

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

SPECIAL CITY COUNCIL MEETING - AUGUST 23, 2021 AT 5:00 PM

The Portland City Council will hold a City Council Meeting remotely using Zoom. The Honorable Kate Snyder, Mayor, will preside.

To submit written public comment on an agenda item, email publiccomment@portlandmaine.gov. Submissions must be received by 12:00 pm the day of the Council meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the order number (see below).

ZOOM INFORMATION:

Due to the existence of an emergency or urgent issue the City Council will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403-B and the City Council's Remote Participation Policy.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84373419880?pwd=WS9rZjU3aGdSUUQxcjZRRmlVWWRSZz09>

Passcode: 956179

Or One tap mobile :

US: +19292056099,,84373419880#,,,,*956179# or +13017158592,,84373419880#,,,,*956179#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 843 7341 9880

Passcode: 956179

International numbers available: <https://us02web.zoom.us/j/84373419880?pwd=WS9rZjU3aGdSUUQxcjZRRmlVWWRSZz09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

City Manager Jon P. Jennings' introduction of Anne McGuire, Assistant City Manager

SPECIAL MEETING:

Special Meeting of the Corporator of Portland Development Corporation

Order 25-21/22 Amending Portland Development Corporation Bylaws and Loan and Grant Guidelines for Two Programs - Sponsored by Kate Snyder, Mayor

The PDC Board met on June 17, 2021, and voted 7-0 to recommend to the City Council approval of proposed amendments to the **COVID Microenterprise Grant Program** in order to increase the number of eligible small businesses that could apply for assistance, as well as recommended removal of the December 31, 2021, termination date in case the funding does not run out by then. The City's CDBG manager has explained that these funds can continue to be used for a number of years.

The PDC Board met again on July 15, 2021 and voted 7-0 to recommend to the City Council approval of proposed modifications to the **Business Assistance Program** for Job Creation to ease eligibility and compliance for businesses starting up or expanding in a challenging environment that remains impacted by the pandemic. At that same meeting, the PDC Board voted 7-0 to recommend to the City Council one house-keeping amendment to the **Bylaws** to have the Assistant Secretary of the Board be the Director of Housing and Economic Development.

Five affirmative votes are required for passage after public comment.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the draft Regular City Council Meeting Minutes for July 19, 2021 (Early)

Approval of the draft Special City Council Meeting Minutes for July 19, 2021 (Late)

Approval of the draft Special City Council Meeting Minutes for August 2, 2021

CONSENT ITEMS:

Order 26-21/22 Declaring October 3, 2021 the 30th Annual Maine Marathon, Half Marathon & Relay Festival - Sponsored by Jon P. Jennings, City Manager

This is the 30th year that the Maine Marathon Committee has sponsored and organized the Maine Marathon. Expected number of registered runners this year is expected to reach 3,500, with approximately 800 anticipated spectators lining much of the sidewalks, parks and pathways along the race route. Since 1997, more than 5.2 million dollars has been raised to support local charities.

The race will take runners from Baxter Boulevard to Washington Avenue onto Veranda Street, continuing on Route 1 and crossing over Martin's Point Bridge into Falmouth and back. Runners will both start and finish at Baxter Boulevard Extension (the area between Forest Avenue and Preble Street).

A safety plan has been submitted in regards to the prevention of COVID 19.

Order 27-21/22 Accepting an Andrews Square Easement Deed from Avesta Butler Payson LP - Sponsored by Jon P. Jennings, City Manager

The City requires an easement deed from Avesta Butler Payson LP (Avesta) to allow the installation and use of public sidewalk areas on private property in Andrews Square. The City Council is asked to approve and authorize the City Manager to sign the easement with Avesta. This easement is not required for work to begin.

The Department of Public Works has Capital Improvement Plan funding for an intersection realignment project at Andrews Square (intersection of Clark Street, Pine Street, and West Street). Various residents of the Andrews Square neighborhood and members of the West End Neighborhood Association have donated private funds to incorporate various landscaping/hardscaping features into the project.

Order 28-21/22 Approving the Application for a \$400,000 Outdoor Recreation Legacy Partnership Grant for Open Space and Athletic Fields in North Deering - Sponsored by Jon P. Jennings, City Manager

The Parks, Recreation & Facilities Department is partnering with the Trust for Public Land for an Outdoor Recreation Legacy Partnership for funding to help acquire land for open and athletic field space. One of the requirements for this funding is pre-approval from the City Council. Following City Council action, staff may proceed with submitting this grant application.

Five affirmative votes are required for passage after public comment.

LICENSES:

Order 29-21/22 Granting Municipal Officers' Approval of Smalls Brackett Street LLC, dba Smalls. Application for a Class I FSE with Indoor Entertainment at 28 Brackett St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/19/21. New City and State applications. Location was previously OMI's Coffee Shop

Five affirmative votes are required for passage after public comment.

Order 30-21/22 Granting Municipal Officers' Approval of Geno's Inc, dba Geno's Rock Club. Application for a Class A Lounge with Indoor Entertainment at 625 Congress St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/19/21. New City and State applications. Applicant currently holds a Class XI FSE at this location.

Five affirmative votes are required for passage after public comment.

Order 31-21/22 Granting Municipal Officers' Approval of Austin Street Brewery LLC, dba Austin Street Brewery. Application for a Combined Entertainment at 109 Fox St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/21/21. New City application. Applicant currently holds a Class A Lounge FSE with Private Outdoor Dining at this location.

Five affirmative votes are required for passage after public comment.

Order 32-21/22 Granting Municipal Officers' Approval of Empire 37 LLC, dba Empire Chinese Kitchen. Application for a Class I FSE at 575 Congress St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/26/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

Order 33-21/22 Granting Municipal Officers' Approval of Renn Restaurant Group LLC, dba Ruby's West End. Application for a Class I FSE at 64 Pine St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/28/21. New City and State applications. Applicant currently holds FSE with prep.

Five affirmative votes are required for passage after public comment.

Order 34-21/22 Granting Municipal Officers' Approval of Far From A Teardown LLC, dba Salvage BBQ. Application for Outdoor Dining on Private Property at 919 Congress St.- Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/22/21. New City application. Applicant currently holds Class XI Restaurant/Lounge with Indoor Entertainment.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

Com 1-21/22 Communication on Campaign Finance Reports, By Katherine L. Jones, City Clerk

Com 2-21/22 Update on East Bayside sound study progress, By Jon P. Jennings, City Manager

RESOLUTIONS:

Resolve 1-21/22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail - Sponsored by the Sustainability & Transportation Committee, Councilor Belinda Ray, Chair

On July 19, 2021, the Sustainability and Transportation Committee voted 3-0 to recommend the City Council adopt a resolution regarding the proposed Casco Bay Trail. The resolution calls for the Maine Department of Transportation (MaineDOT) to accept

the abandonment of the St. Lawrence and Atlantic railroad tracks between Yarmouth and Portland, to provide a notice-and-comment procedure if the MaineDOT decides to consider an extension of the existing freight easement; and create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use “trail-until-rail.” This follows similar resolutions by the Town Councils in Yarmouth, Falmouth, and Freeport.

Five affirmative votes are required for passage after public comment.

Written Public Comment

Resolve 2-21/22 Providing Notice of Public Hearing for Condemnation of Lot 6, 59 Somerset Street - Sponsored by Kate Snyder, Mayor

Lot 6, 59 Somerset Street: Resolution to provide Notice of Public Hearing for Condemnation of Lot 6, 59 Somerset Street. The Council will vote on whether to begin condemnation proceedings to take by eminent domain Lot 6, 59 Somerset Street, for the public purpose of a parking facility as defined by 30-A M.R.S. sec. 5401(5)-(7). The power of the City to acquire land by eminent domain for this purpose is specifically granted under, inter alia, 30-A M.R.S. sec. 5401, et seq., including section 5403(6). The Resolution will provide notice of the City’s intent to acquire Lot 6, 59 Somerset Street, by eminent domain; and will order that the City post Notice of Public Hearing for a vote on the Condemnation Order, which public hearing has been set for September 8, 2021.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 7-21/22 Approving the Agreement between the Portland Area Comprehensive Transportation System, the Maine Department of Transportation and Portland re: Forest Avenue Improvements from Marginal Way to Park Avenue - Sponsored by Jon P. Jennings, City Manager

This order will allow the Maine Department of Transportation to begin preliminary design work along Forest Avenue from Marginal Way to Park Avenue, as per the Portland Area Comprehensive Transportation System (PACTS) Smart Corridor Study Plan. The PACTS Route 302/Route 77 corridor study (i.e. the Smart Corridor Study), completed in 2018, provided numerous recommendations for Forest Avenue from Marginal Way to Park Avenue. Most significantly, the project called for a realigned High Street, shifting access to Forest Avenue slightly southerly. A realigned Kennebec Street was also recommended, as well as numerous improvements for bicycles, pedestrians, and transit. A concept plan from the report is shown in Appendix A.

The cost to the City for the preliminary design work will be no more than \$50,000.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

Order 8-21/22 Accepting and Appropriating a Grant from the Maine Department of Economic and Community Development Re: Journey Maps in Multiple Languages - Sponsored by Jon P. Jennings, City Manager

The Housing & Economic Development Department is requesting the City Council accept and appropriate a \$4,750 grant from the Maine Department of Economic and Community Development (MDECD) for use by the Office of Economic Opportunity (OEO) to enhance Economic Development and Inclusion by creating journey maps that help vulnerable populations, including limited English proficient individuals, to navigate often confusing and complex systems to secure basic needs such as English classes, food, childcare, transportation, starting a business, and several others.

A journey map is a visualization of the process that a person goes through in order to accomplish a goal; its purpose is to help communicate otherwise complex processes and systems. This grant will allow OEO to continue to create more journey maps and absorb the translation costs associated with this impactful initiative.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

Order 9-21/22 Approving the Maine Department of Transportation and City of Portland Agreement Re: Franklin Street and Marginal Way - Sponsored by Jon P. Jennings, City Manager

This item approves improvements to the busy intersection of Franklin Street and Marginal Way, with related updates administered by the City, paid for by the Maine Department of Transportation (MaineDOT), including updated and secure signal equipment, in keeping with current City design requirements for the peninsula, and new mast arms, painted black. The City is required to pay zero percent toward this project unless the outcomes exceed the \$360,000 budgeted for the work. As such, no fiscal impact note has been prepared.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

Order 15-21/22 Setting an Election Date on a Citizen Initiative Amendment to Portland City Code Chapter 14 Re: Emergency Shelters for 50 or Fewer Only - Sponsored by Katherine L. Jones, City Clerk

This order sets the Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 14 section 6.5.6 Supplemental use-specific conditional use Standards, 6.5.6 (B) Emergency Shelters.

Two amendments to this Order, the first revising the Citizen Initiative summary language and the second offering an alternative amendment to the City Code for shelters on the ballot, are included in the back up material. If the City Council decides to offer the alternative amendment (along with the citizen proposed amendment) for approval by the voters, it will take the form of a three-choice ballot question. As specified in Chapter 9 of the Portland City Code, the ballot question will be worded as follows: “Do you approve A, the Citizen Initiative, B. the Council's alternative, or C. None of the above?”

This item was postponed on July 19, 2021. Five affirmative votes are required for passage after public comment.

Written Public Comment

Order 16-21/22 Setting an Election Date on an alternative Amendment to Portland City Code Chapter 14 Re: Emergency Shelters - Sponsored by Kate Snyder, Mayor

This order sets the Election Date on an Alternative Amendment to the Citizen Initiative Amendment to the Portland City Code Chapter 14 section 6.5.6 Supplemental use-specific conditional use Standards, 6.5.6 (B) Emergency Shelters.

This item was postponed on July 19, 2021. Five affirmative votes are required for passage after public comment. Staff recommends that this order be postponed indefinitely.

Order 19-21/22 Accepting and Appropriating Federal Aviation Administration American Rescue Plan Act (ARPA) Grants for the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

This order requests acceptance and appropriation of \$10,417,414 in economic relief funds from the FAA to aid the Portland International Jetport and its in terminal concession businesses. The American Rescue Plan Act (ARPA, Public Law 117-2), signed into law by the President on March 11, 2021, included \$8 billion in funds to be awarded as economic assistance to eligible U.S. airports and eligible in terminal concessions at those airports to prevent, prepare for, and respond to the COVID-19 pandemic.

The Federal Aviation Administration released airport ARPA grant allocations in June for eligible airports. The Portland International Jetport is being allocated two ARPA grants: one totaling \$9,484,705 (for costs related to operations, personnel, cleaning, sanitization, janitorial services, and debt service payments), and the other in the amount of \$932,709 to fund in terminal concessions rent relief.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

Order 21-21/22 Adopting Amendment to Portland City Code Chapter 14 Re: Emergency Shelters for 50 or Fewer Only - Sponsored by Kate Snyder, Mayor

This order amends the Portland City Code Chapter 14 with the language proposed in the Citizen Initiative Amendment to the Portland City Code Chapter 14 section 6.5.6 Supplemental use-specific conditional use Standards, 6.5.6 (B) Emergency Shelters. If it were adopted by the City Council, it would not need to be voted on at the November 2, 2021 General Election.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment. Staff recommends that this order be postponed indefinitely.

Order 22-21/22 Amendment to Zoning Map Re: 99 Winter Street and 152-160 State Street from R-6 Residential to B-3 Downtown - Sponsored by Brandon Mazer, Chair, Portland Planning Board

On June 8, 2021, the Planning Board voted (5-0) that the proposed zoning map amendment is consistent with the Comprehensive Plan and recommended this action to the City Council. Thanos, LLC, requests a zoning map amendment to facilitate development at 99 Winter Street. The zoning map amendment would rezone two parcels from the existing R-6 zone to a B-3 zone. The Downtown Height Overlay Map (see next item) would be amended coterminous with the proposed B-3 rezoning area.

The proposed rezoning would facilitate the development of a new six-story, multifamily residential building including workforce housing at 99 Winter Street, which currently contains no structures. At this point in the process, the proposal for development remains conceptual in nature, as no site plan application has yet been submitted. Furthermore, one additional parcel located 152-160 State Street is included in the proposed map amendment boundary in order to create a contiguous B-3 zone and to bring the existing parcel's use (Portland Club) into greater conformance.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment. Staff recommends that this order be postponed to the September 8, 2021 City Council Meeting.

Order 23-21/22 Amending the Height Overlay Map at 99 Winter Street - Sponsored by Brandon Mazer, Chair, Portland Planning Board

This is a companion item with the order above. Thanos, LLC, seeks an amendment to the Downtown Height Overlay Map. The Downtown Height Overlay Map would be amended to add two B-3 parcels and designate heights for those parcels.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment. Staff recommends that this order be postponed to the September 8, 2021 City Council Meeting.

ORDERS:

Order 35-21/22 Accepting and Appropriating \$480,850 in U.S. Environmental Protection Agency Brownfields Funds for the City's Brownfields Revolving Loan Fund - Sponsored by Jon P. Jennings, City Manager

This item provides the City Council's authorization to accept and appropriate \$480,850 in a United States Environmental Protection Agency (EPA) Brownfields Revolving Loan Fund grant, which will be awarded by EPA shortly, with the expectation that the local funding program will begin in October. These funds will recapitalize the City's Brownfields Revolving Loan Fund (RLF), allowing the provision of greater assistance for remediation of Brownfields sites in Portland.

This item must be read on two separate days. This is its first reading.

Order 36-21/22 Approving the Collective Bargaining Agreement with the Firefighters Local 740, International Association of Firefighters - Sponsored by Jon P. Jennings, City Manager

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor three (3) year contract. Local 740 is the City's second largest union that represents all Firefighters throughout the city with approximately 225 members.

Highlights are as follows:

2021 - 3% COLA increase, effective July 4, 2021, retroactive

2022 - 0 % COLA but implementation of the 3C retirement plan, additional 2.5% City contribution to the 401a retirement plan and 2% increase to the top steps of the pay plan
2023 – 2% COLA increase

Other provisions include Earned Paid Leave, changing the work cycle from eight days to seven days for pay purposes and simplifying the payment of specialty stipends.

The new contract term is January 1, 2021, through December 31, 2023

This item must be read on two separate days. This is its first reading.

Order 37-21/22 Designating the Marguerite Emerson House at 99 Capisic Street as a Landmark - Sponsored by Jon P. Jennings, City Manager

The Historic Preservation Board is recommending that the c.1848 residential structure at 99 Capisic Street be designated an individual Landmark under the provisions of Portland's historic preservation ordinance. A fine example of Greek Revival architecture, the building is particularly significant for its temple-like form, which is unusual for Greek Revival dwellings in Portland, especially in the once-rural areas off the Portland peninsula.

The building was nominated for landmark designation by its current owner, Vana Carmona. Following a review of the building's history and an evaluation of its architectural significance and condition, the Historic Preservation Board found that the historic residence at 99 Capisic meets the historic preservation ordinance's minimum criteria for designation and voted unanimously to recommend landmark designation.

This item must be read on two separate days. This is its first reading.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ANNE MCGUIRE

SUMMARY

- Senior attorney with a strong public policy and political background; having advised all three branches of the United States Government: White House, Senate, and House of Representatives.
- Former White House official with decades of lobbying experience, representing multiple industries and an expertise in navigating executive and legislative branch proceedings.
- Industries represented include clean energy, disaster management, and in particular financial services; lead attorney for Goldman Sachs in key MSRB filings.
- Founder of impact investing fund (current AUM \$1 billion); spearheaded original fundraising effort for the start-up fund, which in 2007 was a pioneer in the impact investment management field.

WORK EXPERIENCE

Public Policy and Public Sector Experience

BERGER HIRSCHBERG STRATEGIES

New York, NY

Senior Advisor

January 2017 - Present

- Lead overall fundraising strategies for top clients including key U.S. Senate and Congressional campaigns.
- Source and curate HNW individuals for high level fundraising campaigns in the public, private and non-profit sectors.
- Prepare internal and external marketing materials for company and its key clients.
- Manage internal teams utilizing goal setting and forecasting skills.
- Principal contact for company's compliance filings in multiple states.

HILLARY CLINTON FOR AMERICA

New York, NY

Counsel

July 2016 - November 2016

- Advised senior legal team on matters related to state and federal election law.
- Prepared state election law materials related to 2016 Election Night and voter activities.
- Counseled senior legal team on communications matters related to 2016 Election Night.

U.S. SENATE DEMOCRATIC LEADERSHIP

Washington, DC

Senior Counsel

January 2005 - July 2006

Senate Minority Leader Harry Reid and Minority Whip Richard Durbin

- Worked with incumbent Senators to ensure policy priorities were supported and integrated into the Senate Democratic Leadership strategy.
- Provided strategic communications counseling to Democratic Leadership on complex issues at the intersection of policy and politics including federal budget priorities and long-term message development including but not limited to energy and climate policy.
- Managed twelve communications professionals.

THE WHITE HOUSE

Washington, DC

Special Assistant to the President for Cabinet Affairs

August 1994 - September 1999

- Communicated the Administration's goals and objectives to the President's Cabinet through daily contact with Agency Chiefs of Staff and Principal Level Cabinet Meetings.

- Prepared briefing materials for the President to keep him apprised of agency and multi-agency issues.
- Worked to resolve interagency disputes and chaired interagency working groups on a wide range of issues such as federal participation in the Salt Lake 2000 Olympics.
- Served as a liaison between the President and the Departments of Treasury, Commerce, Transportation, Health and Human Services, Defense and the Federal Emergency Management Agency.

OFFICE OF U.S. CONGRESSMAN PHIL SHARP

Legislative Assistant

Washington, DC

September 1991 - August 1994

- Principal legislative staff tasked with managing numerous Energy and Commerce Committee issues. In this capacity, responsibilities included drafting legislation, organizing coalitions in support of legislation, and negotiating passage of legislative initiatives.

Private Sector Experience

WITT O'BRIEN'S LLC

Northeast Program Director

Washington, DC

January 2013 - January 2014

- Assisted with New Jersey recovery efforts in response to Hurricane Sandy.
- Collaborated with state and local communities to enhance crisis response strategies.
- Developed business development strategy for company's entry to the northeast region.
- Develop strategic plan for company to assist legal and financial services industries with their response to potential crises.

EQUILIBRIUM CAPITAL GROUP LLC

Shareholder

Portland, OR

May 2010 – Present

Principal

June 2007 - May 2010

- Performed due diligence and provided legal and policy support to potential company investments.
- Collaborated with CEO to develop the company's Corporate Board and Advisory Board.
- Assisted in development of policy, communications and business development efforts for investing in the sector of sustainability and corporate responsibility.
- Worked with targeted investment companies to implement marketing strategies to improve performance and grow business.

ROCK CREEK GROUP

Consultant

Washington, DC

July 2006 - May 2007

- Advised multi-billion dollar hedge funds on legislative changes to existing law and potential impact to investment business models.
- Performed analysis of existing and proposed government regulation and provided crisis policy counseling.

O'MELVENY & MYERS, LLP

Associate

Washington, DC

June 2002 - January 2005

Member, Strategic Counseling and Securities Practice Groups

- Provided strategic legal advice and crisis communications counseling to Fortune 100 clients including Goldman Sachs and Fannie Mae on administrative, regulatory, political and legislative matters.
- Provided political, legal and communications counseling to clients involved in high-level congressional investigations.
- Managed a team that provided ethics and confirmation counseling to senior officials entering highly sensitive positions in federal government.

QUINN GILLESPIE & ASSOCIATES, LLC

Founding Member

Washington, DC
January 2000 - May 2002

- Provided strategic counseling to Fortune 100 clients on communications, political and regulatory issues. These industry sectors included telecommunications, auto, technology and financial services.
- Represented clients before executive and legislative branch officials.

OTHER EXPERIENCE**GEORGETOWN UNIVERSITY**

Initiative on Catholic Social Thought and Public Life

Washington, DC
July 2014 - Sept 2015

- Assisted small team with all aspects of start-up activity and organization.
- Advised on short and long term strategy for FY2014 and FY2015.

EDUCATION**FORDHAM UNIVERSITY**

Bachelor of Science, Psychology (Honors)

New York, NY
1987 - 1991**GEORGETOWN UNIVERSITY**

Juris Doctor

Washington, DC
1997 - 2001

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director
DATE: August 5, 2021
SUBJECT: Order 25-21/22 Amending Portland Development Corporation Bylaws and Loan and Grant Guidelines for Two Programs - Sponsored by Kate Snyder, Mayor
SPONSOR: Mayor Kate Snyder
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 8/23/2021 **Final Action 8/23/2021**

Can action be taken at a later date: No Action is requested on August 23, 2021, in order to provide BAP Grants as soon as possible to businesses in need of grant assistance to help them with hiring new employees as they begin to re-open at fuller capacity or start up new businesses during these challenging economic times, and action on August 23 to provide COVID Microenterprise Grants as soon as possible to businesses that were previously ineligible to apply.

PRESENTATION: Blaine Grimes, Portland Development Corporation Board Treasurer/3 Minutes

I. SUMMARY

The Portland Development Corporation Board and staff are recommending modifications to the Business Assistance Program for Job Creation (BAP) to make eligibility and compliance easier as businesses startup or expand in an environment that remains impacted by the pandemic; and, to provide COVID Microenterprise Grants as soon as possible to businesses that were previously ineligible to apply; and, Bylaws housekeeping amendment.

II. AGENDA DESCRIPTION

The PDC Board met on June 17, 2021, and voted 7-0 to recommend to the City Council approval of proposed amendments to the **COVID Microenterprise Grant Program** in order to increase the number of eligible small businesses that could apply for assistance, as well as recommended removal of the December 31, 2021, termination date in case the funding does not run out by then. The City's CDBG manager has explained that these funds can continue to be used for a number of years.

The PDC Board met again on July 15, 2021 and voted 7-0 to recommend to the City Council approval of proposed modifications to the **Business Assistance Program** for Job Creation to ease eligibility and compliance for businesses starting up or expanding in a challenging environment that remains impacted by the pandemic. At that same meeting, the PDC Board voted 7-0 to recommend to the City Council one house-keeping amendment to the **Bylaws** to have the Assistant Secretary of the Board be the Director of Housing and Economic Development.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Business Assistance Program for Job Creation (BAP) - Proposed Modifications

The proposed and recommended modifications to this program are intended to ease eligibility and compliance for businesses starting up or expanding in a challenging environment that remains impacted by the pandemic. The Portland Development Corporation (PDC) Board met on July 15, 2021, and unanimously voted 7-0 to

forward the proposed amendments to the City Council for approval.

Proposed Modifications to the Business Assistance Program for Job Creation (BAP)

1. Rather than requiring a one-to-one cash match, grantees would be required to spend their own funds on eligible activities prior to reimbursement from the grant provided by the BAP Program. Funding via reimbursement helps to ensure the grants are assisting businesses that are more sustainable. Grantees are not eligible to receive the full grant amount prior to the creation of the net new job.
2. To be eligible for the program, businesses would not be required to pay their employees an hourly rate that exceeds Portland's minimum wage. Exceeding the minimum wage, however, would be among the preferences for funding should the PDC receive more applications than there is available funding.
3. A grantee business that is unable to create the jobs they agreed to create is no longer allowed the alternative of counting the business owner's job if their household is low/moderate income.
4. The remaining redlining in the guidelines is to make them easier to understand and easier to translate into other languages in order to accommodate non-native English speakers.

Microenterprise Grant Program (MGP) - Proposed Modifications

The PDC Board met on June 17, 2021, and voted 7-0 to recommend to the City Council approval of the proposed amendments to the COVID Microenterprise Grant Program.

Requests for the City's COVID generated business assistance loans and grants have slowed down substantially. This suggests that, at this time, there may be many fewer businesses needing this type of help, perhaps taking advantage of other sources of financial assistance, especially from the Federal Government. As a result, the Portland Development Corporation Board and staff are proposing modifications to the COVID Microenterprise Grant Program that would ease eligibility, opening it up to a larger universe of Portland businesses, in particular those businesses that started up after March 15, 2020. It may seem surprising, given the challenges of operating during a pandemic, but new businesses continued to open after that date, throughout 2020 and early 2021, including restaurants.

Proposed Modifications to the MGP:

There are two significant proposed modifications to the MGP that will increase the number of eligible small businesses that could apply for assistance:

- 1) Removing the date by which a business had to open to be eligible for funding; and
- 2) Changing the definition of a microenterprise to a maximum of three full-time equivalent employees rather than just one.

While the remaining proposed changes are minor, please note that the PDC Board and staff are also recommending removal of the December 31, 2021, termination date in case the funding does not run out by then. The City's CDBG manager has explained that these funds can continue to be used for a number of years.

Bylaws - Housekeeping Amendment

The PDC Board met on July 15, 2021, and unanimously voted 7-0 to forward the proposed amendments to the

Portland Development Corporation Bylaws to the City Council for approval.

Amendment:

The housekeeping amendment appoints the Director of the Housing and Economic Development Department as the Assistant Secretary to the PDC Board.

Five affirmative votes are required for passage after public comment.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is that more Portland businesses needing assistance will be eligible to apply for the BAP grants to help them create new jobs for low/moderate income individuals and for more Portland businesses to be eligible to apply for the COVID MGP, and approval of Bylaws housekeeping amendment.

V. FINANCIAL IMPACT

There is no financial impact from amending the BAP and MGP Guidelines, other than making the grant funds available to more Portland businesses, and no financial impact to the Bylaws housekeeping amendment.

VI. STAFF ANALYSIS AND BACKGROUND

BAP: The BAP assists Portland businesses with grants of up to \$20,000 (\$10,000 per job) to help them create net new full-time jobs for low/moderate income individuals. The recommended modifications to the program will help make it more accessible to small businesses still facing a challenging economy and in need of grants to start up or get back to their pre-pandemic level of operations with a full roster of staff.

MGP: Expanding COVID Microenterprise Program eligibility will allow small businesses that opened after the March 15, 2020 and those that have up to three employees to apply for grant funding to help them continue to operate in an environment that is still impacted by the pandemic. Without this modification to the Program guidelines, the program is limited to small businesses that were in operation no later than March 15, 2020 and have no more than one employee.

Bylaws: Staff recommends approval.

VII. RECOMMENDATION

The PDC Board met on June 17, 2021, and voted 7-0 to recommend to the City Council approval of the MGP amendments, and met on July 15, 2021, and voted 7-0 to recommend to the City Council approval of the proposed amendments to the BAP guidelines and Bylaws housekeeping amendment.

VIII. LIST ATTACHMENTS

1. Order Approving PDC Loan and Grant Program amendments 8.23.2021
2. BAP Guidelines as passed by City Council 6-18-2018 NH Redline 7-27-21
3. BAP Guidelines as passed by City Council 6-18-2018 NH Redline 7-27-21 CLEAN
4. Microenterprise Grant Program Redlines 6-17-2021
5. Microenterprise Grant Program Clean 6-17-2021
6. Bylaw Amd as Passed by CC on 3-21-2016 Clean - LP Rdlns 6-11-2021

Prepared by:

Mary Davis, Division Director

Date: 08/05/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AMENDING PORTLAND DEVELOPMENT CORPORATION BYLAWS
AND LOAN AND GRANT GUIDELINES FOR TWO PROGRAMS**

ORDERED, that the amendments to the Portland Development Corporation Business Assistance Program for Job Creation are hereby approved substantially in the form attached hereto; and

BE IT FURTHER ORDERED, the amendments to the Portland Development Corporation COVID-19 Microenterprise Grant Program are hereby approved substantially in the form attached hereto; and

BE IT FURTHER ORDERED, the amendments to the Portland Development Corporation Bylaws are hereby approved substantially in the form attached hereto; and

BE IT FURTHER ORDERED, the City Manager or his or her designee is authorized to execute any and all documents necessary to implement this program and otherwise carry out the intent of this Order.

Portland Business Assistance Program for Job Creation

Program Description

The City of Portland's Business Assistance Program for Job Creation (BAP) provides grants up to \$20,000 to new and expanding for-profit Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income individuals.

Program Objectives

- Job creation for low/moderate income individuals;
- New business formation and existing business expansion;
- ~~Leverage private investment to support business growth;~~
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of ~~the~~ Portland's neighborhoods and the City's economy as a whole. economy.

Program Requirements/Eligibility

- Business must be located within the City of Portland;
- Will cCreate one (1) full-time job (at least 1,750 hours/year * which is at least 34 hours/week) for every \$10,000 of approved grant funding;
- Applicant business location fits any of the following: in a low income area of the City; wWithin walking distance to one or more of these low income areas; ~~or, e~~ Easily accessible from these low income areas via public transportation;
- ~~Net new jobs(s)~~ created with the help of the grant ~~is are~~ marketed to and provided to low/moderate income** individuals; resulting in at least 51% of these jobs going to this population. (For example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income individuals);
- ~~Job(s) is created within nine (9) months of signing a grant agreement;~~
- Wages paid to new hires (s) exceeds meet or exceed Portland's minimum wage
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City and property must be free of all City liens and encumbrances.
- →

Financing Terms Grant Terms:

- Maximum grant: \$20,000 per business
- Grant of \$10,000 per full-time job that business promises to create, up to \$20,000 per business;
- Job(s) must be created after grant is approved in order to be counted as meeting the grant requirement;
- Job(s) must be created within nine (9) months after signing a grant agreement;

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- Once approved for a grant, no more than half the approved grant amount may be requested prior to job creation;
- Grants are provided through reimbursement of paid receipts (for eligible expenses) for twice the amount requested. For example, a request for a \$5,000 grant draw down must be accompanied by \$10,000 worth of paid receipts for eligible expenses (see Eligible Funding Activities below);

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- Required Private Match: Equal to or greater than grant amount.
- Private Match Sources: Private investment match includes at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's Commercial Loan Program, if conventional financing is not available. For existing businesses, the 50% equity can include private investment made within the past 12 months.

Eligible Funding Activities:

1. Equipment and machinery;
2. Permanent working capital, (e.g., inventory, furniture and fixtures, relocation expense);
3. Working capital s (e.g., rent, utilities, salaries, insurance);
4. Business consulting services (e.g., accounting, marketing, software training, legal assistance);
5. Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Construction projects must comply with Davis Bacon federal labor standards.)

Ineligible Activities:

- a. Refinance existing debt;
- b. Down payment for other financing;
- c. Use of grant funds for activities commenced or completed prior to program funding approval and prior to signing a grant agreement (e.g., purchases of equipment and supplies).

Application Review Criteria/Preferences: (listed in no particular order):

Criteria/Preferences (listed in no particular order):

- Career Potential
 - Job training for new hire(s) in a marketable skill;
 - Potential for job advancement within the company or elsewhere.
- Employer
 - Demonstrated need for grant funds to create job(s);
 - Private match exceeds grant amount requested;

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- Number of net new jobs exceeds one (1) per \$10,000 of grant funding.
- Compensation and Benefits
 - Quality of compensation and benefits package (for example, wages, health coverage, vacation, sick leave);
 - Wages paid to new hire(s) exceeds Portland's minimum wage;

Eligible Funding Activities:

1. Equipment and machinery;
2. Permanent working capital, (e.g., inventory, furniture and fixtures, relocation expense);
3. Working capital expenses (e.g., rent, utilities, salaries, insurance);
4. Up to \$1,000 for business consulting services (e.g., accounting, marketing, software training, legal assistance);
5. Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Construction projects must comply with Davis Bacon federal labor standards.)

Ineligible Activities:

- a. Refinance existing debt;
- b. Down payment for other financing;
- c. Use of grant funds for activities, (e.g., purchases of equipment and supplies), commenced or completed prior to program funding approval and prior to signing a grant agreement.

Basic Program Qualifications:

- Business must be located within the City of Portland;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.

Application and Approval Process

The City's Housing and Economic Development Department is responsible for administration of the Business Assistance Program for Job Creation, with guidance from the Housing and Community Development Division. Eligible applications are analyzed by an underwriter and then presented to the Portland Development Corporation (PDC) for its review. The PDC has final decision-making authority in approving applicants for grant awards.

Post Grant Requirements Reporting and Tracking (after grant approval)

Jobs:

- Jobs must be created within nine (9) months of signing a grant agreement after being approved for a grant;

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- Post job description(s) where low/moderate income people are likely to see it and a photo provided to the City showing that posting;
- Baseline payroll provided prior to job creation;
- Grant recipients will be required to provide Quarterly report (listing new hire)s until all required hires are made, then a summary report (list of new hires) and then an annual report for one year beyond that;
- Income certification for each new hire(s).

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Property:

The City will retain an interest in property improved or equipment purchased (worth \$5,000 or more) with grant funds for up to five (5) years. If such property improvements or equipment are transferred, or otherwise disposed of within the five (5) year period from the date the improvements are completed or equipment is purchased, respectively, the City may require partial repayment of the grant funds (on a pro rata basis) ~~of the grant funds~~.

Program Actions if Grantee Business is Unable to Meet Job(s) Requirements

Nine (9) months from the date of signing the grant agreement, if a grantee business has been unable to create the required number of jobs, the PDC Board, at its discretion, may require that the grantee return all grant funds that it has drawn down. Alternatively, should the PDC Board determine, in its judgement, that the grantee has made a good faith effort to create the required number of jobs within the nine (9) month timeframe, the Board may approve the use of the following option if it deems it appropriate: Allow the creation of two part-time jobs for low/moderate income individuals in place of one full-time job to meet the job creation requirement per \$10,000 in grant funds. A part-time job is defined as working at least 875 hours per year but less than 1,750 per year;***

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In the case of a grantee business that has been unable to retain the required job(s) for one year from the time the job(s) was initially created, the PDC Board, at its discretion, may require the partial repayment of grant funds (on a pro-rata basis) ~~of grant funds~~.

Alternatively, should the PDC Board determine, in its judgement, that the grantee has made a good faith effort to create the required number of jobs within nine (9) months of signing the grant agreement or to retain the job(s) one year from the time the job(s) was created:

A) The Board may approve the use of any of the following options it deems most appropriate:

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• Allow the creation of two part-time jobs for low/moderate income individuals in place of one full-time job to meet the job creation requirement per \$10,000 in grant funds. A part-time job is defined as working at least 875 hours per year but less than 1,750 per year;***

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• Qualify the business as a microenterprise if the business owner meets HUD's low/moderate income threshold (80% of median HH income) and the business has five or fewer employees***. This qualification would not require the creation of jobs, other than the job that was created for the low/moderate income business owner.

And,

~~B) The Board will make a determination whether to release the balance of the approved grant funds to the grantee.~~

~~NOTE: These actions are retroactive and may be applied to any BAP grantee business that has not yet met its job requirements, per these guidelines.~~

Definitions

*Definition of a full-time job, per the Maine Department of Economic and Community Development;

**For the purposes of this Program, low/moderate income is defined by the U.S. Department of Housing and Urban Development as 80% of median household income. A chart showing qualified income levels can be found on the City's website at the following link:
<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

***Definition of a part-time job, per the Maine Department of Economic and Community Development;

****~~Two part definition of a microenterprise, per the U.S. Department of Housing and Urban Development.~~

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Portland Business Assistance Program for Job Creation

Program Description

The City of Portland's Business Assistance Program for Job Creation (BAP) provides grants up to \$20,000 to new and expanding for-profit Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income individuals.

Program Objectives

- Job creation for low/moderate income individuals;
- New business formation and existing business expansion;
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of Portland's neighborhoods and the City's economy as a whole.

Program Requirements/Eligibility

- Business must be located within the City of Portland;
- Business will create one (1) full-time job (at least 1,750 hours/year* which is at least 34 hours/week) for every \$10,000 of approved grant funding;
- Applicant business location fits any of the following: in a low income area of the City; within walking distance to one or more of these low income areas; easily accessible from these low income areas via public transportation;
- Net new jobs created with the help of the grant are marketed and provided to low/moderate income** individuals;
- Wages paid to new hires meet or exceed Portland's minimum wage;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City and property must be free of all City liens and encumbrances

Grant Terms

- Grant of \$10,000 per full-time job that business promises to create, up to \$20,000 per business;
- Job(s) must be created after grant is approved in order to be counted as meeting the grant requirement;
- Job(s) must be created within nine (9) months after signing a grant agreement;
- Once approved for a grant, no more than half the grant amount may be requested prior to job creation;
- Grants are provided through reimbursement of paid receipts (for eligible expenses) for twice the amount requested. For example, a request for a \$5,000 grant draw down must be accompanied by \$10,000 worth of paid receipts for eligible expenses (see Eligible Funding Activities below).

Eligible Funding Activities

1. Equipment and machinery;
2. Permanent working capital, (e.g., inventory, furniture and fixtures, relocation expense);
3. Working capital s (e.g., rent, utilities, salaries, insurance);
4. Business consulting services (e.g., accounting, marketing, software training, legal assistance);
5. Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Construction projects must comply with Davis Bacon federal labor standards.).

Ineligible Activities

- a. Refinance existing debt;
- b. Down payment for other financing;
- c. Use of grant funds for activities commenced or completed prior to program funding approval and prior to signing a grant agreement (e.g., purchases of equipment and supplies).

Application Review Criteria/Preferences (listed in no particular order)

- Career Potential
 - Job training for new hire(s) in a marketable skill;
 - Potential for job advancement within the company or elsewhere.
- Employer
 - Demonstrated need for grant funds to create job(s);
 - Number of net new jobs exceeds one (1) per \$10,000 of grant funding.
- Compensation and Benefits
 - Quality of compensation and benefits package (for example, wages, health coverage, vacation, sick leave);
 - Wages paid to new hire(s) exceeds Portland's minimum wage.

Application and Approval Process

The City's Housing and Economic Development Department is responsible for administration of the Business Assistance Program for Job Creation. Eligible applications are analyzed by an underwriter and then presented to the Portland Development Corporation (PDC) for its review. The PDC has final decision-making authority in approving applicants for grant awards.

Post Grant Requirements

Jobs

- Jobs must be created within nine (9) months of signing a grant agreement after being approved for a grant;.

- Post job description(s) where low/moderate income people are likely to see it and a photo provided to the City showing that posting;
- Baseline payroll provided prior to job creation;
- Quarterly report (listing new hire) until all required hires are made, then a summary report (list of all new hires) and an annual report one year beyond that;
- Income certification for each new hire(s).

Property

The City will retain an interest in property improved or equipment purchased (worth \$5,000 or more) with grant funds for up to five (5) years. If such property improvements or equipment are transferred, or otherwise disposed of within the five (5) year period from the date the improvements are completed or equipment is purchased, respectively, the City may require partial repayment of the grant funds (on a pro rata basis).

Program Actions if Grantee Business is Unable to Meet Job(s) Requirements

Nine (9) months from the date of signing the grant agreement, if a grantee business has been unable to create the required number of jobs, the PDC Board, at its discretion, may require that the grantee return all grant funds that it has drawn down. Alternatively, should the PDC Board determine, in its judgement, that the grantee has made a good faith effort to create the required number of jobs within the nine (9) month timeframe, the Board may approve the use of the following option if it deems it appropriate: Allow the creation of two part-time jobs for low/moderate income individuals in place of one full-time job to meet the job creation requirement per \$10,000 in grant funds. A part-time job is defined as working at least 875 hours per year but less than 1,750 per year.***

In the case of a grantee business that has been unable to retain the required job(s) for one year from the time the job(s) was initially created, the PDC Board, at its discretion, may require the partial repayment of grant funds (on a pro-rata basis).

Definitions

*Definition of a full-time job, per the Maine Department of Economic and Community Development;

**For the purposes of this Program, low/moderate income is defined by the U.S. Department of Housing and Urban Development as 80% of median household income. A chart showing qualified income levels can be found on the City's website at the following link:
<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

***Definition of a part-time job, per the Maine Department of Economic and Community Development.

COVID-19 Portland Microenterprise Grant Program (MGP)

Program Description

The City of Portland's Microenterprise Grant Program (MGP) provides grants of up to \$5,000 for ~~existing~~ Portland businesses that operate out of leased commercial space and \$2,500 to other Portland microenterprises,* including home based businesses, that have been and/or are being impacted by the COVID 19 crisis. Startups are also eligible given that they are opening during this challenging period.

The **definition of a Microenterprise*** for the purposes of this program is a business owned by a low/moderate income individual** that has 0 to ~~one- three~~ (43) Full Time Equivalent (FTE) employees. One FTE =1 full-time job that is at least 34 hours/week or 2 part-time jobs that are each at least 17 hours/week), ~~plus the business owner(s).~~ Funding through this Program cannot be combined with any other City of Portland COVID-19 financing.

In accordance with the CARES Act emergency relief funds may not be used for the costs where other assistance has already been provided for the same purpose and there is no demonstrated unmet need. This ~~program may not duplicate~~includes benefits received from COVID-19 Federal, State or County grants. Specifically, COVID-19 City grants can only be used to pay for items not already paid for by other governmental or private grants or loans.

Program Objective

The stabilization and growth of Portland microenterprises that have been negatively impacted by the Covid19 pandemic., whether the business is open or temporarily closed.

Funding Source

Community Development Block Grant ~~Coronavirus (CDBG-CV).~~

Financing

Maximum grant of \$5,000 per microenterprise that operates out of leased commercial space.
Maximum grant of \$2,500 per microenterprise that does not operate out of leased commercial space (e.g., is home based or provides services elsewhere).

Program Requirements/Eligibility

- Business is open or temporarily closed;
- Owner(s) must be low/moderate income**;
- If the business has employees, at least 51% must be low/moderate income**;
- Business began operating no later than March 15, 2020;
- Business can have no more than three (3)1 FTE employees, plus the owner;
- Business must be located within the City of Portland;
- Owner is unable to finance business expenses on his/her own;
- Applicant does not owe outstanding property taxes, fees, or judgments to the City and property must be free of all City liens and encumbrances.

Eligible Funding Activities:

Rent, utilities, inventory, insurance, payroll (not including owner) and other working capital needs; the portion of a residential mortgage [or rent](#) that covers the square footage used by a home based businesses.

Ineligible Activities:

- Wages for business owner(s) and family members of the business owner(s);
- Refinance existing debt;
- Down payment for other financing;
- Use of grant funds for activities other than those that are noted as eligible.

Application Review Criteria

The Portland Development Corporation (PDC), the City's lending and granting board, will weigh the following criteria, but has the discretion to base its approval on other considerations as well:

- Completeness of application package (all required submittals);
- Business has been substantially impacted by COVID-19 crisis;
- If closed, timing when business will reopen;
- If business had employees [prior to the pandemic](#), timing when business will hire back furloughed employee(s) or re-create job(s) that existed just before the COVID-19 crisis ;
- If business had [or has](#) employees, company profile of employee wages and benefits;
- Health of business just before the COVID-19 crisis [if the business existed then](#),
- Personal credit score.

Required Submittals

- City of Portland Microenterprise Program Application;
- Commercial lease, if business is in a leased space, noting monthly or annual rate, and CAM charges for NNN leases;
- Personal financial statement - from all owners of the business with 20% ownership or greater;
- 2019 and 2020 [completed federal](#) business tax returns;
- ~~A~~ Current Balance Sheet
- [Current](#) Profit and Loss ~~for 2019~~;
- ~~One year of monthly projections~~;
- [Business plan if a startup](#);
- If had employees [prior to the pandemic](#), payroll showing number of full and part-time employees ~~just before the COVID-19 crisis~~ [at that time \(January or February 2020\)](#) ;

Application and Approval Process

The City's Housing and Economic Development Department is responsible for administration of the COVID-19 Microenterprise Grant Program. Applications are submitted to staff for eligibility review and may be analyzed by an underwriter. Eligible applications are presented to the Portland Development Corporation (PDC) for its review and approval. The PDC has the authority to establish application deadlines.

[Reporting and Tracking \(after grant approval\)](#)

~~If business is still operating, within six months after applicable Stay at Home or other COVID-19 emergency orders have been lifted for the grantee's type of business, the payroll will be at the same capacity it was just before it was impacted by the COVID-19 crisis. If business is temporarily closed it will be operating within six months after applicable State at Home or other City COVID-19 emergency orders have been lifted for the grantee's type of business. The six month timeframe can be adjusted based on how the COVID-19 restrictions are lifted.~~

Sunset Provision

Program ~~has a terminat~~es ion date of December 31, 2021 or when the funds run out, ~~whichever comes first.~~

Definitions

*For the purposes of this Program, a microenterprise business is defined as a commercial enterprise that has 0 to ~~one three~~ (34) Full-Time Equivalent (FTE) employees. **One (1) FTE job is equal to at least 34 hours/week or 2 part-time jobs, each at least 17 hours/week** plus the business owner(s). The owner(s) must be low/moderate income.**

** Low/moderate income is defined by the U.S. Department of Housing and Urban Development as 80% of median household income. A chart showing qualified income levels can be found on the City's website at the following link:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

COVID-19 Portland Microenterprise Grant Program (MGP)

Program Description

The City of Portland's Microenterprise Grant Program (MGP) provides grants of up to \$5,000 for Portland businesses that operate out of leased commercial space and \$2,500 to other Portland microenterprises,* including home based businesses, that have been and/or are being impacted by the COVID 19 crisis. Startups are also eligible given that they are opening during this challenging period.

The **definition of a Microenterprise*** for the purposes of this program is a business owned by a low/moderate income individual** that has 0 to three (3) Full Time Equivalent (FTE) employees. One FTE =1 full-time job that is at least 34 hours/week or 2 part-time jobs that are each at least 17 hours/week). Funding through this Program cannot be combined with any other City of Portland COVID-19 financing.

In accordance with the CARES Act emergency relief funds may not be used for the costs where other assistance has already been provided for the same purpose and there is no demonstrated unmet need. This includes benefits received from COVID-19 Federal, State or County grants. Specifically, COVID-19 City grants can only be used to pay for items not already paid for by other governmental or private grants or loans.

Program Objective

The stabilization and growth of Portland microenterprise that have been negatively impacted by the Covid19 pandemic.

Funding Source

Community Development Block Grant-Coronavirus (CDBG-CV).

Financing

Maximum grant of \$5,000 per microenterprise that operates out of leased commercial space.
Maximum grant of \$2,500 per microenterprise that does not operate out of leased commercial space (e.g., is home based or provides services elsewhere).

Program Requirements/Eligibility

- Business is open or temporarily closed;
- Owner(s) must be low/moderate income**;
- If the business has employees, at least 51% must be low/moderate income**;
- ;
- Business can have no more than three (3) FTE employees, plus the owner;
- Business must be located within the City of Portland;
- Owner is unable to finance business expenses on his/her own;
- Applicant does not owe outstanding property taxes, fees, or judgments to the City and property must be free of all City liens and encumbrances.

Eligible Funding Activities:

Rent, utilities, inventory, insurance, payroll (not including owner) and other working capital needs; the portion of a residential mortgage or rent that covers the square footage used by a home based businesses.

Ineligible Activities:

- Wages for business owner(s) and family members of the business owner(s);
- Refinance existing debt;
- Down payment for other financing;
- Use of grant funds for activities other than those that are noted as eligible.

Application Review Criteria

The Portland Development Corporation (PDC), the City's lending and granting board, will weigh the following criteria, but has the discretion to base its approval on other considerations as well:

- Completeness of application package (all required submittals);
- Business has been substantially impacted by COVID-19 crisis;
- If closed, timing when business will reopen;
- If business had employees prior to the pandemic, timing when business will hire back furloughed employee(s) or re-create job(s) that existed just before the COVID-19 crisis ;
- If business had or has employees, company profile of employee wages and benefits;
- Health of business just before the COVID-19 crisis if the business existed then,
- Personal credit score.

Required Submittals

- City of Portland Microenterprise Program Application;
- Commercial lease, if business is in a leased space, noting monthly or annual rate, and CAM charges for NNN leases;
- Personal financial statement - from all owners of the business with 20% ownership or greater;
- 2019 and 2020 completed federal business tax returns;
- Current Balance Sheet
- Current Profit and Loss;
- Business plan if a startup;
- If had employees prior to the pandemic, payroll showing number of full and part-time employees at that time (January or February 2020).

Application and Approval Process

The City's Housing and Economic Development Department is responsible for administration of the COVID-19 Microenterprise Grant Program. Applications are submitted to staff for eligibility review and may be analyzed by an underwriter. Eligible applications are presented to the Portland Development Corporation (PDC) for its review and approval. The PDC has the authority to establish application deadlines.

Sunset Provision

Program terminates when the funds run out.

Definitions

*For the purposes of this Program, a microenterprise business is defined as a commercial enterprise that has 0 to three (3) Full-Time Equivalent (FTE) employees. **One (1) FTE job is equal to at least 34 hours/week or 2 part-time jobs, each at least 17 hours/week** plus the business owner(s). The owner(s) must be low/moderate income.**

** Low/moderate income is defined by the U.S. Department of Housing and Urban Development as 80% of median household income. A chart showing qualified income levels can be found on the City's website at the following link:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

BYLAWS OF PORTLAND DEVELOPMENT CORPORATION

ARTICLE 1

NAME, PRINCIPAL OFFICE, CORPORATE SEAL

Section 1.1. Name. The name of this corporation shall be the Portland Development Corporation.

Section 1.2. Principal Office. The principal office for the conduct of the activities of the corporation shall be located at Portland City Hall, 389 Congress Street, Portland, Maine.

Section 1.3. Corporate Seal. The corporate seal of the corporation shall be circular in form and shall bear the words and figures "Portland Development Corporation," the word "Maine" and the year of the corporation's incorporation. The form of such seal may be altered from time to time by the Board of Directors.

Section 1.4. Registered Office. The Registered Office of the Corporation is at 389 Congress Street, Portland, Maine. The address of the Registered Office may be changed from time to time by the Board of Directors or by the Registered Agent.

Section 1.5. Registered Agent. The Registered Agent of the Corporation is the person designated in the Articles of Incorporation, as amended from time to time by the Board of Directors.

ARTICLE II **PURPOSES**

Section 2.1. General Purposes. The Corporation is organized and shall be operated on a non-profit basis to receive donations and contributions in support of the City of Portland economic development efforts that enhance and create business, employment and development opportunities including:

- A. Implement and administer development programs that enhance business opportunities and combat community deterioration in the City of Portland, including, but not limited to, brownfields programs that facilitate development of commercial, multi-family residential, public open space and public recreational properties;
- B. Enhance employment opportunities for members of the Portland community by offering education and counseling services which support businesses in the City of Portland, thereby lessening the burdens of government;
- C. Make recommendations to the City Council with respect to, but not limited to, bond and tax increment financing and the management, acquisition, disposal and general land use of City of Portland property;

D. Refer requests to acquire property via eminent domain to the City Council; and

E. Acquire, hold, own, manage, dispose or liquidate property, upon City Council approval, for the purpose of advancing economic development and promoting employment opportunities in the City of Portland;

Section 2.2. Powers. This Corporation shall have all such powers as are authorized to non-profit corporations by the Maine Nonprofit Corporations Act. The corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended.

Section 2.3. Prohibition of the Inurement of Assets and Income to Private Persons. The corporation is not organized for pecuniary profit and shall not have any capital stock. No part of its net earnings or of its principal shall inure to the benefit of any officer or director of the corporation, or any other individual, partnership or corporation, but reimbursements for expenditures or the payment of reasonable compensation for services rendered shall not be deemed to be a distribution of earnings or principal.

Section 2.4. Dissolution. If this Corporation is dissolved or its legal existence terminated, either voluntarily or involuntarily, or upon final liquidation of the Corporation, none of its assets shall inure to the benefit of any private individual, and all of its assets remaining after payment of all of its liabilities shall be distributed to one or more organizations which the Board of Directors then determines is qualified both as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as an organization engaged in activities substantially similar to those of this Corporation (within the meaning of 13-B M.R.S.A. §407).

Section 2.5 Tax exempt Status. It is intended that the Corporation shall have and continue to have the status of a corporation which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended, or successor provisions of federal tax law (the "Internal Revenue Code") as an organization described in Section 501(c)(3) of such Code, and to which contributions are deductible under Section 170(c)(2) and 2055(a)(2) of the Internal Revenue Code which is other than a private foundation as defined in Section 509(A) of the Internal Revenue Code. The Articles of Incorporation and these Bylaws shall be construed accordingly, and all powers and activities shall be limited accordingly.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; provided that the Corporation shall have the power to make an election under Section 501(h) of the Internal Revenue Code. Likewise, the Corporation shall not participate or intervene in any manner or to any extent in any political campaign on behalf of any candidate for public office. Furthermore, the Corporation shall not engage in any activities that are unlawful under applicable federal, state or local laws,

including, but not limited to, activities prohibited for an exempt organization under Section 501(c)(3) of the Internal Revenue Code and regulations thereunder as they now exist or as they may hereafter be amended.

ARTICLE III **MEMBERSHIP**

Section 3.1. Member. The sole member of the Corporation shall be the City of Portland, Maine. The sole member of the Corporation shall be referred to as the "Corporator" for the purposes of the Articles of Incorporation and these Bylaws.

Section 3.2 General. In addition to the other powers of the Corporator listed in Section 3.3 hereof, the Corporator shall have the responsibility for the election of the Board of Directors of the Corporation, which Board has the ultimate responsibility for governing the Corporation. The rights and responsibilities of the Corporator, may be changed from time to time by an amendment to the Articles of Incorporation (to the extent required by law) and by these Bylaws.

Section 3.3. Powers. The Corporator shall have only those rights set forth in the Articles of Incorporation, as restated in these Bylaws. Such rights are as follows:

- A. The establishment of the size of the Board of Directors within the limits described in Section 4.2 hereof;
- B. The election of Directors pursuant to Article IV hereof, with the exception of filling of a vacant Board seat as provided in Section 4.5 hereof;
- C. The removal of Directors from the Board of Directors;
- D. The amendment, restatement, or modification of the Articles of Incorporation or of the Bylaws of this Corporation;
- E. The approval of the sale, lease, or other disposition (excluding by mortgage or pledge for purposes of security) of all, or substantially all, of the assets and property of the Corporation;
- F. The dissolution of the Corporation or its merger with or consolidation with another corporation; and
- G. Any other matter which a majority of the Board of Directors voting on the matter votes to submit to the Member.

Section 3.4 Annual Meetings. The Annual Meeting of the Corporator shall be held on such day in the month of September of each year at such place and time as shall be fixed by the Board of Directors. In the event of a failure for any reason to hold an Annual Meeting as aforesaid, any business which may properly be transacted at an Annual Meeting, including the election of Directors, may be transacted at a Special Meeting.

Section 3.5 Special Meetings. Special Meetings of the Corporator may be called at any time by the President or a majority of the Directors.

Section 3.6. Notice of Meetings. Notice of all meetings of the Corporator shall be given by the Secretary or in his or her absence or disability by the President, by mailing or emailing to the Corporator a written notice specifying the time and place of the meeting, such notice to be addressed to the Corporator and emailed or mailed (postage prepaid) at least five (5) but not more than fifty (50) days before the meeting.

Section 3.7. Action by Unanimous Consent. Any action required or permitted to be taken at a meeting of the Corporator may be taken without a meeting as long as consent in writing, setting forth the action so taken shall be signed by the Corporator, and filed with the minutes of the meetings of the Corporator.

Section 3.8. Manner of Acting. The act of the Corporator, present in person or by proxy at a meeting, shall be the valid act of the Corporator.

ARTICLE IV **BOARD OF DIRECTORS**

Section 4.1. Management by Board. The affairs of the Corporation shall be managed by its Board of Directors, which may exercise all powers of the Corporation and do all lawful acts and things necessary or appropriate to carry out the purposes of the Corporation.

Section 4.2. Number of Directors; Eligibility. The Board of Directors shall consist of eleven (11) individuals, nine (9) of whom shall be Directors appointed by the Corporator through the Portland City Council and two (2) of whom shall be ex officio members of the Board pursuant to Section 4 of this Article. No fewer than six (6) of the nine (9) directors appointed by the Corporator must be a resident or property owner in the City of Portland or have an ownership interest in a business that has its principal office in the City.

Section 4.3. Nomination. The Corporator shall receive nominations from the Portland City Council Nominating Committee, which shall supplement its regular Committee recruitment efforts by advertising in the local media and by otherwise publicizing the vacancies as widely as possible.

Section 4.4. Ex Officio Members of the Board of Directors. There shall be two (2) individuals who shall each be deemed an ex officio member of the Board of Directors by virtue of his or her holding the position of (1) Mayor or City Council member of the City of Portland as appointed by the Corporator; and (2) City Manager of the City of Portland.

The provisions of these Bylaws contained in Section 5 regarding term of office, Section 3 regarding nomination of directors and Section 7 regarding vacancies shall not apply to said ex officio members. The City Manager shall be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and the Mayor or

City Council member shall be appointed annually; and said members shall enjoy all the rights, privileges and responsibilities of all other member of the Board of Directors, including, without limitation, voting privileges, except, however that no ex officio member may serve as President of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex officio member. Ex officio members shall be counted as Directors for purposes of determination of residency requirements in Section I of this Article. Ex officio members shall be entitled to the same indemnification rights available to all Directors under the law, these Bylaws or otherwise.

Section 4.5. Terms of Office. One (1) Director shall be initially appointed by the Corporator to hold office until the Second Annual Meeting of the Corporation following the incorporation of this Corporation; two (2) Directors shall be initially appointed by the Corporator to hold office until the Third Annual Meeting of the Corporator following the incorporation of this Corporation; and two (2) Directors shall be initially appointed by the Corporator to hold office until the fourth Annual Meeting of the Corporation following the incorporation of this Corporation. The Corporator shall specify the term of office for which each Director is initially appointed. Thereafter, Directors shall be appointed by the Corporator at Annual Meetings of the Corporator to serve as such for a term of three (3) years. Each Director shall serve until his or her successor shall be duly qualified and appointed. Directors shall be nominated prior to the Annual Meeting of the Corporator. No Director shall succeed himself or herself for more than two (2) full consecutive terms, provided that no term of less than three (3) years which is served directly in advance thereof shall be counted for purposes of this limitation.

Section 4.6. Voting. Each Director shall be entitled to one (1) vote.

Section 4.7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the Corporator by appointment of an individual qualifying and eligible for such position. A person appointed to fill a vacancy which occurs other than by reason of an increase in the number of Directors shall serve until the next Annual Meeting of the Corporator.

Section 4.8. Resignation. Any Director may resign at any time by giving written notice to the President of the Corporation. Such resignation shall take effect on the date of receipt or at any later time specified therein.

ARTICLE V **MEETINGS**

Section 5.1. Annual Meeting. The Annual Meeting of the Board of Directors shall be held without call at the Board's Regular Meeting in the month of September, at the principal office of the Corporation or at some other place fixed by the President.

Section 5.2. Regular Meeting. Other Regular Meetings of the Board of Directors may be held, without call, at such place, date and time as shall be fixed from time to time by resolution of the Board of Directors.

Section 5.3. Special Meetings. Special Meetings of the Board of Directors may be called by such persons as are authorized by law to call Special Meetings. The place, date and time of the Special Meeting shall be fixed in the call therefor.

Section 5.4. Notice of Meetings. Notice of each Annual, Regular or Special Meeting of the Board of Directors shall be given by the person or persons calling the same or by the President or Secretary at least three (3) days in advance thereof. Notice may be given in writing, by email, by telephone, by oral statement or by any other means to the Directors in person or by delivery of a writing to the Director's residence or business address. Notice given in writing by mail shall be deemed given on the day that the same is deposited in the U.S. mails as first class mail, postage prepaid. Neither the business to be transacted thereat, nor the purposes of any Annual, Regular or Special Meeting of the Board of Directors need to be specified in the notice of such meeting, except when otherwise provided by law.

Section 5.5. Conduct of Meetings. The final actions of the Board of Directors shall be taken openly, and subject to provisions of the Maine Freedom of Access Act, deliberations of the Board shall be conducted openly, and the records of their actions shall be open to public inspection.

Section 5.6. Quorum. Six (6) Directors shall constitute a quorum for the transaction of business. The act of at least four (4) of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors.

Section 5.7. Informal Action by Directors. Action of the Directors may be taken in accordance with the provisions of Section 708 of the Maine Nonprofit Corporations Act, Title 13-B M.R.S.A. In amplification of, and not in limitation of the foregoing, action taken by agreement of a majority of Directors shall be deemed action of the Board of Directors if all Directors know of the action taken and no Director makes prompt objection to such action. Objection by a Director shall be effective if written objection to any specific action so taken is filed with the Secretary of this Corporation within thirty (30) days of such specific action.

Section 5.8. Notice. Whenever under the provisions of the statutes, Articles of Incorporation or these Bylaws notice is required to be given to any Director, such notice must be given in writing by personal delivery, by email, mail, or by telephone, addressed to such Director at his or her address as it appears on the records of the Corporation, with postage or other delivery fees prepaid, or at his or her telephone number as it appears on the records of the Corporation. Notice by mail shall be deemed to be given at the time it is deposited in the United States mail.

Section 5.9. Indemnification. This corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, officer, employee or agent of this corporation, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. §714 as it may

be amended from time to time, and acts additional thereto and supplementary thereof, to which reference is made.

ARTICLE VI **OFFICERS AND AGENTS**

Section 6.1. Officers. The officers of the corporation shall be chosen annually at the Annual Meeting of the Board of Directors, and shall be a President, a Treasurer and a Secretary. One individual may serve in more than one such office. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers.

Section 6.2. Term. Officers shall be elected for a term of one (1) year to serve until the next Annual Meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years. The initial officers shall be appointed by the Board of Directors at their first meeting following incorporation to serve as such until the first Annual Meeting of the Board of Directors.

Section 6.3. Removal. Any officer of the corporation may be removed by the Board of Directors whenever in their judgment the best interests of the corporation will be served thereby.

Section 6.4. Vacancies. Any vacancy in any office (except the office of Director) may be filled by the Board of Directors.

Section 6.5. President. The President of the Corporation shall be elected from among the members of the Board of Directors, provided however that no ex officio member may be permitted to serve as President.

Section 6.6. Treasurer. The Treasurer shall be the chief financial officer of the corporation and, together with the Assistant Treasurer, shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be.

Section 6.7. Secretary. The Secretary shall attend all meetings of Corporation and the Board of Directors and keep minutes of all meetings of the Corporation and the Board of Directors in a book or books kept for that purpose. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. The Secretary, and any Assistant Secretaries, shall have authority to affix the corporate seal to any instrument which requires it, and when so affixed, it may be attested by the Secretary or by any Assistant Secretary.

Section 6.8. The Assistant Treasurer and Assistant Secretary. One (1) Assistant Secretary shall be appointed by the Board of Directors. The individual appointed Assistant Secretary shall be the Director of [the Housing and](#) Economic Development Department of the City of Portland and shall be the principal staff person for the Corporation. The Assistant Secretary will have

authority to execute documents on behalf of the Corporation should a Board officer not be available to do so. One (1) Assistant Treasurer shall be appointed by the Board of Directors. The individual appointed as the Assistant Treasurer shall be that individual who holds the position of Treasurer for the City of Portland. The Assistant Treasurer shall, together with the Treasurer, have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Assistant Treasurer shall have such other powers and duties as may be prescribed from time to time by the Board of Directors. Assistant Secretaries and Assistant Treasurers shall not be members of the Board of Directors.

Section 6.9. Other Employees. Other employees of the Corporation may be appointed by the Board of Directors, and if so appointed, shall be supervised by, and shall serve under the direction of the Assistant Secretary.

ARTICLE VII **ADOPTION, AMENDMENT**

Section 7.1. Generally. These Bylaws may be amended or repealed or new Bylaws adopted only by the affirmative vote of the Corporation, provided, however, that the Bylaws may not be amended in such a way as to cause the Corporation to lose its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended, or (iii) as a corporation described in Section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, as amended.

Section 7.2. Amendments. These Bylaws may be amended solely by the Corporation.

ARTICLE IX **CONFLICT OF INTEREST**

Section 8.1. Avoidance of Conflict or the Appearance of such Conflict. Every Director shall endeavor to avoid conflicts of interest or the appearance of such conflicts or impropriety as provided by state statute, by full disclosure at all times and by abstention in the appropriate circumstances.

Section 8.1. Disclosure. Any Director who has a direct interest in any matter to be considered by the Board shall fully disclose that interest to the Board. If a Director is unsure whether a direct interest exists in a particular matter or if the issue is otherwise raised in good faith, the Director shall disclose the pertinent facts to the Board, and the Board shall determine the issue.

Section 8.3. Abstention. When the Director has so disclosed and is deemed to have a direct interest in a matter, the Director shall abstain from voting on the matter and from otherwise participating in the decision-making process on the matter. Notation of the disclosure and abstention of the Director shall be recorded in the minutes.

Section 8.4. Direct Interest. For purposes of this Article, direct interest in a matter shall mean:

- A. A substantial financial interest of the Director or of the spouse or dependent child of the Director;
- B. A substantial financial interest of any employer, partner, associate, co-shareholder or other co-venturer of the Director;
- C. A substantial financial interest of the Director in any entity which has a substantial financial interest in the matter; or
- B. Any other substantial interest of the Director which the Director or the Board believes might reasonably impair the Director's ability to act independently.

ATTEST:

DATE:

Assistant Secretary

ZOOM INFORMATION:

Please click the link below to join the webinar:

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International numbers available: <https://us02web.zoom.us/j/85621497951?pwd=UFFoUHdtZldieU1vVms5eFB2L25ZZz09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Snyder called the meeting to order at 4:00 P.M. (All Councilors Present).

ANNOUNCEMENTS:

Mayor Snyder announced that the August City Council Meeting will be moved to August 23, 2021.

Councilor Ray announced that there will be a Council Workshop on the Smaller Shelters on July 26, 2021.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the Draft June 21, 2021 City Council Meeting Minutes

Motion was made by Councilor Ali and seconded by Councilor Ray to approve the June 21, 2021 City Council meeting minutes. Passage 9-0.

PROCLAMATIONS:

**Proc 1-21/22 Recognizing Educators Maureen Lovejoy and Jennifer Rogers -
Sponsored by Kate Snyder, Mayor**

**Proc 2-21/22 Recognizing the Vaccination Efforts of Healthcare Workers -
Sponsored by Kate Snyder, Mayor**

CONSENT ITEMS:

Motion was made by Councilor Ray and seconded by Councilor Mavodones to bifurcate the Consent Items and to vote on Order 2 separately. Passage 9-0.

Order 1-21/22 Granting a Thames Street Extension License to Northern Utilities, Inc., doing business as Unitil - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Ali for passage. Passage 9-0.

Order 2-21/22 Accepting the Public Art Committee Fiscal Year 2021 Annual Report and Fiscal Year 2022 Budget Plan - Sponsored by Kate Snyder, Mayor

Motion was made by Councilor Chong and seconded by Councilor Mavodones. This motion was withdrawn.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to accept the report without the minor change; " Application Process: *For proposed street murals, this process may be expedited for any city owned streets within commercial or mixed use areas (the downtown, major thorough fares). In these cases, there will be at least a one week notice to stakeholders for comment/meeting participation. Additional members of the review committee may include Metro or MDOT depending on proposed location".
Passage 9-0.

LICENSES:

Order 3-21/22 Granting Municipal Officers' Approval of On the Rocks Cocktail Cruises LLC, dba On the Rocks Cocktail Cruises. Application for a Class I FSE at 68 Commercial Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Mavodones for passage.
Passage 9-0.

Order 4-21/22 Granting Municipal Officers' Approval of Hi Fidelity LLC, dba Hi Fidelity. Application for a Class A Lounge with Outdoor Dining on Private Property and Indoor Entertainment at 200 Anderson St, Ste 6. This license will be conditioned per zoning to state: Can offer up to, but not more than 10% of beverages produced offsite - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Mayor Snyder for passage. Passage 9-0.

Written Public Comment

Order 5-21/22 Granting Municipal Officers' Approval of Tokyo Sushi Ramen Inc, dba Tokyo Sushi Ramen. Application for a Class I FSE with Outdoor Dining on Private Property at 11 Brown Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Snyder to passage.
Passage. 9-0.

Order 6-21/22 Granting Municipal Officers' Approval of Portland Harbor Hotel Associates LLC, dba Portland Harbor Hotel. Application for a Class IA Inn with Outdoor Dining on Private Property and Combined Entertainment at 468 Fore Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Mavodones for passage.

Passage 9-0.

ORDERS:

Order 7-21/22 Approving the Agreement between the Portland Area Comprehensive Transportation System, the Maine Department of Transportation and Portland re: Forest Avenue Improvements from Marginal Way to Park Avenue - Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Order 8-21/22 Accepting and Appropriating a Grant from the Maine Department of Economic and Community Development Re: Journey Maps in Multiple Languages - Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Order 9-21/22 Approving the Maine Department of Transportation and City of Portland Agreement Re: Franklin Street and Marginal Way - Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Order 10-21/22 Amending Order 233-20/21 Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Public Schools for Fiscal Year 2022 – Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Order 11-21/22 Amending Order 236-20/21 Approving Total School Operating Budget For Portland Schools for Fiscal Year 2022 – Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Order 12-21/22 Amending Order 257-20/21 Fiscal Year 2021-2022 Appropriation Resolve - Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Order 13-21/22 for a Preliminary Earmark of \$3,399,686 from Additional State Education Funding as School Debt Service Reserve – Sponsored by Jon P. Jennings, City Manager

This is its first reading.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to adjourn.
Passage 9-0 at 4:57 P.M.

A TRUE RECORD

Katherine Jones, City Clerk

4:30 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ZOOM INFORMATION:

Please click the link below to join the webinar:

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International numbers available: <https://us02web.zoom.us/j/85621497951?pwd=UFFoUHdtZldieU1vVms5eFB2L25ZZz09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Snyder called the meeting to order at 5:30 P.M. (All Councilors Present).

ANNOUNCEMENTS:

Mayor Snyder announced that the next City Council Meeting will be on August 23, 2021.

Councilor Ray announced that next Monday July 26, 2021 there will be a City Council Workshop on smaller shelters.

Councilor Ali wished the Community a Happy Eid.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

CONSENT ITEMS:

Order 14-21/22 Declaring June 30, 2021 to November 1, 2021 the Outdoor Dining/Retail Festival - Sponsored by Jon P. Jennings

Motion was made by Councilor Ali and seconded by Councilor Ray for passage. Passage 9-0.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

UNFINISHED BUSINESS:

Order 291-20/21 Appropriating \$400,000 in Home Investment Partnership Program Funds to Equinox Housing Partners LP RE: 73 Winter Street - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage as an emergency. Passage 9-0.

Order 292-20/21 Designating the 73 Winter Street Affordable Housing Development District and Adopting the Municipal Development Program for the District-

Sponsored by Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Chong for passage as an emergency. Passage 9-0.

Written Public Comment

Order 293-20/21 Approving the Credit Enhancement Agreement with Equinox Housing Partners LP - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage as an emergency. Passage 9-0.

Order 294-20/21 Appropriating \$200,000 in HOME Investment Partnership Program Funds and Housing Trust Funds to Winter Landing Housing Partners LP RE: 91 Winter Street - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ali for passage as an emergency. Passage 9-0.

Order 295-20/21 Designating the 91 Winter Street Affordable Housing Development District and Adopting the Municipal Development Program for the District - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ali for passage as an emergency. Passage 9-0.

Order 296-20/21 Approving the Credit Enhancement Agreement with Winter Landing Housing Partners LP - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage as an emergency. Passage 9-0.

Order 297-20/21 Amending the Downtown Transit Oriented Development and Omnibus Tax Increment Financing District to Make 73 Winter Street and 91 Winter Street Affordable Housing Tax Increment Financing Districts - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage as an emergency. Passage 9-0.

Order 298-20/21 Adopting Development Program for Portland Downtown for Fiscal Year 2021-2022 - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ali for passage.

Passage 9-0.

Order 299-20/21 Establishing Maintenance and Implementation Assessments for Portland Downtown for Fiscal Year 2021-2022 - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage.
Passage 9-0.

Order 300-20/21 Approving Agreement between the City of Portland and Portland Downtown for Fiscal Year 2021-2022 - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage.
Passage 9-0.

Order 301-20/21 Approving the Second Letter Agreement with Developers Collaborative for the Homeless Service Center on Riverside Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Chong and seconded by Councilor Ray to call the question. Motion failed 1-9 (Fournier, Mavodnes, Dion, Ali, Zarro, Ray, Thibodeau, Snyder)

Motion was made by Councilor Dion and seconded by Councilor Ali to postpone Order 301 to August 23, 2021. Motion failed 4-5 (Mavodones, Ray, Thibodeau, Chong, Snyder)

Motion was made by Councilor Thibodeau and seconded by Councilor Ali for passage.
Passage 6-3 (Fournier, Ali, Zarro).

Written Public Comment

Order 302-20/21 Amendment to Zoning Map Re: R-2 Zone to R-3 Zone at 165 Lambert Street - Sponsored by the Planning Board, Brandon Mazer, Chair

Motion was made by Councilor Ray and seconded by Councilor Chong for passage.
Passage 9-0.

Order 303-20/21 Amendment to Portland City Code Chapter 14 Re: Neighborhood Center Definition and PRUD Open Space and Dimensional Provisions - Sponsored by the Portland Planning Board, Brandon Mazer, Chair

Motion was made by Councilor Mavodones and seconded by Councilor Ali for passage.
Passage 9-0.

Order 10-21/22 Amending Order 233-20/21 Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Public Schools for Fiscal Year 2022 – Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Mavodones and seconded by Councilor Dion for passage.
Passage 9-0.

Written Public Comment

Order 11-21/22 Amending Order 236-20/21 Approving Total School Operating Budget For Portland Schools for Fiscal Year 2022 – Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Ali for passage. Passage 9-0.

Order 12-21/22 Amending Order 257-20/21 Fiscal Year 2021-2022 Appropriation Resolve - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Mavodones for passage. Passage 9-0.

Order 13-21/22 for a Preliminary Earmark of \$3,399,686 from Additional State Education Funding as School Debt Service Reserve – Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Dion for passage. Passage 9-0.

ORDERS:

Order 15-21/22 Setting an Election Date on a Citizen Initiative Amendment to Portland City Code Chapter 14 Re: Emergency Shelters for 50 or Fewer Only - Sponsored by Katherine L. Jones, City Clerk

Motion was made by Councilor Thibodeau and seconded by Councilor Mavodones to postpone Order 15 to August 23, 2021 City Council Meeting. Passage 9-0.

Order 16-21/22 Setting an Election Date on an alternative Amendment to Portland City Code Chapter 14 Re: Emergency Shelters - Sponsored by Kate Snyder, Mayor

Motion was made by Councilor Ali and seconded by Councilor Mavodones to postpone Order 16 to the August 23, 2021 City Council Meeting. Passage 9-0.

Order 17-21/22 Repealing the Proclamation of Emergency - Sponsored by Kate Snyder, Mayor

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage. Passage 9-0.

Order 18-21/22 Adopting the Remote Participation Policy for the City of Portland City Council and City Council Committees - Sponsored by Kate Snyder, Mayor

Motion was made by Councilor Ali and seconded by Councilor Ray to suspend the rules to continue deliberations after 10:00 P.M. Passage 9-0.

Motion was made by Mayor Snyder and seconded by Councilor Ray to amend Order 18 in the second paragraph, second sentence, after the word chair, adding "the City Manager", for passage. Passage 9-0.

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage as

amended. Passage 9-0.

Order 19-21/22 Authorizing Fees at Public Electric Vehicle Chargers - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Thibodeau and seconded by Councilor Mavodones for passage. Passage 9-0.

Order 20-21/22 Accepting and Appropriating Federal Aviation Administration American Rescue Plan Act (ARPA) Grants for the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

This is its first reading.

AMENDMENTS:

Order 21-21/22 Adopting Amendment to Portland City Code Chapter 14 Re: Emergency Shelters for 50 or Fewer Only - Sponsored by Kate Snyder, Mayor

This is its first reading.

Order 22-21/22 Amendment to Zoning Map Re:99 Winter Street and 152-160 State Street from R-6 Residential to B-3 Downtown - Sponsored by Brandon Mazer, Chair, Portland Planning Board

This is its first reading.

Order 23-21/22 Amending the Height Overlap Map at 99 Winter Street - Sponsored by Brandon Mazer, Chair, Portland Planning Board

This is its first reading.

Motion was made by Councilor Ali and seconded by Councilor Zarro to adjourn. Passage 9-0 at 10:50 P.M.

A TRUE RECORD

Katherine Jones, City Clerk

ZOOM INFORMATION:

Due to the existence of an emergency or urgent issue the City Council will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403-B and the City Council's Remote Participation Policy.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85621497951?pwd=UFFoUHdtZldieU1vVms5eFB2L25ZZz09>

Passcode: 206775

Or One tap mobile :

US: +13017158592,,85621497951#,,,*,206775# or

+13126266799,,85621497951#,,,*,206775#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 856 2149 7951

Passcode: 206775

International numbers available: <https://us02web.zoom.us/j/85621497951?pwd=UFFoUHdtZldieU1vVms5eFB2L25ZZz09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Snyder called the meeting to order at 5:04 P.M. (All Councilors Present).

ANNOUNCEMENTS:

ORDERS:

Order 24-21/22 Declaring a Limited Emergency to Continue Remote Public Meetings - Sponsored by Kate Snyder, Mayor

Motion was made by Councilor Zarro and seconded by Councilor Ray for passage. Passage 9-0.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

The Council will consider suspending the Rules of Procedure for the City Council in order to hold public comment immediately after Order 24-21/22. Seven affirmative votes are required to suspend the Rules after public comment.

Motion was made by Councilor Dion and seconded by Councilor Ray to suspend the rule and take up public comment on non-agenda items after Order 24 for passage. Passage 9-0.

EXECUTIVE SESSION:

Executive Session pursuant to 1 M.R.S. section 405(6)(E) to discuss the City's legal rights and duties in FEDEQ DV004, LLC and FEDEQ DV005, LLC v. City of Portland et al.

Motion was made by Councilor Ali and seconded by Councilor Ray to adjourn the Special City Council meeting and move into Executive Session pursuant to 1 M.R.S. section 405 (6) (E). Passage 9-0 at 5:51 P.M.

Motion was made by Councilor Mavodones and seconded by Councilor Ali to move out of the Executive Session. Passage 9-0 at 6:44 P.M.

A True Record

Melissa Cowie, Assistant City Clerk

MEMORANDUM
City Council Agenda Item

FROM: Clare Norton
DATE: August 3, 2021
SUBJECT: Order 26-21/22 Declaring October 3, 2021 the 30th Annual Maine Marathon, Half Marathon & Relay Festival - Sponsored by Jon P. Jennings, City Manager
SPONSOR: Jon P Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 8/23/2021 **Final Action**

Can action be taken at a later date: No Organizer Needs Approval

PRESENTATION: Andrew J Downs Director of Public Assembly Facilities will be available to answer any questions.

I. SUMMARY

Order declaring The 30th Annual Maine Marathon, Half Marathon and Relay on Sunday October 3rd 2021 as a festival.

II. AGENDA DESCRIPTION

This is the 30th year that the Maine Marathon Committee has sponsored and organized the Maine Marathon. Expected number of registered runners this year is expected to reach 3,500, with approximately 800 anticipated spectators lining much of the sidewalks, parks and pathways along the race route. Since 1997, more than 5.2 million dollars has been raised to support local charities.

The race will take runners from Baxter Boulevard to Washington Avenue onto Veranda Street, continuing on Route 1 and crossing over Martin's Point Bridge into Falmouth and back. Runners will both start and finish at Baxter Boulevard Extension (the area between Forest Avenue and Preble Street).

A safety plan has been submitted in regards to the prevention of COVID 19.

III. BACKGROUND

This is the 30th year that the Maine Marathon Committee has organized the Maine Marathon.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The City Council to declare The 30th Annual Maine Marathon, Half Marathon and Relay on Sunday October 3rd 2021 as a festival.

V. FINANCIAL IMPACT

All City staff fees, permit fees and equipment usage fees will be paid by the organizer.

VI. STAFF ANALYSIS AND BACKGROUND

The Public Assembly Facilities Division has worked with the organizers on this event in the past and we are confident in their ability to host this festival.

VII. RECOMMENDATION

It is recommended that this order be declared.

VIII. LIST ATTACHMENTS

1. Maine Marathon 2021 8.23.2021

Prepared by:

Clare Norton

Date: 08/03/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING OCTOBER 3, 2021 THE
30TH ANNUAL MAINE MARATHON, HALF MARATHON &
RELAY FESTIVAL**

ORDERED, that October 3, 2021 from 5:00 a.m. to 3:00 p.m. is hereby declared to be the 30th Annual Maine Marathon, Half Marathon & Relay Festival, sponsored by the Maine Marathon Committee; and

BE IT FURTHER ORDERED, that the 30th Annual Maine Marathon, Half Marathon & Relay Festival area shall be Baxter Boulevard Extension from Forest Avenue to Preble Street, Baxter Boulevard, the Back Cove Trail, and Payson Park; and

BE IT FURTHER ORDERED, that during the 30th Annual Maine Marathon, Half Marathon & Relay Festival the following streets shall be closed to traffic at the following times:

Baxter Boulevard Extension from Forest Avenue to Preble Street: 5:00 a.m. to 3:00 p.m.;

Baxter Boulevard from Preble Street to Washington Avenue: 5:00 a.m. to 2:00 p.m.;

Preble Street from Forest Avenue to Baxter Boulevard: 5:00 a.m. to 2:00 p.m.;
and

Payson Park Roads including the West Kidder Street and Fernald Street entrances from Washington Avenue: 5:00 a.m. to 2:00 p.m.; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area (interior roadways) shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the 30th Annual Maine Marathon, Half Marathon & Relay Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that admission to run in the races of the 30th Annual Maine Marathon, Half Marathon & Relay Festival inside the Festival Area shall be charged by the Maine Marathon Committee; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Maine Marathon Committee under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Maine Marathon Committee shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Maine Marathon Committee shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;
3. Maine Marathon Committee shall be responsible for all fees for a permit issued from the Public Assembly Facilities Division, as well as for fees for city licenses and the cost of assistance from city staff. Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to;
4. Maine Marathon Committee shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Maine Marathon, Half Marathon & Relay Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and concert licenses for the Festival to those vendors the Maine Marathon Committee has agreed shall participate;
6. The route of the course is subject to change, depending on construction projects along the course and police recommendations leading up to the race; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam
Jon Giles

DATE: August 4, 2021

SUBJECT: Order 27-21/22 Accepting an Andrews Square Easement Deed from Avesta Butler Payson LP - Sponsored by Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 8/23/2021 **Final Action 8/23/2021**

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager as soon as possible to allow for a greater likelihood of getting a Contractor under contract in 2021.

PRESENTATION: N/A

I. SUMMARY

The City has received an easement deed from Avesta to allow for the installation and use of public sidewalk areas on private property in Andrews Square. The City Council is being asked to approve the attached easement and authorize the City Manager to sign the agreement, which would allow the City to move ahead with its plans to reconstruct the intersection at Andrews Square to allow for greater vehicular and pedestrian safety.

II. AGENDA DESCRIPTION

The City requires an easement deed from Avesta Butler Payson LP (Avesta) to allow the installation and use of public sidewalk areas on private property in Andrews Square. The City Council is asked to approve and authorize the City Manager to sign the easement with Avesta. This easement is not required for work to begin.

The Department of Public Works has Capital Improvement Plan funding for an intersection realignment project at Andrews Square (intersection of Clark Street, Pine Street, and West Street). Various residents of the Andrews Square neighborhood and members of the West End Neighborhood Association have donated private funds to incorporate various landscaping/hardscaping features into the project.

III. BACKGROUND

This easement from Avesta has been created to allow for the installation and use of public sidewalk areas on private property for in and adjacent to Andrews Square. The portion of Andrews Square covered by this easement is necessary to complete the proposed, designed, and budgeted improvements to Andrews Square. There was no cost for the easement as both parties are agreeable to the proposed outcome of improving Andrews Square's public space and usage.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

To accept this easement to allow the City of Portland to install public sidewalk areas and other associated improvements on land formerly part of the Butler School parcel, which is now owned by Avesta . The easement is needed to complete the designed public improvements in Andrews Square and provide the City of Portland the right, title, and interest to complete the designed and budgeted improvements.

V. FINANCIAL IMPACT

The financial impact is that inherent in the installation, building, and repairing of public sidewalk facilities. There was no cost for the easement as both parties are agreeable to the proposed outcome of improving Andrews Square's public space and usage.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

The Public Works Department recommends acceptance of this easement deed to allow the City to realign and reconstruct the intersection at Andrews Square.

VIII. LIST ATTACHMENTS

1. Accepting Andrews Square Easement from Avesta Butler Payson LP 8.23.2021
2. 2021_AndrewsSQ_LocusMap_ortho
3. Easement with Avesta at Butler School Building

Prepared by:

Melissa Graffam

Jon Giles

Date: 08/04/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ACCEPTING AN ANDREWS SQUARE EASEMENT
FROM AVESTA BUTLER PAYSON LP**

ORDERED, that the attached Andrews Square easement from Avesta Butler Payson LP for public pedestrian access is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to record said documents in the Cumberland County Registry of Deeds.



EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that AVESTA BUTLER PAYSON LP, a Maine limited partnership with a place of business in Portland, Maine and mailing address of 307 Cumberland Avenue, Portland, ME, 0410_ (the "Grantor"), FOR CONSIDERATION PAID, hereby GRANTS to the CITY OF PORTLAND, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 (the "Grantee" or the "City"), a non-exclusive easement for the purpose described below, over portions of Grantor's Land on Pine and West Streets in Portland, Maine, more particularly described in Exhibit A attached hereto and as depicted in the drawing attached hereto as Exhibit B and made a part hereof (the "Easement Area"). The Easement Area constitutes portions of the land described in a deed to Grantor dated March 30, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32169, Page 143.

The purpose of the easement granted herein is for public pedestrian access in, on, under, and over the Easement Area which shall function as a sidewalk for pedestrian, bicycle and similar non-motorized pedestrian uses subject, however, to such rules or ordinances as Grantee may adopt from time to time in the interests of public safety. Notwithstanding the foregoing, wheelchair and emergency vehicles as well as snow removal equipment shall be permitted in accordance with applicable federal and/or state laws regulating accessibility for such devices, vehicles or equipment. The City shall have the right, but not the obligation, to install, maintain, replace and repair the sidewalk and other amenities and appurtenances including benches and planters within the Easement Area for public use and enjoyment (collectively the "Amenities"). The Amenities as well as the so-called "Andrews Monument" currently located within the Easement Area shall be the property of Grantee, and may be removed from the Easement Area at any time provided that any damage caused by such removal shall be repaired by Grantee. If the Grantee elects to install the sidewalk and the Amenities, it shall maintain them at all times in reasonably good condition and repair at the Grantee's sole cost and expense, and in any event, Grantee shall keep and maintain the Andrews Monument in good order and repair at Grantee's sole cost and expense. Grantee shall have the right but not the obligation to remove ice and snow from the Easement Area and shall notify Grantor as to whether Grantee will exercise that right. In the absence of such notice, Grantor shall comply with all applicable laws, rules, regulations, and ordinances governing the removal of snow and ice from municipal sidewalks within the Easement Area.

The Easement areas shall, as provided and permitted herein, be maintained as a sidewalk for the uses set forth and described herein and Grantor shall not use or permit any use that would be contrary to or otherwise inhibit such uses.

The provisions of this Agreement shall constitute covenants running with the land hereby affected, and all such provisions shall inure solely to the benefit of and be binding upon the Parties and their respective successors and assigns.

This Agreement may not be amended or terminated except by an instrument in writing signed by both Parties, or their respective successors and/or assigns, and any attempted amendment or termination without all such signatures shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Maine.

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, between the Parties hereto with respect to the subject matter hereof.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

TO HAVE AND TO HOLD the aforegranted and bargained easement, with all privileges and appurtenances thereof, to the Grantee, its successors and assigns, to its and their use and behoof, forever.

IN WITNESS WHEREOF, Avesta Butler Payson LP, the Grantor has caused this instrument to be executed by Pinecone Housing Corporation, its General Partner thereunto duly authorized, this 15th day of June, 2021.

WITNESS:

AVESTA BUTLER PAYSON LP,
Grantor

BY: Pinecone Housing Corporation, its
General Partner



By: 

Dana Totman, its President

STATE OF MAINE
CUMBERLAND, ss.

June 15, 2021

Personally appeared the above named Dana Totman, authorized agent of Pinecone Housing Corporation, General Partner of Avesta Butler Payson LP, as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation and limited partnership.

Before me,



Attorney-at-Law/Notary Public

Printed Name: Eric Boucher

Commission expires: 4/22/2027

SEEN AND AGREED TO:

CITY OF PORTLAND

By: _____
Jon P. Jennings, City Manager

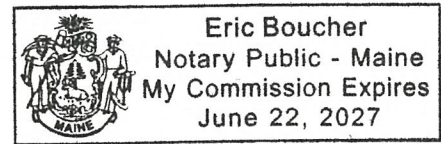


EXHIBIT A

A certain easement across land located in the City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at a drill hole in a 6" x 6" granite monument at the northeast corner of the intersection of the southeasterly 3-foot offset line of Pine Street with the northeasterly 3-foot offset line of Clark Street;

Thence N 86-58-12W one hundred seven and twenty-six hundredths feet (107.26') to a bolt in a 6" x 6" granite monument on the southerly 3-foot offset line of West Street;

Thence S 0-39-26 W three and zero hundredths feet (3.00') to the southerly street line of West Street and the **Point of Beginning**;

Thence S 89-20-34 E fifty and eighteen hundredths feet (50.18') along said southerly street line of West Street to an angle point in said street line;

Thence S 54-04-40 E twenty and thirty-nine hundredths feet (20.39') along said street line of West Street to the northwesterly street line of Pine Street;

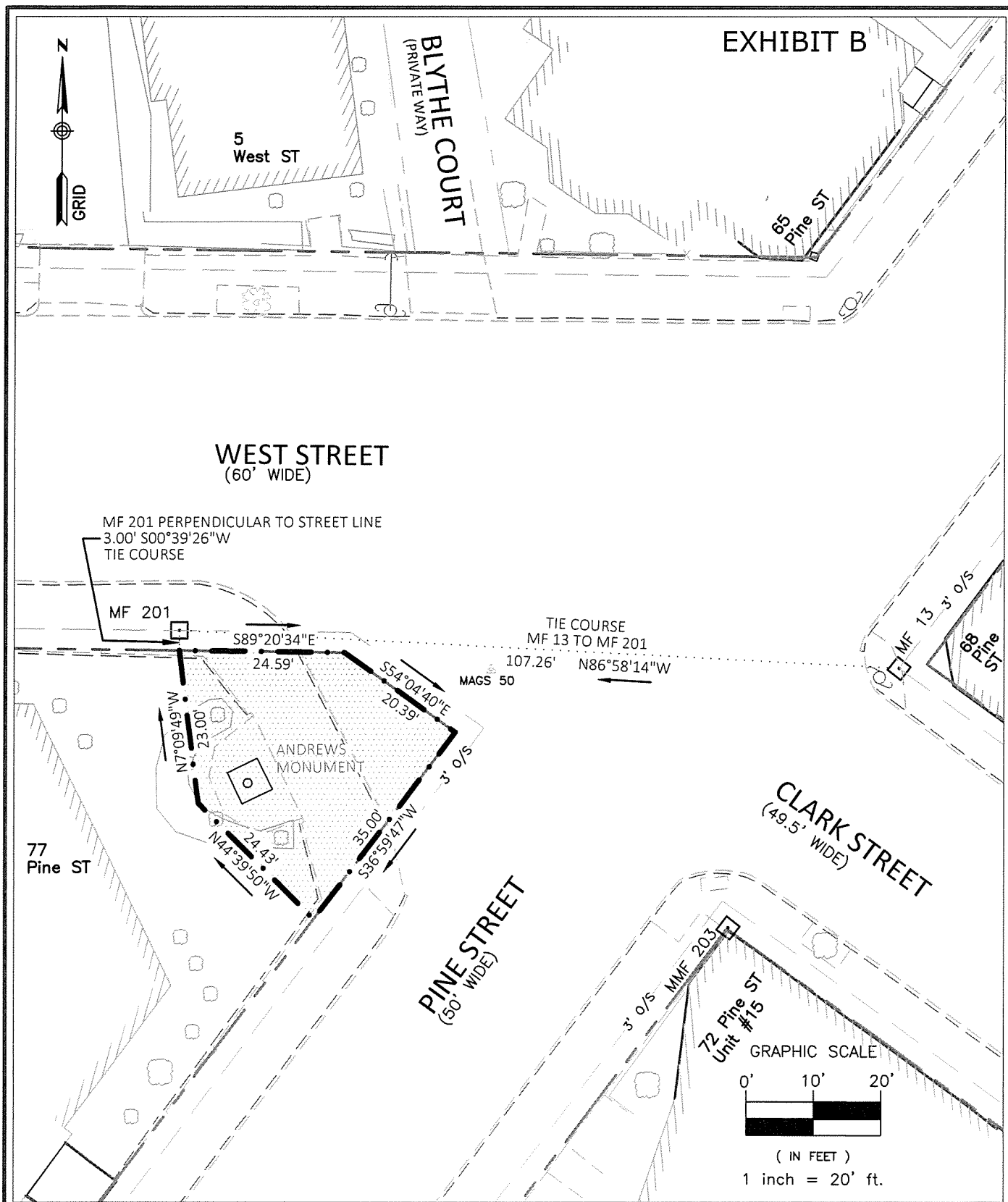
Thence S 36-59-47 W thirty-five and zero hundredths feet (35.00') along said northwesterly street line of Pine Street to a point;

Thence N 44-39-50 W twenty-four and forty-three hundredths feet (24.43') across the land of the grantor to a point;

Thence N 7-09-49 W twenty-three and zero hundredths feet (23.00') to the southerly street line of West Street and the **Point of Beginning**.

Said easement having an area of 1019 square feet, more or less.

Bearing basis is Grid North.



	CITY OF PORTLAND PUBLIC WORKS ENGINEERING DIVISION	PROPOSED PUBLIC EASEMENT FOR ANDREWS SQUARE	SCALE: 1" = 20'
		SURVEY DATABASE: ANDREWSSQ_2019_DB DRAWING: ANDREWSSQ_2019_EASEMENTS.DWG	DATE: 09/04/2019

MEMORANDUM
City Council Agenda Item

FROM: Samara Ray
DATE: August 9, 2021
SUBJECT: Order 28-21/22 Approving the Application for a \$400,000 Outdoor Recreation Legacy Partnership Grant for Open Space and Athletic Fields in North Deering - Sponsored by Jon P. Jennings, City Manager
SPONSOR: Jon Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No No, because the application for Outdoor Recreation Legacy Partnership funding is due on August 31st.

PRESENTATION: Ethan Hipple will be at the Council meeting to answer any questions.

I. SUMMARY

The Parks, Recreation and Facilities Department is partnering with the Trust for Public Land (TPL) to apply for an Outdoor Recreation Legacy Partnership (ORLP) grant in the amount of \$400,000 which is funded under the Land and Water Conservation Fund State Assistance Program.

II. AGENDA DESCRIPTION

The Parks, Recreation & Facilities Department is partnering with the Trust for Public Land for an Outdoor Recreation Legacy Partnership for funding to help acquire land for open and athletic field space. One of the requirements for this funding is pre-approval from the City Council. Following City Council action, staff may proceed with submitting this grant application.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

This money would be used to acquire abutting properties which are being called the Haverty and Anderson properties, which are located on Ballfield Drive and Washington Ave Extension. Together, the properties are 16 acres and consist of an 8 acre parcel that contains a pre-existing athletic field and associated parking area and open space, and another 8 acre parcel that is primarily wetlands and woodlands with some informal paths that could be developed into a trail network. The project is called “North Deering Park”.

The ORLP program, funded through the Land and Water Conservation Fund (LWCF), is a nationally competitive grant program that delivers funding to urban areas, jurisdictions of at least 50,000 people, with priority given to projects located in economically disadvantaged areas and lacking in outdoor recreation opportunities.

Both parcels of land are currently privately owned. The sellers have indicated they are primarily interested in selling the properties to be used as publicly accessible open space. Initial information shows that much of the open space property (Anderson property) is wetland and not suitable for significant housing. The Planning Department has provided additional analysis of that property. The Haverty property is currently used as a privately owned athletic field, primarily for youth baseball programs. Portland lacks adequate athletic field

space and fields are often fully booked and over-utilized. The 2011 Athletic Fields Task Force Report led by City Councillor John Coyne recommended acquisition or development of additional fields to meet the great demand for youth and adult programming.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

For the City Council to pre-approve the application for this ORLP Grant.

V. FINANCIAL IMPACT

If the ORLP grant funding is approved, a 1 to 1 local match is required. The local match funding will come from a combination of potential grant funds from Land for Maine's Future (a state conservation funding program) and Land Bank funds if approved by the Land Bank Commission for use on this project. The Trust For Public Land would also lead a private fundraising campaign to complement any Land Bank and Land For Maine's Future funds. It is not foreseen that any additional local tax dollars would be necessary for the acquisition, aside from the Land Bank funds which are appropriated annually as a set allocation of 0.5 % of the City Capital Improvement Program. The grant would provide 50% of total funds.

VI. STAFF ANALYSIS AND BACKGROUND

The Trust For Public Land works with communities across the country to identify areas that are in need of parks or trails through their "10 Minutes to a Park" Campaign. The Department of Parks, Recreation and Facilities is an active participant in that program, and Mayor Snyder has expressed support for the program, along with scores of other mayors of US cities. Currently, 89% of Portland residents live within a 10 minute walk of a park or trail. Large sections of the North Deering neighborhood are currently listed as priority areas for park development because many of the residents live further than a 10 minute walk to a park or trail. This project would create a new park and walking trails in that neighborhood, and increase Portland's proportion of residents who are within a 10-minute walk to a park, thereby addressing the fact that many lower income residents lack walking access to parks and trails.

VII. RECOMMENDATION

The action requested of the City Council is to approve the following order so that staff may proceed with submitting this grant application.

VIII. LIST ATTACHMENTS

1. Approve Application for Outdoor Recreation Legacy Partnership Grant Application 8.23.2021
2. Council Memo ORLP Pre-Approval 2021
3. Portland ORLP Project Narrative_2021.08.18
4. Portland ORLP Budget Narrative_2021.08.18
5. Portland ORLP Timeline Milestones_2021.08.18

Prepared by:

Samara Ray

Date: 08/09/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE APPLICATION FOR A
OUTDOOR RECREATION LEGACY PARTNERSHIP \$800,000 GRANT FOR
OUTDOOR SPACE AND ATHLETIC FIELDS IN NORTH DEERING**

ORDERED, that the application for a \$800,000 Outdoor Recreation Legacy Partnership Grant for open space and athletic fields in North Deering is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager or his or her designee is hereby authorized to execute the Grant Application and whatever other documents are necessary to effect the intent and purpose of this order.



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

TO: Mayor Kate Snyder and Portland City Council
FROM: Ethan Hipple, Director of Parks, Recreation & Facilities
SUBJECT: Council Pre-Approval for Outdoor Recreation Legacy Partnership Grant Application
DATE: 8/23/2021

To Mayor Snyder and Portland City Councilors,

The Parks, Recreation and Facilities Department is partnering with the Trust for Public Land (TPL) to apply for an Outdoor Recreation Legacy Partnership (ORLP) grant in the amount of \$400,000 which is funded under the Land and Water Conservation Fund State Assistance Program. This money would be used to acquire abutting properties which are being called the Haverty and Anderson properties, which are located on Ballfield Drive and Washington Ave Extension. Together, the properties are 16 acres and consist of an 8 acre parcel that contains a pre-existing athletic field and associated parking area and open space, and another 8 acre parcel that is primarily wetlands and woodlands with some informal paths that could be developed into a trail network. The project is called "North Deering Park".

The ORLP program, funded through the Land and Water Conservation Fund (LWCF), is a nationally competitive grant program that delivers funding to urban areas, jurisdictions of at least 50,000 people, with priority given to projects located in economically disadvantaged areas and lacking in outdoor recreation opportunities.

If the ORLP grant funding is approved, a 1 to 1 local match is required. The local match funding will come from a combination of potential grant funds from Land for Maine's Future (a state conservation funding program) and Land Bank funds if approved by the Land Bank Commission for use on this project. The Trust For Public Land would also lead a private fundraising campaign to complement any Land Bank and Land For Maine's Future funds. It is not foreseen that any additional local tax dollars would be necessary for the acquisition, aside from the Land Bank funds which are appropriated annually as a set allocation of 0.5 % of the City Capital Improvement Program.

The Trust For Public Land works with communities across the country to identify areas that are in need of parks or trails through their "10 Minutes to a Park" Campaign. The Department of Parks, Recreation and Facilities is an active participant in that program, and Mayor Snyder has expressed support for the program, along with scores of other mayors of US cities. Currently 89% of Portland residents live within a 10 minute walk of a park or trail. Large sections of the North Deering neighborhood are currently listed as priority areas for park development because many of the residents live further than a 10 minute walk to a park or trail. This project would create a new park and walking trails in that neighborhood, and increase Portland's proportion of residents who are within a 10-minute walk to a park, thereby addressing the fact that many lower income residents lack walking access to parks and trails.

Both parcels of land are currently privately owned. The sellers have indicated they are primarily interested in selling the properties to be used as publicly accessible open space. Initial information shows that much of the open space property (Anderson property) is wetland and not suitable for significant housing. The Planning Department has provided additional analysis of that property. The Haverty property is currently used as a privately owned athletic field, primarily for youth baseball programs. Portland lacks adequate athletic field space and fields are often fully booked and over-utilized. The 2011 Athletic Fields Task Force Report led by City Councillor John Coyne recommended acquisition or

development of additional fields to meet the great demand for youth and adult programming.

One of the requirements for this federal grant is application pre-approval from the local legislative body (City Council). The action requested of the City Council is to approve of the following order so that staff may proceed with submitting this grant application:

1. Authorizing Application

To see if the City/Town will authorize the City Manager to apply, on behalf of the City/Town, for federal financing assistance under the provisions of the Land and Water Conservation Fund Act, Public Law 88-578 for the acquisition of the Anderson and Haverty properties for the creation of North Deering Park; and further authorize the City Manager to enter into the Land and Water Conservation Fund Project Agreement with the State subsequent to federal approval of the project.

2. Appropriation of local funds

If City tax appropriations are being used for all or part of the local share of the project cost, The City must raise the funds through Town Meeting or Council action, contingent on approval of federal funds.

3. Authorization to borrow the necessary funds from time to time to cover anticipated reimbursement.

The local sponsor is obligated to pay all costs of the project "up-front". Therefore, there may be the need to authorize the borrowing of funds which will be repaid by federal reimbursement, contingent on approval of federal funds.

Thank you for your consideration.

Ethan Hipple

Ethan Hipple

Director, Parks, Recreation and Facilities Department
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

Outdoor Recreation Legacy Partnership (ORLP) Program

North Deering Park Acquisition Project Narrative

(10-Page Limit, 12-point font)

Project Sponsor Name: City of Portland, Maine

Name of Park/Property: North Deering Park

Project Title: North Deering Park Project

Name of Property Title Holder: Daniel and Julie Anderson; Margaret Haverty

Project Property Address/Location: 1831 Washington Ave, Portland, ME 04103; Ballpark Drive, Portland, ME 04103

2010 Project Property Census Jurisdiction Population (must be over 50,000): 66,194

Name of Applicable Census Delineated Urban Area: Portland, ME

Select the Applicable Project Type:

☒ Acquisition ☐ New Development ☐ Renovation ☐ Combination (Acquisition/Development)

Select the Applicable Project Result:

☒ New Park ☐ Expanded Existing Park ☐ Neither Expanded nor New Park

Was the park or site previously protected through an LWCF or UPARR grant and/or obtained through the Federal Parks to Lands program? ☒ No ☐ Yes: ☐ LWCF ☐ UPARR ☐ FLP

Project Summary (250-word limit):

The City of Portland, working with The Trust for Public Land, proposes to create a new city park by acquiring a 16-acre forested area and baseball field in the North Deering neighborhood that is at threat of development. This will address an urgent community need for the significant low-income population in North Deering. The neighborhood currently has no access to public or outdoor recreational amenities within a 10-minute walk. Existing site features include 8 acres of forested area with well-loved informal trails and a fenced-off 8-acre baseball field and open space. The North Deering Park Project will serve 1,922 residents that live within a 10-minute walk, as well as the students and teachers of two nearby public schools, and residents of a new affordable housing development. Once acquisition is complete in December of 2022, this new park will be permanently conserved for outdoor recreation and open to the public. Once the site is open to the public, residents will be able to use the existing, well-loved trails for hiking, trail running, and mountain biking, and access all the benefits close-to-home nature provides.

In the second phase of this project, beyond the scope of the Outdoor Recreation Legacy Partnership Program application, the City will work with partners such as The Trust for Public Land and Portland Trails to develop an official 2-mile trail loop, outdoor learning areas, and a redeveloped baseball field. The development phase of the project is anticipated to be complete in June of 2024.

Project Overview (2-page word limit):

The City of Portland is a residential city with a population of almost 67,000, the largest in the State of Maine. Portland, also known as “The Forest City,” deeply values its unique natural resources and public spaces, such as parks and trails, which play a critical role in fostering “neighborhood vitality, sense of community, recreational opportunities, environmental health, arts and cultural programming, economic development, and local mobility.”¹ The North Deering neighborhood, where the site of this proposed project is located, is a growing, working-class community currently underserved in terms of public parks and recreational opportunities. This community one of the few places in Portland without a public park within a 10-minute walk of its residents.

The City is seeking to resolve this gap in public park access in the North Deering neighborhood through the North Deering Park Project. This project proposes to create a new public park through the acquisition of two neighboring properties to provide permanent close-to-home access to recreational opportunities for North Deering residents. Acquiring these properties now is essential because there are currently no public parks or open spaces that serve this community within a 10-minute walk, and there is intense pressure for new private housing development in the neighborhood. These 16 acres of open space make up one of the last large, undeveloped forested areas in Portland. Unless the North Deering Park Project is able to move forward now, there is high risk that these properties will be sold for development and turned into private housing. This community would also lose this unique opportunity to create a new public park that will provide outdoor recreational opportunities within a 10-minute walk of home.

The immediate service of the proposed North Deering Park Project includes 1,922 residents that live within a 10-minute walk. Many of these residents are considered vulnerable populations; 39% are low-income, 20% are children under 20, and 18% are seniors over 65. The proposed park is also a stone’s throw away from two public schools that hope to access and use the space for outdoor education. This 16-acre park will not only meet open space and recreation needs of North Deering residents, but will also provide a multitude of benefits to the local community, including hundreds of low income people and students.

In close partnership with community groups and partners, the City of Portland is requesting funding from the LWCF FY21 Outdoor Recreation Legacy Partnership (ORLP) Program to acquire these properties, with the ultimate goal of creating a new park space for this high-need community. The project will be owned by the City of Portland Parks and Recreation Department and will be protected for outdoor recreational use as a public park in perpetuity. This new park is anticipated to be immediately open to the public post-acquisition in December of 2022.

The first of the two properties that will be acquired through the North Deering Park Project is located at 1831 Washington Ave, between Washington Avenue and Auburn Street, and between Parsons Pond Drive and Ballpark Drive. It is currently privately owned by Daniel and Julie Anderson. The property consists of an 8-acre forested area with well-loved informal trails that currently serves as an unofficial outdoor space known to local children as the “Forbidden Forest” since permanent, public access to it is not guaranteed. It is threatened to be developed into private housing if the North Deering Park Project doesn’t move forward, as the demand for open space for commercial real estate is rapidly increasing. Should ORLP funding be

¹ <https://www.portlandmaine.gov/DocumentCenter/View/18271/Portlands-Plan-2030>

North Deering Park Project

awarded, there are no non-public uses on this property that would have to be discontinued, and there are no other known or foreseen constraints of the property.

The second, adjacent property is currently privately owned by Margaret Haverty, and is located at Ballpark Drive, also between Washington Avenue and Auburn Street, and between Parsons Pond Drive and Ballpark Drive. This 8-acre property borders the 'Forbidden Forest' property and it contains the only privately owned, fenced-in ballfield in Portland and a parking lot. This ballfield, established by the late Mr. Haverty in the 1960's due to his deep love for baseball, has been used by community baseball leagues and residents for half a century. However, it is also currently threatened to be developed into private housing if this project doesn't move forward, as the demand for open space for commercial real estate is rapidly increasing. Should ORLP funding be awarded, there are no non-public uses on this property that will have to be discontinued, and there are no other known or foreseen constraints of the property.

In 2020, the landowner of the "Forbidden Forest" property, Mr. Anderson, approached the Portland Land Bank Commission, a governing entity created by the City Council, with the intention of conserving the 8-acre wooded property as a public park and open space for the community to enjoy. The Land Bank Commission requested the help of The Trust for Public Land (TPL) to discuss purchase of the property, and also introduced TPL to Mrs. Haverty, who is the owner of the ballfield property. TPL is working with both landowners to negotiate and facilitate the sale of the properties, which will be purchased by the City of Portland and protected as public, open space in perpetuity. The project is at the negotiation phase, as TPL is negotiating option agreements with the landowners. TPL commissioned an appraisal, which indicated the properties are... This is informing the discussions with the landowners and pending option agreements. TPL anticipates having option agreements completed with both landowners by the fall of 2021.

Concurrently with the North Deering Park Project, the City will partner with organizations such as TPL, Portland Trails and the Parent-Teacher Associations of the nearby public schools to engage with the community and students to determine what amenities the community wants to be included in the future development phase at North Deering Park. The initial plans and ideas for the second phase of this project, beyond the scope of the ORLP application, include building an official 2-mile trail loop for hiking, trail running, and mountain biking, seating improvements, an outdoor learning space for school use, installation of bike racks, a public art installation, a redeveloped baseball field with a concession stand and parking improvements. Once the first phase of the North Deering Park Project is complete in December of 2022, the second phase of this project, focused on development and construction at the new park, is anticipated to start in January of 2023 with completion planned for June of 2024.

Criterion 1 – Extent of Outdoor Recreation and Economic Needs (20-points)

Response:

The new North Deering Park will address a documented parkland deficit in one of Portland's most populated neighborhoods that is considered high-need, underserved and economically disadvantaged. In general, most communities in Portland have access to public spaces within 10 minutes of where they live. However, North Deering is a dead zone in Portland's park system — an area without a public park in a city where most neighborhoods have access to parks.

This project will bring a close-to-home park to a neighborhood that has a significant low-income population, compared to the rest of the city. According to TPL's ParkEvaluator® tool, more than 38% of the population in

North Deering Park Project

North Deering is considered low-income, earning less than \$35,000 per year. The two neighborhood schools are also classified as mid-level low poverty and high-level low poverty schools based on how many students qualify for free and reduced lunch. Over 32% of students at Lyseth Elementary School and over 55% of students at Lyman Moore Middle School are eligible for free or reduced lunch.

The lack of a public park in the North Deering neighborhood follows the national trend that low-income neighborhoods have inequitable access to open space; parks serving majority low-income households are, on average, a quarter the size of parks in high-income neighborhoods². This has great impact on communities' wellbeing and outcomes.³ The North Deering Park Project will ensure that this low-income community, especially its young people, have access to a public park for learning and playing.

The only existing recreational amenity within a half-mile radius of the North Deering Park Project is a trailhead for the Oak Nuts Park Trail. Though this is a welcome recreational amenity, it is only easily accessible within a 10-minute walk of the North Deering Park Project on the Auburn Street side of the site. It is over a one mile walk from the Washington Avenue side of the project site. The Haverty ballfield property also appears to be an existing public recreational amenity on Google Maps, called "Haverty Park," but it is privately owned, fenced off and not fully accessible to the public, and at threat of private development. Within a 1-mile radius of the North Deering Park Project the only other recreational amenities are the Presumpscot River Preserve, the Sebago to the Sea Trailhead, and the Riverside Golf Course. Though these recreational amenities serve their critical purposes for recreational access in the city, they still do not fill the need of the North Deering community to have a public park within a half mile of home that they can easily access before and after work and school, and to have an open space to gather, play, exercise and learn.

Educators from the nearby Lyseth Elementary School and Lyman Moore Middle School have long lamented that the lack of a public park has limited their ability to offer outdoor learning to their young students. This park is an immediate response to those outdoor recreation and learning needs exacerbated by the pandemic. As Portland Public Schools moved to outdoor learning as a result of the COVID-19 pandemic, the need for new outdoor learning spaces became critical. This new ⁴ to have easy access to open space for outdoor learning and recreation in perpetuity.

Criterion 2 – Appropriateness of Project to Meet Community Outdoor Recreation and Economic Needs (20-Points)

Response:

The North Deering Park Project will significantly improve access to close-to-home park and recreation opportunities – in a neighborhood where there currently is none – and will stimulate economic benefits for the community. In addition to providing key outdoor amenities for residents, utilizing parks and recreation projects to positively address pressing community needs is a priority – with two key needs of focus being economic development and health. This is a key focus of Maine's State Comprehensive Outdoor Recreation Plan (SCORP), which notes: "there is a strong link between the special character of Maine's places and its economic, environmental, and community values. This report recognizes that 'quality of place' is a driver for our recreation economy and a source of health and well-being."

² <https://www.tpl.org/blog/hazards-park-disparities-during-heat-waves>

³ https://www.pressherald.com/interactive/search_maine_school_database_free_and_reduced_meals/

⁴ <https://www.mainebiz.biz/article/proposed-portland-co-op-development-addresses-housing-missing-middle>

North Deering Park Project

This is particularly true for the City of Portland. For instance, tourism in Maine – and particularly within the City of Portland – is driven by access to the area’s natural beauty and the wide range of available recreational opportunities. Over 37.3 million tourists visited Maine in 2019, a 0.7 percent increase over 2018. As the SCORP notes too, “Here in Maine, it is estimated that outdoor recreation adds \$3 billion to Maine’s GDP and creates 41,000 jobs.” Although the number of tourists to visit Maine decreased in 2020, largely due to the COVID-19 pandemic and resulting pause in tourism, there is also evidence that more Americans participated in outdoor recreation than ever before with 7.1 million more Americans participating in outdoor recreation in 2020 than in 2019. This is the highest outdoor recreation participation rate on record.⁵

[ADD project specific employment oppty / cmtty-wide economics benefit estimates IF AVAILABLE]

In order to support this important economic driver, acquiring land to create new parks – such as the one proposed in this project – is essential. The SCORP notes, “land protection in New England has led to modest yet statistically significant increases in employment and labor force — boosting, not depressing local economies. Outdoor recreation facilities and opportunities help create desirable, valuable communities where people want to live and work.” The North Deering Park Project, a land protection project, will create a new public park that spans 16 acres, including 8 acres of forested area and an 8-acre ballfield and open space. This public open space will allow for structured play through the baseball field and free exploration through the well-loved wooded trails that currently exist on-site. Over 1,922 residents that live within a 10-minute walk of the North Deering Park Project, including hundreds of low-income people, students of the two public schools, and residents of a new affordable housing development, will be able to participate in both active and passive recreation such as walking, hiking, biking, and trail running, playing baseball, and accessing all the benefits that close-to-home nature can provide. This new public space will help meet the outdoor recreational needs of this growing working-class neighborhood.

Criterion 3 – Community Involvement in, and Support of, Proposed Project (20-points)

Response:

The City of Portland will continue to work with partners, such as TPL, to engage the community around this project. TPL has a long history of working in the Northeast, with the City of Portland and other small cities, on parks and open space planning, design, and protection projects. In 2014, the Portland City Manager’s office approached TPL with the idea of developing a comprehensive vision plan for Portland’s open spaces. Portland’s park plan, known as Portland’s Green Spaces and Blue Edges Plan, had last been updated in 2001, and this new visioning plan gave the city, community, and other local organizations (such as Portland Trails) the chance to explore the current conditions, access, challenges, and opportunities to improve the city through interventions in the public realm, namely around parks and trails.

In addition to extensive GIS analysis, TPL hosted workshops, conducted surveys, and conducted direct observation data collection at each of Portland’s public parks to help create a complete picture of Portland’s parks and open space system. Portland Trails also led early conversations and led a series of community workshops in the fall of 2014 to collect information about the perceptions of the open space system from a diversity of residents.

⁵ <https://outdoorindustry.org/wp-content/uploads/2015/03/2021-Outdoor-Participation-Trends-Report.pdf>

North Deering Park Project

As part of the effort to complete the 2016 Portland Open Space Vision and Implementation Plan, an online community survey of Portland residents was conducted to identify priorities for the open space and parks system. The survey generated 1,167 responses, with the most responses from residents of North Deering (15%).⁶ Key takeaways included:⁷

- 60% of people would like more trails biking, walking, or hiking trails or walkways.
- 43% of people would like more open space and natural areas.
- More sports and recreational spaces are needed. 37% of people report participating in field sports (i.e. soccer, baseball, softball, football, Ultimate Frisbee, rugby, kickball, field hockey and disc golf), but about 30% are dissatisfied with facilities or services.
- More places for both programmed and unprogrammed activities, events, and gatherings are desired. People report wanting to see more performing arts events and venues, food trucks and other vendors, and picnic facilities.

The 2016 Portland Open Space Vision and Implementation Plan also identified closing the ‘park gap’ as one of the top priorities to provide public parks and open space for the 11% of Portland residents that currently do not have access to a park within a 10-minute walk of home. The Portland Plan 2030 also specifically identified the service area of the North Deering Park Project, which are the portions of North Deering bounded by Washington Avenue and Auburn Street and bounded by Washington Avenue and the railroad, as one of the areas that could benefit from park access improvements.

The North Deering Park Project was initiated by the landowner of the “Forbidden Forest” property, Mr. Anderson, when he approached the Portland Land Bank Commission, a governing entity created by the City Council, with the intention of conserving the property as a public park and open space for the community to enjoy.

Recently, the City and TPL have begun conversations about development of the North Deering Park Project, and the importance of the park and open space to the community. This project aims to continue both partners’ work to collaboratively and creatively engage the community. Community engagement will continue concurrently with acquisition efforts. This engagement will include community outreach such as presentations at the two neighborhood public schools and community design workshops where residents can get updates on the project, provide feedback on the project design decisions, and ensure the community and partners are involved in the vision of the park. The community design workshops will be cohosted in close partnership with TPL. Once acquisition is complete, TPL will engage the community on the property through activation activities such as a public art installation. TPL will engage students and teachers in the design and development of outdoor learning spaces, which will support Portland Public School’s goal of continuing outdoor learning. Partnering with the existing outdoor science program and Portland Public schools will create outdoor learning opportunities on the park that have been shown to foster an appreciation for nature in young students and lead to physical movement.

As mentioned in the letters of support attached to this application, matching funding will be provided by TPL and the Portland Land Bank Commission. TPL is committed to providing \$350,000 in matching funding by applying for State funding through the Land for Maine’s Future program, and raising any necessary

⁶ <https://www.portlandmaine.gov/DocumentCenter/View/8479/Portland-Open-Space-Community-Survey-Results?bidId=>

⁷ <https://www.portlandmaine.gov/DocumentCenter/View/8742/Portland-Parks-Steering-Presentation-April-1-2015?bidId=>

North Deering Park Project

private funding. The Portland Land Bank Commission is also committed to providing matching funding totaling \$50,000.

Partnerships between public and private organizations are essential to the success of the North Deering Park Project. Community organizations such as TPL, Portland Trails, Lyseth Elementary School, and Lyman Moore Middle School have all expressed their support for this project, as evidenced by the Letters of Support included in this application package. Partners for this project include:

- **The Trust for Public Land (TPL):** TPL is a national non-profit organization founded in 1972 that creates parks and protects land for people, ensuring healthy, livable communities. TPL has helped generate more than \$80 billion in state and local parks and conservation funding, completed more than 5,000 parks and recreation projects, and protected more than three million acres nationwide. TPL's Maine Office is facilitating the land transaction for the first phase of this project, and will lead the community engagement for the second phase of this project. TPL has provided a letter of support, which is part of the application package.
- **Portland Trails:** Portland Trails is a nonprofit urban land trust that transforms Greater Portland into a healthier and better-connected community through a 70+ mile trail network. This nonprofit will be primarily involved in the second phase of this project helping with designing and building trails. Portland Trails has provided a letter of support, which is part of the application package.
- **The Portland Land Bank Commission:** **ADD**

Criterion 4 – Embracing New Parks and Innovative Project Attributes (10-points)

Response:

There are many innovative characteristics and park creation best practices employed in this project, which have significant transformative impacts on the community. Some of these elements are described below:

Participatory design/community-driven visioning and sensitive acquisition within an economically disadvantaged and under-resourced neighborhood: Project partners will continue community engagement including a series of community meetings, presentations and design workshops with local community members providing them with the opportunity to set priorities for the second phase of the North Deering Park Project. The amenities featured in the second phase of this new park will be designed in collaboration with local residents and community groups. Through this process, these groups have been empowered to take ownership of their space, and will continue to take care of it – and use it – through new community groups and partnerships.

Multi-Benefit Approach: As noted, the impact of this project will reach well beyond significant improvements to public access and the City's urban fabric, to provide vital health, environmental-related and social benefits. For instance, according to a 2015 community survey around parks, 66% of park users report that they exercise while in the City's parks and open spaces.⁸ Parks are a primary place of leisure-time physical activity, and empirical research shows that close-to-home access to parks and recreational amenities can encourage higher levels of physical activity. In addition to offering opportunities for active recreation, parks provide space for social connection, respite from everyday stresses, and pollution abatement.⁹

⁸ <https://www.portlandmaine.gov/DocumentCenter/View/8742/Portland-Parks-Steering-Presentation-April-1-2015?bidId=>

⁹ <https://www.aia.org/resources/8376-if-you-build-it-park-design-to-promote-physic:31>

The North Deering Park Project will also exhibit environmental benefits for the community. Parks and conserved lands protect water and air quality, sustain biodiversity, and can offset the effects of climate change. Conserving this new park will realize some stormwater management and flood control benefits for the community, as parts of the properties have wetlands.

Outcome-driven approach and evaluation: Continuous learning and improvement are also hallmarks of partners, and in particular TPL’s park development partnerships, which will help to track outcomes of this project. Evaluation will help to provide important lessons learned and inform future park projects.

Criterion 5 – Project Alignment with SCORP and Other Applicable Plans (10-points)

Response:

This project supports many of the goals and priorities identified in state and local plans.

As The State of Maine’s Statewide Comprehensive Outdoor Recreation Plan (SCORP) ¹⁰ notes, “Outdoor recreation is central to this way of life” in communities throughout Maine. This park project addresses needs identified in the SCORP, particularly as it is seeking to acquire land for a new park in a city that has significant need for expanded and improved park sites. Project partners also strive to establish parks within a 10-minute walk of every resident, and highly prioritize this project. For example, this project, as described throughout this proposal, helps to advance these goals and key themes for implementation:

- Theme 1: Support Active, Engaged Communities
 - 1.4. Continue to strengthen and expand partnerships, coalitions, and collaborations between public and private sectors; between agencies; between state, federal, and local entities; and across sectors including but not limited to health, economic development, community development, education, and outdoor recreation. As part of collaborations, coordinate messaging, outreach, planning, and funding strategies to reach outcome-based goals.
- Theme 2: Address Workforce Attraction through Outdoor Recreation
- Theme 3: Sustain and Grow Tourism
- Theme 4: Promote Ecological and Environmental Resilience

In addition, as noted throughout the proposal narrative, this project fully supports local plans and initiatives, such as

This site was identified as a priority area that could benefit from park access improvements.

Portland Plan 2030:

“We will enable meaningful access to the natural world and recreational opportunities as a central component of community health.” Portland goals: “Identify and protect Portland’s critical natural resources.” “Support agricultural, forest, and scenic resources appropriate to our urban context.” “Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation.”

“Sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable city by the sea.” “Provide high-

¹⁰ https://www.maine.gov/dacf/parks/publications_maps/docs/final_SCORP_rev_10_15_plan_only.pdf

North Deering Park Project

quality, well-designed, well-maintained, safe, and integrated parks, trails, public open spaces, and recreational opportunities accessible to all residents.”

“Pursue opportunities, in consultation with partners, to create new open spaces in areas that are currently underserved.”

Outdoor Recreation Legacy Partnership (ORLP) Program North Deering Park Project Budget Narrative (5-Page limit)

Cost Categories	Unit of Measure & # of Units	Cost Per Unit	Federal Share	Match Share	Total Cost	If Pre-Agreement Cost - Dates Incurred	Amt subject to 25% budget cost limitations (Enter \$ figure)
1. Administration and Legal expenses							
2. Land, Structures, Rights-of-Way, Appraisals	1	\$800,000	\$400,000	\$400,000	\$800,000		
3. Relocation Expenses and Payments							
4. Architectural and Engineering Fees							
5. Other Architectural and Engineering Fees							
6. Project Inspection Fees							
7. Site Work							
8. Demolition and Removal							
9. Construction							
10. Equipment							
11. Miscellaneous							
12. Contingencies							
13. Indirect Costs							
GRAND TOTAL							

Matching Share Contributors (Name and funding source):	Match Amount/Value	Type (cash, donated land, etc.)	Is Match Secure or firmly committed. If committed, list date expected to be secured.
Portland Land Bank Commission	\$50,000	Cash	Committed, December 2022
The Trust for Public Land	\$350,000	Cash	Committed, December 2022
City of Portland	Any costs beyond capital expenses		
GRAND TOTAL	\$-Sum of column		

On remaining pages provide the information required within the Budget Narrative under **Criterion 6 – Project Feasibility and Likelihood of Success (20 points)**

BUDGET NARRATIVE

\$XX is requested from the Land and Water Conservation Fund FY 2021 Outdoor Recreation Legacy Partnership Program. This funding will include work to complete acquisition of the two properties, as well as expenses for grant administration and legal expenses (not to exceed 25%).

The total project budget, including the **\$XX** proposed request, is **\$XX**. Match for this project, totaling **\$XX**, has been secured through the Portland Land Bank Commission, The Trust for Public Land, and the City of Portland.

This requested Outdoor Recreation Legacy Partnership Program funding will allow for the park to be fully renovated, opened and operational to the public, thus expanding and significantly enhancing the outdoor recreational opportunities that this park will provide.

APPLICANT CAPACITY

The City of Portland's Parks, Recreation and Facilities Department conducts dozens of capital improvement projects on an annual basis, ranging from ADA walkways, ballfield construction, stadium renovations, playground installations, irrigation projects, trail construction. The Department employs professional Landscape Architects and Project Managers and manages over 1,300 acres of parks, cemeteries, open spaces, and golf courses. Successfully completed previous projects reflect the City's capacity to responsibly and effectively complete future park acquisition and revitalization efforts. In addition, the City also has experience successfully managing grants of similar size and scope. The City has received numerous grants for a variety of projects including from the Land and Water Conservation Fund (LWCF), Land for Maine's Future program, and various other sources. The City of Portland has multiple LWCF project sites. The City has one 6f3 conversion that is in progress, and the State of Maine has determined that Portland is now eligible to re-apply for LWCF and ORLP funds due to the good faith efforts and progress on resolving the conversion issues.

Successfully completed numerous land acquisition, park development and renovation projects include:

- Project – Funding amount, Source

The County has also received a grant from LWCF including for the following projects:

- Insert examples

Key staff involved with this project have extensive experience working on parks projects, and include:

- Ethan Hipple – Director of Parks, Recreation and Facilities
- Alex Marshall – Parks Division Director
- Economic Development Director [Hiring process underway]

PROJECT READINESS

There is strong community and city government support for this project. In addition, the landowners are enthusiastic to have this parcels be spaces for outdoor recreation. Our negotiations with the landowners have been smooth and friendly – this will enable TPL to fast track the finalization of the option agreement. TPL has strong relationships with surveyors, appraisers, environmental consultants, and other real estate consultants. This will allow for the transaction due diligence process to move quickly. Relatedly, TPL has worked with Land for Maine Future – the source of the match funding – and is well prepared to successfully navigate that process.

Below is the timeline for the North Deering Park Project:

Date	Activity
Summer-Fall 2021	Negotiation with Landowners
Summer-Fall 2021	Preliminary Appraisals completed
Fall 2021	Option Agreements signed
Fall 2021	Community Engagement Process Begins
Winter 2021-Winter 2022	Federal Environmental and Cultural Resource compliance processes as required under the National Environmental Policy Act and National Historic Preservation Act
Winter 2021-Spring 2022	UASFLA Appraisal Process and Other Due Diligence (Environmental Site Assessment, Survey)
Winter 2021-Winter 2022	State Historic Preservation Office and Tribal Historic Preservation Office review
Winter 2022	Committed funds secured by the Portland Land Bank Commission and The Trust for Public Land
December 2022	Land transactions and project complete. Site open to the public.

There are no anticipated issues with the site that would prevent North Deering Park from being open and available to the public within the 2-3 year ORLP grant timeline.

North Deering Park Project Timeline

Indicate which steps have been completed within the timeline as well as noting a timeline for actions that need to be completed.

Acquisition

- Proposal and Planning Process
- Appraisals (UASFLA Standards)
- Negotiations/Purchase Offer with landowners if necessary

All Projects

- Include time for complete federal Environmental and Cultural Resource compliance processes (State Historic Preservation Office and Tribal Historic Preservation Office review), as required under the National Environmental Policy Act and National Historic Preservation Act (*Minimum of one year if no compliance supporting activities have been completed as of the date of application.*)
- Indicate when committed funds will be secured
- Time to complete/resolve any easement/lease/ownership etc. issues

Date	Activity	Status
Summer-Fall 2021	Negotiation with Landowners	Ongoing
Summer-Fall 2021	Preliminary Appraisals completed	Complete
Fall 2021	Option Agreements signed	
Fall 2021	Community Engagement Process Begins	
Winter 2021-Winter 2022	Federal Environmental and Cultural Resource compliance processes as required under the National Environmental Policy Act and National Historic Preservation Act	
Winter 2021-Spring 2022	UASFLA Appraisal Process + Other Due Diligence (Environmental Site Assessment, Survey)	
Winter 2021-Winter 2022	State Historic Preservation Office and Tribal Historic Preservation Office review	
Winter 2022	Committed funds secured by the Portland Land Bank Commission and The Trust for Public Land	
December 2022	Land transactions and project complete. Site open to the public.	

MEMORANDUM
City Council Agenda Item

FROM: Zachary Lenhart, Licensing and Housing Safety Manager
DATE: August 10, 2021
SUBJECT: Order 29-21/22 Granting Municipal Officers' Approval of Smalls Brackett Street LLC, dba Smalls. Application for a Class I FSE with Indoor Entertainment at 28 Brackett St. - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 7/19/21. New City and State applications. Location was previously OMI's Coffee Shop

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Smalls
2. 2021.08.23Smalls

Prepared by:

Zachary Lenhart, Licensing and Housing Safety Manager

Date: 08/10/2021

KATHLEEN M SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:**

**Smalls Brackett Street LLC, dba Smalls. Application for a Class I FSE with Outdoor
Dining on Public Property at 28 Brackett Street**

Mayor Snyder and Members of the City Council,

Smalls Brackett Street LLC dba Smalls, represented here by Karl Deuben, is seeking approval to serve beer, wine & liquor in the first floor space at 28 Brackett St. in Portland, ME. Smalls will be a local cafe and curated market in the West End of Portland Maine. In addition to light fare, espresso, natural wine beer and cocktails, Smalls will offer curated provisions alongside art and wellness items.

The partner taking the creative lead is Samantha Knopf. Samantha is a veteran of the NYC hospitality world as well as having had past lives as a birth doula, florist, potter, set designer and teacher before making Portland her home in the winter of 2019. With Smalls, she brings her love of food and curated eye for artisan objects to one location where she can invite the community to share in the taste she has cultivated.

Focusing on hospitality is Arryan Decatur. Also from NYC originally, Arryan managed iconic concepts like Freemans, Roberta's and Five Leaves, helping them define their personality brands in character and in detail.

Operations will be managed by Karl Deuben. Karl has been cooking in Portland for 20 years, and owned one of Portland's first and most celebrated food trucks in addition to owning East Ender and a partner in this new venture.

Thank you for your time in reviewing our application for a liquor license.

Kind Regards,
The Smalls Team



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	SMALLS Phone: 207 671-8495
Location Address:	28 BRACKETT ST. PORTLAND, ME Zip: 04102
If new, what was formerly at this location:	OMI'S COFFEE SHOP
Mailing Address:	47 MIDDLE ST. PORTLAND, ME Zip: 04101
Contact Person:	KARL DEUBEN Phone: 207 671-8495
Contact Person Email:	KARL@EASTENDERPORTLAND.COM
Manager of Establishment:	SAMANTHA KNOPF Date of Birth: 3/5/1980 Phone: 917 386-5526
Owner of Premises (Landlord):	26 BRACKETT STREET LLC
Address of Premises Owner:	26 B BRACKETT ST. PORTLAND, ME Zip: 04102

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
SMALLS BRACKETT STREET LLC		47 MIDDLE ST. PORTLAND, ME Zip: 04101	
Contact Person:	KARL DEUBEN	Phone:	207 671-8495
Principal Officers	Title	Date of Birth	Residence Address
KARL DEUBEN	GENERAL PARTNER	6/29/1977	51 FOUR WINDS RD. PORTLAND, ME 04102
CRAIG MUDGE	MEMBER	2/3/1949	2 PENOBSCOT AVE CAMDEN, ME 04843
Class of Liquor License:		Class 1 FSE	

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	SANDWICHES, SALADS, OYSTERS, SMOKED FISH,		
Please circle all that will be served:	Beef	Wine	Liquor
Projected percentage of sales:	Generated from Food: 60	Generated from Alcohol: 40	
Hours & days of operation:	8AM-8PM MONDAY-SUNDAY		
QUESTIONS:			
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?			Y/N Y
If No, please explain:			
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?			Y/N Y
If yes, give the distance:			
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)			Y/N Y
Will you permit dancing after 1:00 a.m.?			Y/N Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)			Y/N N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).			
Will you have any amusement devices (pinball, video games, juke box)?			Y/N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____			
What is your targeted opening date?			9/15/2024
Does the Issuance of this license directly or indirectly benefit any City employee(s)?			Y/N Y
If Yes, list name(s) of employee(s) and department(s):			
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?			Y/N N
If Yes, please list business name(s) and location(s):			
EASTENDER 47 MIDDLE ST. PORTLAND, ME 04101			
Is any principal officer under the age of 21?			Y/N Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?			Y/N Y
If Yes, please explain:			

I, KARL DEUBIGN do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title GENERAL PARTNER Date 7/15/2024



CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Public Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
Valid April 1-November 15

- ☐ Legal Advertisement Deposit \$100.00
- ☐ Outdoor Dining on Public Property \$84.00 plus \$2.00 per Square foot \$2.00 X 58 SF = \$56
- ☐ Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X _____ SF = _____

Business Information	
Business Name (d/b/a):	SMALLS Phone: 207 671-8495
Location Address:	28 BRACKETT ST. PORTLAND, ME Zip: 04102
Mailing Address:	47 MIDDLE ST. PORTLAND, ME Zip: 04101
Contact Person:	KARL DEUBEN Phone: 207 671-8495
Contact Person Email:	KARL@EASTENDORPORTLAND.COM
Manager of Establishment:	SAMANTHA KNOPP Date of Birth: 3/5/1980 Phone: 917 386-5526
Owner of Premises (Landlord):	26 BRACKETT STREET LLC
Address of Premises Owner:	26 B BRACKETT ST. PORTLAND, ME Zip: 04102

Owner Information

Corporate Name		Corporate Mailing Address	
SMALLS BRACKETT STREET, LLC		47 MIDDLE ST. PORTLAND, ME Zip: 04101	
Contact Person:	KARL DEUBEN	Phone:	207 671-8495
Principal Officers	Title	Date of Birth	Residence Address
KARL DEUBEN	GENERAL MANAGER	6/29/1977	51 FOUR WINDS RD. PORTLAND, ME 04102
CRAG MUDGE	MEMBER	2/3/1949	2 PENOBSCOT AVE CAMDEN, ME 04843

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov

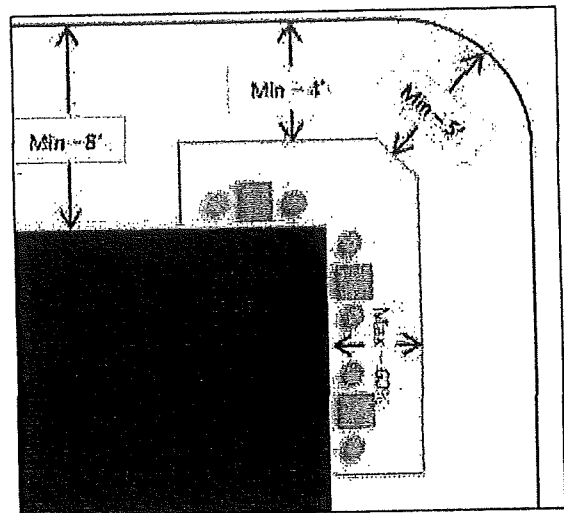


CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	
Type of food served:	
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	
Number of Tables	
Number of Chairs	

Design and Construction

Existing Sidewalk Width (property line to curb)	Sidewalk Dining Allowed?
< 8'0"	No
≥ 8'0"	Yes – up to 60% of
Sidewalk Type	Sidewalk Passage Width
Standard sidewalk	4'0"
Street corner	5'0"

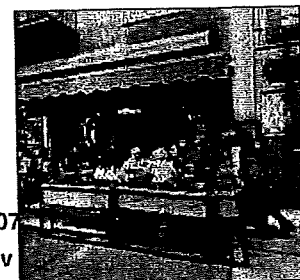
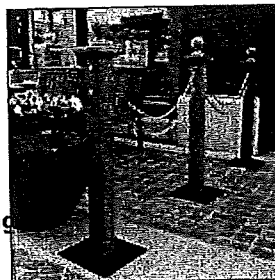


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes to existing straight passage is at the discretion of the City.
- Egress must be maintained free of obstruction.
- Permanent fixtures, such as awnings, require a building permit separate from the Outdoor Dining permit and subject to approval by the Building Authority.
- Umbrellas do not require a permit.
- Umbrellas must be secured and maintain the height clearance for sidewalk passage.

Barriers

- If barriers are proposed, they must be free-standing. Physical attachments to a building are not allowed.
- Stanchions and ropes are encouraged. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
- Shall not exceed 42" in height and may not include commercial signage.

Example barrier types that meet regulation





CITY OF PORTLAND
Permitting and Inspections Department
Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- The permit holder is responsible for keeping the outdoor seating area clean.
- No food shall be prepared in the designated outdoor dining area.
- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- Request for the use of adjacent on street parking space for outdoor dining installations requires Parking Office and Building Authority review and approval.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature K/LL Title GENERAL PARTNER Date 7/15/2021

For Administrative Use Only

Amount: _____	Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____	_____
CC _____ CA _____ CK _____	Health: _____	_____
	PD: _____	_____
Amount: _____	Treasury: _____	_____
Date Paid: _____	Zoning: _____	_____
CC _____ CA _____ CK _____		

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008 (Regular Mail)
10 WATER STREET, HALLOWELL, ME 04347 (Overnight Mail)
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

PRESENT LICENSE EXPIRES: _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: 9/1/2021

Requested inspection (New Licensees/ Ownership Changes Only) Date: 8/24/2021 Business hours: 9AM-8PM

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL, FOOD OPTIONAL (Class I-A) ☐ BED & BREAKFAST (Class V)
☐ GOLF COURSE (Class I,II,III,IV) ☐ TAVERN (Class IV) ☐ QUALIFIED CATERING
☐ OTHER: _____ ☐ SELF-SPONSORED EVENTS

(QUALIFIED CATERERS ONLY)

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>SMALLS BRACKET STREET, LLC</u>			Business Name (D/B/A) <u>SMALLS</u>		
APPLICANT(S) - (Sole Proprietor) DOB:			Physical Location: <u>28 BRACKET STREET</u>		
DOB:			City/Town	State	Zip Code
			<u>PORTLAND, ME</u>	<u>04102</u>	
Address			Mailing Address Same As Above? ☐		
			<u>47 MIDDLE ST.</u>		
City/Town	State	Zip Code	City/Town	State	Zip Code
			<u>PORTLAND, ME</u>	<u>04101</u>	
Telephone Number		Fax Number	Business Telephone Number		Fax Number
			<u>207-671-8495</u>		
Federal I.D. # <u>87-1228076</u>			Seller Certificate #: or Sales Tax #: <u>1218976</u>		
Email Address:			Website: <u>SMALLSISGOOD.COM</u>		

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____

2. State amount of gross income from period of last license:

ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

~~If Yes, please complete the Corporate Information required for Business Entities who are licensees~~

4. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

5. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

CAR-2015-5979 EAST ENDER RESTAURANT

License # 47 MIDDLE ST. Name of Business PORTLAND, ME 04101

Physical Location

6. If manager is to be employed, give name: SAMANTHA KNOPE

7. Business records are located at: 47 MIDDLE ST. PORTLAND, ME 04101

8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐

9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
KARL DEUBEN	6/29/1979	WHEAT RIDGE, CO
CRAIG MUDGE	2/3/1949	ALBANY, PA
SAMANTHA KNOPE	3/5/1980	DETROIT, MI
11. Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Name: <u>KARL DEUBEN</u>	City: <u>SCARBOROUGH</u>	State: <u>ME</u>
	<u>PORTLAND</u>	<u>ME</u>
Name: <u>CRAIG MUDGE</u>	City: <u>CAMDEN</u>	State: <u>ME</u>
Name: <u>SAMANTHA KNOPE</u>	City: <u>BROOKLYN</u>	State: <u>NY</u>
	<u>SOUTH PORTLAND</u>	<u>ME</u>

12. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued? Yes ☐ No ☒ If Yes, give name: _____

14. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

15. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: 26 BRACKETT STREET, LLC
268 BRACKETT ST PORTLAND, ME 04102

16. Describe in detail the premises to be licensed: (On Premise Diagram Required) 900 SQ. FT. SPACE WITH
A BAR/LIQUOR BAR W/FOOD PREP AREA IN FRONT OF BUILDING, 2 BATHROOM

17. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES ☐ NO ☒ Applied for: 7/16/2021

18. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .4 MILES

Which of the above is nearest? REICHE COMMUNITY SCHOOL

19. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: PORTLAND, ME on July 16, 20 21
Town/City, State Date

PLEASE SIGN IN BLUE INK

K J L
Signature of Applicant or Corporate Officer(s)
KARL DEUSEN
Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)	\$ 10.00
Class I Spirituous, Vinous and Malt	\$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB	
Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.	
Class II Spirituous Only	\$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III Vinous Only	\$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV Malt Liquor Only	\$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III & IV Malt & Vinous Only	\$ 440.00
CLASS III & IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
CLASS V: Clubs without catering privileges.	
Class X Spirituous, Vinous and Malt – Class A Lounge	\$2,200.00
CLASS X: Class A Lounge	
Class XI Spirituous, Vinous and Malt – Restaurant Lounge	\$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.	
SELF-SPONSORED EVENTS: Qualified Caterers Only	\$ 700.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer. All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, ME 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE - SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD) .]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD) .]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD) .]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).] [2003, c. 213, §1 (AMD).]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD).]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD).]

[1995, c. 140, §6 (AMD).]

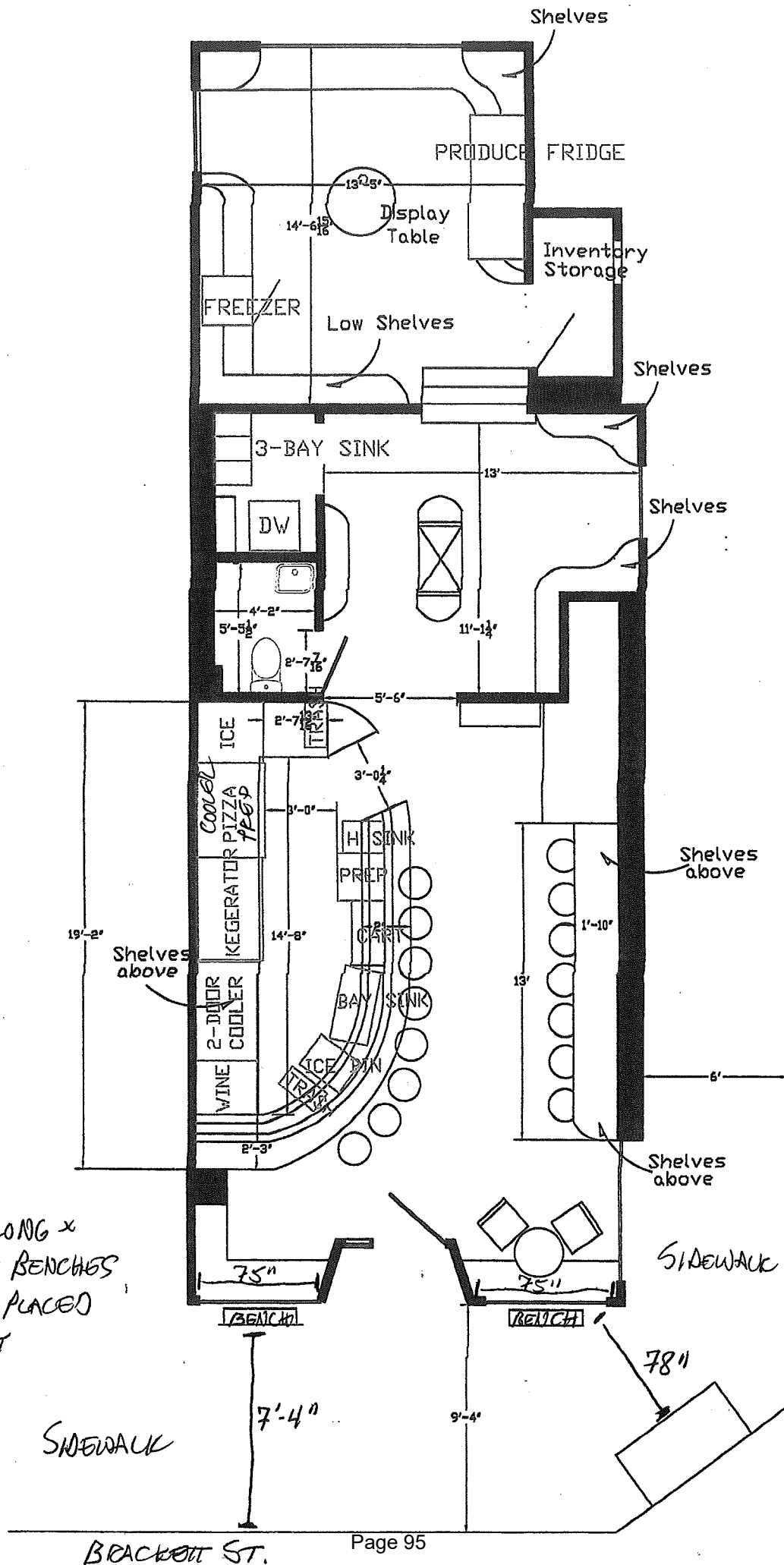
4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP).]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

TWO 48" LONG x
18" WIDE BENCHES
WILL BE PLACED
OUT FRONT





Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: SMALLS BRACKETT STREET, LLC
- Doing Business As, if any: SMALLS
- Date of filing with Secretary of State: 06/2021 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
KARL DEUSEN	7 KENOSHA AVE SCARBOROUGH, ME 04074 51 FOUR WINDS RD PORTLAND, ME 04102	6/29/77	GENERAL PARTNER	54
				46
CRAIG MUDGE	2 PENOBSCOT AVE CAMDEN, ME 04843	2/3/49	MEMBER	46

(Stock ownership in non-publicly traded companies must add up to 100%.)

- If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States? ☐ Yes ☒ No

8. If Yes to Question 7, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

PLEASE SIGN IN BLUE INK



Signature of Owner or Corporate Officer



Date



Print Name of Owner or Corporate Officer

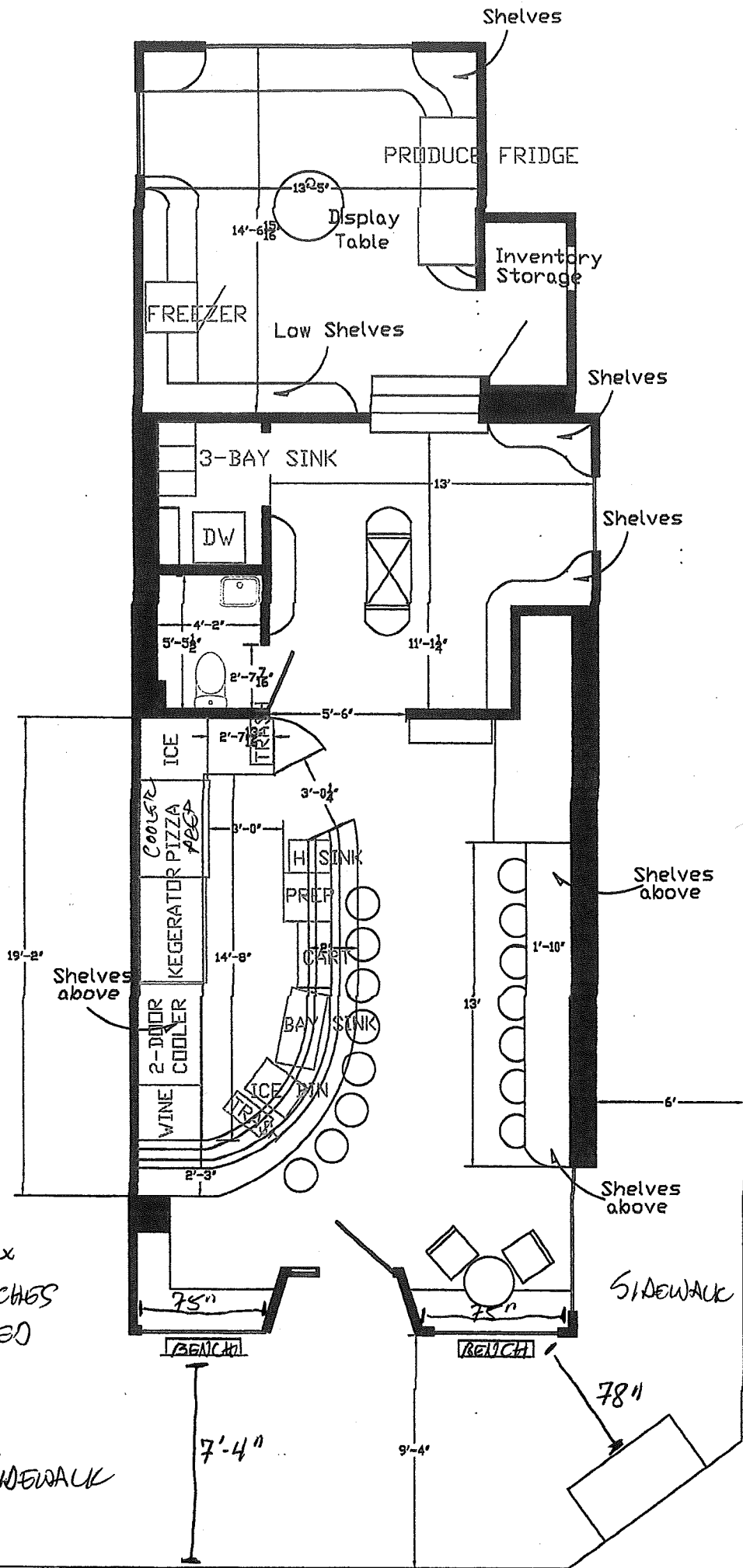
Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

TWO 48" LONG x
18" WIDE BENCHES
WILL BE PLACED
OUT FRONT

SIDEWALK

BRACKETT ST.



SUMMER
ST.

*Rope Stanchions
will be
used

smalls

stay awhile!

smalls plates

Bread with Maine farm butter

Sardine toast with lemon, oil,
red onion & celery micro-greens

Paté cup with pistachios & mini toasts

Market pickles

dessert

Cake!

Smalls Ice cream sandwich

Affogato

happy hour 4-8

\$1.50 Maine Oysters

Bay scallop crudo with citrus,
Maldon & micro greens

@smallsportland ————— (917) 386.5526



Zachary Lenhart <zlenhart@portlandmaine.gov>

Smalls Brackett St LLC

Eric Nevins <erich@portlandmaine.gov>
To: Zachary Lenhart <zlenhart@portlandmaine.gov>

Sun, Aug 8, 2021 at 6:16 PM

Approved.

On Wed, Aug 4, 2021 at 3:58 PM Zachary Lenhart <zlenhart@portlandmaine.gov> wrote:
[Quoted text hidden]

--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513



Zachary Lenhart <zlenhart@portlandmaine.gov>

Smalls Brackett St LLC

amachado <amachado@portlandmaine.gov>

Mon, Aug 16, 2021 at 12:00 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Zachary Lenhart <zlenhart@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

A Class A Restaurant (Class I) is a permitted use in the B-1 zone, per Table 6-C of Chapter 14, with the limitations under Sec. 6.4.6 of Chapter 14 that restaurants shall not operate between the hours of 11 PM and 6 AM and shall not accept deliveries or services between the hours of 10 PM or 7 AM. Food service and consumption shall be the primary function.

Ann Machado
Zoning Administrator

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

August 4, 2021

Smalls Brackett Street LLC
47 Middle Street
Portland, ME 04101

Re: Smalls Brackett Street LLC, dba Smalls. Application for a Class I FSE with Outdoor Dining on Public Property at 28 Brackett Street

Dear Smalls Brackett Street LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 23, 2021 at 5:00 p.m.**, for the review of application for a Class I FSE with Outdoor Dining on Public Property at 28 Brackett Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 20, 2021.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207)874-8557 or bl@portlandmaine.gov.

Sincerely,

Zachary J. Lenhart
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 23, 2021 at 5:00 P.M., virtually, Smalls Brackett Street LLC, dba Smalls. Application for a Class I FSE with Outdoor Dining on Public Property at 28 Brackett Street - Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 10, 2021

SUBJECT: Order 30-21/22 Granting Municipal Officers' Approval of Geno's Inc, dba Geno's Rock Club. Application for a Class A Lounge with Indoor Entertainment at 625 Congress St. - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 7/19/21. New City and State applications. Applicant currently holds a Class XI FSE at this location.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Genos Rock Club
2. 2021.08.23Genos

Prepared by:

Date: 08/10/2021

KATHLEEN M SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Geno's Inc, dba Geno's Rock Club. Application for a Class A Lounge with Indoor
Entertainment at 625 Congress Street**

Geno's Rock Club
(207)747-5594
GenosOwner@gmail.com

625 Congress St
(PO Box 4056)
Portland, ME
04101

July 1, 2021

Business License Administrator
389 Congress St
Portland, ME 04101

Dear Business Administrator,

Enclosed is my application for a Class A Lounge License for Geno's Rock Club, located at 625 Congress St. It includes the full City of Portland Food Service Establishment with Alcoholic Beverages License Application, which includes a check for \$316, covering the \$10 New Application Fee, \$100 Legal Advertisement Deposit, \$150 Health Inspection Fee, and the \$10 SBI Background Check for myself. The application is presented with a Letter of Intent, Menu, and Floor Diagram.

Also included is the City of Portland Entertainment License Application. I have included a separate check for this License Fee. I wrote it in the amount of \$989 to cover the indoor entertainment license, sound mitigation review fee, as well as the fee for the pool table, foos ball table, and touch screen game machine. I have also attached the required Sound Mitigation Plan, prepared by a Certified, Professional Sound Engineer who works extensively in Portland. The floor plan highlights the stage set-up and Sound Mitigation measures.

Finally, I have included the State of Maine Liquor License packet. It is filled out completely and accurately with a check for \$2784, which includes the \$2774 license fee plus the \$10 filing fee. I have also included 2 copies each of my lease and the purchase agreement for relevant business, Geno's inc. Everything should be found in accordance of expectations, but please do not hesitate to contact me at 347-241-6688 if you require any clarification or additional information.

Thank you,



Kathryn Ellen Taylor
(347-241-6688)



CITY OF PORTLAND
Permitting and Inspections Department
Application for Food Service Establishment with Alcoholic Beverages License

Business Information						
Business Name (d/b/a):	Geno's Rock Club	Phone:	207 747 5594			
Location Address:	625 Congress St.	Zip:	04101			
If new, what was formerly at this location:						
Mailing Address:	P.O. Box 4056	Zip:	04101			
Contact Person:	Kathryn Taylor	Phone:	347 241 6688			
Contact Person Email:	GenosOwner@gmail.com					
Manager of Establishment:	Kathryn Taylor	Date of Birth:	12/01/1980	Phone:	347 241 6688	
Owner of Premises (Landlord):	Mike Burnham					
Address of Premises Owner:	PO Box 2282 Scarborough				Zip:	04070

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address			
Geno's Inc.		P.O. Box 4056		Zip:	04101
Contact Person:	Kathryn Taylor	Phone:	347 241 6688		
Principal Officers					
Title		Date of Birth	Residence Address		
Kathryn Taylor	owner	12/01/1980	59 A Brackett St. #8 04101		
Class of Liquor License:		Class A Lounge			

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	<u>FAST</u>	
Please circle all that will be served:	<u>Beer</u> Wine <u>Liquor</u>	
Projected percentage of sales:	Generated from Food:	Generated from Alcohol:
Hours & days of operation:	<u>5pm - 1am 7 days a week</u>	

QUESTIONS

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N <u>Y</u>
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	<u>Y</u>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	<u>Y</u>
Will you permit dancing after 1:00 a.m.?	<u>Y</u>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	<u>Y</u>
Will you have any amusement devices (pinball, video games, juke box)?	
If yes, please list: # of pinball machines: <u>1</u> # of amusements: <u>2</u> # of pool tables: <u>1</u>	
What is your targeted opening date? <u>ASAP</u>	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	<u>Y</u>
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	<u>Y</u>
If Yes, please list business name(s) and location(s): <u>Geno's Inc.</u>	
Is any principal officer under the age of 21?	<u>Y</u>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	<u>Y</u>
If Yes, please explain:	

I, Kathryn Taylor do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title owner Date 7-1-21

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☒ Indoor Entertainment \$500.00	☐ Outdoor Entertainment \$700.00	☐ Combined Entertainment \$800.00
☒ Sound Mitigation Fee \$150.00		

Business Information	
Business Name (d/b/a):	Geno's Rock Club
Location Address:	625 Congress St. (Portland, ME)
Owner Name:	Kathryn Ellen Taylor
Owner Email:	GenosOwner@gmail.com
Contact Person responsible for Entertainment:	Kathryn Ellen Taylor
Contact Person Email:	GenosOwner@gmail.com / GenosRockClub@gmail.com
Manager of Establishment:	Kathryn Ellen Taylor
Manager Email:	GenosOwner@gmail.com

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

Geno's is working to maintain its tradition of showcasing local bands, artists, and entertainers. We are an inclusive venue. We serve food, drinks and fun and games.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature KEL Title owner Date 7-1-21

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov

Sound Engineer

Andrew Roseanne

Phone: 203-464-0272

August 7, 2020

Requested Sound Mitigation Plan Report

This report has been prepared at the behest of Kathryn Taylor, the new owner of Genos Rock Club, in the interest of providing a detailed Sound Mitigation Plan as required for the new Entertainment License Application for said venue.

Genos Rock Club currently utilizes a sound system designed to provide clear sound with extremely low building-exterior sound bleed. The system, installed in 2017, was implemented by previous Genos employee Jon Morse, with input from audio professionals. This system primarily consists of (one) Midas M32R Console, (two) Turbosound IX12 sound monitors, and (two) Turbosound IQ12 speakers, in conjunction with Turbosound IQ18 powered subwoofers, but can feature as many as four speakers, with three monitors, simultaneously. It has been used for appx. 104 shows annually, in 2018 and 2019 respectively.

Sound mitigation measures include the construction of the venue itself, which was designed for theatrical presentations. Forward walls towards our lobby feature two sets of doors to control sound to the street facing facade. The exterior walls of the 625 Congress St location in which Genos

presides, are appx. 12" thick mason. This construction inherently reduces sound to levels well below the acceptable decibel range of Portland. Additional measures within the interior of the building includes a secondary enclosure around the stage area, constructed of 2"x4" wood and sound-reduction material. The ceiling features sound-reduction lining, and a series of baffles have been installed, constructed of wood and sound-reduction material totaling 1088 square feet, providing interior sound-deadening, and contributing to exterior noise control.

As the stage is located at the rear of the building, the primary direction of the sound projection is forward, towards the 625 Congress adjacent facade of the building. Speaker location, as illustrated on the provided diagram, are primarily facing the audience. Monitors are provided upon request, for performer-convenience, facing toward the stage/performers. During all live music shows, a sound engineer and the sound board are located in the venues sound equipment storage area, labeled "Storage A" on the provided diagram. This area, consisting of two 6 ft high walls and an elevated platform, located sixteen feet from the stage, provides direct line of sight for the staffed sound engineer, for immediate adjustment to volume levels.

All sound reading for the interior and exterior of the building are monitored with proper sound level meters, manufactured in accordance to standards

August 8th,

prescribed by the American Standards Association. In the three year period that the current sound system has been utilized, all exterior sound levels have read below the City of Portland guidelines of 50 to 60 Decibels from within 8 feet of any exterior wall, and to my knowledge, while Portland Police has visited Genos twice, all levels were found to be in compliance, and no citations have been issued to Genos Rock Club in this period.

In conclusion, as Kathryn Taylor will be maintaining the current system in place, which has been used successfully and without issue for three years prior to the submission of this application, it is of my opinion that this system, the buildings inherent sound-deadening construction, and the additional sound reduction methods currently employed, should suffice for the expectations of the City of Portland.

With your Consideration,

A handwritten signature in black ink, appearing to be 'AR' followed by a long, sweeping horizontal line.

Andrew Roseman



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

Section I: Licensee/Applicant(s) Information;
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): <u>Geno's Inc.</u>	Business Name (D/B/A): <u>Geno's Rock Club</u>
Individual or Sole Proprietor Applicant Name(s): <u>Kathryn Taylor</u>	Physical Location: <u>625 Congress St 04101</u>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address: <u>PO Box 4056 Portland, ME 04101</u>	Email Address: <u>GenosOwner@gmail.com</u>
Telephone # <u>347 241 6688</u> Fax #:	Business Telephone # <u>207 747 5594</u> Fax #:
Federal Tax Identification Number: <u>42-1712238</u>	Maine Seller Certificate # or Sales Tax #: <u>1092630</u>
Retail Beverage Alcohol Dealers Permit: <u>CARL-2020-12912</u>	Website address: <u>under construction</u>

1. New license or renewal of existing license? ☐ New Expected Start date: ASAP
☒ Renewal Expiration Date: _____

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:
Food: 25,000 Beer, Wine or Spirits: 85,000 Guest Rooms: N/A

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☐ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☒ Class A Lounge
(Class X) |
| ☐ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☐ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

625 Congress St. 04101

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☒ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Kathryn Ellen Taylor	12/01/1980	Sanford, ME

Residence address on all the above for previous 5 years		
Name	Address:	
Kathryn Taylor	59A Brackett St.	04101
Name	Address:	
	182 Wilson Ave	11237
Name	Address:	
	2031 Greene Ave	11385
Name	Address:	

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____
Offense: _____ Location: _____
Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____
Offense: _____ Location: _____
Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Mike Burnham PO Box 2282 Scarborough, ME 0407

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: N/A

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

The street entrance is 2 sets of double doors that lead into the entryway / bathroom vicinity. After another set of double doors one enters the main room. The bar is to the right and the stage is all the way to the back.

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: MECA

Distance: 300'

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 7-1-21


Signature of Duly Authorized Person

Kathryn Taylor
Printed Name of Duly Authorized Person

Signature of Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
 - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

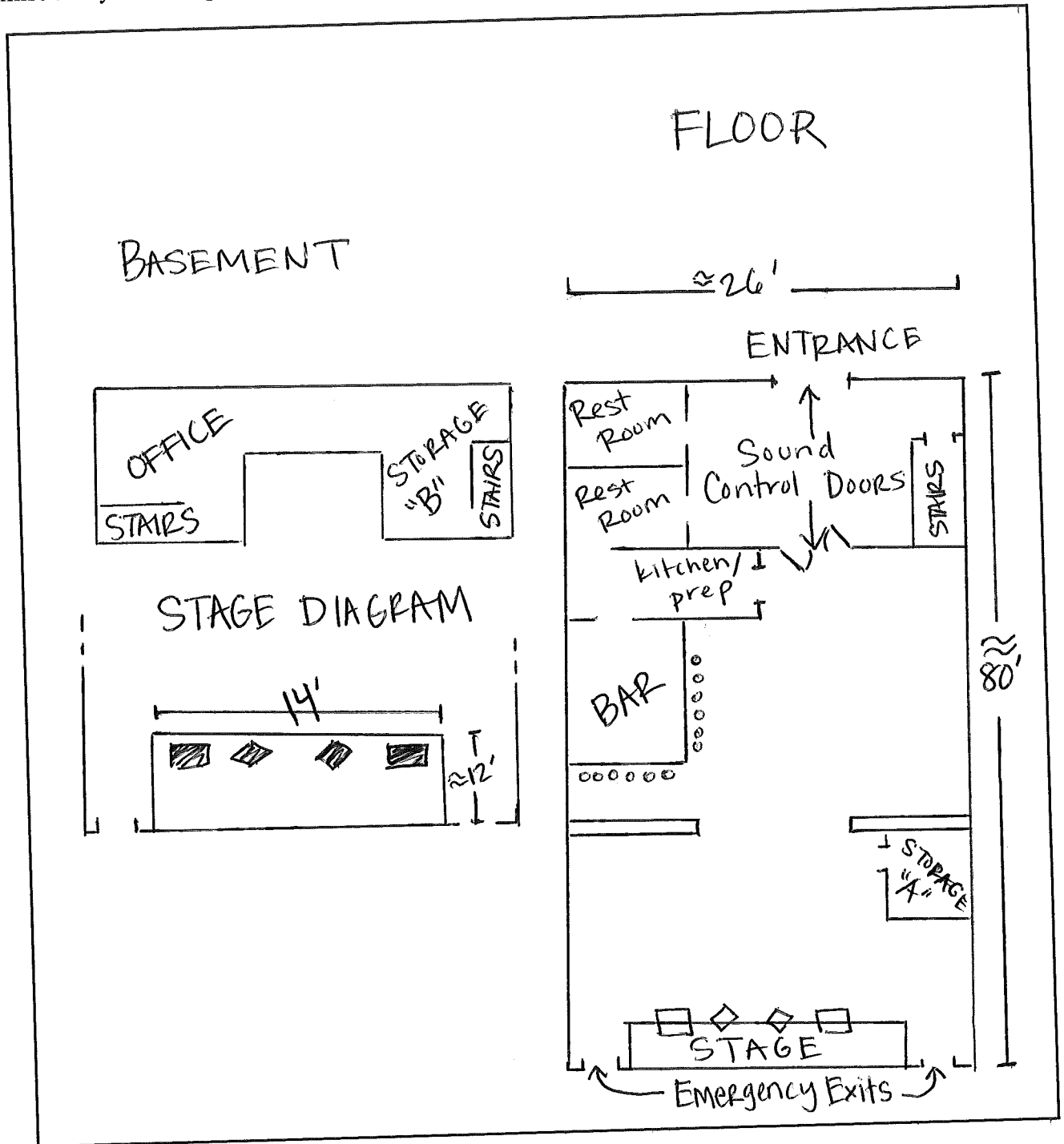
Please note: For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

<u>Class of License</u>	<u>Type of liquor/Establishments included</u>	<u>Fee</u>
Class I	For the sale of liquor (malt liquor, wine and spirits) This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
Class I-A	For the sale of liquor (malt liquor, wine and spirits) This class includes only hotels that do not serve three meals a day.	\$1,100.00
Class II	For the Sale of Spirits Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
Class III	For the Sale of Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class IV	For the Sale of Malt Liquor Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class III and IV	For the Sale of Malt Liquor and Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
Class V	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Club without catering privileges.	\$ 495.00
Class X	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Class A Lounge	\$2,200.00
Class XI	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Restaurant Lounge	\$1,500.00

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Geno's Inc.
2. Doing Business As, if any: Geno's Rock Club
3. Date of filing with Secretary of State: _____ State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:
N/A
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

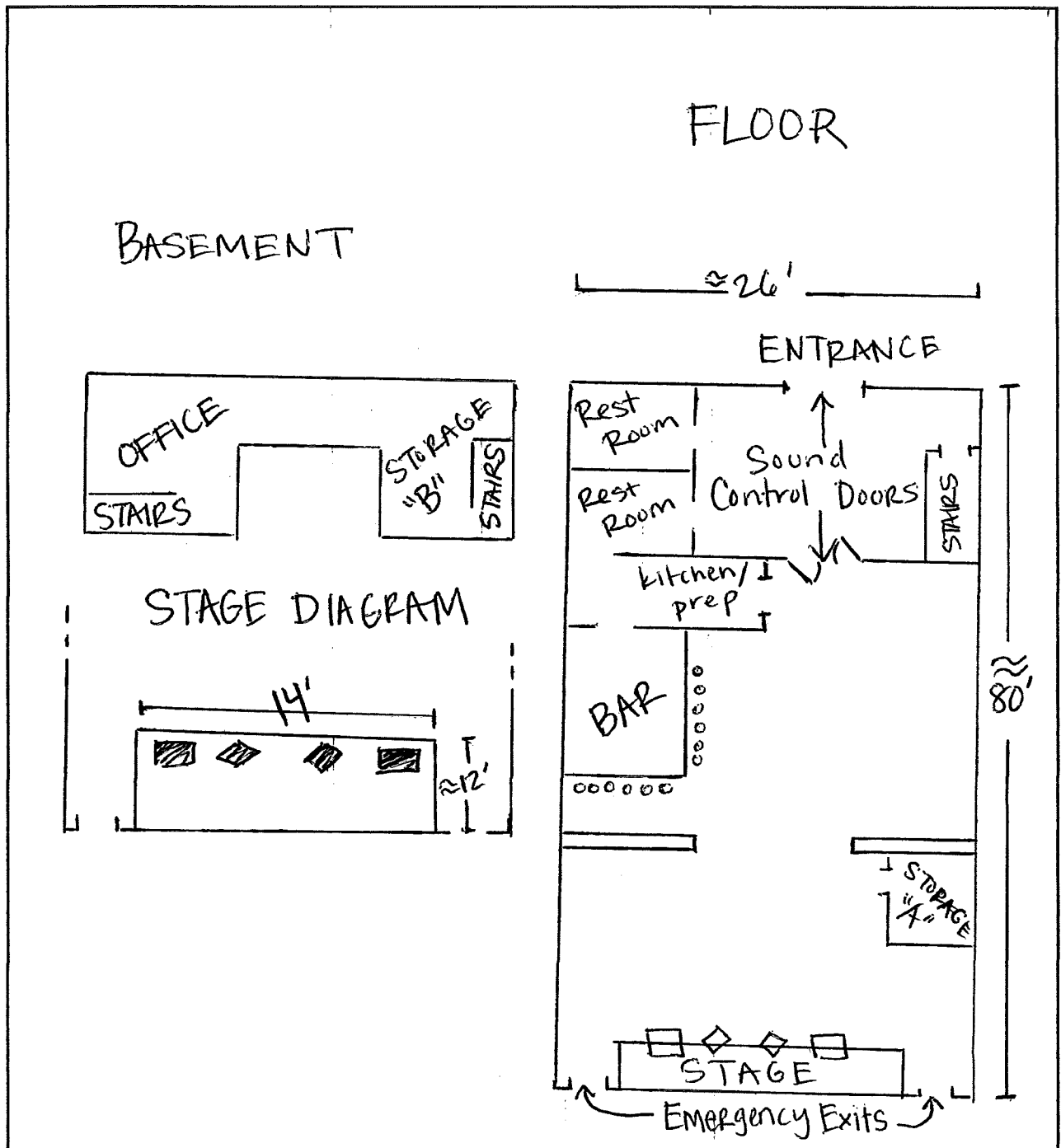
Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Kathryn Ellen Taylor	59 A Brackett St. 04101	12/01/1980	owner	100%
"	182 Wilson Ave 11237			
"	2031 Greene Ave 11385			

(Ownership in non-publicly traded companies must add up to 100%.)

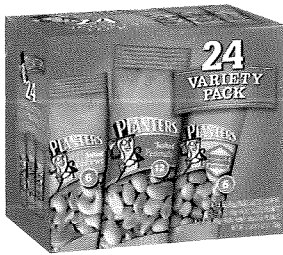
Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



We've Got Snacks!



Hot Pockets* \$5.00

***Rotating Flavors Please Ask**

Peanuts \$1.00

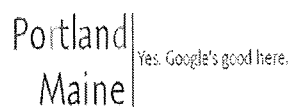
Chips \$0.50

Crackers \$0.50

Slim Jim's \$0.25

Gum \$0.25





Zachary Lenhart <zlenhart@portlandmaine.gov>

Geno's Rock Club

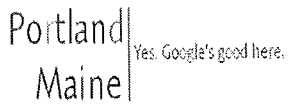
Eric Nevins <erickn@portlandmaine.gov>
To: Zachary Lenhart <zlenhart@portlandmaine.gov>

Sun, Aug 8, 2021 at 6:14 PM

Approved

On Wed, Aug 4, 2021 at 4:07 PM Zachary Lenhart <zlenhart@portlandmaine.gov> wrote:
[Quoted text hidden]

--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513

**Zachary Lenhart <zlenhart@portlandmaine.gov>**

Geno's Rock Club

Dan DeLuna <ddeluna@portlandmaine.gov>

Tue, Aug 17, 2021 at 4:11 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Zachary Lenhart <zlenhart@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Eric Cobb

<ecobb@portlandmaine.gov>, Eric Nevins <erick@portlandmaine.gov>, Fire Prevention

<fireprevention@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>,

Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>

A bar (Class A Lounge-Class X) is a permitted use in the B-3 Zone, per Table 6-C of Chapter14, City Code of Ordinances.

No change of use permit is required, Zoning has signed off on the liquor license in Energov.

Dan

[Quoted text hidden]

Sound Mitigation Review

Applicant Kathryn Taylor

Page 128



CITY OF PORTLAND
Permitting and Inspections Department

August 4, 2021

Geno's Inc
PO Box 4056
Portland, ME 04101

Re: Geno's Inc, dba Geno's Rock Club. Application for a Class A Lounge with Indoor Entertainment at 625 Congress Street

Dear Geno's Inc:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 23, 2021 at 5:00 p.m.**, for the review of application for a Class A Lounge with Indoor Entertainment at 625 Congress Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 20, 2021.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207)874-8557 or bl@portlandmaine.gov.

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 23, 2021 at 5:00 P.M., virtually, Geno's Inc, dba Geno's Rock Club. Application for a Class A Lounge with Indoor Entertainment at 625 Congress St. - Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 10, 2021

SUBJECT: Order 31-21/22 Granting Municipal Officers' Approval of Austin Street Brewery LLC, dba Austin Street Brewery. Application for a Combined Entertainment at 109 Fox St. - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 7/21/21. New City application. Applicant currently holds a Class A Lounge FSE with Private Outdoor Dining at this location.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Austin Street Brewery
2. 2021.08.23AustinSt

Prepared by:

Date: 08/10/2021

KATHLEEN M SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Austin Street Brewery LLC, dba Austin Street Brewery. Application for a Combined
Entertainment at 109 Fox Street**



July 5, 2021

Mayor Kate Snyder
Portland City Council
389 Congress Street
Portland, ME 04101

Re: Application for a City Entertainment License

Dear Mayor Snyder and City Council Members:

I am writing to inform you that Austin Street Brewery intends to apply for, and to receive, a City Entertainment License in connection with the brewery location in Portland's East Bayside at 109 Fox Street. Austin Street Brewery is applying for licensing to include indoor and outdoor entertainment.

Accordingly, please find enclosed for your review, consideration, and anticipated approval the following documents in connection with the City Entertainment License:

- Application for an Entertainment License
- Diagram showing layout of the premises
- Sound mitigation plan
- Sound mitigation points
- Live music policies and procedures
- Decibel log sheet
- Payment of fees

Thank you very much for your time and consideration, and we very much look forward to receiving your anticipated approval of the enclosed license and permit applications.

Sincerely,

A handwritten signature in black ink, appearing to read "William Fisher", is written over a horizontal line.

William Fisher, Manager of Austin Street Brewery, LLC



CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☐ Indoor Entertainment \$500.00	☐ Outdoor Entertainment \$700.00	☒ Combined Entertainment \$800.00
☐ Sound Mitigation Fee \$150.00		

Business Information	
Business Name (d/b/a):	Austin Street Brewery
Location Address:	109 Fox Street
Owner Name:	William Fisher
Owner Email:	will@austinstreetbrewery.com
Contact Person responsible for Entertainment:	William Fisher
Contact Person Email:	will@austinstreetbrewery.com
Manager of Establishment:	Alex Medellin
Manager Email:	alex@austinstreetbrewery.com

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

Austin Street Brewery operates a tasting room at 109 Fox Street. We plan on hosting solo musicians and small bands to improve our guest experience. Whether indoors or outdoors, we pledge to follow all city rules and guidelines.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature  Title Manager Date 5.28.21

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

Live Music Policies and Procedures

Austin Street Brewery hosts live music inside year round and outside during warmer months. For indoor shows the band is set up inside with the doors closed. For outdoor shows the band will be setup on the patio.

Before any outdoor live music performance begins, club personnel will take a baseline sound reading at the closest property line, in this case the side walk adjacent to the brewery. Before any indoor live entertainment begins, club personnel will take a baseline sound reading from 8ft outside the main egress. These readings will be 60-second dBA weighted average. These readings will be recorded in the Event Decibel Reading Log.

During live music performances, club personnel will complete hourly decibel readings at these same locations. They will record these readings in the log that resides in the SOP binder. If the levels are more than 85dBA or 95dBC, staff will request that the band lower their levels and then do a second reading to ensure they are within compliance.

At the start of every season, the bands who perform regularly will be required to read and sign an agreement that they understand and will follow the city's guidelines and The Club's policies and procedures regarding volume. Other bands who may perform at special events will also be required to read and sign this agreement.

If a Portland police officer arrives to do a decibel reading, club employees will cooperate in all respects and be ready to provide this policy/procedure document, the band's signed agreements, and decibel reading log without hesitation.



Jack Murray Engineer/Producer/System Designer

Odds Are Productions LLC
Ocean AVL
Portland, ME

Austin Street Brewery

115 Fox St
Portland, ME 04103

May 18, 2021

Dear Will,

Thanks so much for taking the time to reach out about a sound mitigation plan. It appears as though you've come up with a solid plan to combat any potential complaints.

Highlights from our talks include:

- An official handbook of rules for any staff to reference during a shift containing outdoor music.
- Position speakers in a way to minimize projection towards residential dwellings during outside events while keeping volume levels reasonable.
- Documenting consistent sound decibel readings from pre-determined locations every hour during the operation of outdoor music. These readings will be 60-second dBA weighted average. (Taking a reading before the music begins will help determine a baseline to compare during performances)
- A signed agreement on file for every group/artist affirming they know the rules contained within the official handbook.
- If a Portland police officer arrives on location to do a decibel reading, you will cooperate in all respects and be ready to provide this policy/procedure document, the band's signed agreements, and decibel reading log without hesitation.

I believe the plan you've laid out to me and will subsequently provide to the city will satisfy their criteria to show you are taking a proactive approach and not a reactive approach after complaints may arise.

Take care,

Jack

AUSTIN STREET BREWERY SOUND MITIGATION POINTS

Sound Mitigation Plan prepared by Ocean AVL - Portland, ME 207-956-0060

Sound transmission will be minimized by following the procedures and protocol document presented to any manager on duty. To include hourly sound decibel readings, having bands sign a document acknowledging they know the procedures and protocols, asking bands to turn down if they are above the desired decibel reading, pointing speakers away from residential dwellings, having speakers up high and point down versus straight out.

Speaker location will typically be tucked up against the building up high with downward trajectory to minimize spill outside the designated area.

Sound systems will be provided by the bands and setup and operated to our standards.

AUSTIN STREET BREWERY DECIBEL LOG SHEET

MAX READING OF 85dBA or 95dBC 8ft from the closest degree for indoor music
 MAX READING OF 85dBA or 95dBC at the closest property line for outdoor music

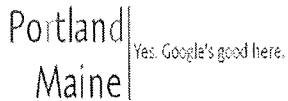
DATE: _____ BAND: _____

Hour	Actual Time	Reading	In Compliance?	Reading #2	Reading #3	Initials
12:00pm						
1:00pm						
2:00pm						
3:00pm						
4:00pm						
5:00pm						
6:00pm						
7:00pm						
8:00pm						
9:00pm						
10:00pm						
11:00pm						
12:00am						
1:00am						



Red X indicates the source of music.

The yellow X indicates the closest property line where decibel readings will be taken during outdoor entertainment.



Zachary Lenhart <zlenhart@portlandmaine.gov>

Combined Entertainment - Austin Street Brewery

Glen McGary <glenm@portlandmaine.gov>

Fri, Aug 6, 2021 at 10:21 AM

To: Zachary Lenhart <zlenhart@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Eric Nevins <erich@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Kevin Schneck <kschneck@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

Approved.

On Thu, Aug 5, 2021 at 12:52 PM Zachary Lenhart <zlenhart@portlandmaine.gov> wrote:

[Quoted text hidden]

--

Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580



Zachary Lenhart <zlenhart@portlandmaine.gov>

Combined Entertainment - Austin Street Brewery

amachado <amachado@portlandmaine.gov>

Mon, Aug 16, 2021 at 3:46 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Zachary Lenhart <zlenhart@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Zoning is only approving the combined entertainment license for the outside area that has been approved by the City Council for outside dining.

Ann Machado
Zoning Administrator.

[Quoted text hidden]

City of Portland

Sound Mitigation Review

Date: 8/16/2021						
Business Austin Street Brewery						
Applicant William Fisher						
DESCRIPTION	yes	no				
Sound system appropriate for the size venue		Yes				
Performance space located in an appropriate location		Yes				
Performance space facing in an appropriate direction to control sound		Yes				
Surrounding surfaces appropriate to control sound						
Additional sound absorbing features						
additional notes						
Approved		Yes				
DIRECT ALL INQUIRIES TO:						
Kevin Schneck						
(207) 756-8433						
kschneck@portlandmaine.gov						



CITY OF PORTLAND
Permitting and Inspections Department

August 5, 2021

Austin Street Brewery
1 Industrial Way, Unit 8
Portland, ME 04103

Re: Austin Street Brewery LLC, dba Austin Street Brewery. Application for a Combined Entertainment at 109 Fox Street

Dear Austin Street Brewery LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 23, 2021 at 5:00 p.m.**, for the review of application for Combined Entertainment at 109 Fox Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 20, 2021.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207)874-8557 or bl@portlandmaine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Zachary J. Lenhert".

Zachary J. Lenhert
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 23, 2021 at 5:00 P.M., virtually, Austin Street Brewery LLC, dba Austin Street Brewery. Application for a Combined Entertainment at 109 Fox St - Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 10, 2021

SUBJECT: Order 32-21/22 Granting Municipal Officers' Approval of Empire 37 LLC, dba Empire Chinese Kitchen. Application for a Class I FSE at 575 Congress St. - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 7/26/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Empire Chinese Kitchen
2. 2021.08.23Empire

Prepared by:

Date: 08/10/2021

KATHLEEN M SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Empire 37 LLC, dba Empire Chinese Kitchen. Application for a Class I FSE at 575
Congress Street**

July 18th, 2021

Theresa Chan
& Huilin Xu
Empire
575 Congress St
Portland, ME 04101

Mayor Kate Snyder
& Portland City Council
389 Congress St. Suite 208
Portland, ME 04101

Letter of Intent

Dear Mayor Snyder and Members of the Portland City Council,

Empire Chinese Kitchen seeks to apply for a new liquor license under the entity Empire 37 LLC.

This change in LLC reflects a change in ownership structure. There will be no change in the menu, facility, or management of the day-to-day operations. Since our opening in 2013, Empire has been a premier dining destination in Portland. We intent to continue providing high-quality Cantonese food while adjusting to the current business climate.

Thank you for your attention.

Sincerely,
Theresa Chan & Huilin Xu



CITY OF PORTLAND
Permitting and Inspections Department
Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Empire chinese kitchen Phone: 207-747-5063
Location Address:	575 Congress St Portland ME Zip: 04101
If new, what was formerly at this location:	change ownership
Mailing Address:	575 Congress St Portland ME Zip: 04101
Contact Person:	Han Xu Phone: 207-680-0198
Contact Person Email:	Hanxu6886@gmail.com
Manager of Establishment:	same as contact Date of Birth: Phone:
Owner of Premises (Landlord):	Yue Chan (571 Enterprises LLC)
Address of Premises Owner:	138 Grant Rd Freeport ME Zip: 04032

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Empire 37 LLC		575 Congress St Portland ME Zip: 04101	
Contact Person:		Phone:	
Principal Officers	Title	Date of Birth	Residence Address
Hui L Xu	president	01/24/1981	23 main St Freeport ME 04032
Class of Liquor License:		Class A Restaurant (Class I)	



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	Chinese Food Cantonese Food , Cantonese Food	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 95%	Generated from Alcohol: 5%
Hours & days of operation:	10 Hours	

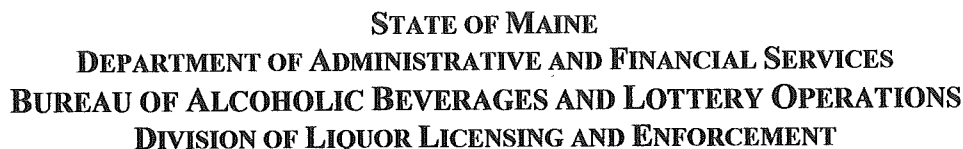
QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y ☐ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y ☐ N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? change ownership	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y ☐ N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y ☐ N
If Yes, please explain:	

I Hui L Xu do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Title owner Date 6/28/2021



All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

1. New license or renewal of existing license? ☒ New Expected Start date: 8/1 (change ownership)
☐ Renewal Expiration Date: _____

Food: _____ Beer, Wine or Spirits: _____ Guest Rooms: _____

~~☐~~ Malt Liquor (beer) ~~☐~~ Wine ~~☐~~ Spirits

4. Indicate the type of license applying for: (choose only one)

- ☒ Restaurant (Class I, II, III, IV) ☐ Class A Restaurant/Lounge (Class XI) ☐ Class A Lounge (Class X)
- ☐ Hotel (Class I, II, III, IV) ☐ Hotel – Food Optional (Class I-A) ☐ Bed & Breakfast (Class V)
- ☐ Golf Course (included optional licenses, please check if apply) (Class I, II, III, IV) ☐ Auxiliary ☐ Mobile Cart
- ☐ Tavern (Class IV) ☐ Other: _____
- ☐ Qualified Caterer ☐ Self-Sponsored Events (Qualified Caterers Only)

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

575 Congress St Portland ME 04101

6. Is the licensee/applicant(s) citizens of the United States? ☐ Yes ☒ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☐ No

☒ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
China Rose	CAR-2012-5347	23 Main St Freeport ME 04032

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Hui Lin Xu	01/24/81	China
Xue Jun Zheng	10/08/66	China

Residence address on all the above for previous 5 years

Name	Hui Lin Xu	Address:	23 Main St Freeport ME 04032
Name	Xue Jun Zheng	Address:	1411 Murrayview Dr Columbia SC 29212
Name		Address:	
Name		Address:	

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

2 Floors with Basement,

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Portland public schools

Distance: 1/2 mile

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 6/28/2021



Signature of Duly Authorized Person

Hui Lin Xu

Printed Name Duly Authorized Person

Signature of Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
 - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

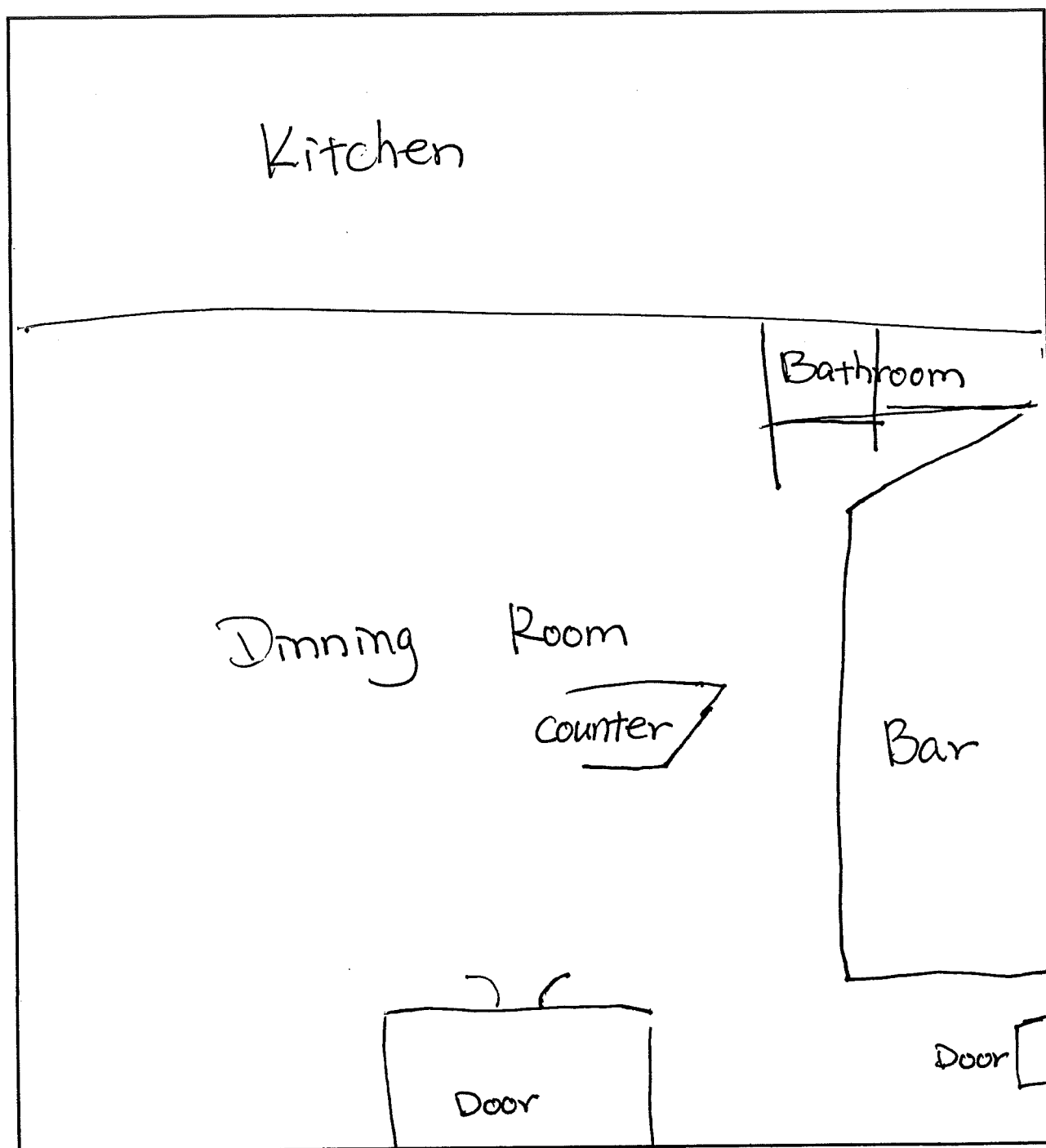
Please note: For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

<u>Class of License</u>	<u>Type of liquor/Establishments included</u>	<u>Fee</u>
Class I	For the sale of liquor (malt liquor, wine and spirits) This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
Class I-A	For the sale of liquor (malt liquor, wine and spirits) This class includes only hotels that do not serve three meals a day.	\$1,100.00
Class II	For the Sale of Spirits Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
Class III	For the Sale of Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class IV	For the Sale of Malt Liquor Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class III and IV	For the Sale of Malt Liquor and Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
Class V	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Club without catering privileges.	\$ 495.00
Class X	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Class A Lounge	\$2,200.00
Class XI	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Restaurant Lounge	\$1,500.00

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Empire 37 LLC
2. Doing Business As, if any: Empire Chinese Kitchen
3. Date of filing with Secretary of State: 12/08/2020 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

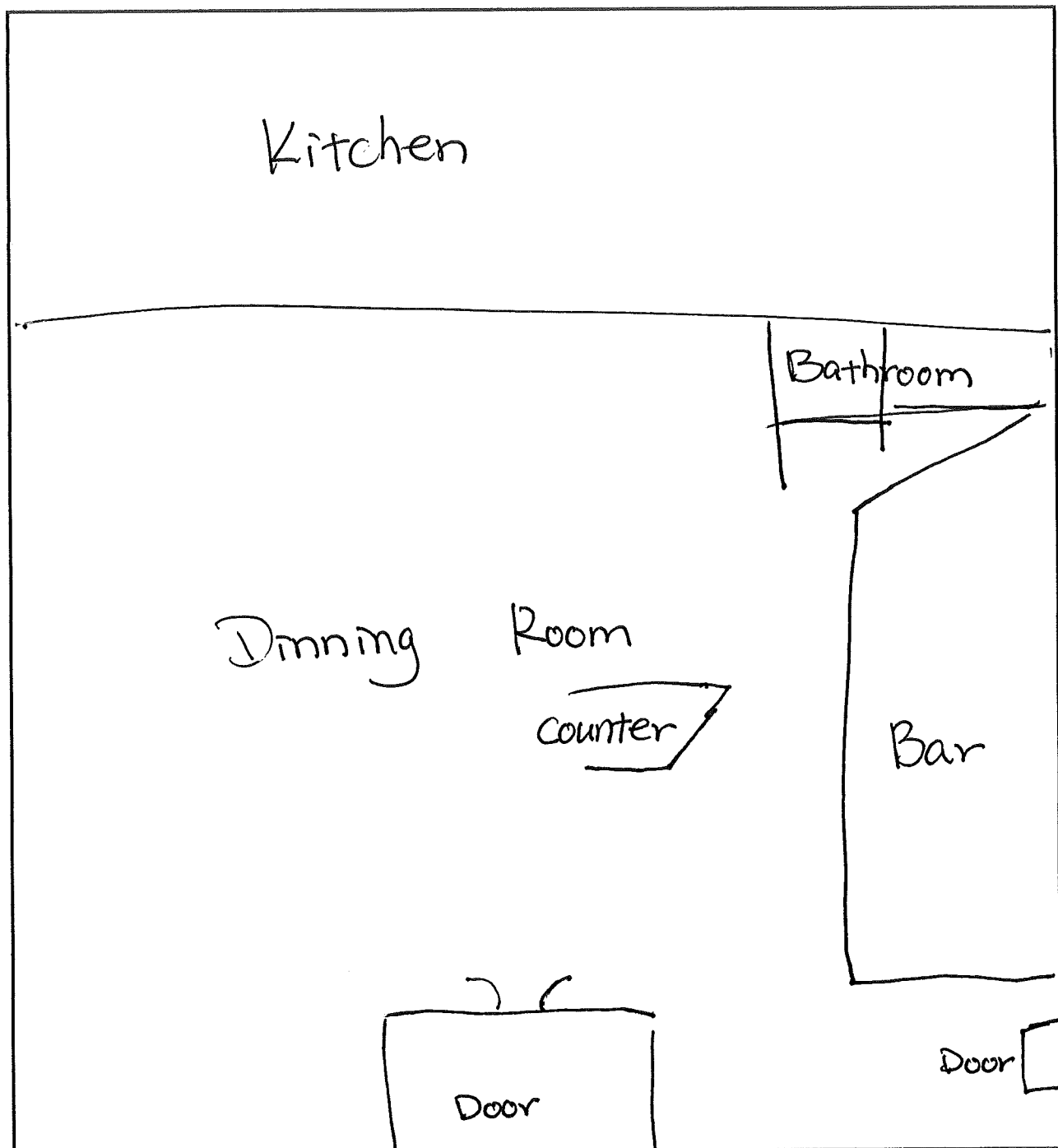
Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Hui Lin Xu	23 main st Freeport ME 04032	01/24/81	president	100%

(Ownership in non-publicly traded companies must add up to 100%.)

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



EMPIRE

在緬因州
PORTLAND MAINE

Soups

WONTON SOUP
pork & shrimp wontons,
bok choy, duck broth 6.5

HOT & SOUR SOUP ★ ▲
bamboo, tofu, enoki, egg 6
(vegetarian)

Small Plates

EMPIRE EGGROLL
local beef pastrami,
asparagus & sesame cabbage
(1) eggroll cut into 2 pieces 8.5

SPRING ROLLS ✦
(2) red cabbage & 5-spice
crispy rolls 6.5

LOBSTER RANGOONS
(4) crispy rangoons with lobster,
scallion & cream cheese 10

GARLIC GREEN BEANS ✦ ▲
wok fried with
grilled onion & tamari
small 6.5 large 10.5

SA CHA CHICKEN SKEWERS
(2) skewers marinated
in savory sesame jam 8.5
with garlic curry sauce
or sweet chili sauce ▲

HONEY WALNUT SHRIMP
crispy jumbo shrimp, candied
walnut, citrus Japanese mayo
(3) pieces 8 (5) pieces 12

CHINESE EGGPLANT ✦
sweet & tangy garlic sauce
served with rice 8

CHINATOWN ROAST PORK
sliced boneless pork in
honey char siu sauce
served with rice 9



We donate 8¢ from each dish
sold in this column
to hunger initiatives.
Thank you for your support.

Bao & Buns



CHAR SIU BAO
(2) sweet & savory
Chinese BBQ'd pork
stuffed steam buns 9

PEKING DUCK BUNS
(2) seared duck, hoisin,
& spring onion in steam buns 9

SPICY PORK BELLY BUNS ★
(2) steam buns with
5-spice braised belly,
chili plum sauce & pickles 9

Dumplings

▲ Gluten-free sauce available

PORK POTSTICKERS
(4) pan-fried
pork & scallion dumplings 8.5

SHANGHAI SOUP DUMPLINGS
(4) juicy pork dumplings with
savory soup inside 7.5

CHIVE SHIITAKE DUMPLINGS ✦ ▲
(3) garlic, Chinese chive,
& corn dumplings in crystal dough
wrappers, pan-fried 8

STEAMED PORK DUMPLINGS ▲
(4) savory pork, cabbage,
& ginger dumplings 9

SHU MAI
(3) traditional pork & shrimp
open-top dumplings 8.5

HAR GOW ▲
(4) delicate shrimp dumplings
in crystal dough wrappers 9.5



SIDES:

jasmine rice 2
steamed noodles 3.5

Rice & Noodles

Sized to share

BACON FRIED RICE ▲
local bacon, sweet corn,
scallion, onion & egg 16

KUNG PAO CHICKEN ★
medium spicy chicken,
peanuts & wheat noodles 16

BROCCOLI & BROAD NOODLES ▲
with bean sprout, carrot,
tamari & wide rice noodles 15

ORANGE BEEF ▲
orange peel & garlic-glazed
crispy steak served with
bok choy & rice 16

DUCK FRIED RICE
chopped roast duck,
onion & egg 17

BEEF & BROAD NOODLES
angus beef, bean sprouts, onion
& wide rice noodles 16

GINGER FRIED RICE ✦ ▲
bok choy, corn, broccoli,
green bean & ginger 14

JALAPEÑO SHRIMP ★
spicy wok-seared jumbo shrimp
served with bok choy & rice 18.5

TERIYAKI CHICKEN ★
marinated & wok-fried chicken
served with bok choy & rice 15

CURRY UDON ★ ✦
broccoli, jalapeño, carrot,
mushroom, & noodles in
coconut curry sauce 16
add tofu +2

MONGOLIAN BEEF ★
flank steak, broccoli, onion,
mint, & dried Thai chilis
served with rice 18

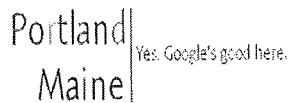
Our dishes are crafted with care.
Please reserve modifications for necessary
dietary restrictions.

★ Spicy

✦ Vegan

▲ Gluten-free



**Zachary Lenhart** <zlenhart@portlandmaine.gov>

Empire Chinese Kitchen

Eric Nevins <erickn@portlandmaine.gov>
To: Zachary Lenhart <zlenhart@portlandmaine.gov>

Sun, Aug 8, 2021 at 5:25 PM

Approved.

On Fri, Aug 6, 2021 at 11:40 AM Zachary Lenhart <zlenhart@portlandmaine.gov> wrote:
[Quoted text hidden]

--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513



Zachary Lenhert <zlenhert@portlandmaine.gov>

Empire Chinese Kitchen

amachado <amachado@portlandmaine.gov>

Tue, Aug 17, 2021 at 11:51 AM

To: Zoning <zoning@portlandmaine.gov>

Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Zach -

A Class A Restaurant (Class I) is a permitted use in the B-3 Zone, per Table 6-C in Chapter 14.

The existing legal use is a restaurant, so no change of use is required. I have approved the license in Energov for zoning.

Ann Machado
Zoning Administrator
[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

August 6, 2021

Empire 37 LLC
575 Congress Street
Portland, ME 04101

Re: Empire 37 LLC, dba Empire Chinese Kitchen. Application for a Class I FSE at 575 Congress Street

Dear Empire 37 LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 23, 2021 at 5:00 p.m.**, for the review of application for Class 1 FSE at 575 Congress Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 20, 2021.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207)874-8557 or bl@portlandmaine.gov.

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 23, 2021 at 5:00 P.M., virtually, Empire 37 LLC, dba Empire Chinese Kitchen. Application for a Class I FSE at 575 Congress St - Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 10, 2021

SUBJECT: Order 33-21/22 Granting Municipal Officers' Approval of Renn Restaurant Group LLC, dba Ruby's West End. Application for a Class I FSE at 64 Pine St. - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 7/28/21. New City and State applications. Applicant currently holds FSE with prep.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Ruby West End
2. 2021.08.23Rubys

Prepared by:

Date: 08/10/2021

KATHLEEN M SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:**

**Renn Restaurant Group LLC, dba Ruby's West End. Application for a Class I FSE at 64
Pine Street**



Corrinna Stum, Owner
Renn Restaurant Group, LLC
Ruby's West End
64 Pine Street
Portland, ME 04102

Letter of Intent: Liquor License

July 15, 2021

Mayor Kate Snyder &
Members of Portland City Council
City of Portland
389 Congress Street
Portland, ME 04101

To Mayor Kate Snyder & Members of Portland City Council,

This letter of intent requests the approval of a liquor license for Ruby's West End, owned and operated by Renn Restaurant Group, LLC.

Ruby's is a place of warm hospitality, comfortable conversations, and storytelling over a shared meal. The primary focus of our business is to provide a place where people can gather over food and drink. We are a casual environment serving brunch Monday through Sunday from 6 am to 10 pm. We will offer no entertainment and will be a quiet neighbor in the retail and residential corner of the West End.

As we are now the sole occupants of the space (no longer sharing a kitchen with any other entity), we request the liquor license application be approved in principle and proceed for public comment at the City Council meeting.

Thank you for your time and all you do to support the restaurant industry in Portland.

Sincerely,

Corrinna M. Stum
Renn Restaurant Group, LLC, Owner



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Ruby's West End	Phone: 207	956-7916
Location Address:	64 Pine Street Portland ME		Zip: 04102
If new, what was formerly at this location:			
Mailing Address:	64 Pine Street Portland ME		Zip: 04102
Contact Person:	Corinna Stum	Phone: 513	722-6583
Contact Person Email:	rubyswestend@gmail.com		
Manager of Establishment:	Corinna Stum	Date of Birth: 01-21-1991	Phone: 513 722-6583
Owner of Premises (Landlord):	64 Pine Street LLC		
Address of Premises Owner:	PO BOX 4510, Portland, ME		Zip: 04112

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Penn Restaurant Group, LLC		116 Emery Street Apt. 1 Portland, ME 04102	
Contact Person:	Corinna Stum, Owner	Phone: 513	722-6583
Principal Officers	Title	Date of Birth	Residence Address
Corinna Stum	Owner	01-21-1991	116 Emery St. Apt. 1 Portland, ME 04102
Class of Liquor License:		CLASS A Restaurant (CLASS I FSE)	



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	NEW AMERICAN		
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor		
Projected percentage of sales:	Generated from Food: 60-70%	Generated from Alcohol:	30-40%
Hours & days of operation:	MON - SUNDAY 6am - 10pm		
QUESTIONS			
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?			Y/N ☒ Y ☐ N
If No, please explain:			
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?			☒ Y ☐ N
If yes, give the distance:			
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)			☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?			☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)			☒ Y ☐ N
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).			
Will you have any amusement devices (pinball, video games, juke box)?			☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____			
What is your targeted opening date? <u>open currently</u>			
Does the Issuance of this license directly or indirectly benefit any City employee(s)?			☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):			
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?			☒ Y ☐ N
If Yes, please list business name(s) and location(s):			
Is any principal officer under the age of 21?			☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?			☒ Y ☐ N
If Yes, please explain:			

I, Cocinnna Sturm do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Cocinnna Sturm Title Owner Date July 26, 2021



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

Section I: Licensee/Applicant(s) Information;
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): Renn Restaurant Group, LLC	Business Name (D/B/A): Ruby's West End
Individual or Sole Proprietor Applicant Name(s): Corrinna Stum, Owner	Physical Location: 64 Pine Street Portland, ME 04102
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address:	Email Address: rubyswestend@gmail.com
Telephone # Fax #: 513-722-6583	Business Telephone # Fax #: 207-956-7916
Federal Tax Identification Number: 86-1817977	Maine Seller Certificate # or Sales Tax #:
Retail Beverage Alcohol Dealers Permit:	Website address: rubyswestend.com

1. New license or renewal of existing license? ☒ New Expected Start date: Aug. 15, 2021
☐ Renewal Expiration Date: -

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: Beer, Wine or Spirits: Guest Rooms: n/a

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☒ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☐ Class A Lounge
(Class X) |
| ☐ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☐ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Corrinna M. Stum	01-21-1991	Columbus, OH

Residence address on all the above for previous 5 years

Name

Corrinna Stum

Address:

116 Emery St. Apt. 1 Portland, ME 04102

Name

Address:

65 Mulberry St. Cincinnati, OH 45202

Name

Address:

3901 Central Ave. Indianapolis, IN 46205

Name

Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☒ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Tom Landry / 64 Pine Street, LLC 72 Pine Street Portland, ME 04102

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Main Dining Room

Patio

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Howard C. Peiche Community School

Distance: 700ft

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: July 15, 2021

Corinna M. Stum
Signature of Duly Authorized Person

Signature of Duly Authorized Person

Corinna M. Stum
Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
 - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

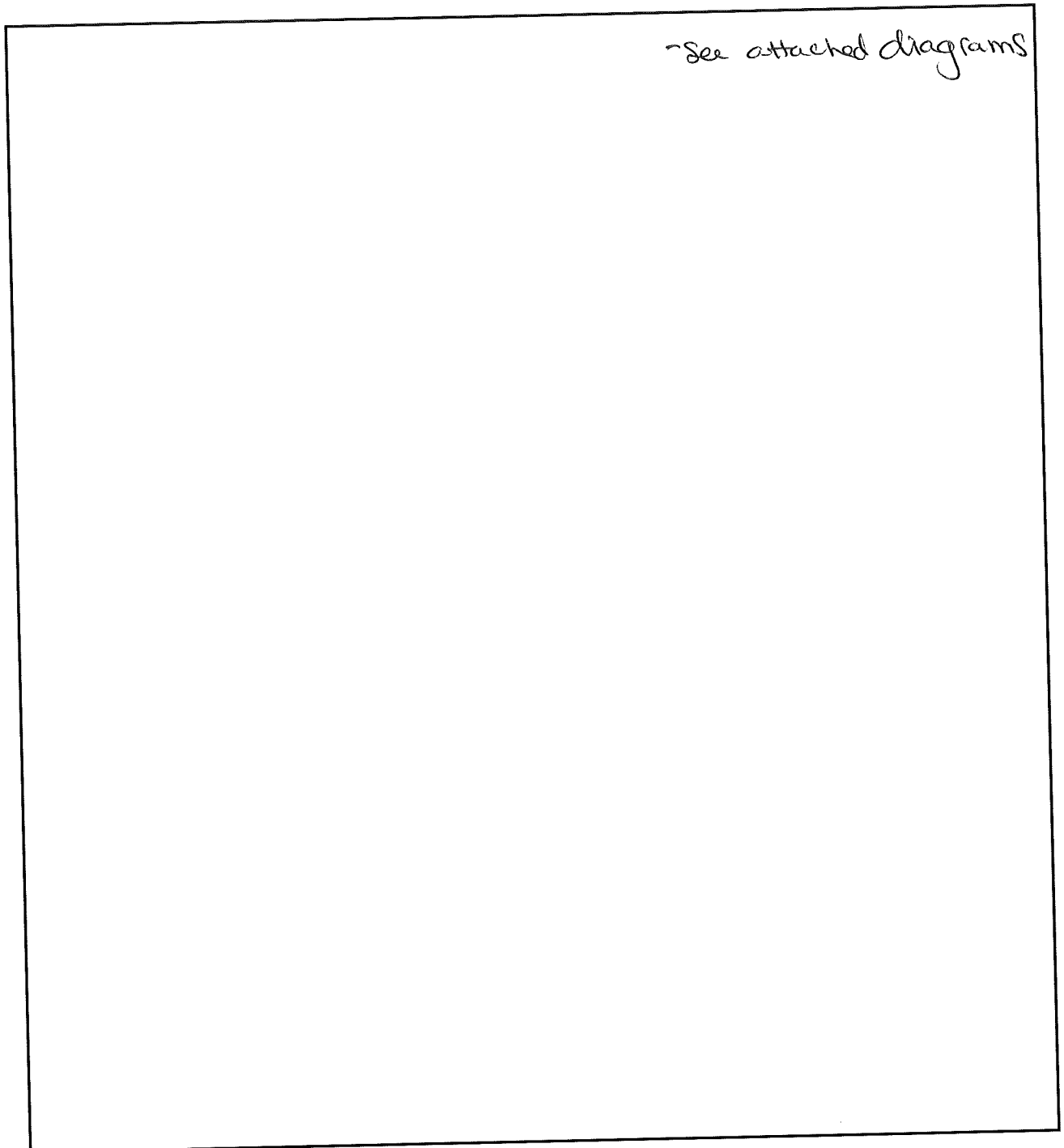
Please note: For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
Class I	For the sale of liquor (malt liquor, wine and spirits) This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
Class I-A	For the sale of liquor (malt liquor, wine and spirits) This class includes only hotels that do not serve three meals a day.	\$1,100.00
Class II	For the Sale of Spirits Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
Class III	For the Sale of Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class IV	For the Sale of Malt Liquor Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class III and IV	For the Sale of Malt Liquor and Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
Class V	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Club without catering privileges.	\$ 495.00
Class X	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Class A Lounge	\$2,200.00
Class XI	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Restaurant Lounge	\$1,500.00

Section VI Premises Floor Plan

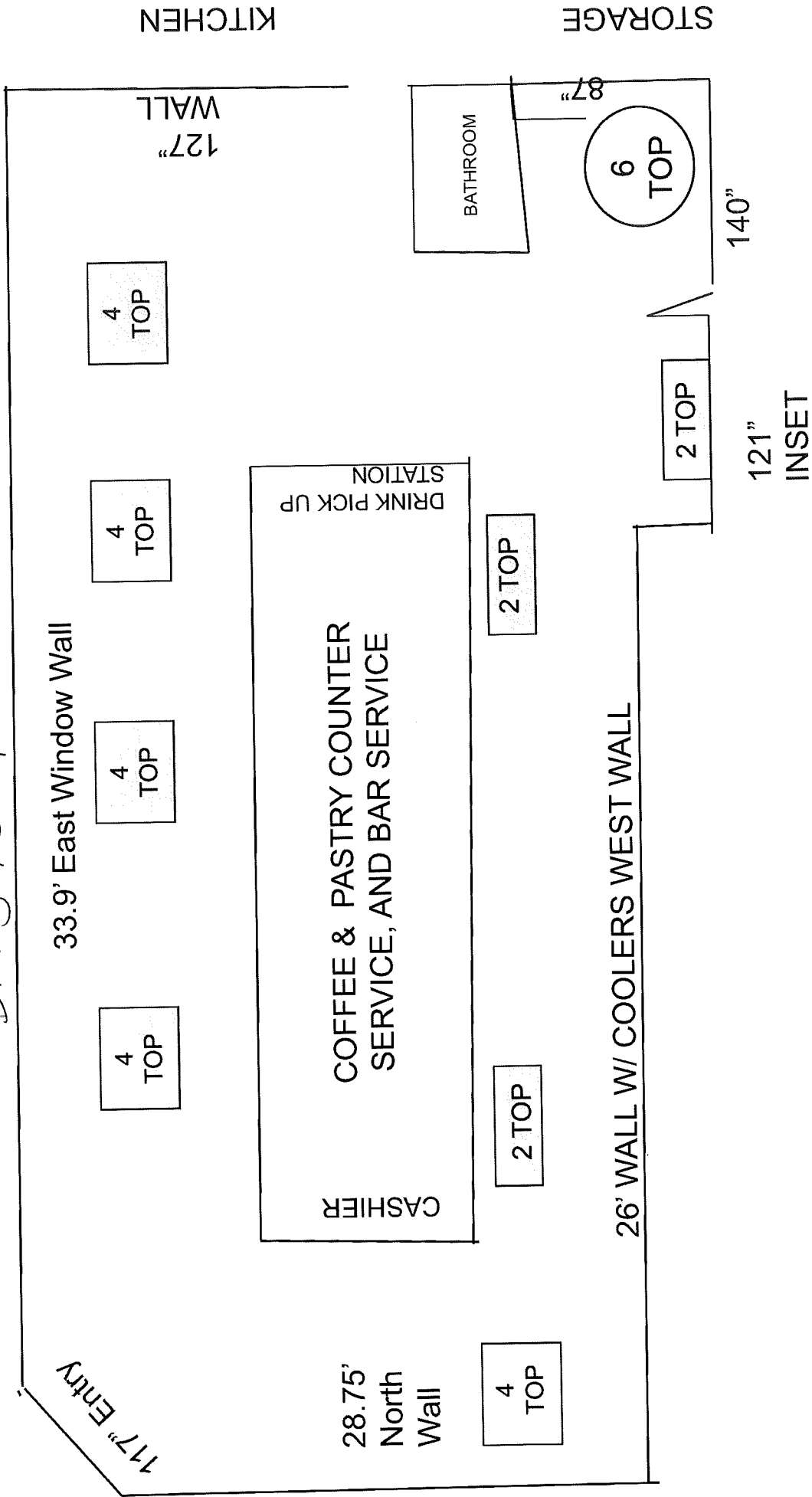
In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.

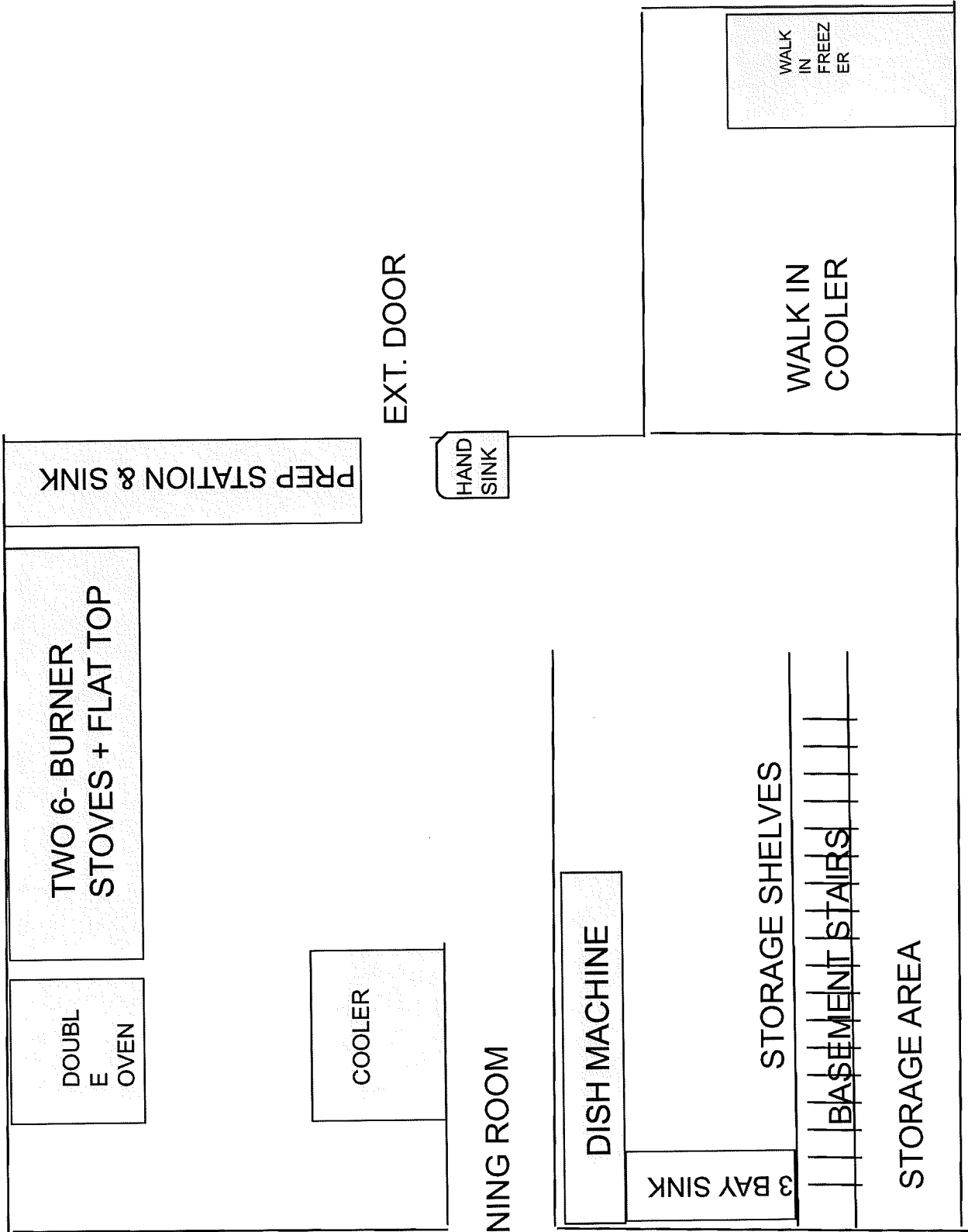


See attached diagrams

Dining Room



kitchen



Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

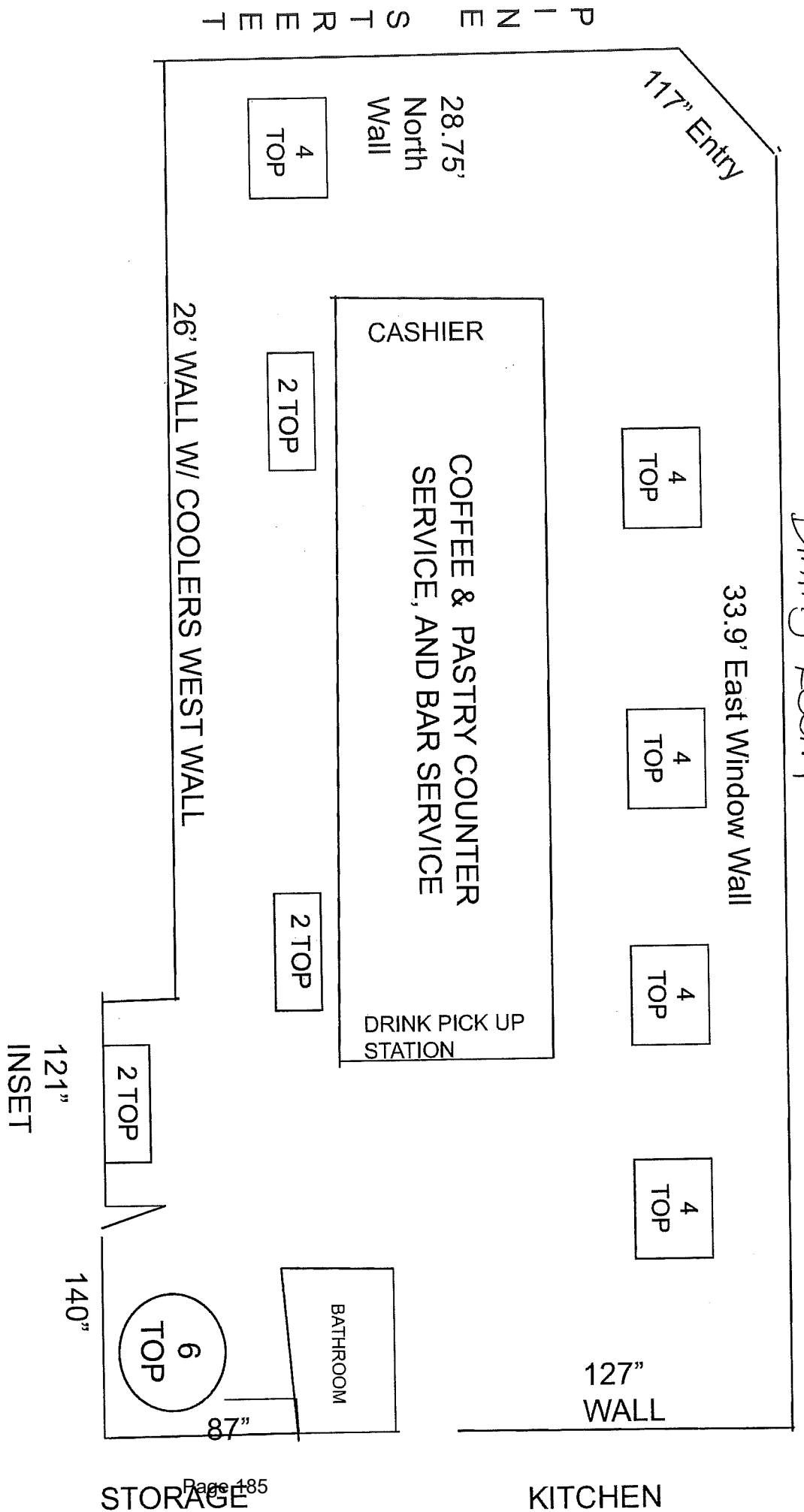
- Exact legal name: Renn Restaurant Group, LLC
- Doing Business As, if any: Ruby's West End
- Date of filing with Secretary of State: 11/1/21 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

- List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

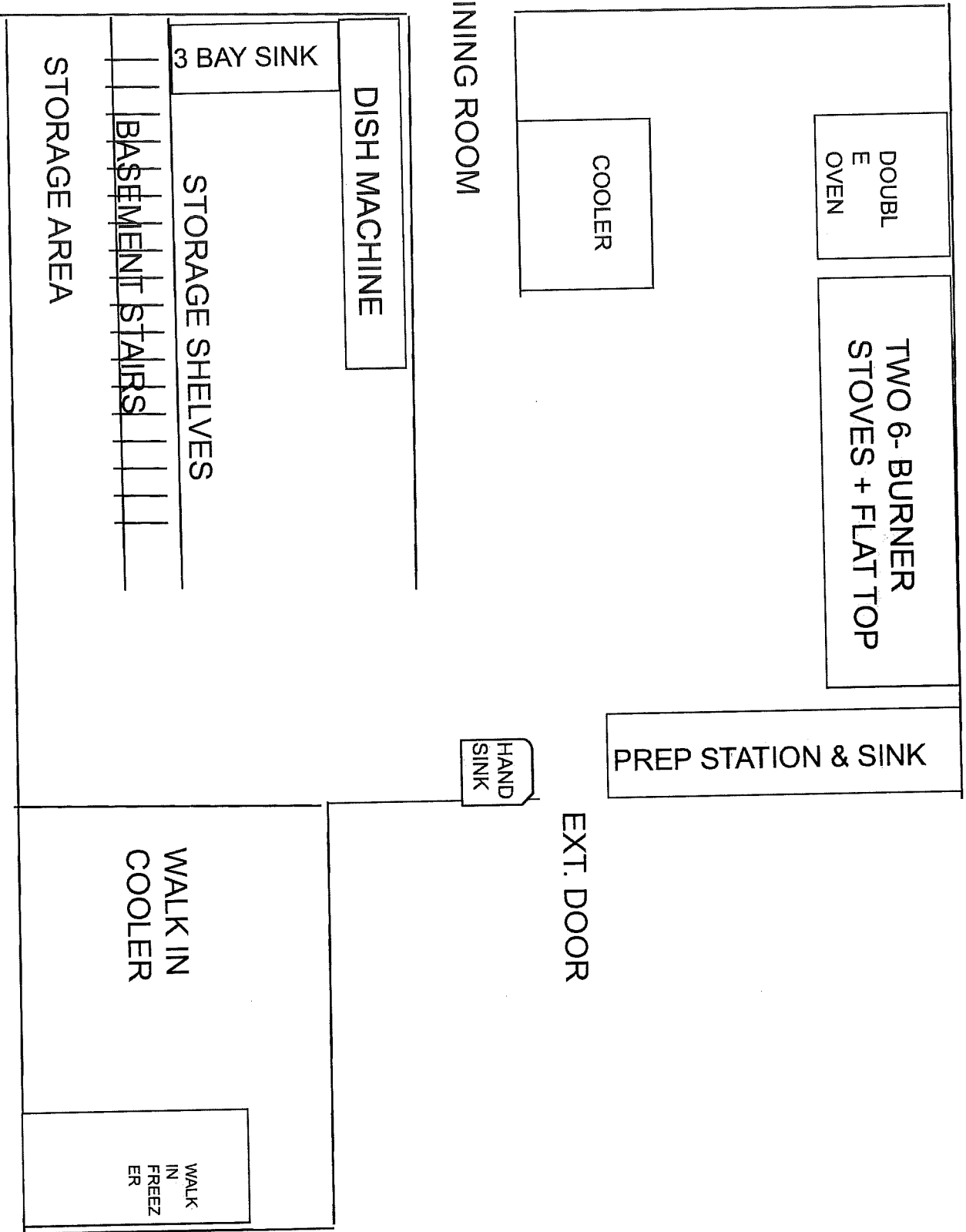
Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Corinna M. Sturm	116 Emery St. Apt. 1 Portland, ME 04102	01-21-1991	Owner	100%
" "	65 Mulberry St. Cincinnati, OH 45202	"	"	"
" "	3901 Central Ave Indianapolis, IN 46205	"	"	"

(Ownership in non-publicly traded companies must add up to 100%.)

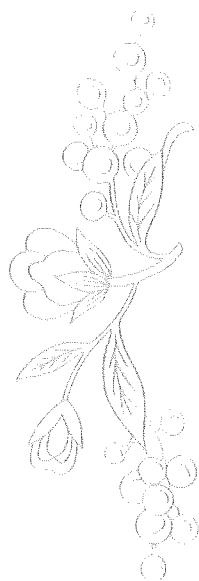
Dining Room



Kitchen



<- DINING ROOM



RUBY'S WEST END
64 PINE STREET
PORTLAND, MAINE 04102

BREAKFAST & LUNCH
@RUBYSWESTEND
RUBYSWESTEND@GMAIL

RUBY'S

CUCUMBER CEVICHE

citrus marinated cucumbers, cilantro oil 8
gf + v

BUFFALO CHICKEN LIVERS

*fried chicken livers, house buffalo sauce,
burnt celery ranch* 10

BEET & MUSHROOM TOAST

*roasted and glazed beets,
oyster mushrooms* 9
vg

CURED STEELHEAD TROUT

*cured trout, house bagel chip,
whipped cream cheese, capers, red onion,
herbs* 11

LOCAL GRITS

*Maine grits, cheddar, house-made
cultured butter* 8
gf + vg

CHILAQUILES*

*braised pork shoulder, Fritos,
pickled shallots, crema, sunny egg* 11
gf

FRENCH TOAST

*candied walnuts, Maine maple syrup,
dark chocolate* 9
vg

DUTCH BABY

citrus curd, powdered sugar 12
add maple +1
vg

CROQUE MADAME*

smoked ham, mornay, sunny egg 13

FRIED CHICKEN SANDWICH

*crispy fried chicken, dark roux gravy,
house pickles, toast* 11

STEAK FRITES

ribeye, roasted potato, béarnaise 14
gf

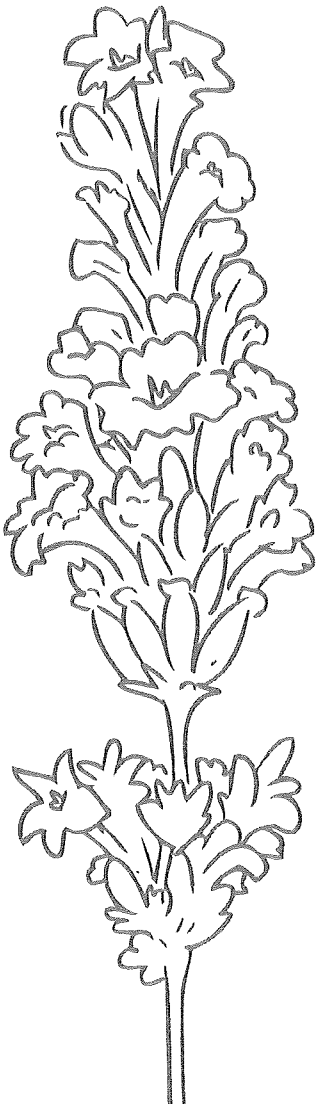
BISCUITS & GRAVY

*buttermilk biscuit, house-made
chorizo gravy, chive* 14

A 20% service charge is added to ensure quality of life
for our kitchen and service team. Any additional tip left
will go toward your server directly.

*Consuming raw or undercooked foods increases your chance of food borne illness. Please inform your server of any allergy concerns or dietary restrictions.

r u b y s



DRINKS

HORCHADA

rice milk, bourbon

BLOODY MARY

*house mix, vodka or
tequila*

OAXAN BLOODY MARY

mezcal, mole

JAPAN BLOODY MARY

*sparkling sake, tomato, soy,
kombu*

MIMOSA

*classic, strawberry rose,
Bluet Prosecco*

MICHELADA

tomato, lime, chili

MORNING AFTER

HAIR O' THE DOG

pbr & jameson

3 AM TACOS

high life & tequila

TINO 4000

*blueberry red bull,
sparkling wine*

CHONG WHOOPS

bartender's choice

BOTTLES & CANS

*Budweiser, PBR, High Life, Negro Modelo, Coors Banquet,
Austin Street Patina IPA, Gunner's Daughter Stout,
Maine Brewing* **Page 188** *inch, Rotating Local Can*

WINE

BLUET PROSECCO

glass 7 / bottle 28

VUEVE CLIQUOT

glass 12 / bottle 46

CHAMPAGNE

glass 16 / bottle 60

ORANGE WINE

b/c everyone should try it once

CHARDONNAY

always old world

ROTATING WHITE

charitable, natural, wonderful

PINOT NOIR

always old world

ROTATING RED

charitable, natural, delightful

NEVER. DRINKING. AGAIN.

rolling rock & fernet

DOLCE JESUS

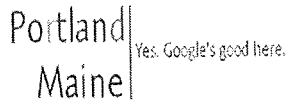
negro modelo & mezcal

CBD ICED TEA

cbd iced tea + rum \$2

COFFEE & CIGARETTES

*hot brew, smoked jalapeño
+ bailey's \$2*



Zachary Lenhart <zlenhart@portlandmaine.gov>

Rubys West End

Eric Nevins <erick@portlandmaine.gov>
To: Zachary Lenhart <zlenhart@portlandmaine.gov>

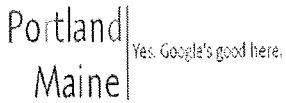
Tue, Aug 10, 2021 at 3:07 PM

Approved

[Quoted text hidden]

--

Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513



Zachary Lenhert <zlenhert@portlandmaine.gov>

Rubys West End

amachado <amachado@portlandmaine.gov>

Tue, Aug 17, 2021 at 2:56 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

A Class A Restaurant (Class I) is a permitted use in the B-1 Zone, per Table 6-C of Chapter 14, with the limitations under Sec. 6.4.6 that restaurants shall not operate between the hours of 11 PM and 6 AM, shall not accept deliveries or services between the hours of 10 PM and AM and food service and consumption shall be the primary function.

I have approved the license with conditions in Energov.

Ann Machado
Zoning Administrator
[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

August 10, 2021

Renn Restaurant Group LLC
64 Pine Street
Portland, ME 04101

Re: Renn Restaurant Group LLC, dba Ruby's West End. Application for a Class I FSE at 64 Pine Street

Dear Renn Restaurant Group LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 23, 2021 at 5:00 p.m.**, for the review of application for a Class I FSE at 64 Pine Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 20, 2021.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207)874-8557 or bl@portlandmaine.gov.

Sincerely,

Zachary J. Lenhart
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 23, 2021 at 5:00 P.M., virtually, Renn Restaurant Group LLC, dba Ruby's West End. Application for a Class I FSE at 64 Pine Street - Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 10, 2021

SUBJECT: Order 34-21/22 Granting Municipal Officers' Approval of Far From A Teardown LLC, dba Salvage BBQ. Application for Outdoor Dining on Private Property at 919 Congress St.- Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 7/22/21. New City application. Applicant currently holds Class XI Restaurant/Lounge with Indoor Entertainment.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Salvage BBQ
2. 2021.08.23SalvageBBQ

Prepared by:

Date: 08/10/2021

KATHLEEN M SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Far From A Teardown LLC, dba Salvage BBQ. Application for Outdoor Dining on
Private Property at 919 Congress Street**

Salvage BBQ

919 Congress st
Portland, ME
04102

July 16, 2021

Mayor and members of city council
Portland, ME

Dear Mayor and members of city council,

It is our intention to use an area of private land in the parking lot adjacent to our restaurant for the purpose of outdoor dining and alcohol consumption. We started using this space for outdoor dining last year and would like to continue doing so.

Sincerely yours,

Garry Bowcott

VP

Local 188 Restaurant Group



CITY OF PORTLAND
Permitting and Inspections Department

Outdoor Dining on Private Property
Supplemental Application Process

What is Needed to Apply:

- ☒ Letter of intent addressed to the Mayor and members of the City Council (if serving alcohol).
- ☒ 8 1/2" x 11" Plot Plan Showing:
 - Lot lines, where the building sits on the lot and dimensions of the building and lot.
 - Street location
- ☒ Location of proposed outdoor dining area and its components:
 - Space Dimensions including Square Footage
 - Table/Chairs
 - Fences/Barriers
 - Egress Dimensions
- ☒ A drawing, photo or specifications of any proposed barrier.
- ☒ City application for food & alcohol
- ☒ Outdoor Dining Supplemental application
- ☒ Payment of fees (see application)

The application must be complete in order to be accepted and processed. Applications must be submitted at least three (3) weeks prior to the Council meeting. There will be no liquor applications heard by the City Council in May due to fiscal items on the agenda.

After you submit your application to the Business Licensing Division:

- We will mail you a letter confirming the date, time, and location of the City Council meeting.
- Please proceed with arranging for inspections when your establishment is ready.

After you have been approved by City Council:

- When the Business Licensing Division has received approvals from the required departments, we will issue your license. We will call you when the license is ready and any remaining balance is due. You may contact us for a license status update, but please note that we must receive approvals directly from all of the departments on the accompanying "Steps to Approval" sheet before issuing your license.

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	SALVAGE BBQ	Phone: 207	553 2100
Location Address:	919 CONGRESS ST .		Zip: 04102
Mailing Address:	Zip:		
Contact Person:	GARRY BOWCOTT	Phone: 207	318 8057
Contact Person Email:	GARRYBOWCOTT@HOTMAIL.COM		
Manager of Establishment:	20E RASNAK	Date of Birth: 4/14/92	Phone: 207 699 9391
Owner of Premises (Landlord):	EASTEND CORP		
Address of Premises Owner:	773 CONGRESS ST		Zip: 04102

Owner Information

Corporate Name		Corporate Mailing Address	
FAR FROM A TEARDOWN LLC		919 CONGRESS ST Zip: 04102	
Contact Person:	GARRY BOWCOTT	Phone: 207	318 8057
Principal Officers	Title	Date of Birth	Residence Address
JAY VILLANI	CHEF	4/30/66	20 SALEM ST. 04102
MATT PURINGTON	OWNER	6/27/66	128 CHADWICK ST. 04102
GARRY BOWCOTT	VP	12/6/73	8 A ST 04102

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
 bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	X1
Type of food served:	BBQ
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>
Hours & days of operation:	TUES - SUN 11:30 AM - 1 AM
Number of Tables	12 8
Number of Chairs	24 32

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature G. Bowcott Title VP Date 7/16/21

For Administrative Use Only

Amount: _____	Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____	_____
CC _____ CA _____ CK _____	Health: _____	_____
	PD: _____	_____
Amount: _____	PR: _____	_____
Date Paid: _____	Treasury: _____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____

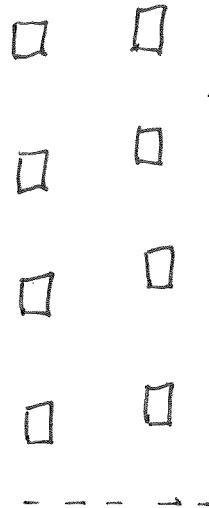
389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov

GILMAN ST

90 FT

SALVAGE B&B
919 CONGRESS

PROPOSED
OUTDOOR
DINING
AREA

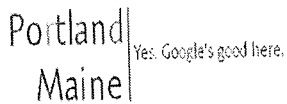


70 FT

THE AREA WILL BE ROPED OFF
SERVING AS A BARRIER FOR
ALCOHOL SERVICE.

SIDEWALK

CONGRESS ST



Zachary Lenhart <zlenhart@portlandmaine.gov>

Salvage BBQ

Wed, Aug 18, 2021 at 3:16 PM

amachado <amachado@portlandmaine.gov>

To: Zoning <zoning@portlandmaine.gov>

Cc: cstacey <cstacey@portlandmaine.gov>, Zachary Lenhart <zlenhart@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, amachado <amachado@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Outside dining on private property associated with the existing legal use of the property as a restaurant in the B-2 zone is approved by zoning.

As Chris Stacey said, they will need to apply for a building permit to establish the outside dining area, so zoning will review it at that time. We have reached out to Anne Torregrossa regarding the different ownership between the lots.

Ann Machado
Zoning Administrator.

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

August 10, 2021

Far From A Teardown LLC
919 Congress Street
Portland, ME 04102

Re: Far From A Teardown LLC, dba Salvage BBQ. Application for Outdoor Dining on Private Property at 919 Congress Street

Dear Far From A Teardown LLC :

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 23, 2021 at 5:00 p.m.**, for the review of application for Outdoor Dining on Private Property at 919 Congress Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 20, 2021.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207)874-8557 or bl@portlandmaine.gov.

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557
bl@portlandmaine.gov • www.portlandmaine.gov

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 23, 2021 at 5:00 P.M., virtually, Far From A Teardown LLC, dba Salvage BBQ. Application for Outdoor Dining on Private Property at 919 Congress St - Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 11, 2021

SUBJECT: Com 1-21/22 Communication on Campaign Finance Reports, By Katherine L. Jones, City Clerk

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Communication Campaign Finance Reports

Prepared by:

Date: 08/11/2021



Office of the City Clerk
Katherine L Jones, CMC

MEMORANDUM

TO: Mayor Snyder and Members of the Portland City Council
FROM: Katherine Jones, City Clerk
DATE: August 10, 2021
RE: **Communication re: Campaign Finance Reports**

The City Clerk's office has been commissioned with finding a way to have Candidates file their Campaign Finance Reports on-line, submit their reports, so they will then be loaded directly on the City's website.

We received Grant money from Center for Tech and Civic Life for the Presidential Election. One purpose of the grant was assisting with absentee voting. We were able to add a portal on the City's website that would allow forms to be built. The first form we built was an online absentee request form. This allowed voters for the June election (because there was no State election the on-line absentee request was not used) request an absentee ballot on-line. We are now in the process of building the forms for Campaign Finance Reports.

This will allow candidates the ability to fill out their campaign finance forms directly on-line and when they hit submit, it will put them immediately on the City's website. It will eliminate the need for candidates to have to come into City Hall to file their reports.

There may be situations where Candidates may not have a computer or the ability to file them electronically, they will still be able to submit them to the City Clerk's Office and we will post them in the same manner that they are posted now.

Candidates will also be able to attach their aggregated donation they may have calculated on another form (excel spreadsheet).

Jessica Grondin, Communications Director, is currently building the forms on the website. We will have the reports up and ready before the September 21, 2021 filing date.

We will provide candidate instructions and processes in their acceptance packets.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2021

SUBJECT: Com 2-21/22 Update on East Bayside sound study progress, By Jon P. Jennings,
City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

None

Prepared by:

Date: 08/13/2021

MEMORANDUM
City Council Agenda Item

FROM: Troy Moon, Sustainability Coordinator

DATE: August 10, 2021

SUBJECT: Resolve 1-21/22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail - Sponsored by the Sustainability & Transportation Committee, Councilor Belinda Ray, Chair

SPONSOR: Sustainability & Transportation Committee, Councilor Belinda Ray, Chair
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action 8/23/2021**

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

The resolution requests the MaineDOT create an advisory committee to consider the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use “trail-until-rail.”

II. AGENDA DESCRIPTION

On July 19, 2021, the Sustainability and Transportation Committee voted 3-0 to recommend the City Council adopt a resolution regarding the proposed Casco Bay Trail. The resolution calls for the Maine Department of Transportation (MaineDOT) to accept the abandonment of the St. Lawrence and Atlantic railroad tracks between Yarmouth and Portland, to provide a notice-and-comment procedure if the MaineDOT decides to consider an extension of the existing freight easement; and create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use “trail-until-rail.” This follows similar resolutions by the Town Councils in Yarmouth, Falmouth, and Freeport.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

This section of rail corridor proposed for the Casco Bay Trail dead ends on the east side of Tukeys Bridge at the B&M facility. The MaineDOT has determined that replacing the derelict trestle that formerly connected the rail line to the Eastern Promenade is cost prohibitive and is no longer considering this Yarmouth to Portland corridor for passenger rail service. The Casco Bay Trail project is part of a broader Maine Trail Plan issued by the Maine Trails Coalition in 2020, which calls for the construction of multiple specific rail-trail projects over the next decade, each of which would connect with existing multi-use trail infrastructure, which aligns with a key recommendation of a 2010 report “Improving Maine’s Quality of Place Through Integrated Bicycle and Pedestrian Connections” by the MaineDOT, State Planning Office, Department of Conservation, and Center for Disease Control and Prevention. In 2017, the Portland Area Comprehensive Transportation System and Greater Portland Council of Governments (PACTS/GPCOG) explored the possibility of a trail alongside the existing rail with the study “Rail with Trail: Preliminary Feasibility Assessment of Building an Active Transportation Corridor from Portland to Yarmouth”. It determined that building a "trail until rail" project had broad community support along the corridor and that it would provide a safe, alternative transportation option that

contributes to improved quality of life, public health, and economic development, and increased property values. The towns of Yarmouth, Falmouth, and Freeport have already adopted resolutions in support of this initiative.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

none

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Resolve Recommending MaineDOT Establish a Casco Bay Trail Advisory Group 8.23.2021

Prepared by:

Troy Moon, Sustainability Coordinator

Date: 08/10/2021



Troy Moon <thm@portlandmaine.gov>

Fwd: Resolve X-20/21 - Casco Bay Trail Resolution

Dena Libner <dlibner@portlandmaine.gov>
To: Troy Moon <thm@portlandmaine.gov>

Tue, Jul 20, 2021 at 3:54 PM

Dena Libner
Chief of Staff
Executive Department
389 Congress Street
Portland, ME 04101
E: dlibner@portlandmaine.gov
P: 207.756.8288

Sign up to receive city news & alerts
Follow us on Twitter @CityPortland
Follow us on Facebook
Instagram @CityPortland
Report issues via SeeClickFix
www.portlandmaine.gov

----- Forwarded message -----

From: **Will** <willcunningham64@gmail.com>
Date: Tue, Jul 20, 2021 at 3:11 PM
Subject: Resolve X-20/21 - Casco Bay Trail Resolution
To: <publiccomment@portlandmaine.gov>
Cc: <BSR@portlandmaine.gov>, <azarro@portlandmaine.gov>, <sthibodeau@portlandmaine.gov>

Hello Councilors,

I am writing to say that I support Resolve X-20/21 - Casco Bay Trail Resolution. The abandoned rail line crosses right behind my street, a minute's walk away, and it is saddening to see rail infrastructure left unused in favor of other means. If it won't be running trains again, then paving it to grant cyclists like myself a safe and pleasant way to follow I-295 up to Yarmouth would be a great boon. Therefore, I hope that you consider endorsing the creation of the bike path

Sincerely,
William E. Cunningham
[15 Arcadia St, Portland, ME 04103](https://www.portlandmaine.gov/locations/15-Arcadia-St)

Dick Woodbury

Maine Trails Coalition

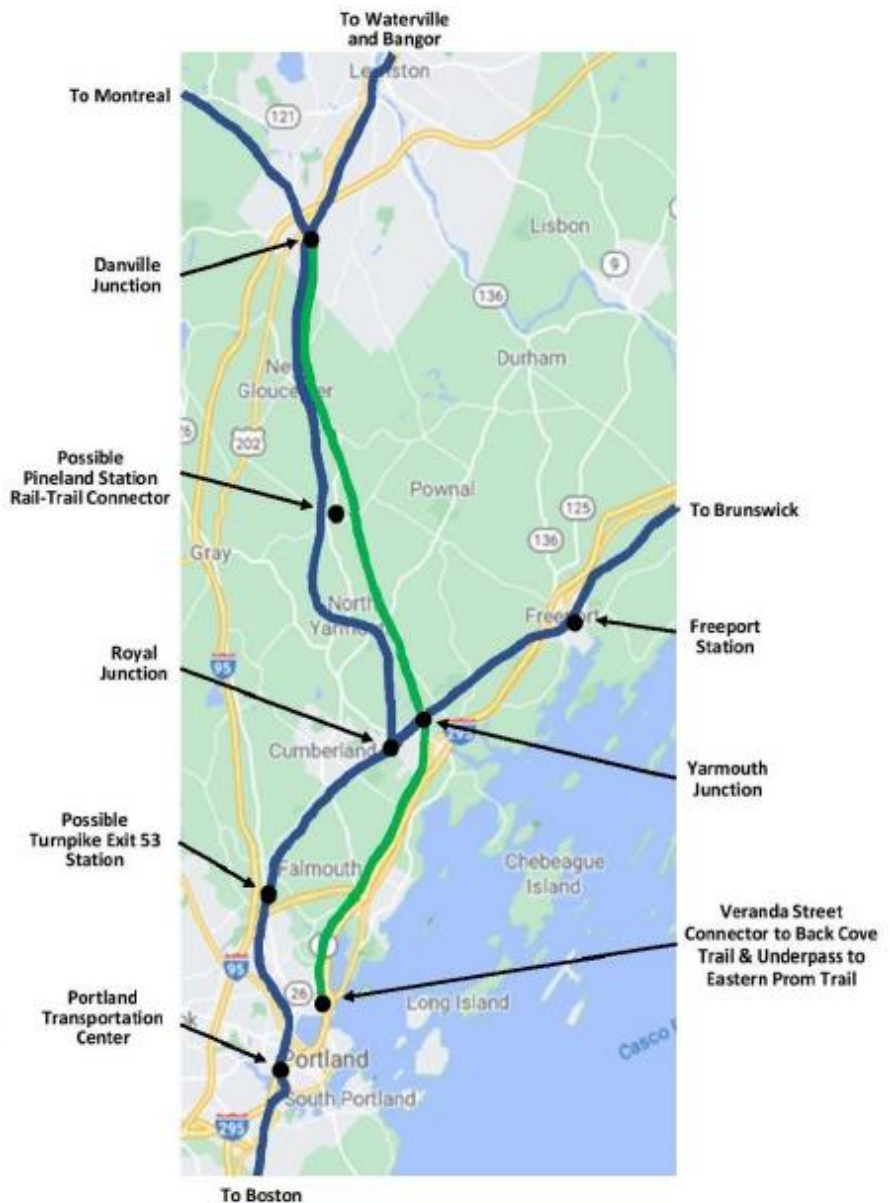
May 18, 2021

There are many good reasons for prioritizing the active blue corridor for trains:

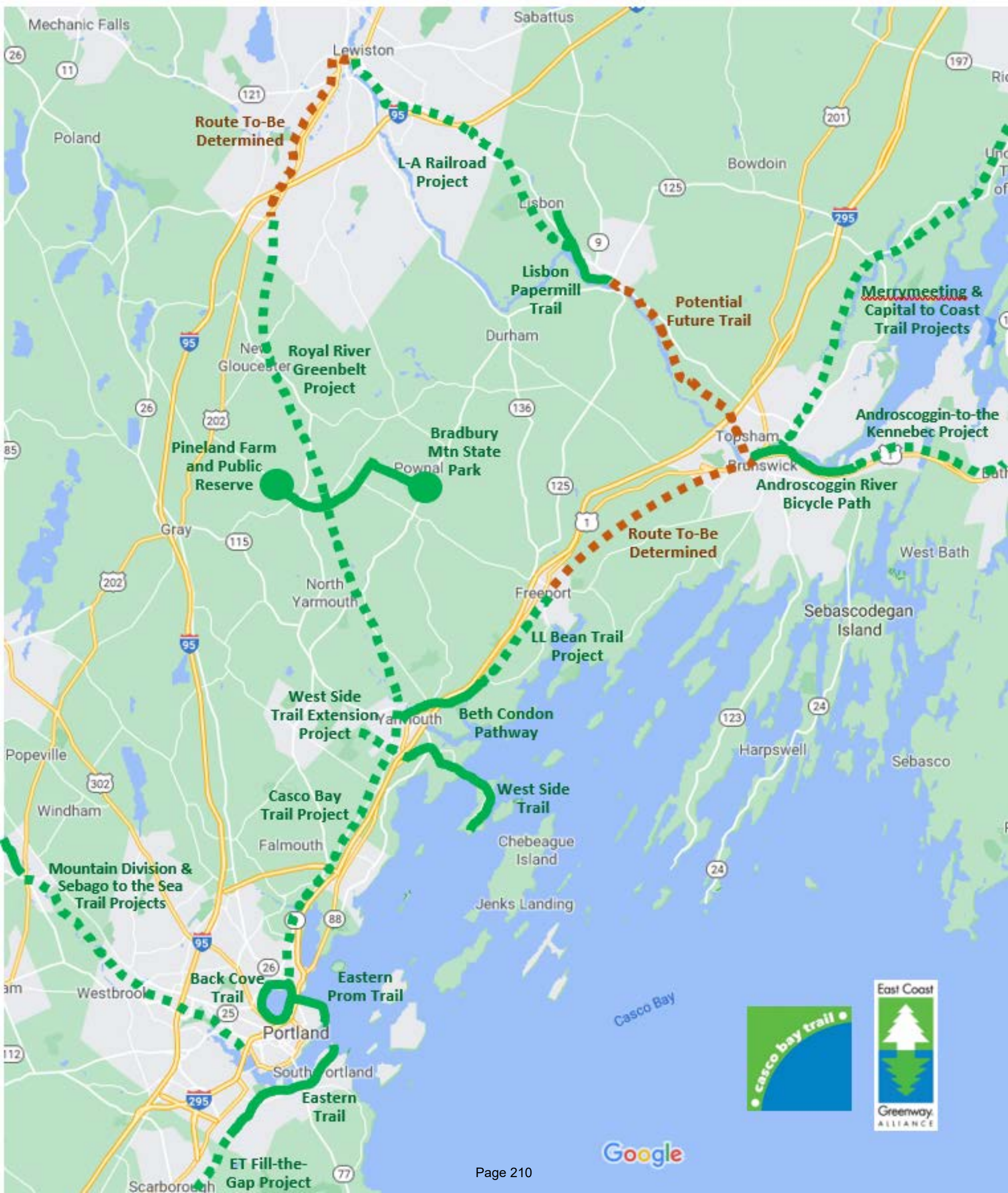
- It is a corridor that is already actively used by trains.
- It connects to the Portland Transportation Center
- It connects with all train and bus services to Boston.
- It provides opportunities for new train stops at Turnpike Exit 53 and Pineland, as well as Lewiston, Auburn, and destinations north.

There are equally good reasons for prioritizing the green corridor as a trail.

- It is a corridor that is not being used by trains and has no remaining bridge into downtown Portland. Unless a new bridge is constructed, it dead ends at Veranda Street.
- It is a corridor that connects to many other multi-use trail systems (see below).
- It would be a signature segment of the East Coast Greenway.
- It would be among the most actively used trails anywhere.
- It would advance multiple and diverse public interests, including public health, emission-free transportation and commuting, community enrichment, economic development and tourism, and outdoor recreation.
- Trail use has grown explosively during the pandemic, and the demand for new trail infrastructure is high.



CASCO BAY TRAIL SYSTEM



78 FR 71037-01, 2013 WL 6177807(F.R.)
NOTICES
DEPARTMENT OF TRANSPORTATION
Surface Transportation Board
[Docket No. AB 1117X]

St. Lawrence & Atlantic Railroad Company—Discontinuance
of Service Exemption—in Cumberland County, Me.

Wednesday, November 27, 2013

On November 8, 2013, St. Lawrence & Atlantic Railroad Company (SLR) filed with the Surface Transportation Board (Board) a petition under [49 U.S.C. 10502](#) for exemption from the prior approval requirements of [49 U.S.C. 10903](#) to discontinue service over approximately 24.23 miles of rail line, owned by the State of Maine, between milepost 1.74 near Deering, Cumberland County, Me., and milepost 25.97 at the town line between New Gloucester, Cumberland County and Auburn, Androscoggin County, Me. (the Line).[FN1] The Line traverses U.S. Postal Service Zip Codes 04101, 04102, 04103, 04104, 04105, 04096, and 04069. According to the petition, the Line is stub-ended and therefore not capable of handling overhead traffic.

There is one shipper on the Line, B&M Beans, and SLR states that B&M Beans ships all of its outbound products and some of its inbound ingredients by truck. SLR estimates that B&M Beans will ship 12 cars of inbound ingredients in the forecast year.[FN2]

SLR states that, based on information in its possession, the Line does not contain any federally granted rights-of-way. Any documentation in SLR's possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions set forth in [Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 \(1979\)](#).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to [49 U.S.C. 10502\(b\)](#). A final decision will be issued by February 26, 2014.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking, and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under [49 CFR 1105.6\(c\)\(2\)](#) and [1105.8\(b\)](#).

Any offer of financial assistance (OFA) under [49 CFR 1152.27\(b\)\(2\)](#) to subsidize continued rail service will be due no later than March 7, 2014, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each offer must be accompanied by a \$1,600 filing fee. See [49 CFR 1002.2\(f\)\(25\)](#).

All filings in response to this notice must refer to Docket No. AB 1117X and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001, and (2) Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103. Replies to the petition are due on or before December 17, 2013.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our Web site at “WWW.STB.DOT.GOV.”

Decided: November 21, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013-28477 Filed 11-26-13; 8:45 am]

BILLING CODE 4915-01-P

Footnotes

- 1 SLR owns an exclusive, perpetual freight easement over the Line. See Maine—Petition for Declaratory Order, FD 35440 (STB served Dec. 29, 2010); Maine—Acquisition Exemption—Certain Assets of St. Lawrence & Atl. R.R., FD 35018 (STB served Sept. 13, 2007).
- 2 For the purposes of its petition, SLR uses June 1, 2013, through May 31, 2014, as the forecast year.

End of Document

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**FIRST AMENDMENT TO AGREEMENT REGARDING THE DISCONTINUANCE OF
FREIGHT RAIL SERVICE OVER CERTAIN RAILROAD LINES IN CUMBERLAND
COUNTY, MAINE**

This First Amendment (this “**Amendment**”) to that certain Agreement Regarding the Discontinuance of Freight Rail Service Over Certain Railroad Lines in Cumberland County, Maine, dated as of June 10, 2013 (the “**Original Agreement**”), between **St. Lawrence & Atlantic Railroad Company** (“**SLR**”) and the State of Maine, acting by and through its Department of Transportation (“**MaineDOT**”) is made this 18th day of July, 2018.

Recitals

WHEREAS, SLR and MaineDOT entered into the Original Agreement in connection with the discontinuance of freight rail service over certain railroad lines operated by SLR in Cumberland County, Maine; and

WHEREAS, SLR and MaineDOT desire to amend the Original Agreement as set forth in this Amendment.

ACCORDINGLY, in consideration of the premises and mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. Section 6 of the Original Agreement is hereby amended and restated in its entirety as follows:

“Abandonment Authority. Unless SLR in the meantime resumes freight rail service over the Railroad Line (as set forth in Paragraph 5), SLR shall, no later than November 1, 2021 (i.e. within 6 years after the discontinuance of freight rail service over the Railroad Line), seek authority from the STB to abandon the Railroad Line. MaineDOT shall not object to the proposed abandonment.”

2. All other terms and conditions and provisions of the Original Agreement shall remain in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, this Amendment has been executed by the authorized representatives of SLR and MaineDOT as of the date first written above.

ST. LAWRENCE & ATLANTIC RAILROAD COMPANY

By: 
Name: Louis Gravel
Title: President

THE STATE OF MAINE,
acting by and through its Department of Transportation

By: 
Name: Brian Reeves
Title: Director of Rail Transportation

AGREEMENT REGARDING THE DISCONTINUANCE OF FREIGHT RAIL
SERVICE OVER CERTAIN RAILROAD LINES IN CUMBERLAND COUNTY, MAINE

THIS AGREEMENT Regarding the Discontinuance of Freight Rail Service Over Certain Railroad Lines in Cumberland County, Maine (this "Agreement") is entered into as of the 10th day of June, 2013, by and between St. Lawrence & Atlantic Railroad Company, a Delaware corporation ("SLR"), and the State of Maine, acting by and through its Department of Transportation ("MaineDOT").

WHEREAS, in 2007 and 2010 MaineDOT acquired certain railroad line segments in Cumberland County, Maine (collectively, the "Railroad Line") from SLR, i.e. between Berlin Subdivision milepost 1.74 in Deering, Maine and the town line between New Gloucester, Cumberland County, Maine and Auburn, Androscoggin County, Maine (approximately Berlin Subdivision milepost 25.97); and

WHEREAS, SLR presently holds a freight railroad easement over the Railroad Line, and MaineDOT and SLR are parties to an Operating Agreement dated September 27, 2007, as amended (the "Operating Agreement"), pertaining to the Railroad Line; and

WHEREAS, side letters dated September 27, 2007, and December 30, 2010, that were executed in connection with the acquisition of the Railroad Line (the "Side Letters") provide that if SLR decides to seek authority to terminate its freight operations over any portion of the Railroad Line indefinitely, SLR will seek abandonment, rather than discontinuance, authority from the STB; and

WHEREAS, SLR has informed MaineDOT that SLR would like to seek discontinuance authority to terminate its freight operations over the Railroad Line; and

WHEREAS, MaineDOT is willing to consent to, and will not object to, such discontinuance authority provided that SLR abides by the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained in this Agreement, the parties hereby agree as follows:

1. No Objection to Discontinuance. MaineDOT hereby consents to, and shall not object to, SLR's request for authority from the United States Surface Transportation Board (the "STB") to discontinue freight rail service over the Railroad Line.
2. Notice of Discontinuance. SLR shall promptly notify MaineDOT of (i) the date when SLR is granted authority from the STB to discontinue freight rail service over the Railroad Line, and (ii) the date when freight rail service over the Railroad Line is discontinued.
3. Termination of Operating Agreement. Upon the discontinuance of freight rail service over the Railroad Line, the Operating Agreement shall terminate.

4. Inspections of Railroad Line Following Discontinuance. Following the discontinuance of freight rail service over the Railroad Line, SLR shall, at SLR's expense:

- a. Perform monthly hy-rail inspections of the Railroad Line between April 15th and December 1st; and
- b. Promptly prepare and submit to MaineDOT reports of those inspections.

Such inspections shall continue until either SLR resumes freight rail service over the Railroad Line (as set forth in Paragraph 5) or SLR files the Notice of Abandonment Consummation referenced in Paragraph 7. SLR shall have no liability to MaineDOT arising from the performance of such inspections. For the avoidance of doubt, SLR shall have no obligation to maintain or repair the Railroad Line or the right of way after the discontinuance of freight rail service over the Railroad Line unless SLR resumes freight rail service over the Railroad Line (as set forth in Paragraph 5).

5. Resumption of Freight Rail Service. SLR may file with the STB to resume freight rail service over the Railroad Line at any time prior to filing the Notice of Abandonment Consummation referenced in Paragraph 7; provided, however, that prior to any such resumption of freight rail service the parties shall enter into a new operating agreement, the terms and conditions of which shall be substantially the same as the terms and conditions of the current Operating Agreement. Upon such resumption of freight rail service, this Agreement shall terminate without any further force or effect.

6. Abandonment Authority. Unless SLR in the meantime resumes freight rail service over the Railroad Line (as set forth in Paragraph 5), SLR shall, within 3 years after the discontinuance of freight rail service over the Railroad Line, seek authority from the STB to abandon the Railroad Line. MaineDOT shall not object to the proposed abandonment.

7. Consummation of Abandonment. Once abandonment has been authorized, SLR shall, as promptly as practicable (but in no event later than 60 days after abandonment has been authorized so long as there is no legal impediment to consummation), file a Notice of Abandonment Consummation with the STB. At the same time SLR files the Notice of Abandonment Consummation with the STB, SLR shall provide to MaineDOT a copy of the Notice of Abandonment Consummation so that MaineDOT may record the Notice of Abandonment Consummation in the Cumberland County Registry of Deeds, thereby terminating the freight railroad easement over the Railroad Line.

8. Solicitation of Proposals. If, after SLR files a Notice of Abandonment Consummation, MaineDOT elects to solicit proposals for the operation of freight rail service over the Railroad Line, MaineDOT shall include SLR on the list of potential operators to whom the solicitation is sent. The inclusion of SLR on this list shall not affect SLR's rights under Paragraph 9.



9. Right of First Refusal.

- a. If, after SLR files a Notice of Abandonment Consummation, MaineDOT elects to lease the Railroad Line to a freight rail operator for the operation of freight rail service, SLR shall have a right of first refusal to enter into a lease and operating agreement with MaineDOT on the same terms and conditions that MaineDOT negotiates with a third-party freight rail operator.
- b. If SLR elects to exercise its right of first refusal, SLR shall (i) so notify MaineDOT within 30 days after receipt from MaineDOT of a copy of the lease and operating agreement that MaineDOT has negotiated with the third-party freight rail operator, and (ii) execute a lease and operating agreement with MaineDOT within 30 days after SLR sends its notice of exercise to MaineDOT. Failure by SLR to execute a lease and operating agreement with MaineDOT within the stated time shall be deemed a waiver of SLR's right of first refusal.
- c. SLR's right of first refusal shall apply only to the first lease and operating agreement that MaineDOT negotiates after SLR files the Notice of Abandonment Consummation with the STB, and SLR's right of first refusal shall not extend to any subsequent lease and operating agreement; provided that such first lease and operating agreement (i) is actually entered into by MaineDOT and the third-party freight rail operator, and (ii) has a term of no less than 10 years.
- d. SLR's right of first refusal shall not extend to any sale of the Railroad Line.
- e. Unless previously terminated, SLR's right of first refusal shall terminate upon: (i) a sale of the Railroad Line; (ii) SLR no longer being controlled, directly or indirectly, by Genesee & Wyoming Inc.; or (iii) a sale by SLR of SLR's connecting railroad line segment in Auburn, Androscoggin County, Maine that is the subject of the Passenger Operating Agreement between MaineDOT and SLR dated December 30, 2010 (the "Passenger Operating Agreement").

10. Interchange Agreement. If MaineDOT enters into a lease and operating agreement with a third-party freight rail operator in accordance with this Agreement, or if MaineDOT sells the Railroad Line to a third-party freight operator, SLR shall (i) negotiate in good faith to reach a mutually acceptable interchange agreement with that freight rail operator governing the interchange of freight rail cars at a mutually convenient location, and (ii) facilitate the timely and efficient interchange of freight rail cars at that location in accordance with the terms and conditions of such interchange agreement.

11. Assignment. Neither this Agreement nor any right, interest or obligation under this Agreement may be assigned by any party, by operation of law or otherwise, without



the prior written consent of the other party, and any attempted assignment without the prior written consent of the other party shall be void; provided, however, that SLR shall assign this Agreement and SLR's rights (other than its right of first refusal, which shall terminate in accordance with Paragraph 9(e)(iii)) and obligations hereunder to any successor owner of SLR's connecting railroad line segment in Auburn, Androscoggin County, Maine that is the subject of the Passenger Operating Agreement.

12. Side Letters. To the extent that this Agreement is inconsistent with the Side Letters, this Agreement supersedes the Side Letters; provided, however, that if this Agreement terminates due to the resumption of freight rail service by SLR over the Railroad Line (as set forth in Paragraph 5), the Side Letters thereafter shall be reinstated and once again be in full force and effect, as if this Agreement had not been entered into.

13. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maine (without regard to conflicts-of-laws principles that would require the application of any other law).

14. Amendment. This Agreement may be amended, modified or supplemented only by a written instrument executed by MaineDOT and SLR.

15. No Waiver. Neither the failure nor any delay on the part of any party to this Agreement to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and signed by the party asserted to have granted such waiver.

16. Counterparts. This Agreement may be signed in any number of identical counterparts, each of which shall be an original (including signatures delivered via facsimile or electronic mail) with the same effect as if the signatures thereto and hereto were upon the same instrument. The parties hereto may deliver this Agreement by facsimile or electronic mail and each party shall be permitted to rely upon the signatures so transmitted to the same extent and effect as if they were original signatures. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by each other party hereto.

17. Notices. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally against written receipt or by facsimile transmission or mailed by prepaid first class mail, return receipt requested, or mailed by overnight courier prepaid to the parties at the following addresses or facsimile numbers:



(a) If to MaineDOT:

Director, Rail Program
Maine Department of Transportation
16 State House Station
Augusta, Maine 04333-0016
Facsimile No.: (207) 624-3561

(b) If to SLR, to:

General Manager
St. Lawrence & Atlantic Railroad Company
415 Rodman Road
Auburn, Maine 04210
Facsimile No.: (207) 782-5857

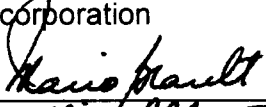
All such notices, requests and other communications will: (i) if delivered personally to the address as provided above, be deemed given upon delivery; (ii) if delivered by facsimile transmission to the facsimile number as provided above, be deemed given upon facsimile confirmation; (iii) if delivered by mail in the manner described above to the address as provided above, be deemed given upon the earlier of the third business day following mailing or upon receipt; and (iv) if delivered by overnight courier to the address as provided above, be deemed given upon the earlier of the first business day following the date sent by such overnight courier or upon receipt. Either party from time to time may change its address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party hereto.

18. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby, (i) such provision will be fully severable, (ii) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (iii) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom, and (iv) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

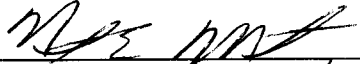


IN WITNESS WHEREOF, SLR and MaineDOT have caused this Agreement to be executed as of the day and year first above written.

ST. LAWRENCE & ATLANTIC RAILROAD COMPANY,
a Delaware corporation

By: 
Name: MARIO BRAULT
Title: PRESIDENT

THE STATE OF MAINE,
acting by and through its Department of Transportation

By: 
Name: Nathan E. Moulton
Title: Director, Rail Program

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**RESOLUTION REQUESTING THE MAINE DEPARTMENT OF TRANSPORTATION
ESTABLISH A RAIL CORRIDOR USE ADVISORY COUNCIL
FOR THE CASCO BAY TRAIL**

WHEREAS, abandoned railroad tracks have been transformed into some of the best walking and biking trails in the United States; and

WHEREAS, rail trails provide recreation for walkers and bicyclists that improve health and spirits, and rail trails along the coast of Maine are offer particularly beautiful scenery, attracting both residents and visitors alike; and

WHEREAS, the railroad tracks between Yarmouth and Portland once owned by the St. Lawrence and Atlantic Railroad companies have been abandoned and must be accepted by the State of Maine Department of Transportation (MaineDOT) in order to develop rail and other uses; and

WHEREAS, legal proceedings involving, among other things, a notice-and-comment period if the MaineDOT decides to consider an extension of the existing freight easement; must precede other considerations for the use of abandoned railroad tracks, including as a walking and biking trail; and

WHEREAS, this stretch of railroad tracks is one more piece in the goal of many statewide connecting trails developed on former railroad tracks, while still maintaining easements for freight and passenger rail uses:

NOW, THEREFORE, BE IT RESOLVED, that the Portland City Council and Mayor recommend that the Maine Department of Transportation establish a Rail Corridor Use Advisory Council for the Casco Bay Trail to usher in new uses for this stretch of railroad track.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 23, 2021

SUBJECT: Written Public Comment

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Portland City Council Resolve 1-2122
2. Fwd_ Resolve 1-21_22 - City of Portland Mail
3. Fwd_ Trail-Until-Rail Is Disastrous - City of Portland Mail
4. MRTC Position on Casco Bay Trail
5. Fwd_ Proposed Trail - Former St. L & A Rail Line to Portland - City of Portland Mail
6. Fwd_ Support for _Resolve 1-21_22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay T
7. Fwd_ Money in Federal Infrastructure Bill and _Trail Until Rail_ Proposal - City of Portland Mail

Prepared by:

Date: 08/23/2021

Everyone loves a bicycle trail on a warm sunny afternoon. But people also love to attend a show, a concert, a sports event, eat at a restaurant, and get to work 365 days a year. The roads are overcrowded, parking lots are expensive, and to build more of both will only ruin the charm of Portland. The only solution, as all cities have learned, is to keep all transit options open. As a Maine Rail Group board member, I want both bicycle trails and good rail mass transit. I ask you to keep all options open by amending the wording Portland City Council Resolve 1-21/22 to include the use of commuter passenger rail service. By amending the wording to "Multi-use transportation corridor" to include the feasibility of commuter and passenger train service, as well as trails and other non-rail use, you are planning for the future, not locking yourself off from future needs.

Thank-you.

Peter Cole, Topsham Maine

From: **'Marie Grenier' via Public Comment** <publiccomment@portlandmaine.gov>
Date: Mon, Aug 23, 2021 at 7:27 AM
Subject: Resolve 1-21/22
To: <publiccomment@portlandmaine.gov>

To whom it may concern,

My name is Marie Grenier. My family and I live at 138 Veranda Street. We love outdoor activities and biking. And we fully support.....

Resolve 1-21/22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail"

and hope you do to.

Regards,
Marie Grenier
138 Veranda Street
Portland, Maine
04103
Sent from my iPhone

From: **Joseph Leonard** <joseph.andrew.leonard1@gmail.com>
Date: Sun, Aug 22, 2021 at 11:20 PM
Subject: Trail-Until-Rail Is Disastrous
To: <PublicComment@portlandmaine.gov>

Portland City Council Resolve 1-21/22

Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail - Sponsored by the Sustainability & Transportation Committee, Councilor Belinda Ray, Chair On July 19, 2021, the Sustainability and Transportation Committee voted 3-0 to recommend the City Council adopt a resolution regarding the proposed Casco Bay Trail. and create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use "trail-until-rail."

1. The 130th Maine State Legislature passed a resolution, funded with \$180,000 from the MeDOT Multimodal fund, directing the DOT to conduct a study for commuter and passenger train service between Portland and Lewiston/Auburn. One of the routes in the study is the State-owned railroad between Auburn and Yarmouth.
2. The Sustainability & Transportation Committee resolution calls for the Maine Department of Transportation (MaineDOT) ... and create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use "trail-until-rail."
3. The conflict can be resolved by amending the City of Portland Resolution to change the language from "trail-until-rail," to a "Multi-use transportation corridor that includes a feasibility of commuter and passenger train service, trails and other non-rail uses of the corridor."

Ask: Please amend the resolution to MeDOT to include passenger train use.

Joe Leonard
(207) 299-5282



8/22/2021

1 | Page

MEMO

To: Portland City Council
From: Maine Rail Transit Coalition
Anthony J. Donovan, Managing Director
Date: August 22, 2021
Re: “Rail-Trails, in regard to the “Casco Bay Trail”

According to the Minutes of the July 21, 2021 Sustainability and Transportation Committee, the discussion regarding requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council in response to the Casco Bay Alliance plans a “Casco Bay Trail”, did not include testimony from any person or group affiliated with advocating for expansion of passenger train services on these State-owned railroads. Unfortunately, due to COVID-19 restrictions on public participation, our group, the MRTC was not made aware of the opportunity to comment. In that regard, please consider the following comments.

From the Casco Bay Alliance Maine Trail Coalition (MTC) website under “Rail-Trails”, in regard to the “Casco Bay Trail” the site authors reference a map and provide a set of comments about the existing railroad infrastructure makes assumptions that are not based existing conditions, or the current planning for use of this corridor for trains. It appears to be making a case for the removal of the railroad in favor of a plan for non-rail, recreational trail use.

The following is a point-by-point response by the Maine Rail Transit Coalition (MRTC)¹, to the bullets provided by the MTC in support of their plans.

- a. MTC: Lewiston-Auburn to Portland; Importantly, there are two distinct rail corridors from Portland to Lewiston-Auburn, one of which makes sense to prioritize for trains (in blue), and one of which makes sense to prioritize as a multi-use trail (in green). Why the Western (blue) route makes more sense for trains. It is a corridor that is already actively used by trains.

Response by the Maine Rail Transit Coalition (MRTC):

MRTC: What the MTC refers to as “the Western Route”, is actually known as the Freight Mainline, or by its full ownership name as the “PanAm Mainline”. The Mainline is just what its name implies. The most trafficked Interstate Railroad in New England serving primarily the existing paper industry, but in recent years a growing demand for movement of Maine and Canadian products through the state to Ports in Portland, Searsport and Canada. This service is expected to continue to grow.

Freight companies do not like passenger use of their corridors. The State Rail Authority (NNEPRA) does lease this track between Brunswick and Boston for the Amtrak Downeaster Service. The number of “slots” provided for Amtrak by the rail owner is limited to its impacts on freight.

¹ <https://cascobaytrail.org/rail-trails/> “The Maine Rail-Trail Plan calls for the continuing preservation and maintenance of a separate and active rail corridor that can be used to extend future Amtrak, commuter train, and/or freight service from Boston through Maine’s largest population centers in Biddeford-Saco, Portland, Brunswick, Lewiston-Auburn, Waterville, and Bangor; and with potential continuing service to Montreal and the VIA Rail Canada network.”

The Maine Passenger Rail Transit Coalition is initiating a plan, based on State Department of Transportation proposals for the restoration, preservation, and protection of railway transportation corridors in Maine for both freight and passenger use. The MRTC conducts research and reports on the economic and environmental potentials of Maine’s existing railway corridors. Our organization and coalition partners offer a centralized forum to educate municipal and regional agencies in railway corridor land-use planning and investments. We share information and offer direction in support of rail modernization seeking to transform consumers/citizens decision making processes with respect to transportation choices and livable communities. Our primary objective is to improve public investments in railway corridors for the purpose of expanding passenger rail in the region.



The North American rail network, including Maine's mainline, is experiencing capacity constraints because of traffic growth and increases in traffic heterogeneity. Further increases in speed and frequency of passenger service will combine with record levels of intermodal traffic to demand even more network capacity. The interaction between passenger trains and freight traffic is the primary reason for delays in both. **Freight company ownership of the Mainline limits the use of passenger trains significantly impacting the ability of passenger trains to build markets and grow demand.**

More important to Maine, Federal Transit Administration funding awards are based on the ability of the passenger train services to be separated from Freight for safety reasons. The State-owned railway between Auburn and Yarmouth offers a separation that meets this requirement, of almost 25 miles. **The loss of this route for expansion of passenger train services threatens to undermine any investment in passenger trains, while substantially increasing the danger of a serious accident.**

MTC: It connects to the Portland Transportation Center.

Response by the Maine Rail Transit Coalition (MRTC):

The MTC proposal for use of the mainline direct to the PTC overlooks the fact that there are no communities along the corridor that can be served by trains, other than some locations near to Maine Turnpike park and rides. **To attract ridership, and for the purpose of addressing congestion, pollution and providing**

benefits to users passenger train service development plans should service communities along its route.

The MTC proposal to eliminate the State Owned SLR for a commuter passenger train service also eliminates the ability for a solution to dependence on automobiles to and from commuter towns along the route (including Yarmouth) and any opportunity for transit-oriented, sustainable development of community centers along the route. That a highway park n ride, as proposed by the MTC plan, offers the economics to support a passenger train service is a misperception. The state-owned railways the MTC is proposing to eliminate have a long history of serving the economies of the communities in the corridor.

MTC: It connects with all train services to Boston.

Response by the Maine Rail Transit Coalition (MRTC):

There is only one passenger train service to Boston through Maine. But in fact, the loss of the SLR is a loss of the potential for connecting additional train services to Boston and points throughout the state of Maine and into Canada.

1. **MTC: It provides opportunities for new train stops at Turnpike Exit 53 and Pineland, as well as Lewiston, Auburn, and destinations north.**

Response by the Maine Rail Transit Coalition (MRTC):

The MTC appears to be making assumptions without any expertise.

- As per above, the West Falmouth Maine Turnpike Exit 53 is not a community center but rather a parking area designed for cars. The Goal of a passenger train service should be to provide alternatives to dependance on cars and provide access to community services, housing, employment and recreation.
- The PanAm Mainline does pass the Pineland Farms to the west of the business park. However, there are no station locations accessible to the park without significant construction in a sensitive environmental area, including crossing a River. On the other hand, the SLR connects directly to the Pineland Business Park, including to a former station site walking distance from the entrance to the park, as identified in the 2011 State study for rail on this corridor.
- True – the Mainline is a direct route to downtown Lewiston and in Auburn at Danville Junction – **a terribly busy freight train route** – offers potential for service to Montreal through Oxford County Maine as per State DOT plans for expanding passenger trains services. As previously mentioned, the restoration of the State-owned SLR between Yarmouth and Auburn provides a connection that is much safer with more economic impact than the freight mainlines.



2. MTC: Why the Eastern (green) route makes more sense as a trail.

Response by the Maine Rail Transit Coalition (MRTC): What the MTC refers to as “the Eastern Route”, is known as the State of Maine-Owned St. Lawrence and Atlantic railroad (SMO-SLR) formerly the Grand Trunk Railroad.

a. MTC: It is a corridor that has no active train use.

Response by the Maine Rail Transit Coalition (MRTC):

The SMO-SLR is a federally recognized “Active” railroad corridor protected by state and federal law for the use and restoration of standard gauge train service from a point on India Street in downtown Portland (MP 0.0) to the Auburn Town line just south of Danville Junction (MP 29.7).

- The route was used by freight to a Portland manufacturing plant until just a few years ago. There are several railroad sidings, many funded by state tax dollars, serving businesses along the entire corridor between Portland and Auburn.
- In Portland, the State leases the route to a tourism railroad operation for the original state use of a placeholder for the restoration of standard gauge rail services.
- The State of Maine has completed multiple plans for restoration of passenger trains on this route. The matter has not been settled as to the conclusions of these reports. The MTC conclusion that it is cost-prohibitive has not been accepted by the MRTC and other rail advocacy organizations.

b. MTC: It is a corridor that dead ends at Veranda Street.

Response by the Maine Rail Transit Coalition (MRTC):

The SMO-SLR ends at India Street in Portland the site of almost unbearable traffic congestion growing to serve the hundreds of thousands of square feet of new offices, motels, and residences. It is the location of the International Passenger Cruise Ship facility and the Casco Bay Island Transit District passenger ferry service, each moving hundreds of thousands of passengers through the city. **The MRTC does not consider this location in the heart of the largest city north of Boston to be a “dead-end”. In fact, we consider this location as ideal for meeting the needs of sustainable communities.**

c. MTC: It is a corridor that connects to other multi-use trail systems including the Back Cove Trail, the Eastern Promenade Trail, the Portland Trails Network, the West Side Trail, the Beth Condon Pathway, Royal River Park, Chandler Brook Preserve, Baston Park, and the Pineland Trails network.

Response by the Maine Rail Transit Coalition (MRTC):

True, the region is full of trails. While the MRTC advocates for alternative transportation, that is sustainable, walkable healthy, and safe, that is not a reason to eliminate this railroad corridor for non-rail recreational uses. Our demand is simple. **Prior to converting or planning for a non-rail use of a railroad corridor, that it first be designed for potential passenger train services. If there is room, and if there are the funds, then shared use should be designed.**

The MRTC has advocated for a joint plan with the trails people and the rail to make this determination. We believe that a proper feasibility analysis will best determine the potential, and the costs and economic impacts of a multi-use rail with trail between Portland and at least Yarmouth downtown. The MTC rejects this notion as being unrealistic and have concluded, without a feasibility analysis that trains cannot operate on this corridor. MRTC disagrees. **MTC will not discuss.**



d. MTC: It would be a signature segment of the East Coast Greenway.

Response by the Maine Rail Transit Coalition (MRTC):

The ECG is an out-of-state organization, supported by the Rails to Trails Conservancy, an extremely well-funded with federal highway funds no less - national organization, formed in the 1970's and successful in spreading their message in states across the nation to the tune of converting over 22,000 miles of railways to recreational trails. Although the MTC states that "... the trails could be converted back to railroad use if needed.", the fact is that less than 1% of rails have been restored. That this national group are here in Maine is not necessarily a good thing. The best example is their success in converting the 88 miles of railroad between Eastport and Acadia National Park into a dirt-clogged ATV and snowmobile road. Not a walker's place at all. While Maine agricultural products are now completely reliant of trucks.

e. MTC: It would be among the most actively used trails anywhere.

Response by the Maine Rail Transit Coalition (MRTC):

This is a claim with no basis in fact or research. The MTC has advocated against any feasibility study to determine the potential ridership and economic impacts of a passenger train system on the SLR, yet they make this claim with no evidence. There are a couple of issues with this claim, not the least of which is that there is not supporting evidence for this claim. The question which needs to be addressed is the economic value of a walking trail verses is the environmental and economic benefit to converting this transportation corridor to a recreational trail?

f. MTC: It would advance multiple and diverse public interests, including public health, emission-free transportation and commuting, community enrichment, economic development and tourism, and outdoor recreation.

Response by the Maine Rail Transit Coalition (MRTC):

A commuter passenger train service, operating electric trains between downtown Portland, to the business districts of Falmouth, Yarmouth, Cumberland, Pineland, Auburn and Portland would further advance equity, inclusion in housing and transportation, unlike a trail used by the few for recreation. It would address the immediate need to advance climate mitigation. It would advance multiple and diverse public interests, including public health, emission-free transportation and commuting, community enrichment, economic development and tourism, and connections outdoor recreation areas. Passenger train use of this existing railroad transportation corridor value to sustainable community, environmental protection and community development would far outweigh the potential benefits of a paved recreational trail.

g. MTC: Trail use has grown explosively during the pandemic, and the demand for new trail infrastructure is high.

Response by the Maine Rail Transit Coalition (MRTC):

The State is full of trails, hiking experiences and outdoor recreation. Our cities and towns need investments in safe sidewalks and walkable communities. E.g., there are many places to bike and walk in Maine without having to destroy this valuable transportation asset. In the 1960's planners with visions limited by the automobile, decided to tear down railroad stations across the land, including the Union Station in Portland Maine. One again we are faced with a vision limited by our dependance on cars and the dominance of the fossil fuels industry.

But the danger now is not just losing beautifully designed architecture. This is a threat to the most significant engineered design of transportation in the history of the world. And this is a threat to the world. The Climate demands we innovate and invest in new ways to live and work.

The demand to save the Climate is extremely high. Please do not support elimination of this precious Maine infrastructure resource.

From: <jtsutton@roadrunner.com>
Date: Mon, Aug 23, 2021 at 11:31 AM
Subject: Proposed Trail - Former St. L & A Rail Line to Portland
To: <publiccomment@portlandmaine.gov>
Cc: Russ Barber <Rustyrailsis@gmail.com>

To: Honorable City of Portland Councilors,

I am John Sutton (Jack), director and past-president of Maine Rail Group, a non-profit, volunteer organization working to enhance rail services in Maine. In considering conversion to trail for all or part of the State-owned former St. L. & A. rail line into Portland we urge you to include these questions:

- Is it realistic to believe, politically or economically, that a rail line once established for trail can be recovered for future rail use?
- What examples can be cited of corridors restored to railroad use once they have been converted to trails?
- Have the City of Portland and Maine DOT fully considered the economic potential of passenger services connecting regions of Lewiston and westward, Brunswick and potentially Augusta, Waterville and Bangor with central Portland via Yarmouth Jct.?
- Have all municipalities involved considered their maintenance, rescue and policing responsibilities relating to isolated public trails within their jurisdictions?

MRG, Inc. is fine with parallel trails where railroad standards of safety and railroad operations are followed and upheld - without undue economic constraints on railroads. With growing public recognition of climate change, road congestion and the potential benefits of public transportation, please judge wisely in equating the values of a potential 24/7/all- weather railroad transportation corridor, with a predominantly good weather, seasonal, daytime, recreational trail.

Respectfully, Jack Sutton

From: **Emma Bond** <emma.e.bond@gmail.com>

Date: Mon, Aug 23, 2021 at 11:56 AM

Subject: Support for "Resolve 1-21/22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail"

To: <publiccomment@portlandmaine.gov>, <council@portlandmaine.gov>, <citymanager@portlandmaine.gov>

Dear Members of the Portland City Council,

I'm a resident of East Deering and write to express my strong support for "Resolve 1-21/22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail."

I live next to the disused St. Lawrence and Atlantic track in Portland and can speak firsthand to the challenges of living next to an abandoned industrial space. The freight service that used to run on the line was discontinued years ago, and now all that is left are rotting railroad ties and broken glass. The track is so dilapidated that the State has allowed a company to rip up parts of the track, pave over it, and use it as a boat parking lot.

Members of the East Deering neighborhood use the rail thoroughfare to walk to the Grand Trunk cemetery and Presumpscot School, and other stores on Presumpscot Street. A winter photo demonstrates how many of your constituents already use the space for walking and other recreational activities (even skiing!).



Before the boat parking lot was installed, we would walk down the rail to the outcropping into Casco Bay, to fish or look at the sunset (photo attached)



If only this land were properly cared for as part of a trail system, it would be a fantastic community benefit. As it is, I frequently worry about my dog getting broken glass in her paws during our evening walks.

The corridor from Portland to Yarmouth, under consideration in this resolution, is no longer part of any feasibility study for passenger rail, as demonstrated in the legislative history for [LD 991](#). A different, parallel route from Portland to Lewiston remains under consideration for passenger rail.

Please support this resolution, which would support an advisory council process to investigate and recommend the best use of this state-owned land.

Thank you for your time and consideration,

Emma
63 Arcadia Street
Portland, Maine

From: "Lookner, Grayson" <Grayson.Lookner@legislature.maine.gov>
Date: August 22, 2021 at 6:58:32 PM EDT
To: publiccomment@portlandmaine.gov
Subject: Money in Federal Infrastructure Bill and "Trail Until Rail" Proposal

Dear Mayor Snyder and Portland City Council,

I'm writing today to urge you to consider amending the language of the "Trail Until Rail" committee proposal that is coming before the council tomorrow. In addition to billions of dollars being made available through the federal bipartisan infrastructure bill specifically ear-marked for ["federal-state partnership grants for Northeast Corridor modernization"](#), there are other considerations that should be taken into consideration:

1. The 130th Maine State Legislature passed a resolution, funded with \$180,000 from the MeDOT Multimodal fund, directing the DOT to conduct a study for commuter and passenger train service between Portland and Lewiston/Auburn. One of the routes in the study is the State-owned railroad between Auburn and Yarmouth.
2. The Sustainability & Transportation Committee resolution calls for the Maine Department of Transportation (MaineDOT) ... and create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use "trail-until-rail."
3. The conflict can be resolved by amending the City of Portland Resolution to change the language from "trail-until-rail" , to a "Multi-use transportation corridor that includes a feasibility of commuter and passenger train service, trails and other non-rail uses of the corridor"

I am an avid bicyclist and would love nothing more than to have 50 miles of uninterrupted trail to enjoy cruising through the state of

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 18, 2021

SUBJECT: Resolve 2-21/22 Providing Notice of Public Hearing for Condemnation of Lot 6, 59 Somerset Street - Sponsored by Kate Snyder, Mayor

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Lot 6, 59 Somerset Street: Resolution to provide Notice of Public Hearing for Condemnation of Lot 6, 59 Somerset Street. The Council will vote on whether to begin condemnation proceedings to take by eminent domain Lot 6, 59 Somerset Street, for the public purpose of a parking facility as defined by 30-A M.R.S. sec. 5401(5)-(7). The power of the City to acquire land by eminent domain for this purpose is specifically granted under, inter alia, 30-A M.R.S. sec. 5401, et seq., including section 5403(6). The Resolution will provide notice of the City's intent to acquire Lot 6, 59 Somerset Street, by eminent domain; and will order that the City post Notice of Public Hearing for a vote on the Condemnation Order, which public hearing has been set for September 8, 2021.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Resolutions to Provide Notice of Public Hearing on Condemnation
2. Bayside Vision Book One - The Plan - April 2000
3. Bayside Vision Book Two - Implementation - April 2000
4. City of Portland Condemnation Order
5. Notice of Public Hearing to Consider Condemnation
6. 5401 Definitions
7. 5402 Declaration of public necessity
8. 5403 General grant of powers

Prepared by:

Date: 08/18/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (A/L)
APRIL R. FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES (A/L)

**RESOLUTIONS FOR ADOPTION AT THE
AUGUST 23, 2021 MEETING OF THE CITY COUNCIL
CONCERNING NOTICE OF PUBLIC HEARING ON
CONDEMNATION OF LOT 6
SCHEDULED FOR SEPTEMBER 8, 2021**

RESOLUTIONS FOR ADOPTION:

RESOLVED: The City Council of the City of Portland shall convene a Public Hearing for 5:00 P.M. on September 8, 2021 for the purpose of considering the City of Portland taking by eminent domain of the real estate interests of FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC in and to the land depicted as Lot 6 on a certain “Amended Subdivision Recording Plat for MiDTOWN Development, Plan Sheet 1 of 2 on Somerset Street, Portland, Maine made for FEDEQ DV001, LLC” dated April 10, 2013, as revised through, and approved by the City of Portland Planning Board, on May 10, 2016 by Owen Haskell, Inc. Falmouth, Maine, recorded at the Cumberland County Registry of Deeds, Plan Book 216, Page 217 (the “Plan”).

RESOLVED: The City Council of the City of Portland shall give public notice to FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC, and to the public at large, of the September 8, 2021 Public Hearing of the City Council on the possible condemnation of Lot 6 as depicted on the Plan in accordance with the Notice of Meeting annexed hereto as Exhibit A.

A NEW VISION FOR BAYSIDE

P o r t l a n d , M a i n e



BOOK ONE: THE PLAN

April 2000

B A Y S I D E

Nicholas M. Mavodones, Jr.
Mayor



City of Portland
Office of the Mayor and Council
Portland, Maine

Councillors

George N. Campbell, Jr.
James F. Cloutier
Philip John Dawson
Karen A. Geraghty
Jay M. Ribbard
Tom Kane
Cheryl A. Leeman
Nicholas M. Mavodones, Jr.
Nathan H. Smith

Citizens of Portland

January 26, 2000

Dear Portland Citizens:

I am pleased to convey this final plan, *A New Vision for Bayside*. This plan envisions the transformation of Bayside from an area characterized by disinvestment and urban blight to a new urban gateway for the Portland Peninsula presenting a proud image for the community. The redevelopment of Bayside, a land area larger than the Old Port and core downtown area of Portland combined, is not only important for maintaining a sustainable and competitive local economy, but also to provide good jobs, adequate housing and a reasonable tax burden for Portland citizens. The report gives testimony to the fact that one of Portland's greatest assets is an informed and involved citizenry.

With or without this plan, change in Bayside will be inevitable. Now an official part of Portland's Comprehensive Plan, *A New Vision for Bayside* represents the culmination of the public phase of a process which had been started by the City Planning Department some years earlier under the aegis of the U.S. EPA, Brownfields program. Given the inevitability of change, the challenge for the community and for the City has been to bring forward a vision of how that change might be enable Portland to reach its full potential in the years to come.

In many ways this work has only just begun and its success will depend upon the active participation of this Council, the City Government in general, the business community, the Bayside Neighborhood Organization, the development community, social service providers and others, including the State and the Federal Government. This plan is ambitious and balanced in its scope. With the dedicated effort of all stakeholders, we can look forward to bringing this plan to fruition through combined public and private initiatives and developments.

Sincerely,

Nicholas M. Mavodones, Jr.
Mayor

City Hall, 389 Congress Street, Portland, Maine 04101 (207)874-8944

Acknowledgments

A NEW VISION FOR BAYSIDE

is a product of many hands and minds. Over the course of more than two years, literally hundreds of participants have created and shaped this plan. The Bayside Task Force was convened in the summer of 1998 at the request of then Mayor, Thomas Kane. The Task Force grappled with many of the complexities presented by both the challenges and opportunities present in Bayside.

Subcommittee chairs Councilor George Campbell and former Mayor Peter O'Donnell deserve credit for their leadership in keeping the task force members focussed on their respective tasks. The task fell to the Brownfields Subcommittee to weave the various parts of this report into an integrated vision. As the plan neared completion, it had the benefit of input from the Community Development Committee under Councilor Cheryl Leeman and the Housing Committee under Councilor Karen Geraghty.

This report has been shaped and informed by widespread public participation at many public hearings and meetings.

Note the growth of the Bayside Neighborhood Association, which has become empowered by this process and has provided significant input into the final report. Special recognition is due their current chair, Sandy Elder, who has volunteered many hours and has contributed useful and positive critical input throughout the planning process.

One of the critical charges of the Bayside Task Force was to evaluate the generous offer of the Libra Foundation to provide land for a proposed new Civic Center.

While the possibility of a new Civic Center provided one avenue for an accelerated redevelopment of the Bayside area, it is not a necessary precondition of the redevelopment of Bayside. Consequently, because the City made a decision not to go forward with the Libra Foundation offer, this final report does not include the substantial amount of work that went into that evaluation under the able guidance of Councilor Campbell. Finally, the potential relocation of important social service agencies underscored the need for the Social Service Subcommittee under former Mayor O'Donnell to study carefully the future ability of "tier one" agencies to remain on the Portland peninsula. Their efforts are documented in the May 1999 draft of this plan.

It must also be noted that many dedicated City staff members orchestrated and ushered along the process, helping to craft the process and providing the research and backup analysis that allowed the Task Force and officials to carry on their work. Special recognition is due to Senior Planner, Rick Knowland, who secured for the City the original Brownfields grant and has provided instrumental staff support throughout the long planning process. The City's Chief Planner Alex Jaegerman and Sarah Marshall of Terrence J. DeWan & Associates played key roles in many ways, including drafting and redrafting the many versions of this report. Continued involvement in the

process by Joe Gray, Mark Adelson, and Wendy Cherubini ensured that the plan progressed in a thorough and coordinated manner. The committed involvement of members of the Bayside planning team including Anita LaChance, Donna Katsiaficas, Gloria Thomas, John Peverada, Lee Urban, Jack Lufkin, Dana Souza, Chris DiMatteo, Jerry Cayer, Bill Bray and Kathi Staples contributed breadth and depth to the plan, with detailed analyses of issues from all City departments. Lead consultant John Tewhey contributed his considerable technical knowledge and expertise to the effort.

It is testament to the commitment and hard work of many that this exciting plan enjoys the widespread support that will be so necessary to its successful implementation.

Nathan H. Smith
Co-Chair Bayside Task Force



February 11, 2000

BOOK I: A NEW VISION FOR BAYSIDE

Bayside Task Force

CHAIRPERSONS

*George N. Campbell, Jr.
Peter O'Donnell
Nathan H. Smith*

*Richard Aronson
Nicci Bishop
Chandrika Brown
Douglas Cardente
John Carroll
Sharon Caulfield
Mark Chase
Randall Chasse
Eliza Cope-Nolan
Robert Duranleau
Jeff Eisenberg
Morris Fisher
Ross Furman
Don Harden
William Hawkes
Phil Helgerson
Stephen Hirshon
Nick Hodgkins
Mary Eileen Kiniry
Deborah Krichels
Arthur Lerman
David Littell
Keri Lord
Sue MacArthur
Tim Marr
Jane Morrison
Nate Nickerson
Peter Noyes
Mary Saar
Howard Sawyer
Elena Schmidt
Elizabeth Sheehan
John Shoot
Mark Swann
Widgery Thomas
Godfrey Wood
Jay York*

City Council

*Nicholas Mavodones, Jr., Mayor
George N. Campbell, Jr.
James F. Cloutier
Phillip John Dawson
Karen A. Geraghty
Jay M. Hibbard
Tom V. Kane
Cheryl A. Leeman
Nathan H. Smith*

Planning Board

*John Carroll, Chair
Jaimey Caron
Kenneth M. Cole, III
Cyrus Y. Hagge
Deborah Krichels
Mark Malone
Erin Rodriguez*



*On December 20, 1999,
the City Council of the City of
Portland, Maine, adopted
A NEW VISION FOR BAYSIDE
as part of the City of Portland
Comprehensive Plan.
(by Order 123)*

*Funding for the
Brownfields Project
provided by the
U.S. Environmental
Protection Agency.*

City of Portland, Maine

Robert Ganley, City Manager

Anita LaChance, Assistant City Manager

Department of Planning and Urban Development

Joseph Gray, Jr., Director

Alexander Jaegerman, Chief Planner

Richard Knowland, Senior Planner

Mark Adelson, Director, Housing & Neighborhood Services

Wendy Cherubini, HCD Program Manager

Economic Development Center

Lee Urban, Director

John Lufkin, Business Development Representative

Department of Health and Human Services

Gerald Cayer, Director

Nathan Nickerson, Program Manager

Department of Parks and Recreation

Dana Souza, Director

Chris DiMatteo, Landscape Architect

Department of Public Works

William Bray, Director

Katherine Staples, City Engineer

Parking Division

Gloria Thomas, Director

John Peverada, Parking Manager

Brownfields Consulting Team

John Tewhey, Geochemist

Tewhey Associates

Sarah Marshall, Landscape Architect

Terrence J. DeWan & Associates

Kenneth Gray, Attorney

Pierce Atwood Attorneys

Gore Flynn, Financial Consultant

Enterprise Resources



Preface

This document, Book I, defines the visions that will shape the Bayside Plan. These ideas culminate in a specific set of Critical Action items (see pages 20-21). Book II, the accompaniment to this document, provides detail about how to implement these actions.

Currently, Book II is composed of five issue papers that map out strategies for making the action items a reality. It also contains other papers on subjects that affect all elements of the Bayside Plan, for instance, a paper on Economic Development and one on Regulatory Issues. While Book I lays the permanent foundations of the Bayside Plan, Book II is a practical appendix that will be altered and updated as the Bayside Plan is implemented.

BOOK I

TABLE OF CONTENTS

Background & Overview

- 6 *Background & Chronology*
- 7 *Mission Statement*
- 8 *Development Principles*

Presenting the Vision

- 11 *Bayside Vision*
- 12 *Bayside Avenue*
- 14 *Kennebec Crossing*
- 16 *Bayside Heights*
- 18 *Franklin Square*
- 20 *Government Center*

Capturing the Opportunity

- 22 *Action Plan*
- 23 *Implementation Plan*



BACKGROUND

In 1996, the City of Portland obtained funding from the Environmental Protection Agency (EPA) to undertake a Brownfields Pilot Project. The City designated a ten-lot, 14-acre parcel between Oxford Street and Marginal Way as the Bayside Brownfields Project Area. This district has had a continuously industrial history, which has contributed to its current environmental condition, and led to this plan to bring about appropriate remediation (the clean up of contamination). It is also a key gateway to the city, and has enormous potential as a productive part of the City of Portland.

Since 1996, the City of Portland Planning Office has been working with a team of consultants on planning for the re-use opportunities of the Bayside land. In an extensive public participation process, literally hundreds of participants have been involved in community meetings, task forces, and public forums to discuss and debate the content of this plan. The Bayside Neighborhood Association and landowners have been involved as well, with ongoing presentations, meetings and informal points of contact. After the City and Libra Foundation / October Corporation decided not to pursue the development of an arena facility in the Bayside area, the Planning Office renewed its efforts to develop a comprehensive plan for the district. It is testimony to the commitment and involvement of so many community members that, despite the diverse perspectives of the participants, there is broad agreement about the essential principles of this plan.

This plan is a distillation of many reports and earlier documents that contain a significant amount of analysis and information about conditions in Bayside, and land use policies. Readers wishing for a higher level of detail or in-depth analysis of environmental conditions, financing incentives, or task force reports and neighborhood input should research these other documents. They are available in the Portland Planning Office, as well as the Portland Room of the Portland Public Library. A listing of the key documents and reports that comprise the foundation of this final report includes the following:

Bayside: the Brownfields

Revitalization Project,

July, 1998, Interim Report, Prepared by the Portland Planning Office with Tewhey Associates and Terrence J. DeWan & Associates;

A New Vision for Bayside,

May, 1999, Report prepared by the Portland Planning Office with Tewhey Associates and Terrence J. DeWan & Associates;

Site Assessment and Environmental Analysis,

April 1998, Prepared by Tewhey Associates;

Environmental Remediation Plan,

March 1999, Prepared by Tewhey Associates;

Financing and Incentives for the

Portland Brownfields Project,

August 1999, Prepared by Enterprise Resources Corp.

Bayside Infrastructure Assessment, October 1999,

Prepared by Dept. of Public Works.

Bayside Regulatory Issues, Discussion Paper,

November 1999, Prepared by the Portland Planning Office

BAYSIDE REDEVELOPMENT MISSION STATEMENT

Bayside presents an opportunity to shape the last and largest land resource of the Portland Peninsula. Much of this land has an industrial heritage and is vacant or underutilized. Surrounding these parcels is a district with a multitude of uses ranging from industrial to commercial and residential.



Environmental conditions inhibit further investment, but can be overcome with reasonable and attainable remediation measures. Market forces are favorable, and the community is activated to seize the moment. The positive potential of this area will contribute to the future prosperity and quality of life for all Portlanders.



It is time to shed the back door image of Marginal Way, to recast Bayside as a productive and connected urban neighborhood, the front and center of the Portland peninsula. Bayside can support development of housing, commerce, and community resources, and represent the pride and the quality of the City of Portland.

Development Principles

Urban gateway...

Bayside will be an attractive urban gateway and extension of the downtown business district for the City of Portland. This district will create a new front face of the City, and present the character of Portland which will encourage people to stop, visit, and enjoy all that the downtown and Portland peninsula have to offer. A fully functioning urban district and neighborhood will reconnect with and add to the fabric of the peninsula from downtown to the adjacent neighborhoods. A compact blend of uses fosters lively daily interaction and a sense of community spirit. A wide variety of housing, shops, workplaces, open spaces, centers of community and civic activity, and needed social services will comprise the future of Bayside.



Economic and employment opportunities...

Bayside's location between downtown and I-295 presents a significant economic and market opportunity to be planned and managed to create the best value for development and quality of life improvements for the community, generate a broad

range of employment opportunities and improve the tax base. Bayside presents prime real estate development prospect to expand the central business district with new office and commercial space, along with small-scale affordable spaces for start-up and small business.

A walkable district...

Bayside will contain housing, workplaces, services, transportation, recreation, dining and shopping, all within comfortable walking distance of each other and the downtown. Attractive lighted sidewalks, bicycle and pedestrian trail linkages will connect these uses, designed for full and maximum accessibility. Key features will include Bayside Avenue (currently Marginal Way) as a landscaped boulevard, with Chestnut, Elm, Oxford, and the rail-to-trail corridor forming major pedestrian axes.

A critical mass of dwellings...

An urban district must have a mix of residences to be truly vital. The Bayside plan will fill in, extend, and enhance the existing residential fabric with a substantial amount of new housing units. A diversity of dwelling types will enable citizens from a wide range of economic levels, age groups, and life circumstances to live in Bayside. Careful attention to design, scale, density and variety will strive to create a healthy and compatible neighborhood similar to other successful urban neighborhoods on the Portland peninsula.

Transit-oriented development...

Mixed use, compact and intensive land development, and quick and convenient transit service combine to make Bayside a neighborhood that has genuine mobility choice. This model for the peninsula and beyond will be designed from the ground up, free from dependence upon the automobile. Features including the trail connectors and frequent shuttle service throughout the peninsula area and to all major transportation centers will signify progress and commitment by the city to implement the 1993 *Portland Transportation Plan*.



Multi-level parking structures...

Ample parking is needed to serve the needs of the Bayside residents, visitors and workforce.

Strategically located parking structures will serve multiple functions, connect with transit services, facilitate the flow of traffic with minimal impact on neighborhood residents, and avoid extensive land consumption by surface parking lots. The location and timing of development of parking structures

must complement and enhance the function of Bayside as a transit-oriented district and respond to the policies of the *Portland Transportation Plan*.

A neighborhood center...

The community centers at the Chestnut Street church, Boys and Girls Club, and Portland High School combine to form a significant center for the neighborhood with space for youth and family recreation and community gatherings.

Recreation and open space...

Development of a multi-use trail and bikeway on the abandoned rail corridor will be a significant cornerstone feature of the Bayside plan. The trail and open spaces such as squares, greens, parks and community gardens will be located and designed to encourage active use, and to link with the Eastern Prom Trail, Back Cove, and Deering Oaks Parks. The plaza at the base of Chestnut Street will provide a focal open space.

A social service resource network...

Bayside will continue to fulfill its role as the hub of a social service network of substantial recognized value to the city, the region and the State of Maine. The homeless, the disabled, and those in poverty rely on these services for survival and hope. Vital facilities such as the homeless shelters and related services will remain in this area. Service clusters will provide a permanent and stable working environment, integral to the fabric of the community, that builds upon new and established working relationships to best serve the needs of the community.



Environmental Remediation...

The USEPA Brownfields Program encourages the reuse of vacant and underutilized land by providing for practical cleanup standards that are based on the future use of the land. Bayside redevelopment projects will clean up the soil and recycle these underutilized parcels into productive resources for the future of the Portland community.

Redevelopment of brownfields in Bayside counters the trend toward sprawl development in this region, adding the vigorous urban center of Portland

Scrapyard Redevelopment...

Removal and redevelopment of the current scrapyards into more compatible and productive uses is another cornerstone to the Bayside redevelopment plan, that will spur private development and improve aesthetic, economic, and community character of the Bayside district.



An Extension of the Downtown
BAYSIDE
PORTLAND, MAINE

Total New Capacity

Retail: 230,000 sf

Office: 950,000 sf

Residential: 940 dwelling units, average 800 sf

Structured Parking: 5 garages, average 600 cars = 3000

Social Services:

offices & services: 75,000

youth & family shelters: 8,000

adult shelters: 15,000

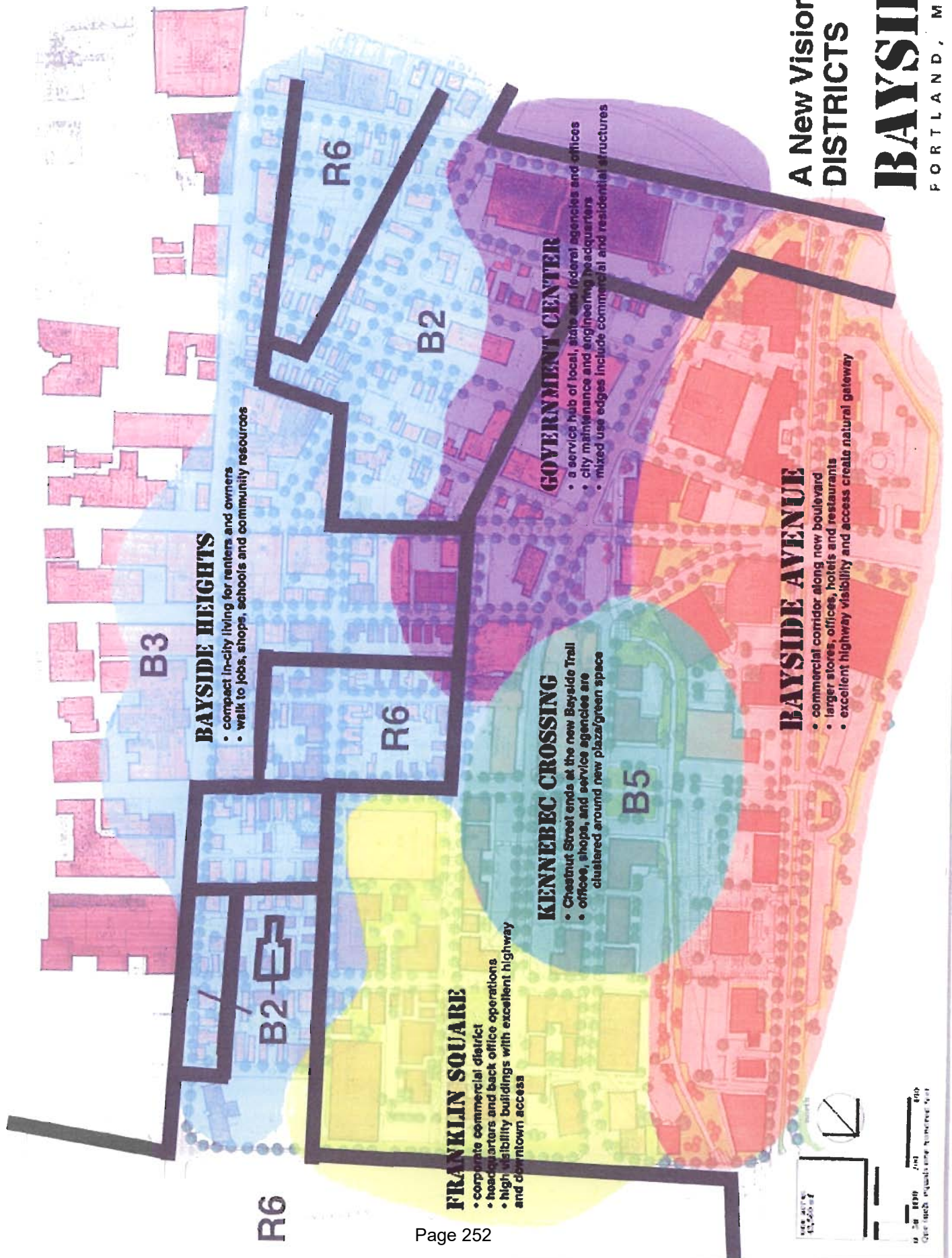
day care centers: 6,400

city public health building: 25,000

future envisioned buildings
existing buildings

A New Vision: Illustrative Plan
Showing Development Capacity

BAYSIDE
PORTLAND, MAINE



A New Vision: DISTRICTS

BAYSIDE

PORTLAND, MAINE

- Community Center**
- City Hall & Auditorium
 - Chestnut Street Church
 - Public Library
 - High School
 - Boys' & Girls' Club
 - Public Market

infill housing and neighborhood open space

Chestnut Street axis

recycled and new buildings at urban density

multi-use trail linking Bayside to Eastern Prom and Back Cove trails

Public Open Space

GATEWAY:
Franklin Arterial

GATEWAY:
Forest Ave.

Proposed site for
RR station, local bus hub,
hotel & parking structure

Proposed Rail Line

Key Elements
of a New Vision

BAYSIDE

PORTLAND, MAINE



BAYSIDE VISION MAP



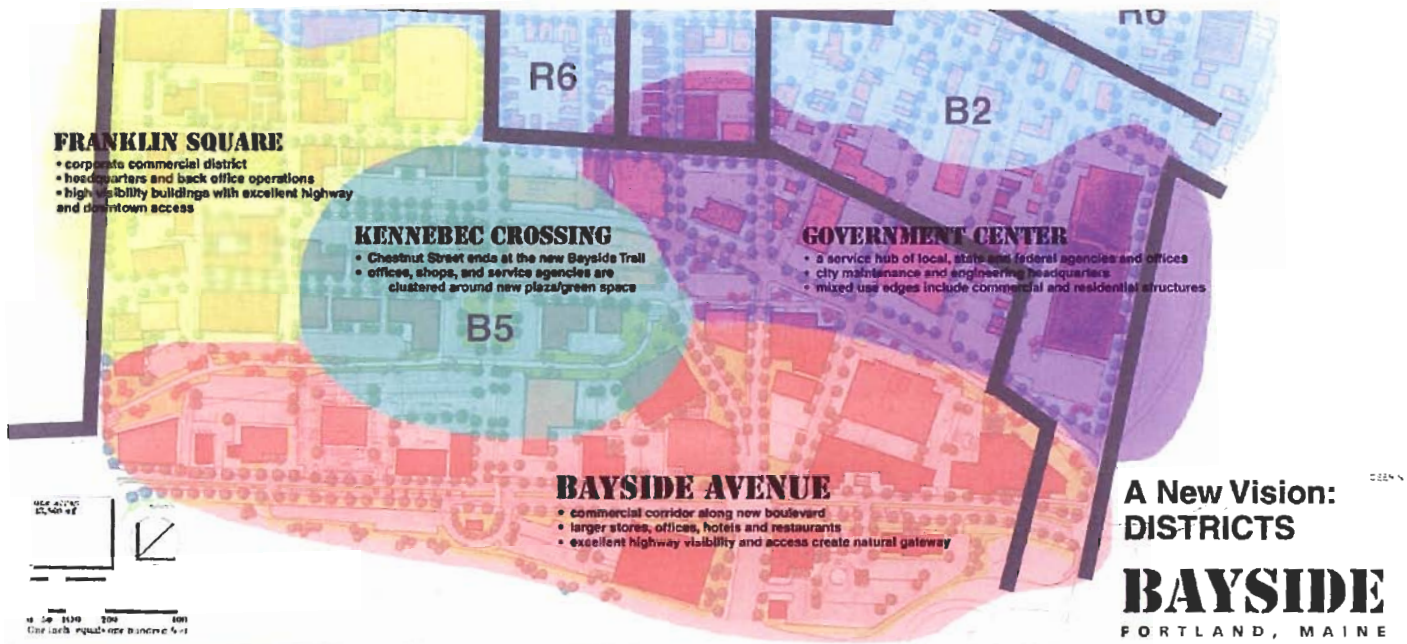
A New Vision for Bayside foresees an integrated mixed use urban neighborhood. The land use plan for Bayside presents this neighborhood as a composite of five overlapping districts.

Each district will have a predominant use pattern and identifiable function and character. These districts weave together to form the complex whole that is Bayside's potential future developed condition.

In the narratives that follow, a description of Bayside's land use future is presented.

This description is not written in technical or planning jargon, but instead suggests a story of what the experience of Bayside might be like for visitors, workers, or residents.

Bayside Avenue



*The **Bayside Avenue** District is the gateway to Portland, a commercial corridor with larger stores, offices, hotels and restaurants which benefit from excellent highway visibility and access.*

Bayside Avenue is the front door, the portal to the Portland Peninsula land area. With excellent access from Interstate 295 and Baxter Boulevard, commercial traffic is organized for safe service to the Franklin, Preble, and Forest Avenue intersections with Bayside Avenue. Bayside Avenue, once known as Marginal Way, is now a tree-lined boulevard with esplanades and sidewalks that complement the strong architectural mass of buildings along the street.



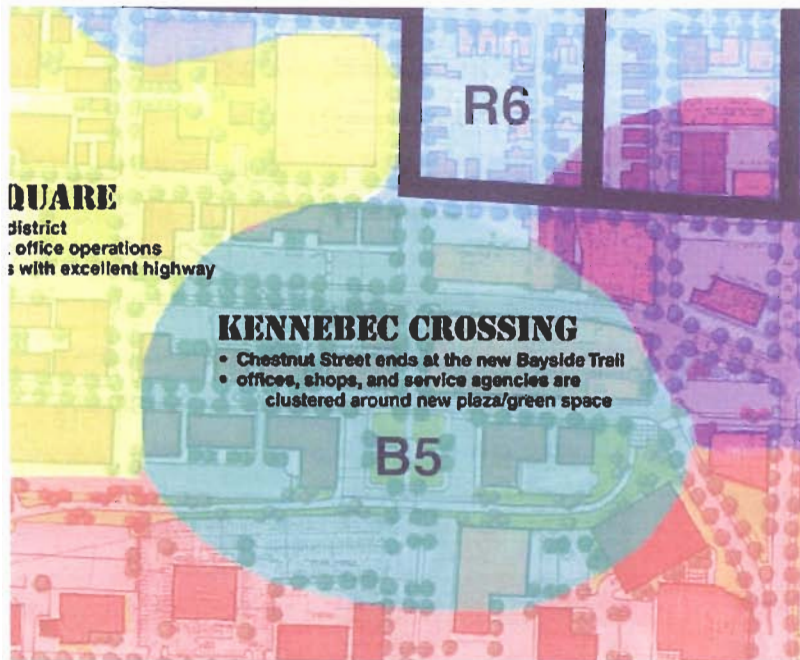
Between Bayside Ave. and the highway, several prime parcels of real estate totaling about twenty acres were quickly developed into highway-oriented hospitality ventures, including a mid-size hotel, parking facilities, and several restaurants.

On the downtown side of Bayside Avenue, parcels were combined and reformed with the City's acquisition of the railroad corridor and yards. This public-private partnership allowed all parties to maximize return on their land areas with more efficient, user-friendly layouts.

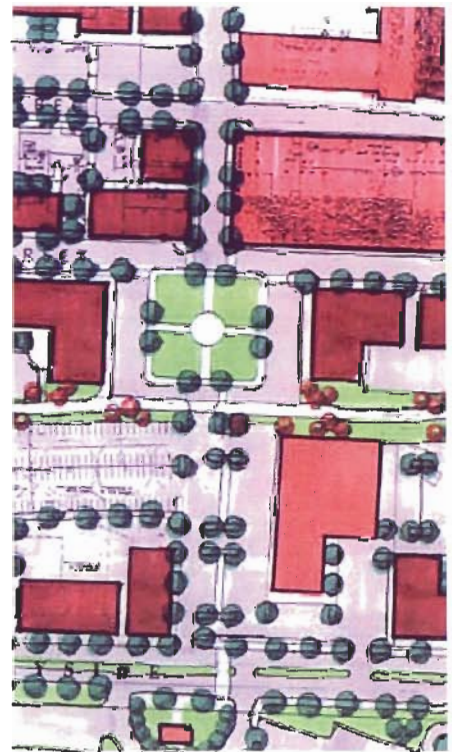
Most of the parcels within this thirty-plus acre area have now seen redevelopment into mixed use retail and office space of two to three story buildings.

Public transportation is provided but there are also several new large parking structures open for business in Bayside, which has encouraged both retail and office construction. Portland's streamlined Design Guidance process was able to persuade land owners and developers to adhere to urban livability standards and the results are in: the storefronts are bright and lively, window patterns and rooflines are representative of Portland's best, the architecture forms an impressive front door to the city, and more space is being planned to accommodate the growing demand.

Kennebec Crossing



*The **Kennebec Crossing District** clusters offices, shops, service agencies, apartments, and cafés around the new plaza at the junction of Chestnut Street and the trail.*



Kennebec Crossing is the heart and soul of lower Bayside. Comprised of the blocks from Somerset Street up to Oxford Street on either side of Chestnut Street, this district of about eighteen acres is a rich blend of cultures, textures, businesses, and human activities. Along the streets one can see offices, social service agencies, entrances to apartments, shops and stores, all within walking distance.



At the center of Kennebec Crossing is a plaza that provides year-round open space and entertainment for workers and residents. The Bayside Trail goes right by the plaza, and some folks get to work by biking or running on the nearby trail. Others rent roller-blades or bicycles at the trail and ride over to enjoy the Back Cove or Eastern Prom trails. Children from the day care center are out playing in the sunshine. It is just a short walk down to the natural foods supermarket, over to the Forest Avenue/USM area, or up to the cultural attractions

of Congress Street (library, museum, auditorium, and high school.)

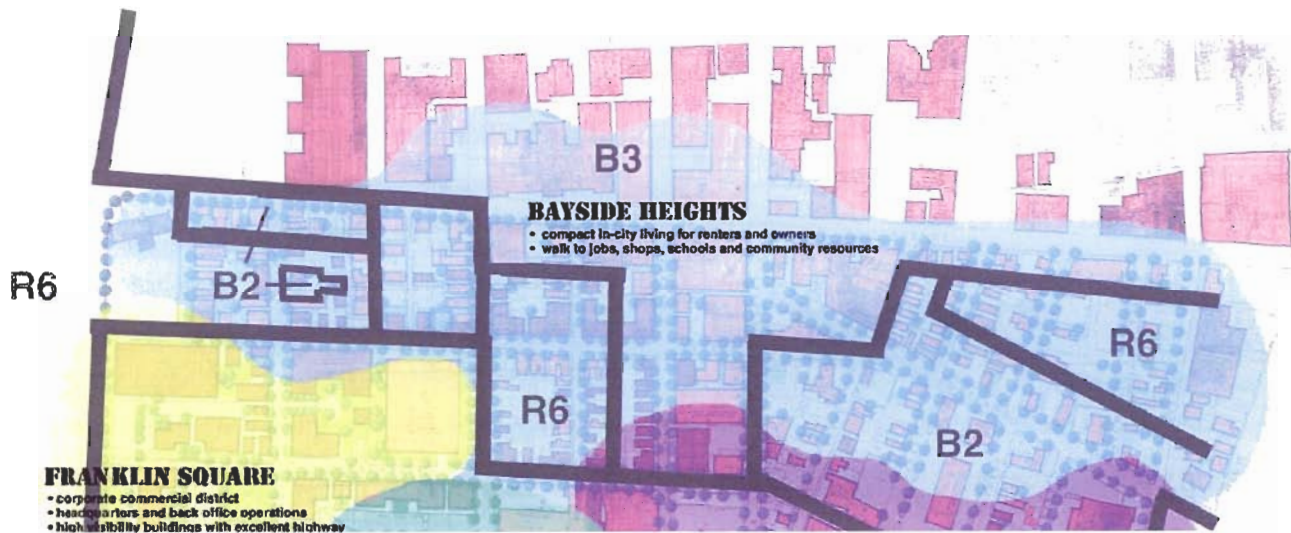
Kennebec Crossing has given new life and visibility to this neighborhood, which was once scrap metal and abandoned rail yards. Several professional and Class A offices have begun to rise among the original environmental enterprise and incubator businesses. While most of the recent residential development has taken place above Oxford Street, there are several mid-rise loft conversions and new apartment blocks. Artists have enjoyed the great northern light and the industrial aesthetic of the buildings, and now public art seems like a natural part of the landscape. There are sculptures and water features and murals and little pieces like colorful signs along the pathway which describe the history and the cleanup of the brownfields.

Families, senior citizens, and young professionals enjoy the funky urban village atmosphere made up of galleries, cafés, movies, ice cream, micro-breweries, and coffee houses for night and day life.

Even in the winter there is color and life at the skating rink in the plaza.

This is a place where visitors mingle comfortably with artists, entrepreneurs, and local residents.

Bayside Heights



*The **Bayside Heights** neighborhood district provides compact in-city living options for renters and owners, within a short walk of jobs, shops, and community resource facilities.*

The **Bayside Heights** Neighborhood has made a big comeback, with over 500 new and rehabbed home units. By the year 2000, the neighborhood had sadly fallen from its pre-war strength as an in-city residential district and mixed use corridor. Many old houses were in severe disrepair, and landowners actually found greater gain by paving and leasing parking spaces than by maintaining or building houses. These trends have been completely reversed since then, with key developments and public-private partnership investments. The City of Portland got the ball rolling with its In City Housing Finance Program, addressing pent-up market demand for low-cost, affordable, and market rate housing units. Increased commercial development in the Bayside area also contributed to the City's ability to fund infrastructure improvements such as sidewalks, street trees, lighting, and playgrounds.

Today the Bayside Heights Neighborhood Association is proud of Bayside, a place where life styles and systems are sustainable. Residents clearly sense the high value of downtown living.

People living in old and new houses all through the forty-plus acre Bayside Heights really like being here. They value the closeness of community center

facilities such as the Merrill Auditorium, Library, Boys Club, Chestnut Street Church and Community Center, High School, and the Congress Square arts district. Children use the sidewalks and the Bayside Trail to get to playgrounds and school, or to visit friends.

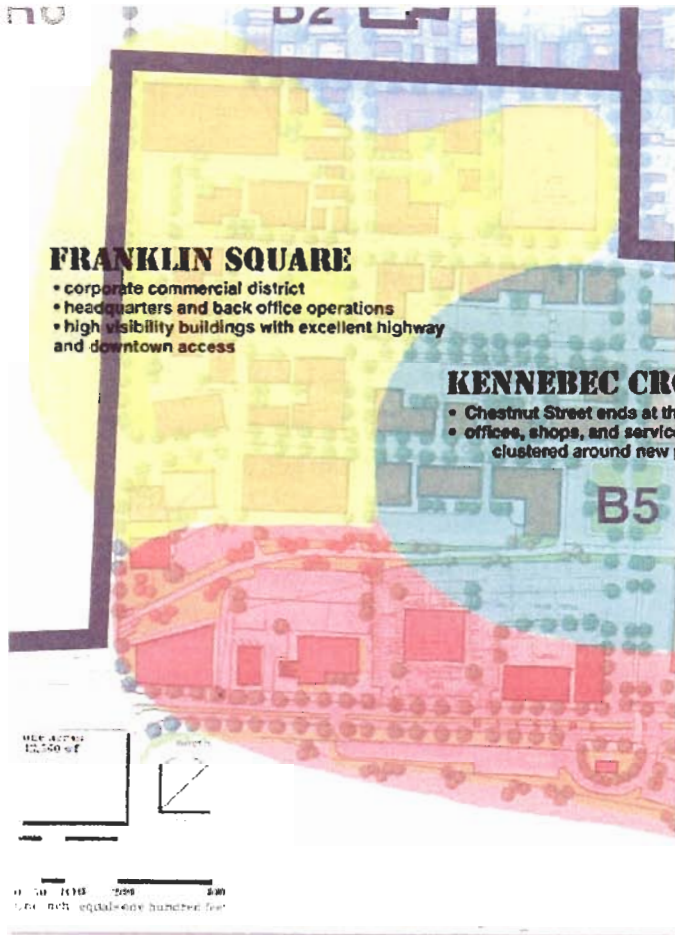
Families in Bayside Heights have access to ballet lessons at the Church, community gardens on Chestnut Street, political and social action forums at the High School, and performing arts events. Many who work in the Old Port and downtown have chosen to live here, to completely eliminate commuting from their lives.

With the Bayside Trail at the foot of Chestnut Street it's easy to get on the transit loop or hop on a bicycle and commute quickly to other parts of Portland.

Many folks just leave their cars in the parking lot, for they can walk to the public market for local produce or down to the Back Cove area for groceries or other shopping needs. Bayside is one of the most "livable communities" in Maine and even in New England.



Franklin Square



Franklin Square is a corporate commercial district housing sizeable headquarters and back office operations seeking high visibility buildings near downtown.



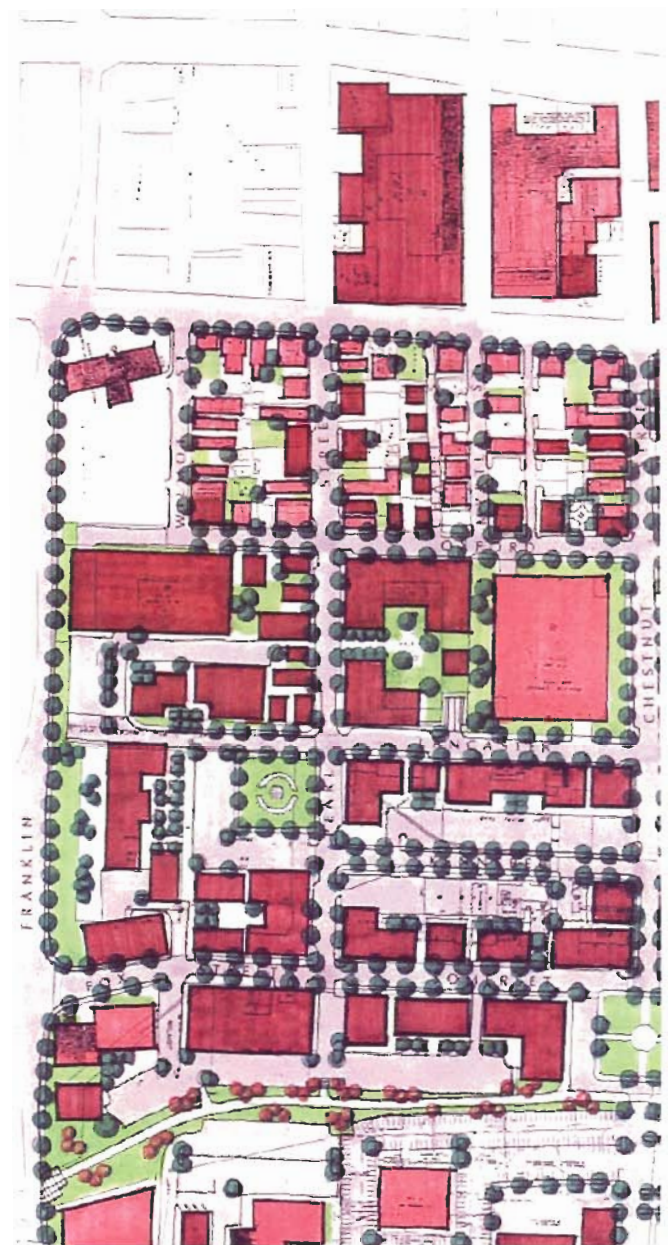
Franklin Square is a corporate commercial district within Bayside which continues to evolve: in the past few years three businesses have located their new headquarter facilities here, taking advantage of the location, location, location! Franklin Square is approximately an eight acre zone bounded by Franklin, Fox and Pearl Streets. The light-industrial service and trade commerce which existed here through the 1980s and 90s has slowly moved out to off-peninsula locations, and been replaced by medium density four and five story buildings which reinforce the architecture of the Bayside commercial corridor.

While the buildings look calm on the outside, the inside story is exciting: research & development (R&D), medical and bio-engineering technologies, and cutting edge communications businesses are at work here.

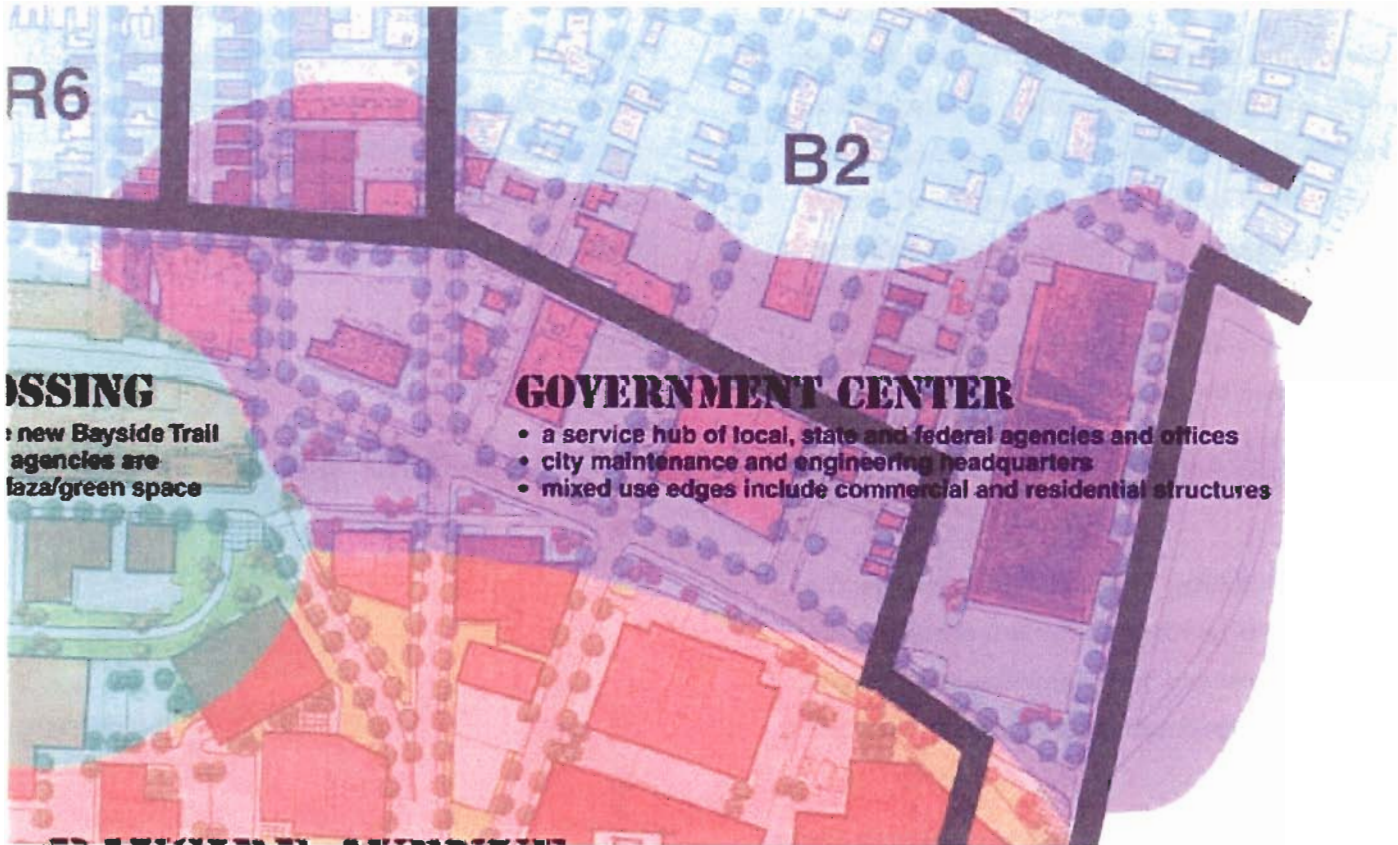
The location works for these new businesses: prime highway interchange, transit loop stop, ample parking, good skilled employees from the neighborhood, and of course proximity to all that Bayside and Portland have to offer.

The employees at Delta Financial's new fifty thousand square foot headquarters are prototypical Bayside employees. Quite a few of the managers live in the Bayside area, stating simply that they like being able to walk to work and be closer to their families. Almost every kind of home is available in the area, from single family house to triple-decker to walk-up flat to huge loft.

At lunch time employees will be found eating burritos in the sunshine, visiting the day care down Kennebec Crossing, or hitting the Bayside and Back Cove trails for a brisk walk. Shopping and errands are also convenient on nearby Bayside Avenue. The more workers and residents come out to eat, the more restaurants and cafés keep opening up. Franklin Square is a place that works.



Government Center



Government Center is the nucleus of a networked service community comprised of local, state, and federal agencies and offices.

The **Government Center** District is about twenty acres, roughly bounded by Forest Avenue, Portland, Kennebec, and Hanover Streets. While there is still a healthy sprinkling of well-kept residences and retail businesses in the area, it is predominantly non-profit and government offices. When the U. S. Postal Service moved its headquarters off the peninsula, it freed up huge amounts of good accessible building area. Within years the building was almost full again, with a busy mixture of public and private enterprise.



Workers and clients in the Government Center area find it makes sense to have all of these interrelated services all within walking distance of each other. And the Department of Human Services and Portland Public Health Building are a quick quarter-mile walk down the Bayside Trail. In bad weather the transit loop running around Bayside brings residents and workers right to the doors of the Government Center buildings and then back to their homes and offices again.



While the former Post Office yielded most of the floor area required by the social service community, many old buildings were also renovated and new infill structures were designed to house special uses such as homeless shelters. The streets that were once dominated by vacant lots and public works yards are now lined with trees, small quiet buildings and corner parks.

Capture the Opportunity: ACTION PLAN

Policy choices, funding resources, and focused attention are needed to seize the initiative for the redevelopment of Bayside. There are some immediate and near term issues that must be addressed to realize the opportunities of the Bayside Plan. Detailed below are the highest priority “critical actions” needed to move the Bayside plan forward as envisioned.

CRITICAL ACTION 1

Acquire the railroad property

The railroad property provides multiple opportunities to provide land and infrastructure to support the Bayside redevelopment plan. It is the best location for the multi-use trail and bikeway, which will signify the positive changes to come in Bayside. The trail provides direct linkages to parks and neighborhoods, structures development and circulation patterns, and provides a focal amenity to support other private and public developments. The real estate associated with the rail corridor is centrally located, and its future disposition for infrastructure and development purposes will be an important resource in bringing the plan to fruition.

CRITICAL ACTION 2

Redevelop the scrapyards parcels

The single most inhibiting factor to the successful redevelopment of Bayside is the continued presence of the active scrapyards. This heavy industrial use occupies parcels that could support more productive economic development; the current use is an



incompatible neighbor to potential higher value neighboring uses, and the environmental impacts of scrap metal recycling is a concern. The City will need to effect the removal of the scrapyards to enable the quality and quantity of development envisioned in the plan.

CRITICAL ACTION 3

Build more housing

A true urban district has a healthy mix of residences, and Bayside needs more housing to be a stable and vital neighborhood. Portland will have to revise zoning, provide infrastructure improvements, and create financial incentives to spur development of appropriate and compatible housing construction of the quantities, density, types, and design quality needed to meet the ambitious targets of the plan.

CRITICAL ACTION 4***Create Transit-Oriented Development***

Current access to I-295, planned connections to the Portland trail system, and existing and future links with bus, regional train, and ferry services can make Bayside a true 'transit-oriented' district.

Multiple benefits result from the creation of such a district, from increased pedestrian access and open space to greater economic diversity (more people without cars). To enhance its urban and multi-modal qualities, Bayside development should not rely primarily on surface parking lots for automobile storage. But, where necessary, appropriately placed parking garages should serve both the parking needs of new development in Bayside while serving as hubs for transit servicing Bayside, downtown Portland, and the greater region.



clients and the larger community. Concrete plans must be made for facilities to meet current and foreseeable future needs, and that will not be threatened by market or development forces.

Priority attention should be given to developing a plan for emergency shelters and other services which must be located in Bayside.

**Putting the Plan in Place:
IMPLEMENTATION
STRATEGIES**

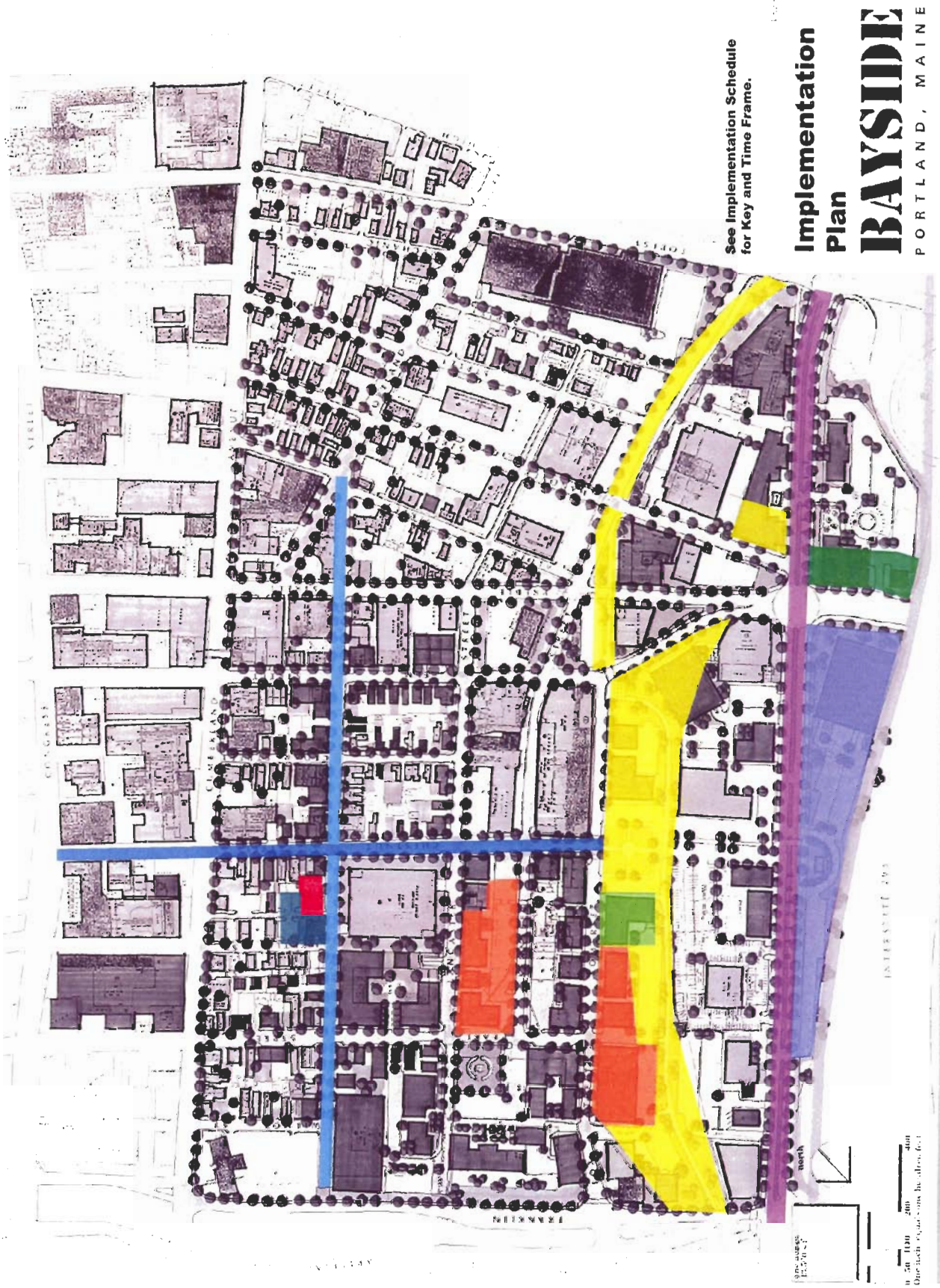
This document, Book I, defines the visions that will shape the Bayside Plan. These ideas were described above as a specific set of Critical Action items. Book II, the accompaniment to this document, provides detail about how to implement these actions. Currently, Book II is composed of five issue papers that map out strategies for making the action items a reality. It also contains

other papers on subjects that affect all elements of the Bayside Plan, for instance, a paper on Economic Development and one on Regulatory Issues. While Book I lays the permanent foundations of the Bayside Plan, Book II should be utilized as a practical appendix that will be altered and updated as Bayside continues to evolve.

CRITICAL ACTION 5***Secure the future of Portland's social service network.***

Bayside will continue to be the heart of Portland's social services network, an important asset to our community. The City and providers must continue to work together to define and secure space that is sufficient in size, design, and location to serve their

[illegible]



A NEW VISION FOR BAYSIDE

P o r t l a n d , M a i n e



BOOK TWO: IMPLEMENTATION

April 2000

Background

Book II contains detailed implementation strategies for the Bayside Plan's five critical actions, including:

- acquiring the railroad property
- redevelopment of the scrapyards
- building more housing
- creating a transit-oriented district
- capturing the future of Portland's social services network.

Book II also examines how economic development, regulatory issues and public landscape components play into the implementation of Bayside.

Update material for each of the implementation strategies will be inserted into the pockets of this report as it becomes available.

BOOK II: IMPLEMENTING THE PLAN

BAYSIDE

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*On December 20, 1999,
 the City Council of the City of
 Portland, Maine, adopted
A NEW VISION FOR BAYSIDE
 as part of the City of Portland
 Comprehensive Plan.
 (by Order 123)*

*Funding for the
 Brownfields Project
 provided by the
 U.S. Environmental
 Protection Agency.*

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BOOK II

TABLE OF CONTENTS

Introduction

- 1 Background*
- 5 Summary of Critical Actions*

Critical Action Issues

- 6 CRITICAL ACTION 1*
Acquire the Railroad Property
- 9 CRITICAL ACTION 2*
Redevelop the Scrapyard Parcels
- 12 CRITICAL ACTION 3*
Build More Housing
- 21 CRITICAL ACTION 4*
Create a Transit-Oriented District
- 26 CRITICAL ACTION 5*
Secure the Future of Portland's
Social Service Network

Bayside Implementation Plan

Comprehensive Issues

- 31 Economic Development*
- 36 Regulatory Issues*
- 41 The Public Landscape*

Summary of Critical Actions

CRITICAL ACTION 1

Acquire the railroad property

The railroad property provides opportunities for Bayside's land and infrastructure redevelopment plan. Its central location makes it a prime connector of trails, bikeway, parks and neighborhoods. It can structure development and circulation patterns while focusing private and public developments. The property will be an important resource in bringing the plan to fruition.

CRITICAL ACTION 2

Redevelop the scrapyard parcels

The continued presence of the active scrapyards hinders the successful redevelopment of Bayside. Incompatibility with potentially higher value neighboring uses and the scrapyards' environmental impacts necessitate more productive economic development. Replacing the scrapyards will enable the plan's quality and quantity of development.

CRITICAL ACTION 2

Build more housing

True urban districts contain diverse residences. Bayside needs more housing to be a stable and vital neighborhood. In order to meet the ambitious housing targets of the plan, revised zoning, infrastructural improvements, and financial incentives should be used to spur appropriate and compatible Bayside housing construction.

CRITICAL ACTION 4

Create Transit-Oriented Development

Current access to I-295, planned connections to the Portland trail system, and existing and future links with bus, regional train, and ferry services can make Bayside a true 'transit-oriented' district. Multiple benefits result from the creation of such a district, from increased pedestrian access and open space to greater economic diversity (more people without cars). Bayside development should not rely primarily on surface parking lots for automobile storage. Appropriately placed parking garages should serve the parking needs of new development in Bayside while also serving as hubs for transit servicing Bayside, downtown Portland, and the greater region.

CRITICAL ACTION 4

Secure the future of Portland's social service network.

Bayside will continue to be the heart of Portland's social services network, an important asset to our community. The City must continue to define and secure sufficient and appropriate space for the community's current and future needs that will not be threatened by market or development forces. Priority should be given to developing a plan for emergency shelters and other services which must be located in Bayside.

CRITICAL ACTION 1:

Acquire the railroad property.

BACKGROUND

The railroad property is the largest vacant property in Bayside, occupying a central and strategic location within Bayside, as well as the brownfields area. Its value as an open space resource and a leverage for future economic development is critical to the Bayside Plan. The property consists of a two-mile corridor that runs from Hadlock Field to the AAA office building on Marginal Way.



OPPORTUNITY

The Bayside Plan envisions a pedestrian/bicycle trail along the corridor with connections to the Eastern Prom Trail, Back Cove, Deering Oaks, and Hadlock Field. As the corridor widens within the former railroad yard (between Franklin Street and Preble Street), the 6.8-acre parcel provides significant redevelopment opportunities integrated with the trail. The total land area of the corridor is estimated to be 13.2 acres.

Specific Task: Acquire the Union Branch railroad property from Hadlock Field to the AAA office building.

- Trust for Public Land (TPL) to be the lead negotiator with Guilford Transportation for the railroad property. This has been agreed to by the City and Maine Department of Transportation (MDOT).
- TPL and City have reached an understanding about turnkey transaction in which TPL acquires property from Guilford; City purchases from TPL.
- City to monitor with TPL progress of negotiations. Provide comments and feedback as necessary.
- A real estate appraisal and land survey will need to be completed.
- Tewhey Associates to conduct environmental assessment of railroad property not previously tested.
- Finalize property acquisition, terms, and conditions.
- City Council approves acquisition.

Financial Resources

Acquisition costs will likely come from a variety of city, state, and private sources. An appraisal and negotiated price has not been established. A shortfall between the resources outlined below and the actual acquisition costs would require additional funds beyond those identified. Likely public sources of funding include CIP and transportation grants. City assessment records indicate a value of \$683,730.

City Funding

Acquisition

Capital improvement program (year 2001) \$365,000

Improvements

Transit oriented development grant	<u>\$250,000</u>
Total	\$615,000

State Funding

MDOT will purchase rail corridor from Forest Avenue to Hadlock Field.

Private Funding

The City should reserve portions of railroad yard (Franklin Street to Preble Street) for trail and other purposes. The remainder of the 6.8-acre railroad parcel could be sold to help finance the balance of railroad land acquisition costs.

Timeframe

TPL has initiated negotiations. Based on the Eastern Prom Trail experience, negotiations may take one to two years.

Responsibilities

Trust for Public Land (TPL)

TPL has been assigned as the lead negotiator with the railroad

City Departments

- Planning Department to lead with Transportation, Corporation Counsel, and Economic Development participating.
- Monitor and confer with TPL and MDOT on status and progress on negotiations. Departments provide input as necessary.
- Explore other funding sources for acquisition and improvement of trail.

Stakeholders

City Departments:

Planning
Transportation
Corporation Counsel
Parks and Recreation
Public Works
Economic Development Center

Maine Department of Transportation

Abutting property owners

Bayside Neighborhood Association

Portland Trails

Alliance for Transportation

Maine Narrow Gauge Railroad

Bicycle Coalition of Maine

Transportation Plan Implementation Committee

Maine Track Club

Issues

1. Acquisition of the rail property is the highest of priorities. The Bayside Plan is dependent upon the City purchasing this property. With a limited amount of publicly owned land in the Bayside area and its strategic location, this acquisition will likely leverage a high level of private property improvements and investment. Acquisition would also give the city the option of trading off "surplus" railroad land for other key properties that are privately owned in the Bayside area.
2. The first priority for trail construction should be between Franklin Street and Preble Street. This is the heart of the brownfields area and would serve as a highly visible "center piece" for Bayside revitalization.
3. MDOT has a right of first refusal to purchase railroad property. The city needs to have a contingency plan, should the railroad get sidetracked during negotiations and decides to split up the land by selling to individuals. As a precaution, the City should consider establishment of a reserve fund to address this eventuality, so that the corridor can be purchased in one piece. The 6.8-acre railyard is probably the most vulnerable parcel, given its central location.



CRITICAL ACTION 2:

REDEVELOP THE SCRAPYARD PARCELS

BACKGROUND

The single most inhibiting factor to the successful redevelopment of Bayside is the continued presence of the active scrapyards.

This heavy industrial use occupies parcels that could support more productive economic development; the current use is an incompatible neighbor to potential higher value neighboring uses, and the environmental impacts of scrap metal recycling is a concern. The City will need to effect the removal of the scrapyards to enable the quality and quantity of development envisioned in the plan.

Existing Conditions

There are three scrap metal yards in Bayside, owned by two different owners. The sites and ownership are described below.

Finkleman Site: This property is owned by Prolerized New England, a national metal recycling company. It is adjacent to the railroad property on Somerset Street. The .85 acre parcel is apparently too small for their operations and they are presently looking for a much larger site to relocate their operations. We are not aware of any specific timeframe for this to be completed. They ship their metal through the Merrill Terminal Pier. The City assesses this property at a value of \$164,610.

E. Perry Iron and Metal Co.: This company controls two scrapyard sites. The larger of the sites (1.65 acres) includes nearly an entire block bounded by Pearl Street, Kennebec Street and Lancaster Street. The remainder of the block is owned by the October Corp. The second yard is next to the Finkleman site on Somerset Street. City assessment records show a property value of \$468,900 and \$180,000 respectively for the two lots.

Tewhey Associates, the environmental consultant for the Bayside Plan has completed a number of soil borings in the brownfields area but access was not gained on the scrap metal sites.

Facilitate the Redevelopment of the Scrapyards.

- The City should enter into a more active dialogue with the scrapyard owners.
- The City should designate a specific person or scrapyard redevelopment committee to work with the scrapyard owners to achieve the above goal. A periodic update should be given to the City Manager to ensure that this project stays on track and is completed within a reasonable timeframe.

The committee would:

- identify potential sites for relocation.
- identify barriers to relocation.
- identify incentives to relocate.
- develop strategies to facilitate their relocation and redevelopment.



Financial Resources

- **Public financial resources.** The need for public financial resources will depend on whether the scrapyards decide to independently relocate or whether a private developer is interested in purchasing the properties. We will not know if public resources will be required until the city enters a more active dialogue with the property owners.
- **Brownfields clean-up revolving loan fund.** The city has received a \$500,000 revolving loan fund from the EPA to help finance the clean-up of contaminated sites. Liability insurance also is available through the program. This program could make these properties more marketable and attractive to developers.
- **City property.** Currently the city has a limited amount of land in Bayside. If the city is successful in acquiring the railroad property, portions of the surplus land could be used as an asset to trade or acquire scrapyard property.
- **Brownfields funding** to conduct soil tests and prepare remediation plans for these properties, if access is given.

Timeframe

The City will initiate a dialogue with the property owners in the spring of 2000.

Responsibilities

- **Economic Development Center** to lead, working with Planning Department and Corporation Counsel.
- **Tewhey Associates** to provide ongoing environmental consulting.

Stakeholders

- City Departments in Economic Development, Planning, and Corporation Counsel.
- Scrapyard property owners
- Bayside property owners
- Tewhey Associates
- Maine Department of Environmental Protection

Issues

1. Relocating the scrapyards is the highest of priorities. The scrapyards are the single most inhibiting factor for Bayside revitalization.
2. The City will need to be creative in facilitating the scrapyard relocation. The first step is to initiate an active and extended dialogue with the property owners so we can better understand how their relocation can be accomplished.
3. The proposed City Health and Human Services building, growing social service provider facilities, and the need for parking garage(s), provides a ready-made opportunity to redevelop these sites.
4. The relocation and redevelopment of the scrapyards will likely require a wide range of resource options that can be called upon to address "stumbling blocks". For example, if liability issues prove to be an obstacle in redevelopment, the City may want to explore the use of a non-profit as a pass-through to shield future owners from such liability.



CRITICAL ACTION 3:

BUILD MORE HOUSING

OPPORTUNITY

An urban district must have a mix of residences and a critical mass of dwellings to be truly vital. The Bayside Plan will fill in, extend and enhance the existing residential fabric with a substantial amount of new housing units.

A diversity of dwelling types will enable citizens from a wide range of economic levels, age groups and life circumstances to live in Bayside. Careful attention to design, scale, density and variety will strive to create a health and compatible neighborhood similar to other successful urban neighborhoods on the Portland peninsula.



Goal

To create a healthy mixed income neighborhood with new rental and owner occupied dwellings in a variety of sizes and types, replacing housing units lost over past 40 years, attract residents to live, work and play in Bayside and Downtown, and reconnect Bayside's residential fabric from Parkside to East End.

Housing in Bayside can become a model for countering sprawl, and provide an attractive alternative for people who could choose to live elsewhere. Early developments in Bayside, like other redeveloping central city areas across the country, will attract downtown employees, students and young professionals who want the convenience and excitement urban living offers. Over time others will be attracted to the neighborhood as well.



Unit Goals

800 New Units - Mix of Incomes, Housing Types,
Owner Occupied and Rental
300 New units in five years
500 Additional new units in twenty-five years

Implementation Tasks

Coordination of Housing Goals:

- Identify potential housing sites, available land, data gathering
- Solicit developers; for-profit and non-profit
- Work and negotiate with current owners and potential buyers to stimulate housing development
- Work with designers and architects to ensure well designed, neighborhood compatible development

Work with Housing Committee and City Council to:

- Develop ongoing housing strategy for Bayside
- Secure new resources for housing
- Develop demonstration project on City owned land
- Annually review progress toward goals
- Annual monitoring of developments - serving target populations

Financial Resources

City will need to be financially involved in most, if not all of the rental housing built early on and some of the owner-occupied housing - 200 of the 300 units. Over time City assistance needs will decrease as the area becomes more marketable.

City assistance will average \$15,000 - \$20,000 per unit (this assumes no structured parking costs)

Local Resources

City Funds

An annual allocation of City funds or City contributions of land for housing would allow the City to participate in a wider variety of housing developments serving a broader mix of income groups.

HCD Housing Development Fund

Current funds available for housing development city wide is \$600,000. HCD allocations and program income over the next few years may be less. Allocations specifically targeted to Bayside may be needed.

HOME Grant

Annual entitlement of approximately \$600,000 citywide

CDBG

Approximately \$2.2 million, possible annual allocation for housing

TIF

Available for redevelopment of blighted commercial property for mixed uses - e.g. Holt Hall

Federal Resources

McKinney Permanent Housing Funds

Competitive grant program to build new housing for homeless persons

State Resources

MSHA

Tax Exempt Bonds and Low Income Housing Tax Credits

Time Frame

Short Term

- RFP for new rental housing development in Bayside - 1999/00
- HCD budget - annual housing allocation for Bayside - HOME, CDBG
- City allocation

Long Term

- Assessment of progress toward goals
- Secure new resources



Responsibilities

- Housing and Neighborhood Services Office
- Bayside Implementation Team/taskforce
- Housing Committee/City Council

Partners and Stakeholders

MSHA (Bonds and Low Income Housing Tax Credits) - Primary source of funding

Maine Housing Investment Fund

Portland Housing Authority

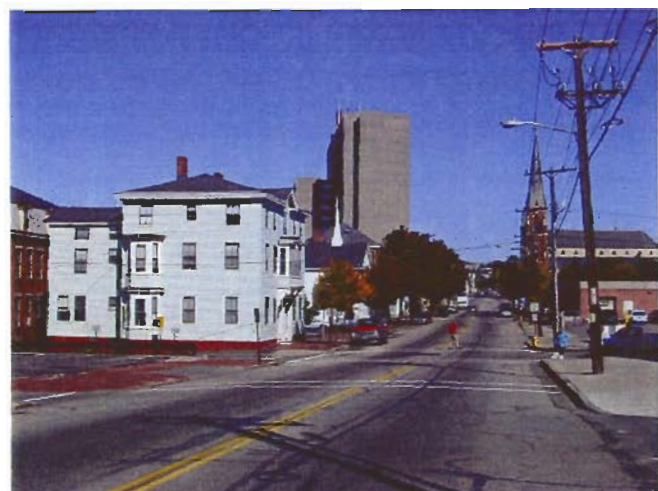
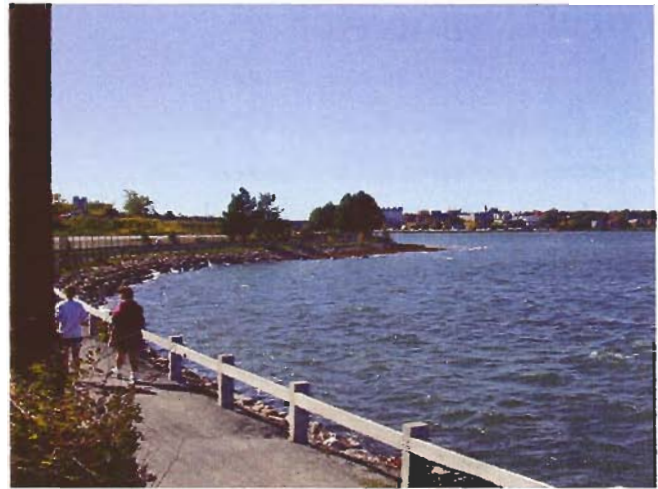
Banks

Private Investors/developers

Non-Profits - CEI and others

Property Owners

HUD



Issues and Policy Questions

Cost

New housing construction is very expensive, and because of the cost of land, even higher in Portland. A new rental unit may cost \$100,000. Even with subsidies such as the Low Income Housing Tax Credit a project typically will require local gap funding of \$10,000 - \$20,000 per unit. Locally controlled funding sources are extremely limited and there are competing demands - single and multi-family rehabilitation, home buyer assistance, etc.

Reaching the Bayside goals will require new local and outside funding sources and new partners, both for and non-profit, with access to investors and capital. Developing these resources will take time. Rather than waiting for the market to step up, the City will need to demonstrate its long term commitment to housing in Bayside through annual RFPs for development offering financing, land or both.

Reaching the Plan's housing goals will require more than our traditional federal housing resources because federal housing funds are restricted to assisting lower income households. The City may wish to assist housing development for a broader range of income groups. At the same time federal funds for housing in Bayside will compete with other housing needs in the city, as well as physical improvements in the East and West End and Bayside.

Policy Options

- A) Dedicate percentage of HCD funds to Bayside Housing.
- B) Allocate City CIP or General Revenue funds to Bayside Housing.
- C) Apply, and/or support applications by other entities, for McKinney Permanent Housing for the Homeless funds for developments in Bayside.

Demonstrating Successful Housing Development

At the present time Bayside is not viewed as a desirable location for new housing. This will change over time as the Plan is implemented and as the City actively participates in the first new housing developments. We will need to be strategic in siting and developing these “beachheads” because they will be critical to how the area is viewed for future private investment. **The City’s role initially will be to set the standard for new housing in terms of feasibility, design, density and management; particularly for rental housing.**

One of the largest barriers to both small 1-6 unit infill development and larger multi-family rental or condominium projects is the availability of land. Developers interested in housing in Bayside have commented on this obstacle noting that it is too risky for them to try and purchase land because city assistance to develop is not certain. Municipalities often use local and federal resources to assemble parcels which are then offered to private (for and non-profit) developers at a below market price, for the type of development desired. By assembling the parcels and making them available for particular types of development, the City can exercise more control over the location, design and compatibility of particular uses.

In order for commercial, office and housing development to occur along the timeline envisioned for the Bayside Plan, the City will need to use a variety of incentives and demonstrate through land acquisition its commitment to the Plan. The City’s role might include site acquisition, demolition, clearance and remediation of environmental hazards prior to putting land out to bid.

Policy Options

- A) City acquire sites for housing development and offer to qualified developers.
- B) City only offer financial assistance for private developers working in Bayside.
- C) Offer the City owned parking lot on Oxford Street for a housing demonstration project, including new construction in combination with a neighborhood playground.



Replacement of Existing Housing

Redevelopment of the Bayside neighborhood may entail some demolition of existing housing. A replacement housing policy mandating that housing be preserved or replaced would demonstrate our commitment to the Plan's stated goal of a vital urban neighborhood.

Policy Options

Adopt a neighborhood conservation policy mandating:

- A) one for one replacement of housing units converted or demolished, or
- B) a contribution to a housing replacement fund,

Capacity of Development Community

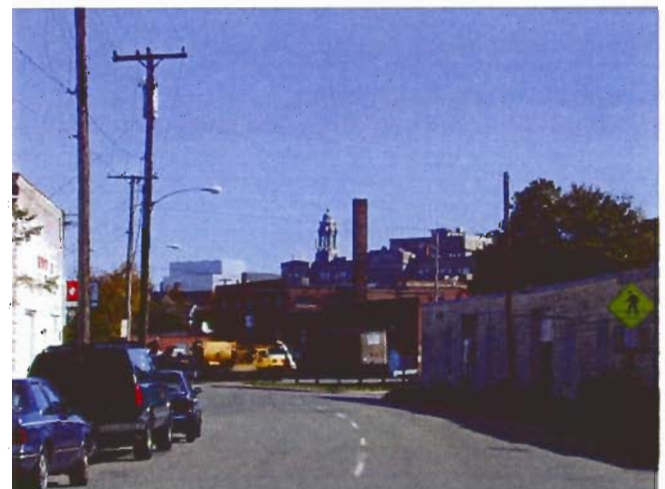
Housing development in Bayside will require a variety of housing developers; both for- and non-profit. Nationally many cities have chosen to provide capacity building and operating support funds to non-profit community development corporations who then develop housing in City targeted neighborhoods. Portland has not traditionally taken this approach and has had mixed results working with non-profits. This could change in Bayside.

By providing operating and capacity building funds, the City can be more involved in a CDC's operations and governance.

Non-profits usually have as a part of their mission neighborhood involvement and support for overall neighborhood redevelopment and specific CDC sponsored developments. They also make a long term commitment to the neighborhoods they work in. New housing in Bayside needs to blend in smoothly with existing housing and residents in the neighborhood. Interested new non-profits or existing organizations with a proven track record should be considered desirable partners in implementing the Bayside Plan.

Policy Options

- A) City forms sponsor creation of 501(c)(3) organization to develop housing in Bayside,
- B) Provide operating support to existing or new non-profit housing developers working in Bayside,
- C) Continue status quo; existing non-profits and for-profits work independently.



Parking

Housing development in Bayside will require parking - perhaps 1 to 1.5 spaces per unit. Providing structured parking for housing developments can increase the cost of a unit \$10,000 to \$15,000. At the same time, urban dwellers with access to public transportation and within walking distance of shops may have less cars than residents of more suburban areas. The need for parking could also be decreased if Metro expanded transit service to more of Bayside perhaps with convenient, and frequent, shuttles to downtown. Housing developers could have decreased parking requirements and be required to provide transit amenities or subsidies. Structured parking will still be needed. Sharing the cost of parking development with other private development is one way to recognize that we want to realize both housing and economic development goals in Bayside.

Policy Options

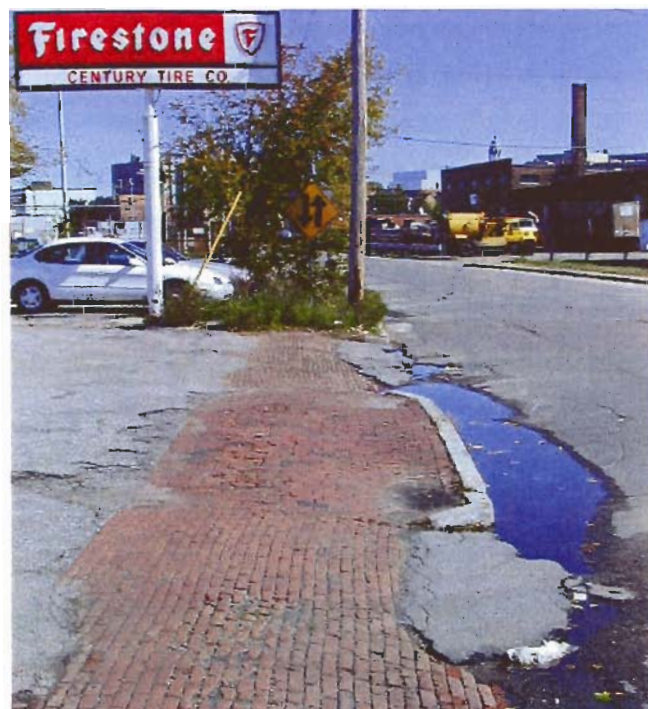
- A) Leave present parking requirement for new construction in place.
- B) Modify parking requirement for new construction in-town
- C) Work with Metro to improve frequency of transit service in Bayside.

Design Standards

In order to redevelop Bayside as a desirable vibrant neighborhood design standards for residential as well as commercial and social service development will be needed. The City should have clear design guidelines and standards in place as soon as possible after adoption of the Plan. Ambiguity with regard to design may cause potential developers to adopt a "wait and see" attitude, or result in a sense of arbitrary application of design standards during site plan review.

Policy Options

- A) Modify B-5 Design Standards (see land use issues discussion).
- B) Negotiations with housing developers for City Assistance include Design Review.



Incentives

Current property owners feel housing is not necessarily the highest and best use for property in Bayside, certainly it is not at the present time. Owners may prefer to wait and see what the impact of other activities such as relocation of social services and the purchase of rail corridor, before redeveloping their property as housing. Delaying new construction of housing may hurt the overall implementation of the Plan as Bayside continues to be seen as an undesirable place to live. The City should consider offering City-owned land for housing early - as an incentive to developers and expect that the first housing built may be “worker housing” not market rate, but that **careful attention to design, compatibility and ongoing management will demonstrate that more housing can be successful and encourage owners to develop.**

The City should also consider entering into development agreements with property owners establishing what will be done in exchange for what will be developed by the owner. For example, an owner could agree to develop a parcel as rental housing at a certain density or of a certain scale within a certain amount of time after the City relocates the scrap yards and begins remediation, or after the City puts in a new street and sidewalk, or develops a portion of the rail corridor as a pedestrian/bike path.

Policy Options

- A) City offers City-owned land for housing development.
- B) City acquires land for development and writes down cost.
- C) City works with selected land owners to see if specific public improvements can be linked to new housing construction.

Financial Fact Summary

Short Term - 300 units

Total Development Cost:

300 units x \$100,000 per unit = \$30 million

City Assisted Units:

150 units x \$20,000 per unit = \$3 million
(local, CDBG, HOME, HDF)

Other State, Federal and Private Funds:

\$26 million

Long Term - 500 units

Total Development Cost:

500 units x \$100,000 per unit = \$50 million

City Assisted Units:

250 units x \$20,000 per unit = \$5 million
(local, CDBG, HOME, HDF)

Other State, Federal and Private Funds:

\$45 million

CRITICAL ACTION 4:

CREATE A TRANSIT-ORIENTED DISTRICT

BACKGROUND

Integrate new development with parking garages and transit services - The objective for dense urban development of mixed uses in Bayside cannot be achieved with reliance primarily on surface parking lots for automobile storage. Surface parking will consume a vast amount of scarce real estate unless strategically located parking structures are provided.

Phasing and placement of garages should be designed for maximum shared use by residents, workers and shoppers, and should connect directly to adjacent arterial streets, I-295 and transit services. Appropriately placed parking garages can serve both the parking needs of new development in Bayside, and serve as hubs for transit servicing Bayside and Downtown Portland, and linking directly to all transit modes, including the Jetport, Ferry Terminal, intercity bus, and soon, rail service.

OPPORTUNITY

The redevelopment of Bayside, whether it be a new Social Services / Public Health complex, housing, office or retail will stimulate the need for additional off-street parking in the Bayside neighborhood. A new parking garage should be built to coincide with new developments in the neighborhood, due to the fact that parking for the existing business entities in the area is already at capacity. Additional parking structures should continue to be built as development in Bayside continues. While new parking structures will likely need to be created, mixed use and intensive land development as well as quick and convenient transit service will combine to make Bayside a neighborhood that has genuine choice. The Transit-Oriented District concept is a key element to achieving this.

GOALS

To provide safe, efficient and conveniently located parking to serve the multiple uses in the Bayside area, such as offices, retail, residents and employees. To provide pedestrians, bicyclists, bus and auto riders a balanced transportation network in Bayside that is linked to other neighborhoods and transportation service centers.

Implementation Tasks

1. **A full parking study**, in addition to a traffic study should be performed for any large projects. The parking study will substantiate the amount and location of new parking needed. This study will help the City plan and coordinate adequate parking facilities for new development in the Bayside area. This should include the needs of social services, private offices, retail and housing.
2. **Coordinate the planning, location and sequencing of parking facilities**, reflecting the pace of development. Garages should be designed for shared uses, and ease of ingress and egress.
3. **Develop a Parking Management Plan** that provides for shared facilities to address the various parking needs of the area, such as residents, shoppers and retail / office staff, etc.
4. **Coordinate planning and improvement of transportation-related facilities and services to achieve transit-oriented development.** Determine feasibility....
5. **Identify a site for the first garage and the resources and process need to move towards construction.** The railroad property presents one location opportunity. The City can also terminate the Marginal Way lease with USM in 2002, which would require a payment to USM of \$166,666; other locations will arise as development occurs.

Moving Into the Future

With its high visibility, easy access from the highway, and large areas of underutilized land, Bayside is a well-positioned hub which can support the City's transit goals, by evolving into a Transit Oriented District (TOD) or Transit Village.

'TOD' is an approach to arranging land use and development for the following benefits:

- reduced traffic
- increased pedestrian access
- improved air quality
- reduced sprawl
- preserved open space
- increased street retail and entertainment
- improved economy
- work force competition
- growth of alternative family households
- income diversity (more people without cars)

In Portland people could use trains, cars, bus, bicycle, and ferry. All of these modes of transportation can be linked with a loop bus which



continuously runs to the regional train, island ferry, international ferry, and PULSE inter-city bus service centers. The commitment to Bayside as an integral part of the downtown, and to the Social Services community as an important service center for a less mobile population would be well supported by the ongoing development of well-planned transportation facilities.

Financial Resources

1. City CIP - estimated parking garage construction cost of approximately \$10,000 per space.
2. City has received a \$275,000 Transit-Oriented District grant for infrastructure improvements including upgrading Marginal Way into an attractive boulevard with increased on-street parking, sidewalks, landscaping, and other pedestrian amenities.
3. Private development/public-private co-development.
4. City could donate or, more appropriately, lease land to encourage private development of a garage. Explore availability of federal funds for a shuttle service and/or garage construction.
5. Secure state and federal funding for passenger rail facilities.

Timeframe

The strategy should be to phase in the construction of parking garages to reflect the pace of Development Department. Using TIFs in Bayside will accelerate new development of the area.

Are Mainers willing to give up their cars and utilize shuttle services?

Surveys indicate only 2% - 3% of the general population will utilize mass transit. Shuttles in Portland to date have not been widely accepted. However, creating a Transit-Oriented District in Bayside could facilitate the use of shuttle and transit services by creating a transportation center. As more commercial and residential development fills in downtown and Bayside (such as the new DHS building), this increases the number of potential riders.

Would a garage require a City subsidy?

Probably. While both the Elm Street and Spring Street garages are self-sufficient and generate a positive cash flow, they would not if debt service was factored in. The Spring Street Garage has been used as an economic development tool by development and parking demand in Bayside.

Land acquisition and approvals will take time, in addition to design and construction of a new facility. The design and construction of a parking garage takes approximately two years.

Responsibilities

City Department Coordination with Parking, Economic Development, Planning, Transportation & Waterfront, Public Works and Finance.

Metro - for transit service.

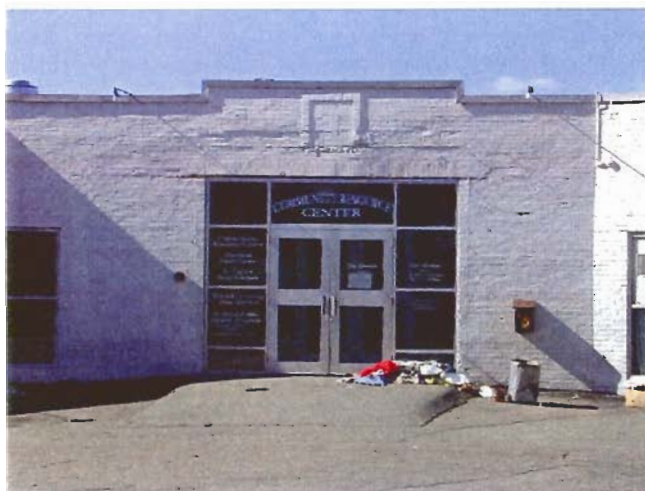
Developers - for bus stops, pedestrian connections to parking and transit facilities, partnership in construction of structures.

Partners and Stakeholders

1. City
2. Residents
3. Developers
4. Employees of commercial businesses
5. Landowners in Bayside
6. Maine Department of Transportation
7. Amtrak and Northern New England
Passenger Rail Authority
8. METRO







CRITICAL ACTION 5:

SECURE THE FUTURE OF PORTLAND'S SOCIAL SERVICE NETWORK

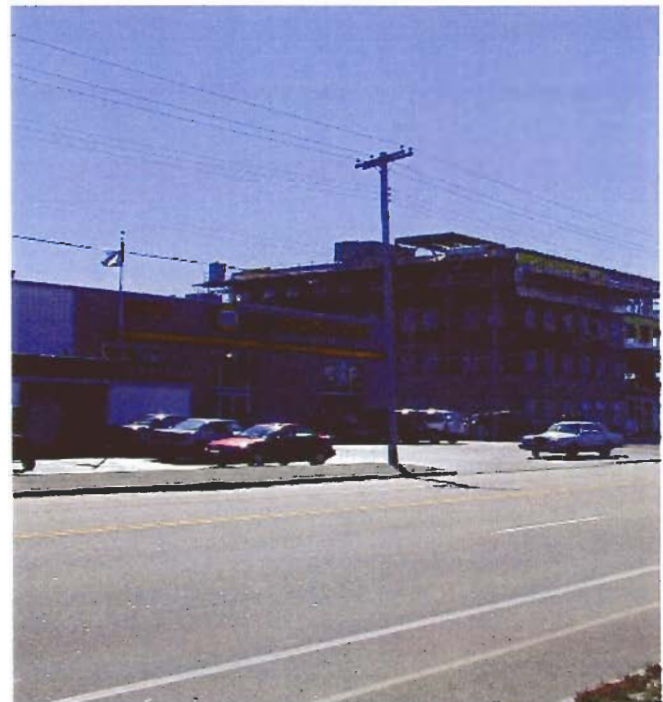
BACKGROUND

Historically, Bayside has been the location of social and public health providers in Portland. Bayside will continue to be the heart of Portland's social service and public health safety network. This comprehensive network is an important community asset. The City and providers will work together in defining and securing space that is sufficient in size, design and location to serve their clients and the larger community. The City and providers will work together in identifying and securing funding sources. The emergency shelters and critical Tier One services will receive priority attention.

Implementation

1. Form a Bayside subcommittee of the Council's Health and Human Services Committee which will identify and bring social services and public health stakeholders together.

2. Develop a space and siting model that addresses the needs of the Tier One providers. This is to include program identification; square footage needs; accessibility (walking distance of residential neighborhoods and public transportation); location (proximity to residential neighborhoods and the new DHS building); and conceptual/architectural design to ensure a well designed, neighborhood compatible development, i.e., campus style.
3. Identify available financial resources. It is anticipated that funding will likely come from a variety of city, state, federal and private sources. Specific funding sources may include HCD funds, CDBG funds, and CIP funds.
4. Work with the Health and Human Services Department and City Council in developing ongoing strategy for social services and public health community network, and to secure new resources to that end.



Time Frame

Short Term:

Confirm, design and identify funding for Tier One providers - years 2000 - 2001

Long Term:

Years 2001 through 2004, confirm funding, build and confirm viable location all tier one provider

Providers

The Tier System used in the report from the Social Services Subcommittee breaks down the non-profit service providers into three categories, from those that most need to be located in Bayside to those that can function anywhere in the larger Portland community. The purpose of this system is to help plan and secure the size and location of Social Services space needed in Bayside district.

Tier 1

CCM Act/Access
 Ingraham
 Me Independent. Living Services
 DMHMRSAS & Clinical Services
 Portland Social Services
 Portland Public Health
 PSRC/CRC/TC (Preble Street)

Oxford Street Shelter/Family Shelter
 Salvation Army, et al
 Maine Pre Trial Service
 Probation and Parole
 Veteran Services
 Portland Homeless Health
 Maine, Administrative Office of the Court
 Maine, Division of Lease Space

Tier 2

TRC/Job Service
 Maine Unemployment
 Maine Workers Comp.

Committees

Homeless Advocacy Group
 Emergency Shelter Assessment Committee

Stakeholders

City Departments in Health and Human Services, Planning, Transportation, Corporation Counsel, Facilities, Public Works

State Departments in Human Services, Mental Health and Substance Abuse, Labor



BAYSIDE IMPLEMENTATION PLAN

task	description	<u>IMMEDIATE TIME FRAME</u>	<u>SHORT TERM</u>
		one year	up to five years
1	Planning & Economic Strategies	Bayside Economic Development Strategy Streamlined Development Review Process Develop Master Plan for Bayside District Create Design Guidelines for Development Review and update Zoning Ord. to support goals	
2	Land Acquisition	Acquire railroad properties Relocate scrapyards	Redevelop scrapyards Exercise Year 2001 buy-out option for Marginal/Preble parking lot
3	Infrastructure, Open Space & Recreation Amenities	Develop neighborhood playground Design & Engineering for Improvements: Marginal Way Chestnut Street Oxford Street Relocate city parking (90-100 cars)	Develop Bayside Trail Create Chestnut St. Quadrangle Improve engineered streets and sidewalks:
4	Public Sector Development		Program and Develop Public Health Building with Social Services component Develop Parking Structure
5	Public-Private Sector Development	RFP for Housing in Bayside area Relocate City sand/salt parcel Encourage redevelopment of brownfields through current EPA funding	Housing Development - 300 units Redevelop City sand/salt parcel Ongoing remediation and redevelopment of Bayside Redevelop Railroad Properties Redevelop city salvage yard
6	Private Sector Development		Encourage related private investment and redevelopment

MEDIUM RANGE

up to ten years

LONG-RANGE

ten years +++

Design & Engineering for Elm Street Somerset Street Kennebec Street Franklin Arterial	
Relocate or Rehab. adult shelters	Develop Parking Structure
Housing Development - add'l 250 units Redevelop scrapyards	Housing Development - add'l 250 units
Continued redevelopment of Bayside	Continued redevelopment of Bayside



ECONOMIC DEVELOPMENT

BACKGROUND

Bayside's location between downtown and I-295 presents a significant economic and market opportunity to be planned and managed to create the best value for development and quality of life improvements for the community, generate a broad range of employment opportunities and improve the tax base. Bayside presents prime real estate development prospects to expand the central business district with new office and commercial space, along with small-scale affordable spaces for start-up and small businesses.



Goal

The goal for economic development in Bayside is to create a vibrant, dense, mixed use district, that will dramatically improve the quality of life for the Bayside residents, attract significant private investment, create employment opportunities, and offer to the high-tech, retail, office and light manufacturing industries, at a reasonable cost, an alternative to the sprawl currently taking place in our surrounding suburban communities.

Implementation

Bayside represents an opportunity for the City to spur the redevelopment of a visible, potentially attractive section of its urban core. The ability of the Economic Development Center (EDC) of the City of Portland to promote Bayside as an attractive location for business depends on the City's ability to be creative in addressing various issues. The two operating metal recycling facilities need to be relocated, preferably within the City. Without this, Bayside will simply not attract the businesses that will provide the economic base for Portland in the future.

Policy Question 1: If incentives do not entice private developers into redeveloping the metal recycling lots, would the City consider purchasing and cleaning those sites for resale

and/or redevelopment?

Business requirements for parking are increasing. Surface lots waste valuable space that could accommodate more dense development.

Policy Question 2: Is the City prepared to offer incentives to private developers to provide multi-level parking structures, and/or undertake a venture independently?

Infrastructure in Bayside will need to be improved to accommodate the needs of the developing businesses. Such improvements could be tied to development if possible, but would likely be necessary before much development occurs.

Policy Question 3: Will the City commit the funds necessary, through the CIP or other methods, to completely improve the infrastructure in Bayside?

Financing opportunities must be clearly outlined and offered in order to spur private development. To the greatest extent possible and prudent, incentives such as TIF's that are under the control of the City, should be approved in a detailed model form (i.e. Jobs created or retained, mitigating environmental circumstances, etc.), so that developers understand at the beginning of a process what the requirements are to obtain such assistance. This will require a significant amount of dialogue to create such models, but the result is the certainty of the process, which is a *significant* determining factor for developers when choosing where to invest their time and money.

Policy Question 4: Is the City willing to offer incentives to leverage private investment in Bayside; and will the City interject a measure of certainty and timeliness to the process by defining models for acceptable incentive use?

A Strategic Economic Development Plan should be conducted to determine the Strengths, Weaknesses, Opportunities and Threats (SWOT's) facing Bayside, and to determine the best course of action to implement the economic redevelopment of Bayside.

Policy Question 5: Will the City authorize the funds necessary to conduct and implement the Strategic Economic Development Plan for Bayside?

Financial Resources

A listing of resources is included in the report entitled "Financing and Incentives for the Portland Brownfield's Project" conducted by Enterprise Resources Corporation. The most significant opportunities from that report are listed below,



along with several other resources.

Private Sector

Private investment must comprise the bulk of the financing necessary to carry out the Bayside Plan. All City, State and Federal programs serve as incentives to leverage that private investment. In the absence of such incentives, it is clear that private investors will seek easier and cheaper alternatives, such as those offered in our surrounding suburban communities.

Portland Brownfield's Cleanup Revolving Loan Fund (BCRLF)

- \$500,000 Grant to Capitalize Loan Pool.
- Low Interest loans, administered by the DPC, are available to developers for the clean up of eligible sites. In certain instances, the fund may be

loaned to the City for eligible clean up costs.

Downtown Portland Corporation (DPC)

- Five (including the BCRLF) loans and one grant program for projects achieving specific goals.

Coastal Enterprises, Inc. (CEI)

- Several loan, start-up and small business assistance programs available to assist economic development.
- Licensed lender for the SBA-504 loan program (Loans up to \$750,000).
- Venture Capital financing availability.

Finance Authority of Maine (FAME)

- Provides loans, guaranty programs and bond financing opportunities.

City of Portland – Tax Increment Financing (TIF)

- Future tax incentives for projects creating at least \$2 million in new, taxable revenue.
- Five-year period (per TIF district) to capture new value.
- Must be used for economic development, but may include multi-unit housing development (e.g. Holt



Hall).

City of Portland – Capital Improvements Program (CIP)

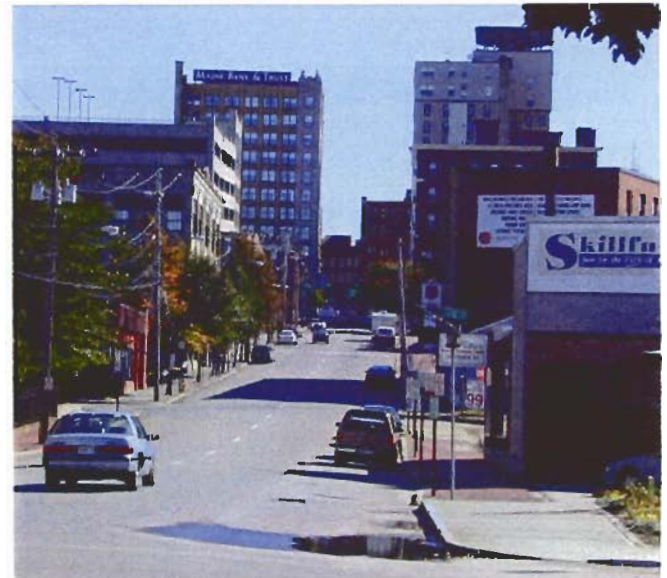
- Annual appropriations for infrastructure development.

Community Development Block Grant (CDBG)

- Portland receives approximately \$2.5 million annually from this program. Significant appropriations finance housing programs, infrastructure improvements and social services. Economic development to create jobs for low and moderate-income persons is an allowable and promoted function of the CDBG program, although it is not currently utilized for this purpose.
- Section 108 Loan program allows Portland to borrow up to five (5) times its annual CDBG appropriation for eligible projects by using the City's future CDBG

allocations as a guarantee.

- A HUD designation of Bayside as a Neighborhood Revitalization Strategy Area would allow CDBG funds to be used more flexibly in the area because there is a presumed low and moderate-income benefit. For example, CDBG funds can be utilized for economic development activities, but detailed job creation and retention records, usually provided



by employers, are not required.

Timeframe

The Strategic Economic Development Plan for Bayside should be completed in the year 2000.

The Metal Recycling Facilities should be relocated as part of a short term action plan.

If the city is the purchaser of the lots, then the clean up process should be started immediately following acquisition. If the City does not purchase the lots, then the EDC will need to actively promote the BCRLF in order to entice private remediation and redevelopment.

If the City agrees that incentives are to be used to attract private investment to Bayside, then the EDC would advance models for acceptable incentive use for developments. The models and the corresponding non-binding Council approvals should be in place by the time of the completion of the Strategic Economic Development Plan in order to begin implementing the Plan.



Responsibilities

Strategic Plan Creation and Implementation:
Economic Development Center

Regulatory Process and Zoning Review:
Planning Department

Infrastructure Development:
Public Works Department

Loan Offerings and Servicing:
Downtown Portland Corporation

Legal Administration:
Corporation Counsel

Start-up and Small Business Assistance:
The Resource Hub

Incentive Program Approvals:
City Council

Partners and Stakeholders

Bayside Residents and Businesses
(Current and Future)

Economic Development Center

Planning Department

Housing and Neighborhood
Services Division

Downtown Portland Corporation

The Resource Hub

Coastal Enterprises, Inc.

Public Works Department

Utility Companies

Developers

Real Estate Community

Banks and Other Financing Institutions

REGULATORY ISSUES

BACKGROUND

This paper focuses on regulatory issues for Bayside. A central question in this discussion is how zoning regulations can help reinforce the redevelopment strategy of the Bayside Plan. Are the existing zoning districts appropriate? Are there incentives that can be incorporated in zoning that can encourage redevelopment while furthering the Bayside plan?

OPPORTUNITY

Bayside is perhaps the most diverse of all neighborhood/business districts in the city in terms of uses and buildings types. Bayside includes a large number of uses, ranging from office, commercial, residential to institutional uses. Buildings range in size from two-story single family residences to taller buildings such as Back Bay Towers.

In reviewing the land use patterns of Bayside, there appears to be three types of properties:

1. Pockets of traditional uses that are appropriate but may need strengthening or protection.
2. Vacant or greatly underutilized properties needing a change in use and/or redevelopment.
3. Properties having viable uses that over time could transition into other uses outlined in the Bayside Plan.

Although Bayside includes a wide mix of uses, there are apparent land use/development patterns and trends that should be recognized in zoning to further the revitalization of Bayside.

Presently Bayside has 4 zoning districts:

**B-5 Urban Commercial
Mixed Use Zone**

B-3 Downtown Business Zone

B-2 Community Business Zone

R-6 Residential Zone

B-5

Urban Commercial Mixed Use Zone District

Most of Bayside is in the B-5 zone. It is one of the most flexible commercial districts in the zoning ordinance in terms of allowable uses and dimensional requirements (i.e., 100% lot coverage, 65 ft. building hts., etc.) The B-5 Purpose section states “ . . . to provide zones in areas of the peninsula near the central business district where a mix of uses . . . is encouraged. The B-5 and B-5b zones are characterized by larger undeveloped lots with great potential for denser, clustered, urban mixed-use development and more efficient reuse of existing land and buildings.” This zone is a perfect fit for most of the Bayside district.

Policy Issues:

1. Should the site plan ordinance (Sec. 14-526(26)) be amended to require that all B-5 buildings be built to the street line? This issue has come up in the context of the Department of Human Services building on Marginal Way where the developer wanted an extended front yard building setback. The present ordinance language has a waiver provision to relax the setback provision but given the criteria appears to be an “automatic waiver.” It is suggested that this waiver provision be eliminated. A build to the streetline requirement reinforces the policy intent of an urban business district for Bayside.

2. How do we encourage residential development in locations shown in the Bayside Plan? Is the allowable residential density of 60 units per acre sufficient to encourage residential uses?

R-6

Residential Zone

There are two R-6 residential zones in Bayside. The first is behind City Hall, the second is west of Alder Street to Forest Avenue between Cumberland Avenue and Forest Avenue. Bayside has seen a decrease in housing units since 19__ caused primarily by redevelopment activities and parking lot development. Given these circumstances, the neighborhood has been remarkably resilient.

The present neighborhood is only one to two blocks wide with many vacant lots and is surrounded by non-residential uses from other zones. The neighborhood is physically very small, so large parking lots have a disproportionate impact. The challenge is to encourage infill residential development that weaves these vacant lots back into the neighborhood. Another long term goal of this area should be to strengthen the residential neighborhood so that in time it has a stronger physical connection to adjacent residential neighborhoods [Munjoy Hill and Parkside.]

A central question is how zoning can help strengthen the neighborhood. Other questions involve how to encourage more housing units and thus more people to move into Bayside. These efforts will involve a discussion of policy questions relating to the protection of residential uses as well as incentive measures. The policy questions posed below assume changes to the R-6 zone specifically for Bayside in order to address the neighborhood's unique circumstances. They would not apply citywide. These suggestions could result in creation

of a special R-6b zone for Bayside.

Policy Issues:

1. Should a policy be adopted in the R-6 zone discouraging demolition of existing residences for parking lot development unless replacement housing is provided?

This is a critical issue. Many houses have been lost by the construction of surface parking lots as parking pressures from surrounding areas have descended upon this neighborhood.

Without some protection, commercial and institutional uses in the B-5 and B-3 zones could remove the remaining residential properties for parking.

2. Should the R-6 zone in the Bayside area have a special provision that would liberalize the home occupation section as an incentive to live and reinvest in Bayside? The home occupation section of the zoning ordinance sets limits (such as floor area, number of employees) which is identical for all residential districts in the city. Given the mixed use character of Bayside and the need for all additional dwellings, it is suggested that a home occupation system be established that is unique to the Bayside R-6. This could encourage owner occupancy of buildings while providing the opportunity for a business that is not restricted by the standard home occupation zoning section.

It is not the intent to turn the Bayside R-6 zone into a business zone, rather to provide some flexibility and appropriate standards for home occupation related businesses that are of an appropriate scale for the neighborhood. This provision recognizes the variety and intensity of development surrounding the neighborhood and that mixed uses in this

environment can contribute to a healthy and vital neighborhood. Examples of potential home occupations include offices, artist studios and other uses.

3. Should the existing R-6 residential density for Bayside be increased to encourage more housing?

For new construction, the R-6 residential density is 1,000 sq. ft. of land area for the first two dwellings and 1,200 sq. ft. for each dwelling after the third. The previous standard was 1,000 sq. ft. for all dwellings. This standard was changed in 1991.

4. Should the parking standard be modified for the Bayside R-6? The current standard requires two parking spaces for each dwelling plus one additional space for every 6 units. In an urban neighborhood with a variety of housing types and income levels, this standard appears excessive. A number of residents will have either have no car or just one. A more appropriate level should be considered. The Bayside R-6 zone is relatively small in terms of land area. There is simply not enough land area in this zone to meet this standard. The construction of new parking structures is critical for the development of new housing. It will be extremely difficult to achieve the goals of the Bayside plan while creating new housing without providing parking spaces in parking structures.

5. Should various dimensional requirements be modified for the Bayside R-6? There are several dimensional requirements that should be reviewed to determine if they are appropriate for a Bayside R-6 zone. These include maximum lot coverage and building height.

B-2**Community Business Zone**

There are three B-2 zones in Bayside. One zone runs along Cumberland Avenue between Chestnut Street and Wilmot Street. The land uses in this area are primarily residential except for a church and a residential building that has a lawyers office on the first floor.

A second B-2 zone is located on Pearl Street. It is mid-block, and covers two lots. The third B-2 zone is located along Portland Street, between Preble Street and Forest Avenue. This zone includes housing, commercial uses as well as the city public works facility and the post office. The area is primarily commercial. Although there are residences mixed in throughout this area, there is not a concentration of housing that would justify a separate zone.

Policy Issues:

1. Should the B-2 zone along Cumberland Avenue between Chestnut Street and be eliminated and replaced by a less intensive zone such as the B-1b?

Given the concern to revitalize the residential character of the adjacent R-6 zone, the B-2 zone at this location appears to be too intensive. The purpose section of the B-2 references "shopping centers" which seems out of place for this area. The zone also allows drive-up windows including drive-through restaurants which is a poor fit for the neighborhood.

A B-1b would seem to be a more appropriate zone for this area since it allows limited commercial uses on the first floor while requiring residential in the upper floors.

The remaining B-2 zone in Bayside appears appropriate for the foreseeable future.

THE PUBLIC LANDSCAPE

Parks, Plazas, Trails & Open Spaces

BACKGROUND

Access to parks and open views are crucial to a successful and healthy urban life.

Opportunities for a break from the sometimes chaotic and bustling city life is of paramount importance—lunch with co-workers in a sunny and green square, sounds of children playing in a neighborhood playground, a nearby court for a quick pick-up game of basketball. Access to sparkling waters, grassy patches, and uninterrupted skies, with views of the city where we live, are all characteristics of public landscapes that help sustain healthy city life.

HISTORY

The availability of park space to those who live in Portland's peninsula area has always been scarce. To this day, the residential community is primarily located on the high lands along Cumberland and Oxford Streets. Until the 1940's, residents of the area had only Lincoln Park as the closest greensward for local recreation. Deering Oaks and the Eastern Promenade are accessible, however the 3-acre downtown Lincoln Park is closer to the Bayside community. For this reason, Lincoln Park has always been utilized as a neighborhood park—as seen in historic pictures of children playing in the formal fountain.

The Long Range Recreation Plan of 1943 was the first comprehensive citywide park plan. The plan employed demographic information to justify new and renovated park resources. Playgrounds and playfields were proposed specifically for the Bayside area. A substantial complex would have included space for both playgrounds and athletic needs. The site was along Fox Street, near today's soccer field. Other than the soccer field, however, the proposed plans were never realized.

Marginal Way and adjacent lands were historically industrial in use. In the same manner that residents of other cities have beaten paths to nearby open and green spaces that afford scenic views, the people living in Bayside took advantage of Back Cove's openness and its views. In the 1960's it became clear that Bayside was going to lose this informal access to the Cove with the construction of Interstate 295. Not only would the new highway consume several acres of Deering Oaks, it was also going to divide the community from its largest resource of simple open space.

During the late 1960's and early 70's, the press records some public concern, primarily due to lost Deering Oaks land. According to several articles, the land set aside on Preble Street Extension was to replace the razed Winslow Park. Additional park space was designated along the stretch between Marginal Way and I-295 amounting to 20 acres of recreational space. Would Bayside finally gets its long-awaited park?

Unfortunately for Bayside residents and greater Portland, the promise is not yet fulfilled. Instead, parking lots have gradually consumed much of the open space along Marginal Way. Bayside is still waiting for its parks. Recently, however, city property has been offered for park uses and funding through the Community Development Block Grant will make a small neighborhood playground a reality.

Goals

Goal One: Create neighborhood parks and playground facilities close at hand to Bayside residents

For Bayside to become a fully functioning urban district and neighborhood, public landscapes (including recreation and scenery) must be an active component in the development plan. This translates into parks and playgrounds that are situated where people live—on the same streets and blocks that contain houses and apartments and businesses. The goal for Bayside’s public landscapes is to satisfy the recreational needs and interests of the community—today’s citizens and tomorrow’s neighbors. All will come to live, work and play in Portland’s newest neighborhood.

Goal Two: Improve access to major open space and recreation facilities within walking distance of Bayside.

Bayside is surrounded by a wealth of parks and open spaces— Deering Oaks, Back Cove, and Lincoln Park. These major parks must be made easily accessible to Baysiders, through a system of trails and sidewalks that are safe, secure, universally accessible, and inviting. Links and connections that are convenient and attractive will improve the ability of Bayside residents to utilize the facilities that already exist.

Proposed Initiatives

The Rail Corridor Trail provides a good opportunity for people to move through the area via a green, non-vehicular trail. It also provides an organizational strategy for additional public landscapes within Bayside. This trail can be the organizational spine that unites a series of other recreational facilities: squares; playgrounds; neighborhood parks, gardens and fields.

Arborways (streets with wide esplanades that support healthy tree canopies) can connect more remote Bayside neighborhoods to the trail and other recreational facilities. They can also link the citywide park system—including the Back Cove and Eastern Promenade Trails, and Back Cove, Deering Oaks and Lincoln Parks.

Other opportunities are available in the larger thoroughfares, especially Marginal Way and Franklin Arterial. Marginal Way could be a re-designed, tree-lined boulevard that would provide tremendous asset to the area as an attractive setting for commercial venues and a magnet for walkers, joggers, and cyclists looking for a scenic loop route. Marginal Way would also create a recreational circuit in conjunction with Trail. In the same ways that Bayside Avenue can be an asset to the community, Franklin Arterial needs to be redesigned for greater neighborhood friendliness and attractiveness, with sidewalks and pedestrian amenities such as benches and lighting.

Implementation

The Rail Corridor property, along with other potential and current public lands, should be used to maximize park resources in Bayside. Unlike housing and commercial buildings, the public landscape is not often realized through the private sector.

The proposal to utilize city owned land to initiate housing in Bayside includes a new park and playground on a portion of the city land. This is an excellent demonstration project of how housing and recreational space can be effectively integrated. Amenities like parks and tree-lined streets, as well as new pavement, sidewalks and updated utilities, have been proven strategies to revitalizing neighborhoods. Bayside should follow suit.

Tasks at Hand

- Acquire the Rail Corridor and Scrap Yard properties
- Identify other parcels in the Bayside area that are necessary to fulfill the recreational needs of the neighborhoods.
- Identify those city-owned parcels that would be better utilized as public landscape than another forms of development
- Develop a strategy for the City to acquire land and/or provide incentives for land to be developed as public landscapes.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (A/L)
APRIL R. FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER CONDEMNING PROPERTY RIGHTS OF
FEDEQ DVOO4, LLC et al., PURSUANT TO 30-A M.R.S. §§ 5401 et seq. (INCLUDING §
5403(6)), 30-A M.R.S. § 3101, and 23 M.R.S.A. § 3023**

To the Within-Named Owner of Record:

- **FEDEQ DV004, LLC**

To the Within-Named Mortgagee of Record:

- **FEDEQ Sponsor Entity V, LLC**

To the Within-Named Tenant of Record:

- **Redwood Development Consulting, LLC**

DECLARATION OF PURPOSE

WHEREAS, the City desires to acquire fee simple ownership of a certain lot or parcel of land depicted as Lot 6 on a certain “Amended Subdivision Recording Plat for MiDTOWN Development, Plan Sheet 1 of 2 on Somerset Street, Portland, Maine made for FEDEQ DV001, LLC” dated April 10, 2013, as revised through, and approved by the City of Portland Planning Board, on May 10, 2016 by Owen Haskell, Inc. Falmouth, Maine, recorded at the Cumberland County Registry of Deeds, Plan Book 216, Page 217 (the “Plan”), which lot is more particularly described in Schedule A, attached hereto and incorporated herein by reference (“Lot 6”), said fee simple interest to be acquired so that a parking facility, including but not limited to a revenue-producing municipal parking facility as defined by 30-A M.R.S. § 5401(5)-(7), may be constructed upon Lot 6 to assist in the economic development of the surrounding areas, and in accordance with the public necessity and power of eminent domain specifically declared and granted by the Maine Legislature in 30-A M.R.S. §§ 5402(3), 5402(5), and 5403(6); and

WHEREAS, FEDEQ DV004, LLC is the owner of record of Lot 6; and

WHEREAS, FEDEQ Sponsor Entity V, LLC is the mortgagee of record of Lot 6; and

WHEREAS, Redwood Development Consulting, LLC is a tenant of record of Lot 6; and

WHEREAS, the City Council has decided to acquire the fee simple interest in and to Lot 6 and the interests, such as may exist, of FEDEQ Sponsor Entity V, LLC as mortgagee of

Lot 6 and of Redwood Development Consulting, LLC as tenant of Lot 6 through the exercise of the power of eminent domain; and

WHEREAS, pursuant to 23 M.R.S. § 3022 and 30-A M.R.S. § 3101 the City Council of the City of Portland, Maine, having given notices of its intention to condemn the property described above by posting two notices at least seven days in advance in two public places in the City of Portland, i.e., at the Maine District Court at 142 Federal Street in Portland and at the Clerk's Office at Portland City Hall at 389 Congress Street, and in the vicinity of Lot 6 as depicted on the Plan, the property, and by serving these notices by in-hand delivery to the owner, mortgagee and tenant of record and having met for this purpose in accordance with the notices and determined that public exigency requires the immediate taking of the property, do hereby take the real estate interests of FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC in and to Lot 6 in accordance with the following findings and order.

FINDINGS

The City Council hereby finds and determines that:

- (a) The City of Portland conveyed Lot 6 to FEDEQ DV004, LLC by Quitclaim Deed with Covenant dated June 16, 2016 and recorded on June 17, 2016 in the Cumberland County Registry of Deeds in Book 33201, Page 247.
- (b) The purposes behind the City's conveyance of Lot 6 to FEDEQ DV004, LLC were (i) to facilitate the construction of a public parking facility on the parcel in support of the development of housing and commercial projects that would contribute to the economic and social improvement of the area of the City surrounding that project, (ii) to alleviate significant parking concerns that have restricted the ability of the public to make use of the area surrounding Lot 6 and (iii) to encourage responsible growth and development in an area of the City that has long been impeded by the lack of public parking, resulting in blight and economic stagnation.
- (c) The City entered into agreements with FEDEQ DV004, LLC and/or its affiliates requiring them to secure the necessary permits and approvals for the construction of a public use garage or public parking facility on Lot 6 but they have failed to obtain them and, further, having not appealed to the Maine Superior Court from the denial of the permit applications, all appeals and further legal challenges are time-barred and barred by operation of *res judicata*.
- (d) FEDEQ DV004, LLC granted a certain Mortgage, Security Agreement, Lease Assignment and Financing Statement on Lot 6 to FEDEQ Sponsor Entity V, LLC dated June 16, 2016 and recorded on March 20, 2018 in the Cumberland County Registry of Deeds in Book 34721, Page 137 (the "Mortgage"). The interest of FEDEQ Sponsor Entity V, LLC in Lot 6 derives solely from the Mortgage.
- (e) FEDEQ DV004, LLC and Redwood Development Consulting, LLC entered into a certain ground lease dated June 16, 2016 under which Redwood Development

Consulting, LLC leased Lot 6 from FEDEQ DV004, LLC. FEDEQ DV004, LLC and Redwood Development Consulting, LLC executed a certain Memorandum of Lease dated June 16, 2016 relating to such ground lease (the “First Memorandum of Lease”). The First Memorandum of Lease was recorded on March 21, 2018 in the Cumberland County Registry of Deeds in Book 34723, Page 321.

(f) On April 9, 2018, FEDEQ DV004, LLC and Redwood Development Consulting, LLC executed a certain Amended and Restated Memorandum of Lease dated June 16, 2016 (the “Second Memorandum of Lease”) relating to the ground lease referred to in the First Memorandum of Lease. The Second Memorandum of Lease was recorded on April 17, 2018 in the Cumberland County Registry of Deeds in Book 34777, Page 55.

(g) The interest of Redwood Development Consulting, LLC in Lot 6 derives solely from the ground lease referred to in the First Memorandum of Lease and the Second Memorandum of Lease.

(h) The City advanced \$999,999.00 to FEDEQ DV004, LLC and/or its affiliates for the construction of the parking facility and related amenities and yet they have failed or refused to take necessary steps to ensure timely and appropriate construction of such public use parking garage or parking facility on the property.

(i) The public exigency requires the immediate taking of Lot 6 to ensure the timely construction of a public use garage or parking facility as defined by 30-A M.R.S. § 5401(5) on Lot 6. In making this finding that the public exigency requires this taking, the City Council explicitly finds that this taking is necessary to promote the public’s access and use of Lot 6 and the surrounding area, the property interest being taken is taken only to the extent necessary to promote that public access and use, and the property at issue is suitable for use as a public use garage or revenue-generating municipal parking facility as defined by 30-A M.R.S. § 5401(5). The public exigency declared herein is in furtherance of, and in accordance with, the same public necessity declared by the Maine Legislature in 30-A M.R.S. §§ 5402(5) & 5403(6).

(j) The construction of a public use garage or revenue-generating municipal parking facility as defined by 30-A M.R.S. § 5401(5) on Lot 6 is necessary and serves a public purpose.

(k) The City’s acquisition of FEDEQ DV004, LLC’s fee simple interest in Lot 6 is necessary before a public use garage or revenue-generating municipal parking facility as defined by 30-A M.R.S. § 5401(5) can be built. The City also finds that the City’s acquisitions of (i) FEDEQ Sponsor Entity V, LLC’s interest in Lot 6 under the Mortgage and (ii) Redwood Development Consulting, LLC’s interest in Lot 6 as tenant under the ground lease referred to in the First Memorandum of Lease and the Second Memorandum of Lease are necessary before a public use garage or revenue-generating municipal parking facility as defined by 30-A M.R.S. § 5401(5) can be built on Lot 6.

(l) The amount of damages determined by the City Council to result to FEDEQ DV004, LLC for the taking of the fee simple interest in and to Lot 6 is the nominal sum

of Ten (\$10.00) Dollars as shown and determined by the Appraisal performed by Christina M. O'Connell, MAI, O'Connell Valuation Services dated January 25, 2021 (the "Appraisal").

(m) As noted in paragraphs (d) and (g) above, the interests in Lot 6 of FEDEQ Sponsor Entity V, LLC in Lot 6 under the Mortgage and of Redwood Development Consulting, LLC in Lot 6 as tenant under the ground lease referred to in the First Memorandum of Lease and the Second Memorandum of Lease derive solely from the fee interest of FEDEQ DV004, LLC in Lot 6 and, accordingly, those interests have no greater condemnation value than the fee interest itself.

(n) Based on the appraised value of the fee interest to Lot 6 determined in the Appraisal, the amount of damages determined by the City Council to result to FEDEQ Sponsor Entity V, LLC for the taking of its interest as mortgagee of Lot 6 under the Mortgage is the nominal sum of Ten (\$10.00) Dollars.

(o) Based on the appraised value of the fee interest to Lot 6 determined in the Appraisal, the amount of damages determined by the City Council to result to Redwood Development Consulting, LLC for the taking of its interest as tenant under the ground lease referred to in the First Memorandum of Lease and the Second Memorandum of Lease is the nominal sum of Ten (\$10.00) Dollars.

(p) The Appraisal demonstrates that Lot 6 has a negative fair market value in light of encumbrances against the property and restrictions regulating its development. The Ten (\$10.00) Dollars payments to each of FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC are therefore in excess of the condemnation value required to be paid according to law for the eminent domain taking of the noted interests in Lot 6.

(q) For the avoidance of doubt, the City hereby confirms that the said Ten (\$10.00) Dollars payments to FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC for the eminent domain taking of Lot 6 are not net of the advances made by the City to FEDEQ DV004, LLC and/or its affiliates exceeding \$999,999.00 as set forth above, but such Ten (\$10.00) Dollars payments are actually in excess of the fair market value of Lot 6 without considering such advances.

Accordingly, it is hereby

ORDERED, based upon the above declarations and findings, the City Council hereby orders that the fee simple interest of FEDEQ DV004, LLC in Lot 6 as depicted on the Plan and as further described in Schedule A is hereby taken by power of eminent domain as conferred upon the City by 30-A M.R.S. §§ 5401 et seq. (including § 5403(6)), and 30-A M.R.S. § 3101 and 23 M.R.S. § 3023;;

ORDERED, based upon the above declarations and findings, the City Council hereby orders that the mortgage interest of FEDEQ Sponsor Entity V, LLC in Lot 6 as depicted on the Plan and as further described in Schedule A is hereby taken by power of eminent domain as

conferred upon the City by 30-A M.R.S. §§ 5401 et seq. (including § 5403(6)), and 30-A M.R.S. § 3101 and 23 M.R.S. § 3023 ;;

ORDERED, based upon the above declarations and findings, the City Council hereby orders that the interest of Redwood Development Consulting, LLC as tenant of Lot 6 as depicted on the Plan and as further described in Schedule A is hereby taken by power of eminent domain as conferred upon the City by **30-A M.R.S. §§ 5401 et seq. (including § 5403(6)), and 30-A M.R.S. § 3101 and 23 M.R.S. § 3023;**

BE IT FURTHER ORDERED, the City Council hereby orders and directs that this Condemnation Order be filed with the City Clerk and that upon its effective date, a copy thereof be served upon FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC; and that checks in the amount of Ten (\$10.00) Dollars each made payable to FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC be delivered to them through counsel.

AND BE IT FURTHER ORDERED, the City Clerk is hereby directed to cause an attested copy of this Order and the attached Schedule A to be recorded in the Cumberland County Registry of Deeds forthwith.

Dated this 8th day of September, 2021

Mayor Kate Snyder

Pious Ali, City Councilor

April Fournier, City Councilor

Belinda Ray, City Councilor

Spencer Thibodeau, City Councilor

Tae Chong, City Councilor

Andrew Zarro, City Councilor

Mark Dion, City Councilor

Nick Mavodones, Jr., City Councilor

SCHEDULE A

Legal Description of Lot 6

(Fee Simple Interest Taken by Condemnation)

A certain lot or parcel of land depicted as Lot 6 on a certain "Amended Subdivision Recording Plat for MiDTOWN Development Plan Sheet 1 of 2 on Somerset Street, Portland, Maine made for FEDEQ DV001, LLC" dated April 10, 2013, as revised through, and approved by the City of Portland Planning Board, on May 10, 2016 by Owen Haskell, Inc. Falmouth, Maine, recorded at the Cumberland County Registry of Deeds, Plan Book 216, Page 217 (the "Amended Subdivision Recording Plat"), which lots are more particularly described as follows:

A certain lot or parcel of land located along the northerly sideline of Somerset Street in the City of Portland, Cumberland County, State of Maine, more particularly bounded and described as follows:

BEGINNING at the northerly sideline corner of Chestnut Street and Somerset Street as shown on a plan titled "Amended Subdivision Recording Plat for Midtown Development Plan Sheet 1 of 2 on Somerset Street, Portland, Maine made for FEDEQ DV001, LLC" dated April 10, 2013 as revised through May 10, 2016 by Owen Haskell, Inc. Falmouth, Maine, to be recorded at the Cumberland County Registry of Deeds;

THENCE N 40° 59' 38" W 126.00 feet along the northeasterly line of Chestnut Street to a point;

THENCE N 49° 00' 22" E 360.00 feet along land now or formerly of the City of Portland to a point;

THENCE S 40° 59' 38" E 126.00 feet along Lot 7 to a point along the northwesterly line of Somerset Street;

THENCE S 49° 00' 22" W 360.00 feet along Somerset Street to the POINT OF BEGINNING.

Said lot or parcel of land contains 45,360 square feet, more or less, and is Lot 6 as shown on said Amended Recording Plat.

Said Lot 6 herein described is subject to a Limited Open Space Use Easement Benefitting The City of Portland six (6.00') feet in width running along the northeasterly line of Chestnut Street as shown on said Amended Subdivision Recording Plat.

Said Lot 6 herein described is subject to a MEWS-30' Access Easement Benefitting the City of Portland thirty (30.00') feet in width along the northwesterly line of Somerset Street as shown on said Amended Subdivision Recording Plat, more particularly bounded and described as follows:

A certain lot or parcel of land located along the northwesterly line of Somerset Street in the City of Portland, Cumberland County, State of Maine, more particularly bounded and described as follows:

BEGINNING at a point along the northwesterly line of Somerset Street at the corner of Lot 6 and Lot 7.

THENCE S 49° 00' 22" W 30.00 feet along the northwest line of Somerset Street to a point;

THENCE N 40° 59' 38" W 126.00 feet through Lot 6 to a point along land now or formerly of the City of Portland as shown on said plan;

THENCE N 49° 00' 22" E 30.00 feet along said City of Portland land to a point at the northerly corner of said Lot 6 and located along the southwesterly boundary line of Lot 7;

THENCE S 40° 59' 38" E 126.00 feet along the southwesterly boundary line of Lot 7 to the POINT OF BEGINNING.

Said lot or parcel of land contains 3780 square feet, more or less, and is located entirely on said Lot 6.

Said Lot 6 herein described is subject to a Limited Open Space Use Easement Benefitting The City of Portland thirty (30.00') feet in width as shown on said Amended Subdivision Recording Plat, more particularly bounded and described as follows:

A certain lot or parcel of land located northwesterly of, but not adjacent to, Somerset Street in the City of Portland, Cumberland County, State of Maine, more particularly bounded and described as follows:

COMMENCING at the westerly sideline corner of Somerset Street and The Possible Extension of Pearl Street.

THENCE S 49° 00' 22" W 181.00 feet along the northwesterly line of Somerset Street as shown on said plan to a point;

THENCE N 40° 59' 38" W 81.01 feet through Lot 6 as shown on said plan to the POINT OF BEGINNING;

THENCE N 40° 59' 38" W 44.99 feet through Lot 6 to a point along the southeasterly boundary line now or formerly of the City of Portland as shown on said plan;

THENCE N 49° 00' 22" E 30.00 feet along said City of Portland land to a point at the northerly corner of Lot 6, said point being located along the southwesterly line of Lot 7 as shown on said plan;

THENCE N 40° 59' 38" W 4.00 feet along said City of Portland land and line of Lot 7 to a point;

THENCE N 49° 00' 22" E 78.00 feet along said City of Portland land and line of Lot 7 to a point;

THENCE S 40° 59' 38" E 48.99 feet through Lot 7 to a point;

THENCE S 49° 00' 22" W 108.00 feet through Lot 7 and Lot 6 to the POINT OF BEGINNING.

Said lot or parcel of land contains 5171 square feet, more or less, and is located partially on Lot 6 and partially on Lot 7 as shown on said plan.

Said Lot 6 herein described is benefitted by a certain Revocable License for Installation and Maintenance of Utilities and a Revocable License for Grading and Drainage of near or even date herewith and to be recorded in the Cumberland County Registry of Deeds, on land now or formerly of the City of Portland of variable width as shown on said Amended Subdivision Recording Plat, more particularly bounded and described in said licenses and as follows:

A certain lot or parcel of land located northwesterly of, but not adjacent to, Somerset Street in the City of Portland, Cumberland County, State of Maine, more particularly bounded and described as follows:

COMMENCING at the westerly sideline corner of Somerset Street and The Possible Extension of Pearl Street.

THENCE N 40° 59' 38" W 151.00 feet along the southwesterly line of The Possible Extension of Pearl Street as shown on said plan to the POINT OF BEGINNING;

THENCE S 49° 00' 22" W 73.00 feet along Lot 7 as shown on said plan to a point;

THENCE S 40° 59' 38" E 21.00 feet along Lot 7 to a point;

THENCE S 49° 00' 22" W 10.00 feet along Lot 7 to a point;

THENCE N 40° 59' 38" W 20.61 feet through land now or formerly of the City of Portland shown as Lot 9 on said plan to a point;

THENCE S 39° 22' 54" W 10.86 feet through said City of Portland land to a point;

THENCE S 42° 22' 19" W 64.94 feet through said City of Portland land to a point;

THENCE S 41° 00' 32" E 15.29 feet through said City of Portland land to a point;

THENCE S 49° 00' 22" W 72.71 feet along Lot 6 as shown on said plan to a point;

THENCE N 41° 00' 32" W 21.94 feet through said City of Portland land to a point;

THENCE N 42° 22' 19" E 136.00 feet through said City of Portland land to a point;

THENCE N 39° 22' 54" E 72.27 feet through said City of Portland land to a point;

THENCE N 41° 02' 28" W 10.14 feet through said City of Portland land to the easterly property corner of land now or formerly of 161 Marginal Way LLC as shown on said plan;

THENCE N 41° 02' 28" W 43.00 feet along said 161 Marginal Way LLC land to a point;

THENCE N 49° 00' 22" E 20.02 feet through said City of Portland land to a point;

THENCE S 87° 16' 35" E 27.70 feet through said City of Portland land to a point;

THENCE S 40° 59' 38" E 5.00 feet through said City of Portland land to a point;
THENCE N 84° 05' 10" E 20.69 feet through said City of Portland land to a point;

THENCE N 28° 31' 08" E 15.21 feet through said City of Portland land to a point;

THENCE N 59° 22' 54" E 31.41 feet through said City of Portland land to a point;

THENCE S 61° 28' 51" E 5.00 feet through said City of Portland land to a point;

THENCE S 40° 59' 38" E 6.82 feet through said City of Portland land to a point along land now or formerly of E. Perry Iron & Metal Co. as shown on said plan;

THENCE S 49° 00' 22" W 24.24 feet along said E. Perry Iron & Metal Co. land to a point;

THENCE S 40° 59' 38" E 20.01 feet along said E. Perry Iron & Metal Co. land to a point;

THENCE S 31° 04' 42" W 28.43 feet along said E. Perry Iron & Metal Co. land to a point;

THENCE S 50° 13' 09" E 1.25 feet along said E. Perry Iron & Metal Co. land to a point at the northwesterly end of The Possible Extension of Pearl Street;

THENCE S 49° 00' 22" W 28.15 feet along the end of The Possible Extension of Pearl Street to the POINT OF BEGINNING.

Said lot or parcel of land contains 9332 square feet, more or less.

Said Lot 6 herein described is benefitted by a certain Revocable License for Installation and Maintenance of Utilities and a Revocable License for Grading and Drainage of near or even date herewith and to be recorded in the Cumberland County Registry of Deeds, on land now or formerly of the City of Portland of variable width located within The Possible Extension of Pearl Street as shown on said Amended Subdivision Recording Plat, more particularly bounded and described in said licenses and as follows:

A certain lot or parcel of land located along the northwesterly line of Somerset Street in the City of Portland, Cumberland County, State of Maine, more particularly bounded and described as follows:

BEGINNING at the westerly sideline corner of Somerset Street and The Possible Extension of Pearl Street.

THENCE N 40° 59' 38" W 151.00 feet along the southwesterly line of The Possible Extension of Pearl Street to a point;

THENCE N 49° 00' 22" E 28.15 feet along the northwest end of The Possible Extension of Pearl Street to a point along land now or formerly of E. Perry Iron & Metal Co. as shown on said plan;

THENCE S 50° 13' 09" E 26.72 feet along land of E. Perry Iron & Metal Co. to a point;

THENCE N 82° 12' 51" E 8.60 feet along land of E. Perry Iron & Metal Co. to a point;

THENCE S 45° 30' 09" E 120.29 feet along land of E. Perry Iron & Metal Co. to a point along the northwest line of Somerset Street;

THENCE S 49° 00' 22" W 49.09 feet along the northwest line of Somerset Street to the POINT OF BEGINNING.

Said lot or parcel of land contains 6288 square feet, more or less, and represents the Possible Extension of Pearl Street as shown on said plan.

The condemnation ordered hereby includes all easements and other appurtenances of the foregoing premises of record and all such easements and other appurtenances are hereby condemned. Furthermore, for the avoidance of doubt, the condemnation ordered hereby expressly condemns and terminates the entire interests of FEDEQ DV004, LLC, FEDEQ

Sponsor Entity V, LLC, if any, and of Redwood Development Consulting, LLC, if any, in and to the foregoing real estate, including all rights they or any combination of them may have in such real estate deriving under the following: (a) October 15, 2012 Garage Contribution And Funding Agreement, as amended, (b) October 14, 2014 Second Amendment of Purchase And Sale Agreement And Amendment Of Guaranty And Parking Garage Agreement (the “Second Amendment”) and (c) June 2016 Fourth Amendment Of Purchase & Sale Agreement, Second Amendment Of Parking Garage Contribution And Funding Agreement & Third Amendment To Corporate Guaranty Agreement (the “Fourth Agreement”).

As to those certain easements burdening the foregoing premises for the benefit of land of the City of Portland, the condemnation ordered hereby expressly excludes such easements held by the City of Portland over all or any portion of the foregoing real estate. All such easements shall be preserved and not merged with the title acquired by the City of Portland under this condemnation order.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (A/L)
APRIL R. FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES (A/L)

**NOTICE OF PUBLIC HEARING OF THE
CITY COUNCIL OF THE CITY OF PORTLAND TO CONSIDER
ADOPTION OF ORDER CONDEMNING PROPERTY RIGHTS OF
FEDEQ DVOO4, LLC, FEDEQ SPONSOR ENTITY V, LLC AND REDWOOD
DEVELOPMENT CONSULTING, LLC PURSUANT TO 30-A M.R.S. §§ 5401 ET SEQ.,
INCLUDING § 5403(6), 30-A M.R.S. § 3101, AND 23 M.R.S. § 3023**

The City Council of the City of Portland hereby gives written notice in accordance with 23 M.R.S. § 3022 of a Public Hearing to be conducted in the City Council Chamber, Portland City Hall, 389 Congress Street, Portland, Maine at 5:00 P.M. on September 8, 2021 to consider the adoption of an Order of Condemnation against the real estate interests of FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC in and to the land depicted as Lot 6 on a certain “Amended Subdivision Recording Plat for MiDTOWN Development, Plan Sheet 1 of 2 on Somerset Street, Portland, Maine made for FEDEQ DV001, LLC” dated April 10, 2013, as revised through, and approved by the City of Portland Planning Board, on May 10, 2016 by Owen Haskell, Inc. Falmouth, Maine, recorded at the Cumberland County Registry of Deeds, Plan Book 216, Page 217 (the “Plan”).

Accordingly, pursuant to 23 M.R.S. § 3022 and 30-A M.R.S. § 3101, and 30-A M.R.S. § 5401, et seq. (including § 5403(6)), the City Council of City of Portland, Maine, hereby gives notice of its intention to consider the condemnation of the property described in the proposed Condemnation Order annexed hereto and incorporated herein by reference as Exhibit A by posting two copies of this Notice at least seven days in advance in two public places in the City of Portland, i.e., the Maine District Court at 142 Federal Street in Portland and at the Clerk’s Office at Portland City Hall at 389 Congress Street, and in the vicinity of the Lot 6 as depicted on the Plan, and by serving these notices by in-hand delivery to FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC.

To the Within-Named Owner of Record of Lot 6 as depicted on the Plan:

- FEDEQ DV004, LLC

To the Within-Named Mortgagee of Record of Lot 6 as depicted on the Plan:

- FEDEQ Sponsor Entity V, LLC

To the Within-Named Tenant of Record of Lot 6 as depicted on the Plan:

- Redwood Development Consulting, LLC

FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC are hereby provided notice of the Public Hearing in the City Council Chamber, Portland City Hall, 389 Congress Street, Portland, Maine at 5:00 P.M. on September 8, 2021 and of their right through counsel to appear and participate therein.

The City Clerk is hereby directed to cause an attested copy of this Notice of Public Hearing and the attached Exhibit A to be posted at least seven days in advance in two public places in the City of Portland, i.e., the Maine District Court at 142 Federal Street in Portland and at the Clerk's Office at Portland City Hall at 389 Congress Street, and in the vicinity of the Lot 6 as depicted on the Plan, and by serving these notices by in-hand delivery to FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC.

SO ORDERED:

Dated this 23rd day of August, 2021

Mayor Kate Snyder

Pious Ali, City Councilor

April Fournier, City Councilor

Belinda Ray, City Councilor

Spencer Thibodeau, City Councilor

Tae Chong, City Councilor

Andrew Zarro, City Councilor

Mark Dion, City Councilor

Nick Mavodones, Jr., City Councilor

Maine Revised Statutes Annotated

Title 30-a. Municipalities and Counties (Refs & Annos)

Part 2. Municipalities

Subpart 8. Development

Chapter 213. Revenue Producing Municipal Facilities Act (Refs & Annos)

30-A M.R.S.A. § 5401

§ 5401. Definitions

Effective: September 19, 2019

[Currentness](#)

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Airport. “Airport” means:

- A.** Any area of land or interest in land, structures or portions and improvements of structures, or water which is used, intended for use or useful in connection with any public airport, heliport or other location for the landing or taking off of aircraft;
- B.** Facilities incident to the operation of such properties including, but not limited to, runways, hangars, parking areas for aircraft or vehicles, access roads, wharfs, control towers, communication equipment, weather stations, safety equipment, terminal facilities for aircraft and land vehicles, facilities for servicing aircraft and for the sale of oil, gasoline, other fuels and other accessories, waiting rooms, lockers, space for concessions, offices; and
- C.** All facilities appurtenant to and all property rights, air rights, easements and interests relating thereto considered necessary for the construction or operation of the airport.

2. Cost. “Cost,” as applied to a revenue-producing municipal facility, includes:

- A.** The purchase price of any such facility;
- B.** The cost of construction;
- C.** The cost of all labor, materials, machinery and equipment;
- D.** The cost of improvements;
- E.** The cost of all lands, property, rights, easements and franchises acquired;

F. Financing charges;

G. Interest before and during construction and, if the municipal officers consider it desirable, for one year after construction is completed;

H. The cost of plans and specifications, surveys and estimates of cost and of revenues;

I. The cost of engineering and legal services; and

J. All other expenses necessary or incident to determining the feasibility or practicability of construction, administrative expense and any other expenses necessary or incident to the financing authorized in this chapter.

Any obligation or expenses incurred by the municipality in connection with any of the items of cost, including the payment in whole or in part of indebtedness incurred to pay such obligations or expenses and interest on those obligations or expenses, may be regarded as a part of that cost and reimbursed to the municipality out of the proceeds of revenue bonds issued under this chapter and Title 10, chapter 110, subchapter IV.¹

3. Energy facility. “Energy facility” means:

A. An “energy distribution system project,” as defined in Title 10, section 963-A, subsection 12;

B. An “energy generating system project,” as defined in Title 10, section 963-A, subsection 13;

C. A hydroelectric power facility; or

D. A “qualified project” as defined in the United States Internal Revenue Code, [26 United States Code, Section 54\(d\)\(2\)\(A\) \(2007\)](#).

This term also includes any combination or part of these facilities or any equipment and structures designed to distribute or transmit energy either from or to these facilities.

4. Improvements. “Improvements” means those repairs, replacements, additions, extensions and betterments of and to a revenue-producing municipal facility that the municipal officers consider necessary to place or maintain the revenue-producing municipal facility in proper condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the municipality and for which no existing service is being provided.

5. Parking facility. “Parking facility” means any land or any interest in land, structure or portions of structures, and improvements on land or structures intended for the off-street parking of motor vehicles by the public for a fee. Any such structure may be either single or multi-level and either at, above or below the surface. This term also includes:

A. Facilities incident to the operation of those properties for the parking of motor vehicles, including, without limitation, ancillary waiting rooms, lockers, space for concessions, stores and offices, terminal facilities for trucks and buses, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, and all facilities appurtenant to these incident operations; and

B. All property, rights, easements and interests relating to the facility that are considered necessary for the construction or operation of the facility.

6. Parking system. “Parking system” means any parking facility, together with any public way or public parking area designated by the municipal officers as constituting part of that system on which parking meters have been or may be installed or from which fees or charges have been or may be collected for the parking of vehicles.

7. Revenue-producing municipal facility. “Revenue-producing municipal facility” means:

A. A parking facility within the corporate limits of the municipality; or

B. Any of the following within or outside or partly within and partly outside the corporate limits of the municipality:

(1) A water system or part of that system;

(2) A sewer system or part of that system;

(3) An airport or part of an airport;

(4) A telecommunications system or part of that system;

(5) An energy facility or part of that facility; or

(6) A community broadband system or part of that system.

8. Sewage disposal system. “Sewage disposal system” means any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources. This term also includes:

A. Any integral part of such a facility, including, but not limited to, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment; and

B. All property, rights, easements and franchises relating to the facility that the municipal officers consider necessary or convenient for the operation of the system.

9. Water system. “Water system” means all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water. This term also includes:

A. Any integral part of such a facility, including, but not limited to, water supply systems, water distribution systems, reservoirs, wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and all necessary appurtenances and equipment; and

B. All property, rights, easements and franchises relating to the facility that the municipal officers consider necessary or convenient for the operation of the system.

Credits

1987, c. 737, § A, 2; 2007, c. 671, §§ 4 to 6; 2019, c. 108, § 1, eff. Sept. 19, 2019.

Footnotes

¹ 10 M.R.S.A. § 1061 et seq.

30-A M. R. S. A. § 5401, ME ST T. 30-A § 5401

Current with emergency legislation through the 2021 First Regular Session and 2021 First Special Session of the 130th Legislature. The First Regular Session convened December 2, 2020 and adjourned sine die March 30, 2021. The general effective date is June 29, 2021. The First Special Session convened April 28, 2021 and adjourned sine die July 19, 2021. The general effective date is October 18, 2021.

Maine Revised Statutes Annotated
Title 30-a. Municipalities and Counties (Refs & Annos)
Part 2. Municipalities
Subpart 8. Development
Chapter 213. Revenue Producing Municipal Facilities Act (Refs & Annos)

30-A M.R.S.A. § 5402

§ 5402. Declaration of public necessity

Effective: September 19, 2019

[Currentness](#)

The Legislature finds that:

1. Need for water and sewer systems. The maintenance of safe and pure water supplies and the control of water pollution are necessary to the health, safety and general welfare of the public, and the people of the State require new and improved water and sewer systems in order to avoid the menace to public health and damage to the economy created by impure water and untreated sewage;

1-A. Need for broadband systems. Access to affordable, reliable, high-speed broadband Internet is necessary to the general welfare of the public, and the people of the State and its economy require connection to existing publicly built infrastructure as a means of cultivating entrepreneurial activity, attracting business, improving access to modernized methods of education and health care and encouraging people to move to this State;

2. Need for free traffic circulation. The free circulation of traffic of all kinds through the streets of the municipalities of the State is necessary for the rapid and effective fighting of fires and disposition of police forces in those municipalities for the health, safety and general welfare of the public, whether residing in those municipalities or traveling to, through or from the municipalities;

3. Need for parking facilities. In recent years, the parking of motor vehicles of all kinds has so substantially impeded the free circulation of traffic as to constitute a public nuisance endangering the health, safety and welfare of the general public, as well as endangering the economic life of the municipalities; and this traffic congestion cannot be adequately abated except by provisions for sufficient off-street parking facilities;

4. Need for airports. The establishment and improvement of municipal airports are necessary for the health, safety and general welfare of the public; and the people of the State require new and improved public airports and related facilities in order to avoid and reduce the hazards of air transportation and damage to the economy created by inadequate, unsafe and obsolete airports and airport facilities; and

5. Public necessity. The enactment of laws to carry out the intent and purpose of this section is therefore a public necessity.

Credits

1987, c. 737, § A, 2; [2019, c. 108, § 2](#), eff. Sept. 19, 2019.

30-A M. R. S. A. § 5402, ME ST T. 30-A § 5402

Current with emergency legislation through the 2021 First Regular Session and 2021 First Special Session of the 130th Legislature. The First Regular Session convened December 2, 2020 and adjourned sine die March 30, 2021. The general effective date is June 29, 2021. The First Special Session convened April 28, 2021 and adjourned sine die July 19, 2021. The general effective date is October 18, 2021.

End of Document

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Maine Revised Statutes Annotated

Title 30-a. Municipalities and Counties (Refs & Annos)

Part 2. Municipalities

Subpart 8. Development

Chapter 213. Revenue Producing Municipal Facilities Act (Refs & Annos)

30-A M.R.S.A. § 5403

§ 5403. General grant of powers

Effective: September 19, 2019

[Currentness](#)

A municipality may:

1. Revenue-producing municipal facilities. Acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any revenue-producing municipal facility;

2. Bonds. Issue revenue bonds of the municipality as provided to pay the cost of acquisition, construction, reconstruction, improvement, extension, enlargement or equipment;

3. Revenue-refunding bonds. Issue revenue-refunding bonds of the municipality as provided to refund any revenue bonds then outstanding which were issued under this chapter;

4. Rates and fees. Fix and revise from time to time and collect rates, fees and other charges for the use of or for the services and facilities furnished by any revenue-producing municipal facility;

5. Pledge of revenues. Pledge the revenues derived from any revenue-producing municipal facility to the payment of revenue or revenue-refunding bonds issued with respect to that revenue-producing municipal facility.

A.¹ This subsection applies to any parking facility or system notwithstanding section 3009, subsection 1, paragraph C, subparagraph (3);

6. Acquisition of land or personalty. Acquire in the municipality's name either by gift, purchase, lease, or the exercise of the right of eminent domain land, rights in land or water or air rights in connection with the construction, reconstruction, improvement, extension, enlargement or operation of revenue-producing municipal facilities; acquire any personal property, that it considers necessary in connection with those activities; and hold and dispose of all real and personal property under its control;

7. Contracts; employment of specialists. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any revenue bonds issued under this chapter; employ any consulting and other engineers, attorneys, accountants,

construction and financial experts, superintendents, managers and any other employees and agents that it considers necessary; and fix their compensation, provided that all such expenses are payable solely from funds made available under this chapter;

8. Jurisdiction and control. Exercise jurisdiction, control and supervision over any revenue-producing municipal facility owned, operated or maintained by the municipality, make and enforce any regulations for the maintenance and operation of any such system that are, in the judgment of the municipal officers, necessary or desirable for the efficient operation of any such system and for accomplishing the purposes of this chapter;

9. Right of entry; surveys. Enter on any lands, water or premises located within or outside the municipality to make surveys, borings, soundings or examinations for the purposes of this chapter;

10. Use of streets and highways. Enter upon, use, occupy and dig up any street, alley, road, highway or other public places necessary to be entered upon, used or occupied in connection with the acquisition, construction, reconstruction, improvement, maintenance or operation of any revenue-producing municipal facility.

A.¹ When highways maintained by the State are affected, the municipality is subject to the same statutory provisions applicable to those corporations authorized to lay their pipes and conduits in the public ways;

11. Contracts. Enter into contracts with the Federal Government, with the State or any agency or instrumentality of the State, or with any other municipality, district, private corporation, copartnership, association or individual providing for or relating to the revenue-producing municipal facility;

12. Loans and grants. Accept from any authorized agency of the Federal Government or the State loans or grants for the planning, construction or acquisition of any revenue-producing municipal facility or part of a revenue-producing municipal facility; enter into agreements with that agency concerning any such loans or grants; and receive and accept aid and contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants and contributions may be made;

13. General powers. Do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter;

14. Community septic systems. As a means of facilitating compact growth patterns, including cluster developments, construct, maintain and operate a sewer system that is composed of one or more subsurface wastewater collection, treatment and disposal systems. The municipality may construct such a sewer system in anticipation of the establishment of a community sanitary district under Title 38, chapter 11-A,² to which the municipality will transfer the system pursuant to Title 38, section 1232. For purposes of this subsection, “cluster development” has the same meaning as in section 4301, subsection 1-A; and

15. Communications services systems; community broadband systems. Construct, maintain and operate a municipal or multimunicipal system composed of infrastructure capable of being utilized by communications service providers for the provision of communications services. For the purposes of this subsection, “communications service” has the same meaning as in Title 35-A, section 9202, subsection 3 and “communications service provider” has the same meaning as in Title 35-A, section 9202, subsection 4.

Nothing in this chapter restricts a municipality from purchasing, leasing, constructing or equipping facilities that are designed to provide communications services. Nothing in this chapter restricts a municipality from using community broadband systems for internal municipal government purposes or, by written contract, leasing, selling capacity in or granting other similar rights to communications service providers to use the facilities in connection with the provider's offering communications services.

Credits

1987, c. 737, § A, 2; 2005, c. 556, §§ 1, 2; 2019, c. 108, §§ 3 to 5, eff. Sept. 19, 2019.

Footnotes

¹ No par. B was enacted.

² 38 M.R.S.A. § 1231 et seq.

30-A M. R. S. A. § 5403, ME ST T. 30-A § 5403

Current with emergency legislation through the 2021 First Regular Session and 2021 First Special Session of the 130th Legislature. The First Regular Session convened December 2, 2020 and adjourned sine die March 30, 2021. The general effective date is June 29, 2021. The First Special Session convened April 28, 2021 and adjourned sine die July 19, 2021. The general effective date is October 18, 2021.

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam
Jeremiah Bartlett

DATE: August 16, 2021

SUBJECT: Order 7-21/22 Approving the Agreement between the Portland Area Comprehensive Transportation System, the Maine Department of Transportation and Portland re: Forest Avenue Improvements from Marginal Way to Park Avenue - Sponsored by Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 7/19/2021

Final Action 8/16/2021

Can action be taken at a later date: No Yes, it can.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached three-party agreement and authorize the City Manager to sign the agreement, which will allow the Maine Department of Transportation to begin preliminary design work along Forest Avenue from Marginal Way to Portland Street, as per the PACTS Smart Corridor Study Plan.

II. AGENDA DESCRIPTION

This order will allow the Maine Department of Transportation to begin preliminary design work along Forest Avenue from Marginal Way to Park Avenue, as per the Portland Area Comprehensive Transportation System (PACTS) Smart Corridor Study Plan. The PACTS Route 302/Route 77 corridor study (i.e. the Smart Corridor Study), completed in 2018, provided numerous recommendations for Forest Avenue from Marginal Way to Park Avenue. Most significantly, the project called for a realigned High Street, shifting access to Forest Avenue slightly southerly. A realigned Kennebec Street was also recommended, as well as numerous improvements for bicycles, pedestrians, and transit. A concept plan from the report is shown in Appendix A.

The cost to the City for the preliminary design work will be no more than \$50,000.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

This order will allow the Maine Department of Transportation to begin preliminary design work along Forest Avenue from Marginal Way to Portland Street, as per the Portland Area Comprehensive Transportation System (PACTS) Smart Corridor Study Plan. The PACTS Route 302/Route 77 corridor study (i.e. the Smart Corridor Study), completed in 2018, provided numerous recommendations for Forest Avenue from Marginal Way to Park Avenue. Most significantly, the project called for a realigned High Street, shifting access to Forest Avenue slightly southerly. A realigned Kennebec Street was also recommended, as well as numerous improvements for bicycles, pedestrians, and transit. A concept plan from the report is shown in Appendix A.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The goal of this work is to further the well-received outcomes of the corridor study, improve progression along Forest Avenue, create economic development opportunities in Bayside, and shift High Street father away from the Rose Garden in Deering's Oaks.

V. FINANCIAL IMPACT

The City is obligated to pay 25 percent of the preliminary engineering cost, or \$50,000. Funding will come from existing CIP accounts, \$20,000 from 3130218105, and \$30,000 from C22113.

VI. STAFF ANALYSIS AND BACKGROUND

The City has received a great many complaints about traffic, safety, and congestion in this area, which has dramatically increased up until the beginning of the pandemic, is increasing once more.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject Three Party Agreement to provide a funding match to this project.

VIII. LIST ATTACHMENTS

1. Three-party MDOT, PACTS and Portland re Forest Avenue betw Marginal and Park Ave 7.19.2021
2. Forest Avenue Improvements PDR - Fiscal Impact Note
3. Smart_Corridor_Excerpt
4. _MPO_Forest_Ave_W25065-J

Prepared by:

Melissa Graffam

Jeremiah Bartlett

Date: 08/16/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING MODIFICATION OF THE THREE-PARTY AGREEMENT
BETWEEN THE PORTLAND AREA COMPREHENSIVE TRANSPORTATION
SYSTEM, THE MAINE DEPARTMENT OF TRANSPORTATION AND PORTLAND,
RE: FOREST AVENUE BETWEEN MARGINAL WAY AND PARK AVENUE**

ORDERED, that the three-party Municipal Partnership Initiative Program Agreement between the Maine Department of Transportation, the Portland Area Comprehensive Transportation System and the City of Portland for Forest Avenue Improvements, with WIN 025065.00, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u> ADD: NEW ITEM ANNUAL EXPENDITURES LESS: TOTAL NEW ITEM ANNUAL REVENUES =NEW ITEM NET TAX RATE IMPACT PROJECTION		\$1,500		\$3,750		\$3,750
		\$0		\$0		\$0
		\$1,500		\$3,750		\$3,750
New Program Impact to the Mil Rate	\$0.0002	\$0.0002	\$0.0005	\$0.0005	\$0.0005	\$0.0005
New Program % Impact on Mil Rate	0.0017%	0.0008%	0.0042%	0.0021%	0.0042%	0.0021%
Mil Rate Including New Program	\$11.3402	\$22.4802	\$11.3405	\$22.4805	\$11.3405	\$22.4805

Notes: The impact for \$20,000 is current and the remaining \$30,000 begins in 2022, remaining for the 20 year life of the bond.

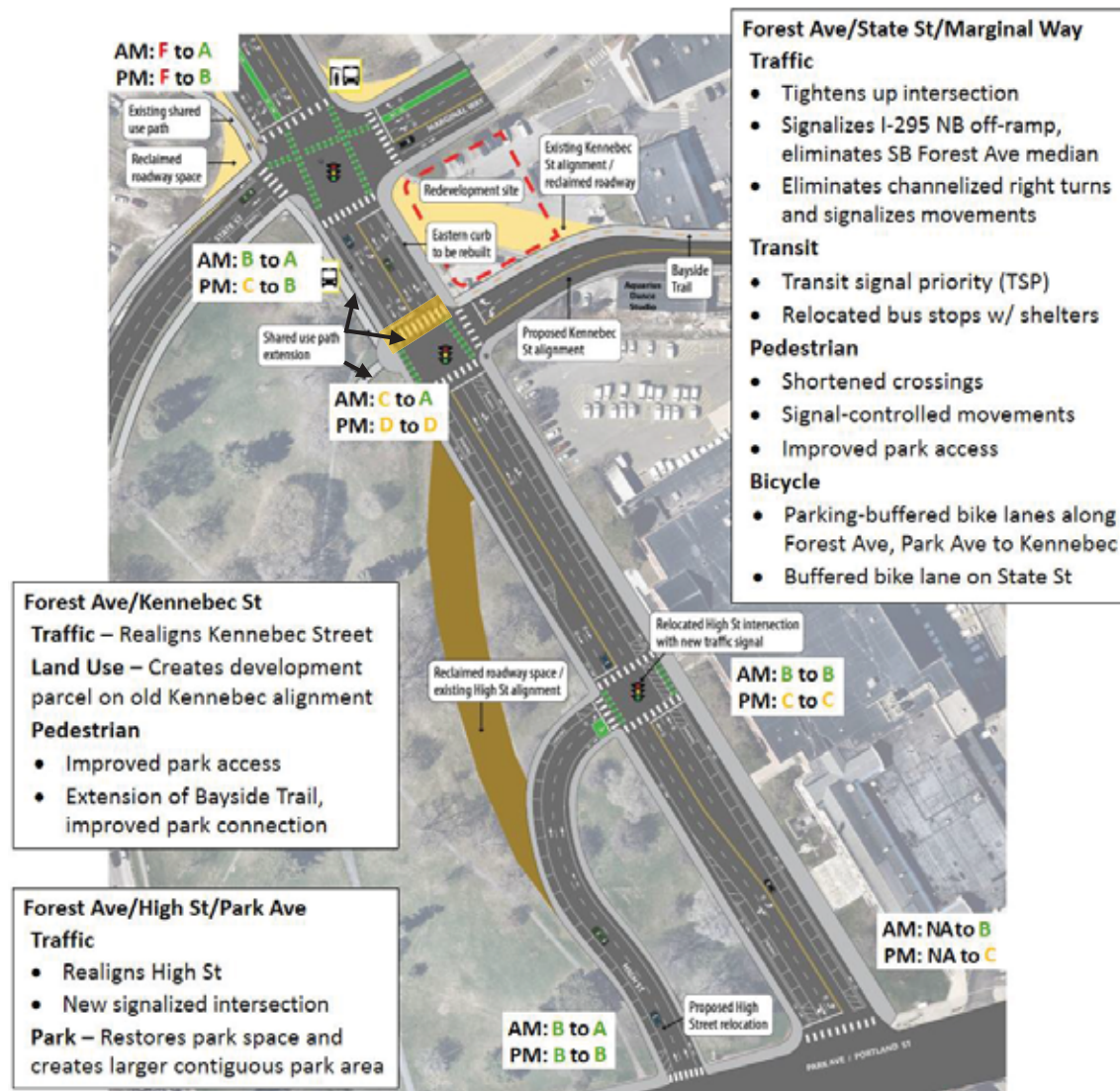


Figure 90. Deering Oaks Park — Alternative 3



Figure 91. Deering Oaks Park — Alternative 4



MaineDOT use only

TEDOCS #: _____

CTM #: _____

CSN #: _____

PROGRAM: Bureau of Planning

State of Maine
DEPARTMENT OF TRANSPORTATION
THREE-PARTY PARTNERSHIP AGREEMENT

Proposed Improvements to Forest Avenue

(Non-Monetary)

<i>MaineDOT Use Only</i>	
Project Location: <u>Portland</u>	Estimated Project Amount: <u>\$200,000.00</u>
State WIN: <u>025065.00</u>	Agreement Begin Date: _____
Federal Aid Project #: <u>2506500</u>	Agreement End Date: _____
PACTS ID#: <u>PACTS</u>	Municipality ID#: <u>PORTLAND</u>

This Cooperative Agreement (the “Agreement”) is entered into by and between the Maine Department of Transportation (MaineDOT), an agency of state government, the **City of Portland (the “Municipality”)**, a municipality in the State of Maine, and the **Portland Area Comprehensive Transportation System (PACTS)**, the designated Metropolitan Planning Organization for the Portland Urbanized Area (MaineDOT, the Municipality and PACTS are collectively referred to as the “Parties”).

RECITALS

- A.** The work that is the subject of this Agreement consists of making improvements to Forest Avenue, in Portland, Maine (the “Project”).
- B.** MaineDOT, through its partnership with Maine’s Metropolitan Planning Organizations (MPOs), is charged with managing and dispersing MPO state and federal funds to support capital improvement projects programmed by the MPOs. PACTS is MaineDOT’s MPO partner for the Portland Urbanized Area.
- C.** PACTS has selected the Project for inclusion in the 2021-2022-2023 MaineDOT Work Plan, using Federal and State capital improvement funding allocated by MaineDOT.
- D.** The Municipality has approved the Project and supports the decision by MaineDOT and PACTS to program the Project, and will contribute financially to the Project through its municipal share.

- E. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- F. This Agreement is intended to cover the roles and responsibilities of the Parties during the preliminary engineering and right-of-way phases of the Project, and to establish the financial obligations of each Party through all phases of the Project.
- G. If the Parties cooperatively agree to proceed to full Project development, this Agreement will be modified to reflect any increase in Project cost estimates. MaineDOT and the Municipality will then enter into a separate municipal-state agreement to establish responsibilities of MaineDOT and the Municipality through the remaining phases of the Project (the “Municipal-State Agreement”).

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

1. Appendices:

The following appendices are hereby incorporated into this Agreement:

- ☐ Appendix A -
- ☐ Appendix B - Requirements for operation and maintenance of traffic signals
- ☒ Check if no appendices attached

2. Scope of Project:

The Project shall consist of intersection reconstruction beginning at Marginal Way and extending southeast to Park Avenue (the “Scope of Work”).

The terms of this Agreement apply to the implementation of the preliminary engineering and right-of-way phases of the Project unless this Agreement is otherwise modified to include all phases of Project development, in which case the table set out in Section 3 below shall be adjusted accordingly.

3. Project Cost Sharing and Payment Schedule:

- a. **Financial Obligations:** The total estimated cost of the Project is \$200,000.00 (the “Project Estimate”). The Parties agree to share in all Project costs associated with the Project phases outlined in the table below. Each Party’s share of the Project’s actual costs associated with each phase shall be allocated as follows, unless otherwise negotiated by mutual agreement of the Parties.
 - i. **Federal Share** (provided by MaineDOT through PACTS Federal Allocation) - 75% of eligible Project costs, up to a maximum of \$150,000.00.
 - ii. **State Share** (provided by MaineDOT through PACTS State Allocation) - 0% of eligible Project costs, up to a maximum of \$0.00.

iii. **Municipality's Share** (provided by the Municipality through the Municipality's obligation of funds) - 25% of eligible Project costs, which is estimated at \$50,000.00, plus 100% of the following:

1. Any costs deemed ineligible for federal and state participation.
2. Any costs associated with additional work requested by the Municipality that is outside the Project scope of work.
3. All Project costs exceeding the Project Estimate after the above referenced Party Shares have been applied, unless otherwise agreed to in writing by the Parties through a written modification to this Agreement.

Work Phase	Estimated PACTS Federal Share		Estimated PACTS State Share		Estimated Municipality's Share		Estimated Total Cost
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	75%	\$ 146,250.00	0%	\$ -	25%	\$ 48,750.00	\$ 195,000.00
Right of Way	75%	\$ 3,750.00	0%	\$ -	25%	\$ 1,250.00	\$ 5,000.00
Construction	75%	TBD	0%	\$ -	25%	TBD	TBD
Construction Engineering	75%	TBD	0%	\$ -	25%	TBD	TBD
TOTALS:		\$ 150,000.00		\$ -		\$ 50,000.00	\$ 200,000.00

b. **Payment Schedule:** The PACTS Share will be disbursed by MaineDOT in accordance with the allocations outlined above. If the Parties elect to move forward with full development of the Project as contemplated in this Agreement, the Municipal Share will be invoiced by MaineDOT in accordance with the payment schedule outlined in the Municipal-State Agreement described herein. If the Parties choose not to proceed to full Project development and no Municipal-State Agreement is executed, the Municipal share, based on the allocations outlined above, will be invoiced as promptly as practicable upon that decision having been made. Upon receipt of such invoice, the Municipality shall submit payment to MaineDOT within thirty (30) days.

4. **Project Milestones:** MaineDOT agrees to share information about the Project with the Municipality and PACTS at the following milestones, as appropriate:

- Project kickoff/initial team meeting/formal public contact;
- Horizontal/Vertical Alignment Complete (HVAC);
- Preliminary public meeting;
- Preliminary Design Report (PDR) complete;
- Formal public meeting(s);
- Plan Impacts Complete (PIC);
- Peer reviews;
- Plans, Specifications and Estimate (PS&E) complete;
- Changes in the Project schedule or Project Estimate.

5. **Project Design:**

- a. The Parties shall hold a project kickoff meeting to go over the scope of work, Project cost, and schedule for the Project before work will begin.
- b. MaineDOT shall prepare, or cause to be prepared, all plans, specifications, engineer's estimates and contract documents as appropriate for the Project using MaineDOT's standard project development process to ensure adherence to federal and state regulations (the "Preliminary Project Development Materials").
- c. As a component of preparing the Preliminary Project Development Materials, MaineDOT shall, at a minimum, be responsible for the following:
 - i. Performing all right-of-way related investigations to determine whether or not there may be a need to acquire temporary and/or permanent rights to develop the Project as well as, if applicable, all title examination, appraisal, appraisal review, negotiation and acquisition/condemnation activities for any property rights that must be acquired to accommodate the Project, and all necessary mapping services reflecting such property acquisitions.
 - ii. Coordinating with affected utilities and railroads to identify existing locations and/or implementing any relocation impacts that may be created by the development of the Project.
 - iii. Performing all necessary National Environmental Policy Act (NEPA) compliance processes for the Project.
 - iv. Performing all necessary permitting activities required in connection with the Project.
- d. MaineDOT shall be the sole administrator of the Project contract(s). MaineDOT will pay up front all Project costs, subject to cost sharing by the Municipality and PACTS as specified in the **Project Cost Sharing and Payment Schedule** set out herein. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
- e. After completion of the PDR, and a decision to proceed with Project construction has been made, MaineDOT and the Municipality will then execute the Municipal-State Agreement covering their obligations regarding Project advertisement, award, construction and construction engineering. Said Municipal-State Agreement will incorporate financial obligations that are consistent with those reflected in this Agreement, unless such terms are otherwise negotiated by mutual agreement of the Parties.
- f. The Municipality shall ensure that affected, municipally-owned utilities are responsive to Project demands and are completing necessary activities in accordance with the Project schedule as established and coordinated by MaineDOT. Failure to do so may result in MaineDOT delaying implementation of the Municipality's future projects until appropriate utility responsiveness is obtained.

6. Public Involvement: MaineDOT shall be responsible for implementing and leading any and all required public involvement activities and any necessary media coordination associated with the any phases of the Project covered by this Agreement. The Parties agree to participate as partners in all such actions.

7. Changes to Project Scope:

- a. MaineDOT will consult with PACTS and the Municipality before implementing any adjustments to the Project scope, and PACTS and the Municipality will, likewise, notify MaineDOT of any proposed changes they wish to implement.
- b. The Municipality may, at its election, request that changes be made or work added to the Project during the period of design that benefit the Municipality, provided that the Municipality agrees in writing to pay any additional cost associate therewith. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share (the “Additional Work Requested by Municipality”).

8. Termination:

- a. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. If MaineDOT’s termination under this clause is not directed by the Municipality and PACTS, MaineDOT shall be responsible for covering all Project costs incurred up to the time of termination.
- b. MaineDOT also reserves the right to terminate all provisions pertaining to any Additional Work Requested by Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.
- c. If the Municipality withdraws its financial support for the Project leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for any and all Project costs incurred in reliance on the Municipality’s financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the time of such termination.
- d. This Agreement may be terminated at any time by mutual written agreement of all Parties, provided that such written agreement shall address the allocation between the Parties of any costs, expenses, penalties and/or liabilities expended, committed or imposed in connection with the Project and the Project contract as of such date of termination.
- e. In no event shall any such action taken under this subsection be deemed a breach of contract, nor shall it represent any individual Party’s waiver of claims for breach of contract or its right to any other remedy it may have pursuant to this Agreement, or at law or in equity.
- f. In the event of Project termination, all provisions of this Agreement shall become null and void except for the financial obligations set forth herein, as well as those provisions to this Agreement that by their very nature are intended to survive.

9. Miscellaneous Provisions:

- a. Amendment and Modification. This Agreement, and all attachments, may only be modified or amended in writing and signed by duly authorized representatives of the Parties.
- b. Indemnification. To the extent permitted by law, the Municipality and PACTS shall each individually indemnify, defend and hold harmless MaineDOT, its officers, agents and employees from all claims, suits or liabilities arising from the indemnifying Party's own negligent or wrongful acts, errors or omissions or by that Party's officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense immunity or limitation of liability that may be available under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. This provision shall survive the termination or expiration of the Project.
- c. Obligation of State Funds. Anything herein to the contrary notwithstanding, the Municipality and PACTS acknowledge and agree that, although the execution of this Agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and the federal government and, therefore, this Agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- d. Municipal Authority and Obligation of Municipal Funds. The Municipality represents that it has received all necessary approvals or authorizations by its governing authorities to approve the Project and enter into this Agreement, and that it has obligated the necessary funds to satisfy its Municipal Share of the Project Costs outlined herein.
- e. State of Maine's Rights of Set-Off. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller.
- f. Assignment. No assignment of this agreement is contemplated, and in no event, shall any assignment be made without the express written permission of MaineDOT.
- g. Independent Capacity. The Municipality and PACTS, their respective employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.

- h. Governing Law. This Agreement shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement shall be performed in accordance with applicable federal laws and regulations, including without limitation Title 23 in the U.S. Code (USC) for statutory law, Title 23 in the Code of Federal Regulations (CFR) for administrative law, and Title 2 CFR, Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- i. Binding Effect. The Parties shall be bound by the terms of this Agreement. This provision shall apply to the Agreement's executors, their successors, administrators and legal representatives.
- j. Notice. Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Alternatively, communication may be sent via email and shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: Ernest Martin, Senior Project Manager
 Email: Ernest.Martin@maine.gov

Municipality: City of Portland
 Department of Public Works
 212 Canco Road, Suite B
 Portland, ME 04101
 Attn.: Jeremiah J. Bartlett, P.E., PTOE, Transportation
 Systems Engineer
 Email: jbartlett@portlandmaine.gov

PACTS: Portland Area Comprehensive Transportation System
 970 Baxter Boulevard, Suite 201
 Portland, ME 04103
 Attn.: Elizabeth Roberts, PE, Transportation Engineer
 Email: eroberts@gpcog.org

Each Party agrees to promptly notify all other Parties of any changes to the above referenced contact information.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective on the day and date last signed.



DocuSigned by:

EF67A54B0DDE4EB...

Date 6/7/2021

Kristina Egan, Executive Director *
Greater Portland Council of Governments
For Portland Area Comprehensive Transportation System
Duly authorized

Date _____

Jon Jennings, City Manager *
Municipality of Portland
Duly authorized

Date _____

Jennifer Brickett, Director, Bureau of Planning *
Maine Department of Transportation
Duly authorized

** I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.*

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: August 5, 2021

SUBJECT: Order 8-21/22 Accepting and Appropriating a Grant from the Maine Department of Economic and Community Development Re: Journey Maps in Multiple Languages - Sponsored by Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 7/19/2021

Final Action 8/16/2021

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: Mary Davis will answer questions if needed.

I. SUMMARY

City staff is recommending the City Council authorize acceptance and appropriation of a \$4,750 grant from the Maine Department of Economic and Community Development for use by the Housing and Economic Development Department Office of Economic Opportunity (OEO) to enhance Economic Development and Inclusion by creating journey maps that help vulnerable populations, including limited English proficient individuals, to navigate often confusing and complex systems to secure basic needs such as English classes, food, childcare, transportation, starting a business, and several others.

II. AGENDA DESCRIPTION

The Housing & Economic Development Department is requesting the City Council accept and appropriate a \$4,750 grant from the Maine Department of Economic and Community Development (MDECD) for use by the Office of Economic Opportunity (OEO) to enhance Economic Development and Inclusion by creating journey maps that help vulnerable populations, including limited English proficient individuals, to navigate often confusing and complex systems to secure basic needs such as English classes, food, childcare, transportation, starting a business, and several others.

A journey map is a visualization of the process that a person goes through in order to accomplish a goal; its purpose is to help communicate otherwise complex processes and systems. This grant will allow OEO to continue to create more journey maps and absorb the translation costs associated with this impactful initiative.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

MDECD launched a time-limited mini-grant program supporting the “Attract New Talent Strategy” in its 10-Year Statewide Strategic Plan, focusing on two elements: (1) the “Welcome Home” concept of providing a marketing focus and associated resources for families and skilled workers moving to Maine; and, (2) promoting quality of place.

OEO learned of this grant opportunity and applied to expand journey maps that will help vulnerable populations, including limited English proficient individuals, to navigate often confusing and complex systems to secure basic needs, as well as for employment and starting a business.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is to assist the City in funding and expanding OEO's journey map initiative to expand these maps for vulnerable populations, including limited English proficient individuals. It is noted that the "How Do I" section of [OEO's website](#) where the journey maps live has been the most visited section of its website in 2020-2021.

V. FINANCIAL IMPACT

None.

VI. STAFF ANALYSIS AND BACKGROUND

See above.

VII. RECOMMENDATION

Staff recommends the City Council approve the requested actions.

VIII. LIST ATTACHMENTS

1. Order Accept and Appropriate \$4.75K Maine Eco and Comm Dev 6.7.2021
2. Notice of Award from MDECD
3. OEO Journey Map Examples

Prepared by:

Mary Davis, Division Director

Date: 08/05/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ACCEPTING AND APPROPRIATING A \$4,750 GRANT
FROM MAINE OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT**

ORDERED, that a grant in the amount of \$4,750 from the Maine Office of Economic and Community Development is hereby accepted and that amount appropriated to the City of Portland Office of Economic Opportunity; and

BE IT FURTHER ORDERED, that the City Manager or his or her designee is hereby authorized to execute the Grant Agreement and whatever other documents are necessary to effect the intent and purpose of this order.



Lori Paulette <ljn@portlandmaine.gov>

Fwd: Talent Attraction Mini-Grant Award Notification

Julia Trujillo <jtrujillo@portlandmaine.gov>
To: Lori Paulette <ljn@portlandmaine.gov>

Fri, May 7, 2021 at 1:52 PM

----- Forwarded message -----

From: **DECD, BizAwards** <BizAwards.DECD@maine.gov>
Date: Fri, May 7, 2021 at 1:14 PM
Subject: Talent Attraction Mini-Grant Award Notification
To: Julia Trujillo <jtrujillo@portlandmaine.gov>

May 7, 2021

City of Portland's Office of Economic Opportunity

[389 Congress Street, Room 26](#)

[Portland, ME 04101](#)

Dear Julia,

Congratulations! Maine's Department of Economic & Community Development (DECD) is pleased to inform you that your application on behalf of Portland's Office of Economic Opportunity (OEO) for a Talent Attraction Mini-Grant has been approved in the amount of **\$4,750**. Upon review of OEO's three proposals, we have selected the Journey Maps initiative for funding, as we have determined it fills a unique, unmet need in comparison to other proposals.

On the attached invoice template, we have outlined the agreed upon scope of work to be supported by this funding, including a commitment by your organization to submit a Final Report on your activities and results to DECD by **April 30, 2022**. Any guidance on best practices to scale the Journey Maps framework to Maine's rural communities would also be great to include in your final report.

In order to proceed, please add the following details to the attached invoice template:

- Your organization's letterhead
- Your organization's Maine State vendor code
- Your organization's name and address
- The date you are submitting the invoice

Please send us your completed invoice via email to BizAwards.DECD@maine.gov no later than **Thursday, May 13, 2021**.

We are grateful for the work you are doing to make Maine a great place to live and work. Please let us know if you have any questions on next steps.

Best regards,

Maine DECD



--

Julia Trujillo Luengo
Office of Economic Opportunity, Director
Housing and Economic Development Department
City of Portland, Maine
www.portlandofopportunity.com
[Facebook](#) | [Twitter](#) | [Instagram](#)
City of Portland
389 Congress St
Portland, Maine 04101
tel. [207-874-8432](tel:207-874-8432)

Learn about our new public health campaign:
[Stay the Course](#), Portland



Invoice - City of Portland Office of Economic Opportunity.docx
35K

HOW DO I LEARN ENGLISH?

Due to COVID-19, all classes this fall from all providers are virtual

**with the exception of classes at the Salvation Army*

Can you read and write in your native language?



no

Portland Adult Education

Class

Hope House
Portland Adult Education
Salvation Army

yes

How do you want to learn?

Tutor

LearningWorks
Portland Adult Education

Conversation

LearningWorks
Portland Adult Education

I need to study on my own schedule

Portland Adult Education
Portland Public Library
online learning that you can do whenever you have time
<https://www.portlandlibrary.com/highlight/learn-english-online/>

I am available during specific times of day

Afternoon Classes:

LearningWorks
Salvation Army

Morning Classes:

Hope House
LearningWorks

Evening Classes:

LearningWorks

Morning: 8 am- Noon

Afternoon: Noon to 4:00 pm

Evening: 4 pm to 8:30 pm

In Her Presence
Women only
207-347-9891
inherpresence.maine@gmail.com

Virtual classes will begin in November.

The Salvation Army
297 Cumberland Ave
207-774-4172
mary.irace@use.salvationarmy.org

Career training: T/Th/Fri 9-11am
Beginner: T/Th/Fri 9-11am
Intermediate: T/Th/Fri 1:30-3pm
Lab: M-F 9-11am and F 1-3pm

PORTLAND ADULT EDUCATION

14 Locust St
207-874-8155
adulted@portlandschools.org

Beginner, Intermediate & Advanced Classes
Available

Class times: Morning, afternoon & evenings / M-F
Class formats are 5 hours per week- 3 hours via Zoom, 2 hours in independent study
Language lab is virtual, registration required

Hope House English Language Program (HHELP)

14 Sherman St
207-274-6005
sarah@hopeacts.org

Beginner & Advanced Beginner: M/W 9:30-11:30am
Intermediate & Adv. Intermediate: T/TH 10am-12pm
Ongoing Intake 9-3pm M-Th

The YMCA of Southern Maine

70 Forest Ave
207-874-1111, ext 337
mbach@ymcaofsouthernmaine.org

Currently not offering classes due to COVID.

LearningWorks

181 Brackett St
207-775-0105
revenson@learningworks.me

Culture & Conversation Classes

Beginner: M/W 9:30-11:30am

M/W 3:30-5:30pm

Intermediate: T/Th 5:30-7:30pm

"Job Ready" Conversation Classes

M/W 10:00-11:30 am

M/W 4:00-5:30 pm

The Children's Museum

142 Free Street
207-828-1234
lily@kitetails.org

Currently not offering classes due to COVID

Fall 2020

virtual offerings

*all offerings are virtual with the exception of those at the Salvation Army

ESOL
COLLABORATIVE
Language Educators, Connected.

PORTLAND
of Opportunity



HOW DO I GET FOOD?

How do I get food?

Groceries

SUNDAY

Stroudwater Christian Church, 1-3PM

MONDAY

St. Vincent de Paul, 11 AM-12:30 PM

Salvation Army, 1-2:30 PM

TUESDAY

Sacred Heart Catholic Church, 8-11AM

Sagamore Village, 10-11AM

St. Vincent de Paul, 11AM-12:30PM

Project FEED, 1-3PM (call ahead)

Preble Street Resource Center, 1:30-4PM

Wayside at Sagamore Village, 10AM (1st Tuesday)

WEDNESDAY

First Baptist Church 11AM

St. Vincent de Paul 11AM-12:30PM

Salvation Army, 1-2:30PM

Preble Street Resource Center, 1:30-4PM

THURSDAY

White Memorial Church, 7:30-9AM

St. Luke's Cathedral, 9:30-11AM

St. Vincent de Paul, 11AM-12:30PM

Project FEED, 1-3PM (call ahead)

Preble Street Resource Center, 1:30-4PM

Wayside at Bayside Anchor, 11AM (1st Thursday)

Wayside at Washington Gardens, 10:30AM (2nd Thursday)

FRIDAY

St. Vincent de Paul, 11AM-12:30PM

Salvation Army, 1-2:30PM

Preble Street Resource Center, 1:30-4PM

SATURDAY

First Assembly of God, 1-4PM

Preble Street Resource Center, 1:30-4PM

Community Meals

SUNDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

MONDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

St. Vincent de Paul, 11AM

TUESDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

St. Vincent de Paul, 11AM

WEDNESDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

St. Vincent de Paul, 11AM

THURSDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

St. Vincent de Paul, 11AM

Bayside Anchor, 1-2PM

Williston-Immanuel United Church, 2-3PM

Deering Center Community Church, 5-6:30PM

FRIDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

St. Vincent de Paul, 11AM

SATURDAY

Preble Street Mobile Food Services, 9-10:15AM & 3:30-4:45PM

Cash Assistance

Department of Health and Human Services

TANF, SNAP, WIC

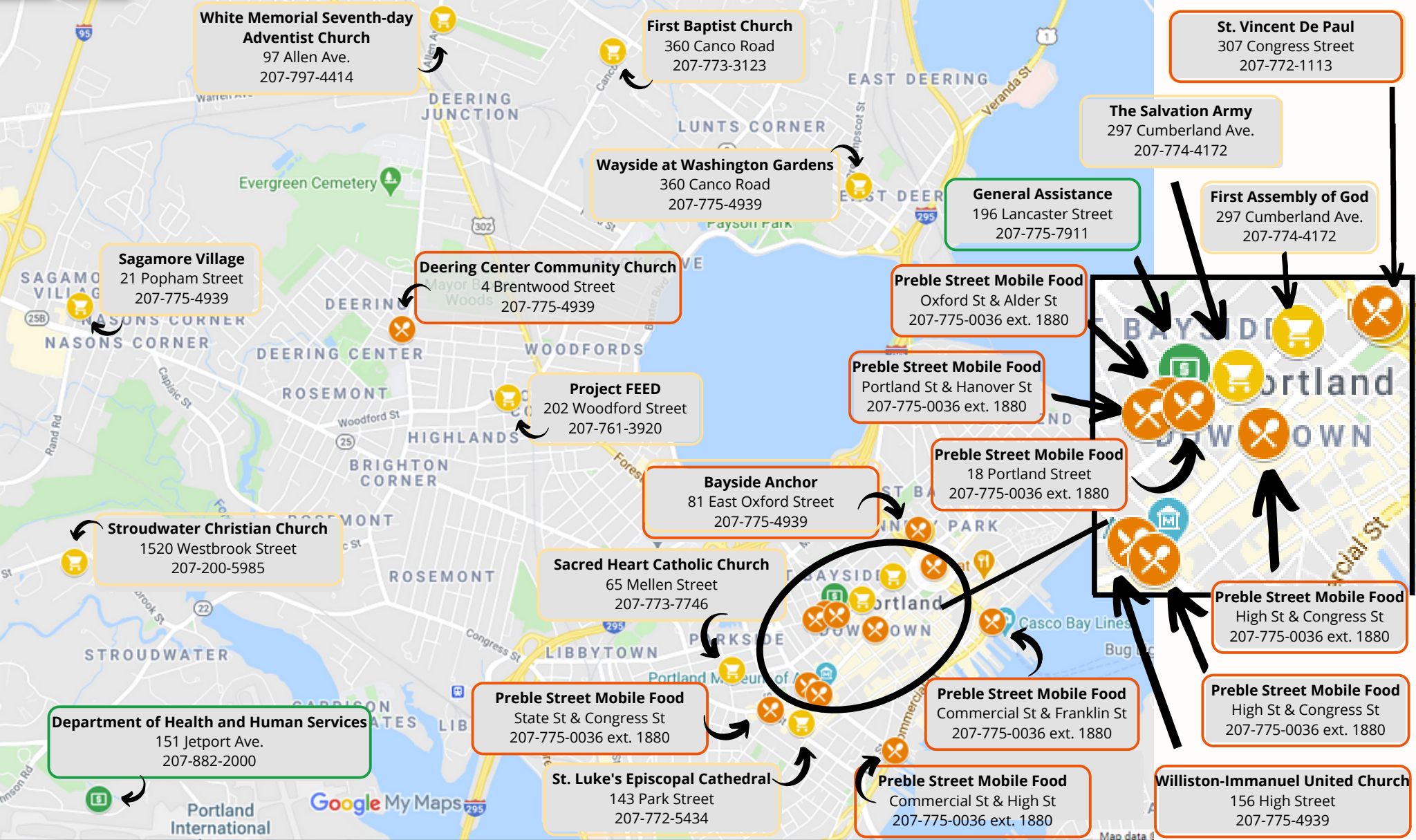
(207) 822-2000

<https://www.maine.gov/dhhs/>

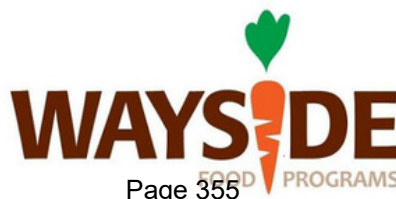
City of Portland: General Assistance

(207) 775-7911

<https://www.portlandmaine.gov/225/Social-Services>



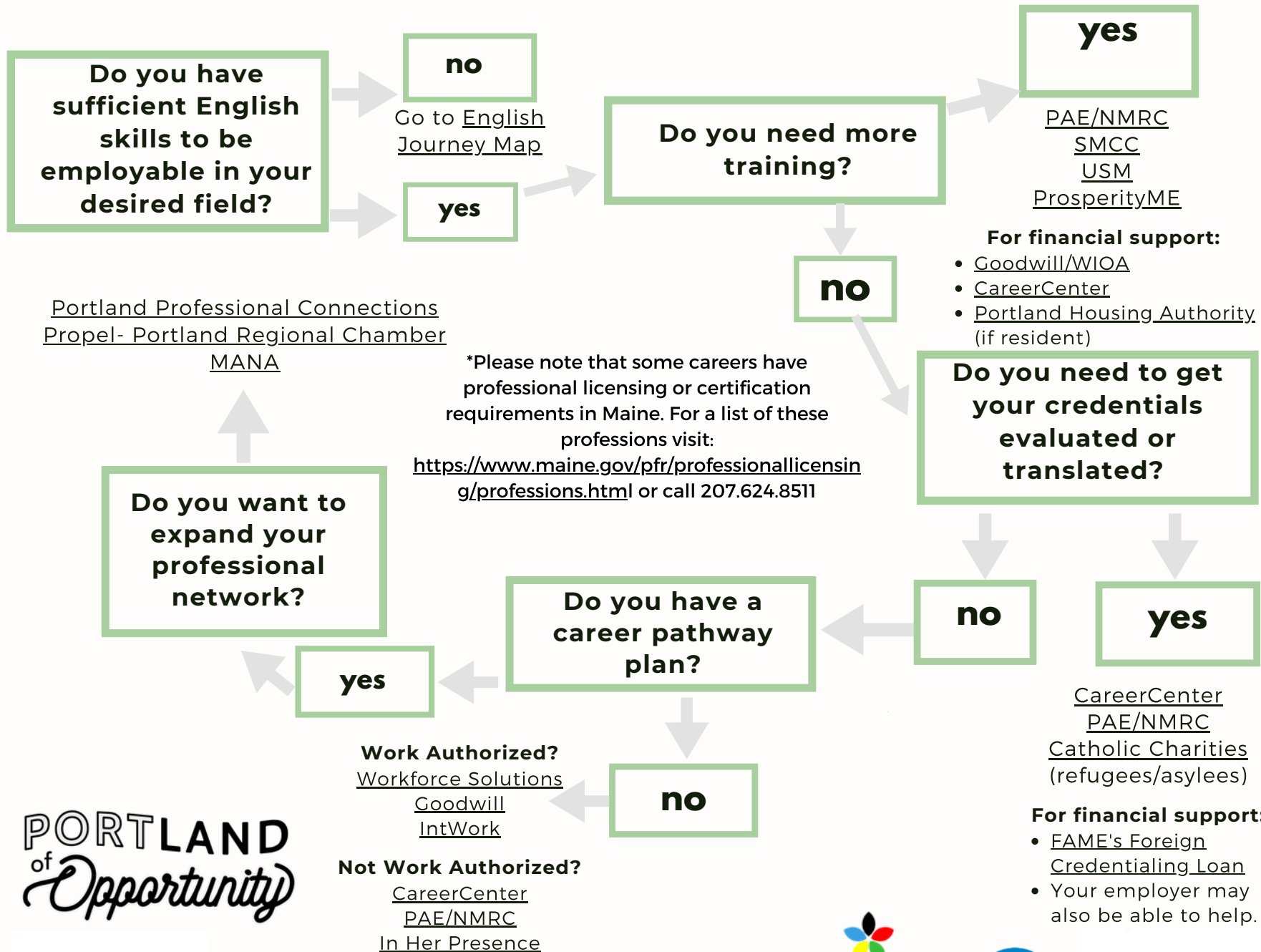
Fall 2020



PORTLAND
of Opportunity



HOW CAN YOU FIND A CAREER PATHWAY IF YOU WERE TRAINED OUTSIDE OF THE US?



PORTLAND
of Opportunity

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam
DATE: August 16, 2021
SUBJECT: Order 9-21/22 Approving the Maine Department of Transportation and City of Portland Agreement Re: Franklin Street and Marginal Way - Sponsored by Jon P. Jennings, City Manager
SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 7/19/2021

Final Action 8/16/2021

Can action be taken at a later date: No Yes, it can be.

PRESENTATION: N/A

I. SUMMARY

City Council is being asked to approve the attached two-party agreement and authorize the City Manager to sign the agreement, which will allow the City of Portland to begin design work on this locally administered project, which will result in new signal equipment at the intersection of Franklin Street and Marginal Way.

II. AGENDA DESCRIPTION

This item approves improvements to the busy intersection of Franklin Street and Marginal Way, with related updates administered by the City, paid for by the Maine Department of Transportation (MaineDOT), including updated and secure signal equipment, in keeping with current City design requirements for the peninsula, and new mast arms, painted black. The City is required to pay zero percent toward this project unless the outcomes exceed the \$360,000 budgeted for the work. As such, no fiscal impact note has been prepared.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The intersection of Franklin Street and Marginal Way is a key entry point to the City, and has one of the highest traffic volumes in Portland. However, the current condition of much of the signal equipment, consisting of old signal heads on span wire affixed to deteriorating wooden poles, is in significant need of updates. A location map is provided in the Attachments.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The goal of this work is to provide updated and secure signal equipment, in keeping with current City design requirements for the peninsula, and will consist of new mast arms, painted black.

V. FINANCIAL IMPACT

This project, while administered by the City, will be entirely funded by state and federal sources. The City is required to pay zero percent toward this project unless the outcomes exceed the \$360,000 budgeted for the work. As such, no fiscal impact note has been prepared.

VI. STAFF ANALYSIS AND BACKGROUND

DPW has had to provide some stopgap improvements here to shore up aging wooden poles, so this is a significant and needed improvement to this high-visibility intersection.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject Two Party Agreement to provide a funding match to this project.

VIII. LIST ATTACHMENTS

1. Order Approving Agreement with MaineDOT and Portland Re Franklin Street and Marginal Way 7.19.2021
2. Franklin-Marginal Draft for Portland Approval
3. Franklin at Marginal Signal - Site Location Map

Prepared by:

Melissa Graffam

Date: 08/16/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE AGREEMENT BETWEEN THE MAINE
DEPARTMENT OF TRANSPORTATION AND THE CITY OF PORTLAND
RE: FRANKLIN STREET AND MARGINAL WAY**

ORDERED, that the Municipal/State Agreement between the Maine Department of Transportation and the City of Portland for traffic improvements on Franklin Street and Marginal Way with Work Identification Number 025089.00, is hereby approved in substantially the form attached hereto:
and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.



MaineDOT use only

AMS ID: _____

CSN: _____

PROGRAM: Multimodal Program

MAINE DEPARTMENT OF TRANSPORTATION
Agreement for a Federally Funded Locally Administered Project

With the
City of Portland
Regarding
Improvements to the Intersection of Franklin Street and Marginal Way

For MaineDOT Use Only - Payable

Agreement Amount: <u>\$360,000.00</u>	Federal Authorization Date: <u>06/10/2021</u>
Federal Share: <u>\$324,000.00</u>	Federal Project #: <u>2508900</u>
State Share: <u>\$36,000.00</u>	MaineDOT WIN: <u>025089.00</u>
Local Share: <u>\$0.00</u>	Municipality's Vendor ID: <u>VC1000073476</u>
Effective Date: _____	Municipality's DUNS #: <u>07-174-7802</u>
Expiration Date: <u>12/31/2026</u>	CFDA #: <u>20.205 Highway Planning and Construction</u>

This subaward agreement (the **Agreement**) for a federal-aid project is entered into by the State of Maine Department of Transportation (**MaineDOT**) with its headquarters at 24 Child St., Augusta, Maine, and the City of Portland (the **Municipality**) with its principal administrative offices at 389 Congress St., Portland, Maine, which jointly shall be referred to as the **Parties**.

RECITALS

- A. This Agreement shall apply to traffic signal replacements and ADA compliance upgrades at the intersection of Franklin Street and Marginal Way (the **Project**); and
- B. The Municipality was awarded federal funding from MaineDOT's traffic safety program for the Project to be placed in the MaineDOT Work Plan for calendar years 2021-2023; and
- C. The Municipality, unless otherwise specified in this Agreement, shall carry out all stages of the Project as a Locally Administered Project (LAP), subject to oversight from MaineDOT in accordance with Title 23 USC §106(g) to ensure that all requirements of this Agreement are met.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing statements, the Parties agree to the following:

APPENDICES

- ☒ Federal Funding Accountability and Transparency Act Form (signature required);
- ☒ Federal Title VI Assurances (signature required).
- ☒ Requirements for operation and maintenance of traffic signals.

ROLES AND RESPONSIBILITIES

1. ROLE OF MUNICIPALITY. The Municipality shall assign a full-time employee with appropriate qualifications and Local Project Administration (LPA) certification from MaineDOT to be responsible for the Project. This local project administrator shall abide by the latest edition of MaineDOT's Local Project Administration Manual & Resource Guide (LPA Manual). If this certified administrator ceases to oversee the Project, the Municipality shall notify MaineDOT.
 - ☐ Local Project Administrator: Jeremiah Bartlett, Transportation Systems Engineer
Email: jbartlett@portlandmaine.gov
Phone: 207-874-8891
2. ROLE OF MAINEDOT. MaineDOT will assign a Project Manager to carry out the State of Maine's responsibilities. The Project Manager or designee will have the authority to request design changes to meet applicable laws, regulations and design standards; accept and reject invoices; inspect construction activities; and take all other action to assure the proper performance of this Agreement.
 - ☐ Project Manager: Jerry Dostie, Multimodal Program
Email: Gerald.P.Dostie@maine.gov
Phone: 207-624-3457

FINANCIAL OBLIGATIONS

1. AUTHORIZATION. The Municipality shall not begin reimbursable work on the Project until MaineDOT executes this Agreement and gives the Municipality written notice to proceed.
2. PROJECT COST. The estimated cost of the Project is **\$360,000.00** (Project Cost), as set out below.
 - A. FEDERAL SHARE. MaineDOT will contribute federal-aid funding to the Project from the Federal Highway Administration (FHWA) at the rate of 90 percent, up to **\$324,000.00**.
 - B. STATE SHARE. MaineDOT will contribute state funds to the Project at the rate of 10 percent, up to **\$36,000.00**.
 - C. LOCAL SHARE. There shall be no local matching share for the Project. The Municipality, however, shall be responsible for the following items, as applicable:
 - i. All costs exceeding \$360,000.00, unless otherwise agreed upon by the Parties through an executed modification to this Agreement;
 - ii. All costs incurred before the effective date of this Agreement; and
 - iii. All costs that MaineDOT or the FHWA deem ineligible for federal participation.
3. FINANCIAL UPDATES. MaineDOT's Project Manager will review the estimated Project Cost with the Municipality at Plan Impacts Complete and at final Plans, Specifications & Estimate (PS&E).
4. LOCAL COMMITMENT. Upon receiving an updated estimate from MaineDOT, the Municipality shall provide MaineDOT's Project Manager with one of the following:
 - A. A statement acknowledging the estimate and affirming its commitment to the Project; or
 - B. A request to withdraw the Project and reimburse MaineDOT for all costs incurred.

5. **REIMBURSEMENT.** The Municipality shall submit to MaineDOT progress invoices, modeled after *Letter 4* from the LPA Manual, for reimbursement of participating costs incurred, as follows:
 - A. Each invoice shall include a progress report for the service period of the invoice.
 - B. Each invoice shall include enough backup to satisfy the MaineDOT Project Manager.
 - C. Each invoice shall show MaineDOT's and the Municipality's portions of Project costs, including a running total of costs invoiced to date.
 - D. The Municipality must certify that amounts claimed are correct and not claimed previously.
 - E. If the Municipality fails to submit invoices at least every **six months**, MaineDOT may hold the Municipality in default, as defined in the "Default and Termination" section of this Agreement.
 - F. Upon completion of the Project and payment in full of all contracted parties, the Municipality shall submit to MaineDOT a final invoice modeled after *Letter 20* from the LPA Manual. Payment of the invoice shall be contingent on a passing inspection of the Project by MaineDOT and receipt by MaineDOT of a completed Consultant Evaluation from the Municipality.
6. **TERM.** The Municipality shall complete the Project and submit a final invoice to MaineDOT by the Expiration Date at the top of this Agreement. The Municipality shall submit any request for an extension to MaineDOT in writing before this Expiration Date.
7. **MAINEDOT COSTS.** MaineDOT will charge to the Project costs incurred for services performed on the Project. The Municipality shall share in these costs commensurate with its share percentage of the Project. At a minimum, MaineDOT will reconcile these costs upon completion of the Project and deduct the Municipality's share percentage from the final invoice payment under section 5F above.
8. **REPAYMENT.** If the Municipality withdraws from the Project, the Municipality shall refund all progress payments from MaineDOT and reimburse MaineDOT for all costs incurred on the Project, within 30 days of receipt of an invoice from MaineDOT for the same.
9. **SET-OFF RIGHTS.** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but shall not be limited to, the State of Maine's option to withhold for the purposes of set-off any money due to the Municipality under a specific project contract up to any amounts owed to MaineDOT regarding this Agreement, and any other agreement/contract with any state department or agency, including any agreement/contract for a term commencing before the term of this Agreement. MaineDOT shall exercise its set-off rights in accordance with standard state practices including, in cases of set-off pursuant to an audit, the finalization of the audit. *MaineDOT reserves the right to withhold or reduce Local Road Assistance payments to the Municipality for purposes of set-off to recover any amount owed.*

PROJECT DEVELOPMENT

1. **KICKOFF.** The Parties shall hold a Project Kickoff meeting upon execution of this Agreement.
2. **PROGRESS UPDATES.** The Municipality shall provide MaineDOT with written progress updates upon request. If the Municipality fails to respond to repeated requests to provide such updates, MaineDOT reserves the right to declare the Municipality to be in default of this Agreement, as defined in the "Default and Termination" section of this Agreement.

3. HIRING CONSULTANTS. If the Municipality intends to hire a consultant using funds from MaineDOT, the Municipality shall use a qualifications-based selection in accordance with 23 CFR part 172 and Chapter 2 of the LPA Manual, "Hiring Consultants," as set out below.
 - A. Using price as a ranking factor shall make consultant work ineligible for reimbursement.
 - B. The Municipality shall obtain MaineDOT's written approval of any contract or contract modification. Work performed without such approval shall be ineligible for reimbursement.
 - C. Applicable provisions of MaineDOT's Consultant General Conditions shall govern such work.
 - D. The Municipality shall fill out a standard Consultant Evaluation Form upon completion of its contract with any consultant. A copy of the completed form shall be provided to MaineDOT.
4. SURVEY. MaineDOT will perform survey work on the state highway system that is necessary to develop an Existing Conditions Plan, including property delineation and determination of existing right of way.
5. RIGHT-OF-WAY. The Parties will coordinate acquisition of rights-of-way, as follows:
 - A. MaineDOT will lead the right-of-way process when the Project is on the state highway system.
 - B. The Municipality shall lead the right-of-way process when the Project is off the state highway system. In carrying out the right-of-way process, the Municipality shall:
 - i. Contract with an appraiser and a review appraiser listed on MaineDOT's Appraisal Register or otherwise approved by MaineDOT as qualified to perform the work;
 - ii. Abide by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the Uniform Act);
 - iii. Follow the standards set out in the MaineDOT *Right of Way Manual*; and
 - iv. Provide MaineDOT with a certification modeled after *Letter 14* from the LPA Manual.
 - C. MaineDOT will participate in eligible right-of-way costs up to the official Determination of Just Compensation. MaineDOT's participation in any administrative settlement amount exceeding the Determination of Just Compensation amount shall require MaineDOT's approval. If applicable, the Municipality shall be responsible for all court costs associated with appeals of unsettled parcels to Superior Court.
 - D. When a Project is located both on and off the state highway system:
 - i. The Parties shall have one certified appraiser complete the appraisals for all parcels.
 - ii. MaineDOT will acquire the necessary rights located on the state highway system.
 - iii. The Municipality shall acquire the necessary rights located off the highway state system.
 - iv. Negotiations with property owners will be conducted by MaineDOT and, when applicable, the Municipality's officials.
 - E. The Municipality shall dedicate to the Project any municipal property needed for the Project for public use into perpetuity.
6. DESIGN. The Municipality, in coordination with its contracted consultant if applicable, shall be responsible for preparing all design plans, specifications, estimates and contract documents for the Project, in accordance with all applicable engineering standards, laws and regulatory requirements.

- A. The Municipality shall submit the following to MaineDOT for review and comment:
- i. Preliminary design report;
 - ii. Design plan impacts (if acquisition of rights-of-way will be required); and
 - iii. Final plans, specifications and estimate package (PS&E).
- B. The bid documents for the Project shall reference MaineDOT's *Standard Specifications* and contain all applicable special provisions and federal requirements, as set out in Chapter 7 of the LPA Manual, "Final PS&E Package."
- C. Electronic design files provided for the use of MaineDOT staff shall conform to MaineDOT's policy on electronic exchange of CADD data: <http://www.maine.gov/mdot/caddsupport/>
- D. MaineDOT will enforce all laws, regulations, engineering standards and specifications that apply to the Project and will require changes if they are not met.
- E. MaineDOT will give the Municipality written construction authorization once MaineDOT accepts the final PS&E package as complete. Receipt of such authorization shall not relieve the Municipality and its consultant, if applicable, of responsibility for meeting all engineering standards and regulatory requirements that apply to the Project.
7. PUBLIC PARTICIPATION. The Municipality shall hold a public participation process for the Project that is appropriate for the scope of work and acceptable to MaineDOT's Project Manager. The Municipality shall provide MaineDOT with a public process certification that is modeled after *Letter 10* from the LPA Manual, as part of the Project's environmental package.
8. NEPA PROCESS. MaineDOT will lead the National Environmental Policy Act (NEPA) compliance process for the Project. The Municipality shall provide MaineDOT with signed *Letter 11* from the LPA Manual and the completed NEPA Documentation Checklist to assist with this work.
9. PERMITS. Upon obtaining all approvals, permits and licenses for the Project, the Municipality shall provide MaineDOT with a signed environmental certification modeled after *Letter 12* from the LPA Manual, as part of the final PS&E package for the Project.
10. UTILITY COORDINATION. The Municipality shall identify all utilities affected by the Project and coordinate all required facility relocations. Upon completion of utility coordination, the Municipality shall provide MaineDOT with a utility certification modeled after *Communication 13* from the LPA Manual, as part of the final PS&E package for the Project.
11. FORCE ACCOUNT. If the Municipality intends to construct the Project with municipal labor or materials, it shall obtain written authorization from MaineDOT to use a force-account process.
12. HIRING A CONSTRUCTION CONTRACTOR. Unless MaineDOT approves otherwise in writing, the Municipality shall use competitive bidding to hire a construction contractor upon receiving written authorization from MaineDOT. The bid process shall follow the procedures in the latest edition of MaineDOT's *Standard Specifications*, Section 102, "Bidding." *Advertising without authorization from MaineDOT shall make the Project ineligible for federal funding.*

13. CONSTRUCTION CONTRACT AWARD. Upon receiving written approval from MaineDOT, the Municipality shall award a contract to the lowest responsive and responsible bidder in accordance with the latest edition of MaineDOT's *Standard Specifications*, Section 103, "Award and Contracting." The Municipality shall administer the contract for the duration of the Project.
14. CONSTRUCTION ADMINISTRATION. During construction, the Municipality shall:
- A. Hold a pre-construction meeting with notice of at least 5 working days with representatives of MaineDOT, the contractor, utilities and other parties involved in or affected by the work.
 - B. Provide a Project Resident to document and inspect the work who is either a qualified municipal employee or a consultant hired through a qualifications-based selection method.
 - C. Provide a paving inspector and concrete technician with appropriate certifications to be on site for paving operations and concrete placements, as applicable.
 - D. Coordinate materials testing necessary to comply with the Minimum Testing Requirements that MaineDOT establishes for the Project, as follows:
 - i. An independent, accredited laboratory shall be used to test all aggregates;
 - ii. Concrete and hot-mix asphalt pavement shall be tested at the closest MaineDOT lab.
 - E. Submit proposed contract modifications to MaineDOT for review and concurrence. MaineDOT reserves the right to deny reimbursement to the Municipality for work performed under a modification executed without MaineDOT's concurrence.
 - F. Provide MaineDOT with revised as-built plans for the completed Project, if applicable.
15. FINAL INSPECTION. MaineDOT will inspect the completed Project for compliance with the design plans, specifications and provisions of the construction contract. MaineDOT reserves the right not to reimburse the Municipality for work determined to be out of such compliance.

MAINTENANCE

1. Any other provision of this Agreement to the contrary notwithstanding, the Municipality shall have maintenance responsibility for any portion of the Project inside an Urban Compact Area, in accordance with Maine law: Title 23 MRSA, §754, "Town maintenance in compact areas."
2. The Municipality shall maintain any sidewalk completed as part of the Project for the duration of its useful design life, as determined by generally accepted engineering standards. Maintenance shall consist of general upkeep and repairs necessary to preserve year-round public access, including for persons with disabilities, with only isolated or temporary interruptions in accessibility. This maintenance obligation shall include reasonable snow removal efforts, in accordance with the requirements of 23 USC §116 and 28 CFR §35.133.
3. The Municipality shall operate and maintain traffic signals installed on the Project under the terms of the appendix labeled, "Operation and Maintenance of Traffic Signals."
4. *This Maintenance section shall survive the expiration of this Agreement.*

PROJECT RECORDS

1. PROJECT RECORDS. Project Records, whether printed or electronic, shall include all plans, specifications, contracts, reports, notes, or other documents prepared by or for the Municipality (Project Records). The Municipality shall retain all Project Records for at least **3 years** from the date of MaineDOT's acceptance of the final invoice for the Project or the termination of this Agreement, whichever is sooner. If any litigation, claim, negotiation or audit has begun before the end of this retention period, all Project Records shall be kept at least until all related issues are resolved.
2. ACCESS. The Municipality and any contracted party working on its behalf shall allow representatives of the Federal Government and the State of Maine to inspect and audit Project Records. Copies shall be furnished at no cost to the federal or state agencies requesting them.
3. AUDITS. Project audits comply with Title 2 of the Code of Federal Regulations, Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
4. *This section shall survive the termination or expiration of this Agreement.*

GENERAL PROVISIONS

1. GOVERNING LAW. The Parties shall comply with applicable federal, state and local laws, regulations, executive orders and ordinances including, but not limited to, the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Title 23 in the United States Code for statutory law, and Title 23 in the Code of Federal Regulations (CFR) for administrative law.
2. INDEMNIFICATION. To the extent allowed by law, the Municipality shall indemnify, defend and hold harmless MaineDOT, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officers, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability available under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *This section shall survive the termination or expiration of this Agreement.*
3. CONFIDENTIALITY. The Municipality shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the construction cost to the extent required by 23 M.R.S. §63, "Confidentiality of Records."
4. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Agreement:
 - A. The Municipality shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to an actual occupational qualification. The Municipality shall take affirmative action to assure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. The Municipality agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this section.
 - B. The Municipality – in all solicitations or advertising for employees placed by or on behalf of the Municipality relating to this Agreement – shall state that all qualified applicants shall

receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

C. The Municipality shall cause the foregoing provisions to be inserted into any contract for work covered by this Agreement so that such provisions shall be binding upon each contractor, except for contracts or subcontracts for standard commercial supplies or raw materials.

5. **INDEPENDENT CAPACITY**. The Municipality, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
6. **FLOW DOWN**. Contracts between the Municipality and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
7. **BINDING EFFECT**. The Parties shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
8. **ENTIRE AGREEMENT**. This document represents the entire Agreement between the Parties. Neither MaineDOT nor the Municipality shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

CONFLICTS OF INTEREST

1. No officer, employee or agent of the Municipality with a financial or other personal interest in any contract or subcontract for the Project shall participate in the selection, award or administration of any such contract or subcontract.
2. No professional performing services for the Municipality on the Project shall have a financial or other personal interest in any contract or subcontract for the Project, other than the person's employment or retention by the Municipality. No officer or employee of any professional performing services for the Municipality on the Project shall have a financial or other personal interest in real property acquired for the Project, unless the interest is openly disclosed, and such officer or employee has not participated in acquisition for and on behalf of the Municipality.
3. No person or entity entering into a contract for services for the Project shall have a financial or other interest in the Project or in its outcome, other than the performance of the contract. This prohibition covers the following:
 - A. Any agreement with, or other interest involving, third parties having an interest in the outcome of the Project that is the subject to the contract; and
 - B. Any agreement providing incentives or guarantees of future work on the Project or related matters; and
 - C. Any interest in real property acquired for the Project unless such real property interest is disclosed before the person or entity enters into the contract.

THIRD-PARTY CERTIFICATION

By signing this Agreement, the Municipality certifies that if it contracts with an entity, the Municipality shall require that entity and its principles to certify that they:

1. Have not within the 3 years preceding the date of such a contract been convicted of a crime or had a civil judgment rendered against them regarding obtaining, attempting to obtain, or performing a

federal, state or local public transaction or contract under a public transaction; violation of antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

2. Are not indicted for or otherwise criminally or civilly changed by a federal, state or local governmental entity with commission of any of the offenses enumerated in this section; and
3. Have not within a 3-year period preceding this Agreement had one or more federal, state or local public transactions terminated for cause or default.

DEBARMENT

1. By signing this Agreement, the Municipality certifies to the best of its knowledge and belief that it and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal department or agency. If the Municipality cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the Municipality shall notify MaineDOT promptly if it or its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal department or agency.
2. The Municipality agrees that it shall not hire a consultant or contractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

LOBBYING

By signing this Agreement, the undersigned municipal representative certifies that:

1. No federal funds have been paid or will be paid, by or on behalf of the Municipality, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, concerning the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress concerning this federal contract, grant, loan, or cooperative agreement, the Municipality shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Municipality shall require the language of this certification to be included in the award documents for all sub-awards and that all sub-recipients shall certify and disclose accordingly.

DEFAULT AND TERMINATION

1. DEFAULT. MaineDOT reserves the right to send the Municipality a written Notice of Default if the Municipality commits any of the following:
 - A. Withdraws its support for the Project, resulting in cancellation of the Project;
 - B. Does not respond to repeated requests for progress updates from MaineDOT;

- C. Fails to put the project out to bid within 3 years of the execution date of this Agreement without receiving an extension in writing from MaineDOT;
 - D. Takes any action that makes the Project ineligible for federal funding;
 - E. Uses Project funds for a purpose not authorized by this Agreement;
 - F. Misrepresents or falsifies any claim for reimbursement;
 - G. Fails to meet the standards of performance outlined in this Agreement.
2. **TERMINATION FOR CAUSE.** MaineDOT will have just cause to terminate this Agreement in the event of default by the Municipality, as defined above. MaineDOT will afford the Municipality a cure period of 14 calendar days, effective on the Municipality's receipt of Notice of Default. If the Municipality fails to address all defaults within this cure period or any longer period as MaineDOT may authorize, MaineDOT may terminate this Agreement for cause, with these conditions:
- A. MaineDOT will recover from the Municipality all reimbursements and MaineDOT's internal costs for work on the terminated Project.
 - B. The Municipality shall forfeit all federal funds remaining in the terminated Project.
3. **TERMINATION FOR CONVENIENCE.** The Parties may terminate this Agreement for convenience by mutual consent for any reason not defined as "default." MaineDOT, at its sole discretion, may reimburse the Municipality for eligible work performed on the Project until the effective termination date. The Municipality's share of MaineDOT's internal costs for work on the Project shall be deducted from the final invoice amount owed to the Municipality.

AGREEMENT APPROVAL

The Municipality's undersigned representative assures that the Municipality's legislative body has approved the Municipality's entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement effective on the date last signed below.

City of Portland

By: _____
Jon P. Jennings, City Manager *

Date: _____

Maine Department of Transportation

By: _____
Richard J. Crawford, P.E., Director *
Bureau of Project Development

Date: _____

** Pursuant to 10 M.R.S.A. §9502, et seq., I certify that the foregoing electronic signature: (a) is intended to have the same force as my manual signature, (b) is unique to myself, (c) is capable of verification, (d) is under my sole control, and (e) is linked to data in such a manner that it is invalidated if the data are changed.*

Federal Funding Accountability and Transparency Act

The **City of Portland** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the Project exceeds \$25,000, an authorized representative from the Municipality shall sign this document under (B) below and return it with the Project Agreement. Additionally, the Municipality shall provide the following information, if applicable:

A) The total compensation and names of the top five officers if:

- More than 80% of the Municipality's annual gross revenues are from the U.S. Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal name and DUNS® number on file with the Central Contractor Registration (CCR):

City of Portland, Maine

07-174-7802

Sign and Print Legal CCR Name

DUNS® Number

Authorized Representative: _____

Jon P. Jennings, City Manager

U.S. Department of Transportation (USDOT)

Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

DOT Order No. 1050.2A

The **City of Portland** (the Recipient) **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (USDOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), which prohibits discrimination based on race, color, national origin;
- 49 C.F.R. Part 21 (entitled Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations are referred to hereinafter as the "Acts" and "Regulations" respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to assure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from the USDOT, including the FHWA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other nondiscrimination requirements (the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted Federal-aid Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (regarding an "activity facilitated, or will be (regarding a "facility operated, or will be (regarding a "program conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made regarding all Federal-Aid Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The City of Portland, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. **The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.**
4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement regarding any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the City of Portland also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA and USDOT access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA and USDOT. You must keep records, reports, and submit the material for review upon request to the FHWA and USDOT, or their designees, in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The City of Portland gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal and Federal financial assistance extended after the date hereof to the recipients by the USDOT under the Federal-Aid Highway Program. This ASSURANCE is binding on the State of Maine, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

City of Portland

By _____
Jon P. Jennings, City Manager

DATED _____

Encl.: Appendices A and E

APPENDIX A TO THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration (FHWA)**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, regarding the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **FHWA**, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **FHWA**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **FHWA** may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will act with respect to any subcontract or procurement as the Recipient or the **FHWA** may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

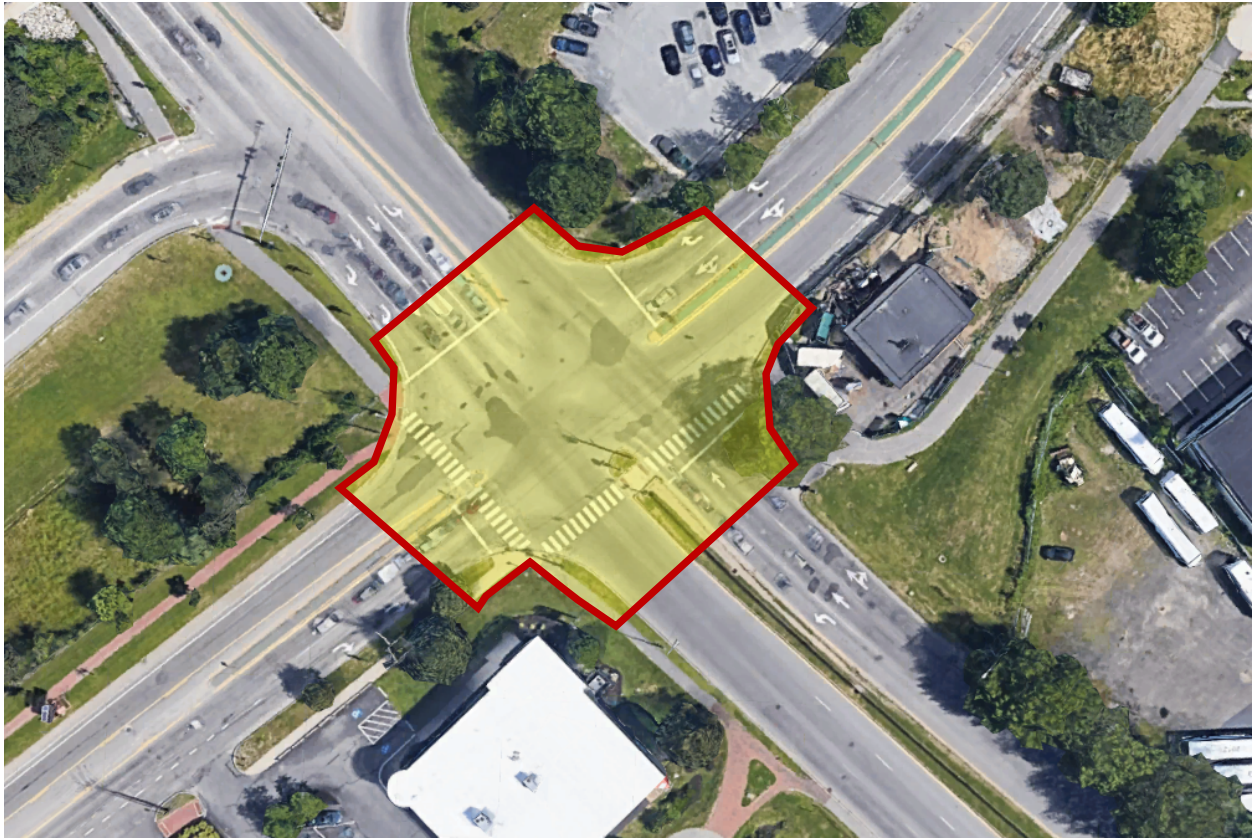
APPENDIX E TO THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination based on race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal programs and projects);
- Federal Highway Act of 1973, (23 U.S.C. §324 et seq.), (prohibits discrimination based on sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 et seq.), as amended, (prohibits discrimination based on disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 et seq.), (prohibits discrimination based on age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination based on disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination based on race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which assures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To assure compliance with Title VI, you must take reasonable steps to assure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 et seq.).

Franklin at Marginal Signal Improvements Location Map



MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2021

SUBJECT: Order 15-21/22 Setting an Election Date on a Citizen Initiative Amendment to Portland City Code Chapter 14 Re: Emergency Shelters for 50 or Fewer Only - Sponsored by Katherine L. Jones, City Clerk

SPONSOR: Katherine L. Jones, City Clerk

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This order sets the Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 14 section 6.5.6 Supplemental use-specific conditional use Standards, 6.5.6 (B) Emergency Shelters.

Three amendments to this Order, the first revising the Citizen Initiative summary language and the second and third offering an alternative amendment to the City Code for shelters on the ballot, are included in the back up material. If the City Council decides to offer the alternative amendment (along with the citizen proposed amendment) for approval by the voters, it will take the form of a three-choice ballot question. As specified in Chapter 9 of the Portland City Code, the ballot question will be worded as follows: "Do you approve A, the Citizen Initiative, B. the Council's alternative, or C. None of the above?"

This item was postponed on July 19, 2021. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date Re Citizen Initiative for Emergency Shelters for 50 or Fewer Only 7.19.2021
2. Ray Amendment ONE to Order 15-FY22 Setting Election Date Re Alternative to Citizen Initiative for Emergency Shelters 8.23.2021
3. Ray Amendment TWO to Order 15-FY22 Setting Election Date Re Alternative to Citizen Initiative for Emergency Shelters final 8.23.2021.docx

4. Dion Amendment THREE to Order 15-FY22 Setting Election Date Re Alternative to Citizen Initiative for Emergency Shelters 8.23.2021
5. Citizen Initiative Referendum Memo re Options 7.8.2021
6. Shelter Language in Word
7. Ray alternative referendum shelter amendment
8. Dion Alternative City Code Shelter Amendment to Chapter 14 revised for 8.23.2021

Prepared by:

Date: 08/12/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 14
RE: EMERGENCY SHELTERS FOR 50 OR FEWER ONLY**

ORDERED, that the amendment to the Portland City Code called Emergency Shelters for 50 or Fewer Only shall be submitted to the voters of the City on November 2, 2021; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

Summary: This proposed amendment requires all new emergency shelters to be opened 24 hours per day and, except for family and domestic violence shelters, provide shelter to no more than 50 individuals at a time. It also removes several requirements that are not suitable across all types of shelters.

**AMENDMENT 1 TO ORDER 15-21/22
PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR BELINDA RAY
RE: SUMMARY FOR CITIZEN INITIATIVE SHELTER AMENDMENT
TO PORTLAND CITY CODE**

ORDERED, that the amendment to the Portland City Code called Emergency Shelters for 50 or Fewer Only shall be submitted to the voters of the City on November 2, 2021; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

Summary: This proposed amendment requires all new emergency shelters to be opened 24 hours per day and, except for family and domestic violence shelters, provide shelter to no more than 50 individuals at a time. It adds a requirement for shelter management plans to include a Criminal Trespass Order policy and appeals process for residents. It also removes ~~several requirements that are not suitable across all types of shelters; the requirements for shelters to: provide adequate space for security searches and other assessments; include plans for on-site surveillance and controls for resident behavior and noise levels; provide adequate access to and from METRO service; implement strategies to help guests utilize transit.~~

AMENDMENT 2 TO ORDER 15-21/22
PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR BELINDA RAY
RE: ALTERNATIVE SHELTER AMENDMENT SET ON THE BALLOT

ORDERED, that the amendment to the Portland City Code called Emergency Shelters for 50 or Fewer Only and an alternative amendment limiting shelters geographically shall be submitted to the voters of the City on November 2, 2021; and

ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Do you favor one of the two (2) city ordinances summarized below: ‘A’ as proposed by citizen petition; ‘B’ as enacted by the city council; or should both be rejected as provided in ‘C’?~~Shall the municipality approve the Portland City Code amendment as summarized below?~~

A: The proposed amendment requires all new emergency shelters to be open 24-hours per day, and, except for family and domestic violence shelters, provide shelter to no more than 50 individuals at a time. It adds a requirement for shelter management plans to include a Criminal Trespass Order policy and appeals process for residents. It also removes the requirements for shelters to: provide adequate space for security searches and other assessments; include plans for on-site surveillance and controls for resident behavior and noise levels; provide shelter guests adequate access to and from METRO service; implement strategies to help guests utilize transit.

B: The proposed amendment requires all new emergency shelters to be open 24-hours per day and to have adequate indoor space to provide day shelter for all guests. It adds a requirement for shelter management plans to include a clear policy regarding Criminal Trespass Orders. It requires all emergency shelters to provide access to and from METRO service and to implement strategies to help guests use public transit. It requires individual emergency shelters to be located at least 1000 feet from one another and limits the total bed capacity in emergency shelters to 300 beds within a 1-mile radius. Domestic violence shelters which don’t disclose their locations for safety reasons are exempt from both of these provisions. The proposed consolidation of the Joe Kreisler Teen Shelter and the Preble Street Teen Center into one facility at 343 Cumberland Avenue is also exempt from the buffer and density provisions.

C: Neither of the two (2) proposed Amendments to the Portland City Code above.

AMENDMENT 3 TO ORDER 15-21/22
PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR MARK DION
RE: LIMIT OF 150 BED SHELTERS HIGHLIGHTED

ORDERED, that the amendment to the Portland City Code called Emergency Shelters for 50 or Fewer Only and an alternative amendment limiting shelters geographically shall be submitted to the voters of the City on November 2, 2021; and

ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Do you favor one of the two (2) city ordinances summarized below: ‘A’ as proposed by citizen petition; ‘B’ as enacted by the city council; or should both be rejected as provided in ‘C’?~~Shall the municipality approve the Portland City Code amendment as summarized below?~~

A: The proposed amendment requires all new emergency shelters to be open 24-hours per day, and, except for family and domestic violence shelters, provide shelter to no more than 50 individuals at a time. It adds a requirement for shelter management plans to include a Criminal Trespass Order policy and appeals process for residents. It also removes the requirements for shelters to: provide adequate space for security searches and other assessments; include plans for on-site surveillance and controls for resident behavior and noise levels; provide shelter guests adequate access to and from METRO service; implement strategies to help guests utilize transit.

B: The proposed amendment requires all new emergency shelters to be open 24-hours per day and to have adequate indoor space to provide day shelter for all guests. It adds a requirement for shelter management plans to include a clear policy regarding Criminal Trespass Orders. It requires all emergency shelters to provide access to and from METRO service and to implement strategies to help guests use public transit. It requires individual emergency shelters to be located at least 1000 feet from one another, limits the size of individual shelters to a maximum of 150 beds except in situations when a shelter capacity emergency is declared, and limits the total bed capacity in emergency shelters to 300 beds within number of individual shelter beds within a 1-mile radius; to a maximum of 300. Domestic violence shelters which don't disclose their locations for safety reasons are exempt from both provisions. The proposed consolidation of the Joe Kreisler Teen Shelter and the Preble Street Teen Center into one facility at 343 Cumberland Avenue is also exempt from the buffer and density provisions.

C: Neither of the two (2) proposed Amendments to the Portland City Code above.

CITY OF PORTLAND

MEMORANDUM

TO: Mayor Snyder and Members of the City Council
FROM: Danielle West, Corporation Counsel
SUBJECT: **Citizen Initiative Referendum Options**
DATE: July 8, 2021

As you know, the City Clerk has certified that the petitioners (regarding the small shelter zoning initiative) have gathered sufficient signatures as required by Chapter 9 of the Portland City Code. Consequently, the Council was required to set a date for a public hearing on the proposed ordinance language. In order to comply with this requirement the Council set July 19, 2021 as the public hearing date. Please note that staff recommends that after the scheduled public hearing the Council postpone action on the proposed ordinance until such time as the Planning Board has had an opportunity to review and make a recommendation and the Council has had the opportunity to hold a workshop (which has been scheduled for July 26, 2021).

After the Council has held the public hearing, the Code provides the Council with three (3) options as to how to proceed (*see* attached memo regarding more specifics on each option). The first option is that the Council can send the ordinance out to the voters for their review and approval by setting an election date. The election has to be held not less than ninety (90) calendar days after the Council meeting at which the election date is set.

Next, as an alternative to a setting an election date, the Code allows the Council to pass the proposed ordinance language as written in its entirety. This will put an end to all proceedings under the petition.

The final option available under the Code is for the Council to send both the citizen initiated ordinance and an alternative ordinance (created by the Council) to the voters for their review. The ballot would put forth both options and ask the voters which ordinance they favor.

If you have any questions regarding the proposed options, please do not hesitate to contact me directly or we can discuss them further at the upcoming workshop/executive session.

COPY

CITY OF PORTLAND, MAINE
M E M O R A N D U M

TO: Mayor Cheryl A. Leeman and Portland City Council
FROM: Gary C. Wood, Corporation Counsel
DATE: February 9, 2001
RE: **Process and Legal Options in Relation to** *GCW*
Citizen Initiative Referendum

The purpose of this memo is to lay out the process and legal options that you have in relation to the citizen initiative referendum. In putting this memo together I have talked with my legal colleagues on the Council and I shared the memo with Ron Ward, who is an attorney who works for a number of developers, and with Bob Hark, who helped the petitioners draft the proposed ordinance. I invited both of them to attend the work session in case any councilors have questions that you would like to ask them directly. I have attached the petitioned ordinance and the City's ordinance controlling citizen initiated ordinances. I have also attached a list of projects that are subject to the petitioned ordinance.

Process: Questions and Answers.

- (1) What is the next step the Council must take after the public hearing on the proposed ordinance is held at the Council meeting on February 21st?

Answer: Sec. 9-39 of the Citizen Initiative ordinance gives the Council two options in picking the Council meeting at which the Council will have to decide to either enact the proposed ordinance or schedule a special election. You can make that decision after the public hearing at the Council meeting on February 21st, or you can defer the decision to the March 5th Council meeting.

- (2) Can the Council enact an ordinance that does not include all of the provisions in the ordinance submitted by the Petitioners?

Answer: No. The Council must enact the ordinance presented by the Petitioners in its entirety. The specific language of Sec. 9-36 states that, "The passage by the city council of the desired ordinance shall put an end to all proceedings under the petition." This conclusion is further supported by the restrictions on amending a citizen initiative ordinance stated in Sec. 9-46 which states that an ordinance enacted by the people at an initiative or referendum "shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide." One of the specific purposes of a citizen initiative is to put a law in place that a particular council might not support. If a council

were free to pass its own version of that ordinance and thereby avoid an election, it would thwart this fundamental purpose.

- (3) Would the Council or the voters be enacting an illegal ordinance if the Council or the voters approved this ordinance?

Answer: The only certain answer to this question has to come from a court. I can give you an opinion. I cannot give you a decision. In my opinion, it is unlikely that the entire ordinance would be found illegal. Parts of it might, but the severability section (8) would be used by a court to eliminate just those parts.

One exception to the requirement that the Council submit a proposed ordinance to the voters would be if the proposed ordinance were so clearly illegal on its face that the council would be in a position of asking the electorate to endorse something that is illegal. Nothing in the proposed ordinance before you rises to the level of legal uncertainty that would justify taking that action in this case.

There is a legitimate question as to whether the composition and effect of the proposed ordinance is a moratorium that does not meet the requirements of state law, particularly in relation to the restrictions in paragraph (5). In 1989, the Maine Legislature passed what has been codified as 30-A M.R.S.A. §4356. That state law limits moratoria to 180 days. It permits one additional 180-day extension if certain criteria are met. It also requires that a moratorium, to be legally effective, must meet certain threshold statutory requirements, the most relevant of which is found in subparagraph (b), requiring a prior finding that a moratorium is necessary:

Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area.

Whether this particular citizen initiative meets this requirement is not clear, but that lack of clarity is not sufficient in this case to justify a council decision to not proceed to an election.

- (4) What would be the legal effect if the Council enacted the ordinance rather than send it to an election?

- (a) Answer: The ordinance would become city law 30 days after the Council voted to enact it, unless seven members of the Council voted to enact it as an emergency. If the Council enacted the ordinance on February 21st, it would become law at 12:01 a.m. on March 24th. If the Council enacted the ordinance on March 5th, it would become law at 12:01 a.m. on April 5th. Under the terms of the ordinance itself, however, its legally effective date would then become October 16, 2000 because of the operation of the retroactivity date in section 6 of the proposed ordinance. Under paragraph

5 of the proposed ordinance, any building permits issued by the City after October 16th for projects within the "restrictions" categories (see 5(1)(a) and (b) would be void and the developments under construction would have to stop. Any state or federal pass-through loans or grants from the City for new residential housing made after October 16th would be invalid, unless the loans or grants were for one- to four-family units on individual lots or for rehabbing existing units. Any amendments to the City's Zoning Map or ordinance of property within 300 feet of any land zoned to permit residential uses passed after October 16th would revert to its zoning status on that date. We would also have to review projects that received permits before October 16th to determine if construction was substantially commenced before that date. If it were not, we would have to try to stop those projects as well. Until the housing component of the Comprehensive Plan is updated and approved the restrictions would remain in place.

Under the terms of the proposed ordinance, none of the above impacts would take place in Bayside, defined as the area bounded by Cumberland Avenue, Forest Avenue, Interstate 295 and the Franklin Arterial. That area is excepted from the impact of the restrictions by the proposed ordinance.

- (5) How long would the restrictions in the ordinance last if the Council enacted the ordinance or if the voters approved it?

Answer: There are several possible answers to this question. Once again certainty can only come from a court decision. Here are some of the possible legal outcomes and my assessment of their likelihood:

- (a) The restrictions expire on April 16th which is 180 days after October 16th through the operation of the state law cited earlier that limits moratoria to 180 days.

Assessment: Good possibility.

- (b) the restrictions are in the nature of a moratorium, but that the retroactive provision is not legally applicable so that the moratorium begins on the date that the Council enacted the ordinance or the voters approved it and extends from that date forward for 180 days;

Assessment: Fair possibility.

- (c) the court concludes that the restrictions are not, in fact, a moratorium and they therefore remain in effect until the housing component of the Local Growth Management Program and Comprehensive Plan has been completed and adopted by the City Council.

Assessment: Unlikely

(6) Can we get a court answer to these questions? How long would it take?

Answer: We will not be able to get a court answer to this question before you have to decide whether to enact the ordinance or send it out to the voters. It is also unlikely that the City would be given standing to get an answer from a court prior to the election. It is more likely that if the City went to court, a court would tell the City to come back after the election if the proposed ordinance had, in fact, passed. A private party that is currently under the pending restrictions in the ordinance would certainly have better standing at this point to get a court decision, but whether they could get a decision prior to the election date would depend upon when the election is held and whether they seek an injunction. Furthermore, the uncertainty created by the ordinance and the impact of its restrictions would not be resolved necessarily for all developers since courts fine-tune their decisions to the specific facts before them, which means that the decision handed down for one developer might not apply to another developer.

(7) What options would the City have regarding the restrictions if the ordinance is sent to an election and it passes?

This scenario presents several options:

- (b) The City enforces the ordinance. This would involve invalidating building permits and trying to stop any projects that had received those permits after October 16th and that were within the restricted categories, revoking any loans or grants that the City had made to projects falling within the restrictions, and returning our official Zoning Map to its status on October 16th. We would also have review projects that received permits before October 16th to determine if construction was substantially commenced before that date. If it were not, we would have to try to stop those projects as well. Until the housing component of the Comprehensive Plan is updated and approved the restrictions would remain in place.
- (c) The City files an action in court seeking a declaratory judgment asking the court to determine the time period during which the restrictions are legally in effect. In other words, we would ask the court whether the restrictions expire by operation of law on April 16th, whether they extend for 180 days from the election date or whether they extend to that point in time when the housing component of the Growth Management Plan is completed;
- (d) My office issues a formal legal opinion about the time period during which the restrictions are in effect and individuals who disagree with that opinion can challenge it in court.

GCW:dlc

o:\office\gary\citizen initiative referendum legal options council mmo

Amendments to the Portland City Code

Chapter 14, Land Use

RE: Growth Management Program and Comprehensive Plan

PREAMBLE: In order to preserve the integrity of its neighborhoods and protect the quality of life of its residents, the Portland City Code is hereby amended to add a new section entitled "Local Growth Management Program and Comprehensive Plan Required" to the Portland Zoning Ordinance, and to read as follows:

1. Purpose: In order to identify the tools and resources to effectively plan for and manage future development, while preserving the quality of life for the City's residents, and encouraging the widest possible involvement by its residents in all aspects of the planning and implementation process, the City of Portland is required to develop and adopt a local growth management program and maintain an updated comprehensive plan consistent with M.R.S.A. Title 30-A, Sections 4301-4327.

2. Housing Plan Established as a Priority: The City of Portland is hereby required to establish as a priority the updating and revision of the housing component of the local growth management program and comprehensive plan. The development of an updated housing plan shall commence upon adoption of this ordinance by the voters of Portland. Subsequent updating shall occur whenever the Planning Board shall determine that significant changes in data identified in section 3 or other conditions has or will render the current plan inadequate. The housing component may be completed separately from and prior to completion of other components of the local growth management program and comprehensive plan.

3. Components of Local Growth Management Program and Comprehensive Plan:

(1) The local growth management program shall include an inventory of economic and demographic data; housing data; natural and marine resources including open space, recreation facilities and scenic vistas; public access to the shoreline by land or by sea; transportation infrastructure; pedestrian safety; the development of retail or commercial and public services; and other considerations as may be required by state law or which may impact the quality of life for the City's residents.

(2) The local growth management program shall include implementation plans including timelines for the comprehensive plan.

(3) The local growth management program shall include establishment of a neighborhood review process through which each neighborhood shall participate collaboratively in the review of residential development.

4. Citizen Participation Required: In order to carry out the provisions of sections 1-3, The Mayor shall nominate and the City Council shall confirm a local planning committee to be known as the Citizens' Advisory Committee, whose members shall serve for three year terms. The Citizens' Advisory Committee shall include representatives of each of the City's residential neighborhoods, as determined by the City Council, as well as representatives of the city's non-residential neighborhoods. All meetings of the Citizens' Advisory Committee shall be open to and noticed to the public, and the committee shall hold public hearings to encourage citizen input, prior to adoption of the local growth management program and comprehensive plan by the City Council.

5. Restrictions on City activity pending completion of the updated housing component of the local growth management program and comprehensive plan: Pending completion and adoption by the City Council of the updated housing component of the local growth management program and comprehensive plan, the City of Portland shall not:

(1) Issue one or more building permits for the construction of Developments, defined as: (a) new residential construction of 20 or more dwelling units located upon a single lot of record as of the effective date of this ordinance, or upon contiguous lots of record as of the effective date of this ordinance; or (b) a commercial development encompassing more than 10,000 feet of leasable commercial space located within 300 feet of any land zoned to permit residential uses;

(2) Fund by loan or grant or act as agent for funding by means of state and federal funds for the development of new residential housing within the City, provided, nevertheless that this shall not prohibit the provision by the City of funding for one-to-four family units on individual lots, nor shall this prohibit the provision of funding for rehabilitation of existing units;

(3) Amend the city's zoning ordinance insofar as such changes alter the permitted uses in or within 300 feet of any land zoned to permit residential uses.

Exception: development within the Bayside neighborhood, defined as the area bounded by Cumberland Avenue, Forest Avenue, Interstate 295 and the Franklin Arterial, is exempted from the above restrictions and prohibitions on City activity pending completion of the updated housing component of the local growth management program and comprehensive plan.

6. Effective Date. This ordinance shall become effective retroactively as of the date of filing of the affidavit pursuant to § 9-36 of the Portland City Code, setting in motion the initiative process with regard to this ordinance.

7. Existing Permits And Approvals: Existing permits for Developments, as defined above in section 5(1) shall become null and void unless:

(1) the developer received all City permits and final approvals prior to the date of filing of the affidavit pursuant to § 9-36 of the Portland City Code, setting in motion the initiative process with regard to this ordinance; and

(2) construction of the development was substantially commenced prior to the effective date of this ordinance. Any permit or application fees paid to the City for such construction or approval shall be refunded upon the request of the Applicant.

8. Severability: Each provision of this ordinance, including without limitations its application to pending proceedings, its effect on existing permits and approvals, and its applications to proposed development or zoning changes pending the completion of the housing component of the local growth management plan and comprehensive plan shall be severable. The invalidity of any provision of this amendment shall not affect the validity or enforceability of any other provision.

9. Right of the City Council to amend this ordinance: Notwithstanding the limitations in the City's Initiative and Referendum Ordinance regarding initiated ordinances, the City Council is authorized to amend this ordinance at any time without the requirement of submission to the voters, once the City of Portland has adopted an updated housing plan for the City in a manner consistent with the provisions of M.R.S.A. Title 30-A, Sections 4301-4327."

SUMMARY

This ordinance requires the City to update and revise the housing component of its comprehensive land use plan, create the local growth management program required by state law, and appoint a Citizen's Advisory Committee to assist in that process. Pending completion of the updated housing component, the Ordinance prohibits (1) new residential construction of 20 or more units whether on a single lot or contiguous units; (2) commercial development of more than 10,000 square feet located within 300 feet of any land zoned to permit residential uses; (3) local, state or federal funding of any new residential housing except for 1-4 family units on single lot, or rehabilitation of existing units, and (4) changes in permitted uses on land zoned to permit residential uses or within 300 feet of any such land. The Ordinance is retroactively effective to October 16, 2000, and voids any permits issued after that date or any currently issued permits, unless the developer has received all final permits and approvals, and construction of the development has substantially begun. The ordinance exempts the Bayside area, defined as the area bounded by Cumberland Avenue, Forest Avenue, Interstate 295 and the Franklin Arterial, from its prohibitions.

AFFIDAVIT FILED PURSUANT TO § 9-36 OF PORTLAND CITY CODE SEEKING PETITIONS FOR
INITIATION OF ORDINANCE

The undersigned hereby depose and say as follows:

1. The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
2. The undersigned file this affidavit for the purpose of initiating an ordinance ('the Ordinance'), the text of which is annexed to this affidavit as Exhibit A;
3. The summary to accompany the proposed ordinance, as required by § 9 37(b) of the Portland City Code, is annexed to this Affidavit as Exhibit C;
4. The undersigned will constitute the petitioners' committee for the "Campaign for a Comprehensive Plan" with respect to the Ordinance;
5. All notices to the Committee are to be sent to the following address:
Campaign for a Comprehensive Plan
C/O Jim Estes
105 North St.
Portland, Maine 04101
6. The undersigned ten (10) registered voters will constitute the Petitioners Committee. Dated at Portland, this 16th day of October, 2000.

James C. Estes
(Print) Name

105 North St., Portland, Me 04101
Address

James C. Estes
Signature

Anne M. Rand
(Print) Name

61 Melbourn St. Portland 04101
Address

Anne M. Rand
Signature

Elizabeth K. Smith
(Print) Name

42 Walnut St. Portland
Address

Elizabeth K. Smith
Signature

MARC O'F DeSalle
(Print) Name

340 Eastern Promenade
Address

Marc O'F DeSalle
Signature

Deborah Cole
(Print) Name

71 Walnut St, Portland
Address

Deborah Cole
Signature

Jean Mc Manamy
(Print) Name

10 Willis St Portland
Address

Jean Mc Manamy
Signature

Joseph Piergrossi JR
(Print) Name

61 Montreal St, Portland
Address

Joseph Piergrossi JR
Signature

Janet S.E. Ham
(Print) Name

56 Lafayette St. Portland
Address

Janet S.E. Ham
Signature

William R. Gorham
(Print) Name

34 NORTH ST. PORTLAND
Address

William R. Gorham
Signature

CATHERINE Susan Link
(Print) Name

Cathy 44 WALNUT - PORTLAND
Address

Cathy Susan Link
Signature

OCT 16 12 49 PM '00
CITY CLERK
PORTLAND, MAINE

ARTICLE II. PRECINCTS*

Sec. 9-16. Generally.

The districts of the city established by section 9-1 of this Code pursuant to section 1 of article II of the charter are for voting purposes divided into the precincts shown on the map incorporated into said section 9-1 with voting places within or near each such precinct as hereinafter designated by order of the council.

(Ord. No. 375-84, § 2, 11-16-84)

Secs. 9-17-9-35. Reserved.

ARTICLE III. INITIATION AND REFERENDUM

Sec. 9-36. How invoked.

(a) *In general.* The submission to the vote of the people of any proposed ordinance dealing with legislative matters on municipal affairs or of any such ordinance enacted by the city council and which has not yet gone into effect may be accomplished by the presentation of a petition therefor to the city council in the manner hereinafter provided and signed by at least one thousand five hundred (1,500) voters. The submission of a proposed ordinance, or amendment or repeal, in whole or in part, of an ordinance already in effect shall be hereinafter referred to as the direct initiation of legislation or "initiative." The submission of a petition to override any ordinance passed by the city council but which has not yet gone into effect shall be hereinafter referred to as the "people's veto."

(b) *Applicability.* Neither this article nor ordinances dealing with appropriations, tax levy, or with wages or hours of city employees shall be subject to the initiative and "people's veto" referendum provisions herein established.

(c) *Petition procedure.* Any ten (10) registered voters of the city may file with the city clerk an affidavit stating:

- (1) That the ten (10) registered voters will constitute the petitioners' committee;
- (2) The names and addresses of the ten (10) registered voters;
- (3) The address to which all notices to the committee are to be sent; and
- (4) That the ten (10) registered voters will circulate the petition and file it in proper form.

Upon filing of such affidavit by ten (10) such voters, the city clerk shall have seven (7) calendar days to prepare the proper petition forms pursuant to section 9-37 below with a copy of the submitted ordinance either printed on the petition or attached thereto and shall provide such petition to members of the petitioners' committee and to any other registered city voter who

***Editor's note**—Ord. No. 375-84, §§ 2 and 3, adopted Nov. 16, 1984, amended § 9-16 in its entirety and repealed §§ 9-17-9-21, relative to election precincts. Formerly, §§ 9-16-9-21 derived from Code 1968, § 105.1 and Ord. No. 105-79, adopted Feb. 22, 1979.

wishes to circulate it. The petition may be circulated for signature by registered voters of the city for eighty (80) calendar days from the original date of issuance of the petition, which date shall be noted by the clerk on each blank form; provided, however, that any petition for the "people's veto" of an ordinance not in effect must be filed with the city clerk prior to the effective date of such ordinance or within thirty (30) calendar days after passage by the city council, whichever is less. Any "people's veto" petition not so filed is void. All provisions as to the filing and the form of petitions in this article, other than the aforementioned time frame, shall apply to both initiative and "people's veto" petitions.

(d) *Filing of petition.* The petition must be returned to the city clerk for filing by close of business within eighty (80) calendar days from the date of issuance thereof. If the eightieth day is a Saturday, Sunday or holiday, such petition shall be filed by the close of business of the next immediate business day. All petition forms not so submitted are void. The petition forms shall be assembled as one (1) instrument, with each page numbered, attached to a written statement from the petitioners' committee stating the number of petition forms being filed. The clerk shall certify the date of filing and the number of forms returned.

(e) *Verification of petition.*

- (1) Within fifteen (15) calendar days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by certified mail, return receipt requested, or by hand delivery, and shall file a copy with the city council.
- (2) A petition certified insufficient may be amended once, if the petitioners' committee files a written notice of intention to amend it with the clerk within eight (8) calendar days after mailing by certified mail, return receipt requested, or hand delivery of the copy of the clerk's certificate. Within ten (10) calendar days after this notice of intention is filed, the petitioners' committee may file a supplementary petition to correct technical deficiencies in the original which shall, in form and content, comply with the requirements for an original petition but which shall not contain additional signatures of voters.
- (3) Within five (5) calendar days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.
- (4) Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots.
- (5) The clerk's decision as to the sufficiency of the petitions shall be a final determination, reviewable as provided by law.

(f) *Hearing.* At its first regular meeting after receipt of a report that a petition is sufficient and has at least one thousand five hundred (1,500) valid signatures of the registered voters of the city, the city council shall set a date for public hearing, which hearing shall be held within

thirty (30) calendar days thereafter. Notice of the hearing shall be published in a newspaper having general circulation in the city at least ten (10) calendar days prior to the hearing and shall contain the text of the petition. As provided by section 9-39, the city council shall take the necessary steps to submit to the voters of the city the ordinance proposed in the petition; provided that, in the case of the "people's veto" referendum, the entire repeal by the city council of the ordinance sought to be referred and, in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under the petition. (Code 1968, § 102.1; Ord. No. 349-75, 6-16-75; Ord. No. 508-81, §§ 1, 2, 2-2-81; Ord. No. 262-91, 3-4-91)

Sec. 9-37. Form of petition.

(a) *Form.* The petition used to originate the initiative or the "people's veto" referendum shall be substantially in the following form on paper of uniform size with as many individual sheets as reasonably necessary:

PETITION TO THE CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy and summary of which is printed hereon or attached hereto, be adopted/repealed (as applicable)?

We, the undersigned, under oath, depose and say: That we are duly qualified voters of the City of Portland residing respectively at the addresses placed opposite our names, and we hereby petition the city council to submit the foregoing question to the voters of the City of Portland.

Signature	Printed Name	Residence (Street Address)	Date
_____	_____	_____	_____

City Clerk

Date of Issuance of Petition

(To be filled in by city clerk as original date of issuance of petition for signatures.)

Each signature must be in ink or other indelible instrument and must be followed by the printed name and the residence of the voter with street and number and the date of signing.

(b) *Ordinance and summary.* At the time of submitting the proposed ordinance, the petitioners must submit a summary to accompany the proposed ordinance on the petition. The summary shall clearly and objectively describe the content of the proposal and shall be written in words with common and everyday meaning. The summary shall not contain language

designed to promote or oppose the proposal. In the event sufficient signatures are obtained to submit the ordinance to the voters, the summary included on the petition shall accompany the title and text of the ordinance on the ballot, except as otherwise provided in section 9-41(b) below.

(c) *Circulator verification.* Each petition form shall have printed on its back an affidavit, which shall be executed by the circulator stating:

- (1) That the circulator personally circulated the form;
- (2) The number of signatures on that petition form and that all the signatures were signed in the circulator's presence; and
- (3) That the circulator believes them to be genuine signatures of the persons whose names they purport to be.

Signatures on the petition shall be verified pursuant to the same standards applicable to state initiative and "people's veto" referendum petitions pursuant to 21-A M.R.S.A., § 901 et seq., except that each petitioner must be a registered voter of the city at the time of signing the petition.

(Code 1968, § 102.2; Ord. No. 262-91, 3-4-91)

Sec. 9-38. Effect of petition.

Whenever there has been filed with the clerk a petition, which is facially valid with at least one thousand five hundred (1,500) signatures, for the reference to the people of any ordinance passed by the city council, which ordinance has not yet gone into effect, i.e. the "people's veto" petition, such ordinance shall be suspended from going into operation until it has either been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on the question or the petition, after opportunity for amendment and inspection, [or] has been found to be insufficient; whichever occurs first. In the event the required number of signatures are not obtained prior to the date when such ordinance goes into effect, such petition shall be null and void. Once an enacted ordinance has gone into effect, it shall be amended or repealed only through the initiative process.

(Code 1968, § 102.3; Ord. No. 262-91, 3-4-91)

Sec. 9-39. Time of election.

At the first regular council meeting held after the public hearing, the city council shall set a time for the holding of a special election at which the ordinance shall be submitted to the voters of the city, which special election shall be held not less than sixty (60) nor more than one hundred fifty (150) calendar days after such council meeting; provided that, if the next regularly scheduled election falls within no less than sixty (60) and no more than one hundred eighty (180) calendar days of such council meeting, no special election shall be called, but the question shall be submitted at the regular election.

(Code 1968, § 102.4; Ord. No. 262-91, 3-4-91)

Sec. 9-40. Publication of ordinance.

(a) *Publication.* Whenever any ordinance is required by the provisions of this article to be submitted to the voters of the city at any election, the city council must order one (1) publication of the complete title, text and summary thereof to be made in one (1) or more newspapers of the city, such publication to be made not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the election.

(b) *Posting.* In addition to the foregoing, a copy of the complete title, text and summary of the ordinance to be submitted shall be posted in the city clerk's office at least fourteen (14) calendar days prior to the date of the election. In addition to the foregoing, a copy of the complete title, text and summary of the ordinance submitted to the voters shall be posted at each polling place on election day.

(Code 1968, § 102.5; Ord. No. 262-91, 3-4-91)

Sec. 9-41. Form of ballot.

(a) *In general.* The ballot shall contain the full title and text of the proposed ordinance and the summary included on the petition, except as provided below.

(b) *Title and summary only.* At any point in the process after a petition has been certified as sufficient but no less than sixty (60) calendar days prior to the election, the city clerk shall report to the city council if he or she determines that it is not reasonably possible to reproduce the full text and summary of the proposed ordinance on the ballot. In such case, the summary provided with the petition shall accompany the title on the ballot in place of the full text.

(c) *Wording of questions.* Ballots for a vote on an initiative or "people's veto" referendum question shall set out the question to be voted upon in the following form:

- (1) With respect to an initiative question, the question shall be presented to the voters substantially as follows: "Do you favor the change in the city ordinance(s) proposed by citizen petition as provided below?"
- (2) With respect to a "people's veto" question, the question shall be presented to the voters substantially as follows: "Do you favor repealing the city ordinance(s) enacted by the city council on (insert date)?"
- (3) In the event that the city council adopts a competing measure to an initiated ordinance, the questions shall be presented to the voters substantially as follows: "Do you favor one (1) of the two (2) city ordinances set forth below: 'A' as proposed by citizen petition; 'B' as enacted by the city council; or should both be rejected as provided in 'C'?"

(Code 1968, § 102.6; Ord. No. 262-91, 3-4-91)

Sec. 9-42. Result of election

If a majority of the qualified voters voting on a proposed initiative ordinance or a referred ordinance shall vote in favor thereof, such ordinance shall take effect thirty (30) calendar days

after the declaration of the official canvass of the return of such election. Notwithstanding the foregoing, such effective date shall not be deemed to prohibit a retroactive effective date of an initiated ordinance, to the extent permitted by law, if such retroactive date is specifically provided for in the petition and/or the question approved by the voters. Any such date in the petition shall be included in the question on the ballot. Such retroactive date shall not be earlier than the date of filing of the affidavit originating the petition which is finally submitted to the voters, if any.

(Code 1968, § 102.7; Ord. No. 262-91, 3-4-91)

Sec. 9-43. Conflicting ordinances.

Any number of proposed or referred ordinances may be voted upon at the same election. If two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall be paramount, and all questions of construction shall be determined accordingly.

(Code 1968, § 102.8; Ord. No. 262-91, 3-4-91)

Sec. 9-44. Order upon ballot.

If two (2) or more ordinances are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the city council on its own initiative.

(Code 1968, § 102.9; Ord. No. 262-91, 3-4-91)

Sec. 9-45. City council may initiate ordinance.

The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in section 9-36(b) above) to be voted upon at any regular or special municipal election, and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed or amended accordingly.

In the event the council submits a proposition to the voters hereunder, it shall provide a summary to accompany the full title and text. Such summary shall clearly and objectively describe the content of the proposition and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposition. The ballot shall contain the full title, text and summary of the proposition except as otherwise provided in section 9-41. The complete title, text and summary of the proposition shall be published and posted prior to the election as provided in section 9-40.

(Code 1968, § 102.10; Ord. No. 262-91, 3-4-91)

Sec. 9-46. Repeal or amendment of ordinance.

An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance,

except by a vote of the people, unless such ordinance shall otherwise expressly provide. After five (5) years from the effective date of the ordinance, the city council after public hearing may repeal or amend such ordinance by vote of five (5) of its members.
(Code 1968, § 102.11; Ord. No. 262-91, 3-4-91)

Sec. 9-47. Public hearing.

Whenever a public hearing is required to be held in accordance with the provisions of this article, notice of the time, place and purpose of the hearing shall be published in one (1) of the newspapers of the city, such publication to be not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the date of the hearing.
(Code 1968, § 102.12; Ord. No. 262-91, 3-4-91)

[The next page is 703]

R/E
Chris Sartorius
Re Growth Manager

City of Portland, Maine
Memorandum

To: Joseph E. Gray, Jr., Acting City Manager

From: Sarah Hopkins, Development Review Services Manager

Date: December 29, 2000

Subject: Future/Pending Development

This morning, you requested a list of pending and potential future projects under, which may be subject to the comprehensive plan referendum.

- | 1. Projects Currently Under Review | within 300ft of res. uses* |
|---------------------------------------|----------------------------|
| 46 unit condominiums on Ocean Ave | yes |
| status: have not yet applied | |
| 19 unit Condos on Allen Ave | yes |
| status: currently under review by PB; | |
| reduced # of units per referendum | |
| True/Ocean Apts/Condos (75-100units?) | yes |
| Status: on hold pending referendum | |
| Blake Block | yes |
| North /Walnut apartments | yes |
| PRPIII Subdivision | yes |
| status: currently under review by PB; | |
| reduced # lots per referendum | |
-
- | 2. Future/Potential Projects/Vacant Land | within 300ft of res. uses* |
|--|----------------------------|
| Guilford Parcel | some |
| Thompson's Point | some |
| Jetport Commercial Development | some |
| Hutchins Drive Buildout | no |
| Outer Westbrook/Barris Land | yes |
| Keenan Auction Site | no |
| Union Water Power Site- Rand Road | yes |
| Union Water Power Site- Canco Road | yes |
| Morrill's Corner Industrial Land | yes |
| West Side of Presumpscot Street | yes |
| Lincoln Square | yes |
| Shipyards Brewery Site | yes |
| Hub Furniture | yes |
| Harvard/Yale vacant land | yes |

*note: 300 ft from zones in which residential uses are permitted

PETITION TO THE CITY COUNCIL

For submission to the People of the Question

Shall the proposed ordinance, a copy of which is printed hereon, be adopted?

Effective Date: Pursuant to Chapter 9, Section 9-42 of the City of Portland Code of Ordinances and 1 M.R.S. § 302, the effective date of the proposed amendments below, whether passed by the City Council or by a majority of city voters, shall be April 20, 2021, the date the affidavit petitioning the adoption of these amendments to the City Code was presented to the city clerk.

6.5.6. Supplemental use-specific conditional use Standards

6.5.6 (B) Emergency Shelters

1. The facility shall provide adequate space for basic shelter operations. ~~conducting security searches and other assessments.~~
2. ~~The facility shall be designed with a centralized shelter operations office on each level providing sight line to sleeping areas.~~
2. ~~3-~~A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighbored concerns; staffing; access restrictions; ~~on-site~~ surveillance; safety measures; controls for resident behavior and noise levels Criminal Trespass Order policy and appeals process for residents; and monitoring reports.
4. ~~Adequate access to and from METRO service shall be provided. The facility shall be within a ¼ mile of a METRO line, or shall be within ½ mile of a METRO line and provide adequate indoor space to permit all shelter guest day shelter, as well as implement strategies to help residents utilize transit.~~
3. ~~5-~~The facility shall be open 24 hours per day and provide on-site services, either in person or via real-time video platform, to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.
4. ~~6-~~Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on -site.
5. ~~7-~~ An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guest, exclusively
6. Except for shelters solely serving families or domestic violence survivors, the facility shall provide shelter to no more than 50 individuals at a time.

Summary: This proposed amendment requires all new emergency shelters to be opened 24 hours per day and, except for family and domestic violence shelters, provide shelter to no more than 50 individuals at a time. It also removes several requirements that are not suitable across all types of shelters.

ALTERNATIVE SHELTER AMENDMENT

This referendum shall take effect thirty (30) calendar days after the declaration of the official canvass of the return of such this referendum in accordance with City Code Sec. 9-42. This referendum shall not have any retroactive effect and shall not apply to lawfully pre-existing emergency shelters or emergency shelters that have received substantive review under Chapter 14 of the City Code as of the effective date, pursuant to 1 M.R.S. Sec. 302.

CHAPTER 14 LAND USE CODE

Article 6 Use Standards; Sub-article 6.5 Conditional Uses; 6.5.6 Supplemental Use-specific Conditional Use Standards

...

B. Emergency shelters

1. The facility shall provide adequate space for conducting security searches and other assessments.
2. The facility shall be designed with a centralized shelter operations office on each level providing sight lines to sleeping areas. This requirement shall not apply to apartment-style shelters.
3. A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions, including a clear policy regarding Criminal Trespass Orders (CTOs); on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.
4. Adequate access to and from METRO service shall be provided. The facility ~~shall be within a ¼ mile of a METRO line, or shall be within ½ mile of a METRO line and provide adequate indoor space to permit all shelter guests day shelter, as well as must~~ implement strategies to help residents utilize public transit.
- 4.5. The facility must provide indoor space to permit shelter guests day shelter.
- 5.6. The facility shall be open 24 hours per day and shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.
- 6.7. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.
8. An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guests.
9. An emergency shelter shall not be located within 1,000 feet of another, as measured from the nearest property line of each shelter in a straight line. Domestic violence shelters that do not disclose their locations for safety reasons are exempt from this provision.
10. The total bed capacity for individual residents within emergency shelters in the City shall not exceed 300 beds within a one-mile radius. Distance shall be measured from the nearest property line of each shelter in a straight line. Domestic violence shelters that do not disclose their locations for safety reasons are exempt from this provision.
- 7.11. Exceptions: The requirements of Sec. 6.5.6(B)(1), (B)(2), and (B)(7) shall not apply to the consolidation of the operations of the Joe Kreisler Teen Shelter at 38 Preble Street and the Preble Street Teen Center at 343 Cumberland Avenue into one 24/7 emergency shelter facility for teens at 343 Cumberland Avenue, provided that there is no expansion of the number of individuals served or beds currently provided between the two existing locations.

ALTERNATIVE THREE SHELTER AMENDMENT

This referendum shall take effect thirty (30) calendar days after the declaration of the official canvass of the return of such this referendum in accordance with City Code Sec. 9-42. This referendum shall not have any retroactive effect and shall not apply to lawfully pre-existing emergency shelters or emergency shelters that have received substantive review under Chapter 14 of the City Code as of the effective date, pursuant to 1 M.R.S. Sec. 302.

CHAPTER 14 LAND USE CODE

6-3. Definitions.

...

Shelter capacity emergency. A shelter capacity emergency may exist when the number of individuals seeking emergency shelter in the City far exceeds the number of emergency shelter beds available. During a shelter capacity emergency, the City Council may allow emergency shelter facilities to exceed the 150 bed capacity limit.

...

Article 6 Use Standards; Sub-article 6.5 Conditional Uses; 6.5.6 Supplemental Use-specific Conditional Use Standards

B. Emergency shelters

1. The facility shall provide adequate space for conducting security searches and other assessments.
2. The facility shall be designed with a centralized shelter operations office on each level providing sight lines to sleeping areas. This requirement shall not apply to apartment-style shelters.
3. A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions, including a clear policy regarding Criminal Trespass Orders (CTOs); on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.
4. Adequate access to and from METRO service shall be provided. The facility shall be within a ¼ mile of a METRO line, or shall be within ½ mile of a METRO line and provide adequate indoor space to permit all shelter guests day shelter, as well as must implement strategies to help residents utilize public transit.
- 4.5. The facility must provide indoor space to permit shelter guests day shelter.
- 5.6. The facility shall be open 24 hours per day and shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.
- 6.7. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.

8. An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guests.
9. An emergency shelter shall not be located within 1,000 feet of another, as measured from the nearest property line of each shelter in a straight line. Domestic violence shelters that do not disclose their locations for safety reasons are exempt from this provision.
10. An emergency shelter shall have a maximum bed capacity of 150 beds. This capacity may be increased by order of the City Council in the event that a shelter capacity emergency is declared. A shelter capacity emergency may be declared by order of the City Council upon completing a resource inventory of available emergency shelter beds and alternative bed resources. This resource inventory will include a census of available beds at local emergency shelters, supportive housing sites, or other existing programs providing emergency housing to unhoused community members. The City, during such an emergency, shall make best efforts to utilize available alternative bed resources prior to expanding the authorized bed count at an emergency shelter facility.
11. The total bed capacity for individual residents within emergency shelters in the City shall not exceed 300 beds within a one-mile radius. Distance shall be measured from the nearest property line of each shelter in a straight line. Domestic violence shelters that do not disclose their locations for safety reasons are exempt from this provision.
- 7.12. Exceptions: The requirements of Sec. 6.5.6(B)(1), (B)(2), and (B)(7) shall not apply to the consolidation of the operations of the Joe Kreisler Teen Shelter at 38 Preble Street and the Preble Street Teen Center at 343 Cumberland Avenue into one 24/7 emergency shelter facility for teens at 343 Cumberland Avenue, provided that there is no expansion of the number of individuals served or beds currently provided between the two existing locations.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 23, 2021

SUBJECT: Written Public Comment

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Fwd_ Public Comment_ Small Shelters Referendum - City of Portland Mail (1)
2. City of Portland Mail - Fwd_ Comments regarding Shelter Initiative options

Prepared by:

Date: 08/23/2021

From: George Rheault <george.rheault@gmail.com>

Date: August 23, 2021 at 11:59:15 AM EDT

To: Public Comment <publiccomment@portlandmaine.gov>

Cc: Kate Snyder <ksnyder@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>, Andrew Zarro <azarro@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Councilor Belinda Ray <bsr@portlandmaine.gov>, Colin Ellis <colin@portlandphoenix.me>, Michael Kelley <mkelley@theforecaster.net>, "Randy W. Billings" <rbillings@pressherald.com>, Gregory Kesich <gkesich@pressherald.com>

Subject: Public Comment: Small Shelters Referendum

I implore the Mayor and the City Council to stop their stalling regarding formally placing the Small Shelters Referendum on the November ballot.

I am also opposed to the "alternative" referendum that Belinda Ray has cooked up behind the scenes with the assistance of the City Manager and city staff.

The Mayor and Council had their opportunity to show compassion and respect to those experiencing homelessness back in early 2020 but choose instead the "Snyder Shelter Solution."

The Mayor and certain members of the Council back then could have rejected the exiling of our homeless neighbors to an industrial zone where it is technically ILLEGAL for anyone else to reside there (see attached chart from land-use code showing how the area containing the proposed homeless shelter currently prohibits hotels, all residential uses and even restaurants but the City of Portland is more than happy to expect our homeless neighbors to eat, sleep, receive essential services and socialize in the midst of this area). Instead, by a narrow vote, the Council embraced EXILE.

It is now official City policy that homeless services will only be dispensed at the farthest fringes of our city limits, wedged into an area wedged in by highly flammable propane storage, wood-chip processing and a waste disposal transfer station.

The voters of Portland deserve to have their say whether this official city policy should remain in place or be disturbed by a real vision that does not warehouse our most vulnerable, struggling citizens in an area that will only further stigmatize, isolate and traumatize those who have been falling through the cracks of our unequal society.

TABLE 6-E: PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H/I-Hb	A-B ⁷	Use Standards
Institutional	Airports				● ⁸	
	Preschool facilities	●	●			
	Emergency shelters	●	●	●		6.5.6(B)
	Intermediate care facilities		● ⁴			
	Places of assembly (<10,000 SF)	●				
Commercial/Services	Bars				●	
	General offices (<5,000 SF)	● ¹	●			
	General offices (>5,000 SF)	● ¹	●			
	General services (<5,000 SF)				●	
	General services (>5,000 SF)				●	
	Hotels				●	
	Recreation and amusement centers	●	●			
	Repair services	●	●	●		
	Restaurants				●	
	Animal-related services	● ²				
	Construction & engineering services	●	●	●		
	Dairies	●	●	●		
	Fish waste processing			●		
	Food & seafood processing, packing, and distribution		●	●		
	High-impact industrial uses			●		
	Intermodal transportation facilities	●	●	●		
	Laboratory and research facilities	●	●	●		
	Low-impact industrial	●	●	●		
Industrial	Lumber yards	●	●	●		
	Marijuana cultivation facility (<2,000 SF plant canopy)	●	●	●		
	Marijuana cultivation facility (2,000–7,000 SF plant canopy)		●	●		
	Marijuana cultivation facility (>7,000 SF plant canopy)			●		6.4.10
	Marijuana manufacturing facility	●	●	●		
	Marijuana testing facility	●	●	●		
	Printing and publishing	●	●	●		
	Recycling and solid waste disposal facilities		● ⁵	● ⁵		
	Studios for artists and craftspeople	●	●			
	Telecommunication towers (ground-mounted)		●	●		
	Tow lots		●	●		6.4.17
	Warehousing, storage, and distribution facilities	● ³	●	●		

TABLE 6-E (CONT.): PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H/I-Hb	A-B ⁷	Use Standards
	Correctional pre-release facilities		● ⁶	● ⁶		6.4.7
	Marinas	●				
	Off-street parking				●	
	Solar energy system (minor)	●	●	●	●	6.4.16
	Solar energy system (major)		●	●	①	
	Utility substations	●	●	●		
Other	Wind energy system (minor)	①	●	●	●	6.4.18
	Wind energy system (major)		●	●	①	

¹ Only back office uses permitted.

² Not including kennel or boarding facilities.

³ Must be less than 10,000 SF in floor area. No outdoor storage permitted. Self-storage not permitted in the I-L/I-Lb zone.

⁴ Permitted in existing structures not designed for industrial, amusement, warehouse or manufacturing uses as of 9/15/14 or later. Such structures may be reused or expanded to establish a facility of no more than 30 persons plus staff.

⁵ Permitted within an enclosed structure only.

⁶ Not permitted in the I-Ma, I-Mb, or I-Hb zones.

⁷ Permitted uses on lots within airport restricted access areas shall be limited to those which do not require or encourage access or visits by the public and which provide technical administrative or other support to airport operations.

⁸ Including airport administration, terminals, carrier operations, concessions, reservations and ticket sales, freight, repair and storage, fueling services, flying schools, car rental operations, and other associated uses.

Sheba Brown <sbrown@portlandmaine.gov>

Fwd: Comments regarding Shelter Initiative options

1 message

Dena Libner <dlibner@portlandmaine.gov>
 To: Sheba Brown <sbrown@portlandmaine.gov>

Mon, Aug 23, 2021 at 12:01 PM

Sent from my iPhone. Please excuse typos!

Begin forwarded message:

From: Kimberly Cook <kcook@gsmaine.com>
Date: August 23, 2021 at 12:00:36 PM EDT
To: council@portlandmaine.gov, publiccomment@portlandmaine.gov
Cc: cityclerk@portlandmaine.gov, dwest@portlandmaine.gov, Jon Jennings <jpj@portlandmaine.gov>
Subject: Comments regarding Shelter Initiative options

Mayor Snyder & Honorable Councilors,

I'm writing to urge you to place the "Smaller Shelters" citizens initiative along with the summary as submitted by the petitioners on the November ballot without a competing measure. While Article 9 allows for a competing measure to be placed on the ballot, it has not been the custom or pattern of the City Council to do so, even when the majority of the Council disagreed with the goals or language of a citizen initiative. In fact, it is not clear that the City Council has ever placed a competing measure on the ballot setting up a three-way question (i.e., A, B or C/neither). As a reminder, the alternative to the 4 school bond that was proposed by the Council in 2017 was not a competing measure to a citizen initiative, and it was placed on the ballot such that voters could choose to vote yes or no on each ballot question.

We did ask the City Clerk's office for where we could find information about any previous competing measures or whether they could tell us when a competing measure was placed on the ballot. We were told that a records request form would need to be submitted and they would research this as time permitted. We are still awaiting the Clerk's office to provide information that a competing measure has been placed on the ballot in the past.

I urge you to follow the long standing practice of honoring the citizen initiative process and place this citizen initiative on the November ballot for a straight up or down vote. Please do not use the competing measure option as a way to set up a 3-way question that makes it much more difficult for the true will of your constituents to be known regarding the Smaller Shelters initiative.

I further urge the Council to adhere to the requirements of Chapter 9, Article III, Section 9-37(b) which states in pertinent part:

".... In the event sufficient signatures are obtained to submit the ordinance to the voters, the summary included on the petition shall accompany the title and text of the ordinance on the ballot, except as otherwise provided in section 9-41(b) below." (see below for section 9-41(b))

The language of the City Code is clear and unambiguous. The City Council is not afforded the option to rewrite the summary that was included on the petition. The Council discussed this issue last year when an amendment was proposed to the summary of a ballot question. In

that case, the petitioners publicly spoke in favor of the amended summary as a positive clarification. In that circumstance, the Council moved forward with a good faith effort that had the support of the petitioners. That is not the case this year with this initiative. Please follow the letter of the City Code and reject any proposed amendment to the summary.

If the City Council feels that it would like to offer an alternative to the Smaller Shelters initiative, I ask you to use Order 16 on your agenda to place that alternative on the ballot, not as a competing measure, but as your own initiative as allowed under Section 9-45.

" Sec. 9-45. City council may initiate ordinance. The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in section 9-36(b) above) to be voted upon at any regular or special municipal election, and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed or amended accordingly."

Section 9-43 of the City Code provides for how to resolve the situation where two initiatives/amendments with conflicting provisions receive a majority of the vote.

" Sec. 9-43. Conflicting ordinances. Any number of proposed or referred ordinances may be voted upon at the same election. If two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall be paramount, and all questions of construction shall be determined accordingly."

Hence, if the will of the Council is to provide its own initiative, I urge you to use this method to place it on the ballot, thereby giving the voters a meaningful policy choice in a way that does not create a significantly more difficult path to passing either the citizen initiative or the Council's own initiative.

Section 9-41(b): " (b) Title and summary only. At any point in the process after a petition has been certified as sufficient but no less than sixty (60) calendar days prior to the election, the city clerk shall report to the city council if he or she determines that it is not reasonably possible to reproduce the full text and summary of the proposed ordinance on the ballot. In such case, the summary provided with the petition shall accompany the title on the ballot in place of the full text."

Thank you for your service and for your consideration of my comments.

Kimberly Cook

70 [Alba Street](#)
[Portland, ME 04103](#)
207.233.5785

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2021

SUBJECT: Order 16-21/22 Setting an Election Date on an alternative Amendment to Portland City Code Chapter 14 Re: Emergency Shelters - Sponsored by Kate Snyder, Mayor

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This order sets the Election Date on an Alternative Amendment to the Citizen Initiative Amendment to the Portland City Code Chapter 14 section 6.5.6 Supplemental use-specific conditional use Standards, 6.5.6 (B) Emergency Shelters.

This item was postponed on July 19, 2021. Five affirmative votes are required for passage after public comment. Staff recommends that this order be postponed indefinitely.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date Re Alternative to Citizen Initiative for Emergency Shelters 7.19.2021

Prepared by:

Date: 08/12/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
AN ALTERNATIVE TO THE CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 14
RE: EMERGENCY SHELTERS**

ORDERED, that an alternative to the amendment to the Portland City Code for
Emergency Shelters substantially in the form attached hereto shall be
submitted to the voters of the City on November 2, 2021; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place
the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as
summarized below?

Summary: see attached.

MEMORANDUM
City Council Agenda Item

FROM: Paul Bradbury, Jetport Director

DATE: July 29, 2021

SUBJECT: Order 19-21/22 Accepting and Appropriating Federal Aviation Administration American Rescue Plan Act (ARPA) Grants for the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 7/19/2021

Final Action 8/16/2021

Can action be taken at a later date: Yes

PRESENTATION: Paul Bradbury, Airport Director, will introduce as needed, and answer any Council questions on this item.

I. SUMMARY

The Portland International Jetport requests approval and appropriation of two Federal Aviation Administration ARPA grants, one in the amount of \$9,484,705 and the other in the amount of \$932,709; and naming the Airport Director as the City's official representative for these grants.

II. AGENDA DESCRIPTION

This order requests acceptance and appropriation of \$10,417,414 in economic relief funds from the FAA to aid the Portland International Jetport and its in terminal concession businesses. The American Rescue Plan Act (ARPA, Public Law 117-2), signed into law by the President on March 11, 2021, included \$8 billion in funds to be awarded as economic assistance to eligible U.S. airports and eligible in terminal concessions at those airports to prevent, prepare for, and respond to the COVID-19 pandemic.

The Federal Aviation Administration released airport ARPA grant allocations in June for eligible airports. The Portland International Jetport is being allocated two ARPA grants: one totaling \$9,484,705 (for costs related to operations, personnel, cleaning, sanitization, janitorial services, and debt service payments), and the other in the amount of \$932,709 to fund in terminal concessions rent relief.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Airports and airport terminal concessions nationwide have been severely impacted over the past 15 months by the pandemic and the related restrictions on travel. The Jetport experienced a dramatic reduction in passengers in 2020, down 63.7% compared to 2019. Although we are now seeing solid recovery in leisure travel the Jetport remains down 48.8% in the first five months of 2021 when compared to 2019. The American Rescue Plan Act is providing a third round of federal relief funding with the goal of keeping the nation's aviation system operational and positioned for a full recovery in 2023.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Acceptance of these grants from the FAA will provide fiscal relief and funding stability to the Jetport and its in terminal building concession business partners. These grants will keep the Jetport operational and ready to support the travel needs of the region as the industry continues to recover from the pandemic.

V. FINANCIAL IMPACT

The Jetport projects its FY21 will close with an operating deficit of approximately \$8 million that will be covered through prior CARES Act and Corona Virus Response and Relief Supplemental Appropriations Act (CRRSAA) funds, which were previously accepted and appropriated by the City Council.

The ARPA relief funding being requested under this order will provide an additional \$9,484,705 in federal relief funds to cover Jetport operating, personnel, and janitorial costs as well as debt service. Passenger volumes this summer have seen a robust recovery and are expected to be close to 2019 levels for both July and August. This robust summer recovery is better than anticipated, but overall projections show it will be late in FY23 or early FY24 before the Jetport and airports nationwide are back to 2019 full year passenger volumes. The requested ARPA funding will allow the Jetport to cover budgeted operating shortfalls of \$4.52 million in the current FY22 and meet smaller anticipated shortfalls in FY23 and FY24.

VI. STAFF ANALYSIS AND BACKGROUND

Approval of these grants will provide needed funding stability for the Jetport and its in terminal building concessions business partners to recover from the pandemic related nationwide and worldwide drop in air travel passenger volumes.

VII. RECOMMENDATION

Staff recommends the City Council accept and appropriate this critical ARPA grant relief funding for the Portland International Jetport and its in terminal concession business partners.

VIII. LIST ATTACHMENTS

None

Prepared by:

Paul Bradbury, Jetport Director

Date: 07/29/2021

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2021

SUBJECT: Order 21-21/22 Adopting Amendment to Portland City Code Chapter 14 Re:
Emergency Shelters for 50 or Fewer Only - Sponsored by Kate Snyder, Mayor

SPONSOR: Kate Snyder, Mayor

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This order amends the Portland City Code Chapter 14 with the language proposed in the Citizen Initiative Amendment to the Portland City Code Chapter 14 section 6.5.6 Supplemental use-specific conditional use Standards, 6.5.6 (B) Emergency Shelters. If it were adopted by the City Council, it would not need to be voted on at the November 2, 2021 General Election.

This item must be read on two separate days. It received its first reading on July 19, 2021. Five affirmative votes are required for passage after public comment. Staff recommends that this order be postponed indefinitely.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

None

Prepared by:

Date: 08/12/2021

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Heather Brown, Sonia Bean, Nancy English, Danielle West, Deivy Periana

FROM: Christine Grimando, Director, Planning and Urban Development

DATE: 7/1/2021

SUBJECT: Zoning Map Amendment for 99 Winter Street

SPONSOR: Brandon Mazer, Chair, Portland Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 19 **Final Action** August 16

Can action be taken at a later date: Yes

PRESENTATION: Brandon Mazer, Chair, Portland Planning Board

I. ONE SENTENCE SUMMARY

The Planning Board recommends a zoning map change for the properties located at 99 Winter Street and 152-160 State Street from R-6 Residential to B-3 Downtown Business.

II. AGENDA DESCRIPTION

Thanos, LLC, requests a zoning map amendment to facilitate development at 99 Winter Street. The zoning map amendment would rezone two parcels from the existing R-6 zone to a B-3 zone. The Downtown Height Map would be amended coterminous with the proposed B-3 rezoning area.

The proposed rezoning would facilitate the development of a new six-story, multifamily residential building including workforce housing at 99 Winter Street, which currently contains no structures. At this point in the process, the proposal for development remains conceptual in nature, as no site plan application has yet been submitted. Furthermore, one additional parcel located 152-160 State Street is included in the proposed map amendment boundary in order to create a contiguous B-3 zone and to bring the existing parcel's use (Portland Club) into greater conformance.

III. BACKGROUND

The applicant's property is comprised of a single parcel, 28,953 square feet in size that is bounded by Winter Street to the south and State Street to the north. The section of parcel abutting State Street is addressed as 160 State Street while the Winter Street frontage is

addressed as 99 Winter Street. The property includes an existing three-story Greek-Revival building at 160 State Street built in 1807 as a private residence. In 1934 the building was purchased by the Bishop of Portland and operated as a nunnery (The Sisters of Precious Blood Convent) for 84 years. On February 7, 2020, the applicant, Thanos, LLC, received a Level II Site Plan approval from the City of Portland Planning Authority to redevelop the former monastery at 160 State Street into a 40-room lodging house. At the rear of the lodging house, the property connects to a large walled former garden abutting Winter Street, and is the section of the parcel being considered for redevelopment. The area of the parcel on which the future development would be constructed is entirely porous and is roughly 9,100 square-feet in size, with 70 feet of frontage along Winter Street.

One additional non-applicant owned parcel located 152-160 State Street is included in the proposed map amendment boundary in order to create a contiguous B-3 zone and to bring the parcel's existing use (Portland Club) into greater conformance. 152-160 State Street contains an existing three-story building owned and operated by the Portland Club.

The properties current R-6 Residential zoning encourages residential development at a maximum density of 725 square feet per dwelling unit. The requested B-3 zone would allow an increase in density, with no limit on residential density, permitting more dwelling units per lot area in a mixed-use, walkable, and transit oriented location.

The surrounding immediate context includes State Street, a wide, historic thoroughfare identified as a priority corridor in the City's Comprehensive Plan that has wide sidewalks and established street trees lined with a variety of building types. The buildings fronting along State Street range from residential, retail, and large institutional uses such as Mercy Hospital to historic mansions converted to other uses including a funeral home, the Portland Club, and offices. Two historic landmark church complexes with garden spaces are located across the street and include community centers, a day care, and places of assembly.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intent of the proposed rezoning is to facilitate the development of the vacant lot at 99 Winter Street which will add additional residential units to a walkable, transit oriented location. The rezoning will also bring the 152-160 State Street parcel's existing use (Portland Club) into greater conformance, and create a more consistent zoning pattern along this stretch of Winter Street.

V. FINANCIAL IMPACT

The land in question is privately owned. No negative financial impact is anticipated.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

City staff provided a comprehensive analysis of potential zoning designations, including a comparison of purposes, permitted uses, and dimensional requirements under the existing R-6 zoning, the applicant's originally-proposed R-7 zoning, and the subsequently modified rezoning request to B-3.

The B-3 zone would allow an increase in density, with no limit on residential density, permitting more dwelling units per lot area in a mixed-use, walkable, and transit oriented location. Unlike the existing R-6 zone, B-3 allows a lot coverage of 100% and poses no setback requirement. The Downtown Height Overlay Map governs building heights and would allow any future develop to be constructed in a contextual manner. To maintain an appropriate height along Winter Street, staff recommend that the Downtown Height Overlay Map be amended within the proposed rezoning area to have a 35 foot height maximum to a depth of 65 feet from the parcel line fronting Winter Street and to map the remaining portions of the lots nearest State Street with a 65 foot height maximum. This would allow the Winter Street side to maintain a lower-scale while allowing the applicant to increase the height of a building towards State Street beyond the 65 foot step back area.

Planning staff believe that B-3 is an appropriate district here due to the areas surrounding context, walkability and access to public transit, existing non-residential character, the adjacency to State Street a wide, major thoroughfare identified as a priority corridor in the City's Comprehensive Plan, and the flexibility in terms of curating and controlling the maximum heights that the Downtown Height Overlay Map allows.

Portland's Plan 2030 identifies vision statements, policy goals for the City, and principles of future land use, several of which are supported by the proposed map amendment. The map amendment aligns with the Comprehensive Plan vision statements and goals by encouraging additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods, and by encouraging quality, sustainable design in new housing development that supports increasing the overall housing supply city-wide.

VII. RECOMMENDATION

At a public hearing on June 8, 2021, the Planning Board unanimously found (4-0) (Chann, Dundon, Smith absent) that the proposed zoning map amendment for the properties located at 99 Winter Street and 152-160 State Street (from the R-6 Residential zone to the B-3 Downtown Business zone) is consistent with the Comprehensive Plan for the City of Portland.

The Planning Board recommended this action to the City Council.

VIII. LIST ATTACHMENTS

- Applicants Attachments
- Planning Board Report to City Council

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Andrew Tufts

Date: 6/30/2021



PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

99 Winter Street Rezoning
Zoning Map Amendment
Thanos LLC, Applicant
ZN-001021-2020 CBL: 045 Co04

Submitted to: Portland City Council Council First Reading: July 19, 2021 Council Second Reading: August 16, 2021	Prepared by: Andrew Tufts, Planner Date: July 1, 2021
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I. INTRODUCTION

At a public hearing held on June 8, 2021, the Planning Board voted (4-0) (Chann, Dundon, and Smith absent) to recommend to the City Council adoption of a zoning map amendment for two parcels located at 99 Winter Street/160 State Street and 152 State Street from an R-6 Residential zone to a B-3 Downtown Business zone as well as an amendment to the Downtown Height Overlay Map coterminous with the rezoning area to create a 65 foot height allowance on the State Street frontage and a 35 foot height limit on the Winter Street frontage to a depth of 65 feet from the property line.

The applicant, Thanos, LLC, is seeking the proposed zoning map amendment to facilitate the development of a new multifamily residential building including workforce housing on the 99 Winter Street portion of the parcel. Furthermore, one additional non-applicant owned parcel located at 152 State Street is included in the proposed map amendment boundary in order to create a continuous B-3 zone and to bring the parcel's existing use (Portland Club) into greater conformance.

This zoning map amendment was reviewed by the Planning Board on the following dates: a workshop on January 12, 2021, a second workshop on March 23, 2021, and a third workshop on May 11, 2021, and a public hearing on June 8, 2021.

The applicant held the required neighborhood meeting on Tuesday, June 2, 2020.

Owner/Applicant: Thanos, LLC

Applicant Representatives: Peter Heil (Applicant Representative), Acorn Engineering; Josh Soley (Owner)

II. PROPOSED MAP AMENDMENT

Current Zoning: R-6 Residential

Proposed Zoning: B-3 Downtown Business

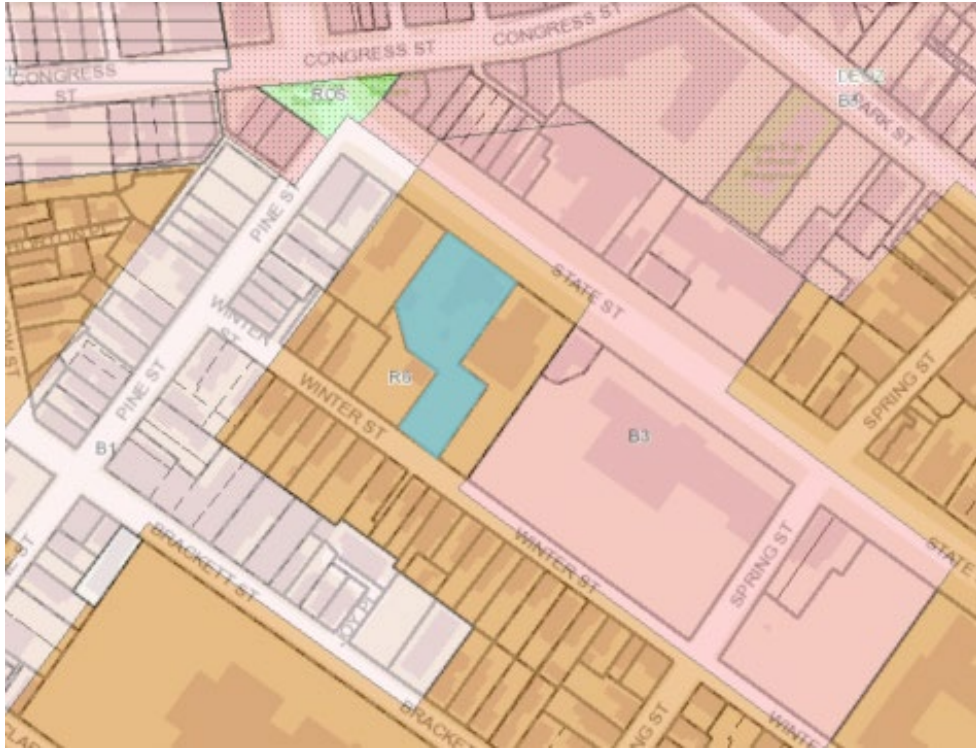
Current Use(s) at Site: Lodging House (160 State Street) and vacant/unimproved (99 Winter Street)

Future Contemplated Use(s) at Site: Workforce housing

Total Parcel Area: 28,953 square feet (subject property 99 Winter/160 State Street)

Area to be Rezoned: 51,021 square feet (99 Winter/160 State Street & 152 State Street)

III. BACKGROUND



Existing zoning context of 99 Winter/160 State Street. Applicant owned site highlighted in blue.

Use Context

The subject property is comprised of a single 28,953 square foot parcel that is bounded by Winter Street to the south and State Street to the north. The section of parcel abutting State Street is addressed as 160 State Street while the Winter Street frontage is addressed as 99 Winter Street. The property includes an existing three-story Greek-Revival building at 160 State Street built in 1807 as a private residence. In 1934 the building was purchased by the Bishop of Portland and operated as a nunnery for 84 years. On February 7, 2020, the applicant, Thanos, LLC, received a Level II Site Plan approval from the City of Portland Planning Authority to redevelop the former monastery at 160 State Street into a 40-room lodging house.

At the rear of the lodging house, the property connects to a large walled former garden abutting Winter Street, and is the section of the parcel being considered for redevelopment. The area of the parcel on which the future development would be constructed is entirely porous and is roughly 9,100 square-feet in size, with 70 feet of frontage along Winter Street.



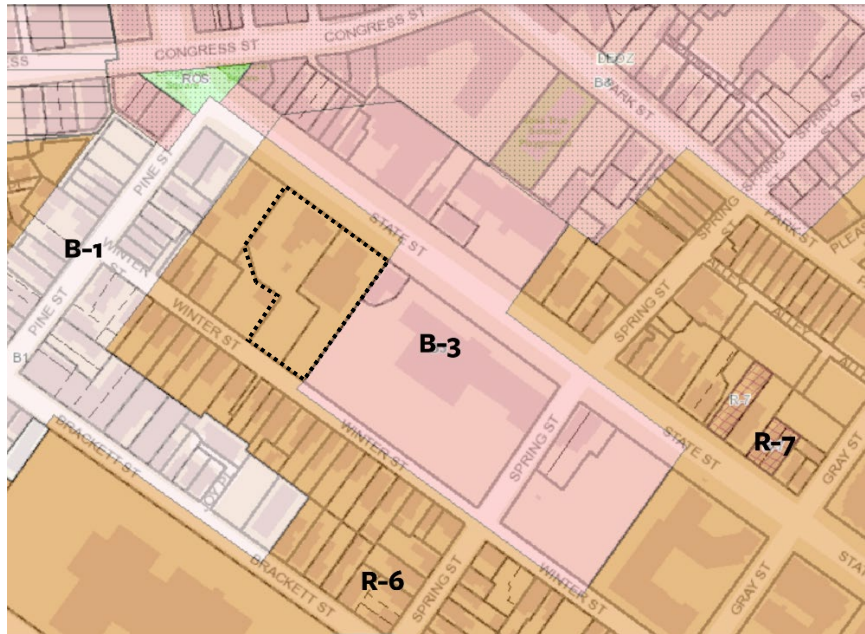
Subject Site: 99 Winter Street Existing conditions

One additional non-applicant owned parcel located at 152 State Street is included in the proposed map amendment boundary. 152 State Street contains an existing three-story building and a surface parking lot owned and operated by the Portland Club.

The surrounding context includes State Street, a wide, historic thoroughfare identified as a priority corridor in the City's Comprehensive Plan that has wide sidewalks and established street trees lined with a variety of building types. The buildings fronting along State Street range from residential, retail, and large institutional uses such as Mercy Hospital to historic mansions converted to other uses including a funeral home, the Portland Club, and offices. Two historic landmark church complexes with garden spaces are located across the street and include community centers, a day care, and places of assembly. Further to the east beyond the church properties, the context becomes increasingly residential with a variety of scales and eras of buildings.

A large portion on the north side of Winter Street between Spring and Pine streets is occupied by surface parking lots and the 1943 Mercy Hospital complex that was recently the subject of a zoning map amendment (ZN-001163-2020) that rezoned the Mercy Hospital and Morrison House site and adjacent parcels from R-6 to B-3. This rezoning was recommended for approval to the City Council by the Planning Board on December 15, 2020 and adopted by the City Council on February 22, 2021. This rezoning is expected to facilitate the adaptive reuse of the existing Mercy Hospital building into a mixed-use development including residential, commercial, and institutional uses as well as the development of two additional residential buildings. To the south, beyond Winter Street is Brackett Street. Brackett Street is comprised of a mix of uses including retail, commercial office space, Reiche Elementary School, and single and multi-family residential buildings.

The site is accessible to public transit via METRO Routes 1, 7, 8, 9A, and 9B, which run along Congress, State, and Spring streets as well as South Portland Bus Routes 21, 24A, 24B, which run along York and High streets. METRO BREEZ Express Service to Falmouth, Yarmouth, Freeport, and Brunswick runs along nearby Congress Street.



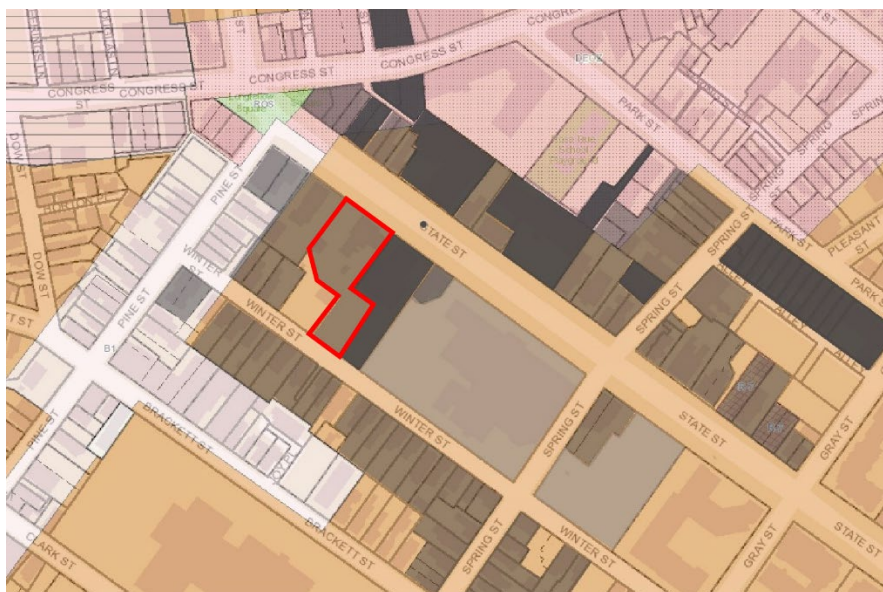
Existing Zoning map. Proposed rezoning area outlined in black dotted line (160 State/99 Winter Street & 152 State Street)

Zoning Context

The properties are currently zoned R-6 Residential. As depicted on the map above, the subject sites are bounded to the north and east by the B-3 zone and R-6 and B-1 zones to the west and south.

Historic Resources

The area under review is within the West End Historic District and is adjacent to the Congress Street Historic District. The applicant's property (160 State/99 Winter Street) is a contributing structure. Any alterations, additions, or new construction contemplated at the subject property or adjacent sites would require historic preservation staff or Board-level review.



Historic Resources (Landmarks – black; Contributing – dark grey; Mercy Proposal – light grey)

IV. CONCEPTUAL FUTURE DEVELOPMENT

The proposed rezoning would facilitate the development of a new six-story, multifamily residential building including workforce housing on the Winter Street portion of the property, which currently contains no structures. At this point in the process, the proposal for development remains conceptual in nature, as no site plan application has yet been submitted. Should the proposed rezoning be approved by the City Council, a Major Site Plan application would be submitted. The site plan review process would require Planning Board review and approval and Historic Preservation design review. Areas such as street trees, parking, technical and design standards would be evaluated at that time.

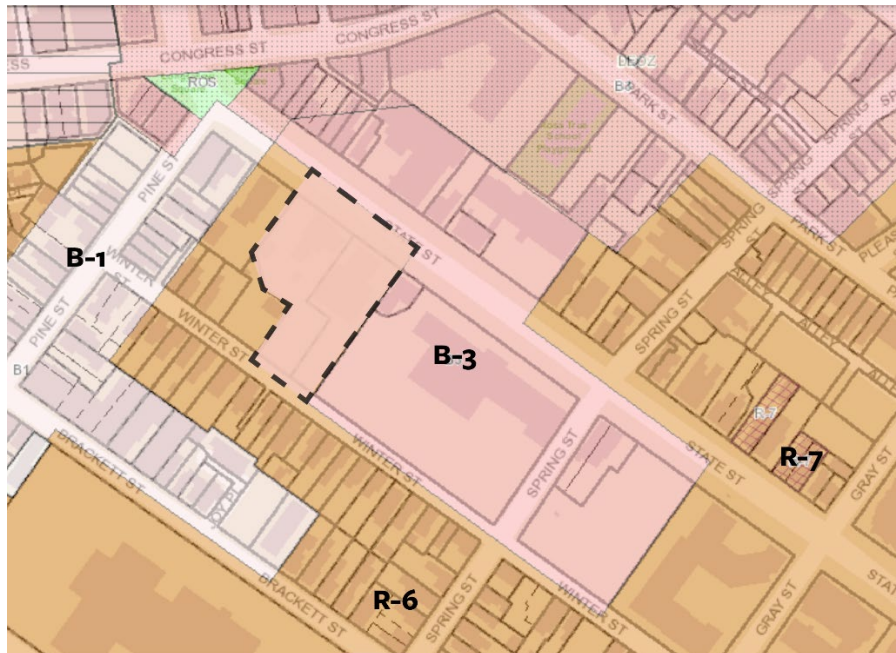
V. PROPOSED ZONING MAP AMENDMENT

It should be noted that the applicant's original application requested a zoning map amendment to R-7. However, based on feedback received during prior Planning Board workshops, concerns raised about R-7 scale, and the recent adoption of the B-3 zoning map amendment at the nearby Mercy site and surrounding properties, the applicant revised their request and is now seeking a zoning map amendment to change their site at 99 Winter Street and 160 State Street from the existing R-6 Residential zone to a B-3 Downtown Business zone.

B-3 is a high-density mixed-use zone mapped on the Portland Peninsula. Building heights in B-3 are governed by the Downtown Height Overlay Map, which specifies maximum base and overall building heights. In order to encourage low-income and workforce housing units in designated growth areas, eligible projects as defined under Land Use Code Sec. 18.2.2 located in the B-3 zone may receive a height bonus up to an additional 25 feet with the inclusion of affordable housing. Off-street parking is optional for developments within ¼ mile of fixed route transit service.

The proposed zoning map amendment to B-3 would result in an increase in density and would permit a broader range of uses within the proposed rezoning area, allowing for additional development of commercial and residential uses than could be provided under existing R-6 conditions. In addition to the zoning map amendment, the applicant would need to modify the Downtown Height Overlay Map, which regulates the height of parcels within the B-3 zone. A 65 foot height maximum facing State Street and a 35 foot height maximum to a depth of 65 feet along the smaller-scale, historic residential fabric of Winter Street is proposed. This would allow the Winter Street side to maintain a lower-scale while allowing the applicant to increase the height of a building towards State Street beyond the 65 foot step back area.

In addition to rezoning the applicant's parcel, the City of Portland is recommending that one additional non-applicant owned parcel located at 152 State Street be included in the proposed map amendment boundary in order to create a continuous B-3 zone and to bring 152 State Street's existing use (Portland Club) into greater conformance.



Proposed Zoning Map Amendment Area Shown in Dotted Black Line (R-6 to B-3)



Proposed Downtown Height Overlay Map Amendment

VI. ZONING ANALYSIS

A. Existing Zoning: R-6 Residential

The subject property's current R-6 Residential zoning encourages residential development at a maximum density of 725 square feet per dwelling unit. R-6 allows a lot coverage of 60% and poses setback requirements of five feet on the front yard, 10 feet on the rear yard, and five feet on the side yard that can be reduced to zero provided that the cumulative side yards are not less than 10 feet. A maximum height of 45 feet is allowed with 10 foot side property line and 15 foot rear property line stepbacks after a base height of 35 feet.

The purpose of the R-6 zone, which can currently be found predominantly in the East and West Ends of the city, is to “set aside areas...for housing characterized primarily by multi-family dwellings at a high density” and to “conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.”

B. Proposed Zoning: B-3 Downtown Business Zone

The proposed B-3 zoning designation, in contrast, is more explicitly designed for mixed-use development but also encourages increased housing opportunities by promoting dense urban housing characteristics. Relevant aspects of the purpose statement reads, “*to encourage increased housing opportunity downtown for a diverse residential population; to encourage excellence in urban design; to preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures; to reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups; and to provide for the relocation of residents who are displaced by development*”. It should be noted that the B-3 zoning map amendment recently recommended by the Planning Board and adopted by the City Council for the adjacent Mercy Hospital site and nearby lots will facilitate development that supports many of the values expressed in the B-3 purpose statement.

As mentioned above the B-3 zone would allow an increase in density, with no limit on residential density, permitting more dwelling units per lot area in a mixed-use, walkable, and transit oriented location. B-3 allows a lot coverage of 100% and poses no setback requirement, which provides flexibility in building design and layout as opposed to the current R-6 zone. The Downtown Height Overlay Map governs building heights and would allow any future develop to be constructed in a contextual manner. The introduction of new uses currently not permitted within the R-6 zone would support the existing mixed-use nature of the subject block and is consistent with the comprehensive plans vision for complete neighborhoods.

Table 1: Comparison of Dimensional Requirements by Zone

Table 1: Zoning Requirements	R-6 (existing)	B-3 (Proposed)
Lot Size Residential (min)	2,000 sf	None
Lot Area per Dwelling Unit	725 sf	None
Street Frontage (min)	20 feet	15 feet
Front Yard (min)	5 feet	None
Front Yard (max)	None	5 feet (from all street frontages)
Rear Yard (min)	10 feet	None
Side Yard (min)	5 feet	None
Side Yard (max)	5 feet for attached townhouses on individual lots	None
Side Yard (Side Street, min)	None	None
Stepbacks	10 feet from side property line & 15 feet	Downtown Height Overlay Map

	from rear property line (above 35 feet in height)	
Lot Coverage (max)	60%	100%
Impervious Area (max)	n/a	n/a
Landscaped Open Space (min)	20%	n/a
Lot Width (min)	20 feet	None
Building Height (max)	45 feet	Downtown Height Overlay Map
Building Height (min)	n/a	35' within 50' of street
Floor Area (max)	n/a	Limited for buildings 125' in height or greater
Garage Door Opening (max)	9 feet or 40% façade width, not to exceed 20'	n/a
Undifferentiated Blank Wall (max)	n/a	30'
External Effects	n/a	Enclosed structure, noise, vibration/heat, smoke, materials/waste
Height Bonus eligible	No	Yes

VII. LAND USE POLICY ANALYSIS

Goals and policies of both the state and the city, as described in Portland's Comprehensive Plan, [Portland's Plan 2030](#), relevant to the proposed map amendment have been included below.

Several aspects of the proposed map amendment are consistent with Portland's Plan. The zoning map amendment aligns with these vision statements and goals by increasing the allowable residential density therefore creating a new opportunity for housing particularly affordable housing in a walkable, transit-oriented location that is proximate to employment centers and reduces automobile dependency. Furthermore, the zoning map amendment supports the principle of complete neighborhoods and sustainable land use patterns by allowing a mix of uses on a mixed-use block.

Portland's plan for Future Land Use also places emphasis on areas most important to its growth over the next ten years. It contains three maps including a map of identified corridors and nodes that are poised to accommodate additional growth. State Street is identified as a "priority corridor", prioritized for its potential to support growth, and its need for evaluation. State Street is a major arterial that can serve as an area that can support mixed-use, higher-density growth to take advantage of the transit benefits and services offered.

The applicant has highlighted two specific components of the Comprehensive Plan:

- **Economy: A Vibrant City**
The Economy Policy Guide says that the City actions should: *"Evaluate zoning and the condition of existing infrastructure in priority areas — downtown, identified neighborhood nodes, and along transit corridors — to ensure that employment and housing growth can be supported."*

The applicant has argued that while the current R-6 zoning does allow for a degree of density, it falls short of the requirements that would enable private financing. A rezoning that results in the reduction of setbacks, maximization of building coverage, and increased building heights would adequately change the economics of the project so as to facilitate the applicant's desired housing program.

- **Housing: A Livable City**

The Housing Policy Guide similarly calls for City actions to: *“Evaluate whether current zoning allows for new development consistent with historic patterns of form, density, and/or use, as well as whether it allows for priority growth areas.”*

The policy guide states that those who work in Portland should be able to live in Portland. Production of housing at this location would make this goal economically feasible by allowing for production of new units immediately downtown, near employment opportunities and excellent access to public transit.

Portland's Plan also highlights the importance of good design, contextual development, and sensitivity to neighborhood context as well as ensuring an appropriate balance of continuity and change in our historic districts as Portland grows; finding the balance of those goals is where the crux of the review for this proposal was focused. Relevant Comprehensive Plan goals have been excerpted below:

Vision Statements

- Sustainable: Portland has been built and rebuilt to endure; we will balance our historic fabric, sound infrastructure, and the best of new technology and design for the future.
- Sustainable: Portland will grow in order to sustain our community, infrastructure, and economy.
- Sustainable: Growth should respect and seek to preserve our spectacular natural resources.
- Secure: We will be committed to accessible housing and healthy food for all our residents.
- Authentic: The uniqueness and integrity of our neighborhoods will be maintained and enhanced.

Environment

- Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation.
- Continue to develop land use policies which support complete neighborhoods.

An Enduring City – Historic Preservation

- Stabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development.
- Ensure an appropriate balance of continuity and change as Portland grows and evolves.

A Livable City: Housing

- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.
- Encourage quality, sustainable design in new housing development.

An Accessible City – Transportation

- Promote multi-modal accessibility, enabling residents and visitors of all ages and abilities to participate fully in the social and economic life of the community.

Future Land Use

- Complete Neighborhoods
- Reinforce the Center

VII. NEIGHBORHOOD MEETING/PUBLIC COMMENT

The applicant held the required neighborhood meeting virtually on Tuesday, June 2, 2020 via Zoom. Approximately 33 members of the public were in attendance.

Over the course of the review, the Planning Board received numerous public comments on the proposed zone change. In general, many of the questions and concerns expressed focused on issues not relevant to the proposed zoning map amendment including the removal of trees on the applicant's property, and the lack of street trees on Winter Street. Other questions and concerns raised focused on topics that would be covered through site plan review including, potential traffic generation and building design. Some members of the public also voiced a desire to retain the existing R-6 zone.

It should be noted that there have also been comments in support of the proposed zone change, citing the area as an ideal location for increased development and that the zone change would support existing uses on the block, particularly the Portland Club.

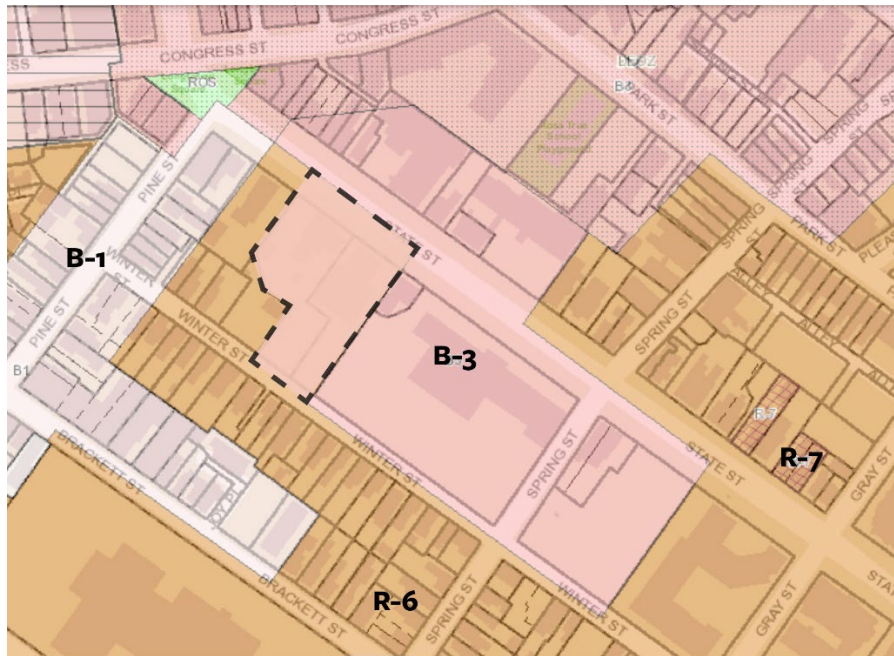
IX. PLANNING BOARD DELIBERATION

The Planning Board deliberated for three workshops on January 12, 2021, March 23, 2021, and May 11, 2021. The first workshop was primarily focused on introducing the project, analyzing the existing R-6 zone, and finding agreement in opposition to the applicant's originally proposed R-7 zone. Ultimately the Board agreed that the applicant should explore mapping a B-3 zone at this location to help mitigate scale concerns and recommended eliminating R-7 as an option. The focus of the second workshop shifted from the originally-proposed R-7 to the B-3 Downtown Business zone alternative, where height and neighborhood context was discussed. Several board members expressed support for the B-3 zone and additional height, particularly for the interior of the block towards State Street. Some members of the Board requested that staff provide additional details on the existing characteristics of the block and surrounding area. The third workshop featured an in depth analysis of proposed building heights, zoning boundaries, stepbacks, and neighborhood context. Following the third workshop the Board expressed support for the proposed B-3 map amendment and related Downtown Height Overlay Map amendment heading into the final public hearing.

X. PLANNING BOARD RECOMMENDATION

The Planning Board considered the proposed B-3 map amendment and Downtown Height Overlay Map amendment at a public hearing on June 8, 2021. After a considered discussion about the appropriate boundaries, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously (4-0) (Chann, Dundon, and Smith absent) to find that the following zoning map amendments are consistent with the Comprehensive Plan and to recommend adoption to the City Council:

1. Zoning Map Amendment for the area of land that includes 160 State Street/99 Winter Street and 152 State Street from an R-6 Residential zone to a B-3 Downtown Business zone with the boundaries shown below:



Proposed Zoning Map Amendment (R-6 to B-3)

2. Amendment to the Downtown Height Overlay Map for the area of land that includes 160 State Street/99 Winter Street and 152 State Street, with boundaries as shown below:



Proposed Downtown Height Overlay Map Amendment

ATTACHMENTS

Applicant Submission

- A. Cover Letter
- B. Zoning Map Amendment
- C. Map Amendment Application Checklist
- D. Consistency with Comprehensive Plan
- E. Right, Title, and Interest
- F. Vicinity Map
- G. Neighborhood Character & Building Heights
- H. Proposed Map Amendment
- I. B-3 Massing Diagram
- J. Civil Plan Set

Zoning Context: Nearby R-7 Overlay Parcels



R-7 zones mapped proximate to the subject property (indicated in red hatching)

There are a small number of parcels in the vicinity of 160 State Street that have been rezoned to R-7 from R-6. Each of these sites differs from the subject property in key ways, and there are several distinctions to make between these sites.

99 State Street



In 2003, the property owner of 99 State Street received Planning Board approval in order to be able to convert the brick carriage house at the rear of the property from its existing use as a garage to a single-family residential structure. The applicant requested an R-7 designation because the development did not meet the R-6 setback

requirements. The rezoning allowed the carriage house to be utilized and converted to an additional unit on the site. The property could accommodate the required number of parking spaces for the four (4) residential units.

91-93 State Street



In 2013, the property owner of 91 State Street applied for a zoning map amendment to map an R-7 overlay at this site in order to allow the existing building to be converted to market-rate residential space, resulting in ten (10) residential units. R-7 designation was requested because the proposed project could not meet the R-6 minimum land area per dwelling unit and the applicant was seeking to create compact living units. The dimensional requirements in R-6 call for 725 square feet of land area per dwelling unit, thus only five residential units are allowed under the R-6 zone. The R-7 zone has a maximum residential density of 435 square feet per residential unit, permitting a maximum of twelve (12) units on this site. Additionally, the R-6 zone states that alteration to multifamily dwellings shall not result in additional dwelling units of less than 600 square feet of floor area in size. The R-7 minimum dwelling unit size is 400 square feet of habitable floor area.

Of the two sites described above, both are fundamentally distinct from 160 State Street. Both properties include existing buildings of historic significance which were not to be altered externally or effect setbacks. The changes made to 99 State Street were to bring an existing legally nonconforming structure into conformance and add housing. The changes made to 91 State Street were strictly internal and based on added density to the existing structure. In contrast, the changes proposed at 99 Winter Street involve the construction of an entirely new structure on a vacant lot abutting residential buildings of a more modest scale.

From: **Nelle Hanig** <nrh@portlandmaine.gov>
Date: Fri, May 21, 2021 at 1:22 PM
Subject: Portland Club Property: R-6 to B-3
To: Andrew Tufts <atufts@portlandmaine.gov>

Hi Andrew,

I understand that a zone change from R-6 to B-3 is being considered for 156 State Street, the home of the Portland Club. As I have been working with the Club to help them navigate their way to greater financial stability, I wanted to share with you how important the zone change would be to this social club that is committed to the preservation of the historic landmark they own and from which they operate at 156 State Street.

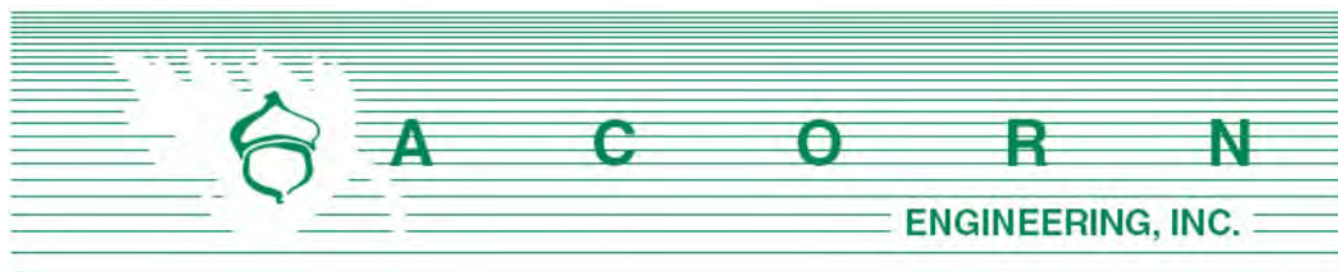
In the past they have leased out much of the first floor including the kitchen to a caterer. The Club occupies the 2nd floor. That business has left and now we've learned that the R-6 zone will not permit leasing out to any commercial use. Further, since the building was constructed as a residence, though it was back in the early 1800s, the zoning will not even allow a change of use to "community hall" in order for the Club to lease the space for public events such as weddings. I just learned yesterday that they can't appeal for a variance to lease out the kitchen and first floor to a restaurant or caterer as *No use permitted in mixed-use or office zones shall be permitted in any residential zone.*

Unfortunately, the R-6 zoning has boxed in this organization, making it difficult to support the upkeep of this very large historic building and taxes with just its membership dues. A change to B-3 would provide the flexibility needed to lease the first floor to a caterer or even a restaurant, using the beautiful first floor rooms for tables and the ballroom for events as well as the kitchen, of course.

Given that this parcel is next door to B-3, I hope that the Planning Board and City Council will decide to support a zone change from R-6 to B-3 for 156 State Street.

Thank you,
Nelle

Nelle Hanig
Business Programs Manager
Housing and Economic Development Department
City of Portland, 389 Congress Street
Portland, ME 04101
207-756-8019 (Phone)
207-756-8217 (Fax)
nrh@portlandmaine.gov



Planning and Urban Development Department
 Planning Division
 City of Portland, Maine
 389 Congress Street, 4th Floor
 Portland, ME 04101

February 18, 2020

Subject: Map Amendment Application
 99 Winter Street / 160 State Street

To Whom It May Concern,

On behalf of Thanos, LLC (c/o Josh Soley & Dan Soley), we are pleased to submit the accompanying package of submission materials for the proposed rezoning of the property located at 99 Winter Street / 160 State Street. The property is located in the R6 Residential Zoning District and proposes the designation of the R7 Compact Urban Residential Overlay Zone to the parcel.

The proposed project site is comprised of a single parcel, Chart 45, Block C, Lot 4, bounded by Winter & State Streets. The site has frontage on both State St & Winter St. The use of the existing convent building to a lodging house along State Street recently received Level II Site Plan approval. The 99 Winter Street project proposes to build a new 50-unit workforce apartment building on the Winter Street portion of the property, which currently contains no structures. The property has been surveyed by Spurwink Surveying and the project team.

The City's Code of Ordinances, Division 30, Affordable Housing, states the division's purpose is to promote an adequate supply of affordable housing for the city's residents. The purpose of this division is to offer incentives to developers to include units of affordable housing within development projects, thereby mitigating the impact of market rate housing construction, or the demonstrated increase in affordable housing needs resulting from the creation of new lower-income jobs, on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. By proposing workforce apartments, the project meets this divisions goals and assist in meeting the city's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing.

Per the City Ordinance, within the R6 Zone, the parcel is currently subject to the following dimension requirements (complete list requirements per City Ordinance are not provided):

R6 Dimension Requirements	
Min. Front Yard Setback	5 ft
Min. Rear Yard Setback	10 ft
Min. Side Yard Setback	5 ft
Structure Stepbacks above 35 ft	10 ft - side / 15 ft - rear
Max. Lot Coverage	60%
Max. Height	45 ft
Landscaped Open Space	20%

This application proposes is to re-zone the parcel to include the R-7 Compact Urban Residential Overlay Zone. The change in zoning would allow development within the parcel to maximize building potential to accommodate compact residential development and to foster increased opportunities for compact in-city living representing a variety of income levels and household types and would reflect Comprehensive Plan's current goals related to housing production. The attached Consistency with Comprehensive Plan narrative further describes the project's conformance with the Comprehensive Plan.

If permitted, the R7 Dimension Requirements are:

R7 Dimension Requirements	
Min. Front Yard Setback	None
Min. Rear Yard Setback	5 ft
Min. Side Yard Setback	5 ft (no change)
Structure Stepbacks above 35 ft	N/A
Max. Lot Coverage	100%
Max. Height	50 ft
Landscaped Open Space	N/A

By designating the parcel with the R7 Compact Urban Residential Overlay Zone, the project would also be eligible to the density, parking and dimensional bonuses and reductions, as specified in the Code, Section 14-488. Specifically, by providing a minimum 60% workforce units encouraged in the designated growth areas, the project would be eligible for the bonuses associated with having a minimum 60% workforce units, including 1.3 x base density and additional 10-foot height permitted (up to 60 feet).

This submission package is intended to meet the City's Submission Requirements as outlined in the Map Amendment Checklist and corresponding application. The following documents and drawings are to be uploaded onto the City's electronic submission site per the procedure outlined in the application:

Documents:

- A. Zoning Map Amendment Application
- B. Map Amendment Checklist
- C. Consistency with Comprehensive Plan
- D. Right, Title, and Interest

Drawings:

- E. Vicinity Map
- F. Proposed Map Amendment
- G. Civil Site Plan, Dated 1/31/20



Thanos, LLC and the design team look forward to your review of this project. If you have any questions regarding these materials or the completeness of the application materials, please contact us within the next five (5) days.

Sincerely,



Peter F. Heil, P.E., CPESC
Project Manager
Acorn Engineering, Inc.



Attachment A

Zoning Map/Text Amendment Application



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT ADDRESS: 99 Winter Street

CHART/BLOCK/LOT: 45/C/4

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

Proposed R7 Compact Urban Residential Overlay Zone to parcel ID
045 C004001 (160 State St/99 Winter St), currently in R6 Zone.

CONTACT INFORMATION:	Applicant's Contact for electronic plans Name: e-mail Address work #
Applicant – must be owner, Lessee or Buyer Name: Josh Soley & Dan Soley Business Name, if applicable: Thanos, LLC Address: 100 Commercial Street, Suite 202 City/State :Portland, ME Zip Code: 04101	Applicant Contact Information Work # 207-744-3084, Ext. 301 Home# Cell # Fax# e-mail: josh@mainerealtyadvisors.com
Owner – (if different from Applicant) Name: Same as applicant Address: City/State : Zip Code:	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Address: City/State : Zip Code:	Agent/Representative Contact information Work # Cell # e-mail:
Billing Information Name: Same as applicant Address: City/State : Zip Code:	Billing Information Work # Cell # Fax# e-mail:
Engineer Name: Peter F. Heil, PE, CPESC - Acorn Engineering Address: P.O. Box 3372 City/State : Portland, ME Zip Code: 04101	Engineer Contact Information Work # 207-775-2655 Cell # 802-238-7409 Fax# e-mail: pheil@acorn-engineering.com

Surveyor Name: James Mullen, PLS - Spurwink Surveying Address: 182 Spurwink Road City/State : Scarborough, ME Zip Code: 04074	Surveyor Contact Information Work # 207-799-2654 Cell # Fax# e-mail: spurwinksurveying@gmail.com
Architect Name: Lucas Greco, RA - Briburn Address: 28 Maple Street, Suite 202 City/State : Portland, ME Zip Code: 04101	Architect Contact Information Work # 207-774-8482 Cell # 918-261-3002 Fax# e-mail: lgreco@briburn.com
Attorney Name: Mary Costigan - Bernstein Shur Address: 100 Middle Street, PO Box 9729 City/State : Portland, ME Zip Code: 04101	Attorney Contact Information Work # 207-228-7147 Cell # Fax# 207-774-1127 e-mail: mcostigan@bernsteinshur.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

The applicant is the current owner of the property.

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

The use of the existing convent building to a lodging house along State Street recently received Level II Site Plan approval. The Winter Street portion of the property currently contains no structures.

Current Zoning Designation(s):

R-6 Residential Zone

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

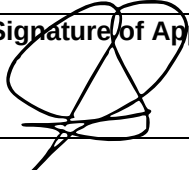
The project proposes to build a new 50 unit workforce apartment building on the Winter Street portion of the property.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment <u>X</u> \$2,000.00 (from <u>R6</u> zone to <u>R7</u> zone)	Fees Paid (office use) —	The City invoices separately for the following: • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.
Zoning Text Amendment ___ \$2,000.00 (to Section 14-___) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (<u>example</u>) and language to be added is depicted as underline (<u>example</u>))	—	
Combination Zoning Text Amendment and Zoning Map Amendment ___ \$3,000.00	—	
Conditional or Contract Zone ___ \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	—	

Signature of Applicant: 	Date: 2/19/2020
---	--------------------------------------

Further Information

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.



A Guide to Holding Neighborhood Meetings Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

In order to improve communication between development applicants and neighbors, the City of Portland requires applicants, proposing certain types of projects, to hold a neighborhood meeting.

What type of development proposal requires a neighborhood meeting?

Neighborhood meetings, organized and hosted by the applicant, are required for the following development proposals:

- Proposed zone changes, contract zones and zoning text amendments that would result in major development;
- Subdivisions of five or more units or lots; and
- Level III site plan proposals for preliminary or final site plans:
 - Portland's new site plan ordinance went into effect in August, 2010. It now includes provisions for preliminary and final plans. Neighborhood meetings are to be held three weeks after submitting a preliminary plan or within two weeks of submitting a final plan, if a preliminary plan was not submitted.

Who must be invited to a neighborhood meeting?

Property owners within 500 feet of the proposed development (1000 feet for proposed industrial subdivisions and zone changes) as well as those people on a list of interested citizens and neighborhood groups must be invited to the planned neighborhood meeting.

The Planning Division provides the mailing labels for the neighborhood meeting invitation. We require at least 48 hours notice to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

When and where must the neighborhood meeting be held?

The neighborhood meeting must be held within three weeks of submitting a preliminary site plan. If an applicant chooses only to submit a final site plan, then the neighborhood meeting must be held within two weeks of submitting the final plan and not less than seven days prior to the Planning Board public hearing.

The meeting should be held in the evening, during the week, at a convenient location within the Portland neighborhood surrounding the proposed site. Community meeting spaces at libraries, schools or other places of assembly are recommended. Neighborhood schools are usually available for evening meetings.

Meetings should not be held on the same day as scheduled Planning Board or City Council meetings. The City Council generally meets on the first and third Monday of each month and the Planning Board generally meets on the second and fourth Tuesday of each month; however additional meetings may be scheduled. An updated schedule may be found on the City's website: www.portlandmaine.gov

When must invitations be sent?

Invitations to a neighborhood meeting must be sent no less than ten days (to include weekends) prior to the neighborhood meeting. If the notice is for a final site plan, then the neighborhood meeting must be held no less than seven days (to include weekends) prior to the public hearing. Notices may be sent by regular mail and do not need to be sent by certified mail.

What information should the invitation include?

A recommended invitation format is included in this packet of material.

Sign-up Sheets and Meeting Minutes

At the meeting, the applicant must circulate a sign-up sheet for those in attendance. The applicant must also keep accurate minutes of the meeting.

After holding the neighborhood meeting, the applicant must submit the sign-up sheet and meeting minutes to the Planning Division. The meeting minutes and sign-up sheet will be attached to the Planning Board report. A public hearing will not be scheduled until the meeting minutes and sign-up sheet are submitted to the Planning Division.

Certification

Included with this packet is a Certification to be completed and signed by the applicant. The applicant is required to certify when the invitations were sent out.

Please call the Planning Division at 874-8721 or 874-8719 if you have any questions.

Attachments

1. Neighborhood Meeting Invitation Format
2. Neighborhood Meeting Certification

~Applicant/Consultant: Please include all of the information listed below in the notice sent to neighbors~

Neighborhood Meeting Invitation Format

Applicant/Consultant Letterhead

(Date)

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a (development proposal) located at (location/number and street address).

Meeting Location: _____

Meeting Date: _____

Meeting Time: _____

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please call (telephone number of applicant or consultant).

Sincerely,

(Applicant)

Note:

Under Section 14-32(C) and 14-525 of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within three weeks of submitting a preliminary application or two weeks of submitting a final site plan application, if a preliminary plans was not submit. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4th Floor, 389 Congress Street Portland, ME 04101 or by email: to bab@portlandmaine.gov

Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

I also certify that on (date at least seven days prior to the neighborhood meeting), invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change and the residents on the "interested parties" list.

Signed,

_____ (date)

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes

Attachment B

Map Amendment Checklist

CITY OF PORTLAND
Planning & Urban Development Department

MAP AMENDMENT SUBMISSION CHECKLIST Please submit each document as a separate PDF file Please confirm by electronically checking the boxes to the left	
GENERAL APPLICATION DOCUMENTS	
☒	Project Description Cover Letter with detailed project description
☒	Consistency with Comprehensive Plan Analysis of the consistency of the zone change request with the goals, policies and land use plan of Portland's Comprehensive Plan.
☒	Completed Checklist – Map Amendment Application (this document)
☒	Right, Title and Interest Deeds, leases, or purchase and sales agreements
PLANS	
☒	Vicinity Map
☒	Proposed Map Amendment (please use the Portland zoning map as a reference)
☒	Site Plan (if applicable) Provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries.

Attachment C

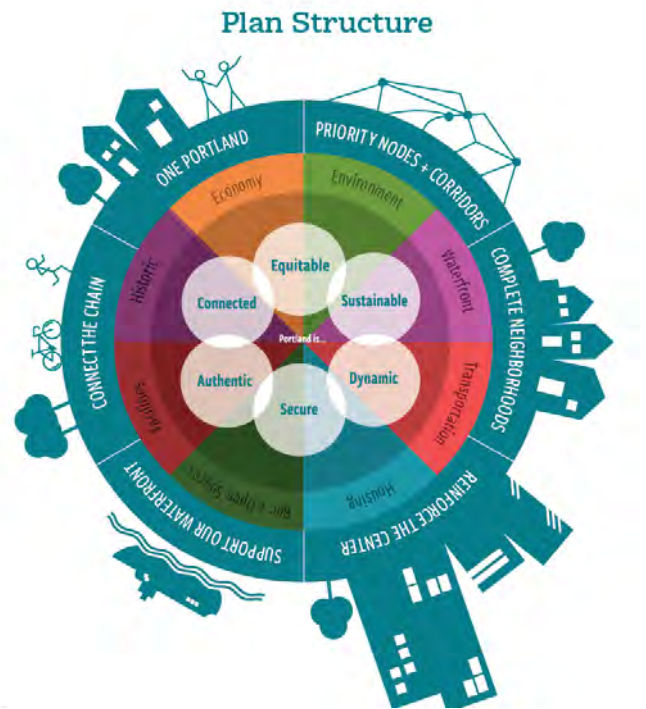
Consistency with Comprehensive Plan

COMPREHENSIVE PLAN REVIEW

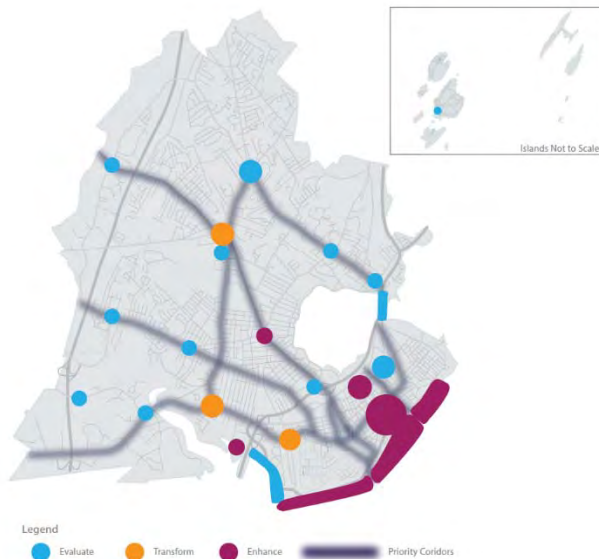
The 2017 Comprehensive Plan has a number of policy goals related to sustainable development and housing. This request to revise the dimensional requirements in this location on the peninsula helps meet those goals.

The Plan's Executive Summary emphasizes the need to "Reinforce the Center" through better housing and transportation. This location, on the peninsula, is extremely well located for housing that takes advantage of multimodal transportation options. By locating housing near job opportunities and other commercial activities, it also emphasizes downtown walkability. This strategy is emphasized later in the Future Land Use section as well.

This proposal also meets specific goals in the Plan's policy guides.



MEETING THE CITY'S HOUSING PRODUCTION GOALS



At the core of Portland's Plan is housing production. The plan references the zoning ordinance amendments to allow for greater residential density in various zones, expand applicability of an existing 25% density bonus, increase allowable heights in some parts of downtown, reduce parking requirements to eliminate barriers to development, and incentivize residential and mixed-use development. Other recent changes to the ordinance have spoken directly to affordability: mandating the inclusion of affordable workforce housing within all residential development projects of 10 or more units. The Plan calls for production of a variety of housing types and

locations, with a focus on key nodes and corridors. The largest node of development is Downtown Portland. The Plan further sets a specific, but achievable, goal of reaching a population of 72,000 by 2027. That target will require production of 2,557 housing units, or almost 300 per year. While a change in the dimensional requirements in this location will not meet that goal by itself, it is part of an overall strategy to produce housing in a sustainable way that supports this primary development node.

OTHER POLICY GOALS

Economy: A Vibrant City

The Economy Policy Guide says that the City actions should: *“Evaluate zoning and the condition of existing infrastructure in priority areas — downtown, identified neighborhood nodes, and along transit corridors — to ensure that employment and housing growth can be supported.”*

The current zoning in this area, while allowing for some density, falls a little short of the requirements needed to make housing developments viable with private financing. By reducing/eliminating the setback requirements, maximizing coverage and allowing additional height, the economics of a project change and a significant housing development can be supported.

Housing: A Livable City

The Housing Policy Guide similarly calls for City actions to: *“Evaluate whether current zoning allows for new development consistent with historic patterns of form, density, and/or use, as well as whether it allows for priority growth areas.”* In order to support the priority growth area of downtown Portland with private financing, some additional density is needed. This policy guide also states that those who work in Portland should be able to live in Portland. Production of housing at this location will make this goal economically feasible by allowing for production of new units immediately downtown, near employment opportunities.

OTHER PLANS

The requested map change is also generally consistent with planning related to dimensional requirements in downtown and the inner ring neighborhoods, including the West End.

The R-7 Compact Urban Residential Overlay Zone encourages compact residential development on appropriate locations on the Portland peninsula, pursuant to the New Vision for Bayside element of the comprehensive plan and housing plans of the City of Portland. As desired in the Code, the site is a prime example for in-city living within walking distance of downtown and other workplaces, shopping and community facilities and have access to public or private off-site parking or transit service.



25 Projected Skyline with Recommended Height Limits

Additionally, the R-7 Zone is intended to be located on the peninsula, including existing R-6 locations characterized by moderate to high density multi-family housing in a form and density exceeding that allowed in the R-6 Zone and where infill development opportunities exist. The difference in the variations between the R-6 and R-7 zones are minor but have a significant impact on the development potential for the site.

Attachment D

Right, Title & Interest

DLN: 1001940060328

KNOW ALL BY THESE PRESENTS,

THAT, the Roman Catholic Bishop of Portland, a body politic and corporation sole, created and existing under the laws of the State of Maine, and having its chancery in Portland, County of Cumberland and State of Maine, in consideration of One Dollar (\$1.00) and other valuable considerations paid by Thanos LLC, a Maine limited liability company with an address of 100 Commercial Street, Suite 214, Portland, Maine 04101, the receipt of which consideration it does hereby acknowledge, does hereby remise, release, and convey, and forever quit-claim unto the said Thanos LLC, with Quitclaim Covenant, the following described real estate:

See attached Exhibit A.

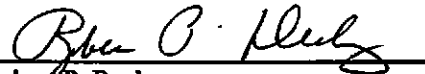
To have and to hold the same, together with all the privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

In Witness Whereof, the said Roman Catholic Bishop of Portland, a body politic and corporation sole, has caused this instrument to be sealed with its corporate seal and signed in its corporate name by Robert P. Deeley, Roman Catholic Bishop of Portland, thereunto duly authorized, according to the discipline and government of the Roman Catholic Church and the laws of the State of Maine, this 1 day of June, in the year of our Lord Two Thousand and Nineteen.

**SIGNED, SEALED AND DELIVERED
IN PRESENCE OF**



ROMAN CATHOLIC BISHOP OF PORTLAND

By: 

Robert P. Deeley
Roman Catholic Bishop of Portland

STATE OF Maine
County of Cumberland, ss.

June 7, 2019

Personally appeared the above named Robert P. Deeley in his capacity as the Roman Catholic Bishop of Portland, a corporation sole, and acknowledged the above instrument to be his free act and deed in his said capacity and the free act and deed of said corporation sole.

Before me,

Christine T. Pitteroff
Notary Public

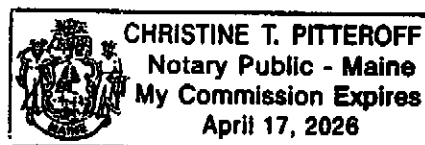


Exhibit A

All that certain parcel of land, with the buildings thereon, situated on the Southwesterly side of State Street in said Portland, bounded southerly by land formerly of George F. Shepley; Easterly by said State Street; Northerly by land formerly of E. A. Norton, and Westerly by a line one hundred (100) feet from and parallel with Winter Street as it existed March 12, 1897.

EXCEPTING from the above described parcel that portion conveyed to CON-TUL, Inc., by deed of Sisters of the Precious Blood of Portland, Maine, dated October 31, 1974 and recorded in Cumberland County Registry of Deeds in Book 3618, Page 78.

Being a portion of the premises conveyed to Sisters of the Precious Blood of Portland, Maine by deeds of The King's Academy dated August 10, 1960 and recorded in Cumberland County Registry of Deeds in Book 2556, Page 401; and dated September 22, 1963 and recorded in said Registry of Deeds in Book 2918, Page 327.

Also, a certain lot or parcel of land with the buildings thereon situated on the Northeasterly side of Winter Street, in the City of Portland, in the County of Cumberland and State of Maine, bounded and described as follows:

Beginning at the Westerly corner of land conveyed by Nehemiah Cram to Ether Shepley by deed dated October 17, 1837, and recorded in Cumberland County Registry of Deeds, in Book 155, Page 484; thence Southwesterly by land now or formerly of the Roman Catholic Bishop of Portland and land formerly of Heller M. Manning 7 rods 17 links to the Northeasterly side line of Winter Street; thence Southeasterly by Winter Street fifty-three (53) feet, more or less, to the Westerly corner of land conveyed by Nehemiah Cram to Lorenzo D. Mason by deed dated August 31, 1844, and recorded in said Registry of Deeds, in Book 187, Page 373; thence Northeasterly by said Mason land 7 rods 17 links to the Southwesterly side line of said Shepley land, now or formerly of The Portland Club; thence Northwesterly by The Portland Club land fifty (50) feet, more or less, to the point of beginning.

Being the premises conveyed to Sisters of the Precious Blood of Portland, Maine by Mercy Hospital by deed dated April 8, 1971 and recorded in Cumberland County Registry of Deeds in Book 3165, Page 771.

Also, a certain lot or parcel of land situated on the northerly side of Winter Street in the City of Portland, County of Cumberland and State of Maine bounded and described as follows:

Beginning on said northerly sideline of Winter Street at the most southerly corner of the parcel of land conveyed by the Roman Catholic Bishop of Portland to Con-Tul, Inc., by deed dated April 10, 1964, and recorded in Cumberland County Registry of Deeds in Book 2815, Page 75; thence by said northerly sideline of Winter Street N 40° 10' 30" W twenty (20) feet to a point;

thence through land now or formerly of Con-Tul, Inc., N 49° 49' 30" E one hundred (100) feet to land now or formerly of Sisters of the Precious Blood of Portland, Maine; thence by land now or formerly of Sisters of the Precious Blood of Portland, Maine S 40° 10' 30" E twenty (20) feet to land formerly of the Mercy Hospital and now or formerly of Sisters of the Precious Blood of Portland, Maine; thence by said land now or formerly of Sisters of the Precious Blood of Portland, Maine, S 49° 49' 30" W one hundred (100) feet to the point of beginning.

The area of the above described parcel being two thousand (2,000) square feet.

The above described courses being magnetic and of the year 1957.

That certain easement for use of an adjacent parking lot on land now or formerly of Con-Tul, Inc., for purposes of ingress and egress, which easement is expressly set forth in Quitclaim Deed with Covenant from the Sisters of the Precious Blood of Portland, Maine to Roman Catholic Bishop of Portland, dated August 13, 2018, and recorded in the Cumberland County Registry of Deeds at Book 35081, Page 287, has terminated and is not conveyed hereby.

Being the premises conveyed to Sisters of the Precious Blood of Portland, Maine by Con-Tul, Inc., by deed dated October 21, 1974 and recorded in Cumberland County Registry of Deeds in Book 3618, Page 56.

FOR SOURCE OF TITLE, reference may be had to Quitclaim Deed with Covenant from the Sisters of the Precious Blood of Portland, Maine to Roman Catholic Bishop of Portland, dated August 13, 2018, and recorded in the Cumberland County Registry of Deeds at Book 35081, Page 287.

The above-described premises are conveyed SUBJECT to the restrictions that the Grantee, Grantee's successors and assigns, shall not use the premises in any way relating to: 1) counseling regarding or performance of abortions; 2) sale of pornographic materials; or 3) erotic displays or activities. The burden of this restriction shall run with the land conveyed hereby to the Grantee. The benefit of this restriction is held by the Roman Catholic Bishop of Portland, corporation sole, its successors and assigns.

Attachment F

Vicinity Map



THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM ACORN ENGINEERING, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO ACORN ENGINEERING, INC.	FILE: 1123.1 CIVIL	 ACORN ENGINEERING, INC. ACORN ENGINEERING, INC. P.O. BOX 3372 PORTLAND, MAINE 04104 (207) 775-2655	DRAWING NAME:	ISSUED FOR	BY
	DATE: 2/17/20		VICINITY MAP	CITY REVIEW	DATE
	JN: 1123.1				2/17/20
	SCALE: 1"=2,000'				
	DESIGN BY: PFH				
DRAWN BY: PFH					REV
CHECKED BY: WHS					DATE
DRAWING NO. EX-01			PROJECT NAME: 99 WINTER STREET		
			CLIENT: THANOS, LLC		



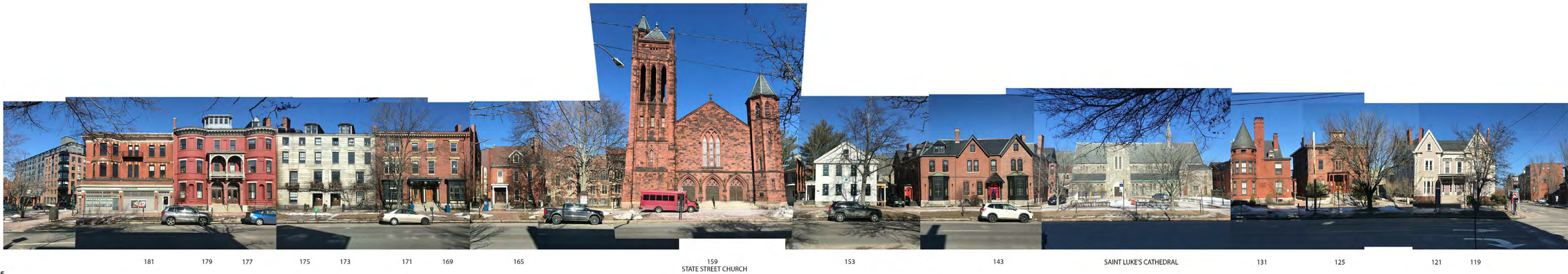
WINTER STREET - SOUTH SIDE



WINTER STREET - NORTH SIDE



STATE STREET - SOUTH SIDE



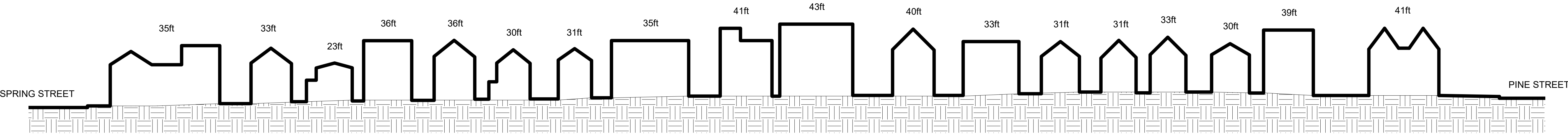
STATE STREET - NORTH SIDE

PHOTO MONTAGE - WINTER STREET &
STATE STREET FACADES

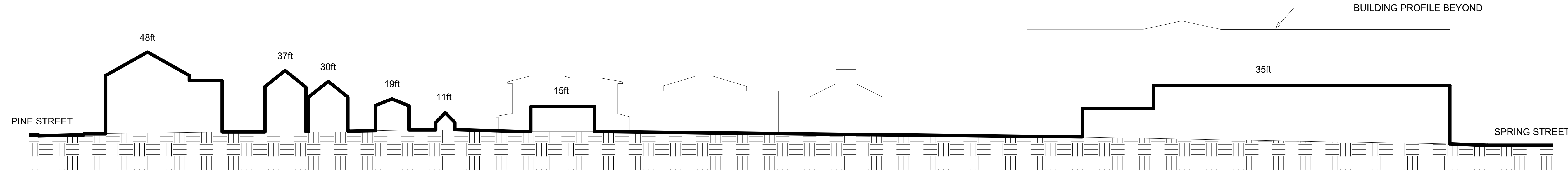
WINTER STREET HOUSING

99 Winter Street

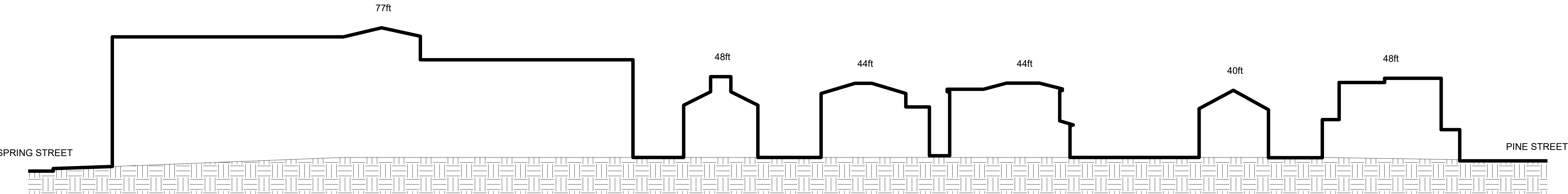
New Workforce Apartment Housing 03.04.2021



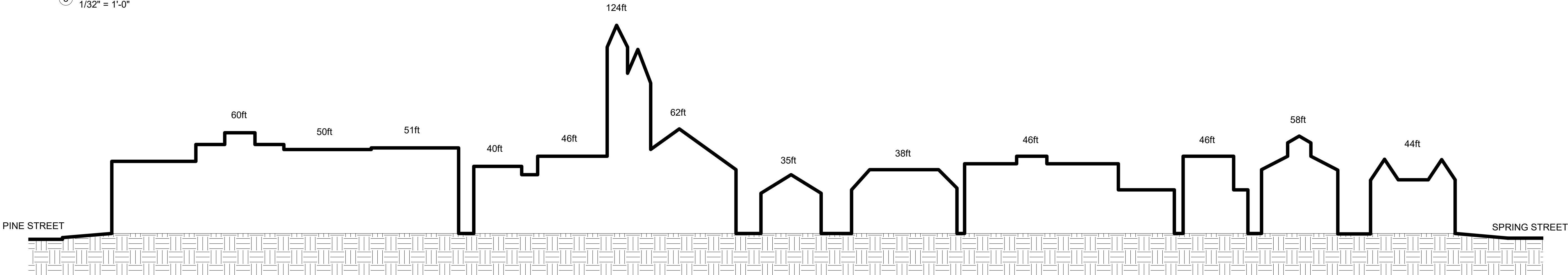
① WINTER STREET - SOUTH ELEVATION
1/32" = 1'-0"



② WINTER STREET - NORTH ELEVATION
1/32" = 1'-0"



③ STATE STREET - SOUTH ELEVATION
1/32" = 1'-0"



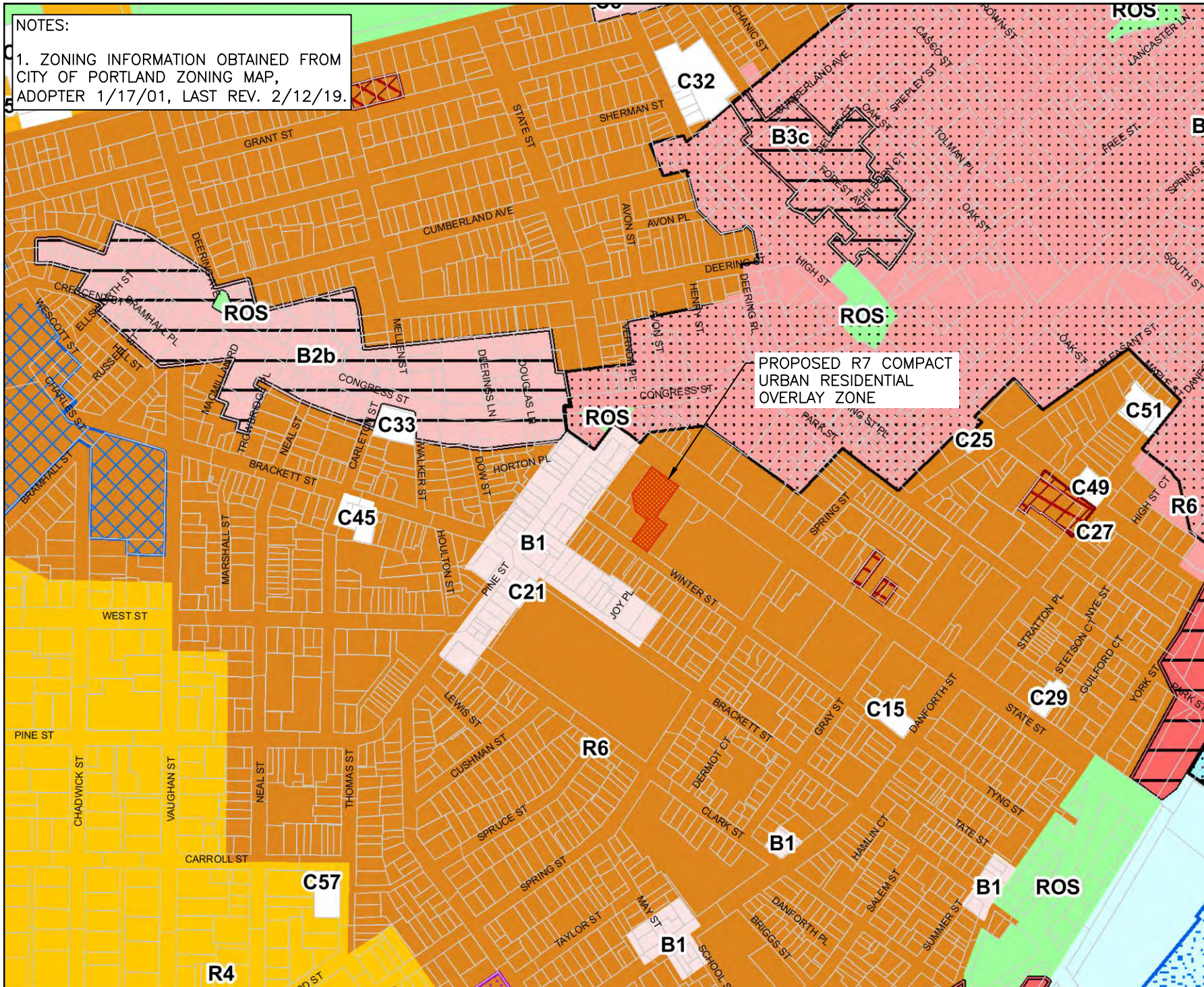
④ STATE STREET - NORTH ELEVATION
1/32" = 1'-0"

NOTE:
BUILDING HEIGHT INFORMATION
OBTAINED USING GOOGLE EARTH.
HEIGHTS ARE BELIEVED TO BE
ACCURATE WITHIN 5FT.

Attachment G

Proposed Map Amendment

NOTES:
1. ZONING INFORMATION OBTAINED FROM CITY OF PORTLAND ZONING MAP, ADOPTED 1/17/01, LAST REV. 2/12/19.



ISSUED FOR		BY DATE
MAP AMENDMENT		WHS 10/30/19
		REV DATE
DRAWING NAME:		
PROPOSED MAP AMENDMENT		
PROJECT NAME:		99 WINTER STREET
CLIENT:		THANOS, LLC
		
FILE: 200 FEDERAL DATE: 10/30/2019 JN: 200 FEDERAL SCALE: 1"=500' DESIGN BY: KRB DRAWN BY: KRB CHECKED BY: WHS		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM ACORN ENGINEERING, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO ACORN ENGINEERING, INC.		
DRAWING NO. EX-2		

B-3 ZONING PROVIDES:

±49 UNITS, MAJORITY WORKFORCE

45'- 0" MAX HEIGHT (35'- 0" + 10'- 0") EXTENDING 65' FROM WINTER STREET PROPERTY LINE. 85'-0" MAX HEIGHT AT REAR OF SITE.

NO SETBACKS REQUIRED. NO STEPBACK REQUIRED. (5' SETBACKS INTENDED ON FRONT, SIDES & REAR).

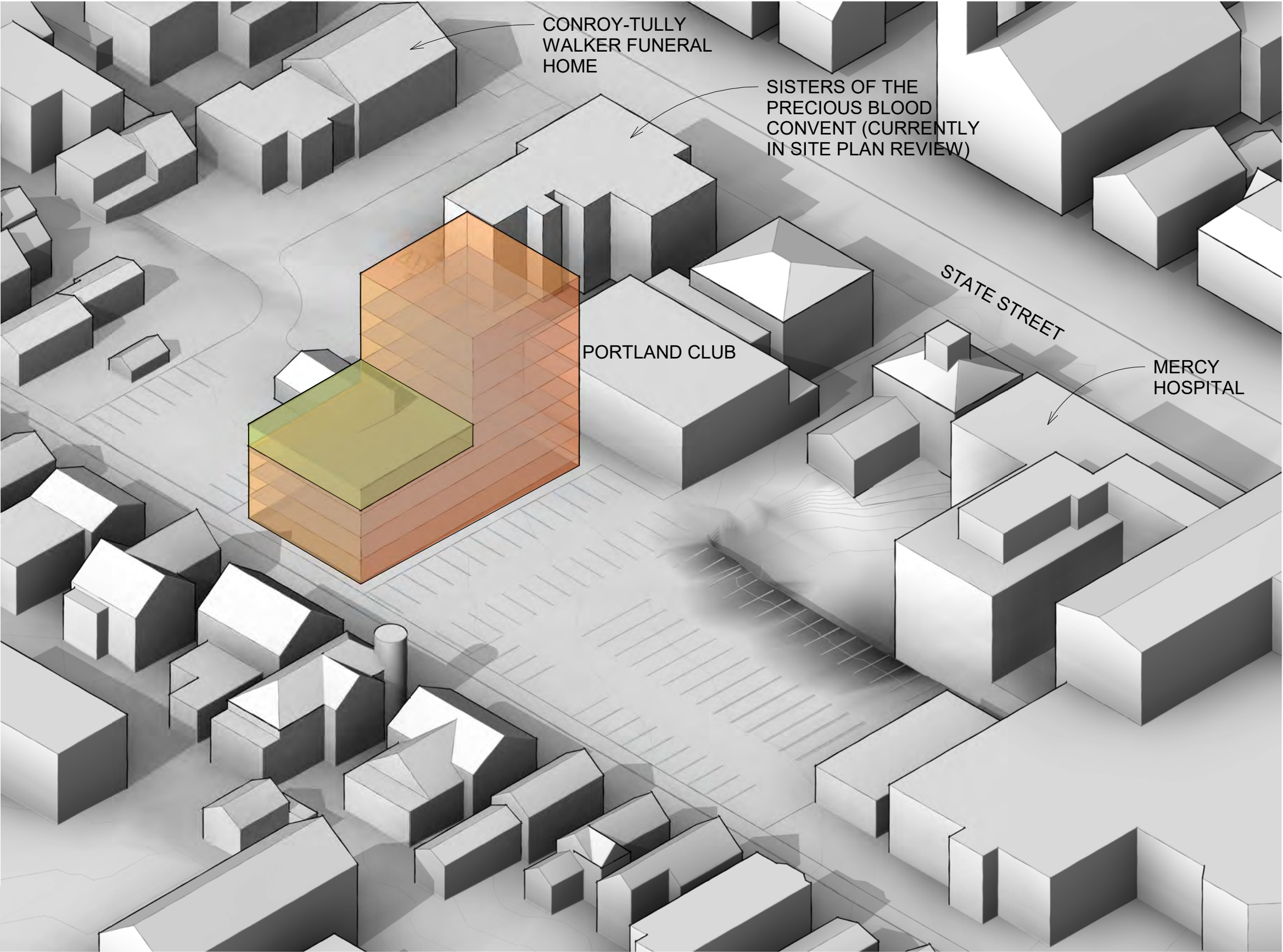
IMPROVED ECONOMICS OF PROJECT RESULTING IN GREATER FLEXIBILITY FOR BUILDING DESIGN, GREATER ABILITY TO DESIGN FINAL BUILDING THAT WILL NEGOTIATE THE SCALE OF EXISTING BUILDINGS ON WINTER AND STATE STREETS

OPEN SPACE - ADDITIONAL BUILDING VOLUME CREATES OPPORTUNITY FOR MORE OPEN SPACE

INCREASED DENSITY OF WORKFORCE HOUSING

CLOSER ALIGNMENT WITH PORTLAND COMPREHENSIVE PLAN GOALS

RECENTLY APPROVED FOR MERCY REDEVELOPMENT, POTENTIAL FOR SYNERGY BETWEEN DEVELOPMENT AND NEIGHBORHOOD



WINTER STREET HOUSING

Portland, ME | 01-12-21

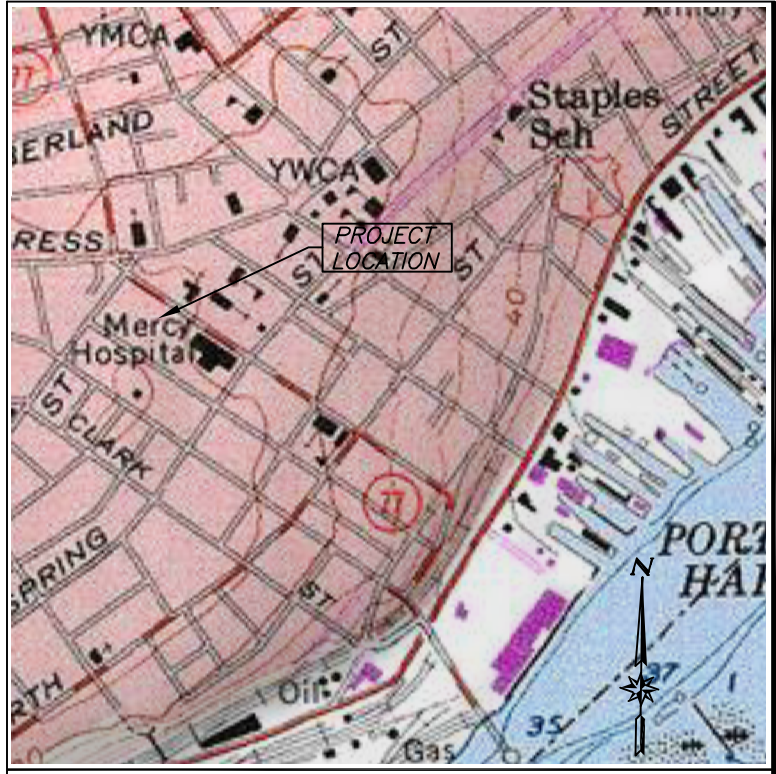
B-3 AXONOMETRIC



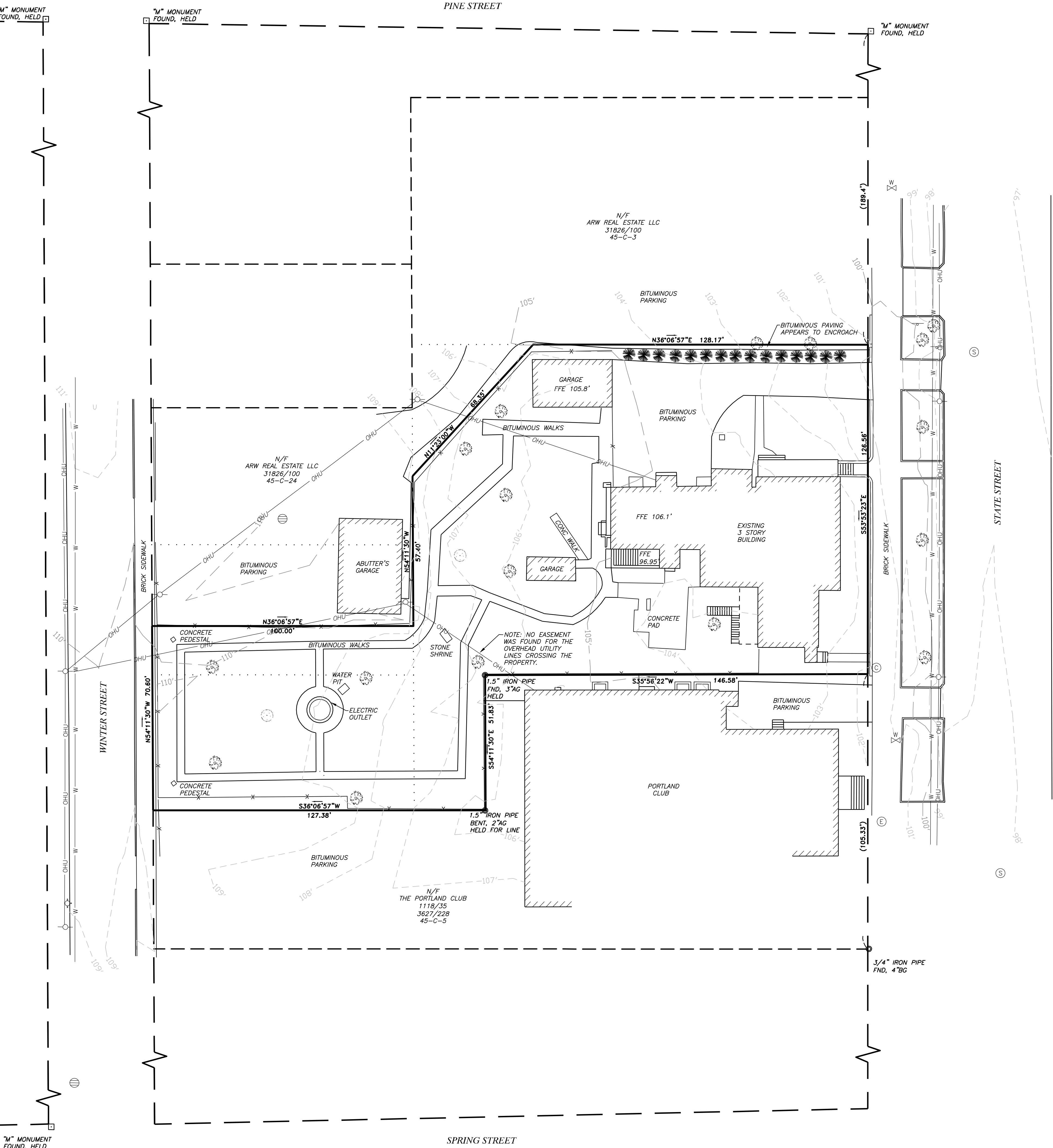
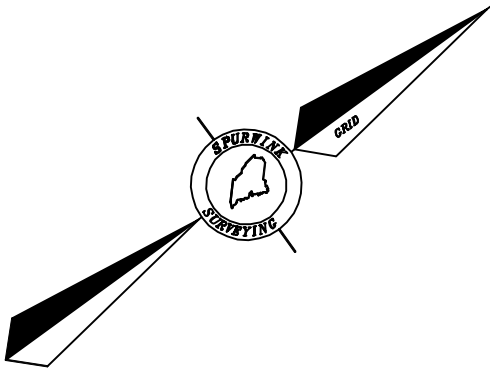
Att. H

Attachment H

Civil Site Plan



VICINITY MAP
N.T.S.



CERTIFICATION
SPURWINK SURVEYING HEREBY CERTIFIES TO FIRST AMERICAN TITLE INSURANCE COMPANY, THANOS LLC AND STARK INDUSTRIES LLC THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND SURVEY AND TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT PRACTICE AND STANDARDS. THE SURVEYED LAND AS DEPICTED HEREON IS THE SAME LAND AS DESCRIBED IN THE DEED TO ROMAN CATHOLIC BISHOP OF MAINE RECORDED IN BOOK 35081, PAGE 287.

LEGEND

- #5 REBAR WITH PLASTIC CAP STAMPED P.L.S. #2028
- FOUND IRON PIPE (SIZE & TYPE AS NOTED)
- FOUND IRON ROD
- FOUND CAPPED IRON ROD (NUMBER AS NOTED)
- UTILITY POLE (NUMBER AS NOTED)
- FOUND TREE
- FIRE HYDRANT
- CATCH BASIN
- DRAIN MANHOLE
- SEWER MANHOLE
- GUY
- BOUNDARY LINE
- EDGE OF PAVEMENT
- RIGHT-OF-WAY LINE
- SETBACK LINE
- INTERIOR LOT LINE
- ABUTTER LINE
- OVERHEAD UTILITY
- STOCKADE FENCE
- CHAIN LINK FENCE
- NOW OR FORMERLY OWNED BY
- DEED BOOK AND PAGE (CCRD)
- TAX MAP-BLOCK-LOT
- PARENTHESIS DENOTE RECORD DATA

NOTES

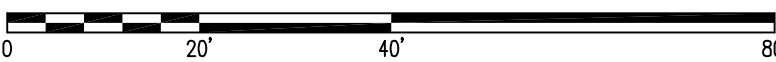
- THE BASIS OF BEARING FOR THIS SURVEY IS MAINE STATE COORDINATE SYSTEM, WEST ZONE. CONTOURS AND ELEVATIONS ARE REFERENCED TO NGVD1929.
- DEED AND PLAN BOOK REFERENCES ARE TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
- RECORD OWNERSHIP OF THE PARCEL SURVEYED CAN BE FOUND IN A DEED FROM SISTERS OF THE PRECIOUS BLOOD OF PORTLAND, MAINE TO ROMAN CATHOLIC BISHOP OF PORTLAND DATED AUGUST 13, 2018 AND RECORDED IN DEED BOOK 35081, PAGE 287.
- REFERENCE IS MADE TO THE FOLLOWING PLANS:
 - a. "PLAN OF LAND IN SOUTH PORTLAND, MAINE MADE FOR JOHN C. JACOBSON" BY RALPH P. CUMMINGS, C.E. RECORDED AT CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 23, PAGE 55.
 - b. VARIOUS STREET LINE SHEETS AND UTILITY PLANS ON FILE AT CITY OF PORTLAND ENGINEERING OFFICE.
- THE SURVEYED PARCEL CONTAINS 29,333 SQUARE FEET OR 0.67 ACRES.
- THE SURVEYED PARCEL APPEARS ON FEMA FLOOD MAP 230051 0013 B AND IS NOT IN A FLOOD HAZARD ZONE.
- THE UTILITIES SHOWN ON THIS PLAN WERE FROM FIELD OBSERVATION ONLY. THERE MAY BE OTHER UTILITIES EXISTING THAT ARE NOT SHOWN. CONTACT DIG-SAFE (888)DIG-SAFE PRIOR TO ANY EXCAVATION WORK.

Revised:	By:	Date:	Change:
PROJECT: 2019016		PROJECT NAME: 160 STATE STREET.DWG	
DATE: APRIL 22, 2019		SCALE: 1"=20'	FB # 13 E. FB Y
FIELD BY: J.A.M. & J.B.P.		FIELD DATE: APRIL, 2019	DRAWN BY: J.A.M.
Drawing Name and Location:			
BOUNDARY SURVEY/EXISTING CONDITIONS PLAN			
160 STATE PORTLAND, MAINE			
Owner:			
ROMAN CATHOLIC BISHOP OF PORTLAND			
510 OCEAN AVENUE, PORTLAND, MAINE 04103			
Prepared For:			
THANOS LLC & STARK INDUSTRIES LLC			
100 COMMERCIAL STREET, PORTLAND, MAINE 04101			

SURVEYING LAND PLANNING
Spurwink Surveying

182 SPURWINK ROAD, SCARBOROUGH, MAINE

tel 207.799.2654 cell 207.321.8966 e-mail spurwinksurveying@gmail.com

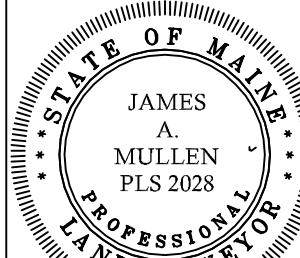


STAMP AND SIGNATURE

James A. Mullen APRIL 30, 2019

JAMES A. MULLEN
MAINE P.L.S. No. 2028

DATE



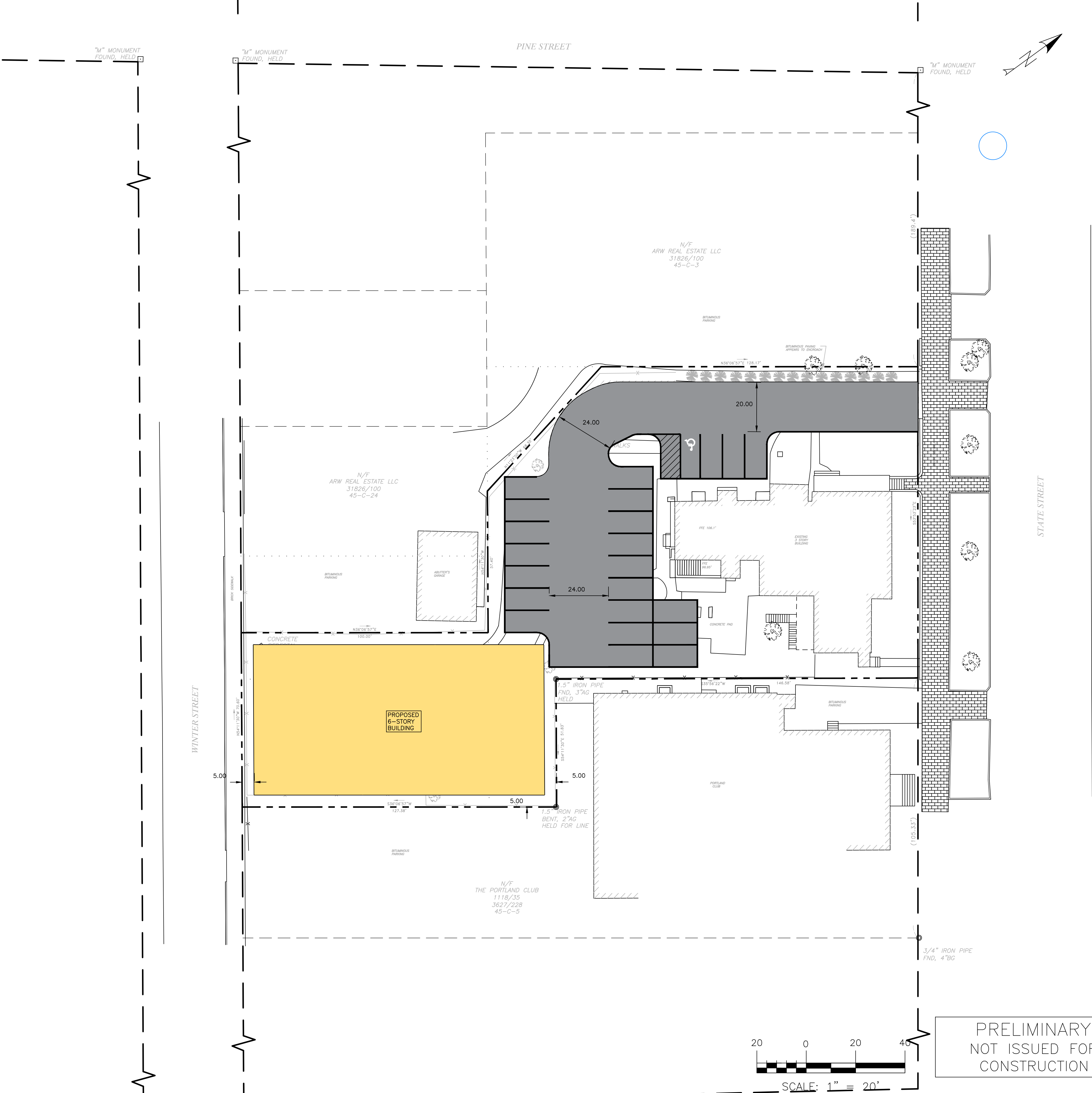
IF THIS PLAN DOES NOT CONTAIN AN EMBOSSED SEAL, IT IS NOT AN ORIGINAL AND MAY BE VOID.

EMBOSSED SEAL ABOVE

SPACE AND BULK STANDARDS		
R-6 ZONE	EXISTING	ALLOWED
MNIMUM LOT SIZE	29,333 SF	2,000 SF
MINIMUM LOT AREA/LODGING HOUSE ROOMING UNIT	733 SF	250 SF*
STREET FRONTAGE		
	STATE ST - 126' WINTER ST - 70'	20'
MINIMUM FRONT YARD SETBACK FOR PRINCIPAL AND ACCESSORY STRUCTURES	10.5'	5'
MINIMUM REAR YARD SETBACK FOR PRINCIPAL AND ACCESSORY STRUCTURES	10'	10'
MINIMUM SIDE YARD SETBACK FOR PRINCIPAL AND ACCESSORY STRUCTURES	4.5'	5'
MAXIMUM LOT COVERAGE	37%	60%
MINIMUM LOT WIDTH	71'	20'
MAXIMUM HEIGHT, PRINCIPAL AND ATTACHED ACCESSORY STRUCTURE	<45'	45'
MAXIMUM HEIGHT, DETACHED ACCESSORY STRUCTURE	<18'	18'
LANDSCAPED OPEN SPACE REQUIRED		20%
OFF-STREET PARKING	4	1 SPACE FOR EACH 5 ROOMING UNITS = 8 SPACES
* 29,333 SF LOT SIZE / 250 SF/ROOMING UNIT = 117 ROOMING UNITS ALLOWED		

SPACE AND BULK STANDARDS			
R-7 ZONE	EXISTING	PROPOSED	ALLOWED
MNIMUM LOT SIZE	29,333 SF	29,333 SF	NONE
MINIMUM LOT AREA/LODGING HOUSE ROOMING UNIT (250 SF/ROOMING UNIT)	40 ROOMING UNITS	40 ROOMING UNITS	117 ROOMING UNITS
MAX. RESIDENTIAL DENSITY/DWELLING UNIT (435 SF/DWELLING UNIT)	NA	50 DWELLING UNITS	87 DWELLING UNITS*
STREET FRONTAGE			
	STATE ST - 126' WINTER ST - 70'	STATE ST - 126' WINTER ST - 70'	NONE
MINIMUM FRONT YARD SETBACK FOR PRINCIPAL AND ACCESSORY STRUCTURES	NA	0'	NONE
MINIMUM REAR YARD SETBACK FOR PRINCIPAL AND ACCESSORY STRUCTURES	NA	5'	5'
MINIMUM SIDE YARD SETBACK FOR PRINCIPAL AND ACCESSORY STRUCTURES	NA	5'	5'
MAXIMUM LOT COVERAGE	NA	< 100%	100%
MINIMUM LOT WIDTH	NA	STATE ST - 32' WINTER ST - 71'	20'
MAXIMUM HEIGHT, PRINCIPAL AND ATTACHED ACCESSORY STRUCTURE	<45'	<60'	60'**
MAXIMUM HEIGHT, DETACHED ACCESSORY STRUCTURE	<18'	<18'	18'
LANDSCAPED OPEN SPACE REQUIRED	NA		NA
OFF-STREET PARKING	4	23***	1 SPACE FOR EACH 5 ROOMING UNITS = 8 SPACES 1 SPACE FOR EACH DWELLING UNIT = 50 SPACES TOTAL = 58 SPACES
* 1.3 X 67 (BASE) DENSITY PERMITTED PER SEC. 14-488 W/ 60% WORKFORCE HOUSING			
** 50' MAX. BUILDING HEIGHT IN R7 + ADDITIONAL 10' PERMITTED PER SEC. 14-488 W/ 60% WORKFORCE HOUSING			
*** SEC. 14-332.2 (b): PLANNING BOARD MAY ESTABLISH A PARKING REQUIREMENT FOR AFFORDABLE HOUSING UNITS FOR RENT OR SALE WITHIN AN ELIGIBLE PROJECT THAT IS LESS THAN ONE (1) PARKING SPACE PER AFFORDABLE HOUSING UNIT, REGARDLESS OF THE SIZE OF THE STRUCTURE.			

PARKING SUMMARY	
	# PARKING SPACES
EXISTING	4
STANDARD (9'X18')	22
ADA (8'X18')	1
TOTAL PROPOSED SPACES	23



ISSUED FOR
ATTORNEY REVIEW

BY
DATE
MPB
05/14/19

PHASE II CONCEPT

PROJECT NAME
160 STATE STREET / 99 WINTER STREET

CLIENT
JOSH SOLEY
100 COMMERCIAL STREET, SUITE 214



ACO ENGINEERING, INC.
65 HANOVER ST, PORTLAND MAINE 04101
(207) 775-2655

FILE: 1123.1_CIVIL
JN: 1123.1
SCALE: AS NOTED
DESIGNED BY: WHS
DRAWN BY: ZMS
CHECKED BY: WHS

DRAWING NO.
EX-1

Letter to the Planning Board Re: 99 Winter Street/ 160 State

Amy Grommes Pulaski <amygrommes@gmail.com>

Jun 17, 2020 9:21 AM

Posted in group: **Planning Board**

Hello Andrew,

I am submitting to you, and the members of the planning board, a letter on behalf of the residents and neighbors of Winter Street regarding the zone change request for 99 Winter Street/ 160 State Street.

Please share with members of the planning board.

Also, when will this item be on the agenda?

Thank you.

Amy Grommes Pulaski
68 Winter Street

City of Portland
Planning Board
389 Congress Street
Portland, ME 04101

June 16, 2020

RE: 99 Winter Street Development

To the City of Portland Planning Board members:

Chair Brandon Mazer, Vice Chair Maggie Stanley, Marpheen Chann, Sean Dundon, Bob Dunfrey, David Silk, and Austin Smith.

Cc: Andrew Tufts, of the Planning Department

We, the neighbors of Winter Street, are aware of a zoning overlay request before you regarding 99 Winter Street. ***We request that the development adhere to the R-6 residential zone and reflect the design and scale of Winter Street, and that the R-7 overlay request be denied,*** for the following reasons.

- The "yellow zone" or urban core contains the Old Port and extends toward the West End but ends at State Street. The State street side of the property could handle increased density, typical of the R-7 zone. However, the Winter Street side of the property is smaller and residential in nature. The large developments that do exist on Winter Street – 100 State Street and Mercy Hospital - have design qualities that are consistent with the R-6 zone. Namely, these properties do not exceed the 45' height requirement of R-6, and are considerably stepped back from the edge of the street. The new building, under the R-7 overlay zone, would both exceed 45' height required of R-6, and, without required setback of the R-6 zone, would likely be located at/ on the sidewalk. This scale of development in the R-7 zone would be inconsistent with what currently exist on Winter Street.
- A notable concern between R-6 and R-7 is a significant change in lot coverage from 80% in R-6, to 100% in R-7. This too, is inconsistent with the current design and scale of Winter Street.
- The R-6 zone has setback requirements that are appropriate to the scale on Winter Street for larger developments, the R-7 zone does not require setbacks.
- The existing housing heights on Winter street are up to 3.5 stories in height, or less than 45', also consistent with the R-6 zone. If the R-7 overlay zone is approved, and the project pursues affordable housing as intended, and receives the density bonus allowed, the project could be allowed additional 25' in height. Buildings heights of 65' to 70' are not consistent with the current design and scale of the Winter Street streetscape.
- A density bonus, allowed under affordable housing developments, could allow up to 49 units in the R-6 zone, or 166 in R-7, depending on how deep the subsidy, would seem to overwhelm the site and the neighborhood.

Additionally, at the neighborhood meeting, the developers shared that they would have more design opportunities under the R-7 that would be constrained under the R-6. However, within any guidelines, skilled architects (such as the ones hired for this project) have endless options as to what the final design can and will be. It's simply not true that one set of guidelines (R-7) allows for more creative solutions over any other set of guidelines (R-6), as put forth by the developers in the neighborhood meeting.

We appreciate your work in ensuring consistency with Portland's Comprehensive Plan. We welcome a discussion and open dialogue on this development, and other developments on Winter Street. Thank you for your time and consideration of our request.

Submitted on behalf of,

The residents and neighbors of Winter Street, including:

1. Suzanne Hunt, 36 Winter St
2. Chrystal Wing, 36 Winter Street
3. Elizabeth Parsons, 44 Winter Street
4. Amy Grommes Pulaski, 68 Winter Street
5. Michael Pulaski, 68 Winter Street
6. Lauren Guite , 70 Winter St.
7. Regan Sweeney, 70 Winter St.
8. Katherine Gilbert, 92 Winter Street
9. Charles Morris, 92 Winter Street
10. Nathan Kimble, 100 Winter Street
11. David Shedd, 104 Winter St
12. Rose Marasco, 108 Winter Street
13. Honour Mack, 112 Winter Street
14. David Marsden, 112 Winter Street

THE RESIDENTS AND NEIGHBORS OF WINTER STREET

15. Seth White, 113 Winter St.
16. Lurette Saul, 113 Winter Street
17. Jennifer Rosenthal, 116 Winter Street
18. Casey Rosenthal, 116 Winter Street
19. Mary Clews, 117 Winter Street
20. Jennifer Defilipp, 119 Winter
21. Marc Smith, 119 Winter.
22. Heather Carlisle, 22 Pine Street # 1
23. Bob Brittingham, 22 Pine Street # 2
24. Pam Brittingham, 22 Pine Street # 2
25. Brooke Porter, 22 Pine Street # 4
26. Karen Farrell, 22 Pine St. #5
27. Maya Burton, 22 Pine St, #6
28. Sarah S Saul, Danforth Street
29. Mark Rossnagel, 766 Congress St. #11
30. Trisha Cobb as President of The Portland Club, 156 State Street
31. Laurence Reinhartsen, 59 State Street # 3
32. Gretchen Langner, 59 State Street # 3

David Shedd
P. O. Box 11375
Portland, ME 04104
(207) 838-1068
portlandmerentals@gmail.com

April 24, 2020

Brandon Mazer, Chair
Planning Board City of Portland
389 Congress Street
Portland, Maine 04101

Dear Mr. Mazer:

I have looked carefully at the documents submitted by: Thanos, LLC. re: the proposed application of changes to 160 State Street and 99 Winter Street.

I have a number of concerns about the submitted proposal and the developer which I would like you to evaluate and consider. With Mercy Hospital leaving and with the significant changes to this site and the neighborhood, we're looking at significant changes to an historic district. The city allowed buildings to be razed to create parking lots in that district, and that blighted the neighborhood for decades. These two projects will change this block as well...we need to make sure that we don't create MORE problems.

I purchased 104 Winter St. in 2002. At that point, it was a near-derelict that had been a known crack house a number of years earlier. Over the last 18 years, I have done major renovations and improvements to the house and grounds, and developed great tenants in an open, welcoming neighborhood. That has included installing and reworking a fence to remove a "corridor" from Brackett Street to Winter Street that had people sleeping in our yards, hallways, and basements...not a nice scenario. Overall, it has been a lot of work, but worth it.

Over the last few years, our neighborhood had been working to increase the quality of the area; more trees, better lighting, better walkability. Rose Marasco (my neighbor) and Elizabeth Parsons have been leading that charge, with the goal of making the neighborhood fit in better with what the West End is trying to be...more neighborhood, less "commercial." We've had significant problems with owners/tenants of buildings on State Street, and the neighborhood organization has been in regular meetings to try to resolve the issues.

.

I know they have met several times with Jeff Tarling, who is working to get tree replacements. And then, Thanos, LLC started cutting trees without notice or discussion; not exactly the definition of “good neighbors” (although fitting, given the name). Clearly, they have little understanding of the neighborhood and the character that both exists and that we are working toward, and also clearly no interest in finding out and being part of it.

That makes their request to reduce the required landscape space to zero, from the standard 20%, even more shocking and unacceptable than it would have been. As a general practice, it’s a bad idea to reward bad actors with concessions; they’ll keep taking advantage, not just in this situation but in every other opportunity with the city. They tried to do much of this without approval; now they want to get approval for it. I’m sorry, but that isn’t even reasonable.

Then, there is their request for a 50% height increase. My building, which is basically directly across from there, is in a historic district. I have had to work around various regulations, including paying thousands of dollars more for windows that met the district requirements...and now the goal is to have a huge, modern building directly facing it? That also makes no sense whatsoever, and would be a slap in the face to all of us who have worked hard to stay within the bounds of the district requirements.

I hope you will take my comments, as well as those of the other residents, into consideration. All of us have the good of the city in mind, not just that of our own pockets...we’re trying to create “homes,” not just apartments. Allowing major changes that void the work of us, and of Historic Preservation, does not move the city forward.

Sincerely,

David Shedd

CC:

Ms. Jennifer Munson, Planning Department
Councilor Spencer Thibodeau, Chair, Sustainability & Transportation Committee
Mr. Andrew Tufts, Planning Department
& the Planning Board City of Portland

**Elizabeth C. Parsons
44 Winter Street
Portland, ME 04102**

22 April 2020

Mr. Brandon Mazer, Chair
Planning Board c/o City of Portland
389 Congress Street
Portland, ME 04101

RE: Requested rezoning of 160 State/99 Winter; Plan Number: ZN-001021-2020

Dear Mr. Mazer:

The following concerns two points related to current zoning laws; to *Portland's Plan 2030*; and to the joint planning process: *One Climate Future*. These points support my contention that granting this request *would negatively affect the existing neighborhood and adjacent property*—something disallowed under R7 provisions. It would also *run counter to values stated in the two planning documents*.

Land use

The zoning change request from R6 to R7 involves new construction out of scale in height and width to the neighborhood's context. This envisioned size would require reducing the amount of landscaped open space on the 99 Winter plot from 20% or zero. The proposed new construction would run basically to Winter Street and lot lines on either side of the property.

This area, though bounded by a fence, has been one of the largest pieces of open space in the neighborhood for decades. In fact, it was open for so long that approximately eight trees reached maturity there. By contrast, the rest of the upper and mid-Winter blocks have lost almost all tree cover due to replacement of housing by parking lots; municipal neglect; and over salting. If you visit 99 Winter now, you will see only three or four mature trees still standing there. This is because the new owners pre-emptively felled the rest last summer until a group of neighbors intervened. Had we not done so, the other trees—including a 150+ year old sugar maple—would have come down.

This incident was the impetus for a tree protection ordinance currently wending its way through City processes. The final draft should come before the entire Council very soon. Meanwhile, the City Arborist has deemed all the remaining trees at 99 Winter healthy. But it appears unlikely any would survive if the application as presented goes forward. This is particularly disturbing since an earlier renovation request for 160 State specifically notes protective measures for the sugar maple.

As both the City Arborist and Councilor Thibodeau can attest, Winter Street neighbors have been working for over three years to improve the quality of life in an area that has come to resemble an industrial back alley to businesses and organizations fronting on State Street. One of our main

aims has been to restore drastically depleted tree canopy. Progress has been very slow for reasons I won't go into here. Meanwhile, the respite to humans and wildlife provided by the Monastery's trees has been particularly prized.

So, allowing open space loss as the envisioned project requests would represent disregard for the City's comprehensive plan and current climate action planning. See, for example:

- the statement on complete neighborhoods (comp plan, p 79)
- the statement on urban design (comp plan, p 82)
- the statement on future land use policy (comp plan, p 88)
- the list of climate vulnerabilities in relation to transportation/land use and resilience planning components (oneclimatefuture.org).

Transportation

Submitted plans also indicate the property owners intend to take advantage of provisions within the City's land use code that allow a reduced number of parking spaces for certain types of housing. Yet, the plan still calls for 23 parking spaces in an area where the sugar maple stands.

There are, however, numerous reasons for radically reducing the number of surface parking units:

- The comp plan highlights State Street as a priority corridor for enhanced public transit, access to which would be adjacent to 99 Winter.
- A chief objective of One Climate Future's transportation component is reducing single passenger car travel. Some strategies for doing so could include disincentives for driving. Reducing the parking requirement here would accord with that objective.
- Section 14-332.1 k. 3 of the City's code indicates the Board has flexible discretion to reduce parking requirements.
- It is questionable how many inhabitants of workforce housing would need or could afford private vehicles, especially as the recession we're now entering deepens.
- It is generally known that parking spaces cost developers money they'd rather not spend that way. Reducing the number of required spaces would help take pressure off the desire to build such a massive structure at 99 Winter.

So, tell the applicant "No. Figure out a way to make your project work within current regulations and visions." That's why we have these things. Grant leeway on parking requirements in favor of public transit options and open space. Specify that all mature trees remaining on the property be preserved and protected.

Sincerely,

Elizabeth Parsons

cc: Mr. Troy Moon, Sustainability Office
Ms. Jennifer Munson, Planning Dept.
Mr. Jeff Tarling, City Arborist
Councilor Spencer Thibodeau, Chair, Sustainability & Transportation Committee
Mr. Andrew Tufts, Planning Dept.

Elizabeth Parsons <ecparsons33@hotmail.com>

Dec 9, 2020, 7:26:11 AM (yesterday)



to planningboard@portlandmaine.gov, Andrew Tufts

Dear Planning Board members:

Several months have passed since I wrote to you about this planned project located a block from where I live (see copy of earlier letter attached). In the intervening time, nothing has happened to change my mind about the inappropriateness of imposing a little-used zoning designation on this neighborhood.

At the time of purchase, the applicant knew this property was zoned R6. So, some creative thinking and consideration of the context could undoubtedly yield a good project that would work within the current zoning. It's been done elsewhere in this neighborhood in recent years. Avesta's Carleton Street complex is one example; the project to be built next to the former Catholic Charities building at State and Danforth is another.

I respectfully urge the Board to deny this requested rezoning.

Sincerely,
Elizabeth Parsons
44 Winter Street

proposed rezoning of 160 State Street

GABEL Landis <landis.gabel@insead.edu>

Apr 24, 2020 4:57 PM

Posted in group: **Planning Board**

Dear Planning Board members,

I am writing to oppose the rezoning relevant to the proposed development of what was formerly the Precious Blood Monastery at 160 State Street.

The purpose of zoning regulations is to afford a secure barrier to the unending pressure for the sorts of development that would harm the esthetic, historic, or cultural assets of a neighborhood. That pressure is especially high in Portland now. If those responsible for zoning enforcement give way to the pressure, those values and the character of the city which drew many to it, will be irrevocably lost. It may be argued that the proposed development will contribute to the economic prosperity of the city, but that would ignore the loss of value felt by the neighborhood, both in the abstract and in terms of its property values.

I am a relatively new resident of Portland. I moved here to the West End in good part because of the very things threatened by this proposed development. It is out of scale (which is why the rezoning is needed), unattractive, and it will necessitate the removal of trees that the city needs more, not fewer, of. Indeed, there is an initiative underway to increase the tree cover within the city. This tree protection ordinance may go before the City Council in May. It would be a shame should trees be lost, including a notable old sugar maple, just as the city moves the other direction.

Thank you for considering my concern.

H. Landis Gabel

Emeritus Professor of Economics and Management

The Novartis Chair in Management and the Environment, Emeritus

INSEAD

E-mail: landis.gabel@insead.edu

Development plan for Precious Blood Monastery.

Katherine Gilbert <kittyandcharles@gmail.com>

Apr 16, 2020 2:42 PM

Posted in group: **Planning Board**

Good morning Jennifer Munson and Andrew Tufts and other members of the Planning Board.

I am writing to register my concern regarding plans for the development of Precious Blood Monastery into a six-story, 50 unit, residential building with limited parking and no green space.

The height of six-stories, while even with the nearby hospital, is otherwise not in keeping with the surrounding buildings, resident or commercial. I would like to register my strong opposition to the height variance above the current 3 floors. In addition, I would ask that a minimum green space requirement be maintained in our 'Forest City'. Green space is not something we can regain once overbuilt. The green space standards are in keeping with Portland's long term goals with regard to climate maintenance. Similar variances have created darkened corridors in the East End of the City. State Street is one of Portland's Grand Boulevards. We need to consider carefully changes to this vibrant part of town and sponsor only development which enhances the city's character.

I live in a home on Winter street which has been in my husband's family for more than 100 years. My father-in-law grew up on a tree-lined street overlooking a public open space which is now a Mercy Hospital parking lot. He used to be able to see Casco Bay from third-floor. Now we face the back of Mercy and the parking area. We deal with the incumbent year-round noise from the hospital's industrial ventilation, idling emergency vehicles, night gas emissions, waste removal, deliveries, and seasonal snow clearing. We often feel as if Winter Street is treated as an alley rather than as the vital residential neighborhood that it is.

Over the past several years, Winter street residents have been working together to urge our State Street neighbors to take steps to improve their appearance on our street. To this end, we have encouraged our State Street neighbors to remove waste containers and replace hurricane fencing with plantings and/or architectural enhancements more in keeping with the residential nature of our street. In addition, we have met with the city arborist and are working to restore the trees along our sidewalks.

We are not opposed to development. In fact, many of us are looking forward to the proposed conversion of Mercy Hospital to a mixed-use residential and commercial development with green space. Our neighborhood has benefitted from the addition of much-needed housing with crosswalks, and local businesses where empty lots once stood. But we have also seen an explosion in construction and are witness to some of the negative consequences as well.

We urge you to consider the impact of a six-story, shadow casting, curb hugging, 50 unit structure, with limited parking, and no green space on our neighborhood. Maintaining even one of the zoning restrictions may be enough to help the planned construction fit into our fair Forest city, Portland. Please maintain the current zoning rules.

Please keep us posted regarding future public hearing and/or options for further discussion.
Thank you for your consideration.
Be safe and stay well.

Kitty and Charles

-- Katherine Gilbert and Charles Morris
92 Winter Street
Portland, ME 04102
207-773-9009

Google Groups

160 State Street

Lurette Saul <lmsaul@yahoo.com>

Apr 20, 2020 1:24 PM

Posted in group: **Planning Board**

To whom it may concern,

I'm writing in regards to the property on 160 State Street and the requests to rezone it. We are the closest neighbors on the side of the street on which the lot is located. Affordable housing is a critical need and I support and applaud efforts to create it. However I fail to see why rezoning this particular parcel of land, on a street which will shortly be entirely residential, is a good idea. Keep the parcel zoned as it is, so that Winter Street can remain a lovely place, without a towering building looming down on the homes below, blocking the sun from our yard.

Furthermore, though this is not specifically what is being addressed, I would like to mention the nearly 200 year old maple tree that is on the 160 State Street property. The Soleys cut down several other large canopy trees (suddenly, and without notifying the neighbors), and it was only through direct intervention that we were able to save the maple. Approving any action that would allow that maple to be cut down would be a stunning act of hypocrisy from a city claiming a 'climate action initiative' of the type detailed on your webpage.

I'm including a photo, from our living room window, of the maple as it stands now, just beginning to leaf out. 160 State Street, the former convent, is visible also. This is how close we are! We see squirrels nesting, and once in a while a hawk comes to sit in the branches look over the neighborhood. Some of our young daughters' first words were "big tree"!

PLEASE think this all the way through before you allow anything to happen that could affect this venerable tree.

Respectfully,

Lurette Saul
lmsaul@yahoo.com
415.577.4193
113 Winter Street



May 15, 2020

Brandon Mazer, Chair
Planning Board City of Portland
389 Congress Street
Portland, Maine 04101

Re: Thanos, LLC. proposed application of changes to 160 State Street and 99 Winter Street.

Dear Mr. Mazer:

I have looked at the documents submitted by: Thanos, LLC. Im trying to keep an open mind to the project but several pieces just don't seem to be fitting...

- 39 Units at 160 State
- 50 Units at 99 Winter
- Zero open space
- Height increase of 50%

Placing a six story building in what is now a neighborhood of two and three stores single and multi family properties, cramming 100 plus occupants on a small lot, little parking and no open space. This really seems like trying put the square piece in the circular hole. Great idea if you're the one collecting rent, not so great for neighborhood. Winter Street is a narrow one-way road with very limited parking. I currently can't see any merit to these requests. If this is approved I will be requesting to raze my property and build a six story 50 unit with zero landscaping. There's a good reason for zoning. Let's stay with it.

Sincerely,

Nathan Kimble
100 Winter St
Portland, ME 04102
(207) 650-2487
nathankimble@gmail.com

CC:

Ms. Jennifer Munson, Planning Department
Councilor Spencer Thibodeau, Chair, Sustainability & Transportation Committee
Mr. Andrew Tufts, Planning Department
& the Planning Board City of Portland









99 Winter Street / 160 State Street Zoning Change Request

Rosanne Graef <rgraef@zwi.net>

May 18, 2020 7:09 PM

Posted in group: **Planning Board**

To Whom It May Concern,

I am writing to express my opposition to the request for a change from R-6 to R-7 zoning for this parcel. Approval of this request would result in significant negative impact on the neighborhood and its residents, as well as on prospective residents of buildings to be remodeled or constructed on this lot. If you visit Winter Street, you'll be struck by the paucity of street trees and the poor condition of those few that are barely hanging on. The lot in question was graced, until last summer, by mature deciduous trees which provided summer cooling, shade, pleasant views and a welcome natural respite for those living there and in the immediate surroundings. In addition, these trees provided habitat for birds and other creatures. When the lot changed hands, one of the first acts of the new owners was the sudden, unannounced cutting down of several of these large, healthy trees. Understandably their removal led to much despair among residents who developed a resolve to try to protect the remaining trees on this lot, as well as others, from unthinking and unnecessary destruction. Over the past few months, this proposed heritage tree protection ordinance has been making its progress through the review process of the Sustainability & Transportation Committee and hopefully will be moved forward to the full City Council.

It is my belief that this zoning request should be rejected, or at least tabled, until the tree protection ordinance has been thoroughly considered and voted upon by the members of the S & T Committee and, ultimately, the City Council. With 100% lot coverage allowed in the R-7, this application is an attempt to squeeze as much out of this development as possible and will undoubtedly result in the removal of the remaining trees on the lot. Actions such as this do not square with Portland's desire to be a livable city that demonstrates concern for the environment and the overall well-being of its current and future residents. Please reject this zoning change request.

Sincerely,

Rosanne Graef
30 Salem St.

108 Winter Street
Portland, Maine 04102
April 22, 2020

Mr. Brandon Mazer, Chair
Planning Board City of Portland
389 Congress Street
Portland, Maine 04101

Dear Mr. Mazer:

I have looked carefully at the documents submitted by: Thanos, LLC. re: the proposed application of changes to 160 State Street and 99 Winter Street.

I have a number of questions and concerns on the submitted proposal which I would like you to evaluate and consider. With Mercy Hospital leaving and with the significant changes to this site, the importance of proceeding slowly, carefully, and wisely with this project, is a matter of major importance. These two projects will change this block of Winter Street forever. We need to get this right.

I live on this block, at 108 Winter Street. I bought my house in 2003 on auction from Mercy Hospital. It was quite a neglected house, but the integrity of the house had not been compromised and I have enjoyed restoring it. I moved to Portland when I was 29 years old (somehow, I am now 71) to establish the photography program at the University of Southern Maine. Portland is a city I love and over the years I have served on various city committees, representing the arts and the arts district.

A few years ago, I joined with Elizabeth Parsons, who was then President of the West End Neighborhood Association (WENA), to address some of the issues on the two blocks of Winter Street (from Pine Street to Gray Street) that needed improvement. Liz and I formed a very active group of 23 participants.

The group started by advocating for trees. Since 2003, many of the Winter St. trees (some very large) have died, and/or were removed. These trees were not replaced, and the tree wells were simply bricked over.

Next, we addressed the severe blight on Winter Street. This too has gotten much worse since 2003. Several of the businesses whose property fronts on State Street, started using their backyard, if you will, (meaning the streetscape of Winter Street), for the placement of their dumpsters, including food waste (in the summer the smell is pretty much unbearable), winter salt storage in a shipping container, (we did work with Mercy hospital to relocate this item), un-shovelled walkways, cigarette butts, and other blight.

These clear signs of neglect, combined with the highly visible trash and metal containers, seem to give permission to individuals to use these objects and spaces, as: a tagging site, a place to dump their no longer wanted furniture, large branches, and other garbage anywhere near the dumpster. I have seen this happen countless times. I watched two men dump a sofa off a truck, from my living room window. These places have also been sites, where because of the neglect and "cover" provided by the dumpster, encourages highly intoxicated individuals to gather. This

past Sunday there was someone passed out on the street in front of the parking lot across from me.

Our group of 23 has met several times with Jeff Tarling, who is working to get us tree replacements. But, our progress is very slow. Therefore, when several of us heard the chainsaws and watched a large streetscape being cut down on the 99 Winter Street side of the Thanos, LLC property, we immediately convened a meeting with the developer and several city officials.

Present at that meeting were: Spencer Thibodeau, Councilor District 2, Christine Grimando, Director, Planning Department, Ian Jacob, Historic Preservation, several members of our Winter Street group, including Elizabeth Parsons, and myself. It was a very emotional meeting. Several residents were crying and very distraught with what appeared to be to us: a removal of significant trees before a plan had been submitted and approved by the city. We did lose one large tree and several smaller that day. We were told the remaining major tree on the property, a 150 year-old sugar maple was also slated to come down. Shortly after the meeting, I was still on the property talking to the owner when Jeff Tarling came by, examined the tree and found it to be healthy.

To address the request from Thanos, LLC to reduce the required landscape space to zero, from the standard 20%, is completely unacceptable. They have already blighted the neighborhood and to further grant them a reduction to 0 % is really an insult to all who work for and care about this city. To me this seems especially so, in light of their skirting the rules and taking down trees before a plan was submitted. And, frankly, seeing my neighbors be so distraught, seeing the tree trimmers stop the cutting, and walk off the job that day, speaks to the intensity of this issue. If we did not act and come together, the site would now be completely felled of all trees. Exactly what they are asking you to do.

Regarding Thanos LLC, second request for the 50% increase of proposed building height over the guidelines, of the R6 zone. I also see no merit or reason for this request on this site. And I urge you to deny this request. It would set a really bad example for Portland. We have requirements because many of you and others have taken the time and care to think these issues through and have come up with standards that makes sense and take into account the greater good, and not the selfish good. Additionally, as I'm sure you are aware, Winter Street is in the West End Historic District. Many of us who own homes in the district, have filled out our forms, met with Preservation officials and have complied with the regulations. Developers, who are also individuals, should be held to the same highest standards within the Historic District.

I thank you for reading and considering my thoughts and observations. If I may provide you with any additional information please contact me.

Rose Marasco
Visual Artist + Distinguished Professor Emerita of Art

207-780-1965
info@rosemarasco.com
www.rosemarasco.com

Mr. Troy Moon, Sustainability Office
Ms. Jennifer Munson, Planning Department
Mr. Jeff Tarling, City Arborist
Councilor Spencer Thibodeau, Chair, Sustainability & Transportation Committee
Mr. Andrew Tufts, Planning Department
& the Planning Board City of Portland

Sarah Conly <sconly@bowdoin.edu>

Dec 31, 2020, 11:40:59 AM (6 days ago)



to planning@portlandmaine.gov, Elizabeth Parsons

To whom it may concern:

In point of fact, this concerns all of us. All of us on Winter St., on State St., on Pine and Spring Streets, and anyone in Portland who doesn't want their neighborhood sold to the highest bidder.

The Solely Brothers, not content with already planning to make a huge profit by developing the old monastery at 99 Winter St., want to change the zoning to R7. Good-bye sunlight on Winter St., good-bye quiet, and good-bye, neighborhood once a massive new building is here where there is at present a garden. There are plenty of places in Portland that could benefit from a bit of development, even a large development. Winter Street is not one of them. The West End is a historic residential neighborhood. Huge, soulless apartment buildings will destroy this. *Is this what you want?* You know if you enact this zoning change they will take full advantage of it and cram every square foot with as much construction as they can possibly fit in. Livability does not mean cramming as many people as possible into a small space. It's about preserving quality of life. Please do not allow this change.

Sarah Conly

110 Winter St., #4

Portland, ME 04102

Google Groups

ZN-001021-2020

Seth White <whiteseth04@gmail.com>

Apr 21, 2020 6:44 AM

Posted in group: **Planning Board**

Dear Members of the Planning Board,

I live two lots down from the proposed project on the same side of the street. I am very much for affordable housing being built on this lot. I am very much against allowing this zoning amendment for this lot.

I suspect in these letters from neighbors you are hearing about a healthy 150 year old sugar maple at the heart of this project. I suspect you are hearing about the developers' covert modus operandi both in eliminating the only canopy on this stretch of Winter St. with zero community outreach (the venerable maple was spared only by direct action from residents), and in dealing with the resulting fallout with residents. Now these developers are essentially asking taxpayers to reward them with a variance that allows a six story building on a stretch of Winter St. with no buildings above three stories, and a 0% landscaped footprint in the name of workforce housing. I understand the city has certain incentives for developers to create workforce housing with a caveat that the project must remain affordable housing for the "longest period allowable under federal, state, and local law," but I've been unable to find out how long that actually is. Are we really to allow a permanent footprint that flies in the face of any sort of "climate action plan" for a tenuous short term promise of affordability?

Further, we are likely facing a very large recession or worse. It seems to my mind a particularly poor time to be awarding higher density residential variances until we as a community have a sense of how this crisis is playing out.

Please, please reject this application. Thank you for reading this.

Sincerely,

Seth White
113 Winter St.

99 Winter Street aka 160 State Street

Shawn Hunt <hunt_shawn@hotmail.com>

Apr 17, 2020 7:28 PM

Posted in group: **Planning Board**

Hello:

I'm just writing a quick note regarding a concern with the proposed 99 Winter Street/160 State Street development (former Precious Blood Monastery). This is a big change for our street. I am not writing fully opposed, but I have concerns.

I want to hear a *specific plan* about how trash/recycling and pet waste (if applicable) will be handled by the property management. What about cigarette butts?

With 50 new units (more than 50 people?) I am sure that without a plan this will get out of hand. With potentially high turnover in the many units, I anticipate a problem with abandoned furniture, junk, etc.

What is the plan?

With that number of units, I want strong reassurance that waste will be handled by a reputable private company -- or at the very least with strong and enforced guidelines from the property management. We will not tolerate poor waste management at this property.

Thank You,
Shawn Hunt
Pine Winter Condos



Jennifer Munson <jmy@portlandmaine.gov>

Fwd: 99 Winter Street/160 State Street Development

1 message

Suzanne Hunt <shunt@doeherty@ghi.net>

Thu, May 28, 2020 at 7:14 PM

To: atuffs@portlandmaine.gov, planningboard@portlandmaine.gov

Cc: jmy@portlandmaine.gov

Subject: 99 Winter Street/160 State Street Development

City Staff and Planning Board Members;

First off, thank you for all you do, and thank you for your careful review of the proposed development at [99 Winter Street/160 State](#). In 1998 I was very fortunate to be part of the New Neighbors Program which allowed me to become the happy owner of a 3 unit apartment building at 36 Winter Street. Over these 22 years I have worked with the Historic Preservation Board and the Planning Department learning to follow all zoning requirements. I have witnessed many of my neighbors paying the same attention to zoning requirements.

Therefore when I received the proposed plans for 99 Winter Street I was dismayed. The proposal completely ignores the existing height and open space requirements for this zone. A professional developer surely was aware of the existing zoning requirements when the property was purchased. I see no reason why this development should be granted any variances. If a developer can ignore all pre existing zoning requirements why are the rest of us obeying them?

The height of the proposed apartment building is totally out of scale with Winter Street. The idea of reducing the green space from 20% to 0% seems ridiculous. Winter Street is a residential neighborhood and should be treated as such.

Thank you,

Suzanne Hunt
[36 Winter Street](#)
[Portland, Maine. 04102](#)
772 6695

Sent from my iPad



Jennifer Munson <jmy@portlandmaine.gov>

Developers & Portland Assets

Wayne@redhookdesignalliance.com <Wayne@redhookdesignalliance.com>

Wed, Apr 22, 2020 at 1:20 PM

To: atufts@portlandmaine.gov, jmy@portlandmaine.gov, planningboard@portlandmaine.gov

Cc: Anne Pringle <oldmayor@maine.rr.com>, vestal@chesterandvestal.com, karsny@yahoo.com, sarahmichniewicz@me.com, Larry Julie <jlarry@portlandlandmarks.org>

Andrew, Jennifer, and Members of The Portland Planning Board,

I'm taking a moment to write a note questioning why situations like this have become business as usual in Portland. The Soley brothers have recently submitted a development proposal for the 99 Winter side of the Monastery lot. They are asking for a zoning waiver to build a significantly larger structure than current zoning allows. The plans as they stand now would definitely involve taking down the 150+ year old sugar maple near the old Monastery building (to be replaced by surface parking) and would almost certainly take out the other remaining trees that were spared last summer.

The summation, as I read it, is that a 60' tall building will be erected in a zone where structures are limited to 45', by virtue of a "work force" housing exemption, a number of trees will be forever removed, including one of significant age and stature, and the Soley brothers will do well for themselves at the expense of the neighborhood. I think it will be interesting to observe the evolution of Portland without a cruise ship industry, with a significant decline in tourism, with a decimated restaurant population, and a workforce without work. A very interesting turn of events !!!

I guess my point is that while economies grow and decline, and the same for populations (Portland's population is in decline after all), it would be comforting to feel assured that you will protect our right to live in a green, pleasant, and human scaled city. I ask you to rise to the challenge.

Thanks for your stewardship,

Wayne Valzania

27 Merrill Street

Portland, ME 04101

City of Portland
Planning Board
389 Congress Street
Portland, ME 04101

March 22, 2021

RE: 99 Winter Street Development, Again.

To the City of Portland Planning Board members: Chair Brandon Mazer, Vice Chair Maggie Stanley, Marpheen Chann, Sean Dundon, Bob Dunfey, David Silk, and Austin Smith.

We, the neighbors of Winter Street, request that the development located at 99 Winter Street adhere to the R-6 residential zone and that the B-3 zone extension BE DENIED.

The size, height, and the scale of the B-3 is inappropriate for Winter Street.

Why the B-3 Is Inappropriate for Winter Street

The concerns that Winter Street neighbors raised for the R-7 zone are the exact same concerns that being raise for the B-3 (See memo attached dated 6/14/2020)

- The existing housing heights on Winter street are up to 3.5 stories in height, or less than 45', also consistent with the R-6 zone. If the B-3 overlay zone is approved, and the project pursues affordable housing as intended, and receives the density bonus as allowed, the project could be allowed additional 25' in height, the same height bonus as the R-7. **Buildings heights of 65' to 70' are not consistent with the current design and scale of the Winter Street streetscape, even with the 45' overlay zone for the entire site, building heights could still sore up to 70'.**
- The "yellow zone" or urban core contains the Old Port and extends toward the West End but ends at State Street. The State street side of the property could handle increased density, typical of the B-3 zone. However, the Winter Street side of the property is smaller and residential in nature. The large developments that do exist on Winter Street – 100 State Street and Mercy Hospital - have design qualities that are consistent with the R-6 zone. Namely, these properties do not exceed the 45' height requirement of R-6, and are considerably stepped back from the edge of the street. The new building, under the B-3 overlay zone, could exceed 45' height required of R-6, and, without required setback of the R-6 zone, would likely be located at/ on the sidewalk. **This size and scale of development in the B-3 zone would be inconsistent with what currently exist on Winter Street.**
- A notable concern between R-6 and B-3 is a significant change in **lot coverage to 100% in B-3 zone**, up from 80% in the R-6. This too, is inconsistent with the current design and scale of Winter Street.
- The R-6 zone has setback requirements that are appropriate to the scale on Winter Street for larger developments, the B-3 zone does not require setbacks.
- A density bonus, allowed under affordable housing developments, could allow up to 49 units in the R-6 zone, **with the B-3 this project could build 166 units on that site**, depending on how deep the subsidy, would seem to overwhelm the site and the neighborhood.

The notion that offering the B-3 zone as a compromise for denying the R-7 zone for this parcel seems to heavily favor the developer and are not responsive to the community concerns. *We remain vigilant, the R-6 zone is most appropriate for Winter Street.*

Why the Planning Board is Considering the B-3 Zone

The B-3 is being proposed because it was recently approved for the Mercy Redevelopment project down the street. The New Height Redfern project was granted the B-3 zone for Winter Street for the following reasons:

- 1) The project is proposing congregate care, a use not allowed in the R-6 zone.
- 2) The project is proposing to match the height of the existing Mercy Hospital building on state street and required a zone with increased heights to reflect what is already built, as part of this campus.
- 3) The planning office discouraged the board to split a parcel into two zones (B-3 and R-6).

This was a specific project, and a specific use, that required a creative zoning response. New Height Red Fern and CHOM also agreed that B-3 was not appropriate for Winter Street and have maintained the dimensional requirements of the R-6 on Winter Street, including a 5' setback and 45' height restrictions (35' overlay height zone and a 10' affordable housing bonus).

How Developers Differ

New Height Red Fern and CHOM have worked tirelessly with the neighborhood to design their buildings to fit into the streetscape and respond to the concerns of the neighbors on this regard. They have enhanced community assets by adding front stoops and front doors, that enter directly into apartments and not stairwells. They have also created a pocket park for neighbors to use. The extra neighborhood meetings, and responsive design decisions of the developers New Height Redfern and CHOM and are the actions of a responsible developer, who want to make Portland a better place to live and work.

This has not been our experience or interactions with **Thanos Inc, developers of 99 Winter Street, who hosted only one required community meeting, and for which the developers themselves and have not directly communicated with neighbors at all** but instead hired an intermediary to do so. In addition, the applicant's stated desires for a rezone have consistently been about making the numbers/the economies of scale work. **Making the numbers work for a developer is NOT grounds for granting a rezoning request.**

It is a vast over reach of the planning office and the board to then offer the B-3 to Thanos Inc, and to stretch this zone beyond the original project to include other properties along Winter Street.

Winter Street Neighbors Welcome Development & Housing

Please let us be clear. We welcome development and affordable housing. Winter Street neighbors are already welcoming over 300 *new* units within the two square blocks between Winter and State Street that are already underway:

- Approximately 68 single occupancy rooms, efficiency and one-bedroom affordable units being constructed by Developer's Collaborative at 66 State Street;
- 99 affordable units between the two CHOM and PHA buildings that comprise part of the Mercy Hospital site redevelopment;
- 18 affordable units within the old Mercy building itself; and
- Over 150 market rate units, (in addition to the senior housing project by Monarch slated for the large Mercy parking lot)

It is not necessary to solve all of the regions housing crisis on Winter Street. The applicant could construct approximately 33 units within the current zoning.

Size & Scale Matters

We believe that size and scale of development matters.

We believe retaining appropriate zoning in residential areas, is important to the planning board, the planning staff, and to Portland and the comprehensive plan.

We believe the size and scale of the R-6 zone is appropriate for Winter Street.

Therefore, we ask that you reject the expansion of the B-3 zone and retain the R-6 zoning for Winter Street and require the developer to develop this parcel by right and in the zone for which they purchased the property.

We appreciate your work in ensuring consistency with Portland's Comprehensive Plan. We welcome a discussion and open dialogue on this development, and other developments on Winter Street. Thank you for your time and consideration of our request.

Submitted on behalf of,

The residents and neighbors of Winter Street, including:

Fred Clarke, 24 Winter Street

Chrystal Wing, 36 Winter Street

Suzanne Hunt, 36 Winter Street

Elizabeth Parsons, 44 Winter Street

Lin Parsons, 44 Winter Street

Michael Pulaski, 68 Winter Street

Amy Grommes Pulaski, 68 Winter Street

David Shedd, 104 Winter Street

Rose Marasco, 108 Winter Street

Sarah Conly, 110 Winter St., #4

Honour Mack, 112 Winter Street

David Marsden, 112 Winter Street

Lurette Saul, 113 Winter Street

Seth White, 113 Winter Street

Henry Clews, 117 Winter Street

Mary Clews, 117 Winter Street

Jennifer Defilipp, 119 Winter Street

Marc Smith, 119 Winter Street

Ginger Raspiller 150 Spring Street #5

Kenneth Swanberg 150 Spring Street #5

Kent Avery, 188 Spring Street

Demetra Giatas, 188 Spring Street

Gretchen Langner, 59 State Street

Larry Reinhartsen, 59 State Street

Ian Jacob, Past President of the West End Neighborhood Association.

Elizabeth Parsons <ecparsons33@hotmail.com>

May 9, 2021, 3:20:14 PM (yesterday)



to planningboard@portlandmaine.gov, Andrew Tufts, Christine Grimando, Deb Andrews, rwiener@portlandmaine.gov, Belinda Ray, Spencer Thibodeau, Andrew Zarro, Jeff Tarling, Alex Marshall, Troy Moon

To Planning Board Members, Planning Department and Historic Preservation Staff, Sustainability and Transportation Committee Members:

A zone change from R6 to B3 that the applicant seeks to maximize building footprint is unnecessary and inappropriate based on the following points:

1. Other affordable housing projects nearby have been, or are being, **completed successfully within R6 parameters.**
2. The applicant has **a Plan B that could go forward should the rezoning request be denied.**
3. The 99 Winter Street parcel is not, as a Planning Board member stated at the March 23rd workshop, a surface parking lot. For decades it was **a garden with mature trees and other plantings. It remains an open, unpaved spot today.**
4. The applicants' pre-emptive cutting of multiple mature trees on this parcel in the summer of 2019 provided the impetus for Portland to adopt a Heritage Tree Protection Ordinance. **The natural elements of this parcel, particularly the remaining mature trees, matter to the neighborhood and city for the following reasons:**
 1. Last year, Portland and South Portland adopted a joint Climate Action Plan, [One Climate Future](#). Multiple strategies for carbon reduction and increased community resilience involve **the integral role of tree canopies**. See for example: TLU 1.7; CR 2.2; CR 2.5; CR 4; CR 5.
 2. Mature trees sequester carbon in multiple ways while also offering significant cooling through shade protection. It can take as long as **30 years for new, smaller trees to match what is lost when mature trees are removed.**
 3. Intense emphasis on increased density without sufficient appreciation for context risks **repeating mistakes of the 1960s urban renewal effort**. Specifically, constructing large buildings for affordable housing without attending to natural surroundings raises questions about the extent to which lower income people are seen as needing/wanting/deserving trees/beauty/fresh air and so forth. The **disparity between low-income and high-income neighborhoods, known as tree equity**, is well-documented across the country.
 4. This parcel sits at the edge of an area our City Arborist has designated as particularly low in tree canopy. Portland's overall tree canopy has remained at about 25% for the past few decades, with the peninsula being a few percentage points below off peninsula. Given the climate crisis, foresighted urban communities around the country are now working towards 40% tree canopy. This is an aspirational goal for Portland that will involve concerted public and private effort. (See information provided in a [recent S & T Committee meeting](#).)
 5. While the parcel is subject to the Heritage Tree Ordinance, it is nonetheless highly likely that a maximum build out would imperil remaining mature trees. And paying a fee or installing a small street tree as recompense for losing mature trees is not an equivalent swap.

So I urge the Planning Board to deny the B3 rezoning request while inviting the applicant to design an imaginative project under current zoning that will also help meet present and future socio-economic and ecological challenges.

Sincerely,
Elizabeth Parsons
44 Winter Street
Member, Sierra Club's Portland Climate Action Team
Past President, West End Neighborhood Association

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO THE DOWNTOWN HEIGHT OVERLAY MAP AT 99 WINTER STREET

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

That the Downtown Height Overlay Map of the City of Portland as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into Chapter 14, Land Use, of the Portland City Code, be and hereby is amended by adopting the following Downtown Height Overlay Map amendment to assign height dimensional standards to parcels added to the B-3 zone.



Proposed Downtown Height Overlay Map Amendment

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: August 5, 2021

SUBJECT: Order 35-21/22 Accepting and Appropriating \$480,850 in U.S. Environmental Protection Agency Brownfields Funds for the City's Brownfields Revolving Loan Fund - Sponsored by Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 8/23/2021

Final Action 9/8/2021

Can action be taken at a later date: No The Environmental Protection Agency (EPA) would like the City to start using the funds when they become available on October 1, 2021.

PRESENTATION: Mary Davis/3 Minutes

I. SUMMARY

The City has been approved for a \$480,850 grant from the EPA for Brownfields cleanup to recapitalize Portland's Brownfields Revolving Loan Fund (RLF).

II. AGENDA DESCRIPTION

This item provides the City Council's authorization to accept and appropriate \$480,850 in a United States Environmental Protection Agency (EPA) Brownfields Revolving Loan Fund grant, which will be awarded by EPA shortly, with the expectation that the local funding program will begin in October. These funds will recapitalize the City's Brownfields Revolving Loan Fund (RLF), allowing the provision of greater assistance for remediation of Brownfields sites in Portland.

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

The City of Portland had submitted an application to EPA on April 16, 2021 seeking \$500,000 in Brownfields Supplemental Funding to recapitalize the City's Brownfields RLF. At the end of June, EPA approved a \$330,000 grant to the City but then increased it to \$480,850 on July 15, 2021. Use of the grant funds can begin in early October.

Since the original Brownfields RLF grant of \$800,000 was awarded to the City in 2016, Portland has applied for and received another \$500,000 and now the new award of \$480,850 for a total of \$1,780,850. To date, these funds have been awarded through Portland Development Corporation approved loans and subgrants to the following projects: Children's Odyssey School redevelopment of the former Reed School, Children's Museum & Theatre of Maine, Thompson's Point Redevelopment, Boyd Street Housing/PHA, Front Street Housing/PHA and most recently Youth & Family Outreach/PHA development at 337 Cumberland Avenue.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is that more Portland projects needing Brownfields cleanup funds for property redevelopment will be able apply for assistance via loans to for-profits and loans and grants to non-profits.

V. FINANCIAL IMPACT

There will be no direct financial impact on the City. An indirect and positive financial impact will be contaminated sites being remediated, redeveloped and put back on the tax rolls, providing increased revenue and new jobs in the City.

VI. STAFF ANALYSIS AND BACKGROUND

There are brownfields sites throughout the Portland Peninsula and elsewhere in the City. Having available Brownfields cleanup funds helps mitigate the additional cost of redeveloping contaminated sites. Clean sites will yield redevelopment and new revenue for the City as well as jobs.

VII. RECOMMENDATION

The Housing and Economic Development staff recommends that the City Council approve and appropriate the \$480,850 grant from EPA for recapitalizing the City's Brownfields Revolving Loan Fund.

VIII. LIST ATTACHMENTS

1. 7-15-2021 Email from USEPA with Grant Amount of \$480,850
2. Order Accepting and Appropriating a Brownfields Revolving Loan Fund Grant from the U.S. EPA
8.23.2021

Prepared by:

Mary Davis, Division Director

Date: 08/05/2021



Lori Paulette <ljn@portlandmaine.gov>

New Supplemental Amount!

Lori Paulette <ljn@portlandmaine.gov>
To: Lori Paulette <ljn@portlandmaine.gov>

Thu, Aug 5, 2021 at 11:05 AM

----- Forwarded message -----
From: **Byrne, James** <byrne.james@epa.gov>
Date: Thu, Jul 15, 2021 at 2:59 PM
Subject: New Supplemental Amount!
To: Nelle Hanig <nrh@portlandmaine.gov>

Hi Nelle: Your new supplemental RLF amount is \$480,850. Don't spend it all in one place! Please submit your updated paperwork at your earliest convenience.

Jim Byrne

Brownfields Coordinator

Brownfields & Sustainable Materials Management Section

Land, Chemicals & Redevelopment Branch

Land, Chemicals & Redevelopment Division

U.S. EPA Region I, New England

5 Post Office Square, Suite 100

Mail Code 07-2

Boston, MA 02109-3912

byrne.james@epa.gov

Phone: 617-918-1389

[Brownfields Success Stories](#)

[Region 1 Brownfields](#)



KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ACCEPTING AND APPROPRIATING \$480,850 IN
U.S. ENVIRONMENTAL PROTECTION AGENCY BROWNFIELDS FUNDS
FOR THE CITY'S BROWNFIELDS REVOLVING LOAN FUND**

ORDERED, that a United States Environmental Protection Agency Brownfields grant in the amount of \$480,850 is hereby accepted and appropriated for use in the City's Revolving Loan Fund for brownfields remediation; and

BE IT FURTHER ORDERED, that the City Manager or his or her designee is hereby authorized to execute whatever documents are necessary to effect the intent and purpose of this order.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 10, 2021

SUBJECT: Order 36-21/22 Approving the Collective Bargaining Agreement with the Firefighters Local 740, International Association of Firefighters - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor three (3) year contract. Local 740 is the City's second largest union that represents all Firefighters throughout the city with approximately 225 members.

Highlights are as follows:

2021 - 3% COLA increase, effective July 4, 2021, retroactive

2022 - 0 % COLA but implementation of the 3C retirement plan, additional 2.5% City contribution to the 401a retirement plan and 2% increase to the top steps of the pay plan

2023 – 2% COLA increase

Other provisions include Earned Paid Leave, changing the work cycle from eight days to seven days for pay purposes and simplifying the payment of specialty stipends.

The new contract term is January 1, 2021, through December 31, 2023

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor three (3) year contract. Local 740 is the City's second largest union that represents all Firefighters throughout the city with approximately 225 members.

Highlights are as follows:

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Other provisions include Earned Paid Leave, changing the work cycle from eight days to seven days for pay purposes and simplifying the payment of specialty stipends.

The new contract term is January 1, 2021, through December 31, 2023

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Firefighters Local 740 Contract 8.23.2021

Prepared by:

Date: 08/10/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE FIREFIGHTERS LOCAL 740,
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS**

ORDERED, that the attached Collective Bargaining one (1) Year Agreement with the Firefighters Local 740, International Association of Firefighters for January 1, 2021 through December 31, 2023, is hereby approved.

MEMORANDUM
City Council Agenda Item

FROM: Christine Grimando
DATE: August 10, 2021
SUBJECT: Order 37-21/22 Designating the Marguerite Emerson House at 99 Capisic Street as a Landmark - Sponsored by Jon P. Jennings, City Manager
SPONSOR: Penny Pollard, Chair, Historic Preservation Board
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 8/23/2021 **Final Action 9/20/2021**

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: Penny Pollard, Chair, Historic Preservation Board

I. SUMMARY

The Historic Preservation Board is recommending that the historic residential structure at 99 Capisic Street be designated a local Landmark under the provisions of Portland's historic preservation ordinance and that the Map of Historic Landmarks & Districts be amended accordingly.

II. AGENDA DESCRIPTION

The Historic Preservation Board is recommending that the c.1848 residential structure at 99 Capisic Street be designated an individual Landmark under the provisions of Portland's historic preservation ordinance. A fine example of Greek Revival architecture, the building is particularly significant for its temple-like form, which is unusual for Greek Revival dwellings in Portland, especially in the once-rural areas off the Portland peninsula.

The building was nominated for landmark designation by its current owner, Vana Carmona. Following a review of the building's history and an evaluation of its architectural significance and condition, the Historic Preservation Board found that the historic residence at 99 Capisic meets the historic preservation ordinance's minimum criteria for designation and voted unanimously to recommend landmark designation.

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

Ms. Carmona purchased the property from the City of Portland in 2020. The building was a tax-acquired property and in a significant state of disrepair when the City put it out to bid. Recognizing the significance and potential of the historic structure, Ms. Carmona has undertaken a painstaking rehabilitation of the building. As the project nears completion and Ms. Carmona prepares to take up residence, she has indicated a desire to protect the property into the future through historic designation.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Designation of 99 Capisic Street will highlight the building's significance within the Capisic neighborhood and ensure the building's preservation going forward. Any future alterations or building additions or any additional development on the property will be subject to review under the provisions of Portland's historic preservation ordinance.

V. FINANCIAL IMPACT

The land in question is privately owned. No negative financial impact is anticipated.

VI. STAFF ANALYSIS AND BACKGROUND

Planning and Historic Preservation staff support the designation of 99 Capisic and find it consistent with the policies and goals of Portland's Plan 2030, which encourage ongoing identification and designation of historic, architectural and cultural resources. Compared to the Portland peninsula, relatively few off-peninsula historic structures and neighborhoods have been designated and protected under the historic preservation ordinance.

VII. RECOMMENDATION

On May 5, 2021, the Historic Preservation Board voted unanimously to recommend to the City Council designation of 99 Capisic Street as an individual Landmark and amendment of the Map of Historic Landmarks and Districts to reflect such designation. The Board's vote was based on findings that the historic structure meets the criteria for individual landmark designation under Sec. 17.4.1 A.1, 4 and 6 and under Sec. 17.4.2 of the historic preservation ordinance.

VIII. LIST ATTACHMENTS

1. Designation of Landmark 99 Capisic Street 8.23.2021
2. Capisic St. - 99 (Attachments 1-7)

Prepared by:

Christine Grimando

Date: 08/10/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DESIGNATING THE
MARGUERITE EMERSON HOUSE AT 99 CAPISIC STREET
AS A LANDMARK**

ORDERED, that pursuant to the recommendation of the Historic Preservation Board under Article 17 of Portland City Code Chapter 14, the Marguerite Emerson House at 99 Capisic Street is hereby designated as a Landmark.



HISTORIC PRESERVATION BOARD REPORT
to the
CITY COUNCIL
PORTLAND, MAINE

Recommendation to Designate
 99 Capisic Street as Local Landmark

Submitted to: Mayor Snyder and members of the Council
 From: Chair Pollard & Historic Preservation board
 1st Reading: August 16, 2021
 Public Hearing: September 8, 2021

Prepared by: Christine Grimando, Planning & Urban
 Development Director
 Deborah Andrews, Historic Preservation Program Mngr.
 Date: July 14, 2021

I. INTRODUCTION

On May 5, 2021, the Historic Preservation Board voted unanimously to recommend to the City Council that the historic residential structure at 99 Capisic Street be designated a local Landmark under the provisions of Portland's historic preservation ordinance (Article 17 of the Land Use Code). The Historic Preservation Board's recommendation was pursuant to findings that the subject structure meets the criteria for designation under Sec. 17.4.1 A. 1, 4 and 6 and under Sec. 17.4.2 of the historic preservation ordinance, which relate to questions of historic, architectural and/or cultural significance as well as condition/integrity.

The c. 1848 Greek Revival house was nominated for landmark designation by its owner, Vana Carmona--see ATTACHMENT 4. Under the provisions of Portland's ordinance, initiation of a nomination may be made by the building owner in the case of an individual landmark (*Sec. 17.5.2. Initiation of Nomination*).



99 Capisic Street, during 2021 rehabilitation

Supplementing this report is information researched and compiled by Ms. Carmona on the history of the building, its role in the neighborhood and its ownership over time--see ATTACHMENT 5. Note that Ms. Carmona's report includes several photographs of the building at various points in its history.

Background

In February 2020, Ms. Carmona purchased the property at 99 Capisic Street from the City of Portland. The City had acquired the house and land for back taxes and put it out to bid in 2019. When the City sold the property, the single-family home on site had been vacant for a number of years and was in a significant state of disrepair. Ms. Carmona had long admired the historic house, which is an unusual temple-form Greek Revival residence set on a knoll above Capisic Street. Despite its condition, she recognized that the house still retained much of its original historic character and was a worthy candidate for preservation.

Following her purchase of the property, Ms. Carmona began a painstaking rehabilitation of the neglected building. She hired a preservation architect to plan the project and sought guidance from Historic Preservation staff on appropriate preservation measures and material choices, notwithstanding the fact that the project did not require historic preservation review. Ms. Carmona also invested a substantial amount of time researching the history of the property, its ownership over time and its place in the Capisic neighborhood. She named the building the "Marguerite Emerson House," after woman who was born in the house in 1877 and lived there until her death in 1963.

As the rehab project was nearing completion, Ms. Carmona reached out to the Historic Preservation Office to inquire about the process for historic designation, indicating that it was her intent to preserve and protect the building into the future. On February 9th, she submitted a letter formally nominated the building for landmark designation—see ATTACHMENT 4. In support of her nomination, Ms. Carmona submitted a number of photographs and a detailed history of the property and surrounding area to assist the Board in evaluating the merits of landmark designation—see ATTACHMENT 5.

Subject Structure

Built circa 1848, the single-family residential structure at 99 Capisic Street is a fine example of Greek Revival architecture in the city. It is particularly significant for its temple form, which is distinguished by a front-gabled roof with a fully enclosed pediment and wide entablature. The projecting center section of the building is flanked by inset porches supported by pillars. This form is very unusual for Greek Revival dwellings in Portland, especially in what was once a rural area on the outskirts of the city. The Portland Museum of Art's Clapp House at 97 Spring Street is one of the only other examples found in the city. While Clapp House is a high-style expression of temple-form Greek Revival architecture, 99 Capisic represents a vernacular interpretation of the same.



Clapp House, 97 Spring



99 Capisic

The building is also historically significant in that it remains as evidence of the history of the Capisic area during the 19th century. 99 Capisic is one of a handful of historic buildings remaining in the area to record its early history; another notable example is the Leonard Bond Chapman House across the street at 90 Capisic (an Italian-villa style house which was designated a local landmark in 1990).

Although neglected, vandalized and in significantly deteriorated condition in 2020 when the building was purchased by its current owner, the exterior of the house had remarkably unaltered. Unfortunately, the large barn and ell that were originally connected to the house and which were documented in historic views of the property were removed at some point. Notwithstanding the removal of the barn and connecting ell, the house itself retains significance as an important example of its style and form.

Historic Preservation Board Review, Designation Criteria Met

Portland's historic preservation ordinance includes specific criteria that must be met in order for the Historic Preservation Board to recommend designation of an individual property for landmark designation. These criteria are spelled out in Sec. 17.4.1. A and Sec. 14.7.2 of the ordinance. Sec. 17.4.1 sets forth the minimum criteria for designation that relate to architectural, historical or cultural significance at the local, state or federal level. Any structure found to meet one or more of the six threshold criteria, must also exhibit sufficient integrity of location, design, condition, materials, and workmanship to make it worthy of preservation or restoration.

Based on the information included in the report provided by the applicant, analysis by staff (summarized in the previous section of this report) and the Board's own evaluation, the Historic Preservation Board found that the Marguerite Emerson House at 99 Capisic Street meets Criteria 1 and 4 of the Minimum Criteria for Designation (Sec. 17.4.1), which read as follows:

- Criterion #1:* [The nominated resource] *is a significant example of the cultural, historic, architectural, archaeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States.*
- Criterion #4:* [The nominated resource] *exemplifies a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design details, materials or craftsmanship.*

In addressing the separate question of integrity, the Board noted that notwithstanding the previous loss of the building's original attached ell and barn and the overall deteriorated condition of the property prior to the current owner's purchase, the house itself had retained most of its original exterior features and materials and remained remarkably unaltered. The building's recent rehabilitation—which was undertaken following high preservation standards—was evidence of its potential for preservation or restoration. Based on this assessment, the Board found that 99 Capisic meets Sec. 17.4.2 Integrity of landmarks and districts, which reads as follows:

[The nominated resource] must have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration.

Based on the above findings, the Historic Preservation voted unanimously to recommend to the City Council designation of the Marguerite Emerson House at 99 Capisic St. as a local landmark, subject to the provisions of Article XVII (Historic Preservation) of the Land Use Code.

Relationship of Recommended Designation to Comprehensive Plan

Portland's Plans 2030 identifies the ongoing identification, designation and preservation of the city's historic resources—both individual landmarks and districts—as a stated goal. At present, there are eleven designated historic districts and 74 individually designated landmarks. Most of the districts and individual landmarks are located on the Portland peninsula. (Off-peninsula exceptions include the Stroudwater Historic District, former Westbrook College Historic District on Stevens Avenue, House Island Historic District, Fort McKinley Historic District and 12 individual landmarks.) Indeed, the only designated historic structure in the Capisic area is the Leonard Bond Chapman House at 90 Capisic Street. Designation of the Marguerite Emerson House at 99 Capisic Street will bring attention to the rural history of the area, preserve an architectural significant structure and fulfill a stated goal of the Comprehensive Plan.

ATTACHMENTS

1. Map of property
2. February 2020 and August 2021 photos of subject structure
3. 1924 tax photo of subject structure
4. Letter of nomination
5. History of the property, with photographs, submitted by nominator Vana Carmona
6. Public comment



99 Capisic Street



February 2020



August 2021



193-F-6

105 North St. Apt 1
Portland, ME 04101

February 9, 2021

Deb Andrews
Historic Preservation Program Manager
City of Portland
389 Congress St.
Portland, ME 04101
dga@portlandmaine.gov

Re: Nomination of 99 Capisic St.

Dear Historic Preservation Board,

I would like to formally nominate the property located at 99 Capisic St in Portland be designated as a local individual historic landmark.

It is a unique building not found in many locations in the City. Built circa 1848, it is a Greek Revival farmhouse, complete with the closed pediment, entablature, and the double porches on either side.

I, along with my architect, Margaret Innes of Studio E Architects, have done substantial research on the house and strongly believe that it complies with the standards of the Portland historic registry. We have named the house the Marguerite Emerson House, after the woman who was born in the house in 1877, and lived there her entire life until her death in 1963.

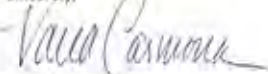
Attached please find various supporting documents:

1. History of the House
2. History of the Capisic neighborhood
3. History of Ownership
4. History of the Emerson family,
5. Post-Emerson period
6. List of the deeds dating back to the early 1800's
7. Photos, drawings and other supporting documents

Please consider my application. I am available to answer any questions.

Thank you.

Sincerely,



Vana Carmona
207-420-6962

MARGUERITE EMERSON HOUSE

APPLICATION FOR CITY OF PORTLAND HISTORIC REGISTER



Marguerite Weymouth Emerson standing at 99 Capisic Street

THE OLD HOME

The little house so long beloved stands on a hill,
A gentle hill that rises terraced from the road,
With grassy slope and lilac hedge, while at the side
A gray ledge shoulders through the sod, from solid rock
That lies beneath the little house and forms its sure
Foundation as in blessed parable of old.

With dignity and grace it crowns the gentle hill,
Accepting storm and sunshine as the seasons pass;
Broad maple, towering elm, and pointed cedar stand
Nearby like faithful friends to share a common lot,
And lend their strength and beauty as to one they love
And gladly serve, each as he can in his own way.

Within the little house are precious memories:
The rarely blended spirit of a home of love
Where happiness and sorrow both have visited.
Life's great events — birth, marriage, death, were present here,
Sweet childhood, youth, old age, within these sheltering walls.
A quiet benediction rests upon them now.

Poem by Marguerite Weymouth Emerson

Table of Contents

History of the House	1
History of the Capisic Neighborhood	3
History of Ownership (See also List of Deeds)	4
History of the Emerson Family	6
Post-Emerson Owners	8
List of Deeds	9
Area is considered Westbrook until 1871	9
Area becomes Deering until 1899.....	10
Area becomes Portland in 1899	10
Current Rehabilitation	11
Foundation Plan	12
First Floor Plan	13
Second Floor Plan	14
East Elevation.....	15
West and South Elevations	16
Appendices	17
Appendix “A” – Front Door Side Lights; Dormer Windows	18
Appendix “B” – Greek Revival Details: posts, trim, windows. Original details: mantel, exterior window trim, corner boards; New Roof; Interior “Trap Door”	19
Appendix “C” – Greek Revival Details Corner boards, entablature return; Photos: Condition of house at purchase time	20
Appendix “D” – Clapp House photos	21
Appendix “E” – Family Photos.....	22
Appendix “F” – Big House, Little House, Back House Barn Photo	23

History of the House

The exact date of the construction of the farmhouse now located at 99 Capisic is unclear. The current tax records give the date as 1848 which would indeed make sense given the style of its architecture. Yet, such a house was mostly likely not built in a single year. It was built in several stages. Ultimately, it is an excellent example of the Greek Revival style.

In the chapter “New Settlements: 1750-1850,” in the book, “Deering: A Social and Architectural History,” by William David Barry and Patricia McGraw Anderson includes 99 Capisic as an example of Greek Revival architectural in the Portland area. They write,

“The temple facade rises high above the street, a pediment and wide entablature supported by square, paneled posts and two-bay section. Either side elevation shows a porch supported by two posts. The main gable is intersected by a gabled ell of equal size with the same deep window openings, corner boards and entablature.¹”

Another notable example of the Greek Revival style is the Charles Quincy Clapp House at 97 Spring St. Built in 1832, this also sports the dual porches on the front. The Clapp house differs in that it is a formal building typical of an urban environment. Please see Appendix “D” for photos of Clapp House. The Capisic house is a much simpler adaptation, compatible with the rural life that existed in that part of what is now our City in the 19th century.

As was typical at the time, this house was a classic “Big House/Little House/Back House/Barn.” Sadly, the back house and the barn are now gone. They were taken down about 2012. The little house is the rear add-on of the still-standing building that once connected the house to the back section. The Greek Revival front and middle sections are the “Big House,” which are still standing. Please see Appendix “F” for a photo of the Big House configuration.

Back houses traditionally housed the privy and was used for chores and a summer kitchen. Indeed, from accounts given to us by the descendants of the former owners, this was very much the case. They remember chopping wood in the “summer kitchen” and the outhouse located there. Adjacent to that section, there was an enclosed corridor that led to the barn.

From what can be determined, the front part of the house was added last. It has a full basement, as opposed to the back part of the Big House which has only a crawl space. Yet, since this section is the part that is clearly Greek Revival, it still would have had to have been constructed fairly early as this style went out of fashion before the year when we know for sure there was a building at that location.

In 1954, then-owner, Marguerite Emerson, wrote a letter to her nieces and nephews so that there would be a written record of the house of its history. Marguerite tells of a “trap door” near the top of the back stairs. “From a ceiling trap door at the head of the back stairs you can look down in upon a small one story section which may have been the original house.” That opening is most likely the one still extant in the rear of the house that does indeed look into what would have been the eaves of the back annex. Please see photo in the Appendix “B”.

In the 1954 letter, Marguerite also listed many of the improvements to the property during her lifetime.

¹ Barry et al, page 62

- In 1928, with the help of her brother Ralph, plumbing was extended to the cellar of the house. A year later, Marguerite arranged for the water to be brought as far as the kitchen sink. (The kitchen was moved to a different location by more recent owners, but we have moved it back to its original location in the back of the house.)

Eugene paid both notes in the amount of \$1350. That summer of 1928 my brother Ralph paid to have Sebago water brought into the house as far as the cellar. The following^{year} I had it piped to the kitchen sink and finally in 1946 I had a bathroom put in. Because the house rests upon rock mother had always been afraid of trying to put water in because of blasting. As it turned out none was required. Both brothers had always helped mother and been kind to

- In 1932, her brothers painted the exterior and paid for it. They also discharged any debts.

-3-

In the summer of 1932 my brother Eugene's wife Mary with Ashton and Patricia came to Portland, and with a neighbor Everett Berry painted the outside of the house. Eugene paid all expense for this. My two brothers

- In 1946, Marguerite had a toilet installed with a septic tank close to the house. Until then, she had always used the privy in the back house just as had all the former occupants.
- In 1952, the extended family once again painted the house. This was the same year that the City extended the sewer system along the street in front of the house. The family paid these fees.

Within the last two years (this is written in 1954) I have had the house and barn painted. George, my nephew, gave me \$500 toward this big bill, and Patricia, \$100. Some years ago George paid nearly all of the expense of having electric lights put in the house. There has been an

- In 1953, Marguerite put in an oil-burning furnace that heated the first floor. No mention was made of heat on the second floor so we can only assume there was none. We do know that there were 4 wood-burning stoves in the house at the time of Marguerite's death in 1963. At least 3 of those were on the first floor. (Note: one is still functioning in the grand niece's home.)

I have had a furnace put in the cellar this past year, oil-burning. When this is completed with duct work it should heat the down stairs rooms. It is nearly done and all paid for. These improvements, water, lights, bathroom and central heating should increase the value of the house greatly. The bathroom is taken care of by a septic tank set beyond the driveway due east of the bathroom window. There was no city sewer at that time, and it still does not come near enough to enter.

- Marguerite mentions that electricity was connected to the house "some years ago" but does not specify a year.

Other than those basic improvements, we know from Marguerite's grand nieces and nephews, as well as written accounts from neighbors, that she maintained the house as she had known it all her life.

History of the Capisic Neighborhood

In the 19th century, Capisic was always a rural district on the outskirts of Portland. Initially, the area was part of Westbrook. In 1871, it split off into its own autonomous town called Deering. Later in 1899, it officially became part of Portland itself. It should also be noted that at one time, the street was called Church St. and also that for many years, the address was 47 Capisic. Its current address number of 99 came more recently.

According to old sources, in 1804, the original road went from James Deering's house near Back Cove, past Capisic Pond, and all the way to what we know as Cumberland Mills. Frost St., which intersects with Capisic very close to the house, was established in 1833.

Initially homes were few and far between. Researcher David Barker found that, in 1804, that there were only 5 houses in the area, with 99 Capisic being one of them. The others were the homes of Levi Starbird (c 1810), Peleg Michell (c. 1808), John Haskell (c. 1836) and William Thorn (c 1845).

Yet, there were developing industries during these decades. In the book *Deering: A Social and Architectural History*, local historian William Barry describes an old sawmill that was central to life in the area, along with several slaughterhouses, and some shops². By the late 1860's, A.S. Pierce had opened his inn. With growing interest in Capisic with its pond and waterways, larger more elegant houses began to spring up. Notably, T. W. O'Brien's constructed his villa, named Fairmont, just off Stevens Ave. Between 1866 and 1868, Leonard Bond Chapman built his Victorian residence (90 Capisic), just across the street from 99 Capisic. With its asymmetry, Mansard roof and carriage house, the latter is now on the National Historic Registry. Chapman had made his fortunes in the nursery/greenhouse business and later became the publisher and editor of *Deering News*.

Capisic was also the original location of the Congregational church. Here, Caleb Bradley passed his career performing hundreds of weddings and thousands of funerals for the local community. He retired in 1829, creating a schism in his congregation. A number of people broke away and formed the Universalist Society. They built their own chapel at Stevens and Brighton Ave. Bradley's loyal supporters stayed on Capisic and eventually replaced the old church with a new meetinghouse in 1935. This was aptly named Parson Bradley's Congregational Meeting House. By the end of the 19th century, the building, along with a nearby school had ceased operations. In 1902, they were deeded to the adjacent Mary Brown Home. This facility was described as a place "where Self-supporting women could be cared for at a nominal price when by reason of overwork or illness they require rest and nursing which would not be secured elsewhere."

In 1903, the meeting house was demolished and replaced with a new building designed by Frederick Thompson. The old school hence became the chapel. It is still extant today on Capisic.

Thus the house at 99 Capisic has played a significant part and borne witness to the history and development of this area for over 170 years.

² Barry et al. pp 67-68

History of Ownership (See also List of Deeds)

From records, we have traced the property as far back as we can to a man named Joseph Storer. Very little information is available on him, but he was probably a member of the well-known Storer family of Portland. (Note: the Storer house once on Storer St. on the West End) In 1807, he sold the property to Peleg Mitchell. At the time, 99 Capisic was part of a much larger parcel totaling 30 acres.

A year later, in 1808, Mitchell sold 4 acres of his land to Jack Wright, an African American man who was the son of Boston Wright, aka Bosson Wright, of the Portland area, and possibly a former enslaved man from the surrounding region. We know that Boston was in Portland throughout the Revolution. Accounts claim he helped build the “two forts” here, even though he strongly believed that they were not in the most advantageous locations. Interestingly, when President Monroe visited Maine several years later, he agreed with Boston.

Boston also was friends with another African American man named Mayberry, and often related how his friend had stopped a British soldier from burning our First Parish Church during the October 1755 attack by Capt. Mowatt. Boston became a tax payer for 50 years before passing away around the age of 80. His wife was Betsey Johnson, also of Portland. Jack was born September 17, 1804.

Sadly, after Jack purchased the property, we have no more records of him. There is mention of his land being separated from Peleg Mitchell’s original parcel in all future deeds up until 1845. After that, his piece of Maine seems to have “disappeared” and been “incorporated” into Samuel J. Johnson’s property although no records have been found to explain this.

The remaining 26 acres stayed intact for a number of years even though it changed hands a number of times.

In 1810, Mitchell sold off the remaining 26 acres to Joshua Richardson. Seventeen years later, Richardson sold to Nathaniel Cobb.

The property was sold again in 1836 to Asa Cummings.

Cummings had the parcel for only four years before selling to Mary Cooke of North Yarmouth. The deed mentioned a house and barn, but no information was included about the actual location.

In 1845, the same 26 acre parcel transferred to Samuel J. Jordan. Please note that there was another Samuel Jordan in the same area at this time which has caused a great deal of confusion for previous researchers. The Capisic one is usually referred to with the middle initial “J.”

Both Jordans were direct descendants of Dominicus Jordan (1658-1703), one of the earliest European settlers to Cape Elizabeth/Scarborough.

Over the course of the following 10 years, Jordan subdivided the property, selling it to several local buyers.

Those included:

- Six acres to Charles Lobdell 12/13/1849
- Three acres to George Libby, 9/1/1851
- Six acres with another house to Ellen Dow (Widow of Moses G. Dow), 1856)

During this time, in 1854, Jordan separated off a parcel of seven and a quarter acres and sold it to his sister and brother-in-law, John and Eliza Prout.

Prout was a descendant of Timothy Prout (born Massachusetts 1679, died 1768 in Scarborough), who settled on Prout's Neck in the early 18th century. The Neck was named for this family.

The Capisic house occupies the hill on these 7+ acres. In fact, that parcel stayed in its entirety until 1965 when it was purchased by a realty company, Cheney Realty that began the second round of subdivisions. Eventually the property in question was reduced to the approximately .88 acre that it is today.

Following the sale to Prouty or Prout, the house once again experienced a succession of occupants with no one staying more than a few years.

In 1860, Prouty sold to a local Portland carpenter, Samuel Dean who had the property for five years. He lived there with his wife and children according to the Census of 1860.

In 1865, Charles Hartshorn, who worked on the railroad, purchased it. He was a friend of Dean's who had lived next door to him on Munjoy Hill.

But he kept it only for a mere two years before selling it to Eliza Woodman.

Although the property stayed with the Woodmans for 13 years, records show that it was not a particularly peaceful time. Originally, Eliza's family lived next door. Her husband, Charles, was a jack-of-all-trades. He started his adult life following in his father's footsteps as a successful coppersmith. But the elder Woodman experienced a "brain disease" in 1859 and remained hospitalized in the Augusta State Hospital for the rest of his life. The son turned to being a "trader," according to the Census. But later, at the age of 50, he was listed as a "horse jockey," which is an unusual profession to begin for someone of his age.

By 1880, the family was in financial straits and Lorenzo Drown took over the mortgage and foreclosed.

Finally, the Capisic house's luck changed in 1885. In January of that year, Samuel B. Washburn took over the mortgage and sold to the Caroline Emerson and family.

Samuel was from the well-known Washburn family of Livermore, Maine. His brother was Israel, a member of the US House of Representatives and Governor of Maine. Another brother, Cadwallader, was founder of the Washburn-Crosby flour mills that later became Gold Medal and then General Mills. Brother Elihu, was US Secretary of State and Minister of France.

Samuel, however, had been shot in the hip during the Civil War. He had a limp for the rest of his life. Future owner, Marguerite Emerson, recalled to her nieces and nephews that her mother spoke of his disability whenever she mentioned the former owner. With the house now with the Emerson family, its real life began.

History of the Emerson Family

In 1885, James and Caroline Emerson moved in with their 2 sons, Eugene, age 14 and Ralph, age 12, and their daughter, Blanche, age 9. On October 7, 1887, Caroline gave birth to her second daughter Marguerite, who was born in the house itself. Three years later, in April 1890, she had one more son born there, Edwin Weymouth Emerson. He unfortunately died of diphtheria a year later. In April 1892, the father, James, died, leaving Caroline a single mother with four children.

The older children grew up and left Maine to establish families of their own. But Marguerite had a different fate. Her role as the youngest and, in addition, a daughter, she was expected to look after her mother.

Clearly, she was an unusually intelligent and talented young woman. She was known throughout her life for her musical ability with both the piano and the violin. She wrote poetry. In fact, she wrote two small volumes that are in the Brown Library at Maine Historical Society. Her poem about her Capisic home is at the opening of this application.

In 1905, after graduating from Deering High School, Marguerite was accepted to Wellesley in Massachusetts which was quite an achievement for a woman of her era. But it was not to be. Within a week of moving into her new living quarters, there was an "illness." It is not clear if she had gotten sick herself, or experienced too much stress being away from home, or if her mother had taken ill. In any case, she left college, never to return.

Once back in Maine, she fulfilled her role of the dutiful daughter and stayed with her mother until Caroline died suddenly on June 26, 1928 (coincidentally, on son Ralph's birthday). By then, Marguerite had established herself in the Portland area with a series of jobs, none of which appeared to be very well-paying.

At nineteen, Marguerite went to work in the office of a local grocery store. Later she found employment at Eastman Bros. & Bancroft, which she described as a "fine department store." She remained there for 15 years. Her final employer was John Roberts, a roofing and sheeting contractor where, after 17 years, she was still working in 1954 at the time of her 1954 letter. But with the help of her brothers and, after they passed, their children, and her own income, she lived in the house until her death in 1963.

During the Second World War, Marguerite answered the City's call for Victory Gardens in the area. Because the property was still the 7+ acres that Prout had purchased in 1854, she was able to loan her field on the Bancroft St. side for the cause and there were up to 22 plots there. She noted that there was no financial incentive, but that "it is good for the land to be used and is a help to other people."

-4-

~~print of this.~~ For a number of years beginning with Victory Gardens in war time (1941) the City asked owners of land to let it be used for gardens by people who had no land. The City plows and supervises the care and cleaning up of these gardens. There have been as many as twenty two of these gardens in our field in a summer. There is no pay for this of course but it is good for the land to be used and is a help to other people. The gardens are made at the very back of the field and entered from Bancroft Street. For any other purpose our property has no entrance from Bancroft

Although Marguerite had no family of her own, she did get involved in the community. She was a member of the First Parish Church, where she established the “Marguerite Emerson Club.” This was apparently a local women’s group. Also during this time, she wrote her two little volumes of poetry, one of which was to raise money for a Church project.

In 1954, and well into her 60’s, Marguerite wrote a letter to her nieces and nephews in order to pass on her personal information in the event of her illness or demise. She had never married. By 1946, her mother and all her siblings had died (Blanche in Summer 1925, Eugene in December 1939, and Ralph in December 1946). She was now dependent upon their heirs. The letter reveals much about her own life, as well as that of the house and neighborhood.

In 1963, Marguerite died in the Capisic house where she had spent her entire life. She is buried in Evergreen Cemetery in a family plot. Unfortunately for her heirs, in the 36 years following her mother’s death, Marguerite never took legal possession of the house. Following her mother’s death in 1928, she asked her brothers to settle the estate but they “delayed.” She lived “rent free” but did take care of all the taxes and insurance.

One can only surmise that the extended family did not find it necessary to settle Caroline’s estate since Marguerite was living there as she always had. This “delayed maintenance” of the legalities resulted in a long period for settling her complicated estate with her siblings’ offspring.

Post-Emerson Owners

With the paperwork finally finalized in 1965, Cheney Realty purchased the property. Quickly, it was subdivided and reduced to the .88 acre site that it is today.

Ten years later, in 1975, Vincent Devlin purchased the house. From several accounts, his plan was to return it to its former glory but had very little luck with that. Divorces and remarriages appear to have interrupted his intentions. An attempt circa 2000 resulted in the original plaster and lathing being torn out, ceilings lowered, and original windows and doors being changed with not-particularly accurate historic replacements.

From what we have been able to determine, during the 2000's, the house was substantially neglected. In 2006, Devlin himself relocated to the property he had owned in Florida for many years, and the house was effectively abandoned by 2012 at the latest. This was also the time that the current owner, Vana Carmona, remembers seeing the barn demolished. Devlin passed away in 2016 and the house continued to decline. Vandals had already taken over by then, and destroyed much of any modern updates he had made to the interior of the house.

In June 2019, Vana Carmona discovered that the house was up for sale. Following the death of Devlin in 2016, the City had taken over the property for back taxes and was putting it out to bid. Carmona submitted an offer and in July, learned that it had been accepted. After several months of settling title issues, she closed on the house in February of last year. Work started the same day.

Fortunately for our purposes, the exterior of the house is still very much as it was intended in the 19th century. The clapboards and trim are original to the house. The porch columns were repaired at some point but maintain their authentic design.

List of Deeds

Area is considered Westbrook until 1871

Earliest found:	Joseph Storer (wife: Charlotte)
1807 (10/10/1807)	Peleg Mitchell (wife: Nancy) 30 acres
1810	Joshua Richardson Same parcel minus 4 acres previously sold to Jack Wright in 1808 Now 26 acres; \$3000 ?
1827 (4/18/1827)	Nathaniel Cobb; Same parcel, again minus the 4 acres of Jack Wright
1836 (10/21/1836)	George Cobb, mortgage mentions Jack Wright land, 4 acres
1836 (10/24/1836)	Asa Cummings (wife: Phebe); Same parcel, again minus the 4 acres of Jack Wright (mentioned in deed)
1840 (4/1/1845)	Mary Cooke (of North Yarmouth) Same parcel, 26 acres; With House and barn but no mentions of location on the property
1845	Samuel J. Jordan 1818-1861;(Not to be confused with another Samuel Jordan in the area at the same time) Wife: Jane Pearson; Bought "with buildings" but do not know exactly where they were 26 acres with house, mentions Jack Wright's property
Jordan proceeded to subdivide the property:	Sold off 6 acres to Charles Lobdell 12/13/1849 Sold off 3 acres to George Libby, 9/1/1851; Sold off 7.25 acres to John Prout, see below (Now 99 Capisic)Sold off 6 houses with another house to Ellen Dow (Widow of Moses G. Dow), 1856)
1854 (10/12/1854)	John W. Prout (brother in law to Samuel Jordan. Eliza Jordan Prout was the wife/sister) Building is clearly evident on a 1857 Map in files (Stroudwater Capisic Map); Property is 7.25 acres of Jordan's original purchase No mention of a house or buildings; \$1,200
1860 (6/6/1860)	Samuel Dean (carpenter), 1811-1887; \$3500
1865 (11/10/1865)	Charles Hartshorn (a RR man, was living with Samuel Dean in 1858 according to the City Directory at 33 Sumner); \$3,500
1867 (6/18/1867)	Eliza Woodman, Eliza Jane York b. 1829 in Cape Elizabeth, married Charles Woodman in 1854); \$3,300

Area becomes Deering until 1899

1875 (5/3/1875)	George P. Whitney (mortgage same day to Eliza Jane York Woodman (b. 1829, in Cape Elizabeth)
1880 (3/5/1880)	Lorenzo Drown took over the mortgage
1881 (5/21/1881)	Foreclosed 5/21/1881; Lorenzo Drown took over the mortgage Wife was Mary
1885 (1/30/1885)	Samuel B. Washburn, wife: Maud (Addie Brown Reade, 2nd wife); 7.25 acres with buildings. (Mortgage for Caroline Emerson), \$1.00; Property was called 47 Church St in Town of Deering at that time (Marguerite's letter)
1885 (1/31/1885)	Caroline M. Emerson (in her name even though she was married) \$4000, mortgage of \$1500 (discharged 1/28/1891)

Area becomes Portland in 1899

1963 - 1965	Heirs of Marguerite Emerson
1965 - 1975	Cheney Realty Co. (Charlotte Cheney) Transferred to herself personally a short time later
1975 - 2012	Vincent Devlin. Including several years with his first wife and including several years (approximately 1997-2001) with second wife Tracy Davis

Current Rehabilitation

Please see the following annotated architectural drawings for illustration and description of the rehabilitation efforts today:

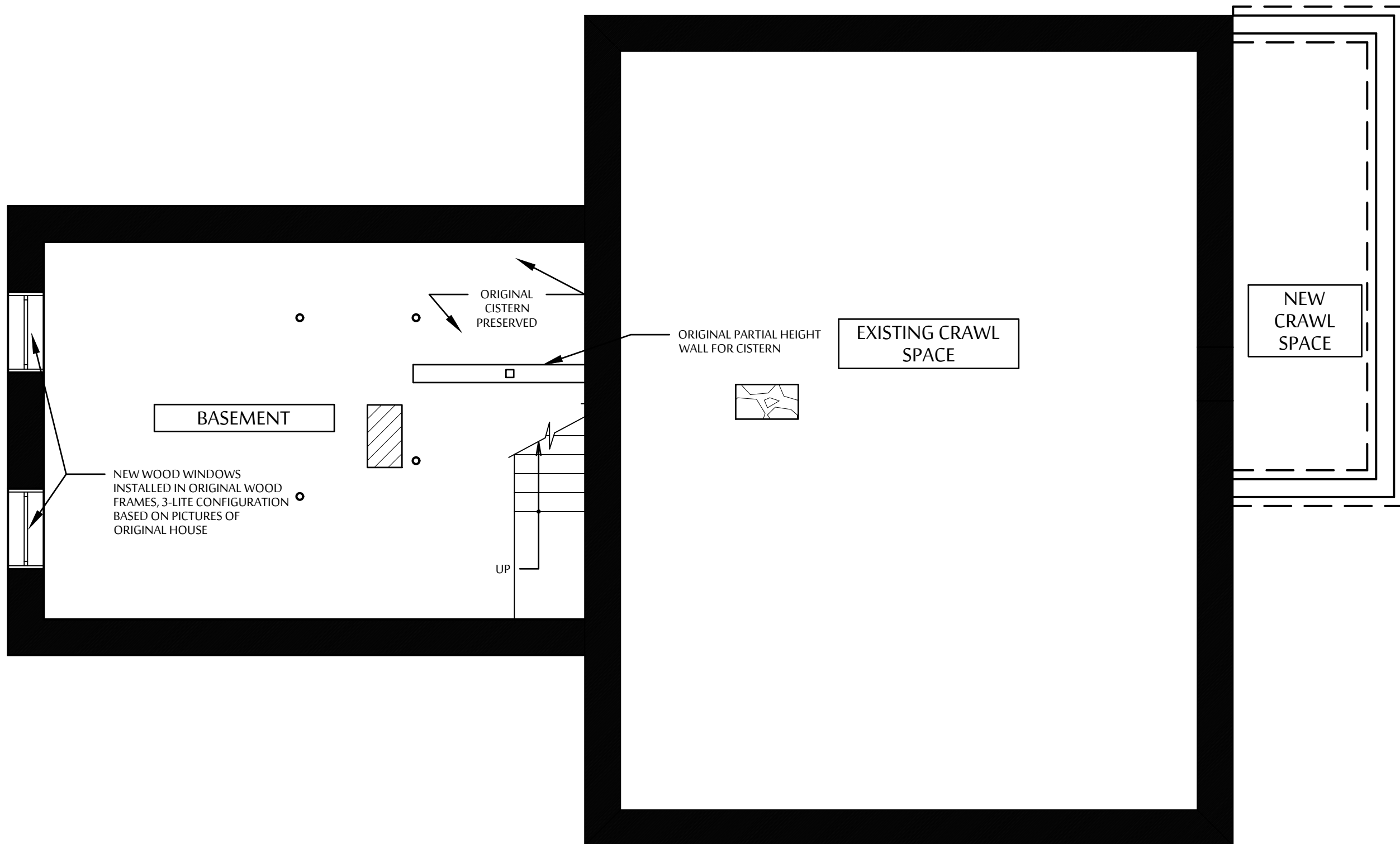
Foundation Plan

First Floor Plan

Second Floor Plan

East Elevation

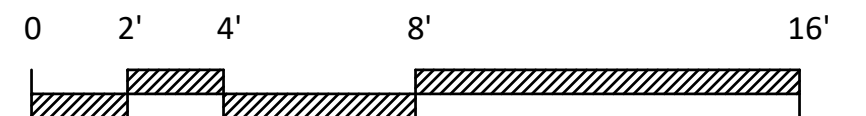
West and South Elevations

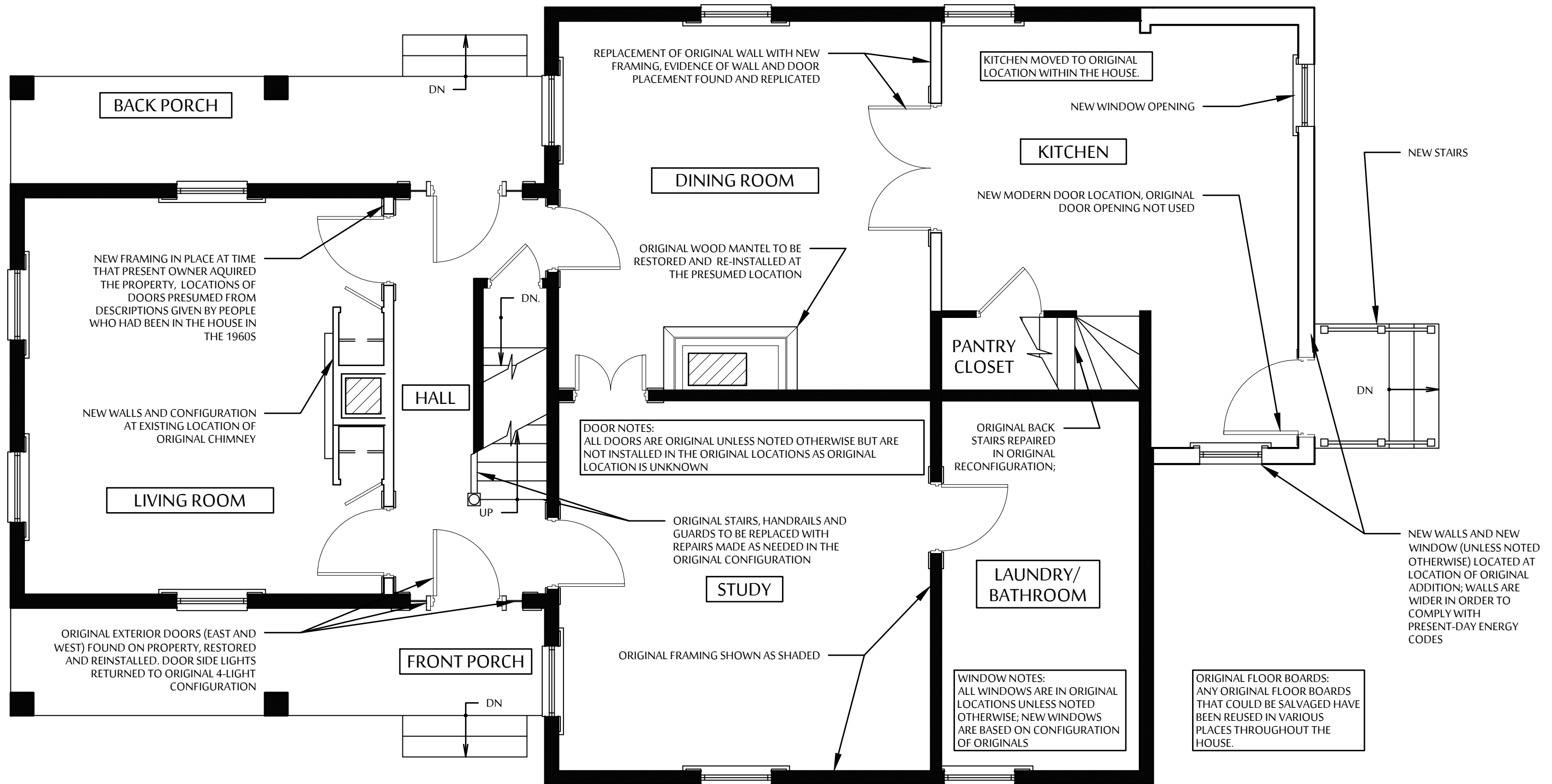


1

FOUNDATION PLAN

$\frac{1}{4}" = 1'-0"$

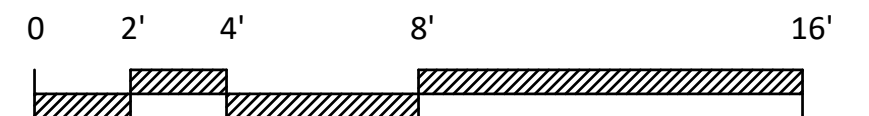


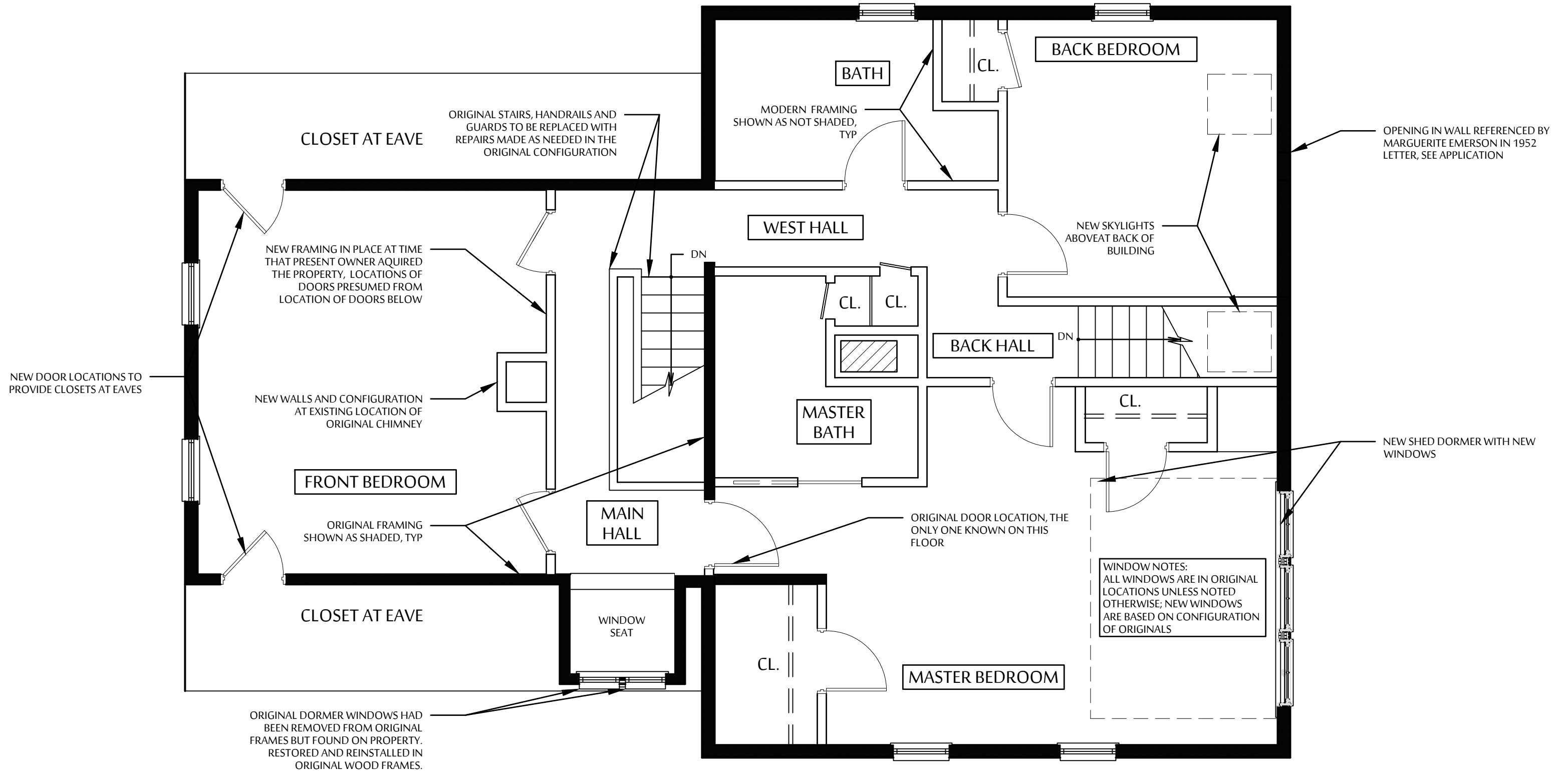


PROJECT NORTH

1 FIRST FLOOR PLAN

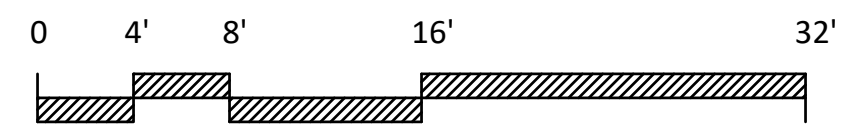
$\frac{1}{4}" = 1'-0"$

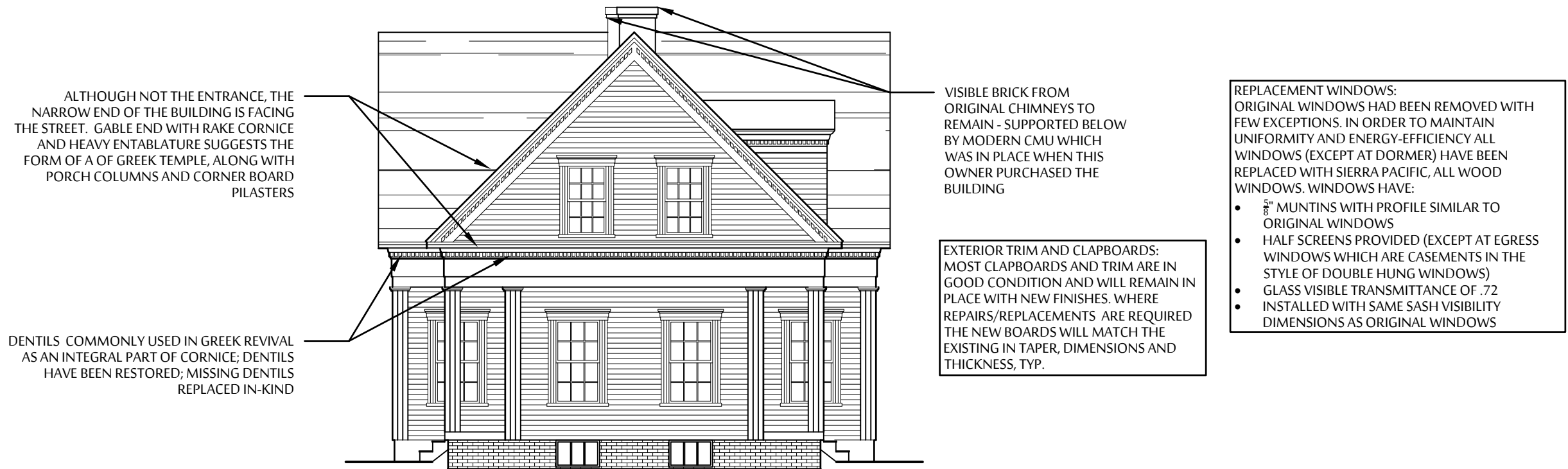






1 EAST ELEVATION - FRONT
 $\frac{1}{8}" = 1'-0"$

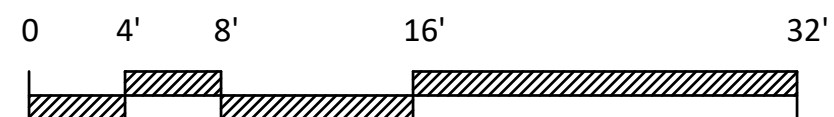




2 SOUTH ELEVATION
 $\frac{1}{8}" = 1'-0"$



1 WEST ELEVATION
 $\frac{1}{8}" = 1'-0"$



Appendices

Appendix “A” – Front Door Side Lights; Dormer Windows

Appendix “B” – Greek Revival Details: posts, trim, windows. Original details: mantel, exterior window trim, corner boards; New Roof; Interior “Trap Door”

Appendix “C” – Greek Revival Details Corner boards, entablature return; Photos: Condition of house at purchase time

Appendix “D” – Clapp House photos

Appendix “E” – Family Photos

Appendix “F” – Big House, Little House, Back House Barn Photo



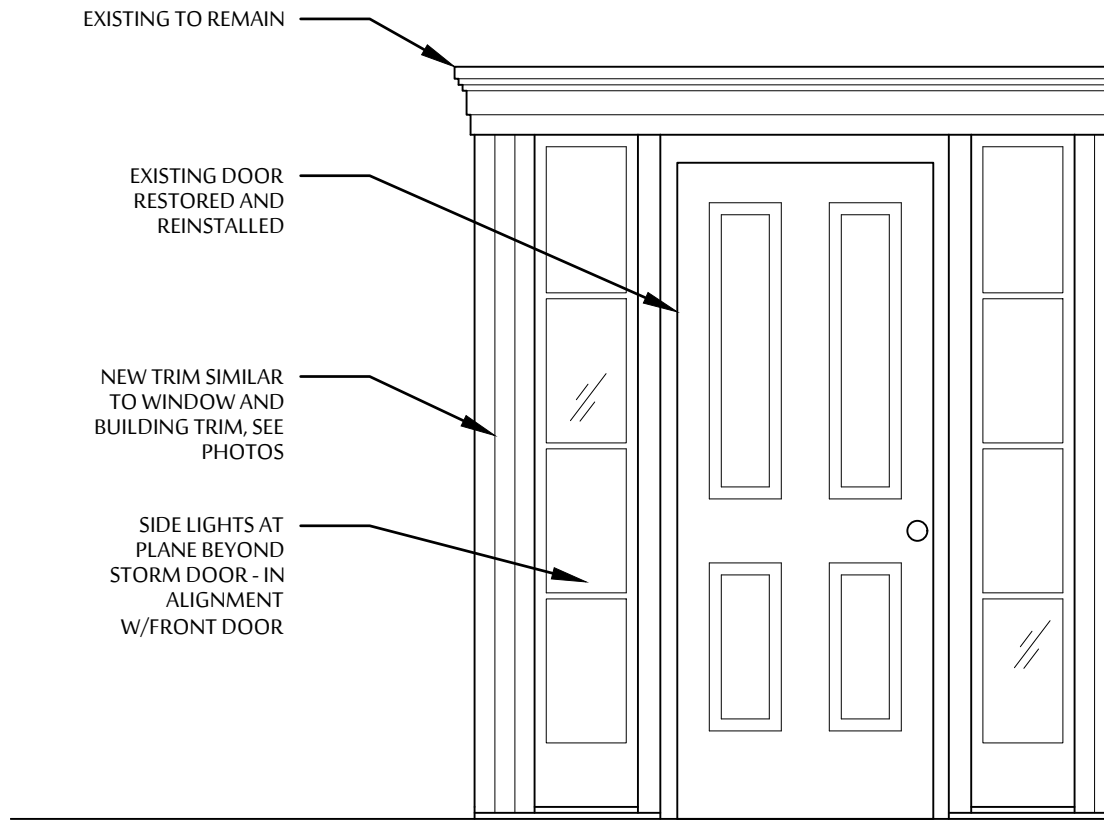
④ PRESENT DAY FRONT
DOOR & DORMER



③ RESTORED DORMER WINDOWS

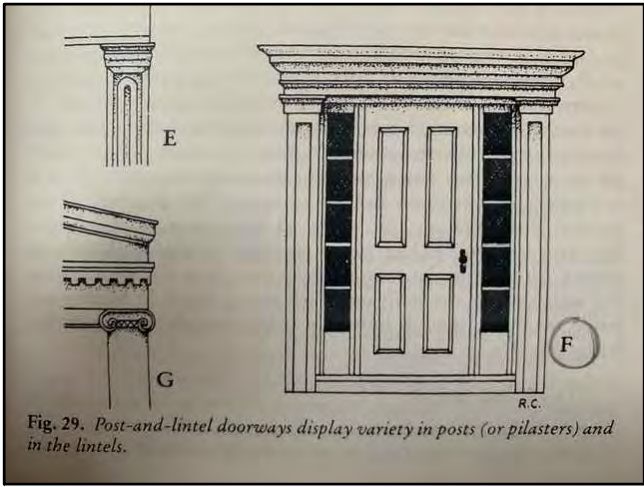


② ORIGINAL SIDE LIGHTS AT FRONT
DOORS

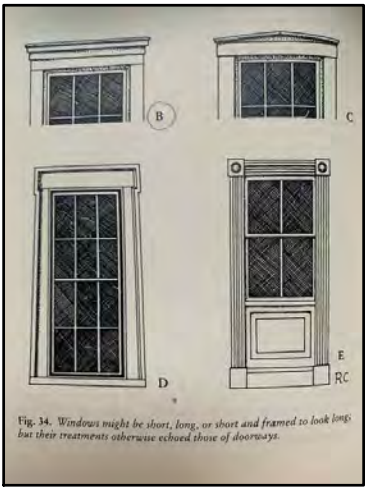


- FRONT DOOR SIDE LIGHT NOTES:
- GLASS: SHALL HAVE V.T. OF .7 OR MORE
 - MUNTINS: $\frac{3}{4}$ " WITH PROFILE
 - NORTH SIDE TRIM IS NOT THE SAME WIDTH AS SOUTH
 - SEE HISTORIC PHOTOS ATTACHED FOR FURTHER EXPLANATION

① RESTORED FRONT DOOR SKETCH
 $\frac{1}{2}$ " = 1'-0"



From: "A Home for Everyman: The Greek Revival and Maine Domestic Architecture" by Joyce K. Bibber; pg. 95



From: "A Home for Everyman: The Greek Revival and Maine Domestic Architecture" by Joyce K. Bibber; pg. 112



5 ORIGINAL MANTEL



4 ORIGINAL EXTERIOR TRIM WITH PRIOR OWNER'S SASH INSERTED



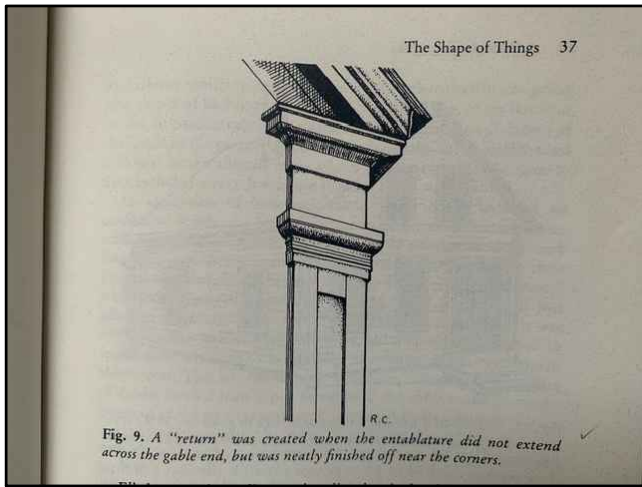
3 ORIGINAL CORNER BOARD TRIM AND SIMILAR WINDOW TRIM CONFIGURATION



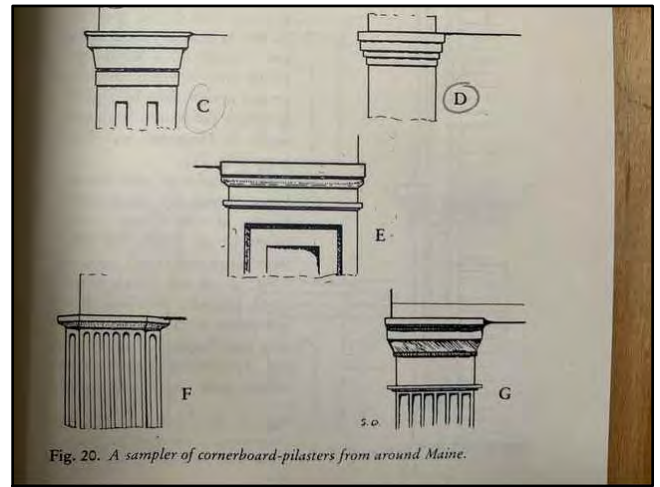
2 TRAP DOOR - MENTIONED IN MARGUERITE EMERSON LETTER OF 1952



1 NEW ROOF



From: "A Home for Everyman: The Greek Revival and Maine Domestic Architecture" by Joyce K. Bibber; pg. 37



From: "A Home for Everyman: The Greek Revival and Maine Domestic Architecture" by Joyce K. Bibber; pg. 65



④ ORIGINAL CORNER BOARD TRIM AND SIMILAR WINDOW TRIM CONFIGURATION



③ CONDITION OF HOME AT PURCHASE



② BACK PORCH WITH STACK OF INTERIOR TRIM THAT WILL BE USED AS TEMPLATES FOR REHABILITATION



① STREET FRONT GABLE WITH ENTABLATURE



③ CLAPP HOUSE TODAY (Photo by Vana Carmona)

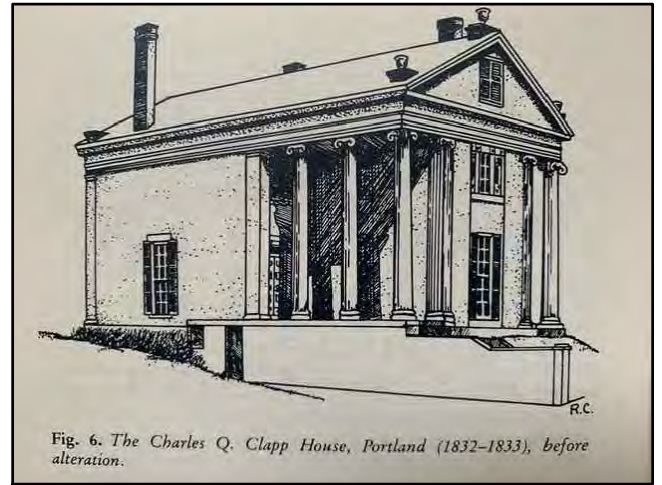


Fig. 6. *The Charles Q. Clapp House, Portland (1832-1833), before alteration.*

From: "A Home for Everyman: The Greek Revival and Maine Domestic Architecture" by Joyce K. Bibber; pg. 32



① CLAPP HOUSE TODAY (Photo by Vana Carmona)



② CLAPP HOUSE TODAY (Photo by Vana Carmona)



Samuel Washburn (1864) deeded the 99 Capisc home to Mary Emerson



Marguerite Emerson at home as a child



The Emerson Family (from the left): Carrie, Ralph, Mary, Blanche and Marguerite in front



Marguerite Emerson and friend in front of 99 Capisc Street Home



Mary Caroline Weymouth Emerson - Marguerite's mother. Her name was on the house deed in 1885.



Emerson House Photo, circa 1962



Emerson House Photo, circa 1924



Big House, Little House, Back House, Barn Photo circa 1962

105 North St. Apt 1
Portland, ME 04101

February 9, 2021

Deb Andrews
Historic Preservation Program Manager
City of Portland
389 Congress St.
Portland, ME 04101
dga@portlandmaine.gov

Re: Nomination of 99 Capisic St.

Dear Historic Preservation Board,

I would like to formally nominate the property located at 99 Capisic St in Portland be designated as a local individual historic landmark.

It is a unique building not found in many locations in the City. Built circa 1848, it is a Greek Revival farmhouse, complete with the closed pediment, entablature, and the double porches on either side.

I, along with my architect, Margaret Innes of Studio E Architects, have done substantial research on the house and strongly believe that it complies with the standards of the Portland historic registry. We have named the house the Marguerite Emerson House, after the woman who was born in the house in 1877, and lived there her entire life until her death in 1963.

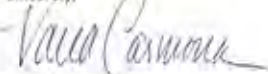
Attached please find various supporting documents:

1. History of the House
2. History of the Capisic neighborhood
3. History of Ownership
4. History of the Emerson family,
5. Post-Emerson period
6. List of the deeds dating back to the early 1800's
7. Photos, drawings and other supporting documents

Please consider my application. I am available to answer any questions.

Thank you.

Sincerely,



Vana Carmona
207-420-6962

From: **George Rheault** <george.rheault@gmail.com>
Date: Wed, May 5, 2021 at 12:56 PM
Subject: HPB Public Comment: 99 Capisic Street Landmark Nomination
To: Historic Preservation <hp@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Deb Andrews <dga@portlandmaine.gov>, Robert Wiener <rwiener@portlandmaine.gov>, jmy <jmy@portlandmaine.gov>, Desiree Kelly <dmk@portlandmaine.gov>, Kevin Kraft <kkraft@portlandmaine.gov>, James Rather <jrather@portlandmaine.gov>

The staff analysis presented to the HPB in consideration of the nomination contains a number of deficiencies (glaring omissions really) which are noted below.

I am opposed to this landmark application as a result of this delinquent staff work.

I am also opposed since due to the applicant's significant recent investment (now nearing completion), the property is ALREADY functionally preserved and does not need a sketchy, poorly-founded landmark designation in order to ensure protection of what remains on the property.

One would think that after the recent embarrassments on Munjoy Hill, the historic preservation office of the City of Portland would do its level best to ensure that the severe dilution of historic preservation standards being applied in our community would not be further watered down.

Unfortunately, it appears the HP staff, instead of being sensitive to the criticism that historic preservation in Portland has been turned into little more than a real estate speculation tool for affluent baby-boomers, are eager to enshrine that criticism as standard operating procedure.

Even more alarming is that the HP staff apparently served as unpaid consultants on this private renovation project without receiving any formal authorization to do so from the City Council or City Manager. The extent of the consultation, including the hours expended, should be fully documented for the record and an appropriate fee should be assessed against the applicant to recover this cost to taxpayers depending on the extent of the assistance given (site visits, extensive review of plans and materials, additional independent research, voluminous correspondence, etc.).

DEFICIENCIES IN RECORD

OMISSION - Rear (North) Elevation Changes

The staff have failed to introduce into the record (and thus from the HPB's view) the non-historic renovations on the back side of the structure. As the ATTACHED photo taken in late March 2021 makes clear (visible from the newly established Benjamin Way (a public right-of-way)), a large dormer with non-historic-sized windows has been introduced to the northern elevation as well as heat pump equipment. Also ATTACHED

is an elevation from the applicant's building permit plan set. These elements along with new sky-lights and a speculative non-historic back bump-out (which has little resemblance to the original exterior seen in the 1962 photo provided by the applicant) diminish the historic fabric of the house and give a false impression of its architectural history. A back chimney also appears to have been removed (see a glimpse of it in the lower left corner on Page 19 of the applicant's back-up material) and does not appear to be contemplated for replacement although this should be clarified by the applicant or their representative.

OMISSION - Date of Construction Uncertainty

The applicant cites a tax assessor date of 1848 without any corroboration for why the tax assessor date has any firm basis. The applicant speculates a lot about the property's construction history and evolution but has little firm information to go on. While the large Lucas brickyard nearby was likely a noxious presence (as well as the advent of the nearby rail-line ultimately owned by Maine Central R.R.), it makes sense that the property first began as a very modest Greek Revival home (perhaps circa 1848) that was then expanded on the south side by later owners either for practical or speculative reasons (whether or not the speculation was successful). It would make sense that one of the later carpenter owners might have undertaken the expansion (off the South elevation including the double porches) in the same style as the original house simply to maintain conformity with the existing structure. This is how many people do things today (changing up the style of the old along with the new is expensive and most people conform the new with the old simply because it is just easier that way).

The fact is that we have zero proof that the double porches section of the home was built during the period of the original Greek Revival era. Pattern books from that era floated around well after the style went out of fashion for brand new original construction and it makes sense that an owner might have expanded the original home in a dramatic fashion but in keeping with the original earlier style (again not so differently than what the present applicant is doing) in hopes the effort would profitably appeal to a new owner.

Obviously the double porches portion exists and happened at some point, but it is WRONG for the HPB to presume on the basis of the evidence before it that this part of the complex harks back to the original Greek Revival era when it just as much could have happened at a later time as an exercise in nostalgia or simply a lag in style preferences that would have made sense in this area when wealthier residents were seeking it out for new homes (though this window for wealthy estates closed quickly despite the advent of the street-car line on nearby Brighton Avenue and it would only be with the arrival of automobiles that this area would gain stature).

OMISSION - Scope of Loss of Integrity (>50%)

The staff deliberately minimizes the loss of the ell structure (barn mostly) despite the fact that a chief consideration of the proposed landmark is to hark back to the area's rural past even though we have no way of knowing how if the barn served a chiefly agricultural purpose (versus just as a stable and out-buildings for the main house). This is somewhat ironic since the applicant begins their narrative packet with a photo of Marguerite Emerson standing in front of the now demolished barn building.

The loss of the ell and its various parts is a MAJORITY of the property's original footprint as we know of it from the 1924 tax photo collection (a separate card for the barn ell which includes careful measurement of its dimensions can be found here: <https://www.mainememory.net/artifact/36280> (Assessor's Record, 47 Capisic Street, Portland, 1924 - Maine Memory Network)). See also ATTACHED a foundation plan from the applicant's building permit set that shows just how enormous the missing ell portion of the original property represents in the overall property's footprint.

Strangely, the 1924 evaluation by the tax assessor personnel suggests that the house and ell were not directly connected at this time (suggesting a connection may have been severed at one time and then rebuilt subsequently). The 1914 Richards Atlas (showing how things looked circa 1913) - Plate 8 - is more complete in terms of showing the combined full house and barn ell footprint that conforms more or less with what the applicant's foundation survey turns up:

https://digitalcommons.portlandlibrary.com/richardsatlas_plates/9/.

The 1924 tax photo (appearing on the tax card for the house itself) also shows a shed extension of some kind on the east side of the barn which does not show up in the 1962 photo provided by the applicant (see <https://www.mainememory.net/artifact/36247> (47 Capisic Street, Portland, 1924 - Maine Memory Network)). This shed extension may have been so utilitarian (maybe a mere enclosure for firewood storage without a foundation) and not of sufficient taxable quality as to not warrant the attention of the tax assessor surveyor, but it is odd since they often noted such minor conditions on other buildings.

Clearly some undocumented alterations took place on this side of the barn between the 1924 photo and the 1962 photo. One possible avenue is to see if the subsequent tax assessor evaluations and the building permit history for this address suggest what might have happened here. The Sanborn Fire Insurance Maps largely ignored this area until the property just barely makes the cut for the 1954 edition which does not show any shed extension on the east side of the barn: https://www.loc.gov/resource/g3734pm.g3734pm_g03527195402/?sp=30 (Image 30 of Sanborn Fire Insurance Map from Portland, Cumberland County, Maine. | Library of Congress ([loc.gov](https://www.loc.gov)))

OMISSION - Applicant's Ultimate Plans for Premises

It is not clear whether the applicant is planning on retaining the property for their own occupancy after the renovations are complete or whether the applicant intends to flip it

to another buyer. Their near-term intentions should be very clear and on the record. While the applicant's research thus far provides an ample back-story to hand off to their real estate agent, one may presume that the landmark designation would add additional cachet to certain prospective buyers and possibly even a significant market premium. We know that recent sales at the new development on the other side of the property have been in the \$600,000 range and a newly renovated 99 Capisic Street with its relatively large lot and elevated location will easily fetch more than that in our heated real estate market especially with all the headaches of renovation already complete. The historic protections are unlikely to be a deterrent to many buyers since they will be handed a turn-key property they find charming and attractive as-is with little intent to change it going forward. For a recent market comparison see this listing for 21 Benjamin Way (FYI: the first listing photo shows a glimpse of the back-side of 99 Capisic Street under renovation)
https://www.zillow.com/homedetails/21-Benjamin-Way-Portland-ME-04102/305264778_zpid/?mmlb=g,0

OMISSION - Applicant's Relationship to Greater Portland Landmarks

Greater Portland Landmarks, like most non-profits, is susceptible to the financial realities of constant fundraising and equally constant pressure from donors for it to bend to a donor's whims. The recent history and possible promised future financial contributions made by the Carmona family to GPL should absolutely be taken into account in evaluating the letter of support that GPL provided for the landmark designation. GPL does not appear to have been involved in researching the property's history or been consulted on the renovation work, but if has played any role in any of that, either formally or informally, especially if done for remuneration, then all of that should be disclosed as part of the record.

OMISSION - Selective & Incomplete use of Census Records/Directories

There are two references to the applicant relying upon census records to document residents of the property but it is not clear that a thorough and competent review of available census records (as well as local directories) was ever undertaken as part of a comprehensive research program to provide a basis for the landmark nomination. Ms. Emerson herself and other family members may have relied upon boarders during their occupancy in order to help maintain the property, especially after the death of Caroline Emerson and during the Great Depression and wartime. These boarders and other occupants may provide clues about the home's history that are not evident from already revealed sources. While such extra research can be time-consuming, now is the time to demand it especially since the applicant has crafted a narrative here that suits their needs but which the public may find wanting, and since government action is being sought here, is entirely within the public's rights to demand more.

OMISSION - Lack of citations/identifications of primary and secondary sources

The applicant and their architect are not credential historic preservationists or professional historians. No formal historic structures report has been produced as part of this application. Therefore, the public is left with a frankly amateur compilation of bits and pieces of the property's history assembled mostly for rhetorical purposes and not necessarily to help comprehensively document the property's history in a suitable manner for posterity's sake. This is partly the fault of Portland's abysmally low standards for documentation of historic properties, but presumably also the result of the applicant not wanting to spend extra resources to bring in more professional assistance. Good preservation and the underlying history on which it absolutely depends is not cheap and the public should not be deprived of a solid historical foundation here simply because an applicant wants to be shielded from that often costly burden.

At a minimum, the public should expect that all statements made by the applicant be matched with a citation to the original record (in some cases, like deeds, the source is already evident). Ideally there should be a full appendix of sources with legible copies/scans attached so that 30 years from now no one has to redo the paper chase (even if virtual) to re-assemble all these fragmentary research pieces the applicant is relying upon for this application.

Here are some examples of how important this point is:

"In 1954, and well into her 60's, Marguerite wrote a LETTER to her nieces and nephews in order to pass on her personal information in the event of her illness or demise." The entire 1954 letter should be entered into the record (it appears to be at least 4 pages long). It is an extraordinary document that emotionally undergirds much of the application and the public should not just see the carefully curated excerpts presented by the applicant but the whole letter and how the applicant came to be in possession of it (to verify its provenance). FYI - the applicant sometimes says the letter is from 1952 not 1954 but I think this is a mistake.

"Originally, Eliza [Woodman]'s family lived NEXT DOOR"

What does this mean? What house specifically was this that was "next door" to a 7+ acre parcel with neighbors all around it? On what evidence was this statement garnered from and how do we corroborate it?

"Researcher David Barker"

Who is this person and where might someone go to verify his research and the sources this individual relied upon for their conclusions that the applicant is citing in their narrative?

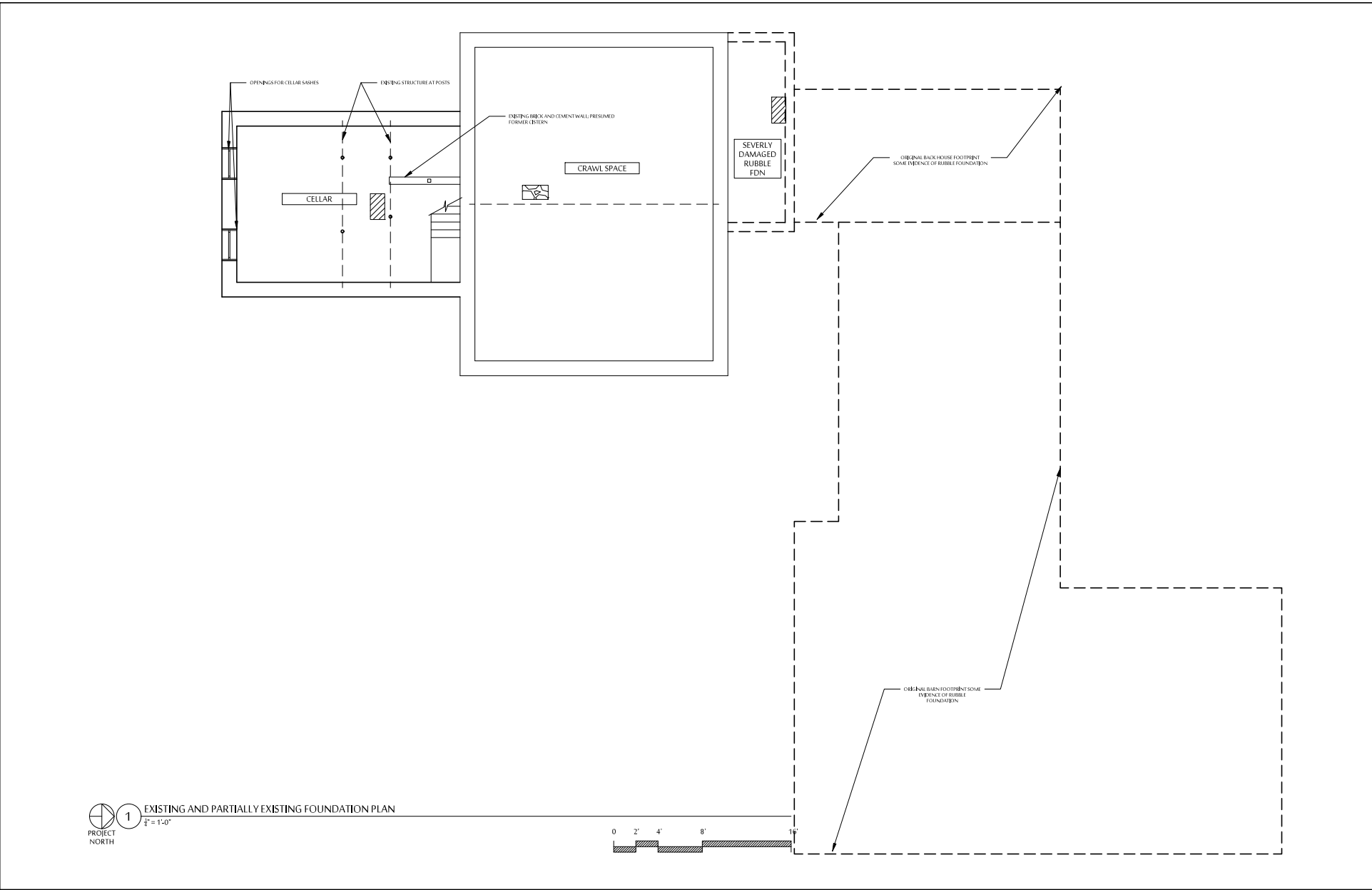
"Building is clearly evident on a 1857 Map in files (Stroudwater Capisic Map)"

Where does one find this map? Shouldn't a photo clip of the relevant section of the map depicting the property be included in the visual record - especially if a footprint of the house is shown?

"(Mortgage for Caroline Emerson)"

The original mortgage is cited but subsequent mortgages involving the Portland Savings Bank (which were extinguished in the 1930s after the death of the original Caroline Emerson) are strangely omitted. The Emerson family obviously had some means at one time and it is quite possible that their social station and related social networks enabled the family to maintain the property when many other widows with children often lost their homes when a male bread-winner died. The fact that Marguerite Emerson had ties to the Maine Historical Society and First Parish Church suggests she and her family were circulating in an upper middle-class milieu after her father's death even if they were effectively poor from an income perspective. How many favors were called in over the years in order to avoid penury status is as much a part of the house's history as is the architecture. We also know nothing about the grandparents of Marguerite Emerson and whether they had any role in her life, early on or in her adult life. Was she related at all to Andrew Leonard Emerson, Portland's first mayor and the namesake of the Emerson School? If her extended family did have ties to him and his family, that would explain a lot regarding her somewhat privileged existence despite her "spinster" existence.

3 Attachments



EXIST 1-00	FOUNDATION CARMONA RESIDENCE	99 CARMIC STREET, PORTLAND, ME	ISSUED FOR PERMITTING AND CONSTRUCTION	JUNE 17, 2020	 Reviewed for Code Compliance Permitting and Inspections Department Approved with Conditions 09/08/2020	 STUDIO E ARCHITECTS PORTLAND, MAINE ESTABLISHED 2003



4 NORTH ELEVATION EXISTING
NTS



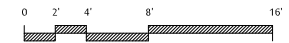
2 SOUTH ELEVATION EXISTING
NTS



4 NORTH ELEVATION
 $\frac{1}{4}" = 1'-0"$



2 SOUTH ELEVATION
 $\frac{1}{4}" = 1'-0"$





From: **Anne Pringle** <oldmayor@maine.rr.com>
Date: Wed, May 5, 2021 at 3:53 PM
Subject: 99 Capisic Street
To: Wiener, Rob <rwiener@portlandmaine.gov>
Cc: Andrews, Deb <dga@portlandmaine.gov>, Vana Carmona
<vanacarmona@gmail.com>

Please share this late letter of support with the HPB.

For many years, as I drove down Capisic Street, I admired the lovely yellow "little house on house on the hill", referenced in Ms. Emerson's poem. I watched as it became overgrown with vegetation, with exterior deterioration becoming more obvious with each passing year. I never got around to asking Deb what she knew about the house, even thinking (without taking any action) that maybe something that could be done to save it.

And then along comes Vera Carmona! About three months ago, when I saw that work was being done, I surprised the contractor by stopping in to ask what was going on. When I heard that the house was being saved and restored, I was overjoyed. What a wonderful preservation success story!

I have only briefly reviewed the fascinating documentation, but I applaud Ms. Carmona for her commitment to the house and to documenting its history and significance.

Please unanimously support this wonderful opportunity to save a special piece of Portland architecture, especially during a period when so many old houses in other locations are declared "unsalvageable". Ms. Carmona saw the value of this "little house" and has made a real contribution in demonstrating that such modest places are worth saving, so they not become victims of demolition and replacement.

Anne Pringle

Neal Street