MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment ("ZBA")

FROM: R. Timothy Phoenix, Esquire

Kevin M. Baum, Esquire

DATE: September 16, 2021

RE: Request for Rehearing

Lucky Thirteen Properties, LLC - Owner

361 Islington Street Tax Map 144, Lot 23 CD4-L2 Zoning District

Dear Chair Rheaume and Zoning Board Members:

Now comes Lucky Thirteen Properties, LLC, owner of the property located at 361 Islington Street (the "Property"), and respectfully request that the Zoning Board of Adjustment (the "ZBA") grant a rehearing with respect to the variance requests denied by the Board on August 17, 2021 and in support thereof states:

I. <u>EXHIBITS</u>

- 1. 8/23/21 Notice of Decision with respect to 8/17/20 hearing.
- 2. Deed to Property with Use Restrictions
- 3. Proposed Images and Elevations for Previously Approved Lexie's Application.
- 4. Google Map showing proximity to Municipal Garage.
- 5. ESRI Demographic and Income Profile.
- 6. <u>Certificates of Occupancy for similarly situated restaurants.</u>

II. RELIEF REQUESTED

- 1. **PZO §10.440** Variance to permit restaurant use with an occupant load of between 50 and 250 patrons.
- 2. **PZO §10.5A41.10A** Variance to permit a ±100 square foot building addition ±29.4 feet from the side yard setback where a 5 foot minimum and 20 foot maximum setback is required.
- 3. **PZO §10.5A41.10A** Variance to permit 17.4% open space where 5.7% currently exists and 25% is required.

- 4. **PZO §10.5A41.10A** Variance to permit less than 70% shopfront façade glazing to allow continued use of existing building shopfront and former garage bays.
- 5. **PZO §10.5A44.31** Variance to permit parking to the side and front of the existing building façade.
- 6. **PZO** §10.5A44.32 Variance to permit parking unscreened by a building or streetscreen (fence or wall).
- 7. **PZO §10.575** Variance to permit a dumpster within 20 feet of a residential zoned lot or within 10 feet of any lot line.
- 8. **PZO §10.1113.20** Variance to permit parking in a required front yard between a building and a street.

III. STANDARD OF REVIEW

Within 30 days after any... decision of the Zoning Board of Adjustment... any party to the action or proceedings... may apply for rehearing in respect to any matter determined in the action specifying in the motion for rehearing the grounds therefor; and the Board of Adjustment may grant such rehearing if in its opinion good reason therefor is stated in the motion. RSA 677:2.

A motion for rehearing. Shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. RSA 677:3, I.

The purpose of the statutory scheme is to allow the ZBA to have the first opportunity to pass upon any alleged errors in its decision so that the court may have the benefit of the board's judgment in hearing the appeal. *Town of Bartlett Board of Selectmen v. Town of Bartlett Zoning Board of Adjustment*, 164 NH 757 (2013). Rehearing is designed to afford local zoning boards of adjustment an opportunity to correct their own mistakes before appeals are filed with the courts. *Fisher v. Boscawen*, 121 NH 438 (1981).

IV. <u>RELEVANT FACTS</u>

The Property is the location of the long vacant former Getty gas station. As several ZBA members noted, this Property has been the subject of multiple approval requests since the closure

of the gas station many years ago, none of which have ultimately found success. The Property is distressed, and as noted by ZBA members, a drag on the neighborhood. Due to its former use, the Property is subject to significant use restrictions, including a prohibition on residential use.

Exhibit 2. Restaurant use is permitted under the deed and Portsmouth Zoning Ordinance, and in fact, according the Property owner, approximately 95% of inquiries by prospective buyers are for restaurant use (the remaining ±5% are for residential or automotive use, which are both prohibited by the deed).

The applicant, Kung Food, LLC, whose principals include Paul Simbliaris and Robert Marcotte, a national culinary award winner and operator of multiple successful restaurants in the Seacoast area, sought to renovate the existing building and canopy area to allow for a new restaurant with both indoor and outdoor seating. Due to the ZBA's denial of its requested variances, Kung Food, LLC has terminated its agreement to purchase the Property as the site is simply not viable for a restaurant with the minimal seating permitted under current zoning. The Property owner now seeks rehearing to clarify misunderstandings of the ZBA and allow it to correct its mistakes so that the Property may be developed for future use as a restaurant.

As noted in the original variance application and recognized by the members, the ZBA has previously granted two similar variances for restaurant use at the Property, for Lexie's in 2017 and for food truck use in 2018. See Application at Exhibits 6 & 7. Lexie's ultimately determined that the site was not viable, as the potential revenue based on available seating was insufficient to cover cost of the significant renovation needed for the site. The food truck operated briefly, and without complaint by the neighbors, before shutting down in 2020. Despite these prior approvals for similar restaurant use, the ZBA voted 4-3 to deny the proposal. Exhibit

While the Notice of Decision (**Exhibit 1**) does not identify any reasons for the ZBA's denial, the ZBA appeared to be concerned about the "intensity" of the proposal, primarily with respect to the number of seats, parking and the location of the dumpster. *See* YouTube video of August 17, 2021 ZBA hearing *available at* https://www.youtube.com/watch?
v=vfu0_J4Grsg&t=17305s ("Hearing Video")¹ The reasons stated by the moving ZBA member, Beth Margeson were as follows:

I think that there are significant health, safety and welfare issues with such an intense use of this very small parcel for vehicular access, circulation, parking and loading... <u>Id.</u> at 4:47:54.

I have to believe that with the intensification of the use with the use of vehicular traffic, very high occupancy seating load, the dumpsters operating close to a residential area, residential areas are generally kept somewhat away from commercial uses...I believe it would diminish property values. <u>Id.</u> at 4:48:33.

Member Lee, who seconded the motion to deny simply concurred. No other members offered comments on the motion. <u>Id.</u> In making its decision, the ZBA voted on the proposal as a whole rather than considering the individual requests, despite the fact that the members appeared concerned <u>only</u> with respect to two requests: (1) the request for an occupancy load greater than 50; and (2) the location of the dumpster/compactor within 20 feet of a residential zoned lot.

As discussed in detail below, the ZBA erred by focusing generally on the "intensity" of the proposal. In doing so, it ignored the similar uses previously approved for the Property and currently existing along the Islington Street corridor. Specific concerns regarding intensity related to the number of parking spaces on the lot, location of the dumpster/compactor and number of occupants, which presumably relates to noise, foot and vehicular traffic to and from

¹ Minutes for the August 17, 2021 hearing were not available as of the date of this request. Lucky Thirteen Properties, LLC reserves the right to amend this rehearing request upon availability of the minutes pursuant to RSA 677:2.

the site. Due to zoning and deed restrictions, any use permitted on the Property will require a dumpster, which given the size and layout of the lot, will almost certainly require relief. These concerns are all properly vetted by the Planning Board in its site plan and parking conditional use permit review or could easily be addressed via conditions of approval, as was done when the ZBA previously granted relief. *See* Application at Exhibit 7 (9/21/18 Notice of Decision – imposing time of operation conditions for food truck use). Moreover, only two of the eight requested variances appear to have been of concern to the ZBA yet it chose to deny the proposal as a whole without addressing each of the requested variances or providing any written reasons for its denial. The owner, applicant and any reviewing court are left without any guidance as to what may be developed on the Property without a full understanding of the ZBA's reasons for denial, in violation in violation of RSA 676:3, L²

V. <u>DISCUSSION.</u>

a. The ZBA erred by finding that the proposal was more intense than previously approved applications and similar nearby uses.

The ZBA erred in determining that the proposed use of the Property for up to 100 occupants (approximately 50 interior and 50 exterior) was too intense for the area. In the first instance, the ZBA failed to consider seasonal impacts to the overall occupancy. As noted by the applicant's counsel, the proposed interior occupancy for the building was approximately 50 with the rest of the occupancy allocated to the exterior seating, which would only be in use seasonally, as weather and temperature permit. Given regional temperatures and rainfall, that is likely to limit occupancy of the restaurant to 50 for approximately half of the year.

² "The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval..."

In fact, the previously approved Lexie's proposal called for the addition of polycarbonate side panels around the existing canopy seating area, which would extend the use of the outdoor seating much farther into the inclement weather seasons. **Exhibit 3**. This proposal, conversely, kept the canopy area open, reducing the overall seasonal use of the patio and increasing use of the interior seating, which was to be limited to 50 occupants as permitted by right in the CD4-L2 Zone. Additionally, the prior use of the Property by the food truck, with 100% outside occupancy, resulted in no complaints to the City.

With respect to off-street parking, the ZBA erred by discounting the number of patrons walking to the restaurant due to the proximity of the municipal parking garage and impact of the recently imposed parking program within the adjacent residential neighborhood. Foundry Place Garage is 0.4 miles away, an approximately eight minute walk. **Exhibit 3.** Multiple other public lots exist within walking distance per Google Maps directions (Masonic Temple Lot -0.4 mi. Worth Lot -0.4 mi., 8 minutes; 9 minutes). Multiple private lots also exist in proximity to the Property.

The ZBA likewise gave little to no consideration to the residents living nearby who would likely frequent the restaurant, including the multiple multi-family rental and condominium properties located along Islington Street and in the surrounding neighborhood. **Exhibit 4** (identifying 5,150 owner and renter occupied housing units within one mile of the Property as of 2017). Contrary to some ZBA members' assertions, the likelihood of the Property receiving significant walk up traffic is great, especially considering the current time limited parking program imposed on the adjacent residential neighborhood, which will further limit impacts to residents.

The ZBA also failed to fully consider the similarity of existing businesses along the Islington Street Corridor. Liar's Bench, located at 459 Islington Street has almost the exact same occupancy as proposed for the Property with a 48 person interior and 50 exterior occupancy load. **Exhibit 5.** Based on a review of the parking area, only about 10 off-street parking spaces are available, well under the 15 spaces proposed for the Property. Likewise, the Kitchen at 171 Islington Street has a permitted interior occupancy of 48 and exterior occupancy of 24. *Id.* It has at most two short-term off-street parking spaces. Lexie's, at 212 Islington Street, while it has a smaller interior occupancy design (at 24) has no more than four off-street parking spaces. *Id.* Caffe Kilim has no off-street parking. Kung Food, LLC's proposal, is similar to or only slightly exceeds many of the surrounding businesses, especially in light of the seasonal nature of the exterior use. Moreover, its 15 off-street parking spaces well exceed all of the nearby Islington Street establishments. Accordingly, the ZBA erred by failing to adequately consider these existing similarly situated business when finding that the intensity of use would be contrary to the public interest, violate the spirit of the ordinance and diminish surrounding property values.

b. The ZBA erred by denying the requested variances based on criteria properly considered by the Planning Board.

The ZBA's stated reasons for denial largely related to impacts to the surrounding residential properties due to the number of occupants proposed and limited parking spaces. Each of these issues are properly the purview of the Planning Board site plan review and Condition Use Permit ("CUP") process, such as noise, screening and lighting. Moreover, the number of offstreet parking spaces has been expressly delegated to the Planning Board who are empowered to reduce the number of spaces as part of the CUP application process. To the extent the ZBA considered these factors in making its decision, it improperly usurped the powers expressly

delegated to the Planning Board and acted outside of its authority granted under RSA 674:33 and the Portsmouth Zoning Ordinance.

c. The ZBA erred by failing to adequately provide reasons for its denial.

The Notice of Decision fails to provide any written reasons for its denial of the variances as expressly required by RSA 676:3, I. That fact alone is reason for rehearing. Moreover, the record (currently limited to the Youtube video) fails to provide adequate reasons for denial to sufficiently apprise the owner of the ZBA's reasoning and provide an adequate record of the board's reasoning on appeal. *See Motorsports Holdings, LLC v. Town of Tamworth*, 160 N.H. 95, 103 (2010). Several members expressed concern regarding the intensity of the proposal. However, what comprised that intensity of use was never defined. As noted, the concern appeared to relate to patron noise, screening of vehicle lights and parking. However, the members never fully identified specific impacts or concerns, leaving the owner without understanding of what it might do to rectify these issues. Moreover, as these issues largely fall within the scope of Planning Board review, the owner is left without direction as to what could be changed to obtain zoning approval versus items that would customarily be addressed during site plan review.

Likewise, the ZBA erred by considering and denying the project as a whole rather than considering each of the requested variances. The ZBA appeared to have had concerns regarding only two of the eight requested variances: (i) occupancy greater than 50 and (ii) the location of the dumpster within 20 feet of a residential property. By failing to discuss or consider the other variances, the owner is denied the right to use the property for a restaurant with lesser occupancy and with a relocated dumpster location. Other than parking, the ZBA members did not identify any specific factors that would increase "intensity" of the Property. Presumably, noise as a

concern but there was no evidence presented that noise would be an issue, and in fact, the food truck (with 100% outdoor occupancy) operated for almost two years without the City receiving any complaints. A dumpster will be required due to the restriction on residential use under the deed, and given the size and layout of the lot, relief will almost certainly be needed. Moreover, the dumpster could easily been addressed through the imposition of conditions of approval or denied, without the need to deny the project as a whole.

The ZBA's failure to address its concerns with each of the requested variances was in error and in abrogation of the ZBA's duty to provide to sufficiently apprise the owner/applicant and a reviewing court of its reasons for denial. *Motorsports Holdings, supra*, 160 N.H. at 107 ("it was the...board's statutory responsibility to identify the particular aspects of the proposed project that it found were deficient under the governing [ordinance] criteria").

d. The ZBA erred, requiring rehearing, in finding that the requirements for variances were not met.

The ZBA denied the application for failure to meet three variance criteria: (1) that the variances will not be contrary to the public interest; (2) that the spirit of the ordinance is observed; and (3) that the granting the variances will not diminish surrounding property values. While the ZBA did not expressly find that the application failed to meet any of the other variance criteria, and thus, appear to have found them satisfied, the record reflects that this factors where also met.

- 1. The variances will not be contrary to the public interest.
- 2. The spirit of the ordinance is observed.

These two factors are considered together pursuant to *Malachy Glen Associates, Inc. v.* Town of Chichester, 155 N.H. 102 (2007). In making its review, the ZBA must determine whether granting a variance "would unduly and to a marked degree conflict with the ordinance

such that it violates the ordinance's basic zoning objectives." Id. "Mere conflict with the zoning ordinance is not enough." Id.

The purpose of the Portsmouth Zoning Ordinance ("PZO") as set forth in PZO §10.121 is "to promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan... [by] regulating":

- The use of land, buildings and structures for business, industrial, residential and 1. other purposes - The proposal repurposes an existing long-dormant property for a permitted use.
- 2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space - The proposal utilizes the existing structures; open space, which is currently virtually non-existent, is greatly improved.
- 3. The design of facilities for vehicular access, circulation, parking and loading -Traffic circulation is provided around the existing building utilizing both Islington and Cabot Streets. Traffic will be further vetted as part of the Planning Board review process.
- 4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding - Outdoor lighting will be designed to limit impact to abutting properties. Any noise will be consistent with the previously approved restaurant and food truck uses of the Property. Stormwater will be improved by the removal of existing asphalt and increased open space. The project will be fully vetted by the Planning Board.
- 5. The preservation and enhancement of the visual environment - The project will renovate the existing structures on the Property and allow for updated and to code structures. The project will add landscaping and increased green space on the Property.
- 6. The preservation of historic districts, and buildings and structures of historic or architectural interest - The proposal preserves and innovatively reuses the longexisting Getty building and canopy. The Property is located in the Historic District and will receive Historic District Commission ("HDC") review.
- 7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality - The Property is located on Islington Street in a densely developed area. To the extent the project impacts natural resources, it will be an improvement due to the removal of existing asphalt and increased open space.

Based upon the foregoing, none of the requested variances "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives." Malachy Glen, supra, which also held:

> One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality.... Another approach to [determine] whether granting the variance violates basic zoning

objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

The Property is located on the densely developed Islington Street corridor. The proposed seating, especially when considering seasonal limitations is consistent with other similar businesses in the area. See Section V.a. supra; Exhibit 4. It was also consistent with prior approvals of this board for the Property. Sufficient public parking exists within 0.4 miles of the Property and there are more than 5,000 residents living within a mile who could easily patronize the restaurant without the need for parking. There is no evidence presented that the use would cause noise issues, and in fact, past use of the Property by the food truck shows that it will not. No use may be made of the Property without the need for a dumpster, and therefore, the proper approach was not to deny relief but to allow the Planning Board to address any concerns and/or to impose reasonable conditions if deemed necessary.

The proposal provides for the adaptive reuse of the long-vacant, dilapidated building, which was recognized as a significant benefit by multiple ZBA members. Specific concerns raised by the ZBA members would have been fully vetted and addressed by the Planning Board and HDC as part of their review processes. Accordingly, granting the requested variances would neither "alter the essential character of the locality," nor "threaten the public health, safety or welfare."

3. Granting the variance will not diminish surrounding property values.

ZBA members recognized the difficulty of the site and the need to redevelop this longstanding eyesore. The proposal repurpose, for a permitted use, a long-vacant and derelict gas station on the Property. The existing structures will remain but will be updated and refreshed for a new use, compatible with other restaurants and commercial uses along the Islington Street corridor. Landscaping and open space will be added to the current almost entirely impervious lot.

Parking is consistent with other redeveloped commercial lots along Islington Street. Moreover, there are numerous public parking lots available within walking distance (0.4 mi., 8 min.) as well as 5,000+ residents within walking distance. Past use strongly suggests that noise would not be a problem. Specific concerns regarding lighting, screening and the like could have been addressed as part of the Technical Review Committee and Planning Board review process, which is better suited to deal with these issues. Finally, the ZBA failed to consider the improvement to surrounding property values of the project as a whole by permitting a viable commercial use and redeveloping a derelict, vacant building. In light of these factors, granting the requested variance will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

Special conditions distinguish the property/project from others in the area. a.

The Property is small, at 0.35 acres, with a long vacant building that predates the implementation of the CD4-L2 Zone. Little, if anything, can be done on the Property absent relief. It is subject to significant deed restrictions, including a prohibition on residential and vehicle service use. Exhibit 2. The Property is also burdened by access easements to the left (west) side of the lot, further restricting development on the lot. The lot, as it currently exists, is almost entirely developed with buildings and asphalt.

No fair and substantial relationship exists between the general public purposes of b. the ordinance and its specific application in this instance.

The Property has pre-existing conditions that pre-date current zoning. Residential uses are prohibit by deed. CD4-L2 zoning requirements cannot be met on the Property without demolition of the existing structures and building new. Compliance with the ordinance would require greater build-out of the parcel with more impact to surrounding properties. Conversely, the proposal allows for adaptive reuse the long-standing building and canopy. It adds landscaping and additional open space to what is currently an almost entirely paved lot. Multiple public parking lots are located within ½ mile of the Property. There are 5,000+ residential units within a mile. Thus, the proposed restaurant use, with both indoor and outdoor seating and offstreet parking, complements the surrounding Islington corridor area and is consistent with the overall intent of the Master Plan and the CD4-L2 Zone, which is intended "[t]o promote the development of walkable, mixed-use, human-scaled places..." PZO §10.410. Additional off street parking cannot occur in compliance with the ordinance absent demolition or reconstruction of the existing structures. Allowing parking without adding streetscreening (wall or fence) will keep the newly landscaped lot visually open and maintain sight lines for ingress and egress to Islington and Cabot Streets. No use can occur without the inclusion of a dumpster, which given the size of the lot and existing structures almost certainly requires relief. Accordingly, there is no fair and substantial relationship between the general public purposes of the PZO and its

specific application in this instance.

c. <u>The proposed use is reasonable.</u>

If the use is permitted, it is deemed reasonable. *Vigeant v. Hudson*, 151 N.H. 747 (2005). Restaurant use is permitted within the CD4-L2 Zone. The proposal creatively readapts a long dormant property with a new use compatible with the area. Accordingly, Kung Food's proposed use of the Property is reasonable.

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." Malachy Glen, supra at 109. Granting the requested variance allows for the creative and productive reuse of a long dormant property in a manner consistent with walkable, mixed-use purposes of the zoning district and surrounding area. Denial results in the continued disuse of this long, mostly vacant parcel, a loss to both the owner and surrounding property owners. Accordingly, there is no benefit to the public that outweighs the harm to the owner if the requested relief is not granted. Denial would result in significant harm to the owner and the public.

To the extent that a majority of board members found that the application did not meet these variance requirements, the decision was in error, justifying rehearing.

VI. CONCLUSION

For all of the foregoing reasons, Lucky Thirteen Properties, LLC respectfully requests that the ZBA grant rehearing.

Respectfully submitted

Lucky Thirteen Properties, LLC

R. Timothy Phoenix

Kevin M. Baum

CITY OF PORTSMOUTH





Planning Department 1 Junkins Avenue Portsmouth, New Hampshire 03801

(603) 610-7216

ZONING BOARD OF ADJUSTMENT

August 23, 2021



Lucky Thirteen Properties, LLC PO BOX 300 Rye, NH 03870

RE: Zoning Board of Adjustment request for Property Located at 361 Islington Street (LU-21-147)

Dear Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of August 17, 2021, considered your application for renovating the existing building to allow for a new restaurant which requires the following: 1) Variance from Section 10.440 Use #9.42 to allow a restaurant with an occupant load of 50 to 250. 2) Variance from Section 10.5A41.10A to allow a) a 29' left side yard where a 5 foot minimum and 20 foot maximum is required and b) 17% open space where 25% is required. 3) Variance from Section 10.5A44.31 to allow parking to be located in front of the building façade. 4) Variance from Section 10.5A44.32 to allow parking unscreened by a building or street screen. 5) Variance from Section 10.575 to allow a dumpster within 20 feet of a residential zoned lot and within 10 feet of any lot line. 6) Variance from Section 10.1113.20 to allow parking in the front yard and between a principal building and a street. Said property is shown on Assessor Map 144, Lot 23 and lies within the Character District 4-L2 (CD4-L2). As a result of said consideration, the Board voted to deny the petition as submitted.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

David Rheaume, Chairman of the Zoning Board of Adjustment

CC:

Danielle Cain, Market Square Architects
R. Timothy Phoenix, Esq., Hoefle, Phoenix, Gormley & Roberts, PPLC
Erik Saari, Altus Engineering, Inc.







SHORT FORM QUITCLAIM DEED

LEEMILT'S PETROLEUM, INC., A New York Corporation, having a place of business at 125 Jericho Turnpike, Ste 103, Jericho, NY 11753, for consideration paid, grants to Rye Atlantic Properties, LLC, a New Hampshire limited liability company, with a mailing address of P.O. Box 4780, Portsmouth, NH 03802, with Quitclaim Covenants, the premises located in the City of Portsmouth, County of Rockingham and State of New Hampshire, as described on **Exhibit** A (the "Premises") attached hereto and made a part hereof.

Meaning and intending to convey the same premises as conveyed in a deed from J.R. Sousa & Sons, Inc. dated November 26, 1986 and recorded in the Rockingham County Registry of Deeds in Book 2646, Page 2116.

Grantee is purchasing the Premises in its "AS IS WHERE IS" condition and shall assume all responsibility and liability with respect to the condition of the Premises and shall comply with all environmental laws, rules and regulations. Grantee shall be responsible for and shall defend, indemnify and hold Grantor and its parent and affiliated companies and their successors and assigns harmless from and against all claims, actions, losses, demands, judgments, damages or liabilities (including, without limitation, reasonable attorneys' fees, costs and disbursements), injuries, fines, payments, administrative orders, consent agreements, penalties, cost and expenses of any kind whatsoever brought with respect to any and all environmental conditions and contamination on, under or related to the Premises, other than the environmental conditions set forth in a certain Underground Storage Tank Closure Assessment Report dated August 25, 2010, made by Tyree on behalf of Getty Petroleum Marketing, Inc., being thirty three (33) pages, and the September 2011 Data Transmittal and 2011 Summary Annual Report dated October 4, 2011 prepared by GeoInsight, Inc. for Getty Properties Corp., being fifty four (54) pages, and both being kept on file at Grantor's and Grantee's offices, and from Grantee's failure to comply with or to remediate the Premises in accordance with all applicable laws, rules and regulations, including, without limitation, with respect to the use of underground storage tanks on the Premises and for any contamination related to or emanating from such underground storage tanks or their associated piping, lines and motor fuel dispensing systems, and their compliance with applicable laws. Grantee acknowledges that the Premises has been used as a retail gasoline service station including the storage, sale, transfer and distribution of fuels and other petroleum products containing hydrocarbons and that there may be hazardous substances in connection therewith on and under the Premises. The foregoing obligations and indemnity of the Grantee shall be deemed a covenant running with the land and shall be binding on the Grantee, its successors and assigns, and any subsequent purchasers or owners of the Premises.

Grantee agrees that the Premises shall not be used, in whole or in part, (i) as an automobile service station, petroleum station, gasoline station or for the purpose of conducting or carrying on the business of selling, offering for sale, storage, handling, distributing or dealing in petroleum, gasoline, motor vehicle fuel, diesel fuel, kerosene, benzol, naphtha, greases, lubricating oils, or any fuel used for internal combustion engines, or lubricants in any form, or other petroleum or petroleum-related products customarily associated with service stations (provided however that may sell, store, and use motor vehicle fuel and lubricants in limited amounts which are customary in connection with the operation of automobile repair facilities of similar size), or (ii) for a period of thirty (30) years following the date hereof, for residences of any type, places of worship, bed and breakfast facilities, rooming houses, hospitals, nursing homes or similar geriatric facilities, child care, playground or recreational area, schools (or any similar use which is intended to house, educate or provide care for children, the elderly or the infirm), agricultural uses, or the construction or installation of any water wells for drinking or food processing. These covenants and use restrictions shall bind the Grantee, its successors and assigns, future owners of the Premises and the Premises itself, and shall be deemed covenants running with the land and each portion thereof.

[Signature appears on following page]

IN WITNESS whereof, the said LEEMII instrument to be executed by Oshua Dicker duly authorized, this day of September, 2	its Sr. Vill wesdow, thereunto
	LEEMILT'S PETROLEUM, INC.
Witness STATE OF NEW YORK	By: Joshua Dicker Its: Sr. Vice President Spate
County of Nassau, SS.	September 24, 20, 27
Then personally appeared the above-name capacity as Struct President of LEEMILT'S foregoing instrument to be his/her free act and deed said corporation.	PETROLEUM, INC., and acknowledged the
Befor	re me,

Notary Public Printed Name:

CHRISTINE FITTER
Notary Public, State of New York
No. 4948579
Qualified in Suffolk County
Certified in Nassau County
Commission Expires March 20, 20

EXHIBIT A

The land with buildings thereon, situated in Portsmouth, Rockingham County, New Hampshire, bounded and described as follows:

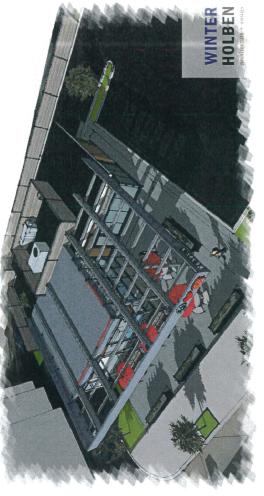
Beginning at a stone post at the southeasterly corner of the herein described premises and the southeasterly corner of land now of Bert M. and Elizabeth M. Dalla Mira, said stone post being on the northwesterly sideline of Islington Street and located S 59°52' W a distance of one hundred fifty-two and eighty-five one hundredths (152.85) feet from the corner of Islington and Cabot Streets; thence N 30° 19' W by land of said Dalla Mira a distance of one hundred and two tenths (100.2) feet to land of Maurice C. and Alice Journeault; thence N 39° 59' E by land of said Journeault, land of Rebecca Yoffee and land of Minnie E. Lubee a distance of one hundred forty-eight and eight tenths (148.8) feet to the southwesterly sideline of Cabot Street; thence S 32° 38' E by the southwesterly sideline of said Cabot Street a distance of one hundred and no tenths (100.0) feet to the corner of said Cabot and Islington Streets; thence S 59° 52' W by the northwesterly sideline of Islington Street a distance of one hundred fifty-two and eighty-five one hundredths (152.85) feet to the point of beginning.

Said premises are shown on the "Plan of Land, Nos. 341 and 361 Islington Street, Portsmouth, New Hampshire, Surveyor for Gulf Oil Corporation by John W. Durgin, Civil Engineers, April 1956", a copy of which has been recorded and to which reference may be had for a more particular description.





WINTER





PROPOSED IMAGES - ISLINGTON STREET VIEW

LEXIES JOINT 361 ISLINGTON STREET PORTSMOUTH, NH 03801

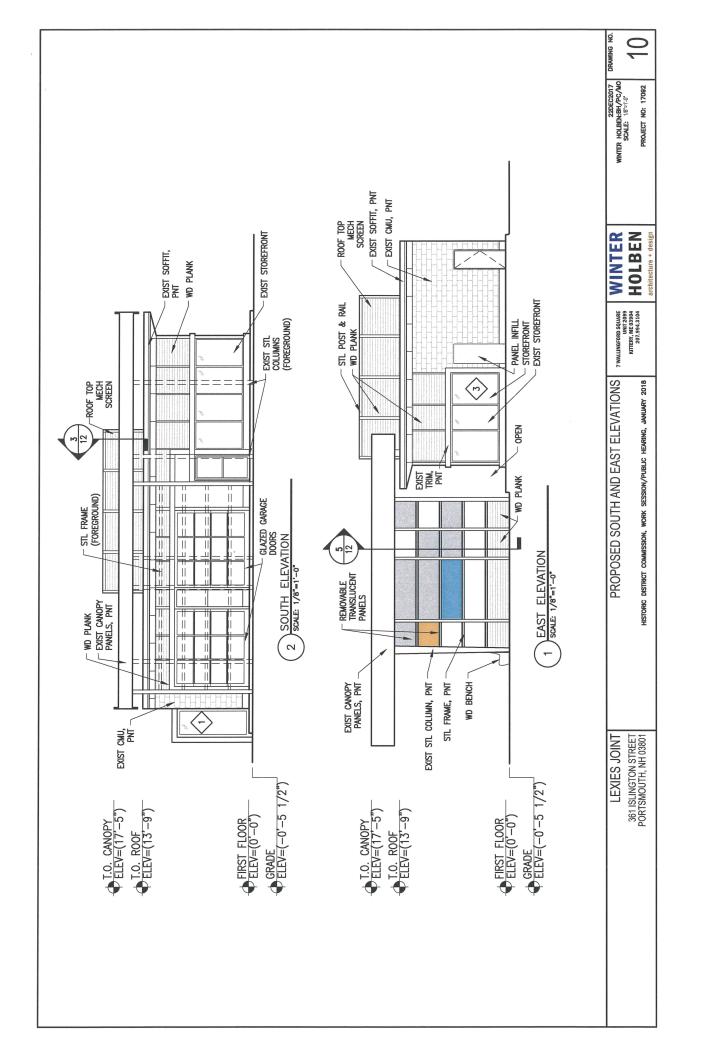
HISTORIC DISTRICT COMMISSION, WORK SESSION/PUBLIC HEARING, JANUARY 2018

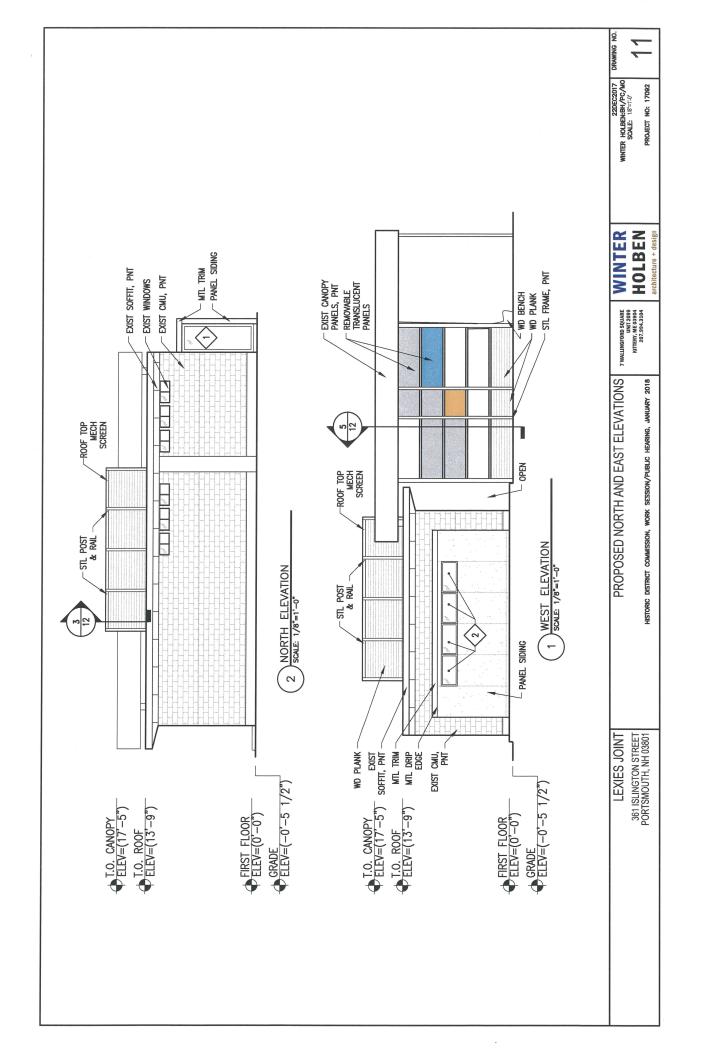
WINTER HOLBEN 7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207.994.3104

22DEC2017
WINTER HOLBEN:BH/PC/MO
SCALE: NTS

PROJECT NO: 17092

 ∞





PROJECT NO: 17092

22DEC2017
WINTER HOLBEN:BH/PC/MO
SCALE: NTS

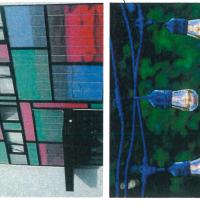
7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207.994.3104 MATERIAL INSPIRATION

WINTER HOLBEN

HISTORIC DISTRICT COMMISSION, WORK SESSION/PUBLIC HEARING, JANUARY 2018

PATIO PLANTERS

WD PLANK



PATIO LICHTING















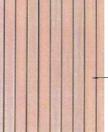












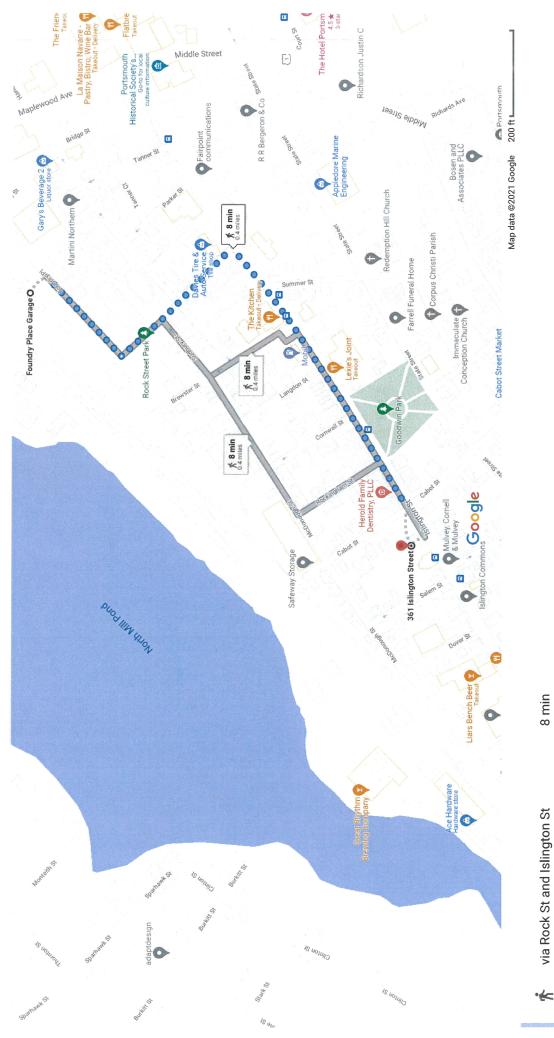
- STL TRELLIS











EXHIBIT

via Rock St and Islington St

0.4 mile

8 min

via Islington St

0.4 mile

via McDonough St

·4<

8 min

0.4 mile



361 Islington St, Portsmouth, NH, 03801 Ring: 1 mile radius

Latitude: 43.07297 Longitude: -70.76679

Summary	Census 2010	2012	2017
Population	9,602	10,124	10,198
Households	5,031	5,046	5,149
Families	1,989	1,981	1,995
Average Household Size	1.88	1.89	1.87
Owner Occupied Housing Units	2,384	2,309	2,354
Renter Occupied Housing Units	2,647	2,737	2,796
Median Age	40.6	39.3	39.5
Trends: 2012 - 2017 Annual Rate	Area	State	National
Population	0.15%	0.14%	0.68%
Households	0.40%	0.32%	0.74%
Families	0.14%	0.19%	0.72%
Owner HHs	0.39%	0.36%	0.91%
Median Household Income	3.80%	3.07%	2.55%

				20	12		2017
Households by Income				Number	Percent	Numb	er Percent
<\$15,000				669	13.3%	68	37 13.3%
\$15,000 - \$24,999				533	10.6%	40	7.9%
\$25,000 - \$34,999				386	7.6%	34	17 6.7%
\$35,000 - \$49,999				688	13.6%	57	73 11.1%
\$50,000 - \$74,999				830	16.4%	74	14.5%
\$75,000 - \$99,999				613	12.1%	8:	15.9%
\$100,000 - \$149,999				654	13.0%	74	14.4%
\$150,000 - \$199,999				344	6.8%	4:	8.8%
\$200,000+				328	6.5%	37	75 7.3%
Median Household Incom	e			\$55,596		\$66,99	93
Average Household Incor	ne	•		\$80,096		\$93,2	11
Per Capita Income				\$41,396	· *:	\$48,53	32

			Census 20	010	20	12	2	017
Population	by Age		Number	Percent	Number	Percent	Number	Percent
0 - 4			394	4.1%	392	3.9%	392	3.8%
5 - 9			413	4.3%	410	4.0%	406	4.0%
10 - 14			340	3.5%	336	3.3%	337	3.3%
15 - 19			271	2.8%	280	2.8%	266	2.6%
20 - 24			607	6.3%	857	8.5%	814	8.0%
25 - 34			1,970	20.5%	2,166	21.4%	2,200	21.6%
35 - 44			1,417	14.8%	1,420	14.0%	1,390	13.6%
45 - 54			1,391	14.5%	1,355	13.4%	1,253	12.3%
55 - 64			1,328	13.8%	1,385	13.7%	1,444	14.2%
65 - 74			690	7.2%	738	7.3%	881	8.6%
75 - 84			501	5.2%	497	4.9%	516	5.1%
85+			281	2.9%	289	2.9%	298	2.9%

85+	281	2.9%	289	2.9%	298	2.9%
	Census 20	10	20)12	20	17
Race and Ethnicity	Number	Percent	Number	Percent	Number	Percent
White Alone	9,177	95.6%	9,609	94.9%	9,501	93.2%
Black Alone	112	1.2%	151	1.5%	243	2.4%
American Indian Alone	16	0.2%	17	0.2%	19	0.2%
Asian Alone	130	1.4%	157	1.6%	200	2.0%
Pacific Islander Alone	3	0.0%	4	0.0%	6	0.1%
Some Other Race Alone	33	0.3%	41	0.4%	53	0.5%
Two or More Races	131	1.4%	146	1.4%	175	1.7%
Hispanic Origin (Any Race)	179	1.9%	222	2.2%	298	2.9%

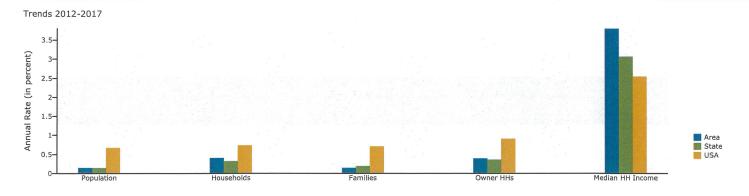
Data Note: Income is expressed in current dollars.

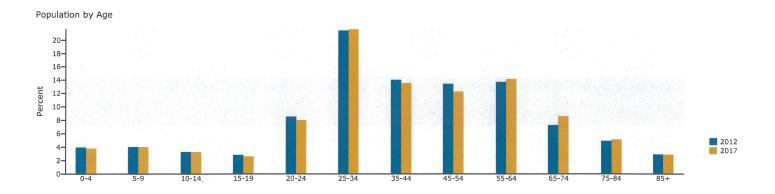
Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017.

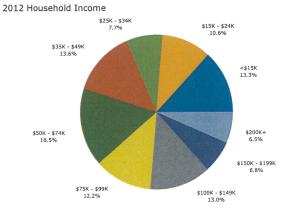


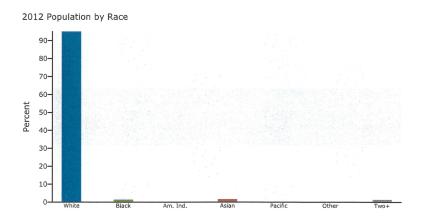
361 Islington St, Portsmouth, NH, 03801 Ring: 1 mile radius

Latitude: 43.07297 Longitude: -70.76679









2012 Percent Hispanic Origin: 2.2%

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017.



361 Islington St, Portsmouth, NH, 03801 Ring: 3 mile radius

Latitude: 43.07297 Longitude: -70.76679

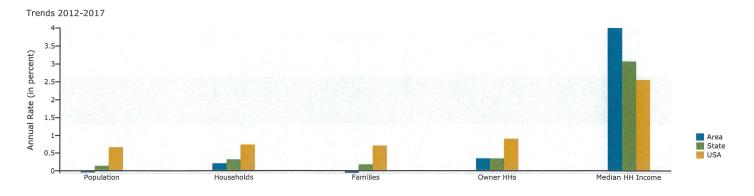
Summary	Ce	nsus 2010		2012		2017
Population		25,734		26,226		26,184
Households		12,161		12,125		12,258
Families		6,068		6,012		5,99
Average Household Size		2.07		2.08		2.0
Owner Occupied Housing Units		6,707		6,564		6,68
Renter Occupied Housing Units		5,454		5,561		5,57
Median Age		41.7		41.4		42.
Trends: 2012 - 2017 Annual Rate		Area		State		Nationa
Population		-0.03%		0.14%		0.689
Households		0.22%		0.32%		0.749
Families		-0.05%		0.19%		0.729
Owner HHs		0.35%		0.36%		0.919
Median Household Income		4.00%		3.07%		2.55%
			20	012		2017
Households by Income			Number	Percent	Number	Percer
<\$15,000			1,394	11.5%	1,385	11.39
\$15,000 - \$24,999			1,172	9.7%	873	7.19
\$25,000 - \$34,999			1,118	9.2%	942	7.79
\$35,000 - \$49,999			1,722	14.2%	1,417	11.69
\$50,000 - \$74,999			2,146	17.7%	1,946	15.99
\$75,000 - \$99,999			1,578	13.0%	2,148	17.5%
\$100,000 - \$149,999			1,733	14.3%	1,997	16.39
\$150,000 - \$199,999			670	5.5%	881	7.29
\$200,000+			591	4.9%	669	5.5%
Median Household Income			\$55,717		\$67,774	
Average Household Income			\$76,439		\$88,318	
Per Capita Income	· ', •		\$36,504		\$42,559	
	Census 20	010		012		2017
Population by Age	Number	Percent	Number	Percent	Number	Percer
0 - 4	1,298	5.0%	1,285	4.9%	1,267	4.89
5 - 9	1,248	4.8%	1,234	4.7%	1,216	4.69
10 - 14	1,179	4.6%	1,162	4.4%	1,164	4.49
15 - 19	1,058	4.1%	1,028	3.9%	974	3.79
20 - 24	1,544	6.0%	1,798	6.9%	1,660	6.39
25 - 34	4,194	16.3%	4,394	16.8%	4,390	16.89
35 - 44	3,517	13.7%	3,445	13.1%	3,329	12.79
45 - 54	3,843	14.9%	3,722	14.2%	3,415	13.09
55 - 64	3,478	13.5%	3,618	13.8%	3,740	14.39
65 - 74	2,059	8.0%	2,198	8.4%	2,603	9.99
75 - 84	1,560	6.1%	2,198 1,551	5.9%	1,607	
85+	757	2.9%	789			6.19
				3.0%	818	3.19
Page and Ethnicity	Census 20 Number			Dorsont	Number	2017
Race and Ethnicity White Alone		Percent	Number	Percent		Percer
	24,157	93.9%	24,403	93.0%	23,807	90.99
Black Alone	374	1.5%	490	1.9%	772	2.99
American Indian Alone	49	0.2%	50	0.2%	54	0.29
Asian Alone	463	1.8%	525	2.0%	651	2.5%
Pacific Islander Alone	10	0.0%	13	0.0%	18	0.19
Some Other Race Alone	154	0.6%	173	0.7%	211	0.89
Two or More Races	528	2.1%	572	2.2%	669	2.6%

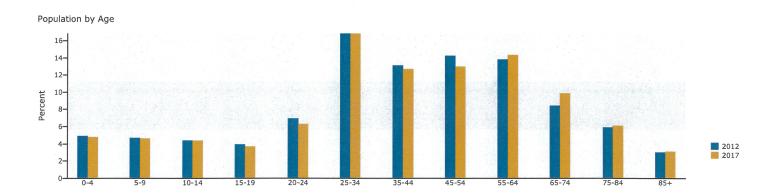
February 14, 2013

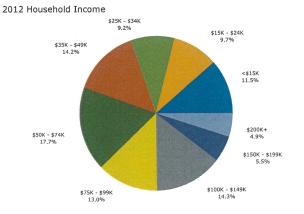


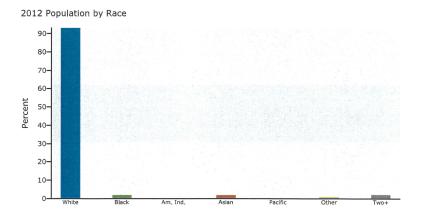
361 Islington St, Portsmouth, NH, 03801 Ring: 3 mile radius

Latitude: 43.07297 Longitude: -70.76679









2012 Percent Hispanic Origin: 2.8%

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017.



361 Islington St, Portsmouth, NH, 03801 Ring: 5 mile radius

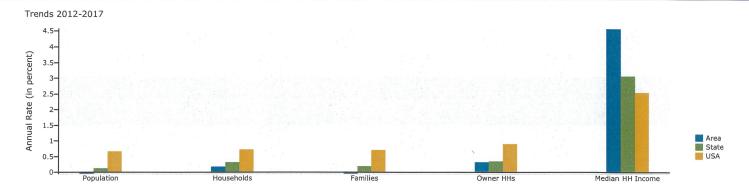
Latitude: 43.07297 Longitude: -70.76679

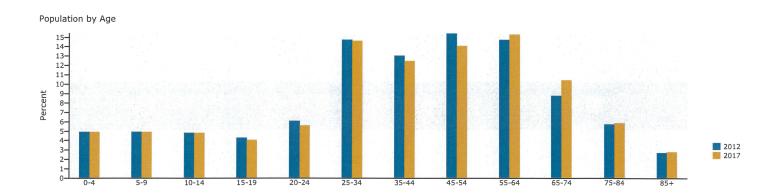
Summary			Census 2010		2012		2017
Population			40,814		41,304		41,216
Households			18,714		18,634		18,804
Families			10,277		10,183		10,164
Average Household Size			2.15		2.16		2.13
Owner Occupied Housing			11,517		11,313		11,497
Renter Occupied Housing	-		7,197		7,321		7,307
Median Age	,		42.9		43.0		43.8
Trends: 2012 - 2017 An	nual Rate		Area		State		National
Population			-0.04%		0.14%		0.68%
Households			0.18%		0.32%		0.74%
Families			-0.04%		0.19%		0.72%
Owner HHs			0.32%		0.36%		0.91%
Median Household Incon	20		4.57%		3.07%		2.55%
Median Household Incom	iic		7.57 /6		2012		2.55% 2017
Households by Income				Number	Percent	Number	Percent
<\$15,000				1,846	9.9%		9.6%
\$15,000 \$15,000 - \$24,999				1,625	9.9% 8.7%	1,800	6.3%
\$15,000 - \$24,999 \$25,000 - \$34,999				1,625	9.0%	1,191	
						1,382	7.3%
\$35,000 - \$49,999 \$50,000 - \$74,999				2,555	13.7%	2,074	11.0%
\$50,000 - \$74,999 \$75,000 - \$99,999				3,249	17.4%	2,918	15.5%
				2,462	13.2%	3,336	17.7%
\$100,000 - \$149,999				3,161	17.0%	3,586	19.1%
\$150,000 - \$199,999				1,118	6.0%	1,450	7.7%
\$200,000+				947	5.1%	1,066	5.7%
Median Household Incon	ne			\$60,125		\$75,192	
Average Household Inco	me			\$80,627		\$92,835	
Per Capita Income				\$36,968		\$42,950	
		Census			2012		2017
Population by Age		Number	Percent	Number	Percent	Number	Percen
0 - 4		2,053	5.0%	2,038	4.9%	2,019	4.9%
5 - 9		2,057	5.0%	2,036	4.9%	2,009	4.9%
10 - 14		2,022	5.0%	1,987	4.8%	1,991	4.8%
15 - 19		1,854	4.5%	1,787	4.3%	1,693	4.1%
20 - 24		2,251	5.5%	2,507	6.1%	2,297	5.6%
25 - 34		5,849	14.3%	6,052	14.7%	6,019	14.69
35 - 44		5,490	13.5%	5,357	13.0%	5,170	12.5%
45 - 54		6,543	16.0%	6,341	15.4%	5,816	14.1%
55 - 64		5,847	14.3%	6,089	14.7%	6,295	15.3%
65 - 74		3,391		3,620	8.8%	4,293	10.4%
75 - 84		2,382		2,365	5.7%	2,449	5.9%
85+		1,075		1,123	2.7%	1,165	2.8%
		Census			2012	And the second of the second o	2017
Race and Ethnicity		Number		Number	Percent	Number	Percen
White Alone		38,322		38,482	93.2%	37,619	91.3%
Black Alone		506		653	1.6%	1,017	2.5%
American Indian Alone		70		70	0.2%	74	0.29
Asian Alone		926		1,024	2.5%	1,238	3.0%
Pacific Islander Alone		15		20	0.0%	28	0.1%
Some Other Race Alone		227		253	0.6%	309	
Two or More Races		747		801			0.7%
I WO OF MOTE RACES		/4/	1.8%	601	1.9%	932	2.3%
Hispanic Origin (Any Rac	e)	936	2.3%	1,067	2.6%	1,379	3.3%
Note: Income is expressed in c	allabadania						

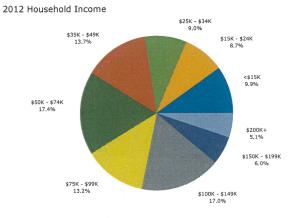


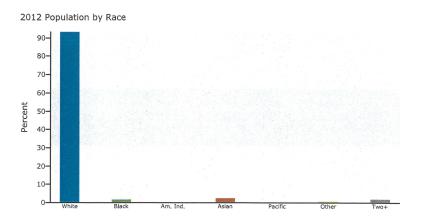
361 Islington St, Portsmouth, NH, 03801 Ring: 5 mile radius

Latitude: 43,07297 Longitude: -70,76679









2012 Percent Hispanic Origin: 2.6%

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017.



361 Islington St, Portsmouth, NH, 03801 Rings: 1, 3, 5 mile radii

Latitude: 43.07297 Longitude: -70.76679

	1 mile	3 miles	5 miles
Population Summary 2000 Total Population	9,530	25,872	40 F3F
2010 Total Population	9,602		40,535
		25,734	40,814
2012 Total Population	10,124 588	26,226 971	41,304
2012 Group Quarters			1,104
2017 Total Population	10,198	26,184	41,216
2012-2017 Annual Rate	0.14%	-0.03%	-0.04%
Household Summary	F 002	11.065	10.000
2000 Households	5,002	11,865	18,098
2000 Average Household Size	1.86	2.12	2.19
2010 Households	5,031	12,161	18,714
2010 Average Household Size	1.88	2.07	2.15
2012 Households	5,046	12,125	18,634
2012 Average Household Size	1.89	2.08	2.16
2017 Households	5,149	12,258	18,804
2017 Average Household Size	1.87	2.06	2.13
2012-2017 Annual Rate	0.41%	0.22%	0.18%
2010 Families	1,989	6,068	10,277
2010 Average Family Size	2.70	2.78	2.78
2012 Families	1,981	6,012	10,183
2012 Average Family Size	2.68	2.78	2.78
2017 Families	1,995	5,997	10,164
2017 Average Family Size	2.67	2.77	2.77
2012-2017 Annual Rate	0.14%	-0.05%	-0.04%
Housing Unit Summary			
2000 Housing Units	5,193	12,366	19,012
Owner Occupied Housing Units	43.3%	51.1%	57.3%
Renter Occupied Housing Units	53.0%	44.9%	37.9%
Vacant Housing Units	3.7%	4.1%	4.8%
2010 Housing Units	5,404	13,255	20,464
Owner Occupied Housing Units	44.1%	50.6%	56.3%
Renter Occupied Housing Units	49.0%	41.1%	35.2%
Vacant Housing Units	6.9%	8.3%	8.6%
2012 Housing Units	5,426	13,339	20,571
Owner Occupied Housing Units	42.6%	49.2%	55.0%
Renter Occupied Housing Units	50.4%	41.7%	35.6%
Vacant Housing Units	7.0%	9.1%	9.4%
2017 Housing Units	5,538	13,621	20,969
Owner Occupied Housing Units	42.5%	49.0%	54.8%
Renter Occupied Housing Units	50.5%	40.9%	34.8%
Vacant Housing Units	7.0%	10.0%	10.3%
Median Household Income			10.070
2012	\$55,596	\$55,717	\$60,125
2017	\$66,993	\$67,774	\$75,192
Median Home Value	¥ 00,755	Ψ0,7,7,1	\$75,152
2012	\$337,010	\$290,761	\$296,194
2017	\$381,089	\$342,763	\$348,728
Per Capita Income	\$301,009	3342,703	\$340,720
2012	\$41,396	\$36,504	426 O60
2017			\$36,968 \$43,050
	\$48,532	\$42,559	\$42,950
Median Age		41 7	42.6
2010	40.6	41.7	42.9
2012	39.3	41.4	43.0
2017	39.5	42.1	43.8

Data Note: Household population includes persons not residing in group quarters. Average Household Size is the household population divided by total households. Persons in families include the householder and persons related to the householder by birth, marriage, or adoption. Per Capita Income represents the income received by all persons aged 15 years and over divided by the total population.

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



361 Islington St, Portsmouth, NH, 03801 Rings: 1, 3, 5 mile radii

Latitude: 43.07297 Longitude: -70,76679

		Lor	ngitude: -70.76679
	1 mile	3 miles	5 miles
2012 Households by Income			
Household Income Base	5,046	12,125	18,634
<\$15,000	13.3%	11.5%	9.9%
\$15,000 - \$24,999	10.6%	9.7%	8.7%
\$25,000 - \$34,999	7.6%	9.2%	9.0%
\$35,000 - \$49,999	13.6%	14.2%	13.7%
\$50,000 - \$74,999	16.4%	17.7%	17.4%
\$75,000 - \$99,999	12.1%	13.0%	13.2%
\$100,000 - \$149,999	13.0%	14.3%	17.0%
\$150,000 - \$199,999	6.8%	5.5%	6.0%
\$200,000+	6.5%	4.9%	5.1%
Average Household Income	\$80,096	\$76,439	\$80,627
2017 Households by Income			
Household Income Base	5,149	12,258	18,804
<\$15,000	13.3%	11.3%	9.6%
\$15,000 - \$24,999	7.9%	7.1%	6.3%
\$25,000 - \$34,999	6.7%	7.7%	7.3%
\$35,000 - \$49,999	11.1%	11.6%	11.0%
\$50,000 - \$74,999	14.5%	15.9%	15.5%
\$75,000 - \$99,999	15.9%	17.5%	17.7%
\$100,000 - \$149,999	14.4%	16.3%	19.1%
\$150,000 - \$199,999	8.8%	7.2%	7.7%
\$200,000+	7.3%	5.5%	5.7%
Average Household Income	\$93,211	\$88,318	\$92,835
2012 Owner Occupied Housing Units by Value			
Total	2,309	6,564	11,313
<\$50,000	0.0%	0.2%	0.9%
\$50,000 - \$99,999	0.4%	1.1%	1.9%
\$100,000 - \$149,999	2.6%	3.8%	4.0%
\$150,000 - \$199,999	5.2%	11.4%	10.9%
\$200,000 - \$249,999	11.3%	19.4%	17.8%
\$250,000 - \$299,999	18.2%	17.4%	15.6%
\$300,000 - \$399,999	33.0%	22.5%	22.0%
\$400,000 - \$499,999	16.3%	11.6%	11.5%
\$500,000 - \$749,999	10.3%	9.1%	10.5%
\$750,000 - \$999,999	2.0%	2.2%	2.9%
\$1,000,000 +	0.6%	1.4%	1.8%
Average Home Value	\$366,718	\$341,360	\$352,093
2017 Owner Occupied Housing Units by Value			
Total	2,354	6,681	11,497
<\$50,000	0.0%	0.1%	0.5%
\$50,000 - \$99,999	0.3%	0.8%	1.3%
\$100,000 - \$149,999	1.7%	2.4%	2.6%
\$150,000 - \$199,999	1.7%	6.3%	5.9%
\$200,000 - \$249,999	5.1%	14.0%	13.2%
\$250,000 - \$299,999	12.5%	15.1%	14.1%
\$300,000 - \$399,999	35.3%	26.3%	25.2%
\$400,000 - \$499,999	30.3%	21.5%	20.6%
\$500,000 - \$749,999	10.2%	9.6%	11.3%
\$750,000 - \$999,999	2.2%	2.3%	3.1%
\$1,000,000 +	0.7%	1.6%	2.1%
Average Home Value	\$402,159	\$376,064	\$387,852
A Stage Home Value	Ψ+02,133	\$570,00 1	4307,03Z

Data Note: Income represents the preceding year, expressed in current dollars. Household income includes wage and salary earnings, interest dividends, net rents, pensions, SSI and welfare payments, child support, and alimony.

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



361 Islington St, Portsmouth, NH, 03801 Rings: 1, 3, 5 mile radii

Latitude: 43.07297 Longitude: -70.76679

10 kg m 1. s			1 mile	3 miles	5 miles
	2010 Population by Age				
	Total		9,604	25,735	40,812
	0 - 4		4.1%	5.0%	5.0%
	5 - 9		4.3%	4.8%	5.0%
	10 - 14		3.5%	4.6%	5.0%
	15 - 24		9.1%	10.1%	10.1%
	25 - 34		20.5%	16.3%	14.3%
	35 - 44		14.8%	13.7%	13.5%
	45 - 54		14.5%	14.9%	16.0%
	55 - 64		13.8%	13.5%	14.3%
	65 - 74		7.2%	8.0%	8.3%
	75 - 84		5.2%	6.1%	5.8%
	85 +		2.9%	2.9%	2.6%
	18 +		86.2%	82.8%	81.9%
	2012 Population by Age				
	Total		10,125	26,224	41,302
	0 - 4		3.9%	4.9%	4.9%
	5 - 9		4.0%	4.7%	4.9%
	10 - 14		3.3%	4.4%	4.8%
	15 - 24		11.2%	10.8%	10.4%
	25 - 34		21.4%	16.8%	14.7%
	35 - 44		14.0%	13.1%	13.0%
	45 - 54		13.4%	14.2%	15.4%
	55 - 64		13.7%	13.8%	14.7%
	65 - 74		7.3%	8.4%	8.8%
	75 - 84		4.9%	5.9%	5.7%
	85 +		2.9%	3.0%	2.7%
	18 +		86.9%	83.4%	82.4%
	2017 Population by Age		80.9 70	03.4 70	02.470
	Total		10,197	26,183	41,216
	0 - 4		3.8%	4.8%	4.9%
	5 - 9		4.0%	4.6%	4.9%
	10 - 14		3.3%	4.4%	4.8%
	15 - 24		10.6%	10.1%	9.7%
	25 - 34				
	35 - 44		21.6%	16.8%	14.6%
			13.6%	12.7%	12.5%
	45 - 54		12.3%	13.0%	14.1%
	55 - 64		14.2%	14.3%	15.3%
	65 - 74		8.6%	9.9%	10.4%
	75 - 84		5.1%	6.1%	5.9%
	85 +		2.9%	3.1%	2.8%
	18 +		87.2%	83.6%	82.6%
	2010 Population by Sex				
	Males		4,649	12,405	19,768
	Females		4,953	13,329	21,046
	2012 Population by Sex				
	Males		5,148	12,894	20,274
	Females		4,977	13,332	21,030
	2017 Population by Sex				
	Males		5,187	12,860	20,223
	Females		5,011	13,324	20,992

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



361 Islington St, Portsmouth, NH, 03801 Rings: 1, 3, 5 mile radii

Latitude: 43.07297 Longitude: -70.76679

			5.12.2. / 01/ 00/ 3
	1 mile	3 miles	5 miles
2010 Population by Race/Ethnicity	0.000	25 20-	
Total	9,602	25,735	40,813
White Alone	95.6%	93.9%	93.9%
Black Alone	1.2%	1.5%	1.2%
American Indian Alone	0.2%	0.2%	0.2%
Asian Alone	1.4%	1.8%	2.3%
Pacific Islander Alone	0.0%	0.0%	0.0%
Some Other Race Alone	0.3%	0.6%	0.6%
Two or More Races	1.4%	2.1%	1.8%
Hispanic Origin	1.9%	2.5%	2.3%
Diversity Index	12.0	16.1	15.7
2012 Population by Race/Ethnicity			
Total	10,125	26,226	41,303
White Alone	94.9%	93.0%	93.2%
Black Alone	1.5%	1.9%	1.6%
American Indian Alone	0.2%	0.2%	0.2%
Asian Alone	1.6%	2.0%	2.5%
Pacific Islander Alone	0.0%	0.0%	0.0%
Some Other Race Alone	0.4%	0.7%	0.6%
Two or More Races	1.4%	2.2%	1.9%
Hispanic Origin	2.2%	2.8%	2.6%
Diversity Index	13.7	18.1	
2017 Population by Race/Ethnicity		10.1	17.5
Total	10 107	26 192	41 217
White Alone	10,197 93.2%	26,182	41,217
		90.9%	91.3%
Black Alone	2.4%	2.9%	2.5%
American Indian Alone	0.2%	0.2%	0.2%
Asian Alone	2.0%	2.5%	3.0%
Pacific Islander Alone	0.1%	0.1%	0.1%
Some Other Race Alone	0.5%	0.8%	0.7%
Two or More Races	1.7%	2.6%	2.3%
Hispanic Origin	2.9%	3.7%	3.3%
Diversity Index	18.1	23.0	21.9
2010 Population by Relationship and Household Type			
Total	9,602	25,734	40,814
In Households	98.6%	98.0%	98.4%
In Family Households	57.3%	67.3%	71.7%
Householder	20.5%	23.7%	25.1%
Spouse	16.2%	18.2%	19.8%
Child	17.8%	22.0%	23.3%
Other relative	1.4%	1.8%	1.8%
Nonrelative	1.5%	1.6%	1.7%
In Nonfamily Households	41.3%	30.7%	26.7%
In Group Quarters	1.4%	2.0%	1.6%
Institutionalized Population	1.0%	1.2%	1.0%
Noninstitutionalized Population	0.4%	0.9%	0.6%

Data Note: Persons of Hispanic Origin may be of any race. The Diversity Index measures the probability that two people from the same area will be from different race/ethnic groups.

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.

Page 4 of 5



Renter Occupied

Market Profile

361 Islington St, Portsmouth, NH, 03801 Rings: 1, 3, 5 mile radii

Latitude: 43,07297 Longitude: -70.76679

	1 mile	3 miles	5 miles
2010 Households by Type			
Total	5,031	12,160	18,714
Households with 1 Person	45.4%	38.1%	34.1%
Households with 2+ People	54.6%	61.9%	65.9%
Family Households	39.5%	49.9%	54.9%
Husband-wife Families	31.0%	38.4%	43.3%
With Related Children	11.2%	14.0%	16.0%
Other Family (No Spouse Present)	8.5%	11.5%	11.7%
Other Family with Male Householder	2.6%	3.4%	3.5%
With Related Children	1.4%	1.8%	1.9%
Other Family with Female Householder	5.8%	8.1%	8.2%
With Related Children	3.1%	5.0%	4.8%
Nonfamily Households	15.0%	12.0%	11.0%
All Households with Children	15.8%	21.0%	23.0%
Multigenerational Households	0.8%	1.3%	1.6%
Unmarried Partner Households	9.4%	8.6%	8.2%
Male-female	8.1%	7.3%	7.0%
Same-sex	1.3%	1.3%	1.2%
2010 Households by Size			
Total	5,031	12,163	18,714
1 Person Household	45.4%	38.1%	34.1%
2 Person Household	33.9%	36.2%	37.6%
3 Person Household	10.7%	12.8%	13.9%
4 Person Household	6.8%	8.6%	9.6%
5 Person Household	2.6%	3.2%	3.5%
6 Person Household	0.4%	0.8%	0.9%
7 + Person Household	0.2%	0.4%	0.4%
2010 Households by Tenure and Mortgage Status			
Total	5,031	12,161	18,714
Owner Occupied	47.4%	55.2%	61.5%
Owned with a Mortgage/Loan	34.5%	38.5%	42.4%
Owned Free and Clear	12.9%	16.7%	19.1%

52.6%

44.8%

Data Note: Households with children include any households with people under age 18, related or not. Multigenerational households are families with 3 or more parent-child relationships. Unmarried partner households are usually classified as nonfamily households unless there is another member of the household related to the householder. Multigenerational and unmarried partner households are reported only to the tract level. Esri estimated block group data, which is used to estimate polygons or non-standard geography.

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.

38.5%

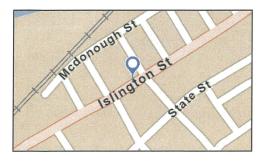


Site Map

361 Islington St, Portsmouth, NH, 03801 Ring: 1, 3, 5 Miles

Latitude: 43.07297 Longitude: -70.76679









City of Portsmouth **Certificate of Occupancy**

Inspection Department
1 Junkins Avenue Portsmouth, NH 03801 603-610-7243

Permit Number: 917 Date of Issue: June 12, 2017 Expires: Const. Cost: \$3000



J & J'S DROP AND DRIVE LLC - Liar's Bench

Owner: J & J'S DROP AND D
Applicant: Dagan Migirditch
Contractor: TBD, Phone #:
Location: 459 ISLINGTON ST

Description of Work: In compliance with HDC requirements, Liars Bench Beer Company will be erecting fencing in the vacant green space adjacent

Character District 4-L2

Base Zoning District(s): (CD 4-L2) Map/Lot: 0157-0007-0 Design Occupancy Load: Total # Dwelling Units: 0157-0007-0000-

Use Group: Min Constr. Type: Bldg. Code: Edition: Fire Sprinkler Required: Fire Alarm System Required:

Limiting Conditions:

Occupant Load, exterior seating area: 50 Patrons.

Date of Issue: June 12, 2017



Inspection Department 1 Junkins Avenue Portsmouth, NH 03801 603-610-7243

Owner, Lessee or Occupant: J & J'S DROP AND DRIVE LLC

Location of Work:

459 ISLINGTON ST

(Unit or Building) (No. and Street)

Desc of Work: Tenant Fit-Up/Change Of Use - Convert 2,043 sq ft of existing building to Nano Brewery - beer

brewing and sale of beer. Using part of the Murray Plumbing space. As per plans prfepared by

JSN Associates, Inc., dated 4/16/2015.

Map\Lot: 0157-0007-0000

District: B

Permit(s): 2015-00449, 2015-00449-1-CP, 2015-00449-2-CP, 2015-00449-3-CE, 2015-00449-4-CE, 2015-00449-5-CP, 201

Use Group:

Design Occupant Load(s): 48

Fire Sprinkler System Required:

NO

Min. Type Constr:

VB

Fire Alarm System Required:

YES

LIMITING CONDITIONS:

TOTAL OCCUPANT LOAD: 48

*Front OH door requires compliant guard. Guard must be in place prior to public opening.

* The administrative agency responsible for performing inspections has, to the best of its ability, verified governing code compliance for this project. However, issuance of this Certificate of Occupancy does not relieve the contractor of any obligation as outlined under NH RSA 155-A:2 VII for governing code compliance issues that may be discovered after the issuance date of this document.

Date of Issue: 5/16/2016

Signed: Cooking Howardin

WATE OF OCCUPANCY



Inspection Department 1 Junkins Avenue Portsmouth, NH 03801 603-610-7243

Owner, Lessee or Occupant: LAMPERT BRINA REVO TRUST BRINA LAMPERT TRUSTEE

Location of Work:

212 ISLINGTON ST

(No. and Street)

(Unit or Building)

Desc of Work: Tenant Fit-up - Mo Jo's BBQ shack.

Map\Lot: 0137-0021-0000

IBC Bldg Code Edition:

2006

District: CBB

Permit(s): 2007-01019

Use Group:

A-2

Design Occupant Load(s): 23

Fire Sprinkler System Required:

NO

Min. Type Constr:

VB

Fire Alarm System Required:

NO

LIMITING CONDITIONS:

* None



City of Portsmouth, NH

Food Establishment Permit

2021-2022

Permit No. 2156 Catering: true

Name of Establishment:

The Kitchen

Address of Establishment:

171 Islington St

Name of Licensee:

Restaurant @ 171 Islington. / Matthew greco

Seating approved: 48 Indoor 24 Outdoor

This license may be suspended or revoked in accordance with the provisions of City and State Law. This scense is not assignable or transferable. This license terminates without further notice in the event of any change of ownership or ownership interest in the entity holding the license for the named establishment.

his license expires ptember 30, 2022. less sooner if revoked or Spunded.

Health Officer:

in me Never