

172-1-1-7

1023 Washington Ave

Contract Zone

Murphy James E Jane

**CITY OF PORTLAND, MAINE  
CITY COUNCIL AGENDA REQUEST FORM**

**TO:** Sonia Bean, Administrative Assistant  
Elizabeth Boynton, Associate Corporation Counsel

**FROM:** Joseph E. Gray, Jr., Director of Planning and Urban Development

**DATE:** November 3, 1999

**SUBJECT:** 1023 Washington Avenue Contract Zone Proposal



- 1) Council Meeting at which action is requested (Date): December 6, 1999
- 2) Can action be taken at a later date?  YES  NO

**I. SUMMARY OF ISSUE**

James and Jane Murphy have requested approval a contract rezoning for the property located at 1023 Washington Avenue to a Residence-Professional (RP) zone in order to operate a tax accounting office on the property. The property is located at the southwest corner of Washington and Lawrence Avenues and contains a white clapboard farmhouse with an attached barn. The requested R-P rezoning covers only the first floor of the barn. The site is 14,804 sq ft and zoned R-3 and R-5 Residential.

**II. REASON FOR SUBMISSION (What issue/problem will this address?)**

The Murphy property is zoned R-3 and R-5 Residential. Professional offices are not permitted in the R-3 or R-5 zone. Home occupations are allowed; however, the applicants are unable to meet the dimensional-restrictions for home occupations.

**III. INTENDED RESULT (How does it resolve the issue/problem?)**

The proposed contract will allow professional offices, as permitted in the Residence-Professional (R-P) Zone, within the first floor of the barn building on the property. The contract requires that the residential units on the second floor of the barn and within the residential structure on the property remain and that the parking lot not expand.

**V. STAFF ANALYSIS & RECOMMENDATION**

The Planning Board voted 2-2 during its public hearing on this item and was therefore unable to forward a recommendation to the City Council.

**PLANNING REPORT #44-99b**

**CONTRACT ZONE PROPOSAL**

**1023 WASHINGTON AVENUE**

**JAMES AND JANE MURPHY, APPLICANTS**

Submitted to:

Portland City Council  
Portland, Maine

November 3, 1999

## **I. INTRODUCTION**

James and Jane Murphy have requested approval a contract rezoning for the property located at 1023 Washington Avenue to a Residence-Professional (RP) zone. The property is located at the southwest corner of Washington and Lawrence Avenues and contains a white clapboard farmhouse with an attached barn. The requested R-P rezoning covers only the first floor of the barn. The site is 14,804 sq ft and zoned R-3 and R-5 Residential. A zoning map is included as Attachment 1.

The Planning Board voted 2-2 during its public hearing on this item and was therefore unable to forward a recommendation to the City Council.

## **II. HISTORY**

The property proposed for contract rezoning was previously owned by Charles Rodway. Mr. Rodway operated a law office and music studio in addition to three residential units. The office and studio were operated as home occupations and met the standards regarding home occupations as found in Section 14-410 (see Attachment 6). The most recent building permit was granted in 1994 for the uses listed above and is included as Attachment 7.

James and Jane Murphy purchased the property in February of 1999. The Murphy's are tax accountants and currently operate their business out of their home in Falmouth.

Since purchasing the property in February, the applicants have made improvements to the residential units in both the house and second floor of the barn. The home occupation uses no longer exist in the main house. The applicant, with approval of this contract, hopes to remodel the first floor of the barn for use as their accounting office. The first floor of the barn building measures approximately 900 square feet. The proposed 900 ft exceeds the standards for home occupations.

## **III. PROPOSED CONTRACT**

A draft contract for rezoning is included as Attachment 8. The conditions are listed below.

1. The **CITY** shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by 14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1. [See attachment 1 of memo.]
2. The property shall be developed substantially in accordance with the approved site plan shown on Attachment 2. [See attachment 4 of memo.]

3. **MURPHY** shall be authorized to establish and maintain professional offices on the first floor of the barn, only as presently located on the property in addition to those uses permitted in the R-3 and R-5 Residential zone, as applicable, provided that the barn shall not be expanded. The existing residential use in the upper stories of the barn shall continue.
4. There shall be no expansion of or addition to the parking as it presently exists on site and as delineated on Attachment 2. [See attachment 4 of memo.]
5. Signage will be permitted according to the standards applicable in the R-P zone.
6. The hours of operation of the offices located in the barn shall be limited to 9:00 a.m. to 5:00 p.m., Monday through Friday, except during tax season from January 1 to April 15 when the hours of operation may be extended to 8:00 a.m. - 8:00 p.m.
7. The residential use of the house and the second floor of the barn situated on the lot shall remain.
8. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 and R-5 zone, as applicable.

#### **IV. POLICY CONSIDERATIONS**

In the past, the Planning Board has recommended approval of contract zones to allow the partial use of residential structures for non-residential uses along the City's major arterials. Given the applicant's commitment to retain residential uses in the house and to use only the first floor of the barn for professional offices, staff and applicant agreed that a contract may be an appropriate method for rezoning.

The applicant did not request a straight rezoning to the Residence-Professional zone or a business zone. While the 1023 Washington Avenue property is not a registered historic landmark, it is considered a strong focal point in the neighborhood. If the property were rezoned to R-P, the original building could be demolished and a new building could be constructed in its place. The applicant proposed a contract zone in order to ensure preservation of the existing building.

#### **V. PLANNING BOARD DELIBERATIONS**

With a vote of 2-2, The Planning Board was unable to recommend the following motion regarding the proposed rezoning to the City Council:

*On the basis of plans and information contained in Planning Report #44-99, and on the basis of information provided by the applicant, the Planning Board has determined that because of the unusual nature of the development, it is necessary and appropriate to compose a set of conditions and restrictions on the proposed rezoning. Furthermore, the Board has found that the rezoning of a portion of the property at 1023 Washington Avenue to the R-P zone with conditions [is/is not] consistent with the City's Comprehensive Land Use Plan and recommends approval by the City Council.*

The Planning Board members who voted in favor of the contract rezoning stated that preservation of the structure at 1023 Washington Avenue was extremely important to the neighborhood and that preservation of the residential uses in the house on the property was consistent with the City's policy to maintain residential uses along the City's arterials.

The Board members who voted in opposition to the proposal stated that the applicants understood the residential zoning classification of the property when they purchased it and are not precluded from operating a home occupation, similar to those operated by the previous owner.

Attachments

1. Vicinity Map
2. Letter from the Applicant
3. Application for Rezoning
4. Plan of Property
5. Photographs of the Property
6. Home Occupation Regulations
7. Building Permit issued in 1994
8. Draft Contract for Rezoning
9. Correspondence from Councilor Leeman
10. Correspondence from Neighbors

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Since purchasing the property in February, the applicants have made improvements to the residential units in both the house and second floor of the barn. The home occupation uses no longer exist in the main house. The applicant, with approval of this contract, hopes to remodel the first floor of the barn for use as their accounting office. The first floor of the barn building measures approximately 900 square feet. The proposed 900 ft exceeds the standards for home occupations.

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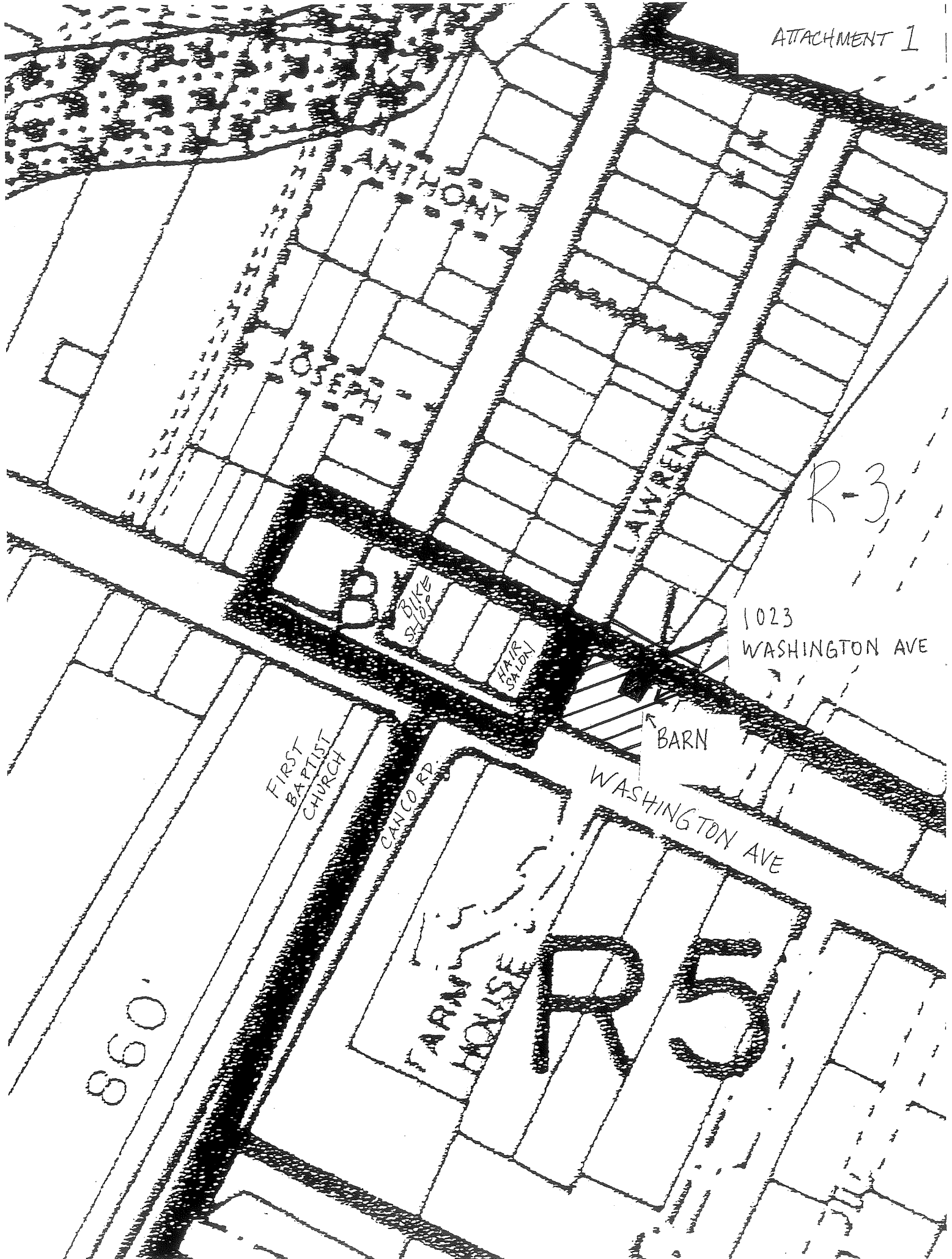
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R-3

1023 WASHINGTON AVE

BARN

WASHINGTON AVE

FARM HOUSE R5

BIKE SHOP

HAIR SALON

FIRST BAPTIST CHURCH

CANCO RD.

360

JMTP

J. MURPHY TAX PARTNERS

254 BLACKSTRAP ROAD  
FALMOUTH, ME 04105  
TEL (207) 797-3012  
FAX (207) 797-5938

July 15, 1999

Dear Board Members,

We would like to take this opportunity to introduce ourselves and explain in more detail our proposed zoning change at 1023 Washington Avenue. We are Jim & Jane Murphy, tax accountants, in business since 1988; first in Portland, then from our home in Falmouth. We are both Enrolled Agents licensed with the Internal Revenue Service and the U.S. Department of Treasury.

The focus of our business is tax planning, tax preparation and general accounting. Our clients are individuals and businesses, many of them located in Portland. As our practice has grown we have looked at many possible locations in hopes of finding one that is convenient for both us and our clients. In February 1999 we purchased 1023 Washington Avenue with the hope that we could use the existing professional office space for our tax practice.

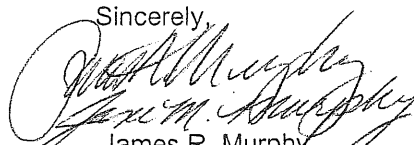
For the past nine years the property has been used as a residential/professional property. There are currently three residential units and one professional office. The previous owner used the home occupation exception to operate his law office out of the space we propose to use. He remodeled the office area, added parking, and widened the driveway to accommodate this use. We are requesting conditional or contract rezoning to allow us to use the entire first floor area of the old barn as a professional office with no changes to the current residential units.

Since we purchased the property we have made extensive improvements enhancing the residential use of the property. In June 1999 my 86 year old mother moved into the newly remodeled first floor apartment. With the exception of further interior remodeling of both the residences and office space we have no plans for construction or other development.

For many years we have admired 1023 Washington Avenue. We feel fortunate to now own the property. It is our intention to operate our office while maintaining the residential nature of the property and the neighborhood. We feel strongly that our presence there will assure that the property is well maintained and continues to be an attractive addition to the community.

We ask that you consider the enclosed application for a conditional or contract zone change at 1023 Washington Avenue.

Sincerely,



James R. Murphy  
Jane M. Murphy



APPLICATION FOR ZONING AMENDMENT  
City of Portland, Maine  
Department of Planning and Urban Development  
Portland Planning Board

1. Applicant Information:

JAMES + JANE MURPHY

Name

254 BLACK STAR ROAD

Address

FALMOUTH, MAINE

797-5938

Phone

797-9174

Fax

2. Subject Property:

1023 WASHINGTON AVE

Address

PORTLAND, ME

H-7

Assessor's Reference (Chart-Block-Lot)

3. Property Owner:

Applicant

Other

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

TITLE - DEED ATTACHED

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

6. Existing Use:

Describe the existing use of the subject property: 3 RESIDENTIAL UNITS AND  
1 PROFESSIONAL OFFICE SPACE FORMERLY  
USED FOR HOME OCCUPATION

7. Current Zoning Designation(s): R5

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

3 RESIDENTIAL UNITS AND 1 PROFESSIONAL  
OFFICE. NO CONSTRUCTION OR DEVELOPMENT  
PROPOSED OTHER THAN REMODELING.  
(SEE ATTACHED LETTER)

9. Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. Proposed Zoning: Please check all that apply:

A.  Zoning Map Amendment, from R5 to RP

B.  Zoning Text Amendment to Section 14- \_\_\_\_\_

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C.  Conditional or Contract Zone

A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** A fee for this application for a zoning amendment must be submitted, by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

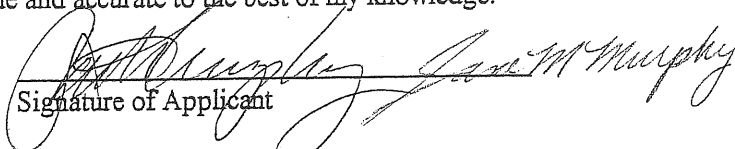
	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 &amp; Over</u>
Residential Zones	\$350.00	\$400.00	\$450.00	\$500.00
Nonresidential Zones	\$350.00	\$400.00	\$450.00	\$500.00
	0-15,000 sq. ft. or 0-5 acres (which-ever is less)	15,000-30,000 sq. ft. or 6-10 acres (which-ever is less)	30,000-45,000 sq. ft. or 10-15 acres (which-ever is less)	45,000-60,000 sq. ft. or 15-20 acres (which-ever is less)

- Legal Advertisements (one for workshop and one for public hearing) percent of total bill
- Notices (one for workshop and one for public hearing) 40 cents each
- Text Amendments \$300.00

350.00 Amount of Fee

12. **Signature:** The above information is true and accurate to the best of my knowledge.

7-15-99  
Date of Filing

  
Signature of Applicant

**Further Information:**

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board  
Portland, Maine

Effective: July 6, 1998

WARRANTY DEED

THAT, Charles B. Rodway, Jr. and Nancy Ann Rodway both of Poland, County of Androscoggin, State of Maine, in consideration of one dollar and other valuable considerations paid by James R. Murphy and Jane M. Murphy both of Falmouth, County of Cumberland, State of Maine, as Joint Tenants not Tenants in Common, the receipt whereof is hereby acknowledged, we do hereby *give, grant, bargain, sell and convey* unto said James R. Murphy and Jane M. Murphy, their heirs and assigns forever;

A certain lot or parcel of land, with the buildings thereon, situated on the northeasterly side of Washington Avenue and the southeasterly side of Lawrence Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at an iron pipe at the intersection of the northeasterly sideline of Washington Avenue with the southeasterly sideline of Lawrence Avenue; thence North 53° 45' East by Lawrence Avenue one hundred twenty-five and twenty-seven hundredths (125.27) feet to an iron pipe at the westerly corner of land conveyed by John F. Blain, Jr., et al., to Edward J. Cabral, et al., by deed dated November 7, 1980 and recorded in Cumberland County Registry of Deeds in Book 4700, Page 282; thence South 38° 15' East by said Cabral land one hundred seventeen (117) feet, more or less, to an iron on the northwesterly sideline of land formerly of one Libby; thence South 53° 45' West by said Libby land one hundred twenty-five and twenty-seven hundredths (125.27) feet to the northeasterly sideline of Washington Avenue; thence North 38° 15' West by Washington Avenue one hundred seventeen (117) feet, more or less, to the point of beginning.

Being the same premises conveyed to these Grantors by Warranty Deed from William S. Skoolicas, dated December 9, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8585, Page 131.

**TO HAVE AND TO HOLD** the aforegranted and bargained premises with all the privileges and appurtenances thereof to the said James R. Murphy and Jane M. Murphy, their heirs and assigns forever.

**AND**, We do **covenant** with the said Grantees, their heirs and assigns, that we are lawfully seized in fee of the premises, that they are free of all encumbrances, that we have good right to sell and convey the same to said Grantees to hold as aforesaid; and that Charles B. Rodway, Jr. and Nancy Ann Rodway and their heirs shall and will **warrant and defend** the same to the said Grantees, James R. Murphy and Jane M. Murphy, their heirs and assigns forever, against the lawful claims and demands of all persons.

**IN WITNESS WHEREOF**, Charles B. Rodway, Jr. and Nancy Ann Rodway, Grantors, have caused this instrument to be executed by hereunto setting their hands and seals this 5th day of February, 1999.

MAINE REAL ESTATE TAX PAID

STATE TAX PAID

Signed, Sealed and Delivered  
in presence of

[Signature]  
Witness

[Signature]  
Charles B. Rodway, Jr.

[Signature]  
Witness

[Signature]  
Nancy Ann Rodway

STATE OF MAINE  
COUNTY OF CUMBERLAND

February 23, 1999

Personally appeared the above-named Charles B. Rodway, Jr. and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Signature]  
Notary Public/Attorney at Law  
DOUGLAS F. BRITTON

STATE OF MAINE  
COUNTY OF CUMBERLAND

February 23, 1999

Personally appeared the above-named Nancy Ann Rodway who on oath acknowledged the foregoing instrument to be her free act and deed.

Before me,

[Signature]  
Notary Public/Attorney at Law  
DOUGLAS F. BRITTON

RECEIVED  
RECORDED REGISTRY OF DEEDS

1999 MAR -4 AM 9:59

CUMBERLAND COUNTY

John R. [Signature]



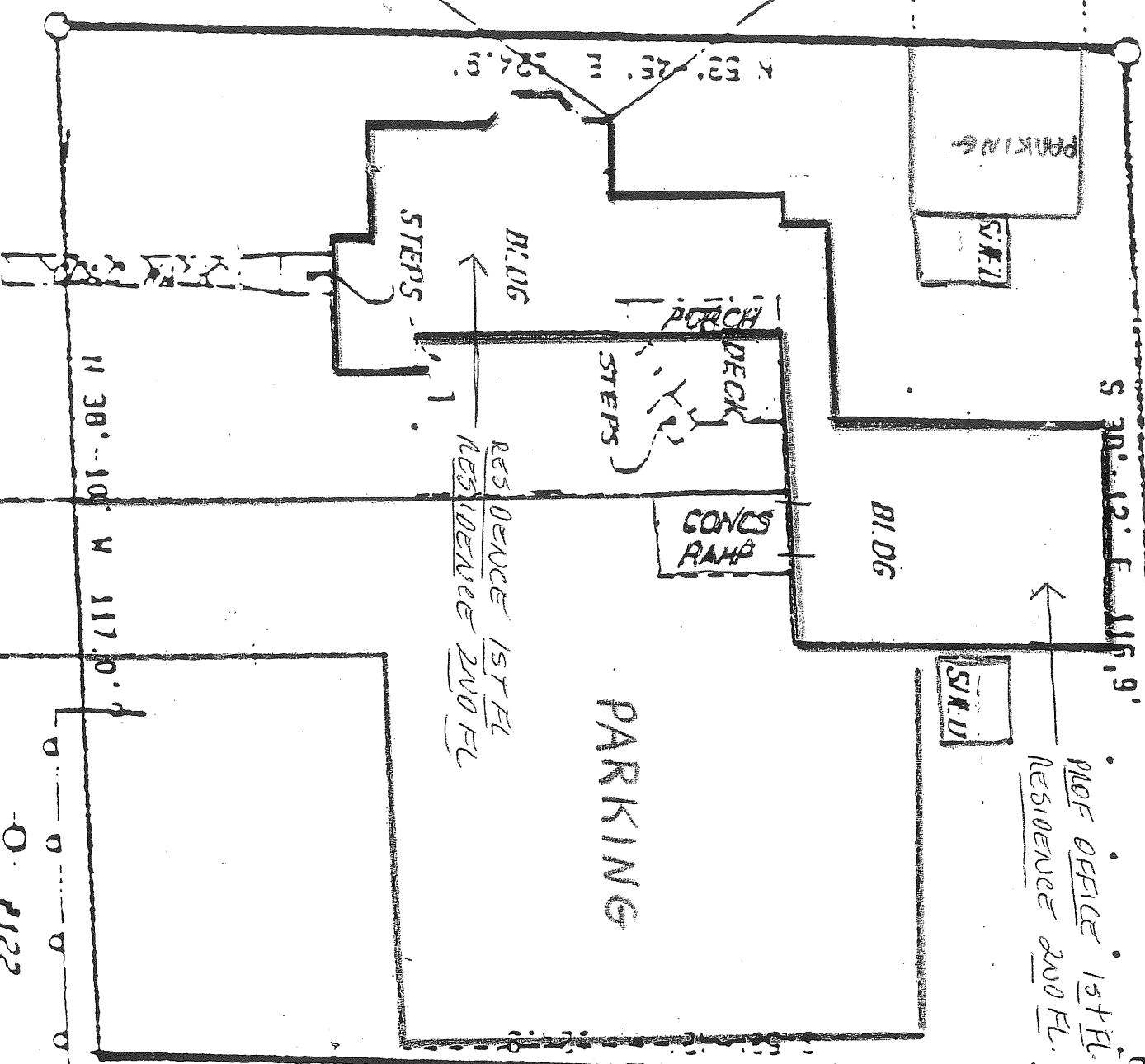
Attachment A

LAWRENCE AVENUE

WASHINGTON AVENUE

#121

#122



52'-45" E 52'-5"

11 38'-10"

W 117'-0"

S 30'-12" E 115'-9"

RESIDENCE 1ST FL  
RESIDENCE 2ND FL

PROF OFFICE 1ST FL  
RESIDENCE 2ND FL

PARKING

1" = 12.5'



PROFESSIONAL  
OFFICE

(8) *Approach zone transition area:* Slope, one (1) in two (2).  
(Code 1968, § 602.18.H)

**Sec. 14-410. Home occupation.**

*Purpose.* The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

- (1) In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:
  - a. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;
  - b. There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;
  - c. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection (1)a. above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
  - d. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
  - e. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
  - f. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
  - g. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects;
  - h. There shall be no more than one (1) nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;
  - i. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;
  - j. No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.
- (2) No residence shall be occupied, altered or used for any home occupation except the following:
  - a. Accountants and auditors;

- b. Answering services (telephone);
  - c. Architects;
  - d. Artists and sculptors;
  - e. Authors and composers;
  - f. Computer programming;
  - g. Custodial services;
  - h. Custom furniture repair and upholstery;
  - i. Dentists, doctors, therapists, and health care practitioners;
  - j. Direct mail services;
  - k. Dressmakers, seamstresses and tailors;
  - l. Engineers;
  - m. Family planning services;
  - n. Hairdressers (limited to no more than two (2) hair dryers);
  - o. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
  - p. Interior decorators;
  - q. Lawyers, justices of the peace and notary publics;
  - r. Licensed family day care home or babysitting services;
  - s. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (1) of this section:
    - 1. Electronic amplification is prohibited;
    - 2. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
    - 3. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
  - t. Office facility of a minister, rabbi, or priest;
  - u. Photographic studios;
  - v. Professional counseling and consulting services;
  - w. Professional research services;
  - x. Sales persons provided that no retail or wholesale transactions are made on the premises;
  - y. Small appliance repair;
  - z. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
  - aa. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
  - bb. Stenographic and other clerical services.
- (3) A home occupation that is not listed in paragraph (2) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall

be permitted as a conditional use subject to the requirements of paragraph (1) of this section and section 14-474 (conditional use) of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations.

(Code 1968, § 602.18.I; Ord. No. 277-77, 11-7-77; Ord. No. 548-85, § 1, 5-6-85; Ord. No. 76-85, § 1, 7-1-85; Ord. No. 66-87, § 2, 11-2-87; Ord. No. 329-90, 5-7-90)

**Secs. 14-411–14-420. Reserved.**

#### DIVISION 25. SPACE AND BULK REGULATIONS AND EXCEPTIONS

**Sec. 14-421. Generally.**

The requirements of this article shall be subject to the space and bulk regulations and exceptions of this division.

(Code 1968, § 602.19.A)

**Sec. 14-422. Reduction of lot area prohibited.**

No lot shall be so reduced that yards, lot width, lot frontage, lot area, area per dwelling unit, and space for off-street parking and/or off-street loading shall be less than the minimum required under this article.

(Code 1968, § 602.19.A)

**Sec. 14-423. Joint occupancy.**

When two (2) or more uses occupy the same building or premises, the off-street parking and loading requirements and the area per dwelling unit requirements of both uses shall be met in full.

(Code 1968, § 602.19.B)

**Sec. 14-424. Required open space.**

No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building.

(Code 1968, § 602.19.C)

**Sec. 14-425. Projections in required yard areas.**

A front yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed fifty (50) square feet nor the projection from the building exceed five (5) feet. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet.

(Code 1968, § 602.19.D)

**City of Portland, Maine - Building or Use Permit Application 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716**

Location of Construction: 1023 Washington Ave  
 Owner Address: SAA Portland, ME 04103  
 Contractor Name: Charles/Nancy Rodway  
 Phone: 773-1601  
 Business Name: 941134

Address: 3-family dwelling  
 Proposed Use: w/1 law office  
 & Home Occ/Music Lessons  
 FIRE DEPT.  Approved  Denied  
 INSPECTION: Use Group: R3 Type: 5B  
 PERMIT FEE: \$ 25.00  
 Signature: [Signature]

PERMIT ISSUED  
 OCT 19 1994  
 CITY OF PORTLAND  
 Zoning Approval:  Shoreland  Wetland  Flood Zone  Subdivision  Site Plan  minor  mm   
 Special Zone or Reviews:  Variance  Miscellaneous  Conditional Use  Interpretation  Approved  Denied  
 Historic Preservation:  Not in District or Landmark  Does Not Require Review  Requires Review  
 Action:  Approved  Approved with Conditions  Denied  
 Signature: [Signature] Date: 14 Oct 94

Permit Taken By: Mary Gresik  
 Date Applied For: 14 Oct 94  
 1. This permit application doesn't preclude the Applicant(s) from meeting applicable State and Federal rules.  
 2. Building permits do not include plumbing, septic or electrical work.  
 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

**PERMIT ISSUED WITH REQUIREMENTS**  
**CERTIFICATION**  
 I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit

SIGNATURE OF APPLICANT: [Signature] Charles Rodway  
 ADDRESS: 14 Oct 94  
 DATE: 773-1601  
 PHONE: [Signature]

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE: M.A. Jordan  
 White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector  
 CEO DISTRICT: [Signature]

Attachment

**AGREEMENT REGARDING REZONING  
OF 1023 WASHINGTON AVENUE  
PORTLAND, MAINE**

**AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 1999 by **JAMES MURPHY** of 1023 Washington Avenue, Portland, Maine 04102 (hereinafter "**MURPHY**") and the **CITY OF PORTLAND**, a body corporate and politic, located in Cumberland County and State of Maine (hereinafter the "**CITY**").

**WITNESSETH:**

**WHEREAS**, **MURPHY** did request a partial rezoning of property located at 1023 Washington Avenue, in Portland, to that of a Residence-Professional (R-P). The requested R-P rezoning covers only that portion of the property occupied by the barn; and

**WHEREAS**, the Planning Board of the City of Portland, pursuant to 30-A M.R.S.A. §4352(8), the Portland City Code §14-60 through 14-62 and after notice and hearing and due deliberation thereon, recommended the rezoning of the property as aforesaid, subject, however, to certain conditions; and

**WHEREAS**, the **CITY** by and through its City Council has determined that said rezoning would be pursuant to and consistent with the **CITY'S** comprehensive land use plan and consistent with the existing and permitted uses within the original zone; and

**WHEREAS**, the **CITY** has determined that because of the unusual nature of the development it is necessary or appropriate to impose the following conditions or restrictions in order to insure that the rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, the CITY authorized the contract rezoning on \_\_\_\_\_, 1999;

NOW, THEREFORE, in consideration for the CITY's rezoning of this property, MURPHY covenants and agrees as follows:

1. The CITY shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance §14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1.
2. The property shall be developed substantially in accordance with the approved site plan shown on Attachment 2.
3. MURPHY shall be authorized to establish and maintain professional offices on the first floor of the barn, only, as presently located on the property in addition to those uses permitted in the R-3 and R-5 Residential zone, as applicable, provided that the area of barn shall not be expanded. The existing residential use in the upper stories of the barn shall continue.
4. There shall be no expansion of or addition to the parking area as it presently exists on site and as delineated on Attachment 2.
5. Signage will be permitted according to the standards applicable in the R-P zone.
6. The hours of operation of the offices located in the barn shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday, except during tax season from January 1 through April 15 when the hours of operation may be extended to 8:00 a.m. through 8:00 p.m.
7. The residential use of the house and the second floor of the barn situated on the lot shall remain.
8. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 and R-5 zone, as applicable.

The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the subject premises, shall bind MURPHY, the successors and assigns, of said property or any part thereof or interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of and be enforceable by the CITY, by and through its



duly authorized representatives.

If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof, as follows: The R-P zoning requirements of §§14-146 to 14-152 of the Code shall apply to the rezoned portion of the property. The zoning requirements of 14-86 to 14-93(R3) and 14-116 to 14-125(R5) shall apply to the remainder of the Lot, as applicable.

In the event that **MURPHY** or any successor fail to continue to utilize the property in accordance with this Agreement, or in the event of a breach of any condition(s) set forth in this Agreement, the Planning Board shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to operate. The resolution may include a recommendation to the City Council that the site be rezoned to R-3 or R-5, as applicable, or any successor zone and that this Agreement be terminated, requiring a cessation of the R-P use.

STATE OF MAINE  
CUMBERLAND, ss.

Date: \_\_\_\_\_, 1999

Personally appeared the above-named James Murphy, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

O:\WP\CONTRACT\MURPHY.REZ

CITY OF PORTLAND, MAINE  
MEMORANDUM

**TO:** Chair Carroll and Members of the Portland Planning Board  
**FROM:** Cheryl Leeman, District 4 Councilor  
**DATE:** September 21, 1999  
**SUBJECT:** 1023 Washington Avenue Contract Zone Proposal

I understand that on September 28 the Planning Board will review a proposed contract zone for the property located at 1023 Washington Avenue.

From my review of the Murphy's application, I understand that they do not intend to live in the building. Without owner occupation, this property becomes an investment property, purchased on speculation. This change from an owner occupation to an absentee landlord will have a profound effect on the neighborhood and is inconsistent with previous contract zones approved by the City.

Charles Rodway, the previous owner of the property, also requested a rezoning of the property in 1988. His proposal was not approved for these very reasons and he was able to run a law office and later a music studio out of the building as home occupations.

For those of you who may not have received my original letter, I have enclosed a copy.

---

CITY OF PORTLAND, MAINE



Cheryl A. Leeman  
Councilor-District 4

August 26, 1999

Planning Board  
Portland City Hall  
389 Congress Street  
Portland, ME 04101

Dear Planning Board Members:

It has come to my attention that a zone change from residential to residential-professional has been requested for the property at 1023 Washington Avenue.

I urge you to oppose this change because it is important to continue protecting the residential character of Washington Avenue and not allow "zone creep" to infringe on that neighborhood. The new owners were aware of the residential zoning of the property when they purchased it and were informed that a zone change was not an option.

Again, denial of this request is of significant importance to maintaining the neighborhood's character and I trust you will review this matter carefully.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl A. Leeman".

Cheryl A. Leeman  
City Councilor - District 4

August 20, 1999

Joseph E. Gray, Jr., Director  
Planning & Urban Development  
City Hall, 4th Floor  
389 Congress Street  
Portland, Maine 04101

Re: Rezoning of property on corner of Washington and Lawrence  
Avenue (1023)

Dear Mr. Gray:

My husband and I have been residents at 13 Lawrence Avenue for the last ten years. We purchased our home and have spent thousands of dollars in remodeling, etcetera with the thought of raising a family and spending our life there.

Whatever happens with the property on 1023 Washing Avenue greatly affects my husband and I as well as our neighborhood. We are greatly opposed of any rezoning.

The property on 1023 Washing Avenue is zoned as an R-3 and R-5 and it should remain that way. This is one property versus an entire neighborhood which has existed here long before this property was recently purchased.

We have had to deal with Mr. Derice and his development on Felicia Lane as well as a hair salon opening across the street from 1023 Washington Avenue.

The first and foremost important issue is safety. Since the beauty shop opened, the traffic has greatly increased. There are cars all over Lawrence Avenue. I've even had my own driveway blocked. When Felicia Lane was added to our neighborhood, this caused much more traffic.

We've had to deal with diesel trucks parked next to our home (these are owned by people either living or staying over at 1023 Washington Avenue). This is an extreme danger to pedestrians and also a nuisance (these are run in the middle of the night, early morning, etc. disrupting our peaceful neighborhood).

The traffic light at Lawrence Avenue is another existitng (and dangerous) problem. You're lucky if two cars are able to turn out

when the light is green, and you have to take a chance of vehicles turning illegally from Canco Road onto Washington Avenue when you have the right away with a green light (these are vehicles, tractor trailer trucks, etc.). The city could make a ton of money in traffic violation tickets if an officer was posted around this area as this occurs daily.

Lawrence Avenue is not up to code as far as the width of the street which makes it extremely difficult for traffic coming and going without cars parked on the road, and makes it impossible when there are cars parked. We need to feel safe in that if we need ambulance, fire or any other service that they may get to us as fast as possible. Our neighborhood is full of children, families, etcetera and their safety should always come first.

I appreciate your attention in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori O'Donnell".

Lori O'Donnell  
13 Lawrence Avenue  
Portland, Maine 04103

cc: Cheryl Lehman

August 20, 1999

Joseph E. Gray, Jr., Director  
Planning & Urban Development  
City Hall  
389 Congress Street  
Portland, Maine 04101

Re: Rezoning of property at corner of Lawrence Avenue and  
Washington Avenue (1023)

I am absolutely and positively opposed to any rezoning of the property at 1023 Washing Avenue. I have been a resident in this neighborhood for ten years.

The proximity of this property next to our home and any changes that may occur because of zone change from a residential neighborhood to a business would greatly affects our lives negatively.

I am extremely worried about what could be done if rezoning is approved. An example would be the potential of tearing the existing structure down and putting up businesses, etc. This would change the entire nature of our neighborhood by increasing traffic, noise, etc.

We fully intend on being present at these meetings to express our opinion of opposition.

Sincerely,



David O'Donnell  
13 Lawrence Avenue  
Portland, Maine 04103  
772-5004



PROFESSIONAL  
OFFICE



**CITY OF PORTLAND, MAINE  
MEMORANDUM**

**TO:** Chair Carroll and Members of the Portland Planning Board  
**FROM:** Sarah Hopkins, Senior Planner  
**DATE:** August 24, 1999  
**SUBJECT:** 1023 Washington Avenue Contract Zone Proposal

**Introduction**

James and Jane Murphy have requested review by the Planning Board of a proposed contract zone to allow professional offices in a renovated barn on their property located at 1023 Washington Avenue. The site is 14,804 sq ft and zoned R-3 and R-5 Residential. A zoning map is included as Attachment 1.

**History**

The property proposed for contract rezoning was previously owned by Charles Rodway. Mr. Rodway operated a law office and music studio in addition to three residential units. The office and studio were operated as home occupations and met the standards regarding home occupations as found in Section 14-410 (see Attachment 6). The most recent building permit was granted in 1994 for the uses listed above and is included as Attachment 7.

The Murphy's purchased the property in February of 1999. The Murphy's are tax accountants and have operated their business out of their home in Falmouth.

Since purchasing the property in February, the applicants have made improvements to the residential units in the house and second floor of the barn. The home occupation uses no longer exist in the main house. The applicant, with approval of this contract, hopes to remodel the first floor of the barn for use as an accounting office. The footprint of the barn building measures approximately 900 square feet. The proposed 900 ft exceeds the standards for home occupations.

**Proposed Contract**

A draft contract for rezoning is included as Attachment 8. The conditions are listed below.

1. The CITY shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by 14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1 (see attachment 1 of memo).
2. The property shall be developed substantially in accordance with the site plan shown on Attachment 2 (see attachment 4 of memo).

3. **MURPHY** shall be authorized to establish and maintain professional offices in the barn as presently located on the property in addition to those uses permitted in the R-3 and R-5 Residential zone, provided that the barn shall not be expanded.
4. There shall be no expansion of or addition to the parking as it presently exists on site and as delineated on Attachment 2 (see attachment 4 of memo).
5. Signage will be permitted according to the standards applicable in the R-P zone.
6. The hours of operation of the offices located in the barn shall be limited to 9:00 a.m. to 5:00 p.m., except during tax season from January 1 to April 15 when the hours of operation may be extended to 8:00 a.m. - 8:00 p.m.
7. The residential use of the house situated on the lot shall remain.
8. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 and R-5 zone.

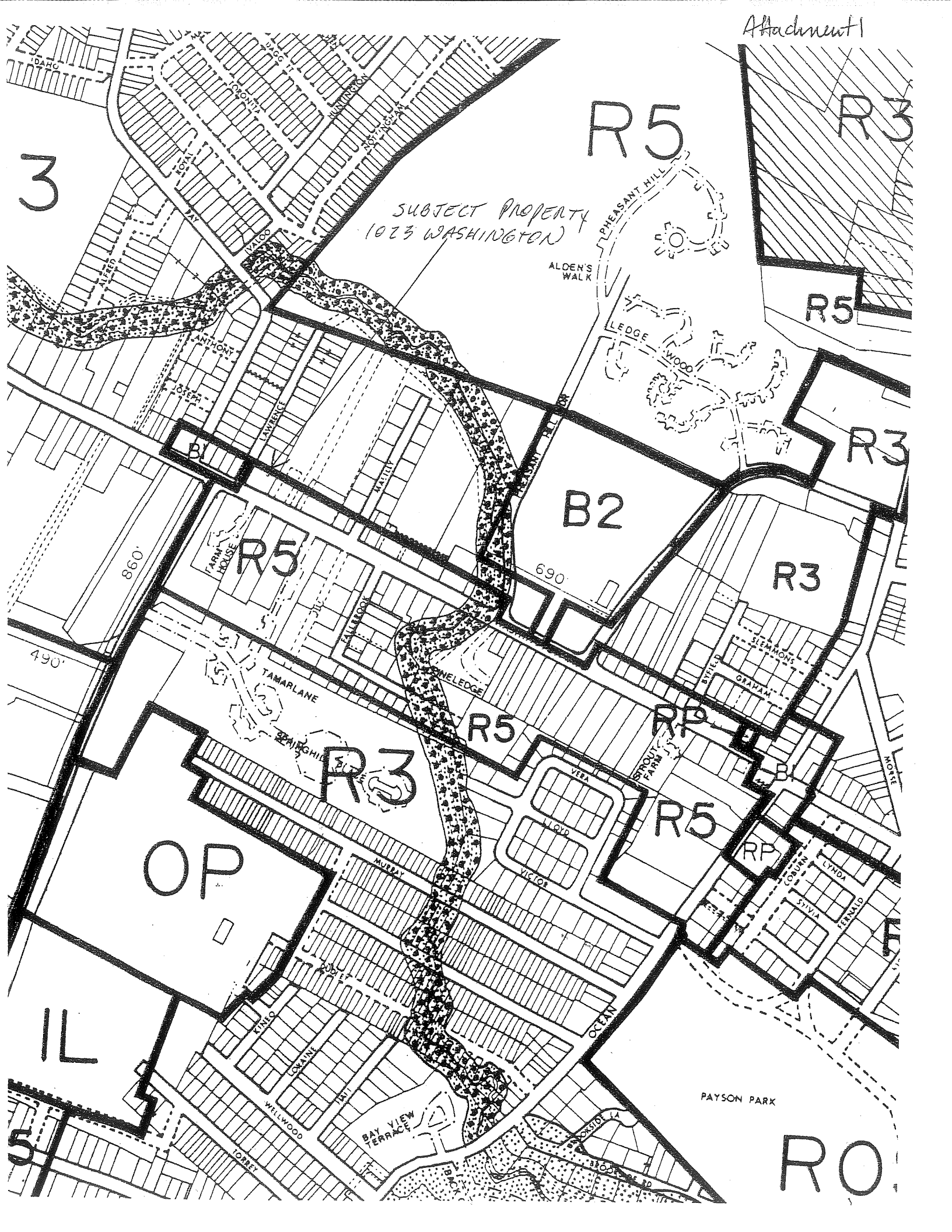
### **Policy Considerations**

In the past, the Planning Board has recommended approval of contract zones to allow the partial use of residential structures for non-residential uses along the City's major arterials. Given the applicant's commitment to retain residential uses in the house and only use the barn for professional offices, staff and applicant agreed that a contract zone may be an appropriate proposal.

The applicant and staff did not consider a straight rezoning to the Residence-Professional zone or a business zone to be a viable option. While the 1023 Washington Avenue property is not a registered historic landmark, it is considered a strong focal point along Washington Avenue. If the property were rezoned to R-P, there would be no assurance that an office building could be constructed in its place. The possibility of such a scenario was not acceptable to the applicant.

### Attachments

1. Vicinity Map
2. Letter from the Applicant
3. Application for Rezoning
4. Plan of Property
5. Photographs of the Property
6. Home Occupation Regulations
7. Building Permit issued in 1994
8. Draft Contract for Rezoning



3

SUBJECT PROPERTY  
1023 WASHINGTON

R5

R3

R5

R3

B2

R3

R5

R5

RP

R3

R5

RP

OP

R0

5

PAYSON PARK

BAY VIEW TERRACE

8500

860'

690'

490'

FARM HOUSE

TAMARLANE

WELEDGE

STROUVE FARM

GRAHAM

MURRAY

VICIOR

LYNDA

LOBBIN

SIVIA

LENAID

WILLWOOD

BAY VIEW TERRACE

8500

ANTHONY

LEDGE

WOOD

LEDS

WOOD

STROUVE FARM

GRAHAM

MURRAY

VICIOR

LYNDA

LOBBIN

SIVIA

LENAID

WILLWOOD

BAY VIEW TERRACE

8500

ANTHONY

LEDGE

WOOD

LEDS

WOOD

JMTP

J. MURPHY TAX PARTNERS

254 BLACKSTRAP ROAD  
FALMOUTH, ME 04105  
TEL (207) 797-3012  
FAX (207) 797-5938

797 9174

July 15, 1999

Dear Board Members,

We would like to take this opportunity to introduce ourselves and explain in more detail our proposed zoning change at 1023 Washington Avenue. We are Jim & Jane Murphy, tax accountants, in business since 1988; first in Portland, then from our home in Falmouth. We are both Enrolled Agents licensed with the Internal Revenue Service and the U.S. Department of Treasury.

The focus of our business is tax planning, tax preparation and general accounting. Our clients are individuals and businesses, many of them located in Portland. As our practice has grown we have looked at many possible locations in hopes of finding one that is convenient for both us and our clients. In February 1999 we purchased 1023 Washington Avenue with the hope that we could use the existing professional office space for our tax practice.

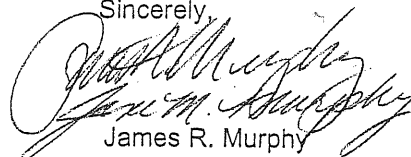
For the past nine years the property has been used as a residential/professional property. There are currently three residential units and one professional office. The previous owner used the home occupation exception to operate his law office out of the space we propose to use. He remodeled the office area, added parking, and widened the driveway to accommodate this use. We are requesting conditional or contract rezoning to allow us to use the entire first floor area of the old barn as a professional office with no changes to the current residential units.

Since we purchased the property we have made extensive improvements enhancing the residential use of the property. In June 1999 my 86 year old mother moved into the newly remodeled first floor apartment. With the exception of further interior remodeling of both the residences and office space we have no plans for construction or other development.

For many years we have admired 1023 Washington Avenue. We feel fortunate to now own the property. It is our intention to operate our office while maintaining the residential nature of the property and the neighborhood. We feel strongly that our presence there will assure that the property is well maintained and continues to be an attractive addition to the community.

We ask that you consider the enclosed application for a conditional or contract zone change at 1023 Washington Avenue.

Sincerely,

  
James R. Murphy  
Jane M. Murphy



APPLICATION FOR ZONING AMENDMENT  
City of Portland, Maine  
Department of Planning and Urban Development  
Portland Planning Board

1. Applicant Information:

JAMES + JANE MURPHY  
Name

254 BLACKSTAMP ROAD  
Address

FALMOUTH, MAINE

797-5938      797-9174  
Phone                                      Fax

2. Subject Property:

1023 WASHINGTON AVE  
Address

PORTLAND, ME

H-7  
Assessor's Reference (Chart-Block-Lot)

3. Property Owner:     Applicant     Other

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone                                      Fax

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

TITLE - DEED ATTACHED

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

6. Existing Use:

Describe the existing use of the subject property: 3 RESIDENTIAL UNITS AND  
1 PROFESSIONAL OFFICE SPACE FORMERLY  
USED FOR HOME OCCUPATION

7. Current Zoning Designation(s): R5

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

3 RESIDENTIAL UNITS AND 1 PROFESSIONAL  
OFFICE. NO CONSTRUCTION OR DEVELOPMENT  
PROPOSED OTHER THAN REMODELING.  
(SEE ATTACHED LETTER)

9. Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100')

10. Proposed Zoning: Please check all that apply:

A.  Zoning Map Amendment, from R5 to RP

B.  Zoning Text Amendment to Section 14- \_\_\_\_\_

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C.  Conditional or Contract Zone

A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** A fee for this application for a zoning amendment must be submitted, by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 &amp; Over</u>
Residential Zones	\$350.00	\$400.00	\$450.00	\$500.00
Nonresidential Zones	\$350.00	\$400.00	\$450.00	\$500.00
	0-15,000 sq. ft. or 0-5 acres (whichever is less)	15,000-30,000 sq. ft. or 6-10 acres (whichever is less)	30,000-45,000 sq. ft. or 10-15 acres (whichever is less)	45,000-60,000 sq. ft. or 15-20 acres (whichever is less)

- Legal Advertisements (one for workshop and one for public hearing) percent of total bill
- Notices (one for workshop and one for public hearing) 40 cents each
- Text Amendments \$300.00

350.00 Amount of Fee

12. **Signature:** The above information is true and accurate to the best of my knowledge.

7-15-99  
Date of Filing

*James M. Murphy*  
Signature of Applicant

**Further Information:**

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board  
Portland, Maine

Effective: July 6, 1998

WARRANTY DEED

THAT, Charles B. Rodway, Jr. and Nancy Ann Rodway both of Poland, County of Androscoggin, State of Maine, in consideration of one dollar and other valuable considerations paid by James R. Murphy and Jane M. Murphy both of Falmouth, County of Cumberland, State of Maine, as Joint Tenants not Tenants in Common, the receipt whereof is hereby acknowledged, we do hereby *give, grant, bargain, sell and convey* unto said James R. Murphy and Jane M. Murphy, their heirs and assigns forever;

A certain lot or parcel of land, with the buildings thereon, situated on the northeasterly side of Washington Avenue and the southeasterly side of Lawrence Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at an iron pipe at the intersection of the northeasterly sideline of Washington Avenue with the southeasterly sideline of Lawrence Avenue; thence North 53° 45' East by Lawrence Avenue one hundred twenty-five and twenty-seven hundredths (125.27) feet to an iron pipe at the westerly corner of land conveyed by John F. Blain, Jr., et al., to Edward J. Cabral, et al., by deed dated November 7, 1980 and recorded in Cumberland County Registry of Deeds in Book 4700, Page 282; thence South 38° 15' East by said Cabral land one hundred seventeen (117) feet, more or less, to an iron on the northwesterly sideline of land formerly of one Libby; thence South 53° 45' West by said Libby land one hundred twenty-five and twenty-seven hundredths (125.27) feet to the northeasterly sideline of Washington Avenue; thence North 38° 15' West by Washington Avenue one hundred seventeen (117) feet, more or less, to the point of beginning.

Being the same premises conveyed to these Grantors by Warranty Deed from William S. Skoolicas, dated December 9, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8585, Page 131.

*TO HAVE AND TO HOLD* the aforegranted and bargained premises with all the privileges and appurtenances thereof to the said James R. Murphy and Jane M. Murphy, their heirs and assigns forever.

*AND*, We do covenant with the said Grantees, their heirs and assigns, that we are lawfully seized in fee of the premises, that they are free of all encumbrances, that we have good right to sell and convey the same to said Grantees to hold as aforesaid; and that Charles B. Rodway, Jr. and Nancy Ann Rodway and their heirs shall and will warrant and defend the same to the said Grantees, James R. Murphy and Jane M. Murphy, their heirs and assigns forever, against the lawful claims and demands of all persons.

*IN WITNESS WHEREOF*, Charles B. Rodway, Jr. and Nancy Ann Rodway, Grantors, have caused this instrument to be executed by hereunto setting their hands and seals this 5th day of February, 1999.

MAINE REAL ESTATE TAX PAID  
STATE TAX PAID



Signed, Sealed and Delivered  
in presence of

D. F. Britton  
Witness

Charles B. Rodway, Jr.  
Charles B. Rodway, Jr.

W. B. H.  
Witness

Nancy Ann Rodway  
Nancy Ann Rodway

STATE OF MAINE  
COUNTY OF CUMBERLAND

February 23, 1999

Personally appeared the above-named Charles B. Rodway, Jr. and acknowledged the foregoing instrument to be his free act and deed.

Before me,

D. F. Britton  
Notary Public/Attorney at Law  
DOUGLAS F. BRITTON

STATE OF MAINE  
COUNTY OF CUMBERLAND

February 23, 1999

Personally appeared the above-named Nancy Ann Rodway who on oath acknowledged the foregoing instrument to be her free act and deed.

Before me,

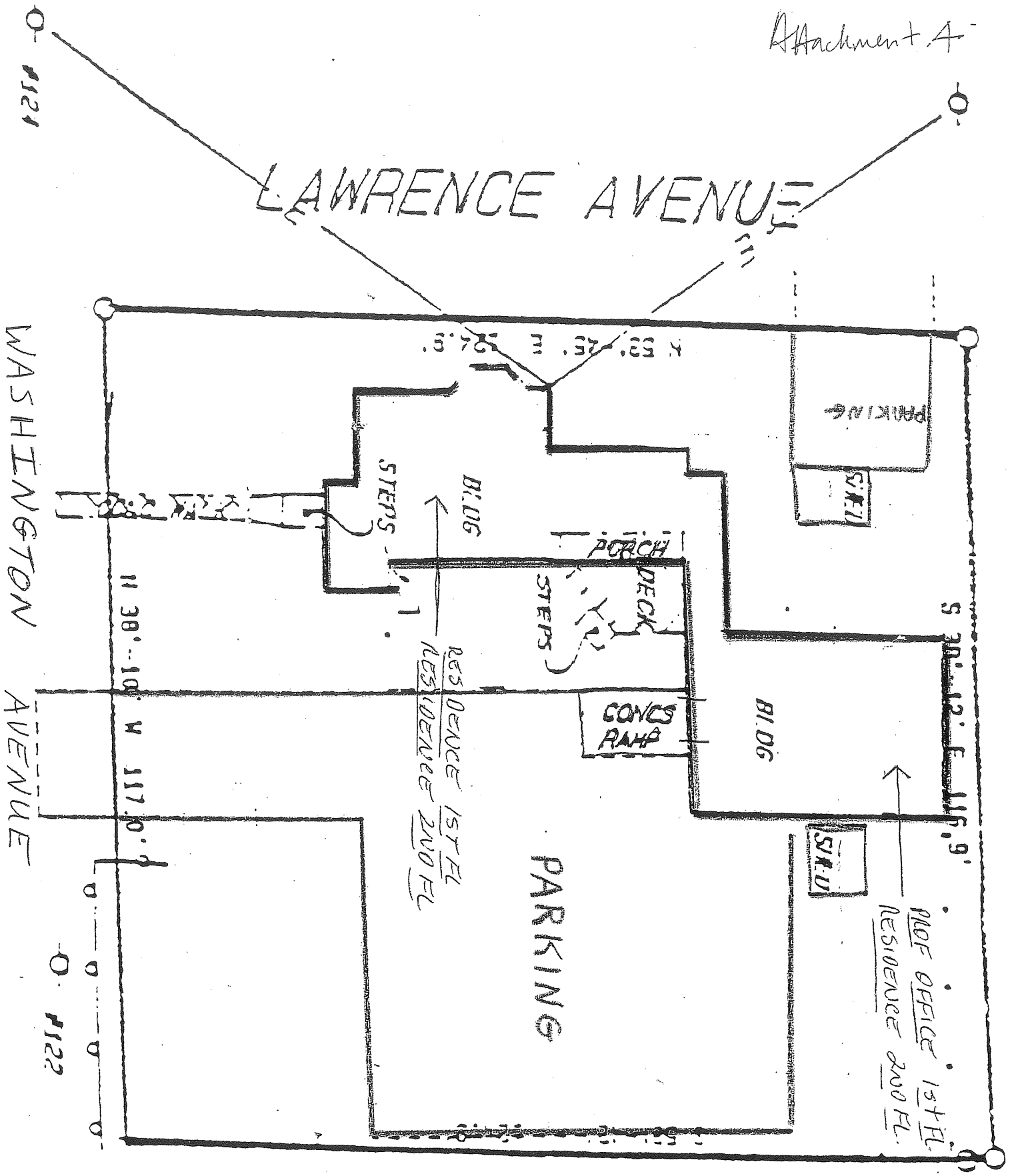
D. F. Britton  
Notary Public/Attorney at Law  
DOUGLAS F. BRITTON

RECEIVED  
RECORDED REGISTRY OF DEEDS

1999 MAR -4 AM 9:59

CUMBERLAND COUNTY

John B. O'Brien



1" = 12.5'



PROFESSIONAL  
OFFICE

(8) *Approach zone transition area*: Slope, one (1) in two (2).  
(Code 1968, § 602.18.H)

**Sec. 14-410. Home occupation.**

*Purpose.* The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

- (1) In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:
  - a. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;
  - b. There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;
  - c. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection (1)a. above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
  - d. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
  - e. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
  - f. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
  - g. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects;
  - h. There shall be no more than one (1) nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;
  - i. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;
  - j. No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.
- (2) No residence shall be occupied, altered or used for any home occupation except the following:
  - a. Accountants and auditors;

- b. Answering services (telephone);
  - c. Architects;
  - d. Artists and sculptors;
  - e. Authors and composers;
  - f. Computer programming;
  - g. Custodial services;
  - h. Custom furniture repair and upholstery;
  - i. Dentists, doctors, therapists, and health care practitioners;
  - j. Direct mail services;
  - k. Dressmakers, seamstresses and tailors;
  - l. Engineers;
  - m. Family planning services;
  - n. Hairdressers (limited to no more than two (2) hair dryers);
  - o. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
  - p. Interior decorators;
  - q. Lawyers, justices of the peace and notary publics;
  - r. Licensed family day care home or babysitting services;
  - s. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (1) of this section:
    - 1. Electronic amplification is prohibited;
    - 2. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
    - 3. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
  - t. Office facility of a minister, rabbi, or priest;
  - u. Photographic studios;
  - v. Professional counseling and consulting services;
  - w. Professional research services;
  - x. Sales persons provided that no retail or wholesale transactions are made on the premises;
  - y. Small appliance repair;
  - z. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
  - aa. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
  - bb. Stenographic and other clerical services.
- (3) A home occupation that is not listed in paragraph (2) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall

be permitted as a conditional use subject to the requirements of paragraph (1) of this section and section 14-474 (conditional use) of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations.

(Code 1968, § 602.18.I; Ord. No. 277-77, 11-7-77; Ord. No. 548-85, § 1, 5-6-85; Ord. No. 76-85, § 1, 7-1-85; Ord. No. 66-87, § 2, 11-2-87; Ord. No. 329-90, 5-7-90)

**Secs. 14-411–14-420. Reserved.**

#### DIVISION 25. SPACE AND BULK REGULATIONS AND EXCEPTIONS

**Sec. 14-421. Generally.**

The requirements of this article shall be subject to the space and bulk regulations and exceptions of this division.

(Code 1968, § 602.19.A)

**Sec. 14-422. Reduction of lot area prohibited.**

No lot shall be so reduced that yards, lot width, lot frontage, lot area, area per dwelling unit, and space for off-street parking and/or off-street loading shall be less than the minimum required under this article.

(Code 1968, § 602.19.A)

**Sec. 14-423. Joint occupancy.**

When two (2) or more uses occupy the same building or premises, the off-street parking and loading requirements and the area per dwelling unit requirements of both uses shall be met in full.

(Code 1968, § 602.19.B)

**Sec. 14-424. Required open space.**

No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building.

(Code 1968, § 602.19.C)

**Sec. 14-425. Projections in required yard areas.**

A front yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed fifty (50) square feet nor the projection from the building exceed five (5) feet. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet.

(Code 1968, § 602.19.D)

**City of Portland, Maine - Building or Use Permit Application 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716**

Location of Construction: 1023 Washington Ave Owner Address: SAA Field, ME 04103 Contractor Name:		Owner: Charles/Nancy Rodway Leasee/Buyer's Name: Address: Phone:		Permit No.: <b>941134</b> PERMIT ISSUED OCT 19 1994 CITY OF PORTLAND	
Past Use: 2-family dwelling w/2 law offices		Proposed Use: 3-family dwelling w/1 law office & Home Occ/Music Lessons		COST OF WORK: \$ FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied INSPECTION: Use Group: R3 Type-5B Signature: <i>[Signature]</i> PEDESTRIAN ACTIVITIES DISTRICT: <i>[Signature]</i> Action: Approved <input type="checkbox"/> Approved with Conditions: <input type="checkbox"/> Denied: <input type="checkbox"/> Date:	
Proposed Project Description: Change Use as stated above		Signature: Date Applied For: 14 Oct 94		Zoning Approval: Special Zone or Reviews: <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan - major <input type="checkbox"/> minor <input type="checkbox"/>	

1. This permit application doesn't preclude the Applicant(s) from meeting applicable State and Federal rules.

2. Building permits do not include plumbing, septic or electrical work.

3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

**PERMIT ISSUED WITH REQUIREMENTS**

**CERTIFICATION**

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT: *[Signature]* Charles Rodway  
 DATE: 14 Oct 94  
 PHONE: 773-1601

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE: \_\_\_\_\_  
 PHONE: \_\_\_\_\_  
 White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector

*Atchmitt*

MUPHY/WASHINGTONAVE.REZ  
08.12.99

**AGREEMENT BETWEEN  
CITY OF PORTLAND  
AND  
JAMES MURPHY**

**AGREEMENT** made this day of , 1999 by and between the **CITY OF PORTLAND**, a body corporate and politic, located in Cumberland County and State of Maine (hereinafter the "**CITY**") and **JAMES MURPHY** of 1023 Washington Avenue, Portland, Maine 04102 (hereinafter "**MURPHY**").

**WITNESSETH:**

**WHEREAS**, **MURPHY** did request a rezoning of property located at 1023 Washington Avenue, in Portland, to that of a Residence-Professional; and

**WHEREAS**, the Planning Board of the City of Portland, pursuant to 30-A M.R.S.A. '4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the property as aforesaid, subject, however, to certain conditions; and

**WHEREAS**, the **CITY** by and through its City Council has determined that said rezoning would be pursuant to and consistent with the **CITY'S** comprehensive land use plan and consistent with the existing and permitted uses within the original zone; and

**WHEREAS**, the **CITY** has determined that because of the unusual nature of the development it is necessary or appropriate to impose by agreement the following conditions or restrictions in order to insure that the rezoning is consistent with the **CITY'S** comprehensive land use plan; and

**WHEREAS**, the **CITY** authorized the execution of this Agreement on , 1999;

**NOW, THEREFORE**, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The **CITY** shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and



incorporated by reference into the Zoning Ordinance by '14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1.

2. The property shall be developed substantially in accordance with the site plan shown on Attachment 2.
3. MURPHY shall be authorized to establish and maintain professional offices in the barn as presently located on the property in addition to those uses permitted in the R-3 and R-5 Residential zone, as applicable, provided that the area of barn shall not be expanded.
4. There shall be no expansion of or addition to the parking as it presently exists on site and as delineated on Attachment 2.
5. Signage will be permitted according to the standards applicable in the R-P zone.
6. The hours of operation of the offices located in the barn shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday, except during tax season from January 1 through April 15 when the hours of operation may be extended to 8:00 a.m. through 8:00 p.m..
7. The residential use of the house situated on the lot shall remain.
8. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 and R-5 zone, as applicable.

The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the subject premises, shall bind MURPHY, his successors and assigns, as permitted by this Agreement, of said property or any part thereof or interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of and be enforceable by the CITY, by and through its duly authorized representatives.

If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

In the event that MURPHY or any successor fail to continue to utilize the property in accordance with this Agreement, or in the event of a breach of any condition(s) set forth in this Agreement, the Planning Board shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to operate. The resolution may include a recommendation to the City Council that the site be rezoned to R-3 or R-5, as applicable, or any successor zone and that this Agreement be terminated, requiring a cessation of the studio use.

WITNESS:

CITY OF PORTLAND

\_\_\_\_\_

\_\_\_\_\_  
By: Robert B. Ganley  
Its City Manager

WITNESS:

JAMES MURPHY

\_\_\_\_\_

\_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss.

, 1999

Personally appeared the above-named Robert B. Ganley, in his capacity as City Manager, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Portland.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

STATE OF MAINE  
CUMBERLAND, ss.

, 1999

Personally appeared the above-named JAMES MURPHY, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Approved

CITY OF PORTLAND, MAINE  
CITY COUNCIL AGENDA REQUEST FORM

TO: Sonia Bean, Administrative Assistant  
Elizabeth Boynton, Associate Corporation Counsel

FROM: Joseph E. Gray, Jr., Director of Planning and Urban Development

DATE: November 3, 1999

SUBJECT: 1023 Washington Avenue Contract Zone Proposal



- 1) Council Meeting at which action is requested (Date): December 6, 1999
- 2) Can action be taken at a later date?  YES  NO

**I. SUMMARY OF ISSUE**

James and Jane Murphy have requested approval a contract rezoning for the property located at 1023 Washington Avenue to a Residence-Professional (RP) zone in order to operate a tax accounting office on the property. The property is located at the southwest corner of Washington and Lawrence Avenues and contains a white clapboard farmhouse with an attached barn. The requested R-P rezoning covers only the first floor of the barn. The site is 14,804 sq ft and zoned R-3 and R-5 Residential.

**II. REASON FOR SUBMISSION (What issue/problem will this address?)**

The Murphy property is zoned R-3 and R-5 Residential. Professional offices are not permitted in the R-3 or R-5 zone. Home occupations are allowed; however, the applicants are unable to meet the dimensional restrictions for home occupations.

**III. INTENDED RESULT (How does it resolve the issue/problem?)**

The proposed contract will allow professional offices, as permitted in the Residence-Professional (R-P) Zone, within the first floor of the barn building on the property. The contract requires that the residential units on the second floor of the barn and within the residential structure on the property remain and that the parking lot not expand.

**V. STAFF ANALYSIS & RECOMMENDATION**

The Planning Board voted 2-2 during its public hearing on this item and was therefore unable to forward a recommendation to the City Council.

**PLANNING REPORT #44-99b**

**CONTRACT ZONE PROPOSAL  
1023 WASHINGTON AVENUE  
JAMES AND JANE MURPHY, APPLICANTS**

Submitted to:

Portland City Council  
Portland, Maine

November 3, 1999

## **I. INTRODUCTION**

James and Jane Murphy have requested approval a contract rezoning for the property located at 1023 Washington Avenue to a Residence-Professional (RP) zone. The property is located at the southwest corner of Washington and Lawrence Avenues and contains a white clapboard farmhouse with an attached barn. The requested R-P rezoning covers only the first floor of the barn. The site is 14,804 sq ft and zoned R-3 and R-5 Residential. A zoning map is included as Attachment 1.

The Planning Board voted 2-2 during its public hearing on this item and was therefore unable to forward a recommendation to the City Council.

## **II. HISTORY**

The property proposed for contract rezoning was previously owned by Charles Rodway. Mr. Rodway operated a law office and music studio in addition to three residential units. The office and studio were operated as home occupations and met the standards regarding home occupations as found in Section 14-410 (see Attachment 6). The most recent building permit was granted in 1994 for the uses listed above and is included as Attachment 7.

James and Jane Murphy purchased the property in February of 1999. The Murphy's are tax accountants and currently operate their business out of their home in Falmouth.

Since purchasing the property in February, the applicants have made improvements to the residential units in both the house and second floor of the barn. The home occupation uses no longer exist in the main house. The applicant, with approval of this contract, hopes to remodel the first floor of the barn for use as their accounting office. The first floor of the barn building measures approximately 900 square feet. The proposed 900 ft exceeds the standards for home occupations.

## **III. PROPOSED CONTRACT**

A draft contract for rezoning is included as Attachment 8. The conditions are listed below.

1. The **CITY** shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by 14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1. [See attachment 1 of memo.]
2. The property shall be developed substantially in accordance with the approved site plan shown on Attachment 2. [See attachment 4 of memo.]

3. **MURPHY** shall be authorized to establish and maintain professional offices on the first floor of the barn, only as presently located on the property in addition to those uses permitted in the R-3 and R-5 Residential zone, as applicable, provided that the barn shall not be expanded. The existing residential use in the upper stories of the barn shall continue.
4. There shall be no expansion of or addition to the parking as it presently exists on site and as delineated on Attachment 2. [See attachment 4 of memo.]
5. Signage will be permitted according to the standards applicable in the R-P zone.
6. The hours of operation of the offices located in the barn shall be limited to 9:00 a.m. to 5:00 p.m., Monday through Friday, except during tax season from January 1 to April 15 when the hours of operation may be extended to 8:00 a.m. - 8:00 p.m.
7. The residential use of the house and the second floor of the barn situated on the lot shall remain.
8. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 and R-5 zone, as applicable.

#### **IV. POLICY CONSIDERATIONS**

In the past, the Planning Board has recommended approval of contract zones to allow the partial use of residential structures for non-residential uses along the City's major arterials. Given the applicant's commitment to retain residential uses in the house and to use only the first floor of the barn for professional offices, staff and applicant agreed that a contract may be an appropriate method for rezoning.

The applicant did not request a straight rezoning to the Residence-Professional zone or a business zone. While the 1023 Washington Avenue property is not a registered historic landmark, it is considered a strong focal point in the neighborhood. If the property were rezoned to R-P, the original building could be demolished and a new building could be constructed in its place. The applicant proposed a contract zone in order to ensure preservation of the existing building.

#### **V. PLANNING BOARD DELIBERATIONS**

With a vote of 2-2, The Planning Board was unable to recommend the following motion regarding the proposed rezoning to the City Council:

*On the basis of plans and information contained in Planning Report #44-99, and on the basis of information provided by the applicant, the Planning Board has determined that because of the unusual nature of the development, it is necessary and appropriate to compose a set of conditions and restrictions on the proposed rezoning. Furthermore, the Board has found that the rezoning of a portion of the property at 1023 Washington Avenue to the R-P zone with conditions [is/is not] consistent with the City's Comprehensive Land Use Plan and recommends approval by the City Council.*

The Planning Board members who voted in favor of the contract rezoning stated that preservation of the structure at 1023 Washington Avenue was extremely important to the neighborhood and that preservation of the residential uses in the house on the property was consistent with the City's policy to maintain residential uses along the City's arterials.

The Board members who voted in opposition to the proposal stated that the applicants understood the residential zoning classification of the property when they purchased it and are not precluded from operating a home occupation, similar to those operated by the previous owner.

Attachments

1. Vicinity Map
2. Letter from the Applicant
3. Application for Rezoning
4. Plan of Property
5. Photographs of the Property
6. Home Occupation Regulations
7. Building Permit issued in 1994
8. Draft Contract for Rezoning
9. Correspondence from Councilor Leeman
10. Correspondence from Neighbors

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The applicant did not request a straight rezoning to the Residence-Professional zone or a business zone. While the 1023 Washington Avenue property is not a registered historic landmark, it is considered a strong focal point in the neighborhood. If the property were rezoned to R-P, the original building could be demolished and a new building could be constructed in its place. The applicant proposed a contract zone in order to ensure preservation of the existing building.

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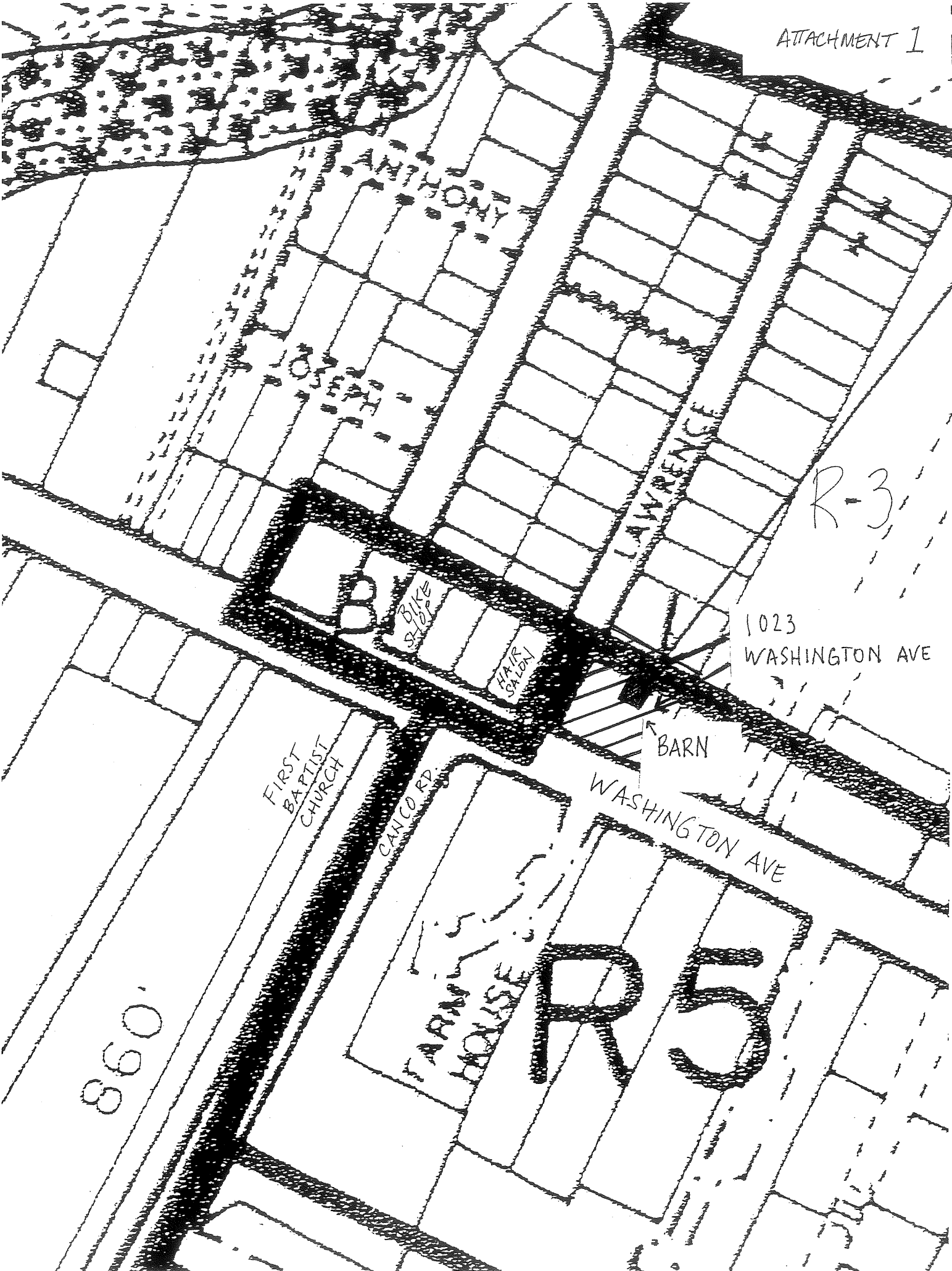
*On the basis of plans and information contained in Planning Report #44-99, and on the basis of information provided by the applicant, the Planning Board has determined that because of the unusual nature of the development, it is necessary and appropriate to compose a set of conditions and restrictions on the proposed rezoning. Furthermore, the Board has found that the rezoning of a portion of the property at 1023 Washington Avenue to the R-P zone with conditions [is/is not] consistent with the City's Comprehensive Land Use Plan and recommends approval by the City Council.*

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R-3

1023 WASHINGTON AVE

BARN

WASHINGTON AVE

FARM HOUSE R3

FIRST BAPTIST CHURCH

CALCO RD.

BIKE SHOP

HAIR SALON

360

JMTP

J. MURPHY TAX PARTNERS

254 BLACKSTRAP ROAD  
FALMOUTH, ME 04105  
TEL (207) 797-3012  
FAX (207) 797-5938

July 15, 1999

Dear Board Members,

We would like to take this opportunity to introduce ourselves and explain in more detail our proposed zoning change at 1023 Washington Avenue. We are Jim & Jane Murphy, tax accountants, in business since 1988; first in Portland, then from our home in Falmouth. We are both Enrolled Agents licensed with the Internal Revenue Service and the U.S. Department of Treasury.

The focus of our business is tax planning, tax preparation and general accounting. Our clients are individuals and businesses, many of them located in Portland. As our practice has grown we have looked at many possible locations in hopes of finding one that is convenient for both us and our clients. In February 1999 we purchased 1023 Washington Avenue with the hope that we could use the existing professional office space for our tax practice.

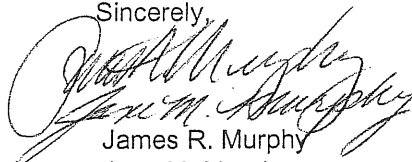
For the past nine years the property has been used as a residential/professional property. There are currently three residential units and one professional office. The previous owner used the home occupation exception to operate his law office out of the space we propose to use. He remodeled the office area, added parking, and widened the driveway to accommodate this use. We are requesting conditional or contract rezoning to allow us to use the entire first floor area of the old barn as a professional office with no changes to the current residential units.

Since we purchased the property we have made extensive improvements enhancing the residential use of the property. In June 1999 my 86 year old mother moved into the newly remodeled first floor apartment. With the exception of further interior remodeling of both the residences and office space we have no plans for construction or other development.

For many years we have admired 1023 Washington Avenue. We feel fortunate to now own the property. It is our intention to operate our office while maintaining the residential nature of the property and the neighborhood. We feel strongly that our presence there will assure that the property is well maintained and continues to be an attractive addition to the community.

We ask that you consider the enclosed application for a conditional or contract zone change at 1023 Washington Avenue.

Sincerely,



James R. Murphy  
Jane M. Murphy



APPLICATION FOR ZONING AMENDMENT  
City of Portland, Maine  
Department of Planning and Urban Development  
Portland Planning Board

1. Applicant Information:  
JAMES + JANE MURPHY  
Name  
254 BLACKSTAR ROAD  
Address  
FALMOUTH, MAINE  
797-5938 797-9174  
Phone Fax

2. Subject Property:  
1023 WASHINGTON AVE  
Address  
PORTLAND, ME  
H-7  
Assessor's Reference (Chart-Block-Lot)

3. Property Owner:  Applicant  Other  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
\_\_\_\_\_  
Phone Fax

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:  
TITLE - DEED ATTACHED

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

6. Existing Use:

Describe the existing use of the subject property: 3 RESIDENTIAL UNITS AND  
1 PROFESSIONAL OFFICE SPACE FORMERLY  
USED FOR HOME OCCUPATION

7. Current Zoning Designation(s): R5

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

3 RESIDENTIAL UNITS AND 1 PROFESSIONAL  
OFFICE. NO CONSTRUCTION OR DEVELOPMENT  
PROPOSED OTHER THAN REMODELING.  
(SEE ATTACHED LETTER)

9. Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. Proposed Zoning: Please check all that apply:

A.  Zoning Map Amendment, from R5 to RP

B.  Zoning Text Amendment to Section 14- \_\_\_\_\_

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C.  Conditional or Contract Zone

A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** A fee for this application for a zoning amendment must be submitted, by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 &amp; Over</u>
Residential Zones	\$350.00	\$400.00	\$450.00	\$500.00
Nonresidential Zones	\$350.00	\$400.00	\$450.00	\$500.00
	0-15,000 sq. ft. or 0-5 acres (whichever is less)	15,000-30,000 sq. ft. or 6-10 acres (whichever is less)	30,000-45,000 sq. ft. or 10-15 acres (whichever is less)	45,000-60,000 sq. ft. or 15-20 acres (whichever is less)

- Legal Advertisements (one for workshop and one for public hearing) percent of total bill
- Notices (one for workshop and one for public hearing) 40 cents each
- Text Amendments \$300.00

350.00 Amount of Fee

12. **Signature:** The above information is true and accurate to the best of my knowledge.

7-15-99  
Date of Filing

*[Handwritten Signature]*  
Signature of Applicant

**Further Information:**

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board  
Portland, Maine

Effective: July 6, 1998

WARRANTY DEED

*THAT*, Charles B. Rodway, Jr. and Nancy Ann Rodway both of Poland, County of Androscoggin, State of Maine, in consideration of one dollar and other valuable considerations paid by James R. Murphy and Jane M. Murphy both of Falmouth, County of Cumberland, State of Maine, as Joint Tenants not Tenants in Common, the receipt whereof is hereby acknowledged, we do hereby *give, grant, bargain, sell and convey* unto said James R. Murphy and Jane M. Murphy, their heirs and assigns forever;

A certain lot or parcel of land, with the buildings thereon, situated on the northeasterly side of Washington Avenue and the southeasterly side of Lawrence Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at an iron pipe at the intersection of the northeasterly sideline of Washington Avenue with the southeasterly sideline of Lawrence Avenue; thence North 53° 45' East by Lawrence Avenue one hundred twenty-five and twenty-seven hundredths (125.27) feet to an iron pipe at the westerly corner of land conveyed by John F. Blain, Jr., et al., to Edward J. Cabral, et al., by deed dated November 7, 1980 and recorded in Cumberland County Registry of Deeds in Book 4700, Page 282; thence South 38° 15' East by said Cabral land one hundred seventeen (117) feet, more or less, to an iron on the northwesterly sideline of land formerly of one Libby; thence South 53° 45' West by said Libby land one hundred twenty-five and twenty-seven hundredths (125.27) feet to the northeasterly sideline of Washington Avenue; thence North 38° 15' West by Washington Avenue one hundred seventeen (117) feet, more or less, to the point of beginning.

Being the same premises conveyed to these Grantors by Warranty Deed from William S. Skoolicas, dated December 9, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8585, Page 131.

*TO HAVE AND TO HOLD* the aforegranted and bargained premises with all the privileges and appurtenances thereof to the said James R. Murphy and Jane M. Murphy, their heirs and assigns forever.

*AND*, We do *covenant* with the said Grantees, their heirs and assigns, that we are lawfully seized in fee of the premises, that they are free of all encumbrances, that we have good right to sell and convey the same to said Grantees to hold as aforesaid; and that Charles B. Rodway, Jr. and Nancy Ann Rodway and their heirs shall and will **warrant and defend** the same to the said Grantees, James R. Murphy and Jane M. Murphy, their heirs and assigns forever, against the lawful claims and demands of all persons.

*IN WITNESS WHEREOF*, Charles B. Rodway, Jr. and Nancy Ann Rodway, Grantors, have caused this instrument to be executed by hereunto setting their hands and seals this 5th day of February, 1999.

MAINE REAL ESTATE TAX PAID  
ESTATE TAX PAID



Signed, Sealed and Delivered  
in presence of

D. F. Britton  
Witness

Charles B. Rodway, Jr.  
Charles B. Rodway, Jr.

W. B. H.  
Witness

Nancy Ann Rodway  
Nancy Ann Rodway

STATE OF MAINE  
COUNTY OF CUMBERLAND

February 23, 1999

Personally appeared the above-named Charles B. Rodway, Jr. and acknowledged the foregoing instrument to be his free act and deed.

Before me,

D. F. Britton  
Notary Public/Attorney at Law  
DOUGLAS F. BRITTON

STATE OF MAINE  
COUNTY OF CUMBERLAND

February 23, 1999

Personally appeared the above-named Nancy Ann Rodway who on oath acknowledged the foregoing instrument to be her free act and deed.

Before me,

D. F. Britton  
Notary Public/Attorney at Law  
DOUGLAS F. BRITTON

RECEIVED  
RECORDED REGISTRY OF DEEDS

1999 MAR -4 AM 9: 59

CUMBERLAND COUNTY

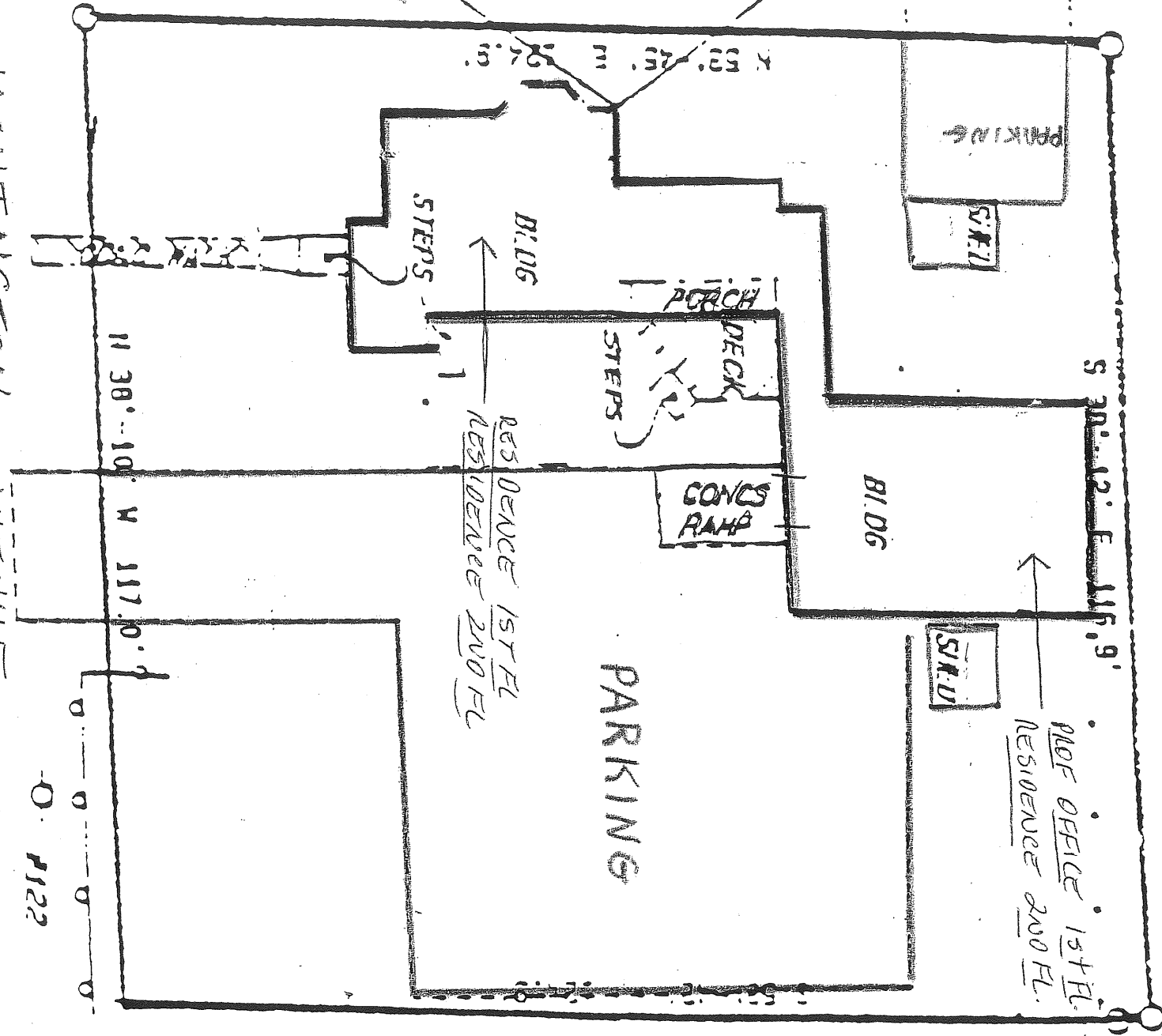
John R. ...

# LAWRENCE AVENUE

WASHINGTON AVENUE

#121

#122





PROFESSIONAL  
OFFICE

(8) *Approach zone transition area:* Slope, one (1) in two (2).  
(Code 1968, § 602.18.H)

**Sec. 14-410. Home occupation.**

*Purpose.* The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

- (1) In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:
  - a. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;
  - b. There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;
  - c. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection (1)a. above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
  - d. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
  - e. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
  - f. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
  - g. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects;
  - h. There shall be no more than one (1) nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;
  - i. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;
  - j. No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.
- (2) No residence shall be occupied, altered or used for any home occupation except the following:
  - a. Accountants and auditors;

- b. Answering services (telephone);
  - c. Architects;
  - d. Artists and sculptors;
  - e. Authors and composers;
  - f. Computer programming;
  - g. Custodial services;
  - h. Custom furniture repair and upholstery;
  - i. Dentists, doctors, therapists, and health care practitioners;
  - j. Direct mail services;
  - k. Dressmakers, seamstresses and tailors;
  - l. Engineers;
  - m. Family planning services;
  - n. Hairdressers (limited to no more than two (2) hair dryers);
  - o. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
  - p. Interior decorators;
  - q. Lawyers, justices of the peace and notary publics;
  - r. Licensed family day care home or babysitting services;
  - s. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (1) of this section:
    - 1. Electronic amplification is prohibited;
    - 2. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
    - 3. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
  - t. Office facility of a minister, rabbi, or priest;
  - u. Photographic studios;
  - v. Professional counseling and consulting services;
  - w. Professional research services;
  - x. Sales persons provided that no retail or wholesale transactions are made on the premises;
  - y. Small appliance repair;
  - z. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
  - aa. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
  - bb. Stenographic and other clerical services.
- (3) A home occupation that is not listed in paragraph (2) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall

be permitted as a conditional use subject to the requirements of paragraph (1) of this section and section 14-474 (conditional use) of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations.

(Code 1968, § 602.18.I; Ord. No. 277-77, 11-7-77; Ord. No. 548-85, § 1, 5-6-85; Ord. No. 76-85, § 1, 7-1-85; Ord. No. 66-87, § 2, 11-2-87; Ord. No. 329-90, 5-7-90)

**Secs. 14-411–14-420. Reserved.**

#### DIVISION 25. SPACE AND BULK REGULATIONS AND EXCEPTIONS

**Sec. 14-421. Generally.**

The requirements of this article shall be subject to the space and bulk regulations and exceptions of this division.

(Code 1968, § 602.19.A)

**Sec. 14-422. Reduction of lot area prohibited.**

No lot shall be so reduced that yards, lot width, lot frontage, lot area, area per dwelling unit, and space for off-street parking and/or off-street loading shall be less than the minimum required under this article.

(Code 1968, § 602.19.A)

**Sec. 14-423. Joint occupancy.**

When two (2) or more uses occupy the same building or premises, the off-street parking and loading requirements and the area per dwelling unit requirements of both uses shall be met in full.

(Code 1968, § 602.19.B)

**Sec. 14-424. Required open space.**

No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building.

(Code 1968, § 602.19.C)

**Sec. 14-425. Projections in required yard areas.**

A front yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed fifty (50) square feet nor the projection from the building exceed five (5) feet. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet.

(Code 1968, § 602.19.D)

**City of Portland, Maine - Building or Use Permit Application 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716**

Location of Construction: 1023 Washington Ave Owner Address: SAA Portland, ME 04103 Contractor Name:		Owner: Charles/Nancy Rodway Lease/Buyer's Name: Address: Phone:		Phone: 773-1601 Business Name:		Permit No: <b>941134</b> PERMIT ISSUED OCT 19 1994 CITY OF PORTLAND	
Past Use: 2-family dwelling w/2 law offices		Proposed Use: 3-family dwelling w/1 law office & Home Occ/Music Lessons		COST OF WORK: \$ PERMIT FEE: \$ 25.00 FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied INSPECTION: Use Group: R3 Type: 5-B Signature: <i>[Signature]</i>		Zoning Approval: Special Zone or Reviews: <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan (maj) <input type="checkbox"/> minor <input type="checkbox"/> rmm	
Proposed Project Description: Change Use as stated above		Signature: Date:		Signature: Date:		Zoning Appeal: <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Historic Preservation: <input type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review	
Permit taken By: Mary Gresik		Date Applied For: 14 Oct 94		Signature: Date:		Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied Date: <i>[Signature]</i>	
1. This permit application doesn't preclude the Applicant(s) from meeting applicable State and Federal rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.		Signature: Date:		Signature: Date:		Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied Date: <i>[Signature]</i>	
CERTIFICATION I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit		SIGNATURE OF APPLICANT: <i>[Signature]</i> Charles Rodway		DATE: 14 Oct 94 PHONE: 773-1601		ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied Date: <i>[Signature]</i>	
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector		SIGNATURE OF APPLICANT: <i>[Signature]</i> Charles Rodway		DATE: 14 Oct 94 PHONE: 773-1601		ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied Date: <i>[Signature]</i>	

*Attorney*

CEO DISTRICT  
*[Signature]*  
 M.A. Jordan

**AGREEMENT REGARDING REZONING  
OF 1023 WASHINGTON AVENUE  
PORTLAND, MAINE**

**AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 1999 by **JAMES MURPHY** of 1023 Washington Avenue, Portland, Maine 04102 (hereinafter "**MURPHY**") and the **CITY OF PORTLAND**, a body corporate and politic, located in Cumberland County and State of Maine (hereinafter the "**CITY**").

**WITNESSETH:**

**WHEREAS**, **MURPHY** did request a partial rezoning of property located at 1023 Washington Avenue, in Portland, to that of a Residence-Professional (R-P). The requested R-P rezoning covers only that portion of the property occupied by the barn; and

**WHEREAS**, the Planning Board of the City of Portland, pursuant to 30-A M.R.S.A. §4352(8), the Portland City Code §14-60 through 14-62 and after notice and hearing and due deliberation thereon, recommended the rezoning of the property as aforesaid, subject, however, to certain conditions; and

**WHEREAS**, the **CITY** by and through its City Council has determined that said rezoning would be pursuant to and consistent with the **CITY'S** comprehensive land use plan and consistent with the existing and permitted uses within the original zone; and

**WHEREAS**, the **CITY** has determined that because of the unusual nature of the development it is necessary or appropriate to impose the following conditions or restrictions in order to insure that the rezoning is consistent with the **CITY's** comprehensive land use plan; and



WHEREAS, the CITY authorized the contract rezoning on \_\_\_\_\_, 1999;

NOW, THEREFORE, in consideration for the CITY's rezoning of this property, MURPHY covenants and agrees as follows:

1. The CITY shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance §14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1.
2. The property shall be developed substantially in accordance with the approved site plan shown on Attachment 2.
3. MURPHY shall be authorized to establish and maintain professional offices on the first floor of the barn, only, as presently located on the property in addition to those uses permitted in the R-3 and R-5 Residential zone, as applicable, provided that the area of barn shall not be expanded. The existing residential use in the upper stories of the barn shall continue.
4. There shall be no expansion of or addition to the parking area as it presently exists on site and as delineated on Attachment 2.
5. Signage will be permitted according to the standards applicable in the R-P zone.
6. The hours of operation of the offices located in the barn shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday, except during tax season from January 1 through April 15 when the hours of operation may be extended to 8:00 a.m. through 8:00 p.m.
7. The residential use of the house and the second floor of the barn situated on the lot shall remain.
8. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 and R-5 zone, as applicable.

The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the subject premises, shall bind MURPHY, the successors and assigns, of said property or any part thereof or interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of and be enforceable by the CITY, by and through its

duly authorized representatives.

If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof, as follows: The R-P zoning requirements of §§14-146 to 14-152 of the Code shall apply to the rezoned portion of the property. The zoning requirements of 14-86 to 14-93(R3) and 14-116 to 14-125(R5) shall apply to the remainder of the Lot, as applicable.

In the event that **MURPHY** or any successor fail to continue to utilize the property in accordance with this Agreement, or in the event of a breach of any condition(s) set forth in this Agreement, the Planning Board shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to operate. The resolution may include a recommendation to the City Council that the site be rezoned to R-3 or R-5, as applicable, or any successor zone and that this Agreement be terminated, requiring a cessation of the R-P use.

STATE OF MAINE  
CUMBERLAND, ss.

Date: \_\_\_\_\_, 1999

Personally appeared the above-named James Murphy, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

O:\WP\CONTRACT\MURPHY.REZ

CITY OF PORTLAND, MAINE  
MEMORANDUM

**TO:** Chair Carroll and Members of the Portland Planning Board  
**FROM:** Cheryl Leeman, District 4 Councilor  
**DATE:** September 21, 1999  
**SUBJECT:** 1023 Washington Avenue Contract Zone Proposal

I understand that on September 28 the Planning Board will review a proposed contract zone for the property located at 1023 Washington Avenue.

From my review of the Murphy's application, I understand that they do not intend to live in the building. Without owner occupation, this property becomes an investment property, purchased on speculation. This change from an owner occupation to an absentee landlord will have a profound effect on the neighborhood and is inconsistent with previous contract zones approved by the City.

Charles Rodway, the previous owner of the property, also requested a rezoning of the property in 1988. His proposal was not approved for these very reasons and he was able to run a law office and later a music studio out of the building as home occupations.

For those of you who may not have received my original letter, I have enclosed a copy.

---

CITY OF PORTLAND, MAINE



Cheryl A. Leeman  
Councilor-District 4

August 26, 1999

Planning Board  
Portland City Hall  
389 Congress Street  
Portland, ME 04101

Dear Planning Board Members:

It has come to my attention that a zone change from residential to residential-professional has been requested for the property at 1023 Washington Avenue.

I urge you to oppose this change because it is important to continue protecting the residential character of Washington Avenue and not allow "zone creep" to infringe on that neighborhood. The new owners were aware of the residential zoning of the property when they purchased it and were informed that a zone change was not an option.

Again, denial of this request is of significant importance to maintaining the neighborhood's character and I trust you will review this matter carefully.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl A. Leeman".

Cheryl A. Leeman  
City Councilor - District 4

August 20, 1999

Joseph E. Gray, Jr., Director  
Planning & Urban Development  
City Hall, 4th Floor  
389 Congress Street  
Portland, Maine 04101

Re: Rezoning of property on corner of Washington and Lawrence  
Avenue (1023)

Dear Mr. Gray:

My husband and I have been residents at 13 Lawrence Avenue for the last ten years. We purchased our home and have spent thousands of dollars in remodeling, etcetera with the thought of raising a family and spending our life there.

Whatever happens with the property on 1023 Washing Avenue greatly affects my husband and I as well as our neighborhood. We are greatly opposed of any rezoning.

The property on 1023 Washing Avenue is zoned as an R-3 and R-5 and it should remain that way. This is one property versus an entire neighborhood which has existed here long before this property was recently purchased.

We have had to deal with Mr. Derice and his development on Felicia Lane as well as a hair salon opening across the street from 1023 Washington Avenue.

The first and foremost important issue is safety. Since the beauty shop opened, the traffic has greatly increased. There are cars all over Lawrence Avenue. I've even had my own driveway blocked. When Felicia Lane was added to our neighborhood, this caused much more traffic.

We've had to deal with diesel trucks parked next to our home (these are owned by people either living or staying over at 1023 Washington Avenue). This is an extreme danger to pedestrians and also a nuisance (these are run in the middle of the night, early morning, etc. disrupting our peaceful neighborhood).

The traffic light at Lawrence Avenue is another existng (and dangerous) problem. You're lucky if two cars are able to turn out

when the light is green, and you have to take a chance of vehicles turning illegally from Canco Road onto Washington Avenue when you have the right away with a green light (these are vehicles, tractor trailer trucks, etc.). The city could make a ton of money in traffic violation tickets if an officer was posted around this area as this occurs daily.

Lawrence Avenue is not up to code as far as the width of the street which makes it extremely difficult for traffic coming and going without cars parked on the road, and makes it impossible when there are cars parked. We need to feel safe in that if we need ambulance, fire or any other service that they may get to us as fast as possible. Our neighborhood is full of children, families, etcetera and their safety should always come first.

I appreciate your attention in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori O'Donnell".

Lori O'Donnell  
13 Lawrence Avenue  
Portland, Maine 04103

cc: Cheryl Lehman

August 20, 1999

Joseph E. Gray, Jr., Director  
Planning & Urban Development  
City Hall  
389 Congress Street  
Portland, Maine 04101

Re: Rezoning of property at corner of Lawrence Avenue and  
Washington Avenue (1023)

I am absolutely and positively opposed to any rezoning of the property at 1023 Washing Avenue. I have been a resident in this neighborhood for ten years.

The proximity of this property next to our home and any changes that may occur because of zone change from a residential neighborhood to a business would greatly affects our lives negatively.

I am extremely worried about what could be done if rezoning is approved. An example would be the potential of tearing the existing structure down and putting up businesses, etc. This would change the entire nature of our neighborhood by increasing traffic, noise, etc.

We fully intend on being present at these meetings to express our opinion of opposition.

Sincerely,



David O'Donnell  
13 Lawrence Avenue  
Portland, Maine 04103  
772-5004



JMTP

---

J. MURPHY TAX PARTNERS

JAMES R. MURPHY, E. A.

*Enrolled to Practice Before the IRS*

254 BLACKSTRAP ROAD  
FALMOUTH, ME 04105

TEL. (207) 797-3012  
FAX (207) 797-9174