


**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: June 5, 2019

TO: PETER BRITZ, ENVIRONMENTAL PLANNER

FROM: SUZANNE M. WOODLAND, DEPUTY CITY ATTORNEY 

RE: FOLLOW UP RE ACQUISITION OF LOIS STREET PARCEL

On May 8, 2019, the Conservation Commission voted to authorize the expenditure of \$30,000 from the Conservation Fund to support the acquisition of a 2.8 parcel at the end of Lois Street. In addition to authorizing the expenditure of funds, the Conservation Commission requested that the City place the property within the Conservation Ordinance, City of Portsmouth Ordinance Article V Section 8.503, along with finding a means to recognize and balance the municipal needs and potential uses for this parcel given the existing sewer line along the boundary and the possibility of using the end of Lois Street for a potential turnaround. Staff agreed to report back at its next meeting.

Staff is prepared to discuss at this meeting both adding the Lois Street parcel to the list of conservation properties as well as a potential change to the Conservation Ordinance which will allow for the City to maintain any existing infrastructure that may cross or abut any Conservation property within certain limited parameters. See attached proposed change to the ordinance to recommend to the City Council.

In the case of the Lois Street parcel for example, the ordinance change would allow the City staff to continue to conduct its routine sewer line maintenance activities while still requiring the City to go through the existing approval process for a new municipal turnaround at the end of Lois Street.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 8, Article V – **CONSERVATION ORDINANCE** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE V: CONSERVATION ORDINANCE

Section 8.501: PURPOSE

Those properties listed in Section 8.503 are hereby declared to be conservation properties of the City of Portsmouth. **Other than the maintenance of Public Infrastructure described in Section 8.505**, passive recreation is the only permitted use or activity on the conservation properties. Any other use or activity on the conservation properties must be approved by prior vote of City Council. Such approval shall be by a 2/3 majority of those present and voting on the question. Any Council vote under this provision must be preceded by a referral of the question to the Conservation Commission for its review and report back to the Council. The Council shall not vote on the question until either the report has been received from the Conservation Commission or thirty (30) days have passed from the Council vote referring the matter to the Conservation Commission.

Section 8.502: PASSIVE RECREATION

The term "Passive Recreation" shall mean uses of land, or activities on land, which are conducted primarily for leisure purposes and which do not cause damage to the conservation nature of the land.

Section 8.503: CONSERVATION PROPERTIES

<u>Map/Lot</u>	<u>Location</u>
123/9	235 Maplewood Ave (Adopted 7/16/01)
201/26	Sagamore Ave
204/7	Little Harbor Rd
222/73	Jones Ave
225/8	Elwyn Rd
263/3	Greenland Rd
265/20	Banfield Rd
271/1-8	Lafayette Rd
274/3	Banfield Rd

<u>Map/Lot</u>	<u>Location</u>
278/1	Greenland Rd
278/2	Greenland Rd
278/3	Greenland Rd
280/3	Greenland Rd
283/13	Ocean Rd
284/3	Heritage Ave
284/4	Lafayette Rd
288/1	Lang Road (Adopted 4/20/98)
284/5	Ocean Rd
284/9	Ocean Rd
287/3	Ocean Rd
293/10	Ocean Rd
293/13	Ocean Rd
294/9	Ocean Rd
294/22	Ocean Rd
295/1	Ocean Rd
295/2	Ocean Rd
295/3	Ocean Rd
295/5	Ocean Rd
296/1	Ocean Rd
296/4	Ocean Rd
296/6	Ocean Rd
296/11	Ocean Rd
296/12	Ocean Rd
296/13	Ocean Rd
296/8	Ocean Rd
296/10	Ocean Rd
293/16	Ocean Rd
298/8	Lafayette Rd
298/5-1	Lafayette Rd

Section 8.504: ENFORCEMENT

- A. This ordinance may be enforced against the City of Portsmouth by means of an action seeking injunctive relief, which may be filed in the Courts of the State of New Hampshire by any interested party.
- B. Any other person, firm or corporation violating any provision of this ordinance shall be subject to a penalty, upon conviction, of up to \$1,000 per occurrence.
- C. The enforcement provisions of this ordinance shall not be deemed exclusive, but shall be concurrent with any other remedies available at law.

Section 8.505: MAINTENANCE OF PUBLIC INFRASTRUCTURE

Nothing in this ordinance shall prohibit the maintenance of public roadways, sidewalks, drainage and stormwater structures, sewer and water lines and other utilities (“Public Infrastructure”) that cross or abut Conservation Properties. Maintenance shall include replacement if within the existing footprint of the original structure. Any expansion or new use for Public Infrastructure on any Conservation Property would require the approval described in Section 8.501.

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