Any person wishing to construct, alter, repair, move, demolish, or otherwise change the exterior appearance of a structure within the District or construct a new structure within the District or institute a new use of land or buildings within the District must obtain a Certificate of Approval from the Historic District Commission before any other building permits otherwise required by the Town are obtained. However, if the action is a repair where like materials are replacing like materials, only notification of the Historic District Commission is required. RZO § 303.4.

A Certificate of Approval would be required for the undertakings. The requirements of the Historic District would apply.

- c. Based on the current zoning, am I correct that in addition to commercial uses as permitted in the zone, the property could also be developed with residential uses as well?

Donovan Response. No, you are not correct. RZO § 211.1A expressly states that residential uses in the Commercial District are not permitted. A rezoning by town voters or a use variance from the ZBA would be required in order to establish a residential use.

d. Are there any other unique circumstances I should be aware of for this parcel?

Donovan Response. The proximity to Parsons Field is a concern for some Rye residents. Many years ago the town shot down a proposal the selectmen wanted to pursue to put a new fire station on part of this parcel.

2. The Second Parsonage will have approximately 0.40 acre should it be subdivided by the town in relation to the possible land swap with the TD Bank property (see attached provided by legal counsel).

a. Given the zoning district, are there any specific restrictions that I should be aware of regarding the possible historical character of the building and/or its location?

Donovan Response Donovan. This property is also in the Historic District Overlay. See response to No. 1b above.

Are there any town ordinances related to historic properties that would prevent or create difficult in razing the structure for new construction on the same footprint?

Donovan Response. Again, the Historic District Overlay requirements would apply. See response to 1b above.

The Historic District Overlay requirements include the following relative to demolition.

Before a building or other structure is demolished or moved out of the District, the applicant shall in good faith prepare a detailed plan for the re-use of the site which the Commission determines will meet the requirements for a Certificate of Approval. Such Certificate of Approval for demolition and re-use shall only be granted upon a showing by the applicant that to deny such Certificate would result in a hardship unique to the property in question and that such hardship is not common to neighboring properties within the District. RZO § 303.5E.

A zoning amendment which will be on the March 12, 2020 ballot would change the word "hardship" in the above to "unnecessary hardship" which is a more difficult legal standard to meet.

Additionally, a Demolition Permit would be required from the Demolition Review Committee per RZO § 509. While this process cannot lawfully deny a demolition, it can delay the demolition up to 49 days.

c. Assuming the building(s) are razed, am I correct in assuming that new buildings could be constructed on the same footprints?

Donovan Response. The zoning ordinance requirement which applies is:

603.2 Abandonment, Discontinuance, Destruction: Any non-conforming building or non-conforming structure which is abandoned or vacated or which is partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, tides, or other acts of God, may be resumed or restored and operated in its former (non-conformity) if same is done within three (3) years thereafter. If possible, the replacement of the building or structure shall conform to the requirements of this

Ordinance with which it previously did not conform, as well as to all other requirements with which it did conform. Otherwise, the replacements of all non-conforming parts of the structure shall be in the same location and of the same dimensions, height and bulk, as before the damage occurred unless changes would make the replacement less non-conforming.

So it could be rebuilt within the footprint within 3 years if it could not be rebuilt in a manner allowing it to better conform.

Most likely that would not be the case. As I state in the zoning notes provided to Dan Philbrick, clearly the building does not comply with the front yard setback requirement and this footprint could not be established in a manner that complied with the front setback from Washington Rd. Without having the exact location of the south and west property lines established, we do not know if the existing footprint encroaches into those as well. If there is an encroachment into the side setback, the footprint on rebuilding could be moved slightly to the north to comply with the above.

So, I think the simple answer to this question is “yes”.

d. Are there any other unique circumstances that I should be aware of for this parcel?

The leachfield serving both buildings is located under the parking lot for the library directly behind the Parsonage. It is shared with the museum. The agreement with Philbrick indicates that the parcel will have to be conveyed with an easement allowing continued use of this leachfield with maintenance, repair and replacement costs shared between the town and the Parsonage owner on a prorated basis based on water consumption of the two properties (i.e. the Parsonage buildings and the museum). Given the limited use of the museum, most of this responsibility is likely to fall on the owner of the Parsonage once the proration is done.

Michael Donovan, Esq.
December 11, 2019

Attached:
Sketch Plan
Notes for Dan Philbrick

