

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

Sean Dundon, Chair  
Brandon Mazer, Vice Chair  
David Eaton  
David Silk  
Austin Smith  
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October 4, 2018

Thomas S Greer, PE  
Walsh Engineering Associates  
1 Karen Drive, Suite 2A  
Westbrook, ME 04092

Project Name: **Conversion of existing school building into 8 residential units (Reed School Phase 2)**  
Project ID: Subdivision and Site Plan: # PLO00206-2018  
Address: 19 Libby Street, Portland CBL: 338 K004001  
Applicant: Reed School LLC  
Planner: Jean Fraser

Dear Mr. Greer:

On September 25, 2018, the Planning Board considered the Level III Conditional Use, Subdivision and Site Plan application for the Phase 2 reuse of this site. The proposals comprise the conversion of the former Reed School main building (13,908 sf floor area) into 8 one-bedroom dwelling units, and associated improvements, as located at 19 Libby Street and fronting onto Homestead Avenue.

The Planning Board reviewed the proposal for conformance with the standards of the Site Plan and Subdivision ordinances, and unanimously voted 6-0 (Eaton absent) to approve the application with the following conditions as presented below:

### A. CONDITIONAL USE APPROVAL

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board report for the public hearing on September 25, 2018 for application PLO00206-2018 (19 Libby Street) relevant to Portland's Zoning ordinance section 14-88(a) and the testimony presented at the Planning Board hearing:

The Planning Board unanimously voted 6-0 (Eaton absent) that the plan is in conformance with the conditional use standards of the Land Use Code, subject to the following conditions of approval:

#### Prior to the issuance of the Building Permit

1. That the applicant shall provide final window specifications and the specifications for the proposed building-mounted light fixtures to the Historic Preservation Program Manager for review and approval.
2. That the Subdivision Plat document, to the satisfaction of Corporation Counsel, that the zoning requirement for 16 parking spaces for the 8 residential units subject of this approval, is met through an explicit provision on the site.

## B. SUBDIVISION

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board report for the public hearing on September 25, 2018 for application PLO00206-2018 (19 Libby Street) relevant to the subdivision regulations; and the testimony presented at the Planning Board hearing:

The Planning Board unanimously voted 6-0 (Eaton absent) that the plan is in conformance with the subdivision standards of the land use code and approves the application, subject to the following conditions of approval, which must be met prior to the signing of the plat:

1. The applicant shall submit a final subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority, that includes but is not limited to: clarification of the legal status, size and location of all units; parking provision to meet the zoning requirements; and reference to condominium documents and other agreements that clarify the maintenance responsibilities for snow clearing and landscape maintenance.
2. If some or all of the units are to be condominiums, the Condominium Association documents shall be submitted for review and approval by Corporation Counsel and Planning Authority and clarify rights and responsibilities for access, use and maintenance including snow storage and snow clearance from the sidewalks.

## C. SITE PLAN

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board report for the public hearing on September 25, 2018 for application PLO00206-2018 (19 Libby Street) relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing:

The Planning Board unanimously voted 6-0 (Eaton absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions:

### Prior to the submission of the Building Permit application

1. The applicant shall submit a landscape plan, for review and approval by the Planning Authority for the Homestead Avenue frontage corners that includes replacement fencing and/or planting to screen and enhance the appearance of these areas, as well as repair or replace any other areas of fencing that are failing.

### Prior to the issuance of a Building Permit

2. That the lighting specifications and associated photometric information shall be submitted for review and approval by the Planning Authority, to meet the standards set out in the City's Technical Manual for Site Lighting.
3. That the final detailed location of any HVAC and mechanical equipment along with any proposed screening be submitted for review and approval by the Planning Authority to confirm the installation is in compliance with the Site Plan standard for Noise and Vibration.
4. That the Wastewater and Water capacity letters shall be submitted.
5. The applicant shall submit a Construction Management Plan for review and approval by the Planning Authority and the Department of Public Works.

6. The applicant shall submit a sidewalk plan for review and approval by the Department of Public Works and install a 45 foot section of sidewalk along Homestead Avenue or submit a \$1,500 contribution to the City to complete this sidewalk section.

Prior to the issuance of a Certificate of Occupancy

7. That the applicant shall contribute \$1200 for three street trees to Portland's Tree Fund.
8. That the applicant shall submit further detail regarding the drive apron and nearby sidewalk, to be reviewed by DPW in regards to the City's Technical Standards.

The approval is based on the submitted plans and the findings related to subdivision review standards as contained in Planning Report for application # PLO00206-2018 (19 Libby Street) which is attached.

**STANDARD CONDITIONS OF APPROVAL**

Please Note: The following standard conditions of approval and requirements apply to all approved site plans:

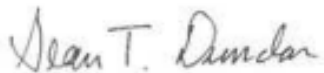
1. Subdivision Recording Plat A revised recording plat, listing all conditions of subdivision approval, must be submitted to the Planning and Urban Development Department for review. Once approved, the plat shall be signed by the Planning Board prior to the issuance of a performance guarantee. The performance guarantee must be issued, prior to the release of the recording plat, for recording at the Cumberland County Registry of Deeds.
2. Subdivision Waivers Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice. The plan or notice must be recorded in the Cumberland County Registry of Deeds within two (2) years of the final subdivision approval.
3. Develop Site According to Plan The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. Separate Building Permits Are Required This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Permitting and Inspections Department.
5. Site Plan Expiration The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. Subdivision Expiration The subdivision approval is valid for up to three (3) years from the date of Planning Board approval.
7. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and four (4) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. Defect Guarantee A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

9. Preconstruction Meeting Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
10. Construction Management Plans The applicant, contractor and subcontractors are required to conform to the approved Construction Management Plan, and all conditions contained within the project's approval, for the entire duration of the project. Any amendments to the approved Construction Management Plan shall be reviewed and approved by the Department of Public Works prior to the execution. The Planning Authority and the Department of Public Works have the right to seek revisions to an approved Construction Management Plan. The applicant shall coordinate the project's construction schedule with the timing of nearby construction activities to avoid cumulative impacts on a neighborhood and prevent unsafe vehicle and pedestrian movements. Accordingly, nearby construction activities could involve a delay in the commencement of construction.
11. Department of Public Works Permits If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permit (s) is required for your site. Please contact the Department of Public Works Permit Clerk at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
12. As-Built Final Plans Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning and Urban Development Department at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at (207) 874- 8728.

Sincerely,



Sean Dundon, Chair  
Portland Planning Board

**Attachments:**

1. Planning Board Report
2. Performance Guarantee Packet



# PLANNING BOARD REPORT PORTLAND, MAINE

Conversion of existing school building into 8 residential units  
(Reed School Phase 2)  
19 Libby Street

Level III, Conditional Use, Subdivision and Site Plan  
Project # PLO00206-2018  
CBL: 338 Koo4001  
Reed School, LLC, Applicant

Submitted to Portland Planning Board Public Hearing Date: September 25 <sup>th</sup> , 2018	Prepared by: Jean Fraser Date: September 21 <sup>st</sup> , 2018
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## I. INTRODUCTION

Reed School, LLC, represented by Walsh Engineering (Thomas Greer), is requesting Planning Board approval to a Level III Conditional Use, Subdivision and Site Plan proposal for the Phase 2 reuse of this site. The proposals comprise the conversion of the former Reed School main building (13,908 sf floor area) into 8 one-bedroom dwelling units, and associated improvements, located at 19 Libby Street and fronting onto Homestead Avenue. The site was the subject to public consultations and a City RFP in 2016, and via that process was sold to the Developer's Collaborative in 2017. It is located in the R-3 Zone.

Phase 1 of the project was subject to a Level I Site Plan Alteration application to remove a 1951 small rear addition and add parking and stormwater treatment to the Phase 1 area. This allowed for the 1950 single story building at the rear to be reused by a private school, *The Children's Odyssey*. Those improvements have been completed and the school opened recently.

The Phase 2 part of the project was anticipated in the earlier site plan review, and the approval includes several conditions that apply to the Phase 2 project (see Level I Site Alteration Approval letter in Attachment A). These focus on the sidewalk and access from Homestead, and on the boundary treatment.

The Phase 2 project is before the Planning Board as the conversion of the institutional use to a residential use in the R3 zone requires conditional use approval, and the creation of the 8 units constitutes a subdivision that requires Planning Board review.



**Applicant:** Reed School, LLC  
**Consultants:** Engineer: Walsh Engineering Associates Inc (Thomas S Greer, PE)  
Architects: Archetype



*Phase 2 site as viewed from Homestead Avenue:*

**Required Reviews and Waivers:**

<i>Review</i>	<i>Applicable Standards</i>
<b>R3 Conditional Use:</b> Alteration of a structure existing and not in residential use as of January 1, 1984 (Reed School), to three (3) or more dwelling units	<i>Section 14-88 (a) 3 Residential conditional Uses</i>
<b>Subdivision:</b> Conversion of existing Reed School main building into 8 residential dwelling units	<i>Section 14-497</i> for the creation of 8 units.
<b>Site Plan:</b> Multifamily development	<i>Section 14-526</i> for the proposed multifamily residential development comprising 8 units.

**II. PROJECT DATA**

<i>SUBJECT</i>	<i>DATA</i>
Existing Zoning	R3
Existing Use	Vacant school building
Proposed Use	Residential
Total Area of the Site	2.51 acres
Proposed Disturbed Area of the Site	None for this Phase 2 part of the project
Impervious Surface Area - Proposed	None for this Phase 2 part of the project
Building Footprint - Existing	Total Building 21,145 sf School Use 16,509 Residential Use 4,636 sf
Building Footprint - Proposed	Residential Use 4,636 sf
Building Floor Area - Existing	13,908 sf
Building Floor Area - Proposed	13,908 sf, including basement area)
Number of lots proposed	8 (within building) within Lot 1 of the site condominium
Residential Units- Existing	0
Residential Units- Proposed	8 one-bedroom units
Parking Spaces - Existing	74 were created for phase 1 and are noted to be common elements for the condominium lots, but the phase 1 use does not require all of these
Parking Spaces - Proposed	16 for this use
Bicycle Parking Spaces - Existing	8 bike racks serving 16 bicycles are available at rear of the building included in Phase 1 site plan to address needs of all uses
Bicycle Parking Spaces - Proposed	

**III. EXISTING CONDITIONS**

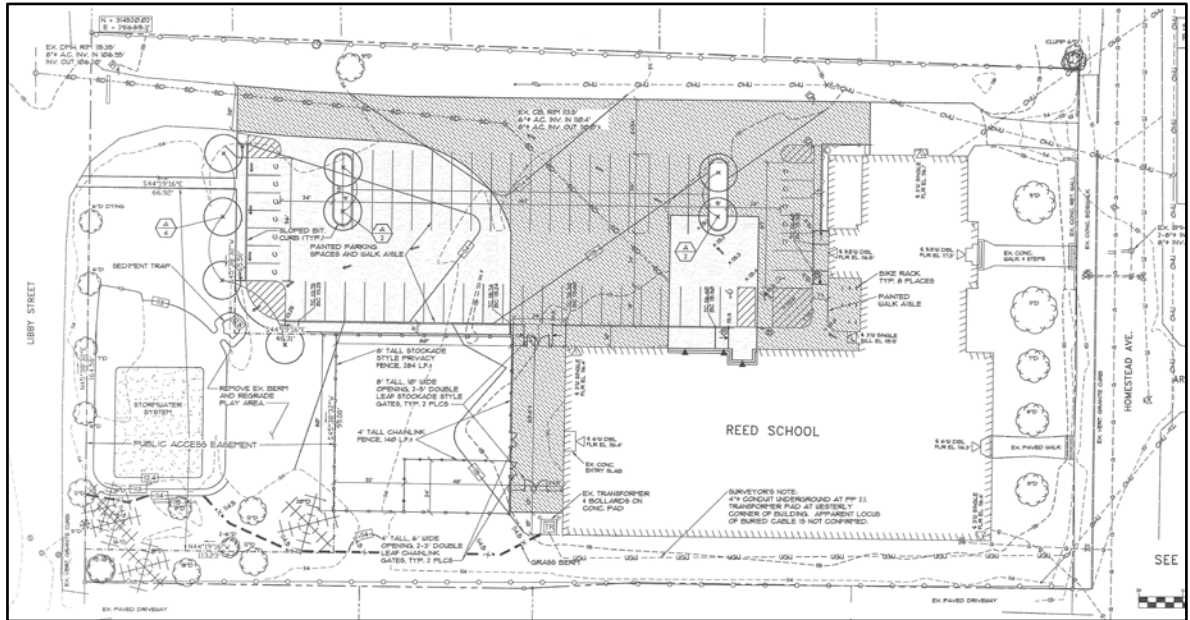
The 1926 main school building is shown right, as it faces Homestead Avenue. It is surrounded by residential on both sides of this frontage, and the area behind and abutting this building is “Phase 1” where improvements to the parking area and stormwater treatment have just been completed.

There are five existing mature trees along the frontage and the current boundary treatment for the Phase 2 area is largely chain link fencing, some rusty but some with vines and other vegetation.



The Phase 1 approved site plan is included below to provide the current context for the review of the current application.

**PREVIOUSLY APPROVED PHASE 1 SITE PLAN- ALREADY IMPLEMENTED:**

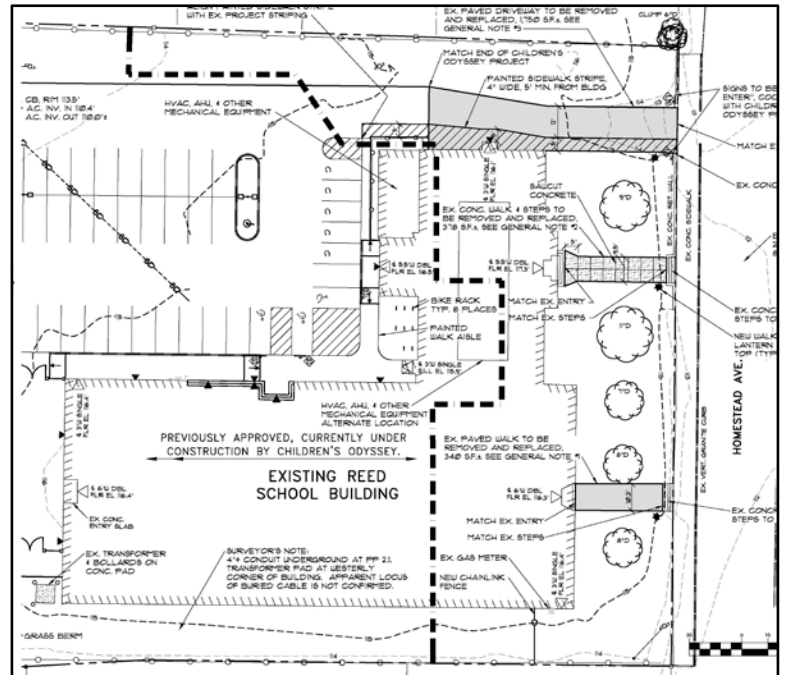


**IV. PROPOSED DEVELOPMENT**

The final proposals are shown in the Plan Set and include:

- Conversion of the existing building to 8 one-bedroom units with associate building upgrades
- Replacement of the front walkways from Homestead Avenue
- Demarcation of a pedestrian walkway along the one-way exit drive to the side of the building
- Signs to clarify the drive is one way exit from the site onto Homestead Avenue
- Additional short section of chain link fencing to side of the site (for school)
- Two building mounted lights and one pole light at front
- Removal of one tree from the approved parking lot area landscaped island.

The submissions confirm that the site work was largely completed as part of the Phase 1 improvements and the current proposals do not include any landscaping or upgrade to the boundary treatment for Phase 2.



**V. PUBLIC COMMENT**

A total of 168 notices were sent to property owners within 500 feet of the site and interested parties, and a legal ad was published in the *Portland Press Herald* on September 14<sup>th</sup> and 17<sup>th</sup>, 2018. The required Neighborhood Meeting was held on August 23, 2018 at the school and attended by 15 neighbors, excluding representatives of the applicant. The Meeting Certificate and notes are included in Attachment 22. At the time of completing this report the Planning office has not received any public comments.

**VI. RIGHT, TITLE & INTEREST AND FINANCIAL AND TECHNICAL CAPACITY**

The applicant has submitted a copy of the applicant's ownership deed and a letter dated 6.21.18 from Bangor Savings Bank (Att. 7) confirming financial capacity. The submissions were prepared by professional consultants.

## VII. STAFF REVIEW

### A. ZONING ASSESSMENT – CONDITIONAL USE REVIEW

**Conditional Use:** The R3 zoning ordinance (14-88 (a) 3) allows for a non-residential structure to be converted to residential subject to a number of conditions relating to:

- Outside stairways and fire escapes
- Restrictions on the floor to ceiling height of lower level floors
- Land area per dwelling requirement of 3000 sf
- On site parking to meet Ordinance standards
- Site Plan approval where the following additional standards would apply:
  - Any addition or exterior alterations...shall be compatible with the architectural style of the structure
  - Scale and surface area of parking, driveways and paved area shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets

A separate motion regarding the conditional use is included for the Board to consider. The proposals meet all of these conditional use standards. Regarding the additional site plan standards, the compatibility of the exterior modifications (windows and lights) have been reviewed by the Historic Preservation Program Manager Deb Andrews. She has recommended a condition of approval as the submissions do not include all of the detail required to complete the review ([Attachment C](#)).

The standard regarding the arrangement/landscaping of paved areas is of limited applicability as the Phase 2 area only includes an existing drive that will be slightly widened; the parking is at the rear and previously approved and implemented.

The provision of the required 16 parking spaces is within the parking area at rear and identified in the condominium documents, with 9 dedicated in terms of area near to the school, and the rest as part of the “common elements”. The zoning requirement for 16 spaces tied to the residential use within this parking area needs to be confirmed by a clarifying note/graphic on the final Subdivision Plat.

**Dimensional Requirements:** The submissions document ([Attachment 4](#)) that the proposal meets all of the dimensional requirements of the R3 zone in terms of frontage, setbacks and lot coverage (others not relevant because it’s an existing building and a conditional use).

### B. SUBDIVISION REVIEW (14-497(a). Review Criteria)

#### 14-496. Subdivision Plat Requirements

The applicant has submitted a draft Subdivision Plat ([Plan P3](#)) which will need revisions to add notes or a table to clarify the location and floorspace and legal status of all of the units, and to include references to the parking provision and condominium documents.

#### 14-497. General Requirements (a) Review Criteria

The proposals have generally addressed the subdivision standards, with the following items of relevance to this project:

#### ***Water Supply, Air Pollution and Soil Erosion***

The applicant has not submitted the capacity letter from the Portland Water District and this is the subject of a suggested condition.

#### ***Traffic***

There are no traffic implications associated with the proposal.

#### ***Sanitary Sewer/Soils/Stormwater***

The proposal does not have any implications for stormwater management on the site. The Wastewater capacity letter has not been received and this is the subject of a suggested condition of approval.



### ***Solid Waste Disposal***

The applicant has confirmed (Attachment 23) that solid waste storage will be inside the building and no dumpsters are required.

### ***Scenic Beauty***

The review has focused on the frontage along Homestead Avenue. While this frontage includes an attractive grassed area with 5 existing mature trees, the fencing areas at the frontage corners, where it meets existing residential properties, is unattractive - as shown in recent photographs below:



*from Homestead Ave, west end of frontage*



*from Homestead Ave, east end of frontage*

Staff recommend that the fencing and associated planting at these corners should be enhanced in order to meet this standard, and a suggested condition of approval requires the submission of a landscape plan for review and approval. This recommendation is reinforced by the site plan review, which notes that a required tree has been removed from the parking lot at the rear, and that the previous site plan approval required “*The applicant shall repair the fence along the property boundary as needed*”.

### ***Comprehensive Plan***

Staff find the proposed project compatible with the Comprehensive Plan, which includes the following applicable goals:

- “create economic prosperity by growing Portland’s tax and employment base”
- “encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods”.

### **C. SITE PLAN REVIEW (14-526 Site Plan Standards)**

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland’s site plan ordinance and applicable regulations. Staff comments are listed below.

#### **1. TRANSPORTATION STANDARDS**

***Impact on Surrounding Street systems:*** Please note comments above under *Subdivision Review*.

- ***Access and Circulation:*** The general access and circulation is similar to the existing, and the creation of a one-way access drive next to the school was part of the previously approved site plan (Attachment A). The previous approval required:

*b. ...Providing a dedicated walkway from Homestead to the parking lot by either limiting vehicle access on the driveway to Homestead to emergency access only, or by providing a parallel walkway.*

The site plan (Plan P4) shows “no entry” signs where it meets Homestead Avenue to reinforce that circulation, and a 4 foot wide pedestrian walkway striped at the side. In view of the one-way nature of the driveway, staff consider

the proposal meets the condition and is acceptable.

- **Sidewalks and Pedestrian Connections:** The Department of Public works has evaluated the sidewalks along Homestead Avenue and determined that they were in good condition and do not require any repairs except that the driveway apron does not meet City Technical Standards ([Attachment B](#)). The applicant has not requested a waiver and a potential condition of approval requires that the apron be brought up to the city standards.



The DPW comments noted there is a “gap” in the sidewalk between the site and Forest Avenue, which was also noted during the Phase 1 review and conditioned with “*The City will look at the potential to complete the missing piece of sidewalk along Homestead Avenue just west of the site and asks for the applicant’s support as necessary.*” The DPW estimates that a contribution of \$1,500 would pay for completing this 45 foot section of sidewalk. The Planning Staff recommend that the applicant either complete this gap or pay the contribution. A condition of approval is provided for the Board’s consideration.

- **Public Transit Access:** The previous site plan approval requested “*The applicant shall work with staff and METRO to resolve the best locations of bus stops along Forest Avenue to serve the site.*” Staff have reviewed the location of the forest Avenue bus stops with METRO and the locations are acceptable as existing, though the most direct access (ie with a crosswalk at Forest) is via the Homestead Avenue sidewalk where the above-mentioned “gap” is located. A contribution to help achieve the completion of this section of sidewalk would help provide a better connection to the bus stops on Forest Avenue.
- **Parking -** please see comments under the discussion of the **Conditional Use** above.
- **Snow Storage:** snow storage areas do not appear to be identified on the plans, although for the Phase 2 area this is not a concern.
- **Transportation Demand Management:** this standard does not apply to this project.
- **Construction Management Plan:** The applicant has not submitted a CMP as the building is existing and there is a substantial area of open pavement to the rear that is available for construction material and access. A condition of approval is provided for the Board’s consideration.

## 2. ENVIRONMENTAL QUALITY STANDARDS

### **Landscaping and Landscape Preservation, Site and Parking Lot Landscaping**

- **Fencing/buffers:** The approval for Phase 1 included the following requirement: “*The applicant shall repair the fence along the property boundary as needed.*” The Phase 2 proposals do not include any new or repaired fencing although some of the existing fencing is rusty chain link. As discussed above under **Subdivision-Scenic Beauty**, the frontage corners on Homestead Avenue are unattractive and staff recommend upgraded fencing and/or screen planting. The suggested condition of approval is:

*That the applicant shall submit a landscape plan, for review and approval by the Planning Authority prior to the issuance of a buildig permit, for the Homestead Avenue frontage corners that includes replacement fening and/or xscreen planting to enhance the appearance of these areas.*

- **Street Trees:** The street tree requirement is 8 trees and there are 5 existing street trees. The applicant has requested to contribute to the Street Tree fund for the 3 additional street trees required to meet the site plan ordinance (Attachment 15), and this is reflected in a suggested condition for the Board to consider.
- **Water quality, Stormwater Management and Erosion Control** - see discussion under *Subdivision Review* above.

### 3. PUBLIC INFRASTRUCTURE AND COMMUNITY SAFETY STANDARDS

- **Consistency with Related Master Plans** - see discussion above regarding the repair to the sidewalk along Homestead Avenue.
- **Public Safety and Fire Prevention** : The Fire Department’s review notes that “*There are plenty of fire hydrants in the area for this project, and there are no access issues for the fire department with this project. There are no site plan concerns.*”
- **Availability and Adequate Capacity of Public Utilities**- see comments under Subdivision Review above.

### 4. Site Design Standards

- **Massing, Ventilation and wind Impact; Shadows; Snow and Ice Loading; View corridors; Historic Resources** - these standards do not apply to this project.
- **Exterior Lighting and Street Lighting**  
The proposals include two building mounted lights and a new pole light by the main walkway entrance from Homestead Avenue. The locations are noted on the plans but the specifications and photometric information has not been submitted. The design of the lighting would be part of the conditional use review (requiring review by the Historic Preservation Program Manager); a site plan condition is recommended to address the site plan technical standards regarding cut off fixtures and trespass.
- **Noise and Vibration**  
Staff requested further information regarding the installation of the heatpumps as mentioned at the neighborhood meeting. The Response letter (Attachment 23) clarifies the HVAC locations, but further information is required to determine if these meet the site plan standard requiring that they “*b) Be screened from view from any public street and from adjacent sites by structure walls, evergreen landscaping, fencing, masonry wall or a combination thereof.*”
- **Signage and Wayfinding** - this standard does not apply to the proposals.
- **Zoning-Related Design Standards:** there are no specific design standards for this zone.
- **Multi-family and Other Housing Types Design Standards**  
The design standards that apply to all multifamily development apply to this proposal.

**(i) TWO-FAMILY, SPECIAL NEEDS INDEPENDENT LIVING UNITS, MULTIPLE-FAMILY, LODGING HOUSES, BED AND BREAKFASTS, AND EMERGENCY SHELTERS:**

*(1) STANDARDS. Two-family, special needs independent living units, multiple-family, lodging houses, bed and breakfasts, and emergency shelters shall meet the following standards:*

- a. Proposed structures and related site improvements shall meet the following standards:*
- 1. The exterior design of the proposed structures, including architectural style, facade materials, roof pitch, building form and height, window pattern and spacing, porches and entryways, cornerboard and trim details, and facade variation in projecting or recessed building elements, shall be designed to complement and enhance the nearest residential neighborhood. The design of exterior facades shall provide positive visual interest by incorporating appropriate architectural elements;*

- 2. The proposed development shall respect the existing relationship of buildings to public streets. New development shall be integrated with the existing city fabric and streetscape including building placement, landscaping, lawn areas, porch and entrance areas, fencing, and other streetscape elements;*

**Staff comment:** The proposals are located within an existing building and any external changes to the former school are being reviewed by the Historic Preservation Program Manager.

- 3. Open space on the site for all two-family, special needs independent living unit, bed and breakfast and multiple-family development shall be integrated into the development site. Such open space in a special needs independent living unit or a multiple-family development shall be designed to complement and enhance the building form and development proposed on the site. Open space functions may include but are not limited to buffers and screening from streets and neighboring properties, yard space for residents, play areas, and planting strips along the perimeter of proposed buildings;*

**Staff comment:** The grassed frontage area will remain as lawn with existing mature trees, and provides a substantial open space amenity area for residents.

- 4. The design of proposed dwellings shall provide ample windows to enhance opportunities for sunlight and air in each dwelling in principal living areas and shall also provide sufficient storage areas;*

**Staff comment:** The window sizes are determined by the existing building.

- 5. The scale and surface area of parking, driveways and paved areas are arranged and landscaped to properly screen vehicles from adjacent properties and streets;*

**Staff comment:** These areas are to the rear of the building within the already-approved Phase 1 area.

## VIII. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed conversion of the Reed School main building into 8 residential units along with the small scale site improvements at 19 Libby Street (fronting onto Homestead Avenue).

## IX. PROPOSED MOTIONS

### A. CONDITIONAL USE APPROVAL

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board report for the public hearing on September 25, 2018 for application PLO00206-2018 (19 Libby Street) relevant to Portland's Zoning ordinance section 14-88(a) and the testimony presented at the Planning Board hearing:

The Planning Board finds that the plan **is/is not** in conformance with the conditional use standards of the Land use Code, subject to the following conditions (s) of approval:

Prior to the issuance of the Building Permit

1. That the applicant shall provide final window specifications and the specifications for the proposed building-mounted light fixtures to the Historic Preservation Program Manager for review and approval.
2. That the subdivision Plat document, to the satisfaction of Corporation Counsel, that the zoning requirement for 16 parking spaces for the 8 residential units subject of this approval, is met through an explicit provision on the site.

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The Planning Board finds that the plan **is/is not** in conformance with the subdivision standards of the land use code and **approves/does not approve** the application, subject to the following conditions of approval, which must be met prior to the signing of the plat:

1. The applicant shall submit a final subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority, that includes but is not limited to: clarification of the legal status, size and location of all units; parking provision to meet the zoning requirements; and reference to condominium documents and other agreements that clarify the maintenance responsibilities for snow clearing and landscape maintenance.
2. If some or all of the units are to be condominiums, the Condominium Association documents shall be submitted for review and approval by Corporation Counsel and Planning Authority and clarify rights and responsibilities for access, use and maintenance including snow storage and snow clearance from the sidewalks.

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The Planning Board finds that the plan **is / is not** in conformance with the site plan standards of the land use code, subject to the following conditions:

### Prior to the submission of the Building Permit application

1. The applicant shall submit a landscape plan, for review and approval by the Planning Authority for the Homestead Avenue frontage corners that includes replacement fencing and/or planting to screen and enhance the appearance of these areas.

### Prior to the issuance of a Building Permit

2. That the lighting specifications and associated photometric information shall be submitted for review and approval by the Planning Authority, to meet the standards set out in the City's Technical Manual for Site Lighting.
3. That the final detailed location of any HVAC and mechanical equipment along with any proposed screening be submitted for review and approval by the Planning Authority to confirm the installation is in compliance with the Site Plan standard for Noise and Vibration.
4. That the Wastewater and Water capacity letters shall be submitted.
5. The applicant shall submit a Construction Management Plan for review and approval by the Planning Authority and the Department of Public Works.

6. The applicant shall submit a sidewalk plan for review and approval by the Department of Public Works and install a 45 foot section of sidewalk along Homestead Avenue or submit a \$1,500 contribution to the City to complete this sidewalk section.

Prior to the issuance of a Certificate of Occupancy

7. That the applicant shall contribute \$1200 for three street trees to Portland's Tree Fund.
8. That the driveway apron and nearby sidewalk shall be reconstructed to meet City's Technical Standards.

**ATTACHMENTS:**

**Attachments to the Report**

- A. Level I Site Alteration Approval letter date
- B. DPW sidewalk comments
- C. Historic Preservation Program Manager comments

**Public comments** (none received to date)

**Applicant's Submittal**

1. Cover letter
2. Application and checklist
3. Right, Title and Interest
4. Zoning analysis Table
5. Condo Documents
6. Waiver Table
7. Financial and Technical Capacity
8. Technical capacity
9. Transportation analysis
10. Access and circulation
11. Public Transit
12. Off Street parking
13. Bicycle Parking
14. Snow Storage
15. Street Trees
16. Stormwater
17. Public Safety and Fire Prevention
18. Available Public Utilities
19. Site Design
20. Historic Resources
21. Zone Related Design Standards
22. Neighborhood Meeting Certificate and Notes
23. Response letter 9.19.18

**Plans**

- P1. Survey
- P2. Subdivision Plan (2 sheets)
- P3. Cover sheet
- P4. Site Plan
- P5. North Elevation
- P6. East & West Elevations
- P7. South Elevation
- P8. Floor Plans (3 sheets)
- P9. Building Permit Details

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning &amp; Urban Development Department

## Performance Guarantee, Inspection Fee, and Infrastructure Financial Contribution Packet

### A. Site Plan/Subdivision Performance Guarantees Required

Portland's Land Use Code requires all developers with approved site plan and/or subdivision applications to submit a performance guarantee to the City prior to the start of any construction or site improvements. The performance guarantee represents 100% of the total cost of site improvements, as determined by the City. The code further requires developers to pay an inspection fee of 2% of the performance guarantee amount to the City for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications. (Portland's Land Use Code, Sections 14-501 and 14-530)

### B. Cost Estimate Form and Inspection Fee

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. Please submit an itemized cost estimate form to determine the detailed costs of both public and private site improvements to the Planning Division for review and approval. The cost estimate form is included as [Attachment 1](#). The approved amount on the Cost Estimate form is the amount to be covered by the performance guarantee and is the basis for calculating the 2% inspection fee.

### C. Acceptable Types of Performance Guarantees

The accepted forms of a performance guarantee, covering the amount approved on the Cost Estimate form, must be one of the following options consistent with the attached templates, with **NO** exceptions:

1. A letter of credit from a bank/credit union (Attachment 2)
2. A deposit into a bank-held escrow account (Attachment 3)
3. A deposit into a City-held escrow account (Attachment 4)

**NOTE: No land use application of any kind shall be processed, reviewed or issued, no signed subdivision plat shall be released or recorded, and no building permit of any kind shall be issued unless all fees have been paid and every aspect of the proposed development is in compliance with City Codes as determined by the Development Review Coordinator in the Planning Division.**

The developer is eligible to receive up to three reductions from the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced 1) in any line item where improvements remain to be completed; or 2) to a value which is less than the estimated cost of completing all remaining required improvements; or 3) to a value less than 10% of the Performance Guarantee.

At the conclusion of the project, the City will release 90% of the performance guarantee after the Development Review Coordinator determines that site improvements have been satisfactorily completed at the time of the final inspection. The City will then retain a 10% defect guarantee to cover the workmanship and durability of materials used in construction. The defect guarantee will be released one (1) year from date of acceptance, subject to the Development Review Coordinator inspecting the site and finding it in compliance with the approved site plan.

#### **D. Housing Replacement Performance Guarantees**

For those projects that are subject to Portland's Housing Preservation and Replacement Ordinance (Section 24-483) and have an approved plan, then a performance guarantee is required for housing replacement. An owner or developer must post a performance guarantee in the form of a letter of credit in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Fund, if the applicant had chosen that option. The guarantee shall be valid for no more than three years, after which the full amount shall be provided to the City's Housing Trust Fund, if replacement units meeting the code do not have certificates of occupancy. The guarantee can be released upon the issuance of a certificate of occupancy for the replacement units. A suggested template for a Housing Replacement Performance Guarantee is included as Attachment 5.

#### **E. Infrastructure Accounts**

Contributions to infrastructure accounts may be required as part of the conditions of site plan approval. The contributions must be submitted prior to the issuance of any permits, unless stated otherwise in the approval. The form for submitted required contributions is included as Attachment 6.

#### **F. Administrative Process for Submitting Performance Guarantee**

- **Step 1 - Cost Estimate**  
Submit completed cost estimate form to Planning Division for review and approval. Once approved, use this total amount as the performance guarantee amount in Step 2.
- **Step 2 - Performance Guarantee**  
Complete a draft of 1 of the 3 attached performance guarantee templates, inputting project specific information into blank and bracketed areas, and submit to the Planning Division for final approval. Once staff approved the draft, the applicant shall submit the official signed original performance guarantee document, which for option 1) or 2) must be on Bank/Credit Union letterhead with original signatures.
- **Step 3 - Submit Performance Guarantee, Inspection Fee, and Infrastructure Contributions**  
Submit the final original Performance Guarantee, the required inspection fee, and any infrastructure contributions to the Planning Division. The Planning Division will confirm that the final documents are accurate and acceptable.
- **Step 4 - Release of Recording Plat and Permits**  
Only after the performance guarantee is issued, fees paid, and all other conditions of site plan approval and compliance are met, will the recording plat be released for recording at the Cumberland County Registry of Deeds and/or City permits issued.

**Contact:** Please email the cost estimate form to [jdealaman@portlandmaine.gov](mailto:jdealaman@portlandmaine.gov)

After the cost estimate is approved, all subsequent paperwork can be submitted by mail to 389 Congress Street, 4<sup>th</sup> Floor, Portland, ME 04101, Attn: James Dealaman.

Please call 207-874-8721 with any questions.

#### Attachments

1. Cost Estimate of Improvements Form
2. Performance Guarantee Letter of Credit Form (with private financial institution)
3. Performance Guarantee Escrow Account Form (with private financial institution)
4. Performance Guarantee Escrow Form with the City of Portland
5. Housing Replacement Performance Guarantee Form
6. Infrastructure Financial Contribution Form with the City of Portland





6. SITE LIGHTING	_____	_____	_____	_____	_____	_____
7. EROSION CONTROL						
Silt Fence	_____	_____	_____	_____	_____	_____
Check Dams	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	_____
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of the quantities of plant material and unit costs)	_____	_____	_____	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____

**INSPECTION FEE (to be filled out by the City)**

	<b>PUBLIC</b>	<b>PRIVATE</b>	<b>TOTAL</b>
A: 2.0% of totals:	_____	_____	_____
<u>or</u>			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

**TEMPLATE – PERFORMANCE GUARANTEE LETTER OF CREDIT**

SITE PLAN/SUBDIVISION  
PERFORMANCE GUARANTEE  
LETTER OF CREDIT  
[ACCOUNT NUMBER]

[Date]

Jeff Levine  
Director of Planning and Urban Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: [Insert: Name of Applicant]  
[Insert: Address of Project, Portland, Maine]  
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby issues its Irrevocable Letter of Credit for the account of [Insert: Name of Applicant] (hereinafter referred to as “Applicant”), held for the exclusive benefit of the City of Portland, in the aggregate amount of [Insert: amount of original performance guarantee]. These funds represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/ or site plan], approved on [Insert: Date] and as required under the City of Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the Bank, by written certification, to reduce the available amount of the escrowed money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30<sup>th</sup> and April 15<sup>th</sup>. It is a condition of this Letter of Credit that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development, at Bank’s offices located at \_\_\_\_\_ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. \_\_\_\_\_.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 530 and shall automatically expire one (1) year from the date of its creation (“Termination Date”).

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Letter of Credit by presentation of a sight draft and this Letter of Credit and all amendments thereto, at Bank’s offices located at \_\_\_\_\_, prior to the Termination Date, stating any one of the following:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

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

By: \_\_\_\_\_

**[Name]**  
**[Title]**  
Its Duly Authorized Agent

TEMPLATE –ESCROW ACCOUNT WITH FINANCIAL INSTITUTION

SITE PLAN/SUBDIVISION  
PERFORMANCE GUARANTEE  
ESCROW ACCOUNT WITH FINANCIAL INSTITUTION  
[ACCOUNT NUMBER]

[Date]

Jeff Levine  
Director of Planning and Urban Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: [Insert: Name of Applicant]  
[Insert: Address of Project, Portland, Maine]  
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby certifies to the City of Portland that [Bank] will hold the sum of [Insert: amount of original performance guarantee] in an interest-bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/or site plan], approved on [Insert: date] as required under the Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by [Insert: Applicant].

[Bank] will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the [Bank], by written certification, to reduce the available amount of the escrowed

money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Escrow Account will automatically expire on **[Insert date one year from the date of this Escrow Account]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30<sup>th</sup> and April 15<sup>th</sup>. It is a condition of this Escrow Account that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank’s offices located at \_\_\_\_\_ stating that:

this drawing results from notification that the Bank has elected not to renew its Escrow Account No. \_\_\_\_\_.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 530 and shall automatically expire one (1) year from the date of its creation (“Termination Date”).

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee by presentation of a sight draft at Bank’s offices located at \_\_\_\_\_, prior to the Termination Date, stating any one of the following:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

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

By: \_\_\_\_\_

**[Name]**

**[Title]**

Its Duly Authorized Agent

Seen and Agreed to: **[Applicant]**

By: \_\_\_\_\_

TEMPLATE - PERFORMANCE GUARANTEE ESCROW ACCOUNT  
with the City of Portland

Applicant’s Tax Identification Number: \_\_\_\_\_

Applicant’s Name and Mailing Address: \_\_\_\_\_

City Account Number: \_\_\_\_\_

Application ID #: \_\_\_\_\_

Application of \_\_\_\_\_ [Applicant] for \_\_\_\_\_ [Insert  
street/Project Name] at \_\_\_\_\_ [Address], Portland, Maine.

The City of Portland (hereinafter the “City”) will hold the sum of \$\_\_\_\_\_ [amount of performance  
guarantee] on behalf of \_\_\_\_\_ [Applicant] in a noninterest bearing account  
established with the City. This account shall represent the estimated cost of installing  
\_\_\_\_\_ [insert: subdivision and/ or site improvements (as applicable)] as depicted  
on the subdivision/site plan, approved on \_\_\_\_\_ [date] as required under the Portland Code of  
Ordinances Chapter 14 §§ 501, 530and Chapter 25 §§46-65.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw  
against this Escrow Account in the event that:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within  
the \_\_\_\_\_ [insert: subdivision and/ or site improvements (as applicable)]  
approval, dated \_\_\_\_\_ [insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description  
of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections in conjunction with the installation of  
improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option, either  
thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period  
not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its  
representative, will give the City written notice, by certified mail (restricted delivery to Brendan O’Connell,  
Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of  
this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the City, including but  
not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required  
improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban  
Development or its Director of Finance as provided in Chapter 14 §§ 501, 530 of the Portland Code of  
Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified  
amount.

This Guarantee will automatically expire on [Insert date one years from the date of this performance  
guarantee] (“Expiration Date”), or on the date when the City determines that all improvements guaranteed  
by this Performance Guarantee are satisfactorily completed, whichever is later, provided that the expiration

date does not fall between October 30<sup>th</sup> and April 15<sup>th</sup>.

At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **[the applicant]**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: Subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site plan]**.

Seen and Agreed to:

By: \_\_\_\_\_  
**[Applicant]**

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

By: \_\_\_\_\_  
\*\*\*\*Planning Division Director

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

By: \_\_\_\_\_  
Development Review Coordinator

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

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

---

### Distribution

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Cathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Applicant.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Cash Receipts Set.
5. \*\*\*\*Signature required if over \$50,000.00.



**TEMPLATE - PERFORMANCE GUARANTEE FOR  
COMPLIANCE WITH HOUSING REPLACEMENT ORDINANCE**

Demolition and Housing Replacement  
PERFORMANCE GUARANTEE  
LETTER OF CREDIT  
[ACCOUNT NUMBER]

**[Insert Date]**

Jeffrey Levine  
Director of Planning and Urban Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**Re: [Insert Project Address] Demolition and Housing Replacement**

**[Insert Name of Lender]** (“Bank”) hereby issues its Irrevocable Letter of Credit for the account of **[Insert Name of Applicant]** (“Applicants”), held for the exclusive benefit of the City of Portland (“City”), in the aggregate amount of **[Insert exact amount to be determined by the City]**. These funds represent the estimated cost of **[Insert Amount]** for the housing replacement fee applicable to the demolition of **[insert number of units demolished]** dwelling units if no replacement units are constructed, as approved on \_\_\_\_\_ (“**Demolition Approval**”) and as required under Portland Code of Ordinances Chapter 14-483(j).

In the event that Applicant fails to satisfy its housing replacement obligation, the City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, if any.

The housing replacement requirement shall be deemed satisfied upon the City’s issuance of a Certificate of Occupancy for **[insert number of units to be replaced]** dwelling units located in the City of Portland provided that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

After construction of each of the replacement units has been completed, the City, as provided in Chapter 14 of the Portland Code of Ordinances, may authorize the Bank, by written certification along with the return of the original of this Letter of Credit, to reduce the available amount of the escrowed money by the full amount of the Letter of Credit.

In the event of the Bank’s dishonor of the City of Portland’s sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30<sup>th</sup> and April 15<sup>th</sup>. It is a condition of this

Letter of Credit that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O'Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event that the Bank provides notice of its election to discontinue this Letter of Credit and Applicant has not satisfied its housing replacement obligation, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement signed by the Director of Planning and Urban Development, at Bank's offices located at Portland Maine stating that:

this drawing results from notification that the Bank has elected to discontinue its Letter of Credit No. \_\_\_\_\_.

Date: \_\_\_\_\_ By: \_\_\_\_\_

**[Name]**

**[Title]**

Its Duly Authorized Agent

**Contribution Form (Watershed, Tree, and Infrastructure Accounts)  
Planning and Urban Development Department - Planning Division**

<b>Application ID:</b>		<b>Planner:</b>	
<b>Project Name:</b>		<b>Date of Form:</b>	
<b>Project Address:</b>			
<b>Applicant's Name:</b>			
<b>Applicant's Address:</b>			
<b>Project Description:</b>			

TYPE OF CONTRIBUTION	Account #	Project Code	Funds Intended for:	Retained by City	Funds not Expended	Expiration Date:	Amount
Infrastructure #1	710-0000-236-98-00						\$
Infrastructure #2	710-0000-236-98-00						\$

TYPE OF CONTRIBUTION	Account #	Project Code	Funds Intended for:	Amount
Transportation Fund	710-0000-238-01-00			\$
Infrastructure (Tree Fund)	242-3100-341-00-00	PR0045		\$
Watershed (Nason's Brook)	257-3100-327.10-00	CFUP03		\$
Watershed (Fallbrook)	257-3100-327.10-00	CFUP02		\$
Watershed (Capisc Brook)	257-3100-327.10-00	CFUP01		\$

<b>Total Amount:</b>	\$
----------------------	----

\* Funds not expended or encumbered by the expiration date, shall be returned to contributor within 6 months of said date.

\* Office Use Only

**FORM OF CONTRIBUTION: (Please check the applicable box below for an Infrastructure Account only)**

<b>Cash Contribution</b>	
<b>Escrow Account</b>	

Interest on funds to be paid to contributor only if project is not commenced.

The City shall periodically draw down funds from Public Works, which form shall specify use of City Account # as shown above.

**Electronic Distribution:**

Tiffany Mullen, Finance Department  
 Joanna Coey, Principal Financial Officer, Recreation and Facilities Mgt.  
 Stuart O'Brien, City Planning Director  
 Barbara Barhydt, Development Review Services Manager, Planning Division  
 Jeremiah Bartlett, Public Services Department  
 Christopher Branch, Public Services Director

Philip DiPierro, Development Review Coordinator, Planning Division  
 Katherine Earley, Engineer Services Manager, Public Services  
 Michael Farmer, Project Engineer, Public Services Department  
 David Margolis Pineo, Deputy City Engineer, Public Services Department  
 Jeff Tarling, City Arborist, Public Services Department  
 Planner for the Project