

COMMITTEE ON ORDINANCES - September 17, 2018
MEETING AT 7:00 PM, 133 William Street, New Bedford, MA - City Council Chambers - Room 214
AGENDA

REVISED AGENDA

1. PUBLIC HEARING on a WRITTEN MOTION, Councillor Giesta, requesting, on behalf of Mr. Bruno Frustazi, that Plot 100/ Lot 108 (NS Davis Street), be Rezoned from Mixed-Use Business to Industrial "B", in its entirety. (To be Referred to the Committee on Ordinances and the Planning Board.) (Ref'd 8/16/18) (Duly advertised in The Standard-Times on Tuesday, September 4, 2018 and Tuesday, September 11, 2018.)

1a. COMMUNICATION, Tabitha Harkin, City Planner, to Councillor Hugh Dunn, Chairman, Committee on Ordinances, advising that the Planning Board held a public hearing on September 12, 2018 to discuss the proposed request for the rezoning of NS Davis Street (Map: 100, Lot: 108) from the Mixed Use Business (MUB) zone to Industrial B (IB) zone; the Planning Board voted to send an **UNFAVORABLE RECOMMENDATION**, recommending that the City Council deny the rezoning request for NS Davis Street, and as such, keep the current zoning for this parcel as a Mixed Use Business (MUB) zone. (Ref'd 9/13/18)

INVITEES: Bruno Frustazi, Petitioner; David Gerwatowski, Legal Counsel Attorney; Tabitha Harkin, City Planner; Abutters

2. WRITTEN MOTION, Council President Lopes, requesting that the Committee on Ordinances review the governing structure of the Board of Park Commissioners, as it relates to the Members of the said board. (To be Referred to the Committee on Ordinances.) (Ref'd 2/23/17) (3/21/17-tabled) (2/21/18-tabled)

INVITEES: Peter Boswell, Chairman, Park Board; David Gerwatowski, Legal Counsel Attorney; Tabitha Harkin, City Planner; Jamie Ponte, Commissioner, Department of Public Infrastructure; Mary Rapoza, Director, Parks Recreation and Beaches

3. WRITTEN MOTION, Councillors Coelho, Abreu, Lopes, Giesta, Dunn and Lima, requesting, that the Committee on Ordinances revisit the Ordinance, Chapter 17, Section 14, pertaining to false alarm calls placed throughout the City to the Police Department to update said Ordinance, to reduce the number of 911 calls that are placing a strain on Police Department resources. (To be Referred to the Committee on Ordinances.) (Ref'd 7/19/18)

INVITEES: Joseph Cordeiro, Chief of Police; David Gerwatowski, Legal Counsel Attorney; Mikaela McDermott, City Solicitor

In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact the Clerk of Committees Office at 508-979-1482. Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.



Item Title:
REVISED AGENDA

Item Detail:

REVISED AGENDA

Additional Information:



Item Title:

WRITTEN MOTION re Rezone Request / NS Davis Street (Plot 100/ Lot 108)

Item Detail:

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1a. COMMUNICATION, Tabitha Harkin, City Planner, to Councillor Hugh Dunn, Chairman, Committee on Ordinances, advising that the Planning Board held a public hearing on September 12, 2018 to discuss the proposed request for the rezoning of NS Davis Street (Map: 100, Lot: 108) from the Mixed Use Business (MUB) zone to Industrial B (IB) zone; the Planning Board voted to send an **UNFAVORABLE RECOMMENDATION**, recommending that the City Council deny the rezoning request for NS Davis Street, and as such, keep the current zoning for this parcel as a Mixed Use Business (MUB) zone. (Ref’d 9/13/18)

Additional Information:

ATTACHMENTS:

Description	Type
❑ 1. Rezone Request - NS Davis Street	Cover Memo
❑ 1a. Planning Board Recommendation_NS DAVIS REZONING REQUEST	Cover Memo
❑ 1a. STAFF COMMENTS_Case 18-37_NS Davis Street_Rezoning Request_FINAL	Cover Memo

Location: NS DAVIS ST

Parcel ID: 100 108

Zoning: MUB

Fiscal Year: 2018

Current Owner Information:

CENTURY LLC
C/O ALAN ALTMAN
114 RIVERSIDE AVENUE

NEW BEDFORD , MA 02746

Current Sales Information:

Sale Date:

04/30/1999

Sale Price:

\$100.00

Legal Reference:

4402-307

Grantor:

BEDFORD LIMITED PARTNERSHIP,

Card No. 1 of 1

This Property contains 0.78 acres of land mainly classified for assessment purposes as PARKLOT

Building Value:

0

Land Value:

191800

Yard Items Value:

1500

Total Value:

193300

**No
Sketch
Available**



Fiscal Year 2018

Fiscal Year 2017

Fiscal Year 2016

Tax Rate Res.:	16.63	Tax Rate Res.:	16.69	Tax Rate Res.:	16.49
Tax Rate Com.:	35.65	Tax Rate Com.:	36.03	Tax Rate Com.:	35.83
Property Code:	337	Property Code:	337	Property Code:	337
Total Bldg Value:	0	Total Bldg Value:	0	Total Bldg Value:	0
Total Yard Value:	1500	Total Yard Value:	1500	Total Yard Value:	1500
Total Land Value:	191800	Total Land Value:	191800	Total Land Value:	191800
Total Value:	193300	Total Value:	193300	Total Value:	193300
Tax:	\$6,891.15	Tax:	\$6,964.60	Tax:	\$6,925.94

Disclaimer: Classification is not an indication of uses allowed under city zoning.
This information is believed to be correct but is subject to change and is not warranted.



City of New Bedford
REQUEST for a CERTIFIED ABUTTERS LIST

This information is needed so that an official abutters list as required by MA General Law may be created and used in notifying abutters. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

SUBJECT PROPERTY	
MAP #	100
LOT(S)#	108
ADDRESS: NS Davis Street	
OWNER INFORMATION	
NAME: CENTURY LLC, C/O ALAN ALTMAN	
MAILING ADDRESS: 575 MADISON AVE 11TH FL NEW YORK, NY 10022	
APPLICANT/CONTACT PERSON INFORMATION	
NAME (IF DIFFERENT): Jen Carloni - Planning Department	
MAILING ADDRESS (IF DIFFERENT):	
TELEPHONE #	x67181
EMAIL ADDRESS:	
REASON FOR THIS REQUEST: <i>Check appropriate</i>	
<input type="checkbox"/>	ZONING BOARD OF APPEALS APPLICATION
<input checked="" type="checkbox"/>	PLANNING BOARD APPLICATION
<input type="checkbox"/>	CONSERVATION COMMISSION APPLICATION
<input type="checkbox"/>	LICENSING BOARD APPLICATION
<input type="checkbox"/>	OTHER (Please explain):

Once obtained, the Certified List of Abutters must be attached to this Certification Letter.

Submit this form to the Planning Division Room 303 in City Hall, 133 William Street. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

Official Use Only:

As Administrative Assistant to the City of New Bedford's Board of Assessors, I do hereby certify that the names and addresses as identified on the attached "abutters list" are duly recorded and appear on the most recent tax.

Carlos Amado

Printed Name

Carlos Amado
Signature

8/22/2018
Date

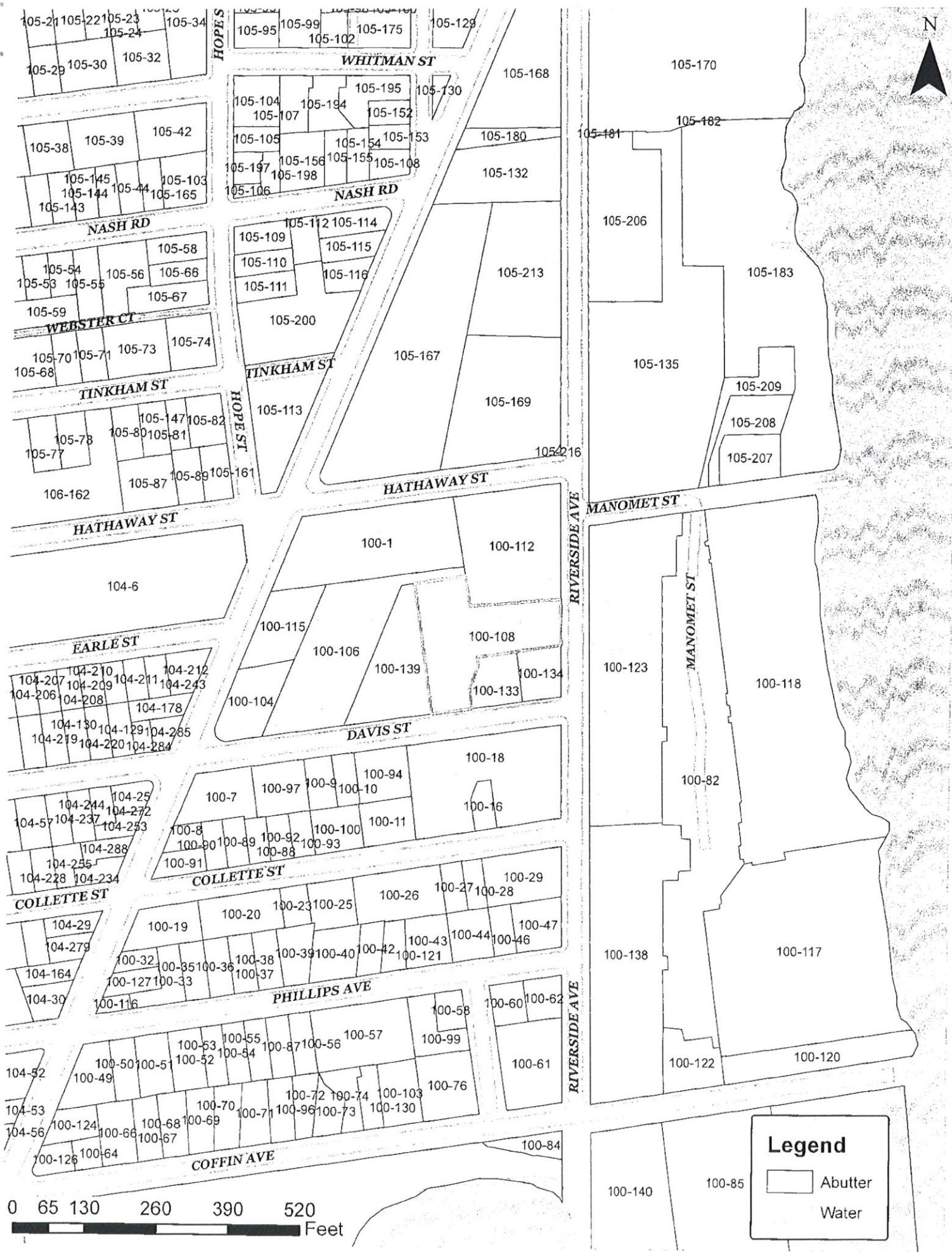
August 22, 2018

Dear Applicant,

Please find below the List of Abutters within 300 feet of the property known as NS Davis Street (Map: 100, Lot: 108). The current ownership listed herein must be checked and verified by the City of New Bedford Assessor's Office. Following said verification, the list shall be considered a Certified List of Abutters.

Please note that multiple listed properties with identical owner name and mailing address shall be considered duplicates, and shall require only 1 mailing. Additionally, City of New Bedford-Owned properties shall not require mailed notice.

Parcel	Location	Owner and Mailing Address
100-18 NW	RIVERSIDE AVE	WHALERS COVE LIMITED PARTNERSHIP, 114 RIVERSIDE AVENUE NEW BEDFORD, MA 02746
100-134 NS	DAVIS ST	CAMUTI WILLIAM J, P O BOX 81277 WELLESLEY, MA 02181
100-104	494 BELLEVILLE AVE	494 BELLEVILLE AVE LLC, 111 INDIAN SPRING ROAD MILTON, MA 02186
100-133	11 DAVIS ST	FRUSTACI BRUNO, FRUSTACI ROSALIE 34 SCHOONER DRIVE SOUTH DARTMOUTH, MA 02748
100-112	6 HATHAWAY ST	PINHEIRO ROSA "TRS", 6 HATHAWAY STREET REALTY TRUST 14 OAKLAWN DRIVE NO. DARTMOUTH, MA 02747
100-123	114 RIVERSIDE AVE	WHALERS COVE LIMITED PARTNERSHIP, 114 RIVERSIDE AVENUE NEW BEDFORD, MA 02746
100-1	520 BELLEVILLE AVE	CODY & TOBIN INC, 520 BELLEVILLE AVE. NEW BEDFORD, MA 02746
100-139 NS	DAVIS ST	CODY & TOBIN INC, 520 BELLEVILLE AVE NEW BEDFORD, MA 02746
100-108 NS	DAVIS ST	CENTURY LLC, C/O ALAN ALTMAN 575 MADISON AVE 11TH FL NEW YORK, NY 10022 HAANI LLC 34 Schooner Drive S. Dartmouth, MA 02748
100-106 NS	DAVIS ST	CODY & TOBIN INC, 520 BELLEVILLE AVE NEW BEDFORD, MA 02746
100-115	510 BELLEVILLE AVE	TIRES R US, LLC, 510 BELLEVILLE AVE NEW BEDFORD, MA 02746



0 65 130 260 390 520 Feet

Legend

Abutter

Water



PATRICK J. SULLIVAN
DIRECTOR

City of New Bedford

Department of Planning, Housing & Community Development

133 William Street, New Bedford, Massachusetts 02740

Telephone: (508) 979.1488 Facsimile: (508) 979.1576

September 13, 2018

Councilor Hugh Dunn, Chairman
Committee on Ordinances
133 William Street
New Bedford, MA 02740

RE: PROPOSED REZONING REQUEST
CASE #18-37 NS DAVIS STREET (Map: 100, Lot: 108)

Dear Chairman Dunn:

This is to advise you of Planning Board action on Wednesday, September 12, 2018 to discuss the proposed request for the rezoning of NS Davis Street (Map: 100, Lot: 108) from the Mixed Use Business zone to Industrial B (IB) zone. The Planning Board sends an unfavorable recommendation for this proposal.

Mr. Bruno Frustaci of 11 Davis Street New Bedford, MA presented the proposed zoning request before the Planning Board. He explained the property was purchased with the intention of expanding his business, Raindance Irrigation. Raindance Irrigation has been in operation on an adjoining parcel for twenty-eight years. Under the current mixed use business zoning the use proposed (warehouse) is not allowed on this parcel. He noted the surrounding businesses are industrial uses and that the parcel in question has been vacant and unkempt for many years. Mr. Frustaci then provided information about the business operations and proposed development of the site.

City Councilor Maria Giesta of 155 Princeton Street New Bedford, MA spoke in favor of the rezoning request. Councilor Giesta noted the property had previously been zoned Industrial B and was rezoned to Mixed Use Business in recent years. She informed the board that the applicant had cleaned up the site and that she was in support of the applicant expanding his business in this location.

No one spoke in opposition of the request.

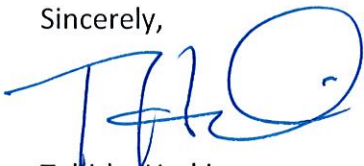
As it does with all rezoning requests, the Planning Board's review included consideration of the following specific criteria so as to ensure its action is consistent with existing case law: **uniformity, consistency, surroundings, fiscal impact and discriminating benefit.**

Board members discussed the proposed rezoning request and the comments received during the public hearing. The board noted that the applicants' proposed business expansion would be beneficial for business growth and not a detrimental use to the neighborhood. Conversely, they also noted that changing the zoning district of this parcel could open up the site to future industrial uses which may or may not be compatible with the neighborhood. The board discussed at length the master plan goals for a mixed use neighborhood with residential and supportive commercial uses. Attention was called to the city's strategic decision for mill overlay zoning that had allowed the residential redevelopment of the previously industrial mill buildings along Riverside Avenue. It was noted that the Master Plan intended to connect the residential neighborhoods to the waterfront in this area and that is why the zoning had changed to Mixed Use Business. The existing industrial uses were noted as incompatible with the Master Plan for this area and the board felt that any further expansion of industrial uses in this area would not be in line with the Master Plan.

After closing the public hearing, a motion was made in the affirmative to recommend the City Council consider rezoning NS Davis (Map: 100, Lot:108) from Mixed Use Business to Industrial B, in its entirety. The motion failed on a vote of 1-4, with board member A. Glassman recorded in favor; board members K. Khazan, G. Smith, P. Cruz, and K. Duff recorded in opposition.

As such the **Planning Board sends an unfavorable recommendation for this proposal.** Please find enclosed a copy of the Planning Division Staff Report in regards to this matter for the Council's convenience and reference.

Sincerely,



Tabitha Harkin
City Planner

encl. Staff Report

cc. John Mitchell, Mayor
Danny Romanowicz, Building Commissioner

Mickaela McDermott, City Solicitor
Dennis Farias, City Clerk



PATRICK J. SULLIVAN
DIRECTOR

City of New Bedford

Department of Planning, Housing & Community Development

608 Pleasant St, New Bedford, Massachusetts 02740
Telephone: (508) 979.1500 Facsimile: (508) 979.1575

STAFF REPORT

REPORT DATE
August 31, 2018

PLANNING BOARD MEETING
September 12, 2018

Case # 18-37: REZONING
NS Davis Street
Map: 100 Lot: 108

Petitioner: City Councilor
Maria E. Giesta
(Ward 2)
133 William Street,
Room 215
New Bedford, MA

Overview of Request:

The Planning Board reviews rezoning petitions as standard practice and provides a recommendation based on their findings to the City Council Committee on Ordinances.



This case requests the rezoning of a 0.78 acre parcel of land known as north side Davis Street (Map: 100, Lot:108) from its existing designation as in a Mixed Use Business (MUB) zoned district to a Industrial B (IB) zoned district.

Background:

New Bedford City Councilor Maria E. Giesta put this zoning request forward on behalf of Mr. Bruno Frustaci, whom owns and operates Raindance Irrigation and Service, Inc. located at 11 Davis Street, which is abutting the subject lot. Extending the Industrial B zoning to the subject lot would allow for the expansion of existing industrial use businesses, such as Raindance Irrigation and Service, Inc., in this area.

Existing Conditions:

Located in the north end, the subject site is a 33,770 SF, unimproved, "T" shaped lot with frontages on both Davis Street and Riverside Avenue. The surrounding neighborhood is a mixture of industrial, commercial, and residential uses. Located directly east across Riverside Avenue from the site is Whalers Cove Assisted Living Community and three multifamily residential dwellings are situated across from the site on the south side of Davis Street. A parking lot for Whalers' Cove is located directly south across Davis Street from the site. Directly abutting the property are industrial and commercial properties. The block the site is located in, bound by Davis Street on the south, Belleville Avenue to the west, Hathaway Street to the North, and Riverside Avenue to the east, includes: Cody & Tobin an industrial scrap metal dealer; Globe Auto, an automotive repair business; M&M Tires, a tire repair center; Joe's Gas, a gas station with convenience store; and Raindance Irrigation and Service, an irrigation installer business.

Zoning Map

Proposed rezoning parcel highlighted in green

Multiple zoning districts are represented in the area surrounding the subject site, including: Mixed Use Business, Industrial B, and Residential C.

Historically, industrial mill buildings were located along the Acushnet River; which is representative of the Industrial B zoned areas to the east and south of the site. However, many of these historic mills have been converted to residential uses, as is the case with the nearest mill to the subject site, which has been converted into an Assisted Living Community.

Belleville Avenue to the north of the site is a heavily traveled commercial corridor, with a mixture of commercial and residential uses. Additionally, the board should note the Alma De Mar Charter School campus is located on Belleville Avenue just west from this site.

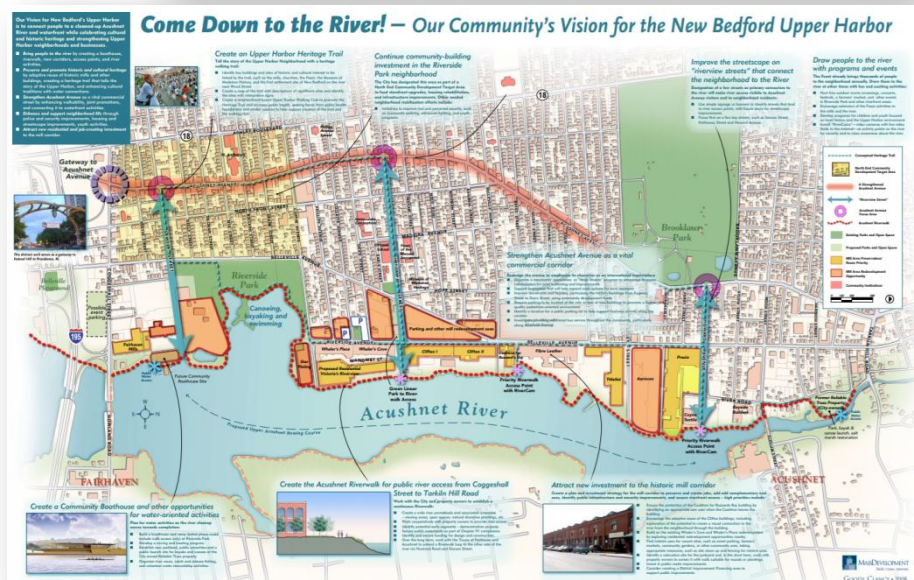
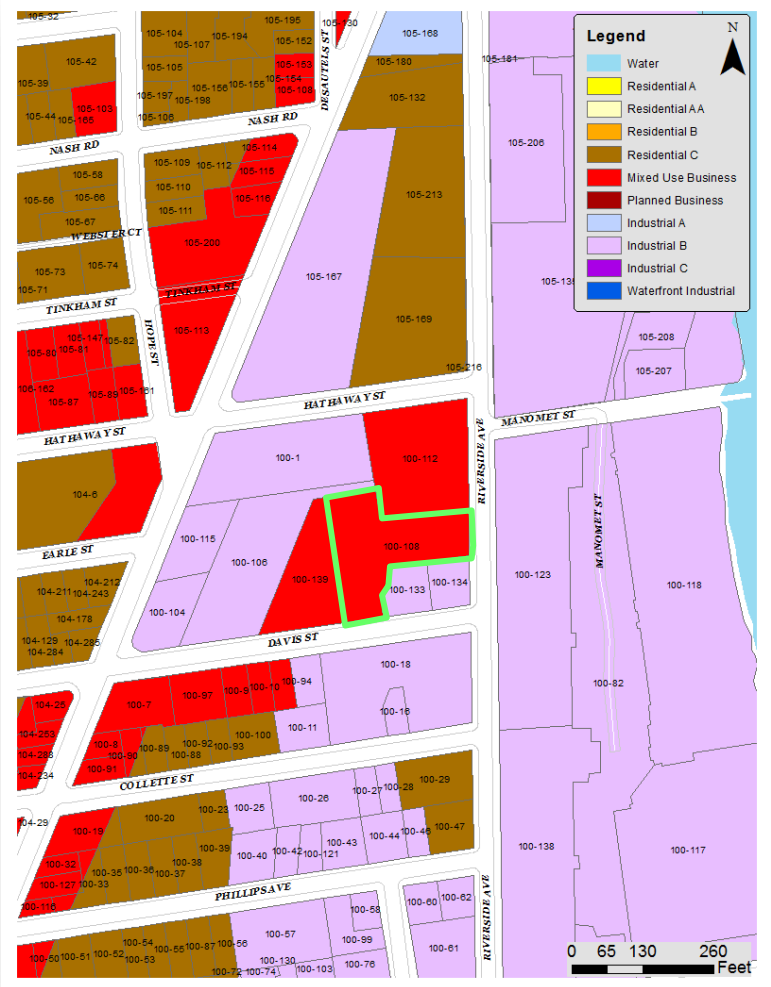
The block in which the site is located is primarily zoned Industrial B (6 parcels), with three (3) parcels zoned Mixed Use Business.

Master Plan.2020

In the Master Plan, this site is identified as part of an area known as the Upper Harbor (bound by I-195 to the south, Acushnet Avenue to the west, Wood Street to the north and the Acushnet River to the east). The Upper Harbor Vision was developed through a planning process in 2008. The vision for this area includes increasing public access to the water front, façade and streetscape improvements to Acushnet Avenue, and appropriate redevelopment along the Acushnet River. The plan called for an investment strategy for the mill corridor (along Riverside Avenue) to preserve and create jobs, while adding complementary new uses, updated public infrastructure and amenities and secure riverfront access.

Input from Other City Departments:

The rezoning request was distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department. Although no comments have been received as of the production date of these Planning Staff Comments, any such comments subsequently received will be provided at the Planning Board's public hearing.



For Board Member Consideration:

MERITS

If the rezoning was to be adopted, nine (9) new uses would be allowed. These uses include: motor vehicle body repairs manufacturing, light manufacturing, biotechnology facilities, medical device facilities, wholesale warehouse/self-storage/mini-warehouse or distribution facility, transportation terminal, contractors yard, batch asphalt and concrete plants.

This particular request would bring the site into conformity with the directly adjacent uses abutting the property as well as the zoning east of the site.

CONCERNS

If the rezoning was to be adopted, twenty-five (25) uses that are currently allowed in the MUB zoning district would be prohibited under a new IB district. These uses include: residential uses, cemeteries, hospitals, adult and family daycares, club, funeral home, bed and breakfast, big box retail, mixed use, live/work spaces, restaurant, fast food restaurant, business or professional office, medical office, bank, indoor or outdoor recreation, theater/auditorium.

The block this site is located in is an industrial island surrounded by a neighborhood more defined by commercial, residential, and educational uses.

A table comparing the uses permitted in the existing MUB zone and proposed IB zone is available as an attachment (Attachment #1) to these comments.

Standards for Evaluating Rezoning Requests

The Planning Board has previously relied on the following criteria in its evaluation of other rezoning requests so as to ensure its action is consistent with case law:

- Uniformity: the extent to which the zoning change would resemble the surrounding zoning;
- Consistency: whether or not the parcel is being singled out for a zoning change;
- Surroundings: how the proposal would change the neighborhood;
- Fiscal Impact: what impact on local/city economic development the rezoning would have; and
- Discriminating Benefit: an assessment of whether the reclassification of a single parcel that allows a use beneficial to the property owner is made to the detriment of the neighbors or community-at-large.

Attachments:

1. Use Table Comparison
2. Written Motion by City Councilor (Ward 2) Maria E. Giesta
3. Photos

ATTACHMENT 1: USE TABLE COMPARISON

EXISTING:	
MIXED USE BUSINESS DISTRICT	
A. Residential Uses	
Single-family dwelling	Y
Two-family dwelling	Y
Multi-family townhouse (3 stories)	Y
Multi-family mixed use (6 stories)	PB
Boarding house	BA
Group residence	BA
Assisted or Independent living facility	BA
Nursing or Convalescent home	BA
Animals or head of poultry, not to exceed one animal or head of poultry per one thousand (1,000) square feet of net area of the lot. Net area shall be determined by subtracting the gross ground floor area of all buildings and structures on the lots from the gross area of the lot plus any contiguous lots owned by the same party.	Y
B. Exempt and Institutional Uses	
Use of land or structures for religious purposes	Y
Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y
Child care facility (in existing building)	Y
Child care facility (not in existing building)	Y
Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y
Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y
Municipal facilities	Y
Essential services	BA
Cemeteries	Y
Hospital	Y
C. Commercial	
Nonexempt agricultural use	BA
Nonexempt educational use	Y
Animal clinic or hospital; with ancillary animal boarding	BA
Adult day care	BA
Family day care	BA
Large family day care	BA
Club or lodge, nonprofit	CC
Funeral home	BA
Adult entertainment establishment	CC
Bed & Breakfast	BA

PROPOSED:	
INDUSTRIAL B DISTRICT	
A. Residential Uses	
Group residence	BA
Assisted or Independent living facility	BA
Nursing or Convalescent home	BA
B. Exempt and Institutional Uses	
Use of land or structures for religious purposes	Y
Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y
Child care facility (in existing building)	Y
Child care facility (not in existing building)	Y
Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y
Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y
Municipal facilities	Y
Essential services	BA
C. Commercial	
Nonexempt agricultural use	BA
Nonexempt educational use	BA
Animal clinic or hospital; with ancillary animal boarding	BA
Adult entertainment establishment	CC

EXISTING:	
MIXED USE BUSINESS DISTRICT	
C. Commercial (continued)	
Motel, hotel or inn	Y
Retail stores and services not elsewhere set forth	Y
Grocery stores	Y
Big Box Retail (60,000 Sq. ft. or greater)	BA
Health clubs	Y
Mixed use	Y
Live /work	BA
Motor vehicle sales and rental	CC
Motor vehicle general repairs	CC
Motor vehicle light service	CC
Restaurant	Y
Restaurant, fast-food	BA
Business or professional office	Y
Medical offices, center, or clinic	BA
Bank, financial agency	Y
Indoor commercial recreation	Y
Outdoor commercial recreation	BA
Wireless Communications Facilities	PB
Theatres and auditoriums	PB
Convention Centers	PB
D. Industrial	
Research, development or testing laboratories and facilities	Y

PROPOSED:	
INDUSTRIAL B DISTRICT	
C. Commercial (continued)	
Motel, hotel or inn	Y
Retail stores and services not elsewhere set forth	Y
Grocery stores	BA
Health clubs	Y
Motor vehicle sales and rental	CC
Motor vehicle general repairs	CC
Motor Vehicle body repairs	CC
Motor vehicle light service	CC
Wireless Communications Facilities	PB
Convention Centers	PB
D. Industrial	
Manufacturing	Y
Light manufacturing	Y
Research, development or testing laboratories and facilities	Y
Biotechnology facilities	Y
Medical devices manufacturing	Y
Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	Y
Transportation terminal	Y
Contractor's yard	Y
Batch asphalt & concrete plants	CC

*Highlighted (green) uses would be newly permitted if the proposed rezoning were to be adopted.



Planning

CITY OF NEW BEDFORD
CITY COUNCIL

August 16, 2018

WRITTEN MOTION

Requesting, on behalf of Mr. Bruno Frustazi, that Plot 100/Lot 108 (NS Davis Street), be Rezoned from Mixed-Use Business to Industrial "B", in its entirety. (To be Referred to the Committee on Ordinances and the Planning Board.)

Maria E. Giesta, Councillor Ward Two

PLANNING
AUG 20 2018
DEPARTMENT

IN CITY COUNCIL, August 16, 2018

Referred to the Committee on Ordinances and the Planning Board.

Dennis W. Farias, City Clerk

a true copy, attest:

Dennis W. Farias

City Clerk

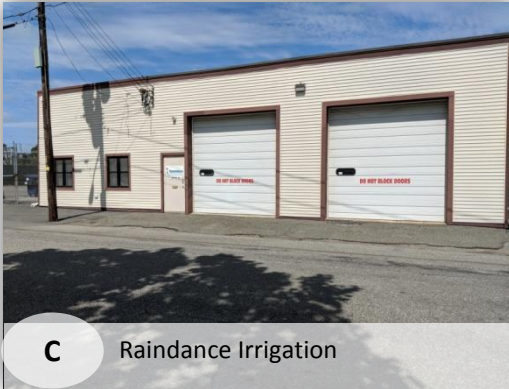
ATTACHMENT # 3: PHOTOS OF SITE AND SURROUNDING AREA



A NS Davis Street
Looking north from Davis Street



B NS Davis Street
Looking west from Riverside Avenue



C Raindance Irrigation



E Whalers Cove



G Multifamily Residential



D Cody & Tobin



H Globe Auto



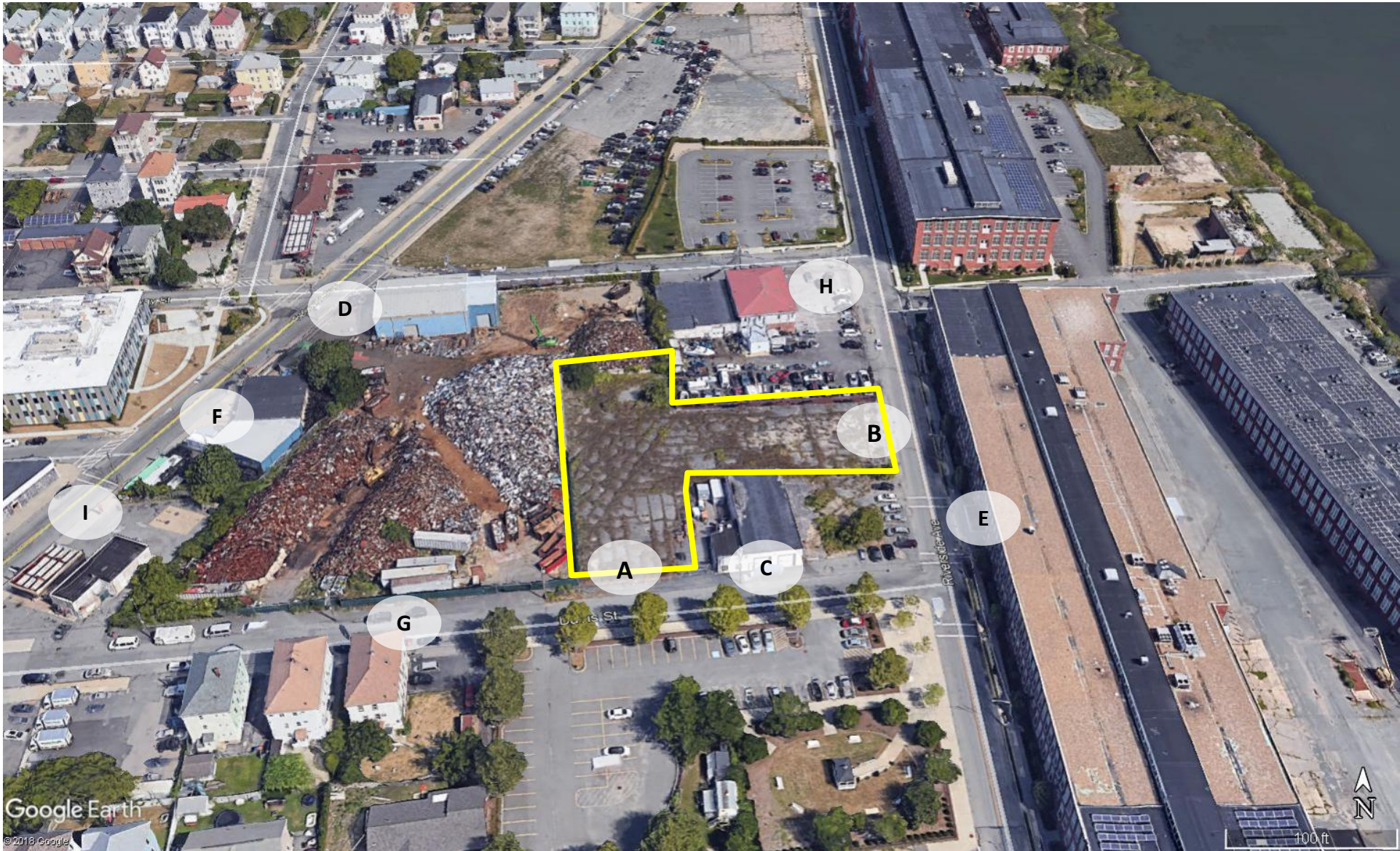
F M&M Tire



I Joe's Gas

PHOTO LOCATIONS

*Site outlined in yellow. Property boundaries are approximate and for discussion purposes only.





Item Title:

WRITTEN MOTION re Governing Structure / Board of Park Commissioners

Item Detail:

2. WRITTEN MOTION, Council President Lopes, requesting that the Committee on Ordinances review the governing structure of the Board of Park Commissioners, as it relates to the Members of the said board. (To be Referred to the Committee on Ordinances.) (Ref'd 2/23/17) (3/21/17-tabled) (2/21/18-tabled)

Additional Information:



Item Title:

WRITTEN MOTION re Ordinance Chapter 17 Section 14 / False Alarm Calls

Item Detail:

3. WRITTEN MOTION, Councillors Coelho, Abreu, Lopes, Giesta, Dunn and Lima, requesting, that the Committee on Ordinances revisit the Ordinance, Chapter 17, Section 14, pertaining to false alarm calls placed throughout the City to the Police Department to update said Ordinance, to reduce the number of 911 calls that are placing a strain on Police Department resources. (To be Referred to the Committee on Ordinances.) (Ref'd 7/19/18)

Additional Information:

ATTACHMENTS:

Description	Type
3. ORD re False Alarm Calls	Cover Memo

Sec. 17-12. Gambling; exposure of devices.

No person, shall expose in or upon any street or public grounds, any table or device of any kind, by or upon which any game of hazard or chance can be played; nor shall any person play any such game at any such table or device in or upon any street or public place in the city.

(Code 1963, § 14-109)

Annotation—See *Commonwealth v. Wolbarst*, 319 Mass. 291 (1946); 65 N.E. 2d 552.

State law reference—Gambling, M.G.L.A. c. 271, § 1 et seq.

Sec. 17-13. Fictitious report of crime.

No person shall, by a verbal, written or printed communication, willfully, deliberately and knowingly make or cause to be made to a police officer or other lawful authority a false, or fictitious report of a crime, knowing that such report is false or fictitious as aforesaid.

(Code 1963, § 14-155)

Sec. 17-14. Telephonic and burglar alarm systems.

(a) "Telephonic alarm system" shall mean any mechanism, equipment or device which is designed to operate automatically through the use of public telephone facilities to transmit a signal, message, or warning to another location.

(b) No person shall operate or maintain a telephonic alarm system which automatically transmits a signal, message, or warning to any city police department or fire department telephone line.

(c) "Alarm device" shall mean any device which is intended to, when activated by a criminal act:

- (1) Transmit a signal to a police facility;
- (2) Transmit a signal to a person or company who relays an alarm to a police facility;
- (3) Produce an audible or visible signal to which the police are expected to respond.

(d) "Alarm user" shall mean any person or organization who is the owner or is in charge of the premises where an alarm device is maintained.

(e) "False alarm" shall mean the activation of an alarm device due to the negligence of the alarm user or his employee, or the improper installation, mechanical failure or malfunction of the alarm device which results in the police department responding to the alarm and where it is determined by the police department that the activation of the alarm system was not caused by criminal activity or attempted criminal activity.

(f) Each alarm user shall submit to the chief of police his name, address, telephone number, and the name, address, and telephone number of at least one other person who is authorized to and is able to respond to and deactivate an alarm device. At the time of said submission the alarm user shall pay to the chief of police a registration fee of three dollars (\$3.00).

(g) Each alarm user shall, prior to the testing of an alarm device which will include its activation, notify the police department of such testing. Failure to so notify the police department shall constitute a false alarm.

(h) Each alarm device which includes an audible bell, horn, or siren shall be equipped with an automatic shut-off system which shall deactivate the alarm device within twenty-five (25) minutes of its activation.

(i) Violation of paragraphs (f), (g), or (h), hereof shall be punished by a fine of twenty-five dollars (\$25.00).

(j) Upon the police department having three (3) false alarms recorded from the same alarm user within the same calendar year, the police chief or his designee shall notify the alarm user, in writing, of the dates and times of each such false alarm and that a fourth false alarm within the same calendar year shall result in a charge of twenty-five dollars (\$25.00).

(k) Each alarm user shall be charged twenty-five dollars (\$25.00) for the fourth false alarm as defined in paragraph (j). Each subsequent false alarm within the same calendar year shall result in a charge of fifty dollars (\$50.00).

(l) This section shall not subject the City of New Bedford or any of its offices, agents, servants and employees to any greater obligation, duty, or liability to an alarm user or any other person than may currently exist.

(m) This section shall not apply to alarm devices owned or controlled by the City of New Bedford, nor to alarm devices installed in motor vehicles.

(n) Persons aggrieved of charges pursuant to paragraph (k) shall have the right to appeal the charges.

(1) The aggrieved party shall notify the city clerk in writing, that said charge is contested. The notification shall include an explanation as to why the charge is contested, and shall provide information necessary to determine the validity of the claim.

(2) Upon receipt of an appeal, the committee on internal affairs shall act upon same within forty-five (45) days and shall make a recommendation to the city council which may grant said appeal by a two-thirds ($\frac{2}{3}$) vote of its membership, under such terms and conditions as the city council shall determine to be in the best interest of the city, and the basis for such appeal is due solely to causes beyond the control of the alarm user who has exercised due diligence in the installation of a satisfactory alarm device.

(3) The decision of the city council shall be final and it shall inform the claimant, in writing, of the results.

(Code 1963, § 14-161; Ord. of 5-24-73; Ord. of 5-11-89, § 1; Ord. of 5-26-94, § 1)
State law reference—Interference with police alarm system, M.G.L.A. c. 268, § 32.

Sec. 17-15. Noise.

(a) *Unnecessary blowing of automobile horns.* The blowing of automobile horns between the hours of 11:00 p.m. and 7:00 a.m. except in cases of emergency is hereby prohibited.

(b) *Noises at commercial establishments.* All noises at commercial establishments located in principally residential neighborhoods that menace the health, interrupt or disturb sleep of residents between the hours of 10:00 p.m. and 7:00 a.m. are hereby prohibited; and, without limiting the



Item Title:
Accessibility Statement

Item Detail:

In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact the Clerk of Committees Office at 508-979-1482. Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.

Additional Information: