



# **TOWN OF KILLINGLY, CT ZONING BOARD OF APPEALS**

**Thursday – July 13, 2023**

**Regular Meeting – In Person Meeting**

**7:00 PM**

**Town Meeting Room – 2<sup>nd</sup> Floor**

**Killingly Town Hall**

**172 Main Street**

**Killingly, CT**

## **AGENDA**

RECEIVED  
TOWN CLERK  
2023 JUL -7 AM 10:38  
Elyse G. Gagnier

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. CITIZEN PARTICIPATION** -- Public comment can be emailed to [publiccomment@killinglyct.gov](mailto:publiccomment@killinglyct.gov) or mailed to Town of Killingly, 172 Main Street, Killingly, CT 06239 on or before the meeting. All public comments received prior to 2:00 PM on the day of the meeting will be posted on the Town's website [www.killingly.org](http://www.killingly.org).

**IV. PUBLIC HEARINGS – (Review/Discussion/Action)**

1. **Application #23-834 of Michael Shabenas;** to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from street line from 40' to 21.8', for a two-bedroom home. Property located at 254 Wheatly St; GIS MAP 159, LOT 116.1; MD.

**V. UNFINISHED BUSINESS – (Review/Discussion/Action)**

1. **Application #23-834 of Michael Shabenas;** to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from street line from 40' to 21.8', for a two-bedroom home. Property located at 254 Wheatly St; GIS MAP 159, LOT 116.1; MD.

**VI. NEW BUSINESS**

**Annual Organizational Meeting**

1. Review of By-Laws (Review/Discussion/Action)
2. Election of Officers (Review/Discussion/Action)
  - i. Meeting turned over to Staff Liaison.
  - ii. Call for nominations.
  - iii. Verify acceptance by nominees.
  - iv. Call for a vote.
  - v. Meeting turned back to new Chair.

**VII. ADOPTION OF MINUTES**

1. April 13, 2023, Regular Meeting

**VIII. CORRESPONDENCE TO THE BOARD**

**IX. COUNCIL LIAISON**

**X. ADJOURNMENT**

## **STAFF REPORT**

### **GENERAL INFORMATION: VARIANCE #23-834**

**REQUEST:** Application #23-834 of Michael Shabenas; to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from street line from 40' to 21.8', for a two-bedroom home. Property located at 254 Wheatly St; GIS MAP 159, LOT 116.1; MD.

**PURPOSE:** To vary the Town of Killingly Zoning Regulation Section 450, Table A, Min. setback from the street line from 40' to 21. 8' to allow for the construction of a two-bedroom home.

**APPLICANT:** Michael Shabenas

**OWNER:** Michael Shabenas, Jessica Obrien, Jeffrey Buchbinder & Irving Buchbinder

**PARCEL ID:** Map #7835, Alt ID 159-116.1

**LOCATION:** 245 Wheatly Street

**ZONING:** Medium Density Zone, Town of Killingly

**REPORT BY:** Jonathan Blake, Planner / Zoning Enforcement Officer

**SUMMARY:** The applicant would like to construct a two-bedroom home with an attached one car garage. The proposed construction is slab on grade. The property has areas that have been identified as containing wetland soils and the Davis Brook runs across the southern portion of the property. The proposed construction would include the installation of a septic system and the utilization of public water. Approval from the Killingly Inland Wetlands and Watercourses Commission will be required prior to construction.

The following documents have been provided for the Boards review: application, abutters list, abutters map, property card, GIS map, site development plan (A2 survey) and correspondence from NDDH (dated June 13, 2023).

The applicant is claiming a hardship under Section 800.2.1 (a,b,c,d) as described in the application to the board.

**REGULATION:** Article VIII. Zoning Board of Appeals; Section 800.2 of the Zoning Regulations of the Town of Killingly specifically states that a *“variance from the terms of these regulations shall not be granted by the Zoning Board of Appeals unless and until...a written application for a variance is submitted on a form prescribed by the commission demonstrating:*

*800.2.1.a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the district.*

*800.2.1.b. That literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.*

*800.2.1.c. That the special conditions and circumstances do not result from actions of the applicant. Purchase or lease of the property shall not constitute such an "action" in this instance.*

*800.2.1.d. That granting the variance requested will not confer upon the applicant any special privilege that is denied by these regulations to other lands, structure or buildings in the same district.*

The regulations require that all four criteria be met for the Board to grant a variance request. In addition, Section 800.2.5 demands that the Board grant only the "minimum variance necessary" for a "reasonable use of the property".

**RECOMMENDATION:**

Staff recommends the board listen to the testimony presented during the public hearing and weigh the information submitted against items 800.2.1.a-d listed above. If sufficient evidence is presented, then the variance can be granted for those reasons.

In all variance approvals, the minimum variance necessary to accomplish the goal needs to be granted.

435-cl 892

Application... 23-834  
Date Submitted: 6/21/23  
Date of Receipt by Board Fee: \_\_\_\_\_  
Staff Initials: \_\_\_\_\_

**KILLINGLY ZONING BOARD OF APPEALS APPLICATION**

A \$435.00 fee must accompany each application. THIS FEE IS NONREFUNDABLE. Checks or money orders must be payable to the Town of Killingly.

TO BE COMPLETED BY THE APPLICANT -PLEASE PRINT

Applicant's Name MICHAEL SHABENAS  
Day Phone # 860-455-6329 Evening Phone # 860-455-6329  
Address 204 HARTFORD PIKE, DAYVILLE 06241  
Owner of Land MICHAEL SHABENAS, JESSICA O'BRIEN, JEFFERY & IRVING BUCHBINDER  
Address SAME Phone # SAME

LOCATION OF PROPERTY

Street 254 WHEATLY STREET  
GIS # 159-116 Lot 116.1 Zoning District MD Lot Size 0.26 AC Frontage 99.78'  
-001-000

TYPE OF APPLICATION (Check appropriate box):

- ☒ A variance in the application of the Zoning Regulations is requested.
- ☐ There is an error in an order, requirement or decision made by the Zoning Enforcement Officer (Appeal)
- ☐ Other (Specify)

APPLICANT REQUESTS A REDUCTION IN THE FRONTYARD SETBACK  
From 40' to ~~25~~ 21.8'

Current Property Use: VACANT LAND  
(Residential, commercial, industrial)

Proposed Property Use: RESIDENTIAL  
(Residential, commercial, industrial)

Has any previous Planning & Zoning Commission or Zoning Board of Appeals Application been requested for this property? If so, provide Application #, Applicant's Name and/or Date:

No

Briefly describe the proposed project and/or activity:

CONSTRUCTION OF A SINGLE FAMILY HOME WITH ON-SITE  
SEPTIC & PUBLIC WATER

State the appropriate section(s) of the Zoning Regulations you wish to vary or appeal:  
Board action requested by the applicant:

TABLE A - DIMENSIONAL REQUIREMENTS

Is unnecessary hardship claimed? YES. If yes, state the specific hardship with respect to Zoning Regulations, Section 800.2.1 a. b. c & d. Please note a hardship cannot be financial in nature.

VARIANCE IS NEEDED TO INSTALL A CODE COMPLIANT SEPTIC  
SYSTEM. CONNECTION TO PUBLIC SEWER WOULD REQUIRE A  
SIGNIFICANT WETLANDS CROSSING OR DEEP EXCAVATION IN THE  
STATE ROADWAY THAT WAS RECENTLY RESURFACED

## ATTACHMENTS:

The following items must be provided to complete this application:

(Check if provided. N/A if not applicable)

- ☒ Site Plan to a scale of 1" = 20' or 1" = 40', including
  - ☒ Location and size of existing buildings and uses
  - ☒ Location and size of proposed buildings and uses
  - ☒ Dimensions of the lot and required and proposed setbacks
  - ☒ Driveways and parking areas
  - ☒ Wells/Water Lines
  - ☒ Septic System/Sewer Lines
  - ☐ Accessory structures (swimming pools, tool sheds, etc.)
  - ☒ Wetlands and water courses
  - ☐ Distinguishing boundary or other landmark features such as stone walls, large trees, etc.

NOTE: AN A-2 SURVEY/SITE PLAN MAY BE REQUIRED

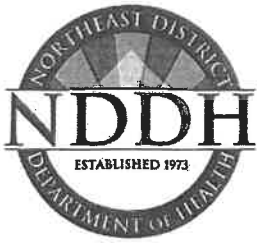
- ☒ Names and addresses of adjoining property owners
- ☒ Copies of the Tax Assessor's property card for this location (Both sides -available in Assessor's Office)
- ☐ Verification (through Attorney's letter, title searcher and/or complete deed history) of nonconforming lots of record (if applicable). (Zoning implementation: Town of Killingly: May 26, 1975, Borough of Danielson: September 1, 1960)
- ☒ One 8 1/2" X 11" G.I.S. map of the property and surrounding area. (Available in Planning & Zoning Department)
- ☒ Other exhibits or documents supplied by applicant -please specify:

NDDH APPROVAL LETTER

The undersigned hereby authorizes the Killingly Zoning Board of Appeals, or its agents, to enter upon the property for the purpose of inspection and enforcement of the Town of Killingly and/or Borough of Danielson Zoning Regulations.

Signed: Robert G. [Signature] Date: 6-20-25  
(Applicant)

Signed: Robert G. [Signature] Date: 6-20-25  
(Owner)



# NORTHEAST DISTRICT DEPARTMENT OF HEALTH

69 SOUTH MAIN STREET • UNIT 4 • BROOKLYN, CT 06234  
PHONE (860) 774-7350 • FAX (860) 774-1308 • WEB SITE WWW.NDDH.ORG

June 13, 2023

Michael Shabenas & Jessica O'Brien & Irving & Jeffrey Buchbinder  
204 Hartford Pike  
Killingly, CT 06241

**SUBJECT: FILE #23000196 -- WHEATLEY STREET #254, MAP #159, LOT #116.1, KILLINGLY, CT**

Dear Michael Shabenas & Jessica O'Brien & Irving & Jeffrey Buchbinder:

The subject plan (KILLINGLY ENGINEERING ASSOCIATES, SHABENAS, JOB#23046, DRAWN 03/30/2023) submitted on 05/17/2023 has been reviewed, as requested. Following completion of this review, it has been determined that the subject plan will meet the requirements of the Technical Standards for a 2 bedroom house based on the following:

1. CT licensed surveyor must stake house, benchmark, and septic system, offset stakes to include flow line or bottom of trench elevation.
2. Permanent benchmark to be set within 15 feet of septic system.
3. A bottom of excavation inspection is required once the topsoil and fill material have been removed.
4. A current sieve analysis of select fill material (within past 30 days) must be submitted to the Northeast District Department of Health (NDDH).
5. Select fill is to be perced once in place.
6. A set of house plans must be submitted prior to an Approval to Construct Permit being issued.
7. An engineer/surveyor's As-Built drawing (to include ties to the house) is to be submitted following the final inspection and approval of installation by NDDH.
8. Installer to schedule and be present for the final inspection with NDDH staff. Level to be set up for verification of elevations OR an Engineer's As Built will be required.

This letter is NOT to be construed as an APPROVAL TO CONSTRUCT the septic system and DOES NOT indicate that the Northeast District Department of Health endorses approval for issuance of any building permit.

Prior to the start of construction of the septic system, you must apply for your Approval to Construct Permit and submit the applicable fees to this office. A set of the floor plans of your house must be submitted to NDDH for review. Your CT licensed installer must come in to this department to sign for the permit if we do not have his signature on file. Office hours are Mon - Thurs 8 am - 4 pm, Fri 8 am - Noon.

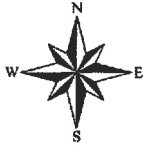
**THE OWNER IS RESPONSIBLE TO SEEK PROPER AUTHORIZATION FROM ALL TOWN AGENCIES PRIOR TO START OF CONSTRUCTION.**

Should you have any questions, please do not hesitate to contact this office.

Sincerely,

Donovan Moe, EHS  
Environmental Health Specialist-NDDH

cc: Killingly Building Official; Killingly Engineering Associates



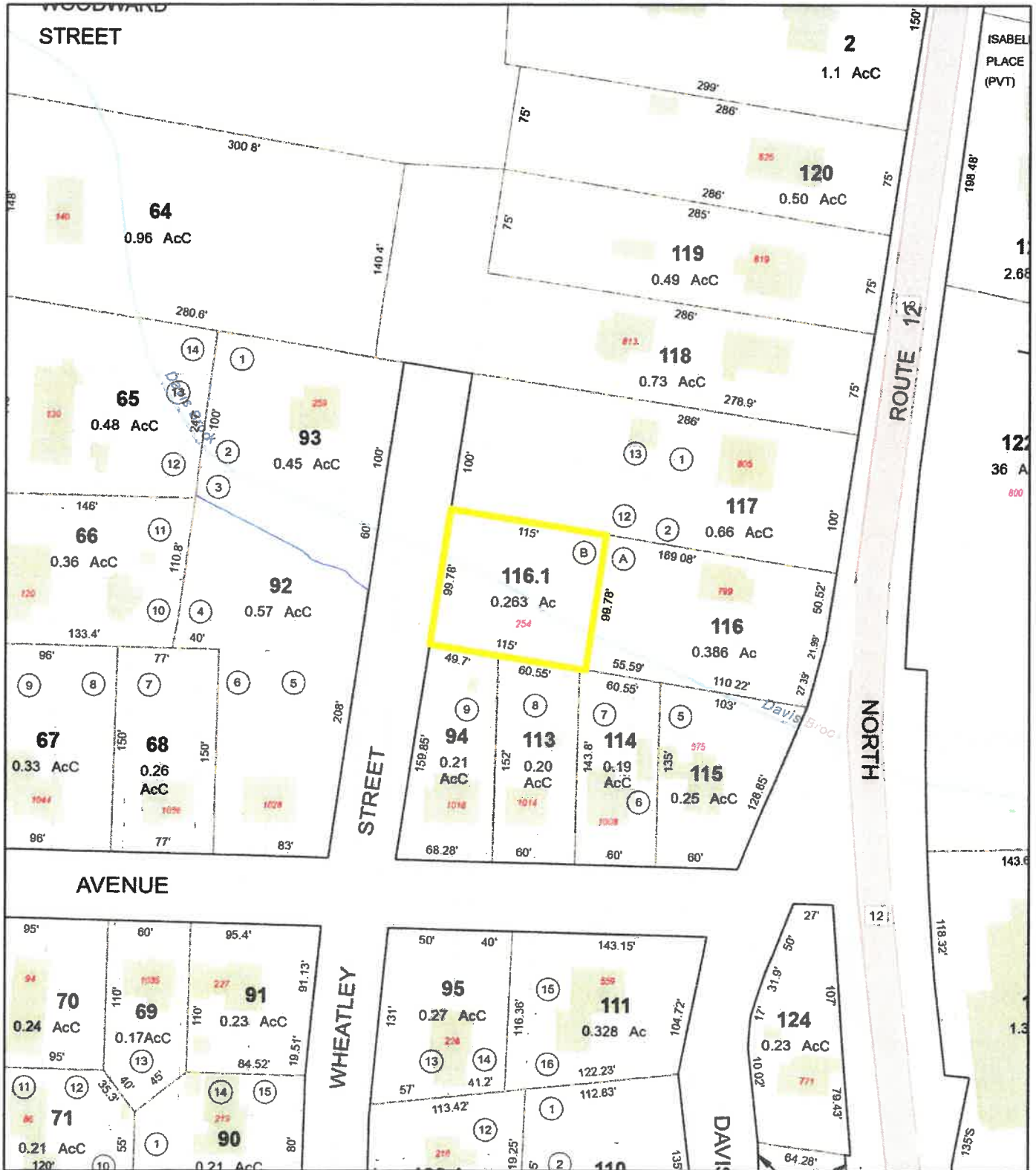
Town of Killingly, CT

1 inch = 100 Feet



www.cai-tech.com

June 20, 2023



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# 50 feet Abutters List Report

Killingly, CT  
June 20, 2023

## Subject Property:

Parcel Number: 159-116-001  
CAMA Number: 159-116-001-000 7835  
Property Address: 254 WHEATLEY ST

Mailing Address: SHABENAS MICHAEL A & OBRIEN  
JESSICA & BUCHBINDER IRVING &  
JEFFREY  
204 HARTFORD PIKE  
KILLINGLY, CT 06241

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## Abutters:

Parcel Number: 159-092-000  
CAMA Number: 159-092-000-000 5547  
Property Address: 1028 DAVIS AV

Mailing Address: ISBELL JARED M & MEGAN I  
1028 DAVIS AV  
KILLINGLY, CT 06239

Parcel Number: 159-093-000  
CAMA Number: 159-093-000-000 2218  
Property Address: 259 WHEATLEY ST

Mailing Address: MAXIMOWICZ PAUL J & ANN M  
259 WHEATLEY ST  
KILLINGLY, CT 062390000

Parcel Number: 159-094-000  
CAMA Number: 159-094-000-000 93  
Property Address: 1018 DAVIS AV

Mailing Address: ANNALISE REALTY LLC  
344 WINDHAM RD  
HAMPTON, CT 06247

Parcel Number: 159-113-000  
CAMA Number: 159-113-000-000 640  
Property Address: 1014 DAVIS AV

Mailing Address: BRIEN RAYMOND J  
1014 DAVIS AV  
KILLINGLY, CT 06239

Parcel Number: 159-114-000  
CAMA Number: 159-114-000-000 2252  
Property Address: 1008 DAVIS AV

Mailing Address: DAHER JOEY J US BANK TRUST NATL  
ASSOC AS OWNER TRUSTE  
1008 DAVIS AV  
KILLINGLY, CT 06239

Parcel Number: 159-116-000  
CAMA Number: 159-116-000-000 891  
Property Address: 799 NO MAIN ST

Mailing Address: LESTER JUDY L  
799 NO MAIN ST  
KILLINGLY, CT 06239

Parcel Number: 159-117-000  
CAMA Number: 159-117-000-000 2559  
Property Address: 805 NO MAIN ST

Mailing Address: NAKAGAWA JOANN  
805 NO MAIN ST  
KILLINGLY, CT 06239

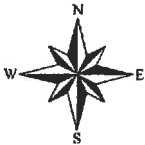


[www.cai-tech.com](http://www.cai-tech.com)

6/20/2023

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Page 1 of 1



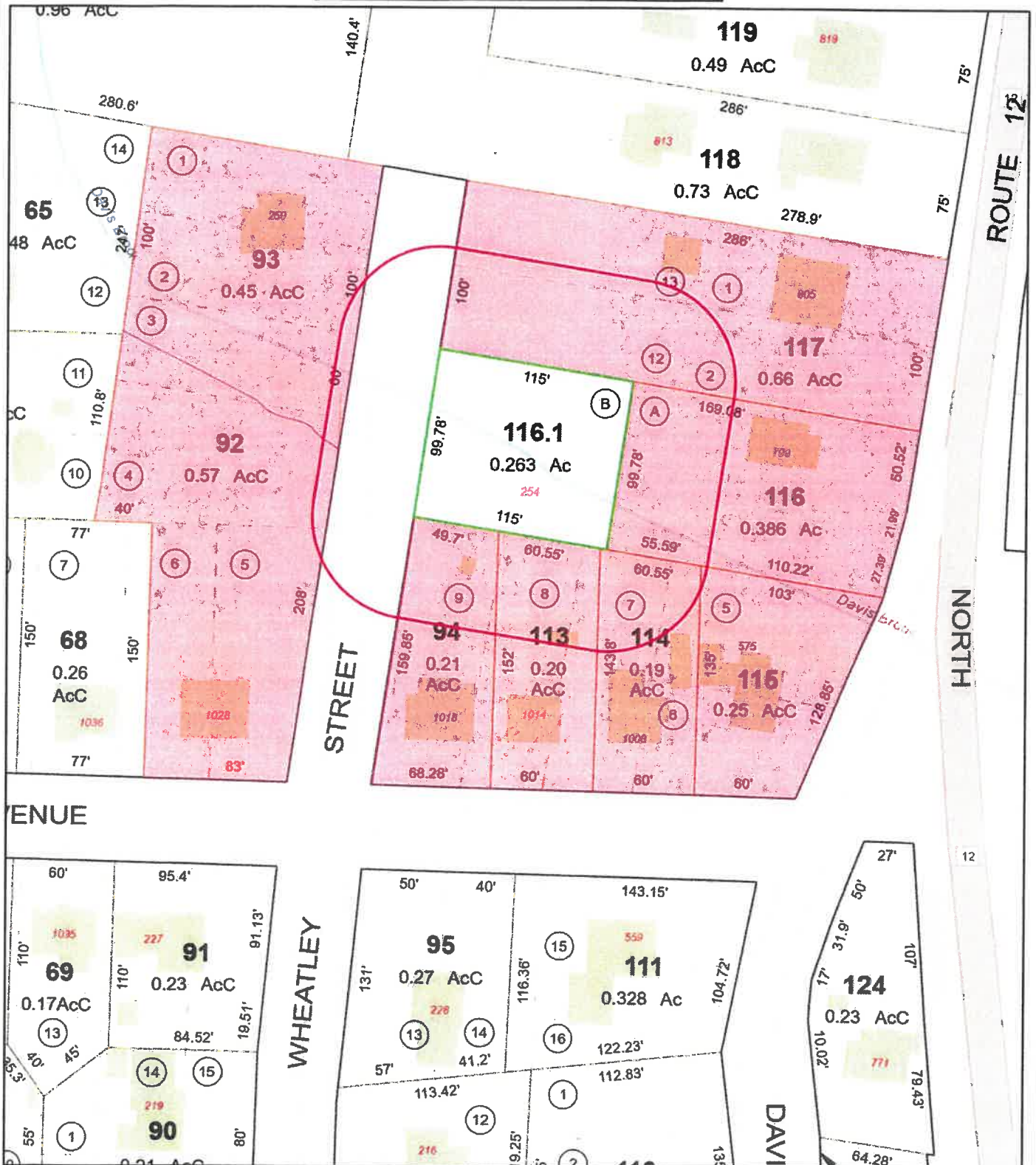
Town of Killingly, CT

1 inch = 80 Feet



www.cai-tech.com

June 20, 2023



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**Card No:** 1 Of 1

Revaluation Date: 10/1/2018

Unique ID: 7835

Killinalv

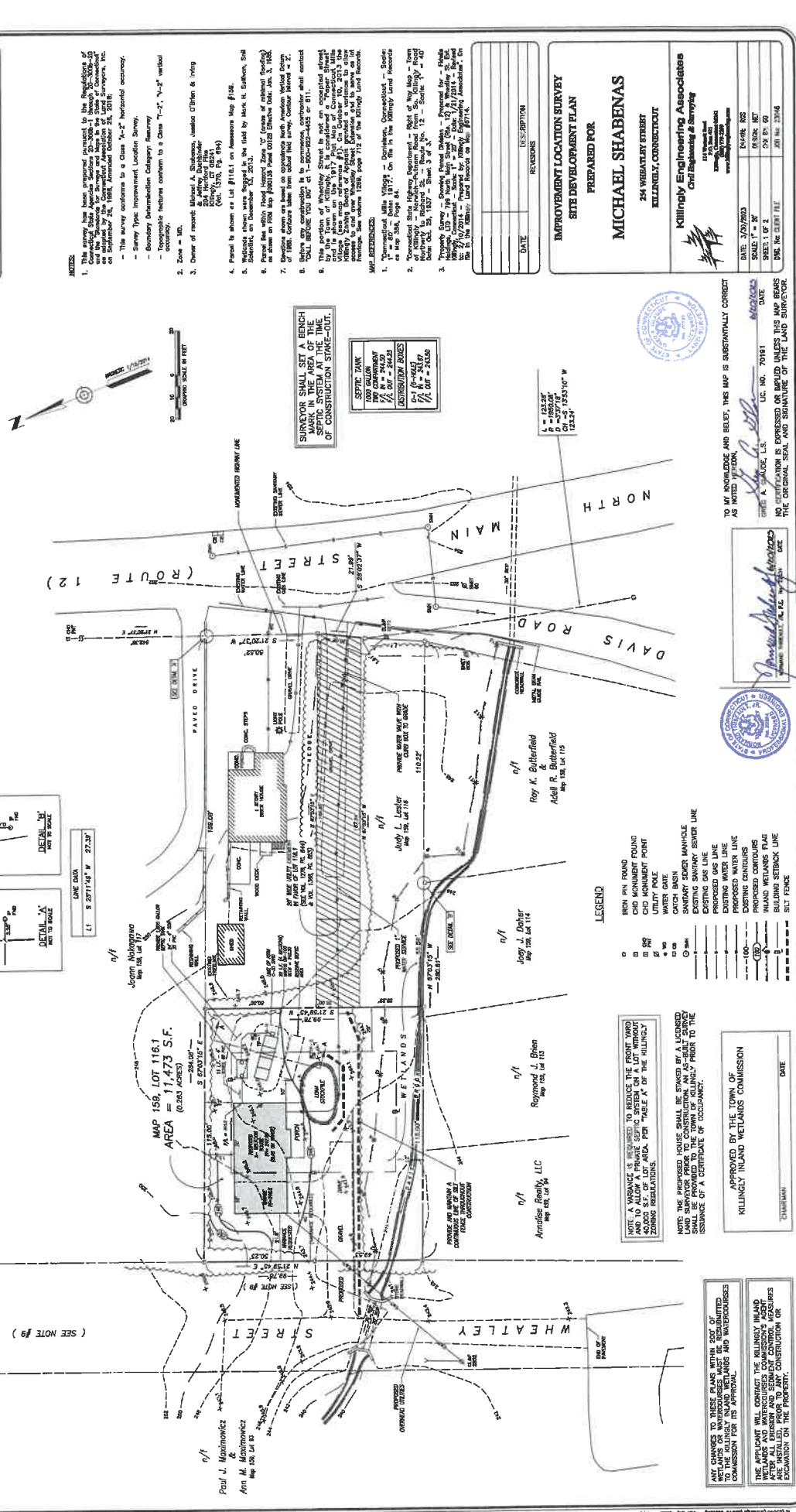
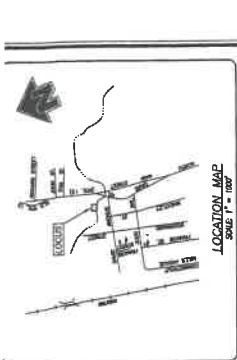
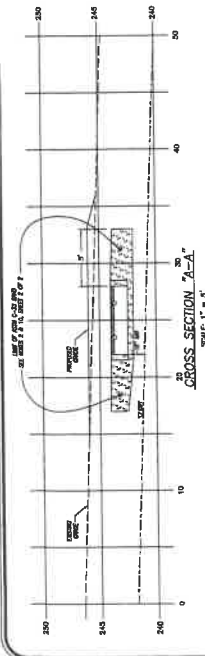
Card No: 1 Of 1

Location:	254 WHEATLEY ST							
Map Id:	159-116.1							
General Description		Description	Area/Qty					
Building Use								
Units								
Overall Condition								
Class								
Stories								
Design (Style)								
Construction								
Year Built								
Percent Complete								
Finished Area								
Foundation								
Basement Area								
Finished Basement								
Garage Bays								
Outside Entry								
Sump Pump								
Attached Components								
HVAC		Type	Year	Area				
Heating Type								
Fuel								
Cooling Type								
Interior								
Floors								
Attic Access								
Walls								
Bath Cond								
Kitchen Cond								
Exterior								
Exterior								
Roof Cover								
Roof Type								
Special Features								
Type	Count/Area							
Total Building Value:								
Detached Component Computations								
Type	Year	Condition	Area/Qty	Type	Year	Condition	Area/Qty	
Room Summary								
Total	Bedroom	Kitchens	Full Baths	Half Baths				

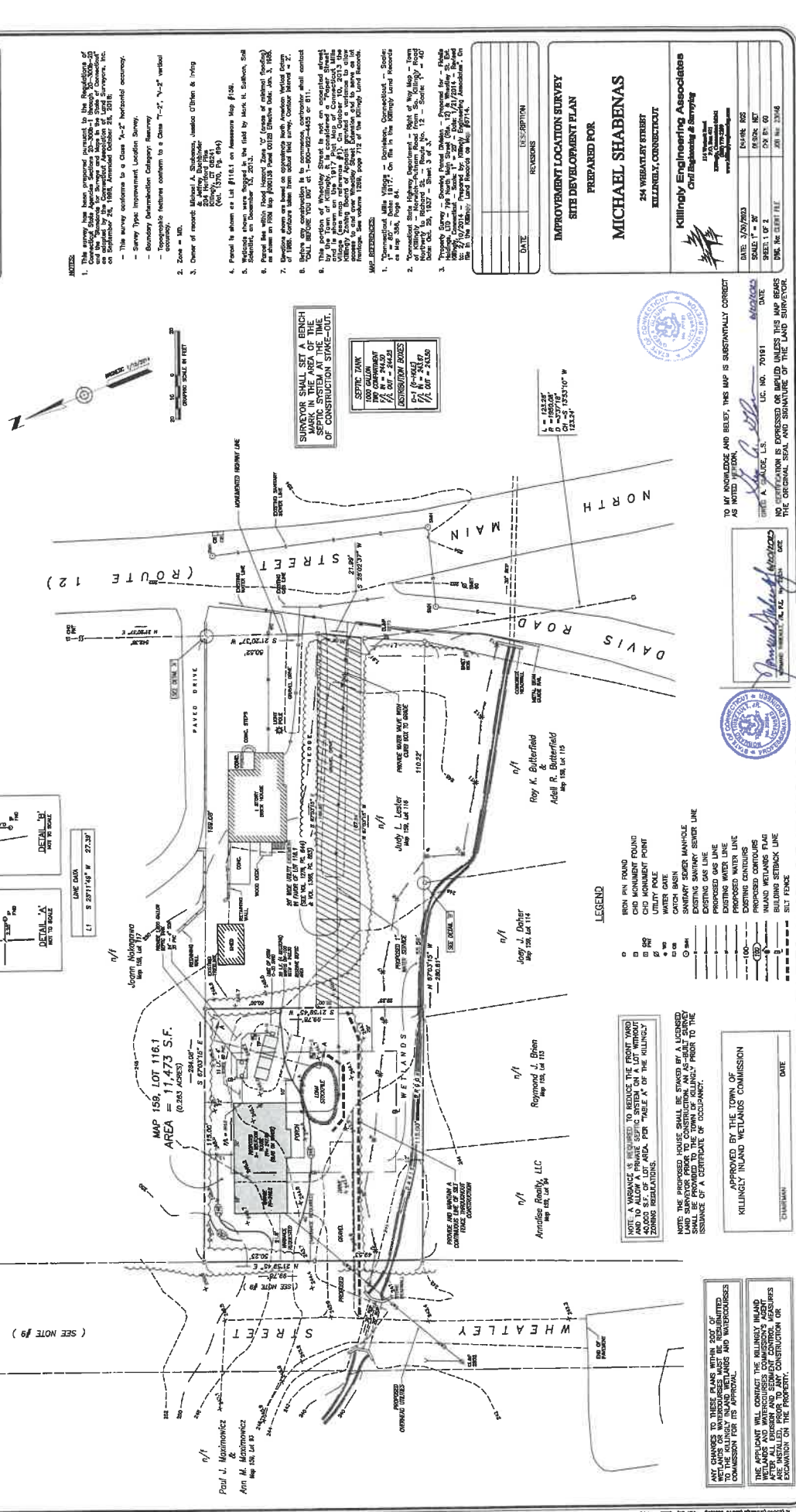
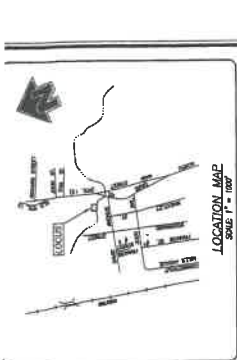
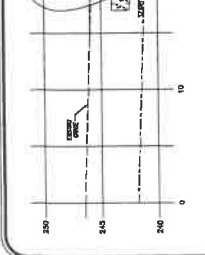
SEPTIC SYSTEM DESIGN DATA

- Percolation Rate = 6.7 min. / in.
- 2 bedrock houses require
- Effective Loading area = 50 s.f. / ft. of drain inside DW-150
- Length Required = 374/20 = 18.70 L.F.
- Length Provided = 20 L.F.
- Min. Loading System Spread = Not Applicable
- M.S. Provided = 20'
- LEACHING BEDS
- One 20' row (4 sections) = 80' (one 20' row recommended)
- Medium depth hole drilling area = 30' (one 20' row recommended)

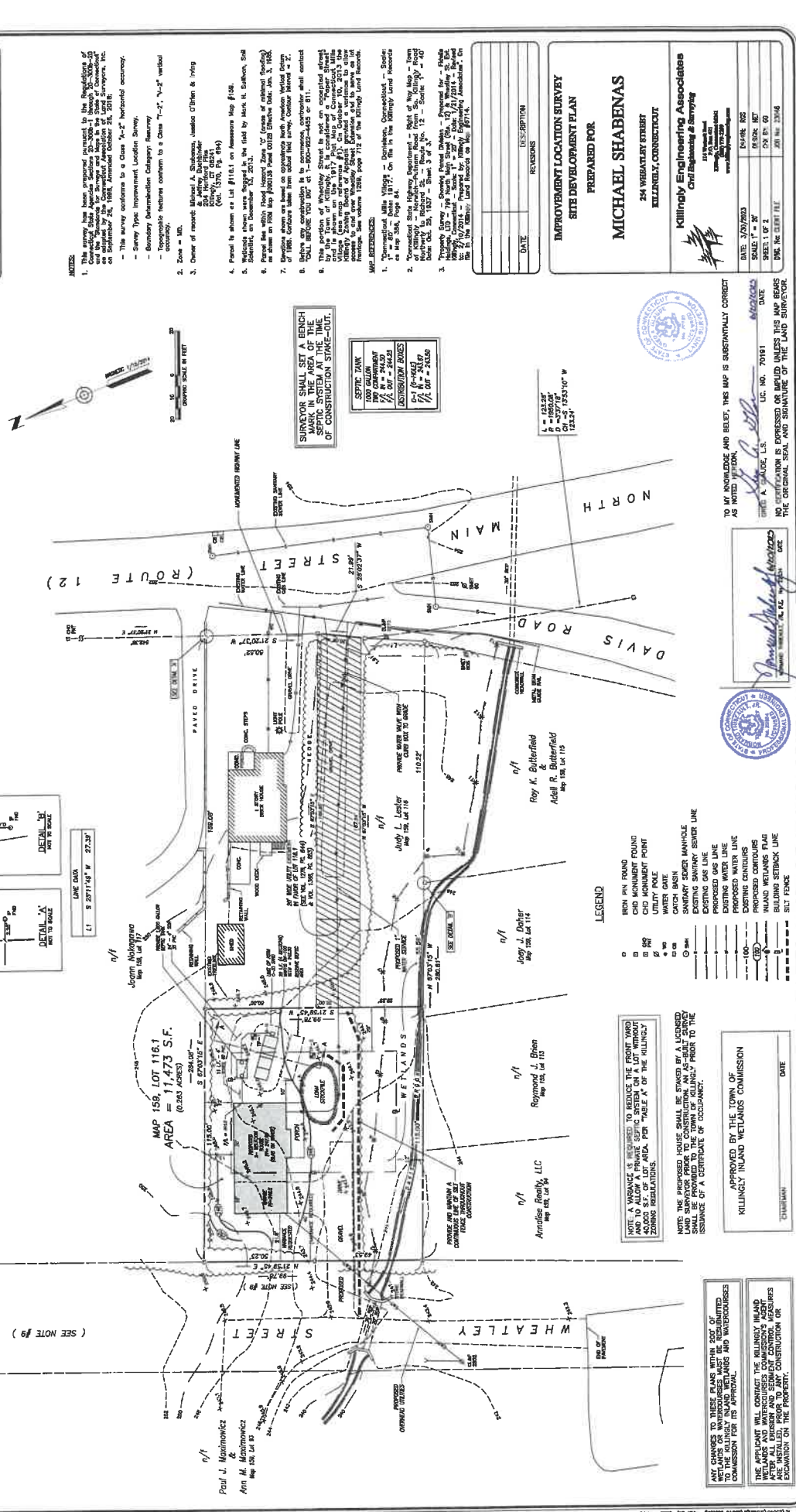
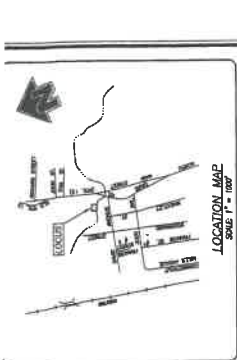
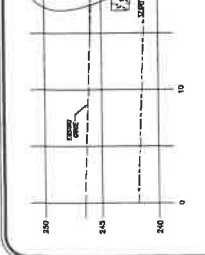
PROPOSED LOT AREA - March 28, 2023  
Richard J. Manton, Assistant



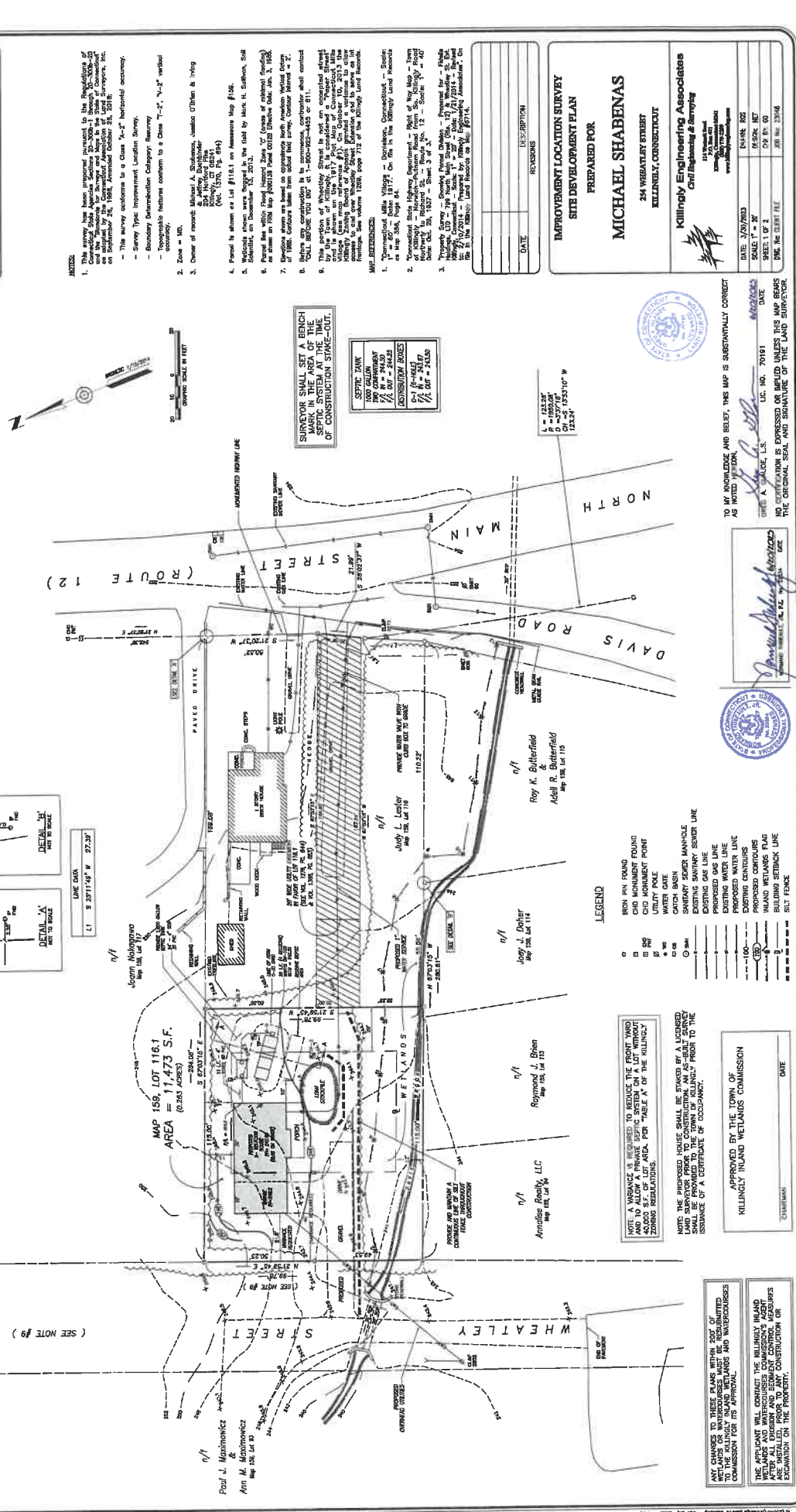
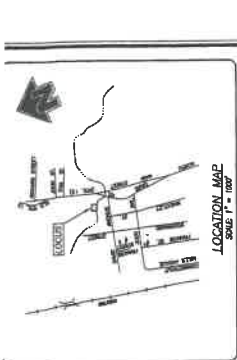
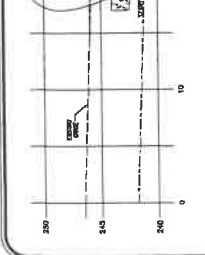
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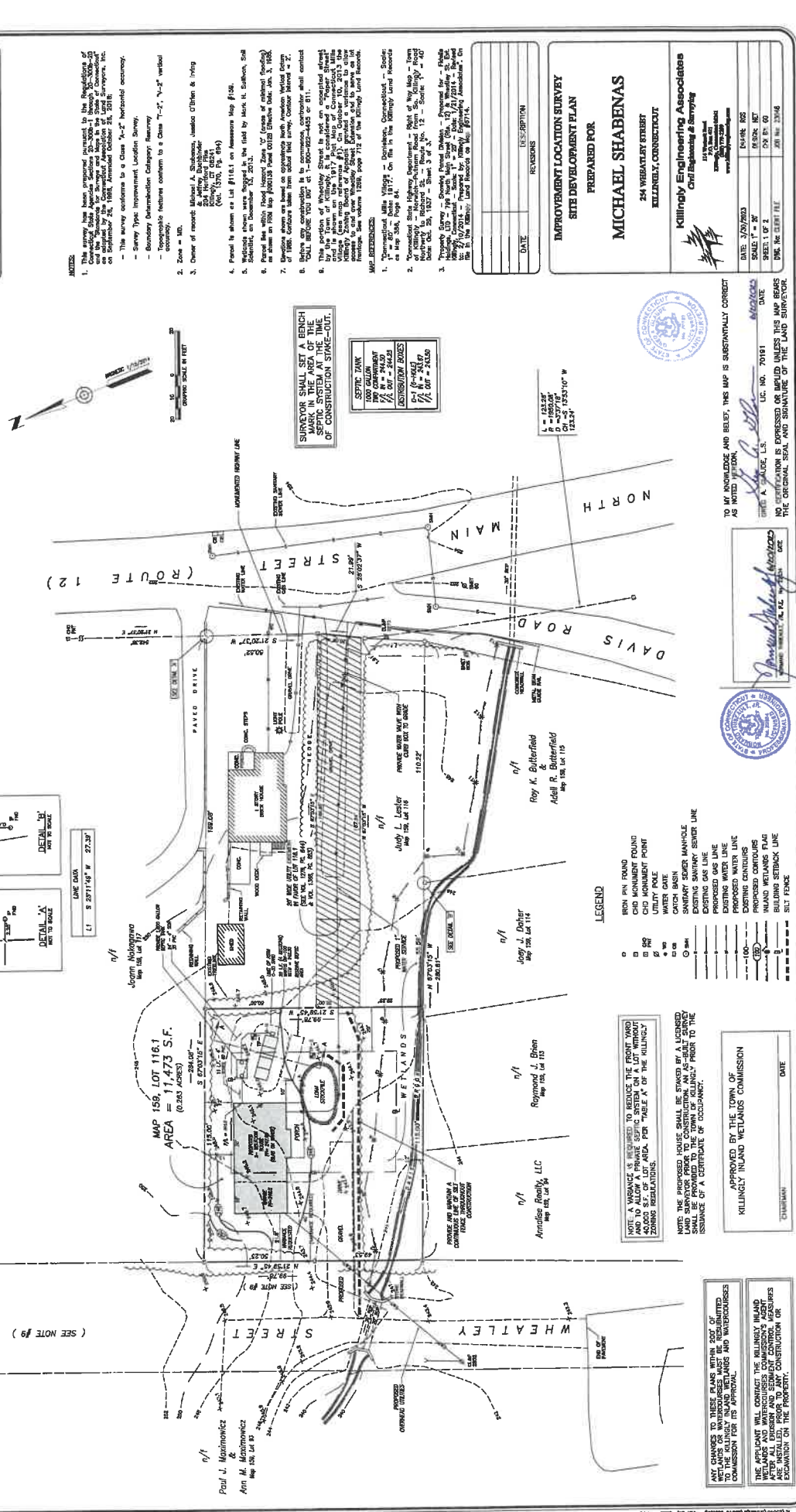
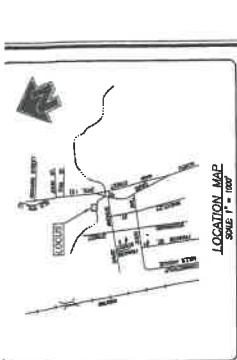
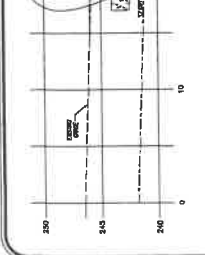
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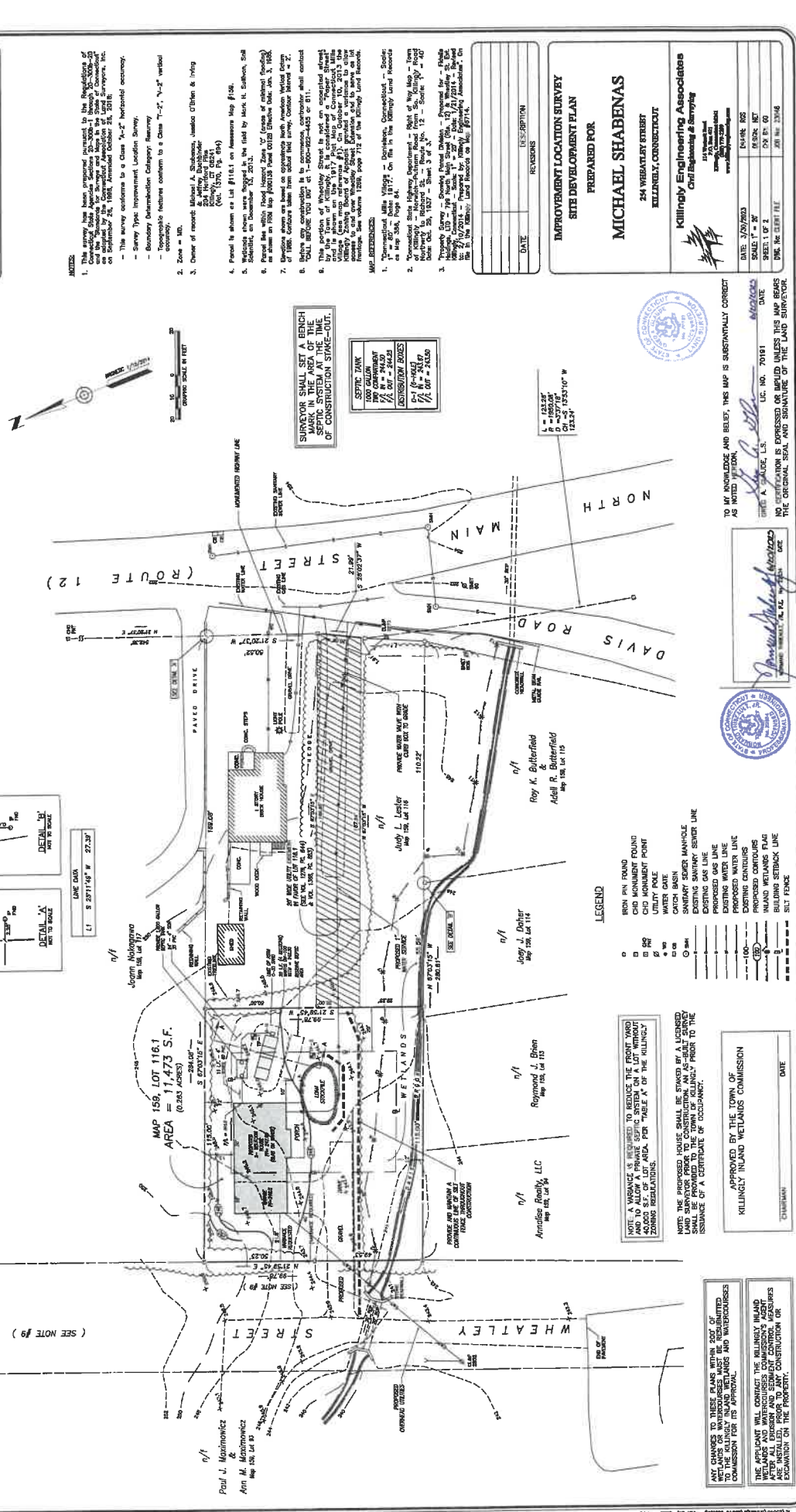
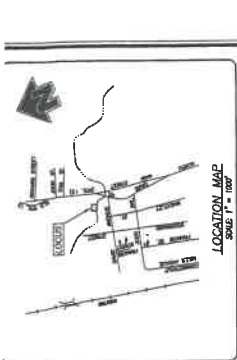
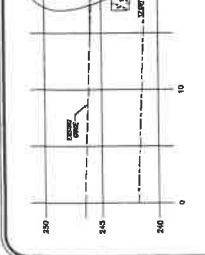
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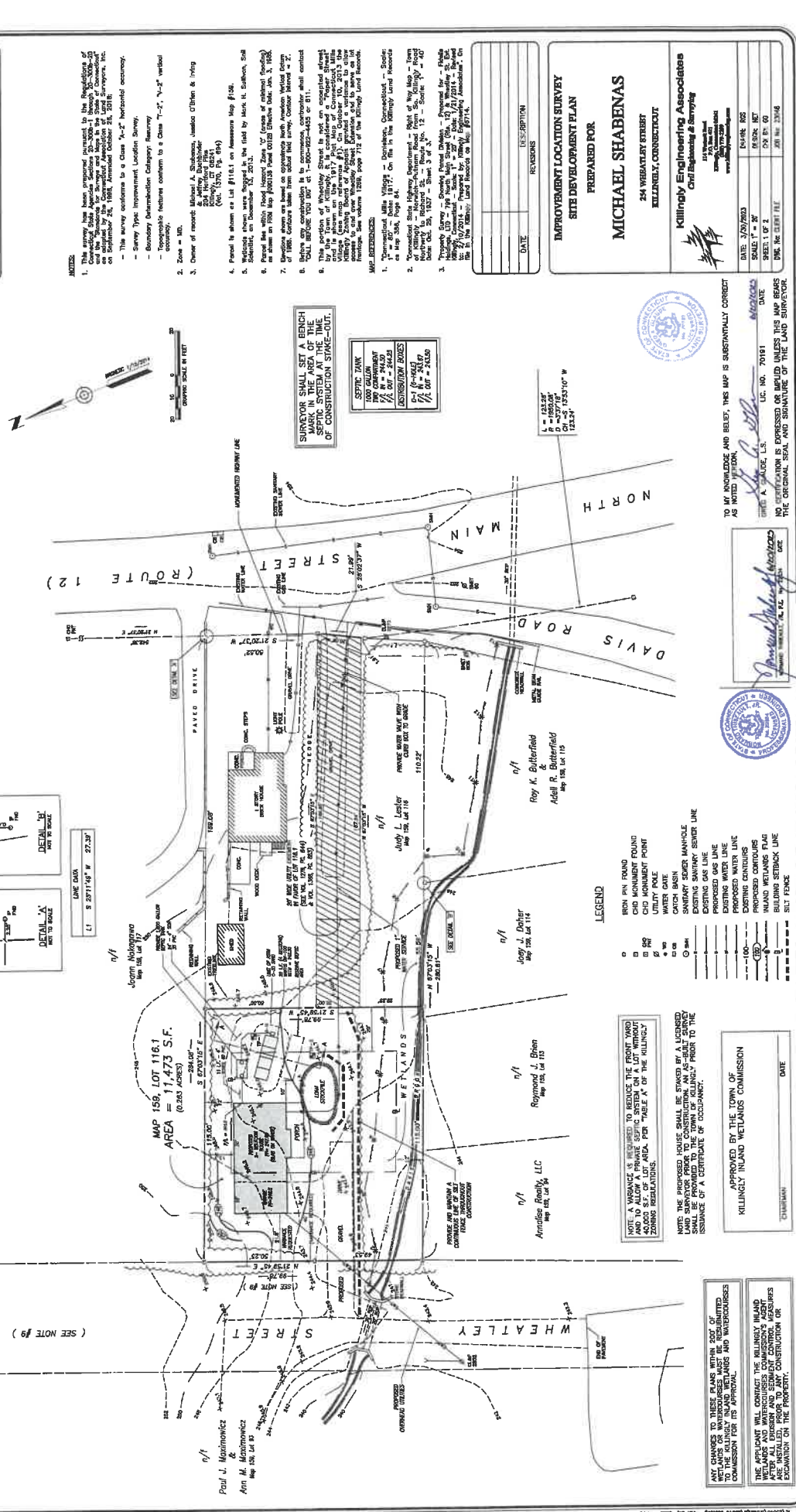
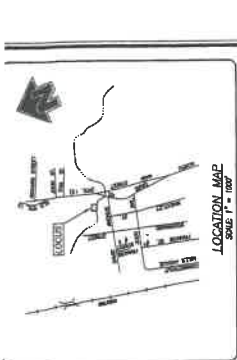
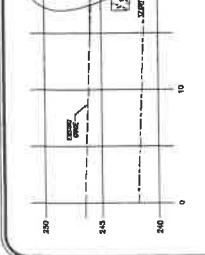
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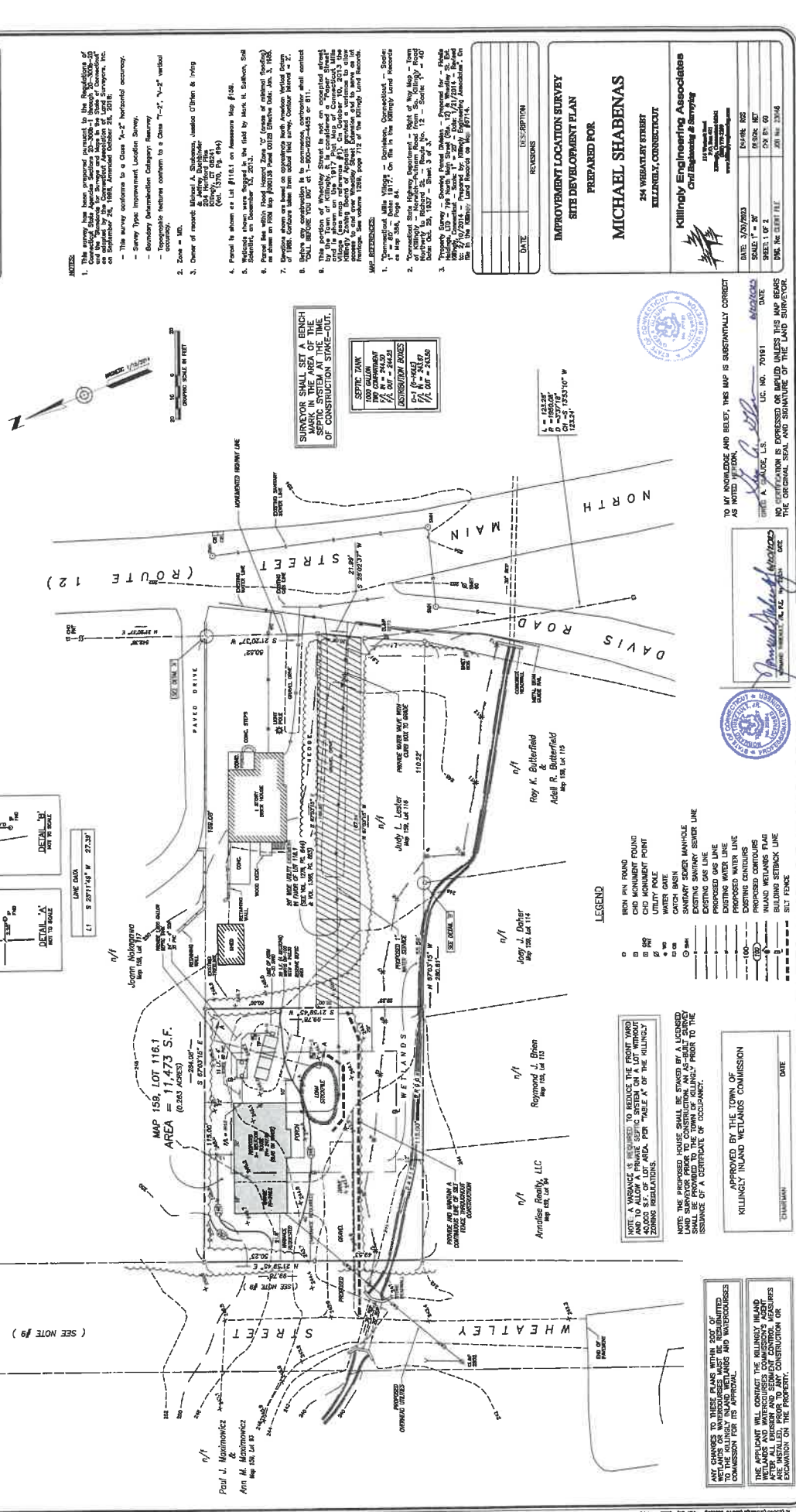
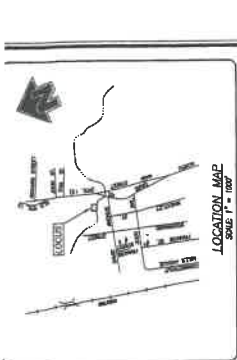
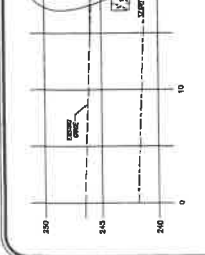
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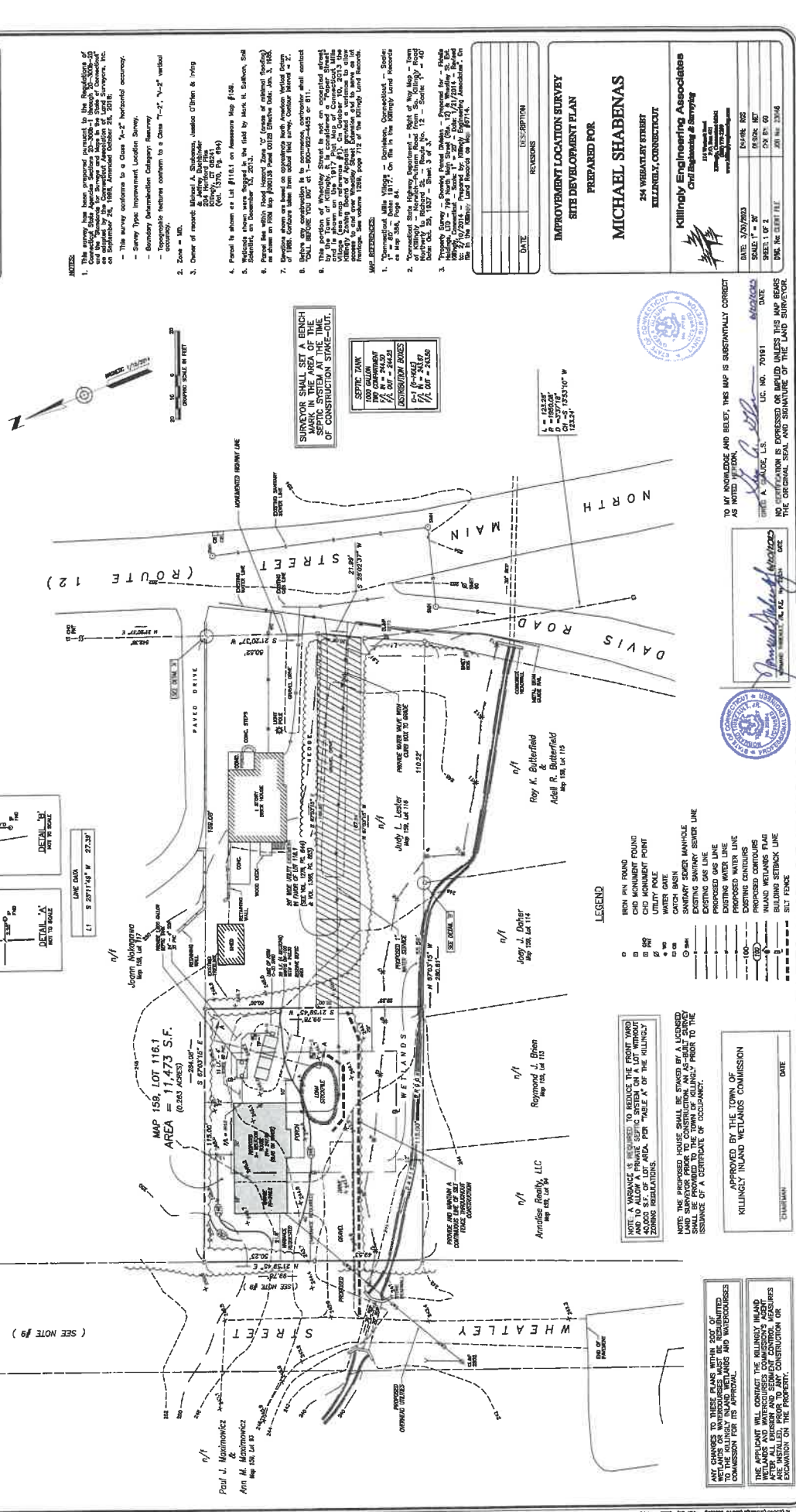
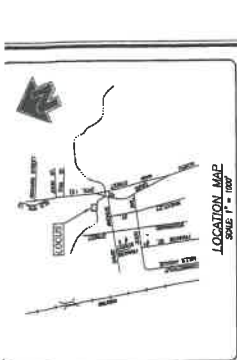
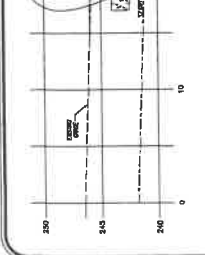
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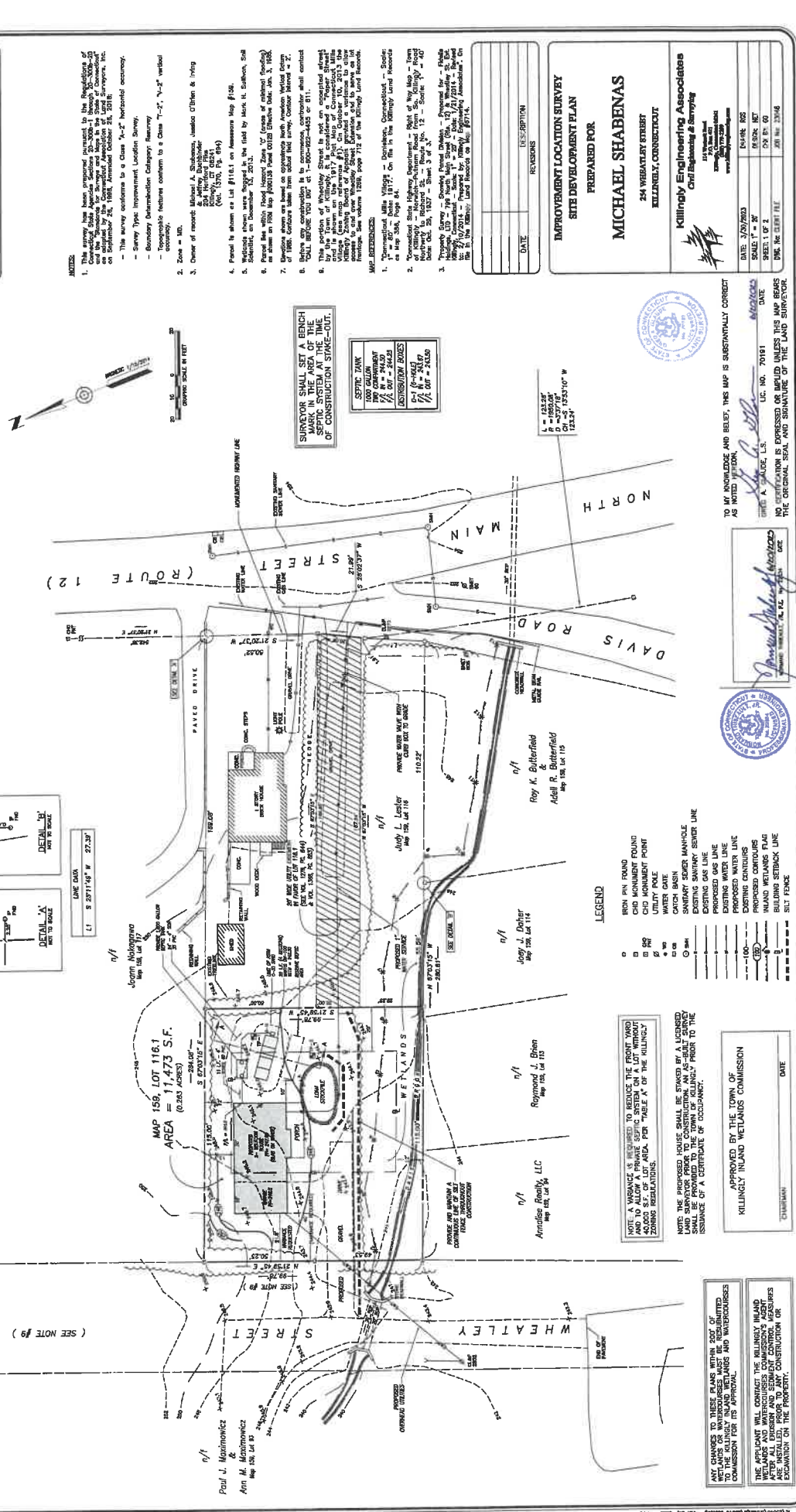
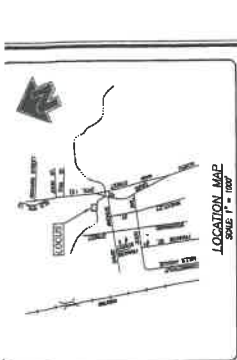
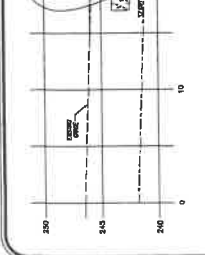
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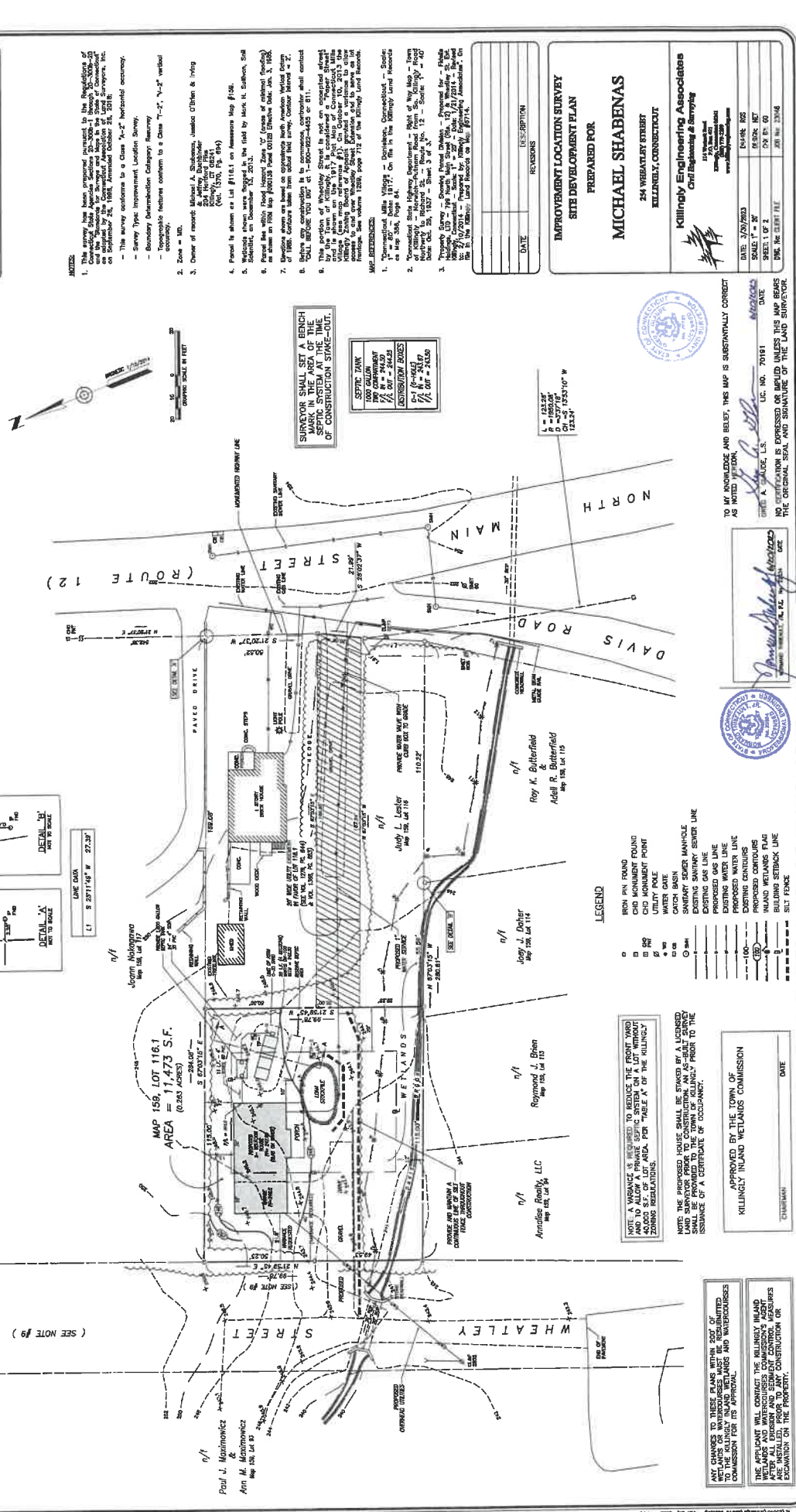
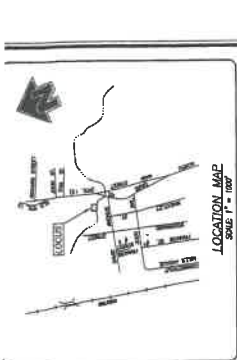
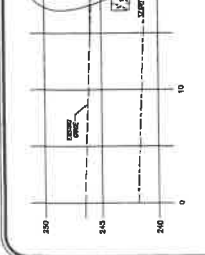
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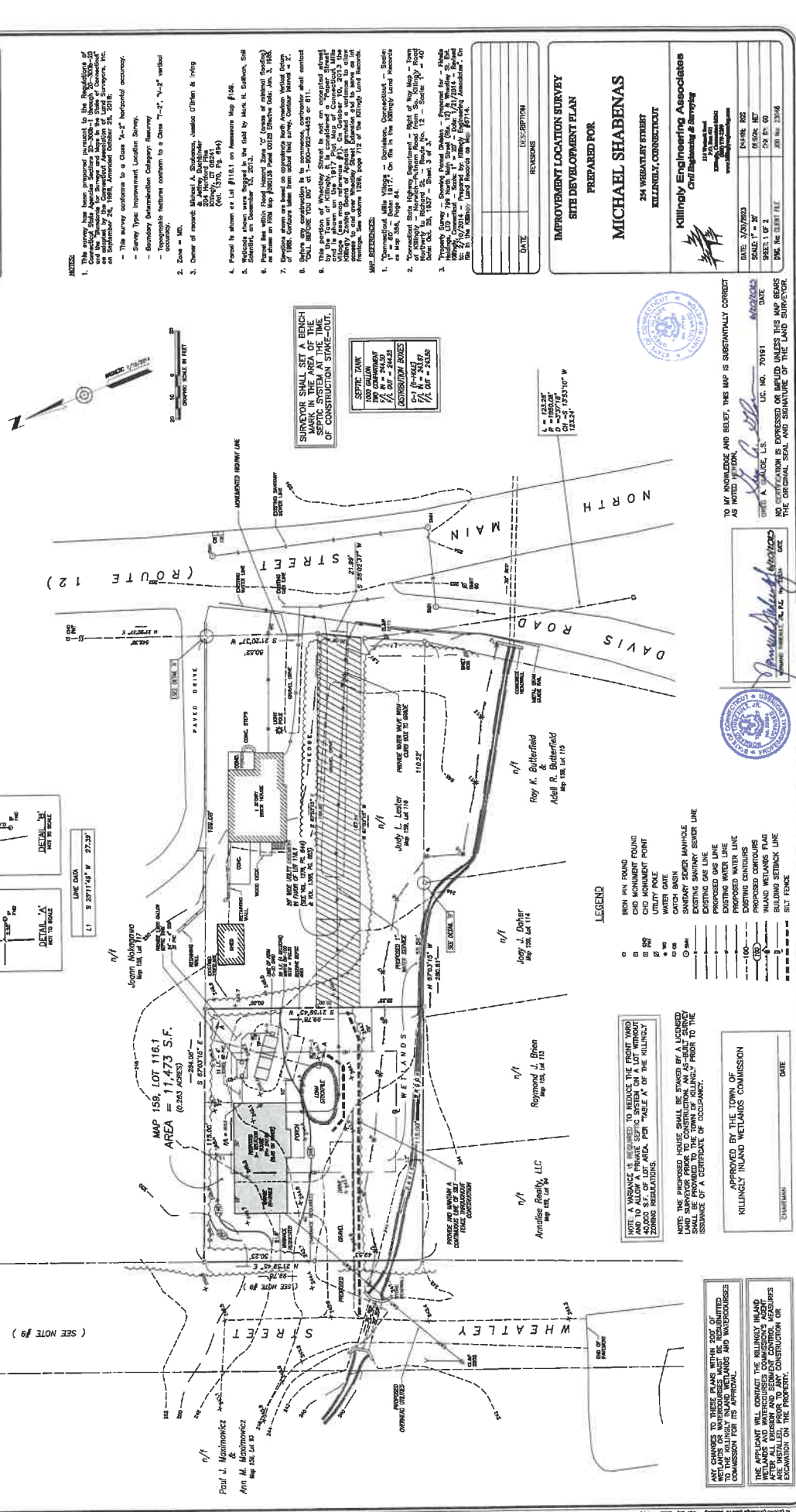
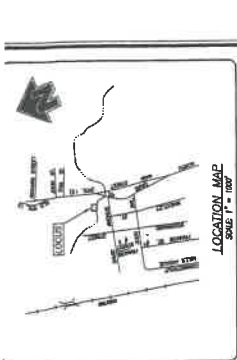
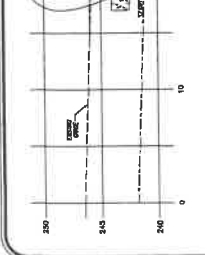
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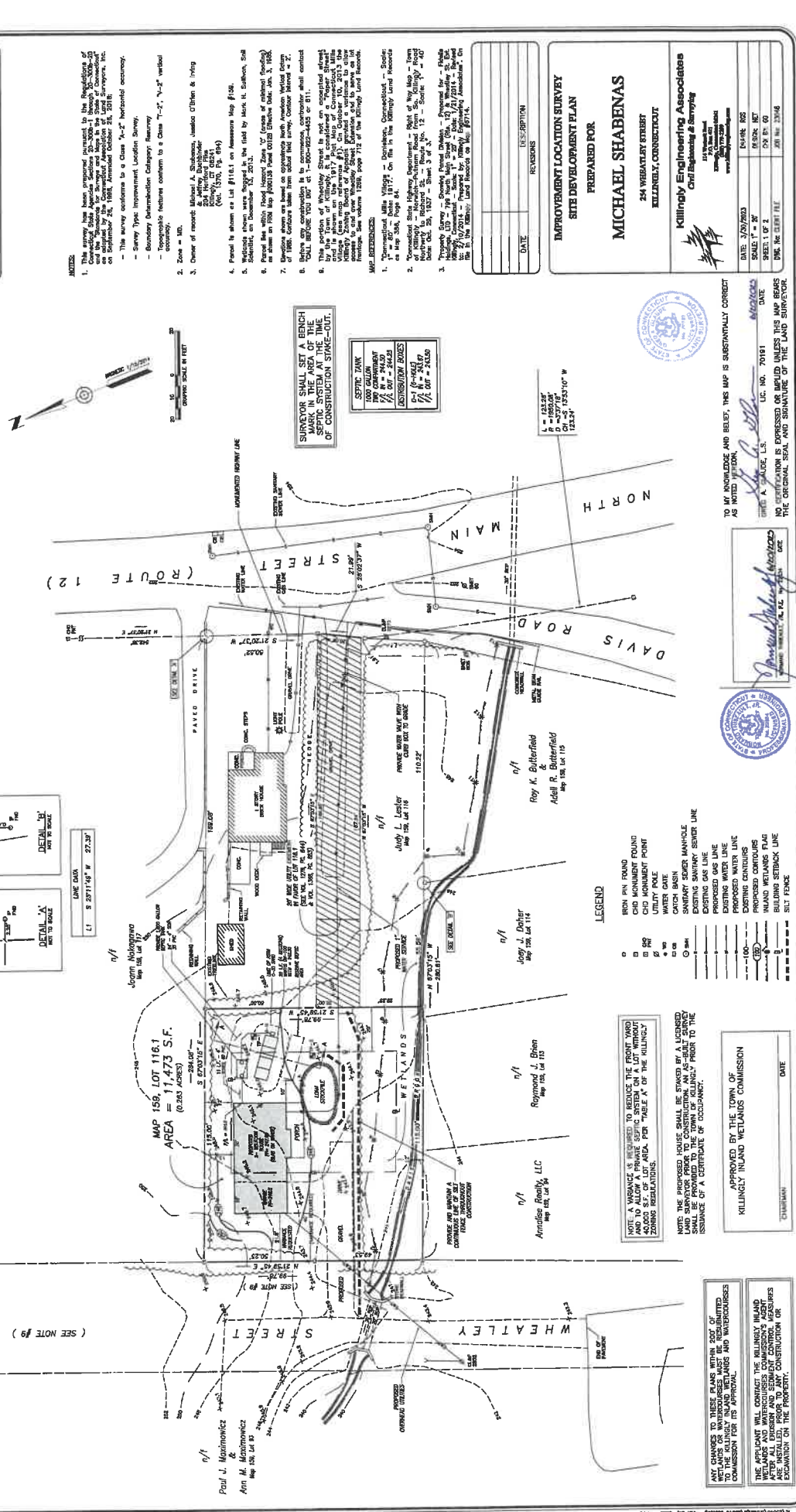
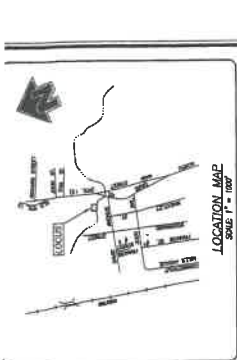
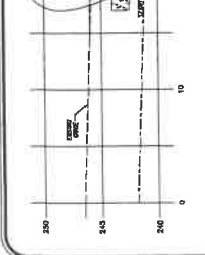
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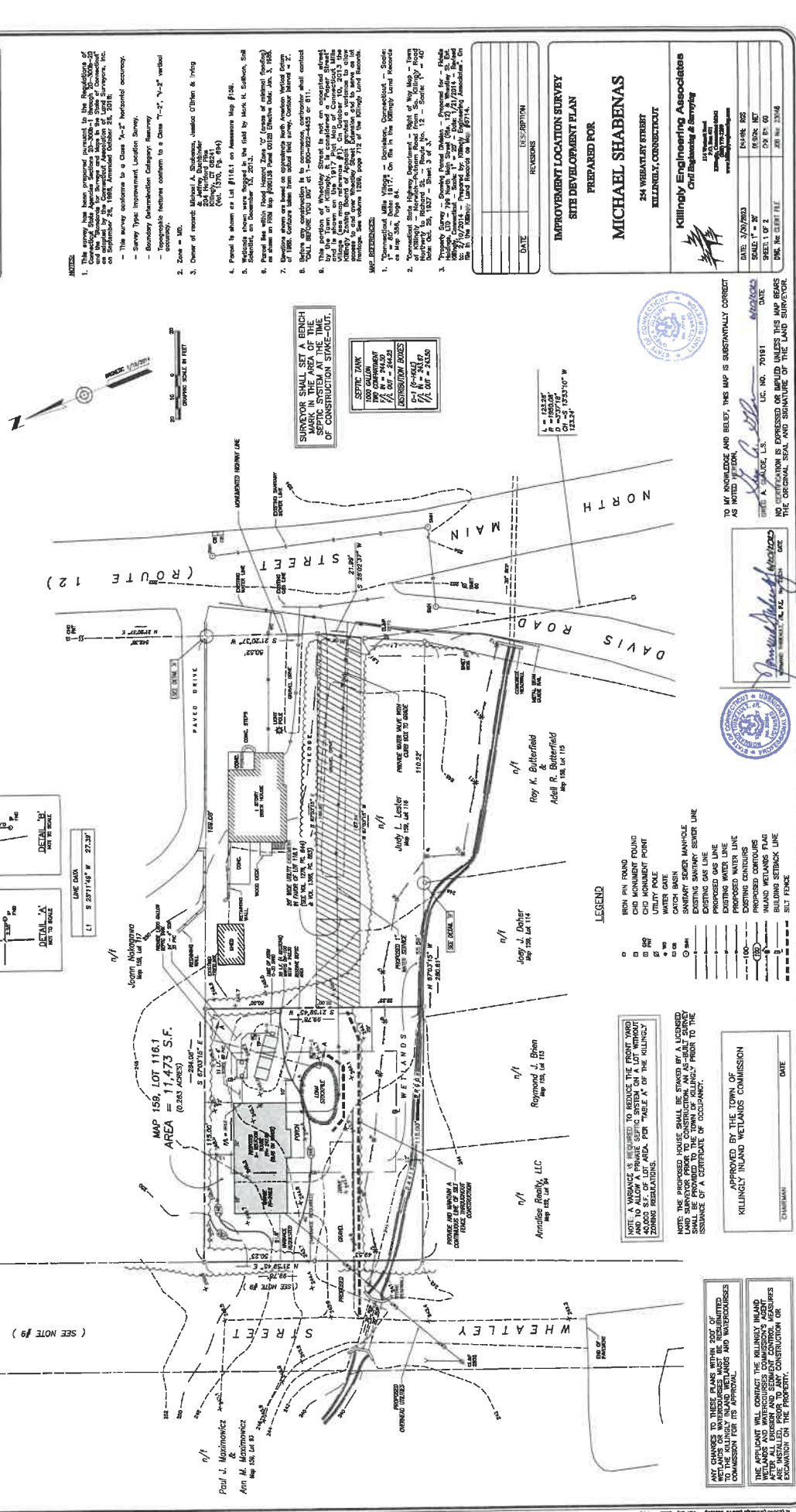
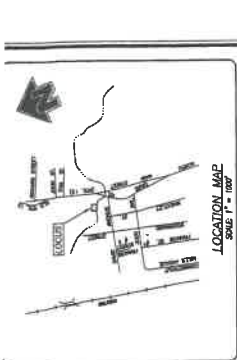
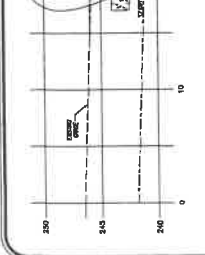
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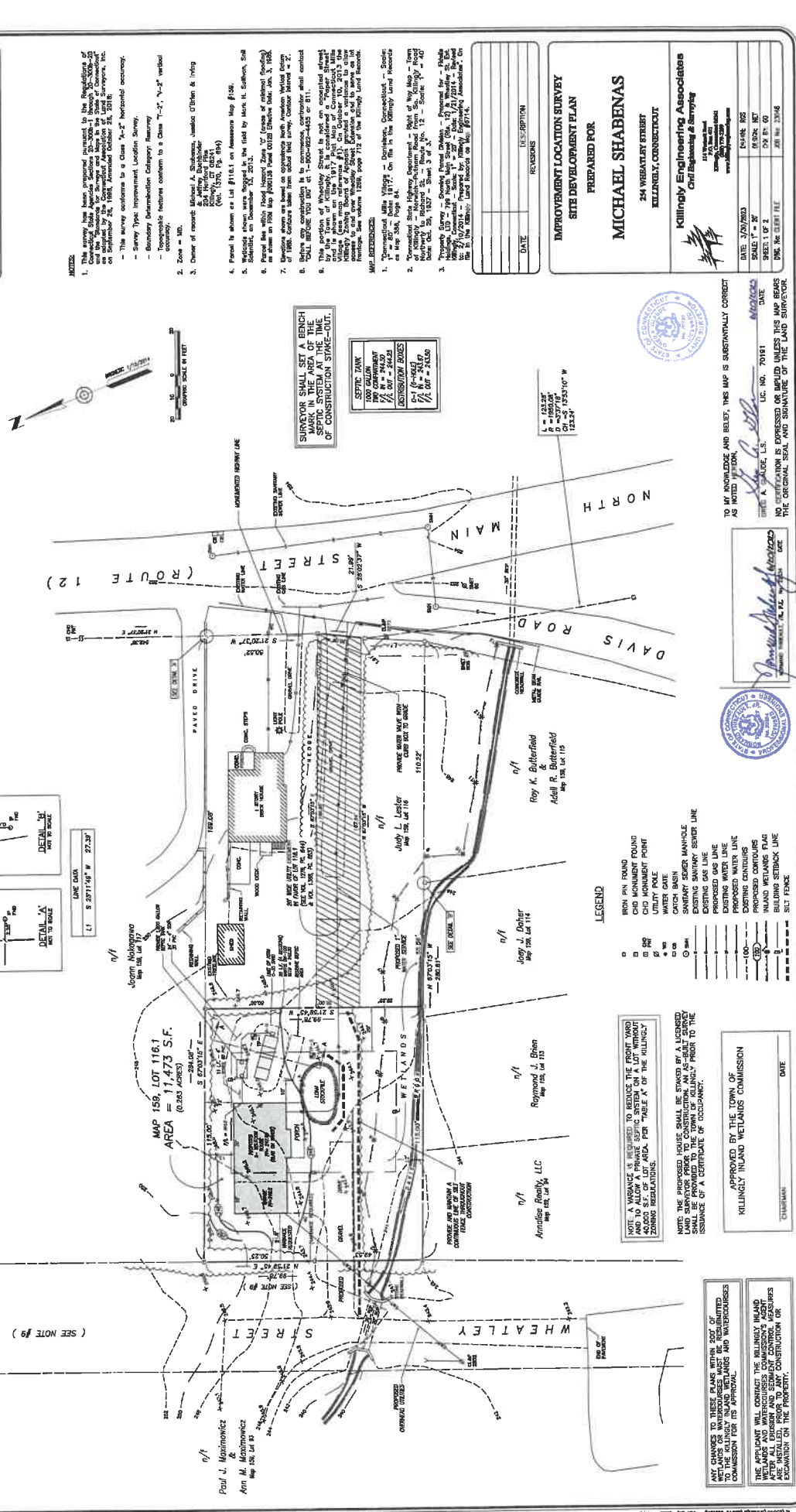
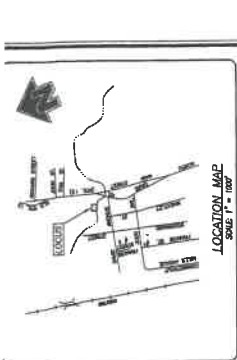
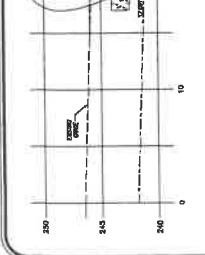
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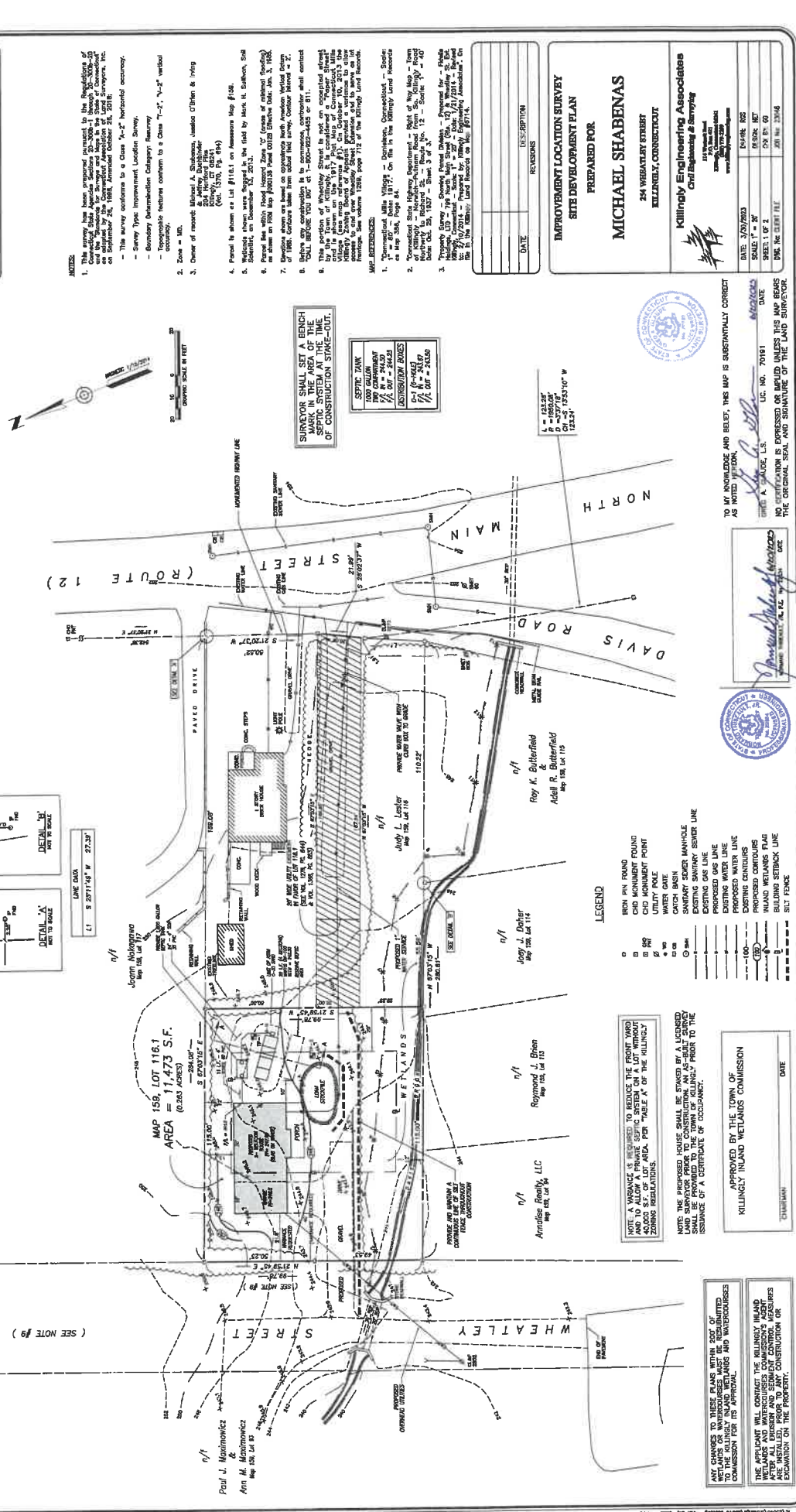
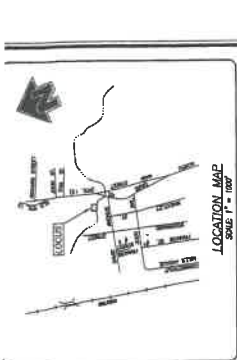
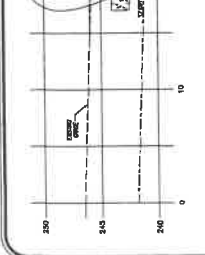
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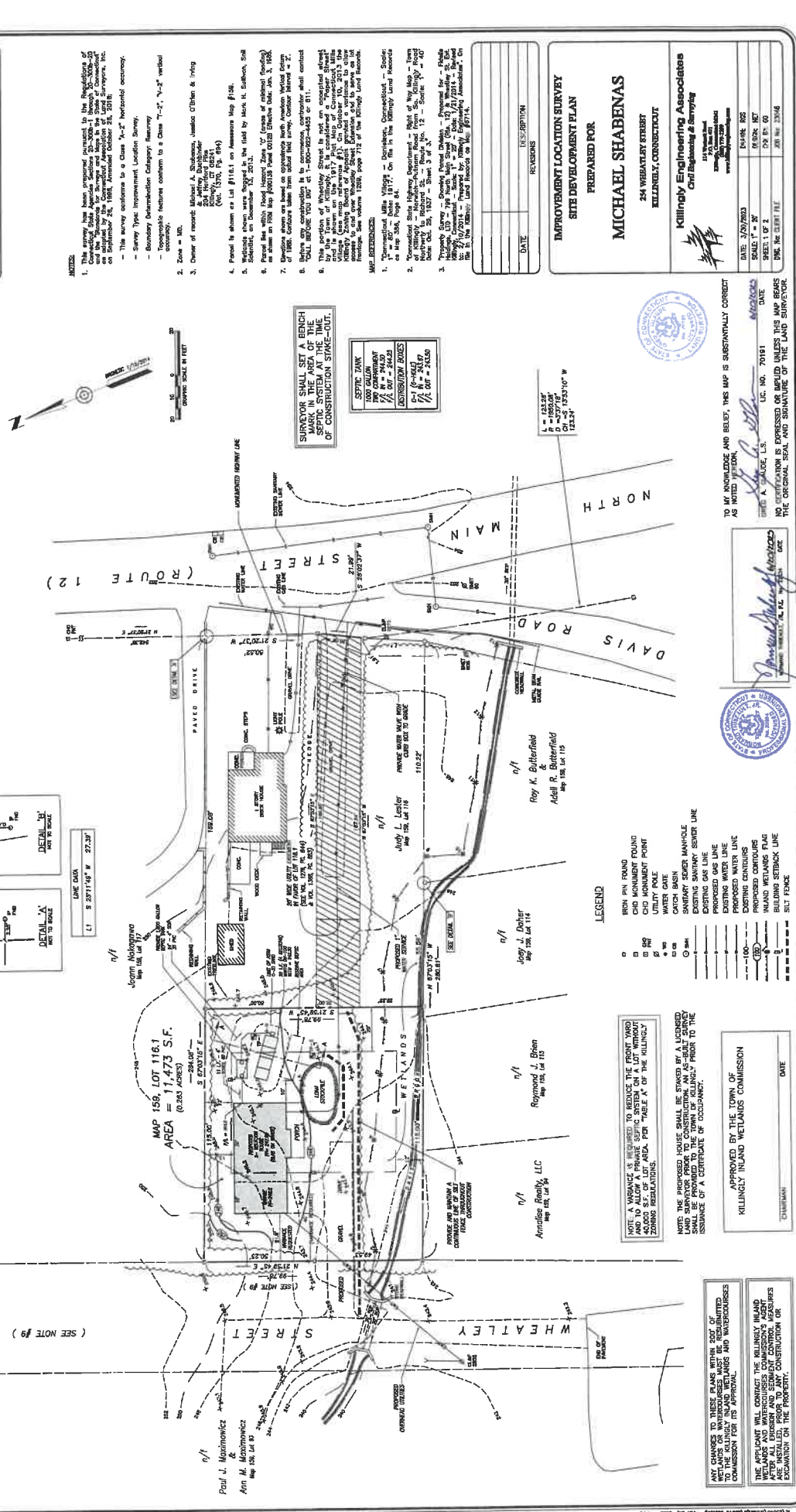
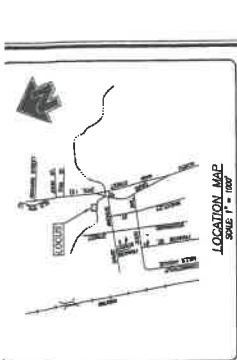
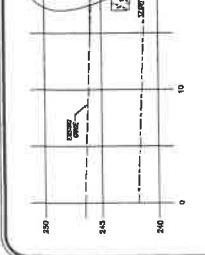
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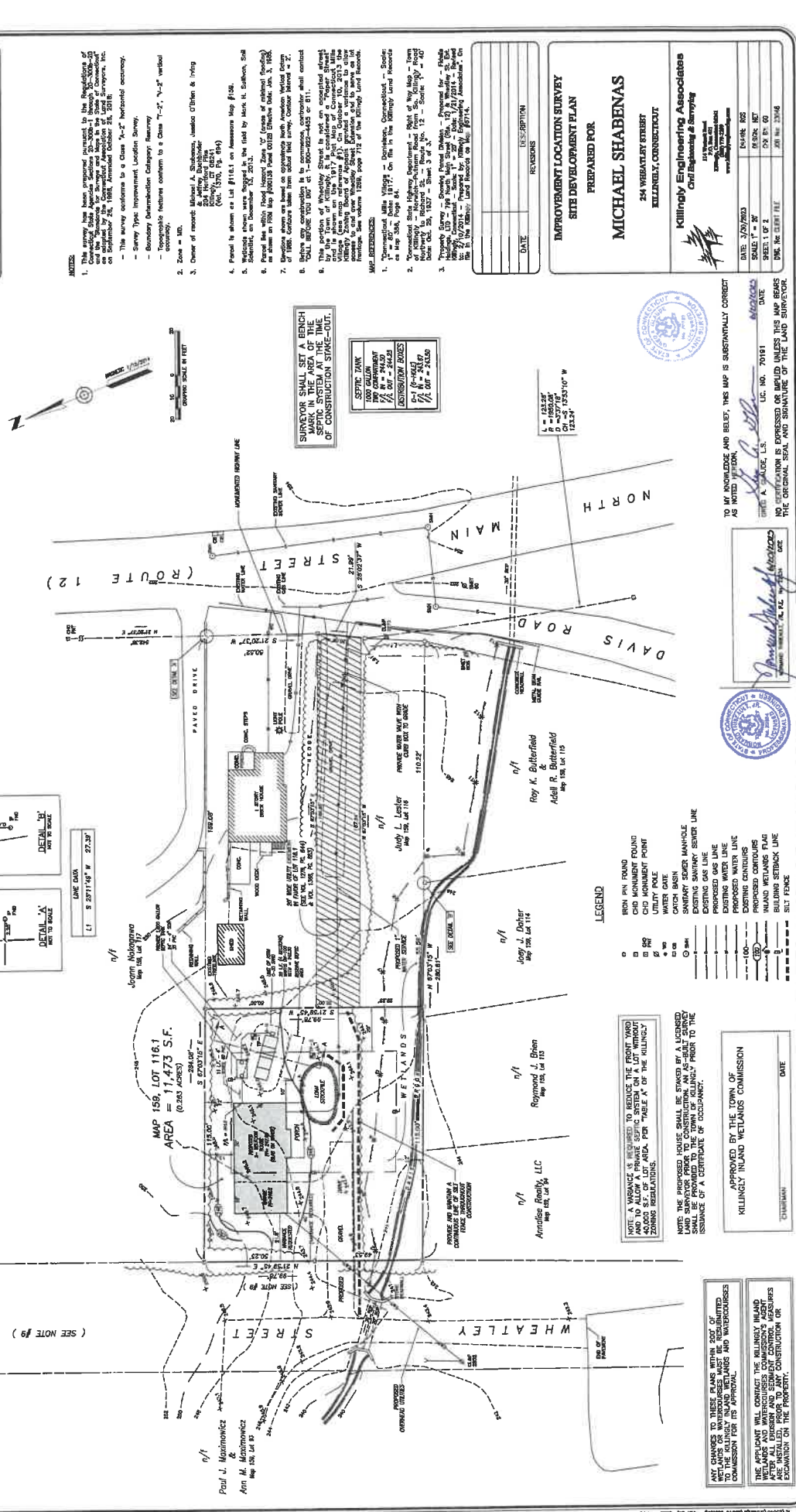
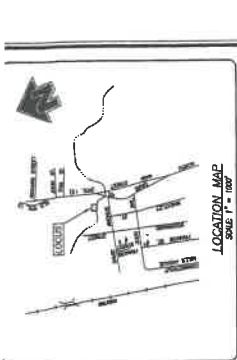
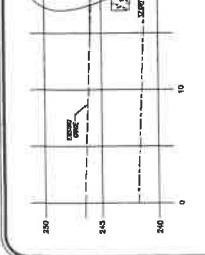
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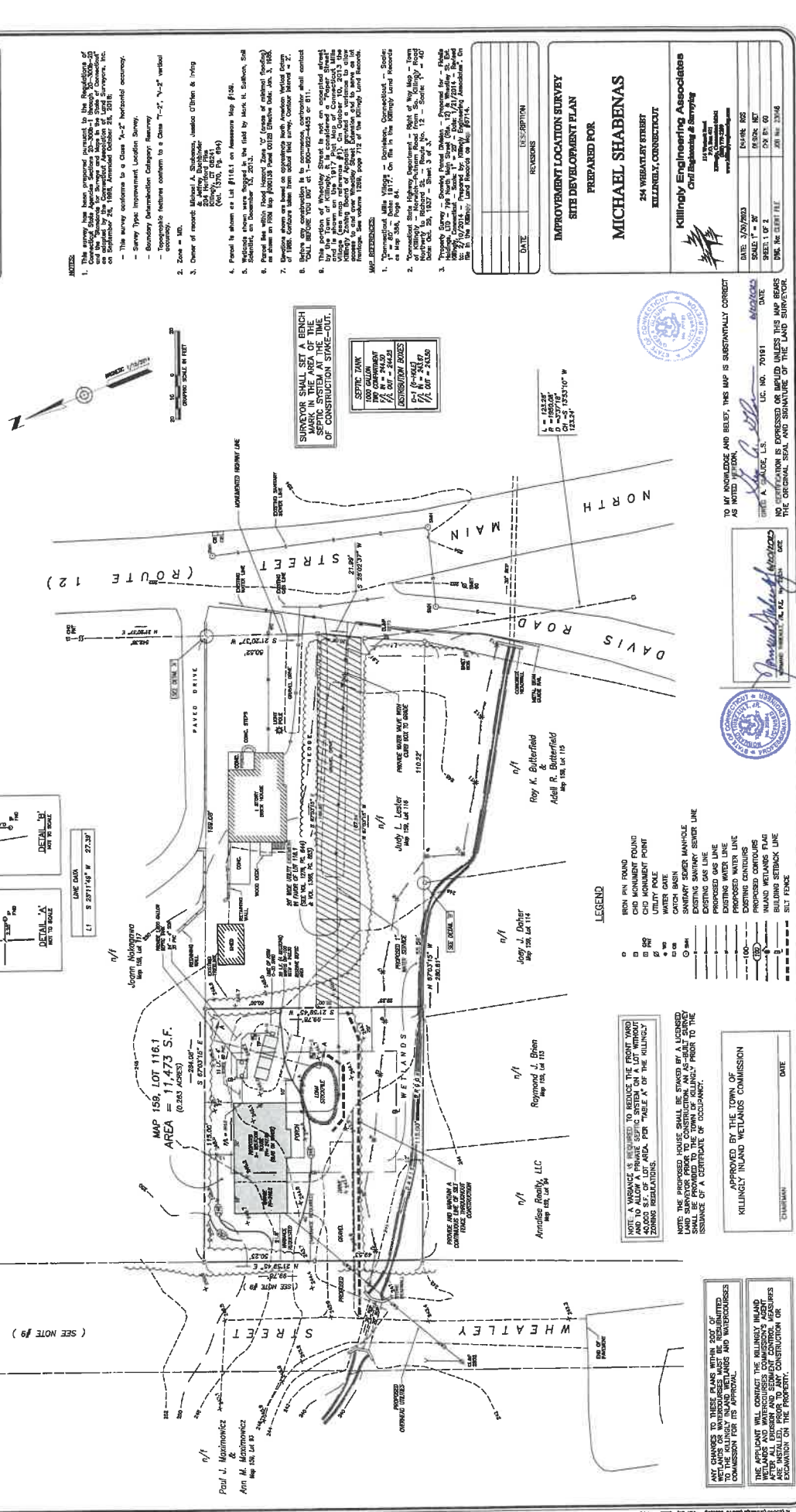
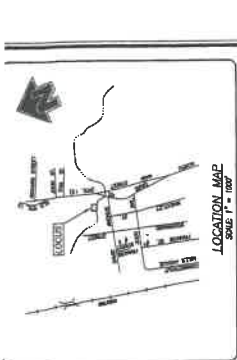
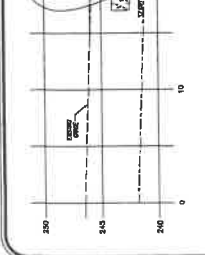
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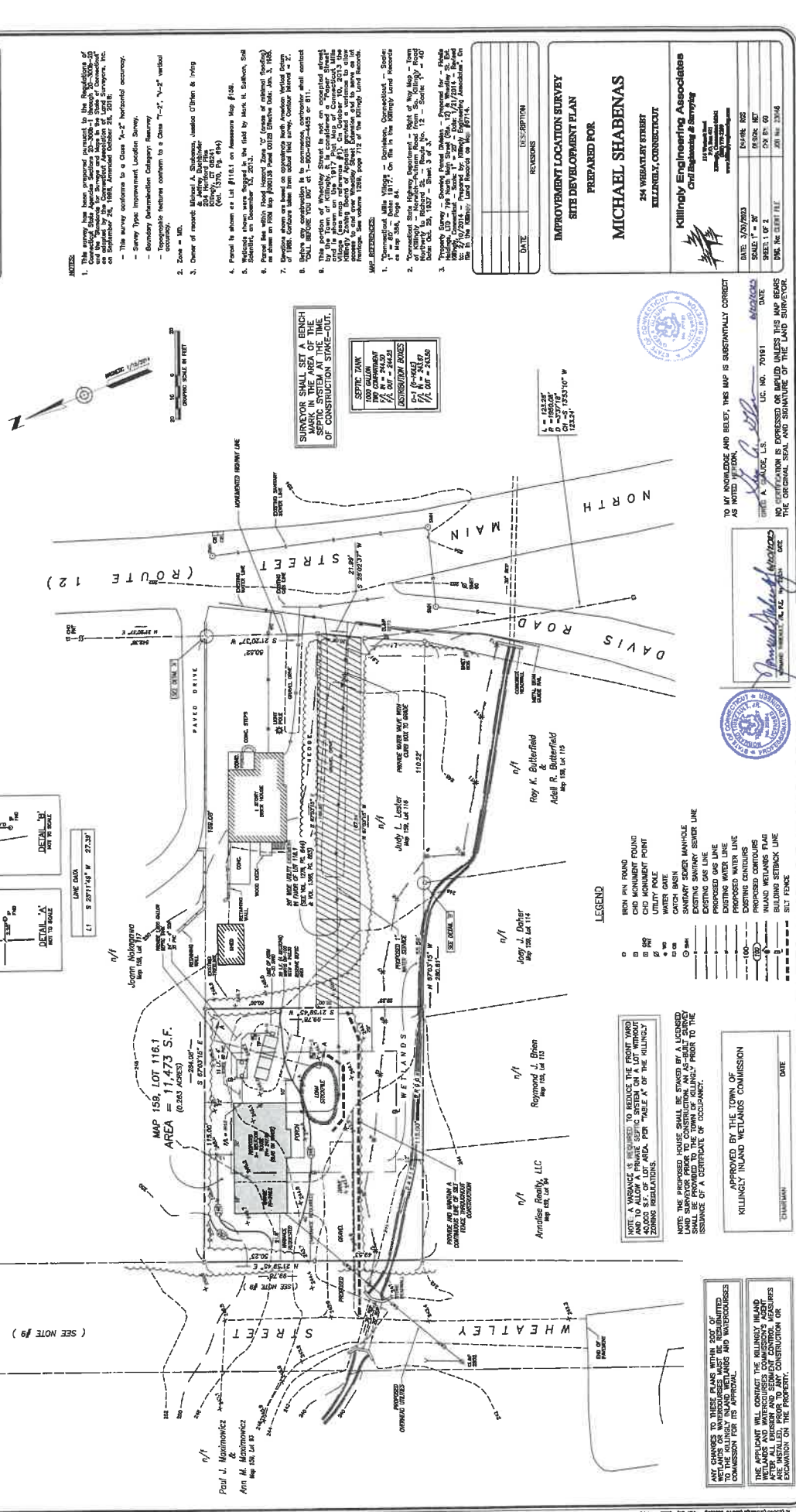
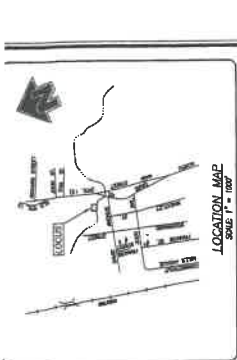
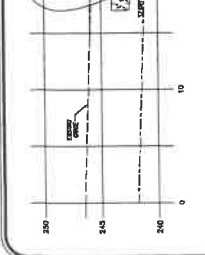
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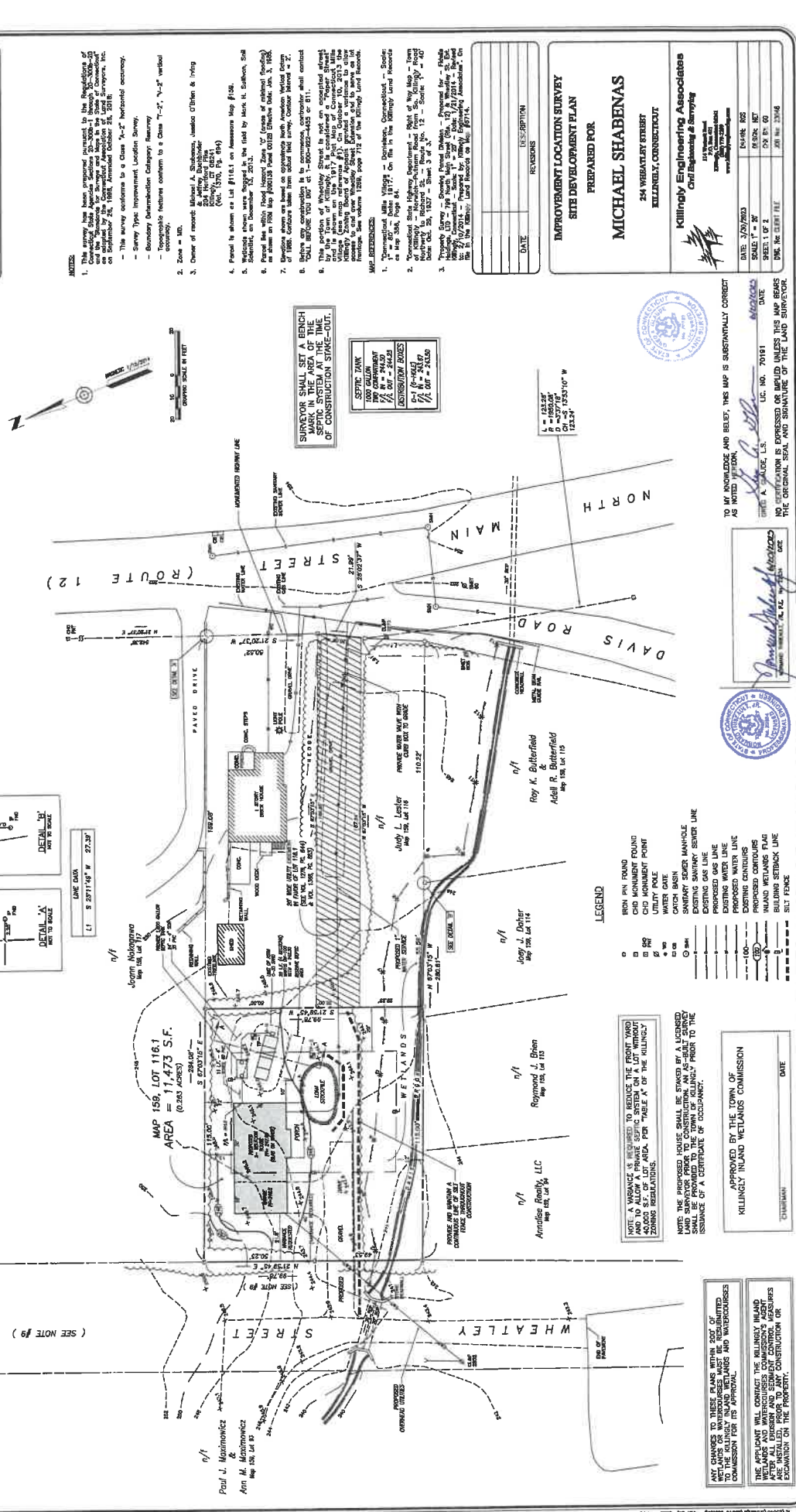
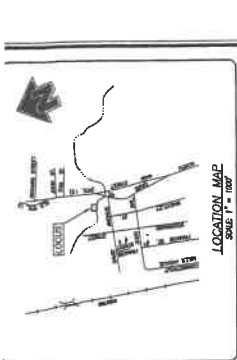
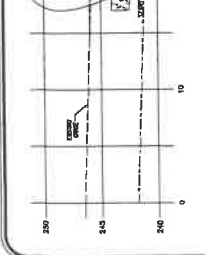
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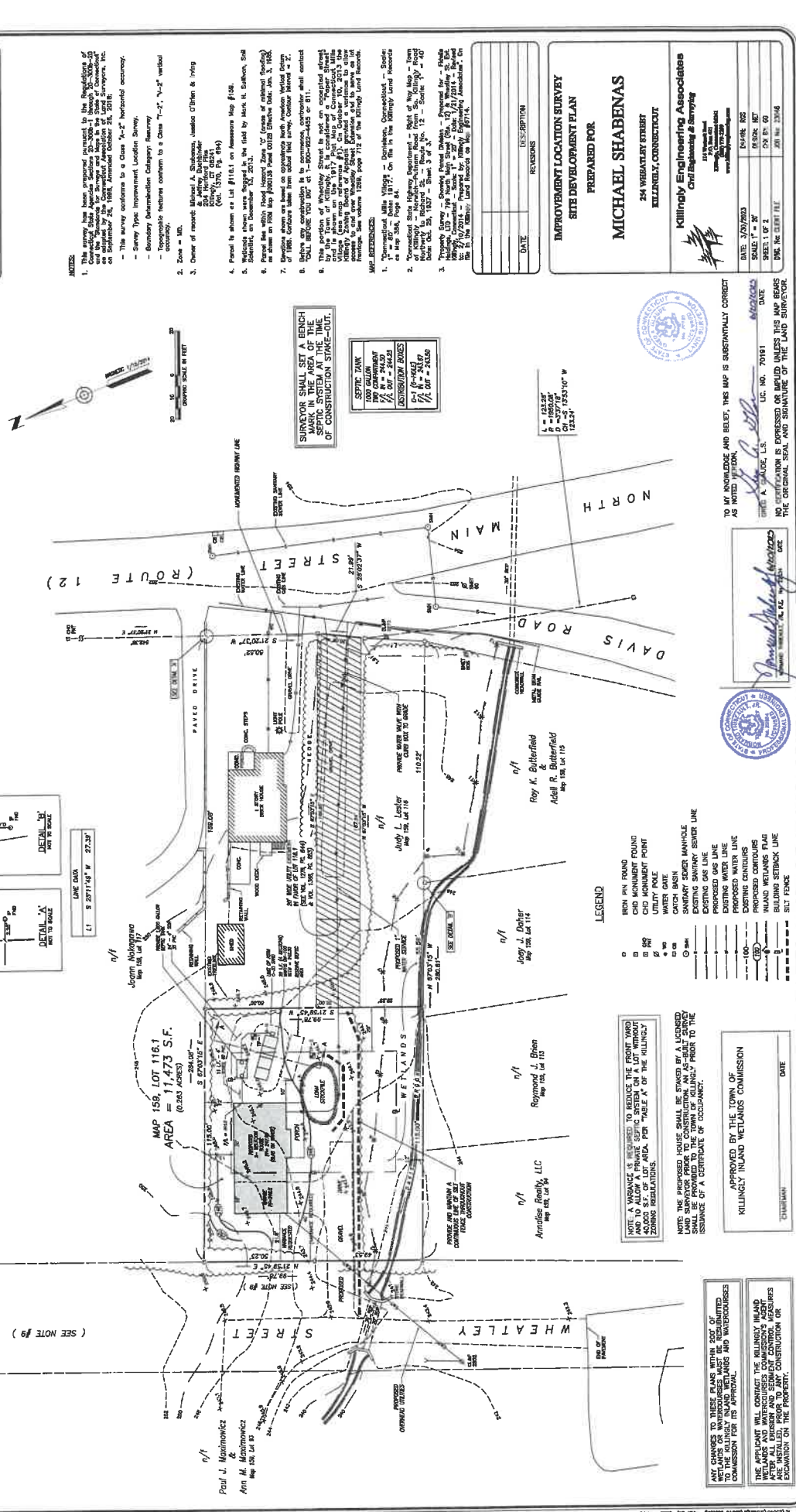
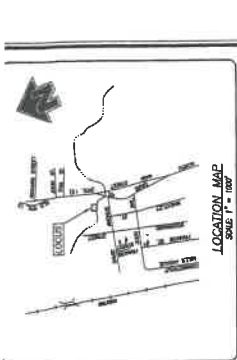
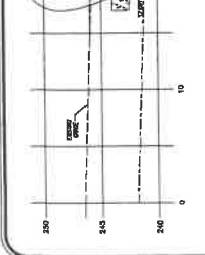
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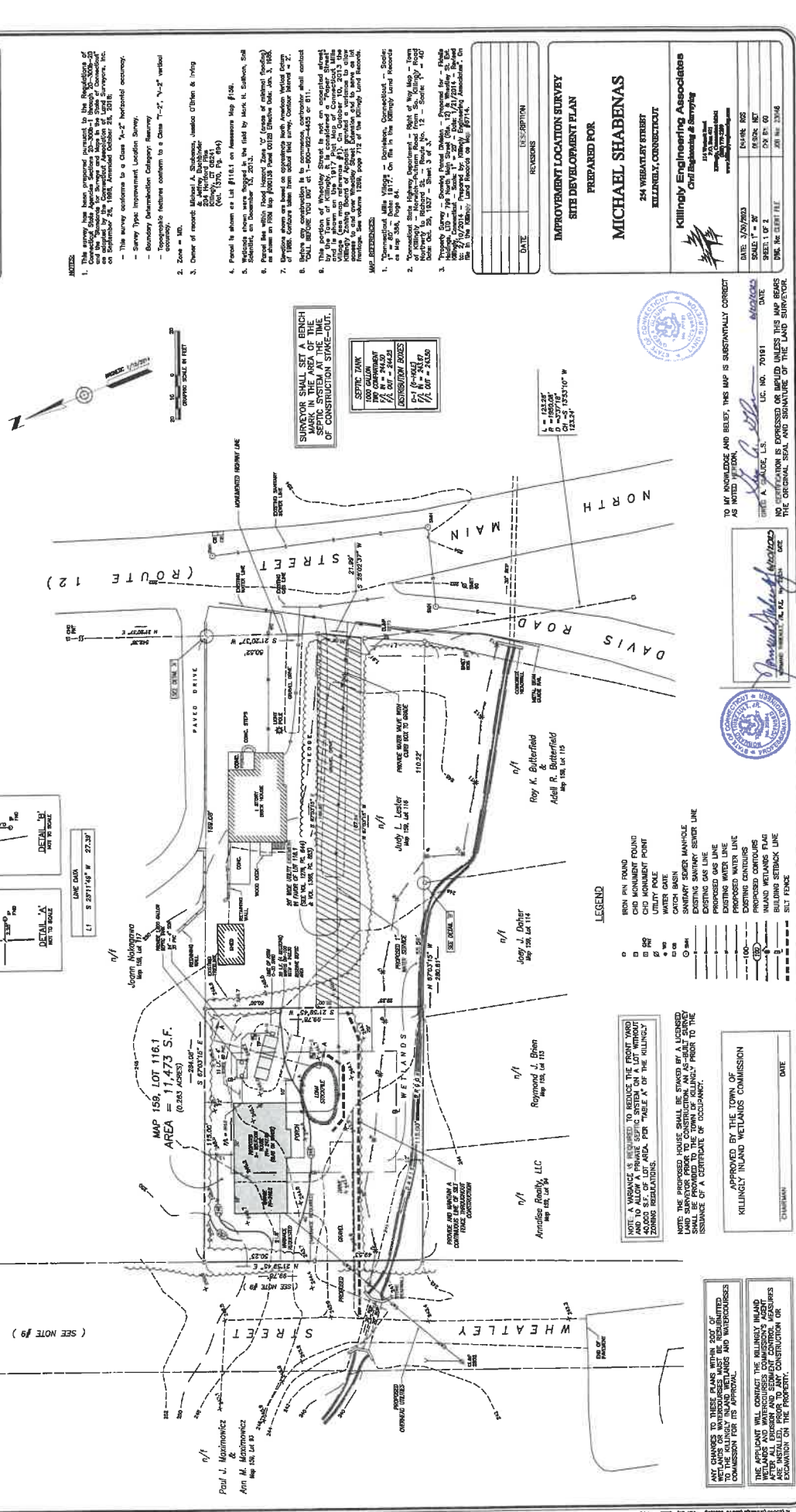
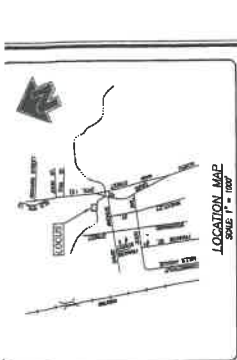
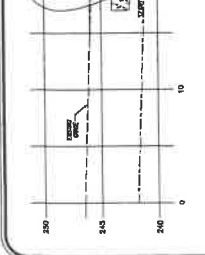
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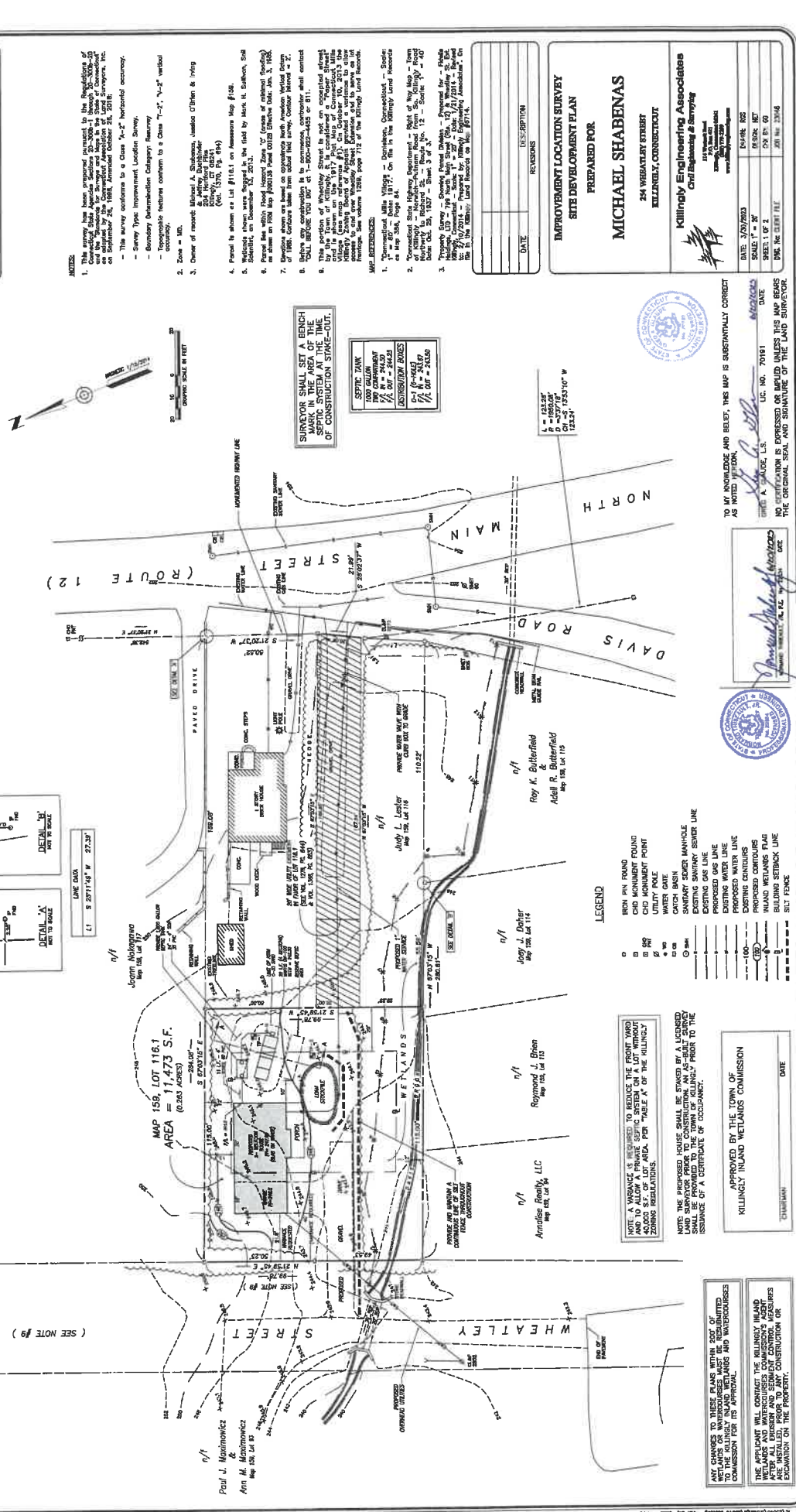
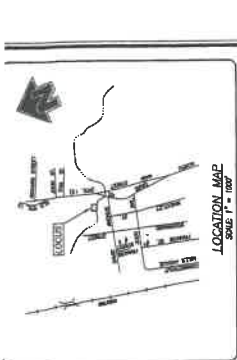
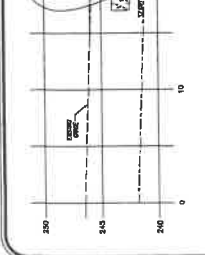
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## **BY-LAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

### **ARTICLE I**

#### **PURPOSE AND AUTHORIZATION**

Section 8-5 of the Connecticut General Statutes (CGS) requires that any Town with a Zoning Commission must have a Zoning Board of Appeals. The Board shall have all powers and duties invested in them by Chapter 124 of the CGS, as amended, and all of its actions and proceedings, all appeals there from shall be subject to and in accordance with the provisions of such chapter 124 as amended.

The objectives and purposes of the Killingly Zoning Board of Appeals are those as set forth by ordinance in Chapter 2 Article VII, Sections 2-125 – 2-130 Reserved of the Killingly Code of Ordinances, by Section 808 of the Charter of the Town of Killingly and those powers and duties delegated to the Killingly Zoning Board of Appeals by the aforementioned ordinance.

### **ARTICLE II**

#### **NAME OF BOARD**

The Board shall be known as the Killingly Zoning Board of Appeals.

### **ARTICLE III**

#### **OFFICE OF THE BOARD**

The office of the Board shall be the Planning and Development office at the Killingly Town Hall, 172 Main Street, Killingly, CT 06239 where all Board records shall be kept. Copies of all official documents, records, maps, Board minutes, agendas, and legal notices, etc. shall be filed or recorded in the Office of the Town Clerk as required by Connecticut General Statutes.

### **ARTICLE IV**

#### **ORGANIZATION OF THE BOARD**

##### **Section 4.1 – Membership**

The Zoning Board of Appeals shall consist of 5 regular members and 3 alternates who are;

- A.** Must be electors of the town,
- B.** Must not be members of any other Boards or Commissions
- C.** Must be appointed by the Town Council

##### **Section 4.2 – Terms of Office for Members / Vacancies**

Regular members of the Board shall be appointed to serve by the Town Council for terms of five (5) years. Annually the council shall appoint one member to such Board.

Alternate members shall be appointed to serve by the Town Council for terms of three (3) years.

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

### **Section 4.3 – Resignation**

Resignations from the Board shall be in written form and submitted to the designated town Staff, who will forward notice of such resignation to the Town Manager, Town Clerk, and the Board members. In the event of a mid-term vacancy, the Town Council shall fill vacancies on the Board for the unexpired portion of the term.

### **Section 4.4 – Removal of Members**

Removal from the Board shall be in accordance with reason and procedures as set forth in Section 811 of the Killingly Town Charter.

## **ARTICLE V**

### **OFFICERS AND THEIR DUTIES**

#### **Section 5.1 – Chair**

A chairman shall be elected annually, at the regular meeting in June, by a majority vote of the regular members of the Board, and shall serve for a calendar year or until their successor shall be elected. The chairman shall perform all duties required by law, ordinance and these rules. If there is no duly elected chairman, or in the case of their death, resignation, incapacity or absence, the vice chair shall be acting chairman. The chairman or in their absence the acting chairman, may find cause to administer oaths of those giving testimony.

#### **Section 5.2 – Vice Chair**

A vice chair shall be elected annually, at the regular meeting in June, by a majority vote of the regular members of the Board, and shall serve for a calendar year or until their successor shall be elected. The vice chair shall perform all duties required by law, ordinance and these rules. If there is no duly elected chairman, or in the case of their death, resignation, incapacity or absence, the vice chair shall be acting chairman. The chairman or in their absence the acting chairman, may find cause to administer oaths of those giving testimony.

#### **Section 5.3– Zoning Board Power and Duties**

Zoning Board of Appeals has the following powers:

1. To hear and decide appeals from decisions of the Zoning Enforcement Officer;
2. To grant variances from the application of the zoning regulations. The variance power is limited to extraordinary situations and must:
  - a. Be in harmony with the general purpose and intent of the zoning regulations;
  - b. Consider the public health, safety, convenience, welfare and property values;
  - c. Be used only with parcels having unusual conditions that cause “exceptional difficulty or unusual hardship;” and
  - d. Must not be used if the regulations provide that certain prohibited uses may not be permitted by variance; (CGS 8-6)

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

### **ARTICLE VI**

#### **ELECTION OF OFFICERS**

##### **Section 6.1 – Annual Organizational Meeting**

An Annual Organizational Meeting of the Zoning Board of Appeals shall be held at the regular meeting in June of each year. At each Annual Organizational Meeting, the Board shall elect officers for a one (1) year term, review by-laws and attend to other organizational business as the Chair deems appropriate.

##### **Section 6.2 – Nomination Procedure**

A quorum must be present before the election of officers can take place. Elections of officers shall occur as follows: Nominations shall be made from the floor, beginning with nominations for Chair, and elections shall follow immediately upon the close of nominations for each office. A candidate for each office receiving a majority vote of those present shall be declared elected for one year.

### **ARTICLE VII**

#### **ADMINISTRATIVE STAFF**

##### **Section 7.1 – Recording Clerk**

A Recording Clerk shall be appointed to keep the minutes of the Board and shall file those minutes in the Boards Office.

##### **Section 7.2 – Staff**

The Zoning Enforcement Officer (or his or her designee in his/her absence) shall serve as staff to the Board and shall oversee preparation of the agenda of regular and special meetings under the direction of the Chairman, prepare meeting information, provide notice of all meetings to Board members, arrange proper and legal notice of hearings and other notice requirements, attend to general correspondence of the Board and other administrative actions necessary to assist the Board in the exercise of its power, duties, and functions as prescribed by the Connecticut General Statutes and the Town Code of Ordinances.

### **ARTICLE VIII**

#### **REGULAR MEETINGS**

##### **Section 8.1 – Date / Time**

Regular meetings shall be held on the second Thursday of each month at 7:00 P.M. at the Killingly Town Hall. An annual schedule of meetings will be posted each year in the Town Clerks Office in accordance with CGS 1-21.

### **ARTICLE IX**

#### **SPECIAL MEETINGS**

##### **Section 9.1 – Date / Time**

Special meetings of the Board may be called by the Chairman or acting Chairman. At least forty-eight (48) hours' notice before the time set for special meeting shall be given to each member.

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

### **Section 9.2 – Agenda**

Only items on the agenda can be discussed during the course of a Special Meeting.

## **ARTICLE X**

### **NOTICE OF HEARINGS**

#### **Section 10.1 – Notice**

The Board shall give notice to the public of such, hearing in the manner prescribed herein.

#### **Section 10.2 – Form of Notice**

Such notice shall state the location of the building or lot and the general nature of the question involved and shall be given in the following manner:

By the publishing of a notice twice, not less than two (2) days apart; the first not more than fifteen (15) days nor less than ten (10) days before the date of such hearing, and the last not less than two (2) days before the date of such hearing in a newspaper with substantial circulation in the community. (CGS 8-7d)

The applicant shall erect or cause to have erected a sign on the premises affected by the proposed variance application at least ten (10) days prior to the public hearing on such variance.

- Signs shall be provided by the Town for each variance application;
- Sign shall be securely fastened or staked;
- The sign shall be visible from the street closest to the affect property;
- The sign must be maintained as such until the day following the public hearing.

A report from the Zoning Enforcement Officer attesting to whether the above mentioned sign was erected and maintained as required shall be made part of the record at the public hearing. Failure of an applicant to comply with this requirement may be grounds for automatic denial of the variance, with consideration being given to cases where weather conditions or acts of vandalism have destroyed a properly posted sign (Killingly Zoning Regulations 800.2.2).

#### **Section 10.3 – Request for Postponement of Hearing**

If a request for postponement of a hearing is made to the Chairman of the Board or Staff after the publication of a public notice in the newspaper, it shall be treated as a new application, including all costs.

## **ARTICLE XI**

### **QUORUM**

A quorum shall consist of four (4) members of the board for transaction of all business.

## **ARTICLE XII**

### **VOTING**

Reversals of decisions of the enforcement officer and decisions on applications for special exceptions and variances in favor of the applicant require a concurring vote of at least four Board members. A total

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

of five (5) board members may vote on any application. If only four (4) members of the Board are present prior to the opening of a public hearing the Chairman may extend the courtesy to the application to postpone the public hearing to the extent allowed by CGS 8-7d.

### **ARTICLE XIII**

#### **DISQUALIFICATION / RECUSAL**

No Board member shall sit in hearing or vote in passing upon any case in which he/she shall be personally interested, financially or otherwise. If a member shall be disqualified because of interest, such fact shall be noted in the record of the hearing. The Chairman of the Board shall designate an alternate from the panel of alternates, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible.

### **ARTICLE XIV**

#### **INSPECTION / SITE WALK**

Whenever the Board deems it necessary to inspect premises involved in an appeal, special exception or variance, it will be treated as a Special Meeting and must adhere to all Connecticut Freedom of Information Act (FOIA) requirements.

### **ARTICLE XV**

#### **ORDER OF BUSINESS**

##### **Section 15.1 –Regular Meeting**

The order of business at regular meetings shall be substantially as follows:

1. Call to Order
2. Roll Call
3. Citizen Participation
4. Public Hearings
5. Unfinished Business
6. New Business
7. Adoption of Minutes
8. Correspondence to the Board
9. Council Liaison
10. Adjournment

##### **Section 15.2 – Special Meeting**

The order of business at special meetings shall be substantially as follows:

1. Call to Order
2. Roll Call
3. Citizen Participation
4. Public Hearings
5. Unfinished Business
6. New Business
7. Adoption of Minutes

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

8. Correspondence to the Board
9. Council Liaison
10. Adjournment

\*Only items on the agenda can be discussed during the course of a special meeting.

### **Section 15.3 – Executive Sessions**

Executive Sessions are rare and must be adhere to State Statue. Executive sessions shall be open to select members of the public when so voted by a majority of the members present and voting.

## **ARTICLE XVI**

### **CONDUCT OF HEARING**

1. Any person may appear in person or by agent or attorney at the hearing. (Subject to the Provisions of Section 8-11 of the General Statutes)
2. Order of Hearing of Cases. Appeals or applications are heard in the order in which they were filed, and as shown in the call of the meeting.
  - a. The Chairman shall give a statement of the case.
  - b. The applicant or appellant shall present the argument in support of the case.
  - c. The board shall have the opportunity to question the applicant or appellant.
  - d. All those in support of the case shall be heard.
  - e. The board shall have the opportunity to question those in support of the case.
  - f. Those in objection to the case shall be heard.
  - g. The board shall have the opportunity to question those in objection to the case.
  - h. The board shall have the opportunity to question anyone who gave testimony. In the case of parts (d) and (f) of the order of hearing of cases, written communications shall be presented before oral statements are called for. To maintain orderly procedure, each side shall proceed without interruption by the other.
3. Evidentiary exhibits at a public hearing shall be received and cataloged by a Stenographer / Recording Clerk / Staff.
4. Any audio exhibits need to be played during the course of the public hearing.

## **ARTICLE XVII**

### **DECISIONS**

#### **Section 17.1 – Decisions to be made within 65 days of the Public Hearing**

The Board shall render its decision either at the termination of the hearing or may reserve decision until later. (State law, however, requires that the decision be announced within sixty five (65) days.)

#### **Section 17.2 – Form of Final Decision**

The final decision of the Board on any appeal, petition, or application shall be made by a written order duly entered and signed by the chairman, the acting chairman, secretary, or staff. Such decision shall show the reasons for the determination and may reverse or affirm, wholly or

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

partly, or may modify the order, requirement, decision, or determination appealed from. Such decision shall also state, in detail, any exceptional difficulty or unusual hardship upon which the appeal for variance is based.

### **Section 17.3 – Notification of Decision**

Staff shall transmit to the applicant or appellant a true and exact copy of the written order of the Board setting forth the determination or decision. Staff shall also notify other parties in interest, including the Town Clerk, the Assessor, the Zoning Commission, or Enforcement Officer. Notice of the decision shall be published before the effective date in a newspaper having general circulation in the community.

No such decision is effective until a copy is recorded in the land records of the Town Clerk (CGS 8-3d). The Town Clerk shall index the same in the grantor's index under the name of the then record owner and the record owner shall pay for such recording.

### **Section 17.4 – Majority Vote**

In order to reverse an order or decision of an officer or to grant any variance or to decide an appeal in favor of the applicant, the concurring vote of four members of the Board shall be necessary. The minutes shall indicate the vote of each member on each question. Other matters shall be decided by a majority vote, provided a quorum was present. A member who was not present at the hearing upon any matter may not vote on it, nor may any member cast an absentee vote. A vote once taken shall be final and may not be reconsidered.

### **Section 17.5 – Actions of the Board are Public Record**

Every order, requirement, decision or determination of the Board shall be immediately filed in the office of the Board and shall be public record. Any transcripts and recordings of hearings shall also be filed in the office of the Board and be made public.

## **ARTICLE XVIII**

### **HEARING TIMING AND REQUIREMENTS**

Public hearings must adhere to CGS 8-7d and any other applicable State Statutes.

## **ARTICLE XIX**

### **AMENDING OF REGULATIONS**

1. These rules may be waived, amended, or revoked by the Board at any meeting. However, those required by statute or special act may not be waved.
2. Whenever the regulations are or may become inconsistent with the State laws related to zoning, such State laws shall govern.
3. Each regulation or rule and each amendment or repeal thereof and each order of the board shall immediately be filed in the office of the Board and shall be public record.

## **BYLAWS OF THE KILLINGLY ZONING BOARD OF APPEALS**

4. If there are any conflicts in wording between these bylaws and the Zoning Regulations; these bylaws and the Town Charter or these bylaws and the State Statute the latter shall govern.



**TOWN OF KILLINGLY, CT  
ZONING BOARD OF APPEALS**

RECEIVED  
TOWN CLERK, KILLINGLY, CT

2023 APR 18 AM 8:17

**Thursday – April 13, 2023**  
**Regular Meeting – In Person Meeting**  
**7:00 PM**

*Elizabeth M. Wilson*

**Town Meeting Room – 2<sup>nd</sup> Floor**  
**Killingly Town Hall**  
**172 Main Street**  
**Killingly, CT**

**MINUTES**

- I. **CALL TO ORDER CALL TO ORDER** – Chair, Andrew Farner called the meeting to order at 7:13 p.m.
- II. **ROLL CALL** - Lynn LaBerge (Vice-Chair); William Menghi; and Andrew Farner (Chair) were present in person. David Izzo, Sr. was present via WebEx.

**Staff Present** – Ann-Marie Aubrey, Director of Planning & Development (present in person).

**Others Present** – Richard Bonneau; Nicholas Cianci; and J.S. Perreault, Recording Secretary.

- III. **CITIZEN PARTICIPATION** -- Public comment can be emailed to [publiccomment@killinglyct.gov](mailto:publiccomment@killinglyct.gov) or mailed to Town of Killingly, 172 Main Street, Killingly, CT 06239 on or before the meeting. All public comment received prior to 2:00 PM on the day of the meeting will be posted on the Town's website [www.killingly.org](http://www.killingly.org).

Andrew Farner read aloud the above information. There were no comments or questions from the public, either in person or via online.

IV. **PUBLIC HEARINGS – (Review/Discussion/Action)**

1. **Application #22-832 of Richard Bonneau**; to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from sideline from 30' to 8', for a 440 sq ft addition. Property located at 869 No Main St; GIS MAP 154, LOT 5; GC.

Ann-Marie Aubrey read aloud from the Staff Report regarding this Application. A map of the property was displayed (included in packets). She noted that the majority of the addition would be within the 30-foot side setback.

The Applicant is claiming hardship under Section 800.2.1 (a,b,c,d) as described in the application.

Richard Bonneau explained the following:

- It is for retail and also a real estate agency for his son.
- According to the surveyor, there would be room to add a few more parking spaces.
- This would not obstruct the neighbor's view to the road, or ingress or egress.

Ms. Aubrey stated that most of the original building is within the setback and she noted that there is a steep slope, so they can't move it back because of the slope.

Motion was made by William Menghi to close the public hearing for **Application #22-832 of Richard Bonneau**; to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from sideline from 30' to 8', for a 440 sq ft addition. Property located at 869 No Main St; GIS MAP 154, LOT 5; GC.  
Second by David Izzo. No discussion.  
Motion carried unanimously by voice vote (4-0-0).

2. **Application #22-833 of Nicholas Cianci**; to vary the Borough of Danielson Zoning Regulations Section 470; Dimensional Requirements – Table A; Min. lot area for 4 units from 24000 sq ft (total) to 14,800 sq ft, to allow for a fourth residential unit. Property located at 294 Broad St; GIS MAP 181, LOT 170; BRHD.

Ann-Marie Aubrey read aloud from the Staff Report regarding this Application. A map and photos of the property were included in packets. Also included in packets was an e-mail (dated March 22, 2023) from William Skene, Deputy Fire Marshal, describing that a Knoxbox needs to be installed (per Ordinance) and also the need for a secondary fire escape to be built on the side of the building.

The Applicant is claiming hardship under Section 800.2.1 (a,b,c,d) as described in the application.

Nicholas Cianci explained the following:

- Missing smoke detectors have been installed.
- The Knoxbox has been installed.
- Sign marking "Exit" at the back stairwell has been installed.
- He obtained a proposal for a staircase on the exterior (withing the setback requirements). He stated that he has plans.
- Regarding parking, Mr. Cianci explained that there is currently a two-car garage on the property and there is a paved lot that could accommodate seven cars for a total of nine spaces. He stated that he would be willing to increase the number of spaces.

Ms. LaBerge stated that she likes to see at least two spaces per apartment in the case of plowing, they would not be parked on the street.

Ms. Aubrey stated that there is room on the property to add parking (if needed) and that the footprint of the building would not be changed. She referred to the Residential Unit Map prepared by Jonathan Blake (included in packets).

Motion was made by William Menghi to close the public hearing for **Application #22-833 of Nicholas Cianci**; to vary the Borough of Danielson Zoning Regulations Section 470; Dimensional Requirements – Table A; Min. lot area for 4 units from 24000 sq ft (total) to 14,800 sq ft, to allow for a fourth residential unit. Property located at 294 Broad St; GIS MAP 181, LOT 170; BRHD.

Second by Lynn LaBerge. No discussion.

Motion carried unanimously by voice vote (4-0-0).

#### V. UNFINISHED BUSINESS – (Review/Discussion/Action)

1. **Application #22-832 of Richard Bonneau**; to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from sideline from 30' to 8', for a 440 sq ft addition. Property located at 869 No Main St; GIS MAP 154, LOT 5; GC.

Motion was made by William Menghi to accept **Application #22-832 of Richard Bonneau**; to vary the Town of Killingly Zoning Regulations Section 450; Dimensional Requirements – Table A; Min. setback from sideline from 30' to 8', for a 440 sq ft addition. Property located at 869 No Main St; GIS MAP 154, LOT 5; GC.

Second by David Izzo. No discussion.

Roll Call Vote: David Izzo – yes; Lynn LaBerge – yes; William Menghi – yes; Andrew Farner – yes.

Motion carried unanimously (4-0-0).

There was discussion regarding whether reasons for approval need to be stated. It was left up to what the Board Members feel comfortable with.

2. **Application #22-833 of Nicholas Cianci**; to vary the Borough of Danielson Zoning Regulations Section 470; Dimensional Requirements – Table A; Min. lot area for 4 units from 24000 sq ft (total) to 14,800 sq ft, to allow for a fourth residential unit. Property located at 294 Broad St; GIS MAP 181, LOT 170; BRHD.

Motion was made by Lynn LaBerge to accept **Application #22-833 of Nicholas Cianci**; to vary the Borough of Danielson Zoning Regulations Section 470; Dimensional Requirements – Table A; Min. lot area for 4 units from 24000 sq ft (total) to 14,800 sq ft, to allow for a fourth residential unit. Property located at 294 Broad St; GIS MAP 181, LOT 170; BRHD, as presented.

Second by David Izzo.

Discussion: Ms. Aubrey asked for clarification regarding whether “accept” is meant as “approve.”

Ms. LaBerge stated that it is.

Roll Call Vote: David Izzo – yes; Lynn LaBerge – yes; William Menghi – yes; Andrew Farner – yes.

Motion carried unanimously (4-0-0).

**VI. NEW BUSINESS – None.**

**VII. ADOPTION OF MINUTES**

**1. October 13, 2022, Regular Meeting**

Motion was made by David Izzo to adopt the Minutes of the Regular Meeting of October 13, 2022.

Second by Lynn LaBerge. No discussion.

Motion carried unanimously by voice vote (4-0-0).

**VIII. CORRESPONDENCE TO THE BOARD – None.**

**IX. COUNCIL LIAISON – No representation.**

**X. ADJOURNMENT**

Motion was made by William Menghi to adjourn at 7:33 p.m.

Second by Lynn LaBerge. No discussion.

Motion carried unanimously (4-0-0).

Respectfully submitted,

J.S. Perreault

Recording Secretary