



American Foundation
for Suicide Prevention

March 20, 2014

City of Portsmouth
Mayor's Office
1 Junkins Avenue
Portsmouth, NH 03801

Dear Honorable Mayor Lister and City Council Members;

The Portsmouth chapter of the AFSP Out of the Darkness Walk has hosted a fundraising and education walk since 2006 in Portsmouth. This event has grown to more than 300 walkers annually and has continued to raise more than \$50,000 per year to support local and state suicide prevention education as well as national research programs. We would like to continue the tradition and success of this program and are asking for permission to again host the Out of the Darkness Community Walk in the City of Portsmouth.

The proposed date and time is as follows;

Date: September 27, 2014 (Saturday)

Registration Begins: 8:30am

Walk Duration: 10am – Noon

The walk would begin and end on Pierce Island (see attached proposed walk route).

We would like to thank you for your consideration and look forward to your decision.

Respectfully,

Ken La Valley, Chair
OOTD Walk Committee
66 Hunter Lane
Barrington, NH 03825



American Foundation for Suicide Prevention

Proposed Walk Route (2.3 Miles)

Start: Pierce Island Outdoor Pool

To: Pierce Island Rd.

To: Left on Marcy St.

To: Left on Pleasant St.

To: Right on New Castle Ave.

To: Right on Junkins Ave.

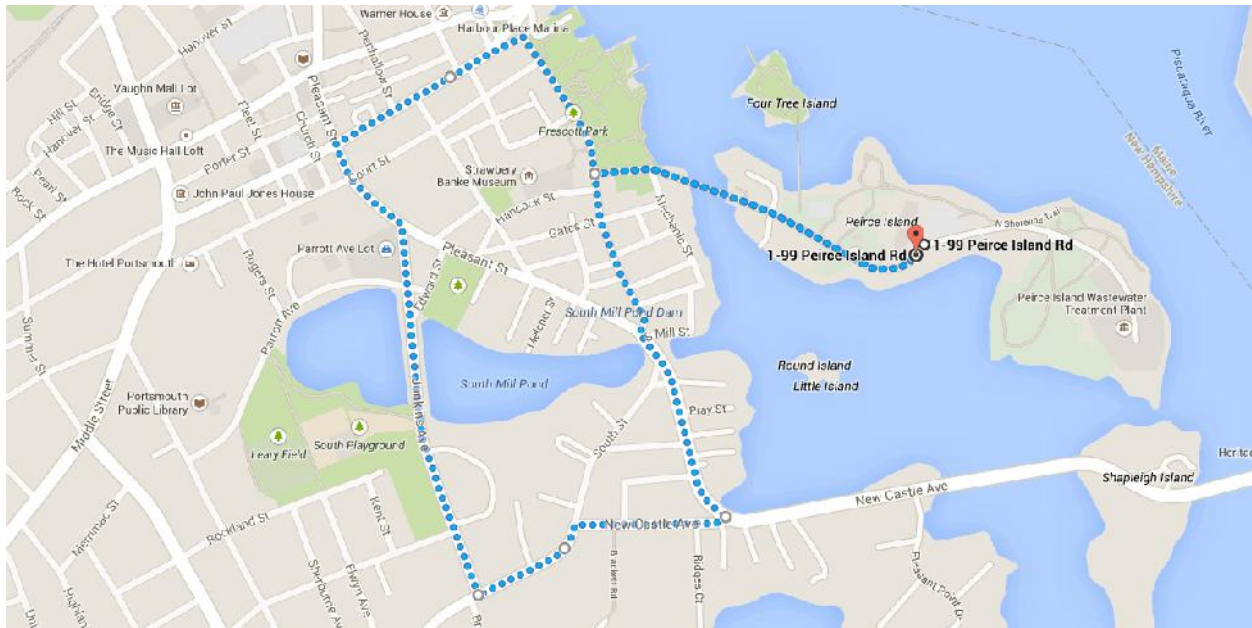
To: Left on Pleasant St.

To: Right on State St.

To: Right on Marcy St.

To: Left on Pierce Island Rd.

End: Pierce Island Outdoor Pool



Prescott Park Arts Festival
 P.O. Box 4370
 Portsmouth, NH 03802
 603.436.2848



Ben Anderson
 Executive Director

Claudette Barker
 President

Bill Duncan
 Vice President

Aileen Dugan
 Secretary

Matt Williams
 Treasurer

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 Corinne Norris
 Betsy Scott

March 11, 2014

John Bohenko
 City Manager
 City of Portsmouth City Hall
 1 Junkins Avenue
 Portsmouth, NH 03801

MAR 13 2014

Dear Mr. Bohenko,

On Saturday, June 7, 2014, Prescott Park Arts Festival will be hosting the 30th Annual WOKQ Chowder Festival in Prescott Park. Each year, the Chowder Festival attracts thousands of people to the Park for all-you-can-eat chowder tastings, live cooking demonstrations and music, activities for children, and other attractions.

This festival is an opportunity to showcase area restaurants to both residents and visitors who enjoy this event each year.

To facilitate a smooth-running and safe event, Prescott Park Arts Festival is requesting the Prescott Park North parking lot (corner of State Street and Marcy Street) be closed to the public during the Festival, on Saturday June 7, 2014 from 6:00am to 2:00pm. We also ask the city to waive the two hour parking limit for the lot during this time in order to allow participating restaurants to park in the North lot for the duration of the Chowder Festival.

Thank you for your time and consideration. We truly appreciate your cooperation in making the experience of Chowder Festival as enjoyable as possible for Festival visitors.

Best regards,

Ben Anderson
 Executive Director

MAR 28 2014

February 12th, 2014

John Bohenko
City Manager
1 Junkins Avenue
Portsmouth, NH 03801

Dear John Bohenko:

The Northern New England Chapter of the Cystic Fibrosis Foundation is once again planning the **Aptalis CF Cycle for Life Seacoast Safari** for the 2014 summer season. This 150/100-mile two-day bicycle tour will travel the coastline and mainland from Kittery, ME to Biddeford, ME, with approximately 200 participants pedaling for a cure. Since its inception twelve years ago, Seacoast Safari: CF Cycle for Life has raised over \$900,000, helping to continue the battle against cystic fibrosis (CF), a genetic disease for which there is currently no cure. In order to accomplish this goal, I wanted to contact you today to inform you about our ride and ensure that we will have approval and support from the City of Portsmouth.

On Saturday, July 19, 2014, the cyclists will begin the tour at 7:45 a.m. from the Traip Academy in Kittery, ME. The cyclists will generally travel between 10-25 mph as they travel the route that brings them to the University of New England in Biddeford, Maine no later than 4:00 p.m. On Sunday, July 20th they will return to Kittery from Biddeford along the same route completing their ride no later than 3:00 p.m.

We will be contacting all of the town managers and police chiefs along the route to communicate our plans and receive approval to cycle on the roads. Additionally, we will need to mark the route approximately every 1/2 mile with painted arrows on the street. We will mark the roads using only WHITE road chalk. These marks are used to confirm cyclists are traveling in the correct direction. We have planned to mark the roads in your town during the week of July 14th. **If you have any questions regarding the ride or if any additional permits are required, please contact me at (800) 757-0203.**

I hope this letter provides the information you will need to review our request and answer your logistical questions about the **Aptalis CF Cycle for Life: Seacoast Safari**. If you have any questions or concerns, please do not hesitate to contact me at (800) 757-0203, and I would be more than happy to address any issues that you may have.

Please sign for your approval in the box below and return by email ovlangas@cff.org, via facsimile to 603-598-8167, or USPS to the address below. Thank you in advance for your time and consideration.

Sincerely

Chris Viangas
Development Director

Thomas MacLennan
Logistics Specialist

John Bohenko, City Manager

or designee (Please Print Name)

I, John Bohenko, am authorized by the City of Portsmouth and grant permission to the Cystic Fibrosis Foundation's 2014 Aptalis CF Cycle for Life: Seacoast Safari to use town roads and facilities for cyclists on July 19 & 20, 2014.

Ann Sharpe

Subject: Cystic Fibrosis Foundation Cycle for Life additional information
Attachments: Portsmouth Letter.pdf

From: MacLennan, Thomas
Sent: Thursday, March 13, 2014 2:04 PM
To: 'jpb@cityofportsmouth.com'
Subject: Cystic Fibrosis Foundation Cycle for Life additional information

Dear Mr. Bohenko,

Thank for your consideration of the Cystic Fibrosis Foundation's 2014 Cycle for Life event. Our event has grown to include tentative routes with small groups of riders traveling on the City of Portsmouth's roadways. Here is our planned route:

	Distance on roadway
Sharp Daniel St/Harbour Pl	0.10
State St	0.10
Marcy St	0.10
Stay on Marcy St	0.30

LEAVING PORTSMOUTH & REENTERING

Slight Right Marcy St	1.10
Staying on Marcy St	0.20
Atkinson St	0.20
State St	0.20
Slight Left Dutton Ave	0.00

We can provide a certificate of insurance, please let us know if we can provide any additional information.

Thank you for your time,

Thomas

Thomas MacLennan
Logistics Specialist
Cystic Fibrosis Foundation - Northern New England Chapter
(p)603-598-8191
(f) 603-598-8167
tmaclellan@cff.org

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APR - 2 2014

New Hampshire State Liquor Commission

Bureau of Enforcement
P.O. Box 1795
Concord, NH 03302-1795

Pease Development Authority

55 International Drive
Portsmouth, NH 03801
Phone: (603) 433-6088
Fax: (603) 427-0433
info@peasedev.org

City Of Portsmouth

John P. Bohenko
1 Junkins Avenue
Portsmouth, NH 03801

Phone:

(603) 610 - 7202

Fax:

(603) 427-1526

To all it may concern;

Redhook Brewery at 1 Redhook Way, Portsmouth NH will be hosting its 17th annual Redhook/Runner's Alley 5k to support the Krempel's Center for Brain Injury.

The event will take place on May 25th, 2014 from 9:00am to 3:00pm. The race starts at the brewery's entrance and finishes in the brewery's back yard. This event is all ages.

Local restaurants will be donating food. All cash sales of beer will take place on the patio which is already designed under our current license. Runners with a valid ID will get their beer from the beer trailer which will be stationed just outside our regular licensed area. We are expecting to host 2500 guests throughout the course of the day.

Redhook is requesting an extension of our existing license #1036603 to the designated area defined in the attached site map. Beer consumption at this station will be minimal due to our "1 beer per person policy".

Thank you for your consideration.

Ryan Fleming

Banquet & Events Manager
Ryan.Fleming@Redhook.com

Redhook Brewery

1 Redhook Way, Portsmouth NH 03801

www.Redhook.com

O 603-501-3237

C 603-686-1134

F 603-430-6011



REDHOOK BREWERY



Imagery Date: 11/8/2011

43°05'16.95" N 70°48'13.15" W elev 62 ft

Image USDA Farm Service Agency

High Line
2012
Water Station

1 Redhook Way, Portsmouth, NH 03801, USA

Google earth

Long-term Parking

Eye alt 1033 ft

100 Club Parking

Handicap & Pub Parking

Potties

NB Tent

VIP potties

100 Club

RH Inflatable

Band

Beer Trailer

Kids Fun Run

Runners Food

Runner Registration

Ambulance

First Aid

Cash Bar



M E M O R A N D U M

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director 
DATE: March 25, 2014
RE: City Council Referral – Projecting Sign
Address: 90 Fleet Street
Business Name: Studio on 90 Fleet
Business Owner: Susan, Calina & Paul Hood

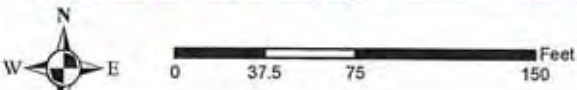
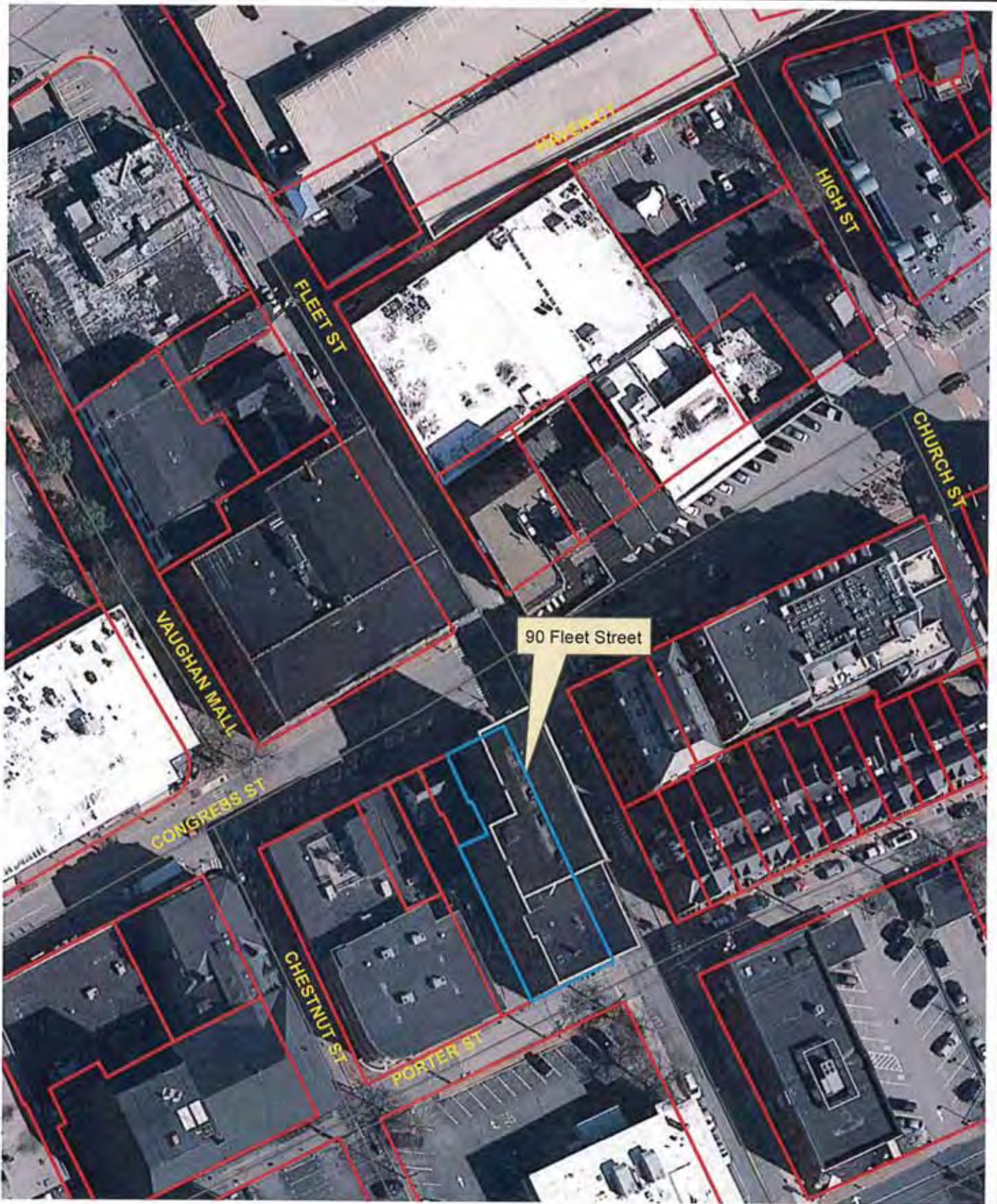
APR - 1 2014

Permission is being sought to install a projecting sign on an existing bracket, as follows:

Sign dimensions: 30" x 39"
Sign area: 8.0 sq. ft.
Height from sidewalk to bottom of sign: 12'0"
Maximum protrusion from building: 36 in.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.



Map produced by Planning Department 2-10-2014

Request for Projecting Sign License 90 Fleet Street

Studio 90 on Fleet
90 Fleet Street
1 Projecting Sign





29.5"

M E M O R A N D U M

APR 1 2014

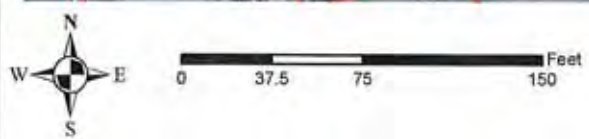
TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT.*
DATE: March 25, 2014
RE: City Council Referral – Projecting Sign
Address: 92 Pleasant Street
Business Name: Buff & File Nail Bar
Business Owner: Andre Van Oss

Permission is being sought to install a projecting sign on a new bracket, as follows:

Sign dimensions: 32" x 18"
Sign area: 4.0 sq. ft.
Height from sidewalk to bottom of sign: 8'0"
Maximum protrusion from building: 38 in.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.



Request for Projecting Sign License 92 Pleasant Street

Map produced by Planning Department 3-25-2014

Buff & File Nail Bar
92 Pleasant Street
1 Projecting Sign



32"

Buff & File

Non-toxic polish | No-chip polish | The CLEAN pedicure

Heaven on wheels is the best
= 8 #.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT*
DATE: March 25, 2014
RE: City Council Referral – Projecting Sign
Address: 36 Market Street
Business Name: Federal Cigar
Business Owner: Richard Cyr

APW - 2/2014

Permission is being sought to install a projecting sign on Market Street on an existing bracket, as follows:

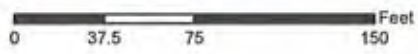
Sign dimensions: 48" x 36"
Sign area: 12 sq. ft.
Height from sidewalk to bottom of sign: 11'5"
Maximum protrusion from building: 54 in.

And on a new bracket on Ladd Street, as follows:

Sign dimensions: 46" x 30"
Sign area: 9.6 sq. ft.
Height from sidewalk to bottom of sign: 11'5"
Maximum protrusion from building: 50 in.
Distance from edge of vehicular travel way: 13"

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.



Request for Projecting Sign License 36 Market Street

Map produced by Planning Department 3-25-2014

Federal Cigar
36 Market Street
1 Projecting Sign





RIBBON AND FEDERAL CIGAR BAND LOGO IS RAISED 1/2" PVC
 OPTIONAL 1/2" PVC RAISED LETTERS
 ALL WITH DIG PRINT

NEW AWNING COVER

CLOUD 9 LOGO DIG PRINT

(ONE) NEW D. FACE SIGN



60 OLD DERRY ROAD
 LONDONDERRY, NH 03060
 PH 603.437.1200
 FAX 603.437.1222

www.nhsigns.com

- DESIGN
- MANUFACTURE
- INSTALL
- SERVICE



NAME

CLIENT: FEDERAL CIGAR
 LOCATION PORTSMOUTH, NH
 DATE 01 27 14

DESIGNER	CFC
ACCT. REP	DAN HUTCHINS
REVISION	NOTES BY
1	01 28 14 .
2	01 29 14 .
3	01 31 14 .
4	02 26 14
5	02 27 14
6	03 27 14

DESIGN APPROVED
 BY DATE / / 14

INSTALLATION NOTES

PRODUCTION NOTES

SPECIAL ORDER

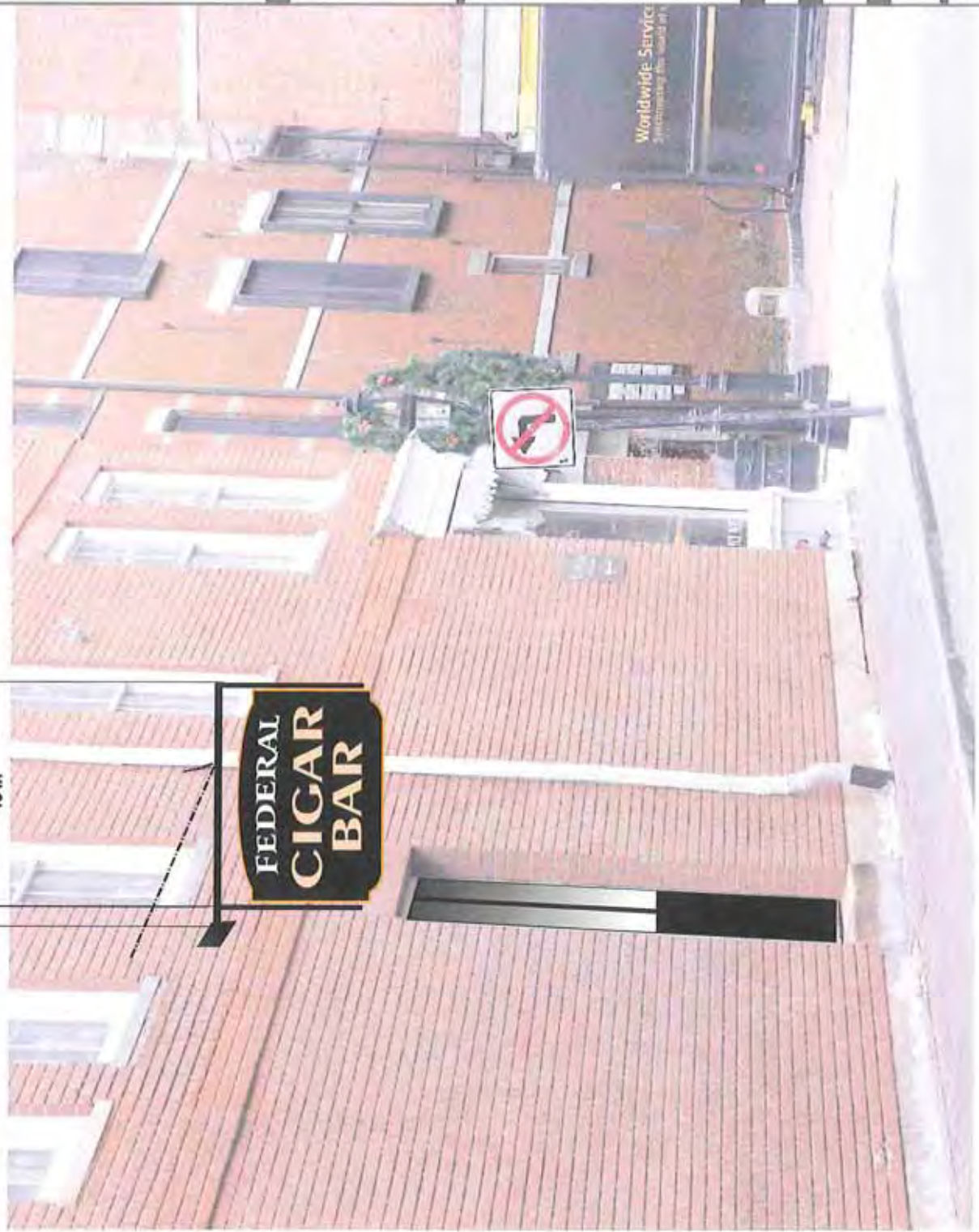
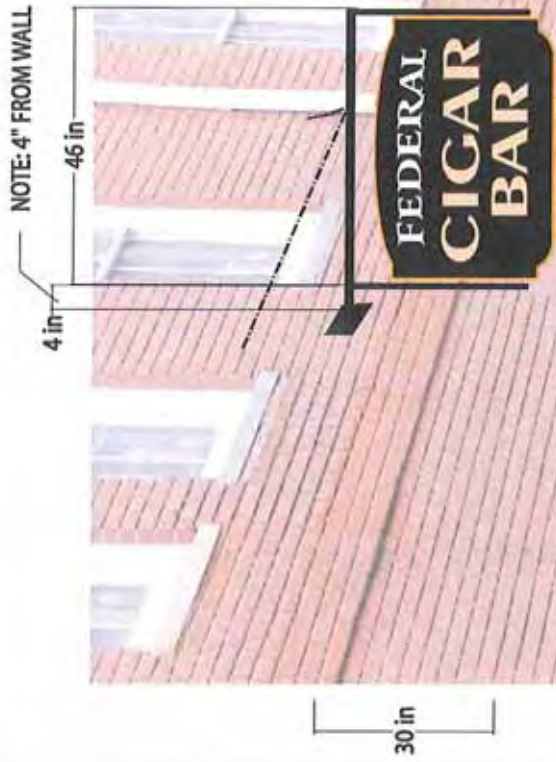
Please Note: It is the customers responsibility to provide primary electrical service (including ground wiring) directly from panel box, to within six feet of sign(s). Installation to comply with N.E.C. 600

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Federal Cigar
36 Market Street
Ladd Street entrance





60 OLD DERRY ROAD
LONDONDERRY, NH 03060
PH 603.437.1200
FAX 603.437.1222

www.nhsigns.com

- DESIGN
- MANUFACTURE
- INSTALL
- SERVICE



NAME

CLIENT: FEDERAL CIGAR
LOCATION: PORTSMOUTH, NH
DATE: 01 27 14

DESIGNER: CFC
ACCT. REP: DAN HUTCHINS
REVISION NOTES BY

1	01 28 14	-
2	01 29 14	-
3	02 10 14	-
4	02 26 14	-
5	03 28 14	-
6	03 27 14	-
7	04 01 14	-

DESIGN APPROVED
BY _____ DATE / / 14

INSTALLATION NOTES

PRODUCTION NOTES

SPECIAL ORDER

Please Refer to the customer responsibility to provide accurate base panel back to within six feet of signpost. Installation to comply with N.E.C. code.

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NEW NON-ILLUMINATED PROJECTING SIGN

BOSEN & ASSOCIATES, P.L.L.C.

ATTORNEYS AT LAW

April 1, 2014

APR - 1 2014

Robert Lister, Mayor
Portsmouth City Council
1 Junkins Avenue
Portsmouth, NH 03801

John K. Bosen
Admitted in NH & MA

Christopher P. Mulligan
Admitted in NH & ME

Molly C. Ferrara
Admitted in NH

Albert Hansen
Admitted in NH, MA & ME

**RE: Request for Restoration of Involuntarily Merged Lots Pursuant to
RSA 674:39-aa (194 Wibird Street / Tax Map 148, Lot 1)**

Dear Mr. Mayor:

This office represents the interest of Brian Shannon, successor trustee of the Jane A. Shannon Revocable Trust of 2003, owner of the above referenced property. Please consider this a formal request for the restoration of two involuntarily merged lots to their premerger status, pursuant under RSA 674:39-aa.

The City Assessor's present records indicate that Map 148, Lot 1 is a single lot measuring .40 acres, located at 194 Wibird Street. See Exhibit A. There are actually two separate lots, one measuring approximately .137 acres, and the other measuring approximately .26 acres, which have been involuntarily merged. I enclose the tax cards from 1972 (Exhibits B and C), as well as correspondence from the City Assessor dated August 20, 1971 (Exhibit D) which identify the separate lots as Map 41, Lots 19 and 20 respectively. The City's tax cards dating back to 1951 are also enclosed, and consistently treat these as two separate lots. See Exhibit E.

Former Lot 19 is the lot which contains the existing single family dwelling located at 194 Wibird. Former Lot 20 is the lot to the north and to the west of the house lot. The Shannon family acquired the two lots in 1966. From 1966 through approximately the late 1970s/early 1980s, the Shannon family received and paid two separate tax bills. This is consistent with the City's practice dating back at least as far as 1951, and likely much earlier.

I have enclosed a copy of the 1966 deed into the Shannon family (Exhibit F), as well as an abstract of the chain of title prepared by Ross Engineering of Portsmouth (Exhibit G). The property was originally three separate parcels. In 1920, Mary Sides owned all three parcels via three separate deeds. Two of those lots were combined into

Please note our new address below

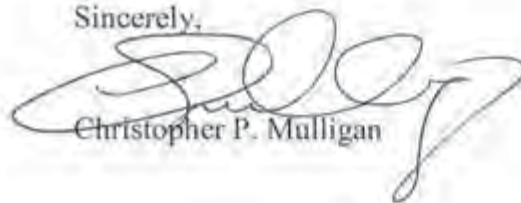
Robert Lister, Mayor
April 1, 2014
Page Two

Former Lot 20. In 1945, Mary Sides conveyed all three lots to Villa Cole via a single deed, with a metes and bounds description for the outside perimeter of the entire property, and not calling out the individual lots. This description of the entirety was carried forward to the Shannon deed.

No owner in the chain of title voluntarily merged these lots. The use of a legal description that encompassed the entirety rather than calling out the individual lots is not legally sufficient to effect a voluntary merger of the lots. *See Roberts v. Windham*, 165 NH 186, 192 (2013) (holding that the conveyance of multiple lots as one tract in a single deed does not support a finding of a voluntary merger). Therefore, pursuant to RSA 674:39-aa, I formally request that the lots be restored to their premerger status, and all zoning and tax maps be updated to identify the premerger boundaries of those lots.

I respectfully request that this matter be added to the agenda of the next City Council meeting. Thank you for your attention and please contact me if you have any questions or require additional information.

Sincerely,



Christopher P. Mulligan

CPM/mec

Enclosures

cc: Brian Shannon (w/ enclosures)
Alex Ross, PE (w/ enclosures)



194 WIBIRD ST

Location	194 WIBIRD ST	Assessment	\$452,000
Mblu	0148/ 0001/ 0000/ /	Appraisal	\$452,000
Acct#	34537	PID	34537
Owner	SHANNON JANE A REVOC TRUST	Building Count	1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2013	\$186,400	\$265,600	\$452,000
Assessment			
Valuation Year	Improvements	Land	Total
2013	\$186,400	\$265,600	\$452,000

Owner of Record

Owner	SHANNON JANE A REVOC TRUST	Sale Price	\$0
Co-Owner	SHANNON JANE A TRUSTEE	Book & Page	4029/0189
Address	194 WIBIRD ST PORTSMOUTH, NH 03801	Sale Date	05/13/2003

Ownership History

Ownership History
No Data for Ownership History

Building Information

Building 1 : Section 1

Year Built: 1898
Living Area: 2106
Replacement Cost: \$286,711
Building Percent Good: 65
Replacement Cost Less Depreciation: \$186,400

Building Attributes	
Field	Description
Style	Conventional
Model	Residential
Grade:	B
Stories:	2
Occupancy	1
Exterior Wall 1	Clapboard
Exterior Wall 2	Wood Shingle
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Average
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	5 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	0
Total Rooms:	10
Bath Style:	Avg Quality
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	0
Extra Openings	0

Building Photo



(<http://images.vgsi.com/photos/PortsmouthNHPhotos//\00\00\60\20.JPG>)

Building Layout



Building Sub-Areas		Legend	
Code	Description	Gross Area	Living Area
BAS	First Floor	1001	1001
FUS	Upper Story, Finished	805	805
FAT	Attic	731	183
FHS	Half Story, Finished	234	117
FEP	Porch, Enclosed	75	0
FOP	Porch, Open	60	0
UAT	Attic	46	0
UBM	Basement, Unfinished	1001	0
UST	Utility, Storage, Unfinished	75	0
WDK	Deck, Wood	65	0
		4093	2106

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 1010
Description SINGLE FAM MDL-01
Zone GRA
Neighborhood 103
Alt Land Appr Category No

Land Line Valuation

Size (Acres) 0.40
Frontage
Depth
Assessed Value \$265,600
Appraised Value \$265,600

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2012	\$184,600	\$265,600	\$450,200
2010	\$184,600	\$265,600	\$450,200
2009	\$0	\$197,800	\$420,000

Assessment			
Valuation Year	Improvements	Land	Total
2012	\$184,600	\$265,600	\$450,200
2010	\$184,600	\$265,600	\$450,200
2009	\$0	\$197,800	\$420,000

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1972

PROPERTY OWNER: SHANNON/G ROBERT & JANE E
 194 WIBIRD ST
 PORTSMOUTH NH 03801

PROPERTY LOCATION: 194 WIBIRD ST
 CITY OF PORTSMOUTH N.H.
 JOHN D. PETTY C.A.E., ASSESSOR

SIZE: N
 TYPE: RESD
 PROJECT: 3100L
 CONTROL: 260704-1001900

LOCATION: 041, 019
 144, 001

PLAN LOT: 1
 MORTGAGE

RECORD OF TRANSFER

1	TURNER/JOSEPHINE B	30766	1811	332
2				
3				
4				
5				
6				
7				



LISTER NOTES
 1-OLD FASHIONED KITCHEN

LAND FACTORS		LAND IMPROVEMENTS		DETAILS
TOPOGRAPHY-1 LEVEL	LOCATION GOOD			72
IMPROVEMENTS-1 G WATER	DRAINAGE GOOD			4000
-2 SEWER	ZONING 03			15400
-3 ELEC	NEIGHBORHOOD STATIC			19400
STREET/RD-2 IMPROVE	SOIL-1 SANDY			
	-2 LGAM			

ACREAGE COMPUTATION

TYPE	ACRES	PRICE	TOTAL	DEPR	ASSESSMENT
1 H-LUT 33 A	1.10	12000	3960	100	4000
2					
3					
4					
5					
6					
ACREAGE TOTAL					4000

LOT COMPUTATION

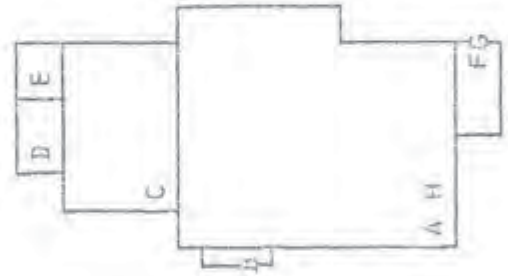
FRONT	REAR	FRONTAGE	DEPTH	STREET PRICE	ADJ FR PR	TOTAL	DEPRECIATION	CORRIER	VALUE	EQ	ASSESSMENT
LOT TOTAL											
LAND TOTAL											

CONTROL NO. 260 7041001900

STRUCTURE VALUE

STRUCTURAL ELEMENTS		PRICE
BASE. A 724SF		18890
FOUNDATION. 1/2 BRICK WALLS		
1/2 STONE WALLS		
CLAPBOARDS		
EXT WALLS. FRAME		
INSULATION. NONE		
ROOF. GABLE ASPH SHG FLOOR		
BASEMENT. FULL CONCRETE		
FLOORS. 1 HARDWD		
INT FIN. 1 PINE		
2 PLASTR		
1 PLASTR		
LAYOUT G COND G		
ROOMS. 1-4 2-5 3-1		1150
ATTIC. FULL AT STAIR FULL FLR		1580
HEAT. 1 H-W CAST		1090
2 H-W CAST		650
FIREPLACES. 1 STACKS 1		
PLUMBING. BATH 2 SINK 1		
TILE. NONE		
DORMERS. NONE		
SEG. B BAY WINDOW		200
C U-BSMT. ADD		5229
D UPEN-PORCH		244
E ADDITION		699
F F-OTR/AT-G		319
G ADDITION		1118
H BAY WINDOW		200
14SF		
252SF		
40SF		
30SF		
54SF		
14SF		

SCALE = 20 FT./IN.



SEG	TYPE	STOR	CONS	CLASS	DIMENSIONS
A	30-26-16-4-14-22				
B	11	1.0	FRAM	3	2-7-2-7
C	04	1.5	FRAM	3	14-18-14-18
D	30	1.0	FRAM	2	5-8-5-8
E	01	1.0	FRAM	3	5-8-5-8
F	21	1.0	FRAM	3	5-9-6-9
G	01	1.0	FRAM	3	9-0-9-6
H	11	2.0	FRAM	3	2-7-2-7

FUNG DEPR		DEPRE		OBSOLESCENCE		REPLACEMENT VALUE		SUB TOTAL FACTOR	
PHYS DEPR	PHYSICAL VALUE	FUNG DEPR	ACTUAL VALUE	EQ	ASSESSMENT	REPLACEMENT VALUE	COND	REMOD	AGE
45	17159	10	15443	100	15400	31199	F+	NO	1907
SALE PRICE		LISTED DATE		SIGNATURE		REVIEW		X SIGNED	
23000		01/07/72						2612	
YEAR AND '9		0366		3416					
BUILDING TOTAL		15443		100		15400			

PROPERTY OWNER: SHANNON/G ROBERT & JANE E
 194 WIBIRD ST
 PORTSMOUTH NH 03801

PROPERTY LOCATION: 194 WIBIRD ST
 W / / / /
 CITY OF PORTSMOUTH N.H.
 JOHN B. PETTY CAE, ASSESSOR

PLANNING LOT: 041 020 11
 041 020 11

RECORD OF TRANSFER: TURNER/JOSEPHINE B
 30766 1811 332
 RESD 31001 2602041002000

DATE: 30766
 BOOK: 1811
 PAGE: 332
 PROJECT CONTROL NO: 2602041002000

AMOUNT: 1
 MORTGAGE



LAND FACTORS		LAND IMPROVEMENTS		SUMMARY	
TOPOGRAPHY-1	LEVEL	LOCATION	GOOD	19 LAND BUDG	4400
STREET/RD-2	IMPROVE	DRAINAGE	GOOD	19 LAND BUDG	4400
		ZONING	03	TOTAL	
		NEIGHBORHOOD	STATIC		
		SOIL-1	SANDY		
		-2	LOAM		

ACREAGE COMPUTATION					
TYPE	ACRES	PRICE	TOTAL	DEPR	ASSESSMENT
1 H-LOT	48 A	12000	5760	25	4300
2 REAR	2	2000	60		100
ACREAGE TOTAL					4400

LOT COMPUTATION					
FRONT	REAR	FRONTAGE	DEPTH	STREET PRICE	DEPTH
LOT TOTAL					
LAND TOTAL					



City of Portsmouth, New Hampshire

CITY HALL - - - 126 DANIEL STREET

August 20, 1971

G. Robert & Jane Shannon
104 W. Bird Street
Portsmouth, N.H.

The Office of the City Assessor of the City of Portsmouth has the responsibility for keeping property tax assessments current and equitable based upon the market value of property.

During the past eight months this office has been examining in detail, property assessments where there was a marked difference between the assessment and recent land sales. This has been done on a city-wide basis to insure that any adjustments would reflect a more reasonable degree of market value on properties throughout the entire community.

As your City Assessor, my responsibility lies solely in the fair and proper distribution of the property assessment. This can only be accomplished by administering proper assessments to all property owners.

Many of the records of sales indicate an extremely low percentage of assessment and adjustments have been made to reflect a fair and proper distribution of assessments based upon the sales ratio information.

You will note below the property you own with the previous assessment and the new assessment on that property as determined by our recent review of land sales. This notice is being sent to you at this time so that you will have an opportunity to discuss the matter with this office if you feel there has been an error in our new assessment.

"City of the Open Door"



I would like to remind you that this adjustment in assessed value has nothing to do with the current revaluation being conducted by the United Appraisal Company. The city-wide revaluation is now in progress, however, the results of this revaluation will not be known for another year.

You may contact this office for an appointment to discuss the value of your property at your convenience.

Your land assessment on Plan 41, lot 19 for 1970 was \$ 1,800. Your 1971 land assessment will be \$ 2,500 which indicates a more reasonable degree of market value.

John B. Petty Jr.

John B. Petty, Jr., CAE, RM
City Assessor

I would like to remind you that this adjustment in assessed value has nothing to do with the current revaluation being conducted by the United Appraisal Company. The city-wide revaluation is now in progress, however, the results of this revaluation will not be known for another year.

You may contact this office for an appointment to discuss the value of your property at your convenience.

Your land assessment on Plan 41, lot 20 for 1970 was \$ 1,200. Your 1971 land assessment will be \$ 2,500 which indicates a more reasonable degree of market value.

John B. Petty, Jr.

John B. Petty, Jr., CAE, RM
City Assessor

1920-1979

Ave.

WIBIRD ST.





U.S. Gov. Stamp 14.30

1811 332

1811 332

Nov 7 11 27 AM '66

1811 332

Know all men by these presents

THAT, I, Josephine B. Turner

of Manchester Hillsborough County, State of

New Hampshire, for consideration paid, grant to G. Robert Shannon and Jane E. Shannon as joint tenants, with right of survivorship, and not as tenants in common

of 191 Crescent Way, Portsmouth Rockingham County, State of

New Hampshire with WARRANTY COVENANTS,

A certain lot or parcel of land, with the buildings thereon, situate on the westerly side of Wbird Street in Portsmouth, County of Rockingham and State of New Hampshire, and bounded and described as follows:

Beginning at the southeast corner of the lot herein conveyed, on Wbird Street, at land formerly of the heirs of Fred L. Wood, and now of Harold B. Wood, and running westerly along said land of Harold B. Wood, 153 feet, more or less, to the southeasterly corner of lot number twenty-two on a plan of lots of land formerly belonging to the Estate of Charles H. Mendum and drawn by Wm. A. Grover, C.E., recorded in Rockingham County Registry of Deeds, Volume 1, Page 62, now owned by Warren and Constance Ward; thence turning and running northerly by lot number twenty-two, 58.04 feet and by lot number twenty-one, now owned by Blanche Brightman, 58.04 feet to Lot number eighteen on said plan now owned by John F. & Elsie Cloutier; thence turning and running easterly by lot number eighteen, 20 feet to lot number seventeen owned by Harold and Ruth Sher, and thence continuing in the same direction by lot number seventeen 52 feet to a point; thence turning and running northerly by said lot number seventeen on said plan 9 feet, more or less, to a point; thence turning and running easterly by land formerly of F. W. Hartford and now of Max Weisner, 73.37 feet to Wbird Street; thence turning and running southerly by said Wbird Street, 118 feet, more or less, to the point of beginning.

Being the same premises described in Warranty Deed of Villa D. Cole to Mary E. Sides and Josephine B. Turner as joint tenants with right of survivorship, dated May 31, 1945, recorded in Rockingham County Registry of Deeds, Book 1034, Page 387. The said Mary E. Sides having since deceased at Portsmouth, New Hampshire on June 9, 1952.



I, Josephine B. Turner, an unmarried, and as such release to said Grantees all rights and homestead and other interest therein.

Witness my hand and seal this 3rd day of March, 1966

Witness: *Josephine B. Turner* (Signature)

The State of New Hampshire
Hillsborough County, March 3rd, 1966
Then personally appeared the above named Josephine B. Turner

and acknowledged the foregoing instrument as my voluntary act and deed, before me
Howard B. [Signature]
Notary Public - State of New Hampshire



My commission expires November 30, 1970

103

ROSS ENGINEERING

909 Islington Street
 Portsmouth, New Hampshire 03801
 (603) 433-7560

TAX MAP: 148 LOT 1

TOWN & STATE Portsmouth, NH	DATE 12/10/2013	CLIENT BRIAN SHANNON
REGISTRY R.C.R.D.	PREPARED BY RH	JOB NUMBER 05-016

CHAIN OF TITLE

COMMENTS

TRUSTEE OF THE JANE A. SHANNON REV. TRUST

4029-0189 → 5-13-2003
 BOOK/PAGE → DATE OF RECORD

ROBERT & JANE SHANNON

1811-332 → 3-1966
 BOOK/PAGE → DATE OF RECORD

MARY B. SIDES & JOSEPHINE TURNER

1034-387 → 5-31-1945
 BOOK/PAGE → DATE OF RECORD

WILLA D. COLE

1034-386 → 5-31-1945
 BOOK/PAGE → DATE OF RECORD

BEING THE SAME PREMISES CONVEYED TO HIM/HER BY 3 SEPARATE DEEDS

MARY B. SIDES

628-29 → 2-25-1907
 BOOK/PAGE → DATE OF RECORD

712-39 → 10-24-1914
 BOOK/PAGE → DATE OF RECORD

MARY B. SIDES

MARY B. SIDES

747-48 → 7-6-1920
 BOOK/PAGE → DATE OF RECORD

LOT 1 (LOT 16 ON PLAN #0169)

ALICE PAUL & ROMANIE KELLEY

554-172 → 5-16-1896
 BOOK/PAGE → DATE OF RECORD

WILLIAM O. SIDES

JOHN W. KELLY

669-299 → 07-05-1912
 BOOK/PAGE → DATE OF RECORD

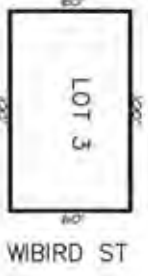
N/F JOHN & ELISE CLOUTIER
 N/F HAROLD & RUTH SHER
 N/F MAX WEISNER



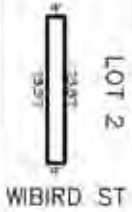
DESCRIPTION 1945-PRESENT

N/F HAROLD B. WOOD

DEED 1896-1920



DEED 1914



DEED 1907



Seacoast Peace Response

P. O. BOX 863

Portsmouth, NH 0380

APR - 2 2014

March 31, 2014

RE: Market Square Permit

Dear Mayor and Council Members:

Seacoast Peace Response is a local non-profit organization created in 2001 to advocate for peace. Every April 15th for the past 10 years we have held a Penny Poll on a Portsmouth sidewalk to ask pedestrians how they would like their federal tax dollars spent. We give people 10 pennies to deposit in any way they choose into 10 different categories such as education, housing, transportation, nuclear weapons, etc. At the end of the day we report the results to local newspapers and our elected representatives. We also hand out information about how our federal tax dollars are spent.

This year we would like to hold our Penny Poll in Market Square on April 15th from 11:30 am to 1:30 pm. We are requesting a permit because we use a plywood structure which measures 36" in height by 66" in width. This holds the plastic tubes into which people drop their pennies. We are requesting permission from you to carry out this educational event.

Please call me at 436-2424 if you have any questions regarding this application.

Sincerely,




Sandra Yarne

Tax Day Coordinator, Seacoast Peace Response

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: April 3, 2014
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on April 7, 2014 City Council Agenda

6:00 p.m. – Non-meeting with counsel.

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

.....

Presentation:

6:30 p.m.

1. **Presentation by Portsmouth Listens Study Circles Re: Transportation Dialogue.** At 6:30 p.m. on Monday evening, the City Council will receive a report from Portsmouth Listens Study Circles regarding the transportation dialogue.

Items Which Require Action Under Other Sections of the Agenda:

1. **First Reading of Proposed Resolution and Ordinances.**
 - 1.1 **Proposed Borrowing Re: New Franklin School Energy Project.** As a result of the March 17th City Council meeting, I am bringing back for first reading the attached proposed Resolution authorizing the borrowing of up to Four Hundred Thousand Dollars (\$400,000) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measures. Attached is a letter from Superintendent of Schools Edward McDonough requesting approval for the borrowing of up to \$400,000 for the New Franklin School Energy Project. As you are aware, borrowing resolutions require a first reading, public hearing and adoption. Please note that this project has been approved by the School Board.

Business Administrator Stephen Bartlett will be in attendance on Monday evening to answer any questions you might have regarding this matter.

I recommend that the City Council move to pass first reading and authorize the City Manager to bring back for public hearing and second reading the attached borrowing Resolution in an amount of up to Four Hundred Thousand Dollars (\$400,000) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measures, at the April 21, 2014 City Council meeting, as presented. (Resolutions require two-thirds vote for passage.) Action on this item should take place under Section VIII of the Agenda.

2. **Third and Final Reading of Proposed Resolution and Ordinances.**

- 2.1 **Third and Final Reading of an Ordinance Amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13.** At the March 17th City Council meeting, the Council held a public hearing and second reading on the proposed amendment to the Zoning Ordinance to delete Section 10.535.13 – “Increased Building Height by Conditional Use Permit (Central Business A and B Districts).”

The provision that is being proposed for elimination was enacted by the City Council on September 16, 2013. On that date, the Council amended the Zoning Ordinance by (1) reducing the maximum height allowable by right to the lower of 45 feet or 3½ stories, and (2) inserting the new Section 10.535.13 that allows buildings to reach the previously permitted heights of 60 feet in CBB and 50 feet in CBA by obtaining a Conditional Use Permit from the Historic District Commission.

If this proposed amendment is enacted, the maximum allowed building height in both Central Business districts will be reduced to the lesser of 45 feet or 3½ stories. Any building taller than either of these limits will require a variance from the Zoning Board of Adjustment.

The Planning Board held a public hearing on the proposed Zoning Ordinance amendment on February 20, 2014. As a result of that hearing, the Planning Board voted 7-2 to recommend that the criteria for a Conditional Use Permit be retained but that the criteria for approval be modified to require that a proposed development address a total of four elements, two relating to building design and two relating to site planning. The wording recommended by the Planning Board is as follows (new text is indicated by underlining):

10.535.13 Increased Building Height by Conditional Use Permit

Within the CBA and CBB districts, the Historic District Commission may grant a conditional use permit to allow an increase in building height above the maximum structure height specified in Section 10.531, up to a maximum of 50 feet in the CBA district or 60 feet in the CBB district, only if both the following conditions are met for the building and site design:

(a) The proposed building design positively contributes to the surrounding context and the overall historic character of the district and includes at least 2 of the following elements:

- *The use of high-quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations, stoops and steps; and wood storefront windows along the façade elevation;*
- *Significant scaling elements in the building design such as increased setbacks, stepbacks, reduced footprint(s) and building volume(s), varied building heights, pitched roof forms, projections, banding, and other massing techniques;*
- *A significant restoration or reconstruction of a "focal" or "contributing" building; or*
- *Underground or structured parking (except within 24 feet of a public street on the street-level floor) in lieu of surface parking.*

(b) The proposed site plan includes at least 2 of the following elements:

- *New publicly accessible open space area such as a greenway, pedestrian alleys, plazas, pocket parks, playgrounds or other significant public open space areas;*
- *A significant contribution to the redesign or improvement of an existing public open space located on a surrounding property;*
- *Permanent protection of a significant view corridor to a historic building or riverfront area; or*
- *A significant contribution to the restoration of an existing public historic resource located on a surrounding property.*

However, the City Council voted not to accept the Planning Board's recommendation and instead voted to pass second reading and to schedule third and final reading on the original proposed ordinance (i.e., to delete Section 10.535.13).

Motion to pass third and final reading of the proposed Ordinance, as presented. Action on this item should take place under Section VIII of the Agenda.

2.2 **Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps Referenced in Section 10:5A14.10 of Article 5A.** At the March 17th City Council meeting, the Council held a public hearing and second reading on a proposed amendment to the Zoning Ordinance to implement Character-Based Zoning (aka Form-Based Zoning) in the downtown area. As you know, the Planning Department and the City’s consultants, Town Planning and Urban Design Collaborative (TPUDC), worked throughout 2013 to develop new “form-based” zoning standards for the historic core of the downtown. These new standards are designed to promote a scale and style of new developments that is more consistent with the downtown’s historic character than has resulted under the existing zoning regulations.

The proposed ordinance will add a new Article 5A – Character Districts to the Zoning Ordinance. The development standards in Article 5A are based on the historic design character of downtown Portsmouth and seek to encourage new buildings that fit in well with the surrounding context. The goal of this effort is to ensure that redevelopment and infill projects respect and reinforce the historic character of the downtown.

The Planning Board originally considered these proposed amendments in a public hearing on October 24, 2013, and a special meeting on October 31, 2013, and voted unanimously to recommend that the City Council adopt the new Article 5A, along with several amendments to other sections of the Ordinance. On October 21, 2013, the City Council scheduled first reading on the proposed zoning amendments for November 18, 2013. However, at the November 18th meeting, the Council voted to postpone the ordinance until January 2014, in order to provide for additional review and input.

To provide residents with an opportunity to ask questions about the proposed Character-Based Zoning and to make suggestions for changes, the Planning Department held a public informational drop-in session and forum on January 29, 2014. Both the afternoon drop-in session and the evening forum were well attended and generated much discussion and input.

Based on comments from residents and further internal review, the Planning Department prepared a revised draft of the proposed Character-Based Zoning ordinance. This draft was posted on the Planning Department’s website (<http://planportsmouth.com/formbasedzoning.html>) and reviewed in a public hearing at the Planning Board’s February 20th meeting. As a result of the public hearing, the Planning Board voted to make several additional revisions to the proposed ordinance, and voted unanimously to recommend that the City Council enact the proposed ordinance as amended.

The City Council held a first reading on the proposed Character-Based Zoning on March 3, 2014, and a public hearing and second reading on March 17, 2014. At the second reading, it was recommended that Sections 10.5A21.21 and 10.5A21.22 of the proposed Ordinance be amended to clarify the intent, and the Planning Department has drafted these amendments as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded** and underlined; remaining language unchanged from existing):

(1) Amend Section 10.5A21.21 as follows:

10.5A21.21 Specific Building Height Requirement Areas

As designated on Map 10/5A21B, assignments for specific building heights require a building to have no more than the designated maximum number of stories or the maximum height in feet **and no less than the designated minimum number of stories**.

(2) Amend Section 10.5A21.22 as follows:

10.5A21.22 Specific Shopfront, Officefront, Step and Frontage Buildout and Special Use Requirement Areas

As designated on Map 10.5A21C:

(a) Assignments for shopfront, officefront or step frontage require that a building be provided with a shopfront, officefront or step frontage at the sidewalk level along the entire length of its private frontage.

~~(b) Designations for frontage building percentage require that a building occupy no more than 50% of the frontage of the lot, wood siding shall be used for the exterior of the building and special uses apply to some properties along the waterfront area.~~

(b) For designated properties along the waterfront, buildings shall occupy no more than 50% of the frontage of the lot, and shall have a wood-sided appearance.

(c) Special uses apply to some **designated** properties along the waterfront area.

In order to make this amendment the City Council needs to suspend the rules and adopt this amendment by two-thirds vote.

The revised proposed ordinance incorporating the changes recommended by the Planning Board (but not including the amendments proposed this evening) is attached (dated April 7, 2014). Also attached is a memorandum from the Planning Director summarizing the substantive changes from the previous version.

Action required by the City Council:

1) *Suspend the rules to allow for the following amendments:*

(1) *Amend Section 10.5A21.21 as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded** and underlined; remaining language unchanged from existing):*

10.5A21.21 Specific Building Height Requirement Areas

As designated on Map 10/5A21B, assignments for specific building heights require a building to have no more than the designated maximum number of stories or the maximum height in feet **and no less than the designated minimum number of stories.**

(2) *Amend Section 10.5A21.22 as follows:*

10.5A21.22 Specific Shopfront, Officefront, Step and Frontage Buildout and Special Use Requirement Areas

As designated on Map 10.5A21C:

(a) Assignments for shopfront, officefront or step frontage require that a building be provided with a shopfront, officefront or step frontage at the sidewalk level along the entire length of its private frontage.

~~(b) Designations for frontage building percentage require that a building occupy no more than 50% of the frontage of the lot, wood siding shall be used for the exterior of the building and special uses apply to some properties along the waterfront area.~~

(b) For designated properties along the waterfront, buildings shall occupy no more than 50% of the frontage of the lot, and shall have a wood-sided appearance.

(c) Special uses apply to some **designated** properties along the waterfront area.

2) *Motion to adopt the aforementioned amendments.*

3) *Move to pass third and final reading of the proposed Ordinance, as amended.*

Action on this item should take place under Section VIII of the Agenda.

2.3 **Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments.** At its meeting on March 17th, the City Council held a public hearing and second reading passed on the attached ordinance which includes a set of proposed amendments to the Zoning Ordinance that will be required if the Council votes to adopt the proposed Article 5A – Character Districts. These “conforming amendments” to other sections of the Zoning Ordinance would make the following changes:

- Add references to the new Character Districts in the listing of Zoning Districts (Sec. 10.410), the description of the Downtown Overlay District (Sec. 10.641.10) and the listing of Sign Districts (Sec. 10.1230);
- Incorporate into the Zoning Map, by reference, the Regulating Plan maps, along with two other maps that describe areas subject to special zoning regulations;
- Add a cross-reference in Article 15 to definitions in the new Article 5A.

The proposed “conforming amendments” also include several substantive changes to the off-street parking provisions of the Downtown Overlay District: parking setbacks from certain streets are reduced from 30 feet to 24 feet, the list of such streets is expanded, and the setback requirement is changed to apply only to above-ground parking areas (i.e., off-street parking in basement levels would not have to be set back from the street).

The Planning Board originally considered these proposed amendments in a public hearing on October 24, 2013, and a special meeting on October 31, 2013, and voted unanimously to recommend that these amendments be enacted. Following the public informational forum on January 29, 2014, the Planning Department drafted several additional amendments, and the Planning Board held another public hearing on the amended proposed ordinance on February 20, 2014. After closing the public hearing, the Planning Board voted unanimously to recommend that the revised amendments be enacted.

I recommend the City Council move to pass third and final reading of the proposed Ordinance, as presented. Action on this item should take place under Section VIII of the Agenda.

Acceptance of Grants and Donations:

1. **Acceptance of Asset Management Planning Grant from the New Hampshire Department of Environmental Services.** The City of Portsmouth Water Division has been awarded a grant from the New Hampshire Department of Environmental Services. The grant is a 50% match from the State up to \$15,000. The Water Division will use these funds to update the City's Water Division fixed assets inventory, analyze and rank the assets for their reasonable useful life, and to update its replacement and funding plan. This project is planned for action during FY 14 and is funded from Water Revenues.

I recommend the City Council move to accept and expend an Asset Management Planning Grant from the New Hampshire Department of Environmental Services in an amount up to \$15,000. Action on this item should take place under Section VII of the Agenda.

2. **Acceptance of Community Development Block Grant Funds.** The U.S. Department of Housing and Urban Development has informed the City that a Community Development Block Grant (CDBG) in the amount of \$507,379 will be made available to Portsmouth for FY 2014-2015. This amount represents a decrease of \$6,933 or 1.4% from last year. The Community Development Department, working in conjunction with the City's Citizens Advisory Committee, has held a series hearings and meetings over the last several months to solicit input and prioritize projects with regard to the expenditure of these funds. A public hearing will be held on a draft Annual Action Plan and Budget on April 17, 2014 at 6:30 p.m. in Conference Room A.

I recommend the City Council move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$507,379 from the U.S. Department of Housing and Urban Development. Action on this item should take place under Section VII of the Agenda.

Consent Agenda:

1. **Requests for License to Install Projecting Signs.** Attached under Section IX of the Agenda are requests for three projecting sign licenses (see attached memorandums from Rick Taintor, Planning Director):
 - Buff & File Nair Bar, owner Andrew Van Oss, for property located at 92 Pleasant Street.
 - Studio on 90 Fleet, owners Susan, Calina & Paul Hood for property located at 90 Fleet Street.
 - Federal Cigar, owner Richard Cyr, for property located at 36 Market Street.

I would recommend the City Council move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreements for these requests. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Request for First Reading for Proposed Amendment to Chapter 7, Article I of the Ordinances Re: Parking and Traffic Safety Committee.** Attached is a proposed Ordinance amending Chapter 7, Article I, Section 7.103 Parking and Traffic Safety Committee.

As you are aware, the Parking and Traffic Safety Committee recommended this proposed Ordinance amendment in their minutes of February 13, 2014, which the City Council accepted at their meeting of March 3, 2014. This amendment to the Ordinance adds one (1) alternate Committee Member appointed by the Mayor and City Council.

I would recommend the City Council move to schedule first reading of the proposed Ordinance amendment, as presented, at the April 21, 2014 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

2. **Applications for Sidewalk Cafés providing Alcohol Service – City-owned Sidewalks.** As you are aware, in 2012, the City Council adopted City Council Policy 2012-02 titled “Policy Regarding Use of City Property for Sidewalk Café’s providing Alcohol Service”, a copy of which is attached. That policy allows Restaurants to apply for an Annual Service Agreement to occupy a defined portion of City sidewalk space for the purpose of creating a sidewalk café with the ability to serve alcohol. The policy outlines the criteria for both the application and the operations of the sidewalk café’s and calls for a 6 month term, typically running from mid April through mid October. The policy limits the number of sidewalk café’s on City owned sidewalks to six (6).

Last year five Area Service Agreements were issued for public Sidewalk occupancy. The establishments that were issued Agreements were:

Establishment	Location	Area	Fee
State Street Saloon	268 State Street	340	\$3,400
Ri Ra Portsmouth	22 Market Square	447	\$4,470
Popovers	8 Congress Street	570	\$5,700
District	103 Congress Street	467	\$4,670
Surf	99 Bow Street	324	\$3,240

This year, those same five have submitted applications for the 2014 season. City staff representatives from Police, Fire, Public Works, Building Inspection, Health, and Code Enforcement have reviewed these applications and the applications complete and recommend issuance of the Area Service Agreements in accordance with City Council Policy 2012-02.

The Council will recall that the fee for the use of the public "Area" subject to the Area Service Agreement is \$10.00 per square foot, with a minimum season's fee of \$2,000 and no proration of the fee. The Agreements may be suspended at the sole discretion of the City on an administrative basis and revoked in their entirety by vote of the City Council. Hours of operation are until 10:30 p.m. Monday through Saturday and until 10:00 p.m. on Sunday, with no smoking allowed in the "Area" at any time. Use of the "Area" may be precluded, modified or made subject to special conditions to accommodate municipal events. The sidewalk café Area will be separated from the public pedestrian space by black decorative metal fence.

- a) **Application for Sidewalk Café providing Alcohol Service from Popovers on the Square.** I am bringing forward for City Council action the attached Area Service Agreement for Popovers on the Square for the 2014 season. City staff has reviewed Popovers' application and are recommending its approval as presented. Please note that the "Area" to be used by Popovers, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(10) 4-top tables

1 outside container full enclosed for garbage and recycling

38 chairs

Area: 570 square feet

Area Service Fee: \$5,700

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Popovers on the Square for outdoor Alcohol service on City land for the 2014 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- b) **Application for Sidewalk Café providing Alcohol Service from Ri Ra.** I am bringing forward for City Council action the attached Area Service Agreement for Ri Ra for the 2014 season. City staff has reviewed Ri Ra's application and are recommending its approval as presented. Please note that the "Area" to be used by Ri Ra, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(5) 4-top tables

(4) 2-top tables

28 chairs

Area: 447 square feet

Area Service Fee: \$4,470

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Ri Ra for outdoor Alcohol service on City land for the 2014 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- c) **Application for Sidewalk Café providing Alcohol Service from State Street Saloon.** I am bringing forward for City Council action the attached Area Service Agreement for State Street Saloon for the 2014 season. City staff has reviewed State Street Saloon's application and are recommending its approval as presented. Please note that the "Area" to be used by State Street, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(5) 4-top tables
(20) chairs
Area: 340 square feet
Area Service Fee: \$3,400

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with State Street Saloon for outdoor Alcohol service on City land for the 2014 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- d) **Application for Sidewalk Café providing Alcohol Service from Surf.** I am bringing forward for City Council action the attached Area Service Agreement for Surf for the 2014 season. City staff has reviewed Surf's application and are recommending its approval as presented. Please note that the "Area" to be used by Surf, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(2) 4-top tables
(2) 2-top tables
12 chairs
Area: 324 square feet
Area Service Fee: \$3,240

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Surf for outdoor Alcohol service on City land for the 2014 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- e) **Application for Sidewalk Café providing Alcohol Service from The District.** I am bringing forward for City Council action the attached Area Service Agreement for The District located at 103 Congress Street for the 2014 season. City staff has reviewed The District's application and are recommending its approval as presented. Please note that the "Area" to be used by District, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(17) 2-top tables
(34) chairs

Area: 467 square feet
Area Service Fee: \$4,670

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with The District for outdoor Alcohol service on City land for the 2014 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

3. **Applications for Sidewalk Cafés providing Alcohol Service private sidewalks.** The City has received two applications for sidewalk cafes that are proposed for private sidewalk that runs along Portwalk Place. While these proposed locations are completely contained on private property, they are adjacent to the sidewalk area that the City has an easement over. The operation of these areas will require review for health and life-safety compliance and it was therefore determined that the City should review and issue a license for the operation; and that the operation occurs on private property and not on City property as the other Sidewalk Café licenses, there is no associated fee with this action.

- a) **Application for Sidewalk Café providing Alcohol Service from British Beer Company.** I am bringing forward for City Council action the attached Area Service Agreement for British Beer Company located at 2 Portwalk Place for the 2014 season. City staff has reviewed British Beer Company's application and are recommending its approval as presented. Please note that the "Area" to be used by British Beer Company, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(3) 4-top tables
(6) 2-top tables
24 chairs
Area: 882 square feet

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with British Beer Company for outdoor Alcohol service for the 2014 season subject to City operating conditions contained in Council Policy No. 2012-02.

- b) **Application for Sidewalk Café providing Alcohol Service from The BRGR Bar.** I am bringing forward for City Council action the attached Area Service Agreement for The BRGR Bar located at 34 Portwalk Place for the 2014 season. City staff has reviewed The BRGR's application and are recommending its approval as presented. Please note that the "Area" to be used by BRGR, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

(8) 4-top tables
(4) 2-top tables
40 chairs

Area: 440 square feet

I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with The BRGR Bar Company for outdoor Alcohol service for the 2014 season subject to City operating conditions contained in Council Policy No. 2012-02.

4. **Utility and Sidewalk Easements at 129 Aldrich Road, 185 Cottage Street and 65-67 Mark Street.** Attached is a memorandum with exhibits from Suzanne Woodland, Assistant City Attorney, regarding the following easements that relate to three separate City projects:

- Drainage easement – 129 Aldrich Road
- Sidewalk easement – 185 Cottage Street
- Utility easement (sewer and drainage) – 65 Mark Street

The projects were completed by the Department of Public Works in 2013, and all three easements have been executed by the private property owners.

At its meeting on March 20, 2014, the Planning Board voted unanimously to recommend that the City Council approve the acquisition of the easements as proposed.

Therefore, I recommend the City Council move to authorize the City Manager to accept the easements, as presented.

5. **Establish a Work Session Re: Peirce Island Wastewater Treatment Facility.** As you are aware, City staff and our consultants are continuing with the design of the upgrades to the Peirce Island Wastewater Treatment Facility. In addition, work has continued on a number of issues associated with our wastewater discharge permit, water quality issues in the Great Bay Estuary and regional wastewater efforts. I am requesting the City Council establish a Work Session on Monday, April 14th at 7:00 p.m., in the Eileen Dondero Foley Council Chambers. The Work Session will be preceded by a non-meeting with counsel at 6:30 p.m., regarding negotiations in accordance with RSA 91-A:2, I (b-c).

I recommend the City Council move to establish a Work Session on Monday, April 14, 2014 at 7:00 p.m., regarding the Peirce Island Wastewater Treatment Facility.

Informational Items:

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on March 17, 2014. In addition, this can be found on the City's website.

2. **Information Memorandum from Robert Sullivan, City Attorney Re: Portwalk.** At the March 17th City Council meeting, Councilor Morgan requested that the informational memorandum from Robert Sullivan, City Attorney, be brought back to this evening's meeting, regarding Portwalk's land use regulatory issues at the Portwalk development site.
3. **Architectural Services Associated with Review of the Portwalk Project.** Attached is a memorandum from David Allen, Deputy City Manager, regarding the aforementioned matter.
4. **Pilot Program Re: Parking Shuttle.** Starting in May, the City will offer visitors another way to access the downtown by running a free shuttle service on Fridays and weekends from the parking lot at the Connect Community Church on Market Street to the bus stop adjacent to the High/Hanover Parking Facility (see attached map).

At the request of Portsmouth's City Council, acting on a recommendation to maximize existing available public parking infrastructure and increase access to public parking by the Blue Ribbon Committee on Transportation Policy, City staff began researching options for providing a shuttle that would facilitate quick and convenient passage from remote parking lots to the heart of Downtown.

As presented in staff's recommendation to the City Council in October 2013, this pilot program is to run during the summer season on weekends beginning May 2nd through August 31st. The anticipated times of operation are Fridays: 4:00 p.m. to 1:00 a.m.; Saturdays: 12 noon to 1:00 a.m. and Sundays: 12 noon to 10:00 p.m. Because this is a pilot program, we will be reviewing hours of operation as needed.

The City is awarding the contract for the parking shuttle service to TransAction Corporate Shuttles, Inc based out of Woburn, MA. TransAction has a history of successful shuttle operations for many regional clients, including New England Baptist Hospital and the Town of Acton, MA.

Waiting times for the shuttle are not to exceed 10 minutes, and the vendor must provide a means to notifying passengers of the time until the next shuttle arrives. To maximize utilization the vendor will include a marketing plan which will augment other City efforts to promote use of remote parking lot. The cost of the contract is \$37,124 plus marketing costs which will be funded through parking revenues.

5. **Proposed Additional Areas to Implement Character-Based Zoning (Form-Based Zoning).** As requested by the City Council, staff considered extending the form-based zoning study to additional areas around the periphery of the downtown. At that time, the Planning Department identified three potential areas for study, shown on the attached map and described as follows:
 1. The "Northern Tier" area between the railroad tracks and North Mill Pond, currently zoned Central Business A, containing about 15 acres and 15 existing parcels;

2. A small area on the opposite side of the Maplewood Avenue bridge, currently zoned Mixed Residence Office, containing about 3 acres and 16 parcels; and
3. A corridor along Islington Street with expanded areas at the north end (Hanover and Hill Streets) and the south end (Brewery Lane, Chevrolet Ave., Plaza 800 and the Button Factory area), with various Business, Mixed Residential and Residential zoning designations. This area encompasses about 73 acres and contains 140 parcels.

The Planning Department requested the City's current consultants for the Character-Based Zoning ordinance, Town Planning and Urban Design Collaborative (TPUDC), to submit a proposal for conducting the planning study and preparing form-based zoning standards for these three areas.

In order to allow for an efficient planning process and comprehensive outcome, TPUDC recommended that the public input process and work product for all three areas be conducted as one project. The project would be similar to the initial study, except that TPUDC would be completely responsible for survey work and would run a longer charrette, reflecting the broader scope of the expanded study. TPUDC has proposed to complete the planning and zoning services for these three areas for a fee of \$97,000 including expenses.

It would be appropriate to embark on a planning study of these additional areas once Character-Based Zoning is enacted in the initial downtown study area. Therefore, if the City Council passes third reading on the proposed zoning ordinance under Section of the Agenda, it is recommended that the City Council appropriate the funds necessary to implement Character-Based Zoning in the three areas identified above. This amount would include a contingency for local expenses and supplemental services that may be necessary. A specific recommendation will be presented at the April 21, 2014 City Council meeting.

6. **Report Back Re: Presentation from Cynthia Scarano, Executive Vice President, Pan Am Railways Re: Sea-3 Project.** I have contacted Cynthia Scarano, Executive Vice President of Pan Am Railways, regarding her attending a City Council meeting to discuss the proposed increase of rail traffic if the Sea-3 project is approved. She has indicated that she is not available for the regular City Council meeting in April, but she is available either on Monday, April 28, 2014, which is a non City Council meeting date or Monday, May 5, 2014, which is a regular City Council meeting.

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article I of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.103 PARKING AND TRAFFIC SAFETY COMMITTEE

There is hereby created a Parking and Traffic Safety Committee under the terms and conditions described herein:

- A. The Parking and Traffic Safety Committee ("Committee") shall consist of nine (9) **regular** members **and one (1) alternate** appointed by the Mayor and City Council. The composition of the Committee shall be the City Manager, Police Chief, Fire Chief, Public Works Director or their respective designees as well as a member of the City Council and **five (5) ~~four (4)~~** residents of the City (**4 regular members and one alternate**). The City Manager, Police Chief, Fire Chief and Public Works Director (or their respective designees) shall serve during their terms of employment with the City. The City Council member shall serve co-terminus with his/her as a member of the Council. Each of the **five (5) ~~four (4)~~** resident members of the Committee shall serve a term of three (3) years from the date of appointment. The Committee shall take office upon completed appointment of the **five (5) ~~four (4)~~** resident members. In the first instance the City Council member of the Committee shall serve as Chairperson until the first meeting of the subsequent calendar year. Thereafter, at its first meeting of any calendar year the Committee shall select a Chair who shall serve until another member is selected Chair at the first meeting of the subsequent calendar year.

The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Robert Lister, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

h:\ordinances\7_103 -# of alternate

CITY OF PORTSMOUTH
CITY COUNCIL POLICY No. 2012-02

POLICY REGARDING USE OF CITY PROPERTY FOR SIDEWALK CAFE'S
PROVIDING ALCOHOL SERVICE

WHEREAS, the City Council allowed the pilot use of City property by two sidewalk cafe's providing alcohol service during the 2011 summer season; and

WHEREAS, the City Council recognizes the benefit to residents, businesses, visitors and the City's economic vitality of allowing sidewalk cafe's with alcohol service on City property; and

WHEREAS, the City Council desires to balance said benefits of sidewalk cafe's with the safety, desires, and convenience of the public at large; and

WHEREAS, the City Council also recognizes that the City has the inherent authority to regulate any obstructions on City sidewalks and any intrusions into City sidewalks; and

WHEREAS, the City Council recognizes the authority of the State to regulate alcohol service.

NOW THEREFORE, the City Council adopts the following policies, criteria and standards with regard to the use of City property for sidewalk cafe's providing alcohol service:

1. Requests for use of City property for sidewalk cafe's providing alcohol service shall be made in writing to the City Council on an annual basis by May 1st with no expectation of continued year-to-year use of the sidewalk area on a continuing basis. The City Council shall allow no more than six (6) sidewalk cafe's with alcohol service in any season.
2. Such requests shall include a dimensioned site plan of the existing conditions, including a depiction of public infrastructure such as curb lines, light poles, bike racks, street trees, tree grates, manhole covers, meters, licensed A-frame signs, adjacent on-street parking and loading zones, adjacent accessible sidewalk curb cuts and the like. Such requests shall also include a dimensioned site plan depicting the proposed table/chair layout plan for the sidewalk café, dimensioned routes of travel within the sidewalk café area and on the adjoining public sidewalk, as well as detail sheets for the proposed enclosure system, tables, chairs, lighting, trash receptacles, and the like.
3. The terms and conditions of any such requests that are approved by the City Council in any given year shall be described in an annual Area Service Agreement, which includes a clear depiction of the area approved for sidewalk café use, with said Area Service Agreement to be signed by the City Manager and the party or parties making the request.
4. The term of the Area Service Agreement should be for no more than six (6) months and shall typically run mid-April thru mid-October.
5. Area Service Agreements shall not be assignable to other parties.

6. Use of the Area subject to the Area Service Agreement (the "Area") may be precluded, modified or made subject to any such terms and conditions as may be determined by the City in order to accommodate special municipal events.
7. A ten dollar (\$10.00) per square foot fee will be charged for the Area subject to the Area Service Agreement and the fee shall be for the entire 6 month season with no proration of the fee. The minimum fee for the season shall be \$2,000 even if the size of the Area subject to the Agreement is less than 200 square feet. The fee shall be due and payable to the City of Portsmouth prior to authorization to use the Area.
8. The Area specified for sidewalk café use in the Area Service Agreement shall be restored upon termination of the Area Service Agreement at season's end. Specifically, at season's end, the enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned area with the area left in an unobstructed, undamaged, clean and sanitary condition at no cost to the City.
9. Sidewalk cafés on City property shall indemnify and hold harmless the City of Portsmouth and shall maintain and provide insurance of the types and amounts specified by the City's Legal Department.
10. Sidewalk cafe's shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, or make same inaccessible for public use or maintenance purposes.
11. Sidewalk cafe's may utilize the Area for authorized purposes during their normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday with no alcohol served within the Area subsequent to one-half hour before the foregoing closure times.
12. Sidewalk café operators shall agree at all times to comply with all laws, rules and regulations of the NH State Liquor Commission and all other local, state and federal laws. Approval of the Area Service Agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission.
13. Sidewalk cafe's shall only serve alcoholic beverages to patrons who are seated at a table and who are ordering a substantial meal with service at tables conducted by wait staff only.
14. Sidewalk café operators will agree that they shall be solely responsible for compliance with the Americans with Disabilities Act.
15. The Area Service Agreement may be suspended at the sole discretion of the City on an administrative basis.
16. The Area Service Agreement may be revoked in its entirety, excepting for indemnity provisions, by the City by vote of the City Council,

17. Sidewalk cafe's with alcohol service should meet the following site design standards:

- Be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system consisting of heavy duty black decorative metal materials or equivalent as approved by the City Manager or his designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and insure public safety; the minimum height of the enclosure system shall be 30 inches and the maximum height shall be 36 inches.
- Sidewalk cafe's shall have no audio or visual or entertainment of any type located outside, and no visual entertainment shall be situated on the inside of the building in such a manner that it is directed to patrons in the sidewalk café.
- Sidewalk café seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the Area approved by the City, and the adjacent public pedestrian way shall not be crossed in order to provide alcohol or food service to additional areas.
- The internal dimensions and table/chair layout of the sidewalk café Area must allow for the passage of customers and wait staff and shall, in any event, meet ADA requirements.
- Sidewalk cafe's must provide a 5-foot radius clearance from the center of restaurant doorways (exterior) and doorways shall be kept clear at all times and a 5-foot minimum clear pedestrian path in front of restaurant doorways (exterior) shall be maintained at all times.
- The enclosure system, tables and chairs shall be movable/non-permanent.
- In Market Square the minimum width for the pedestrian way adjacent to the Area shall be 10-feet to 12-feet depending on site conditions. In all other areas where sidewalk cafe's are allowed the width for the pedestrian way adjacent to the Area shall, at a minimum, be 5-feet and, in any event, meet ADA, but will depend on site conditions. The pedestrian way in both instances shall allow for and provide clear unimpeded passage and access along the Area. The pedestrian way shall be located entirely on the public sidewalk and shall meet criteria that ensure pedestrian safety, usability and ADA compliance. In no event shall the Area interfere with accessibility or public safety, including safe lines of site for drivers.
- Canopies over the sidewalk café shall not be allowed unless they are completely supported by hardware on the building structure, that is, there shall be no vertical supports in or around the sidewalk café; table umbrellas without logos are allowed, but must not extend beyond the Area.
- No advertising of any kind shall be allowed in the Area.
- No improvements or personal property located within the Area shall extend on or over any municipal property located outside the Area.

18. Smoking should not be allowed in the sidewalk café Area.

19. Sidewalk café operators shall agree at all times to comply with all local laws, rules, regulations and orders including, but not limited to the following:
- Health Department to approve outdoor food service operations and cleaning operations, with the Area to be left in a clean and sanitary condition at all times and garbage contained at all times in covered receptacles. The Area shall be left in clean condition at close of business with all garbage removed in its entirety from the Area, and any ground debris swept up, at close of daily business. No food prep, grilling, service windows, service counters, wait stations, or bus buckets shall be allowed in the Area and no condiments, paper products or the like shall be stored on the tables in the Area. Health Department shall review/approve that kitchen facilities are sufficient to support additional seating.
 - Inspections Department shall review/approve that bathroom facilities are sufficient to support outdoor sidewalk café seating. Permits shall be sought from the Inspections Department for any proposed Area lighting.
 - A Place of Assembly inspection and updated Place of Assembly permit shall be required from the Fire Department and the Fire Department shall review/approve means of egress.
20. No Area Service Agreement should be approved by the City except in conformance with the foregoing.
21. The above are policy guidelines that will serve as the basis for Area Service Agreements, which may include other terms and conditions deemed by the City to be in the public interest.
22. The number and location of sidewalk cafe's on City sidewalks shall be at the sole unfettered discretion of the City Council acting in the public interest and no entitlement is created by this policy for any party to have a sidewalk café at any location.

This policy shall take effect upon the passage by the City Council.

Adopted by the Portsmouth City Council on March 19, 2012.

Kelli L. Barnaby, CMC/CNHMC
City Clerk

AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Popovers on the Square (hereinafter "Licensee" or "Popovers"), having a principal place of business of 8 Congress Street, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

PRELIMINARY: Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2014 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

SCOPE OF AUTHORITY GRANTED: This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

TERMS AND CONDITIONS

1. **Term of Agreement:** This Agreement shall commence on the date of its completed execution, and, unless suspension or termination should occur sooner, all provisions of the Agreement, except those governing

indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on Sunday, October 19, 2014.

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$5,700.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
 - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
 - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
 - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
 - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
 - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
 - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
 - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
 - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
 - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
 - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
 - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
 - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.

11. Inspections Department:

- a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
- b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
- c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.

12. Fire Department:

- a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
- b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
- c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.

13. Audio/Visual Interference Prohibited:

- a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
- b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.

14. Design of Area Improvements:

- a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
- b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
- c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

15. Non-interference with City Infrastructure and Amenities:

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

16. Compliance with Americans with Disabilities Act ("ADA"): The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

17. Enclosure System and Area Use Specifications:

- a. The Licensee's use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

18. Indemnification: The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
23. **Revocation without Cause:** This agreement may be revoked in its entirety by the City, without cause, by vote of the City Council. No public hearing shall be required prior to such revocation. In the event of revocation without cause, the Area Service Fee shall be returned on a pro rata basis.
24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than October 23, 2014. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this _____ day of _____, 2014.

City of Portsmouth

Witness

By: _____
John P. Bohenko
City Manager

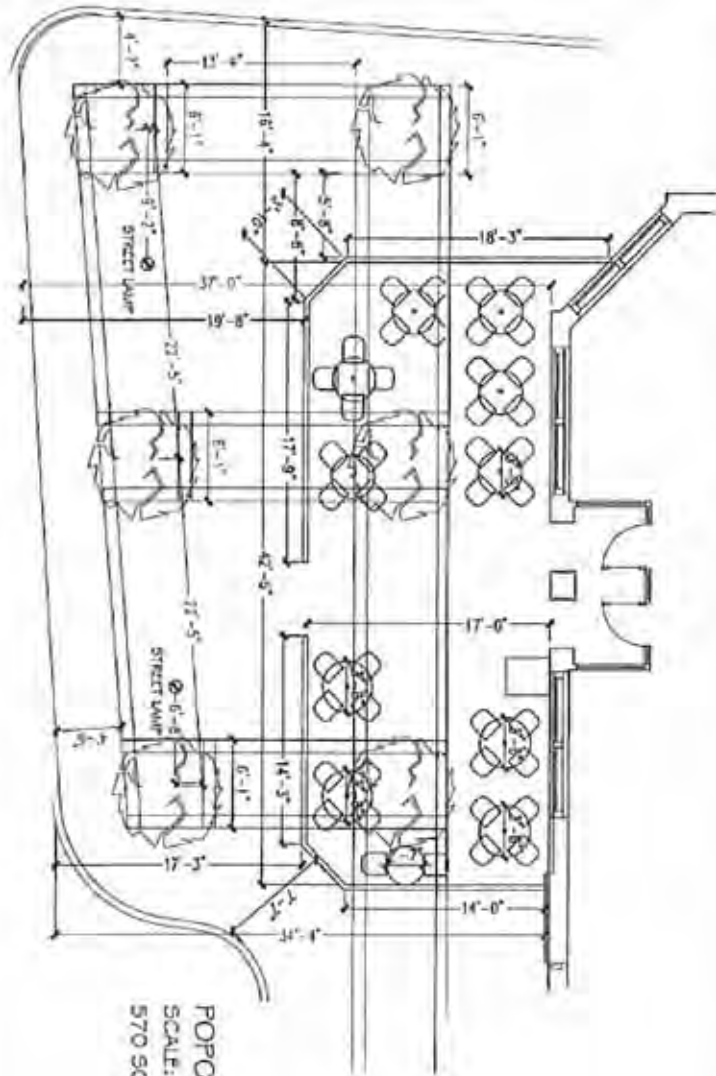
Duly authorized by vote of City Council
on _____, 2014.

Dated this _____ day of _____, 2014.

Popovers on the Square

Witness

By: _____
John Tinios
President/Manager



POPOVERS SITE PLAN
 SCALE: 1/8" = 1'-0"
 570 SQ FT / 36 SEATS



EXTERIOR TABLE LAYOUT

POPOVERS CAFE & BAKERY
 PORTSMOUTH NH

TOREY DESIGN GROUP
 21 Cove Street, Portsmouth NH
 Phone: 603.432.2627
 www.toreydesign.com

AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Ri Rá Irish Pub & Restaurant (hereinafter "Licensee" or "Ri Rá"), having a principal place of business of 22 Market Square, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

PRELIMINARY: Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2014 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

SCOPE OF AUTHORITY GRANTED: This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

TERMS AND CONDITIONS

1. **Term of Agreement:** This Agreement shall commence on the date of its completed execution, and, unless suspension or termination should occur sooner, all provisions of the Agreement, except those governing

indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on Sunday, October 19, 2014.

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$4,470.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
 - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
 - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
 - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
 - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
 - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
 - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
 - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
 - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
 - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
 - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
 - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
 - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.

11. **Inspections Department:**
 - a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
 - b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
 - c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.

12. **Fire Department:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
 - b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
 - c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.

13. **Audio/Visual Interference Prohibited:**
 - a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
 - b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.

14. **Design of Area Improvements:**
 - a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
 - b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
 - c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

15. Non-interference with City Infrastructure and Amenities:

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

16. Compliance with Americans with Disabilities Act ("ADA"): The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

17. Enclosure System and Area Use Specifications:

- a. The Licensee's use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

18. Indemnification: The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
23. **Revocation without Cause:** This agreement may be revoked in its entirety by the City, without cause, by vote of the City Council. No public hearing shall be required prior to such revocation. In the event of revocation without cause, the Area Service Fee shall be returned on a pro rata basis.
24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than October 23, 2014. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this _____ day of _____, 2014.

City of Portsmouth

Witness

By: _____
John P. Bohenko, City Manager

Duly authorized by vote of City Council
on _____, 2014.

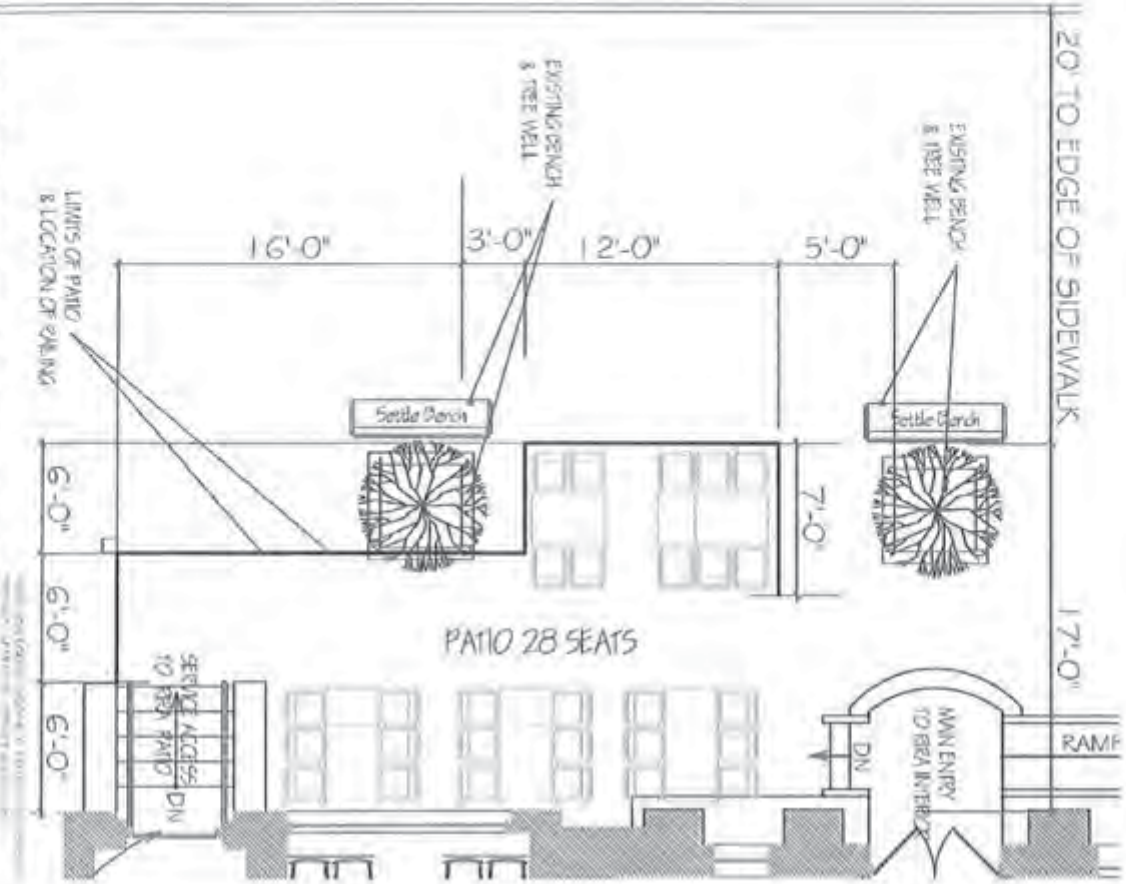
Dated this _____ day of _____, 2014.

Ri Ra Irish Pub & Restaurant

Witness

By: _____
David Nyhan
General Manager

REVISED RIRA SEASONAL TABLE LAYOUT 4-6-13



AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Roger's Café, Inc. d/b/a State Street Saloon (hereinafter "Licensee" or "State Street Saloon"), having a principal place of business of 268 State Street, Portsmouth County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

PRELIMINARY: Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2014 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

SCOPE OF AUTHORITY GRANTED: This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

TERMS AND CONDITIONS

1. **Term of Agreement:** This Agreement shall commence on the date of its completed execution, and, unless suspension or termination should occur

sooner, all provisions of the Agreement, except those governing indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on Sunday, October 19, 2014.

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$3,400.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
 - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
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 - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
 - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
 - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
 - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
 - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
 - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
 - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
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 - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.

11. **Inspections Department:**
 - a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
 - b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
 - c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.

12. **Fire Department:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
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 - c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.

13. **Audio/Visual Interference Prohibited:**
 - a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
 - b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.

14. **Design of Area Improvements:**
 - a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
 - b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
 - c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

15. Non-interference with City Infrastructure and Amenities:

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

16. Compliance with Americans with Disabilities Act ("ADA"): The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

17. Enclosure System and Area Use Specifications:

- a. The Licensee's use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

18. Indemnification: The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
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22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
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24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than October 23, 2014. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this _____ day of _____, 2014.

City of Portsmouth

Witness

By: _____
John P. Bohenko
City Manager

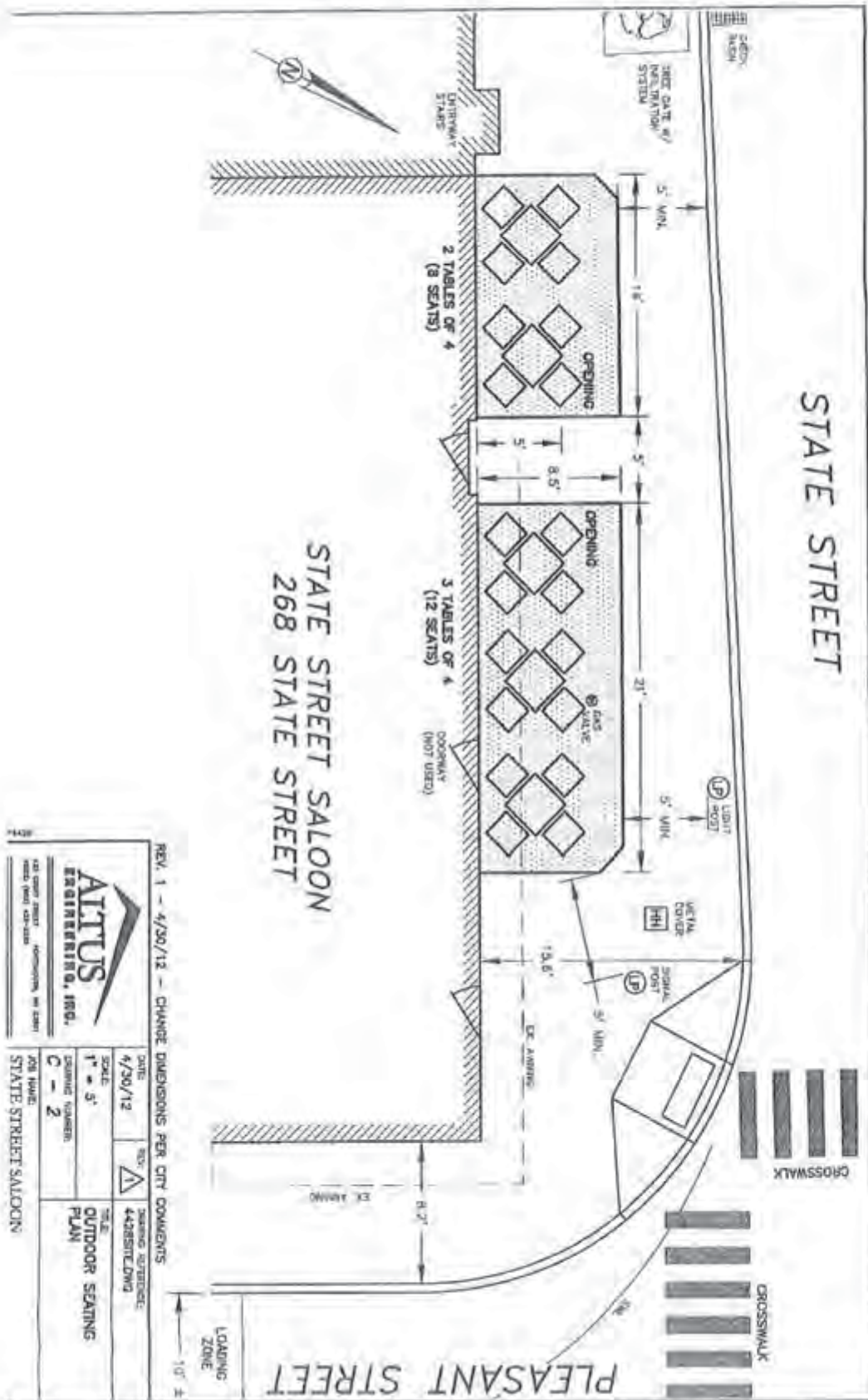
Duly authorized by vote of City Council
on _____, 2014.

Dated this _____ day of _____, 2014.

**Roger's Café, Inc.
d/b/a State Street Saloon**

Witness

By: _____
Eli Sokorelis
President



STATE STREET SALOON
268 STATE STREET

REV. 1 - 4/30/12 - CHANGE DIMENSIONS PER CITY COMMENTS

DATE	4/30/12	SCALE	1" = 5'
BY	ATTUS ENGINEERING, INC.	TITLE	OUTDOOR SEATING PLAN
NO.	44381E.DWG	DATE	4/30/12
PROJECT	STATE STREET SALOON	JOB NO.	C-2

ATTUS ENGINEERING, INC.
443 STATE STREET - AUBURN, MA 01501
TEL: (508) 833-1111 FAX: (508) 833-1112

AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Surf Portsmouth Inc. (hereinafter "Licensee" or "Surf"), having a principal place of business of 99 Bow Street, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

PRELIMINARY: Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2014 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

SCOPE OF AUTHORITY GRANTED: This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

TERMS AND CONDITIONS

1. **Term of Agreement:** This Agreement shall commence on the date of its completed execution, and, unless suspension or termination should occur sooner, all provisions of the Agreement, except those governing

Indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on Sunday, October 19, 2014.

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$3,240.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
 - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
 - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
 - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
 - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
 - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
 - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
 - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
 - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
 - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
 - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
 - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
 - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.

11. Inspections Department:

- a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
- b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
- c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.

12. Fire Department:

- a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
- b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
- c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.

13. Audio/Visual Interference Prohibited:

- a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
- b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.

14. Design of Area Improvements:

- a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
- b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
- c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

15. Non-interference with City Infrastructure and Amenities:

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

16. Compliance with Americans with Disabilities Act ("ADA"): The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

17. Enclosure System and Area Use Specifications:

- a. The Licensee's use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

18. Indemnification: The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
23. **Revocation without Cause:** This agreement may be revoked in its entirety by the City, without cause, by vote of the City Council. No public hearing shall be required prior to such revocation. In the event of revocation without cause, the Area Service Fee shall be returned on a pro rata basis.
24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than October 23, 2014. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this _____ day of _____, 2014.

City of Portsmouth

Witness

By: _____
John P. Bohenko
City Manager

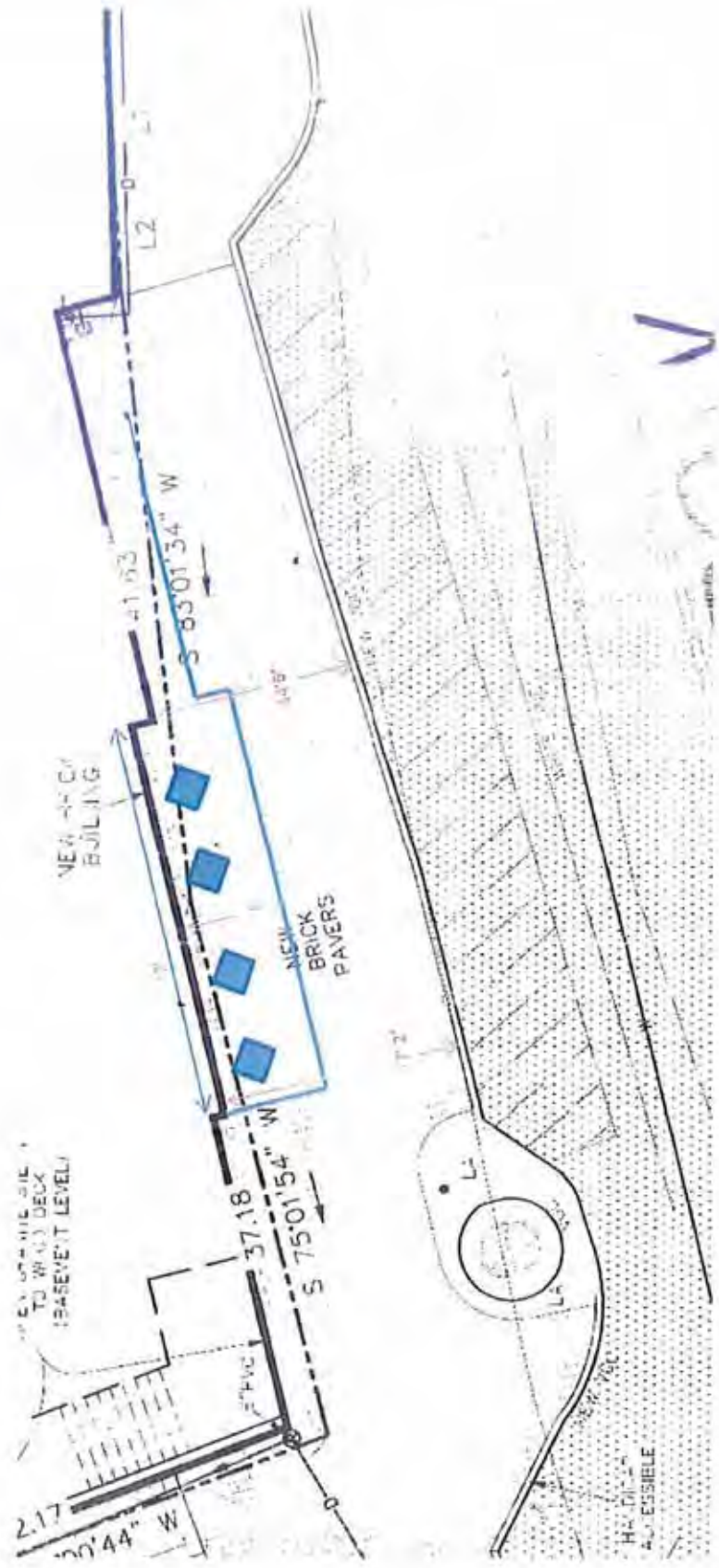
Duly authorized by vote of City Council
on _____, 2014

Dated this _____ day of _____, 2014.

Surf Portsmouth Inc

Witness

By: _____
John Dunn
General Manager



AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and The District Restaurant Group, Inc. (hereinafter "Licensee" or "The District"), having a principal place of business of 103 Congress Street, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

PRELIMINARY: Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2014 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

SCOPE OF AUTHORITY GRANTED: This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

TERMS AND CONDITIONS

1. **Term of Agreement:** This Agreement shall commence on the date of its completed execution, and, unless suspension or termination should occur

sooner, all provisions of the Agreement, except those governing indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on Sunday, October 19, 2014.

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$4,670.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
 - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
 - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
 - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
 - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
 - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
 - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
 - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
 - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
 - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
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 - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
 - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
 - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.

11. Inspections Department:

- a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
- b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
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- a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
- b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
- c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.

13. Audio/Visual Interference Prohibited:

- a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
- b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.

14. Design of Area Improvements:

- a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
- b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
- c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
 - ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
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 - iv. There shall be no advertising of any kind within the Area.
15. **Non-interference with City Infrastructure and Amenities:**
- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
 - b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.
16. **Compliance with Americans with Disabilities Act ("ADA"):** The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.
17. **Enclosure System and Area Use Specifications:**
- a. The Licensee's use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
 - b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.
18. **Indemnification:** The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
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25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this _____ day of _____, 2014.

City of Portsmouth

Witness

By: _____
John P. Bohenko
City Manager

Duly authorized by vote of City Council
on _____, 2014.

Dated this _____ day of _____, 2014.

The District Restaurant Group, Inc.

Witness

By: _____
David Takis II
Vice President

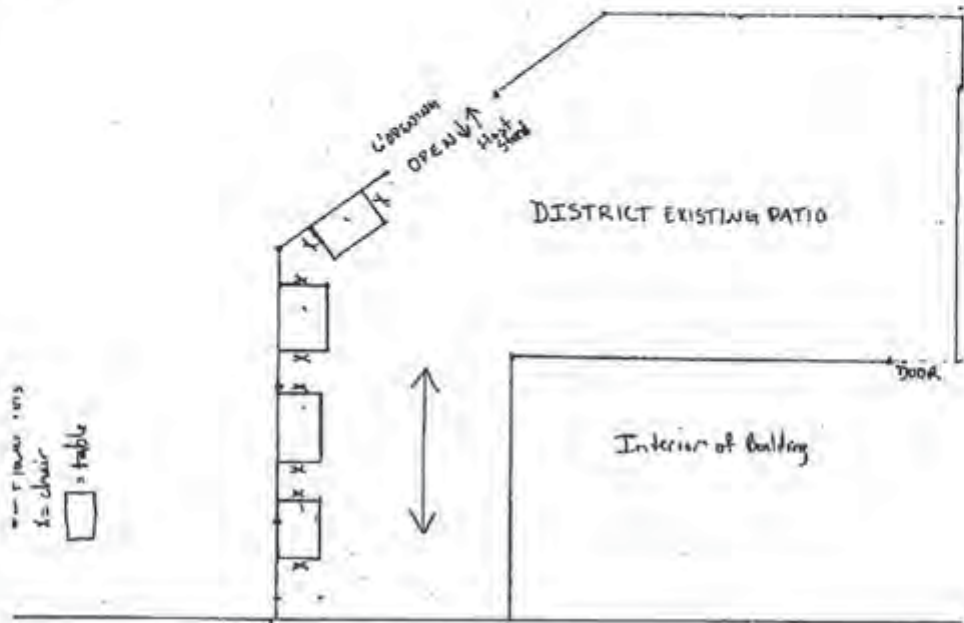
4 = 11

4 = 1

CONGRESS ST.

6'

EXHIBIT A



NOTE 2

Foot of trees

Combustibles

VAUGHAN MALL

Total Length of Vaughan Mall is 90'

