



**GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET**



Meeting Date	08/05/2020	Department	Planning/Economic Dev
Agenda Item	4c. Set Second Public Hearing Regarding the Discontinuance of Portion of Commerce Street in Libby Hill Business Park		
Est. Cost	n/a		

Background Information

Ben Philbrook is purchasing Lot 15 in the Libby Hill Business Park. As part of the approval process for his business, the Planning Board asked for a small portion of the hammerhead piece on Commerce Drive (aka Enterprise Avenue) be discontinued so that appropriate controls can be completed on Lot 15.

Upon some more clarification from the City Solicitor it was learned that the City Council will need to set a second Public Hearing on September 2, 2020, to hear public comment on this proposed discontinuance. At that same meeting the City Council will be asked to vote to discontinue the small portion.

Please see email and pertinent notifications attached.

Requested Action	'I move to set a second Public Hearing on September 2, 2020 for the proposed discontinuance of a small portion of Commerce Drive. At that meeting the City Council will also consider a motion to discontinue that portion.'
City Manager and/or Finance Review	The City Manager recommends the above action.
Council Vote/ Action Taken	
Departmental Follow-Up	

City Clerk Use Only	1 st Reading <u>08/05/2020</u>	Advertised <u>07/30/2020</u>	EFFECTIVE DATE _____
	2 nd Reading <u>09/02/2020</u>	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

Christine Landes

From: Lyons, Patrick <plyons@eatonpeabody.com>
Sent: Tuesday, July 21, 2020 2:31 PM
To: Tracey Desjardins
Cc: Christine Landes; Pottle, Jonathan
Subject: RE: Lot 15 Libby Hill Business Park
Attachments: Motion to Discontinue Commerce Street (03526437xAE394).docx; Notice of Vote on Order of Discontinuance of Commerce Street (03526524xAE394).docx; Order of Discontinuance of Commerce Street (03526395-2xAE394).docx

Tracey,

Attached are three documents regarding the discontinuance of Commerce Street:

1. The Motion for Discontinuance for the City Council to make after it has discussed the issue (as well as a second, procedural motion for them to approve)
2. The Order of Discontinuance for the Council to sign once it votes to discontinue
3. The notice of vote of discontinuance to be sent out following tomorrow's meeting.

Please note the notice requirements that are referenced in the second, procedural motion.

Also, the determination of no damages to the property owner is based on the fact that the property will still be accessible following the discontinuance and that the discontinuance actually benefits the property owners (so they can build on the property).

Following tomorrow night's vote, the remaining steps are the public hearing on August 5th, the City Council's vote to approve the discontinuance on September 2, and finally recording certification of the discontinuance and providing a copy to Maine DOT.

Please let me know if you have any questions.

Best,
Patrick

Patrick W. Lyons
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From: Tracey Desjardins <TDesjardins@gardinermaine.com>
Sent: Friday, July 10, 2020 1:46 PM

To: Lyons, Patrick <plyons@eatonpeabody.com>
Cc: Christine Landes <CLandes@gardinermaine.com>
Subject: Lot 15 Libby Hill Business Park

Hi Patrick – in regards to Discontinuance process for the hammerhead along Commerce Drive here is the information you were looking for:

Purchaser Name: Ben Philbrook
Property Address: No street address yet. Commerce Drive is the road, however under the GIS its labeled as Enterprise Avenue?
Map: 18 A
Lot: 15

Deed: Book 9125 Page 310 – 315

Tracey K. Desjardins

Economic Development Director/Planning
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Gardiner, ME 04345
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Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning the City of Gardiner, business or containing information relating to city business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law. If you have received this message in error, please notify us immediately by return email. Thank you for your cooperation

**Wednesday, July 22, 2020 City Council Meeting:
Discontinuance of Commerce Street**

Step 1: Motion to Discontinue Commerce Street

I move that the City Council issue an order to discontinue a section of Commerce Street (also known as Enterprise Avenue). Specifically, the section of Commerce Street that would be discontinued lies entirely within the property identified as Gardiner Tax Map 18A, Lot 15, and more specifically, the portion of Commerce Street depicted on the drawings numbered Sheet 2 of plans entitled "Amended Subdivision Plan, Libby Hill Business Park" prepared by OEST Associates, Inc., dated August 1998 and last revised September 3, 1999, signed by the Gardiner Planning Board September 16, 1999, and recorded at the Kennebec County Registry of Deeds on September 27, 1999 in Book E99, Page 176 and Page 177 (the "Plan") which lies easterly of the following described line: beginning at the most southerly corner of Commerce Street depicted on Sheet 2 of the Plan, being S 67° 51' 37" E sixty feet from the intersection of the most easterly corner of the Pump Station Easement and a southerly corner of Commerce Street, both as depicted on said Sheet 2; thence running N 22° 08' 23" E to a point of curvature of a curve to the right having a radius of 351.97 feet.

A public easement would not be retained upon discontinuance. Damages would be paid to abutting property owners as follows:

Name: Ben Philbrook

Amount: \$ 0

Step 2: City Council then signs Order on Discontinuance

Step 3: Motion to File with Clerk and Provide Notice

I move that the City Council issue and file with the City Clerk an Order of Discontinuance that accurately reflects the action taken by the City Council to discontinue a section of Commerce Street, and that the City Council send abutting property owners best practicable notice of this action without delay. A copy of the Order of Discontinuance should also be posted at City Hall, the Public Library, and at the section of Commerce Street subject to the Order.

Order of Discontinuance of Commerce Street

TO: Residents of the City of Gardiner and other interested persons

FROM: The Gardiner City Council

Having complied with all applicable requirements of 23 M.R.S. § 3026-A, the Gardiner City Council hereby orders the discontinuance of a section of Commerce Street (also known as Enterprise Avenue). Specifically, the section of Commerce Street that would be discontinued lies entirely within the property identified as Gardiner Tax Map 18A, Lot 15, and more specifically, the portion of Commerce Street depicted on the drawings numbered Sheet 2 of plans entitled "Amended Subdivision Plan, Libby Hill Business Park" prepared by OEST Associates, Inc., dated August 1998 and last revised September 3, 1999, signed by the Gardiner Planning Board September 16, 1999, and recorded at the Kennebec County Registry of Deeds on September 27, 1999 in Book E99, Page 176 and Page 177 (the "Plan") which lies easterly of the following described line: beginning at the most southerly corner of Commerce Street depicted on Sheet 2 of the Plan, being S 67° 51' 37" E sixty feet from the intersection of the most easterly corner of the Pump Station Easement and a southerly corner of Commerce Street, both as depicted on said Sheet 2; thence running N 22° 08' 23" E to a point of curvature of a curve to the right having a radius of 351.97 feet. Reference is hereby made to the excerpt of the Plan attached to this Order.

A public easement will not be retained upon discontinuance.

Having given best practicable notice to all abutting property owners, the Gardiner City Council further orders damages to the abutting property owners as follows:

Name: Ben Philbrook

Amount: \$ 0

Dated: July 22, 2020

GARDINER CITY COUNCILORS

Notice of Vote on Order of Discontinuance of Commerce Street

TO:

FROM: Gardiner City Council

Dear Property Owner:

Our records show that you own property abutting Commerce Street. This is to notify you that on Wednesday, July 22, at ____ p.m., the City Council issued an Order of Discontinuance to discontinue a section of Commerce Street (also known as Enterprise Avenue). The Order also states the amount of damages to be paid to abutting property owners. A copy of that Order is attached to this Notice and is incorporated herein. The Order of Discontinuance has been filed with the City Clerk.

The Gardiner City Council will hold a public hearing on August 5, 2020, at ____ p.m. at [location] to hear public comments on the Order of Discontinuance.

The Order will take effect when and if it is approved by a vote of the City Council on Wednesday, September 2, 2020.

Dated: July _____, 2020