

June 11, 2024

Karen S. Conard
City Manager
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Haven Court Changes

Dear Karen:

One Market Square, LLC., holds title to property located at 1 Congress Street and 10 High Street which is delineated on the City of Portsmouth Tax Map 117 as Lot 14. This property includes Haven Court going from High Street down Haven Court to a certain parcel of land owned by the City of Portsmouth. Attached is a survey from Haley Ward depicting Haven Court.

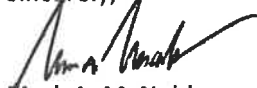
We are planning to remove the "hill portion" of Haven Court and connect High Street with Fleet Street for an easy to walk, handicap accessible and safe for pedestrian connection. Making Haven Court handicap accessible also creates a safer walking surface in the winter and aids with removing snow, removing trash, and installing and maintaining underground utilities and transformers. Lowering the elevation of Haven Court also allows a new retail storefront to be installed in the brick wall of JJ Newberry thereby creating street level retail space which will connect the retail experience with Fleet Street and High Street and bring to life Haven Court. The capital cost to reconfigure Haven Court, create a retail storefront and all the public improvements will be paid for by One Market Square, LLC., with no cost to the City of Portsmouth.

On April 10, 2024, One Market Square, LLC., entered into a binding Purchase & Sale Agreement to acquire the JJ Newberry property from Wenberry Associates, LLC. While completing due diligence on the JJ Newberry parcel, we discovered the High Hanover Parking Garage has been built onto land owned by One Market Square. This encroachment of the High Hanover Parking Garage is depicted on the attached Boundary Survey from Haley Ward Engineering dated January 25, 2024.

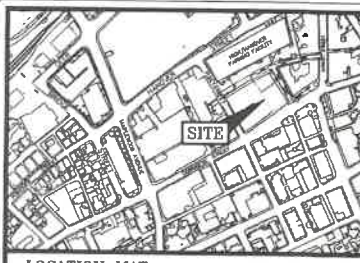
In order to cure the encroachment of the High Hanover Parking Garage and create common ownership for Haven Court and cure a faulty land subdivision of the referenced 808 square feet of land to the City and for One Market Square paying for all capital improvements and ongoing maintenance we request the City of Portsmouth approve the land transfer's as depicted on the Haley Ward Boundary Survey. In addition, we would convey to the City public access easements and utility easements over the entirety of Haven Court connecting Fleet Street to High Street.

Therefore, what we propose is to engage in a land swap which would provide both parties with clean title and provide meaningful public access to the entirety of Haven Court.

Sincerely,



Mark A. McNabb
President



- PLAN REFERENCES:**
- 1) PLAN OF A LOT OF LAND IN PORTSMOUTH N.H. BELONGING TO THE ESTATE OF CHAS. H. MCDONAM, SCALE: 1 IN = 20 FT, DATED JULY 1, 1908, PREPARED BY WM. A. GROVER CIVIL ENGINEER, RCRD 00469.
 - 2) LAND ON HAVEN COURT PORTSMOUTH, N.H. T.W. HARTFORD TO HESLOP GARAGE CO., SCALE: 1 IN. = 20 FT., DATED FEB. 1974, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, RCRD 00378.
 - 3) LOT PLAN NOS. 7-13 CONGRESS ST. PORTSMOUTH, N.H., SCALE: 1/4 INCH = 1 FOOT, DATED MAR. 1937, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, NOT RECORDED.
 - 4) PLAN OF LOT NOS 173 - 181 FLEET ST. PORTSMOUTH, N.H., SCALE: 1 IN. = 20 FT., DATED NOV. 1846, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, NOT RECORDED.
 - 5) LAND IN PORTSMOUTH, N.H. RALPH T. WOOD & IRA A. NEWICK TO J.J. WENBERY CO., SCALE: 1 IN. = 20 FT., DATED MAY 1946, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, RCRD 02337.
 - 6) PLAN OF LOT PORTSMOUTH, N.H. NEWICK & WOOD INC. TO CITY OF PORTSMOUTH, SCALE 1 IN. = 40 FT., DATED MAR. 1958, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, RCRD 02337.
 - 7) PLAN OF LOT 25 - 30 HIGH ST. PORTSMOUTH, N.H., SCALE: 1 IN. = 10 FT., DATED OCT. 1961, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, NOT RECORDED.
 - 8) PLAN OF LAND FOR RICHARD A. CABRAL & BRUCE E. NADDEAU CONGRESS/FLEET ST. COUNTY OF ROCKINGHAM PORTSMOUTH, N.H., SCALE: 1" = 20', DATED JANUARY 1987, PREPARED BY RICHARD P. VALLETTE AND ASSOCIATED, RCRD 0 16161
 - 9) EXISTING CONDITIONS PLAN HIGH/HANDOVER PARKING FACILITY, HANDOVER STREET, PORTSMOUTH, NEW HAMPSHIRE FOR CITY OF PORTSMOUTH, SCALE: 1" = 20', DATED: 5/5/99, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., NOT RECORDED
 - 10) SUBMISSION OF ASSESSOR'S PARCEL 117/12, LAND OF WENBERY ASSOCIATES, LLC, FLEET STREET & HAVEN COURT PORTSMOUTH, NEW HAMPSHIRE FOR CITY OF PORTSMOUTH, N.H., SCALE: 1" = 20', DATED 11/22/00, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., RCRD 0-34500.
 - 11) STANDARD BOUNDARY SURVEY TAX MAP 17 LOTS 14 & 16, OWNER OF RECORD: PETER H. JARVIS & SONS, LLC, PROPERTY LOCATED AT: 1 CONGRESS STREET & HIGH STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, DATED NOVEMBER 2021, SCALE: 1" = 20', PREPARED BY AMBIT ENGINEERING, INC., RCRD 0-43065.

- LEGEND:**
- N/F NOW OR FORMERLY RECORD OF PROBATE ROCKINGHAM COUNTY
 - RP RECORD OF DEEDS
 - RCRD RAILROAD SPIKE
 - RR SPK MAP 11/LOT 21
 - FND IRON ROD FOUND
 - P FND IRON PIPE FOUND
 - R SET IRON ROD SET
 - PH FND DRILL HOLE FOUND
 - PH SET DRILL HOLE SET
 - NHDOT FOUND NHDOT BOUND FOUND
 - TOWN BOUND TOWN BOUND
 - DRILL HOLE BOUND WITH DRILL HOLE
 - ST DRILL HOLE WITH DRILL HOLE



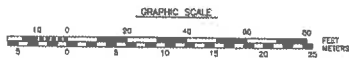
LENGTH TABLE

LINE	BEARING	DISTANCE
L1	N51°13'20" W	6.55'
L2	S58°47'02" W	18.74'
L3	N28°32'20" W	14.35'
L4	S28°48'20" E	7.00'

DRAFT

I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

JOHN R. CHAMON, LLS 738
DATE: 5.30.24



NOTES:

- 1) PARCELS ARE SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 117 AS LOTS 14, 16 AND AN UNNUMBERED PARCEL OF LAND DESCRIBED AS A PORTION OF HAVEN COURT.
- 2) OWNERS OF RECORD:
 - MAP 117 LOT 14: ONE MARKET SQUARE, LLC, 3 PLEASANT STREET, SUITE 400, PORTSMOUTH, NH 03801, 6363/31 PARCEL 1 & PARCEL 2, 6381/1527 NOTICE OF MERGER, 6525/28, 6523/32, 6523/2708
 - MAP 117 LOT 16: CITY OF PORTSMOUTH, 1 JUNKINS AVENUE, PORTSMOUTH, NH 03801, 3348/265, REF: PLAN 9
 - PORTION OF HAVEN COURT: CITY OF PORTSMOUTH, 1 JUNKINS AVENUE, PORTSMOUTH, NH 03801, 4741/257, 0-34500

3) MAP 117 LOT 14 IS LOCATED IN CHARACTER DISTRICT 4 AND CHARACTER DISTRICT 5. MAP 117 LOT 16 IS LOCATED IN THE MUNICIPAL DISTRICT.

4) DIMENSIONAL REQUIREMENTS: SEE PORTSMOUTH ORDINANCE FOR REQUIREMENTS.

5) EXISTING LOT AREA:

MAP 117 LOT 14	MAP 117 LOT 16	PORTION OF HAVEN COURT
17,724 S.F.	8,663 S.F.	808 S.F.
0.4089 ACRES	0.2218 ACRES	0.0185 ACRES

PROPOSED LOT AREA:

MAP 114 LOT 14	MAP 117 LOT 14	PORTION OF HAVEN COURT
18,225 S.F.	9,970 S.F.	0 S.F.
0.4184 ACRES	0.2289 ACRES	0.0000 ACRES

- 6) PARCELS ARE NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 3301500259F, EFFECTIVE JANUARY 29, 2021
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW A LOT LINE ADJUSTMENT BETWEEN ASSESSORS MAP 117 LOTS 14, 16, AND AN UNNUMBERED PARCEL SHOWN AS A PORTION OF HAVEN COURT.
- 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBS.
- 9) HAVEN COURT IS A PRIVATE WAY 15 FEET WIDE. ALL RIGHTS, TITLE AND INTEREST UNTO SAID HAVEN COURT WERE CONVEYED WITH ASSESSOR'S MAP 117 LOT 15, AS DESCRIBED IN RCRD 983/179, SUBJECT TO RIGHTS OF OTHERS (OTHERS NOT DEFINED ON THIS SURVEY).

DRAFT

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	5/30/24

LOT LINE ADJUSTMENT PLAN
TAX MAP 117 LOTS 14 & 16
 OWNERS OF RECORD:
ONE MARKET SQUARE, LLC & CITY OF PORTSMOUTH
 PROPERTY LOCATED AT:
 1 CONGRESS STREET &
 44 HIGH STREET
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE



CITY OF PORTSMOUTH

City Hall, 1 Junkins Avenue
Portsmouth, New Hampshire 03801
tmccourt@cityofportsmouth.com
(603) 610-7204

Trevor P. McCourt
Deputy City Attorney

Date: June 11, 2024

To: Karen S. Conard, City Manager

From: Trevor P. McCourt, Deputy City Attorney

Re: Agenda Item – Haven Court Land Swap

Mark McNabb, principal of One Market Square, LLC (“One Market Square”), has approached the City regarding a potential land swap in the area of Haven Court. This proposed transfer would provide the City with a deed to a portion of the High Hanover Garage which is encroaching on private property. In exchange, One Market Square is requesting the City convey a parcel of land adjacent to Fleet Street, which would provide One Market Square with title to the entirety of Haven Court. This would facilitate improvements to the entirety of Haven Court, as described in the letter from Mark McNabb.

The City and One Market Square have entered into a certain agreement (the “Agreement”) regarding proposed improvements to Haven Court, High Street and Ladd Street at One Market Square’s expense. One Market Square now proposes to amend that agreement by proposing a land swap. One Market Square has described its proposed transaction in a letter from Mark McNabb to the City Manager, which is included in the agenda packet. The land to be exchanged is also depicted on a survey plan prepared by Haley Ward, included in the City Council Agenda packet. The proposed land transfers are described as follows:

- The City would convey the land shown on the plan as “Land to be conveyed to One Market Square, LLC” to One Market Square.
- One Market Square would convey to the City the land shown on the plan as “Land to be conveyed to the City of Portsmouth” to the City.
- One Market Square would convey to the City a public access easement and a utility easement over the entirety of Haven Court.
- One Market Square would be responsible for affecting the improvements to Haven Court, as described in the letter from One Market Square, at its sole cost and expense.
- The remaining terms of the Agreement with One Market Square would remain in full force and effect.

The specific details of this proposed transaction still need to be finalized. Therefore, at this time the Legal Department recommends the City Council refer this request to the Planning Board for a recommendation regarding the transfer of City Property. When this request returns to the City Council, the Legal Department anticipates including a more detailed proposal for City Council consideration.

Proposed Motion: Move to refer the letter from One Market Square, LLC dated June 11, 2024 and the proposed land transfers described in that letter to the Planning Board for a report back.

cc: Kelli L. Barnaby, City Clerk
Suzanne M. Woodland, Deputy City Manager/Regulatory Counsel
Susan G. Morrell, City Attorney
Jessica S. Griffin, Assistant to the City Manager