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10.24.11

Planning Division Use Only Authorization Granted Partial Exemption Exemption Denied

The application does not meet zoning, please see attached letter

Standard Condition of Approval: The applicant shall obtain all required City Permits, including building permits from the Inspection Division (Room 315, City Hall (874-8703)) prior to the start of any construction.

IMPORTANT NOTICE TO APPLICANT: The granting of an Administrative Authorization to exempt a development from site plan review does not exempt this proposal from other approvals or permits, nor is it an authorization for construction. You should first check with the Building Inspections Office, Room 315, City Hall (207)874-8703, to determine what other City permits, such as a building permit, will be required.

**PROVISION OF PORTLAND CITY CODE
14-523 (SITE PLAN ORDINANCE)
RE: Administrative Authorization**

Sec. 14-523 (b). Applicability

No person shall undertake any development identified in Section 14-523 without obtaining a site plan improvement permit under this article. (c) Administrative Authorization. Administrative Authorization means the Planning Authority may grant administrative authorization to exempt a development proposal from complete or partial site plan review that meets the standards below, as demonstrated by the applicant.

1. The proposed development will be located within existing structures, and there will be no new buildings, demolitions, or building additions other than those permitted by subsection b of this section;
2. Any building addition shall have a new building footprint expansion of less than five hundred (500) square feet;
3. The proposed site plan does not add any new curb cuts, driveways, or parking areas; the existing site has no more than one (1) curb cut and will not disrupt the circulation flows and parking on-site; and there will be no drive-through services provided;
4. The curbs and sidewalks adjacent to the lot are complete and in sound condition, as determined by the public works authority, with granite curb with at least four (4) inch reveal, and sidewalks are in good repair with uniform material and level surface and meet accessibility requirements of the Americans with Disabilities Act;
5. The use does not require additional or reduce existing parking, either on or off the site, and the project does not significantly increase traffic generation;
6. There are no known stormwater impacts from the proposed use or any existing deficient conditions of stormwater management on the site;
7. There are no evident deficiencies in existing screening from adjoining properties; and
8. Existing utility connections are adequate to serve the proposed development and there will be no disturbance to or improvements within the public right-of-way.
9. There are no current zoning violations;
10. Any emergency generators are to be located to minimize noise impacts to adjoining properties and documentation that routine testing of the generators occur on weekdays between the hours of 9 a.m. to 5 p.m. Documentation pertaining to the noise impacts of the emergency generator shall be submitted; and
11. There is no anticipated noise, vibration, glare, fumes or other foreseeable impacts associated with the project.

- a. **Filing the Application.** An applicant seeking an administrative authorization under this subsection shall submit an administrative authorization application for review, detailing the site plan with dimensions of proposed improvements and distances from all property lines, and stating that the proposal meets all of the provisions in standards 1-11 of Section 14-423 (b)1. **The application must be accompanied by an application fee of \$50.**
- b. **Review.** Upon receipt of such a complete application, the Planning Authority will process it and render a written decision of approval, approval with conditions or denial, with all associated findings.
- c. **Decision.** If a full administrative authorization is granted, the application shall be approved without further review under this article, and no performance guarantee shall be required. In the event that the Planning Authority determines that standards a and b of Section 14-523 (b) (1) and at least four (4) of the remaining standards have been met, the Planning Authority shall review the site plan according to all applicable review standards of Section 14-526 that are affected by the standards in this subsection that have not been met. If an exemption or partial exemption from site plan review is not granted, the applicant must submit a site plan application that will undergo a full review by the Planning Board or Planning Authority according to the standards of Section 14-526.

Criteria for an Administrative Authorizations:
 (See Section 14-523 (4) on page 2 of this application)

Applicant's Assessment
 Y(yes), N(no), N/A

Planning Division
 Use Only

a) Is the proposal within existing structures?	Yes	No
b) Are there any new buildings, additions, or demolitions?	No	Yes
c) Is the footprint increase less than 500 sq. ft.?	Yes	Yes
d) Are there any new curb cuts, driveways or parking areas?	No	No
e) Are the curbs and sidewalks in sound condition?	Yes	Yes
f) Do the curbs and sidewalks comply with ADA?	Yes	n/a
g) Is there any additional parking?	No	No
h) Is there an increase in traffic?	No	No
i) Are there any known stormwater problems?	No	No
j) Does sufficient property screening exist?	Yes	Yes
k) Are there adequate utilities?	Yes	n/a
l) Are there any zoning violations?	No	
m) Is an emergency generator located to minimize noise?	n/a	n/a
n) Are there any noise, vibration, glare, fumes or other impacts?	No	n/a

The Administrative Authorization for 51 Congress Street was denied by Shukria Wiar, Planner on October 24, 2011 because the proposed structure does not meet zoning, please see attached letter.



PORTLAND MAINE

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*Penny St. Louis Littell - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

September 14, 2009

Margaret Stevens Jacks &
Grant L. Jacks, III
529 Overbrook Road
Baltimore, MD 21212

Re: 51 Congress Street – 014 K009 – R-6- deck – permit #09-0847

Dear Ms. & Mr. Jacks,

I have reviewed the building application to add an 8'x 8' deck and a 3'6" x 5'6" landing off the third floor of the rear of the building extending over the existing barn. The proposed addition does not meet the lot coverage, so I must deny the application.

51 Congress Street is located in the R-6 residential zone. Section 14-139(d)(3) gives the side setback for a three story structure as 10'. The setback given for the distance from the right side property line to the proposed landing is 9'. Although 10' is required, section 14-433 allows the side setback to be reduced to 5' for an addition if the principal structure existed as of July 19, 1988 and the normal applicable yard requirements can't be met. Since the landing needs to be at 9' because of the existing conditions of the third floor, the side setback can be reduced to 9' under section 14-433.

Section 14-139(e) gives the maximum amount of lot coverage as 50%. The lot is 3960 square feet, so 1980 square feet of the lot can be covered by the footprint of any structure. The total footprint of the existing structures is 2296.78 square feet which is 316.78 square feet over the maximum allowable lot coverage. It covers 57.9% of the lot. The proposed deck and landing would add 24.22 square feet to the footprint for a total of 2321 square feet which covers 58.6% of the lot. Since the proposed lot coverage is over the maximum allowable lot coverage of 50%, I must deny the permit.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. You may contact our office for the necessary paper work that is required to file an appeal. If you choose not to file an appeal, you are entitled to get most of your money back if you bring in the original receipt you got when you applied for the permit.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

Ann B. Machado
Zoning Specialist
(207) 874-8709

Cc file

DO NOT SEND TO APPLICANT

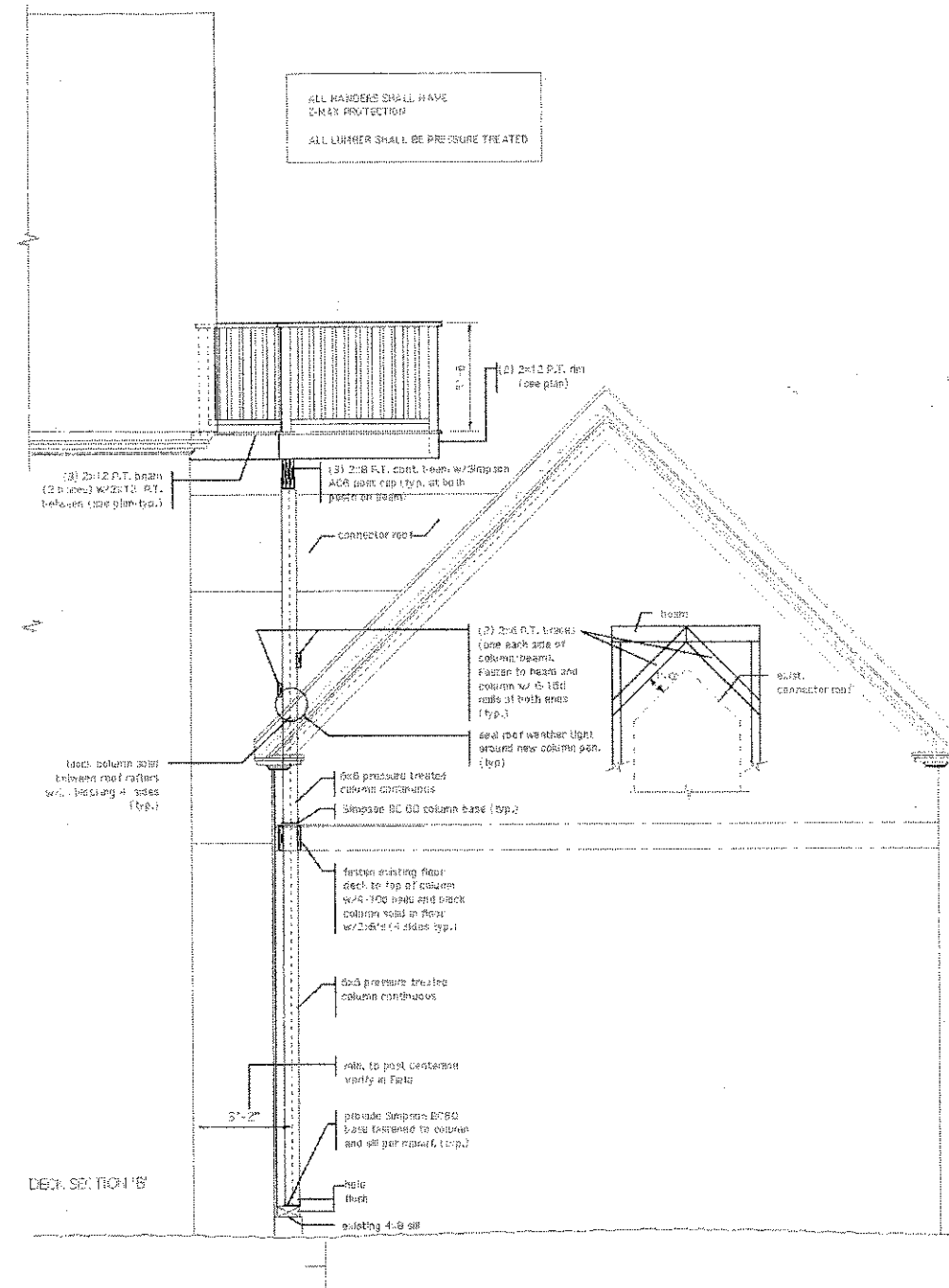
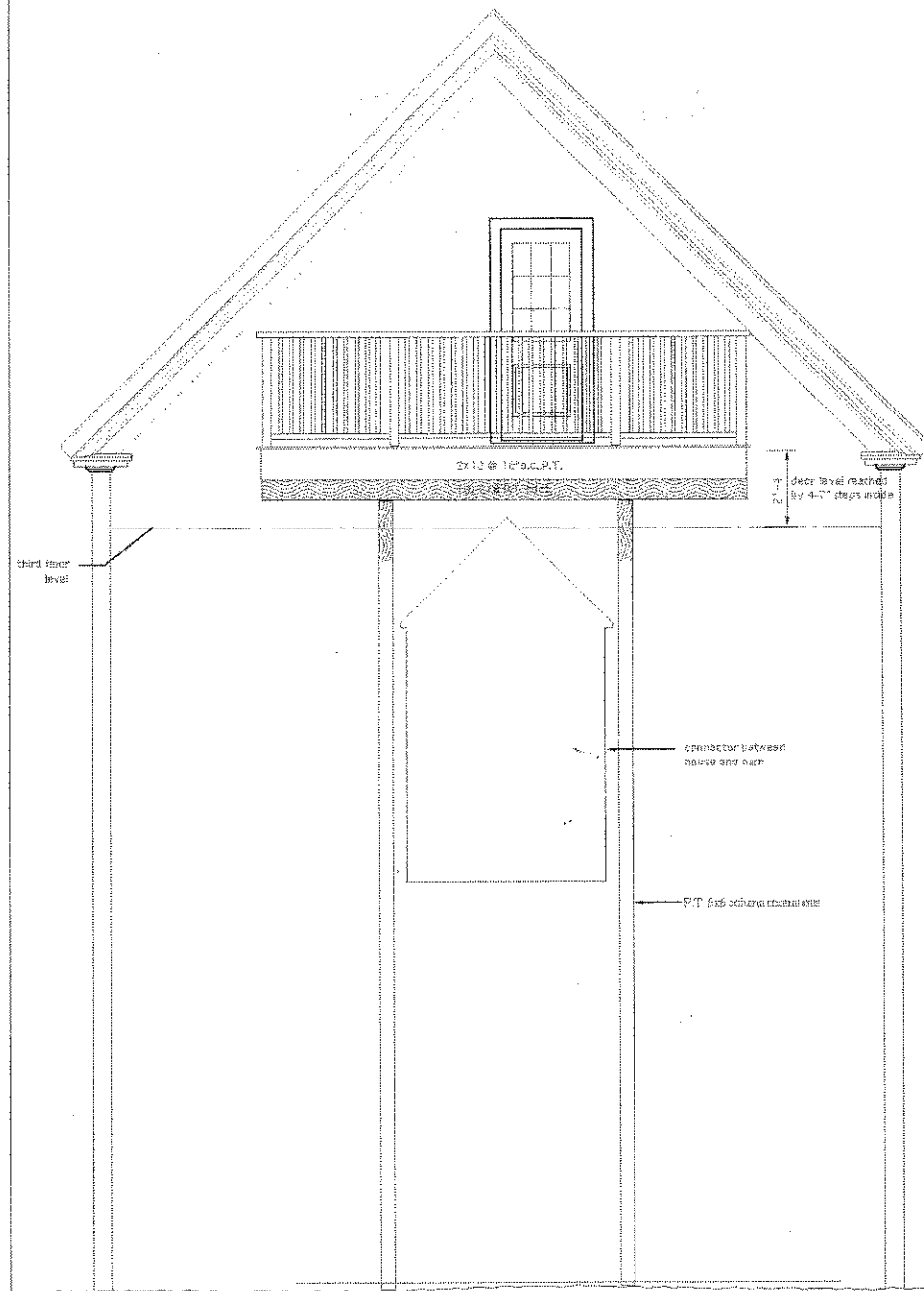
Shukria Wiar - 51 Congress St

From: Marge Schmuckal
To: Shukria Wiar
Date: 10/24/2011 2:35 PM
Subject: 51 Congress St
CC: Barbara Barhydt
Attachments: 51 Congress Street - deck denial.pdf

Shukria,

I checked our files. In September of 2009, the applicant applied for the same thing you have as an administration authorization. We denied the application with a letter because of lot coverage and setbacks. The applicant never appealed nor revised the plans. It looks like the same as what was applied last year. So it won't pass zoning requirements.

Marge

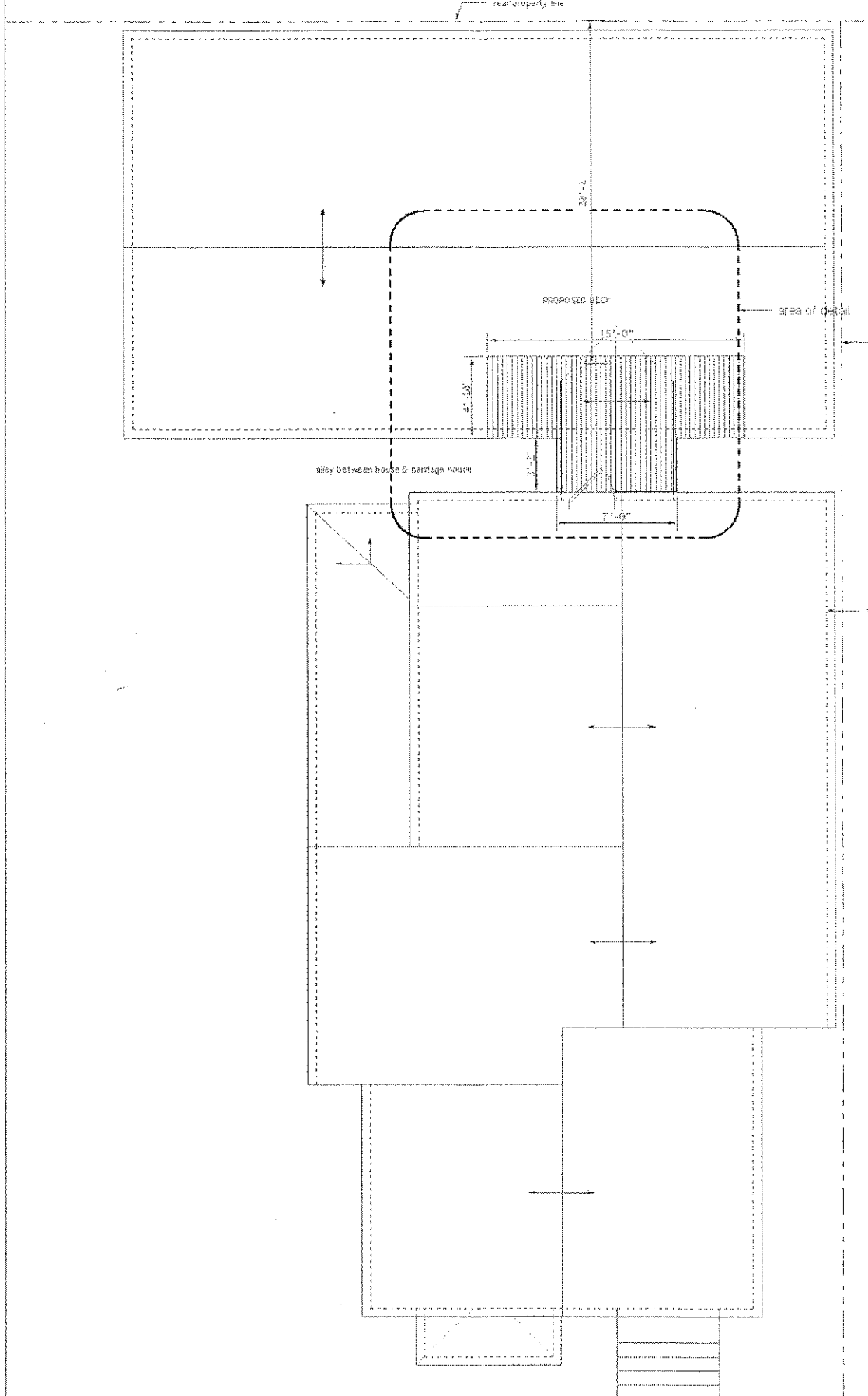


PROPOSED DECK AT
51 CONGRESS STREET
IN PORTLAND, MAINE

PAGE 2 OF 3

By Anthony Taylor
in consultation with
Joseph H. Leasure, P.E.
REVISED OCT 2, 2011

EMERSON STREET

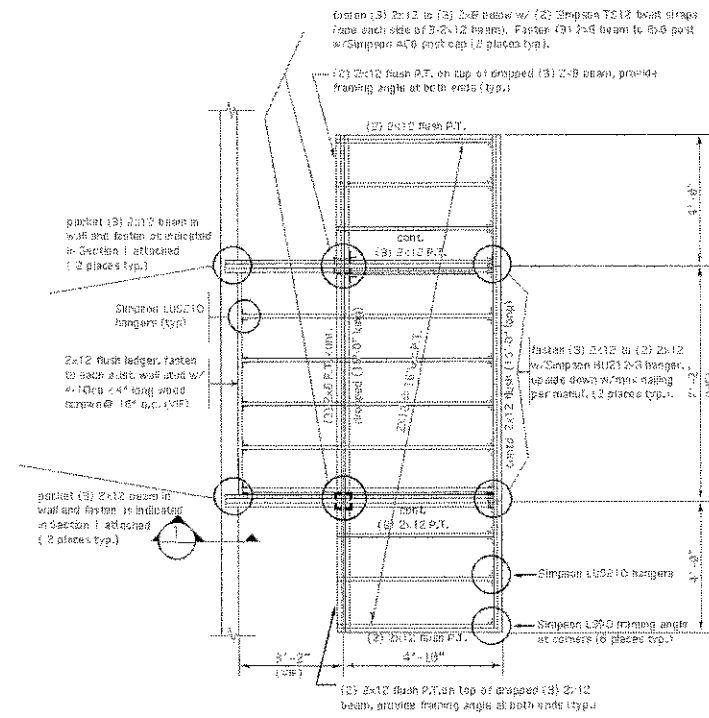


PROPOSED DECK AT
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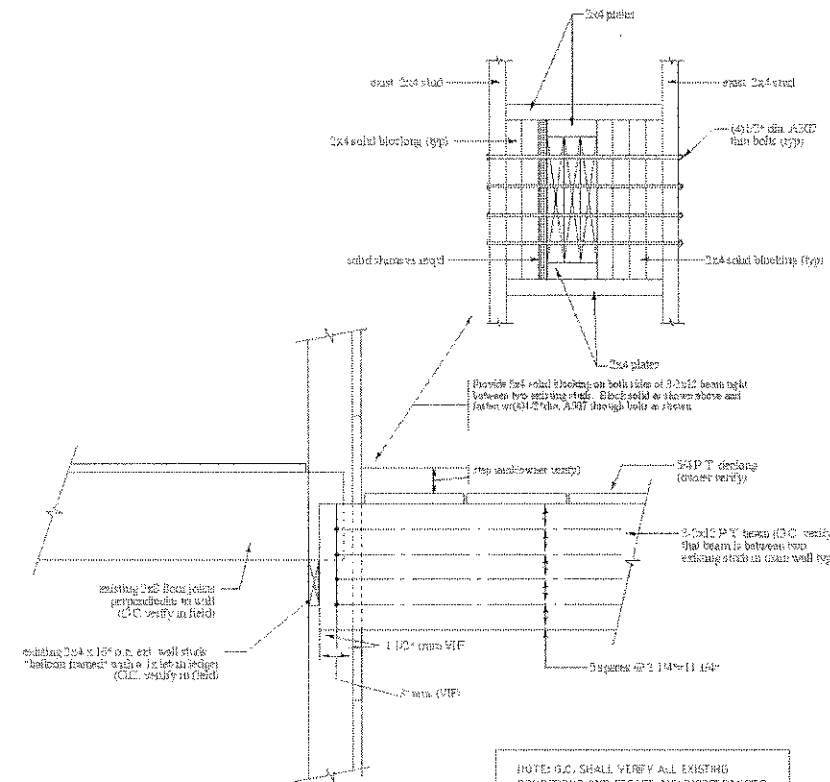
PLOT PLAN
SCALE 1/4" = 1'-0"

CONGRESS STREET



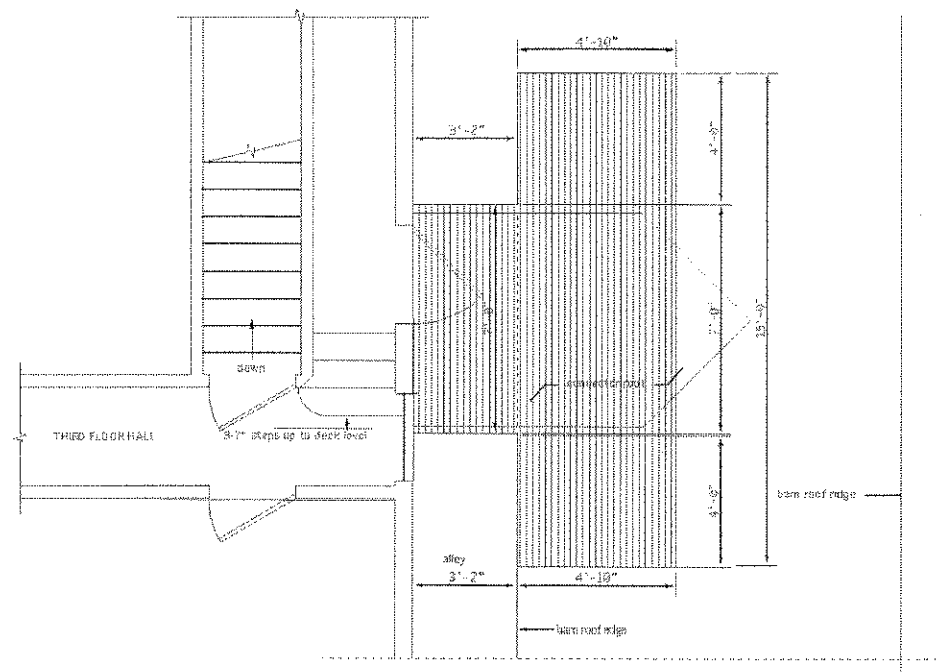
EXTERIOR DECK FRAMING PLAN

3'-8" x 1'-0"



SECTION 1

1'-2" x 1'-0"



PLAN VIEW OF PROPOSED DECK

3'-8" x 1'-0"

PROPOSED DECK AT
51 CONGRESS STREET
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