

21428

AGREEMENT BETWEEN
CITY OF PORTLAND

AND

J.B. BROWN & SONS AND BAXTER PLACE ASSOCIATES

AGREEMENT made this *16* day of *May*, 1995 by and between the CITY OF PORTLAND, a body corporate and politic, located in Cumberland County and State of Maine (hereinafter the "CITY"), J.B. BROWN & SONS, a Maine , located in Portland, Maine (hereinafter "J.B. BROWN"), and BAXTER PLACE ASSOCIATES, a Maine , located in Falmouth, Maine (hereinafter "BAXTER PLACE").

W I T N E S S E T H:

WHEREAS, J.B. BROWN and BAXTER PLACE did request, pursuant to 23 M.R.S.A. §3026, a discontinuance of Foundry Lane, a street accepted and owned by the CITY, in order to facilitate development by J.B. BROWN of a site located on York Street in Portland which contains the Lewis Building, and rearrangement of the site owned by BAXTER PLACE in order to further assist in this development; and

WHEREAS, the Planning Board of the City of Portland, pursuant to §14-30(14) of the Portland City Code, and after notice and hearing and due deliberation thereon, recommended that the City Council discontinue the street, subject to certain limitations and restrictions; and

WHEREAS, the CITY by and through its City Council agreed to discontinue Foundry Lane pursuant to 23 M.R.S.A. §3026 in order to

assist in the redevelopment of these properties and further authorized the execution of this Agreement on *May/16*, 1995;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The CITY shall discontinue Foundry Lane pursuant to 23 M.R.S.A. §3026. Said discontinuance shall be subject to the easements retained in the discontinuance order, a copy of which is attached hereto as Exhibit A.
2. There shall be no structures located in the area of the discontinued street.
3. J.B. BROWN and BAXTER PLACE shall submit a site plan or site plans for any changes to the area of the discontinued streets. Such site plan or plans shall be reviewed by the Planning Board and may be submitted as part of the site plan for the Lewis Building change of use.
4. If J.B. BROWN does not utilize the cobblestones from the discontinued street in its site improvements, then any cobblestones not so used shall be returned to the CITY.
5. It is understood by each of the parties to this Agreement that the discontinuance of Foundry Lane has been approved by the CITY in order to facilitate the renovation and reuse of the Lewis Building. The CITY shall retain the right to reacquire the title to the street in the event that J.B. BROWN or a successor developer has not completed the renovation or begun the new use of the building within three (3) years of the date of this Agreement. The CITY shall have the right to reacquire Foundry Lane by simply demanding that J.B. BROWN and BAXTER PLACE, or their successors and assigns, reconvey Foundry Lane to the CITY in consideration of one dollar.
6. In the event that the CITY elects to have Foundry Lane reconveyed to it, it may also require J.B. BROWN, BAXTER PLACE, or their successors and assigns, to restore Foundry Lane to a passable condition.

WITNESS:

Sonia S. Bean

Robert D. Patterson,

CITY OF PORTLAND

By Robert B. Ganley
Robert B. Ganley
Its City Manager

J.B. BROWN & SONS

By Charles E. Prinn III
Charles E. Prinn III
Its President

BAXTER PLACE ASSOCIATES

By [Signature]
Its Partner

STATE OF MAINE
CUMBERLAND, ss.

, 1995

Personally appeared the above-named Robert B. Ganley, in his capacity as City Manager, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Portland.

Before me,

Sonia S. Bean
Notary Public/Attorney at Law

STATE OF MAINE
CUMBERLAND, ss.

May 16, 1995

Personally appeared the above-named Charles E. Prinn III, in his capacity as President, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of J.B. Brown, Inc.

Before me,

Robert D. Patterson, Jr.
Notary Public/Attorney at Law

STATE OF MAINE
CUMBERLAND, ss.

April 13, 1995

Personally appeared the above-named *Kenneth A. Astor*, in his capacity as *Partner*, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Baxter Place Associates.

Before me,

Ch. M. Wren

~~Notary Public/Attorney at Law~~

My Commission Expires

May 13, 2006

SEAL

0194

ORDER

DISCONTINUING FOUNDRY LANE

(The Planning Board, Kenneth Cole III, Chair)

IN THE CITY COUNCIL

March 20, 1995

Madeline M. Daniels

Attest: _____
City Clerk.

Yes Nays

Councilor Allen made a motion for passage of Order 197. Motion seconded by Councilor McDonough. Order 197 passed; 8 yeas. (Councilor Campbell out.)

Madeline M. Daniels
A TRUE COPY, ATTEST:

APR 25 1995

BK 11924PG015

Order 147
Tab 10 3-6-95

City of Portland, Maine
IN THE CITY COUNCIL

ORDER DISCONTINUING FOUNDRY LANE

ORDERED, that Foundry Lane, as described in Exhibit A, be and hereby is discontinued, pursuant to 23 M.R.S.A. §3026. This discontinuance shall be subject to the retention of a public access easement and an easement for public utility facilities.

The names of the abutting property owners are:

J.B. Brown & Sons
482 Congress Street
Portland, Maine 04112-0207.

Baxter Place Associates
170 U.S. Route One
Falmouth, Maine 04105.

The amount of damages awarded as a result of this discontinuance is : \$0.00.

FOUNDRYLANEDIS.ORD
02.24.95

EXHIBIT "A"

Beginning at the corner of a granite plinth on the Northwesterly side line of Commercial Street, distant Northeasterly two hundred fifty-four and sixty-two one hundredths (254.62) feet from the intersection of the Northwesterly side line of Commercial Street with the Easterly side line of Maple Street; thence Westerly with an included angle of one hundred eight degrees and twenty-three minutes ($108^{\circ}23'$) from the Southwesterly direction of Commercial Street a distance of one hundred sixty-five and nine tenths (165.90) feet to a point; thence Westerly with a deflection angle to the left of eleven degrees and forty-seven minutes ($11^{\circ}47'$) a distance of one hundred fifty-nine and eighty-five hundredths (159.85) feet to a point in the Southeasterly side line of York Street. Said street is to be thirty (30) feet wide and to lie on the Easterly side of the above described line and to be called Foundry Lane; and all the land lying between the above described line and the Easterly side line of Foundry Lane so hereby taken for said street.

The above description was copied from City of Portland Records, Volume 36, page 90 and 91 and was accepted by the City Council on October 7, 1907.

RECEIVED
RECORDED REGISTRY OF DEEDS

95 MAY 18 PM 2: 04

CUMBERLAND COUNTY

John B. O'Brien