2 Right, Title and Interest

2.1 OVERVIEW

The applicant and current owner of the property is Flagg Partners, LLC. The project site is made up of the following parcels:

Parcel	Area
Map 29, Block N, Lot 8	9,411 SF
Bradbury Court (Private)	3,449 SF
Total	12,860 SF

Included in Attachment 2-A is a letter from the applicant's attorney, which provides additional information on the applicant's title, right and interest in the project site.

2.2 ATTACHMENTS

Attachment 2-A – Title, Right and Interest Letter

ATTACHMENT 2-A

Title, Right, or Interest Documentation



Bernstein, Shur, Sawyer & Nelson, P.A. 100 Middle Street PO Box 9729 Portland, ME 04104-5029

т (207) 774 - 1200 г (207) 774 - 1127

Peter J. Van Hemel 207-228-7114 direct Pvanhemel@bernsteinshur.com

April 16, 2018

Barbara Barhydt, Development Review Manager City of Portland Department of Planning & Urban Development 389 Congress Street Portland, ME 04101

Re: 208 Fore Street

Dear Barbara:

I am writing on behalf of Flagg Partners LLC in connection with the proposed development of 208 Fore Street (the "Project"). Specifically, I am writing in regards to Flagg Partners LLC's right, title and interest in the property, including that portion known as Bradbury Court.

As shown in the enclosed deed and accompanying plan prepared by Northeast Civil Solutions (the "Plan"), the Project consists of two contiguous parcels corresponding to the 9,411 square foot area generally known as 208-214 Fore Street together with the ownership of the 3,449 square foot parcel which has been known historically as "Bradbury Court," such that the total square footage is $12,860\pm$ square feet. To the extent that third parties may hold rights to the use of Bradbury Court, those rights (if still valid) are easement rights only. Please see enclosed deed to Simba, Inc. (at the end of the description to "Parcel 1") reciting rights in common to use Bradbury Court a/k/a Dyer Court. The required side setback will remain unobstructed and will therefore allow passage over Bradbury Court to and from Fore Street to the rear of the Project parcel. This letter does not constitute the applicant's admission as to the current viability of any such rights.

The enclosed deed from Antigonish Holding Co., LLC conveyed both parcels to the applicant as of June 29, 2017 and is recorded in the Cumberland County Registry of Deeds in Book 34121, Page 142. The enclosed plan is referenced in the recorded deed at the end of <u>Exhibit A</u>. The deed describes the applicant's interest both by the "historical" legal description contained in the chain of title to the applicant's parcel, as well as by an updated and surveyed metes and bounds description running from the Plan.

The City of Portland asserts no public rights in and to Bradbury Court (see enclosed November 12, 2014 supplement to Portland DPS Engineering Archives Street Records).

April 16, 2018 Page 2

The attached documents demonstrate that the applicant owns the necessary legal rights in the land necessary to construct and maintain the Project that is the subject of the pending application.

Thank you for your consideration. Please let me know if you have any questions.

Sincerely,

Pet) Ka-H-C

Peter J. Van Hemel Encl.

QUITCLAIM DEED WITH COVENANT (Maine Statutory Short Form)

KNOW ALL MEN BY THESE PRESENTS, that **ANTIGONISH HOLDING Co., LLC**, a Maine Limited Liability Company with offices in Freeport, Maine, for consideration paid, does hereby GIVE, GRANT, CONVEY and RELEASE unto **FLAGG, LLC**, a Maine Limited Liability Company with an address at 515 East 79th Street, Apt. 30E, New York, New York, 10075, with QUITCLAIM COVENANTS, the real estate described as follows:

A certain parcel of land, with buildings thereon, located in the City of Portland, County of Cumberland and State of Maine, on the southerly side of Fore Street in said Portland and bounded and described as follows:

Said lot being the premises numbered 208-214 on said Fore Street as appears by plan recorded in Cumberland County Registry of Deeds, Plan Book 5, Page 29, and bounded northerly by said Fore Street, easterly by lots now or formerly belonging to J. McGlinchey heirs, and to H.B. Hersey; southerly by land now or formerly of L. Dyer and by a passageway and westerly by the passageway and/or Court known as Bradbury Court; containing nine thousand three hundred and thirty (9,330) square feet of land, more or less; together with any and all title and rights of the Grantor herein in and to said Bradbury Court and to the use thereof.

Excepting and reserving therefrom the portion of said premises taken by eminent domain as more particularly described in Statement of Taking by the Slum Clearance and Redevelopment Authority dated July 12, 1957 and recorded in said Registry of Deeds in Book 234, Page 211.

Meaning and intending to convey the same premises as described in a deed to Antigonish Holdings Co., LLC, from Timm Real Estate, LLC, dated June 29, 2001 and recorded in Deed Book 16475, Page 211.

ALSO, ANTIGONISH HOLDING CO. LLC in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby REMISE, RELEASE, BARGAIN, SELL and CONVEY and forever QUITCLAIM unto **FLAGG**, LLC, its successors and assigns forever, as to metes and bounds of a certain lot or parcel of land, situated at Fore Street, so-called, in the City of Portland, County of Cumberland and State of Maine, more particularly described in the **attached Exhibit A**.

To have and to hold the same, together with all the privileges and appurtenances thereunto belonging, to the said FLAGG, LLC, its successors and assigns, to their own use and behoof forever.

7 3 a

IN WITNESS WHEREOF, Antigonish Holding Co., LLC has caused this instrument to executed under seal this 29th day of June, 2017.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

. .

Antigonish Holding Co. By: James J. MacAdam Its: Member

State of Maine County of Cumberland ss.

June 29, 2017

Then personally appeared before me, James J. MacAdam, in his capacity as Member of Antigonish Holding Co., LLC, and acknowledged the foregoing instrument to be his free act and deed in said capacity.

<u>P-2 Vu C-R</u> Notary Public/Attorney at Law Peter J. Van Hemel

Exhibit A

1. e

$(12,860 \pm \text{ square feet})$

A certain lot or parcel of land located on the southeasterly side of Fore Street, City of Portland, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at a property marker to be set on the southeasterly line of Fore Street at the westerly corner of land now or formerly (N/F) of Russell E. Lerman as described in Book 22864, Page 310, located S66°11'50"W 91.00' from the intersection of the southwesterly line of India Street with the southeasterly line of said Fore Street;

THENCE S66°11'50"W, along the southeasterly line of said Fore Street, 66.36' to a point of curvature;

THENCE along the southeasterly line of said Fore Street, following a curve to the left having a radius of 149.68' and an arc length of 21.74', a chord bearing of S62°02'09"W, and a chord distance of 21.72' to the northerly corner of Bradbury Court, a private way;

THENCE S40°48'07"E, along the northeasterly line of said Bradbury Court, 59.60' to a point;

THENCE S54°38'39"E, along the northeasterly line of said Bradbury Court, 75.47' to the northwesterly line of land N/F of Simba, Inc., as described in Book 9940, Page 159;

THENCE N41°35'03"E, along land of said Simba, Inc., and land N/F of Salt Of The Earth, Inc., as described in Book 14381, Page 337, 69.00' to a #5 rebar to be set with cap stamped "NCS 2080";

THENCE N41°50'23"W, along land of said Salt Of The Earth, Inc., and land of the aforementioned Lerman, 99.52' to the POINT OF BEGINNING

The above described parcel contains 9,411 square feet, more or less.

Meaning and intending to convey the same premises as described in a deed to Antigonish Holdings Co., LLC, from Timm Real Estate, LLC, dated June 29, 2001 and recorded in Deed Book 16475, Page 211.

Also, a certain lot or parcel of land located on the southeasterly side of Fore Street, City of Portland, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at a point of curvature on the southeasterly line of Fore Street at the northerly corner of land now or formerly (N/F) of Simba, Inc., as described in Book 9940, Page 159;

THENCE along the southeasterly line of said Fore Street, following a curve to the right having a radius of 149.68', an arc length of 25.09', a chord bearing of N53°04'24"E, and a chord distance of 25.06' to the westerly corner of the above-described parcel;

THENCE S40°48'07"E, along the southwesterly line of said above-described parcel, 59.60' to a point;

THENCE S54°38'39"E, along the southwesterly line of said above-described parcel, 75.47' to the northwesterly line of said Simba, Inc.;

THENCE S41°35'03"W, along land of said Simba, Inc., 20.50' to a point;

7, *

THENCE S37°22'44"W, along land of said Simba, Inc., 4.62' to a point;

THENCE N54°38'39"W, along land of said Simba, Inc., 76.12' to a point;

THENCE N40°48'07"W, along land of said Simba, Inc., 64.32' to the POINT OF BEGINNING

The above described parcel contains 3,449 square feet, more or less.

Meaning and intending to convey Bradbury Court, a private way, as referenced in a deed to Antigonish Holdings Co., LLC, from Timm Real Estate, LLC, dated June 29, 2001, and recorded in Deed Book 16475, Page 211.

The basis of bearing for the above described parcels is Grid North of the Maine State Coordinate System, West Zone.

The above described parcels are shown on a plan entitled "Boundary Survey, 208 Fore Street, Portland, Maine" prepared for Flagg, LLC, by Northeast Civil Solutions, Inc., dated June 12, 2017, NCS Project No. 41263.

Received Recorded Resister of Deeds Jun 29,2017 12:36:35P Cumberland Counts Nancy A. Lane

Instr 11934 Bk 9940 Ps 159

4

QUITCLAIM DEED

FLEET BANK OF MAINE, assignee of FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC), Receiver for MAINE SAVINGS BANK, a Maine corporation, with a principal place of business in Portland, Maine, for full value and consideration paid, hereby grant to SIMBA, INC., a Maine corporation of Portland, Maine, certain real estate in the City of Portland, County of Cumberland, State of Maine:

Parcel 1:

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MAINE REAL

A certain lot or parcel of land, with the buildings thereon, at the intersection of the southeast side of Fore Street with the northeast side of Franklin Street, and being more particularly bounded and described as follows:

Beginning at the intersection of the southeast side of Fore Street with the northeast side of Franklin Street;

Thence N 38° 35' 10" E, 255.09 feet along the southeast side of Fore Street to a point;

Thence continuing along the southeast side of Fore Street an arc distance of 26 feet, which arc has a radius of 149.68 feet, to an iron and land now or formerly of M. E. Watson;

Thence S 40° 32' 54" E, 29.80 feet to an iron;

Thence S 30° 03' 05" E, 111 feet to an iron;

Thence N 40° 35' 55" E, 94.36 feet to an iron;

Thence N 46° 26' 52" W, 3.02 feet to an iron;

Thence N 43° 33' 08" E, 91.75 feet to an iron at the southwest side of India Street;

Thence S 46° 26' 52" E, along the southwest side of India Street, 124.88 feet to a drill hole and land now or formerly of M. E. Haley;

Thence S 43° 33' 08" W, 90 feet to an iron pin;

Thence N 46° 26' 52" W, 35 feet to an iron;

Thence S 43° 33' 08" W, 32.75 feet to an iron;

Thence N 48° 32' 38", W 21.75 feet to an iron;

Instr 11934 Bk 9940 Ps 160

Thence S 41° 07' W, 186.65 feet to a point; Thence S 33° 23' 20 W, 28.89 feet to a railroad spike; Thence N 56° 36' 40 W, 37.60 feet to a railroad spike; Thence S 33° 23' 26" W, 11.70 feet to a railroad spike; Thence N 56° 35' 40" W, 14.84 feet to a railroad spike; Thence N 37° 45' 46" E, 40.90 feet to a railroad spike; Thence N 55° 41' 06" W, 93.54 feet to an iron pipe; Thence S 38° 28' 02" W, 50.30 feet to a drill hole; Thence N 51° 03' 28" W, 40 feet to a drill hole;

Thence S 38° 51' 02" W, 82.03 feet to a spike in the northeast side of Franklin Street;

Thence N 51° 3' 28" W, by the northeast side of Franklin Street 17 feet to a drill hole and the point of beginning.

Containing 51,817 square feet, more or less.

Together with the right in common with others to use Bradbury Court, also known as Dyer Court.

Parcel 2:

and the second second second second

A certain lot or parcel of land, with the buildings thereon, at the corner of India Street and Commercial Street, bounded and described as follows:

Beginning at the intersection of the southwest side of India Street and the northwest side of Commercial Street;

Thence west along Commercial Street forty-five (45) feet to land formerly of Patrick Keating;

Thence north by the Keating land sixty (60) feet, more or less, to land formerly of P.A. Sullivan;

Thence east by the Sullivan land forty-five (45) feet, more or less, to India Street;

Thence south by India Street sixty (60) feet, more or less, to the point of beginning;

Containing approximately twenty-seven hundred (2700) square feet.

ALSO, another certain lot or parcel of land, with any buildings thereon, on Commercial Street, bounded and described as follows:

Beginning on the northwest side of Commercial Street, forty-five (45) feet, more or less, southwest form the west side of India Street, which point is at the southwest corner of land formerly of Elizabeth W. Fuller;

Thence northwest by the Fuller land, on a line parallel with the west side of India Street, sixty (60) feet, more or less, to the northwest corner of the Fuller lot;

Thence southwest forty-five (45) feet, more or less, to a point sixty (60) feet, more or less, away from Commercial Street, which is ninety (90) feet, more or less, away from the west side of India Street;

Thence southeast on a line parallel with the west side of India Street and by land now or formerly of Carney, 60 feet, more or less, to Commercial Street;

Thence northeast along Commercial Street forty-five (45) feet, more or less, to the point of beginning.

Being Lot No. 2 on the plan recorded in Plan Book 3, Page 15 of the Cumberland County Registry of Deeds.

ALSO, another certain lot or parcel of land, with the buildings thereon, on the north side of Commercial Street, being Lot No 3 on the Plan "N" in the partition among the heirs of Lemuel Dyer described on Page 468, Book 231 of the Cumberland County Registry of Deeds, which plan "B" is recorded in the Registry in Plan Book 3, Page 15, and which lot is bounded and described as follows:

Beginning on the north side of Commercial Street ninety (90) feet from the corner of Commercial and India Streets;

Thence north, generally parallel with India Street, 91' more or less;

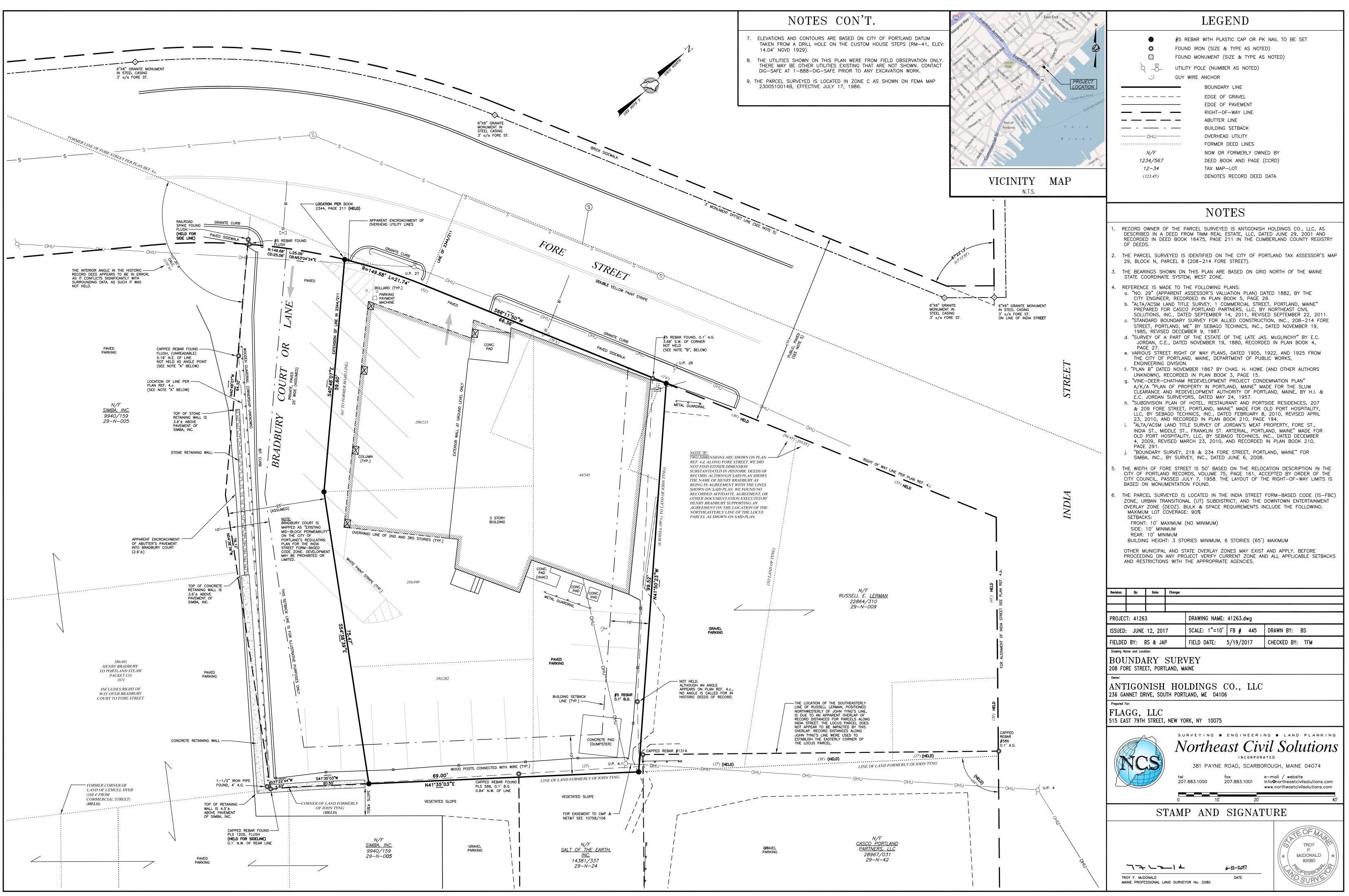
Thence west, generally parallel with Commercial Street, about 32' 9";

Thence south, generally parallel with India Street, 91' more or less to Commercial Street;

Thence east along commercial Street about 32' 9" to the point of beginning.

Both Parcel 1 and Parcel 2 are the same premises conveyed to Maine Savings Bank by deed dated March 15, 1990 and recorded in Book 9120, Page 125.

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BRADBURY CT

PRIVATE WAY

Southerly side Fore Street @ #208 Fore Street.

November 12, 2014

This is to supplement the Portland DPS Engineering Archives Street Records in regards to Bradbury Court which runs southerly from Fore Street along the westerly side of #208 Fore Street.

Bradbury Court is considered by the City of Portland DPS Engineering Archives to be a Private Way.

Bradbury Court has not been accepted by the City of Portland.

Bradbury Court is not listed on the City of Portland City Council Order #84 titled "Order Excepting Streets From Deemed Vacation", as passed on September 3, 1997 and recorded in the Cumberland County Registry of Deeds in Deed Book 13326, Page 19.

Bradbury Court is shown on the 1882 Revaluation Plan 29 as part of the parcel of H. Bradbury, and was not delineated as a way or passageway at that time.

Bradbury Court is shown on the 1914 Richards City Atlas plate 3, and is designated as Bradbury Court on that map.

William B. Clark, Jr. PLS #2100 Portland Public Services Department - Engineering Division