



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-81
Site: 12 Beacon Place
Date of Decision: February 17, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: February 23, 2016

ZBA DECISION

Applicant Name:	Anthony Fava & Ryan Hunt
Applicant Address:	116 West Broadway, South Boston, MA 02127
Property Owner Name:	Kathleen M. Connors
Property Owner Address:	400 W. Cummings Park #1725-112, Woburn, MA 01801
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicants Anthony Fava & Ryan Hunt, and Owner Kathleen M. Connors, seek a Special Permit with Site Plan Review to modify a nonconforming structure, and add a second principal structure under SZO §7.2. by adding a two unit structure in the side yard. A Special Permit is also required for parking relief.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.2
<u>Date of Application:</u>	September 17, 2015
<u>Date(s) of Public Hearing:</u>	10/21, 11/4, 11/18, 12/9/15, 1/6, 1/20, 2/3 & 2/17/16
<u>Date of Decision:</u>	February 17, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2015-81 was opened before the Zoning Board of Appeals in the Aldermanic Chambers on October 21, 2015. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant is proposing to do a gut renovation of the existing structure and convert it to a 3 bedroom single-family home with two new dormers on both sides of the roof. The applicant is also proposing to construct a second primary structure on the lot that would be 3 stories tall and contain 2 units at 3 bedrooms each.

FINDINGS FOR SPECIAL PERMIT WITH SITE PLAN REVIEW (SZO §4.4.1 & §7.2):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

2. Compliance with Standards: *The Applicant must comply “with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review.”*

The existing structure is currently nonconforming with respect to the following dimensional requirements: front yard setback (2'-10" existing, 15' required) and side yard setback (1'-7" existing, 8' required). These setbacks will not be changed, but the modification of portions of the structure within those setbacks requires a Special Permit under SZO Section 4.4.1.

Section 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.”

In considering a special permit under §4.4 or 4.5 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

Adding a second primary structure on the site requires a Special Permit with Site Plan Review per SZO Section 7.2. Under Section 5.2 Special Permits with Site Plan Review: *Certain activities, due to their size or nature, are likely to have significant impacts on the City and are therefore designated as requiring special permit with site plan review (SPSR). These include those activities and uses designated as requiring special permit with site plan review in Article 7, Table of Permitted Uses, or in any other section of this Ordinance where SPSR is referred to as applicable. The SPSR process is intended to enable thorough review of said uses and activities by the SPGA. The SPGA may grant a special permit with site plan review upon making positive findings and determinations under the provisions herein. The SPGA shall not grant a SPSR when it makes negative findings and determinations under the provisions herein, unless such findings and determinations concern negative impacts that may be adequately mitigated by the imposition of conditions attaching to the permit, in which case the SPGA may, in its discretion, grant a conditional special permit with site plan review.*

3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".*

The proposal is consistent with the purpose of the district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”



4. Site and Area Compatibility: *The Applicant has to ensure that the project “is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Surrounding Neighborhood: The surrounding neighborhood contains a mix of single and multi-family dwelling units of various architectural styles. The area is fairly dense in terms of structures, with many located within several feet of one another.

Impacts of Proposal (Design and Compatibility): The design of the proposal is generally compatible with the amount of diversity in architectural styles and converts an otherwise vacant and unused section of a lot into a valuable housing product complete with much improved landscaping over the existing conditions.

5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The design of the project functions to improve a neglected portion of the existing site and to provide two new housing units, and to significantly upgrade another. The site design provides two tandem parking spaces for each unit and also improves the landscaping around the perimeter of the site. There will also be a new fire hydrant installed at the end of Beacon Place as a result of this project which will greatly improve the functionality of fire protection services for neighboring properties.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The project is conditioned to comply with the city stormwater policy. Overall, the project will impact public systems positively by providing the infrastructural improvement of a new fire hydrant. By providing two tandem spaces on site for each unit the project will minimize its impact on Beacon Place in terms of congestion.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

No adverse environmental impacts are anticipated with respect to items 1-4 as outlined above as a result of the proposed construction.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to The purposes of the Ordinance are to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income



levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

There are no significant existing landforms to preserve, and the site will not require significant grading. The proposed landscape plan will be more attractive than the existing conditions which include overgrown bushes and a rundown gravel parking lot.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

The buildings are located on the site so that they comply with zoning setbacks and provide for new landscaped areas at the perimeter of the site. The scale of the structures is consistent with other structures in the immediate vicinity which also share a similar use. The architectural style is more contemporary than some of the surrounding buildings and will help to give more character to the enclave that is Beacon Place. The architecture also uses a variety of materials and massing variations to help break up the overall form of the structure, thereby making it less obtrusive. The flat roof of the new structure could potentially have solar panels installed on it, otherwise there is little opportunity on this site for renewable energy, energy conservation beyond what is required by code, or for views of any kind.

11. Stormwater Drainage: *The Applicant must demonstrate that “special attention has been given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies, and paved area, and routed through a well-engineered system designed with appropriate storm water management techniques. Skimming devices, oil, and grease traps, and similar facilities at the collection or discharge points for paved surface runoff should be used, to retain oils, greases, and particles. Surface water on all paved areas shall be collected and/or routed so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. In larger developments, where practical, the routing of runoff through sheet flow, swales or other means increasing filtration and percolation is strongly encouraged, as is use of retention or detention ponds. In instances of below grade parking (such as garages) or low lying areas prone to flooding, installation of pumps or other devices to prevent backflow through drains or catch basins may be required.”*

The Applicant has contracted an engineer to design a stormwater infiltration system that will be reviewed by the City Engineering staff to ensure compliance with the City’s Stormwater policy. The parking spaces proposed are also constructed from permeable paving to help mitigate stormwater issues.

12. Historic or Architectural Significance: *The project must be designed “with respect to Somerville’s heritage, any action detrimental to historic structures and their architectural elements shall be discouraged insofar as is practicable, whether those structures exist on the development parcel or on adjacent properties. If there is any removal, substantial alteration or other action detrimental to buildings of historic or architectural significance, these should be minimized and new uses or the erection of new buildings should be compatible with the buildings or places of historic or architectural significance on the development parcel or on adjacent properties.”*



The proposed project doesn't constitute any action that might be detrimental to historic structures or their architectural elements.

13. Enhancement of Appearance: *The Applicant must demonstrate that "the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting."*

The proposed new structure in conjunction with the renovation of the existing structure and the landscape plan and stormwater management system will not only improve the appearance of the currently vacant and unsightly lot, but also the functionality.

14. Lighting: *With respect to lighting, the Applicant must ensure that "all exterior spaces and interior public and semi-public spaces shall be adequately lit and designed as much as possible to allow for surveillance by neighbors and passersby."*

The lighting will be appropriate to the proposed residential use, conform to dimensions specified in the SZO, and is conditioned not to interfere with neighboring properties. Lights will be located at each entry. Planning Staff proposes a condition that all exterior lighting, to the extent possible, must be confined to the subject project, cast downward and must not intrude, interfere, or spill onto neighboring properties.

15. Emergency Access: *The Applicant must ensure that "there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment."*

The Applicant has worked in close coordination with the planning staff and the fire department to ensure that concerns about emergency access were met and the overall site will actually be made safer by the addition of a new fire hydrant.

16. Location of Access: *The Applicant must ensure that "the location of intersections of access drives with the City arterial or collector streets minimizes traffic congestion."*

Vehicles entering and exiting the site will not create any undue stress or congestion on Beacon Place.

17. Utility Service: *The Applicant must ensure that "electric, telephone, cable TV and other such lines and equipment are placed underground from the source or connection, or are effectively screened from public view."*

To the extent possible the project has moved utilities underground, and has also agreed to relocate an existing utility pole to improve emergency access to the neighboring properties.

18. Prevention of Adverse Impacts: *The Applicant must demonstrate that "provisions have been made to prevent or minimize any detrimental effect on adjoining premises, and the general neighborhood, including, (1) minimizing any adverse impact from new hard surface ground cover, or machinery which emits heat, vapor, light or fumes; and (2) preventing adverse impacts to light, air and noise, wind and temperature levels in the immediate vicinity of the proposed development.;"*

Minimal negative impacts are anticipated as a result of the proposed project and residential use. Open spaces will be designed and planted to enhance the site permeability and quality of landscaping.

19. Signage: *The Applicant must ensure that "the size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall reflect the scale and character of the proposed buildings."*



There is no signage associated with the proposal.

20. **Screening of Service Facilities:** *The Applicant must ensure that “exposed transformers and other machinery, storage, service and truck loading areas, dumpsters, utility buildings, and similar structures shall be effectively screened by plantings or other screening methods so that they are not directly visible from either the proposed development or the surrounding properties.”*

No service facilities are included as part of the site plan. The scale of the project will allow residents to simply use typical recycling and refuse barrels, which is consistent with neighboring properties. These barrels could easily be stored in the rear of the site where they would be more convenient to the kitchens.

21. **Screening of Parking:** Parking will be located between the existing and proposed structure and will not be detrimental to the neighboring properties. The parking spaces are incorporated into the landscaping plan and will be constructed with permeable pavers which helps improve the aesthetics of what would otherwise be strictly utilitarian areas.

21. **Housing Impact:** *Will not create adverse impacts on the stock of existing affordable housing.*

22. **SomerVision Plan:** *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3

23. **Impact on Affordable Housing:** *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

No impact on affordable housing is anticipated.

Parking:

The previous use required 3 parking spaces; the proposed use requires 6 parking spaces. Since tandem spaces are not technically counted in the Somerville Ordinance the project requires parking relief for half of the three spaces not provided, so 1.5 spaces rounded up to 2.

Section 9.13 of the SZO allows parking standards to be modified by special permit when the total number of parking spaces required is six or fewer, and that the relief would not cause detriment to the surrounding neighborhood through any of the following 1) increase in traffic volumes 2) increased traffic congestion 3) change in types of traffic 4) change in traffic patterns and access to the site 5) reduction in on street parking 6) unsafe conflict of motor vehicle and pedestrian traffic. Based on the materials provided, no negative or detrimental impacts related to items



1-6 are anticipated as a result of granting the relief for 1.5/2 parking spaces, especially since the project is providing two tandem spaces for each unit which can be managed simply and effectively by the owners of each unit.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Anne Brockelman with Elaine Severino and Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Danielle Evans seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the Special Permit with Site Plan Review to modify a nonconforming structure and construct a second primary structure on the same lot. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/Png.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>September 17, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 9, 2016</td> <td>Modified plans submitted to OSPCD (1-20)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	September 17, 2015	Initial application submitted to the City Clerk's Office	February 9, 2016	Modified plans submitted to OSPCD (1-20)
	Date (Stamp Date)				Submission					
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February 9, 2016	Modified plans submitted to OSPCD (1-20)									
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The Applicant will coordinate with the City to plan for the installation of a new fire hydrant to be located on the site, and the Applicant will pay for the costs of this.	BP	Fire, Water, Png.							
3	The Applicant will coordinate with the City, neighboring properties and the Utility Company to pay for the relocation of the existing utility pole at the end of Beacon Place.	BP	Lights and Lines, Fire, Png.							
4	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.							



5	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	CO	Eng.	
6	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
7	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
8	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
Construction Impacts				
9	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed
11	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
12	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
Design				
13	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	



14	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
15	The architect will replace the window shown on the nonconforming side yard of the existing structure with a skylight, in order to meet building code regarding openings within 3' of the property line.	BP	ISD	
Site				
16	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
17	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
Traffic & Parking				
18	The applicant will provide two Pedestrian Impact Recovery Systems to the City	BP	Traffic and Parking	
Public Safety				
19	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
20	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
21	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
22	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
Final Sign-Off				
23	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Anne Brockelman (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

