



Commission Members: Chair Pat Bailey, Vice Chair Steve Morgenstein, Andrew Butcher, Jennifer Fox, Jon Kachmar, Kara Wooldrik, Simon Rucker, and Mayor Kate Snyder

City of Portland
Land Bank Commission Agenda
December 9, 2020

5:00 PM

On Wednesday at 5:00 pm, the Portland Land Bank Commission will conduct a virtual meeting using emergency legislation approved by LD 2167; 1 M.R.S. §403 A, that authorizes cities and towns to conduct meetings online. This meeting will be conducted remotely using Zoom.

Please use the link below to join the webinar:

<https://zoom.us/j/96886489329>

Or Telephone:

US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782

Webinar ID: 968 8648 9329

- I. Citizen Comment Period
- II. Agenda Items
 - i. Acceptance of Meeting Minutes: Oct 14, 2020
 - ii. New Business
 - a. Treasurer Report - 2021 Budget
 - b. Secretary Report - 2020 Draft Annual Report
 - c. 46 Western Prom License Agreement
 - d. Rand Rd
 - e. Riverton Trolley Park
 - f. Redlon Woods
 - g. Canco Rd Parcels 160 E014 & 160 E015
 - h. Tax-Acquired Property List
 - i. 1831 Washington Ave
 - iii. Communications/Updates

The Land Bank Commission is responsible for identifying and protecting open space resources within the City of Portland. The commission seeks to preserve a balance between development and conservation of open space important for wildlife, ecological, environmental, scenic or outdoor recreational values.



- a. Commission Vacancies
- b. Parks Commission Report
- c. Parks Division Report

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landbank@portlandmaine.gov



In attendance: Commission Members: Chair Pat Bailey, Vice Chair Steve Morgenstein, Kara Wooldrik, Jennifer Fox, Jon Kachmar, Simon Rucker, and Andrew Butcher. City Staff: Doug Roncarati, Ethan Hipple and Mike Murray.

City of Portland
Land Bank Commission Minutes
October 14, 2020, 5:00 PM

On Wednesday, October 14, 2020, at 5:00 pm, the Portland Land Bank Commission conducted a virtual meeting using emergency legislation approved by LD 2167; 1 M.R.S. §403A, that authorizes cities and towns to conduct meetings online. This meeting was conducted remotely using Zoom.

I. Citizen Comment Period

No comments

II. Agenda Items

i. Acceptance of Meeting Minutes

Simon motioned to accept the meeting minutes of August and September. Jon seconded. Motion passed unanimously.

ii. New Business

a. Vote to Change Meeting Time

Andrew motioned to change Land Bank Commission meetings back to 5:00 pm on the second Wednesday of the month. Simon seconded. The motion passed unanimously.

iii. Communications/Updates

Andrew announced that his 3 year term has concluded and he is not able to continue serving on the commission past the end of the year. Kara suggested creating a list of qualifications to help with the process of filling vacancies.

a. Secretary Report

No report

b. Treasurer Report

The most recent report is from August which included an expenditure for the commercial appraisal of the Rand Rd property. The commission requested that the chair and treasurer be notified and asked for approval by email as project expenses arise in the future.

c. Parks Commission Report

No report

d. Parks Division Report

Mike Murray will be taking over for Ethan as the Parks, Recreation, and Facilities department representative on the Commission.

iv. High Priority Parcels

a. Riverton Trolley Park

Some concerns were raised as to whether this property is worth pursuing at this time, but the commissioners came to a consensus that Jon should continue with the due diligence process. Jon is reaching out to Greg Mitchell to get guidance from the city as to whether this property is suitable for economic development/affordable housing purposes.

b. PATHS Adjacent Property: 349D6

Pat shared that she had a conversation with the owner and he was not interested in selling at less than market value.

c. Rand Road

The purchase contract is being revised to add language stating that the property will be preserved as open space. Kara raised concerns regarding a recently discovered access road used by CMP to complete maintenance work on their utility poles. The access road seems to cross land owned by the state, city, and possibly Portland Trails. Pat plans to reach out to Avangrid about the lack of notification.

To: Portland Land Bank Commission

From: Tom and Carol Zack



Re: Encroachment License

Date: 4 December 2020

Dear Commissioners:

We are seeking your approval for an encroachment license to allow future owners of 46 Western Promenade to use a driveway to the left of the house that is partially on city land.

The driveway was created before we purchased the property in 1979. We speculate that perhaps the owner who built the driveway did not know the exact boundary at the time. But in fact, there was not enough property there to build a driveway without encroaching on city land.

The license incorporates comments made at the September Parks and Recreation Commission meeting as well as suggestions made by city officials. The agreement was approved by the Parks and Recreation Commission in its November meeting.

The major elements of this agreement are as follows:

1. Envelope of the Encroachment: The amount of park land required is approximately 442 SF. It is a "trapezoidal shaped" parcel consisting of ~279 SF of driveway and 163 SF of flower bed/retaining wall.
2. Compensation: The owner of 46 Western Promenade will make a one-time up-front payment of \$20,000 for the license.
3. Term: The term of the license is 20 years from the date of signing the agreement.
4. At the 20-year mark, the city has the right to terminate the agreement or renew it.

In reaching this agreement we believe that it is a win-win for both parties. The city receives \$20,000 in advance to possibly help fund park projects on the West End. The city will incur no expenses through the license period as the owner of 46 Western Promenade must maintain the driveway and insure it. As well, the city keeps ownership of the land and can either terminate or renew the license after the 20-year period.

We hope this commission sees the merits of this proposal and can approve it.

**CITY OF PORTLAND, MAINE
ENCROACHMENT LICENSE**

THIS LICENSE AGREEMENT ("License") is made this ____ day of _____, 2020, by and between the **CITY OF PORTLAND**, a body politic and corporate located in the County of Cumberland, State of Maine (hereinafter referred to as the "City"), and **Thomas A. Zack** and **Carol S. Zack**, owners of real property located at _____, Portland, Maine (the "Property") with a mailing address of 84 Eastern Promenade, Portland, Maine 04101 (hereinafter referred to together as the "Licensee").

RECITALS

WHEREAS, Licensee is the owner of the Property, which is more particularly described in the legal description attached as Exhibit A, hereto; and

WHEREAS, Licensee maintains certain improvements consisting of a paved parking area, flower bed, and retaining wall (the "Encroachment") which encroaches into/over real property owned by the City, as depicted on the plan attached hereto as Exhibit B and incorporated herein by reference (the "Plan"); and

WHEREAS, the area occupied by said Encroachment is referred to herein as the "Licensed Area"; and

WHEREAS, the City will, in consideration of the payment of \$20,000, the receipt whereof the City acknowledges, allow the Encroachment to encroach into the Licensed Area under the terms and conditions set forth in this License unless sooner terminated as outlined herein.

NOW, THEREFORE, the City and Licensee do mutually agree as follows:

1. Licensee is hereby permitted to maintain, repair and replace the Encroachment within the Licensed Area and to use areas adjacent thereto for workers, materials and machinery necessary to maintain the Encroachment over the Licensed Area as shown on the Plan.
3. Term: The term of this License is twenty (20) years, beginning as of January 1, 2021 and continuing through December 31, 2041, unless sooner terminated as provided herein. Upon the expiration of the Term, this License shall no longer be of any force or effect and Licensee, its successors or assigns, shall cease any use or occupancy of the licensed area except as otherwise authorized by the City.
4. Fees: The fee for this License is Twenty Thousand Dollars (\$20,000.00), which shall be payable in full upon execution hereof.
5. Maintenance: Maintenance of the Premises shall be the sole responsibility of Licensee.

6. Street Access: Street access to the Premises is limited to the existing curb cut on Western Promenade and Licensee's abutting property.
7. Compliance with laws: Licensee agrees to comply with all applicable laws and regulations in its operations hereunder, including but not limited to all applicable federal, state and local environmental law and regulations, including without limitation all laws and regulations governing hazardous substances. Licensee further understands and agrees that it must obtain at its own cost any permits and licenses required for its use of the Premises.

Licensee further agrees to provide to the City, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of Licensee under environmental laws, or which seek civil, criminal or punitive penalties from Licensee for an alleged violation of environmental laws.

8. Removal of Unauthorized Encroachments: Removal of Encroachments: As a condition of this License, Licensee agrees to remove, within 3 months after this License is fully executed, all their personal property located on the real property of the City which is not covered by this License, including, but not limited to, Licensee's shed.
9. Indemnification. To the fullest extent permitted by law, Licensee shall defend, indemnify and hold City, its officers, agents and employees, harmless at all times from any claims, liability, losses, costs, expenses (including, without limitation, reasonable attorney's fees) fines, damages or judgments, just or unjust, that arise out of or result from the activities hereunder (collectively, "Claims"), said Claims to include, without limitation, claims for personal injury, death, or property damage, including injury or damage to City employees or property, whether caused by the acts or omissions of the Licensee, the Licensee's guests, City, its agents, officers or employees, and including claims based upon violation of any environmental law or regulation governing hazardous substances. Licensee's obligations under this paragraph shall survive the termination of this License.
10. Release. Licensee hereby releases City and its officers, agents and personnel (collectively, the "Releasees") from any and all claims, liabilities, damages, losses, costs, fees and expenses arising out of or resulting, directly or indirectly, from Licensee's use of the Licensed Area, including, without limitation, injuries, losses and damages for bodily injury (including disability or death) and property damage, regardless of cause, including any and all claims, damages and liabilities that arise out of or result from any actions or omissions, including negligence, on the part of any of the Releasees. Licensee promises not to sue any of the Releasees with respect to any such claims or liabilities. This waiver and release is intended to be as broad as the law allows and shall survive termination of this agreement.
11. Insurance. Prior to the execution of this Agreement, Licensee will procure and maintain occurrence-based Automobile Liability Insurance and Commercial General Liability Insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, naming City as additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law. With respect to the Automobile and Commercial General Liability

Insurance, the Licensee shall name City as an additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to City under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. Prior to execution of this Agreement, the Licensee shall furnish and City and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days; notice to City of termination of insurance from the insurance provider or agent. Licensee shall also provide a copy of any endorsement naming City as additional insured. A certificate that merely has a box checked under "Addl Insr.," or the like, or that merely states that and City of Portland is named as an Additional Insured, will not be acceptable. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees. Upon City's request, Licensee shall provide City with a complete copy of any of the above-referenced policies. Licensee shall be responsible for any and all deductibles and/or self-insured retentions. Licensee shall also require its contractors using the Licensed Area to provide City with certificates evidencing the coverages set forth above. City's acceptance or lack of acceptance of Licensee's Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the Licensee's obligation to obtain and maintain such insurance as required by this agreement.

All insurance policies hereunder shall be primary to any insurance, or self-insurance, maintained by the City. Policies and certificates evidencing such policies shall be delivered to the City. The City shall be provided with no less than thirty (30) days' prior notice of cancellation or non-renewal.

12. Termination: The City of Portland may revoke this license prior to the expiration of the Term, upon an uncured Event of Revocation (as defined below). The City may revoke this License six (6) months after written notice to Licensee that an Event of Revocation has occurred and identifying such Event of Revocation, provided that such Event of Revocation is not cured within six (6) months after Licensee's receipt of such notice, except as set forth in subsection (d) below. "Event of Revocation" shall mean: (a) Licensee's non-compliance with any of the material terms of this Agreement; (b) the Encroachment fails to be maintained substantially in accordance with the Plan or any amendments thereto; (c) the Encroachment as shown on the Plan is destroyed, removed or otherwise thereafter ceases to exist on Licensee's property and construction to rebuild the Encroachment has not begun within twelve (12) months of said destruction or removal, or (d) failure to maintain insurance as required under Section 11 above, and such failure is not remedied within thirty (30) days after written notice thereof from the City to Licensee.
13. License: This instrument is a License and no provision hereof shall be construed as conveying an easement or other estate in land.
14. Assignment: This License may not be transferred or assigned except together with the conveyance of the Licensees' property. Licensee and Licensees' successors and/or assigns shall provide notification to the City at least 30 days prior to any such transfer. Any deed conveying the Licensee's Property shall contain the following language:

"Grantee, by acceptance and recording of this deed acknowledges receipt of the City of Portland Maine License Agreement with Thomas A. Zack and Carol S. Zack dated _____, 2020 and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "License") and further acknowledges the City's rights including, but not limited to its rights of termination and obligation of Grantee to remove improvements, all as more fully expressed in the License."

Any Grantee/Assignee of this License shall submit proof of insurance as required under Paragraph 11 to the City within 30 days of the closing on the transfer of Licensee's Property . Failure to submit proof of insurance as required herein will result in the immediate termination of this License.

15. Amendment: This License shall be amended only in writing executed by the parties.

The parties have hereunto executed this License, in the case of the City, through its duly authorized representative, as of the day and date first above written.

CITY OF PORTLAND, MAINE

By: _____
Jon P. Jennings,
City Manager

STATE OF MAINE
County of Cumberland

_____, 220__

Personally appeared before me the above-named Jon P. Jennings, City Manager of the City of Portland as aforesaid, and acknowledged the foregoing instrument is his free act and deed in his said capacity and the free act and deed of the City of Portland.

Notary Public/Attorney-At-Law

Typed or Printed Name: _____

Commission Expires: _____

Thomas A. Zack

Carol S. Zack

STATE OF MAINE
County of Cumberland

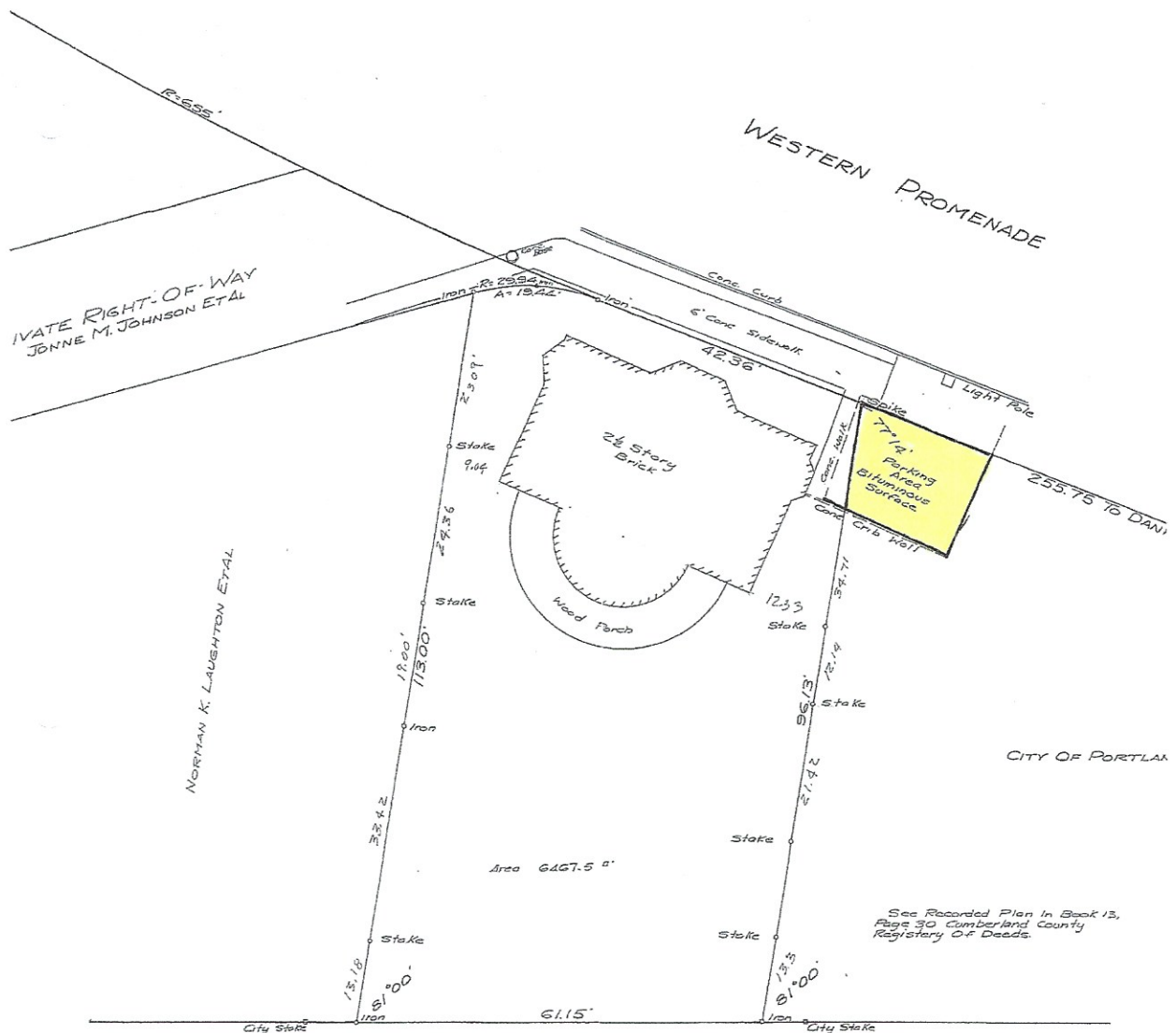
_____, 220_

Personally appeared before me the above-named Thomas A. Zack and Carol S. Zack, and acknowledged the foregoing instrument is their free act and deed.

Notary Public/Attorney-At-Law

Typed or Printed Name:

Commission Expires:

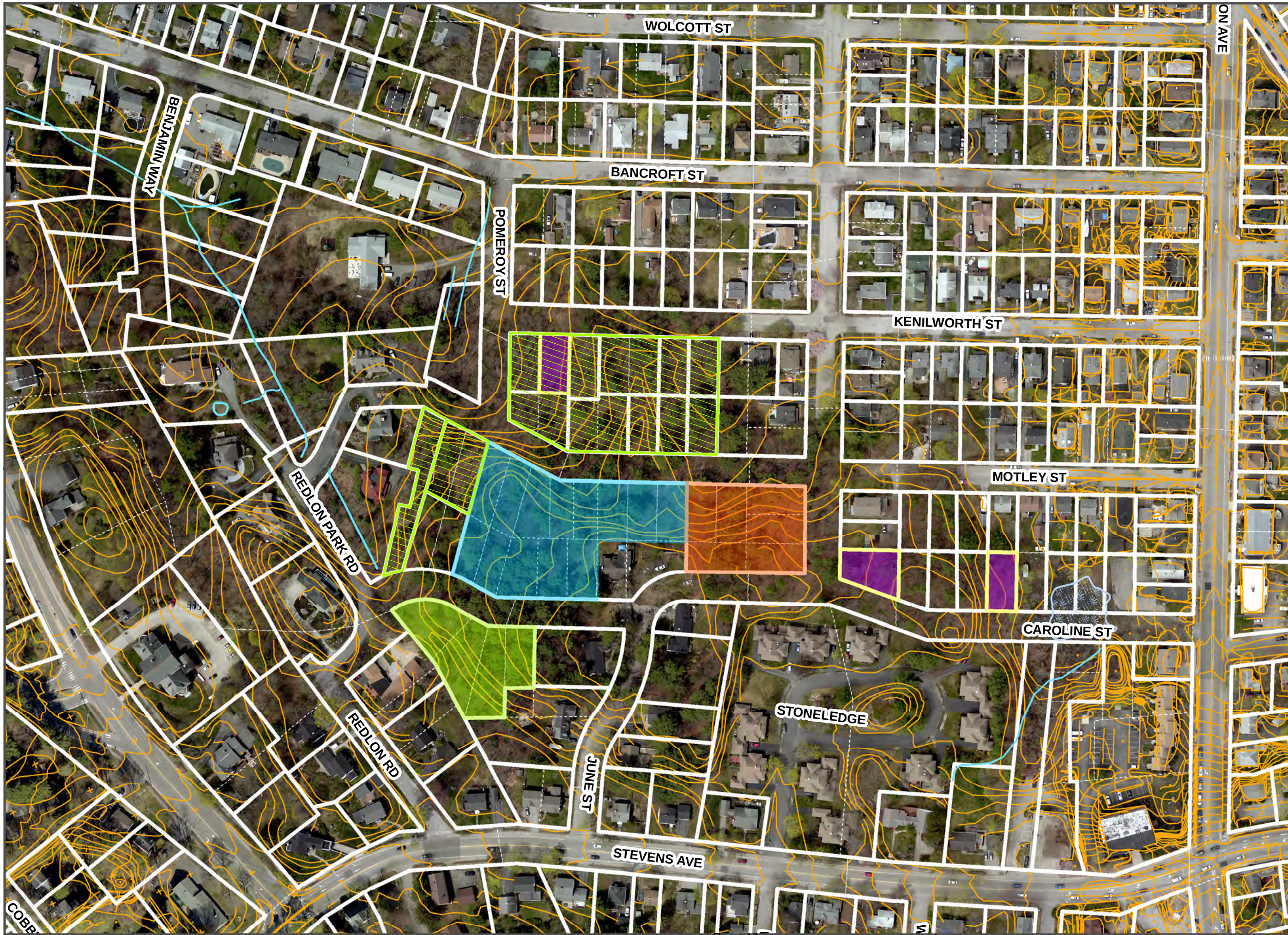


DANFORTH STREET

EXHIBIT A.



EXHIBIT B



CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, SUITE B
PORTLAND, MAINE 04103
PHONE (207) 874-8801

LEGEND

- Redlon Woods Phase1
- Taylor
- Berry2
- Berry1
- City-owned

Drainage

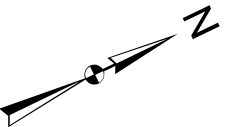
- Brook
- Ditch or Brook

Water Bodies

- swamp
- Countour Lines

Redlon Woods Area

Note: Drainage & Water Bodies were derived from aerial imagery, not survey or wetland delineation. They are an indicator of potential water features only.



January 7, 2020

DESIGN BY: DAR	DRAWN BY: DAR	CHECK BY: XXX



Canco Woods

Portland Assisted Living LLC



RIVERSIDE
GOLF
COURSE

MAINE TURNPIKE I-95

EXIT 9

VERIZON PINES

STONECREST DR

LESTER DR

RIVERSIDE ST

WASHINGTON AVE

PARCEL AT 1831
WASHINGTON AVE

QUAKER LN

LAND
WASH

PARCELS AT 410 AUBURN ST AND 1831 WASHINGTON AVENUE

Aerial Photographs
Taken Spring 2001
Parcel Data Created
April 2004

-  Auburn & Washington Street Parcels
-  Land Bank Interests
-  City Parks & Open Space

100 0 100 200 300 400 500 Feet





CITY OF PORTLAND
Parks, Recreation & Facilities Department
Ethan Hipple, Director

CITY OF PORTLAND
Parks, Recreation & Facilities Department
Alex Marshall, Parks Director

Memorandum

TO: Parks Commission and Land Bank Commission
FROM: Alex Marshall, Parks Director, Parks, Recreation and Facilities Department
SUBJECT: Parks Division Update
DATE: December 2020

Parks Division Staffing

Playgrounds Technician
Athletic Facilities Maintenance Worker

Portland YouthCorps

Through partnerships with the Portland Parks Conservancy and the Maine Audubon, we are starting a YouthCorps program in January with an AmeriCorps Leader who will develop and implement the program. The program will consist of two 4 week sessions with 12 teenagers in each session. Projects will include, but are not limited to, trail improvements, invasive removal, bridge repair and arboriculture work.

Monument Square Christmas Tree

After weeks of coming up empty on the search for a Monument Square Christmas Tree, it was the wind event on November 2nd that exposed a potential candidate to our Forestry Supervisor while removing storm debris nearby. After leaving contact information, we received notice that the homeowner would be delighted to donate the tree to the City. There is a truly touching story about this particular tree that can be found here:

https://edition.pagesuite.com/popovers/dynamic_article_popover.aspx?artguid=761d7d2c-2864-46ac-bd61-1c057878371d&appid=3533

COVID Update

The Maine CDC has sent down new guidelines pertaining to sports and wearing masks. This change has shut down most sports until December 7th and resulted in us closing all of our fields and not accepting any rentals. These changes have also affected Troubh Ice Arena and community organized hockey.

Lincoln Park Fence

Staff are currently preparing a contract with Conservator Jonathan Taggart to begin the restoration of the Congress Street fence at Lincoln Park. This will be a phased project, and it is anticipated that the first phase will be completed by early summer of 2021.



CITY OF PORTLAND
Parks, Recreation & Facilities Department
Ethan Hipple, Director

CITY OF PORTLAND
Parks, Recreation & Facilities Department
Alex Marshall, Parks Director

Park Projects and Department Updates

Staff are working on the following Park Improvement projects:

- Dougherty Field Playground: The selection committee is meeting shortly to review the proposals for design and equipment only. The work and installation will be in the next phase
- Park Walkway improvements: Eastern Prom and Deering Oaks walkway improvements will be sent out as a combined bid to be executed in the Spring/Summer of 2021.
- Futsal Court at Fox Field: Construction has begun and final work to be completed in the Spring of 2021
- Baxter Woods Improvements: Relocation of the fence perimeter trail and renovation of the outdoor classroom space is in progress. Resurfacing the main carriage path is next on the list. The Contractor for the condo units will also be adding additional plantings near Stevens Avenue (a handful of red pines have been planted), replacing the current chain link fence, removing some invasive species, and re-establishing the historic tree allee
- Fitzpatrick Drainage Improvements: Drawings are complete. We will advertise an RFP this Winter for a Spring construction
- Riverton Basketball Court Reconstruction: We have initial sketches of the new design. Looking to have a complete drawing done over the winter for a 2021 build.
- Franklin Meadow: Wildflower seed has been spread and the area has been hydromulched for protection over the winter
- Decrepit chain link fence around the Boyd Street Garden is being removed and connectivity trail improvements are being made.
-