

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

CITY COUNCIL MEETING - MARCH 7, 2022 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:

This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Portland City Council and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/82805568760?pwd=b3N6azJHZldnSVNSUXBvYU9mSzYxUT09>

Passcode: 535147

Or One tap mobile :

US: +19292056099,,82805568760#,,,*,535147# or
+13017158592,,82805568760#,,,*,535147#

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: 828 0556 8760

Passcode: 535147

International numbers available: <https://portlandmaine-gov.zoom.us/j/kd9gKyJHVP>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the Draft February 28, 2022 Special meeting minutes.

LICENSES:

Order 154-21/22 Granting Municipal Officers' Approval of Stars & Stripes Brewing LLC, dba Stars & Stripes Brewing. Application for Class III & IV FSE with Outdoor Dining on Private Property at 3 Spring Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 2/3/22. New City and State applications. Location was previously Lio Restaurant.

Five affirmative votes are required for passage after public comment.

Order 155-21/22 Granting Municipal Officers' Approval of Nom Cafe LLC, dba Nom Cafe. Application for Class I FSE at 23 Forest Avenue - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 2/3/22. New City and State applications. Location was previously Yobo Restaurant.

Five affirmative votes are required for passage after public comment.

Order 156-21/22 Granting Municipal Officers' Approval of Lenora LLC, dba Lenora. Application for Class XI Restaurant/Lounge with Outdoor Dining on Public Property at 2 Portland Square - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 2/11/22. New City and State applications. Location was previously Walter's.

Five affirmative votes are required for passage after public comment.

Order 157-21/22 Granting Municipal Officers' Approval of Mr. Tuna Freeport LLC, dba Bar Futo. Application for Class I FSE with Outdoor Dining on Private Property at 425 Fore St. ste 100 - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 2/15/22. New City and State applications. Location was previously Five Guys.

Five affirmative votes are required for passage after public comment.

Order 159-21/22 Granting Municipal Officers' Approval of Tomaso's Canteen Inc, dba Tomaso's Canteen. Application for Parklet Outdoor Dining at 18 Hampshire Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 2/10/22. New City application. Applicant currently holds a Class XI Restaurant/Lounge.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

Com 14-21/22 In-Person/Hybrid Meeting Update - By Danielle P. West, Interim City Manager

As a communication this item requires no public comment or formal Council action.

RESOLUTIONS:

Resolve 8-21/22 Expressing Solidarity with Ukraine and Denouncing Russian Acts of Aggression - Sponsored by Kate Snyder, Mayor

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 89-21/22 Amendment to the Portland City Code Chapter 18 Re: Bedford Park renamed Noyes Park - Sponsored by Danielle West, Interim City Manager

This Order would rename Bedford Park Noyes Park in recognition of the family that originally donated the land to the City to create this park in 1927. This request was made by members of the Noyes family and is supported by City staff.

Staff research determined that the name "Bedford Park" began to be used in the 1950s, but their research did not determine why or how that change was made. Additional information on the history of this property and the research conducted by staff can be found in the accompanying staff memo.

This item must be read on two separate days. It received its first reading on November 1, 2021. On November 15, 2021 the City Council voted (8-0) to postpone this item to February 7, 2022, and on February 7, 2022, the City Council voted to postpone this item to March 7, 2022. Public comment was taken on this item on November 15, 2021, so no additional public comment is required. Five affirmative votes are required for passage.

Written Public Comment on Order 89-21/22

Order 150-21/22 Approving the Purchase and Sale Agreement with Dorothy Hale for Property at 834 Riverside Street, Accepting a \$23,000 Donation from Allagash Brewing Company for that Purchase, and Placing that Land in the Portland Land Bank - Sponsored by Danielle P. West, Interim City Manager

This order would approve the Hale Parcel at 834 Riverside Street Purchase and Sale Agreement for land to be added to the Portland Land Bank, to protect the ecological,

historical, and scenic values of the park. The acquisition was approved by the Land Bank Commission by a vote of 8-0 on February 9th 2022, and will use a donation from Allagash Brewery Company of \$23,000 and \$27,000 from the Land Bank Fund.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

Written Public Comment on Order 150-21/22

Order 151-21/22 Traffic Schedule Amendment Re: 101 York Street - Sponsored by Danielle P. West, Interim City Manager

The City Council is being asked to approve a reassignment of the five (5) on-street parking spaces in front of 101 York Street. Currently, these five (5) spaces are unrestricted and the owner of 101 York Street stated that there are many cars that park here for extended periods of time. The City's recommendation is to have the two (2) spaces adjacent to the parking garage at 101 York Street be 30-minute commercial loading zones between 9 AM to 12 PM and 2-hour parking from 12 PM to 5 PM. The remaining three (3) spaces will be 2-hour spaces.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

Order 152-21/22 Approving the Agreements between the Maine Department of Transportation and the City of Portland Re: Forest Avenue Paving -- Sponsored by Danielle P. West, Interim City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Forest Avenue, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Forest Avenue. The agreement obligates the City to pay for 25% of the work as its municipal share, or an estimated \$65,575.00. A separate Utility Agreement for the approximately \$16,800 cost to adjust the manhole frame and covers will be paid from an already funded Water Resources account.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

Order 153-21/22 Amendment to Portland City Code Chapter 14 Re: Height Bonus in India Street Form-Based Code Zone - Sponsored by the Planning Board, Maggie Stanley, Chair

On January 11, 2022, the Portland Planning Board unanimously voted 6-0 (Smith recused) to recommend to the City Council adoption of the text amendment to allow a height bonus in the Urban Active Subdistrict along Commercial Street within the India Street Form-Based Code Zone. Maine Public Broadcasting Corporation applied for this zoning text amendment to allow for an additional floor for a future building at 35 Commercial Street.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

Written Public Comment on Order 153-21/22

ORDERS:

Order 160-21/22 Approving the Agreement between EVgo Services LLC and Portland Re: Electric Vehicle Charging Stations - Sponsored by Danielle P. West, Interim City Manager

This order approves an agreement between the City and EVgo Services LLC (EVgo) for the deployment of four DC fast chargers and up to forty-four (44) level 2 Electric Vehicle (EV) charging stations on publicly-owned property.

EVgo will provide all equipment, materials, labor, and other services required for this project at no cost to the City. Due to the specialized nature of this project and the substantial initial investment by EVgo, the agreement has a 10-year term. City contracts, particularly those that require the City to incur costs, typically include a termination for convenience provision, which allows the City to terminate all or part of an agreement with or without cause. Because this agreement does not include a termination for convenience provision, Council approval is required.

Five affirmative votes are required for passage after public comment.

Order 161-21/22 Accepting and Appropriating \$37,500 in Donations for the Portland Youth Corps - Sponsored by Danielle P. West, Interim City Manager

The Portland Youth Corps is a collaborative program of the Parks, Recreation and Facilities Department (PRF), the Portland Parks Conservancy (PPC), and Maine Audubon. The Parks, Recreation and Facilities Department operated a pilot program with 24 young people aged 14-17 in 2021, and are expanding the program in 2022 to provide additional leadership opportunities for participants. The Portland Youth Corps aims to provide job training and service opportunities for underserved youth through a summer service program in Portland's parks and open spaces. The direct program expenses are funded through grants and private fundraising, which is being led by the Portland Parks Conservancy. The City is providing overall oversight of the program and in-kind support in the form of staff time.

Current donations for the program that require Council approval and appropriation:

- \$30,000 from Portland Parks Conservancy
- \$7,500 from Maine Audubon (not including the donation of staff time)

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

Order 162-21/22 Approving the Maine Public Employees Retirement System Special Plan 3C for Certain Non-Union Employees - Sponsored by Danielle P. West, Interim City Manager

The Police and Fire unions during contract bargaining negotiated to move from the MainePERS 2C to the 3C retirement plan. The council approved this move on December 6, 2021. Police and Fire command staff were not included in that transition, as they are not part of those bargaining units and are non-union employees. This order is meant to create parity between union and non-union sworn police and fire staff so that employees are not disincentivized from moving into command positions by providing Police and Fire Command staff with the same MainePERS 3C retirement plan.

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

Order 163-21/22 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2023 Capital Improvement Program in an Amount not to Exceed \$21,145,000 - Sponsored by the Finance Committee, Mark Dion, Chair

The Finance Committee met on February 24, 2022 and voted (3-0) to recommend the funding appropriation and bond authorization to the full City Council.

The Fiscal Year 2023 Capital Improvement Plan (FY23 CIP) has been in development since summer 2021 and has been reviewed by the Finance Committee at each of its meetings in 2022. The FY23 Capital Improvement Plan will not increase net debt service related to CIP projects in future City budgets as it was sized to simply offset other CIP debt being retired. The list of 2023 CIP calls for \$30.77M million(M) of new projects but only \$12M of this total will have a net impact to debt service in the general fund operating budget. A variety of other funding sources including the enterprise funds (for sewer and stormwater projects) are being used to finance the remainder. The \$12M was a borrowing target set by Finance staff in order to simply offset general fund CIP being retired. Two orders are required related to the CIP: one authorizing the FY23 CIP bonds; and a second appropriating the proceeds and other funding sources providing City staff with spending authority for the upcoming projects. A complete listing of the projects being authorized is included within the orders.

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

Order 164-21/22 Appropriating Bond Proceeds and other Funds in an Amount not to Exceed \$30,770,000 for the City's Fiscal Year 2023 Capital Improvement Program - Sponsored by the Finance Committee, Mark Dion, Chair

This is a companion order to the bond authorization order above.

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

Order 165-21/22 Approving the Three-Party Agreement between the Portland Area Comprehensive Traffic System, Maine Department of Transportation and the City of Portland Re: Improvements to Cumberland Avenue - Sponsored by Danielle P. West, Interim City Manager

This project is part of the Municipal Partnership Initiative (MPI) Program; the City administers the project and typically receives 50% funding from the state MPO. By signing the partnership agreement, it enables the City to proceed with the project and obligates PACTS to pay 41% and the City to pay for 59% of the original estimated project cost; the City share is estimated to be \$178,300.

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:

ADJOURNMENT:

ZOOM INFORMATION:

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For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/81813936988?pwd=V0FJNk51cEtwNEs1ZTNMUUdGMG5adz09>

Passcode: 112769

Or One tap mobile :

**US: +19292056099,,81813936988#,,, *112769# or
+13017158592,,81813936988#,,, *112769#**

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: 818 1393 6988

Passcode: 112769

International numbers available: [https://portlandmaine-gov.zoom.us/u/kdL3evbtBR](https://portlandmaine-gov.zoom.us/j/81813936988?pwd=V0FJNk51cEtwNEs1ZTNMUUdGMG5adz09)

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Snyder called the meeting to order at 5:02 PM (Councilor Ali arrived during the announcements.)

ANNOUNCEMENTS:

Mayor Snyder announced that the City will be reading a Proclamation at the next City Council meeting regarding the City's stance with Ukraine against Russia's Invasion .

Mayor Snyder also commented on an article that appeared in Saturday's Press Herald. It was reported that two South Portland Hotels will not be renting rooms to the city's unhoused. This will take effect at the end of May.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the Draft February 7, 2022 City Council Meeting Minutes

Motion was made by Councilor Chong and seconded by Councilor Zarro to approve the February 7, 2022 City Council meeting minutes. Passage 9-0.

APPOINTMENTS:

Order 146-21/22 Confirming the Appointment of Kari L. Twaite as Associate Corporation Counsel - Sponsored by Acting Corporation Counsel Jen Thompson

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

COMMUNICATIONS:

Com 13-21/22 Appointing Members of the Re-Appportionment Committee - Sponsored by Kate Snyder, Mayor

As a communication, this item requires no public hearing or formal Council action.

UNFINISHED BUSINESS:

Order 143-21/22 Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors - Sponsored by Danielle West, Interim City Manager

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

Order 145-21/22 Amendment to the Portland City Code Chapter 33 Re: Hazard Pay in Effect during Mask Mandate - Sponsored by Councilor Victoria Pelletier

Motion was made by Councilor Dion and seconded by Councilor Chong to postpone Order 145 indefinitely. Passage 6-3 (Zarro, Trevor, Pelletier.)

Written Public Comment on Order 145-21/22

ORDERS:

Order 147-21/22 Extending Charter Review Commission Deadlines - Sponsored by Danielle West, Interim City Manager

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

Order 148-21/22 Approving the Housing and Urban Development Citizen Participation Plan for the City of Portland - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

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

Order 149-21/22 Setting the Public Hearings on 2022-2026 Housing and Urban Development Five-Year Consolidated Plan, Fiscal Year 2023 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program, and Emergency Solutions Grant Program - Sponsored by Danielle P. West, Interim City Manager

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

Order 150-21/22 Approving the Purchase and Sale Agreement with Dorothy Hale for Property at 834 Riverside Street, Accepting a \$23,000 Donation from Allagash Brewing Company for that Purchase, and Placing that Land in the Portland Land Bank - Sponsored by Danielle P. West, Interim City Manager

This is its first reading.

Written Public Comment on Order 150-21/22

Order 151-21/22 Traffic Schedule Amendment Re: 101 York Street - Sponsored by Danielle P. West, Interim City Manager

This is its first reading.

Order 152-21/22 Approving the Agreements between the Maine Department of Transportation and the City of Portland Re: Forest Avenue Paving -- Sponsored by Danielle P. West, Interim City Manager

This is its first reading.

AMENDMENTS:

Order 153-21/22 Amendment to Portland City Code Chapter 14 Re: Height Bonus in India Street Form-Based Code Zone - Sponsored by the Planning Board, Maggie Stanley, Chair

This is its first reading.

Written Public Comment on Order 153-21/22

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

ADJOURNMENT:

Motin was made by Councilor Ali and seconded by Councilor Chong to adjourn. Passage 9-0 at 8:18 PM.

A TRUE RECORD

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 16, 2022

SUBJECT: Order 154-21/22 Granting Municipal Officers' Approval of Stars & Stripes Brewing LLC, dba Stars & Stripes Brewing. Application for Class III & IV FSE with Outdoor Dining on Private Property at 3 Spring Street - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(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 action cannot be taken at a later date, please explain why

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 2/3/22. New City and State applications. Location was previously Lio Restaurant.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Stars and Stripes
2. Stars and Stripes_Council Packet (2)

Prepared by:

Date: 02/16/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Stars & Stripes Brewing LLC, dba Stars & Stripes Brewing. Application for Class III & IV
FSE with Outdoor Dining on Private Property at 3 Spring Street**



LETTER OF INTENT: City of Portland

Date: January 10, 2022

From: Bruce "Brad" Nadeau III, Owner
Stars & Stripes Brewing Company
23 Wilson Road, Cumberland Maine 04021

To: Major Kate Snyder, and Members of the City Council

Re: Letter of Intent for Liquor License Application for 3 Spring Street

This letter sets forth the desire for Stars & Stripes Brewing Company to be considered for a liquor license for a second taproom at 3 Spring Street, to open on April 1, 2022. Stars & Stripes Brewing has been in business for 3+ years in Freeport and plan to expand to the Old Port. Our craft beer will be brewed in Freeport and self-distributed to Portland's taproom. We will offer our craft beer, wine, cider and light food.

Being in Portland (my wife's hometown), has been a goal of ours, and for me, the ultimate American dream. Stars & Stripes Brewing is dedicated to honoring those who put their lives at risk, and their country and community first. Our product goes beyond good, quality beer. We donate a percent of all proceeds to veteran organizations. Our patrons enjoy that the value of their dollar goes beyond the Pint. Our motto is "Enjoy your beer, that's an order."

Thank you for your consideration!

Please find enclosed:

- State Application for Alcohol
- Application for Brewer of Malt Liquors
- City Application for Food and Alcohol
- Premises Diagram
- Menu for Light Food
- Lease Agreement
- Certificate of Insurance
- Payment of Fees

Please reach out to me for any questions or thoughts,

Brad Nadeau

A handwritten signature in cursive script that reads "Bruce Nadeau".

U.S. Marine Corps Sgt, 1999-2003, Veteran

207-274-3866

StarsStripesBrewing@gmail

StarsStripesBrewing.com



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Establishment Name (d/b/a):	Stars + Stripes Brewing	Phone:	274-3866
Location Address:	3 Spring Street, Portland	Zip:	04101
If new, what was formerly at this location:	Lio Restaurant		
Mailing Address:	23 Wilson Rd. Cumberland	Zip:	04021
Contact Person:	Bruce Nadeau	Phone:	274-3866
Contact Person Email:	Stars Stripes Brewing@gmail		
Manager of Establishment:	Bruce Nadeau	Date of Birth:	11-28-1980
Owner of Premises (Landlord):	Drew Swenson		
Address of Premises Owner (Landlord):	6 City Center, Portland	Zip:	04101

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

Name of Owner(s)	Date of Birth	Residence Address

Stars + Stripes Brewing LLC

Corporate Name	Corporate Mailing Address
	Zip:

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

Contact Person:		Phone:	
Principal Officers	Title	Date of Birth	Residence Address
Bruce Nadeau	Owner	11-28-1980	23 Wilson Rd Cumberland, ME 04021

Class of Liquor License:	Class III + IV
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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):	Stars + Stripes Brewing	Phone:	207-274-3864
Location Address:	3 Spring Street, Portland	Zip:	04101
Mailing Address:	23 Wilson Rd, Cumberland	Zip:	04102
Contact Person:	Bruce Nadeau	Phone:	207-274-3864
Contact Person Email:	StarsStripesBrewing@gmail.com		
Manager of Establishment:	Bruce Nadeau	Date of Birth:	11-28-1980
Owner of Premises (Landlord):	Drew Swenson		
Address of Premises Owner:	6 City Center, Portland	Zip:	04101

Owner Information

Corporate Name		Corporate Mailing Address	
Stars + Stripes Brewing		23 Wilson Rd Cumberland	
Contact Person:	Bruce Nadeau	Phone:	
Principal Officers		Title	Date of Birth
Bruce Nadeau		Owner	11-28-1980



CITY OF PORTLAND

Permitting and Inspections Department

- 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 Bruce Nadeau Title Owner Date 1/10/2022

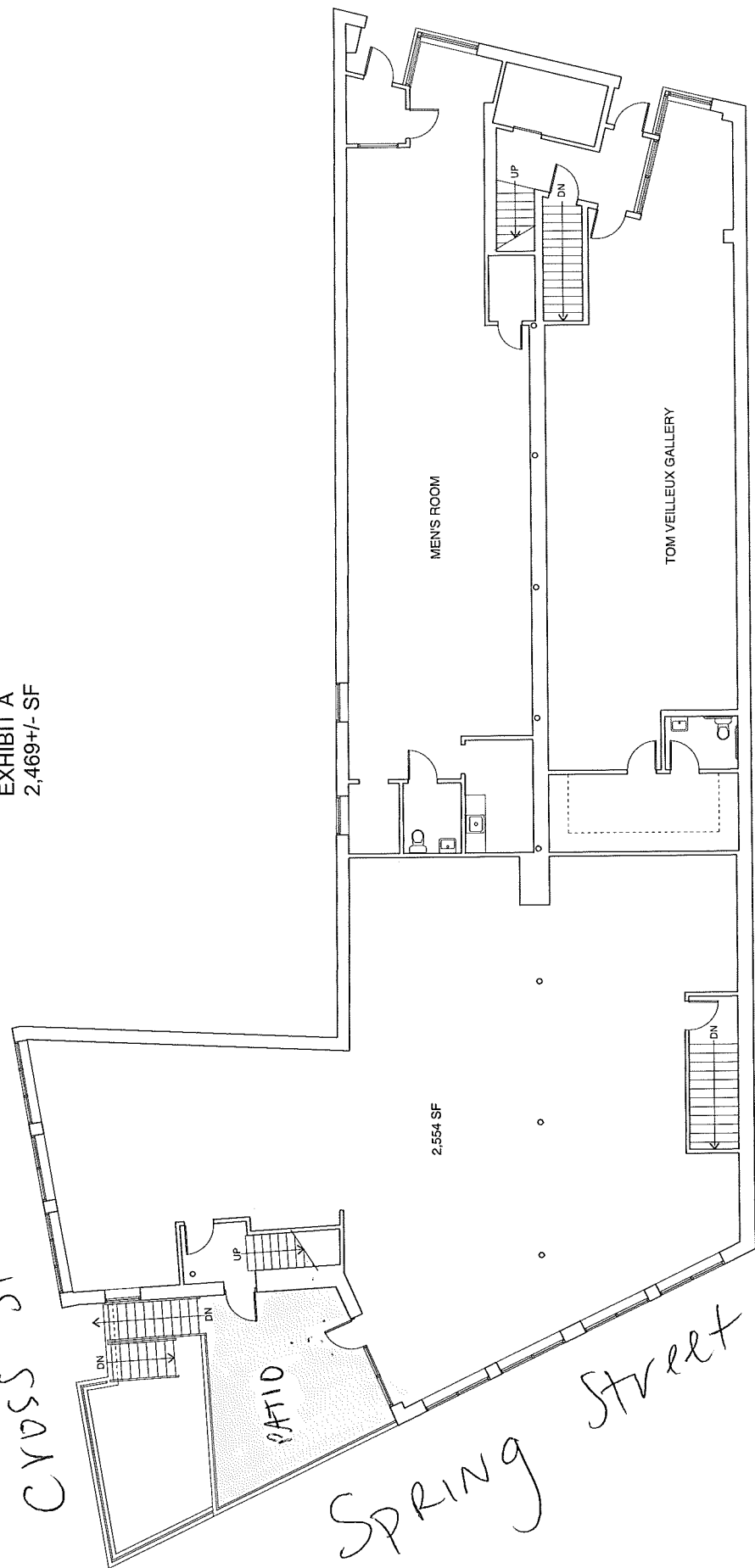
For Administrative Use Only

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

(Birdseye view)

CROSS ST.

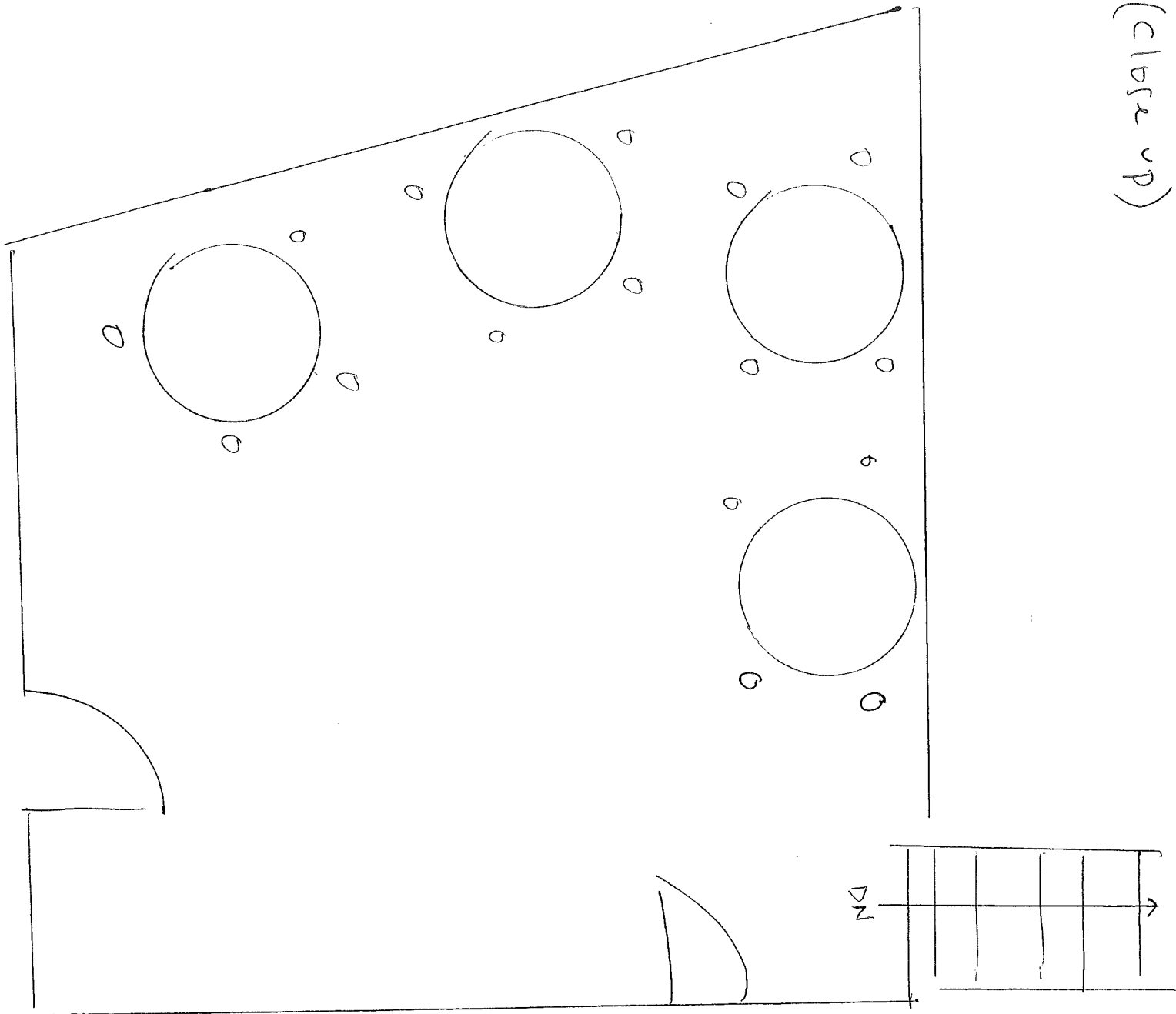
EXHIBIT A
2,469+/- SF

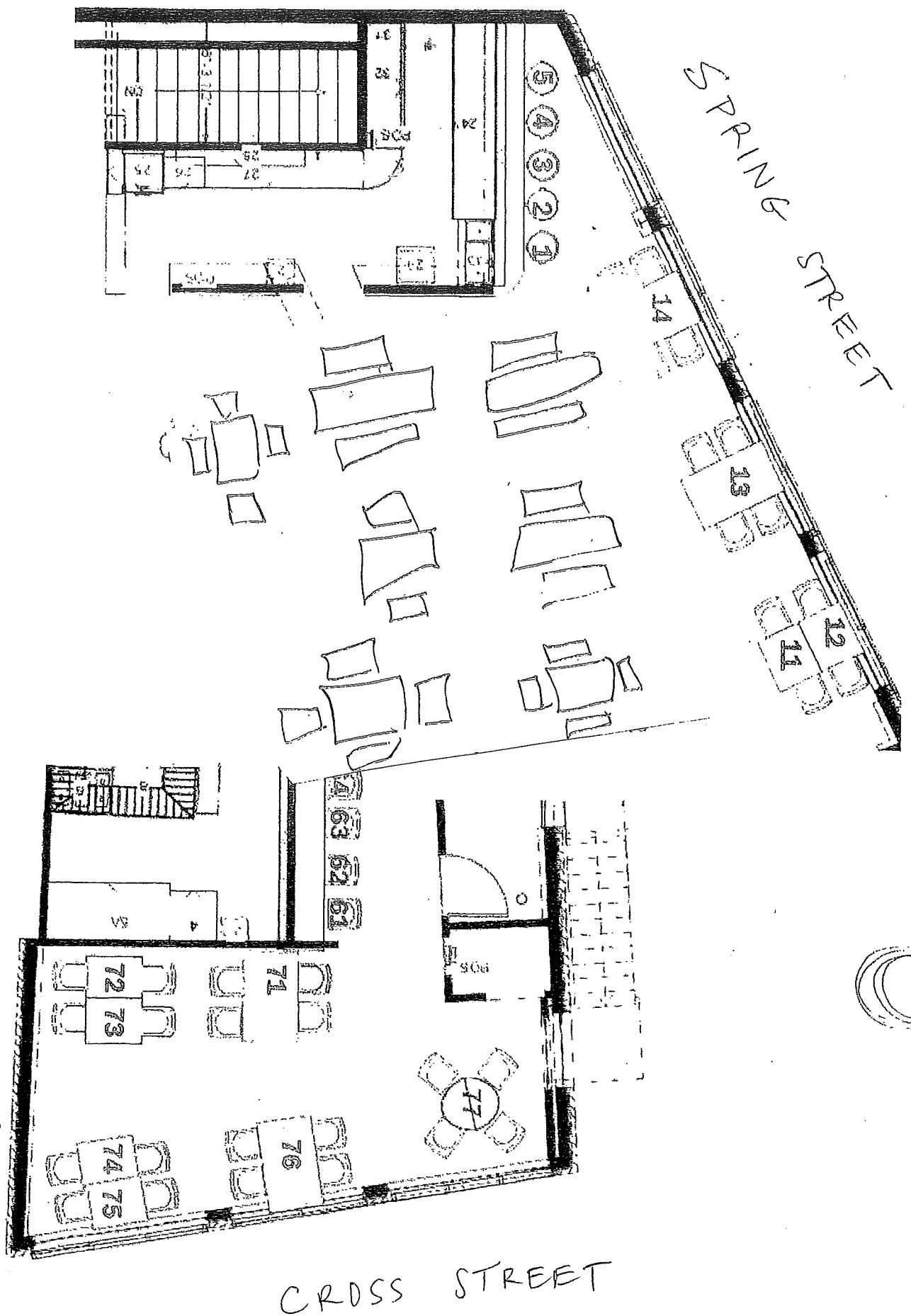


2' 4' 8' 16'
GRAPHIC SCALE: 1/8" = 1'-0"

MICHAEL CHAREK ARCHITECTS PORTLAND, MAINE			
BUILDING RENOVATIONS 6 CITY CENTER PORTLAND, ME 04101			
FIRST FLOOR PLAN PROPOSED			
BY	CHKD	SCALE	DATE
		1/8" = 1'-0"	8/19/16
JOB NO.		DWG.	

(close up)





Menu

Stars & Stripes Brewing Company

Pizza

Cheese - \$16

16" Pepperoni - \$17

\$1 per additional topping: Green Pepper, Onion, Black Olive

Sharable Dishes

Poutine: Fries, Cheese, Gravy - \$10

Wings - \$12

Please order food at the bar. Thank you!

- The Stars & Stripes Team



Zachary Lenhert <zlenhert@portlandmaine.gov>

Stars & Stripes

Glen McGary <glenm@portlandmaine.gov>
To: Zachary Lenhert <zlenhert@portlandmaine.gov>
Cc: Eric Nevins <erickn@portlandmaine.gov>

Thu, Mar 3, 2022 at 11:37 AM

PPD Approves
[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>

Stars & Stripes

Zoning <zoning@portlandmaine.gov>

Fri, Feb 18, 2022 at 9:06 AM

To: Zoning <zoning@portlandmaine.gov>

Cc: Sandra Driscoll <sdriscoll@portlandmaine.gov>, Zachary Lenhart <zlenhart@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Zoning has approved this within EnerGov with the following note:

A restaurant serving alcoholic beverages (Class III & IV) is a permitted use within the B-3 Zone, per Table 6-C of Chapter 14.

Thanks,
Jonathan

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

February 16, 2022

Stars & Stripes LLC
23 Wilson Rd
Cumberland, ME 04021

Re: Stars & Stripes Brewing LLC, dba Stars & Stripes Brewing. Application for Class III & IV FSE with Outdoor Dining on Private Property at 3 Spring Street

Dear Stars & Stripes LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 7, 2022 at 5:00 p.m.**, for the review of application for Class III & IV FSE with Outdoor Dining on Private Property at 3 Spring 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 March 4, 2022.

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 at bl@portlandmaine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Z Lenhert", is written over a horizontal line.

Zachary J. Lenhert
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on February 7, 2022 at 5:00 P.M., virtually, Stars & Stripes Brewing LLC, dba Stars & Stripes Brewing. Application for Class III & IV FSE with Outdoor Dining on Private Property at 3 Spring Street - Sponsored by Danielle West, Interim City Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 16, 2022

SUBJECT: Order 155-21/22 Granting Municipal Officers' Approval of Nom Cafe LLC, dba Nom Cafe. Application for Class I FSE at 23 Forest Avenue - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(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 action cannot be taken at a later date, please explain why

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 2/3/22. New City and State applications. Location was previously Yobo Restaurant.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Nom Cafe
2. Nom Cafe_Council Packet (2)

Prepared by:

Date: 02/16/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Nom Cafe LLC, dba Nom Cafe. Application for Class I FSE at 23 Forest Avenue

Attn: Mayor Snyder and Portland City Council
City of Portland
389 Congress street
Portland, ME 04101

Letter of Intent

Dear Mayor Snyder and City Council Members,

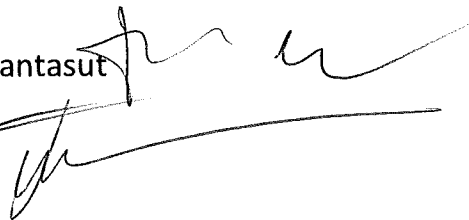
We hereby submit our letter of intent to apply for a Full Liquor License, including the sale of liquor, wine and malt products for Nom Café, located at 23 Forest ave, Portland, ME, a space previously occupied by Yobo Restaurant.

We currently own and operate the Orchid Thai restaurant at Lewiston, Maine where we already operate with a full liquor license, we enjoy bringing a true Asian cuisine to the local customers, including lunch and dinner. Our current Portland endeavor will include Mediterranean and European breakfast, lunch and dinner with the addition of cocktails, wine and beer. We pledge to abide all procedures and protocol standards set in the City of Portland and the State of Maine.

Respectfully,

Thamolbhorn Mantasut

Genko Stanilov

The block contains two handwritten signatures. The first signature, for Thamolbhorn Mantasut, is a cursive script that starts with a large 'T' and ends with a long horizontal stroke. The second signature, for Genko Stanilov, is also in cursive, starting with a large 'G' and ending with a long horizontal stroke. Both signatures are written in black ink.



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	NOM CAFE LLC	Phone:	
Location Address:	23 Forest ave., Portland	Zip:	04101
If new, what was formerly at this location:	Yobo RESTAURANT		
Mailing Address:	165 GRANT street, #A, Portland	Zip:	04101
Contact Person:	Thamolbhorn MANTASUT	Phone:	2079398300
Contact Person Email:	NOMCAFEPORTLAND@gmail.com		
Manager of Establishment:	Thamolbhorn Mantisut	Date of Birth:	Phone: 2079398300
Owner of Premises (Landlord):	Portland Stage Co.		
Address of Premises Owner:	21 Forest ave., Portland	Zip:	04101

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

Name of Owner(s)	Date of Birth	Residence Address
Thamolbhorn Mantisut	10/8/90	80 W Commercial dr., Portland
GENKO GRANLOV	5/23/83	

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

Corporate Name		Corporate Mailing Address	
NOM CAFE LLC		165 GRANT STREET, A Zip: 04101	
Contact Person:	THAMOLBHORN MANTASUT	Phone:	
Principal Officers	Title	Date of Birth	Residence Address
THAMOLBHORN MANTASUT	Owner/BB	10/8/1990	80 W Commercial dr., Portland
Class of Liquor License:		Class 1 FSE	

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bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	Breakfast, Brunch, Lunch	
Please circle all that will be served:	Beer Wine Liquor	
Projected percentage of sales:	Generated from Food: 80	Generated from Alcohol: 20
Hours & days of operation:	8 AM - 2 PM	
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 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? 4/1/2022		
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, Thamolbhorn Mantasik, 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.

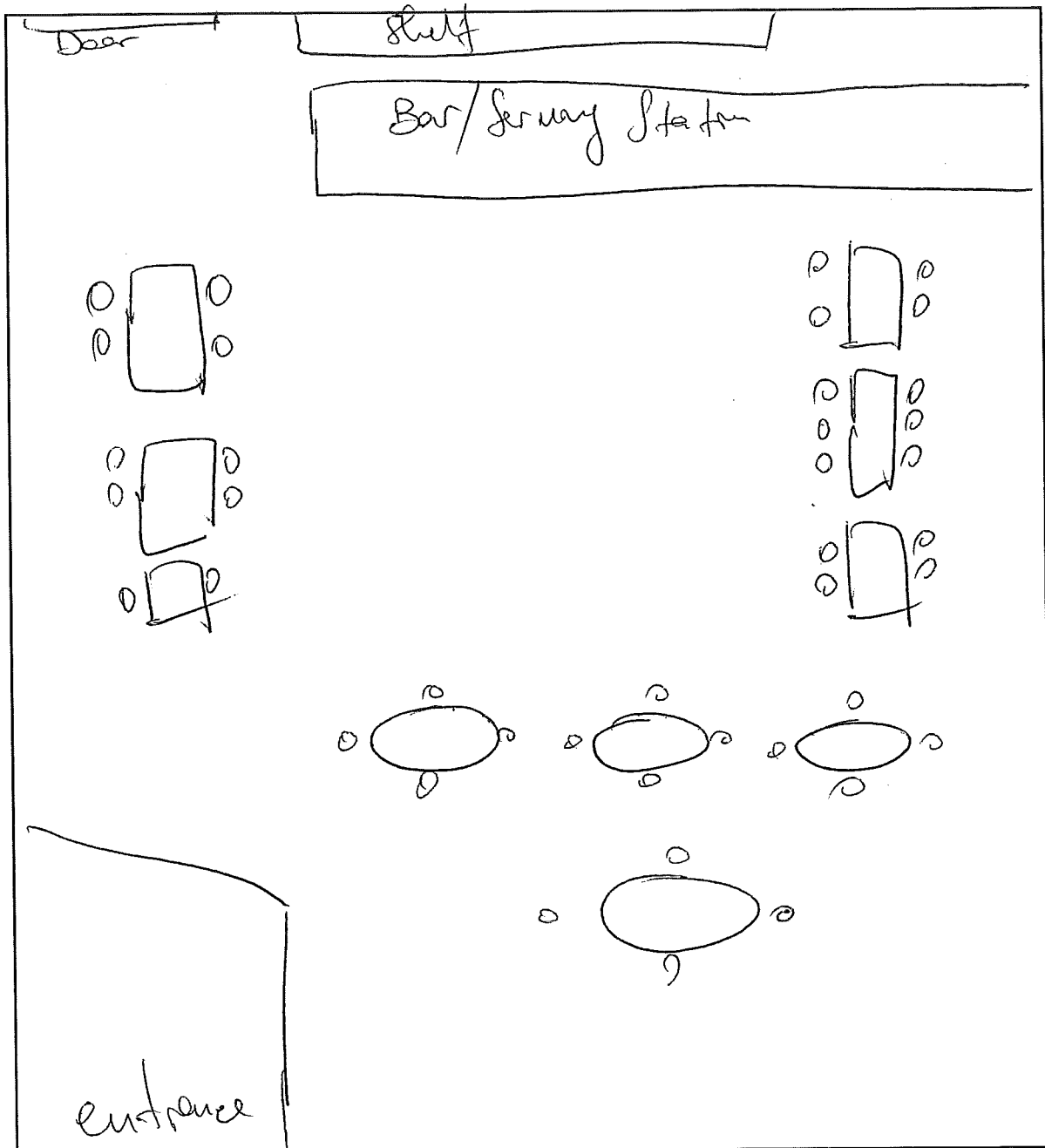
It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive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

Signature Title manager Date 1/29/22

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.





WOM

CAFE AND BREAKFAST

SHOPSKA SALAD 8

cucumbers, tomatoes, onions, peppers and feta cheese

CILBIR 11

cooked eggs over a bed of yogurt and chili-infused oil
served with bread

RICOTTA PANCAKES 9

served with daily fresh fruits (can be made as waffles)

FRENCH TOAST FLIGHTS 12

(3) daily flavors french toast

AVOCADO TOAST 11

topped with two eggs, arugula, and seeds



OM NOM BOWL 10

rice, bacon, greens, pickles, and eggs.

FRIED CHICKEN WAFFLES 11

chicken and cabbages

ACAI BOWL 10

served with daily fresh fruits

NOMLETTE 12

cheese, ham, and chives

SMOKE SALMON BENNY 17

served with a side of salad and toast

.....

DRINKS



Coffee	4
Tea	3.75
Matcha	5
Pellegrino	5



Zachary Lenhart <zlenhart@portlandmaine.gov>

Nom Cafe

Glen McGary <glenm@portlandmaine.gov>
To: Zachary Lenhart <zlenhart@portlandmaine.gov>

Thu, Mar 3, 2022 at 11:38 AM

PPD Approves
[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>

Nom Cafe

Zoning <zoning@portlandmaine.gov>

Tue, Feb 22, 2022 at 9:10 AM

To: Zoning <zoning@portlandmaine.gov>

Cc: Treasury Division <treasury@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, cstacey <cstacey@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>, Ron Kelton <rkelton@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Zachary Lenhart <zlenhart@portlandmaine.gov>

Zoning has approved this within EnerGov with the following note,

A Class A Restaurant (Class I liquor license) is permitted within the B-3c Zone, per Table 6-C within Chapter 14 of the city's ordinance.

Thanks,
Jonathan

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

February 16, 2022

Nom Cafe LLC
165 Grant Street #A
Portland, ME 04101

Re: Nom Cafe LLC, dba Nom Cafe. Application for Class I FSE at 23 Forest Avenue

Dear Nom Cafe LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 7, 2022 at 5:00 p.m.**, for the review of application for Class I FSE at 23 Forest Avenue. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on March 4, 2022.

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 at bl@portlandmaine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Z 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 March 7, 2022 at 5:00 P.M., virtually, Nom Cafe LLC, dba Nom Cafe. Application for Class I FSE at 23 Forest Avenue - Sponsored by Danielle West, Interim City Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 16, 2022

SUBJECT: Order 156-21/22 Granting Municipal Officers' Approval of Lenora LLC, dba Lenora. Application for Class XI Restaurant/Lounge with Outdoor Dining on Public Property at 2 Portland Square - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(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 action cannot be taken at a later date, please explain why

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 2/11/22. New City and State applications. Location was previously Walter's.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Lenora
2. Lenora_Council Packet

Prepared by:

Date: 02/16/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Lenora LLC, dba Lenora. Application for Class XI Restaurant/Lounge with Outdoor Dining on Public Property at 2 Portland Square

December 13, 2021

To: Mayor Kate Synder and Council of Portland

From: Rian Wyllie, Co-Owner Lenora LLC.

Subject: New Liquor License Application for Two Portland Square for Lenora / Owners: Aaron Sanders, Max Toste, Brian Biattie and Rian + Jen Wyllie

I am writing this letter of intent on behalf of Lenora LLC. My wife Jen and I moved to Maine 5 years ago because we fell in love with the people, the landscape and the culture. We each have decades of hospitality experience and are incredibly excited to be a part of and serve this community that we call home. Lenora will be a casual, fun and welcoming restaurant that puts hospitality first while serving exceptional food and drink.

Lenora LLC plans to operate a restaurant, Lenora, at 2 Portland Square in the space formerly occupied by Walter's Restaurant, which also held a liquor license. Lenora LLC respectfully requests approval of the following: State of Maine Application for Liquor On-Premise Class A Restaurant-Lounge Liquor License, City of Portland Application for Food Service Establishment with Alcoholic Beverages License and Supplemental Application for Outdoor Dining - Public.

Sincerely,

Rian Wyllie

Executive Chef / Co-Owner Lenora LLC



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Establishment Name (d/b/a):	Lenora Phone: 617.538.8372
Location Address:	2 Portland Square, Portland ME Zip: 04101
If new, what was formerly at this location:	Walter's
Mailing Address:	2 Portland Square, Portland ME Zip: 04101
Contact Person:	Rian Wyllie Phone: 617.538.8372
Contact Person Email:	rjwyllie@gmail.com
Manager of Establishment:	Rian Wyllie Date of Birth: 10/4/79 Phone: 617.538.8372
Owner of Premises (Landlord):	North River Company
Address of Premises Owner (Landlord):	610 West 26 th St. Suite 910 NY, NY Zip: 10001

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	
Lenora LLC	2 Portland Sq.	Portland ME	Zip: 04101
Contact Person:	Rian Wyllie	Phone:	617.538.8372
Principal Officers	Title	Date of Birth	Residence Address
Aaron Sanders ✓	President	6/21/74	42 Clyde St. #1 Somerville MA 02145
Max Toste ✓	Vice President	11/20/76	1082 Washington St B. Gloucester MA 01930
Brian Beattie ✓	Director of Operations	9/19/76	633 Cambridge St #2 Cambridge MA 02141
Rian Wyllie ✓	manager on Record	10/4/79	95 Middle Rd. Cumberland ME, 04110
Class of Liquor License: XI			

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bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Type of Food Served (include a menu):	<u>Mexican</u>
Hours & Days of Operation:	<u>8am - 1am Mon - Sun</u>
Certified Food Protection Manager Certificate number & expiration date: <u>20182534 1/21/26</u>	
If this has not yet been obtained, indicate that it is pending. Please have it ready for your health inspection.	
QUESTION- For Food Service Establishments ONLY:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Yes/No <u>Y(N)</u>
Will you permit dancing on the premises?	<u>Y(N)</u>
Will you permit dancing after 1:00 a.m.?	<u>Y(N)</u>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	<u>Y(N)</u>
If yes, will the outside dining be on <u>PUBLIC</u> or PRIVATE property (circle one).	<u>Y/N</u>
Will you have any amusement devices (pinball, video games, jukebox)?	<u>Y(N)</u>
If yes, please list the number of pinball machines: _____ amusements: _____ pool tables: _____	
What is your targeted opening date? <u>5/1/2022</u>	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	<u>Y(N)</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(N)</u>
If Yes, please list business name(s) and location(s): _____	
Is any principal officer under the age of 18?	<u>Y(N)</u>
For Community Kitchen Operators ONLY:	
It is your responsibility to maintain a schedule of users and assure sufficient time for cleaning and sanitizing between uses.	

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.

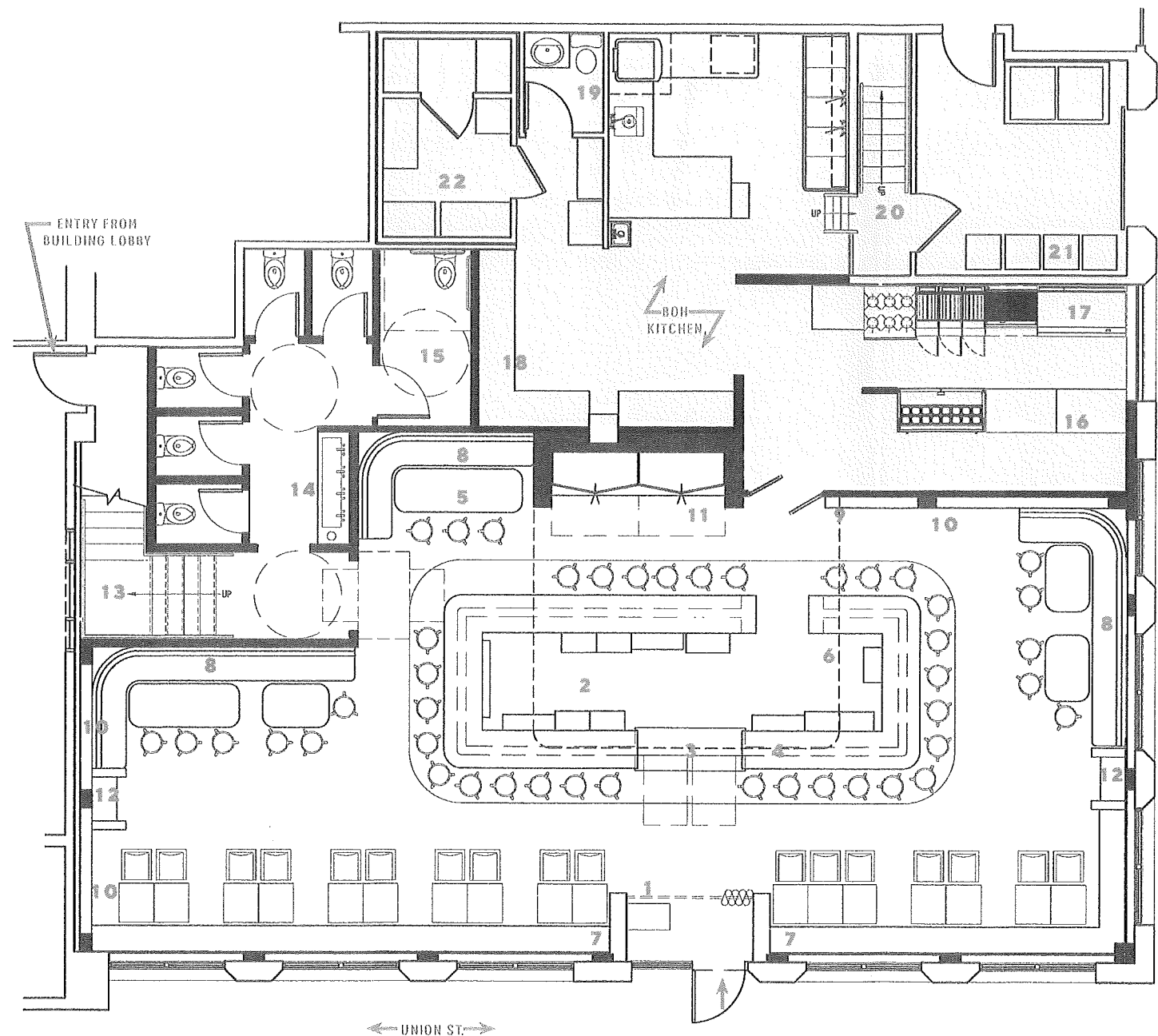
Signature [Signature] Title MANAGER ON RECORD Date _____
For more information about Food Service Establishments and Community Kitchens, see Portland City Code Chapter 11 at: www.portlandmaine.gov

For Administrative Use Only			
Amount: _____	Request Date /	Approval	Notes: _____
Date Paid: _____	FD: _____		
CC _____ CA _____ CK _____	Health: _____		
	PD: _____		
Amount: _____	PS: _____		
Date Paid: _____	Treasury: _____		
CC _____ CA _____ CK _____	Zoning: _____		

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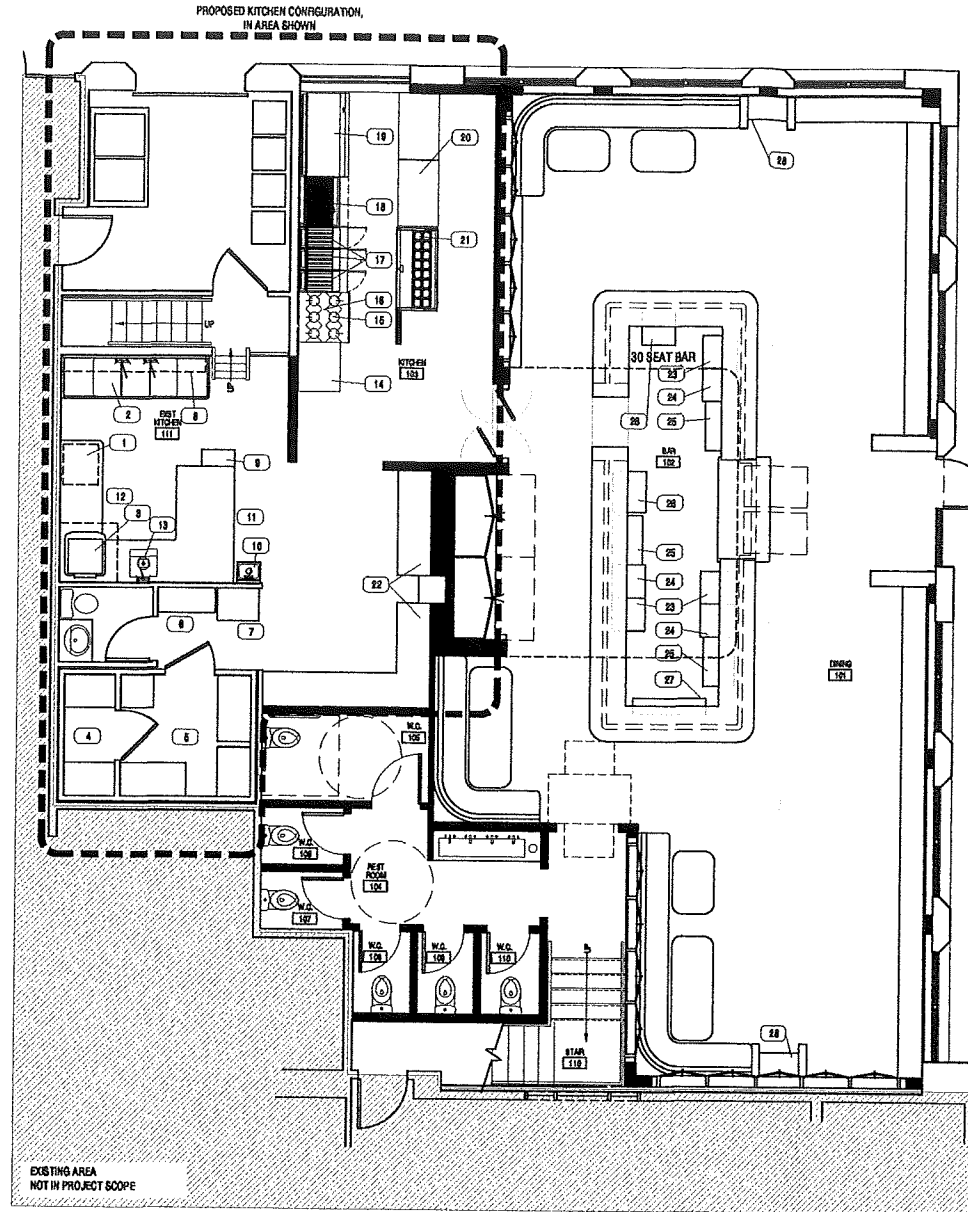
bl@portlandmaine.gov • www.portlandmaine.gov

LENORA TACO BAR - REVISED LAYOUT



PLAN LEGEND

1. HOST STATION
2. PRIMARY BAR, STORAGE ABOVE
3. DRINKS STATION/ ADA SEATING
4. ZINC COUNTER
5. CHEF'S TABLE, BAR HEIGHT
6. OVERHEAD BOTTLE STORAGE
7. BANQUETTE SEATING
8. BAR HEIGHT BANQUETTE SEATING
9. BAR RAIL AT 42" HEIGHT
10. PROPOSED ARCH NICHES
11. WOOD-CLAD STORAGE FEATURE WALL
12. WAIT STATION
13. RECONFIGURED STAIR TO LOBBY
14. WASH AREA AND INDIVIDUAL STALLS
15. ADA WATER CLOSET
16. BOH COLD PREP AREA
17. BOH HOT PREP AREA
18. POTENTIAL TORTILLA PREP AREA
19. EXISTING BOH RESTROOM TO REMAIN
20. BOH, EXISTING STAIR TO REMAIN
21. BOH DELIVERIES & TOGO AREA
22. EXISTING WALK-IN REF. TO REMAIN



LEGEND:

- EXISTING WALL TO REMAIN
- NEW WALL
- EXISTING AREA NOT IN PROJECT SCOPE

GENERAL NOTES:

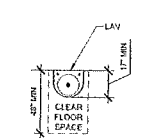
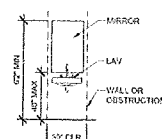
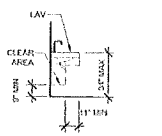
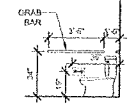
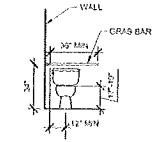
1. PROVIDE AND COORDINATE ALL REQUIRED IN-WALL BLOCKING AS REQUIRED.
2. ALL EXISTING AND NEW WALL PENETRATIONS TO BE FIRE SEALED AS REQUIRED TO MEET UL DESIGNATION FOR ASSEMBLED PENETRATED.
3. ALL DOORS TO REFRONT GLAZING TO BE FULLY TEMPERED.
4. ALL ELECTRICAL, MECHANICAL, PLUMBING AND FIRE ALARM WORK TO BE FILED UNDER SEPARATE APPLICATION.
5. FURNITURE NOT SHOWN FOR CLARITY. SEE LS-101 FOR ANTICIPATED LAYOUTS.

KEYED EQUIPMENT NOTES:

- 1 GLASS RACKS ABOVE (CLEAN)
- 2 3-VAT SINK
- 3 DISHWASHER
- 4 WALK-IN FREEZER (8' x 4')
- 5 WALK-IN COOLER (8' x 8')
- 6 METRO SHELVING FOR CLEANING PRODUCTS
- 7 AMP SINK
- 8 WALL SHELF (480VS)
- 9 WASTE BIN
- 10 HAND SINK
- 11 SOILED DISH AREA
- 12 VAPOR HOOD OVER DISHWASHER
- 13 FOOD WASTE DISPOSER
- 14 BLODGET OVEN - ZEPH-100-G-ES
- 15 36" GAS RANGE - VULCAN 363-GBN
- 16 INFRARED BROILER - VULCAN SALAMANDER 36"RB, MOUNTED ABOVE GAS RANGE
- 17 GAS FRYERS - 3614 (2S)
- 18 GAS CHAR BROILER ON 36" EQUIPMENT STAND, STAR MAX 618RCE/3
- 19 60" GAS GRIDDLE, STAR MAX 603MA, ON 60" CHIEF BASE REF PHOM-60-R-H-FY
- 20 48" REFRIGERATION UNITS (2S), MST-48-H
- 21 60" STEAM TABLE UNIT, MST-60-H
- 22 STAINLESS STEEL PREP TABLES
- 23 24" STAINLESS STEEL BOTTLE DISPLAY
- 24 24" STAINLESS STEEL ICE WELL
- 25 36" TWO BAY SINK WITH DRAINBOARD
- 26 UNDER BAR REFRIGERATOR
- 27 UNDER-COUNTER DRAFT SYSTEM
- 28 DEDICATED WATER LINE AT SERVER STATIONS

NOTE:
SEE ATTACHED MANUFACTURER'S
PRODUCT INFORMATION FOR ALL
NEW EQUIPMENT LISTED ABOVE

**ADA PLUMBING
FIXTURES**



NOTES:
1. REFER TO PLANS & ELEVATIONS FOR
ACTUAL LAYOUT OF TOILET ROOMS AND
QUANTITIES OF TOILET FIXTURES &
ACCESSORIES.
2. THIS DRAWING IS FOR PURPOSES OF
LOCATION OF TYPICAL ITEMS IN ADA
TOILET/SHOWER ROOMS. REFER TO OTHER
DRAWINGS & SPECIFICATIONS FOR COMPLETE
DESCRIPTION OF ITEMS REQUIRED. ALL
REQUIRED ITEMS MAY NOT BE SHOWN.

REVISIONS

KITCHEN EQUIPMENT PLAN

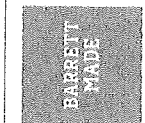
A.121

DATE OF ISSUE:
JANUARY 25, 2022

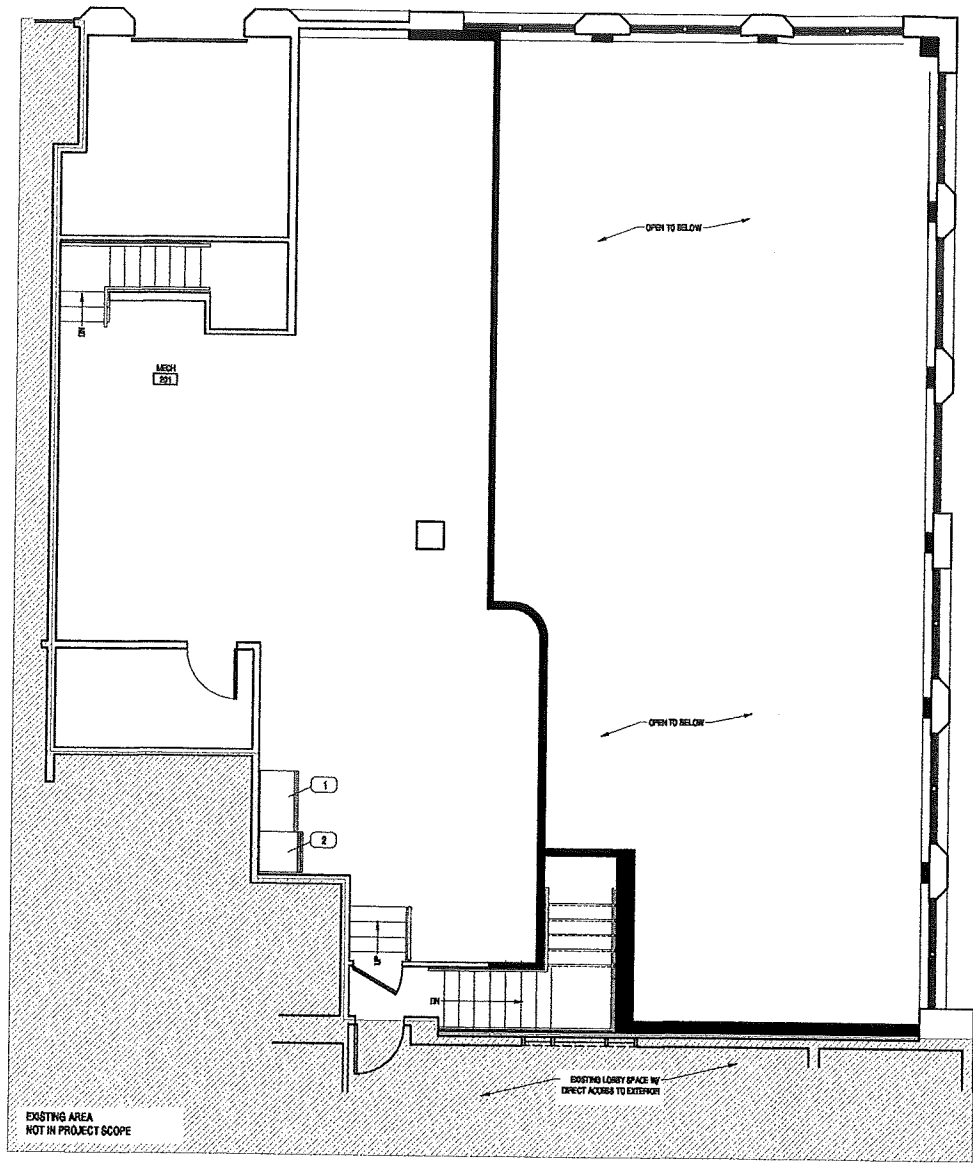
ISSUED FOR:
REVIEW

SCALE:
AS NOTED

PROJECT NAME:
LENORA
2 PORTLAND SQ
PORTLAND, MAINE 04101



1 FIRST FLOOR KITCHEN - EQUIPMENT PLAN
SCALE: 1/4" = 1'-0"



- LEGEND:**
- EXISTING WALL TO REMAIN
 - NEW WALL
 - EXISTING AREA NOT IN PROJECT SCOPE
- GENERAL NOTES:**
- PROVIDE AND COORDINATE ALL REQUIRED IN-WALL BLOCKING AS REQUIRED.
 - ALL EXISTING AND NEW WALL PENETRATIONS TO BE FIRE SEALED AS REQUIRED TO MEET UL DESIGNATION FOR ASSEMBLIES PENETRATED.
 - ALL DOORS TO REFRONT GLAZING TO BE FULLY TEMPERED.
 - ALL ELECTRICAL, MECHANICAL, PLUMBING AND FIRE ALARM WORK TO BE FILED UNDER SEPARATE APPLICATION.
 - FURNITURE NOT SHOWN FOR CLARITY. SEE LS-101 FOR ANTICIPATED LAYOUTS.
- KEYED EQUIPMENT NOTES:**
- 1 KIE MAKER - HOSHIZAKI MODEL NO. F-3308AJ-D
 - 2 KIE MAKER - HOSHIZAKI MODEL NO. RA-5008AB

ADA PLUMBING FIXTURES

NOTES:

- REFER TO PLANS & ELEVATIONS FOR ACTUAL LAYOUT OF TOILET ROOMS AND QUANTITIES OF TOILET FIXTURES & ACCESSORIES.
- THIS DRAWING IS FOR PURPOSES OF LOCATION OF TYPICAL ITEMS IN ADA TOILET/SHOWER ROOMS. REFER TO OTHER DRAWINGS & SPECIFICATIONS FOR COMPLETE DESCRIPTION OF ITEMS REQUIRED. ALL REQUIRED ITEMS MAY NOT BE SHOWN.

MECHANICAL MEZZANINE EQUIPMENT FLOOR PLAN

A.122

DATE OF ISSUE: JANUARY 25, 2022

ISSUED FOR: REVIEW

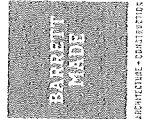
SCALE: AS NOTED

DRAWING TITLE: MECHANICAL MEZZANINE EQUIPMENT FLOOR PLAN

PROJECT NAME: LENORA

2 PORTLAND SQ

PORTLAND, MAINE, 04101



Lenora

TACO BAR

TACOS+TOSTADAS

BAJA FISH	\$5
CARNITAS	\$4.50
BARBACOA	\$5
SPICY BEEF	\$4.50
LENGUA	\$5
PUFFY LOBSTER	\$15
VERACRUZ GRILLED FISH	\$5
FUNDIDO + AVOCADO	\$5
CHICKEN RANCHERO TOSTADA	\$7
MUSHROOM CHORIZO TOSTADA	\$6
CRAB TOSTADA	\$11

FOR THE TABLE

GRILLED STREET CORN	\$7
VICTORY CLUB NACHOS	\$10
HOUSE ESCABECHE	\$3
TORTA	MKT
FUEGO WINGS	\$9
ENSALADA CESAR	\$10
LENORAN DOG	\$8
REFREID BEANS + RICE	\$4

CHIPS AND...

SALSA	\$4
quemada / verde fresca / picante rojo	
GUACAMOLE	\$10
add lobster	\$8
CHILE CON QUESO	\$8
add mushroom chorizo	\$4



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 <u>492</u> SF = <u>\$984</u>
☐ Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X _____ SF = _____

Business Information	
Establishment Name (d/b/a):	<u>Lenora</u> Phone: <u>617-538-8372</u>
Location Address:	<u>2 Portland Sq. Portland ME</u> Zip: <u>04101</u>
Mailing Address:	<u>2 Portland Sq. Portland ME</u> Zip: <u>04101</u>
Contact Person:	<u>Rian Wyllie</u> Phone: <u>617-538-8372</u>
Contact Person Email:	<u>lenoramaine@gmail.com</u>
Manager of Establishment:	<u>Rian Wyllie</u> Date of Birth: <u>10/4/1979</u> Phone: <u>617-538-8372</u>
Owner of Premises (Landlord):	<u>North River Company</u>
Address of Premises Owner (Landlord):	<u>610 W. 26th St. suite 910 NY, NY 10001</u> Zip: _____

Owner Information

Corporate Name		Corporate Mailing Address	
<u>Lenora LLC</u>		<u>2 Portland Sq. Portland, ME</u> Zip: <u>04101</u>	
Contact Person:	<u>Rian Wyllie</u>	Phone:	<u>617-538-8372</u>
Principal Officers	Title	Date of Birth	Residence Address
<u>Aaron L. Sanders</u>	<u>President</u>	<u>6/21/74</u>	<u>42 Clyde St. #1 Somerville MA</u> <u>02145</u>
<u>Max Toste</u>	<u>Vice President</u>	<u>11/20/76</u>	<u>1082 Washington St. B Gloucester MA</u> <u>01930</u>
<u>Brian Beattie</u>	<u>director of operations</u>	<u>9/19/76</u>	<u>633 Cambridge St #2 Cambridge MA</u> <u>02141</u>
<u>Rian Wyllie</u>	<u>manager on record</u>	<u>10/4/79</u>	<u>95 Middle Rd. Cumberland ME</u> <u>04021</u>

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

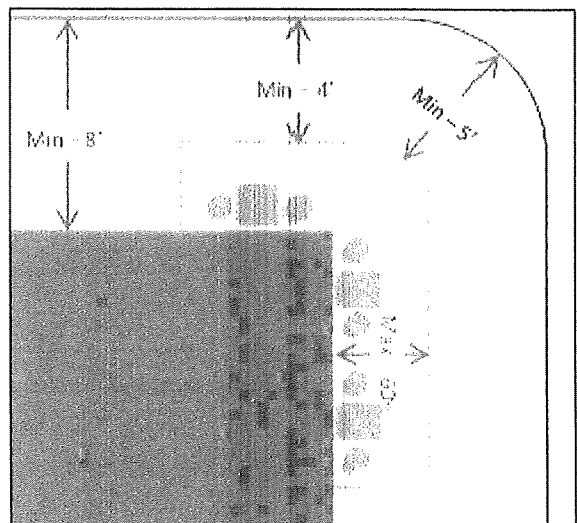


CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	<u>XI</u>
Type of food served:	<u>Mexican</u>
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>
Hours & days of operation:	<u>8am - 1am Mon - Sun</u>
Number of Tables	<u>19</u>
Number of Chairs	<u>38</u>

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"

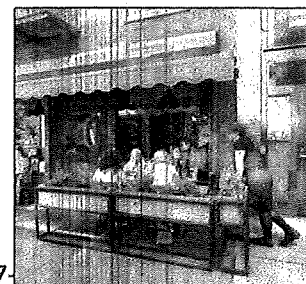
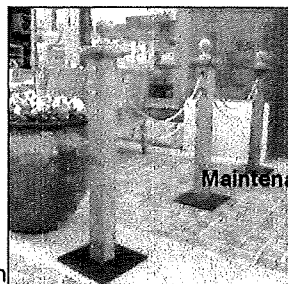
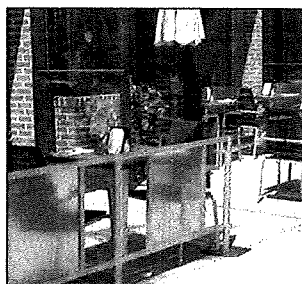


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes 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



bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

- 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

Title

MANAGER ON RECORD

Date

1/29/22

For Administrative Use Only

Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

	Request Date /	Approval	Notes: _____
FD:	_____ / _____	_____	_____
Health:	_____ / _____	_____	_____
PD:	_____ / _____	_____	_____
Treasury:	_____ / _____	_____	_____
Zoning:	_____ / _____	_____	_____

LENORA

2 PORTLAND SQ

PORTLAND, MAINE, 04101

ISSUED FOR: OUTDOOR DINING

ON PUBLIC PROPERTY

SUPPLEMENTAL APPLICATION

DATE OF ISSUE: 12/17/2021

PROJECT TEAM:

ARCHITECT + GENERAL CONTRACTOR:

BARRETT MADE
CONTACT: MARK NORDBY
65 HANOVER STREET, PORTLAND, ME 04101
PHONE 207.385.3845
E-MAIL MARK.NORDBY@BARRETTMADE.COM

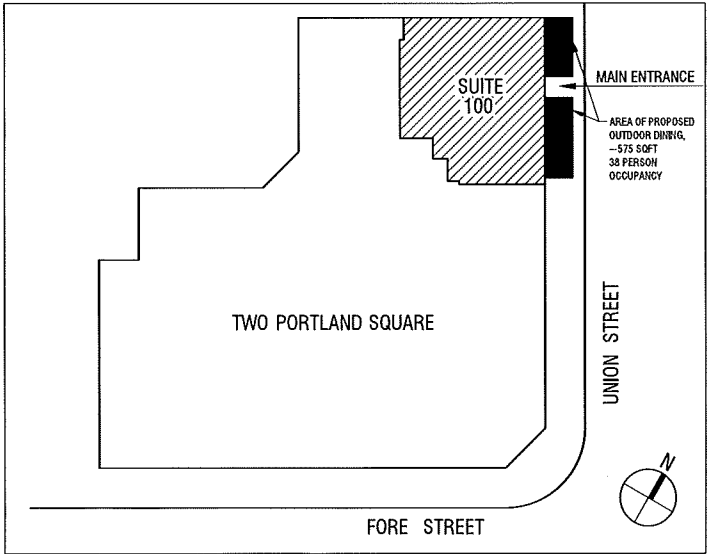
OWNER:

NORTH RIVER CO.
CONTACT: NICK RICHIO
1 PORTLAND SQ, PORTLAND, ME, 04101
PHONE 207.874.6000
E-MAIL NRICHIO@NORTHRIVERCO.COM

TENANT:

LENORA
CONTACT: AARON SANDERS & MAX TOSTE
2 PORTLAND SQ,
PORTLAND, ME, 04101
E-MAIL AARON@DEEPELLUMINC.COM,
MAX@DEEPELLUMINC.COM

KEY PLAN:

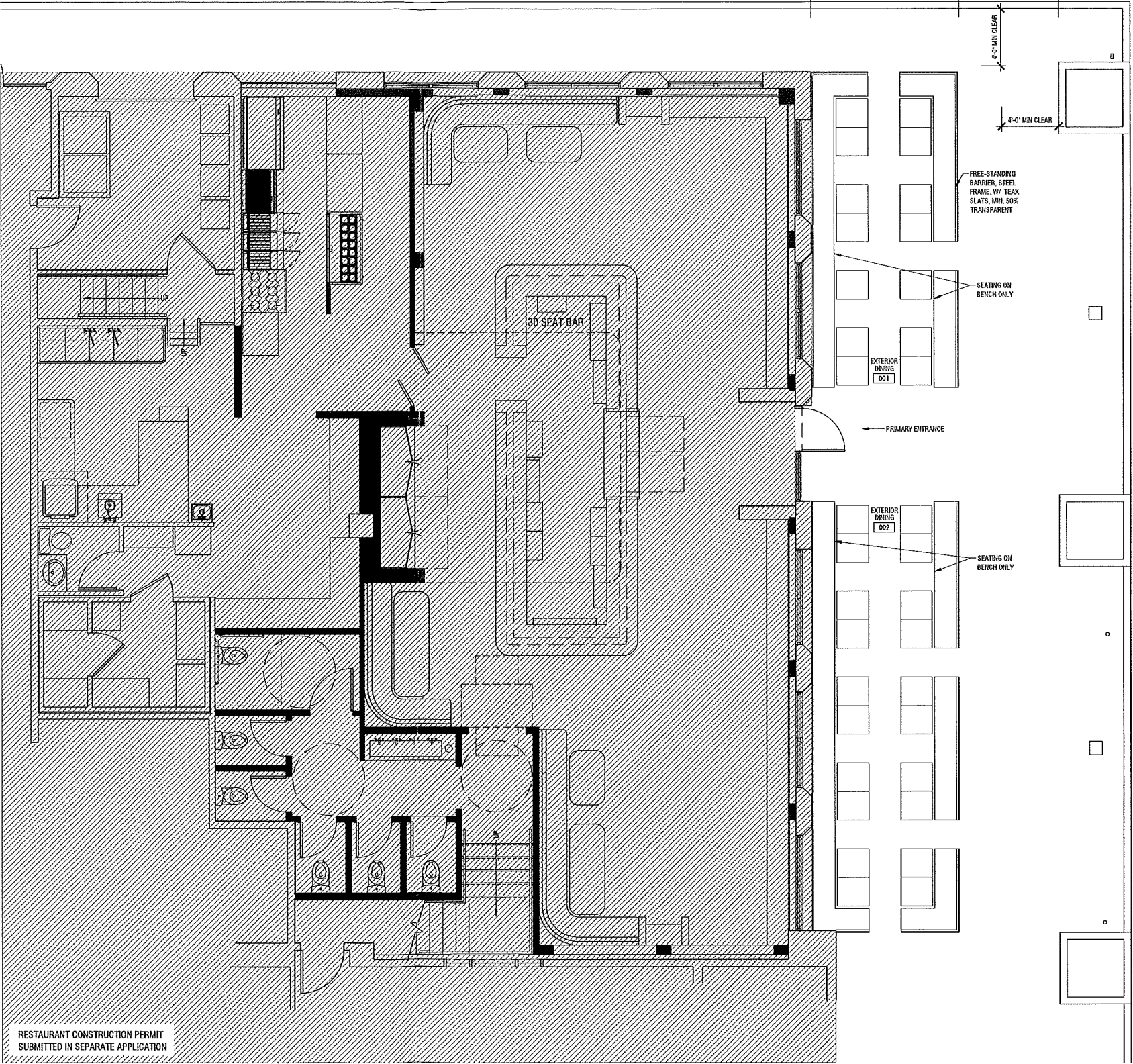


PROPERTY SUMMARY:

ZONE: B3
MAP: 038
LOT: 038 B002001

GENERAL NOTES:

- 1. PROOF OF LIABILITY INSURANCE TO BE PROVIDED AS AN ADDITIONAL ATTACHMENT TO THIS APPLICATION.
- 2. CITY APPLICATION FOR FOOD & ALCOHOL PERMITS TO BE SUBMITTED SEPARATELY.
- 3. OUTDOOR DINING AREA DOES NOT EXCEED 60% OF THE CLEAR SIDEWALK WIDTH.



1 EXTERIOR SEATING PLAN
SCALE: 1/4" = 1'-0"

UNION STREET

REVISIONS:

DRAWING TITLE: A.131 PLAN - OUTDOOR DINING

PROJECT NAME:
LENORA
2 PORTLAND SQ,
PORTLAND, MAINE, 04101

DATE OF ISSUE:
DECEMBER 17, 2021
ISSUED FOR:
CONSTRUCTION PERMIT

SCALE:
AS NOTED
FOR CONSTRUCTION

BARRETT
MADE

ARCHITECTURE + CONSTRUCTION



Zachary Lenhert <zlenhert@portlandmaine.gov>

Lenora

Eric Nevins <erich@portlandmaine.gov>

Tue, Feb 22, 2022 at 10:02 AM

To: Zachary Lenhert <zlenhert@portlandmaine.gov>

Approved

On Wed, Feb 16, 2022 at 1:58 PM Zachary Lenhert <zlenhert@portlandmaine.gov> wrote:

[Quoted text hidden]

--

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

Lenora

Zoning <zoning@portlandmaine.gov>

Fri, Feb 18, 2022 at 2:59 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Treasury Division <treasury@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, cstacey <cstacey@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>, Ron Kelton <rkelton@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Zachary Lenhert <zlenhert@portlandmaine.gov>

Zoning has approved this within EnerGov with the following note:

A Class A Restaurant/Lounge (Class XI liquor license) is a permitted use within the B-3 Zone, per Table 6-C within Chapter 14 of the city's ordinance.

Thanks,
Jonathan

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

February 16, 2022

Lenora LLC
2 Portland Square
Portland, ME 04101

Re: Lenora LLC, dba Lenora. Application for Class XI Restaurant/Lounge with Outdoor Dining on Public Property at 2 Portland Square

Dear Lenora LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 7, 2022 at 5:00 p.m.**, for the review of application for Class XI Restaurant/Lounge with Outdoor Dining on Public Property at 2 Portland Square. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on March 4, 2022.

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 at 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 March 7, 2022 at 5:00 P.M., virtually, Lenora LLC, dba Lenora. Application for Class XI Restaurant/Lounge with Outdoor Dining on Public Property at 2 Portland Square - Sponsored by Danielle West, Interim City Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 16, 2022

SUBJECT: Order 157-21/22 Granting Municipal Officers' Approval of Mr. Tuna Freeport LLC, dba Bar Futo. Application for Class I FSE with Outdoor Dining on Private Property at 425 Fore St. ste 100 - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(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 action cannot be taken at a later date, please explain why

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 2/15/22. New City and State applications. Location was previously Five Guys.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Bar Futo
2. Bar Futo_Council Packet

Prepared by:

Date: 02/16/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

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

**Mr. Tuna Freeport LLC, dba Bar Futo. Application for Class I FSE with Outdoor Dining
on Private Property at 425 Fore St. ste 100**

Dear Mayor Snyder and members of the city council. Mr. tuna freeport llc. D.b.a. Bar Futo is requesting a business and liquor license for a new restaurant at 425 Fore st. unit 100.

Thank you for your consideration,

Sincerely,

Jordan Rubin

mr.tunamaine@gmail.com

4136369688



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

Business Information			
Establishment Name (d/b/a):	Bar Futo	Phone:	413 636 9688
Location Address:	425 Fore St. suite 100		Zip: 04101
If new, what was formerly at this location:	Five Guys Burgers & Fries		
Mailing Address:	29 Evans St. So. Portland, ME 04106		
Contact Person:	Jordan Rubin	Phone:	413 636 9688
Contact Person Email:	Bar.Futo.maine@gmail.com		
Manager of Establishment:	Marisa Lewiecki	Date of Birth:	11/30/93
		Phone:	978 500 8052
Owner of Premises (Landlord):	Tina Soley Cow Plaza Garage LLC.		
Address of Premises Owner (Landlord):	100 commercial st. Suite 306 Portland Zip: 04101		

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	
Mr. Tuna Freeport LLC.		29 Evans St. So. Portland, ME Zip: 04106	
Contact Person:	Jordan Rubin	Phone:	413 636 9688
Principal Officers	Title	Date of Birth	Residence Address
Jordan Rubin	President	4/25/83	29 Evans St. So. Portland ME 04106
Class of Liquor License:		I FSE	



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	<u>Japanese Inspired Bar & Grill</u>	
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>	
Projected percentage of sales:	Generated from Food: <u>75</u>	Generated from Alcohol: <u>25</u>
Hours & days of operation:	<u>Sun - Sat 10-11</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?		Y/N <u>Y</u>
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)		Y/N <u>Y</u>
Will you permit dancing after 1:00 a.m.?		Y/N <u>Y</u>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)		Y/N <u>Y</u>
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).		Y/N <u>Y</u>
Will you have any amusement devices (pinball, video games, juke box)?		Y/N <u>Y</u>
If yes, please list: # of amusements: _____ # of pool tables: _____		
What is your targeted opening date? <u>May 2022</u>		
Does the Issuance of this license directly or indirectly benefit any City employee(s)?		Y/N <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?		Y/N <u>Y</u>
If Yes, please list business name(s) and location(s): <u>Mr. Tuna 28 Monument Sq. Crispy Gai 90 Exchange St.</u>		
Is any principal officer under the age of 21?		Y/N <u>Y</u>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?		Y/N <u>Y</u>
If Yes, please explain:		

I, Jordan Rubin 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 President Date 2/12/2022

Bar Futo

Cold

Sashimi
Salad
Tartare
Pickles

Hot

Soup
Tempura
Dumpling

Skewers

Pork
Chicken
Beef
Fish
Veggie

Large

Steak
Fish

Sandwiches

Pork
Shrimp
Beef

Sides

Bread
Rice

Dessert

Cake
Shaved Ice



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):	Bar Futo	Phone:	413 636 9688
Location Address:	425 Fore St. Suite 100	Zip:	04101
Mailing Address:	29 Evans St. So. Portland	Zip:	04106
Contact Person:	Jordan Rubin	Phone:	413 636 9688
Contact Person Email:	Bar.Futo.maine@gmail.com		
Manager of Establishment:	Date of Birth:	Phone:	
Marisa Lewiecki	11/30/93	978	500 8052
Owner of Premises (Landlord):	Tim Soley Cow Plaza Garage LLC.		
Address of Premises Owner:	100 Commercial St. Suite 306	Zip:	04101
Portland, ME			

Owner Information

Corporate Name		Corporate Mailing Address	
Mr. Tuna Freeport LLC		29 Evans St So Portland, ME 04106	
Contact Person:	Jordan Rubin	Phone:	413 636 9688
Principal Officers			
Title	Date of Birth	Residence Address	
Jordan Rubin	President	4/25/83	24 Evans St. So. Portland ME 04106



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	class 1
Type of food served:	Japanese Inspired Bar & grill
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	Sun-Sat 10-11
Number of Tables	16
Number of Chairs	66

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

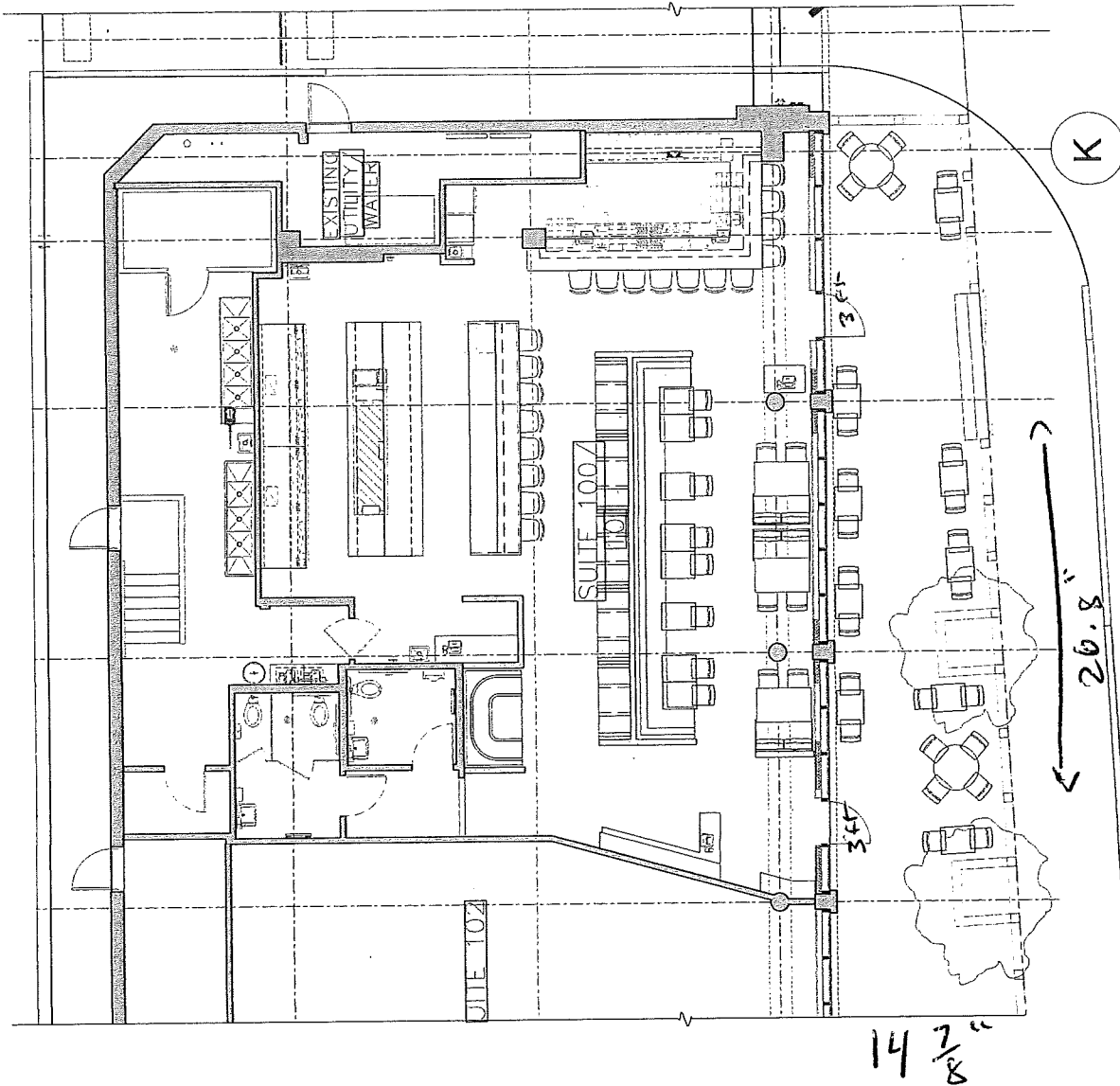
- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating 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 [Signature] Title President Date 2/12/2022

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: _____	_____



FURNITURE PLAN
MEY & ASSOC.

FORE ST.





Zachary Lenhart <zlenhart@portlandmaine.gov>

Bar Futo

Eric Nevins <erich@portlandmaine.gov>

Sun, Feb 20, 2022 at 6:32 PM

To: Zachary Lenhart <zlenhart@portlandmaine.gov>

Approved

On Wed, Feb 16, 2022 at 3:02 PM Zachary Lenhart <zlenhart@portlandmaine.gov> wrote:

[Quoted text hidden]

--

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

Bar Futo

Zoning <zoning@portlandmaine.gov>

Tue, Feb 22, 2022 at 2:47 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Treasury Division <treasury@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, cstacey <cstacey@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Eric Nevins <ericn@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Ron Kelton <rkelton@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Zachary Lenhert <zlenhert@portlandmaine.gov>

Zoning has approved this within EnerGov with the following note:

A Class A Restaurant (Class I Liquor License) is a permitted use in the B-3 Zone, per Table 6-C of Chapter 14.

Thanks,
Jonathan

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

February 16, 2022

Mr. Tuna Freeport LLC
29 Evans Street
South Portland, ME 04106

Re: Mr. Tuna Freeport LLC, dba Bar Futo. Application for Class I FSE with Outdoor Dining on Private Property at 425 Fore St. ste 100

Dear Mr. Tuna Freeport LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 7, 2022 at 5:00 p.m.**, for the review of application for Class I FSE with Outdoor Dining on Private Property at 425 Fore St. ste 100. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on March 4, 2022.

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 at bl@portlandmaine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Zachary J. Lenhart".

Zachary J. Lenhart
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 7, 2022 at 5:00 P.M., virtually, Mr. Tuna Freeport LLC, dba Bar Futo. Application for Class I FSE with Outdoor Dining on Private Property at 425 Fore St. ste 100 - Sponsored by Danielle West, Interim City Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 16, 2022

SUBJECT: Order 159-21/22 Granting Municipal Officers' Approval of Tomaso's Canteen Inc, dba Tomaso's Canteen. Application for Parklet Outdoor Dining at 18 Hampshire Street - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(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 action cannot be taken at a later date, please explain why

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 2/10/22. New City application. Applicant currently holds a Class XI Restaurant/Lounge.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Tomasos Canteen_Parklet
2. Tomasos_Council Packet

Prepared by:

Date: 02/16/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

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

**Tomaso's Canteen Inc, dba Tomaso's Canteen. Application for Parklet Outdoor Dining at
18 Hampshire Street**

Dear Mayor and Council Members of Portland Maine,

We would appreciate your consideration in allowing us to maintain our outdoor dining at Tomaso's Canteen. It has allowed us to expand our business and not only retain all our employees but also given us the ability to hire more,

Thank you;

Sincerely,

Samuel T. Minervino

Owner of Tomaso's Canteen

18 Hampshire street

Portland Maine 04101

207-776-1015

A handwritten signature in black ink, appearing to read 'Sam T. Minervino', written in a cursive style.

CITY OF PORTLAND
Permitting and Inspections Department

**Parklet Outdoor Dining
Supplemental Application**

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

☒ Legal Advertisement Deposit \$100.00
☐ 1 Parklet space \$3,000.00 ☒ 2 Parklet spaces \$5,000.00

Business Information	
Establishment Name (d/b/a):	Tomase's Canteen Phone: 207 536 1285
Location Address:	18 Hampshire St. Portland ME 04101 Zip:
Mailing Address:	Same Zip:
Contact Person:	Samuel T. Minervino Phone: 207 776 1015
Contact Person Email:	sminerv1@hotmail.com
Manager of Establishment:	Samuel T. Minervino Date of Birth: Phone: 207 776 1015
Owner of Premises (Landlord):	Ciccamancini + Sons
Address of Premises Owner (Landlord):	43 Walton St. Portland ME 04103 Zip:

Owner Information

Corporate Name		Corporate Mailing Address	
Tomase's Canteen Inc		18 Hampshire St. Portland ME 04101 Zip:	
Contact Person:	Samuel T. Minervino	Phone:	207 776 1015
Principal Officers	Title	Date of Birth	Residence Address
Samuel Minervino	Pres.	7-3-57	31 Oakley St. Portland ME
Robert Minervino	VP	2-14-62	29 Walton St. Portland ME

About Your Establishment

Class of License:	X 1
Type of food served:	Pub style + Full menu
Please circle all that will be served:	(Beer) (Wine) (Liquor)
Hours & days of operation:	Mon-Thurs Fri 11AM to 1AM / Sat + Sun 10AM to 1AM
Number of Tables	8
Number of Chairs	50

Parklet Regulations

Pursuant to Chapter 25 of the City's Code of Ordinances, a permit is required for expanding food service to the outside of all properties. Outdoor dining permits for parking and other alternative public spaces will be issued under Chapter 25 and these regulations pursuant to the following requirements:

- Any food service operation located on City property pursuant to a permit issued hereunder must comply with state and local laws with respect to service of food and/or alcohol;
- For any outdoor dining operation located in a public parking space, the permit holder shall construct a platform, on which tables and chairs will sit. The platform must be built of durable, slip resistant materials such as composite plastic or construction-grade lumber. This platform may remain for the entire outdoor dining season (April 15-November 1) but must be removed upon conclusion;
- Any space occupied hereunder must be laid out in such a way that it complies with the requirements of the Americans with Disabilities Act. Including 5% of handicap seating. The required platform must be flush with any abutting sidewalk.
- Any movable items on the outdoor dining area must be secured against wind and theft and locked or removed when the business is closed.
- Any outdoor dining spaces permitted hereunder must be located immediately in front of the business. Where parking spaces are not striped (such as in multi-space meter areas) the location of any outdoor dining space must be located to minimize loss of effective parking spaces
- Only 2 hour metered parking spots can be utilized. Parking spot size is 8 feet by 20 feet.
- Any outdoor dining space must provide railings or other substantive barriers along the edges to protect patrons;
- Wheel stops satisfactory to the Permitting & Inspections Director must be placed at the front and rear sides of the outdoor dining platform, no less than 4 feet from the edges of the platform. In addition, flexible bollards shall be provided at the corners of the platform.
- Construction of the platform must allow water runoff to easily flow under platform;
- No attachments to the pavement or curbing are permitted;
- No covers are permitted over the outdoor dining space other than umbrellas;
- No advertising other than labels identifying the business is permitted on the outdoor dining space;
- No outdoor dining space in the vehicular right of way is permitted within 15' of an intersection;
- No outdoor dining space will be permitted within the vehicular right of way on a high traffic street, as determined by Public Works. Generally, these streets have a speed limit of over 25 miles per hour, a traffic volume of over 5,000 AADT, or a functional classification of Arterial or above;
- No outdoor dining space will be permitted on a street that does not have 12' clear in the middle after all parking and platforms are accounted for; and
- In any street that is entirely closed to traffic at certain times of the day, the street may be used for outdoor dining subject to relevant requirements listed above, adjusting for the unique condition of an entirely closed street.
- Street Closures include: Wharf Street, Dana Street, and Milk Street (between Exchange and Market only)
- After 4/15, Middle Street will go back to normal and the businesses will need to apply for a regular Parklet

Barriers

- Shall not include commercial signage.

Maintenance and Operations

- 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.



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 *L.P.T. [Signature]* Title OWNER Date 2-5-22

For Administrative Use Only

Fire: _____

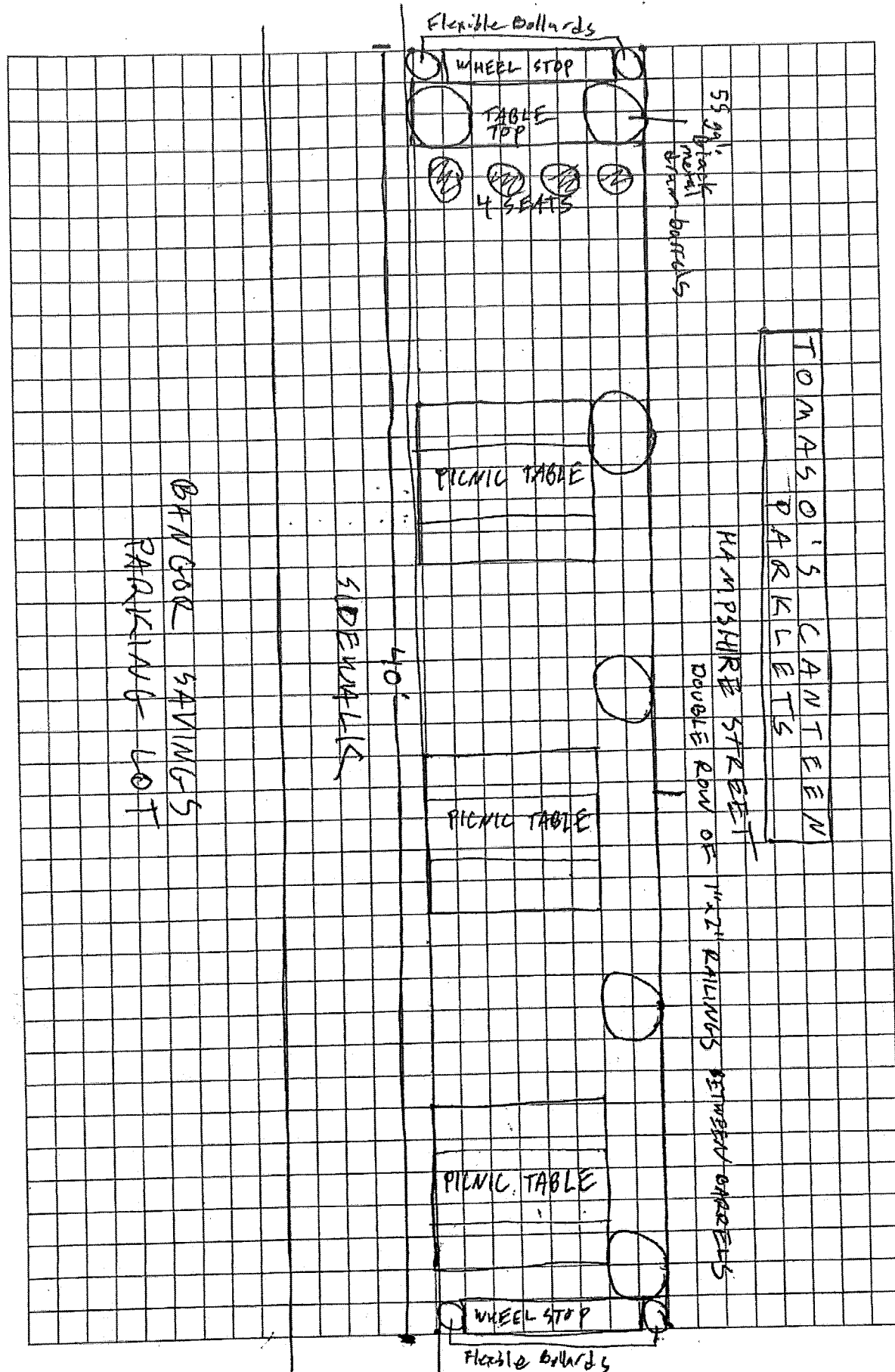
Health: _____

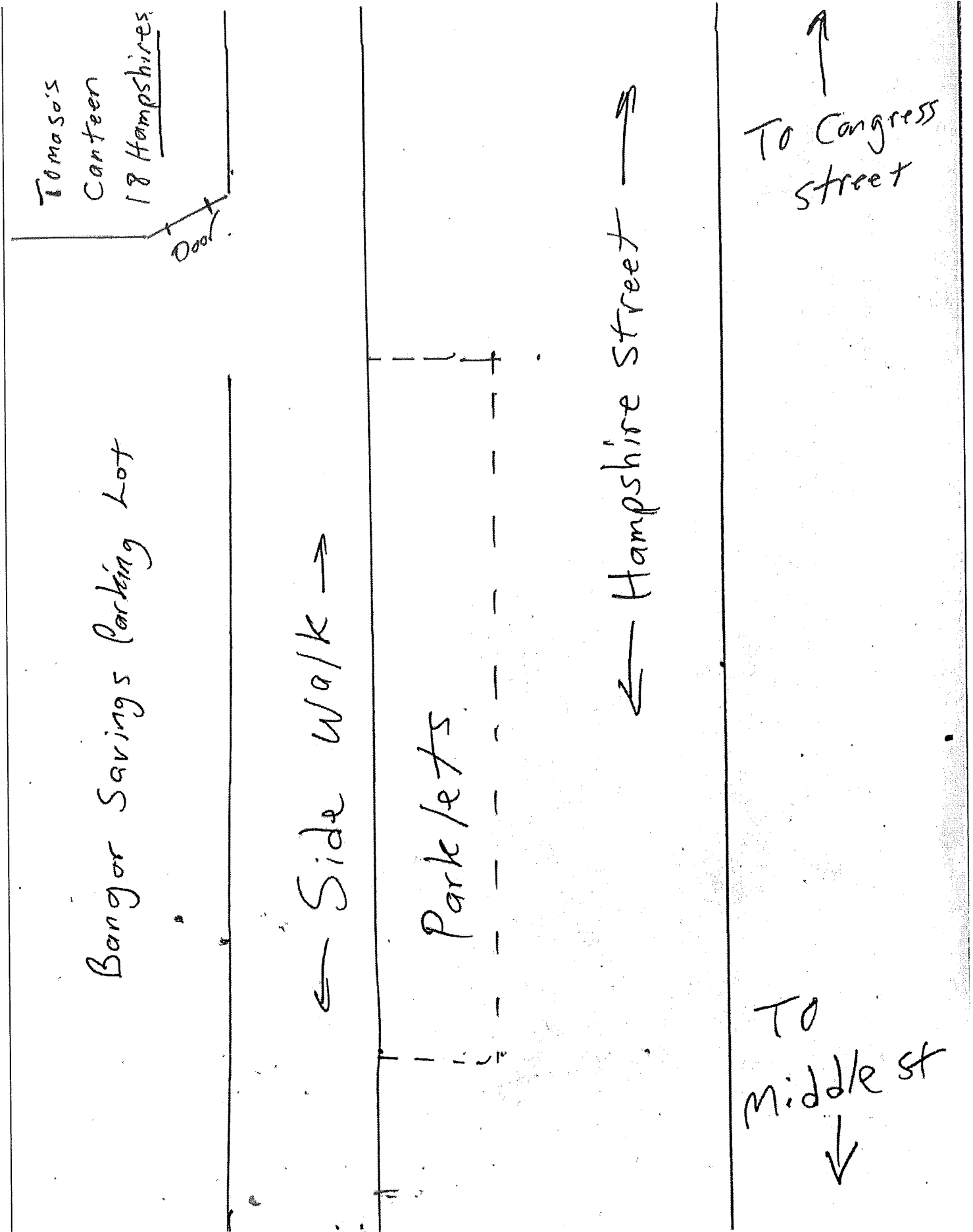
Parking: _____

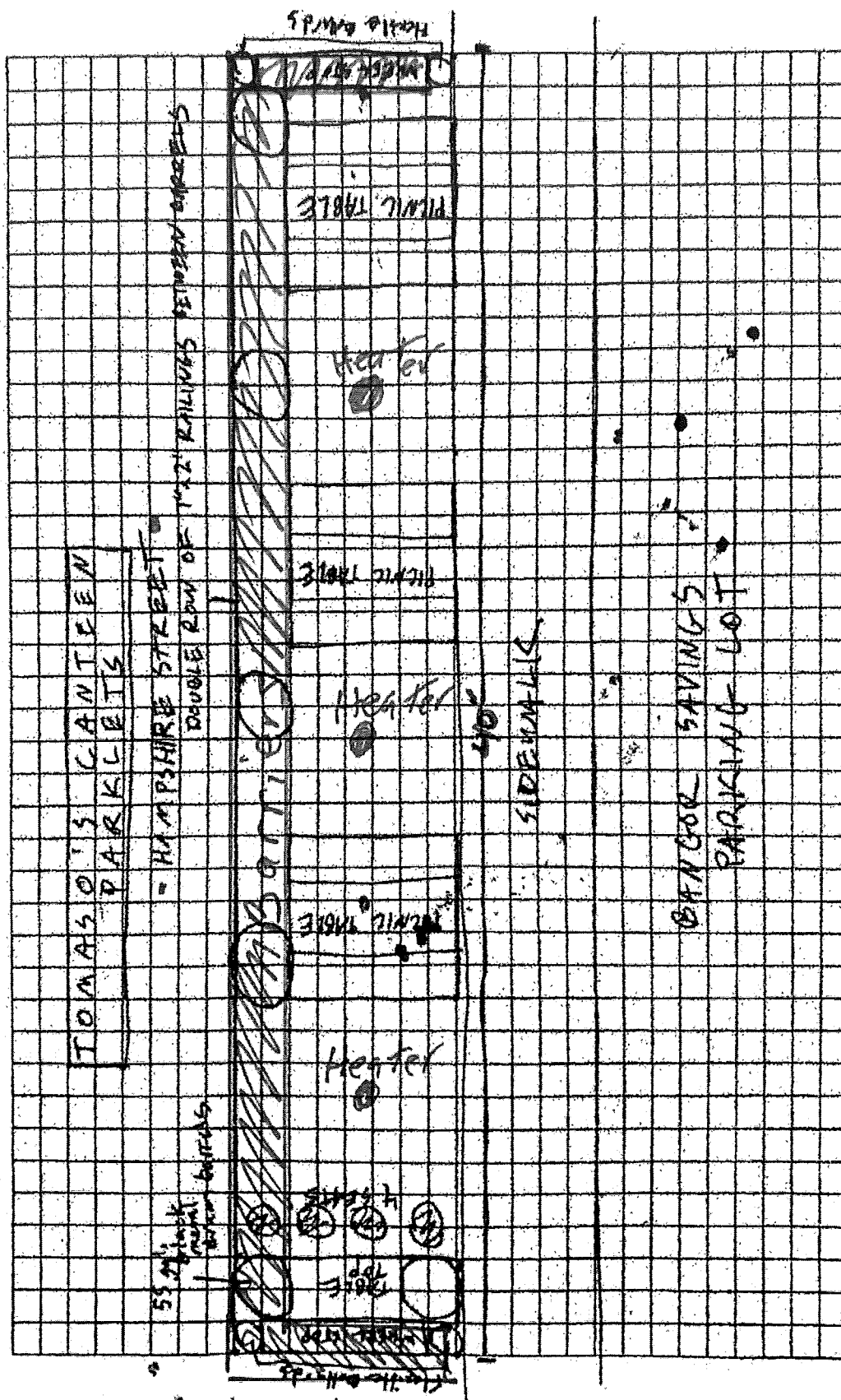
Permitting: _____

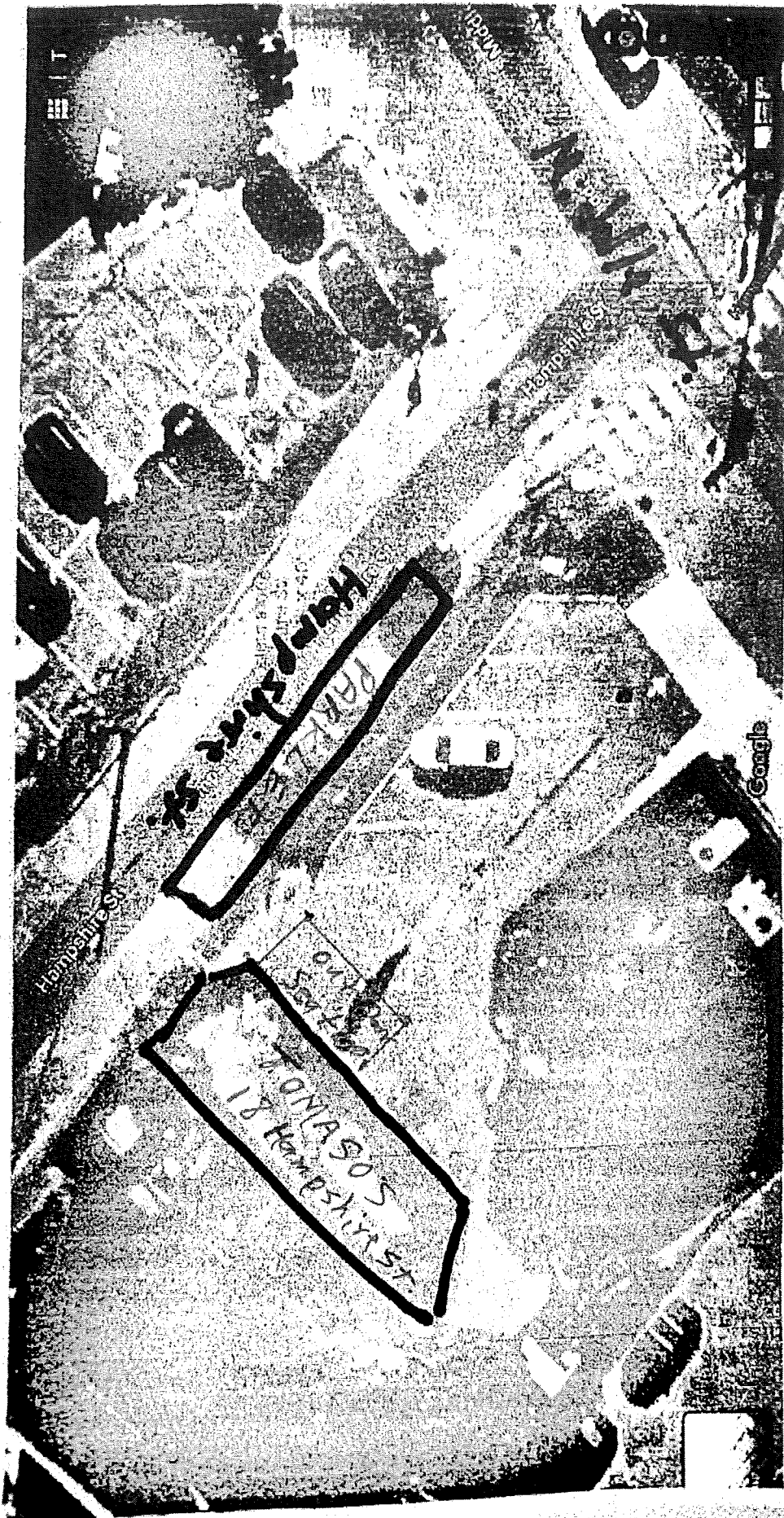
Police: _____

Treasury: _____











Zachary Lenhart <zlenhart@portlandmaine.gov>

Tomaso's Canteen

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

Sun, Feb 20, 2022 at 6:32 PM

Approved

On Thu, Feb 17, 2022 at 1:44 PM Zachary Lenhart <zlenhart@portlandmaine.gov> wrote:
[Quoted text hidden]

--

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

Tomasso's Canteen

Zoning <zoning@portlandmaine.gov>

Tue, Feb 22, 2022 at 3:23 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: Treasury Division <treasury@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, cstacey <cstacey@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>, Ron Kelton <rkelton@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, John Peverada <jbp@portlandmaine.gov>, Jeremiah Bartlett <jbartlett@portlandmaine.gov>, Zachary Lenhart <zlenhart@portlandmaine.gov>

Zoning approves this.

Thanks,
Jon

[Quoted text hidden]



CITY OF PORTLAND
Permitting and Inspections Department

February 17, 2022

Tomasso's Canteen Inc
18 Hampshire Street
Portland, ME 04101

Re: Tomasso's Canteen Inc, dba Tomasso's Canteen. Application for Parklet Outdoor Dining at 18 Hampshire Street

Dear Tomasso's Canteen Inc:

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 7, 2022 at 5:00 p.m.**, for the review of application for Parklet Outdoor Dining at 18 Hampshire 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 March 4, 2022.

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 at bl@portlandmaine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Z Lenhart".

Zachary J. Lenhart
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 7, 2022 at 5:00 P.M., virtually, Tomaso's Canteen Inc, dba Tomaso's Canteen. Application for Parklet Outdoor Dining at 18 Hampshire Street - Sponsored by Danielle West, Interim City Manager

City of Portland | Executive Department

Danielle West, *Interim City Manager*



To: Mayor Snyder and Members of the Portland City Council

From: Danielle West, Interim City Manager

Date: March 3, 2022

Re: In-Person/Hybrid Meeting Update

This memo is intended to provide an update and recommendation on returning to in-person City Council meetings.

We understand and appreciate the Council's desire to get back together in-person at meetings with the ability to also have remote participation available (so-called "hybrid meetings"). This, however, is a complicated undertaking to achieve due to technology and infrastructure issues described in more detail below, and the number of Council committees and other boards that would also like to conduct hybrid meetings.

As you are aware, we recently purchased new technology equipment to overhaul our broadcast booth in Council Chambers and overflow spaces in City Hall so we can seamlessly support hybrid meetings. This equipment is on its way, but due to supply chain issues delivery is expected to take up to five (5) months.

Ideally, we would wait for this equipment to be in place so that we can ensure the best remote participation experience since we know that remote participation has been extremely effective in allowing the public to engage in our public proceedings in the safest way possible. Anecdotally, we have also received feedback from many members of the public that remote meetings have made it easier for them to participate in their government. The usual challenges many people face in attending an in-person meeting – access to child care, travel, parking, long work days, and physical limitations – are no longer an issue with meetings that offer remote participation. Remote participation has also offered Councilors and other board and committee members the ability to participate in meetings that they would have otherwise had to miss due to similar restrictions.

Despite the above complications, staff has determined that a temporary solution may be available that would allow hybrid meetings before the new equipment arrives. A full trial-run of this solution at a scheduled Council meeting, however, is needed in order to fully test its workability. If the test is successful, staff would then determine and test the equipment's capacity and ability to support additional hybrid meetings for other boards and committees. Staff recommends doing the trial-run at the March 21, 2022 Council meeting. Thereafter, we will draft and provide the Council with an update regarding the plan and timeline moving forward for hybrid meetings (for the Council and all other boards and committees), as well as the specifics regarding public access to all City buildings.

Resolution Expressing Solidarity with Ukraine and Denouncing Russian Acts of Aggression

WHEREAS, on February 24, 2022, Russian forces invaded neighboring Ukraine, a sovereign, democratic nation and NATO member, with civilian loss of life estimated at 382 deaths as of March 1, 2022; and

WHEREAS, the Portland City Council stands in solidarity with the people of Ukraine in the face of this unprovoked assault on their country, freedom and lives, as well as Ukrainian Americans who have made Portland their home; and

WHEREAS, the Portland City Council supports the aggressive sanctions by the Biden Administration and the United States Allies to hold Russia and President Vladimir Putin accountable for their actions in Ukraine, and to provide humanitarian assistance to the Ukrainian people fighting for their lives and their democratic institutions; and

WHEREAS, governments around the world have expressed deep concerns about Russia's unprovoked military action, which occurred without the support of the United Nations Security Council, and we, the Portland City Council join those across the world protesting against Russian aggression and in support of the Ukrainian people; and

WHEREAS, the Portland City Council wishes for a swift end to this conflict, and mourns the needless loss of lives to Russia's acts of aggression.

NOW, THEREFORE, BE IT RESOLVED, that I, Kate Snyder, Mayor of the City of Portland, Maine and members of the City Council do hereby proclaim solidarity with the people of Ukraine as they fight for freedom and against Russia's unconscionable attack on their country, their homes, and their institutions as well as on democracy, and commend them for their bravery and perseverance in the face of this terrible war.

Signed and sealed this 7th day of March, 2022

Kate Snyder, Mayor
City of Portland

Order 89-21/22

Motion to postpone to February 7, 2022: 8-0 on 11/15/2021

Motion to postpone to March 7, 2022: 8-1 (Fournier) on February 7, 2022

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 PORTLAND CITY CODE
CHAPTER 18**

Re: BEDFORD PARK RENAMED NOYES PARK

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

- 1. That Section 18-11 of the Portland City Code is hereby amended to read as follows:*

Sec. 18-11. Parks and Public Grounds Dedicated. The following parks and public grounds are hereby subject to the provisions within this Article:

Andrews Square;
Back Cove Park and Trail;
Barrow's Park/Baxter Sundial;
Bayside Park/Stone Street Playground;
Bayside Trail;
Baxter Pines;
Baxter Woods;
~~Bedford-Noyes~~ Park;
Bell Buoy Park;
Belmeade Park;
Boothby Square;
Boyd Street Gardens;
Bramhall Square;
Capisic Pond Park;
Caldwell Square;
Clark Street Park;
Congress Square (specifically the remaining 1/3 of Congress Square);
Clark Street Playground;
Deering Oaks Park;
Dougherty Field;
Eastern Promenade Park(including East End Beach and Trail);

Fessenden Park;
 Fort Allen Park;
 Fort Gorges;
 Fort Sumner Park;
 Fox Field/Kennedy Park;
 Harborview View and Tate-Tyng Park and Playground;
 Heseltine Park;
 Lincoln Park;
 Longfellow Park;
 Longfellow Square;
 Lobsterman Park;
 Marada Adams Playground;
 Martin's Point Park;
 Monument Square;
 Munjoy South Playground;
 Nason's Corner Park;
 Payson Park;
 Peppermint Park;
 Pedro Field;
 Pleasant Street Park and Playground;
 Post Office Park;
 Quaker Park;
 Riverside Golf Course;
 Riverton Trolley Park;
 South Street Playground;
 Stroudwater Park (Waldo Street and Westbrook Street);
 Taylor Street Park;
 Tommy's Park;
 Trinity Park;
 Western Promenade Park; and
 Winslow Park.

BE IT FURTHER ORDERED, that the following list in an Editor's Note in Chapter 18 shall be amended to read as follow:

ORDERED, that the following parks and public grounds shall be subject to the permitting requirements of Section 18-40 of the Portland City Code:

Back Cove Park
 Baxter Woods
 Bayside Park
~~Bedford-Noyes~~ Park
 Bell Buoy Park
 Belmeade Park
 Boothby Square

Lobsterman Park
 Longfellow Square
 Marginal Way Field
 Monument Square
 Payson Park
 Pleasant Street Park
 Post Office Park

Capisic Pond Park
Congress Square
Deering Oaks Park
Dougherty Field

Eastern Promenade
Fessenden Park
Fort Allen Park
Fort Sumner Park
Ganley Plaza
Harbor View Park
Lincoln Park

Presumpscot Park
Public school facilities and
grounds
Subject to agreement with the
Portland School Dept.
Riverton Park
Stroudwater Park
Tommy's Park
Western Promenade

TO: Mayor Kate Snyder and Members of the City Council
FROM: Ethan Hipple, Director of Parks, Recreation & Facilities
SUBJECT: Update on Name Change for Bedford Park (From Bedford Park to Noyes Park)
DATE: 2/3/22

Staff had previously brought forward a proposal to rename Bedford Park as Noyes Park. That was presented to City Council on November 1, 2021 and after discussion, Council postponed the item until Feb 7, 2022.

When the park was created in the 1920's, it is well documented that it was named Noyes Park. During the 1950's the park started to be called Bedford Park, but it has been determined through research of City records that the name change was accidental. In 2021, the Noyes family requested that the City change the name back to Noyes Park. During discussion of that proposal, Council members had requested more information on the Battle of Deering Oaks, which took place in multiple locations in Portland, on land that is currently Deering Oaks Park, University of Southern Maine, and I-295 and possibly Bedford/Noyes Park.

Staff reached out to several local historians and Indigenous leaders and scholars to inquire whether the land in question (Bedford Park) was indeed where the battle was fought, and what happened on the land now known as Bedford Park. Historians and experts that staff spoke to include Darren Ranco (Chair of the Native American Studies Program at UMaine), Herb Adams (local historian and history professor at Southern Maine Community College), and Fiona Hopper (Wabanki Studies Coordinator for Portland Public Schools). In turn, they recommended numerous articles and publications on the subject. A brief reading list they recommended:

- [“Our Beloved Kin: A New History of King Philip's War”](#) by Lisa Brooks
- Companion website to “Our Beloved Kin” <https://ourbelovedkin.com/awikhigan/index>
- 1989 Maine Sunday Telegram Article by Herb Adams
- [Bangor Daily News video](#) by Troy Bennett
- [Maps and Slide Presentation](#) available at Osher Map Library, USM
- “Bold Vision”, The Development of the Parks of Portland, Maine

Multiple sources confirmed that the Battle of Deering Oaks was fought in the general area of what is now Deering Oaks, USM, and Bedford Park, as well as other locations throughout Portland, including Fort Loyal (India St), Back Cove, and Munjoy Hill.

Over the past several years, staff have been working with the Parks Commission and various Indigenous contributors to gather information that can be used to share the Indigenous history of the

area, including the history of the Battle of Deering Oaks. Through a system of interpretive signage similar to what exists in many Portland Parks already, the stories of indigenous settlement and use of these lands can be shared with the general park-visiting public. Numerous information gathering meetings have been held with Darren Ranco (Chair of Native American Studies, UMaine), Osher Map Library Staff, and Portland Public Schools Staff. This endeavor is well underway with the Parks Commission already, and work will continue, with interpretive signage installed likely sometime in 2023 once all information has been vetted by local Indigenous scholars and contributors. The opportunity exists to work with students of USM and the staff of the Osher Map Library as well.

In addition to signage, there are opportunities in high-profile locations for highlighting the Indigenous history and contributions to the Portland area with the naming of a park or other recreational facility.



MEMORANDUM

To: Mayor Kate Snyder and Members of the Portland City Council

From: Michael Goldman, Associate Corporation Counsel

Date: February 24, 2022

Subject: Order 89-21/22; Renaming of Bedford Park

SUMMARY

At the City Council meeting on February 7, 2022, the City Manager presented as Order 89-21/22 a request to change the name of Bedford Park to Noyes Park. In response to documents that City resident George Rheault submitted with his public comment on the order by email dated February 7, 2022, the City Council requested a memo from the Corporation Counsel's Office on any potential legal issues raised by the documents and the renaming of the park. It is important to note that the property at issue in the documents submitted by Mr. Rheault, which was a subdivision named "Bedford Park," is different property than the City's dedicated park that is also named "Bedford Park." For the reasons set forth in this memo, we believe that the Council, in its discretion, may rename the park known as Bedford Park or leave it as is.

DISCUSSION

The documents submitted by Mr. Rheault include a deed (Attachment A), a mortgage (Attachment B), and a subdivision plan (Attachment C), all of which concern certain land in a subdivision known as "Bedford Park," which is depicted on Attachment C as the land divided into lots and bordered by Deering Avenue, Bedford Street, Surrenden Street, and the Boston & Maine Railroad (that land is referred to in this memo as the "Subdivision"). By deed dated February 4, 1925 (Attachment A), members of the Noyes family sold most of the lots in the Subdivision to Thomas A. Sanders. In exchange for a \$35,000 loan from the Noyes family (presumably to help finance the development of the lots in the Subdivision), Mr. Sanders granted the Noyes family a mortgage on the Subdivision (Attachment B).

About three years later, the City purchased a parcel of land from members of the Noyes family for \$7,215.59, as set forth in a deed from the family to the City dated March 31, 1928 (Attachment D). The land conveyed by that deed is across Bedford Street from the Subdivision and is the

Feb 24, 2022

dedicated City park known as Bedford Park under Chapter 18 of the City Code (referred to in this memo as the “Park”) (see the diagram labelled Attachment E, which depicts the Park and the Subdivision). The Park consists of a roughly half-acre triangular parcel bounded by Bedford Street, Deering Avenue, and Brighton Avenue. The Park deed contains a restriction limiting the City’s use of the land “for park purposes or for the purpose of widening the streets bordering thereon,” and the deed includes a reverter clause that allows the heirs of Edward Deering Noyes to repurchase the land for the purchase price if the City uses the land for other than park or street widening purposes. The City’s use of the Park is consistent with the restrictions contained in the deed, so the Noyes family does not have a right to repurchase the Park at this time. The Park deed does not reserve to the Noyes family any right to name the Park, and it does not require the City to name the Park anything in particular. As explained above, the Subdivision documents affect land across the street from the Park, and do not have any impact on the Park or its name.

As set forth in the Ethan Hipple’s October 22, 2021 memo to you, beginning in the 1920s, the Park was known as Noyes Park, until sometime in the 1950s, when it became known as Bedford Park. Heirs of the Noyes family have approached the City with a request to change the name of the Park back to Noyes Park. There are no known Council orders or other actions addressing the name of the Park, other than the Council’s April 28, 2014 order approving amendments to Chapter 18 of the Portland City Code (Order 203-13/14) (Attachment F), which added, among other things, the list of dedicated parks in section 18-11. With that said, nothing in Chapter 18, or any other section of the City Code, for that matter, addresses the naming of City parks. It is worth noting, however, that Portland City Code section 25-81 does provide that City Council approval is required for changing the names of “the several streets and ways, whether public or private, of the city.” Although this language does not apply specifically to parks, it supports the notion that, unless otherwise prohibited, the City Council has discretion to change the names of parks and other public places. I am unaware of any legal requirement in Maine law that states otherwise.

CONCLUSIONS

Based on my review of the City’s deed to the Park, the Subdivision documents, and the City Code, it is my opinion that there is nothing that prohibits the City Council from changing the name of Bedford Park, and there is nothing that requires it to do so. It is a decision that is within the discretion of the City Council. Please let me know if you have any questions or further concerns about the matters addressed in this memo.

Know all Men by these Presents, That

We, Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes, all of Portland in the State of Maine,

in consideration of one dollar and other valuable considerations
Thomas A. Sanders of said Portland,

paid by

the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said

Thomas A. Sanders, his heirs and assigns forever, a certain tract of land in said Portland, heretofore known as Bedford Park, with the exceptions and reservations hereinafter noted, said tract being bounded on the north by Bedford Street, on the east by Surrenden Street, on the south by land and tracks of the Portland Terminal Company and on the West by Deering Avenue, said tract being shown on the plan of Bedford Park, Portland, Maine, made by E. C. Jordan & Co., Civil Engineers, and to be recorded in the Cumberland County Registry of Deeds; together with all our right, title and interest in and to the southerly half of Bedford Street and the westerly half of Surrenden Street and in the sewers therein, and in the land within the limits of Chamberlain Street and Washburn Avenue as laid out on said tract, and in the sewers therein, and also whatever right, title and reversionary interest we have in the land along the southerly boundary of said tract and now occupied by the Portland Terminal Company. Excepting and reserving from this conveyance the lots of land included in said tract heretofore conveyed to Charles S. Lord, William S. Wood, Otis J. Sproul, Maurice W. Pines and Catherine F. Lappin by five (5) certain deeds respectively recorded in said Cumberland Registry of Deeds in Book 1028, Page 129, Book 1071, Page 430, Book 1081, Page 416, Book 1131, Page 118, Book 1133, Page 83, to which reference is hereby directed.

Subject, however, so far as the tract hereby conveyed is affected thereby, to the conditions and restrictions contained in the respective conveyances to Lord, Wood, Sproul, Pines and Lappin above mentioned.

U.S.I....

\$47.00

2/4/25

To Have and to hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Thomas A. Sanders, his heirs and assigns, to his and their use and behoof forever. And we do covenant with the said grantee, his heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all incumbrances; except as aforesaid;

that we have good right to sell and convey the same to the said grantee to hold as aforesaid; and that we and our heirs, shall and will warrant and defend the same to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, we the said Edward Deering Noyes, a widower, Ilsley Noyes, unmarried, George F. Noyes and Wadsworth Noyes and May M. Noyes and Mabel F. Noyes, wives respectively, of the said George F. Noyes and Wadsworth Noyes, joining in this deed as grantors and relinquishing and conveying our rights by descent and all other rights in the above described premises have hereunto set our hand and seal this fourth day of February in the year of our Lord

one thousand nine hundred and twenty-five.

Signed, Sealed and Delivered
in presence of

Nelson C. Richardson to
Florence H. Hooper to I.N. and G.F.N.

Edward Deering Noyes
Ilsley Noyes
George F. Noyes
Wadsworth Noyes
May M. Noyes
Mabel F. Noyes

Seal
Seal
Seal
Seal
Seal
Seal

Annie Barden to
Clara Giles to
Annie Barden to

State of Maine, CUMBERLAND, SS. Portland, February 4th, 1925.

Personally appeared

the above named George F. Noyes

and acknowledged the above instrument to be his free act and deed.

Before me, Gertrude E. Berry, Notary Public,
Notarial Seal

Justices of the Peace.

Received February 6, 1925, at 1 o'clock - m. P. M., and recorded according to the original.

I, Thomas A. Sanders, of Portland in the State of Maine,

in consideration of Thirty-five thousand dollars (\$35,000.00)

Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes, all of said Portland,

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes, their heirs and assigns forever.

A certain tract of land in said Portland, heretofore known as Bedford Park, with the exceptions and reservations hereinafter noted, said tract being bounded on the North by Bedford Street, on the East by Surrenden Street, on the South by land and tracks of the Portland Terminal Company and on the West by Deering Avenue, said tract being shown on the plan of Bedford Park, Portland, Maine, made by E.C. Jordan & Co., Civil Engineers, and to be recorded in the Cumberland County Registry of Deeds; together with all my right, title and interest in and to the Southerly half of Bedford Street and the Westerly half of Surrenden Street and in the sewers therein, and in the land within the limits of Chamberlain Street and Washburn Avenue as laid out on said tract, and in the sewers therein, and also whatever right, title and reversionary interest I have in the land along the Southerly boundary of said tract and now occupied by the Portland Terminal Company. Excepting and reserving from this conveyance the lots of land included in said tract heretofore conveyed to Charles S. Lord, William S. Wood, Otis J. Sproul, Maurice W. Pines and Catherine F. Lappin by five (5) certain deeds respectively recorded in said Cumberland Registry of Deeds in Book 1028, Page 129, Book 1071, Page 430, Book 1081, Page 416, Book 1131, Page 118, Book 1133, Page 83, to which reference is hereby directed. Subject, however, so far as the tract hereby conveyed is affected thereby, to the conditions and restrictions contained in the respective conveyances to Lord, Wood, Sproul, Pines and Lappin above mentioned.

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes, their heirs and assigns, to their use and behoof forever. And I do covenant with the said Grantees, their heirs and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances; except as foresaid

that I have good right to sell and convey the same to the said Grantees to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantees, their heirs and assigns forever, against the lawful claims and demands of all persons.

Provided Nevertheless, that if the said Thomas A. Sanders, his heirs, executors, or administrators, pay to the said Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes, their heirs, executors, administrators, or assigns, the sum of Thirty-five thousand dollars (\$35,000.00) in annual instalments within and during each year from the date hereof of not less than Seven thousand dollars (\$7,000.00) with interest at the rate hereinafter mentioned, and the whole within five (5) years from the day of the date hereof, with interest on said sum at the rate of five (5) per centum per annum, during said term and for such further time as said principal sum or any part thereof shall remain unpaid payable semi-annually and shall pay all taxes and assessments on said premises,

then this deed, as also a certain promissory note bearing even date with these presents, given by the said Thomas A. Sanders to the said Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes to pay the sum and interest at the time aforesaid, shall be void, otherwise shall remain in full force.

In Witness Whereof, I, the said Thomas A. Sanders and I, Marjorie B. Sanders, wife of the said Thomas A. Sanders, joining in this deed as Grantor, and relinquishing and conveying my rights by descent and all my other rights in the above described premises have hereunto set our hands and seal this sixth day of February in the year of our Lord one thousand nine hundred and twenty-five.

Signed, Sealed and Delivered in presence of
The words "and shall pay all taxes and assessments on said premises" inserted above the fourth line on this page prior to execution E. C. Keith to both

Thomas A. Sanders Seal

Marjorie B. Sanders Seal

STATE OF MAINE.

Cumberland, ss. Portland, February 6th,
Thomas A. Sanders

192 5. Personally appeared the above-named

and acknowledged the above instrument to be his free act and deed. Before me,

Edith C. Keith

Justice of the Peace.

RECEIVED February 6,

192 5, at 1 o'clock m. P. M., and recorded according to the original.

Quitclaim

Book 1198

Page 51

Quitclaim

Book 1198

Page 163

Quitclaim

Book 1208

Page 56

Quitclaim

Book 1212

Page 275

Quitclaim

Book 1212

Page 345

Quitclaim

Book 1228

Page 196

Quitclaim

Book 1240

Page 447

Assignment

Book 1248

Page 326

Quitclaim

Book 1248

Page 329

Quitclaim

Book 1259

Page 5

Quitclaim

Book 1263

Page 396

Quitclaim

Book 1271

Page 156

Quitclaim

Book 1271

Page 277

Quitclaim

Book 1278

Page 131

Quitclaim

Book 1287

Page 85

Quitclaim

Book 1308

Page 423

Quitclaim

Book 1327

Page 277

Quitclaim

Book 1336

Page 118

Quitclaim

Book 1336

Page 118

FEB 6 1930

Notary Public
I hereby acknowledge and the same is hereby cancelled and discharged.
Witnesses: C. Wadsworth, C. Wadsworth, C. Wadsworth

Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Wadsworth Noyes

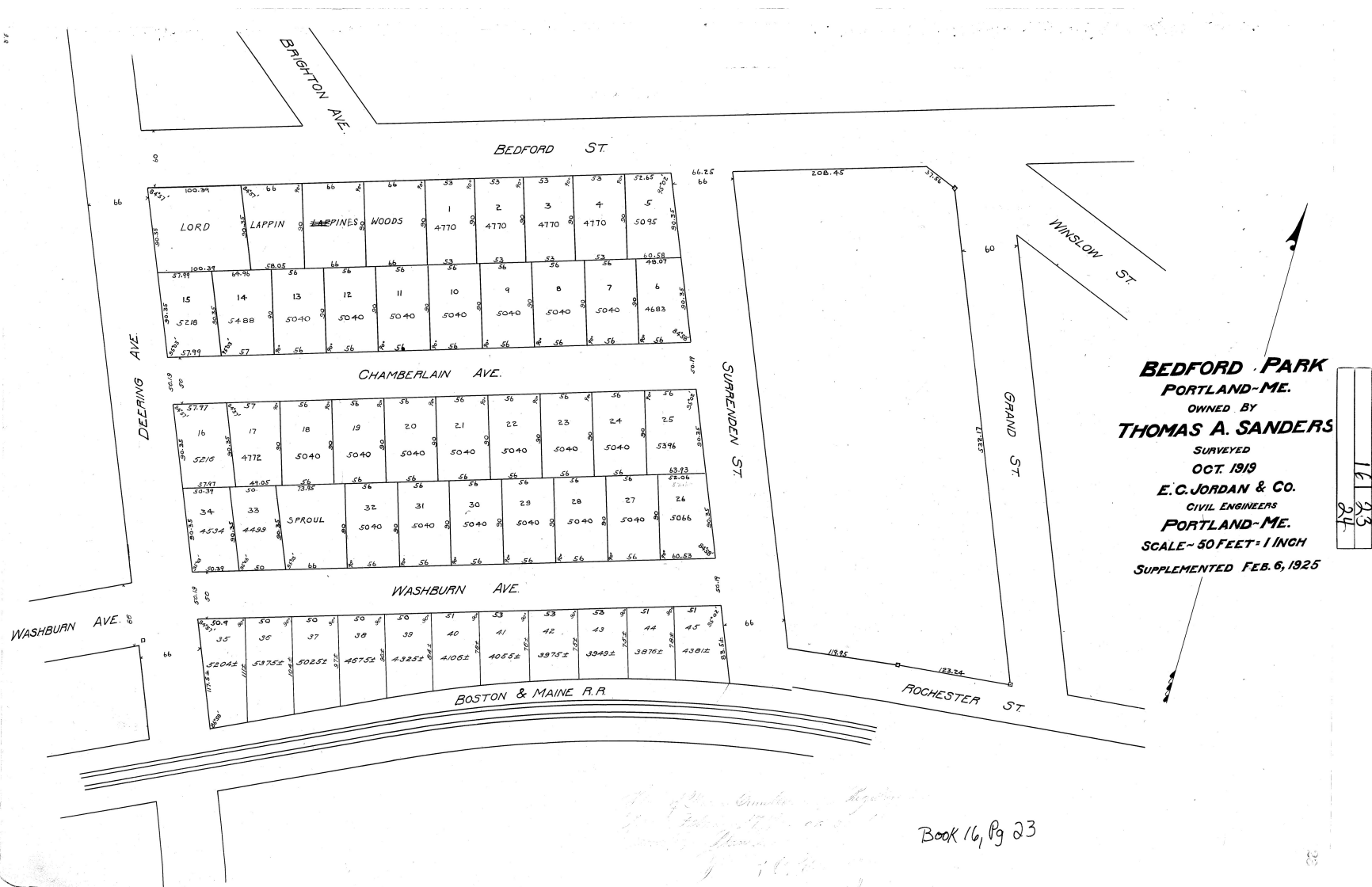
My Comm. Expires Dec. 31, 1930

My Comm. Expires Dec. 31, 1930

My Comm. Expires Dec. 31, 1930

My Comm. Expires Dec. 31, 1930

My Comm. Expires Dec. 31, 1930



Know all Men by these Presents, That

We, Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Mabel F. Noyes, widow of the late Wadsworth Noyes, all of Portland in the County of Cumberland and State of Maine,

in consideration of one dollar and other valuable considerations, paid by the City of Portland in said County and State,

the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said City of Portland, its successors and assigns, forever, all that certain triangular piece or parcel of land in said Portland situated on the North side of Bedford Street and bounded and described as follows, viz, Beginning at the corner formed by the intersection of the northerly line of Bedford Street with the easterly line of Deering Avenue, and thence running northeasterly and along said northerly line of Bedford Street to its point of intersection with the westerly line of Brighton Avenue; thence northwesterly and along said westerly line of Brighton Avenue to its point of intersection with said easterly line of Deering Avenue; and thence southeasterly and along said easterly line of Deering Avenue to said Northerly line of Bedford Street at the point or place of beginning, said parcel having an estimated area of 25,000 square feet, be the same more or less.

Subject, however, to the condition that said tract of land shall be used only for park purposes or for the purpose of widening the streets bordering thereon; and in the event said land is used for other purposes it is hereby covenanted and agreed by all the parties hereto that the same shall revert to Edward Deering Noyes, one of the grantors herein and the donor of the largest interest in said land, his heirs and assigns, to whom the other three grantors herein hereby remise and release all their right, title and interest in said reversion, he, the said Edward Deering Noyes, for himself, his heirs, executors, administrators and assigns, hereby covenanting and agreeing in the event of said reversion to repay to said City of Portland the sum of Seven thousand two hundred fifteen and 59/100 dollars (\$7,215.59), being the amount paid for said land by said city, but without any interest thereon.

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said City of Portland, its successors heirs and assigns, to its and their use and behoof forever. And we do covenant with the said Grantee, its successors heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all incumbrances; except as aforesaid, that we have good right to sell and convey the same to the said grantee to hold as aforesaid; and that we and our heirs, shall and will warrant and defend the same to the said Grantee, its successors heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, we, the said Edward Deering Noyes, a widower, Ilsley Noyes, unmarried, George F. Noyes, and Mabel F. Noyes, widow of the late Wadsworth Noyes, and I, May M. Noyes, wife of the said George F. Noyes, joining in this deed as Grantor and relinquishing and conveying my rights by descent and all other rights in the above described premises

have hereunto set our hands and seals this thirty-first day of March in the year of our Lord one thousand nine hundred and twenty-eight.

Signed, Sealed and Delivered in presence of

Gertrude E. Berry to all

Edward Deering Noyes Seal
Ilsley Noyes Seal
George F. Noyes Seal
Mabel F. Noyes Seal
May M. Noyes Seal

State of Maine, CUMBERLAND, ss. Portland, March 31, 1928. Personally appeared the above named Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Mabel F. Noyes, and each and acknowledged the above instrument to be their free act and deed.

Before me, Gertrude E. Berry, Notary Public *Justice of the Peace*.
Received April 2, 1928, at 10 o'clock 45 m. A. M., and recorded according to the original. Notarial Seal.

Bedford
Park

Bedford Park

Subdivision

BEDFORD PARK
PORTLAND-ME.
OWNED BY
THOMAS A. SANDERS
SURVEYED
OCT. 1919
E.C. JORDAN & CO.
CIVIL ENGINEERS
PORTLAND-ME.
SCALE-50 FEET=1 INCH
SUPPLEMENTED FEB. 6, 1925

Order 203-13/14

Passage: 7-2 (Donoghue, Marshall) on 4/28/2014

Effective 5/28/2014

MICHAEL F. BRENNAN, (MAYOR)
 KEVIN J. DONOGHUE (1)
 DAVID A. MARSHALL (2)
 EDWARD J. SUSLOVIC (3)
 CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
 JILL C. DUSON (A/L)
 JON HINCK (A/L)
 NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO CITY CODE CHAPTER 18
(PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS)
Re: Dedication and Protection of City Parks

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
 MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*1. That Chapter 18 (Parks, Recreation and Public
 Buildings and Grounds) is amended to read as follows:*

...

Art. IA. In General, §§ 18-1--18-~~15~~10

**Art. IB. Dedication of Parks and Public Grounds, §§ 18-11-
 18-15**

...

ARTICLE IA. IN GENERAL

...

Sec. 18-10. Parks Commission.

(a) Findings. The City Council hereby finds that:

(1) Several city parks and public grounds including, but not limited to, Deering Oaks, Eastern Promenade, Western Promenade, Baxter Woods, Baxter Pines, Riverside Golf Course, Payson Park and Stroudwater Park are already all protected by and through deed covenants and restrictions;

(2) The city's cemeteries are already protected by Chapter Seven (7) of the Portland City Code;

(3) The Land Bank has protected twenty-six (26) properties for conservation and preservation purposes;

(4) Therefore, in order to enhance these existing protections on the city's parks and public grounds, the city council hereby amends the city's parks

ordinance as follows:

(b) *Established.* There shall be a commission composed of thirteen (13) members which shall be known as "Parks Commission," hereinafter referred to as the "commission."

(cb) *Composition.* One (1) member of the city council, who is on the Transportation, Sustainability and EnergyHealth and Recreation Committee, shall be appointed annually by the city council. One (1) member representing Friends of Deering Oaks; one (1) member representing Friends of the Eastern Promenade; one (1) member representing Friends of Evergreen Cemetery; and one (1) member representing Portland Trails shall be appointed for three-year terms by the city council. SevenEight (78) members representing the public-at-large and one (1) member representing the Land Bank Commission shall be appointed for three-year terms by the city council. Such three-year terms shall be staggered so that no more than three (3) members representing the public-at-large are appointed in any one (1) year. All members shall serve until their successors are appointed, for a period, however, not to exceed sixty (60) days after expiration of the term. The commission may from time to time establish such subcommittees as it deems appropriate.

(de) *Duties.* The duties of the commission shall include:

- (1) Soliciting, encouraging and accepting private contributions to the city, in cash or in kind, whether by gift, trust, or subject to conditions; provided any gift in kind and that the form of any trust or conditions has been approved by the city council or is ratified by the city council;
- (2) Making recommendations to the city council as to the sale of dedicated parks and public grounds (as described in section 18-14 below) and disposition of trust funds held for parks, trails and open space;
- (3) Maintaining inventories of parks, trails and open space needs as it determines to be desirable;
- (4) Submitting an annual report to the city council regarding the state of the city's parks and

public grounds and making specific recommendations therein about suggested goals and improvements for the parks and public grounds;

(54) Encouraging educational programs, through the schools or otherwise, in forestry education or other relevant subjects it determines to be beneficial to the parks programs of the city;

(65) Undertaking such other activities as to enhance the parks, trails and open space programs of the city as it deems appropriate from time to time;
and-

(76) Conducting an annual meeting of all parks, trails and open space advocacy groups to discuss annual projects and to recommend goals and priorities for capital improvement projects to the city council.

ARTICLE IB. DEDICATION OF PARKS AND PUBLIC GROUNDS

Sec. 18-11. ~~Reserved.~~ Parks and Public Grounds Dedicated.
The following parks and public grounds are hereby subject to the provisions within this Article:

Andrews Square;

Back Cove Park and Trail;

Barrow's Park/Baxter Sundial;

Bayside ~~Park~~/Stone Street Playground;

Bayside Trail;

Baxter Pines;

Baxter Woods;

Bedford Park;

Bell Buoy Park;

Belmeade Park;

~~Boothby Square;~~

Boyd Street Gardens;

~~Bramhall Square;~~

Capisic Pond Park;

Caldwell Square;

Clark Street Park;

Congress Square (specifically the remaining 1/3 of Congress Square);

Clark Street Playground;

Deering Oaks Park;

Dougherty Field;

Eastern Promenade Park(including East End Beach and Trail);

Fessenden Park;

Fort Allen Park;

Fort Gorges;

Fort Sumner Park;

Fox Field/Kennedy Park;

Harborview View and Tate-Tyng Park and Playground;

Heseltine Park;

Lincoln Park;

Longfellow Park;

Longfellow Square;

Lobsterman Park;

Marada Adams Playground;

Martin's Point Park;

Monument Square;

Munjoy South Playground;

Nason's Corner Park;

Payson Park;

Peppermint Park;

Pedro Field;

Pleasant Street Park and Playground;

Post Office Park;

Quaker Park;

Riverside Golf Course;

Riverton Trolley Park;

South Street Playground;

Stroudwater Park (Waldo Street and Westbrook Street);

Taylor Street Park;

Tommy's Park;

Trinity Park;

Western Promenade Park; and

Winslow Park.

Sec. 18-12.—~~Reserved.~~ Use and Maintenance of Parks and Public Grounds. The City shall retain all parks and public grounds dedicated in section 18-11 predominantly in its, natural, scenic, open and/or intended condition. Notwithstanding the foregoing, this provision shall not prevent the City from the following:

(a) Improving or maintaining dedicated parks and public grounds in a manner consistent with the design of the park or public ground or approved master plan;

(b) Using dedicated parks or public grounds for any of the following:

- (1) Athletic contests;
- (2) Playgrounds and/or recreational structures;
- (3) Outdoor restaurant seating;
- (4) Outdoor markets;
- (5) Outdoor performance spaces or performances;
- (6) Signs and other advertising;
- (7) Food trucks or vendors; and/or
- (8) Festivals; or

(c) Granting permits, licenses or leases (no more than one (1) year or less in length) for the use, maintenance and/or improvement of dedicated parks or public grounds.

Sec. 18-13. ~~Reserved.~~ Inalienability of Parks and Public Grounds. Except as authorized in sections 18-12 and 18-14, dedicated parks and public grounds may not be removed from the list in section 18-11, or used, sold and/or permanently disposed of for non-recreational purposes.

Sec. 18-14. ~~Reserved.~~ Disposition of Parks and Public Grounds. Any request to a council committee or the city council to, add or remove a dedicated park or public ground from the list in section 18-11, sell or otherwise permanently dispose of a dedicated park or public ground for non-recreational purposes, or establish a use and/or improvement other than those listed in 18-12, shall be reviewed by the parks commission who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.

...

TO : All Concerned

RE: Noyes Park, Deering Avenue, Portland

7 SEPT. 2021

To All Concerned –

For almost the first half of the Twentieth Century, the half-acre triangle of land along Deering Ave. by Bedford Street was publicly known as “Noyes Park ,“ for the family that donated or sold the parcel to the City of Portland in 1927 .

The Noyes family were descendants of the Deering family, the pioneering old Falmouth-ites who built a magnificent federalist mansion in 1804 overlooking the 60-acre woodland that today bears their name as “Deering Oaks.“ They were a generous family to all the towns that moved around the boundaries of the communities that embraced their farm – Falmouth, Westbrook, Deering, and finally Portland.

As you can read in the PORTLAND CITY GUIDE (1940) the parcel # 5 (see attached map) is clearly designated as Noyes Park. The GUIDE was a long-researched project of the WPA (Works Progress Administration), a branch of the mid-depression New Deal employment program that put writers, photographers and artists to work on magisterial, comprehensive works about states and cities.

The WPA worked on the Portland version for several years before its long-awaited publication in 1940. It was considered accurate, authoritative and comprehensive.

I myself interviewed several of the very elderly folks who had worked on the WPA. They maintained pride in their productions to the very end.

Clearly what the City Guide says about Noyes Park is correct. Note that all other citations for parks of the same era (see pg. 290) – such as Fessenden Park (# 6) , Longfellow Park (# 7) and Trinity Square Park (#8) -- are accurate, accepted, and not in dispute as to date, size, and names.

Somehow, perhaps about 1950, as memories faded, the name of nearby Bedford St. was transferred over to the small triangle of Noyes Park. The magnificent, lamented Deering Mansion (see # 4) was demolished for the building of Luther Bonney Hall at University of Maine at Portland, today's USM. People forgot and time moved on.

Now is the time to right this wrong. New construction and a new era can also symbolize appreciation of old values and old gifts.

The magnificent Deering Mansion is gone ; its antiquarian contents scattered to the winds. The very last of the Noyes family, the last of the Deerings, today hold the last living memories of the family that gave our city so much.

I conclude this small corner of their world should bear their name again , and remind modern times of the generosity of so many like them that built the city we now enjoy.

What is in a name ? Why, plenty. It says as much about our times and what we value, as it does about their times, and what they gave.

Mr. Bedford has his street name. There is every reason to return the Noyes name to their park, however small, and be proud that we have remembered, and have done the right thing.

Please feel free to contact me for further conversation and research if needed.

Sincerely,



Adjunct Professor History
and Social Science
Southern Maine Community College
2 Fort Road
South Portland, ME 04106
hadams@smccme.edu

AMERICAN GUIDE SERIES

PORTLAND CITY GUIDE

*Compiled by workers of the Writers' Program
of the Work Projects Administration
in the State of Maine*

Illustrated

Sponsored by the City of Portland

THE FOREST CITY PRINTING COMPANY

1940

WOODFORDS SECTION

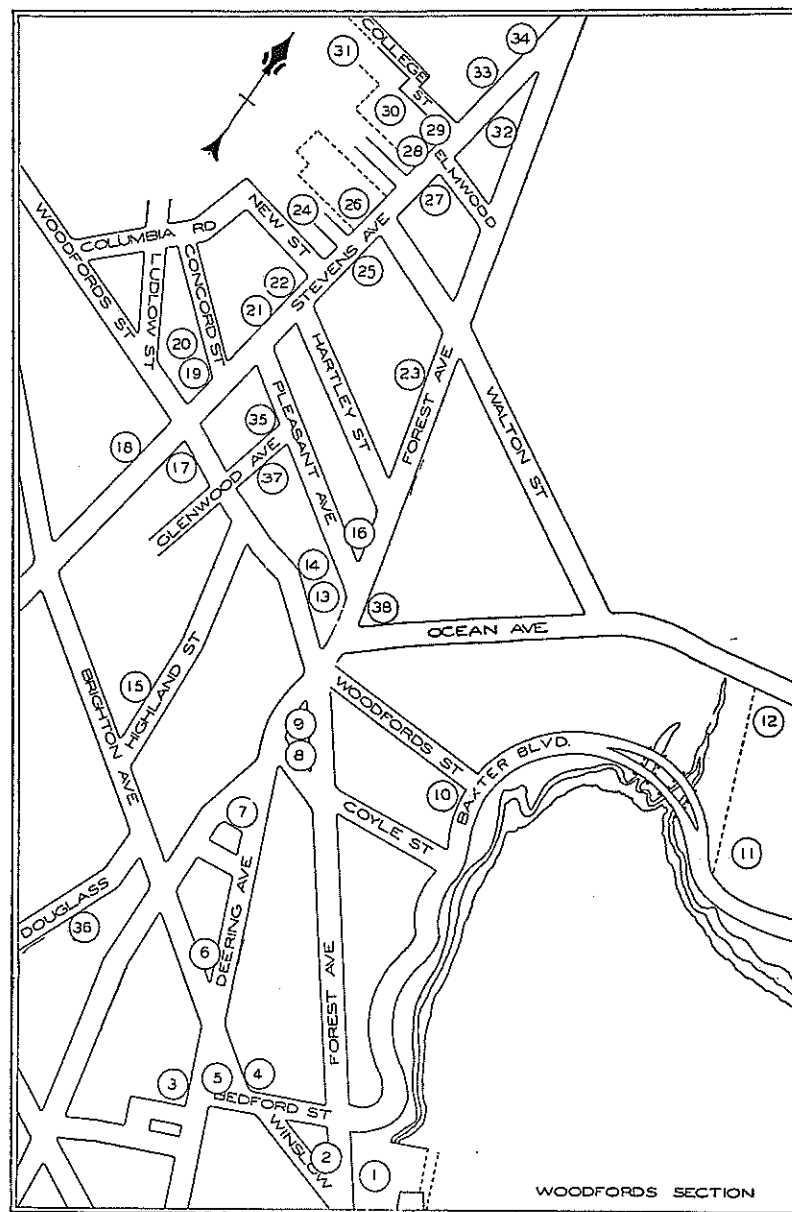
The part of the city known today as Woodfords was virgin forest long after 'The Neck' had become a bustling port. With the withdrawal of hostile Indians farther west settlers straggled in, but it was not until after the Revolution that inhabitants of Stevens Plains, named for an extensive landowner, took up their peacetime trade of smithing and making tinware. A flourishing settlement then grew up, and craftsmen in tin and pewter made this section famous. Fine homes were built, and genial hosts entertained their guests in a lavish manner. A fire destroyed the tin shops in 1842, and the industry was never rebuilt. When the Maine Central Railroad ran its tracks through Woodfords and built a station there, many travelers preferred to leave the train at this junction and come in to Portland on the new horsecars. Stevens Plains, according to Edward Elwell in *Portland and Vicinity*, were: "the scene of 'General Musters,' where the 'old militia' disported themselves in gorgeous uniforms, and engaged in sham fights involving a great waste of gun-powder, though no loss of blood." After the disastrous fire of 1866 Portland residents began to build their homes in this less congested city of Deering which became a part of Portland in 1899. Woodfords, once famous for tinware and horn combs, is a section of comfortable homes with a shopping center at the "Corner."

1. *Winslow & Company*, 253 Forest Ave., known to early Portlanders as the Old Pottery, is the only plant of its kind in New England and is claimed to be the largest east of Ohio. Originally the Portland Stoneware Company established in 1846 by John T. Winslow (1820-96), the plant for many years produced crocks, jars, and ornamental stoneware. In 1870, however, the pottery started mass production of more utilitarian objects and today produces digester brick, tile pipe, wind guards, flue linings, and chimney tops. About one-third of the clay used in the pottery is obtained from the clay bank lying between Forest Avenue and Tukey's Bridge and the remainder is imported.

2. *Winslow Park*, Forest Ave. and Winslow St., a small triangular plot of .19 acres, was one of the first neighborhood parks established under the Portland Park System. It is named for Edward B. Winslow (1846-1936),

Woodfords Section

289



a local merchant, who for many years was president of the Old Pottery (see above).

3. *The Lafayette Restorator*, 25 Granite St., was built prior to 1760 as the home of Joshua Freeman (1730-70), brother-in-law of Dr. Samuel Deane of the First Parish Church. In 1775 Dr. Deane and his wife fled from the less protected area of 'The Neck' to this house to escape the bombardment of the town by Captain Henry Mowat (see *History*). Originally of two stories, a third floor was added to the frame building in recent years. During the early 1800's it was an inn known as the Lafayette Restorator. The original main entrance with its fine fanlight doorway and a portico with four large Doric pillars supporting a pediment, remain.

4. *The Deering Mansion*, 85 Bedford St., sets back from the busy street, its broad lawns shaded by fine old elms. This square, two-story, white frame residence was built in 1804 by James Deering (1766-1850), the son of Nathaniel Deering (1739-95), one of Portland's pioneers who came to 'The Neck' in 1761. The house occupies a part of the site of Anthony Brackett's farm where in 1689 Colonel Benjamin Church led his militia against the Indians in one of the bloodiest battles ever fought on Maine soil (see *History*). The interior of this old house, maintained in excellent condition, contains many early American antiques and is kept much as when its owner, James Deering, was host to such distinguished guests as Daniel Webster, Henry Wadsworth Longfellow, and Jefferson Davis.

5. *Noyes Park*, Deering and Brighton Aves. and Bedford St., containing .52 acres, was acquired by the city in 1927 and named in honor of the Noyes family who gave a part of the property to the city.

6. *Fessenden Park*, Brighton and Deering Aves., a .46-acre park honors Portland's William Pitt Fessenden (see *Downtown Section: No. 108*) and his son, General Francis Fessenden (1839-1906), a Civil War veteran, who was mayor of Portland in 1876.

7. *Longfellow Park*, Deering Ave., and Devonshire and Longfellow Sts., was acquired by the park department in a novel manner in 1929. Near-by residents paid part of the purchase price, and the city the balance. There are several excellent specimens of Norway maples in this .05-acre park.

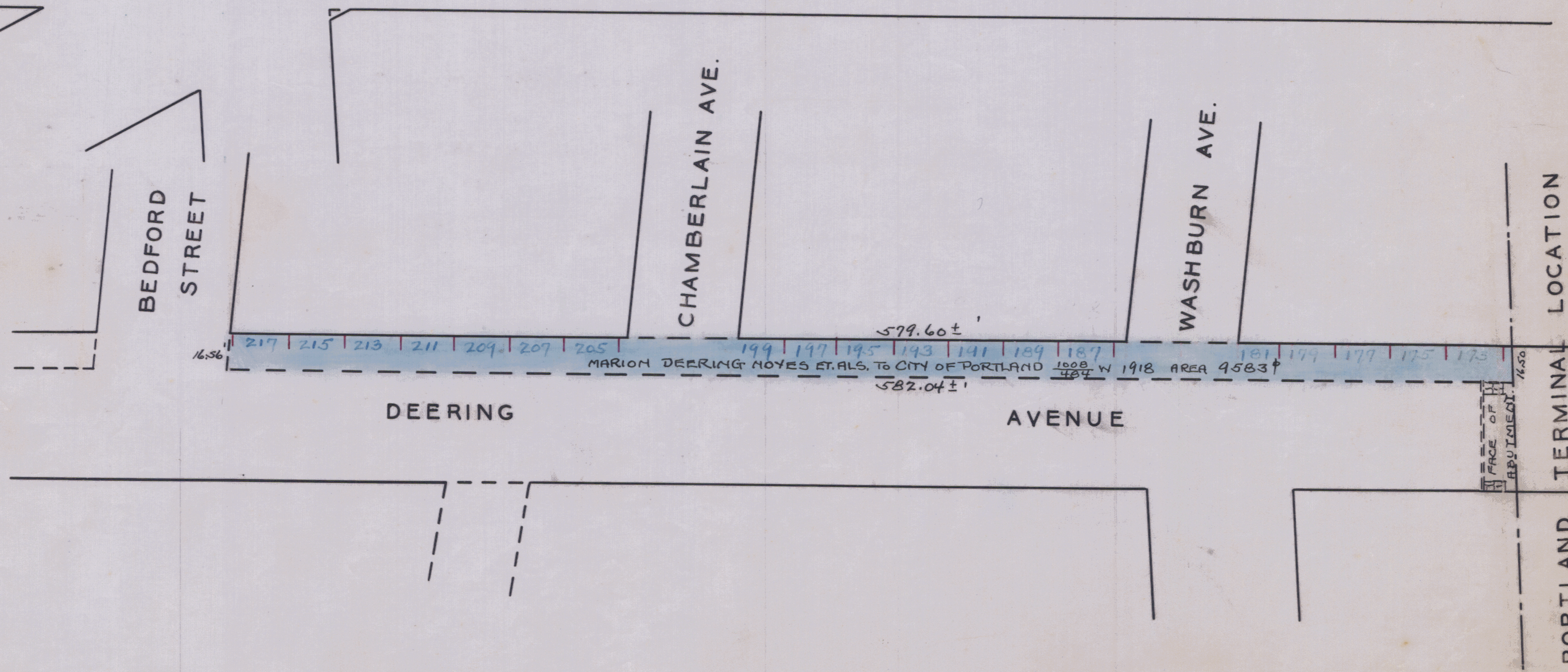
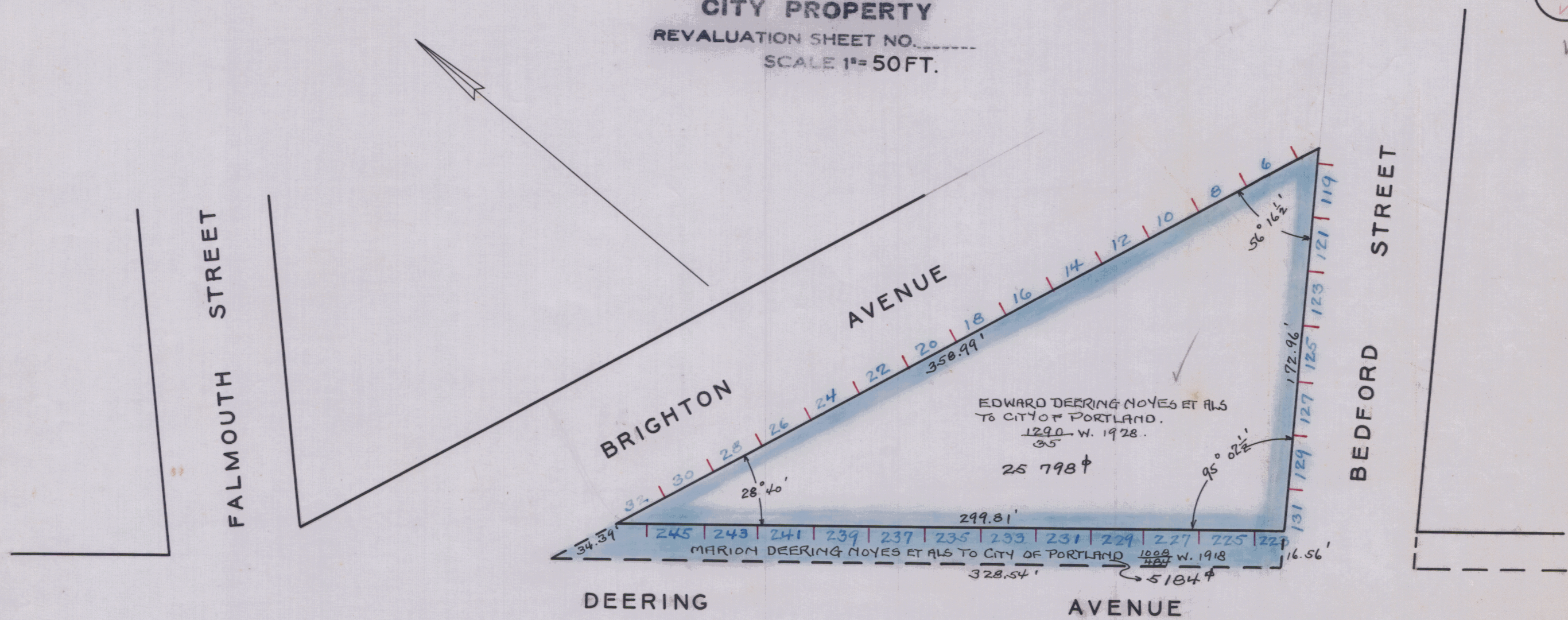
8. *Trinity Square Park*, Forest Ave. and Coyle St. of .3 acres, is named for (9) *Trinity Episcopal Church*, 113 Coyle St. The brown shingled church was designed and built under the supervision of the Reverend Charles T.



For

CITY OF PORTLAND
CITY PROPERTY
REVALUATION SHEET NO. _____
SCALE 1"= 50 FT.

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Inviting Charm Of Portland's "Neighborhood Parks" Alluring To Weary

Out Of 20 Tiny Plots Scattered Like Oases Throughout The City, Five Stand Out For Neatness And Beauty--William J. Dougherty Of Park Department Has Spared No Efforts In Making These Parks Best Possible



Left to right: Trinity Park, a rendezvous for children and nurse maids; Pessenden Neighborhood Park, corner of Brighton and Downing Avenues, a park noted for its woodsy effect; Longleaf Neighborhood Park situated between Noyes, Longleaf and Oakdale Streets. Inset: William J. Dougherty, secretary and engineer of the Portland Park Department.

Representing Three Generations Of Well Known Lewiston Family

There is something new in the name "neighborhood park," something friendly and homey to the atmosphere created by these flowering, trailing green oases beautified by our City.

Each year the Park Department has approximately \$1,000 to maintain smaller parks and squares which include benches, flower beds, and other amenities. The parks are scattered throughout the city, and each one is carefully tended by the Park Department.

At the foot of East Portland, Longleaf Street on one side and the city limits on the other, is a small park named "Longleaf." This park is one of the best of the neighborhood parks. It is a small, triangular plot of land, but it is well kept and has a beautiful view of the city.

Bates Debating League Sending Out Invitations

Secondary Schools Invited To Participate In 19th Annual Tournament

Local Debate is the name of the game in the Bates Debating League. The league is now sending out invitations to secondary schools to participate in the 19th annual tournament. The tournament will be held in the city of Portland, and it is expected that a number of schools will accept the invitation.

The league is a group of schools that meet regularly to debate various topics. The members of the league are the Bates High School, the Portland High School, and the Westbrook High School. They meet every week to discuss and debate various topics.

As yet the tract of East Portland Longleaf Street on one side and the city limits on the other, is a small park named "Longleaf." This park is one of the best of the neighborhood parks. It is a small, triangular plot of land, but it is well kept and has a beautiful view of the city.

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The recent shaped beds in the park are a new addition to the park. They are a new addition to the park, and they are a new addition to the park. They are a new addition to the park, and they are a new addition to the park.

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Portland's New Pilot Boat Is Launched



The new pilot boat, Portland Pilot, photographed as she took her initial plunge after leaving the ways on Brown's Wharf, Saturday afternoon. Inset shows Geraldine MacVane, daughter of Capt. Benjamin F. MacVane, who christened the craft.

ing that this port has witnessed to several years.

It is reported that a craft was to be launched today, and it was indeed the case. The new pilot boat, Portland Pilot, was launched from Brown's Wharf on Saturday afternoon. The boat was christened by Geraldine MacVane, daughter of Capt. Benjamin F. MacVane.

The boat is a small, fast-moving craft, and it is expected to be a valuable asset to the port. It will be used to transport pilots and other personnel to and from the ships in the port.

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Mrs. Collins On Way Home After Fruitful Trip

Fails To Identify Either Of Richies As First Slayers Of Husband

Portland, Me., Oct. 3.—(AP)—Thanks to identity of the "Richies," Mrs. Collins, who was charged with the murder of her husband, is on her way home after a fruitless trip to identify the slayers of her husband.

Mrs. Collins was released from the Portland Jail on Saturday afternoon. She is on her way home to her family in Portland. She is expected to arrive in Portland on Sunday morning.

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Know all Men by these Presents, That

We, Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Mabel F. Noyes, widow of the late Wadsworth Noyes, all of Portland in the County of Cumberland and State of Maine,

in consideration of one dollar and other valuable considerations,
the City of Portland in said County and State,

paid by

the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said City of Portland, its successors and assigns, forever, all that certain triangular piece or parcel of land in said Portland situated on the North side of Bedford Street and bounded and described as follows, viz, Beginning at the corner formed by the intersection of the northerly line of Bedford Street with the easterly line of Deering Avenue, and thence running northeasterly and along said northerly line of Bedford Street to its point of intersection with the westerly line of Brighton Avenue; thence northwesterly and along said westerly line of Brighton Avenue to its point of intersection with said easterly line of Deering Avenue; and thence southeasterly and along said easterly line of Deering Avenue to said Northerly line of Bedford Street at the point or place of beginning, said parcel having an estimated area of 25,000 square feet, be the same more or less.

Subject, however, to the condition that said tract of land shall be used only for park purposes or for the purpose of widening the streets bordering thereon; and in the event said land is used for other purposes it is hereby covenanted and agreed by all the parties hereto that the same shall revert to Edward Deering Noyes, one of the grantors herein and the donor of the largest interest in said land, his heirs and assigns, to whom the other three grantors herein hereby remise and release all their right, title and interest in said reversion, he, the said Edward Deering Noyes, for himself, his heirs, executors, administrators and assigns, hereby covenanting and agreeing in the event of said reversion to repay to said City of Portland the sum of Seven thousand two hundred fifteen and 59/100 dollars (\$7,215.59), being the amount paid for said land by said city, but without any interest thereon.

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said City of Portland, its successors heirs and assigns, to its and their use and behoof forever. And we do covenant with the said Grantee, its successors heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all incumbrances; except as aforesaid, that we have good right to sell and convey the same to the said grantee to hold as aforesaid; and that we and our heirs, shall and will warrant and defend the same to the said Grantee, its successors heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, we, the said Edward Deering Noyes, a widower, Ilsley Noyes, unmarried, George F. Noyes, and Mabel F. Noyes, widow of the late Wadsworth Noyes, and I, May M. Noyes, wife of the said George F. Noyes, joining in this deed as Grantor and relinquishing and conveying my rights by descent and all other rights in the above described premises

have hereunto set

our hands and seals this thirty-first day of March in the year of our Lord one thousand nine hundred and twenty-eight.

Signed, Sealed and Delivered
in presence of

Gertrude E. Berry to all

Edward Deering Noyes	Seal
Ilsley Noyes	Seal
George F. Noyes	Seal
Mabel F. Noyes	Seal
May M. Noyes	Seal

State of Maine, CUMBERLAND, ss. Portland, March 31, 1928.

Personally appeared

the above named Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Mabel F. Noyes, and each and acknowledged the above instrument to be their free act and deed.

Before me,

Gertrude E. Berry, Notary Public *Justice of the Peace*.
Notarial Seal.

Received April 2, 1928, at 10 o'clock 45 m. A. M., and recorded according to the original.

TO: All It May Concern

RE: Noyes Park, Portland

13 September 2021

To All It May Concern :

Following my previous letter of this month, attached is further proof that Noyes Park was a duly recognized City of Portland public park, under that name, from the moment it was obtained by the City of Portland in 1927.

- 1) Portland City Report for 1927, Pg. 189, Parks Commission Report, item # 14 on the list – clearly states Noyes Park and its proper location, near Fessenden Park, as one of the city holdings of 262.8 acres of municipal parkland.
- 2) Portland Sunday Telegram article of 4 October 1931 , page D 3, first column of text, which clearly states Noyes Park is “twin to Fessenden Park “ in the city park system and states its location exactly correctly.

With no doubt in my mind, I believe that these items prove conclusively that the parcel of land in question was officially and formally known as Noyes Park from the date it was first obtained by the City, and that somehow the name simply fell out of use over time, The time has come to restore the proper

name, may I suggest, in recognition of the many gifts the Deering and Noyes families have given our city in the past.

The present is in their debt. The time is right to set the record right.

Please feel free to contact me with any comments or questions.

Sincerely,

A handwritten signature in cursive script that reads "Herb Adams".

Herb Adams

Adjunct Professor History & Social Sciences
SMCC

2 Fort Road

South Portland, ME. 04106

hadams@smccme.edu

EVERGREEN CEMETERY

Annual Report for the Fiscal Year Ending
December 24, 1927

Number of Burials from Dec. 24, 1926, to Dec. 24, 1927.....	281
Number of Headstones Erected.....	229
Number of Monuments Erected.....	32
Number of Lots Regraded.....	76
Number of Single Graves Sold.....	1
Number of Lots Sold.....	58
Number of Lots Originally Sold without Perpetual Care and Placed under Same.....	50
Number of Bodies Removed in Evergreen.....	18
Number of Bodies Removed from Evergreen.....	1
Number of Lots in Annual Care.....	602
Number of Bodies in Receiving Tomb.....	6
Number of Funerals in Chapel.....	51
Number of Cubic Yards Foundations Built.....	212
Average Number of Employees.....	35
Number of Graves Ready for Sale.....	76
Number of Lots Ready for Sale.....	317
Number of Perpetual Care Lots Regraded.....	65
Number of Cement Boxes Set.....	149
Number of Steel Boxes Set.....	8
Number of Slate Boxes Set.....	2

FINANCIAL

The receipts for Evergreen Cemetery for the year ending December 24, 1927, are as follows:

Received for Burials.....	\$5,928.06
Received for Foundations.....	3,438.50
Received for Care.....	3,631.39
Received for Regrading.....	2,522.60
Received for Plants.....	512.70
Received for General Labor.....	1,535.94
	\$17,569.19

PARK COMMISSION
Report for the Year 1927

The areas now under the control of the Park Commissioners total 262.85 acres and are divided as follows:

(1) Almshouse Valley Lot (northerly side of Park Ave.)	14.18 acres
(2) Andrews Square (Pine and West Sts., west corner)	0.05 "
(3) Baxter Boulevard	28.83 "
(4) Boothby Square (Fore St., at Pearl St.)	0.11 "
(5) Caldwell Square (Woodford St. and Stevens Ave.)	0.12 "
(6) Deering's Oaks (northerly side Park Ave.)	53.70 "
(7) Eastern Promenade	69.76 "
(8) Fessenden Park (corner Brighton and Deering Aves.)	0.46 "
(9) Fort Allen Park (adjoining Eastern Promenade)	4.55 "
(10) Fort Sumner Park (North St.)	1.07 "
(11) Lincoln Park and Extension (Fire Station lot)	3.51 "
(12) Land at Noyes, Longfellow and Oakdale Sts.	0.34 "
(13) Monument Square (ornamental circle)	0.10 "
(14) Noyes Park (Bedford St., Deering and Brighton Aves.)	0.52 "
(15) Presumpscot Park (Stevens Ave.)	28.01 "
(16) Payson Park, The Edward (Ocean Ave.)	47.75 "
(17) Thomas Square (Congress and Lowell Sts.)	0.39 "
(18) Trinity Square (Forest Ave. and Coyle St.)	0.30 "
(19) Western Promenade	18.91 "
(20) Winslow Park (Forest Ave. and Winslow St.)	0.19 "
Total area,	
	262.85 "

The relation of new improvement to maintenance and fixed charges is the real index of the operations, and the striving is constantly to show, annually, a higher comparative ratio in the way of improvement outlay. Naturally, as the park system increases in area and hearkening to increased public demand for considerations which reflect maintenance costs, the maintenance charges mount higher each year, but, on the other hand, the tax levy appropriation is increasing at a rate that should permit of continued improvement outlay at a constantly increasing rate over fixed costs.

The deficit of \$8,081.61 from 1926, occasioned by special bridge repairs on the Boulevard bridges in 1926, made a severe inroad into the fund for 1927, cutting down possible improvements by just this amount. The total cost of maintenance and fixed charges, exclusive of the fund set off to the Recreation Commission, amounted to \$48,273.95, and the improvement expenditures amounted to \$40,377.21. The amount set off to the Recreation Commission, by statute, was \$13,959.48. Amounts given are based on net operating costs and allow for credits, receipts or other city department transfers for recovered expenditures.

IMPROVEMENT EXPENDITURES

THE ALMSHOUSE LOT: Having in mind future athletic field development on this area, a sizeable contribution to the final grading plan was made during 1926 by way of placement of many thousands of cubic yards of street excavation from the Park Avenue project. This material was deposited free of charge to the department, but graded by the department forces. Also in October the department deposited in filling a large amount of material excavated by steam shovel from one of the small hills in the Almshouse lot. The area in close proximity to Deering Avenue was rough-graded, and it should not take much material to complete the grading in this area.

BAXTER BOULEVARD ASPHALT MACADAM: The expenditure for permanent road construction on the Baxter Boulevard needs only brief explanation. The new construction was placed in the junction of Bates Street and the Boulevard and from Bates Street to Washington Avenue. The total area improved was 3,728 square yards, or a unit cost of \$2.16 per square yard. This construction should prove highly satisfactory, since trap rock wearing surface

stone was used and the work done under nearly ideal conditions.

DEERING'S OAKS—LANDSCAPE IMPROVEMENT: The new landscape improvements on this area were confined to the area between State Street parkway and High Street parkway. This work was a continuation of the lawn construction started in 1926, the completion of crushed stone foot walk construction, making of new paths, and a limited setting out of deciduous tree and shrubbery stock. Plantings can be added to this area from year to year.

DEERING'S OAKS—CONCRETE TENNIS COURT: The construction of a Portland cement concrete tennis court to serve for municipal play is a radical departure from the former practice of building clay surface courts, yet the concrete type of construction is very rapidly meeting favor throughout the country, and appears to have merit in keeping down maintenance cost. There is a division of opinion as to the desirability of playing on the respective types, but it has been proven in many places that, although the concrete is slightly hard on the feet, the discomfort can be overcome by thickened soles and a shorter period of play, which latter works well in municipal control, where many desire to play. The contract for construction was let to the Portland Realty and Contracting Co., Inc., of Portland, Me. The base construction was an 8-inch compacted thickness of coarse gravel. Base concrete layer was 3½-inch thickness and the top surface of 1-inch thickness cement mortar mix. Alternate pouring of slabs, which were separated by bituminous jointing, was the method used in constructing the courts. Wire mesh reinforcement, weighing approximately thirty pounds per 100 square feet, was used in the base as reinforcing steel.

PAYSON PARK IMPROVEMENT: The landscape improvements in this area were made on the memorial gun plot fronting on the Baxter Boulevard. The work comprised considerable lawn area construction, base course for future walks around and leading to the war trophy, and the setting out of ornamental trees and shrubs.

PAYSON PARK NURSERY STOCK: The purchase of trees, shrubs, and evergreen seedlings for the nursery in this park was the smallest outlay in years. Whereas it seems gratifying to have the municipal nursery in condition to furnish all stock for park and street purposes during one planting season, it is not wise at this time to make inroads annually without replenishment for future use. Purchases in the spring of 1928 should be made with future considerations in mind.

LAND PURCHASES: Included in the expenditure for land in 1927 is \$5,000.00, which is a continuing annual payment on the purchase by bond issue of the former Tannery Company lot now added to Deering's Oaks. Other payments for land were as follows:

Two parcels of land on the Eastern Promenade, nearly adjacent to Fort Allen Park—one from the Boyd heirs, Philip G. Clifford, trustee, for \$500.00, and one from William J. Knowlton for \$2,250.00. The parcels were taken by condemnation process and represent an addition in square area to the Promenade of .39 acres.

Payment of \$2,000.00 to Geo. F. Noyes, attorney and agent, for land in escrow status at Brighton Avenue, Deering Avenue and Bedford Street. This is the second payment on this land, the final payment of \$2,000.00 coming in 1928.

The purchase of land at Noyes Street, Longfellow Street and Oakdale Street, 14,767 square feet in area, for the sum of \$4,500.00. This payment, however, does not represent

the full amount, since a sum of approximately \$2,000.00 was contributed by subscriptions of many of the residents in close proximity to the area. The spirit evidenced in this transaction, wherein the persons interested to have this area appear attractive so generously contributed to the city's welfare, is a very commendable attitude towards park development, and one which the writer makes a particular point to praise. The area added to the system in this transaction is 0.34 acres.

PRESUMPSCOT PARK—CONCRETE TENNIS COURT: That which has been written in general description of Deering's Oaks tennis court construction is applicable to the work in this park. It was necessary to construct new 10-foot high wire mesh back stops here, and the item of grading was somewhat heavier. These items account for the difference in cost over the construction in the Oaks.

NOYES SQUARE DEVELOPMENT—BRIGHTON AND DEERING AVENUES: Early in the spring the department completely improved this conspicuous plot in the park system, and much favorable comment was expressed by citizens for this small undertaking. The work consisted of fairly heavy grading, lawn construction, crushed stone walk construction, removal of several large trees, new ornamental plantings, curb circles and brick walk construction, in part, and the installation of a bubbler drinking fountain.

EQUIPMENT PURCHASES: The department is constantly endeavoring to obtain more efficiency by way of mechanical apparatus when purchase of same seems justified. The outstanding purchase in 1927 was that of a 2½-ton Mack truck for general usage for the sum of \$2,800.00. Also there was purchased a new Sargent wood plow to go with the Best-30 tractor purchased in 1926. This plow cost \$1,050.00. To equip the Mack truck for snow "fighting," the department

purchased a Champion blade plow for the sum of \$284.20. Miscellaneous purchases included small tools and appliances, park benches, lawn mowers, etc.

The following is a summarized report of the work done under the Forestry Maintenance Account in caring for the city street shade trees and trees in public areas:

Trees trimmed,	739
Broken limbs removed,	154
Trees "topped out,"	22
Tree guards removed,	1
Trees removed,	183
Trees treated for scars, wounds, etc.,	21
Tree butts removed,	27
New plantings,	112

Added to the above operations, the department forces removed all tree wood, limbs and brush from the extensive special work in State Street, by the Lucas Tree Company. This work was done in the late fall and early winter of 1927, the charges of the Lucas Company being payable in 1928.

Also, supervision and direction was given to the operations for the Cumberland County Power and Light Company, by the Davey Tree Surgery Company, which company did extensive work over the city for the Light Company in clearing the trees from "fouling" wires.

A small amount of forestry work was done at Riverside Street and Read Street in increasing the visibility on to the railroad tracks.

The department was bothered, somewhat, by a slight infestation of the satin moth and gypsy moth in the early summer. This nuisance was overcome by special spraying services given by the Lucas Company, and this service cost \$80.39.

The writer feels that this report would not be complete for the year 1927, without sympathetic mention of the loss of the late Frank C. Goodrich to the City of Portland Park Commission. The feelings of the Commissioners are known to the writer and in order that the citizens of Portland may publicly know the expression of the entire Park Commission in the death of Frank C. Goodrich, a copy of the message of sympathy to the family and relatives of Mr. Goodrich is herewith printed.

"In your bereavement the Park Commissioners of the city of Portland, Maine, wish to express their sincere sympathy for your loss.

"Your loss is shared, as well, by the members of this Commission and the City of Portland in general, for we have looked upon Mr. Goodrich as a faithful public servant who has given his best to the end that the Portland public be made happier and healthier through the immeasurably valuable park establishments of the city, which institutions Mr. Goodrich worked so earnestly and faithfully to build.

"Therefore, in behalf of the members of the Park Commission and the citizens of Portland, I extend deepest sympathy."

PHILIP J. DEERING,
Chairman of the Park Commission.

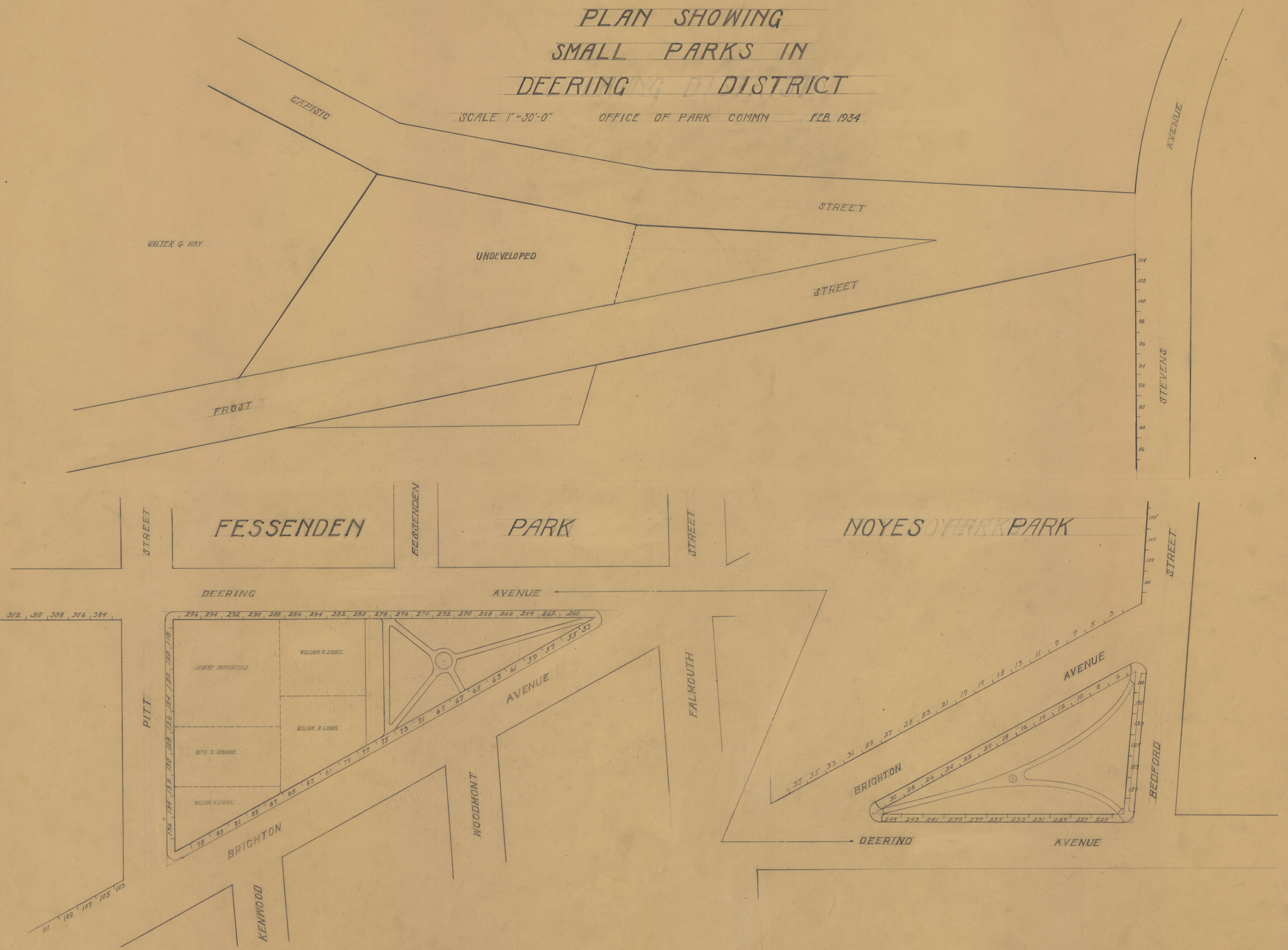
NOTE.—For financial statement see Auditor's Report. Complete detailed report on file with City Clerk.

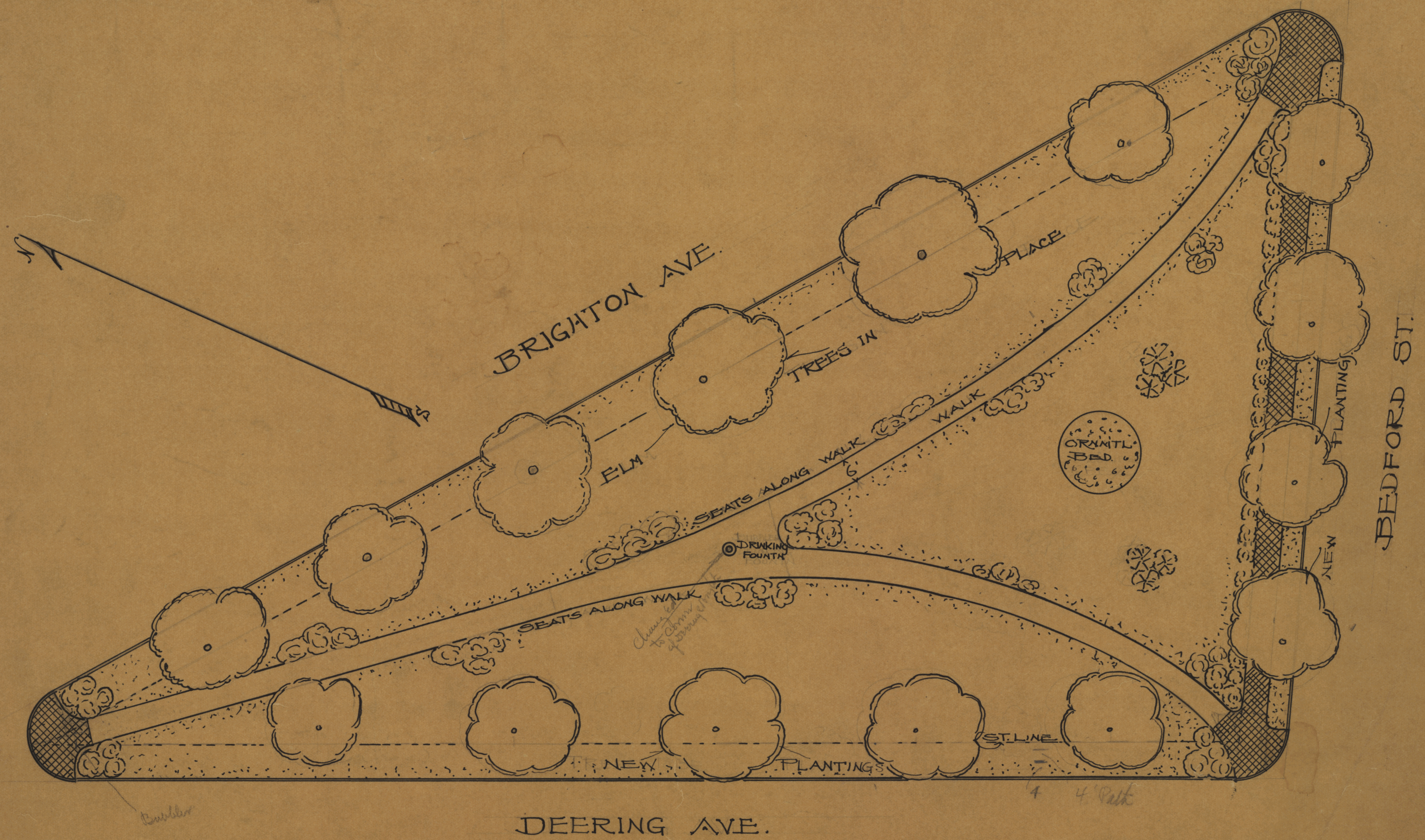
FOREST CITY CEMETERY

The sources of receipts for 1927, and also the amount of services given in this city cemetery, are indicated in the following listing of the important divisions of the work in Forest City Cemetery.

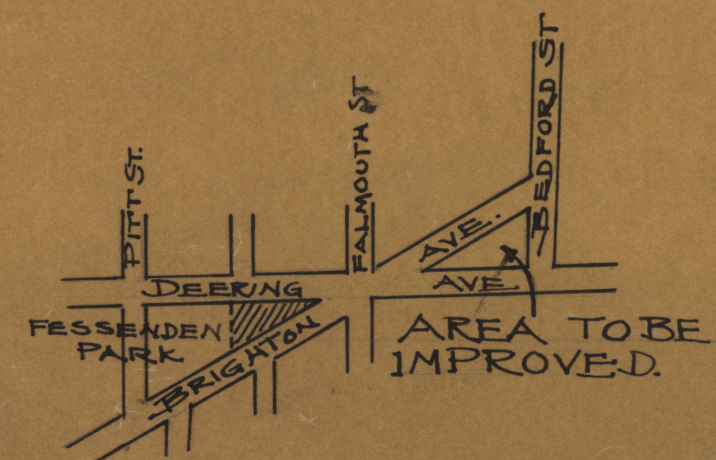
PLAN SHOWING SMALL PARKS IN DEERING DISTRICT

SCALE 1"=50'-0" OFFICE OF PARK COMM FEB. 1934





- BRICK WALK
- CR. STONE WALK
- LAWN AREAS
- EVERGREENS



PROPOSED
LANDSCAPE TREATMENT
FOR PARK LAND
AT
BRIGHTON & DEERING AVES
PORTLAND, ME.
SCALE 1"=20'
PARK COMM'N
ENGINEER

From: **Michael Mertaugh** <michaelmertaugh@gmail.com>

Date: Sat, Nov 6, 2021 at 5:25 PM

Subject: Parks Commission Support for Restoring Name of Noyes Park

To: Kate Snyder <ksnyder@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, <tchong@portlandmaine.gov>, <azarro@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>

CC: Danielle West-Chuhta <dwest@portlandmaine.gov>, Ethan Hipple <ehipple@portlandmaine.gov>, Alex Marshall <amarshall@portlandmaine.gov>, Samara Ray <sray@portlandmaine.gov>

Dear Mayor and City Councilors,

The Parks Commission would like to express its support for the Parks, Recreation, and Facilities Department's proposal to restore the original name of Noyes Park. The park, which has been referred to in recent years as Bedford Park, was created from properties that were given and sold to the city by members of the Noyes family in 1927. The park was officially designated and recognized as Noyes park for the first decades after its creation as a park. Use of the name "Bedford park" came about in the 1950s without the city's formal sanction. Restoring the park's original name would recognize the Noyes family's generosity in the bequest that created the park. It would also be consistent with the practice of naming other Portland parks -- including Deering Oaks, Baxter Woods, Baxter Pines, and Payson Park -- after their benefactors.

The Parks Commission voted unanimously at its November 4 meeting in support of the Department's proposal to restore the park's original name. In discussing that proposal, the Commission recognized that this and other Portland parks occupy lands that were formerly the domain of various North American First Nations. The Commission plans to work with representatives of the Wabanaki community to develop recommendations for appropriate recognition of the First Nations heritage as it affects Portland's parks. That recognition could take various forms, including the development and delivery of educational programs, public signage, and naming of new parks. The Parks Commission will keep the Council informed of its findings and recommendations as this work progresses.

Respectfully,

Michael Mertaugh
Chair, Parks Commission

Support for Order 89-21/22 Amendment to City Code Chapter 18

0 views



Anna Noyes Benoit <purple16@maine.rr.com>

7:44 AM (6 hours ago)

to publiccomment@portlandmaine.gov, Hank Benoit

To Whom it may concern:

Reference: Support for Order 89-21/22 Amendment to the Portland City Code Chapter 18 Re: Bedford Park renamed Noyes Park - Sponsored by Jon P. Jennings, City Manager

My name is Anna Margaret Deering Noyes Benoit. I live at 107 West Street in Portland.

Thank you Mr. Jennings, Mayor Snyder and Council for hearing this petition. I am here to ask the counsel to support a resolution that will correct a mistake that was made a long time ago. The proposal asks you to return the name of a small parcel of land that was given to the City by my grandfather, Edward Deering Noyes and his family. The land was sold for use as a park and in recognition of for its sale to the City, it was named Noyes Park. Until just recently this triangular piece of park land was bounded by Deering Ave, Bedford Street and the last section of Brighton Ave. that ran into Bedford St. This section has been discontinued as part of the establishment of the new roundabout.

Long before there was a USM campus next to this parcel, there was a farm, the Deering farm. Back then the water in Deering Oaks was tidal and the farm included an orchard that extended all the way into what is now Deering Oaks.

My Dad, Edward Deering Noyes Jr and his sister, my aunt, Anna, called Nancy, grew up in the large old home, built in 1804, that sat on the land that is now the Portland campus of USM.

The two copper Beech trees were planted by James Deering, my great, great, great grandfather. One is now a center piece of Noyes Park. I like to think of my family, and so many others enjoying the beauty and shade of the trees and hope the residents of Portland can continue to enjoy Noyes Park for another 100 years.

Three of my brothers were raised in a house on Bedford Street. None of us ever met Mr. Bedford, but I understand he developed the neighborhood homes in that part of the City. Somehow the name of the park was changed to Bedford Park, but Mr. Bedford, played no roll in the creation of Noyes Park.

Growing up the members of my family always referred to the Park as Noyes Park, but some 50 or sixty years ago on city maps apparently it somehow came to identified as Bedford Park. Unfortunately this error was not discovered for many years, but my brothers, and I have brought this mistake to the attention of the City Manager and his staff, and, with the research of my brother Nicholas Noyes, historian Herb Adams, Neighborhood Activist, Carol Schiller and the support of others we have asked the City to restore this small neighborhood park to its correct historic name to honor my grandfather and his family who were responsible for its creation.

November 1, 2021

Anna Noyes Benoit

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 23, 2022

SUBJECT: Order 150-21/22 Approving the Purchase and Sale Agreement with Dorothy Hale for Property at 834 Riverside Street, Accepting a \$23,000 Donation from Allagash Brewing Company for that Purchase, and Placing that Land in the Portland Land Bank - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Interim City Manager Danielle West

(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 2/28/2022

Final Action 3/7/2022

Can action be taken at a later date: No The Land Bank Commission would like to proceed with due diligence.

PRESENTATION: There will be a Land Bank Commissioner present to present this order to the City Council.

I. SUMMARY

Approval of 834 Riverside Street Purchase and Sale Agreement to acquire these parcels to be added to the city-owned Riverton Trolley Park to protect the ecological, historical, and scenic values of the park.

II. AGENDA DESCRIPTION

This order would approve the Hale Parcel at 834 Riverside Street Purchase and Sale Agreement for land to be added to the Portland Land Bank, to protect the ecological, historical, and scenic values of the park. The acquisition was approved by the Land Bank Commission by a vote of 8-0 on February 9th 2022, and will use a donation from Allagash Brewery Company of \$23,000 and \$27,000 from the Land Bank Fund.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The Land Bank Commission (LBC), on February 9th 2022, voted (8/8) to recommend to the City Council the City acquisition of 834 Riverside Street to be added to the existing Riverton Trolley Park.

The project evaluation included significant considerations. All LBC property evaluations include a standardized “scorecard” that ranks the benefits and constraints of proposed property acquisitions. The scorecard for 834 Riverside Street indicates that the property would contribute to healthy forest, wetlands, and climate mitigation benefits as it is forested with mature, native trees. The scorecard also indicates the property would contribute to protecting the aesthetics and historical value of Riverton Trolley Park. This parcel would become part of the larger Presumpscot River Preserve, and it would contribute towards sustainable land use as this area has been designated for significant open space.

associated with the Preserve. While this parcel does not provide additional access for underserved communities since Riverton Trolley Park already exists, and there is already waterfront access for hand-carried boats, the park itself provides these values. The property is within a 10-minute walk of the Portland Housing Authority’s Riverton Park facilities.

The City's Economic Development Director, along with other City staff, assessed the potential for affordable housing associated with 834 Riverside Street and determined that the small size (about 1 acre), combined with the fact that it abuts a paper street that remains undeveloped, did not warrant further consideration for pursuing affordable housing options. The Portland Housing Authority has submitted plans to the City of Portland to add 40 affordable housing units in the Riverton neighborhood. The City staff recommendation was for 834 Riverside to be acquired by the LBC to become part of the Riverton Trolley Park.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is to acquire this property to incorporate it into the existing City Park, Riverton Trolley Park.

V. FINANCIAL IMPACT

There is minimal fiscal impact to the City since the LBC would cover the appraised value portion of the acquisition (\$27,000) and Allagash Brewing Company has agreed to cover the remaining portion of the acquisition (\$23,000). The LBC is requesting that the environmental due diligence be covered by the City using existing funds from the Housing and Economic Development Department.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

The LBC and City staff recommend the City Council votes to approve the acquisition of 834 Riverside Street.

VIII. LIST ATTACHMENTS

1. P&S, Allagash Donation, 834 Riverside into Land Bank 2.28.2022and
2. PSA TFJ clean 020422
3. Hale Scorecard - Sheet1
4. Land Bank Priority Property Summary-Hale (2)
5. City Review per G. Mitchell (1)
6. Copy of RTP-Hale Parcels (1) (5)
7. Riverton Trolley Park Letter (1)
8. Order 150-21_22 (Hale Property) Memo

Prepared by:

Date: 02/23/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE PURCHASE AND SALE AGREEMENT
WITH DOROTHY HALE FOR PROPERTY AT 834 RIVERSIDE STREET,
ACCEPTING A \$23,000 DONATION FROM ALLAGASH BREWING COMPANY FOR
THAT PURCHASE, AND
PLACING THE LAND IN THE PORTLAND LAND BANK**

ORDERED, that the Purchase and Sale Agreement with Dorothy Hale in the amount of \$50,000.00 for certain land located at 834 Riverside Street is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the donation from Allagash Brewing Company for \$23,000 toward this purchase is hereby accepted and appropriated as a portion of the purchase price for the land in accordance with the provisions of the attached January 31, 2022 letter from Allagash Brewing Company; and

BE IT FURTHER ORDERED, that that land will be placed in and is to be maintained as part of the City's Land Bank; and

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

CONTRACT FOR THE SALE OF REAL ESTATE

Date: January, 2022

RECEIVED OF: City of Portland whose mailing address is 389 Congress Street, Portland, ME 04101, Attn: Danielle P. West, City Manager hereinafter called the Purchaser(s), the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as earnest money deposit and in part payment of the purchase price of the following described real estate, situated in the municipality of Portland, County of Cumberland, State of Maine and located at Rear 834-842 Riverside Street; assessor 325-C-1-7; CCRD Plan 10, Page 141 Lots 21-27), and described at said County's Registry of Deeds Book 6251, Page 202 and further described as: 39,150 square feet of vacant land, hereinafter called the Property, being property owned by Dorothy Hale, whose mailing address is 446 Commercial Street, Portland, ME 04101, hereinafter called the Seller(s). The purchase and sale of the Property is upon the terms and conditions indicated below:

1. PERSONAL PROPERTY: The following items of personal property are included in this sale (if applicable): none.
2. PURCHASE PRICE: The TOTAL purchase price being Fifty Thousand Dollars (\$50,000.00) to be paid as follows: at closing.
3. EARNEST MONEY/ACCEPTANCE: Ainsworth, Thelin & Raftice, PA shall hold said earnest money in a non-interest bearing account and act as Escrow Agent until closing, at which time said earnest money shall be credited toward the purchase price; this offer shall be valid until 5 days after the date set forth above 1//2022 at 5:00 PM; and, in the event of the Seller's non-acceptance, this earnest money shall be returned promptly to the Purchaser(s).
4. TITLE: That a deed, conveying good and merchantable title in accordance with standards adopted by the Maine Bar Association shall be delivered to the Purchaser(s) and this transaction shall be closed and the Purchaser(s) shall pay the balance due and the parties shall execute all necessary papers on or before 6/1/2022. If Seller(s) is unable to convey in accordance with the provisions of this paragraph, then the Seller(s) shall have a reasonable time period, not to exceed thirty (30) days, from the time the Seller(s) receives written notice of the defect, unless otherwise agreed to by both parties, to remedy the title, after which time, if such defect is not corrected so that there is merchantable title, the Purchaser(s) may, within fifteen (15) days thereafter, at Purchaser's option, declare the contract null and void and any earnest money shall be returned to the Purchaser(s) and neither party shall have any further obligation hereunder. If the Purchaser(s) does not declare the contract void within the period set forth above, the Purchaser(s) shall have waived the right to object to title. The Seller(s) hereby agrees to make a good-faith effort to cure any title defect during such period.
5. DEED: That the property shall be conveyed by a Quitclaim with Covenant deed, and shall be free and clear of all encumbrances except building and zoning restrictions of record, restrictive covenants and conditions of record and usual public utilities servicing the property and shall be subject to applicable land use and building laws and regulations.
6. POSSESSION /OCCUPANCY: Possession/occupancy of premises shall be given to Purchaser(s) immediately at closing unless otherwise agreed by both parties in writing.

7. LEASES/TENANT SECURITY DEPOSITS: N/A
8. PRORATIONS: The following items shall be prorated as of the date of closing:
 - a. Real Estate Taxes based on the municipality's tax year. Seller is responsible for any unpaid taxes for prior years.
 - b. Seller(s) shall pay its transfer tax as required by the State of Maine. Purchaser is exempt from paying transfer taxes.
9. INSPECTIONS: The Purchaser(s) is encouraged to seek information from professionals regarding any specific issue of concern. The Agent makes no warranties regarding the condition, permitted use or value of the Seller's real or personal property. This Contract is subject to the following inspections, with the results being satisfactory to the Purchaser(s):

TYPE OF INSPECTION	YES	NO	RESULTS	TYPE OF INSPECTION	YES	NO	RESULTS
			REPORTED				REPORTED
a. General Building	☐	☐	Within <u>#</u> days	g. Lead Paint	☐	☐	Within <u>#</u> days
b. Sewage Disposal	☐	☐	Within <u>#</u> days	h. Pests	☐	☐	Within <u>#</u> days
c. Water Quality	☐	☐	Within <u>#</u> days	i. ADA	☐	☐	Within <u>#</u> days
d. Radon Air Quality	☐	☐	Within <u>#</u> days	j. Wetlands	☐	☐	Within <u>#</u> days
e. Radon Water Quality	☐	☐	Within <u>#</u> days	k. Environmental Scan	☒	☐	Within <u>90</u> days
f. Asbestos Air Quality	☐	☐	Within <u>#</u> days	l. Other: <u>survey</u>	☒	☐	Within <u>90</u> days

The use of days is intended to mean from the effective date of this Contract. All inspections will be done by inspectors chosen and paid for by the Purchaser(s). If the result of any inspection or other condition specified herein is unsatisfactory to the Purchaser(s), in Purchaser(s) sole discretion, Purchaser(s) may declare the Contract null and void by notifying Seller(s) in writing within the specified number of days, and any earnest money shall be returned to the Purchaser(s). If the Purchaser(s) does not notify the Seller(s) that an inspection is unsatisfactory within the time period set forth above, this contingency is waived by the Purchaser(s). In the absence of inspection(s) mentioned above, the Purchaser(s) is relying completely upon Purchaser's own opinion as to the condition of the property.

11. FINANCING: N/A
12. AGENCY DISCLOSURE: The Purchaser(s) and Seller(s) acknowledge that there are no agent(s) representing either party incident to this transaction.
13. .DEFAULT: If Purchaser(s) fails to perform any of the terms of this Contract or is otherwise in default of any of its obligations, Seller's sole remedy shall be to retain the earnest money as full and complete liquidated damages. In the event Seller fails to perform any of the terms of this Contract or is otherwise in default of any of its obligations, Purchaser shall have the right to pursue all legal and equitable remedies available to it, including, without limitation, specific performance, but at all times may elect in substitution therefor, the right to a return of the earnest money. Notwithstanding any other provision of this agreement, Escrow Agent shall have the right to require written releases from both parties prior to releasing the earnest money to either party. If a dispute arises between Purchaser(s) and Seller as to the existence of a default hereunder and/or the release of the earnest money and said dispute is not resolved by the parties within (30) days, Escrow Agent may elect to file an action in interpleader and deposit the earnest money in the court to resolve said dispute, or otherwise disburse the earnest money pursuant to Maine Real Estate Commission regulations. Purchaser(s) and Seller, jointly and severally, shall indemnify Escrow Agent for all costs, losses, expenses, and damages, including reasonable attorneys' fees, incurred by Escrow Agent in

connection with said action and/or in connection with any dispute relating to this Contract and/or the Deposit. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the Purchaser under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the Purchaser.

14. **MEDIATION:** Any dispute or claim arising out of or relating to this Contract or the premises addressed in this Contract shall be submitted to mediation. This clause shall survive the closing of this transaction.
15. **PRIOR STATEMENTS:** Any verbal representations, statements and agreements are not valid unless contained herein. This Contract completely expresses the obligations of the parties. This is a Maine contract and shall be construed according to the laws of Maine.
16. **HEIRS/ASSIGNS:** This Contract is assignable YES ☒ NO ☐. This Contract shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns (if assignment is allowed by the terms of this Contract), of the respective parties.
17. **COUNTERPARTS:** This Contract may be signed on any number of identical counterparts, including telefacsimile copies, with the same binding effect as if the signatures were on one instrument. Original or telefacsimiled signatures are binding.
18. **BINDING CONTRACT:** This Contract is a binding contract when signed by both Seller(s) and Purchaser(s) and when that fact has been communicated to all parties or to their agents. The Effective Date of the Contract is noted below. Time is of the essence of this Contract.
19. **REVIEW OF LEASES AND INCOME AND EXPENSE INFORMATION:** N/A
20. Intentionally Omitted.
21. **OTHER:** The Buyer's obligations are subject to approval by the Portland City Council.

A COPY OF THIS CONTRACT IS TO BE RECEIVED BY ALL PARTIES AND, BY SIGNATURE, RECEIPT OF A COPY IS HEREBY ACKNOWLEDGED. IF NOT FULLY UNDERSTOOD CONSULT AN ATTORNEY.

Seller(s) acknowledges that the laws of the State of Maine provide that every buyer of real property located in Maine must withhold a withholding tax equal to 2 % of the consideration unless the Seller(s) furnishes to the Buyer(s) a certificate by the Seller(s) stating, under penalty of perjury, that Seller(s) is/are a resident of Maine or the transfer is otherwise exempt from withholding.

Purchaser *Date*

Name/Title *Soc. Sec # or Tax I.D.*

The Seller(s) accepts the offer and agrees to deliver the above-mentioned property at the price and upon the terms and conditions set forth above.

Signed this: day of January, 2022. Effective date of Contract: , day of January, 2022.

The Listing Licensee is N/A

The Selling Licensee is N/A

Seller Date

Name/Title Soc. Sec # or Tax I.D.

Seller Date

Name/Title Soc. Sec # or Tax I.D.

Offer reviewed and refused on _____, _____.
_____, Seller

Priorities for Land Bank activities	YES	MAYBE	NO	Notes
Does the property have, or contribute to, healthy forest ecosystem?	x			Forested and abuts of Riverton Trolley Park
Does the property have, or contribute to, healthy wetlands, streams, river, ocean, aquifers or other water bodies?			x	Not far from Presumpscopt River but not directly abutting river
Does the property help mitigate or adapt to climate change impacts? (CO2 storage, storm impacts, tidal impacts)	x			Forested so some C02 storage
Does the property provide an opportunity to protect or improve a healthy ecosystem?	x			Preserves forested land abutting park
Does the property create a connection or link between nearby Parks or Land Bank properties?	x			Abuts Riverton Trolley Park
Does protecting the property support Portland's desired sustainable land use pattern of a dense core with developed corridors and nodes?	x			Abuts existing park space and historic site

Does protecting the property support Portland's desire for equal access to undeveloped natural space in every neighborhood? (all residents within a X minute walk)			x	Riverton Trolley Park already exists so no significant gain
Does the property provide water access for the fishing industry OR for recreation?			x	Not waterfront
Does the property provide passive recreation opportunities?	x			Would be added to Riverton Trolley Park

Other considerations

Is this a time-limited opportunity?	Maybe
Cost	
Maintenance needs, short or long term	Minimal
Are there opportunities for leverageing collaboration	City Riverton Trolley Park
Is there significant stakeholder support/opposition?	None known
Are there other competing land uses?	Potentially but low since the lots need road building
Are there opportunities to achieve multiple goals of Land Bank &/or other City entiti	Yes, abuts existing park
Are there underserved areas where geography is a priority for ecological health or human w	Yes, Riverton public housing
Historical significance (humans)	Riverton Trolley Park
Geologic significance	None known
Is there potential for urban agricultural use	None known

PORTLAND LAND BANK HIGH PRIORITY PARCEL SUMMARY

PROPERTY NAME: Hale (Riverton Trolley Park)

Location: 834 Riverside St. behind West St. and Prim St. just east of 302 and Riverside St. intersection

Size: 0.9 acre

Priority Scorecard: This site was ranked using the Land Bank prioritization process and matrix (scorecard) that is on file with the Land Bank's records. The site is ranked as a medium priority site since it meets several of the criteria for Land Bank properties. The property abuts Riverton Trolley Park and is within a 10-minute walk of a residential neighborhood that includes Portland Housing Authority facilities at Riverton Park. The Hale property has access via paper streets off of Riverside Street; however the cost to develop the paper street to required standards would be a considerable expense. There is demand for residential development since the property is close to a pending residential and commercial development that also abuts the park and has access via Riverside Street.

Ownership: The parcel (CBL 325 C001 to 007) is owned by Dorothy Hale from Scarborough, Maine and identified as 834 Riverside Street. The assessed value of the property is \$31,300 and the annual tax assessment is \$729.60.

Characteristics and Values:

This undeveloped property abuts Riverton Trolley Park and includes a nearby Portland Trails / Sebago to the Sea access point and trail that traverses the park. The park is an historic recreation area for Portland area residents, and adds to the park's forested park setting. The proposed property acquisition is currently forested and would add an undeveloped land buffer between the park and the existing residential houses on West and Prim streets.

The property is close to the Presumpscot River and the park provides waterfront access to the river. The forested land cover provides wildlife habitat for birds and small mammals as well as stormwater runoff buffering benefits between development on Riverside Street and drainage to the Presumpscot River. The Riverton area is becoming increasingly developed and Riverton Trolley Park offers an undeveloped, forested park area for recreation along the Presumpscot River, with the Hale property providing an important forested buffer area between existing residential and commercial development along Riverside Street.

Figure 1. Overview of the parcel showing the extent of the proposed acquisition.



Figure 2. Photo of the site showing the intersection of Riverside Street and West Street that leads to the Hale property.

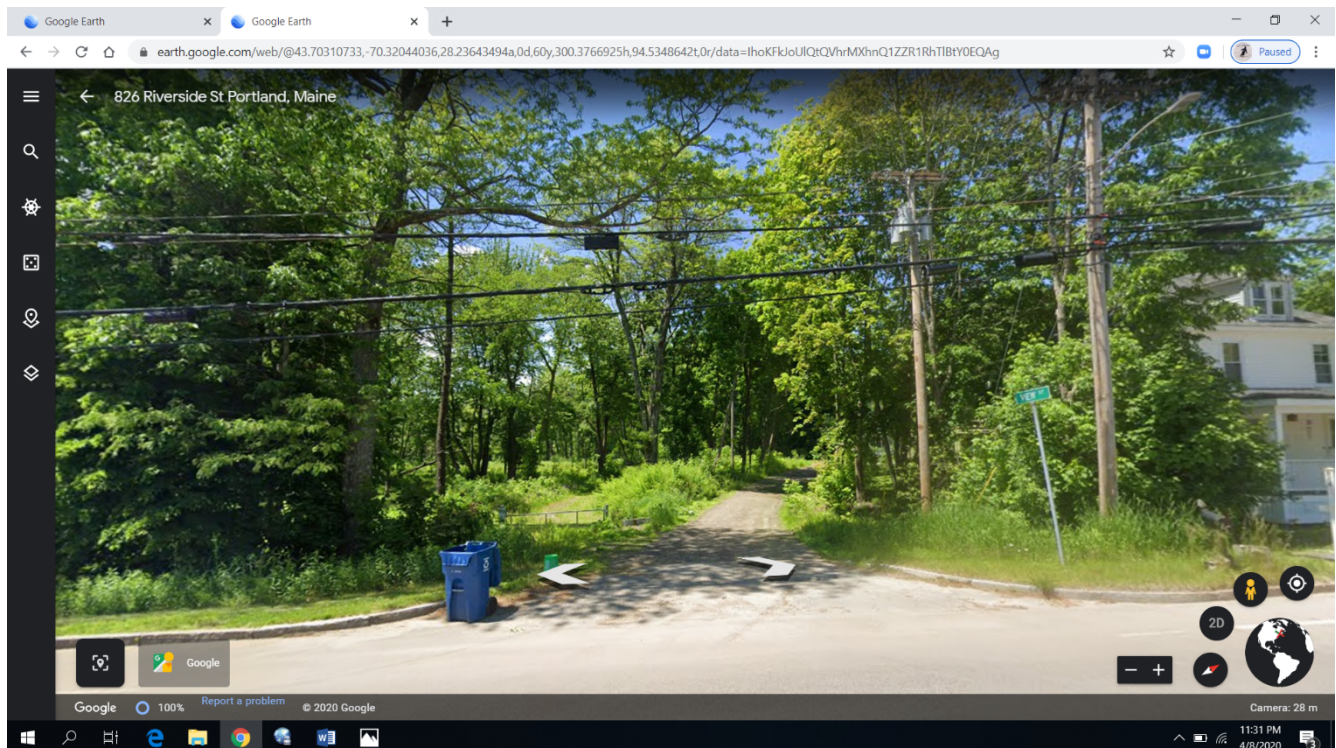


Figure 3. Photos of the site showing the intersection of Riverside Street and Prim Street that leads to the Hale property.

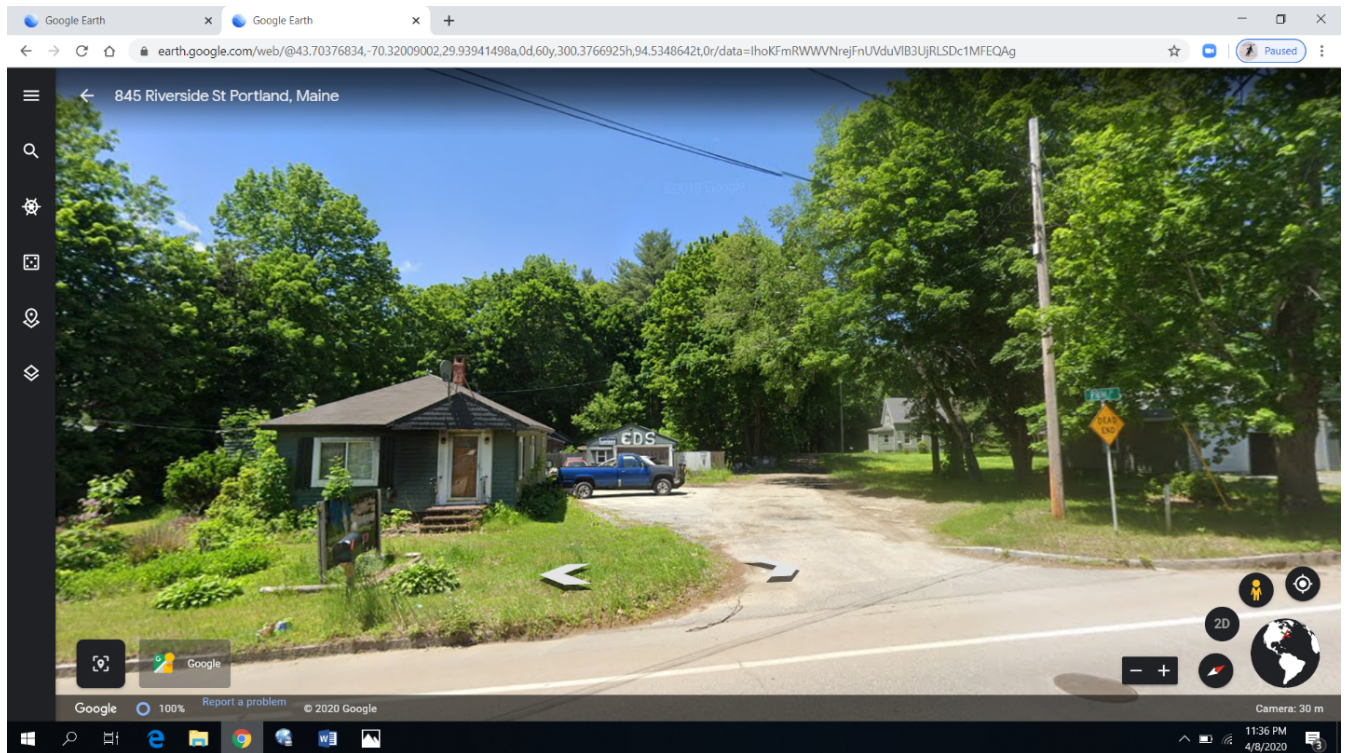


Figure 4. Riverton Trolley Park forested trail and Sebago to the Sea access adjacent to Hale property.



Re: LBC-Riverton Trolley Park

 Greg Mitchell <gmitchell@portlandmaine.gov>
 To Pat Bailey
 Cc Mike Murray; Lori Paulette; Jon Kachmar; Ethan Hipple; Michael Goldman

Pat,

City staff completed their review of these properties and staff supports City property acquisition for the Land Bank.

Please let me know if you have any questions or require additional information.

Greg A. Mitchell, Director
 Housing and Economic Development Department
 City of Portland
 389 Congress Street
 Portland, Maine 04101
 Tel. 207.874.8945
 Fax 207.756.8217

On Fri, Nov 13, 2020 at 11:26 AM Greg Mitchell <gmitchell@portlandmaine.gov> wrote:
 Good morning Pat,

This is under review by city staff to formulate city staff's position.

Land Bank Commissioner Jon Kachmar had previously emailed me with this same request. The staff review has taken longer than anticipated. I will update you next week.

Greg A. Mitchell, Director
 Housing and Economic Development Department
 City of Portland
 389 Congress Street
 Portland, Maine 04101
 Tel. 207.874.8945
 Fax 207.756.8217

HCP-10 Presumpscot River Corridor

FOREST AVE

Riverton Trolley Park

HCP-11 Vacant Parcels Near
Riverton Trolley Park - Hale Parcels

325 C007

325 C006

325 C005

325 C004

325 C003

325 C002

325 C001

VIEW ST

PRIM ST

RIVERSIDE ST

January 31, 2022

Rob Tod
Allagash Brewing Company
50 Industrial Way
Portland, ME 04103

Re: Donation for Riverton Trolley Park Acquisition

Mayor Snyder and Members of the Portland City Council:

Allagash Brewing is very supportive of the efforts of the City's Land Bank Commission to expand the Riverton Trolley Park to include the parcel of land that immediately abuts the park near West and Prim Streets, and with the address of 834 Riverside Street. The open space of the existing Trolley Park, including the current effort to add additional park space, provides a significant amenity for people who visit or reside in the increasingly popular Riverton area. The park provides valuable open space along the Presumpscot River, while also preserving Portland's long history of tourism.

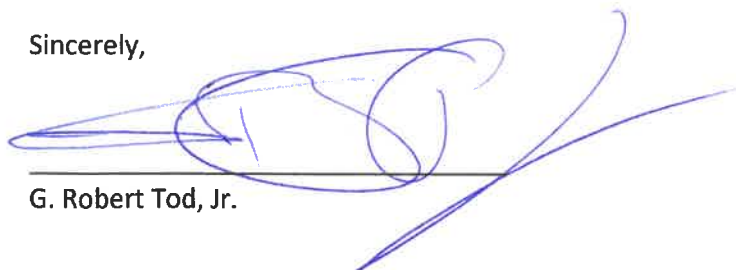
To assist with acquiring the parcel abutting the Trolley Park, Allagash Brewing is pleased to donate \$23,000 to the City of Portland to assist the City in acquiring the land parcel at 834 Riverside Street. We look forward to working with the City to complete this endeavor.

Regarding the logistics of our donation, our understanding is that the funds will be set aside in a dedicated fund solely for purpose of acquiring this parcel. If the acquisition of the land parcel does not occur within a reasonable period, we further understand that the funds will be returned. Once the City Council has formally approved the purchase and sale agreement for the parcel, please let us know and Allagash Brewing will mail or deliver a check for \$23,000 to the Department of Parks, Recreation and Facilities to assist with the acquisition. We will plan to deliver these funds within 3 days of receiving notice.

Allagash Brewing greatly appreciates the City's efforts to preserve open space in Portland, which contributes to a thriving economy, environmental stewardship, and health benefits for both residents and visitors. We also are very pleased to be able to assist the City in helping to enlarge public open space at Riverton Trolley Park.

If you have questions or need anything else, please let us know.

Sincerely,



G. Robert Tod, Jr.

City of Portland | Executive Department

Dena Libner, *Chief of Staff*



To: Mayor and City Council

From: Dena Libner, Chief of Staff

Date: March 7, 2022

Re: Analysis of Hale Property Suitability for Affordable Housing

Order 150-21/22, scheduled for City Council consideration on March 7, 2022, includes whether to a) accept a private donation to aid in the purchase of 834 Riverside for inclusion in the Land Bank, and b) approve a purchase and sale agreement for that property.

Staff recognize and share the Council's emphasis on the need for more affordable and market-rate housing in Portland. This need is taken into consideration when making decisions and/or recommendations on a number of different matters, including the acceptance of new parcels by the Land Bank Commission.

In October 2020, at the request of the Land Bank Commission, City staff considered whether the development of affordable housing was feasible on an undeveloped parcel (at 834 Riverside Street) the Commission was interested in purchasing.

Staff agreed that this property would be an appropriate addition to the Land Bank. Their decision was based not only on the environmental and recreational benefits of preserving this parcel, but also the feasibility of this property being privately developed for affordable housing, given its current zoning (which does not allow residential uses) and the significant costs associated with the construction of a new street to provide access to multiple single-family homes.

We hope this information is helpful to the Council in their consideration of Order 150-21/22.

From: **George Rheault** <george.rheault@gmail.com>

Date: Fri, Feb 25, 2022 at 3:19 PM

Subject: Public Comment for Order 150-21/22: Housing vs Open Space

To: Kate Snyder <ksnyder@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>, Roberto Rodríguez <rodriguez@portlandmaine.gov>, Anna Trevorrow <atrevorrow@portlandmaine.gov>, <vpelletier@portlandmaine.gov>, Andrew Zarro <Azarro@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>, Tae Chong <tchong@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>

Cc: Danielle West-Chuhta <dwchuhta@portlandmaine.gov>, Mary Davis <mpd@portlandmaine.gov>, Hipple, Ethan <EHIPPLE@portlandmaine.gov>

See attached a case study prepared in May 2008 highlighting a major showdown in Portland in which 220 potential units of affordable housing were whittled down to ZERO due to NIMBY opposition. Land conservation, using the Land Bank ordinance as a vehicle, was used as the excuse to kill the badly needed housing rather than achieve a balanced outcome.

I urge each member of the Council to find time to read this in the run-up to your March 7th meeting (2nd read for Order 150-21/22) as it highlights all the same issues that the Council confronts today with respect to the fate of the 0.9 acre parcel now up for grabs adjacent to Riverton Park.

FYI: The white paper was written by a master's student with the supervision of Richard Barringer who is generally well-regarded. The analysis still holds up very well despite some flaws (inexplicably they mis-spelled Cheryl Leeman's last name throughout). Also, I am not sure this debate received all that much media attention at the time - so the fact this document exists may be one of the few pieces of remaining evidence that a controversy ever existed there.

Source:

<https://digitalcommons.usm.maine.edu/cgi/viewcontent.cgi?article=1005&context=planning>

"Portland ME: Affordable Housing v. Open Space" (2008): Prepared by Patrick Wright with the assistance of Brett Richardson for the New England Environmental Finance Center's "Next Communities Initiative," Richard Barringer, ed., Edmund S. Muskie School of Public Service, University of Southern Maine, Portland ME, May 2008.

5-2008

Portland ME: Affordable Housing v. Open Space

Patrick Wright

Brett Richardson

Richard Barringer
University of Southern Maine

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Recommended Citation

Wright, Patrick; Richardson, Brett; and Barringer, Richard, "Portland ME: Affordable Housing v. Open Space" (2008). *Planning*. 6.
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Portland ME: Affordable Housing v. Open Space¹



A case from the library of “smart growth” leadership case studies prepared by the New England Environmental Finance Center, available at efc.muskie.usm.maine.edu/docs

Abstract. Amid an acknowledged “affordable housing crisis”, a first-time developer approaches the City to release part of a tax-acquired property, promising a smart-growth development that would provide sorely needed starter homes for working families. The case highlights the complications of balancing competing interests in Portland ME. It shows where rational planning fails in the presence of strong neighborhood opposition, a disjointed city staff structure, and the absence of political will among City Councilors. It highlights the need for champions within local government when a project evokes competing interests. It demonstrates the extent to which “words matter” to policy outcomes, and who gets to define them – in this case, in the fateful difference between “preservation” and “conservation.” Finally, it suggests that NIMBY responses to development proposals may depend as much upon *how* and by *whom* it is put forward as by *what*.

¹ Prepared by Patrick Wright with the assistance of Brett Richardson for the New England Environmental Finance Center’s “Next Communities Initiative,” Richard Barringer, ed., Edmund S. Muskie School of Public Service, University of Southern Maine, Portland ME, May 2008. Aerial photo of the Portland peninsula courtesy of the Maine Office of GIS. Copyright © 2008 by the Muskie School of Public Service.

Portland. Portland is a city composed of an urban peninsula, inner-ring suburbs, and several offshore islands. The peninsula is densely developed, centered on the vibrant downtown with its historic Old Port, working waterfront, and arts district, surrounded by four distinct, high density, suburban neighborhoods. According to the city's comprehensive plan, Portland has a population of just over 64,000 people served by 31,864 housing units. The plan notes a trend towards smaller household occupancy rates and a modest increase in population. The surrounding residential suburbs in Cumberland County show a similar trend towards smaller households, but a much greater increase in population, an indicator of sprawl.

The implementation section of the Portland comprehensive plan states the need for an additional 4,267 housing units, based on population projections. The plan recommends several approaches to reaching this goal, including infill development, senior citizen housing, creation of affordable housing units, and importantly, support of market rate, single family starter-homes for middle income citizens.²

The Land Bank. As the public perception grows that Portland is near to being completely built-out, there is felt need to protect or preserve open space for the benefit of both human and natural populations.³ In 1998, an off-peninsula development in Councilor Tom Kane's district carved out a woody area long used by neighbors for passive recreation. The issue grew contentious, and Kane sought a mechanism to anticipate and avoid such conflicts in the future.

In the following year, at the urging of now-Mayor Tom Kane, a Land Bank Commission (LBC) was established to identify and inventory undeveloped land, public and private, with significant conservation value. Its official website states that the LBC

is responsible for identifying and protecting open space resources within the City of Portland. The Commission seeks to *preserve a balance* between development and *conservation* of open space important for wildlife, ecological, environmental, scenic or outdoor recreational values. The Commission responsibilities include: working for the acquisition and conservation of open space within the City; recommending to the City Council on a priority basis acquisition or conservation of significant properties; and the pursuit of gifts and funds from private and public sources for the acquisition of open space as approved by the City Council.... It is engaged in an ongoing effort to proactively protect properties from development through easement, deed restriction, or acquisition. (emphasis added)

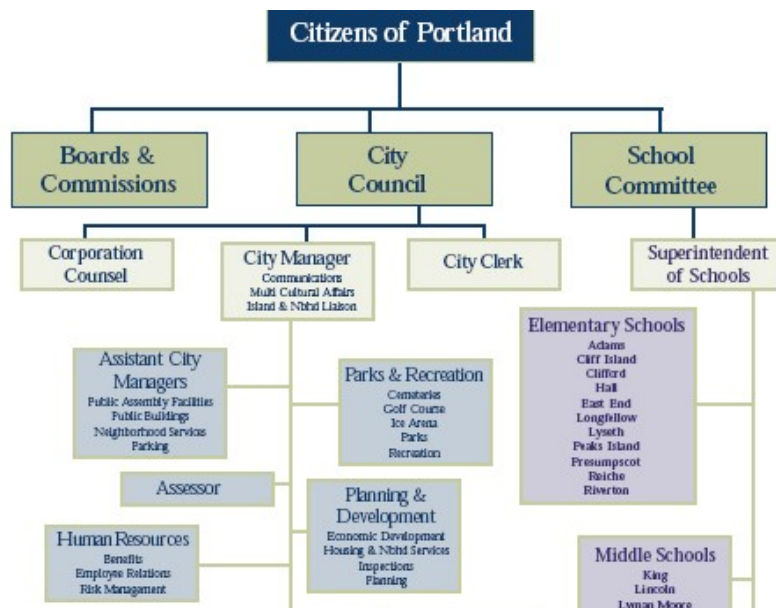
² The comprehensive plan is available online at <http://www.portlandmaine.gov/planning/complanbook.asp>

³ A recent analysis of Lewiston-Auburn ME found 12,185 acres of vacant and currently zoned residential land that could accommodate at least 8,000 new housing units. See www.brookings.edu/metro/maine.

Specifically, the LBC was created by the City Council “to ensure the conservation and preservation of limited open space with important wildlife, ecological, environmental, scenic or outdoor recreational values.”⁴ It is authorized to inventory vacant lands within the city and set priorities among them on the basis of their value for conservation and/or preservation, and of any threat to them, according to standards established by the Council. Today it annually presents to the Council a “registry” of these properties, prioritized by quality and imminence of threat.

Within the City’s departmental organization (see chart below), the LBC is accountable to the City Manager, and was originally assigned to Larry Mead, Assistant City Manager and former Director of the Parks & Recreation Department; today, after Meade’s departure to become manager of a nearby town, it reports to Denise Clavette, the City’s Parks & Recreation Director. It is chaired by Roger Berle, the highly-respected past president of Portland Trails, member of the State’s Land for Maine’s Future board, and a dedicated conservationist; he is in the last of three terms as chair.

The source of the LBC’s influence is the reputation of its member and their skill in lobbying Council members and the general public. They recently petitioned successfully for an annual appropriation of some \$50,000 to leverage the purchase of properties for the City, for which Council approval remains necessary.



⁴ See Ord. No. 659-86, § 1, 6-16-86, Article III-A, Portland Land Bank Commission.

The Parcel. A 35 acre parcel of undeveloped land in the off-peninsula Ocean Avenue neighborhood surrounding a capped landfill had been acquired by the City through tax delinquency. The parcel was recognized by the Land Bank Commission and placed on its high priority (but not *very* high priority) list for protection. In Spring 2006, a developer approached the City with a proposal to devote a portion of the parcel to affordable housing for city residents. According to Larry Meade, the proposal promptly sent the parcel to the top of the LBC's priority list for protection.

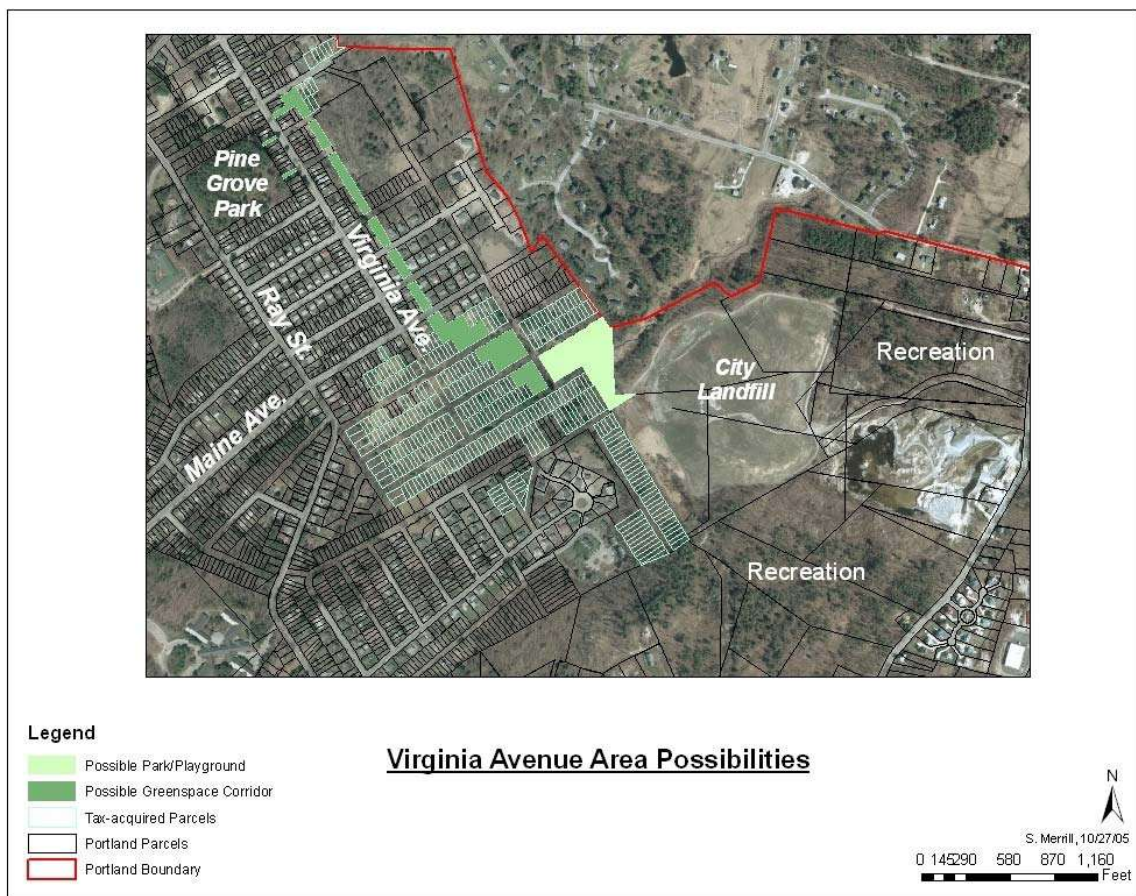


Aerial Photo Courtesy of Maine Office of GIS and Google Earth

The parcel is the largest contiguous tract of undeveloped land in the city, valued from a conservation perspective for its unique features: its proximity to the Casco Bay Estuary and mix of meadowland, mature tree growth, and wetlands make it excellent sanctuary for bird life. As a result, the Maine Audubon Society would back protection of the parcel, and environmentalists championed its diverse wildlife habitat within the city.

The Developer. The first-time developer, Sam Merrill of nearby Pownal ME, is a trained wildlife scientist and was previously executive director of a prominent, mid-coast Maine land trust. The concept plan he presented to the City (see below) proposed to balance open space and wildlife habitat with 220 appropriately-sited, affordable housing units.

As neighborhood and conservation opposition mounted, however, and especially upon the arrival of an updated wetlands map, the developer's proposal was scaled back to between 70 and 150 units, built on the most suitable land along the Virginia Avenue side of the parcel.



Note: Map prepared by the prospective developer to open conversations with the City and stakeholders. It shows 1) the "paper streets" that were part of the City's earlier vision for residential development of the area; 2) a possible green corridor to connect existing open spaces; and 3) a possible new playground location. Subsequent environmental analyses showed wetland configurations would dictate locations and densities of any development.

The developer's revised proposal might have generated the optimum value for the site: critical habitat would be preserved along with the recreational opportunities treasured by

neighbors; and the City would be closer to its goal of more family-oriented, below-market housing units within the city limits. Ultimately, however, the housing proposal failed due to a confluence of local and environmental interests that overrode the broader public interest in the express City goal.

The Neighbors. Even in its reduced form, the neighbors opposed the proposed development. For years they had relied on the parcel for various forms of active and passive recreation. Their collective voice spoke out to preserve the land. City Councilor Cheryl Lehman, who represents the district, became their champion.



Access point to recreational resource treasured by neighbors

Photo by Patrick Wright

In an interview a year later, Lehman recalled several reasons that the development proposal did not suit the land. It was, in a word, too “conceptual.” The developer, on the other hand, had purposefully submitted the proposal in concept form, expecting to flesh out details through a consensus-building process with neighbors and other stakeholders, once the City had given preliminary approval. Lehman’s response was, “The only thing the neighbors would have told him is, “We want open space!”

Lehman was also concerned that the developer had no prior experience in housing development. Though he was partnered on the project with a well-established affordable housing group, his inexperience was one more roadblock for Lehman and the neighbors. Finally, Lehman complained that the proposed development form – “cluster” housing – would be out of keeping with the first-wave suburban character of the neighborhood.

When asked for her solution to the affordable housing issue in Portland, Lehman offered that the Greater Portland region *as a whole* needs more affordable, single family, “starter”

homes; and that it should be built outside the City of Portland, where undeveloped land is more plentiful and less expensive.

The Project Champions. Despite push-back from the neighbors, the developer's proposal appeared to be gaining traction. He had built a coalition in its support, including the Trust for Public Land and the popular Portland Trails organization.

Leading the support for the project was Karen Geraghty, at-large City Councilor and chair of the Council's Housing Committee. Working against the project was that its future occupants, or beneficiaries, were not yet personally identified and present, much less organized. While there are advocates for affordable housing, they were not as passionate or well-organized as the citizens in the neighborhood. When Geraghty spoke out for the project, it was without an organized citizens' group behind her to "beat the drum".

Other Council members became project champions, as well, though the developer did not secure a champion on the City Hall staff. Wendy Cherubini, the City's housing specialist and advocate at the time, left early in the project for another position outside city government. Lee Urban, the City's Director of Planning and Development, was generally aware of the project proposal, but remained largely uninvolved in discussions with City Councilors and others about the proposal.

The debate between Councilors Geraghty and Lehman became heated at times. At what would be the final Council meeting on the proposal, Lehman moved that before the Council might make a decision, the neighbors should have another series of meetings to clarify their position about housing development in the area. Despite the City's well-documented need for affordable housing, the rest of the Council was unwilling to stand against Lehman and the neighbors; so, development of the City-owned land was tabled. It subsequently became clear that the issue could not be resolved before current Council terms expired; and Geraghty had decided not to seek re-election to the Council.

By mid-2006, the developer had dropped the proposal, citing the additional investment of time and money needed to see it through. The uncertain will of the Council to pursue new housing within the city limits presented too much risk for him to continue.

Postscript. In February 2007, following the election of new City Council members, Councilor Lehman and the Land Bank Commission suggested that the Virginia St. parcel be placed into the City's Land Bank; the motion passed unanimously. In response, at-large Councilor Jill Duson, now chair of the Housing Committee, moved that the Land Bank set aside the most build-able portion for future consideration as housing; the motion failed, 5-2. While the designation of the parcel as a holding of the Land Bank does not place the land into permanent preservation, its designation is another political barrier to its development.

TEACHING NOTES:

Important ideas illustrated in the Portland case include:

1. Organization and accountability matter: The placement of the Land Bank in the City's organization compromised the opportunity to advance the express needs of the City.
2. Public leadership matters. The loss of the Housing Committee chair's leadership compromised the project. Where was the head of the Planning and Development Office?
3. Influence matters. Potential influence is made actual only through its skillful, concerted application. How else might the developer have exerted influence? Were "back channels" used effectively in this case?
4. Words matter! As Benjamin Disraeli is quoted as having said "It is by words that we govern;" and how words are interpreted matters. For 100 years there has been maintained a distinction in land management circles between "preservation" (or, maintenance in its original or existing state) and "conservation" (or, planned use according to established principles, as "wise use" or "multiple use"). How did the preservation community come to capture the Land Bank?
5. Planning does not equal implementation. Why did the City's comprehensive plan intentions, so clearly stated, not translate into policy "on the ground?"
6. Timing matters. Turnover on the Council came at a bad time. The are needed through successive administrations.
7. Trust is the coin of the realm when it comes to overcoming resistance to change. Did the developer enjoy trust? How might he have gained it?
8. Are NIMBY'S always what they seem? Public recreational use of the Virginia Ave. property occurred spontaneously, without planning on the City's part, and became a rallying-cry for opponents to development. As open land becomes increasingly scarce in Portland's inner suburbs, access to recreational opportunity is increasingly valuable, and any threat to it is likely to meet resistance. How might the developer have overcome this resistance?

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam
DATE: February 23, 2022
SUBJECT: Order 151-21/22 Traffic Schedule Amendment Re: 101 York Street - Sponsored by Danielle P. West, Interim City Manager
SPONSOR: Danielle West, Interim 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 Yes

PRESENTATION: N/A

I. SUMMARY

City Council is being asked to amend the parking schedule at 101 York Street from five (5) unrestricted spots to three (3) two-hour parking spots and two (2) commercial loading zones.

II. AGENDA DESCRIPTION

The City Council is being asked to approve a reassignment of the five (5) on-street parking spaces in front of 101 York Street. Currently, these five (5) spaces are unrestricted and the owner of 101 York Street stated that there are many cars that park here for extended periods of time. The City's recommendation is to have the two (2) spaces adjacent to the parking garage at 101 York Street be 30-minute commercial loading zones between 9 AM to 12 PM and 2-hour parking from 12 PM to 5 PM. The remaining three (3) spaces will be 2-hour spaces.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Currently there are five (5) unscheduled on-street parking spots directly in front of 101 York Street, the owner of a new business at 101 York Street would like these parking spaces to be scheduled as two-hour parking and include commercial loading zone hours for the two (2) spots closest to the parking garage.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Currently there are five (5) unscheduled on-street parking spots directly in front of 101 York Street. The intended result of this request is to have two (2) on-street parking spaces include commercial loading zone hours in support of a new business opening at 101 York Street. The other three (3) existing spaces would be two-hour parking spaces. These changes would facilitate higher turnover parking and commercial operations for the new business which will be opening in a space that has been vacant for quite some time.

V. FINANCIAL IMPACT

The financial impact of this parking change is minimal, there would need to be four (4) signs installed at this location, for a total cost of approximately \$1,000, including installation costs and staff time. There is also a positive financial impact from this change due to the addition of five (5) time-restricted parking spaces in a heavily trafficked area.

VI. STAFF ANALYSIS AND BACKGROUND

When 101 York Street was originally approved by the Planning Board, no on-street parking regulations were associated with the approval, as there was an understanding these uses would be determined by a specific tenant to locate to this building. Now that a tenant will be occupying this space, these are the recommended uses.

VII. RECOMMENDATION

The Department of Public Works recommends approving the parking schedule change for these five (5) spots with the support of directly abutting businesses.

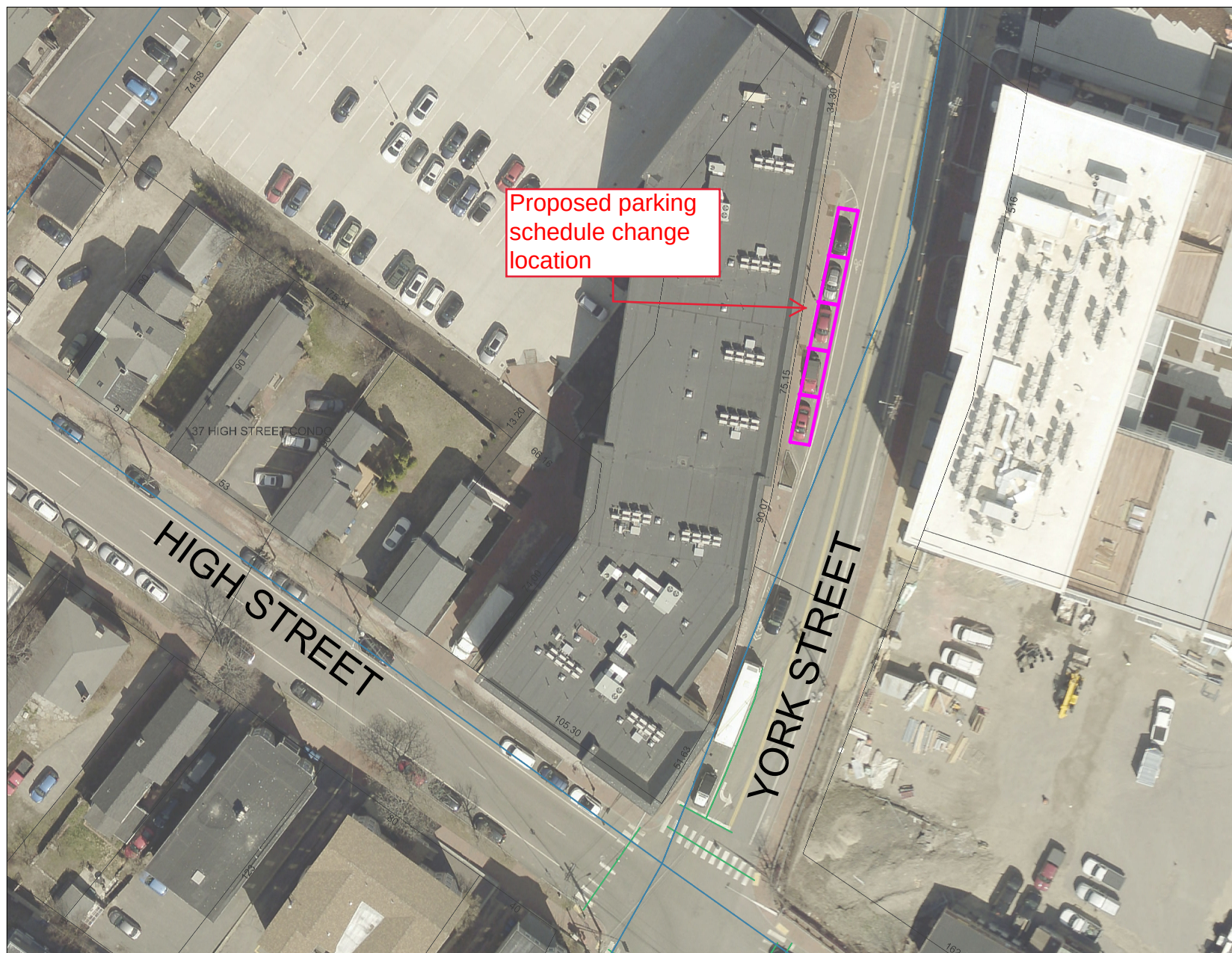
VIII. LIST ATTACHMENTS

1. Attachment 1 - Location Map
2. Attachment 2 - Traffic Schedule Amendment
3. Attachment 3 - Letter of Support

Prepared by:

Melissa Graffam

Date: 02/23/2022



Location Map: 101 York Street Parking Schedule Change

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PLETTIER (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)
ROBERTO RODRÍGUEZ (A/L)

**TRAFFIC SCHEDULE AMENDMENT
RE: 101 YORK STREET**

ORDERED, that the City of Portland's Traffic Schedule be and hereby is amended as follows:

By Adding under York Street, from a point approximately 150 feet north of High Street for a distance of 120 feet:

North Side - Southmost 3 spots:

- **Schedule XVIII - 2 Hour Parking**

North Side - Northmost 2 spots:

- **Schedule XI – Commercial Loading Zone**
- **Schedule XVIII - 2 Hour Parking**

Dear City Council Members,

I am writing to express my support for the proposed parking change in front of my business at 101 York St.

Metering these spots and or changing them to 2 hour parking, would be beneficial for the operation of X-Golf for a number of reasons. In addition to providing parking for X-Golf Patrons, I also need 2-3 of the 5 spots in front of the building to be designated as a commercial loading zone during the morning hours, as I will need to receive weekly deliveries from food and beverage distributors.

Thank you for your consideration of this request.

Sincerely Appreciated,
Joe Atwood
X-Golf Portland Owner

A handwritten signature in black ink, appearing to read "Joe Atwood", with a stylized flourish at the end.

1/24/2022

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam

DATE: February 23, 2022

SUBJECT: Order 152-21/22 Approving the Agreements between the Maine Department of Transportation and the City of Portland Re: Forest Avenue Paving -- Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Daielle P. West, Interim 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 2/28/2022

Final Action 3/7/2022

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 Maine Department of Transportation (MaineDOT) to put the contract out to bid immediately to meet target construction start date for this project and hopefully receive better bid pricing due to the earlier bid date.

PRESENTATION: N/A

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave Forest Avenue between Congress Street and Park Avenue in 2022.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Forest Avenue, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Forest Avenue. The agreement obligates the City to pay for 25% of the work as its municipal share, or an estimated \$65,575.00. A separate Utility Agreement for the approximately \$16,800 cost to adjust the manhole frame and covers will be paid from an already funded Water Resources account.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The Forest Avenue paving project is part of MaineDOT's 2021-2024 work plan. The scope of work includes milling and paving with a 1 ½ inch hot mix asphalt overlay. Construction work on this project is scheduled to begin after April 15, 2022 and be completed in 2022. This project is classified as a pavement preservation project on an urban collector street.

As such, PACTS will pay 75% of the cost of paving as part of its Collector Paving Program. The City will be responsible for 25% of the paving cost and 100% of the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Forest Avenue paving project will improve the pavement surface and ride quality on a regionally important major urban collector street. PACTS funds will pay for 75% of the paving costs.

V. FINANCIAL IMPACT

The City is obligated to pay 25% of the total construction cost. The total City cost of this work, estimated to be \$65,575.00, would be paid from a FY23 CIP account established for this project. Please see the attached fiscal impact note for additional information. A separate Utility. Agreement for the cost to adjust the manhole frame and covers will be submitted later; The City is obligated to pay 100% of the utility adjustment cost; funding for that cost will come from a currently available Water Resources account.

VI. STAFF ANALYSIS AND BACKGROUND

Urban collector paving projects such as this one, where MPO pays 75% of the paving costs, are one of the best alternatives for the City in terms of getting the most street paving done for the least expense of City funds. This is an important location in the City of Portland due to its high AADT and designation as a major collector; without this work, this section of Forest Avenue will continue to deteriorate.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave approximately 0.28 miles of Forest Avenue (from Congress Street to Park Avenue) in 2022.

VIII. LIST ATTACHMENTS

1. MDOT 2-party Forest Ave Paving 2.28.2022
2. Forest Ave - Congress to Park - Location Map
3. Municipal State Agreement - WIN 24997
4. Fiscal Impact Note - Forest - Congress to Park
5. 24997 Forest Ave - Utility Agreement

Prepared by:

Melissa Graffam

Date: 02/23/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE TWO-PARTY AGREEMENTS
BETWEEN THE MAINE DEPARTMENT OF TRANSPORTATION
AND THE CITY OF PORTLAND
RE: FOREST AVENUE PAVING**

ORDERED, that the Two-Party Agreements between the Maine Department of Transportation and the City of Portland are hereby approved, in substantially the forms attached, for paving and other work on Forest Avenue:

- WIN 24997.00, Proposed Improvements to Forest Avenue

BE IT FURTHER ORDERED, that the Interim City Manager or her designee is hereby authorized to sign the two-party agreements and any other documents necessary to effect the purpose of this order.



public
works

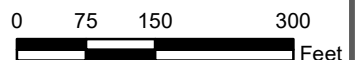
CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Forest Avenue Park St to Congress St

MDOT Paving



Feb 2022





MaineDOT use only	
CTM #:	_____
CSN #:	_____
PROGRAM:	<u>Highway Program</u>

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
PROPOSED IMPROVEMENTS TO FOREST AVENUE

(MaineDOT Use Only)

Project Location: Portland

State WIN #: 24997.00

Federal Aid Project #: 2499700

Estimated Municipal Share: \$65,575.00

Vendor Customer #: 17A12984

Agreement Begin Date: _____

Agreement End Date: (5 years from the date last signed below)

This Agreement is entered into between the **Maine Department of Transportation** (hereafter **MaineDOT**) and the **Municipality of Portland**, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (collectively hereinafter the "Parties").

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to Forest Avenue, beginning at Congress Street and extending north 0.28 of a mile to Park Avenue, in Portland, Maine, (hereafter the "Project").
- B. 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.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project's Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Shared Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☐ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. The Municipality agrees that MaineDOT and its contractors are exempt from all local ordinances, including but not limited to the Municipality Noise Ordinance.
4. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

5. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

6. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).

- ii. The Municipality will comment on their concerns/issues related to the Traffic Control Plan within two (2) weeks of receipt.
- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

H. Utilities:

- 7. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 8. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 9. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 10. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 11. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 12. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for 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. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

13. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
14. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
15. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
16. When applicable, the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
17. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

18. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
19. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to MaineDOT's satisfaction.

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 that by their very nature are intended to survive*.

L. Miscellaneous Provisions:

20. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes

debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

21. All provisions of this Agreement, *except those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
22. **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. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
23. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees 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, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
24. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
25. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be 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. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
389 Congress Street #208
Portland, ME 04101
Attn.: Danielle P. West
Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Danielle P. West, Interim City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

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.

Original **Y** Modification **N/A** MOD No. **N/A**

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF **PORTLAND**

PROPOSED IMPROVEMENTS TO **FOREST AVENUE**

FEDERAL AID PROJECT NO. **2499700**

STATE PROJECT IDENTIFICATION NUMBER (WIN) **24997.00**

Project Scope:

Mill & Fill on Forest Avenue, beginning at Congress Street and extending north 0.28 of a mile to Park Avenue.

Funding Outline:

The Total Project Estimated Cost is \$ 262,300.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			Federal	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25.0%	\$ 2,325.00	75.0%	\$ 6,975.00	0.0%	\$ -	\$ 9,300.00
Right of Way	25.0%	\$ -	75.0%	\$ -	0.0%	\$ -	\$ -
Construction	25.0%	\$ 58,575.00	75.0%	\$ 175,725.00	0.0%	\$ -	\$ 234,300.00
Construction Engineering	25.0%	\$ 4,675.00	75.0%	\$ 14,025.00	0.0%	\$ -	\$ 18,700.00
PROJECT SHARES		\$ 65,575.00		\$ 196,725.00		\$ -	\$ 262,300.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ -					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 65,575.00					

(Check if applicable)**Additional Work as outlined in Appendix C to this Agreement.****Funding Outline:** The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	-

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$33,950.00	5/1/2022
City of Portland	\$31,625.00	8/1/2022
City of Portland	Balance	9/1/2023
Total Receivable Amount:	\$65,575.00	

Formula for New Program Costing on Tax R

1) FY22 Valuation:	14,629,000,000	\$14,629,000
2) FY22 Tax Rate (Total City & School): <u>Levy / (Valuation/1000)</u>		\$12.99
(a) FY21 Tax Rate (City):		\$6.22
(b) FY21 Tax Rate (School):		\$6.77
3) FY22 Value of \$0.01 of Tax Rate (Total City & School):		\$146,290

FISCAL IMPACT NOTE	Year 1		Year 2		Year 3	
New Program Cost Data:	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$4,079		\$4,079
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$4,079	\$4,079	\$4,079	\$4,079
New Program Impact to the Tax Rate	\$0.0000	\$0.0000	\$0.0003	\$0.0003	\$0.0003	\$0.0003
New Program % Impact on Tax Rate	0.0000%	0.0000%	0.0045%	0.0021%	0.0045%	0.0021%
Tax Rate Including New Program	\$6.22	\$12.99	\$6.22	\$12.99	\$6.22	\$12.99

Notes: The CIP impact will actually begin in 2023 and remain for the 20 year life of the bond.

TEDOCS #: _____

CT#: _____

CSN#: _____

Program: Highway Program

MAINE DEPARTMENT OF TRANSPORTATION UTILITY RECEIVABLE AGREEMENT

(MaineDOT Use Only)

Project Location: Portland
 State WINs #: 024997.00
 Federal Aid Project #: 2499700

Estimated Agreement Amount: \$ 16,800.00
 Vendor Customer #: 17A12144
 MaineDOT Signed Date: _____
 Forecasted Agreement End Date: October 31, 2022

THIS AGREEMENT entered into the last date signed herein at the end of this agreement, between the **Maine Department of Transportation** (hereafter the “Department”) and **City of Portland**, duly authorized and existing under the Laws of the State of Maine and having an office in the City of **Portland**, County of **Cumberland** (the “Utility”) (the Department and the Utility are collectively referred to as the “Parties”).

1. The Department is implementing a transportation project identified as “Federal Aid Project Number **2499700**; WIN: **024997.00** (the “Project”) for highway improvements in the City of **Portland, Cumberland** County;
2. In connection with the Project, the Department has prepared plans and specification for the Project that resulted in the following determination:

X The Department has identified the locations of existing utility facilities owned and maintained by the Utility and lawfully installed within the limits of the public highway right-of-way and the impact limits of the Project that must be relocated to accommodate the Project (the “Affected Facilities”).

_____ The Utility has expressed an interest in installing new utility facilities within the limits of the public highway right-of-way and the impact limits of the Project (the “Affected Facilities”).

3. **Project Scope:** Affected facilities consist of **six (6)** Sewer Manholes on Forest Avenue, **one (1)** of which needs to be **Rebuilt**, **one (1)** of which needs to be **Modified**, and **four (4)** of which need to be **Adjusted**. The City of Portland will provide all new frames and covers, if needed. Exact locations may be found within the Construction Notes. Old and unused frames and covers will be returned to the City for disposal.

4. The Utility has prepared and provided to the Department the scope of work necessary for relocating or installing the Affected Utilities (the “Utility Work”) and the estimated costs associated therewith, which are outlined in **Appendix A**, attached hereto, and made a part hereof. The costs associated with the Utility Work are the sole responsibility of the Utility.
5. The Parties wish to establish a process for including the Utility Work in the Department’s construction contract for the Project.

NOW, THEREFORE, the Parties agree as follows:

6. Plans, Specifications and Estimate:

- a. The Utility shall, at its own expense, perform and provide all engineering, design and related services related to the Utility Work necessary to enable the Department and/or its consultant to generate construction plans, specifications and an estimate of material quantities for the Utility Work to be included in the Project contract. The Utility will be responsible for locating and recording the location of all Utility Work, including services and other appurtenances within the Project area. To the extent possible and consistent with laws, practices and policies of the Department and the industry, the Utility Work shall be performed in accordance with the plans and specifications provided by the Utility and, if applicable, the most recent version of the Department’s Standard Specifications.
- b. All plans shall be on sheets of the same size used by the Department and be reproducible by black and white printing. Specifications shall be on 8 ½ x 11-inch paper, suitable for binding with the Department’s specifications. The estimate of quantities shall be in the form prescribed by the Department. In the event of field changes to the Utility Work, the Utility shall prepare any additional plans and specifications and the Department shall prepare a Project change order and amend this Agreement incorporating any changes therein. All plans and specifications will be marked with the Federal Aid Project Number referenced in this Agreement.
- c. The Utility will provide the Department with the plans, specifications and an updated estimate as described in Appendix A no later than one month prior to the scheduled advertise date for the Project.
- d. The Utility shall be responsible for obtaining a Utility Location Permit from the Department in accordance with Title 35-A M.R.S.A. Chapter 25 and for recording the location of all utilities in a manner and form to be specified by the Department.
- e. **Standard Approach:** The Department will prepare the Project contract documents to include the Utility Work specified in Appendix A. The Utility agrees to have these items included in the Department’s Project construction contract. Bidders will be required to bid both the Project work and the Utility Work. The Utility Work will be paid for by the Utility, and any changes that increase the Utility Work estimate or

amount will be paid for through a written modification of this agreement approved by both the Utility and the Department.

7. Inspection:

- a. The Utility shall be responsible for providing all engineering and inspection associated with the Utility Work including computing quantities for payment and other incidental and related work unless otherwise stated herein. By the end of each work day, whenever Utility Work is performed, the Utility will provide the Department's on-site representative with an itemized summary of all the Utility Work completed.
- b. The Department shall provide inspection of the quality and compaction of backfill installed in connection with the construction contract, excluding bedding and other special backfills and materials used in the installation of the Utility Work.
- c. If the Utility Work is included in the Project contract pursuant to Section 6.e. above, the Utility agrees to the following:
 - i. Should the Utility find the Project contractor's materials or workmanship to be insufficient in any way, the Utility agrees to inform the Department's on-site representative as soon as possible, but no later than the end of the day in which the problem is identified.
 - ii. As administrator to the construction contract, the Department's on-site representative shall be responsible for authorizing all payments relating to the Utility Work, issuing all directives to the Project's contractor and making the final determination in the event of any disagreements.

8. Ownership of Completed Utilities: Upon completion of the Utility Work the Utility shall assume complete ownership of, and responsibility for, the utility facilities installed in connection with the Utility Work.

9. Claims: The Utility shall be responsible for the prompt review and settlement of any claims arising from or related to the Utility Work or its impact on the Project.

10. Indemnification: The Utility shall indemnify, defend and hold harmless the Department and its officers, employees, agents and assigns, from and against any and all claims, liability or expenses, including but not limited to reasonable attorney's fees and litigation costs (the "Claims"), to the extent such Claims are caused, or alleged to have been caused, by acts or omissions of the Utility or any of its officers, employees, agents, representatives, supervisors, contractors, subcontractors or consultants in connection with the performance of its obligations under this Agreement. Nothing in this Agreement is intended or shall be

construed to waive any defense, immunity or limitation of liability that may be available to the Department or the Utility pursuant to the Maine Tort Claims Act (14 M.R.S. § 8101 *et seq.*) or any other privileges or immunities provided by law. The terms outlined in this section shall survive any termination or expiration of this Agreement.

11. **Buy America Requirements:** This agreement is subject to the requirements of Buy America in accordance with Federal Regulation 23 CFR 635.410 Section 1518. Specific requirements are presented in MaineDOT Standard Specification Section 100, Appendix A, Section 3.A., Buy America which are incorporated and made a part hereof by reference.
12. **Subsequent Excavations and/or Installations:** Except in the case of an emergency, the Utility acknowledges and agrees to refrain from applying for a permit for the excavation of the highway within the limits of the Project for a period of at least **three (3)** years following the completion of the Project and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. In all cases, whether an excavation moratorium as described above applies, or as in the case of Light Capital Paving projects where no excavation moratorium applies, the Utility further acknowledges and agrees that all subsequent excavations and/or installations within the right-of-way of the Project limits shall be regulated and controlled in the manner specified by the most recent version of the Department's "*Utility Accommodation Rules*", which are incorporated and made a part hereof by reference. The terms outlined in this section shall survive any termination or expiration of this Agreement.
13. **Non-Appropriation and Termination:** Anything herein to the contrary notwithstanding, the Utility acknowledges and agrees that, although the execution of this Agreement by the Department manifests the Department's 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, therefore, this Agreement does not create any obligation on behalf of the Department in excess of such appropriations. In the event of unanticipated impacts on the Project, such as, changes in the Project design, or a loss in Project funding, or a delay in advertising or awarding of the contract, the Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Utility and in no event shall any such action be deemed a breach of contract.
14. **Payment:** If the Utility Work is included in the Project contract pursuant to Section 6.e. above, the Utility agrees to reimburse the Department for the full amount of the cost of the utility work. A detailed breakdown of the anticipated cost of the Utility Work is attached hereto and incorporated herein as Appendix A. The Department will issue a final invoice after all the Utility Work is complete, all quantities are verified, and any required adjustments have been made. The Department, at its sole discretion, may issue periodic invoices for portions of the Utility Work as it is being completed. The final invoice will include any

remaining costs or credits. The Utility shall submit payment to the Department within 30 days from the invoice date.

15. Contact Information:

For the Department:		For the Utility:	
Name:	Mark McCue	Name:	Brad Roland
Address:	16 State House Station Augusta, ME 04330	Address:	212 Canco Rd. Portland, ME 04103
E-mail:	mark.j.mccue@maine.gov	E-mail:	brad@portlandmaine.gov
Telephone:	(207) 446-8474	Telephone:	(207) 874-8840

16. No Relief of Responsibilities: Nothing in this agreement is intended, nor shall be interpreted, to relieve the Utility of any responsibilities or duties imposed upon it by law.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective on the date last signed below.

CITY OF PORTLAND

By: _____

Print Name: Danielle West

Title: Acting City Manager
Duly Authorized

DATE: _____

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

By: _____

Print Name: LaRay Hamilton

Title: Senior Project Manager
Duly Authorized

DATE: _____

APPENDIX A

PROJECT SCOPE

MAINE DEPARTMENT OF TRANSPORTATION UTILITY RECEIVABLE AGREEMENT

City of Portland
Forest Avenue

FEDERAL AID PROJECT NOs. **2499700**
STATE PROJECT IDENTIFICATION NUMBER (WINs) **024997.00**

Project Scope: Affected facilities consist of **six (6)** Sewer Manholes on Forest Avenue, **one (1)** of which needs to be **Rebuilt**, **one (1)** of which needs to be **Modified**, and **four (4)** of which need to be **Adjusted**. The City of Portland will provide all new frames and covers, if needed. Exact locations may be found within the Construction Notes. Old and unused frames and covers will be returned to the City for disposal.

ESTIMATE OF UTILITY WORK:

Item #	Pay Item	Estimated Quantity /Unit	Unit Price	Utility Cost
812.162	Adjusting Sewer Manholes to Grade	4 / ea.	\$2,000.00	\$8,000.00
812.163	Modify Sewer Manhole & Adjust to Grade	1 / ea.	\$2,800.00	\$2,800.00
812.164	Rebuild Sewer Manhole & Adjust to Grade	1 / ea.	\$6,000.00	\$6,000.00
Total Cost:				\$16,800.00

ESTIMATED PAYMENT SCHEDULE:

Utility	Payment Amount	Estimated Invoice Date
City of Portland	Final Quantities	10/31/2022

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 23, 2022

SUBJECT: Order 153-21/22 Amendment to Portland City Code Chapter 14 Re: Height Bonus in India Street Form-Based Code Zone - Sponsored by the Planning Board, Maggie Stanley, Chair

SPONSOR: The Portland Planning Board, Maggie Stanley, 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 2/28/2022

Final Action 3/7/2022

Can action be taken at a later date: Yes If action cannot be taken at a later date, please explain why

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

I. SUMMARY

Zoning text amendment to the India Street Form- Code Zone to allow a height bonus in the Urban Active Subdistrict along Commercial Street.

II. AGENDA DESCRIPTION

On January 11, 2022, the Portland Planning Board unanimously voted 6-0 (Smith recused) to recommend to the City Council adoption of the text amendment to allow a height bonus in the Urban Active Subdistrict along Commercial Street within the India Street Form-Based Code Zone. Maine Public Broadcasting Corporation applied for this zoning text amendment to allow for an additional floor for a future building at 35 Commercial Street.

This item must be read on two separate days. It received its first reading on February 28, 2022. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Maine Public Broadcasting Corporation applied for this zoning text amendment to allow for an additional floor for a future building at 35 Commercial Street.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Planning Board unanimously voted to recommend this zoning text amendment of the India Street Form-Based Code Zone to the City Council intending for final approval and adoption.

V. FINANCIAL IMPACT

None

VI. STAFF ANALYSIS AND BACKGROUND

Included in the City Council packet would be the Planning Board report, the applicant's original submission documents and drawings, and all public comment submitted to the Planning & Urban Development Department.

VII. RECOMMENDATION

Approve and adopt the proposed Zoning Text Amendment

VIII. LIST ATTACHMENTS

1. Ch. 14 Commercial Street Height Bonus in India Street Form-Based Code Zone 2.28.2022
2. Commercial St. - 35 (Attachments)
3. 2.28.2022 India St form based code report
4. Council memo re zoning from Jen Thompson (Order 153-21_22).docx

Prepared by:

Date: 02/23/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**AMENDMENT TO PORTLAND CITY CODE CHAPTER 14
RE: HEIGHT BONUS IN INDIA STREET FORM-BASED CODE ZONE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Chapter 14, Section 9.1.7.C.1.a and Table 9-C are
hereby amended to read as follows, on the following pages:*

TABLE 9-C: HEIGHT BONUSES

Subdistrict	Pre-Bonus Height (max.)	Mid-Block Permeability ¹	Residential Density	Green Roof	Affordable Housing	Height With Bonus (max.)	Bonus Floor Stepback ² (min.)
UN	45 ft. and 4 stories	n/a	n/a	n/a	1 story up to 12 ft.	57 ft. up to 5 stories	15 ft.
UT	65 ft. and 6 stories	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	77 ft. up to 7 stories	15 ft.
UA (Congress Street and Commercial Street only)	50 ft. and 4 stories	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	62 ft. up to 5 stories	15 ft.

¹ Must be publicly accessible.

² Measured from the ground floor building edge facing any public right-of-way.

A. Height standards

1. Height bonus applicability

- a. If a frontage faces a UT street, UN street, or ~~Congress Street~~ allowed UA street according to Table 9-C, then the portion of the building facing that street is eligible for a height bonus. For lots with multiple frontages where a frontage faces an ineligible street, bonus story must be stepped back at least 35 feet from ineligible street line. (See Subsection 9.1.8(D).)
 - b. Only one height bonus may be applied per structure.
2. One additional story of up to 12 feet in height is allowed if one of the following provisions is met:
- a. For residential development with residential density equal to or greater than 150 dwelling units per acre (density may be achieved with the bonus floor).
 - b. For any development providing a green roof, where:

- i. At least 50% of the cumulative lot area is pervious.
- ii. At least 50% of the cumulative roof area is a green roof. Green roof area may be applied towards the 50% lot area requirement.
- c. For residential development where 20% of the units meet the definition of either “Workforce Housing Unit for Sale” or “Low-income Housing Unit for Rent” as per Article 3.

B. Parking standards

1. Parking shall be provided as per Article 19.
2. Structured parking must meet the Building Design Standard for structured parking. (See City of Portland *Design Manual*.)
3. In the case of a building addition, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

CITY OF PORTLAND
Planning & Urban Development Department

MAP AND TEXT AMENDMENT SUBMISSION CHECKLIST	
* Please submit each document <u>and</u> drawing as a separate PDF file * Please submit all drawings in a <u>24 x 36 sheet size</u> * Please confirm each item by electronically checking the boxes to the left for each document/drawing	
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.
☒	Proposed Text Amendment Provide proposed language for text amendment(s) and cite the relevant sections to be revised in the Land Use code.
☒	Completed Checklist – Map and Text 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) 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 document has been recorded electronically
 on 09/24/2021 at 08:19:09 AM
 Please see the attached copy to view the
 Recorder's Stamp as it now appears in the public record.
 State: ME Jurisdiction: Cumberland County Registry of Deeds
 Instrument # 68164
 Book: 38692 Page: 244
 Submitted by Monument Title Company

DLN: 1002140163804
QUITCLAIM DEED WITH COVENANT

ESSEXNORTH 25 COMMERCIAL LLC, a Maine limited liability company, having a mailing address of P.O. Box 394, Topsfield, MA 01983 (the "Grantor"), FOR CONSIDERATION PAID, grants to MAINE PUBLIC BROADCASTING CORPORATION, a Maine nonprofit corporation, having a mailing address of 1450 Lisbon Street, Lewiston, ME 04240 (the "Grantee"), with QUITCLAIM COVENANT, certain real property, together with any improvements thereon, located on Commercial Street, City of Portland, County of Cumberland and State of Maine, more particularly described on Exhibit A attached hereto and made a part hereof.

For Grantor's source of title see Quitclaim Deed with Covenant granted by Auto Europe, LLC to EssexNorth 25 Commercial LLC dated October 25, 2019 and recorded in the Cumberland County Registry of Deeds in Book 36156, Page 203.

IN WITNESS WHEREOF, EssexNorth 25 Commercial LLC has caused this instrument to be executed by Terri Lee Carabillo, Manager of EssexNorth Portland LLC, Manager of EssexNorth 25 Commercial LLC, thereunto duly authorized, as of this 23rd day of September, 2021.

ESSEXNORTH 25 COMMERCIAL LLC
 By: EssexNorth Portland LLC, its Manager

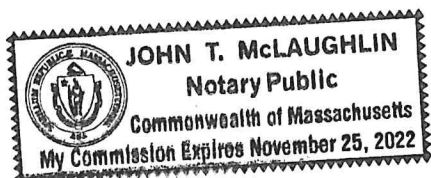
Brian M. Duignan
 Witness

By: [Signature]
 Terri Lee Carabillo, Manager

Commonwealth of Massachusetts
 County of ESSEX, ss

September 23, 2021

PERSONALLY APPEARED the above-named Terri Lee Carabillo, Manager of EssexNorth Portland LLC, Manager of EssexNorth 25 Commercial LLC as aforesaid, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said limited liability companies.



Before me,
[Signature]
 Notary Public/Attorney at Law
 Commission Expires:
 Print Name:

Exhibit A

A certain lot or parcel of land with the buildings thereon, situated on the northwesterly side of Commercial Street, in the City of Portland, County of Cumberland, Maine, comprising the premises numbered 23-31 on said Commercial Street and being bounded and described as follows:

Beginning on said Commercial Street at the center of the brick wall at the easterly end of the block of stores erected by Samuel Tyler, the center of said brick wall being distant from the easterly side of Franklin Street a distance of 100.85 feet; thence northwesterly through the center of said brick wall and in continuation of the same course to the southerly side of a passageway, which said passageway extends from said Franklin Street northeasterly; thence northeasterly by said passageway by various courses a distance of 112.65 feet, more or less, to line of land now or formerly of the heirs of Lemuel Dyer as established July 13, 1853 by deed recorded in the Cumberland County Registry of Deeds in Book 248, Page 183; thence southeasterly by said Dyer line a distance of ninety (90) feet to said Commercial Street; thence westerly by the northerly side line of said Commercial Street 105.27 feet, more or less, to the point of beginning, together with all its right, title and interest in and to all structures on the lot hereby conveyed which may extend into the limits of said passageway as originally laid out, also the right to the use in common with others of said passageway.

The above-described premises is subject to the following:

1. Certificate of Variance of Approval dated August 11, 1988 and recorded in the said Registry of Deeds in Book 8422, Page 121.
2. Rights and easements granted by Auto Europe Inc. to Central Maine Power Company and New England Telephone and Telegraph Company by instrument dated January 25, 1996 and recorded in the Cumberland County Registry of Deeds in Book 12368, Page 67.
3. Rights of others in and to the 20' common passageway located in the rear of the above described parcel.
4. Rights of the owners of the property next westerly thereof on Commercial Street to maintain one-half of the easterly wall of the building on said adjoining premises along the westerly line of the premises above described.
5. Rights and easements set forth in the Easement Deed granted by EssexNorth 25 Commercial LLC to EssexNorth 35 Commercial LLC dated November 4, 2019 and recorded in the Cumberland County Registry of Deeds in Book 36156, Page 206.

This document has been recorded electronically
 on 09/24/2021 at 08:18:08 AM
 Please see the attached copy to view the
 Recorder's Stamp as it now appears in the public record.
 State: ME Jurisdiction: Cumberland County Registry of Deeds
 Instrument # 691670
 Book: 38692 Page: 246
 Submitted by Monument Title Company

DLN: 1002140163867
QUITCLAIM DEED WITH COVENANT

ESSEXNORTH 35 COMMERCIAL LLC, a Maine limited liability company, having a mailing address of P.O. Box 394, Topsfield, MA 01983 (the "Grantor"), FOR CONSIDERATION PAID, grants to MAINE PUBLIC BROADCASTING CORPORATION, a Maine nonprofit corporation, having a mailing address of 1450 Lisbon Street, Lewiston, ME 04240 (the "Grantee"), with QUITCLAIM COVENANT, certain real property, together with any improvements thereon, located on Commercial Street, City of Portland, County of Cumberland and State of Maine, more particularly described on Exhibit A attached hereto and made a part hereof.

For Grantor's source of title see Quitclaim Deed with Covenant granted by Auto Europe, LLC to EssexNorth 35 Commercial LLC dated October 25, 2019 and recorded in the Cumberland County Registry of Deeds in Book 36156, Page 200.

IN WITNESS WHEREOF, EssexNorth 35 Commercial LLC has caused this instrument to be executed by Terri Lee Carabillo, Manager of EssexNorth Portland LLC, Manager of EssexNorth 35 Commercial LLC, thereunto duly authorized, as of this 23rd day of September, 2021.

ESSEXNORTH 35 COMMERCIAL LLC
 By: EssexNorth Portland LLC, its Manager

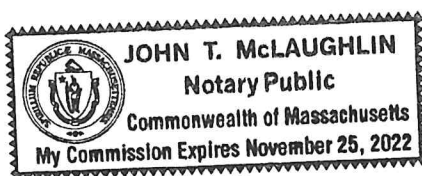
Kristin M. Dugan
 Witness

By: [Signature]
 Terri Lee Carabillo, Manager

Commonwealth of Massachusetts
 County of Essex, ss

September 23, 2021

PERSONALLY APPEARED the above-named Terri Lee Carabillo, Manager of EssexNorth Portland LLC, Manager of EssexNorth 35 Commercial LLC as aforesaid, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said limited liability companies.



Before me, [Signature]
 Notary Public/Attorney at Law
 Commission Expires:
 Print Name:

Exhibit A

PARCEL 1

A certain lot or parcel of land with the buildings thereon, situated in the City of Portland, County of Cumberland, Maine, bounded and described as follows:

Beginning at the junction of the northwesterly side of Commercial Street and northeasterly side of Franklin Street; thence running easterly on Commercial Street fifty (50) feet to the middle of a partition wall; thence northerly by the middle line of said wall about ninety (90) feet to the common passageway hereinafter named; thence westerly on the line of said passageway to Franklin Street; thence southerly by Franklin Street to the point begun at, together with the right of way in a common passageway twenty (20) feet wide laid out and reserved in the rear of said lot.

PARCEL 2

A certain lot or parcel of land, with the buildings thereon situated on the northerly side of Commercial Street in said Portland, and bounded and described as follows:

Commencing at the center of the partition wall of two brick stores in the block situated at the corner of Commercial and Franklin Streets, and formerly owned by A. and S.E. Spring; thence running northerly through the center of said brick wall ninety (90) feet to a passageway in the rear of said premises; thence easterly on the line of said passageway a distance of fifty (50) feet, more or less, to the outer or easterly face or outside of the wall forming the foundation wall on the easterly side of the block on the premises hereby conveyed; thence southeasterly by said wall ninety (90) feet, more or less, to said Commercial Street; thence southerly by said Commercial Street fifty (50) feet, more or less, to the point begun at; intending hereby to convey the third and fourth stores in the block of four stores fronting on Commercial Street at its intersection with Franklin Street, together with a right of way in common passageway twenty (20) feet in width, extending in the rear of said premises.

The above-described premises is subject to the following:

1. Certificate of Variance of Approval dated August 11, 1988 and recorded in the said Registry of Deeds in Book 8422, Page 121.
2. Rights and easements granted by Auto Europe Inc. to Central Maine Power Company and New England Telephone and Telegraph Company by instrument dated January 25, 1996 and recorded in the Cumberland County Registry of Deeds in Book 12368, Page 67.
3. Rights of others in and to the 20' common passageway located in the rear of the above described parcels.
4. Rights of the owners of the property next westerly thereof on Commercial Street to maintain one-half of the easterly wall of the building on said adjoining premises along the westerly line of the premises above described.
5. Rights and easements set forth in the Easement Deed granted by EssexNorth 25 Commercial LLC to EssexNorth 35 Commercial LLC dated November 4, 2019 and recorded in the Cumberland County Registry of Deeds in Book 36156, Page 206.



75 York Street
Portland, Maine 04101
phone 207 772 4656
fax 207 828 4656
www.simonsarchitects.com

Memorandum – Consistency with Comprehensive Plan

date: Friday, October 08, 2021
project: Maine Public 2019-0090
To: Portland Planning Department
From: Steve Hoffman, Simons Architects
 Maine Public

RE. Text Amendment for the Urban Active designation within the India Street Form Based Code
Property: 35 Commercial Street. Parcel: 029-P027
 29 Commercial Street. Parcel: 029-P031

Consistency with Portland's Comprehensive Plan 2030

The vision of Portland's Plan 2030 is represented by the venn diagram of the city's core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. This proposed application and text amendment aligns with the specific Comprehensive Plan goals outlined below:

Dynamic

- Vibrant arts and cultural life will be central to our identity
Maine Public Mission Statement includes this vision:
"Maine Public will inform, inspire and delight" In addition to news, Maine Public delivers a variety of cultural content across radio, television, web and print. The proposed Commercial Street facility will include a public engagement space for up to 150 people to view live broadcasts, performances and programs.
- We will embrace innovation in order for our community too thrive
Maine Public Mission Statement includes a core value of:
"Life Long Learning — We believe in the power of knowledge to transform lives and promote greater understanding. We endeavor to maximize the opportunities available to the public to participate in a culture of learning throughout their lives."
- We will encourage an active and informed citizenry and facilitate civil discourse
Maine Public Mission Statement includes a core value of:
Civic Engagement — "We view our responsibility to promote awareness and participation in the democratic process as supremely important. We actively seek to make workings of government and the public conversation as accessible as possible."

Secure

- We will prepare for emergencies and ready for a changing climate
Maine Public serves as the state's emergency broadcast facility. It will be 'hardened' to insure operation under any number of emergencies. The height exception of the text amendment will allow critical components to be positioned on upper floors as protection against any flooding associated with a category 4 hurricane.

Authentic

- The uniqueness and integrity of our neighborhoods will be maintained and enhanced

project: Maine Public Memo 10062021

date: 10/8/21
Page 1 of 2

The scale and fabric of Commercial Street will be reinforced with the proposed Maine Public Facility. An existing surface parking lot will be replaced with a new infill building matching the scale and detailing of its adjacent neighbors, the Galt Block and the Workingmen's Club.

Connected

- Our Success will be tied to our connections to each other, our state, and our region
Maine Public utilizes Web, radio, television and print to connect the people of Maine
- Diverse forums for community engagement will remain essential to a strong civil society
Maine Public Mission Statement includes a core value of:
Civic Engagement — “We view our responsibility to promote awareness and participation in the democratic process as supremely important. We actively seek to make workings of government and the public conversation as accessible as possible.”

Under Future Land Use / Land Use Context

29 Commercial Street is shown as Mixed-Use / Commercial Offices (page 81). Maine Public will be a mixture of both broadcast studios and office space.

Under Future Land Use / Priority Nodes and Corridors

29 Commercial Street has been labeled in the “Enhance” designation (page 86). By replacing the surface parking lot with a new five story infill building Commercial Street will be given additional density and the existing streetscape and urban fabric will be complete.



75 York Street
 Portland, Maine 04101
 phone 207 772 4656
 fax 207 828 4656
 www.simonsarchitects.com

Memorandum

date: Monday August 16, 2021 **Revised November 30, 2021**
project: Maine Public 2019-0090
To: Portland Planning Department
From: Scott Simons, Simons Architects
 Maine Public

RE. Text Amendment for the Urban Active designation within the India Street Form Based Code
Property: 35 Commercial Street. Parcel: 029-P027
 29 Commercial Street. Parcel: 029-P031

Maine Public is currently in negotiations with the owner of 29 & 35 Commercial Street for the purchase on the Galt Block Building and the adjacent surface parking lot. The area in consideration is located at the corner of Commercial Street and Franklin Arterial. Both parcels are included in a single sale.

29 Commercial Street has an area of 9,476 SF and Maine Public is considering building a 31,000 sf office and broadcast facility to serve as the center of its statewide system. The Galt Block, a four story masonry building to the west, would be separated and sold.

Within the India Street Form Based Code there are three designations of subdistricts; Urban Active, Urban Transitional and Urban Neighborhood, (Figure 9-A IS-FBC Regulating Plan). 29 Commercial Street is located within the Urban Active Zone (UA) and has a height limitation of 50 feet, maximum. The ISFBC does, however, have a height bonus within the UA subdistrict for Congress Street. Height bonuses are granted for mid-block permeability, residential density, green roofs, and affordable housing. (Table 9-C)

Our request is that the same bonus floor provision be granted to Commercial Street that exists for Congress Street.

In Table 9-C Height Bonuses, Commercial Street would be added to the UA Subdistrict. **Under 9.1.7 General Development Standards, C.1.a Height Bonus Applicability, I. first sentence, delete "or Congress Street". Substitute "or allowed UA street according to Table 9-C".**

The Commercial Street height bonus criteria would be the same as those for Congress Street.

The results for Maine Public is, if meeting the exception criteria of an amended Table 9-C, that they would have a larger building-by-right envelope. Also of note, the adjacent existing Galt Block has a 50 foot street elevation. With the requested height bonus Maine Public would maintain a 50 foot street elevation. The bonus 12 feet of height would be recessed 15 feet from the street façade, and would be considerably lower than the roof structure on the Galt Block building.

project: Maine Public Memo 08122021

date: 12/6/21
 Page 1 of 2



75 York Street
 Portland, Maine 04101
 phone 207 772 4656
 fax 207 828 4656
 www.simonsarchitects.com

Memorandum – Proposed Text Amendment

date: Wednesday, October 06, 2021 **Revised November 30, 2021**
project: Maine Public 2019-0090
To: Portland Planning Department
From: Steve Hoffman, Simons Architects
 Maine Public

RE. Text Amendment for the Urban Active designation within the India Street Form Based Code
Property: 35 Commercial Street. Parcel: 029-P027
 29 Commercial Street. Parcel: 029-P031

Within the India Street Form Based Code there are three designations of subdistricts; Urban Active, Urban Transitional and Urban Neighborhood, (Figure 9-A IS-FBC Regulating Plan). 29 Commercial Street is located within the Urban Active Zone (UA) and has a height limitation of 50 feet, maximum. The ISFBC does, however, have a height bonus within the UA subdistrict for Congress Street. Height bonuses are granted for mid-block permeability, residential density, green roofs, and affordable housing. (Table 9-C)

Our request is that the same bonus floor provision be granted to Commercial Street that exists for Congress Street.

In Table 9-C Height Bonuses, Commercial Street would be added to the UA Subdistrict.

The Commercial Street height bonus criteria would be the same as those for Congress Street.

PROPOSED TEXT AMENDMENT

At Table 9-C Height Bonuses

Under UA Subdistrict: Change: “Congress Street Only” to “Congress Street **and Commercial Street** Only”

Under 9.1.7 General Development Standards, C.1.a Height Bonus Applicability

Delete “or Congress Street”, substitute “or allowed UA street according to Table 9-C”

project: Maine Public Memo 10062021

date: 12/6/21
 Page 1 of 2

Proposed Text Amendment 11302021



TABLE 9-C: HEIGHT BONUSES

Subdistrict	Pre-Bonus Height (max.)	Mid-Block Permeability ¹	Residential Density	Green Roof	Affordable Housing	Height With Bonus (max.)	Bonus Floor Stepback ² (min.)
UN	45 ft. and 4 stories	n/a	n/a	n/a	1 story up to 12 ft.	57 ft. up to 5 stories	15 ft.
UT	65 ft. and 6 stories	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	77 ft. up to 7 stories	15 ft.
UA (Congress Street only)	50 ft. and 4 stories	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	62 ft. up to 5 stories	15 ft.

¹ Must be publicly accessible.

² Measured from the ground floor building edge facing any public right-of-way.

C. Height standards

1. Height bonus applicability

- a. If a frontage faces a UT street, UN street, ~~or Congress Street~~, then the portion of the building facing that street is eligible for a height bonus.
For lots with multiple frontages where a frontage faces an ineligible street, bonus story must be stepped back at least 35 feet from ineligible street line. (See Subsection 9.1.8(D).)
- b. Only one height bonus may be applied per structure.
2. One additional story of up to 12 feet in height is allowed if one of the following provisions is met:
 - a. For residential development with residential density equal to or greater than 150 dwelling units per acre (density may be achieved with the bonus floor).
 - b. For any development providing a green roof, where:
 - i. At least 50% of the cumulative lot area is pervious.

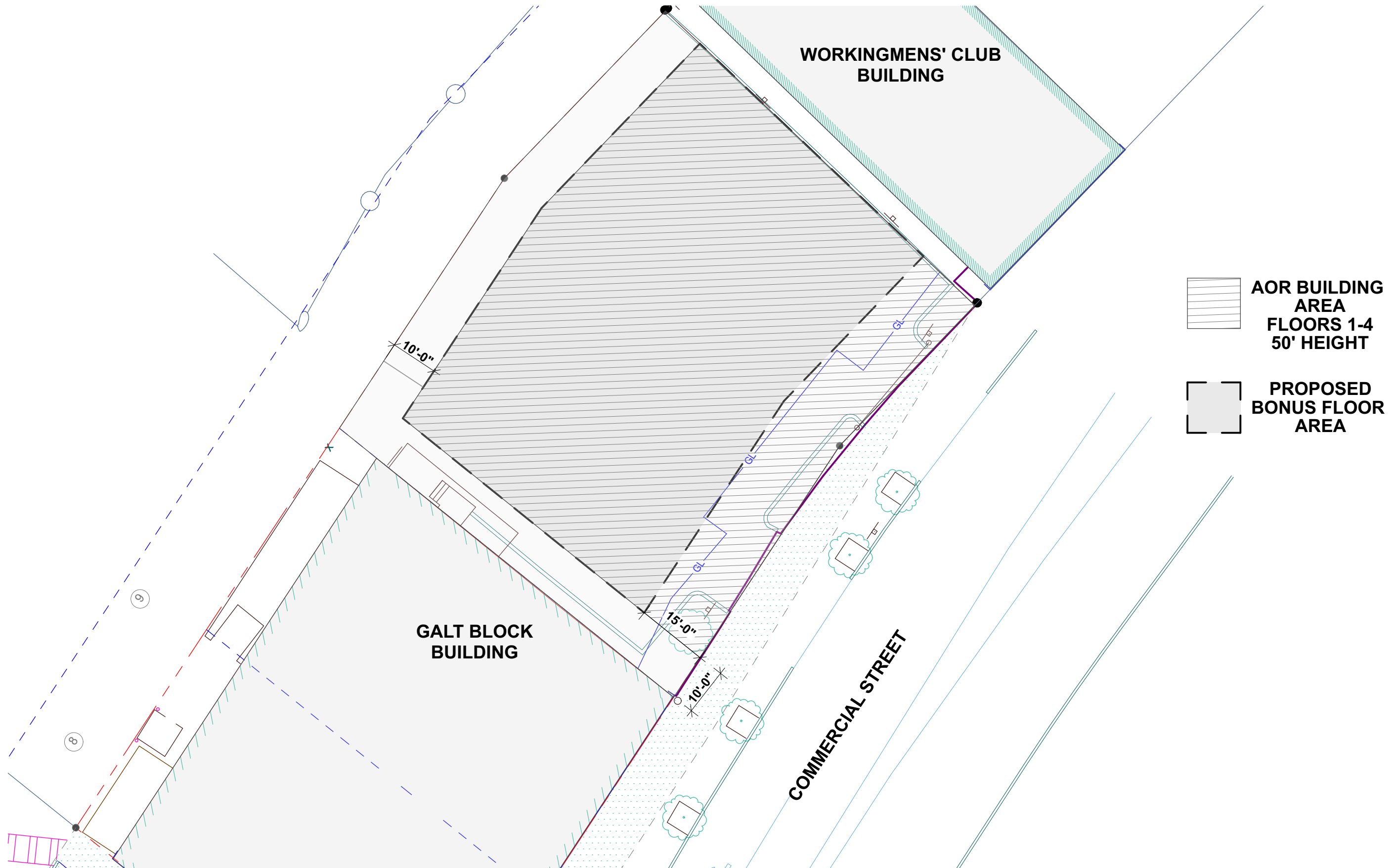
- ii. At least 50% of the cumulative roof area is a green roof. Green roof area may be applied towards the 50% lot area requirement.
- c. For residential development where 20% of the units meet the definition of either "Workforce Housing Unit for Sale" or "Low-income Housing Unit for Rent" as per Article 3.

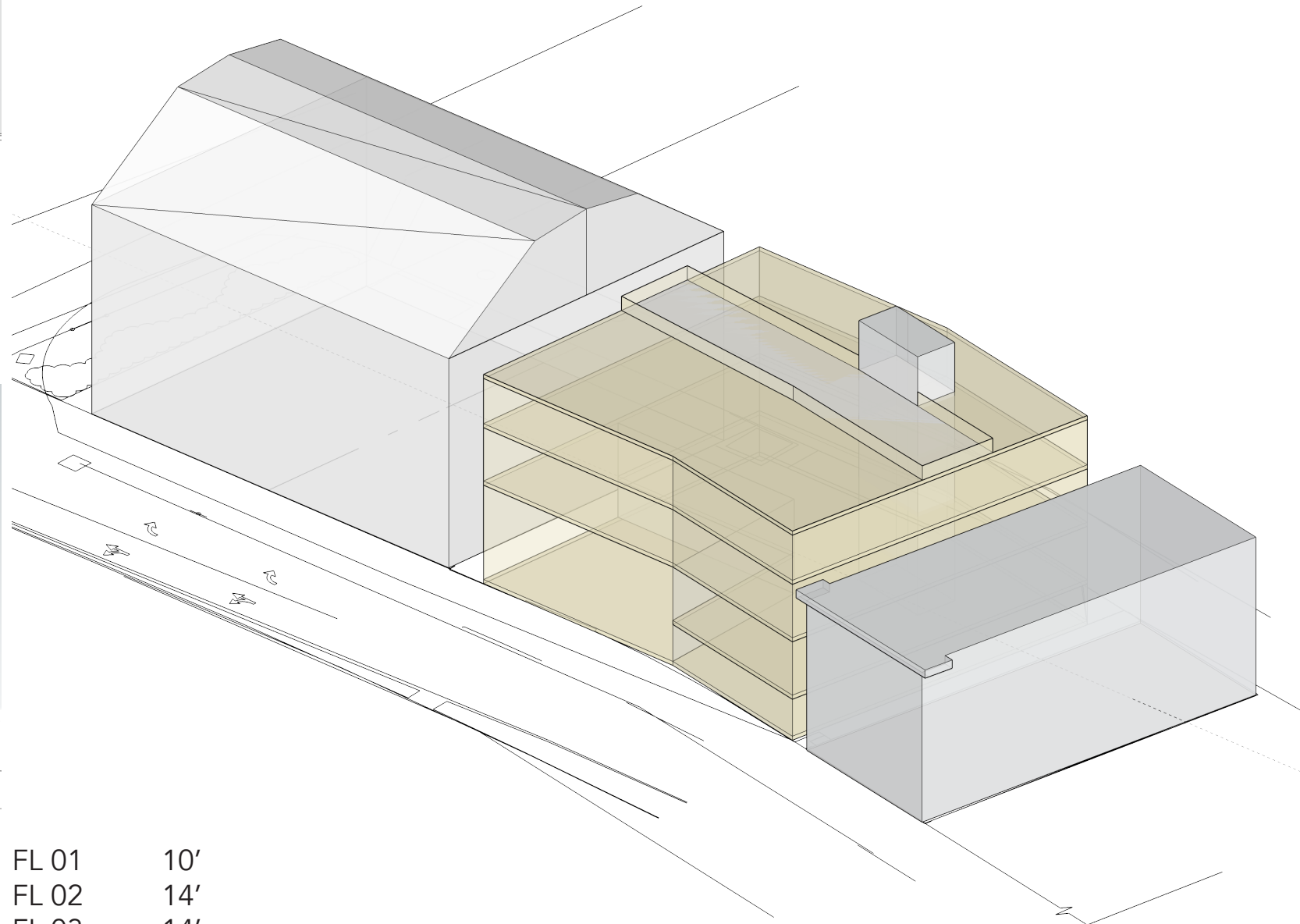
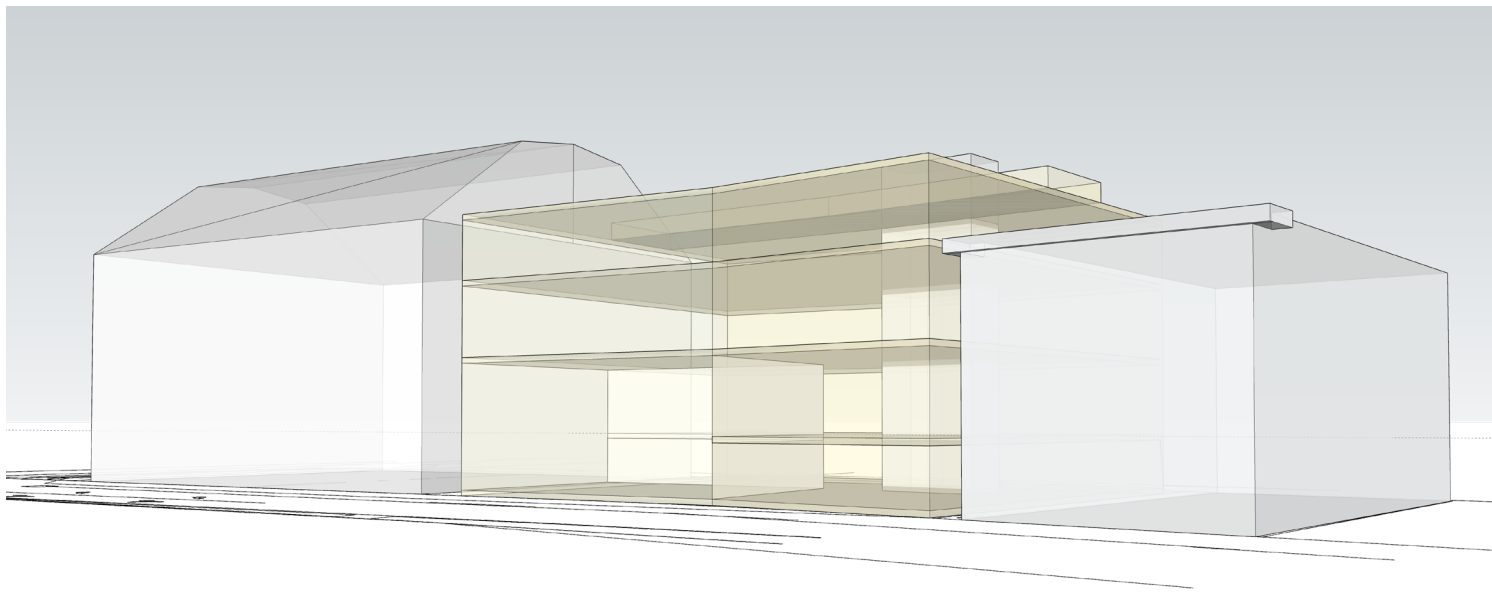
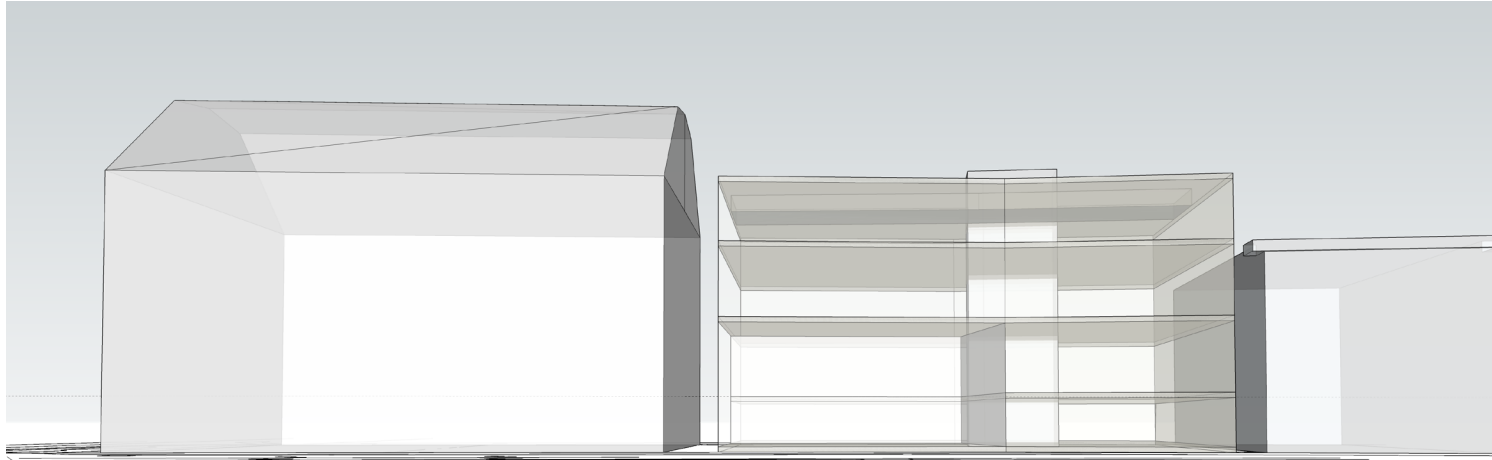
D. Parking standards

1. Parking shall be provided as per Article 19.
2. Structured parking must meet the Building Design Standard for structured parking. (See City of Portland *Design Manual*.)
3. In the case of a building addition, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

Change from "Congress Street Only" to "Congress Street and Commercial Street Only"

Delete "or Congress Street". Substitute "or allowed UA street according to Table 9-C,"

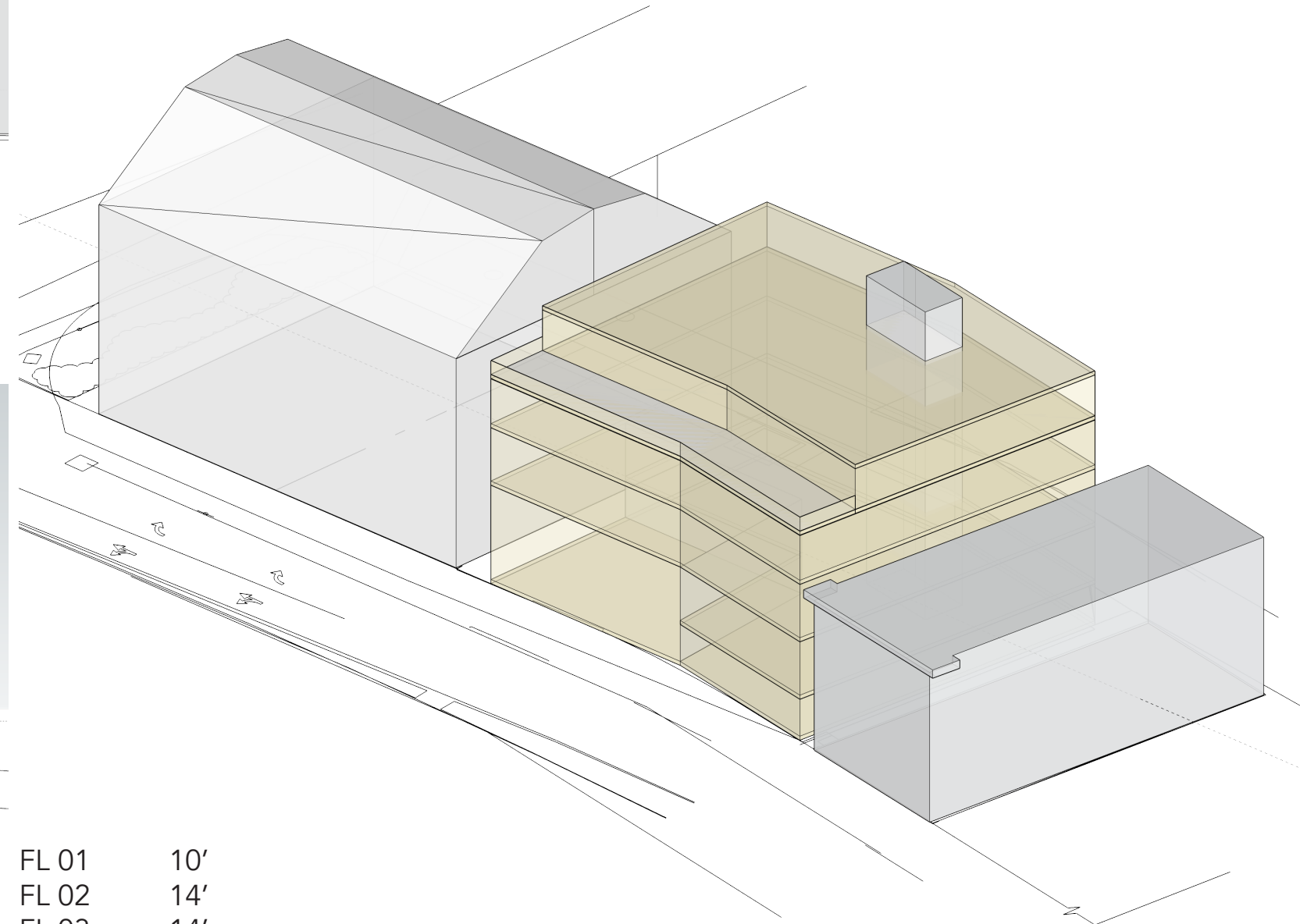
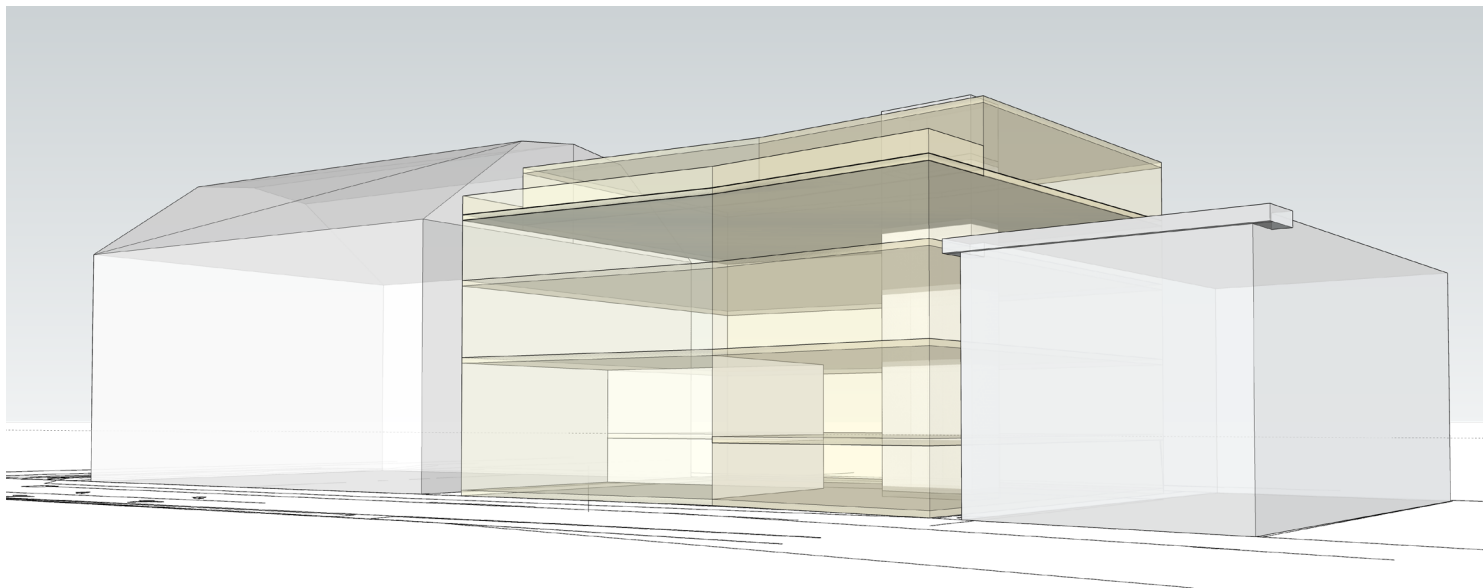
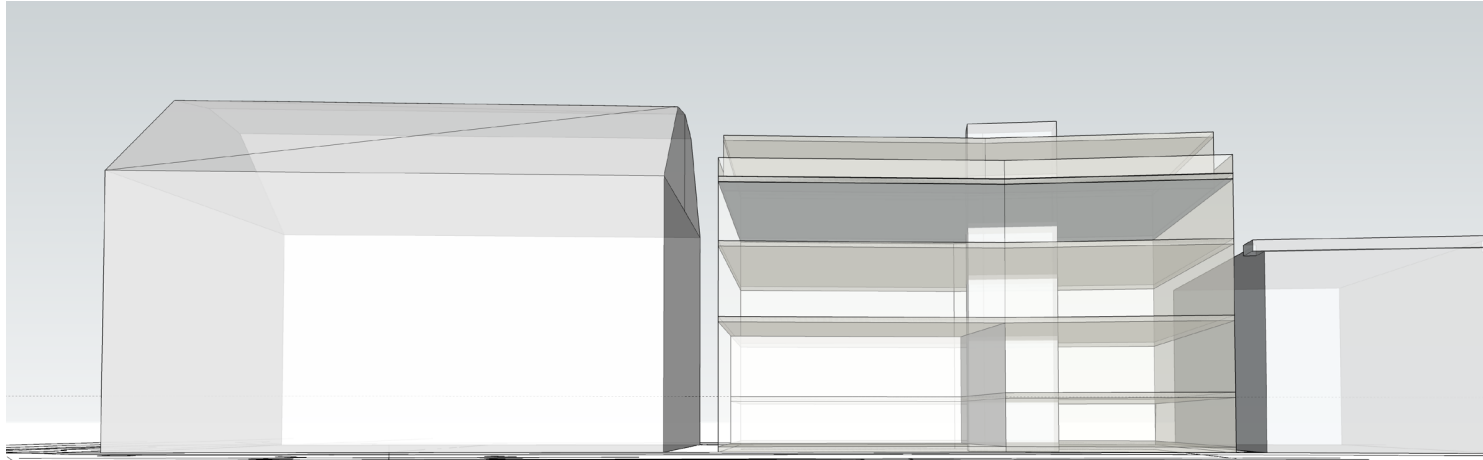




FL 01 10'
 FL 02 14'
 FL 03 14'
 FL 04 12'

SCHEME A: "AS OF RIGHT" ALLOWED BY ZONING

Ground Floor	7800
Second Floor	7800
Third Floor	7800
Fourth Floor	7800
TOTAL	31,200

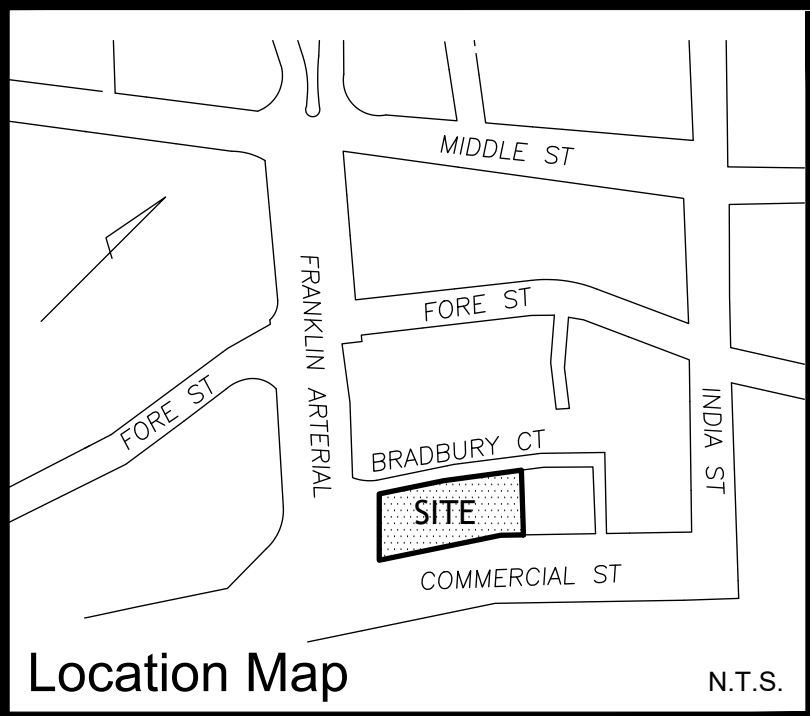


FL 01	10'
FL 02	14'
FL 03	14'
FL 04	12'
FL 05	12'

SCHEME B: TEXT AMMENDMENT TO UA SUB-DISTRICT TO ALLOW
BONUS FLOOR; 4th FLOOR 15' SET BACK

Ground Floor (01)	7800
Mezzanine (02)	4680
Second Floor (03)	7800
Third Floor (04)	7800
Fourth Floor (05)	6400 (MAX AS-OF-RIGHT)
TOTAL	34,480





Legend

- IRON PIPE OR ROD FOUND
- CAPPED IRON ROD TO BE SET
- ⊗ UTILITY POLE
- ⊗/GM ELECTRIC OR GAS METER
- ORD ROOF DRAIN
- GAS VALVE
- ⊗ WATER VALVE
- ⊗ HYDRANT
- ⊗ UTILITY POLE
- MANHOLE
- ⊗ CATCH BASIN
- ⊗ SIGN
- ⊗ DECIDUOUS TREE
- ⊗ METAL GUARDRAIL
- ⊗ FENCE
- ⊗ CURB
- OHW OVERHEAD WIRES
- UGE UNDERGROUND ELETRIC
- SS SANITARY SEWER
- 60 1' CONTOUR
- CIRF CAPPED IRON ROD FOUND
- N/F NOW OR FORMERLY
- 000/000 DEED BOOK / PAGE
- CONC. CONCRETE
- △ POSSIBLE ENCROACHMENT
- ① SCHEDULE B EXCEPTION
- P.O.B. POINT OF BEGINNING

Flood Zone Note

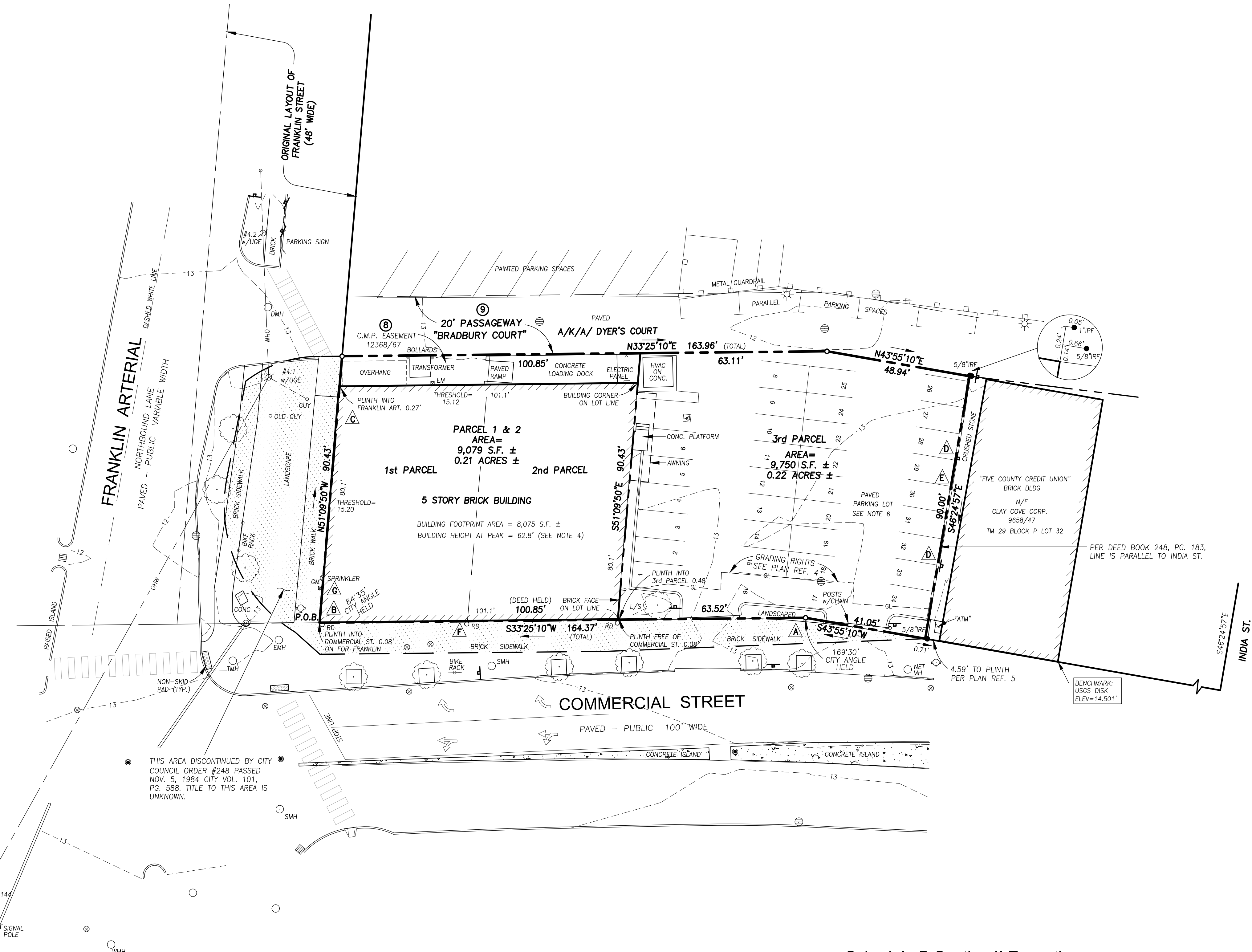
BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONE C. AREAS OF MINIMUM FLOODING) ON THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 230051 0014B, WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 1986.

Zoning Information

NONE PROVIDED

Possible Encroachments

- △ LANDSCAPED ISLAND WITHIN LIMITS OF COMMERCIAL STREET 1.3'±
- △ PLINTH AT BUILDING CORNER INTO COMMERCIAL STREET 0.08' ±
- △ PLINTH AT BUILDING CORNER INTO FRANKLIN ARTERIAL 0.27'±
- △ PARKING SIGNS ONTO LAND OF THE ABUTTER 1.3'±
- △ BACK OF CURB ONTO LAND OF THE ABUTTER 0.5'±
- △ ROOF DRAINS INTO COMMERCIAL STREET 1'±
- △ GAS METER LIES ENTIRELY WITHIN THE LIMITS OF FRANKLIN ARTERIAL



Plan References

- PLAN OF PROPERTY IN PORTLAND, MAINE MADE FOR CHASE TRANSFER CO. DATED JANUARY 1940 BY H.I. JORDAN.
- TITLE PLAN OF PROPERTY IN PORTLAND, MAINE MADE FOR CHASE TRANSFER CORP. DATED SEPT. 1950 BY H.I. AND E.C. JORDAN.
- STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP DATED AUGUST 1985 DOT FILE NO. 3-339.
- ALTA/ACSM LAND TITLE SURVEY, 29 COMMERCIAL ST., PORTLAND, MAINE DATED FEBRUARY 19, 2004 BY INTERNATIONAL LAND SERVICES, INC./OWEN HASKELL, INC.
- PLAN OF PROPERTY IN PORTLAND, MAINE MADE FOR THE ROMAN CATHOLIC BISHOP OF PORTLAND, BY H.I. & E.C. JORDAN, DATED NOV. 1974.
- PLAN DEPICTING THE RESULTS OF A BOUNDARY SURVEY MADE FOR B.I.W. FIVE COUNTY CREDIT UNION, 13-19 COMMERCIAL STREET, PORTLAND, MAINE, PREPARED BY NADÉAU & LODGE, DATED 05/09/2001.
- PLAN OF PROPERTY, COMMERCIAL STREET, PORTLAND, MAINE MADE FOR W.L. BLAKE & CO., BY ROBERT P. TITCOMB, INC., SHEET 2 OF 3, DATED 7/02/81.
- NO PROPOSED CHANGES IN STREET LINES IS KNOWN BY THIS SURVEYOR.

General Notes

- OWNER OF RECORD: AUTO EUROPE, LLC, 39 COMMERCIAL STREET, PORTLAND, MAINE C.C.R.D. BOOK 13205 PAGE 28, BOOK 20957 PAGE 21
- LOCUS IS SHOWN AS LOTS 27 AND 31, BLOCK P, ON CITY OF PORTLAND ASSESSORS MAP 29.
- BEARINGS ARE BASED ON STATE PLANE COORDINATE SYSTEM, MAINE WEST ZONE, NAD83.
- ELEVATIONS ARE BASED ON CITY DATUM, NGVD29.
- BUILDING HEIGHT DOES NOT INCLUDE ANYTHING ABOVE VISIBLE BUILDING LINE.
- THERE ARE 33 REGULAR PARKING SPACES AND 1 HANDICAP PARKING SPACE.
- NO EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION, BUILDING ADDITIONS, OR RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS WAS OBSERVED.
- NO PROPOSED CHANGES IN STREET LINES IS KNOWN BY THIS SURVEYOR.

Legal Description

PARCEL 1.

A CERTAIN LOT OR PARCEL OF LAND WITH THE BUILDINGS THEREON, SITUATED IN SAID PORTLAND, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE JUNCTION OF THE NORTHWESTERLY SIDE OF COMMERCIAL STREET AND NORTH-EASTERLY SIDE OF FRANKLIN STREET; THENCE RUNNING EASTERLY ON COMMERCIAL STREET FIFTY (50) FEET TO THE MIDDLE OF A PARTITION WALL; THENCE NORTHERLY BY THE MIDDLE LINE OF SAID WALL ABOUT NINETY (90) FEET TO THE COMMON PASSAGEWAY HEREINAFTER NAMED; THENCE WESTERLY ON THE LINE OF SAID PASSAGEWAY TO FRANKLIN STREET; THENCE SOUTHERLY BY FRANKLIN STREET TO THE POINT BEGUN AT; TOGETHER WITH THE RIGHT OF WAY IN A COMMON PASSAGEWAY TWENTY (20) FEET WIDE LAID OUT AND RESERVED IN THE REAR OF SAID LOT.

PARCEL 2.

A CERTAIN LOT OR PARCEL OF LAND, WITH THE BUILDINGS THEREON SITUATED ON THE NORTHERLY SIDE OF COMMERCIAL STREET IN SAID PORTLAND, AND BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTER OF THE PARTITION WALL OF TWO BRICK STORES IN THE BLOCK SITUATED AT THE CORNER OF COMMERCIAL AND FRANKLIN STREETS, AND FORMERLY OWNED BY A. AND S.E. SPRING; THENCE RUNNING NORTHERLY THROUGH THE CENTER OF SAID BRICK WALL NINETY (90) FEET TO A PASSAGEWAY IN THE REAR OF SAID PREMISES; THENCE EASTERLY ON THE LINE OF SAID PASSAGEWAY A DISTANCE OF FIFTY (50) FEET, MORE OR LESS, TO THE OUTER OR EASTERLY FACE OR OUTSIDE OF THE WALL FORMING THE FOUNDATION WALL ON THE EASTERLY SIDE OF THE BLOCK ON THE PREMISES HEREBY CONVEYED; THENCE SOUTHEASTERLY BY SAID WALL NINETY (90) FEET, MORE OR LESS, TO SAID COMMERCIAL STREET; THENCE SOUTHERLY BY SAID COMMERCIAL STREET FIFTY (50) FEET, MORE OR LESS, TO THE POINT BEGUN AT; INTENDING HEREBY TO CONVEY THE THIRD AND FOURTH STORES IN THE BLOCK OF FOUR STORES FRONTING ON COMMERCIAL STREET AT ITS INTERSECTION WITH FRANKLIN STREET, TOGETHER WITH A RIGHT OF WAY IN A COMMON PASSAGEWAY TWENTY-SIX (26) FEET IN WIDTH, EXTENDING IN THE REAR OF SAID PREMISES.

PARCEL 3.

ALSO, ANOTHER CERTAIN LOT OR PARCEL OF LAND WITH THE BUILDINGS THEREON SITUATED ON THE NORTHWESTERLY SIDE OF COMMERCIAL STREET, IN PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, COMPRISING THE PREMISES NUMBERED 23-31 ON SAID COMMERCIAL STREET AND BEING BOUNDED AND DESCRIBED AS FOLLOWS: TO WIT: BEGINNING ON SAID COMMERCIAL STREET AT THE CENTER OF THE BRICK WALL AT THE EASTERLY END OF THE BLOCK OF STORES ERECTED BY SAMUEL TYLER, THE CENTER OF SAID BRICK WALL BEING DISTANT FROM THE EASTERLY SIDE OF FRANKLIN STREET A DISTANCE OF ONE HUNDRED AND EIGHTY-FIVE HUNDREDTHS (100.85) FEET; THENCE NORTHWESTERLY THROUGH THE CENTER OF SAID BRICK WALL AND IN CONTINUATION OF THE SAME COURSE TO THE SOUTHERLY SIDE OF A PASSAGEWAY, WHICH SAID PASSAGEWAY EXTENDS FROM SAID FRANKLIN STREET NORTHEASTERLY; THENCE NORTHEASTERLY BY SAID PASSAGEWAY BY VARIOUS COURSES A DISTANCE OF ONE HUNDRED TWELVE AND SIXTY-FIVE HUNDREDTHS (112.65) FEET, MORE OR LESS, TO LINE OF LAND NOW OR FORMERLY OF THE HEIRS OF LEMUEL DYER AS ESTABLISHED JULY 13, 1853 BY DEED RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN BOOK 248, PAGE 183; THENCE SOUTHEASTERLY BY SAID DYER LINE A DISTANCE OF NINETY (90) FEET TO SAID COMMERCIAL STREET; THENCE WESTERLY BY THE NORTHERLY SIDE LINE OF SAID COMMERCIAL STREET ONE HUNDRED FIVE AND TWENTY-SEVEN HUNDREDTHS FEET, MORE OR LESS, TO THE POINT OF BEGINNING, TOGETHER WITH ALL ITS RIGHT, TITLE AND INTEREST IN AND TO ALL STRUCTURES ON THE LOT HEREBY CONVEYED WHICH MAY EXTEND INTO THE LIMITS OF SAID PASSAGEWAY AS ORIGINALLY LAID OUT, ALSO THE RIGHT TO THE USE IN COMMON WITH OTHERS OF SAID PASSAGEWAY.

THE ABOVE DESCRIBED PARCEL IS HEREBY CONVEYED SUBJECT TO THE RIGHT OF THE OWNERS OF THE PROPERTY NEXT WESTERLY THEREOF ON COMMERCIAL STREET TO MAINTAIN ONE-HALF OF THE EASTERLY WALL OF THE BUILDING ON SAID ADJOINING PREMISES ALONG THE WESTERLY LINE OF THE PREMISES ABOVE DESCRIBED.

Utility Note

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. CALL 1-888-DIGSAFE AT LEAST THREE BUSINESS DAYS BEFORE PERFORMING ANY CONSTRUCTION. DUE TO OSHA CONFINED SPACE REQUIREMENTS, ALL INVERTS AND PIPE SIZES MUST BE VERIFIED PRIOR TO ANY CONSTRUCTION.

ALTA / NSPS Land Title Survey

29-39 Commercial Street
Portland, Cumberland County, Maine
Made For
EssexNorth Portland, LLC
P.O. Box 394, Topsfield, MA 01983

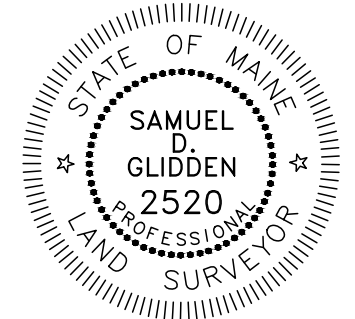
Surveyor's Certification

TO: ESSEXNORTH 35 COMMERCIAL LLC, ESSEXNORTH 25 COMMERCIAL LLC, NET BANK, NATIONAL ASSOCIATION AND OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(A), 11, 13, 14, 16, 17, 19 AND 21 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON OCTOBER 3, 2019.

Samuel D. Glidden
SAMUEL D. GLIDDEN
PROFESSIONAL LAND SURVEYOR NO. 2520

DATE OF PLAT OR MAP: NOVEMBER 6, 2019
DATE OF LAST REVISION:



OWEN HASKELL, INC. PROFESSIONAL LAND SURVEYORS			
390 U.S. ROUTE 1, UNIT 10, FALMOUTH, ME 04105 TEL. 207-774-0424			
DRAWN BY: JCS / JLW	FIELD BOOK: FILE	JOB NO. 2019-256 P	
CHECKED BY: JCS	SCALE: 1" = 20'	DRWG. NO. 1	

Charles Tetelman - Planner
Planning Board, Portland Maine

Re: Plan Number ZN-001756-2021

Dear Mr. Tetelman,

We understand that you are the planner in charge of the proposed subject project along with the suggested zoning text amendment. We have reviewed the documents submitted by Maine Public Broadcasting Corporation that were available on the citizen portal. It appears that the property owner would like to modify the Land Use Code to allow an additional 12 feet of additional building height.

We live at 207 Fore Street, a block away from the proposed project and consider 35 Commercial Street to be a part of our neighborhood. We oppose the City of Portland granting a Land Use Code amendment for the following reasons:

- 1) Commercial Street is not downtown Congress Street. Simply because Congress Street has a bonus provision for projects meeting certain requirements does not mean Commercial Street should also have a bonus. To suggest that the Land Use Code be changed to allow additional building height is not consistent with the building height and character of existing buildings in the project area including the adjacent Workingmens' Club building.
- 2) Because of the ongoing pandemic, there is an abundance of office space available on the peninsula that would seem to meet the operational needs of the Maine Public Broadcasting Corporation. At this time, there is no reason to change the Land Use Code when plenty of commercial space is already available.
- 3) The City's Land Use Code including building height restrictions is important and is in place for a reason. The City's Comprehensive Plan states that *"over the past several years, the City has amended its zoning ordinance to ... increase allowable heights in some parts of downtown..."* The Plan does not appear to contain language or otherwise promote allowance of increased building heights on Commercial Street. Further, the City should not decide to loosen existing height restrictions absent demonstration of real need by the applicant.

Sincerely,

Paula Foley-Stelmack
Mark Stelmack
207 Fore Street, Unit 1
Portland, Maine

On Thursday November 4th, 2021, the Planner received a voicemail from a Wireless Caller:

Good Afternoon,

I was calling to comment, Charles, on Commercial Street Text Amendment. I am a fourth generation Portlander and am so disheartened by what the town has just allowed to occur and reoccur and amend and add to and I'm shocked here reading another 12 feet added to a height that already people opposed back when it was approved. I mean where does it end? Do you want New York City? That's what's happening. Really disappointed and I just think Portland is robbing us who've been here of the historic charm that we all consider home and have for generations. It's a working waterfront – it should not be this metropolitan city urban gardens the whole works. So disappointed.



Charles Tetelman <ctetelman@portlandmaine.gov>

Fwd: Maine Public Broadcasting Corporation development at 35 Commercial Street

jmy <jmy@portlandmaine.gov>

Mon, Nov 22, 2021 at 8:05 AM

To: Charles Tetelman <ctetelman@portlandmaine.gov>

Hi, this was saved to the project file.

Jen

----- Forwarded message -----

From: Kevin Mahoney <kevin@cascoworks.com>

Date: Friday, November 19, 2021 at 9:01:02 AM UTC-5

Subject: Maine Public Broadcasting Corporation development at 35 Commercial Street

To: planningboard@portlandmaine.gov <planningboard@portlandmaine.gov>

Cc: ksnyder@portlandmaine.gov <ksnyder@portlandmaine.gov>, bsr@portlandmaine.gov <bsr@portlandmaine.gov>, sthibodeau@portlandmaine.gov <sthibodeau@portlandmaine.gov>, tchong@portlandmaine.gov <tchong@portlandmaine.gov>, azarro@portlandmaine.gov <azarro@portlandmaine.gov>, mdion@portlandmaine.gov <mdion@portlandmaine.gov>, pali@portlandmaine.gov <pali@portlandmaine.gov>, nmm@portlandmaine.gov <nmm@portlandmaine.gov>, afournier@portlandmaine.gov <afournier@portlandmaine.gov>, dga@portlandmaine.gov <dga@portlandmaine.gov>, hcd@portlandmaine.gov <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, kkraft@portlandmaine.gov <kkraft@portlandmaine.gov>, rwiener@portlandmaine.gov <rwiener@portlandmaine.gov>, permitting@portlandmaine.gov <permitting@portlandmaine.gov>, hanscombe@portlandmaine.gov <hanscombe@portlandmaine.gov>, mdisanto@portlandmaine.gov <mdisanto@portlandmaine.gov>, mbud@portlandmaine.gov <mbud@portlandmaine.gov>, psf@portlandmaine.gov <psf@portlandmaine.gov>, kah@portlandmaine.gov <kah@portlandmaine.gov>, msarapas@portlandmaine.gov <msarapas@portlandmaine.gov>, inspections@portlandmaine.gov <inspections@portlandmaine.gov>, drm@portlandmaine.gov <drm@portlandmaine.gov>, amachado@portlandmaine.gov <amachado@portlandmaine.gov>, Stacey Tutorow <StaceyTutorow@epcs.com>, Christina V. Nguyen (<Christina.Nguyen@eciusa.com>), Christina.Nguyen@eciusa.com>, publiccomment@portlandmaine.gov <publiccomment@portlandmaine.gov>

Dear Members of the Portland Planning Board,

I am a resident of Portland's East End who is being directly impacted by the proposed Maine Public Broadcasting Corporation development at [35 Commercial Street](#). While I fully respect the right of any landowner to develop their property, **I strongly object to the proposed zoning amendment** to modify Land Use Code Table 9-C: Height Bonuses to include Commercial Street in addition to Congress Street, allowing 12 feet of additional building height for qualifying developments located within the Urban Active (UA) sub-district of the India Street Form-Based Code Zone (IS-FBC).

Taller buildings allowed on Congress Street are simply not appropriate in the historic Old Port. Development of other buildings in the area have generally respected pre-existing zoning requirements and I am against exceptions for a specific project. There is no reasonable basis for allowing an even taller structure to overshadow the surrounding buildings and must not be permitted.

Preserving the character of the Old Port is critical to the quality of life for residents and appeal to tourists. The cumulative effect of small changes to the existing regulations will continue to "chip away" at this unique and vibrant cityscape! Save the Portland we love for future generations.

Thank you,

Kevin Mahoney

11/29/21, 11:49 AM

City of Portland Mail - Fwd: Maine Public Broadcasting Corporation development at 35 Commercial Street

Kevin Mahoney

[207 Fore Street](#)

[Portland, ME 04101](#)

Cell [207-712-0590](#)



Charles Tetelman <ctetelman@portlandmaine.gov>

Maine Public Broadcasting Plan - Five County Credit Union 19 Commercial St.1 message

Mike Foley <mfoley@fivecounty.com>

Tue, Nov 23, 2021 at 10:06 AM

To: "ctetelman@portlandmaine.gov" <ctetelman@portlandmaine.gov>

Good Morning Charles,

Thank you for taking the time to speak with me this morning about Plan Number ZN-001756-2021, the Maine Public Broadcasting proposal for the lot adjacent to [19 Commercial St.](#)

Five County Credit Union has been a tenant at [19 Commercial St](#) since 1999 and has operated an ATM on the west side of the building, with approval from the City of Portland, for the last twenty years. At this early stage of the planning process for the Maine Public Broadcasting project, our current concerns are specific to the visibility and accessibility of the existing ATM for credit union members and employees, and all aspects of security relating to the use and servicing of the machine that may be impacted by the construction of a new building. These security considerations would include but not be limited to lighting, camera accessibility (we have a camera on the side of the [19 Commercial St.](#) building, about halfway down, for a wide angle view), and general visibility without blind spots or alleys that could contribute to unsafe use of the ATM. Secondly, I should note that multiple tenants of 19 Commercial St. do have signage on the west side of the building that may be impacted by the construction of a new building.

Should this project move forward to the site-plan phase, we look forward to seeing what the Maine Public Broadcasting team proposes.

Sincerely,

Mike

Michael J. Foley

Senior Vice President,

Support Services

Five County Credit Union

1-800-750-0959 Ext. 2207

mfoley@fivecounty.com

IMPORTANT MESSAGE TO RECIPIENT: This email, along with any attached files, is intended only for the use of the individual or individuals to which it is addressed. This email may contain information that is confidential, subject to copyright or constitutes a trade secret. If you are not the intended recipient, you are hereby notified that any dissemination, copying or distribution of this email or files associated with this email, is strictly prohibited. If you have received this email in error please notify the sender immediately by replying to the message and deleting it from your computer. Messages sent to and from employees in our organization may be monitored.

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



35 Commercial Street
ZN-001756-2021
Maine Public Broadcasting Corporation, Applicant

Submitted to:	Mayor Snyder & the City Council	Prepared By:	Charles Tetelman, Planner
Council Hearing Date:	February 28 and March 7, 2022	Date:	January 24, 2022

I. INTRODUCTION

Maine Public Broadcasting Corporation (“Maine Public”) submitted a zoning text amendment application to amend Chapter 14, Article 9 of the City’s Land Use Code to allow a height bonus in the Urban Active (UA) Subdistrict along Commercial Street within the India Street Form-Based Code Zone (IS-FBC). This application was referred to the Planning Board for compliance with the City of Portland’s Comprehensive Plan *Portland’s Plan 2030* and adopted zoning policies stated in the IS-FBC section 9.1.

The Planning Board held a Workshop on December 14, 2021 and a Public Hearing on January 11, 2022. At the January 11, 2022 Public Hearing, the Planning Board unanimously voted 6-0 (Smith Recused) to recommend to the City Council adoption of the text amendments (Attachments E & F) to allow a height bonus in the Urban Active (UA) Subdistrict along Commercial Street within the India Street Form-Based Code Zone (IS-FBC). The Planning Board found the proposed text amendment to be consistent with the city’s Comprehensive Plan. The Planning Board also believes that the proposal advances many of the shared goals and themes outlined in the city’s Vision Statement, which includes six interconnected themes (Equitable, Sustainable, Dynamic, Secure, Authentic, and Connected).

II. BACKGROUND

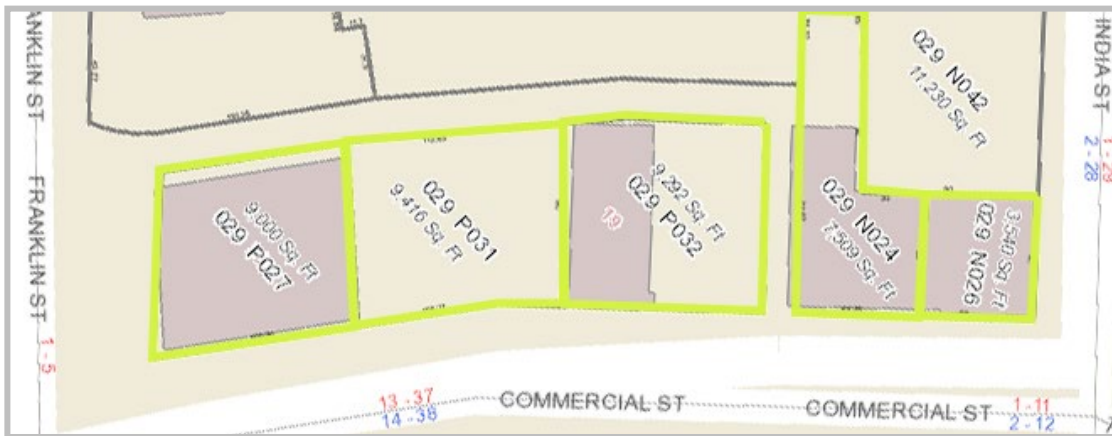
Recommended by the Planning Board and formally adopted by the City Council (Order 83-15/16) in 2015, the India Street Form-Based Code Zone (IS-FBC) serves as a zoning district that encourages a vibrant, walkable, mixed-use, urban district, preserves and values the existing historic neighborhood fabric, and fosters and supports local businesses and residential areas. Form-based zones differ from standard Euclidean zoning and focuses on form, dimensional, and design elements of zoning. Where traditional zoning includes dimensional and use requirements with a focus on land use, the IS-FBC emphasizes a building’s physical form with its relationship to the street and de-emphasizes land use.

In 2021, Maine Public purchased 29 and 35 Commercial Street which includes the Galt Block Building and the adjacent surface parking lot. The applicant plans to construct a new building to serve as the new Portland Headquarters for Maine Public Radio in the location of the surface parking lot, which would be reviewed under a forthcoming Site Plan application.

III. EXISTING CONDITIONS AND SURROUNDING AREA

There are five lots that would be impacted by the proposed text amendment. These lots are shown below:

- Lot 029-P027 (9,000 square feet) contains the Galt Block Warehouse building, a **five story** office building on the corner of Commercial and Franklin Street. The building was purchased by Maine Public in 2021.
- Lot 029-P031 (9,416 square feet) is currently a surface parking lot and will be the site for Maine Public's new Portland headquarters.
- Lot 029-P032 (9,292 square feet) contains the **three story** Workingmen's Club building which has three office buildings inside. The lot also includes a surface level parking lot.
- Lot 029-N024 (7,509 square feet) is a **one story** building containing two units for commercial use.
- Lot 029-N026 (3,540 square feet) is a **four story** mixed-use building that formerly functioned as the New England House Hotel and is currently vacant.



The IS-FBC applies to all new development designated on the India Street Regulating Plan (Section 9.1.3, Figure 9-A: IS-FBC Regulating Plan). The regulating plan shows the location of the zone boundary and subdistricts subject to regulation by the IS-FBC and is divided into three subdistricts: (i) Urban Neighborhood (UN) Subdistrict (ii) Urban Transitional (UT) Subdistrict (iii) Urban Active (UA) Subdistrict. With respect to height, the three subdistricts have the following standards:

Subdistrict	Pre-Bonus Height (max)	Bonus Height (max)	Bonus Floor Stepback (min)
UN	45 ft. and 4 stories	57 ft. up to 5 stories	15 ft.
UT	65 ft. and 6 stories	77 ft. up to 7 stories	15 ft.
UA (Congress Street Only)	50 ft. and 4 stories	62 ft. up to 5 stories	15 ft.

If a buildings frontage faces a UT street, UN street, or Congress Street, then the portion of the building facing that street is eligible for a height bonus. For lots with multiple frontages where a frontage faces an ineligible street, the bonus story must be set back at least 35 feet from the ineligible street line. For lots fronting an eligible street, the bonus story must be set back at least 15 feet from the street line (Section 9.1.7; Tables 9-C Height Bonuses; Footnote 2). Only one height bonus may be applied per structure.

Commercial Street is a primary corridor for tourism, commercial activity, and economic development. Access and proximity to the Portland waterfront is a significant draw for many businesses located in and around the Old Port. The block itself contains a variety of commercial uses including restaurants, a bank,

and office space. The surrounding India Street neighborhood is characterized by a variety of mixed-use, commercial, and residential buildings.



Figure 2: Street View of Commercial Street

The block being considered is also within the Portland Waterfront (Old Port) Historic District. The block includes the Galt Block Warehouse building, Workingmen's Club Building, and the former New England House Hotel which are all contributing structures to the historic district.

IV. PROPOSED TEXT AMENDMENT

Text Amendment

The proposed text amendment would allow a Height Bonus of up to one story or 12 feet along Commercial Street in the Urban Active (UA) Subdistrict of the IS-FBC. As shown below, the Commercial Street UA District includes five parcels between Franklin Street and India Street. Currently, UA Subdistrict height bonuses are only allowed along Congress Street.

There are two proposed text changes associated with this application (Attachment F and G):

- 1) A text amendment to 'Table 9-C: Height Bonuses' shown in the table below.
- 2) A text amendment to the Land Use Code Section 9 (9.1.7.C.1.a):

"If a frontage faces a UT street, UN street, ~~or Congress Street~~ or allowed UA street according to Table 9-C, then the portion of the building facing that street is eligible for a height bonus. For lots with multiple frontages where a frontage faces an ineligible street, bonus story must be stepped back at least 35 feet from ineligible street line."

TABLE 9-C: HEIGHT BONUSES

Subdistrict	Pre-Bonus Height (max.)	Mid-Block Permeability ¹	Residential Density	Green Roof	Affordable Housing	Height With Bonus (max.)	Bonus Floor Stepback ² (min.)
UN	45 ft. and 4 stories	n/a	n/a	n/a	1 story up to 12 ft.	57 ft. up to 5 stories	15 ft.
UT	65 ft. and 6 stories	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	77 ft. up to 7 stories	15 ft.
UA (Congress Street and Commercial Street only)	50 ft. and 4 stories	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	1 story up to 12 ft.	62 ft. up to 5 stories	15 ft.

¹ Must be publicly accessible.² Measured from the ground floor building edge facing any public right-of-way.

Staff Analysis

As mentioned above, only a small section of Commercial Street falls within the IS-FBC and this change would impact five parcels in the zone. However, two of the parcels will still be partially restricted due to frontages along the UA Subdistrict portions of Franklin Street and India Street. *“For lots with multiple frontages where a frontage faces an ineligible street, bonus story must be stepped back at least 35 feet from ineligible street line.”* The dominant, or more restrictive, dimensional requirements take precedent in the IS-FBC. With this change, Lots 029-P027 and 029-No26 will have height restriction setbacks 35 feet from Franklin Street and India Street respectively. In addition, the subject block contains a mix of building types that range from one- to five-stories.

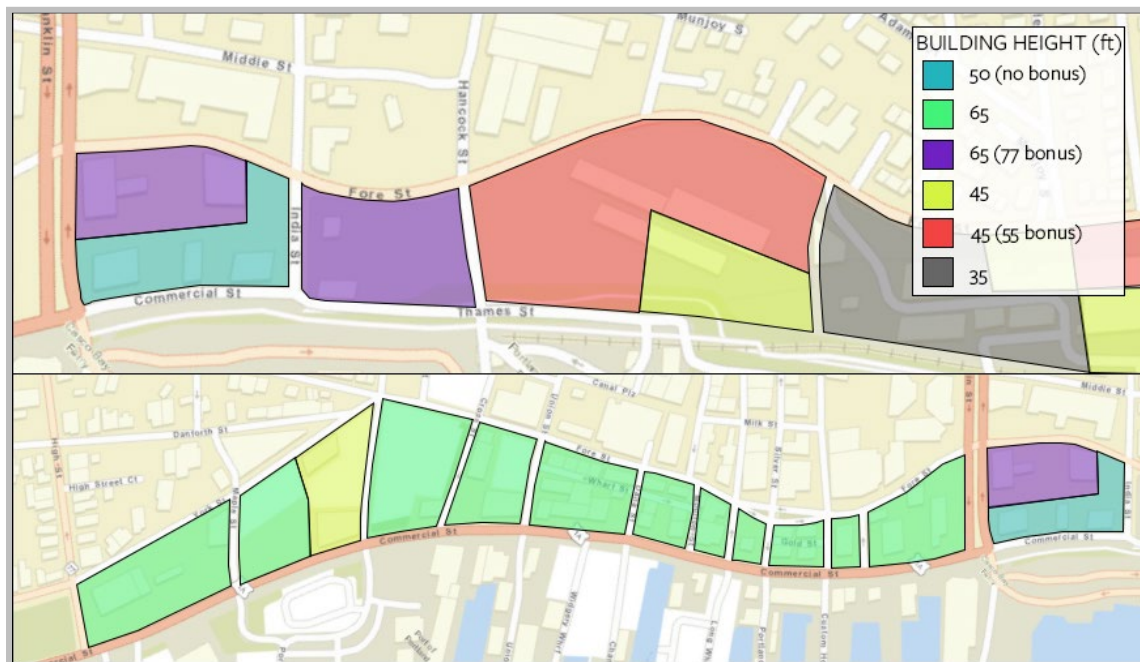


Figure 4: Building Height along Commercial Street

Staff also considered the height bonus in relation to the rest of Commercial Street as well as Thames Street moving towards the Eastern Promenade. The Downtown Height Overlay map dictates building heights within the B-3 zone on Commercial Street west of Franklin Street to Center Street, which allows maximum

building heights up to 65 feet. The B-5b zone, mapped along Commercial Street between State Street and Maple Street roughly to a depth of 250 feet also has a permitted maximum height of 65 feet. To the east, Thames Street, between India Street and Hancock Street, is part of the IS-FBC Urban Transitional Subdistrict with a maximum height of 65 feet (and up to 77 feet with a height bonus). The proposed text amendment to allow a height bonus of 12 feet or one story on Commercial Street within the IS-FBC (62 foot maximum building height up to 5 stories) would be consistent with the rest of Commercial Street and Thames Street along the waterfront and would create continuity in the street wall, enhancing the pedestrian streetscape. Furthermore, the bonus floor would be required to step back 15 feet from the building edge (Section 9.1.7; Table 9-C Height Bonuses; Footnote 2)

As part of the original IS-FBC adoption process in 2015, a key development principle was to ensure that neighborhood growth would carefully consider form and scale. This would include graduation of building form to vary by location so that future development would be appropriately scaled to its surrounding context. In conducting its review of the application staff also evaluated the surrounding context to ensure compatibility. As mentioned above the majority of Commercial Street allows building heights of 65 feet. To the west, north, and east of the subject block nearby Franklin, Fore, and Thames streets allow buildings to be constructed up to 65 feet or 77 feet up to seven stories max. Furthermore, the subject block is located along Commercial Street and near the confluence of Franklin Street and Commercial Street, both wide major thoroughfares that run perpendicular and parallel to the expansive waterfront, respectively. This context contributes to the appropriateness of increasing height at this location.

Staff note that the proposed text amendment would encourage a range of building forms, allowing sufficient flexibility for building envelopes to facilitate feasible development within the India Street neighborhood and along the waterfront that can produce the multiple shared goals and objectives outlined in the Comprehensive Plan for these areas. Including, ensuring that employment and housing growth can be supported. Additional flexibility within the zoning envelope is critical to ensuring that buildings are able to accommodate a variety of uses, activities, and experiences within the same building or achieve optimal floor to floor heights for a variety uses, potentially attracting a wider range of businesses across multiple sectors and creating the opportunity for mixed-use development. The proposed text amendment would increase building heights along Commercial Street one additional story up to 12 feet in height for buildings that incorporate either mid-block permeability, residential density, a green roof, or include 20 percent of residential units as workforce. These bonus provisions encourage development that further supports the city's shared goals of increasing housing opportunities, particularly in walkable transit oriented locations and incorporating sustainable design features such as green roofs.

Staff also notes that the existing pre-bonus height, bonus heights, and setback requirements along with other design controls allows for articulation of buildings that would relate to the surrounding context. This graduated bulk envelope approach allows the bases of buildings and additional floors to relate to its immediate context and streets by requiring the bonus story to stepback from the building edge above the pre-bonus height.

V. COMPREHENSIVE PLAN CONSISTENCY

Portland's Plan 2030

As part of their application, the applicant highlighted a variety of elements from *Portland's Plan 2030* as it relates to the proposed text amendment (Attachment D). Many elements of this attachment relate more directly to the future use associated with 29 Commercial Street. However, the applicant cites objectives outlined in the City's Historic Resources guide related to *Authenticity* and *Security*.

Secure

"We will prepare for emergencies and ready for a changing climate."

The height bonus along Commercial Street will allow for more space protected against any flooding associated with a category 4 Hurricane or larger. Potentially including important broadcasting infrastructure during emergencies.

Authentic

"The uniqueness and integrity of our neighborhoods will be maintained and enhanced."

The height bonus along the Urban Active Subdistrict of the IS-FBC will match the scale and style of other buildings along Commercial Street include the Galt Block building and the Workingmen's Club.

In conducting its review of the application, Staff identified a number of objectives outlined in *Portland's Plan 2030* that support the requested text amendment. Those sections include the Plan's stated desire to stabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development and ensuring both an appropriate balance of continuity and change as Portland grows and evolves (*Portland's Plan Historic Resources Policy Guide, Local Goals*). The Plan also highlights the importance of promoting and fostering an economic climate that increases job opportunities and overall economic well-being as well as evaluating zoning to ensure employment and housing growth can be supported. Furthermore, the proposed change supports and advances the principles of future land use outlined in Portland's Plan 2030 including the vision for One Portland, where the form and characteristics of neighborhoods vary, but the City functions as a whole and Complete Neighborhoods by creating opportunities for all residents to have access to services. The proposed text amendment is consistent with the city's vision statement and supports the Comprehensive Plan in the following ways:

Historic Resources

"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."

Environment:

"Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation."



Figure 5: Portland's Plan 2030 Vision Statement

Waterfront:

“Prioritize and promote Portland’s unique mix of water-dependent, marine-related uses and compatible non-marine uses.”

Economy:

State Goal: *“Promote an economic climate that increases job opportunities and overall economic well-being.”*

“Support sustainable growth in our educational, medical, and cultural institutions.”

“Invest in, attract, and retain human capital to support a growing economy.”

“Respect that our unique quality of place is key to our current and future economic success.”

“Pursue policies that create, nurture, and retain local businesses.”

“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.”

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.”

VI. PUBLIC COMMENT

Throughout the Planning Board’s review there were four public comments submitted regarding the proposed text amendment (Attachments PC 1 - 4).

Three of the public comments were opposed to the proposed text amendment citing the differences between Congress Street as a downtown urban location and Commercial Street as a historic working waterfront. These comments were concerned that taller building heights are not appropriate in the historic Old Port and worry that continued expansion of height bonuses in the area could impact the character and future cityscape. One final comment noted the applicant’s lack of reasoning or applicant’s need to add a height bonus.

The fourth public comment (from an abutting tenant), while out of scope for the action before the Planning Board wrote neither for nor against the text amendment, but asked how a new building could impact the use of the existing ATM on the side of the Five County Credit building.

VII. PLANNING BOARD RECOMMENDATION

The Planning Board considered the proposed zoning text amendment at a hearing on January 11, 2022. After deliberation, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously 6-0 (Smith Recused) to find that the following zoning text amendment is consistent with the Comprehensive Plan and recommended adoption to the City Council:

1. Text amendments to Chapter 14 Section 9 to allow Bonus Heights in the UA Subdistrict of the IS-FBC along Commercial Street.

As noted above, the Planning Board believes that the proposal advances many of the shared goals outlined in the Comprehensive Plan and the city's Vision Statement. The Planning Board believes that the proposal would provide flexibility to accommodate a mix of uses that may require varying floor to floor heights potentially attracting a wider range of businesses across multiple commercial sectors. The Planning Board also notes that the height bonus encourages property owners to incorporate additional housing units, workforce or low-income housing units, or providing a green roof, which further advances a number of goals expressed in the Comprehensive Plan. The Planning Board believes the additional height is appropriate. The project area is located along Commercial Street and near the confluence of Franklin Street and Commercial Street, both wide major thoroughfares that run perpendicular and parallel to the expansive waterfront. The Planning Board also notes that the subject block is surrounded by blocks which allow heights up to 65 feet and 77 feet. The subject block is within walking distance to many services and residences as well as public transit options, which advances the shared goal of adopting sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation.

VIII. ATTACHMENTS

Applicant Submittal

- A. Application Check-List
- B. Deed QC with Covenant (EssexNorth 25)
- C. Deed QC with Covenant (EssexNorth 35)
- D. MP Consistency with Comprehensive Plan 10082021
- E. MP Proposed text amendment 11302021
- F. Table 9-C IS-FBC 11302021

Drawings

- Plan 1. SITE PLAN & Massing
- Plan 2. Location – 35 Commercial Street
- Plan 3. ALTA_NSPS Land Title Survey 2019

Public Comment

- PC 1 – PFS + MS
- PC 2 – Voicemail
- Pc 3 – KM
- Pc 4 - MF



MEMORANDUM

To: Mayor Snyder and Members of the City Council

From: Jen Thompson, Acting Corporation Counsel

Date: March 7, 2022

Subject: Overview of Legal Framework for Zoning and Zoning Amendments

In anticipation of the Council's consideration of Order 153-21/22, which proposes changes to the City's zoning ordinance, this memorandum contains an overview of the legal framework that will govern the Council's action on that item. The framework outlined below is contained in State law and is, therefore, generally applicable to all zoning enactments. This memo and its discussion of the applicable legal standard is not specific to any one property, application, or proposal. Instead, it is intended to serve as general guidance for the Council and as information for the public.

For guidance on the application of the legal framework to this particular proposal, please see the Planning Board's Report and Recommendation. Additionally, Corporation Counsel's office is prepared to offer guidance to the City Council on the application of the legal framework to this particular proposal should questions arise.

I. Overview of the Process of Zoning

Broadly speaking, the act of "zoning" land in Maine is done through the adoption of a "zoning ordinance." Under Maine law, a "zoning ordinance" is "a type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district." 30-A M.R.S.A. § 4301(15-A). Common examples of district/zone-specific regulations include: use restrictions, setback requirements, lot size requirements, etc.

Under Maine law, because the City of Portland has created a Planning Board and authorized that Board to serve as its reviewing authority for matters relating to land use and development, in order for a zoning ordinance to be valid, it must first be developed by the Planning Board at a public hearing. After the Planning Board has worked to develop a zoning ordinance, it is presented to the Council for its consideration.

Ultimately, zoning ordinances must be adopted by the Council. When adopting or amending zoning ordinances, the Council is acting in its legislative capacity. Because of the legislative nature of zoning enactments, both the Planning Board (in making its recommendations) and the Council have relatively broad discretion when making their decisions. There are, however, some important requirements outlined in state statute to help guide the Board and the Council when undertaking zoning. Specifically, under state law, any municipal “zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body . . .” 30-A M.R.S. § 4352(2)(emphasis added).

II. The “Consistency” Standard

The Maine Law Court has interpreted the term *consistent* to mean that the proposed zoning regulation must be “in basic harmony with . . .” the City’s comprehensive plan. *Consistency* does not mean, however, that a project has to be the “best possible use” for a site/location. See *Vella v. Town of Camden*, 677 A.2d 1051, 1053 (Me. 1996) (citing *LaBonta, et al. v. City of Waterville*, 528 A.2d 1262, 1265); see also *City of Old Town v. Dimoulas*, 2002 ME 133, ¶ 20, 803 A.2d 1018, 1024.

Comprehensive Plans are understood to be “a compilation of policy directives and goals” for the development of the City. Among other things, the policies outlined in the City’s Comprehensive Plan address the City’s infrastructure, commercial/business development, transportation resources, industry, and commerce and residential housing. See [Portland’s Plan 2030](#). Since these goals and policies can sometimes compete and/or conflict with one another, it is the Planning Board’s/City Council’s task to balance and accommodate the many goals and policies contained in the Plan in a way that advances the City’s overall best interests. See *Adelman v. Town of Baldwin et al.*, 2000 ME 91, ¶ 24, 750 A.2d 577, 585-586 (citations omitted); see also *LaBonta*, 528 A.2d at 1265.

The Law Court further clarified the consistency analysis in *Remmel v. City of Portland*, 2014 ME 114, ¶¶ 13-14, 102 A.3d 1168, 1172 and the Council’s broad discretion to determine when a proposed rezoning is consistent with the Comprehensive Plan. According to the Court in *Remmel*, it is not

necessary that a proposed zoning amendment comply strictly with every portion of the Plan. As the Court explained:

A zoning or rezoning action need not perfectly fulfill the goals of a comprehensive plan; it may be in basic harmony with the plan so long as it “strikes a reasonable balance among the municipality’s various zoning goals” or “overlap[s] considerably” with the plan.

Importantly, “a municipality may conclude that a rezoning action is consistent with the comprehensive plan when it is in harmony with some provisions of the plan, even if the action appears inconsistent with other provisions of the plan.” *Id.*

III. Decision Making

Again, whether to adopt zoning regulations is a legislative decision, the details of which are to be developed by the Planning Board and enacted by the City Council. Therefore, whenever a zoning proposal comes before the Council for its consideration, it will be important for the Council to:

1. carefully consider whether and how the proposed zoning satisfies the broad policy objective(s) contained in the Comprehensive Plan; and
2. in its deliberations, specifically outline the ways in which the proposal is or is not consistent with the Plan.

The recommendations provided by the Planning Board are intended to assist the Council in that effort by outlining in detail the Board’s assessment of “consistency” based on its in-depth and comprehensive experience with the Plan, land use development throughout the City, the City’s land use ordinances, etc. The Council is not, however, bound by the Planning Board’s recommendations or assessment and is free to make its own determination as to whether a particular zoning proposal is or is not consistent with the Comprehensive Plan.

In taking action on a proposal, the Council can:

- adopt the proposal as presented (after concluding that it is consistent with the Comprehensive Plan);
- it can decline to adopt the proposal (after concluding that it is not consistent with the Comprehensive Plan); or
- if the Council determines that amendments to the proposal would bring it more in line with the Comprehensive Plan

and the Council's objectives, it can request that the Planning Board develop an amendment and provide a recommendation on an amended proposal.

Order 153-21/22 - Public Comment Submission

Public Comment inbox



Sarah Hansen <s... Feb 24, 2022, 4:08 PM (18 hours ago)
to publiccomment@portlandmaine.gov

Attached please find our comments in reference to Order 153-21/22.

Many thanks,
Sarah

Sarah Hansen

Executive Director

Greater Portland Landmarks

93 High Street, Portland, ME 04101

207.774.5561 | shansen@portlandlandmarks.org

portlandlandmarks.org

Find us on [Facebook](#) and [Instagram](#)



February 24, 2022

Mayor Snyder and members of City Council:

Thank you for the opportunity to comment on the Order 153-21/22, the amendment to Portland City Code Chapter 14, allowing a height bonus in the Urban Active Subdistrict along Commercial Street.

Located in the Waterfront Historic District, 35 Commercial Street is known as the Galt Block. Designed in 1859-60 by Charles Alexander in the Greek Revival style, it is a simple, strong example of the mid-19th Century warehouses lining Commercial Street. It is notable for having one of the few remaining roofs of those structures without dormers, and the basic form and features of the building are still very present.

The Waterfront Historic District includes, virtually intact, the history of Commercial Street's development – the history of Portland's mid-19th century commercial evolution. With the arrival of the Atlantic and St. Lawrence Railroad (later known as the Grand Trunk) in the 1840s, Portland became the winter port for Canada. This catapulted Portland into a new era of growth and prosperity. The entire waterfront downhill from Fore Street was filled, creating a mile-long, hundred foot wide street to accommodate train tracks, wagon traffic and the business blocks and warehouses to support Portland's growing economy.

As this neighborhood continues to evolve, Landmarks believes that the proposed height bonus allowance will have a positive impact on the development of this infill project (adjacent to the Galt Block at 35 Commercial Street) for Maine Public Broadcasting Corporation and will not detract from any historic building or view shed in the area. Landmarks fully supports the proposed text amendment and urges City Council to vote in favor of Order 153-21/22.

Cordially,



Sarah Hansen
Executive Director

Public Comment re Order 153-21/22: Tall Structures Were Once Integral Part of Portland Waterfront

Public Comment inbox



George Rheault <george.rheault@gmail.com>

7:19 AM (2 hours ago)

to Public, Kate, Pious, April, Roberto, Anna, vpelletier, Andrew, Mark, Tae, Dena, Danielle, Christine, Jennifer

I fully support the zoning amendment for Maine Public Radio that grants them a height allowance.

Portland's Eastern Waterfront was once full of tall structures that helped Portland grow and prosper - SEE ATTACHED various images as proof.

These structures were ever present soon after the advent of the railroad age in the 1850s until the early 1970s by which time many had been destroyed by fire, neglect or outright demolition. Without them, Portland would frankly have never become the Portland that we inherited.

To argue there is no precedent for tall structures impacting the water views along Portland's waterfront is to willfully ignore virtually all of Portland's history during the industrial age. It was only when Baby Boomers began gentrifying Portland in the late 1970s (a process that continues through today) that the notion that height, including on the waterside of Commercial Street, was somehow antithetical to respecting Portland's history and its future.

The Grand Trunk grain elevators were 160+ feet tall and the various conveyor sheds that connected them to the wharves were also many stories tall. The Galt Block Warehouse (on the pier side of Commercial Street - not the similarly named one on the land-side of Commercial Street) was a VERY tall and looming presence for most of the 20th century. It sat beside what became the Maine State Pier (now often referred to as the Portland Ocean Terminal). If the original Galt Block Warehouse had not been demolished for parking in the 1970s (the parking lot remains to this day), it would stand directly across the street from the Maine Public Radio building proposed to be built as part of this rezoning amendment - and it undoubtedly would be landmarked and championed as an authentic part of Portland waterfront past. The attached images help show this.

I urge the City Council to educate itself about Portland's ACTUAL working waterfront history - rather than the sanitized distorted view that many people who have only recently come to Portland get fed.

Please enjoy the images and carefully scrutinize them. I am posting these under fair use for educational purposes, but I have done my best to make sure the sources I obtained these images from are noted as best as possible for original identification.

See Attached - MPR Rezoning - 1900 Photo of Eastern Waterfront With Sailing Ships

<https://www.facebook.com/MaineHistoryPix/photos/392197317534511>

See Attached - MPR Rezoning - 1900 Photo of Eastern Waterfront from Maine Memory Network - Old + New Elevators

[View of Portland, ca. 1900 - Maine Memory Network](#)

See Attached - MPR Rezoning - 1940s Photo of Galt Wharf Warehouse from Portland Facebook History Group

<https://www.facebook.com/PortlandMaineHistory1786ToPresent/photos/1436874733043615>

See Attached - MPR Rezoning - 1937 Photo of Eastern Waterfront from Portland History Facebook Group

<https://www.facebook.com/PortlandMaineHistory1786ToPresent/photos/a.329444590453307/641327412598355>

See Attached - MPR Rezoning - 1948 Photo of Galt Wharf Warehouse - Maine Memory Network

[Galt Block Warehouse Co., Portland, 1948 - Maine Memory Network](#)

See Attached - MPR Rezoning - 1970 Photo of Eastern Waterfront from Portland History Facebook Group

<https://www.facebook.com/PortlandMaineHistory1786ToPresent/photos/1681100248621061>

Additional Images of Interest:

1905 - Grand Trunk Elevators - looking east towards Portland Company

<https://www.facebook.com/MaineHistoryPix/photos/395906923830217>

Galt Block Warehouse (The Water-Side Building)

[24 Commercial Street, Portland, 1924 - Maine Memory Network](#)

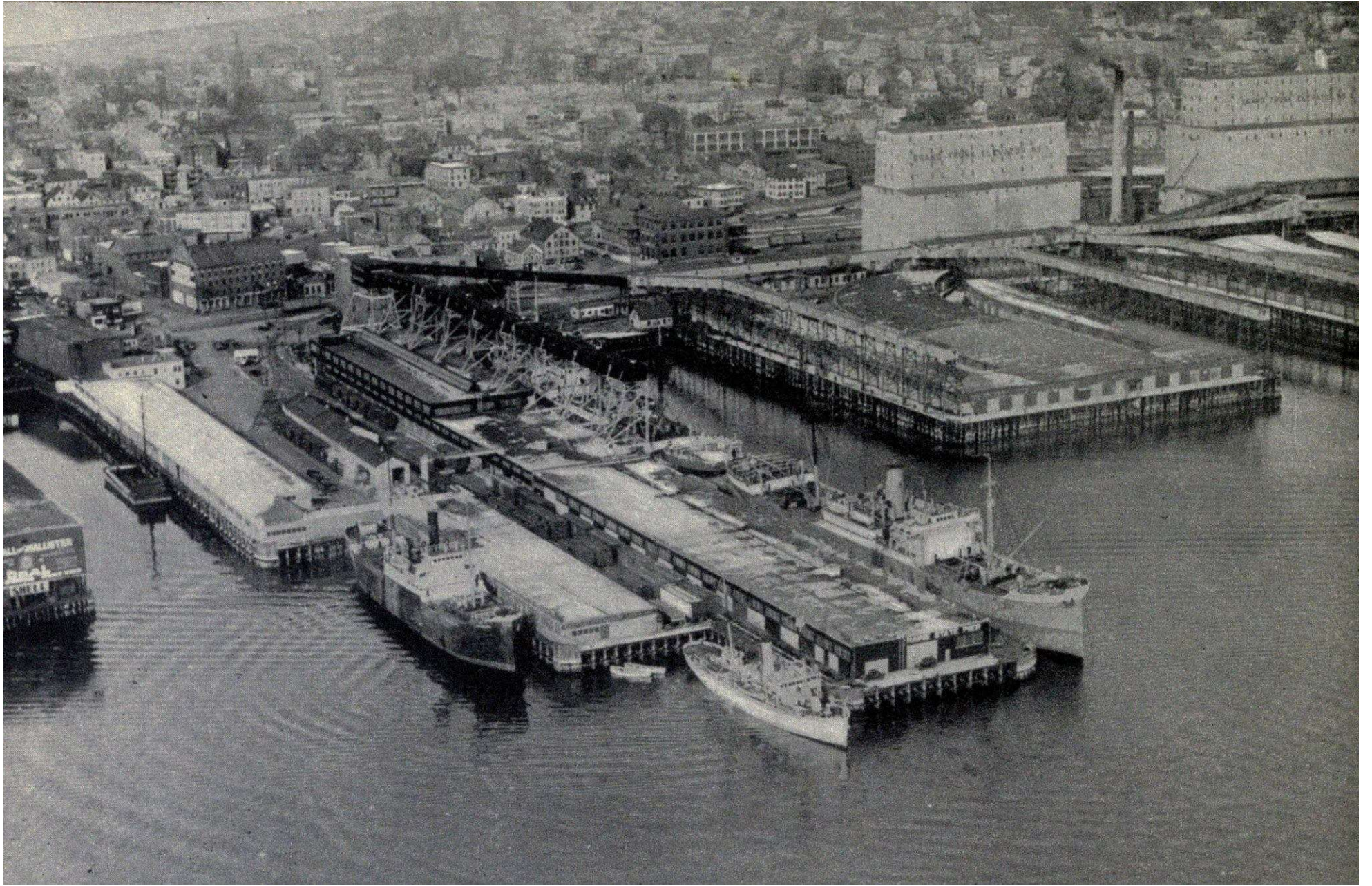
1968 - Grand Trunk Grain Elevator - looking towards what is Munjoy South area today

<https://www.facebook.com/MaineHistoryPix/photos/415456258541950>









www.maine-memory.net/item/20507
Collections of Maine Historical Society





Order 153-21/22 - Public Comment Submission

Public Comment inbox



Sarah Hansen <s... Feb 24, 2022, 4:08 PM (18 hours ago)
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Sarah Hansen

Executive Director

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Cordially,



Sarah Hansen
Executive Director

MEMORANDUM
City Council Agenda Item

FROM: Troy Moon, Sustainability Coordinator

DATE: February 22, 2022

SUBJECT: Order 160-21/22 Approving the Agreement between EVgo Services LLC and Portland Re: Electric Vehicle Charging Stations - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Danielle P. West, Interim 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 If action cannot be taken at a later date, please explain why

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

I. SUMMARY

Approving an agreement between the City of Portland and EVgo to own and operate electric vehicle charging stations on publicly owned property.

II. AGENDA DESCRIPTION

This order approves an agreement between the City and EVgo Services LLC (EVgo) for the deployment of four DC fast chargers and up to forty-four (44) level 2 Electric Vehicle (EV) charging stations on publicly-owned property.

EVgo will provide all equipment, materials, labor, and other services required for this project at no cost to the City. Due to the specialized nature of this project and the substantial initial investment by EVgo, the agreement has a 10-year term. City contracts, particularly those that require the City to incur costs, typically include a termination for convenience provision, which allows the City to terminate all or part of an agreement with or without cause. Because this agreement does not include a termination for convenience provision, Council approval is required.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The City's climate action plan, One Climate Future, established widespread adoption of electric vehicles as a key strategy to achieve our carbon reduction goals. Lack of vehicle charging infrastructure makes it impractical for many people to drive an EV, especially apartment dwellers and condominium owners who do not have a driveway or the ability to charge at home. In order to address this, the City issued an RFP to find a private sector partner to assist with the build out of an EV charging network using City-owned property. After careful consideration, staff recommended an agreement with EVgo, the largest provider of DC fast charging infrastructure in the United States. Their proposal allows the installation of four DC fast chargers and up to forty four (44) level 2 chargers at no cost to the City. EVgo will own, operate, and maintain the charging infrastructure for a period of ten years. The initial build out to be completed during the spring of 2022 will place two DC fast chargers on Commercial Street and two DC fast chargers in the municipal parking lot at the corner of Spring St. and High St. Community charging hubs with level two chargers will be installed at the Reiche School parking lot, the East End School parking lot, and the Deering Oaks parking lot. Additional community charging hubs will be installed over the course of the next 18 months.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The One Climate Future climate action and resilience plan identifies electrification of transportation as a priority. Facilitating the installation of community charging hubs as well as DC fast chargers promotes EV adoption by providing residents and visitors with convenient ways to charge their vehicles.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

Staff recommends approval of the agreement.

VIII. LIST ATTACHMENTS

1. Order Approving Agreement with EVGO SERVICES LLC 1.19.2022
2. Portland ME - EVgo Extend Services Agreement w T&C- for 3.7.2022 agenda

Prepared by:

Troy Moon, Sustainability Coordinator

Date: 02/22/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE AGREEMENT
BETWEEN EVGO SERVICES LLC AND PORTLAND
RE: ELECTRIC VEHICLE CHARGING STATIONS**

ORDERED, that the Agreement between the EVgo Services LLC and the City of Portland for electric vehicle charging stations, is hereby approved in substantially the form attached hereto: and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Interim City Manager 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.



Agreement Date: _____

City of Portland
Attn: Troy Moon, Sustainability Director
389 Congress Street
Portland, Maine 04101

Dear valued partner,

Thank you for choosing EVgo as an EV charging platform for your property. This Charging Station Access Agreement (this “Charging Station Access Agreement”) sets forth the agreement, entered into as of the date first written above (the “Agreement Date”) between the City of Portland (“Host”), a body politic and corporate under the laws of the state of Maine, and EVgo Services LLC (“EVgo”), a Delaware limited liability company, pursuant to which EVgo will provide EV charging services at the Host Properties listed below.

The following summary of terms (the “Summary of Terms”) sets forth key commercial terms governing this Charging Station Access Agreement:

1.	Host Properties:	Set forth on Exhibit A hereto (the “ <u>Site Plan</u> ”).
2.	Licensed Areas:	Set forth on the Site Plan.
3.	Initial Term:	From the Agreement Date until ten (10) years after the earlier of (1) the Operational Date of the final Charging Station completed, or (2) the Build Deadline, unless earlier terminated in accordance with the Standard Terms and Conditions attached as Exhibit B .
4.	EVgo Charging Stalls:	8 DC fast charging stalls (the “<u>DCFC Stalls</u>” and the charging equipment serving such DCFC stalls, the “<u>DCFC Chargers</u>”) and up to 44 L2 Chargers. EVgo shall install 12 L2 Chargers at the 3 Host Properties identified on the Site Plan on or prior to December 23, 2022 (such date to be extended on a day-to-day basis for delays caused by permitting or utility approvals or utility mobilization timelines, provided that EVgo is using best efforts to pursue such approvals). EVgo shall reasonably cooperate with Host to install up to 32 additional L2 Chargers at additional Host Properties from time to time thereafter, as agreed between EVgo and Host in writing. EVgo will provide all signage required for all Charging Stalls. All signs shall conform to the City of Portland signage standards and EVgo shall, at its own expense, acquire all necessary permits and approvals to erect said signs. EVgo shall maintain all signs to the Host’s satisfaction.
5.	Access Fee:	\$4400 (\$1,100/month/DCFC Charger) payable to Host monthly on the 10th business day of each month). The Access Fee shall be reduced by \$100 per month (each such \$100 is referred to herein as an “L2 Charger Reduction”) for each L2 charger installed by EVgo at the Host Properties listed herein or at other locations within the City of Portland as agreed between EVgo and Host from time to time in writing (each, with the number of any such chargers calculated on the basis of the number of charging stalls served thereby, an “<u>L2 Charger</u>” and together with any DCFC Charger, each a “<u>Charger</u>”). In no event, however, will the total amount of the L2 Charger Reductions for a given month exceed the total of the Access Fees paid to the Host by EVgo during that month, unless and until all 4 DCFC Chargers and more than 44 L2 Chargers are installed and operational. For the avoidance of doubt, the parties agree that the Host will have no out-of-pocket expenses under this Agreement unless and until the original \$4400 Access Fee has been reduced to \$0 in accordance with this paragraph and at least 45 L2 Chargers are installed and operational.
6.	Access Fee Payment Start Date:	Operational Date for each DCFC Charger

7.	Build Deadline:	The date that is 12 months after the Agreement Date. No fewer than 8 DCFC Stalls and 12 L2 Charging Stalls will be installed and operational on or before the Build Deadline.
8.	Host Notice Details:	City of Portland 389 Congress Street Portland, Maine 04101 Attn: City Manager and Sustainability Coordinator Email: dwest@portlandmaine.gov; thm@portlandmaine.gov
9.	Other provisions:	If more than 44 L2 Chargers are to be installed, Host and EVgo shall enter into a mutually acceptable agreement providing for payment to EVgo for such additional L2 Chargers. To the extent that any L2 Charger is installed at any Host-owned location other than the Host Properties set forth herein, such location will be deemed a Host Property and such L2 Charger shall be deemed a Charging Station for all purposes hereunder and shall be subject to the provisions of this Agreement. EVgo shall provide the services listed on Exhibit C with respect to each L2 Charger. At any time after five years after the Operational Date for each L2 Charger, and provided that Host is not in breach of this Agreement, Host shall have the right, but not the obligation, to purchase the L2 Charger for \$1.00 pursuant to an asset purchase agreement reasonably acceptable to EVgo and Host. Upon completion of such purchase, title to the chargers will vest in the City, the City will be entitled to all customer payments for such chargers, and the L2 Charger Reduction for the chargers will no longer be deducted from the Access Fee. Reference is made to the City of Portland, Maine Executive Department Request for Proposals, RFP #21074, dated June 10, 2021, entitled “Deployment of Electric Vehicle Charging Network At City of Portland Owned Properties,” as amended by Addendum #1 dated June 15, 2021, Addendum #2 dated June 21, 2021, Addendum #3 dated June 24, 2021, and, Addendum #4 dated June 28, 2021 (collectively, the “Request for Proposals”) and EVgo’s July 27, 2021 RFP Response (the “Proposal”). By its approval of the Construction Plan, Host acknowledges that EVgo is compliant with the Items 1 through 5 of the technical requirements set out on Pages 6-7 of the Request for Proposal. EVgo shall use commercially reasonable efforts to assist Host with its marketing plan for the Charging Stations. EVgo shall provide a 20% discount at the Charging Stations for vehicles owned by Host. EVgo shall apply branding, artwork or other decoration satisfactory to Host to the DCFC Chargers installed pursuant to this Agreement. EVgo and Host shall reasonably collaborate as to the form and timeline for the application of such branding, artwork or other decoration. EVgo shall assist Host in analyzing the cost of charging electric vehicles at the DCFC Chargers and L2 Chargers as compared to traditional internal combustion engine vehicles. EVgo agrees that it will charge customers commercially reasonable rates for charging their vehicles with the Chargers.

This Charging Station Access Agreement (including the Summary of Terms) and all performance hereunder are subject to EVgo’s Standard Terms and Conditions attached hereto as **Exhibit B** (the “Terms and Conditions”).

This Agreement and its exhibits shall be construed to be supplemental to one another to the extent possible. In the case of any inconsistency, conflict, or ambiguity among this Agreement and its exhibits, the documents shall govern in the following order:

1. This Agreement
2. Exhibit A – Site Plan
3. Exhibit B – Terms And Conditions
4. Exhibit C – O&M Services

For any questions or related inquiries regarding your EV charging site, please reach out to your EVgo host success team at (424) 610-9728 or by email at hostsucces@evgo.com. We look forward to working with you on this important engagement.

[Signature Pages Follow]

Sincerely,

EVGO SERVICES LLC,
a Delaware limited liability company

By: _____
Name:
Title:

Agreed and acknowledged,

THE CITY OF PORTLAND,
a municipal subdivision of the state of Maine

By: _____
Name: Danielle P. West
Title: Interim City Manager

Approved by Corporation Counsel

Approved by the Finance Director

EXHIBIT A

SITE PLAN

No.	Site Plan:	Additional Info:
1.	<i>[Insert Site Diagram]</i>	<u>Name of Charging Station:</u> [____] <u>Company Property Address:</u> [____] <u>Chargers:</u> <i>[Specify # and type of Charger]</i> <u>Additional Notes:</u> [____] <u>Build Deadline:</u> 18 months after the Agreement Date.

DCFC Location at the
corner of Commercial
St. and Browns Wharf

327

TIQA
Mediterranean

Hotel Portland



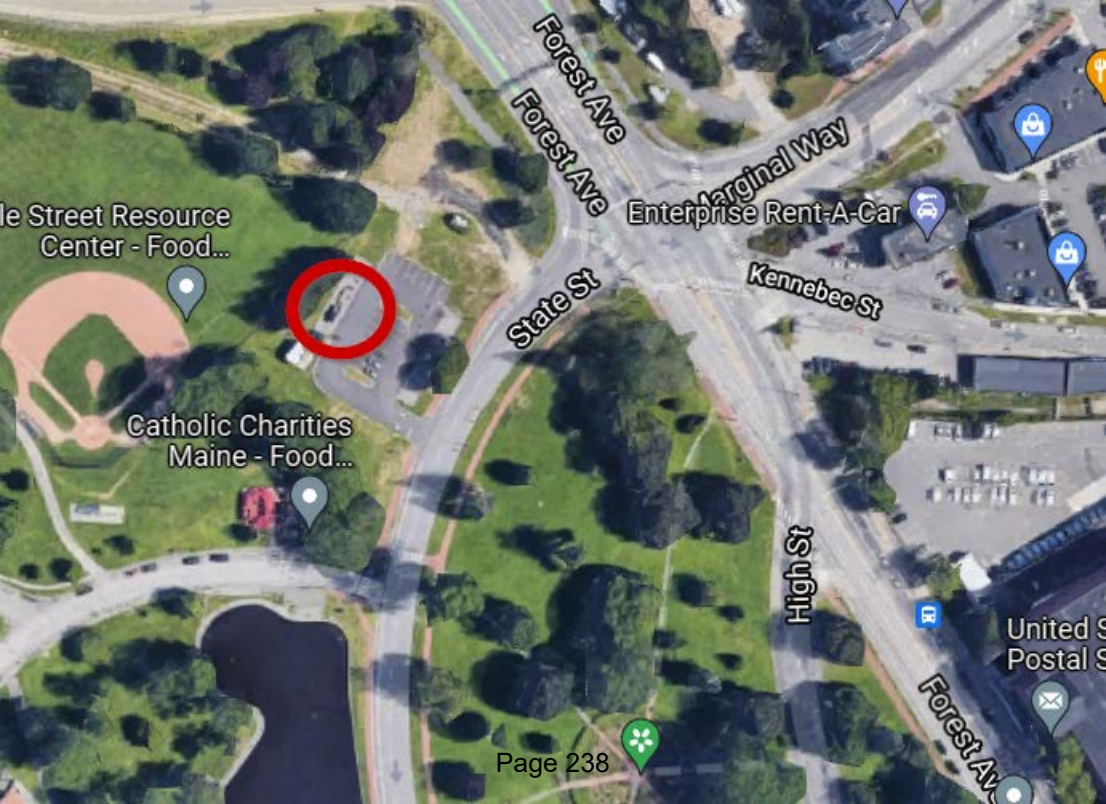
Savannabell's Food Cam
Fast Food

328

Maple St

Commercial St

Browns Wharf



le Street Resource
Center - Food...

Catholic Charities
Maine - Food...

Forest Ave
Forest Ave

Marginal Way
Enterprise Rent-A-Car

State St

Kennebec St

High St

United S
Postal S

Forest Ave



h Street
Community
Garden

North St

East End
School Garden

k Path

Google

Page 239

East End
School

Island View Apartments

North St



Brackett Street
Veterinary Clinic

Portland West, Inc. -
Food Distribution Center

Chaval
Spanish • \$\$

pp Bubble Laundromat

Reiche
Community Center

Reiche Pool

Page 240

Reiche Community
School

Fresh Appr

DCFC Location at the
corner of Commercial
St. and Browns Wharf



EXHIBIT B

STANDARD TERMS AND CONDITIONS FOR CHARGING STATION ACCESS AGREEMENTS

These Standard Terms and Conditions for Charging Station Access Agreements (the “Terms and Conditions”) form part of and are subject to the Charging Station Access Agreement (the “Charging Station Access Agreement”, and collectively with the Terms and Conditions, this “Agreement”) to which they are attached.

1. Licensed Area Rights, Use and Maintenance.

1.1. Licensed Area Rights. Host grants to EVgo the right to access and occupy (a) the EVgo Charging Stalls described in the Site Plan and (b) the Licensed Area. The Licensed Area may be used by EVgo for any lawful activity reasonably necessary for the construction, maintenance, replacement, removal, and operation of electric vehicle chargers and ancillary items (collectively, the “Charging Station”). The Charging Station shall belong to EVgo, shall be located at the Host Property at sole risk of EVgo, and Host shall not be liable for damage thereto or theft, misappropriation or loss thereof, except to the extent of the gross negligence or willful misconduct of Host, its employees or contractors.

1.2. Maintenance of Licensed Area. EVgo and its agents, employees, contractors, and vendors may, at any time during the Term, access the Licensed Area and Host Property to maintain, inspect, repair, upgrade, remove or replace any portion of the Charging Station. Host shall keep the Licensed Area, including the EVgo Charging Stalls clear of snow or other debris, if any, in the same manner as other areas of the Host Property are cleared. EVgo acknowledges and agrees that Charging Stalls will be temporary unavailable from time to time during parking bans for snow removal or other emergencies. For the avoidance of doubt, Host shall have no obligation to maintain the Charging Station or any associated electrical infrastructure, which shall be maintained at EVgo’s sole expense.

1.3. EVgo Customers. Host shall provide EVgo’s subscribers, customers, agents, employees, contractors, vendors, guests and invitees (“EVgo Customers”) access to the Licensed Area at all times during the Term. If during the Term the Licensed Area is blocked by a parking gate, EVgo may install a parking card reader or similar hardware or software, if necessary, to ensure EVgo Customers access to the Licensed Area. EVgo acknowledges that Host may enforce restrictions on the size and weight of vehicles entering the Host Property.

1.4. Electricity.

1.4.1. Host shall reasonably cooperate with EVgo’s efforts regarding the provision of electricity to the Charging Station, details of which shall be set forth in the Construction Plan, and EVgo shall be responsible for all costs associated with installing electrical service to the Licensed Area and all periodic charges for electricity for the Charging Station (either by reimbursement to Host or by direct billing by the relevant utility, at the City’s option). Host shall use commercially reasonable efforts to, or if Host is not the fee owner of the Host Property, shall use commercially reasonable efforts to cause the fee owner of the Host Property to, enter into an easement agreement with any utility providing electricity to the Host Property.

1.4.2. Host grants to EVgo the right to receive utility services including but not limited to electricity, and the right for the utility service supplier to provide such electricity, subject to the Host’s approval of the granting of one or more utility easements to Central Maine Power Company

2. Construction.

2.1. Installation Activities. EVgo shall, at its sole cost and expense, be responsible for all installation activities (the “Installation Activities”) required to support the operation of the Charging Station.

2.2. Plans. Before beginning any Installation Activities (the date the Installation Activities are initiated, the “Mobilization Date”), EVgo shall provide a copy of the construction schedule, installation plans and construction policies (the “Construction Plan”) to Host for its approval, such approval shall not be unreasonably conditioned, delayed or withheld. The Construction Plan may be amended, waived, supplemented or otherwise modified from time to time with the written consent (which shall include consent delivered by email) of each party hereto. Notwithstanding the foregoing, EVgo acknowledges and agrees that the Host is acting in its capacity as owner of the City Properties with respect to this Agreement, and not in its regulatory capacity. EVgo shall be solely responsible for obtaining any permits, including permits for signage, or other regulatory approvals required in connection with this Agreement.

2.3. Contractor Activities; Liens. EVgo shall ensure that it and any of its designated contractors and service providers construct the Charging Station in all material respects in accordance with the Construction Plan. EVgo shall be responsible for the satisfaction or payment of any liens for any provider of work, labor, material or services claiming by, through or under EVgo. EVgo shall also indemnify, hold harmless and defend Host against any such liens, including the reasonable and documented fees of Host’s attorneys. Such liens shall be discharged by EVgo within 30 days after notice by Host of filing thereof by bonding, payment or otherwise, provided that EVgo may contest, in good faith and by appropriate proceedings any such liens.

2.4. Redevelopment. In the event that Host intends to redevelop all or a substantial portion of a Host Property in a manner that will have a material adverse effect on the use of one or more Charging Stations, Host shall consult with EVgo to determine a suitable location for (and use commercially reasonable efforts to relocate) the Charging Station at the redeveloped Host Property. If, subject to the terminating party’s compliance with the foregoing, a suitable location for the Charging Station at the redeveloped Host Property or another Host Property cannot be agreed upon between Host and EVgo, either party may terminate this Agreement with respect to that Charging Station in accordance with Section 5.1.3. Host may temporarily restrict access to the Charging Station for purposes of construction or maintenance of the Host Property, provided that the Access Fee for that Charging Station shall abate for any such period that lasts longer than 3 days.

3. Access Fee; Payment. EVgo shall pay Host the Access Fee on or before the 10th business day of each month following the Access Fee Payment Start Date, by ACH or other method mutually agreed method by EVgo and Host. Upon the execution of this Agreement, Host shall provide EVgo with a completed Form W-9 and valid ACH payment information.

4. Term. The “Initial Term” of this Agreement shall begin on the Agreement Date and shall last for the period set forth in the Summary of Terms. Following the expiration of the Initial Term, this Agreement will automatically renew for successive 30-day periods, unless terminated by either party by providing written notice to the other party no less than 60 days prior to the expiration date specified on such notice. The Initial Term and any renewal term(s) are referred to collectively herein as the “Term.” Unless terminated earlier pursuant to Section 5, this Agreement shall terminate automatically on the last day of the Term.

5. Termination.

5.1. Termination. This Agreement may be terminated upon 30 days’ written notice to the non-terminating party without penalty or fee:

5.1.1. in the case of EVgo, if, prior to the date that the first Charging Station becomes available for commercial charging activity under this Agreement (the “Operational Date”), EVgo determines that the construction of the Charging Station is impracticable or uneconomical;

5.1.2. in the case of Host, in the event the date that the Operational Date of the last Charging Station to be installed under this Agreement has not occurred by the Build Deadline;

5.1.3. in accordance with Section 2.4; and

5.1.4. in the case of either party, if the other party fails to perform any of its obligations hereunder in any material respect, and such failure continues unremedied for 30 business days after receipt of written notice thereof.

5.2. Consequences of Termination; Removal. Within 90 days following the termination of this Agreement, EVgo shall remove the Charging Stations and any of its equipment and personal property from the Licensed Area (other than chargers that the Host has purchased and utility infrastructure, which shall be capped and secured) from the Host Property. Following such removal, EVgo shall restore the Licensed Area to its condition as of the commencement of the Installation Activities, excluding ordinary wear and tear. All removal and restoration activities and costs shall be borne by EVgo.

6. Insurance. Prior to the execution of this Agreement, EVgo will procure and maintain:

6.1. Occurrence based Commercial General Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, including completed operations coverage for no less than two years following completion of the Work;

6.2. Occurrence-based Automobile Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage;

6.3. Workers’ Compensation Insurance coverage to the extent required by law, which shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees;

6.4. With respect to the Commercial General Liability and Automobile Liability Insurance, EVgo shall name the City of Portland as an additional insured for coverage for claims for which the City does not have governmental immunity, including, without limitation, those areas where government immunity has been expressly waived as set forth in 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the Host under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the Host. Prior to execution of this Agreement, EVgo shall furnish the Host and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days’ notice to the Host of termination of insurance from the insurance provider or agent. EVgo shall also provide a copy of any endorsement naming the Host as additional insured. Upon Host’s request, EVgo shall provide Host with a complete copy of any of the above-referenced policies. EVgo shall be responsible for any and all deductibles and/or self-insured retentions. Host’s acceptance or lack of acceptance of EVgo’s Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of EVgo’s obligation to obtain and maintain such insurance as required by this agreement.

7. Indemnity. EVgo shall defend, indemnify, and hold harmless Host and its affiliates, representatives, agents, officers, directors, managers, members, shareholders, partners, contractors, or employees (with respect to any party, collectively such party’s “Related Parties”) from and against all third party claims, demands, causes of action, liabilities, costs, damages, losses, penalties, fines, judgments or expenses, including reasonable attorneys’ fees and costs of collection (collectively, “Losses”) that arise out of or result from (a) any willful misconduct or negligence of EVgo or its Related Parties, (b) any breach by EVgo of its obligations, representations or warranties under this Agreement; and (c) the use of the Licensed Area by EVgo or its Related Parties, in each case, except to the extent arising out of or resulting from any willful misconduct or negligence of Host or its Related Parties.

8. Consequential Damages. Neither party shall be liable to the other party or such other party’s Related Parties for (a) any special, indirect or consequential damages or (b) as a result of such party’s own negligence, willful misconduct or breach of this Agreement.

9. Assignment.

9.1. This Agreement is binding on and inures to the benefit of the parties and their respective successors and assigns. EVgo may assign this Agreement and any or all of its rights and obligations

hereunder to any of its affiliates or successors and lenders or other financing parties as collateral.

9.2. In the event the Licensed Area is transferred or Host ceases to have the requisite level of control over the Licensed Area necessary to fulfill its obligations under this Agreement (each, a “Transfer Event”), Host shall assign its rights and obligations under this Agreement to the person or entity which would be able to comply with Host’s obligations following such Transfer Event (the “Transfer Host”), and the Transfer Host shall assume such rights and obligations. EVgo and the Transfer Host shall reasonably cooperate to make amendments to this Agreement or replace this Agreement with an agreement reasonably satisfactory to both parties following such Transfer Event.

10. Compliance with Law; Consents and Approvals; Representations.

10.1. EVgo shall comply with all material federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes) applicable to or impacting the performance of its obligations under this Agreement.

10.2. Host agrees that it shall obtain prior to the commencement of EVgo’s Installation Activities and maintain all consents or approvals required in order for Host to grant the rights and perform its obligations under this Agreement and for EVgo to take the actions contemplated in this Agreement.

10.3. Each party hereto hereby represents and warrants to the other that as of the Agreement Date: (a) it has all necessary power and authority to execute and deliver this Agreement and perform its obligations hereunder and (b) this Agreement constitutes a legal, valid and binding obligation of such party.

11. Miscellaneous.

11.1. Notices. Notices hereunder shall be deemed delivered and effective on the date of delivery to the recipient.

Notices to Host shall be delivered to the address(es) specified in the Host Notice Details (or such other address notified in writing to EVgo). Notices to EVgo shall be delivered to legal@evgo.com (or such other address notified in writing to Host) and, if Host delivers a physical copy in addition to email, to:

11835 West Olympic Blvd., Suite 1020E
Los Angeles, CA 90064
Attn: Legal Department; Site Development
Email: legal@evgo.com; sitedevelopment@evgo.com

11.2. Severability. If any term of this Agreement is held by any court of competent jurisdiction to be invalid, such invalidity shall not invalidate the remainder of this Agreement and this Agreement shall be construed and deemed reformed to the extent necessary to render valid such term and the rights and obligations of the parties shall be enforced accordingly.

11.3. Survival. The provisions of Sections 5.2, 7, 8, and 11.4 shall survive termination of this Agreement.

11.4. Governing Law; Jurisdiction. This Agreement shall be governed by the laws of the state in which the Host Property is located. The parties hereby consent to the exclusive jurisdiction of

the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings, and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder.

11.5. No Third-Party Beneficiaries. This Agreement does not confer any rights or remedies on any person other than the parties and their respective successors and permitted assigns.

11.6. Integration; Amendments. This Agreement contains all agreements, promises and understandings between the parties, and that there are no verbal or oral agreements, promises or understandings between the parties. Any amendment, waiver, supplement or other modification of this Agreement shall be ineffective unless made in a writing signed by the parties hereto.

EXHIBIT C

O&M SERVICES

While any L2 Charger is installed pursuant to the terms of this Agreement, EVgo shall provide the following services with respect to any such L2 Charger:

1. **Scope of Services:** EVgo shall be solely responsible for:
 - a. Installation, construction and interconnection of L2 Chargers;
 - b. Networking, billing, revenue collection and other day to day operations;
 - c. Maintenance (to be performed in accordance with the Maintenance Guidelines below);
 - d. Customer service, including access to EVgo's 24/7/365 call center (the phone number of such call center to be clearly marked on the charger); and
 - e. Reporting via EVgo's proprietary Host portal.
2. **L2 Charger Maintenance Guidelines:** EVgo shall provide maintenance for the L2 Chargers in accordance with the below guidelines:
 - a. EVgo will provide a phone number and online contact information for customers to report outages and other issues with the L2 Chargers.
 - b. EVgo will keep the L2 Chargers in good repair and safe condition in accordance with industry best practices;
 - c. EVgo commits to repair (either remotely or in-person) the L2 Chargers within the following periods after notice thereof from Host:
 - i. If 2 or fewer L2 Chargers are inoperable, 10 business days;
 - ii. If 3 to 6 L2 Chargers are inoperable, 5 business days;
 - iii. If 6 or more L2 Chargers are inoperable; 2 business days.
3. **DCFC Charger Maintenance Guidelines:** EVgo shall provide maintenance for the DCFC Chargers in accordance with the below guidelines:
 - a. EVgo will provide a phone number and online contact information for customers to report outages and other issues with the DCFC Chargers.
 - b. EVgo will keep the DCFC Chargers in good repair and safe condition in accordance with industry best practices;
 - c. EVgo commits to (a) diagnose and, if a remote repair is not possible, dispatch a technician to the applicable Charging Station, within two (2) business days after notice of any inoperable DCFC Charger from Host, and (b) for any repairs necessitating onsite work, cause a technician to arrive onsite within three (3) business days after notice of any inoperable DCFC Charger from Host.
4. **Uptime:** EVgo commits that in any calendar year (beginning with the first full calendar year after the Operational Date of the last DCFC Charger or L2 Charger installed pursuant to this Agreement):
 - a. there shall be at least one (1) DCFC Charger at each Charging Station experiencing Uptime for at least 98% of the total number of minutes in such calendar year; and

- b. there shall be at least one (1) L2 Charger experiencing Uptime for at least 98% of the total number of minutes in such calendar year.

5. **Defined Terms:** For the purposes of this Exhibit C:

“Excused Event” means (a) a force majeure event, (b) any action or inaction by a governmental authority that affects the availability or performance of a Charger, (c) the unavailability of, or any interruptions in, power supply or the supply of other commodities necessary for the operation of a Charger (other than unavailability solely as a result of a failure by EVgo to pay the applicable supplier), (d) a design error or latent product failure that was not identified during product certification by National Research Test Labs (e.g. Underwriter Laboratories) of a Charger, (e) any systemwide or regional failure or impairment of communications systems that significantly disrupts EVgo’s operation, (f) scheduled maintenance, (g) parts shortages (to the extent that EVgo is managing its inventory in accordance with prudent industry practice and using diligent efforts to mitigate any such shortages) and (h) software updates requiring a shutdown of any Charger (provided that, except in the case of an emergency, EVgo shall use commercially reasonable efforts to schedule any such updates during off-peak hours).

“Downtime” means, with respect to any Charger, that EVgo has verified that a Charger is unavailable for use by the public, other than any such unavailability due to an Excused Event. A Charger’s availability for use by the public shall be determined on the basis of such Charger’s ability to dispense power through its connector and not on the basis of any particular vehicle’s ability to receive power from such Charger.

“Uptime” means, with respect to any DCFC Charger, that such Charger is not experiencing Downtime.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 11, 2022

SUBJECT: Order 161-21/22 Accepting and Appropriating \$37,500 in Donations for the Portland Youth Corps - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Interim City Manager Dannielle West

(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 3/7/2022

Final Action 3/21/2022

Can action be taken at a later date: No Would like to accept the donation as soon as possible.

PRESENTATION: Ethan Hipple, Director of Parks, Recreation and Facilities Management will be present at the second reading.

I. SUMMARY

Accept and appropriate \$37,500 in donations to support the Portland Youth Corps program, operated by the Parks, Recreation and Facilities Department.

II. AGENDA DESCRIPTION

The Portland Youth Corps is a collaborative program of the Parks, Recreation and Facilities Department (PRF), the Portland Parks Conservancy (PPC), and Maine Audubon. The Parks, Recreation and Facilities Department operated a pilot program with 24 young people aged 14-17 in 2021, and are expanding the program in 2022 to provide additional leadership opportunities for participants. The Portland Youth Corps aims to provide job training and service opportunities for underserved youth through a summer service program in Portland's parks and open spaces. The direct program expenses are funded through grants and private fundraising, which is being led by the Portland Parks Conservancy. The City is providing overall oversight of the program and in-kind support in the form of staff time.

Current donations for the program that require Council approval and appropriation:

- \$30,000 from Portland Parks Conservancy
- \$7,500 from Maine Audubon (not including the donation of staff time)

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

III. BACKGROUND

The Portland Youth Corps is a collaborative program of the Parks, Recreation and Facilities Department (PRF), the Portland Parks Conservancy (PPC), and Maine Audubon. We operated a pilot program with 24 young people aged 14-17 in 2021, and are expanding the program in 2022 to provide additional leadership opportunities for young people who take part. The Portland Youth Corps aims to provide job training and service opportunities for underserved youth through a summer service program in Portland's parks and open spaces. The direct program expenses are funded through grants and private fundraising, which is being led by the Portland Parks Conservancy. The City is providing overall oversight of the program and in-kind support in the form of staff time. Current donations for the program that require Council approval and appropriation:

- \$30,000, Portland Parks Conservancy
- \$7,500, Maine Audubon (in addition to the donation of staff time)

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Council to approve the acceptance and appropriation of this donation.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Parks, Recreation and Facilities staff oversee and operate the program with generous support and collaboration with the Parks Conservancy and Maine Audubon. Outreach to schools, youth organizations, immigrant communities, and other groups will result in the recruitment of a diverse range of Portland youth to provide valuable service in our parks, while receiving environmental education, job training, leadership development, outdoor adventure, and a stipend.

VII. RECOMMENDATION

The Department of Parks, Recreation and Facilities recommends that this donation is accepted and appropriated by the City Council.

VIII. LIST ATTACHMENTS

1. Accepting and Appropriating \$37,500 in Donations for the Portland Youth Corps 3.7.2022

Prepared by:

Date: 02/11/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**ORDER ACCEPTING AND APPROPRIATING A \$37,500 IN DONATIONS
FOR THE PORTLAND YOUTH CORPS**

ORDERED, that a donation of \$30,000 from the Portland Parks Conservancy, and a donation of \$7,500 from Maine Audubon, are hereby accepted and appropriated to the Portland Youth Corps, a collaborative program of the Parks, Recreation and Facilities Department,

MEMORANDUM
City Council Agenda Item

FROM: Anne Torregrossa
DATE: February 17, 2022
SUBJECT: Order 162-21/22 Approving the Maine Public Employees Retirement System Special Plan 3C for Certain Non-Union Employees - Sponsored by Danielle P. West, Interim City Manager
SPONSOR: Danielle P. West, Interim 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 If action cannot be taken at a later date, please explain why

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

I. SUMMARY

II. AGENDA DESCRIPTION

The Police and Fire unions during contract bargaining negotiated to move from the MainePERS 2C to the 3C retirement plan. The council approved this move on December 6, 2021. Police and Fire command staff were not included in that transition, as they are not part of those bargaining units and are non-union employees. This order is meant to create parity between union and non-union sworn police and fire staff so that employees are not disincentivized from moving into command positions by providing Police and Fire Command staff with the same MainePERS 3C retirement plan.

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

III. BACKGROUND

The City Council approved that the City would provide the Special Benefit Plan 3C (the “Special Plan 3C”) through Maine Public Employees Retirement System (MainePERS) to all individuals covered by the collective bargaining agreements between the City and Local 740, International Association of Firefighters, the Portland Police Benevolent Association, and the Portland Police Superior Officers Association, through the approval of collective bargaining agreements on September 8, 2021, November 1, 2021, and November 15, 2021, which it then affirmed on December 6, 2021.

This approval applied only to employees in those bargaining units and did not apply to command staff at the Police and Fire Departments, creating a situation where command staff has a less favorable retirement plan than the union positions, which creates a disincentive to our most talented employees to move up through the ranks. This order will allow command staff in both departments to take advantage of the 3C retirement program and create parity in the retirement system throughout the sworn ranks.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

To provide comparable retirement benefits to command staff in the Police and Fire Departments as are provided to sworn union employees in those departments.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

Staff recommends approval of the order as presented.

VIII. LIST ATTACHMENTS

1. Copy of PERS Order for non-union 2.28.2022

Prepared by:

Anne Torregrossa

Date: 02/17/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM
SPECIAL PLAN 3C FOR CERTAIN NON-UNION EMPLOYEES**

WHEREAS, the City Council approved that the City would provide the Special Benefit Plan 3C (the “Special Plan 3C”) through Maine Public Employees Retirement System to all individuals covered by the collective bargaining agreements between the City and Local 740, International Association of Firefighters, the Portland Police Benevolent Association, and the Portland Police Superior Officers Association, through the approval of collective bargaining agreements on September 8, 2021, November 1, 2021, and November 15, 2021;

WHEREAS, on December 6, 2021, the City Council adopted Order 106-21/22, which confirmed allowing such individuals to move to Special Retirement Plan 3C effective January 1, 2022;

WHEREAS, at that time all non-union sworn officers of both the Portland Fire Department and the Portland Police Department were not included in the approval to move to the Special Plan 3C;

WHEREAS, in order to ensure that the City can recruit excellent candidates to its non-union sworn officer positions in the Fire and Police Departments, to maintain equity among sworn civil service employees, and to ensure continuity of retirement benefits for such sworn civil service employees, the City Council wishes to offer the Special Retirement Plan 3C to its non-union sworn members in the Fire and Police Departments; and

WHEREAS, Maine Public Employees Retirement System requires an order from the City Council with respect to the Special Plan 3C;

NOW, THEREFORE, BE IT ORDERED, that:

1. The City agrees to provide Special Plan 3C to all non-union sworn officers of both the Portland Fire Department and the Portland Police Department who work 21 or more hours per week, in accordance with the applicable Personnel policy(s). Special Plan 3C shall be available for service rendered after April 1, 2022. Service rendered before April 1, 2022, remains under the Special Plan 2C.

2. The City agrees to continue to provide Regular Plan AC to all other employees who work 21 hours or more per week and to its elected officials.
3. The City agrees to continue to exclude employees who work less than 21 hours per week, including its election workers, from participating in the Special Plan 3C, Special Plan 2C, and Regular Plan AC.
4. The City Council specifically authorizes Interim City Manager, Danielle West, to sign an amended agreement between the City and the Maine Public Employees Retirement System to effectuate these changes.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 18, 2022

SUBJECT: Order 163-21/22 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2023 Capital Improvement Program in an Amount not to Exceed \$21,145,000 - Sponsored by the Finance Committee, Mark Dion, Chair

SPONSOR: The Finance Committee met on February 24, 2022 and voted unanimously (3-0) to recommend the funding appropriation and bond authorization to the full City Council.

(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 3/7/2022

Final Action 3/21/2022

Can action be taken at a later date: No No. The City needs to move forward with bidding projects slated for 2022 construction.

PRESENTATION:

I. SUMMARY

This order authorizes, and the companion order appropriates, the issuance of general obligation bonds to fund the FY23 Capital Improvement Plan projects as recommended by the City Manager.

II. AGENDA DESCRIPTION

The Finance Committee met on February 24, 2022 and voted (3-0) to recommend the funding appropriation and bond authorization to the full City Council.

The Fiscal Year 2023 Capital Improvement Plan (FY23 CIP) has been in development since summer 2021 and has been reviewed by the Finance Committee at each of its meetings in 2022. The FY23 Capital Improvement Plan will not increase net debt service related to CIP projects in future City budgets as it was sized to simply offset other CIP debt being retired. The list of 2023 CIP calls for \$30.77M million(M) of new projects but only \$12M of this total will have a net impact to debt service in the general fund operating budget. A variety of other funding sources including the enterprise funds (for sewer and stormwater projects) are being used to finance the remainder. The \$12M was a borrowing target set by Finance staff in order to simply offset general fund CIP being retired. Two orders are required related to the CIP: one authorizing the FY23 CIP bonds; and a second appropriating the proceeds and other funding sources providing City staff with spending authority for the upcoming projects. A complete listing of the projects being authorized is included within the orders.

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

III. BACKGROUND

Approval of these orders is a critical component of the City Manager's CIP process. All bond authorization and spending authority must be approved by City Council. City staff is working towards earlier approval of the CIP as this allows the City to get projects out to bid sooner before many of the best contractors have already filled calendars with spring, summer and fall work.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Intended Result: Approval of the FY23 CIP will allow staff to move forward immediately with the included projects, including many City, School and Sewer/Storm water projects which are slated to begin during 2022 including many which are mandated for completion by year end.

City Council Goal Addressed: See detailed list of projects to be funded.

V. FINANCIAL IMPACT

No net fiscal impact to property tax rates as the debt service was sized to offset debt service coming off the books in FY23. Debt service related to CIP will remain flat.

VI. STAFF ANALYSIS AND BACKGROUND

The Capital Improvement Plan is a comprehensive process which began back in summer 2021. Each Department (including the School Department) performs a comprehensive analysis of their capital needs over the upcoming five or ten years. Each Department then ranks their needs based on priority and submits each project. The complete list of citywide needs is then reviewed as a whole, compared to available funding, and a one and five year CIP recommendation is produced. The current FY23 CIP represents the City Manager's recommended CIP after review and presentation of all Department submissions and consideration of input submitted by elected officials.

VII. RECOMMENDATION

We recommend approval of the FY23 CIP Bond Authorization order.

VIII. LIST ATTACHMENTS

1. Portland FY23 CIP Bonds - authorization bond order 3.7.2022

Prepared by:

Date: 02/18/2022

KATE SNYDER (MAYOR)
ANNA TREVARROW (1)
VICTORIA PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
ROBERTO RODRIGUEZ (A/L)

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S FISCAL YEAR 2023 CAPITAL
IMPROVEMENT PROGRAM IN AN AMOUNT NOT TO EXCEED \$21,145,000**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Twenty-One Million One Hundred Forty-Five Thousand Dollars (\$21,145,000) to finance the items identified in the City's 2023 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED:

1. That the Finance Director be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of **\$21,145,000** (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Finance Director be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Finance Director be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That the Bonds and BANs issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such

terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Finance Director is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, investment agreements, certificates, instruments and other documents as may be necessary or advisable, as determined and approved by the Finance Director, in connection with the financing of the Projects and the issuance delivery by the City of the Bonds and BANs, and the investment of the proceeds thereof, including but not limited to a bond purchase agreement, a preliminary official statement and official statement if the Bonds or BANs are underwritten in a public sale, a loan agreement in usual and customary form with the Maine Municipal Bond Bank (the “Bond Bank”), to the extent any of the Bonds or BANs authorized herein are issued pursuant to the State of Maine Clean Water Revolving Loan Fund program or the State School Revolving Renovation Fund, an escrow agreement, a tax compliance agreement, and investment agreements (the “Bond Documents”), which Bond Documents may be in such form and contain such terms, conditions and provisions including, without limitation, the waiving of the City’s sovereign or governmental immunity with respect to the enforceability of any of the forgoing, as may be approved by the Finance Director, such approval to be conclusively evidenced by his execution thereof;

6. That the Finance Director be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Finance Director be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Finance Director be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Finance Director, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Finance Director be and hereby is authorized to select the registrar, paying agent and transfer agent (the “Transfer Agent”) for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Finance Director be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions

of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Finance Director be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Finance Director and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Finance Director and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Finance Director be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be “private activity bonds” or “arbitrage bonds” within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term “cost” or “costs” as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Finance Director is authorized, in his discretion, to reallocate proceeds of the Bonds to any other listed Project on the attached Exhibit A, or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan;

18. That the Finance Director, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Finance Director, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other Bond Document necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished;

23. That the following resolutions required by Section C(4)(e) of the State of Maine Clean Water Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- a. That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established;
- b. That the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards;
- c. That a final accounting shall be made to the Bond Bank of the total cost of each Project upon completion of the Project performance certification as set out in Section G(3) of the

SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built;

- d. That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan;
- e. That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee;
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged;
- g. That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment;
- h. That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient;
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project;
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine; and

24. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Finance Director be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

2023 Capital Improvement Plan New Project Authorizations & Funding Sources

Exhibit A

		Total Appropriation Requested	New General Obligation Bond Funding	Other Funding	
EQUIPMENT & TECHNOLOGY					
Equipment	Replace 30 C5G124 switches	200,000	200,000		
Equipment	109 Middle Street WiFi Upgrades	60,000	0	60,000	(2)
Equipment	Motorola APX6000 Radio Upgrade	300,000	0	300,000	(2)
Equipment	Domestic Hot Water Heater	65,000	65,000		
PARKS & RECREATION					
Parks, Fields, Trails	Congress Square Redesign	900,000	900,000		
Parks, Fields, Trails	Dougherty Skate Park Expansion	235,000	235,000		
Parks, Fields, Trails	Riverton Trolley Park Rehabilitation	125,000	125,000		
Parks, Fields, Trails	Longfellow Playground Design	50,000	50,000		
Parks, Fields, Trails	Portland Harbor Common	75,000	75,000		
Facilities	Bridge Over Dole Brook (Emergency Replacement)	255,000	255,000		
Facilities	Riverton Pool Filter Replacement	130,000	130,000		
Parks, Fields, Trails	Back Cove Trail Reconstruction	95,000	95,000		
PUBLIC WORKS					
Streets/Sidewalks	Portland Technology Park - Extension of Roadways	595,000	0	595,000	(1)
Transportation	Congress Square Intersection Construction Inspection - Additional Items	205,000	205,000		
Facilities	City Retaining Wall Repairs	100,000	100,000		
Transportation	PACTS MPI Paving - Cumberland Ave (Wash to Franklin)	580,000	0	580,000	(5)
Transportation	PACTS Libbytown Project	65,000	65,000		
Transportation	PACTS Washington Avenue Road & Signals (Oxford to Congress)	480,000	480,000		
Transportation	Pavement Preservation Program	1,200,000	0	1,200,000	(5)
Transportation	Sidewalk & ADA Rehabilitation Program	700,000	0	700,000	(5)
Transportation	Water Resource Project Ineligibles (CSO Compliance-SRF Ineligibles)	300,000	0	300,000	(5)
Equipment	Islands 30 Yard Dumpsters	40,000	40,000		
Transportation	DOT MPI - State Street Paving - Pine to York	630,000	630,000		
Transportation	Traffic Signals Upgrade Program	100,000	100,000		
Transportation	PACTS RTMS - Regional Signals, Communications, and Match Money for	20,000	0	20,000	(5)
Transportation	Bike Facility Safety Improvements	50,000	50,000		
Transportation	Traffic Signal Upgrades with Paving Programs	150,000	150,000		
Transportation	High-Speed Communications for Adaptive Signal Corridors and Improved	50,000	50,000		
Transportation	Commercial Street Sidewalk Improvements	50,000	50,000		
Transportation	East Coast Greenway Baxter Blvd/Back Cove to Martins Point	100,000	100,000		
Transportation	Parkside to Libbytown Pathway Phase II	20,000	20,000		
FACILITIES					
Facilities	Replace Deck 2 Pavement and Membrane	550,000	550,000		
Facilities	Sealants and Concreate Repairs Levels 2 and 3 290K one year and levels 4	290,000	290,000		
Facilities	Portland Ocean Terminal Structural Repair	375,000	75,000	300,000	(3)
Facilities	212 Roof Replacement (4 Phases)	270,000	270,000		
Facilities	Police Dispatch Renovation/Expansion	115,000	0	115,000	(2)
Facilities	90 Anderson St - Exterior Upgrades	100,000	100,000		
Facilities	Observatory - Painting and Other Maintenance	70,000	70,000		
Facilities	Replace Concrete Steps/Railings & Other	200,000	0	200,000	(2)
Marine	On going pile/pier work at OG and P.O.T	125,000	125,000		
Facilities	Ocean Ave - Roof Replacement	65,000	65,000		
Facilities	Bramhall - Boiler Room Upgrades	155,000	155,000		
Facilities	Additional Appropriations for Previously Approved Capital Projects	3,250,000	0.00	3,250,000	(5)
SCHOOL DEPARTMENT FACILITIES					
Equipment	PATHS Boiler Replacement (School Request)	630,000	630,000		
Equipment	Portland High School Roof - Phase 1 (Partial Funding of Phase 1)	1,800,000	1,800,000		(4)
Equipment	TAL Renovate Single Use Bathrooms	335,000	335,000		
Equipment	KMS Replace rooftop HVAC units	190,000	0	190,000	(4)
Equipment	PATHS Replace rooftop HVAC units	160,000	0	160,000	(4)
Equipment	LMMS Replace rooftop HVAC units	435,000	0	435,000	(4)
Equipment	ADA Bus 87 replacement	110,000	110,000		

FLEET VEHICLES

Vehicles	Tower Ladder Unit - "Ladder #6"	1,610,000	1,610,000		
Vehicles	Pumper Truck - "Engine #9"	875,000	875,000		
Vehicles	Police Cruisers (07 EA) Replacement - Police	335,000	0	335,000	(2)
Vehicles	LR 64R - W/ McNeilus 25 Yard Rear Loader - Trash Packer	300,000	0	300,000	(5)
Streets/Sidewalks	Single Axle Heavy Plow Truck (Freightliner) w/Permanent Mount Sander	200,000	0	200,000	(5)
Streets/Sidewalks	2.0 Ton Plow Truck w/ Sander	150,000	0	150,000	(5)
Streets/Sidewalks	Holder Sidewalk Machine	150,000	0	150,000	(5)
Vehicles	Cab Over 8 Yard Rear Loader Mini Trash Packer	140,000	140,000		
Vehicles	Service / Road Call Truck for Fleet Department - Fully Outfitted	125,000	125,000		
Parks, Fields, Trails	Golf Course Utility Vehicle REPLACEMENT with Aerifier and core	90,000	90,000		
Vehicles	SUV K9 Police Cruisers - 02 EA	85,000	0	85,000	(2)
Streets/Sidewalks	1.0 Ton - Single Axle Plow Truck	80,000	80,000		
Vehicles	Bucket Van	75,000	75,000		
Parks, Fields, Trails	0.75 Ton Pick up w/ Plow Set Up - PRF Cems (Forest City)	70,000	70,000		
Parks, Fields, Trails	02 EA - NEW Jacobsen Truckster Utility Vehicle w/ Tow Behind Turfco	40,000	40,000		
Streets/Sidewalks	RMV Hot Patcher - 4 Ton	65,000	65,000		
Facilities	7180 Mower Replacements	35,000	35,000		
Vehicles	0.5 Ton Pick Up (no plow / sander) Street Openings	50,000	50,000		
Sub-Total - General Fund		21,625,000	12,000,000	9,625,000	

WATER RESOURCES - SEWER & STORMWATER ENTERPRISE FUNDED PROJECTS

Wastewater	CSO - Close CSO #42	200,000	200,000		(6)
Wastewater	CSO- Fore River Storage SWMM Modeling	500,000	500,000		(6)
Wastewater	CSO-Non SRF Sewer / Storm Consulting and Inspection Services	500,000	500,000		(6)
Wastewater	Forest Avenue / Belmont St. Sewer Separation	150,000	150,000		(6)
Wastewater	CMOM - Pump Station Rehabilitation	670,000	670,000		(6)
Wastewater	Inflow and Infiltration Phase 3 Mitigation	1,100,000	1,100,000		(6)
Wastewater	ESRI Conversion to Utility Network	100,000	100,000		(6)
Vehicles	Combination Unit - Vactor Truck	500,000	500,000		(6)
Wastewater	Pearl Street Sewer/Repair and Storm Drain	100,000	100,000		(6)
Stormwater	Green Infrastructure	200,000	200,000		(6)
Stormwater	Stroudwater Dam	155,000	155,000		(6)
Stormwater	Sagamore Village Green Infrastructure Project	1,300,000	1,300,000		(6)
Wastewater	Coyle's Culley / Ricker Park	550,000	550,000		(6)
Wastewater	Fore Street Sewer Separation	2,000,000	2,000,000		(6)
Wastewater	Center Street Storm Drain	100,000	100,000		(6)
Wastewater	Presumpscot Culvert	155,000	155,000		(6)
Wastewater	Stormwater Neighborhood Infrastructure Improvements	200,000	200,000		(6)
Wastewater	Torrington Avenue Peaks Island Storm Drain Improvements	200,000	200,000		(6)
Wastewater	Reed Avenue Storm Drain Improvements	70,000	70,000		(6)
Wastewater	Bayside Trail Storm Drain	70,000	70,000		(6)
Wastewater	Eastern Prom Storm Drain Replacement	40,000	40,000		(6)
Wastewater	Mechanical Sweeper	285,000	285,000		(6)
Sub-Total - Enterprise Fund		9,145,000	9,145,000	0	

TOTAL	30,770,000	21,145,000	9,625,000
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TOTAL APPROPRIATIONS AND FUNDING SOURCES

(1)	To be funded via Portland Technology Park Sale proceeds	\$ 595,000
(2)	To be funded via the appropriation of asset forfeiture funding received from the FBI	1,095,000
(3)	To be funded via cruise ship infrastructure fees	300,000
(4)	To be funded via either the State of Maine Revolving Renovation Fund or PPS ARPA Funds*	785,000
(5)	Funding being utilized from Assigned Fund Balance - Capital Improvement	6,850,000
(6)	To be funded via new borrowing authorization (enterprise fund debt service repayment)	9,145,000
ALL OTHER	To be funded via new borrowing authorization (general fund debt service repayment)*	<u>12,000,000</u>
		\$ 30,770,000

Note: New borrowing authorization will not be fully utilized if (a) ARPA funding is utilized for PPS HVAC projects (\$785k) and alternative funding source

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 18, 2022

SUBJECT: Order 164-21/22 Appropriating Bond Proceeds and other Funds in an Amount not to Exceed \$30,770,000 for the City's Fiscal Year 2023 Capital Improvement Program - Sponsored by the Finance Committee, Mark Dion, Chair

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(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 3/7/2022

Final Action 3/21/2022

Can action be taken at a later date: No No

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

I. SUMMARY

II. AGENDA DESCRIPTION

This is a companion order to the bond authorization order above.

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

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Portland FY23 CIP Bonds - appropriation order 3.7.2022

Prepared by:

Date: 02/18/2022

KATE SNYDER (MAYOR)
ANNA TREVARROW (1)
VICTORIA PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
ROBERTO RODRIGUEZ (A/L)

**ORDER APPROPRIATING BOND PROCEEDS AND OTHER FUNDS IN AN AMOUNT
NOT TO EXCEED \$30,770,000 FOR
THE CITY'S FISCAL YEAR 2023 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT

1. Subject to paragraph 2 and 3 below, the sum of \$30,770,000 be and hereby is appropriated to finance the projects more particularly described in the project list for the City's 2023 Capital Improvement Program attached hereto as Exhibit A, as follows:
 - a. An amount not to exceed \$12,000,000 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs within Exhibit A related to General Fund projects;
 - b. An amount not to exceed \$9,145,000 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs within Exhibit A related to Enterprise Fund projects;
 - c. An additional amount not to exceed \$9,625,000 is appropriated as follows;
 1. An amount not to exceed \$300,000 is appropriated from the City's cruise ship infrastructure fee special revenue fund finance a portion of the repairs at the Portland Ocean Terminal included in Exhibit A;
 2. An amount not to exceed \$595,000 is appropriated from Order 100-21/22, the City's sale of Units 6 and 7 in Portland Technology Park ("PTP"), to finance infrastructure projects within the PTP included within Exhibit A;
 3. An amount not to exceed \$785,000 is appropriated from the Portland Public Schools share of American Rescue Plan Act proceeds to fund school HVAC projects and other school infrastructure projects included within Exhibit A;
 4. An amount not to exceed \$1,095,000 is appropriated from the City's asset forfeiture funds from the FBI to finance a portion of the Public Safety projects included within Exhibit A;
 5. An amount not to exceed \$6,850,000 is appropriated from the City's Assigned Surplus Fund Balance – Capital Improvement to finance a portion of the costs of certain projects included within Exhibit A and to provide other funding required for infrastructure projects approved by City Council during 2021.

2. The appropriations set forth in paragraphs 1(a) & (b) above are and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated in said paragraph 1(a) & (b) to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds (or notes in anticipation thereof) for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. If the actual cost of any 2023 CIP Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Director of Finance is authorized, in his discretion, to reallocate proceeds of the bonds issued therefore or the other funds appropriated therefore to any other project listed on the 2023 CIP Project List or to any prior CIP project the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

2023 Capital Improvement Plan New Project Authorizations & Funding Sources

Exhibit A

		Total Appropriation Requested	New General Obligation Bond Funding	Other Funding	
EQUIPMENT & TECHNOLOGY					
Equipment	Replace 30 C5G124 switches	200,000	200,000		
Equipment	109 Middle Street WiFi Upgrades	60,000	0	60,000	(2)
Equipment	Motorola APX6000 Radio Upgrade	300,000	0	300,000	(2)
Equipment	Domestic Hot Water Heater	65,000	65,000		
PARKS & RECREATION					
Parks, Fields, Trails	Congress Square Redesign	900,000	900,000		
Parks, Fields, Trails	Dougherty Skate Park Expansion	235,000	235,000		
Parks, Fields, Trails	Riverton Trolley Park Rehabilitation	125,000	125,000		
Parks, Fields, Trails	Longfellow Playground Design	50,000	50,000		
Parks, Fields, Trails	Portland Harbor Common	75,000	75,000		
Facilities	Bridge Over Dole Brook (Emergency Replacement)	255,000	255,000		
Facilities	Riverton Pool Filter Replacement	130,000	130,000		
Parks, Fields, Trails	Back Cove Trail Reconstruction	95,000	95,000		
PUBLIC WORKS					
Streets/Sidewalks	Portland Technology Park - Extension of Roadways	595,000	0	595,000	(1)
Transportation	Congress Square Intersection Construction Inspection - Additional Items	205,000	205,000		
Facilities	City Retaining Wall Repairs	100,000	100,000		
Transportation	PACTS MPI Paving - Cumberland Ave (Wash to Franklin)	580,000	0	580,000	(5)
Transportation	PACTS Libbytown Project	65,000	65,000		
Transportation	PACTS Washington Avenue Road & Signals (Oxford to Congress)	480,000	480,000		
Transportation	Pavement Preservation Program	1,200,000	0	1,200,000	(5)
Transportation	Sidewalk & ADA Rehabilitation Program	700,000	0	700,000	(5)
Transportation	Water Resource Project Ineligibles (CSO Compliance-SRF Ineligibles)	300,000	0	300,000	(5)
Equipment	Islands 30 Yard Dumpsters	40,000	40,000		
Transportation	DOT MPI - State Street Paving - Pine to York	630,000	630,000		
Transportation	Traffic Signals Upgrade Program	100,000	100,000		
Transportation	PACTS RTMS - Regional Signals, Communications, and Match Money for	20,000	0	20,000	(5)
Transportation	Bike Facility Safety Improvements	50,000	50,000		
Transportation	Traffic Signal Upgrades with Paving Programs	150,000	150,000		
Transportation	High-Speed Communications for Adaptive Signal Corridors and Improved	50,000	50,000		
Transportation	Commercial Street Sidewalk Improvements	50,000	50,000		
Transportation	East Coast Greenway Baxter Blvd/Back Cove to Martins Point	100,000	100,000		
Transportation	Parkside to Libbytown Pathway Phase II	20,000	20,000		
FACILITIES					
Facilities	Replace Deck 2 Pavement and Membrane	550,000	550,000		
Facilities	Sealants and Concreate Repairs Levels 2 and 3 290K one year and levels 4	290,000	290,000		
Facilities	Portland Ocean Terminal Structural Repair	375,000	75,000	300,000	(3)
Facilities	212 Roof Replacement (4 Phases)	270,000	270,000		
Facilities	Police Dispatch Renovation/Expansion	115,000	0	115,000	(2)
Facilities	90 Anderson St - Exterior Upgrades	100,000	100,000		
Facilities	Observatory - Painting and Other Maintenance	70,000	70,000		
Facilities	Replace Concrete Steps/Railings & Other	200,000	0	200,000	(2)
Marine	On going pile/pier work at OG and P.O.T	125,000	125,000		
Facilities	Ocean Ave - Roof Replacement	65,000	65,000		
Facilities	Bramhall - Boiler Room Upgrades	155,000	155,000		
Facilities	Additional Appropriations for Previously Approved Capital Projects	3,250,000	0.00	3,250,000	(5)
SCHOOL DEPARTMENT FACILITIES					
Equipment	PATHS Boiler Replacement (School Request)	630,000	630,000		
Equipment	Portland High School Roof - Phase 1 (Partial Funding of Phase 1)	1,800,000	1,800,000		(4)
Equipment	TAL Renovate Single Use Bathrooms	335,000	335,000		
Equipment	KMS Replace rooftop HVAC units	190,000	0	190,000	(4)
Equipment	PATHS Replace rooftop HVAC units	160,000	0	160,000	(4)
Equipment	LMMS Replace rooftop HVAC units	435,000	0	435,000	(4)
Equipment	ADA Bus 87 replacement	110,000	110,000		

FLEET VEHICLES

Vehicles	Tower Ladder Unit - "Ladder #6"	1,610,000	1,610,000		
Vehicles	Pumper Truck - "Engine #9"	875,000	875,000		
Vehicles	Police Cruisers (07 EA) Replacement - Police	335,000	0	335,000	(2)
Vehicles	LR 64R - W/ McNeilus 25 Yard Rear Loader - Trash Packer	300,000	0	300,000	(5)
Streets/Sidewalks	Single Axle Heavy Plow Truck (Freightliner) w/Permanent Mount Sander	200,000	0	200,000	(5)
Streets/Sidewalks	2.0 Ton Plow Truck w/ Sander	150,000	0	150,000	(5)
Streets/Sidewalks	Holder Sidewalk Machine	150,000	0	150,000	(5)
Vehicles	Cab Over 8 Yard Rear Loader Mini Trash Packer	140,000	140,000		
Vehicles	Service / Road Call Truck for Fleet Department - Fully Outfitted	125,000	125,000		
Parks, Fields, Trails	Golf Course Utility Vehicle REPLACEMENT with Aerifier and core	90,000	90,000		
Vehicles	SUV K9 Police Cruisers - 02 EA	85,000	0	85,000	(2)
Streets/Sidewalks	1.0 Ton - Single Axle Plow Truck	80,000	80,000		
Vehicles	Bucket Van	75,000	75,000		
Parks, Fields, Trails	0.75 Ton Pick up w/ Plow Set Up - PRF Cems (Forest City)	70,000	70,000		
Parks, Fields, Trails	02 EA - NEW Jacobsen Truckster Utility Vehicle w/ Tow Behind Turfco	40,000	40,000		
Streets/Sidewalks	RMV Hot Patcher - 4 Ton	65,000	65,000		
Facilities	7180 Mower Replacements	35,000	35,000		
Vehicles	0.5 Ton Pick Up (no plow / sander) Street Openings	50,000	50,000		
Sub-Total - General Fund		21,625,000	12,000,000	9,625,000	

WATER RESOURCES - SEWER & STORMWATER ENTERPRISE FUNDED PROJECTS

Wastewater	CSO - Close CSO #42	200,000	200,000		(6)
Wastewater	CSO- Fore River Storage SWMM Modeling	500,000	500,000		(6)
Wastewater	CSO-Non SRF Sewer / Storm Consulting and Inspection Services	500,000	500,000		(6)
Wastewater	Forest Avenue / Belmont St. Sewer Separation	150,000	150,000		(6)
Wastewater	CMOM - Pump Station Rehabilitation	670,000	670,000		(6)
Wastewater	Inflow and Infiltration Phase 3 Mitigation	1,100,000	1,100,000		(6)
Wastewater	ESRI Conversion to Utility Network	100,000	100,000		(6)
Vehicles	Combination Unit - Vactor Truck	500,000	500,000		(6)
Wastewater	Pearl Street Sewer/Repair and Storm Drain	100,000	100,000		(6)
Stormwater	Green Infrastructure	200,000	200,000		(6)
Stormwater	Stroudwater Dam	155,000	155,000		(6)
Stormwater	Sagamore Village Green Infrastructure Project	1,300,000	1,300,000		(6)
Wastewater	Coyle's Culley / Ricker Park	550,000	550,000		(6)
Wastewater	Fore Street Sewer Separation	2,000,000	2,000,000		(6)
Wastewater	Center Street Storm Drain	100,000	100,000		(6)
Wastewater	Presumpscot Culvert	155,000	155,000		(6)
Wastewater	Stormwater Neighborhood Infrastructure Improvements	200,000	200,000		(6)
Wastewater	Torrington Avenue Peaks Island Storm Drain Improvements	200,000	200,000		(6)
Wastewater	Reed Avenue Storm Drain Improvements	70,000	70,000		(6)
Wastewater	Bayside Trail Storm Drain	70,000	70,000		(6)
Wastewater	Eastern Prom Storm Drain Replacement	40,000	40,000		(6)
Wastewater	Mechanical Sweeper	285,000	285,000		(6)
Sub-Total - Enterprise Fund		9,145,000	9,145,000	0	

TOTAL	30,770,000	21,145,000	9,625,000
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TOTAL APPROPRIATIONS AND FUNDING SOURCES

(1)	To be funded via Portland Technology Park Sale proceeds	\$ 595,000
(2)	To be funded via the appropriation of asset forfeiture funding received from the FBI	1,095,000
(3)	To be funded via cruise ship infrastructure fees	300,000
(4)	To be funded via either the State of Maine Revolving Renovation Fund or PPS ARPA Funds*	785,000
(5)	Funding being utilized from Assigned Fund Balance - Capital Improvement	6,850,000
(6)	To be funded via new borrowing authorization (enterprise fund debt service repayment)	9,145,000
ALL OTHER	To be funded via new borrowing authorization (general fund debt service repayment)*	<u>12,000,000</u>
		\$ 30,770,000

Note: New borrowing authorization will not be fully utilized if (a) ARPA funding is utilized for PPS HVAC projects (\$785k) and alternative funding source

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam

DATE: February 18, 2022

SUBJECT: Order 165-21/22 Approving the Three-Party Agreement between the Portland Area Comprehensive Traffic System, Maine Department of Transportation and the City of Portland Re: Improvements to Cumberland Avenue - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Danielle West, Interim 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 3/7/2022

Final Action 3/21/2022

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager prior to the project going out to bid. Historically with an earlier bid date bid pricing will be improved.

PRESENTATION: N/A

I. SUMMARY

City Council is being asked to approve the attached Portland Area Comprehensive Transportation System (PACTS) Municipal Partnership Agreement, which would allow the City to move ahead with its plans to improve and pave Cumberland Avenue between Washington Avenue and Smith Street, approximately 0.11 miles. The agreement obligates the City and PACTS to split the project costs.

II. AGENDA DESCRIPTION

This project is part of the Municipal Partnership Initiative (MPI) Program; the City administers the project and typically receives 50% funding from the state MPO. By signing the partnership agreement, it enables the City to proceed with the project and obligates PACTS to pay 41% and the City to pay for 59% of the original estimated project cost; the City share is estimated to be \$178,300.

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

III. BACKGROUND

The Cumberland Avenue paving project is part of MaineDOT's 2022 work plan. The scope of the MPI project work includes a 2" mill and fill, curb work, sidewalk work, ADA ramp reconstruction, and re-striping after final paving. We are anticipating the project to go out to bid in 2022 with construction following, after. This project is classified as a pavement preservation project and is part of the MPI Program. The City will be responsible for 59% of the paving cost, or \$178,300 and 100% of any overages to the original estimate. The City subsequently added scope to the project, extending the limits to Franklin Street; this increased the City share to an estimated \$580,000.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Cumberland Avenue Improvements project will improve the pavement surface and ride quality on a regionally important minor arterial. The project will improve sidewalk and ADA ramps for a better and safer pedestrian experience. PACTS will pay for a portion of the project costs

V. FINANCIAL IMPACT

The City is obligated to pay 59% of the estimated paving cost, or \$178,300 and 100% of any overages due to added scope in the project area, estimated to be \$401,700. The total City cost of this project, estimated to be \$580,000, would be paid from a FY23 CIP account established for this project, which is currently pending approval by City Council. Please see the attached fiscal impact note for additional information.

VI. STAFF ANALYSIS AND BACKGROUND

This is a Minor Arterial in the City of Portland with a high AADT, is a major connector from downtown to the East End, and has a large pedestrian presence. Cumberland Avenue was ranked with fair PCI) when it was last evaluated in 2019 but has since had utility work that has further deteriorated the road. Without this project, the road will continue to decline.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow the City to improve Cumberland Avenue from Washington Avenue to Franklin Street in 2022.

VIII. LIST ATTACHMENTS

1. MDOT PACTS 3-party Cumberland Ave Paving 3.7.2022
2. Cumberland - Wash to Franklin - Project Location Map
3. Fiscal Impact Note - Cumberland Ave - Franklin to Washington
4. 3-Party Agreement Cumberland Avenue 3.7.2022

Prepared by:

Melissa Graffam

Date: 02/18/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (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)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE THREE-PARTY AGREEMENT
BETWEEN THE PORTLAND AREA COMPREHENSIVE TRANSPORTATION
SYSTEM, THE MAINE DEPARTMENT OF TRANSPORTATION,
AND THE CITY OF PORTLAND
RE: IMPROVEMENTS TO CUMBERLAND AVENUE**

ORDERED, that the Three-Party Agreement between the Portland Area Comprehensive Transportation System, the Maine Department of Transportation, and the City of Portland is hereby approved, in substantially the form attached, for paving and other work on Cumberland Avenue:

- WIN 025815.00 , Improvements to Cumberland Avenue

BE IT FURTHER ORDERED, that the Interim City Manager or her designee is hereby authorized to sign the two-party agreements and any other documents necessary to effect the purpose of this order.



public
works

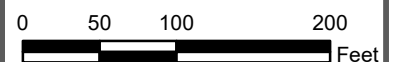
CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Cumberland Ave Paving

Original Scope: Washington Ave to Smith St
New Scope: Washington Ave to Franklin Art



Feb 2022



Formula for New Program Costing on Tax R

1) FY22 Valuation:	14,629,000,000	\$14,629,000
2) FY22 Tax Rate (Total City & School): <u>Levy / (Valuation/1000)</u>		\$12.99
(a) FY21 Tax Rate (City):		\$6.22
(b) FY21 Tax Rate (School):		\$6.77
3) FY22 Value of \$0.01 of Tax Rate (Total City & School):		\$146,290

FISCAL IMPACT NOTE	Year 1		Year 2		Year 3	
New Program Cost Data:	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$36,076		\$36,076
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$36,076	\$36,076	\$36,076	\$36,076
New Program Impact to the Tax Rate	\$0.0000	\$0.0000	\$0.0025	\$0.0025	\$0.0025	\$0.0025
New Program % Impact on Tax Rate	0.0000%	0.0000%	0.0396%	0.0190%	0.0396%	0.0190%
Tax Rate Including New Program	\$6.22	\$12.99	\$6.22	\$12.99	\$6.22	\$12.99

Notes: The CIP impact will actually begin in 2023 and remain for the 20 year life of the bond.

*MaineDOT use only*

TEDOCS #: _____

CTM #: _____

CSN #: _____

PROGRAM: Bureau of Planning

State of Maine
DEPARTMENT OF TRANSPORTATION
Portland Area Comprehensive Transportation System
Municipal Partnership Initiative Agreement
Proposed Improvements to Cumberland Avenue
(Payable to Municipality)

*MaineDOT Use Only*Project Location: PortlandEstimated Project Amount: \$330,000.00State WIN: 025815.00MPO Share: \$151,700.00PACTS ID#: PACTSMunicipal Share: \$178,300.00Municipality Id#: VC1000073472

Agreement Begin Date: _____

Agreement End Date: _____

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, and **Greater Portland Council of Governments (GPCOG)**, a fiduciary agent for PACTS. (MaineDOT, the Municipality, PACTS, and GPCOG) are collectively referred to as the “Parties”).

RECITALS

- A.** MaineDOT, through its partnership with Maine’s Metropolitan Planning Organizations (MPOs), is charged with managing and dispersing state and federal funds to support capital improvement projects programmed by the MPOs. PACTS is MaineDOT’s MPO partner for the Portland Urbanized Area.
- B.** PACTS has created and administers a Municipal Partnership Initiative program (the “PACTS MPI Program”), the purpose of which is to participate in the funding of approved collector and/or arterial roadway projects (the “MPI Project(s)”) with the intention of restoring substandard State and State Aid highways to MaineDOT and PACTS minimum standards.

- C. MPI Projects are administered by the municipality in which the project is being constructed. PACTS' participation in an MPI Project is accomplished through its acceptance of the Project into the PACTS MPI Program, and the contribution of state funds allocated to PACTS and disbursed by MaineDOT to the administering municipality on PACTS' behalf (the "PACTS Share"). MPI Project costs not paid by the PACTS Share are paid by the administering municipality.
- D. The work that is the subject of this Agreement consists of a mill and fill on Cumberland Avenue, beginning at Smith Street and extending north 0.11 of a mile to Washington Avenue (the "Project"), and is generally outlined in **Appendix A**, made a part herewith.
- E. PACTS has selected the Project for inclusion in the 2022-2023-2024 MaineDOT Work Plan, using state capital improvement funding allocated by MaineDOT.
- F. The Municipality has approved the Project and supports the decision by MaineDOT and PACTS to program the Project, and is prepared to administer and fund the Project in accordance with the terms of this Agreement.
- G. 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.
- H. This Agreement is intended to cover the roles and responsibilities of the Parties through full Project development and construction, and to establish the financial obligations of each Party.

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 - PACTS Letter to MaineDOT Outlining Scope and Cost of MPI Project
- ☐ Check if no appendices attached

2. Project Cost Sharing and Payment Schedule:

a. Financial Obligations:

i. Total Project Costs.

- 1. PACTS and the Municipality agree to share in all costs associated with all phases of the Project through construction (the "Total Project Costs") in accordance with the allocations outlined below (the "Party Shares") unless otherwise negotiated by mutual agreement of the Parties.

- a. **PACTS Share** (provided through PACTS' state allocation and disbursed by MaineDOT) - 50% of eligible Project costs, up to a maximum of \$151,700.00.
 - b. **Municipal Share** (provided through the Municipality's obligation of funds) - 50% of eligible Project costs, plus 100% of any and all remaining Project Costs once the PACTS Share has been exhausted (the "Overage").
2. The estimated Total Project Costs are \$330,000.00 (the "Estimated Total Project Costs") and are allocated in the table below. If the Estimated Total Project Costs are adjusted to reflect updated costs, the Municipality will consult with PACTS before such adjustments are approved and implemented.

Total Project Costs	PACTS Share (State MPO Funds) 50% (Max. \$151,700.00)	Municipality's Share 50% + Overage	Estimated Total Cost
Estimated Total Project Costs: <u>\$ 330,000.00</u>			
Estimated Allocated Shares	\$151,700.00	\$151,700.00 +\$26,600.00	\$330,000.00
Total Party Share of Estimated Total Project Costs	\$151,700.00	\$178,300.00	\$330,000.00

- b. **Payment Schedule:** The Municipality shall be the sole administrator of the Project contract(s) and shall pay up front all Project costs, subject to cost sharing by the Municipality and PACTS as specified above.
- i. The Municipality may begin invoicing PACTS for the PACTS Share of eligible Project costs upon 1/3 Project completion. Invoices shall be submitted no more than monthly with a maximum number of invoice submittals not to exceed five (5) invoices for the total Project.
 - ii. The Municipality shall submit to PACTS for reimbursement detailed invoice(s) documenting actual amounts incurred for Project related costs, together with evidence of such invoices having been paid by the Municipality, and identifying PACTS' share of each invoice submitted.
 - iii. Each invoice shall include the Municipality's certification that all amounts claimed are correct, and not previously claimed.
 - iv. PACTS shall review each such invoice and, upon approval, shall forward each invoice to MaineDOT for payment to the Municipality out of PACTS'

allocated state MPO funds. MaineDOT shall reimburse the Municipality accordingly within thirty (30) days of its receipt of such approved invoice(s) in an aggregate amount not to exceed the total PACTS Share.

3. Project Milestones: The Municipality agrees to share information about the Project with PACTS and MaineDOT 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 engineer's estimate of costs.

4. Project Design, Construction Plans and Specifications:

- a. The Municipality shall prepare, or cause to be prepared, all plans, specifications, engineer's estimates and contract documents for the Project within the scope of work identified above, using a standard project development process to ensure adherence to federal and state regulations (the "Preliminary Project Development Materials").
- b. The Municipality shall retain a Professional Engineer licensed in the State of Maine to oversee all Project activities (the "Project Engineer").
- c. The Project must be designed by a Professional Engineer licensed in the State of Maine (the "Design Engineer") and in compliance with MaineDOT's design standards (the "Design Standards").
 - i. The Design Engineer shall provide certification to the Parties that, in his/her professional opinion, the Project will provide a smooth ride and not reduce the safety, mobility or structural quality of the affected State and/or State Aid Highway.
 - ii. All design documents must be stamped and signed by the Design Engineer in accordance with the provisions of this Section.
- d. MaineDOT reserves the right to review and comment on all plans and specifications with the focus on ensuring that the Project will achieve the anticipated benefits and will not degrade safety.
- e. The Municipality, through its Project Engineer, shall obtain written approval from MaineDOT for any exceptions to the "Design Standards". Submitted documentation shall compare the proposed design to the existing conditions for each proposed exception. Any and all exceptions shall be listed on the cover sheet accompanying the Project plans and submitted to MaineDOT, accompanied by a request for acceptance

- of the Project's design exceptions. All such requests must include the signature and professional stamp of the Professional Engineer responsible for the design of the Project.
- f. In developing the Project, the Municipality shall ensure that the following elements are satisfied:
- i. The Project improvements must have a minimum useful life of ten (10) years;
 - ii. The safety of the corridor and the life of the resulting structural and design elements shall be equal to or better than the existing conditions and design;
 - iii. The structures, roadways and design features affected by the Project work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;
 - iv. The Project shall not introduce any unanticipated safety hazards to the traveling public;
 - v. The Project shall retain the same level or an improved level of mobility of travel within the corridor;
 - vi. The Project shall not in any manner decrease the life expectancy of the affected component(s) of Maine's transportation system;
 - vii. The Project shall meet the most recent Americans with Disabilities Act of 1990 (ADA) design requirements;
 - viii. Traffic control and the safety of pedestrians, bicyclists and the traveling public shall be provided for at all times.
- g. The Municipality shall coordinate with affected utilities to identify existing utility locations and/or any utility relocation impacts that may be created by the development of the Project.
- h. It is expected that the Project can be constructed within the existing right-of-way limits. If that is not the case, the Municipality must provide MaineDOT with a detailed explanation of the property rights required for the Project and shall acquire any such property rights in accordance with all applicable state and federal laws. The PACTS Share may only be applied to costs associated with the acquisition of property rights required for the implementation of the Project.
- i. The Municipality shall perform all necessary federal, state and local permitting activities required in connection with the Project.
- j. Project construction must commence within twelve (12) months and must be certified as complete within twenty-four (24) months of the date of execution of this Agreement. If this timeline is not met, and the Municipality cannot show that it has made a good faith effort to meet this timeline, PACTS retains the right to withdraw any unpaid

portion of the PACTS Share and reallocate its remaining funding to other eligible projects in its service area.

- k. Upon completion of Project construction, the Municipality shall provide certification to MaineDOT from the Project Engineer stating that the Project is complete and has been constructed in accordance with the plans and specifications.

5. Public Involvement:

The Municipality shall be responsible for implementing and leading any and all required public involvement processes and activities, including those required by Maine's Sensible Transportation Policy Act, and any necessary media coordination associated with the any phases of the Project covered by this Agreement.

6. Changes to Project Scope:

The Municipality will consult with MaineDOT and PACTS before implementing any adjustments to the Project scope.

7. Termination:

- a. In the event the Municipality decides to terminate the Project for any reason prior to the award of a contract to construct the Project and that termination under this clause is not directed by MaineDOT and PACTS, the Municipality shall be responsible for covering all Project costs incurred up to the time of termination.
- b. This Agreement may be terminated at any time by mutual written agreement of all Parties.
- c. 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.
- d. 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.

8. Miscellaneous Provisions:

- a. Quality of Work. PACTS reserves the right to require the Municipality to refund all reimbursements made and to repay PACTS fully for all Projects costs incurred if the work is found to be unsatisfactory.
- b. Reprogramming of Remaining PACTS Funds. Any state MPO funds allocated to the Project that remain unspent following payment of the final invoice and reconciliation of the Project shall be made available to PACTS for reprogramming once the Project is closed out.

- c. 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.
- d. Assumption of Responsibility. The Municipality hereby assumes responsibility for all damage to public or private property of any kind resulting from any act, omission, neglect or misconduct of the Municipality, its employees, agents or representatives, and shall ensure that its contractor(s) assume the same responsibility for all damage to public or private property of any kind resulting from any act, omission, neglect or misconduct of its own employees, agents or representatives. This assumption of responsibility shall also include damage to vehicles passing through the Project limits.
- e. Obligation of State Funds. Notwithstanding anything herein to the contrary, 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, therefore, this Agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- f. Performance. The Parties will avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- g. 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 set out herein.
- h. 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.
- i. Assignment. No assignment of this agreement is contemplated, and in no event, shall any assignment be made without the express written permission of the Parties.

- j. Independent Capacity. The Municipality and PACTS, their respective employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
- k. 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."
- l. 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.
- m. 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.: Darryl Belz, PE, Statewide Planning Engineer
 Email: darryl.belz@maine.gov

Municipality: City of Portland
 250 Canco Road
 Portland, ME 04103
 Attn.: Lauren Anderson, PE, Senior Engineer
 Email: landersen@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.

DS
ER

DocuSigned by:

Kristina Egan

EF67A54B0DDE4EB...

Date 9/14/2021

Kristina Egan, Executive Director *
Greater Portland Council of Governments and
For Portland Area Comprehensive Transportation System
Duly authorized

Date _____

Danielle P. West, Interim City Manager *
Municipality of Portland
Duly authorized

Date _____

Jennifer Langland, 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.*

PACTS

Portland Area Comprehensive Transportation System



Darryl Belz, P.E.
Safety/MPO Engineer
Bureau of Planning
Maine Department of Transportation
16 State House Station
Child Street
Augusta, Maine 04433-0016

June 17, 2021

PACTS 2022 Municipal Partnership Initiative Project: Portland, Cumberland Ave Mill and Fill

Darryl,

The following is a request to develop a Municipal Partnership Initiative (MPI) agreement for the above project for the 2022 PACTS MPI program.

On May 25th, 2021, the PACTS Policy Committee approved programming \$151,700 of PACTS' CY2022 state funding allocation for the following project:

Portland, Cumberland Ave Mill and Fill

ADA improvements, bike and parking lanes, and 2" mill and fill from Smith Street to Washington Ave.

The Route Log Miles start at 0.93 and end at 1.04 along Cumberland Ave for a total project length of 0.11 miles.

The scope consists of 2" surface overlay, new pavement markings for bicycle and parking lanes, minor sidewalk and curb improvements, and curb ramp improvements to meet ADA requirements. The total cost estimate is \$330,000.

Construction complete year is scheduled to be 2022.

The funding is 50% state/50% local with a cap of \$151,700 for the state share.

PACTS is requesting a WIN for the project and a three-party agreement to follow.

The municipal contact is Lauren Andersen. She is aware of contract documents needed such as, a scope of work, unit prices and complete specifications. These documents will be similar or the same as a MaineDOT "Book Project", including a set of plans as necessary to be outlined in the pending agreement.

Thank you for your attention to this matter. If you have any questions, please call.

The Metropolitan Planning Organization for the Portland Urbanized Area

970 Baxter Blvd • Portland, Maine 04103

Telephone: (207) 774-9891 • Fax: (207) 774-7149 • www.pactsplan.org

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Chop". The signature is fluid and cursive, with a large initial "C" and a stylized "H" at the end.

Chris Chop
PACTS

cc: Lauren Andersen, City of Portland
Chris Branch, City of Portland
Keith Gray, City of Portland
Harold Spetla, GPCOG