

ZONING SPECIAL EXCEPTION APPLICATION CONTAINER STORAGE AREA

*Turnkey Recycling and Environmental Enterprise
Rochester, New Hampshire*



*Prepared for Waste Management of New Hampshire, Inc.
File No. 4597.00
July 2019*



WASTE MANAGEMENT
30 Rochester Neck Road
Rochester, NH 03839

July 24, 2019

Jim Grant, Director
Building, Zoning, and Licensing Services
City of Rochester
31 Wakefield Street
Rochester, New Hampshire 03867

Re: Zoning Special Exception Application
Map 268 Lot 2
Turnkey Recycling and Environmental Enterprises
Waste Management of New Hampshire, Inc.

Dear Mr. Grant:

Enclosed is a Zoning Special Exception Application (ZSE Application) for Waste Management of New Hampshire, Inc.'s (WMNH's) Container Storage Area (CSA) facility located at 214 Rochester Neck Road, tax Map 268 Lot 2. This property, which has been in industrial use since approximately 1999, lies within the City of Rochester's (City's) Agricultural Zoning District.

On June 19, 2019, WMNH submitted a Zoning Variance Application (ZV Application) to the City for the CSA facility. the ZV Application was based on our understanding that the CSA should be categorized as a "Truck Terminal." This use does not meet the objectives or development standards of the City's Agricultural District and is not listed in the Tables of Uses in Section 18 of the City's Zoning Ordinance (Table 18-D) as a use that meets the requirements for a special exemption from the Zoning Ordinance. However, after meeting with you prior to the July 10, 2019 Zoning Board meeting and with Joe Devine on July 18, 2019, we understand that the CSA should be categorized as a "Contractor's Storage Yard," which is listed in Table 18-D as a use that meets the requirements for a Zoning Special Exemption.

Therefore, with the submittal of this ZSE Application, we are transferring our request for a Zoning Variance to a request for a Zoning Special Exception. Based on emails with the City on July 22, 2019, we understand that an application fee is not required for this submittal.

Background

Prior to WMNH's ownership in 2007, the property was used for industrial purposes. Recently, WMNH learned that the property was subdivided in 1999 by the owner at that time, but deeds describing the subdivided parcels were not recorded with the Strafford County Registry of Deeds. Because WMNH owns both parcels, and consistent with WMNH's desire to simplify its land ownership records, on June 18, 2019 WMNH submitted a Lot Combination Application for the subdivided lots with the City. For the purposes of this ZSE Application, WMNH assumes that the Lot Combination Application will be approved and hence property references herein are for 214

Rochester Neck Road, Tax Map 268 Lot 2. Figure 1 presents the property limits as described in latest property deed on file with the County (Book 3603, Page 180).

Existing Conditions

The existing CSA facility consists of an office building and a container and compactor maintenance building and are accessed by a paved driveway from Rochester Neck Road. As shown on Figure 2 the paved driveway ends and the remaining storage and work area is gravel covered. The area surrounding the storage area is well vegetated and an existing wetland is located to the south.

The existing wetlands area on the property was delineated and is addressed in permits issued by the NHDES and the US Army Corps, which the City's Conservation Commission was consulted.

Special Exception Request

This Application is being submitted to allow WMNH the ability to continue the approval process of the Nonresidential Site Plan Application submitted to the City on July 9, 2019 for proposed site improvements. Based on discussions and emails with the City's Department of Planning and Development, we now understand that the CSA can be categorized as a "Contractor's Storage Yard." Because "Contractor's Storage Yard" is listed in Table 18-D of the City's Zoning Ordinance as a use that meets the requirements for a special exemption from the Zoning Ordinance, we are requesting this special exception from the terms of the Zoning Ordinance to continue the existing non-conforming use of the property.

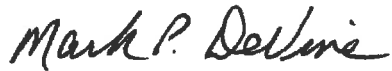
Because the property is already in industrial use, the Special Exception will facilitate its continued operation. There are no existing farms or agricultural activities on the property, and the spirit of the Zoning Ordinance will be observed because no additional buildings or uses are being proposed. The existing building and utilities are adequate and appropriate for the continued operation of the CSA. The facility is minimally visible from Rochester Neck Road and no additional access ways or off-street parking are proposed. The property is also located near the existing Turnkey Recycling and Environmental Enterprise Facility and the Pike and Brox quarries and has been in industrial use since about 1999. Therefore, the continued use of the property is not detrimental, injurious, obnoxious or offensive to the neighborhood, which is predominately classified as industrial use.

Closing

WMNH appreciates the City's consideration of this ZSE Application. If you need additional information, please contact me at (603) 330-2142 or at mdevine@wm.com.

Sincerely,

WASTE MANAGEMENT OF NEW HAMPSHIRE, INC.



Mark P. DeVine
Construction Project Manager

Enclosures: Special Exception Application
Special Exception Application Checklist
Figure 1 – Lot Plan
Figure 2 – Existing Conditions
Abutters List

Copies to: Bob Magnusson, WMNH
Eric Steinhauser, Sanborn Head

SPECIAL EXCEPTION APPLICATION



City of Rochester, New Hampshire

Department of Building, Zoning and Licensing Services
33 Wakefield Street * Rochester, NH 03867
(603) 332-3508

Special Exception Application

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2-19-19

DATE FILED 7/24/19

Julia Libby
ZONING BOARD CLERK

Applicant: Waste Management of New Hampshire, Inc.

E-mail: mdevine@wm.com Phone: (603) 330-2142

Applicant Address: 30 Rochester Neck Road Rochester, NH

Property Owner: Waste Management of New Hampshire, Inc.

Property Owner Address: 30 Rochester Neck Road Rochester, NH

Variance Address: 214 Rochester Neck Road Rochester, NH

Map Lot and Block No: 268-2

Description of Property (give length of lot lines): See accompanying cover letter.

Proposed use or existing use affected: Contractor's Storage Yard

The undersigned hereby requests a special exception as provided in Article 42.5, Section a of the Zoning Ordinance (Table 18-D) to continue use of the property, which may be most closely categorized as a "contractor's storage yard", which is a non-conforming use in the Agricultural Zoning District.

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance.

Signed: Mark P. DeVine Date: 7/24/19

42.22 Special Exception Sheet

(a) General Provisions

(1) Certain uses, structures, or conditions are designed as Special Exceptions (E) in this ordinance. Upon application, the Board of Adjustment may, subject to the appropriate conditions and safeguards, grant a permit for these special exceptions and no others.

(2) Special Exceptions, for which conformance to additional standards is required, may be permitted in their respective districts, subject to the satisfaction of the requirements and standards set forth in this section 42.22, in addition to all other requirements of this ordinance. All such uses are hereby declared to possess such special characteristics that each shall be considered as an individual case.

(3) The Board of Adjustment may require that a site plan for development for a proposed special exception be submitted showing the location of all buildings, parking areas, traffic access, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special exception is in harmony with the intent of this ordinance.

(b) Considerations Governing Granting Special Exceptions: In acting upon an application for a special exception, the Board of Adjustment shall take into consideration whether:

(1) The specific site is an appropriate location for the proposed use or structure. Yes No
Reasoning: Prior to WMNH's purchase of the property in 2007, the property supported a similar non-conforming industrial use. The existing industrial use of the property dates to approximately 1999. The special exception will allow continued use of the property and simplify future permitting activities.

(2) The proposal is detrimental, injurious, obnoxious, or offensive to the neighborhood. Yes No
Reasoning: The property has been in industrial use since about 1999. The property is located near the existing Turnkey Recycling and Environmental Enterprise Facility and the Pike and Brox quarries. WMNH is requesting this special exception to properly classify the property for its continued use.

(3) There will be undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off street parking. Yes No Reasoning: The facility is minimally visible from Rochester Neck Road and no additional access ways or off street parking are proposed. The special exception will allow continued use of the property.

(4) Adequate and appropriate facilities and utilities will be provided to ensure the proper operation of the proposed use or structure. Yes No Reasoning: No proposed structures or changes in use are being requested. Therefore, the existing facilities and utilities will continue to be sufficient to ensure proper operation of the facility, which as been in industrial use since about 1999.

(5) The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan. Yes No Reasoning: The existing industrial use of the property dates to approximately 1999. There are no existing farm or agricultural activities located on the property.

Please check section 42.22 of the Zoning Ordinance for any additional specific conditions that apply to your Special Exception request.

Form Not Applicable.

Garage Setback Sheet

Garage Setbacks: A special exception may be granted to reduce side and/or rear yard setback requirements for garages (only applicable for residential use) in the Agricultural, Residential 1, or Residential 2 zones, subject to all of the following conditions. **(These are in addition to the five general criteria for all Special Exceptions):**

I attest to the Zoning Board of Adjustment that:

1. The lot was not created by a subdivision that occurred after January 1, 1998. _____

2. There is some existing pattern in the area for garage setbacks smaller than those requires, as evidence by: _____

3. Locating the garage in conformance with the side and/or rear yard requirements would significantly impact existing vegetation, views from the residence, use of the yard, or site circulation, or is impractical due to lot dimensions or other constraints because: _____

4. If a new driveway serves the garage, it must be endorsed by the City Engineer, prior to the Public Hearing. *The City Staff will consult the City Engineer prior to the meeting on this criterion.*
5. The proposed garage must be set back at least 10 feet from any existing building location on an adjacent lot. *Please provide a sketch plan showing the proposed garage footprint, and its relation to existing structures.*
6. The proposed garage must be designed to blend with the architectural character of the neighborhood (siding, fenestration, roof pitch, etc.) *Elevation drawings must be submitted to the ZBA, and will be reviewed as part of this application.*
7. The garage cannot exceed 24 feet in either length or width.
8. The garage walls (from foundation) cannot exceed 10 feet in height (the roof may exceed the 10 foot limit).

SPECIAL EXCEPTION APPLICATION CHECKLIST

Special Exception Application Checklist

- ☒ It must be determined that your proposed use is not permitted without a special exception.
- ☒ Complete the application form.
- ☒ Complete the 42.22 Special Exceptions sheet, addressing the five questions. If the special exception is for a garage, you must also complete the Garage Setbacks sheet.
- ☒ A narrative touching the five criteria and explaining what you are requesting a special exception for.
- N/A ☐ If the applicant is not the property owner, he/she must supply a note signed by the property owner stating his/ her knowledge of the application being submitted to the Zoning Board of Adjustment. The property owner will receive a copy of the public hearing notice by certified mail along with the abutters.
- ☒ A sketch including the following:
 - Measurements of the distances from any existing structure to the lot lines. If the proposed structure is not attached to the building you will need the distance between buildings.
 - Dimensions of the lot. A certified plot plan of your property is required by the Zoning Board. If you do not have a certified plot plan you may request a waiver (see zoning clerk)
 - If for a garage, all appropriate information on proposed garage
- N/A ☐ Photographs, if you have them.
- ☒ Abutter's list. **This information must be obtained from the Zoning Clerk in the Building, Zoning, and Licensing Office. The applicant must pay the cost of the certified fee for each abutter, applicant and any other applicable person.** (See Zoning Clerk for current fee)
- Previously provided ☒ Application fee of \$175.00. Check made payable to City of Rochester, including abutters' fees.
- ☒ One PDF form of your application packet is due as well as paper 10 paper copies.

All of the above information must be completed and submitted to the Building, Zoning Department on or before the deadline date, or the application will be considered incomplete and will be postponed until the next scheduled meeting, or until all the requirements have been met.

NOTE: All applications will be allowed one postponement of the hearing in their application, and shall notify the Building, Zoning, and Licensing office in writing of their intent to postpone hearing at least two days prior to the meeting at which their application is to be considered. If the applicant requests a second postponement of the hearing, the application will be considered to have been withdrawn and the applicant must file a new application with the Board in order to receive a hearing. The provisions of this paragraph shall not apply to any postponement requested by an applicant as a result of the inability of the Zoning Board of Adjustment to provide the applicant with a five-member board for the hearing on the application.

The applicant or their representative MUST attend the Zoning Board of Adjustment meeting to present their case, or no action will be taken.

If you have any questions with any of these requirements, please contact the Zoning Clerk, Julia Libby.
Phone: (603)332-3976
E-mail: julia.libby@rochesternh.net

FIGURES

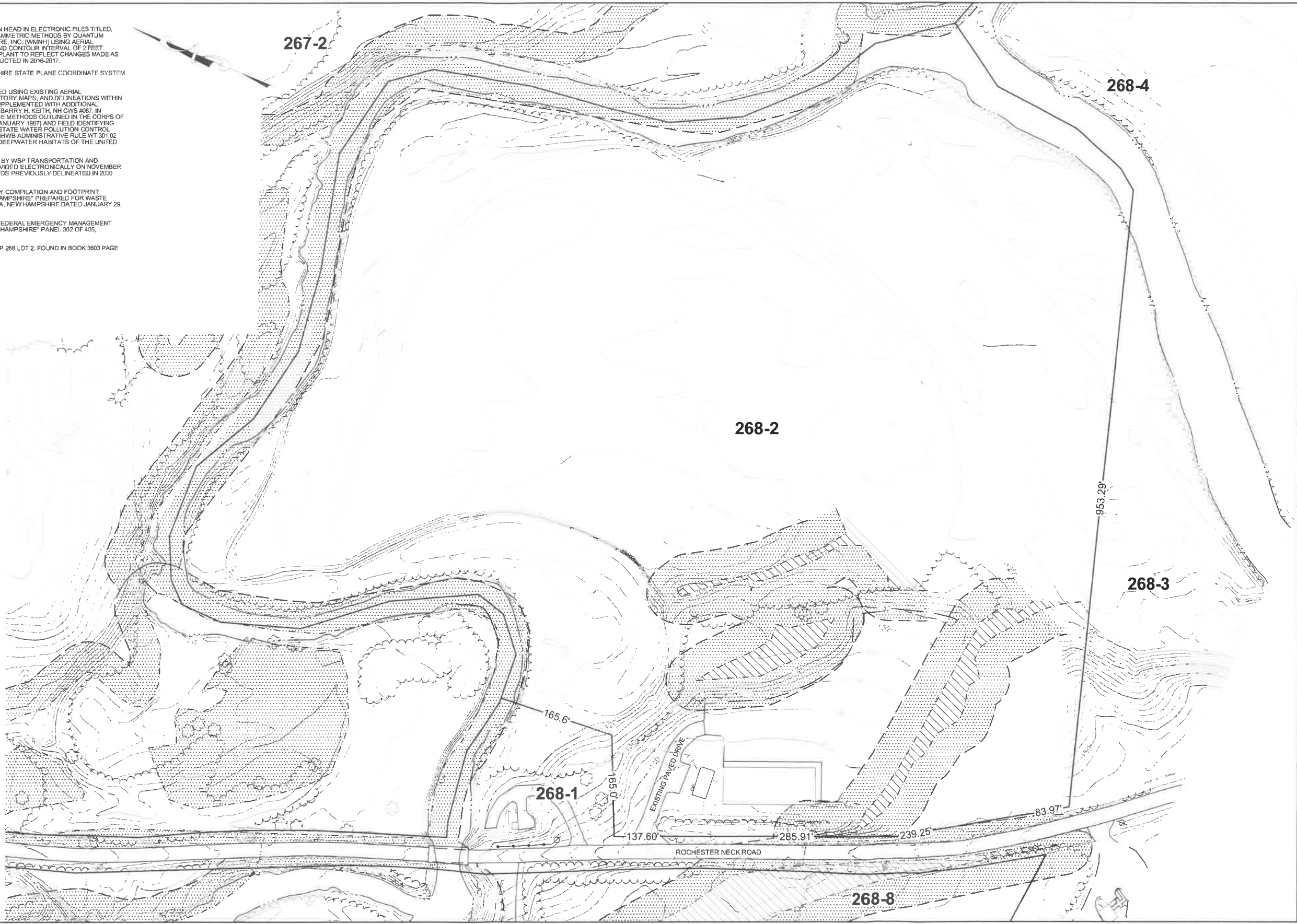
REFERENCE NOTES

- EXISTING TOPOGRAPHY AND SITE FEATURES WERE PROVIDED TO SANBORN HEAD IN ELECTRONIC FILES TITLED, "TREE 16-01.DWG" THROUGH "TREE 16-12.DWG" COMPILED USING PHOTOGRAMMETRIC METHODS BY QUANTUM SPATIAL OF DULLES, VIRGINIA FOR WASTE MANAGEMENT OF NEW HAMPSHIRE, INC. (WMNH) USING AERIAL PHOTOGRAPHY DATED APRIL 21, 2016 AT AN ORIGINAL SCALE OF 1" = 100' AND CONTOUR INTERVAL OF 2 FEET. TOPOGRAPHY WAS MODIFIED IN THE AREA OF THE LEACHATE TREATMENT PLANT TO REFLECT CHANGES MADE AS PART OF THE LEACHATE TREATMENT PLANT EXPANSION PROJECT CONSTRUCTED IN 2016-2017.
- VERTICAL DATUM IS BASED ON NGVD 1929. GRID IS BASED ON NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM NAD 1983.
- WETLAND AREAS REPRESENT A COMPILED OF INFORMATION DETERMINED USING EXISTING AERIAL PHOTOGRAPHY, SOILS INFORMATION, U.S.F.W.S. NATIONAL WETLAND INVENTORY MAPS, AND DELINEATIONS WITHIN THE PROJECT AREA CONDUCTED IN OCTOBER AND DECEMBER 2014 AND SUPPLEMENTED WITH ADDITIONAL DELINEATIONS PERFORMED BETWEEN SEPTEMBER 2000 AND JUNE 2015 BY BARRY H. KEITH, NH CWS #067, IN ACCORDANCE WITH NHWS ADMINISTRATIVE RULE WT 301.01 (A-C) USING THE METHODS OUTLINED IN THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, TECHNICAL REPORT V-87-1 (JANUARY 1987) AND FIELD IDENTIFYING HYDRIC SOILS IN NEW ENGLAND (VERSION II) PUBLISHED BY THE N.E. INTERSTATE WATER POLLUTION CONTROL COMMISSION. WETLAND AREAS WERE CLASSIFIED IN ACCORDANCE WITH NHWS ADMINISTRATIVE RULE WT 301.02 USING THE USFWS/USGS 79/5 MANUAL CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES (COWARDIN ET AL, 1979).
- LIMIT OF WETLANDS PERTINENT TO THE TLR-III SOUTH AREA WERE MAPPED BY WSP TRANSPORTATION AND INFRASTRUCTURE, INC. USING TOTAL STATION SURVEY METHODS AND PROVIDED ELECTRONICALLY ON NOVEMBER 7, 2014 AND FEBRUARY 3, 2015, AND SUPPLEMENTED WITH LIMIT OF WETLANDS PREVIOUSLY DELINEATED IN 2000 AND 2008.
- PROPERTY LINE INFORMATION WAS TAKEN FROM A PLAN TITLED "BOUNDARY COMPILED AND FOOTPRINT COMPILED OF TLR-I AND TLR-III, ROCHESTER NECK ROAD, GONIC, NEW HAMPSHIRE" PREPARED FOR WASTE MANAGEMENT OF NEW HAMPSHIRE, INC. BY CHAS. H. SELLS, INC. OF NASHUA, NEW HAMPSHIRE DATED JANUARY 29, 2002 AT A SCALE OF 1" = 300'.
- THE 100-YEAR FLOODPLAIN IS BASED ON INFORMATION PROVIDED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) "FLOOD INSURANCE RATE MAP, STRAFFORD COUNTY, NEW HAMPSHIRE" PANEL 302 OF 405, EFFECTIVE DATE SEPTEMBER 30, 2015.
- LOT DIMENSIONS WERE TAKEN FROM THE DEED REFERENCED FOR TAX MAP 268 LOT 2, FOUND IN BOOK 3803 PAGE 180.

LEGEND

EXISTING CONDITIONS

- PROPERTY LINE
- LOT LINE
- 2-FOOT ELEVATION CONTOUR
- 10 FOOT ELEVATION CONTOUR
- EDGE OF ROAD
- LIMIT OF WETLANDS
- EDGE OF WATER
- TREE LINE
- GUARDRAIL
- DRAINAGE CULVERT
- WETLAND AREA
- NATURAL WETLAND BUFFER AREA
- UTILITY POLE
- POST
- MISC. OBJECT
- SIGN
- LIGHT POST
- TREE/BUSH



SANBORN HEAD



NO.	DATE	DESCRIPTION

DRAWN BY: S. SANTIAGO
DESIGNED BY: S. SANTIAGO
REVIEWED BY: L. DAMIANO
PROJECT MGR: L. DAMIANO
PIC: E. STEINHAUSER
DATE: JULY 2019

CONTAINER STORAGE AREA
TLR-III REFUSE DISPOSAL FACILITY
WASTE MANAGEMENT OF NEW HAMPSHIRE, INC.
ROCHESTER, NEW HAMPSHIRE
CONTAINER STORAGE AREA
LOT PLAN

PROJECT NUMBER:
4597.00
FIGURE NUMBER:
1

ABUTTER LIST

Abutter List for Tax Map 268 Lot 2

Turnkey Recycling and Environmental Enterprise
Waste Management of New Hampshire, Inc.
Rochester, New Hampshire

Map	Lot	Owner Name	Owner Mailing Address
267	2	Waste Management of New Hampshire, Inc.	Applicant's Property
268	1	City of Dover	288 Central Ave, Dover, NH 03820
268	3	Stephen Brox	1471 Methuen Street, Dracut, MA 01826
268	4	Samuel Bagdon	115 County Farm Cross Road, Dover, NH 03820
268	6	Pike Industries	3 Eastgate Park Road, Belmont, NH 03220
268	8	Waste Management of New Hampshire, Inc.	Applicant's Property

Note:

1. Abutter list information was accessed on June 13, 2019 from the City of Rochester, NH online GIS database and verified by the Zoning Clerk for the City of Rochester via email on June 14, 2019.