

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, FEBRUARY 4, 2019 TIME: 6:15PM

- 6:00PM – CITY COUNCIL PHOTOGRAPH
- 6:15PM – PUBLIC DIALOGUE SESSION
- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE
- V. ACCEPTANCE OF MINUTES – JANUARY 7, 2019 AND JANUARY 22, 2019
- VI. PUBLIC DIALOGUE SUMMARY
- VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. **Public Hearing – Elderly Exemption**

RESOLUTION PURSUANT TO RSA 72:39-B THE CITY HEREBY AMENDS THE ELDERLY EXEMPTION FROM PROPERTY TAX, BASED ON ASSESSED VALUE FOR QUALIFIED TAXPAYERS, SUCH THAT THE EXEMPTIONS SHALL BE AVAILABLE ONLY WHEN THE QUALIFYING TAXPAYER(S) HAVE A NET INCOME OF NOT MORE THAN \$42,471.00 FOR A SINGLE TAXPAYER OR \$58,398.00 FOR MARRIED TAXPAYERS, INCLUSIVE OF SOCIAL SECURITY PAYMENTS. THE ELDERLY EXEMPTION SHALL REMAIN UNCHANGED EXCEPT AS AMENDED HEREBY

- PRESENTATION
- CITY COUNCIL QUESTIONS
- PUBLIC HEARING SPEAKERS
- ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

B. **Public Hearing – Disabled Exemption**

RESOLUTION PURSUANT TO RSA 72:37-B, CITY HEREBY AMENDS THE DISABLED EXEMPTION FROM PROPERTY TAX, BASED ON ASSESSED VALUE FOR QUALIFIED TAXPAYERS, SUCH THAT THE EXEMPTIONS SHALL BE AVAILABLE ONLY WHEN THE QUALIFYING TAXPAYER(S) HAVE A NET INCOME OF NOT MORE THAN \$42,471.00 FOR A SINGLE TAXPAYER OR \$58,398.00 FOR MARRIED TAXPAYERS, INCLUSIVE OF SOCIAL SECURITY. THE DISABLED EXEMPTION SHALL REMAIN UNCHANGED EXCEPT AS AMENDED HEREBY

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

C. Public Hearing – Zoning Ordinance & Map amended by Rezoning Property located at 290 Gosling Road

ORDINANCE AMENDING CHAPTER 10, ARTICLE 4, SECTION 10.421.10 – DISTRICT LOCATION AND BOUNDARIES OF THE ZONING ORDINANCE AND PORTSMOUTH ZONING MAP BE AMENDED BY REZONING THE PROPERTY LOCATED AT 290 GOSLING ROAD AT ASSESSOR’S TAX MAP 213, LOT 1 FROM WATERFRONT INDUSTRIAL (WI) TO OFFICE RESEARCH (OR) DISTRICT

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

- D. First Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Accessory Dwelling Units and Garden Cottages
- E. Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking (Proposed Amendments dated 1/29/2019)
- F. Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, Dated November 19, 2018
- G. Third and Final Reading of Amendments to Chapter 10 – Zoning Ordinance be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated January 15, 2019 (*Postponed until February 4, 2019 City Council meeting*)

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items on this section of the agenda)

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Request for License to Install Projecting Sign for Shi Bo Lin, LLC owner of Pink Bamboo Hot Pot Café for property located at 128 Penhallow Street **(Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)**

Planning Director's Stipulations

- **The license shall be approved by the Legal Department as to content and form;**
- **Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and**
- **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)**

- B. Request for License to Install Projecting Sign for Justin Finn owner of Finn Wealth Advisors for property located at 23 High Street, Unit C **(Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)**

Planning Director's Stipulations

- **The license shall be approved by the Legal Department as to content and form;**
- **Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and**
- **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)**

- C. Letter from Kate Corriveau, Alzheimer's Association requesting permission to hold the 2019 Annual Seacoast Walk to End Alzheimer's on Sunday, September 22, 2019 **(Anticipated action – move to refer to the City Manager with power)**

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence **(Sample motion – move to accept and place on file)**

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. 201 Kearsarge Way Access Easement
2. 1179 Sagamore Avenue Water Services Access Easement
3. Report Back Re: Request to Rezone Properties on Pinehurst Road
4. Work Session Re: Parking Principles Review and Discussion

City Manager's Informational Items:

1. Neighborhood Parking Program Re: Pilot
2. Reminder Re: Short Term Rentals Joint Work Session
3. Draft Comcast Franchise Renewal Agreement

B. MAYOR BLALOCK

1. Appointment to be Voted:
 - Nathalie Morison to the Conservation Commission

C. COUNCILOR ROBERTS, COUNCILOR DWYER, COUNCILOR PERKINS

1. *McIntyre Subcommittee Update

D. COUNCILOR DENTON

1. *Proposed Charter Amendment – Section 4.6 – Compensation of City Councilors

Each City Councilor shall be compensated at a rate of Seventy-Five (\$75.00) Dollars for each Council meeting in which that person is in actual attendance. ~~However, no City Councilor except the Mayor shall receive more than Fifteen Hundred (\$1,500) Dollars during any calendar year.~~

(Sample motion – move to refer to the City Manager to begin the procedures under RSA 49-B:5 to have November's municipal election ballot include a Charter Amendment that would strike the second sentence of Section 4.6)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK

* Indicates verbal report

INFORMATION ITEMS

1. 2018 Board and Commission Attendance Records

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JANUARY 7, 2019

PORTSMOUTH, NH
TIME: 6:15 PM

Public Dialogue Session – Table A

PRESENT at Table A. Assistant Mayor Lazenby, Councilor Roberts, Pearson and Dwyer.

The members of the public were asked to introduce themselves and begin discussing their concerns and/or questions related to their individual topics.

Philippe Favet – said that the McIntyre is an historic building that should remain. He does not want to see changes to the building.

Councilor Dwyer said it is an example of a building of the 1960's. She stated the National Park Services wants the building in context and we must respect that. She spoke to the age of the building.

Councilor Roberts said he feels there should be buildings surrounding the McIntyre.

Councilor Pearson spoke to the context and site of the McIntyre building. She stated the requirements by the National Park Services will not be bigger or taller than the current building.

Joanna (Inaudible) – asked if the public will see and hear when the financial side of the project has moved forward.

Councilor Roberts said they are not prepared to address the matter this evening but will discuss it at a future City Council meeting.

Councilor Dwyer said the discussion most likely will take place during a work session.

Joanna said that you have excellent attorneys to look at the finances on the project. She asked if they will review all documents and the terms.

Ron Orlick – said he would like to see a park with green space. He asked if there is any documentation that you can't have a park but must have a building.

Councilor Dwyer said the federal government wants a building built.

Councilor Roberts said it must be financially viable.

Councilor Dwyer said we have a sense of what they are interested in.

Kelly Wright – said it is not about the green space and it should be but instead it is about the dollars. He asked about parking availability on the site.

Gisela Wemple – asked about the Post Office remaining on site.

Councilor Dwyer said the post office has not made a decision as to whether it would stay on site.

Bernard Mulligan –said you need a nice large square building and it needs to be built over the entire lot at the second level.

Councilor Dwyer said when you see plans this evening it will provide you with a better understanding of the site and building. She spoke to the 35 public sessions held on the project.

Councilor Roberts said the most important thing was the building not becoming a hotel. He said Mr. Simchick said he would build a hotel with no indoor/outdoor space.

Kelly Wright – said he is moving his business out of Portsmouth because of the lack of parking.

Councilor Roberts said the parking will be addressed.

Sheridan Lloyd – said there should be a vote of the residents as to what they wish to see at the site.

Public Dialogue Session – Table B

PRESENT at Table B: Councilors Denton, Perkins, Raynolds and Becksted.

The members of the public were asked to introduce themselves and begin discussing their concerns and/or questions related to their individual topics.

Mary Lou McElwain – requested that once the McIntyre Plan is finalized there be a tabletop model display for public viewing either in the Council Chambers or at the Library. She stated that the 3-D computer model isn't a good representation. She also suggested that the High School Art Department could be utilized for this request.

Mayor Blalock agrees with the need for a model and will pass along the idea to Deputy City Manager Colbert Puff.

Jill Vranicar- referred to the handout that had been distributed showing the Redgate/Kane plan and another developer's plan and asked when the other developers' plan had come forward.

Councilor Denton explained that the other developer had eliminated himself from the process so it was not reviewed. He continued to explain that the Redgate/Kane plan was the only one to not propose a hotel which was a criteria of the Council as expressed by the public early on in the process. He stated this plan has been in the works for over a year. He further explained the review process and number of meetings that have been held and the parameters that must be met, including not using taxpayer dollars and not being able to take down the McIntyre Building.

Jim Russell asked why there are only 77 parking spaces proposed and if the City Council is comfortable with that number.

Deputy City Manager Colbert Puff explained that the parking issue will continue to be reviewed by the Site Review Committee and will be guided by the Parking Management Plan and Downtown Parking Principles.

Councilor Denton stated that there was discussion regarding putting underground parking at the site, but it can't be done at a reasonable cost due to the ledge and water table on the property.

Councilor Becksted stated he is also concerned with the parking issue.

Judy Miller stated that with the office space that is being proposed what would the burden of the employee parking be and will there be enough for both the tenants and employees.

Jill Vranciar asked if green space is off the table.

Councilor Perkins stated there is green space involved in the plan.

Mayor Blalock stated the presentation will show the proposed green space.

Pamela Kayden-Babish – stated she works in the downtown at various shops and walks to the Post Office to mail packages often and how would she do that if it is located at Pease.

Councilor Denton stated the decision to stay downtown is entirely up to the Post Office and there is space set aside in the plan for postal services, whether it is the USPS or another company. He stated the City Council has consistently stated we want the Post Office to stay there.

Deputy City Manager Colbert Puff explained the attempts to negotiate with the USPS to remain there but they are not willing to temporarily relocate during the hazardous material remediation phase of the project and also want to have more surface parking provided not just in the parking garage. She stated that temporary trailers were suggested for the relocation phase, but the USPS was not interested.

Councilor Raynolds stated that even if the USPS does not stay there, there is substantial retail space for another company to provide the service.

Pamela Kayden-Babish stated that the other companies are more expensive to mail packages.

Mayor Blalock stated he has reached out to Senator Shaheen to find a spot downtown for the USPS if they are not going to be in the McIntyre building.

Bill Downey – stated there is ample evidence that the remediation can be done with the post office remaining in the building and although it is more expensive, it is a matter of prioritizing. He stated it is obvious that people are passionate about this so it should be negotiated.

Lee Roberts – feels that the City Council should put the people who live here, own businesses and love this city before finances. She stated that the people haven't been listened to by their representatives and feels the City Council bows down to the City Manager.

Katie Sherman, 111 Bow Street – asked how many spots the post office currently has and what they are requesting. She stated that the current proposal appears to cut the parking spaces we currently have.

Deputy City Manager Colbert Puff stated there are 91 outdoor spaces and 40 indoor.

Mayor Blalock stated that the plan isn't finalized yet.

Barbara Van Buskirk – stated she walks to the Post Office daily as she has a post office box and is the only place she can get her mail. She stated that the other companies to address this service and wonders where the USPS post office boxes will be located.

Several City Councilors reiterated they are trying to keep the USPS downtown.

Lee Roberts stated that the developer is charging too much for the post office to be able to stay there.

Deputy City Manager Colbert Puff stated that the City has made it clear that the developer is not to charge an unreasonable rate but the post office will have to pay the market rate and has agreed to do so and will have to do so wherever they are located.

Katie Sherman asked if there are any studies on the vacancies in the commercial storefronts downtown as she doesn't see how this building will get filled when there are already vacancies downtown. She asked if it is because the rents are not affordable.

Councilor Perkins stated that this proposal doesn't have a hotel because people didn't want a hotel.

Mary Lou McElwain stated she attended the Economic Development Commission meeting on January 4th and asked the same question and there was no answer.

Councilor Perkins stated they do have that answer and it will be provided.

(Unidentified) – asked about affordable housing and why it wasn't included in the proposal.

Councilor Denton stated that one of the developers early on did have that as part of the proposal but self-selected themselves out of the process.

As discussion continued regarding McIntyre Project which was a Public Hearing Item on the Regular Meeting Agenda, Mayor Blalock adjourned the Public Dialogue Session at 6:50 p.m. in order to reset Council Chambers.

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JANUARY 7, 2019

PORTSMOUTH, NH
TIME: 6:00 PM

At 6:00 p.m. a Non Public Session was held regarding Deputy City Manager Nancy Colbert Puff Employment Agreement in Accordance with RSA 91-A:3, II (a).

I. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:00 p.m.

II. ROLL CALL

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Reynolds and Becksted

III. INVOCATION

Mayor Blalock asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Mayor Blalock led in the Pledge of Allegiance.

PRESENTATIONS

1. Cable Television Renewal Franchise Agreement

Deputy City Attorney Woodland provided a presentation and overview of the existing Cable Television Franchise Agreement and the structure for negotiations of the renewal agreement. She addressed key survey findings regarding customer service, technical and anecdotal comments. She spoke to the Commission's desired outcomes which are to continue receipt of the 5% Franchise Fee, continued use and support of government and PPMTv channels and continued municipal drops as well as notifications of rates and changes in writing and mail. She said that this would be a 5 year term instead of a 10 year term contract and that the City Council would be holding a public hearing on January 22, 2019.

2. Breakfast Hill Area Waterline Study

Keith Pratt, Underwood Engineers provided a presentation outlining evaluating water system improvements to extend municipal water service to areas in Greenland. He reported that the Breakfast Hill Service Area would encompass 17 streets, 240 residential units and 5 commercial lots with 1 golf course. He addressed the estimated water demands would be on an average day 35,800 GPD and on a max day demand would be 286,000 GPD. He stated the average day demand increases would be 0.8% and maximum increases you would see a 3.7%.

Mr. Pratt said the opinion of costs for all phases would be \$18.5M - \$24.6M which could be approximately \$85,000.00 t/- per property.

Councilor Pearson asked about best practices for phasing. She said we are trying to show the cost per area/neighborhood and that we will sit down with Greenland to speak to the matter.

Councilor Perkins said the financial report is a supplement to the master plan and the infrastructure needs where addressed.

Deputy Public Works Director Goetz said the Rye Water District gets a large amount of water from the City. He spoke to the area of services and stated there are irrigation rates. He said we would look at a separate line, meter and irrigation rates.

Assistant Mayor Lazenby asked how many resident would be served in Greenland. Deputy Public Works Director Goetz reported 35 properties.

Councilor Denton asked if we could start putting something in the CIP for phasing. City Manager Bohenko said we would need to speak with Greenland and the State for some grant funding. He stated to date no local funds have been spent on this.

V. ACCEPTANCE OF MINUTES (*There are no minutes on for acceptance this evening*)

VI. PUBLIC DIALOGUE SUMMARY

Councilors Dwyer and Denton stated the conversations were regarding the McIntyre project and the location of the Post Office.

Councilor Denton said that we need a 3D model of what we expect the McIntyre building will look like with parking locations.

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. Public Hearing – Thomas J. McIntyre Property

PROPOSED ACQUISITION OF 80 DANIEL STREET, FEDERAL THOMAS J. MCINTYRE PROPERTY PURSUANT TO THE HISTORIC MONUMENT PROGRAM, VIA A PUBLIC-PRIVATE PARTNERSHIP WITH REDGATE/KANE

PRESENTATION

Deputy City Manager Colbert Puff said the presentation will be available on-line and everything on the project is on the Website for review. She said that this is a 2.1 acre site and she would be reviewing the draft application, public process, and public/private partnership. She stated the draft application is a public historic property program for applications which are legally binding and become part of the deed.

Deputy City Manager Colbert Puff spoke to the application having a preservation utilization plan and all leases must have prior approval by the federal government. She said if we become non-compliant we would lose the building back to the federal government. She indicated that in some extent we are breaking new ground. Deputy City Manager Colbert Puff reported on the mixed use development and that we have been interested in acquiring the building for a long time. She stated during the acquisition process and design requirements have changed the demand requirements have changed funding available. She discussed the historic registry process and the choice of Redgate/Kane. She reported there have been 35 public meetings in the last 32 months. and this has been a very long process with an incredible amount of public investment. Deputy City Manager Colbert Puff spoke to the public process and that this is a big opportunity for the City. She further discussed the Mayor's Committee appointment and the various designs for the spaces of the building and the site contaminates of hazardous materials. She spoke to the federal statute for the public benefit. She said the financial plan continues to be developed. She indicated the GSA time frame remains to vacate the building by June 2019 and that we will have additional appearances before the land use boards.

- **CITY COUNCIL QUESTIONS**

Councilor Pearson asked if we could breakdown a reasonable profit for the private partnership and not for the city.

Deputy City Manager Colbert Puff said a reasonable profit can be made on the site and we have hired Lisa McCann to provide that information. She said any excess income is returned to the city for open space and recreation purposes and the city will set up two committees to review the deal going into the future.

Councilor Dwyer asked Deputy City Manager Colbert Puff to speak to a ground lease. Deputy City Manager Colbert Puff said the federal government can only transfer the property to an eligible party but the city would retain ownership.

Councilor Perkins asked if you have images of the plan on how the public space would work. Deputy City Manager Colbert Puff spoke to the site plan and that it would be handicap accessible.

Mayor Blalock asked if we could get a 3D model of what is being proposed. Deputy City Manager Colbert Puff said yes.

Assistant Mayor Lazenby said there is a location on the first floor for the post office. Deputy City Manager Colbert Puff said a letter by Mayor Blalock was sent to have them come and speak with us. She reported that the post office wants 40 spaces on site for parking and a turnaround area for a tractor trailer for loading and unloading parcels.

Councilor Roberts asked about the rationale for only 77 parking spaces. Deputy City Manager Colbert Puff said the 77 spaces will serve as residential spaces only and the public process talked about not covering the site with surface parking. She addressed underground parking not being economical for the developer.

Councilor Dwyer said that the project still needs to go before the land use boards. Deputy City Manager Colbert Puff said that is correct.

Councilor Denton asked if we ever received a proposal from Mr. Simchick. Deputy City Manager Colbert Puff said yes, the RFQ but it did not meet the requirements for an RFP. Councilor Denton asked about the roof top area being part of the project. Deputy City Manager Colbert Puff said the National Park Services does not want those types of services viewable by the street and the roof was not built for any structure being placed on the surface. Councilor Denton asked about underground parking and what the cost would be to build more spaces further down or underground. Deputy City Manager Colbert Puff said we can get that figure for the Council.

Councilor Becksted asked if we would see the final site photos before the application is submitted. Deputy City Manager Colbert Puff stated we would need a development agreement in hand before the application is submitted.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the legal notice, declared the public hearing open and called for speakers. He explained that Portsmouth residents or business owners would speak first. He further stated that each speaker would be allowed 3 minutes and to state your name and address for the record.

Bill Hamilton, 108 Penhallow Street said the Redgate/Kane is the long term plan for the City and he is disappointed that the entire meeting is not devoted to the public hearing. He spoke to the need for creating a central park at the McIntyre site.

Bernard Mulligan, 18 Congress Street asked about the post office site and stated the space will be much smaller and residents wanted to preserve the post office, not redesign it.

Brian Murphy, 96 Penhallow Street said that this is a fantastic process but it is unfortunate that we are bidding a long process with a solid project with one person's image of a park. He stated that this is an urban context with open space, gathering space and community space.

John Russo, 107 Walker Bungalow Road said that this is a bad deal for the city. He said the city should tell the government to put it on the market to be sold.

Christina Lusky, 94 Odiome Point Road urged the Council to listen to the people. She said the project needs more parking spaces and the design needs more modification. She said to try to do some underground parking and don't just push the project through.

Ron Ulrich, 46 Baycliff Road read various quotes from Judd Gregg, City Manager Bohenko, Assistant Mayor Splaine and Mayor Blalock. He said there is a petition from business owners, residents and concerned citizens urging a thoughtful process. He asked that the City Council not support the current plan and indicated that 700 people have signed the petition.

Lee Roberts, 66 State Street, indicated that she has attended all the sessions regarding the project. She stated she has heard numbers that are shocking and it is reassuring to hear that finances will be discussed more thoroughly. She said that 95% of occupancy might not be met.

Philippe Favet, 152 Dennett Street said he is interested in how much it costs for preservation and asked what the project budget is. He said the National Park Services must have enough money to come from the new building for preservation. He stated the building project is too big.

Jonathan Sandberg, 160 Bartlett Street said he likes the project by Redgate/Kane. He said we don't have enough housing in the downtown. He said when people can bike and walk we won't require as much parking and stated people should be utilizing the new parking garage. He said this project is great space and activates the first floor.

Nancy Brown, 333 Bartlett Street said there is a need for affordable housing and a modest natural development. She asked if any of the 77 units are considered workforce housing units. She said spending must reflect the needs of all residents of Portsmouth.

Adam Irish, 107 Market Street spoke to a rendering of Market Square in the 1960's and stated that construction and concepts were not put into effect. He spoke to the petition that has been signed by 700 people against the project and said there is no reason for the City Council to move forward.

Adam Ruedig, 70 Highland Street spoke in favor of the design that has come forward for the space. He addressed the need for the indoor and outdoor gathering space.

Jim Eiffe, 40 Sunset Road, said we need to slow down on the development of the City. He favors green space and maximizing that space. He spoke to keeping costs down and making workforce housing in the space.

Barbara Ward, 16 Nixon Park, said the public input process has been frustrating. She stated there are a lot of maps out there and inquired if we know what will actual happen for open spaces. She spoke to the size of the development and how it could make an appearance of a tunnel and be dark.

Jeffrey Cooper, 227 Park Street said the reason we got to where we are now is the process was backwards. He said we should have done vision planning at the beginning. He spoke to the high rent for the spaces. He said everything downtown is for tourists. He stated the Historic District Commission members did not speak in favor of the project.

Danielle Lee, 62 Marcy Street, spoke regarding the need for the post office to remain at the McIntyre building. She indicated at a recent meeting a representative from Washington, DC came relative to the post office and indicated it would not stay, and if they moved out they would not move back. She said a kiosk was proposed but that is not a post office and that there are no additional locations in the downtown to meet their needs.

Richard Grossman, 131 Spinnaker Way said the development needs to be public but not a public/private development. He stated we have enough boutique shops in the downtown and we don't need more. He said that this is an ugly plan.

Marc Stettner, 91 Fairview Avenue said there are no renderings on how the project will be lighted. He asked where the loading docks would be located and requested the City Council ask for an up or down vote on the project.

Paige Trace, 27 Hancock Street, said that the plans need to be reviewed. She expressed concern with the loss of more on-street parking. She spoke to the need for green space and asked that the Council listen to the neighbors voices.

William Wagner, 11 Taft Road, said he was on a different development team but is concerned with financial issues for the project. He said the issues have not changed but have become stronger. He said the City Council needs to listen to the consultants. Mr. Wagner spoke to parking spaces and said there is minimal available. He stated he has no issue with the design but the public needs to review the plans. He asked not to have a work session without listening to the public.

Susan Denenberg, 44 Wibird Street said we have a flawed concept of the public/private partnership. She said we can't come to a good conclusion to add more building as that is not what we want. She said she doesn't feel this can be repaired at all. Ms. Denenberg said in terms of the post office there is no reason why they can't stay by moving from one side of the building to the other.

Emma Nelson, 87 Richards Avenue said she is surprised that there are so many people that support the project because the project is hideous. She spoke to issues for receiving deliveries of goods in the downtown. She indicated that the post office will not move twice and there is no other place in the downtown for the post office to move to. She urged the City Council to listen to the residents.

Patricia Bagley, 213 Pleasant Street said the McIntyre provides too much massing. She said the McIntyre has 135 parking spaces and offers the City only 33 spaces. She stated the project affects the quality of life for residents and it will impact generations of the future.

At 9:50 p.m., Mayor Blalock declared a brief recess. At 10:00 p.m., Mayor Blalock called the meeting back to order.

Esther Kennedy, 41 Pickering Avenue asked if first reading of the parking amendment is being changed for the McIntyre project. She is concerned with what 95% occupancy is. She spoke to financial matters surrounding the project and addressed the historic preservation of the building.

Jamey Beland, 373 Union Street, said the buildings keep getting higher and having a canyon effect in the downtown. He said we are building for tourists and not residents.

Bill Downey said he has felt like he was heard when the City Council suspended the vote on the McIntyre. He said he does not want to see the canyon effect with this project. He stated the citizens don't feel like they are being heard. He said there is no charm in the project and it is mass density. Mr. Downey said we need consideration, moderation and communication.

Bill Hamilton, 108 Penhallow Street said he wants to know what happened that made the project move in this direction. He stated the City gave no mission statement for the project.

With no further speakers, Mayor Blalock declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Dwyer said the example given by Susan Denenberg is what we felt was possible for the post office. She said no matter what happens the post office will need to leave the building because someone needs to do the remediation. She said that a swing space might have people thinking differently about what is happening and if the post office ever had the intention of remaining at the location.

Councilor Pearson spoke to the public plaza space being wide enough for a tractor trailer to turn around. She said it is 70 feet wide and that is where deliveries would take place.

Assistant Mayor Lazenby asked what is next.

Deputy City Manager Colbert Puff said we originally scheduled January 22nd for a work session to be held but we don't know if we will have the financials and negotiations ready by that time.

Councilor Dwyer said she would like to see the spaces and how deliveries would be made and that we should have another presentation with the 3D model of the building.

Mayor Blalock said that there are already 2 work sessions in January and it may not be January 22nd.

Councilor Perkins said she feels that we could do Councilor Dwyer's idea outside of a work session. She stated we need a lot more things scheduled and we should have a joint presentation by the city and development team. She indicated the City Council has listened closely for the changes and it is the City Council's job to incorporate those things.

Mayor Blalock said we could do a public presentation at the Library in the Levenson Room.

Councilor Reynolds feels that the public rendering of the proposal that was circulated reminded him of the before and after and one was extremely flattering and the other was drab and incomplete. He stated that the 3D model is very important for everyone to see.

- B. First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking

Councilor Roberts moved to pass first reading and schedule a public hearing and second reading at the January 22, 2019 City Council meeting to amend the Article 11 Site Development Standards. Section 10.1110 – Off-Street Parking as presented in the document titled “Proposed Off-Street Parking amendments” dated October 18 2018. Seconded by Assistant Mayor Lazenby.

Councilor Becksted said he would like to have Planning Director Walker cite an example and what this does for the projects.

City Manager Bohenko said that Planning Director Walker will bring the issue forward at the public hearing and provide a presentation.

Councilor Denton asked if this affects the McIntyre site. Planning Director Walker said it would affect the downtown overlay district. She said the Planning Board wanted the same standards for the downtown to make the residential requirements the same.

On a roll call vote 8-1, motion passed. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Reynolds and Mayor Blalock voted in favor. Councilor Becksted voted opposed.

Councilor Becksted moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Councilor Dwyer and voted.

- C. First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018

Councilor Perkins moved to pass first reading and schedule a public hearing and second reading at the January 22, 2019 City Council meeting to amend the Portsmouth Zoning Ordinance, Article 2 - Administration and Enforcement be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018. Seconded by Councilor Denton.

Councilor Becksted asked if this amendment will affect the Redgate/Kane project. Planning Director Walker said this is a general administration and enforcements amendment and she does not feel it will apply to the Redgate/Kane process.

Motion passed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation – Portsmouth Fire Department - \$500.00 donation from Newburyport Five Cents Savings Bank

Councilor Reynolds moved to accept and approve the donation to the Portsmouth Fire Department, as presented. Seconded by Councilor Perkins and voted.

IX. CONSENT AGENDA

- A. Letter from Rich Clyborne and Matt Glenn, Gundalow Company requesting permission to hold the Piscataqua River Festival and Round Island Regatta on Saturday, June 1, 2019 (*Anticipated action – move to refer to the City Manager with power*)

Councilor Perkins moved to adopt the Consent Agenda. Seconded by Assistant Mayor Lazenby and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

Assistant Mayor Lazenby moved to accept and place on file. Seconded by Councilor Perkins and voted.

- B. Letter from Brad Gray regarding the opposition to the Redgate/Kane development proposed for the present McIntyre Building Site

Councilor Perkins moved to accept and place on file. Seconded by Assistant Mayor Lazenby and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request to Establish Joint Work Session with Planning Board Re: Short Term Rentals

City Manager Bohenko informed the City Council that the Planning Board is available to meet in a Joint Work Session on February 11, 2019 at 6:30 p.m.

Assistant Mayor Lazenby moved to schedule a Joint Work Session with the Planning Board for Monday, February 11, 2019 at 6:30 p.m. Seconded by Councilor Perkins and voted.

2. Report Back Re: Petition for Rezoning of 290 Gosling Road

City Manager Bohenko advised the City Council that the Planning Board is recommending first reading of an ordinance to rezone 290 Gosling Road from Waterfront Industrial (WI) to Office Research (OR).

Councilor Perkins moved to schedule a first reading for the January 22, 2019 City Council meeting regarding the request of 290 Gosling Road, LLC the property with the address of 290 Gosling Road (Map 213, Lot 1) be re-zoned from Waterfront Industrial (WI) to Office Research (OR). Seconded by Assistant Mayor Lazenby and voted.

City Manager's Informational Items

2, Reminder of Upcoming City Council Work Sessions

City Manager Bohenko said two Work Sessions will take place next week on Monday, January 14th regarding the CIP and Wednesday, January 16th regarding the FY20 Budget. He indicated that at the Budget Work Session the Council would be receiving a pro-forma and would discuss establishing guidelines on January 22nd.

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Heinz K. Sauk-Schubert appointment to the Historic District Commission as an Alternate

The City Council considered the appointment of Heinz K. Sauk-Schubert to the Historic District Commission as an Alternate which will be voted on by the City Council at the January 22, 2019 meeting.

2. Appointments to be Voted:
 - Cyrus Beer appointment to the Historic District Commission as Regular member
 - Margot Doering appointment to the Historic District Commission as an Alternate
 - Polly Henkel appointment to the Planning Board as an Alternate
 - Colby Gamester reappointment to the Planning Board

Councilor Perkins voted to appoint Cyrus Beer to the Historic District Commission as Regular member until June 1, 2019; appoint Margot Doering to the Historic District Commission as an Alternate until June 1, 2019; appoint Polly Henkel to the Planning Board as an Alternate until December 31, 2021 and reappoint Colby Gamester to the Planning Board until December 31, 2021. Seconded by Councilor Denton and voted.

3. Ethics Committee Drawing by Lot

The Ethics Committee Drawing by Lot was conducted by City Clerk Barnaby and Councilor Denton was selected by Lot to serve as a member.

C. COUNCILOR ROBERTS

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the December 6, 2018 meeting

Assistant Mayor Lazenby moved to accept and approve the Action Sheet and Minutes of the December 6, 2018 Parking and Traffic Safety Committee meeting. Seconded by Councilor Perkins and voted.

D. COUNCILOR DENTON

1. House Bill 102 – Regulate the Distribution of Single-Use Plastics

Councilor Denton spoke in support of the legislation which would allow municipalities to regulate the distribution of single-use plastics. He said he would like to speak before the Legislature in support of the bill.

Councilor Dwyer said Councilor Denton does not need the permission of the City Council to speak on behalf of himself to the proposed legislation.

Councilor Perkins said she supports Councilor Denton speaking on behalf of the City Council for the legislation.

Councilor Becksted said he would like more information on this bill before acting on this matter this evening.

Assistant Mayor Lazenby said there are a number pieces of legislation that are out right now on this subject and he would support some form of enabling legislation.

Councilor Dwyer requested that the City Council vote on the written testimony and make a decision.

The City Council agreed to make a decision upon reviewing the written testimony of Councilor Denton regarding House Bill 102.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Denton said he is not comfortable with former Mayor Ferrini serving on the Police Commissioners Review Panel.

The City Council requested that the answers by the candidates for the Police Commission vacancy be posted on the website for the public to review.

XIII. ADJOURNMENT

At 10:50 p.m., Assistant Mayor Lazenby moved to adjourn. Seconded by Councilor Perkins and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, JANUARY 22, 2019

PORTSMOUTH, NH
TIME: 7:00 PM

At 6:00 p.m. a Non-Public meeting was held Re: Negotiations in Accordance with RSA 91-A:3, II (a)

CALL TO ORDER

Mayor Blalock called the meeting to order at 7:05 p.m.

I. ROLL CALL

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Becksted

II. INVOCATION

Mayor Blalock asked everyone to join in a moment of silence and recognized the recent passing of Reverend Arthur Hilson.

III. PLEDGE OF ALLEGIANCE

Mayor Blalock led the Pledge of Allegiance.

Assistant Mayor Lazenby moved to suspend the rules to move up the following items on the agenda to follow Public Comment, seconded by Councilor Pearson.

- XI.E.1 – Update from McIntyre Subcommittee
- XI.C.1 – Parking and Traffic Safety Committee Action Sheet and Minutes of January 10, 2019
- XI.A.5 – Presentation and Action Re: Neighborhood Parking Pilot Program
- XI.B.1 – Recommendation for Appointment of Stefany Shaheen Re: Police Commission Vacancy

Councilor Dwyer clarified that there may be some confusion regarding the McIntyre issue due to the article in today's newspaper but there will only be a brief subcommittee report given.

Councilor Raynolds requested a friendly amendment to the motion to add the following items:

- CM Info Item 1 – Report Back Re: Short-Term Rental Regulations in Portsmouth
- CM Info Item 2 – Report Back Re: Student Letter on Reusable Bags

The mover and seconder of the motion agreed.

Councilor Roberts stated that we should try to follow the agenda and not make a habit of moving up multiple items.

Mayor Blalock stated he will support it this time, but agrees with Councilor Roberts.

Motion passed on a 9-0 roll call vote.

PRESENTATION

1. Comprehensive Annual Financial Report (CAFR) – Scott McIntire

Scott McIntire of Melanson Heath gave a brief overview of the Comprehensive Annual Financial Report. Finance Director Belanger gave a brief presentation demonstrating the interactive Popular Annual Financial Report (PAFR) posted to the city web site.

City Manager Bohenko thanked Mr. McIntire for the presentation. He also thanked and commended Finance Director Belanger and the Finance Department staff for putting together the interactive PAFR report.

IV. ACCEPTANCE OF MINUTES – DECEMBER 17, 2018

Councilor Pearson moved to accept and approve the minutes of December 17, 2018 City Council meeting. Seconded by Council Pearson and voted.

V. PUBLIC COMMENT SESSION

Mayor Blalock opened the Public Comment Session stating that due to the large number of people signed up to speak, time will be limited to 1.5 – 2 minutes and that Portsmouth residents and business owners would be called to speak before non-residents.

Beth Margeson – spoke regarding the request from the Prescott Parks Arts Festival for a permanent covered stage and requested that the reported \$250,000 short fall from last season be verified as she feels that there were other reasons than weather.

Jen Keefe – discussed the Neighborhood Parking Pilot Program stating she feels there will be unintended consequences and that there is not concrete data backing up the need for this to be done.

Dan Umbro – stated he works on Islington Street and feels that there are open spaces all through the day although people may not be able to find spaces in front of their homes in the evening. He stated this proposal includes some streets but not others and feels that it will pit neighbor against neighbor.

Larry Cataldo – stated as a member of the Citywide Neighborhood Committee and coordinator of the Parking Pilot Program he supports going forward with the plan to help learn what will work or not. He stated changes can be made as we go along and if it will be cost effective, but if it causes more problems than it helps, it can be discontinued.

Jonathan Sandberg – spoke in support of the Hampton Rail Trail stating it helps the city achieve many long-term goals of connectivity.

Mary Beth Herbert – lives in the south end and supports the proposed parking program as it will help those who don't have off-street parking.

Roy Helsel – spoke regarding the amount of traffic lights along major roadways in the city and the fact they are not synchronized so cars are stopping and starting all along the way which causes excess exhaust fumes.

Erik Anderson – spoke regarding employment contracts and the proposed contract for Deputy City Manager Colbert Puff stating that he has no issue with the Deputy City Manager but is not in favor of a 5 year contract as it sets a precedence and restricts discussion if conditions change within that time frame.

Michael Barker – spoke against the proposed parking program as drafted. He stated he understands the issue but is concerned that the neighbors weren't notified of this proposal and feels that the documentation that will be required will be burdensome to the residents and city staff.

Robin Lurie-Meyerkopf – stated she is also concerned with the unintended consequences as her street is not included in the pilot program but they will lose the available off-street parking on other streets.

Peter Whalen – stated he has been a resident since 1991 and the south end is ground zero of the parking problem. He stated he waited until the new garage was built, but the issues still exist so he urges the Council to approve the pilot program.

Pat Bagley – spoke regarding the sign ordinance stating that this was tabled indefinitely so she was surprised to see it on the agenda for 3rd reading this evening. She continued that she doesn't understand the need for this and feels it is an infringement of the rights of residents who should be able to hang a sign or flag on the property they pay taxes on.

Stefany Shaheen – thanked the Council for their consideration of her appointment to fill the vacancy on the Police Commission. She relayed her condolences to the family of Reverend Hilson. She gave a brief history of her related experience and stated she looks forward to working with the other commissioners.

Esther Kennedy – stated she saw a segment on WMUR regarding workforce housing in the City of Portsmouth but has never seen the numbers they reported. Secondly, she addressed the proposed 5 year contract with Deputy City Manager Colbert Puff stating she is concerned that there may be some personnel changes within that time. Finally, she stated she wanted more transparency in the process to pick a new Police Commissioner.

Gino Francavilla – spoke to the proposed parking program in the south end stating he is a new resident and feels that this proposal is too complex.

Kirsten Cunningham – stated she initially signed the petition for residential parking as a Washington Street resident, which now is excluded from the pilot program. She continued that downtown workers park on the streets and feels that if there are signs for residents only, they wouldn't park there. She concluded that having a permit will not guarantee that people get a spot.

Paige Trace – spoke regarding the sign ordinance stating that she agrees that it is a violation of free speech stating that once a year, she and her husband raise a rainbow flag in support of the LGBTQ community in conjunction with the Gay Pride event held in the south end. She stated that this ordinance would make that illegal.

Mark Brighton – discussed the Police Commission vacancy process stating this is not about Ms. Shaheen but about the process. He stated the last time this occurred the committee was made up of only residents and not City Councilors. He stated that a choice of one is not a choice and is also concerned with Mr. Ferrini's personal connection to the Shaheen family and feels that the Councilors that met with Ms. Shaheen should recuse themselves from the vote.

Joanne Foster – stated she is not opposed to the concept of resident only parking but the area of Hancock Street has a mix of residential and offices with employees who need to park there as well so she would like to make sure everyone is included.

Claudette Barker – spoke regarding the parking pilot program stating she appreciates the concerns but feels this is taking parking away from the residents of Hancock Street as it is proposed, making them a donor street. She stated the process is also overly burdensome for the residents and the city to implement and imposes limits on how many times a month people can have visitors.

Lee Roberts – spoke regarding the McIntyre building stating that she has attended most of the meetings and keeps hearing that the public is not satisfied with the plan. She stated the city should go back to the beginning and make sure it includes affordable housing, green space/parks, parking and the post office.

Nicole LaPierre - spoke in support of the parking program as recommended by the Parking and Traffic Safety Committee stating that neighbors are already being pitted against each other and no solution is not a reasonable answer. She stated that employee parking should also be addressed.

Jeff Keefe - spoke opposed to the parking plan as he has an office space at 200 Marcy Street and this plan will make it impossible for his employees and clients to park. He stated they have already lost Mechanic Street due to the WWTF construction and feels that not enough discovery has been done to find out what the needs are for all of the occupants.

Paul Mandle - spoke as a member of the Citywide Neighborhood Committee stating they and the neighborhoods have been working for over a year on this program which is long overdue. He stated we will never know if it works unless we try and agrees there could be an amendment to the parameters of the south end.

Zach Slater – spoke as Chair of Strawberry Banke Museum stating they have tried to be good neighbors during the WWTF construction and reminded the Council that the area is zoned MRO. He stated that having the pilot program taking place in the summer is not good timing. He concluded that as a resident who pays taxes, he also pays for a parking permit, but providing free parking to those without off-street parking is a value and they should be reassessed accordingly.

Ben St. Jean – stated he is the owner of 200 Marcy Street which holds 5 businesses and collectively they are not in favor of the parking program. He stated this was not an inclusive process as nobody from that building was contacted to be a part of the discussion and feels that the thought of taxpayers not being able to park on city streets is not good.

Madison Lightfoot – stated she is a coach of the PHS Volleyball Team along with Stefany Shaheen and spoke in support of her appointment to the Police Commission stating she is a positive influence and coaches the team with full transparency.

Mayor Blalock closed the Public Comment Session at 8:25 p.m.

E. COUNCILOR DWYER, COUNCILOR ROBERTS & COUNCILOR PERKINS

1. Update from McIntyre Subcommittee

Councilor Dwyer gave a brief update stating that they understand that people are looking for more clarity and information and they will be stepping back and providing more information including the 3-D visualization and physical model. She stated there will also be an opportunity for the architects to give details on their design probably at the Library. She further stated that other issues have been the financial analysis of the proposal and what it will really take to generate income to the city and how the site will be maintained etc. She stated there will be a work session held to clarify these issues. Finally, they will also address the question of if the City says “no thank you” to the government, what will that mean.

Councilor Roberts stated in addition to those issues, people want affordable housing, parks and the post office to stay on-site.

Councilor Perkins stated the committee has heard the public loud and clear; those opposed as well as the supporters. She stated there is no vote scheduled for the near future as they do want to get more information for the public and give the architects the opportunity to make their presentation.

Councilor Pearson asked if it is correct to assume what the materials will be based on the renderings.

Councilor Dwyer stated it is only the massing and the layout at this point, not the design details. She stated the architects are mindful of what the HDC will approve and it isn't usually modern.

Councilor Roberts stated a PS21 survey of 350 people showed that people are generally split 50/50 between modern and historic design of buildings.

Councilor Becksted requested Deputy City Manager Colbert Puff come forward and asked if we are under any contractual obligation to Redgate/Kane.

Deputy City Manager Colbert Puff stated no.

Councilor Becksted asked if the project goes forward to National Park Services, will that bind us to that plan.

Deputy City Manager Colbert Puff stated yes, unless it is changed by the Historical Monuments Committee, but a development agreement and ground lease agreement would accompany the process.

City Manager Bohenko Action Item:

5. Presentation and Action Re: Neighborhood Parking Pilot Program

Parking Director Fletcher gave a brief presentation reviewing the Neighborhood Parking Pilot Program as well as addressing questions presented during the Public Comment Session.

Councilor Denton asked why “Resident Only” parking signs cannot be erected instead of this program.

Parking Director Fletcher stated it would be an enforcement issue.

Councilor Denton asked who gets the permits for a home that is rented out, the landlord or the tenant.

Parking Director Fletcher stated the tenant “owns” the property while they are renting it but they would have to prove residency.

Councilor Denton asked why not have 4 hour parking instead of two which is consistent with the Downtown Parking Plan as these neighborhoods are further out.

Parking Director Fletcher stated that 4 hour parking would make it more difficult to have the turnover they are trying to achieve.

Councilor Denton asked if the question can be split as he feels it may be appropriate for one of the neighborhoods but not the other at this time.

City Attorney Sullivan stated yes.

Discussion ensued regarding the number of permits being provided, determination of which streets were/were not included, notification to residents, small businesses, employee parking, etc.

City Manager Bohenko stated that employee parking is part of a long term policy issue that the Planning Department and Parking Division are working on. He stated that a micro-transportation program for the hospitality industry in the downtown area is being proposed with an RFQ having gone out recently to get the ball rolling.

Assistant Mayor Lazenby asked what will be the determination of success or not after the 6 month assessment period.

Parking Director Fletcher stated they will get feedback from the neighbors and revisit the inventory figures to get to 75-85% occupancy rate.

Councilor Perkins stated that the figures cited by Parking Director Fletcher for the Islington Creek Neighborhood are already mostly within the desired range.

Councilor Roberts moved to authorize the City Manager to implement this Neighborhood Parking Pilot Program, seconded by Councilor Becksted.

Councilor Roberts stated it is reasonable to discuss having a program for resident parking as there is already business parking and there needs to be a balance between the two.

Councilor Perkins stated she will not vote in favor in its current form as she feels it creates a burden on residents with visitor guest passes, etc. She continued that the taxpayers pay for all of the roads and it is not going to be free to enforce this program, but there are no fees associated with it. She concluded stating that she doesn't like the idea that neighbors will be calling out other neighbors.

Councilor Dwyer stated she would support the pilot program with some changes including; businesses to be treated like households; time expanded to 3 hours; include Hancock Street; do not include netting out as she feels that is a personal issue; only a 6 month pilot program with hard and fast criteria to determine success.

Councilor Becksted stated he supports the program as a lot of work has gone into this by staff and residents and we need to at least try it.

City Manager Bohenko suggested tabling it and bringing it back with the suggested amendments.

Discussion ensued regarding the suggested amendments.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock stated he is not in favor of this pilot program as it did not address the businesses or employee parking.

Assistant Mayor Lazenby passed the gavel back to Mayor Blalock.

Assistant Mayor Lazenby stated he supports coming back with tweaks but feels something does need to be done. He stated it is a pilot program and it won't be perfect, but it will help determine the nature of the problem and if employees will be displaced, then that will need to be addressed as well.

Councilor Denton moved to table, seconded by Councilor Pearson.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock stated he will oppose tabling.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Motion to table passed on a 7-2 roll call vote. Councilor Perkins and Mayor Blalock voted opposed.

Mayor Blalock called a brief recess at 9:30 p.m. Meeting reconvened at 9:40 p.m.

C. COUNCILOR ROBERTS

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the January 10, 2019 meeting

Councilor Roberts moved to accept and approve the action sheet and minutes of the January 10, 2019 Parking and Traffic Safety Committee meeting, excluding Item #7 (Action Sheet) and Item #VIII.A of the minutes regarding Neighborhood Parking Program. Seconded by Assistant Mayor Lazenby and voted.

B. MAYOR BLALOCK

1. Recommendation for Appointment of Stefany Shaheen Re: Police Commission Vacancy

Assistant Mayor Lazenby moved to appoint Stefany Shaheen to fill the Police Commission vacancy until December 31, 2019, seconded by Councilor Roberts.

Assistant Mayor Lazenby stated he was impressed with all of the candidates and appreciates all of their willingness to serve. He stated he then met with the 2 candidates that the committee had recommended and felt both were great choices, but feels that because of the timing of being in the budget season, felt that Ms. Shaheen already has an awareness of the process and can hit the ground running.

Councilor Roberts stated he was on the committee and agrees that all were impressive.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock stated he chaired the committee and felt that all six candidates were impressive. He stated all of the questions that were asked and answered are posted on the website and all of the meetings were recorded. He further explained the format used to select the candidate for recommendation.

Councilor Pearson stated she was on the committee as well and had initially voted in favor of Mr. Hart as she feels he is also well-qualified, but is happy to go with the committee recommendation.

Councilor Reynolds stated he met with Ms. Shaheen as he had specific concerns he wanted to address with her directly but did not meet with Mr. Hart as he did not have specific concerns with him.

Councilor Denton stated he has spoken with the current Police Commissioners as well as previous Commissioner Plaia as well as met with Ms. Shaheen. He stated he initially was uncomfortable because of the 3-2 split on the committee recommendation, but is fine with it now.

Motion passed on a 7-1 roll call vote. Councilor Denton voted opposed and Councilor Becksted abstained.

Councilor Dwyer stated that the process to replace commissioners needs to be formalized and criteria of composition of committee outlined, etc.

Mayor Blalock stated our Charter conflicts with the State RSA on this issue.

City Attorney Sullivan stated that this year it didn't matter because there were no other candidates on the ballot to appoint. He then explained the process to put a Charter amendment question on the ballot.

City Manager's Informational Items:

1. Report Back Re: Short-Term Rental Regulations in Portsmouth
2. Report Back Re: Student Letter on Reusable Bags

There were no questions or comments on these items.

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. Public Hearing – Cable Television Renewal Franchise Agreement

CABLE TELEVISION RENEWAL FRANCHISE AGREEMENT

• PRESENTATION

Deputy City Attorney Woodland gave a brief review of presentation presented at a prior Council meeting.

• CITY COUNCIL QUESTIONS

There were no questions.

• PUBLIC HEARING SPEAKERS

Mayor Blalock read the public hearing notice and asked if anyone wished to speak:

Bill Humphries, Executive Director of PPMTv – stated he supports Channel 22's bid for an HD TV channel and encourages support for PPMTv to have an HD channel as well. He continued that because their Channel 98 programming is replayed on the YouTube channel, there is no way to track performance of the programs which is necessary to future programming and fundraising so he would have liked that to be a part of this contract as well.

Seeing no one else wishing to speak, Mayor Blalock closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Dwyer asked if an HD channel PPMTv Channel 98 had been part of the discussions.

Deputy City Attorney Woodland stated in the beginning both were discussed, but it only ended up with Channel 22 in 2 years which she feels is part of a national roll-out for HD of all government channels.

No action taken at this meeting as it will be voted at the February 4, 2019 Council meeting.

B. **Public Hearing – Zoning Ordinance – Site Development Standards – Off-Street Parking**

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE,
ARTICLE 11 – SITE DEVELOPMENT STANDARDS, SECTION 10.1110 –
OFF-STREET PARKING

- **PRESENTATION**

Planning Director Walker gave a brief power point presentation explaining the changes incorporated into the proposed ordinance.

- **CITY COUNCIL QUESTIONS**

Councilor Becksted asked how this would apply to the McIntyre building.

Planning Director Walker stated it would be the 1.3 spaces as this is in the 750+ category.

Councilor Dwyer stated the permit measures are in place to reduce parking demand but it is out of the control of property owner, so why is there a permit.

Planning Director Walker stated we are looking for a commitment that the parking demand won't be increased.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the legal notice and opened the public hearing to speakers:

Elizabeth Bratter – referred to her letter (included in the agenda packet) and expressed her concern with removing other boards from the process stating that the TAC and Parking and Traffic Safety Committee should be involved which would include getting public input. She stated that the term “permanent measures” should be clearly defined. Finally, she doesn't feel that bicycle services such as Zagster should be included as an option as there are no helmet requirements and is unsafe.

Esther Kennedy - stated she is unsure why we are taking power away from the ZBA as they have to meet 5 criteria showing benefit to the City. She continued that she doesn't understand what 1.3 parking spaces is, why not say 2 cars and deal with reality of actual amount of cars.

Paige Trace – asked if the purpose of taking the ZBA out of the process is meant to stream line the process, then will the Planning Board have to meet the 5 criteria of the ZBA. She stated it seems that this is being done to accommodate the McIntyre building redevelopment.

Seeing no one else wishing to speak, the Mayor closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Perkins moved to pass second reading as amended and schedule a third and final reading for the February 4, 2019 City Council meeting to amend the Article 11 – Site Development Standards, Section 10,1110 – Off-Street Parking as presented in the document titled “Proposed Off-Street Parking Amendments” dated January 16, 2019, seconded by Councilor Denton.

Councilor Becksted moved to table, seconded by Councilor Denton.

Councilor Becksted stated this would be until the McIntyre project moves forward so that we are not making changes that could benefit the project without having the details.

Motion to table FAILED on a 0-9 roll call vote.

Planning Director Walker clarified that this process already occurs in the city except in the downtown overlay district and this will make it consistent with the rest of the city.

Councilor Dwyer asked if someone is turned down by the Planning Board, could they still appeal to the ZBA and do they still go through the TAC process.

Planning Director Walker stated yes, they can still appeal to the ZBA and most projects do go through Site Review.

Councilor Dwyer stated she would like to clarify that it is “Long-term” and not permanent and review the list of trade-off options.

Motion passed on an 8-1 roll call vote, Councilor Becksted voted opposed.

Councilor Dwyer moved to suspend the rules to allow the meeting to go past 10:30 p.m. Seconded by Assistant Mayor Lazenby and voted.

Councilor Dwyer stated that the parking summit is needed as soon as possible.

C. Public Hearing – Zoning Ordinance – Conditional Use Permits

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 2 – ADMINISTRATION AND ENFORCEMENT BE AMENDED BY INSERTING A NEW SECTION 10.240 AS PRESENTED ON THE DOCUMENT TITLED “PROPOSED AMENDMENTS TO THE PORTSMOUTH ZONING ORDINANCE: SECTION 10.240 CONDITIONAL USE PERMITS”, DATED NOVEMBER 19, 2018

- **PRESENTATION**

Planning Director Walker gave a brief review of the proposed Zoning Ordinance change.

- **CITY COUNCIL QUESTIONS**

There were no questions.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the public hearing notice and asked if anyone wished to speak. Seeing no one, Mayor Blalock closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Perkins moved to pass second reading and schedule third and final reading for the February 4, 2019 City Council meeting to amend the Portsmouth Zoning Ordinance, Article 2 – Administration and Enforcement, by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018, seconded by Councilor Denton.

Planning Director Walker explained this amendment would insert a new section into the Zoning Ordinance defining approval criteria and conditions of approval for the granting of non-wetland conditional use permits by the Planning Board. NH RSA 674:21 states that communities that use conditional use permits shall adopt standards to guide the granting of the conditional use permits. Presently, a number of land uses as well as flexible zoning provisions in the City’s Zoning Ordinance require the granting of a conditional use permit by the Planning Board, but the Ordinance lacks consistency in terms of the standards of approval for granting of these. Adding this section to the Ordinance would be consistent with state laws and would also assist with administration of these permits by the Planning Board and City staff.

Councilor Dwyer stated she feels 8 months is too little of time and would like to amend that at third reading.

Planning Director Walker stated that non-conforming uses have 8 months or it lapses, but they can reapply.

Councilor Becksted stated he is uncomfortable with this and wants the information posted on the website.

Motion passed on an 8-1 vote, Councilor Becksted voted opposed.

- D. First Reading of Proposed Ordinance amending Chapter 10, Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance and Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessor's Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District

Councilor Perkins moved to pass first reading and schedule a second reading and public hearing for the February 4, 2019 City Council meeting on the request of 290 Gosling Rd., LLC the property with the address of 290 Gosling Road (Map 213, Lot 1) be re-zoned from Waterfront Industrial (WI) to Office Research (OR), seconded by Councilor Pearson.

Councilor Roberts is concerned there are already many offices there and we will be creating another Pease with a lot of traffic demands.

City Manager Bohenko stated there will be a presentation at second reading with traffic counts, etc.

Motion passed on a 9-0 vote.

- E. Third and Final Reading of Amendments to Chapter 10 – Zoning Ordinance be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 25, 2018 (tabled Indefinitely at the December 17, 2018 City Council meeting)

Councilor Perkins moved to suspend the rules to take off the table. Seconded by Councilor Denton and voted 8-1, Councilor Becksted voted opposed.

Councilor Perkins moved to suspend the rules to allow amendment at third reading. Seconded by Councilor Denton and voted.

City Attorney Sullivan explained that this was previously tabled due to a challenge by the NHCLU and since that time a productive dialogue between the City Attorney, the Planning Director, and the NHCLU staff was held. He stated the NHCLU requested a few minor amendments to the zoning ordinance as proposed. The updated draft reflects these changes, which staff recommends be incorporated by a vote of the City Council prior to passing Third and Final Reading.

Councilor Denton asked if people would be able to fly a gay pride flag.

Planning Director Walker stated yes, this defines what a flag is, not what is on it.

Councilor Dwyer stated she understands why residents are confused and would like a presentation on how the sign ordinance applies to residences.

Councilor Perkins move to amend the ordinance, as presented. Seconded by Councilor Dwyer and voted.

Councilor Roberts moved to postpone third reading to the February 4, 2019 City Council meeting. Seconded by Councilor Becksted and voted.

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items on this section of the agenda)

IX. CONSENT AGENDA

Councilor Perkins moved to adopt the consent agenda. Seconded by Councilor Pearson and voted.

- A. Letter from Lindsay Gilbert, Cystic Fibrosis Foundation, requesting permission to hold the CF Cycle for Life for the 2019 summer season on Saturday, July 13, 2019 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Kathie Lynch, Portsmouth Little League, requesting permission to affix signage in the form of banners to be attached to fences surrounding the outfield and foul lines at Plains and Hislop fields, also; requesting permission to affix the banners to the fences from April 13 [Field Clean-up Day] through the end of October, and; maintain signage to the rear of the Plains scoreboard ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Caroline Piper, Friends of the South End, requesting permission to hold the annual Fairy House Tour event on Saturday, September 21, 2019 and Sunday, September 22, 2019 from 10:00 a.m. – 3:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

Councilor Perkins moved to accept and place on file. Seconded by Councilor Roberts and voted.

- B. Letter from Elizabeth Bratter regarding contractors or any builder to appear before the Planning Board to request a Conditional Use Permit regarding parking within their project, also not to include bike share services as a form to reduce the need for parking

Councilor Perkins moved to accept and place on file. Seconded by Assistant Mayor Lazenby and voted.

Councilor Roberts thanked Ms. Bratter for her comments and work on the issue.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

After 10:00 p.m., per Council Rules, City Manager Items become Consent Agenda. Items 1 and 3 requested to be removed, Item 5 previously addressed.

Councilor Denton addressed Item 2 asking if the disabled Veterans credit will be readdressed as the state law has been change.

City Manager Bohenko stated he will speak with the Assessor.

Councilor Perkins moved to adopt Items 2 and 4 of the City Manager Consent Agenda. Seconded by Councilor Denton and voted.

1. Approval of Proposed Employment Agreement for Deputy City Manager Nancy Colbert Puff

City Manager Bohenko stated this is a standard 5 year employment agreement which is in place for other city officials such as the Fire Chief, Police Chief, Supt. of Schools, etc. and follows the Professional Management Agreement.

Councilor Perkins moved to approve a 5-year Employment Agreement with Deputy City Manager Nancy Colbert Puff, seconded by Councilor Pearson.

Councilor Becksted asked if former Deputy City Manager Dave Allen or Cindy Hayden had 5-year agreements.

City Manager Bohenko explained that both of these individuals were in-house employees and were already covered under PMA, but Nancy Colbert Puff is an outside hire who has been here for 16 months and has done a great job so he would like to give her a contract.

Councilor Becksted stated if City Manager Bohenko leaves before this 5-year term, then we are locked in.

Councilor Perkins stated we are lucky to have Deputy City Manager Colbert Puff for 5 years.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock stated that he understands the comments but if the other Deputy City Managers were offered the 5 year contracts, he would have voted for those as well. He continued that in the absence of City Manager Bohenko, Deputy City Manager Colbert Puff has filled in seamlessly.

Councilor Pearson stated if the 5-year contract is good enough for the men, then it is good for Deputy City Manager Colbert Puff as well.

Motion passed on an 8-1 roll call vote, Councilor Becksted voted opposed.

2. Request for Public Hearing Re: Elderly and Disabled Exemptions (***Sample motion – move to schedule a public hearing for the February 4, 2019 City Council meeting***)
3. NH DOT Hampton Branch Trail Management Agreement

Assistant Mayor Lazenby moved to authorize the City Manager to negotiate and execute a Trail Management Agreement with NHDOT for the Portsmouth portion of the Hampton Branch Rail Trail (NH Seacoast Greenway) that is covered by the Hampton-Portsmouth CMAQ project. Seconded by Councilor Reynolds and voted.

4. Request for First Reading Re: Accessory Dwelling Units and Garden Cottages – (***Sample motion – move to schedule a first reading for the February 4, 2019 City Council meeting to amend the Zoning Ordinance by deleting existing Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages and inserting in their place the new sections 10.814 and 10.815 as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages” dated January 16, 2019 and amending related terms in Article 15 – Definitions, Section 10.1530 – Terms of General Applicability***)
5. Presentation and Action Re: Neighborhood Parking Pilot Program – (***Previously addressed***)

City Manager’s Informational Items:

1. Report Back Re: Short-Term Rental Regulations in Portsmouth
2. Report Back Re: Student Letter on Reusable Bags
3. House Inspections Re: Sewer Study

B. MAYOR BLALOCK

1. Recommendation for Appointment of Stefany Shaheen Re: Police Commission Vacancy (***Previously addressed***)
2. Appointment to be Considered:
 - Nathalie Morison to the Conservation Commission

Nathalie Morison, current alternate, was considered for appointment as a regular member to the Conservation Commission to be voted at the February 4, 2019 City Council meeting.

3. Appointment to be Voted:
 - Heinz K. Sauk-Schubert appointment to the Historic District Commission as an Alternate

Assistant Mayor Lazenby moved to appoint Heinz K. Sauk-Schubert as an alternate member to the Historic District Commission with term to expire June 1, 2021. Seconded by Councilor Roberts and voted.

C. COUNCILOR ROBERTS

6. Parking and Traffic Safety Committee Action Sheet and Minutes of the January 10, 2019 meeting (*Previously addressed*)

D. COUNCILOR PEARSON & COUNCILOR PERKINS

1. Request for Approval Re: Service of Alcohol for the Worth Lot Demonstration Project

Councilor Pearson moved to approve the sale of wine and beer for a one-day event to be held in summer 2019 at the Worth Lot, seconded by Councilor Perkins.

Councilor Becksted asked about the liability to the City and will it be covered by our insurance.

City Manager Bohenko stated he would not allow the event to occur if we are not covered.

Motion passed on an 8-1 vote, Councilor Becksted voted opposed.

E. COUNCILOR DWYER, COUNCILOR ROBERTS & COUNCILOR PERKINS

1. Update from McIntyre Subcommittee (*Previously addressed*)

F. COUNCILOR DENTON

1. Draft Letter Re: Portsmouth City Council Supports HB 102

Councilor Denton moved to have the City Council allow him to present the drafted letter at the HB102 hearing, seconded by Councilor Pearson.

Councilor Dwyer stated that the NHMA voted to support this legislation with a local option.

Councilor Pearson stated the last time this was deliberated there was a lot of public input in favor.

Motion passed on an 8-1 vote, Councilor Becksted voted opposed.

Councilor Raynolds stated that Councilor Becksted's opposition should be noted in the letter.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

There was no Miscellaneous or Unfinished business discussed.

XIII. ADJOURNMENT

Assistant Mayor Lazenby moved to adjourn at 11:25 p.m., seconded and passed unanimously.

Respectfully submitted:

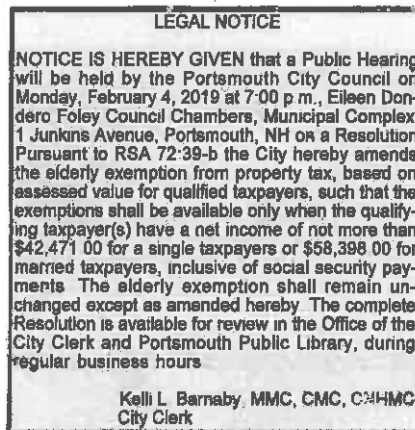
A handwritten signature in black ink, appearing to read 'V. French', with a stylized flourish at the end.

Valerie A. French, CHMCA
Deputy City Clerk

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, February 4, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a Resolution Pursuant to RSA 72:39-b the City hereby amends the elderly exemption from property tax, based on assessed value for qualified taxpayers, such that the exemptions shall be available only when the qualifying taxpayer(s) have a net income of not more than \$42,471.00 for a single taxpayers or \$58,398.00 for married taxpayers, inclusive of social security payments. The elderly exemption shall remain unchanged except as amended hereby. The complete Resolution is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk



**THE CITY OF PORTSMOUTH
TWO THOUSAND NINETEEN
PORTSMOUTH, NEW HAMPSHIRE**

ELDERLY EXEMPTION

RESOLUTION # - 2019

BE IT RESOLVED:

Pursuant to RSA 72:39-b the City hereby amends the elderly exemption from property tax, based on assessed value for qualified taxpayers, such that the exemptions shall be available only when the qualifying taxpayer(s) have a net income of not more than \$42,471 for a single taxpayer or \$58,398 for married taxpayers, inclusive of social security payments. The elderly exemption shall remain unchanged except as amended hereby.

THAT this Resolution shall take effect upon its passage.

APPROVED:

JACK BLALOCK, MAYOR

**ADOPTED BY THE CITY COUNCIL:
, 2019**

**KELLI L. BARNABY, CMC
CITY CLERK**

NOTE: This exemption becomes effective for the tax year April 1, 2019.

LEGAL NOTICE

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Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

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Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

**THE CITY OF PORTSMOUTH
TWO THOUSAND NINETEEN
PORTSMOUTH, NEW HAMPSHIRE**

DISABLED EXEMPTON

RESOLUTION # - 2019

BE IT RESOLVED:

Pursuant to RSA 72:37-b, City hereby amends the disabled exemption from property tax, based on assessed value for qualified taxpayers, such that the exemptions shall be available only when the qualifying taxpayer(s) have a net income of not more than \$42,471 for a single taxpayer or \$58,398 for married taxpayers, inclusive of social security. The disabled exemption shall remain unchanged except as amended hereby.

THAT this Resolution shall take effect upon its passage.

APPROVED:

JACK BLALOCK, MAYOR

**ADOPTED BY THE CITY COUNCIL:
, 2019**

**KELLI L. BARNABY, CMC
CITY CLERK**

NOTE: This exemption becomes effective for the tax year April 1, 2019.

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, February 4, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Ordinance amending Chapter 10, Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessors Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, February 4, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Ordinance amending Chapter 10, Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessors Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 10, Article 4, Section 10.421.10 – **DISTRICT LOCATION AND BOUNDARIES** of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessors Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District (see attached Exhibit 1).

The City Clerk shall properly alphabetize and/or re-number the ordinances 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:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



Property Information

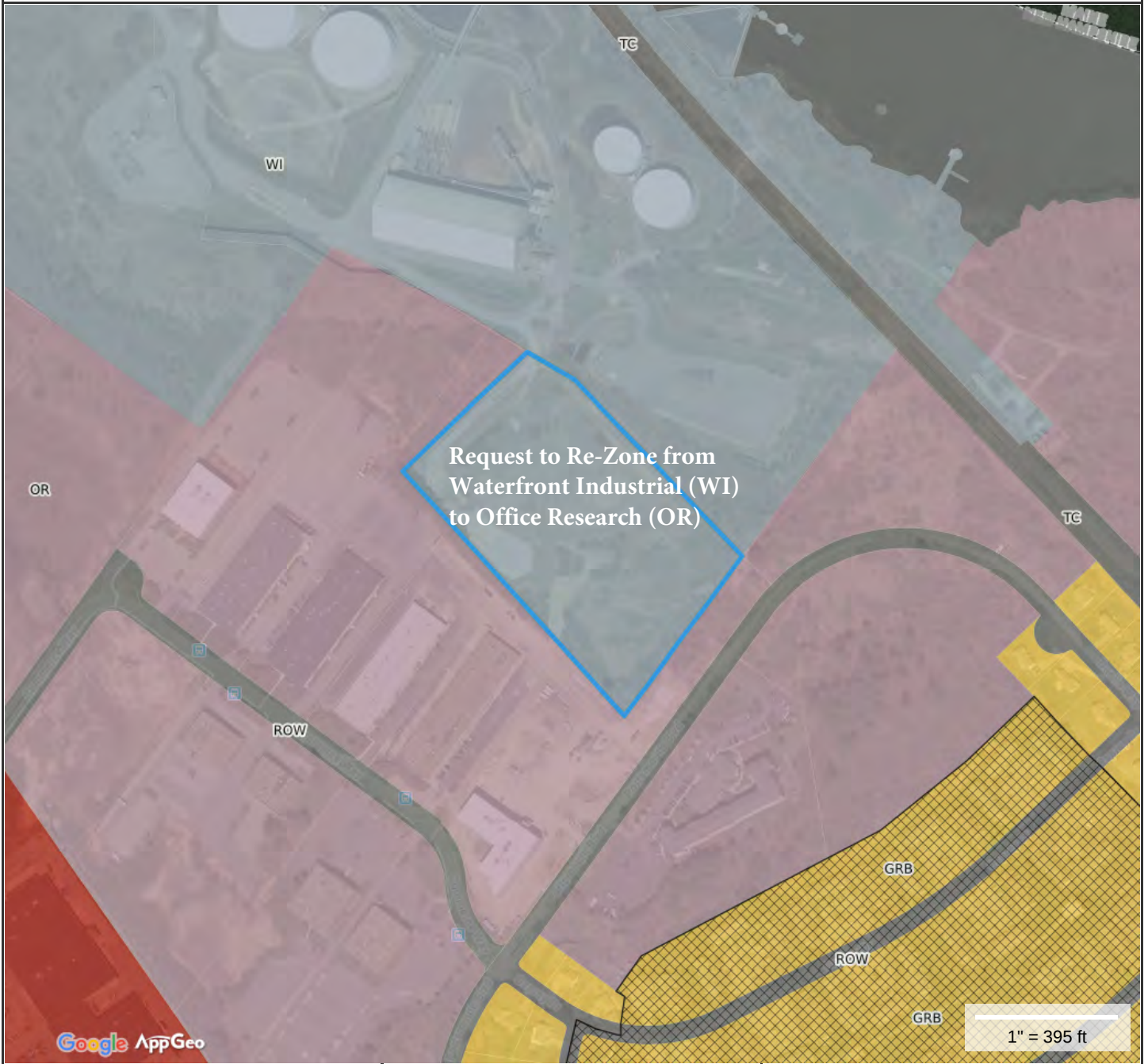
Property ID 0213-0001-0000
Location GOSLING ROAD
Owner 290 GOSLING RD LLC



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/30/2018
Data updated 11/19/2018



Property Information

Property ID 0213-0001-0000
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NOT A LEGAL DOCUMENT**

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Geometry updated 11/30/2018
Data updated 11/19/2018



CELEBRATING OVER 30 YEARS OF SERVICE TO OUR CLIENTS

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LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
AMELIA G. SRETER
AUSTIN M. MIKOLAITIES
BRENDAN A. O'DONNELL

SENIOR COUNSEL
MICHAEL J. DONAHUE

RETIRED
CHARLES F. TUCKER
NICHOLAS R. AESCHLIMAN

December 12, 2018

VIA HAND DELIVERY

Juliet T. H. Walker, AICP - Planning Director
Planning Department
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Request of 290 Gosling Road, LLC for Zoning Change from Waterfront Industrial (WI) to Office Research (OR) for property located at Gosling Road, Tax Map 213, Lot 1 (the "Parcel")

Dear Juliet:

I. Introduction:

This supplements our letter of 28 November to the Mayor and City Council (a copy of which is attached hereto as Exhibit A) and supports our request to rezone the Parcel referenced above from the Waterfront Industrial District to the Office Research District. Immediately below we summarize why the Planning Board should support and recommend our request to the City Council. Further below we explain why our request is supported by the legal framework governing rezoning and why the facts on the ground make compelling our request to rezone the Parcel.

II. Executive Summary

The Parcel to be rezoned is Waterfront Industrial in name only. The Parcel is isolated from the water, separated by another parcel of land which abuts the river and separated also by a railroad corridor which bisects that parcel and the subject Parcel. In addition, the Parcel has no access from the existing road network. Thus the Parcel sits isolated from the river and without roadway access but, importantly, the Parcel sits adjacent to and contiguous to an existing office park, the Portsmouth Office Park, which extends along Portsmouth Boulevard and Commerce Way. The requested rezoning will facilitate a major development, construction of a 175,000 square foot office building which will become a signature and prominent element of the

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16 Windsor Lane, P.O. Box 630, Exeter, NH 03833-4924
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253

Portsmouth Office Park. Access will be provided through the existing road network which services Portsmouth Office Park.

In sum, this request to rezone is legally and factually compelling. We ask that the Planning Board support our request and report to the City Council its recommendation that the zoning ordinance be amended to change the zoning of Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR).

III. Legal and Factual Framework

The City of Portsmouth permits its zoning ordinance to be amended for rezoning purposes in accordance with the provisions of State law. See Portsmouth Zoning Ordinances, § 10.151. New Hampshire law permits the legislative body of a city to adopt or amend zoning ordinances for the purpose of “promoting the health, safety, or the general welfare of the community.” RSA 674:16. This authority includes adopting or amending zoning ordinances that regulate and restrict the “location and use of buildings, structures and land used for business industrial, residential, or other purposes.” Id.

In the context of rezoning, changing the zoning boundary to extend an existing use to nearby similar, surrounding land constitutes permissible rezoning. See Miller v. Town of Tilton, 139 N.H. 429, 431-32 (1995). A zoning amendment to rezone property is prohibited only when it “spot zones” an area by singling it out for treatment different from that of similar, surrounding land, and for which there is no justification based on health, safety, morals or general welfare of the community and which rezoning is not in accordance with a comprehensive plan. Id. at 431. Spot zoning occurs when an area is unjustly singled out for treatment different from that of similar, surrounding land. The mere fact that an area is small and is zoned at the request of a single owner does not make it spot zoning. Persons challenging a rezoning have the burden to demonstrate that the change is unreasonable or unlawful. (See Miller v. Town of Tilton, 139 N.H. 429, 655 A.2d 409 [1995]).

Here, we are seeking to have the Parcel rezoned from Waterfront Industrial, for which the Parcel is ill-suited, to Office Research, for which the Parcel is particularly well-suited. Furthermore, this rezoning will not create an incongruous district or a “spot” zoned differently from surrounding properties. Rather, as explained below, this rezoning will only be a tailored readjustment of the boundary of the Office Research District and the Waterfront Industrial District.

According to the City’s Zoning Ordinances, the purpose of “Waterfront Industrial” property is to “provide for industrial and related uses that depend on direct access to the Piscataqua River.” (emphasis supplied) Portsmouth Zoning Ordinances, §10.410. The Parcel is not compatible for use as Waterfront Industrial Property. The Parcel does not have direct access to the Piscataqua River. Rather, the Parcel is isolated from the river, separated from the river by both another lot and a rail line. Moreover, the Parcel is isolated from the existing road network,

and has no road access to the river. Thus, although the Parcel is currently zoned Waterfront Industrial property, its location and lack of access to the Piscataqua River make the Parcel ill-suited to “provide for industrial and related uses that depend on direct access to the Piscataqua River.” Id.

Conversely, the Parcel is well-suited to be zoned and used as Office Research property. The purpose of “Office Research” property is to “provide for campus-style development of offices buildings, research and development facilities, and complementary uses.” Id. Here, the Parcel is adjacent to and contiguous to an existing office park, and the intended use of the Parcel, if rezoned, is to build a 175,000 square foot office building which will be integrated into that office park. Thus, rezoning the Parcel to Office Research would only constitute a minor change in the boundary between the zoning districts, and it would change the Parcel from a use for which the Parcel is ill-suited (Waterfront Industrial) to the congruous use for which similar adjacent property is being used (Office Research). See e.g. Portsmouth Advocates v. Portsmouth, 133 N.H. 876, 881 (1991) (affirming the City Council’s adjustment of historic district boundaries to remove buildings lacking historical significance).

In addition and finally, in Portsmouth’s 2017 Master Plan, the City recognized that there is a lack of available office space in the City. See 2017 Portsmouth Master Plan, Page 16. Thus, rezoning the Parcel to Office Research to create an opportunity for a 175,000 square foot office building is consistent with the City’s Master Plan.

IV. Closing

This concludes our supplemental correspondence. We stand ready to answer any questions the Planning Board may have in connection with this matter.

Yours truly,

DONAHUE TUCKER & CIANDELLA, PLLC

Robert D. Ciandella
rciandella@DTCLawyers.com

RDC:lmh

Enclosures

cc: John Bohenko, City Manager
Robert P. Sullivan, City Attorney
290 Gosling Road, LLC
Patrick Crimmins, P.E.
Justin L. Pasay, Esquire
Stephanie Carty, Paralegal



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BRENDAN A. O'DONNELL

SENIOR COUNSEL
MICHAEL J. DONAHUE

RETIRED
CHARLES F. TUCKER
NICHOLAS R. AESCHLIMAN

November 28, 2018

VIA HAND DELIVERY

Honorable Jack Blalock, Mayor
City of Portsmouth
Portsmouth City Council
1 Junkins Avenue
Portsmouth, NH 03801



Re: Request of 290 Gosling Road, LLC for Zoning Change from Waterfront Industrial (WI) to Office Research (OR) for property located at Gosling Road, Tax Map 213, Lot 1

Dear Mayor Blalock and City Councilors:

I write on behalf of 290 Gosling Road, LLC seeking rezoning of the parcel referenced above from the Waterfront Industrial District to the Office Research District. We ask that the City Council refer this request to the Planning Board.

We look forward to presenting the merits supporting our request to the Planning Board. Notwithstanding, to inform the City Council of the location of the parcel which is the subject of our request, we have attached a portion of the City of Portsmouth Zoning Map which depicts the property and the zoning districts implicated by our request. In addition, we have attached a topographical plan for the parcel and relevant portions of the tax maps of the City.

DONAHUE, TUCKER & CIANDELLA, PLLC
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111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

Honorable Jack Blalock, Mayor
Portsmouth City Council
Page Two
November 28, 2018

Thank you for your attention. Once again, we look forward to presenting the merits supporting our request at the Planning Board and to completing the established City process governing rezoning before the City Council following review and action by the Planning Board.

Yours truly,

DONAHUE TUCKER & CIANDELLA, PLLC



Robert D. Ciandella
rciandella@DTCLawyers.com

RDC:lmh
Enclosures

cc: John Bohenko, City Manager
Robert P. Sullivan, City Attorney
Juliet T.H. Walker, AICP Planning Director
290 Gosling Road, LLC
Patrick Crimmins, P.E.
Justin L. Pasay, Esquire

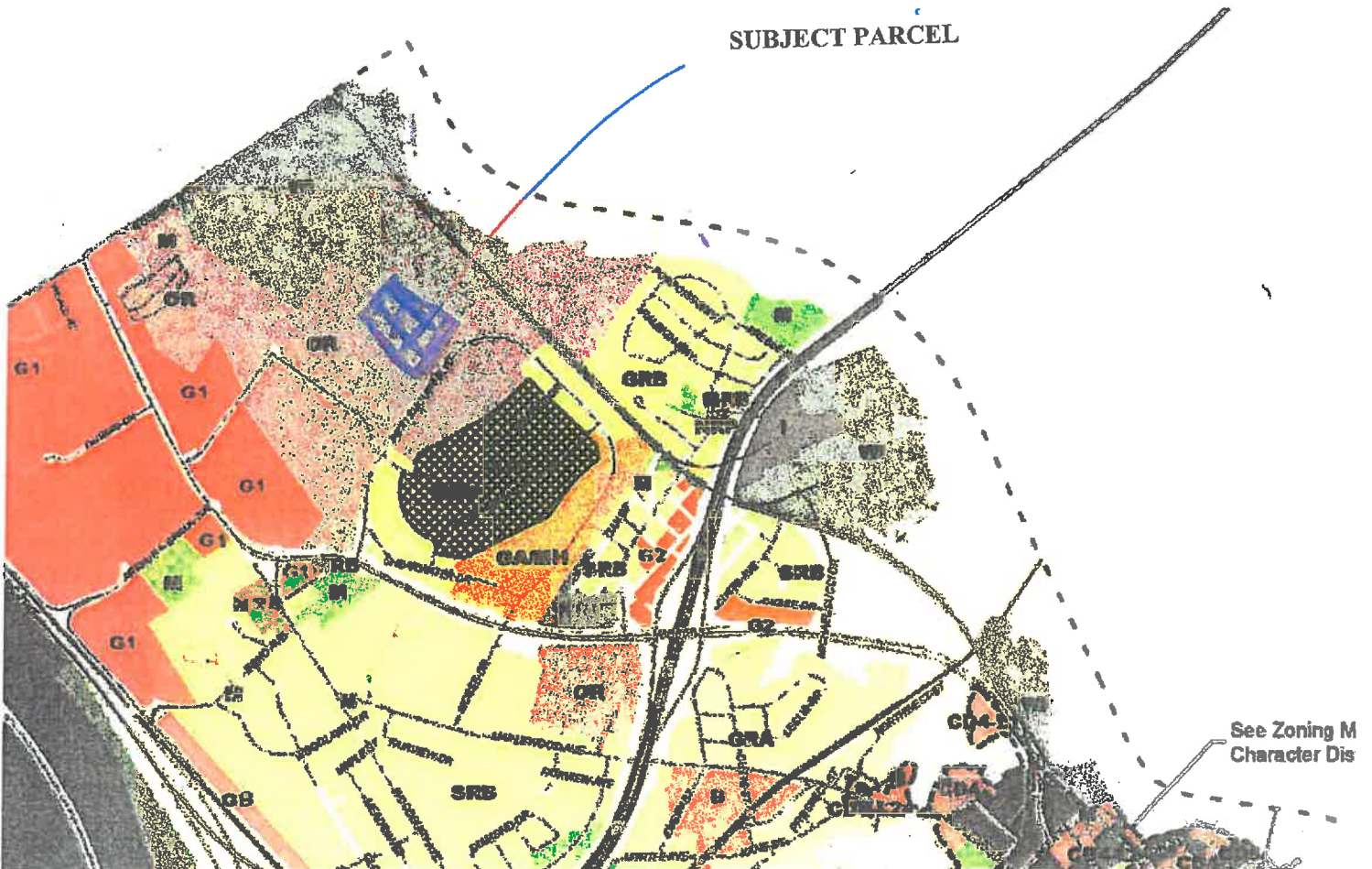
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ZONING MAP EXCERPT

City of Portsmouth 2

Sheet 1 of 2

SUBJECT PARCEL



**Proposed Zoning Ordinance Amendments
Accessory Dwelling Units and Garden Cottages
Version 1/29/2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, be amended as follows:

A. In Article 8 – Supplemental Use Standards, delete existing Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages and insert in their place the new Sections 10.814 and 10.815 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages”, dated January 15, 2019.

B. In Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, amend existing definitions and insert new terms and definitions as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Accessory building or structure

A subordinate building located on the same lot with the principal building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building. **For the purpose of this Ordinance, a detached accessory dwelling unit is not an accessory building or structure.**

Accessory dwelling unit (ADU)

A dwelling unit that is constructed on the same lot as a single-family dwelling and complies with the standards for accessory dwelling units set forth in this Ordinance.

Attached accessory dwelling unit (AADU)

An accessory dwelling unit that is constructed within or attached to a single-family dwelling. For the purpose of this definition, “attached” means ~~sharing a common wall for at least 25 percent of the length of the side of the single-family dwelling.;~~

(a) located within the dwelling and separated from the principal dwelling unit either horizontally or vertically, or

1 **(b) sharing a common wall for at least 25 percent of the length of the**
2 **side of the single-family dwelling.**

3 **“Attached” does not include connection to the single-family dwelling**
4 **solely by an unenclosed structure (such as a breezeway) or by an**
5 **enclosed but unconditioned space.**

6
7 Detached accessory dwelling unit (DADU)

8 An accessory dwelling unit that is constructed within an accessory building
9 on a lot containing one single-family dwelling. **A detached accessory**
10 **dwelling unit may be connected to the single-family dwelling by an**
11 **unenclosed structure (such as a breezeway) or by an unconditioned**
12 **space.**

13
14 **Dwelling, principal**

15 **A single-family dwelling on a lot on which an accessory dwelling unit or a**
16 **garden cottage is allowed.**

17
18 **Dwelling unit, principal**

19 **A dwelling unit in a single-family dwelling that is not an attached accessory**
20 **dwelling unit or a garden cottage.**

21
22 Principal building

23 The primary building on a lot **which includes one or more principal uses.**

24
25
26
27 The City Clerk shall properly alphabetize and/or re-number the ordinances as
28 necessary in accordance with this amendment.

29
30 All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

31
32 This ordinance shall take effect upon its passage.

33
34
35 APPROVED:

36
37
38
39 _____
40 Jack Blalock, Mayor

41 ADOPTED BY COUNCIL:

42
43 _____
44 Kelli L. Barnaby, City Clerk

1 Proposed Amendments to the Portsmouth Zoning Ordinance: Sections 10.814 –
2 Accessory Dwelling Units and 10.815 – Garden Cottages
3 *January 29, 2019*
4

5 10.814 Accessory Dwelling Units
6

7 10.814.10 One, and only one, accessory dwelling unit shall be allowed on any lot containing a
8 single-family dwelling. An accessory dwelling unit shall not be allowed under this
9 Section 10.814 on a lot that contains more than one dwelling unit.
10

11 10.814.20 Except as provided elsewhere in this Section 10.814, in order for a lot to be eligible for an
12 accessory dwelling unit, the lot and all proposed structures and additions to existing
13 structures shall conform to all zoning regulations as follows:
14

15 10.814.21 Any municipal regulation applicable to single-family dwellings shall also
16 apply to the combination of a principal dwelling unit and an accessory
17 dwelling unit including, but not limited to, lot area, yards, open space,
18 off-street parking, building coverage, and building height.
19

20 10.814.22 An attached accessory dwelling unit is permitted on existing
21 nonconforming lots and within existing nonconforming buildings as long
22 as there is no increase in building height or building footprint for any
23 portion of the existing building and no increase to the nonconformity.
24

25 10.814.23 A detached accessory dwelling unit is not an accessory building or
26 structure for the purposes of this Ordinance, and therefore shall be
27 governed by the applicable minimum yard dimensions in Section 10.521 for
28 a principal building or structure and not by the side yard and rear yard
29 standards applicable to an accessory building.
30

31 10.814.30 All accessory dwelling units shall comply with the following standards:
32

33 10.814.31 The principal dwelling unit and the accessory dwelling unit shall not be
34 separated in ownership (including by condominium ownership).
35

36 10.814.32 Either the principal dwelling unit or the accessory dwelling unit shall be
37 occupied by the owner of the dwelling as his or her principal place of
38 residence. The owner shall provide documentation demonstrating to the
39 satisfaction of the City that one of the units is his or her principal place of
40 residence.
41

42 10.814.321 When the property is owned by one or more trusts, one of the
43 dwelling units shall be the principal place of residence of the
44 beneficiary(ies) of the trust(s).
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10.814.33 Neither the principal dwelling unit nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

10.814.34 Electric, gas, water and sewer utilities for the accessory dwelling unit shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.

10.814.35 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

10.814.40 An attached accessory dwelling unit (AADU) shall comply with the following additional standards:

10.814.41 An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.

10.814.42 The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area. For the purpose of this provision, gross floor area shall not include existing storage space, shared entries, or other spaces not exclusive to the accessory dwelling unit.

10.814.43 Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall be designed as the principal entrance and the other doors shall be designed to appear to be secondary.

10.814.44 No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.

10.814.45 An AADU that is attached to the single-family dwelling (i.e., created by an expansion of the existing structure) shall comply with the following:

10.814.451 An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40 percent of the total visible façade area of the dwelling as seen from that street.

10.814.452 The addition to or expansion of the existing single-family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint.

10.814.453 The building height of any addition or expansion that includes an increase in building footprint shall be less than the building height of the existing principal building.

- 1 10.814.453 The AADU shall be architecturally consistent with the existing
- 2 principal dwelling through the use of similar materials,
- 3 detailing, roof pitch, and other building design elements.
- 4
- 5 10.814.50 A detached accessory dwelling unit (DADU) shall comply with the following
- 6 additional standards:
- 7
- 8 10.814.51 In a General Residence district, the combination of the principal dwelling
- 9 and the DADU shall comply with the minimum lot area per dwelling unit
- 10 specified for the district. (For example, the required lot area for a single-
- 11 family dwelling with a DADU in the GRA district is 7,500 sq. ft. per
- 12 dwelling unit multiplied by 2 dwelling units, or 15,000 sq. ft.) In a Single
- 13 Residence or Rural district, a lot with a DADU shall comply with the
- 14 minimum lot area for the district, but need not comply with the minimum
- 15 lot area per dwelling unit.
- 16
- 17 10.814.52 The DADU shall not have more than two bedrooms and shall not be larger
- 18 than 750 sq. ft. gross floor area; except that the maximum gross floor area
- 19 shall be 1,000 sq. ft. if the lot area is 2 acres or more.
- 20
- 21 10.814.53 The DADU shall be clearly subordinate to the principal single-family
- 22 dwelling in scale, height and appearance.
- 23
- 24 10.814.531 The façade area of the DADU that faces a street on which the
- 25 lot has frontage shall be no more than 40 percent of the
- 26 combined visible façade areas of the principal single-family
- 27 dwelling and the DADU facing the same street.
- 28
- 29 10.814.532 The building height of the DADU shall be less than the
- 30 building height of the principal single-family dwelling.
- 31
- 32 10.814.533 The DADU shall be architecturally consistent with the
- 33 principal dwelling through the use of similar materials,
- 34 detailing, and other building design elements.
- 35
- 36 10.814.54 The DADU shall be separated from the single-family dwelling by at least 20
- 37 feet.
- 38
- 39 10.814.55 The front wall of the DADU shall be set back at least 10 feet further from
- 40 the front lot line than the existing front wall of the single-family dwelling.
- 41
- 42 10.814.56 No portion of the DADU shall be located in any required front yard,
- 43 regardless of the location of the single-family dwelling.
- 44
- 45 10.814.60 Before granting a conditional use permit for an attached or detached ADU, the Planning
- 46 Board shall make the following findings:
- 47
- 48 10.814.61 Exterior design of the ADU is consistent with the existing principal dwelling
- 49 on the lot.
- 50

- 1 10.814.62 The site plan provides adequate and appropriate open space, landscaping
2 and off-street parking for both the ADU and the primary dwelling.
- 3
- 4 10.814.63 The ADU will maintain a compatible relationship to adjacent properties in
5 terms of location, design, and off-street parking layout, and will not
6 significantly reduce the privacy of adjacent properties.
- 7
- 8 10.814.64 The ADU will not result in excessive noise, traffic or parking congestion.
- 9
- 10 10.814.70 In granting a conditional use permit for an accessory dwelling unit, the Planning Board
11 may modify a specific standard set forth in Sections 10.814.40 or 10.814.52 through
12 10.814.56, including requiring additional or reconfigured off-street parking spaces,
13 provided that the Board finds such modification will be consistent with the required
14 findings in Section 10.814.60.
- 15
- 16 10.814.80 Documentation of the conditional use permit approval shall be recorded at the Rockingham
17 County Registry of Deeds.
- 18
- 19 10.814.90 A certificate of use issued by the Planning Department is required to verify compliance
20 with the standards of this Section, including the owner-occupancy and principal residency
21 requirements. Said certificate shall be issued by the Planning Department upon issuance of
22 a certificate of occupancy by the Inspection Department and shall be renewed annually
23 upon submission of such documentation as the Planning Department may require to verify
24 compliance. A certificate of use shall not be issued prior to recording of documentation as
25 required by 10.814.80.
- 26

27 10.815 Garden Cottages

28

29 An accessory building existing on the effective date of this ordinance may be converted to a
30 garden cottage through a conditional use permit granted by the Planning Board, subject to the
31 following provisions and limitations.

- 32
- 33 10.815.10 One garden cottage, and only one, shall be allowed on any lot containing a single-
34 family dwelling.
- 35
- 36 10.815.20 Relationship to other provisions of this Ordinance:
37
- 38 10.815.21 No garden cottage shall be allowed on the same lot as an accessory
39 dwelling unit authorized under this Ordinance.
- 40
- 41 10.815.22 The establishment of a garden cottage results in two dwelling units on the
42 property and thus makes the property ineligible to establish an accessory
43 dwelling unit under RSA 674:72-73 and this Ordinance. As a condition of
44 receiving a conditional use permit for a garden cottage, the property owner
45 shall waive all rights under RSA 674:72 and RSA 674:73.
- 46
- 47 10.815.23 A garden cottage that complies with the standards of this section is exempt
48 from the residential density standards of the Zoning Ordinance. A second
49 dwelling unit on a lot that does not comply with the standards of this
50 section shall be considered to be either a second primary dwelling or an

1 accessory dwelling unit and shall comply with the applicable standards
2 and provisions of the Ordinance.

3
4 10.815.30 Garden cottages shall comply with the following standards:

5
6 10.815.31 The existing accessory building shall not be expanded either vertically or
7 horizontally, other than through the addition of a front entry not to exceed 50
8 sq. ft., or a side or rear deck not to exceed 300 sq. ft.

9
10 10.815.32 A garden cottage shall not be larger than 600 sq. ft. gross floor area.

11
12 10.815.33 A garden cottage that is within a required yard for the zoning district shall
13 not have any windows or doors higher than eight feet above grade facing the
14 adjacent property.

15
16 10.815.34 The principal dwelling unit and the garden cottage shall not be separated
17 in ownership (including by condominium ownership); and either the
18 principal dwelling unit or the garden cottage shall be occupied by the
19 owner of the property. The owner shall provide documentation
20 demonstrating to the satisfaction of the City that one of the units is his or her
21 principal place of residence.

22
23 10.815.341 When the property is owned by one or more living trusts, one
24 of the dwelling units shall be the principal place of residence
25 of the beneficiary(ies) of the trust(s).

26
27 10.815.35 Electric, gas, water and sewer utilities for the garden cottage shall be on
28 the same meters as the principal dwelling unit and shall not be billed
29 separately from the principal dwelling unit.

30
31 10.815.36 Where municipal sewer service is not provided, the septic system shall meet
32 NH Water Supply and Pollution Control Division requirements for the
33 combined system demand for total occupancy of the premises.

34
35 10.815.40 Before granting a conditional use permit for a garden cottage, the Planning Board shall
36 make the following findings:

37
38 10.815.41 Exterior design of the garden cottage is consistent with the existing single-
39 family dwelling on the lot.

40
41 10.815.42 The site plan provides adequate and appropriate open space, landscaping,
42 and off-street parking for both the garden cottage and the primary
43 dwelling.

44
45 10.815.43 The garden cottage will maintain a compatible relationship to adjacent
46 properties in terms of location and design, and will not significantly reduce
47 the privacy of adjacent properties.

48
49 10.815.44 The garden cottage will not result in excessive noise, traffic or parking
50 congestion.

- 1
2 10.815.50 In granting a conditional use permit for a garden cottage, the Planning Board may modify
3 a specific dimensional or parking standard set forth in Section 10.815.30, including
4 requiring additional or reconfigured off-street parking spaces, provided that the Board
5 finds such modification will be consistent with the required findings in Section 10.815.40.
6
7 10.815.60 Documentation of the conditional use permit approval shall be recorded at the Rockingham
8 County Registry of Deeds.
9
10 10.815.70 A certificate of use issued by the Planning Department is required to verify compliance
11 with the standards of this Section, including the owner-occupancy and principal residency
12 requirements. Said certificate shall be issued by the Planning Department upon issuance of
13 a certificate of occupancy by the Inspection Department and shall be renewed annually
14 upon submission of such documentation as the Planning Department may require to verify
15 compliance. A certificate of use shall not be issued prior to recording of documentation as
16 required by 10.815.60.
17

1 Accessory Dwelling Units and Garden Apartments:
2 Comparison of Proposed Amendments with Existing Ordinance
3 Revised DRAFT 1/29/2019
4

5 10.814 Accessory Dwelling Units

6
7 10.814.10 One, and only one, accessory dwelling unit shall be allowed on any lot containing a
8 single-family dwelling. An accessory dwelling unit shall not be allowed under this
9 Section 10.814 on a lot that contains more than one dwelling unit.

10
11 10.814.20 Except as provided ~~in~~ elsewhere in this Section 10.814, ~~all land use regulations applicable~~
12 ~~to a single family dwelling shall also apply to the combination of a principal dwelling~~
13 ~~unit and in order for a lot to be eligible for an accessory dwelling unit, the lot and all~~
14 ~~proposed structures and additions to existing structures shall conform to all zoning~~
15 ~~regulations as follows:~~

16
17 10.814.21 Any municipal regulation applicable to single-family dwellings shall also
18 apply to the combination of a principal dwelling unit and an accessory
19 dwelling unit including, but not limited to, lot area, yards, open space,
20 off-street parking, building coverage, and building height.

21
22 10.814.22 An attached accessory dwelling unit is permitted on existing
23 nonconforming lots and within existing nonconforming buildings as long
24 as there is no increase in building height or building footprint for any
25 portion of the existing building and no increase to the nonconformity.

26
27 10.814.223 A detached accessory dwelling unit is not an accessory building or
28 structure for the purposes of this Ordinance, and therefore shall be
29 governed by the applicable minimum yard dimensions in Section 10.521 for
30 a principal building or structure and not by the side yard and rear yard
31 standards applicable to an accessory building.

32
33 10.814.30 All accessory dwelling units shall comply with the following standards:

34
35 10.814.31 The principal dwelling unit and the accessory dwelling unit shall not be
36 separated in ownership (including by condominium ownership).

37
38 10.814.32 Either the principal dwelling unit or the accessory dwelling unit shall be
39 occupied by the owner of the dwelling; ~~as his or her principal place of~~
40 ~~residence.~~ The owner shall provide documentation demonstrating to the
41 satisfaction of the City that one of the units is his or her principal place of
42 residence.

43
44 10.814.321 When the property is owned by one or more living trusts, one
45 of the dwelling units shall be the principal place of residence
46 of the beneficiary(ies) of the trust(s).

47
48 10.814.322 When the property is owned by a limited liability corporation,
49 one of the dwelling units shall be the principal place of

residence of a person or persons holding at least 80 percent of the ownership of the corporation.

10.814.33 Neither the principal dwelling unit nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

10.814.34 Electric, gas, water and sewer utilities for the accessory dwelling unit shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.

10.814.35 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

10.814.40 An attached accessory dwelling unit (AADU) shall comply with the following additional standards:

10.814.41 An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.

10.814.42 The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area. For the purpose of this provision, gross floor area shall not include existing storage space, shared entries, or other spaces not exclusive to the accessory dwelling unit.

10.814.43 Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall ~~clearly~~ be designed as the principal entrance and the ~~others~~ other doors shall be designed to appear to be secondary.

10.814.44 No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.

10.814.45 An AADU that is attached to the single-family dwelling (i.e., created by an expansion of the existing structure) shall comply with the following:

10.814.451 An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40 percent of the total visible façade area of the dwelling as seen from that street.

10.814.452 The addition to or expansion of the existing single-family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint shall not include any increase in building height of the existing principal building.

1 10.814.453 The building height of any addition or expansion that
2 includes an increase in building footprint shall be less than
3 the building height of the existing principal building.

4
5 10.814.453 The AADU shall be architecturally consistent with the existing
6 principal dwelling through the use of similar materials,
7 detailing, roof pitch, and other building design elements.

8
9 10.814.50 A detached accessory dwelling unit (DADU) shall comply with the following
10 additional standards:

11
12 10.814.51 In a General Residence district, the combination of the principal dwelling
13 and the DADU shall comply with the minimum lot area per dwelling unit
14 specified for the district. (For example, the required lot area for a single-
15 family dwelling with a DADU in the GRA district is 7,500 sq. ft. per
16 dwelling unit multiplied by 2 dwelling units, or 15,000 sq. ft.) In a Single
17 Residence or Rural district, a lot with a DADU shall comply with the
18 minimum lot area for the district, but need not comply with the minimum
19 lot area per dwelling unit.

20
21 10.814.52 The DADU shall not have more than two bedrooms and shall not be larger
22 than 750 sq. ft. gross floor area; except that the maximum gross floor area
23 shall be 1,000 sq. ft. if the lot area is 2 acres or more.

24
25 10.814.53 The DADU shall be ~~separated from~~ clearly subordinate to the principal
26 single-family dwelling by at least 20 feet in scale, height and appearance.

27
28 10.814.531 The façade area of the DADU that faces a street on which the
29 lot has frontage shall be no more than 40 percent of the
30 combined visible façade areas of the principal single-family
31 dwelling and the DADU facing the same street.

32
33 10.814.532 The building height of the DADU shall be less than the
34 building height of the principal single-family dwelling.

35
36 10.814.533 The DADU shall be architecturally consistent with the
37 principal dwelling through the use of similar materials,
38 detailing, and other building design elements.

39
40 10.814.54 The DADU shall be separated from the single-family dwelling by at least 20
41 feet.

42
43 10.814.55 The front wall of the DADU shall be set back at least 10 feet further from
44 the front lot line than the existing front wall of the single-family dwelling.

45
46 10.814.56 No portion of the DADU shall be located in any required front yard,
47 regardless of the location of the single-family dwelling.

1 10.814.60 Before granting a conditional use permit for an attached or detached ADU, the Planning
2 Board shall make the following findings:

3
4 10.814.61 Exterior design of the ADU is ~~compatible~~consistent with the existing
5 ~~residence~~principal dwelling on the lot ~~through architectural use of building~~
6 ~~forms, scale and construction materials.~~

7
8 10.814.62 The site plan provides adequate and appropriate open space ~~and,~~
9 landscaping ~~that is useful~~and off-street parking for both the ADU and the
10 primary dwelling.

11
12 10.814.63 The ADU will maintain a compatible relationship to adjacent properties in
13 terms of location ~~and,~~ design, and off-street parking layout, and will not
14 significantly reduce the privacy of adjacent properties.

15
16 10.814.64 The ADU will not result in excessive noise, traffic or parking congestion.

17
18 ~~10.814.70 — A certificate of use issued by the Planning Department is required to verify compliance~~
19 ~~with the standards of this Section, including the owner occupancy requirement. Said~~
20 ~~certificate shall be renewed annually.~~

21
22 ~~10.814.80~~10.814.70 In granting a conditional use permit for an accessory dwelling unit, the
23 Planning Board may modify a specific ~~dimensional or parking~~ standard set forth in ~~this~~
24 Sections 10.814.40 or 10.814.52 through 10.814.56, including requiring additional or
25 reconfigured off-street parking spaces, provided that the Board finds such modification
26 will be consistent with the required findings in Section 10.814.60.

27
28 10.814.80 Documentation of the conditional use permit approval shall be recorded at the Rockingham
29 County Registry of Deeds.

30
31 10.814.90 A certificate of use issued by the Planning Department is required to verify compliance
32 with the standards of this Section, including the owner-occupancy and principal residency
33 requirements. Said certificate shall be issued by the Planning Department upon issuance of
34 a certificate of occupancy by the Inspection Department and shall be renewed annually
35 upon submission of such documentation as the Planning Department may require to verify
36 compliance. A certificate of use shall not be issued prior to recording of documentation as
37 required by 10.814.80.

38 39 40 10.815 Garden Cottages

41
42 An accessory building existing on the effective date of this ordinance may be converted to a
43 garden cottage through a conditional use permit granted by the Planning Board, subject to the
44 following provisions and limitations.

45
46 10.815.10 One garden cottage, and only one, shall be allowed on any lot containing a single-
47 family dwelling.
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- 10.815.20 Relationship to other provisions of this Ordinance:
- 10.815.21 No garden cottage shall be allowed on the same lot as an accessory dwelling unit authorized under this Ordinance.
- 10.815.22 The establishment of a garden cottage results in two dwelling units on the property and thus makes the property ineligible to establish an accessory dwelling unit under RSA 674:72-73 and this Ordinance. As a condition of receiving a conditional use permit for a garden cottage, the property owner shall waive all rights under RSA 674:72 and RSA 674:73.
- 10.815.23 A garden cottage that complies with the standards of this section is exempt from the residential density standards of the Zoning Ordinance. A second dwelling unit on a lot that does not comply with the standards of this section shall be considered to be either a second primary dwelling or an accessory dwelling unit and shall comply with the applicable standards and provisions of the Ordinance.
- 10.815.30 Garden cottages shall comply with the following standards:
 - 10.815.31 The existing accessory building shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.
 - 10.815.32 A garden cottage shall not be larger than 600 sq. ft. gross floor area.
 - 10.815.33 A garden cottage that is within a required yard for the zoning district shall not have any windows or doors higher than eight feet above grade facing the adjacent property.
 - 10.815.34 The principal dwelling unit and the garden cottage shall not be separated in ownership (including by condominium ownership); and either the principal dwelling unit or the garden cottage shall be occupied by the owner of the property. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.
 - ~~10.815.341 When the property is owned by one or more living trusts, one of the dwelling units shall be the principal place of residence of the beneficiary(ies) of the trust(s).~~
 - ~~10.815.342 When the property is owned by a limited liability corporation, one of the dwelling units shall be the principal place of residence of a person or persons holding at least 80 percent of the ownership of the corporation.~~
 - 10.815.35 Electric, gas, water and sewer utilities for the garden cottage shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.

1 10.815.36 Where municipal sewer service is not provided, the septic system shall meet
2 NH Water Supply and Pollution Control Division requirements for the
3 combined system demand for total occupancy of the premises.
4

5 10.815.40 Before granting a conditional use permit for a garden cottage, the Planning Board shall
6 make the following findings:
7

8 10.815.41 Exterior design of the garden cottage is ~~compatible~~consistent with the
9 existing ~~residences~~single-family dwelling on the lot ~~through architectural~~
10 ~~use of building forms, scale and construction materials.~~

11
12 10.815.42 The site plan provides adequate and appropriate open space ~~and,~~
13 landscaping ~~that is useful, and off-street parking~~ for both the garden
14 cottage and the primary dwelling.
15

16 10.815.43 The garden cottage will maintain a compatible relationship to adjacent
17 properties in terms of location and design, and will not significantly reduce
18 the privacy of adjacent properties.
19

20 10.815.44 The garden cottage will not result in excessive noise, traffic or parking
21 congestion.
22

23 ~~10.815.50~~ ~~A certificate of use issued by the Planning Department is required to verify compliance~~
24 ~~with the standards of this Section, including the owner-occupancy requirement. Said~~
25 ~~certificate shall be renewed annually.~~
26

27 ~~10.815.60~~10.815.50 In granting a conditional use permit for a garden cottage, the Planning Board
28 may modify a specific dimensional or parking standard set forth in ~~this~~ Section 10.815.30,
29 including requiring additional or reconfigured off-street parking spaces, provided that the
30 Board finds such modification will be consistent with the required findings in Section
31 10.815.40.
32

33 10.815.60 Documentation of the conditional use permit approval shall be recorded at the Rockingham
34 County Registry of Deeds.
35

36 10.815.70 A certificate of use issued by the Planning Department is required to verify compliance
37 with the standards of this Section, including the owner-occupancy and principal residency
38 requirements. Said certificate shall be issued by the Planning Department upon issuance of
39 a certificate of occupancy by the Inspection Department and shall be renewed annually
40 upon submission of such documentation as the Planning Department may require to verify
41 compliance. A certificate of use shall not be issued prior to recording of documentation as
42 required by 10.815.60.
43

1 **Proposed Off-Street Parking Amendments**
2 **January 29, 2019**

3 *Proposed Amendments since Second Reading shown in Red*
4
5

6 ORDINANCE #
7

8 THE CITY OF PORTSMOUTH ORDAINS
9

10 That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance,
11 Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, be
12 amended as follows:
13

14 A. Delete existing Section 10.1112.52.
15

16 B. Insert a new Section 10.1112.14 as follows:
17

18 10.1112.14 The Planning Board may grant a conditional use permit to allow a
19 building or use to provide less than the minimum number of off-street
20 parking spaces required by Section 10.1112.30, Section 10.1112.61 or
21 Section 10.1115.20, as applicable, or to exceed the maximum number
22 of off-street parking spaces allowed by Section 10.1112.51.
23

24 10.1112.141 An application for a conditional use permit under this
25 section shall include a parking demand analysis, which
26 shall be reviewed by the City's Technical Advisory
27 Committee prior to submission to the Planning Board,
28 demonstrating that the proposed number of off-street
29 parking spaces is sufficient for the proposed use.
30

31 10.1112.142 An application for a conditional use permit under this
32 section shall identify permanent-evidence-based
33 measures to reduce parking demand, including but not
34 limited to provision of rideshare/microtransit services or
35 bikeshare station(s)services servicing the property,
36 proximity to public transit, car/van-pool incentives,
37 alternative transit subsidies, provisions for teleworking,
38 and shared parking on a separate lot subject to the
39 requirements of 10.1112.62.
40

41 10.1112.143 The Planning Board may grant a conditional use permit
42 only if it finds that the number of off-street parking
43 spaces required or allowed by the permit will be
44 adequate and appropriate for the proposed use of the
45 property. In making this determination, the Board may

1 accept, modify or reject the findings of the applicant's
2 parking demand analysis.

3
4 10.1112.144 At its discretion, the Planning Board may require more
5 off-street parking spaces than the minimum number
6 requested by the applicant, or may allow fewer spaces
7 than the maximum number requested by the applicant.
8

9 C. Amend Section 10.1112.21 as follows (deletions from existing language stricken;
10 additions to existing language bolded; remaining language unchanged from existing):
11

12 The number of required off-street parking spaces shall be the sum of
13 the requirements for the various individual uses on a lot computed
14 separately, ~~except that a development designed as a shopping center~~
15 ~~shall comply with the specific requirements of Section 10.1112.30 for~~
16 ~~said use.~~
17

18 D. Amend Section 10.1112.323 as follows (deletions from existing language stricken;
19 additions to existing language bolded; remaining language unchanged from existing):
20

21 Where the table indicates that the minimum required number of off
22 street parking spaces shall be based on a parking demand analysis,
23 the applicant shall submit such analysis for review by the Planning
24 Board ~~through the Site Plan Review process~~. Where the table indicates
25 that a parking demand analysis is an alternative to a specified ratio, the
26 applicant may submit such analysis to justify a ratio different from that
27 listed in the table. In either case, the Planning Board may approve the
28 number of parking spaces proposed by the analysis, or may approve a
29 greater or lesser minimum number of parking spaces based on its
30 review.
31

32 E. Amend Section 10.1115.21 as follows (deletions from existing language stricken;
33 additions to existing language bolded; remaining language unchanged from existing):
34

35 The following requirements shall apply in the Downtown Overlay District in
36 lieu of the requirements in Section 10.1112.30:
37

Use	Required Parking Spaces
Residential use (dwelling)	1.3 space per dwelling unit Same as Section 10.1112.30
Hotel or motel	0.75 space per guest room, plus 1 space per 25 sf of conference or banquet facilities
Other nonresidential use	No requirement

**Proposed Amendments to the Zoning Ordinance
Article 2: Administration and Enforcement
November 19, 2018**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 2 – Administration and Enforcement, be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.

The City Clerk shall properly alphabetize and/or re-number the ordinances 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:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

1 Proposed Amendments to the Portsmouth Zoning Ordinance
2 Section 10.240 – Conditional Use Permits
3 November 19, 2018
4

5 10.240 Conditional Use Permits

6 10.241 General

7
8 10.241.10 A conditional use is a use of land or buildings within a zoning district that may be
9 authorized by this Ordinance subject to additional requirements. A conditional use permit
10 allows the Planning Board or other such Board or person as may have jurisdiction to
11 consider uses which may be desirable or appropriate in particular cases, but which are not
12 allowed as a matter of right within a zoning district.

13
14 10.241.20 This Ordinance authorizes the following general types of conditional use permits:

15
16 10.241.21 Conditional use approval is required for any use designated “CU” in
17 Section 10.440 – Table of Uses.

18
19 10.241.22 Conditional use approval is required for most uses, activities and alterations
20 in a wetland or wetland buffer (Article 10, Section 10.1010 – Wetlands
21 Protection).

22
23 10.241.23 Conditional use approval may be granted to allow flexibility of site or
24 building design where specifically authorized by the Ordinance but not listed
25 in Section 10.440. These include the following provisions:

26
27 (a) Character Districts (Article 5A)

- 28
- Increase in allowed building footprint subject to specified development standards;
 - Provision of required community space on a different lot than the development;
 - Crediting or assignment of excess community space in an Incentive Overlay District.
- 29
30
31
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33
34

35 (b) Gateway Districts (Article 5B)

- More than 24 dwelling units in a building;
 - More than one principal building or building type on a development site;
 - Increased housing density, building height, or footprint.
- 36
37
38
39
40

41 (c) Off-Street Parking (Article 11)

- Less than the minimum number of required spaces or more than the maximum number of allowed spaces;
 - Shared parking.
- 42
43
44
45

46 10.241.30 No structure, building or use requiring a conditional use permit under this Ordinance
47 shall be used, constructed, altered or expanded unless the required conditional use permit

48 has been granted by the Planning Board or other such Board or person as may have
49 jurisdiction.

50
51 10.241.40 A structure, building or use authorized by a conditional use permit may not be added to,
52 enlarged, expanded or moved to another part of the lot without securing a new conditional
53 use permit.
54
55

56 10.242 Basis for Approval

57
58 10.242.10 The Planning Board or other such Board or person as may have jurisdiction may grant a
59 conditional use permit if the application is found to be in compliance with the general
60 approval criteria in Section 10.243 or, if applicable, the specific standards or criteria as set
61 forth in this Ordinance for the particular use or activity. The Planning Board or other such
62 Board or person as may have jurisdiction shall make findings of fact, based on the evidence
63 presented by the applicant, City staff, and the public, respecting whether the conditional
64 use is or is not in compliance with the approval criteria of Section 10.243.
65

66 10.242.20 The applicant shall provide, through the introduction of sufficient evidence, through
67 testimony, or otherwise, that the proposed use, development, or activity, if completed as
68 proposed, will satisfy the general and specific requirements as contained in the Ordinance.
69
70

71 10.243 Approval Criteria

72
73 10.243.10 A conditional use permit shall be granted only if the Planning Board or other such Board or
74 person as may have jurisdiction determines that the proposal conforms to all applicable
75 conditional use permit criteria, as set forth below or in other sections of this Ordinance.
76

77 10.243.20 Conditional uses designated in Section 10.440 – Table of Uses, as well as other conditional
78 uses for which no specific criteria are set forth in the Ordinance, shall comply with all of
79 the following criteria:
80

81 10.243.21 The design of proposed structures, their height and scale in relation to the
82 site's surroundings, the nature and intensity of the proposed use or activity,
83 and the layout and design of the site will be compatible with adjacent and
84 nearby properties, buildings and uses, will complement or enhance the
85 character of surrounding development, and will encourage the appropriate
86 and orderly development and use of land and buildings in the surrounding
87 area.
88

89 10.243.22 All necessary public and private utility infrastructure and services will be
90 available and adequate to serve the proposed use.
91

92 10.243.23 The site and surrounding streets will have adequate vehicular and pedestrian
93 infrastructure to serve the proposed use consistent with the City's Master
94 Plan.
95

96 10.243.24 The proposed structures, uses, or activities will not have significant
97 adverse impacts on abutting and surrounding properties on account of traffic,

98 noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting
99 and glare.

100
101 10.243.25 The proposed structures and uses will not have significant adverse impacts
102 on natural or scenic resources surrounding the site, including wetlands,
103 floodplains, and significant wildlife habitat.

104
105 10.243.26 The proposed use will not cause or contribute to a significant decline in
106 property values of adjacent properties.

107
108 10.243.30 Where specific standards or criteria are set forth in this Ordinance for the particular use
109 permitted by conditional use permit, those standards and criteria shall apply in lieu of the
110 general standards in Section 10.243.20.

111
112

113 10.244 Conditions of Approval

114

115 Conditional use permits may be granted subject to appropriate conditions, including but not limited to the
116 following:

117

118 10.244.10 Front, side and rear yards in excess of the minimum requirements of this Ordinance;

119

120 10.244.20 Landscaping and/or screening of the premises from the street or adjacent property in
121 excess of the minimum requirements of this Ordinance;

122

123 10.244.30 Modification of the exterior features, buildings or other structures;

124

125 10.244.40 Limitations on the size of buildings and other structures more stringent than the minimum
126 or maximum requirements of this Ordinance;

127

128 10.244.50 Off-street parking and loading spaces in excess of the minimum requirements of this
129 Ordinance;

130

131 10.244.60 Regulation of the number, size, lighting of signs more stringent than the requirements of
132 the Ordinance; and

133

134 10.244.70 Other performance standards as may relate to the standards and criteria for approval.

135

136

137 10.245 Certain Representations Deemed Conditions

138

139 Representations made at public hearings or materials submitted to the Board by an applicant for a
140 conditional use permit concerning features of proposed buildings, structures, parking or uses shall be
141 deemed conditions upon such conditional use permit.

142

143

144 10.246 Expiration and Abandonment of Approvals

145

146 10.246.10 A conditional use permit shall expire unless a building permit is obtained within a period
147 of one year from the date granted, unless otherwise stated in the conditions of approval.
148 The Board may, for good cause shown, extend such period by as much as one year if such
149 extension is requested and acted upon prior to the expiration date. No other extensions may
150 be requested.

151
152 10.246.20 Failure to use a property for a use authorized by a conditional use permit for a period
153 exceeding eight months shall result in the termination of the conditional use permit.
154

155
156 **10.247 Repetitive Application**
157

158 If an application for a conditional use permit is denied by the Planning Board or other such Board or
159 person as may have jurisdiction, no application for a conditional use permit for the same or similar use
160 may be made for one year from the date of said denial, unless the applicant demonstrates to the
161 satisfaction of the Board that the circumstances have altered and that further consideration of the
162 application is warranted. In such an event, the resubmitted application shall follow the same procedures as
163 the original and shall be treated as a new application.
164

Proposed Zoning Ordinance Amendments
Article 12 – Signs
January 15, 2019

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated January 15, 2019.

The City Clerk shall properly alphabetize and/or re-number the ordinances 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:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

1 Proposed Amendments to Portsmouth Zoning Ordinance
2 Article 12: Signs
3 January 15, 2019

4 *Proposed Amendments since Second Reading shown in Red*
5

6 **Article 12 Signs**
7

- 8 **Section 10.1210 Purpose and Intent**
9 **Section 10.1220 General Sign Regulations**
10 **Section 10.1230 Sign Districts**
11 **Section 10.1240 Permitted Sign Types**
12 **Section 10.1250 Sign Dimensional Standards**
13 **Section 10.1260 Sign Illumination**
14 **Section 10.1270 Additional Sign Regulations**
15 **Section 10.1280 Nonconforming Signs**
16 **Section 10.1290 Sign Definitions**
17

18 **Section 10.1210 Purpose and Intent**

- 19 10.1211 The purpose of this Article is to regulate the type, number, location, size
20 and illumination of signs on private property in order to maintain and
21 enhance the character of the city’s commercial districts and residential
22 neighborhoods and to protect the public from hazardous and distracting
23 displays.
24
- 25 10.1212 This Article is intended to permit signs only as accessory uses to a
26 permitted use on the same lot and not as principal uses on a lot. When a
27 principal commercial use or activity is not open to the public or has been
28 abandoned, all allowed accessory signs shall be removed regardless of
29 their content.
30
- 31 10.1213 This Article is not intended to regulate the content of signs except as
32 follows:
33
- 34 10.1213.10 When a sign is allowed because it is necessary to identify a
35 building address or for safe access to or egress from the lot,
36 only that relevant message may be presented.
37
- 38 10.1213.20 A sign that advertises a product or service not available on
39 the lot (an “off-premise sign”) is not permitted. However,
40 when a sign is permitted as accessory to a commercial use,
41 the sign may contain a noncommercial message instead of a
42 commercial message.
43

1 Section 10.1220 General Sign Regulations

2 10.1221 Sign Permits

3
4 10.1221.10 No sign shall be erected without a sign permit issued by the Code
5 Official except in accordance with the provisions of this Ordinance or a
6 decision by the Board of Adjustment.

7
8 10.1221.20 No sign permit will be issued for any premises on which there is an
9 outstanding violation of any part of this Ordinance.

10
11 10.1221.30 In the Historic District, a sign that violates any requirement of this Article,
12 including the design standards set forth in Section 10.1274, shall require a
13 Certificate of Appropriateness from the Historic District Commission
14 (HDC) under Section 10.630, in addition to the sign permit issued by the
15 Code Official.

16
17 10.1221.40 Any sign located within a public right of way, including a projecting sign
18 that extends over the public right of way, requires City Council approval
19 and license in accordance with Chapter 8 of the municipal code.

20
21 10.1222 Signs Not Requiring A Permit

22
23 The following signs are permitted without a sign permit and shall not be included in the
24 calculation for aggregate signage on a lot:

25
26 10.1222.10 Signs required, or deemed necessary for the public welfare and safety, by a
27 municipal, state or federal agency, such as traffic control devices

28
29 10.1222.20 Signs with a sign area up to 4 square feet containing only content of a
30 general directive or informational nature such as the following:

- 31
32 (a) Identifying a building address or unit number;
33 (b) Directing or guiding to entrances, exits or parking areas;
34 (c) Identifying handicapped parking, no parking, or loading areas;
35 (d) Identifying or directing to a public service facility or accommodation;
36 (e) Identifying an official inspection station;
37 (f) Notices concerning restrictions on access to private property (e.g., no
38 trespassing, no hunting, etc.).

39
40 12.1222.21 All such signs shall be located so as not to create a traffic
41 safety hazard or to block line of sight from a motor vehicle.

42
43 12.1222.22 A freestanding sign under this provision shall comply with
44 the height standards for freestanding signs in Section
45 10.1223.33.

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12.1222.23 A sign pertaining to public parking in a private parking lot that has been authorized under a permit from the Department of Public Works is exempt regardless of sign area.

10.1222.30 One building identification sign per lot, composed of either (a) unpainted letters carved into, embedded in or embossed on the material of the building wall above the first story with a sign area up to 12 square feet; or (b) a metal plaque affixed to the building wall no more than 5 feet above ground level, with a sign area up to 4 square feet. Such signs are typically used to provide historical information about the building such as the name of the building or the date of its construction.

10.1222.40 Miscellaneous signs mounted on a wall, window or door at a building entrance, provided that (a) there shall be only one group of such signs per entrance; (b) each group of such signs shall not exceed 4 square feet in area (measured as a single sign in accordance with Section 10.1252) and shall be placed within 3 feet of the entrance; (c) no individual sign in the sign group shall exceed one square foot in area; and (d) no letter, character, image or graphic shall be more than 2 inches in height. The intent of this provision is to allow for the provision of information that is not intended to be read from more than 3 feet from the sign, including but not limited to restaurant menus, credit card stickers, hours of operation, owner and contact information, etc.

10.1222.50 Internal signs.

10.1222.60 Illuminated signs more than 3 feet behind any window or opening through which they might be visible from private or public right of way.

10.1222.70 Flags that are either (a) attached to a building or to a pole projecting no more than 6 feet from a building or (b) mounted on a flagpole. These shall be limited in number and size as follows:

10.1222.71 Each lot may have up to 3 flags (free-standing or attached to a building) that are up to 12 sq. ft. in area (per flag) in Sign District 1, up to 24 sq. ft. in Sign Districts 2 and 3, and up to 60 sq. ft. in Sign Districts 4, 5 and 6.

10.1222.72 In addition to the above, each dwelling unit or condominium unit on a lot may have up to one flag not exceeding 6 sq. ft. in area attached to the dwelling unit or condominium unit.

10.1222.80 Signs on registered motor vehicles that are used in the ordinary conduct of a business, but not including signs on vehicles that are parked on, or in view of, a street when the vehicle is not actively being used in the conduct of business.

1 10.1222.90 Low wattage or low voltage temporary decorative lighting and displays
2 used for holidays, festivals and special events, provided they do not pose a
3 safety or nuisance problem due to light trespass or glare.
4

5 10.1223 Temporary Signs 6

7 10.1223.10 The following temporary signs are allowed without a sign permit and
8 shall not be included in the calculation for aggregate signage on a lot:
9

10 10.1223.11 One temporary sign placed on a lot while the lot (or a
11 dwelling unit or commercial unit on the lot) is being
12 offered for sale or lease by a real estate agent or through
13 advertising in a local newspaper of general circulation, and
14 for a period of 14 days following the date on which a
15 contract of sale or lease has been executed.
16

17 10.1223.12 Temporary signs placed on a lot that is under active
18 development, to be removed within 14 days after issuance of
19 the first certificate of occupancy.
20

21 10.1223.13 Temporary signs placed on a lot for a period of 120 days
22 prior to, and 14 days after, an election ~~involving candidates
23 for a federal, state or local office that represents the district
24 in which the lot is located.~~
25

26 10.1223.14 Temporary signs with the following square footage or less:

27	<u>Sign District 1 or 2</u>	<u>6 sq. ft.</u>
28	<u>Sign District 3</u>	<u>16 sq. ft.</u>
29	<u>Sign District 4, 5 or 6</u>	<u>32 sq. ft.</u>

30
31
32
33 10.1223.20 The following temporary signs are allowed with the issuance of a sign
34 permit:
35

36 10.1223.21 One temporary sign placed on a lot for more than 90 days
37 while the lot (or a dwelling unit or commercial unit on the
38 lot) is being offered for sale or lease.
39

40 10.1223.22 Temporary signs placed on a lot that is under active
41 development for more than 14 days after issuance of the first
42 certificate of occupancy, but not to exceed 60 days after the
43 issuance of said certificate.
44

45 10.1223.30 The following provisions apply to all temporary signs whether requiring
46 a sign permit or allowed without a permit:
47

48 10.1223.31 The maximum sign area of a temporary sign allowed by
49 this section shall be as follows:
50

Sign District 1 or 2	166 sq. ft.
Sign District 3	3216 sq. ft.
Sign District 4, 5 or 6	3264 sq. ft.

10.1223.32 The maximum height of a temporary freestanding sign shall be as follows:

Sign District 1, 2 or 3	4 ft.
Sign District 4, 5 or 6	12 ft.

10.1223.33 A temporary freestanding sign shall comply with the required setback for the applicable sign district as set forth in Section 10.1253. In Sign District 1 a temporary freestanding sign shall be set back at least 7 feet from any lot line.

~~10.1223.35 Temporary signs shall not be illuminated in any way.~~

10.1223.36 A property owner may not accept a fee for posting or maintaining a temporary sign allowed by this Section 10.1223, and any sign that is posted or maintained in violation of this provision is not authorized.

10.1223.40 Special Event Signs

In addition to other permanent and temporary signs allowed by this Article, one sign may be placed on a lot immediately preceding and during a special event on that lot, subject to the following conditions:

10.1223.41 A sign permit for the special event sign shall be obtained from the Code Official. Only one permit for a special event sign shall be issued for a lot in any 3-month period.

10.1223.42 A lot may have one special event sign for one consecutive 7-day period every 3 months, for a maximum of 4 special event signs per year. If a special event sign permit is not used in one quarter it shall not be carried over to the next quarter.

10.1223.43 The special event sign shall not be limited to size or location, but shall not be placed in such a manner as to create a traffic safety problem.

10.1223.44 The special event sign shall be removed at the end of the event.

1 **10.1224 Signs Prohibited in All Districts**

2
3 The following signs are prohibited in all sign districts:

- 4
5 10.1224.10 Animated signs.
- 6
7 10.1224.20 Signs that move or flash, or give the appearance of such motion (for
8 example, by means of traveling lights). Beacons, rotating and flashing
9 lights are prohibited except where such lighting devices are deemed
10 necessary for the public safety and welfare by federal, state or municipal
11 authorities.
- 12
13 10.1224.30 Banners, pennants or flags (except as permitted by Section 10.1222.70)
14 which are signs under the definition of “sign” herein.
- 15
16 10.1224.40 Balloons or other inflated devices displayed more than one day per month.
- 17
18 10.1224.50 Mobile signs.
- 19
20 10.1224.60 Signs mounted, attached or painted on vehicles, trailers or boats, except as
21 permitted by Section 10.1222.90.
- 22
23 10.1224.70 Any sign emitting sound.
- 24
25 10.1224.80 Any sign projected via illumination on the exterior of any structure, or
26 on or above a surface such as a driveway, sidewalk or street, regardless
27 of the technology used to project the sign. This prohibition shall not apply
28 where the structure or surface on which the sign is projected is within the
29 same lot as the principal use to which the sign is accessory.
- 30
31 10.1224.90 Any sign advertising a product or service not provided on the lot on which
32 the sign is located (“off-premise sign”).

33 **10.1225 Maintenance of Signs**

- 34
35 10.1225.10 All signs and sign structures shall be properly maintained and kept in a
36 neat and proper state of maintenance and appearance.
- 37
38 10.1225.20 Any sign of any type and located within any district which is found by the
39 Code Official to be in a state of disrepair, illegible or dangerous, shall be
40 repaired or removed.
- 41
42 10.1225.30 Upon failure to comply with an order to repair or remove a sign within
43 thirty days, the Code Official is authorized to cause removal of the sign at
44 the expense of the owner of the property on which the sign is located.

45
46 **Section 10.1230 Sign Districts**

- 47 10.1231 The City is hereby divided into sign districts for the purpose of establishing
48 standards for the number, type, size, location and illumination of signs.

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These sign districts are overlay districts. A property shall be subject to the regulations of both the sign district and the underlying zoning district.

10.1232 Unless otherwise specified by ordinance, the sign districts shall correspond to underlying zoning districts as follows:

Sign Districts	Underlying Zoning Districts
Sign District 1	All Rural and Residential Districts Natural Resource Protection
Sign District 2	Mixed Residential Office Mixed Residential Business Waterfront Business Character District 4-L1 Character District 4-L2
Sign District 3	Character District 4-W Character District 4 Character District 5
Sign District 4	Business Office Research
Sign District 5	General Business Gateway Neighborhood Mixed-Use Corridor Gateway Neighborhood Mixed-Use Center
Sign District 6	Industrial Waterfront Industrial Airport Districts

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10.1233 In order to address the characteristics of a specific area or its surroundings, an area may be changed to a different sign district than specified in Section 10.1232 following the same procedures as for a change in the underlying zoning district. (For example, a portion of the General Business district may be changed from Sign District 5 to Sign District 2 in order to protect an adjacent neighborhood from excessive light.)

10.1234 Any sign not specifically allowed in a sign district is not permitted.

1 **Section 10.1240 Permitted Sign Types**

2 10.1241 The types of signs permitted in each sign district shall be as set forth in
 3 the following table, except as otherwise provided herein.

4 **Table of Permitted Sign Types**

	Sign District					
	1	2	3	4	5	6
Freestanding sign	N	P	P	P	P	P
Wall sign	P	P	P	P	P	P
Projecting sign	P	P	P	P	P	P
Parapet sign	N	N	N	N	P	P
Roof sign	N	N	N	N	P	P
Awning sign	N	P	P	P	P	P
Marquee sign	N	P	P	P	P	P
Canopy sign	N	N	N	P	P	P
Changeable or animated signs						
Animated sign	N	N	N	N	N	N
Changeable sign	N	P	P	P	P	P

P = Permitted N = Prohibited

5
 6 10.1242 Each side of a building facing a street may have one parapet sign (if
 7 permitted by Section 10.1241) or one wall sign above the ground floor.

8
 9 10.1243 Only one freestanding sign shall be permitted per lot, except that a lot
 10 with more than one driveway may have one freestanding sign at the
 11 site's primary driveway and one smaller freestanding sign at each
 12 additional driveway complying with the area and height standards in
 13 Section 10.1251.30.

14 **Section 10.1250 Sign Dimensional Standards**

15 **10.1251 Sign Area**

16 10.1251.10 The maximum aggregate sign area shall be as follows:

	Sign District					
	1	2	3	4	5	6
Per linear foot of building frontage per establishment	0.5	1.0	2.0	1.5	1.5	2.0

10.1251.20 The maximum sign area for individual signs shall be as follows:

	Sign District					
	1	2	3	4	5	6
Freestanding sign	n/a	20	20	100	100	150
Wall sign	4	16	40	200	200	100
Projecting sign						
Ground floor use	2	16	12	16	16	16
Upper-floor use	n/a	0	8	8	8	8
Parapet sign	n/a	n/a	n/a	n/a	100	150
Roof sign	n/a	n/a	n/a	n/a	200	100
Awning sign	n/a	16	20	20	20	20
Marquee sign	n/a	16	20	20	20	20
Canopy sign	n/a	n/a	n/a	20	20	20

All dimensions in square feet

n/a = not applicable (sign type not permitted)
n.r = no requirement

10.1251.30 When a lot has more than one freestanding sign, the freestanding sign at the site's primary driveway shall comply with the maximum sign area specified in Section 10.1251.20 and the maximum sign height specified in Section 10.1253.10; and the freestanding signs at other driveways shall comply with the following standards:

Sign District	On same street as primary driveway		On different street from primary driveway	
	Maximum Sign Area	Maximum Sign Height	Maximum Sign Area	Maximum Sign Height
2	10 sq. ft.	5 ft.	10 sq. ft.	5 ft.
3	10 sq. ft.	5 ft.	20 sq. ft.	5 ft.
4	20 sq. ft.	12 ft.	40 sq. ft.	12 ft.
5	40 sq. ft.	12 ft.	75 sq. ft.	15 ft.
6	40 sq. ft.	12 ft.	75 sq. ft.	15 ft.

10.1251.40 A sign projected via illumination on the exterior of a structure, or on or above a surface such as a driveway, sidewalk or street, shall comply with the sign area requirements for a wall sign.

10.1252 Measurement of Sign Area

10.1252.10 Sign area shall be measured in one of the following ways, at the applicant's discretion:

- (a) the area that can be enclosed by one polygon with no more than eight sides; or
- (b) the area that can be enclosed by a circle, oval, triangle or rectangle, or any two such shapes.

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10.1252.20 The sign area of a freestanding sign shall include all structural supports whether or not they contribute through shape, color or otherwise to the sign's message, except as follows:

10.1252.21 The base of a monument sign, up to one foot above the ground, shall not be included in the computation of sign area provided that such base is not illuminated in any way.



Height of base is less than one foot – Not included in sign area



Height of base is one foot – Not included in sign area



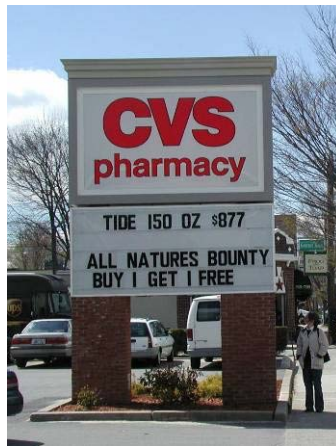
Height of base is greater than one foot – Included in sign area

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10.1252.22 The vertical supports of a pole sign shall not be included in the computation of sign area, provided that (1) the total width of all such supports is less than one-third of the width of the sign, and (2) the supports are not illuminated in any way.



Total width of supports is less than 1/3 of the width of the sign – Not included in sign area



Total width of supports is greater than 1/3 of the width of the sign – Included in sign area



Width of support is greater than 1/3 of the width of the sign – Included in sign area



Width of support is approximately 1/3 of the width of the sign

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- 10.1252.30 For a sign that is painted or engraved on, or otherwise applied directly to, a building or other structure, the sign area shall include any background of a different color, material or appearance from the remainder of the wall or structure, and shall include all related text, images and graphics.
- 10.1252.40 The sign area of a canopy sign shall include all text and symbols, whether or not illuminated, and all illuminated areas; but shall not include non-illuminated areas that are distinguished from the background only by color stripes.
- 10.1252.50 The sign area of a projecting sign shall not include the area of supporting brackets with no text, images or graphics.
- 10.1252.60 Where a sign has two faces that are parallel or where the interior angle formed by the faces is 45 degrees or less, only one display space shall be measured in computing total sign area.
- 10.1252.70 The sign area of a spherical, free-form, sculptural or otherwise non-planar sign shall be equal to 75 percent of the areas of the 4 vertical sides of the smallest rectangular box that will encompass the sign.
- 10.1252.80 Decorative lighting on a building or structure, including neon and other accent lighting, and any illuminated building panel, shall be considered a wall sign for the purposes of this section, and shall be counted as part of the aggregate sign area allowed.

1 10.1253 Sign Height and Setback
 2

3 10.1253.10 The maximum and minimum heights and minimum setbacks for signs in
 4 each sign district shall be as set forth in the following table, except as
 5 otherwise provided herein.

6 **Table of Sign Height and Setback Requirements**

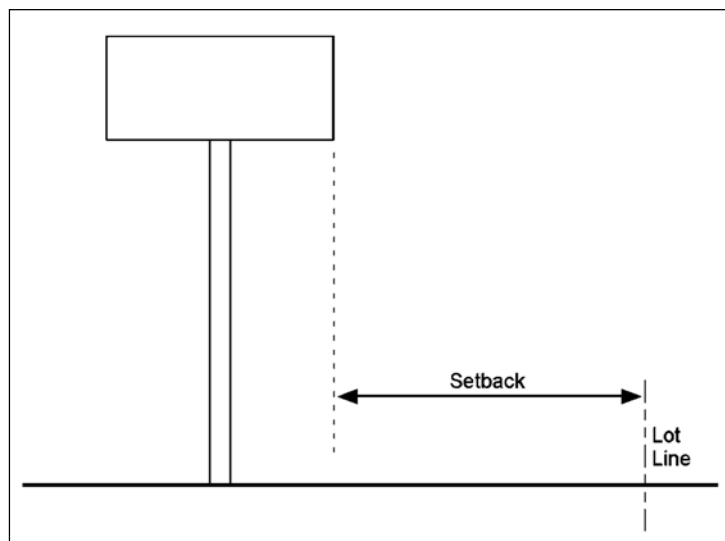
	Sign District					
	1	2	3	4	5	6
Projecting sign						
Minimum clearance (ground to bottom of sign)	7	7	7	7	7	7
Freestanding sign						
Minimum setback from lot line	n/a	5	5	20	10	20
Maximum height (ground to top of sign)	n/a	7	12	20	20	20

7 All dimensions in feet n/a = not applicable (sign type not permitted)
 8

9 10.1253.20 Where a driveway intersects with a street, no sign shall be erected or
 10 maintained between the heights of 2.5 feet and 10 feet above the edge of
 11 pavement grades within the area bounded by (a) the side lines of the
 12 driveway and street and (b) lines joining points along said side lines 20
 13 feet from the point of intersection.
 14

15 10.1253.30 The height of a freestanding sign shall be measured with respect to the
 16 elevation of the centerline of the adjacent public right-of-way.
 17

18 10.1253.40 The setback of a sign from a lot line shall be measured as the shortest
 19 horizontal distance from the lot line to the any part of the sign, whether or
 20 not such part of the sign is at ground level.
 21



10.1253.50 A projecting sign shall project no closer than 1 foot to the edge of the vehicular travel way, if any.

Section 10.1260 Sign Illumination

10.1261 Types of Illumination

10.1261.10 Signs may only be illuminated as set forth in the following table, except as otherwise provided herein.

Table of Sign Illumination Requirements

	Sign District					
	1	2	3	4	5	6
External illumination	N	P	P	P	P	P
Halo lettering	N	P	P	P	P	P
Internal illumination						
Freestanding sign	N	P	N	P	P	P
Wall sign	N	P	P	P	P	P
Projecting sign	N	N	N	N	N	N
Parapet sign	n/a	N	N	N	P	P
Roof sign	n/a	N	N	N	P	P
Awning sign	n/a	N	P	N	P	P
Marquee sign	n/a	N	P	N	P	N
Canopy sign	n/a	n/a	n/a	P	P	P
Direct illumination	N	N	P	P	P	P

P = Permitted N = Prohibited n/a = not applicable (sign type not permitted)

10.1261.20 Temporary signs shall not be illuminated.

10.1261.30 Signs in the Historic District shall be illuminated only by external illumination, notwithstanding anything to the contrary in Section 10.1261.

10.1262 Hours of Illumination

Signs shall not be illuminated between 11:00 p.m. and 6:00 a.m., except that signs may be illuminated during the operation of a use or activity that is open to customers or the public, and for not more than one hour after the activity ceases.

10.1263 Illumination Standards

10.1263.10 A light source for external illumination of a sign shall be mounted and shielded so that said light source is not visible three feet above grade at the lot line and so that the lighting is confined to the area of the sign.

10.1263.20 A light source for internal illumination of a sign constructed of translucent materials and wholly illuminated from within shall not require shielding.

- 1 10.1263.30 A sign or its illuminator shall not by reason of its location, shape or color
2 interfere with pedestrian or vehicular traffic or be confused with or obstruct
3 the view or effectiveness of any official traffic signal or traffic marking.
4
- 5 10.1263.40 Illuminance of the sign face shall not exceed the following standards:
6
- 7 10.1263.41 External illumination: 50 foot-candles as measured on the
8 sign face.
9
- 10 10.1263.42 Internal illumination: 5,000 nits (candelas per square
11 meter) during daylight hours, and 500 nits between dusk and
12 dawn, as measured at the sign's face.
13
- 14 10.1263.43 Direct illumination: 5,000 nits during daylight hours, and
15 500 nits between dusk and dawn, as measured at the sign's
16 face.
17
- 18 10.1263.50 Light sources shall utilize energy efficient fixtures to the greatest extent
19 practicable. Light fixtures including bulbs or tubes used for sign
20 illumination shall be selected and positioned to achieve the desired
21 brightness of the sign with the minimum possible wattage, while ensuring
22 compliance with all applicable requirements of this Ordinance.
23
- 24 10.1263.60 A sign using direct illumination shall consist only of letters, numbers
25 and other common typographical characters, all of which shall be in no
26 more than three colors against a dark background, and the total illuminated
27 area shall not exceed 30 percent of the total area of the sign.
28

29 Section 10.1270 Additional Sign Regulations

30 10.1271 Signs on More Than One Façade of a Building

- 31 10.1271.10 A use in a building with more than one exterior wall facing a street may
32 have signs on each such wall.
33
- 34 10.1271.20 An establishment with a public entrance on a side of the building not
35 facing a street may have signs on that side as well as on the street-facing
36 wall(s).
37
- 38 10.1271.30 Regardless of the location of signs, the maximum sign area per
39 establishment shall be based only on the building frontage as defined in
40 Section 10.1290.
41

42 10.1272 Roof Signs

- 43 10.1272.10 A roof sign shall be parallel to the main façade of the building on which it
44 is mounted,
45
46
47

1 10.1272.20 A roof sign on a pitched, hip, gambrel or mansard roof shall not extend
2 above the elevation midway between the level of the eaves and the highest
3 point of the roof. A roof sign is not permitted on a flat roof.
4

5 10.1272.30 The maximum height of a roof sign shall not exceed the lesser of 36
6 inches or 25% of the vertical height of the roof.
7

8 10.1273 Marquee Signs 9

10 10.1273.10 All text, images and other graphics on a marquee sign shall be displayed
11 on the outside vertical faces of the marquee, and shall be no more than 1.5
12 feet tall.
13

14 10.1273.20 The sign area of a marquee sign shall be included in the maximum
15 aggregate sign area allowed for the lot.
16

17 10.1274 Relation of Sign to Building Façade in the Historic District 18

19 In the Historic District, a wall sign or projecting sign should align with some
20 horizontal element on the façade. For example, the top of the sign may align with the top
21 of the window, the bottom of the sign may align with the bottom of the window, the
22 bottom of sign may align with the top of the lintel, etc.
23

24 10.1275 Interim Signs 25

26 An interim sign may be erected while awaiting arrival of a permanent sign for which a
27 sign permit has been issued. -The interim sign shall conform to the same dimensional
28 and other requirements as the approved permanent sign and shall be allowed only until
29 the permanent sign is installed or for 60 days, whichever is the shorter period of time. A
30 sign permit for an interim sign must be obtained from the Code Official.
31

32 Section 10.1280 Nonconforming Signs

33 10.1281 A nonconforming sign or sign structure shall be brought into
34 conformity with this Ordinance if it is altered, reconstructed, replaced, or
35 relocated. For the purpose of this provision, the alteration of a sign or sign
36 structure includes any change in size, shape, materials or technology. A
37 change in text or graphics is not an alteration or replacement for purposes
38 of this subsection.
39

40 10.1282 Nonconforming signs must be maintained in good condition.
41 Maintenance required by this Subsection shall include replacing or
42 repairing of worn or damaged parts of a sign or sign structure in order to
43 return it to its original state, and is not a change or modification prohibited
44 by Subsection 10.1281.
45

46 10.1283 A nonconforming sign shall be removed, made conforming, or replaced
47 with a conforming sign if 50 percent or more of the nonconforming sign

1 is blown down, destroyed, or for any reason or by any means taken down,
2 altered, or removed.

3
4 10.1284 A nonconforming sign shall be removed if the use of the
5 nonconforming sign, or the property on which it is located, has ceased,
6 become vacant, or been unoccupied for a continuous period of 8 months or
7 more. An intent to abandon is not required as the basis for removal under
8 this section.
9

10 Section 10.1290 Sign Definitions

11 Aggregate sign area
12 See under sign area.

13
14 Animated sign
15 A sign that uses movement or a change of lighting to depict action or create a
16 special effect or scene. See also changeable sign.

17
18 Awning
19 A cloth, plastic or other nonstructural covering that either is permanently
20 attached to a building or can be raised or retracted to a position against the
21 building when not in use.

22
23 Awning sign
24 A sign that is painted on or otherwise applied or attached to an awning. An
25 internally illuminated awning shall be considered an awning sign whether or
26 not it contains any text or graphics.

27
28 Banner sign or banner
29 A sign that consists of text or other graphic elements on a non-rigid material
30 either enclosed or not enclosed in a rigid frame and secured or mounted to allow
31 motion caused by the atmosphere. See also temporary sign.

32
33 Building frontage
34 The maximum horizontal width of the ground floor of a building that
35 approximately parallels and faces a public street or right of way.
36 (a) Where an individual occupant's main entrance faces a driveway or parking
37 lot, the width of the occupant's ground floor space facing the occupant's
38 entrance shall be considered that occupant's separate and distinct building
39 frontage.
40 (b) Where two or more uses occupy the ground floor of a building, the portion
41 of the building frontage occupied by each use will be that use's separate
42 and distinct building frontage for the purpose of calculating allowed sign
43 area.
44 (c) A corner lot or through lot shall be considered to have a separate and
45 distinct building frontage on each street.
46 (d) When a building is not parallel to the street, or has a front wall that is
47 angled or curved, the building frontage shall include any portion of the
48 front wall that is oriented at an angle of 30 degrees or less from the front lot
49 line.

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Canopy
A freestanding structure constructed of rigid materials, providing protective cover over an outside service area.

Canopy sign
A sign attached to, affixed to or otherwise mounted on a canopy.

Changeable sign
A sign or portion thereof with characters, letters or symbols that can be changed, whether electronically or manually without altering the face or surface of the sign. A sign on which the message changes more than once per day shall be regulated as an animated sign. A sign on which the only changes are mechanical or electronic indication of time or temperature is not considered a changeable or animated sign.

Direct illumination
Illumination of a sign by light emitted directly from a lamp, luminary or reflector, and not diffused through translucent materials or reflected or projected from an external source. Examples include, but are not limited to, signs using luminous gas-filled tubes (e.g., neon) or light-emitting diodes (LED). (See also external illumination, externally illuminated sign, internal illumination, internally illuminated sign.)

External illumination
Illumination of a sign by a source of light not contained within, or on the surface of, the sign itself. (See also direct illumination, externally illuminated sign, internal illumination, internally illuminated sign.)

Externally illuminated sign
A sign that is illuminated by a light source that is not contained within, or on the surface of, the sign itself

Flag
A piece of durable fabric or other flexible material containing distinctive colors, patterns, standards, words, or emblems which hangs loose from a staff or pole or is attached directly to a building.

Flagpole
A permanent, free-standing structure or a structure attached to a building and used for the sole purpose of displaying flags. A free-standing flagpole shall not exceed the maximum building height allowed in the zoning district in which it is located.

Freestanding sign
A sign that is permanently erected in a fixed location and supported by 1 or more columns, upright poles or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building, structure, or other sign. Examples include, but are not limited to, monument signs and pole signs.

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Halo lettering.

An externally illuminated sign in which light sources are placed out of direct view behind opaque sign elements (letters or graphics), creating a glow around the sign elements.

Halo Lettering



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Internal sign

A sign that is not intended to be viewed from outside the property, and that is located so as not to be visible from any street or from any adjacent lot. Examples include, but are not limited to, signs in the interior areas of shopping centers, non-illuminated signs inside a building and more than 3 feet inside any window or door, and signs located completely within a building and not visible from outside the building.

16
17

Internal illumination

Illumination of a sign by light that is diffused through a translucent material from a source within the sign. (See also direct illumination, external illumination, externally illuminated sign, internally illuminated sign.)

21
22

Internally illuminated sign

A sign that is illuminated by light from a source within the sign through a translucent material. (See also direct illumination, external illumination, externally illuminated sign, internal illumination, halo lettering.)

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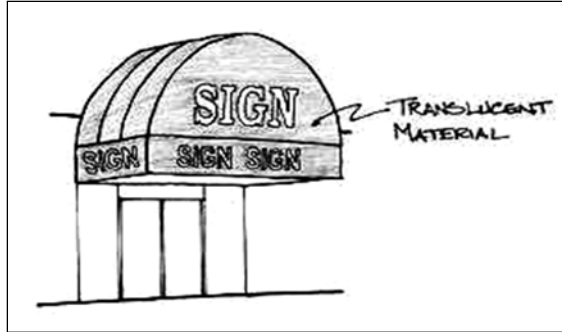
Examples of internally illuminated signs include:

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(a) Internally illuminated translucent sign, which may have opaque surfaces with translucent letters or translucent surfaces with opaque letters. An opaque surface with translucent letters is preferred to a translucent surface with opaque lettering.

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(b) Internally illuminated awning signs.



(c) Internally illuminated channel letters.



Marquee

A structure other than a roof that is attached to, supported by and projecting from a building, and that provides shelter for pedestrians.

Marquee sign

A wall sign that is mounted on or attached to a marquee.

Mobile sign

A sign on a trailer or other wheeled apparatus, whether or not self-propelled, that is not permanently affixed to the ground. (See also: temporary sign.)

Monument sign

A freestanding sign constructed of a solid material and mounted on a solid base that is placed directly on the ground.

Nit

A unit of luminance, equal to one candela per square meter.

Parapet

An extension of a vertical building wall above the line of the structural roof.

Parapet sign

A wall sign attached to the face of a parapet.

Pennant sign or pennant

See banner sign.

Parapet sign

A sign attached to a parapet wall, with its face parallel to the plane of the parapet wall and extending no more than 18 inches from such wall.

1 Pole sign

2 A freestanding sign that is permanently supported in a fixed location by a
3 structure of poles, uprights or braces from the ground and not supported by a
4 building or base structure.
5

6 Projecting sign

7 A sign attached to and projecting from the wall of a building with the face of the
8 sign at an interior angle of more than 45 degrees to the building wall to which it
9 is attached.
10

11 Roof sign

12 A sign that is located:
13 (a) above the level of the eaves on pitched or gambrel roofs;
14 (b) above the roof deck of a building with a flat roof; or
15 (c) above the top of the vertical wall of a building with a mansard roof.
16

17 Sign

18 Any symbol, design or device used to identify or advertise any place, business,
19 product, activity, service, person, idea or statement. Any representation that is
20 illuminated and consisting wholly or in part, of text, images or graphics shall be
21 considered a sign. Signs need not include text, and may consist of stripes, spots,
22 or other recognizable designs, shapes or colors. Displays comprising of
23 merchandise, figurines, mannequins, decorations and other similar articles,
24 arranged inside a building and visible outside of a window, shall not be
25 considered a sign.
26

27 Sign area

28 The total surface area of a sign display, including all text, images and graphics,
29 and any distinctive surface, board, frame or shape on or within which the text,
30 images and graphics are displayed. For a double-sided sign, the sign area shall
31 be calculated to be the total surface area of one side of the sign.
32

33 Aggregate sign area

34 The total sign area of all signs on a lot or building, as indicated by the
35 context, excluding the area of freestanding signs allowed by Article
36 12.
37

38 Sign band

39 A painted stripe or otherwise distinct scheme which indicates the
40 establishment's logo by use of certain colors or patterns.
41

42 Temporary sign

43 A sign, other than a mobile sign, that is not permanently affixed to a building
44 or structure or permanently mounted in the ground, ~~and that pertains to an~~
45 ~~activity or event of limited duration.~~ (See also mobile sign.)
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Wall sign

A sign attached to, erected against or hanging from the wall of a building, with the face in a parallel plane to the plane of the building wall, and extending no more than 18 inches from such wall. A wall sign may also be inside of a building if it is illuminated and visible through the window from a private of public right of way.

M E M O R A N D U M

TO: John Bohenko, City Manager

FROM: Juliet T. H. Walker, Planning Director *JTW*

DATE: January 24, 2019

RE: City Council Referral – Projecting Sign
Address: 128 Penhallow Street
Business Name: Pink Bamboo Hot Pot cafe
Business Owner: Shi Bo Lin, LLC

Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 25" x 40"
Sign area: 7 sq. ft.

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 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 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 license
128 Penhallow Street**

PROPOSED: 1-23-19
Customer: Pink Bamboo
Job: Projecting Sign

Type: Projecting sign

Quantity: 1

Size: 40" w X 25" h

Sides: DS

Style: Digital print w/ laminate

Substrate: 3/4" PVC Komacel

Posts & Brackets: Existing Bracket

Colors: X



89 Oak Street Dover, NH 03820 • 603-742-1517

This is an original, unpublished drawing owned by Sundance Sign Company. This drawing is projected under the U.S. Copyright laws. It is being submitted for your viewing only, and is not to be shown to anyone outside of your organization. Any use, reproduction, copying or exhibiting this drawing without express written consent of Sundance Sign Company will constitute your agreement to incur all expenses involved with the creation of this drawing, and all legal costs to acquire those costs if required.

I have verified the accuracy of all graphics shown with respect to sizes and content. The specifications are correct and represent our order requirements exactly. I authorize release to production according to this approval submittal.

Customer Approval _____

Date: _____

MEMORANDUM

TO: John Bohenko, City Manager

FROM: Juliet T. H. Walker, Planning Director *JTW*

DATE: January 29, 2019

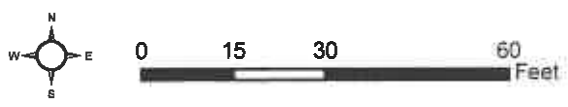
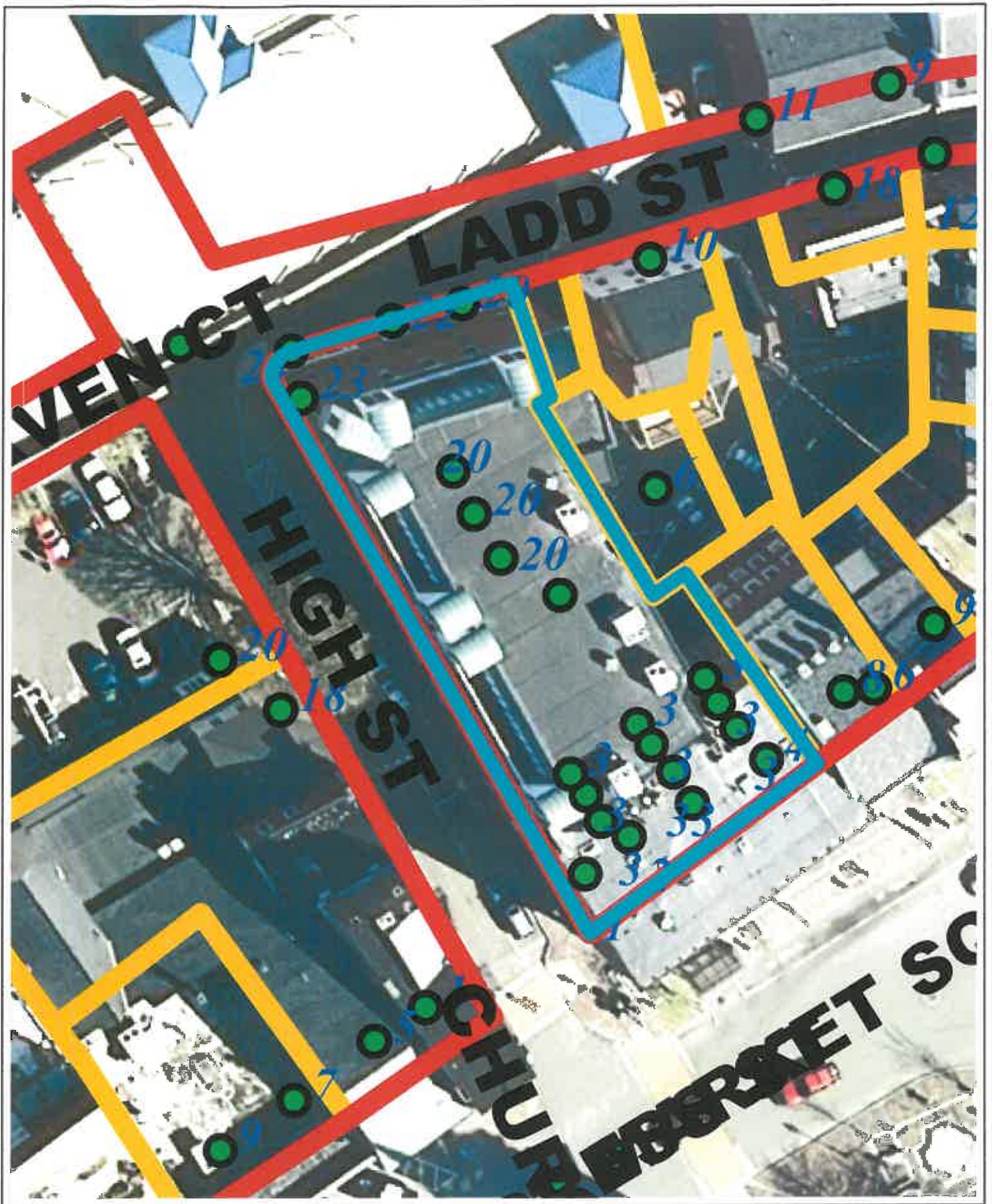
RE: City Council Referral – Projecting Sign
Address: 23 High Street, Unit C
Business Name: Finn Wealth Advisors
Business Owner: Justin Finn

Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 35.5" x 48"
Sign area: 12 sq. ft.

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 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 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 license
23 High Street, Unit C



Bracket

180" From Ground

48" x 35.5"
QTY: 1

144" From Ground

Bottom of
Sign

PROOF 02

CLIENT
Finn Wealth Advisors
PROJECT
New Location Sign
DATE
January 24, 2019



It is the responsibility of the client to ensure that the proof is correct in all areas. Please be sure to carefully double-check all spelling, grammar, layout and design before approving artwork. If a proof containing errors is approved by the client, the client is responsible for payment of the original production including corrections and reprints. The client is 100% responsible for approvals of Copyright, Trademarks and Licensing Agreements of artwork. Please note the color on your monitor may not be representative of the printed piece. All artwork must be approved by the client through electronic means before a job can be entered into production.

January 16, 2019

received
1-22-19

The Honorable Jack Blalock, Mayor of Portsmouth
and Members of the Portsmouth City Council
1 Junkins Avenue
Portsmouth, NH 03810

Dear Mayor Blalock and Members of the City Council,

On behalf of the Alzheimer's Association, I would like to re-submit for the Agenda a proposed date for the 2019 Annual Seacoast Walk to End Alzheimer's. Last September's Walk began and ended at the Little Harbour School on Sunday, September 23, 2018. This year we would like to hold the event on Sunday, September 22, 2019 at the Little Harbour School. The route and the agenda of the day will be the same as last year. We understand the stress that such events can have on the surrounding community and assure you that the Alzheimer's Association is cognizant of your concerns and committed to upholding the standards of years past.

We offer three route options for participants, enclosed please find a copy of the route maps. We are planning to use the same route as last year, but are flexible pending any construction changes or issues that may arise. We will plan on engaging the help of the Portsmouth Police, as last year we hired a police detail to be on site and at route crossings. The Walk will take place on the sidewalks through the city to minimize the impact on traffic. We understand what it means to be a good neighbor in the community and will be mindful of the residents of the City of Portsmouth as we raise awareness and funds for a critical cause.

We are expecting approximately 1,000 participants at this event, our premier fundraising and awareness event for the Alzheimer's Association in the Seacoast area. Additionally, we will have about 60 combined volunteer and staff on site.

The Walk site opens at 8:30AM for registration, the Walk itself kicks off at 10AM, and we are cleaned up and off the premises by 1PM.

We look forward to working with you. Please feel free to reach out with any questions.

Sincerely,


Kate Corriveau
NH Development Officer
kcorriveau@alz.org
617-393-2151

USA Topo World Topo Map

DISTANCE 1.2 MI



1.2 Mile



Stay on walkway thru Veterans Memorial park

Water Station
Islington/Summer

Start/End
Little Harbour School
50 Clough Dr.
Portsmouth

3.2 Mile

CITY COUNCIL E-MAILS

January 23, 2019 – January 31, 2019 (9:00 a.m.)

FEBRUARY 4, 2019 CITY COUNCIL MEETING

UPDATED 02/04/2019 THROUGH 3:00 PM

New content begins Page 5

Below is the result of your feedback form. It was submitted by Kirsten Cunningham (kcunningham@ca-ins.com) on Wednesday, January 23, 2019 at 13:15:44

address: 195 Washington St

comments: Good afternoon,

First, I would like to thank each of you for your time. I appreciate that the NPP has been tabled pending further review and amendments.

Second, I learned a great deal about the program and its effects on our city, and our neighborhood (specifically the South End).

Third, I understand now that the Committee Members were responsible for relaying the specifics of the program during its development. My frustration is that neither my husband nor I received any information beyond the initial petition. Further, we did not receive any flyer on our door. After speaking with other Washington St. residents, I learned that they had not received notification of any kind as well.

Fourth, I learned that Washington St was originally included only to be removed from the NPP at some later date. I certainly did not sign up for this.

Fifth, while I am just as frustrated about the lack of available parking near my home at times, I cannot support the NPP as currently proposed. It is too complex, and intrusive. and I am concerned about the lack of financial analysis.

In summary, if the NPP pilot is to move forward, I would like to see Washington St residents included. I would also like to see the other amendments discussed in place as well. Lastly, as a taxpayer, I feel more due diligence is required to determine the true financial burden of this program and how it will impact the overall budget.

Thank you.

Kirsten Cunningham

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Tristan K Law (tristanklaw@gmail.com) on Wednesday, January 23, 2019 at 20:18:07

address: 55 Atkinson

comments: Greetings and kind salutations,

While I'm sure seeing 'McIntyre' in the subject line thrills you to no end, I promise I'll keep my little note drab and prosaic. Thanks for taking the time to read my inchoate ramblings.

Firstly, I want to thank you for your thoroughness and candor throughout this process, the responses that I've seen and read have come from a place of deep thought and care. Thank you.

An opportunity such as the repurposing of the McIntyre building gifted upon a municipality is a once in a generation if not multi-generation opportunity and I hope the result is one that matches the moment. I see the appeal of the current proposal, and also the merit of those who'd like to revisit the project. Here's my take on a few articles under contentions.

POST OFFICE: I like the Post Office. My PO Box is there, I check it daily. The staff is excellent, and even when they're not in the best mood- I get it; can you imagine dealing with hundreds of people a day who think it's a waste of their precious time to see you? When I have to wait in line, it's okay; I usually run into somebody I know or have the opportunity to meet somebody I don't and ask how their day is and what their story is. The small parking lot doesn't affect me because I live in town and walk there. I think, however, the essential essence that we risk losing is an anchor. In a city that's changing quickly, the Post Office remains a place where you can go and get some shit done and probably run into someone you know, and complain about how fast things are changing. It's a topic for another time, but being able to send and receive mail remains one of the few chores I can do without getting in a car, which, to my thinking, is the reason for living in a city in the first place.

PARKING: Honestly, and excuse my French, but fuck more parking. There's too much parking in this city as it is, and putting down the tarmac to provide more is doing nobody a favor, now or in the future. I'd write another letter about parking in general, but that's all I need to say about that.

RESIDENTIAL: Yup, we need more housing stock, that goes without question. Is the McIntyre the place to develop? Maybe, but I'd like to see that in conjunction with other city managed housing projects. Understanding RSA 72:23 I (b) and the HSP program allays some fears of private development, but still, it's hard to imagine those being developed as anything less than luxury units, perhaps even condos. Upon which, I think, the mob would convene. Forgive me for being a skeptic in any private partnership.

GREEN: We're going %100 green with this, yeh?

PUBLIC SPACE: %100. This is, what I believe, this place is destined for. I for one, don't think we can have enough green space, but Prescott Park is close enough, I guess. But let's keep it open for the people! Let's have the farmers market there! Let's have theatrical productions. Let's have public art. Let's have a fountain park (limited use I know, but how neat when we can use it?). Let's (the city) rent space out to food trucks and pop up shops that have wonderful products but are just starting out and don't have the bankroll to get a brick and mortar spot downtown. Let's partner with UNH or GBCC or both to have an urban campus where they can offer classes on sustainable development or welding or community organizing or teaching or city planning or coastal rehabilitation so we can have workers learn and stay here and have rent or buy and have a family and make and keep it the greatest little city in the world.

This project should be an everlasting monument to our community.

Thanks for taking the time.

Your faithful resident,

Tristan Kyle Law

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Erik Anderson (andy42152@aol.com) on Thursday, January 24, 2019 at 08:26:14

address: 38 Georges Terrace

comments: Dear Councilors

As I tried to convey my concerns in public comment with regards to the contract with that you passed at the past council meeting I would like to still focus on the subject with this message.

- 1) There was no intended malice to the Deputy City Manager Colbert Puff. She is doing in opinion as good a job as capable with the tasks assigned.
- 2) Her contract was within the terms of the Professional Management Association guidelines.
- 3) The matter at hand with my comments was the length of the contract (5 years) versus a lessor time.
- 4) With that 5 year term the councils decision binds the city to that term and restricts any future council to address it either for the benefit of the city or the employee if circumstances during that 5 year term changes in any manner. That RESTRICTION in opinion should be the concern of you as present councilors or those that might be within the next 5 years.
- 5) For a point of distinction it is not a gender issue.
- 6) It also sets a president for oncoming contracts to request the same time frame (5 years) thus again binding the city and future councils who might have concerns to the largest portion of the cities operating budget.
- 7) As it is yet to be revealed what other collective bargaining contracts are unfolding that effect the operating budget, the terms of duration are important to the fiscal concerns of the city and taxpayers.
- 8) Hopefully you as present councilors are sensitive to this matter and take proper action that in opinion, there is obligation to do within your duties.
- 9) Without creating another message I would ask any status of the Goodwin settlement (terms and any monetary settlement) which has not quite fallen out of visibility with the variety of other issues that have arisen..

Thanks you for your time and welcome any reply
Erik Anderson

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Elizabeth Brunelle (Liz.brunelle@gmail.com) on Thursday, January 24, 2019 at 21:51:35

address: 409 Miller Ave

comments: As a Portsmouth resident and frequent visitor of the Strawberry Banke Museum, I feel that the street along the museum should be open to the public for parking. With the increase in tourists, the parking lot is too small to accommodate the number of people visiting Strawberry Banke. Especially on event days. If the street is restricted to residents only, it should be available for all residents of Hanover St.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Robin Normandeau (southendyc@gmail.com) on Tuesday, January 29, 2019 at 09:56:17

address: 15 Pickering Avenue

comments: I have spent a considerable amount of time since your last council meeting trying to understand the changes in the current proposed NPP from the earlier proposals. The changes have been significant and regardless of this "just being a pilot", changes have not been vetted and a handful of self appointed disgruntled residence are making illogical decisions for all of us in the neighborhood.

The original premise of the program was to discourage downtown workers from parking on certain South End streets. I do believe that the pilot should of stayed on that course and kept it simple and easy to enforce. Instead we have a cumbersome and convoluted program that will bring a host of issues.

I would be very happy to discuss my opinion with anyone of you. *(Phone number removed)*
Thank you,
includeInRecords: on

Below is the result of your feedback form. It was submitted by Jonathan Sandberg (Jfsandberg@yahoo.com) on Wednesday, January 30, 2019 at 07:12:57

address: 160 Bartlett Street

comments: I spend a lot of time travelling in Europe and I have noticed that a lot of cities there are increasingly limiting motorized traffic in their downtowns and are having terrific results. It has proven time and again to improve the flow of traffic, safety, and revenue for businesses. I think that Portsmouth's downtown could benefit from a similar approach.

Of course it would be tricky to completely cut off the flow of traffic through the downtown. However, it would be easy to do so on certain blocks. I think that the City should experiment with a pilot project this summer by closing off the block of Pleasant Street from State Street to Congress. This isn't a very radical suggestion since it's already done on some Saturday nights for Summer in the Streets, First Night, Market Square Day, and afternoons for various political rallies such as the Women's March, and March for our Lives. So I'm suggesting that you close that block to vehicular traffic for the whole day Saturdays in the summer. You can collect data and surveys to find out if it does in fact improve business and visitor experience. A few years ago Times Square in New York City was closed permanently to vehicular traffic after experimenting with a pilot project like the one I am recommending. It's a wonderful place to visit now. Portsmouth should follow suit.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Judy Nerbonne (judy@gatesstreet.com) on Wednesday, January 30, 2019 at 10:37:32

address: 189 Gates Street

comments: We are very concerned about the misunderstanding around the pilot parking program for the South End.

Please consider postponing the program until more discussion can take place.

Many thanks,
Judy and Pat Nerbonne

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Bruce B wilson (village@aol.com) on Wednesday, January 30, 2019 at 12:18:01

address: 306 Marcy Street Unit 1

comments: As residents of the South End, Andrea (my wife) and I request that discussion of the HPP be postponed so that we and our neighbors can meet with the Steering Committee.

We would like to thank Doug Roberts for taking the time to meet with us this past Saturday. It was a spirited meeting. Doug recognized our concerns long before the participants stopped expressing them. Doug, thanks!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Richard & Susan Shea (rmsheajr@gmail.com) on Wednesday, January 30, 2019 at 12:34:52

address: 19 Howard Street

comments: Hello Honorable Mayor Blalock, and respected City Councilors. First off, let me thank each and every one of you for all that you do for our city of Portsmouth NH. Your input is valued, even when folks do not agree on all the issues that you review. You all are very passionate about Portsmouth. Please keep up the good work!

I am writing this email to ask that you please consider postponing the vote for the Neighborhood Parking Program until more neighborhood information meetings can be held. At least a postponement until the following month. It has come to my attention that some people need a little more time becoming more informed about this very important program. We all want a neighborhood parking program to work for all Portsmouth residents. Thank you for your consideration, respectfully submitted, Richard and Susan Shea

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Katie Miller (Magjdk@msn.com) on Wednesday, January 30, 2019 at 15:17:31

address: 51 Gardner St.

comments: Please postpone the Feb 4 discussion of the NPP . Many of us have concerns and would like to meet with the steering comm. before the City Council addresses this .

Thank you very much.

includeInRecords: on

Engage: Submit

New Content Begins:

Below is the result of your feedback form. It was submitted by Michael Barker (mbarker@momenta.com) on Thursday, January 31, 2019 at 10:45:25

address: 5 Hancock Street

comments: Hello Councilors,

I am emailing today to reiterate my opposition to the proposed South End NPP. Unfortunately I am traveling next week and can't attend the Council meeting, but appreciate your consideration of my feedback by email.

Before proceeding with a pilot NPP, I believe the Council should request more data showing a need. As discussed at the last Council meeting, the data collected by the City shows utilization at an acceptable level for the South End - and it is my understanding that utilization is even lower now.

I recommend continuing to collect data on utilization to determine if there is a growing issue, but delay implementing a pilot NPP for at least one year. To implement a pilot NPP now would be burdensome for the city and risks creating real issues for residents and businesses without enough data to suggest a problem. Even a pilot program will be very costly to implement and cause unforeseen consequences.

Another important consideration is parking for employees of local businesses. In particular Strawberry Banke Museum, a great neighbor that offers an invaluable service to residents and visitors, would be very negatively impacted by the pilot NPP.

If Council does decide to pursue a pilot NPP in the South End, please consider these suggestions:

1. The 75% threshold should include adjacent neighbors that are not part of the NPP as they will be significantly impacted (e.g., Whidden).
2. The City should manage collecting signatures directly (not use neighborhood reps) to ensure accuracy.
3. Business residents should be included in the survey (to meet the 75% threshold).
4. All residents should be treated equally.

Thanks again for your public service, I know dealing with these issues isn't easy!

Michael Barker
5 Hancock Street

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Elizabeth Dater (oyvey123@comcast.net) on Friday, February 1, 2019 at 10:39:15

address: 29 Pickering St.

comments: To all Councilors:

I am asking the Council to please postpone voting on the Neighborhood Parking Plan at the Feb. 4, 2019 meeting. A number of South End residents are unaware of the NPP due to haphazard notification and many others find the plan perplexing and possibly causing more problems than it would solve. A delay would allow South End residents to meet with the Steering Committee to consider other options.

Thank you for your attention.

Elizabeth Dater
29 Pickering Street, Portsmouth, N

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Michadel Dater (oyvey123@comcast.net) on Friday, February 1, 2019 at 10:44:33

address: 29 Pickering St.

comments: To the city council:

I am asking the council to please postpone the voting on the neighborhood parking program (NPP). As a South End resident I have been insufficiently apprised of the particulars, and what I do know of the program I find baffling, disturbing, and unnecessarily convoluted.

A postponement will allow time for further inquiries and input with he Steering Committee.

Thank you for your consideration in this matter.

Sincerely,

Michael Dater
29 Pickering St
Portsmouth,
NH 03801

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by M.B. Herbert (mbherbert@comcast.net) on Sunday, February 3, 2019 at 15:46:50

address: 112 Gates Street

comments: City Counselors: I urge you to either vote to postpone a vote on the NPP, or allow this plan to be withdrawn. While I believe a Residential Parking Plan would be beneficial in the South End; the Plan currently submitted is not an acceptable solution. The terms of the proposed plan are overly cumbersome, inequitable, and divisive.
Thank you.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Mary Lou McElwain (MI259@comcast.net) on Sunday, February 3, 2019 at 16:00:12

address: 259 South Street

comments: It doesn't make sense that zoning requirement changes that would reduce required spaces for new businesses would be voted on now at a time when two large neighborhoods within 1/2. mile of downtown are requesting NPP because of employee (primarily) parking on their streets. Residents are feeling the brunt of employees of all income brackets seeking free parking . The city must work on this issue . Developers would love to have parking requirements reduced. The domino effect will push vehicles onto more onstreet free space parking. Ancillary lots are always underutilized.
To vote this in without a comprehensive parking plan for downtown employees is a disservice to residents. John Bohenko casually mentioned an on demand transportation service. A pipe dream.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Zachary Slater (zacharyslater1@gmail.com) on Monday, February 4, 2019 at 10:17:48

address: 101 Odiorne Point Road

comments: I still disagree with the NPP as I think it unfairly penalizes Strawberry Banke Museum's guests, staff, and volunteers. I request that Hancock Street be removed from the program, as Hancock street is zoned MRO. If the NPP is adopted, I believe that the cost of the program should be covered by re-assessment of the houses in the zone of the NPP, and their newfound parking boon should be factored into

the value of their properties. This new benefit, exclusively for their useage, clearly increases the marketability, resale value, and therefore assessed values of these dwellings. I know that the neighborhood has pulled back support for this program, and I would appreciate the council doing the same. Thanks!


Thanks so much for your time.

includeInRecords: on

Engage: Submit

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: January 31, 2019
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on February 4, 2019 City Council Agenda

6:00 p.m. City Council Photograph

6:15 p.m. Public Dialogue Session

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Public Hearing Re: Elderly & Disabled Exemptions.**

At the January 22, 2019 City Council meeting, the Council voted to schedule a public hearing regarding the annual City of Portsmouth review of income and asset levels for both the Elderly and Disabled Exemptions and make recommendations as to these levels pursuant to RSA 72:39-b and RSA 72:37-b.

Last year, the City Council adopted resolutions #2-2018 and #3-2018 which increased the income levels for both the elderly and disabled. The current elderly and disabled exemption income levels are \$41,314 for a single taxpayer, \$56,807 for married taxpayers; the current asset limit is \$175,000.

If qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

- Age 65 to 74 \$125,000
- Age 75-79 \$175,000
- Age 80 + \$225,000

If qualified, for disabled taxpayers the exemption off the assessed value of the property is \$100,000.

This year the 2019 increase for Social Security recipients is 2.8%.

If the City Council wishes to adjust the income level for both the elderly and disabled taxpayers by the Social Security cost-of-living increase, this would increase the limits as follows (see attached proposed Resolutions):

- Single \$ 42,471 increase of \$1,157
- Married \$ 58,398 increase of \$1,591

Any adjustment if approved would be for assessments as of April 1, 2019 for Tax Year 2019 (FY20).

The Assessor’s office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their applications. All new applicants must submit an application and required documentation by April 15th of each year.

On the following pages are the estimated tax impact of the elderly and disabled exemptions for FY20 and a Town/City comparison indicating what other City and neighboring communities’ income and assets limits are for the elderly exemption.

Estimated Elderly & Disabled Exemption Impact				
Exemption Type	Exemption Amount	Number Currently Receiving Exemption	Value Loss	Revenue Loss
65 through 74	\$ 125,000.00	31	\$ 3,875,000.00	\$ 61,380.00
75 through 79	\$ 175,000.00	22	\$ 3,850,000.00	\$ 60,984.00
80 and over	\$ 225,000.00	57	\$ 12,825,000.00	\$203,148.00
Disabled	\$ 100,000.00	7	\$ 700,000.00	\$ 11,088.00
Totals		117	\$ 21,250,000.00	\$336,600.00

Note: The current tax rate of \$15.84 would be decreased to a difference of approximately 6 cents on the current tax rate if the elderly and disabled exemptions were not granted.

Elderly Exemption Comparison Single Income							
	Single Income:	Married Income:	Single Assets:	Married Assets:	Exemption 65-74 years old	Exemption 75-79 years old	Exemption 80+ years old
Nashua	\$50,000	\$50,000	\$150,000	\$150,000	\$192,000	\$224,000	\$280,000
Dover	\$42,000	\$57,000	\$169,800	\$169,800	\$115,000	\$162,000	\$207,000
Portsmouth	\$41,314	\$56,807	\$175,000	\$175,000	\$125,000	\$175,000	\$225,000
North Hampton	\$40,800	\$59,000	\$190,000	\$190,000	\$125,000	\$165,000	\$200,000
New Castle	\$40,000	\$55,000	\$150,000	\$150,000	\$125,000	\$175,000	\$225,000
Rye	\$40,000	\$59,900	\$199,000	\$199,000	\$75,000	\$90,000	\$105,000
Hampton	\$38,000	\$58,000	\$250,000	\$250,000	\$125,000	\$160,000	\$200,000
Manchester	\$37,000	\$50,000	\$90,000	\$115,000	\$109,500	\$148,500	\$195,500
Greenland	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Stratham	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Rochester	\$35,000	\$50,000	\$100,000	\$100,000	\$75,000	\$100,000	\$125,000
Concord	\$33,400	\$45,800	\$90,000	\$90,000	\$72,818	\$118,420	\$202,124
Somersworth	\$32,000	\$50,000	\$100,000	\$100,000	\$50,000	\$65,000	\$75,000

Elderly Exemption Comparison Married Income							
	Single Income:	Married Income:	Single Assets:	Married Assets:	Exemption 65-74 years old	Exemption 75-79 years old	Exemption 80+ years old
Concord	\$33,400	\$45,800	\$90,000	\$90,000	\$72,818	\$118,420	\$202,124
Nashua	\$50,000	\$50,000	\$150,000	\$150,000	\$192,000	\$224,000	\$280,000
Manchester	\$37,000	\$50,000	\$90,000	\$115,000	\$109,500	\$148,500	\$195,500
Rochester	\$35,000	\$50,000	\$100,000	\$100,000	\$75,000	\$100,000	\$125,000
Somersworth	\$32,000	\$50,000	\$100,000	\$100,000	\$50,000	\$65,000	\$75,000
New Castle	\$40,000	\$55,000	\$150,000	\$150,000	\$125,000	\$175,000	\$225,000
Portsmouth	\$41,314	\$56,807	\$175,000	\$175,000	\$125,000	\$175,000	\$225,000
Dover	\$42,000	\$57,000	\$169,800	\$169,800	\$115,000	\$162,000	\$207,000
Hampton	\$38,000	\$58,000	\$250,000	\$250,000	\$125,000	\$160,000	\$200,000
North Hampton	\$40,800	\$59,000	\$190,000	\$190,000	\$125,000	\$165,000	\$200,000
Rye	\$40,000	\$59,900	\$199,000	\$199,000	\$75,000	\$90,000	\$105,000
Greenland	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Stratham	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000

Elderly Exemption Married Asset Comparison							
	Single Income:	Married Income:	Single Assets:	Married Assets:	Exemption 65-74 years old	Exemption 75-79 years old	Exemption 80+ years old
Greenland	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Stratham	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Concord	\$33,400	\$45,800	\$90,000	\$90,000	\$72,818	\$118,420	\$202,124
Rochester	\$35,000	\$50,000	\$100,000	\$100,000	\$75,000	\$100,000	\$125,000
Somersworth	\$32,000	\$50,000	\$100,000	\$100,000	\$50,000	\$65,000	\$75,000
Manchester	\$37,000	\$50,000	\$90,000	\$115,000	\$109,500	\$148,500	\$195,500
Nashua	\$50,000	\$50,000	\$150,000	\$150,000	\$192,000	\$224,000	\$280,000
New Castle	\$40,000	\$55,000	\$150,000	\$150,000	\$125,000	\$175,000	\$225,000
Dover	\$42,000	\$57,000	\$169,800	\$169,800	\$115,000	\$162,000	\$207,000
Portsmouth	\$41,314	\$56,807	\$175,000	\$175,000	\$125,000	\$175,000	\$225,000
North Hampton	\$40,800	\$59,000	\$190,000	\$190,000	\$125,000	\$165,000	\$200,000
Rye	\$40,000	\$59,900	\$199,000	\$199,000	\$75,000	\$90,000	\$105,000
Hampton	\$38,000	\$58,000	\$250,000	\$250,000	\$125,000	\$160,000	\$200,000

I recommend the City Council move to pass the following motions

1. *Move to adopt the Elderly Exemption Resolution as presented.*
 2. *Move to adopt the Disabled Exemption Resolution as presented.*
- Resolutions require a majority vote of City Council.*

2. **Public Hearing – Ordinance amending Chapter 10, Article 4, Section 10.421.10 – District Location and Boundaries of the Zoning Ordinance and Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessor’s Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District.**

At the January 22, 2019 City Council meeting, the Council voted to approve the first reading and schedule a public hearing and second reading for the February 4, 2019 City Council meeting regarding the attached proposed Ordinance for a request to rezone 290 Gosling Road. Attached is a Memorandum from Juliet Walker, Planning Director, including appropriate documents, as well as letters and a zoning map excerpt from Attorney Ciandella regarding proposed amendments.

I recommend the City Council move to pass second reading and schedule a third and final reading for the February 19, 2019 City Council meeting on the request of 290 Gosling Road, LLC the property with the address of 290 Gosling Road (Map 213, Lot 1) be rezoned from Waterfront Industrial (WI) to Office Research (OR).

3. **First Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Accessory Dwelling Units and Garden Cottages.**

At the January 22, 2019 City Council meeting, the Council voted to schedule first reading regarding the Ordinance amending Chapter 10 – Zoning Ordinance – Accessory Dwelling Units and Garden Cottages.

The **attached proposed amendments** were initially presented at the November 15, 2018 Planning Board meeting and a public hearing was held. Based on discussion and comments from Planning Board members, feedback from the public, and additional review by the City’s Legal Department, the Planning Department staff made additional revisions and the Planning Board voted to recommend the updated amendments at the December 20, 2018 meeting. The version in front of City Council reflects additional changes that the Planning Board discussed at the December 20, 2018 meeting.

Since the Planning Board review in December, the Planning Department has some additional revisions to recommend for inclusion in the amendments being considered by City Council. These are summarized below:

1) Staff recommends adding a sentence to Section 10.814.51, *“In a Single Residence or Rural District, a lot with a DADU shall comply with the minimum lot area for the district, but need not comply with the minimum lot area per dwelling unit.”* This will help to clarify that there are different requirements for the General Residence and Single Residence Districts.

2) 10.814.70 allows the Planning Board to modify a specific standard set forth in Sections 10.814.40 or 10.814.50. The intention was not to include modification to minimum lot area or lot area per dwelling unit requirements. Therefore, staff recommends excluding 10.814.51 from this provision, by re-wording Section 10.814.70 as follows (new proposed text is **bolded**, deleted text is ~~stricken~~):

10.814.70 In granting a conditional use permit for an accessory dwelling unit, the Planning Board may modify a specific standard set forth in Sections 10.814.40 ~~or 10.814.50~~ **10.814.52 through 10.814.56**, including requiring additional or reconfigured off-street parking spaces, provided that the Board finds such modification will be consistent with the required findings in Section 10.814.60.

I recommend the City Council move to pass first reading as amended and schedule second reading and a public hearing for the February 19, 2019 City Council meeting to amend the Zoning Ordinance by deleting existing Sections 10.814 – Accessory Dwelling Units and 10.815 as presented on the document titled “Proposed Dwelling Units and 10.815 – Garden Cottages” dated January 29, 2019 and amending related terms in Article 15 – Definitions, Section 10.1530 – Terms of General Applicability.

4. **Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking.**

At the January 22, 2019 City Council meeting, the Council voted to pass second reading and schedule third and final reading regarding the **attached proposed amendments** to Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off Street Parking.

The amendments are being proposed to clarify the off-street parking requirements in the zoning ordinance. Specifically, additional criteria is being proposed for the granting of a conditional use permit by the Planning Board for providing less than the minimum number of off-street parking spaces required or for exceeding the maximum of off-street parking spaces allowed. An amendment is also proposed to make the off-street parking requirement for residential uses in the Downtown Overlay District consistent with the rest of the city. Two housekeeping amendments are also proposed.

The Planning Board conducted a public hearing on this proposed zoning amendment at its October 18, 2018 meeting and voted to recommend approval to the City Council with amendments at that time.

A presentation on this item was made by the Planning Director at the December 3, 2018 City Council meeting.

The City Council passed first reading at the January 7, 2019 meeting and second reading (with amendments) at the January 22, 2019 meeting. In response to comments from Councilors at the January 22nd meeting, staff is recommending additional amendments for consideration at third reading.

- a. There is interest in providing some additional technical expertise to the Planning Board for consideration in their review of off-street parking conditional use permits requests. While the Planning Board already has the ability to request additional information or technical assistance from City staff, other City Boards or Committees, or from independent experts in the field, staff is recommending inserting a specific provision for technical review of the required parking demand analysis by the City’s Technical Advisory Committee prior to the Planning Board public hearing. The suggested modification is as follows (inserted text **bolded**):

10.1112.141 An application for a conditional use permit under this section shall include a parking demand analysis, **which shall be reviewed by the City’s Technical Advisory Committee prior to submission to the Planning Board**, demonstrating that the proposed number of off-street parking spaces is sufficient for the proposed use.

- b. In order to better clarify the types of measures the Planning Board can consider for off setting parking demand, staff is recommending a modification as follows (inserted text **bolded**, deleted text ~~stricken~~):

10.1112.142 An application for a conditional use permit under this section shall identify ~~permanent~~ **evidence-based** measures to reduce parking demand, including but not limited to provision of rideshare/**microtransit** services or bikeshare station(s) servicing the property, proximity to public transit, **car/van-pool incentives, alternative transit subsidies, provisions for teleworking**, and shared parking on a separate lot subject to the requirements of 10.1112.62.

Once a conditional use permit is granted, any conditions placed on an approval by the Planning Board as well as any measures included in the conditional use permit application are subject to monitoring and enforcement by City staff. Monitoring and enforcement of these conditions, is one of the many tasks carried out by the Planning Department's land use compliance staff.

I recommend the City Council move to pass the following motions:

1. *Move to suspend the rules in order to amend the Ordinance at third reading;*
2. *Move to amend the Ordinance as presented in the City Manager's Comments dated January 31, 2019;*
3. *Move to pass third and final reading as amended.*

5. **Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.**

At the January 22, 2019 City Council meeting, the Council voted to pass second reading and schedule third and final reading regarding the **attached proposed amendment** to Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits, dated November 19, 2018.

I recommend the City Council move to pass third and final reading of the proposed Portsmouth Zoning Ordinance, Article 2 – Administration and Enforcement, by inserting a new Section 10.240 as presented on the document titled, “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.

6. **Third and Final Reading of Amendments to Chapter 10 — Zoning Ordinance, be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated January 15, 2019, (Postponed to February 4, 2019 City Council meeting).**

At the January 22, 2019 City Council meeting, the Council voted to pass second reading and schedule third and final reading regarding a proposed Ordinance to bring the City’s sign regulations into compliance with legal requirements for content neutrality. In the case *Reed et al. v. Town of Gilbert, Arizona, et al. (2015)*, the U.S. Supreme Court ruled that regulations that categorize signs based on the type of information they convey and then apply different standards to each category are content-based regulations of speech and are not allowed under the First Amendment protections of the United States Constitution. Additional changes include updating the regulations regarding prohibited signs and temporary signs, clarifying sign area, and other housekeeping amendments.

The Planning Board conducted a public hearing on this proposed zoning amendment at its August 16, 2018 meeting and voted to recommend approval to the City Council with amendments at the September 17, 2018 meeting.

The City Council passed first reading at the October 15, 2018 meeting and held a public hearing on November 19, 2018. After the public hearing on November 19th, Councilors discussed potential revisions to the proposed amendments regarding regulations of flags and the time period for election signs. The Council voted to continue second reading to the December 3, 2018 meeting in order to have staff report back with potential revisions to the proposed amendments. The Council passed second reading with amendments as proposed on December 3, 2018. Prior to third reading, the NHCLU raised a number of potential issues regarding the constitutionality of the ordinance. As a result, the City staff recommended postponing third reading indefinitely in order to enable staff and the NHCLU to meet to discuss the concerns. The City Council voted to postpone third reading at the December 17, 2018 meeting.

After a productive dialogue between the City Attorney, the Planning Director, and the NHCLU staff, NHCLU requested a few minor amendments to the zoning ordinance as proposed. The [attached draft](#) reflects these changes:

- Section 10.1223.13 – remove the specific reference to the type of election time period during which temporary signs may be placed on a lot
- 10.1223.14 – Allow temporary signs of a certain size to be placed on a lot without a sign permit
- 10.1223.31 – Increase the size threshold for which temporary signs would require a sign permit
- 10.1223.35 – Remove the requirement that temporary signs not be illuminated
- Definition of Sign Area – Clarify that a double-sided sign is treated the same as a single-sided sign as to the calculation of sign area

- Definition of Temporary Sign – remove reference to an activity or event of limited duration

As requested, Juliet Walker, Planning Director, will make a short presentation explaining these changes and how they will or will not affect residents.

I recommend the City Council move to pass third and final reading of the proposed Ordinance as amended.

Consent Agenda

1. **Request for Licenses to Install Projecting Signs** Attached are requests for projecting sign licenses (see attached memorandums from Juliet Walker, Planning Director):

- Shi Bo Lin, LLC owner of the Pink Bamboo Hot Pot Café for property located at 128 Penhallow Street
- Justin Finn, owner of Finn Wealth Advisors for property located at 23 High Street, Unit C

I 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.

City Manager's Items Which Require Action:

1. **201 Kearsarge Way Access Easement** On June 21, 2018, the Planning Board approved an application from Richard Fusegni requesting Subdivision Approval for a property located at 201 Kearsarge Way. The application proposed to subdivide one lot into two lots.

As approved, the Subdivision Plan includes an access easement (see attached easement and plan) to provide municipal access to the City for all purposes for which roads are customarily used, including, but not limited to, vehicular, pedestrian and equipment access and travel and the installation and maintenance of utilities above and below the easement area.

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move to accept an access easement to 201 Kearsarge Way, as presented.

2. **1179 Sagamore Avenue Water Services Access Easement** On May 18, 2017 the Planning Board approved an application from Peter Fregeau and Westwind Townhomes of Portsmouth requesting Site Plan Review Approval for a property located at 1179 Sagamore Avenue. The application proposed to construct three new condominium units (two separate buildings, seven total units) with related paving, lighting, utilities, landscaping, drainage and associated site improvements.

As approved, the Site Plan includes a water service access easement (see attached) to provide municipal access to the City for the purposes of accessing water infrastructure for routine service.

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move to accept the easement regarding 1179 Sagamore Avenue, as presented.

3. **Report Back Re: Request to Rezone Properties on Pinehurst Road** On October 25, 2018, residents of Pinehurst Road and Lookout Lane submitted the attached letter to the City Council requesting that properties along Pinehurst Road be re-zoned from General Residence A (GRA) to Single Residence B (SRB).

At the November 19, 2018 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation. The Planning Board held a public hearing on this request at the December 20, 2018 meeting. After hearing from a number of residents and discussing some of the information presented by the Planning Department, the Board voted to continue the hearing on the petition to the January 17, 2019 meeting. The Planning Department recommended that the property at 826 South Street and all of the properties on Lookout Lane should be included in the re-zoning request and that all of the impacted property owners be notified of the expansion of the request. The Board also requested that the Planning Department send out a letter to each of the property owners impacted by the proposed amendment providing an explanation of the proposed zoning amendments and their potential implications for individual properties. A copy of the letter mailed by the Planning Department is [attached for Council's reference](#).

At the January 17, 2019 meeting, the Planning Board voted unanimously not to recommend approval to the City Council the citizen request to re-zone the properties along Pinehurst Road from General Residence A (GRA) to Single Residence B (SRB).

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move to place on file the citizen request to re-zone the properties along Pinehurst Road from General Residence A (GRA) to Single Residence B (SRB).

4. **Work Session Re: Parking Principles Review and Discussion** The Mayor has requested the work session to take place on either Monday, March 11, 2019 or Monday, March 25, 2019 at 6:30 p.m.

Action is required on the aforementioned matter.

Informational Items:

1. **Neighborhood Parking Program Re: Pilot.** Councilor Doug Roberts, Chairman of the Parking, Traffic and Safety Committee, has asked that action on the Neighborhood Parking Program take place at the February 19, 2019 City Council meeting. He is requesting this delay to allow residents from the South End to coordinate their amendments that they would request for the NPP. *Attached is a revised neighborhood parking program* with a list of modifications proposed to date.
2. **Reminder Re: Short Term Rentals Joint Work Session** – Reminder that the City Council Joint Work Session with the Planning Board will be held on Monday, February 11, 2019 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers regarding short-term rentals.
3. **Draft Comcast Franchise Renewal Agreement** In follow up to the public hearing held on January 22, 2019 concerning the draft Franchise Renewal Agreement with Comcast, the Deputy City Attorney and the Cable Commission are following up with Comcast representatives to Portsmouth Public Media, Tv's request to review any final minor edits to the draft that has been under consideration. The Cable Commission expects that it will ask for action at the City Council's meeting scheduled for Tuesday, February 19, 2019. There is no action for this meeting.

EASEMENT DEED

Richard P. Fusegni, a single person, with a mailing address of 6 Spring Lane, Eliot Maine 03903, (herein called "Grantor") for consideration paid, grants to the **CITY OF PORTSMOUTH**, a municipal body with a mailing address of 1 Junkins Avenue, Portsmouth New Hampshire 03901 (hereinafter "Grantee"), with **QUITCLAIM COVENANTS**, upon the conditions hereafter set forth, a permanent access easement (hereinafter the "Easement") over and upon land of the Grantor located in the City of Portsmouth, County of Rockingham State of New Hampshire.

Said Easement being shown as "Proposed Access Easement to the City of Portsmouth Lot 2 1,492 Sq. Ft." on a plan entitled, "Subdivision Plan Tax Map 218-Lot 5, Owner: Richard P. Fusegni, 201 Kearsarge Way, City of Portsmouth, County of Rockingham, State of New Hampshire", prepared by Ambit Engineering, Inc. dated April, 2018 and recorded in the Rockingham County Registry of Deeds as Plan # _____ said Easement being more particularly bounded and described as follows:

Beginning at a railroad spike at the intersection of the westerly side of Kearsarge Way, so called, and the northerly side of Birch Street, so called, and the southeasterly corner of the easement herein described; thence running along the northerly side of said Birch Street S 79°25'27" W a distance of 112.77 feet to iron rod on the northerly side of said Birch Street; thence turning and running over and across the land of the Grantor N 44°16'40" E a distance of 3.45 feet; thence continuing over and across land of the Grantor on a curve to the right with an arc length of 42.94 feet, a radius of 70.00 feet, and a delta angle of 35°08'47", said curve having a chord bearing of N 61°51'03" E, with a chord length of 42.27 feet; thence still over and across land of the Grantor N 78°50'37" E a distance of 70.76 feet to the westerly side of said Kearsarge Way; thence turning and running along the westerly side of said Kearsarge Way on a curve to the left with an arc length of 15.51 feet, a radius of 330.00 feet, and a delta angle of 02°41'34", said curve having a chord bearing of S 06°27'08" E, with a chord length of 15.51 feet to a railroad spike and the

point of beginning. The above described easement containing 1,492 square feet, more or less (hereinafter "Easement Area").

Grantor grants to Grantee such access easement for all purposes for which roads are customarily used, including but not limited to vehicular, pedestrian and equipment access and travel and the installation and maintenance of utilities above and below the Easement Area. The Grantee shall have the obligation to construct, maintain in good order and promptly repair damage to all portions of the roadway built within the Easement Area, at Grantee's sole cost and expense. Any land or property of the Grantor disturbed or damaged by the Grantee's installation, maintenance or repair of the roadway within the Easement Area, shall be immediately restored or replaced to the condition of such land of property prior to the disturbance or damage. The Grantee shall be solely and fully responsible for its own negligence with respect to claims or matters arising from or relating to its obligations as set forth in the Easement Deed.

Reserving to Grantor, their successors and assigns, and Grantee, their successors and assigns, access and utility rights in the Easement Area, together with the use and enjoyment of said Easement Area for such purposes only as will in no way interfere with the perpetual use thereof by the Grantee, its successors and assigns for the purposes contained herein; and to that end, the Grantor, its successors and assigns shall not erect any building, structures sidewalks, parking areas, surface curbs, landscaping and other similar improvements on said Easement Area; provided however, that Grantor may install underground utility structures or systems within the Easement Area which do not interfere with Grantee's rights under this Easement and Grantor reserves all rights to cross the Easement Area and all rights and easements necessary or desirable for the use, occupation, repair, maintenance and replacement of any improvements now or hereafter located upon Grantor's remaining land.

This Easement Deed and the rights and privileges granted hereby are perpetual and shall run with the land.

The easements, covenants and conditions herein shall be binding and/or to the benefit of the parties hereto, their heir, successors and assigns.

Meaning and intending to convey an easement over a portion of the premises conveyed to Richard P. Fusegni by Elda Fusegni dated September 5, 2013 and recorded on September 6, 2013 in the Rockingham County Registry of Deeds at Book 5476 Page 2661.

Executed this ____ day of _____, 2019.

Witness:

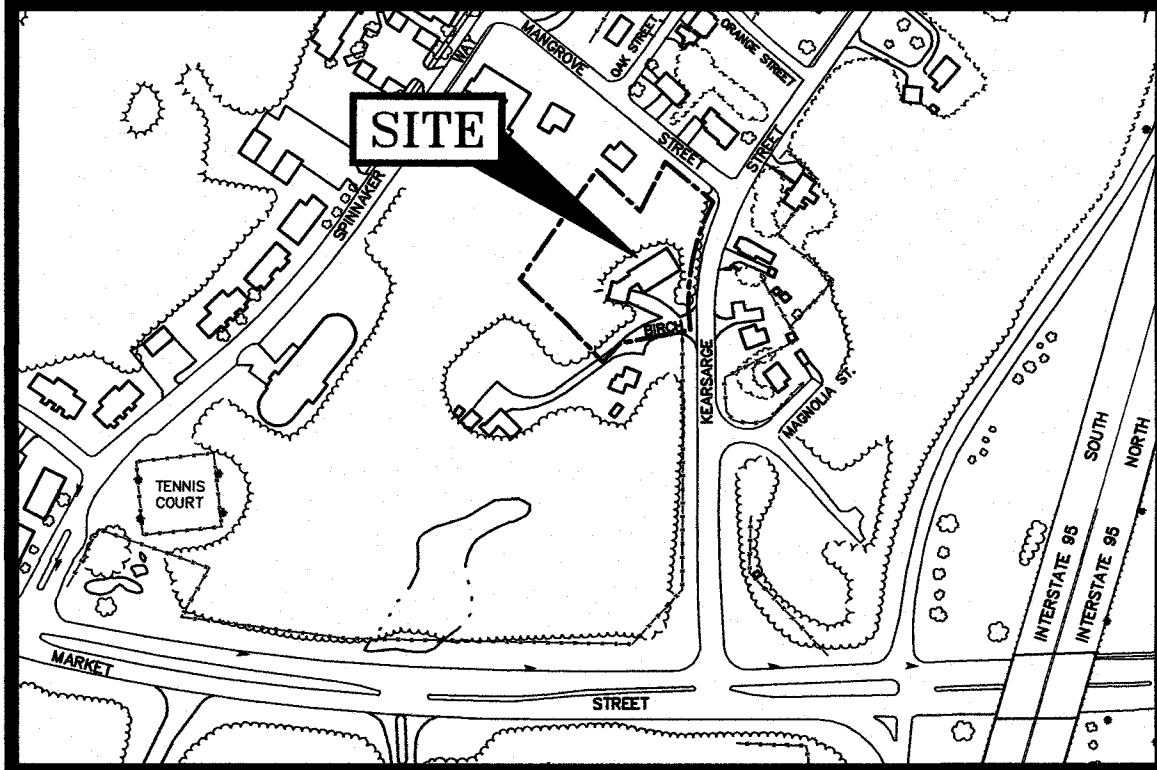
Richard P. Fusegni

State of New Hampshire

County of Rockingham

This instrument was acknowledged before me on this ____ day of _____, 2019
by Richard P. Fusegni.

Notary Public



LOCATION MAP SCALE: 1" = 300'

- LEGEND:**
- N/F NOW OR FORMERLY
 - RP RECORD OF PROBATE
 - RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
 - RR SPK RAILROAD SPIKE
 - MAP 11/LOT 21
 - IR FND IRON ROD FOUND
 - IP FND IRON PIPE FOUND
 - IR SET IRON ROD SET
 - DH FND DRILL HOLE FOUND
 - DH SET DRILL HOLE SET
 - NHDB NHDOT BOUND FOUND
 - EDGE OF PAVEMENT
 - OVERHEAD WIRE
 - LEDGE OUTCROP
 - PRL PAVEMENT REMOVAL LINE

PLAN REFERENCES

- 1) PLAN OF BUCKMINSTER, PORTSMOUTH, N.H. REVISED 1919. RCRD PLAN 0245.
- 2) WENTWORTH ACRES PLOT PLAN, SCALE: 1 IN. = 100 FT., SEPT. 1957 BY JOHN W. DURGIN CIVIL ENGINEERS, FILE NO. 2405, PLAN 7239.
- 3) PART OF BUCKMINSTER, PORTSMOUTH, N.H. AT BIRCH & MANGROVE STREETS. SCALE: 1 IN. = 20 FT. BY JOHN W. DURGIN CIVIL ENGINEERS, FILE NO. 501, PLAN 9271.
- 4) PLAN OF LAND PORTSMOUTH, N.H. FOR M.C. GOLD & H.H. GIMBAEL, SCALE: 1 IN. = 30 FT., NOV. 1974 BY JOHN W. DURGIN CIVIL ENGINEERS. RCRD PLAN D-4978.
- 5) DISCONTINUANCE OF CITY STREET & CONSERVATION EASEMENT BETWEEN RAYMOND A. RAMSEY & THE CITY OF PORTSMOUTH, KEARSARGE STREET, PORTSMOUTH, N.H. RCRD PLAN D-28168.
- 6) PLAT OF LAND FOR ROBERT L. & KELLY J. COLEMAN IN PORTSMOUTH, N.H. RCRD PLANC-21884.
- 7) PLANS OF PROPOSED FEDERAL AID R.O.W. PROJECT I-95-1(10)14, N.H. PROJECT NO. P-5875-B, INTERSTATE 95, SHEET NO. 14.

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	330.00'	206.84'	203.47'	S10°09'28"W	35°54'43"
C2	330.00'	75.82'	75.66'	S21°31'53"W	13°09'52"
C3	330.00'	131.02'	130.16'	S03°34'31"W	22°44'52"

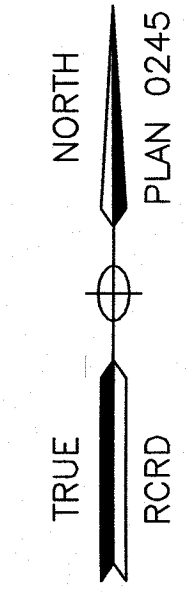
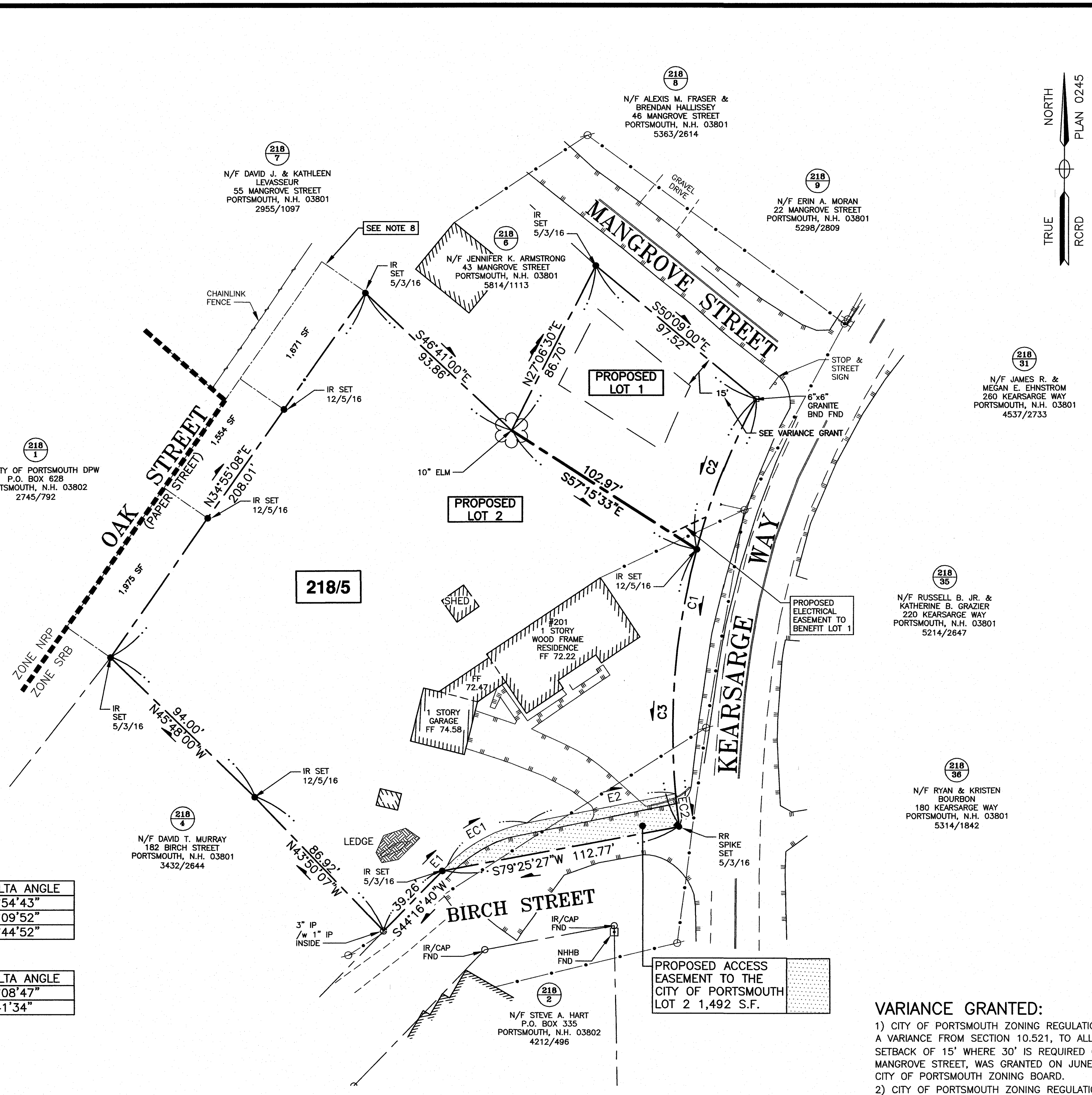
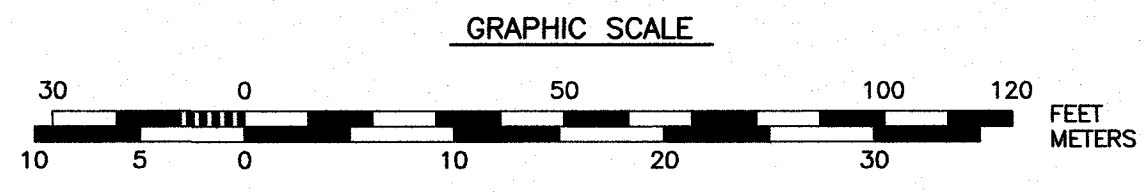
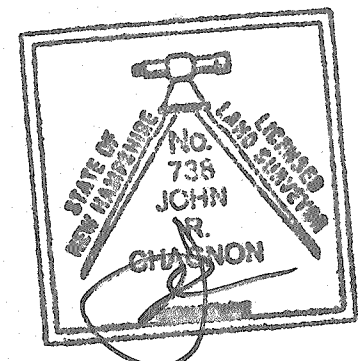
EASEMENT TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
EC1	70.00'	42.94'	42.27'	N61°51'03"E	35°08'47"
EC2	330.00'	15.51'	15.51'	S06°27'08"E	2°41'34"

LINE	BEARING	DISTANCE
E1	N44°16'40"E	3.45'
E2	N78°50'37"E	70.76'

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN _____ DATE _____



AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-9282
 Fax (603) 436-2315

- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 218 AS LOT 5.
 - 2) OWNER OF RECORD:
 RICHARD P. FUSEGNI
 201 KEARSARGE WAY
 PORTSMOUTH, N.H. 03801
 5476/2661
 RCRD PLAN 0245
 - 3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259E, EFFECTIVE MAY 17, 2005.
 - 4) EXISTING LOT AREA:
 54,897 S.F.
 1.2603 AC.

 PROPOSED LOT AREAS:
 PROPOSED LOT 1: 7,834 S.F. 0.1799 AC.
 PROPOSED LOT 2: 47,062 S.F. 1.0804 AC.
 - 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
 MIN. LOT AREA: 15,000 S.F.
 FRONTAGE: 100 FT.
 SETBACKS: FRONT: 30 FT.
 SIDE: 10 FT.
 REAR: 30 FT.
 MAXIMUM STRUCTURE HEIGHT: 35 FT.
 MAXIMUM STRUCTURE COVERAGE: 20%
 MINIMUM OPEN SPACE: 40%
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW A SUBDIVISION OF TAX MAP 218 LOT 5, AS SHOWN HEREON.
 - 8) OAK STREET WAS CREATED BY A PLAN DATED 1919 AND WAS NEVER CONSTRUCTED. BY OPERATION OF LAW THE AREAS SHOWN BELONG TO THE RESPECTIVE LOTS BY WAY OF APPROPRIATION OF REVERSION RIGHTS. AREAS SHOWN ARE NOT INCLUDED IN EXISTING PROPOSED LOT AREAS.

VARIANCE GRANTED:

- 1) CITY OF PORTSMOUTH ZONING REGULATIONS: A VARIANCE FROM SECTION 10.521, TO ALLOW A FRONT YARD SETBACK OF 15' WHERE 30' IS REQUIRED ON LOT 1 ALONG MANGROVE STREET, WAS GRANTED ON JUNE 21, 2016 BY THE CITY OF PORTSMOUTH ZONING BOARD.
- 2) CITY OF PORTSMOUTH ZONING REGULATIONS: A VARIANCE FROM SECTION 10.521, TO ALLOW A PROPOSED 7,834 S.F. LOT WHERE 15,000 S.F. IS REQUIRED, WAS GRANTED ON MARCH 20, 2018.

WAIVER REQUESTED:

CITY OF PORTSMOUTH SUBDIVISION REGULATIONS:

- 1) SECTION VI 2.A. LOT ARRANGEMENT. TO ALLOW FOR PROPOSED LOT LINES NOT PERPENDICULAR OR RADIAL TO EXISTING LOT LINES, AND
- 2) SECTION VI 2.B. LOT SIZE. TO ALLOW CORNER LOT WITHOUT 10% ADDED WIDTH.

NO.	DESCRIPTION	DATE
2	EASEMENT	6/11/18
1	EASEMENT, MONUMENT, NOTE	5/17/18
0	ISSUED FOR COMMENT	4/23/18

**SUBDIVISION PLAN
 TAX MAP 218 - LOT 5**

OWNER
RICHARD P. FUSEGNI
 201 KEARSARGE WAY
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE

J:\JOB52\IN2200s\IN2255A\2017 Subdivision\Plans & Specs\Site\2255A\2017 Subdivision.dwg, SUBDIVISION

ACCESS EASEMENT FOR WATER SERVICES

KNOW ALL MEN BY THESE PRESENTS, that 1179 Sagamore, LLC, with an address of 1177 Sagamore Avenue, Unit 2, Portsmouth, NH, for consideration received, grants to the City of Portsmouth, a municipal body politic having a mailing address of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801, with **QUITCLAIM COVENANTS** an easement over, below, along, and across the premises described herein, located at 1177 Sagamore Avenue, Portsmouth, County of Rockingham, State of New Hampshire, (Tax Assessor's Map No. 224, Lot 13), and being more particularly described as follows:

A certain tract or parcel of land with the buildings therein situated on the site plan referenced below.

Meaning and intending to convey an easement over the entirety of Lot 1 and Lot 2 as shown on a SUBDIVISION PLAN TAX MAP 224, LOT 13 OWNERS WESTWIND TOWNHOMES OF PORTSMOUTH CONDOMINIUM ASSOCIATION 1179 SAGAMORE AVENUE CITY OF PORTSMOUTH COUNTY OF ROCKINGHAM STATE OF NEW HAMPSHIRE, prepared by Ambit Engineering Inc. and approved by the Portsmouth Planning Board, dated November 14, 2018, recorded in the Rockingham County Registry of Deeds as Plan #D-41165.

Purpose and Rights: The Grantee shall have a perpetual, permanent uninterrupted and unobstructed nonexclusive easement for the purpose of enabling the City of Portsmouth to access private water infrastructure including mains, water shutoffs, meters and valves for the limited purpose of leak detection and similar infrastructure inspection services and for access to the infrastructure for purposes of turning on, shutting off and maintaining municipal water service. Grantee shall have no responsibility for installation, maintenance, operation, or replacement of the water infrastructure.

Retained Rights: Grantor retains the right to freely use and enjoy its interest in the easement area insofar as the exercise thereof does not interfere with the purpose of this instrument.

Easement To Run With Land: All rights and privileges, obligations and liabilities created by

this instrument shall inure to the benefit of, and be binding upon, the heirs, devisees, administrators, executor, successors and assignees of the Grantee and of the Grantor, the parties hereto and all subsequent owners of the Premises and shall run with the land.

This is an exempt transfer per R.S.A. 78-B:2(I).

IN WITNESS WHEREOF, the parties have executed this document on the _____ day of _____, 20__.

1179 Sagamore, LLC

Witness: _____

By: _____

Name: Peter Fregeau

Title: _____

STATE OF NEW HAMPSHIRE
COUNTY OF _____

Personally appeared the above-named _____, in *his/her* capacity of _____ and acknowledged the foregoing instrument to be *his/her* free act and deed executed for the purposes contained therein.

Notary Public/Justice of the Peace

My commission expires: _____



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7281

Planning Department
(603) 610-7216

January 8, 2019

RE: Citizen Petition for Re-Zoning of Pinehurst Rd Properties

Dear Property Owner,

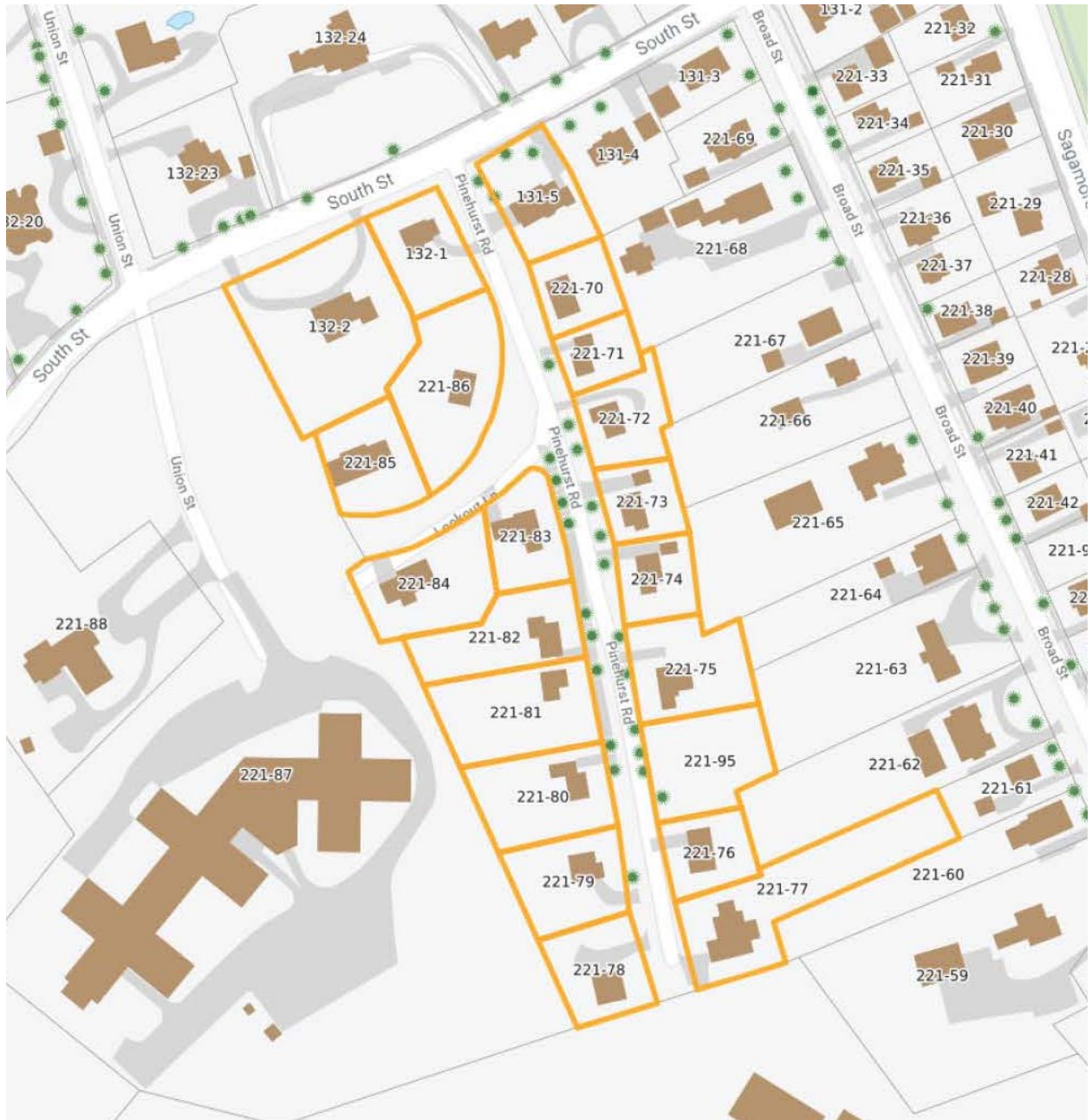
This letter is to serve as a notification of a recent request to re-zone your property from General Residence B to Single Residence B and to provide an explanation of the proposed changes and their potential implications for your property.

On October 25, 2018, residents of Pinehurst Road and Lookout Lane submitted a letter to the City Council requesting that properties along Pinehurst Road be re-zoned from General Residence A (GRA) to Single Residence B (SRB).

At the November 19, 2018 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation. One of the principle legislative functions of the Planning Board is to make recommendations on the adoption of amendments to the zoning ordinance. This role plays out in two ways. Many zoning amendments are generated by the Board itself which, in Portsmouth, also involves a public hearing process. If the proposed amendment comes either from a citizen petition or a referral by the City Council, then the Board has the responsibility to review and make a recommendation and to take the proposal through a public hearing process. All zoning amendments also require three readings in front of City Council, which includes a public hearing. These would occur after the Planning Board has completed its process and made a recommendation to the City Council.

At the December 20, 2018 Planning Board meeting, the Board held a public hearing on the proposed zoning change. At that time, the Board voted to continue the public hearing to the January 17, 2019 meeting in order to expand the re-zoning request to include 826 South Street and all of the properties on Lookout Lane so that the proposed SRB properties would be contiguous with the SRB district that currently extends from Summit Avenue along the south side of South Street. The Board also requested that an explanatory letter be sent to all property owners regarding the implications of the proposed re-zoning.

The properties that are being considered for re-zoning from General Residence A (GRA) to Single Residence B (SRB) are shown below with tax map and lot identified for each.



A comparison of the primary dimensional standards for the two zoning districts is provided below:

	GRA (existing)	SRB (proposed)
Lot Area (min.)	7,500 sq. ft.	15,000 sq. ft.
Lot area per dwelling unit (min.)	7,500 sq. ft.	15,000 sq. ft.
Continuous street frontage (min.)	100 ft.	no change
Lot Depth (min.)	70 ft.	100 ft.
Front Yard (min.)	15 ft.	30 ft.
Side Yard (min.)	10 ft.	no change
Rear Yard (min.)	20 ft.	30 ft.
Building Height (max.)	35 ft. (sloped roof) 30 ft. (flat roof)	no change
Building Coverage (max.)	25%	20%
Open Space Coverage (min.)	30%	40%

According to property data from the City Assessor records, under the proposed zoning of the 21 properties under consideration to be re-zoned, 14 will not meet the minimum lot area requirement, 6 will not comply with the minimum lot depth, and 4 will likely exceed the maximum building coverage. In contrast, under current zoning all but 1 lot meets the minimum lot area and all meet the minimum lot depth and building coverage requirements.

The implications for properties that will not meet the proposed new dimensional requirements are that the lots will become nonconforming. Lots that are nonconforming are generally more restricted as to future re-development as proposed additions or expansions to the existing house or buildings may not be possible without a variance from the Zoning Board of Adjustment. In order to grant a variance, the Zoning Board of Adjustment must find that all five legal criteria have been met including that the literal enforcement of the zoning will result in an unnecessary hardship on the property. This criteria is outlined in Section 10.233.20 and 10.233.30 of the City's Zoning Ordinance, a copy of which is enclosed for your reference. A property that has been re-zoned to a more restrictive zoning district at the property owner's request would be hard-pressed to make a case for hardship. A summary is provided below of the properties that would be impacted by this re-zoning request and how their conforming status may be impacted based on property information available to the City Planning Department.

	GRA (existing)	SRB (proposed)
778 South St	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area and building coverage, conforming for lot depth
35 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area and lot depth, conforming for building coverage
51 Pinehurst Rd	Nonconforming for lot area, conforming for lot depth and building coverage	Nonconforming for lot area and lot depth, conforming for building coverage

	GRA (existing)	SRB (proposed)
65 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
85 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, lot depth, and building coverage
97 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, lot depth, and building coverage
115 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
125 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Conforming for lot area, lot depth, and building coverage
153 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
155 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Conforming for lot area, lot depth, and building coverage
150 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
140 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
124 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Conforming for lot area, lot depth, and building coverage
100 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Conforming for lot area, lot depth, and building coverage
84 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
60 Pinehurst Rd	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area and lot depth, conforming for building coverage
1 Lookout Ln	Conforming for lot area, lot depth, building coverage	Conforming for lot area, lot depth, and building coverage
804 South St	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area and building coverage, conforming for lot depth
44 Lookout Ln	Conforming for lot area, lot depth, building coverage	Conforming for lot area and building coverage, nonconforming for lot depth
45 Lookout Ln	Conforming for lot area, lot depth, building coverage	Nonconforming for lot area, conforming for lot depth and building coverage
826 South St	Conforming for lot area, lot depth, building coverage	Conforming for lot area, lot depth, and building coverage

One of the primary reasons the neighborhood has requested a change in zoning is to prevent multi-family uses.

A comparison of the land uses that are permitted (or allowed by Special Exception) in the current zoning district, but would not be allowed in the proposed zoning district is provided below. A Special Exception requires an application and public hearing with the Zoning Board of Adjustment. A Special Exception can only be granted if the Board finds that all five legal standards are met as outline in the City's Zoning Ordinance, Section 10.232.20. A copy of the Special Exception standards is enclosed for your reference.

	GRA (existing)	SRB (proposed)
Two family residential	P	N
Townhouse	S	N
3-4 Family Dwelling	S	N
Bed and Breakfast 1	S	N

*P = Permitted, S = requires Special Exception

Presently, all of the properties in question are single-family residences. Under the current zoning, 8 of the properties have sufficient lot area to be converted to a 2-family, 3 have sufficient lot area for a 3-family use, and only 1 could be a 4-family.

Under the current zoning, the special provisions of 10.812 allow for an existing single family in the GRA district built on or before January 1, 1980 to be converted to a multi-family use (by special exception) with a minimum lot area of 3,000 square feet per dwelling unit as long as no exterior changes are made to the building. Under this provision, all but 2 of the properties could be converted to a 2-family use, 15 to a 3-family, and 12 to a 4-family. Due to the restriction on exterior changes to the building and the need to comply with off-street parking requirements, this provision of the Ordinance is not commonly used for conversions to multi-family uses, but it is an option available under current zoning.

Any additions or expansions to existing buildings in order to add additional dwelling units would need to be done in compliance with the dimensional requirements for the zoning district (as provided above). In addition to zoning requirements, any project that results in 3 or more residential units on a property requires Site Plan Review approval from the Planning Board. Considerations for site plan review approval include potential impacts on parking demand, traffic, as well as stormwater management.

Under the proposed zoning, multi-family uses would not be permitted and the provisions of 10.812 as described above would not apply.

Under both the current and proposed zoning, Attached Accessory Dwelling Units (ADUs) and Garden Cottages are permitted on all of the properties. Eight of the properties have sufficient lot area to allow Detached Accessory Dwelling Units (DADUs) under current and proposed zoning.

This information has been provided at the Planning Board's request. If you have any questions about the information included herein or other questions related to the re-zoning request, please contact the Planning Department.

Sincerely,

A handwritten signature in cursive script, appearing to read "Juliet T.H. Walker". The signature is written in black ink and has a long, sweeping tail that extends to the right.

Juliet T.H. Walker, AICP
Planning Director

10.232 Special Exceptions

- 10.232.10 The Board shall hear and decide requests for special exceptions as provided for in this Ordinance. The Board shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of Subsection 10.232.20. Appropriate conditions of the sort set forth in Subsection 10.232.30 may be placed on special exception approvals when necessary to meet the standards of Subsection 10.232.20. The Board shall deny requests for special exceptions that do not meet the standards of this Section.
- 10.232.20 Special exceptions shall meet all of the following standards:
- 10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;
 - 10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;
 - 10.232.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;
 - 10.232.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
 - 10.232.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and
 - 10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.

10.233 Variances

- 10.233.10 The Board may authorize upon appeal in specific cases a variance from the terms of this Ordinance.
- 10.233.20 In order to authorize a variance, the Board must find that the variance meets all of the following criteria:
 - 10.233.21 The variance will not be contrary to the public interest;
 - 10.233.22 The spirit of the Ordinance will be observed;
 - 10.233.23 Substantial justice will be done;
 - 10.233.24 The values of surrounding properties will not be diminished; and
 - 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
- 10.233.30 For purposes of section 10.233.25, “unnecessary hardship” means that one of the following conditions exists:
 - 10.233.31 Owing to special conditions of the property that distinguish it from other properties in the area, (a) no fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and (b) the proposed use is a reasonable one. (Under this provision, an unnecessary hardship shall be deemed to exist only if both elements of the condition are based on the special conditions of the property.)
 - 10.233.32 Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it. (Under this provision, an unnecessary hardship shall not be deemed to exist if any reasonable use, including an existing use, is permitted under the Ordinance.)



Proposed properties for re-zoning from GRA to SRB are shown above with orange outline

Proposed NPP Modifications from each Councilor on 1.22.19

Denton:

- A. How long do neighborhoods have to sign petition?
 - o *45 days*
- B. Proposal to limit pilot to Islington Creek only
- C. Contractors with valid permit can use permit as parking pass

Dwyer

- D. Businesses to receive same number of permits as single households in either neighborhood
- E. Delete the 'Net of Off-Street Parking' stipulation
- F. Change to a 6-month pilot as opposed to a year with an assessment at 6 months

Roberts

- G. Delete Hancock Street from South End pilot area
- H. Add back Washington from Pleasant to Court
- I. All residents are eligible for transferrable Guest Pass (even if they don't participate in the program or are 'netted-out' by available off-street parking)



CITY OF PORTSMOUTH NEIGHBORHOOD PARKING PROGRAM (NPP) GENERAL PARAMETERS

In areas where a neighborhood parking program is established, on-street parking will be limited to two hours on residential streets. Residents who live on street that participate in the program may obtain a permit that will exempt them from posted time limits. Enforcement hours will be 9 am to 8 pm, daily.

The NPP will first be available on a pilot basis; the City Manager shall have the authority to make necessary changes throughout the pilot period to accommodate unanticipated circumstances. Any required fees associated with the program will be set by the City Council.

How to Become a Neighborhood Parking Area:

Residents must petition the City, via its Parking Office, in order for their streets to be subject to NPP rules. In order for the petition to be accepted:

- The petitioners must designate a NPP Steering Committee. The Steering Committee Chair is the designated liaison between the City and the Neighborhood, regarding neighborhood-specific policies, such as enforcement hours. If the neighborhood has an established Neighborhood Committee, petitioners are encouraged to work through that group.
- The NPP Steering Committee is responsible for contacting its residents, circulating a petition, and obtaining signatures for a minimum of 75% of single-family households within the NPP neighborhood. The petition must encompass all households on the streets listed. One signature per household. A 'household' is defined as a legal single-family residential address. Two units in a building qualifies as two households.
- Staff will evaluate the petition request, ensure that all petition requirements are met, and make a recommendation to City Council.

How the Program Works:

The time limit for parking in an NPP neighborhood without a valid permit is two (2) hours, and will be actively enforced.

- Participation in the program is voluntary. If you choose not to participate, you must obey the posted restrictions in the area if you wish to park on the street. Vehicles not registered with an NPP are subject to enforcement.
- A Parking Enforcement Officer will be assigned to patrol the neighborhood during the enforcement hours. The dispatch office can be reached at 603.766.7000, ext. 7.
- All city parking ordinances continue to apply: vehicles may not be parked within fifteen (15) feet of either side of a fire hydrant; within an intersection; on a crosswalk, or within twenty (20) feet of an intersection. Any vehicle that is parked for a period of time so that it appears to be abandoned may be tagged and required to be removed within 72 hours. These rules each apply regardless of whether the vehicle displays a valid NPP permit.

How to Receive your Parking Permit/Permit Rules:

- Once the neighborhood is approved for an NPP, individual applicants apply for a permit.
- Permit applicants must be able to show proof of residency within the NPP neighborhood. Residence must be the primary residence (i.e.) where you are registered to vote.
 - Similar to other residency-based parking programs, proof of residency can be established with a valid, NH Driver's license with the appropriate address, motor vehicle registration showing that the vehicle being registered is in your name, and either a current utility bill or a fully-executed lease agreement.
- Each eligible household may obtain one (1) transferable Guest permit to be used on a vehicle of its choice (trucks over 5500 lbs. do not qualify). A participating household is defined as a household in which at least one resident holds a valid annual NPP Permit issued by the City.
- Each vehicle must be registered to an applicant living at the address. If a resident drives an employer-assigned vehicle, the resident must provide written documentation of assignment from their employer in addition to a copy of the vehicle registration.
- Applicant must resolve all outstanding City-related financial obligations prior to receiving a permit (e.g. outstanding parking tickets).

- Businesses located within an NPP Neighborhood are eligible for one (1) Neighborhood Parking Permit, net of available off-street parking associated with the property.

Permits for Special Events/Contractors/Service Vehicles:

- If a resident needs to utilize a Service Provider such as a plumber or electrician, and the contractor is doing work subject to a Building Permit, he/she can display a copy of that active permit on the dashboard of the vehicle. If there is no active building permit for the project, the resident may visit the Foundry parking offices at 100 Foundry Place, Portsmouth, NH to request a temporary placard for the provider for that specific date, which the service provider must then display on the dashboard of the vehicle when parked.
- If replacing an NPP-registered vehicle, registrant may either transfer the plate to the new vehicle and update vehicle information with the Parking Clerk’s offices, or register the new plate, cancelling the existing plate. Applicant must again provide required proofs of residency.
- To facilitate on-street parking for Events, actively-participating NPP households may request up to four (4) Single-day Event Visitor Permits per calendar month, allowing event guests to park up to 24 hours. Interested residents can obtain Event passes at the Foundry parking offices located at 100 Foundry Place, Portsmouth, NH. Fees associated with such permits will be established and updated by the City Council.

Other Rules:

- Participants understand that a permit does not guarantee a parking space on any street.
- All permits are subject to annual renewal; proof of residency is required for renewal.
- If any information on the NPP application form is falsified, or if you switch plates among vehicles, the permit will be revoked.
- The Guest Placard is intended to be transferable.
- NPP registrations become null and void if used on a vehicle other than the vehicle listed on the application.

Neighborhood-Specific Rules

Islington Creek*: This program applies to these specific streets: McDonough from Salem to Brewster; Cabot from Islington to the Railroad tracks; Rockingham; Cornwall; Langdon, wrapping around to Brewster; Brewster, wrapping around to Langdon; Sudbury; Hanover from Brewster to Bridge; Rock Street from Islington to the signage at Heinemann; Pearl Street; Parker Street; Tanner Court; Hill Street

Islington Creek households are eligible to acquire a maximum of three (3) permits and one (1) guest permit per household, net of available off-street parking associated with the property.



South End:** The program applies to these specific streets: Hancock; Gates; Howard; Manning; Meeting House Hill; Marcy (south of Hancock); Walton Alley; Gardner; Hunking, and Pickering. Strawberry Banke Properties are separately governed and are not subject to this program.

South End households are eligible to acquire a maximum of two (2) permits and one (1) guest permit per household, net of available off-street parking associated with the property.



Additional Comments from each Councilor on 1.22.19 (*answers in italics*)

Denton

- Landlord/tenant discrepancy – who gets the parking passes?
 - *Whoever occupies, renters just show lease*
- Two hour time limit – why not four like other outlying neighborhoods?
 - *Roberts: Creates issues for Prescott Park-could park at 4pm for an event and remain through the evening*

Perkins

- Did residents come up with number of passes (3) per household?
 - *Yes, in survey/meeting feedback*
- How does this dovetail with our parking and zoning requirements? Seems contradictory to our zoning
 - *We can evaluate during a pilot program*
- Not in support of current form, thinks: it's a burden on residents; will lead to more congestion and not fair for taxpayers who pay for the maintenance of City streets; it's a bad social dynamic with neighbors reporting neighbors
- She'd like to simultaneously hear a proposal of where downtown business workers would park if we do this?

Becksted

- This second round of maps included Hancock St while prior maps didn't include Hancock St
- Supports program/some changes in amendments – advocates for the work that staff and neighborhoods have put into this; leave it up to them to get the petition signed to pass this program

Lazenby

- Do you have data that supports the neighborhoods that have parking issues?
 - *Yes (survey responses as well as inventory figures)*
- Opportunity to explore employee parking programs/policies?
 - *Yes, City Manager cites current transportation initiatives such as microtransit*
- Wants to support this, but wants to make sure that this program is going to support the nature of the problem: Is it employee parking? If so, how do we solve that? Needs to serve both residents and employers

Pearson

- What can residents expect for this petition/75% from single family dwellings
- We'd reach out to neighborhood representatives and then compare responses to GIS data
- Wants to support this - thinks amendments would improve it – suggests that two of the months of the pilot program would fall during a warm/high season to compare high and shoulder seasons, and wants to simplify the process of acquiring guest passes so it's not burdensome to have to travel to City Hall to obtain one, etc.

Dwyer

- Is there data on netting out driveway space? Would need to consult Assessor/GIS data (comment)
- Estimated cost of enforcement?
 - *Not at this time*
- Changes need to be made to support pilot – clarification needed on why Hancock should be included in these plans. Let's avoid netting out of numbers - it's hard for outsiders to determine your personal uses of your driveway, hard and fast criteria to show what qualifies a successful pilot

**OFFICE OF THE CITY CLERK
CITY OF PORTSMOUTH, N.H.**

Kelli L. Barnaby, MMC/CNHMC
City Clerk
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7207
Fax: 603-610-4158
klbarnaby@cityofportsmouth.com

Memo

To: Mayor Jack Blalock and City Council
From: Kelli L. Barnaby, City Clerk
Date: January 31, 2019
Re: 2018 Board and Commission Attendance Records

Please find attached the 2018 attendance records for all Boards and Commissions as requested by the Mayor and City Council.

If you should have any questions, please do not hesitate to contact me directly or via e-mail at klbarnaby@cityofportsmouth.com.

cc: John P. Bohenko, City Manager

2018 - Board and Commission Meeting Attendance Records

Cable & Communication - (9 meetings held)				
	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Capone, Robert	8	1		88%
Chicoree, Ash	7	2		77%
Gray, Steve (Appt. 02/05/18)	9	0		100%
Kirsch, Nicholas	5	2	2	55%
Winstanley, Richard	7	1	1	77%
Vacancy (Alt)	-	-	-	-
Citizens Advisory (6 meetings held)				
	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Bunnell, Judith	5	1		83%
Cowgill, Marie	5	1		83%
Dahlgren, Hannah	5	1		83%
Hamilton, Alison	3	3		50%
Langley, Lynne	5	1		83%
Phelps, Janet (Appt 02/20/18)	5	0		100%
Rooney, Dani	3	3		50%
Sandberg, Jonathan	5	1		83%
Conservation Commission (12 meetings held)				
	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Blanchard, MaryAnn	11	1		91%
Collins, Samantha	10	2		83%
Harrison, Adrienne	10	2		83%
McMillan, Barbara	12	0		100%
Miller, Steven	12	0		100%
Morison, Nathalie, Alt.	9	3		75%
Tanner, Allison	11	1		91%
Vacancy	-	-		-
Vacancy (alt)	-	-		-
Economic Development Com (8 meetings held)				
	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Carmer, Nancy, Ex-Officio	8	0		100%
City Manager, Ex-officio	8	0		100%
Cohen, Philip	6	2		75%
Eaton, Everett	3	5*		37%
Gold, Alan	7	1		87%
Kwoka, Katelyn (Appt. 05/07/18)	4	0		100%
Lachance, Sarah	8	0		100%
Lazenby, Cliff, Council Rep.	8	0		100%
Levenson, Dana	8	0		100%
Marchewka, Robert	7	1		87%
Pearson, Nancy, Council Rep.	7	1		87%
Watson, Thomas (Appt. 02/20/18)	6	0		75%
Zolla, Ron	7	1		87%
<i>* Business related excused absences</i>				

Historic Distirct Com. (20 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Beer, Cyrus, (Alt)	19	1		95%
Lombardi, Vincent	19	1		95%
Rawling, Daniel	19	1		95%
Roberts, Doug, Council Rep.	18	2		90%
Ruedig, Reagan	19	1		95%
Ryan, Martin	19	1		95%
Wyckoff, Jonathan	19	1		95%
Vacancy	-	-		-
Vacancy (Alt)	-	-		-
Housing Endowment Fund (1 meeting held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Berg, Steven	1	0		100%
Lukacz, Christine	1	0		100%
Mountjoy, Jeffrey	0	1		0%
Poubeau, Anne	0	1		0%
Welch, Craig - PHA Director	1	0		100%
Library Brd. of Trustees (8 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Boley, Bruce	7	1		87%
Clayburgh, Nancy, School Brd. Rep.	3	5		37%
Fannin, Jolanda	7	1		87%
Filion, Marsha (Appt. 09/17/18)	-	-		-
Hausman, Stephanie	6	2		75%
Jamison, Jack	6	2		75%
Katz, Richard	8	0		100%
Levenson, Shaula	5	3		62%
Margeson, Donald	7	1		87%
Neighborhood (Citywide) BRC (4 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Becksted, Rick, Council Rep.	4	0		100%
Bergeron, Kathleen	4	0		100%
Boduch, Kathleen	4	0		100%
Cataldo, Lawrence	3	1		75%
Hagaman, Chase	4	0		100%
Lazenby, Cliff	4	0		100%
Mannle, Paul	3	1		75%
Weinstein, Kelly	4	0		100%
Parking & Traffic Safety (10 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
City Manager (or Designee)	8	2		80%
DiBernardo Sr., Ralph	9	1		90%
Donnermeyer, Shari	8	2		80%
Fire Dept. Rep.	9	1		90%
McElwain, Mary Lou	8	2		80%
Pesci, Stephen (Alt) (Appt. 08/20/2018)	3	1		75%
Police Dept. Rep.	9	1		90%
DPW Director	8	2		80%
Roberts, Doug, Council Rep.	10	0		100%
Whitehouse, Harold	10	0		100%

Peirce Island Committee (meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
<i>On Hiatus during WWTF construction process</i>	-	-	-	
Planning Board (15 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Begala, Jane (Alt) term ending 12/31/18	8	7		53%
Clark, Corey (Alt)	11	4		73%
Gamester, Colby	15	0		100%
Kisiel, Jeffrey	12	3		80%
Leduc, Jay	9	6		60%
Legg, Dexter	14	1		93%
Moreau, Elizabeth	13	2		86%
Perkins, Rebecca, City Council Rep.	12	3		80%
Record, Jody	11	4		73%
Ports Housing Authority (12 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Ferrini, Thomas	12	0		100%
Griffin, Ruth, Chair	8	4		66%
Kennedy, Gibson "Mike"	9	3		75%
Leith, John F.	7	5		58%
Pickering, Robin, Residential Rep.	11	1		91%
Schwartz, Amy	9	3		75%
Welch, Craig, PHA Director	12	0		100%
Recreation Board (4 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Becksted Jr., Rick, Council Rep)	3	1		75%
Blalock, Richard (Appt. 03/18/2018)	2	1		67%
Cali-Pitts, Jacqueline	4	0		100%
Diemer, Carl	4	0		100%
Henley, Todd	3	1		75%
Kennedy, Tara, School Brd. Rep	4	0		100%
Louttit, Lisa	2	2		50%
Lynch, Kathy	2	2		50%
Sirmaian, Kory	4	0		100%
Trees/Public Greenery (12 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Adams, Richard	11	1		91%
Dupere, A.J., State Forester	9	3		75%
Griffin, Michael (Appt. 06/18/18)	4	1		80%
Loughlin, Peter, Chair	11	1		91%
Peter Rice, PW Director	12	0		100%
Souto, Dennis	8	4		66%
Umbro, Daniel	9	3		75%
Walker, Joan	11	1		91%
Hallowell, Corin, City Arborist	11	1		91%
Trustees of Trust Funds (12 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Levenson, Dana	11	1		91%
Watson, Thomas	12	0		100%
Weeks, Peter (Appt. 02/05/18)	11	0		91%

Zoning Board of Adjustment (16 meetings held)	<u>Attended</u>	<u>Excused</u>	<u>Unexcused</u>	<u>Attendance %</u>
Eldridge, Phyllis (Alt) (Appt. 02/20/18)	11	2		85%
Formella, John	10	6		62%
Hagaman, Chase (Alt) (Appt. 07/09/18)	7	0		100%
Johnson, Jeremiah	13	3		81%
Lee, Jim	13	3		81%
McDonell, Peter	14	2		87%
Moretti, Patrick (final mtg. 02/27/18)	2	1		67%
Mulligan, Christopher	14	2		87%
Parrott, Arthur	15	1		93%
Rheaume, David	15	1		93%