



ORDINANCE

AMENDING THE ZONING ORDINANCE TO REQUIRE A SPECIAL USE PERMIT FOR DEVELOPMENT OF LOTS WHOSE SOLE ACCESS IS BY A RIGHT OF WAY RELEASED FROM DEDICATION TO PUBLIC USE (“PAPER STREET”)

CITY OF NASHUA

In the Year Two Thousand and Five

The City of Nashua ordains that Chapter 16 “Planning”, Article VII “Zoning”, Division 1 “Generally”, of the Nashua Revised Ordinances, as amended, is hereby further amended by deleting the strike through language and adding the new language in italics:

“Sec. 16-171. Special use permit for development of lots with access from paper streets.

- (a) A special use permit from the Planning Board under RSA 674:21 II for development of a lot whose sole access from a public street is by a right of way which was dedicated to public use by being shown on a subdivision plan but which has been released and discharged from all public servitude by vote of the aldermen or by lack of public use under RSA 231:51 and 52. The special use permit shall be in addition to the variance for such development required from the Zoning Board of Adjustment.
- (b) Application for a special use permit shall be on a form provided by the Planning Department, *and applicant is to pay minimum application fee of \$250.00, abutter notification costs, sign posting requirements in the same dollar amount established for site plan and subdivision applications. The applicant shall submit an abutter’s list, information and plans detailing how the applicant satisfies the six conditions of approval listed in 16-171(d) to the applicable City Department or other public utility. The Planning Department, Division of Public Works, Fire Rescue Department, Environmental Health Department, applicable Public Utilities shall review and make a recommendation on the application and forward to Planning Department for consideration by Planning Board.*
- (c) A public hearing shall be required for a special use permit under this section with the same abutter and public notice as for a subdivision or site plan application.

(d) The special use permit shall be granted upon a finding by the Planning Board that the proposed development fulfills all of the following conditions:

- (1) adequate access for proper water, sewer and other utility connections;
- (2) provision for snow removal and trash removal;
- (3) proper drainage from driveway;
- (4) adequate access for emergency vehicles;
- (5) safe sight distance for driveway; and
- (6) no other substantial adverse impact on public health and safety.”

LEGISLATIVE YEAR 2005

ORDINANCE: **O-2005-92**

PURPOSE: **Amending the zoning ordinance to require a special use permit for development of lots whose sole access is by a right of way released from dedication to public use (“paper street”)**

SPONSOR(S): **Alderman Robert A. Dion**

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: **None.**

ANALYSIS

This ordinance would amend the zoning ordinance to require a special use permit, administered by the planning board under RSA 674:21 II, to regulate utility access, trash removal, snow removal, driveway drainage and sight distance and other land use impacts associated with development of lots whose sole access from a public street is by a “paper street”, i.e. a right of way dedicated as a street but released from public servitude by lack of public use or vote of the board of aldermen under RSA 231:51 and 52.

State statute (RSA 675:2) and local ordinance (NRO § 16-165) require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least fifteen (15) days prior to the date of the hearing. A negative recommendation from the city planning board would require a 2/3 vote of the aldermen for passage of this ordinance.

RSA 676:12 I provides that building permits shall be withheld if application is made after first legal notice of a proposed zoning ordinance or building code amendment that would justify denial of the permit. This section applies in cities only upon vote of the governing body (board of aldermen) RSA 676:12 II. Currently NRO 6-3 adopts the powers of RSA 676:12 I, with the limitations that the effective period may not exceed 120 days and may be applied once in any two-year period.

Approved as to form: **Office of Corporation Counsel**

By: _____

Date: June 14, 2005