

1. Agenda

Documents: [AGENDA 7-17-14.PDF](#)

2. 159 State Street - Application

Documents: [APPLICATION.PDF](#)

3. 81 Oxford Street - Application

Documents: [APPLICATION.PDF](#)

3.I. 81 Oxford Street - Plans

Documents: [PLANS.PDF](#)

3.II. 81 Oxford Street - Campus Plan

Documents: [CAMPUS PLAN - PARKING.PDF](#)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 17, 2014 at 6:30 p.m. on the second floor in room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeals:

1. New Business

A. Conditional Use Appeal:

159 State Street, The Children's Nursery School, lessee, Tax Map 045, Block A, Lot 026, R-6 Residential Zone: The applicant is seeking a Conditional Use Appeal under section 14-137(c)(4) to run a nursery school in part of the second floor of the building. Representing the appeal for the Children's Nursery School, the lessee, is Daniel Brouillette.

B. Conditional Use Appeal:

75-87 Oxford Street & 35-41 Boyd Street, Portland Housing Development Corporation, buyer, Tax Map 022, Block I, Lots 001 & 004, R-6 Residential Zone: The applicant is seeking a Conditional Use Appeal under section 14-137(c)(4) to run a nursery school in part of the first floor of the new building at this site. Representing the appeal is Mark Adelson, from the Portland Housing Authority, the owner.

2. Adjournment

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



CITY OF PORTLAND
ZONING BOARD OF APPEALS
Conditional Use Appeal Application

RECEIVED

JUN 30 2014

Dept. of Building Inspections
City of Portland Maine

Applicant Information:

Daniel Bravillette
NAME

The Children's Nursery School
BUSINESS NAME

161A Grant Street
ADDRESS

Portland, ME, 04101

207-807-6234
TELEPHONE #

Co-Chair, Board of Trustees ^{lessee}

APPLICANT'S RIGHT, TITLE OR INTEREST
(eg; owner, purchaser, etc)

R6
CURRENT ZONING DESIGNATION

Subject Property Information

159 State Street
PROPERTY ADDRESS

045 A026
CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)
State Street Congregational
NAME
Church - United Church of Christ
ADDRESS

159 State Street, 04101

CONDITIONAL USE AUTHORIZED BY

SECTION 14 - 137, 4

EXISTING USE OF PROPERTY:

Church and
church-related
activities

TYPE OF CONDITIONAL USE
PROPOSED:

Nursery School

STANDARDS: Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

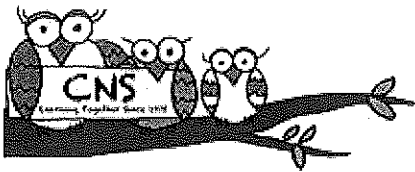
1. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

DBH
SIGNATURE OF APPLICANT

06-30-2014
DATE



June 30, 2014

COVER LETTER

Dear Members of the City of Portland's Zoning Board of Appeals,

We, The Children's Nursery School, are asking for the conditional use of a second floor space within the State Street Congregational Church/United Church of Christ at 159 State Street in which to run our preschool program.

Our program, after thirty-six years on Thomas Street, relocated to 159 State Street in 2012 after the Thomas Street property was sold. We remain at 159 State Street where we have been re-licensed by Maine's Child Care Licensing Unit. Unbeknownst to us – as well as the State Street Congregational Church's administration – the State Street property was not zoned for such use. We and the church have been active in remedying this oversight since learning of it earlier this spring, culminating in the current appeal.

Classes have been halted for the summer (as usual) and we hope to be up and running again on September 8, 2014. Our program runs Mondays through Thursdays from 9:00am to 12:30pm. We are also present in the building one night a month for our cooperative's meetings. The fenced-in courtyard of the church is used by our students in the mornings from 9:00am-9:30am and again at the end of our days from 12:00pm-12:30pm. Our maximum enrollment is eighteen children.

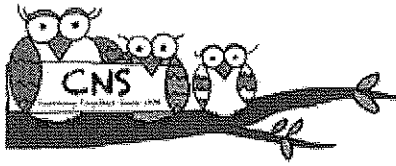
The Children's Nursery School is a state-licensed, 501 (c)(3) non-profit, parent-led cooperative preschool that was founded in 1975. We have a rich thirty-eight years of history behind us, including wonderful relationships with our host churches and neighbors. We thank you for helping us continue that tradition.

Sincerely,

Dan Brouillette

Co-chair, Board of Trustees
The Children's Nursery School
207-807-6234
brouillette.d@gmail.com

the **children's**
nursery
school



July 2, 2014

Addendum: Conditional use standards

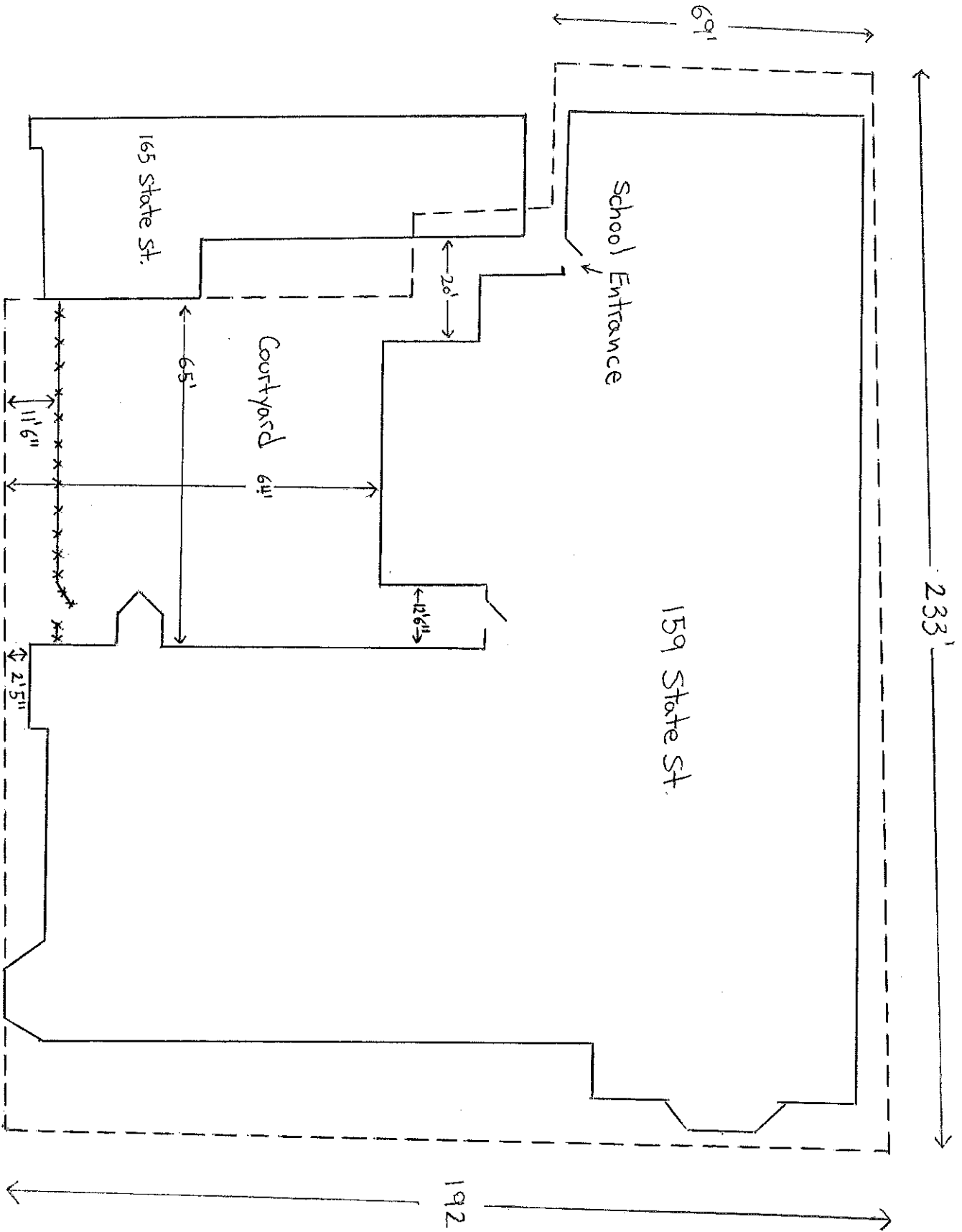
1. *The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone;*
 - a. The volume of traffic the school generates is minimal compared to the robust rush-hour traffic passing on State Street in the mornings. We have a maximum of eighteen families in our program, several of which walk their children to school. There is an abundance of on-street, metered parking that parents usually use for approximately 10-minutes while they drop off their children between 9:00am and 9:30am. Pick-up times range between 12:00pm and 12:30pm and it has been our experience that there is no trouble finding a parking space during this period. Our use of public parking spaces is minimal compared to regular events that occur in the neighboring churches and is of a shorter duration.
2. *The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter;*
 - a. The school creates no outdoor waste. We do play in the courtyard in the mornings and at the end of our days, but our noise levels are well below that of the traffic traveling on State Street. Four adults are always present to monitor the play. Additionally, play is occurring inside the recessed courtyard that buffers sound in three of four directions.
3. *The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.*
 - a. The school receives no deliveries and we have a P.O. Box elsewhere in the city. We do not significantly impact the landscaping of the State Street Church's courtyard. As for waste, parents share the responsibility of taking home what small trash is created in the school to be disposed of in their residential garbage and recycling programs. We have no structures or materials that impede the surrounding uses in the area.

- *- Fence
- Wall
- - - lot lines

State Street Congregational Church

PLOT PLAN

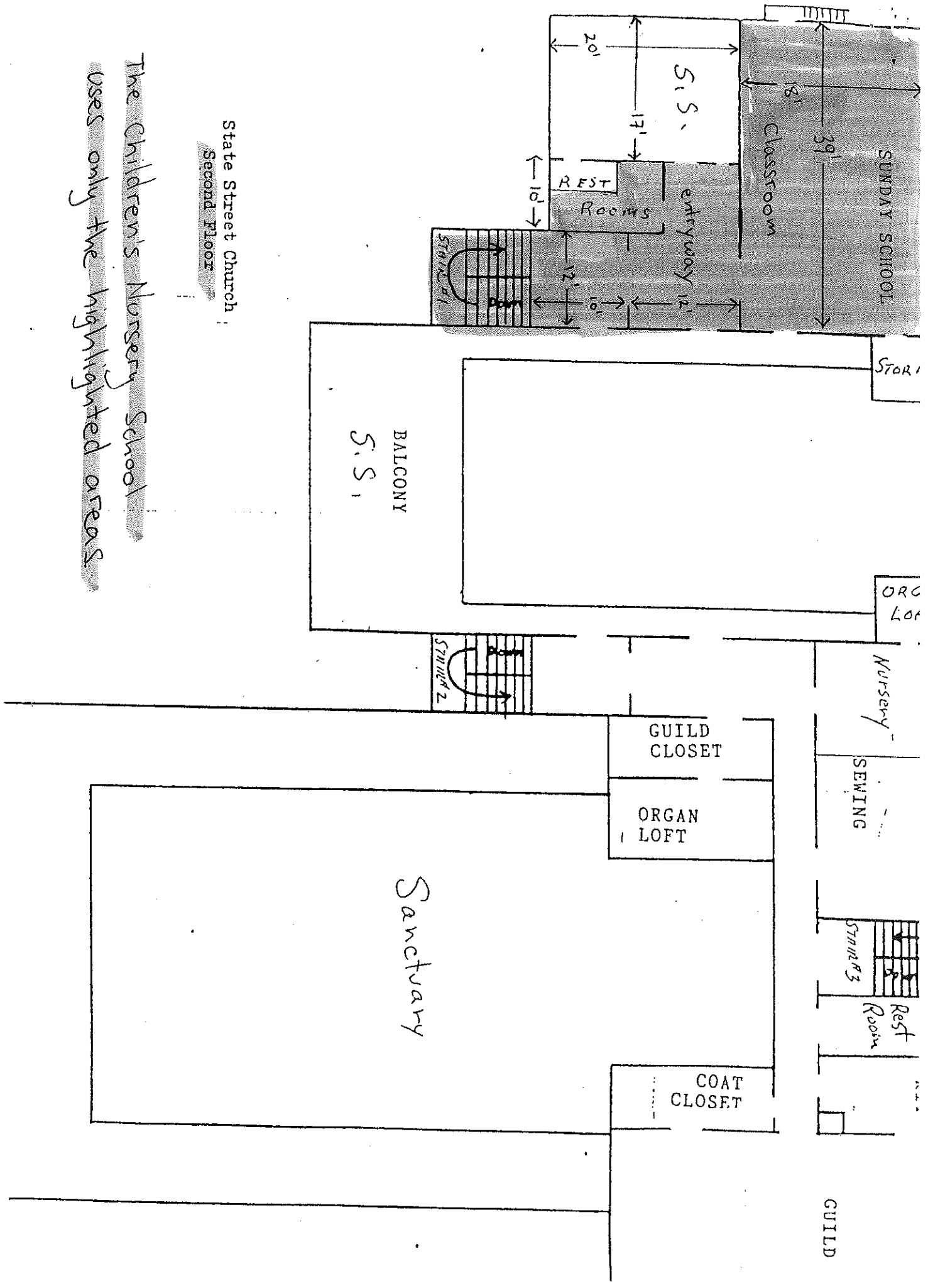
← State St. →



The Children's Nursery School
 uses only the highlighted areas

State Street Church
 Second Floor

FLOOR PLAN - 159 State Street

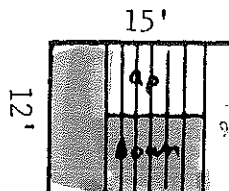


Arts Program Preparation Area
Storage Space
Rummage Sale
Fair

Room 22

5 Forum Programs
7 Reserve Church
School Space
Fair
Rummage Sale
Room 21

20' x 27'
580 sq ft



Stage
16' x 11'

Broadcast Room

Chapel

48 Fellowship Coffee Hours
12 Arts Programs
Annual Fair
Annual Meeting
Special Meeting
Rummage Sale

36 Communion Services
4 Weddings
1 Funeral
Small Chapel

Treasurer's Office

Church Office

40 Bible Study
9 Miss Mtg
Library
10 work
9 Peace com.
15 Small Groups

Ladies Room

Minister of Pastoral Care Office

Sr. Pastor's Office

Machine Room

29' x 21'

Sacristy

3 Meetings per month
Conference Room

Mens Room

State Street Church
First Floor

Church - State Street

76' from doors of narthex to bottom stair to chancel

Sanctuary
48 Sabbath services
Christmas Eve
Maundy Thursday
5 Weddings
5 Funerals

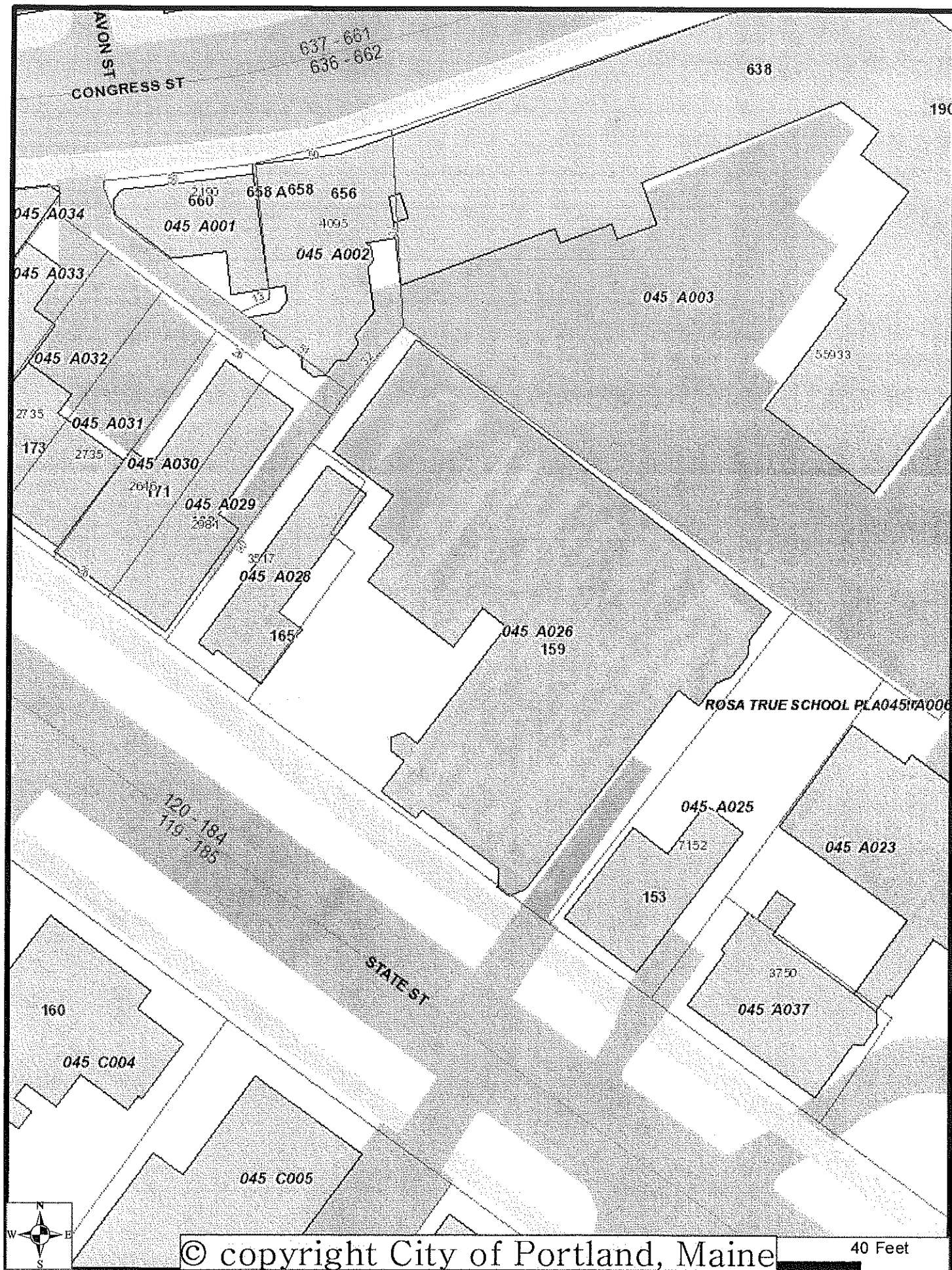
60' x 76'

44' x 12'

167'

48'

State Street Church
Basement



© copyright City of Portland, Maine

40 Feet

TAX MAP. 159 State Street

PHOTOS: 159 State Street



A view of 159 State St from across the street. The trees to the left of the church cover the courtyard.



A view from inside of the courtyard at 159 State Street looking out to State Street.

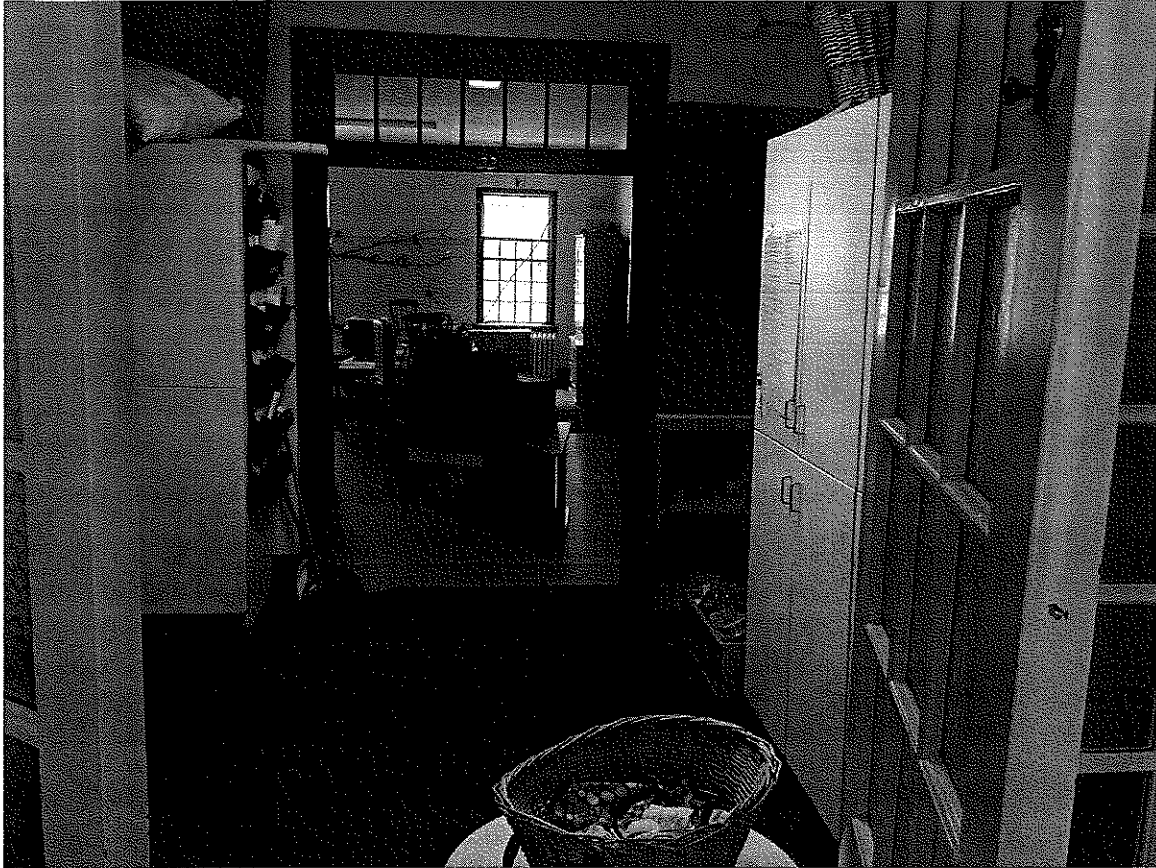


The entrance to 159 State Street that the Children's Nursery School uses.

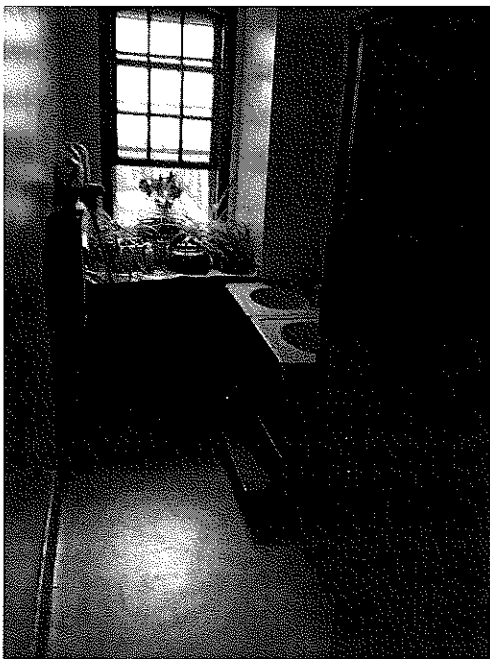


Inside the second-floor classroom at 159 State Street.

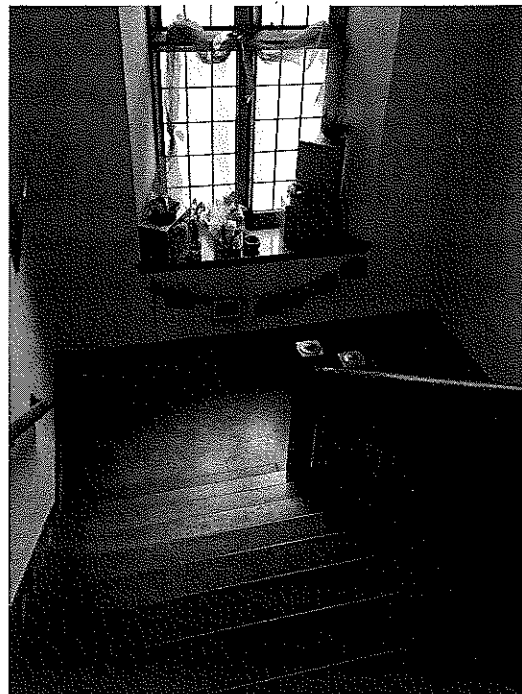
PHOTOS: 159 State Street



The entryway to the classroom on the second floor at 159 State Street.



Second-floor bathroom.



Staircase used by the school.

LEASE AGREEMENT

This Lease Agreement ("Lease") is entered into this 21st day of June, ~~2012~~ 2013, by and between **State Street Church United Church of Christ** ("Landlord"), a Maine not-for-profit corporation, having an office at 159 State Street, Portland, ME 04101, and **The Children's Nursery School** ("Tenant"), a Maine not-for-profit organization, with a mailing address of PO Box 8086, Portland, ME 04104.

WITNESSETH:

1. **Leased Premises.** For the rent and term and upon the terms, conditions, limitations and provisions hereinafter set forth, Landlord leases to Tenant and Tenant hires from Landlord a portion of the property owned by the Landlord located at 159 State Street in Portland, Maine, which portion is more particularly described on Schedule A attached hereto and made a part hereof.
2. **Term and Duration.** The term of this lease shall be twenty-four (24) months, commencing on July 1, 2013, and ending on June 30, 2015. Prior to the expiration date of the Lease, Tenant may extend the Lease for an additional two-year period, commencing on July 1, 2015, and extending to June 30, 2017, by providing the Landlord with prior written notice of its intention to extend said lease at least 90 days prior to expiration, at a rental rate to be determined by mutual agreement of the parties, but not less than the rate established in the second year of this lease.
3. **Rent and Additional Rent.** The Rent is payable in advance on the first day of each month to the Landlord at 159 State Street, Portland, ME 04101. Tenant agrees to pay the Landlord rent as follows:
 - Year one – July 1, 2013 to June 30, 2014, the Rent shall be **Nine Hundred Dollars (\$900) per month.**
 - Year two – July 1, 2014 to June 30, 2015, the Rent shall be **Nine Hundred Twenty-five Dollars (\$925) per month.**
4. **Taxes, Utilities, and Operating Expenses.** During the term of the lease, the Landlord agrees to pay:
 - a. The cost of all utilities, except telephone, used or consumed on the Premises, including, but not limited to, electricity, water, sewerage, and heat. The Landlord shall, at its expense, regularly maintain the heating, plumbing, and electrical systems so as to maintain the same in the condition they are in at the commencement of this Lease, reasonable wear and tear excepted. In the event that the heating, plumbing, or electrical systems need to be repaired or replaced, Landlord shall do so at its expense.
 - b. All operating expenses, which, for the purposes of this Lease, shall mean the following expenses: (1) premium expense for fire, casualty and liability coverage to cover the Landlord's property; (2) all costs of utility services; (3) all costs for common area cleaning; (4) all costs of maintaining the Building (as defined on Schedule A) including the operation and repair of heating equipment and any other common building equipment, roof repairs and all other repairs, improvements and replacements that are required by law or necessary to keep the building in a well maintained condition; (5) all cost of snow and ice removal and grounds care; (6) and all other costs of the management of the building.

5. **Repairs and Maintenance.**

- a. The Tenant shall keep and maintain the Classroom (as defined on Schedule A) in the same good order, condition and repair as at the commencement of the Lease (reasonable wear and tear and damage by fire, casualty, taking and other causes beyond the Tenant's control and damage caused by the Landlord excepted). Tenant shall maintain the Second Floor Bathroom (as defined on Schedule A) from Monday through Friday and shall supply such bathroom with a reasonable supply of toilet paper and paper towels. Tenant shall not store supplies in the common areas of the Building.
- b. The Landlord shall keep and maintain the Second Floor Bathroom during the weekends. The Landlord shall keep and maintain the Kitchen and Play Yard Area (as those terms are defined on Schedule A) and all hallways and common areas in the Building in the same good order, condition, and repair as at the commencement of the Lease (reasonable wear and tear and damage by fire, casualty, taking and other causes beyond the Landlord's control and damage caused by Tenant excepted). Except for the maintenance required by the Tenant as set forth above, the Landlord shall be responsible, at its costs and expense, for all maintenance and repairs to the Building and the structural components of the floors, walls, and roof of the Leased Premises. The Landlord shall maintain the Building in the same good order, condition, and repair as at the commencement of the Lease (reasonable wear and tear and damage by fire, casualty, taking and other causes beyond the Landlord's control and damage caused by the Tenant excepted).
- c. Tenant may not make any material alterations to the Leased Premises without the prior written consent of the Landlord, which consent shall not be unreasonably withheld, delayed or conditioned.
- d. In the event that the State of Maine requires modifications or repairs to the Building to maintain Tenant's license to operate a nursery school, the parties agree to work together in good faith to make reasonable modifications and repairs required by the State. If such modifications or repairs cannot be made at a reasonable cost, either the Tenant or the Landlord may terminate the Lease by giving the other party at least 30 days notice in writing of its intent to terminate the Lease.

6. **Access of Landlord.** The Landlord shall have access to the Leased Premises for the purpose of inspecting the same, or to perform any repairs or maintenance deemed necessary by the Landlord upon reasonable prior notice which, for purposes of the Lease, shall be deemed to be twenty-four (24) hours prior notice. The Landlord shall use its best efforts during any inspection or repair of the Leased Premises to minimize any disturbance to Tenant's use of the Premises. The Landlord reserves the right to enter the Leased Premises without the aforementioned prior notice in the case of necessary emergency repairs or inspection.
7. **Assignment and Subletting.** The Tenant agrees not to assign this Lease, in whole or in part, or sublet the Leased Premises, in whole or in part, or permit the same or any portion thereof to be used or occupied by others, nor shall this Lease be assigned or transferred by operation of law, without the prior written consent of the Landlord.

8. **Insurance.**

- a. The Landlord shall keep in full force and effect the following insurance policies: (1) a policy of general public liability insurance covering the building and the Play Yard Area containing limits of liability reasonable for the intended use of the Building, and (2) a policy against loss or damage by fire or other cause under one or more so-called "all risk" insurance policies. The Landlord agrees to deliver certificates of such insurance to Tenant at the beginning of the term of this Lease and thereafter at each renewal period of the insurance policies.
- b. The Tenant shall provide, at its expense, and throughout the term of this Lease, (1) a policy of general public liability covering all portions of the Building and Play Yard Area as shall be accessible to Tenant's employees, business invitees and guests, with liability limits of no less than \$1 Million per occurrence, (2) fire and extended coverage insurance in amounts sufficient to cover any and all losses which might be incurred through the damage or destruction of furniture, equipment and personal property not owned by the Landlord kept on the Leased Premises, and (3) such insurance policies as Tenant may be required to maintain in accordance with any licenses or permits necessary to operate a nursery school in the Lease Premises. The Landlord shall be named as an additional insured under such policies. Tenant agrees to deliver certificates of such insurance to the Landlord at the beginning of the term of this Lease and thereafter at each renewal of the insurance policies.

9. **Conduct of Business by Tenant.** The Tenant shall use the Leased Premises solely for the operation of a preschool facility and all associated uses, including but not limited to meetings, social gatherings related to the school, fund raising events, and the like.

10. **Governmental Regulations.** The Tenant shall faithfully observe in the use of the Leased Premises all municipal and county ordinances and state and federal statutes, rules and regulations now in force or which may hereafter be in force governing Tenant's use of the Premises. Should new regulations or statutes come into force related to the Tenant's use of the Premises, the Landlord shall make every reasonable attempt to be in compliance with said rules.

11. **Fire and Casualty.**

- a. If the Leased Premises or any part thereof shall be damaged or destroyed by fire or other casualty, either the Tenant or the Landlord may terminate the Lease by giving the other party at least 30 days notice in writing of its intent to terminate the Lease. In the event that the Lease is terminated in either manner as aforesaid, then the term hereby created shall be deemed to have been terminated as of the date of said damage.
- b. In the event that said Leased Premises are rendered untenable or partially untenable by reason of said fire or other casualty, then the rent herein reserved or a just proportionate part thereof according to the extent of the damage shall be abated until the premises shall have been put in proper condition.

12. **Default of the Tenant.** In the event of (1) any failure of the Tenant to pay any Rent due hereunder within fifteen (15) days after receipt of written notice of such default by the Landlord, or (2) any failure to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by the Tenant within thirty (30) days after receipt of written notice of such default by Landlord, or (3) if the Tenant, having commenced to cure a default within the thirty (30) day period which could not reasonably have been cured within said thirty (30) day period, shall fail to complete the curing of the default without reasonable delay (any of the foregoing shall be referred to as an "Event of Default"), the Landlord may, in addition to any other remedies provided at law or in equity or elsewhere provided in this Lease:

- a. Elect to terminate this Lease, and the tenancy hereby created, by giving notice of such election to Tenant, and may reenter the Leased Premises in accordance with applicable law, and may remove Tenant and all other persons (if Tenant is still in possession) and property from the Leased Premises (subject to Article 13 hereof), all in accordance with applicable law, and may store such property in a public warehouse or elsewhere at the cost of and for the account of the Tenant, all in accordance with applicable law.
- b. Exercise any other legal or equitable right or remedy which it may have under the laws of the State of Maine. The Landlord is obligated in the event of Tenant's default to mitigate its damages and shall use due diligence to secure a rental equal to the prevailing local rate for the Leased Premises concerned.

13. **Indemnity.**

- a. The Tenant hereby indemnifies and agrees to hold harmless the Landlord from and against all costs, expenses, claims, suits, proceedings, actions, causes of action, responsibility, liability, demands, judgments and executions incurred or occurring, without misconduct, negligence or bad faith on the part of the Landlord, which arise from or are in connection with any act, omission or obligation of Tenant relating to the use of the Leased Premises by Tenant or breach of a term hereof by Tenant. Tenant shall defend any claims, suits, proceedings, actions causes of action, responsibility, liability, demands, judgments and executions against Landlord with respect to the foregoing or in which Landlord may be impleaded without fault on its part.
- b. The Landlord hereby indemnifies and agrees to hold harmless the Tenant and its officers, directors, staff, invitees, guests and agents from and against all costs, expenses, claims, suits, proceedings, actions, causes of action, responsibility, liability, demands, judgments and executions incurred or occurring, without misconduct, negligence or bad faith on the part of the Tenant, which arise from or are in connection with any act, omission or obligation of Landlord relating to, including those pertaining to Landlord's possession, use (including but not limited to the Landlord's use of the Leased Premises for church related educational programs on Sundays), occupation management, repair, maintenance, ownership of control of the Building and the Leased Premises, or any breach of a terms hereof by the Landlord. Landlord shall defend any claims, suits, proceedings, actions causes of action, responsibility, liability, demands, judgments and executions against Tenant with respect to the foregoing or in which Landlord may be impleaded without fault on its part.

14. **Quiet Enjoyment** The Landlord agrees that as long as the Tenant faithfully performs the agreements, terms, covenants, and conditions of this Lease, Tenant shall peaceably and quietly have, hold, and enjoy the Leased Premises for the term hereby granted without disturbance by or from the Landlord or any one claiming by, through, or under the Landlord.

15. **Partial Invalidity.** If any term, covenant, condition, or provision of this Lease or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which this Lease is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.
16. **Written Notices.** Whenever under the terms of this Lease a written notice is required or whenever a written notice or communication is sent, the same shall be accomplished by Registered Mail, Return Receipt, postage prepaid, addressed to the address of the party set forth on the first page of this Lease Agreement or to such other address(es) as either of the parties above mentioned shall designate by written notice.
17. **Governing Law and Interpretation.** This Lease shall be construed in accordance with the law of the State of Maine. The Landlord and Tenant have both participated in the negotiation of the terms of this Lease and in the drafting of the terms hereof and the terms of this Lease shall not be construed against either party as the drafter thereof in any contest between Landlord and Tenant, or anyone claiming by, through or under them.
18. **Entire Agreement.** This writing is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein. This Lease can be modified only by a writing signed by the party against whom the modification is enforceable.
19. **Binding on Successors and Assigns.** Except at otherwise provided in this Lease, all covenants, agreements, provisions, and conditions of this Lease shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.
20. **Holdover.** If the Tenant or anyone claiming under the Tenant shall remain in possession of the Premises or any part thereof after the expiration of the term of this Lease without any agreement in writing between the Landlord and Tenant with respect thereto, such person or entity remaining in possession shall be deemed a tenant at will on a month to month basis, subject to the provisions of this Lease insofar as the same may be applicable to a tenancy at will.

21. **Personal Property.** For purposes of clarification and the avoidance of doubt the parties acknowledge that all personal property, except those delineated on Schedule A as part of the Leased Premises, located within the Classroom on the date of this Lease Agreement are the property of the Tenant and may be removed at the termination of this Lease Agreement provided that Tenant repairs any damage to the Premises caused by such removal.

(Remainder of page blank. Signature page and Schedule A follow.

In Witness Whereof, the Landlord and the Tenant have caused this Lease Agreement to be executed by a duly authorized representative as of the date set forth above.

Witness:

John Davis

John Davis

Landlord:

Camilla J. Barrantes
By: Camilla J. Barrantes
Its: Treasurer

Tenant:

Jeanne Swanton
By: JEANNE SWANTON
Its: CNS CO-CHAIR

SCHEDULE A

Leased Premises are defined as a portion of the church building ("Building") owned by the Landlord and located at 159 State Street in the City of Portland, together with the right to use the courtyard of the building (the "Play Yard Area"). Tenant has the following rights to use portions of the Building and the Play Yard Area.

- 1. Second Floor Large Classroom.** The Tenant shall have exclusive use of the Second Floor Large Classroom (the "Classroom") during the period from Monday through Friday each week. Tenant may use the Classroom on weekends with the prior consent of the church administrator. Tenant acknowledges that the Landlord intends to use the Classroom on Sunday mornings for church related educational programs. Landlord shall clean the Classroom after any such use and return it to the condition that existed prior to such use. Landlord acknowledges that its use of the Classroom for such purposes is at its own risk. Landlord expressly waives any claims against Tenant or its officers, directors, staff,, invitees, guests, or agents for any damages to persons or property arising out of or related to the Landlord's use of the Classroom and the Landlord's use of Tenant's personal property located within the Classroom.
- 2. Storage Cupboards:** The Tenant shall have exclusive use of the designated and labeled storage cupboards in the hall adjacent to the Classroom for seven days a week.
- 3. Play Yard Area and Play Equipment Storage:** The tenant shall have non-exclusive use of the Play Yard Area, due to the fact that this area leads to the two main entrances of the Building. The Tenant acknowledges that persons known and unknown to the Landlord may be present in or pass through that area at any time and agrees to take full responsibility for the supervision of persons related to their tenancy in the Play Yard Area. The Tenant acknowledges that certain church-related activities of the Landlord bring people into the Play Yard Area on a regular basis. The Tenant agrees to hold harmless the Landlord in accordance with Article 13 of this Lease Agreement. The Tenant shall have non-exclusive use of a mutually agreed upon storage area for playground equipment.
- 4. Second Floor Bathroom and Building Common Areas:** The Tenant shall have non-exclusive use of the Second Floor Bathroom and the Building common areas (hallways and stairs that provide access to leased space).
- 5. Kitchen and other spaces:** The tenant shall have the right to use the kitchen located on the first floor (the "Kitchen" and other spaces in the building from time to time with the prior consent of the church administrator. The Tenant shall clean the Kitchen or such other spaces as may be used after any use and return each space to the condition that existed prior to such use. The Landlord agrees to work with the Tenant to schedule the use of other spaces in the Building for special activities of the Tenant (including but not limited to fundraising activities and parent meetings). The Tenant acknowledges that the Landlord may set additional charges for such use and the Landlord agrees to make every reasonable effort to make such charges reasonable and to accommodate the requested activities of the Tenant. The Tenant recognizes that the Landlord has traditional periods of use of such spaces and that they may not always be available at times the Tenant requests.
- 6. Landlord's Use of Space Adjacent to Leased Premises:** The Landlord, as a church, may at any time schedule an important church related activity in the spaces adjacent to the Leased Premises. In the event of a funeral or other such activity that requires scheduling during Tenant's regular use as a nursery school, the Landlord shall notify the Tenant of such use and Tenant agrees to make reasonable accommodation to such activities in regards to the noise level of the Tenant's activities and the privacy of the Landlord's activity.

7. Access: The Landlord agrees to provide a limited number of keys and a numbered door code to personnel of the Tenant to allow the Tenant access to the Leased Premises at any time. Such unlimited access shall be limited to official representatives of the Tenant and not generally made available to all parents as a matter of course. Tenant acknowledges that broad access to the building raises security issues that could be detrimental to both Landlord and Tenant and agrees to work with the Landlord in a reasonable manner to address any security issues that may arise from the Tenant's access to the Building.

8. **Personal Property of the Landlord:** The following represents a complete list of those items of personal property of the Landlord that are included in with the Leased Premises. Changes to this list must be initialed by representatives of both parties and the Tenant agrees to maintain these items in a safe and prudent manner and to hold harmless the Landlord for use of these items in accordance with Article 13 of this Lease Agreement. Landlord expressly waives any claims against Tenant or its officers, directors, staff,, invitees, guests, or agents for any damages to persons or property arising out of or related to the Landlord's use of the Classroom and the Landlord's use of Landlord's personal property located within the Classroom.

Listing of Personal Property of the Landlord

STATE STREET CHURCH

United Church of Christ

159 State Street

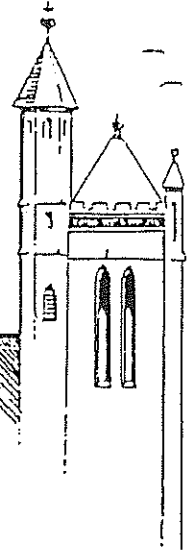
Portland, Maine 04101

Tel. (207) 774-6396

office@statestreetchurch.org

www.statestreetchurch.org

Rev. Jeanette A. Good, Ph.D., Pastor



June 14, 2014

Dan Brouillette
Children's Nursery School
159 State Street
Portland, ME 04101

Dear Mr. Brouillette:

State Street Congregational Church, United Church of Christ, owns the property at 159 State Street in Portland, Maine. As the owner, the Church hereby grants permission to the Children's Nursery School to represent the property in the process of obtaining a conditional use permit from the City of Portland for the nursery school.

The Church is happy to assist you in any way that we can to help the Children's Nursery School obtain this conditional use permit.

Sincerely,

A handwritten signature in cursive script that reads "Martha Mater".

Martha Mater
Co-chair, Board of Trustees
State Street Church

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



RECEIVED

CITY OF PORTLAND ZONING BOARD OF APPEALS JUN 30 2014
Conditional Use Appeal Application

Applicant Information:

Subject Property Information
Dept. of Building Inspections
City of Portland Maine

MARIE ADERSON
NAME
PORTLAND HOUSING DEVELOPMENT CORPORATION
DAYSIDE ANCHOR DEVELOPMENT CO, LLC
BUSINESS NAME

812 1/2 OXFORD ST
PROPERTY ADDRESS
MAP 22, BLOCK 1, LOTS 4 & 1
CHART/BLOCK/LOT (CBL)

14 BAXTER BOULEVARD
ADDRESS
PORTLAND, ME 04101
207. 773. 4753
TELEPHONE #

PROPERTY OWNER (if different)
SAME AS APPLICANT
NAME
ADDRESS

OWNER
APPLICANT'S RIGHT, TITLE OR INTEREST
(eg; owner, purchaser, etc)

R-7
CURRENT ZONING DESIGNATION

CONDITIONAL USE AUTHORIZED BY
SECTION 14 - 137

EXISTING USE OF PROPERTY:

VACANT / PARKING LOT

TYPE OF CONDITIONAL USE
PROPOSED:

NURSERY SCHOOL in
new Portland Housing Development
Corp. building

STANDARDS: Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

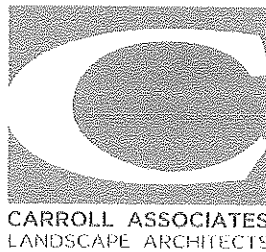
1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

[Signature]
SIGNATURE OF APPLICANT

6/30/2012
DATE



June 30, 2014

Ms. Marge Schmuckal, Zoning Administrator
City of Portland
389 Congress Street
Portland, ME 04101

RE: Bayside Anchor Conditional Use Application

Dear Marge,

On behalf of the Portland Housing Development Corporation and Bayside Anchor Development Company, LLC we are submitting an Application for Conditional Use related to the proposed Bayside Anchor Project located at 81 Oxford Street.

This project entails new construction of 45 residential apartments to be built on the corner of East Oxford and Boyd Streets, within the existing East Bayside campus owned and managed by the Portland Housing Corporation. The proposed building is also envisioned as a community focus for the neighborhood and will consolidate several existing community facilities, including the Head Start program, the local residential management offices for Portland Housing, and a neighborhood policing office. These three functions currently exist in the immediate neighborhood but are proposed to be relocated to this new facility.

The Application being submitted is specific to the Head Start program use, which is considered a nursery school and as such requires a Conditional Use Permit. The Opportunity Alliance (TOA) will lease approximately 1200 square feet of space from the Bayside Anchor Apartments LP to house their Head Start and Childcare programs for this area. The programs serve 4 and 5 years olds from low income families in the neighborhood. Head Start is a federally funded half-day morning early childhood education program during the school year. The TOA Childcare program serves the same children in the afternoon.

The Head Start and Childcare programs have been serving PHA residents in its current location on PHA property, 58 Boyd Street, since the early 1990's. It fills a tremendous need and has become an integral part of PHA's effort to promote and assist families to succeed and achieve self-sufficiency. PHA families are the priority for the program's annual recruitment and registration. If slots remain unfilled, other low income families from the neighborhood can take advantage of the program. The large majority of participants are Portland Housing Authority residents.

Head Start eligibility is based on household income. Approximately 90% of enrollees must come from households with incomes at or below the federal poverty line. Currently, 100% of the children in the East Bayside Head Start location are from households with incomes below the federal poverty line. No fees are charged to families with children in the Head Start program.

During the summer, when the Head Start and Childcare programs are inactive, the space is used for a variety of neighborhood services including the Summer Lunch Program operated by the Portland Housing Authority with funding from USDA and the Maine Dept. of Health and Human Service Summer Food Service Program. We anticipate this space will also be used for large community meetings and workshops.

The East Bayside Summer Lunch Program charges no fees pursuant to federal Summer Food Service Program (SFSP) rules that provides free meals that meet Federal nutrition guidelines to all children 18 years old and under in areas with significant concentrations of low-income children.

This application addresses the following Standards relating to Conditional Use:

1. *The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone*

Response: As indicated above, the Head Start Program has been operating on the East Bayside campus for over 20 years and serves an important segment of the East Bayside neighborhood. The majority of the children enrolled into the program are residents of the Portland Housing properties, and most walk to the current program location. We anticipate the same trend upon relocation to the Bayside Anchor building. Sidewalk improvements including curb bump-outs, new crosswalks, and a designated drop-off area on Boyd Street will provide a safe pedestrian area directly adjacent to the Head Start entrance for staff, students, and visitors.

2. *The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter.*

Response: The Head Start program is proposed to be located in the southwest corner of the new Bayside Anchor Building with direct access to Boyd Street and a secondary access onto the community terrace area located on the west side of the building. It is anticipated that the children will be taken on supervised trips to the existing playground located across Boyd Street adjacent to the Community Gardens. The current number of students will be maintained at approximately 15-20. We do not anticipate any unsanitary or harmful conditions created as a result of this use.

3. *The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.*

Response: The Head Start program currently exists approximately 500 feet west of the proposed Bayside Anchor project. Its relocation to this site provides a stronger sense of community, maintains easy accessibility from the entire East Bayside neighborhood, and integrates with the residential and community functions that will occur in the Bayside Anchor building. The location on the southwest corner of the building provides separation from other residential or community use. A safe, designated outdoor gathering space is proposed on the west side of the building. All storage, solid waste, and other impacts of the program will be integrated into the Bayside Anchor building program, which has interior trash and bicycle storage rooms. A designated drop off area adjacent to the entrance, new crosswalks, and widened sidewalks will provide safe and effective circulation and gathering for students as well as neighborhood residents.

Attached please find supporting plans and documents as required in the Application and a check for \$150.00 covering the Application and Processing fees. We feel strongly that the Application meets the Conditional Use requirements of the R-7 zone for Nursery Schools and look forward to meeting with the Zoning Board of Appeals to discuss the project in greater detail. Please do not hesitate to contact me if you have questions or need additional information.

With Regards,
CARROLL ASSOCIATES

A handwritten signature in black ink, appearing to read 'P. Carroll', with a long horizontal flourish extending to the right.

Patrick J. Carroll, Principal

CC: Mark Adelson, PHA
Brooks More, Avesta
Rick Knowland, City of Portland

OPTION TO PURCHASE AGREEMENT

THIS OPTION TO PURCHASE AGREEMENT dated this 16th day of July, 2013, is by and among PORTLAND HOUSING AUTHORITY, a Maine nonprofit corporation having a mailing address of 14 Baxter Boulevard, Portland, ME 04101 (the "Seller"), and PORTLAND HOUSING DEVELOPMENT CORPORATION, a Maine nonprofit corporation having a mailing address of 14 Baxter Boulevard, Portland, ME 04101 or its assigns ("Buyer").

RECITALS

WHEREAS, Seller is the owner of a certain parcel of land, and all improvements, buildings and fixtures presently on the real estate, at the corner of Boyd and Oxford Streets in the City of Portland, Maine and being a portion of its Bayside East Public Housing Project ME 003005, shown as the cross hatched parcel on the Boundary Survey and Lot Division attached hereto as Exhibit A (the "Premises"); and

WHEREAS, Seller wishes to grant to Buyer, and Buyer wishes to accept, an option to purchase (the "Option") with respect to the Premises upon the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Option Period; Extension; Exercise of Option. Seller hereby grants Buyer the option to purchase the Premises for a period extending through July 31, 2015 (the "Option Period").

- a. The Option and the obligation of each of the Seller and Buyer shall be conditional upon (i) approval by the United States Department of Housing and Urban Development ("HUD") of a demolition disposition by Portland Housing Authority in order to remove the Premises from the Declaration of Trust currently encumbering the real estate and authority to transfer the Premises to Buyer or its assigns, for the development of multi-family housing thereon; (ii) receipt of all required municipal and state approvals for the development of a mixed-income family housing project of approximately 42 units to be located on the Premises; and (iii) and an award of Low Income Housing Tax Credits for such development.
- b. Buyer may exercise the Option at any time during the Option Period by giving written notice to Seller of its intent to exercise the Option (the "Purchase Notice"). Notice delivered to Seller or sent to Seller by certified mail, return receipt requested, at the above address shall be sufficient.

2. Purchase Price. Subject to adjustment as set forth below, Buyer shall pay Seller a purchase price of Two Hundred Ninety Three Thousand Nine Hundred Fifty Dollars (\$293,950.00) (the "Purchase Price").

3. **Closing.** If Buyer exercises the Option, closing shall take place at a date and time and at a location agreed upon by the Buyer and the Seller, within ninety (90) days after the date of the Purchase Notice.

4. **Conditions to Sale.** If Buyer exercises the Option, the following terms and provisions shall apply:

- a. Title to the Premises shall be conveyed to Buyer by good and sufficient Warranty Deed, which deed shall convey good and clear record and marketable title to the Premises, free from encumbrances except provisions of existing building and zoning laws and any covenants and/or easements of record provided same do not interfere with Buyer's intended use of the Premises; such real estate taxes for the then current tax period which are not due and payable on the date of delivery of such deed; utility and access easements in common with Seller's adjoining developments, and any matters of record which in Buyer's opinion do not interfere with Buyer's plans to develop the property. Buyer shall notify Seller of any defects in title that would make Seller unable to give title to the Premises as herein stipulated. Seller shall be obligated to proceed in good faith to cure any such title defect(s). If required, the closing shall be extended to allow Seller time to cure any such title defects, but in no event shall the closing be extended more than thirty (30) days for such purposes. If a title defect exists, Buyer may elect, by written notice to Seller, either (i) to accept title to the Premises subject to any uncured defects in title or (ii) to terminate the Option, whereupon any extension fee(s) paid by Buyer to Seller shall be immediately refunded to Buyer, the obligations of all parties hereunder shall cease, and neither party shall have any claim against the other by reason of this Agreement.
- b. Each party shall pay one-half of the Maine state transfer tax.

5. **Representations.** Seller represents, covenants and warrants to and agrees with Buyer as follows:

- a. Seller is the current owner of the Premises, and; subject to approval by HUD, has the legal right, power and authority to enter into this Agreement and to perform all of its obligations hereunder, and the execution and delivery of this Agreement and the performance by Seller of the obligations hereunder will not conflict with, or result in breach of any regulation, order, judgment, injunction or decree of any court or governmental authority or any agreement or instrument to which Seller is a party or by which Seller is bound.
- b. There are no agreements or contracts affecting the Premises or any use of the Premises that would not be terminable at will by Buyer without penalty from and after the Closing, other than those for which Seller will be seeking

approval from HUD in connection with its demolition disposition application.

Buyer represents, covenants and warrants to Seller that Buyer has the legal right, power and authority to enter into this Agreement and to perform all of its obligations hereunder, and the execution and delivery of this Agreement and the performance by Buyer of its obligations hereunder: (i) have been duly authorized by all requisite action; and (ii) will not conflict with, or result in a breach of, any of the terms, covenants and provisions of the by-laws or articles of organization of Buyer or any law or any regulation, order, judgment, writ, injunction or decree of any court or governmental authority, or any agreement or instrument to which Buyer is a party or by which it is bound.

6. Notice. Whenever notice is given or required to be given by either of the parties hereto to the other, it shall be deemed to have been given if in writing and mailed by certified or registered mail, return receipt requested, postage prepaid, or hand delivered, addressed to the parties at the address set forth in the first paragraph above or to such other address(es) as either party shall have last designated by like notice in writing. All notices shall be effective upon hand delivery or mailing, whichever first occurs.

7. Further Assurances. The parties agree that up to and after the date of closing, they shall do such things and execute, acknowledge and deliver any and all additional instruments, documents and materials as either party may reasonably request to fully effectuate the purposes of this Agreement.

8. Buyer's Access. Buyer and others whom Buyer may designate shall have the right, at all reasonable times, at Buyer's sole cost and expense, risk and hazard, to enter upon the Premises to examine and/or show the same and make, or cause to be made, engineering studies with respect thereto, including, without limitation, surveying, conducting test borings in order to determine sub-soil conditions, and in general conducting all other tests, analysis and studies of the Premises which Buyer deems prudent in connection with Buyer's intended development or use of the Premises. Buyer shall restore the Premises following any testing as reasonably as possible to its pre-existing condition, unless otherwise agreed by Seller.

9. Construction of Agreement. This instrument, executed in duplicate, is to be construed as a Maine contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Seller and Buyer. The captions are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intent of the parties to it. Time is of the essence with respect to all dates set forth in this Agreement.

10. Risk of Loss. The risk of loss shall remain on Seller at all times until closing.

11. Assignment. Buyer may assign this Agreement to any party affiliated with Buyer on in which Buyer or an affiliate of Buyer has an interest.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER: PORTLAND HOUSING AUTHORITY

By: Mark Adelson
Mark Adelson
Its Executive Director

BUYER: PORTLAND HOUSING DEVELOPMENT CORPORATION

By: Mark Adelson
Its President

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

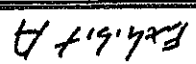
July 16, 2013

Personally appeared the above-named, Mark Adelson, Executive Director of Portland Housing Authority and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Portland Housing Authority.

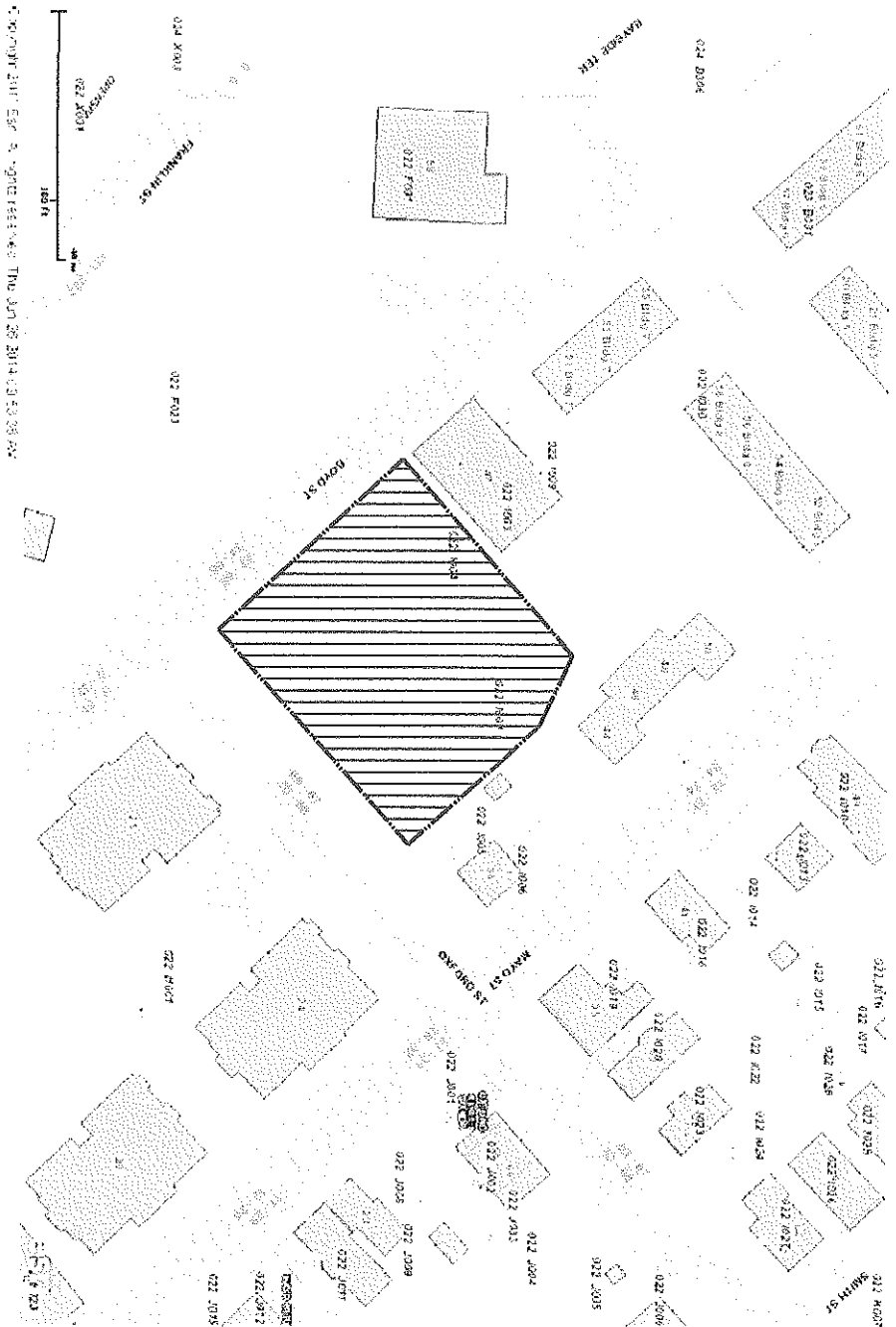
Before me,

Sharon E.B. Buffinton
Notary Public/Attorney at Law

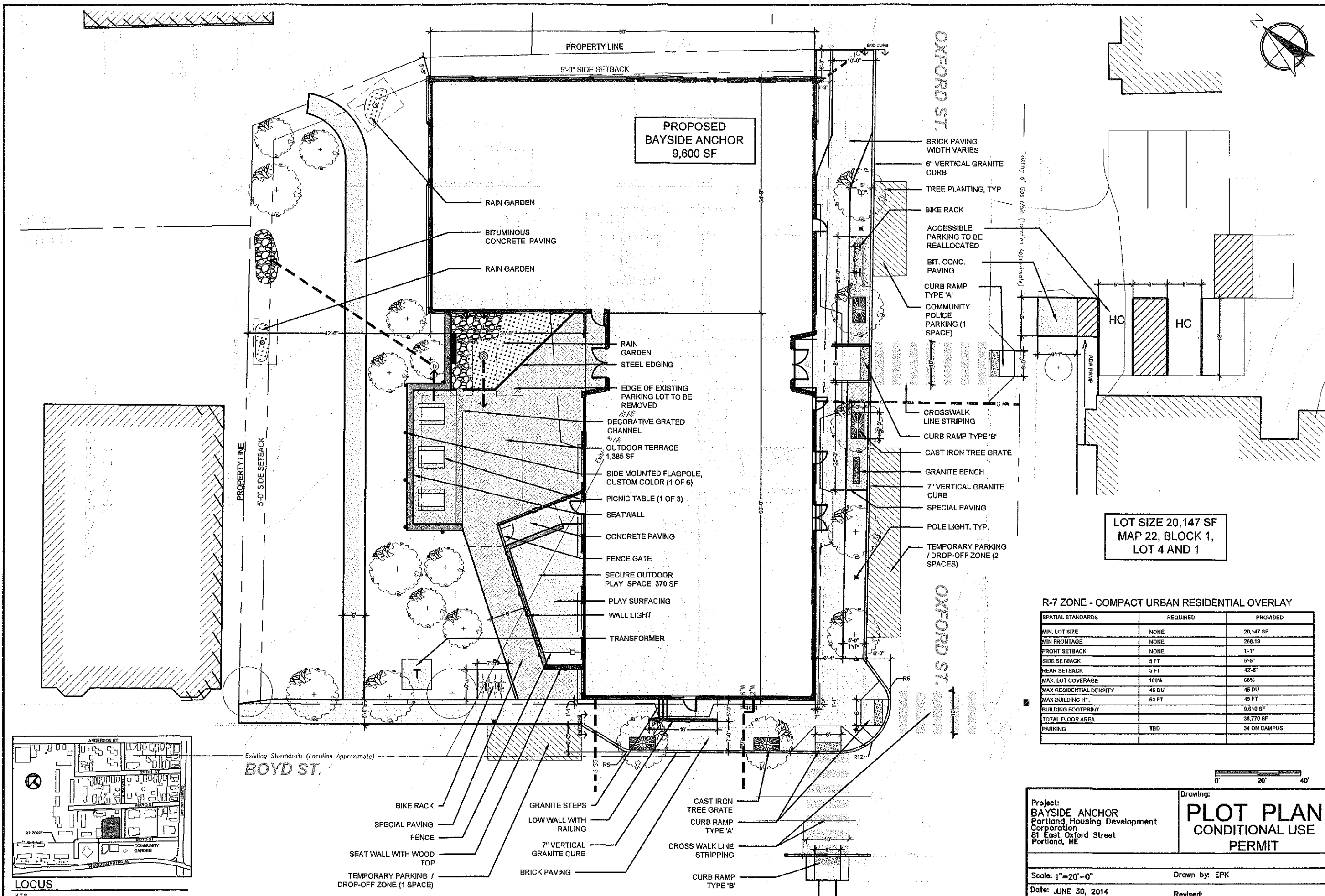
SHARON E.B. BUFFINTON
NOTARY PUBLIC OF MAINE
My Commission Expires February 28, 2019
Printed Name



My Map



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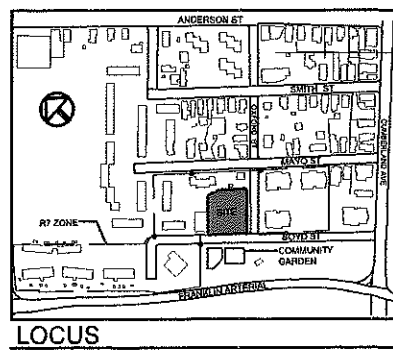


PROPOSED
BAYSIDE ANCHOR
9,600 SF

LOT SIZE 20,147 SF
MAP 22, BLOCK 1,
LOT 4 AND 1

R-7 ZONE - COMPACT URBAN RESIDENTIAL OVERLAY

SPATIAL STANDARDS	REQUIRED	PROVIDED
MIN. LOT SIZE	NONE	20,147 SF
MIN FRONTAGE	NONE	266.19
FRONT SETBACK	NONE	1'-1"
SIDE SETBACK	5 FT	5'-5"
REAR SETBACK	5 FT	42'-6"
MAX. LOT COVERAGE	100%	68%
MAX RESIDENTIAL DENSITY	46 DU	46 DU
MAX BUILDING HT.	50 FT	45 FT
BUILDING FOOTPRINT		9,610 SF
TOTAL FLOOR AREA		38,770 SF
PARKING	TBD	34 ON CAMPUS



Project:
BAYSIDE ANCHOR
Portland Housing Development
Corporation
81 East Oxford Street
Portland, ME

Scale: 1"=20'-0"
Date: JUNE 30, 2014

Drawing:
PLOT PLAN
CONDITIONAL USE
PERMIT

Drawn by: EPK
Revised:

- BIKE RACK
- SPECIAL PAVING
- FENCE
- SEAT WALL WITH WOOD TOP
- TEMPORARY PARKING / DROP-OFF ZONE (1 SPACE)
- GRANITE STEPS
- LOW WALL WITH RAILING
- 7" VERTICAL GRANITE CURB
- BRICK PAVING
- CAST IRON TREE GRATE
- CURB RAMP TYPE 'A'
- CROSS WALK LINE STRIPPING
- CURB RAMP TYPE 'B'

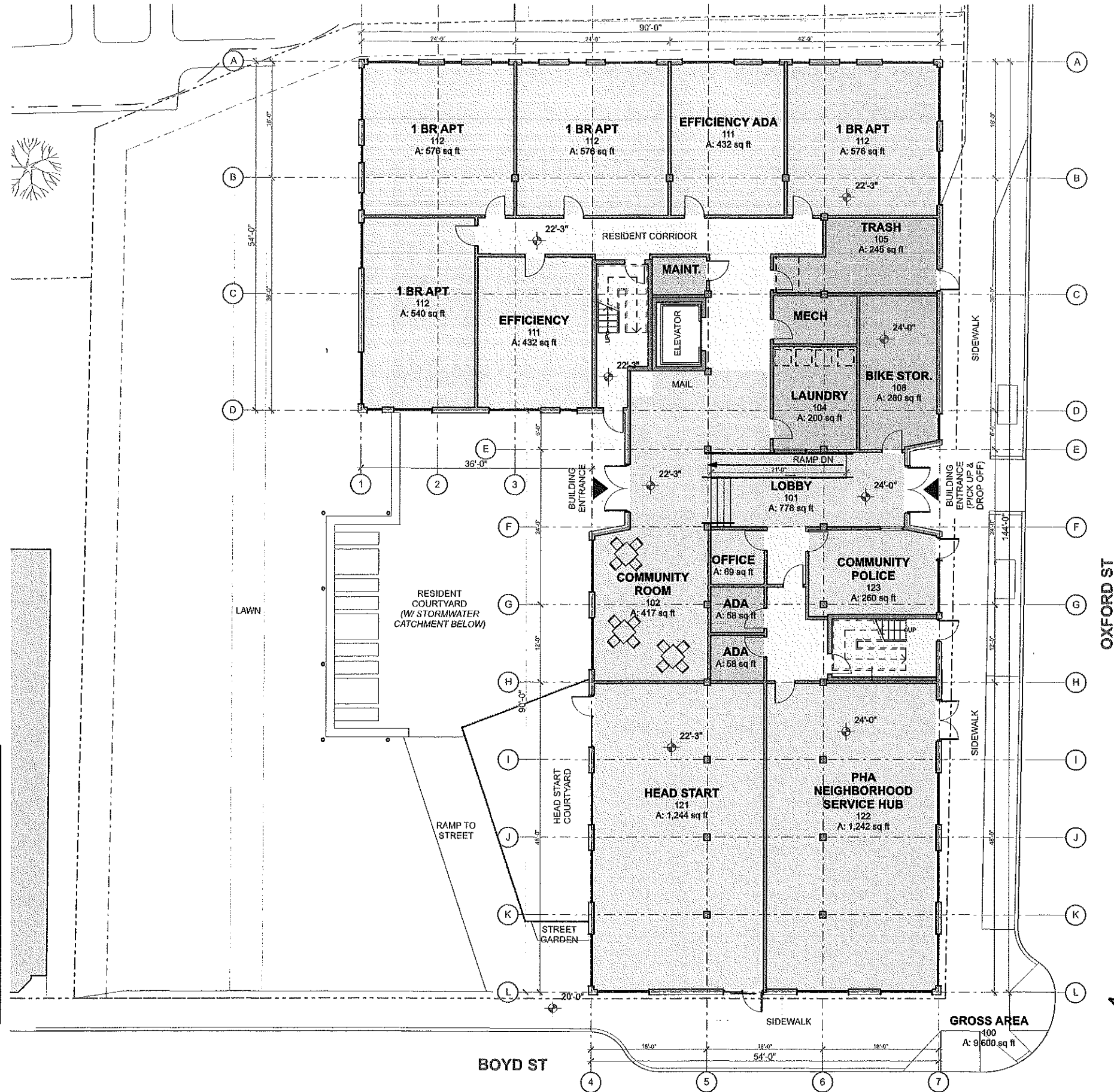
UNIT MIX: GROUND FLOOR	
Zone Category	Quantity
1 BR	4
EFFICIENCY	2
	6

UNIT MIX: TOTAL	
Zone Category	Quantity
1 BR	34
2 BR	6
EFFICIENCY	5
	45

UNIT MIX: TOTAL BUILDING		
Floor (Story)	Zone Category	Quantity
1st FLOOR	1 BR	4
1st FLOOR	EFFICIENCY	2
2nd FLOOR	1 BR	10
2nd FLOOR	2 BR	2
2nd FLOOR	EFFICIENCY	1
3rd FLOOR	1 BR	10
3rd FLOOR	2 BR	2
3rd FLOOR	EFFICIENCY	1
4th FLOOR	1 BR	10
4th FLOOR	2 BR	2
4th FLOOR	EFFICIENCY	1
		45

GROUND FLOOR PROGRAM			
ID	Zone Name	Area	Zone Category
100	GROSS AREA	9,592	GROSS AREA
101	LOBBY	778	CIRCULATION
102	COMMUNITY ROOM	413	COMMUNITY SERVICE FACILITY
103	OFFICE	89	COMMUNITY SERVICE FACILITY
104	LAUNDRY	205	UTILITY
105	TRASH	245	UTILITY
107	MAINT.	49	UTILITY
107	MECH	96	UTILITY
108	BIKE STOR.	283	UTILITY
109	ADA	58	UTILITY
109	ADA	58	UTILITY
111	EFFICIENCY	432	EFFICIENCY
111	EFFICIENCY ADA	432	EFFICIENCY
112	1 BR APT	540	1 BR
112	1 BR APT	576	1 BR
112	1 BR APT	576	1 BR
112	1 BR APT	576	1 BR
121	HEAD START	1,244	COMMUNITY SERVICE FACILITY
122	PHA NEIGHBORHOOD SERVICE HUB	1,242	COMMUNITY SERVICE FACILITY
123	COMMUNITY POLICE	260	COMMUNITY SERVICE FACILITY

2 BUILDING HEIGHT CALC
NOT TO SCALE



KAPLAN THOMPSON
ARCHITECTS
424 FORE ST., PORTLAND, ME 04101
207-842-2888 FAX 842-2828
jesse@kaplonthompson.com

CARROLL ASSOCIATES
LANDSCAPE ARCHITECTS
217 COMMERCIAL STREET, STE 200
PORTLAND, MAINE 04101
207.772.1552 V. F. 207.772.0112

BECKER
75 YORK ST.
PORTLAND, ME 04101
P: 207.879.1838
F: 207.879.1822

RANSOM
Consulting Engineers
and Scientists
400 COMMERCIAL ST.
SUITE 404
PORTLAND, ME 04101
P: 207.772.2891
F: 207.772.3248

1st FLOOR
SCALE: 1/8" = 1'-0"
PORTLAND HOUSING
DEVELOPMENT CORPORATION

14 BAXTER BLVD
PORTLAND, ME 04101
P: 207.773.4753
F: 207.774.6471

CONDITIONAL USE PERMIT

PROJECT:
BAYSIDE ANCHOR
PORTLAND HOUSING DEVELOPMENT
CORPORATION
81 EAST OXFORD STREET
PORTLAND, ME

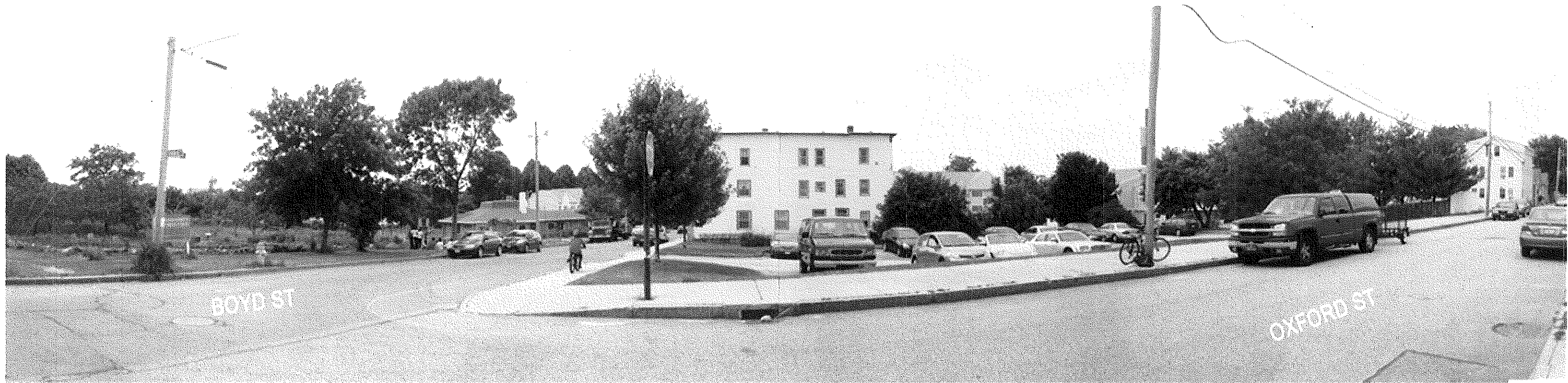
DRAWING: 1ST FLOOR PLAN

SCALE: DRAWN BY: JUT
DATE: JUNE 27, 2014 REVISED:

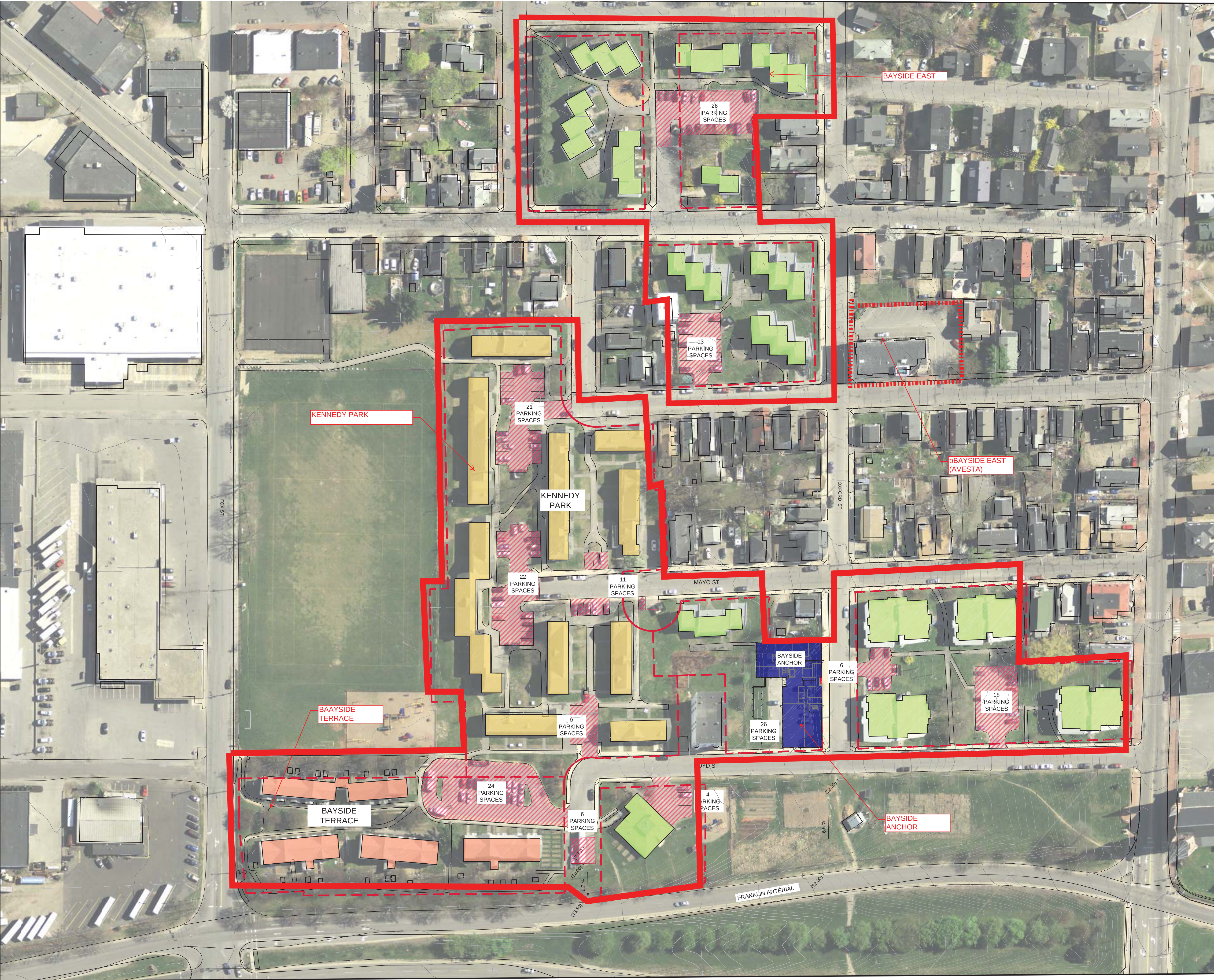
A-1.1



View of site from north east corner of property



View of site from the south at the intersection of Boyd and Oxford Streets



LEGEND	
	EXISTING PARKING
	KENNEDY PARK
	BAYSIDE TERRACE
	BAYSIDE EAST
	BAYSIDE ANCHOR
	PHA LAND HOLDINGS

PARKING COUNT	EX. DU	PROP. DU	EXISTING PARKING	PROPOSED PARKING
KENNEDY PARK	45	45	60	60
BAYSIDE TERRACE	24	24	30	30
BAYSIDE EAST	86	86	67	67
BAYSIDE E. OVERFLOW	/	/	26	0
BAYSIDE ANCHOR	0	46	0	0

TOTAL	155	201	183	157
-------	-----	-----	-----	-----

Cars / Units			1.18	0.78
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* Does not include on street parking

BAYSIDE ANCHOR

PHA PARKING COUNT

OXFORD STREET, PORTLAND MAINE

DATE: JANUARY 10, 2014 BY: CARROLL ASSOCIATES

0'

60'

120'