

# HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

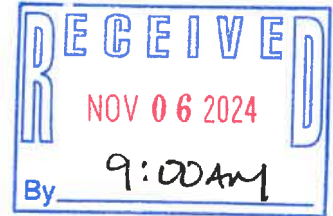
ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801  
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

November 6, 2024

## HAND DELIVERED

Kelli Barnaby, City Clerk  
Peter Stith, Principal Planner  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801



RE: Request for Easement  
Jonathan and Paige Trace  
Joshua Wentworth House  
27 Hancock Street, Portsmouth NH 03801

Dear Ms. Barnaby and Mr. Stith:

On behalf of Jonathan and Paige Trace ("Trace"), originals of this letter and exhibits are provided to each of you, requesting assistance/approval of the City Council and Planning Board respectively, for City Council execution of a minor easement requested as a result of a very slight encroachment of the Trace home into the Hancock Street public right-of-way.

## EXHIBITS

1. 8/16/06 Subdivision Plan-17 Hancock St. Owner Strawberry Banke, Inc., by James Verra and Associates, Inc. Rockingham County Registry of Deeds Plan Number D-34172.
2. 7/13/06 Letter, City Attorney Robert P Sullivan to Lawrence Yerdon, President, Strawberry Banke.
3. Corrective Deed, Strawberry Banke, Inc., to Jonathan Trace and Susan Paige Trace recorded Rockingham County Registry of Deeds 11/19/08, Book 4963 Page 2254
4. Tax Card, 27 Hancock Street, Tax Map 103 Lot 100
5. City of Portsmouth, NH Ordinances, Article VI: Referrals to Planning Board, Sections 11.601, 11.602
6. Proposed Encroachment Easement Deed

The Joshua Wentworth House is a historic Portsmouth home, formerly part of "Strawberry Banke." The home was relocated to the existing lot many years ago. In or about 2006, Strawberry Banke made the decision to convey the property to private owners. In furtherance of that

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DANIEL C. HOEFLE	ALEC L. MCEACHERN	PETER V. DOYLE	STEPHEN H. ROBERTS 2007-2023
R. TIMOTHY PHOENIX	KEVIN M. BAUM	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	JACOB J.B. MARVELLEY	STEPHANIE J. JOHNSON	SAMUEL R. REID
R. PETER TAYLOR	GREGORY D. ROBBINS	KAREN W. OLIVER	JOHN AHLGREN

decision, the lot was surveyed as part of a subdivision plan. (**Exhibit 1**). It was then discovered that very small portions of the front corners of the home, together with the entry steps, very slightly encroach into the Hancock Street right-of-way. *Id*. The minor encroachment was brought to the attention of City Attorney Robert Sullivan, who penned the July 13, 2006 letter to Strawberry Banke President Lawrence Yerdon, acknowledging that the house had been relocated to the present site in or about 1973. Noting that the situation was a "nominal encroachment," City Attorney Sullivan advised that "this is not a situation in which it would be appropriate for the city to take any action against either Strawberry Banke or the property" and that "the Joshua Wentworth house may remain as it is currently located on its lot without interference from the city." (**Exhibit 2**)

Upon the above facts and conditions, Strawberry Banke conveyed the property to Trace in 2007. Trace is now under agreement to convey the property. Movers and alternate living arrangements are imminent. Late last week, the buyer's legal representatives raised the encroachment as a title defect, deeming Attorney Sullivan's 2006 letter insufficient to remedy the defect. The buyer's position is that remedying the defect requires an easement from the City to permanently allow the minor encroachments to remain. As such, and given the imminency of the Trace's moving and new living arrangements, swift City Council approval and execution of an easement as proposed in **Exhibit 6** is respectfully requested.

The standard procedure for municipal actions relating to easements is a referral to the Planning Board for written review and report to the City Council at least 30 days before final action is taken by the Council. (**Exhibit 5** Sec.11.602:A (1)). Following such report, the City Council typically has 60 days in which to take action. *Id* Sec. 11.602:B. The lengthy standard time frame places the Trace's imminent sale and moving efforts at risk, and the claimed title defect without resolution via an easement could place sale at any time at risk.

We believe and therefore submit that there is a path for City Council approval and execution without the standard lengthy timeframe set forth above. **Exhibit 5**, Section 11.602:C provides:

The failure to refer a matter listed herein to the planning board shall not affect the legal validity or force of any action related thereto if the planning board waives such referral.

Given: the history of this property as formerly part of Strawberry Banke; the "nominal encroachment" into the right of way which has existed since approximately 1973; Attorney Sullivan's commitment in July, 2006 that the home may remain as currently located, upon which Trace relied when purchasing the property in 2007; and the current and future potential for title defect claims absent an easement, we believe that Planning Board waiver of the requirement for review and/or compliance with Ordinance Section 11.602: A. and B. is entirely appropriate. Based upon the foregoing, we make the following request of the Planning Board and City Council in order to move this matter to conclusion as quickly as possible:

1. There is a regular City Council meeting scheduled for November 18, 2024, and a Planning Board meeting scheduled for November 21, 2024. We request inclusion on the agendas for both the City Council and Planning Board. Our proposal is to obtain City Council approval for the proposed easement on November 18, conditioned upon either waiver or recommendation by the Planning Board on November 21.

We would be happy to meet with any city representatives as deemed appropriate in advance of the foregoing.

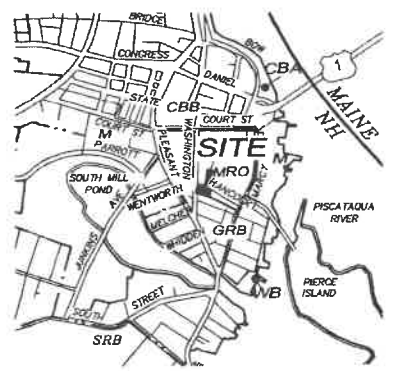
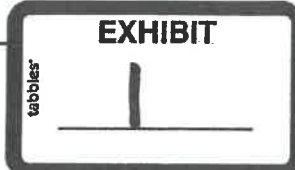
Respectfully submitted,



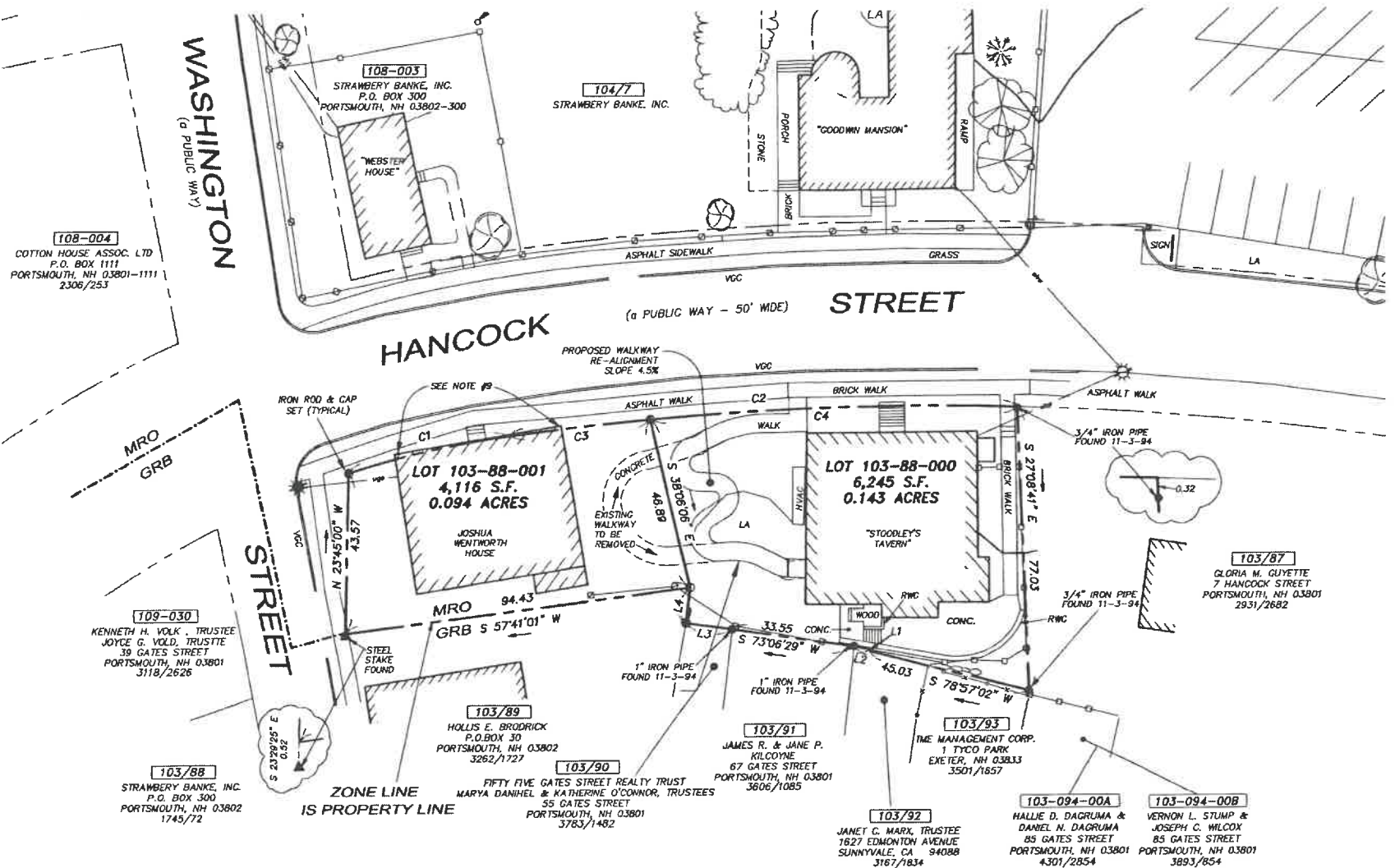
R. Timothy Phoenix

Enclosures

cc    Clients  
      City Attorney  
      City Manager  
      Adam Dean  
      Matt Shoemaker, Esq.



LOCUS  
(SCALE: 1"=1000')



NOTES:

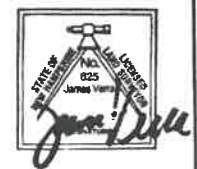
- OWNER OF RECORD..... STRAWBERRY BANKE, INC.  
MAILING ADDRESS..... P.O. BOX 300, PORTSMOUTH, NH 03802-0300  
DEED REFERENCE..... 1745/72  
TAX SHEET / LOT..... 103-88  
TOTAL PARCEL AREA..... 10,361 S.F. OR 0.238 ACRES
- ZONED..... MIXED RESIDENTIAL OFFICE FRONT YARD SETBACK..... 5'  
MINIMUM LOT AREA 7,500 S.F. SIDE YARD SETBACK..... 10'  
FRONTAGE..... 100' REAR YARD SETBACK..... 15'  
OVERLAY DISTRICT: HISTORIC DISTRICT A
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
- HORIZONTAL DATUM: NAD 83 (1986) NH STATE PLANE VIA GPS OBSERVATION. PRIMARY BENCHMARK: NHDOT DISK 379-0150.
- ELEVATION DATUM: NGVD 1929. PRIMARY BENCHMARK NHDOT DISK 379-0430 (USGS V-31-1943).
- THIS PARCEL DOES NOT LIE IN THE 1% ANNUAL CHANCE FLOOD (100 YEAR FLOOD) ZONE, AS SHOWN ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP 33015C0259E, EFFECTIVE DATE, MAY 17, 2005 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- ON JUNE 23, 2006, THE BOARD OF ADJUSTMENT GRANTED A VARIANCE FROM ARTICLE III, SECTION 10-303(A) TO ALLOW AN EXISTING 10,361 S.F. LOT WITH TWO BUILDINGS TO BE SUBDIVIDED WITH: a) THE JOSHUA WENTWORTH HOUSE HAVING 4,116 S.F. AND 44.5% BUILDING COVERAGE, AND b) STOODLEY'S TAVERN HAVING 6,245 S.F. WHERE 7,500 S.F. IS THE MINIMUM REQUIRED FOR EACH LOT AND 40% IS THE MAXIMUM BUILDING COVERAGE.
- SEE LETTER OF JULY 13, 2006 FROM ROBERT P. SULLIVAN, CITY ATTORNEY TO LAWRENCE YERDON, PRESIDENT OF STRAWBERRY BANKE, INC., IN WHICH HE STATES THE FOLLOWING: "PLANNING DEPARTMENT DIRECTOR DAVID HOLDEN AND I HAVE EXAMINED THE CIRCUMSTANCES SURROUNDING THE CREATION OF THE ENCROACHMENT... APPARENTLY CREATED INADVERTENTLY WHEN THAT HISTORIC BUILDING WAS RELOCATED TO ITS PRESENT SITE, 33 YEARS AGO. WE HAVE DETERMINED THAT THIS IS NOT A SITUATION IN WHICH IT WOULD BE APPROPRIATE FOR THE CITY TO TAKE ANY ACTION AGAINST EITHER STRAWBERRY BANKE OR THE PROPERTY."

REFERENCE PLANS:

- DISPOSITION MAP, PORTSMOUTH HOUSING AUTHORITY, PORTSMOUTH, NH, BY GEORGE C. BENJAMIN, C.E. REVISED JAN. 23, 1965, RCRD # 522.
- BOUNDARY PLAN FOR STRAWBERRY BANKE, INC., HANCOCK STREET, PORTSMOUTH, N.H., DATED 11/11/94, RCRD D-23909.
- PLAN OF LAND, NO. 33-35 RICHMOND STREET, PORTSMOUTH, NH, FOR TUBBAR, INC., FILE NO. 2236, PLAN NO. 4905, DATED JULY 1983 BY JOHN W. DURGIN ASSOC., INC.
- SUSAN J. WENTWORTH EST., PORTSMOUTH, N.H., FILE NO. 2236, DATED, MARCH 1940, BY JOHN W. DURGIN, C.E.
- EXISTING CONDITIONS PLAN, STRAWBERRY BANKE, PORTSMOUTH, NEW HAMPSHIRE, FOR STRAWBERRY BANKE, DATED 10/10/02, REV. 10-29-02, PLAN NO. 21496. BY JAMES VERRA AND ASSOCIATES, INC.

APPROVED FOR THE RECORD:

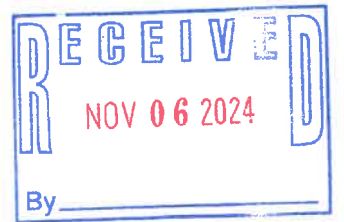
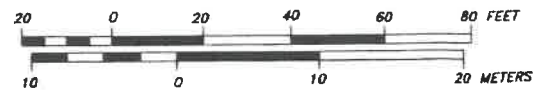
*James Verra*  
CHAIRMAN PORTSMOUTH PLANNING BOARD DATE 9.23.06



LINE	BEARING	DISTANCE
L1	N 2°53'34" W	0.75
L2	S 73°45'35" W	4.67
L3	S 73°28'25" W	12.19
L4	N 18°08'09" W	9.66

CURVE	RADIUS	DELTA	LENGTH	CHORD	DIST
C1	250.00	10°11'39"	44.48	S 52°13'32" W	44.42
C2	850.00	9°22'12"	139.01	S 62°00'38" W	138.85
C3	850.00	2°37'46"	39.01	S 56°38'25" W	39.00
C4	850.00	6°44'26"	100.00	S 63°19'31" W	99.94

- LEGEND:
- ..... IRON PIPE
  - ⊙ ..... IRON ROD
  - ..... WOOD FENCE
  - x— ..... STEEL POST & WIRE FENCE
  - ⊕ ..... UTILITY POLE
  - ⊙ ..... LIGHT POLE
  - ⊕ ..... UTILITY POLE W/TRANSFORMER
  - ..... GUY
  - w— ..... OVERHEAD WIRES
  - RCRD ..... ROCKINGHAM COUNTY REGISTRY OF DEEDS
  - VGC ..... VERTICAL FACED GRANITE CURB
  - LA ..... LANDSCAPED AREA



D-34172

REV. NO.	DATE	DESCRIPTION	APPR'D
<b>SUBDIVISION PLAN</b> <b>17 HANCOCK STREET</b> <b>ASSESSORS PARCEL NO. 103-088-000</b> <b>PORTSMOUTH, NEW HAMPSHIRE</b> Owner: <b>STRAWBERRY BANKE, INC.</b>			
<b>JAMES VERRA and ASSOCIATES, INC.</b> 101 SHATTUCK WAY, SUITE B NEWINGTON, NEW HAMPSHIRE 03801-7878 (603)436-3557			DATE: 8-16-2006 JOB NO: 21496 SCALE: 1" = 20' DWG NAME: 21496-2 PLAN NO: 21496-2 SHEET: 1 OF 1
PROJECT MGR: _____ DRAWN BY: _____ COPYRIGHT © 2006 by JAMES VERRA and ASSOCIATES, INC.			



# CITY OF PORTSMOUTH

LEGAL DEPARTMENT

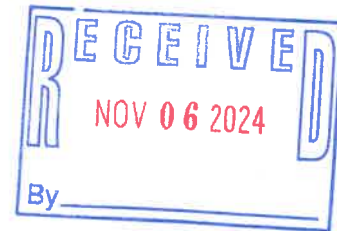
Robert P. Sullivan, City Attorney - 603-610-7204 (Direct Dial)  
Kathleen M. Dwyer, Assistant City Attorney - 603-427-1338 (Phone/Fax)  
Suzanne M. Woodland, Assistant City Attorney - 603-610-7240 (Direct Dial)



Municipal Complex  
1 Junkins Avenue  
Portsmouth, NH 03801  
(603) 431-2000  
(603) 427-1577 (FAX)

July 13, 2006

Lawrence Yerdon, President  
Strawbery Banke, Inc.  
P.O. Box 300  
Portsmouth, NH 03801



**RE: Joshua Wentworth House**

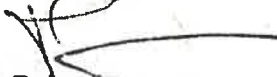
Dear Mr. Yerdon,

This will advise that the City has been made aware a nominal encroachment into the municipal right of way which exists in connection with the Joshua Wentworth House at the corner of Hancock and Washington Street (see attached exhibit).

Planning Department Director David Holden and I have examined the circumstances surrounding the creation of this situation, including the fact that the encroachment was apparently created inadvertently when that historic building was relocated to its present site, 33 years ago. We have determined that this is not a situation in which it would be appropriate for the City to take any action against either Strawbery Banke or the property.

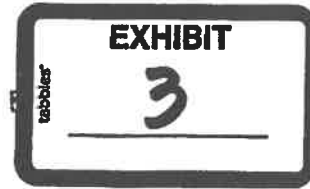
Accordingly, please accept this letter as the City's representation that the Joshua Wentworth House may remain as it is currently located on its lot without interference from the City.

Sincerely,

  
Robert P. Sullivan  
City Attorney

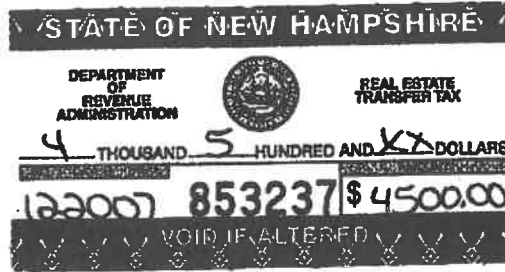
RPS/rao  
enclosure

cc: David M. Holden, Planning Department Director  
Lucy Tillman, Chief Planner  
Peter J. Loughlin, Esq.  
Rodney Rowland, Director of Special Projects, Strawbery Banke, Inc.  
h:\ps\planning\joshua wentworth house encroachment lr



After recording return to:

\* RE-RECORDED TO INSERT THE CORRECT TENANCY OF GRANTEE, WHICH WAS OMITTED, IN ERROR, UPON THE ORIGINAL RECORDING.



BK 4963 PG 2254

CORRECTIVE\* WARRANTY DEED

JOSHUA WENTWORTH-WINEBAUM HOUSE
HANCOCK STREET
PORTSMOUTH, NEW HAMPSHIRE

STRAWBERRY BANKE, INC. (the "Grantor" or "Strawbery Banke"), a non-profit New Hampshire corporation with a principal place of business at 420 Court Street, Portsmouth, Rockingham County, State of New Hampshire 03108, for consideration paid, grants to Jonathan Trace and Susan Paige Trace, of 19 Hancock Street, Portsmouth, New Hampshire 03801 (the "Grantee"), with WARRANTY COVENANTS, the land and building located at 19 Hancock Street, Portsmouth, Rockingham County, State of New Hampshire, bounded and described as follows:
\*as joint tenants with rights of survivorship.

A certain tract or parcel of land and the buildings thereon lying southerly of Hancock Street, a public way, and easterly of Washington Street, a public way, in the City of Portsmouth, County of Rockingham, State of New Hampshire, said tract being shown on plan entitled "Subdivision Plan, 17 Hancock Street, Assessor's Parcel No. 103-088-000, Portsmouth, New Hampshire, Owner: Strawberry Banke, Inc.", dated 8/16/2006, recorded at the Rockingham County Registry of Deeds on 9/22/06 as Plan D-34172, said tract being shown as Lot 103-88-001 thereon, and now designated by the City of Portsmouth Assessor's office as Lot 103-0100-0000, being more particularly bounded and described as follows:

Beginning at an iron rod set at the northeast corner of the above-described parcel at the northwest corner of other land of Strawberry Banke, Inc.;

Thence by other land of said Strawberry Banke, Inc. South 38°06'06" East, NH grid azimuth - NAD 83 (1986) 46.89 feet to an iron rod set at land of Hollis E. Broderick;

Thence by land of said Broderick South 57°41'01" West 94.43 feet to a point on the easterly sideline of Washington Street, said point bears North 23°29'25" West 0.52 feet from a steel stake found;

Thence by the sideline of said Washington Street North 23°45'00" West 43.57 feet to an iron rod set on the southerly side of said Hancock Street:

069113

2007 DEC 20 AM 10:57

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

2008 NOV 19 PM 3:29
Re-Recording
053706

Thence by said Hancock Street on the following courses:

Easterly by the arc of a non-tangent curve, concave southerly, having a radius of 250.00 feet, an arc length of 44.48 feet, the chord of said curve bears North 52°13'32" East 44.42 feet to a point of compound curvature;

Easterly by arc of a curve, concave southerly, having a radius of 850.00 feet, an arc length of 39.01 feet to the point of beginning;

Said tract contains 4,116 square feet, more or less.

Meaning and intending to convey a portion of the premises conveyed to the Grantor by Quitclaim Deed of the Portsmouth Housing Authority recorded at the Rockingham County Registry of Deeds at Book 1745, Page 72.

The property herein conveyed is SUBJECT TO the preservation restrictions attached hereto as Exhibit I and made a part hereof (the "Preservation Restrictions") which shall run with the land, and be binding upon the Grantee, its heirs, successors and assigns. The property conveyed herein is further SUBJECT TO the following:

1. Any taxes which are not yet due and payable.
2. The state of facts as shown and noted on plan of land entitled, "Subdivision Plan 17 Hancock Street assessors Parcel No. 103-088-000 Portsmouth, New Hampshire Owner: Strawberry Banke, Inc.," prepared by James Verra and Associates, Inc., dated 8-16-2006, recorded in Rockingham County Registry of Deeds as Plan No. D-34172, including, without limitation, Notes 8 and 9 on said Plan.
3. The state of facts as shown and noted on plan of land entitled, "Portsmouth Housing Authority City of Portsmouth Rockingham County New Hampshire Project No. NH R-1 Marcy - Washington Streets Project Plan Area," dated March 1, 1959, recorded in Rockingham County Registry of Deeds as Plan #77 (herein the "Redevelopment Plan").
4. Terms and conditions, as they pertain to Parcel 5 only, of a certain "Urban Renewal Plan As The Redevelopment Plan" of the Portsmouth Housing Authority, dated August 3, 1959, recorded in Rockingham County Registry of Deeds at Book 1687, Page 033.
5. Covenants, as they pertain to Parcel 5 only, as set forth in Quitclaim Deed of Portsmouth Housing Authority to Strawberry Banke, Inc., dated September 24, 1964, recorded in Rockingham County Registry of Deeds at Book 1745, Page 072.
6. Terms, covenants and conditions, as they pertain to Parcel 5 only, as set forth in a certain Disposition Contract by and between the Portsmouth Housing Authority and Strawberry Banke, Inc., dated August 14, 1964 and recorded in Rockingham County Registry of Deeds at Book 1753, Page 200.

Executed this 19th day of December, 2007.

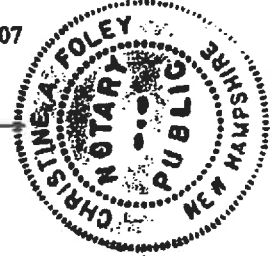
STRAWBERRY BANKE, INC.

By: Lawrence Yerdon  
Name: Lawrence Yerdon  
Title: President

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 19 day of December, 2007  
by Lawrence Yerdon, President of Strawberry Banke, Inc., on behalf of the corporation.

Christine A. Foley  
Notary Public  
My commission expires: 9/8/09



The undersigned Grantee does hereby acknowledge and agree to the terms of the  
Preservation Restrictions attached hereto and made a part hereof.

Jonathan Trace                      Susan Paige Trace  
Jonathan Trace                      Susan Paige Trace

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 19 day of December, 2007  
by Jonathan Trace.

Christine A. Foley  
Notary Public  
My commission expires: 9/8/09



STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 19 day of December, 2007  
by Susan Paige Trace.

Christine A. Foley  
Notary Public  
My commission expires: 9/8/09





**EXHIBIT I**

**PRESERVATION RESTRICTIONS**

The premises subject to these Preservation Restrictions consists of the approximately 4,116 square feet of land on the corner of Washington Street and Hancock Street, in the City of Portsmouth, County of Rockingham, State of New Hampshire, said tract being shown on plan entitled "Subdivision Plan, 17 Hancock Street, Assessor's Parcel No. 103-088-000, Portsmouth, New Hampshire, Owner: Strawberry Banke, Inc.," dated 8/16/2006, recorded at the Rockingham County Registry of Deeds 9/22/06 as Plan D-34172, said tract being shown as Lot 103-88-001 thereon, and now designated by the Assessor's office as Lot 0103-0100-0000, and the building on the Plan labeled as the Joshua Wentworth House (the "Wentworth-Winebaum House" and sometimes referred to collectively with the land as described above as the "Premises").

**STATEMENTS OF GENERAL INTENT**

The following Statements of General Intent and Purpose shall apply to the Preservation Restrictions:

1. The Wentworth-Winebaum House is architecturally and historically significant, and is worthy of rehabilitation. Evidence of its construction as a small four room house is preserved, although the existing appearance and configuration of the Wentworth-Winebaum House dates to its substantial enlargement around 1770. The majority of the building's eighteenth-century interior architectural features are intact, including woodwork likely derived from the *Designs of Indigo Jones* (published by William Kent in 1727) and representing the best of Portsmouth's pre-revolutionary craftsmanship as well as some of the most significant American interpretations of English architectural fashion during the Georgian period. Originally located on Hanover Street in Portsmouth, where it was recorded by the Historic American Building Survey (HABS) in 1937, the Wentworth-Winebaum House was donated to Strawberry Banke in 1973.
2. The Wentworth-Winebaum House is an important example of eighteenth century Portsmouth, New Hampshire architecture and design. Original exterior and interior architectural and design features are preserved and shall be maintained.
3. In exercising any authority created by the Preservation Restrictions, including but not limited to review any alteration, repair, restoration, rehabilitation, maintenance, construction, or reconstruction of the Wentworth-Winebaum House or Premises, or to review casualty damage or approve reconstruction of the Wentworth-Winebaum House following casualty damage, Strawberry Bank shall apply the Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation, (1995), as amended from time to time.

**A. GRANTEE COVENANTS**

1. The Grantee shall not, without the prior written approval of Strawberry Banke, which may be given or withheld in its sole discretion, undertake any activity which in any way alters the appearance, design, materials, workmanship or structural stability of the following architectural exterior and interior features of the Wentworth-Winebaum House:
  - a. Roof massing and profile, including dormers;
  - b. Chimneys, including any portion that is reconstructed above the roofline;
  - c. Sidewalls, including but not limited to all doors and door frames, windows and window frames, shutters, clapboards, transoms, sidelights, external lighting fixtures, cornices, moldings and all other trim elements, and any porticos, entries or steps;
  - d. Room configurations, in four north rooms and stairwell, including door locations, except that certain later partition walls may be removed with Strawberry Banke's prior review and written approval, pursuant to section 2(b) below;
  - e. Woodwork, in four north rooms and stairwell, including but not limited to doors, door frames, window frames, moldings, paneling, cornices, casings, shutters, mantels, mantelpieces, baseboards, and all staircases elements; or
  - f. Fireplaces, including but not limited to masonry masses, fireboxes, hearths and existing iron or brass fireplace accessories.
  
2. The Grantee shall:
  - a. Maintain, and as necessary repair, the Premises in a state of good repair, including the interior and exterior architectural features of the Wentworth-Winebaum House.
  
  - b. Present to Strawberry Banke, within six (6) months of the date of the Warranty Deed to which these Preservation Restrictions are a part, a comprehensive written plan and schedule describing proposed restoration, repair and renovation work to be done on the Wentworth-Winebaum House. Upon approval of such plan by Strawberry Banke in writing and within thirty (30) days of receipt of said proposed plan from Grantee, Grantee shall have two (2) years to complete those portions of the plan which Strawberry Banke has approved in writing.

3. The Grantee shall not:
- a. Permit or allow to occur, either through positive action or neglect, demolition of the Wentworth-Winebaum House.
  - b. Permit or allow to occur, the relocation of the Wentworth-Winebaum House from its present location, unless such moving is required by a taking by eminent domain.
  - c. Permit or allow the installation of any antenna on the Wentworth-Winebaum House without, in each instance the prior written approval of Strawberry Banke, which may be given or withheld in its sole discretion.
  - d. Permit or allow the installation of signs or fences on the Premises without (i) obtaining the appropriate governmental approvals, if any, and (ii) providing reasonable prior written notice of the same, describing the same in reasonable detail, to Strawberry Banke.

**B. GRANTEE'S RESERVED RIGHTS**

The following activities may be undertaken by the Grantee without prior notice to, or approval of, Strawberry Banke:

- 1. Exterior and interior painting;
- 2. Re-shingling roof planes using wood shingle or architectural asphalt equivalent roof coverings;
- 3. Installation of window-mounted air conditioners, storm windows, storm doors or window or door screens;
- 4. Electrical re-wiring, provided that no electrical fixtures are embedded in or attached in any manner to protected woodwork in four north rooms and stairwell.
- 5. Interior plastering;
- 6. Interior wallpapering;
- 7. Replacement of broken glass window lights;
- 8. Replacement of existing plumbing lines and plumbing fixtures;
- 9. Planting of trees, shrubs, grass, and annual or perennial flowers and plants, subject to section E below;

10. **Parking of automobiles; and**
11. **Placement of lawn, garden and play equipment, clotheslines, birdhouses, and other temporary objects or artifacts**

**C. USE**

The use of the Wentworth-Winebaum House shall be restricted to a single-family dwelling, professional offices with one (1) dwelling unit, professional offices, or a bed-and-breakfast or inn operation provided the use is permitted by local building and zoning ordinances.

**D. ADDITIONAL BUILDING**

Additions may be attached to the Wentworth-Winebaum House and additional ancillary buildings will be allowed on the Premises, both subject to prior design review and written approval by Strawberry Banke. Said design review shall include but not be limited to location, size, design and materials. Strawberry Banke shall review the proposal for such work, and approve, disapprove, or approve with modifications the work in writing within thirty (30) days of receipt of same. Failure of Strawberry Banke to notify Grantee of approval, disapproval, or approval with modification within thirty (30) days shall constitute approval.

**E. TOPOGRAPHY; ARCHAEOLOGY**

Any digging in the ground deeper than 2 feet or any removal of soil for any reason, including placing of fences, posts, or planting of shrubs or trees, or the repair of the Wentworth-Winebaum House, provided that the Preservation Restrictions shall not apply to areas previously explored archaeologically by Strawberry Banke, within the depth of the previous exploration. Requests for approval for digging or excavation shall be made to Strawberry Banke at least one week in advance, due to the possible presence of material of archaeological interest. Strawberry Banke shall arrange and pay for any archaeological work it desires in connection with any such excavation. Any artifacts discovered shall remain the property of the Grantee, however, if Strawberry Banke desires to study such artifacts, it may retain them for up to one (1) year, and if Grantee wishes to sell or otherwise convey any such artifacts, it shall give Strawberry Banke first option to accept or purchase them.

**F. SUBDIVISION; LEASE**

The Premises conveyed herein shall not be subdivided for conveyance or lease, or any other purpose, provided that this section shall not be deemed to prohibit the leasing of the Premises for uses permitted by the Preservation Restrictions. The definition of "to subdivide" shall include to cause any portion of the premises less than the entirety thereof to be divided, conveyed or made conveyable (including as a condominium) as a distinct parcel or unit apart from the remainder of the land, including, to submit a plan which shows the land as other than one unitary lot for the preliminary or final approval or endorsement of any governmental authority for such a division, or to cause any such plan (whether or not approved or endorsed by a governmental authority) to be filed or recorded with any land records office or registry. Any lease or occupancy agreement of the Premises or any portion thereof shall be in writing and shall include the following notice in capitalized letters: "This Lease is subject to Preservation Restrictions held by Strawberry Banke Inc., which substantially restricts construction, alteration and redecorating activities inside and outside of the Premises subject to this Lease. Any failure to comply with such restrictions may, at Landlord's sole discretion, be deemed a default under this Lease." Grantee shall provide notice to Strawberry Banke of any and all leases or all or a portion of the property.

**G. INSURANCE**

1. The Grantee shall carry and maintain at all times property damage insurance on the Wentworth-Winebaum House with uncapped replacement cost coverage (and in any event in an amount not less than the actual cash value of the Wentworth-Winebaum House, defined herein as replacement value less depreciation), against loss from all perils commonly covered under the broadest standard homeowner's policy form in use from time to time. If and when the use of the Premises includes permitted non-residential use, then such policy form shall be the broadest standard form for such use or uses.
2. The Grantee shall carry and maintain at all times general liability insurance with coverage against claims for personal injury, death and property damage, identifying the Wentworth-Winebaum House as the covered premises, and for not less than one million (\$1,000,000) per person per occurrence, such sum to be increased from time to time to reflect increases in the cost of living from the date hereof.
3. Grantee shall promptly provide copies of all insurance policies required by this section, and all supplements or endorsements, upon Strawberry Banke's written request.



**H. CASUALTY DAMAGE**

1. In the event that the Wentworth-Winebaum House suffers damage or destruction of 35% or less of said actual cash value, the proceeds of said insurance shall be used to repair or rebuild the damaged or destroyed portion of the structure in a functionally equivalent manner and in accordance with the Preservation Restrictions.
2. In the event of damage or destruction greater than 35%, but less than 75%, the Grantee in its sole discretion may use the proceeds of said insurance to repair or rebuild the damaged or destroyed portion in a functionally equivalent manner in accordance with these restrictions, with all plans subject to Strawberry Banke prior written approval or may offer the premises for sale to Strawberry Banke at fair market value as determined by appraisal, and if Strawberry Banke does not purchase the premises may sell the same to a third party subject to the Preservation Restrictions.
3. In the event of destruction equal to 75% or more of the actual cash value, the Grantee shall have all of the options listed above in sections H(1) and (2) as well as the additional option of building a new structure on the lot.
4. In the event of any destruction of the Wentworth-Winebaum House, Strawberry Banke shall have the option to acquire at fair market value any building element or architectural feature of the Wentworth-Winebaum House not used in reconstruction.

**I. TAXES**

The Grantee shall pay before they become overdue all state or local taxes, special assessments, water and sewer charges, and any other charges which may become liens on the Premises.

**J. INDEMNIFICATION**

No waiver by Strawberry Banke of any of the requirements of the Preservation Restrictions for an act of the Grantee shall affect the obligations of the Grantee to comply with the Preservation Restrictions in any other acts of the Grantee. Except for injury or damage caused by the willful or negligent acts of Strawberry Banke, its servants or agents, the Grantee shall indemnify and hold Strawberry Banke harmless from and against all claims, liability, costs, attorneys' fees, judgments or expenses resulting from actions or claims of any nature by third parties arising in connection with or out of the Preservation Restrictions.

**K. ADMINISTRATION**

1. Strawberry Banke shall be permitted annually, on thirty (30) days prior written notice, to inspect the Premises to ensure the Grantee's compliance with the Preservation Restrictions. During periods of repair, renovation or reconstruction, however, Strawberry Banke shall be permitted as often as is reasonably prudent, on ten (10) days notice, to inspect the Premises to ensure compliance with these Preservation Restrictions. Said inspection(s) shall be conducted during normal business hours, without undue interference with the business being conducted within the Premises, and with the Grantee agreeing to grant Strawberry Banke free access to all areas of the Premises. The failure of Strawberry Banke to exercise this right of inspection for any period of time shall under no circumstances be construed as a waiver of such right.
2. Grantee shall submit in writing at least thirty (30) days in advance of any anticipated undertaking of any work requiring the prior approval of Strawberry Banke information (including plans, specifications, and designs where appropriate) together with a specific request identifying the proposed activity. Grantee shall also submit to Strawberry Banke a timetable for the proposed activity, which is sufficient to permit Strawberry Banke to monitor such activity. Strawberry Banke shall review the proposal for work and approve, disapprove, or approve with modifications the work in writing within thirty (30) days of receipt of the Grantee's notice of proposed work. Failure of Strawberry Banke to notify Grantee of approval, disapproval, or approval with modification within thirty (30) days shall constitute approval. Only work approved by Strawberry Banke shall be undertaken. Grantee shall not make changes or take any action subject to the approval of Strawberry Banke unless expressly authorized in writing by Strawberry Banke. In the event that the Grantee does not implement any approval granted for a period of one (1) year, such approval shall be void. Grantee may resubmit the request for approval in which event the review process as contemplated above shall begin anew.
3. Upon request by Grantee, Strawberry Banke shall within ten (10) business days, and provided Grantee has allowed Strawberry Banke an inspection, if necessary, pursuant to section K(1) above, furnish Grantee with a certification that Grantee is in compliance with the obligations of the Preservation Restrictions or that otherwise describes the status of the Preservation Restrictions to the extent of Strawberry Banke's knowledge.
4. Every notice, request, demand, consent, waiver or other communication which either party hereto may be required to give to the other party pursuant to the Premises or Preservation Restrictions shall be in writing and shall be given either by postage prepaid registered or certified U.S. mail with return receipt requested or by a national overnight delivery

service with acknowledgment of receipt required--if to Grantee, then to Grantee at the Premises, and if to Strawberry Banke then to Strawberry Banke Inc., P.O. Box 300, Portsmouth, New Hampshire 03802. Each party may change its address set forth herein by written notice to such effect to the other party. Such notice, etc., shall be deemed given as of the sooner of the date of signed receipt or the date when delivery was first attempted.

**M. VIOLATION; ENFORCEMENT**

In the event that a violation of the Preservation Restrictions is found, Strawberry Banke shall give Grantee written notice of such violation, establishing a reasonable time within which such violation shall be corrected. In the event that such violation is not corrected by such date, Strawberry Banke shall have the following rights and remedies:

1. Strawberry Banke may institute suit(s) to enjoin any violation of the terms of these Preservation Restrictions by ex parte, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Premises and Wentworth-Winebaum House to the condition and appearance that existed prior to the violation complained of in the suit.
2. Strawberry Banke shall also have available all legal and other equitable remedies to enforce the Grantee's obligations under the Preservation Restrictions.
3. In the event Grantee is found to have materially violated any of its obligations, Grantee shall reimburse Strawberry Banke for any costs or expenses incurred in connection with Strawberry Banke's enforcement of the terms of the Preservation Restrictions, including but not limited to all reasonable court costs, and attorney's, architectural, engineering, and expert witness fees. Exercise by Strawberry Banke of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

**N. BINDING EFFECT; ASSIGNMENT**

1. The burden of these restrictions shall run with the land and shall be binding upon all owners of any interest therein.
2. The right of enforcement of these Preservation Restrictions by Strawberry Banke shall be as provided in New Hampshire Revised Statutes Annotated Ch. 477:45-47 (1973, c.391) and as it may be amended (the "Act"). The benefit of the Preservation Restrictions and the right to enforce them shall

not be appurtenant to any parcel of land, shall be assignable by Strawberry Banke to any governmental body or any entity whose purposes include preservation of structures or sites of historical significance and if Strawberry Banke ceases to exist without having so assigned the benefit and right to enforce the Preservation Restrictions, then a qualified successor to Strawberry Banke may be named by a New Hampshire court of competent jurisdiction.

**O. AMENDMENT**

For purposes of furthering the preservation of the Wentworth-Winebaum House and of furthering the other purposes of the Preservation Restrictions, and of meeting changing conditions, Strawberry Banke and Grantee are free to amend jointly the terms of the Preservation Restrictions in writing without notice to any party, and such amendment shall become effective upon recording at the Registry.

**P. INTREPRETATION**

The following sections shall govern the effectiveness, interpretation, and duration of the Preservation Restrictions.

1. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this instrument or the Preservation Restrictions, which shall be interpreted broadly to effect their purposes.
2. The Preservation Restrictions herein conveyed are made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of the Preservation Restrictions according to those terms, it being the intent of the parties to agree and to bind themselves, successors, administrators and assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability of any other provision of this instrument or any ancillary or supplementary agreement relating to its subject matter.
3. Nothing contained in this instrument shall be interpreted to authorize or permit Grantee to violate any ordinance or regulation relating to building materials, construction methods, or use. The approval by Strawberry Banke of any action by Grantee, including without limitation, the approval of the design of any alteration or construction, shall not constitute a warranty, representation or acknowledgment that any action taken in conformity with such approval shall comply with any law, regulation, order, ordinance, code or by-law or shall be suitable for any particular

purpose, and Grantee shall be solely responsible for its own actions. In the event of any conflict between any such ordinance or regulation and the terms of this instrument, Grantee shall promptly notify Strawberry Banke of such conflict and shall cooperate with Strawberry Banke and the applicable governmental entity to accommodate the purposes of both the Preservation Restrictions and such ordinance or regulation.

BK 4963 PG 2266

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December 19, 2007 1:09:42 PM



Property Location 27 HANCOCK ST  
 Vision ID 38784 Account # 38784

Map ID 0103/ 0100/ 0000/ /  
 Bldg # 1

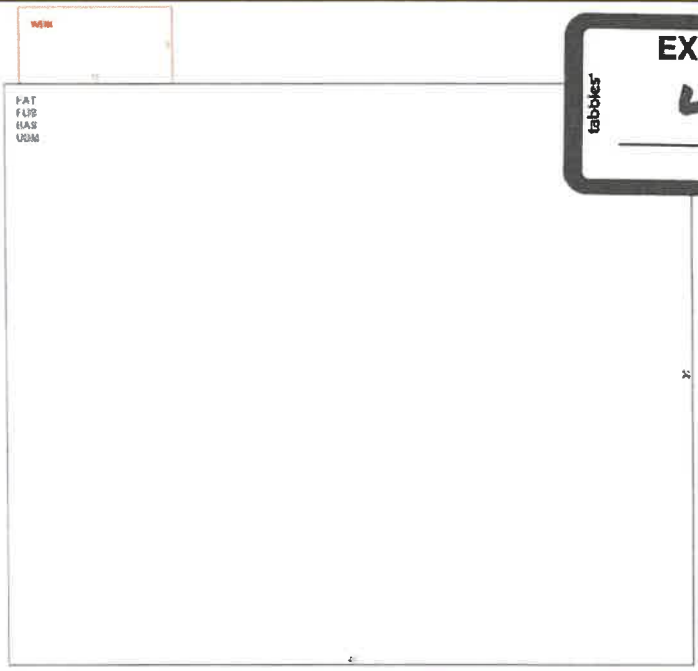
Bldg Name COLONEL JOSHUA WENTW  
 Sec # 1 of 1 Card # 1 of 1

State Use 1010  
 Print Date

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Style:	63	Antique			
Model	01	Residential			
Grade:	A+	A+			
Stories:	2				
Occupancy	1				
Exterior Wall 1	11	Clapboard			
Exterior Wall 2					
Roof Structure:	03	Gable/Hip			
Roof Cover	03	Asph/F GlS/Cmp			
Interior Wall 1	03	Plastered			
Interior Wall 2					
Interior Flr 1	09	Pine/Soft Wood			
Interior Flr 2					
Heat Fuel	03	Gas			
Heat Type:	02	Warm Air			
AC Type:	03	Central			
Total Bedrooms	04	4 Bedrooms			
Total Bthrms:	3				
Total Half Baths	1				
Total Xtra Fixtrs	0				
Total Rooms:	12				
Bath Style:	1	Avg Quality			
Kitchen Style:	2	Above Avg Qual			
Kitchen Gr					
WB Fireplaces	2				
Extra Openings	0				
Metal Fireplace	0				
Extra Openings	0				
Bsmt Garage					

MIXED USE		
Code	Description	Percentage
1010	SINGLE FAM MDL-01	100
		0
		0

COST / MARKET VALUATION		
Adj. Base Rate		232.10
Building Value New		973,674
Year Built		1770
Effective Year Built		2008
Depreciation Code		EX
Remodel Rating		
Year Remodeled		2008
Depreciation %		11
Functional Obsol		
External Obsol		
Trend Factor		1
Condition		
Condition %		
Percent Good		89
RCNLD		866,600
Dep % Ovr		
Dep Ovr Comment		
Misc Imp Ovr		
Misc Imp Ovr Comment		
Cost to Cure Ovr		
Cost to Cure Ovr Comment		



**EXHIBIT**  
**4**

**OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)**

Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj	Appr Value

**BUILDING SUB-AREA SUMMARY SECTION**

Code	Description	Living Area	Floor Area	Elf Area	Unit Cost	Undeprec Value
BAS	First Floor	1,710	1,710	1,710	232.10	396,897
FAT	Attic	428	1,710	428	58.09	99,340
FUS	Upper Story, Finished	1,710	1,710	1,710	232.10	396,897
UBM	Basement, Unfinished	0	1,710	342	46.42	79,379
WDK	Deck, Wood	0	50	5	23.21	1,161
Ttl Gross Liv / Lease Area		3,848	6,890	4,195		973,674



Property Location 27 HANCOCK  
 Vision ID 38784

Account # 38784

Map ID 0103/ 0100/ 0000/ /  
 Bldg # 1

Bldg Name COLONEL JOSHUA WENTW  
 Sec # 1 of 1 Card # 1 of 1

State Use 1010  
 Print Date 4/29/2024 4:11:57 PM

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT				2229 PORTSMOUTH, NH							
TRACE JONATHAN TRACE SUSAN PAIGE PO BOX 7106  PORTSMOUTH NH 03802		1   Level	1   Public Sewer	1   Paved	2   Suburban	Description	Code	Appraised	Assessed								
						RESIDENTL	1010	866,600	866,600	<b>VISION</b>							
						RES LAND	1010	370,300	370,300								
SUPPLEMENTAL DATA						Total		1,236,900	1,236,900								
All Prcl ID 0103-0100-0000-0000 OLDACTN PHOTO WARD PREC. 1/2 HSE GIS ID 38784						CONDO C INLAW Y/ LOT SPLIT 2015 Reva JM Ex/Cr Appli Assoc Pid#											
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)									
TRACE JONATHAN TRACE JONATHAN		4963 4871	2254 2281	11-19-2008 12-20-2007	U U	I V	0 300,000	15	Year	Code	Assessed	Year	Code	Assessed V	Year	Code	Assessed
									2022	1010 1010	866,600 370,300	2021	1010 1010	866,600 370,300	2020	1010 1010	866,600 370,300
		Total							Total		1,236,900	Total		1,236,900	Total		1,236,900
EXEMPTIONS			OTHER ASSESSMENTS				This signature acknowledges a visit by a Data Collector or Assessor										
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int									
		Total					0.00										
ASSESSING NEIGHBORHOOD											<b>APPRAISED VALUE SUMMARY</b>						
Nbhd	Nbhd Name	B	Tracing	Batch	Appraised Bldg. Value (Card)						866,600						
108					Appraised Xf (B) Value (Bldg)						0						
					Appraised Ob (B) Value (Bldg)						0						
					Appraised Land Value (Bldg)						370,300						
					Special Land Value						0						
					Total Appraised Parcel Value						1,236,900						
					Valuation Method						C						
					Total Appraised Parcel Value						1,236,900						
BUILDING PERMIT RECORD											VISIT / CHANGE HISTORY						
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpose/Result			
09-321	06-18-2009			7,500	04-21-2010	100		CONSTRUCT FENCE AROUN	08-01-2019	SS			40	Hearing No change			
3	06-13-2008			0		100		LIGHT, REBD CHI	09-05-2017	PM			40	Hearing No change			
2	06-13-2008			0		100		DOORS, STEPS, R	07-10-2017	PM			FR	Field Review Stat Update			
08-272	06-13-2008			30,000	04-17-2009	100		EXT RENOS, RERO	09-08-2015	RT			40	Hearing No change			
1	05-02-2008			0		100		FAMILY HOME	04-08-2015	RT			FR	Field Review Stat Update			
08-268	05-02-2008			550,000	04-17-2009	100		INT REHAB TO SI	06-21-2013	JM			10	Measw/LtrSnt No Respons			
									09-29-2010	RM			HC	HEARING CHANGE INAC			
LAND LINE VALUATION SECTION																	
B	Use Code	Description	Zone	Frontage	Depth	Land Units	Unit Price	Size Ad	Site	Cond.	ST ldx	S.I. Adj.	Notes- Adj	Special Pricing	Adj Unit P	Land Value	
1	1010	SINGLE FAM M	MR			4,116 SF	33.32	1.0000	1	1.00	108	2.700		1.0000	89.97	370,300	
Total Card Land Units						0	AC	Parcel Total Land Area						0	Total Land Value		370,300

**ARTICLE VI: REFERRALS TO PLANNING BOARD (Added 12/21/2009)**



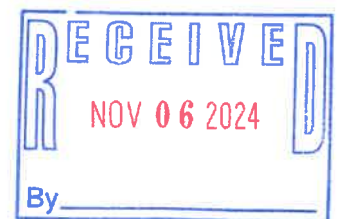
**Section 11.601: INTENT**

The intent of this Article is to ensure that proposed municipal actions relating to land acquisition, disposition or use, and to the laying out, construction or discontinuance of public streets, are considered in the context of the City's comprehensive planning.

**Section 11.602: REFERRAL AND REPORT**

- A. The following matters shall be referred to the Planning Board in writing at least thirty (30) days before final action is taken:
  - (1) Any acquisition or disposition of municipal real property, including fee transfers, easements and licenses;
  - (2) Any plan for the construction, alteration, relocation, acceptance or discontinuance of a public way.
  
- B. No final action on a matter listed herein shall be taken until either the Planning Board has reported to the City Council thereon in writing or ~~sixty~~ (60) days have elapsed since the referral without such report.
  
- C. The failure to refer a matter listed herein to the Planning Board shall not affect the legal validity or force of any action related thereto if the Planning Board waives such referral.

Not an official copy







## ENCROACHMENT EASEMENT DEED

The **CITY OF PORTSMOUTH**, a municipal body politic, having a mailing address of 1 Junkins Avenue, Portsmouth, New Hampshire 03801 ("Grantor"), for consideration paid, grants to **JONATHAN TRACE AND SUSAN PAIGE TRACE**, a married couple, of 27 Hancock Street, Portsmouth, New Hampshire 03801 ("Grantee"), as joint tenants with rights of survivorship, with *QUITCLAIM COVENANTS*, an easement for continued encroachment as more particularly set forth herein:

1. **BENEFITTED PROPERTY:** Grantee owns a certain parcel of land, with the buildings and improvements thereon, situate in Portsmouth, Rockingham County, New Hampshire, lying southerly of Hancock Street, a public way, and easterly of Washington Street, a public way, and being shown as Lot 103-88-001 ("Benefitted Property") on a plan entitled "Subdivision Plan, 17 Hancock Street, Assessors Parcel No. 103-088-000, Portsmouth, New Hampshire, Owner: Strawberry Banke, Inc.", dated 8/16/2006 and recorded with the Rockingham County Registry of Deeds on 9/22/2006 as Plan D-34172 ("Subdivision Plan").
2. **NATURE OF ENCROACHMENT:** Situated upon the Benefitted Property is a historic structure known as the Colonel Joshua Wentworth House, which was constructed in or around the year 1770 ("Encroaching Structure"). Said Encroaching Structure was relocated to the Benefitted Property in or around the year 1973, during which process, the structure was inadvertently situated upon the lot in such a way that the structure encroaches slightly upon the Hancock Street right of way. This encroachment was not discovered until 2006, when the property was subdivided. On or around July 13, 2006, a letter was issued by Portsmouth City Attorney, Robert P. Sullivan, in which he acknowledged the inadvertent encroachment and indicated that he and Planning Department Director, David Holden, determined that it would be inappropriate for the City of Portsmouth to take action against Strawberry Banke [the owner] or the property. See Note #9 on the Subdivision Plan.
3. **GRANT OF EASEMENT:** The Grantee is hereby granted a permanent and exclusive easement for the continued encroachment of the Encroaching Structure upon the Hancock Street right of way as is depicted on the Subdivision Plan. The Grantee shall have the right to maintain, repair and/or replace any portion of the Encroaching Structure, provided that the existing footprint within the easement area shall not be expanded without the prior written consent of the Grantor, which written consent shall be duly recorded with the Rockingham County Registry of Deeds.

4. **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.

EXECUTED this \_\_\_\_\_ day of November 2024.

**CITY OF PORTSMOUTH**

\_\_\_\_\_  
By:  
Title:  
Duly Authorized

**STATE OF NEW HAMPSHIRE**  
**County of Rockingham**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November 2024, by \_\_\_\_\_, duly authorized on behalf of the City of Portsmouth in his/her/their capacity as \_\_\_\_\_.

\_\_\_\_\_  
Notary Public / Justice of the Peace  
My Commission Expires:



HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC  
ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801  
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

November 8, 2024

HAND DELIVERED

Kelli Barnaby, City Clerk  
Peter Stith, Principal Planner  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

RE: Request for Easement  
Jonathan and Paige Trace  
Joshua Wentworth House  
27 Hancock Street, Portsmouth NH 03801

Dear Ms. Barnaby and Mr. Stith:

This will add Exhibit 7 to the exhibits attached to my letter dated November 6, 2024 requesting placement on November 18, 2024 City Council Agenda, and November 21, 2024 Planning Board Agenda, in turn requesting City Council approval and execution of an easement for right-of-way encroachments by Jonathan and Paige Trace, owners of 27 Hancock St., the "Joshua Wentworth House".

The self-explanatory attached letter from then-City Attorney Robert P. Sullivan simply confirms that the City's position that it would never seek to require an owner to remove the encroachments would not only protect the then owners, but all subsequent owners.

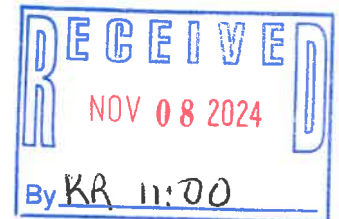
Respectfully submitted,



R. Timothy Phoenix

Enclosure

cc Clients  
City Attorney  
City Manager  
Adam Dean  
Matt Shoemaker, Esq.



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DANIEL C. HOEFLE	ALEC L. MCEACHERN	PETER V. DOYLE	STEPHEN H. ROBERTS 2007-2023
R. TIMOTHY PHOENIX	KEVIN M. BAUM	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	JACOB J.B. MARVELLEY	STEPHANIE J. JOHNSON	SAMUEL R. REID
R. PETER TAYLOR	GREGORY D. ROBBINS	KAREN W. OLIVER	JOHN AHLGREN

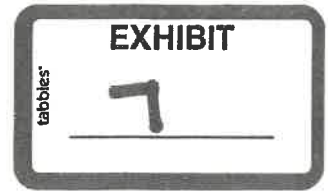


# CITY OF PORTSMOUTH

LEGAL DEPARTMENT

Robert P. Sullivan, City Attorney - 603 610 7204 - Direct Dial  
Kathleen M. Denver, Assistant City Attorney - 603 427 1338 - Phone/Fax  
Suzanne M. Woodland, Assistant City Attorney - 603 610 7240 - Direct Dial  
Susan C. Boone, City Prosecutor - 603 610 7473 - Direct Dial, 603 427 1512 - Fax

Municipal Center  
175 Jackson Avenue  
Portsmouth, New Hampshire  
603 431 2000  
603 427 1512 - Fax



September 19, 2007

Rodney Rowland, Director of Special Projects  
Strawbery Banke, Inc.  
P.O. Box 300  
Portsmouth, NH 03801

RE: Joshua Wentworth House

Dear Rodney,

You have inquired as to whether or not the content of my letter addressed to Lawrence Yeargan of July 13, 2006 regarding the captioned property attachment would remain in effect to the benefit of subsequent owners of the Joshua Wentworth House.

Please accept this letter as my response in the affirmative.

Sincerely,

Robert P. Sullivan  
City Attorney

RPS:rao

enclosure

cc David M. Holden, Planning Department Director  
Lucy Talman, Chief Planner

Enclosure of Joshua Wentworth House is an enclosure of subsequent owners

