

Verrill Dana_{LLP}

Attorneys at Law

SCOTT D. ANDERSON
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ONE PORTLAND SQUARE
PORTLAND, MAINE 04112-0586
207-774-4000 • FAX 207-774-7499
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March 14, 2017

Via Hand Delivery

City of Portland Zoning Board of Appeals
389 Congress St., Room 315
Portland, ME 04101

Re: Extension of Conditional Use Permit
Proposed Verizon Wireless Facility

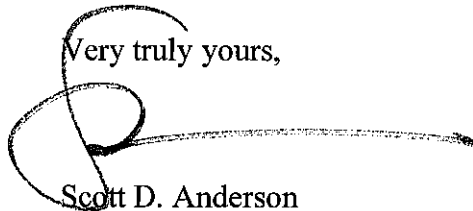
Dear Zoning Board of Appeals:

Enclosed please find a request for a six (6) month extension of a Conditional Use Appeal Permit for the proposed Verizon Wireless' wireless telecommunications facility at 1531 Congress Street, Portland, Maine. On October 20, 2016 the Zoning Board of Appeals approved Verizon Wireless Conditional Use Appeal, which is attached hereto. Verizon Wireless is in process of obtaining a final Site Plan approval and building permit for the project, but at this point it does not appear that Verizon Wireless will be able to commence construction prior to the end of the 6-month permit term. As such, we are requesting an extension of our Conditional Use Appeal Permit for a six-month period. Also, enclosed is the requisite filing fee of \$100.00.

We respectfully request that the Zoning Board of Appeals consider this request at its next regularly scheduled meeting. Please do not hesitate to contact the project manager, Matt Burke (at 508-930-0974), or me should you have any questions.

Thank you and I look forward to hearing from you.

Very truly yours,



Scott D. Anderson

SDA/mtt

Enclosures

cc: Matt Burke, Tower Resource Management, Inc.



Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS
Conditional Use Appeal Application

Applicant Information:

Verizon Wireless

NAME

Verizon Wireless d/b/a Portland Cellular

BUSINESS NAME

118 Flanders Road, Westborough, MA 01581

BUSINESS ADDRESS

(207) 253-4540 sanderson@verrilldana.com

BUSINESS TELEPHONE & E-MAIL

Purchase and Sale Contract

APPLICANT'S RIGHT/TITLE/INTEREST

R-5

CURRENT ZONING DESIGNATION

EXISTING USE OF THE PROPERTY:

Undeveloped

Subject Property Information:

1531 Congress Street, Portland, ME 04102

PROPERTY ADDRESS

196/E/1

CHART/BLOCK/LOT (CBL)

Kennick LLC

PROPERTY OWNER (If Different)

PO Box 10988, Portland, ME 04104

ADDRESS (If Different)

PHONE # AND E-MAIL

CONDITIONAL USE AUTHORIZED BY
SECTION 14- 78(c)(1)

TYPE OF CONDITIONAL USE PROPOSED:

Utility substation/telephone electronic equipment enclosures

STANDARDS: Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

1. *The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and*
2. *The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and*
3. *The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.*

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

SIGNATURE OF APPLICANT

3/14/2017

DATE



Permitting and Inspections Department
Michael A. Russell, MS, Director

Ann Machado, Zoning Administrator

October 25, 2016

Scott D. Anderson
Verrill Dana
One Portland Square
Portland, ME 04112-0586

Re: 1531 Congress St, Portland, ME; 196-E-001; R-5 Residential Zone

Dear Mr. Anderson:

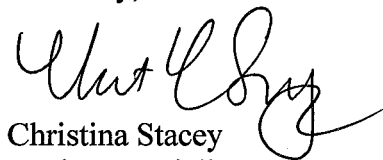
On October 20, 2016, the Zoning Board of Appeals voted 4-1 (Avery recused) to grant Verizon Wireless's Conditional Use Appeal to construct a telephone equipment shelter and associated equipment at 1531 Congress St. I am enclosing a copy of the Board's decision.

Now that the conditional use appeal has been approved, Verizon Wireless will need to seek Site Plan approval for the project, as well as a Commercial Building permit. Under Section 14-474(f) of the ordinance, they will have six months from the date of the meeting, October 20, 2016, to obtain the Site Plan and building permit approvals and to start any construction work, or their Zoning Board approval will expire.

Appeals from decisions of the Board may be filed in Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Should you have any questions, please contact me at (207) 874-8695 or cstacey@portlandmaine.gov.

Sincerely,



Christina Stacey
Zoning Specialist

cc: file

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Chip O'Brien
Joseph Zamboni
ERIK Lawson
Reused - Kent Avery.
Danna Katzefus
Brandon Meyer

R-5 Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: October 20, 2016
Name and address of applicant: Verizon Wireless d/b/a Portland Cellular
118 Flanders Road
Westborough, MA 01581
Location of property under appeal: 1531 Congress Street
CBL 196 E001001

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

SCOTT Anderson
Vernell Dena
MATT BURKE
Verizon

MARK WYRNOFF, 26 RABBIT RUN
PETER WILD, BREWER ST.
STEVE ABBOTT RABBIT RUN
JEANNIE KENNY HAYWOOD ST
ROSE LANNON 1530 CONGRESS
GARY THOMPSON BREWER ST
TERRY WILE BREWER ST.
AMY ABBOT 32 RABBIT RUN
TOM SHELDRICK HAYWOOD ST.
MARK KENNY HAYWOOD ST.

Exhibits admitted (e.g. renderings, reports, etc.):

Application w/ exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a conditional use permit pursuant to Sec. 14-118(c)(2) to construct a 1,200 sq. ft. equipment shelter, as well as locate an external back-up generator on a 14'x6' concrete pad outside of and behind the structure. The shelter will be accessed by a paved driveway, and a single parking area will be provided.

A. Special standards pursuant to Sec. 14-118(c)(2). "Utility substations such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures" are allowed so long as they meet the following standard:

1. The use must be "suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood." Sec. 14-118(c)(2).

Satisfied Not Satisfied

4 YES 1 NO VOTE
~~UNANIMOUS~~
4 SATISFIED

Reason and supporting facts:

THE TESTIMONY OF THE APPLICANT SUPPORTED BY THE SITE PLAN (Z-2) ~~AND THE~~ SHOWS SUITABLE SCREENING TO ENSURE COMPATIBILITY WITH THE SURROUNDING NEIGHBORHOOD. IN ADDITION, THE LEVEL II SITE PLAN REVIEW WILL PROVIDE AN ADDITIONAL OPPORTUNITY FOR COMMENT & ADJUSTMENTS

B. Conditional use standards pursuant to Sec. 14-474(c)(2). A conditional use permit shall be granted "upon a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district." This standard is met only if the applicant meets all of the following criteria:

1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone. Sec. 14-474(c)(2)(a).

Satisfied Not Satisfied

~~5 FOR~~
UNANIMOUS

Reason and supporting facts:

TESTIMONY & SUPPORTING MATERIALS SHOW ONE SITE VISIT DURING NORMAL OPERATING MONTHS

2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter. Sec. 14-474(c)(2)(b).

Satisfied

Not Satisfied

~~UNANIMOUS~~

Reason and supporting facts:

THERE WAS NO TESTIMONY OR EVIDENCE INDICATING ANY GLARE, DUST, SEWAGE DISPOSAL, ODOR OR LITTER. A SOUND STUDY PREPARED BY MODALINE SPECIALIZED SHOWS THAT PREDICTED EQUIPMENT SOUND LEVELS WOULD BE 48dBA OR LESS AT THE CLOSEST RESIDENCE, WHICH IS LESS THAN BACKGROUND NOISE LEVELS.

3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone. Sec. 14-474(c)(2)(c).

Satisfied

Not Satisfied

UNANIMOUS

Reason and supporting facts:

THE PROPOSED USE WILL NOT INCLUDE ANY SIGNS, LOADING, DELIVERIES, TRASH, OR WASTE GENERATION OR MATERIALS STORAGE.

LANDSCAPING, SCREENING AND ARRANGEMENT OF STRUCTURES IS CONSISTENT WITH SURROUNDING USES AND THE EFFECTS/IMPACT ARE LESS THAN ALLOWABLE USES WHICH INCLUDE SCHOOLS, CHURCHES AND ~~OTHER~~ OTHER LARGE SCALE FACILITIES.

FOR IN FAVOR / ONE OPPOSED

Option 1: The Board finds that the standard described in section A above has been satisfied and that all of the standards (1 through 3) described in section B above have been satisfied, and therefore GRANTS the conditional use permit.

Option 2: The Board finds that while the standard described in section A above has been satisfied and that all of the standards (1 through 3) described in section B above have been satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

Option 3: The Board finds that the standard described in section A above and/or all of the standards (1 through 3) described in section B above have not been satisfied, and therefore DENIES the application.

Dated: 10-20-16

Donna M. Katschauer
Alex Board Chair

Verrill Dana_{LLP}

Attorneys at Law

SCOTT D. ANDERSON
PARTNER
sanderson@verrilldana.com
Direct: 207-253-4540

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PORTLAND, MAINE 04112-0586
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October 3, 2016

Via Hand Delivery

City of Portland Zoning Board of Appeals
389 Congress St., Room 315
Portland, ME 04101

Re: Conditional Use Application
Proposed Verizon Wireless Facility

Dear Zoning Board of Appeals:

Enclosed please find eleven (11) copies of a Conditional Use Appeal Application for a proposed Verizon Wireless' wireless telecommunications facility at 1531 Congress Street, Portland, Maine. Also, enclosed is the requisite filing fee of \$100.00.

PROJECT DESCRIPTION

Verizon Wireless proposes to construct a 1,200 square foot equipment shelter at the proposed site to house cellular equipment as part of Verizon Wireless' network in Portland. The parcel is located on Congress Street, between Congress and an existing rail line. In addition to the one-story structure, Verizon Wireless will install an external back-up generator on a 14 x 6 concrete pad immediately outside of and behind the structure, to be fueled by natural gas. HVAC units for climate control within the structure will be placed on a concrete pad adjacent to the generator. Verizon Wireless will screen this equipment with both fencing and additional plantings (arborvitae). The equipment shelter will be accessed by a paved driveway. A single parking area is proposed as well. All of the above project components are shown in detail on the Site Plan attached as Exhibit 2.

STANDARDS FOR CONDITIONAL USE

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and

RESPONSE: The proposed Facility will result in approximately one vehicle trip per month, on average, by a Verizon Wireless technician. Accordingly, the construction of the facility will not result in any adverse parking or traffic impacts.

- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and

RESPONSE: The proposed Facility will not create unsanitary or harmful conditions. The Facility will not require water supply or sewage disposal, nor will it produce any wastewater. There will be no emissions to the air, odor, or litter. The only sources of noise associated with operation of the Facility are the back-up generator and the HVAC units. The generator is contained within a sound-attenuating enclosure and other than a brief weekly test, the generator will operate only after a sustained power outage (approximately 6 hours). The HVAC units emit a sound of similar level to a standard residential HVAC installation. The only exterior lighting associated with the Facility is a small, down-directional, motion-activated light over the door of the equipment shelter.

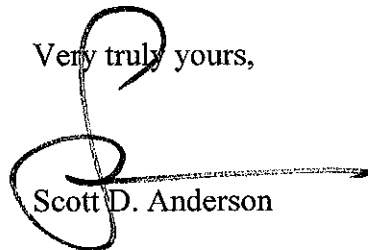
- c. The design and operation of the proposed use, including but not limited to landscaping, screening, sign, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

RESPONSE: The proposed Facility has been designed to fit into the existing landscape of the site. The equipment shelter has been designed with an architectural shingle roof and residential clapboard siding to fit in with the surrounding neighborhood. There will be no signs, loading, deliveries, trash, waste generation, or materials stored at the facility. Traffic and use of the site will be minimal, and far less than normal use, traffic, sound, and other impacts of residential development. The external equipment installation will not operate with impacts that exceed that of a similar residential installation.

We respectfully request that the Zoning Board of Appeals consider this request at its next regularly scheduled meeting. Please do not hesitate to contact the project manager, Matt Burke (at 508-930-0974), or me should you have any questions.

Thank you and I look forward to hearing from you.

Very truly yours,



Scott D. Anderson

SDA/mtt
Enclosures

cc: Matt Burke, Tower Resource Management, Inc.

TABLE OF CONTENTS

1. Conditional Use Appeal Application Form
2. Site Plan
3. Tax Map
4. Purchase & Sale Contract
5. Existing Photos of the Site

EXHIBIT 1



Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS
Conditional Use Appeal Application

Applicant Information:

Verizon Wireless
NAME

Verizon Wireless d/b/a Portland Cellular
BUSINESS NAME

118 Flanders Road, Westborough, MA 01581
BUSINESS ADDRESS

(207) 253-4540 sanderson@verrilldana.com
BUSINESS TELEPHONE & E-MAIL

Purchase and Sale Contract
APPLICANT'S RIGHT/TITLE/INTEREST

R-5
CURRENT ZONING DESIGNATION

EXISTING USE OF THE PROPERTY:
Undeveloped

TYPE OF CONDITIONAL USE PROPOSED:
Utility substation/telephone electronic equipment enclosures

Subject Property Information:

1531 Congress Street, Portland, ME 04102
PROPERTY ADDRESS

196/E/1
CHART/BLOCK/LOT (CBL)

Kennick LLC
PROPERTY OWNER (If Different)

PO Box 10988, Portland, ME 04104
ADDRESS (If Different)

PHONE # AND E-MAIL

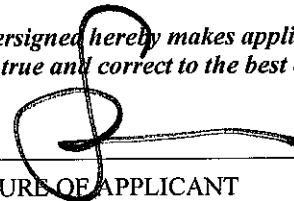
CONDITIONAL USE AUTHORIZED BY
SECTION 14- 78(c)(1)

STANDARDS: Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

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NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.


SIGNATURE OF APPLICANT

10/3/2016
DATE

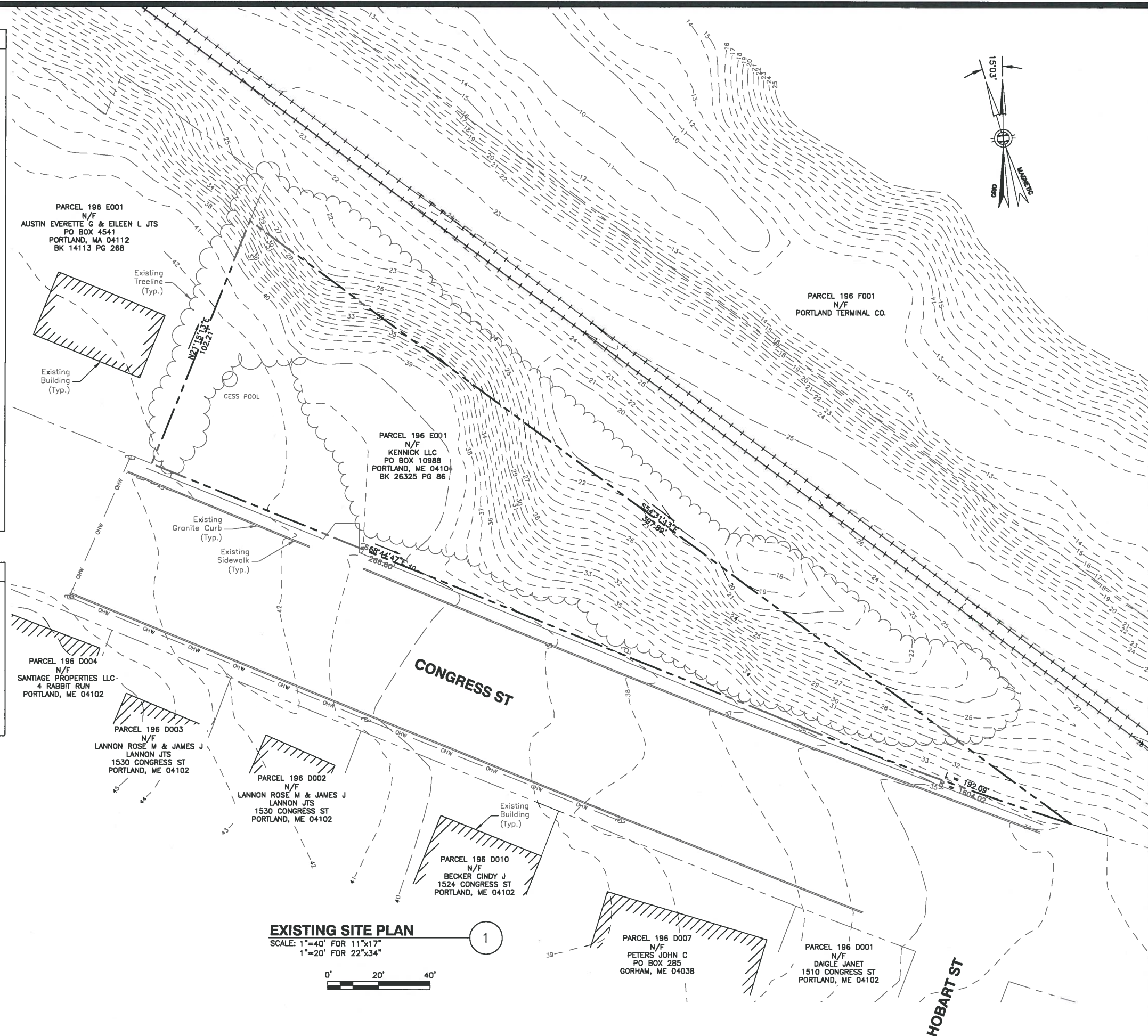
EXHIBIT 2

GENERAL NOTES

1. FIELD SURVEY DATE: AUGUST 26, 2016
2. VERTICAL DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988.
3. HORIZONTAL DATUM: NORTH AMERICAN DATUM OF 1983 (NAD83) ME WEST STATE PLANE
4. CENTER OF PROPOSED BUILDING:
LAT 43° 39' 33.0" N
LON 70° 18' 12.5" W
GROUND EL= 41'
5. OWNER: KENNICK LLC
PO BOX 10988
PORTLAND ME 04104
6. SITE NAME: PORTLAND ME HEAD END
7. SITE NUMBER: N/A
8. SITE ADDRESS: 1531 CONGRESS ST.
PORTLAND, ME 04102
9. ABUTTERS INFORMATION TAKEN FROM TOWN TAX DATA
10. JURISDICTION: CITY OF PORTLAND, ME
11. TAX ID: PARCEL 196 E001
12. DEED REFERENCE: BOOK 26325 PG 86
13. PLAT REFERENCE: 2008 BH2M SURVEY
14. GRID NORTH BASED ON GPS
15. ELEVATIONS AND COORDINATES FROM GPS LOCATIONS.
16. ALL UNDERGROUND UTILITY INFORMATION PRESENTED HEREON WAS DETERMINED FROM SURFACE EVIDENCE AND PLANS OF RECORD. ALL UNDERGROUND UTILITIES SHOULD BE LOCATED IN THE FIELD PRIOR TO COMMENCEMENT OF ALL SITE WORK. CALL DIGSAFE 1(800) 322-4844 A MINIMUM OF 72 HOURS PRIOR TO PLANNED ACTIVITY.
17. ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY MAPS, THE PROPOSED TOWER ON THIS PROPERTY IS LOCATED IN AN AREA DESIGNATED AS ZONE X. NOT WITHIN THE 100 YEAR FLOOD BOUNDARY. COMMUNITY PANEL NO. 2300510013B, DATED 7/17/1986
18. PROPERTY LINE INFORMATION IS COMPILED FROM DEEDS AND PLANS OF RECORD AND IS NOT THE RESULT OF A FULL BOUNDARY SURVEY.
19. BEARING SYSTEM OF THIS PLAN IS BASED ON GRID NORTH.

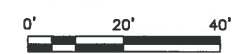
LEGEND

- LOCUS PROPERTY LINE
- - - Existing Property Line
- - - Existing Road
- - - XXX - Existing Contour
- - - XXX - PROPOSED CONTOUR
- - - Existing Train Tracks
- - - Existing Treeline
- - - OHW - Existing Overhead Wire
- - - Existing Utility Pole



EXISTING SITE PLAN

SCALE: 1"=40' FOR 11"x17"
1"=20' FOR 22"x34"



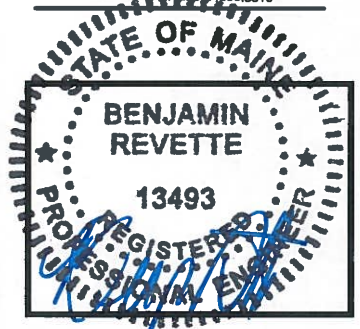
VERIZON WIRELESS
118 FLANDERS ROAD
WESTBOROUGH, MA 01581-3956

**PORTLAND ME
HEAD END**

ZONING DRAWINGS		
0	09/28/16	FOR SUBMITTAL
A	09/12/16	FOR COMMENT



Dewberry Engineers Inc.
280 SUMMER STREET
10TH FLOOR
BOSTON, MA 02210
PHONE: 617.695.3400
FAX: 617.695.3310



DRAWN BY:	JG
REVIEWED BY:	MFT
CHECKED BY:	BBR
PROJECT NUMBER:	50002925
JOB NUMBER:	50080012
SITE ADDRESS:	

1531 CONGRESS ST.
PORTLAND, ME 04102

SHEET TITLE

EXISTING SITE PLAN

SHEET NUMBER

Z-1

GENERAL NOTES

- FIELD SURVEY DATE: AUGUST 26, 2016
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LAT TBD
LON TBD
GROUND EL= TBD
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PO BOX 10988
PORTLAND ME 04104
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- BEARING SYSTEM OF THIS PLAN IS BASED ON GRID NORTH.

ZONING INFORMATION

DISTRICT:	REQUIRED:	PROPOSED:
R5 - RESIDENTIAL		
MIN. AREA:	6,000 S.F.	20,301 S.F.
MAX HEIGHT:	35'	23'-8"
MIN. FRONTAGE:	50'	N/C
MIN. DEPTH:	N/A	N/A
MIN. FRONT YARD DEPTH:	20'	22'-0"
MIN. SIDE YARD DEPTH: (1 STORY STRUCTURE)	8'	15'-0"
MIN. REAR YARD DEPTH:	20'	21'-1"
MAX LOT COVERAGE:	40%	14.56%

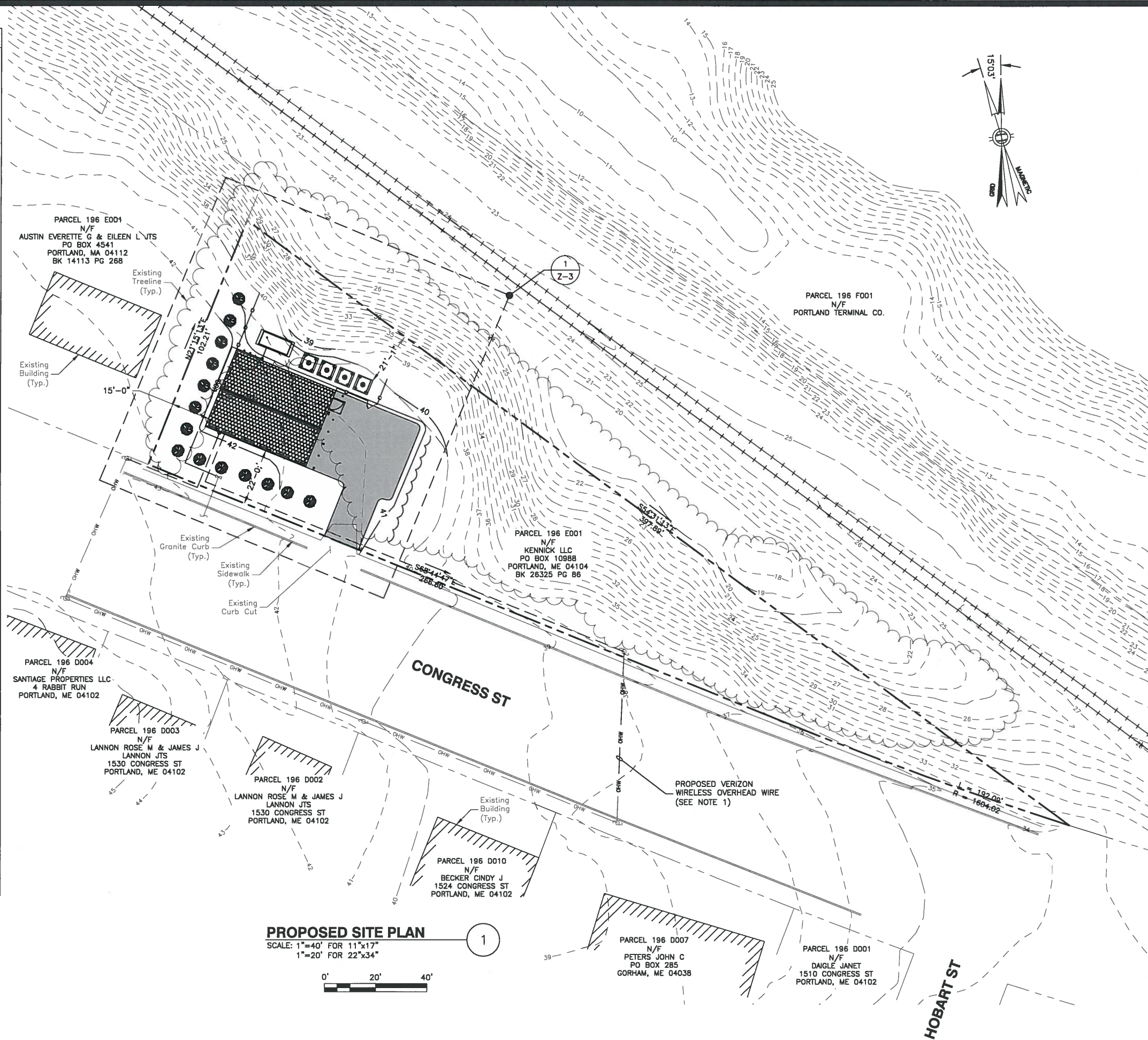
N/A- NOT APPLICABLE, N/C - NO CHANGE

LEGEND

- LOCUS PROPERTY LINE
- Existing Property Line
- Existing Road
- Existing Contour
- PROPOSED CONTOUR
- Existing Train Tracks
- Existing Treeline
- Existing Overhead Wire
- Existing Utility Pole

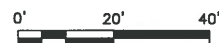
NOTE:

- UTILITY SERVICE & ROUTING PENDING UTILITY COMPANY DESIGN & APPROVAL



PROPOSED SITE PLAN

SCALE: 1"=40' FOR 11"x17"
1"=20' FOR 22"x34"



VERIZON WIRELESS
118 FLANDERS ROAD
WESTBOROUGH, MA 01581-3956

**PORTLAND ME
HEAD END**

ZONING DRAWINGS

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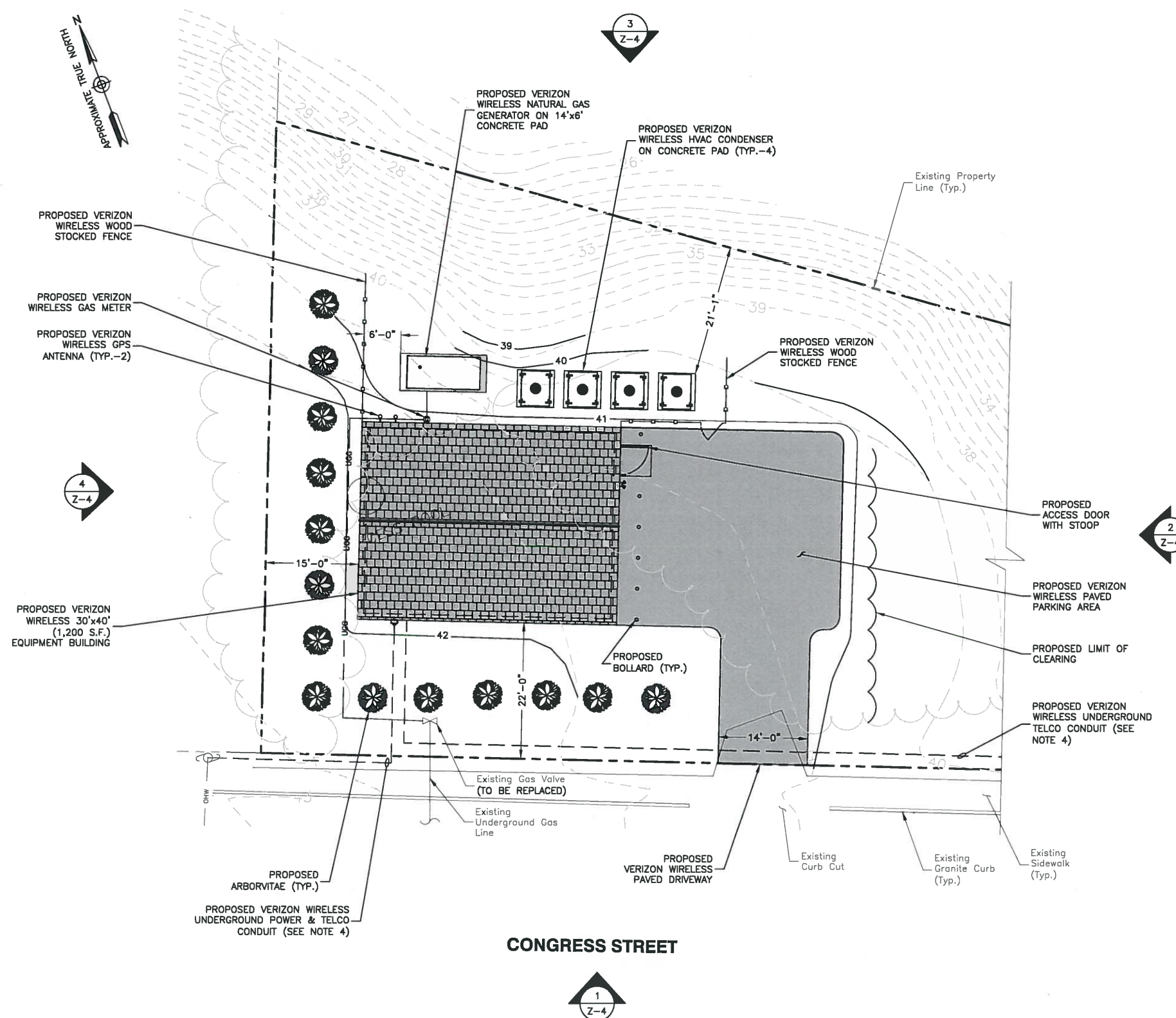
1531 CONGRESS ST.
PORTLAND, ME 04102

SHEET TITLE

DETAILED SITE PLAN

SHEET NUMBER

Z-3



- NOTES:**
- SOME EXISTING & PROPOSED INFORMATION NOT SHOWN FOR CLARITY.
 - NORTH ARROW SHOWN AS APPROXIMATE.
 - PLANS ARE FOR ZONING PURPOSES ONLY AND NOT INTENDED FOR CONSTRUCTION.
 - UTILITY SERVICE & ROUTING PENDING A FINAL DESIGN.

DETAILED SITE PLAN

SCALE: 1"=20' FOR 11"x17"
1"=10' FOR 22"x34"



1
Z-4

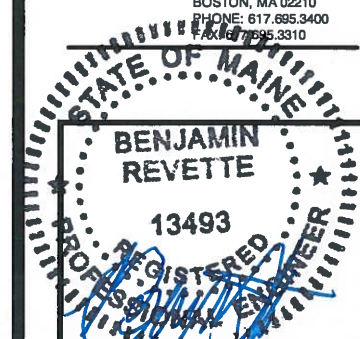
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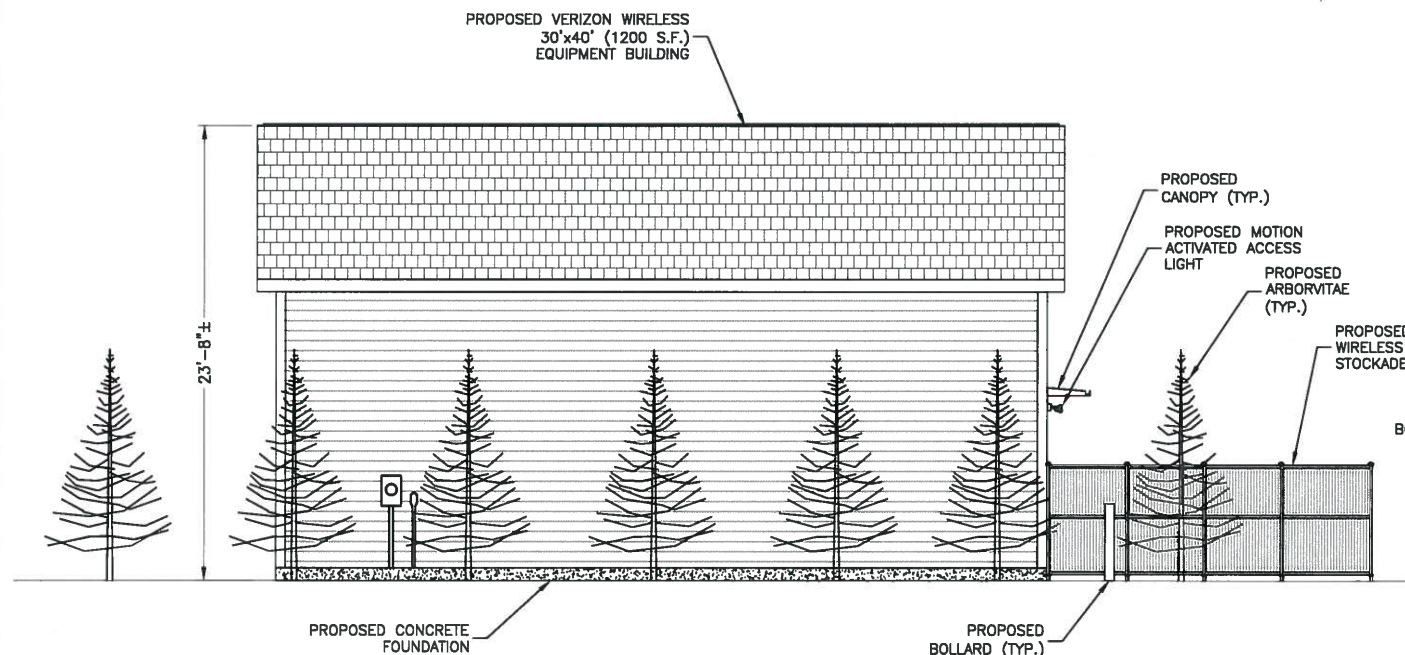
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SHEET TITLE

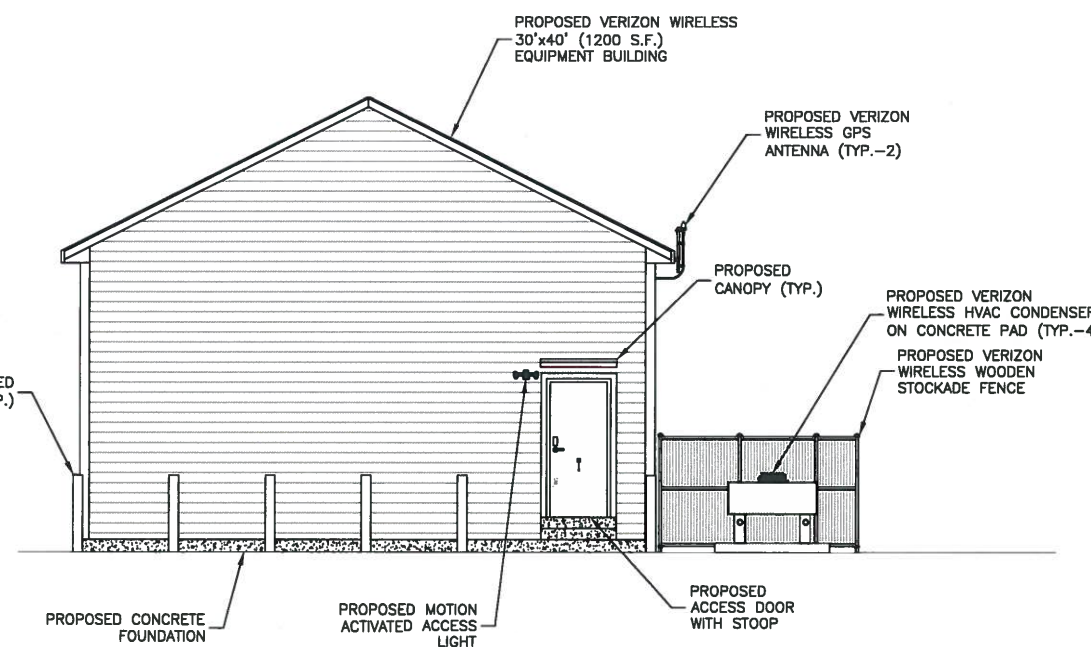
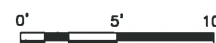
ELEVATIONS

SHEET NUMBER



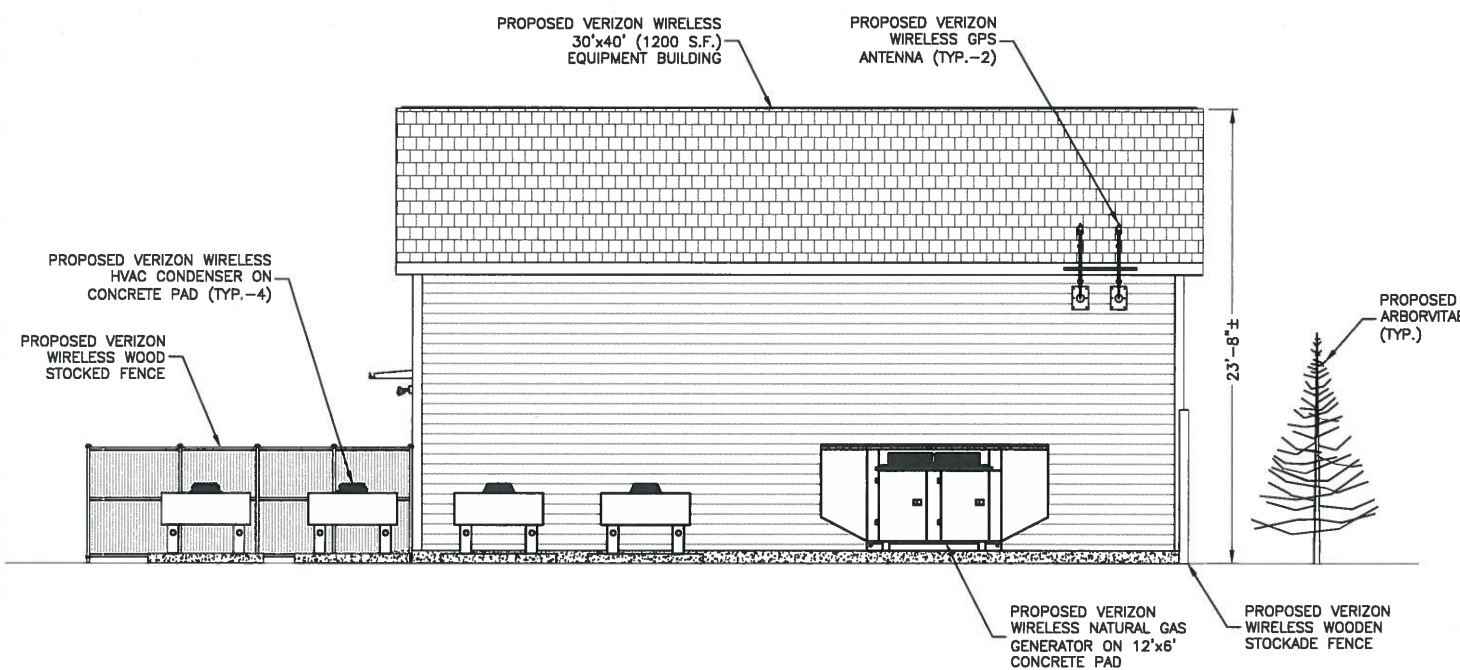
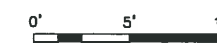
SOUTH ELEVATION

SCALE: 1"=10' FOR 11"x17"
1"=5' FOR 22"x34"



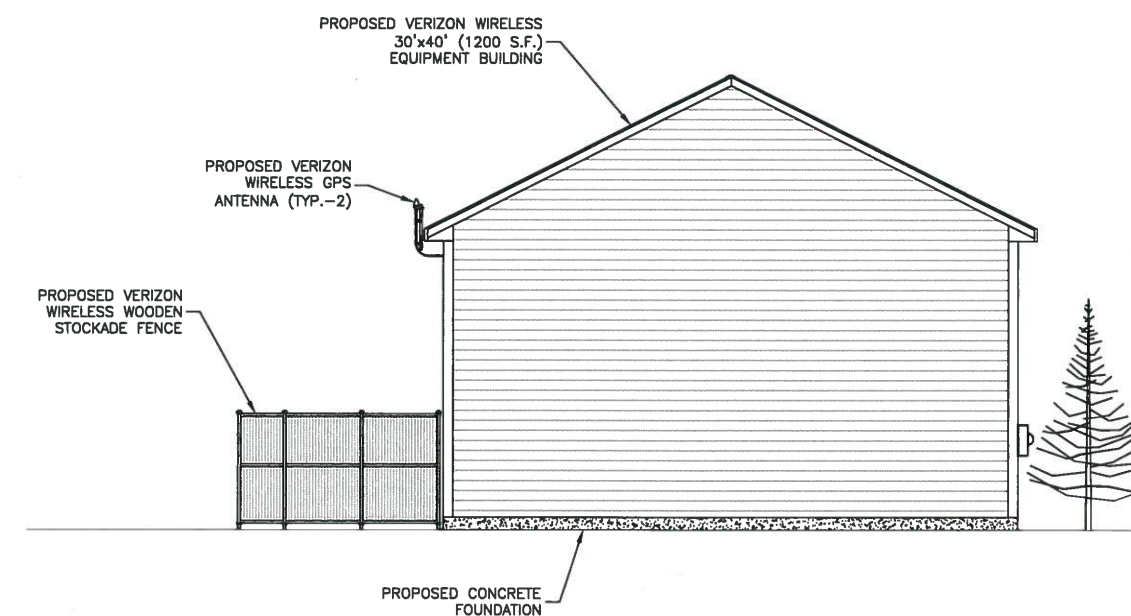
EAST ELEVATION

SCALE: 1"=10' FOR 11"x17"
1"=5' FOR 22"x34"



NORTH ELEVATION

SCALE: 1"=10' FOR 11"x17"
1"=5' FOR 22"x34"



WEST ELEVATION

SCALE: 1"=10' FOR 11"x17"
1"=5' FOR 22"x34"

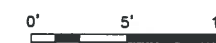


EXHIBIT 3



EXHIBIT 4

CONTRACT FOR SALE OF REAL PROPERTY

This Agreement being made this 21 ^{Sept} of ~~July~~, 2016, between KENNICK, LLC, a Maine limited liability company ("Seller"), with a mailing address of P.O. Box 10988, Portland, Maine 04104 and PORTLAND CELLULAR PARTNERSHIP, a Maine general partnership d/b/a Verizon Wireless, One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404) ("Purchaser").

1. Contract for Sale: Seller agrees to sell and Purchaser agrees to buy a certain lot or parcel of land, with any improvements thereon, located at 1531 Congress Street, in Portland, Cumberland County, State of Maine and more particularly described in a deed recorded in the Cumberland County Registry of Deeds in Book 26325, Page 086, consisting of approximately 19,864 square feet of land, together with all rights, easements and appurtenances benefitting and belonging thereto (the "Premises").

2. Purchase Price and Deposit: The total purchase price for the Premises (the "Purchase Price") shall be [REDACTED], subject to proration of taxes and other charges as hereinafter stated, to be paid as follows:

(i) [REDACTED] (the "Deposit") shall be delivered in escrow to Purchaser's title insurance company, Atlantic Coast Title Company, LLC, within five (5) business days after expiration of the Due Diligence Period referred to in Section 12 below; and

(ii) The balance of the Purchase Price shall be paid to Seller at closing by certified check, cashier's check or federal wire transfer, and the Deposit shall be released to Seller from escrow at the time of closing, as provided hereinafter.

3. Title Conveyed: Seller shall convey to Purchaser good clear marketable title in fee simple, insurable at regular rates of title insurance, and free and clear of all tenancies, mortgages, liens, and free and clear of all encroachments and encumbrances, including restrictions and easements of record, that would prevent Purchaser's use of the premises as a communications facility (all or any of which shall be known as a "defect" or "defects"). Purchaser may, in its sole discretion, waive any such defect. Purchaser shall pay the cost of title insurance, including the cost of title examination. If the title to all or part of the Premises is defective or unmarketable, or if any part of the Premises is subject to one or more defects, Seller shall have a reasonable time, not to exceed 30 days after written notice thereof, within which to remedy any such defect by obtaining its cure or discharge of record or by providing a title insurance commitment issued by nationally recognized title insurer licensed to do business in Maine to insure Purchaser's title to the Premises at regular rates, either (i) without exception for such defects, or (ii) providing for affirmative coverage reasonably acceptable to Purchaser. It is understood that this Agreement and the obligations of Purchaser hereunder shall be conditioned upon Seller's removing or providing insurance over all defects as set forth in the Section. If Seller fails to remove or provide insurance over said defects within the period provided herein, Purchaser may (a) elect to close notwithstanding any such matter, or (b) terminate this Agreement in which case the Deposit shall be returned to Seller; provided, however, that Seller shall be obligated to remove any mortgages and

other liens encumbering the Premises at closing, and the Purchase Price may be used for such purpose.

4. Deed and Closing: Closing shall take place in the offices of the Purchaser's counsel on a mutually convenient date within thirty (30) business days after satisfaction or expiration of the Zoning Contingency set forth in Section 10 below. The purchase and sale contemplated herein shall be closed by Purchaser paying to Seller the amount set forth in Section 2, and by Seller executing and delivering to Purchaser a quitclaim with covenant deed conveying title to the Premises in the manner required by Section 3. Seller agrees that the description in the deed to be delivered at closing shall, at the option of Purchaser, utilize a description determined by Purchaser's survey of the Premises. The date of such payment and delivery shall be referred to herein as "the Closing Date". At the time of closing, the Seller shall also provide (1) an owner's affidavit regarding parties in possession and indemnities regarding mechanics' liens sufficient for Purchaser's title insurance company to delete exceptions for such matters from Purchaser's title insurance policy, (2) such evidence of Seller's existence and authority as Purchaser or its title insurance company shall reasonably request, (3) a withholding exemption certificate pursuant to §1445 of the Internal Revenue Code of 1954, as amended, (4) an underground tank notice pursuant to 38 M.R.S. A. § 563(6), and (5) and such other documents as are customarily and reasonably required in order to convey and record title to the Premises.

5. Possession of the Premises: Full possession of the Premises free of all tenants shall be delivered to Purchaser on the Closing Date, with any improvements on the Premises to be in the same condition as they are now, reasonable use and wear excepted.

6. Environmental: Except as specifically set forth below, Seller warrants that during the period of Seller's ownership of the Premises, Seller and its officers, agents or contractors have not used the Premises (and shall not use the Premises) for the storage, generation, discharge or disposal of any hazardous waste, substance or material or other toxic chemical pollutant (including without limitation underground petroleum storage tanks) or otherwise in violation of environmental laws, regulations, guidelines, standards, or policies. Seller further warrants that, to the best of Seller's knowledge, the Premises were not used for any such purposes prior to the time Seller acquired title to the Premises or by any other person other than Seller since Seller acquired the Premises. Notwithstanding the foregoing, Purchaser acknowledges that Seller has disclosed to Purchaser (i) the ordinary course storage and use on the Premises of de minimus quantities of consumer cleaning products, heating fuel, and vehicle or equipment fuel, all in compliance with applicable law, and none of which required hazardous waste storage, generation, discharge or disposal permits, and (ii) Seller's demolition and disposal of the former residential structure upon the Premises (including disposal of limited amounts of asbestos-containing building materials), in accordance with applicable permits and in compliance with applicable law. Purchaser's discovery of the use of the Premises for any of such purposes other than as described above, or the continuing presence of any hazardous or toxic materials, substances or wastes upon or under the Premises, shall constitute a title defect, rendering the title unmarketable under the provisions hereinabove. Seller shall defend, indemnify and hold harmless Purchaser, its employees, agents, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including without limitation, attorney and consultant fees, investigation, cleanup and removal costs, arising out of any breach of the foregoing representations and warranties.

7. Prorations: All rents, real estate and personal property taxes and assessments, sewer and water charges, charges for fuel, service and supply contracts, utilities and the like shall be prorated as of the day of closing. Each party shall pay its share of transfer taxes as provided by law. Assessments, either general or special, for improvements made prior to closing, whether matured or unmatured, shall be paid by Seller. Seller represents and warrants that it has no notice or knowledge of any special assessments having been made or levied against the Premises and to Seller's knowledge there are no public improvements which have been planned, commenced or completed which would result in a special assessment against the Premises. Seller further represents and warrants that Premises is not under any classification for tax purposes resulting in the payment of penalties, charges or other amounts upon the change of use or development thereof. Any inaccuracy in the foregoing representations and warranties shall be deemed a title defect rendering the title unmarketable as aforesaid.

8. Right of Assignment: Purchaser may assign its rights, duties and obligations under this Agreement to Purchaser's principal or subsidiaries, affiliates or subsidiaries of its principal or to any entity which acquires all or substantially all of Purchaser's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. Said assignment shall be effective upon notice to Seller in the manner provided below. Any other assignment shall require the written consent of Seller, such consent not to be unreasonably withheld.

9. Subdivision Status: Seller represents and warrants to Purchaser that the conveyance of the Premises to Purchaser shall not constitute a subdivision and will not require subdivision approval by the City of Portland.

10. Zoning Contingency: This Agreement is expressly made contingent upon the Purchaser obtaining all governmental variances, zoning changes, permits and approvals needed to permit the Purchaser's use of the premises as a communications facility ("Approvals"). The term "Approvals" shall include all easements, agreements and other prerequisites which shall be necessary to extend utilities to the Premises. The Seller hereby authorizes Purchaser, in the Seller's name if necessary, and at the Purchaser's expense to apply for and secure from any governmental authority or private party such Approvals as the Purchaser desires. Seller shall reasonably cooperate with Purchaser to assist in obtaining the Approvals, including executing documents reasonably necessary to petition the appropriate public body for zoning relief required for Purchaser's intended purposes. All such activities are to be at the expense of Purchaser. Purchaser shall not be deemed to have "obtained" the Approvals unless (i) all Approvals are final and non-appealable, and not subject to any appeal, and (ii) the Approvals do not contain conditions or requirements unacceptable to Purchaser in its sole discretion. Purchaser shall notify Seller in writing when the Approvals have been obtained. In the event the Approvals have not been obtained on or before the date which is 120 days after the date of execution of this Agreement, or if Purchaser prior to that date determines that the Approvals cannot be obtained in a timely manner, then Purchaser shall have the right to terminate this Agreement by written notice to Seller. If Purchaser timely exercises its right to terminate for any condition contained in this Section, this Agreement shall terminate, the Deposit shall be returned to Purchaser, and neither party shall have any further obligations hereunder except for any obligations expressly designated hereunder to

survive the termination of this Agreement. If Purchaser shall have commenced seeking all necessary Approvals promptly following execution of this Agreement and is diligently pursuing any Approval at the expiration of the aforesaid 120 day period, Purchaser may by notice to the Seller extend such period for a reasonable period of time (not to exceed 60 days) in order that the Purchaser may receive a final decision thereon and/or to file for and obtain any Approvals not yet obtained during the 120 day period due to the requirement initially to obtain a conditional use permit (and notwithstanding such extension Purchaser shall continue to have all of its rights set forth in this Section). For purposes of the preceding sentence Purchaser shall be deemed to have commenced seeking all necessary Approvals promptly following execution of the Agreement if it shall have ordered engineering drawings promptly following execution of the Agreement and shall have filed its application for a conditional use permit within 75 days after execution of the Agreement. Purchaser agrees to make good faith efforts to obtain the Approvals, but in no event shall Purchaser be required to appeal any denial or other negative determination with respect to any Approval.

11. Condemnation, Damage or Destruction: Until the delivery of the deed from Seller to Purchaser, the risk of loss or damage to the Premises by fire or condemnation shall be on Seller. If all or any part of the Premises are condemned, damaged or destroyed prior to the Closing Date, Purchaser shall have the option of terminating this Agreement. In the event of such termination, the Deposit shall be returned to Purchaser.

12. Entry for Inspection; Due Diligence Period: Purchaser is authorized at its expense to enter the Premises and make such inspection, surveys, sub-surface boring tests, environmental assessments, appraisals and other activities of a similar nature as Purchaser shall deem appropriate, so long as Purchaser shall not unreasonably interfere with Seller's use of the Premises. Purchaser will repair any damage caused by these operations and shall defend, indemnify and hold harmless Seller from any loss, claim or expense (including without limitation reasonable attorneys' fees) in connection with any personal injury or property damage arising from Purchaser's entry or due diligence operations, and in connection with any mechanics lien claims against the Premises arising from such entry or activities. Purchaser shall have a period of 90 days from the date of this Agreement within which to terminate the Agreement by written notice to Seller if Purchaser is not satisfied in its sole discretion with the results of any such inspections, surveys, tests, assessments, appraisals, etc. If Purchaser exercises such contingency, Purchaser shall transfer to Seller copies of, and the non-exclusive right to use for Seller's purposes, all such inspections, surveys, tests, assessments, appraisals, etc. produced by or for Purchaser relative to the condition of the Premises.

13. Default: If Purchaser fails to consummate this transaction for any reason constituting a default on the part of the Purchaser, Seller may, as its sole remedy, retain the Deposit as liquidated damages, and this Agreement shall be canceled except for such provisions expressly intended to survive. If Seller fails to consummate this transaction for any reason constituting a default on the part of Seller, Purchaser may, as its sole choice of remedies, either (i) terminate this Agreement and receive the return of the Deposit as liquidated damages, in which case this Agreement shall be cancelled except for such provisions expressly intended to survive, or (ii) seek specific performance. The parties agree that actual damages are impossible to determine and agree, after negotiation, that the foregoing liquidated damages are the parties' best estimate of actual damages that would be incurred.

14. Brokers: Each party represents and warrants that there are no real estate brokers involved in this transaction. Each party agrees to hold and indemnify the other harmless from and against any losses, damages, costs or expenses (including attorneys' fees) that either party may suffer as a result of claims made or suits brought by any broker in connection with this transaction, the obligated party hereunder to be the party whose conduct gives rise to such claim.

15. Successors and Assigns: The terms, covenants and provisions of this Agreement shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Seller and Purchaser.

16. Governing Law: This Contract for Sale of Real Property and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of Maine.

17. Notices: All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

Seller: Kennick LLC
P.O. Box 10988
Portland, Maine 04104

With a copy to: Richard N. Bryant, Esq.
Van Meer & Belanger, PA
215 Commercial Street, 4th Floor
Portland, Maine 04101

Purchaser: Portland Cellular Partnership
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

With a copy to: Raymond A. Pelletier, Esq.
Verrill Dana, LLP
One Portland Square, 9th Floor
P.O. Box 586
Portland, Maine 04112-0586

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

18. Miscellaneous: The submission of this Agreement for examination is intended for negotiation and discussion purposes only, and this Agreement shall become effective only upon the execution and delivery by Seller and Purchaser. This document and the exhibits attached hereto constitute the entire agreement of the parties and no oral or implied agreements or representations will be binding upon the parties hereto. The provisions of the Agreement relating to indemnification from one party to the other party shall survive any termination or expiration of this Agreement and shall not be limited by any liquidated damages cap. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

SELLER:

KENNICK LLC

By: 

Richard N. Bryant, Manager

PURCHASER:

PORTLAND CELLULAR PARTNERSHIP,
d/b/a VERIZON WIRELESS

By Cellco Partnership
Its General Partner

By:  9/21/16

Print Name: Andrew Allen

Its: Director Network Field Engineering

EXHIBIT A

(Description of Property)

That certain parcel of land approximately 19,864 square feet in size, situated at 1531 Congress Street, Portland, Maine, identified as tax parcel 196-E-1 and depicted on Exhibit LE-1 attached hereto. For source of title see Deed dated September 2, 2008, recorded in the Cumberland County Registry of Deeds in Book 26325, Page 86.

EXHIBIT LE-1

(Depiction of Premises)

PORTLAND ME
HEAD END
(1531 CONGRESS)

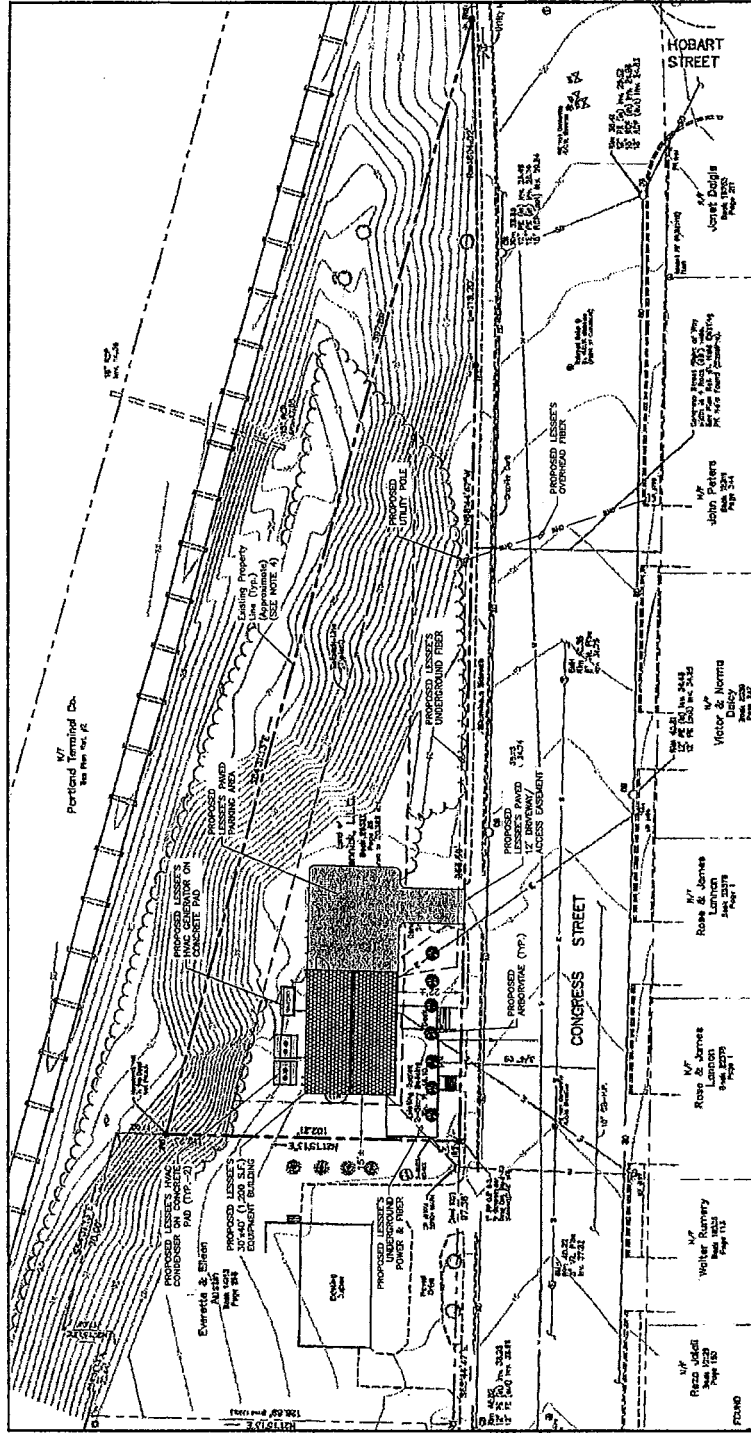
LEASE EXHIBIT	FOR COMMENT
A. 05/02/16	

Dewberry
Dewberry Engineers Inc.
300 WATER STREET
PORTLAND, ME 04102
PHONE: 617-750-0000
FAX: 617-750-0010

--

DATE: 01/14/16	BY: LR
REVISION: 01	BY: MT
CHECKED: 01	BY: BR
PROJECT NUMBER: 50020232	
JOB NUMBER: 50080012	

SITE ADDRESS: 1531 CONGRESS ST. PORTLAND, ME 04102
SHEET TITLE: CONCEPTUAL SITE PLAN
SHEET NUMBER: LE-1



CONCEPTUAL SITE PLAN 1

SCALE: 1"=20' FOR 22'-5 1/2"

- NOTES:
1. SOME EXISTING & PROPOSED INFORMATION NOT SHOWN FOR CLARITY.
 2. NORTH ARROW SHOWN AS APPROXIMATE.
 3. PLANS ARE FOR LEASE EXHIBIT PURPOSES ONLY AND NOT INTENDED FOR CONSTRUCTION.
 4. EXISTING SHOWN BY RECORD, UNLESS INDICATED OTHERWISE BY DEWBERRY ENGINEERS INC. BY LESSEE.
 5. UTILITY SERVICE & ROUTING PENDING A FINAL DESIGN.

EXHIBIT 5

Looking Northwest from same local. Proposal is to use existing curb cut for access with building and main parking to left.



Looking east down Congress. Note pole line on opposite side but room to place second pole on eastern edge for dual telco paths.



Looking West from parcel at proposed Head End location.



Looking at same from curb cut.



Approximate reverse view.

