

FRANCIS X. BRUTON, III  
CATHERINE A. BERUBE  
JOSHUA P. LANZETTA

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OF COUNSEL  
JAMES H. SCHULTE

# Bruton & Berube, PLLC

ATTORNEYS AT LAW

601 Central Avenue  
Dover, NH 03820

TEL (603) 749-4529  
(603) 743-6300  
FAX (603) 343-2986

[www.brutonlaw.com](http://www.brutonlaw.com)

September 1, 2023

Eric Botterman, Chair  
Newmarket Planning Board  
Town of Newmarket  
186 Main Street  
Newmarket, NH 03857

**RE: 242 South Main Street, Newmarket, NH**

Dear Chair Botterman:

This office represents the Applicant, D. R. Lemieux Builders, LLC, which is proposing a 32 unit multi-family residential affordable housing development located on approximately 7.2 acres of land located at 242 South Main Street in Newmarket, New Hampshire.

We have had the pleasure of meeting with the Planning Board on a conceptual review basis as well as during public hearings, and conducting a site walk at the location to review all aspects of the project.

As you know, the Newmarket Zoning Ordinance (the "Ordinance") specifically provides that "Affordable Elderly Housing" as a permitted use, however, only within the R1, R2 and R3 zones with a special use permit pursuant to Section 32-56 and Section 32-236 of the Ordinance. Further, the Town, when enacting the affordable elderly housing regulations, promoted this use only in very limited areas in Town. Specifically, the use is permitted only on lots that have water and sewer and frontage on Route 108 from Newfield's boundary north of Elm Street, Route 152, or Bennett Way. We presumed that by limiting these areas, that Town, when enacting this important legislation to provide for affordable elderly housing, did so by selecting areas that it found appropriate to construct these facilities.

As we have repeatedly mentioned, we believe that the proposed project, which has gone through several design iterations based upon input from the Town Planning Department, the Planning Board and the adjacent neighbors, will be similar to the affordable elderly housing facility known as Wadleigh Falls Senior Housing, located at 290 Wadleigh Falls Road in New Hampshire.

The building height proposed for our client's project is compliant with the Ordinance regulations which permit these buildings to be 35 feet in height. This building is a 2-story building with the use of the attic space and dormers as living space for additional elderly housing opportunities. Nonetheless, despite that use, the building remains the same height as the building at Wadleigh Falls Senior Housing and conforms with the regulations that were created to provide

for this important form of affordable elderly housing. As you may recall, the Applicant has already indicated that, even if elderly housing opportunities were not put within the attic and dormer space of the building, the building would still need the same roof structure and would remain the same height, just like the Wadleigh Falls facility.

Like the Wadleigh Falls facility, the proposed project provides access to close shopping services, medical services, and transportation services. We have outlined how this site is 0.6 miles from the Town Hall, 0.7 miles from the downtown area providing opportunities to patronize shops, restaurants, coffee shops, medical care, etc. We specifically noted that the project will be 0.4 miles from Lamprey Healthcare for medical services, 1 mile from a grocery store, and 1 mile to public bus transportation. We further outlined the usual amenities and living aids that would be appropriate for elderly affordable housing and have identified the quality finishes that will result in a pleasing aesthetic facility, and one that will qualify to the highest standards known as "Passive House," which is likely the only project in the Town of Newmarket that will qualify as a Passive House project.

During the various presentations to the Planning Board, the Applicant has presented an extremely thorough review of all elements necessary to secure the approval special use permit and site plan approval of the Planning Board. As you know, the project has been engineered by Beals Associates, PLLC, reviewed with respect to traffic concerns by Vanasse & Associates, Inc., the buildings have been designed by Lassel Architects, with landscaping plans developed by Woodburn & Company Landscape Architects. Additionally, Master Appraiser, Brian White of White Appraisal has determined that the project will not diminish surrounding property values. All aspects of the project have been rigorously reviewed by peer review consultants, hired by the Town at the expense of the developer, and the Applicant has responded to any concerns raised.

As you may recall, the noted Landscaping Architect, Robbi Woodburn, of Woodburn & Company, has presented various iterations of its landscaping plan to provide for an appropriate buffer between the project and the neighborhood. Again, the Town specifically identified very limited areas where these projects could coexist. With that in mind, Robbi Woodburn presented a plan at the conceptual hearing before the Planning Board (the "Conceptual Plan") and the Planning Board and neighbors provided important feedback which resulted in Ms. Woodburn creating a revised plan with additional buffering for the public hearing (the "Public Hearing Plan"). At the public hearing before the Planning Board, additional comments were made requesting additional buffering. As such, Robbi Woodburn presented an even more robust landscaping design at the site walk (the "Site Walk Plan"). At the site walk, the Planning Board members requested additional buffering along the house on the existing parcel, and, as such, included within the plan being submitted today, even more buffering has been added ("the Existing Plan"). Copies of these plans are attached hereto. We were pleased at the site walk that various members of the neighborhood, including the gentlemen across the street, who owns a landscaping company, had indicated to us that he was pleased with the landscaping plans for the project.

At the site walk, it was again emphasized that the Planning Board would have to apply the standards set forth within Section 32-236, which allows for the special permit to be issued for this use to move forward. Discussion was had with respect to the landscaping buffering and Planning Board members agreed that the project did not, in essence, have to become "invisible" to the general public in order for the special use permit to be issued.

When reviewing the provisions of the ordinance regarding elderly assisted housing, the project does not, in essence, have to “disappear” for the special use permit to issue. Obviously, Wadleigh Falls is visible from the street, as would some portions of this project. According to the Ordinance, the premise for elderly affordable housing is to permit the development of affordable elderly housing facilities, specifically suited to address the special housing needs of the elderly, which is considered within the public interest and general welfare of the town of Newmarket. The Ordinance was crafted in a way that respects this important objective, but at the same time provides protection to the surrounding neighborhood. Again, with the understanding that the Town has specifically selected this location and only a few other locations within the Town for this type of important housing, the Ordinance makes it clear that “conflicts with the character of adjacent properties [are to] be minimal in terms of size and bulk of the visible building through the use of buffers, landscaping, or location of the buildings on site.” However, the ordinance also provides that, “The enforcement of these criteria shall be met to the maximum extent possible with due regard to the affordability of the project.” References like conflicts being “minimal” and standards being met to the “maximum extent possible” are not absolutes, and deference is paid to affordability of the project, which clearly highlights that the primary goal is to provide the housing.

At the commencement of the process, significant discussion occurred with respect to shifting the orientation of the building to provide that the visible portion of the building would be minimized. This requirement of the Ordinance is meant to ensure that facilities are “reasonably consistent” either with residential style buildings or “sufficiently secluded” to “minimize negative impacts to abutting property.” It is respectfully submitted that the ordinance uses words such as “reasonably,” “sufficiently,” and “minimize,” with the understanding that the project still needs to satisfy the primary goal of providing affordable housing to the elderly. The project has gone through many iterations and the Applicant has listened and incorporated suggestions, not only from the Planning Board but from the neighbors with respect to the use of buffers, landscaping and location of the building on site in order to satisfy the requirements that the project is sufficiently secluded so as to minimize any negative impacts to abutting property.

The Ordinance is specific when it indicates that, “The buffer for the project shall be of sufficient opacity to adequately shield abutting residential properties from the development. Buffer strips must contain vegetation that will partially screen the view from adjacent residential properties during all seasons. This screening must limit visual contact between the uses and create a strong impression of the separation of spaces.” The screening proposed utilizes buffers that exist for all seasons as it is comprised of trees that stay full for all four seasons, specified on the landscaping plan. Again, consistent with other aspects of the Ordinance, when speaking of buffers and the views to adjacent properties, the Ordinance uses words such as “adequately shield” not absolutely, or “partially screen[ed],” not eliminated. The Ordinance further provides that fencing alone may not be considered an acceptable method of screening, but fencing may be an element of design. As the Plans indicates, although there is significant tree and vegetation buffering for the existing house on the parcel, which will be subdivided, the Applicant has also added a portion of fencing as well.

The Ordinance itself uses words such as “minimize,” “sufficiently seclude,” “reasonable,” and “partially screened” on purpose. Clearly, no project should be required in any form or context to be completely hidden from view as any such requirement would be unreasonable, particularly when the Town itself significantly limited where a project can be located. The Applicant has already indicated that due to the recent surge in construction and financing costs, the units in the

attic and shed dormers are necessary in to address the “affordability of the project,” a concern expressed specifically with the Ordinance. As one would reasonably expect, the Ordinance specifically provides for a balance between protecting the neighbors, as the Applicant has done in this case, with the requirement that a robust landscaping plan be provided, as the Applicant has done, but not in the vein of requiring a level of “invisibility,” which is not required, and which standard would be completely unreasonable and inconsistent with reasonable land use planning. Wadleigh Falls Senior Housing could never satisfy that goal, nor could any project within the Town that wants to provide this important form of housing for the elderly ever obtain such an unattainable standard.

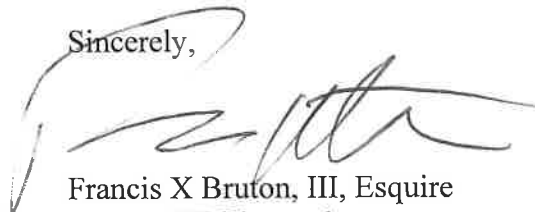
Within the Ordinance, the Town provided specific requirements related to density. This proposed structure meets the height requirements and is not proposing the maximum density that would be allowed. The Ordinance also provides for density bonuses to the extent certain conditions are achieved, and in that context, the Ordinance reinforces the importance of providing for elderly housing where the Ordinance provides for density bonuses to maximize this type of housing. In this instance, the Applicant does not seek any density bonuses, waivers, or other land use relief, and particularly is proposing less density than would be allowed as a matter of right by the Ordinance. The Applicant respects the balance that the Ordinance is attempting to create with respect to the needs of the abutters and the landscaping requirements that the Ordinance is suggesting *vis-a-vis* the significant interest the Town has in creating elderly assisted housing, which is ultimate purpose of the Ordinance that allows for this use.

The Applicant appreciates the input from the Planning Board, the Planning Staff and all of the neighbors and respectfully submits that the project now submitted before the Planning Board incorporate all of those comments and/or suggestions and represents a project that complies with every aspect of the requirements of the special use permit and is consistent with the intent of the Town of Newmarket when it enacted the elderly assisted ordinance provisions.

As demonstrated above, the Applicant has addressed the “size and bulk” of the proposed building by providing the significant buffering as suggested by the Planning Board and the abutters, and the development orientation has been altered to significantly reduce the visibility of the proposes building, has maintained reduced density and has used only attic space above the first two floors for the necessary elderly affordable housing, all consistent with the Towns’ regulations for such a use.

As requested by the Planning Board, attached hereto is additional information from Brian White of White Appraisal, outlining the lack of diminished value other similar facilities had in other areas.

Sincerely,



Francis X Bruton, III, Esquire  
Email: [FX@brutonlaw.com](mailto:FX@brutonlaw.com)

FXB/mas  
Enclosures  
cc: D.R. Lemieux Builders, LLC

1. The owner has approved the proposed landscape plan and the contractor shall proceed with the construction of the same in accordance with the specifications and conditions of contract.

2. The contractor shall be responsible for obtaining all necessary permits and for the cost of the same.

3. The contractor shall be responsible for the protection of all existing trees and structures on the site.

4. The contractor shall be responsible for the removal and disposal of all debris and materials from the site.

5. The contractor shall be responsible for the maintenance of the site during the construction period.

6. The contractor shall be responsible for the completion of the landscape plan within the specified time frame.

7. The contractor shall be responsible for the payment of all bills and invoices.

8. The contractor shall be responsible for the coordination of all work with the owner and other stakeholders.

9. The contractor shall be responsible for the safety of all workers and the public.

10. The contractor shall be responsible for the cleanup of the site at the end of the project.

11. The contractor shall be responsible for the final inspection and approval of the landscape plan.

12. The contractor shall be responsible for the retention of all records and documents related to the project.

13. The contractor shall be responsible for the compliance with all applicable laws and regulations.

14. The contractor shall be responsible for the timely completion of the project.

15. The contractor shall be responsible for the quality of the workmanship.

16. The contractor shall be responsible for the communication with the owner and other stakeholders.

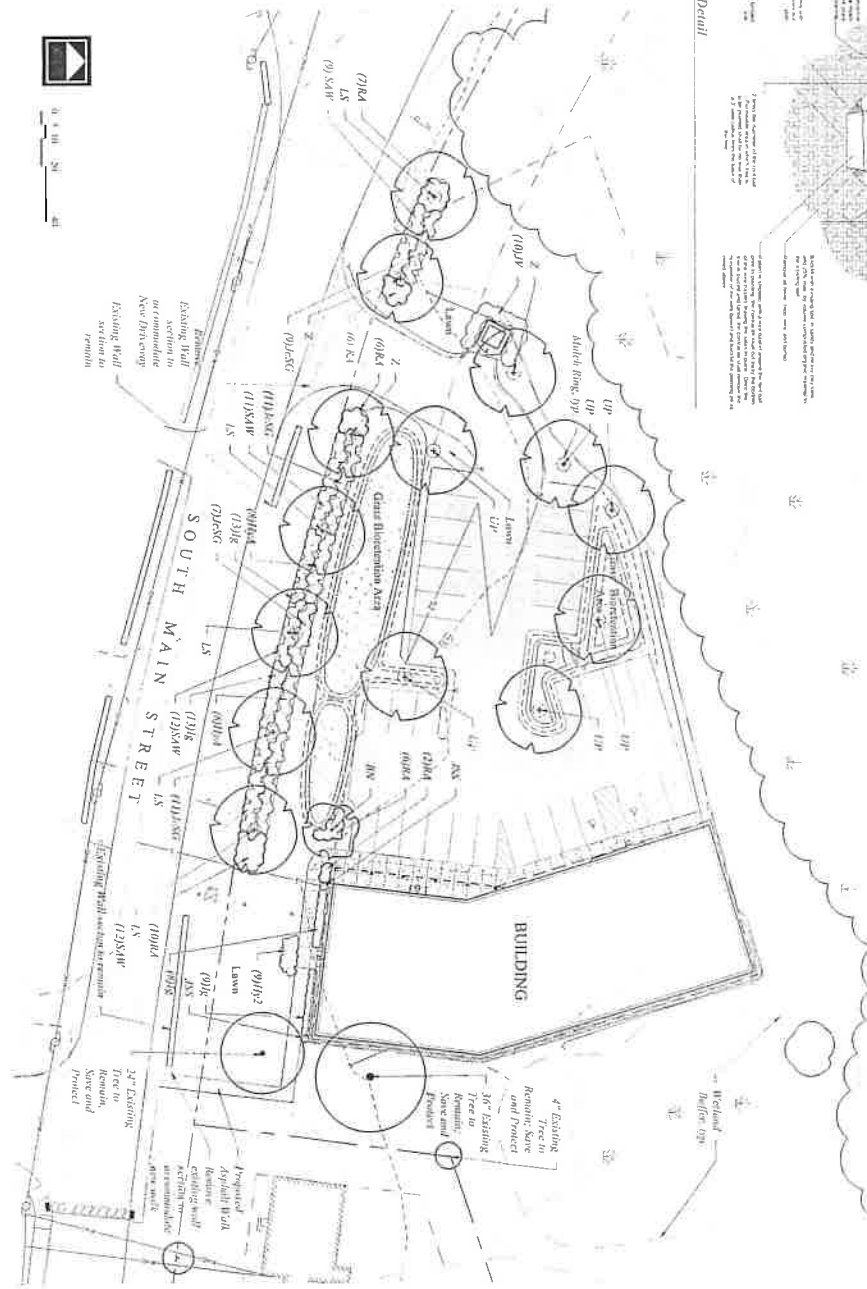
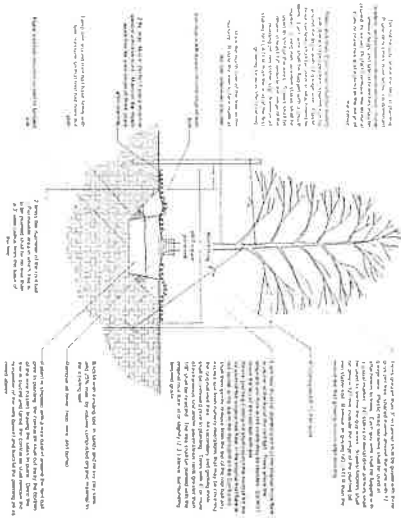
17. The contractor shall be responsible for the safety of the site at all times.

18. The contractor shall be responsible for the protection of the environment.

19. The contractor shall be responsible for the final cleanup and site restoration.

20. The contractor shall be responsible for the overall success of the project.

### Tree Planting Detail



**woodburn & company**  
LANDSCAPE ARCHITECTURE  
100 Main Street, Newmarket, New Hampshire | Phone: 603.852.1234

**242 Main Street**  
**LANDSCAPE PLAN**  
for Lemieux Builders, LLC  
242 South Main Street, Newmarket, New Hampshire

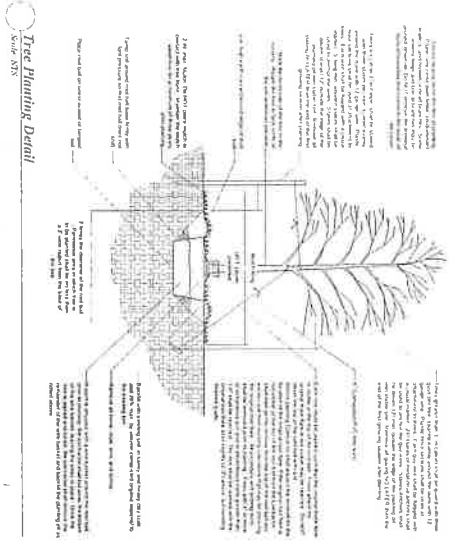
**L-1**

Drawn By: [Name]  
Checked By: [Name]  
Scale: 1" = 30'-0"  
Date: 2023.08.23 (04/24)  
Revisions: [List]

1/16/2024 10:00 AM

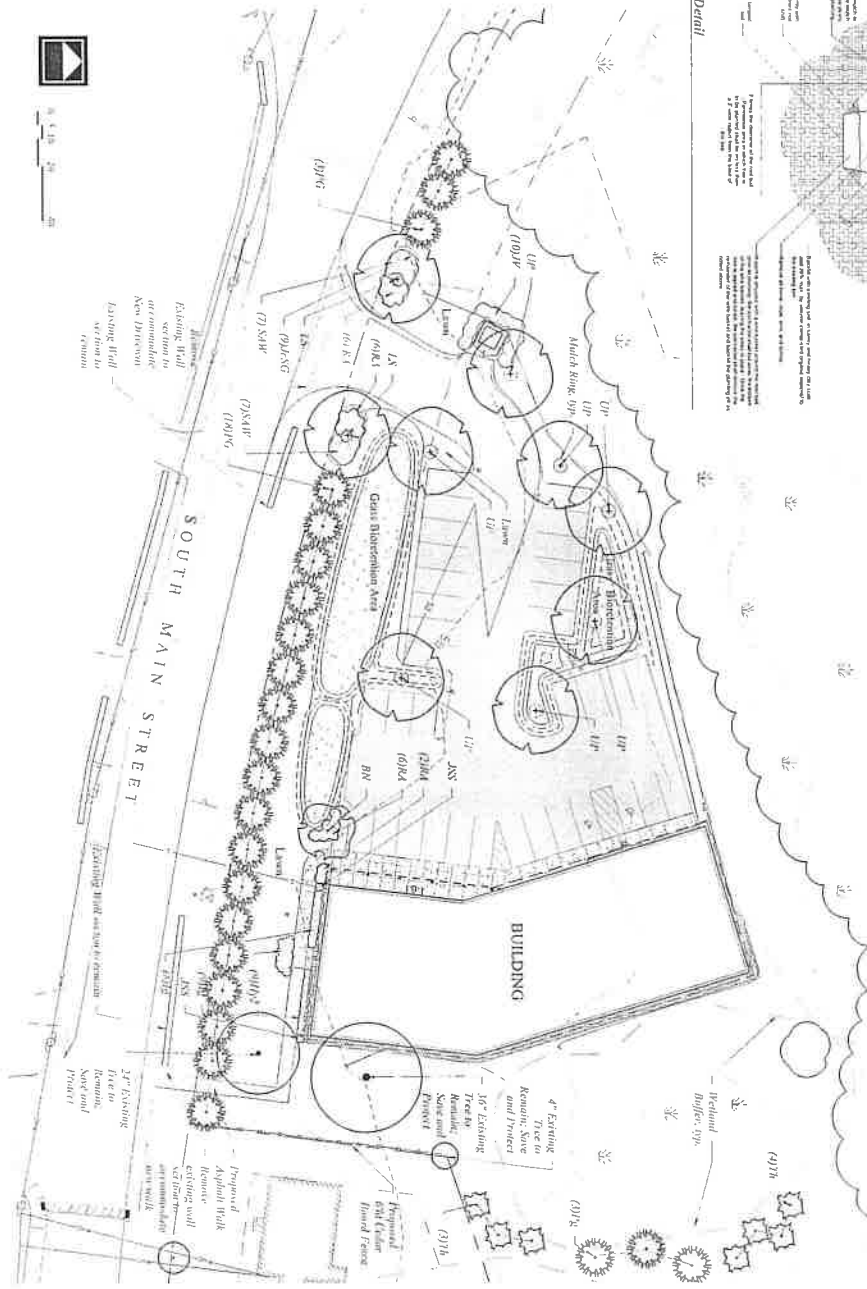
**Landscaping Notes**

1. All trees and shrubs shall be planted in accordance with the following specifications:
2. All trees shall be planted in accordance with the following specifications:
3. All shrubs shall be planted in accordance with the following specifications:
4. All plants shall be planted in accordance with the following specifications:
5. All plants shall be planted in accordance with the following specifications:
6. All plants shall be planted in accordance with the following specifications:
7. All plants shall be planted in accordance with the following specifications:
8. All plants shall be planted in accordance with the following specifications:
9. All plants shall be planted in accordance with the following specifications:
10. All plants shall be planted in accordance with the following specifications:



**Plant List**

Symbol	Botanical Name	Common Name	Quantity	Size	Comments
10	Amelanchier canadensis	Shadbush	2	3" Cal	BBB
11	Amelanchier canadensis	Shadbush	24	8.1/2" Cal	BBB
12	Amelanchier canadensis	Shadbush	20	3" Cal	BBB
13	Amelanchier canadensis	Shadbush	7	3" Cal	BBB
14	Amelanchier canadensis	Shadbush	1	10.1/2" Cal	BBB
15	Amelanchier canadensis	Shadbush	1	10.1/2" Cal	BBB



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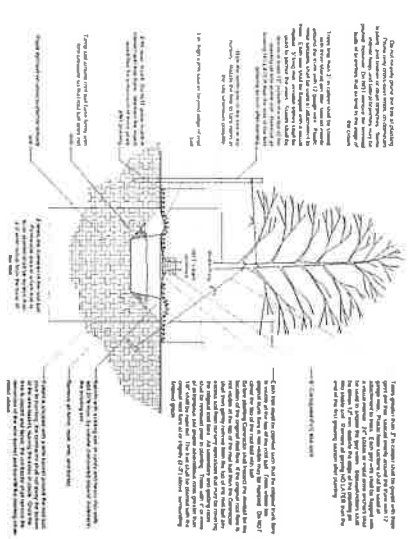
**242 Main Street**  
**LANDSCAPE PLAN**  
 for Lemieux Builders, LLC  
 242 South Main Street, Newmarket, New Hampshire

**woodburn & company**  
 LANDSCAPE ARCHITECTURE  
 100 West Hill, Newmarket, New Hampshire 03854-1000

**LANDSCAPE NOTES**

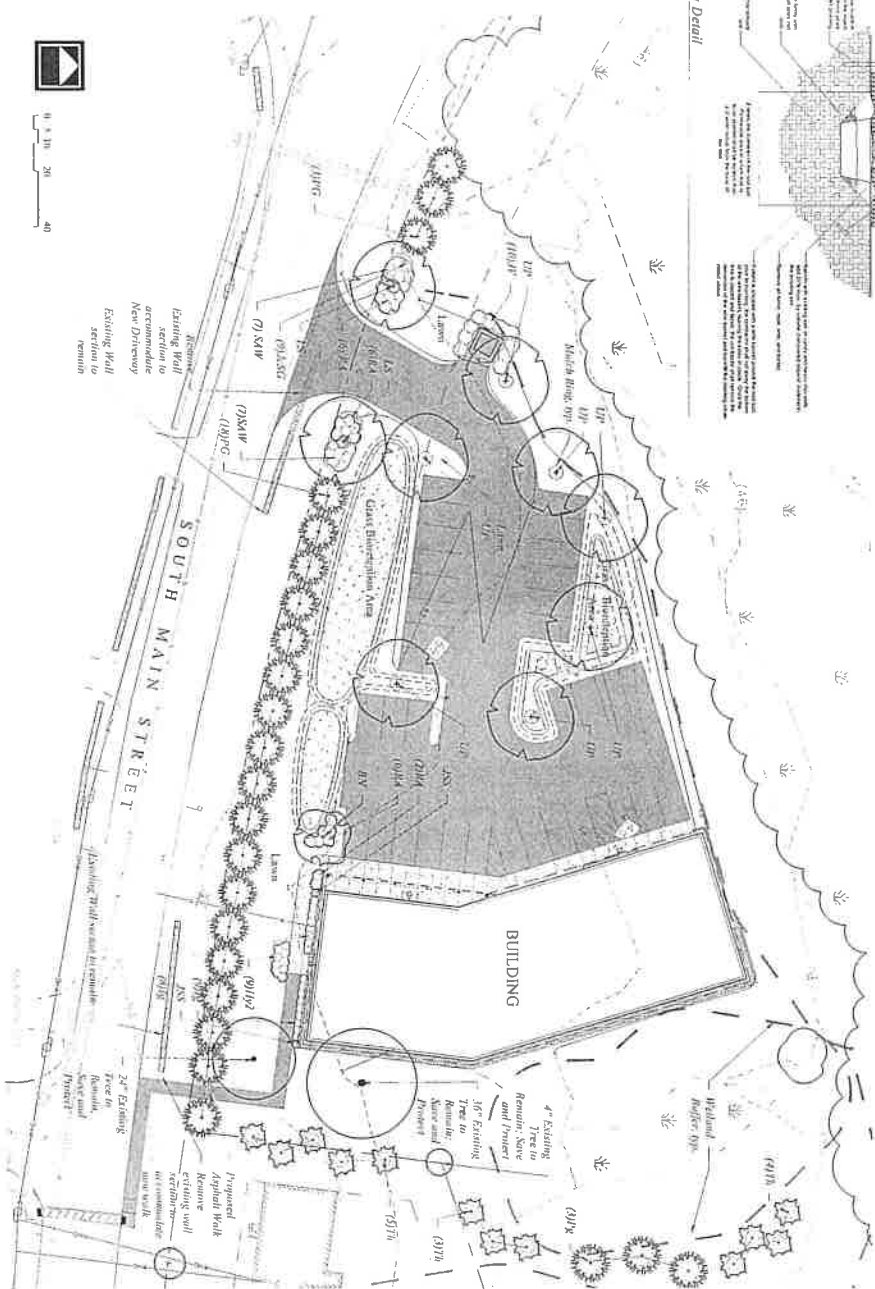
1. All trees to be removed by the Contractor. All trees to be removed shall be removed by the Contractor within 14 days of the start of construction.
2. All trees to be removed shall be removed by the Contractor within 14 days of the start of construction.
3. All trees to be removed shall be removed by the Contractor within 14 days of the start of construction.
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18. All trees to be removed shall be removed by the Contractor within 14 days of the start of construction.
19. All trees to be removed shall be removed by the Contractor within 14 days of the start of construction.
20. All trees to be removed shall be removed by the Contractor within 14 days of the start of construction.

**Tree Planting Detail**



**Plant List**

Plant	Quantity	Notes
1. Red Maple	10	4" Existing
2. White Birch	10	4" Existing
3. Norway Spruce	10	4" Existing
4. Eastern White Pine	10	4" Existing
5. Red Pine	10	4" Existing
6. White Pine	10	4" Existing
7. Norway Spruce	10	4" Existing
8. Eastern White Pine	10	4" Existing
9. Red Pine	10	4" Existing
10. White Pine	10	4" Existing
11. Norway Spruce	10	4" Existing
12. Eastern White Pine	10	4" Existing
13. Red Pine	10	4" Existing
14. White Pine	10	4" Existing
15. Norway Spruce	10	4" Existing
16. Eastern White Pine	10	4" Existing
17. Red Pine	10	4" Existing
18. White Pine	10	4" Existing
19. Norway Spruce	10	4" Existing
20. Eastern White Pine	10	4" Existing
21. Red Pine	10	4" Existing
22. White Pine	10	4" Existing
23. Norway Spruce	10	4" Existing
24. Eastern White Pine	10	4" Existing
25. Red Pine	10	4" Existing
26. White Pine	10	4" Existing
27. Norway Spruce	10	4" Existing
28. Eastern White Pine	10	4" Existing
29. Red Pine	10	4" Existing
30. White Pine	10	4" Existing
31. Norway Spruce	10	4" Existing
32. Eastern White Pine	10	4" Existing
33. Red Pine	10	4" Existing
34. White Pine	10	4" Existing
35. Norway Spruce	10	4" Existing
36. Eastern White Pine	10	4" Existing
37. Red Pine	10	4" Existing
38. White Pine	10	4" Existing
39. Norway Spruce	10	4" Existing
40. Eastern White Pine	10	4" Existing
41. Red Pine	10	4" Existing
42. White Pine	10	4" Existing
43. Norway Spruce	10	4" Existing
44. Eastern White Pine	10	4" Existing
45. Red Pine	10	4" Existing
46. White Pine	10	4" Existing
47. Norway Spruce	10	4" Existing
48. Eastern White Pine	10	4" Existing
49. Red Pine	10	4" Existing
50. White Pine	10	4" Existing
51. Norway Spruce	10	4" Existing
52. Eastern White Pine	10	4" Existing
53. Red Pine	10	4" Existing
54. White Pine	10	4" Existing
55. Norway Spruce	10	4" Existing
56. Eastern White Pine	10	4" Existing
57. Red Pine	10	4" Existing
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59. Norway Spruce	10	4" Existing
60. Eastern White Pine	10	4" Existing
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68. Eastern White Pine	10	4" Existing
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71. Norway Spruce	10	4" Existing
72. Eastern White Pine	10	4" Existing
73. Red Pine	10	4" Existing
74. White Pine	10	4" Existing
75. Norway Spruce	10	4" Existing
76. Eastern White Pine	10	4" Existing
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79. Norway Spruce	10	4" Existing
80. Eastern White Pine	10	4" Existing
81. Red Pine	10	4" Existing
82. White Pine	10	4" Existing
83. Norway Spruce	10	4" Existing
84. Eastern White Pine	10	4" Existing
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86. White Pine	10	4" Existing
87. Norway Spruce	10	4" Existing
88. Eastern White Pine	10	4" Existing
89. Red Pine	10	4" Existing
90. White Pine	10	4" Existing
91. Norway Spruce	10	4" Existing
92. Eastern White Pine	10	4" Existing
93. Red Pine	10	4" Existing
94. White Pine	10	4" Existing
95. Norway Spruce	10	4" Existing
96. Eastern White Pine	10	4" Existing
97. Red Pine	10	4" Existing
98. White Pine	10	4" Existing
99. Norway Spruce	10	4" Existing
100. Eastern White Pine	10	4" Existing



## 242 Main Street

LANDSCAPE PLAN  
for Lemieux Builders, LLC  
242 South Main Street, Newmarket, New Hampshire

woodburn & company  
LANDSCAPE ARCHITECTURE  
125 Elm Street, New Hampshire Phone: 603.475.1254

# L-1

Sheet 1 of 1

WWS  
1-2-2014  
3/23/2014  
3/23/2014  
3/23/2014

