

Department of Planning & Urban Development

Marge Schmuckal  
Zoning Administrator

Jeff Levine  
Director, Planning Department



RECEIVED

OCT 28 2013

**CITY OF PORTLAND**  
**ZONING BOARD OF APPEALS**  
**Conditional Use Appeal Application**

Dept. of Building Inspections  
City of Portland Maine

**Applicant Information:**

**Subject Property Information**

Kevin Bunker  
NAME

172-186 Falmouth Street  
PROPERTY ADDRESS

Developers Collaborative Predevelopment LLC  
BUSINESS NAME

Map 066A/Lots A001, A005, A006, A007, A008  
CHART/BLOCK/LOT (CBL) A011 and A012

17 Chestnut Street  
ADDRESS  
Portland, ME

PROPERTY OWNER (if different)  
City of Portland  
NAME

207-766-1632  
TELEPHONE #

389 Congress Street  
ADDRESS

Purchaser  
APPLICANT'S RIGHT, TITLE OR INTEREST  
(eg; owner, purchaser, etc)

Portland, ME 04101

R-5  
CURRENT ZONING DESIGNATION

CONDITIONAL USE AUTHORIZED BY  
SECTION 14 - 118 (a)3

EXISTING USE OF PROPERTY:  
Former Nathan Clifford School

TYPE OF CONDITIONAL USE  
PROPOSED: Residential - 22 units

**STANDARDS:** Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

1. *There are unique or distinctive characteristics or effects associated with the proposed conditional use;*
2. *There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and*
3. *Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

**NOTE:** If site plan approval is required, attach preliminary or final site plan.

*The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.*

*Margo Smith agent*  
SIGNATURE OF APPLICANT

10/28/13  
DATE



FAY, SPOFFORD &  
THORNDIKE  
778 Main Street, Suite 8  
South Portland, ME 04106  
Toll Free: 800.835.8666  
Main: 207.775.1121  
Fax: 207.879.0896  
www.fstinc.com

October 28, 2013

Department of Planning and Development  
Zoning Board of Appeals  
City of Portland, Maine  
389 Congress Street  
Portland, Maine 04101-3509

**Subject: Nathan Clifford School Redevelopment  
Conditional Use Appeal Application**

Dear Sirs:

On behalf of Developers Collaborative Predevelopment LLC, we are pleased to provide the accompanying Conditional Use Appeal Application related to the proposed Nathan Clifford School redevelopment. This submission is made in accordance with Section 14-118 (a) (3) of the Code of Ordinances. This package is intended to meet the City's Submission Requirements as outlined in the Conditional Use Application procedures. As you are aware, the Applicant is in the process of entering into an agreement with the City of Portland for the purchase of the former Nathan Clifford School Site. Their proposed development consists of the redevelopment of the former school site into a 22-unit market rate housing project. The Applicant intends to purchase the approximately 1.4 acres of land area from the City to develop the necessary parking, landscaping amenities, and building area.

The development site is located within the City's R-5 Zoning District, and the proposed residential use complies with the permitted uses within the zone, including the residential density requirements in the zone that allow up to 22 units. For the R-5 Zone Section 14-118 of the Code reads as follows:

***Sec. 14-118. Conditional uses.***

*The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:*

***(a) Residential:***

- 3. Alteration of a structure existing and not in residential use as of January 1, 1984, to three (3) or more dwelling units, provided that:***

Zoning Board of Appeals  
October 28, 2013  
Page 2

- a. *No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;*

**Supporting Evidence:** There are no units sized less than 600 Square feet. The smallest is 675 square feet and most are over 1,000 square feet

- b. *No open outside stairways or fire escapes above the ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;*

**Supporting Evidence:** All code required fire stairs are inside the building. There are no exterior fire escapes.

- c. *A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;*

**Supporting Evidence:** There will be two lower level units proposed. These units will be raised 24 inches above the existing floor slab which will place them well above this 50% requirement.

- d. *Three thousand (3,000) square feet of land area per dwelling unit shall be required;*

**Supporting Evidence:** The development lot size is 66,570 SF which allows for a total of 22 units.

- e. *On-site parking shall be required as specified in division 20 (off-street parking) of this article, for the combined uses of the site;*

**Supporting Evidence:** Section 14-332 of Division 20 of the Code requires parking as follows:

*“2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.”*

**The project involves twenty two dwelling units and a total of 38 parking spaces are proposed thus satisfying the code requirement for parking.**

- f. *The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:*

Zoning Board of Appeals  
October 28, 2013  
Page 3

1. *Any addition or exterior alterations such as facade materials, building form, and roof pitch shall be designed to be compatible with the architectural style of the structure.*

**Supporting Evidence:** The exterior will be repaired under the guidelines of the National Park service for historic structures. All exterior repairs (i.e. window replacements where necessary) will be reviewed by the NPS and the City of Portland Historic Preservation Board

2. *The scale and surface area of parking, driveways, and paved areas shall be in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.*

**Supporting Evidence:** The proposed site plan includes a parking area within the rear area of the school site, much of which is currently paved area. An extensive Landscaping Plan to include screening along the back of the property is proposed to supplement existing fencing and vegetative plantings.

**Supporting Evidence:** The development team has filed a Level III Site Plan Application and appeared before the Planning Board for a Workshop on October 22, 2013. A neighborhood meeting has also been held and in general the project has received a high degree of public support. The overall project development has been designed to satisfy much of the public input received.

The Applicant is proposing to renovate the existing building. Approximately 46,000 SF of interior building space will be renovated for the proposed apartments, while exterior building work will include window replacement, brick repair and repairs to exterior finishes. The applicant also proposes to complete site improvements, including new parking lot construction and modest landscaping enhancements throughout the site to improve buffering from adjacent streets and to maintain the property's overall aesthetic appeal.

We offer the following supporting evidence per the application Standards which state that a Conditional Use Permit shall be granted unless the Board determines that:

*Standard #1 – There are unique or distinctive characteristics or effects associated with the proposed conditional use.*

**Supporting Evidence:** We submit that there are no unique or distinctive characteristics or effects associated with the redevelopment of the former school building into residential living units. The proposal otherwise meets the zoning space and bulk requirements and there are no special site measures needed to support the proposed use. The site area is within a single family and multi-unit residential setting and the proposed project will result in the reuse of a historic school structure, which is a common adaptive reuse of such structures. The site setting includes adequate space for the placement of up to 38 off street

Zoning Board of Appeals

October 28, 2013

Page 4

parking spaces and there will remain ample landscaping and screening to continue to buffer neighboring properties and uses. As evidenced by the public support received during an extensive community process, we believe there are no unique or distinctive site characteristics that preclude the granting of the conditional use approval.

*Standard #2 – There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.*

**Supporting Evidence:** We submit that there will be no adverse impact as stated above. The site was actively used as a neighborhood school for more than a century and it has therefore had substantial use and activity. There are no major exterior building changes proposed. The proposal includes the development of off-street parking and the maintenance of substantial open space for the benefit of tenants as well as the general public. The site will continue to have adequate public access for the enjoyment of open space and there will remain a street sidewalk system surrounding the property to allow continued passage of pedestrians and vehicles around and by the site location. The site will remain served by public utilities including water, sewer, power, natural gas and communications in a manner substantially unchanged from historic use.

*Standard #3 – Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

**Supporting Evidence:** We submit that the impact of the proposed residential use will not differ substantially from the existing residential uses in the R-5 Zone. The proposed project includes up to 22 units which complies with Section 14-118 (a) 3.a that requires that each dwelling unit have at least 600 SF of floor area. The smallest unit is 675 SF and most units are greater than 1,000 SF in size.

In accordance with the submission requirements we offer 11 separate packets of the following materials:

- Cover Letter addressed to the Zoning Board of Appeals.
- Copy of Appeal Application signed by Owner, Lessee, Prospective purchase or legal representative.
- A PLOT PLAN showing the site and location of all structures, existing and proposed, in relation to the lot lines and, if applicable, indicating parking. Lot size and setback dimensions must be shown.
- Floor plan, if applicable, showing dimensions of existing and proposed rooms and/or structures.
- Copy of the tax map with the property highlighted.
- Existing photographs of the property.

FAY, SPOFFORD & THORNDIKE

Zoning Board of Appeals

October 28, 2013

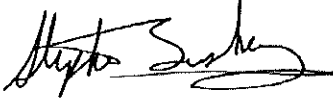
Page 5

- Deed, Sales Agreement, Lease or Intent to Lease (The applicant continues to work with City officials on the execution of the transfer documents. The Planning Board has affirmatively found the applicant has adequate Right, Title and Interest in the property).

On behalf of the Nathan Clifford School Team, we look forward to ZBA review of the project and we look forward to the November 14, 2013 meeting at which we are requesting ZBA Conditional Use Approval. This approval will allow the Planning Board to consider the project for Site Plan Approval at its November 26, 2013 meeting. If you have any questions regarding these materials please contact this office.

Sincerely,

Fay, Spofford, & Thorndike, INC.



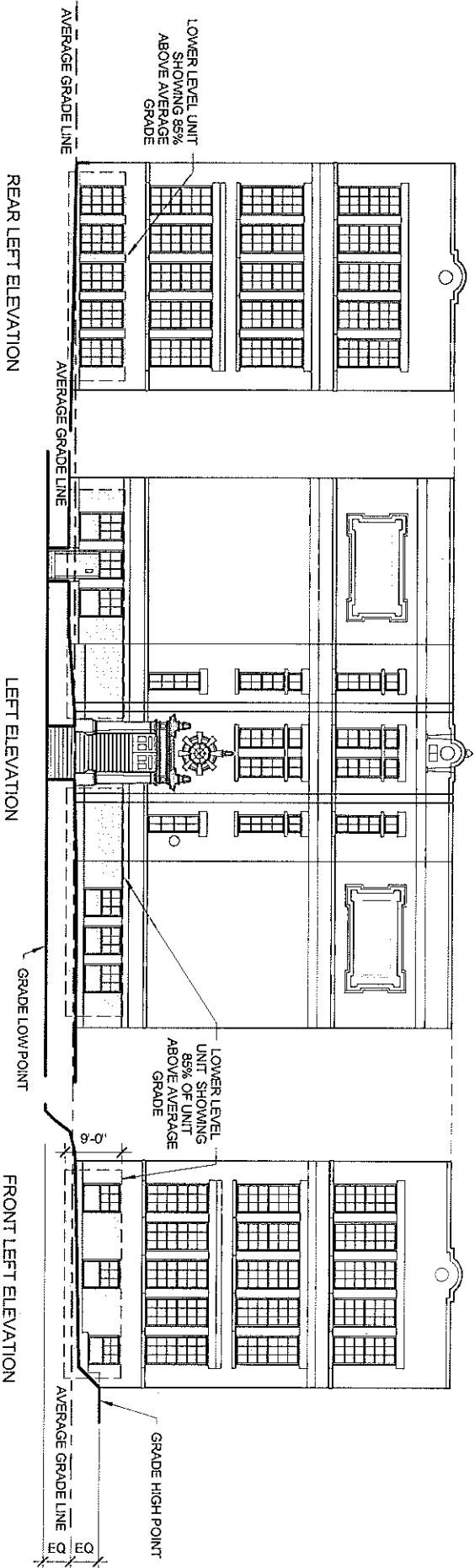
Stephen R. Bushey, P.E.  
Senior Principal Engineer

SRB/smk

Attachments

c: Kevin Bunker, Developers Collaborative Predevelopment LLC  
David Lloyd, Archetype, PA

*R: SP-M101-Nathan Clifford School Admin Permitting Conditional Use Application SP-M101 2013 10 28 ZBA-Cover Letter.doc*



1 LOWER LEVEL UNITS ABOVE MEAN GRADE  
 1/16" = 1'-0"

NATHAN CLIFFORD

180 Falmouth Street Portland, Maine

29 OCT 2013

**ARCHITYPE**  
 architects

48 Union Wharf, Portland, Maine 04101  
 (207) 772-5022 Fax (207) 772-4058



PROJECT LOCATION



TAX MAP  
NATHAN CLIFFORD SCHOOL  
PORTLAND, MAINE

SOURCE: CITY OF PORTLAND



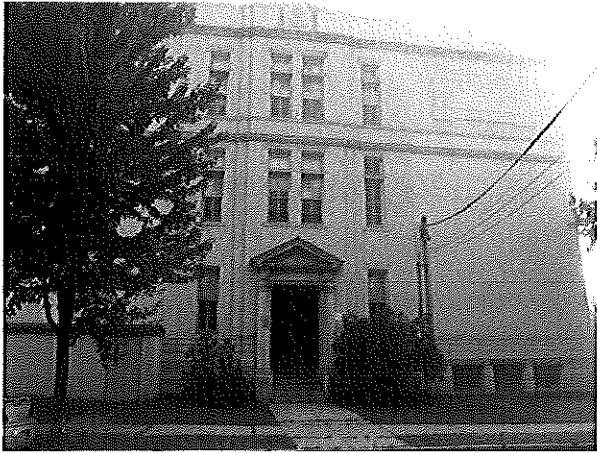
**FAY, SPOFFORD & THORNDIKE, INC.**  
ENGINEERS • PLANNERS • SCIENTISTS  
778 MAIN ST, SUITE 6, SOUTH PORTLAND, ME 04106

DRAWN: DED  
CHECKED: SRB  
DATE: SEPT 2013  
FILENAME: SP-M101\_TAX MAP  
SCALE: 1 inch = 1,000 feet

FIGURE

3





File Name : IMG\_2210.JPG



File Name : IMG\_2211.JPG



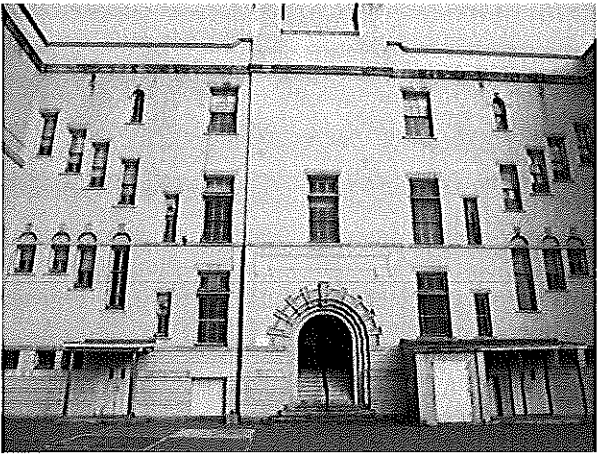
File Name : IMG\_2212.JPG



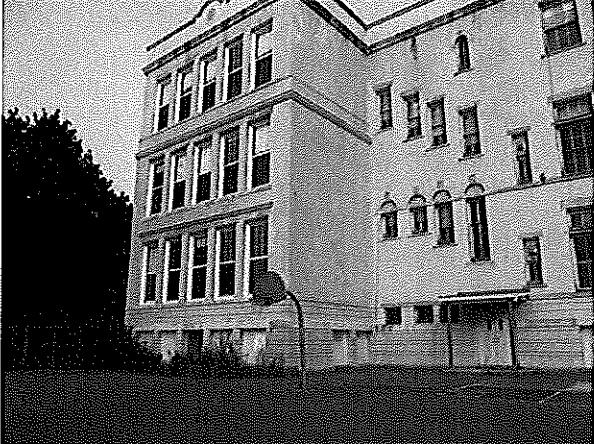
File Name : IMG\_2213.JPG



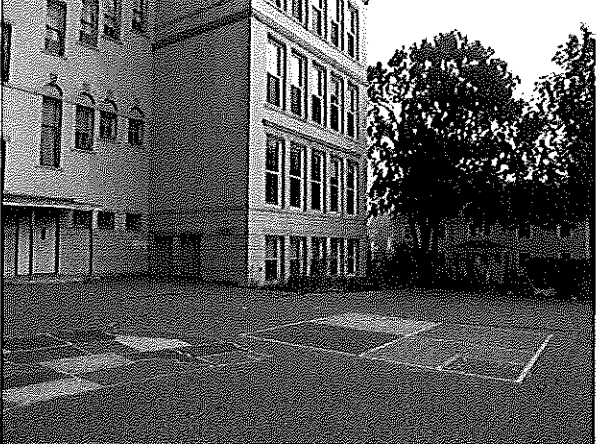
File Name : IMG\_2214.JPG



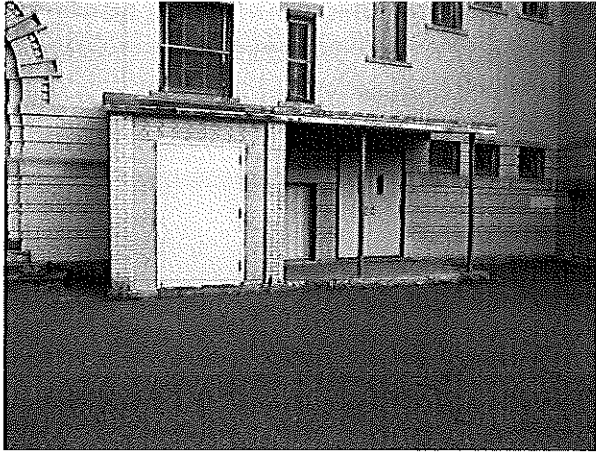
File Name : IMG\_2215.JPG



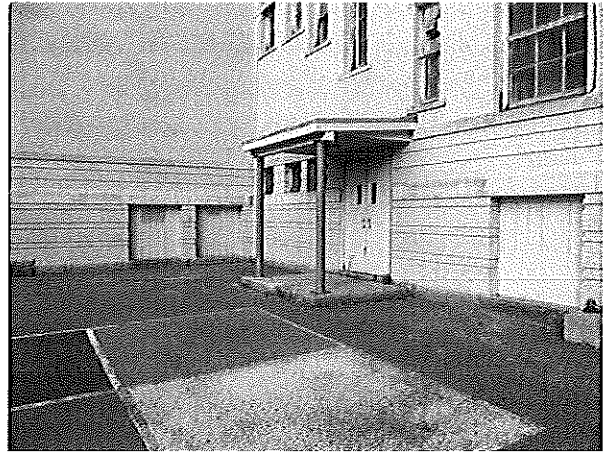
File Name : IMG\_2216.JPG



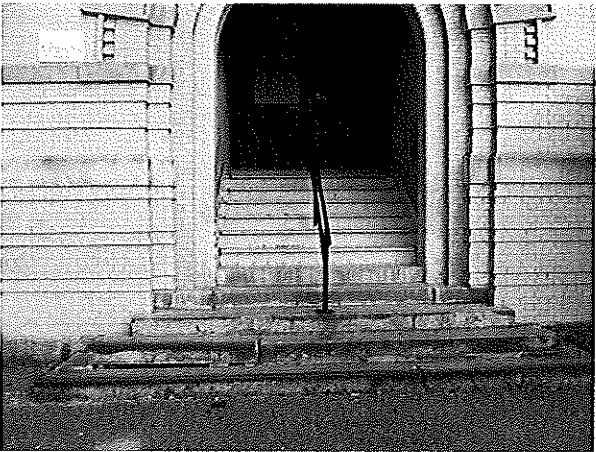
File Name : IMG\_2217.JPG



File Name : IMG\_2218.JPG



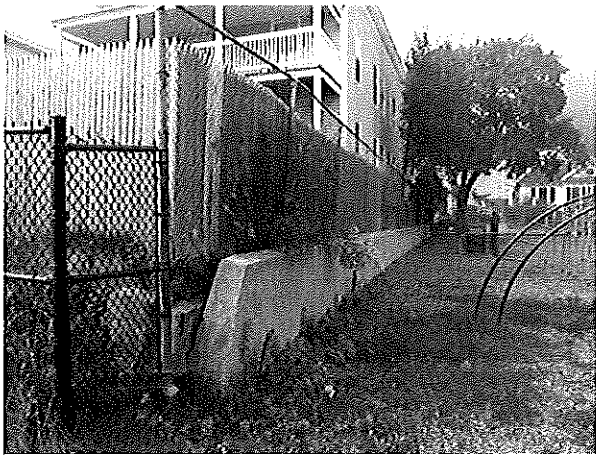
File Name : IMG\_2219.JPG



File Name : IMG\_2220.JPG



File Name : IMG\_2221.JPG



File Name : IMG\_2222.JPG



File Name : IMG\_2223.JPG



File Name : IMG\_2224.JPG



File Name : IMG\_2225.JPG



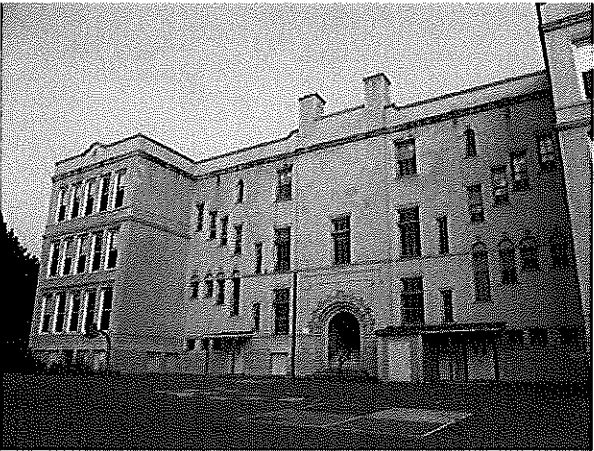
File Name : IMG\_2226.JPG



File Name : IMG\_2227.JPG



File Name : IMG\_2228.JPG



File Name : IMG\_2229.JPG



File Name : IMG\_2230.JPG



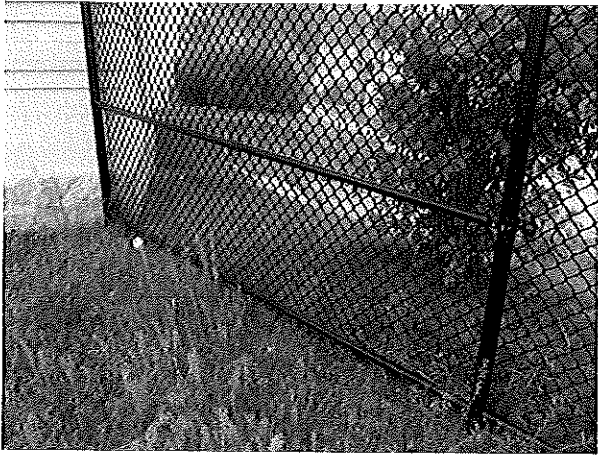
File Name : IMG\_2231.JPG



File Name : IMG\_2232.JPG



File Name : IMG\_2233.JPG



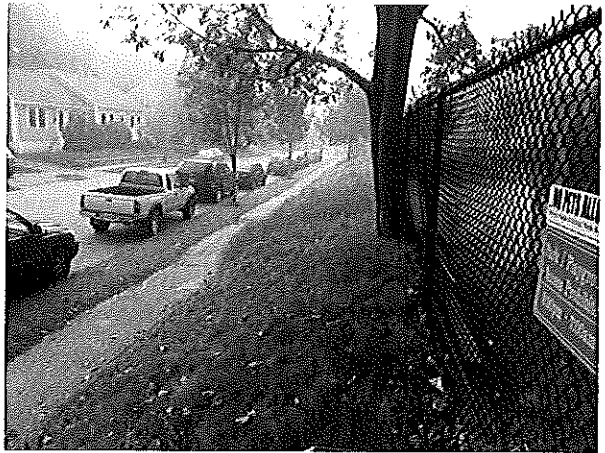
File Name : IMG\_2234.JPG



File Name : IMG\_2235.JPG



File Name : IMG\_2236.JPG



File Name : IMG\_2237.JPG

## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT made and entered into as of October 24, 2013, by and between the CITY OF PORTLAND, a Maine body corporate and politic with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 ("Seller") and DEVELOPERS COLLABORATIVE PREDEVELOPMENT LLC, a Maine limited liability company with a place of business in Portland, Maine and mailing address of 17 Chestnut Street, Portland, Maine 04101 (the "Buyer")

WITNESSETH:

WHEREAS, Seller sought proposals from parties interested in redeveloping the former Nathan Clifford School; and

WHEREAS, Buyer submitted a proposal that included development of up to 22 residential dwellings, as more particularly described in Buyer's proposal; and

WHEREAS, Buyer intends to rehabilitate the school building on such property and place the same in service by the end of 2014;

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Property to be Sold. Seller agrees to sell and Buyer agrees to buy a certain lot or parcel of land with all buildings, fixtures and improvements thereon, located at 172 Falmouth Street, bounded by Deane, Falmouth and Payson Streets in the City of Portland, Maine, shown as City of Portland Tax Map 66A, consisting of all of the land shown on such tax map as Block A, Lots 1, 5-8, 11 and 12, comprising approximately 66,804 square feet of land, improved with the former Nathan Clifford School building and related infrastructure, land and improvements, with frontage on Deane, Falmouth and Payson Streets, together with all easements appurtenant thereto (collectively the "Premises"). The Premises are shown on the drawing attached hereto as Exhibit A.

2. Purchase Price. Buyer shall pay to Seller the sum of One Dollar. As additional consideration for the transfer of the Premises to Buyer, Buyer agrees it shall execute and deliver to Seller at closing a recreation easement in form and substance substantially identical to that attached hereto as Exhibit B covering a portion of the Premises as depicted in Exhibit A. There shall be no deposit.

3. Title. Seller shall convey the Premises to Buyer at the closing in fee simple with good and marketable title, free and clear of all liens, claims and encumbrances. In the event that Seller is unable to convey title as aforesaid, Seller shall be given a reasonable period of time (not to exceed 30 days), after notice in writing, in which to remedy any title defects. In the event that said defects cannot be corrected or remedied, then this Agreement, and Seller's and Buyer's obligations hereunder, will terminate. Buyer may, at Buyer's option, elect to close notwithstanding such defects



as may exist. Seller agrees to convey the Premises using any new survey description resulting from Buyer's boundary survey.

4. Closing. This transaction shall be closed on or before December 31, 2013 at 10:00 a.m. (the "Closing Date") at the offices of Buyer's counsel, or if the Seller and Buyer shall mutually agree in advance at another time and place. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the Purchase Price, a Quitclaim Deed without Covenant to the Premises and such other customary instruments, documents and affidavits as may be associated with said closing. At Buyer's request and upon at least five business days' prior notice, Seller agrees to close earlier than December 31, 2013.

5. Risk of Loss, Damage, Destruction and Insurance. Before closing, Seller shall bear the risk of any loss to the Premises by fire or otherwise.

6. Representations and Warranties of Seller. Seller represents and warrants to Buyer as follows:

(a) There is no litigation, administrative hearing, arbitration, or any other proceeding pending or, to the knowledge of Seller, threatened against Seller or with respect to the Premises or the Personal Property with respect to any violation of law, rule or regulation. Seller has received no notices of violation from any Federal or State agency alleging a violation of any environmental law, rule or regulation with respect to the Premises.

(b) Seller has an absolute right to sell, assign or transfer the Premises to Buyer free and clear of all liens, pledges, security interests, demands or encumbrances and without breach of any agreement to which Seller is a party or by which Seller is bound.

7. Inspection. At all reasonable times upon reasonable prior notice, Buyer and any prospective lender or investor of Buyer's shall have the right to enter the Premises and perform, at Buyer's expense, any and all inspections, tests, surveys or other due diligence inquiries with respect to the Premises as Buyer deems necessary or appropriate. Buyer agrees to return the Premises as nearly as possible to their original condition after all of such tests and inspections. Seller shall cooperate with Buyer in such inspections. In the event Buyer is not satisfied for any reason by the results of such due diligence inspections, Buyer shall have the option of terminating this Agreement by written notice to Seller.

8. Possession. Seller shall deliver the Premises to Buyer at closing free and clear of all leases, tenancies and occupancies by any person.

9. Conditions Precedent. Buyer's obligation to close hereunder is subject to Buyer's full and complete satisfaction with all of the following:

(a) There shall have been no material adverse change in the condition of the Premises occurring after the conclusion of Buyer's inspections under Section 7 above, and the Premises shall be substantially in the same condition as they were at the time of the inspections, reasonable wear and tear excepted. Seller acknowledges that Buyer intends to use historic tax credits to finance the

Project and that any alterations to the Premises which adversely affects the ability of Buyer to use historic tax credits shall be considered a material adverse change for purposes of this Section.

(b) Title to the Premises shall be good and marketable, and the same shall be conveyed to Buyer free and clear of all liens, claims and encumbrances, excepting the conditions set forth in Section 13 below regarding development activities, which conditions shall survive the closing but shall not be recorded.

(c) As of the date hereof, and as of the Closing Date, all of Seller's representations and warranties shall be true and correct in all material respects.

(d) At the closing, Buyer shall execute and deliver to Seller a recreation easement in substantially the form of that attached hereto as Exhibit B.

If the conditions described in subsections (a) through (c) above are not satisfied as of the dates specified, or if no date is specified, by the Closing Date, then Buyer shall have the option of terminating this Agreement in writing and receiving back the Deposit. Seller shall not be obligated to close if it is not reasonably satisfied with the form of easement Buyer is prepared to execute and deliver as provided in subsection (d) above.

10. Default and Remedies. In the event Buyer defaults under this Agreement, Seller's sole remedy shall be to terminate this Agreement; provided, however, that if Buyer's default arises solely under Section 13 (B) below, then upon written notice of such default from Seller, which default is not cured within thirty (30) days of Buyer's receipt of such notice, Seller shall have the right to commence a breach of contract action against Buyer for damages, such damages, however, to be limited to \$15,000 plus Seller's reasonable enforcement costs, including reasonable attorneys' fees. In the event Seller defaults under this Agreement, Buyer shall have available all remedies at law and in equity, including, without limitation, the remedy of specific performance.

11. Assignment. Upon notice to and prior consent of Seller, which consent shall not be unreasonably withheld, Buyer may assign this Agreement and all its rights and obligations hereunder to an affiliate of the Buyer. Notwithstanding the foregoing, Buyer has the right to unilaterally assign the Agreement without Seller's consent to an affiliate of the Buyer formed for the express purpose of redeveloping the Nathan Clifford School. Such entity shall include the federal and state historic tax credit investors as non-managing members or partners and the Buyer or affiliate as managing member or partner.

12. Brokers. The parties represent to each other that neither has had any dealings with any real estate broker in connection with this transaction. Each party agrees to indemnify the other from and against the claims of any brokers arising from this transaction, which indemnity shall survive the closing and shall include reasonable costs of collection, including reasonable attorneys' fees.

13. Development Activities. Buyer:

A) Intends to redevelop the former school building on the Premises as a multi-unit residential building targeting professionals and active retirees as residents and containing amenities such as a fitness center, storage space, shared space and lounge, in such configurations and design as Buyer shall in its discretion determine. The redevelopment shall use quality materials and have up to 22 units. The rehabilitation shall use among other sources the federal and state historic tax credits. Buyer agrees to pursue the rehabilitation, including design, permitting and financing, with commercially reasonable diligence, with the intention of placing the building in service by December 31, 2014.

B) Agrees to make recreational equipment and/or other capital investment improvements within the public recreation easement area at an expense of not more than Fifteen Thousand Dollars (\$15,000), contemporaneous with the redevelopment of the Premises. This Fifteen Thousand Dollars (\$15,000) may not be used for off-site non-recreational infrastructure public improvements, such as utilities or sidewalks which may be required for site plan or subdivision approval; and

C) In connection with its redevelopment of the former school building, Buyer agrees to make the minimum repairs identified in the Conditions Assessment provided to Buyer by the City, subject to review of such Assessment by Buyer's selected professionals.

14. Miscellaneous. Time is of the essence of this Agreement. 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 at the beginning of this Agreement. 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. Except as set forth in Section 11 above, the rights of Buyer under this Agreement may not be assigned in whole or in part without written consent of Seller, which shall not be unreasonably withheld. This Agreement constitutes the entire agreement between Seller and Buyer and there are no other agreements, understandings, warranties or representations between Seller and Buyer. Seller's representations and warranties, and certain other provisions contained in this Agreement, shall survive the closing. This Agreement will inure to the benefit of and bind the respective successors and assigns of Seller and Buyer. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument. As used in this Agreement, the singular number shall include the plural, the plural the singular, and the use of the masculine shall include, where appropriate, the feminine and neuter. This Agreement shall be governed by and construed in accordance with the laws of Maine. 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.

(Signature page follows.)

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the date written above.

WITNESS:

Judith Rosen

CITY OF PORTLAND, Seller

By:

Mark H. Rees  
Mark H. Rees, its  
City Manager

DEVELOPERS COLLABORATIVE  
PREDEVELOPMENT LLC, Buyer

By:

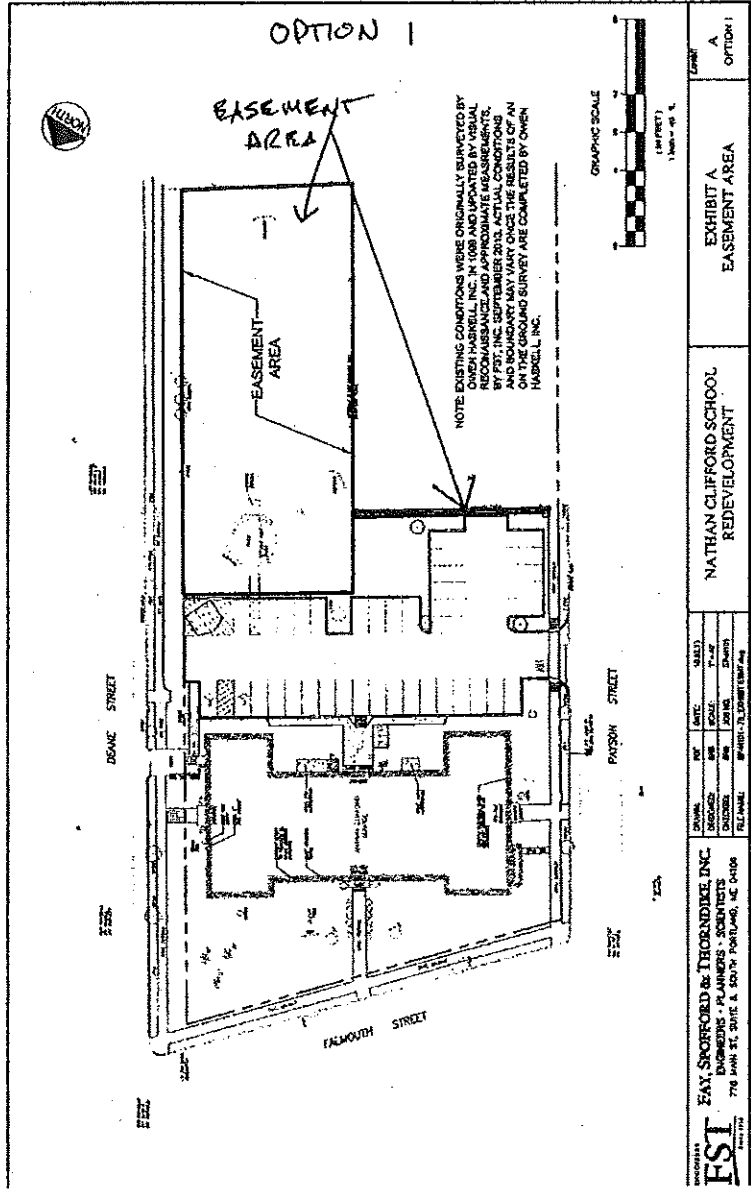
Kevin R. Bunker  
Kevin R. Bunker, its Manager

APPROVED AS TO FORM:

CORPORATION COUNSEL'S OFFICE

# EXHIBIT A

## OPTION 1



<b>FSI</b> FAY, SPORFORD & THORNDIKE, INC. 770 BUNKER HILL AVENUE, SOUTH PORTLAND, ME 04106 TEL: 603-883-1100		DIVISION PROJECT NO. SHEET NO. DATE	DATE SCALE DRAWN BY CHECKED BY PROJECT NO.	SHEET OF SHEETS	EXHIBIT A EASEMENT AREA	OPTION 1
--	--	--	--	-----------------------	----------------------------	----------

EXHIBIT B

EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that [DEVELOPERS COLLABORATIVE PREDEVELOPMENT LLC, *for assigns*], a Maine limited liability company doing business in Portland, Maine ("Owner") for consideration paid, hereby grants to the CITY OF PORTLAND, a Maine body corporate and politic with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (the "City"), an easement, more particularly described below, for the purposes set forth below, in common with Owner. The land which is subject to the easement granted herein is part of the land described in the deed to Owner from the City of even or near date and recorded at the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_ ("Owner's Land") and is shown in the drawing attached hereto as Exhibit A and made a part hereof.

Owner grants to the City a permanent and perpetual recreation easement (the "Easement") over the area shown in the drawing attached hereto as Exhibit A (the "Easement Area"), together with the right to pass and repass by foot and maintenance vehicles to and from the Easement Area. The Easement is granted solely for recreational uses (and directly related maintenance activities, as described below) only, and the Easement Area shall be used as a park. Owner agrees at its expense to provide basic maintenance of the Easement Area, limited to mowing the grass, maintaining and replacing landscaping and, on an as-needed basis, pruning tree branches and limbs in the Easement Area and to provide for the removal of reasonable amounts of trash from the Easement Area.

For general and universal public access to the Easement Area, the easement herein granted includes an access pathway from Payson Street over lands of the Owner which are not within the actual Easement Area, and such access pathway is shown on Exhibit A; and the rights granted over this pathway are limited to mere access to the Easement Area proper.

The City agrees by acceptance of this Easement that it (i) shall limit access to the Recreational Easement Area by the public to daylight hours, (ii) shall take reasonable steps to prevent nuisances or other activities that may adversely affect the use and enjoyment of Owner's Land and (iii) shall not take or allow the taking of any action that might cause Owner to be in violation of Owner's permits and approvals for the project on Owner's Land. If the City fails to prevent nuisances or activities on the Easement Area that in Owner's judgment adversely affect the use and enjoyment of Owner's Land, Owner shall provide City with written notice of such fact. If the City fails to remedy the situation giving rise to Owner's notice within ten (10) days of the date of the notice, Owner may take action to address the same which action may, without limitation, include closing the Easement Area to public access. In the event of repeated failure by the City to prevent nuisances or activities on the Easement Area that in Owner's judgment adversely affect the use and enjoyment of Owner's Land, Owner may take action as set forth above without further notice to the City.

Both parties intend that the contemplated uses of the Easement qualify for the protections and immunities afforded owners or easement holders under 14 M.R.S.A. § 159-A.

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

IN WITNESS WHEREOF, [Developers Collaborative Predevelopment LLC] has caused this instrument to be executed by its Manager thereunto duly authorized, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

WITNESS:

[DEVELOPERS COLLABORATIVE  
PREDEVELOPMENT LLC, Buyer

\_\_\_\_\_

By: \_\_\_\_\_  
Kevin R. Bunker, its Manager]

REVIEWED AND AGREED TO:

CITY OF PORTLAND

By: \_\_\_\_\_  
Mark H. Rees, its City Manager

STATE OF MAINE  
CUMBERLAND, SS.

\_\_\_\_\_, 201\_\_

Personally appeared the above-named [Kevin R. Bunker, Manager of Developers Collaborative Predevelopment LLC], as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.



Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

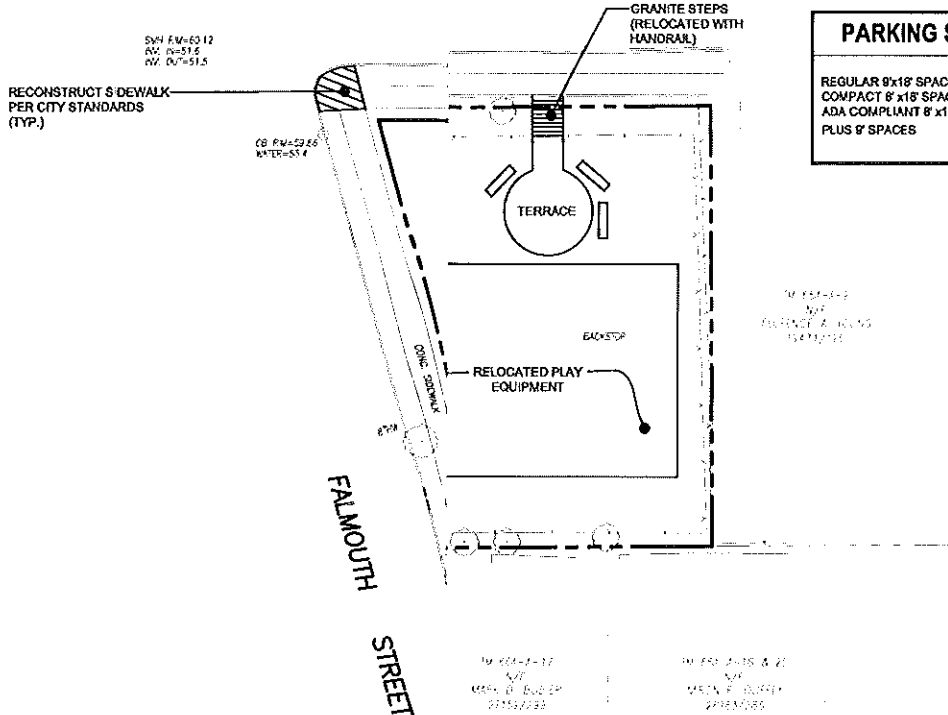
Print Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_




SIGN LEGEND	
	
24"x24" [A]	12"x18" 24"x12" [B]

PARKING SUMMARY	
REGULAR 9'x18' SPACES	= 28 TOTAL
COMPACT 8'x18' SPACES	= 7 TOTAL
ADA COMPLIANT 8'x18'	
PLUS 8' SPACES	= 2 TOTAL
	<b>37 SPACES</b>



ALL ADA COMPLIANT SPACES TO THE BUILDING ADA ENTRANCE SHALL COMPLY WITH ACCESSIBILITY INCLUDING MAXIMIZING SLOPE AND SURFACE TREATMENT. ANY REPAIRS TO ACHIEVE COMPLIANCE SHALL BE AT NO EXTRA EXPENSE TO THE OWNER.

<b>OPERATIONS DEVELOPMENT CORPORATION</b> 100 FALMOUTH STREET PORTLAND, MAINE 04101 (207) 772-4056	Project: <b>NATHAN CLIFFORD SCHOOL REDEVELOPMENT</b>	Revisions: _____ _____ _____	
	10.16.13 - REV. PLAN SUBMISSION 10.01.13 - PRELIMINARY PLAN SUBMISSION TO CITY	Date: OCT. 2012	Scale: 1" = 20'
<b>DIETTYPE</b> <b>Architects</b> Portland, Maine 04101 Fax (207) 772-4056		<b>SITE LAYOUT, AND UTILITY PLAN</b>	