

**LONDONDERRY ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

MINUTES FROM 12/21/16 MEETING

Chairman Smith called the meeting to order at 7:00 p.m. Members introduced themselves. The following members were present: Jim Smith, Chairman; Neil Dunn, Vice Chair; Jim Tirabassi, Clerk; Jacqueline Benard, member; and Suzanne Brunelle, alternate member. Also, in attendance was Laura Gandia, Associate Planner. Chairman Smith reviewed the hearing procedures and appointed S. Brunelle as a full member.

I. APPROVAL OF MINUTES

J. Tirabassi made a motion to accept the November 2016 minutes as presented.

Motion was seconded by S. Brunelle.

Motion was granted, 5-0-0.

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

- A. **CASE NO. 12/21/2016-1**: REQUEST FOR A VARIANCE FROM LZO 2.4.3.B.2 TO ALLOW FOR THE CONSTRUCTION OF AN ADDITION TO UNIT 36 WHICH WILL ENCROACH 33" INTO THE LANDSCAPING BUFFER ZONE, 1 F COMMONS DRIVE – UNIT 36, MAP 10, LOT 001, ZONED C-III, NEW HARBOR PROPERTIES (OWNER) & BENCHMARK ENGINEERING, INC. (APPLICANT)

J. Tirabassi read the case into the record, and stated that there were no previous pertinent cases.

Jack Szemplinski of Benchmark Engineering, Inc. introduced himself to the Board. He noted that he is part owner of 1F Commons Drive (Londonderry Commons). He explained that 1F Commons Drive, located in the rear of the lot, is vacant and has been vacant for some time, and a potential tenant expressed interest in leasing the unit but requires more space. He stated that the potential tenant, Apple Tree Orthodontics, would use the additional space for storage of dental equipment as a part of its business operations. He described the 8 1/2" x 18" addition with no windows and an access door from the rear. He stated that property is zoned C-III, abuts an AR-1 zone and the Woodmont Commons development, and is subject to a 50 feet buffer zone at the rear of the property. He presented the Board with five pictures of the property (Exhibit A), a map of the Woodmont Commons subarea WC-3 (Exhibit B), and a diagram of Apple Tree Orthodontic's floor plan (Exhibit C). He stated that the land adjacent to the 2001 one story building with ground floor access has a 10-12 feet higher elevation than the slab of

the building. He then reviewed the five variance criteria as follows:

- (1) Variance will not be contrary to the public interest: this is a minor addition to an existing commercial unit and the proposed tenant has a specific need for the addition; the way the building is divided and the location of the subsurface utilities, the only logical place for the addition is off the rear of the building; the land abutting the property is part of the Woodmont Commons development which shows an abutting proposed road; the encroachment is minor and will not alter the character of the area nor threaten the health, safety or welfare of the general public;
- (2) Spirit of the ordinance is observed: the 2001 building met all requirements of the Town when built and only one variance is being requested for a small addition;
- (3) Substantial justice will be done: the building is being utilized in accordance with zoning, and the potential tenant needs the extra space for equipment storage, and there is no other feasible location for the addition; if the space is not available the tenant would look elsewhere;
- (4) The values of surrounding properties are not diminished: the site has very few abutters and the undeveloped land to the rear is part of the Woodmont Commons development; the small addition will blend into the character and architecture of the existing building; no trees will be cut, and there is no effect on abutting property values; and
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: the buffer is met to create a separation between uses and in this case, no trees will be cut, Woodmont Commons abuts the property, the main entrance to the building is on the other side (no public access to the addition), and the proposed addition is being constructed to work around the existing utilities; and the proposed use is a reasonable one (additional space for a building).

He concluded his presentation, and welcomed any questions. J. Tirabassi and N. Dunn asked about the location of the utilities. J. Szemplinski explained that the gas and electrical lines are underground and are through the foundation (foundation will be poured around it). J. Tirabassi asked about the roof and J. Szemplinski explained that the roof will continue with the existing pitch and no additional height is needed. N. Dunn asked if an easement was necessary for the electricity and J. Szemplinski stated no. N. Dunn asked about the character of the land and the ownership of the building and units. J. Szemplinski explained that there is no option of expanding sideways, and the building is owned by him and his partner (the individual units are not separately owned). The Board had no further questions.

Chairman Smith asked for public input and there was none. He closed public input and the Board deliberated the five points for the granting of the variance as follows:

- (1) Variance will not be contrary to the public interest: there is only one owner;
- (2) Spirit of the ordinance is observed: allow the building to be used for its permitted use and the buffer will be maintained due to the slope;
- (3) Substantial justice will be done: allows for a permitted use of the building;
- (4) The values of surrounding properties are not diminished: the applicant is the owner of all the

- units, and the addition is not seen from the road;
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: minimal impact to the buffer; and the proposed use is a reasonable one (a small addition for a business).

Jim Tirabassi made a motion to grant the applicant's request for a variance from LZO2.4.3.B.2 to allow for the construction of an addition to Unit 36 which will encroach 33" into the landscaping buffer zone, 1 F Commons Drive – Unit 36, Map 10, Lot 001, Zoned C-III, New Harbor Properties (Owner) & Benchmark Engineering, Inc. (Applicant).

Jacqueline Benard seconded the motion.

The motion was granted, 5-0-0.

The applicant's request for a variance was GRANTED.

Chairman Smith announced his retirement from the Board, and thanked everyone and the Planning Staff for their support. The Board members thanked Chairman Smith for his help on and off the Board.

Jacqueline Benard made a motion to adjourn at 7:35 p.m.

Jim Tirabassi seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 7:35 p.m.

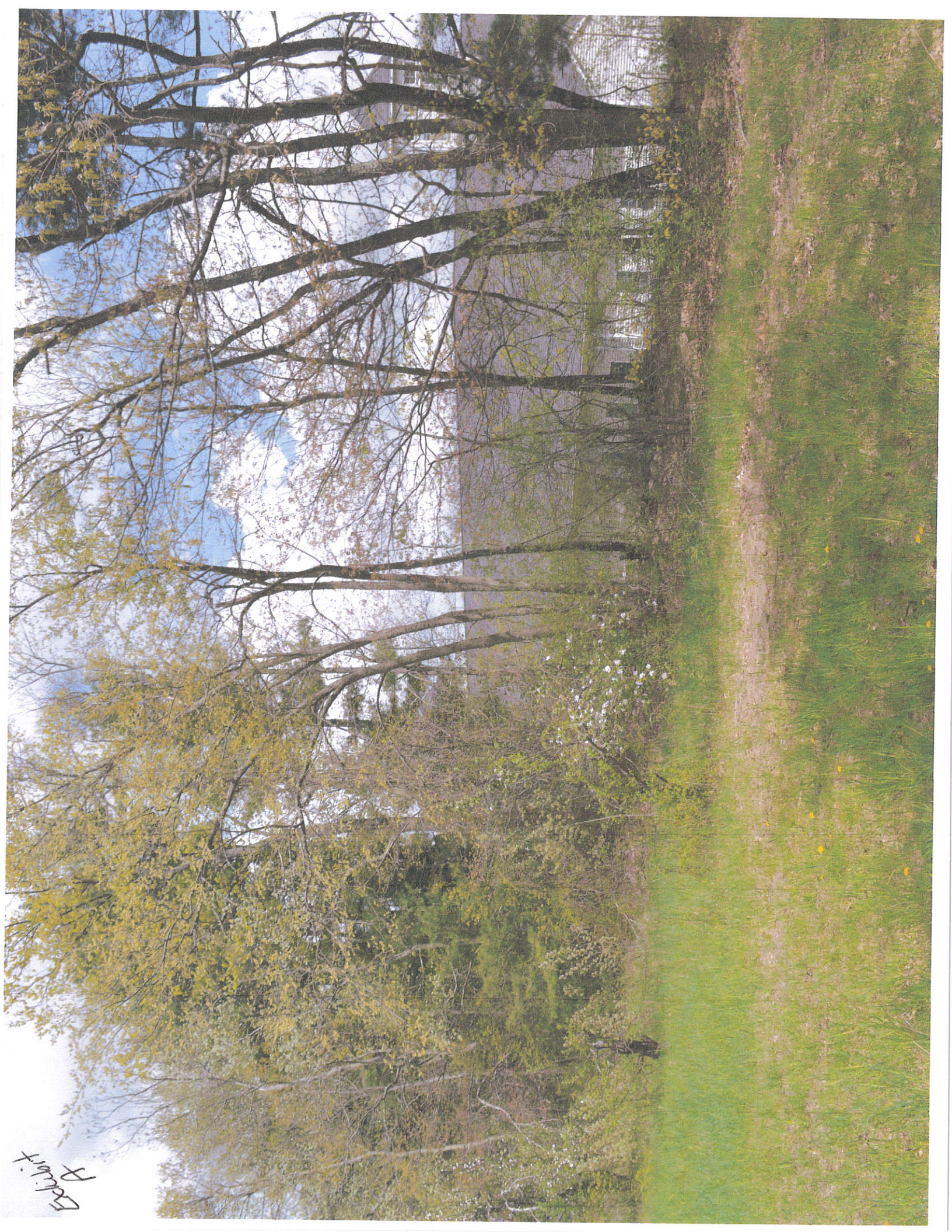
RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY LAURA GANDIA, ASSOCIATE PLANNER.

APPROVED (X) WITH A MOTION MADE BY J Tirabassi, SECONDED BY S. Brunelle 5-0-0.



Edelweiss







[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.2.4 The Information Plan

Illustration only. Refer to Section 1.2.3 Interpretation.



INFORMATION PLAN COMPONENTS

- Trail system
- Shared Open Space – Passive uses
- Trail system integrated with sidewalk at street
- Conserved Green Space – may include Active or Passive Shared Open Space with implementation of proposed pond, detention area
- Sidewalk or trail at perimeter of proposed pond

SUBAREA WC-3

LEGEND

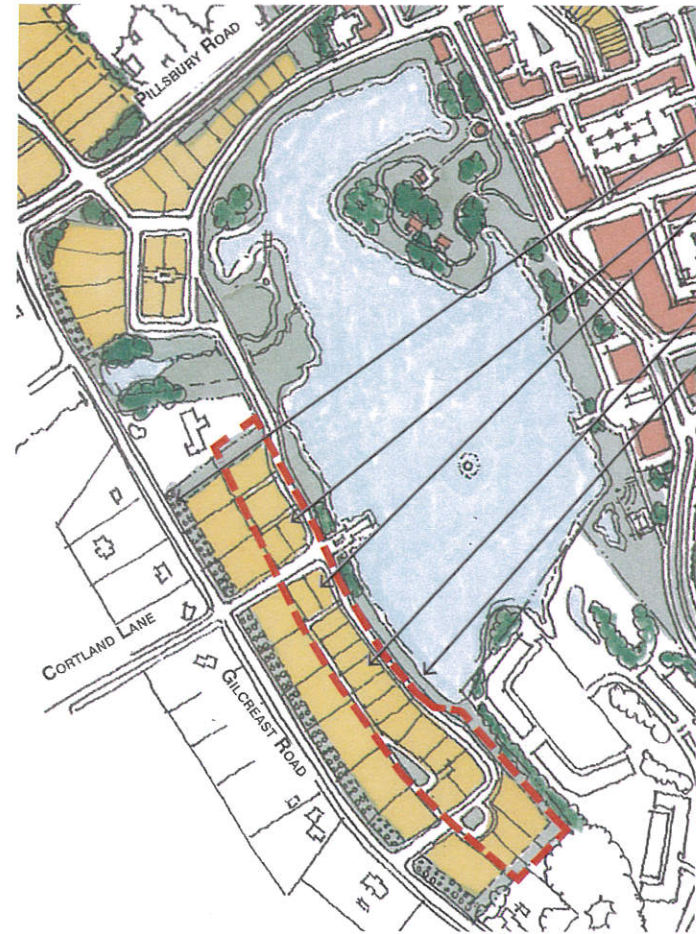
--- Subarea Line



Exhibit B

1.2.4 The Information Plan

Illustration only. Refer to Section 1.2.3 Interpretation.



INFORMATION PLAN COMPONENTS

- Perimeter Buffer
- Residential uses or limited Civic, Accommodation or Commercial uses at connector street to Gilcrest Road
- Residential uses
- Sidewalk or trail at perimeter of proposed pond

SUBAREA WC-4

LEGEND

--- Subarea Line

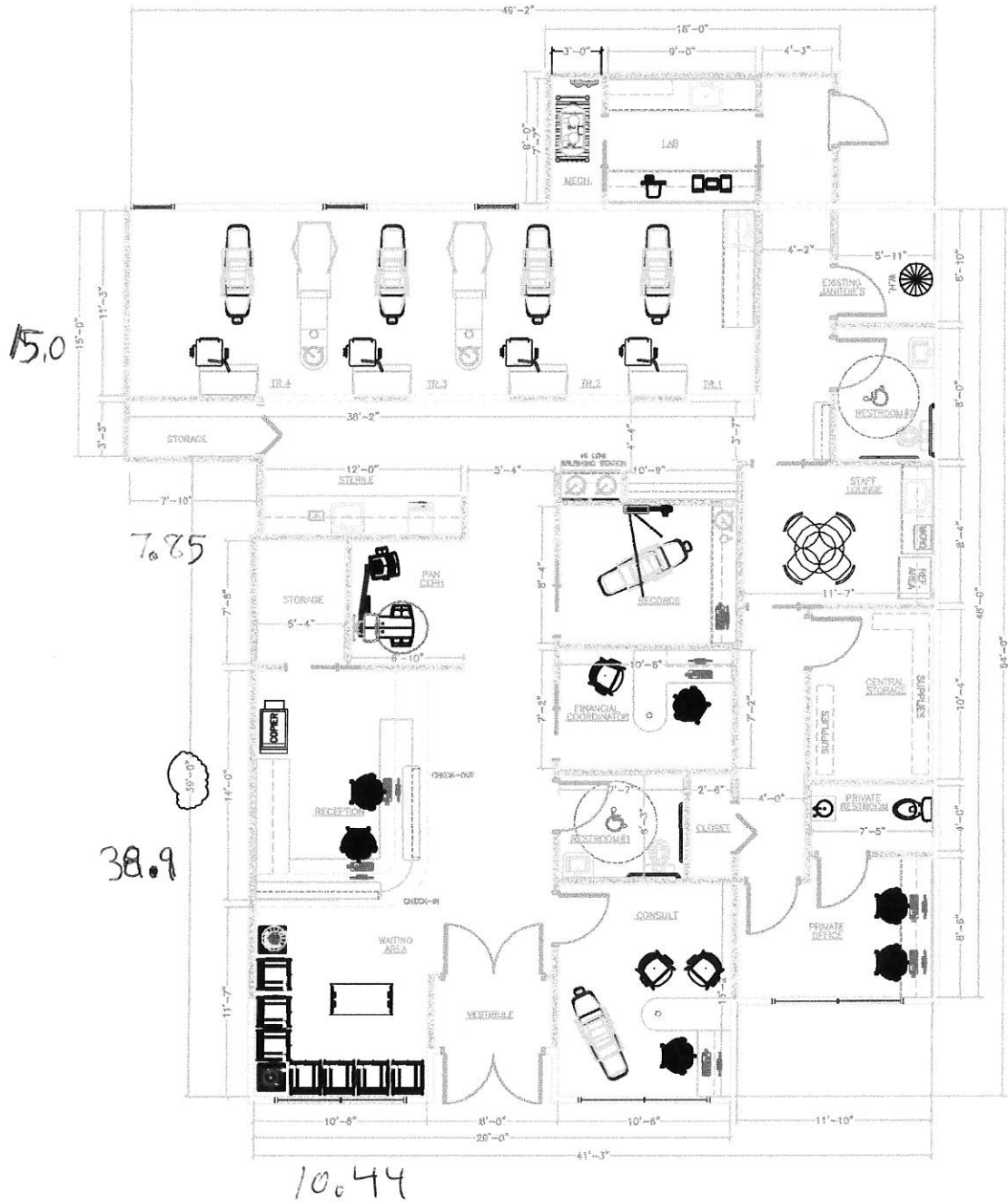


Exhibit C

Apple Tree Orthodontics

Londonderry, New Hampshire

2,416 USABLE SQUARE FEET



APPROVED _____

DATE _____

Benco Dental
 We deliver success smile after smile.
 BENCO.COM • 1.800.GO.BENCO



PRELIMINARY PLAN, REVISED
PROJECT #: NE16028-AG
DRAWN BY: MW
DATE: 11/21/16
SCALE: N.T.S.

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