

**AGENDA**

**REGULAR CITY COUNCIL MEETING**

**JANUARY 3, 2018**

1. City Council Meeting Agenda Only

Documents:

[CITY COUNCIL MEETING AGENDA ONLY 2018-01-03.PDF](#)

2. City Council Meeting Agenda & Packet

Documents:

[CITY COUNCIL MEETING AGENDA AND PACKET 2018-01-03.PDF](#)

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR. (A/L)

**AGENDA**  
**REGULAR CITY COUNCIL MEETING**  
**JANUARY 3, 2018**

The Portland City Council will hold a regular City Council Meeting at 5:30 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

**ANNOUNCEMENTS:**

**RECOGNITIONS:**

**APPROVAL OF MINUTES OF PREVIOUS MEETING:**

(Tab 1)                      December 18, 2017 Regular City Council Meeting Minutes

**PROCLAMATIONS:**

Proc 19-17/18              **Proclamation Honoring Deborah Andrews – Sponsored by Mayor  
(Tab 2)                      Ethan K. Strimling.**

Proc 20-17/18              **Proclamation Honoring Officer Martin Ney as Police Officer of the  
(Tab 3)                      Month for November 2017 – Sponsored by Mayor Ethan K. Strimling.**

**APPOINTMENTS:**

**CONSENT ITEMS:**

Order 132-17/18            **Order Declaring April 22, 2018 the Portland 10-Miler Festival -  
(Tab 4)                      Sponsored by Jon P. Jennings, City Manager.**

This order declares the Portland 10-Miler Festival to be held on Saturday, April 22, 2018. The Portland 10-Miler race starts and ends at Payson Park and utilizes the Back Cove Path, Baxter Boulevard, Eastern Promenade Trail, and some city streets. Payson Park grass triangle is the after race and festival area.

Part of the race proceeds will benefit the non-profit Spurwink Services, the organization sponsoring the Beer Garden area. Eight hundred runners are expected for the race. The race will start at 10:00 a.m.

Street closures are included in the agenda backup.

**Order 133-17/18  
(Tab 5)**

**Order Declaring June 23, 2018 the Shipyard Old Port Half Marathon Festival – Sponsored by Jon P. Jennings, City Manager.**

This order declares Saturday, June 23, 2018, the Old Port Half Marathon Festival. The race will start at 7:00 a.m. with after party events in the streets from 8:30 to 12:30 p.m. This is the 8<sup>th</sup> year the race has been held.

The race route for this year's race has been changed to alleviate some of the traffic congestion on Commercial Street, and after party events have been moved from the Ocean Gateway/Amethyst Park area to Moulton Street and Dana Street. The start and finish line for the race have also been moved to Fore Street from the Ocean Gateway area. City Staff have endorsed these changes.

As part of the after party events, two beer gardens (each 30 x 60') will be setup and be open from 8:30 a.m. – 12:30 p.m. A 21+ Beer Garden will be set up on a portion of Moulton Street, and another will be set up on Dana Street. The organizer will hire police officers for these areas. The Beer Gardens will be licensed as an expansion of currently licensed establishments' footprints (Moulton Street: Old Port Tavern; Dana Street: Amigos).

The Shipyard Old Port Half Marathon is a for-profit event; however, Habitat for Humanity of Greater Portland, Portland Trails and other non-profits in the area all benefit from the race proceeds.

Three thousand runners are expected and 2,000 spectators.

Street closures are included in the agenda backup.

**Order 134-17/18  
(Tab 6)**

**Order Declaring April 21, 2018 the Urban Runoff/Green Neighbor Family Festival – Sponsored by Jon P. Jennings, City Manager.**

This order declares the 7<sup>th</sup> Annual Urban Runoff 5K Race and Green Neighborhood Family Festival to be held on Saturday, April 21, 2018. The Public Works Department works with the Cumberland County Soil & Water Conservation District to organize the events.

The Urban Runoff is a 5K race making use of Portland streets and the outer Evergreen Cemetery Trail. Race start is 9:00 a.m. Expected attendance is 700 runners. In order to start the race, a portion of Ludlow Street (both lanes: Columbia Rd. to Edgeworth Ave.) needs to be closed to vehicular traffic: 8:30 – 9:15 a.m. The finish line is on Stevens Avenue beside Deering High School (closed from approx. 7:00 – 11 a.m.).

Five affirmative votes are required for passage of the Consent Calendar.

**LICENSES:**

**Order 135-17/18  
(Tab 7)**

**Order Granting Municipal Officers' Approval of Bob's Goes Electric LLC DBA Bob's Clam Hut. Application for a Class III & Class IV FSE with Outdoor Dining on Private Property at 111 Cumberland Avenue – Sponsored by Michael Russell, Permitting & Inspections Director.**

Application was filed on 12/5/2017. New City and State applications. Location was formerly 3 Buoys Restaurant.

Five affirmative votes are required for passage after public comment.

**BUDGET ITEMS:**

**COMMUNICATIONS:**

**Com 10-17/18  
(Tab 8)**

**Communication Re: Appointment of City Council Standing Committees for 2018 – Sponsored by Mayor Ethan K. Strimling.**

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

**Com 11-17/18  
(Tab 9)**

**Communication Re: Maintenance at Ocean Avenue Landfill & Solar Project - Sponsored by Jon P. Jennings, City Manager.**

By Order 39-16/17 passed on September 7, 2016, the City Council approved the negotiation of a power purchase agreement and related agreements for a solar array at now closed Ocean Avenue Landfill. An agreement with Revision Energy LLC was approved by Order 144-16/17 on February 22, 2017, and then amended by Order 283-16/17 on July 24, 2017 to be signed with Sunfill North, LLC.

In March, 2017, the Maine Department of Environmental Protection (MDEP) conducted an inspection of the landfill in light of the City's plan to install solar panels at the site. Issues reported from this inspection included mowing, installing fences and sampling, with the additional requirement that we test for methane gas, examine the depth of cover material in the area of the solar panel installation, complete a stormwater analysis, and grade the top of the landfill to promote positive stormwater runoff.

Sargent Corporation completed methane gas remediation system on December 13, 2017. Shaw Brothers added fill and regraded the surface where sections of the landfill needed regrading to allow stormwater runoff, which was also completed mid-December. Groundwater monitoring wells have been inspected and found in good condition. The City plans to perform regular testing at those wells, though not required by MDEP.

Mowing will be done two to three times a year. Additional tests will be done to determine the depth of cover material and remedy any problems.

Work to install the solar array is expected to be done in 2018 following the issuance of the final permit from MDEP.

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

Mayor Ethan Strimling will make a motion to suspend the rules to allow for public comment on the Solar Array.

**Com 12-17/18  
(Tab 10)**

**Communication Re: 2017 Housing Committee Report – Sponsored by the 2017 Housing Committee, Councilor Jill C. Duson, Chair.**

At the November 29, 2017 meeting of the Housing Committee, members voted 2-0 to forward the 2017 Housing Committee Report to the City Council as a communication.

The City Council held a meeting on January 23, 2017 to develop key priorities and goals for the Council and its Committees. The end of the year report documents the Committee's work on the goals and priorities and makes it a part of the public record.

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

**Com 13-17/18  
(Tab 11)**

**Communication Re: Mayor's Recommendation for School Building Committee Appointees - Sponsored by Mayor Ethan K. Strimling.**

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

## **RESOLUTIONS:**

## **UNFINISHED BUSINESS:**

**Order 69-17/18  
(Tab 12)**

**Order Accepting a Donation of Vacant Land in the Redlon Area and Placing that Land, City-Owned Land and land Acquired through Foreclosure of Unpaid Taxes into the Portland Land Bank– Sponsored by the Land Bank Commission.**

It has been a goal of the Land Bank Commission to protect open space in the Redlon area of Portland where green space is a "park desert" (i.e., more than one-half mile to nearest park or trail), identified by 2014 Open Space Vision Plan as a priority area for open space/park/trail development along with environmental preservation.

At the Land Bank Commission meeting on September 14, 2017, it unanimously voted to recommend to the City Council to place the original larger list of properties in the Land Bank for protection of this green space in Redlon.

The Economic Development Committee voted 3-0 at a public hearing on September 19, 2017 to recommend to the City Council that the original larger list of properties be placed in the Land Bank.

The City Council held a public hearing on October 2, 2017 on this matter and voted to postpone action until October 16, 2017 to allow City staff time to report back on the housing potential of any of this property. At the October 16, 2017 City Council meeting, City staff requested postponement of this item to the January 3, 2018 City Council meeting to allow for staff to research legal issues associated with tax acquired properties.

Following City staff research on legal issues and recommendations, at the December 14, 2017 Land Bank Commission meeting it agreed with staff's recommendations to remove the redeemed/reacquired parcels 193-B-6 and 7, and 177-F-20, 21, and 22, and delay action on the proposed Cott donation pending further due diligence. The Commission also voted (5-3) to remove City owned parcels 177-F-19 and 177-F-23 from consideration of Land Bank designation at this time.

These changes require an amendment to the original order, which can be found in the backup material.

Public comment has been taken. Five affirmative votes are required for passage.

**Order 110-17/18  
(Tab 13)**

**Amendment to Portland City Code New Chapter 34 Pesticide Use -  
Sponsored by the Sustainability and Transportation Committee,  
Councilor Spencer Thibodeau, Chair.**

On October 12, the Sustainability and Transportation Committee voted 3-0 to recommend the creation of the City of Portland Pesticide Ordinance that prohibits the use of synthetic pesticides for outdoor pest management on public and private property within the City of Portland. It provides limited exceptions that allow the use of otherwise prohibited pesticides in emergency situations and when an imminent threat to the health and welfare of the public exists. In other circumstances, it creates a process where persons who wish to apply a prohibited pesticide may apply for a waiver from a committee established to hear such requests. The committee may grant a waiver only if the request meets specific criteria.

The ordinance also creates an advisory committee tasked with assisting in the development of a robust education campaign to educate the public and retailers about land care practices that do not require pesticides and about organic alternatives to synthetic pesticides.

Provisions of the ordinance would be enforced by the City Manager or designee and violations could be subject to fines as described in Chapter 1 of the Portland City Code.

Staff has provided the Board of Pesticides Control with notice of this ordinance as well a copy of the text as required by statute.

This item must be read on two separate days. At the December 18, 2017 Council meeting this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 127-17/18  
(Tab 14)**

**Order Authorizing Special Council and Outside Boards and Commissions Appointments for 2018 - Sponsored by Mayor Ethan K. Strimling.**

This order appoints City Councilors and City staff to various boards and commissions for 2018.

At the December 18, 2017 Council meeting, this item was postponed to this meeting.

Five affirmative votes are required for passage after public comment.

**ORDERS:**

**Order 136-17/18  
(Tab 15)**

**Order Authorizing City Manager to Enter into a Purchase and Sale Agreement with Ford Reiche for the Sale of City Property at 55 Portland Street – Sponsored by Councilor Pious Ali.**

The Economic Development Committee met on November 28, 2017, and voted unanimously ((2-0) Councilor Thibodeau absent) to forward this item to the City Council with a recommendation for passage.

Under the direction of the City Council’s Economic Development Committee, staff negotiated a Purchase and Sale Agreement with Ford Reiche for the \$1.4 million sale of City property at 55 Portland Street, which property currently houses Public Works Administration. There will be a delayed closing on the property, which will be sold on or before December 31, 2018. This delayed closing will give City staff time to renovate 212 Canco Road to accommodate the administrative offices of Public Works to this location.

Mr. Reiche proposes to retain the building as office space with renovations for daylighting, various sized collaboration spaces, open work space environments, and energy efficient lights. Other necessary improvements would include:

- Separating mechanical services and vehicle circulation shared with the building at 44 Hanover Street;
- Updating parts of the façade and grounds;

- Modifying room configurations to the intended new use;
- Major renovation of flooring, ceilings, lighting; and
- Upgrades to restrooms.

These improvements, estimated at \$500,000-\$750,000, are intended to create modern Class B office space, which is needed on the peninsula. One or two tenants are expected to be small or mid-sized commercial operations. Estimated employee capacity would be 48.

Five affirmative votes are required for passage after public comment.

**AMENDMENTS:**

**Order 137-17/18  
(Tab 16)**

**Amendment to Zoning Map Amendment Re: 233 Anderson Street and Vicinity – Sponsored by the Portland Planning Board, Elizabeth Boepple, Chair.**

On December 6, 2017, the Planning Board met and unanimously voted 5-0 (Stanley absent; Morrissette recused) to forward this item to the City Council with a recommendation for passage.

The proposed map amendment was requested for a parcel at 233 Anderson Street by the applicant 2 Walnut, LLC. to change the zoning from Low Impact Industrial (I-Lb) to Neighborhood Business (B1b).

The current zoning for the applicant's vacant lot is split between the two zones and the applicant is seeking to have the entire parcel under the B-1b designation in order to develop a mixed-use development that would potentially include multi-family housing.

The Board recommended expanding the map amendment to include a portion of land owned by the State of Maine to avoid leaving a sliver of Ilb immediately north of the applicant's parcel.

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:**

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

KIMBERLY COOK (5)  
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**ORDERS:**

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Five affirmative votes are required for passage after public comment.

**AMENDMENTS:**

**Order 137-17/18  
(Tab 16)**

**Amendment to Zoning Map Amendment Re: 233 Anderson Street and Vicinity – Sponsored by the Portland Planning Board, Elizabeth Boepple, Chair.**

On December 6, 2017, the Planning Board met and unanimously voted 5-0 (Stanley absent; Morrissette recused) to forward this item to the City Council with a recommendation for passage.

The proposed map amendment was requested for a parcel at 233 Anderson Street by the applicant 2 Walnut, LLC. to change the zoning from Low Impact Industrial (I-Lb) to Neighborhood Business (B1b).

The current zoning for the applicant's vacant lot is split between the two zones and the applicant is seeking to have the entire parcel under the B-1b designation in order to develop a mixed-use development that would potentially include multi-family housing.

The Board recommended expanding the map amendment to include a portion of land owned by the State of Maine to avoid leaving a sliver of I1b immediately north of the applicant's parcel.

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:**

Tab 1 1-3-18

**IN COUNCIL REGULAR MEETING DECEMBER 18, 2017 VOL. 133 PAGE 170**

**ROLL CALL:** Mayor Strimling called the meeting to order at 5:30 P.M. (Councilor Ray arrived during Arts in the Chamber).

**ANNOUNCEMENTS:**

**PRESENTATIONS:**

**Arts in the Chamber  
African Duudada, Poet & Rapper**

**RECOGNITIONS:**

**Public Works Water Resources Division  
Recipient of the New England Water Environment Association Asset  
Management Award**

**ANNUAL MEETINGS:**

**Annual Meeting of the Corporator of Creative Portland - Sponsored  
by Mayor Ethan K. Strimling.**

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to convene the Annual meeting of the Corporator of Creative Portland. Passage 9-0.

**1. Accepting CP FY 2017 Activity and Financial Reports.**

Motion was made by Councilor Thibodeau and seconded by Councilor Ray to accept the CP FY 2017 Activity and Financial Report. Passage 9-0.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to adjourn the Annual Meeting of the Corporator of the Creative Portland and convene the Annual Meeting of the Corporator of the Portland Development Corporation. Passage 9-0, 5:45 P.M.

**1. Accepting PDC FY 2017 Activity and Financial Reports.**

Motion was made by Councilor Costa and seconded by Councilor Ray to accept the PDC FY 2017 Activity and Financial Reports. Passage 9-0.

**Order 125-17/18**

**Order Terminating Portland Development Action Grant Program  
and Transferring Unused Funds to Portland Development  
Corporation Loan Fund - Sponsored by Tim Agnew, President,  
Portland Development Corporation Board of Directors.**

Motion was made by Councilor Costa and seconded by Councilor Duson for passage. Passage 9-0.

**IN COUNCIL REGULAR MEETING DECEMBER 18, 2017 VOL. 133 PAGE 170**

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to recess the Annual meeting of the Corporation of the Portland Development Corporation and reconvene the regular meeting of the City Council. Passage 9-0, 5:55 P.M.

**APPROVAL OF MINUTES OF PREVIOUS MEETING:**

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to approve the minutes of December 4, 2017 City Council Organizational Meeting Minutes December 4, 2017 Special City Council Meeting Minutes. Passage 9-0.

**PROCLAMATIONS:**

**Proc 13-17/18 Proclamation Honoring the Oxford Street Shelter on the Occasion of Receiving the 2017 Innovation & Excellence Award from the National Alliance to End Homelessness – Sponsored by Councilor Justin Costa, Councilor Spencer Thibodeau, Councilor Pious Ali, Councilor Jill C. Duson, Councilor Kimberly Cook, Councilor Nicholas M. Mavodones, Jr., Councilor Belinda Ray, Councilor Brian Batson, and Mayor Ethan K. Strimling.**

**APPOINTMENTS:**

**Order 126-17/18 Order Appointing Constables for 2018 – Sponsored by Jon P. Jennings, City Manager.**

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

**Order 127-17/18 Order Authorizing Special Council and Outside Boards and Commissions Appointments for 2018 - Sponsored by Mayor Ethan K. Strimling.**

Motion was made by Councilor Thibodeau and seconded by Councilor Batson.

Motion was made by Councilor Ray and seconded by Councilor Costa to lay Order 127 on the table and take it up after Order 110 and Order 124. Passage 9-0.

Motion was made by Councilor Costa and seconded by Councilor Ray to take up an item after 10:00 P.M. Passage 9-0.

Motion was made by Councilor Batson and seconded by Councilor Costa to remove Order 127 from the table. Passage 9-0.

**IN COUNCIL REGULAR MEETING DECEMBER 18, 2017 VOL. 133 PAGE 170**

Motion was made by Councilor Ray and seconded by Councilor Duson to postpone Order 127 to January 3, 2018. Passage 6-3 (Duson, Cook, Ray).

Mayor Strimling took Order 131 out of order with no objections.

**ORDERS:**

**Order 131-17/18      Order Approving 22-Month Extension of Lease with General Services Administration Re: Transportation Security Administration Office Space at Jetport - Sponsored by the Economic Development Committee.**

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

**AMENDMENTS:**

**CONSENT ITEMS:**

**LICENSES:**

**Order 128-17/18      Order Granting Municipal Officers' Approval Pig Exchange, LLC dba Thirsty Pig, Renewal Application for an Entertainment without Dance at 37 Exchange Street – Sponsored by Michael Russell, Permitting and Inspections Director.**

Councilor Thibodeau recused himself as his employer is actively representing the the Thirsty Pig.

Motion was made by Councilor Ray and seconded by Councilor Batson.

Motion was made by Councilor Ray and seconded by Councilor Duson to amend Order 128 by putting a 1 year condition on the license, and for acoustic outside only. Passage 8-0 (Thibodeau recused).

Motion was made by Councilor Ray and seconded by Councilor Batson for passage as amended. Passage 8-0 (Thibodeau recused).

**Order 129-17/18      Order Granting Municipal Officers' Approval Maimi Food Truck LLC dba Maimi. Application for a Class III & IV at 339 Fore Street -- Sponsored by Michael Russell, Permitting and Inspections Director.**

Motion was made by Councilor Ray and seconded by Councilor Costa for passage. Passage 7-0 (Batson, Thibodeau out).

**IN COUNCIL REGULAR MEETING DECEMBER 18, 2017 VOL. 133 PAGE 171**

**Order 130-17/18      Order Granting Municipal Officers' Approval of Old Port Tap House dba Portland Beer Hub: Application for a Class III & IV FSE at 320 Fore Street – Sponsored by Michael Russell, Permitting and Inspections Director.**

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage. Passage 8-0 (Batson out).

**BUDGET ITEMS:**

Mayor Strimling asked to take Communication 8 up after Order 110 and 124.

**COMMUNICATIONS:**

**Com 9-17/18      Commuication Re: Board of Harbor Commissioners Pilotage Fees - Sponsored by Jon P. Jennings.**

**UNFINISHED BUSINESS:**

**Order 110-17/18      Amendment to Portland City Code New Chapter 34 Pesticide Use - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.**

At the November 20, 2017 Council meeting this item was postponed to this meeting.

Motion was made by Councilor Costa and seconded by Thibodeau to postpone Order 110 to January 3, 2017. Passage 9-0.

**Order 124-17/18      Moratorium Re: Development and Demolition of Structures in the R-6 Zone on Munjoy Hill – Sponsored by Councilor Belinda Ray.**

It was given a first reading on December 4, 2017

Motion was made by Councilor Ray and seconded by Councilor Thibodeau.

Motion was made by Councilor Ray and seconded by Councilor Duson to amend Order 124 regarding emergency demolition and application in process exception. Passage 9-0.

Motion was made by Councilor Costa and seconded by Councilor Thibodeau to amend Order 124 by adding in the 11<sup>th</sup> paragraph after Planning Board; “and unless such applications were received prior to December 4, 2017. Notwithstanding, the forgoing staff may at its discretion review such applications as time permits. Passage 7-2 (Duson, Ray)

**IN COUNCIL REGULAR MEETING DECEMBER 18, 2017 VOL. 133 PAGE 172**

Motion was made by Councilor Cook and seconded by Councilor Ray to amend Order 124 by Emergency demolition and 90-day moratorium period. Motion failed 4-5 (Duson, Thibodeau, Costa, Ray, Strimling)

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage as amended. Passage 7-2 (Batson, Cook).

**Com 8-17/18**

**Communication Re: Appointment of City Council Standing Committees – Sponsored by Mayor Ethan K. Strimling.**

Motion was made by Councilor Costa and seconded by Councilor Ray to take up an item after 10:00 P.M. Passage 9-0.

Motion was made by Councilor Duson and seconded by Councilor Ray to suspend the rules to take up Communication 8. Passage 9-0.

Motion was made by Councilor Ray and seconded by Councilor Cook.

Councilor Duson called the Question.

Motion was made by Councilor Ray and seconded by Councilor Cook to override the Mayors appointments of the City Council Standing Committees. Passage 8-1(Strimling)

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

Motion was made by Councilor Duson and seconded by Councilor Thibodeau to adjourn. Passage 9-0, 12:40 A.M.

A TRUE COPY

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Katherine L. Jones, City Clerk

*Proc 19-17/18  
Tab 2 1-3-18*

**PROCLAMATION**

**HONORING**

**Deborah Andrews**

\*\*\*\*\*

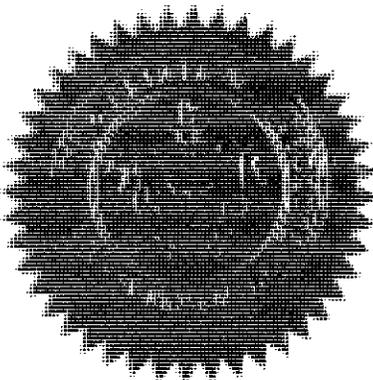
- WHEREAS,** Deb Andrews has been employed by the City of Portland since 1990; and
- WHEREAS,** Deb became the Manager of the Historic Preservation Program for the Department of Planning and Urban Development in 1992 and has held that position for more than 25 years; and
- WHEREAS,** Deb was a driving force in the creation of Portland's Historic Preservation ordinance and has played a vital role as the Historic Preservation Program has matured and become an essential part of Portland's economic and cultural vitality, stabilizing neighborhoods, promoting Portland's authentic brand, and enhancing the historic character of the City; and
- WHEREAS,** Maine Preservation honored Deb by awarding her the 2017 Earl Shettleworth Preservation Champion Award; and
- WHEREAS,** This award was given in recognition of more than three decades of tireless effort on behalf of Portland's historic neighborhoods, buildings and parks..

**NOW, THEREFORE, BE IT RESOLVED, THAT I** Ethan K. Strimling, Mayor of the City of Portland and members of the City Council do hereby congratulate Deborah Andrews on receiving the 2017 Earl Shettleworth Preservation Champion Award and recognize her outstanding commitment and dedication to the City of Portland.

**Signed and sealed this 3rd of January, 2018**



**Ethan K. Strimling, Mayor  
City of Portland, Maine**



*Proc 20-17/18  
Feb 3 13-18*

**PROCLAMATION**

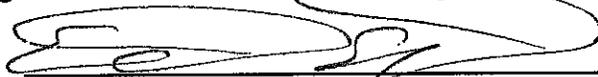
**HONORING**

**OFFICER MARTIN NEY**

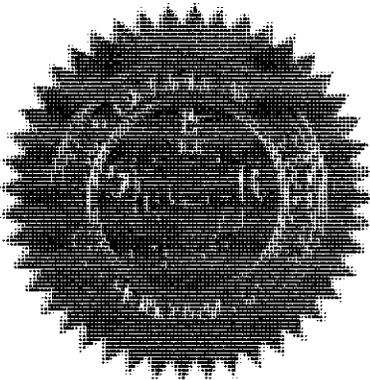
- WHEREAS,** **Officer Ney** has been a dependable, hardworking officer with the Portland Police Department for the last 18 years, and
- WHEREAS,** **Officer Ney** is a member of the Special Reaction Team and serves as one of the senior snipers, often providing training to other officers, and
- WHEREAS,** **Officer Ney** is assigned to the East Bayside/Kennedy Park beat where he knows many area residents and provides excellent service, collaborating with the community policing officers and coordinator assigned to the area, and
- WHEREAS,** **Officer Ney** recently responded to a call at the East End Elementary school for a report of sexual assault by adults living with the child. Officer Ney worked diligently with the community policing coordinator to notify the appropriate agencies and went above and beyond to ensure the child's safety. Officer Ney stayed with the child throughout the day and visited the child's home later that night to check the living conditions at DHHS' request, and
- WHEREAS,** **Officer Ney** is commended for his exemplary performance and clear commitment to a higher standard of public service and public safety.

**NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Officer Martin Ney** as **Officer of the Month for November 2017.****

**Signed and sealed this 3rd day of January 2018**



**Ethan K. Strimling, Mayor  
City of Portland, Maine**



*Order 132-17/18  
Tab 4 1-3-18*

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING APRIL 22, 2018  
THE PORTLAND 10-MILER FESTIVAL**

**ORDERED**, that Sunday, April 22, 2018 is hereby declared to be the Portland 10-Miler Festival, sponsored by Gray Matter Marketing; and

**BE IT FURTHER ORDERED**, that the Portland 10-Miler Festival area shall be the race route, starting and ending at Payson Park, and including Back Cove Path, Baxter Boulevard from Bates Street to Preble Street, Eastern Promenade Trail, and the Preble Street Parking Lot; and

**BE IT FURTHER ORDERED**, that the following streets shall be closed for the following times on April 22, 2018:

- Payson Park Roads shall be closed from 8:00 a.m. to 1:30 p.m.;
- Baxter Boulevard from Bates Street to Vannah Avenue and to Preble Street shall be closed from 9:30 a.m. to 1:30 p.m.;
- Washington Avenue from I-295 Ramp to Walnut Street shall be closed from 10:00 a.m. to 11:30 a.m.;
- Other roads along the race route shall be closed for short periods as needed during the race; and

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

**BE IT FURTHER ORDERED**, that the Portland 10-Miler Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

**BE IT FURTHER ORDERED**, that the City Manager is authorized to issue a revocable permit to Gray Matter Marketing under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Gray Matter Marketing shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the

minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Gray Matter Marketing shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area, except in an enclosed Beer and Wine Garden for people 21-years-old and older, to be authorized under a liquor license obtained by Spurwink Services and with the oversight of Public Assembly Facilities Division staff;

3. Gray Matter Marketing shall be responsible for all fees for a permit issued from the Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to;

4. Gray Matter Marketing shall pay for any services provided to run the festival, including from the Portland Police Department, Parking Division and Maine State Police and Public Assembly Facilities Division staff and any others;

5. Gray Matter Marketing shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the 10-Miler Festival;

6. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and concert licenses for the Festival to those vendors the Gray Matter Marketing has agreed shall participate;

7. The route of the race is subject to change, depending on construction projects along the route and on Portland Police Department recommendations;

8. Any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

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



Sally L. DeLuca  
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director

Public Assembly Facilities Division

TO: Jon Jennings, City Manager  
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management  
DATE: December 15, 2017  
RE: **Council Agenda Item – Portland 10-Miler**

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I am requesting that the following order be placed on the next City Council agenda:  
**Order authorizing and declaring the Portland 10 Miler,  
scheduled for Sunday, April 22, 2018, as a Festival.**

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The Portland 10 Miler is a new road race (scheduled to take place Sunday, April 22, 2018), proposed by the organizer of the Craft Brew Race (which has been held in Portland for 5 years). The Portland 10 Miler Race starts and ends at Payson Park and utilizes the Back Cove Path, Baxter Blvd., Eastern Promenade Trail, and some city streets. Payson Park Grass Triangle is the after race / festival area. Part of the race proceeds benefit the non-profit, Spurwink Services (organization sponsoring the Beer Garden area). 800 Runners are expected for the race.

The Festival Zone for the event includes: Payson Park and park roadways, Back Cove Path, Preble Street Parking Lot, Eastern Prom Trail, and Baxter Blvd. (Bates Street to Preble Street). Organizer understands there will be games and tennis matches taking place at the upper fields and courts of the park.

Race start is at 10:00am. Baxter Blvd. (from Bates St./295 Ramp to Preble St.) will be closed down to traffic from 9:30am – 1:30pm. The Tukey's Bridge Washington Ave. off-ramp is also to be closed down to vehicles. Race organizer hires Police, Parking Control Officers, and State Police, to assist with road closures.

Route of the race: A little before 10am, runners gather on the park roadway (near Fernald St.) for the start of the race. At 10am, runners proceed down to Baxter Blvd., turning right onto Baxter Blvd. Prior to reaching Preble St., runners get up onto the Back Cove Pathway, continue running around Back Cove (counter-clockwise), crossing under Tukey's Bridge and onto the Eastern Prom Trail. Runners then follow the Eastern Prom Trail to the end (by Ocean Gateway), turn right onto Hancock St., turn right onto Fore St. (runners lane on water side of the road), continue onto Eastern Promenade Roadway (runners lane on water side), down to Washington Ave., cross over Washington Ave. and get onto sidewalk (heading north towards Tukey's Bridge), cross Tukey St. Connector to get back onto Back Cove Path (clockwise), once reaching Preble Street, runners again step off the pathway and onto Baxter Blvd., and once reaching Payson Park, enter the park and finish on the park roadway, up at near the start line (near Fernald Street).

(continued)



Sally L. DeLuca  
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director

Public Assembly Facilities Division

The Festival (after race) portion of the event takes place at Payson Park Triangle Grass area and runs from 11am - 1pm. A DJ with PA system will setup on the grass area and a Beer Garden will also be fenced off at the Triangle Grass area. The Beer Garden is a 21+ only event, with city staff (Public Assembly Facilities Division) overseeing this fenced in area. Spurwink Services will be applying for the State Liquor License. Organizers will also invite a few local Food Trucks to participate in the event.

The Festival area will also be closed to street vendors pursuant to Section 19 -17 / 19-22 of the Portland City Code and is reserved for the use of event organizer for the purpose of conducting the race activities and permitting vendors at the event, subject to the direction and control of the City Manager.

During the Portland 10 Miler, streets listed below will be closed to vehicular traffic, Sunday, April 22, 2018 (Portland Police Officers, Parking Control Officers, and State Police hired for the race route):

Payson Park Roadways, 8am – 1:30pm

Baxter Blvd. (Bates St. to Vannah Ave.), 9:30am - 1:30pm

Baxter Blvd. (Vannah Ave. to Preble St.), 9:30am - Noon

Washington Ave. (295 Ramp to Walnut St.), 10:00 – 11:30am

Other streets along the race route will be closed for short amounts of time to allow runners to cross over intersections, etc. Race intersections will be staffed by Police, PCOs, or qualified volunteers – so that traffic may proceed when there are no runners nearby.

Some streets along the race route will need to be posted "No Parking." Vehicles in violation of the "No Parking" signs shall be towed (at owner's expense).

Race organizer will work with METRO to ensure impact to transit services is kept to a minimum.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Festival organizer for the use of the above-described area for said race and festival, subject to the following conditions:

- Organizer (Gray Matter Marketing), shall indemnify the city and hold it harmless from and against all claims arising out of activities during said race and festival, and shall take out and maintain public liability insurance

(continued)



Sally L. DeLuca  
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director

Public Assembly Facilities Division

coverage (alcohol liability included) in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Portland 10 Miler;

- Any and all amplified music/public announcements shall be maintained at a reasonable level (under 92dBs) and be configured by the event organizer to focus volume away from residential housing, limiting any sound impacts in the area;
- Organizer shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division Office, shall be adhered to;
- Expenses incurred by City Departments for said event, shall be paid by organizer;
- Under no circumstances may alcoholic beverages be sold or consumed on public property during said event (except for the Beer Garden area – which has been expressly approved by Portland City Council); and
- Route of the course is subject to change, depending on construction projects along the race route and Police Dept. recommendations leading up to and on race day.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

### **Attachments: Application, Race Map**

Document prepared by Ted Musgrave, Event Coordinator  
Public Assembly Facilities Division



LUNTS CORNER

Edward Payson Park

BACK COVE

B 7 e Trail

EAST END

MUNJOY HILL

Portland

WEST BAYSIDE

Deering Oaks Park

Fort Allen Park

Fore River

Pomroy Rock

Portland Observatory

University of Southern Maine

High School

Eastern Promenade

Fish Point

Congress St

Cumberland Ave

Franklin St

Marginal Way

Baxter Blvd

Forest Ave

Washington Ave

Veranda St

Presumpscot St

ad St

S

e

Deering Ave

ad St

S



**CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION  
PUBLIC PARK & SPACE APPLICATION (4 pages)  
212 Canco Rd. ~ Portland ~ ME ~ 04103  
207-808-5400 x0  
Ted Musgrave tvn@portlandmaine.gov**

**For uses of city property, there are typically: 1. fees charged for use of the area  
2. a security deposit required 3. insurance required  
(There may be fees due and applications required from other City Departments)**

<b>TODAY'S DATE</b>	6-6-17 Revised: 10-31, 11-9, 11-16, 11-17, 12-4, 12-13	<b>ORGANIZATION NAME</b>	Gray Matter Marketing					
<b>ORGANIZATION ADDRESS</b>	200 Highpoint Ave, Unit B5	<b>CITY</b>	Portsmouth	<b>STATE</b>	RI	<b>ZIP</b>	02871	
<b>CONTACT NAME(S)</b>	Matt Gray – Jon White –	<b>TITLE</b>	President Director of Operations					
<b>HOME #</b>	<b>WORK</b>	<b>CELL</b>	<b>FAX</b>					
<b>EMAIL</b>	<a href="mailto:matt@graymattermarketing.com">matt@graymattermarketing.com</a>		<b>EMAIL</b>	<a href="mailto:jwhite@graymattermarketing.com">jwhite@graymattermarketing.com</a>				

<b>PARK AREA OR PUBLIC SPACE REQUESTED</b>	Edward Payson Park (Grass Triangle) / Back Cove Trail / Eastern Promenade Trail Portland Streets: Hancock St, Fore St, Eastern Promenade (runners on the right), Washington Ave at Fox Street CLOSED (runners cross to rec path). 295 Ramp to Washington Ave (in bound) closed to vehicles via State Police Baxter Blvd Closed (9:30AM – 1:30PM), from Bates St. to Preble St. Park Roadways also closed to vehicles: 9:30am – 1:30pm Some Parking Lots in Park + Dyers Flat Parking					
<b>EVENT DAY &amp; DATE(S)</b>	SUN 4-22-2018	<b>RAIN DAY &amp; DATE(S)</b>	Rain or Shine (50% added fee)			
<b>EVENT START TIME</b> (i.e. set-up start time)	5:00PM (setup on grass on Sat April 21) <b>SUN setup start: 7AM</b>	<b>EVENT END TIME</b> (i.e. when event cleanup is complete)	3:00PM (Sun April 22)	<b>ACTUAL START &amp; END TIME OF EVENT</b>	8am – 1:00PM Registration at park opens at 8am <b>Race Start 10AM (4/22/2018)</b>	

EVENT NAME	EXPECTED ATTENDANCE
Portland 10 Miler <b>FACEBOOK: <a href="https://www.facebook.com/events/884520781716497/">https://www.facebook.com/events/884520781716497/</a></b>	800

**DESCRIPTION OF EVENT:** Please be specific regarding **area of public space/park** and describe Event in detail.

A for-profit race. Some race proceeds to Spurwink Services (non profit – alcohol sponsor).  
10 Mile road race starting in Payson Park. Registration at the Park opens up at 8am (runners will start to arrive at that time).  
Following the race there will be a small area for people to congregate in Edward Payson Park, on the Triangle (ends at 4pm).

course: <http://www.mapmyrun.com/routes/fullscreen/1853672504/> **Please Know: there may be construction work taking place on Washington Ave. (from Fox St. to Cumberland Ave.)**

**Race Route: Race Start at 10:00AM.** Start Line on Catafalque Dr (by Fernald St – IN Payson Park), runners head towards Baxter Blvd (turning right at the Triangle, continue on Baxter Blvd (counter-clockwise), get onto Back Cove Trail (prior to reaching Preble Street), continue around cove and under Tukey's Bridge to the Eastern Promenade Trail – headed towards East End Beach, follow trail to sidewalk area (Ocean Gateway), turn right onto Hancock St, turn right onto Fore St (runners stay to the right), continue on Eastern Promenade, cross Washington Ave to get onto the sidewalk (heading north towards Tukey's Bridge), cross Tukey St Connector to continue to get back to Back Cove Trail, continue on the Back Cove Trail (clockwise), cross Baxter Blvd by the Triangle at Payson Park, and finish on Catafalque Dr (by Fernald St). \*Please see attached map.

We would like to close Baxter Blvd (Preble St to Bates Street) for the duration of the race\*\*\*: 9:30AM – 1:30PM.  
Baxter Blvd closed down to traffic from Bates St / 295 Ramp to Preble Street. (Seaside Health would need to use their Front St. Entrance/Exit). Baxter Blvd closed, but once runners have moved to the Back Cove Trail at Preble Street (approx. 10:20am), \*\*\*Baxter Blvd (west of Vannah Ave) could be opened to traffic; i.e. from Vannah Ave to Preble St. back open to cars.  
We would like to close Catafalque Dr / Payson Park to traffic (for start/finish area) from 9:30AM to 1:30PM as well (allowing for setup + breakdown of the start / finish line). So the main roadway into the park, from Ocean Ave., would be closed down to vehicles from 9:30am to around 1:30pm. W. Kidder Street and Fernald Street leading into the park, would be monitored for traffic (and cars sent north on the exit road, up to Ocean Ave.)

We would like to use Dyer Flats for parking, as well as other lots in the park.

Police / PCO's / PAFD Staff need to be hired (locations + officers TBD). For Runners crossing over Washington Ave., State Police will need to be hired (closing off ramp from Tukey's Bridge to Washington Ave – in bound).  
In addition, **2 EMS Staff w/unit** are required to be hired.

Canopies set up on the Triangle Grass Area. Some tables & chairs. PA System set up (generator powered) – ELEC is at the Grass Triangle. Music / DJ / Announcements. Beer Garden in Grass Triangle. Food Trucks on site. Portable Restrooms to be rented.

Small Beer Garden info:

A perimeter barricade will be set up for a beer service area, with security details to check ID's for 21+. We will have a liquor license pulled through our non-profit partner, Spurwink.

The beer garden will be open to runners, starting at 11:00AM and ending at 1:00PM. Hired City PAF Staff will need to staff this area. Porta-Restrooms lined up on Park Roadway (West Entrance) beside wooden bollards, will act as part of fenced perimeter. Food Trucks and Beer Trucks parked on the roadway beside the grass, will also act as part of the perimeter.

We would like to rent Edward Payson Park for one day. Set up will be on Saturday April 21, late afternoon/evening (5pm start).

We will bring in snow fencing, tables, canopies (NO large tents), portable restrooms, etc.

We will hire overnight security to watch over area and our set up.

<b>IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?</b>	Please check: <input checked="" type="checkbox"/> FEE <input type="checkbox"/> PLEDGES	
<b>IF YES FOR FEES, HOW MUCH?</b>	<b>FEE</b>	\$ ?
	<b>STUDENT FEE</b>	\$

**WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?**  
*Anticipating a need for 400 cars – parking on nearby streets (Dyers Flats for Payson Park)*

**PLEASE CHECK OFF AND ANSWER:**

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a <b>canopy(s)</b> ? (canopy is 10x10 size) How many: <b>4-5</b>	X		
* Do you wish to set up a <b>tent(s)</b> ? A canopy or tent larger than 10x10 needs to be approved		X	
* Will you be setting up <b>tables and/or chairs</b> ? How many tables: <b>15</b> chairs: <b>0</b>	X		
* Are other items or equipment being placed on City property?		X	
* Will there be <b>refreshments</b> at the event? Do you wish to <b>sell food</b> ? (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office.) <b>List food and drink / Food Trucks, etc.:</b> PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served PLEASE give the BL Office <u>at least 2-weeks' notice</u> (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event.	X LOCAL FOOD TRUCKS INVITED		
* Do you wish to sell <b>non-food items</b> (like T-shirts, crafts, cd's, etc.)? If so, you will need approval from PAFD Office, and you will need to apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – <u>2 week's notice</u> . <b>List items you wish to sell:</b>	X		
* Are you setting up a <b>PA (sound) system</b> ? Are you planning on having <b>Amplified Music</b> ? <b>Band?</b> <b>DJ?</b> <b>Boom Box?</b> If so, your event may require a concert license from BL Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music). However, a Sound Security Deposit may also be required for amplification. For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).	X DJ PA SYSTEM		
* Will your event require <b>electricity</b> ?	?	X	
* Are you planning on bringing a <b>Grill for a Barbecue</b> ?		X	
* Will the event require <b>reserved parking spaces / parking meters</b> ?		X	
* Will your event need <b>safety vests, signs, barricades and/or cones</b> ? Please list what you would like to borrow: <b>BARRICADES</b> A few orange vests and cones may usually be borrowed from PAFD Office.	X		

	Barricades and signs are borrowed from Public Works, Customer Service.			
*	Will your event require <b>street closures</b> ? (Please be specific under "Description of Event") Will your event affect <b>METRO BUS ROUTES</b> ? <b>YES..!!!!</b> (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 ( <a href="mailto:gffenton@gpmetrobus.com">gffenton@gpmetrobus.com</a> ) to discuss.	X		
*	Will your event require <b>Police</b> assistance?	X		
*	Will your event require <b>Fire/EMS</b> assistance?	X		
*	Will your event require <b>porta-restroom</b> rental(s) or need existing porta-restrooms cleaned?	X		
		<b>RENTAL</b>		

#### INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X		
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◆ If you answered YES, you shall procure and maintain commercial and/or product liability insurance in an amount of at least \$400,000 combined single limit, covering claims for bodily injury, death, and property damage at your event. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement for coverage for the event, only in those areas where governmental immunity has been expressly waived by 14 M.R.S.A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit shall not be deemed a waiver of any immunities or limitations of damages available under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, or common law.

- ◆ The insurance certificate shall be sent to [tvm@portlandmaine.gov](mailto:tvm@portlandmaine.gov) and must state with no exceptions one of the following:
- 1) The policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).
  - 2) The policy contains a general liability extension endorsement by which the City of Portland is made an additional insured pursuant to the date of the event (and rain date).

### PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

#### ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

#### BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by PAFD Office and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

#### PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms (\*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, \*Entrance to Dyer's Flat – beside Payson Park). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, event organizer **MUST** rent from Associated Septic / Royal Flush.

#### TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

#### MARKING OF GROUNDS

Event Organizers **MUST NOT** use Spray Paint or Spray Chalk when marking city property. Children's Art Chalk can be used with permission from PAFD Office.

#### ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

**PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES**

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

**SMOKE-FREE ZONES**

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

**NOTIFICATION**

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

**REVOCALE PERMIT**

- ◆ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ◆ The City reserves the unconditional right to revoke or revise an issued permit.

<b>I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES</b>	<b>TYPE INITIALS</b>	<b>JW</b>	<b>DATE</b>	<b>4/4/17</b>
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**ASSUMPTION OF RISK & LIABILITY**

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

<b>I have read the Assumption of Risk &amp; Liability Agreement</b>	<b>TYPE INITIALS</b>	<b>JW</b>	<b>DATE</b>	<b>4/4/17</b>
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**FEE SCHEDULE – UPDATED JULY 1, 2015**

**Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.**

Simple Event (no registration fee): \$50/hour Event with registration or pledges & attendance 25 – 300: \$100/hr Event with registration or pledges & attendance 301+: \$200/hr Public Space/Park Security Deposit/Sound Security Deposit: \$100-\$1000	Impact/Street Closure Fee (variable based on impact): \$0-\$500 Admin/Staff Fee (support for events): \$30/hour Porta Restroom User Fee (if attendance is 150+): \$25
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**CREDIT CARD INFORMATION**

Visa or MasterCard Number				Exp Date (Mon/Yr)		
<b>CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED</b>						

**PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"**

- ◆ Please make out security deposit checks separate from permit fees.

**TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION** (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use: <b>Appx. 8 hours (no charge for SAT setup – which is to start at 5pm)</b>	<b>\$ 1600 DUE</b>	Vest/Cone Deposit: \$15 per/item Barricade Deposit: \$25 per/item	<b>\$ TBD</b>
<b>Admin/Staff Fee (support for events):</b>	<b>\$ TBD</b>	Public Space / Park Security Deposit: <b>Sound Security Deposit \$100 - \$1000</b>	<b>\$ 500 due</b>
Key Deposit: \$50 per key	<b>\$ N/A</b>	Other (Porta-Restroom User Fee: \$25, etc.)	<b>\$ TBD</b>
Impact/Street Closure Fee (variable based on impact): \$100-\$500	<b>\$ TBD</b>	NP Signs: \$1 / \$15 each Cone Rental: \$2 each Barricade Rental: \$5 each Bike Rack: \$10 each	<b>\$ TBD</b>

**FOR OFFICE USE ONLY**

DATE REC'D APPLICATION	6-6-17	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ NEED	SECURITY DEPOSIT	\$ NEED
<b>PAYMENT TYPE</b>							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

Order 133-17/18  
Tab 5 1-3-18

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JUNE 23, 2018**  
**THE SHIPYARD OLD PORT HALF MARATHON FESTIVAL**

**ORDERED**, that June 23, 2018 is hereby declared to be the Shipyard Old Port Half Marathon, sponsored by GiddyUp Productions, LLC; and

**BE IT FURTHER ORDERED**, that the festival is authorized from 2:00 a.m. – 2:00 p.m. on Saturday, June 23, 2018, with a race to be held along city streets and trails and with an awards ceremony and music to follow until 12:30 p.m.; and

**BE IT FURTHER ORDERED**, that the Half Marathon race will start at 7:00 a.m.; and

**BE IT FURTHER ORDERED**, that the start of the Half Marathon and the finish line is on Fore Street between Union and Exchange Streets; and

**BE IT FURTHER ORDERED**, that the Shipyard Old Portland Half Marathon Festival area shall be Fore Street from Union to Exchange; Wharf Street from Union to Moulton; Moulton Street from Commercial to Fore; and Dana Street from Commercial to Fore; and

**BE IT FURTHER ORDERED**, that the following streets shall be closed to traffic for the following times or, if the race start is delayed, than at a later time:

Fore Street (Exchange to Union – both lanes): 2 a.m. – Noon.

Wharf Street (Moulton to Union): 2 a.m. – 1:30 p.m.

Dana Street: 2 a.m. – 1:30 p.m.

Moulton Street: 2 a.m. – 1:30 p.m.

Fore Street (Union to Center – both lanes): 6:55 – 7:05 a.m.

Danforth Street (York to Vaughan – both lanes): 6:55 – 7:10 a.m.

Western Prom Road (Bowdoin to Vaughan – both lanes): 7:15 – 7:55 a.m.

Danforth Street (Valley to Vaughan – both lanes): 7:15 – 7:55 a.m.

W. Commercial St. (Valley to Center – just west bound lane): 7:10 – 8:15 a.m.

Park Street (York to Commercial – south bound lane): 7:10 – 8:15 a.m.

Beach Street (York to Commercial – south bound lane): 7:15 – 8:15 a.m.

Maple Street (York to Commercial – both lanes): 7:30 – 8:15 a.m.

Washington Ave. (Walnut to I-295 – both lanes): 8:00 – 10:00 a.m.

Eastern Prom Road (runners lane on water side of street): 8:00 – 10:00 a.m.

Fore Street (E Prom to Hancock – runners lane on water side): 8:00 – 10 a.m.

Franklin Street (at Fore Street – both lanes): 8:15 – 10:15 a.m.  
Hancock Street (Thames to Fore – north bound lane): 8:15 – 10:15 a.m.  
India Street (Fore to Commercial – north bound lane): 8:15 – 10:15 a.m.  
Fore Street (Hancock to India – both lanes): 8:15 – 10:15 a.m.  
Fore Street (Exchange to Franklin – east bound lane): 8:00 – 10:15 a.m.  
Custom House Street (Fore to Commercial – both lanes): 8:15 – 10:15 a.m.  
Pearl Street (Fore to Commercial – both lanes): 8:15 – 10:15 a.m.  
Silver Street (Fore to Commercial – south bound lane): 8:15 – 10:15 a.m.  
Market Street (Fore to Commercial): 8:15 – 10:15 a.m.  
Exchange Street (Milk to Fore): 8:15 – 10:15 a.m.; and

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

**BE IT FURTHER ORDERED**, that the Shipyard Old Portland Half Marathon Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

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

1. GiddyUp Productions, LLC shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance and alcohol liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. GiddyUp Productions, LLC shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event, other than in two areas restricted to 21-year-old and older patrons on Dana Street and on Moulton Street from 8:30 a.m. to 12:30 p.m., with security provided by the Portland Police Department;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from Public Assembly Facilities Division shall be adhered to;
4. GiddyUp Productions, LLC shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Shipyard Old Portland Half Marathon Festival;

5. GiddyUp Productions, LLC shall hire police officers, Public Assembly Facilities Division staff and parking control officers to assist with directing traffic at street closures, and Public Assembly Facilities staff shall be hired to facilitate GiddyUp Production, LLC's use of the festival area; and

6. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the GiddyUp Productions, LLC has agreed shall participate; and

7. Route of the course is subject to change, depending on construction projects along the course and police recommendations leading up to the race day; and

8. Any and all amplified music and public announcements along the route of the race or in the Festival Area shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

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



Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

TO: Jon Jennings, City Manager  
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management  
DATE: December 18, 2017  
RE: **Council Agenda Item – 2018 Shipyard Old Port Half Marathon**

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I am requesting that the following order be placed on the next City Council agenda:

**Order authorizing and declaring Shipyard Old Port Half Marathon  
to be held on Saturday, June 23, 2018, as a Festival.**

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The Shipyard Old Port Half Marathon is a for-profit event, however, Habitat for Humanity of Greater Portland and Portland Trails (and other non-profits in the area) all benefit from race proceeds.

This race has been held in the city for seven (7) years now (this will be the 8<sup>th</sup>). Each successive year, attendance at the race increases; this year's Half Marathon should draw close to 3,500 runners; with another 2,000 spectators.

The race route for this year's race has been changed to alleviate some of the traffic congestion on Commercial Street, and after party events moved from the Ocean Gateway/Amethyst Park area to Wharf Street, Moulton Street and Dana Street. Start and Finish Line for the race has also been moved to Fore Street (rather than Ocean Gateway area, as has been for the last few years). City Staff have endorsed these changes.

The race organizer is working with businesses along Commercial Street, Fore Street, Moulton Street, Dana Street and Wharf Street, and as part of race registration, will offer incentives to runners to frequent those establishments.

The Order should include the following two major items:

- (1) The Shipyard Old Port Half Marathon be authorized for Saturday, June 23, 2018, from 2am - 2pm, to be held in Portland, along city streets and trails. Start and Finish Line for the race is on Fore Street (between Union and Exchange) and after race events / awards ceremony on city streets: Wharf Street, Moulton Street and Dana Street. Start of the race is at 7am, with after party events in the streets from 8:30am – 12:30pm.

(continued)



Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

prim

- (2) As part of the after party events, 2 Beer Gardens (each 30 x 60') will be setup and be open from 8:30am – 12:30pm: A 21+ beer garden will be set up on a portion of Moulton Street, and another set up on Dana Street. Organizer will hire Police Officers for these areas. The Beer Gardens will be licensed as an expansion of currently licensed establishments footprint's (Moulton Street: Old Port Tavern; Dana Street: Amigos).

These areas: streets and abutting sidewalks (Fore Street – Union to Exchange / Wharf Street – Union to Moulton / Moulton Street – Commercial to Fore / Dana Street – Commercial to Fore) are designated Festival Zones, are closed to street vendors pursuant to Section 19-17 of the Portland City Code, and are reserved for the use of the race organizer for the purpose of conducting the Shipyard Old Port Half Marathon, subject to the direction and control of the City Manager.

The route of the race is as follows: Some of the race is on Trails and Paths, and some on the Streets. Please also refer to Map.

**Shipyard Old Port Half Marathon** (start time 7am). Runners assemble on Fore St. (Start Line near Union St.), runners head west on Fore St. (using both lanes), left on York St. (using both lanes), right on Danforth St. (using both lanes), straight across High St. and State St., then right on Fletcher St., left on Orchard St., right on Vaughn St., right on Spring St., left on Emery St., left on Spruce St., right on Thomas St., left on Carroll St., right on Chadwick St., right on Pine St., left on Carleton St., left on West St., left on Western Prom Roadway (going downhill), right on Vaughn St., right on Danforth St. (downhill), left on Valley St. (using right turning lane), left on West Commercial St. (using westbound lane), straight on Commercial St. in westbound lane until Center St., then getting into center turn lane on Commercial St., then continuing on to sidewalk area once crossing Franklin St., then continuing east on Eastern Prom Trail until Sewage Plant Rd., right on Bayside Trail looping underneath Tukey's Bridge, sharp left on Back Cove Trail, run counter-clockwise around Back Cove, sharp right on Back Cove Trail then run up and over, and beside I-295, run parallel to Washington Ave. in bound, at Eastern Prom Roadway, cross over Washington Ave. and continue up the hill on Eastern Prom Roadway, continue around East End School and south on Eastern Prom Roadway (in runners lane on water side), down Fore St. (in runners lane on water side), cross over Franklin St., and continue west, finishing on Fore St. just beyond Exchange Street.

**During the Shipyard Old Port Half Marathon, streets listed below will be closed to vehicular traffic, Saturday, June 23, 2018.** (The Police Dept. has

(continued)



Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

endorsed the closures. Many Police Officers and Parking Control Officers will be hired by organizer. Volunteers will also staff race intersections.)

The organizer will reach out to the many businesses along the race route, including businesses in the Start/Finish Line area, as well businesses along Commercial Street and Fore Street, Wharf Street, Moulton Street and Dana Street, to alert them to the street closures and traffic delays on Saturday morning.

Fore Street (Exchange to Union – both lanes): 2am – Noon.  
 Wharf Street (Moulton to Union): 2am – 1:30pm.  
 Dana Street: 2am – 1:30pm.  
 Moulton Street: 2am – 1:30pm.  
 Fore Street (Union to Center – both lanes): 6:55 – 7:05am.  
 Danforth Street (York to Vaughan – both lanes): 6:55 – 7:10am.  
 Western Prom Road (Bowdoin to Vaughan – both lanes): 7:15 – 7:55am.  
 Danforth Street (Valley to Vaughan – both lanes): 7:15 – 7:55am.  
 W. Commercial St. (Valley to Center – just west bound lane): 7:10 – 8:15am.  
 Park Street (York to Commercial – south bound lane): 7:10 – 8:15am.  
 Beach Street (York to Commercial – south bound lane): 7:15 – 8:15am.  
 Maple Street (York to Commercial – both lanes): 7:30 – 8:15am.  
 Washington Ave. (Walnut to 295 – both lanes): 8:00 – 10:00am.  
 Eastern Prom Road (runners lane on water side of street): 8:00 – 10:00am  
 Fore Street (E Prom to Hancock – runners lane on water side): 8:00 – 10am  
 Franklin Street (at Fore Street – both lanes): 8:15 – 10:15am.  
 Hancock Street (Thames to Fore – north bound lane): 8:15 – 10:15am.  
 India Street (Fore to Commercial – north bound lane): 8:15 – 10:15am.  
 Fore Street (Hancock to India – both lanes): 8:15 – 10:15am.  
 Fore Street (Exchange to Franklin – east bound lane): 8:00 – 10:15am.  
 Custom House Street (Fore to Commercial – both lanes): 8:15 – 10:15am.  
 Pearl Street (Fore to Commercial – both lanes): 8:15 – 10:15am.  
 Silver Street (Fore to Commercial – south bound lane): 8:15 – 10:15am.  
 Market Street (Fore to Commercial): 8:15 – 10:15am.  
 Exchange Street (Milk to Fore): 8:15 – 10:15am.

In the event the start of the Half Marathon is delayed, the ending times of the above street closures would also be delayed/pushed back.

For the streets in the first 3 miles of the race (Fore, Danforth, West End

(continued)



Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

Streets, W. Prom Roadway), both lanes of the street will need to be used by runners (vehicles will be detoured off these streets).

For West Commercial Street, the "west-bound" lane will be used for runners. The waterside (east-bound lane) will still be open to vehicles and access to the waterfront businesses remains open. Vehicles will be permitted to cross over Commercial Street at the intersections of Beach Street and at High Street (with police assistance, when space between runners allows).

For Commercial Street proper (Center to Franklin), the runner's lane will be down the "center turn lane" of Commercial Street. 2 rows of cones will be used. At this point along Commercial Street, there are 2 lanes for vehicles (west bound and east bound - one on either side of the runners). Vehicle cross over points will be at Center Street and at Union Street (with assistance from police officers, when space between runners allows).

North-bound traffic on Washington Ave. (at the intersection with Eastern Prom road), will be detoured at Walnut Street/Fox Street (and State Police will close the I-295 Exit 8 ramp onto Washington Ave), so no vehicles will be on that section of Washington Ave. This is to facilitate runners from the Tukey's Bridge sidewalk onto Washington Ave. and then cross over and get onto the Eastern Prom Roadway to head up to the E Prom.

For streets near the end of the race route, Eastern Prom Road and Fore Street (down to Hancock Street), a runners lane (via cones) will be setup on the water side of the street (so vehicles will still flow in both directions).

Some streets will need to be posted "No Parking," including Fore Street, Moulton Street, Dana Street, Eastern Prom Road, and possibly other streets along the race route. Cars parked illegally at these "No Parking" signs will be towed at owner's expense.

In addition, the trails will have restricted use. Back Cove Trail, Eastern Prom Trail and Bayside Trail will need to be posted "Bicycles, Baby Strollers and Pets, not permitted on Trails during OPHM Race, Sat. June 23, 7 - 11am." Signs to be posted along the trails by organizer, a week in advance.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Shipyard Old Port Half Marathon organizer, for the use of the above-described area for said events, subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event, other than what is approved by City Council (Saturday's After-Race Festivities - Awards Ceremony) - taking place in designated areas on Moulton and Dana Street;

(continued)



Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

- PA Systems will be used at the race (announcements & music). The after race festivities will include a stage (with PA System) set up at the bottom of Dana Street where a band will perform from 8:30am – 12:30pm. PA systems will also be set up in a number of locations along the race route, including Fore Street (start/finish line area), Back Cove Parking Lot (near Back Cove Trail), Eastern Prom Trail (near Sewage Treatment Plant), top of Fort Allen Park, and outer West Commercial Street (just beyond Casco Bay Bridge). Music and announcements will be made while runners are passing by these locations (between the hours of 7:30 – 11am). Any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound shall be maintained under 92dB's and be configured by the event organizer and the City to focus volume away from residential housing, limiting any sound impacts in residential areas;
- Race organizer shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage (as well as alcohol liability coverage) in the amount of at least \$400,000 per occurrence for personal or bodily injury, death, or property for said purposes;
- Conditions for use of grounds, specified in a contract and permit issued from the Public Assembly Facilities Division, shall be adhered to;
- Race organizers shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the Festival;
- City permit fees, license fees, and costs for city staff assistance will be paid by the race organizer (race organizer will hire many Police Officers and Parking Control Officers to assist with street closures, detours, race intersections, and hire Public Assembly Facilities staff to oversee the Start/ Finish Line and Beer Garden / After Party areas); and
- Route of the course is subject to change, depending on construction projects along the course and Police recommendations leading up to and on race day.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said Festival.

Attachments: Application, Race Map, List of Contacted Old Port Businesses

Document prepared by Ted Musgrave, PAFD Event Coordinator



**CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION**  
**PUBLIC PARK & SPACE APPLICATION (9 pages)**  
 212 Canco Rd. ~ Portland ~ ME ~ 04103  
 207-808-5400 x0  
 Ted Musgrave tvn@portlandmaine.gov

**For uses of city property, there are typically: 1. fees charged for use of the area  
 2. a security deposit required 3. insurance required  
 (There may be fees due and applications required from other City Departments)**

<b>TODAY'S DATE</b>		12/4/17 Revised: 12-11	<b>ORGANIZATION NAME</b>		GiddyUp Productions				
<b>ORGANIZATION ADDRESS</b>			141 School St	<b>CITY</b>	South Portland	<b>STATE</b>	ME	<b>ZIP</b>	04106
<b>CONTACT NAME(S)</b>		Erik Boucher		<b>TITLE:</b> President					
<b>HOME #</b>	<b>WORK</b>			<b>CELL</b>	207-210-8655	<b>FAX</b>			
<b>EMAIL</b>	erik@justgiddyup.com			<b>EMAIL</b>	erik@justgiddyup.com				

<b>PARK AREA OR PUBLIC SPACE REQUESTED</b>		Eastern Prom Trail, Bayside Trail, Back Cove Trail, Portland Streets (Start & Finish on Fore Street – near Five Guys Burgers) (After Race Events on Dana Street and on Moulton Street)							
<b>EVENT DAY &amp; DATE(S)</b>			Saturday June 23 <sup>rd</sup> , 2018		<b>RAIN DAY &amp; DATE(S)</b> (50% added fee)		NA		
<b>EVENT START TIME</b> (i.e. set-up start time)		2:00 AM	<b>EVENT END TIME</b> (i.e. when event cleanup is complete)		1:30 PM	<b>ACTUAL START &amp; END TIME OF EVENT</b>		7:00 AM start 10:30 AM end 12:30pm – party ends	

EVENT NAME		EXPECTED ATTENDANCE
Shipyard Old Port Half Marathon (8 <sup>th</sup> Annual) <a href="https://oldporthalfmarathon.com/">https://oldporthalfmarathon.com/</a>		3,500 runners 2000 family members

**DESCRIPTION OF EVENT:**

All supporting documents including course maps and the complete operations plan can be found in the following Dropbox folder.

[https://www.dropbox.com/sh/ayvfy4kst1hn4I2/AACKaU2S\\_AmijYd2v87da2Pba?dl=0](https://www.dropbox.com/sh/ayvfy4kst1hn4I2/AACKaU2S_AmijYd2v87da2Pba?dl=0)

Proceeds benefit Habitat for Humanity of Greater Portland, Portland Trails, Oxford Hills Homeschool Robotics, Maine Girls Academy, Greely Girls Tennis, Greely Track Boosters, Extra Life, Epona Pony Club, Coastal Humane Society, Falmouth Ski Club, and the Travis Mills Foundation.

A half marathon (13.1 miles) Road Race (SAT June 23). This is the 8<sup>th</sup> year for this event. The route for the half marathon is different from the 2017 course. There will be no 5k race at this event like there has been in the past. MAPS attached detail the routes.

**Route Description**

Half Marathon..... Runners go off at 7:00 AM. Start on Fore St intersection with Union St. Straight on Fore St (using both lanes), Left on York St (using both lanes) , Right on Danforth St (using both lanes), Straight past High St and State St, Right on Fletcher St, Left on Orchard St, Right on Vaughn St, Right on Spring St, Left on Emery St, Left on Spruce St, Right on Thomas St, Left on Carroll St, Right on Chadwick St, Right on Pine St, Left on Carleton St, Left on West St, Left on Western Prom (going downhill), Right on Vaughn St, Right on Danforth St (downhill), Left on Valley St (using right turning lane), Left on West Commercial St (using westbound lane), Straight on Commercial St in westbound lane until Center St, then getting into center turning lane on Commercial St, Straight on Eastern Prom Trail at Franklin St, continue on Eastern Prom trail until Sewage Plant Rd, Right on Bayside Trail looping underneath Tukey's Bridge, sharp left on Back Cove Trail, run counter-clockwise around Back Cove, sharp right on Back Cove trail then cross over I-295, run parallel to Washington Ave while on Bayside trail, left at Eastern Promenade after crossing over Washington Ave, Straight on Eastern Promenade (in runners lane on water side), Straight down Fore St (in runners lane on water side), cross over Franklin St, and finish on Fore St and Dana St.

Some of the race routes are on Trails and Paths (and some on the street).

Many course marshals (100+) will staff intersections.

Organizer will hire Police Officers to be stationed at the following locations:

Street Location	Start Time	End Time
Center St and Fore St	6:50 AM	7:05 AM
High St and Danforth St	6:50 AM	7:05 AM
State St and Danforth St	6:50 AM	7:05 AM
Clark St and Danforth St	7:05 AM	7:50 AM
Commercial St and Center St	7:15 AM	8:30 AM
Commercial St and Beach St	7:15 AM	8:15 AM
Commercial St and High St	7:05 AM	8:15 AM
Commercial St and Franklin St	7:15 AM	8:30 AM
Washington Ave and Eastern Promenade	8:00 AM	10:00 AM

Organizer will hire Parking Control Officers placed at the following locations:

Street Location	Start Time	End Time
Union St and Fore St	6:50 AM	7:05 AM
Union St and Fore St	6:50 AM	7:05 AM
York St and Maple St	6:50 AM	7:05 AM
Commercial St and Union St	7:15 AM	8:30 AM
Commercial St and Pearl St	7:15 AM	8:30 AM
Clark St and Carleton St	7:10 AM	7:35 AM
Vaughan St and Danforth St	7:00 AM	8:00 AM
Valley St and Danforth St	7:00 AM	8:00 AM
Franklin St and Fore St	7:00 AM	10:15 AM
Franklin St and Fore St	7:00 AM	10:15 AM

Organizer will hire some Portland Fire/EMS Staff to patrol the Back Cove and Eastern Prom trails.

Organizer will hire ambulances to be placed on stand-by at positions along the Back Cove and Eastern Prom trails and at the start/finish area.

Organizer will hire 2 state police troopers to close down I-295 Exit 8 ramp onto Washington Ave.

Organizer will borrow many barricades from Public Works to be placed at many intersections along the course.

During the races - bicycles, baby strollers, and walkers/joggers with dogs, will not be permitted on portions of the Eastern Prom Trail and Back Cove trail.

#### Temporarily Closed Streets

Street	Area	Lanes Closed	Starting	Ending
Fore St	Union St to Exchange St	Both	2:00 AM	12:00 PM
Wharf St	Union St to Moulton St	Both	2:00 AM	12:30 PM

Dana St	Fore St to Commercial St	Both	2:00 AM	1:30 PM
Moulton St	Fore St to Commercial St	Both	2:00 AM	12:30 PM
Fore St	Union St to Center St	Both	6:55 AM	7:05 AM
York St	Center St to Danforth St	Both	6:55 AM	7:05 AM
Danforth St	York St to State St	Both	6:55 AM	7:05 AM
Danforth St	State St to Vaughan St	Both	7:00 AM	7:10 AM
Western Promenade	Bowdoin St to Vaughan St	Both	7:15 AM	7:45 AM
Danforth St	Valley St to Vaughan St	Both	7:15 AM	7:55 AM
West Commercial St	Valley St to Center St	Westbound	7:10 AM	8:15 AM
Park St	York St to Commercial St	Southbound	7:10 AM	8:15 AM
Beach St	York St to Commercial St	Southbound	7:15 AM	8:15 AM
Washington Ave	Eastern Promenade to I-295 ramp	Both	8:00 AM	10:00 AM
Franklin St	at Fore St	Both	8:15 AM	10:15 AM
Hancock St	Thames St to Fore St	Northbound	8:15 AM	10:15 AM
India St	Commercial St to Fore St	Northbound	8:15 AM	10:15 AM
Fore St	Hancock St to India St	Both*	8:15 AM	10:15 AM
Fore St	Exchange St to Franklin St	Eastbound	8:00 AM	10:15 AM
Custom House St	Fore St to Commercial St	Both	8:15 AM	10:15 AM
Pearl St	Fore St to Commercial St	Both	8:15 AM	10:15 AM
Silver St	Fore St to Commercial St	Southbound	8:15 AM	10:15 AM
Market St	Fore St to Commercial St	Northbound	8:15 AM	10:15 AM
Maple St	York St to Commercial St	Both	7:30 AM	8:15 AM
	* If construction is still in progress, if not, close the Eastbound lane only			

#### Commercial St (westbound) Closure Plan

- Setup one row of 10' long x 42" tall orange metal barricade panels connected with yellow caution tape on double-yellow line from Center St to Park St
- Setup 18" non-reflective orange cones on double-yellow line every 100' from Park St to Valley St
- Eastbound traffic on Commercial St and access to waterfront businesses remain open
- Close westbound lane of Commercial St from Center St to Valley St from 7:10 AM to 8:15 AM
- Starting at 8:00 AM all runners who haven't reached mile 4 (at 104 West Commercial St across from the new PYS buildings) will be stopped by race officials and not allowed to continue the race
- Rolling-opening of westbound lane of Commercial St from Valley St at 7:52 AM to Center St at 8:20 AM
- Traffic allowed to crossover Commercial St at Beach St and High St with Police assistance
- Place a volunteer and set of barricades at Fore St and Maple St, and York St and Maple St from 7:00 AM to 8:10 AM to stop traffic flow towards Commercial St
- Barricades at Park St and York St setup from 7:00 AM to 8:10 AM (or until runners clear moving East)
- Roaming volunteers placed behind any parked car along Commercial St from High St to Center St in order to prevent them from backing into runners during race
- PCOs positioned at Valley St and Danforth St
- Police positioned at Commercial St and Beach St and High St

#### Center Commercial St Runners' Lane Plan

- A Runners' Lane will be created down the center turning lane of Commercial St from Center St to Franklin St
- The lane is defined by two rows of 10' long x 42" tall orange metal barricades spaced out in a dash-dot pattern with yellow caution tape connecting each barricade

- Vehicular traffic will be allowed in Eastbound and Westbound lanes of Commercial St
- Vehicle cross-over points will be located at Union St and Pearl St
- All vehicles travelling in the westbound lane will be required to turn right on Center St
- Starting at Center St runners will transition from the westbound lane of Commercial St into the center Runners' Lane
- Police positioned on Commercial St at Franklin St
- PCO positioned on Commercial St at Center St, Union St, and Pearl St

**Flashing Lights**

Traffic signal lights will be turned to flashing mode at the following intersections:

Intersection	Time
Fore St and Center St	6:50 AM to 7:05 AM
Danforth and York St	6:50 AM to 7:05 AM
Danforth and High St	6:50 AM to 7:10 AM
Danforth and State St	6:50 AM to 7:10 AM
Commercial St and Beach St	7:00 AM to 8:15 AM
Commercial St an Center St	7:15 AM to 8:30 AM
Commercial St and Union St	7:15 AM to 8:30 AM
Commercial St and Franklin St	7:15 AM to 8:30 AM
Fore St and Franklin St	7:45 AM to 10:00 AM

**Water Stops**

There will be a number of water stops set up along the course where volunteers will set up folding banquet tables, water coolers, and hand out cups of water and Gatorade drink. Garbage barrels will be placed before and after each stop and volunteers will pick up trash on the ground left by runners. Eight water stops will be placed in the following locations: Mile 1.65: Carroll Street near the intersection with West Street, Mile 4.1: West Commercial Street, Mile 5.6: Eastern Prom Trail and Thames Street, Mile 7.1: Sewer Plant Road and Eastern Prom Trail, Mile 9: Water Monsters near Vannah Ave and Baxter Blvd on Back Cove Trail, Mile 9.8: Water Monsters in Preble Street parking lot on Back Cove Trail, Mile 11.2: Water Monsters on Washington Ave just before Eastern Promenade, Mile 12.3: Water Monsters or hose at Fort Allen Park

A direct line from fire hydrants will be used to supply 4 water stops. A direct line from Fort Allen park will supply the water stop there. The other 3 water stops will draw water from 125-gallon "Water Monster" containers that are setup along the edge of the course.

**Wet Towel Stations**

At each of the following locations runners may grab a cold wet towel and carry it with them along the course: Mile 9.1: Back Cove Trail near Vannah Ave, Mile 9.8: Back Cove Trail near Preble St, Mile 11.2: Washington Ave and Eastern Promenade, Mile 12.3: Eastern Promenade near Fort Allen Park.

**Portable Toilets**

Forty (40) portable toilets will be placed on Fox Court next to the Fore Street Parking garage on Friday 6/22 and removed on Saturday 6/23. Two portable toilets will be placed at each of the following water stop location out on the course: Mile 9.1: Back Cove Trail near Vannah Ave, Mile 9.8: Back Cove Trail near Preble St, Mile 11.2: Washington Ave and Eastern Promenade, Mile 12.3: Eastern Promenade near Fort Allen Park.

**Inflatable Arch**

A 30' inflatable arch will be setup at the start line on Fore St and Union St.

**PA Sound Systems**

PA sound systems will be placed in the following areas: 1) Fore St between Union St and Exchange St, 2) on a stage positioned at the bottom of Dana St, 3) Back Cove Trail (near Preble St parking lot), 4) Eastern Prom trail (end of Sewage Plant Rd), 5) off sidewalk near Fort Allen Park entrance, and 6) 104 West Commercial St across from the new PYS buildings.

On Saturday 6/23 an announcer will speak and give directions to the runners before the race in areas 1) from 6:00 AM to 7:00 AM. Light music will be played in-between announcements so as not to create a hardship of hotel guests and residences along Fore St. The announcer will continue to play music and make announcements in area 1) near Dana St from 8:15 AM to 11:00 AM while the runners are finishing. A DJ will play music in areas 3), 4), 5), and 6) starting around 7:30am to 10:00 AM (stopping after the last runner passes by). A band will play at 2) from 8:30 AM to 12:30 PM.

**Notification Of Old Port Businesses and Residents**

Organizers recognize that the Fore St Closure would affect many Old Port businesses on the following streets: Fore St, Exchange St, Wharf St, Dana St, and Moulton St. Organizers have already conducted an extensive door-to-door outreach to businesses in the Old Port. Organizers will continue its outreach to businesses that haven't been contacted. Additional notification will be sent to all the businesses within 3 weeks of the event.

**Notification Of Businesses on Commercial St**

Organizers recognize that the Commercial Street closure plan would affect many businesses along Commercial St and especially fishing businesses on the waterfront. Organizers have already conducted an extensive door-to-door outreach to businesses along the entire Commercial St corridor. Organizers will continue its outreach to businesses that haven't been contacted. Additional notification will be sent to all the businesses within 3 weeks of the event. A comprehensive list of business can be found at the following Google Doc.

[https://docs.google.com/spreadsheets/d/1ZxMliBiwcUORr2UuX9-f1-L\\_LOVnbcAgX2WqtgUMb5M/edit?usp=sharing](https://docs.google.com/spreadsheets/d/1ZxMliBiwcUORr2UuX9-f1-L_LOVnbcAgX2WqtgUMb5M/edit?usp=sharing)

**Event Warning Signs**

On Wednesday 6/20 starting at 5:00pm signs will be placed along the Eastern Prom and Back Cove trails to warn pedestrians about the race. Each sign will include the event logo, contact phone number, and say:

- RACE IN PROGRESS
- Saturday 6/23
- 7:30am to 10:00am
- No dogs, strollers, or bicycles

Additional warning signs will be placed in the West End Neighborhood on Danforth St, Western Promenade, West St, Spring, and Vaughan St.

Detour and warning signs will be place in the Old Port on Franklin St, Middle St, Fore St, Union St, and Exchange St.

A digital CMS sign will be placed on westbound lane of Commercial St near Rufus Deering Lumber that says "WESTBOUND COMM ST CLOSED" and "SATURDAY 6/23 7AM-9AM". An additional digital sign will be placed in southbound lane of Franklin St that says "FRANKLIN ST, CLOSED 8AM-10AM, SATURDAY 6/23" and "DETOUR ON, MIDDLE ST, UNION ST".

**MDOT Guidance For Road Closure**

The Chief Engineer's office at MaineDOT Tim Soucie will be contacted as required. The MaineDOT will activate their digital CMS sign on Interstate 295 southbound to notify motorists of the Exit 8 ramp closure.

**Emergency No Parking Signs**

Emergency No parking signs will be placed at the following locations on Thursday 6/22/18 by 5pm. No parking will be allowed on Saturday 6/23/18 at the following times. Approx. 80 signs are needed.

Street	Area	Side	Starting	Ending
Fore Street	From Market to Union	Both Sides	2:00 AM	12:00 PM
Carroll Street	just at 22 Carroll Street	South Side	5:00 AM	8:00 AM
Carleton Street	Pine Street to West Street	West Side	5:00 AM	8:00 AM
Eastern Promenade	East End School to Congress	Water Side	5:00 AM	10:15 AM
Eastern Promenade	Congress to Ft Allen Park	Both Sides	5:00 AM	10:15 AM
Eastern Promenade	Ft Allen Park to Fore Street	Water Side	5:00 AM	10:15 AM
Fore Street	Eastern Prom to 58 Fore Street	Water Side	5:00 AM	10:30 AM
Fore Street	Hancock Street to India Street	Water Side	5:00 AM	10:30 AM

Fore Street	India Street to Franklin Street	North Land Side	5:00 AM	10:30 AM
Fore Street	Franklin Street to Exchange Street	Water Side	5:00 AM	10:30 AM
Commercial St	100 Block	Water Side	5:00 AM	8:20 AM
Dana Street	Entire Street	Both Sides	5:00 AM	1:30 PM
Moulton Street	Entire Street	Both Sides	5:00 AM	12:30 PM
Fox Court	street next to Fore St garage	Both Sides	5:00 AM	12:30 PM

**Eastern Promenade Trail**

Runners will run along the Eastern Prom Trail from Franklin St to Tukey's Bridge.

**Back Cove Trail**

Runners will run on the entire Back Cove trail (counter-clockwise). Course marshalls will be placed on Tukey's Bridge to stop traffic of bikes, strollers, and dog walkers.

**Beer Gardens**

Two separate beer gardens may be set up on Moulton St and Dana St. They will be setup as outdoor extensions liquor licenses held by local businesses (Old Port Tavern and Amigos). Otherwise a stand-alone beer garden in the street would fall under FM Contractual Agreement.

<b>IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?</b>	Please check: <input checked="" type="checkbox"/> FEE <input type="checkbox"/> PLEDGES	
<b>IF YES FOR FEES, HOW MUCH?</b>	<b>FEE</b>	\$59 to \$89 for half marathon
	<b>STUDENT</b>	\$NA
	<b>FEE</b>	

**WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?** *Participants will be directed to park in nearby parking garages in and around the Old Port area.*

**PLEASE CHECK OFF AND ANSWER:**

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a <b>canopy(s)</b> ? (canopy is 10x10 size) How many: 10	X		
* Do you wish to set up a <b>tent(s)</b> ? (A canopy or tent larger than 10x10 needs to be approved)		X	
* Will you be setting up <b>tables and/or chairs</b> ? How many tables: 20 picnic tables	X		
* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List: <b>inflatable arch, signs, finish line structure, 15'x20' stage</b>	X		
* Will there be <b>refreshments</b> at the event? Do you wish to <b>sell food</b> ? no (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office) <b>List food and drink / Food Trucks, etc.:</b> PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served PLEASE give the BL Office at least a 2-week notice (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event.	X		
* Do you wish to sell <b>non-food items</b> (like T-shirts, crafts, cd's, etc.)? If so, you will need approval from PAFD Office, and you will need to apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. <b>List items you wish to sell: shirts, mugs, and hats</b>	X		
* Are you setting up a <b>PA (sound) system</b> ? Are you planning on having <b>Amplified Music</b> ? x <b>Band</b> ? x <b>DJ</b> ? x <b>Boom Box</b> ? If so, your event may require a concert license from BL Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music).	X		

	However, a Sound Security Deposit may also be required for amplification. For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).			
*	Will your event require <b>electricity</b> ? Electricity is available at some of the parks & squares	X		
*	Are you planning on bringing a <b>Grill for a Barbecue</b> ?		X	
*	Will the event require <b>reserved parking spaces / parking meters</b> ? How many? "No Parking" signs may be purchased at PAFD Office, 212 Canco Rd.	X		
*	Will your event need <b>safety vests, signs, barricades and/or cones</b> ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from PAFD Office. Barricades and signs are borrowed from Public Works, Customer Service.	X		
*	Will your event require <b>street closures</b> ? (Please be specific under "Description of Event") Will your event affect <b>METRO BUS ROUTES</b> ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 ( <a href="mailto:gffenton@gpmetrobus.com">gffenton@gpmetrobus.com</a> ) to discuss.	X		
*	Will your event require <b>Police</b> assistance? An event such as a road race, march or parade in the street, would typically require police assistance.	X		
*	Will your event require <b>Fire/EMS</b> assistance? (For a large walk/race, it is recommended.)	X		
*	Will your event require <b>porta-restroom</b> rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated.	X		

#### INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X		
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- ◆ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions.
- ◆ Both the **Certificate of Insurance** and **Additional Insured Endorsement** shall be sent to [tvm@portlandmaine.gov](mailto:tvm@portlandmaine.gov) and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).

## PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

### ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

### PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (\*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, \*Entrance to Dyer's Flat – beside Payson Park, \*East End Beach). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.

### TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

### MARKING OF GROUNDS

Event Organizers must not use Spray Paint or Spray Chalk when marking city property. Children's Art Chalk can be used with permission from PAFD Office.

**ADA COMPLIANCE**

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

**PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES**

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

**SMOKE-FREE ZONES**

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

**NOTIFICATION**

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

**REVOCABLE PERMIT**

- ◆ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ◆ The City reserves the unconditional right to revoke or revise an issued permit.

<b>I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES</b>	<b>TYPE INITIALS</b>	<b>EB</b>	<b>DATE</b>	<b>12/4/17</b>
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**ASSUMPTION OF RISK & LIABILITY**

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

<b>I have read the Assumption of Risk &amp; Liability Agreement</b>	<b>TYPE INITIALS</b>	<b>EB</b>	<b>DATE</b>	<b>12/4/17</b>
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**FEE SCHEDULE – UPDATED JULY 1, 2015**

**Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.**

Simple Event (no registration fee): \$50/hour Event with registration or pledges & attendance 25 – 300: \$100/hr Event with registration or pledges & attendance 301+: \$200/hr Public Space/Park Security Deposit/Sound Security Deposit: \$100-\$1000	Impact/Street Closure Fee (variable based on impact): \$0-\$500 Admin/Staff Fee (support for events): \$30/hour Porta Restroom User Fee (if attendance is 150+): \$25
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**CREDIT CARD INFORMATION**

Visa or MasterCard Number				Exp Date (Mon/Yr)		
<b>CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED</b>						

**PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"**

- ◆ Please make out security deposit checks separate from permit fees.

**TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION** (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use: <b>Approx. 12 hours</b>	<b>\$ 2400</b>	Vest/Cone Deposit: \$15 per/item Barricade Deposit: \$25 per/item	<b>\$ TBD</b>
Admin/Staff Fee (support for events): \$30/hour	<b>\$ TBD</b>	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	<b>\$ TBD</b>
Key Deposit: \$50 per key	<b>\$ N/A</b>	Other (Porta-Restroom User Fee: \$25, etc.)	<b>\$ TBD</b>
Impact/Street Closure Fee (variable based on impact): \$100-\$500	<b>\$ TBD</b>		

**FOR OFFICE USE ONLY**

DATE REC'D APPLICATION	12-11-2017	DATE REC'D INSURANCE	<b>NEED</b>	PERMIT FEE AMT REC'D	<b>\$ NEED</b>	SECURITY DEPOSIT	<b>\$ NEED</b>
PAYMENT TYPE							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

# Race Course (Half Marathon)

Time: [first runner]  
Time: [last runner]  
[Time Difference]



Confirmed Business Contact List

Shipyards Old Port Half Marathon Saturday, June 23, 2018

Fore St, Wharf St, Dana St, Moulton St, Commercial St

October to December 2017

Business Name	Address
Portland Harbor Hotel	468 Fore St
Hyatt Place	433 Fore St
Evo	433 Fore St
vacant	425 Fore St
Gelato Fiasco Old Port	425 Fore St
Five Guys	425 Fore St
Fore St Parking Garage	427 Fore St
The Mind Gift Shop	399 Fore St
Pearl Tap House and Ultra Nightclub	442 Fore St
Gorgeous Gelato	434 Fore St
Blazin Ace	432 Fore St
Life is Good	428 Fore St
East End Cupcakes	426 Fore St
CS Boutique	424 Fore St
Old Port Candy Company	422 Fore St
Old Port Slice Bar and Ice Bar	420 Fore St
Mark's Place	416 Fore St
Central Provisions	414 Fore St
Joseph's	410 Fore St
Guven Gallery	399 Fore St
Gritty McDuff's	396 Fore St
Cool as a Moose	388 Fore St
Traps Eyewear	386 Fore St
Maxwell's Pottery	384 Fore St
Bull Feeney's	375 Fore St
Old Port Tavern	11 Moulton St
Beal's Old Fashioned Ice Cream	12 Moulton St
Liberty Graphics	10 Moulton St
Mexicali Blues	9 Moulton St
Maine Squeeze Juice Cafe	5 1/2 Moulton St
Malone Commercial Brokers	5 Moulton St
Fred Gignoux/ Hugh Costello Customs Brokers	5 Moulton St
Joe Bornstein	5 Moulton Street
Old Port Card Works	3 Moulton St

Amigo's	9 Dana St
Blue Rooster Food Company	5 Dana St
Compass Commercial Brokers	1 Dana St
vacant space on 3rd floor	1 Dana St
Elevation Burger	205 Commercial St
Maine's Pantry	250 Commercial St
Courtyard By Marriott	321 Commercial St
Hilton Garden Inn Portland Downtown	65 Commercial St
Bill's Pizza	177 Commercial St
Land Of Treasure	2 Wharf St
Portmanteau	3 Wharf St
MashTun	29 Wharf St
Bonfire Country Bar	37 Wharf St
Jager	41 Wharf St
The Drink Exchange	43 Wharf St
Higher Grounds	51 Wharf St
	51 Wharf St
Commercial Properties Management, LLC	4 Milk Street, Suite 103
Crow's Nest	9 Union St
Pat's Pizza	30 Market St
Pandemonium	2 Exchange St
Nanuq Kayaking	Maine Wharf
Upstream Trucking	72 Commercial St #5 (Maine Wharf)
Standard Baking Company	75 Commercial St
Harbor Fish Market	9 Custom House Wharf
Coastal Bait	26 Custom House Wharf
Seabags	25 Custom House Wharf
Porthole	20 Custom House Wharf
New Meadows Lobster	60 Portland Pier
Down The Bay Lobster	Portland Pier
Elite Airways	50 Portland Pier
Janny	50 Portland Pier
Capital Services, Inc	50 Portland Pier
Robinson, Krigne & McCallum	12 Portland Pier
Dimillo's On the Water	25 Long Wharf
Debra & Meaghan II	Widgery Wharf
Cozy Harbor	35 Union Wharf
CBS Bait and Lobster	52 Union Wharf
Maine Lobster Direct/Union Seafood	48 Union Wharf
Maine Farmland Trust	48 Union Wharf
Barrett Made	48 Union Wharf

Winkelman Architecture	41 Union Wharf Suite 4
MSRC	14 Union Wharf
Cornerstone Financial Planning	38 Union Wharf
Sawyer & Whitten Marine Electronics	36 Union Wharf
Custom Float Services	11 Wallace Ave (SoPo)
Moran Shipping	1 Pleasant St #3E
Crockett, Taylor & Company	36 Union Wharf #4
Union Kitchen/The Black Tie Company	1 Union Wharf
The King's Head	254 Commercial St (Merrill's Wharf)
Ocean Renewable Power Company	254 Commercial St (Merrill's Wharf)
Pierce Atwood	254 Commercial St (Merrill's Wharf)
CPB2	254 Commercial St (Merrill's Wharf)
Downeast Magazine	254 Commercial St (Merrill's Wharf)
Brown Trading	260 Commercial St
Free Range Fish (Wholesale)	
Vessel Services	
Portland Harbor Master	2 Portland Fish Pier Suite 105
Douty Brothers	10 Portland Fish Pier # A
Portland Fish Exchange	6 Portland Fish Pier
North Atlantic, Inc	2 Portland Fish Pier
Casco Development, Inc	2 Portland Fish Pier
Mano en Mano	2 Portland Fish Pier
Davidson Associates	2 Portland Fish Pier
Atlantic Trawlers Fishing	2 Portland Fish Pier
The Writing Company	2 Portland Fish Pier
Coastal Enterprises, Inc	2 Portland Fish Pier
Lowry Legal Services	2 Portland Fish Pier
Gulf of Maine Research Institute	350 Commercial St
Aqua Diving Academy	382 Commercial St
Portland Yacht Services	400 Commercial St
North Atlantic Inflatables	400 Commercial St
Prarie Aquatech	400 Commercial St
Sustainable Seafood Sales	400 Commercial St
Marine Safety Consultants	400 Commercial St
Maine Marine Supply	416 Commercial St
New England Fish Co/ FV Providian	446 Commercial St (Deake's Wharf)
Trundy Point	446 Commercial St (Deake's Wharf)
Free Range Fish & Lobster	450 Commercial St
Portland Yacht Services	300 West Commercial
Casco Bay Lines	56 Commercial St
Bam Bam Bakery	267 Commercial S

Arabica Coffee Company  
Rosemont Market and Bakery

9 Commercial St  
5 Commercial St

order 134-17/18  
Tab 6 1-3-18

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING APRIL 21, 2018 THE URBAN RUNOFF /  
GREEN NEIGHBOR FAMILY FESTIVAL**

**ORDERED**, that Saturday, April 21, 2018 is hereby declared the Urban Runoff / Green Neighbor Family Festival in Portland, sponsored by the Portland Public Works Department and the Cumberland County Soil & Water Conservation District (together, the “Festival Organizers”); and

**BE IT FURTHER ORDERED**, that the Urban Runoff / Green Neighbor Family Festival Area shall be the Deering High School grounds, the School Parking Lot, Ludlow Street from Columbia Road to Edgeworth Avenue, and Stevens Avenue and adjacent sidewalks from Pleasant Street to Higgins Street; and

**BE IT FURTHER ORDERED**, that the Urban Runoff 5-Kilometer Race starts at 9:00 a.m.; and

**BE IT FURTHER ORDERED**, that runners congregate for the start of the Race on Ludlow Street and finish on Stevens Avenue between Tremont Street and Orkney Street, as shown on the attached Race Route Map; and

**BE IT FURTHER ORDERED**, that during the Race and Festival, the following streets will be closed to vehicular traffic:

- Ludlow Street (Columbia Street to Edgeworth Street) from 8:30 to 9:15 a.m.;
- Stevens Avenue and adjacent sidewalks (Pleasant Avenue to Higgins Street) from 7:00 a.m. to 11:00 a.m.; and

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

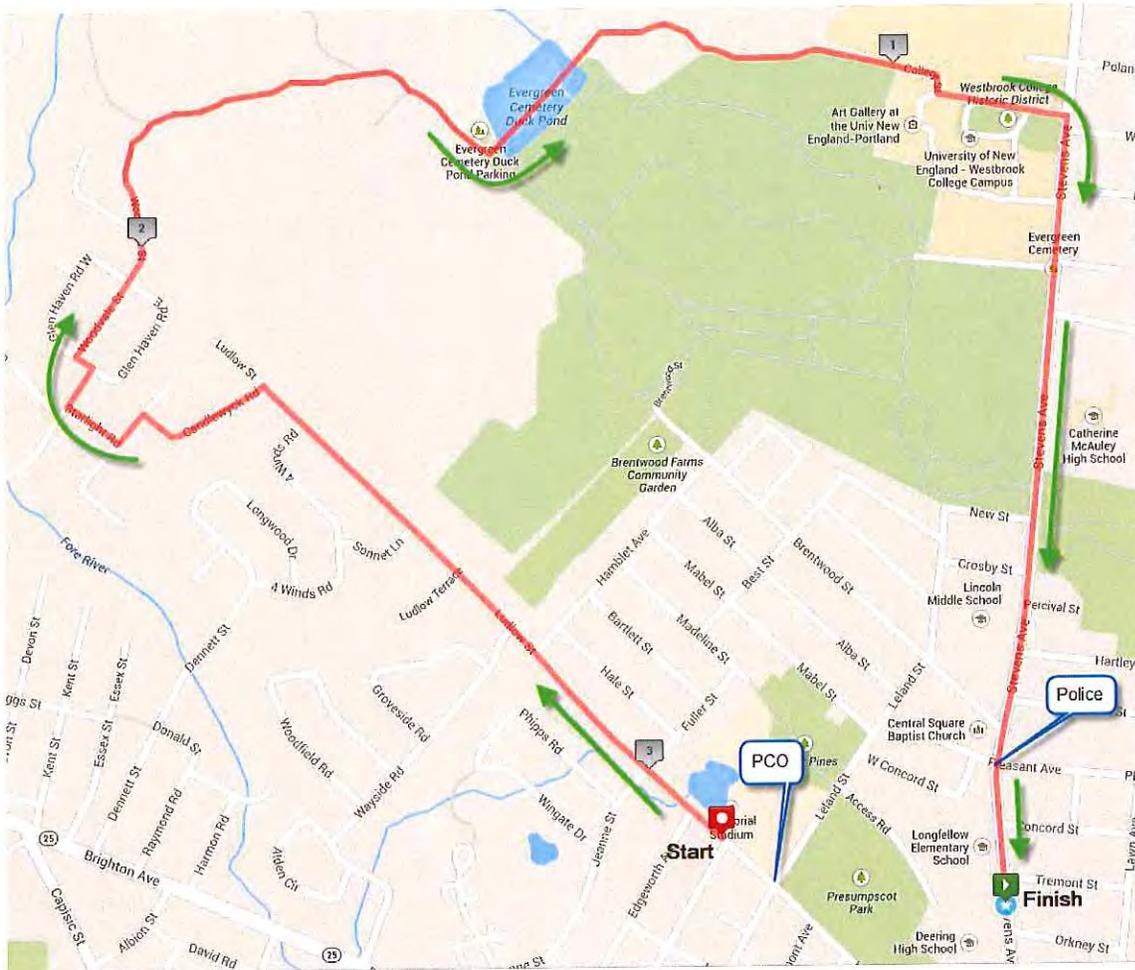
**BE IT FURTHER ORDERED**, that the Green Neighbor Family Festival take place primarily on Deering High School grounds beside Stevens Avenue, from 9:30 a.m. to 1:30 p.m. and that the Festival Area be closed to street vendors pursuant to Sections 19-17 and 19-22 of the Portland City Code and be reserved for the use of the Portland Public Works Department and

the Cumberland County Soil & Water Conservation District for the purpose of conducting the Urban Runoff / Green Neighbor Family Festival subject to the direction and control of the City Manager; and

**BE IT FURTHER ORDERED**, that the City Manager is authorized to issue a revocable permit under §§25-26—25-28 of the Portland City Code to the Festival Organizers for the use of the above-described area for said Race and Festival, subject to the following conditions:

- Festival Organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;
- The Cumberland County Soil & Water Conservation District and Road Runners Club of America shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The insurance certificate will also list the City of Portland as an additional insured in regards to the Urban Runoff / Green Neighbor Family Festival;
- Expenses incurred by City Departments for said event, shall be waived, except for direct staff costs incurred by Police and Parking Control Officers assisting with the Race;
- Conditions for use of grounds, the positioning of volunteer flaggers at race route intersections, and requirements for food service, vending sales, and other items specified in a permit issued by the Public Assembly Facilities Division, shall be adhered to;
- The Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and concert licenses for the Festival to those vendors the Festival Organizers have agreed shall participate;
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said Race and Festival; and
- The route of the course is subject to change, depending on construction projects along the course, and Police Department needs; and

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





Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

TO: Jon Jennings, City Manager  
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management  
DATE: December 18, 2017  
RE: **Council Agenda Item – Urban Runoff / Green Neighbor Family Festival**

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I am requesting that the following order be placed on the next City Council agenda (Jan. 3):

Order Authorizing the Urban Runoff / Green Neighbor Family Festival 2018, scheduled for Saturday, April 21, 2018.

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This will be the 7th Annual Urban Runoff 5K Race and Green Neighbor Family Festival. The Public Works Department works with the Cumberland County Soil & Water Conservation District to organize the events.

These two events are held by the city to meet water quality outreach and education requirements under the state's stormwater permit to the city and are held as a kickoff event to raise community awareness about watershed and water quality issues. This is also a very affordable way for the city to work with other municipalities and local partners to reach out to the residents and businesses of the Greater Portland area to help them understand the importance of protecting water quality in our streams, rivers and coastal waters and how they can make a difference.

The Urban Runoff is a 5K race making use of Portland streets and the outer Evergreen Cemetery Trail. Race start is 9am. Expected attendance is 700 runners. In order to start the race, a portion of Ludlow Street (both lanes: Columbia Rd. to Edgeworth Ave.) needs to be closed to vehicular traffic: 8:30 – 9:15am. The finish line is situated on Stevens Ave. beside Deering High School (closed from approx. 7 – 11am).

The Green Neighbor Family Festival takes place primarily on Deering High School grounds, beside Stevens Avenue. Time: 9:30am – 12:30pm. Expected attendance: 1000. Musical entertainment, information booths, hands-on educational activities, games, food trucks and food vendors are just some of the fun planned for the day. In order to facilitate the festival (and the race finish line), a portion of Stevens Ave. (both lanes: Pleasant St. to Higgins St.) and sidewalks, will need to be closed to vehicular traffic: 7am – 11am. This section of street will also need to be posted "No Parking."

The Festival area will also be closed to street vendors pursuant to Section 19 -17 / 19-22 of the

(continued)



Gregory A. Mitchell  
Director, Economic Development Department

Sally L. DeLuca  
Director  
Department of Parks, Recreation & Facilities

Andrew J. Downs  
Director  
Public Assembly Facilities Division

Portland City Code and is reserved for the use of event organizers for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager.

Festival grounds are as follows:

Ludlow Street (Columbia Rd. to Edgeworth Ave.)  
Deering High School Grounds and School Parking Lots  
Stevens Ave. and adjacent sidewalks (Pleasant St. to Higgins St.)

Race/Festival organizers will work with METRO to ensure impact to transit services is kept to a minimum. METRO Buses should be able to proceed through the barricaded section of closed street during the time when the runners are not nearing the Finish Line.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Festival organizers for the use of the above-described area for said race and festival, subject to the following conditions:

- The Cumberland County Soil & Water Conservation District / Road Runners Club of America, shall indemnify the city and hold it harmless from and against all claims arising out of activities during said race and festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 combined single limit for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Urban Runoff / Green Neighbor Family Festival,
- Expenses incurred by City Departments for said event, shall be waived, except for direct staff costs (Police and Parking Control Officers assisting with race),
- Conditions for use of grounds and requirements for food service, vending sales, stages, tents, and other items specified in a permit issued from Public Assembly Facilities Division, shall be adhered to, and
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said race and festival.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PAFD Event Coordinator



Start

PCO

Police

Finish

Evergreen Cemetery Duck Pond

Evergreen Cemetery Duck Pond Parking

Art Gallery at the Univ New England-Portland

Westbrook College Historic District

University of New England - Westbrook College Campus

Evergreen Cemetery

Catherine McAuley High School

Brentwood Farms Community Garden

Lincoln Middle School

Central Square Baptist Church

Longfellow Elementary School

Presumpscot Park

Deering High School

2

1

3

Fore River

25

25

Devon St

Kent St

Kent St

Kent St

Kent St

Kent St

Essex St

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**CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION  
PUBLIC PARK & SPACE APPLICATION (4 pages)  
212 Canco Rd. ~ Portland ~ ME ~ 04103  
207-808-5400 x0  
Ted Musgrave tvn@portlandmaine.gov**

**For uses of city property, there are typically: 1. fees charged for use of the area  
2. a security deposit required 3. insurance required  
(There may be fees due and applications required from other City Departments)**

<b>TODAY'S DATE</b>		11/20/17 Revised: 12-8	<b>ORGANIZATION NAME</b>		Cumberland County Soil & Water Conservation District				
<b>ORGANIZATION ADDRESS</b>			35 Main Street, Suite 3	<b>CITY</b>	Windham	<b>STATE</b>	ME	<b>ZIP</b>	04062
<b>CONTACT NAME(S)</b>		Jami Fitch Erik Boucher	<b>TITLE</b>		Education & Outreach Manager Race Director (207-210-8655)				
<b>HOME #</b>	<b>WORK</b>		<b>CELL</b>	<b>FAX</b>		207-892-4773			
<b>EMAIL</b>	Jami Fitch	<a href="mailto:jfitch@cumberlandswcd.org">jfitch@cumberlandswcd.org</a>	<b>EMAIL</b>	Erik Boucher	<a href="mailto:ebouche1@maine.rr.com">ebouche1@maine.rr.com</a>				
	Doug Roncarati	<a href="mailto:DAR@portlandmaine.gov">DAR@portlandmaine.gov</a>		Julia Evans (DHS)	<a href="mailto:evansju@portlandschools.org">evansju@portlandschools.org</a>				
	erik@justgiddyup.com			Kmunson@cumberlandswcd.org					

<b>PARK AREA OR PUBLIC SPACE REQUESTED</b>		Ludlow Street (for Urban Runoff 5k start area) Stevens Avenue (for Urban Runoff 5k finish area) Deering High School front lawn (for Green Neighbor Family Fest) (Organizers are also coordinating with Portland Public Schools for Festival)			
<b>EVENT DAY &amp; DATE(S)</b>	SAT 4-21-2018	<b>RAIN DAY &amp; DATE(S)</b>	N/A (50% added fee)		
<b>EVENT START TIME</b> (i.e. set-up start time)	5:00 a.m.	<b>EVENT END TIME</b> (i.e. when event cleanup is complete)	2:30 p.m.	<b>ACTUAL START &amp; END TIME OF EVENT</b>	<b>Race: 9am START – 11:00 a.m.</b> <b>Festival: (9:30 a.m. – 12:30 p.m.)</b>

EVENT NAME	EXPECTED ATTENDANCE
Urban Runoff 5k + Green Neighbor Family Fest	700 (race) 1,000 (fest)

**DESCRIPTION OF EVENT:**

This is the 7th annual Urban Runoff 5k to be followed by the Green Neighbor Family Fest, both to be held in the Deering High School area on Sat., April 21, 2018. The race and festival are coordinated by the Cumberland County Soil & Water Conservation District with assistance from the City's Public Works Dept. (Water Resources) to raise community awareness about watershed and water quality issues. Approximately 700 runners are expected for the race, and 1,000 estimated to attend the Festival.

EVENT WILL GO BEFORE PORTLAND CITY COUNCIL, FOR FESTIVAL DECLARATION STATUS.

Race organizers would like to close off a section of street (Ludlow Street) for the Start Line and Stevens Ave for the Finish Line. Stevens Ave would also be closed as a staging area for the Festival itself (see attached Start Area and Finish Area maps). (Race designed by Erik Boucher, race director – phone: 207-210-8655). **A Police Officer and 2 PCOs will be hired by organizer, for the race. The Police Dept. will also try to provide (no cost) an on-duty officer to lead the race – for 5 minutes - down Ludlow.**

**Route:** This is a 5 kilometer/3.1 mile run (see attached course map). Water tables may be set up along the race route. Runners assemble for race on and around Ludlow Street between Columbia Ave and Rosemont Ave. At 9:00am runners take off down Ludlow St (heading north), then Left on Candlewyck Rd, then Right on Starlight Rd., then Right on Warwick St., Left on Glen Haven Rd. West, Right on Woodvale St., Get onto Evergreen Cemetery Trail, and Exit trail onto College St. inside UNE Campus, then Right on Stevens Ave., then continue down Stevens Ave. (parking lane), ending at finish line (just before Orkney Street).

Section of Ludlow Street closed to traffic: Columbia/Leland to Edgeworth Ave. (8:30 – 9:15am). Detour signs will reroute traffic around via Columbia St, Leeman St and Edgeworth Ave. **Two Parking Control Officers will be positioned on Ludlow to assist with the closure of Leland Street and redirecting traffic. A Police Officer stationed at Pleasant & Stevens.**

Section of Steven Ave closed to traffic: Higgins St to Pleasant Ave (7:00 am – 11:00 am). Detour signs will reroute traffic around via Higgins St, Lawn Ave, and Pleasant St. **A Police Officer will be assigned to the Pleasant Ave. intersection. A Parking Control Officer will be positioned at Stevens Ave and Ludlow St to assist with the street closure.**

Event organizers will work with the Greater Portland METRO to allow buses to pass through the temporary street closure.

A Public Announcement system will be set up at the start on the sidewalk off Ludlow St. An announcer will play music and talk to participants from 8:30a.m. to 9:05a.m. Electricity for PA System will come from a generator.

A second Public Announcement system will be set up on the lawn in front of Deering High School next to the finish line on Stevens Ave. The announcer will play music and talk to participants from 9:20am until 11:00am.

Race intersections will be staffed by volunteers (to hold back traffic if necessary, and to let vehicles through intermittently when space allows). Barricades would be used at the Finish Line intersections where traffic is detoured. **"No Parking" signs will be needed for the UNE and Evergreen Cemetery side of Stevens Avenue from College St to Pleasant Ave.** Orange cones will also be placed along the white line from College St to Pleasant Ave. Runners will run to the right of the cones along Stevens Ave... (i.e. run in the parking lane. Slower joggers and walkers will be asked to use sidewalk.)

Some Parking Spaces (40) in the DHS Parking Lot (near Tennis Courts), need to be reserved for sports teams / tennis matches.

**Green Neighbor Family Fest Description:** The Green Neighbor Family Fest (GNFF) serves as the annual kickoff event for the City of Portland's Greener Neighborhoods Cleaner Streams Program, part of the City's Capisic Brook restoration effort. The goal of the GNFF is to raise awareness of the Capisic Brook watershed and impacts to it, and provide attendees an opportunity to celebrate Earth Day. Many local organizations will offer children's environmental activities about water or other conservation topics (forestry, energy, waste, etc.). Canopies & Tables will be set up on the front lawn of Deering High School for these activities. Live entertainment will be provided, including music. Electricity provided by DHS. A small stage (8' x 12') will be set up on the DHS front lawn for these performances. Some food truck vendors will be invited to set up inside the closed-off section of Stevens Ave.

<b>IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?</b>	Please check: <input checked="" type="checkbox"/> <b>FEE</b> <input type="checkbox"/> <b>PLEDGES</b>	
<b>IF YES FOR FEES, HOW MUCH?</b>	<b>FEE</b>	\$18-\$25 pre-registration; \$30 day of registration (race only)
	<b>STUDENT FEE</b>	\$8-\$15 pre-registration; \$15 day of registration (race only)

**WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?**

**PLEASE CHECK OFF AND ANSWER:**

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a <b>canopy(s)</b> ? YES (canopy is 10x10 size) How many: ~20	X		
* Do you wish to set up a <b>tent(s)</b> ? A canopy or tent larger than 10x10 needs to be approved		X	
* Will you be setting up <b>tables and/or chairs</b> ? How many tables: ~40 chairs: ~20	X		
* Are other items or equipment being placed on City property? Please List: <b>Stage for live performances, bales of hay, moon bounce</b>	X		
* Will there be <b>refreshments</b> at the event? YES Do you wish to <b>sell food</b> ? YES (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office) <b>List food and drink / Food Trucks, etc.: PREPACKAGED SNACKS &amp; BOTTLED DRINKS; FOOD TRUCKS – MAINLY AT FESTIVAL PORTION OF EVENT</b> PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served PLEASE give the BL Office at least a 2-week notice (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event.	X		
* Do you wish to sell <b>non-food items</b> (like T-shirts, crafts, cd's, etc.)? YES If so, you will need approval from PAFD Office, and you will need to apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. <b>List items you wish to sell: T-SHIRTS &amp; WATER BOTTLES</b>	X		
* Are you setting up a <b>PA (sound) system</b> ? Are you planning on having <b>Amplified Music</b> ? Y <b>Band</b> ? Y <b>DJ</b> ? Y <b>Boom Box</b> ? Y A Sound Security Deposit will also be required for amplification.	X		
* Will your event require <b>electricity</b> ? YES – <b>BORROWED FROM DHS CLASSROOM</b>	X		
* Are you planning on bringing a <b>Grill for a Barbecue</b> ?		X	
* Will the event require <b>reserved parking spaces / parking meters</b> ? How many? "No Parking" signs may be purchased at PAFD Office, 212 Canco Rd. <b>No Parking signs along Stevens Avenue from College St to Longfellow Elementary School</b>	X		
* Will your event need <b>safety vests, signs, barricades and/or cones</b> ?	X		

	Please list what you would like to borrow: <b>14 barricades, 4 Detour signs, 100 orange cones</b> A few orange vests and cones may usually be borrowed from PAFD Office. Barricades and signs are borrowed from Public Works, Customer Service.			
*	Will your event require <b>street closures</b> ? <b>YES</b> (Please be specific under "Description of Event") Will your event affect <b>METRO BUS ROUTES</b> ? <b>YES</b> (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 ( <a href="mailto:gfenton@gpmetrobus.com">gfenton@gpmetrobus.com</a> ) to discuss.	X		
*	Will your event require <b>Police</b> assistance?	X		
*	Will your event require <b>Fire/EMS</b> assistance? (For a large walk/race, it is recommended.)		X	
*	Will your event require <b>porta-restroom</b> rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated. <b>Porta-restrooms will be rented through Blow Brothers Portable Toilets</b>	X		

INSURANCE CERTIFICATE INFORMATION				
*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X		
<p>◆ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions.</p> <p>◆ Both the <b>Certificate of Insurance</b> and <b>Additional Insured Endorsement</b> shall be sent to <a href="mailto:tvm@portlandmaine.gov">tvm@portlandmaine.gov</a> and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).</p>				

## PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

### ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

### PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. It is our understanding you are renting a sufficient number of porta-restroom units for this event (or using Deering High School restrooms).

### TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

### MARKING OF GROUNDS

Event Organizers must not use Spray Paint or Spray Chalk when marking city property. Children's Art Chalk can be used with permission from PAFD Office.

### ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

### PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city

staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

**SMOKE-FREE ZONES**

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

**NOTIFICATION**

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

**REVOCABLE PERMIT**

- ◆ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ◆ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	JF	DATE	11/20/17
--	---------------	----	------	----------

**ASSUMPTION OF RISK & LIABILITY**

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	JF	DATE	11/20/17
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**FEE SCHEDULE – UPDATED JULY 1, 2015**

**Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.**

Simple Event (no registration fee): \$50/hour Event with registration or pledges & attendance 25 – 300: \$100/hr Event with registration or pledges & attendance 301+: \$200/hr Public Space/Park Security Deposit/Sound Security Deposit: \$100-\$1000	Impact/Street Closure Fee (variable based on impact): \$0-\$500 Admin/Staff Fee (support for events): \$30/hour Porta Restroom User Fee (if attendance is 150+): \$25
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**CREDIT CARD INFORMATION**

Visa or MasterCard Number				Exp Date (Mon/Yr)		
<b>CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED</b>						

**PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"**

- ◆ Please make out security deposit checks separate from permit fees.

**TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION** (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use: <b>Approx. 9 hours</b>	\$ N/A City co-sponsored event	Vest/Cone Deposit: \$15 per/item Barricade Deposit: \$25 per/item	\$ TBD
Admin/Staff Fee (support for events): \$30/hour	\$ N/A	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ TBD
Key Deposit: \$50 per key	\$ N/A	Other (Porta-Restroom User Fee: \$25, etc.)	\$ N/A – renting from local vendor
Impact/Street Closure Fee (variable based on impact): \$100-\$500	\$ N/A	NP Signs: \$1 / \$15 each Cone Rental: \$2 each Barricade Rental: \$5 each Bike Rack: \$10 each	

**FOR OFFICE USE ONLY**

DATE REC'D APPLICATION	11-20-17	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ WAIVED	SECURITY DEPOSIT	\$ TBD
<b>PAYMENT TYPE</b>							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

*order 135-17/18  
Tab 7 1-3-18*

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY M. COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

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

**Bob's Goes Electric LLC DBA Bob's Clam Hut. Application for a Class III & Class IV  
FSE with Outdoor Dining on Private Property at 111 Cumberland Avenue.**

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US Route 1  
Kittery  
Maine 03904



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☎ 207-439-4233  
Fax 207-439-4790  
Office 207-439-4919

November 15, 2017

To the Mayor and City Council Members of the City of Portland, Maine:

The following constitutes a letter of intent as requested to accompany an Application for Food Service Establishment with Alcoholic Beverages and the supplemental application for Outdoor Dining on Private Property.

Bob's Goes Electric LLC. d/b/a Bob's Clam Hut will be a fine casual New England seafood restaurant providing a restorative eating and drinking experience that is relaxed and familiar. The physical location of the restaurant is 111 Cumberland Ave, Portland, ME 04101 with a mailing address of 315 US Route 1 Kittery, ME 03904.

We provide this letter as part of the process to obtain all necessary licenses in time for our intended soft opening March 15, 2018. Please direct any inquiries or follow-up to the number or e-mail below.

Regards,

A handwritten signature in black ink that reads "Josh Bowen". The signature is written in a cursive style and is positioned above the typed name and contact information.

Josh Bowen  
Landy's Management Group  
Bob's Clam Hut, Lil's Café  
Manager of Finance & Human Resources  
[josh@bobsclamhut.com](mailto:josh@bobsclamhut.com) 207.439.4919

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department  
 Michael A. Russell, MS, Director  
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557  
[www.portlandmaine.gov](http://www.portlandmaine.gov)

**Application for Food Service Establishment with Alcoholic Beverages License**

<b>Business Information</b>	
Business Name (d/b/a):	Bob's Goes Electric LLC d/b/a Bob's Clam Hut Phone: 207-439-4919
Location Address:	111 Cumberland Ave Portland, ME Zip: 04101
If new, what was formerly at this location:	Formerly 3 Broys Restaurant at building
Mailing Address:	315 US Route 1 Kittery, ME Zip: 03904
Contact Person:	Josh Bowen Phone: 207-439-4919
Contact Person Email:	josh@bobsclamhut.com
Manager of Establishment:	Michael Landgarten Date of Birth: 09/16/58 Phone: 207-439-4919
Owner of Premises (Landlord):	Engelmildred LLC
Address of Premises Owner:	PO Box 16028 Portland, ME 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)**

<b>Corporate Name</b>		<b>Corporate Mailing Address</b>	
Bob's Goes Electric LLC		315 US Route 1 Kittery, ME Zip: 03904	
Contact Person:	Josh Bowen	Phone:	207-439-4919
<b>Principal Officers</b>	<b>Title</b>	<b>Date of Birth</b>	<b>Residence Address</b>
Michael Landgarten	President	09/16/58	578 Haley Rd Kittery Point, ME 03905
Tim Beal	Director of operations	06/24/75	6 Blueberry Lane Kittery, ME 03904

**About Your Establishment**

Class of Liquor License:	Class <u>III</u> and <u>IV</u> , Malt & Vinuos License	
Type of food served:	Fried Seafood, soups, sandwiches	
Please circle all that will be served:	<input checked="" type="checkbox"/> Beer <input checked="" type="checkbox"/> Wine <input type="checkbox"/> Liquor	
Projected percentage of sales:	Generated from Food: <u>80%</u>	Generated from Alcohol: <u>20%</u>
Hours & days of operation:	Sun - Wed 11-9 Thu - Sat 11-9	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	<input checked="" type="checkbox"/>
If No, please explain: <i>Many items are tableware optional aside from plates (eg. sandwiches, fried clams)</i>	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	<input checked="" type="checkbox"/>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	<input checked="" type="checkbox"/>
Will you permit dancing on the premises?	<input checked="" type="checkbox"/>
Will you permit dancing after 1:00 a.m.?	<input checked="" type="checkbox"/>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	<input checked="" type="checkbox"/>
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)?	<input checked="" type="checkbox"/>
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	<u>03/15/2018</u>
Does the issuance of this license directly or indirectly benefit any City employee(s)?	<input checked="" type="checkbox"/>
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?	<input checked="" type="checkbox"/>
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	<input checked="" type="checkbox"/>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	<input checked="" type="checkbox"/>
If Yes, please explain:	

I Josh Bowen 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 of Finance + Human Resources Date 11/9/17

For more information about Liquor Licenses, see Portland City Code Chapter 15 at [www.portlandmaine.gov](http://www.portlandmaine.gov) and M.R.S.A. Title 28-A at [www.maine.gov](http://www.maine.gov).

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department  
 Michael A. Russell, MS, Director  
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557  
[www.portlandmaine.gov](http://www.portlandmaine.gov)

**Outdoor Dining Permit on Private Property  
 Supplemental Application**

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

Outdoor Dining on Private Property \$125.00     Legal Advertisement Deposit \$100.00

Business Information	
Business Name (d/b/a):	Bob's Goes Electric LLC d/b/a Bob's Clam Hut Phone: 207-439-4919
Location Address:	111 Cumberland Ave Zip: 04101 Portland, ME 04101
Mailing Address:	315 US Route 1 Zip: 03904 Kittery, ME 03904
Contact Person:	Josh Bowen Phone: 207-439-4919
Contact Person Email:	josh@bobsclamhut.com
Manager of Establishment:	Michael Landgarten Date of Birth: 09/16/58 Phone: 207-439-4919
Owner of Premises (Landlord):	Engelmildred LLC
Address of Premises Owner:	PO Box 16028 Portland, ME Zip: 04101

**Owner Information**

Corporate Name	Corporate Mailing Address
Bob's Goes Electric LLC	315 US Route 1 Kittery, ME Zip: 03904
Contact Person:	Josh Bowen Phone: 207-439-4919

Principal Officers	Title	Date of Birth	Residence Address
Michael Landgarten	President	09/16/58	578 Haley Rd. Kittery Point ME, 03905
Tim Beal	Director of Operations	06/24/75	6 Blueberry Lane Kittery, ME 03904

### About Your Establishment

Class of License:	Class I		
Type of food served:	Fried Seafood, soups, sandwiches		
Please circle all that will be served:	<input checked="" type="checkbox"/> Beer	<input checked="" type="checkbox"/> Wine	Liquor
Hours & days of operation:	Sun-Wed 11-9	Thu-Sat 11-10	
Number of Tables	12 indoors	10 outdoors	} Picnic Tables
Number of Chairs	26 indoors	45 outdoors	

### 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](mailto: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  Title Manager of Finance + Human Resources Date 11/9/17

### 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: _____	_____ / _____	_____

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

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application:  Yes  No

PRESENT LICENSE EXPIRES

n/a

INDICATE TYPE OF PRIVILEGE:  MALT  VINOUS  SPIRITUOUS

INDICATE TYPE OF LICENSE:

- RESTAURANT (Class I,II,III,IV)  
 HOTEL-OPTIONAL FOOD (Class I-A)  
 CLASS A LOUNGE (Class X)  
 CLUB (Class V)  
 TAVERN (Class IV)

- RESTAURANT/LOUNGE (Class XI)  
 HOTEL (Class I,II,III,IV)  
 CLUB-ON PREMISE CATERING (Class I)  
 GOLF CLUB (Class I,II,III,IV)  
 OTHER: \_\_\_\_\_

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Bob's Goes Electric LLC</u>	Business Name (D/B/A) <u>Bob's Clam Hut</u>
APPLICANT(S) - (Sole Proprietor) <u>Michael Landgarten</u> DOB: <u>9/16/58</u>	Physical Location: <u>111 Cumberland Ave</u>
<u>Timothy Beal</u> DOB: <u>6/24/75</u>	City/Town State Zip Code <u>Portland ME 04101</u>
Address <u>315 US Route 1</u>	Mailing Address <u>315 US Route 1</u>
City/Town State Zip Code <u>Kittery ME 03904</u>	City/Town State Zip Code <u>Kittery ME 03904</u>
Telephone Number Fax Number <u>207-439-4919</u>	Business Telephone Number Fax Number <u>207-439-4919</u>
Federal ID, # <u>82-3418356</u>	Seller Certificate #: or Sales Tax #: <u>have not rec'd yet.</u>
Email Address: Please Print <u>josh@bobsclamhut.com</u>	Website: <u>bobsclamhut.com</u>

If business is NEW or under new ownership, indicate starting date: 3/15/18 target opening  
 Requested inspection date: 3/1/18 Business hours: Sun-Wed 11-9 Thu-Sat 11-10

3. If a premise is a hotel, indicate number of rooms available for transient guests: n/a  
 4. State amount of gross income from period of last license: ROOMS \$ n/a FOOD \$ n/a LIQUOR \$ n/a  
 5. Is applicant a corporation, limited liability company or limited partnership? YES  NO

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES  NO   
 7. If manager is to be employed, give name: Timothy Beal  
 9. Business records are located at: 315 US Route 1 Kittery, ME 03904  
 10. Is/are applicants(s) citizens of the United States? YES  NO

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

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married; Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Michael Landgarten, President	9/16/58	Flushing NY, USA
Tim Beal, applicant/manager	6/24/75	Chicago IL, USA

Residence address on all of the above for previous 5 years (Limit answer to city & state)

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

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes  No  If Yes, give name: \_\_\_\_\_

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

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: Engel/Mildred LLC PO Box 16028 Portland, ME 04101

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) small restaurant serving fried clams and New England favorites

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES  NO  Applied for: Eating license

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .2 mile Which of the above is nearest? church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO  If applicable/relevant, ...

If YES, give details: Seed + start-up assistance from parent company Bob's Clam Hat Inc.

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

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

Dated at: Kittery, ME on 11/10, 2017  
Town/City, State Date

Michael Landgarten  
Signature of Applicant or Corporate Officer(s)  
Michael Landgarten  
Print Name President

Please sign in blue ink

Tim Beal  
Signature of Applicant or Corporate Officer(s)  
Tim Beal  
Print Name Applicant/manager

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

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

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

**TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:**

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

Dated at: \_\_\_\_\_, Maine \_\_\_\_\_  
City/Town (County)

On: \_\_\_\_\_  
Date

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS APPROVAL EXPIRES IN 60 DAYS**

**NOTICE – SPECIAL ATTENTION**

**§653. Hearings; bureau review; appeal**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. [1993, c. 730, §27 (RP) .]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]  
[1995, c. 140, §6 (AMD) .]

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

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

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

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

**Please be sure to include the following with your application:**

**Completed the application and sign the form.**

**Signed check with correct license fee and filing fee.**

**Your local City or Town's signature(s) are on the forms.**

**Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).**

**Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.**

**Complete the Corporate Information sheet for all ownerships except sole proprietorships.**

**If you have any questions regarding your application, please contact us at (207) 624-7220.**



**State of Maine**  
 Division of Alcoholic Beverages and  
 Lottery Operations  
 Division of Liquor Licensing and Enforcement

<b>For Office Use Only:</b>	
License #:	_____
SOS Checked:	_____
100% Yes	<input type="checkbox"/> No <input type="checkbox"/>

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

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

- Exact legal name: Bob's Goes Electric LLC
- Doing Business As, if any: Bob's Clam Hut
- Date of filing with Secretary of State: 11/02/17 State in which you are formed: Maine
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: n/a
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Michael Landgarten	578 Haley Rd. Kittery ME 03904	9/16/58	President/CEO	95%
previous address Michael Landgarten	26 Worster Rd Eliot ME 03903	same	as above	
Tim Beal	6 Blueberry Ln. Kittery ME 03904	6/24/75	Director of Operations	5%

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

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

7. Is any principal person involved with the entity a law enforcement official?

Yes  No  If Yes, Name: \_\_\_\_\_ Agency: \_\_\_\_\_

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes  No

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

Name: n/a

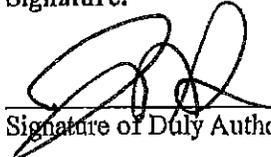
Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_

Location of Conviction: \_\_\_\_\_

Disposition: \_\_\_\_\_

Signature:

  
Signature of Duly Authorized Person

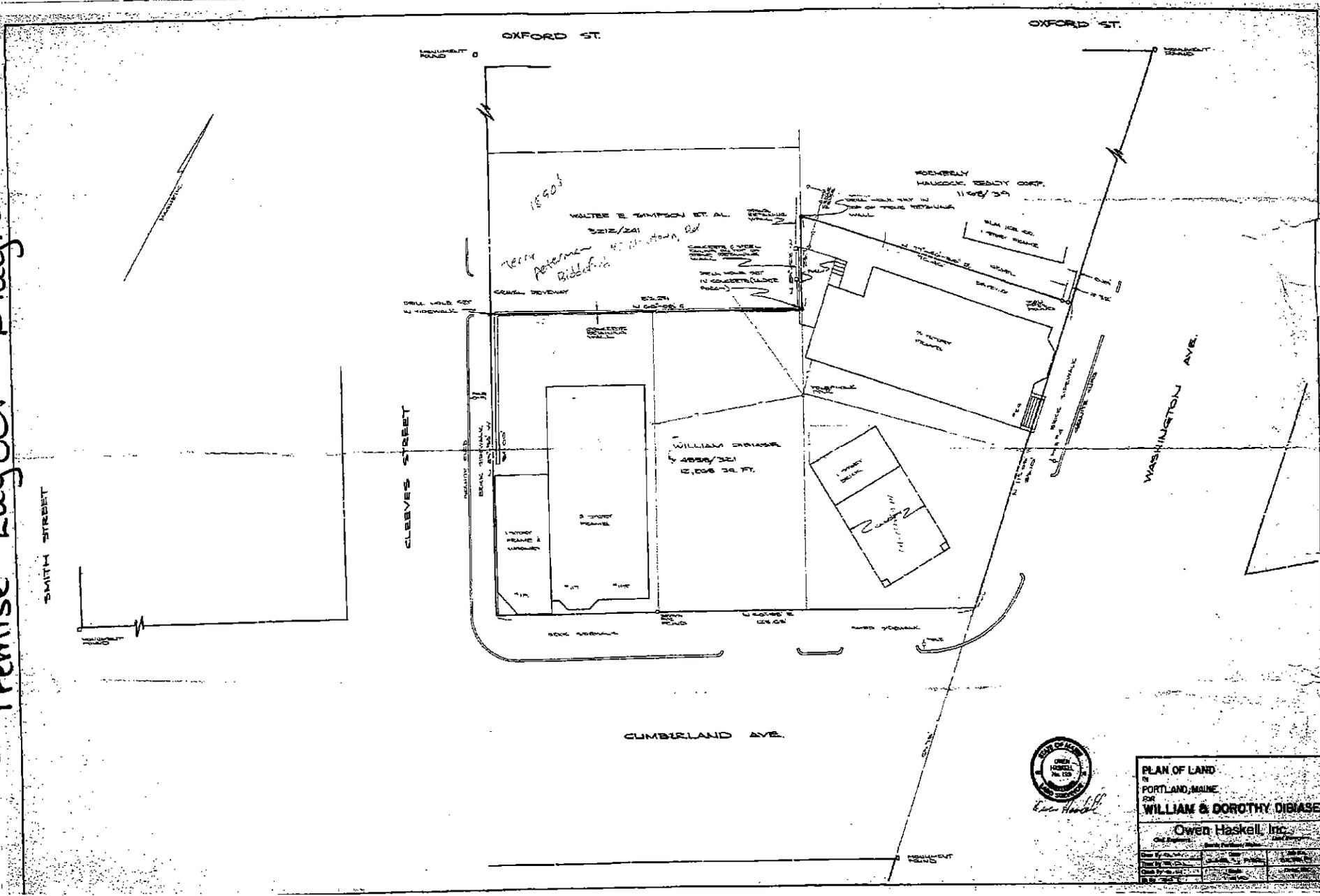
11/10/17  
Date

Josh Bowen  
Print Name of Duly Authorized Person

Submit Completed Forms To:

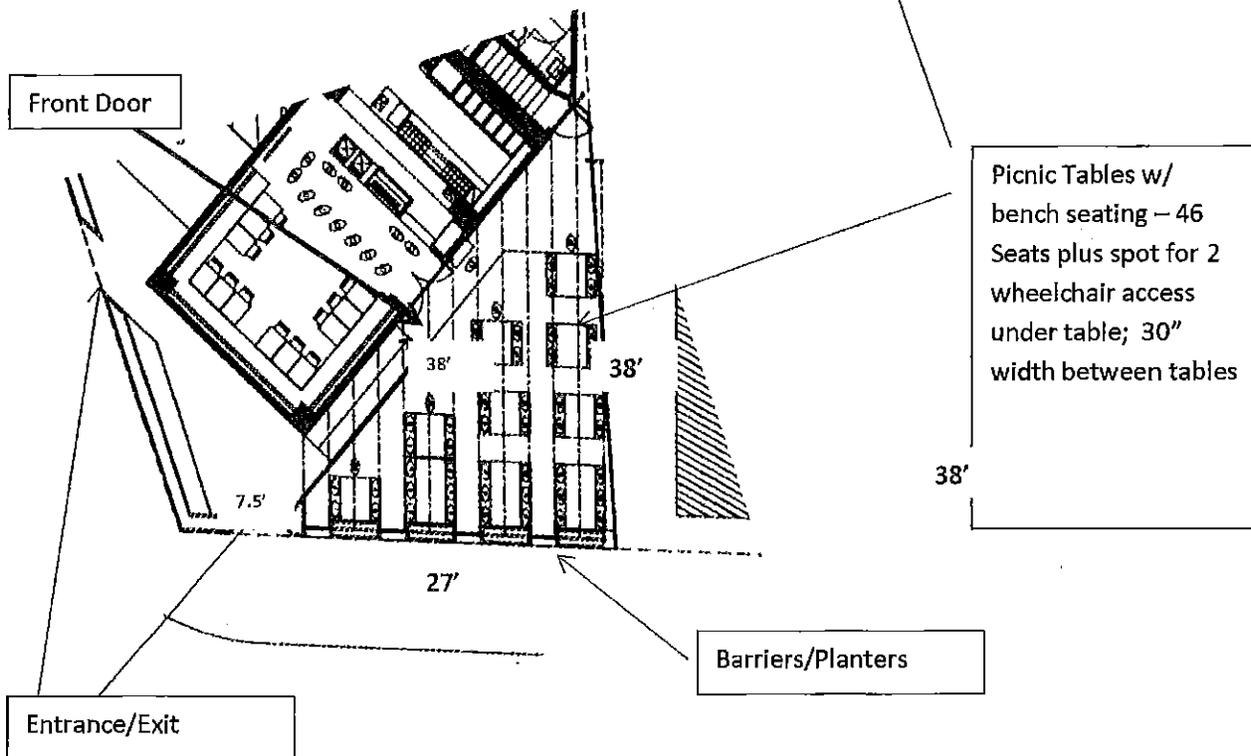
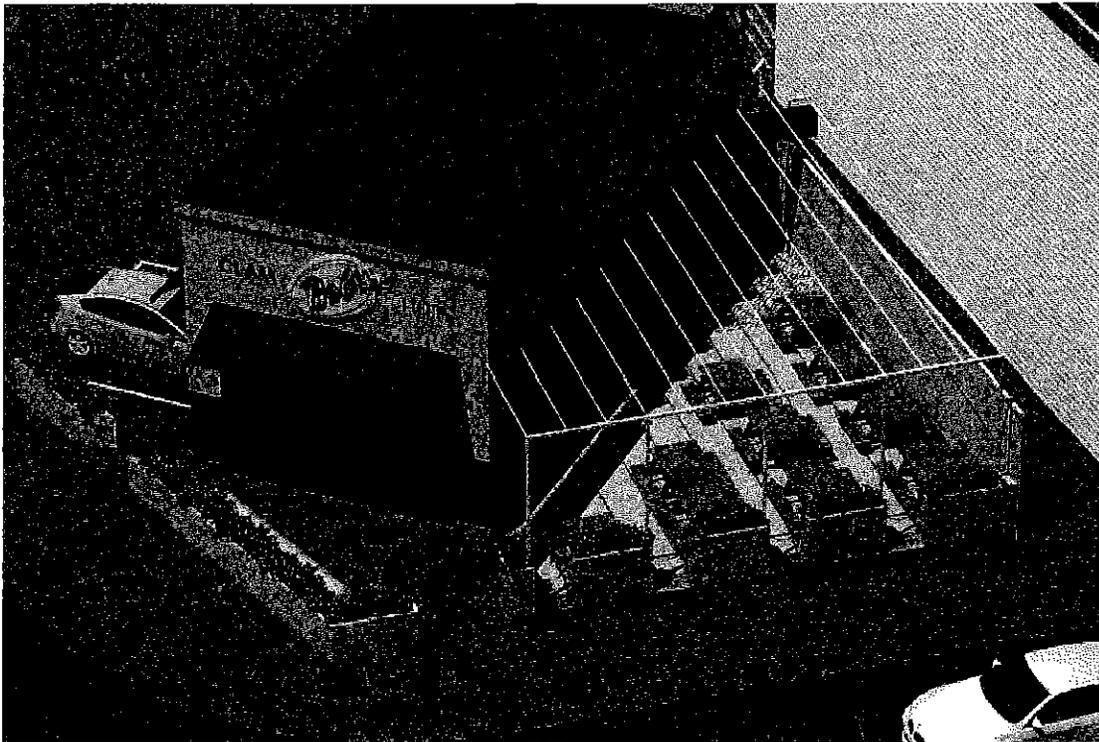
Bureau of Alcoholic Beverages  
Division of Liquor Licensing and Enforcement  
8 State House Station, Augusta, Me 04333-0008 (Regular address)  
10 Water Street, Hallowell, ME 04347 (Overnight address)  
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434  
Email Inquiries: [MaineLiquor@Maine.gov](mailto:MaineLiquor@Maine.gov)

Premise Layout Diagram



PLAN OF LAND  
 IN  
 PORTLAND, MAINE  
 FOR  
**WILLIAM & DOROTHY DIBIASE**  
 Owen Haskell, Inc.  
 City Engineer: \_\_\_\_\_  
 State Engineer: \_\_\_\_\_  
 Notary Public: \_\_\_\_\_  
 Date: \_\_\_\_\_

# Outdoor Dining Area : Barriers



Patio dimensions are 27' along the Washington Ave Side (bordered by planters); 38' against the property line (bordered with a fence), 38' running parallel to the building, and 7.5' at the corner.

## SOUPS

	SM	MD	LG
CLAM CHOWDER.....	5.95	7.95	8.95
LOBSTER STEW.....	10.95	13.95	16.95
FISH CHOWDER.....	4.95	6.95	7.95

## ROLLS

### FRENCH FRIES · GRILLED ROLL · PICKLE

	MARKET
WHOLE CLAM ROLL (BOB'S OR LILLIAN'S STYLE) .....	MARKET
CLAM STRIP ROLL.....	12.95
LOBSTER ROLL.....	19.95
JUMBO LOBSTER ROLL.....	23.95
SCALLOP ROLL.....	18.95
SHRIMP ROLL.....	14.95
OYSTER ROLL.....	16.95
CRAB ROLL.....	17.95
TUNA ROLL.....	6.95

## SANDWICHES

ADD FRENCH FRIES.....	1.25
HADDOCKWICH.....	12.95
FISHWICH.....	9.95
CLAMBURGER.....	3.95
CRAB MELT.....	18.95
TUNA MELT.....	8.95
HAMBURGER*.....	5.45
CHEESEBURGER*.....	5.95
ONION RING BURGER*.....	6.95
HOT DOG.....	2.95
GRILLED CHEESE.....	3.45
VEGGIE BURGER.....	6.95
GRILLED CHICKEN SANDWICH.....	6.95

BOB'S USES FRESH LOCAL INGREDIENTS AND ENCOURAGES YOU TO TRY OUR "UNDER-LOVED" FISH OPTIONS TO HELP SUSTAIN OUR WATERS AND FISHING ECONOMY. WE FRY IN ULTRA CLEAN, TRANS-FAT FREE, VEGETABLE OIL.

## BASKETS & DINNERS

### BASKET FRENCH FRIES · COLESLAW

### DINNER FRENCH FRIES · COLESLAW · ROLL

	BIG	BIGGER
	BASKET	DINNER
	MARKET	MARKET
WHOLE CLAM (BOB'S OR LILLIAN'S STYLE) .....		
CLAM STRIP.....	14.95	17.95
HADDOCK.....	16.95	18.95
FISH.....	13.95	16.95
SCALLOP.....	23.95	26.95
SHRIMP.....	17.95	19.95
BUTTERFLY SHRIMP.....	17.95	19.95
CALAMARI.....	11.95	13.95
OYSTER.....	21.95	25.95
CRAB CAKE.....	14.95	16.95
CLAM CAKE.....	8.95	10.95
CHICKEN.....	10.95	12.95
HAMBURGER* (2 BURGERS) .....	N/A	10.95
CHEESEBURGER* (2 BURGERS) .....	N/A	11.45

## COMBINATION PLATES

SEAFOOD BASKET	
W/ FRIES, CLAMS, SCALLOPS & HADDOCK .....	34.95
SEAFOOD BASKET JUNIOR.....	26.95
SEAFOOD BASKET W/ SHRIMP.....	39.95
SEAFOOD BASKET SPECIAL	
W/ FRIES, CLAM STRIPS, SHRIMP & FISH .....	26.95
CLAMS 2 WAYS BOB'S & LILLIAN'S STYLE CLAMS, FRIES, COLE SLAW & ROLL .....	24.95
CHOOSE 2 W/ FRENCH FRIES, COLE SLAW & ROLL	
A. CLAMS, SCALLOPS, HADDOCK	
B. OYSTERS, STRIPS, FISH, CALAMARI, SHRIMP	
HALF & HALF (FEEDS 1 OR 2)	
CHOOSE 2 FROM LIST A .....	35.95
CHOOSE 1 FROM LIST A AND 1 FROM LIST B .....	31.95
CHOOSE 2 FROM LIST B .....	27.95
BOB & BETTY (FEEDS 1)	
CHOOSE 2 FROM LIST A .....	25.95
CHOOSE 1 FROM LIST A AND 1 FROM LIST B .....	21.95
CHOOSE 2 FROM LIST B .....	17.95

SUBSTITUTE ONION RINGS, SPICED FRIES OR SWEET POTATO FRIES FOR AN ADDITIONAL \$1.95

HALF PINT, PINT AND QUART ORDERS OF ALL SEAFOODS ARE AVAILABLE! JUST ASK CASHIER.

## SIDES

	SM	MD	LG
FRENCH FRIES.....	2.95	3.95	4.95
SPICED FRIES.....	3.95	4.95	5.95
SWEET POTATO FRIES.....	4.95	5.95	6.95
ONION RINGS.....	5.95	6.95	N/A
ONION NUGGETS.....	2.95	N/A	3.95
COLE SLAW.....	2.95	N/A	4.95
CLAM CAKES EACH.....	2.95		
CRAB CAKES EACH.....	6.45		
FRIED MUSHROOMS.....	3.95		
MOZZARELLA STICKS.....	6.95		

## SALADS

### SEAFOOD ITEMS GO ATOP TOSSED SALAD

FRIED CALAMARI.....	12.95
FRIED SHRIMP.....	14.95
LOBSTER.....	22.95
CRAB.....	17.95
TUNA.....	10.95
TOSSED SALAD.....	6.95
SMALL TOSSED SALAD.....	3.95

## DRINKS

LEMONADE*.....	2.25
ICED TEA*.....	2.25
FOUNTAIN SODA*.....	2.25
COFFEE/TEA.....	.94
MILK/CHOC. MILK/1% MILK.....	2.25

\*FREE REFILLS

## HOMEMADE SAUCES

TARTAR SAUCE, COCKTAIL SAUCE, SPICY TARTAR, SWEET AND SOUR, CHIPOTLE MAYO, MOXIE BBQ, RANCH DRESSING

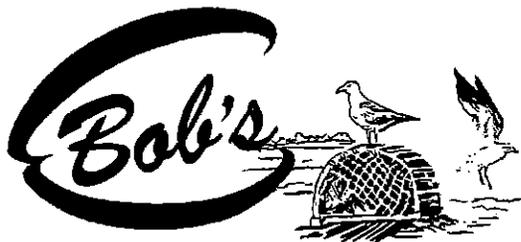
AVAILABLE ON REQUEST

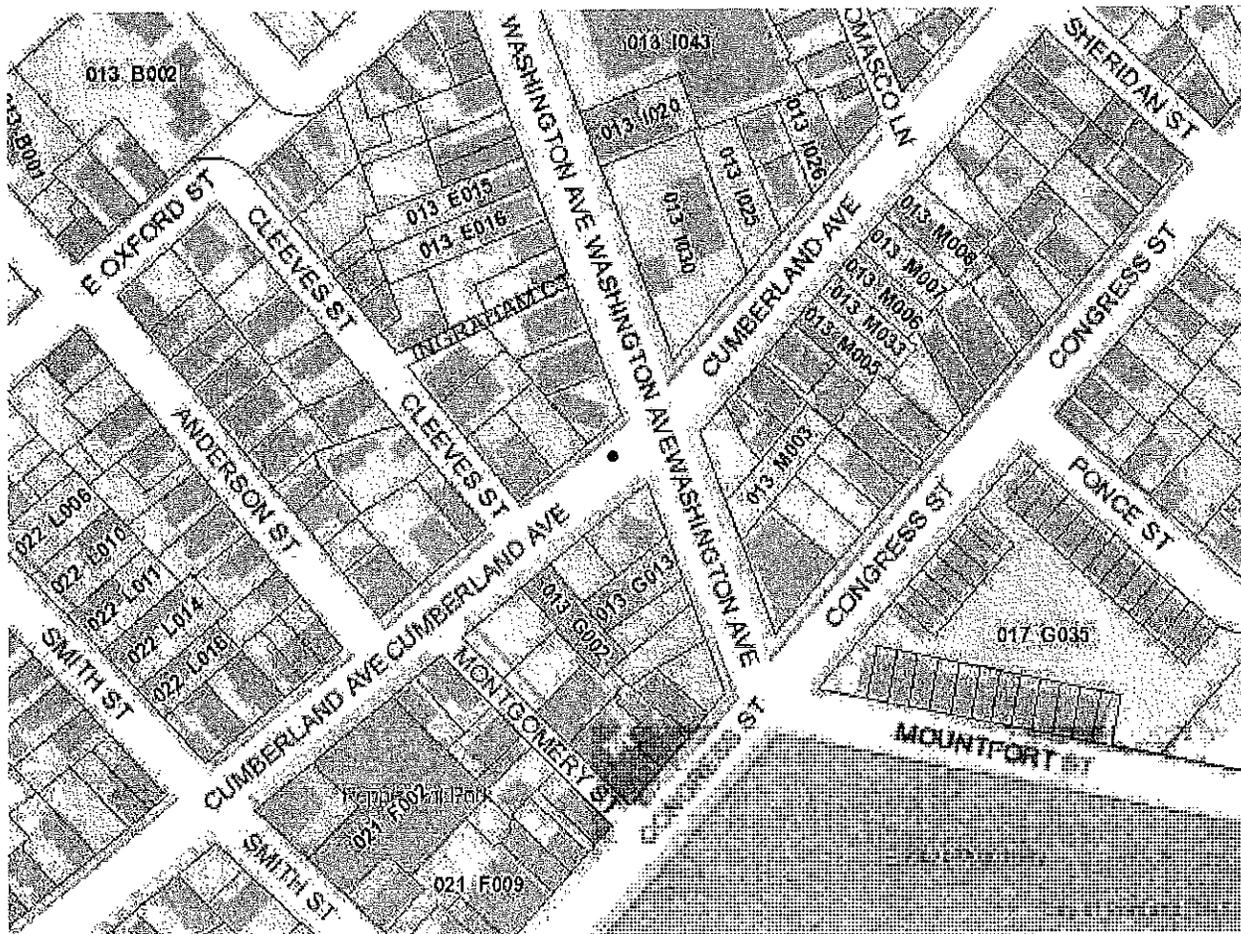
OR TAKE A ½ PINT HOME FOR \$1.50

WE'VE ALSO GOT SOFT SERVE ICE CREAM!

PRICES LISTED MAY CHANGE

ADD 8% SALES TAX PRICES SUBJECT TO CHANGE. WE USE CHOLESTEROL-FREE 100% VEG-ETABLE OIL. \* THIS FOOD IS OR MAY BE SERVED RAW OR UNDERCOOKED OR MAY CONTAIN RAW OR UNDERCOOKED FOODS. CONSUMPTION OF THIS FOOD MAY INCREASE THE RISK OF FOODBORNE ILLNESS. PLEASE CHECK WITH YOUR PHYSICIAN IF YOU HAVE ANY QUESTIONS ABOUT CONSUMING RAW OR UNDERCOOKED FOODS.







Jessica Hanscombe &lt;jhanscombe@portlandmaine.gov&gt;

---

**Re: Bobs Clam Hut**

---

Tue, Dec 5, 2017 at 4:42 PM

Kevin Cashman &lt;kevindc@portlandmaine.gov&gt;

To: Jessica Hanscombe &lt;jhanscombe@portlandmaine.gov&gt;

Cc: Benjamin Pearson &lt;bnp@portlandmaine.gov&gt;, Chris Pirone &lt;cpp@portlandmaine.gov&gt;, Eric Cobb &lt;ecobb@portlandmaine.gov&gt;, James Sweatt &lt;jjs@portlandmaine.gov&gt;, John Brennan &lt;brennanj@portlandmaine.gov&gt;, Laurie Carlson &lt;lac@portlandmaine.gov&gt;, Rachel Smith &lt;rms@portlandmaine.gov&gt;, Tom Williams &lt;tw@portlandmaine.gov&gt;, Treasury Division &lt;treasury@portlandmaine.gov&gt;, Vernon Malloch &lt;vwm@portlandmaine.gov&gt;

PD has no objections.

Kevin C.

On Tue, Dec 5, 2017 at 10:07 AM, Jessica Hanscombe &lt;jhanscombe@portlandmaine.gov&gt; wrote:

Good Morning

Please see the attached application for Bobs Clam Hut, 111 Cumberland Ave. This is for a Class III &amp; Class IV FSE with Outdoor Dining on Private Property. They will be going before council on 1/3/2018 with an anticipated opening date of mid march.

Owner is  
Bobs Goes Electric LLC  
Michael Landgarten  
Tim BealContact is  
Josh Bowen  
207-439-4919  
josh@bobsclamhut.com

The information has been added to UI for approvals. Thanks Jessica

Jessica Blais Hanscombe  
Licensing and Registration Coordinator  
389 Congress Street Room 307  
Portland, Maine 04101  
207-874-8783  
jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman  
Portland Police Department  
Patrol Division  
109 Middle St  
Portland, Maine 04101  
(O) 207-756-8294  
kevindc@portlandmaine.gov  
Hours - Saturday thru Tuesday (4pm-2am)



**MAINE STATE BUREAU OF IDENTIFICATION  
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42  
AUGUSTA, ME 04333  
(207) 624-7240 (VOICE)**

**JESSICA HANSCOMBE  
389 CONGRESS STREET  
PORTLAND, ME 04101**

**Transaction Response #: MIQ99D443161**

## **Criminal History Record**

### **Introduction**

**This criminal history record was produced in response to the following request ( Produced on 2017-12-05 ) :**

**Inquiries Name(s)                      MICHAEL LANDGARTEN (1958-09-16)**

**NO MATCH WAS FOUND FOR YOUR REQUEST.**



**MAINE STATE BUREAU OF IDENTIFICATION**  
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42  
AUGUSTA, ME 04333  
(207) 624-7240 (VOICE)

**JESSICA HANSCOMBE**  
389 CONGRESS STREET  
PORTLAND, ME 04101

**Transaction Response #: MIQ99D443162**

## **Criminal History Record**

### **Introduction**

**This criminal history record was produced in response to the following request ( Produced on 2017-12-05 ) :**

Inquiries Name(s) **TIM BEAL (1975-06-24)**

**NO MATCH WAS FOUND FOR YOUR REQUEST.**

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department  
Michael A. Russell, MS, Director

December 12, 2017

Bob's Goes Electric LLC  
315 US Route 1  
Kittery ME 03904

**Re: Bob's Goes Electric LLC DBA Bob's Clam Hut. Application for a Class III & Class IV FSE with Outdoor Dining on Private Property at 111 Cumberland Avenue.**

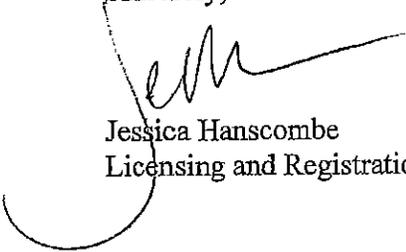
Dear Mr. Bowen,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Wednesday January 3, 2018 at 5:30 p.m.**, for the review of an application for a Class III & Class IV FSE with Outdoor Dining on Private Property at 111 Cumberland Avenue. The meeting will take place in Council Chambers on the 2<sup>nd</sup> floor of City Hall, 389 Congress Street, Portland, ME 04101.

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 [jhanscombe@portlandmaine.gov](mailto:jhanscombe@portlandmaine.gov).

Sincerely,



Jessica Hanscombe  
Licensing and Registration Coordinator

## **Legal Advertisement**

### **Notice of Public Hearing City of Portland**

A Public Hearing will be held on January 3rd at 5:30 P.M., in City Council Chambers, 389 Congress St., Bob's Goes Electric LLC DBA Bob's Clam Hut. Application for a Class III & Class IV FSE with Outdoor Dining on Private Property at 111 Cumberland Avenue. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Tab 8 1-3-17*

**Communication 10  
Re: Standing Committees 2017-2018**

The following members are hereby appointed to the City of Portland standing committees (as outlined below) for the 2017-2018 legislative year beginning on Dec 4, 2017 and continuing through until Dec 3, 2018:

**ECONOMIC DEVELOPMENT:**

**Justin Costa, Chair**

Ethan Strimling

Kimberly Cook

**FINANCE:**

**Ethan Strimling, Chair**

Nicholas Mavodones

Jill Duson

**HHS & PUBLIC SAFETY:**

**Belinda Ray, Chair**

Brian Batson

Ethan Strimling

**HOUSING:**

**Jill Duson, Chair**

Justin Costa

Spencer Thibodeau

**LEGISLATIVE/NOMINATING:**

**Pious Ali, Chair**

Jill Duson

Kimberly Cook

**RULES AND REPORTS COMMITTEE:**

**Nicholas Mavodones, Chair**

Pious Ali

Belinda Ray

**SUSTAINABILITY & TRANSPORTATION:**

**Spencer Thibodeau, Chair**

Belinda Ray

Brian Batson

**Attachment 1**

**Communication 10A**

**Re: Standing Committees 2017-2018**

(If Communication 8 is nullified through an override vote by the City Council,  
this alternate slate may be offered).

The following members are hereby appointed to the City of Portland standing committees (as outlined below) for the 2017-2018 legislative year beginning on Dec 4, 2017 and continuing through until Dec 3, 2018:

**ECONOMIC DEVELOPMENT:**

**Justin Costa, Chair**  
Ethan Strimling  
Kimberly Cook

**FINANCE:**

**Nicholas Mavodones, Chair**  
Ethan Strimling  
Pious Ali

**HHS & PUBLIC SAFETY:**

**Ethan Strimling, Chair**  
Belinda Ray  
Brian Batson

**HOUSING:**

**Jill Duson, Chair**  
Justin Costa  
Spencer Thibodeau

**LEGISLATIVE/NOMINATING:**

**Pious Ali, Chair**  
Jill Duson  
Kimberly Cook

**RULES AND REPORTS:**

**Spencer Thibodeau, Chair**  
Belinda Ray  
Nicholas Mavodones

**SUSTAINABILITY & TRANSPORTATION:**

**Belinda Ray, Chair**  
Jill Duson  
Brian Batson

Com 11-17/18  
Tab 9 1-3-18



Executive Department  
Jon P. Jennings, City Manager

To: Members of Portland City Council  
From: Christopher C. Branch, P.E., Director of Public Works  
Troy Moon, Sustainability Coordinator  
Date: December 28, 2017  
Re: Communication Regarding Maintenance at the Ocean Avenue Landfill and Solar Project  
CC: Jon P. Jennings, City Manager

In response to recent questions from Councilors and members of the public about work at the Ocean Avenue Landfill and the status to the Ocean Avenue Solar Project staff has prepared the following communication for the January 3, 2018 City Council meeting. Christopher Branch and Troy Moon will both be present at the meeting to answer questions and to provide further information that may be requested.

**Background:** Records indicate that the Ocean Avenue Landfill served as the solid waste disposal facility for the City of Portland from the early 1960s until approximately 1978. Between 1978 - approximately 1980 the City applied earthen material and dredging material to cover the waste deposited at the site. Contemporary documents indicate that Sebago Technics conducted test borings at random locations on the cap and found a cover of between 18" - 30" of depth across the facility. In 1987 the City installed test wells in several locations around the facility in order to test water quality. Tests conducted between 1987 - 1994 show some influence from leachate, particular elevated levels of calcium, iron, manganese, phosphorus, magnesium, and potassium. Surface water tests showed similar results. In 1996, the City performed remediation work to address plant growth, erosion impacts from ATVs traversing the facility, and areas of inadequate cover. Records from that time indicate that the City regraded areas of the landfill and applied additional cover material to a depth of 24". Subsequently, The MDEP has conducted periodic inspections of the facility and reported items they want the City to remediate. Normally this has consisted of continuing to sample and test the leachate breakouts at 4 locations, remove invasive plants, repair erosion, perform regular mowing, and install fencing.

**Current Work:** In March, 2017 the MDEP conducted an inspection in light of the City's plan to install solar panels at the site. Issues reported from this inspection included some of the ones we have seen in the past, such as mowing, installing fences and sampling, with the additional requirement that we test for methane gas, examine the depth of cover material in the area of the solar panel installation, complete a stormwater analysis, and grade the top of the landfill to promote positive stormwater runoff.

The City contracted with Sebago Technics and their sub-consultant SW Cole to test for methane gas, which was found in a few pockets. Sebago Technics designed a gas remediation plan that was reviewed and approved by MDEP. The City contracted with Sargent Corp. to construct the gas remediation system, which was completed on December 13, 2017. During the methane remediation work some Municipal Solid Waste was removed. It was loaded onto City trucks and transported to the ecomaine landfill where it will be stockpiled until it can be taken to the ecomaine waste to energy plant for disposal. This disposal process was approved by the MDEP.

The MDEP also found that the top of the landfill had settled and required regrading to allow stormwater to run off the landfill. Sebago Technics surveyed the landfill and designed a fill and grading plan, which was reviewed and approved by the MDEP. The City contracted with Sargent Corp. to do this work. Initially the plan was to use fill from the State St. Sewer Separation project. However, MDEP had concerns with the fill material and required that it be tested for contaminants. Due to the length of time to get test results and cost of the testing the City made the decision to look for an alternative fill material source. Fortunately, Shaw Bros. had a clay material that was ideal to be used for the fill. The City contracted with Shaw Bros. to provide the material and haul it to the landfill where Sargent Corp. placed and graded it. The work was completed on December 15, 2017.

There are six groundwater monitoring wells at the landfill, which have not been tested since the 1990's. City believes there should be ongoing testing of these wells and contracted with SW Cole to inspect them. The wells were found to be in good condition so staff worked with MDEP to develop a list of testing parameters for the monitoring wells. Staff sent the testing parameters to SW Cole and asked for a proposal to do a round of testing. We expect to receive the proposal shortly and will move forward with a round of tests soon thereafter. Moving forward we will perform regular tests of the monitoring wells even though it is not required by MDEP. We will also continue with annual tests of 3 pore tests and a surface water test related to the leachate as required by the MDEP.

The MDEP has required the City to do a stormwater analysis and check culvert sizes and other stormwater facilities, which will be done this winter. Depending on the results of the analysis, we will move forward with stormwater improvements over the next 2 years. Another maintenance area is mowing. Currently we are required to mow the landfill once per year. MDEP is asking us to look at a higher frequency and based on discussions with Sebago Technics and MDEP we will be increasing the mowing to 2 to 3 times per year.

Based on observations last fall that portions of the landfill lack adequate cover material, the MDEP is requiring the City to investigate the thickness of the landfill cover material across the whole landfill. The original cover material was installed between 1978 - 1980 with additional material applied in the mid-1990's by City crews under the MDEP Landfill Closeout Program. Beginning this winter, City staff will work with the MDEP to develop a plan to excavate a series of test holes on the landfill to determine the existing depth of cover. Once this is completed we will consult with them to develop a plan to remediate any problems that we find.

In summary, during the winter of 2018 City staff and consultants will work with the MDEP to complete an analysis of existing conditions at the Ocean Avenue Landfill to include depth of cover and the adequacy of the existing stormwater drainage systems. This process will identify any issues that require remediation. City staff and consultants will then develop the necessary remediation plans in coordination with MDEP staff. Upon approval from the MDEP, staff will determine costs and develop a schedule for the work. Staff has requested that the remaining remediation work be conducted during the next two construction seasons and be complete by December, 2019.

Please note, during the recent work at the Ocean Ave. landfill City staff and the MDEP determined that there is an old private landfill on adjacent City property. We will be conducting further investigation to determine the limits of this landfill, the amount of cover material over it, and its slope. Once this work is completed we will work with MDEP to develop a plan to remediate any problems we find.

## Solar

The MDEP has completed a draft permit to allow construction of the proposed solar array at the Ocean Avenue Landfill. The recent completion of the regrading work at the top of the landfill and the installation of the methane venting system has made most of the area to be covered with solar panels suitable for an array.

A portion of the solar array, however, will extend off of the regraded area. Before construction could begin the City would have to demonstrate that this area has at least 18" of cover material. Test bores for this will happen over the winter. If additional cover is required in this location it could be installed in the spring.

Once the City demonstrates adequate cover over the area with solar panels, the solar project could begin installation pending issuance of the final permit from the MDEP.

The draft permit includes a condition that the remediation work to ensure adequate cover over the entire landfill be completed by the end of 2018. City staff have discussed this requirement with MDEP and offered comment that the work should be completed by the end of 2019. This would provide time to complete the necessary testing and analysis and would allow funding during the course of two budget cycles instead of one.

Revision Energy is ready to move forward with the project at the earliest possible time. They have acquired the solar panels and are storing them locally. MDEP has found the plan to install the panels to be acceptable and appears ready to issue a permit with the conditions described above.

The City and Revision had originally hoped to install the solar array before the end of 2017 in order to fall under the existing net metering rules. However, the new rules do not significantly impact the financial performance of the array. Under the old rules, the City would have received a bill credit for 100% of the kilowatt hours of electricity generated and 100% of the kilowatt hours of the T&D portion of the electric bill. Under the new rules, the City will still receive a credit for 100% of the kilowatt hours generated but only 90% of the kilowatt hours on the T&D portion of the bill. Because 80% of the electricity generated by the array offsets a Medium General Service (MGS) account, the impact of this reduction is minimal -- perhaps \$2,000 per year in reduced credits. Fortunately for our project, the Federal Government recently extended the investor Tax Credit (ITC) so the 30% tax credit counted on by Revision Energy remains intact.

Com 12-17/18  
Tab 10 1-3-17

**MEMORANDUM**  
**City Council Agenda Item**

**DISTRIBUTE TO:** City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

**FROM:** Planning and Urban Development Department  
Housing and Community Development Division

**DATE:** December 13, 2017

**SUBJECT:** **Communication Item: 2017 Housing Committee Report**

**SPONSOR:** **2017 Housing Committee/Councilor Jill C. Duson, Chair**

**COUNCIL MEETING DATE ACTION IS REQUESTED:**  
**1<sup>st</sup> reading and Final Action January 3, 2018**

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

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

**I. ONE SENTENCE SUMMARY**

At the November 29, 2017 meeting of the Housing Committee, members voted 2-0 to forward the 2017 Housing Committee Report to the City Council as a communication item.

**II. AGENDA DESCRIPTION**

At the November 29, 2017 meeting of the Housing Committee, members voted 2-0 to forward the 2017 Housing Committee Report to the City Council as a communication item.

The City Council held a meeting on January 23, 2017 to develop key priorities and goals for the Council and its Committees. The end of the year report documents the Committee's work on the goal and priorities and makes it a part of the public record.

**III. BACKGROUND**

**IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED**

To provide the City Council with a record of the work accomplished by the Housing Committee in 2017.

**V. FINANCIAL IMPACT**

There is no financial impact.

**VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION**

**VII. RECOMMENDATION**

The Housing Committee voted (2-0) to forward the 2017 Housing Committee report to the City Council as a communication.

**VIII. LIST ATTACHMENTS**

2017 Housing Committee Report

Prepared by: Mary Davis, HCD Division Director

Date: December 13, 2017

Bean/agendarequestmemo/rev 1/23/2017



TO: Councilor Duson, Chair  
Members of the Housing Committee

FROM: Jeff Levine, Planning & Urban Development Director  
Mary Davis, HCD Division Director  
Victoria Volent, Housing Program Manager

DATED: November 1, 2017

RE: 2017 Housing Committee Report  
Goals, Work Plan, and Accomplishments

### **I. Housing Committee Priorities**

The City Council held a meeting on January 23, 2017 to develop key priorities and goals for the Council and its Committees. Listed below is the goal for the Housing Committee and its priorities for 2017.

**Goal: Increase access to safe, location-efficient rental and ownership housing that is affordable for working and low-income families.**

Safe, affordable and accessible housing remains a core element of the American Dream. The Housing Committee should focus on land use policies that help residents match their housing needs with appropriate options over a lifetime. Success is when we have a broad array of housing choices to serve evolving individual and family housing needs.

#### **Priorities:**

- Complete work on Short Term Rental Regulations;
- Assure timely implementation of the 2016 Landlord/Tenant policies;
- Pull together a Current Situation Report on Housing Policy, Availability and Affordability. This would include an update on the implementation of policies e.g. inclusionary zoning. Establish a dashboard for annual or semi-annual evaluation;
- Implement Policies to Capitalize the Housing Trust Fund;
- Identify a unique opportunity to demonstrate engagement of the city in partnership (policy, expertise, funding, zoning, public land, etc.) to leverage development of a unique mixed use project that includes work force and low income housing; and
- Housing Safety – Serve as the sponsorship committee for the city's housing inspection programs. Support program evaluation, identify enforcement challenges, the advocate for the budget resources.

## **II. Addressing Committee Priorities**

The Housing Committee met eleven times throughout 2017, including the meeting on November 8<sup>th</sup>. Outlined below is a brief overview of how the Committee addressed each of the goal and priorities highlighted by the City Council.

**GOAL: Increase access to safe, location-efficient rental and ownership housing that is affordable for working and low-income families.**

At the Housing Committee meeting on February 8, 2017 the Committee approved application criteria for staff to identify and recommend eligible development projects that were interested in applying for federal HOME Funding. The application went out to the public on August 1 and closed on September 8<sup>th</sup>. Two proposals were reviewed by the Committee at the September 26<sup>th</sup> meeting where the Committee voted to recommend to the City Council the award of HOME funds and Affordable Housing Tax Increment Financing. The City Council is expected to act on the funding requests at its November 20<sup>th</sup> meeting. The Committee allocated \$200,000 towards the Portland Housing Authority's 58 Boyd Street Project and \$300,000 to an Avesta Housing Development Corporation project called Deering Place which is located at 61 Deering Street and 510 Cumberland Avenue.

**PRIORITY: Complete work on Short Term Rental Regulations**

After a robust community process in 2016, the Committee finalized its short term rental regulation recommendations in the first three meetings in 2017. At the February 8, 2017 meeting the Committee voted 3-0 to forward recommendations to the City Council. The City Council voted 8-1 on March 27, 2017 to adopt the Short Term Rental Registration ordinance amendments.

**PRIORITY: Assure timely implementation of the 2016 Landlord/Tenant policies**

The Housing Committee reviewed the implementation of the 2016 Landlord/Tenant policies during its June 14 meeting. The Committee reviewed the revised Tenant Housing Rights Form and Brochure and suggested several edits. The Committee discussed the advisory committee and raised concerns regarding the role of the advisory committee. The Housing Committee Chair requested that staff come back to the committee with suggestions to address the concerns raised by the Committee; this request was placed on hold pending the outcome of the Rent Stabilization Referendum and possible overlap of duties with the Rent Board outlined in the referendum.

**PRIORITY: Pull together a Current Situation Report on Housing Policy, Availability and Affordability. This would include an update on the implementation of policies e.g. inclusionary zoning. Establish a dashboard for annual or semi-annual evaluation**

The Housing and Community Development Division of the Planning and Urban Development Department prepared the 2017 Housing Report which was submitted to the Committee at the October 26<sup>th</sup> meeting. The report was designed to give an overview of the current housing market and report out on the many policies and initiatives that the City has adopted to address the issues of

housing availability and affordability.

**PRIORITY: Implement Policies to Capitalize the Housing Trust Fund**

During the September 26<sup>th</sup> meeting, staff outlined several housing policy proposals for the Committee's consideration. The proposals included several items that would contribute funding to the Housing Trust Fund. Additional options are being presented at this November meeting.

**PRIORITY: Identify a unique opportunity to demonstrate engagement of the city in partnership (policy, expertise, funding, zoning, public land, etc.) to leverage development of a unique mixed use project that includes work force and low income housing**

The concept of a City-initiated Land Trust may help implement this priority, and will be explored further. In addition, staff is exploring parcels of public land as possible locations at which to implement this priority, and will present identified and feasible options at a future Housing Committee meeting.

**PRIORITY: Housing Safety – Serve as the sponsorship committee for the city's housing inspection programs. Support program evaluation, identify enforcement challenges, the advocate for the budget resources**

At the May 10<sup>th</sup> meeting the Committee received an update and overview of the Housing Safety Office from Michael Russell, Department Director of the Permitting and Inspections Department.

At the July 12<sup>th</sup> meeting the Committee received an update and overview of the Fire Department's Inspection Program from Keith Gautreau, Assistant Fire Chief.

The Committee will continue to receive annual reports on these programs.

**III. 2017 Activities with Status**

**Housing Program Budget**

In February, the Housing Committee reviewed and approved the Housing Program Budget for HUD's annual HOME allocation for Portland and Cumberland County. The budget divided the funds into four categories including administration, housing rehabilitation, Tenant Based Rental Assistance (TBRA), and affordable housing development.

**Short Term Rentals (Airbnb)**

The Housing Committee voted on February 8<sup>th</sup> to forward to the City Council a set of policy recommendations regarding short term rentals. At the May 10<sup>th</sup> and July 12<sup>th</sup> meetings, the Committee reviewed, and ultimately made a recommendation to the City Council, an amendment to the short term rental registration ordinance as it pertains to a disorderly housing designation. On September 18, the City Council voted 9-0 to adopt the amendments.

Additionally, at the June 14<sup>th</sup> meeting, the Committee reviewed the Short Term Rental Registration

## Implementation Guidelines created by the Permitting and Inspections Department

### **Division 30 Amendments**

At the March 8<sup>th</sup> the Committee discussed amendments to Division 30 to support the creation of affordable housing. The Committee continued discussion on this item during the March 30<sup>th</sup> meeting and ultimately voted 3-0 to refer the amendments to the Planning Board for review. The City Council voted on September 6<sup>th</sup> to adopt the changes with amendments.

### **Additional Items**

Additional items on the Committee's schedule in 2017 included:

- Recommendation to the City Council to approve the 2017 Housing Trust Fund Annual Plan;
- Recommendation to the City Council to approve changes to the Housing Code re: Habitation of Recreational Shelters.
- Recommendation to continue participation in the Cumberland County HOME Consortium;
- Received an update on the Lead Safe Housing Program funded through a 2016 grant from HUD's Office of Lead Hazard Control and Healthy Homes.
- Reviewed the FY 17 end of year report to HUD

### ***IV. Future Work***

The Committee made great strides this year to frame the most important issues while taking steps to help achieve the Councils goals for the Housing Committee. Listed below are a few items for the next Housing Committee to consider as part of their work plan for 2018.

- Housing First Incentives;
- Capitalizing Housing Trust Fund;
- Possible revisions to and the implementation of Section 6-225 (Rental Housing Advisory Committee) of the Tenant Housing Rights Ordinance.

Com 13-17/18  
Tab 11 13-17



Office of the Mayor, Ethan K. Strimling

MEMORANDUM

**To:** Members of the Portland City Council and the Portland Board of Education  
**cc:** Jon Jennings, City Manager; Danielle P. West-Chuhta, Corporation Council; Katherine L. Jones, City Clerk  
**From:** Ethan K. Strimling, Mayor  
**Date:** December 27, 2017  
**Re: Mayor's Recommendation for School Building Committee Appointees**

This memo serves to communicate to the Council and the Portland Board of Education my recommendations for appointees to the School Building Committee.

I recommend the following appointees:

Councilor Pious Ali  
Mayor Ethan Strimling

Background information, from the Agenda of the December 19, 2017 Meeting of the Portland Board of Education, under VIII. New Business:

**b. Consideration and action to create an advisory Building Committee as a standing Board committee consistent with the Superintendent's recommendations. [A-23-17/18]**

...  
Staff's revised proposal calls for the establishment of a School Building Committee that is separate from the Board's Operations Committee. The committee would be made up of 3 Board members, 2 City Councilors (appointed by the Board of Education upon the recommendation of the City Council) and 4 members of the general public (one associated with each school project) appointed by the Board based on a School Board Appointments Committee recommendation.  
...

A-23-17/18 was amended at this meeting, and the final draft was not available at the time of the publication of the Portland City Council Agenda. The meeting minutes have also not been approved. The action does ask that the City Council recommend two appointees. That input will be considered by the Board of Education at a subsequent meeting. The Board of Education will make the final decision on the membership of the committee.

*Tab 12 1-3-18*

Order 69-17/18

Amended to authorize City Manager “to execute any agreement and any other documents that are in a form acceptable to the Corporation Counsel and are necessary to effect the intent and purpose of this order”: 7-0 (Strimling, Thibodeau absent) on 10/3/2017

Motion to postpone to October 16, 2017: 7-0 (Strimling, Thibodeau absent) on 10/3/2017

Motion to postpone to January 3, 2018: 8-0 (Strimling absent) on 10/16/2017

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

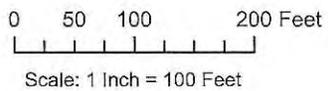
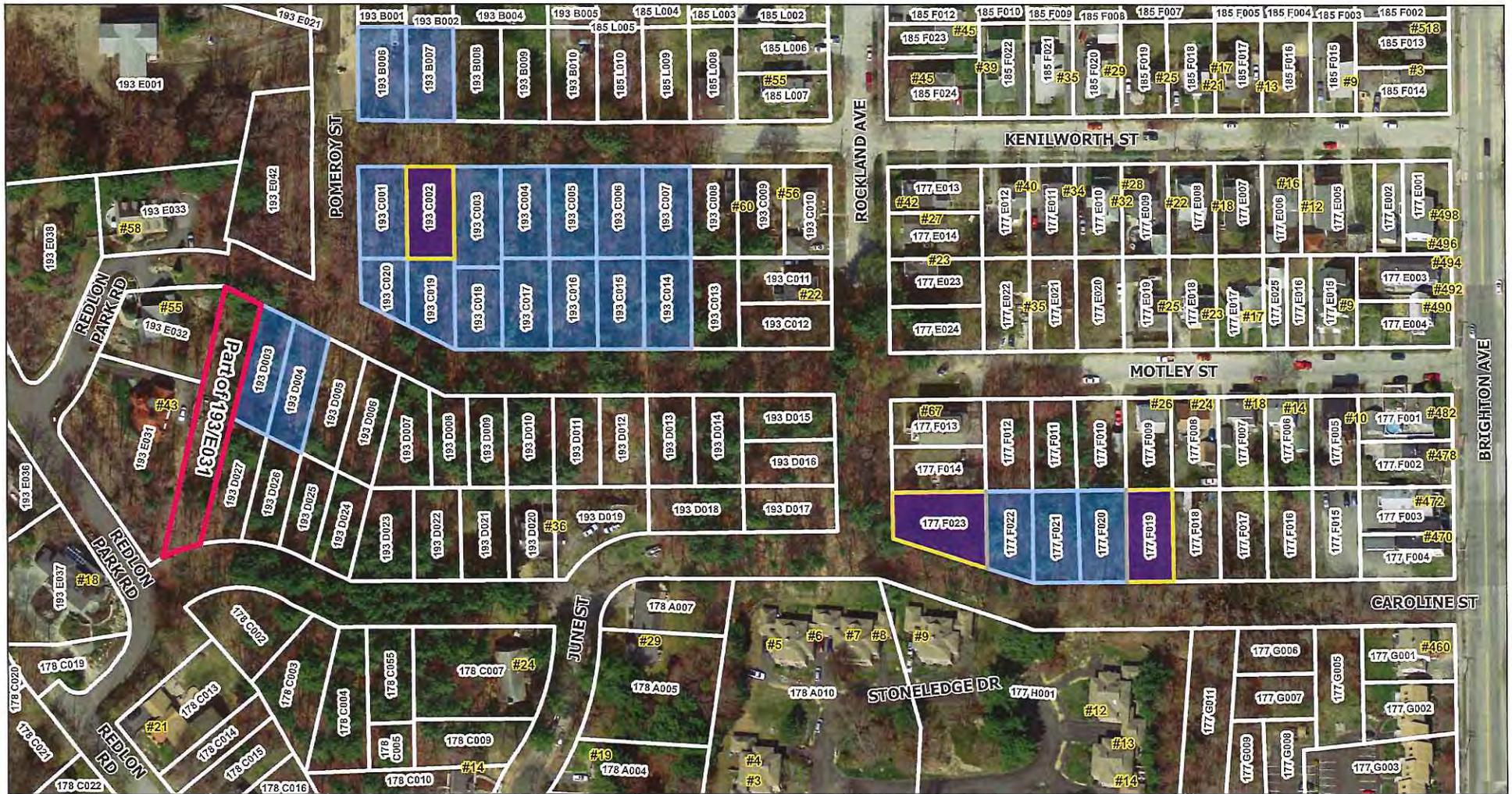
**CITY OF PORTLAND**  
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ACCEPTING A DONATION OF VACANT LAND IN THE REDLON AREA  
AND PLACING THAT LAND, CITY-OWNED LAND AND LAND ACQUIRED  
THROUGH FORECLOSURE OF UNPAID TAXES  
INTO THE PORTLAND LAND BANK**

**ORDERED**, that pursuant to Section 2-43 of the Portland City Code, a donation of land in the Redlon area, as shown in the attached, is hereby accepted, and that land, other City-owned land, as well as land acquired by the City of Portland by automatic foreclosure of unpaid city taxes, all as depicted in the attachment hereto, will be in and is to be maintained as part of the City’s Land Bank property; and

**BE IT FURTHER ORDERED**, that the City Manager is hereby authorized to execute any agreement and any other documents that are in a form acceptable to the Corporation Counsel and are necessary to effect the intent and purpose of this order.



### Redlon Woods: Acceptance of City Owned Parcels & Donation for Portland Land Bank

Map by City of Portland DPW 9/25/2017

#### Legend

- City Tax Acquired
- City Owned
- Cott Donation

Order 69-17/18

Amended to authorize City Manager “to execute any agreement and any other documents that are in a form acceptable to the Corporation Counsel and are necessary to effect the intent and purpose of this order”: 7-0 (Strimling, Thibodeau absent) on 10/3/2017

Motion to postpone to October 16, 2017: 7-0 (Strimling, Thibodeau absent) on 10/3/2017

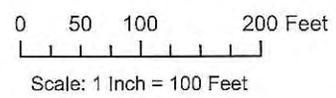
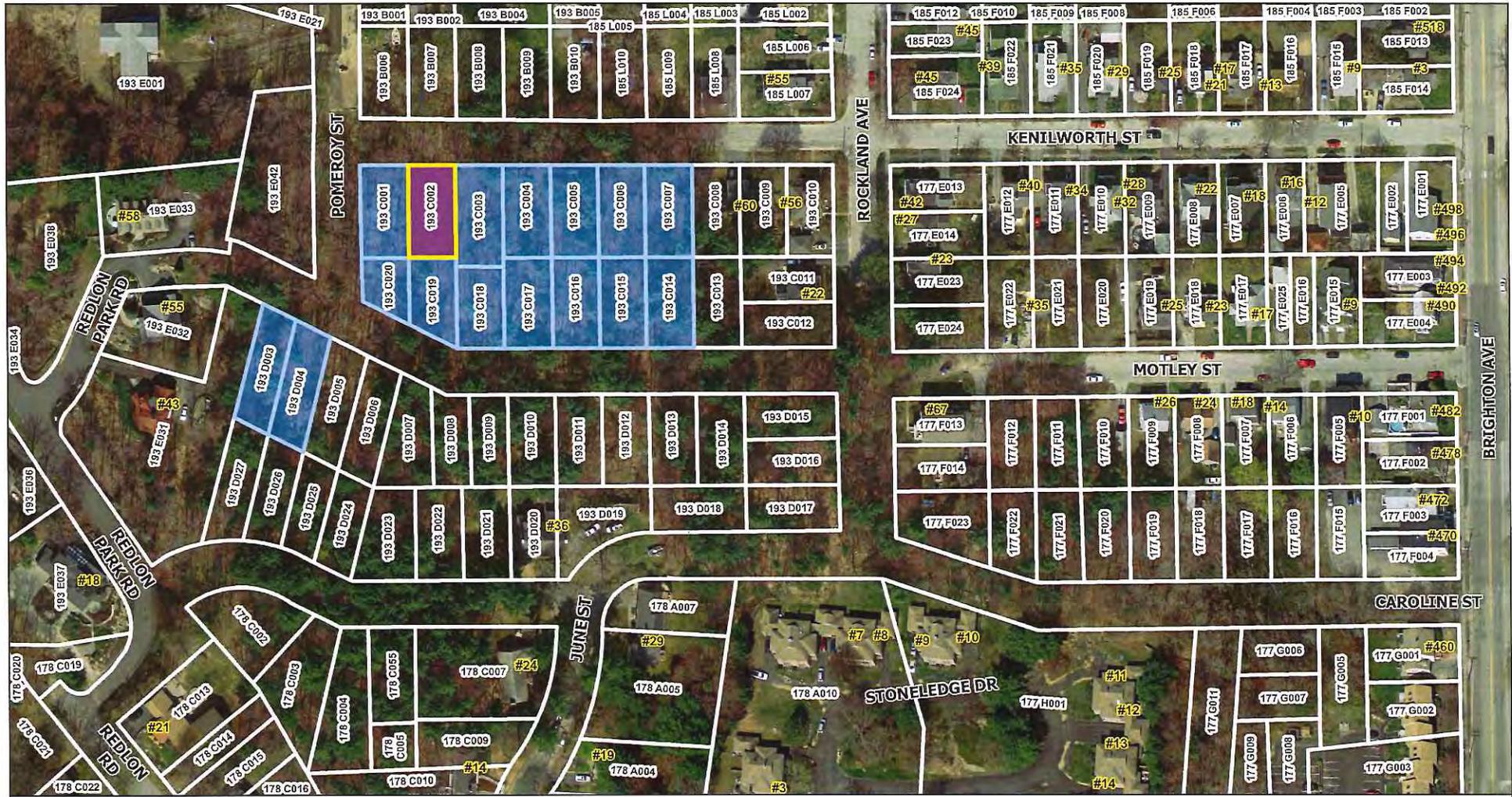
Motion to postpone to January 3, 2018: 8-0 (Strimling absent) on 10/16/2017

**AMENDMENT TO ORDER 69-17/18  
PREPARED BY CORPORATION COUNSEL FOR MAYOR ETHAN STRIMLING  
RE: CHANGE OF REDLON AREA LOTS ACCEPTED**

**ORDER ~~ACCEPTING A DONATION OF VACANT LAND IN THE REDLON AREA~~  
~~AND PLACING THAT LAND,~~ CITY-OWNED LAND AND LAND ACQUIRED  
THROUGH FORECLOSURE OF UNPAID TAXES IN THE REDLON AREA  
INTO THE PORTLAND LAND BANK**

**ORDERED**, that pursuant to Section 2-43 of the Portland City Code, ~~a donation of City-owned land, as well as land acquired by the City of Portland by automatic foreclosure of unpaid City taxes,~~ in the Redlon area, as shown in the attached map, ~~is hereby accepted, and that land, other City-owned land, as well as land acquired by the City of Portland by automatic foreclosure of unpaid city taxes, all as depicted in the attachment hereto,~~ will be in and is to be maintained as part of the City’s Land Bank property; ~~and.~~

~~**BE IT FURTHER ORDERED**, that the City Manager is hereby authorized to execute any agreement and any other documents that are in a form acceptable to the Corporation Counsel and are necessary to effect the intent and purpose of this order.~~



### Redlon Woods: Phase 1 City Property

Portland Land Bank Commission  
 Map by City of Portland DPW 12/15/2017

- Legend**
- City Tax Acquired
  - City Owned



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

**DISTRIBUTE TO:** City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

**FROM:** Greg Mitchell, Economic Development Director

**DATE:** December 15, 2017

**SUBJECT:** **Order Authorizing Placing Certain Tax-Acquired and City-owned parcels in the Land Bank in the Redlon Area of Portland**

**SPONSOR:** Land Bank Commission

**COUNCIL MEETING DATE ACTION IS REQUESTED:**  
**1<sup>st</sup> reading and Final Action: Action postponed to January 3, 2018**

**Can action be taken at a later date: X-Yes      \_\_\_ No (If no why not?)**

**PRESENTATION:** Patrizia Bailey, Co-Chair/Land Bank Commission and Ethan Hipple, Deputy Director of Parks, Recreation, and Facilities/5 Minutes

**I. One Sentence Summary**

Vote to authorize the placement of certain tax-acquired and City-owned vacant land parcels, located in the Redlon area of Portland, in the Land Bank.

**II. Agenda Description and Background**

It has been a goal of the Land Bank Commission to protect open space in the Redlon area of Portland where green space is a “park desert” (i.e., more than one-half mile to nearest park or trail), identified by 2014 Open Space Vision Plan as a priority area for open space/park/trail development along with environmental preservation.

At the Land Bank Commission meeting on September 14, 2017, it unanimously voted to recommend to the City Council to place the original larger list of properties in the Land Bank for protection of this green space in Redlon.

The Economic Development Committee voted 3-0 at a public hearing on September 19, 2017 to recommend to the City Council that the original larger list of properties be placed in the Land Bank.

The City Council held a public hearing on October 2, 2017 on this matter and voted to postpone action until October 16, 2017 to allow City staff time to report back on the housing potential of any of this property. At the October 16, 2017 City Council meeting, City staff requested postponement of this item to the January 3, 2018 City Council meeting to allow for staff to research legal issues associated with tax acquired properties.

Additionally, following City staff research on legal issues and recommendations, at the December 14, 2017 Land Bank Commission meeting it agreed with staff's recommendations to remove the following redeemed/reacquired parcels 193-B-6 and 7, and 177-F-20, 21, and 22 and delay action on the proposed Cott donation pending further due diligence. The Commission also voted (5-3) to remove City owned parcels 177-F-19 and 177-F-23 from consideration of Land Bank designation at this time.

See attached updated map showing a smaller number tax acquired and City owned vacant land properties under consideration for Land Bank designation. It is noted that this updated map removed a total of five (5) tax-acquired properties (located at the fringe of this area) originally under consideration for Land Bank designation due to tax acquired properties being redeemed (or reacquired) by the prior owners by paying past due property taxes along with removing two (2) City owned properties (also located at the fringe of this area). The updated map also removes the one private property donation for action to allow City staff time to undertake additional research and survey work, as well as entering into a property donation agreement.

The rationale for the Land Bank designation is both to protect open space and environmental preservation.

It is noted that the Land Bank Commission is working on other possible property acquisitions in the Redlon area to present to the City Council, in the future, for Land Bank designation.

### **III. Intended Result and/or Council Goal Addressed**

The intended result would be the placement of fifteen (15) tax-acquired and one (1) City-owned vacant land parcel, containing 1.8 acres in the Land Bank to protect its natural state and provide green space in the Redlon area.

### **IV. Financial Impact and Purchase and Sale Agreement Highlights**

There is no financial impact to place the City-owned vacant land parcels in the Land Bank. Additionally, for the City's tax-acquired properties, the City is no longer receiving annual property taxes.

## V. Staff Analysis

Staff supports placing the following tax-acquired vacant land parcels and City-owned vacant land parcels in the Land Bank for protecting this green space in the Redlon area:

### Tax-Acquired Vacant Land Parcels:

193-C-1  
193-C-3  
193-C-4  
193-C-5  
193-C-6  
193-C-7  
193-C-14  
193-C-15  
193-C-16  
193-C-17  
193-C-18  
193-C-19  
193-C-20  
193-D-3  
193-D-4

### City-Owned Vacant Land Parcel:

193-C-2

Staff evaluated this property for housing development potential and determined that housing development is unlikely due to a lack of available public infrastructure (roads, water/sewer utilities) and environmental challenges (wetlands and ledge).

## VII. Recommendations

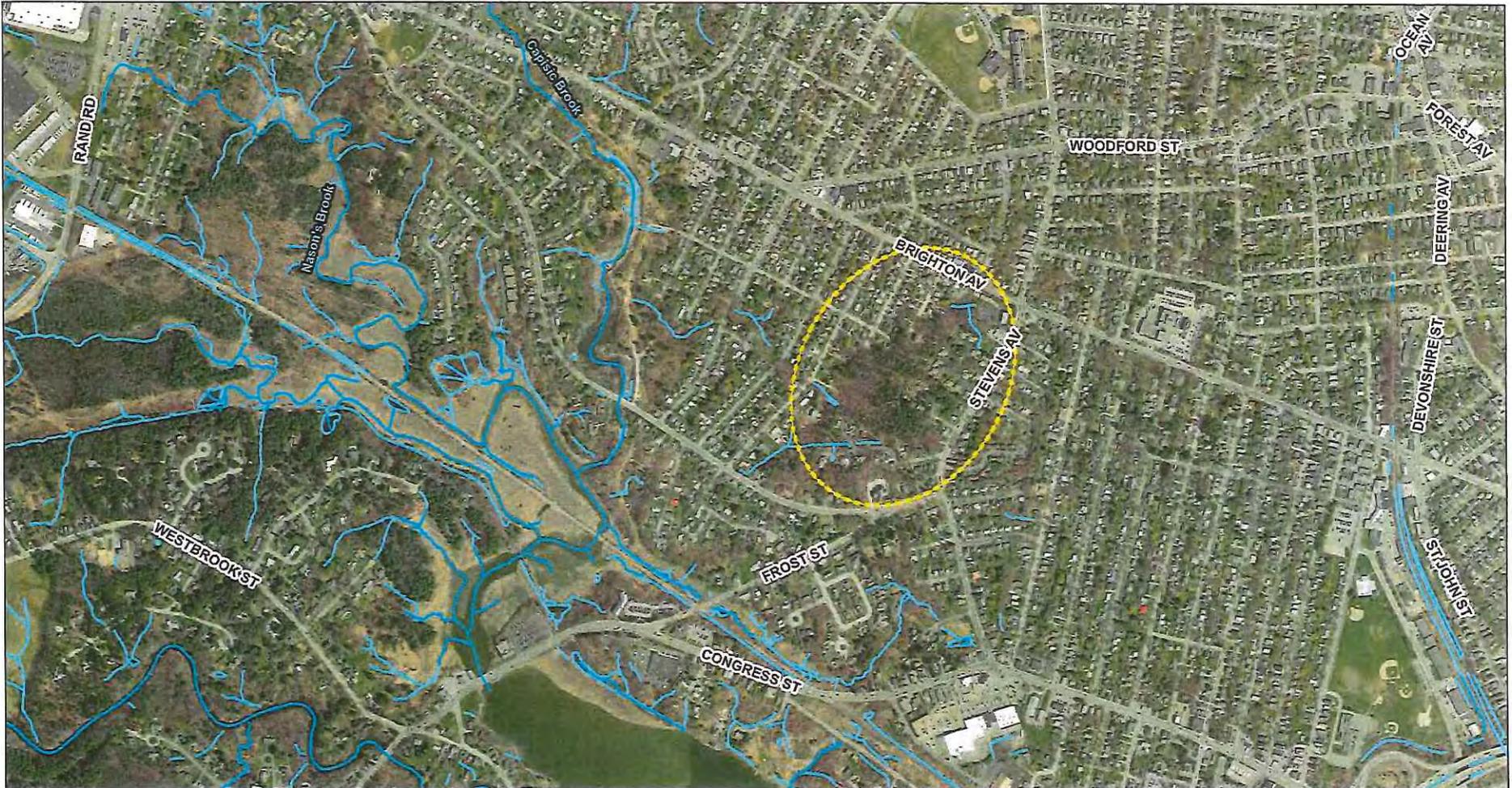
At the September 19, 2017 Economic Development Committee meeting, the Committee voted unanimously (3-0) to recommend to the City Council that it place the original larger list of properties in the Land Bank.

At the Land Bank Commission meeting on September 14, 2017, it unanimously voted to recommend to the City Council to place the original larger list of properties in the Land Bank for protection of this green space in Redlon.

Additionally, following City staff research on legal issues and recommendations, at the December 14, 2017 Land Bank Commission meeting it agreed with staff's recommendations to remove the following redeemed/reacquired parcels 193-B-6 and 7, and 177-F-20, 21, and 22 and delay action on the proposed Cott donation pending further due diligence. The Commission also voted (5-3) to remove City owned parcels 177-F-19 and 177-F-23 from consideration of Land Bank designation at this time.

Lastly, staff recommends placing the properties above in the Land Bank to address area-wide environmental issues including storm-water management, and to amend the Order by replacing the map attachment with the updated map.

- Attachments:
- Map Showing General Location of Redlon Woods
  - Updated Map Highlighting Subject Parcels
  - Redlon Woods Fact Sheet
  - Map Highlighting Redlon Woods Trail Concept Plan
  - October 10, 2017 Tuck O'Brien memo to the City Council



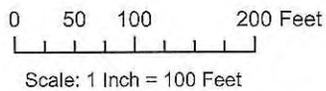
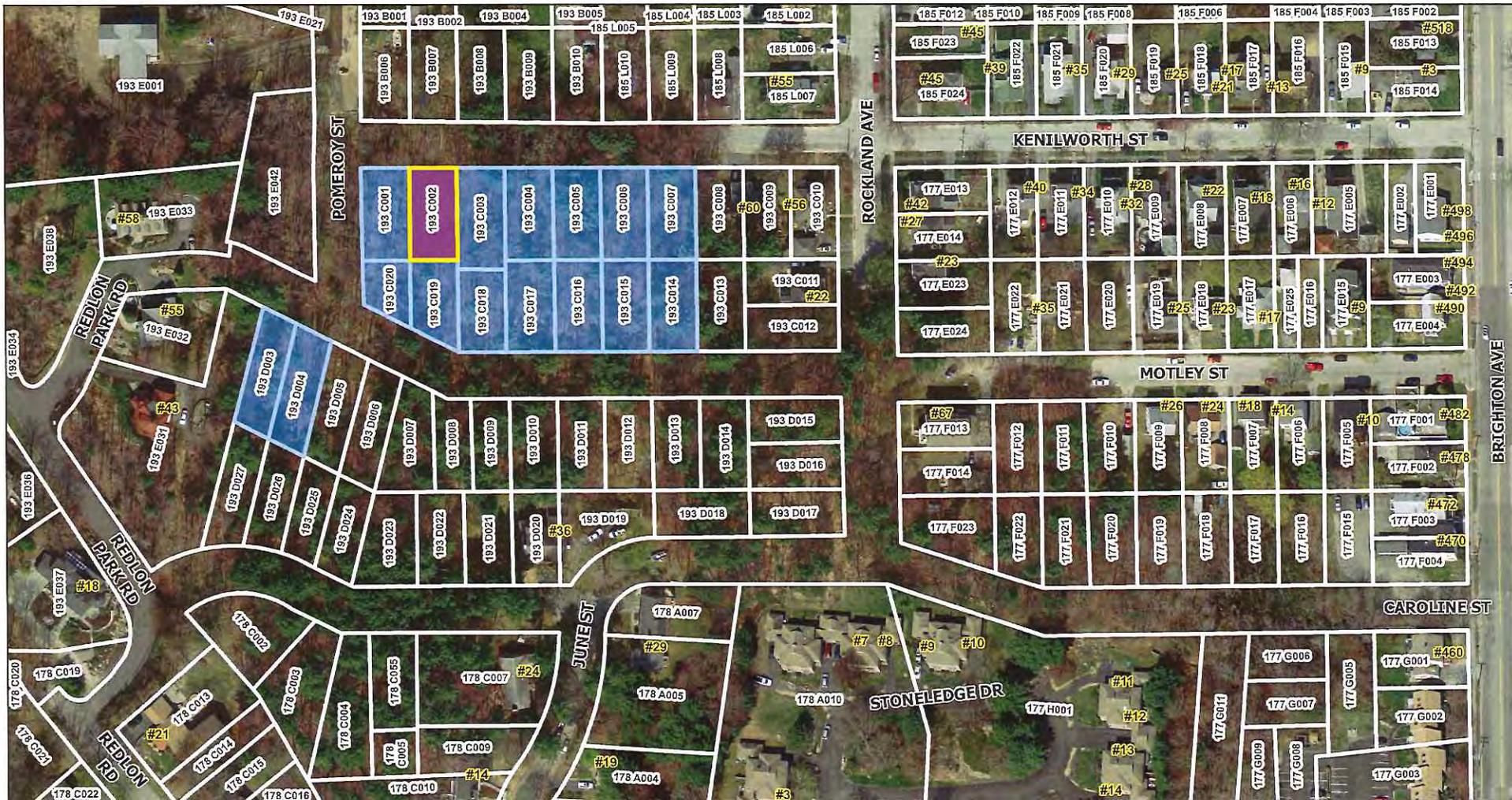
0 350 700 1,400 Feet  
 Scale: 1 Inch = 700 Feet

**General Location of  
 Redlon Woods, Portland, ME**

Portland Land Bank Commission  
 Map by City of Portland DPW 10/4/2016



General Location of Redlon Woods



### Redlon Woods: Phase 1 City Property

Portland Land Bank Commission  
 Map by City of Portland DPW 12/15/2017

#### Legend

- City Tax Acquired
- City Owned

## Redlon Woods Fact Sheet

- Approximately 5 acres of open space in densely populated residential neighborhood
- Land is forested, very wet, with pockets of granite outcroppings and ledge.
- Because of development costs in rocky and wet areas, only viable development opportunities are most likely high-end single family homes similar to those in “Redlon Park” neighborhood.
- Land is located in a “park desert” (i.e. more than ½ mile to nearest park or trail), identified by 2014 Open Space Vision Plan as priority areas for open space/park/trail development.
- Public Works Department staff indicated that the property is valuable for storm water management function.
- Parks, Recreation and Facilities Department staff sees the property as a valuable addition to the open space network, and provides excellent outdoor recreation and trail opportunities.
- Redlon Woods property provided the catalyst for the creation of the Land Bank in early 2000’s. While the city does own 3 small lots there, much of the land is unprotected.
- Land Bank Commission proposes to preserve this land as open space through a combination of purchases, donations, and converting land from tax-acquired status to Land Bank.
- Land is Currently owned by the following parties:
  - City of Portland: owns 3 lots outright.
  - City of Portland: holds 17 lots as tax-acquired property. Land Bank has voted to put these tax-acquired properties in the Land Bank. Tax Acquired Property Committee has moved to allow that request, pending City Manager and City Council authorization/approval.
  - Berry Family: owns 19 lots, willing to sell. Appraised at \$48,000
  - Taylor Family: owns 4 lots, willing to sell. Appraised at \$16,000
  - Cott Family: owns 1 lot, willing to donate.
- Land Bank has funds to purchase Berry and Taylor lots, and has voted to move forward with having the City negotiate acquisition.
- Economic Development Department staff are willing and able to assist with negotiation of sale of Berry and Taylor lots.
- The long term vision is that the land would be preserved in its present condition as open space and placed in the Land Bank.
- Minimal trail development (privately funded through Portland Trails or Land Bank) and an access point could tie it into the network of trails throughout Portland.
- Next steps:
  - City Manager notification/approval
  - City Council notification/approval
  - Negotiation and purchase (Economic Development)
  - Land Bank protection for the entire property
  - Trail development

# Redlon Woods Trail Concept Plan

## Tracks

-  Redlon Loop
-  Access Point

## Tracks

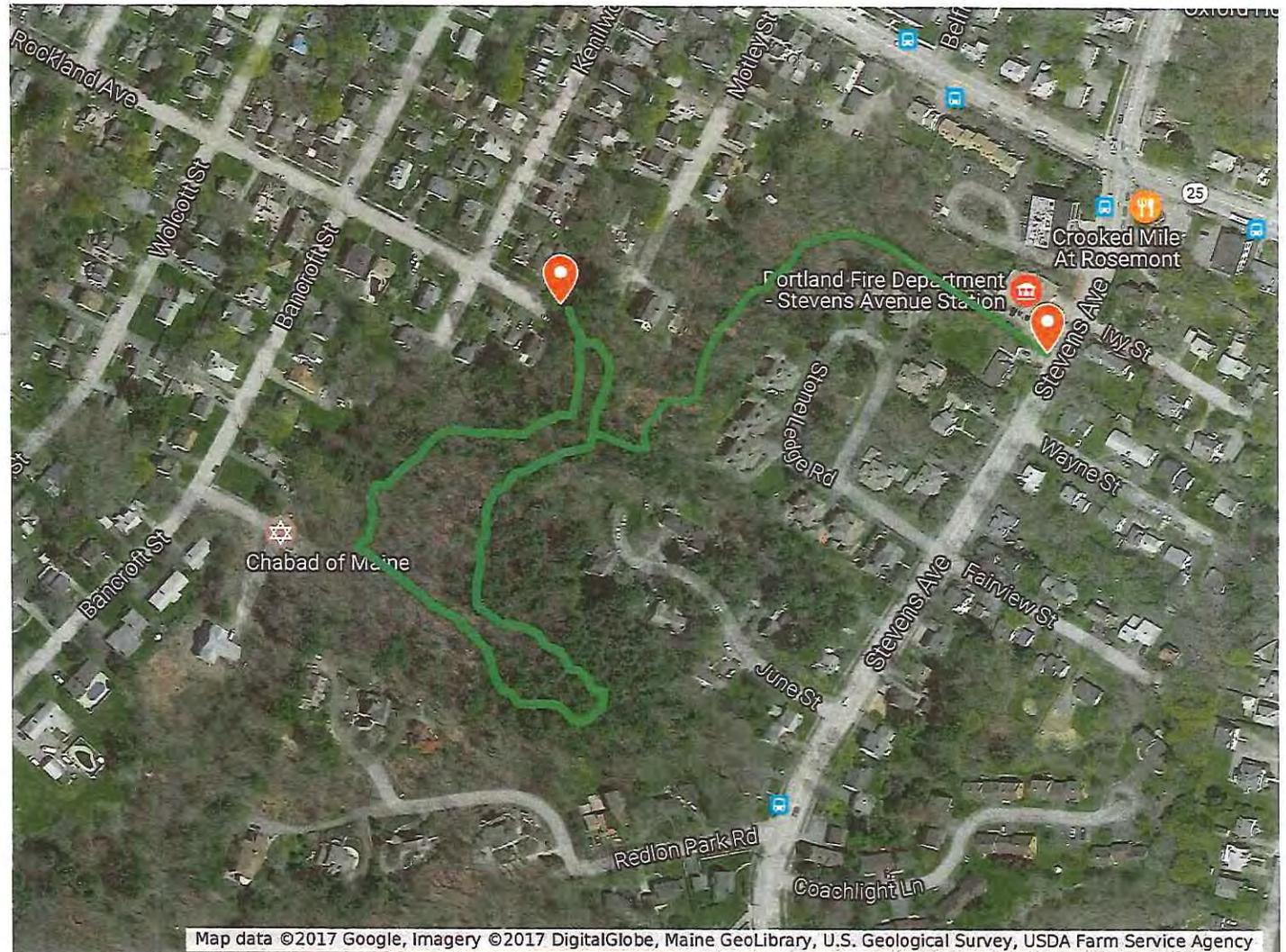
-  Redlon Vernal Pool
-  Access Point

Potential trail routes for Redlon Woods property.

Some sections exist as informal routes already.

Improvements would be minimal, probably less than a week's worth of work for volunteer groups.

Plan updated 1/23/17



MEMORANDUM  
City Council Hearing Item

**TO:** City Council

**FROM:** Tuck O'Brien, City Planning Director

**DATE:** October 10, 2017

**SUBJECT:** Discussion of Analysis of Housing Options for Redlon Woods

---

In the Fall of 2016, several properties in the vicinity of Redlon Park Road were brought to the attention of the City Owned and Tax Acquired Properties Committee (COTAPC). These properties are located in proximity to some others in the area that had been of interest to both the Department of Public Works for storm water and to the Landbank Commission for conservation purposes. The total of the properties being examined by the Land Bank and COTAPC at that time was a significantly larger amount of land than the council is now currently considering.

At the time, due to the City's policy goal to create housing, the Planning and Urban Development Department was asked research the reuse of all or some of the land involved in this area for potential housing development. We conducted an informal survey of both market-rate and affordable housing developers about development in the area. Although none of these conversations rose to the level of actively marketing the properties to any party, elements concerning the topography, infrastructure costs, zone and market sub-district were discussed. Specifically, issues which would face any potential redevelopment are the extensive amount of ledge, significant wetland area and lack of infrastructure. A number of paper streets do exist; however, construction of connected roadways within a development and to access the street grid will create significant costs.

In September of 2016, the Planning and Housing staff ran several proformas to examine the likelihood of redevelopment of this land for housing under several disposition scenarios including market-value disposition, partially and fully subsidized. The conclusion of this analysis is that even if disposed of for no cost, that development of the land under R-3 zoning was unlikely. One key component to any development would be the economy of scale to spread the cost of the development over a number of units. When examining the larger potential acquisition at the time the land area (> 3 acres) was sufficient to qualify as a PRUD under the R-3 requirements. Cost analysis of a clustered redevelopment scheme under a PRUD did not appear to be economic without significant subsidy and even with that infrastructure constraints made the project an unlikely target for market rate or affordable housing development. Specific issues which created concern were the amount of ledge and sizable roadway expansion costs combined with sewer and storm water expansion. Accordingly, given that a housing option was unlikely and given the

compelling arguments for adding the land into the Land Bank staff advanced that approach.

The reduced non-contiguous land area before the Council currently totals approximately 2.73 acres (a little more than half the size previously analyzed). Although the staff has not fully investigated the specific land characteristics of each lot, the overall square footage would not qualify for a PRUD and the redevelopment of the parcels into single family homes would face significant infrastructure challenges. Given the location of the parcels within the larger land area much of this land would have to be given over to roadway construction. Some of these lots are fairly inaccessible and the logistics of connecting them very complex. In addition, without the clustering opportunity provided by the PRUD provisions issues such as ledge and wetland would make it very challenging to develop many of the lots into standalone house lots. Again, we have not examined each of these lots but the previous analysis which indicated that a development taking advantage of the economies of scale from the PRUD option would not be feasible makes it unlikely that redevelopment of these lots as individual homes would be feasible.

Feb 13 1-3-18

Order 110-17/18

Motion to postpone to December 18, 2017: 8-0 on 11/20/2017

Motion to postpone to January 3, 2018: 9-0 on 12/18/2017

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
**IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE**  
**NEW CHAPTER 34 PESTICIDE USE**

**WHEREAS,** the City of Portland wishes to protect the quality of Casco Bay and other waterways that support the economic vitality of local fisheries and the working waterfront; and

**WHEREAS,** the City of Portland recognizes that healthy soils serve as the foundation for vibrant ecosystems and pest-resistant plant life; and

**WHEREAS,** the City of Portland wishes to promote land care practices that promote the development of healthy soils to minimize the need to apply pesticides to control unwanted pests; and

**WHEREAS,** the City of Portland also recognizes that there may still be a need to manage pests to protect public health and safety, wildlife, our environment and City assets; and

**WHEREAS,** many synthetic pesticides are harmful to humans, pets, wildlife, including threatened and endangered species, soil microbiology, plants, and natural ecosystems; and

**WHEREAS,** many citizens desire to be protected from exposure to pesticides in the air, water or soil that may result from chemical drift and contaminated runoff; and

**WHEREAS,** the use of pesticides has been known or suspected to cause serious health problems is not necessary to grow and maintain green lawns and ornamental landscapes, given the availability of viable alternative practices and products; and

WHEREAS, a growing number of communities and municipalities including the City of Portland are embracing a precautionary approach to the use of pesticides in order to adequately protect people and the environment from their harmful effects; and

WHEREAS, the State of Maine allows municipalities, through their home rule authority, to enact ordinances dealing with municipal affairs pursuant to 30-A M.R.S. §3001;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND *That the Portland City Code is hereby amended by adding a Chapter, to be numbered Chapter 34, Sections 34-1 to 34-16, which said Sections read as follows:*

### Chapter 34

### PESTICIDE USE

#### Sec. 34-1. Title.

This chapter shall be known as the City of Portland Pesticide Use Ordinance (hereinafter, the "Ordinance").

#### Sec. 34-2. Purpose.

The purpose of this ordinance is to safeguard the health, safety and welfare of the residents of the City and to conserve and protect the City's waterways and natural resources by curtailing the use of pesticides for turf, landscape and outdoor pest management.

#### Sec. 34-3. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

**Aggrieved party** means an individual or entity that applies for but is denied a waiver from provisions of this ordinance as described in Section 34-6.

**Broadcast application** means the spreading of pesticides over an entire area.

**Commercial Agriculture** means the production of crops for sale, including crops intended for widespread distribution to wholesalers or retail outlets and any non-food crops.

**Emergency** means a serious, unexpected, and often dangerous situation requiring immediate action.

**EPA** means the United States Environmental Protection Agency.

**FIFRA** means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.

**Golf course** means an area of land laid out for playing the game of golf with a series of 9, 18 or more holes. Mini-golf and disc golf courses are not considered golf courses.

**High Use Athletic Facilities** means the following playing fields located in the following parks as listed in Chapter 18, section 18-11: Fox Field, Quinn Field and Deering Oaks Baseball Field at Deering Oaks Park; Back Cove Park; and Payson A Field in Payson Park. It shall also include Presumpscot Field at Deering High School.

**Repellant** means a substance that deters insects or other pests from approaching or settling.

**Invasive Species** means a plant or insect that is not native to a particular ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

**Natural, organic or "non-synthetic"** means a substance that is derived from mineral, plant, or animal matter and does not undergo a "synthetic" process as defined in the Organic Foods Production Act, 7 U.S.C. § 6502(21), as the same may be amended from time to time.

**Organic pest management** means the act of managing or controlling pests through the use of mechanical, cultural, or,

biological processes, or through the use of natural, organic, or non-synthetic substances.

**Person** means any individual natural person, partnership, joint venture, society, association, company, club, trustee, trust or corporation; or any officer, agent, employee, or personal representative of any thereof, in any capacity acting either for her or himself or for any other person under either personal appointment or pursuant to law.

**Pest** shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

**Pest Management** means the act of managing or controlling pests through the use of chemical, mechanical, cultural, biological, or genetic measures.

**Pesticide** means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the EPA. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

**Pests of significant public health importance** means the pests listed by the EPA, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

**Preemptive application** means the application of pesticides as a measure against something possible, anticipated or feared, i.e., as a preventive or deterrent measure.

**Public utility** means any transmission and distribution utility, telephone utility, water utility, gas utility, or natural gas pipeline utility that is subject to the jurisdiction of the Maine Public Utilities Commission.

**Restricted Entry Interval**, also known as the re-entry interval or re-entry time, means the minimum amount of time that must pass after a pesticide is applied to an area before people or pets can safely go into that area. The labels on pesticides provide information about an individual pesticide's REI.

**Synthetic** means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources, except that such term shall not apply to substances created by naturally occurring biological processes.

**Water body** means any great pond, river, stream or tidal area as those terms are defined in Chapter 14 of the Portland Code of Ordinances.

**Wetland** means a coastal or shoreland freshwater wetland as those terms are defined in the City's Zoning Ordinance, Chapter 14 of the Code of Ordinances.

#### **Sec. 34-4. Applicability**

The following provisions shall apply to all outdoor pest management activities conducted within the boundaries of the City of Portland (hereinafter, the "City"), on both public and private land.

#### **Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

1. Organic Pest Management, except as provided in (b)2 below;
2. Use or application of Synthetic substances specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List"); and/or
3. Use or application of Pesticides determined to be "minimum risk pesticides" pursuant to the FIFRA and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.

(b) Prohibited Pest Management Activities and/or Materials:

1. Use or application of Synthetic substances other than those described in (a) (2) above;
2. Use or application of Non-synthetic substances specifically listed as "prohibited" on the National List; and/or
3. The use or application of pesticides (whether natural, organic, "non-synthetic," synthetic or otherwise) within seventy five feet of a water body or wetland.

(c) Exempt Pest Management Activities and/or Materials. The following are exempt from the provisions of this ordinance (and therefore are allowed):

1. Use or application of Pest Management Activities and/or Materials in connection with Commercial agriculture;
2. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
3. Disinfectants, germicides, bactericides, miticides and virucides, when used in the manner specified by the manufacturer;
4. Insect repellents when used in the manner specified by the manufacturer;
5. Rat and rodent control supplies when used in the manner specified by the manufacturer;
6. Swimming pool supplies when used in the manner specified by the manufacturer; and/or
7. General use paints, stains, and wood preservatives, and sealants when used in the manner recommended by the manufacturer.

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;

2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
3. Hadlock Field applications;
4. Treatments for Heritage Elms;
5. Applications on fields at High Use Athletic facilities (until January, 2021, unless this date is extended by the City Council);
6. Prohibited pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth and other insects identified as invasive by the Maine Forest Service; and/or
7. Right-of-way applications. Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City.

For any exempt applications by the City, disclosure shall be made in the annual report described in Section 34-9 of this ordinance.

(e) Exempt Uses. The following uses are exempt from the provisions of this ordinance (and therefore are allowed):

1. Any use of pesticides mandated by state or federal law or required by an order or decision from a court or state or federal board or agency.

#### **Sec. 34-6. Pest Management Advisory Committee.**

(a) The Pest Management Advisory Committee ("PMAC") is hereby established. The PMAC shall consist of seven (7) members as follows:

1. One (1) member of city staff, designated by the City Manager, who shall be accredited by the Northeast Organic Farming Association in Organic Land Care or shall receive such accreditation within a reasonable time frame;
2. One (1) practicing agronomist appointed by the City Council;

3. Two (2) Maine Board of Pesticides Control-licensed landscape professionals, at least one (1) of whom has experience in organic land care management and is accredited by the Northeast Organic Farming Association in Organic Land Care, each appointed by the City Council; and
4. Three resident or taxpayer representatives appointed by the City Council at least one of whom has experience in organic land care management.

(b) The terms of office of the six (6) PMAC members appointed by the City Council shall be three-year terms, except that the initial appointments after the establishment of the PMAC shall be such that the terms of office of no more than two (2) members shall expire in any single year. The term of office for the City employee PMAC member shall be for as long as the employee holds said employment position.

(c) The PMAC shall advise the City Council and the City's Sustainability Coordinator with respect to the following:

1. Advising the Sustainability and Transportation Committee and the City's Sustainability Coordinator of any problems encountered or amendments that may be required to achieve the full and successful implementation of this ordinance;
2. Reviewing and acting upon waiver applications when applicable;
3. Developing and implementing outreach and education as specified in Sec. 34-11 of this ordinance (in coordination with the Sustainability Coordinator);
4. Seeking the participation, advice and counsel of experts in the fields of organic turf and landscape management, maintenance of trees and shrubs, and organic pest protocol;
5. Encouraging broad community participation, from parents, schools, advocates, and local arboriculture and landscaping businesses, in the activities of the PMAC;
6. Reviewing annual data and issuing a summary report annually by March 31 to the Sustainability and Transportation Committee, or whatever committee is assigned an oversight role by the City Council, which includes, among other things, a summary of its

educational outreach; recommendations on any necessary amendments to this chapter; the number of waivers granted in the past year; and comprehensive data taken from the written documents provided by Applicators and/or Licensed Applicators about the use of pesticides within the City of Portland including, but not limited to:

- a. The amount of pesticides used on privately or publicly owned land in the City of Portland;
- b. The reasoning for such use of pesticides; and
- c. The specific pesticides that were used.

7. Any additional responsibilities as may be assigned and deemed necessary by the City Council.

(d) PMAC Officers, meetings and records.

1. The members shall annually elect a chair and a secretary from their membership;
2. All meetings of the PMAC shall be noticed and open to the public in accordance with the City's notice policies and Maine's Freedom of Access Act;
3. A quorum shall consist of four members;
4. The PMAC shall meet at least five (5) times annually;
5. Minutes shall be kept of all meetings and posted on the City web page; and
6. An annual report of the PMAC's activities shall be submitted to the Sustainability and Transportation Committee by March 31 of each year.

(e) Waiver Subcommittee:

1. A subcommittee of the PMAC shall be established annually and consist of the designated City staff member and one (1) other member of the PMAC designated by the Chair;
2. This subcommittee shall be authorized to review and decide waiver applications as described in section 34-7; and
3. The PMAC shall schedule meetings of the Waiver Subcommittee frequently enough to be responsive to waiver requests. All meeting dates shall be posted in advance on the City calendar.

Sec. 34-7. Waivers.

(a) In situations that are an emergency, threaten the public health, safety or welfare, or for the control of invasive species that pose a threat to the environment, persons shall apply to the PMAC Waiver Committee for a waiver from the provisions of this ordinance prior to the use/application of a prohibited pesticide or prior to the conduct of a prohibited application.

(b) The waiver application shall be filed with the PMAC Waiver Committee, on a form prescribed by the Committee and shall include the following information: the reason for requesting the use/application of a prohibited pesticide; the proposed location(s) of the proposed application(s); details on the timing(s) of use, substance(s) and amounts to be applied; date(s) of application; management plan that excludes broadcast and preemptive applications; and a pest identification and threshold report. In order to approve a waiver application, the PMAC Waiver Committee must find that all of the following criteria are met:

1. A situation exists that: is an emergency; threatens the public health, safety and/or welfare; involves an invasive species;— that poses a threat to the environment; or requires a non-permitted pest management activity and/or material to protect buildings or structures from damage;
2. The applicant has carefully evaluated all alternative methods and materials including, but not limited to, non-pesticide management tactics, minimum risk pesticides, non-synthetic pesticides, and is choosing to use the minimum amount of the least toxic, most effective pesticide necessary;
3. The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties; and
4. To the maximum extent possible the grant of the waiver will not be detrimental to the public's health, safety or welfare.

(c) The Waiver Committee shall conduct a hearing on all complete waiver applications received within ten business days

of receipt of the complete application and shall seek to issue a written decision on the application within three (3) business days of reviewing an application.

(d) In approving any waiver application, the Waiver Committee may also prescribe conditions and safeguards as are appropriate to further the purposes of this ordinance. The waiver decision of the Waiver Committee shall be in writing, with copies provided to the applicant, the PMAC, and the Sustainability Coordinator, and the City Clerk.

(e) An Aggrieved Party may appeal a written decision of the PMAC Waiver Committee to the City Manager or his or her designee within five (5) business days of the issuance of the committee's decision. The appeal shall be in writing and shall state the basis for the appeal. The City Manager or his or her designee (who shall not be a member of the PMAC) shall act upon the appeal within five (5) business days of receipt of the appeal. The decision of the City Manager or designee shall be in writing, with copies provided to the aggrieved party, the PMAC Waiver Committee, and the Sustainability Coordinator. The decision of the City Manager or his or her designee shall be final.

#### **Sec. 34-8. Reporting by State of Maine Licensed Applicators.**

In addition to complying with the Maine Board of Pesticides Control rules regarding record keeping and reporting requirements as outlined in 01-026 C.M.R. Ch. 50, as amended from time to time, all State of Maine licensed applicators are required to submit to the PMAC an annual summary report on or before February 1st of each calendar year relating to the preceding calendar year. This report shall contain the following information for applications performed in the City in the prior calendar year: target site, pesticide brand name, EPA registration number, total undiluted formulation (in pounds or gallons), and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticides Control.

#### **Sec. 34-9. Management plan and annual reporting for publicly owned parks and open spaces.**

The City shall maintain a management plan for public open spaces that shall be posted on the City website. The City Manager or

his or her designee shall provide an annual report to the PMAC describing efforts to reduce the use of synthetic pesticides, a description of synthetic pesticides used during the previous year, the reason for their use, and the cost of such pesticide usage.

#### 34-10. Public Notification.

Any person shall comply with the following posting requirements. For all prohibited pesticide uses or applications:

(a) A warning sign shall be posted on the privately or publicly owned land. These signs must be posted before application activities commence on the land and be left in place for at least forty-eight (48) hours after actual application or until expiration of the restricted entry interval indicated by the pesticide label, whichever is longer;

(b) All signs shall be at least five (5) inches high and four (4) inches wide in size. Signs shall be attached to the upper portion of a dowel or other supporting device so that the bottom of the sign is not less than 12" and the top of the sign is not more than 48" above the ground. The signs shall be of rigid, weather resistant material substantial enough to be easily read for the duration of the placement;

(c) All signs must be light colored (white, beige, yellow or pink) with dark, bold letters (black, blue or green). They shall have lettering that is conspicuous and clearly legible;

(d) The sign must include the following:

1. The word "CAUTION" in 72-point type;
2. The words "PESTICIDE APPLICATION" in 30-point type or larger;
3. The Maine Board of Pesticides Control designated symbol;
4. Any reentry precautions from the pesticide labeling;
5. The name and telephone number of the entity making the pesticide application;
6. The date and time of the application;
7. A date and/or time to remove the sign;
8. the chemical and trade name of the pesticide; and
9. the length of time to remain off the treated area as indicated by the pesticide label; and

(f) For licensed applicators, the requirements above are in addition to any requirements that may also apply to State of Maine licensed applicators subject to the Maine Board of Pesticides Control rules, as may be amended from time to time, regarding public notification.

**Sec. 34-11. Outreach and Education.**

(a) The Sustainability Coordinator or his or her designee shall publish notice of this ordinance in a newspaper of general circulation in the City upon adoption and shall attempt to provide information about it to identified retailers and lawn, garden, and tree-care providers serving the City of Portland, as well as to churches, schools, and other institutions in Portland.

(b) The PMAC shall prepare and publish materials designed to educate the community about the role of pesticides in the local environment and the benefits of organic pest management. This outreach may include: a community-based social marketing campaign targeting City households and businesses; promotion of professional education and training for State of Maine licensed applicators; distribution of information and news about City practices through Portland internet and web-based resources; public service announcements; news releases and news events; tax bill inserts; posters and brochures made available at City events and applicable locations that serve the public; workshops, trainings, and demonstration projects; targeted outreach to schools; and/or any additional methods deemed appropriate by the PMAC.

(c) The PMAC shall also develop a program to work directly with retailers that sell pesticides in the City of Portland to:

1. Provide educational training for all retail store employees who recommend and sell pesticides for use in the home and garden, highlighting the following:
  - a. federal, state, and local pesticide regulations;
  - b. principles of organic pest management;
  - c. pesticide toxicity and health and environmental concerns;
  - d. proper pesticide display and storage; and

- e. the role of personal protective equipment, pesticide poisoning symptoms, and emergency procedures in case of spills; and
- 2. Implement a toolkit consisting of educational materials and signage (i.e., posters, signs, stickers) that can be customized, printed, and placed in stores to help consumers understand this ordinance and alternatives to prohibited pesticides.

**Sec. 34-12. Violations.**

Any person violating any of the provisions of this ordinance or failing, neglecting or refusing to obey any order or notice of the City Manager or his or her designee issued hereunder shall be subject to enforcement action as provided in §34-13.

**Sec. 34-13. Enforcement and Remedies.**

(a) This ordinance may be enforced by the City Manager or his or her designee;

(b) The City Manager or his or her designee shall have the authority to enact rules and regulations in order to implement the provisions of this ordinance; and

(c) Any violation of this chapter shall constitute a civil violation subject to the penalties contained in Portland City Code, Chapter 1, § 1-15.

**Sec. 34-14. Severability.**

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

**Sec. 34-15. Conflicts with Other Ordinances.**

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive chapter, article or ordinance of the Portland City Code shall control.

**Sec. 34-16. Effective date; Applicability dates.**

In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or applications (and the related public notification, signage and reporting requirements) shall be effective as follows:

(a) Phase One: Commencing no later than March 1, 2018, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses);

(b) Phase Two: Commencing no later than January 1, 2019, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to private property (but not high use athletic fields or golf courses); and

(c) Phase Three: Commencing no later than January 1, 2021, the provisions set forth in Sec. 34-5 on outdoor pest management activities with respect to high use athletic fields shall apply to public or private property, except that the City Manager or his or her designee may request that the City Council extend this applicability date if he or she determines more time is necessary to transition to organic management practices for these properties and facilities.

**AMENDMENT 1 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
FOR MAYOR ETHAN STRIMLING  
RE: ILLEGAL TO USE PESTICIDES WITHIN 250 FEET OF A BODY OF WATER**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

...

(b) Prohibited Pest Management Activities and/or Materials:

1. Use or application of Synthetic substances other than those described in (a) (2) above;
2. Use or application of Non-synthetic substances specifically listed as "prohibited" on the National List; and/or
3. The use or application of pesticides (whether natural, organic, "non-synthetic," synthetic or otherwise) within seventy-five two hundred and fifty feet of a water body or wetland.

...

AMENDMENT 2 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
FOR MAYOR ETHAN STRIMLING  
RE: AGGRIEVED PARTY

Chapter 34

PESTICIDE USE

...

**Sec. 34-3. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

**Aggrieved party** means an individual or entity that applies for but is denied a waiver from provisions of this ordinance as described in Section 34-67. It also means an individual or entity that owns or has legal residence in a property that abuts a property on which another individual or entity has received a waiver as described in Section 34-7.

**Broadcast application** means the spreading of pesticides over an entire area.

...

**AMENDMENT 3 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
RE: EFFECTIVE DATE**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-16. Effective date; Applicability dates.**

In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or applications (and the related public notification, signage and reporting requirements) shall be effective as follows:

~~(a) Phase One: Commencing no later than March 1, 2018, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses);~~

(~~ba~~) Phase ~~Two~~One: Commencing no later than January 1, 2019, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses) and private property ~~(but not high use athletic fields or golf courses)~~; and

(~~eb~~) Phase ~~Three~~Two: Commencing no later than January 1, 2021, the provisions set forth in Sec. 34-5 on outdoor pest management activities with respect to high use athletic fields shall apply to public or private property, except that the City Manager or his or her designee may request that the City Council extend this applicability date if he or she determines more time is necessary to transition to organic management practices for these properties and facilities.

**AMENDMENT 4 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
RE: NO TERMINATION DATE FOR USE OF PESTICIDES AT HIGH USE  
ATHLETIC FACILITIES**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

...

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;
2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
3. Hadlock Field applications;
4. Treatments for Heritage Elms;

5. Applications on fields at High Use Athletic facilities. ~~(until January, 2021, unless this date is extended by the City Council);~~
6. Prohibited pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth and other insects identified as invasive by the Maine Forest Service; and/or
7. Right-of-way applications. Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City.

For any exempt applications by the City, disclosure shall be made in the annual report described in Section 34-9 of this ordinance.

...

**AMENDMENT 5 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
RE: EXEMPTION FOR USE ON INVASIVE SPECIES**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

...

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;
2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
3. Hadlock Field applications;
4. Treatments for Heritage Elms;
5. Applications on fields at High Use Athletic facilities (until January, 2021, unless this date is extended by the City Council);

6. Prohibited pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth and other insects identified as invasive by the Maine Forest Service; and/or
7. Right-of-way applications. Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City.
8. Invasive plant applications. Applications to control plants categorized as currently considered invasive in Maine by the Maine Department of Agriculture, Conservation, and Forestry.

For any exempt applications by the City, disclosure shall be made in the annual report described in Section 34-9 of this ordinance.

**AMENDMENT 6 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
RE: DELETION OF WAIVER SUBCOMMITTEE**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-6. Pest Management Advisory Committee.**

(a) The Pest Management Advisory Committee ("PMAC") is hereby established. The PMAC shall consist of seven (7) members as follows:

...

(d) PMAC Officers, meetings and records.

1. The members shall annually elect a chair and a secretary from their membership;
2. All meetings of the PMAC shall be noticed and open to the public in accordance with the City's notice policies and Maine's Freedom of Access Act;
3. A quorum shall consist of four members;
4. The PMAC shall meet at least five (5) times annually;
5. Minutes shall be kept of all meetings and posted on the City web page; and
6. An annual report of the PMAC's activities shall be submitted to the Sustainability and Transportation Committee by March 31 of each year.

~~(b) Waiver Subcommittee:~~

- ~~1. A subcommittee of the PMAC shall be established annually and consist of the designated City staff member and one (1) other member of the PMAC designated by the Chair;~~

- ~~2. This subcommittee shall be authorized to review and decide waiver applications as described in section 34-7; and~~
- ~~3. The PMAC shall schedule meetings of the Waiver Subcommittee frequently enough to be responsive to waiver requests. All meeting dates shall be posted in advance on the City calendar.~~

**Sec. 34-7. Waivers.**

(a) In situations that are an emergency, threaten the public health, safety or welfare, or for the control of invasive species that pose a threat to the environment, persons shall apply to the ~~PMAC Waiver Committee~~City Manager for a waiver from the provisions of this ordinance prior to the use/application of a prohibited pesticide or prior to the conduct of a prohibited application.

(b) The waiver application shall be filed with the ~~PMAC Waiver Committee~~City Manager or designee, on a form prescribed by the ~~Committee~~City Manager and shall include the following information: the reason for requesting the use/application of a prohibited pesticide; the proposed location(s) of the proposed application(s); details on the timing(s) of use, substance(s) and amounts to be applied; date(s) of application; management plan that excludes broadcast and preemptive applications; and a pest identification and threshold report. In order to approve a waiver application, the ~~PMAC Waiver Committee~~City Manager or designee must find that all of the following criteria are met:

1. A situation exists that: is an emergency; threatens the public health, safety and/or welfare; involves an invasive species;— that poses a threat to the environment; or requires a non-permitted pest management activity and/or material to protect buildings or structures from damage;
2. The applicant has carefully evaluated all alternative methods and materials including, but not limited to, non-pesticide management tactics, minimum risk pesticides, non-synthetic pesticides, and is choosing to use the minimum amount of the least toxic, most effective pesticide necessary;
3. The applicant will, to the greatest extent practical, minimize the impact of the application on abutting

properties; and

4. To the maximum extent possible the grant of the waiver will not be detrimental to the public's health, safety or welfare.

(c) The ~~Waiver Committee~~City Manager or his or her designee shall conduct a hearing on all complete waiver applications received within ~~ten-five~~ business days of receipt ~~of the complete application~~ and shall ~~seek to~~ issue a written decision on the application within three (3) business days of reviewing an application.

(d) In approving any waiver application, the ~~Waiver Committee~~City Manager or his or her designee may also prescribe conditions and safeguards as are appropriate to further the purposes of this ordinance. The waiver decision of the ~~Waiver Committee~~City Manager or his or her designee shall be in writing, with copies provided to the applicant, the PMAC, and the Sustainability Coordinator, and the City Clerk.

(e) An Aggrieved Party may appeal a written decision of the PMAC Waiver Committee to the City Manager or his or her designee within five (5) business days of the issuance of the committee's decision. The appeal shall be in writing and shall state the basis for the appeal. The City Manager or his or her designee (who shall not be a member of the PMAC) shall act upon the appeal within five (5) business days of receipt of the appeal. The decision of the City Manager or designee shall be in writing, with copies provided to the aggrieved party, the PMAC Waiver Committee, and the Sustainability Coordinator. The decision of the City Manager or his or her designee shall be final.

**AMENDMENT 7 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
RE: 2023 SUNSET PROVISION**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-16. Effective date; Applicability dates.**

In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or applications (and the related public notification, signage and reporting requirements) shall be effective as follows:

(a) Phase One: Commencing no later than March 1, 2018, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses);

(b) Phase Two: Commencing no later than January 1, 2019, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to private property (but not high use athletic fields or golf courses); and

(c) Phase Three: Commencing no later than January 1, 2021, the provisions set forth in Sec. 34-5 on outdoor pest management activities with respect to high use athletic fields shall apply to public or private property, except that the City Manager or his or her designee may request that the City Council extend this applicability date if he or she determines more time is necessary to transition to organic management practices for these properties and facilities.

(d) Sunset: This chapter will sunset on December 31, 2023 unless extended by vote of the City Council.

**AMENDMENT 8 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
FOR COUNCILOR PIOUS ALI AND COUNCILOR BRIAN BATSON  
RE: CITY-OWNED GOLF COURSE RESTRICTIONS**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-3. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

...

***Golf course*** means an area of land laid out for playing the game of golf with a series of 9, 18 or more holes. Mini-golf and disc golf courses are not considered golf courses.

***Golf course playing surfaces*** means the tees, fairways, greens and roughs of a golf course.

...

**Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b)(3) below:

...

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of

significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;

2. Golf course applications. Prohibited pesticides may be used on non-City owned golf course playing surfaces and on the tees and greens of City-owned golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;

...

**AMENDMENT 9 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
FOR COUNCILOR PIOUS ALI AND COUNCILOR BRIAN BATSON  
RE: INVASIVE INSECTS EXEMPTION REMOVED**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

...

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;
2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
3. Hadlock Field applications;
4. Treatments for Heritage Elms;

5. Applications on fields at High Use Athletic facilities (until January, 2021, unless this date is extended by the City Council);

~~6. Prohibited pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock-Woolly Adelgid, Browntail Moth and other insects identified as invasive by the Maine Forest Service; and/or~~

76. Right-of-way applications. Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City.

For any exempt applications by the City, disclosure shall be made in the annual report described in Section 34-9 of this ordinance.

(b) Exempt Uses. The following uses are exempt from the provisions of this ordinance (and therefore are allowed):

1. Any use of pesticides mandated by state or federal law or required by an order or decision from a court or state or federal board or agency.

**AMENDMENT 10 TO ORDER 110-17/18  
NEW CHAPTER 34 PESTICIDE ORDINANCE  
PREPARED BY CORPORATION COUNSEL  
FOR COUNCILOR PIOUS ALI AND COUNCILOR BRIAN BATSON  
RE: INCREASE TO FOUR PMAC MEMBERS WITH ORGANIC CREDENTIALS**

**Chapter 34**

**PESTICIDE USE**

...

**Sec. 34-6. Pest Management Advisory Committee.**

(a) The Pest Management Advisory Committee ("PMAC") is hereby established. The PMAC shall consist of seven (7) members as follows:

1. One (1) member of city staff, designated by the City Manager, who shall be accredited by the Northeast Organic Farming Association in Organic Land Care or shall receive such accreditation within a reasonable time frame;
2. One (1) practicing agronomist appointed by the City Council;
3. Two (2) Maine Board of Pesticides Control-licensed landscape professionals, ~~at least one (1) of whom~~ who have ~~has~~ experience in organic land care management and ~~least is are~~ accredited by the Northeast Organic Farming Association in Organic Land Care, each appointed by the City Council; and
4. Three resident or taxpayer representatives appointed by the City Council at least one of whom has experience in organic land care management.

...

**MEMORANDUM**  
**City Council Agenda Item**

**DISTRIBUTE TO:** City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

**FROM:** Jon Jennings, City Manager  
Troy Moon, Sustainability Coordinator

**DATE:** October 19, 2017

**SUBJECT:** Order Establishing Chapter 34: City of Portland Pesticide Use Ordinance

**SPONSOR:** Sustainability & Transportation Committee, Councilor Thibodeau, Chair

**COUNCIL MEETING DATE ACTION IS REQUESTED:** November 6, 2017

1<sup>st</sup> reading   x   Final Action       

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

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

**I. ONE SENTENCE SUMMARY:** This order creates Chapter 34 of the Portland City Code as the City of Portland Pesticide Ordinance.

**II. AGENDA DESCRIPTION:** On October 12 the Sustainability and Transportation Committee voted 3-0 to recommend the creation of the City of Portland Pesticide Ordinance. that prohibits the use of synthetic pesticides for outdoor pest management on public and private property within the City of Portland. It provides limited exceptions that allow the use of otherwise prohibited pesticides in emergency situations and when an imminent threat to the health and welfare of the public exists. In other circumstances, it creates a process where persons who wish to apply a prohibited pesticide may apply for a waiver from a committee established to hear such requests. The committee may grant a waiver only if the request meets specific criteria. The ordinance also creates an advisory committee tasked with assisting in the development of a robust education campaign to educate the public and retailers about land care practices that do not require pesticides and about organic alternatives to synthetic pesticides. Provisions of the ordinance would be enforced by the City Manager or designee and could be subject to fines as described in Chapter 1 of the Portland City Code. Staff has provided the Board of Pesticides Control with notice of this ordinance as well a copy of the text as required by statute.

**III. BACKGROUND:** Elected officials, City staff, and residents have long been concerned about the impact of pesticides on the environment in Portland. Councilors and staff have heard

concerns raised by residents that pesticide use threatens pollinators, degrades local water quality, and that applications on one property can impact neighboring properties due to runoff and drift. These residents argued that existing regulations at the State level do not provide adequate protection to City residents. In order to study this issue more carefully the City Council voted in May, 2016 to create the Pesticide and Fertilizer Task Force and asked it to review the ordinance developed in the City of South Portland and to consider measures from other jurisdictions as well as the costs and benefits of adopting new regulations. The task force was comprised of a diverse group of stakeholders including members of environmental and citizen groups, an entomologist, property owners, retailers, and landscaping professionals. Led by Councilor Mavodones, they met regularly between June, 2016 and January, 2017. The Sustainability and Transportation Committee began reviewing their draft ordinance, along with the South Portland ordinance, in June, 2017. Following two public hearing and a panel discussion of expert stakeholders, the committee drafted the Portland Pesticide Ordinance and voted to recommend it to the full City Council for adoption on October 12, 2017.

**IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED:** Adopting the order creates Chapter 34 in the Portland City Code and regulates the use of pesticides on public and private property in the City of Portland.

**V. FINANCIAL IMPACT:** Implementing the ordinance as drafted will require the City to invest in additional personnel and equipment.

**Administration:** The ordinance creates a variety of administrative duties for staff. It requires the City Manager to appoint a staff member to serve on and support the Pesticide Management Oversight Committee. This staff person will also be required to staff and participate on a committee that hears requests from individuals seeking waivers from ordinance provisions. A separate staff member would be required to hear appeals if such waiver requests are denied. Staff would also be responsible for receiving and processing reports from pesticide applicators and from City departments that may use pesticides. The ordinance also requires the City to develop and implement a comprehensive education and outreach program targeting City staff, retail establishments, landscaping companies, as well as individual residents that will require significant staff time as well as funds to create educational materials.

Additional resources to handle administration and education:

½ time Sustainability Associate	\$40,000
Funds for training, education, and outreach:	\$25,000

**Operations:** Organic management of athletic facilities is labor and equipment intensive. Moving to strictly organic practices at the high use athletic facilities will require additional staffing to achieve success:

1 full time MWIII focused on aeration, over seeding, top dressing, deep tine aerations, applying liquid organics	\$60,000
2 seasonal employees focused on hand weeding and agricultural work	\$24,000

Staff will also need a variety of new and upgraded equipment in order to conduct the regular turf treatments that will be required to maintain the fields in a safe, playable condition:

New tractor with turf attachments	\$155,000
Installation of irrigation systems at several fields	\$90,000
Liquid organics holding tanks / mixing systems	\$50,000
Seed spreaders	\$3,000

Without the ability to proactively address pests (such as grubs) the City will need to be prepared to replace turf on athletic fields periodically due to unsafe playing conditions caused by a proliferation of weeds and bare spots. \$100,000 - \$250,000

**VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION**

**VII. RECOMMENDATION:** Staff has several recommendations for amendments to the order as drafted that would facilitate implementation and administration of the ordinance.

1. Replace the waiver subcommittee described in Section 34-7 of the ordinance with an administrative process as described in Section 34-8 of the ordinance recommended by the Pesticide and Fertilizer Task Force. An administrative process will allow an applicant to receive a response more quickly than a committee process. Since waivers would be primarily for emergency situations, a speedier process would benefit the public.
2. Allow High Use Athletic Facilities to remain exempt from the ordinance after 2021. The athletic facilities in this category are used substantially more than is considered best practice. Consequently, the turf does not have time to recover after intense use. This leads to compacted, stressed soils that are susceptible to pests. Limited and strategic use of pesticides can be a necessary tool to maintain healthy and safe turn on these fields.
3. Amend the effective start date from March, 2018 to January, 2019 to provide consistent one year intervals between implementation phases.
4. In Section 34-5 add applications to control plants categorized as *currently considered invasive in Maine* by the Maine Department of Agriculture, Conservation, and Forestry as exempt applications.
5. Eliminate the requirement noted in Section 34-6 that the City staff person designated to serve on the Pesticide Management Advisory Committee be certified by the Northeast Organic Farming Association in organic land management. This requirement limits the pool of employees who may serve on this advisory board and places an ongoing requirement for staff to receive and maintain this particular certification. Employees may have knowledge in this area without receiving this accreditation.
6. The ordinance should sunset on December 31, 2023 unless specifically extended by vote of the City Council.

**VIII. LIST ATTACHMENTS: Draft Ordinance**

Prepared by: Jon Jennings, City Manager and Troy Moon, Sustainability Coordinator  
Date: 10/26/2017

Bean/agendarequestmemo/rev 1/23/2017



Executive Department  
Jon P. Jennings, City Manager

To: Members of the Portland City Council  
From: Troy Moon, Sustainability Coordinator  
Date: 12/28/2017  
Re: Amendments to the Proposed Pesticide Ordinance

CC: Jon Jennings, City Manager  
Anita LaChance, Assistant City Manager  
Sally Deluca, Director of Parks, Recreation and Facilities  
Ethan Hipple, Deputy Director of Parks Recreation and Facilities

During the City Council meeting on December 18 the Council members requested information about the amendments to the Pesticide Ordinance offered by Councilors Mavodones, Ali, Batson, and Mayor Strimling. Several key staff members have been on vacation during the intervening period but we have been able to gather additional background material to help inform your upcoming deliberations. In addition to brief discussion of each of the amendments please find a memo provided to the Sustainability and Transportation Committee in August, 2017 as well as the Management Plan for Parks and Open Space that was reviewed and approved by the Sustainability and Transportation Committee in 2016.

Key staff members from Parks, Recreation, and Facilities will be present on January 3 to answer questions and provide additional information.

#### **Amendment 1 - prohibiting use of pesticides within 250 of a water body**

Approval of this amendment would have significant negative impact on the City's high use athletic facilities and the golf course. Three of the five fields (Payson A, Deering Oaks, and Back Cove) are within 250 of a water body as are 15 of the 33 greens at Riverside Golf Course. The amendment would prohibit the use of any synthetic or organic pesticide on these facilities. Staff has not had time to fully review the consequences that would result from adopting this amendment but feels strongly that prohibiting the use of any treatments at these locations threatens their viability to function as playing surfaces. The proposed amendment is far more restrictive than the 25' mandated by the State of Maine and the 75' mandated by the South Portland ordinance.

#### **Amendment 2 - Expanding the definition of aggrieved party to include abutters**

This amendment allows the owners of properties that abut properties that have received a to appeal the granting of the waiver to the Waiver Committee of the PMAC. Adopting this amendment would increase the administrative burden of the ordinance by expanding the pool of individuals eligible to apply for a waiver. Hearing additional waivers would consume staff resources but it is difficult to predict how many appeals this would generate.

#### **Amendment 3 - move the effective start date from March, 2018 to January, 2019**

This is a staff recommended amendment proposed to provide time to empanel the Pesticide Management Advisory Committee and Waiver Committee that would need to be in place before the ordinance can be implemented.

#### **Amendment 4 - Allow high use athletic facilities to remain exempt from the ordinance after 2021**

There are five City facilities in this category: Payson A, Deering Oaks, Back Cove, Fox Field, and Presumpscot Field at Deering High School. The athletic facilities in this category are used substantially more than is considered best practice. Consequently, the turf does not have time to recover after intense use. This leads to compacted, stressed soils that are susceptible to pests. Limited and strategic use of pesticides or weed/feed products that contain fertilizer and pesticides can be a necessary tool to maintain healthy and safe turf on these fields. Current practices by Parks Department staff emphasize non-pesticide management techniques but having the ability to use treatments in limited circumstances is important to maintain safe, playable fields. Otherwise, a situation such as a grub infestation could require turf replacements with costs up to \$250,000 per field. As noted, current practices include limited applications that include approximately 2,200 lbs. annually of weed/feed and approximately 5 gallons of glyphosate.

#### **Amendment 5 - Exemption for invasive plants.**

This staff recommend amendment would exempt applications to control plants categorized as “currently considered invasive in Maine” by the Maine Department of Agriculture, Conservation, and Forestry. It would provide staff with the ability to respond quickly to aggressive invasive plants such as Japanese Knotweed, Bittersweet, and several other plants that can threaten native plants and the environment. The amendment would also accommodate work by groups such as the Casco Bay Invasive Species Network that work hard to protect native habitats by controlling invasive plants. Members of this group are active on the Casco Bay Islands, which have severe problems with invasive plants.

#### **Amendment 6 - Amend the waiver process**

This staff recommended ordinance replaces the waiver subcommittee described in Section 34-7 of the ordinance with an administrative process as described in Section 34-8 of the ordinance recommended by the Pesticide and Fertilizer Task Force. An administrative process will allow an applicant to receive a response more quickly than a committee process. Since waivers would be primarily for emergency situations, a speedier process would benefit the public.

#### **Amendment 7 - Sunset provision**

This staff recommended amendment would sunset the provisions of the proposed ordinance on December 31, 2023 unless specifically extended by vote of the City Council. This would provide for a complete review and analysis of the ordinance and its impact on the environment as well as City owned and private properties including athletic fields, the golf course, and private lawns and gardens.

#### **Amendment 8 - Golf course restrictions**

This amendment would restrict the use of pesticides at Riverside Golf Course to the tees and greens. During the past two years, staff at the golf course has reduced pesticide applications by over 60% by implementing a thoughtful approach that allows applications to only a third of the fairways on a given year. The other two thirds of the fairways do not receive treatments. Staff implemented this approach after careful study of the life cycle of the pests that impact the course. Riverside Golf Course is a premier public golf facility in Maine and requires great attention to maintain a high standard of play. The course is currently pursuing Audubon certification. A competing private course, Sable Oaks in South Portland, is able to use pesticides on all playing surfaces. Staff recommends that Riverside Golf Course have the same ability.

Staff has provided background information to describe the improved management techniques that have limited pesticide use:

- During the 2017 season staff applied 38.35 Gallons of liquid pesticides and 46.65 pounds of granular pesticides.
- During the 2016 season staff applied 108.4 gallons of liquid pesticides and 77.5 pounds of granular pesticides.

- During the 2011 season, staff applied an all time high of 290.65 pounds of granular pesticides and 140.66 gallons of liquid pesticides).
- The five year average from 2011 to 2015 was 132 pounds of granular pesticides and 141 gallons of liquid pesticides.

The lower totals of 2016 and 2017 are a direct result of implementing updated pesticide protocols and changing to products that have different formulations and chemistry. The key aspect of these protocols is rotating applications on a three year plan in order to keep weeds and insects under control with minimum damage. The proposed amendment prohibiting applications on fairways and roughs would lead to unacceptable levels of turf damage that would dramatically undermine the course.

#### **Amendment 9 - Removing the exemption for invasive Insects**

This amendment would remove the exemption for controlling invasive insects. Staff originally recommended this exemption to the Sustainability and Transportation Committee in order to retain the ability to respond quickly to invasive insects such as Hemlock Woolly Adelgid, that currently threaten Hemlock trees in Portland and to future threats such as the Emerald Ash Borer that have devastated trees in other parts of the country and that will soon threaten trees in Portland.

#### **Amendment 10 - Requiring four members of the PMAC to have certification in organic land management**

There is no financial impact for this amendment but requiring four members of the committee to have specific training by the Northeast Organic Farming Association limits the pool of candidates for the seats which may make it more difficult to fill them.

# Portland Open Spaces

## Integrated Pest Management Proposal 2016

Prepared by:

- *Ethan Hipple, Recreation Director*
- *Ethan Owens, Athletic Facilities Manager*
- *Jeff Tarling, City Arborist*
- *Gene Pierotti, Golf Course Superintendent*
- *Troy Moon, Sustainability Coordinator*

### Guiding Principles

- City staff take a precautionary, incremental, and science-based approach to minimizing public exposure to pesticides on City Property.
- Pesticide use (organic or synthetic) on City property should be strongly regulated, with clear guidelines (such as this document) for staff managing public lands.
- City staff support continuing the “no-pesticide” policy on certain properties, eliminating pesticides use in certain areas, and reducing them in other areas, depending on the property classification.
- Certain areas within the Riverside Golf Course would be exempted, while pesticides could be eliminated or reduced in other areas of the golf course.
- City staff will continue to follow Integrated Pest Management principles, utilizing pesticides in limited areas as simply one tool to control pests, along with other effective measures such as maintaining turf and plant health by aeration, overseeding, irrigation, cutting height, etc...
- Follow the *Precautionary Principle* in reducing and regulating all pesticide use (organic and synthetic) whenever possible.
  - Definition of “Precautionary Principle”: *When human activities may lead to morally unacceptable harm that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm. (Source: UNESCO 2015, United Nations Educational, Scientific, and Cultural Organization)*
- The term “organic” or “non-synthetic” does not mean that products are tested and safe for the public. City staff will follow the science and guidelines from Environmental Protection Agency and Maine Board of Pesticide Control before using *any* product.
  - The International Agency for Research on Cancer (IARC) lists many naturally-occurring and organic substances that are *possibly* carcinogenic in humans: sodium nitrates, coffee, bracken fern, tobacco, aflatoxins in fungi, areca nuts, coal tar, betel quid, and wood dust are prominent examples (<http://monographs.iarc.fr/ENG/Classification>). The science tells us that the organic nature of a substance does not necessarily make it safe for humans, nor does the synthetic nature of a substance make it unsafe for humans.
- City staff will utilize the following science-based guidelines to minimize public exposure to all pesticides:
  - Follow Best Management Practices as developed by Maine Board of Pesticides Control (adopted 2/24/2012)
  - All pesticides (organic and synthetic) used on City property must be Environmental Protection Agency tested and listed.
  - Additional City Practices and Procedures as detailed in this document
- Only State Licensed Applicators may apply pesticides (organic or synthetic) on City property.

### Action Plan Summary

- Continue following State of Maine Best Management Practices as defined by Maine Board of Pesticide Control.
- Continue practice of requiring that all City employees who apply pesticides carry Commercial Applicator Licenses and that they attend required continuing education classes.
- Reduce or eliminate total amount of pesticides (organic and synthetic) used on city properties according to plan below.
- Develop 2 test sites on City Athletic Fields where we can completely eliminate pesticide use on half of field and compare results to areas treated with pesticides. These tests would occur over a 3 year period. These test sites would allow the testing of various techniques and would allow us to gauge the public's willingness to live with a higher percentage of weeds, insect pests, and exposed earth on their playing fields. Details below.

## Training and Certification

- Any City staff member who will apply any pesticide (organic or synthetic) shall maintain a State Applicator License.
  - The city currently employs
    - 2 Master Applicators (Golf Course Superintendent and City Arborist)
    - 4 Commercial Applicator Licensees (Athletic Field Maintenance Departments).
    - 8 Commercial Applicators in Parks and Cemeteries Division
- Staff shall continue to keep certifications current and attend continuing education sessions.
- In order to receive a Commercial Applicator License, individuals must go through extensive training in Best Management Practices, Integrated Pest Management.

## City of Portland Pesticide Plan

Staff have categorized city open space properties into 4 categories. On some lower level properties such as playgrounds, right of ways, etc... (Levels 3 and 4), staff and the public can tolerate a higher level of weeds and insects and pesticide use will be eliminated entirely. On higher priority levels (Levels 1 and 2) such as high-use and varsity playing fields, synthetic pesticide use will continue according to State of Maine Board of Pesticide Control Best Management Practices.

- **Level 1**—Highest care areas, e.g., Hadlock Field, some varsity playing fields, high-use fields that get excessive wear and tear.
- **Level 2**—High care areas, e.g., practice fields or multipurpose fields. May include varsity fields or high visibility lawn areas depending on the school.
- **Level 3**—Moderate care areas, e.g., playgrounds, low-use areas, common areas. May include practice fields and some lawn areas depending on the school
- **Level 4**—Lowest care areas, e.g., most park lawn areas, natural areas, fence lines, property edges, slopes, utility areas, ditches or trails

## Test Sites: All-Organic Playing Surfaces

In the calendar year 2016, two organic/synthetic test sites will be created, observed, and documented. These are Level 1 sites that otherwise would have continued to receive synthetic pesticides under this proposal.

We propose to treat and monitor these sites for 3 years to test results and collect feedback about the public's willingness to live with more pests, insects infestations, and exposed earth on public playing fields. It generally takes two or three years for turf to decrease dependence on pesticides. Staff will monitor for this length of time to ensure that organic methods have a chance to work.

Because of differences between sites in soil composition, sunlight, drainage, and level of use, we propose to test organic and synthetic products side by side at the same site so that those variables are equalized. Organic products will be used on half of the field, and synthetic products will be used on the other half of the field. Extensive before and after documentation will occur, as well as a written plan documenting the test parameters and guidelines. All test sites will continue to receive Best Management Practices of high-mowing, mulching, aeration, topdressing with compost and sand, and overseeding. The findings will be recorded and put into a report form on an annual basis.

- Site 1: Quinn Field at Deering Oaks Park
- Site 2: Payson Softball Field B (not varsity field)

### **Low-Use Fields (Levels 3 and 4)**

- Discontinue synthetic pesticide use
- Continue to follow BMPs for total turf health: high-mowing, mulching, aeration, topdressing, overseeding.

Because of lower use at these fields, the turf is able to rest and recover following use. Because of lower use, we can maintain higher grass height, which creates a healthier turf that can naturally outgrow pest species such as crabgrass and dandelions. Fields in this category include Breakwater Field, Payson Park Fields, Riverton Field Complex.

### **Hadlock Field, Varsity, and High-Use Athletic Fields (Levels 1 and 2)**

- Continue to use pesticides following State of Maine Best Management Practices until 3-year report on Test Sites (detailed above) is complete.
- Continue to follow BMPs for total turf health: high-mowing, mulching, aeration, topdressing, overseeding.

For optimal turf health, facility managers try to limit use of grass fields to between 200-500 hours of activity per year. Because of Portland's energetic and recreation-minded population, and a limited number of fields, use of our athletic fields is extremely high--upwards of 1,000 hours per year--at certain fields such as Deering Oaks Fields, Dougherty Field Complex, and Deering High School Fields.

The turf on these fields sees continual use throughout the growing season with cleats, tackling, sliding, running, and other high-impact uses. Because of such high wear and tear on these fields, the turf takes a beating and needs continual irrigation, over-seeding, mulching, aeration, deep-tining, top dressing with compost, and the occasional use of pesticides and fertilizers. These practices encourage turf growth and health in an environment where grass will not naturally grow and thrive.

Pesticides are not just used for aesthetics, but to decrease weeds which compete with turf grasses for nutrients, water, and sunlight. They also eliminate pests such as grubs and other harmful insects which can literally turn a field into a dirt patch within a couple weeks. Pesticides prolong the life of high-use fields and reduce the need for complete field turf replacement every 5-7 years. Encouraging grass growth through use of pesticides also prevents exposing bare earth, which creates sediment runoff which is detrimental to water quality.

Weeds are problematic at Athletic Fields not just because they out-compete the natural grasses, but they create a bumpy and irregular playing surface for games such as soccer and baseball. For sports that are under increasing scrutiny to decrease injuries and concussions, providing a level and safe playing surface is a priority for the City and the organizations that run youth and adult sports leagues.

Another alternative exists to maintain high use fields without the use of synthetic pesticides. That is to simply replace the turf every 5-7 years when it becomes unusable due to high use, weeds, grubs, and other pests.

The City has 55 fields in the Level 1 and 2 categories. The estimated cost for one varsity level field replacement is \$167,700 to \$222,200, depending on the size of the field (see attachment for breakdown of cost). The extraordinarily high cost of field turf replacement every 5-7 years will be a significant burden on taxpayers and will likely have a chilling effect on many other improvements and backlogged maintenance to our public spaces since so much money and labor will be funnelled into turf replacement.

Staff are very concerned that an immediate pesticide ban on Athletic Fields will cause an unknown amount of damage to the City's assets. We do not yet know what the outcome would be of such an action, and other communities that have placed similar bans on their properties are struggling to continue to maintain their assets.

Staff propose to instead develop Test Sites (detailed above) to develop Best Management Practices using organic products, observe results, and collect feedback from users and residents. By taking a reasoned approach, we can strike a balance between reducing overall pesticide use and maintaining our well-loved and heavily-used City assets.

### **Riverside Golf Course (Level 1)**

- Cornell University and the State of New York are conducting a long-range study with the intent of developing practices to reduce pesticide use at Golf Courses. They are currently 9 years into the study and have made many findings on Best Management Practices that are being implemented at courses throughout the region. However, after 9 years of study, they have determined that it is not yet possible to maintain a playable surface without at least minimal use of synthetic pesticides as part of a Integrated Pest Management plan.
- Because there is no known organic product(s) that will maintain the high-quality turf required for a quality putting green, all putting greens will continue to be managed using Integrated Pest Management. This will include the use of synthetic pesticides.
- On areas other than putting greens, switch to a 3 year rotation in which we divide the course up into three 9-hole zones. Synthetic pesticides will only be applied to one of the 9-hole zones each year, leaving the other two zones synthetic pesticide-free for 2 years.
- Not only will this reduce our synthetic pesticide use from current levels, it will allow golfers with sensitivities to pesticides to choose to golf in an area that has not been treated in that current year.
- Neonicotinoids are known to have a negative impact on pollinator populations and therefore they shall not be used anywhere upon the facility. There is a product (Acelepryn) that works as well as any neonicotinoid.
- Continue to seek certification as a National Audubon Society Golf Course Sanctuary.
- As the Cornell--New York State study publishes findings, adapt their recommendations for use at Riverside Golf Course.
- Continue to follow Maine State BMPs for total turf health: high-mowing, mulching, aeration, topdressing, overseeding.
- Complete Integrated Pest Management Plan for Riverside Golf Course attached.

Staff are currently working towards achieving certification as a National Audubon Society Sanctuary Golf Course, which requires reducing, but not eliminating, use of synthetic pesticides. The program consists of:

- Environmental Planning
- Wildlife and Habitat Management
- Chemical Use Reduction and Safety
- Water Conservation
- Water Quality Management
- Outreach and Education

The Vineyard Golf Club on Martha's Vineyard is currently the only golf course in the US known to have switched to strictly organic pesticides.

Their maintenance routine involves labor-intensive and expensive methods such as the following (source: [http://www.nytimes.com/2010/08/17/sports/golf/17vineyard.html?\\_r=0](http://www.nytimes.com/2010/08/17/sports/golf/17vineyard.html?_r=0)):

- Staff manually remove dew from the grass each morning with a whip-like device to reduce fungal disease
- Staff fly in roundworms from Iowa on dry ice to combat grubs
- Staff wash the shoes of the members to keep unwanted seeds and soils from entering their facility.
- Staff have regularly torn out and replaced their turf, tees, and greens in order to maintain a playable surface using only organic pesticides.

Operating a luxury golf course with expensive maintenance costs such as these has made The Vineyard Golf Club only accessible to the ultra-wealthy: membership fees currently consist of a \$350,000 initiation fee followed by a \$12,000 annual membership fee.

The Riverside Golf Course prides itself on providing affordable golf to all Portland residents and visitors. Until better and more cost-effective organic methods are developed, providing an adequate playing surface is only feasible by utilizing an Integrated Pest Management plan (including pesticides on a limited basis).

Please see attached complete Integrated Pest Management Plan for Riverside Golf Course.

### **Playgrounds (Level 3)**

- Continue current practice of no synthetic pesticide use.

In order to minimize children's exposure to pesticides, the public can accept a higher level of pests in their playgrounds and within a 25-foot buffer zone surrounding the playground. No synthetic pesticides will be applied in these areas, with a minimal number of exemptions for dangerous plants and stinging/biting insects (see "Exemptions" below).

### **Open Spaces (Level 4)**

- Continue current practice of no synthetic pesticide use

The staff and the public can accept a higher level of pests in these areas including most park lawn areas, natural areas, fence lines, property edges, slopes, utility areas, ditches or trails. No synthetic pesticides will be applied in these areas, with a minimal number of exemptions for dangerous plants and stinging/biting insects (see "Exemptions" below).

### **Cemeteries (Level 3)**

- Continue current practice of no synthetic pesticide use

The staff and the public can accept a higher level of pests in these areas that are often used as recreational areas. No synthetic pesticides will be applied in these areas, with a minimal number of exemptions for dangerous plants and stinging/biting insects (see "Exemptions" below).

### **City Trees (Adapted from 2009 Ontario Provincial ban on pesticides)**

Since trees are important to protecting our climate, Commercially Licensed Applicators can use synthetic or organic pesticides with the written opinion of a tree care professional that states that the use of the pesticide is necessary to protect the health of the tree. Homeowners and licensed exterminators can also buy and use biopesticides and lower risk pesticides (e.g., *Btk* - a biopesticide sprayed over Ontario cities for Gypsy moth control) to care for trees without requiring an opinion from a tree care professional.

Trees & forests are important environmental assets for our community. Their long term health may require protection from invasive pests, like Dutch Elm Disease, Hemlock Woolly Adelgid, Emerald Ash Borer and

Asian Longhorn Beetle. We also can experience outbreaks of insect pests like Browntail Moth that favor coastal climates and effect trees along with causing a risk to public health. In all cases we opt to use the best response possible with the lowest environmental impact. Two recent pest outbreaks in Portland include Hemlock Wooley Adelgid (HWA) & Winter Moth our response has included biological control using parasitic flies which feed exclusively on the target pest. Portland's response to Dutch Elm Disease includes preventive fungicide treatments injected into the trunk vs spraying foliage. We urge residents to contact licensed Maine Arborist firms to evaluate and plan the proper approach to tree pests.

### **Exemptions** (*applies to all properties within City limits*)

- Dangerous Plants: Poison Ivy, etc...
- Invasive Plants: Plants listed on the state list  
[http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invsheets.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invsheets.htm) of known invasive plants.  
Includes Japanese knotweed, purple loosestrife, etc...
- Biting or stinging insects within 25 feet of human activity: Hornets, Wasps, etc...
- Swimming Pools
- Pet Supplies
- Disinfectants
- Rodent control
- Insect repellents
- Paints, stains and wood preservatives

### **Waivers** (adapted from South Portland Ordinance)

In cases that threaten the public health and safety by creating a hazardous situation, individuals and/or companies may apply for a waiver from the provisions of this plan. These waivers would apply to situations not already addressed in this document.

The Integrated Pest Management Committee shall meet monthly and review and decide whether to issue waivers. The Committee shall be made up of:

- City Parks, Recreation, and Facilities Director or their designee
- City Stormwater Coordinator
- City Arborist (Master Applicator License)
- Private Landscaping Professional (must hold Maine Board of Pesticide Control Master Applicator License), appointed by the City Manager
- Citizen at Large, appointed by the City Council

A waiver application is a public record stating the proposed location(s), and timing of the use, substance(s), and amounts to be applied, the date(s) of application, and the reason for requesting use of a synthetic pesticide. The Integrated Pest Management Committee shall decide whether to issue a waiver, and for what duration. The Integrated Pest Management Committee must find all three of the following conditions exist in order to approve a waiver for the application of a prohibited pesticide:

1. That natural and organic methods have proven unsuccessful
2. The application of pesticides will not occur within 25 feet of a tributary, creek, stream, river, lake, or drainage ditch.
3. That the granting of the waiver will not result in material damage to other properties in the vicinity nor be detrimental to the public health, safety or welfare

### **Annual Financial Impact**

The table below illustrates the annual cost of Integrated Pest Management methods (including organic, synthetic and biological controls) VS organic-only pesticides. Also includes labor required to apply the products. Does not include fertilizer costs.

	<b>Integrated Pest Management</b> <i>(Current practice includes use of organic, biological, and synthetic methods)</i>			<b>Organic Pest Management</b> <i>(Alternative practice would only consist of organic and biological methods)</i>		
	Labor	Materials	Notes	Labor	Materials	Notes
<b>Athletic Fields</b>	\$500	\$5,000	20 worker hours x \$25/hour. Integrated Pest Management promotes turf health by top-dressing with compost, high-mowing, mulching, aerating, and limited pesticide use.	\$1,500	\$18,750	Organic material is 25% more expensive per unit, and needs to be applied 3x instead of 1x. Increased labor for multiple applications.
<b>Golf Course</b>	\$3,718	\$24,000	145 worker hours x \$25.64/hour. Integrated Pest Management promotes turf health by top-dressing with compost, high-mowing, mulching, aerating, and limited pesticide use. Increased Cost of non-Neonicotinoids	\$11,154	\$90,000	Organic material is 25% more expensive per unit, and needs to be applied 3x instead of 1x. Increased labor for multiple applications.  <b>NOTE: multiple studies have shown that golf playing surfaces are not sustainable using only organic products, no matter the cost.</b>
<b>Tree Care and Horticulture</b>	\$500	\$2,325	20 hours x 1 worker x \$25/hour. Dutch Elm Disease Injections, Horticultural Bed treatments. Biological treatments are often used instead of pesticides.	\$500	\$2,906	Material is 25% more expensive per unit. Labor stays the same for horticulture since workers are visiting the garden beds 3x weekly regardless.
<b>Parks</b>	\$0	\$0	No pesticides routinely applied in parks	\$0	\$0	
<b>Playgrounds</b>	\$0	\$0	No pesticides routinely applied in playgrounds	\$0	\$0	
<b>Cemeteries</b>	\$0	\$0	No pesticides routinely applied in cemeteries.	\$0	\$0	
<b>Sub Totals</b>	\$4,718	\$31,325		\$13,154	\$111,656	
<b>Grand Total</b>	<b>\$35,043</b>			<b>\$124,810</b>		

# Memo

**To:** Sustainability and Transportation Committee: Councilors Jill Douson, Belinda Ray, Spencer Thibodeau

**From:**

Sally DeLuca, *Director of Parks, Recreation and Facilities Department*

Ethan Hipple, *Parks Director*

Jeff Tarling, *City Arborist*

Ethan Owens, *Assistant Parks Director*

Joe Dumais, *Cemetery Manager*

**Date:** August 24, 2017

**Subject:** Pesticide Ordinance Exemptions

**Summary:**

City Parks Staff are writing to advise that any proposed Pesticide Ordinance include exemptions for the following areas and/or uses on city properties. Omission of these exemptions from the ordinance could result in significant field replacement costs, threats to our highly-valued heritage trees and street trees, spread of invasive species, and prolonged responses to public safety issues.

1. **Exemption: 5 high-use Athletic Facilities:** The Parks Division supports organic-only practices on the majority of Portland's 42 athletic field facilities, with the exception of the following exempted areas:
  - a. Fox Field, Deering Oaks, Deering High, Preble St, Payson A. For optimal turf health, facility managers try to limit use of grass fields to between 200-500 hours of activity per year. Because of Portland's energetic and recreation-minded population, and a limited number of fields, use of our athletic fields is extremely high--upwards of 1,000 hours per year. This overuse puts stress on the soil and plants, which requires additional management tools. Overabundance of weeds or other pests in an athletic field can cause bumpy, unsafe playing surface, topsoil erosion and water quality issues, and uneven soil conditions that can be deemed unsafe or unplayable by game officials. The remaining 37 athletic facilities would continue to receive organic-only practices.
  - b. Providing an exemption for these 5 facilities will allow staff the time to research, develop, and monitor the effect of organic-only practices on the remaining fields. Depending on the outcomes at the organic-only fields, those practices could be applied to our exempted high-use fields in the future, once we have data and experience to apply best practices.
2. **Exemption: Trees.** Because of the high value that society places on trees for their shade, carbon sequestration, wildlife habitat, soil conservation, and natural beauty, even the most restrictive pesticide regulations (such as Ontario, Canada) have included exemptions to protect trees from known and unforeseen pests. Timeliness is critical for an effective response. We recommend that this use is exempted.
3. **Exemption: Threats to public health or safety on public property** (i.e: wasp nests near trails or recreational facilities, poison ivy, etc...). Adding a waiver request and delay to the elimination of harmful pests in public areas will delay staff response time to a level that may be unacceptable to the public. For example, if a parent calls in to report a wasp nest on a public trail, staff typically try to respond within 24 hours. With a waiver request process, the staff person would need to return to office, fill out

paperwork, submit to City Hall, wait up to 3 days for response, then respond within 24 hours--up to a 5 day response time for what is now a routine service request. We recommend that this use is exempted.

4. **Exemption: Invasive Species.** Pesticides are a key tool in fighting the spread of invasive species that harm native vegetation and wildlife, and they are routinely used by land trusts, wildlife managers and others who have the responsibility for maintaining native landscapes and wildlife habitat. The Casco Bay Invasive Species Network (Casco Bay Island Development Association, Maine Island Trail Association, Casco Bay Estuary Partnership, Maine Coast Heritage Trust, Fort Williams Park Foundation, and US EPA) have published guidelines for adaptive invasive management, which include use of synthetic pesticides as a tool. Other tools include manual removal, mechanical means, biological treatments and native plantings. Staff believe that the city should follow the guidance of experts on this topic and avoid a costly and time consuming waiver process for a process that is already well-defined and regulated. We recommend that this use is exempted.

### Background Information

- 710 acres of 721 total Park acres are currently free of regular use of any pesticides (organic or synthetic).
- All city-managed properties are cared for using Best Management Practices for total soil and turf health: high-mowing, mulching, aeration, compost top-dressing, overseeding, slice-seeding.
- City staff have for many years used organic products and practices on a majority of city properties.
- Parks Division staff are leaders in reducing or eliminating the use of pesticides and maintain demonstration projects to educate public on how to reduce dependence on synthetic inputs:
  - Yardscaping gardens at Back Cove
  - Urban Meadow Project--throughout Portland
- No current pesticide use on playgrounds, garden beds, landscape areas, or lawn areas in parks, open spaces and cemeteries.
- Pesticides are never used for cosmetic or aesthetic purposes--the high amount of dandelions and other common weeds in our turf areas are testament to that.
- Organic and Synthetic Pesticides are currently used on a limited as-needed basis on high-use athletic fields to provide even, safe playing surfaces.
- All exempted applications are on an as-needed basis and conducted by Licensed Applicators with appropriate public notification as required by state law.

*Order 127-17/18*  
*Tab 5 - 12-18-17*  
*Tab 14 1-3-17*

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING SPECIAL COUNCIL AND  
OUTSIDE BOARDS AND COMMISSIONS APPOINTMENTS FOR 2018**

**ORDERED**, that the individuals identified in Attachment A to this order are hereby appointed as members of the boards and commissions listed in Attachment A for the calendar year 2018.

**ANNUAL APPOINTMENTS AND NOMINATIONS TO  
BOARDS AND COMMISSIONS  
ATTACHMENT A**

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**Casco Bay Island Transit District**

Staff: Mike Murray

**Creative Portland**

Councilor: Kimberly Cook  
Staff: Dinah Minot

**GPCOG General Assembly**

Mayor Ethan Strimling  
Councilor: Belinda Ray  
Councilor: Jill Duson  
Councilor: Kimberly Cook  
Staff: Jon Jennings  
Staff: Jeff Levine  
Staff: Michael Sauschuck

**Cumberland County Fin. Com**

Mayor: Ethan Strimling  
Councilor: Justin Costa

**ECOMaine**

Councilor: Spencer Thibodeau  
Staff: Anne Bilodeau  
Staff: Chris Branch  
Staff: Troy Moon

**Fish Exchange**

Councilor: Nicholas Mavodones

**Fish Pier Authority**

Councilor: Nicholas Mavodones  
Staff: Anita LaChance

**Greater Portland Transit**

Mayor Ethan Strimling  
Councilor: Belinda Ray  
Councilor: Pious Ali  
Staff: Paul Bradbury  
Staff: Brendan O'Connell

**Island Advisory**

Staff: Mike Murray

**Jetport Noise Advisory**

Councilor: Brian Batson

**Land Bank Commission**

Councilor: Justin Costa

**Library Trustee**

Councilor Belinda Ray

**MMA Leg Policy**

Mayor: Ethan Strimling  
Councilor: Pious Ali  
Councilor: Jill Duson  
Staff: Jon Jennings

**Metro Regional Coalition**

Mayor: Ethan Strimling  
Staff: Jon Jennings

**PACTS Policy Com**

Mayor: Ethan Strimling  
Councilor: Spencer Thibodeau  
Staff: Jon Jennings  
Staff: Chris Branch  
Staff: Nell Donaldson  
Staff: Jeremiah Bartlett

**PACTS Technical Com**

Staff: Jeremiah Bartlett

**PACTS Planning Com**

Staff: Bruce Hyman

**Parks Commission**

Councilor: Brian Batson

**Portland Regional Chamber,  
Portland Community and  
City Affairs Committee**

Staff: Jon Jennings,  
(delegated to Greg Mitchell)

**Portland Development Corp**

Mayor: Ethan Strimling  
Staff: Jon Jennings

**Portland Downtown**

Staff: Greg Mitchell

**Portland Public Art**

Councilor: Pious Ali

**Waterfront Alliance**

Councilor: Nicholas Mavodones

*order 136 - 17/18*  
*Tab 15 1-3-18*

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING PURCHASE AND SALE AGREEMENT WITH  
FORD REICHE FOR SALE OF  
CITY PROPERTY AT 55 PORTLAND STREET**

**ORDERED,** that the Purchase and Sale Agreement with Ford Reiche for city property at 55 Portland Street, is hereby approved in substantially the form attached hereto; and

**BE IT FURTHER ORDERED,** that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

**DISTRIBUTE TO:** City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

**FROM:** Greg Mitchell, Economic Development Director

**DATE:** November 29, 2017

**SUBJECT:** **Order Authorizing the City Manager to Enter into a Purchase and Sale Agreement for Sale of City Property at 55 Portland Street in Substantial Form as Attached**

**SPONSOR:** Economic Development Committee, Councilor David Brenerman/Chair. Meeting on 11/28/2017 and the vote was unanimous (2-0 – Councilor Thibodeau absent)

**COUNCIL MEETING DATE ACTION IS REQUESTED:**

**1<sup>st</sup> reading and Final Action:** December 18, 2017

**Can action be taken at a later date:** \_\_\_ Yes \_\_\_ **X** No (If no why not?)

It is important to have a final decision on this property sale this year.

**PRESENTATION:** Greg Mitchell/5 Minutes

**I. ONE SENTENCE SUMMARY**

This is for the City Council to authorize the City Manager to enter a Purchase and Sale Agreement to sell City property located at 55 Portland Street to Ford Reiche for \$1,400,000.

**II. AGENDA DESCRIPTION**

Under the direction of the City Council's Economic Development Committee, staff negotiated a Purchase and Sale Agreement with Ford Reiche for the sale of City property at 55 Portland Street for \$1.4 Million, which property currently houses Public Works Administration. It is noted that there will be a delayed closing on the property to be sold on or before December 31, 2018. This delayed

closing will give City staff time to renovate 212 Canco Road to accommodate moving the administrative offices of Public Works to this location.

Mr. Reiche's proposal is to retain the building as office space with renovations for daylighting, various sized collaboration spaces, open work space environments, and energy efficient lights. Other necessary improvements would include:

- Separating mechanical services and vehicle circulation shared with the building at 44 Hanover Street;
- Updating parts of the façade and grounds;
- Modifying room configurations to the intended new use;
- Major renovation of flooring, ceilings, lighting; and
- Upgrades to restrooms.

These improvements, estimated at \$500,000-\$750,000, are intended to create modern Class B office space, which is a need on the peninsula. Tenants, one or two, are expected to be small or mid-sized commercial operations. Estimated employee capacity would be 48.

### **III. BACKGROUND**

It has been the long-term goal to sell this and other Public Works Bayside properties per the Year 2000 Bayside Vision. To support these property sales, the City Council approved the acquisition of property along Canco Road which has been and continues to be redeveloped to support the relocation of Public Works operations from Bayside and other City Departments.

The subject property is being used for Public Works administration. See attached property location map.

Public EDC meetings to discuss the sale of Bayside former Public Works Properties have been held on 1/3/2017, 1/31/2017, 2/27/2017, 3/7/2017, 6/27/2017, 7/19/2017, 9/19/2017, and 11/28/2017.

Under the direction of the City Council's Economic Development Committee, staff negotiated a Purchase and Sale Agreement with Ford Reiche for the sale of City property at 55 Portland Street for \$1.4 Million, which property currently houses Public Works Administration. It is noted that there will be a delayed closing on the property to be sold by December 31, 2018. This delayed closing will give City staff time to renovate 212 Canco Road to accommodate moving the administrative offices of Public Works to this location.

Mr. Reiche's proposal is to retain the building as office space with renovations for daylighting, various sized collaboration spaces, open work space environments, and energy efficient lights. Other necessary improvements would include:

- Separating mechanical services and vehicle circulation shared with the building at 44 Hanover Street;
- Updating parts of the façade and grounds;
- Modifying room configurations to the intended new use;
- Major renovation of flooring, ceilings, lighting; and
- Upgrades to restrooms.

These improvements, estimated at \$500,000-\$750,000, are intended to create modern Class B office space, which is a need on the peninsula. Tenants, one or two, are expected to be small or mid-sized commercial operations. Estimated employee capacity would be 48.

#### **IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED**

The intended result would be the sale of this property to support office space development in Bayside. It also supports the Council's long-term goal to sell Public Works Bayside properties to support Public Works relocation out of Bayside.

#### **V. FINANCIAL IMPACT**

If sold, the City would realize property sale proceeds in the amount of \$1,400,000 and future new taxes from the proposed development.

Also, provisions are included to ensure future payment of property taxes in the event of non-profit ownership.

The appraised value of this property in an "as is, where is" condition is \$1,620,000. Buyer will provide the City with environmental indemnification and be responsible for any site environmental remediation costs.

Proceeds from the sale of this and other Bayside property will be utilized to fund the relocation of remaining Public Works operations out of Bayside.

Also, Developer performance requirements are included in the Purchase and Sale Agreement.

#### **VI. STAFF ANALYSIS**

For the reasons stated previously, staff supports the approval of the Proposed Purchase and Sale Agreement as attached.

#### **VII. RECOMMENDATION**

At the EDC's meeting on November 28, 2017, it unanimously recommended (2-0 – Councilor Thibodeau absent) to forward this Purchase and Sale Agreement, in substantial form as presented, to the City Council for it to authorize the City Manager to enter into the proposed Purchase and Sale Agreement.

#### **VIII. ATTACHMENTS**

- Bayside Property Map for Orientation Purposes
- Proposed Purchase and Sale Agreement and its Exhibits:
  - a. Property Offer with Bayside Parcel Map
  - b. Developer's Project Proposal

Map produced by the City of Portland  
Economic Development Department.  
Lot lines are approximate. For visualization  
only. Not intended for conveyance of  
property. November 2017

**Hanover Street**

**Portland Street**

**55 Portland Street**

**Proposed Lot Division**

**Parris Street**

**Bayside Parcel: 55 Portland Street**

100 50 0 100 Feet



## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between the City OF PORTLAND, a body politic and corporate located in Cumberland County, Maine, (hereinafter referred to as “Seller” or “City”), and 55 Portland Street, LLC, a Maine limited liability company to be formed by Ford S. Reiche, or its nominee (hereinafter referred to as “Buyer” ).

### RECITALS

WHEREAS, the CITY is the owner certain land at 55 Portland Street, Portland, Maine as generally depicted on the plan attached hereto as Exhibit A<sup>1</sup> as depicted on illustration appended to Purchaser’s Offer Dated June 22, 2017 (the “Premises”); and

WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer, subject to all easements of record and any other existing easements burdening the Premises.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement.
2. **CONSIDERATION.** The purchase price for the Premises shall be One Million, Four Hundred Thousand Dollars (\$1,400,000) (the “Purchase Price”), subject to the following cost adjustments and conditions:
  - a. Buyer shall deposit in the sum of One Hundred Thousand Dollars (\$100,000.00) (the “Deposit”) within 3 business days after the full execution of this Agreement that the parties agree will be held in escrow as of the date of this Agreement, in a non-interest bearing account with CBRE | The Boulos Company; the Deposit shall be fully refundable until the end of the Due Diligence Period as described herein; after such Period the Deposit shall be non-refundable (except as otherwise provided in Sections 3c, 3e, 6, 7 and 10 of this Agreement); and

<sup>1</sup> Note is made that the back boundary line of the Premises will be at the rear of the approximately nine parking spaces adjacent to the building on the Premises, with a to-be-created access easement from Hanover Street to these parking spaces; and further, that the entire parking lot accessed from Portland Street is part of the Premises. This new to-be-created boundary will reduce the acreage of the Premises stated herein. The Premises shall be as depicted on illustration appended to Purchaser’s Offer Dated June 22, 2017.

- b. The Buyer shall pay the remainder of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.

**3. TITLE AND DUE DILIGENCE.**

a. Due Diligence Period. Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is sixty (60) days after the date of this Agreement (the “Due Diligence Period”) to complete any survey, environmental review and title examinations.

b. Property Description. The property description contained in the deed will be a survey description based upon a survey plan (the “Premises”), to be provided by the City, that will more specifically describe the property shown on Exhibit A hereto together with an easement over the adjoining property for access to and from Hanover Street to the parking located on the Premises. The Premises will be distributed to the parties hereto prior to expiration of the Due Diligence Period and the parties will agree on the property and easement description prior to closing. The Due Diligence Period shall be extended in the event that the survey plan is not completed by the end of the Due Diligence Period and Buyer is afforded reasonable time to review the plan and make any title objections as provided below.

c. Financing Contingency. Buyer shall have fifteen (15) days after the end of the Due Diligence Period (the “Financing Period”) to obtain commercially reasonable financing, and shall take timely and commercially reasonable steps to secure such financing. If Buyer fails to obtain a commitment for such financing within such period or if such financing is not provided at Closing, then, Buyer may serve written notice on the Seller of its election to terminate this Agreement. If Buyer gives such notice to the Seller, terminating this Agreement, this Agreement shall be deemed terminated, the Deposit shall be returned to Buyer and neither party shall have any further rights, claims or obligations, except as otherwise expressly provided herein.

d. Title and Survey Objections. Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified herein) that materially affect marketability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing. City shall provide a copy of a Phase II environmental study completed on the Property and should the results of any such study be provided on or after the Due Diligence Period, Buyer shall be afforded reasonable time to review the results and make any objections as provided for herein.

e. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have sixty (60) days from the date

of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (1) terminate this Agreement and obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (2) waive the objection and close, or (3) undertake the cure of such objection at its own expense (in which case it shall have 60 days to do so).

f. Deed. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. The deed shall include easement rights satisfactory to Buyer. Title shall be good, insurable and insurable title, free and clear of all encumbrances except (i) the easements described herein; (ii) easements for utilities servicing the property, (ii) City ordinances, and (iii) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine.

#### **4. INSPECTIONS.**

- a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, in its sole discretion, to be required to determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and general public liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then the City shall refund to Buyer the Deposit, if previously paid, without interest, within thirty (30) days after receipt of Buyer's termination notice, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or

will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.

6. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the deposit as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance, but at all times may elect in substitution therefor, as its sole remedy, the right to a return of its deposit.
7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement and receive a refund of the Deposit without interest, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
8. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer has had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the Deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.
9. **ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the

Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.

**10. CONDITIONS PRECEDENT TO CLOSING.** The City shall pursue Subdivision approval by the City of Portland Planning Board, in order to obtain approval for the creation of the parcel which constitutes the Premises, unless the Buyer and City as Seller, determine such Subdivision approval is not required. In the event the City is unable to obtain such approval prior to the Closing Date, as defined below, then the Closing date shall be extended for one year and if after the end of such extension period, the City is unable to obtain such approval, then the City shall refund the Deposit, if previously paid, without interest, and this Agreement shall be terminated and neither party shall have any further obligations or liabilities under this Agreement, unless the parties mutually agree to extend this agreement. Buyer acknowledges and agrees that the City is acting as Seller, and not in its regulatory capacity, in connection with this Agreement. The acceptance or recording of a deed to the Buyer of the Premises will evidence conclusive and final consent by the Buyer to the waiver or completion of all this condition.

**11. CLOSING.** Time is of the essence in the performance of this agreement. The closing shall be held at the offices of Buyer's counsel or lender at a time agreeable to the parties on or before December 31, 2018 (the "Closing Date"). At the Closing:

- a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and insurable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein. Full possession of the Premises shall be given to Buyer at Closing and the City shall have removed all of its personal property and left the Premises in a clean and orderly condition.
- b. Buyer shall deliver the balance of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City);
- c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals acting to Closing and executing documents on behalf of Buyer are authorized to do so.

**12. BUYER'S POST CLOSING OBLIGATIONS.** To the extent described in this paragraph, Buyer agrees to substantially commence development of the project substantially as depicted on the attached Plan (Exhibit B), substantially as presented in the Memo dated August, 2017 to Nate Stevens and Vince Ciampi (copy to Greg Mitchell) from Ford Reiche and Jeff Zachau (the "Project") within twelve (12) months after the Closing, provided, however, that Buyer may expend less on building

rehabilitation if the result is to secure tenants at a rental of at least \$10/per square foot. If Buyer, its successors, assigns, or transferees fails to submit to the City of Portland Planning Board a substantially complete site plan review application for the Project on the Property within 12 months after the Closing, and to substantially complete construction of the buildings which are part of the Project within thirty (30) months after the Closing, the City shall have the right to draw on the \$200,000 letter of credit that Buyer's lender will provide to the City at Closing. Said 12 month and 30 month periods shall be automatically extended if Buyer fails to perform any of its obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, war, acts of superior governmental authority, failure to obtain land use approvals, or other reason over which it has no control; provided, however, that the suspension of performance shall be no longer than that required by the force majeure. The provisions of this paragraph will survive closing. Buyer shall have the right to make changes to the Project that are not material and such immaterial changes shall not entitle the City to draw on said letter of credit. The City agrees that it shall be reasonable in all aspects of application of the provisions of this paragraph.

13. **ENTIRE AGREEMENT.** This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.
14. **NON-WAIVER.** No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.
15. **HEADINGS AND CAPTIONS.** The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.
16. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.
17. **TIME.** The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.
18. **GOVERNING LAW.** This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto 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, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

**19. NOTICE.** All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

**FOR THE City:** City of Portland  
ATTN: City MANAGER  
389 Congress Street  
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

**FOR Buyer:** 55 Portland Street, LLC  
c/o Ford S. Reiche,  
54 Bartol Island Road, Freeport, Maine 04032

With a copy to: Ronald Epstein, Esq.  
Jensen Baird Gardner & Henry  
10 Free Street, Portland, ME

**20. SIGNATURES; MULTIPLE COUNTERPARTS.** This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

**21. BROKERS.** City shall pay CBRE | The Boulos Company at closing a brokerage commission equal to five percent (5%) of the Purchase Price at closing and any other brokerage fees due to it in connection with this transaction. The CITY and Buyer each represent and warrant that they have not dealt with a real estate broker in connection with this transaction other than CBRE | The Boulos Company. Buyer agrees to indemnify and hold harmless City from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to indemnify and hold harmless Buyer from any claims made by any broker should City's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

**22. RECITALS INCORPORATED BY REFERENCE.** The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

**IN WITNESS WHEREOF,** the parties hereto have caused this instrument to be executed by their duly authorized officers or representatives, as of the day and year first written

above.

**CITY OF PORTLAND**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Jon P. Jennings  
Its City Manager

**55 Portland Street, LLC**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Printed Name: Ford S. Reiche  
Its Manager

Approved as to Form:

\_\_\_\_\_  
Corporation Counsel's Office

# 55 PORTLAND STREET CITY OF PORTLAND, PARCEL 1



## REICHE / ZACHAU OFFER 6/22/17

NOTE: Our offer involves establishing the rear lot line as shown above, with an access easement to parking spots behind the building at building at 55 Portland St.

*ZM*

**Sketch Attached**

DATE: June 22, 2017

Vince Ciampi and Nate Stevens  
CBRE | The Boulos Company  
1 Canal Plaza, 5<sup>th</sup> Floor  
Portland, ME 04101

Re: **Letter of Intent to Purchase**  
**A portion of Parcel 1, 55 Portland Street\***  
**Portland, ME**

**\*Reduce Parcel 1 to establish back (North) boundary line at rear of the nine parking spaces adjacent to building, with access easement established from Parris Street across the City garage property. See accompanying sketch. ALSO NOTE: It is assumed that the entire parking lot on Portland Street adjacent to 55 Portland Street building, and extending out to Hanover Street is INCLUDED in Parcel 1.**

Dear Vince and Nate:

It is our understanding that you represent the owner ("Seller"), of certain land and improvements as referenced above located in Portland, Maine (the "Property"). This letter shall serve to set forth the basic terms under which Ford Reiche and Jeffrey Zachau, permitted assigns or affiliates ("Purchaser") would purchase Seller's fee simple interest in the Property.

This letter does not constitute a binding agreement between the parties hereto and is intended only as an expression of their intent with respect to working together to try to consummate the transaction herein contemplated. The general terms and conditions for the negotiation of a Purchase and Sale Agreement for the Property are as follows:

**1. Property Description:**

**A portion of Parcel 1, 55 Portland Street\***  
**Portland, ME**

**\*Reduce Parcel 1 to establish back (North) boundary line at rear of the nine parking spaces adjacent to building, with access easement established from Parris Street across the City garage property. See accompanying sketch. ALSO NOTE: It is assumed that the entire parking lot on Portland Street adjacent to 55 Portland Street building, and extending out to Hanover Street is INCLUDED in Parcel 1.**

2. **Purchase Price:**

Purchaser would pay a purchase price of \$1,400,000 for a 100% fee simple interest in the Property. The purchase price, subject to customary prorations, would be payable by wire transfer of funds on the day of the closing of the purchase and sale of the Property. Purchaser will require Seller to deliver the Property free and clear of all encumbrances and title exceptions except for approved or deemed approved, tenant leases and any other matters approved or deemed approved by Purchaser. Purchaser will require that utilities easements serving the building are appropriate, as well as access to rear parking spots.

3. **Purchase and Sale Agreement:** Seller and Purchaser shall use good faith diligent efforts to negotiate a mutually acceptable Purchase and Sale Agreement drafted by the City of Portland.

4. **Closing:** At the City's convenience within next 12 months. If closing is before City vacates the premises, then parties would negotiate a lease back to City equal to Purchaser's holding costs without profit to Purchaser.

5. **Prorations and Closing Costs:** All rents, real estate taxes, assessments and operating expenses to be prorated as of the date of Closing based on the best information available at that time.

Seller shall pay for Seller's legal fees, and standard, customary seller closing costs. Purchaser shall pay for (i) Purchaser's legal fees, (ii) Purchaser's physical inspection costs and (iii) other standard buyer closing costs.

6. **Investigation/Environmental Period and Purchaser's Approval:** Purchaser to have 45 days after City acceptance of this offer to complete and accept any and all inspections/due diligence/environmental assessment Purchaser may deem necessary or prudent, including document review and physical inspection of the Property.

7. **Financing Contingency:** There is no financing contingency.

8. **Deposits:**

Within 3 business days after the full execution of a mutually acceptable Purchase and Sale Agreement, Purchaser shall deposit the sum of \$140,000 in a non-interest bearing account with CBRE | The Boulos Company. The deposit shall be fully refundable until the end of the Financing Period.

9. **Confidentiality:** The parties and their representatives shall keep strictly confidential this letter, any negotiations pertaining to the transactions contemplated hereby and any information that either party furnishes to the other pursuant hereto. Unless compelled by legal process, each party shall maintain the confidentiality of such information and shall not disclose same to persons other than its employees, agents, affiliates, attorneys, accountants, and consultants.

The above terms and conditions are not meant to be all inclusive and will be augmented by the terms of the Purchase and Sale Agreement. It is expressly understood by both Purchaser and Seller that this letter of intent shall not be construed as a binding or final purchase offer commitment or acceptance of a purchase offer but merely an expression of interest. Either party may, without liability to the other party, discontinue negotiations at any time. The parties shall not be bound with respect to the transaction contemplated hereby unless and until a definitive Purchase and Sale Agreement is executed and delivered by the parties. No liability of any nature is intended to be created between parties as a result of this letter. If the Seller agrees with the above, please have an authorized signatory of Seller acknowledge and approve the forgoing by signing and returning this letter of intent to the undersigned no later than **June 30, 2017**.

We look forward to working with you on this proposed transaction.

Sincerely yours,

SEEN AND AGREED TO:

CITY OF PORTLAND, SELLER

By: \_\_\_\_\_

Date \_\_\_\_\_

FORD REICHE & JEFF ZACHAU, PURCHASER

By: *Ford Reiche*  
By: Ford Reiche  
Its: *Partner*

6/21/17  
Date

55 PORTLAND STREET  
CITY OF PORTLAND, PARCEL 1



REICHE / ZACHAU OFFER 6/22/17

NOTE: Our offer involves establishing the rear lot line as shown above, with an access easement to parking spots behind the building at building at 55 Portland St.

*ZM*

MEMO

TO: Nate Stevens and Vince Ciampi, CBRE The Boulos Company  
CC: Greg Mitchell, Economic Development Director, Portland, Maine  
FROM: Ford Reiche and Jeff Zachau  
DATE: August, 2017

RE: 55 Portland Street

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Nate and Vince,

This is to respond to the seven written questions you posed regarding our interest in purchasing 55 Portland Street from the City of Portland. In addition to these written responses we would be pleased to provide any further information which the Council might request, or we could come to a meeting for a more detailed discussion.

In addition to the information provided below, I would refer you to the details of our submitted offer. In particular, we would like to reiterate that this would be a cash purchase, and we are very flexible in terms of when we close or take possession depending on the City's preference.

Experience and Qualifications

Our intended ownership structure would be Ford Reiche and Jeffrey Zachau as equal partners.

Reiche and his corporations currently own \$15MM of real estate in the Portland area, and has successfully owned and developed property here for 40 years. Although, the 55 Portland Street property is not an historic structure, it is an indication of the quality of past projects that of the three properties owned by Reiche which happen to be on the National Historic Register, all three won major awards for the finished product. The Boulos Company and the City Economic Development Director, Greg Mitchell, both have had significant direct experience working with Reiche over the years, and I believe that both would provide positive references.

Jeff Zachau is sole owner of Zachau Construction, which has been engaged in commercial construction and development since 1969. Zachau Construction has successfully completed over 250 projects with a combined value in excess of \$300 million. Currently their client list includes Tyler Technologies, L.L.Bean, Hannaford, MEMIC, Patrons Insurance, WEX, Portland Water District, AVESTA, Community Housing of Maine and many others.

## Vision For The Property

55 Portland Street is a 33 year old building which was built as an office building, and is uniquely suited to such a use. The configuration of this building is unsuitable for residential use, and the cost to attempt a conversion and modernization for such a purpose would be impractical.

The building has had minimal modernization or upgrade since its initial construction. Modern office space requires many amenities that will need to be incorporated into the renovation design such as; abundant daylighting, various sized collaboration spaces, open work space environments and energy efficient lighting to name a few. The absence of any windows on three of the exterior walls on the first level, and on one long wall on the third level, will require some significant expense. Other necessary improvements will include:

- Separating mechanical services and vehicle circulation shared with the building at 44 Hanover Street;
- Updating parts of the façade and grounds;
- Modifying room configurations to the intended new use;
- Major renovation of flooring, ceilings, lighting;
- Upgrades to restrooms;

Our redevelopment vision would be to execute significant renovation to create appealing modern Class B office space. There is a need for this type of property on the peninsula, and this building with adjacent parking is well suited to such a use. This work would be done as soon as purchase and acquire possession.

We would look to charge a rent in the range of \$10NNN, which we believe to be market

## Type Of Tenant

Candidate tenants will likely be small or mid-sized commercial operations, ideally in growth mode. The lower level, while of limited appeal because it is partly below grade, could offer expansion space over time. The fact that this parcel is on the peninsula with parking is also appealing from a tenant perspective.

We have already commenced preliminary discussions with prospective tenants: Two young start ups seeking to move to Portland, one Portland based non-profit seeking to relocate on the peninsula, one Portland professional firm seeking to relocate on the peninsula.

Single or Multi-Tenant?

The building could realistically lay out for either one or two tenants.

Profit or Non-Profit?

Because this building and location lends itself to development as solid, modern Class B commercial space, it would be attractive to both profit and non-profit operations.

How Many Employees Will Occupy The Building?

Based on a general formula of 275 SF/person, the two upper floors could accommodate 48 employees. This matches well with the 42 parking spots at the property. More employees could work in the lower level, but only to a limited degree because of the fact that that level is below grade on three out of four sides.

Estimated Cost Of Renovations?

We will spend approximately \$500,000 - \$750,000 as soon as we purchase and acquire possession. There will be no complicated zoning or project approval issues.

SUMMARY

We hope that we have provided complete and satisfactory responses, and that the City Council looks favorably upon our development plan and purchase proposal.

Thank you,

Jeffrey Zachau

Ford Reiche

[Ford@FordReiche.com](mailto:Ford@FordReiche.com)

207-740-6099

Order 137-17/18  
Tab 16 1-3-18

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO ZONING MAP  
RE: 233 ANDERSON STREET AND VICINITY**

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

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning property at 233 Anderson Street and vicinity from Low Impact Industrial Zone (ILb) to Neighborhood Business Zone (B1b), as shown below.



**MEMORANDUM**  
**City Council Agenda Item**

**DISTRIBUTE TO:** City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

**FROM:** Jeff Levine, Director, Planning and Urban Development

**DATE:** December 18, 2017

**SUBJECT:** Zoning Map Amendment Ilb to B1b  
233 Anderson Street and vicinity

**SPONSOR:** Elizabeth Boepple, Chair, Portland Planning Board  
Planning Board 12.6.2017 - unanimous recommendation  
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

**COUNCIL MEETING DATE ACTION IS REQUESTED:**  
**1<sup>st</sup> reading:** January 3, 2017 **Final Action:** January 17, 2017

**Can action be taken at a later date:**  X  Yes  \_\_\_  No (If no why not?)

**PRESENTATION: (List the presenter(s), type and length of presentation)**  
Elizabeth Boepple, Chair, Planning Board and Stuart O'Brien, City Planning Director

**I. ONE SENTENCE SUMMARY**

The Planning Board recommends a map amendment, from the Low Impact Industrial Zone (Ilb) to the Neighborhood Business Zone (B1b), for a small, sloped site at the north end of Anderson Street that is difficult to develop for the ILb uses, and which would facilitate a mixed use project including residential residential uses.

**II. AGENDA DESCRIPTION**

On December 6, 2017, the Planning Board met and unanimously voted 5-0 (Stanley absent; Morrissette recused) to forward this item to the City Council with a recommendation for passage.

The proposed map amendment was requested for a parcel at 233 Anderson Street by the applicant 2 Walnut, LLC. to change the zoning from Low Impact Industrial (I-Lb) to Neighborhood Business (B1b). The current zoning for the applicant's vacant lot is split between the two zones and the applicant is seeking to have the entire parcel under the B-1b designation in order to develop a mixed-use development that would potentially include multi-family housing.

The Board recommended expanding the map amendment to include a portion of land owned by the State of Maine to avoid leaving a sliver of Ilb immediately north of the applicant's parcel.

**III. BACKGROUND**

The site proposed to be rezoned sits at the end of a block on the east side of Anderson Street that is zoned both ILb and B1b. A number of the sites in the abutting B1b zone are, or are approved to be, residential. The ILb industrial area to the west is changing in nature to include more "craft" industry. The site is small and steeply sloped and not suitable for many of the Ilb uses, and the B1b zone would facilitate development as it allows for multi-family residential on the upper floors and also for live/work spaces.

**IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED**

The rezoning of this site is likely to encourage the development of this hard-to-develop site to include housing to meet local needs.

## V. FINANCIAL IMPACT

The zone change is expected to facilitate development of this small site, which has the potential to generate revenue for the city.

## VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

The amendment would allow an area of under 10,000 sq ft to be rezoned to B1b zone. This zone expands the scope for residential development is that is not allowed in the ILb zone, but also allows retail and restaurants. The Planning Board reviewed the potential adverse impacts of the map amendment in terms of noise and traffic and concluded that these would not be noticeably different compared to the potential impacts of uses allowed in the ILb zone.

The Board also considered the implication of the loss of this small ILb site since it was part of the East Bayside area that has historically served as an economic and employment area for the surrounding neighborhoods. It was noted that zoning for this area was currently being studied as part of a GPCOG planning study, and that the Board found this particular site to be more appropriate to be zoned for B1b.

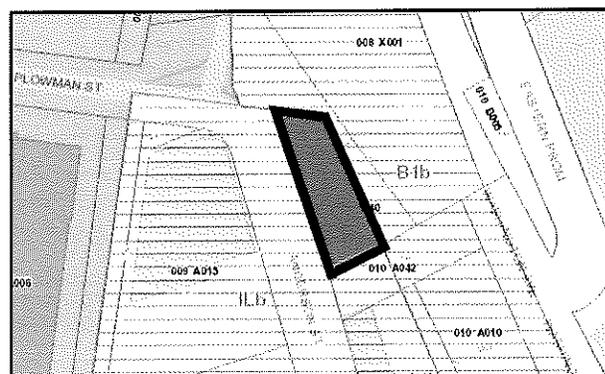
It was concluded that the rezoning of this small parcel does not necessarily set a precedent or set a specific zoning direction for the larger area, because it is a steeply sloped and small parcel at the end of the ILb zone along that side of Anderson Street, and abuts the State land associated with I-295 and the substantial residential development recently approved at 218 Washington Avenue.

## VII. RECOMMENDATION

On December 6, 2017, the Planning Board met and unanimously voted 5-0 (Stanley absent; Morrissette recused) that:

On the basis of plans and materials submitted by the applicant, the City of Portland Zoning Code, Portland's Comprehensive Plan, public comment, the information provided in public hearing on December 6, 2017 for the project #2017-170 (233 Anderson Street), and/or other findings as follows:

- i. The Planning Board finds that the proposed rezoning to the Neighborhood Business (B1b) zone for the a property located at 233 Anderson Street is consistent with the Comprehensive Plan for the City of Portland; and
- ii. Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 233 Anderson Street from Low Impact Industrial (ILb) zone to Neighborhood Business (B1b) Zone for the area outlined in black below:



## VIII. LIST ATTACHMENTS

1. Order
2. Planning Board Report to City Council



# PLANNING BOARD REPORT to CITY COUNCIL PORTLAND, MAINE

Zoning Map Amendment:  
Low Impact Industrial ILb to Neighborhood Business B1b  
233 Anderson Street

2 Walnut LLC, Applicant  
Project #: 2017-170  
CBL: 010 A040001

Submitted to: Portland City Council from the Planning Board First Reading: January 3, 2018 Public Hearing (2 <sup>nd</sup> Reading): January 17, 2018	Prepared by: Jean Fraser, Planning Division Report Prepared: December 15, 2017
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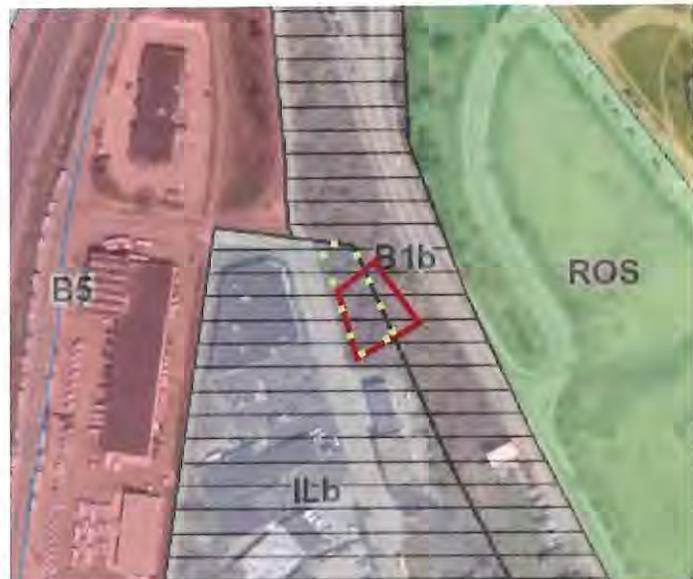
## I. INTRODUCTION

On December 6, 2017 the Planning Board voted unanimously (5-0, Stanley absent; Morrissette recused) to recommend to the City Council the adoption of a zoning map amendment requested by 2 Walnut, LLC to change the zoning in the vicinity of 233 Anderson Street from Low Impact Industrial (ILb) to Neighborhood Business (B1b). The current zoning for the applicant's vacant lot at 233 Anderson Street is split between these two zones and the applicant is seeking to have the entire parcel under the B1b designation in order to develop a mixed-use development (potentially including multi-family housing).

The Board supported the requested map amendment and also recommended that the map amendment be expanded to include a parcel to the north of 233 Anderson Street, as it was State owned property and was a logical addition that would avoid it remaining a sliver of ILb surrounded by B1b (the yellow dotted area in the plan below illustrates the area proposed to be rezoned to B1b).

The applicants have a Purchase and Sale Agreement for this parcel outlined in red ([Attachment B](#)).

The submitted narrative ([Attachment C](#)) indicates that the objective of the rezoning is to allow for the development of a mixed use development including commercial uses on the lowest floor and 12 residential units above, as the ILb zone does not allow residential uses. The rezoning to the B1b zone would allow this development but would also allow a wide range of uses not allowed in the ILb zone such as retail, restaurants, general business and professional offices. The applicant's narrative analyzes the site and zoning and concludes that the size and topography of the site would limit industrial uses and it is more suitable for a mixed use development that includes residential.



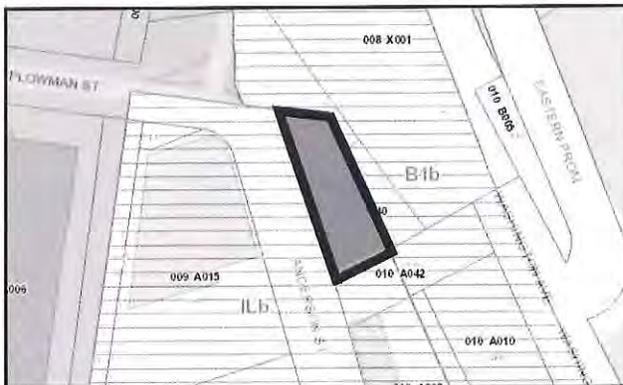
## II. PLANNING BOARD RECOMMENDATION AND DISCUSSION

### A. RECOMMENDATION

On December 6, 2017, the Planning Board met and unanimously voted 5-0 (Stanley absent; Morrissette recused) that:

On the basis of plans and materials submitted by the applicant, the City of Portland Zoning Code, Portland's Comprehensive Plan, public comment, the information provided in public hearing on December 6, 2017 for the project #2017-170 (233 Anderson Street), and/or other findings as follows:

- i. The Planning Board finds that the proposed rezoning to the Neighborhood Business (B1b) zone for the a property located at 233 Anderson Street is consistent with the Comprehensive Plan for the City of Portland; and
- ii. Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 233 Anderson Street from Low Impact Industrial (ILb) zone to Neighborhood Business (B1b) Zone for the area outlined in black below:



### B. DISCUSSION

The Planning Board considered the advantages and disadvantages of the proposed map amendment as compared with the alternative of amending the entire parcel to ILb and discussed the allowed uses and potential impacts of these two zones. The Board generally supported the B1b option as it better integrated with the wider area, and is likely to facilitate development that includes housing on a constrained parcel located where housing would be appropriate and the B1b zone would not appear to present any potential adverse impacts.

The Board also considered whether any other abutting ILb parcels should also be included in the map amendment to B1b and determined that the site to the north should be included in the map amendment to B1b, as otherwise it would leave that parcel as a small remnant of ILb within the B1b zone area at that end of Anderson Street. The larger area was advertised for the Planning Board hearing. The Board considered that the outcome of the ongoing GPCOG planning study for this part of Bayside would inform any further decision regarding rezoning in this area.

## III. EXISTING CONDITIONS

The parcel has frontage along Anderson Street of 114 feet and averages 100 feet in depth. The site is vacant and vegetated, with a steep uphill slope. A section of the property line abuts the property known as 218 Washington (subject of recent approval for 45 condo units).

The rear and north property lines abut the vacant/vegetated MDOT land associated with I295 that is mostly zoned B1b, with a part immediately abutting 233 Anderson also in the ILb zone.



Industrial development abuts the parcel to the south and the west.

**IV. PROPOSED MAP AMENDMENT**

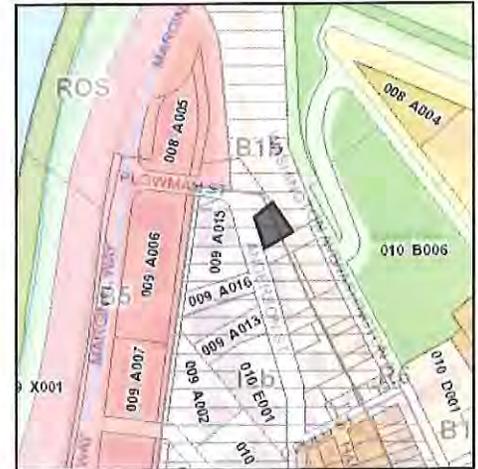
**Current Zoning:** Approximately 2/3 ILb and 1/3 B1b  
**Proposed Zoning:** Entire parcel at 233 Anderson Street to B1b; plus the ILb part of State owned land to north also to B1b  
**Current Uses:** Vacant  
**Proposed Uses:** As allowed in B1b; narrative and renderings suggest mixed use including residential  
**Parcel Area:** Approx. 10,000 SF for 233 Anderson Street; approx. 2,600 SF for State owned land to north

**V. ZONING CONTEXT**

The parcels proposed to be rezoned sit within a block along the east side of Anderson Street that is zoned both ILb and B1b. A number of the sites in the B1b section are, or are approved to be, residential. The ILb industrial area to the west is changing in nature to include more “craft” industry.

**Dimensions**

The dimensional requirements that would impact the maximum height allowed for any development are similar as between the two zones. The submitted Narrative (*Attachment C*) includes a Figure 2 that illustrates a possible mixed use development based on the maximum “development envelope” if a new B1b building were built to the maximum dimensions allowed.



The applicant has indicated that they intend to move forward with a mixed use development with a smaller footprint, and Figure 3 of the Narrative compares it to the “maximum envelope” in Figure 2.

This submitted information is helpful to understand the potential implications if the parcel is rezoned to B1b, but it should be noted:

- A map amendment to the B1b zone would not imply any approval to a specific development and the applicant is not required to move forward with the indicative development outlined in the Narrative; and
- The heights of any future building on the site would need to meet the 45 ft height requirement based on the height of any proposed building as from the average grade of the proposed building (calculated from grades at the corners of the building). If there is a variation in the contours of the site, the allowed height for a building along Anderson Street could be at a different absolute height than one further up the slope.

**Uses**

The purpose statements for both zones are included in *Table 1* below. The ILb aims to provide for low impact industrial and similar but neighborhood-friendly uses, while the B1b zone is more focused on the integration of small scale commercial uses with residential.

**Table 1: Purpose Statements**

ILb	B-1b
<p>The low impact industrial zone is intended to provide areas in which low impact industrial uses and limited other uses serving employees and residents of the surrounding neighborhood will be compatible with adjacent residential uses, will provide a buffer between residential neighborhoods and the I-M or I-H industrial zones, or will stand alone as a smaller scale industrial district.</p> <p>The I-L zone is located adjacent to residential neighborhoods, business uses and other industrial uses where the low intensity nature of the uses, as well as their strict performance standards, will ensure compatibility of the uses with other adjacent industrial and nonindustrial uses.</p>	<p>To provide appropriate opportunities for the establishment of small-scale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).</p> <p>Suitable locations for this zone may include street intersections, arterial streets, and sites with existing traditional neighborhood retail and service uses.</p>

Performance standards for uses in the I-L zone are designed to maintain compatibility between low impact industrial uses and neighboring nonindustrial and industrial uses. Performance standards include full enclosure of uses and requirements for buffers and screening from adjacent properties.

The **Table 2** below compares the permitted uses for the two zones.

The existing ILb zone emphasizes, in addition for employment-creating industrial uses, a wide range of uses that are largely small scale (with some exceptions such as indoor amusement and recreation centers, plant and tree nurseries, marinas and lumber yards). It also includes uses that support the surrounding neighborhood such as day care facilities, makers markets, artists studios, and neighborhood centers. This zone does not allow residential or retail uses.

The proposed B-1b zoning designation allows a range of residential uses on the upper floors (including bed and breakfast and hostels), and permits – on the ground floor only – restaurants, day care facilities, neighborhood centers and a wide range of commercial and institutional uses, including retail establishments, offices, personal services, business services, places of assembly, clinics, municipal uses, and schools.

Both zones allow day care facilities, neighborhood centers, and studios for artists, photographers and craftspeople, with the B1b also allowing combined live/work spaces.

**Table 2: Summary of Comparison Ilb and B1b Zones re permitted uses**

USE	Ilb	B1b
Low impact industrial uses, including, but not limited to, bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, musical instruments, precision instruments, watchmakers, toys and sporting goods, wood products, jewelry, assembly of electrical components, tool and die shops and the packaging of food.	✓	
<ul style="list-style-type: none"> <li>○ Indoor amusement and recreation centers.</li> <li>○ Plant and tree nurseries, including associated recycling activities.</li> <li>○ Lumber yards.</li> <li>○ Commercial kitchens or other food preparation, provided that the food is not prepared for service on the premises.</li> <li>○ Repair services, including all types of automotive repair.</li> </ul>	✓	
Building contractors and outside storage of related construction equipment, provided that there shall be no outside storage of materials and supplies.	✓	✓ (ground floor only)
Day care facilities	✓	✓ (ground floor only)
<ul style="list-style-type: none"> <li>○ Dairies.</li> <li>○ Dog training services, including but not limited to obedience, guide, and service training, but not including boarding or kennel services.</li> <li>○ Intermodal transportation facilities.</li> <li>○ Marinas.</li> <li>○ Distribution centers, warehouses and wholesale businesses under ten thousand (10,000) square feet in total building area, with no outside storage permitted.</li> <li>○ Back office uses.</li> </ul>	✓	
Utility substations	✓	✓
Accessory Uses	✓	✓ (ground floor only)
Specific accessory uses such as makers markets & temp events	✓	
Registered medical marijuana cultivation facilities.	✓	
Neighborhood centers.	✓	✓ (ground floor only)
Places of religious assembly, limited to facilities of 10,000 sf or less.	✓	✓ (ground floor only)
Wind energy systems	✓	✓
Street vendors	✓	
Studios for artists, photographers and craftspeople	✓	✓ (ground floor only)

Residential (as per abutting zone, plus multi family of commercial on ground floor and combined live/work spaces)		✓
Professional, business and general offices		✓ (ground floor only)
Personal Services		✓ (ground floor only)
Retail establishments (limited hours)		✓ (ground floor only)
Beverage Dealers (sub to conds)		✓ (ground floor only)
Restaurants (sub to conds)		✓ (ground floor only)
Municipal offices		✓ (ground floor only)
Elem, middle & secondary schools, nursery & kindergarten		✓ (ground floor only)
Clinics		✓ (ground floor only)
Lodging house		✓ (ground floor only)
Bed and Breakfast		✓
Hostels (sub to conds)		✓

## VI. POLICY ANALYSIS OF PROPOSED MAP AMENDMENT

The applicant has indicated that the B1b zone is more appropriate for the entirety of this parcel as it facilitates development for the following reasons (see Narrative in [Attachment C](#)):

- **Topography:** Steep slopes within the small parcel inhibit ILb uses and would support residential by offering views
- **Pavement setback** of 15 ft is required in the ILb zone and not in the B1b zone, thus the B1b zone would make development more viable and accessible
- **Relatively small size** of the parcel limits ILb uses
- **Uses:** Allows live/work spaces whereas the ILb zone only allows artist studios, and allows residential whereas the ILb zone does not allow residential
- **Comprehensive Plan:** B1b allows development in line with the stated objectives of the Comprehensive Plan eg mixed use with residential on the upper floors

The size of the site and its slope present similar constraints for development under both zones, and most of the dimensional requirements are the same. The key question is whether any of the uses allowed by the B1b zone would have any particular adverse impacts in that location.

The uses that the B1b zone would allow that are not currently allowed, such as retail/restaurants, could increase the level of public access and activity on the site, with potential issues of noise and traffic generation.

- **Noise:** The B1b zone includes conditions on retail and restaurants that limits the business hours to between 6am and 11 pm and also limits the hours for service deliveries. The zone also includes a 55dBA limit on sound at all times.
- **Traffic generation:** Typically the consideration of a map amendment involves the assessment of the traffic generation of the most intensive uses in the zone being suggested. The City's consultant Traffic Engineer requested such an assessment in his preliminary comments and the applicant has submitted a Traffic Study ([Attachment F](#)).

The Study has been reviewed by the City's Consultant Traffic Engineer and he has confirmed ([Attachment 1](#)):  
*...in response to the City's request, the applicant has conducted a trip generation analysis comparing traffic estimates under the current zone versus the proposed Map Amendment zone designation. Based upon the applicant's development assumptions, the build-out of the currently zoned property would generate 88 AM peak hour trips and 80 PM peak hour trips. Under the Map Amendment zone change, the property would generate 98 AM peak hour trips and 93 PM peak hour trips. In my professional opinion, this level of increased traffic volume (10 AM peak hour trips and 13 PM peak hour trips) would not be noticeable from a traffic mobility or safety impact perspective.*

There have been discussions in the past regarding zoning proposals in the East Bayside area, and previously there was support to retain the ILb in the general area, which has served as an economic and employment area for the surrounding neighborhoods. Currently, a planning study of East Bayside is underway by GPCOG that is funded through a Brownfields Grant, which will include future land use recommendations for this area.

The proposal to rezone the single parcel from ILb to B1b raises questions as to whether it would be appropriate to

rezone any of the other nearby ILb parcels to B1b and whether the loss of industrial zoned land is an issue in this area. The Board suggested that the ILb parcels to the east of Anderson Street may be appropriate for rezoning to B1b given the topography, size of the parcels and the recent residential development in this part of the City (see Zoning Context Map above).

The staff finds the rezoning of this small parcel does not set a precedent because it is a steeply sloped and small parcel at the end of the ILb zone along that side of Anderson Street, and abuts the State land associated with I-295 and the substantial residential development recently approved at 218 Washington Avenue. The proposed map amendment does not necessarily set a precedent or set a specific zoning direction for the larger area, which is subject to the further evaluation in the GPCOG study and through the City's on-going work to implement the recently adopted Comprehensive Plan.

## VII. COMPREHENSIVE PLAN

The Comprehensive Plan includes policies that support both of the options for a map amendment, though the B1b zone at this location more directly addresses the Plan 2030 goals to increase the supply of housing, including housing that allows people to live and work in Portland.

## VIII. PUBLIC COMMENT

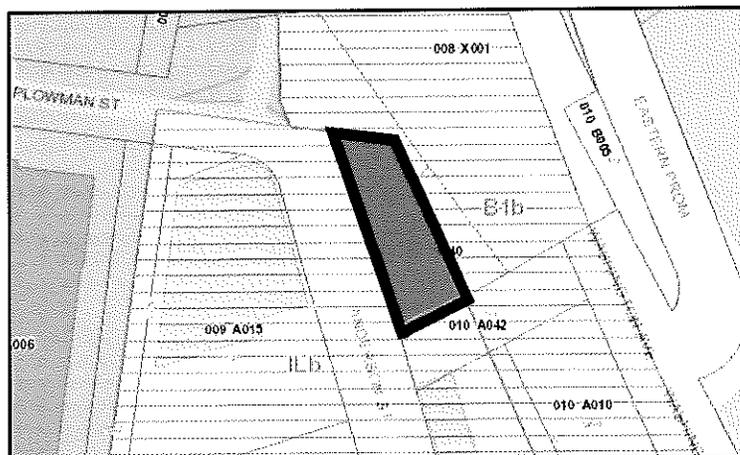
The applicant held a Neighborhood Meeting on November 13, 2017 which was not attended by any neighbors; the documentation is included in Attachment E. At the time this report was prepared the Planning Division had not received any public comment.

The City Council readings have been advertised in accordance with the ordinance requirements.

## IX. PLANNING BOARD RECOMMENDATION

On the basis of plans and materials submitted by the applicant, the City of Portland Zoning Code, Portland's Comprehensive Plan, public comment, the information provided in public hearing on December 6, 2017 for the project #2017-170 (233 Anderson Street), and/or other findings as follows:

- i. The Planning Board finds that the proposed rezoning to the Neighborhood Business (B1b) zone for the a property located at 233 Anderson Street is consistent with the Comprehensive Plan for the City of Portland; and
- ii. Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 233 Anderson Street from Low Impact Industrial (ILb) zone to Neighborhood Business (B1b) Zone for the area outlined in black below:



## X. ATTACHMENTS

### PLANNING BOARD REPORT ATTACHMENTS

1. Traffic Engineer final review (Tom Errico)

**PUBLIC COMMENT** (none received to date)

**APPLICANT'S SUBMITTALS**

- A. Application
- B. Right, Title and Interest (P&S Agreement)
- C. Narrative and analysis (updated since Workshop)
- D. Cover letter for Hearing
- E. Neighborhood Meeting Certification
- F. Traffic Study

**PLANS**

- P1 Boundary Survey
- P2 Renderings of potential mixed use development (4 sheets)

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## 233 Anderson Street Map Amendment - Final Traffic Comments

1 message

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Tom Errico <thomas.errico@tylin.com>

Wed, Nov 29, 2017 at 3:20 PM

To: Jean Fraser <jf@portlandmaine.gov>

Cc: Keith Gray <kgray@portlandmaine.gov>, Katherine Earley <kas@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, "Jeff Tarling (JST@portlandmaine.gov)" <JST@portlandmaine.gov>, Bruce Hyman <bhyman@portlandmaine.gov>

Jean – in response to the City's request, the applicant has conducted a trip generation analysis comparing traffic estimates under the current zone versus the proposed Map Amendment zone designation. Based upon the applicant's development assumptions, the build-out of the currently zoned property would generate 88 AM peak hour trips and 80 PM peak hour trips. Under the Map Amendment zone change, the property would generate 98 AM peak hour trips and 93 PM peak hour trips. In my professional opinion, this level of increased traffic volume (10 AM peak hour trips and 13 PM peak hour trips) would not be noticeable from a traffic mobility or safety impact perspective.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE

Senior Associate

Traffic Engineering Director

**TYLIN** INTERNATIONAL

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+1.207.347.4354 direct

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## Zoning Map, Text Amendment, Contract or Conditional Rezoning Application Portland, Maine

Planning and Urban Development Department  
Planning Division

Portland's Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zoning Map, Text Amendment or Contract/Conditional Rezonings.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), Design Manual and Technical Manual.

**Planning Division**  
Fourth Floor, City Hall  
389 Congress Street  
(207) 874-8719  
[planning@portlandmaine.gov](mailto:planning@portlandmaine.gov)

**Office Hours**  
Monday thru Friday  
8:00 a.m. – 4:30 p.m.

**I. Project Information (Please enter n/a on those fields that are not applicable)**

Project Name:	233 Anderson Street
Proposed Development Address:	233 Anderson Street Portland ME 04101
Project Description:	16 unit mixed use building
Chart/Block/Lot:	01-A-013
Right, Title or Interest ( <i>Please identify the status of the applicant's right, title, or interest in the subject property – for example a deed, option or contract to purchase or lease the subject property</i> )	Purchaser
Existing Use ( <i>Describe the existing use of the subject property</i> )	raw land
Current Zoning Designation:	B1b and IIb
Proposed Use of the Property ( <i>Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property</i> )	16 unit mixed use building
Vicinity Map ( <i>Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use</i> )	
Site Plan ( <i>On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan – to scale – by the applicant. (Scale to suit, range from 1' = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood</i> )	

**II. Contact Information (Please enter n/a on those fields that are not applicable)**

**APPLICANT**

Name:	Glenn Morse
Business Name:	2 Walnut LLC
Address:	218 Washington Rd
City/State:	Portland ME
Zip Code:	04101
Work #:	207.590.3877
Home #:	
Cell #:	207.590.3877
Fax #:	
E-mail:	gmorse444@gmail.com

**OWNER**

Name:	Pine State Elevator
Address:	230 Anderson Street
City/State:	Portland ME
Zip Code:	04101
Work #:	
Home #:	
Cell #:	
Fax #:	
E-mail:	travis@pinestateelevator.com

**AGENT/REPRESENTATIVE**

Name:	Areta Snow
Address:	218 Washington Ave
City/State:	Portland ME
Zip Code:	04101
Work #:	
Home #:	
Cell #:	603.235.1257
Fax #:	
E-mail:	gmorse444@gmail.com

**BILLING (to whom invoices will be forwarded to)**

Name:	2 Walnut LLC
Address:	218 Washington Ave
City/State:	Portland ME
Zip Code:	04101
Work #:	
Home #:	
Cell #:	603.235.1257
Fax #:	
E-mail:	gmorse444@gmail.com

**ENGINEER**

Name:	
Address:	
City/State:	
Zip Code:	
Work #:	
Home #:	
Cell #:	
Fax #:	
E-mail:	

**SURVEYOR**

Name:	Sebago Technics
Address:	75 John Roberts Rd Suite 1A
City/State:	South Portland ME
Zip Code:	04106
Work #:	207.200.2100
Home #:	
Cell #:	
Fax #:	
E-mail:	sfrank@sebagotechnics.com

**ARCHITECT**

Name:	Carol Morrisette
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City/State:	Portland ME
Zip Code:	04101
Work #:	207.699.4184
Home #:	
Cell #:	207.6717965
Fax #:	
E-mail:	carol@resdesstudio.com

**ATTORNEY**

Name:	Tom Jewell
Address:	577 Congress St
City/State:	Portland ME
Zip Code:	04101
Work #:	207.774.6665
Home #:	
Cell #:	
Fax #:	
E-mail:	tjewell@jewellandbulger.com

**DESIGNATED PERSON(S) FOR UPLOADING INTO e-PLAN**

Name:	Areta Snow
E-mail:	gmorse444@gmail.com
Name:	
E-mail:	
Name:	
E-mail:	

**III. APPLICATION FEES (check applicable review)**

<input checked="" type="checkbox"/>	<b>Zoning Map Amendment</b> from ( ILb ) zone to ( B1b ) zone	\$3,000.00
<input type="checkbox"/>	<b>Zoning Text Amendment</b> to Section 14- (     ) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example).	\$3,000.00
<input type="checkbox"/>	<b>Combination Zoning Text Amendment and Zoning Map Amendment</b>	\$4,000.00
<input type="checkbox"/>	<b>Conditional or Contract Zone</b> <i>(A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurance related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Section 14-60-62.)</i>	\$5,000.00

**IV. FEES ASSESSED AND INVOICED SEPARATELY**

- Notices to abutters (receipt of application, workshop and public hearing meetings) (\$.75 each)
- Legal Ad in the Newspaper (% of total ad)
- Planning Review (\$52.00 hour)
- Legal Review (\$75.00 hour)
- Third Party Review (all outside reviews or analysis, eg. Traffic/Peer Engineer, are the responsibility of the applicant and will be assessed and billed separately)

## VI. APPLICANT SIGNATURE

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a *legal signature* per Maine state law.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Map Amendment, Text Amendment, Conditional or Contract Rezoning review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

Signature of Applicant:	Glenn Morse
Date:	8/2/17

PURCHASE AND SALE AGREEMENT  
[218-220 Washington Ave, Portland, Maine]

This Agreement made between **GLENN A. MORSE**, a resident of Portland, Maine and **2 Walnut LLC**, a Maine limited liability company, of Portland, Maine (collectively "the Buyer"), and **Pine State Elevator Co.** of 230 Anderson Street, Portland, Maine ("the Seller").

Seller hereby agrees to sell and the Buyer hereby agrees to purchase the Property hereinafter specified in accordance with and subject to the following terms and conditions:

**1. The Property.** The property to be sold consists of:

**A. Real Property.** The parcels of property known as 233 Anderson Street, Portland, Maine collectively containing approximately 11,326 square feet of land, being the same Real Property described as Map and lot 10-A-40 recorded in the Cumberland County Accessors Office (collectively "the Property").

**2. Price and Payment Terms.** The Purchase Price for the Property is [REDACTED] all of which shall be payable in cash or certified check on or before June 1, 2018 ~~May 15, 2018~~ as follows:

~~The purchase price to be financed by Seller through a note secured by a second mortgage on the Property (the "Second Mortgage Note"). The Second Mortgage Note and accompanying second mortgage shall provide for a 30 day written notice and cure period for defaults and shall be subordinate in collateral and payment priority to Buyer's acquisition/construction financing on such further terms and conditions as Buyer's lender may require and to the Condominium provisions of Section 13 below. The primary principal(s) of Buyer shall personally guaranty the Second Mortgage Note.~~

**3.2. Closing.** The Closing shall occur on the mutually agreed upon closing date, time and place to be determined after Buyer has obtained all applicable land use, zoning and construction permits, approvals for a residential condominium project containing a minimum of 16 dwelling units and has fully completed and constructed said condominium project in its entirety, and the expiration of any applicable appeal periods, but not earlier than May 15, 2018 and not later than June 1, 2018 ~~May 15, 2018 one (1) year from the date of this Agreement unless otherwise agreed.~~ Buyer agrees to pursue such approvals with due diligence. Provided however that if Buyer is continuing to pursue such approvals in good faith and with due diligence and if such approvals have not been obtained and become final prior to Closing within said one year period notwithstanding Buyer's efforts, then the time for closing shall be extended for an additional six (6) months as may be required to obtain them with due diligence and continuity of effort. In the event that the contract is extended beyond one year, the Price

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set forth in Section 2 herein shall increase to [REDACTED] and Buyer agrees to deliver a deposit in the amount of [REDACTED] deposit, to be applied to purchase price prior to closing, of which will become nonrefundable and will be paid over to Seller or financed monthly in three equal installments payable on the first of each month. It is agreed that time is of the essence of this Agreement.

The place of closing shall be at a mutually agreeable location. Buyer shall have the right to extend the Closing for an additional 5 business days by written notice to Seller at least 5 business days prior to the Closing.

4.3. Conveyance. The Real Property is are to be conveyed to the Buyer (or to the nominee designated by the Buyer upon written notice to the Seller given at least 10 days before the Closing Time) at the Closing Time by a good and sufficient Quit Claim with Covenant deed of the Seller conveying a good and clear record and marketable title to the same, free from all liens and encumbrances except as expressly identified above and if requested by Buyer utilizing a legal description provided at Buyer's expense, however that Buyer/Purchaser may elect to accept such title as Seller can deliver at Buyer/Purchaser's option.

At the Closing, and in addition to any other documents referred to in this Agreement to be delivered to Buyer, Seller shall execute, acknowledge as necessary and deliver the following documents and such other documents as Buyer's attorneys may reasonably require to complete the transaction contemplated herein:

- (i) Transfer Documents. The deed and a Maine Real Estate Transfer Tax Declaration of Value;
- (ii) Title Affidavits. Such customary certificates, affidavits or indemnity agreements may be typically required to obtain a title insurance policy;
- (iii) Non-foreign Person Affidavit. If applicable, such affidavits and certificates as Buyer shall deem necessary to relieve Buyer of any obligation to deduct and withhold any portion of the purchase price pursuant to §1445 of the Internal Revenue Code;
- (iv) Maine Resident Affidavit. If applicable, such affidavits and certificates as Buyer shall deem necessary to relieve Buyer of any obligation to deduct and withhold any portion of the purchase price pursuant to 36 M.R.S.A. §5250-A;
- (v) Underground Oil Storage Tank Certification. A written notice certifying either (i) that there is no underground oil storage facility located on the Real Property to the best of Seller's knowledge, or (ii) pursuant to 38 M.R.S.A. §563(6), if there is such a facility on the Real Property, that the facility exists and shall disclose its registration number or numbers, the exact location of the facility,

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whether or not it has been abandoned in place, and that the facility is subject to regulation by the Maine Board of Environmental Protection; and

(vi) Authority/Other Documents. Such other documents as are customarily delivered by Sellers to Buyers of real property in the State of Maine, including without limitation evidence of good standing and limited liability company authority, together with a legal opinion of Seller's counsel satisfactory to Buyer regarding the limited liability company's existence, good standing and authority to perform all transactions contemplated by this Agreement.

**5.4. Title.** Within one hundred twenty (120) days of the Effective Date of this Agreement, Buyer shall notify Seller of any then existing defects in title with respect to the Real Property would reveal that would make Seller unable to deliver title to or convey the Real Property as specified herein and of any matter that an inspection and survey would reveal (the "Defects") that would make Seller unable to convey the Real Property as specified herein. Any then existing Defects outstanding at the expiration of such time period which are not specified in such notice shall be waived, excepting for title defects and such matters subsequently arising after such date. Seller shall be obligated to proceed in good faith to cure any objected to such Defects, provided that Seller shall not be obligated relocate any structures or utilities. If an objected Defect specified in such notice is not cured within sixty (60) days, then Buyer may elect, by written notice to Seller, to either (i) to accept a conveyance of Real Property subject to such Defects, without deduction and, in such case, Seller may elect to convey the Real Property without warranties as to such Defects, or (ii) to terminate this Agreement, the obligations of all parties hereunder shall cease, and neither party shall have any claim against the other by reason of this Agreement. Notwithstanding the foregoing Seller shall be obligated to obtain a discharge of any outstanding mortgage and to pay any outstanding real estate taxes until the Closing, but Buyer shall not convey, encumber, grant any easements or otherwise impair title pending closing.

If at Closing Seller shall be unable to give title or to make conveyance, or to deliver possession of the Real Property, all as herein stipulated, except as to Defects not objected to or waived as set forth in the initial paragraph of this Section, then Seller shall use commercially reasonable efforts to remove any such Defects in good faith with due diligence, or to deliver possession as provided herein, or to make the Real Property conform to the terms and conditions hereof, as the case may be; for a period of up to 60 days, or such longer period as shall be agreed to by Seller and Buyer. If at the expiration of such extended time Seller shall have failed to remove any defects in title, deliver possession, or make the Real Property conform, as the case may be, all as herein agreed, except as to defects and matters not objected to or waived as set forth in the initial paragraph of this Section, then, at Buyer's option, the cost to cure such defects will be deducted from sales price prior to closing, or Buyer may elect to have deposit returned and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse of the parties hereto.

To enable Seller to make conveyance as herein provided, Seller may use the purchase money or any portion thereof, other than any required tax withholding, at

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Closing to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the deed or binding payoff letters are obtained and the amounts specified are paid at closing.

**6.5. Conditions.** Buyer's obligations hereunder are conditioned upon compliance with the following:

(i) Any inspection of the Property reasonably satisfactory to Buyer within 30 days.

(ii) Written commitment by Lender to extend mortgage financing to Buyer with conditions reasonably satisfactory to Buyer in the amount needed to finance Buyer's acquisition and construction of a residential condominium on the Real Property containing not less than 16 units. Buyer agrees to pursue such financing in good faith with due diligence.

(iii) Receipt of final land use, zoning and construction approvals for a residential condominium project containing a minimum of 16 condominium dwelling units in a six story building with parking underneath (the "Approvals").

Buyer shall have the right, at its option, to terminate this Agreement, by written notice to Seller ~~no later than 30 days on or~~ on or before Closing, if any of the foregoing conditions are not reasonably satisfied.

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**11. Seller's Warranties and Representations.** Except as otherwise set forth in this Agreement, Seller makes no representations or warranties either expressed or implied as the condition of the premises, including, without limitation, compliance with any laws, rules or regulations pertaining to building codes, zoning, environmental or hazardous waste. Buyer takes the premises **AS IS, WHERE IS, WITH ALL FAULTS** and without recourse. Seller has made no verbal representations concerning the condition of the premises and if any such statements have been made either before or after the date of this contract they are not intended to be relied upon by Buyer. No agent of Seller is authorized to make any representations concerning the condition of the premises. Buyer, or his agents, have made, or will make, a physical examination of the premises and personal property and agree to accept same in the conditions they are in as of that time.

Provided however that notwithstanding the foregoing, Seller warrants and represents as of the date of execution by Seller of this Agreement and as of each date through and including the Closing that:

(a) There are no material litigation, liens, judgments, violations, or proceedings pending or to the best of Seller's knowledge threatened against or relating to the Real Property;

(b) There is no pending, or to the best of Seller's knowledge, threatened material action or proceeding (including, but not limited to, any condemnation or eminent

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domain action or proceeding) before any court, governmental agency or arbitrator relating to or arising out of the ownership of the Real Property or any portion thereof, or which may adversely affect Seller's ability to perform this Agreement;

(c) No work has been performed or is in progress at, and no materials have been furnished to, the Real Property or any portion thereof which may give rise to mechanic's, materialmen's or other liens against the Real Property or any portion thereof which have not been paid or will not be paid by Seller when due post Closing, excluding work initiated or authorized by Buyer or required to be performed by Buyer under this Agreement; and

(d) Pine State Elevator Co. is a Maine company duly organized and existing under the laws of the State of Maine, with full capacity, power and authority to enter into this Agreement and to fully perform the transactions contemplated hereby; and

(e) During its ownership of the Real Property, Seller has not deposited any hazardous or toxic wastes, substances, matters or materials, including but not limited to any material defined as hazardous or toxic from time to time by applicable state, local and federal law, either on the Real Property or any adjacent property in violation of law nor is Seller aware of any claims by any governmental agencies that it has done so.

In the event that material changes occur as to any warranties and representations set forth in this Agreement of which Seller has knowledge, Seller will promptly disclose same to Buyer within three (3) business days.

~~12. Condominium Project. Buyer agrees to construct and legally establish a residential condominium project on the Real Estate in accordance with the Approvals, the Maine Condominium Act and applicable secondary mortgage market documentation requirements (the "Condominium") as established by Buyer.~~

~~14.12. Closing Warranties. All obligations of the Buyer under this Agreement are (without limitation) conditioned upon Seller's warranties and representations hereunder being materially true, accurate and complete at Closing, with the same force and effect as though such representations and warranties had been made on and as of the Closing. Each such warranty and representation shall survive the closing for the benefit of Buyer.~~

~~15.13. Brokers. Seller and Buyer each represent and warrant to the other that no brokers, agents or consultants have been employed with respect to this transaction by either of them and Seller and Buyer agree to indemnify and hold the other harmless from any claim by any broker or agent claiming compensation in respect of this transaction, alleging an agreement with Seller or Buyer, as the case may be.~~

~~16.14. General.~~

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(a) This Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties.

(b) Any notice relating in any way to this Agreement (except the extension notice referred to in Section 6(b) shall be in writing and shall be sent by (i) registered or certified mail, return receipt requested, (ii) overnight delivery by a nationally recognized courier, or (iii) hand delivery obtaining a receipt therefor, addressed as follows:

To Buyer: 2 Walnut LLC  
218 Washington Avenue  
Apartment #3  
Portland, ME 04101

with a copy to: Buyers Attorney

To Seller: Pine Street Elevator  
230 Anderson Street  
Portland, ME

with a copy to: Sellers Attorney

and such notice shall be deemed delivered three days after when so posted by certified mail, the next business day in the case of notice by overnight courier and the business day when delivered in the case of notice by hand delivery. Either party may, by such manner of notice, substitute persons or addresses for notice other than those listed above.

(c) All headings in this Agreement are for convenience of reference only and are of no independent legal significance.

(d) This Agreement may not be modified, waived or amended except in a writing signed by the parties hereto. No waiver of any breach or term hereof shall be effective unless made in writing signed by the party having the right to enforce such a breach, and no such waiver shall be construed as a waiver of any subsequent breach. No course of dealing or delay or omission on the part of any party in exercising any right or remedy shall operate as a waiver thereof or otherwise be prejudicial thereto.

(e) Any and all prior and contemporaneous discussions, undertakings, agreements (including without limitation any prior Agreements previously executed by the parties hereto) and understandings of the parties are superseded by and merged in this Agreement, which alone fully and completely expresses their entire agreement.

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(f) This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute one and the same instrument. This Agreement may be transmitted between the parties by facsimile machine and signatures appearing on faxed or emailed instruments shall be treated as original signatures. Both a faxed or emailed Agreement containing either original or faxed or emailed signatures of all parties, and multiple counterparts of the same Agreement each containing separate original or faxed or emailed signatures of the parties, shall be binding on them.

(g) If any term or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which this Agreement is held in valid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(h) It is expressly understood and agreed that time is of the essence in respect of this Agreement.

(i) This Agreement shall be governed by and construed and enforced in accordance with the laws in effect in the State of Maine.

(j) ~~At the request of Buyer, Seller agrees to execute a short form memorandum of purchase and sale in a form in accordance with Maine practice or to execute a junior mortgage to Buyer securing Seller's performance of this Agreement suitable for recording in the Cumberland County Registry of Deeds and in addition, at or prior thereto to transfer title to the personally owned Real Estate into 2 Walnut Street, LLC, which real estate shall remain the only activity conducted by 2 Walnut Street LLC.~~

(i) Buyer agrees to promptly forward to seller, for sellers information, any documentation, permits, geotechnical reports or architectural plans (anything pertinent to the property), when received.

The effective date of this Agreement is when the Agreement has been signed by the Buyer and Seller as evidenced by their signature and notice of such acceptance has been communicated to the parties.

Effective Date: May \_\_\_\_\_, 2017.

Buyer:

*date of Seller's acceptance: May \_\_\_\_, 2017*

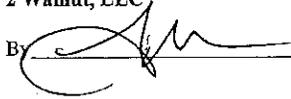
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GLENN A. MORSE (Member)  
2 Walnut, LLC

By  president 5/25/17

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its: \_\_\_\_\_

**Seller:**  
**PINE STATE ELEVATOR, CO.**

*date of Buyer's acceptance: May \_\_, 2017*

By its: \_\_\_\_\_

        *John U.P. 5/25/17*        

Seller's Principals (as to personal guaranty)

**WAIVER OF LIEN  
(UNCONDITIONAL)**

**TO WHOM IT MAY CONCERN:**

PROJECT NAME: **443 Congress Housing Renovation**  
PROJECT ADDRESS ("Premises"): **443 Congress Street, Portland, ME 04101**  
OWNER: **JJR 443 Congress, LLC**  
CONSTRUCTION MANAGER: **Northland Management Corp**  
SUBCONTRACTOR/SUPPLIER: **Morse Builders Inc.**  
LENDER: **Saco and Biddeford Savings Institution**

The undersigned, in consideration of the sum of **\$33,820.00**, receipt of which is hereby acknowledged, does hereby WAIVE and RELEASE any and all lien, right of lien or claim of whatsoever kind or character under all pertinent statutes or common law of the State of Maine on said described building(s) and Premises, on account of all labor, services and/or material or both, furnished for or incorporated into said building(s) and premises by the undersigned up to and including **August 31, 2017**, except for retainage (if any) due and not included in the above amount.

Further, the undersigned hereby COVENANTS and REPRESENTS that all of the subcontractors, suppliers, and laborers engaged by the undersigned have been or will be paid in full, for all work done and/or all materials furnished to said Premises through the date shown herein. The undersigned hereby AGREES to INDEMNIFY, DEFEND and HOLD HARMLESS the owner and lender from any and all claims by any party whatsoever based on work done and/or material furnished in connection with the construction by the undersigned and/or its subcontractors or suppliers through the date shown herein.

DATED: 9/22, 2017

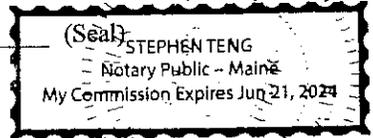
Sworn and subscribed before me this **22nd** day

Name of Company: **More Builders Inc.**

of **September**, 2017

By: [Signature]  
Signature  
Its: President  
Title

[Signature]  
Notary Public



**CERTIFICATE OF FINAL PAYMENT (upon final payment):**

The undersigned certifies that all work to be performed by the undersigned on the Premises has been completed, and that there is no more work or materials to be supplied to the Premises under terms of agreement for work. The payment received herewith constitutes payment in full for all work done and materials supplied to the Premises, and this lien waiver covers all work and materials contracted for by the undersigned.

Name of Company: \_\_\_\_\_

By: \_\_\_\_\_

Signature

Its: \_\_\_\_\_

Title

Is the business incorporated?  Yes  No

Tax ID# or SS#: \_\_\_\_\_

**FINAL WAIVER OF LIEN**  
**(UNCONDITIONAL)**

**TO WHOM IT MAY CONCERN:**

**PROJECT NAME: Robert W. Baird & Co., Inc. "Fit-Up"**

**PROJECT ADDRESS: 129 Middle Street #200, Portland, ME 04101**

**OWNER: Robert W. Baird & Co., Inc.**

**GENERAL CONTRACTOR: Portland Builders, Inc.**

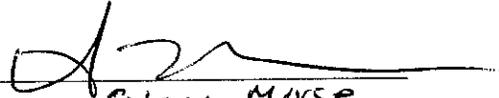
The undersigned, in consideration of the sum of **Six Thousand Four Hundred Dollars and 00/100 (\$6,400.00)**, receipt of which is hereby acknowledged, does hereby WAIVE and RELEASE any and all lien, right of lien or claim of whatsoever kind or character on said described building(s) and premises, on account of all labor, services and/or material or both, furnished for or incorporated into said building(s) and premises by the undersigned up to and including **August 31, 2017**.

Further, the undersigned hereby COVENANTS and REPRESENTS that all of the subcontractors, suppliers, mechanics, and laborers engaged by the undersigned have been paid in full, or shall be paid from the proceeds of this payment for all work done and/or all materials furnished to said property through the date shown herein. The undersigned hereby AGREES to INDEMNIFY and HOLD HARMLESS the owner and all from any and all claims by any party whatsoever based on work done and/or material furnished in connection with the construction by the undersigned and his subcontractors or suppliers through the date shown herein.

DATED Sept. 21, 2017

WITNESS Aleta Snow

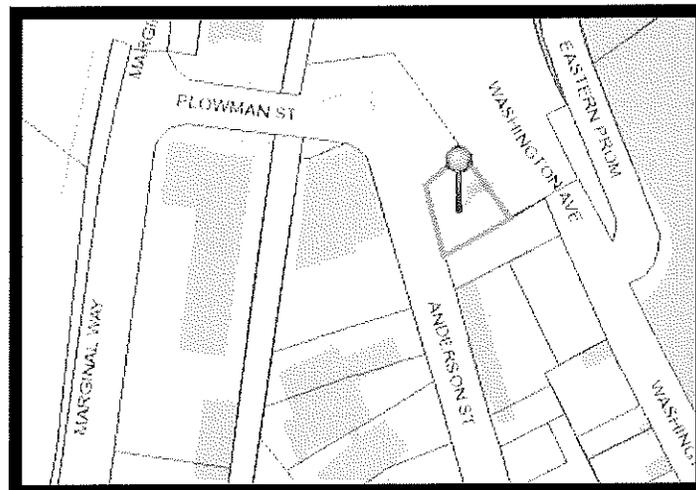
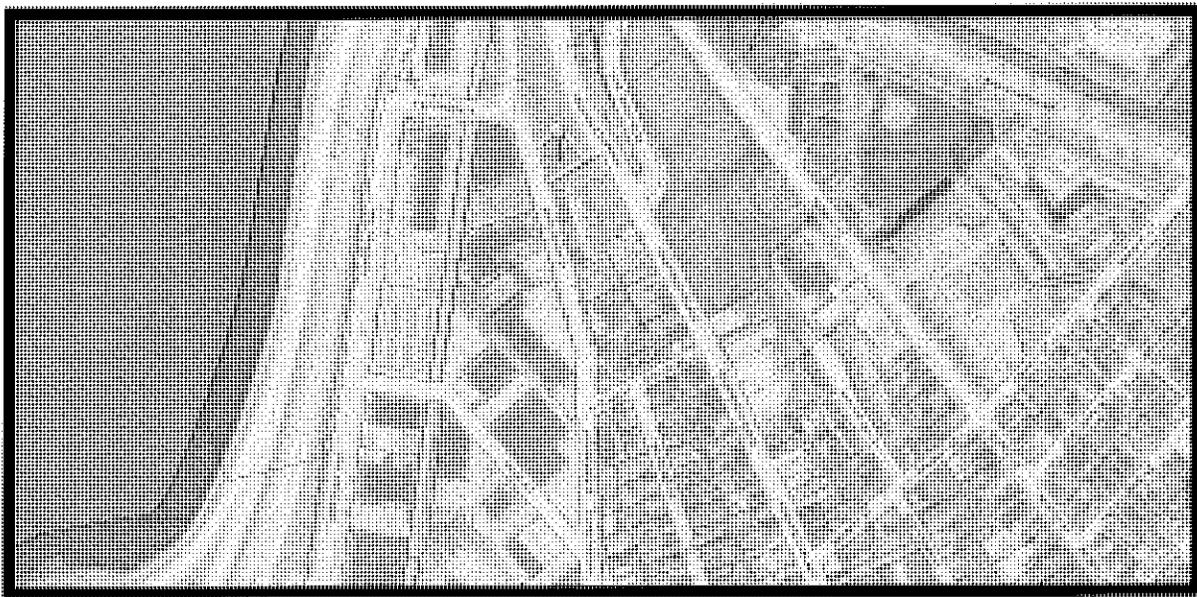
SIGNED:

  
Aileen Morse  
Morse Builders Inc  
Morse Builders, Inc.

# SCATTERGOOD DESIGN

The vacant parcel at 233 Anderson is currently located in *both* the IL-b and B1-b zones. We are requesting a **Zone Map Amendment** in order to bring our entire site into the B1-b Zone. In keeping with the Planning Board's thoughtful approach of evaluating surrounding parcels when considering any zone change, we have graphically included the adjacent, City-owned parcel located to the northwest of 233 Andersen Street in our proposal. By including the adjacent parcel, a cleaner, more regular IL-b and B1-b delineation is achieved.

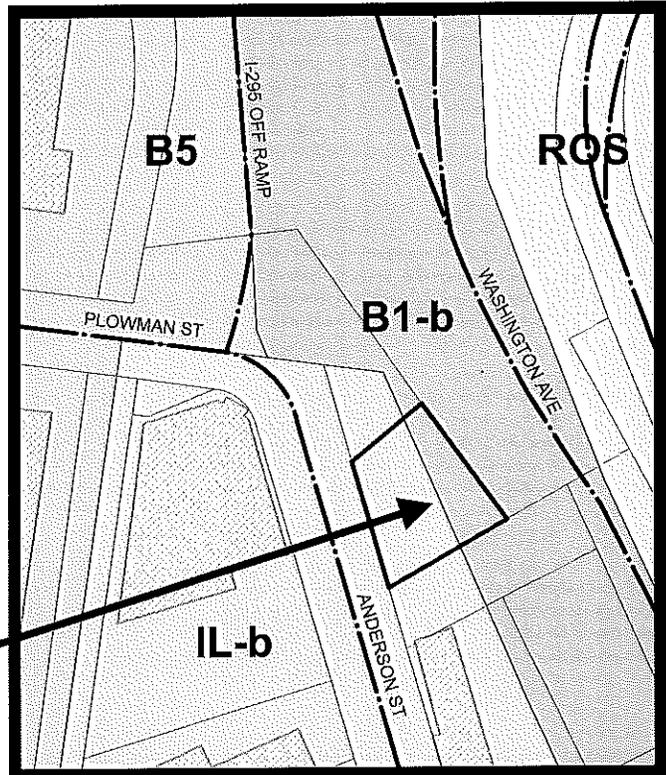
233 Anderson Street is noted in the graphic below with an orange pin. The orange outline represents the 233 Anderson Street parcel, CBL #10-A-40. The lot is located near the corner of Anderson and Plowman Streets, just south of the foot of the Southbound I-295 off-ramp at Exit 8, and "below" Washington Avenue.



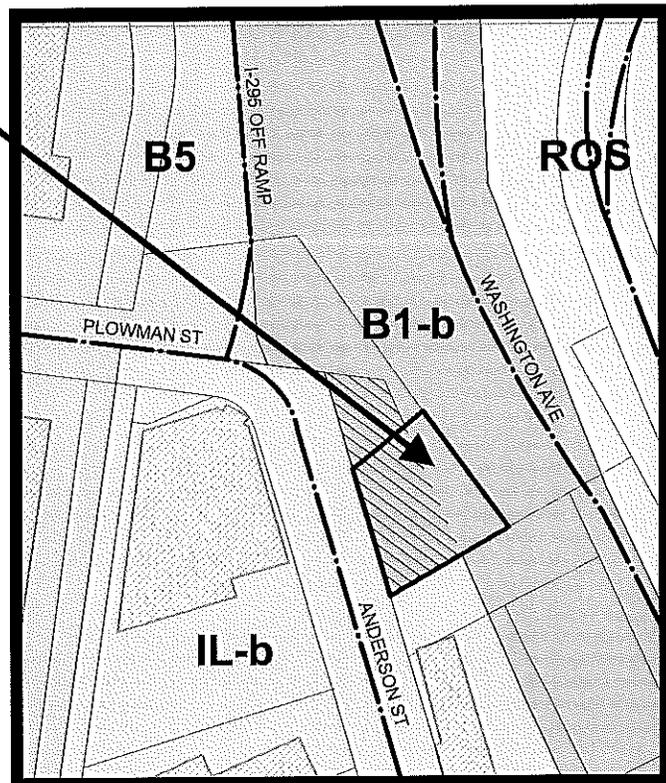
This area of East Bayside is at the confluence of the IL-b, B1-b, and B5 zones, adjacent to the ROS. While the entire area of Bayside is slated for a thorough zoning review, the proposed delineation of zone boundaries appear to be consistent with the intent of the Comprehensive Plan and the future growth of the East Bayside neighborhood.

The line of demarcation between the two zones on the parcel (IL-b and B1-b) runs parallel to Washington Avenue, with the IL-b zone extending along Anderson Avenue for only an additional 81'+/- (over City-owned property) before transitioning to the adjacent B5 zone. The B5 zone is within 125' of the parcel, which allows mixed commercial use, including multi-family residential. The B1-b zone allows mixed commercial use, including multi-family residential. A chart of allowed uses is included on the following pages.

**EXISTING ZONE MAP**  
Split IL-b & B1-b Zones

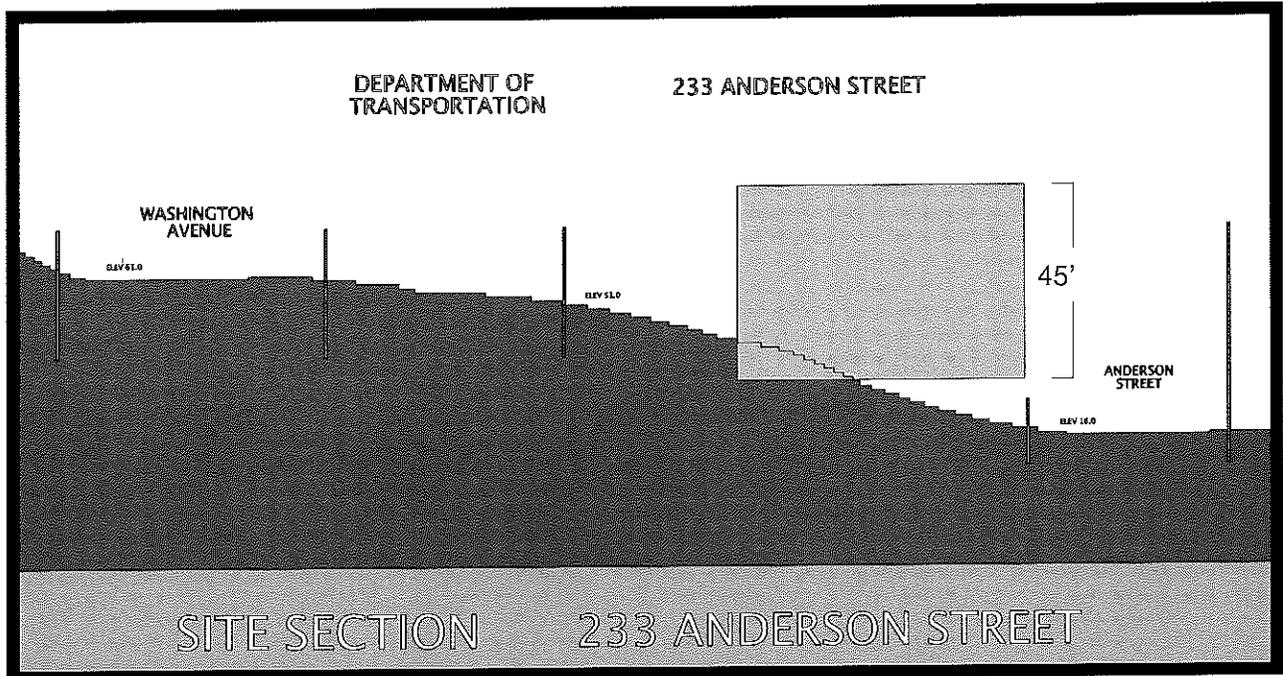


**PROPOSED ZONE MAP**  
Change to Single B1-b Zone



The hatched light blue area is the proposed zone map change for the parcel at 233 Anderson Street and the adjacent City-owned parcel. Of course, we are only proposing the map amendment for the parcel of which we have "right, title, or interest", but felt it prudent to illustrate the potential area that the Planning Board is likely to consider, particularly because it is City-owned land.

233 Anderson Street has a relatively imposing slope over the entire length of the parcel that significantly limits the ability of the site to be developed as currently zoned, particularly with a grade difference in excess of 35' in the downhill, IL-b zone. The elevation at the property line along Anderson Street is approximately 16' and steadily climbs up to 58' at the rear property line. For reference, a 45' building height is shown for scale in the graphic of a typical section through the site, below.



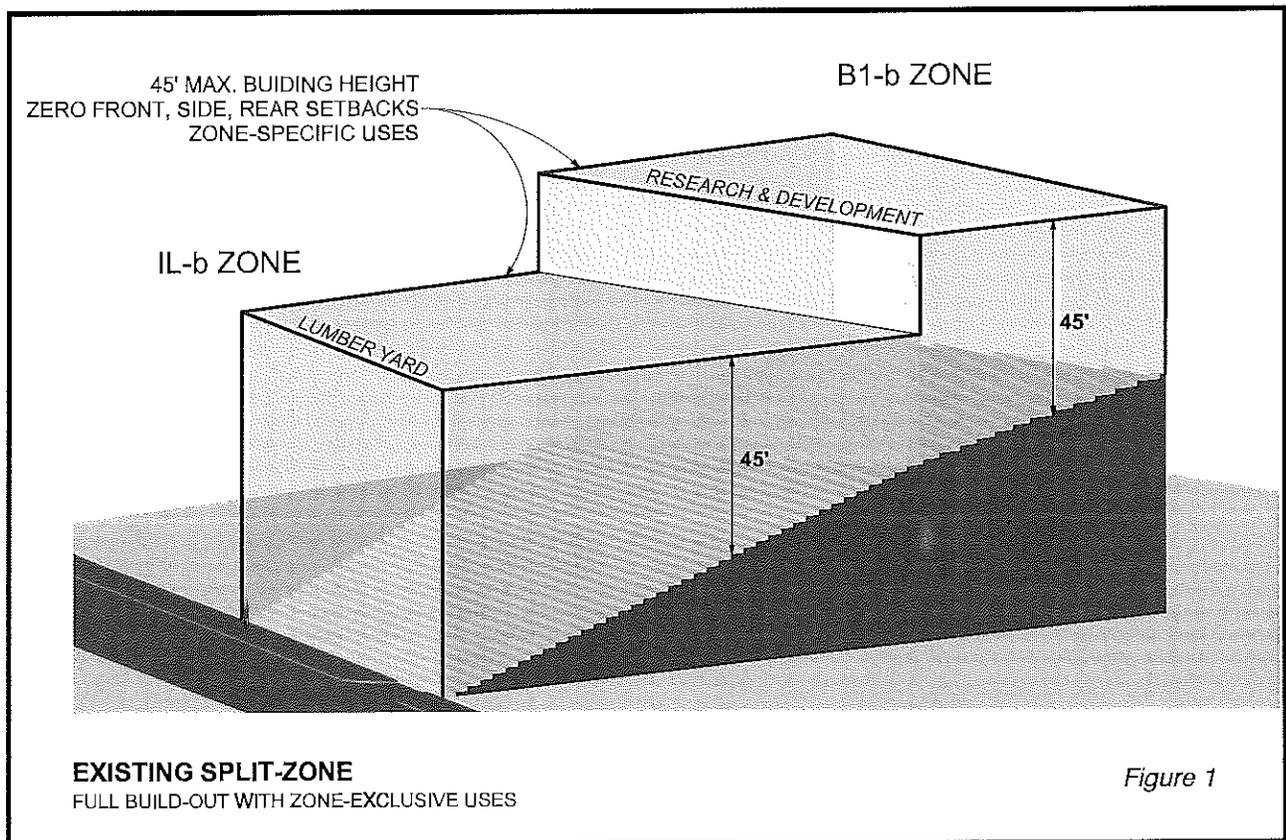
Not only is the slope of the site challenging to develop, but the small size of the parcel contributes to its complexity. Generally, the dimensional standards of the IL-b and B1-b zones vary little between the two zones, with the important exception being the pavement setback from the lot boundaries. As shown in the chart, the pavement setback required in the IL-b zone would push the required light industrial site circulation deeper into the site, and deeper into the hill if developed under the existing zoning. The portion of the site currently zoned IL-b averages roughly 60' deep; a 15' pavement setback from the lot boundary restricts vehicular circulation dramatically, while limiting the one- or possibly two-story building footprint even further. These dimensional restrictions severely restrict the development intent of the IL-b zone on this site.

Applicable Dimensional Standards	B1-b	IL-b
Maximum Impervious Surface Ratio	90%	100%
<b>Maximum Building Height</b>	<b>45'</b>	<b>45'</b>
Minimum Side Yard	None	None
Rear Yard	None	None
Front Yard	None	None
Maximum Front Yard	10'	n/a
Pavement Setback	n/a	15'
Minimum Lot Area per Dwelling Unit	435 sf	n/a

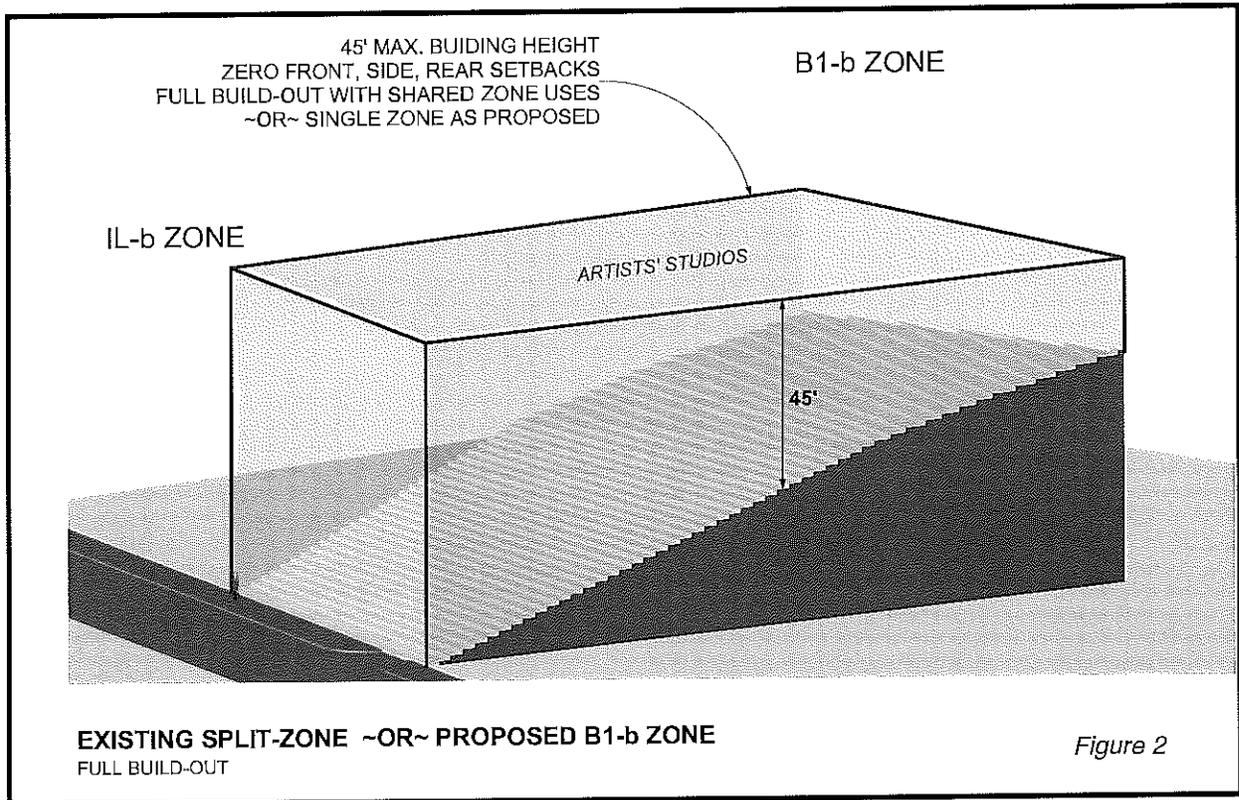
The specific purpose of the IL-b Zone, as stated in the Ordinance is “to provide areas in which low impact industrial uses and limited other uses serving employees and residents of the surrounding neighborhood will be compatible with adjacent residential uses, will provide a buffer between residential neighborhoods and the I-M or I-H industrial zones, or will stand alone as a smaller scale industrial district”. Although we concur that the purpose of IL-b zone is laudable, its application on this specific site is incongruous with its intent, particularly as it relates to the dimensional requirements as stated in Section 14-234.

While the feasibility to develop the site would be greater as a single B1-b zone due to its wider variety of allowable uses, the potential building massing would be similar. The existing zoning allows for similar buildable envelopes, irrespective of use (with the pavement setback requirement, excluded).

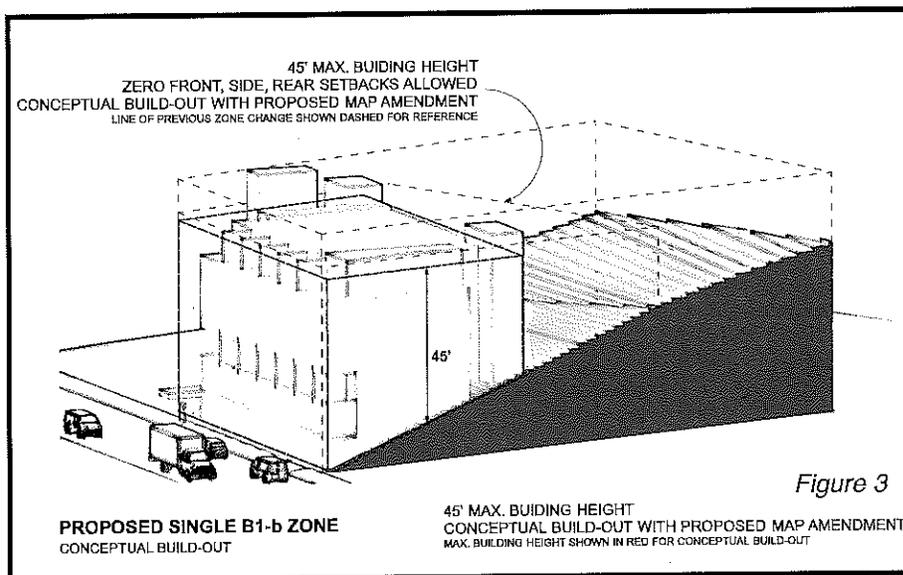
Illustrated in Figure 1, the buildable envelope of each zone is shown with its own 45’ high buildable envelope, as if each zone were to be developed with zone-specific uses, dictating the location of the building and uses within the site. For example, a Lumber Yard could only be developed on the downhill side, within the IL-b zone; a Research & Development facility could only be developed uphill, within the B1-b zone.



Should a map amendment be granted, the entire site could be developed for a use allowed in the B1-b zone. Volumetrically, the building enveloped is identical to the development of the entire site for a use allowed in both zones. See figure 2.



Although the map amendment would allow full development of the site as shown in Figure 2, it is highly unlikely to happen, simply due to the constraints of the slope and dimensions of the parcel. With the granting of this map amendment, we hope to return to the Board early this winter with a project similar to the mixed-use massing model shown below, in Figure 3.



The proposed map amendment from IL-b to B1-b for the lower portion of the site along Anderson Street has little impact on the likely allowable uses of the site, with the obvious exception of residential use—which is already allowed on the rear portion of the site. The chart to the right compares allowable uses between the IL-b and the B1-b, with restrictions or conditions noted with an asterisk and specifically prohibited uses in the IL-b Zone noted in red.

Permitted Uses	B1-b	IL-b
Multifamily housing	✓	☐
Live/work spaces	✓	☐
General business & professional offices*	✓	☐
Personal Services (per 14-47)	✓	☐
Offices of building tradesmen	✓	✓
General retail establishments*	✓	☐
Beverage dealers*	✓	☐
Artists' Studios	✓	✓
Restaurants on ground floor*	✓	☐
Accessory uses	☐	✓
Bakeries, breweries, distilleries, commercial kitchens w/ minor retail	☐	✓
Research and development	☐	✓
Uses prohibited in IL-b are noted in Red.		
* with restrictions or conditions		

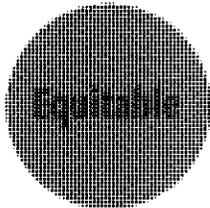
### MOST PROBABLE USES Due to Site Constraints, Slope, & Location

Given the size and slope of the site at 233 Anderson Street, many of the permitted uses in the IL-b Zone would not be feasible. Above is the same chart of uses, simplified to illustrate the *most likely uses* for the parcel, with the proposed map amendment.

Permitted Uses	B1-b	IL-b
1- and 2-family homes	✓	☐
Multifamily housing	✓	☐
Live/work spaces	✓	☐
General business & professional offices*	✓	☐
Personal Services (per 14-47)	✓	☐
Offices of building tradesmen	✓	✓
General retail establishments*	✓	☐
Beverage dealers*	✓	☐
Artists' Studios	✓	✓
Restaurants on ground floor*	✓	☐
Lodging Houses	✓	☐
Utility Substations	✓	✓
Day Care facilities	✓	✓
Accessory uses (per 14-404)	✓	☐
Accessory uses	☐	✓
Municipal Offices	✓	☐
Bed & Breakfasts*	✓	☐
Hostels	✓	☐
Places of religious assembly <10,000 sf	✓	✓
Institutional: Schools (pre-k - 12)	✓	☐
Neighborhood Center	✓	☐
Clinic < 3,000 sf	✓	☐
Wind energy systems	✓	✓
Bakeries, breweries, distilleries, commercial kitchens w/ minor retail	☐	✓
Research and development	☐	✓
Indoor amusement and recreation centers	☐	✓
Plant & Tree Nurseries, including recycling	☐	✓
Lumber Yards	☐	✓
Repair Services, excluding motor vehicle repair	☐	✓
Dairies	☐	✓
Dog Training	☐	✓
Intermodal transportation facilities	☐	✓
Marinas	☐	✓
Distribution centers, warehouses, & wholesale businesses <10,000 sf	☐	✓
Back Office uses	☐	✓
Registered medical marijuana cultivation facility	☐	✓
Neighborhood Center	☐	✓
Street vendors (food trucks)*	☐	✓
Concert Hall	☐	☐
Banquet Facility	☐	☐
Office Uses (other than back offices or accessory to permitted use)	☐	☐
Intense Industrial Use	☐	☐
Uses prohibited in IL-b are noted in Red.		
* with restrictions or conditions		

In closing, the proposed map amendment from a split B1-b/IL-b to a single, B1-b site allows the property to be appropriately developed in concert with the stated objectives of the newly adopted Comprehensive Plan. Our goal is to provide a commercial use in the base of the building with 12 to 18 residential units, above. The exact use and size of commercial space is yet to be determined, as is the precise number of live/work units and apartments in the above residential use. The overarching goal is to provide generously sized two-bedroom units, live/work units, and on-site parking, all within the confines of the B1-b Zone dimensional standards and a powerful design worthy of this newly enlivened neighborhood. We firmly believe that the proposed map amendment is in keeping with Portland's Comprehensive Plan and takes great steps in moving us toward the livable City we envision for 2030.

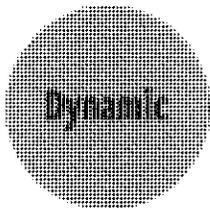
The following are some highlights relating to Portland's Plan:



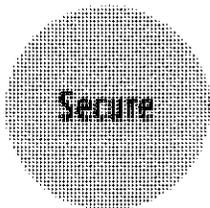
This proposal is reasonable and **equitable** because the map change does not try to maximize the build ability of the site by requesting the nearby B-5 Zone—it simply brings a physically challenging site completely under one zone and maintains and supports the fabric of the existing East Bayside Neighborhood.



The proposed building, when reviewed during Site Plan Review, will demonstrate our commitment to planning for sea level rise and smart growth. Zone changes of this type are **sustainable** and logical, enabling our City to grow wisely, properly developing vacant land that has environmental challenges.



While the site is not in an Historic District, it does have a significant visual presence at the base of Munjoy Hill. We hope to present an interesting architectural design during Site Plan Review that becomes a **dynamic** part of the lively neighborhood, with nearby access to the Portland Trails System.



Views of Back Cove will be shared by the proposed residential units, as well as the commercial space(s) at the base of the building. Along with long water and mountain views will come views of the developing Bayside Area. The vibrancy of the area will be visible from the security of well-appointed apartments, at over 1,000 square feet per unit, providing much-needed larger-format housing on the peninsula.



The livability and walkability of the area cannot be overstated. An engaged community of active residents and commercial users provides a **secure** neighborhood unparalleled in its activity and safety.



**Authentic** materials will be used in the building, with particular consideration given to the expression of the materials throughout the facades.

With nearly direct access to I-295, steps from Metro and Breez, and the upcoming bike shares, this site is inextricably **connected** to the City of Portland and specifically, to the East Bayside Neighborhood.

**Community Engagement** - On August 22, 2017, we met with the East Bayside Neighborhood Association to ask what the neighborhood would like to see developed, and held our neighborhood meeting on November 14, 2017, at Bayside East. Again, we look forward to discussing this you, further.



2 Walnut LLC.  
218 Washington Avenue  
Portland ME 04101

November 13, 2017

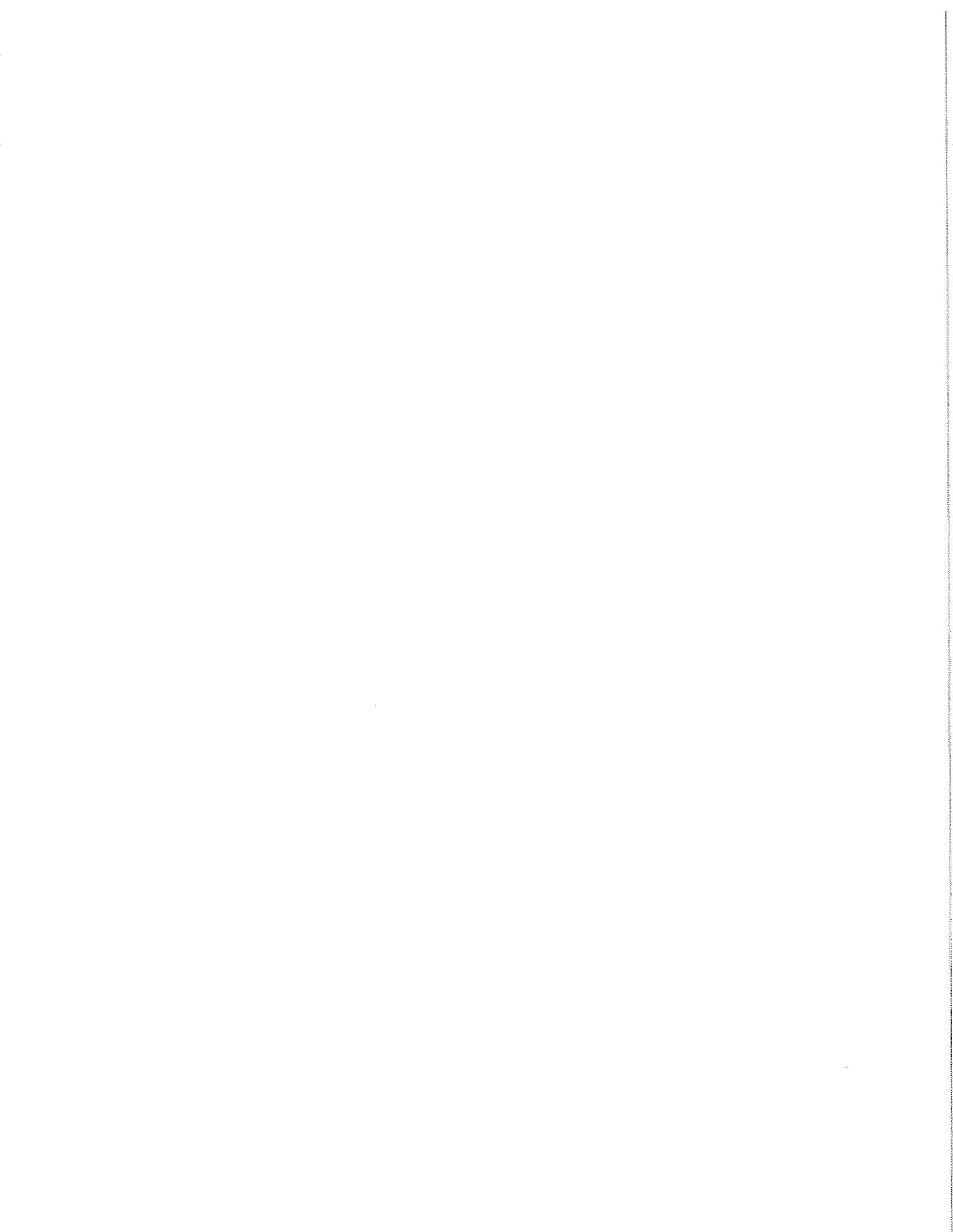
233 Anderson Street:  
Neighborhood Meeting Certification

I, 2 Walnut LLC hereby certify that a neighborhood meeting was held on November 13<sup>th</sup>, 2017 at the Bayside East Building at 7:00pm.

I also certify that on October 31, 2017 invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 1000ft of the proposed development.
2. Residents on the "interested Parties List"
3. A digital notice was provided to the Planning Division and the assigned planner to be forwarded to those on the interested client list who receive e-mail notices.

Signed,  
\_\_\_\_\_ Glenn Morse \_\_\_\_\_ Date 11/15/17 \_\_\_\_\_



October 31, 2017

Dear Neighbor,

Please join us for a neighborhood meeting to discuss our plans for a map amendment located at 233 Anderson Street.

We will be holding a neighborhood meeting at the Bayside East building on Monday November 13<sup>th</sup> at 7:00pm in the downstairs meeting room. The address is 47 Smith Street, Portland.

The city code requires that property owners within 1000 feet of the proposed map amendment and residents on the "interested parties" list, be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and the minutes will be taken. Both the sign-in sheet and the minutes will be submitted to the Planning Board.

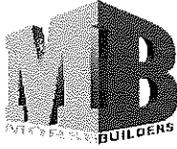
If you have any questions, please call us at 603.235.1257

We look forward to seeing everyone.

Thank you

2 Walnut LLC  
218 Washington Ave  
Portland Maine 04101

207.590.3877



2 Walnut LLC.  
218 Washington Avenue  
Portland ME 04101

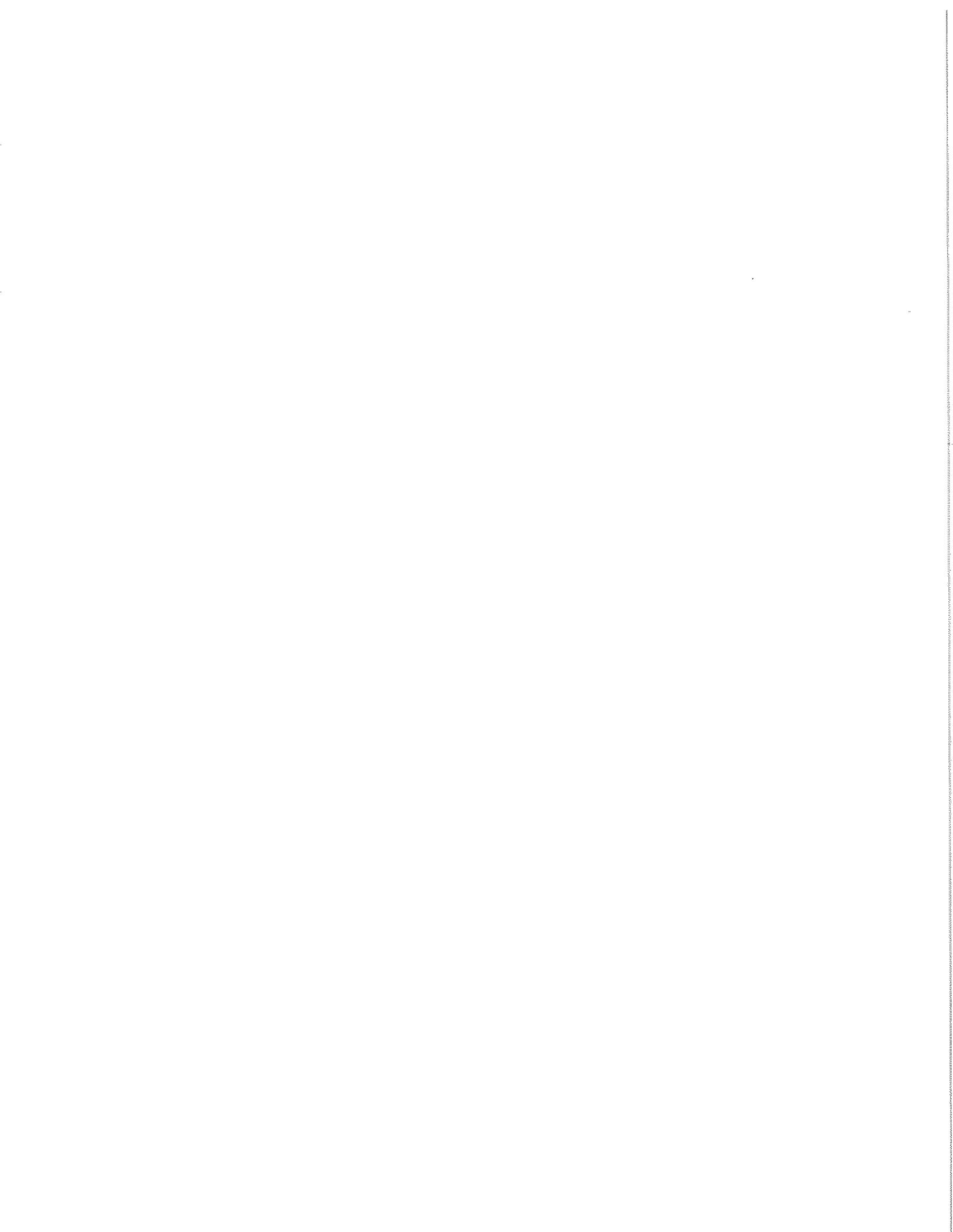
November 13, 2017

233 Anderson Street:  
Neighborhood Meeting Minutes

No Attendees

Signed: \_\_\_\_\_

Date: \_\_\_\_\_





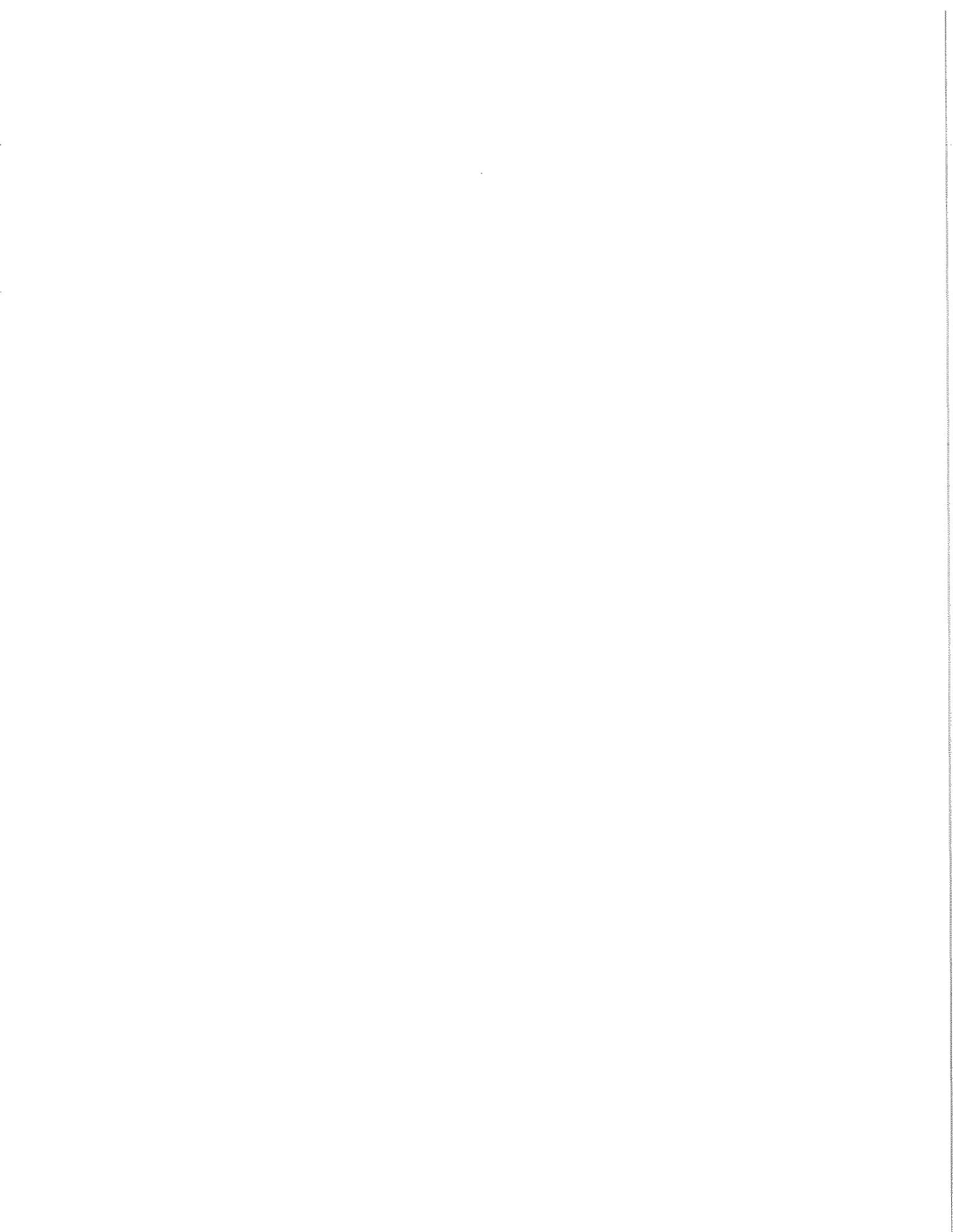
2 Walnut LLC  
218 Washington Avenue  
Portland ME 04101

November 13, 2017

233 Anderson St:  
Neighborhood Meeting

SIGN IN SHEET

1. No Neighborhood Attendee's
2. Glenn Morse
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_



# SCATTERGOOD DESIGN

November 21, 2017

Barbara Barhydt & Jean Frasier  
Development Review Manager  
Planning and Urban Development Department  
389 Congress Street, 4th Floor  
Portland, Maine 04101

Dear Barbara and Jean,

On behalf of 2 Walnut LLC, we are pleased to submit the attached package as an application for a zoning map amendment for 233 Anderson Street in East Bayside.

The Planning Board Workshop held on October 6, 2017 proved to be very informative for us. Per Tom Erico's request to engage a traffic engineer, we have brought Bill Bray of Traffic Solutions onto our team to develop a trip generation comparison of the most intensive uses on the site given the existing and the proposed zoning. Bill's study has been uploaded to e-Plan, but in summary, the proposed zone map amendment results in a net increase of only 10 AM Peak Hour Trips and 13 PM Peak hour trips. As requested, this comparison was generated for the most intense uses for a full build-out of the site, not our specific proposed mixed use of residential, live/work, and commercial space on a portion of the site.

A neighborhood meeting was properly advertised and held on November 14, 2017 in Bayside East of 47 Smith Street. Unfortunately, no one from the neighborhood was in attendance. Given our previous meeting with the neighborhood on August 22, 2017 and the expressed public support during the Planning Board Workshop discussing this map amendment, we are hopeful to maintain the full support of the neighborhood.

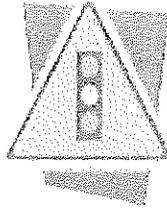
In an effort to streamline the review efforts of the Planning Board and City Staff, there are no substantive changes to our previously submitted documents but we have added conceptual sketches and diagrams to illustrate the potential build-out of the site, both with and without the requested map amendment.

We look forward to meeting with you again, for the public hearing.

Sincerely,



T. Scott Teas, AIA



**Traffic Solutions**  
William J. Bray, P.E.  
235 Bancroft Street  
Portland, ME 04102  
(207) 774-3603  
(207) 400-6890 mobile  
[trafficsolutions@maine.rr.com](mailto:trafficsolutions@maine.rr.com)

## TECHNICAL MEMORANDUM

TO: Carol Morrissette, Residential Design Studio

FROM: William Bray, P.E., Traffic Solutions

DATE: November 4, 2017

SUBJECT: 233 Anderson Street Property – “Build-out” Traffic Estimates

---

It is my understanding the 233 Anderson Street property is currently zoned, more or less, equally within the B1-b and IL-b zones. Your office is currently preparing a City Zoning Map Amendment Application that re-zones the parcel exclusively to the B1-b zone. In support of the application, the City has requested comparative traffic generation estimates for both the current and proposed property zones. The City further instructed the trip generation estimates should be based upon the most intensive use for each property zone.

The chart prepared by your office describing the most probable uses of the parcel under each zoning regulation was very carefully reviewed with the following permitted uses selected for the analysis:

IL-b Zone: Research and Development Space

B1-b Zone: General Office Space and 2,000 sf of restaurant space on the ground floor

Your October 31, 2017 memorandum (attached for reference) defines four possible development options for the property. Each option establishes maximum development of the parcel based upon the City’s zoning regulations, lot size, and the developability of the property. Each of the four development options are described as follows:

Option A – Full Build-Out of Existing IL-b Zone Only – 41,700 sf Research & Development Building

Option B – Full Build-Out of Existing B1-b Zone Only – 17,760 sf General Office and 2,000 sf restaurant

Option C – Full Build-Out of Existing Mixed Zone – 41,700 sf Research & Development Building and 9,790 sf General Office Space with 2,000 sf restaurant

Option D – Full Build-Out of Proposed B1-b Zone – 49,000 sf General Office and 2,000 sf restaurant

Traffic Solutions prepared peak hour trip generation estimates for each of the four optional development schemes based upon trip rates presented in the ninth edition of the Institute of Transportation Engineers “**TRIP GENERATION**” publication. The following land-use codes and trips rates were used:

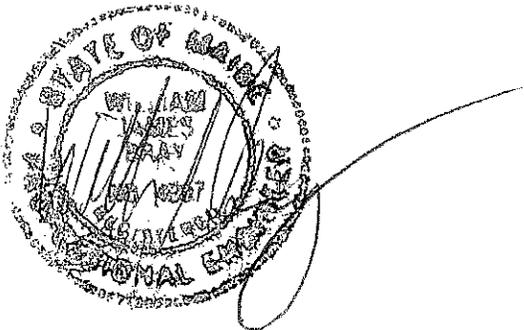
- Land-Use Code #710 General Office Space
  - 1.56 trips/1,000 sf building area
  - 1.49 trips/1,000 sf building area
- Land-Use Code #760 Research and Development Space
  - 1.22 trips/1,000 sf building area
  - 1.07 trips/1,000 sf building area
- Land-Use Code #932 High-Turnover (Sit-Down) Restaurant
  - 10.81 trips/1,000 sf building area
  - 9.85 trips/1,000 sf building area

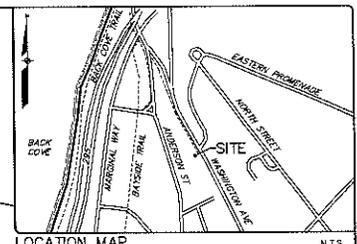
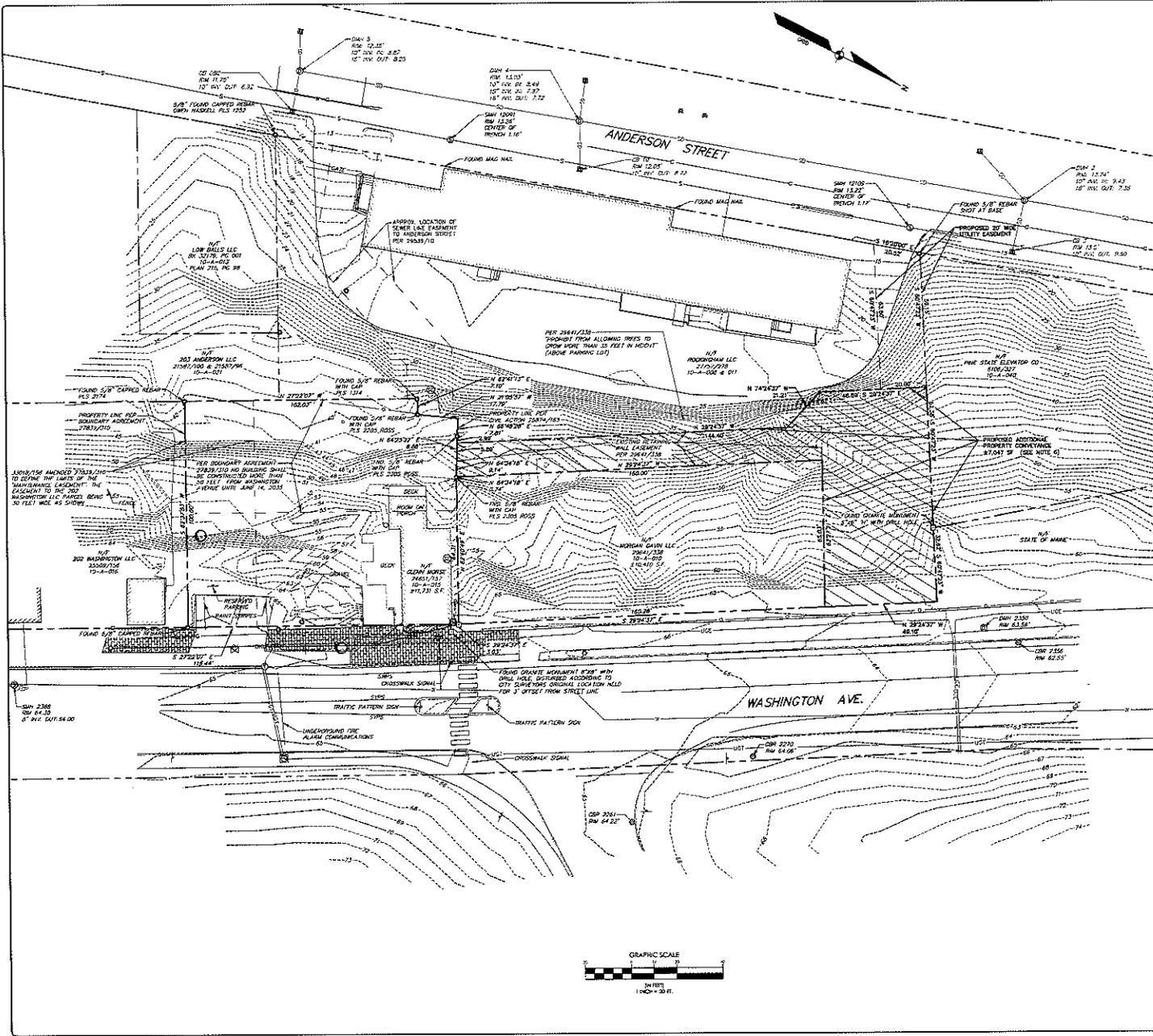
Table 1 summarizes the trip generation analysis conducted for each of the four development options:

**Table 1**  
**Trip Generation Summary**  
**Development Schemes**  
 (233 Anderson Street Property)

Development Option Description	Total Building Area	Projected Land-Use	AM Peak Hour Trips	PM Peak Hour Trips
Option # 1 Full Build-Out IL-b zone ONLY	41,700 sf	Research and Development Space	51 trips	45 trips
Option # 2 Full Build-Out B1-b Zone ONLY	19,650 sf	17,560 sf General Office 2,000 sf restaurant	50 trips	46 trips
Option # 3 Full Build-Out Mixed Zones	IL-b 41,370 sf  B1-b 11,790 sf	Research and Development Space; 2,000 sf restaurant; 9,790 sf General Office Space	88 trips	80 trips
Option # 4 Full Build-Out Proposed B1-b Zone	51,000 sf	2,000 sf restaurant; 49,000 sf General Office Space	98 trips	93 trips

The 233 Anderson Street parcel is currently regulated by two separate building zones; Zone #IL-b and B1-b, which more or less subdivides the property. Development Option #1, which only develops the existing IL-b portion of the site and Development Option #2 limits development on the current B1-b portion of the site, are expected to generate nearly the same level of peak hour traffic (approximately 50 peak hour trips). Option # 3, which proposes full build-out of the existing mixed zone, generates a slightly greater volume of peak hour traffic at 88 trips in the AM peak hour and 80 trips in the evening peak hour. Option # 4, which represents full build-out of the property under the proposed B1-b zone, is expected to generate a similar volume of peak hour trips when compared to Option #3 (98 trips in the morning peak hour and 93 trips in the PM peak hour).

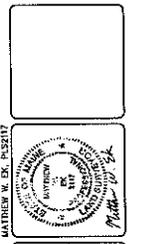




- GENERAL NOTES:**
- THE RECORD OWNERS OF THE PARCELS ARE AS FOLLOWS:  
 "A" MAP 10 PLATS A LOT 15, GLENN MORSE PER DEED BOOK 24801 PAGE 157 WITH REVISIONS IN DEED BOOK 26574 PAGE 180 AND OTHER PAGE 310.  
 "B" MAP 10 BLOCK A LOT 10, MORRIS DAIN LLC PER DEED BOOK 26641 PAGE 338.  
 ALL DEEDS REFERENCED ARE RECORDED IN THE CLATSOP COUNTY REGISTRY OF DEEDS (CORD).
  - BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED UPON AN ON-GROUND SURVEY BY SEBAGO TECHNIQUES, INC. WITH SUPPLEMENTAL PHOTOGRAPHY OBTAINED FROM LOCAL INFORMATION.
  - PLAN REFERENCES:  
 A. STANDARD BOUNDARY SURVEY, ASHRAU TOPOGRAPHY AND DEED ANALYSIS LOT 12 WASHINGTON AVENUE, PORTLAND FOR GLENN MORSE, BY ROSS BOUNDARY SURVEYS, (JOB NO. 20864P), LAST DATED JULY 2015.  
 B. WASHINGTON AVENUE SIDE PATH EXISTING SITE CONDITIONS BETWEEN 4TH AND INTERSTATE 295 OFF RAMP, BY THE CITY OF PORTLAND PUBLIC SERVICES DEPARTMENT ENGINEERING DIVISION, PLAN NUMBER 887/24, LAST DATED OCTOBER 28, 2010.  
 C. STREET LANE RETRAIMENT AND EXISTING MONUMENTATION PLAN, ANDERSON STREET, FOX STREET, GOULD STREET & PLUMMER STREETS, BY THE CITY OF PORTLAND DASHI BASS INC. ENGINEERING DIVISION, PLAN NUMBER 1017/26, LAST DATED FEBRUARY 27, 2005.  
 D. SITE PLAN OF THE MAP 10 BLOCK A LOT 10, WASHINGTON AVE., PORTLAND MAINE FOR GLENN MORSE, BY STEPHEN SULLIVAN, JOB NUMBER 2013, LAST DATED FEBRUARY 15, 2013.  
 E. BOUNDARY SURVEY AT 207 ANDERSON STREET, FOR ROOMORHAM LLC, BY OWEN HASKELL, INC. LAST DATED MARCH 25, 2014, AND RECORDED IN CORD PLAN BOOK 316 PAGE 88.  
 F. PLAN ORIENTATION IS GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE 1821-NAD83 BASED ON LOCAL PRECEDENT SURVEY DATA AND CHECKED WITH CITY COORDINATE ELEVATIONS REPORTED HEREON ARE ON THE CITY OF PORTLAND DASHI BASS INC. 1:50000 SCALE MAPS WHICH WERE NOT INSPECTED AND MAY NOT HAVE BEEN FIELD VERIFIED. DEPICED HEREON MAY NOT REPRESENT EXISTING CONDITIONS. FIELD SURVEY CONTRACTORS AND FIELD ENGINEERS NEED TO CONTACT E-SAFE SYSTEMS, INC. (1-888-832SAFE) AND FIELD VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION AND/OR EXCAVATION.  
 G. PROPOSED PROPERTY LINES AND EASEMENTS SHOWN HEREON ARE BASED UPON THE BOUNDARY SURVEY AND THE CONTRACT FOR THE SALE OF REAL ESTATE DATED OCTOBER 18, 2016.

**LEGEND**

EXISTING	PROPERTY LINE, M/W/E
---	ADJUTER LINE, M/W/E
---	EASEMENT
---	MONUMENT
---	IRON PIPE, ROD
---	CURB/LINE NO.
---	DECK/STEPS/ OVER-RAMP
---	EDGE CONCRETE
---	PAVEMENT PAINT
---	EDGE DRAPEL
---	CURB LINE
---	CONTOURS
---	CHAIN LINK FENCE
---	STORAGE FENCE
---	RETAINING WALL
---	DECIDUOUS TREE
---	BOLLARD
---	SOIL
---	GAS GATE VALVE
---	WATER
---	WATER SHUT OFF
---	SANITARY SENSER
---	SANITARY MANHOLE
---	SANITARY CLEANOUT
---	STORM DRAIN
---	DRAINAGE MANHOLE
---	CATCH BASIN
---	OVERHEAD UTILITY
---	UNDERGROUND UTILITY
---	TRANSFORMER PAD
---	TELEPHONE MANHOLE
---	LIGHT POLE
---	UTILITY POLE
---	DOY WIRE

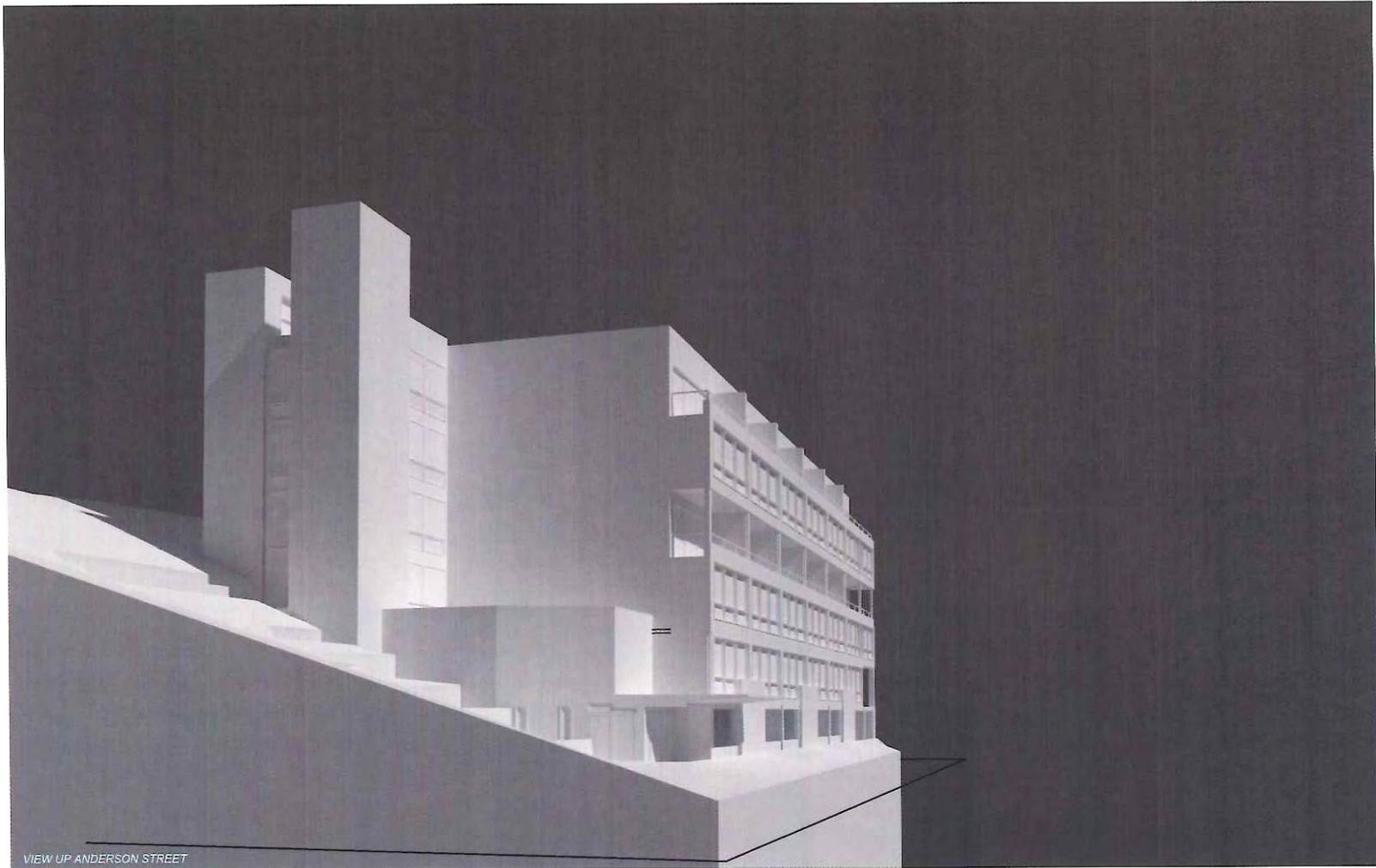


DESIGNED	CHECKED
MWE	CDM

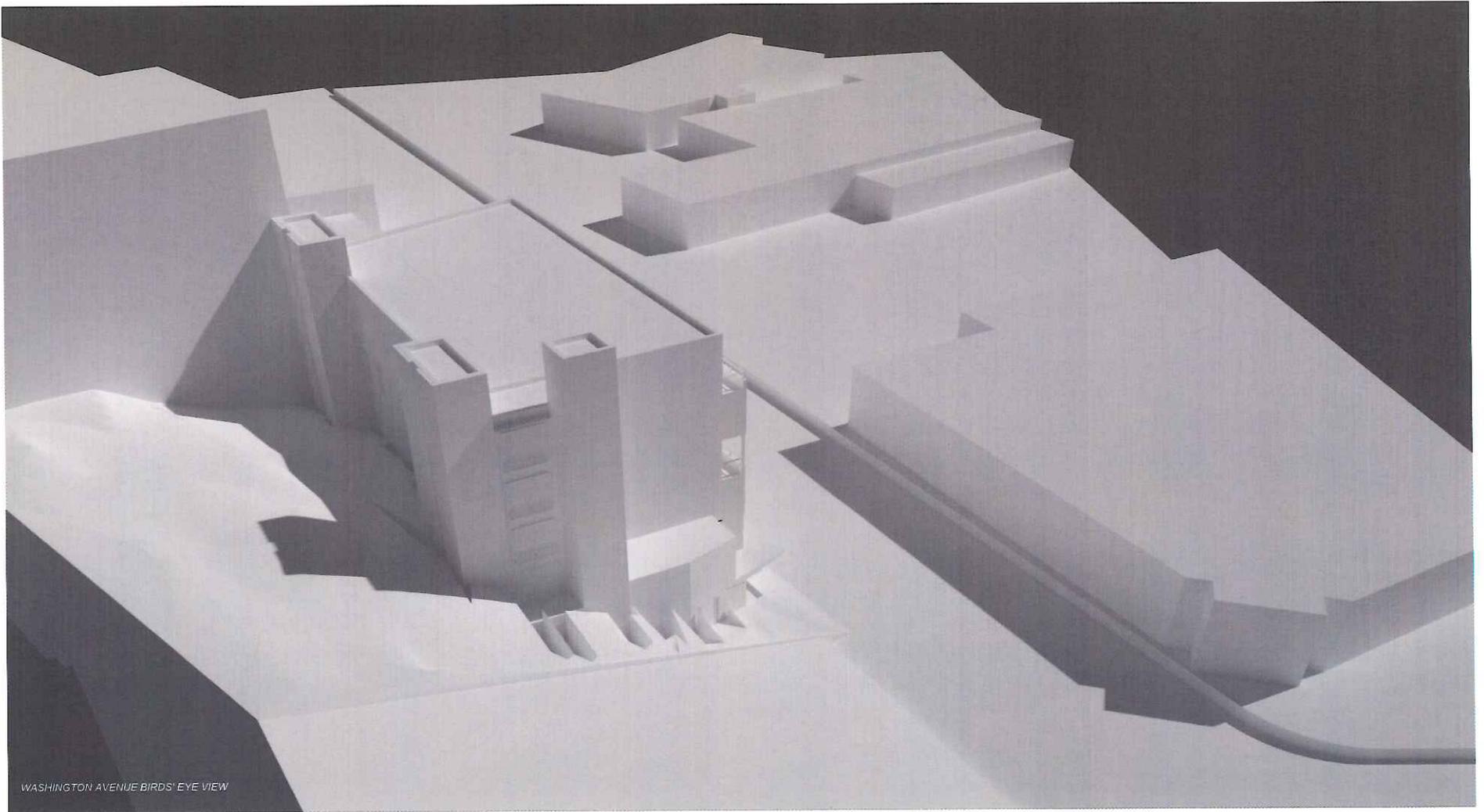
**SEBAGO**  
 T E C H N I C A L  
 WWW.SEBAGOTECHNICAL.COM  
 70 WASHINGTON AVENUE  
 PORTLAND, MAINE 04101  
 TEL: 207-754-8200  
 FAX: 207-754-8200

**EXISTING CONDITIONS PLAN**  
 218-220 WASHINGTON AVENUE  
 PORTLAND, MAINE  
 FOR:  
 218-220 WASHINGTON AVENUE LLC  
 SOUTH PORTLAND, MAINE 04106

PROJECT NO. 06172 SCALE 1" = 20'  
 SHEET 2 OF 23

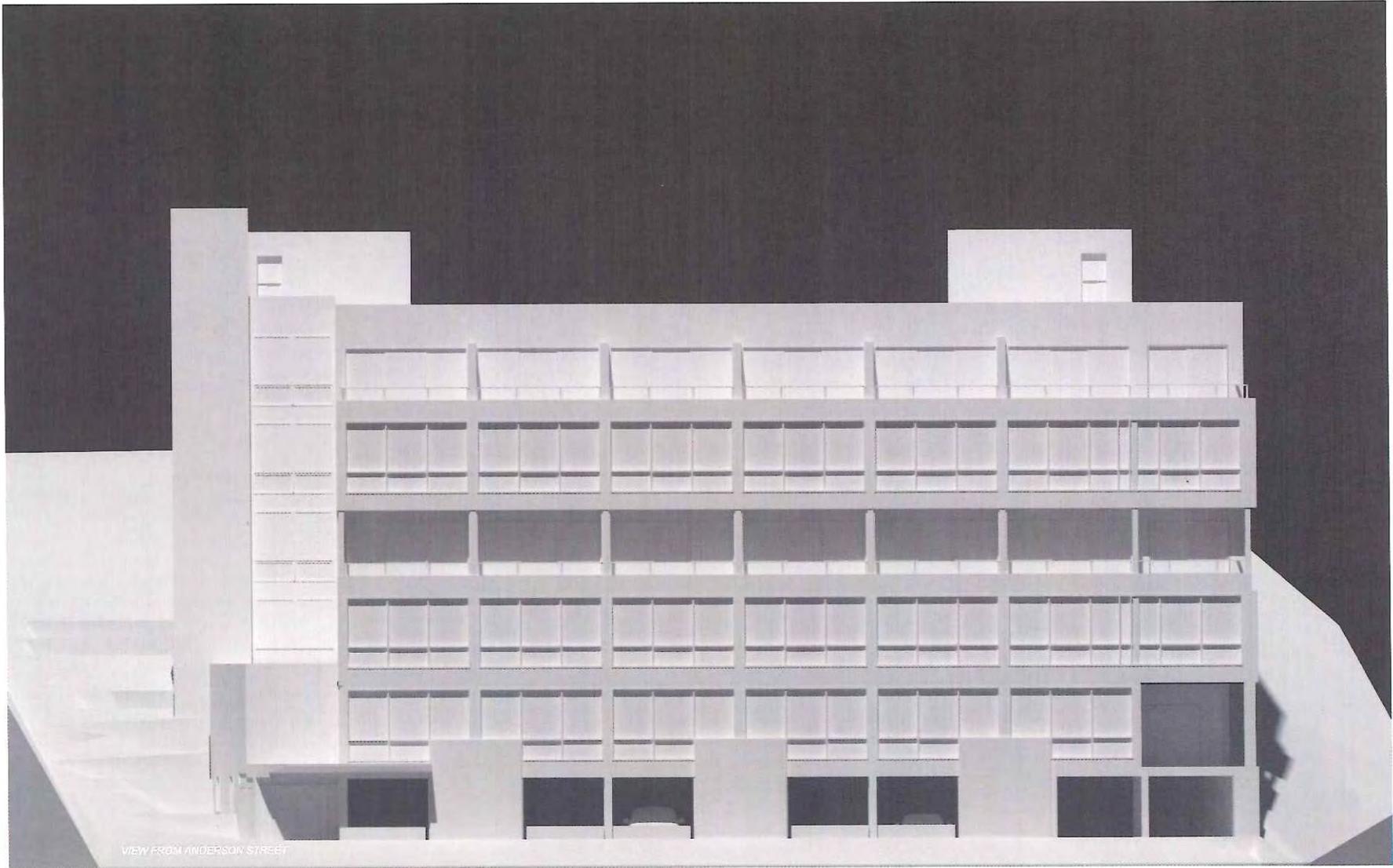


SCATTERGOOD DESIGN

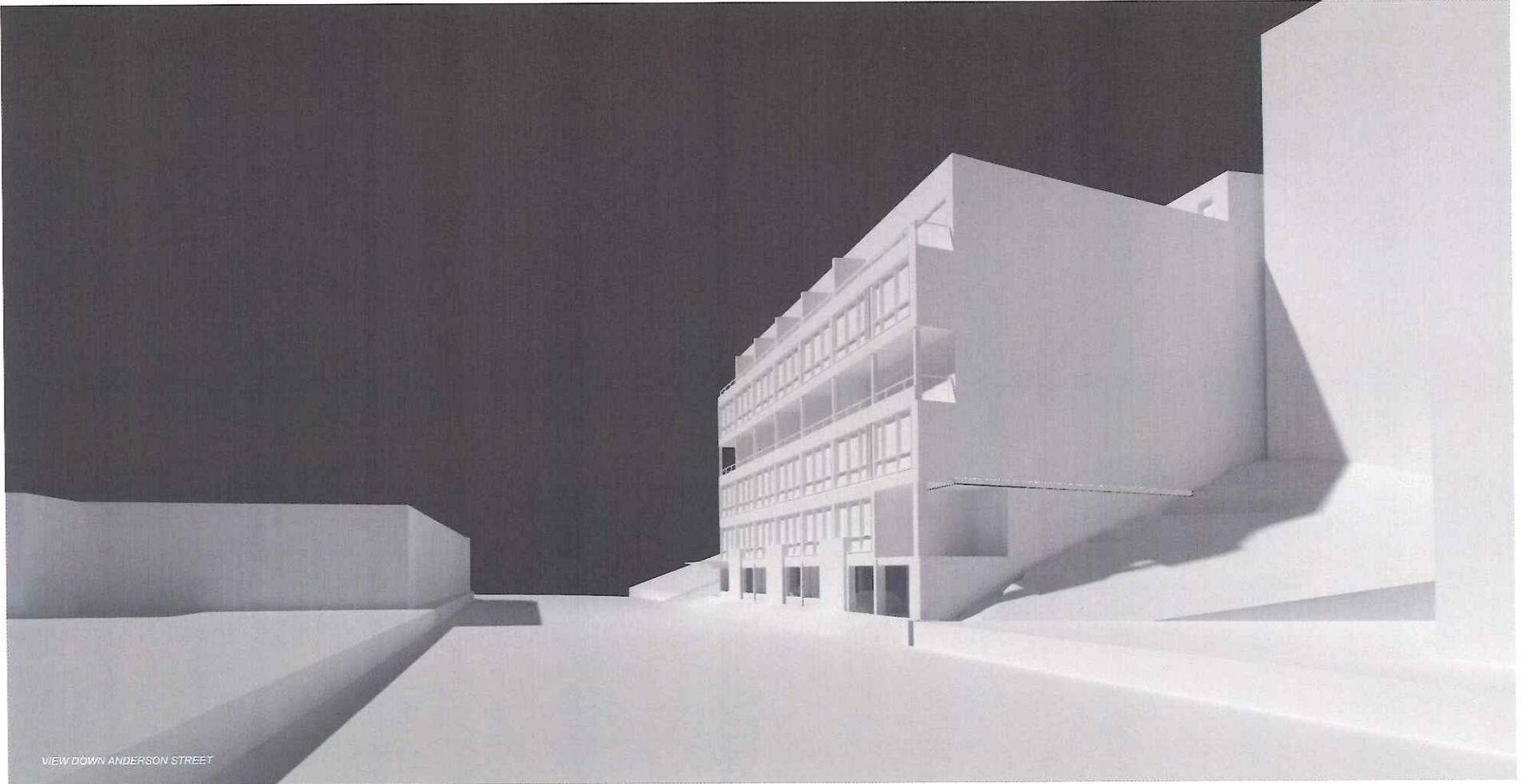


WASHINGTON AVENUE BIRDS' EYE VIEW

SCATTERGOOD DESIGN



SCATTERGOOD DESIGN



VIEW DOWN ANDERSON STREET

SCATTERGOOD DESIGN